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IN THE MAJESTY OF THE LAW? JEWISH RESIDENTS OF WARSAW IN THE FACE OF GERMAN OCCUPATION ORDINANCES AND ACTIVITIES OF SONDERGERICHT WARSCHAU – PART II¹

Abstract

The article focuses on the attitude of the Warsaw's Jewish population toward selected, most significant anti-Jewish laws passed in the General Government during World War II. Due to the breadth of this topic, the text is divided into two main parts. The first part presents ordinances on forced labor for Jews and on the ban on ritual slaughter. The second part focuses on the ordinance of November 23, 1939 on making Jews wear an armband with the Star of David, and the ordinance on residence restrictions,

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with special attention to its third version of October 15, 1941, which stipulated the death penalty for unauthorized departure from the ghetto. The first ordinance led to stigmatization and the second led to the isolation of Jews. The authors discuss their content, reception among Jews, and the practice of application by the German Special Court in Warsaw (Sondergericht Warschau). Indeed, the German Special Court in Warsaw considered cases involving violations of individual ordinances in the Warsaw District.

To prepare the text, the Authors read and analyzed the literature on the subject, including memoirs, press articles, as well as archival sources of judicial provenance. Historical and formal-dogmatic methods were used during the research. The article not only indicates the reception of the anti-Jewish laws themselves by the population they targeted. The Authors took particular interest not just in the trials and the enforcement of the imposed sentences, but also in the strategies pursued by the Warsaw's Jews to better cope with the new legislation that came into force under the German occupation. The research made it possible to show German legislative policy in the context of the measures aimed to exploit, discriminate, stigmatize, and isolate Jews.

Key words: Jews, Holocaust, occupation, law, special court

1. Introduction

The first part of the article presents the research objectives and the results of the analysis with regard to the two relevant and chronologically earliest anti-Jewish ordinances issued in the General Government. The second part focuses on a discussion of two more ordinances, which imposed an obligation to wear Zionist armbands and restrictions on the residence for Jews. Their introduction resulted in the stigmatization and isolation of the Jewish community.

Particular importance should be attached to the second ordinance which led to ghettoization of Jews and which, it seems to us, must be considered as adopted in the immediate “eve” of the Holocaust. The conclusion of the article includes a summary of previous considerations relating to the role of the anti-Jewish laws imposed during the German occupation, their reception by those affected, and the practice of their application.

2. Stigmatization: Ordinance of November 23, 1939 on marking Jews with an armband with the Star of David

At the end of November 1939, an ordinance, consisting of four paragraphs, on the marking of “Jewish men and women” was published.² Based on that ordinance, it was made compulsory for all Jewish men and women in the GG who were at least 10 years old to wear on the right sleeve of their clothing and outer garments, as of December 1, 1939, a white armband, at least 10 centimeters wide, with the Star of David. Jews were obliged to make their own armbands and put the appropriate sign on them. The duty was originally imposed under threat of imprisonment, to be adjudicated by special courts. A February 1940 amendment expanded the catalog of punishments to include the possibility of imprisonment and fine in an unlimited amount, or one of these punishments.³ The implementing regulations for the ordinance were to be issued by the Head of the Department of Internal Affairs in the Office of the Governor-General, but it seems that this was not done as announced. In any case, the published collections of normative acts in force in the GG did not contain any reference in this regard.⁴

It is worth noting at this point that the catalogue of sanctions for violations of the ordinance of November 23, 1939 on the marking of Jews with an armband with the Star of David did not include the death penalty. We mention this because the literature contains incorrect information in this regard. In their monumental work *Getto Warszawskie. Przewodnik po nieistniejącym mieście* [Warsaw Ghetto. A Guide to a Non-Existent City] Barbara Engelking and Jacek Leociak write: “Walking without armbands was punished – first by beating, then by a fine or imprisonment, and finally – from October 15, 1941, after Governor Frank’s ordinance – by the penalty of death.”⁵ Frank’s ordinance mentioned in the quoted text did not concern the order to wear armbands with the Star

² Ordinance on the marking of Jewish men and women in the General Government of November 23, 1939. JOGGOPA 1939, no. 8, p. 61.

³ The second ordinance on the marking of Jewish men and women in the General Government of February 19, 1940. JOGGOPA 1940, no. 15, p. 79.

⁴ Cf. A.A. Weh, *Das Recht des Generalgouvernements*, Krakau 1940, p. 489; *Rozporządzenia Generalnego Gubernatora. Wydanie na luźnych kartach. Wydane przez gubernatora dr. dr. Lasch. Opracowane przez radcę sądu ziemiańskiego Frenken*, Radom 1940, A VII 2; *Niemieckie przepisy karne obowiązujące w Generalnym Gubernatorstwie. Opracował Dr. Franciszek Konieczny, wiceprokurator Sądu Apelacyjnego*, Kraków 1940, pp. 57–58.

⁵ B. Engelking, J. Leociak, *Getto warszawskie. Przewodnik po nieistniejącym mieście*, 2nd ed., Warszawa 2013, p. 161.

of David, but the residence restrictions (prohibiting unauthorized departure from the ghetto), for which there was indeed a death penalty (more information on this ordinance is provided further in the article).⁶ The error that appears here is presumably due to, in our opinion, a misinterpretation of the German regulations. Jews leaving the ghetto without permission generally had to try to conceal their identity, so they did not wear their obligatory armband outside the ghetto.

According to the regulations, however, this “offense” was classified as a violation of the ordinance on residence restriction, not the ordinance on the marking of Jews. In legal language, in such a case, the act of not wearing an armband was absorbed by the principal act of unauthorized departure from the ghetto. Engelking and Leociak apparently assumed that not wearing an armband outside the ghetto was covered by the provisions of the ordinance restricting Jews’ residence. The fact is, however, that the death penalty for violations of the ordinance concerning the wearing of armbands was never legally sanctioned by the German occupation authorities. We also found no information in the source materials on this issue, either in the Jewish accounts or in the files of the Warsaw Special Court, that Jews were punished with death for not wearing an armband.

Going back to the essential considerations concerning the marking of Jews, it is worth mentioning that information about the introduction of the relevant ordinance was published on November 30, 1939, in the pages of the “Nowy Kurier Warszawski” newspaper. The article stated that it was ordered that “as of December 1, 1939, all Jews over the age of 12 in the Warsaw District outside their dwelling must wear a visible sign.” The information in the press thus differed from the provisions of the ordinance, according to which an armband with the Star of David was to be worn by all the Jews over the age of 10. It is most likely for this reason that also professional literature, as exemplified by Engelking and Leociak’s work *Getto Warszawskie. Przewodnik po nieistniejącym mieście* [Warsaw Ghetto. A Guide to a Non-Existent City] contains erroneous information that armbands were obligatory for Jews from the age of 12.⁷ The court records we analyzed, however, confirm that the ordinance required Jews to wear the armband from the age of 10.

⁶ The third Ordinance on residence restrictions in the General Government of October 15, 1941. VOBl. GG 1941, no. 99 of October 25, 1941, p. 595.

⁷ B. Engelking, J. Leociak, *Getto warszawskie. Przewodnik po nieistniejącym mieście...*, pp. 159–160.

