

Maciej Jan Mazurkiewicz

GERMANY'S GENOCIDE

AGAINST THE POLISH NATION (1939-1945).

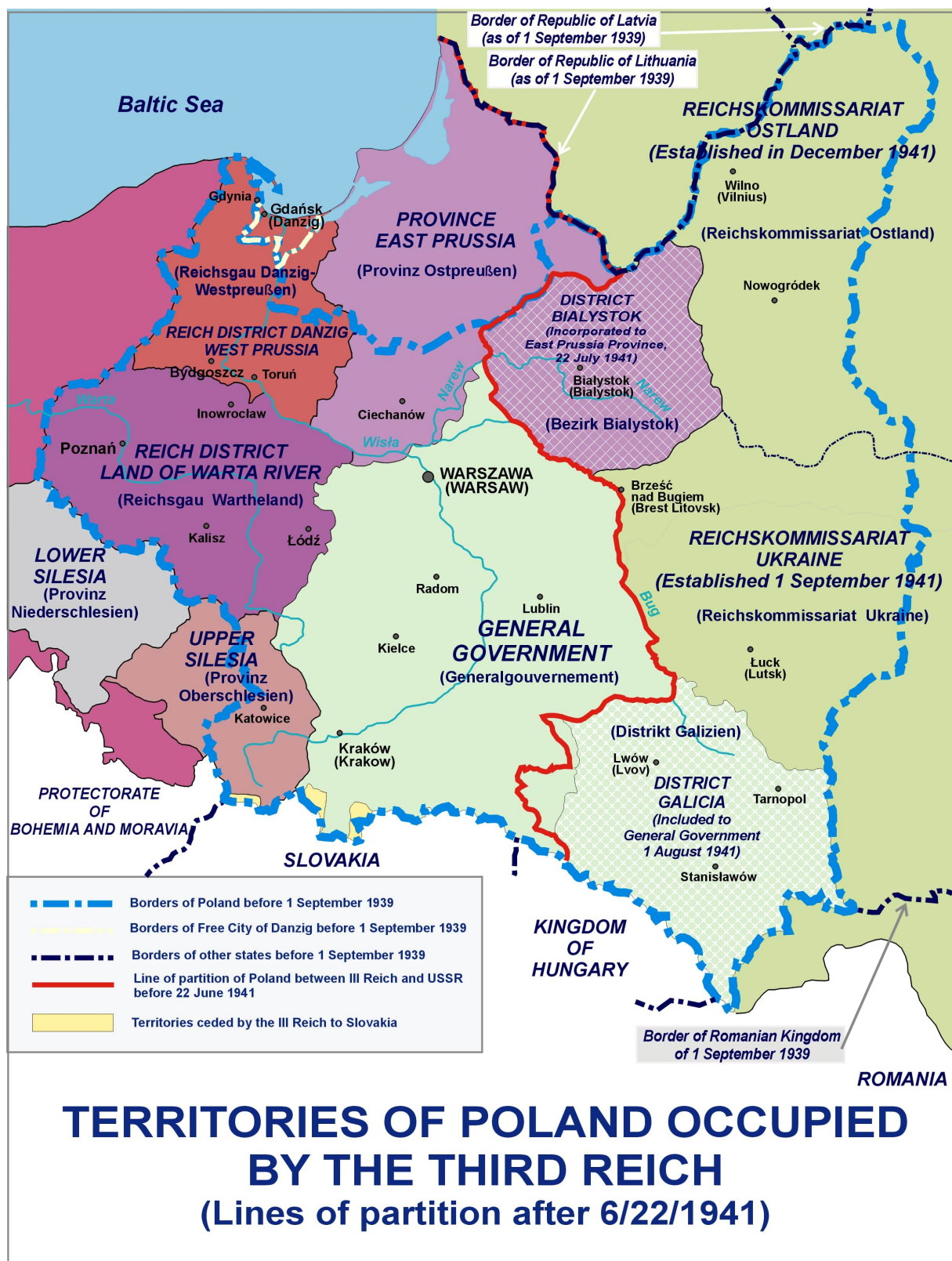
A HISTORICAL-LEGAL STUDY



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TERRITORIES OF POLAND ANNEXED BY THE THIRD REICH AND THE SOVIET UNION (Lines of partition from 10/21/1939 to 6/22/1941)



REVIEWERS OF THE POLISH VERSION

Aleksander Lasik, prof., Wojciech Wichert, PhD

EDITING, LAYOUT, PUBLISHING AND COVER DESIGN

Maciej Jan Mazurkiewicz

FRONT COVER PHOTO

Polish civilians burned by Nebelwerfer rocket by German forces in Warsaw, Jasna Street, mid-August 1944

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MAPS

1. Poland occupied by Nazi Germany (Third Reich) and the USSR (21/10/1939-22/06/1941)

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2. Territories of Poland occupied by the Third Reich - Lines of partition after 6/22/1941

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A word to the English-speaking reader

Providing the English-language reader with the translation of this monograph, published in Polish in 2021, may be the first contact with the issue of genocide committed by the German state against the Polish nation during World War II.

Not only in world literature, but also in Polish literature, there is a lack of comprehensive studies on the issue of the criminal policy of the Reich in occupied Poland. We will find even less information on looking at this issue from the point of view of international law. In general, the authors, mainly historians, stop at the analysis of a specific example of cruelty. Therefore, they do not consider how a specific crime relates to thousands of others committed by the German occupier at a similar time and against a precisely defined category of victims.

The issues I explore in this book do not remain only in the sphere of theoretical considerations. Persecution, displacement, theft of property, extermination of elites, slave labor, pseudo-medical experiments, forced Germanization, imprisonment in camps, in short the attempt to eliminate the Polish nation affected directly or indirectly, to a greater or lesser extent, many of its members, i.e. several million people. This is currently the generation of my grandparents.

In the future, research on the genocide of the Polish nation should become the subject of broader interest of scientists, especially in Poland, Germany, but not only. They constitute another important, although not yet fully discovered, case study for genocide studies specialists. After mass crimes committed far from the borders of the countries responsible for them, the time has come to publicize this cruel neighborly crime, about which the perpetrators would prefer to remain silent and not have to answer for it, even in a symbolic dimension.

Maciej Jan Mazurkiewicz, PhD

Introduction

The monograph entitled *Germany's Genocide against the Polish Nation (1939-1945). A Historical-Legal Study* is an attempt to demonstrate and justify Germany's international legal responsibility for the crimes committed during World War II against the Poles as a national group, as well as against their reborn state, the Republic of Poland, in 1918. Considerations of Germany's violations of the anti-war law were included in the study to prove the intention to destroy the Polish nation, which was carried out by provoking a war against Poland. Such a construction of the study does not imply an affirmation of the connection between the law of war and the anti-war law or the prohibition of the crime of genocide. However, the state of war and occupation is - not only in the case of German crimes committed against the Polish nation - a circumstance that facilitates or even enables the realization of the genocidal intent. The study is interdisciplinary in nature. A possibly complete analysis of the subject required taking up threads from the history of political-legal doctrines and Polish occupation history - thus supplementing the basic historical, dogmatic and theoretical-legal considerations.

To date, scholarly considerations relating to the crime of genocide (*genocide studies*) have not yet covered the actions of the German state against the Poles, which is a fundamental research gap. A holistic view of the criminal policy pursued by the German occupying forces against Poles during World War II provides unique comparative material and makes it possible to update the assessment of the situation of Poland and Poles during the tragic period of occupation and to set a broader perspective in the analysis of individual cases of German atrocities.

Currently, there is a misconception in both Polish and foreign writing about the individual or unorganized nature of German crimes against the Polish people, which are presented in isolation from their origins and context - resulting in a narrative about the massacres that is inconsistent with the facts¹. However, the facts and the conclusions of the Nuremberg Trial and the follow-up processes point to the deliberateness, planning and consistency in the implementation of German policies aimed at the extermination of Poles.

¹ German historian Daniel Bröning in 2016 published a study in his native language on German war-time crimes against Polish civilians. *A priori* his study "distanced [...] itself from the category of genocide, according to which events based on the use of collective violence constitute planned and deliberate sequences of actions." He agreed that excluding the notion of genocide as a possible category of qualification would serve to evaluate Germany's crimes. In the context of Germany's criminal policy towards the Poles, he preferred to use the term "massacre," which "unlike genocide [...] is event-driven, does not aim to destroy entire societies, and remains linked to specific situations, a specific topography and the time in which it was carried out." The restriction of the linguistic and terminological apparatus to this concept, the omission of the scope and influence of German ideology and anti-Polish policy from consideration, the focus of the narrative around the course of individual crimes, and, finally, the lack of "intent to analyze the entire spectrum of German violence" resulted in the author's description of German crimes (e.g., the extermination of the Polish leadership strata) not including the key elements necessary for their comprehensive evaluation - the aspect of planning and the relationship to other atrocities committed (D. Bröning, *In the Shadow of Auschwitz. German massacres of Polish civilians 1939-1945*, transl. R. Dziergwa, Poznań 2019, pp. 14-23, 349).

Selection of the topic of the work and its justification

The topic includes two parts - one concerns the legal international qualification of Germany's actions and omissions with reference to the historical object of analysis, and the other the methodology of research. The fragment of the title "Germany's Genocide against the Polish Nation (1939-1945)" indicates the legal international qualification of German crimes, which results from an attempt to theoretically apply the norms applicable to Germany during the commission of criminal acts (actions and omissions). Thus, the analysis includes the international legal obligations of the Third Reich² at the time of the crimes (mainly contained in the three Hague Conventions³ and common law), the regulations provided for in the so-called Nuremberg Law⁴ and the non-treaty prohibition of the crime of genocide (corresponding to the norms set forth in the UN Convention on the Prevention and Punishment of the Crime of Genocide, adopted on December 9, 1948 in Paris)⁵. This reflects the evolution of the law in terms of the institutionalization of the

² The terms Third Reich and Weimar Republic are unofficial, serving rather as a historiographical periodization of the history of modern Germany. Between 1918 and 1945, the German state was formally called the German Reich. This distinction is linked to the moment when the National Socialists seized power (the so-called *Machtübernahme*), and is relevant in connection with the division into the periods of history of the interwar period and World War II.

³ Government declaration of 18 December 1929 on accession of the Republic of Poland to the Convention on the Peaceful Settlement of International Disputes, signed at The Hague on 18 October 1907. [Convention on the Peaceful Settlement of Disputes] (Journal of Laws of 1930, No. 9, item 64); Convention on the Commencement of Enemy Steps (Journal of Laws of 1927, No. 21, item 159); Convention on the Laws and Customs of Land Warfare (Journal of Laws of 1927, No. 21, item 161). Cf. Abkommen zur friedlichen Erledigung internationaler Streitfälle. Vom 18. Oktober 1907 (RGBl. 1910, 2, 5); Abkommen über den Beginn der Feindseligkeiten. Vom 18. Oktober 1907 (RGBl. 1910, 2, 82); Abkommen, betreffend die Gesetze und Gebräuche des Landkriegs. Vom 18. Oktober 1907 (RGBl. 1910, 2, 107).

⁴ Agreement by the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the United States of America, the Provisional Government of the French Republic and the Government of the Union of Soviet Socialist Republics for the Prosecution and Punishment of the Major War Criminals of the European Axis. Signed at London, on August 8, 1945, "Treaty Series. Treaties and International Agreements Registered or Filed and Recorded with the Secretariat of the United Nations," 82 (1951), pp. 279-311; International Agreement on the Prosecution and Punishment of the Major War Criminals of the European Axis, signed at London, on August 8, 1945 (OJ 1947, No. 63, item 367). Cf. Law No. 10 dated December 20, 1945. Punishment of Persons Guilty of War Crimes, Crimes against Peace and against Humanity (OGCCG 1946, 3, 50); Directive No. 38. The Arrest and Punishment at War Criminals, Nazis and Militarists and the Internment, Control and Surveillance at Potentially Dangerous Germans (OGCCG 1946, 11, 184). See UN General Assembly, Affirmation of the Principles of International Law recognized by the Charter of the Nürnberg Tribunal, December 11, 1946, A/RES/95; Report of the International Law Commission to the General Assembly. Document A/1316. Report of the International Law Commission covering its second session, June 5-July 29, 1950. Part III. Formulation of the Nürnberg Principles, "YILC [1950]" II (1957), pp. 374-378; UN General Assembly, Formulation of the Nürnberg Principles, December 12, 1950, 488 (V). Polish translations of excerpts from the aforementioned 1946 UNGA resolutions and the Nuremberg Principles formulated by the International Law Commission in 1950 on the basis of a report by Special Rapporteur Jean Spiropoulos were offered in a 1978 collection of documents (see UNGA Resolution 95/I, December 11, 1946. [in:] Prosecution and Punishment of Perpetrators of War Crimes and Crimes Against Humanity (selection of documents), ed. C. Pilichowski, Warsaw 1978, pp. 223-225; Formulation of the Principles of International Law Adopted in the Statute of the International Nuremberg Tribunal and in the Judgment of this Tribunal (Nuremberg Principles) of December 12, 1950. [in:] Prosecution and Punishment..., pp. 227-232).

⁵ General Assembly Resolution 260 (III) of December 9, 1948 (Prevention and Punishment of the Crime of Genocide). Cf. Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on December 9, 1948 (Journal of Laws 1952, No. 2, item 9); Gesetz über den Beitritt der Bundesrepublik Deutschland zu der Konvention vom 9. Dezember 1948 über die Verhütung und Bestrafung des Völkermordes. Vom 9. August 1954 [Konvention über die Verhütung und Bestrafung des Völkermordes] (BGBl. II 1954, 15, 729).

prohibition of mass crimes: from the laws and customs of war to the definitions and prohibitions of crimes against peace, war crimes and crimes against humanity, the qualified type of which is, as is often assumed in the legal literature, the prohibition of the crime of genocide. Consideration of domestic laws seems less reasonable, since international tribunals are generally not bound by local law, and equally importantly, the listed norms transposed into the Polish or German legal system from international law are secondary in nature. On the other hand, domestic law influences general principles of law and customary law, either providing relevant evidence of practice and recognition or contradicting them.

The use of the adjective "Nazi" in the title when considering responsibility for the crimes committed has been ruled out. The attribution of specific behavior to the state, or basically to its organs or, in certain situations, to individuals, results in its responsibility. In the 1939-1945 period, there was no Nazi state, but the German Reich⁶, which was a subject of international law. The prevalence of the terms "Nazi" and "Nazis" in reference to Germany of 1933-1945 in historical writing and popular discourse creates the potential for abuse, leading to errors of a historical-legal nature. It happens that the Nazis, as well as their state, are treated as entities autonomous from Germany, which - depending on the interpretation and intentions of a particular researcher or publicist - have a different national character. As a result, there can be a radical distortion of the picture of the past, including a belittling of the role of the German state in the crimes committed against Poles and other groups during World War II.

It is impossible to dispense with the title phrase "Polish nation" for similar legal and international reasons. Although in many academic and intellectual circles, especially in the West, the word "nation" has been permanently associated with negative aspects of nationalism (including being burdened with association with National Socialism), this does not change the fact that the crime of genocide - according to the 1948 Convention. - can be committed against a national group, among others. Thus, the use of the term "nation" has an international legal justification.

On the other hand, the passage of the title "Germany's Genocide against the Polish Nation (1939-1945)" indicates the proper object of analysis, which, in the application of the law by an authorized body, as well as in the theoretical legal qualification, can be called a state of facts. Germany's actions and omissions during World War II include the planned extermination of representatives of the Polish leadership strata and people with considerable property, the program of deportation of Poles and their destruction by slave labor. The dissertation also considers other manifestations of the extermination policy carried out against the Polish people, such as the mass killing of Poles in concentration and extermination camps, the unlawful treatment of prisoners of war, beatings, rapes, forced Germanization, the so-called "robbery of Polish children," the robbery of Polish children, carrying out pseudo-medical experiments, desecration of the corpses of the

⁶ Transiently after the Anschluss, the name Greater German Reich (Großdeutsches Reich) was used, solidified in nomenclature by Hans Lammers in a relevant (though unpublicized) decree issued in 1943 (see Erlass des Reichsministers und Chefs der Reichskanzlei vom 26. Juni 1943; RK 7669 E).

murdered, legal discrimination, segregation of nationalities, limiting access to education and medical care, looting and destruction of nationally significant cultural property.

The last phrase of the topic - "legal-historical study" - determines the discipline of legal studies, within the framework of which the completed research can be most fully classified. Thus, the phrase used does not testify to the simultaneous historical and legal character of the monograph, but refers to the history of law - one of the legal sciences. Thus, the already historical factual situation - Germany's crimes against the Polish people during World War II - was subjected to theoretical evaluation from the perspective of international law at the time. Therefore, there was no need to establish or detail the factual record on the basis of archival sources - for this is the role of the historian of the occupation period. The current findings of researchers of the interwar period and World War II have made it possible to identify the essential elements of the criminal German policy conducted against Poles necessary for legal analysis. If one were to adopt a different solution and attempt to achieve the goals of historical science⁷, the description of the facts would be so extensive that it would basically make it impossible to read and complete the work on the book in a reasonable time frame (which took a total of five years anyway and was essentially completed in the last quarter of 2018).

In the context of the discipline of research, it is impossible not to initially emphasize methodological issues. In addition to the historical-legal method, the dissertation primarily used other legal methods: legal-dogmatic and legal-theoretical, as well as the syllogistic model (with elements of the argumentative model), used to justify the legal international qualification of Germany's actions and omissions. Methods derived from the historical sciences, especially descriptive and synthesizing methods, useful especially for establishing the facts, proved useful. These methods were applied in the preparation of specific content, and the context of their use is explained in the following sections of the introduction.

Main research assumption

The basic premise of the monograph is that during the hostilities in Poland and during the occupation of its territory, Germany was bound by treaty and customary norms of international law, including those of a counter-war nature (*ius contra bellum*), and regulations concerning the declaration of war, methods of warfare, methods of occupation and termination of war (*ius in bello*).

Based on the findings of the theory of international law, an analysis of how the practice of the German authorities evolved, and a review of the opinions of representatives of the

⁷ The ambition of historians is to comprehensively reconstruct the picture of events in accordance with the methodology of historical science. Thus, they try, for example, to clarify the number of victims, learn and present the biographies of the perpetrators and the course of the crimes, reveal documentation related to the extermination. There is a noticeable tendency to detail knowledge, but it is more difficult to synthesize considerations.

German doctrine of international law⁸ additionally concluded that in 1939 the German authorities and the doctrine there generally accepted: first, the validity of international law, second, the intrinsic legal character of its norms in the system of German law (otherwise there would have been a weaker moral or political, but not legal, obligation, as emphasized by earlier theorists), and finally, third, the binding of Germany by treaty and customary norms of international law.

Research hypotheses of the study

According to the first hypothesis verified in the dissertation, the attack on Poland in 1939, making it possible to implement the essential aims of the German state's anti-Polish policy, was a war of aggression within the meaning of international law. Until its outbreak, a universally accepted definition of aggression had not been adopted, so it is necessary to show that in 1939. Germany was bound by the prohibition of war of aggression. When describing Germany's assault on Poland, lawyers avoided the word "aggression" and used terms that were close in meaning, but emphasized the illegality of Germany's conduct, such as "plunder invasion," "land seizure" or "assault." The second hypothesis is that Germany bears international legal responsibility not only for crimes that are violations of treaty norms and customs of counter-war and war, but also for violations of the non-treaty prohibition of the crime of genocide against Poles. Already the norms contained in the treaties adopted until 1939 made it possible to criminalize the programmatic extermination policy carried out by Germany against the Polish people, which resulted, among other things, from the 1907 Hague Convention (IV). However, it was not until the state laws adopted since 1945, codifying the customary law in force until then, that German actions could be more precisely classified as crimes against peace and humanity and war crimes. The fact that the prohibition of the crime of genocide was established later does not mean that it was permissible, i.e. that this prohibition as non-treaty did not apply to Polish-German relations during World War II⁹.

The dissertation examined whether the Germans carried out crimes against the Poles with the intention of completely destroying that nation. A positive answer would provide a rationale for their extermination activities to qualify as a crime of genocide (prohibited before the outbreak of World War II by an uncoded norm of international law). The intention to completely destroy the Polish nation could presumably be revealed not in the desire to exterminate Polish citizens (who were, after all, of different nationalities or

⁸ See biographies of members of the German state and intellectual elite active during the Third Reich: E. Klee, *Das Personenlexikon zum Dritten Reich*, Frankfurt am Main 2007.

⁹ Recently, a view on this issue was expressed by William Schabas, a Canadian authority in the study of international criminal law and the law of armed conflict, who stated unequivocally: "It seems to me that the content of the resolution [UN General Assembly Resolution 96 (I) of December 11, 1946] does not raise any doubts - it contains a declaration that genocide is already a crime under international law. This was the intention of its authors. [...] Thus, this reference to the fact that acts of genocide were being committed or had already been committed is significant. At the same time, it makes it possible to refute the argument invoked by some that the term 'genocide' cannot be used to describe events that occurred - for example - before the adoption of the 1948 Convention." (W. Schabas, *Legal Qualification of the Wola Massacre* [in:] *Wola 1944. An Unaccounted Crime and the Concept of Genocide*, Warsaw 2019, p. 85).

belonged to multiple ethnic and religious groups), but Poles - regardless of their citizenship - living in the territory of the Republic, those with domicile in the Free City of Danzig, members of the German Polonia and Polish citizens of the USSR.

Research problems

The research problems are formulated in the form of two questions. The first is as follows: Does taking into account current historiographical findings and the development of international law and its theory affect the justification of the previous legal international assessment of German crimes against Poles during World War II, and thus make it possible to redefine the scope of Germany's legal international responsibility?

Attempts to legally justify the qualification of German crimes have generally not been made since 1959, when the trials of German prominents in Poland ended¹⁰, although historical knowledge in this regard has improved considerably since the postwar years (which is still the case today). To preempt possible criticism, it should be pointed out that legal international qualification does not necessarily involve the initiation of formal proceedings, but can take, as Karol Karski pointed out, the form of theoretical reflection¹¹.

The second question, following on from the first, is: What, in the event of a possible positive answer to the first question, are the current premises to justify the legal international assessment of Germany's crimes against Poles during World War II, and what is the current scope of Germany's legal international responsibility?

Research objectives

Accordingly, the primary objectives have been defined in three ways. The first is to determine the state of Polish-German international legal obligations with regard to the

¹⁰ Among those tried before the Supreme National Tribunal in 1946-1948 were Albert Forster and Arthur Greiser (respectively, gauleiters and governors of the so-called Reich Districts of Danzig-West Prussia and Wartheland), Ludwig Fischer (governor of the so-called Warsaw District of the GG), Josef Bühler (deputy to Hans Frank and secretary of state of the so-called GG government), Amon Göth and Rudolf Höß (commandants of the so-called GG. Warsaw District of the GG), Josef Bühler (Hans Frank's deputy and secretary of state in the government of the so-called GG), Amon Göth and Rudolf Höß (commanders of the concentration camps in Plaszow and Auschwitz-Birkenau, respectively). The trial of Erich Koch (gauleiter and super-president of the so-called province of East Prussia), the last major German dignitary arrested in Poland, was held before the Provincial Court in Warsaw. The verdict in the case was handed down on March 9, 1959 (see *Seven Judgments of the Supreme National Tribunal*, ed. T. Cyprian et al., Poznań 1962; M. Majewski, *Documents relating to Erich Koch in the archival resources of the Institute of National Remembrance in Warsaw*, "PA IPN" 1 (2008), pp. 52-53; S. Orłowski, R. Ostrowicz, *Erich Koch before the Polish court*, Warsaw 1959, pp. 284-285).

¹¹ Karol Karski's valuable polemic with Patrycja Grzebyk, published in 2011 in *International Affairs*, is an attempt to clarify a number of complex legal, historico-legal, political and historical issues related to the legal qualification of the Katyn massacre. His comments also allow an indirect assessment of the problem of German crimes in the light of the findings of modern doctrine (K. Karski, *Katyn murder as a crime of genocide - in response to the polemic of Patrycja Grzebyk*, "SM" 2 (2011), s. 103).

declaration and termination of war, the methods of its conduct and methods of occupation. In this sphere, there were changes of a factual nature, resulting, among other things, from the breaking of agreements or their failure to keep them, hence the proposal to conduct the analysis in historical terms. After Poland regained its independence in 1918, its authorities freely shaped legal relations with Germany, and their status in 1939 resulted primarily from the international agreements concluded and customs adopted. Although the norms set forth in some agreements, such as the London Convention of 1933¹², did not apply to Germany, they helped classify its actions, in this case the attack on Poland.

Consideration of international agreements serves to formally confirm their validity at a time when the German state was committing acts contrary to international law, that is, to undermine the official German argument in this area. The analysis included the scope of the validity of the agreements, the possibility of their revision in accordance with the Statute of the League of Nations, the *si omnes* and *rebus sic stantibus* clauses, the possible loss of legal force due to the outbreak of war, the principles of interpretation and application of the agreements and the meaning of their preambles.

During the drafting of the agreements, German representatives often made comments that may indicate their preferred way of interpreting the agreements and fulfilling Germany's obligations. Therefore, summary descriptions of the preparatory work (*travaux préparatoires*) have been included to historically clarify the agreements in force.

The second purpose of the monograph is to present the plan, preparation, mechanism of execution, consequences and typology of German crimes committed against Poland and Poles during World War II - according to the current findings of historiographers. Although many contemporary Polish intellectuals (mainly historians, but also lawyers) have qualified German actions as crimes of genocide, in their publications they generally do not demonstrate Germany's responsibility by attributing to them the violations of international law committed against Poland. Thus, researchers, when referring to international legal concepts such as the crime of genocide, usually do not base their deliberations on the implementation of the legal qualification model (syllogistic or argumentative).

Historians often describe specific crimes in detail or present syntheses in this regard, but do not take into account that only the fulfillment of the legal prerequisites makes it possible to qualify them in accordance with all the rules of art (*de lege artis*). The ordering of the conceptual apparatus of historians, who, without reference to the assumptions of legal history as an auxiliary science of history, ferret out conclusions on the qualification of crimes¹³, is also not without significance. Forgetting about the legal origin of the terms

¹² Convention for the Definition of Aggression, Annex and Protocol of Signature. Signed at London, July 3rd, 1933, "League of Nations. Treaty Series. Publication of Treaties and International Engagements Registered with the Secretariat of the League of Nations," CXLVII (1934), pp. 69-77; Convention for the Definition of Aggression, signed at London, July 3, 1933 (Journal of Laws, 1933, no. 93, item 712).

¹³ For example, Jolanta Żyndul, a historian and specialist in recent Jewish history, in her publication did not define the terms used to describe anti-Semitic issues - "incident," "greater incident," "action," "pogrom," "occurrence" or "anti-Jewish event." She used the aforementioned terms intuitively and synonymously (see J. Żyndul, *Zajścia antyżydowskie w Polsce w latach 1935-1937*, Warsaw 1994). In turn, Lech Nijakowski, a sociologist and philosopher, stated in an article that "this definition [of the crime of genocide] is [...] flawed from the point of view of a sociologist." He did not explain his position, but gave his own proposal, distinguishing acts of total and partial genocide. In the enumerative list presented, he did not classify as

used, they often lead to sterile disputes that cannot be resolved without reference to legal norms and their legal interpretations. Historians have not constructed a precise enough definition of the crimes of genocide and crimes against humanity to have sufficient arguments to support a particular position¹⁴. Although the norms of law, their interpretations and application are time-varying and therefore historical, and can be subject to historical research, certain limitations must be taken into account. Legislators express the law through legal language, and in doctrine it is described in legal language. Therefore, it seems fair to say that the skill of the legal research historian, which includes the use of conceptual and terminological apparatuses characteristic of the era, entitles him to formulate conclusions, for example, regarding the legal qualification of the acts analyzed¹⁵.

In the context of the essential considerations of the purpose of the monograph, it should be noted that it was only from 1959, after Erich Koch was tried in Poland, that historians began to publish the first marginal references to the programmatic nature of German crimes. In general, the relevant studies date from the late 1970s and early 1980s, and then from 2009-2020. The inability to confirm the programmatic nature of these crimes made it difficult to demonstrate even genocidal intent in the acts of the German state. The interest of legal scholars in the subject of the qualification of Germany's crimes greatly diminished, if not died out, in the 1950s, so the degree of advancement of historical research in this area did not allow, at the time when German prominents were tried, to qualify their activities as serving a plan for the total destruction of the Polish nation.

It is only nowadays that works on the German occupation occasionally raise doubts about the relationship of individual crimes to their totality, so the research anxiety that accompanied Wanda Jarzabek in her consideration of the slaughter of Wola seemed right. In the study, published in 2019, the Polish historian asked many important questions, including: "Should [...] the Wola massacre be treated as an event peculiar and isolated in its nature, or should we see in it a typical manifestation of the occupier's policy, or even its culmination?"¹⁶.

genocide any case of crimes against Poles (see L. Nijakowski, *The Nation-State on the Bloody Trail. Towards a sociology of genocides in late modernity*, "SSP" 2 (2015), s. 15-17).

¹⁴ Between the concept of genocide in the colloquial sense and the definition contained in the legal prohibition of it, there is a fundamental difference in the degree of vagueness of the phrase (in the colloquial sense, genocide has vague boundaries and there are no aspirations to change this state of affairs). Historians, but also representatives of other humanities and social sciences, often emotionally and intuitively use a term loaded with "a huge load of condemnation" (as Patrycja Grzebyk rightly pointed out), rather than the more neutral terms "war crime" and "crime against humanity" (many researchers share this position). Nevertheless, the duty of qualification is incumbent on lawyers, and it is they, who have been striving for years to describe the phenomenon as precisely as possible, who should present solidly theoretically-supported solutions that eliminate semantic uncertainty (see P. Grzebyk, *Katyn murder - problematic qualification* (in connection with the article by Karol Karski), "SM" 2 (2011), p. 83; S. Salmonowicz, *Reflections on the 20th century - the epoch of genocide* [in:] *The Age of Hate. Studies*, ed. E. Dimitrów et al., Warsaw 2014, pp. 297-308; K. Pomian, *Negationism against humanity* [in:] *The Age of...*, pp. 287-296).

¹⁵ The comparison of the ways of legal and historical qualification of crimes committed against Poles by the occupying powers during World War II was devoted to the pending text of the author of this study (see M. Mazurkiewicz, *Legal vs. Non-Legal Selected Qualifications of Crimes Committed against the Polish Nation in the Years (1939-1945)*, ts).

¹⁶ W. Jarzabek, *Slaughter of Wola - an individual event or resulting from the "logic" of German occupation policy in Poland?* [in:] *Wola 1944...*, p. 37.

Although the dissertation presents historical conclusions, it does not present the facts in detail, but only its multifaceted characterization. The purpose of the monograph does not allow for an exhaustive description of the issue in the historiographical sphere, but only an authoritative approximation of the current legal perspective. Therefore, the results of historians' research and archival searches were used to reconstruct the author's characterization and understanding of the mechanism of the criminal policy rather than to verify individual violations of international law.

The third objective is to demonstrate Germany's legal international responsibility for the crimes committed against Poland and Poles during World War II. Although the literature has qualified these acts from the perspective of international law, it does not take into account recent historical findings. The proposal to update these justifications according to the syllogistic or argumentative model is an attempt to fill the gap in legal history research. Justifying the qualification of German crimes plays an important role because of their consequences, which largely determined the fate of millions of Poles. Still affecting Polish-German relations, they are key to understanding Poland's modern history.

Moreover, the compensation obligation arising from the possible establishment of Germany's legal international responsibility for the crimes committed against Poland has long been an issue in Polish-German relations. As a political problem, this issue already existed in principle during the period of the commission of the crimes, and has returned with considerable force at various times: at the dawn of the Third Republic, at the turn of the 1980s and 1990s, then in 2004-2005 and 2017-2019, in connection with the activities, established on September 29, 2017 and functioning during the 8th term of the Sejm, of the Parliamentary Team for Estimating the Amount of Compensation Due to Poland from Germany for Damage Caused during World War II¹⁷. Nevertheless, the objectives of the dissertation do not include an indication of the possible consequences of unlawful acts attributed to the German state, much less to specific individuals. It should be emphasized that the research postulates were limited to the theoretical legal international qualification of Germany's actions and omissions against Poland.

Research subject, sources and studies

An important part of the introductory characteristics of the monograph is the definition of the subject of the research, an indication of the sources used, and a summary of the findings to date, i.e. a review of the literature.

First, the scope of the subject matter includes the applicable sources of international and domestic law in the cognitive and creative sense, drafts of international agreements, documentation of their preparatory process, diplomatic materials and court decisions

¹⁷ Parliamentary Group on Estimating the Amount of Compensation Due to Poland from Germany for Damage Caused during World War II, <http://www.sejm.gov.pl/Sejm8.nsf/agent.xsp?symbol=ZESPOL&Zesp=513> (accessed March 1, 2020).

related to Germany's criminal activities against Poles. These sources mainly serve to present Polish-German international legal obligations in 1939.

In turn, the national promulgators include many normative acts in force in each country. In addition to references to the Polish *Dziennik Ustaw* or *Monitor Polski*¹⁸, the study includes numerous references to German and Danzig gazettes. They are presented in the form traditionally found in German legal literature - the abbreviation of the name of the gazette, the year and number of its issue, and the first page of the cited legal act (e.g. *RGBl.* 1910, 2, 82). The Reich Law Gazette (*Reichsgesetzblatt*, *RGBl.*) was the official legal bulletin of the German Reich from 1871 to 1945. The Reich Ministry of Justice (*Reichsjustizministerium*) was responsible for its publication until 1922, and later the Reich Ministry of the Interior (*Reichsministerium des Innern*). Beginning in 1922, it was issued in two parts: the first announced laws, ordinances, etc. (acts of domestic law), and in the second, among others, international agreements (hence the designations *RGBl. I* and *RGBl. II*). This division resulted from the principle set forth in Article 4 of the Weimar Constitution¹⁹. From 1945 to 1948, the law-making body in occupied Germany was the Allied Control Council for Germany, whose acts were published in the Official Gazette of the Control Council for Germany (OGCCG). It was printed in English, Russian, French and German. The official West German promulgator, the Federal Law Gazette

¹⁸ At the beginning of 1918, even before the Republic regained its independence, the publication of a Polish official gazette was initiated on the basis of Article 21 of a decree of the Regency Council. In 1918, it was called *Dziennik Praw Królestwa Polskiego* (Journal of Laws of the Kingdom of Poland), followed by *Dziennik Praw Państwa Polskiego* (Journal of Laws of the Polish State) in 1918-1919, and from 1919 onward, *Journal of the Laws of the Republic of Poland* (*Dziennik Ustaw*). The last pre-war issue of the *Dziennik Ustaw* was published on September 5, 1939. After the end of the September campaign, it was published by the Polish authorities in exile, initially in Paris and Angers, and later in London. From mid-1940, its contents were divided into two parts. The first contained legal acts (mainly presidential decrees, ordinances of the council of ministers, the national council of ministers, ministers, announcements of the president of the council of ministers), while the second, which consisted of official and non-official sections, featured official acts and information previously printed in the pages of *Monitor Polski*. From mid-1945 to mid-1947, the *Dziennik Ustaw* was not published by the Polish authorities in exile, after the resumption of its publication continued until 1990. Meanwhile, the communist authorities at home began in 1944 to print the competing *Dziennik Ustaw* of the Republic of Poland (from 1952 to 1989 the *Dziennik Ustaw* of the Polish People's Republic) and *Monitor Polski*. As of 2012, the aforementioned promulgators appear only in electronic form and are disseminated via a website maintained under the auspices of the Chancellery of the Sejm. Therefore, since 2012, the number of the Journal is missing from its designation (see Internet System of Legal Acts (accessed 29 II 2020); *Dziennik Ustaw Rzeczypospolitej Polskiej* published in 1939-1990 in exile (accessed 29 II 2020); *Monitor Polski. Dziennik Urzędowy Rzeczypospolitej Polskiej* wydawany w latach 1939-1940 na uchodźstwie, <http://monitorpolskinauchodźstwie.gov.pl/MP>, accessed 29 II 2020). See the legal basis for the publication of Polish official journals: Decree of the Regency Council of 3 I 1918 on the temporary organization of the supreme authorities in the Kingdom of Poland (*Dz. PrKP* of 1918, no. 1, item 1); Act of 31 July 1919 on the publication of the Official Gazette of the Republic of Poland (*Dz.U.* of 1919, No. 66, item 400); Decree of the President of the Republic of Poland dated December 23, 1927 on the subject of publishing the Journal of Laws of the Republic of Poland (*Dz.U.* of 1928, no. 3, item 18); Decree of the President of the Republic of Poland dated September 6, 1935 on publishing the Journal of Laws of the Republic of Poland (*Dz.U.* of 1935, No. 68, item 423); Decree of the President of the Republic of Poland dated July 12, 1940 on the temporary suspension of the publication of the "Monitor Polski" and amending the Decree of the President of the Republic of Poland dated September 6, 1935 on the publication of the Journal of Laws of the Republic of Poland (*Dz.U.* of 1940, No. 11, item 28); Act of December 30, 1950 on publishing the Journal of Laws of the Republic of Poland and the Official Journal of the Republic of Poland "Monitor Polski" (*Dz.U.* of 1950, No. 58, item 524); Act of September 20, 1991, amending the Act on Publishing the Journal of Laws of the Republic of Poland and the Official Journal of the Republic of Poland "Monitor Polski" (*Dz.U.* of 1991, No. 94, item 420); Act of July 20, 2000, on Announcing Normative Acts and Certain Other Legal Acts (*Dz.U.* of 2018, item 644).

¹⁹ *Die Verfassung des Deutschen Reichs*. Vom 11. August 1919 (*RGBl.* 1919, 152, 1383). Cf. The Constitution of the German Reich, transl. M. Litauer [in:] *New Constitutions*, edited by J. Makowski, Warsaw 1925, pp. 361-412.

(Bundesgesetzblatt, BGBl.), began publishing in 1949, and three years later returned to the dichotomous classification of legislation adopted at the dawn of the interwar period (BGBl. I and BGBl. II). After the collapse of the Allied Control Council of Germany, the Western Allies occupying Germany established the Allied High Commission in Germany, whose acts were promulgated in the Official Gazette of the Allied High Commission for Germany (OGAHCG), which was published in English, French and German from 1949 to 1955. German law gazettes in digital form were used in the development of the text. Issues of the Reich Law Gazette from 1871-1918 were made available in this form as part of the German-language version of the Wikisource portal²⁰. Access to copies of the gazette promulgated between 1919 and 1945 has been provided by the administrators of the Alex portal, edited under the aegis of the Austrian National Library (Österreichische Nationalbibliothek)²¹. In turn, digitized issues of the Federal Law Gazette, starting with its first edition in 1949, have been published on the website of the Bundesanzeiger Verlag service²². The Official Gazette of the Control Council in Germany and the Official Gazette of the High Allied Commission in Germany are available on a website set up under the auspices of the German National Library (Deutsche Nationalbibliothek)²³.

It should be emphasized that there was legal chaos in the German state, which meant that Poles under German occupation were often bound by legal acts that were unpublished or issued by local authorities whose legislative competence was debatable²⁴. To some extent, this remark also applies to the situation in the Free City of Danzig, especially during the period of its denazification.

References to Danzig promulgators were similarly presented. In 1920, legislation there was promulgated in "Amtsblatt der Regierung zu Danzig" (ABl. d. R z. D) and "Staatsanzeiger für Danzig" (SA f. D), and in the following year only in the latter, whose name was changed in 1922 to "Staatsanzeiger für die Freie Stadt Danzig" (SA f. d. FSD). In 1923, SA f. d. FSD was split into two parts (with the second part retaining its pre-1923 name, that is, with the subtitle "Oeffentlicher Anzeiger"). It was published until 1939 and published, among other things, orders of the Danzig Senate and communiqués on administrative matters. Between 1921 and 1939, the official "Gesetzblatt für die Freie Stadt Danzig" (GBL. f. d. FSD), which presented Danzig legislation, was also published, but its publication was ended by the German occupation of the Free City of Danzig. Due to the annexation of the FCD, the volume for 1939 was divided into four parts: the first retained its traditional name (GBL. f. d. FSD), the second was entitled "Verordnungsblatt für die Zivilverwaltung in den dem Gauleiter Forster als Chef der Zivilverwaltung unterstellten besetzten Gebieten" (VBl. f. d. ZV), the third "Verordnungsblatt des Militärbefehlshalters Danzig-Westpreussen" (VBl. d. MGH), and the last "Verordnungsblatt des Reichsstatthalters Reichsgau-Danzig" (VBl. d. RSH).

²⁰ Reichsgesetzblatt (Deutschland), [https://de.wikisource.org/wiki/Reichsgesetzblatt_\(Deutschland\)](https://de.wikisource.org/wiki/Reichsgesetzblatt_(Deutschland)), accessed 29 II 2020.

²¹ Historische Rechtsund Gesetzestexte Online, http://alex.onb.ac.at/tab_dra.htm, accessed 29 II 2020.

²² Bundesgesetzblatt Online. Bürgerzugang, <https://www.bgbl.de/xaver/bgbl/start.xav>, accessed 29 II 2020.

²³ Official Gazette of the Control Council for Germany, <http://deposit.dnb.de/online/vdr/rechtsq.htm>, accessed 29 II 2020; Official Gazette of the Allied High Commission for Germany, *ibid*, accessed 29 II 2020.

²⁴ S. Salmonowicz, The legal status of the Pole under the German occupation (1939-1945). Notes on the need for research, "Krakow Studies in the History of State and Law" 3 (2016), pp. 345-360.

Digital copies of the GBl. f. d. FSD have been made available in incomplete collections by the Jagiellonian Digital Library²⁵ and on The Free City Sourcebook website²⁶, and digitized issues of SA f. D from 1921-1922²⁷ and its two-part edition from 1923-1939²⁸ have been placed in the resources of the Pomeranian Digital Library. In turn, the tables of contents of Danzig dailies from 1920-1939 (up to and including Part II for 1939) can be found on Wikimedia²⁹.

The other legal writings examined (statements of legislators, records of *travaux préparatoires* and *procès-verbal*, documents of diplomacy) came from scattered sources and were published in studies, monographs and specialized journals.

A particularly valuable thematic collection of documents in Polish describing the prosecution and punishment of criminals was made available through the efforts of the GKBZHwP and the Polish Ministry of Justice in 1978.³⁰ In turn, a selection of materials related to the law of armed conflict was proposed in 1973 by Dietrich Schindler and Jiří Toman; the most recent 2004 version of their textbook was taken into account when writing the dissertation.³¹ On the other hand, the collections of court records used in the monograph include the judgments and advisory opinions of the STSM³², the judgments of the NTN³³, the indictments and judgments of the IMT and the American military tribunals at Nuremberg³⁴. The numerous legal acts (international agreements, UNGA resolutions, etc.) and legal materials (transcripts of committee meetings, reports of desk officers, etc.) compiled under the aegis of the UN and made available electronically³⁵ have been invaluable.

In justifying the qualification of German crimes against Poles, the legal explanations formulated especially by Rafał Lemkin (a world-class Polish lawyer of Jewish origin, an

²⁵ Gesetzblatt für die Freie Stadt Danzig (1923-1939), [https://jbc.bj.uj.edu.pl/dlibra/results?action=AdvancedSearchAction&type=-3&val1=GroupTitle:Gesetzblatt+f%C3%BCr+die+Freie+Stadt+Danzig+%5C\(1923%5C-1939%5C\)](https://jbc.bj.uj.edu.pl/dlibra/results?action=AdvancedSearchAction&type=-3&val1=GroupTitle:Gesetzblatt+f%C3%BCr+die+Freie+Stadt+Danzig+%5C(1923%5C-1939%5C)), accessed 29 II 2020.

²⁶ Gesetzblatt für die Freie Stadt Danzig, <https://www.freecitysourcebook.com/gesetzblatt-fuumlr-die-freie-stadt-danzig.html>, accessed 29 II 2020.

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Staatsanzeiger für Danzig. Anlage. Oeffentlicher Anzeiger, <http://pbc.gda.pl/dlibra/publication?id=42060&tab=3>, accessed 29 II 2020.

²⁸ Staatsanzeiger für die Freie Stadt Danzig. Teil 1, <http://pbc.gda.pl/dlibra/publication?id=37514&tab=3>, accessed 29 II 2020; Staatsanzeiger für die Freie Stadt Danzig. Teil 2, Oeffentlicher Anzeiger, <http://pbc.gda.pl/dlibra/publication?id=39382&tab=3>, accessed 29 II 2020.

²⁹ Gesetzblatt für die Freie Stadt Danzig, https://commons.wikimedia.org/wiki/Category:Gesetzblatt_f%C3%BCr_die_Freie_Stadt_Danzig, accessed 29 II 2020.

³⁰ Prosecution and punishment...

³¹ The Laws of Armed Conflicts. A Collection of Conventions, Resolutions and other Documents, ed. by D. Schindler et al., Leiden-Boston 2004.

³² ICJ, PCIJ, <http://www.icj-cij.org/en/pcij>, accessed 29 II 2020.

³³ Seven sentences...

³⁴ Trial of the Major War Criminals before the International Military Tribunal, vol. I, Nuremberg 1947; Trials of War Criminals before the Nuernberg Military Tribunals under Control Council Law No. 10. Nuernberg, October 1946 - April 1949, vol. I-XV, Washington 1949-1953. The digitized 42 volumes containing the transcript of the Nuremberg Trials (the so-called Blue Series) and another 15 books covering the notation of the 12 subsequent Nuremberg Trials (the so-called Green Series) have been made available on the Library of Congress website. LoC, Nuremberg Trials, https://www.loc.gov/rr/frd/Military_Law/Nuremberg_trials.html, accessed 29 II 2020.

³⁵ UN, Official Document System, <https://documents.un.org/prod/ods.nsf/home.xsp>, accessed 29 II 2020.

outstanding specialist in international law, and the author of the term "genocide")³⁶ , Alfons Klafkowski³⁷ , Karol Wolfke³⁸ and the duo of Tadeusz Cyprian and Jerzy Sawicki³⁹ played a creative role.

Secondly, the current findings of historiographers regarding German crimes committed against Poles have been included as the subject of the study, which makes it possible to present the plan, mechanism of implementation and typology of crimes attributed to the German state.

It seems that Germany's criminal activities in the occupied eastern territories have been described rather comprehensively. In view of the politicization of historiography during the period of the People's Republic of Poland, the tendencies dominant in science at the time, the activities of the GKBZHP and the attempts to try the criminals before international, internationalized, domestic and foreign judicial bodies, it would be reasonable to assume that the issue is outdated, and research efforts in this direction - pointless.

However, a fundamental ambiguity remains, which concerns the justification of the qualification of acts when the factual picture is incomplete⁴⁰ . Without knowledge of the German state's motives and intentions, one could wrongly claim that the crimes of international law committed by Germany were violations of common criminal law. The difficulty with cumulative evaluation of individual acts of crimes is not a coincidence.

Germany intentionally and deliberately committed many crimes during World War II. Because of the complications in proving perpetration, it remains to rely on factual presumptions in reconstructing the mechanism of their extermination activities. Scraps of information (testimonies, documents, declarations, legal acts), the remains of the victims (effectively liquidated by the Germans), objects owned by the murdered and the repetitive pattern of treatment of potentially dangerous members of the Polish leadership strata, landowners and owners of other estates allow, after careful study and the collation of

³⁶ R. Lemkin, *Axis Governments in Occupied Europe. Occupation Laws, Analysis of Governance, Proposals for Redress*, transl. A. Bienczyk-Missala et al, Warsaw 2013. cf. *idem*, *Axis Rule in Occupied Europe. Laws of Occupation, Analysis of Government, Proposals for Redress*, Washington 1944.

³⁷ A. Klafkowski, *German occupation in Poland in the light of the law of nations*, Poznań 1946. Cf. *idem*, *Nazi concentration camps as an issue of international law*, Warsaw 1968; *idem*, *Prosecution of war criminals in the German Federal Republic in the light of international law*, Poznań 1968; *idem*, *Current significance of the so-called Nuremberg law for the codification of international law*, Warsaw 1971.