The article published in “Nowy Kurier Warszawski” also defined a Jew “in the meaning of this ordinance.” Firstly, it was “anyone who is or has been a member of a Jewish religious community,” and secondly, “anyone whose father or mother is or has been a member of a Jewish religious community.”⁸ Such provisions meant in practice that even those Jews who were baptized and manifested anti-Semitic views, had to wear armbands.⁹ Importantly, the information published in the press was quite vague about the penalties for violating this ordinance. Although the ordinance had a clear provision regarding imprisonment, then “imprisonment and a fine in an unlimited amount or one of these penalties,” “Nowy Kurier Warszawski” only stated that “failure to fulfill this obligation [to wear an armband] on the part of Jews will be severely punished.” Jews were to be supplied with armbands by members of the councils of elders, and the ordinance was to be implemented within Warsaw by the president of the city, and in the districts – by district heads.¹⁰

The introduction of the armband ordinance was met with a negative response from the Warsaw’s Jews. The need to wear white armbands with the Star of David sewn on them was seen as a stigma and brought numerous consequences for Jews, not just of a legal nature. Władysław Szpilman commented on the provisions of the ordinance with the following words: “So we were to be stigmatized and publicly distinguished from the crowd as ‘designated for culling.’ Thus, several hundred years of progress of humanism were erased and replaced by the methods of the dark Middle Ages.”¹¹ Bronisław Erlich wrote directly about the humiliation that resulted from the new regulations: “I couldn’t stand the humiliation that the Germans invented for the Jews, ordering everyone to wear a Jewish star on their clothing.”¹² According to Mary Berg, a sense of loss of dignity and bitterness among Jews caused those with less pronounced Semitic appearance not to wear the armbands.¹³ In fact, many Jews did not want to comply with the regulations, at least initially. Erlich, quoted earlier in this article, noted in his memoirs:

⁸ „Nowy Kurier Warszawski” 1939, no. 44 (November 30), p. 1.

⁹ E. Ringelblum, *Kronika getta warszawskiego wrzesień 1939 – styczeń 1943*, introd. and ed. A. Eisenbach, transl. A. Rutkowski, Warszawa 1983, p. 196.

¹⁰ “Nowy Kurier Warszawski” 1939, no. 44 (November 30), p. 1.

¹¹ W. Szpilman, *Pianista. Warszawskie wspomnienia 1939–1945*, introd. and comp. A. Szpilman, Kraków 2001, p. 40.

¹² B. Erlich, *Żydowskie dziecko Warszawy. Wspomnienia czasu zagłady*, ed. P. Wieczorek, Warszawa 2021, p. 54.

¹³ M. Berg, *Pamiętnik Mary Berg. Relacja o dorastaniu w warszawskim getcie*, transl. A. Tuz, Warszawa 2016, p. 67.

“I had a great sense of personal dignity, and suddenly I was pushed into the abyss of humiliation, stigmatized, deprived of all human rights. For a year and a half of my stay with Karol Urbanowicz, I did not go out to the town at all, and when leaving once a week in a horse-drawn wagon to go to perform the forced labor, I did not wear the disgraceful yellow patch on my clothes, even though I was aware of the danger I was in”.¹⁴

The issue raised in Erlich’s account of the liability, or as the author put it, the “danger” to Jews for not wearing the armband, did not concern only the legal sanctions imposed by the November 1939 ordinance. In his *Kronika getta warszawskiego* [Warsaw Ghetto Chronicle], Emanuel Ringelblum wrote about Jews beaten for not complying with these regulations.¹⁵ In other accounts of the period before the creation of the Warsaw Ghetto, there is information that Jews were even told to avoid showing up on the streets because of frequent assaults by Polish hooligans who beat and robbed Jews they met. Interestingly, the victims of such harassment supposedly also included Poles who did not have Nordic facial features.¹⁶

In January 1940, a note appeared in the pages of the “Nowy Kurier Warszawski” with information that the Polish police were to check whether Jews were wearing armbands. The surviving records show that Warsaw residents were indeed subjected to document control at the time,¹⁷ although some Warsaw Jews were still of the opinion at the time that those with passports from neutral countries were not required to wear the armbands.¹⁸ On the other hand, however, it must be assumed, most Jews conformed to the guidelines of the armband ordinance. At the end of February 1940, Ringelblum himself stated that “Nalewki¹⁹ is now Hollywood, because wherever you look, there are stars everywhere.”²⁰ There were also people who wore armbands without the sense of being humiliated. The best example of this was the demonstrative attitude of Chaim Kapłan, who noted in his diary on December 3, 1939: “Our national colors filled the entire capital. (...) Dressed in the eyes of the occupant – in the garb

¹⁴ B. Erlich, *Żydowskie dziecko Warszawy...*, pp. 54–55.

¹⁵ E. Ringelblum, *Kronika getta warszawskiego wrzesień...*, pp. 69, 96.

¹⁶ M. Berg, *Pamiętnik Mary Berg...*, p. 67.

¹⁷ E. Ringelblum, *Kronika getta warszawskiego...*, p. 116.

¹⁸ M. Berg, *Pamiętnik Mary Berg...*, p. 73.

¹⁹ Nalewki was one of the most important commercial streets in Warsaw and one of the main streets in the Warsaw’s Jewish quarter.

²⁰ E. Ringelblum, *Kronika getta warszawskiego...*, p. 96.

of humiliation, but in our eyes – in the garb of pride. Say what you want, but there is no more wonderful color than our national colors.”²¹

Violation of the armband ordinance was nevertheless the most common offense under the anti-Jewish occupation law introduced by the German authorities. In part, this was due to the fact that many people did not identify themselves as Jews, and thus did not feel obligated to wear the armband.²² The penalty could have been greater than the stipulated armband ordinance if other suspicions were added to the lack of an armband. For example, Ignacy Schranz and Tobias Sadek, Poles of Jewish descent, were sentenced for robbery and failure to wear the Zionist armband to 2 to 3 years in tough prison.²³ Marjem Hassfeld, on the other hand, who in addition to the lack of an armband was additionally accused of using a fake *Aussweis*, was sentenced to 2 years in tough prison.²⁴

The surviving documentation on such matters also leads us to believe that Jews attempted to petition the Governor-General on issues related to the requirement to wear the armband. On May 2, 1940, Dr. Ludwig Holzer asked to be exempted from the duty to wear the armband. The argument included information that Holzer was an officer in the Austrian army and held the Iron Cross of the Second Class. The application was also accompanied by documents proving his merits. Holzer’s request was denied. In a reply dated May 15, 1940, Frank ordered that no exceptions should be allowed.²⁵ This was confirmed by his negative responses to other such requests from Jews in the GG.

3. Isolation: ordinance on residence restrictions

As part of the anti-Jewish policy, an ordinance on residence restrictions in the General Government was introduced, which was amended several times: the first one was

²¹ Ch. A. Kaptan, *Dziennik 1939. Megila życia*, transl. and ed. B. Górecka, Warszawa 2019, p. 221.

²² A. Szyfman, *Moja tułaczka wojenna*, Warszawa 1960, pp. 61–62.

²³ APW, SSW, 135, Urteil vom 22. Januar 1941, sheet. 47.

²⁴ Ibidem, 233, Urteil vom 12. Januar 1942, sheet 55.