³⁸ K. Wolfke, *Custom in contemporary international law*, Wrocław 1963; *idem*, *Development and codification of international law. Selected issues from the practice of the United Nations*, Wrocław 1972.

³⁹ T. Cyprian, J. Sawicki, *Nuremberg Law. Balance and Perspectives*, Warsaw-Krakow 1948; *Nuremberg Materials - agreement, statute, indictment, verdict, Soviet vote*, compiled by *idem*. *idem*, Warsaw, 1948; *idem*, *The Struggle for the Nuremberg Principles 1945-1955*, Warsaw, 1956; *idem*, *Polish Cases in the Nuremberg Trial*, Poznań, 1956; *Seven Judgments...*

⁴⁰ In the context of the Katyn massacre committed by the USSR in 1940, the impact of the findings on the classification was mentioned by Karol Karski: "For it seems that the differentiation of the doctrine's position may result mainly not from a different assessment of the content of international law, but from having different knowledge of the facts." The problem in general, but in prospective terms (analysis of the situation before taking action, here the so-called selective elimination) was also described by Jerzy Menkes (K. Karski, *The Katyn Massacre as a crime of genocide in the light of international law*, "SM" 2 (2011), p. 57. cf. J. Menkes, *On the advantages of preceding the legal qualification of acts with an analysis of the facts - some remarks*, "MPH" IV (2013), pp. 12-32).

conclusions, to indicate the essence of the crimes. The qualitative difference is colossal: it's like observing the interior of a room through a keyhole or getting it and looking inside.

It took historians and legal historians years to reveal the construction and methods of the German state under the National Socialists and to describe the occupation of Polish lands. These issues were dealt with by, among others, Franciszek Ryszka⁴¹, Karol Grünberg⁴² and Martin Broszat⁴³. The research they initiated is now being creatively developed by successive generations of scholars, and their work is by no means nearing completion. Admittedly, many lovers of local history have taken up the subject of the extermination of Polish leaders and representatives of the intelligentsia from the early days of the occupation, but for a long time the regularities in this aspect were overlooked. The organized extermination of a group of Poles makes it possible to learn about German intentions regarding other social groups, as it shows the German plan of action. Moreover, the actions of murdering representatives of the Polish leadership strata were practically fully implemented, while the others were only partially carried out. Initial clues as to how the problem should be clarified came from the findings of the trial of the Einsatzgruppen operating in the USSR, held before an American military court between September 29, 1947 and April 10, 1948.⁴⁴

Popularizing knowledge of Einsatzgruppen activity in Poland was taken up by Kazimierz Leszczyński, who in 1971 published documents on operational groups in the form of a selection of sources with critical commentary⁴⁵. In it he included a synthetic description of the planning of the crimes⁴⁶. It is not without significance that the atrocities of the Einsatzgruppen were until then a secondary scholarly problem (only Kazimierz Radziwińczyk published a study relating to them⁴⁷). Polish authors began to take an interest in this issue in 1959⁴⁸, when the first marginal references to the Einsatzgruppen appeared.

A pioneer in disseminating findings about the extermination of the intelligentsia in Poland was, among others, Barbara Bojarska⁴⁹ (while it was still in the communist period), and

⁴¹ F. Ryszka, *The State of Emergency. Rzecz o systemie państwa i prawa Trzeciej Rzeszy*, Wrocław 1985; *idem*, *Noc i mgła. Germany in the Nazi Period*, Warsaw 1997; see *idem*, *Nuremberg. Prehistory and Continuity*, Warsaw 1982.

⁴² K. Grünberg, *SS - Hitler's black guard*, Warsaw 1975.

⁴³ M. Broszat, *Narodowosocjalistyczna polityka w sprawie Polski 1939-1945*, Warsaw 1966; *idem*, *200 years of German policy toward Poland*, translated. E. Kazimierczak et al, Warsaw 1999; *idem*, *Der Staat Hitlers. Grundlegung und Entwicklung seiner inneren Verfassung*, München 1979. cf. *idem*, *Zweihundert Jahre deutsche Polenpolitik*, München 1963; *idem*, *Nationalsozialistische Polenpolitik 1939-1945*, Frankfurt am Main, Hamburg 1965.

⁴⁴ During the 9th successive Nuremberg Trial, the so-called Einsatzgruppen Trial, the criminal activities of German operational groups from 1941 onward were evaluated, and therefore only those undertaken against Soviet citizens (it remains a separate issue that they also included residents of so-called Western Belarus and Western Ukraine, i.e. borderland Poles). In general, the participation of group members in the extermination of members of the Polish elite was omitted (see *Trials...*, vol. IV, Washington 1949).

⁴⁵ K. Leszczyński, *Activities of the Einsatzgruppen of the security police on Polish soil in 1939 in the light of documents*, "BGKBZHW" XXII (1971), pp. 7-290.

⁴⁶ *Ibid*, pp. 7-10.

⁴⁷ K. Radziwińczyk, *Operation "Tannenberg" of Sipo and SD operational groups in Poland. Autumn 1939*, "PZ" 5 (1966), pp. 94-118.

⁴⁸ In his article, Kazimierz Leszczyński briefly characterized the state of research on the functioning of the Einsatzgruppen in Poland (K. Leszczyński, *Działalność...*, p. 7, note 1).

⁴⁹ B. Bojarska, *The extermination action in Piasnica near Wejherowo*, "PZ" 2 (1964), pp. 350-367; *eadem*, *Destruction camps on the territory of the Śępólno district in the first months of the Nazi occupation*, "PZ" 1

now Dieter Schenk⁵⁰, Maria Wardzyńska⁵¹ and Jochen Böhrer (along with other members of the research team)⁵² are working on the subject. German authors have written about the activities of police groups, including Hanns von Krannhals⁵³ and Dorothee Weitbrecht⁵⁴, but their publications have not been translated into Polish. The study of the issue of the German settlement plan and the Germanization of the eastern lands, especially from the point of view of compiling and providing source materials, was particularly devoted to Czesław Madajczyk⁵⁵; now this theme has been successfully taken up in Germany by Isabel Heinemann⁵⁶. German legislation of the occupation period has been compiled separately for the so-called lands incorporated into the Reich and the so-called GG⁵⁷, and commented on by Karol Pospieszalski⁵⁸. Detailed monographs detailing, among other things, the ways in which Poles were legally discriminated against were

(1965), pp. 123-134; eadem, Extermination of the Polish population in the Chełmno nad Wisłą district in 1939, "PZ" 3 (1965), pp. 128-142; eadem, German crimes in the district of Świecie nad Wisłą, "PZ" 1 (1966), pp. 96-118; eadem, Extermination of the Polish population of the Tuchola district during the period of Selbstschutz activity, "BGKBZHWP" XIX (1968), pp. 15-50; eadem, Extermination of Polish intelligentsia in Gdansk Pomerania (September-December 1939), Poznań 1972; eadem, Piaśnica. A Place of Martyrdom and Memory. From research on Nazi crimes in Pomerania, Wrocław 1978; eadem, Selbstschutz in the Gdansk-Prusy Zachodnie District, "BGKBZHWP" XXIX (1979), pp. 137-170; eadem, Skutki hitlerowskiej polityki eksterminacyjnej na Pomorzu Gdańskim, Warsaw 1980.

⁵⁰ D. Schenk, Night of the Murderers. The Killing of Polish Professors in Lviv and the Holocaust in Eastern Galicia, transl. P. Zarychta, Kraków 2011. cf. *idem*, Der Lemberger Professorenmord und der Holocaust in Ostgalizien, Bonn 2007.

⁵¹ M. Wardzyńska, Był rok 1939: Operation of the German Security Police in Poland. Intelligenzaktion, Warsaw 2009.

⁵² J. Böhrer, K.-M. Mallmann, J. Matthäus, Einsatzgruppen in Poland, transl. E. Ziegler-Brodnicka, Warsaw 2009; J. Böhrer, Najazd 1939: Germany against Poland, transl. D. Salamon, Kraków 2011; *idem*, Wehrmacht Crimes in Poland. September 1939: Total War, transl. P. Pienkowska-Wiederkehr, Kraków 2009; *idem*, S. Lehnstaedt, Die Berichte der Einsatzgruppen aus Polen 1939, Berlin 2013; cf. J. Böhrer, Auftakt zum Vernichtungskrieg. Die Wehrmacht in Polen 1939, Bonn 2006; J. Böhrer, K.-M. Mallmann, J. Matthäus, Einsatzgruppen in Polen. Darstellung und Dokumentation, Darmstadt 2008.

⁵³ H. von Krannhals, Die Einsatzgruppen der Sicherheitspolizei in Polen 1.9.1939 - 31.10.1939, Lüneburg 1965.

⁵⁴ D. Weitbrecht, Der Exekutionsauftrag der Einsatzgruppen in Polen, Filderstadt 2001.

⁵⁵ C. Madajczyk, Generalplan Ost, Poznań 1962; General Plan East. Collection of Documents, ed. C. Madajczyk, selection and compilation. S. Biernacki et al., Warsaw 1990; Zamojszczyzna - Sonderlaboratorium SS. A Collection of Polish and German Documents from the Nazi Occupation, vol. 1-2, ed. C. Madajczyk, Warsaw 1977-1979.

⁵⁶ I. Heinemann, Rasse, Siedlung, deutsches Blut Das Rasseund Siedlungshauptamt der SS und die rassenpolitische Neuordnung Europas, Göttingen 2013. cf. eadem, Race, Land, German Blood. The SS Main Office of Race and Settlement and the New Racial Order of Europe, transl. J. Górny, Gdansk 2014.

⁵⁷ The phrase "so-called" used to describe the Polish lands incorporated into the Reich, the General Government and the Reich Commissariats indicates the unlawful - from the perspective of international norms - nature of Germany's acts of annexing areas or liquidating the Polish state, which is discussed in more detail in Chapter Five (on the qualification of the German state's actions and omissions). Some authors (often lawyers or legal historians) also emphasize in this way the illegality of the annexation of Polish lands. This remark also applies to the administrative units of the Reich into which the territories of the occupied states were incorporated in violation of international law (see K. Smigiel, Catholic Church in the so-called Wartheland District 1939-1945, Lublin 1979; E. Seeber, Forced Laborers in the Fascist War Economy. Deportation and Exploitation of Polish Citizens with Special Reference to the Situation of Workers from the So-called General Government (1939-1945), transl. M. Meder, Warsaw 1972).

⁵⁸ K. Pospieszalski, Hitler's occupation "law" in Poland, part 1: Lands "incorporated". A selection of documents, Poznań 1952; *idem*, Hitler's occupation "law" in Poland, part 2: General Gubernia. A selection of documents and an attempt at synthesis, Poznań 1958.

published by Andrzej Wrzyszczy⁵⁹ (contemporary), and in the 1980s by Tadeusz Jaszowski⁶⁰ and Edmund Zarzycki⁶¹. German researchers, such as Peter Salje⁶², Ernst Fraenkel⁶³, Gotthard Jasper⁶⁴ and Eduard Rabofsky along with Gerhard Oberkofler⁶⁵, tended to evaluate Nazi German law holistically, without analyzing in detail the issue of German occupation law in Poland. The list of names of scholars involved in the exploration of German crimes against Poles is much longer and includes hundreds of authors of national and local historical studies, whose lists of publications form extensive bibliographies, and it is pointless to present them further here.

The state institution established in 1945 to, among other things, establish the course of German crimes and research the occupation was the Main Commission for the Investigation of German Crimes in Poland (in 1949 the adjective "German" in its name was changed to "Nazi"). A bibliography of its publications for the years 1945-1982 was published in 1983 and contained 2533 items⁶⁶.

In all, hundreds, perhaps thousands, of studies and scholarly articles were published, especially many in Poznań's "Przegląd Zachodni" (since 1945) and "Documenta Occupationis Teutonicae" (since 1945.), Wrocław's "Studie nad Faszyzmem i Zbrodniami Hitlerowskimi" (from 1974-2011, later published as "Studia nad Autorytaryzmem i Totalitaryzmem") and Warsaw periodicals, which are "Biuletyn Głównej Komisji Badania Zbrodni Niemieckich w Polsce" (from 1946, in successive mutations) and "The Recent History of Poland. Materials and Studies from the Period of World War II" (since 1957 and later under a modified name). Studying the material contained in these texts allows one to gain the knowledge necessary to justify an international legal assessment of Germany's crimes against the Polish people. It is astonishing, however, that it is only now that comprehensive monographs have been published on the activities of the Einsatzgruppen, the extermination of the Polish intelligentsia, leaders and wealthy strata, and the Wehrmacht's crimes against the Polish population. The historical research necessary to realize the study's objectives required familiarization with archival materials. This goal was served, among other things, by a grant from the UMK Rector to the author so that he could perform an archival search. It was carried out in November 2014 at the 162nd branch of the German Federal Archives (Bundesarchiv), located at the Central Office for the Investigation of National Socialist Crimes in Ludwigsburg (Zentrale Stelle der Landesjustizverwaltungen zur Aufklärung nationalsozialistischer Verbrechen)⁶⁷. The

⁵⁹ A. Wrzyszczy, *Okupacyjny sądownictwo niemieckie w Generalnym Gubernatorstwie 1939-1945. Organizacja i funkcjonowanie*, Lublin 2008; *idem*, *Sądownictwo SS i policji w Generalnym Gubernatorstwie* (state of research), "SIL" 19 (2013), pp. 361-371; *idem*, *Hierarchy of legal acts introduced by the German occupiers in the General Government in 1939-1945*, "SIL" 22 (2014), pp. 695-708.

⁶⁰ T. Jaszowski, *Hitler's criminal law in Pomerania 1939-1945*, Warsaw 1989.

⁶¹ E. Zarzycki, *Exterminatory and Discriminatory Activities of the Nazi Courts of the Danzig-West Prussia District in 1939-1945*, Bydgoszcz 1981; *idem*, *Activities of the Nazi Special Court in Bydgoszcz in 1939-1945*, Warsaw 1987.

⁶² *Recht und Unrecht im Nationalsozialismus*, compiled by P. Salje et al, Münster 1985.

⁶³ E. Fraenkel, *Der Doppelstaat. Recht und Justiz im "Dritten Reich"*, Frankfurt am Main 1984.

⁶⁴ G. Jasper, *Justiz und Nationalsozialismus*, Hannover 1985.

⁶⁵ E. Rabofsky, G. Oberkofler, *Verborgene Wurzeln der NS-Justiz. Strafrechtliche Rüstung für zwei Weltkriege*, Wien 1985.

⁶⁶ S. Kania, *Publications of the Main Commission for the Investigation of Nazi Crimes in Poland 1945-1982*, Warsaw 1983.

⁶⁷ See BAL, *Sammlung Polen* (copies of interrogation protocols of witnesses to German crimes in Polish lands, documents on the activities of the Einsatzgruppen and Selbstschutz in Poland, etc.). Excerpts from the source

archival sources analyzed at that time, but also during other research trips, as well as their published collections, allowed the author to familiarize himself with the facts of German crimes committed against representatives of the Polish elite and the rest of the Polish nation.

The monograph's source base also includes accounts of Poles who experienced the criminal policies of the occupying forces during World War II. Documents from the resources of the Institute of National Remembrance (IPN) and The Hoover Institution Library and Archives, including protocols of witness hearings before the GKZNwP, are systematically made available in the form of digital copies and their textual transcripts on the Polish and English-language website of the "Records of Terror" project, formerly carried out under the auspices of the capital's Witold Pilecki Center for Research on Totalitarianisms. Witold Pilecki, and now the Witold Pilecki Institute for Solidarity and Valor⁶⁸. As a first step, it has been decided to publish witness testimonies concerning crimes committed in Warsaw and its vicinity (during the Warsaw Uprising, the massacre in Wola, the Radom District) and in the Auschwitz-Birkenau camp. Ultimately, testimonies from other regions of Poland are to be presented as well. In addition, the contractors have undertaken the printing of selected protocols with the testimony of witnesses to the extermination of Poles⁶⁹.

Although the dissertation did not include direct references to the documents under review from the Ludwigsburg branch of the Bundesarchiv, the IPN or the state archives, to a large extent the conclusions from their interpretation helped to formulate the rationale for the international legal assessment. The research effort of rigorously examining hundreds, perhaps thousands, of pages of documents, quoting them and summarizing the results of the review was not necessary due to the fact that sufficient analyses to draw complete conclusions have already been carried out by historians, and the purpose of the monograph is to present the facts in a legal perspective, not to describe in detail Germany's individual actions and omissions.

Third, the subject of the study is the relationship between the applicable international and domestic sources of law and the achievements of historiography established by means of the models of legal qualification of the syllogistic and argumentative. The finding of these relationships makes it possible to justify the existing qualification of German crimes

research were used in detailed academic studies (see M. Mazurkiewicz, *Genocide in Pomerania? Elimination of Local Elites at the Beginning of the Nazi Occupation (1939-1940)* [in:] *Letnia Szkoła Historii Najnowszej* 2014. Referrals, ed. J. Szumski, Ł. Kamiński, Warsaw 2015, pp. 17-27; *idem*, *Legal Basis for the Functioning of the Selbstschutz in Polish Lands Incorporated into the Third Reich and in the General Government* [in:] *Hitler's Forgotten Kaci. Volksdeutscher Selbstschutz w okupowanej Polsce 1939-1940. Wybrane zagadnienia*, ed. I. Mazanowska et al., Bydgoszcz- Gdańsk 2016, pp. 11-23).

⁶⁸ ISiMWP, Records of Terror, www.zapisyterroru.pl, accessed 29 II 2020.

⁶⁹ Records of terror. Warsaw. 41st Session of the UNESCO World Heritage Committee Krakow, July 2-12, 2017, ed. L. Zaborowski, Warsaw 2017; Records of Terror I. Warsaw. German Executions in an Occupied City, ed. L. Zaborowski, Warsaw 2017; Records of Terror II. Warsaw. German crimes in Wola in August 1944, ed. L. Zaborowski, Warsaw 2017; Zapisy terroru, vol. 3: German Occupation in the Radom District, ed. L. Zaborowski, Warsaw 2018; Zapisy terroru, vol. 4: German crimes in Śródmieście during the Warsaw Uprising, ed. L. Zaborowski, Warsaw 2018; Zapisy terroru, vol. 5: Auschwitz-Birkenau. Life in the Death Factory, ed. I. Jabłońska, Warsaw 2019; Records of Terror, vol. 6: Auschwitz-Birkenau. The Fate of Women and Children, ed. I. Jabłońska, Warsaw 2019; Records of Terror, vol. 7: Auschwitz-Birkenau. Victims of Criminal Medicine, ed. I. Jabłońska, Warsaw 2019. See also a selection of accounts of Polish soldiers arrested by the USSR authorities: Zapisy terroru, vol. 8: Polish Soldiers in Soviet Captivity, ed. I. Jabłońska, Warsaw 2019.

against Poles and demonstrate Germany's responsibility for crimes under international law.

Structure of the study

In connection with the methodological assumptions presented, it should be pointed out that the study consists of five chapters, which include assumptions adapted to the needs of the theoretical legal international assessment formulated by the legal historian and the classical model of the application of law⁷⁰. Each chapter has a historical-legal value. The first of them - *Prolegomena: prevailing views in German public international law doctrine and political doctrine (from the 19th century to 1945) in the assessments of selected German and Polish legal theorists* - describes the assumptions of the dissertation, and presents the political and legal aspects of the doctrine of National Socialism. It is divided into six problem subsections: *Legal dispute over the subject and concept of public international law*, *The problem of the intrinsic legal nature of international legal norms*, *Relationship between public international law and domestic law*, *The origins of international criminal law*, *The international dimension of Germany's criminal laws*, and *National Socialism and public international law*. The selection of issues illustrates the typical themes of the applicability of public international and criminal law in Germany from the 19th century to 1945, especially during the interwar period and World War II.

The second chapter - *Sources of international law and Germany's obligations to Poland in 1939* - contains information on the theoretical foundations of international legal obligations and the principles of their implementation, elaborated from a historical-legal perspective. It also challenges the German argumentation regarding the limited scope of legal norms postulated by the German authorities in their relations with Poland. The chapter consists of two subsections: *The concept and catalog of sources of international law* and *Selected problems of treaty law in Polish-German relations* (its smaller editorial units are titled as follows: *Obligation to register international agreements*, *Principles of treaty interpretation*, *Invalidity of treaty due to coercion*, *Expiration of the treaty due to a fundamental change in circumstances*, and *The impact of war on the validity of international agreements*).

The third chapter - *Germany's international legal obligations to Poland in 1939* - describes German obligations to Poland in a state of war, especially during the occupation of Polish

⁷⁰ Lech Morawski distinguished seven stages in the application of law: "1. selection of a legal norm, 2. determination of the validity of a legal norm, 3. interpretation of a legal norm, 4. determination of a state of facts, 5. subsumption [legal qualification of a state of facts], 6. selection of legal consequences, 7. formulation and justification of a decision" (L. Morawski, *Introduction to Jurisprudence*, Torun 2006, pp. 152-154). In turn, the authors of a textbook on legal studies from the University of Warsaw identified five of them: "1) preliminary determination of the probability of the occurrence of a fact of legal significance, i.e., regulated by law and producing legal effects; 2) proving the occurrence of a fact; 3) determination of binding norms; 4) subsumption and decision-making; 5) execution of a decision" (T. Chauvin, T. Stawecki, P. Winczorek, *Introduction to Jurisprudence*, Warsaw 2009, pp. 197-205). In the present discussion, the stages of establishing the legal and factual state of affairs and subsumption are taken into account - as a result of their theoretical implementation, the scope of Germany's responsibility for the crimes committed against the Poles was established and the legal international qualification of German actions was justified.

lands in 1939-1945. Due to the material scope of the legal regulations, the chapter consists of three subchapters: *Anti-war law*, *Law of war* and *Prohibition of the crime of genocide*. The first presents norms for the peaceful settlement of disputes (mainly from the 1907 Hague Convention (I) and the 1925 Treaty of Arbitration), prohibitions of war (stemming from the 1928 Anti-War Treaty, the 1934 Declaration of Non-Violence, as well as the non-treaty prohibition of war of aggression and the prohibition of crimes against peace contained in the 1945 IMT Charter) and the order to notify the declaration of war (provided for in the 1907 Hague Convention (III)). The second subsection presents the injunctions and prohibitions of the 1907 Hague Convention (IV) and the prohibition of war crimes set forth in the 1945 IMT Charter. - protecting the population of the belligerent party, and the prohibition of crimes against humanity as described in the 1945 IMT Charter. - concerning the remaining civilian population. The basis and scope of the non-treaty prohibition of genocide was analyzed separately, but presented in relation to the prohibition contained in the UN Convention of 1948. The cumulative presentation of the Polish-German obligations derived from the anti-war and war law and the prohibition of genocide was mainly due to the need to prove the intention to destroy the Polish nation. This manifested itself not only in the post-war extermination of Poles, but also in the removal of signs of their national activity, starting with the liquidation of the state. It goes on to describe how this intention was carried out in practice, and presents the regulations that Germany violated to make the extermination of the Polish nation a reality.

The titles of the fourth chapter - *Systematization and review of Germany's acts against Poland in 1939-1945* - and its subchapters indicate that, although numerous comments of a historical nature are included, these reflections are not primarily intended to achieve the goals of historical science. Based on the previous findings of researchers of the history of the occupation and legal historians, the chapter describes the factual state of affairs, which is why the titles use historical and legal terminology rather than *strictly historical* terminology. Examples of German crimes were presented instead of a detailed presentation. Current historical knowledge has been used to make a legal qualification of acts committed by officials of and on behalf of and for the German state, and Germany's actions and omissions are described in the subsections *Planning for and preparing for breaches of international law* and *Ways, course and effects of depolonization*. Their internal systematization takes into account the substantive scope of Germany's international legal obligations to Poland, which related to anti-war and war law on the one hand, and the prohibition of the crime of genocide on the other. The first of these subsections presents the concepts of war against Poland and annexation of the Free City of Danzig and their concretization, as well as depolonization and Germanization intentions, that is, the program and preparations for the extermination of the Polish elite and the destruction of the rest of the Polish nation, and the General Plan East. The criteria used in the second subsection are the material scope of German commitments to Poland and the actual geographic subdivisions of World War II. Thus, first the issues related to the elimination of Polish statehood and the administrative separateness of the Free City of Danzig - the establishment of the occupation administration and police structures in the detailed occupied territories and the introduction of German law and justice, which was a direct result of the invasion of Poland and the annexation of FCD, were brought closer. This is followed by an analysis of the elimination of the Polish elite (in the Reich, FCD before and

after annexation, in the so-called Polish territories incorporated into the Reich, in the so-called General Government and in the occupied Borderlands) and the destruction of the remaining part of the Polish nation (in the Reich, FCD before and after annexation and in occupied Polish territory). The design of this section corresponds with the goal of indicating the extent of Germany's genocidal intent. This effect could be achieved through a division reflecting the essence of the plans for the extermination of Poles carried out by Germany, but omitting - resulting from the conventional definition of genocide - the assignment of individual actions and omissions to specific genocidal acts.

The final, fifth chapter - *Germany's responsibility for crimes against Poland committed in 1939-1945* - focuses on subsumption, i.e. the assignment of the existing factual situation to the relevant general-abstract norms. As a result of the analysis, the determination of international legal obligations, the selection of appropriate norms, the assignment to them of the acts of Germany - carried out, among others, by its organs, functionaries - against Poland, the revelation of their unlawful character were attributed to the German state, which made it possible to determine the scope of its responsibility. Germany's unlawful acts and omissions during World War II against Poland are described in three subsections (*Crimes of the anti-war law*, *Crimes of the laws of war* and *Crime of genocide*).

The monograph begins with an elaborate introduction that includes explanations of its assumptions, hypotheses, problems, objectives, object of study, selection of sources and state of the literature on the subject. It also characterizes the design, methodology and includes an editorial commentary. The conclusion, on the other hand, evaluates whether the stated objectives have been achieved, and proposes research postulates *pro futuro*. A bibliography of sources and literature on the subject has been compiled. The dissertation is enriched with relevant diagrams, a glossary of terminology, abstracts and tables of contents in English and German.

Research methodology

In verifying hypotheses and solving research problems in the study, various methods were used, as already mentioned. The first chapter was written using the historical-legal method⁷¹, the second and third chapters were written using the dogmatic-legal (analysis of the sources of legal norms), theoretical-legal (analysis of the theory of legal norms) and historical-legal methods, and the fourth chapter was written using the descriptive method (the current results of historical work were summarized). Exceptionally, in the creation of the last chapter for the theoretical legal qualification made by the academic jurist (as

⁷¹ The study uses the methodological guidelines proposed by Juliusz Bardach, who exhaustively presented the assumptions of the historical-legal method (see J. Bardach, *Themis a Clio, or Law and History*, Warsaw 2001; *idem*, *Themis a Clio, or about the need for a historical approach in jurisprudence* [in:] *Zagadnienia metodologiczne prawoznawstwa*. Materials from the scientific session, Łódź, March 27-28, 1980, ed. by J. Wróblewski, Wrocław 1982, pp. 21-48. cf. H. Olszewski, *Historical Approach in Jurisprudence* [in:] *Methods for the Study of Law*. Materials of the symposium, Warsaw, 28-29.IV.1971, ed. A. Łopatka, Wrocław 1973, pp. 11-27; S. Ehrlich, *Some remarks on the methodology of legal sciences*, "PiP" 11 (1964), pp. 641-653; A. Peczenik, *Planes of the study of law*, "PiP" 2 (1968), pp. 232-243; M. Górnicka, *System version of the historical-legal method on the example of the law of evidence in Polish criminal procedure*, "FIUW" 2 (2015), s. 9-34).

opposed to the application of the law by an authorized body), the syllogistic and argumentative models were used⁷², as this section does not establish the material truth or the international legal norms in force during the years of World War II, but determines the relationship between the legal and factual state of affairs.

Editorial notes

The editing of the text was done on the basis of guidelines developed by Adam Wolanski⁷³. Complementary use was made of the spelling rules and linguistic advice of the authors of the online Polish Language Dictionary PWN⁷⁴. In the case of quoting fragments of texts from the 18th, 19th and early 20th centuries. (including foreign-language texts) their spelling has been modernized in accordance with the still valid guidelines contained in the publishing instructions of Kazimierz Lepszy⁷⁵, and especially Ireneusz Ihnatowicz.⁷⁶

The system of footnotes used in the text is considered classic in Poland. In addition to the typical bibliographic footnotes, there are numerous polemical, cross-referential, digressive and dictionary footnotes. In the case of references to articles from periodicals, regardless of the name of the consecutive number of the periodical (volume, number, issue), a simplified notation was adopted, but each time allowing the proper identification of the publication, for example, "Western Review" 1 (1990). In turn, the names of periodicals, promulgators, organizations and courts generally appear in the form of acronyms, which limits the volume of footnotes. References to legal sources were not repeated, only the

⁷² The syllogistic model of the application of law, as stated by Sławomir Lewandowski, "is based [...] on the logical structure of a syllogism, [...] [having] the form of an implication, in which the predecessor is the conjunction of two or more premises. [...] The greater premise expresses a description of the general norm established by interpretation. The lesser premise presents the factual situation in such a way that it qualifies for the scope of application of the norm referred to by the greater premise. In the conclusion, on the other hand, the individual norm is sentenced" (S. Lewandowski, *Rhetorical and logical bases of legal argumentation*, Warsaw 2015, pp. 117-118. See *ibid*, pp. 115-152). On the grounds of the issue analyzed in this dissertation, an example of a legal syllogism is the application of the normalization of the actions of the occupier, which is concretized in the following predicate: any state occupying the territory of another state was obliged to respect the lives of individuals (the greater premise). Germany occupied Polish territory in 1939-1945 (minor premise) and was then obliged to respect the lives of individuals (conclusion). The assumptions of the syllogistic model are sometimes criticized in the doctrine of legal theory, as emphatically expressed by Lech Morawski: "the syllogistic model is only a certain ideal and justification of the positivist ideology, which upholds the Montesquian myth that the judge is only the mouth of the law, or a subsumption automaton, which is supposed to strengthen the authority of the law and the courts" (see L. Morawski, *Podstawy filozofii prawa*, Toruń 2014, pp. 205-213, quoted from p. 213). Complementary to the syllogistic argumentative model, on the other hand, consists in weighing arguments (taking into account the rationale for and against the choice of a given legal decision) and is characteristic of the process of application of law by constitutional courts, although not only. In the dissertation, in order to achieve optimal research results, methods derived from both models were used.

⁷³ A. Wolanski, *Editing texts. Praktyczny poradnik: książka, prasa, www*, Warsaw 2008.

⁷⁴ PWN Dictionary of the Polish Language, <http://sjp.pwn.pl/>, accessed 29 II 2020. The glossary is based on the dictionary edited by Jerzy Bralczyk (see *Dictionary of 100 Thousand Needful Words*, ed. J. Bralczyk, Warsaw 2005).

⁷⁵ *Publishing Manual for Historical Sources from the Sixteenth to the Mid-Nineteenth Century*, ed. by K. Lepszy, Wrocław 1953.

⁷⁶ I. Ihnatowicz, *Draft publishing instructions for historical sources of the 19th and early 20th centuries*, "SŻ" 7 (1962), s. 99-124.

analyzed systematic unit of the legal text, i.e. most often a provision or article, was indicated in parentheses.

Both in the footnotes and in the main text, the developed spelling of the names and surnames of individuals was included - in the language of origin or transliteration into Polish, which mainly concerned the Cyrillic alphabet (according to Polish Standard ISO 9:2000). As a rule, the identification of a character was limited to his or her first name and surname, unless such a notation was, for example, insufficient for his or her identification or incompatible with the tradition of writing. Abbreviations used for bibliographic description were written in Polish.

Due to the large number of source footnotes, which often include references to many works by a particular author, a uniform notation was used, usually consisting in abbreviating the title to the first noun or the first few words, which made it possible to identify the item unambiguously, e.g. the description of the monograph: "M. Wardzyńska, Był rok 1939: Operation of the German Security Police in Poland. Intelligenzaktion, Warsaw 2009, p. 12" in subsequent references has the form: "M. Wardzyńska, Był rok 1939..., p. 15" or "ibidem, p. 15" (when the same publication was cited directly above). Accordingly, the abbreviation op. cit is not used in the text. Foreign-language citations - for the convenience of readers - have generally been translated into Polish (unless explicitly indicated otherwise), although due to the specialized nature of the monograph, the original text has often also been left for comparative purposes.

CHAPTER I

Prolegomena: prevailing views in German public international law doctrine and political doctrine (from the 19th century to 1945) in the assessments of selected German and Polish legal theorists

Prolegomena is an introduction to the following parts of the study. This critical commentary takes a closer look at the most relevant themes in the history of German law and politics. An indication of the material and chronological scope of the considerations carried out in Chapter One serves to clarify how the basic issues of international law were understood in Germany, as well as how the assumptions and crystallization of National Socialist doctrine in its legal, political and state dimensions came about.

The reflections - due to their purpose - were carried out using the positions dominant in the doctrine, and no attempt was made to show an elaborate polemic, as this would in fact be a more encyclopedic approach. In order to maintain the synthetic nature of the observations, subordinated to the priorities of the dissertation, reference was made mainly to the analyses of Polish authors, in addition to German ones. Political and legal issues are presented in a single chapter, which is due to the well-established link between political and legal doctrines in jurisprudence, right from the point of view of research efficiency.

Legal dispute over the subject and concept of public international law

Reflections on the system of international law, taking into account the chronological perspective of the period before the outbreak of World War II, include many issues already developed and generally unambiguous to modern legal theorists, such as the self-contained legal character of international legal norms, the separation of the branch of law that concentrates them, and the relationship between international and domestic law. In addition to the legal-doctrinal topics, the chapter additionally deals with political-doctrinal themes, concerning Pangermanism, German imperialism, the concept of spatial development and, above all, the relationship of National Socialism to international law. In addition to this, it is described how international criminal law was distinguished, and German domestic law with international legal effects is presented. The explanation of legal issues against the background of political theory and processes is an introduction to the description of the legal state in Chapter Two.

The starting point for considering the concept and subject matter of public international law is a terminological dispute. It should be noted that among the most prominent Polish lawyers of the interwar period who specialized in international law, there was no consensus on its name. Zygmunt Cybichowski proposed the term "international law",

which was adopted by contemporaries, while Ludwik Ehrlich and Wiktor Sukiennicki advocated the traditional term "law of nations", which was going out of use¹.

Franz von Liszt explained the difference in meaning between the law of nations (*ius gentium*, *droit des gens*, *law of nations*, *Völkerrecht*) and international law (*ius inter gentes*, *droit international*, *international law*, *Völkerrecht*²), pointing to etymological reasons. Namely, the Roman law of nations applied to non-citizen residents of the empire and was common to all people, and the adoption of international law involved the imposition of obligations or granting of rights to states, not individuals³. It is worth mentioning that the term "international law" in opposition to the concept of the law of nations was created by the early positivist Richard Zouch⁴. However, according to Franz von Liszt, the most appropriate term was "inter-state law," which the German-Austrian theorist took from Immanuel Kant⁵: "When we speak of the law of nations, we mean the law of one state in relation to another; thus this law is not quite properly called the law of nations, since it should rather be referred to as the law of states (*ius publicum civitatum*)."⁶.

Similarly, Julian Makowski, preferring the Kantian approach, emphasized the fact that international law regulates relations between states, not the individuals or nations or ethnic groups that compose them. This found justification in the legal subjectivity of the state in the international arena. However, there was no shortage of authors who limited the subject matter of international law. Although already since the time of Hugo Grotius, considered the father of international law, the existence of the described branch of law was practically recognized⁷, many jurists still at the beginning of the 20th century belittled its importance, among them representatives of German legal science.

According to Julian Makowski, the denial of the independent existence of international law before the outbreak of World War II was due to the fact that at that time it was only emerging as an independent branch of law, and besides, interstate relations were based on coordination, and not subordination, as in the case of domestic law, which was the traditionally recognized way of legislating. The disavowal of international law was

¹ Z. Cybichowski, *Public and Private International Law*, Warsaw 1928, pp. 12-13.

² The word *Völkerrecht* is an exact translation into German of the Latin phrase *ius gentium*, although it also means *ius inter gentes* in modern times. Although the branch of public international law may be referred to as *Internationales Öffententliches Recht* or, shorter, *Internationales Recht*, the German legal language is dominated by the traditional term *Völkerrecht* (*Völkerrecht*, allgemein [in:] *Wörterbuch des Völkerrechts*. Dritter band: Rapallo-Vertrag bis Zypern, ed. H.-J. Schlochauer et al., Berlin 1962, pp. 611-631).

³ A synthetic argument on the genesis of the aforementioned concepts was presented by John Westlake, an English naturalist (see J. Westlake, *International Law*, Part 1: Peace, Cambridge 1904, pp. 11-13).

⁴ R. Zouch, *Juris et iudicii fecialis, sive juris inter gentes, et quaestionum de eodem explicatio*, Oxoniae 1650.

⁵ F. von Liszt, *Das Völkerrecht systematisch dargestellt*, Berlin 1906, pp. 1-2. Cf. *idem*, *System of International Law*, transl. W. Olszewski, Cracow-Warsaw 1907, pp. 1-2.

⁶ I. Kant, *Metaphysics of morality*, transl. W. Golewicz [in:] *idem*, *Collected Works*, vol. 5, ed. W. Włoch, Torun 2011, p. 447. "Das Recht der Staaten in Verhältnis zueinander (welches nicht ganz richtig im Deutschen das Völkerrecht genannt wird, sondern vielmehr das Staatenrecht "ius publicum civitatum" heißen sollte) ist nun dasjenige, was wir unter dem Namen des Völkerrechts zu betrachten haben" (I. Kant, *Werkausgabe in zwölf Bänden*. Band 8. *Die Metaphysik der Sitten*, ed. W. Weischedel, Frankfurt am Main 1977, p. 466).

⁷ A contemporary opponent of Grotius was Arnoldus Rotgers, a university professor from Groningen, who in his 1727 study *Apodicticae demonstrationes* depreciated the value of the law of nations, declaring it worthless and ridiculing it: "once and for all banished beyond the limits of the science of law that ridiculous, preposterous, unreasonable and disreputable law of nations" ("relegavi extra jurisprudentiae limites ridiculum illud, ineptum, stolidum ac impium ius gentium"). W. Sukiennicki, *The basis for the validity of the law of nations*. A Legal Study, Vilnius-Warsaw 1929, p. 1. Quoted in E. Nys, *Histoire Littéraire du Droit* - Corneille van Bynkershoek, "Revue de Droit International et de Législation Comparée" 1 (1922), p. 75.

supposedly evidenced by the supposedly widespread practice of violating its norms. This was denied by Viktor Sukiennicki, who stated: "a law violated or not applied in practice does not, after all, cease to be a law, a legal norm exists, despite the fact that it is constantly violated"⁸. This was confirmed by Stanislaw Posner, pointing out violations of international law motivated by force or historical necessity, but ultimately *de facto* condemned by history, including the three partitions of the Republic (of 1772, 1793, 1795) or the violation of Belgium's perpetual neutrality in 1914. (when Theobald von Bethmann-Hollweg, Reich Chancellor from 1909-1917, compared the international treaty to a "paper rag")⁹. Posner saw the revival of these states and other Central and Eastern European countries and the establishment of the League of Nations as the ultimate triumph of the "kingdom of law."¹⁰.

It is difficult to qualify the failure, motivated by the protection of the legal interest of its own citizens, to implement the sanctions contained in Articles 228-230 of the Treaty of Versailles after the Great War, other than as a flagrant violation of international law¹¹. The obligations stipulated therein were not carried out, as the German authorities refused to extradite suspected violators of international law and hindered the detection of the remaining violators and the proof of their criminal activities. Besides, the General Assembly of the League of Nations did not decide on December 18, 1920 to establish the tribunal provided for in Article 228 of the Treaty of Versailles for the trial of "those accused of committing acts contrary to the laws and customs of war."¹². As a result, after the Great War, it was in Germany that the trials of German war criminals, known as the Leipzig Trials, took place, which became an opportunity for the German state, judicial authorities and the public to publicly express their contempt for international law. On December 18, 1919, the constitutional German National Assembly passed the Law on the Prosecution of War Crimes and War Crimes¹³, amended in 1920¹⁴ and 1921.¹⁵ Under it, sentences were handed down by the Reich Court (Reichsgericht) in Leipzig. Of at least 900 people suspected of committing war crimes, only 13 stood trial in Leipzig, and six were given prison sentences ranging from 6 months to 4 years¹⁶. Therefore, it is rightly common in

⁸ W. Sukiennicki, Basis..., p. 7.

⁹ The politician took a shine to another equally radical formulation with an absolute and discretionary directive, which was quoted by Raphael Lemkin: "necessity does not recognize law." I wonder which norms the chancellor had in mind - all those that constrain Germany in the implementation of its imperialist policies? (R. Lemkin, Governance..., p. 30).

¹⁰ S. Posner, Kingdom of Law, "GSW" 1 (1928), s. 2.

¹¹ Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles on June 28, 1919. (Journal of Laws 1920, No. 35, item 200); Gesetz über den Friedensschluß zwischen Deutschland und den alliierten und assoziierten Mächten. Vom 16. Juli 1919 (RGBl. 1919, 140, 687).

¹² The Report of Committee No. 3 on the Recommendations Submitted by the Committee of Jurists at the Hague [in:] League of Nations. The Records of the First Assembly Plenary Meetings, Geneva 1920, pp. 744-746.

¹³ Gesetz zur Verfolgung von Kriegsverbrechen und Kriegsvergehen vom 18. Dezember 1919 (RGBl. 1919, 247, 2125).

¹⁴ Gesetz zur Ergänzung des Gesetzes zur Verfolgung von Kriegsverbrechen und Kriegsvergehen vom 18. Dezember 1919 (RGBl. S. 2125). Vom 24 März 1920 (RGBl. 1920, 53, 341).

¹⁵ Gesetz zur weiteren Ergänzung des Gesetzes zur Verfolgung von Kriegsverbrechen und Kriegsvergehen. Vom 21. Mai 1921 (RGBl. 1921, 51, 508).

¹⁶ F. Ryszka, Nuremberg..., pp. 68-72.

the literature to refer to the then actions of the Reich Court as a farce and a travesty of justice¹⁷.

In addition, the Dutch government refused to extradite the abdicated German Kaiser Wilhelm II Hohenzollern, so it became impossible to hold his trial under Article 227 of the Treaty of Versailles before the international tribunal that was planned to be set up on *ad hoc* basis for the occasion. The Netherlands objected despite the insistence of the Allied and Associated Powers on at least three occasions: on July 10, 1919. (just after the treaty was signed), January 27, 1920. (after it entered into force) and finally with a note dated March 2, 1920. As a neutral state, it invoked the principle of sovereignty and recognized that Article 227 of the treaty did not apply to it, since *res inter alios acta, aliis nec nocet nec prodest*. Speculation about the possibility of the former emperor's extradition ended when, still in March 1920, he was granted political asylum in the Kingdom of the Netherlands¹⁸.

The actions of the Reich Court in Leipzig and the Dutch authorities by no means meant that international law did not exist or did not apply. Their conduct prevented the trial of German criminals, with the former Kaiser at the helm, which meant that certain international legal norms were not enforced and applied, primarily due to the lack of determination of the states obliged to comply with them.

On the question of the nature of a legal norm, more radical than Viktor Sukiennicki was Hans Kelsen, the Austrian philosopher of law, who proved *a contrario* that its feature is the possibility of violation¹⁹. Thus, casting doubt on the validity of international law was based on the insufficient discernment of the accusing state as to whether the norm allegedly violated by another state is positively reflected and whether the state suspected of violating it is bound by it²⁰.

Franz von Liszt in 1915, that is, during the Great War, argued for the need to develop international law. Emil Stanislaw Rappaport paraphrased his views as follows: "the starting point, however, for these future perfected international organizations is and must remain present international law. Those who think otherwise, those in particular who succumb to today's impressions of international catastrophe, are mistaken; they lack, according to Liszt, a sense of reality, they are like one who intends to throw his precious clock into the sea only because it has stopped - temporarily"²¹. There is no rational reason to believe that this view has lost its validity in the face of German crimes against Poles during World War II.

Concluding his discussion of the disputes surrounding the existence of a branch of international law, Julian Makowski noted that the concept has been used in positive law acts²², such as the Declaration of the Aachen Congress of 1818²³, the Martens clause in

¹⁷ J. Herzog, Nuremberg, un échec fructueux?, Paris 1975, pp. 17 et seq.

¹⁸ F. Ryszka, Nuremberg..., pp. 59-63.

¹⁹ H. Kelsen, Allgemeine Staatslehre, Berlin 1925, p. 18.

²⁰ J. Makowski, International Law, part 1, Warsaw 1930, pp. 11-12.

²¹ E. Rappaport, New horizons of international law in the light of German journalism, Warsaw 1916, p. 22.

²² J. Makowski, International Law..., part 1, p. 11.

²³ The signatories of the declaration, which is Annex C to the protocol signed on November 15, 1818 in Aachen at the conclusion of the first congress of the Holy Alliance, stated: "The Sovereigns, in forming this august Union, have regarded as its fundamental basis their invariable resolution never to depart, either among

the preamble to the Hague Convention (IV), the Covenant of the League of Nations and the Washington Resolution of February 4, 1922.²⁴

It is beyond dispute that international law was applied by the Permanent Court of International Justice, which functioned in The Hague from 1922 to 1946 on the basis of Article XIV of the League of Nations Pact, the first part of the Treaty of Versailles. A protocol for the signing of the court's statute was adopted on December 13, 1920 in Geneva²⁵ - Polish authorities ratified the agreement in 1921²⁶, and German authorities ratified it six years later²⁷. The establishment of the tribunal meant that for the first time in history the idea of a court with broader jurisdiction was realized, even taking into account that an international Permanent Court of Arbitration was established under the 1899 Hague Convention (I). Judges of the Hague tribunal issued several judgments and advisory opinions in disputed cases between Germany and Poland, as well as regarding Polish-German relations. Between 1922 and 1940, it issued a total of 29 judgments and 27 advisory opinions, a sizeable body of jurisprudence to establish the international legal norms of the time. In 1945, the body was replaced by the International Court of Justice, whose activities were based on the aforementioned statute, which was incorporated into the 1945 UN Charter (Chapter XIV)²⁸.

In conclusion, it should be said that the existence and validity of public international law before the outbreak of World War II raised unwarranted doubts among some representatives of legal doctrine. However, they resulted not from an objective assessment of the legal state of affairs at the time, but from the misconceptions of some legal theorists, who wrongly assumed that frequent and flagrant violations of international law by states meant that it was not in force. Despite the negative experience of the Great War in this regard, the interwar period saw a return in international relations to the execution and application of international law - the establishment of the Permanent Court of International Justice.

themselves, or in their Relations with other States, from the strictest observation of the principles of the Right of Nations; principles, which, in their application to a state of permanent Peace, can alone effectually guarantee the Independence of each Government, and the stability of the general association". Declaration of the Five Cabinets (Great Britain, Austria, France, Prussia, and Russia). Signed at Aix-la-Chapelle, 15th November, 1818 [in:] *The Map of Europe by Treaty*, vol. 1, ed. E. Hertslet, London 1875, pp. 573-574.

²⁴ The resolution asked the question, which included the term "international law": "Do existing rules of international law adequately cover new methods of attack or defense resulting from the introduction or development, since the Hague Conference of 1907, of new agencies of warfare?". Resolution Establishing a Commission of Jurists to Consider Amendment of the Laws of War, "PRFRUS [1922]" I (1938), p. 288. cf. Resolution Limiting the Jurisdiction of the Commission of Jurists, *ibid*, p. 288.

²⁵ Protocol for signing the Statute of the Permanent Court of International Justice, approved unanimously at the Assembly of the League of Nations on December 13, 1920 in Geneva (OJ 1923, No. 106, item 838).

²⁶ Government statement of 26 July 1923 on the deposit of the instrument of ratification of the Protocol of Signature of the Statute of the Permanent Court of International Justice, dated 16 December 1920. (Journal of Laws of 1923, No. 106, item 840).