²⁵ USHMMA, Regierungs des GG, RG 15.493, ref. 422/3, correspondence of Dr. Ludwig Holzer dated May 2–18, 1940, sheets 104–115.

dated September 13, 1940,²⁶ the second was dated April 29, 1941,²⁷ and the third was dated October 15, 1941,²⁸ The first ordinance on residence restrictions in the General Government consisted of five paragraphs. They included a general provision on the rules for establishing residence restrictions, not directly applicable to Jews, but of a general nature. According to Section 1 of the ordinance, such restrictions could be ordered by a district head or mayor within the jurisdiction of a district or its part, by the head of a region (circuit) if they were to apply to an area larger than a district or within a region (circuit), and by the Head of the Department of Internal Affairs at the Office of the Governor-General if they applied to an area larger than a region (circuit) or to the entire GG territory.

Section 2 of the ordinance stipulated that residence restrictions could be of a general nature or could apply to a specific group of people, and when introducing them, their temporal and territorial scope had to be determined. Subsequent paragraphs provided for the possibility of imposing an obligation on those subject to the residence restriction to leave household appliances and other items, and excluded the possibility of compensation for damages incurred in fulfilling the residence restriction orders. The act went into effect on October 1, 1940, and maintained the residence restrictions that had been in place up to that point, provided they met the conditions set forth in the ordinance.

The second residence restrictions ordinance expanded the original ordinance to include a criminal sanction. The added Section 4a provided, as a rule, for punishment for violating orders issued under the ordinance according to the procedure set forth in the criminal-administrative procedure (under the Ordinance on the criminal-administrative procedure in the General Government of September 13, 1940²⁹). On the other hand, if punishment according to this procedure was insufficient, the district

²⁶ Ordinance on residence restrictions in the General Government of September 13, 1940, *Verordnungsblatt für das Generalgouvernement/Journal of Ordinances for the General Government, 1940–1944* (hereinafter: *VOBl. GG*), no. 55, p. 288.

²⁷ The second ordinance on residence restrictions in the General Government of April 29, 1941, *VOBl. GG 1941*, no. 41, p. 274.

²⁸ The third Ordinance on residence restrictions in the General Government of October 15, 1941, *VOBl. GG 1941*, no. 99, p. 595.

²⁹ Ordinance on the criminal and administrative proceedings in the General Government of September 13, 1940, *VOBl. GG 1940*, no. 56 of September 23, 1940, p. 300.

(city) head would hand the case over to the German prosecuting authority (prosecutor's office), after which the court could impose a prison sentence and a fine of up to 10,000 zlotys or one of these punishments, and in particularly severe cases a tough prison sentence.

Thus, the act still did not directly target Jews. It was not until the third ordinance of October 15, 1941 that changes occurred in this area. The third ordinance added Section 4b to the wording of the original ordinance, which prohibited Jews, under penalty of death, from leaving their designated city district without authorization. The same punishment was provided for those who knowingly provided a hiding place to such Jews. Inciters and aiders were to be punished in the same way as perpetrators, and attempts were treated in the same way as actual perpetrations. In less grave cases, the death penalty could be waived in favor of tough or regular prison. The jurisdiction of special courts was established in these cases. We have to agree with Bogdan Musiał, in whose opinion, with the third ordinance, the German civil administration embarked on the path of the direct physical extermination of Jews and the criminalization of assistance to those persecuted with the death penalty, which was a novelty not only in the occupied Poland, but also in the entire Europe.³⁰

The ordinance of September 13, 1940 on residence restrictions in the General Government was announced on the front page of *Gazeta Żydowska* newspaper on Friday, September 27. The content of the article was quite laconic. In addition to the mere announcement that the Governor-General had issued an ordinance and information about who was authorized to order a residence restriction, the following rather vague explanation was added:

“Residency restrictions can be ordered universally, or for a limited group of people. The extension of the restriction should be defined as to place and as to time. If the circumstances so require, the order may require those affected to leave the household appliances and other items located in the area subject to the restriction. No compensation shall be granted for damages arising from the implementation of the said orders. If a residence restriction was ordered prior to the issuance of the ordinance that meet the prerequisites, they shall remain in effect”.

³⁰ B. Musiał, *Kto dopomoże Żydowi...*, in collaboration with O. Musiał, Poznań 2019, p. 81.

In addition, the first paragraph also included a note that the provisions contained therein would take effect, as assumed, on October 1, 1940.³¹

The second version of the ordinance, which made the provisions of the ordinance of September 1940 tighter, was promulgated on June 30, 1941 by Heinz Auerswald, the commissioner for the Jewish quarter in Warsaw.³² Auerswald published a notice in the pages of “Gazeta Żydowska” newspaper, informing that Jews who “stay outside the ghetto without permission, and those who provide assistance to Jews or do not immediately report the unauthorized stay of a Jew outside the ghetto, will be punished.” The acts violating the above order were to be prosecuted in the future with the utmost severity, and the control authorities, as Auerswald mentioned, were instructed to use weapons against anyone trying to evade capture by fleeing.³³ Although the second version of the residence restrictions ordinance provided for criminal sanctions, the threats of the German authorities did not impress the Jews, as “for the time being, the only threat for this ‘crime’ was imprisonment.”³⁴

In practice, however, in contrast to the measures taken after the introduction of the first ordinance, Jews violating the second ordinance were brought before the courts. The sentences imposed in cases involving violations of the second residence restrictions ordinance varied depending on whether the case involved only leaving the ghetto or also other offenses, such as not wearing an armband. At the time, Sondergerichts usually punished ghetto residents with fines or prison sentences. A good example is the case of Szepsel Dembski, who was accused of leaving the Jewish quarter, not wearing an armband, and travelling by train. In August 1941, Dembski was fined a total of 300 zlotys for these offenses.³⁵

The situation was similar for Moszek and Chaja Zalcman, who were accused of leaving the ghetto without a pass or an armband. Both were sentenced to a fine of 200 zlotys

³¹ „Gazeta Żydowska”, September 27, 1940, no. 1(20), p. 1.

³² D. Libionka, *Zagłada Żydów w Generalnym Gubernatorstwie. Zarys problematyki*, Lublin 2017, p. 58.

³³ „Gazeta Żydowska”, June 30, 1941 (year 2, no. 52), p. 3. Auerswald’s announcement was dated June 17, 1941, and was published in the pages of the *Gazeta Żydowska* with a delay.

³⁴ H. Makower, *Pamiętnik z getta warszawskiego, październik 1940 – styczeń 1943*, comp. N. Makowerowa, Wrocław 1987, p. 22.

³⁵ APW, SSW, ref. 232, Strafbefehl vom 11. Dezember 1941, sheets 3–4.

fine in July 1942.³⁶ These punishments may not have been severe enough to dissuade Jews from the unauthorized departure from the ghetto. However, it seems that more severe sentences did not have a deterrent effect on Jews either. For example, Idel Berenholz, merely for illegally leaving the Jewish quarter, was sentenced in March 1942 to 3 years in prison,³⁷ while Chaim Wengierek, who faced exactly the same charge, was given a 5-year prison sentence in May 1942.³⁸ Despite the imposed sentences, the provisions of the second ordinance again failed to keep Jews in ghettos. Those “who suffered hunger and poverty in the cramped concentration camp, which the Warsaw ghetto is, decided – disregarding the threatened punishment of several months of imprisonment – to leave the ghetto en masse, crossed its border after bribing the police (...) through a hole in the wall”³⁹ – read the accounts of witnesses from that period.

Posters announcing the third version of the residence restrictions ordinance appeared on the walls of the Warsaw ghetto on November 7, 1941. Commissioner Auerswald officially reminded the public that, according to the new law, any Jew leaving the ghetto would be punished by death. However, it seems that even these sanctions were not taken seriously by ghetto residents: “When the content of this poster became known, Jews laughed at it, and the ‘wise men’ said that it made no sense to punish such a sin with execution by a firing squad.”⁴⁰

The introduction of the death penalty for violations of the residence restrictions by ordinance was by no means an invention of the supervisors of the Warsaw ghetto, but a product of the general anti-Jewish policy dictated within the GG by Hans Frank.⁴¹ After all, the Governor-General was in favor of the speedy imposition of death sentences on Jews who had violated the ordinance, and if necessary even recommended simplifying the entire procedure before the special courts.⁴²

³⁶ Ibidem, 709, Strafbefehl vom 27. Juli 1942, sheets 33–34.

³⁷ Ibidem, 953, Urteil vom 18. März 1942, sheets 22–23.

³⁸ Ibidem, 955, Urteil vom 13. Mai 1942, sheets 15–16.

³⁹ *Archiwum Ringelbluma. Konspiracyjne Archiwum Getta Warszawy. Pisma rabina Szymona Huberbanda*, vol. 32, comp. A. Ciałowicz, Warszawa 2017, p. 159.

⁴⁰ Ibidem, p. 159.

⁴¹ H. Makower, *Pamiętnik z getta warszawskiego...*, p. 31.

⁴² Archives of the Institute of National Remembrance (hereinafter: AIPN), GK 95/17, Protokoll der Regierungssitzung vom 16. Dezember 1941, sheet 266.

The imposition of a death penalty for leaving the ghetto astonished not only the Jews. In his diary, Abraham Lewin described the story of Hanka Tauber, who spent seven and a half months in prison at Gęsia Street for, among other things, not wearing a Jewish armband on her arm and for riding trains without a permit. During that period, Tauber witnessed a visit of representatives of the Swiss Red Cross⁴³ who could not believe that the detainees they visited were in prison for illegally leaving the ghetto. Upon hearing about the nature of the act they had committed, they were said to have reacted with the following words: “So it is forbidden? Is that a crime? Do they punish people for that with a death sentence? If so, it is the only prison in the world where there are no criminals.”⁴⁴

Despite the general surprise and disbelief, the judicial machine did indeed take off, and the scale of the imposed sentences seems downright frightening. The surviving sources show that in one week the special court in Warsaw imposed 200 death sentences on Jews for illegally leaving the ghetto. Due to a lack of source materials, we are unable to say exactly how many death sentences were imposed from the time of introduction of the third version of the ordinance until July 1942, when deportations of the Warsaw Jews to the Treblinka death camp began. Jan Grabowski and Barbara Engelking indicate that for the period from April to August 1942 there may have been 500 to as many as 700 sentences.⁴⁵ An even larger number was stated by Herbert Wurst, a former court clerk and translator for the Special Court in Warsaw, interrogated in the 1960s. He estimated that it could have been 1,500 death sentences, or even more. Wurst further testified that the Warsaw Sondergericht held sessions twice a week in the ghetto. The judges supposedly got there accompanied by SS officers, to whom the convicts were handed over for execution immediately after the verdict.⁴⁶ The indicated compilations show that the judgments were issued in an assembly line-like manner, very similar to a summary procedure.

⁴³ The visit of Red Cross representatives from Switzerland to the Central Jail took place in late March and early April 1942.

⁴⁴ *Archiwum Ringelbluma. Konspiracyjne Archiwum Getta Warszawy. Dzienniki z getta warszawskiego*, vol. 23, comp. K. Person, Z. Trębacz, M. Trębacz, Warszawa 2015, p. 44.

⁴⁵ B. Engelking, J. Grabowski, „Żydów łamiących prawo należy karać śmiercią!”. „Przestępczość” Żydów w Warszawie 1939–1942, Warszawa 2010, pp. 151–152.

⁴⁶ Bundesarchiv Ludwigsburg, B 162/19722, Schreiben des Oberstaatsanwalts beim Landgericht Lübeck an die Zentrale Stelle vom 14. April 1964, sheets 6–7; Verfügung des Leitenden Oberstaatsanwalts in Lübeck vom 4. Oktober 1966, sheets 20–21.

This mechanical way of adjudicating violations of the residence restrictions ordinance is also confirmed by witness accounts. The first mass execution under these regulations took place on November 12, 1941, which was shortly after the death penalty for Jews for leaving the ghetto was instituted. Witnesses to those events reported that Jews caught illegally leaving the ghetto were locked up for 24 hours in jails at police stations and then transported to the prison in Gęsia Street. From there, they were taken to the Warsaw Sondergericht building and put on trial. Importantly, none of the defendants had a defense counsel available to them. The trial was conducted in an automatic fashion: the detained Jews were brought in one by one, then asked for personal details, and then the prosecutor made a speech and the sentence – the death penalty – was announced. According to the surviving accounts, “the same thing was repeated every few minutes,” which confirmed the statement concerning the assembly line-like manner of the hearings. During that trial held on November 12, 1941, eight people were convicted.⁴⁷

These first death sentences made the Warsaw’s Jews aware that the residence restrictions ordinance would, as it was intended, be strictly enforced by the German occupation authorities. Those convicted in the November trial panicked and burst into tears upon hearing the sentences. After incarceration, “they screamed for days through the barred windows of the Jewish prison (...) The pain and despair in the people passing by was immense.”⁴⁸ They got used to the idea of death only after a long stay in prison, and since executions were not carried out immediately, the condemned even began to hope that it would never happen.⁴⁹

However, this hope proved illusory. The prisoners sentenced on November 12, 1941 were executed a few days later, on November 17. A platoon formed on the orders of the German authorities, who ordered the Polish police stations to provide volunteers, was to be responsible for shooting the Jews. In situations when the number of Polish policemen was insufficient, a special firing squad was formed, composed of policemen from all the police stations. The November execution we are describing took place in the presence of many senior German officers, a German prosecutor, a Polish

⁴⁷ *Archiwum Ringelbluma. Konspiracyjne Archiwum Getta Warszawy. Pisma rabina Szymona Huberbanda...*, p. 162.

⁴⁸ *Ibidem.*

⁴⁹ *Archiwum Ringelbluma. Konspiracyjne Archiwum Getta Warszawy. Getto Warszawskie, lipiec 1942 – styczeń 1943*, comp. R. Sakowska, Warszawa 1980, p. 101.

interpreter, doctors (Polish, German, and Jewish), a Jewish police commissioner, and Gestapo officers.⁵⁰ Information about the execution of these eight Jews was made public the very next day. Auerswald prepared the notice, which was hung on the walls of the Warsaw ghetto. In addition to the official execution announcement, the notice included names of the executed Jews.⁵¹ This was undoubtedly intended to frighten and dissuade Warsaw's Jewish residents from going outside the ghetto illegally.