²⁷ Bekanntmachung über den Beitritt des Deutschen Reichs zum Ständigen Internationalen Gerichtshof im Haag. Vom 13. April 1927 (RGBl. II 1927, 19, 227); Ständiger Internationaler Gerichtshof [in:] *Wörterbuch...*, p. 344.

²⁸ Charter of the United Nations and Statute of the International Court of Justice, San Francisco 1945; Charter of the United Nations, Statute of the International Court of Justice and Agreement Establishing the United Nations Preparatory Commission (OJ 1947, No. 23, item 90).

The problem of the intrinsic legal nature of international legal norms

In the interwar period, there were lively academic disputes around the issue of international law. On the question of whether international norms are self-contained, two extreme theories emerged, internally strongly divergent. On the historical level, one should refer to the views of Hugo Grotius, who derived the legal character of *ius gentium* norms from the nature of things, the creation of which he attributed to God. He considered legal acts concluded between states, customs and practice as the sources of these norms. Only when norms derived from the above sources could not be identified, he believed, should the norms of the law of nature be sought. This was a manifestation of positivist thinking²⁹.

As the first theory that denies the intrinsic legal character of international norms, but does not question their existence, one should point to the Hegelian position. Georg Hegel, in his work *Grundlinien der Philosophie des Rechts*, published in Berlin in 1821, assumed the hegemony of the state, which was expressed in its sovereignty (formerly also written about *grant*)³⁰. Any limitation on its exercise, for example, in the form of international legal norms, independent entirely of the will of the state, could not be accepted. Consistently, a supra-state entity would take over the state's powers of legal regulation and would have to become a state itself, to the detriment of the states henceforth subjected to it. Among the followers of this thought were Anglo-Saxons John Austin³¹, James Lorimer³² and John Westlake³³ and German theorists Adolf Lasson³⁴, Max von Seydel³⁵ and Ernst Bekker³⁶.

Scholars representing the so-called Bonn School, i.e. Philipp and Albert Zorn, Erich Kaufmann³⁷, Heinrich Pohl³⁸, partly also Max Wenzel³⁹, spoke in similar terms. They differed from the Hegelians primarily in that they implicitly recognized the self-existent legal character of international law norms. However, they stipulated that it resulted not from the will of a foreign state (they denied even partial influence), but from the transposition of normative content into the legal order of their own state. They placed the

²⁹ W. Sukiennicki, *Basis...*, pp. 10-11.

³⁰ "External state law derives from relations between independent states, which is also the same thing in itself, and therefore takes the form of duty, since it is actually based on another sovereign will" ("Das äußere Staatsrecht geht von dem Verhältnisse selbstständiger Staaten aus, was und für sich in demselben ist, erhält daher die Form des Sollens, weil, dass wirklich ist, auf unterschieden souveränen Willen beruht"). G. Hegel, *Grundlinien der Philosophie des Rechts*, Berlin 1821, p. 337, § 330.

³¹ See J. Austin, *The Province of Jurisprudence Determined. Being the First Part of a Series of Lectures on Jurisprudence, or, the Philosophy of Positive Law*, London 1861.

³² J. Lorimer, *The Institutes of the Law of Nations. A Treatise of the Jural Relations of Separate Political Communities*, vol. 1, Edinburgh, London 1883, pp. 1-3.

³³ J. Westlake, *International law...*, pp. 1-13.

³⁴ A. Lasson, *Princip [sic!] und Zukunft des Völkerrechts*, Berlin 1871, p. 52; *idem*, *System der Rechtsphilosophie*, Berlin 1882, p. 389.

³⁵ M. von Seydel, *Grundzüge einer allgemeinen Staatslehre*, Würzburg 1873, p. 32.

³⁶ See E. Bekker, *Das Völkerrecht der Zukunft*, Heidelberg 1915.

³⁷ See E. Kaufmann, *Das Wesen des Völkerrechts und die Clausula Rebus sic Stantibus. Rechtsphilosophische Studie zum Rechts-, Staatsund Vertragsbegriffe*, Tübingen 1911.

³⁸ See H. Pohl, *Völkerrecht und Aussenpolitik in der Reichsverfassung*, Berlin 1929.

³⁹ See M. Wenzel, *Juristische Grundprobleme. Bd. 1: Der Begriff des Gesetzes. Zugleich eine Untersuchung zum Begriff des Staates und Problem des Völkerrechts*, Berlin 1920.

norms thus adopted in the mediocre category of so-called external law (according to Max Wenzel, this was *Untergesetzesrecht*, or sub-statutory law). Albert Zorn stated unequivocally that "international law is legal only if it is state law."⁴⁰ . Thus, proponents of the Bonn doctrine believed that norms without legal value acquire it at the moment of transposition, when the sovereign state is given the opportunity to independently shape its relationship to the adopted norms⁴¹ .

Before the National Socialists gained power, there was a much more numerous group of German jurists inclined to concede the intrinsic legal value of the norms of international law. Their theories, according to Julian Makowski, were based on the law of nature as understood by Hugo Grotius, pre-Grotius, and his epigones. They were referred to by Joseph Mausbach, Ernst Isay and Otto Schilling⁴² , who relied on the Catholic vision of the law of nature⁴³ . According to its main premise, every human community functions within a certain system of legal norms, and these systems always form a unity, from which their internal hierarchy⁴⁴ .

Before the outbreak of World War II, representatives of German legal doctrine did not consider the self-contained nature of international law to be undisputed. Some of them, while emphasizing the importance of the sovereignty of states, recognized that only when norms are transposed into domestic law do they gain legal value. Before that, they were supposed to be only obligations of the state of a moral or political nature. Theorists gathered around Catholic ideas, on the other hand, emphasized the unity of normative systems being the source of the legal character of norms.

Relationship between public international law and domestic law

The intrinsic legal nature of international legal norms was viewed somewhat differently prior to 1939 by proponents of positivist theories, who can be broadly divided into monists and dualists. The former argued that the totality of legal norms formed a single internally incompatible system, while the latter that the normative orders of domestic and international law remained in isolation resulting from the different nature of the systems. On this principle, the relationship between public international law and domestic law was described before the outbreak of World War II.

Within the monist theories, Julian Makowski distinguished three variants, which assumed: 1) the supremacy of domestic law, 2) the primacy of international law, and 3) the possibility of choice in this regard (relativist approach). The first concept provided for the primacy of domestic law over international law in the event of a conflict of norms

⁴⁰ "Völkerrecht ist juristisch Recht nur, wenn und soweit es Staatsrecht ist" (A. Zorn, Grundzüge des Völkerrechts, Leipzig 1903, p. 7).

⁴¹ J. Makowski, International Law..., part 1, pp. 20-21.

⁴² See J. Mausbach, Naturrecht und Völkerrecht, Freiburg 1918; E. Isay, Völkerrecht, Breslau 1924; O. Schilling, Das Völkerrecht nach Thomas von Aquin, Freiburg im Breisgau 1919.

⁴³ J. von Bernstorff, The Public International Law Theory of Hans Kelsen. Believing in Universal Law, New York 2010, p. 48.

⁴⁴ J. Makowski, International Law..., part 1, p. 21.

("Landesrecht bricht Völkerrecht", i.e. "domestic law violates international law"). It was criticized because it was impossible to determine all legal norms binding on the state by its will alone, for example, difficulties arose in reconstructing the basic principle of *pacta sunt servanda*. The theory was supported by Georg Jellinek, who saw in the self-obligation of the state the basis for the validity of international law. He regarded it, as did Albert Zorn later, as a type of external state law, focusing on the legal nature of the norms contained in state agreements: "no problem of international law depends more on the existence of common law than the question of the legal character of state treaties."⁴⁵ . Such Austrian scholars as Franz von Liszt, Alfred Verdross (until 1914) and Hans Nawiasky also advocated this concept.

In turn, the superiority of international law was emphasized by Hans Kelsen and Alfred Verdross (after he revised his views)⁴⁶ . Derived from the doctrine of the neo-Kantists, the normative theory of law underpinned the system artfully framed in the pyramid of law - its premise was the existence of a hierarchy of legal norms, in which Alfred Verdross sought to find the sources of the legal character of lower-order norms. However, contrary to the intentions of its proponents, the theory did not provide an exhaustive answer to the question of the *pranorma*, the power of which would ensure the legality of the remaining norms⁴⁷ .

The monist theories presented were united by the relativist approach of Hans Kelsen, who assumed the arbitrariness of choosing a *pranorm*, also known as the source norm (*die Ursprungsnorm*). The Austrian jurist believed that, taking into account only legalistic premises in the positivist approach, it is equally legitimate to give primacy to international and domestic law - and only the introduction of meta-legal, ethical and worldview elements settles the matter⁴⁸ . He pointed out that assuming that international law has objective force implies its primacy over domestic law: "International law, which is not the will of a single state, and even its validity does not depend on the will of a single state, obviously cannot also be part of the state legal order, an external law of the state. If there is to be a connection between the two legal systems at all, the state legal order must become part of international law."⁴⁹ . Soon Hans Kelsen became certain of the primacy of international law over state law, which he expressed in his work *Reine Rechtslehre*⁵⁰ , and justified the

⁴⁵ "Kein völkerrechtliches Problem hängt mehr von der Existenz eines gemeinsamen Rechts ab, als die Frage nach der rechtlichen Natur der Staatenverträge" (G. Jellinek, *Die rechtliche Natur der Staatenverträge*, Wien 1880, p. 47).

⁴⁶ Antoni Peretiatkowicz referred to the treatises of Alfred Verdross, containing the justification of the mentioned hypothesis (see A. Verdross, *Die Einheit des rechtlichen Weltbildes auf Grundlage der Völkerrechtsverfassung*, Tübingen 1923. Cf. *idem*, *Verfassung der Völkerrechtsgemeinschaft*, Wien 1926).

⁴⁷ J. Makowski, *International Law...*, part 1, pp. 22-25.

⁴⁸ A. Peretiatkowicz, *The problem of international law. Theory of H. Kelsen*, "PW" 11 (1937), pp. 4-5. See H. Kelsen, *Allgemeine Staatslehre...*, p. 128; *idem*, *Les Rapports de Système Entre le Droit Interne et le Droit International Public*, "Recueil des Cours de l'Académie de Droit International de La Haye," 4 (1926), pp. 227-332.

⁴⁹ "Ein Völkerrecht, das nicht der Wille des Einzelstaates ist, ja nicht einmal in seiner Geltung von dem Willen des Einzelstaates abhängt, kann natürlich auch nicht ein Bestandteil der staatlichen Rechtsordnung, kann nicht äußeres Staatsrecht sein. Soll überhaupt eine Beziehung zwischen beiden Rechtssystemen bestehen, dann muß die staatliche Rechtsordnung zum Bestandteil des Völkerrechtes werden" (A. Peretiatkowicz, *Problem...*, p. 4. See H. Kelsen, *Das Problem der Souveränität und die Theorie des Völkerrechts. Beitrag zu einer reinen Rechtslehre*, Aalen 1960, p. 208).

⁵⁰ A. Peretiatkowicz, *Problem...*, p. 5. See H. Kelsen, *Reine Rechtslehre. Einleitung in die rechtswissenschaftliche Problematik*, Leipzig, Wien 1934. The publication appeared in Polish already in the

legal character of international legal norms by their coercive nature. His contemporaries, legal theorists, put forward the charge that actual manifestations of this coerciveness could not be demonstrated, often harshly judging Kelsen's theory. Ricardo Monaco stated that it was beautiful, but unreal⁵¹. Anthony Peretiatkovich, on the other hand, equated the absence of an objective authority to settle international disputes with the absence of coercion, wrongly considering war and repression only as a kind of subjective self-help⁵². However, Hans Kelsen understood the position in which international law found itself, which he illustrated with an analogy to the development of human life: "As the embryo in a woman's womb is from the beginning a human being, so the decentralized order of primitive self-help is already law - law *in statu nascendi* [in the process of formation, literally: at birth]"⁵³. His outlook was considered objectivist, as François Rigaux concluded: "to be pure, legal theory must be detached from the imaginary form in which we present legal situations. Kelsen's aim is to show state law in its nakedness."⁵⁴.

Positivist theories functioned not only in the monist variety, they were also developed by dualists. The dualist approach was first formulated in 1899. Heinrich Triepel, a German jurist and legal philosopher⁵⁵. Julian Makowski considered it "better corresponding to the real state of affairs." The Polish legal theorist supported the separation of international and domestic law, since they differed in their sources and regulated non-identical spheres of legal relations. Indeed, the source of international law was the will of more than one state (the theory of collective will), unlike in the case of internal law. The will could be stated only in a legal act (contract law) or *per facta concludentia* (customary law). International law regulated relations between states, and internal law regulated relations between citizens and between them and state organs⁵⁶. Heinrich Triepel's theory assumed a threefold influence of international legal norms on internal regulations: by adoption, reception or referral. The first type of influence consisted of incorporation of norms into the foreign legal sphere with the possibility of their transformation. Reception precluded making changes during the adoption of norms. The manner in which it was implemented was irrelevant - concluding and *expressis verbis takeover of norms* were treated equivalently. If relations were regulated in the same way, the recapitulated provision took the form of a blanket norm (*rezipierende Blankettrechtssätze*). A somewhat oppositional type was a norm that referred to foreign norms, but without citing their content (*nichtrezipierende Blankettrechtssätze*). With the change in the vector of influence of norms, different relations between norms of domestic and international law were

year of the original edition (cf. H. Kelsen, *Pure Theory of Law. Method and fundamental concepts*, transl. T. Przeorski, Warsaw 1934).

⁵¹ A. Peretiatkovich, *Problem...*, p. 13, fn. 27. cf. R. Monaco, *L'Ordinamento Internazionale in Rapporto all'Ordinamento Statuale*, Torino 1932, p. 33.

⁵² A. Peretiatkovich, *The problem of...*, pp. 15-16.

⁵³ H. Kelsen, *Law and Peace in International Relations. The Oliver Wendell Holmes Lectures 1940-41*, Cambridge 1942, p. 51.

⁵⁴ "Pour être "pure", une théorie du droit doit être dépouillée des vêtements imaginaires dont on revêt les situations juridiques. L'objectif de Kelsen est de révéler le droit étatique dans sa nudité" (F. Rigaux, Kelsen et le Droit International, "Revue Belge de Droit International" 2 (1996), p. 392). The article appeared two years later in English (cf. *idem*, Hans Kelsen on International Law, "European Journal of International Law" 9 (1998), pp. 325-343).

⁵⁵ See H. Triepel, *Völkerrecht und Landesrecht*, Leipzig 1899.

⁵⁶ A similar conclusion was made by Antoni Peretiatkovich and Michal Rostworowski, who assumed that "in the international order the parties are sovereign states" (A. Peretiatkovich, *Problem...*, p. 11, 17. Cf. M. Rostworowski, *Proceedings before the Permanent Court of International Justice*, "CPiE" (1936), p. 302).

recognized. Heinrich Triepel therefore distinguished between norms that were internationally indifferent (their establishment, abolition or amendment did not give rise to international legal effects) and norms that were significant in this respect (they had an impact on international legal regulations; they could either violate them or not - be permitted or even ordered by them)⁵⁷.

In Poland, as indicated by Antoni Peretiatkowicz⁵⁸, in addition to Julian Makowski, the proponent of dualist theories was Michał Król⁵⁹. The relative separateness of the order of international law from state law was also supported by Antoni Deryng, who favored moderate monism from a theoretical (abstract) perspective, citing the observation of Boris Mirkin-Gecevic⁶⁰ on the uniformity of a person's belief in the legal character of the norms that apply to him, independent of their international or state origin. In turn, this author derived relative dualism from the practical distinctiveness of international legal norms, resulting from the way they are created, applied and the circle of addressees⁶¹. Anthony Deryng pointed out that the theory of relative separateness was emphasized in the jurisprudence of the Permanent Court of International Justice⁶².

In summary - defining the relationship between public international law and domestic law was a challenge not only for German, but also Polish and Austrian legal theorists in the interwar period. Basically, monist (in three varieties) and dualist theories were distinguished. From today's perspective, it should be pointed out that the visionary position of the primacy of international law over domestic law was formulated and supported by Hans Kelsen and Alfred Verdross.

The importance of the problem described above for justifying the qualification of German crimes committed against Poles during World War II is to indicate what position international law held in the doctrine of law and whether the obligations and rights of states arising from it, including regulations on war and occupation, were recognized. In other words, the above considerations bring us closer to the answer as to whether international legal norms were already considered legally binding before 1939, and whether the necessity for their observance was recognized.

The origins of international criminal law

Per analogiam to the interwar terminological tendencies in the classification of international law, the set of criminal norms arising from it was most often referred to as interstate criminal law, rather than international law⁶³. However, in order to avoid

⁵⁷ J. Makowski, *International Law...*, part 1, pp. 25-27.

⁵⁸ A. Peretiatkovich, *The Problem...*, p. 11, note 24.

⁵⁹ See M. Król, *International Law in the Jurisprudence of National Courts*, Vilnius 1935.

⁶⁰ B. Mirkin-Gecevič, *L'Influence de la Révolution Française sur le Développement du Droit International dans l'Europe Orientale*, "Recueil des Cours de l'Académie de Droit International de La Haye" II (1928), p. 317.

⁶¹ A. Deryng, *Main development tendencies of the law of nations in the light of the jurisprudence of the Permanent Court of International Justice*, Lviv 1932, pp. 113-116.

⁶² *Ibid.* Cf. A. Deryng, *On the foundations of the binding force of the law of nations* [in:] *Memorial book in honor of Wladyslaw Abraham*, vol. 2, ed. O. Balzer, Lvov 1931, pp. 241-251.

⁶³ E. Rappaport, *Developmental tendencies of international criminal law*, "RPEiS" I (1934), pp. 1-2.

problems arising from double nomenclature and for the sake of current terminology, the expression "criminal international law" is left in this dissertation, unless the change of meaning is clearly emphasized. The stage of development of the penal field of international law is evidenced by the problems, often fundamental, still characteristic of the modern doctrine of international criminal law⁶⁴.

Returning to the historical-legal analysis - according to Emil Rappaport, international criminal law consisted of substantive and procedural law and regulated the system of international criminal justice⁶⁵. The jurist at the beginning of the lectures delivered in 1930 in Warsaw, Lviv and Krakow, and later published, expressed his conviction that the legal character of the norms of international law was self-contained, being a sufficient basis for claims for their violation. He considered the goal of the development of positive international law to be the protection of world peace⁶⁶. This view corresponded, in a way, with the slogan of the pacifists: "when you want peace, get ready for peace" (*si vis pacem, para pacem*), as opposed to the Roman principle: "when you want peace, get ready for war" (*si vis pacem, para bellum*)⁶⁷. Nevertheless, from utopian pacifism Emil Rappaport strongly dissociated himself, just as from the slogans of nationalists and communists: "thus meet and shake hands with each other in the struggle against the evolutionary improvement of the post-war international order, two extremely contradictory but equally belligerent imperialisms of recent times"⁶⁸.

Emil Rappaport saw the fundamental weakness of international law at the time in the lack of criminal sanctions. He predicted that in time the international community would mature to adopt appropriate legislation regulating this matter, although according to his observations in the early 1930s this did not appear to be the case. His words proved prophetic: "against a state that would decide to turn again into a swish of paper the international agreements and obligations solemnly accepted, it would be this newly organized international community - in fact - still powerless"⁶⁹.

The extent of this powerlessness was measured by the native jurist's answers to questions about the legal basis for holding states and individuals acting for or on their behalf criminally liable for violations of international law, the possibility of prosecuting these cases, and possible methods of implementing the ruling⁷⁰. These issues proved to be

⁶⁴ M. Królikowski, The problem of "international criminal law," "KPP" 3 (2007), s. 53-96.

⁶⁵ Alphonse Klafkowski, who in 1958, in connection with the trial of Erich Koch, believed the opposite: "there is no such section [of criminal] public international law. There are specific international agreements that regulate international crimes and criminals. [...] At most, it can be said that so-called criminal international law is in its formative stage. And even this statement can be disputed" (cf. A. Klafkowski, *Nazi Crimes in International Law and Domestic Law* [in:] *Expert Reports and Rulings before the Supreme National Tribunal*, part 1, ed. C. Pilichowski, Warsaw 1979, p. 127).

⁶⁶ E. Rappaport, *The issue of interstate criminal law*, Warsaw 1930, pp. 3-5.

⁶⁷ *Idem*, *New Horizons...*, pp. 11 and 13.

⁶⁸ *Idem*, *The question of law...*, p. 5.

⁶⁹ *Ibid*, p. 10. The troublemaker was described by the author as a criminal nation. A few months after the end of World War II, he published a text in which he analyzed the case of the Reich's aggression, which embodied his vision of 1930 (see E. Rappaport, *The Crime Nation. The Crimes of Hitlerism and the German Nation. Analytical sketch of crime and personal responsibility*, Lodz 1945). Abroad, Emil Rappaport's publication was generally received critically.

⁷⁰ *Idem*, *The question of law...*, p. 11.

extremely important for considering the responsibility of the Germans for their actions against the Poles.

Emil Rappaport rightly predicted the outbreak of another war, which would bring far more casualties and material damage than previous conflicts. *De lege ferenda*, therefore, he proposed to extend legal protection to the security of members of the international community (starting with the First Conference of the International Unification of Criminal Law in 1927 in Warsaw), since he did not believe in the effectiveness of enforcing legal norms without criminal sanctions. Thus, he firmly rejected the "idyll of voluntary pacifism"⁷¹.

When considering the question of individual and collective responsibility for violating the prohibition against provoking war, this author considered that the subject of the crime could be not only the individual, but also the collective (citizens of the aggressor state, i.e. the nation). This innovative approach gained the support of the participants of the criminal law congress in Budapest in 1929. The problem of incrimination of a criminal act committed by the collective Emil Rappaport proposed to solve by applying "precautionary measures" instead of penalties, traditionally provided for sanctioning the acts of individuals. In addition to the crime of war, he recommended that transgressions against the law of nations, such as incitement by an individual to war⁷², be introduced into the future international criminal code.

The attacked state was to be entitled to the right of necessary defense. This construction was modeled on the institution functioning in domestic legislation. When describing the right of defense, the dilemma arose as to how to assess the situation in which a state justifies its actions with a defensive action. This issue gave rise to disputes about the structure of the international criminal judiciary, its competence, legal basis and the manner of procedure and execution of judgments. Summing up the deliberations, Emil Rappaport posed a rhetorical question capturing the trepidation of the 1930s: "Will they [international bodies unifying criminal law] produce, and especially will they manage in due time to produce the above-mentioned international institutions with the characteristics of legal coercion so far strong as to put an effective dam to the danger of a new catastrophically dangerous armed clash?"⁷³. The problem of the weighting of criminal sanctions against the prohibition of war in international law even before the outbreak of World War II became so pressing that specific projects in this regard began to be formulated at that time.

Emil Rappaport also took up the threads of international criminal law when he referred to proposals and trends for harmonizing criminal law norms. He considered it appropriate "to establish a permanent court of international criminal justice in the future more or less [...] close" to offset the effects of jurisprudential particularism, probably dragging even after the unification of legal norms⁷⁴. He considered the organization and deliberations of the First Conference of the International Unification of Criminal Law in 1927 as a

⁷¹ *Ibid*, pp. 15-16.

⁷² *Ibid*, pp. 18-22, 25-26.

⁷³ *Ibid*, pp. 20-21, 28.

⁷⁴ E. Rappaport, On the International Unification of Criminal Law [in:] Memorial Book in Honor of Wladyslaw Abraham, vol. 2, Lvov 1931, pp. 9-10.

manifestation of the maximum program in unification activities.⁷⁵ He became chairman of the session, during which European legal authorities deliberated in three thematic committees. The meetings of the first were dominated by the analysis of the principles of international criminal law, the second by the analysis of the principles of necessary defense and the state of superior necessity, and the third by the analysis of attempt and complicity⁷⁶. An interesting conclusion was reached in the general lecture delivered on November 3, 1927 by Wacław Makowski, the conference's keynote speaker, who stated that the concept of international crime, the enumeration of acts recognized as international crimes and the general provisions regarding the place and other conditions for prosecuting these crimes need to be unified⁷⁷. No less important consideration, concerning the criminalization of "propaganda of war of aggression," was made by Emil Rappaport, although the crime of provoking a war of aggression had not yet been defined in positive international law at that time⁷⁸.

In the mid-1930s, the jurist summarized the evolution of the body of criminal norms of international law and decided to present his thoughts on the subject. He emphasized the historical pedigree of the principles of prosecuting suspected criminals of international and domestic law: the principle of personality (personal), nationality (or territoriality) and universal repression. According to the author, the latter two in particular were developing at the time⁷⁹.

To summarize - before the outbreak of World War II, representatives of German and Polish legal doctrine discussed basic issues related to public international law, such as its concept and scope, the intrinsic legal nature of its norms and the relationship between international and domestic law, but the greater doubts concerned the separation of international criminal law. Opponents of its separation pointed to the following as obstacles: first, the fact that sanctions for violations of many norms of international law were not positively defined (which, after all, did not affect their existence or applicability)⁸⁰, second, the fact that there were often no procedures for their application, third, the initial stage of the formation of an international judiciary in the form of the Permanent Court of International Justice; fourth, the limited scope of enforceability of its rulings and acts issued by the international community associated with the League of Nations⁸¹.

⁷⁵ *Ibid*, p. 5.

⁷⁶ Warsaw Conference (Unification of Criminal Law), Warsaw 1927, p. 23.

⁷⁷ *Ibid*, p. 26.

⁷⁸ *Ibid*, pp. 28-29.

⁷⁹ E. Rappaport, *Trends...*, pp. 1-10.

⁸⁰ George and Martin Menkes rightly noted: "International law has a set of sanctions that, although not always applicable or enforceable, formally, that is, *de jure*, exist and potentially have the capacity to influence the conduct of individual members of the international community, which unfortunately does not always turn into fact. However, the very potency, i.e. the principle that states and other entities responsible for violating international law must expect at least the possibility of suffering severe consequences, is one of the reasons why international law is real law" (J. Menkes, M. Menkes, *Sanctions in international law - selected issues of law and doctrine*, "Public Law Review" 1 (2017), p. 37).

⁸¹ The League of Nations was established under the provisions of the Treaty of Versailles as the international community's response to the threat of war, realized on a global scale during the Great War. It formally functioned from 1920 to 1946, with its headquarters in Geneva, Switzerland. Its organs were the Assembly, the Council and the Secretariat. Since 1945, the role of the League was actually taken over by the United Nations, located in New York - the legal basis for its activities is the United Nations Charter.

Nevertheless, the fact that the acts of state international law had other sources of sanctions and procedures by no means made them inapplicable, and the performance of obligations and compliance with prohibitions was to depend on the discretionary judgment of the state. Thus, an important conclusion emerges from the analysis - there is a difference between the belief that sanctions and procedures (but also regulatory norms, such as the laws of war) are not in force, which becomes apparent especially when determining the legal status, which is necessary to qualify Germany's activities against Poland.

The presentation of the circumstances under which a set of criminal norms was extracted from public international law is also intended to show the degree of development of international criminal law before the outbreak of World War II. This, in turn, will make it possible to determine whether the legal theorists of the time, but also legislators, considered the possibility of imposing a criminal sanction for a state's violation of international legal norms as real and whether they had reason to believe that the law would be applied in this situation. Their assessments were more than likely to influence their plans for the Poles.

The international dimension of Germany's criminal laws

In contrast to international criminal law, which was a collection of criminal norms in public international law, Cezary Berezowski in 1927, referring to the Polish draft of the Criminal Code, defined international criminal law as follows: "we call those articles of the preparatory draft of Part One of the Criminal Code [...] which speak of the territorial and personal scope of the force of the criminal law. These are Articles 3-8, placed in Chapter I."⁸² . Emil Rappaport also wrote about the dichotomy, considering international criminal law, more precisely, interstate criminal law, as a field of international law, and international criminal law as a specific international section in intra-state criminal law⁸³ . The distinction between international criminal law and international criminal law (referred to by Emil Rappaport as international criminal law) is an introduction to the problems of German criminal laws governing international situations.

Commenting in a small study in 1934 on proposals to amend the German Penal Code⁸⁴ (notably on the basis of a September 1933 memorandum by Hanns Kerrl⁸⁵ , Prussian Minister of Justice and later Reich Minister for Ecclesiastical Affairs. Ecclesiastical Affairs), Emil Rappaport pointed out that asylum must be extended to a new category of

⁸² C. Berezowski, On the Polish project of international criminal law, Warsaw 1927, p. 5.

⁸³ E. Rappaport, Trends..., pp. 1-2.

⁸⁴ *Idem*, The Future Criminal Code of the German Third Reich. Basic Indications of Nazi Criminal Law, Warsaw 1934. cf. R. Lemkin, Reform of Criminal Law in Germany, "Literary News" (30) 1934, p. 7.

⁸⁵ Alfred Konieczny briefly described the contents and significance of the memorandum in question (A. Konieczny, Criminal Law of the Third Reich - an attempt at characterization, "SnFiZH" III (1977), p. 108. Cf. English-language version: *idem*, Criminal Law in the Third Reich. Tentative Characteristics, "SFHC" V (1980), p. 64).

German political criminals and their extradition banned⁸⁶, as well as excluding from the international agreements regulating extradition the prosecution and extradition of defendants accused of committing acts punishable only within Germany, such as racially motivated crimes. The Polish jurist saw in the severity of the principles of criminal law postulated in the memorial of Hanns Kerrl the possibility of cooperation in the field of prosecution *delicta iuris gentium*⁸⁷.

An independent analysis of the aforementioned principles of prosecution in Polish, German, Austrian, Russian, French, Anglo-American and Italian legislation, supplemented by an interpretation of the principle of protection of one's own interests (including when they have been violated by a foreigner and outside the territory of the injured state), was presented by Antoni Kusz⁸⁸. Describing the relevant provisions of German law, he stressed that according to the German Criminal Code of 1871 (Articles 4-7)⁸⁹ the principle of territoriality applies, from which the relative prohibition of prosecuting perpetrators of foreign crimes and misdemeanors in Germany follows. The limitation of the prohibition applied, among other things, to the prosecution of a German citizen who committed a misdemeanor or crime punishable under the *lex loci delicti commissi*⁹⁰.

In addition to the indicated examples of the interpretation of the provisions of German criminal law relating to the prosecution and punishment of suspected offenders outside Germany by a German citizen or by a foreigner within Germany (regardless of the criminality of the act under German law), the Polish authors undertook a multi-faceted reflection on German criminal law and its changes. They have not always taken into account the aspect of internationalization of the criminal branch of domestic law. For the sake of order, it is necessary to point out the main domestic commentators, among them Władysław Wolter, Juliusz Makarewicz, Stanisław Stomma, Helena Wiewiórska, Ryszard Augenblick, Jerzy Śliwowski, Stefan Glaser, Tadeusz Orlewicz, Stanisław Szwedowski, Mieczysław Szerer, Grzegorz Wirszubski, Antoni Wereszczyński, Leon Radzinowicz and Józef Bossowski⁹¹.

The last of these⁹², a criminalist and specialist in German law, was already thinking about the problems of unification and internationalization of criminal law in the early 1920s.

⁸⁶ He considered the issue of extradition on the example of the legislation of the Kingdom of Poland already at the time when Poland regained its independence (E. Rappaport, Drawing the principles of international criminal law in the light of the criminal laws, in force in the Kingdom of Poland, against a comparative background, "KPCiK" 2 (1918), pp. 243-259).

⁸⁷ E. Rappaport, Future Code..., pp. 21-24.

⁸⁸ A. Kusz, Principles of international criminal law against the background of contemporary legislation, "GS" 6 (1933), pp. 344-349.

⁸⁹ Gesetz, betreffend die Redaktion des Strafgesetzbuches für den Norddeutschen Bund als Strafgesetzbuch für das Deutsche Reich vom 15. Mai 1871 (RGBl. 1871, 24, 127).

⁹⁰ A. Kusz, Principles of..., pp. 246-247.

⁹¹ A list of studies by the above-mentioned authors and a summary of their views are included in the valuable publication by Leonard Górnicki mentioned above (L. Górnicki, Chapter IV. Hitler's Substantive Criminal Law [in:] *idem*, Law..., pp. 110-144. Cf. J. Kordeczuk, Juliusz Makarewicz's views on changes in German criminal law after 1933, "SnFiZH" XXVIII (2005), pp. 379-397).

⁹² J. Bossowski, Unnationalization or Unification of Criminal Law as a Future Problem, Poznań 1924. A review of this unabridged study appeared in the Italian Law Review (see La Nazionalizzazione e l'Unificazione del Diritto Penale come Problema del Futuro, "Rivista Internazionale di Scienze Sociali e Discipline Ausiliarie"

In an article devoted to this issue, he put forward interesting hypotheses about the future dilemmas of criminal law doctrine. The author ruled out international unification of criminal law due to determinism - to use the language of the late 1930s - of race. He considered "national individuality and national psyche" to be the primary factors influencing the conduct of the offender and the severity of punishment felt by the convicted. He proposed the furthest possible national subjectivization of punishment, based on what the legal and moral discernment of the perpetrator of a given nation was at the time he committed the criminal act. The realization of this would require tools to create a scale of ailments and, taking into account the circumstances affecting the behavior of the offender, determine the size of the punishment. In his essay, Joseph Bossowski formulated important conclusions relating to international criminal law. He considered its nationalization to be the only way forward, while he rejected unification altogether. The nation, in his opinion, "should (like the individual) know itself in good and evil."⁹³ . The romantic apotheosis of the nation was the ideological basis of the second decade of the interwar period.

Twelve years later, in 1936, Joseph Bossowski's conjecture was confirmed by the nationalization of criminal law in the Third Reich⁹⁴ . Describing the acts adopted by the National Socialist legislature at the time, which contained criminal provisions, and characterizing the proposals for reform of the substantive and procedural criminal law code, he noted developmental trends in German criminal law. The travesty of the principle of chieftainship (*Führertum*) on the level of dogmatics and application of the law required the creation of an intricate weave of principles and legal institutions. Thus, the judiciary was made partisan, and populist arguments were made that "unrelenting just severity" had to be introduced, which involved a devastating criticism of the previous liberal state order. The authority of the state was attempted to be restored by strengthening the position of the prosecutor and judge (as representatives of the party and the people) and opting for an inquisitorial process. The prosecutor became the head of the preliminary proceedings, while the judge became the head of the main proceedings. In addition, judges gained the right to expand the subject matter of appeals. On the other hand, the legal position of the accused and convicted was weakened, and they even became the objects of the case. The process was affected by allowing analogy in sentencing, breaking the principle of *lex retro non agit* to enhance the sentence in cases specified by the law, punishing not only for attempting and committing, but also for undertaking a criminal act, and finally removing the prohibition of *reformatio in peius iudici appellato non licet* (the appellate court is not allowed to change the sentence to the detriment of the appellant). The sphere of language also needed to be interfered with, e.g., revision was replaced by legal reprimand (*die Rechtsrüge*). Jozef Bossowski considered that the law, reformed in the above manner, "is and will be 'militant,'" which he understood in a positive sense. He noted that in view of the changes in the legislation of the Third Reich, his prediction about the nationalization of criminal law was no longer exceptional. The process taking place was to be evidenced, for example, by the lawmaker's axiological references to

391 (1925), pp. 265-266). Both Jozef Bossowski and the author of the review mentioned that the article appeared in "RPEiS," but it was not published in the 1923-1925 annuals.

⁹³ J. Bossowski, Nationalization or Unification of Criminal Law as a Future Problem, Poznań 1924, pp. 5-6.

⁹⁴ *Idem*, New Directions of Criminal Law in Germany, "RPEiS" 2 (1936), pp. 177-188.

"German ethics," "the German character of the drive to clean up after an evil act," or the national "goal of self-preservation and self-purification." The author feared that ideological and party assumptions would become the basis for change, but nevertheless considered the transformations introduced by the National Socialists to be a "healthy seed," and tentatively, given that political teams changed more often than legal regulations, he predicted a long life for them.

German criminal law of the Third Reich period from a historical perspective was analyzed in 1977 by Alfred Konieczny⁹⁵. He confirmed the conclusion reached when considering the attitude of German jurists to classical legal positivism. He concluded that the German authorities "did not generally reject the inherited legal order, but gradually adapted it to their needs."⁹⁶, therefore, they did not introduce a new criminal code, but interpreted the existing code according to the political key. There was a rapid tightening of penalties, illustrated by the increase in the number of facts punishable by death from 3 in 1933 to 46 in 1945. Criminal law reforms introduced harsh punishments and sought to prevent crimes, especially those of a political nature (e.g., the Law Against Political Acts of Rape of April 4, 1933)⁹⁷.

To sum up - after 1933, demands that had been widely supported in Germany until then, including by the intelligentsia circles, were realized, which would not have been realized without political support. Criminal law was tightened and new categories of political crimes were incriminated. This change reflected the rule of a strong hand and may have seemed a logical consequence of the fact that German criminal law (including international criminal law) was subordinated to the assumptions of racist ideology.

Some legal theorists, seeing the transformations in Germany as the result of the rightful abandonment of the loop of formalism, initially mistakenly assumed that the simplification of interpretation, the unambiguity of interpretative directives and the strictness of criminal law enforcement would be associated with compliance with the principle of justice and the intensification of international cooperation in criminal matters, such as the development of the institution of extradition, unification or harmonization of laws. The fervor of these hopes was revealed by Germany's actions in the international arena that are increasingly serious violations of international law.

The analysis of the transformation of German criminal law and its international norms not only identifies the influence of National Socialist ideology on the law and its interpretation, but is also a prelude to the brutal instrumentalization of the law during World War II. Law, the foundation of the German concept of the rule of law (*Rechtsstaat*), became a constitutive tool for the realization of German lawlessness against Poles perpetrated during World War II.

National Socialism and public international law

⁹⁵ A. Konieczny, *Law...*, pp. 105-119.

⁹⁶ *Ibid*, p. 105.

⁹⁷ Gesetz zur Abwehr politischer Gewalttaten. Vom 4. April 1933 (RGBl. I 1933, 31, 162). See A. Konieczny, *Law...*, p. 107.

The National Socialists' assumption of power meant that they had to define their attitude to international law⁹⁸. The official theses on behalf of the Nazis were formulated by the German doctrinaire representatives who supported them. Their attitude was due to the fact that they perceived the Treaty of Versailles as a dictate⁹⁹, which was in line with popular public feeling and the party line. This act of international law, which embodied the injustices done to Germany, became synonymous with the entire international order. Thus, since, according to German lawyers, the treaty should have been rejected as a rape of German sovereignty, any possibility of creating norms that could be imposed on its authorities should also have been excluded from the theory of international law binding on the Reich. Unfortunately, the Germans overlooked objective circumstances - the Reich's responsibility for triggering and atrocities of the Great War was made plausible¹⁰⁰, and the Treaty of Versailles, even if one were to recognize the compulsory nature of its ratification, was in fact a means of protection against the German military threat. They also seem to have forgotten the fact that the Kingdom of Prussia imposed on the defeated Third Republic the Peace of Frankfurt, concluded on May 10, 1871.¹⁰¹ France paid off the substantial financial obligations established therein ahead of schedule¹⁰².

Besides, coercion (in the form of force or the threat of its use) appearing in the conclusion of peace agreements was already regarded in natural law as an emanation of the settlement of an armed conflict, and was attributed to the winning party. Emer de Vattel rightly considered the shrugging off of the coercive argument to break a properly concluded agreement to be an abuse: "moreover, to make a similar allegation would almost always be a disgraceful and ridiculous thing"¹⁰³. Nevertheless, German legal theorists persistently laid the groundwork for future world conflict by focusing on offended national pride. Philipp Zorn concluded that "the peace treaty is terribly and drastically at odds with the idea of law"¹⁰⁴, and was echoed by Erich Kaufmann, who argued that "the foundation

⁹⁸ See D. Diener, *Rassistisches Völkerrecht. Elemente einer nationalsozialistischen Weltordnung*, "VJH f. ZG" 1 (1989), s. 23-56.

⁹⁹ Jozef Feldman, as one of many Polish authors, as early as 1930 emphasized the impact of the reception of the Treaty of Versailles in Germany on Polish-German relations and the possible consequences of reading the provisions of the agreement as harmful (J. Feldman, *The Treaty of Versailles as a stage in the Polish-German struggle*, "SZ" 1 (1930), pp. 1-22. cf. *idem*, *Polish-German Antagonism in History*, Torun-London 1935).

¹⁰⁰ German crimes committed during the Great War were established, described and summarized in the course of its work by the Commission on the Responsibility of the Authors of the War and on Enforcement of Penalties (Commission des Responsabilités des Auteurs de la Guerre et Sanctions; The Commission on the Responsibility of the Authors of the War and on Enforcement of Penalties), whose conclusions were to be (though not) included in the final drafting of the peace treaty. The body operated on the sidelines of the Paris Conference between February 3 and March 29, 1919. (F. Ryszka, *Nuremberg...*, pp. 51-56. See the report containing the conclusions of the commission's work: *Rapport présenté à la Conférence des Préliminaires de Paix par la Commission des Responsabilités des Auteurs de la Guerre et Sanctions*, Paris 1919).

¹⁰¹ *Traité de paix entre l'Empire allemand et la France. Du 10 Mai 1871* (DRGBl. 1871, 26, 223).

¹⁰² W. Dobrzycki, *History of International Relations 1815-1945*, Warsaw 2007, pp. 66-67.

¹⁰³ "D'ailleurs, il ferait presque toujours honteux et ridicule, d'alléger une pareille exception" (E. de Vattel, *Le Droit des Gens, ou Principes de la Loi Naturelle*, vol. 2, Londres 1758, p. 278, Liv. IV, § 37. Cf. *idem*, *Law of Nations, or Principles of Natural Law*, vol. 2, transl. B. Winiarski, Warsaw 1958, p. 312, Rev. IV, § 37).

¹⁰⁴ "Der Friedensvertrag ist ein furchtbarer und schreiender Widerspruch zur Rechtsidee" (M. Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, vol. 3: *Staatsund Verwaltungsrechtswissenschaft in Republik und Diktatur 1914-1945*, München 1999, p. 87. Cf. P. Zorn, *Der Friedensvertrag und des Recht*, "DJ-Z" 25 (1925), pp. 665-669).

of a peace treaty on the principles of criminal justice was and is lunacy"¹⁰⁵ . Such statements by German legal authorities make one wonder about their role in causing World War II: was their apparent contempt for the norms of the Treaty of Versailles intended to induce their violation? If the answer were in the affirmative, then the aforementioned and similar lawyers should be considered instigators¹⁰⁶ . However, this responsibility would fall only on individuals, since in many cases it would be virtually impossible to attribute the acts of these individuals to the German state. Therefore, this issue remains on the sidelines of considerations of state responsibility. It is worth mentioning, however, that at least 20,000 German legal trainees had already been undergoing compulsory professional training since 1933 at the "Hanns Kerrl" camp in Jüterbog, near Berlin, where they were intensively indoctrinated¹⁰⁷ .

An interesting research problem, including in the post-war period, was the attitude of German jurists active between 1933 and 1945 to legal positivism. Indeed, his characterization justifies the instrumentalization of law, including the implementation of international obligations. As Maria Zmierczak accurately noted, it would be an oversimplification to attribute to German jurists of the Nazi period an attachment to legal *positivism*, understood in fact as statutory *positivism* (*Gesetzespositivismus*), that is, formalism in the creation and application of law. Statutory law was treated as a method of determining the will of the legislator, for, as Wilhelm Sauer stated, law "is that which serves the German people, and lawlessness that which harms them." Thus, the approach to the creation, interpretation and application of laws was based on an overriding directive that assumed the necessity of advancing the interests of the German people (*contra legem* interpretation was possible on this basis). It was assumed that the source of law is the conscience of the nation, whose will is most perfectly expressed by the leader. The anti-positivist view, stemming from the criticism of parliamentarism and liberalism associated with classical positivism, was shared by leading German jurists such as Carl Schmitt, Karl Larenz, Wilhelm Sauer, Julius Binder, Wilhelm Frick, Hans Thieme, Arnold Wagemann, Helmut Nicolai, Curt Rothenberger. However, not all of them rejected positivism *sensu largo*¹⁰⁸ .

The theory of German national egoism characterized above determined the position of international law in the Third Reich. It made use of the well-known concept of

¹⁰⁵ "Ein Wahnsinn war und ist, einen Friedensvertrag auf den Grundsätzen der strafenden Gerechtigkeit aufzubauen" (M. Stolleis, *Geschichte...*, p. 87. Cf. E. Kaufmann, *Die Gleichheit vor dem Gesetz im Sinne des Art 109 der Reichsverfassung*, "Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer" 3 (1927), p. 14).

¹⁰⁶ For example, Michael Stolleis saw a connection between the publication of Heinrich Triepel's publication, in which the author included a consideration of the concept and scope of hegemony, and the political activities of Adolf Hitler: "the puzzling coincidence that Hitler had already, as a 'hegemon' in the year of the publication of this book, attacked, established a 'protectorate' and, at the Führer's headquarters, traduced his loyal supporters about the nations of lords and helots" ("hintergründige Koinzidenz, daß Hitler gerade im Erscheinungsjahr dieses Buches als "Hegemon" auszugreifen begann, ein "Protektorat" errichtete und vor seinen Getreuen im Führerhauptquartier über Herrenund Helotenvölker schwadronierte"). M. Stolleis, *Geschichte...*, p. 389; cf. H. Triepel, *Die Hegemonie. Ein Buch von führenden Staaten*, Stuttgart 1938.

¹⁰⁷ See *Das Gemeinschaftslager "Hanns Kerrl"*, ed. R. Freisler et al., Berlin 1934; F. Schmerbach, *Das "Gemeinschaftslager Hanns Kerrl" für Referendare in Jüterbog 1933-1939*, Tübingen 2008.

¹⁰⁸ M. Zmierczak, *Legal Positivism vs. Lawyers and Law in the Third Reich - a post-war discussion among German legal historians and theorists on the causes of the decline of the rule of law under Nazism*, "SnFiZH" XXIV (2001), pp. 10-18. Cf. M. Stolleis, *Gemeinwohlformeln im nationalsozialistischen Recht*, Berlin 1974, pp. 46-48.

Außenstaatsrecht (external state law), proposed by Heinrich Triepel and promoted by Philipp Zorn and Maks Wenzel, among others. It was used for utilitarian purposes; for Germany between 1933 and 1935 was too weak to openly challenge the legitimacy of international law outside its borders. In 1934, Edgar Tatarin-Tarnheyden of the University of Rostock concluded: "the prosperity of the German people can be based precisely on respect for international law."¹⁰⁹ . However, as their military power grew, German lawyers gained the assumption to transform and gradually impose on other states a vision of international law in the National Socialist spirit. They linked the recognition of its legitimacy to the empowerment on the international stage of the nation (*das Volk*) instead of the state (*der Staat*)¹¹⁰ , essentially aiming to grant the possibility of legal regulation of relations to representatives of a similar race (a biological determinant would replace the concept of civilized states).

The redefinition of the subject resulted in a radical brutalization and universalization of the future conflict triggered not even by the nation-state, but by a nationalized people demanding living space. A new basis for historically justified claims was born: Germans had long been destined to be a unique nation, which, as Johann Gottlieb Fichte wanted in 1807, - was obliged to take over revolutionary models from the French and spread them. The philosopher believed that by oppressing the peoples of Europe, Napoleonic France had embezzled its own ideals, which created an opportunity for Germany to define its new historical mission¹¹¹ . Representatives of the elites of the mediatized German states were, as it were, statist in the revolution, to see the excessive radicality of the democratic reforms as a result, to be alienated by the interpretation of them familiar from the Napoleonic wars, to point out the necessity of seeking one's own path to freedom and to antagonize Enlightenment, rationalism and positivism with German idealism, romanticism, historicism and Lutheranism¹¹² . Friedrich von Moser had already stated in 1792: "We prudent Germans will not act like the French who are intoxicated with freedom [...] We will express our anger in thought without singing [...]. We need more time than the National Assembly in Paris, and we don't need to destroy a thousand-year-old tradition just for the sake of pleasure."¹¹³ . These views were the clay from which the golem was fashioned - the belief in the superiority of the nation (also a French invention¹¹⁴), romantic

¹⁰⁹ "Das Wohl des deutschen Volkes kann eben gerade in der Respektierung des Völkerrechts liegen" (M. Stolleis, *Geschichte...*, p. 389. Cf. E. Tatarin-Tarnheyden, *Werdendes Staatsrecht*, Berlin 1934, p. 39).