Shortly after the death penalty for the illegal leaving of the ghetto was instituted, the associated regulations were further tightened. On November 21, 1941, Dr. Eberhard Schöngarth, the security police commander in the GG, issued an order to his subordinate commanders in the various districts concerning the "spread of spot typhus by wandering Jews." The order stipulated that Jews leaving their residential quarters "can only be stopped by force, whereby they mostly resist and take every opportunity to flee; therefore, with the approval of the higher commander of the SS and the Police, firearms should be used as much as possible."⁵² In practice, this "Schießbefehl" meant in fact an order to shoot all Jews who were outside the ghetto without the proper permission.⁵³ These guidelines were put into practice on quite an unbelievable scale. Calel Perechodnik, describing the situation of Warsaw's Jews, recalled:

"(...) not a day goes by without a few Jews being shot for leaving the ghetto. They are killed on the spot, without trial, buried in the fields. Now it is rare for anyone to leave the ghetto, fear falls deep in people's hearts. The Germans, for a purpose known only to them, teach the Jews a general lesson that the penalty for leaving the ghetto is death on the spot."⁵⁴

Murders for smuggling food were carried out in cold blood. Their victims, on the other hand, often included completely random people. According to one account:

⁵⁰ *Archiwum Ringelbluma. Konspiracyjne Archiwum Getta Warszawy. Pisma rabina Szymona Huberbanda...*, p. 162; *Adama Czerniakowa dziennik getta warszawskiego 6 IX 1939 – 23 VII 1942*, comp. M. Fuks, Warszawa 1983, p. 228.

⁵¹ A notice from Heinz Auerswald, the German commissar of the Warsaw ghetto, dated November 17, 1941, on the execution of a death sentence imposed by the Sondergericht on eight people (including six women) for "leaving the Jewish residential area without authorization." *Treblinka*, comp. J. Gumkowski, A. Rutkowski, Warszawa 1962 [this publication has no pagination].

⁵² B. Musiał, *Kto dopomoże Żydowi...*, p. 95.

⁵³ Ibidem.

⁵⁴ C. Perechodnik, *Czy ja jestem mordercą?*, ed. P. Szapiro, Warszawa 1995, p. 52.

“A young Jewish porter was shot [at the wall],”⁵⁵ while another describes the murder of a child: “Yesterday at 9 o’clock in the evening a Jewish boy aged 13–14 was shot at my window. The murder was perpetrated by a Polish policeman. He shot through a hole in the wall and hit the boy right in the heart.”⁵⁶ The examples show that the order regarding “spreading of typhus by wandering Jews” actually eliminated all restrictions on murdering Jews, and police officers did not hesitate to shoot on any pretext, including at children. This is also confirmed by the surviving files of the Prosecutor’s Office at the Special Court in Warsaw, which include several cases. For example, a 16 years old Jakub Hersz Zajdenfeld was shot by a German security police officer on December 12, 1941, while walking over the wire fence dividing the Jewish and Aryan sides, and died after several hours in a Jewish hospital.

After investigating the case, the Criminal Directorate in Warsaw concluded that the weapon was used properly and the police officer did not violate the law.⁵⁷

In another case, on January 16, 1942, a security police patrol spotted five Jews smuggling goods across the ghetto wall in Wielka Street. The German policemen opened fire on the Jews, firing 25 shots. One Jew was shot dead and two others were wounded, but managed to escape. In this case, the police officers’ proper conduct was confirmed not only by their superiors, but also by the German prosecutor, who discontinued the investigation.⁵⁸

As for the death sentences handed down by the Sondergericht Warschau, it should be noted that the Jews who faced them were not passive and took measures to avoid punishment for violating the residence restrictions ordinance. The first measure that could help to achieve this was to intervene with Governor-General Hans Frank himself. The state of preservation of the sources does not allow us to say exactly in how many

⁵⁵ *Archiwum Ringelbluma. Konspiracyjne Archiwum Getta Warszawy. Prasa getta warszawskiego: „Bund” i „Cukunft”*, vol. 16, comp. M. Rusinek-Karwat, A. Jarkowska-Natkaniec, Warszawa 2016, p. 297.

⁵⁶ *Archiwum Ringelbluma. Konspiracyjne Archiwum Getta Warszawy. Dzienniki z getta warszawskiego...*, p. 51.

⁵⁷ APW, Prosecutor’s office at the Special Court in Warsaw, ref. 3509, Schlussbericht vom 17. Januar 1942, sheet 15; Vermerk der Kriminal-Direktion Warschau – Sicherheitspolizei vom 30. Januar 1942, sheet 16.

⁵⁸ *Ibidem*, ref. 3524, Meldung vom 17. Januar 1942, sheet 14; Vermerk der Kriminal-Direktion Warschau – Sicherheitspolizei vom 23. Februar 1942, sheet 16; Vermerk des Staatsanwalts vom 6. März 1942, sheet 16.

cases Jews applied for clemency, but it is worth citing the research of Barbra Engelking and Jan Grabowski who made some estimates on this issue. As we mentioned earlier, in their opinion, the number of death sentences imposed by the Warsaw Sondergericht between April and August 1942 may have amounted from 500 to 700. They estimated the number of clemency requests made during the same period at 253. All of them were rejected by Frank.⁵⁹ Engelking and Grabowski also point out that the formula justifying the sentences changed at that time and from then on they ended with the note that “the convict does not lose his honorary rights, because as a Jew he does not have them.”⁶⁰ However, it seems to us that the number of clemency requests might have been a little larger after all. What has led us to this conclusion is the data on death sentences mentioned by Herbert Wurst, whom we cited earlier.

Another possibility, with a better chance of success, was the actions initiated by the leaders of the Warsaw ghetto. Measures of this kind were initiated primarily from Adam Czerniaków, the chairman of the Warsaw Judenrat. Czerniaków, who had access to information about the executions planned in the ghetto for violations of the residence restrictions ordinance,⁶¹ tried to counteract them by buying out prisoners. The chairman of the Warsaw Judenrat organized collections of money and furs in the ghetto, which were then to be given to Germans in exchange for the release of convicts from detention. Czerniaków attempted to carry out such actions in the most efficient way possible, so he encouraged ghetto residents to participate in the collection, which could affect the value of the collected goods. However, not all Jews were eager to do so, hoping that the community would be able to solve the problem with the convicts on its own.⁶²

Negotiations for the release of the first group of Jewish convicts lasted more than two months, which resulted in Czerniaków’s bitterness and impatience.⁶³ The case, which was initiated in January 1942, was not brought to a successful conclusion until March 11. In Czerniaków’s diary on that date there is information about the release of 151 detainees from a Jewish prison. It is worth noting, however, that although the chairman of the Warsaw Judenrat was mostly concerned about the fate of those sentenced to death, it is not clear from his notes that those released included people

⁵⁹ B. Engelking, J. Grabowski, *„Żydów łamiących prawo...”,* p. 151.

⁶⁰ Quoted after: *ibidem*.

⁶¹ *Adama Czerniakowa dziennik getta warszawskiego...*, p. 227.