¹¹⁰ This trend originated during the French Revolution. As Stanislaw Kodz rightly noted in 1933, "The Declaration of the Rights of Man and of the Citizen of August 26, 1789 proclaims in Article 3 that "the principle of all power resides inherently in the people." This was a statement of the sovereignty of the nation in internal-state relations, and shortly thereafter there is a statement flowing from this principle of the right of nations to decide their own membership." The author added that prominent French historians, such as Ernest Lavisse and Alphonse Aulard, pointed out that national feeling in the modern sense arose precisely in 1789 (S. Kódz, *The principle of nationality in international law*, "RPW" 1933, pp. 245, 252; cf. R. Johannet, *Le Principe des Nationalités*, Paris 1918, p. 30).

¹¹¹ J. Baszkiewicz, F. Ryszka, *History of Political and Legal Doctrines*, Warsaw 1973, p. 295.

¹¹² A. Wolff-Powęska, *Influence of the French Revolution on German political thought*, "PZ" 5-6 (1990), pp. 171-173, 176.

¹¹³ *Neues Patriotisches Archiv für Deutschland*, vol. 1, ed. by F. von Moser, Mannheim-Leipzig 1792, p. 394. quoted in A. Wolff-Powęska, *Influence...*, p. 171.

¹¹⁴ The genesis of chauvinism should be sought in the times of the Napoleonic wars, when an attitude of national superiority was probably displayed by many French soldiers conquering the anachronistic, or moribund, as Franciszek Ryszka and Jan Baszkiewicz wanted, Prussian state. The epitome of this approach became a certain Nicholas Chauvin - an artistic creation, the protagonist of many songs, cultural texts and plays from the Seine staged on the boards of French theaters, especially in the first half of the 19th century

visions¹¹⁵, and finally the former role of the "Holy Empire" and guarantor of God's order breathed life into German messianism¹¹⁶ (or rather messianisms, revived with new content to justify the necessities of subsequent eras).

Not insignificant was the role of the Lutheran Church¹¹⁷, whose influence on the political history of the nation and German science was aptly described by Thomas Mann in a lecture prepared for a speech at the US Library of Congress: "Luther's devil, Faust's devil appears to me as a very German figure, and the union with him, the selling oneself to the devil in order to gain all the treasures and power of the world for a time in exchange for the surrender of one's soul - as something particularly close to the German essence."¹¹⁸

Adolf Hitler found enough reasons to exploit these well-known resentments in Germany. Thus, he did not need to specifically explicate why Germany had the right to conquer foreign spaces¹¹⁹. The generation of spatial consciousness (*Raubewusstsein*), considered by Heinrich Schmitt to be the greatest intellectual achievement of the early 20th century, was the result of the popularization of the scientifically devoid claims of numerous German scholars at the turn of the century, preying on Immanuel Kant's classical theory of space, including. Friedrich Ratzel, Gustav von Schmoller, Alfred Hettner, the neo-Kantians (Erich Marcks, Maks Lenz), the group of scholars gathered around Theobald Bethmann-Hollweg, the signatories of the "call of 93 to the civilized world" ("Aufruf der 93 an die Kulturwelt") of October 4, 1914, or the "petition of

(first and foremost, this is Eugène Scribe's play *Le soldat laboureur* and *Charet Conscrit Chauvin*). See T. Dumersan et al, *Les Moissonneurs de la Beauce ou le Soldat Laboureur*. Comédie en 1 Acte, Paris 1821. cf. *Lettre de Jean-Jean, Sergent Libéré, à Son Ami Chauvin, Conscrit de 1827, avec des Principes Généraux qui Peuvent s'Appliquer aux Jeunes Soldats de Toutes les Classes, la Conduite à Tenir par les Conscrits, soit qu'ils Veuillent Servir ou se Faire Remplacer...*, Paris 1828; T. and H. Cogniard, *La Cocarde Tricolore, Épisode de la Guerre d'Alger*. Vaudeville en Trois Actes, Paris 1831; J.-F. Bayard, P. Pinel, *Les Aides de Camp*. Comédie-Vaudeville en un Acte, Paris 1842.

¹¹⁵ Consideration of the relationship between Nazism and Romanticism led Anna Citkowska-Kimla to interesting conclusions. Clear similarities between the two consisted of appeals to emotions, the creation of myths, the mythologization of the past and attitudes toward the struggle. In turn, convergences with a different motivational basis, defined by the author as implicit parallels, assumed glorification of an outstanding individual, mysticism, understanding of nature, use of symbols, ideological syncretism (A. Citkowska-Kimla, *Actual and implicit parallels between National Socialism and Romanticism*, "SnFiZH" XXIX (2007), pp. 82-99).

¹¹⁶ Synthetically, messianic themes in the Nazi dictatorship were described by Hans Kelsen, who had been in exile since 1933. He pointed out two levels of the phenomenon: the belief in the messianic role of the leader and the unique mission of the German people, founded on the so-called blood myth (H. Kelsen, *The Dictatorship of the Party*, "RPEiS" 1 (1936), pp. 5-6).

¹¹⁷ The controversial topic of Martin Luther's activities and the consequences of the separation of his Church from Catholicism was taken up in his biographical-documentary film by Grzegorz Braun, a Polish director, screenwriter, publicist, academic teacher and member of the Sejm of the 9th legislature. The theses presented in the production were formulated on the basis of an analysis of sources and opinions of specialists (G. Braun, *Luther and the Protestant Revolution*, film; DVD, Warsaw 2017. Cf. *Luther and the Protestant Revolution*. Idea of the film, <https://luter.braunmovies.com/>, accessed 29 II 2020).

¹¹⁸ "Luther's Devil, Faust's Devil, strikes me as a very German figure, and the pact with him, the Satanic covenant, to win all treasures and power on earth for a time at the cost of the soul's salvation, strikes me as something exceedingly typical of German nature" (Thomas Mann's *Addresses Delivered at the Library of Congress* (1942-1949), ed. D. Tolzmann, Oxford - New York 2003, p. 51. quoted in W. Szymanski, Klemens von Metternich [in:] *idem*, *The Price of Truth*, Cracow 1996, p. 17).

¹¹⁹ Overpopulation has been pointed out many times in history to justify imperialist tendencies. However, the problem is not real, as the statistics show. The results of Edmund Kaczmarek's analysis of Germany's demographic potential, which he presented in 1948, have not lost their relevance despite the passage of years: "Biological processes [...] will have a negative effect in the future on the numerical development and productivity of the so-called productive age group" (E. Kuroński [by E. Kaczmarek], *Is Germany Overpopulated?*, "PZ" II (1948), p. 510).

intellectuals" ("Intellektuelleneingabe") of July 1915, signed, among others, by 352 university professors¹²⁰. The concert of wishful thinking by followers of the annexation idea opened with a mealy-mouthed song about the needs of a people-nation, which would surely be killed by the lack of self-sufficiency and the spatial limitations of economic and population potentials. After the notion of a people transformed into a nation was politicized, the time was right to reinterpret the meaning of space defined as national - a key element of the attractive theory of geopolitics¹²¹. The political postulates to acquire living space were formulated years before the rise of the National Socialist Party. Chancellor Otto von Bismarck, corresponding with Graf Alajos Károlya, an Austrian and later Austro-Hungarian diplomat, mentioned in a letter dated December 4, 1862: "we [Prussia must] for its political existence obtain the necessary air for life"¹²². On the other hand, in the NSDAP program of February 24, 1920, referred to as the 25 Points (25 Punkte), point 3 indicated: "We demand land and arable land (colonies) to feed our [German] people and settle our [German] surplus population."¹²³. Adolf Hitler, Carl Schmitt¹²⁴ (author of the *Grossraumordnung* doctrine) and senior party dignitaries repeatedly referred to the concept of living space, enriching the geographical term with racial and economic themes. The concept was popularized by official entities such as the Reich Outpost for Spatial Planning (Reichsstelle für Raumordnung, RfR) headed by Hanns Kerrl¹²⁵ - since 1935, Reichsarbeitsgemeinschaft für Raumforschung (Reichsarbeitsgemeinschaft für Raumforschung)¹²⁶ Konrad Meyer-Hetling (the Reichsstelle also established it in 1935) or press organs (e.g., "Raumforschung und Raumordnung," a magazine published from 1936 to the present with a break in 1944-1948)¹²⁷.

The Führer believed that the achievement of Lebensraum had to be accomplished by Germanizing the land while preventing racial mixing, which in fact determined the success of the plot: "one can only carry out the Germanization of the land, but never of the

¹²⁰ Ch. McClelland, *Berlin, the Mother of All Research Universities (1860-1918)*, Lanham - Boulder - New York, London 2017, pp. 222-223.

¹²¹ A. Wolff-Powęska, Political content of the concept of "Lebensraum" and "Grossraum," "PZ" 1 (1975), pp. 117-123.

¹²² "Wir müssen die für unsere politische Existenz notwendige Lebensluft erhalten" (O. von Bismarck, *Die gesammelten Werke*, vol. 7, ed. H. von Petersdorff, Berlin 1924, p. 71. Quoted in A. Wolff-Powęska, *Political Content...*, p. 118).

¹²³ "Wir fordern Land und Boden (Kolonien) zur Ernährung unseres [deutsches] Volkes und Ansiedlung unseres [deutsches] Bevölkerungsüberschusses" (G. Feder, *Das Programm der NSDAP und seine weltanschaulichen Grundgedanken*, München 1935, p. 12).

¹²⁴ This outstanding legal theorist built an original conception of the state and law using a broad political, philosophical and theological context. The universal ideas of Carl Schmitt are also today an inexhaustible source of numerous scientific analyses and polemics. The answer to the keyword "Carl Schmitt" includes, according to the data contained in the largest international online library catalog, more than 15 thousand works in various languages (a sizable part of the results are references to publications of the German jurist and their studies). Carl Schmitt [in:] OCLC WorldCat®, https://www.worldcat.org/search?qt=worldcat_org_all&q=carl+schmitt, accessed 29 II 2020.

¹²⁵ From the "indispensable war program" prepared by Reichsstelle collaborators, there were two main methods of increasing the possibilities of Germanization of the occupied eastern lands: basing the economic life of Poles on agriculture and strengthening the German middle class by involving Germans in crafts, industry and trade (*Das kriegswichtige Forschungsprogramm, "Raumforschung und Raumordnung"* 10 (1939), s. 502).

¹²⁶ The group's traditions are continued by researchers affiliated with the Akademie für Raumforschung und Landesplanung - Leibniz-Forum für Raumwissenschaften, which has existed in Hannover since 1946.

¹²⁷ A. Wolff-Powęska, *Political content...*, pp. 118, 124, 134-136.

people."¹²⁸ . The commander's assumptions were radically at odds with the legal-natural perspective: "a monarch wages war against another monarch, not against a defenseless people"¹²⁹ .

The materialization of Enlightenment ideals in the era of the French Revolution left a strong imprint on the law of nations. The democrats of the time had to materialize the legitimizing idea of a sovereign people - the people¹³⁰ . The empowerment of the "imagined community"¹³¹ was accomplished through a multifaceted homogenization of the community, involving the production of common: histories¹³² , myths, enemies, etc. Hans Kohn, pointing to the abstract dimension of nationalism, rightly stated: "[nationalism] is qualitatively related to love of humanity or the whole earth"¹³³ . In the ideological sphere, preceding the actual one, the process of nation-building was seen by Zeev Sternhell using the example of the change that occurred in the late 19th and early 20th centuries in Georges Sorel's theory: the incapable proletariat had to be supplanted by a projecting nation¹³⁴ . The formation of a national consciousness had major consequences¹³⁵ . Henceforth, the war aim of the nation was to destroy the representatives of the enemy nation, not just its authorities, and this meant total war. Hence the impossibility of combining the antagonistic elements of the theory of natural law and the racist concepts of international law, which German lawyers tried to do¹³⁶ . The doctrine of German international law of the Nazi period condemned internationalism and pacifism, the

¹²⁸ "Germanisierung nur am Boden vorgenommen werden kann und niemals an Menschen" (A. Hitler, *Mein Kampf*. Zwei Bände in einem Band, München 1943, p. 428; cf. R. Lemkin, *Governance...*, p. 112).

¹²⁹ "Un souverain fait la guerre à un autre souverain, et non point au peuple désarmé" (E. de Vattel, *Le droit...*, p. 177, Liv. III, § 200. quoted in E. de Vattel, *Le droit...*, p. 312, Rev. III, § 200).

¹³⁰ Ernest Gellner vividly illustrated the model of the formation of a nation using the example of the Empire of Megalomania, inhabited by, among others, the peasant community of Ruritans (E. Gellner, *The bumpy road of nationalism* [in:] *idem*, *Nations and Nationalism*, transl. T. Holowka, Warsaw 1991, pp. 75-80).

¹³¹ See B. Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism*, London 1983. cf. *idem*, *Imagined Communities. Reflections on the Origin and Spread of Nationalism*, transl. S. Amsterdamski, Cracow-Warsaw 1997.

¹³² By publishing the history of the German people in 1824, Leopold von Ranke initiated the trend of compiling national histories. His work was continued by Heinrich von Treitschke, who published a supplement to his predecessor's work in 1879-1894, presenting the events of the 19th century. Jules Michelet, in turn, wrote down the history of the French people in as many as six volumes, which reached readers between 1855 and 1867. This author also used his talents in compiling an apologia of the French Revolution (see L. von Ranke, *Geschichten der romanischen und germanischen Völker von 1494 bis 1514*, Leipzig-Berlin 1824; H. von Treitschke, *Deutsche Geschichte im neunzehnten Jahrhundert*, vols. 1-5, Leipzig 1879-1894; J. Michelet, *Histoire de France*, vols. 1-6, Paris 1833-1844). For more on the white legend of the bloody French Revolution, see *idem*, *Histoire de la Révolution Française*, vols. 1-7, Paris 1847-1853.

¹³³ "It [nationalism] is qualitatively akin to the love of humanity or of the whole earth" (H. Kohn, *The Idea of Nationalism. A Study in its Origins and Background*, New Brunswick, London 2008, p. 9).

¹³⁴ Zeev Sternhell wrongly limited his consideration of the relationship between fascism and the national idea to the second half of the nineteenth century, for their genesis should be sought in the changes of the late eighteenth century (Z. Sternhell, *Fascism* [in] *Comparative Fascist Studies. New Perspectives*, ed. C. Iordachi, London - New York 2010, p. 56. cf. *idem*, M. Ashéri, M. Sznajder, *Naissance de l'Idéologie Fasciste*, Paris 1989).

¹³⁵ The element of nationalist ideology then ceased to be a postulate for the reconstruction of reality, as Marta Baranowska aptly mentioned. The division into nations became such an irrefutable reality that not only did scientists stop treating the concept as optional, but even the staunchest opponents of nationalism accepted its presence (vide: Communists and internationalism). Jerzy Marczewski in 1986 cut off the scholarly discussion with the statement: "no one doubts that there are nations" (M. Baranowska, *U źródła narodalizmu. The idea of the nation in the philosophy of John Jacques Rousseau*, "SnAiT" 2 (2013), pp. 7-9; J. Marczewski, *The question of the development of the German national question and the basic concepts of the nation in the 19th and 20th centuries*, "PZ" 5-6 (1986), p. 135).

¹³⁶ Michael Stolleis pointed to the humanitarian and religious nature of natural law as the reason for their failure (M. Stolleis, *Geschichte...*, pp. 387-388, note 187).

influence of world Jewry, emphasized the peaceful role of Germany, while on the other hand disapproved of the legal-natural foundations of the international order, strenuously sought ways to apply the *rebus sic stantibus* clause to the Treaty of Versailles, and finally raised questions about the legal necessity of the Third Reich to fulfill the obligations assumed by the authorities of the Weimar Republic¹³⁷.

Antoni Peretiatkowicz pointed out that the National Socialist doctrine of law did not contain an unequivocal position regarding the primacy of international law; both Adolf Hitler in his parliamentary speech of May 1933 and Carl Schmitt limited themselves to recognizing it, while the latter argued for the illegality of the Treaty of *Versailles*¹³⁸ ("engagement in the struggle against Weimar - Geneva - *Versailles*", or im *Kampf gegen Weimar - Genf - Versailles*¹³⁹). The introduction of the norms of international law into the domestic order by no means meant, according to Carl Schmitt, a depletion of state sovereignty, although it relativized the meaning of the constitution understood as a basic law (this was also the term used for the provisions of the so-called minority treaties concluded with the Central European states in 1919¹⁴⁰). He also rejected the claim of Alfred Verdross¹⁴¹, that the principle of *pacta sunt servanda* is the fundamental norm on which the community of international law is based. He stated, citing the views of Hermann Heller¹⁴², that this rule is neither a legal norm nor a necessary basis for the validity of any contract, but rather a tautology, an apparent premise for the legitimacy of contracts and an essential element of the culture of law in its historical development. In a commentary on Adolf Hitler's speech in the Reichstag on July 13, 1934. (two weeks after the Night of the Long Knives), Carl Schmitt stated explicitly that all law (*alles Recht*), and therefore international law, derives from the right to life of the nation (*aus dem Lebensrecht des Volkes*), and that the Führer is the source of law¹⁴³ in the creative and cognitive sense, the supreme judge of the nation (*des Deutschen Volkes oberster Gerichtsherr*), and the teacher of German history (*Lehrer der deutschen Geschichte*)¹⁴⁴. The attitude of the lawyer, known before 1933 for his critical attitude toward the National

¹³⁷ *Ibid*, pp. 380-392.

¹³⁸ A. Peretiatkovich, *The Problem...*, p. 6, note 12.

¹³⁹ An analysis of Carl Schmitt's thought has been made in Poland by, among others, Franciszek Ryszka (from a legalist perspective), Edward Jędrzejewski, and more recently by Adam Wielomski (from a conservative perspective) and Łukasz Świącicki, but the list of researchers ein *Faszinosum*, as Franciszek Ryszka called the German jurist, is definitely longer (F. Ryszka, *Carl Schmitt in the science of law and politics in the 20th century, Creator and work. Sketch to the portrait and selected threads of the theory*, "SnFiZH" XIX (1996), pp. 5-39; A. Wielomski, *Interpretations of Carl Schmitt in the world and in Poland*, "SnFiZH" XXXIII (2011), pp. 415-431; Ł. Świącicki, *Carl Schmitt in Polish legal interpretations (1928-2008)*, "SnAiT" 4 (2014), s. 101-131).

¹⁴⁰ The treaty with the Republic of Poland, like the Treaty of Versailles with Germany, was signed on June 28, 1919. Analogous agreements were concluded with Czechoslovakia, Romania, the Kingdom of Serbs, Croats and Slovenes and Greece (Treaty between the Principal Allied and Associated Powers and Poland, signed at Versailles on 28 VI 1919. - *Journal of Laws of 1920*, No. 110, item 728).

¹⁴¹ See A. Verdross, *Die Verfassung der Völkerrechtsgemeinschaft*, Wien 1926.

¹⁴² H. Heller, *Die Souveränität*, Berlin 1927, p. 132.

¹⁴³ Already at the end of the Weimar period, in an academic dispute with Hans Kelsen, Carl Schmitt recognized the Reich President (Reichspräsident) as the guardian (der Hüter) of the constitution, and in the aforementioned essay he concretized his earlier proposal by identifying the Führer as the defender of the law (F. Rigaux, Kelsen..., pp. 386-387; C. Schmitt, *Der Hüter der Verfassung*, "Archiv des Öffentlichen Recht" 16 (1929), p. 161; *idem*, *Der Hüter der Verfassung*, Tübingen 1931).

¹⁴⁴ C. Schmitt, *Führer schützt das Recht. Zur Reichstagsrede Adolf Hitlers vom 13. Juli 1934*, "DJ-Z" 15 (1934), reels 945-950. Cf. *idem*, *The Führer is the Defender of the Law. Commentary on Adolf Hitler's speech in the Reichstag on July 13, 1934*, transl. P. Graczyk, "Kronos" 2 (2010), pp. 63-67.

Socialist Party and its leader¹⁴⁵, was described by Adam Wielomski as a manifestation of collaborationism. Erroneous political forecasts (per analogiam to Italian fascism), the vain hopes for the domination of the conservative faction and the Prussianization of the party in the spirit of Hegelianism, and, after the liquidation of the leftist SA vanguard and the three leading conservatives (Kurt von Schleicher, Edgar Julius Jung and Erich Klausener), a clear concern for their own fate - all this led the jurist to this unsupportable praise of Hitlerism¹⁴⁶. The monism of power in the commander-in-chief state was, according to Carl Schmitt, to be the moment of supremacy over the liberal rule of law¹⁴⁷. Given these premises, he considered the existence of a community of international law questionable. The order of international law, in his opinion, consisted of a number of rules forming an open system of norms. In turn, these norms could be incorporated into the system of domestic law, as Heinrich Triepel also wanted¹⁴⁸, only by way of transposition due to their non-state origin and the different process of formation¹⁴⁹.

Inferring similarly to Heinrich Triepel, Julian Makowski ruled out the occurrence of a conflict between norms of international law and domestic law. In his view, norms from two legal systems that have no parts in common¹⁵⁰ could not be in conflict with each other. He supported his position with an advisory opinion of the Permanent Court of International Justice regarding the exchange of Greek and Turkish populations¹⁵¹, which in 1925 held that a state, in order to fulfill its international legal obligations, should transform (nowadays we would say "transpose") norms into the internal legal order through legislation, which by no means violates state sovereignty¹⁵². However, if the promulgation of the agreement, e.g. in a national promulgator, was in a language other than the authentic one, the translation had no legal international significance¹⁵³. The transposed norms could be the basis for claims in proceedings before the common courts of a country.

¹⁴⁵ For more on Carl Schmitt's scientific activity during the Weimar period, especially on his theory of decisionism: E. Jedrzejewski, On the origins of Carl Schmitt's decisionism, "SnFiZH" VIII (1982), pp. 125-151.

¹⁴⁶ Carl Schmitt, after the night of the long knives, "could at least have remained silent," yet he actively supported the party's legitimization process. As a result, it was not he who "broke with the NSDAP, it was the party that thanked him for his cooperation," and quite quickly, in December 1936 (A. Wielomski, Carl Schmitt vis-à-vis National Socialism (1.05.1933 - 15.12.1936) [in:] German Political Thought vis-à-vis National Socialism, ed. Ł. Świącicki et al, Warsaw 2016, pp. 191-193, 223-227, 230-232).

¹⁴⁷ C. Schmitt, Führer..., reels 945-950.

¹⁴⁸ See H. Triepel, Völkerrecht ...

¹⁴⁹ C. Schmitt, Science of the Constitution, transl. M. Kurkowska, Warsaw 2013, pp. 130-132, 139-140, 559-561, 587-588.

¹⁵⁰ While the totality of norms in force in a country can be called a system of law in modern times, it is difficult to categorize the concept of international law in this way, which is rather understood as a branch of law. The term "system of law" was used in a historical context (R. Tokarczyk, Legal Comparatism, Cracow 2005, pp. 69-73).

¹⁵¹ Exchange of Greek and Turkish Populations. Advisory Opinion of Feb. 21, 1925, "PCIJ Publ. (Series B)" 10 (1925), s. 1-26.

¹⁵² The opinion states: "a principle which is self-evident, according to which a State which has contracted valid international obligations is bound to make in its legislation such modifications as may be necessary to ensure the fulfillment of the obligations undertaken", and furthermore: "the contracting Parties are obliged to bring their legislation into harmony with the agreement adopted" ("the contracting Parties are obliged to bring their legislation into harmony with the Convention"). Regarding the inviolability of sovereignty, in connection with the transposition of norms of international law into domestic order, the following reference was made: "it is therefore impossible to admit that an agreement which imposes obligations of this kind ["absolutely equal and reciprocal"], construed according to its natural meaning, infringes the sovereign rights of the High Contracting Parties" ("it is therefore impossible to admit that a convention which creates obligations of this kind ["absolutely equal and reciprocal"], construed according to its natural meaning, infringes the sovereign rights of the High Contracting Parties"). *Ibid.*, pp. 20-21.

¹⁵³ L. Ehrlich, Interpretation of Treaties, Warsaw 1957, p. 147.

Julian Makowski consistently argued that international courts did not have the right to overrule a national court judgment or internal norm. This argument was supported by the jurisprudence of the arbitration courts of the time. As a result, the *paremia iura novit curia* did not apply to international law in domestic courts. The reverse situation was not mentioned by the Polish author¹⁵⁴.

On the other hand, in the legal culture of the Anglo-Saxons there was the principle "international law is a part of the law of the land" ("international law is a part of domestic law"), possibly with the ending "a part of the common law" ("a part of the law of precedent"). According to Julian Makowski, the indicated imperative was characterized by ephemerality due to the lack of a unified position in case law and doctrine¹⁵⁵. This rule was also applied before the outbreak of World War II in the area of state law culture, although this was done explicitly and through appropriate regulations in the legal system. A prominent example of this is the legal norm stemming from the Reich Basic Law (Weimar Republic) of August 11, 1919, also in effect in the Third Reich. Article 4 indicates that the norms of the law of nations are part of the German legal order: "The universally recognized principles of the law of nations are a valid component of German state law."¹⁵⁶. The quoted provision referred to universally recognized norms of law. In the discussion of the Basic Law in the constitution, it was unanimously emphasized that the provision was considered universal as a result of its acceptance by the Reich and the major powers¹⁵⁷. Some representatives of German doctrine tried to impose a different sense of the term *die Regeln*, limiting its material scope to the principles of the law rather than its norms¹⁵⁸. This interpretation was considered by Julian Makowski to be obviously wrong. The norm enshrined in the German constitution inspired the Austrians, who included it in Article 9 of the Federal Constitutional Law of the Republic of Austria of October 1, 1920¹⁵⁹, although they phrased it somewhat more laconically than the Germans: "the universally recognized norms of the law of nations are regarded as constituent parts of federal law."¹⁶⁰.

¹⁵⁴ J. Makowski, *International Law...*, part 1, pp. 28-29.

¹⁵⁵ Similarly, Michael Krol argued, pointing to cases of abandonment of the application of the principles of international law by the English legislature as well (M. Krol, *Law...*, p. 15).

¹⁵⁶ "Die allgemein anerkannten Regeln des Völkerrechts gelten als bindende Bestandteile des deutschen Reichsrechts" (quoted in *German Reich Constitution...*, p. 362).

¹⁵⁷ The term "Major Allied and Associated Powers" originated from the Treaty of Versailles and included five countries: the United States, Great Britain, France, Italy and Japan.

¹⁵⁸ Carl Schmitt, Gerhard Anschütz and Friedrich Giese believed that the provision transposed the principles of international law into the Reich's legal order on the basis of an equivalent domestic law. On the other hand, Alfred Verdross, Hugo Preuß, Josef Schmitt and Gustav Walz interpreted the issue more broadly, indicating that the Reich was bound by the norms (C. Schmitt, *Science...*, pp. 136-137. Cf. A. Verdross, *Die Einheit...*, pp. 111, 116; J. Schmitt, *Konkordate, Völkerrecht und Art. 4 der neuen deutschen Reichsverfassung*, "Zeitschrift für badische Verwaltung und Verwaltungsrechtspflege" 1921, p. 201; G. Walz, *Die Abänderung völkerrechtsgemäßen Landrechtes*, "Völkerrechtsfragen" 21 (1927), p. 150; F. Giese, *Die Verfassung des Deutschen Reiches vom 11. August 1919*, Berlin 1919, pp. 57-58).

¹⁵⁹ Gesetz vom 1. Oktober 1920, womit die Republik Österreich als Bundesstaat eingerichtet wird (Bundes-Verfassungsgesetz) (BGBl.Ö 1920, 1, 1).

¹⁶⁰ "Die allgemein anerkannten Regeln des Völkerrechtes gelten als Bestandteile des Bundesrechtes" (quoted in *Constitution of Austria*, transl. J. Ostrowski [in:] *Nowe konstytucje...*, p. 445; see J. Makowski, *International Law...*, part 1, pp. 29-30).

Unique for the consideration of the National Socialist doctrine of the law of nations is a 1935 article by Simon Rundstein¹⁶¹, who even before the German regime's most dangerous face was revealed, analyzed the impact of the assumptions of Nazi ideology on the theory and practice of international law. At the outset, he noted that his contemporary international law is characterized by an incompletely developed dogma, as well as the uncertainty and variability of the positive law norms that regulate it. The realization of Realpolitik in the international arena led to a reinterpretation of concepts and legal order in the spirit of state or national interest. Although Rundstein recognized the legal limits of even war of aggression, he believed that the effectiveness of international law was still determined by coercion from states¹⁶².

Simon Rundstein summed up the Imperial era as a time of disregard for the law of nations, and the Weimar period as its heyday. In turn, he classified National Socialism as a faith (its support of the Polish author treated as an act of confession) legitimizing the legal views and interpretations of the political system of the researcher sympathetic to Nazism (as in the Soviet Union, but differently than in fascist Italy)¹⁶³. It should be remembered that the Third Reich was a programmatically total state (*der totale Staat*), in which the party-state organs derived their power from the people, with Adolf Hitler at their head. His chieftainship grew out of and was based on the national foundation, a travesty of the ancient principle of Marcus Furius Camillus: "the most enduring power is that with which the subjects are satisfied."¹⁶⁴. The exile of a leader to the nation must have been, as Otto Koellreutter stated in 1933, an act of grace (*der Akt der Gnade*), even a manifestation of a religious nature¹⁶⁵.

Referring to the transformation of international law and its doctrine after 1933, Simon Rundstein began by introducing the theory of Carl Schmitt, whom he considered the protagonist of the legal doctrine of National Socialism. First, he pointed out the resulting absolute politicization of the science of international law, from which the Germans derived the right to reject the terror of the victors and to revindicate the assumptions of the Versailles order (as the "convert" Viktor Bruns unequivocally pointed out in 1934)¹⁶⁶. The basis for the transformation was a reinterpreted notion of justice, according to German interests decorated with mysticism. Hence, the German view of the legality of acts of international law became dichotomous - they were considered either law or lawlessness. This was the quintessence of Baruch Spinoza's principle: "as much law as force"¹⁶⁷.

¹⁶¹ Leonard Górnicki similarly noted, adding: "we do not find other [besides Szymon Rundstein's "original and brilliant" article] reasonably comprehensive studies of this field [of German international law after 1933]." In addition to the passages contained in the monographic publication, Leonard Górnicki detailed Szymon Rundstein's views on international law during the period of National Socialism in a separate article (L. Górnicki, *Prawo Trzeciej Rzeszy w nauki i publicystyce prawniczej Polski międzywojennej*, Bielsko-Biała 1993, p. 209. Cf. *idem*, *Narodowosocjalistyczny prawo w poglądach Szymona Rundsteina*, "SnFiZH" XXXIII (2011), pp. 47-77).

¹⁶² S. Rundstein, National Socialist doctrine of the law of nations, "PN" 6 (1935), s. 700-701.

¹⁶³ *Ibid.*, pp. 702-703.

¹⁶⁴ "Certe id firmissimum longe imperium est quo obedientes gaudent" (T. Livius, *Ab urbe condita*, vol. 2: Libri VI-X, Oxonium 1961, book VIII, ch. XIII (quoted in E. de Vattel, *Law...*, p. 214).

¹⁶⁵ O. Koellreutter, *Grundriss der allgemeinen Staatslehre*, Tübingen 1933, pp. 66-67.

¹⁶⁶ V. Bruns, *Völkerrecht und Politik*, Berlin 1934, p. 19.

¹⁶⁷ "Tantum iuris, quantum potentiae" (S. Rundstein, *National Socialist Doctrine...*, pp. 703-706).

Secondly, Simon Rundstein considered the fact that in practice the new German regime declaratively and instrumentally accepted the order of international law to be an exceptional phenomenon, given the previous Prussian policy of negating it. At the same time, he was aware of the goals of such a procedure: gaining additional time to legitimize power and consolidate it (including militarily, which the author did not emphasize), and creating a pseudo-scientific theory. Ultimately, international law was to be based, as Ernst Wolgast and Helmut Nicolai, among others, wanted, on the foundation of race: blood, soil and spirit¹⁶⁸. From here it is not far from the conclusion that the community of nations grown on such a foundation has a thoroughly German character and a right to wage war unfettered by the conventions of positivism.

Concluding the argument, Simon Rundstein recounted mainly Ernst Wolgast's views justifying the legal character of international law. It was supposed to derive from the unity of the community (*Gemeinschaft*) and the "commonality" (*Gesellschaft*) of nations, i.e. the result of coexistence and free contracting. These concepts formed a whole, referred to by the German author with the neologism *Völkerrechtssamfund* (law community of nations), coined in part from Norwegian. This concept was a carbon copy of Ferdinand Tönnies' sociological theory¹⁶⁹.

In general, Simon Rundstein regarded the theory of international law of the National Socialist period as new clothes for the well-known concepts of Pan-Germanism or Mitteleuropa. The appearance of pacifism did not blind him to German imperialist priorities: "The most elaborate edifice of legal constructions, the mysticism full of mystery and belief in the fatalism of history, the deft handling of the concept of justice [...] will not remove the doubt, [a]s this whole new order is not a repetition (in a different tone) of the old all-German program."¹⁷⁰ The multifaceted, efficient implementation of these demands first required the coordination of legal doctrine, and, as¹⁷¹ militarized, the marginalization of the League of Nations as a seasonal structure, including through the conclusion of bilateral agreements (the Polish-German Declaration of January 26, 1934, in particular, was panegyricized)¹⁷². A reconstruction of the international *status quo* was to follow. The doctrine of international law reconciling racial chauvinism with the idea of justice was emphatically described by a Polish jurist as an "agreement of incompatible canons"¹⁷³.

The scale of possible violations of international law by Germany before the outbreak of the World War II prompted Polish authors to undertake relevant legal reflections, which were analyzed by Leonard Górnicki¹⁷⁴. On the effectiveness of sanctions occurring in international law when considering the recognition of accomplished facts was voiced in

¹⁶⁸ *Ibid*, pp. 706-708.

¹⁶⁹ *Ibid*, pp. 708-710.

¹⁷⁰ *Ibid*, p. 713.

¹⁷¹ J. Krasuski, Germany's expansion against the background of the breakdown of the Versailles system, "PZ" 3 (1969), pp. 1-17; G. Castellan, Germany's secret remilitarization in the interwar period, "DN" 1-2 (1971), pp. 67-80.

¹⁷² Declaration between Poland and Germany on non-violence, signed in Berlin on 26 I 1934 (OJ 1934, no. 16, item 124); Bekanntmachung über die deutsch-polnische Erklärung vom 26. Januar 1934. Vom 16. März 1934 (RGL. II 1934, 15, 117).

¹⁷³ "Concordantia discordantium canonum" (S. Rundstein, National Socialist Doctrine..., p. 714). In 2014. Swiecicki offered an analysis of this article by Rundstein (L. Swiecicki, Carl..., pp. 107-108).

¹⁷⁴ L. Górnicki, Law..., pp. 210-219. cf. *idem*, The Concept of the Law of the Third Reich in the Views of Polish Lawyers (1933-1939), "SnFiZH" XVI (1993), pp. 83-122.

1939. Henryk Dembinski, who stated that legal international restrictions facilitate the unlawful actions of aggressive states¹⁷⁵. The Anschluss was considered legal by Henryk Raczkowski¹⁷⁶, while the conquest of Bohemia and Moravia was described from an international legal perspective by Kazimierz Kumaniecki¹⁷⁷ and Juliusz Sas-Wisłocki¹⁷⁸. The conclusion of the Concordat with the Holy See by Germany on July 20, 1933, became a cause for consideration of the instrumentalization of international law. An assessment of the act and its significance was formulated by, among others, Henryk Kalmowicz¹⁷⁹, Leon Halban¹⁸⁰ and Adam Vetulani¹⁸¹. The assumptions of German international law in reference to the conquest of Czechoslovakia and Poland, although only in light of the demands of spatial policy and limited mainly to the theories of Carl Schmitt, were analyzed in 1977 by Karol Jonca¹⁸². Fifteen years later, this author offered a more complete analysis of the German doctrine of public international law and its relationship to the law of nature in evolutionary terms¹⁸³.

To sum up - understanding the motivations of the violations committed by Germany during World War II against Poles, and especially the motives of the planners and organizers of the crimes, makes it possible to carefully justify the legal international qualification of their actions. The evolution of the doctrine's and legislator's approach to international law and its interpretation during the period of the National Socialists' rule in Germany, i.e. from 1933 to 1945¹⁸⁴, reflects not only the stages of preparation for the implementation of the theoretical interwar geopolitical concepts, but also the possible ways of justifying them through the ideologized theory of international law.

While the order of international law was not discarded under National Socialist domination, a new content was given to the norms derived from it through a scientific and political interpretation based on the tenets of the doctrine of Volkism. The interests of the German people justified the instrumental use of international legal obligations until Germany gained the internal strength and military superiority to realize its vision. The obstacles to the realization of Germany's racial and territorial goals were primarily, regardless of their nationality, Poles and Jews.

¹⁷⁵ H. Dembinski, Refusal to recognize accomplished facts in the recent development of the law of nations (Manchukuo - Abyssinia - Austria - Czechoslovakia), Lublin 1939, pp. 119-123.

¹⁷⁶ H. Raczkowski, "Anschluss" and international guarantees of Austrian independence, "Law" 5-6 (1938), pp. 117-118.

¹⁷⁷ K. Kumaniecki, From republic to protectorate (Prague-Bratislava-Uzhhorod), "CPiE" (1939), pp. 131-144.

¹⁷⁸ J. Sas-Wisłocki, Czech-Moravian protectorate and Slovakian sphere of influence of the German Reich, "WMP" 4 (1939), pp. 3-11.

¹⁷⁹ Concordat with the German Reich (concluded 20.VII.1933), ed. H. Kalmowicz et al., Vilnius 1934.

¹⁸⁰ L. Halban, Religion in the Third Reich, Lvov 1936, pp. 313 et seq.

¹⁸¹ A. Vetulani, Concordat of the Holy See with the German Reich, "PN" 1-2 (1934), pp. 3-18.

¹⁸² K. Jonca, Concepts of National Socialist Law in the Third Reich, "SnFiZH" III (1977), pp. 96-102. cf. *idem*, National Socialist Law in the Third Reich, "SFHC" V (1980), pp. 52-59. See A. Kanarek, Concepts and Institutions of National Socialist Law according to Karl Jonca, "SnFiZH" XXXII (2010), pp. 115-146.

¹⁸³ K. Jonca, Evolution of the doctrines of the law of nature and the law of nations in the Weimar Republic and the Third Reich (1919- 1941), "PZ" 4 (1992), pp. 3-22.

¹⁸⁴ See the study devoted, among other things, to the views of representatives of the Polish doctrine of international law on public international law in the Third Reich: A. Kanarek-Równicka, Polskie interpretacje ustroju i prawa Trzeciej Rzeszy (1933-1989), Toruń 2017, pp. 77-93, 264-267.

CHAPTER II

Sources of international law and Germany's obligations to Poland in 1939

From the perspective of a contemporary theorist of public international law, a specialist in international criminal law or international humanitarian law, it may seem that many of the issues analyzed in this chapter are presented in too much detail. However, it should be borne in mind that the issues raised here in the theory of international law, although later clarified, generated heated debates and led to numerous interpretations before the outbreak of World War II. For example, although the state of war doctrine was challenged as a result of the development of international humanitarian law, before 1939 the decoupling of the application of the law of war from the occurrence of a state of war was not clear.

The presentation of the subject of the sources of international law and selected problems of treaty law is also related to the need to describe Germany's obligations to Poland, as well as the dynamic development of treaty law observed in the interwar period. The validity of the inclusion of basic historical-legal reflections is evidenced by the arguments of the German doctrine, which advocated, among other things, limiting the scope of legal norms in relations with Poland after the beginning of hostilities, and thus unjustifiably narrowing Germany's responsibility for the crimes committed.

The concept and catalog of sources of international law

When analyzing the legal obligations between the reborn Republic and the Third Reich, general remarks should be made about the sources of international law¹. Before the outbreak of World War II, Julian Makowski pointed out that there was a distinction between creative (*Erzeugungsquellen*) and cognitive (*Erkenntnisquellen*) sources of law. The latter were considered sources of law that "stated its existence, objectified it, discovered it, as it were."². Not only custom and law-making contract were considered sources of law, but also a pranorm, which could be the will of a group or individual³.

In a similar vein was Ludwik Ehrlich, who considered "treaties and other sets of norms issued under treaty authority" and "documents that make it possible to ascertain the existence of a common law norm" as sources of international law. Based on the aforementioned sources, the norms of international law, defined by this author as state

¹ They are presented on the basis of an article of mine (see M. Mazurkiewicz, Some remarks on Polish concepts of sources of international law in the interwar period, "SIT" XIX (2016), pp. 159-176).

² J. Makowski, International Law..., part 1, p. 8.

³ Julian Makowski, following Maks Wenzel, believed that in order for a norm to have the attribute of being legal, it was enough to give it a general character and address it to a legal subject. According to him, the existence of power (tripartite, i.e., legislative, executive and judicial) was not a *sine qua non* condition for a norm to be considered legal, which he expressed as follows: "law can arise and operate without a legislature, without a court and without a gendarme" (*ibid.*, pp. 8-10).

norms and common law norms, could be reconstructed. The former included treaty norms and those based on them, while the latter were binding by custom, precedents and science⁴. Zygmunt Cybichowski defined the sources of international law similarly. He included custom and acts of international law⁵. There was basically no dispute among leading Polish international law specialists active before 1939 regarding the identification of the basic formal sources of international law.

Indigenous jurists believed that acts of positive law could be useful in determining the sources of international law. Accordingly, they drew primarily on the unratified 1907 Hague Convention (XII) on the Establishment of an **International Tribunal of Loot**⁶ and the Statute of the Permanent Court of International Justice of December 16, 1920, which was in force between the wars.⁷

Article 7 of the Hague Convention (XII) stipulated that a judgment in a case governed by an international agreement shall be rendered on the basis of its content. The exception to this rule was that the court had to refer to the rules of international law, and if these could not be applied - it was ruled using the general principles of justice and equity, i.e. *ex aequo et bono*. The vagueness of these concepts could lead, Ludwik Ehrlich believed, to interpretive disputes⁸.

Unlike the Hague Convention (XII), the Statute of the Permanent Court of International Justice was a binding act of international law, which meant that its provisions were binding on the signatories, including the Reich and the Republic. Article 38 of the statute provided:

"The Court applies:

- 1) international conventions, whether general or special, setting rules expressly recognized by the States in dispute;
- 2) international custom, as evidence of a practice generally accepted as law;
- 3) general principles of law recognized by civilized nations;
- 4) subject to the provisions of Article 59⁹ judicial resolutions and the doctrine of the publicists most qualified [in the English version additionally: of the various nations, meaning "from the various nations"], as an auxiliary means for determining legal principles. This provision shall in no way affect the ability of the Court, insofar as the parties agree, to rule [in the English text: *to decide a case*] *ex aequo et bono*."

The enumeration in Article 38 was similar to the catalogs of sources of international law placed in other international agreements concluded and in force during the interwar period. Ludwik Ehrlich pointed out that judicial bodies even took over the statutory

⁴ L. Ehrlich, *Law of Nations*, Lvov 1932, p. 79.

⁵ Z. Cybichowski, *Public and Private International Law*, Warsaw 1928, p. 14.

⁶ Convention Relative to the Establishment of an International Court of Prize, "AJILS" 2 (1908), pp. 174-202. See H. Brown, *The Proposed International Prize Court*, "AJIL" 3 (1908), pp. 476-489; J. Scott, *International Court of Prize*, "AJIL" 2 (1911), pp. 302-324.

⁷ L. Ehrlich, *The Law of Nations...*, p. 79.

⁸ *Ibid*, p. 80.

⁹ Article 59 read as follows: "The Court's decision is binding only on the parties, who are in dispute and with respect to the accident on which the decision was made."

catalog of sources of international law. Such a list appeared in the arbitration and conciliation agreements concluded by the German Reich with Switzerland on December 3, 1921, and with Sweden on August 29, 1924. It was included in Article 5 of these agreements and had the same wording: "The arbitral tribunal shall base its awards primarily on: agreements of a general or specific nature in force between the parties and the legal principles derived therefrom; secondly, on: customary international law as an expression of general practice recognized as law; thirdly, on: general principles of law recognized by civilized states. To the extent that in individual cases there are gaps in the legal bases listed above, the arbitral tribunal shall rule in accordance with the general legal principles that it believes should be the norm of international law. Tried doctrine and case law should be taken into account. With the consent of both parties, the arbitral tribunal may rule on principles of equity instead of relying on principles of law."¹⁰ .

The catalog implied that German-Swedish and German-Swiss arbitration courts should rule on the basis of contractual obligations and, secondly, customary international law (*internationale Gewohnheitsrecht*). According to Ludwik Ehrlich, this was not the same as custom, but was an expression of a general recognized practice as law. It was further recommended to refer to the principles of law of civilized countries, doctrine and the results of the application of law by the courts (*Rechtsprechung*). They allowed to establish not the norms in force, but those that will be in force in the future. In the absence of a legal basis, the court was to invoke "the legal principles which in its opinion should be the norm of international law," on the other hand, it was permitted to rule in equity (*nach billigen Ermessen*)¹¹ .

Commenting on Article 38, Ludwik Ehrlich referred in turn to the sources of international law listed therein. He stated that norms derived from international agreements should be applied before norms deriving their force from custom or general principles of law. He stressed the importance of explicit state recognition of the norm in question. In his view, collections of treaties were intended to be helpful in determining contractual obligations, starting with the pioneering collection of Georg Friedrich von Martens, initiated in 1791. It was reissued and supplemented until the interwar period, and also became the inspiration for the creation of particularistic publications, such as "The Collection of Commercial Treaties of the Republic of Poland". The Collection of Commercial Treaties of the Republic

¹⁰ "Das Schiedsgericht legt seinen Entscheidungen zugrunde erstens: die zwischen den Parteien geltenden Übereinkünfte allgemeiner oder besonderer Art und die sich daraus ergebenden Rechtssätze; zweitens: das internationale Gewohnheitsrecht als Ausdruck einer allgemeinen, als Recht anerkannten Übung; drittens: die allgemeinen von den Kulturstaaen anerkannten Rechtsgrundsätze. Soweit im einzelnen Falle die vorstehend erwähnten Rechtsgrundlagen Lücken aufweisen, entscheidet das Schiedsgericht nach den Rechtsgrundsätzen, die nach seiner Ansicht die Regel des internationalen Rechtes sein sollten. Es folgt dabei bewährter Lehre und Rechtsprechung. Mit Zustimmung beider Parteien kann das Schiedsgericht seine Entscheidung, anstatt sie auf Rechtsgrundsätze zu stützen, nach billigem Ermessen treffen." The only difference was in the notation of the numbering used. The enumeration in the agreement with Sweden used numbers, while the earlier agreement with Switzerland used their verbal equivalents (Gesetz über den deutsch-schweizerischen Schiedsgerichtsund Vergleichsvertrag. Vom 28. Februar 1922, RGBL. II 1922, 18, 217; Gesetz über den deutsch-schwedischer und deutsch-finnischen Schiedsgerichtsund Vergleichsvertrag. Vom 29. August 1925, RGBL. II 1925, 43, 863. Cf. Deutsch-schweizerischer Schiedsgerichtsund Vergleichsvertrag 3.12.1921 nebst deutscher Denkschrift, "Niemeyers Zeitschrift für internationales Recht" XXX (1922/1923), pp. 172; Deutsch-schwedischer Schiedsgerichtsund Vergleichsvertrag 29.8.1924, "Niemeyers Zeitschrift für internationales Recht" XXXIII (1924/1925), p. 342).