⁶² *Ibidem*, p. 241.

⁶³ *Ibidem*, p. 256.

detained and tried for violating the provisions of the third residence restrictions ordinance, whose release was requested in January.⁶⁴ Czerniaków referred to the Jews whom he sought to liberate in very enigmatic terms, primarily as “detainees,” “prisoners,”⁶⁵ or “arrested with a death penalty.”⁶⁶ The latter phrase seems to suggest that he wanted to negotiate the release of those facing the harshest punishment, but there can be no certainty that the efforts to liberate those convicts were successful. It seems more reasonable to us to conclude that Czerniaków tried to protect the detainees from trial and the death penalty by bribing Germans with valuable furs. In all likelihood, the goods went directly to the Governor-General, since, as with the requests for clemency described earlier, the release of Jewish detainees was precisely within Hans Frank’s competence.⁶⁷

The rescue of a large group of prisoners in March motivated Czerniaków to make further attempts to release Jews from detention. However, the chairman’s further actions were not as effective. In June 1942, a mass execution took place in Babice, in which 110 people caught smuggling goods or staying on the Aryan side were executed. Among the Jews murdered at the time there were two pregnant women and ten Jewish Police officers.⁶⁸ The embittered Czerniaków, however, still believed that he could save the Jewish prisoners. The entry in his diary made under the date July 14, 1942 contains information that he asked Auerswald “to release the convicts [emphasis added by A.B. and K.G.] and future convicts in the same way as has already been done once.”⁶⁹ The underlined phrase used in this sentence seems to suggest that Czerniaków’s goal at the time may also have been to save those who had been sentenced to death under the residence restrictions ordinance. However, ultimately the release of the prisoners did not take place, as Auerswald did not accept the Judenrat chairman’s request.⁷⁰

In the context of Czerniaków’s negotiations with Auerswald on matters related to prisoners, it is also worth highlighting the fact that sometimes instead of releasing

⁶⁴ Ibidem, p. 259.

⁶⁵ Ibidem, p. 256.

⁶⁶ Ibidem, p. 241.

⁶⁷ Ibidem, p. 239

⁶⁸ See: B. Engelking, J. Leociak, *Getto warszawskie. Przewodnik po nieistniejącym mieście*, 2nd ed., Warszawa 2013, p. 495.

⁶⁹ *Adama Czerniakowa dziennik getta warszawskiego...*, p. 300.

⁷⁰ Ibidem.

Jews from detention a decision was made to send them to work in Treblinka. This solution was interpreted by Czerniaków as much better than leaving those people in prison: “I asked for good treatment in the camp and for the commissioner to take care of them,” reads his comment, dated February 4, 1942, on the transport of a group of women, men, and children to Treblinka.⁷¹ Information about transports of the Warsaw detainees to that camp also appears in Czerniaków’s diary under the dates February 20⁷² and April 10, 1942.⁷³ At the time, Treblinka was not yet the place of extermination it became a few months later, although the name itself was no longer unfamiliar to the residents of the Warsaw ghetto at the time. Since the summer of 1941, a penal camp operated there, which Jews knew about thanks to publications in the ghetto’s underground press. At the time, both Poles and Jews were sent to Treblinka, including those just from the prison in Gęsia Street, probably to work there to build the camp. The perceptions of Treblinka, however, changed over time.

In May 1942, which was shortly after the release of the Jewish detainees at Czerniaków’s request, Treblinka was described as a camp “from which one does not return.” In June, on the other hand, there were reports of murders committed on the Jews working in Treblinka. Even then, the phrase “Treblinka death camp” was already also in operation, although at the time it meant a camp with horrific conditions and where prisoners died in large numbers. From the perspective of what Treblinka became in July 1942, the term was misleading.⁷⁴ However, this does not change the fact that sending Jewish convicts from the prison at Gęsia Street to the Treblinka camp did not necessarily improve their existence. Czerniaków was wrong to think that Auerswald was trying to act for the benefit of the Jewish residents of Warsaw.⁷⁵

The treatment of the Jews from the Warsaw ghetto who violated the residence restrictions ordinance changed when the Germans began preparing to liquidate the Jewish quarter. As late as two days before the deportation of Jews to Treblinka, commissioner Auerswald still pretended that he knew nothing about the planned

⁷¹ Ibidem, p. 249

⁷² Ibidem, p. 255.

⁷³ Ibidem, p. 265.

⁷⁴ M. Ferenc, „Każdy pyta, co z nami będzie”. *Mieszkańcy getta warszawskiego wobec wiadomości o wojnie i Zagładzie*, Warszawa 2021, pp. 380–381.

⁷⁵ B. Engelking, J. Leociak, *Getto warszawskie. Przewodnik po nieistniejącym mieście...*, p. 181.

action,⁷⁶ which only confirms the conclusion regarding Czerniaków's gullibility. According to the surviving accounts, the jail in Gęsia Street was cleared of prisoners as early as the first days of July 1942. All of them were then sent to Treblinka,⁷⁷ which began operating as an extermination camp on July 23, with the arrival of the first transport from the Warsaw ghetto.⁷⁸ From then on, one "special train" departed from the ghetto's Umschlagplatz every day.⁷⁹

The timing of the implementation of the plan to deport Warsaw's Jews to Treblinka also influenced the discontinuation of the application of the provisions of the residence restrictions ordinance. Emanuel Ringelblum reported that in the interval between the July 1942 action and the January 1943 action, Jews were sent back from the Aryan side to be dealt with by the Judenrat, which either released them or sent them directly to the *Werterfassung*. *Werterfassung* was an organized action by Germans, during which Jews collected the deported Jews' items or cleaned their apartments. This kind of treatment of Jews shows that the Germans discontinued the application of criminal responsibility under the provisions of the ordinance under consideration, as they were well aware of what fate would soon befall all residents of the Warsaw ghetto. Ringelblum himself concluded that "sending Jews caught on the Aryan side back to the ghetto evoked sad reflections. This was seen as a sign that the ghetto was doomed to liquidation."⁸⁰ Therefore, also to the Jews, the discontinuation of the activities of the Sondergericht Warschau in this area was a sign of the imminent end of the ghetto.

4. Conclusion

The considerations presented in this article boil down to answering three fundamental questions. The first question is: What was the actual impact of German anti-Jewish

⁷⁶ I. Gutman, *Żydzi warszawscy 1939–1943. Getto – podziemie – walka*, transl. Z. Perelmuter, Warszawa 1993, p. 158.

⁷⁷ E. Ringelblum, *Stosunki polsko-żydowskie w czasie drugiej wojny światowej...*, p. 146.

⁷⁸ J.A. Młynarczyk, *Niemiecki obóz zagłady dla ludności żydowskiej w Treblince*, [in:] *Co wiemy o Treblince? Stan badań*, ed. E. Kopówka, Siedlce 2013, p. 64.

⁷⁹ Y. Arad, *Belzec, Sobibor, Treblinka. The Operation Reinhard Death Camps*, Bloomington 1999, pp. 60–61.

⁸⁰ E. Ringelblum, *Stosunki polsko-żydowskie w czasie drugiej wojny światowej. Pisma z bunkra*, comp. T. Epsztein, Warszawa 2020, p. 146.

ordinances on the situation of Jews in Warsaw? It is obvious that the occupation legislation contributed not only to the stigmatization, segregation, and alienation of the Polish capital's Jewish residents.⁸¹ Their concentration and detention in the ghetto through the residence restrictions ordinance initiated the most difficult period in the history of Warsaw's Jews. It became difficult not only to get food, but also to observe the principles of kosherness. In addition, the harsh penalties for illegal ritual slaughter or for the lack of an armband with the Star of David were meant to discipline the Jews, but the consequences actually made their daily existence much more complicated. The forced labor ordinance, on the other hand, became the first step in the process of extermination of Jews through labor, and the residence restriction regulations allowed the "legal decimation of Jews."⁸²

It is therefore difficult to agree with the statements of Artur Eisenbach, who, in describing the Nazi strategy of exterminating the Jews, stated years ago that the German legislation, especially that concerning the Jewish population, played no role in the system of the extermination policy in the occupied Polish territories. "While it contained many draconian, exceptional laws that were incompatible with the current international norms, and legalized various forms of lawlessness against the Jews, it did not reflect to a minimal extent the actual relations that prevailed in the occupied territories" – wrote Eisenbach, while concluding that for these very reasons the German legislation cannot serve as a criterion for understanding the policy of the Nazi authorities toward the Jews.⁸³ The hallmark of the German legislation aimed against the Jews was, in fact, the violation of the principle of equality before the law and the introduction of discrimination in a direct manner,⁸⁴ but its most important outcome was that, under the guise of legalism, the occupation authorities gradually implemented policies aimed at the annihilation of the Jews. The ordinances introduced in the GG, contrary to what Eisenbach wrote, were an important part of the

⁸¹ See: M. Grądzka-Rejak, A. Namysło, *Prawodawstwo niemieckie wobec Polaków i Żydów na terenie Generalnego Gubernatorstwa oraz ziem wcielonych do III Rzeszy. Analiza porównawcza*, [in:] T. Domański, A. Gontarek, eds., *Stan badań nad pomocą Żydom na ziemiach polskich pod okupacją niemiecką. Przegląd piśmiennictwa*, Warszawa–Kielce 2022, pp. 83–110.

⁸² AIPN, GK 196/335, Stellungnahme der Abteilung Innere Verwaltung beim Gouverneur des Distrikts Krakau vom 14. März 1942, sheet 121.

⁸³ A. Eisenbach, *Hitlerowska polityka zagłady Żydów*, Warszawa 1961, p. 144.

⁸⁴ H. Mielnik, *Sądownictwo polskie (nieniemieckie) w dystrykcie lubelskim Generalnego Gubernatorstwa 1939–1944*, Lublin 2020, p. 145.

extermination policy in the occupied Polish territories. This is most evident in the residence restrictions ordinance, which, by concentrating Warsaw's Jews in the ghetto, facilitated their "legal murder" and subsequent deportation to the Treblinka death camp. Also, the use of Jews as forced laborers made the products they made a key component of the German economy, a fact of which Hans Frank was well aware.⁸⁵

The second question concerns the attitude of Warsaw's Jews toward the German ordinances and their awareness of the resulting danger. The surviving accounts allow us to conclude that at the beginning of the occupation, Jews considered Warsaw to be a relatively safe place. Mary Berg, who came to Poland's capital with her family in late December 1939 from Łódź, wrote in her diary that new groups of Jewish refugees were constantly arriving in Warsaw from small towns, because they all believed that they would be safer there and would have a better chance of making a life for themselves than in their hometowns.⁸⁶ However, the situation changed soon, and the tightening anti-Jewish policy caused many Jews who, realizing the danger, to begin to wonder whether it would not be better to leave, not only Warsaw, but the GG in general. This was not easy at all: "Now they are ready to sell their properties to Poles for pennies, to give a quarter of a million zlotys for the right to go to Switzerland. However, for some reason no buyer shows up, and going abroad remains a pipe dream," wrote Cael Perechodnik.⁸⁷

Over time, escaping from the city became virtually impossible. Under these circumstances, attempts were made in various ways to deal with the restrictions imposed by the German ordinances. It should be noted first and foremost that while these ordinances made life much more difficult for Warsaw's Jews, most importantly they did not keep them in the ghetto. Those "who suffered hunger and poverty in the cramped concentration camp, which the Warsaw ghetto is, decided – disregarding the threatened punishment of several months of imprisonment – to leave the ghetto en masse, crossed its border after bribing the police (...) through a hole in the wall"⁸⁸ – read the accounts of witnesses from that period. The food rations in the Warsaw

⁸⁵ R. Hilberg, *Zagłada Żydów Europejskich*, vol. 1, transl. J. Giebułtowski, Warszawa 2014, pp. 306–307.

⁸⁶ M. Berg, *Pamiętnik Mary Berg...*, p. 76.

⁸⁷ C. Perechodnik, *Czy ja jestem mordercą...*, p. 63.

⁸⁸ *Archiwum Ringelbluma. Konspiracyjne Archiwum Getta Warszawy. Pisma rabina Szymona Huberbanda...*, p. 159.

ghetto were in no way to meet the needs of its residents. According to Israel Gutman, it was the equivalent of 184 calories a day, which was about 15% of the daily energy needs.⁸⁹

Although the Warsaw Judenrat organized campaigns to distribute free soup to those starving,⁹⁰ this still did not provide a chance for physical survival. Smuggling thus became an integral part of the Warsaw ghetto's life. According to Czerniaków's estimates, about 40 times more food was supplied through that route than through legal channels, guaranteeing the feeding of 80% to as much as 97.5% of the ghetto's population.⁹¹ The death penalty for leaving the ghetto, which was introduced by the third version of the residence restrictions ordinance, had an inhibitory effect on this phenomenon, but did not stop it completely.⁹² A separate mention should be made of the fact that both retail and wholesale smuggling developed in Warsaw, which only underscores how motivated the Jews were, and how varied survival strategies they were able to employ.⁹³

The third question concerns the enforcement of the law imposed by the Germans and the activities of the Warsaw Sondergericht. It is generally quite difficult to study the jurisprudence of special courts in the GG, due to the few surviving sources.⁹⁴ We can therefore draw conclusions about the Sondergericht Warschau based on the available archival materials, while being fully aware that they are not complete. The aforementioned Herbert Wurst testified after the war about the destruction of some of the files of the Special Court in Warsaw. Based on the cases we analyzed, we can conclude that the Warsaw Special Court acted with extreme meticulousness

⁸⁹ I. Gutman, *Żydzi warszawscy 1939–1943...*, p. 106.

⁹⁰ H. Makower, *Pamiętnik z getta warszawskiego...*, p. 31.

⁹¹ B. Engelking, J. Leociak, *Getto warszawskie. Przewodnik po nieistniejącym mieście...*, p. 494.

⁹² J. Grabowski, *Na posterunku. Udział polskiej policji granatowej i kryminalnej w zagładzie Żydów, Wołowiec 2020*, p. 255.

⁹³ More information on this topic can be found in: *Archiwum Ringelbluma. Konspiracyjne Archiwum Getta Warszawy. Getto warszawskie*, part II, vol. 34, ed. T. Epsztein, Warszawa 2016, pp. 154–173.