¹¹ L. Ehrlich, The Law of Nations..., p. 81.

of Poland, published by the Higher School of Commerce in Warsaw since 1924.¹² International agreements were also promulgated by the Secretariat of the League of Nations and in such national promulgators as the Polish Dziennik Ustaw and the German Reichsgesetzblatt (in its second part).

International agreements were the primary means of regulating relations between states in the interwar period, which does not mean that all international activity was codified. Therefore, it was no coincidence that Article 38 of the Statute of the Permanent Court of International Justice indicated that cases should be decided not only using agreements, but also international customs¹³, which were more difficult to establish. In addition, the rules did not indicate how they were to be reconstructed. Ludwik Ehrlich suggested that it was worth looking for their manifestations in "monuments of international practice," among which he listed official documents issued by international bodies (the General Secretariat of the League of Nations, the Office of the Permanent Labor Organization, the Universal Postal Union, etc.), official documents of organs of states, statements by governments, state notes, internal legislation - all of these acts insofar as they relate to international law¹⁴, opinions of lawyers of general repute who advised state authorities on international relations¹⁵, collections of *causes célèbres*¹⁶, and even facts reported by the daily press.

In the Lotus ship ruling issued on September 7, 1927, the Permanent Court of International Justice affirmed that the primary source of international law besides contract is custom¹⁷. Using the example of the initiation of criminal proceedings, it also explained how it should be determined in certain circumstances: "Even if the rarity of the judicial decisions to be found among the reported cases were sufficient to prove in point of fact the circumstance alleged by the Agent for the French Government, it would merely show that States had often, in practice, abstained from instituting criminal proceedings, and not that they recognized themselves as being obliged to do so; for only if such abstention were based on their being conscious of having a duty to abstain would it be possible to speak of an international custom."¹⁸.

Thus, it was stated that not only *usus*, or practice, is required to establish the validity of custom, but it is also formed by a constitutive element - *opinio iuris*, i.e. the state's belief in the law-compliant nature of the practice. It should be consistent, uniform and uninterrupted, but it does not have to be long-lasting at all. The Hague tribunal's jurisprudence shows that custom can be identified, among other things, as a result of tacit recognition by the state, statements by state organs and the conduct of other states¹⁹.

¹² *Ibid*, pp. 81-82.

¹³ See K. Wolfke, Custom in Contemporary International Law, Wrocław 1963.

¹⁴ Such collections of documents were widespread primarily in the United States (see J. Moore, F. Wharton, Digest of International Law, Washington 1906).

¹⁵ This was especially true of the opinions of English and American attorneys general (so-called general attorneys).

¹⁶ See K. von Martens, *Causes célèbres du droit des gens*, Leipzig 1827; *idem*, *Nouvelles causes célèbres du droit des gens*, Leipzig-Paris 1843.

¹⁷ The Case of the S.S. Lotus. Judgment of 7th Sept. 1927, "PCIJ Publ. (Series A)" 10 (1927), s. 21.

¹⁸ *Ibidem*, p. 28.

¹⁹ The aforementioned means of identifying custom were described by Karol Wolfke, citing international law theory and the judgments, advisory opinions and dissenting opinions of the judges of the Permanent Court of International Justice (K. Wolfke, Custom..., pp. 21-38, 59-87).

Thus, custom in force is the basis of a customary law norm, which can be codified in the form of an international agreement.

The role of customary law of war was rightly expressed by the judges of the International Military Tribunal in their verdict in the trial of major German war criminals on October 1, 1946: "[...] international law is not the product of an international legislature [...] The law of war is to be found not only in treaties, but in the customs and practices of states which gradually obtained universal recognition, and from the general principles of justice applied by jurists and practised by military courts. This law is not static, but by continual adaptation follows the needs of a changing world. Indeed, in many cases treaties do no more than express and define for more accurate reference the principles of law already existing."²⁰ . A particularly valuable remark of the adjudicators, it should be emphasized, concerns the function of an international agreement, positively expressing the applicable non-treaty norms.

In addition to international agreements and custom, Article 38 of the court's statute lists the following sources of international law: general principles of law fundamental to legal thinking, case law, doctrine, and *ex aequo et bono* adjudication, although this method was not practiced. On the basis of general principles of law, the court could construct norms, which, as a result of their observance and application, the state paraly and indirectly recognized. The international legal norm thus deduced was created as a result of precedent. General principles of law did not necessarily have to be applied in international law in order to construct norms relevant to the case on their basis. They could just as well have been principles of domestic law as those finding use in the settlement of an international dispute. The desirability of an international court's recourse to domestic law was determined by the will of the adjudicators²¹ . The judges of the Hague Tribunal clarified this issue in their July 12, 1929 ruling on Brazilian loans: "Though bound to apply municipal law when circumstances so require, the Court, which is a tribunal of international law, and which, in this capacity, is deemed itself to know what this law is, is not obliged also to know the municipal law of the various countries. All that can be said in this respect is that the Court may possibly be obliged to obtain knowledge regarding the municipal law which has to be applied."²² .

Antoni Peretiatkowicz noted that the mentioned provision does not indicate general principles of international law, but general principles of law. He mentioned that during the work in the Advisory Committee on the draft catalog included in Article 38 of the tribunal, a proposal to include rules of international law was made by Belgian lawyer Édouard Descamps, supported by Albert de La Pradelle, the French delegate. The initiator motivated the demand by the fact that the adjudicator should be bound by "[...] the law of objective justice, at any rate in so far as it has twofold confirmation of the concurrent teachings of juris-consults of authority and of the public conscience of civilized nations."²³

²⁰ Trial..., vol. I, p. 221.

²¹ L. Ehrlich, *Law of Nations...*, pp. 82-83; cf. K. Grzybowski, *International Tribunals and Domestic Law*, Lvov 1937, pp. 6-18, 224-235.

²² Case Concerning the Payment in Gold of the Brazilian Federal Loans Issued in France. Judgment of 12th July 1929, "PCIJ Publ. (Series A)" 20/21 (1929), s. 124.

²³ Procès-Verbaux of the Proceedings of the Committee (June 16th - July 24th 1920) with Annexes, Hague 1920, p. 324.

. This project was negated by the Anglo-Saxons: the British Lord Walter Phillimore and the American Elihu Root, who proposed the formulation "general principles of law." The former understood them as rules applied in foro domestico (in domestic jurisprudence), pointing to *bona fides* (the principle of good faith) and *res judicata* (the principle of the thing judged) as examples²⁴ .

Anthony Deryng mentioned, citing the opinion of Ludwik Ehrlich, that general presumptions have the character of auxiliary presumptions: "it follows that only in the absence of an express agreement of the parties can this kind of presumption be applied"²⁵ . On the other hand, in his view, such a norm could be abolished by a treaty clause. In the general principles of law Anthony Deryng saw the legal basis for the production of specific provisions with the participation of interstate bodies (he called this phenomenon the concretization of law)²⁶ .

The next sources of international law, according to Article 38 of the Statute, were case law and doctrine. Rulings based on a norm recognized as belonging to international law had the character of a presumption, but one that was all the stronger the greater the solemnity of the court (state or international) that issued the ruling. It could not conflict with other norms of international law, and the court citing the ruling could not expand its meaning. In 1927, in a dissenting opinion in the Lotus ship case, U.S. Judge John Bassett Moore noted that national jurisprudence in international cases should be treated as "[...] judicial expressions of the view taken in the particular country" but not binding on other states, and should be used as a source of law only if ruled in accordance with international law²⁷ .

During the interwar period, the Hague Tribunal formulated landmark rulings for the development of international law. They were also the source of legal norms that the tribunal referred to in its later rulings. They gave rise to a presumption of the existence of an international legal norm binding on the state, which could be rebutted because the judgment was first and foremost concrete and individual in nature, i.e. it referred to the parties to the dispute and its factual side. The judgment on certain German interests in Polish Upper Silesia reads thus: " The object of this article [59] is simply to prevent legal principles accepted by the Court in a particular case from being binding upon other States or in other disputes."²⁸ .

Equally fundamental to the development of antiwar and war law turned out to be the verdict of the Nuremberg International Military Tribunal on major German war criminals of October 1, 1946. The principles formulated by it were adopted by the UN General Assembly, as mentioned in detail in the introduction of the monograph. In the verdict, the judges addressed such important issues as the state of Germany's contractual and customary international legal obligations in 1939, the scope of the possible application in the case in question of the legal paradigms *lex retro non agit*, *nullum crimen sine lege* and

²⁴ A. Peretiatkiewicz, General principles of law as a source of international law and cosmopolitan tendencies, Poznań 1956, pp. 4-6.

²⁵ A. Deryng, Main ..., p. 4.

²⁶ *Ibid*, pp. 4-5.

²⁷ Dissenting Opinion by Mr. Moore, "PCIJ Publ. (Series A)" 10 (1927), s. 74.

²⁸ Case Concerning Certain German Interests in Polish Upper Silesia (the Merits). Judgment of 26th July 1927, "PCIJ Publ. (Series A)" 7 (1926), s. 19.

nulla poena sine lege, and the possibility of enforcing sanctions imposed for acts and omissions, however defined *ex post facto lex*. The statements of the judges of the Court provide valuable guidance in the context of the considerations in Chapter Three.

Zygmunt Izdebski acknowledged that not only court judgments, but also advisory opinions make it possible to establish norms of international law. As an argument, he pointed to the unanimity of the doctrine on this issue²⁹ and referred this thesis to the opinions issued by the Permanent Court of International Justice. This court was not only to apply international law, but also to legislate it, which was the intention of its creators. Similarly, participants in the Second Hague Conference of 1907 saw the importance of the Permanent Court of Arbitration's opinion-making activity. The opinions of the Permanent Court of International Justice made it possible to fill interpretive gaps in its optional, state-dependent jurisprudence. Concluding his consideration of the function of the advisory opinions of the Hague tribunal, Zygmunt Izdebski referred approvingly to the views of Hersch Lauterpacht, who regarded this body as an undervalued institution developing international law³⁰.

On the other hand, Wladyslaw Mikuszewski stated that the advisory opinions of the Permanent Court, a *sui generis* institution, do not reflect the scope of regulations contained in the legislations and judicial practice of the members of the League of Nations. However, he considered these opinions to be judicial rulings. In the words of Maurice Bourquin, they allowed the tribunal to fulfill its mission, which was to promulgate law³¹. The body was not deprived of the ability to establish legal norms by issuing precedent advisory opinions, but uniform restrictions were applied to advisory opinions and tribunal judgments. Precedent in such a case created law, but not in a positive sense, but as a result of the consolidation of judicial practice, which testified to the uniformity of jurisprudence. Although opinions were generally not considered formally binding in the doctrine, they were in fact given such force, as Dionisio Anzilotti believed in 1927. This dispute was irrelevant in clarifying the role of advisory opinions as precedents: "The question of whether opinions have or do not have binding force is indifferent in this case." - concluded Wladyslaw Mikuszewski³².

Article 38 of the court's statute includes the role of coryphaeuses of international law, although in practice the direct importance of the doctrine is negligible. Indirectly, however, through professional activity, such as adjudicating in recognized bodies such as the Hague Tribunal or the International Military Tribunal at Nuremberg, or participating in the preparation of international agreements or proposals for changes in the law, jurists, often recognized academics, have influenced the development of international law. Their

²⁹ Zygmunt Izdebski pointed to the following authors and their works: C. de Visscher, *Les Avis Consultatifs de la Cour Permanente de Justice Internationale*, "Recueil des Cours" I (1929), p. 60; M. Hudson, *Les Avis Consultatifs de la Cour Permanente de Justice Internationale*, "Recueil des Cours" III (1925), p. 344; J. Garner, *Le Développement et les Tendances Récentes du Droit International*, "Recueil des Cours" I (1931), p. 669 et seq.; W. Mikuszewski, *Advisory Opinions of the Permanent Court of International Justice*, Lviv 1933, p. 93.

³⁰ H. Lauterpacht, *The Legal Remedy in Case of Excess of Jurisdiction*, "The British Yearbook of International Law," 1928, p. 120; Z. Izdebski, *The Opinion Function of the Permanent Court of International Justice*, Poznań 1936, pp. 85-87.

³¹ M. Bourquin, *L'Adhésion des Etats-Unis à la Cour Permanente de Justice Internationale*, "Revue Générale de Droit International Public," 1930, p. 250.

³² W. Mikuszewski, *Opinions...*, pp. 6, 83, 89-93, 97-100.

scholarly assertions are intended to supplement, first and foremost, the establishment of legal norms. The importance of the views of legal authority was confirmed by the widespread recognition of their long-standing practice and the lack of significant controversy in the doctrine over the opinions they formulated. Against this background, a discussion developed during the drafting of the Hague Tribunal Statute. At the time, U.S. Judge James Kent stated that the presumption of the validity of a legal norm arising from the opinions of learned jurists is even impossible to rebut: "[...] the presumption in favor of that rule becomes so strong, that only a person who makes a mock of justice would gainsay it."³³ . In contrast, English judge Lord Walter Phillimore held that the UK could accept a judgment based solely on the findings of the doctrine³⁴ , a radical view.

The sources of international law included in the described catalog did not have to affect the content of the ruling, as long as this was the will of the parties. Indeed, the *ex aequo et bono* decision gave the judges the opportunity to choose sources of legal norms other than those listed. Unlike Article 7 of the Hague Convention (XII), the tribunal's statute did not specify a situation in which the court would not be able to decide a case due to the absence of a legal norm (*non liquet*)³⁵ . The German-Polish agreement regulating social insurance³⁶ did the same. Its Article 47(2) states: "The Arbitration Court shall decide disputed cases in accordance with the provisions of this agreement and, if necessary, in addition thereto, in accordance with general principles of law and equity."

To summarize - the catalog of sources of international law contained in Article 38 of the Statute of the Permanent Court of International Justice was widely approved in international law jurisprudence and doctrine during the interwar period. Moreover, it was often incorporated in whole or in part, whether literally or not, into international agreements concluded by states (including Poland or Germany). An in-depth consideration of the sources of international law is all the more helpful in determining Germany's obligations to Poland in 1939, as it shows which types of sources should be included in the analysis, which of them are assigned a crucial role, and how international legal norms should be established on their basis.

The importance of the specification contained in Article 38 of the Statute was evidenced by its post-war incorporation into the Statute of the International Court of Justice. However, there was no consensus in the doctrine as to whether Article 38 of the post-war Statute introduced a hierarchy of sources of law. Wladyslaw Czaplinski assumed that the order of sources merely reflected the degree of complication in reconstructing international legal norms on their basis and that they had equal force. At the same time, he concluded that customary norms are less perfect than contractual ones³⁷ .

³³ Procès-Verbaux..., p. 323.

³⁴ *Ibid*, p. 333.

³⁵ L. Ehrlich, Law of Nations..., pp. 88-89.

³⁶ Agreement between the Republic of Poland and the German Reich on social insurance, signed in Berlin on 11 June 1931 (Journal of Laws of 1933, no. 65, item 487); Bekanntmachung über den deutsch-polnischen Vertrag über Sozialversicherung. Vom 31. August 1933 (RGBl. II 1933, 37, 645).

³⁷ W. Czaplinski, Problematics of the sources of international law in the ICJ judgment on Nicaragua, "PiP" 11 (1988), s. 85-96.

Selected problems of treaty law in Polish-German relations

In addition to providing a definition of the sources of international law and a characterization of their catalog in the interwar period and during World War II, it is necessary to explain specific issues related to the functioning of codified law, i.e. treaty law, in relations between Germany and Poland. The adoption, implementation and application of norms were affected by many circumstances, such as the obligation to register international agreements, the rules of interpretation of treaties, their possible invalidity due to coercion in the conclusion of agreements, and finally the possible expiration of a treaty due to a fundamental change in conditions. Also of significance was the impact of war on the validity of treaties, which before the outbreak of World War II raised numerous interpretive disputes. The presentation of these issues in the dissertation was intended to justify the groundlessness of the actually raised and other identifiable allegations of the German side allowing the possible abrogation of Germany's responsibility for the crimes committed against the Poles.

Obligation to register international agreements

The obligation to register treaties with the League of Nations Secretariat stemmed from Article 18 of the League of Nations Covenant: "Every treaty or international obligation entered into in the future by a Member of the Union shall be immediately registered by the Secretariat and promulgated as soon as possible. No such treaty or international obligation shall take effect until it has been registered." As of September 1920. The Secretariat promulgated them in the original and French and English translations (published as "Recueil des traités et des engagements internationaux enregistrés par le Secrétariat de la Société des Nations" and "League of Nations. Treaty Series. Publication of Treaties and International Engagements Registered with the Secretariat of the League of Nations")³⁸.

Failure by a League of Nations member state to comply with this obligation resulted in the invalidity of the agreement concluded by it (even with a non-League state, although the provisions on registration of agreements did not apply to it). The binding force of the Secretariat in this case was limited to inter partes validity, which raised a number of basic legal questions, such as to what extent and from when the agreement is valid (*ex tunc* or *ex nunc*), and whether refusal to register would render the agreement invalid. The prevailing view in German scholarship was that an international agreement takes effect as a result of its registration with the Secretariat of the League of Nations. This procedure was to confirm the agreement's compliance with the provisions of the Covenant³⁹. One of the exponents of this view was Herbert Kraus, a German professor of international law, who admitted, however, that Article 18 has limited application: "This provision is not an exception for the reason... that it applies only to the international effectiveness of the

³⁸ L. Ehrlich, *Law of Nations...*, pp. 81-82.

³⁹ S. Rundstein, *Registration of Treaties*, "TP" 1 (1923), pp. 137, 146, 148, 150-151.

agreements in question."⁴⁰ . The necessity of obtaining international acceptance by registering an agreement was also emphasized by Dionisio Anzilotti, Italian-born president of the Permanent Court of International Justice from 1928 to 1930. Among Polish scholars of international law, this view was shared by Julian Makowski, who stated: "this is the only explanation that is correct and gives the possibility of reconciling the obligation to register with the principle of sanctity of contracts"⁴¹ .

The weakness of Article 18 was pointed out by a legal committee appointed by the League Council to analyze the essence of the legal norm constructed on its basis. Szymon Rundstein, a Polish arbitrator at the Permanent Court of Arbitration in The Hague and a negotiator of international treaties, in 1923 considered the committee's observation that the provisions did not eliminate secret diplomacy among non-League states to be correct: "the privileging of one group of states in favor of another [...] would cease only with the incorporation of the United States, Germany and Russia into the union, thus dies incertus an et quando."⁴² . Although Germany joined the League of Nations on September 8, 1926⁴³ , and the USSR on September 18, 1934, the practice of later years, including confidential German-Soviet arrangements (the secret protocol to the Molotov-Ribbentrop Pact of August 23, 1939)⁴⁴ , painfully confirmed his prediction (Germany had already withdrawn from the League of Nations in 1933). The commission's Executive Instruction to Article 18, drafted before the outbreak of World War II, contains a valuable observation about the sources of international law: "If titles from such [unregistered] treaties flow from them are combined with titles from other sources (from declared treaties), or if at the same time they derive from general principles of the common or customary law of nations - only explicit titles may be invoked."⁴⁵ . Thus, a distinction was made between treaties registered in accordance with the procedure under Article 18 of the Covenant of the League of Nations and unregistered agreements.

To sum up - the fulfillment of the obligation to register treaties under Article 18 of the League of Nations Pact in theory made it possible to eliminate secret diplomacy, which in principle should increase the security of countries that could become objects of future imperialist aspirations of aggressive states such as Germany and the USSR. However, the practice of secretly concluding treaties by these states, Germany's withdrawal from the League of Nations on October 21, 1933⁴⁶ and the fact that the United States was not a

⁴⁰ "Diese Bestimmung ist deshalb keine Ausnahme... weil sie sich lediglich auf die internationale Wirksamkeit der betreffenden Veträge bezieht" (quoted in *ibidem*, p. 147. See H. Kraus, *Vom Wesen des Völkerbundes*, Berlin 1920, p. 33).

⁴¹ J. Makowski, *International Law...*, part 1, p. 337.

⁴² S. Rundstein, *Registration...*, p. 155.

⁴³ S. Sierpowski, Germany's entry into the League of Nations and Polish-German relations, "PZ" 5-6 (1989), pp. 75-89.

⁴⁴ Text of the secret additional protocol to the Non-Aggression Pact between the German Reich and the USSR, concluded in Moscow on the night of August 23-24, 1939 [in:] J. Łojek, *Agresja 17 września 1939*. Study of political aspects, Warsaw 1990, pp. 183-184. See Z. Mazur, German-Soviet agreements of August and September 1939, "PZ" 4 (1989), pp. 125-151.

⁴⁵ J. Łojek, *Text...*, p. 159.

⁴⁶ The German government's note on withdrawal signed by Konstantin von Neurath, Reich Foreign Minister, was dated Oct. 19, 1933. Joseph Avenol, Secretary General, acknowledged its receipt three days later - Oct. 21. The referendum on withdrawal from the League of Nations and the Conference on Disarmament was held on the occasion of the Reichstag elections on November 12, 1933, and 96.3 percent of those eligible participated, with 95 percent of valid votes cast in favor of withdrawal from the organization (Notification by the German Government of its Intention to Withdraw from the League of Nations, "LNOJ" 1 (1934), p. 16; A. Zurcher, *The*

member of the organization meant that Article 18 of the pact failed to serve its purpose. Without registering treaties, the invaders prepared a joint plan to invade Poland in 1939.

Principles of treaty interpretation

The fundamental principle of treaty law, *pacta sunt servanda*, was linked to the peremptory command of good faith (*bona fide*) in entering into an international agreement, which constituted a presumption of the existence of an intention on the part of the contracting parties to comply with the generally applicable rules of international law. In turn, the rule of good faith implied an obligation on the part of the party to interpret the contract in a spirit that would enable it to be observed and achieve its purpose.

However, if the text was clear and did not require interpretation, it was to be abandoned as a possible cause of dispute (Vattel's principle). Exceptions were to be interpreted non-expansively, and the least semantically extensive text of the agreement was to be used in case it was drafted in different authentic languages (a principle from the practice of the Permanent Court of International Justice). There was a prohibition on a presumption of limitation of state sovereign rights. This would have to be expressly provided for in the agreement, and in such a situation it was necessary to interpret them as narrowly as possible (*exceptio est strictissimae interpretationis*). The provision had to be interpreted in connection with the entire contract, including its introduction, treated as a set of premises on the basis of which the parties conceived the intention of a mutual obligation.

In the event of an interpretation leading to depriving the contract of any meaning, the interpretation had to be rejected as pointless and absurd. Ludwik Ehrlich pointed out⁴⁷, that this is what the Hague tribunal ruled in its August 17, 1923 judgment on the Wimbledon ship case regarding the interpretation of Article 380 of the Treaty of Versailles, which was contrary to the other provisions of the agreement: "But the Court feels obliged to stop at the point where the so-called restrictive interpretation would be contrary to the plain terms of the article and would destroy what has been clearly granted."⁴⁸. The judges used similar reasoning in their March 13, 1925 advisory opinion on the Polish postal service in Danzig: "It is a cardinal principle of interpretation that words must be interpreted in the sense which they would normally have in their context, unless such interpretation would lead to something unreasonable or absurd."⁴⁹. On the sidelines of reflections on contract interpretation, mention should be made of Article 63 of the Statute of the Permanent Court of International Justice, which provided for a state other than the

Hitler Referenda, "The American Political Science Review" 1 (1935), pp. 95-96; S. Sierpowski, Germany's Withdrawal from the League of Nations, "PZ" 2 (1983), pp. 67-92).

⁴⁷ L. Ehrlich, The issue of war in contemporary international law (NTN - Trial against Arthur Greiser) [in:] Expert Reports..., part 1, pp. 47-48.

⁴⁸ The S.S. "Wimbledon". Judgment of 17th Aug. 1923, "PCIJ Publ. (Series A)" 1 (1923), s. 24-25.

⁴⁹ Polish Postal Service in Danzig. Advisory Opinion of 16th May 1925, "PCIJ Publ. (Series B)" 11 (1925), s. 39.

litigant to be bound by the tribunal's interpretation if it intervened in the dispute, such as Poland in the Wimbledon ship case⁵⁰.

The presentation of the principles of interpretation of international agreements and their concise explanation⁵¹ allows to understand how, according to the doctrine and according to the case law, before the adoption of the codified rules in Chapter III of Part III of the Vienna Convention on the Law of Treaties in 1969⁵², agreements had to be observed and applied. In practice, the considerations relate to problems addressed in many places in the monograph: the binding force of the preamble, the role of state sovereignty, the implementation of the agreement in good faith and Germany's obligations to Poland in 1939.

Invalidity of treaty due to coercion

Bronislaw Bouffal³, an expert on international law, the League of Nations and the philosophy of law, a lecturer at the Catholic University of Lublin and the Free Polish University in Warsaw, wrote about the genesis of international agreements concluded by states in 1928, discussing the protection of minorities in the law of nations. He pointed out coercion as a specific circumstance of concluding an international agreement, which by no means rendered the agreement *ipso jure* invalid, as would happen when concluding obligations of a civil law nature. Indeed, in this case the Roman *paremia quamquam coactus voluit, tamen voluit* operated. However, it did not apply if coercion was used against a person contracting on behalf of the state. Coercion against a party usually resulted from the current arrangement of relations between the contracting parties and the desire of at least one party to avoid aggravating the situation. The conclusion of a treaty was indirectly compelled by factual circumstances. Thus, the perpetrators *en pleine connaissance de cause* accepted established international legal obligations. As an illustration of this problem, one can point to the position of the plenipotentiaries of the German authorities, who, urged by the Reich's military weakness, concluded an armistice at Compiègne on November 11, 1918 on terms that did not suit them⁵³. Regarding the Treaty of Versailles as a dictate, representatives of the German authorities and public opinion stressed that coercion had taken place, which, as unlawful in the conclusion of the agreement, was to render it invalid. However, the circumstances of the conclusion of the treaty do not indicate coercion either against the German signatories or against the German state. The alleged coercion emphasized in German propaganda could not become

⁵⁰ The S.S. "Wimbledon. Judgment of 28th June 1923 (Question of Intervention by Poland), "PCIJ Publ. (Series A)" 1 (1923), s. 11-14.

⁵¹ See a detailed study of the aforementioned issue with an extensive historical introduction: L. Ehrlich, *Interpretation of Treaties*, Warsaw 1957.

⁵² Vienna Convention on the Law of Treaties (with Annex). Concluded at Vienna on 23 May 1969, "Treaty Series. Treaties and International Agreements Registered or Filed and Recorded with the Secretariat of the United Nations," 1155 (1987), pp. 331-353. Cf. Vienna Convention on the Law of Treaties Concluded at Vienna on 23 May 1969 (Journal of Laws 1990, No. 74, item 439).

⁵³ B. Bouffal³, *Protection of Minorities in the Law of Nations*, Warsaw 1928, pp. 180-181.

the cause of the agreement's invalidity, so attempts were made to change its provisions by provoking an armed conflict with Poland in 1939.

Expiration of the treaty due to a fundamental change in circumstances

Julian Makowski noted that since the time of Hugo Grotius⁵⁴ and Emer de Vattel⁵⁵ principles of treaty interpretation have been developed, mainly through the dynamic expansion of the arbitral tribunal, and as a result of the jurisdictional activity of the Hague tribunal⁵⁶. The application of international law norms excluded analogy. In the case of the interpretation of an authentic international agreement, on the other hand, bias was not possible, as it could be done by all signatories of the treaty acting together. Judicial interpretation was at most auxiliary. In the event of ambiguity, the option more consistent with the purpose of the agreement had to be chosen.

Ratification of an international treaty was intended to compel the state to abide by its provisions in accordance with the basic and absolutely binding rule of *pacta sunt servanda*, which did not suffer the restrictions of the *rebus sic stantibus* clause⁵⁷. They appeared only at the end of the Middle Ages (in the 14th and 15th centuries), and previously Seneca and St. Thomas Aquinas had formulated remarks on this subject in ethical reflections. The exception was the justification of the following possibility: "either a new [party] intervenes, or there is a mutual change in the terms of the contract."⁵⁸. Invoking the clause to unilaterally change the contractual relationship was considered illegal in the 19th century, although there were defenders of the clause, among others in the person of John Stuart Mill (its validity was demonstrated in the pages of the *Fortnightly Review* in 1870), who argued the absurdity of the theory of perpetual validity of international treaties⁵⁹.

Disapproval of the application of the described clause was expressed by Russia in an attempt to reject the provisions of the Treaty of Paris of March 30, 1856.⁶⁰ due to a radical change in terms. The agreement was made to demilitarize the Black Sea zone. Its signatories finally agreed in 1871, at the so-called Pontic Conference in London, with the

⁵⁴ H. Grotius, *De Contractibus* [in:] *De Jure Belli ac Pacis Libri Tres*, in *Quibus Jus Naturae et Gentium*, item *Juris Publici Praecipua Explicantur*, Parisiis 1625, pp. 275-293.

⁵⁵ E. de Vattel, *De l'Interprétation des Traités* [in:] *Le Droit des Gens, ou Principes de la Loi Naturelle*, vol. 1, Londres 1758, pp. 460-514, Liv. II, § 262-322. cf. *idem*, *On the Interpretation of Contracts* [in:] *Law of Nations, or Principles of Natural Law*, vol. 1, transl. B. Winiarski, Warsaw 1958, pp. 523-579, Rev. II, § 262-322.

⁵⁶ J. Makowski, *International Law...*, part 1, pp. 322-328, 339-342.

⁵⁷ Antoni Peretiatkowicz considered the clause to be a facade that allows representatives of states to pretend the legality of their unlawful actions (A. Peretiatkowicz, *Problem...*, p. 7).

⁵⁸ "Si aliquid intervenit novi, si sunt mutatae conditiones negotii."

⁵⁹ Bronislaw Bouffal³ argued that in the 1920s there was a slow return to general recognition of the clause due to the "desire to expand the sphere of judicial interpretation" (B. Bouffal³, *Protection...*, pp. 182-185).

⁶⁰ *Acte Général du Congrès de Paris (30 Mars 1856)* [in:] *Les Grands Traités Politiques. Recueil des Principaux Textes Diplomatiques depuis 1815 jusqu'à nos jours*, ed. P. Albin, Paris 1912, pp. 170-180. cf. *General Treaty of Peace between Great Britain, Austria, France, Prussia, Russia, Sardinia and Turkey. Signed at Paris, 30th March 1856* [in:] *The Map of Europe by Treaty*, vol. 2, ed. E. Hertslet, London 1875, pp. 1250-1265; *Vertrag zwischen Preußen, Österreich, Frankreich, Großbritannien, Russland, Sardinien und der Türkei, nebst Anlagen. Vom 30. März 1856* (PrGS 1856, 36, 557).

Russian claims made by Prince Alexander Gorchakov, while declaring unlawful the actions of the tsarist government to arbitrarily change the agreement. The declaration, signed on January 17, 1871, stated: "it is a fundamental principle of the law of nations that none of them [the parties to the agreement] may derogate from the treaty obligations or alter their provisions, except with the consent of the contracting powers in a friendly agreement."⁶¹ . The document was also signed by a representative of the North German Union, which confirmed that already on the eve of the establishment of the empire (which took place on January 18, 1871) the authorities representing the German states did not agree to modify the agreements by unilaterally invoking the *rebus sic stantibus* clause⁶² . Once again, Germany did not agree to the use of this principle on the occasion of the High Port's unilateral abolition of the system of capitulations, i.e. special conventions concluded since the beginning of the 15th century by Western Christian countries with Eastern states with uncertain regimes and laws. The capitulations contained provisions allowing European merchants to establish factories, set up self-government and allowed certain categories of people to be excluded from local jurisdiction in favor of consular jurisdiction (in addition to Europeans, those working on their behalf and converts to Christianity were subject to it). Introducing a constitution, organizing the judiciary on the European model and taking advantage of the turmoil associated with the outbreak of the Great War, Turkey on September 9, 1914 unilaterally recognized the capitulations as inapplicable from October 2. German authorities initially protested, but later, due to Turkey's joining the Central Powers bloc, recognized its rationale. Two key moments can be identified: first, in addition to Germany, disapproval was expressed by European states (England, France, Russia) and the United States, and then the contractual relationship changed, but not because of its unilateral termination, but because of Germany's intention to modify the legal status (perhaps under the coercion of the Allies, which does not change the essence of the matter). Only then were bilateral obligations revised by sanitizing or sanctifying them, as stated in Article 28 of the Treaty of Lausanne of July 24, 1924.⁶³ : "The High Contracting Parties declare that they accept, in so far as it concerns each of them, the complete abolition of capitulation in Turkey from every point of view."⁶⁴ .

⁶¹ "C'est un principe essentiel des droit des gens qu'aucune d'elles ne peut se délier des engagements d'un traité, ni en modifier les stipulations, qu'à la suite de l'assentiment des Puissances Contractantes, au moyen d'une entente amicale" (J. Makowski, Revision..., p. 345. cf. Declaration between Great Britain, Austria, France, Italy, North Germany, Russia, and Turkey as to Non-Alteration of Treaties without Consent of Contracting Parties. London, 17th January, 1871 [in:] The Map of Europe by Treaty, vol. 3, ed. by E. Hertslet, London 1875, p. 1904).

⁶² Analyzing, among other things, the situations when, on the basis of the *rebus sic stantibus* clause, the Russians were granted the right to maintain any number of warships in Black Sea waters, and when Austria-Hungary occupied Bosnia and Herzegovina in 1908 (in exchange for a unilateral relinquishment of the occupation of military roads in Sandžak Novo-Pazarski), Bronislav Bouffal³ concluded that this principle was then confirmed. However, it seems that in fact, each time it was used to motivate the policy of accomplished facts, but it was not sanctioned as a legal institution. A similar situation applied to the annulment of certain treaties by Soviet Russia in 1924 and the Holy See in 1921. - the reason here, however, was a change of counterparty, and therefore fundamental in nature. Whether this clause could be indicated in the above cases was decided by the rules of succession of states (B. Bouffal³, Protection..., pp. 186-192, 199-200. Cf. B. Schmidt, Über die völkerrechtliche Clausula Rebus sic Stantibus, Leipzig 1907; E. Kaufmann, Das Wesen..., H. von Treitschke, Politik, vol. 1, Leipzig 1913, pp. 37-38).

⁶³ Traité de Paix [à Lausanne] [in:] Treaty of Peace with Turkey, and other Instruments. Signed at Lausanne on July 24, 1923, London 1923, p. 24.

⁶⁴ "Les Hautes Parties contractantes déclarent accepter, chacune en ce qui la concerne, l'abolition complète des Capitulations en Turquie à tous les points de vue" (B. Bouffal³, Protection..., pp. 194-201).

A tentative attempt to introduce the clause into international law was mentioned by Julian Makowski, giving as an example the provisions - "one of the most dangerous" - of Article 19 of the Covenant of the League of Nations: "The Assembly may, from time to time, call upon the Members of the Union to proceed to a re-examination of treaties which are no longer applicable, and of the international position, the continuance of which might endanger the peace of the world."

This provision caused a lot of ambiguity, concerning, among other things, the circle of entities entitled to initiate the described procedure, the subject of the Assembly's resolution, the possible actions of this body under Article 19 and the definition of the resolution's addressees. Answers to the doubts signaled were provided by other provisions of the Covenant of the League of Nations and practice.

The entity authorized to initiate a review of treaties and international situations threatening world peace was any member of the League of Nations (*per analogy* to Article 11(2) of the Covenant). Some authors have argued that this power was also vested in the entire Assembly through its President.

The subject of the Assembly's resolution could only be perpetual (indefinite) and hitherto unenforced treaties, the revision of which had been preceded by negotiations between the parties, and international situations not covered by treaty law that potentially threatened world peace.

Formally, the Assembly then had several options for action: it could declare itself incompetent and not deal with the matter, declare itself competent but reject the request as not meeting the conditions of Article 19, affirm its competence and accept the request but not make a proposal to the parties, and finally declare itself competent, accept the request and make an advice to the parties, which had no legal significance but would rather be a natural obligation. Thus, even the choice of the most restrictive solution did not formally limit the regulation of relations between states.

The decision to notify the states concerned of the wishes of the Assembly had to be made unanimously, according to Article 5(1) of the Pact: "Unless otherwise expressly provided in this Agreement or in this Treaty, resolutions of the Assembly or of the Council shall be adopted by unanimous resolution of the Members of the Union represented at the meeting." In general, authors writing on Article 19 favored the thesis that this unanimity should be absolute⁶⁵, since no dispute had yet arisen, precluding the need for the *nemo iudex in causa sua* condition. Besides, the requirement of relative unanimity was expressed in the pact each time *expressis verbis*. The application of this rule was therefore an exception to the rule⁶⁶. Bronislaw Bouffal³ presented a different interpretation: "such an order should be enacted by no other means than unanimity, with the exception, quite

⁶⁵ Among them, Julian Makowski pointed to Rev. Bernhard von Bülow (Reich Chancellor and Prime Minister of Prussia from 1900 to 1909), André Weiss (from 1922 to 1928 a judge at the Permanent Court of International Justice in The Hague), Viscount Robert Finlay (also a judge at The Hague, from 1921- 1929) or Zygmunt Graliński (a Polish lawyer and activist in the peasant movement). J. Makowski, Revision of treaties against the background of the League of Nations Pact, "GP" 10-11 (1927), p. 352.

⁶⁶ Cf. K. Olszowski, Article 19 of the Pact of the League of Nations, Warsaw 1925; Z. Aliński [Z. Graliński], Possibilities of Revision of Treaties according to the Pact of the League of Nations, Warsaw 1927; B. Bouffal, Protection..., pp. 206-222; J. Makowski, Revision..., pp. 351-352; L. Ehrlich, Article 19 of the Pact of the League of Nations, "PP" 4-5 (1929), pp. 141- 153; M. Rostworowski, League of Nations, Cracow 1939, p. 65.

simply, of the votes of the states concerned, which in this case are completely disregarded. [...] the public opinion of those countries, which, like Germany or Hungary, seek *per fas et nefas* to dismiss at least some of the provisions of the Treaty of Versailles, does not want to reckon [with such an interpretation]."⁶⁷ .

In addition to unanimity, Germany's use of Article 19 of the Pact to revise its borders with Poland would have been hampered by Article 10, which did not allow the political and territorial sovereignty of League of Nations members to be depleted. In 1939, Michał Rostworowski, an international law expert and judge at the Permanent Court of International Justice from 1931 to 1940, optimistically predicted in the context of a possible Polish-German border conflict: "the paragraph on 'treaties' is not suitable here, because the treaty has become and is enforceable, and the paragraph on 'international situations' is more vague and of the kind that would lead to nothing. For a resolution of the Assembly to come into effect - unanimity is needed - and Poland would have voted contra and thus thwarted the resolution initiating the whole action. Little would be gained by this means."⁶⁸ .

In turn, Julian Makowski rightly stated that the German authorities "in Article 87 of the Treaty of Versailles [...] relinquished *expressis verbis* all rights to the territories east of the boundary line defined in Article 27 [of the treaty]."⁶⁹ . The fulfillment of international legal obligations was confirmed by the fact that Poland assumed sovereignty over the territories indicated, and a Polish-German border agreement was concluded in Poznań in 1926⁷⁰ , in which the German authorities affirmed in no uncertain terms that the provisions of the Treaty of Versailles (Article 1 of the Convention) had been implemented. The execution of its border provisions was certified, so Germany's possible territorial claims against Poland could not be considered in light of Article 19 of the pact.

Germany's opposition to the restrictive international legal obligations adopted by the Reich after the end of the Great War required the use of force or intensive diplomatic efforts in the international arena. In the face of military weakness, Germany initially sought legal solutions, using properly interpreted legal institutions⁷¹ , so the prohibition on unilateral change of the contractual relationship motivated by the principle of *rebus sic stantibus* played a not insignificant role. The Reich was bound by this prohibition, expressing its will in this regard in the Final Protocol of the London Conference of 1871 and the protest note following Turkey's 1914 surrender speech, among others. Thus, if the case involved a contract with Poland, Germany could theoretically invoke the clause, but could not change the legal relationship without the consent of the counterparty, which was practically ruled out after the execution of the border treaty.

⁶⁷ B. Bouffal³, Protection..., p. 218.

⁶⁸ M. Rostworowski, League..., p. 65.

⁶⁹ J. Makowski, Revision..., p. 353.

⁷⁰ Polish-German Convention on the Regulation of Border Relations, signed in Poznań on 27 I 1926 (Journal of Laws of 1927, No. 54, item 470); Gesetz über den deutsch-polnischen Vertrag zur Regelung der Grenzverhältnisse. Vom 8. Dezember 1926 (RGBl. II 1926, 49, 723).

⁷¹ Carl Schmitt abrogated the gateway to challenging the legitimacy of the Treaty of Versailles by emphasizing the political context - he pointed out that in 1919. Germany was not fully sovereign, and that the Weimar Constitution takes precedence over international law (C. Schmitt, Learning..., pp. 133-135).

Clarification of issues related to the declaration of invalidity of a contract due to a change of circumstances, i.e. as a result of a state's *invocation of the rebus sic stantibus* clause, is particularly relevant to the legal international qualification of the German action of planning and executing the invasion of Poland in 1939. Germany, unable in principle to legally invalidate the Treaty of Versailles or the border agreement with Poland, decided to make territorial changes by force of arms, and in 1939 concluded a secret protocol with the USSR.

The impact of war on the validity of international agreements

The circumstance of the war did not go unchallenged on the validity of Polish-German treaties. Before 1939, these issues were governed by the uneven practice of the states. As a rule, they were settled, according to Julian Makowski, on the occasion of the end of the war, when the peace treaty most often entered into force⁷².

Against this backdrop, there were differences regarding the bii multilateral agreements legally concluded before the outbreak of war. There was doubt as to whether all or only certain provisions of them were binding. Consideration of these issues seems important to determine whether Germany was obliged to abide by the agreements it had concluded, or whether the circumstances of the war exempted it from this obligation.

By way of introduction, it should be pointed out that legal benefits cannot be derived from violations of the law, which means that Germany, by initiating the war in 1939, lost the benefits that would have resulted from bilateral compliance with peace-keeping obligations. The validity of the principle of reciprocity was confirmed if only by the exceptional conduct of the Soviet authorities, which, despite Germany's blatant violations of the Hague Convention (IV), stressed its readiness to fulfill its obligations under the agreement and its annexed regulations. In addition to the note of the People's Commissariat of Foreign Affairs of November 25, 1941 on this subject, the USSR issued another - dated April 27, 1942. - in which it expressed its will to continue the legal international protection of German prisoners of war remaining in Soviet captivity⁷³. Due to the special nature of the declarations, which in view of the failures at the front were probably intended to induce the German authorities to improve the conditions of captivity of Soviet soldiers, they were expressed *expressis verbis*. Otherwise, if the USSR had decided to suspend the agreement in mutual relations, its silence would have sufficed.

The issue of the validity of international agreements in wartime was analyzed in a multifaceted and detailed manner by Jerzy Pienkos in a careful monograph published in 1973.⁷⁴ He described the various approaches to this issue in the doctrine of international

⁷² J. Makowski, *International Law...*, part 1, pp. 339-340. Julian Makowski was a proponent of the theory of invalidation of international agreements due to the outbreak of war (J. Makowski, *State Organs in International Relations. International conventions. International agreement*, Warsaw 1957, p. 192 et seq. Cf. *idem*, *Handbook of International Law*, Warsaw 1948, p. 634).

⁷³ N. Alexeyev, *Responsibility of Nazi criminals*, transl. W. Bielawski, Warsaw 1969, pp. 24-25.

⁷⁴ See J. Pienkos, *The Effect of War on the Validity of International Agreements with Special Reference to Peace Treaties after World War II*, Warsaw 1973.

law and the practice of states chronologically. From the perspective of the objectives of the dissertation, it seems reasonable to zoom in on the results of his analysis, but only in the context of the views characteristic of representatives of German doctrine and in terms of the most relevant legal acts governing the impact of the outbreak of war on the validity of agreements (especially bilateral and multilateral ones that codify the conduct of war and establish a permanent legal status, such as border treaties).

Historically, the concept of nullification of contracts as a result of the outbreak of war (*inter arma silent leges*) was considered classical, reflecting the legal-natural view of peace as a state of emergency in relations between nations. This assumption resulted from the brutalization of international relations in accordance with the principle of *bellum omnium contra omnes*. Among German legal theorists, Karl von Wächter⁷⁵ (member of the Privy Council of Wilhelm I, King of Württemberg), Karl von Troeltsch⁷⁶ advocated breaking agreements due to the outbreak of war, Theodor von Schmalz⁷⁷ (rector of Königsberg Albertina and first rector of the University of Berlin), Johann Klüber (constitutionalist and author of studies on the Congress of Vienna)⁷⁸ and Franz von Liszt⁷⁹ and Julius Friedrich⁸⁰, who, however, allowed exceptions in this regard.

The state of war *ipso facto* did not affect the validity of the agreements, possibly leading to their temporal suspension, according to the following German authors: August von Bulmerincq (international law expert and member of the Institute of International Law)⁸¹, August Heffter (rector of the universities of Bonn and Berlin)⁸², Josef Kohler (comprehensive legal scholar)⁸³, Otfried Nippold (academic lecturer and president of the Saarland Supreme Court in Saarlouis)⁸⁴, Ernst Seligmann⁸⁵ and Alois Bischof⁸⁶. Some of them advocated certain exceptions, which concerned, for example, legal acts regulating specific matters ("relating to the subject matter of the dispute"). The authors generally

⁷⁵ See K. von Wächter, *Dissertatio Juridica de Modis Tollendi Pacta inter Gentes*, Stuttgart 1779.

⁷⁶ K. von Troeltsch, *Versuch einer Entwicklung der Grundsätze, nach welchen die rechtliche Fortdauer der Völkerverträge zu beurtheilen ist. Eine gekrönte Preisschrift*, Landshut 1808, p. 47 et seq.

⁷⁷ T. von Schmalz, *Das europäische Völkerrecht in acht Büchern*, book 2, Berlin 1817, p. 69.

⁷⁸ J. Klüber, *Europäisches Völkerrecht*, vol. 1, Stuttgart 1821, pp. 267-268, § 165, note "a" (*ibidem*, vol. 2, pp. 405-406, § 250).

⁷⁹ F. von Liszt, *Das Völkerrecht systematisch dargestellt*, Berlin 1889, p. 118. Later, Franz von Liszt's views liberalized. The jurist singled out treaties concluded for the occasion of war and held that they retained their force despite the outbreak of war. Abstracting from his own views, he emphasized ethically: "while it is clear from the literature that the validity of agreements is suspended by war, not annulled, the practice of states in the last decade speaks against this view" ("der Literatur geht allerdings dahin, daß die Verträge durch den Krieg nur suspendiert, nicht aufgehoben werden. Die Staatenpraxis der letzten Jahrzehnte spricht aber gegen diese Ansicht"). *Idem*, *Das Völkerrecht...*, Berlin 1906, p. 181; cf. *idem*, *System...*, Cracow, Warsaw 1907, pp. 174-175.

⁸⁰ J. Friedrich, *Grundzüge des Völkerrechts für Studierende und Laien*, Leipzig 1915, p. 70.

⁸¹ A. von Bulmerincq, *Völkerrecht oder internationales Recht [in:] Handbuch des öffentlichen Rechts der Gegenwart in Monographien*, ed. H. Marquardsen, vol. 1, part 2, Freiburg im Breisgau 1887, p. 360.

⁸² A. Heffter, *Das Europäische Völkerrecht der Gegenwart*, Berlin 1888, p. 261 et seq.

⁸³ J. Kohler, *Grundlagen des Völkerrechts. Vergangenheit, Gegenwart, Zukunft*, Stuttgart 1918, pp. 132-134.

⁸⁴ O. Nippold, *Der völkerrechtliche Vertrag seine Stellung im Rechtssystem und seine Bedeutung für das internationale Recht*, Bern 1894, p. 242 et seq.

⁸⁵ E. Seligmann, *Abschluss und Wirksamkeit der Staatsverträge*, Freiburg im Breisgau 1890, pp. 255-256.

⁸⁶ A. Bischof, *Katechismus des Völkerrechts. Mit Rücksicht auf die Zeit und Streitfragen des internationalen Rechtes*, Leipzig 1877, p. 78.

took the position that the few agreements suspended due to war regain their force upon cessation of the war, unless expressly provided otherwise in a peace treaty⁸⁷.

The idea that the scope of the impact of war on the validity of contracts should be differentiated was advocated among German theorists of public international law by Julius Hatschek (legal comparatist and constitutionalist, alumni of Georg Jellinek)⁸⁸, Karl Strupp (expert in the history of international law and member of the Academy of International Law in The Hague)⁸⁹, Hans-Jürgen Schlochauer (practitioner of international law, disciple of Karl Strupp)⁹⁰, Karl Lueder (academician)⁹¹, Ernst Wolgast (NSDAP member, defender before the International Military Tribunal in Nuremberg)⁹², Ernst von Vanselow (commander)⁹³, Georg Schwarzenberger (lecturer)⁹⁴ and Franz von Liszt (later) along with Maks Fleischmann⁹⁵. They argued that contracts can be annulled, suspended and remain unmolested. For the record, it should be pointed out that Friedrich Klein⁹⁶ divided their views on differentiation into three groups. The first category, objective, was based on the material and formal analysis of the contract, the second, subjective, emphasized the importance of the intentions of the signatories to the contract at the time of its conclusion, and the third, mixed, emphasized the role of contract explication in light of objective and subjective assumptions⁹⁷. The theory of contract differentiation was also supported by such leading Polish representatives of international law doctrine as Ludwik Ehrlich⁹⁸, Manfred Lachs⁹⁹, Stanisław Nahlik¹⁰⁰, Ludwik Gelberg¹⁰¹, Alfons Klafkowski¹⁰² and Cezary Berezowski along with Wojciech Góralczyk and Kazimierz Libera.¹⁰³

The mixed theory, developed since the early 19th century, was the most widely approved in the doctrine of international law, among domestic and foreign authors¹⁰⁴, but it was characterized by such a strong internal differentiation that it is difficult to consider the position of the doctrine as uniform. However, some of its elements were repeated by legal authorities particularly often.

It was generally accepted that the outbreak of war *ipso facto* is not a sufficient reason for the invalidation of contracts, on the other hand, the view that war has no effect on the

⁸⁷ J. Pienkos, *Impact...*, pp. 24-28.

⁸⁸ J. Hatschek, *Völkerrecht als System bedeutsamer Staatsakte*, Leipzig-Erlangen 1923, pp. 239-240.

⁸⁹ K. Strupp, *Eléments du Droit International Public. Universel, Européen et Américain*, vol. 2, Paris 1930, p. 515.

⁹⁰ H.-J. Schlochauer, *Die Einwirkungen des Krieges auf den Bestand völkerrechtlicher Verträge*, "Deutsche Rechts-Zeitschrift" 6 (1946), pp. 162-163.

⁹¹ F. von Holtzendorff, *Handbuch des Völkerrechts*, vol. 4, Hamburg 1887, pp. 354-357.

⁹² E. Wolgast, *Völkerrecht*, Berlin 1934, p. 818 et seq.

⁹³ E. von Vanselow, *Völkerrecht. Einführung in die Praxis der Staaten*, Berlin 1931, pp. 49, 182.

⁹⁴ G. Schwarzenberger, *International Law*, London 1957, pp. 47-48, 545-546.

⁹⁵ F. von Liszt, M. Fleischmann, *Das Völkerrecht systematisch dargestellt*, Berlin 1925.

⁹⁶ F. Klein, *Kriegsausbruch und Staatsverträge*, "Jahrbuch für Internationales Recht" 3 (1954), p. 33.

⁹⁷ J. Pienkos, *Impact...*, p. 29.

⁹⁸ L. Ehrlich, *International Law*, Warsaw 1958, pp. 303, 463-464.

⁹⁹ M. Lachs, *Multilateral Agreements. A study in treaty law*, Warsaw 1958, p. 245.

¹⁰⁰ S. Nahlik, *Introduction to the Study of International Law*, Warsaw 1967, p. 301.

¹⁰¹ L. Gelberg, *Outline of International Law*, Warsaw 1967, pp. 66-67.

¹⁰² A. Klafkowski, *Public International Law*, Warsaw 1979, pp. 114-120.

¹⁰³ C. Berezowski, W. Góralczyk, K. Libera, *International Public Law*, Warsaw 1967, p. 276. cf. C. Berezowski, *International Public Law*, part 2, Warsaw 1969, p. 131.

¹⁰⁴ J. Pienkos, *Impact...*, p. 29.

scope of their validity has not received universal recognition. It is no exaggeration to say that German authors considered that agreements (or relevant parts thereof) regulating the conduct of war, treaties ratified in the event of the outbreak of war and acts of international law that expressly emphasize their validity during the conflict remain in force. The substantive division into political and non-political agreements proposed by some international law specialists proved to be non-functional in practice. A separate problem was the validity of multilateral agreements containing a *si omnes* clause when non-signatory parties to the convention participated in the war. Proposals for international law regulations on the effect of war on the validity of agreements appeared twice before the outbreak of World War II - these were the casuistic demands of the Institute of International Law formulated in the 1912 rules of procedure¹⁰⁵ at a meeting of its members in Kristiania (now Oslo), Norway, and the more substantive draft of Article 35 of the 1935 Convention on Treaty Law¹⁰⁶, prepared under the aegis of Harvard Law School (which is why it was called the Harvard Project). The lack of unanimity in legal doctrine prompted a review of the conduct of the German state authorities and international practice toward Germany involving an analysis of legal acts (to a lesser extent, diplomatic practice and case law influenced the assessment). The relative freedom of contracting allowed Germany in 1918 to conclude, among other things, two agreements additional to the peace treaties signed at Brest-Litovsk. The first, following the adoption of the so-called Bread Peace, was signed by the German state with the Ukrainian People's Republic on February 9, 1918¹⁰⁷, and the second, on March 3 and 7, 1918, with the Russian Federal Soviet Socialist Republic¹⁰⁸. In addition, on March 7, 1918, Germany signed a peace treaty with Finland¹⁰⁹ and a legal and political supplementary agreement of May 7, 1918 to the peace treaty with Romania¹¹⁰.

The listed acts show that German negotiators divided agreements into three types: bi- and multilateral and multilateral with political content¹¹¹. Jerzy Pienkos, after analyzing them, found that, in general, acts in the first and third categories were considered by their signatories to be invalidated by the outbreak of war, and those in the second group to be suspended¹¹².

German agreements with the Russians, Ukrainians and Romanians were abrogated in accordance with Article 116 of the Treaty of Versailles as a result of the renunciation of peace treaties and supplementary agreements by German authorities, as adopted in

¹⁰⁵ C. Dupuis, L'Institut de Droit International. Session de Christiania 1912, "Revue Générale de Droit International Public," 20 (1913), pp. 372 et seq.; N. Politis, Effect of War upon Treaties and International Conventions. Project of Institute of International Law, "AJIL" 7 (1913), pp. 149 and n.

¹⁰⁶ Draft Convention on the Law of Treaties, "AJILS" 29 (1935), pp. 657-665. See Article 35: *ibid*, pp. 664-665.

¹⁰⁷ Deutsch-Ukrainischer Zusatzvertrag zu dem Friedensvertrage zwischen Deutschland, Österreich-Ungarn, Bulgarien und der Türkei einerseits und der Ukrainischen Volksrepublik andererseits (RGBl. 1918, 107, 1030).

¹⁰⁸ Deutsch-Russischer Zusatzvertrag zu dem Friedensvertrage zwischen Deutschland, Österreich-Ungarn, Bulgarien und der Türkei einerseits und Russland andererseits (RGBl. 1918, 77, 622).

¹⁰⁹ Friedensvertrag zwischen Deutschland und Finnland (RGBl. 1918, 85, 701).

¹¹⁰ Deutsch-rumänischer rechtspolitischer Zusatzvertrag zu dem Friedensvertrag zwischen Deutschland, Österreich-Ungarn, Bulgarien und der Türkei einerseits und Rumänien andererseits, "JdV" VIII (1922), pp. 76-86.

¹¹¹ See Articles 5-6 of the German-Finnish Treaty, Articles 3-5 of the German-Russian and German-Ukrainian Additional Treaty, and Articles 8, 10-11 of the German-Romanian Legal and Political Additional Agreement.

¹¹² J. Pienkos, *Impact...*, p. 121.

Article XV of the Armistice Convention of November 11, 1918¹¹³, Article 292 and Article 259(6) of the Treaty of Versailles. Permanent regulations for the validity of the agreements were set forth in Articles 282-295, which constitute Section II, "Treaties," of Chapter V of the Treaty of Versailles. From these regulations came the principle of suspension of multilateral agreements and abrogation of bilateral ones, which raised the question of whether the abrogation of agreements provided for in Article 285 means their annulment. If these concepts were semantically identical, it would most likely not have been sufficient to notify the demand to restore the validity of the agreements in the relations of the Allied or Associated Powers with Germany. It would have seemed necessary to readopt the annulled agreements and then ratify them. Thus, it was more the failure to give the notification required by the peace treaty than the outbreak of war *ipso facto* that caused the termination of the bilateral agreement in this case.

It is clear from the practice of the states involved in the Great War that multilateral agreements regulating the conduct of war (including the 1907 Hague Convention (IV) and the Rules of Procedure annexed to it), even if they contained a *si omnes* clause, were considered valid during the conflict¹¹⁴. After the end of World War II, the adoption of a peace treaty with Germany analogous to the Treaty of Versailles did not occur. Although some indications of the effect of the outbreak of war on the validity of the agreements appeared in legislation issued by the Allies for occupied Germany¹¹⁵, these did not include multilateral agreements regulating the scope of actions of the warring parties.

In summary - the impact of war on the validity of contracts is a multifaceted research issue due, among other things, to the need to distinguish the cause of its outbreak from such factors affecting the durability of the contract as the application of *rebus sic stantibus* and *si omnes* clauses, the occurrence of succession of states, the practical impossibility of further implementation of the provisions of the contract, or the cessation of its implementation due to the unilateral violation of obligations by the partner.

Prima facie analysis of the impact of the war on the validity of contracts may seem too detailed, but it is a necessary step in legal reasoning to demonstrate Germany's responsibility for violations of international law. Indeed, if, prior to the outbreak of World War II, German legal theorists or representatives of state authorities had rejected, following an enduring practice and having a conviction of its legal nature, the validity of agreements made for the sake of war at the time of its occurrence, it would have been an argument that Germany was not bound by, among other things, the Rules of Procedure appended to the 1907 Hague Convention (IV). In other words, although defending the German interest on the basis of declaring invalid or suspending the agreements in force between Germany and Poland until the end of August 1939 due to the outbreak of World War II seems unlikely, it would have been worthwhile to demonstrate the utter groundlessness of this line of defense if the German side had wanted to use it.

¹¹³ Waffenstillstandsabkommen von Compiègne (11. November 1918), "JdV" VIII (1922), pp. 711-717.

¹¹⁴ J. Pienkos, *Impact...*, pp. 144-146.

¹¹⁵ Proclamation N° 2, dated September 20, 1945, Certain Additional Requirements Imposed on Germany (OGCCG 1945, 1, 8); Directive N° 6. Treaties Concluded by the Former German Reich (OGAHCG 1951, 52, 846). See especially Articles 5-7a of the Proclamation.

As an addendum, it is worth quoting a legitimate résumé by Jerzy Pienkos: "with regard to agreements made specifically for the event of war or the existing ways of conducting it, the doctrine is absolutely unanimous. According to the doctrine, the outbreak of war does not affect the legal force of these agreements, and is a condition for their automatic application."¹¹⁶ . This applies to both multilateral and bilateral agreements (bilateral agreements containing an explicit temporal provision that they will be in force during the war, as well as law-making treaties, such as border treaties, remained in force)¹¹⁷ . The practice of the German state and the applicable relevant norms of the Treaty of Versailles did not deviate from the views of German doctrine, but also of Polish doctrine.

¹¹⁶ J. Pienkos, *Impact...*, p. 298; cf. *ibid*, p. 295.

¹¹⁷ *Ibid*, pp. 312-313.

CHAPTER III

Germany's international legal obligations to Poland in 1939

The cumulative analysis of obligations under the laws of counter-war (*ius ad bellum*) and war (*ius in bello*) in this chapter does not serve to blur the separateness of these regulations (as can be seen in the construction of the chapter) or to emphasize the connection between the prohibition of war and the prohibition of war crimes or crimes of genocide. In the case of Germany's crimes against Poland between 1939 and 1945, this connection is linked to the circumstance, which was the state of war against Poland, and especially the occupation of its lands.

The intention to destroy the Polish nation included the annihilation of all cultural elements associated with Polishness. The manifestation of the Polish nation's creative activity was its state - a subject of international law - whose unlawful liquidation in 1939 made it possible to continue the implementation of the intention to carry out the annihilation of the Polish nation. Only a comprehensive presentation of the actual violations of *ius ad bellum* and *ius in bello* (in the next chapter), preceded by an analysis of the international legal obligations concerning these two matters, allows a full understanding of the scope of the violations committed by Germany.

Anti-war law

Regulations on the prevention of war in Polish-German relations were found in many bilateral agreements, but also resulted from the customs of international law. Before the outbreak of World War II, the following stages of conflict in Polish-German relations can be distinguished: the period during which it was possible to settle disputes peacefully; the time after the exhaustion of peace-preserving measures, when the prohibition of war seemed particularly important; the moment when a decision was made to initiate armed conflict, which required notification.

Standards for the peaceful settlement of disputes

To avoid armed dispute resolution, the interwar years saw the adoption of procedures codified in the 1907 Hague Convention (I) and the 1925 Arbitration Treaty, which provided guidance in this regard.

Procedures in the 1907 Hague Convention (I)

As a result of the development of international law, the ways of waging war, its limitations, the initiation of the steps of war and procedures for the peaceful settlement of disputes have been regulated. Starting the war with Poland in 1939, Germany was obliged to comply with the 1907 Hague Convention (I), which established methods for the peaceful settlement of conflicts. In addition, the Polish-German Arbitration Treaty¹, and the Pact of the League of Nations until 1933, were in force in mutual relations until 1936. Their denunciation by Germany indicated its actual intentions, the implementation of which meant war with Poland.

Optional procedures for settling international disputes were included in the 1907 Hague Convention (I), where it was indicated that good offices and intermediation (Section II), the assistance of international survey commissions (Section III) and arbitration (Section IV) could be used to prevent a dispute from turning into an armed conflict. The use of these provisions was optional, but was desired and supported by the 43 signatories, demonstrating impressive compliance and solidarity among states.

The convention's arena emphasized that methods of dispute settlement were established so that signatories would work together to maintain world peace (paragraph 1 of the preamble) and to "promote by all means the amicable settlement of international disputes" (paragraph 2) and "extend the rule of law and strengthen the sense of justice of civilized peoples" (paragraph 4). In other words, world peace was recognized as a legal good as early as 1907, and its protection was to be served by the proposed solutions.

Similar methods were provided for in the 1899 Hague Convention (I), ratified by Germany², and the Treaty of Peace and Friendship of 1856, known as the Treaty of Paris, to which the Kingdom of Prussia was a party³. The signing of these agreements demonstrated that the German states, as well as many others, have traditionally supported the idea of handling disputes peacefully and expressed their will to maintain world peace. It also showed that the aforementioned demands were widely approved in international law already at the dawn of the 20th century.

Procedures in the 1925 Arbitration Treaty

When considering the peaceful settlement of disputes, it is impossible to ignore the role of the Polish-German Arbitration Treaty of the mid-1920s. It was drawn up during a peace conference held between October 5 and 16, 1925 in the Swiss resort of Locarno⁴, signed

¹ Arbitration Treaty between Poland and Germany, signed in London on December 1, 1925 (Journal of Laws 1926, No. 114, item 662); Gesetz über die Verträge von Locarno und den Eintritt Deutschlands in den Völkerbund. Vom 28. November 1925 (RGBl. II 1925, 52, 995).

² Abkommen zur friedlichen Erledigung internationaler Streitfälle. Vom 29. Juli 1899 (RGBl. 1901, 44, 393).

³ E. Muszalski, Commencement and Declaration of War in the Law of States and the Law of Nations, Warsaw 1926, p. 134. See more on the form of declaration of war, motivation, neutrality, the question of delay and sanctions against states violating the provisions of the Hague Convention (I): *ibidem*, pp. 148-157.

⁴ On Oct. 16, 1925, on German initiative, the contents of a number of international agreements with a significant impact on the political arrangement in post-war Europe were agreed in Locarno, Switzerland.

in London on December 1, and came into force on September 14 of the following year⁵. Germany then guaranteed the inviolability of its western borders (the Rhine Pact), which was the price for the possibility of revising the eastern borders⁶. The editors of the US-based World Peace Foundation Pamphlets in Boston had no doubts about the intentions of the negotiators, stating in the pages of the magazine in 1926: "The states concerned in the Locarno negotiations did not adopt that policy [of mutual friendship and trust] from any initial sense of altruism. Each was impelled by practical considerations, and each [...] arrived at the independent conclusion."⁷. The Locarno Agreements weakened the League of Nations system because they provided for the settlement of disputes outside that body. From the Polish point of view, the conclusion of the Rhein Pact without analogous guarantees of the inviolability of Germany's eastern border was a severe defeat.

The 1925 Treaty of Arbitration, although it can hardly be described as the nucleus of the Eastern Locarno, had a certain international legal significance, especially because of the joint declarations it contained. The introduction to this agreement, which Julian Makowski treated not only as binding, but also as a source of guidance for interpreting the authentic text⁸, affirmed that the peaceful character of relations between the Reich and Poland is maintained⁹, which was related to the motives for concluding the treaty set forth in its introduction: "equally determined to maintain peace between Poland and Germany by securing the peaceful settlement of disputes that might arise between the two countries" (paragraph 1); "whereas sincere adherence to the ways of peaceful settlement of international disputes makes it possible to settle without resorting to force matters that might put the States at odds" (paragraph 4). Article 21 unilaterally declares the agreement's provisions to be in conformity with the Covenant of the League of Nations and rejects interpretations that contradict the peaceful nature of that organization and the activities of its members.

The peaceful settlement of disputes meant, according to the treaty, that the entire range of procedures known in international law at the time could be used, including arbitration, conciliation, conciliation or proceedings before the Hague tribunal. Whichever solution was adopted, the court had to be guided by the norms of treaty law or others derived from international law, since "respect for rights, established by treaties or derived from the law of nations, is mandatory for international tribunals" (paragraph 2 of the

Signed at that time were the Rhine Pact (which guaranteed the inviolability of the German border with Belgium and France), four German arbitration conventions with Poland, Czechoslovakia, France and Belgium, and two agreements of mutual guarantees between France and Poland and Czechoslovakia (see The Rhine Pact of Locarno, October 16, 1925 [in:] Locarno. A Collection of Documents, ed. F. Berber, London-Edinburgh-Glasgow 1936, pp. 48-54; Arbitration Convention between Germany and Belgium (France), October 16, 1925 [in:] *ibidem*, pp. 54-60; Arbitration Treaty between Germany and Poland (Czechoslovakia), October 16, 1925 [in:] *ibidem*, pp. 60-61; Treaty between France and Poland (Czechoslovakia), October 16, 1925 [in:] *ibidem*, pp. 62-63. cf. Treaty of Guarantee between Poland and France, signed in London on December 1, 1925, Journal of Laws of 1926, no. 114, item 660).

⁵ H. Korczyk, Locarno and its genesis, "DN" 3 (1979), pp. 85-111.

⁶ This was explicitly stated by Gustav Stresemann (E. Kolb, The Weimar Republic, London - New York 2005, p. 64. Cf. The Origins of the Second World War Reconsidered A J P. Taylor and the Historians, ed. G. Martel, London - New York 1999, pp. 48-49).

⁷ The Locarno Conference. October 5-16, 1925, "World Peace Foundation Pamphlets" 1 (1926), p. 8.

⁸ U.S. Secretary of State Frank Kellogg took a different view, holding during a meeting at the Council of Foreign Relations in New York that "A preamble is not a binding part of a treaty". See J. Makowski, International Law..., part 2, p. 429.

⁹ *Ibid*, pp. 428-429.

preamble). This provision prevented adjudication on the basis of *aequitas* - in the absence of a legal basis, the court had to end the proceedings as *non liquet*. It also recalled the rule that a State voluntarily and exclusively shapes its rights and obligations, both positive and negative, regardless of their source: "the laws of a State may not be altered except with its consent" (paragraph 3). This confirmed a guarantee already in force in international law, as Axel von Freytagh-Loringhoven, a German professor of state and international law, pointed out in 1926: "these words can only be interpreted as a guarantee of the common legal acquis"¹⁰. However, there was the possibility of extending the court's jurisdiction to rule *ex aequo et bono*, if the parties agreed. To sum up - the treaty was formulated in such a way as to "leave no dispute outside the perimeter of the operation of the prescribed modes of peaceful procedure."¹¹.

If the conciliation procedure provided for in the arbitration treaty failed, each Party had the right to bring the dispute before the Council of the League of Nations: "If within one month after the conclusion of the work of the Permanent Conciliation Commission the two Parties fail to reach an agreement, the matter shall, at the request of either Party, be brought before the Council of the League of Nations" (Article 18 of the treaty). This body was then to proceed on the basis of Article 15 of the League of Nations Covenant. Julian Makowski rightly noted that under certain conditions this could have resulted in the resolution of the dispute by armed conflict: "The members of the association reserve the right to act, as they deem necessary, in defense of law and justice" (Article 15 (7) of the League of Nations Covenant). This situation occurred in the absence of unanimity among the members of the Council adopting a report recommending the settlement of the dispute and setting forth the circumstances of the case (Article 15(4) of the Covenant). If one of the parties that was a member of the League decided to start a war, as provided for in Article 16 of the Pact, there could be exclusion of the aggressor as a result of a vote by all other members of the League Council (Article 16(4) of the Pact).

The entry into force, validity and expiration of the 1925 Treaty of Arbitration was regulated by referring to the relevant provisions of the Reich Pact in Article 22. Adolf Hitler declared the Rhein Pact and the Treaty of Versailles non-binding on the Reich in a speech in the Reichstag on March 7, 1936¹², which was when the Wehrmacht crossed the Rhineland. Its remilitarization gave rise to Germany's responsibility for violation of Article 43 of the Treaty of Versailles, with the result that Germany's conduct was considered, under Article 44 of the treaty, to be an enemy act and an act intended to disturb the peace of the world.

In turn, addressing the signatories of the Rhine Pact in a memorandum, the German government claimed that France had violated¹³ its obligations under it by signing the Franco-Soviet Treaty on Mutual Assistance on May 2, 1935¹⁴. The arguments on the

¹⁰ "Diese Worte können nur als Gewährleistung des gegenseitigen Besitzstandes ausgelegt werden" (quoted in *ibid.* See A. von Freytagh-Loringhoven, *Die Satzung des Völkerbundes*, Berlin 1926, p. 129).

¹¹ J. Makowski, *International Law...*, part 2, p. 429.

¹² Text of Chancellor Hitler's Speech to the German Reichstag, March 7, 1936, Repudiating the Versailles Treaty and the Locarno Pact, "IC" 319 (1936), s. 165-189.

¹³ F. L'Huillier, *The French and the Germans in the Eyes of Locarno. Agreements, Dialogues and Misunderstandings*, "DN" 2 (1973), pp. 45-55.

¹⁴ Text of Franco-Soviet Treaty of Mutual Assistance, signed May 2, 1935, "IC" 319 (1936), s. 195-199.

matter were concluded as follows: "Thereby the Rhine pact of Locarno lost its inner meaning and practically ceased to exist. Germany, therefore, no longer considers itself bound to this now defunct pact."¹⁵ . At the same time, it was indicated that Germany was ready to talk about rejoining the League of Nations (after a revision of its pact)¹⁶ , which was supposed to make it possible to legitimize its illegal military actions. The German military action was the reason for the rupture of the Rhein Pact on March 7, 1936, and thus the related arbitration treaty¹⁷ . In retrospect, it can be seen that hopes for increased security under the Locarno system, of which the arbitration treaty was a part, did not materialize. Edvard Beneš, later president of Czechoslovakia, predicted in 1925: "[A] war in Western and Central Europe is rendered difficult and, in particular, that the danger of it is probably postponed for many decades [*sic!*]."¹⁸ . He also recognized the benefits of the condition stipulated by the pact to bring Germany into the League of Nations: "They [the Locarno treaties] have also won Germany for the League of Nations, without whom the League could neither be complete nor quite normal."¹⁹ .

In Poland, the Locarno system was not received with enthusiasm; on the one hand, German claims were feared, and on the other, their interests and the fact that the Reich's readmission to the international community was partly understood. The conclusion of the arbitration treaty was tried to be read as a sign of the Allies' concern for the fate of Poland. The attitude of Aristide Briand, who sought the inclusion of the treaty in the final protocol of the conference²⁰ , was gratefully received. However, the authors of a contribution on the genesis and effects of the 1926 pacts spoke less optimistically than Edvard Beneš about the durability of the security system created in Locarno: "The Locarno Pacts secure Europe's tranquility in its most thorny and sore spots for some ten or fifteen years."²¹ . Jozef Pilsudski had no illusions about the role of the arbitration treaty. He interpreted the conclusion of the agreement as a likely prelude to the realization of German imperial goals, which most likely influenced his decision to carry out the May coup in 1926.²²

From a historical-legal point of view, although the Arbitration Treaty did not exclude war as a means of resolving Polish-German disputes, it extended the peaceful formula for their settlement by creating a bilateral Permanent Conciliation Commission²³ . Prior to the

¹⁵ Text of German Government's Memorandum to Other Signatories of the Locarno Mutual Guarantee Agreement, "IC" 319 (1936), s. 193.

¹⁶ *Ibid.*, p. 194.

¹⁷ The violations concerned Article 2 of the Rhein Pact and Articles 42 and 43 of the Treaty of Versailles (according to its Article 44, the Wehrmacht's incursion into the Rhineland was an "enemy act" and "an act intended to disturb the peace of the world"). Draft of the Rhine Pact [in:] Locarno Agreements signed on October 16, 1925. Full Text of the Final Protocol of the Locarno Conference with Draft Treaties and Conventions, Warsaw 1925, pp. 6-9.

¹⁸ E. Beneš, After Locarno. The Problem of Security Today, Foreign Affairs 2 (1926), p. 208.

¹⁹ *Ibid.*

²⁰ See Poland vis-à-vis the Locarno Pacts [in:] Locarno Pacts. Notes on the causes and effects of the Locarno concluded and London signed security pacts, Cracow 1926, pp. 31-40. Cf. W. Balcerak, Polish foreign policy towards the Locarno pacts, "PZ" 6 (1959), pp. 259-297.

²¹ Poland vis-à-vis the pacts..., p. 39.

²² See P. Maj, W. Paruch, In defense of the majesty of the Republic: pilsudczykowska interpretacja przewrotu majowego (1926-1939) [in:] Józef Pilsudski's coup d'état and its consequences in the interpretations of Polish political thought of the 20th century, ed. Z. Karpus et al., Toruń 2008, pp. 78-79.

²³ Cf. considerations on the influence of Locarno assumptions on the content of later international agreements: H. Korczyk, Reception of Locarno concepts in the political treaties of the 20th interwar period (1926-1936), "DN" 3-4 (1985), pp. 3-23.

start of formal conciliation procedures or proceedings before the Hague tribunal, the possibility of resolving the dispute before an international commission was provided for (Article 2 of the treaty).

No less important in the context of aggressive German policy towards Poland is the moment of the Reich's withdrawal from the League of Nations - October 21, 1933. From then on, Poland had the right to demand that the Council indicate means of protection in the event of an attack, its threat or the danger of violation of territorial and political sovereignty (Article 10 of the League's pact). Thus, the agreement did not preclude war waged against a member of the League, as Michal Rostworowski emphasized: "it [war] neither forbids it nor tolerates it. The function of this attitude toward war is that it turns against the legal consequences of war - that it becomes an obstacle to the drawing of certain benefits from an aggression war."²⁴ .

The cited Article 10 of the League of Nations Covenant provided Poland with limited protection against an increasingly real attack or its announcement. However, the contractual guarantees, which consisted of the Council's designation of means to ensure the fulfillment of this obligation, were of doubtful effectiveness due to differences in interpretation. Even if one ignores the extremes, such as the Canadian request to delete this sanction as too onerous (which showed that the duty of support was taken seriously) or the downgrading of the role of security to a moral duty, the application of the norms offered no hope for a solidarity-based defense of the sovereignty of an attacked League of Nations member²⁵ .

To sum up - in the face of Germany's rupture of the arbitration treaty and its withdrawal from the League of Nations, Poland's guarantees of international security were becoming weaker and weaker. Germany's gradual withdrawal from its obligations governing the peaceful settlement of disputes meant that in 1939 the 1907 Hague Convention (I) remained in force in Polish-German relations. However, Germany's rejection of international legal obligations, the observance of which was supposed to make peace possible, by no means meant that it gave up on convincing public opinion that it was striving to maintain peace. The deeds of the German authorities, however, contradicted their hype declarations. The seizure of full power by the National Socialists and Germany's withdrawal from the League of Nations resulted in the start of war preparations.

Prohibitions of war

Not only procedures for the peaceful settlement of disputes, but also prohibitions on the initiation of armed conflicts were of a preventive, anti-war nature. These prohibitions in German-Polish relations stemmed from the 1928 Multilateral Anti-War Treaty, the 1934 Bilateral Declaration of Non-Violence, the customary prohibition of war of aggression, and

²⁴ M. Rostworowski, *League of...*, p. 61.

²⁵ *Ibid*, p. 60.

the post-World War II codified prohibition of crimes against peace in the 1945 IMT Charter.

Prohibition of war in the 1928 General Treaty for Renunciation of War

International legal norms governing the peaceful settlement of disputes indirectly limited the permissibility of war. However, in 1939 there were also international agreements in which the prohibition of war was expressed *expressis verbis*. In addition, the prohibition of war of aggression stemmed from customary norms. In Polish-German relations, it was contained in the Paris Pact of August 27, 1928, also known as the Anti-War Treaty and the Briand-Kellogg Pact²⁶, and the Polish-German Declaration on Non-Violence of January 26, 1934. In turn, the Charter of the International Military Tribunal of August 8, 1945 codified the 1939 customary prohibition of crimes against peace, which the tribunal confirmed and justified in its October 1, 1946 judgment on major German war criminals. The ruling emphasized the validity of the legal international prohibition of war of aggression - derived from the numerous antecedents of the Briand-Kellogg Pact.

The initiative to conclude an antiwar treaty came from Aristide Briand, Prime Minister, Foreign Minister and Minister of Justice of France, who made his proposal on April 6, 1927, in an appeal to the American people via the US Associated Press news agency: "If there were any need between these two great democracies to testify more convincingly in favor of peace and to present to the peoples a more solemn example, France would be ready publicly to subscribe, with the United States, to any mutual engagement tending, as between those two countries, to "outlaw war" [...]. Thus two great friendly nations, equally devoted to the cause of peace, would give the world the best illustrations of this truth, that the accomplishment most immediately to be attained is not so much disarmament as the practice of peace."²⁷.

The French side wanted to seize the moment of the imminent expiration of the Franco-American arbitration convention of February 10, 1908²⁸, which was to take place on February 27, 1928. In mid-1927, Aristide Briand approached members of the US cabinet through Myron Herrick, the American ambassador in Paris, with a proposal to enter into diplomatic talks to conclude a bilateral pact of perpetual friendship²⁹. In a note dated December 28, 1927, the Americans proposed to change the form of the agreement from a

²⁶ Anti-War Treaty, signed in Paris on August 27, 1928 (OJ 1929, No. 63, item 489); Gesetz zu dem Vertrag über die Ächtung des Krieges. Vom 9. Februar 1928 (RGBl II 1929, 9, 97).

²⁷ J. Laptos, Pact..., p. 81. Quoted in Statement Made to the Associated Press by the French Minister for Foreign Affairs (Briand), April 6, 1927, "PRFRUS [1927]" II (1942), pp. 612-613. See the text of the statement: *ibid.*, pp. 611-613.

²⁸ Arbitration Convention Between The United States and France. Signed at Washington, February 10, 1908, "PRFRUS [1908]" 1912, s. 331-333.

²⁹ The Ambassador in France (Herrick) to the Secretary of State, June 2, 1927, "PRFRUS [1927]" II (1942), pp. 613-614. cf. French Draft of the Pact of Perpetual Friendship between France and the United States, "PP. Append." to vol. 8 (1928), pp. 25-26.

bina multilateral³⁰, which the French approached with alacrity. Ambassador Paul Claudel stated that the solution "[...] would appear to be of such nature as to satisfy the views of the French Government", but proposed that the material scope of the ban be limited to all war of aggression and that the agreement be signed first with the United States only, and later opened to accession by the other signatories³¹. Frank Kellogg, the U.S. secretary of state, did not agree, which he argued was due to difficulties arising from the anticipated lack of acceptance of the previously non-negotiated text of the agreement by the countries concerned. He also rejected limiting the scope of the ban in question. In addition to the United States and France, Britain, the Reich, Italy and Japan were also to make a deal³². The French, however, did not want to give up the idea of concluding a bilateral convention first, which they justified on the grounds of the various expectations and commitments of the powers that could violate the future pact³³. The Americans considered the doubts unfounded, given the agreement's compatibility with the peaceful ideal of the League of Nations and its proposed content: "The precise language to be employed in such a treaty is a matter of indifference to the United States so long as it clearly and unmistakably sets forth the determination of the parties to abolish war among themselves."³⁴. The French acceded to the proposal to impose an unlimited ban on war, subject to the right of self-defense³⁵. After receiving assurances from the aforementioned countries that they were willing to negotiate, the Americans presented their governments with notes on April 13, 1928, to which they attached their own redaction of the text of the agreement, along with an invitation to comment and negotiate³⁶. The French side issued a counter-agreement eight days later, stressing that the invaded party was entitled to self-defense, and solemnly assuring that the agreement did not violate the parties' existing obligations, especially the Covenant of the League of Nations³⁷.

On behalf of the German government, Gustav Stresemann, then Foreign Minister and Reich Chancellor from 1923, was extremely sympathetic to the American proposal. He considered the desideratum to take the war *outlawry* (*outlawry of war*) as fully in line with

³⁰ The Secretary of State to the French Ambassador (Claudel), December 28, 1927, "PRFRUS [1927]" II (1942), pp. 626-627. cf. First Note from Secretary of State Kellogg to the French Ambassador [dated December 28, 1927], "PP. Append." to vol. 8 (1928), pp. 26-28.

³¹ The French Ambassador (Claudel) to the Secretary of State, January 5, 1928, "PRFRUS [1928]." I (1942), pp. 1-2. Cf. First Note of the French Ambassador to Secretary of State Kellogg [dated 6 I 1928], "PP. Append." to vol. 8 (1928), pp. 28-29.

³² The Secretary of State to the French Ambassador (Claudel), January 11, 1928, "PRFRUS [1928]." I (1942), pp. 3-5. cf. Second Note from Secretary of State Kellogg to the French Ambassador [dated 11 I 1928], "PP. Append." to vol. 8 (1928), pp. 29-31.

³³ The French Ambassador (Claudel) to the Secretary of State, January 21, 1928, "PRFRUS [1928]." I (1942), pp. 6-8. Cf. Second Note from the French Ambassador to Secretary of State Kellogg [dated 21 I 1928], "PP. Append." to vol. 8 (1928), pp. 31-33.

³⁴ The Secretary of State to the French Ambassador (Claudel), February 27, 1928, "PRFRUS [1928]" I (1942), p. 11. See the text of the note: *ibid*, pp. 9-11. Cf. Third Note of Secretary of State Kellogg to the French Ambassador [dated 27 II 1928], "PP. Append." to vol. 8 (1928), p. 35. See the text of the note: *ibid*, pp. 33-35.

³⁵ The French Ambassador (Claudel) to the Secretary of State, March 30, 1928, "PRFRUS [1928]." I (1942), pp. 15-19. cf. Third Note of the French Ambassador to Secretary of State Kellogg [dated March 30, 1928], "PP. Append." to vol. 8 (1928), pp. 35-38.

³⁶ The Secretary of State to the Ambassador in France (Herrick), April 12, 1928, "PRFRUS [1928]" I (1942), pp. 27-28. cf. Circular U.S. Note to the Governments of W. Britain, Germany, Italy and Japan [dated April 13, 1928], "PP. Append." to vol. 8 (1928), pp. 39-41.

³⁷ French Draft of Treaty for the Condemnation and Renunciation of War as an Instrument of National Policy, April 20, 1928, "PRFRUS [1928]" I (1942), pp. 32-34. cf. French Counter-Draft of Multilateral Treaty [dated April 21, 1928], "PP. Append." to vol. 8 (1928), pp. 41-43.

the principles of German policy³⁸. He stated emphatically: "Germany has no higher interest than to see the possibility of armed conflicts eliminated."³⁹. Germany did not believe that the adoption of the agreement could violate its other international legal obligations, and even stressed its complementary nature: "The German Government is, however, convinced that these obligations contain nothing which could in any way conflict with the obligations provided for in the draft treaty of the United States. On the contrary it believes that the binding obligation not to use war as an instrument of national policy could only serve to strengthen the fundamental idea of the Covenant of the League of Nations and of the Rhine Pact."⁴⁰. Regarding the right to self-defense as unquestionable, the German plenipotentiaries did not seek to regulate it. The pact wanted to make it universal. Effects were expected in the form of disarmament and the development of peaceful methods of settling international disputes⁴¹. The German response was evidence of apparent pacifism, but it was received more than enthusiastically at the time.

Because of French concerns, the Americans issued a circular note to fourteen countries (including Poland) at the end of June 1928, addressing these objections. It contained the official American interpretation, presented by Secretary of State Frank Kellogg at a meeting of the American Society of International Law on April 28, 1928. Self-defense was considered a natural right ("The right of self-defense is inherent in every sovereign state and implicit in every treaty")⁴², the regulation of which could lead to abusive interpretations. The absence in the Covenant of the League of Nations and the Locarno Treaties of an order for self-defense by compulsory state involvement in war was, in turn, supposed to preclude violations of the obligations contained therein⁴³. Attached to the American note was a draft of the pact, to which France⁴⁴, Poland⁴⁵ or Germany⁴⁶ did not raise any objections. By agreeing to the American interpretation, these countries joined the agreement as original signatories. Thus, the pact was signed in its then proposed form and content in Paris on August 27, 1928, and entered into force after Japan deposited its

³⁸ "Correspond fully to the principles of German policy".

³⁹ The German Minister for Foreign Affairs (Stresemann) to the American Ambassador (Schurman), April 21, 1928, "PRFRUS [1928]" I (1942), p. 43. See the reply: *ibid*, pp. 43-44. Cf. German reply to the circular American note [of April 27, 1928], "PP. Append." to vol. 8 (1928), pp. 43-45.

⁴⁰ The German Minister..., p. 43.

⁴¹ See British response: The Ambassador in Great Britain (Houghton) to the Secretary of State, May 19, 1928, "PRFRUS [1928]" I (1942), pp. 66-69. cf. British reply to the circular American note [of May 19, 1928], "PP. Append." to vol. 8 (1928), pp. 45-48.

⁴² The Secretary of State to the Ambassador in France (Herrick), June 20, 1928, "PRFRUS [1928]" I (1942), p. 91.

⁴³ Julian Makowski noted an inaccuracy in this point in the American argument. The Council of the League under Article 16 of the League of Nations Covenant could order, not merely authorize, a League member to intervene militarily against a state violating the covenant. This defect was removed as a result of the restriction of the prohibition of war to that conducted for the implementation of national policy, as discussed later (J. Makowski, Kellogg's Pact, "PP" 1 (1929), p. 18. See. U.S. circular note: The Secretary of State to the Ambassador in France (Herrick), June 20, 1928..., pp. 90-95. Cf. U.S. note dated June 23, 1928, delivered in identical form to fourteen governments by the deputies accredited to them, "PP. Append." to vol. 9 (1928), pp. 11-18).

⁴⁴ The Ambassador in France (Herrick) to the Secretary of State, July 14, 1928, "PRFRUS [1928]" I (1942), pp. 107-108. cf. French reply [dated July 14, 1928], "PP. Append." to vol. 9 (1928), pp. 19-20.

⁴⁵ The Polish Under Secretary for Foreign Affairs (Wysocki) to the American Minister (Stetson), July 17, 1928, "PRFRUS [1928]" I (1942), p. 119. cf. Polish reply [dated July 17, 1928], "PP. Append." to vol. 9 (1928), pp. 21-22.

⁴⁶ The State Secretary of the German Foreign Office (Schubert) to the American Ambassador (Schurman), July 11, 1928, "PRFRUS [1928]" I (1942), pp. 106-107. cf. German reply [dated July 11, 1928], "PP. Append." to vol. 9 (1928), p. 18.

instruments of ratification on July 24, 1929 (Poland did so on March 25, 1929, and Germany on March 2, 1929)⁴⁷. According to Julian Makowski, an organization of states was formed, whose system was based on three pillars: the pact, its introduction, and an American circular note of June 23, 1928 containing an approved interpretation of its provisions⁴⁸.

The treaty arena included four statements. First of all, it stated: "the moment has come to accede to the sincere renunciation of war as an instrument of national policy, for the consolidation of the peaceful and friendly relations now existing between their peoples" (paragraph 3 of the introduction). In addition, a state initiating a war while being a party to the pact was deprived of the possibility of invoking its provisions: "any Signatory Power which would henceforth seek to advance its national interests by resorting to war will have to be deprived of the benefits of the present treaty" (paragraph 4). The need to settle disputes by peaceful means (paragraph 4) and to seek to universalize the agreement (paragraph 5) was pointed out. Julian Makowski said that there was a view in Germany and the United States that the arena was merely declaratory. However, the declarations were fully binding and are still a source of international legal obligations today, as the principles were recognized in the US note (June 23, 1928)⁴⁹ and the German reply (July 11, 1928): "The German Government also agrees to the changes in the Preamble of the draft of the pact. It is therefore pleased to be able to state that it takes cognizance of the statements made by the Government of the United States of America contained in Your Excellency's note of June 23, that it agrees to the interpretation which is given therein to the provisions of the proposed pact."⁵⁰ An elaboration of the agreement condemned war, renounced it *inter se* (Article 1), and declared peaceful methods of dispute resolution among the signatories of the pact to be due and just (Article 2), which could later be elaborated in the form of a multilateral agreement providing for compulsory arbitration, *sensu largo* including conciliation, arbitration proper, arbitration and litigation⁵¹.

The principle of renunciation of war as a tool of national policy required the identification of situations in which war was permissible. Firstly, the circumstance exempting compliance with the prohibition was naturally *self-defense* (*légitime défense*) - it was agreed that *ex definitione* it was constituted by prior aggression, which the attacked state had the right to repel by adequate means, without exceeding the limit of self-defense. A state of war could be declared by the attacked party⁵². It followed that any party starting a war and waging it beyond the limits of defense was legally internationally responsible for violating the Paris Pact of 1928.⁵³

⁴⁷ Government Statement of August 3, 1929 on the deposit of instruments of ratification, instruments of accession and entry into force of the International Anti-War Treaty, signed in Paris on August 27, 1928 (Journal of Laws of 1929, No. 63, item 490). See J. Laptos, Pact..., pp. 238-239.

⁴⁸ J. Makowski, International Law..., part 2, p. 454.

⁴⁹ *Idem*, Pact..., p. 17.

⁵⁰ The State Secretary..., pp. 106-107.

⁵¹ J. Makowski, Pact..., p. 16.

⁵² *Idem*, International Law..., part 2, p. 455.

⁵³ L. Ehrlich, The issue of..., p. 46.

Second, according to the French interpretation, national policy (*national policy*) had to be its own (*personnelle*), spontaneous (*spontanée*) and independent (*indépendante*)⁵⁴. This interpretation did not preclude war as a result of *casus foederis* or undertaken in accordance with the procedure regulated by Articles 10 and 15-17 of the Covenant of the League of Nations⁵⁵.

The German interpretation, on the other hand, stemmed from the official enthusiastic reception of the pact and the possibilities for the realization of German interests. Carl von Schubert, a German diplomat and delegate to the Locarno conference, hoped that the peaceful settlement of disputes (paragraph 4 of the introduction) also applied to the revision of the treaties: "if this were to come to fruition, the joy of adopting our point of view would have no bounds."⁵⁶ The Germans pursued the revision of the Versailles order vigorously not only in the Polish context. Carl von Schubert showed his displeasure that Poland was among the original signatories. He stated imperiously that the signatures of the representatives of Poland and Czechoslovakia would "tarnish the beauty of the Pact."⁵⁷

The demilitarization of the Rhineland remained a thorny issue for Germany (its rearmament was prohibited by Articles 42-44 of the Treaty of Versailles). They sought to consider only war of aggression as an enemy act (Article 44). This interpretation was provided by Friedrich Gaus, head of the legal department of the German Foreign Ministry. In exceptional circumstances, there could be a contradiction between Article 16 of the League of Nations Pact and the Paris Pact of 1928. The Briand-Kellogg Pact considered as a *sine qua non* of self-defense the fact that the war was launched treating it as an instrument of national policy, and the Versailles Treaty exceptionally allowed to initiate the procedure of launching a defensive war, such as in the situation of Germany's violation of the demilitarization of the Rhineland (Articles 11-12, 15-16, 42-44). Friedrich Gaus downplayed the differences in the definitions of a hostile act, stating that they would lose their significance due to the presumed participation of the states concerned in both agreements⁵⁸.

The question to what extent the above German interpretation was binding is a general question of international law theory. As Jozef Laptos has pointed out, there were two basic approaches to the question of reservations to multilateral agreements in the interwar period: affirmation of the parties' intentions expressed outside the agreement, or interpretation only through the prism of the text of the obligation, which "itself acquires legal meaning and explains itself." David Miller, an American specialist in international law who participated in the drafting of the League of Nations Pact, advocated the first theory: "The meaning of the Briand-Kellogg Treaty is to be deduced primarily from its

⁵⁴ "Their own spontaneous, independent policy" (The French Ambassador (Caudel) to the Secretary of State, March 30, 1928..., p. 18).

⁵⁵ J. Makowski, Pact..., p. 16.

⁵⁶ Carl von Schubert so expressed himself in correspondence dated June 27, 1928 with Friedrich von Prittwitz und Gaffron, then German ambassador to the United States (quoted in J. Laptos, Pact..., p. 189. cf. Der Staatssekretär des Auswärtigen Amtes von Schubert und die Botschaft in Washington, 27. Juni 1928 [in:] Akten zur deutschen Auswärtigen Politik 1918-1939, Series B, vol. 9, ed. P. Grupp et al, Göttingen 1976, p. 245).

⁵⁷ Carl von Schubert addressed these words to Gustav Stresemann on June 24, 1928 (J. Laptos, Pact..., p. 189).

⁵⁸ *Ibid*, pp. 192, 194-195.

text; but this text is to be read in the light of the previous diplomatic correspondence. [...] the statements therein made by the Parties regarding the meaning of the Treaty are its meaning."⁵⁹ . He also recognized that the parties are bound by the interpretation agreed upon by the first signatories: "Moreover the meaning attribute to the Treaty by its Signatories is also its meaning as to all other Powers subsequently adhering thereto"⁶⁰ . Frank Kellogg, however, in a July 23, 1928 telegram to Salmon Levinson, an American lawyer and forerunner of the movement to delegitimize the war, stipulated: "I do not think it is necessary for us to pay any attention to this discussion or any of the other discussions which appear in the various notes since they call for no change in the simplicity of the treaty itself."⁶¹ . Nevertheless, the countries consulted agreed with the U.S. interpretation presented in the June 23, 1927 note, making it (along with the preamble, as mentioned earlier) part of the 1928 Paris Pact.⁶²

Germany was obliged to abide by the agreement not only to Poland, but also to the Free City of Danzig⁶³ , which on November 13, 1929. - through Poland - acceded to the pact⁶⁴ . Poland and the FCD were linked by unique legal ties, arising from Articles 100-108, contained in the 11th Section of Part III of the Treaty of Versailles. Article 104 detailed Polish rights in the FCD, among them political (conduct of Danzig's foreign policy and consular protection of its citizens abroad), minority (prohibition of discrimination against Polish citizens, persons of Polish descent and language) and economic and communications (free Polish access to the port of Danzig, supervision and management of the Vistula River, railroads and communications with Poland)⁶⁵ . As Ludwik Ehrlich rightly pointed out, no FCD rights were derived from Article 104⁶⁶ . The purpose of establishing the FCD was therefore to satisfy Polish, not Danzig's, economic and political interests, as Julian Makowski in turn stressed⁶⁷ . The norms of the Treaty of Versailles regarding FCD were further clarified in the Polish-Danish Convention of November 9, 1920⁶⁸ , as well as in the

⁵⁹ D. Miller, *The Peace Pact of Paris. A Study of the Briand-Kellogg Treaty*, New York - London 1928, p. 121.