⁹⁴ A. Wrzyszczyk, *Z działalności Sądu Specjalnego w Radomiu (1939–1945)*, „Czasopismo Prawno-Historyczne” 2001, vol. LIII, no. 1, pp. 333–334; K. Graczyk, *Pierwszy Sondergericht na ziemiach polskich. Z działalności Sądu Specjalnego w Częstochowie (Sondergericht Tschenstochau) (1939–1945)*, „Czasopismo Prawno-Historyczne” 2022, vol. LXXIV, no. 2, p. 180; K. Graczyk, *Z organizacji i działalności Sądu Specjalnego w Kielcach (Sondergericht Kielce) (1939–1945)*, „Zeszyty Prawnicze” 2023, no. 23(1), p. 81; K. Graczyk, *Z działalności Sądu Specjalnego w Piotrkowie (Sondergericht Petrikau) (1939–1945)*, „Saeculum Christianum” 2023, vol. XXX, no. 2, p. 270.

and severity. Significantly, even in seemingly the most trivial matters, Hans Frank also consistently rejected requests for clemency. This was due to the fact that the GG authorities did not care about the fate of the Jews, as was openly stated:

“As long as Jews are here, they should work, not in the sense, of course, as Jews used to do. I appeal here to your firmness. We still have some remaining visionaries of humanitarianism and those who, out of pure German good-naturedness, used to sleep through world history classes. We, who have persisted in this struggle with the Führer for 20 years, cannot be demanded to still have any consideration for the Jews. (...) When Jews ask for sympathy in the world today, this evokes no emotion in us”

– stated Hans Frank in a speech delivered on January 22, 1941.⁹⁵

Separate consideration is required for cases involving the residence restrictions ordinance, the violation of which, as of October 15, 1941, was punished by death.⁹⁶ As we showed earlier, the legislation introduced at the time enabled the murder of Jews under the guise of the rule of law. On December 16, 1941, which was just after the death penalty for violations of the residence restrictions ordinance was instituted, Hans Frank reportedly stated at a GG government meeting in Krakow: “The departure of Jews from the ghetto should – and indeed will – be countered with all severity. In the future, death sentences handed down to Jews who have committed such acts must be executed as soon as possible.”⁹⁷ The harsher treatment of the Jews resulting from these suggestions turned the Warsaw Sondergericht into a veritable “death factory” in the spring of 1942.⁹⁸

⁹⁵ S. Piotrowski, *Dziennik Hansa Franka*, Warszawa 1956, vol. 1, p. 451.

⁹⁶ On the topic of the residence restrictions ordinance and its subsequent amendments, we have written a separate, comprehensive article, titled *How to “legally” Decimate Jews? Directives on Residence Restrictions in the General Government – Considerations on Legal Regulations and Practice*, which we have already submitted for publication. The conclusions collected herein are the sum of the most important conclusions that we presented in the pages of the aforementioned text.

⁹⁷ Minutes of the government meeting. Excerpts from statements on the state of security in the GG, the deportation of workers to the Reich, and the policy toward Jews, in: *Okupacja i ruch oporu w „Dzienniku” Hansa Franka 1939–1945, vol. 1: 1939–1942*, selected and compiled under the sc. leadership of S. Płoski: L. Dobroszycki et al., transl. D. Dąbrowska, M. Tomala, Warszawa 1972, p. 408.

⁹⁸ B. Engelking, J. Grabowski, *Żydów łamiących prawo...*, pp. 151–152.

The liquidation of ghettos and the mass deportation of Jews to extermination camps caused the interest in Jewish criminality on the part of German lawyers and civil administration to gradually fade away.⁹⁹ In the case of the Warsaw ghetto, this fact is confirmed by Ringelblum's account, quoted by us earlier, of the Jews caught on the Aryan side sent back to the ghetto without any punishment. At the same time, it should be noted that at that time, terror in the ghetto intensified. On the night of April 17–18, 1942, Germans shot dozens of people in the streets. The descriptions of this event indicate that among the victims there were both people involved in, and people not connected at all with, the underground resistance.¹⁰⁰ From that moment on, acts of violence – arrests and shootings – became increasingly frequent in the Warsaw ghetto.¹⁰¹

What, then, was the anti-Jewish law enacted by the Germans to regulate the lives of Warsaw's Jews until they were deported to the Treblinka extermination camp? In totalitarian states, and Hitler's Reich was one of them, the law did not limit power, but was a tool for exercising it. The introduction of laws for the violation of which Jews could be punished in various ways is an example of a use of law to achieve political goals, which in this case were to fight a hostile race by exploiting, discriminating, stigmatizing, and isolating it. As a result of these legally sanctioned measures, many Jews lost their lives. Importantly, these anti-Jewish laws were abandoned when law became insufficient to achieve the Reich's political goals, as the "final solution of the Jewish question" took the form of direct extermination.

Knowledge of the aforementioned provisions of the occupation legislation leads to one more reflection. When considering the attitudes of the population in the occupied territory, including those towards the exterminated Jewish people, one must keep in mind the German regulations that were just implemented and ruthlessly enforced. Indeed, the third residence restrictions ordinance provided for the death penalty for both Jews who illegally left the ghetto and for those who gave them shelter on the Aryan side. The legislation thus criminalized aiding Jews under the threat of the so-called absolute death penalty. It seems that research would be needed into both the process of drafting of this draconian and inhumane legislation, and the judicial and extrajudicial practice of its application to those who provided shelter to Jews.

⁹⁹ Ibidem, p. 193.

¹⁰⁰ I. Gutman, *Żydzi warszawscy 1939–1943...*, pp. 270–271.

¹⁰¹ M. Ferenc, „*Każdy pyta, co z nami będzie*”..., p. 406.

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► SUMMARY

In the Majesty of the Law? Jewish Residents of Warsaw in the Face of German Occupation Ordinances and Activities of Sondergericht Warschau – Part II

The purpose of this article is to present the attitude of the Jewish population of Warsaw to the provisions arising from the selected normative acts that were issued by the German authorities during World War II. The objective of the different ordinances was to regulate the lives of Jews under occupation. Due to the volume of the analyzed material, the text is divided into two main parts. In the analysis we focused on the most important, in our opinion, normative acts the violation of which resulted in criminal proceedings. Consequently, our considerations included the Ordinance on forced labor for the Jewish population of October 26, 1939, and the Ordinance prohibiting ritual slaughter of October 26, 1939 (in the first part), as well as the Ordinance on marking Jews with an armband with the Star of David of November 23, 1939, and the Ordinance on residence restrictions (in the second part), with special focus on its third version of October 15, 1941, which provided for the death penalty for unauthorized departure from the ghetto.

Another important aspect addressed during the research was the activity of the Special Court in Warsaw (*Sondergericht Warschau*), the competence of which included the adjudication of the cases of violation of particular ordinances within the Warsaw District. Therefore, in the article, we looked at not only the reception of the anti-Jewish laws themselves the population they targeted. We were also particularly interested in court trials, the enforcement of the imposed sentences, and the strategies of Warsaw's Jews that were intended to help them cope with the German legislation. The research made it possible to show German legislative policy in the context of measures aimed to exploit, discriminate, stigmatize, and isolate Jews.