⁶⁰ *Ibid.*

⁶¹ J. Stoner, S.O.. Levinson and the Pact of Paris. A Study in the Techniques of Influence, Chicago 1942, pp. 303-304.

⁶² J. Laptos, *Pact...*, pp. 231-235.

⁶³ FCD was established on November 15, 1920. (T. Maciejewski, *Ustrój konstytucyjny i sądowy napoleonskiego (1807-1814) i wersalskiego (1920-1939) Wolnego Miasta Gdańska w rozwoju prawnohistoryczno-porównawczym*, Gdańsk 2017, pp. 67-69). On the turbulent history of the area, see the dissertation by Szymon Askenazy, an eminent Polish historian, now of historical importance: S. Askenazy, *Gdańsk and Poland*, Cracow 1923. In turn, Julian Makowski wrote about the legal-international situation of FCD (see J. Makowski, *Prawno-państwowe położenie Wolnego Miasta Gdańska*, Warsaw 1923; *idem*, *Zagadnienie państwowości W.M. Gdańska*, Warsaw 1934).

⁶⁴ Gesetz zu dem Vertrage über die Ächtung des Krieges. Vom 13.11.1929 (GBl. f. d. FSD 1929, 26, 147). Ludwik Ehrlich was critical of Poland's notification of FCD's accession to the Paris Pact: "This happened as a result of, shall we say, negligence or infirmity or stupidity or ignorance of the law on the part of some Foreign Ministry officials. [...] Danzig itself could not do this [join the pact]. [...] Danzig [...] its [war with Poland] in general could not wage it" (L. Ehrlich, *The Issue...*, pp. 85-86).

⁶⁵ *Idem*, *Danzig. Zagadnienia prawno-publiczne*, Lvov 1926, pp. 5-45, 92-94.

⁶⁶ *Idem*, *The issue of...*, p. 65.

⁶⁷ J. Makowski, *The legal and state position...*, p. 5.

⁶⁸ The Republic did not accede to the agreement until November 18, 1920, although to maintain the appearance of legality, the document was anti-dated and November 9, 1920 was indicated as the date of signing. Nonetheless, the Polish government made an important point about the phrase des Hautes Parties contractantes, which appeared in the final formula of the Gdansk copy of the agreement. Representatives of the Polish authorities did not accept the sovereignty of Danzig, and therefore it was not possible, according to their conclusion, to refer to Danzig as a "High Party" to the convention. For this reason, Poland did not ratify the agreement, but only accepted it. A declaration containing the Polish position on the matter was sent to the

Warsaw Agreement of October 24, 1921⁶⁹ and almost 170 subsequent agreements⁷⁰. On more than one occasion, the Hague STSM issued an opinion on Danzig issues⁷¹.

The duty to defend the FCD militarily was incumbent on the League of Nations, and was formulated in a League of Nations Council resolution⁷² and a report prepared by Japanese diplomat Viscount Ishii Kikujirō on November 17, 1920. (and also in his June 22, 1921 report adopted by the Council of the League of Nations⁷³): "The guardianship of the Free City by the League of Nations appears to mean that the League of Nations undertakes to respect and to defend against any foreign attack, the entire area and political independence of the Free City of Danzig in the same manner as it does for all members of the League of Nations, on the basis of Article 10 of the Settlement [League of Nations Pact]. This collective protection of the League of Nations excludes, with the reservations provided for at the founding of the Free City, any private intervention by other powers in Danzig affairs."⁷⁴. In general, the League of Nations exercised its powers through its High

Council of the League of Nations. The document stated that the convention develops the provisions of the Treaty of Versailles, but does not contain the basis of Polish rights in Gdansk, much less an international agreement. At the Council's behest, the problem was examined by Viscount Ishii Kikujirō, who supported the Polish position in a report of December 17, 1920, subsequently adopted by the Council (Government Statement on the Polish-Gdansk Convention, concluded in Paris on November 9, 1920. [Convention between Poland and the Free City of Danzig concluded in Paris d. 9 XI 1920] (Journal of Laws 1922, no. 13, item 117); Konvention zwischen Polen und der Freien Stadt Danzig (SA f. D 1921, 1, 1); J. Wójcicki, *Wolne Miasto Danzig*, Warsaw 1976, pp. 63-74; S. Kutrzeba, *Wolne Miasto pod względem prawnym* [in:] *Gdańsk. Past and Present. Collective work*, ed. S. Kutrzeba, Lviv, Warsaw, Krakow 1928, pp. 200-206; M. Podlaszewski, *Ustrój polityczny Wolnego Miasta Gdańska w latach 1920-1933*, Gdynia 1966, pp. 15-26).

⁶⁹ Act of December 17, 1921 on approval of the agreement signed in Warsaw on October 24, 1921, concluded between Poland and the Free City of Danzig to implement and supplement the Polish-Danish Convention of November 9, 1920. (Journal of Laws of 1922, no. 16, item 139, appendix). Cf. Agreement between Poland and the Free City of Danzig to implement and supplement the Polish-Danish Convention of November 9, 1920. *Abkommen zwischen der Freien Stadt Danzig und Polen zur Ausführung und Ergänzung der Polnisch-Danziger Konvention vom 9. November 1920*, Gdańsk 1921.

⁷⁰ E. Cichy, *Fascism in Danzig 1930-1945*, Torun 2002, p. 9.

⁷¹ Polish Postal Service in Danzig. Advisory Opinion of 16th May 1925, "PCIJ Publ. (Series B)" 11 (1925); Jurisdiction of the Courts of Danzig. Advisory Opinion of 3rd March 1928, "PCIJ Publ. (Series B)" 15 (1928); Free City of Danzig and International Labour Organization. Advisory Opinion of 26th August 1930, "PCIJ Publ. (Series B)" 18 (1930); Access to' or Anchorage in' the Port of Danzig' of Polish War Vessels. Advisory Opinion of 26th August 1930, "PCIJ Publ. (Series A/B)" 43 (1931); Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory. Advisory Opinion of 4th February 1932, "PCIJ Publ. (Series A/B)" 44 (1932); Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City. Advisory Opinion of 4th December 1935, "PCIJ Publ. (Series A/B)" 65 (1935). See W. Makowski, *The Free City of Danzig in the Opinions of the International Tribunal at The Hague*, "NP" 1 (1932), pp. 1-13.

⁷² Resolution Approved by the Council of the League of Nations on November 17, 1920 [in:] *Collection of Official Documents Concerning the Relationship of the Free City of Danzig to the Republic of Poland*, Part 1: 1918-1920, Danzig 1923, pp. 128-130. Cf. *Résolution adoptée par le Conseil de la Société des Nations le 17 novembre 1920* [in:] *ibidem*, pp. 128-130. Cf. English-language version of the resolution: Resolution adopted by the Council of the League of Nations on November 17th, 1920 [in:] *Free City of Danzig. Report by His Excellency Viscount Ishii (Japanese Representative) and Resolution adopted by the Council on November 17th, 1920*, Genève 1920, pp. 7-8.

⁷³ Defense of the Free City [of Danzig]. Report of Mr. Viscount Ishii, Representative of Japan, adopted by the Council, June 22, 1921. [in:] *Collection of Official Documents Concerning the Relation of the Free City of Danzig to the Republic of Poland*, Part 2: 1921-1923, Danzig 1924, pp. 35-36. Cf. *Defense de la Ville Libre [de Dantzig]. Rapport de Monsieur la Vicomte Ishii, Représentant du Japon, adopté par la Conseil, le 22 Juin 1921* [in:] *ibidem*, pp. 35-36.

⁷⁴ Report presented to the Council by His Excellency Viscount Ishii, Representative of Japan, d. 17. November 1920 [in:] *Collection of Official Documents...*, Part 1, p. 118. See the full text of the report: *ibidem*, pp. 118-127. Cf. the original text of the report: "la "protection" de la Ville libre par la Société des Nations paraît signifier que la Société des Nations s'engagera à respecter et à maintenir contre toute agression extérieure l'intégrité territoriale et l'indépendance politique de la Ville libre de Dantzig de la même manière qu'elle le fait pour tous les Membres de la Société des Nations, aux termes de l'article 10 du Pacte. Cette protection collective de la

Commissioner in Danzig and with the support of Polish representatives, according to the aforementioned documents of November 17, 1920. The Polish government was to be appointed or invited in certain cases to take the measures necessary for the protection of Danzig, including the inability of the Danzig police to maintain public order, the prevention of Polish access to the port, and the attempted annexation of FCD, its threat or even the danger of its occurrence⁷⁵.

While the pact had undoubted merits - it condemned war as a means of regulating international conflicts and a tool of national politics, reinforced the obligations of the League of Nations Pact and the Locarno Agreements, and mandated that the parties to the pact resolve disputes by peaceful means - its significant shortcomings should not be overlooked. In this context, mention should be made of terminological gaps, including the lack of definition of the concepts of necessary defense and aggressor, the fact that no arbitration or judicial procedure was specified, and the lack of legal sanctions for violations of the treaty⁷⁶.

The norms of the 1928 Paris Pact were binding on Germany with regard to Poland and FCD in 1939. Concluded outside the League of Nations, dissolved on April 18, 1946, the pact is a contemporary binding act of international law. It did not contain a termination clause, which, however, did not preclude the possibility. In the late 1920s, lawyers approached the pact without euphoria, as Julian Makowski pointed out. The act did not specify mutual guarantees or sanctions, and did not seek a full and detailed regulation of the subject of the contract. As a contract rooted in *common law* culture, the Briand-Kellogg Pact was not intended to be a comprehensive normalization, but it contained an accurate assessment of reality and was acceptable to a wide range of countries⁷⁷.

Prohibition of war in the 1934 Declaration of Non-Aggression

The Briand-Kellogg Pact continues to be multilateral. Before the outbreak of World War II, the Third Reich and Poland also concluded a bilateral agreement to renounce war in their mutual relations. In the Declaration of Non-Violence, signed in Berlin on January 26, 1934⁷⁸, the two governments expressed their willingness to base mutual relations on the 1928 Pact of Paris. They justified it as follows: "the maintenance and consolidation of

Société des Nations implique l'exclusion, sauf les restrictions prévues lors de l'établissement de la Ville libre, de toute ingérence particulière d'autres Puissances dans les affaires de Dantzig" (Rapport présenté au Conseil par son Excellence le Vicomte Ishi, représentant du Japon, le 17 novembre 1920 [in:] *ibidem*, p. 118). See the full text of the report: *ibidem*, pp. 118-127. Cf. also the English-language version of the report: Report to the Council by His Excellency Viscount Ishii, Japanese Representative, on November 17th 1920 [in:] Free City of Danzig..., pp. 2-6.

⁷⁵ M. Krol, *Zagadnienie...*, p. 45; S. Kutrzeba, *Polskie prawo polityczne według traktatów*, part 2, Kraków 1923, pp. 24-27; *idem*, *Stanowisko prawne Wolnego Miasta Gdańska*, "RPEiS" 6 (1926), pp. CXIV-CXV. See a detailed characterization of the FCD's relationship with the LN: S. Mikos, *Wolne Miasto Danzig and the League of Nations 1920-1939*, Danzig 1979.

⁷⁶ J. Laptos, *Pact...*, pp. 236-237.

⁷⁷ J. Makowski, *Pact...*, pp. 20-21; cf. I. Brownlie, *International Law and the Use of Force by States*, Oxford 2002, pp. 74-92.

⁷⁸ See generally and briefly on this agreement: M. Wojciechowski, *Polsko-niemiecka deklaracja o nieagresji z 26 stycznia 1934*, Katowice 1963.

permanent peace between their countries is an essential condition for universal peace in Europe" (paragraph 4 of the declaration), and "relations between their countries will thus fruitfully develop and lead to the consolidation of good neighborly intercourse, which not only for their two countries, but also for the other peoples of Europe, will have salutary consequences" (paragraph 8). They thus recognized the impact of Polish-German relations on the postwar order in Europe and intended to shape them peacefully. Mutual relations were henceforth to be characterized by directness, the use of violence was forbidden and peaceful resolution of disputes was envisaged.

The declaration was concluded for ten years, with its expiration date (*dies ad quem*) set for February 24, 1944.⁷⁹ After that date, it was to be *tacitly* renewed (*tacite reconduction*) unless one of the parties exercised a termination clause, which provided that the agreement could be terminated six months prior to its expiration, as well as after the end date under the same conditions. The declaration ceased to be effective on September 1, 1939, as a result of the German aggression against Poland, according to Julian Makowski: "[the treaty expires] in the event of a failure by one of the parties to keep the terms of the agreement; whereby this failure must occur *mala fide* and be of a permanent nature."⁸⁰

It should be ruled out that there was an abandonment of the declaration as a result of its prolonged non-application (*desuetudo*), an institution which, moreover, is questionable in international law. On the other hand, the consent of both parties to terminate the contractual relationship (*mutuus dissensus*) was not expressed. The agreement was concluded to prevent the use of non-peaceful methods of dispute settlement, which would preclude its expiration due to the outbreak of war: "In no case, however, shall they [the signatory states] resort to the use of violence to settle such matters of dispute" (paragraph 6). Nor was Germany's unilateral rejection of the declaration, announced by Adolf Hitler in a speech in the Reichstag on April 28, 1939, enough to render it non-binding.⁸¹ The Chancellor cited Poland's alleged violation of the Declaration:

"For what is the point of non-aggression pacts if one partner practically allows a multitude of exceptions! There is either collective security, i.e., collective insecurity and the constant danger of war, or clear agreements that nevertheless exclude in principle any military action between the parties. Therefore, I believe that the agreement concluded by me and Marshal Pilsudski is unilaterally violated by Poland, and therefore is not valid!"⁸²

An ostensible reason for the expiration of the agreement was indicated, but no legal or factual justification was given, and the principle of *pacta sunt servanda* was violated. Poland did not "leave the innumerable exceptions [i.e., situations governed by the

⁷⁹ Government statement of 24 II 1934 on the exchange of instruments of ratification of the Declaration between the Republic of Poland and the German Reich on Non-violence, signed in Berlin on 26 I 1934 (Journal of Laws of 1934, No. 16, item 125).

⁸⁰ J. Makowski, *International Law...*, part 1, p. 340.

⁸¹ Speech of Chancellor Hitler to Reichstag, April 28, 1939, "IC" 351 (1939), pp. 297-345. Adolf Hitler's reflections on Germany's relations with Poland are included on pages 320-324 of this publication.

⁸² "Denn was haben Nichtangriffspakte überhaupt für einen Sinn, wenn sich der eine Partner praktisch eine Unmenge von Ausnahmefällen offenlässt! Es gibt entweder kollektive Sicherheit, das heißt kollektive Unsicherheit und ewige Kriegsgefahr oder klare Abkommen, die aber auch grundsätzlich jede Waffenwirkung unter den Kontrahenten ausschließen. Ich sehe deshalb damit das von mir und dem Marschall Pilsudski seinerzeit abgeschlossene Abkommen als durch Polen einseitig verletzt an und damit als nicht mehr bestehend!" (Der Führer antwortet Roosevelt. Reichstagsrede vom 28. April 1939, München 1939, p. 25).

declaration] unresolved" - a formulation probably meant to imply that it was accepting acts against Germany's security. Besides, the essential circumstances surrounding the conclusion of the agreement did not change (so the *rebus sic stantibus* clause did not apply); moreover, Germany traditionally did not agree to unilaterally shape the contractual relationship. Therefore, the Chancellor's termination of the Declaration was not legally effective, although it clearly indicated Germany's intentions. The declaration did not contain a mode of termination that could apply in the situation described. It is difficult to consider Adolf Hitler's words as notification of an intention to terminate that was not formally presented to Poland.

It seemed that the chancellor treated Poland's aspirations to secure its western borders as a sign of bad faith⁸³, and used this as a pretext to denounce the declaration. Mutual British-Polish guarantees had indeed been given several weeks earlier because of the possibility of aggression on allied territory. Prime Minister Arthur Neville Chamberlain announced a unilateral declaration of support for Poland in the House of Commons on March 31, 1939: "[...] in the event of any action which clearly threatened Polish independence, and which the Polish Government accordingly considered it vital to resist with their national forces, His Majesty's Government would feel themselves bound at once to lend the Polish Government all support in their power. They have given the Polish Government an assurance to this effect."⁸⁴ It was further elaborated on April 6, 1939, and announced in the form of a joint Polish-British communiqué, stating that Poland gives guarantees to the British, and that the agreement is not aimed at any other country⁸⁵. The agreement eventually became the cornerstone of the Polish-British alliance agreement of August 25, 1939.⁸⁶

The *mala fides invoked* by Adolf Hitler would have to be persistent and reprehensible, which would be difficult to prove to the Polish authorities, whose conduct bore the hallmarks of self-defense. In the context of the argumentation of the German side, it must be concluded that any peace guarantees that Poland and other states gave to each other, but to the exclusion of Germany, from the moment the 1934 declaration came into force, were treated in Germany as a manifestation of hostility. This is an absurd concept, since, for example, the Polish-British arrangements did not violate the Briand-Kellogg Pact of 1928, to which Germany was also a signatory, but confirmed and deepened peaceful relations between the contracting parties. The Reich authorities did not attempt to unilaterally terminate the Paris Pact, but instead used the agreement between Poland and Great Britain as a pretext to claim, less than a month after its conclusion, that Poland was persistently and mala fide violating the declaration. Germany, prior to its expiration

⁸³ Marcin Kalduński distinguished as manifestations of bad faith "bad will, intent to harm or ulterior motives" enabling, contrary to obligations, the fulfillment of a party's own interest only. In doing so, he emphasized that there must be an element of consciousness or intentionality, objectified in the conduct of the subject and the effects of its activities (cf. M. Kalduński, *The Principle of Good Faith in International Law*, Warsaw 2017, pp. 359-362).

⁸⁴ Statement by the Prime Minister in the House of Commons on March 31, 1939 [in:] *The British War Blue Book. Miscellaneous no. 9 (1939). Documents Concerning German-Polish Relations and the Outbreak of Hostilities between Great Britain and Germany on September 3, 1939*, New York 1939, p. 48.

⁸⁵ Anglo-Polish Communiqué Issued on April 6, 1939 [in:] *The British War Blue Book...*, p. 49.

⁸⁶ Agreement of Mutual Assistance between the United Kingdom and Poland - London, August 25, 1939 [in:] *The British War Blue Book...*, pp. 49-52. See H. Batowski, *Signing of the Polish-British Agreement of August 25, 1939 (Based on Foreign Office Documents)*, "DN" 4 (1971), pp. 3-11.

scheduled for 1944, could not, under these conditions, unilaterally break it, and if, in its view, the Poles violated their obligations under the agreement, it would have to seek a peaceful settlement of the dispute⁸⁷.

A reorientation of German policy toward aggressive and confrontational solutions was evident, as evidenced by the change of outlook on the affiliation of the Free City of Danzig. In the Chancellor's view, the issue was ripe for resolution: "after all, there was an open question between Germany and Poland that sooner or later had to be naturally resolved, the question of the German city of Danzig."⁸⁸ The proposal contained in a German memorandum to the Polish government on April 28, 1939⁸⁹ was to incorporate the FCD area into the Reich and create a German corridor through Pomerania. In return, Poland was to gain, among other things, a guarantee of the inviolability of its border with Germany and a non-aggression pact concluded for a quarter of a century. The Polish authorities, through the mouth of Jozef Beck, Foreign Minister⁹⁰, found these conditions unacceptable and issued a negative reply to the German government⁹¹.

Adolf Hitler and other German officials repeatedly officially affirmed their willingness to fulfill in good faith their obligations under the 1934 Declaration of Non-Violence. In reality, they exploited this act politically and did not intend to abide by its provisions, acting in bad faith. The backstory of the conclusion of this agreement can be reconstructed on the basis of a selection of materials, mainly from the white papers of the Polish⁹² and German⁹³, collected by Tadeusz Cyprian and Jerzy Sawicki⁹⁴, and other documentation of international relations, diplomats' reports and politicians' opinions⁹⁵.

⁸⁷ L. Ehrlich, *The issue of...*, p. 49.

⁸⁸ "Immerhin war zwischen Deutschland und Polen eine Frage offen, die früher oder später ganz natürlich gelöst werden musste, die Frage der deutschen Stadt Danzig" (*Der Führer...*, p. 23).

⁸⁹ German Government Memorandum Handed to the Polish Government, on April 28, 1939 [in:] *The British War Blue Book...*, pp. 32-36.

⁹⁰ Speech Made by M. Beck, the Polish Minister of Foreign Affairs in Parliament on May 5, 1939 [in:] *The British War Blue Book...*, pp. 36-42.

⁹¹ Memorandum Communicated to the German Government by the Polish Government on May 5, 1939, in Reply to the German Government Memorandum of April 28, 1939 [in:] *The British War Blue Book...*, pp. 42-47.

⁹² In 1939, it was published by the Polish government-in-exile: in Paris in French, and in New York and London - in English (T. Cyprian, J. Sawicki, *Agresja na Polskę w świetle dokumentów*, part 1, Warsaw 1946, p. 11). In addition, its Polish abbreviation was also published in 1940 (H. Batowski, *The so-called "color books" of 1939/40 and the materials contained in them concerning Poland (Source study)*, "NDP. MiSzoIIWŚ" VI (1962), pp. 201-202. See *Les relations polono-allemandes et polono-soviétiques au cours de la période 1933-1939. Recueil de documents officiels*, Paris 1939; *Official Documents Concerning Polish-German and Polish-Soviet Relations 1933-1939*, London 1939; *Official Documents Concerning Polish-German and Polish-Soviet Relations 1933-1939*, New York 1939; "White Book" containing documents concerning Polish-German and Polish-Soviet relations in the period from 1933 to 1939, Paris 1940).

⁹³ In September 1939, it appeared as a publication of the Reich Foreign Ministry. In turn, its supplement in the form of the so-called Second German White Paper was published soon after, in the fall of 1939. In addition, the Germans disseminated abridged foreign-language editions of the collection of documents (T. Cyprian, J. Sawicki, *Agresja...*, part 1, p. 11; H. Batowski, *The so-called "color books"...*, pp. 201-202. See *Urkunden zur letzten Phase der deutsch-polnischen Krise*, Berlin 1939; *Dokumente zur Vorgeschichte des Krieges*, Berlin 1939).

⁹⁴ T. Cyprian, J. Sawicki, *Aggression...*, part 1, *passim*.

⁹⁵ See M. Zacharias, *Polsko-niemiecka deklaracja o nieososowaniu przemocy z 26 stycznia 1934 roku* [in:] *Polska wobec zmian w układ sił politycznych w Europie w latach 1932-1936*, Wrocław 1981, pp. 78-106. Cf. M. Wojciechowski, *Stosunki polsko-niemieckie*, Poznań 1965, pp. 97-109; K. Lapter, *Pakt Piłsudski-Hitler. Polish-German Declaration of Nonviolence of January 26, 1934*, Warsaw 1962; J. Ciałowicz, *Polish-French Military Alliance 1921-1939*, Warsaw 1971, pp. 192-198; W. Jędrzejewicz, *The Case of Preventive War with Germany*,

Germany's bad faith stemmed not only from the manner in which it concluded the declaration, but above all from the interpretation and execution of its provisions leading to the instrumentalization of this legal act. As a result, the agreement was made a means of implementing anti-Polish policies. It should be recalled that the initiative to conclude the Non-Aggression Pact came from representatives of Poland, who believed that after the withdrawal of the Third Reich from the League of Nations in 1933, it was necessary to base security guarantees on direct agreements with Germany, rather than counting on decisive steps by France, which was then immersed in cabinet crises (in 1933 alone there were as many as four councils of ministers on the Seine).

Political talks were taken up on May 2, 1933, when a meeting took place between Adolf Hitler and Alfred Wysocki, the Polish special deputy in Berlin. At that time, the Chancellor reaffirmed the German government's "firm intention to maintain its attitude and to proceed as closely as possible within the framework of the existing treaties," which was not groundbreaking, but rather declaratory and courteous⁹⁶. After Ludwik Morstin probed the mood of the French and it became clear that they were not ready to defend Poland's independence, Jozef Pilsudski decided to finalize talks with Germany⁹⁷. November 24, 1933. Hans Adolf von Moltke, a German deputy in Warsaw, was informed that Adolf Hitler greatly welcomed Jozef Pilsudski's proposal to conclude an agreement to renounce violence in mutual relations. In the same dispatch, Konstantin von Neurath, Reich Foreign Minister, stressed: "our proposed framing of the declaration by no means implies recognition of the present eastern borders of the Reich. On the contrary, this declaration is intended to make it possible to solve all problems, and therefore also territorial ones."⁹⁸. The agreement, therefore, was not intended by the Germans as a supplement to the Treaty of Locarno guaranteeing the permanence of their eastern border, but, conversely, as an opportunity to revise it.

French and Romanian diplomats pointed out that Adolf Hitler's intentions were only seemingly peaceful, and to the political naiveté of Jozef Pilsudski. They argued that the declaration strengthened the legitimacy of the new Third Reich authorities, and on the other hand distracted Poland from Germany's aggressive intentions. The document also irritated the USSR authorities, fearing a secret Polish-German agreement aimed at their interests⁹⁹. Meanwhile, Jozef Pilsudski left no illusions in a March 7, 1934 conversation with Kazimierz Świtalski, former prime minister and then Speaker of the Sejm. Świtalski described its course in the following way: "The Commandant, however, does not believe and warns us not to think that this arrangement of peaceful relations between Poland and its neighbors was to last forever; the Commandant calculates that good relations between Poland and Germany may last four more years [until 1938], due to the mental

"ZH" 9 (1966), pp. 168-170; P. Łossowski, *Polish-German Relations in the Years 1933-1939 and the September Disaster*, part 1, "WPH" 1 (1963), s. 133-140.

⁹⁶ A. Wolski, *Polish-German Pact of 1934*, "SM" 6 (1953), s. 70.

⁹⁷ M. Zacharias, *Polish-German Declaration...*, p. 96.

⁹⁸ Ambassador Hans Adolf von Moltke's account of his audience with Marshal Jozef Pilsudski on November 28, 1933. [in:] T. Cyprian, J. Sawicki, *Aggression...*, part 1, p. 65.

⁹⁹ Comments in the Soviet press after the warming of Polish-German relations were critical. The editors of the daily *Izvestia* pointed out as early as May 5, 1933 that "Hitler is deluding Poland" (A. Wolski, *Pact...*, p. 70).

transformations that will take place in the German people. For more years, however, the Commandant does not vouch."¹⁰⁰ .

Jozef Pilsudski's attempts to delay the negative consequences of German policy towards Poland, which was to be served by the conclusion of the declaration, should be assessed as politically correct. The rationale here is especially the likelihood of the assumed inaction of the Polish allies of France and Great Britain in the event of an armed conflict, which indeed occurred¹⁰¹ . Presumably, without Germany's illusory guarantees, Poland would have already become the target of an onslaught by its western neighbor, e.g., instead of Czechoslovakia, which, since the conclusion of the Munich Agreement on September 29, 1938, gradually lost further territories to the Third Reich, as detailed below. After the death of Jozef Pilsudski, his warnings were still disregarded in 1938 by Foreign Minister Jozef Beck¹⁰² and Marshal Edward Rydz-Smigly¹⁰³ , which negatively affected Polish preparations for war.

The example of Gdansk Pomerania, which became the arena of German crimes at the beginning of the war, showed how the declaration influenced the unification of the German minority under the banner of National Socialism, and at the same time how apparent was its effect on the attitudes toward Poland of ethnic Germans with Polish citizenship. In the report From the National Minority Movement, the staff of the Public Security Department of the Pomeranian Provincial Office for January 1934 noted, "The mood among Germans and the reserve in speeches already observed in the previous month has not changed. Rather, under the influence of the Polish-German non-aggression agreement, there was some further relaxation. Although the German mountain has been surprised and confused by this fact, and no special delight can be seen in it, the German people in general have welcomed the conclusion of the agreement, as they combine with it the hope of serious benefits for themselves."¹⁰⁴ . It was hoped above all for the development of trade relations between the countries, and especially for an improvement in the situation of farmers. Subsequent reports from the office showed that after the first wave of enthusiasm and readiness to cooperate, the German minority began to distance itself from the Polish authorities. However, the return to the tenets of peace policy, presented in the local press as Adolf Hitler's goal for Poland, attracted and bound local Germans to the ideology of National Socialism¹⁰⁵ .

¹⁰⁰ M. Kamiński, M. Zacharias, *Polityka zagraniczna II Rzeczypospolitej 1918-1939*, Warsaw 1987, p. 172.

¹⁰¹ The French and British authorities, despite mutual military guarantees, did not decide to initiate massive military action against Germany. They were limited to issuing an ultimatum to the German government, and as a result of its non-acceptance, Poland's western allies found themselves at war with the Third Reich on September 3, 1939. Due to the non-military nature of the 1939 conflict, it was referred to as a strange war (A. Czubinski, *History of Poland in the 20th Century*, Poznań 2007, pp. 196-199).

¹⁰² M. Kamiński, M. Zacharias, *Foreign Policy...*, pp. 244, 258; M. Kornat, *The Politics of Balance 1934-1939. Poland between East and West*, Cracow 2007, p. 45.

¹⁰³ L. Wyszczelski, *Marszałek Polski Edward Rydz-Śmigły (1886-1941)*, Toruń 2013, pp. 336-339.

¹⁰⁴ M. Wojciechowski, *The German minority in Pomerania vis-à-vis the Polish-German declaration of non-violence of 1934*. [in:] *The Polish-German Declaration of Non-Violence of January 26, 1934 from the Perspective of Poland and Europe on the Seventieth Anniversary of the Signing*. Studies, edited by M. Wojciechowski, Toruń 2005, p. 320.

¹⁰⁵ *Ibid*, pp. 317-325.

It should be noted that while Germany treated the 1934 Declaration of Non-Violence as a smokescreen for the revision of the Versailles system and war preparations¹⁰⁶, the Polish side's ratification of the agreement was a consequence of its previous policy in the international arena. Emil Rappaport pointed to the long-standing efforts of Polish politicians and lawyers to introduce a strict prohibition of war as a means of resolving interstate conflicts, undertaken, among others, at the Eighth Assembly of the League of Nations in 1927. Poland's peaceful attitude is also evidenced by the content of international agreements concluded by it, their implementation and the initiation of the Conference on the International Unification of Criminal Law (the first was held in Warsaw in 1927)¹⁰⁷.

Prohibition of a war of aggression

In addition to the norms of the 1928 Briand-Kellogg Pact and the 1934 Declaration, from which the prohibition of war stemmed, Germany was bound by the customary prohibition of war of aggression¹⁰⁹. Justifying its validity, the International Military Tribunal, in its October 1, 1946 judgment, interpreted the authentic Paris Pact, pointing to its antecedents¹⁰⁸. Stressing the importance of defining the crime of aggression, it pointed to four documents testifying to the widespread approval of this prohibition:

- Draft Mutual Assistance Treaty of 1923.¹⁰⁹ ;
- Protocol for the Peaceful Settlement of International Disputes of October 2, 1924.¹¹⁰ ;
- Declaration on War of aggressions of September 24, 1927.¹¹¹ ;
- Resolution on the prohibition of war of aggression of February 18, 1928.¹¹²

¹⁰⁶ Cf. M. Cyganski, German political emigration vis-à-vis the non-aggression pact between Poland and the Third Reich, "Review of International Relations" 1 (1974), pp. 63-76.

¹⁰⁷ E.S. Rappaport, The issue of..., pp. 27-28.

¹⁰⁸ From the prohibition of war of aggression should be distinguished from the prohibition of aggression, the definition of which in the interwar period raised numerous doubts in the doctrine of law, which in principle has not changed until modern times. However, attempts to formulate the above-mentioned prohibitions have a common feature - on their occasion often tried to determine the meaning of the term "aggression" (see A. Deryng, Geneva Protocol on the Peaceful Settlement of International Disputes, "PPiA" 50 (1925), pp. 197-218; W. Komarnicki, Determination of aggressor in modern law of nations [in:] Memorial book in honor of Leon Piniński, vol. 1, Lvov 1936, pp. 422-442; M. Krol, The issue of aggression in international law, "RPW" X (1939), pp. 167-314; M. Lachs, The struggle over the definition of aggression, "WPP" 3 (1952), pp. 446-459; B. Ferencz, Defining International Aggression, The Search for World Peace. A Documentary History and Analysis, vol. 1-2, New York 1975; M. Flemming, Defining Aggression, "WPP" 2 (1975), pp. 204-215; P. Grzebyk, Criminal Responsibility for the Crime of Aggression, Warsaw 2010, pp. 66-116; eadem, Definition of the Crime of Aggression (after the IMT Review Conference), "PiP" 1 (2011), s. 45-58). ¹¹⁰ Trial..., vol. I, pp. 221-222.

¹⁰⁹ Text of the [Draft] Treaty of Mutual Assistance, "LNOJ SS" 16 (1923), pp. 203-206.

¹¹⁰ Protocol for the Pacific Settlement of International Disputes. Adopted by the Fifth Assembly of the League of Nations on October 2nd, 1924, Geneva 1924. cf. W. Mazurczak, Protocol for the Peaceful Settlement of International Disputes. A contribution to the activities of Polish diplomacy in 1924, "DN" 3 (1975), pp. 53-70.

¹¹¹ Declaration Concerning Wars of Aggression. Resolution Adopted by the Assembly on September 24th, 1927 (Morning), Geneva 1927.

¹¹² C. Hughes, Outlook for Pan Americanism - Some Observations on the Sixth International Conference of American States [Resolution of February 18, 1928], "Proceedings of the American Society of International Law" 22 (1928), pp. 14-15.

The draft treaty of 1923 and the protocol of 1924, created under the auspices of the League of Nations, did not become binding acts of international law, but gained approval from dozens of states at the time, which was representative of the proposals contained in them. Michal Krol, in the pages of the Vilnius Legal Yearbook, admitted in 1939: "so we are not dealing here with the norms of positive international law in the proper sense of the word, but because of the official origin of these documents and the role they played in the development of the League's law, neither can they be counted as manifestations of a private and non-binding doctrine of international law; at the time of their creation they were undoubtedly closer to positive law."¹¹³ . That is why the Polish jurist characterized the draft agreements in the chapter of his study devoted to treaty law, rather than to the doctrine of international law. In contrast, the 1927 Declaration and the 1928 Resolution were unanimously adopted by the Assembly of the League of Nations and the Sixth Pan-American Conference in Havana, becoming universally binding acts of international law.

The Nuremberg Judgment of 1946 clarified the nature of these documents: "all these expressions of opinion and others that can be cited, so solemnly executed, reinforce the interpretation that the Tribunal derives from the Paris Pact that resort to war of aggression is not only illegal but criminal."¹¹⁴ . Thus, both unratified treaties and widely supported draft treaties or regional pacts had, according to the cited ruling, the value of *expression of opinion*, which is, according to Article 38(2) of the Hague Tribunal Statute, evidence of practice useful in determining the customary norm.

The draft Mutual Assistance Treaty of 1923 was prepared within the framework of the Provisional Mixed Commission, established in 1921 on the recommendation of the First Assembly of the League of Nations¹¹⁵ . In the end, the draft under procedure received mostly unfavorable assessments from governments. The criticism, however, was not of the prohibition of war of aggression, but of the way in which the term "aggression" was defined, intended to be the basis for the obligations of states set forth in the draft agreement. The 1946 Nuremberg judgment stated: "The principal objection appeared to be in the difficulty of defining the acts which would constitute 'aggression,' rather than any doubt as to the criminality of war of aggression."¹¹⁶ . Responding to the draft agreement, the German government, in its July 24, 1924 response, accepted the proposed ban: "A war of aggression is declared in principle to be an international crime and is categorically interdicted. The object of such a war is assured of the speediest assistance against the aggressor. [...] The object of this draft treaty is thus clearly defined. Its significance and value are beyond all manner of doubt. But whether the method adopted for the achievement of that object is practicable and appropriate is open to serious question"¹¹⁷ . Thus, explicitly ("beyond all manner of doubt") approved by Germany the prohibition formulated in Article 1 of the 1923 draft treaty. - "The High Contracting Parties solemnly declare that aggressive war is an international crime and severally

¹¹³ M. Krol, The issue of..., pp. 188-189.

¹¹⁴ Trial..., vol. I, p. 222.

¹¹⁵ M. Krol, The Issue..., pp. 186-188; cf. S. Sierpowski, Political Aspects of Disarmament (1919-1925), "AULFH" 17 (1983), s. 65-70.

¹¹⁶ Trial..., vol. I, p. 221.

¹¹⁷ Replies from Governments. Germany [in:] Treaty of Mutual Assistance. Replies from Governments, Geneva 1924, pp. 18-19. See the text of the reply: *ibid*, pp. 18-21. cf. B. Winiarski, Security, Arbitration, Disarmament, Warsaw 1928, pp. 80-84.

undertake that no one of them will be guilty of its commission." - also bound the Reich in 1939.

The 1946 Nuremberg Judgment also mentioned the 1924 Protocol for the Peaceful Settlement of International Disputes, the so-called Geneva Protocol¹¹⁸. The adjudicators pointed out the importance of the document: "Although the Protocol was never ratified, it was signed by the leading statesmen of the world, representing the vast majority of the civilized states and peoples, and may be regarded as strong evidence of the intention to brand aggressive war as an international crime."¹¹⁹. Thus, it was stated that it was irrelevant whether the described act was ratified, as it was representative due to its unanimous adoption by 48 members at the Fifth Assembly of the League of Nations (even though Germany was outside the organization's structures at the time). The protocol's universal approval testified to the practice of states and was convincing evidence of the intention (*strong evidence of the intention*) to criminalize war of aggression as an international crime. The prohibition was included in the act's preamble as follows: "[The Undersigned] Asserting that a war of aggression constitutes a violation of this solidarity [of the members of the international community] and an international crime." (paragraph 3 of the preamble).

Unlike the two previously characterized documents, the third was a binding act of international law - the 1927 Declaration on War of aggressions was described by Michael Krol as a "platonic resolution of the Eighth Assembly [of the League of Nations]."¹²⁰. Although it did not define aggression, it contained a prohibition of war of aggression, endorsed by Germany: "[The Assembly] Being convinced that a war of aggression can never serve as a means of settling international disputes and is, in consequence, an international crime [...] Declares: (1) That all wars of aggression are, and shall always be, prohibited." (paragraph 4 and paragraph 6(1) of the declaration).

The last piece of international law mentioned in the verdict was a 1928 resolution unanimously adopted by 21 U.S. states at the Sixth Pan-American Conference in Havana. It stated: "That war of aggression constitutes an international crime against the human species", and further extended the prohibition of aggression: "All aggression is considered illicit and as such is declared prohibited.". Manfred Lachs mentioned other such initiatives by US states¹²¹, such as the Rio de Janeiro Treaty on Non-Aggression and Conciliation of October 10, 1933¹²² and the Buenos Aires Additional Protocol on Non-Intervention of

¹¹⁸ See S. Sierpowski, Political aspects of..., pp. 70-74.

¹¹⁹ Trial..., vol. I, pp. 221-222.

¹²⁰ M. Krol, The issue of..., p. 204.

¹²¹ M. Lachs, Struggle..., p. 457.

¹²² Anti-War Treaty on Nonaggression and Conciliation, Signed at Rio de Janeiro, October 10, 1933, "FRUS DP [1933]" IV (1950), pp. 234-240. Article 1 of the agreement criminalized aggressive war: "The High Contracting Parties solemnly declare that they condemn wars of aggression in their mutual relations or those with other states, and that the settlement of disputes or controversies of any kind that may arise among them shall be effected only by the pacific means which have the sanction of international law". The treaty applied to Romania and Bulgaria in addition to the numerous American signatories (see G. Atkins, Encyclopedia of the Inter-American System, Westport 1997, pp. 25-26). Robert Jackson, the U.S. prosecutor at the Nuremberg Trials, pointed out the significance of the treaty in a speech he gave before members of the Inter-American Bar Association in Washington in 1941: "the Argentine anti-war treaty, signed at Rio de Janeiro in 1933, is one of the most important American contributions to the growth of the law in the last decade. It is in a real sense a precursor of the system of consultation which was started at Buenos Aires in 1936". R. Jackson, The

December 23, 1936¹²³ Thus in 1939. Germany was bound by the customary prohibition of war of aggression to the extent described in the 1946 IMT ruling.

Prohibition of crimes against peace in the 1945 IMT Charter

Pointing to the prohibition of war under the Briand-Kellogg Pact of 1928 and the prohibition of war of aggression, the adjudicators of the main Nuremberg trial presented in their argument the international legal basis for the prohibition of crimes against peace. The 1945 IMT Charter states that its object is "the planning, preparation, initiation or waging of an aggression war or a war in violation of international treaties, agreements or guarantees, or complicity in a plan or conspiracy to commit one of the aforementioned acts" (Article VI(a)).

The ban also included war as a result of violations of customary and treaty norms of international law. Personal responsibility was established for those committing crimes regardless of their motivations, which could be the interests of European Axis states, personal motives and membership in a particular organization. The post-Nuremberg jurisprudence equated responsibility for aggressive acts with responsibility for war of aggression.

In the case of a certain category of defendants, superiors of states and responsible state officials, the possibility was ruled out that their acts could be considered in compliance with the norms of international law or that mitigating circumstances could be applied to them to criminalize their conduct because of their state positions (Article VII). In contrast, the principle of *respondeat superior*, from which the release of a subordinate from possible responsibility and sanctions for obeying a superior's order, was significantly reduced in the IMT Charter. A *respondeat superior* who obeyed an order of the government or a superior that resulted in a violation of a prohibition could at most count on discretionary leniency by the tribunal due to the requirement of justice (Article VIII). Also incompatible with international law were the omissions of superiors who failed to stop subordinates from committing crimes against peace, although within the limits of their relationship with their subordinates they should have known of their actions.

In addition to the general elements of a crime against peace, i.e. the prerequisites for its commission, the IMT Charter defines unlawful acts. The stadial forms of this crime were prohibited, basically reflecting its full march, *iter delicti*: "preparation, initiation or conduct." The following phenomenal forms were sanctioned: leadership, organization, incitement and complicity. Provision was made for the unlawfulness not only of carrying out the crime against peace, but also of drawing up its plan and carrying out the conspiracy.

Legal Basis of Our Defense Course. We Are Creating Important Precedents, "Vital Speeches of the Day" 13 (1941), p. 401. See speech: *ibid*, pp. 399-403.

¹²³ Additional Protocol Relative to Non-Intervention, December 23, 1936 [in:] Inter-American Peace Treaties and Conventions, Washington 1954, pp. 41-44. See G. Atkins, Encyclopedia..., p. 15.

At this point, it is important to point out the international legal basis for the charter. In the aforementioned Nuremberg Judgment of 1946, the adjudicators explained: "The Charter is not an arbitrary exercise of power on the part of the victorious Nations, but in the view of the Tribunal, as will be shown, it is the expression of international law existing at the time of its creation; and to that extent is itself a contribution to international law."¹²⁴ . Thus, they concluded that the norms contained in the Charter are an expression of international law in force at the time they were established, and institutions hitherto unknown to law were not codified.

The allegation raised by the defendants of violation of the principle of *nullum crimen sine lege* was countered in the ruling, where it was emphasized that it does not limit sovereignty, but is generally a rule of justice¹²⁵ . The presentation of this principle as an emanation of the rule of justice, but one that does not affect sovereignty or the ability of the addressee of the norm to exercise it, made it possible to conclude that it is just to try the acts of the defendants for crimes against peace, and unjust to refrain from punishing them, especially when they must have been aware of the illegality of their actions¹²⁶ .

Using the 1907 Hague Regulations as an example, the adjudicators also questioned the validity of claims that there had been a violation of the principle of *nulla poena sine lege*. They stated that the act positively prohibited, among other things, certain methods of warfare, but did not indicate possible penalties for violations of international legal norms, nor did it establish or indicate the competent judicial body with the power to apply the regulations. However, the lack of definition of sanctions did not prejudge the legality of the acts indicated in the IMT Charter, and the fact that codification did not exist did not determine the non-applicability of their prohibition¹²⁷ .

A correct view of the so-called "Nuremberg clause" was expressed by Pawel Burzynski, emphasizing that the exception to the principles of *nullum crimen sine lege* and *nulla poena sine lege* was justified because of the extra-tractual (customary and derived from general principles of law) basis of the crime. The application of a prohibition in force but not arising from contractual obligations faced factual difficulties that could be overcome by institutionalizing it in a positive law act. Otherwise, there was often a "lack of basis for the realization of criminal responsibility."¹²⁸ . With regard to the crime of aggression, the complications when trying to apply the norms were explained by Patrycja Grzebyk: "Thus, if there is a will to try a person for the crime of aggression, then in order for everything to take place in accordance with the requirements of *lege artis*, it is necessary to invoke a solid legal basis that would authorize holding an individual responsible for this type of crime."¹²⁹ .

¹²⁴ Trial..., vol. I, p. 218.

¹²⁵ "A limitation of sovereignty, but is in general a principle of justice" (*ibid.*, p. 219).

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*, pp. 220-221.

¹²⁸ P. Burzyński, Statutory definition of criminal sanctions, Warsaw 2008, p. 107. Cf. K. Indeck, The principle of *nullum crimen sine lege* in international criminal law [in:] *Gaudium in litteris est. Jubilee book offered to Mrs. Professor Genowefa Rejman on the occasion of her eightieth birthday*, ed. L. Gardocki et al., Warsaw 2005, pp. 139-158.

¹²⁹ P. Grzebyk, Responsibility..., p. 117.

With the above reasoning - in view of the adoption and entry into force of the 1945 Charter. - it is difficult to see a violation of the principle of *lex retro non agit*. In the so-called Nuremberg legislation, it did not suffer a limitation in any way, since the Charter of norms did not introduce or modify previously existing prohibitions, but changed their form, and in connection with the codification was made more specific - sanctions and procedures were specified. Similar theses were presented by lawyers quoted in 1948 by Tadeusz Cyprian and Jerzy Sawicki, including Robert Wright, chairman of the United Nations War Crimes Commission (which functioned from 1943 to 1948, officially dissolved in 1949), Jacques Descheemaeker, a French lawyer, Robert Jackson and Telford Taylor, US prosecutors in the main and subsequent Nuremberg trials, respectively¹³⁰.

The prohibition of war formulated in the aforementioned acts of international law, created before the outbreak of World War II, was the basis for rejecting dubious German claims to recognize as legitimate the aggression against Poland in 1939. Restricting the waging of wars became a fundamental means of realizing the primary objective of the League of Nations - the preservation of peace between states. Excluding war as a means of settling international disputes, complementary states generally concluded bilateral arbitration agreements with each other. The Polish and German representatives agreed, while maintaining voluntary contracting, on both the prohibition of war and the order for the peaceful settlement of disputes and arbitration.

As the future showed, the humanitarian and pacifist tendencies in international law of the interwar period did not protect Germany's national aspirations. Recognizing the defeat of the Central Powers in the Great War as a humiliation, their authorities sought by various methods to rebuild their imagined power. The fact that Germany's superpower claims stemmed from a tradition of unauthorized assaults on neighboring states was no argument for its authorities to cease their aggressive foreign policy.

It is worth quoting the assessment of Ludwik Ehrlich, who rightly summed up his consideration of the prohibition of war arising from the agreements concluded between the Republic and the German Reich as follows: "according to the state of the law of nations, therefore, and in particular the norms in force between Poland and Germany in 1939, especially in September of that year, war was impermissible, especially between Poland and Germany, and neither of these states, when initiating armed action against the other, could consider this action as war as would have been permissible, for example, in 1913."¹³¹

It is true that compared to the period before the Treaty of Versailles, the prohibition of war became more categorical between the wars, although not absolute. There was a possibility, but due to procedure it was more theoretical than practical, to launch a legal war of aggression in accordance with Article 15 of the League of Nations Pact. Germany, however, had not been subject to this regulation since the denunciation of the Treaty of Arbitration in 1936.

Thus, the provocation of war or war of aggression on September 1, 1939, was governed by the international legal prohibitions binding Poland and Germany and stemming from the Briand-Kellogg Pact of 1928, the 1934 Declaration of Non-Violence and the international

¹³⁰ T. Cyprian, J. Sawicki, *Law...*, pp. 255-256.

¹³¹ L. Ehrlich, *The issue of...*, p. 49.

customs established by the 1945 London Agreement and the 1946 Nuremberg Judgment. These prohibitions did not contain specific sanctions or procedures for their application until they were codified in detail, although they were sufficient to demonstrate Germany's responsibility for their violation through legal proceedings.

The realization that the prohibition of war defined only contractually was insufficient was revealed in the obligations assumed in the event of war, especially those contained in Article 10 of the League of Nations Covenant, which in turn testified to the ineffective functioning of the League. The restriction contained, on the one hand, a negative obligation (to refrain from military action aimed at violating the territory of another League member) and, on the other hand, a positive one (to assist a member of the organization attacked by an external aggressor - such as Germany vis-à-vis Poland). In addition, Article 11 of the Pact recognizes the identity of a member state's security with the interests of the union as a whole, and agrees to take all effective measures to prevent war, if only in the face of its threat. It also accepted obligations in the event of war initiated by a League member (Article 16 of the pact). The interpretation of the pact also implied, *nolens volens*, the permissibility of war in several situations before and after the exhaustion of peaceful means (especially Articles 10, 12(1), 12(2) and 15(7))¹³². Although the Pact was not binding on the Reich in 1939, it did not cease to be a source of international law for its other signatories (including Poland), and it did not lose its value as a testimony to the consensual will of a significant number of states at the time.

Obligation to notify the declaration of war

The regulation requiring the signatory to give effective notification of the start of the war required action. Both the manner of notification and its timing had legal significance. The standards for notification were contained in the 1907 Hague Convention (III), which was in force in Polish-German relations.

Obligation in the 1907 Hague Convention (III)

In addition to the aforementioned agreements and customs, Germany was also obliged to observe the 1907 Convention on the Commencement of Hostile Steps, which was in force in Polish-German relations (known as the Hague Convention (III))¹³³, which implied the obligation of a state starting a war to notify the attacked party of this fact (Article 1): "The Contracting Powers recognize that steps of war between them shall not be commenced without prior and unambiguous notice, which shall be in the form either of a reasoned declaration of war or in the form of an ultimatum with a conditional declaration of war." This prior notice (*préalable*) and unambiguous notice (*non équivoque*), according to the

¹³² E. Muszalski, *Starting...*, pp. 165-167.

¹³³ Abkommen über den Beginn der Feindseligkeiten. Vom 18. Oktober 1907 (RGBl. 1910, 2, 82). Cf. Convention Concerning the Beginning of Enemy Steps (OJ 1927, No. 21, item 159).

resolution and decree adopted by the Institute of International Law in 1906, were to be judged by the time elapsing between the notice and the outbreak of war¹³⁴.

The codification of the relevant norms came on a wave of agitation following the outbreak of the Japanese-Russian conflict in 1904. At that time, there was a break in diplomatic relations between the warring parties, but an explicit declaration of war (*déclaration de guerre expresse*) by the Japanese authorities was missing¹³⁵. Discussions on the issue of declaring war were held by legal authorities at the 1906 session of the Ghent Institute of International Law.¹³⁶ Point IV of the resolution, which was not adopted (due to editorial objections) by the institute's plenum, stated: "a state of war, improperly created, nevertheless imposes on the belligerent parties all those obligations which arise from a war properly begun."¹³⁷. Because of the seriousness of the body and the unanimous manner in which the remark was formulated, it was an expression of the opinion of the legal doctrine.

Thus, the failure of a signatory to the agreement to initiate war in compliance with the relevant procedures under international legal norms (and, in the case of Germany, also internal¹³⁸) did not relieve it of its obligation to conduct military action and occupation in accordance with the other ratified international agreements governing the relevant issues. However, for starting a war without notification, although it was not indifferent in the sphere of international law, no explicit contractual sanctions were provided. Performance of the obligations imposed by the Hague Convention (III) was carried out on a discretionary basis, and their violation was primarily subject to moral sanction and public condemnation, which did not exclude other more severe consequences derived from the responsibility regime. As Edward Muszalski aptly stated, "the sanction of the rules is to be [...] the legal consciousness of the civilized world."¹³⁹.

The necessity of declaring war was confirmed, in connection with the validity of the Hague Convention (III), by representatives of German science, including the doctrine of international law: Lassa Oppenheim (considered the father of modern international law) and Josef Kohler, and, prior to the adoption of this agreement, also Samuel von Pufendorf (precursor of the Enlightenment in Germany, philosopher and historian), Christian Wolff (philosopher of the Enlightenment era), Friedrich Geffcken (19th century diplomat and jurist) and August Heffter. In contrast, the view that war should be declared, albeit in any form, not necessarily a declaration, was supported by the said Theodor von Schmalz and Heinrich Oppenheim (an international law specialist and philosopher). The views of these authors were based on the basic distinction made by Hugo Grotius - between legal war (*solenne*) and illegal war (*minus solenne*). The recognition of a conflict as consensual *de lege artis* required the cumulative fulfillment of two conditions: the conduct of war by the

¹³⁴ E. Muszalski, *Starting...*, p. 142.

¹³⁵ J. Dyskant, *Port Arthur 1904*, Warsaw 1996, pp. 50-51.

¹³⁶ E. Muszalski, *Starting...*, p. 136.

¹³⁷ *Ibid*, pp. 138-139.

¹³⁸ The need to enact a law in the event of a declaration of war was mentioned by Carl Schmitt, indicating the disposition of the norm in Article 45(2) of the Weimar Constitution (C. Schmitt, *Science...*, Warsaw 2013, p. 427).

¹³⁹ *Ibid*, p. 140.

representatives of the highest state power and the declaration of war in accordance with the accepted protocol¹⁴⁰ .

The effect of declaring war - in violation of international law - on the validity of agreements governing the conduct of war or concluded for the duration of war is an important issue in further consideration of Polish-German obligations and violations of the laws and customs of war by Germany during its occupation of Polish lands. It should be pointed out that the incompatibility with international legal norms of starting a war does not cause the legal benefit of excluding the obligation to execute the laws of war.

Law of war

During the war and in the event of occupation, treaty and non-treaty regulations were applicable, which were generally intended to mitigate the impact of the conflict not only on the population of the belligerent party, but on the civilian population in general. Their presentation serves to indicate the legal basis for qualifying Germany's criminal acts against Poland.

Protection of the population of the belligerent party

A special dimension of protection in a state of war concerned the population of an enemy state. The relevant norms defining the standard of conduct in this matter were codified in the form of orders and prohibitions in the 1907 Hague Convention (IV), that is, long before the outbreak of World War II, and after its end in the form of the prohibition of war crimes in the 1945 IMT Charter. These regulations, regardless of when the norms were positively established, applied to Polish-German relations between 1939 and 1945.

Obligations and prohibitions in the 1907 Hague Convention (IV)

The exceptional circumstance of war was regulated, also in force after September 1, 1939, by the Hague Conventions of October 18, 1907: "in the event of the outbreak of war, treaties, existing between belligerent parties, shall terminate, except those which were concluded precisely because of war."¹⁴¹ . It was developed during the Second Hague

¹⁴⁰ *Ibid*, pp. 66-69, 71-73.

¹⁴¹ Julian Makowski pointed to the example of the Treaty of Versailles, which included regulations on Germany's obligations to the Allied Powers after the Great War. Its Articles 282-287 contained a catalog of 36 international agreements, the validity of which was restored, and the others were considered abrogated by the war, as mentioned earlier (J. Makowski, *International Law...*, part 1, p. 340).

Conference. Its participants deliberated primarily on ways to settle disputes peacefully and build a system of universal security¹⁴².

The three Hague agreements already mentioned, the Convention for the Peaceful Settlement of International Disputes (Hague Convention (I)), the Convention concerning the Commencement of Hostilities (Hague Convention (III)) and the Convention concerning the Laws and Customs of War on Land, together with the Regulations concerning the Laws and Customs of War on Land (Hague Convention (IV)), were applicable to Polish-German relations. These acts, monuments to the law of armed conflict, were ratified by the Second Reich and the reborn Republic. As a rule, they were in force in the event that every party to the conflict was a signatory to them (they contained a *si omnes* clause). On the subject of protecting the belligerent party, establishing and regulating the customs of war, the Hague Convention (IV)¹⁴³ and its accompanying Rules of Procedure were groundbreaking. Together with the Hague Convention (II)¹⁴⁴ they were a development of legal ideas derived from the unratified Brussels Declaration of 1874.¹⁴⁵ The conference that resulted in the adoption of the Declaration was convened on the initiative of Tsar Alexander II Romanov. The convention, held from July 27 to August 27, 1874, was attended by representatives of fifteen countries, including the Reich.

The German Emperor and King of Prussia were represented at the meetings by General Konstantin von Voigts-Rhetz. Reports from Sir Alfred Horsford, the British military minister, sent to Earl Edward Stanley, the foreign minister there, indicate that the Berlin plenipotentiary also spoke on important issues of aggression and occupation for establishing the German position. The official opinions expressed at the time are indications and a prelude to further deliberations on the interpretation of the norms of the Hague Convention (IV). The German delegate disapproved of the statement that unlimited rights must be granted to the population of the occupied territories, noting: "In the interests of humanity, [is] that no encouragement should be given to the inhabitants of an occupied district to rise against the invader, as such a course would lead to repressive measures, which instead of diminishing the horrors of war, would tend to increase them.". However, he opted to legalize spontaneous uprising against the approaching aggressor, thereby also granting veteran status to those combatants who, while respecting the laws and customs of war, did not meet the conditions set forth in the draft declaration (Article 9, paragraphs 1-4). It also allowed for the possibility of occupation to exist not only when a power was established that actually and visibly exercised control over the occupied area, but also *de jure* - without its military manifestation. As a justification and measure of possible requisitions and contributions on the part of the enemy, the German representative recognized the necessities of war (*exigencies of war*), the most radical variant discussed, rejecting the rules of reciprocity (according to which the army of the occupying power was entitled to impose as much tribute as it could collect in its own

¹⁴² E. Muszalski, *Starting...*, p. 142.

¹⁴³ Convention Concerning the Laws and Customs of Land Warfare (Official Gazette, 1927, No. 21, Item 161); Abkommen, betreffend die Gesetze und Gebräuche des Landkriegs. Vom 18. Oktober 1907 (RGBl. 1910, 2, 107).

¹⁴⁴ Abkommen, betreffend die Gesetze und Gebräuche des Landkriegs. Vom 29. Juli 1899 (RGBl. 1901, 44, 423).

¹⁴⁵ Projet d'une Déclaration Internationale Concernant les Lois et Coutumes de la Guerre (Texte Modifié par la Conférence), "BFSP" LXV (1881), pp. 1059-1067.

country or as much as the army of the invaded state would be entitled to impose in its own country)¹⁴⁶ .

In turn, the creators of the Brussels Declaration recycled the principles of the American Rules of Warfare - "Instructions for the Government of Armies of the United States in the Field"¹⁴⁷ , also known as the Lieber Code, after its editor, Francis (Franz) Lieber, an American lawyer and political philosopher of Prussian descent. The code was the first attempt to comprehensively regulate military action. It was promulgated during the Civil War by Order No. 100, issued on April 24, 1863 by Abraham Lincoln, President of the United States and Commander-in-Chief of the Union Army¹⁴⁸ . As part of the analysis of the Hague Convention (IV), it should be noted that its signatories, as is evident from the attached arena, sought "to revise the laws and general customs of war, either to define them more precisely or to limit them somewhat in order to weaken, if possible, their severity" (paragraph 4 of the preamble). In connection with their "desire to lessen the miseries of war" (paragraph 6), they prepared and adopted the Regulations on the Laws and Customs of War on Land, the provisions of which, as the preamble makes clear, were not a sufficient legal basis for the conduct of war. The Convention thus regulated the conduct of war and occupation in accordance with the aforementioned directives.

The rules of procedure attached to the agreement, its primaries, contained a relatively broad regulation of the laws and customs of land warfare. The codifiers described the states of facts that could occur in the three phases of a conflict already underway: the course of conquest, its legalization by bargaining and occupation. It is significant that no reference was made to the initial stages, i.e. the start of the war, and the possible final stage, after occupation. While the first of these stages absolutely occurs in any war, occupation can, in practice, last a very long time and end neither with the withdrawal of the occupying forces coupled with the assumption of real power by the sovereign, nor with the annexation of the occupied territories.

The Hague Regulations consist of three sections, the first two of which deal with hostilities and the last with occupation, which is presented in the next section of the dissertation. The first section, "On hostilities," included three chapters, appropriately titled: "Determination of the belligerent," "On prisoners of war," and "On the sick and wounded," while the second section, "On enemy steps," included five chapters: "On ways to harm the enemy, on sieges and bombardments," "On spies," "On parliamentarians," "On capitulations," and "On armistice." In connection with section one, it should be recalled that the German authorities were additionally required to comply with the Geneva Convention for the Amelioration of the Fate of the Wounded and Sick in Active Armies of July 6, 1906.¹⁴⁹ (under Article 21 of the Regulations) and the Protocol concerning the

¹⁴⁶ Correspondence Respecting the Conference at Brussels [...] on the Rules of Military Warfare - 1874, "BFSP" LXV (1881), pp. 1046-1047, 1049, 1053-1054.

¹⁴⁷ General Order No. 100 - Adjutant-General's Office. Instructions for the Government of Armies of the United States in the Field, compiled by. F. Lieber, New York 1863.

¹⁴⁸ See R. Hartigan, *Lieber's Code and the Law of War*, Chicago 1983; J. Witt, *Lincoln's Code. The Laws of War in American History*, New York 2012; F. Freidel, *Francis Lieber, Nineteenth-Century Liberal*, Baton Rouge 1947; L. Harley, *Francis Lieber. His Life and Political Philosophy*, New York 1970; *Francis Lieber and the Culture of the Mind*, ed. C. Mack et al., Columbia 2005.

¹⁴⁹ Their duty also stemmed from the ratification of the Geneva Convention in 1907. (Poland, deprived of sovereignty until 1918, unlike Germany, did not ratify this agreement at the time). Thus, its provisions would

Prohibition of the Use in War of Asphyxiating, Poisonous or Similar Gases and Bacteriological Agents of June 17, 1925.¹⁵⁰ The third section of the Regulations was entitled "On the War Powers in the Territory of an Enemy State." It consisted not of chapters, but of fifteen numbered articles (Articles 42-56).

The first two sections, as normalizing the conduct of hostilities, dealt with strictly military matters, mainly the protection of prisoners of war and the conduct of hostilities. Guarantees for prisoner of war groups were included in the subsequent prohibition of war crimes in the 1945 IMT Charter. In turn, the 1948 Convention's prohibition of the crime of genocide implies that national, ethnic, racial and religious groups were protected. They could also include members of the armed forces under enemy authority. However, since the rules for the protection of prisoners of war involved the occurrence of a special war situation, it can be considered that they were in principle *lex specialis* to the general guarantees contained in the prohibition of the crime of genocide, with the difference that the essential element described in the latter was the intent to destroy the group. These issues were clarified when analyzing the prohibitions of war crimes, crimes against humanity and genocide.

have been effective against Poland even if Germany had denounced the Hague Convention (IV). This was because in 1926 the Polish authorities also acceded to the Geneva Agreement. Since the Geneva Convention for the Amelioration of the Fate of the Sick and Wounded in Active Armies was amended in 1929, both Germany and Poland decided to ratify the updated version. The *si omnes* clause was included in Article 24 of the Geneva Convention and Article 2 of the Hague Convention (IV), respectively. See Abkommen zur Verbesserung des Loses der Verwundeten und Kranken bei den im Felde stehenden Heeren. Vom 6. Juli 1906 (RGBl. 1907, 25, 279); Order of the President of the Republic of Poland of 26 I 1927 on the publication of the International Geneva Convention of 6 July 1906 on the Improvement of the Fate of the Wounded and Sick in Active Armies (Journal of Laws of 1927, No. 28, item 225); Geneva Convention for the Amelioration of the Fate of the Sick and Wounded in Active Armies, signed on 27 July 1929 (Journal of Laws of 1932, No. 103, item 864); Abkommen zur Verbesserung des Loses der Verwundeten und Kranken der Heere in Felde. Vom 27. Juli 1929 (RGBl. II 1934, 21, 208).

¹⁵⁰ The agreement provided for the renunciation of the use of poisons in warfare by 44 countries and was adopted at the conclusion of the Geneva Conference for the Supervision of International Trade in Arms, Munitions and War Equipment. The meeting took place between May 4 and June 17, 1925, under the auspices of the League of Nations. Among the original signatories of the protocol were Germany and Poland, which ratified it on April 25 and February 4, 1929, respectively. The registration of the agreement at the Secretariat of the League of Nations was made on September 7, 1929. The treaty contained a *si omnes* clause, but it was valid for Polish-German relations during World War II if only because the protocol codified customary law, the application of which was not restricted by this principle. The scope of the prohibition placed in the protocol was broad, and included the use in war of gases, liquids, materials and methods that cause suffocation, poisoning and similar reactions, as well as - according to the innovative proposal of General Kazimierz Sosnkowski - means of bacteriological warfare. It was stressed that the ban has already been incorporated into acts of international law and is an obligation imposed on the conscience and acts of nations. On this point, reference was made primarily to the Third and Fourth Hague Conventions. In their light, the term "in war" (*à la guerre*), which was used by the authors of the 1925 Protocol, should be understood. To determine a possible violation of its provisions, it is necessary to determine whether the belligerent parties were obliged to apply the said prohibition only during hostilities or in general during the state of war. The prohibitions on the use of poisons and poisoned weapons and the use of weapons, projectiles and means causing unnecessary suffering were also included in the catalog of excluded means of harming the enemy in Article 23 lit. a, e of the Hague Regulations (Protokoll über das Verbot der Verwendung von erstickenden, giftigen oder ähnlichen Gasen sowie von bakteriologischen Mitteln im Kriege (RGBl II, 1929, 19, 173); Protocol Concerning the Prohibition of the Use in War of Asphyxiating, Poisonous or Similar Gases and Bacteriological Measures (OJ 1929, No. 28, item 278); Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, "League of Nations. Treaty Series. Publication of Treaties and International Engagements Registered with the Secretariat of the League of Nations," XCIV (1929), p. 67. See J. Mierzejewski, On consolidating the historical merit of General K. Sosnkowski in establishing the international prohibition of bacteriological weapons, "Progress of Microbiology" 2 (1999), pp. 205-209).

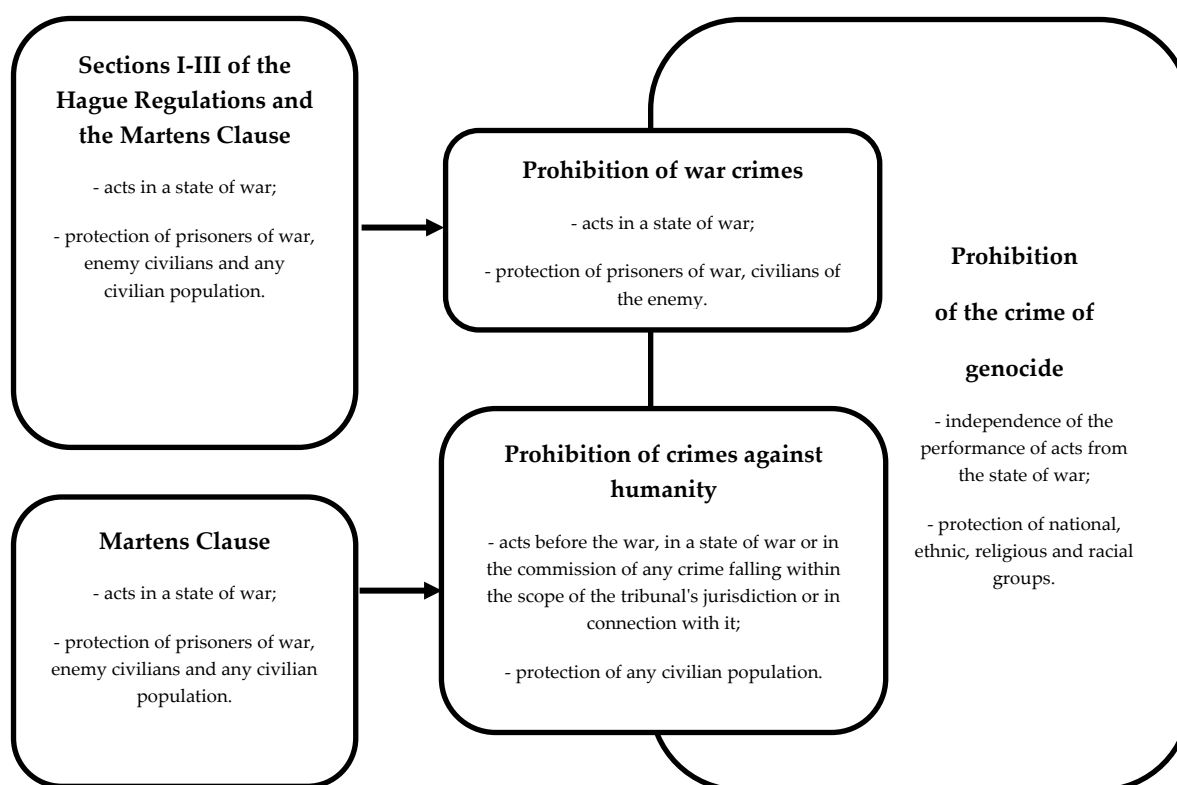


Diagram 1. Relationship between the norms of the 1907 Hague Convention (IV) and the prohibitions of crimes against humanity and war crimes in the 1945 IMT Charter and the prohibition of crimes of genocide in the 1948 Convention.

The third section of the Hague Regulations basically specified the main orders and prohibitions of the occupier in the occupied territories, on the basis of which it was possible to reconstruct a picture of the occupation *de lege artis*. First, the essence of the occupation was indicated:

"A territory is considered occupied if it is actually under the authority of an enemy army" (Article 42(1)). The conditions for its occurrence were the factuality of its exercise (there had to be an act establishing the authority) and a state giving the possibility of its exercise. Thus, international law provided for a form of military administration. The transfer of power to civilian structures was an overreach of the occupier's authority, for it meant acting beyond the necessary administration of temporarily administered lands, and thus interference permissible only after the nationality of the occupied territories had been established, which customarily occurred in a peace treaty.

Under international law, during an occupation, the state actually exercising military authority over the occupied lands could not unilaterally annex them. If such a legal possibility had existed, this would have been an effective way to avoid having to fulfill the

norms of occupation due to their inapplicability to the population of the annexed territory, which would no longer be affected by the state of war¹⁵¹ .

However, acting alongside the law, or *praeter legem*, seemingly in accordance with it, but motivated by a desire to circumvent it, was not justified under international law. Annexation, which is a legal element of conquest (*debellatio*), was not a customary legal act in 1939¹⁵² .

This argument was supported by the normative command that the occupying power observe the domestic law in effect in the occupied lands until they are conquered, which derives from Article 43 of the Hague Regulations. This rule did not apply if there were absolute obstacles. During their duration, it was necessary to suspend the application of internal law, but without the possibility of amending or repealing it. The occupier was to restore and ensure order and social life, using all available means, unless he had no such means, but he was obliged to overcome these restrictions as well.

The order to comply with domestic law was combined with a fundamental prohibition on interfering with the legal bond linking the people of the conquered territories with the occupied state. Citizenship as an institution of domestic law was not subject to modification or abolition regardless of the occurrence of absolute obstacles. The only obstacle of this nature to the maintenance of citizenship could be the collapse of the state involving, in a simplified theoretical model, the loss by the state of all of its territories and the liquidation of its supreme authority. Annexation of all or part of the territories would not be sufficient cause to deprive the state of subjectivity in the international arena. The nationality of the civilians and their actual linguistic, cultural, historical or familial ties to the occupying state should also be excluded from the catalog of absolute obstacles. In other words, even a favorable relationship between the population of the occupied territory and the state serving as temporary administrator would not entitle the latter to carry out a change of citizenship.

Section III of the Hague Regulations formulated prohibitions against coercing the enemy's population to provide information of a military nature (Article 44) and swearing an oath of allegiance to it (Article 45). In practice, the unwillingness of civilians prevented news of two categories, namely concerning the enemy's army and the means of its defense. The second prohibition implied, for example, that the enemy's civilian population could not be conscripted into the occupying forces. However, unlike the occupier's order to comply with domestic law, as provided for in Article 43 of the Regulations, the prohibition on swearing allegiance to the enemy state concerned the use of coercion against the population, so a citizen of an occupied state expressing a desire to join the occupier's armed forces had such authority. However, depending on the domestic law of the citizen's home state, under

¹⁵¹ The condition of the existence of a state of war was not recognized in the judgments of post-war courts, and was abolished in Article 2(1) of the First Geneva Convention of 1949. See the Geneva Convention for the Amelioration of the Fate of the Wounded and Sick in Active Armies of 12 August 1949 (Journal of Laws of 1956, No. 38, item 171, Annex). Cf. list of signatories to the Convention: ICRC, Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949. state parties, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=365, accessed 29 II 2020.

¹⁵² A. Klafkowski, *Law...*, pp. 249-250.

certain circumstances such a member of the armed force would face legal consequences for his act, as provided, for example, in the military penal code.

Article 46 of the regulations generally guarantees the rights of the people: "Family honor and rights, individual life and private property, as well as religious beliefs and the performance of religious rites shall be respected. Private property shall not be subject to confiscation." The hierarchy of objects of legal protection requires consideration of the quoted norm. The terms used to define the first object are noteworthy - they are understood intuitively, and their meanings derive primarily from outside treaty-based international law.

The drafters of the Hague Convention (IV) made several references to the vague concept of honor, institutionalizing the release of a prisoner of war on his word of honor (Articles 10-12 of the Rules), defining the consequences of such a liberation (Article 14) and ordering belligerent parties to include provisions on military honor in surrenders (Article 35). Although it was in vain to find a legal definition of honor in international law, it should be noted that the provisions of Article 46 of the Regulations were literally taken from Article 38 of the Brussels Declaration of 1874. The terms "honor" and "family rights," meanwhile, appeared in the Lieber Code of 1863. Its Article 37 stated: "The United States acknowledge and protect [...] the sacredness of domestic relations", thus legally recognizing the inviolability (indeed, the sanctity) of these relations. On the sidelines of the Hague Permanent Court of Arbitration's judgment in the case of "The Pious Fund of the Californias" (between the United States and Mexico) of October 14, 1902, Jackson Ralston, an American agent, expressed his belief that personal honor (individual honor), which in his opinion was losing its meaning as a legal concept at the time, should be eliminated from international relations (presumably in relation to a nation or state), and this process should be supported by the said court¹⁵³.

Slightly more light was shed on this issue by considering - not only in law - the honor¹⁵⁴ belonging to the individual (human honor), groups (family honor), communities (nation honor) and subjects of international law (state honor). Regardless of the subjective scope, however, the concept seemed to remain semantically unchanged. There was a particular

¹⁵³ Jackson Ralston expressed the following opinion: "We may hope that precisely as questions formerly believed to involve individual honor have in many countries entirely ceased and in others are ceasing to be settled by formal exercise of force, the same revolution may gradually be effected in the affairs of nations. The Permanent Court of Arbitration, assisting this end, must tend to bring about that "peace on earth, good will toward men" for which Christians hope" (United States vs. Mexico. Report of Jackson H. Ralston, Washington 1902, p. 861. cf. P. Higgins, *The Hague Peace Conferences and Other International Conferences Concerning the Laws and Usages of War Texts of Conventions with Commentaries*, Cambridge 1909, p. 46).

¹⁵⁴ For example, Alexis de Tocqueville, the 19th century French diplomat, political scientist and historian, pointed out two meanings of honor: „1. It first signifies the dignity, glory, or reverence which a man receives from his kind [...] 2. Honour signifies the aggregate of those rules by the assistance of which this dignity, glory, or reverence is obtained". The author added that honor peculiarly understood as an intellectually sterile, abstract idea allows those guided by it to feel recognition or blame. In contrast, Karl Demeter, a German historian and sociologist active in the last century, stated: "Honour can be either a condition or a reflex, subjective or objective: it can be purely personal or it can be collective". A. de Tocqueville, *Democracy in America*, vol. 2, New York 1841, pp. 245-246; K. Demeter, *The German Officer-Corps in Society and State (1650-1945)*, New York 1965, p. 111. Cf. A. de Tocqueville, Vol. II. Part III. Chapter XVIII. On the conception of honor in the United States and in democratic societies in general [in:] *idem*, *On Democracy in America*, transl. B. Janicka, M. Krol, Warsaw 2005, p. 592; A. Hertz, *Honour's Role in the International States' System*, "Denver Journal of International Law and Policy" 2 (2002), pp. 113-116.

focus on circumstances in which unjustified anthropomorphizations of nation and state were made.

Anthony Deryng used a romantic parallel in passing, defining the honor of the state as its self-love¹⁵⁵, which corresponded to the common understanding of the term, but in relation to human beings. This is because the concept was derived from a system of non-state law¹⁵⁶, regulating relations in communities whose members motivated their conduct by the need to preserve their good name, honor, personal dignity, honesty and nobility. Honor proceedings, being, as it were, a private, extrajudicial supplement to the arbitration procedure, were intended to give satisfaction to the insulted party.

Perhaps the most exhaustive description of honor-related issues is found in the codes pertaining to it. It is no exaggeration to say that in the interwar period the most popular set of regulations governing the procedure for defending one's good name in Poland was the Polish Code of Honor by Władysław Bożewicz - between 1919 and 2016 the publication appeared a dozen times¹⁵⁷. The General Principles of Honorable Conduct was also published several times between 1927 and 2012. Code of Honor¹⁵⁸. The rules contained in this anthology made it possible to detail the concept of honor being protected (understood as self-love)¹⁵⁹, the definition of an honorable and honorless person, and finally the subject and object sides of the offense and its subject.

As a result of the occupier's fundamental obligation to comply with the domestic laws in effect in the occupied territories, as stipulated in Article 43 of the Rules of Procedure, the occupier was also obliged to take into account in its activities the local honor code, which regulates relations between parts of the civilian population of the occupied area, i.e. in the community of people of honor. Hence the relationship between international law and "the laws in force in this [occupied] country."

Article 46 of the Hague Regulations guarantees family rights in addition to family honor. From post-war international laws and customs (though mainly from the law of occupation as developed in the Fourth Geneva Convention¹⁶⁰) compiled in the Red Cross study of the principles of international humanitarian law, it is clear that respect for the life of the family encompasses three basic levels: maintaining the unity of the family, contacts between its members and providing information about their whereabouts.

¹⁵⁵ A. Deryng, Main ..., p. 5.

¹⁵⁶ See B. Wroblewski, Honor, dignity, honor, "RPW" 8 (1936), s. 93-143.

¹⁵⁷ W. Bożewicz, Polski kodeks honorowy, Warsaw 1919; cf. *idem*, Polski kodeks honorowy, Warsaw 2016. In addition, collections by Tadeusz Zamojski, Eugeniusz Krzemieniewski, Zdzisław Konwerski, Jan Gumiński, Stanisław Goray, Antoni Malatyński, Janusz Skarbek-Michałowski and Juliusz Sas-Wisłocki have been published (L. Kania, O pojedynkach, Kodeks Bożewicza i ludziach honoru. A legal and historical sketch, "Studia Lubuskie. Works of the Institute of Law and Administration of the State Higher Vocational School in Sulechów" 2 (2006), p. 58. See T. Zamojski, E. Krzemieniewski, Code of Honor, Warsaw 1924; S. Goray, New Code of Honor, Poznań 1939; J. Skarbek-Michałowski, Rules of Honor Procedure Agreed with the Statute of Officers' Courts of Honor, Zaleszczyki 1935; J. Sas-Wisłocki, Academic Code of Honor, Warsaw 1934; A. Malatyński, Code of Honor Procedure, Warsaw 1932).

¹⁵⁸ W. Bożewicz, Honor Code. General principles of honorable conduct, Krakow 2012.

¹⁵⁹ *Ibid.*, p. 11.

¹⁶⁰ See Articles 25(1), 26, 49(3) of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of Aug. 12, 1949 (Journal of Laws 1956, No. 38, item 171, Annex).

The signatories of the Regulations provided comprehensive protection for the individual in the following spheres of his functioning: biological (protection of life), spiritual (right to religious beliefs and their expression in the form of worship) and economic (protection of private property). It should be emphasized that international legal protection extends not only to individual life, but also to the health that comprises it and access to medical care and medicines. The deprivation of individual life, especially as a result of collective punishment, was formally prohibited in Article 50. According to the rule of a *maiori ad minus* applied above, that is, inferring from the greater to the lesser, if an individual was guaranteed the performance of religious worship, he also had the right to possess devotional items and pursue private devotion.

The regulations emphasized that an individual's property may not be confiscated, that is, expropriated to the state without adequate compensation, as may "the property of municipalities, ecclesiastical institutions, charitable institutions, educational institutions, and institutions of the fine arts and sciences" (Article 56(1)). Incidentally, seizure, destruction and deliberate desecration of these institutions and objects related to them, such as monuments, works of art, and book collections, were prohibited. Robbery, or confiscation, in the course of which the expropriator uses violence, was forbidden in Article 47. The prohibition of confiscation of private property was conditional in the regulations and subject to a number of exceptions, set forth in its Articles 48-52. The first exception concerned the occupier's ability to collect taxes, tolls and turnpikes, but as far as possible in accordance with the internal laws of the occupied territories. Exercising the occupation power gave rise to the obligation to pay for the administration's activities in proportion to the expenses incurred by the existing authorities. In principle, however, the possibility presented in Article 48 was the result of the occupier's order to comply with internal laws (Article 43).

The indication of further exceptions to the prohibition on confiscation of private property was intended to prevent the occupier from pursuing a fiscal policy. Although he could impose other monetary tributes on the local population, their purpose was strictly defined - these were the needs of the army and administrative requirements (Article 49). He did not have the right to legitimize the expropriation of individuals, justifying actions by the need to carry out collective punishment (Article 50). It should be emphasized that the norm implied the prohibition of collective punishment in any form, not just financial, such as stigmatization, arrest, imprisonment or restriction of individual rights. On the other hand, the collection by the occupier of a contribution, i.e. a monetary tribute to him, had to be in accordance with the domestic law in effect in the occupied territories, and it had to be based on an order from the general-in-chief, bearing responsibility for its execution. Moreover, the payers in this situation had to receive a receipt for the payment of the contribution (Article 51). In-kind requisitions and services and benefits in kind were distinguished from monetary tributes and contributions (Article 52). Benefits from the first group could be obtained by the occupier from both municipalities and their populations for the purposes of his army, but he had no right to use them against the occupied state. The legal basis for requisitioning in kind and obtaining services was the authorization of the local commander. Conditions regarding destination and use, on the other hand, did not apply to the requisition of private means of carrying messages, transporting people and property (except under maritime law), weapons and munitions

stores of war. In the event of such requisitioning, restitution was later to be made (Article 53(2)). Cash remittance was considered the preferred form of benefits in kind, and a receipt had to be issued by the occupier in case of transfer in any other form.

Different regulations applied to the property of the occupied state (public edifices, real estate, forests, farms), which was considered subject to the temporary administration of the occupier obliged to protect it and use it for its intended purpose (Article 55). The property of municipalities was treated as state property (Article 56(1)), but the finances of the occupied state left behind (cash, funds, bonds) and movable property for war purposes (arms depots, means of transportation, provisions, and, in cases of absolute necessity, submarine cables connecting occupied territory with neutral territory) could be requisitioned (Article 53(1) and Article 54).

To summarize - in the Hague Convention (IV), in Section III of the Regulations entitled "On the War Powers in the Territory of an Enemy State", the rights and obligations, and thus the legal international status of the occupying power in the territories it occupied were regulated. The basic norms of occupation law were the order to obey the laws of the occupied state, the order to protect the rights of individuals as widely as possible and the prohibition of confiscation of private property. In principle, the occupier acted as a substitute for the legally administering state's territories and could exercise his powers only *ad interim*, that is, until the nationality of the occupied territories was determined in accordance with international law. In particular, however, he had no right to exercise activities beyond the existing ordinary administration of the occupied state, except for actions justified by the circumstances of war.

Prohibition of war crimes in the 1945 IMT Charter

Situations not mentioned in the Hague Convention (IV), but which could arise during war, were to be qualified, according to the will of its signatories, in accordance with "the principles of the law of nations, flowing from customs established between civilized peoples and from the principles of humanitarianism and the requirements of social conscience" (paragraph 9 of the preamble). International legal guarantees for the belligerent party and its people were also placed in these sources. This rule was introduced into the Convention as a result of a proposal made by Fyodor Martens, a Russian lawyer and delegate to the Second Hague Conference.

The Martens Clause¹⁶¹ was a legal norm binding on the signatories, which, several years before the adoption of the Statute of the Permanent Court of International Justice, identified certain sources of international law relevant to the determination of the norms of the law of war.

¹⁶¹ Cf. M. Kalduński, On the Martens Clause in International Law Today [in:] Contemporary Problems of Human Rights and International Humanitarian Law. Materials of the 1st Warsaw-Toruń Colloquium on Human Rights and International Humanitarian Law, Toruń, December 10-11, 2008, ed. T. Jasudowicz et al., Toruń 2009, pp. 295-313.

The primary importance of the Martens clause in justifying the validity of the prohibition of war crimes, as known from the 1945 IMT Charter, is due to the fact that the Charter codified the customary prohibition and it was difficult to demonstrate its contradiction with "humanitarian principles and the requirements of social conscience." On the contrary, the adoption of the Charter by numerous states and its antecedents indicate the opposite tendency - the strong desire of the international community to legally define the prohibition of war crimes.

Prior to the IMT Charter, acts of fundamental international law were also adopted that affirmed the criminality of acts attributed to Germany and announced the trial of those guilty of committing them, among them the inter-allied declaration signed at St. James' Palace in London on January 13, 1942¹⁶² and the Declaration of German Atrocities signed in Moscow on October 30, 1943.¹⁶³

Paragraph 3 of the first of these documents provides for the organization of a judiciary to try those guilty of such acts as "acts of rape over the civilian population, abrogation of the operation of laws or abolition of the state system and customs of [occupied] countries" (paragraph 4). These crimes were specifically prohibited by Articles 23(b) and (h), 43 and 46 of the 1907 Hague Regulations. In addition, the declaration provides for cooperation in the fields of detection, prosecution, arrest and execution of sentences imposed (paragraph 4). The act was signed by representatives of the eight governments of the German-occupied countries and the plenipotentiary of the National Committee of Free France. The endorsement testifies to a common will to identify sanctions for crimes and to apply them effectively. The signatories of the declaration referred to the October 25, 1941 statements of President Franklin Roosevelt¹⁶⁴ and Prime Minister Winston Churchill¹⁶⁵ regarding Germany's responsibility primarily for the murder of hostages, who were collectively punished "for individual attacks on Germans" (excerpted from the American president's speech). Responsibility for violations of international law in the occupied part of the USSR was also charged to Germany by Vyacheslav Molotov, Soviet Foreign Minister, in notes dated November 27, 1941¹⁶⁶ and January 6, 1942.¹⁶⁷ In the context of the aspirations of the German-occupied states, occupied in part (the USSR) and free from German

¹⁶² The [Inter-Allied] Declaration [signed at St. James's Palace London on 13th January, 1942] [in:] Punishment for War Crimes. The Inter-Allied Declaration Signed at St. James's Palace, London, on 13th January, 1942 and Relative Documents, London 1942, pp. 3-4. Cf. Polish translation: Declaration of the Allied Countries Occupied by Germany on Punishing Nazis and Their Accomplices for Crimes Committed (St. James Palace Declaration) [in:] Prosecution and Punishment..., pp. 109-110. See F. Ryszka, Nuremberg..., pp. 93-111.

¹⁶³ Declaration of German Atrocities, "FRUS DP [1943]" I (1963), pp. 768-769. See detailed documentation of the Moscow Tripartite Conference, held between October 18 and November 1, 1943: The Tripartite Conference in Moscow, October 18 - November 1, 1943, "FRUS DP [1943]" I (1963), pp. 513-781.

¹⁶⁴ The Statement Issued by President Franklin D. Roosevelt on the Execution of Hostages by the Nazis, October 25, 1941 [in:] Punishment for War Crimes..., p. 15. Cf. Translation in Polish: Statement by President Franklin D. Roosevelt regarding the responsibility of the Germans for their conduct in the occupied territories [in:] Prosecution and Punishment..., p. 103.

¹⁶⁵ The Statement Issued by the Prime Minister Winston Churchill on the German Executions of Hostages, October 25, 1941 [in:] Punishment for War Crimes..., p. 15. Cf. Polish translation: Statement by Prime Minister Winston Churchill on the Responsibility of the Germans for Their Conduct in the Occupied Territories [in:] Prosecution and Punishment..., p. 104.

¹⁶⁶ Atrocities Against Red Army Prisoners. The Note Sent by V.M. Molotov on November 27, 1941 [in:] The Molotov Notes on German Atrocities, London 1942, pp. 16-20.

¹⁶⁷ Atrocities Against the Civilian Population. The Note Sent by V.M. Molotov on January 6, 1942 [in:] *ibid*, pp. 2-16.

occupation of the United States and Great Britain, it can be said that at the latest in early 1942. the German authorities had lost the legal basis for denying their responsibility for crimes under international law committed in the occupied territories and the sanctions and justice necessary to try a wide range of those responsible.

No less fraught with international legal consequences was the 1943 declaration, known as the Moscow Declaration. Its signatories, namely the United States of America, Great Britain and the USSR, decided to detail the provisions of the 1942 declaration. They agreed that those accused of committing crimes of international law, whose acts can be linked to a specific state territory, would be extradited to countries interested in trying them. However, they did not settle the case of major German criminals, which was not done until the 1945 London Agreement on the subject, which included the Charter of the International Military Tribunal. It is not insignificant that the 1943 Declaration was unanimously adopted by the three most prominent Allies, acting "in the interests of 32 united nations," which further increases the value of the agreement as a source of international law and compels one to consider its provisions as a unanimous expression of the will of the states opposing the German occupation.

The prohibition of war crimes is defined in Article 6(b) of the IMT Charter as "violations of the laws and customs of war," after which it indicated: "Such violations will include, but will not be limited to, the murder, mishandling or deportation for forced labor or other purposes of civilians in or from an occupied area, the murder or mishandling of prisoners of war or persons at sea; the killing of hostages; the plunder of public or private property; the wanton demolition of settlements, towns or villages, or the wreaking of havoc not justified by the necessity of war."

The prohibition of war crimes has two structural elements. The first is the general characteristic, or its *chapeau*, defined in the statute primarily as violations of applicable treaty and customary law governing the conduct of land war. Contractual obligations as sources of international law were identified by direct reference to the Hague Regulations, which codified the laws and customs of land warfare, and the Convention Relative to the Treatment of Prisoners of War of July 27, 1929¹⁶⁸ (the so-called Geneva Convention III of 1929)¹⁶⁹. International custom, on the other hand, was established in the Charter of the IMT, and was justified during the years of World War II by the Nuremberg Judgment of 1946.

The constitutive elements of war crimes should also include the general elements of crimes against peace relating to the subject of the crime described above (Articles VI(1), VII and

¹⁶⁸ Convention Relative to the Treatment of Prisoners of War, signed in Geneva on July 27, 1929 (OJ 1932, No. 103, item 866). Cf. the list of its signatories: ICRC, Convention Relative to the Treatment of Prisoners of War. Geneva, 27 July 1929. state parties, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelect ed=305, accessed 29 II 2020.

¹⁶⁹ Its designation as the third is due to the revision of humanitarian legislation made in Geneva on August 12, 1949. The First Geneva Convention of 1864 dealt with improving the lot of the sick and wounded in active armies (it was revised in 1906, 1929 and 1949), the Second Convention of 1949. - to improve the fate of the sick, wounded and shipwrecked of armed forces at sea (was a concretization of the norms contained in the 1907 Hague Convention (X)). The Third Convention of 1929 was replaced by new regulations in 1949, and the Fourth Convention, also of 1949, relating to the protection of civilians in time of war, developed the norms known from the 1899 Hague Convention (II) and the 1907 Hague Convention (IV).

VIII of the Charter), among them those relating to the circumstances of the occurrence of the war and the characteristics of the potential circle of victims. The commission of war crimes could only occur during a war understood as an international armed conflict. In connection with a state of war, victims had to be defined, among them civilians in or from the occupied area, prisoners of war, persons at sea and hostages. Not every act considered a war crime applied to all of these collectivities. For example, "murder" and "malfeasance" were prohibited against civilians and prisoners of war, but deportation only in the case of the former group. The deprivation of the above guarantee for prisoners of war was linked to the authority of the authorities of the enemy state to relocate them, which was normalized in Articles 25-26 of the Geneva Convention of 1929. If the deportation of prisoners of war was deemed unlawful under the IMT Charter, their relocation in accordance with Geneva legislation would allow the perpetrators of the transfer to be punished. Collectively, the protected groups were classified as the population of occupied territories, which was based on terminology taken from the Hague Regulations. In other words, they comprised the population of an enemy state under the authority of the occupying power. In the context of the definition of the crime, which banned the murder of civilians and prisoners of war, it should be noted that membership in only one group was not required - the collective could be of a mixed nature with the proviso that its members had ties to the occupied state.

The second structural element of the prohibition of war crimes was the special moieties, or basic acts. The IMT Charter indicated an open-ended catalog of them, developing the 1907 Hague legislation and the 1929 Geneva Convention III. The 1946 Nuremberg Judgment stated that the prohibition of war crimes follows from Articles 46, 50, 52 and 56 of the Regulations and Articles 2, 3, 4, 46 and 51 of the Geneva Convention¹⁷⁰. The indicated norms of the Regulations were in its Section III, "On the War Power in the Territory of an Enemy State." It was emphasized that the applicability of the Regulations was excluded due to the *si omnes* clause in Article 2 of the Hague Convention (IV): "Several of the belligerents in the recent war were not parties to this Convention."¹⁷¹. Hence the need to codify customary law, which was manifested in the adoption of the Rules of Procedure and then the IMT Charter.

The restriction under the *si omnes* clause did not apply to the implementation of the Geneva Convention. The signatories to that agreement agreed to incorporate its provisions in their actions more broadly, adding: "In the event that, in time of war, one of the belligerent parties does not belong to the Convention - its provisions will nevertheless be binding on the belligerent parties that belong to it" (Article 82(2)). In addition, denunciation of the Convention during the war by a state involved in it remained ineffective until peace was concluded (at which time the one-year term of denunciation began to run) and absolutely until the repatriation of prisoners of war was completed (Article 96(3)). Termination did not affect the obligations of the other signatories to the agreement (Article 96(2)). The extension of its temporal scope made it possible to overcome the negative effects of the implementation of the *si omnes* clause contained in the 1906 version of the Geneva Convention. (Article 24 of the agreement).

¹⁷⁰ Trial..., vol. I, p. 253.

¹⁷¹ *Ibid.*

In concreto, based on the indications of the Nuremberg judgment, it is possible to compare the pre-war regulations with the findings of the IMT Charter. First, it is important to note the characteristics of the norms of the Hague Regulations indicated by the Nuremberg tribunal. The unlawfulness of the acts described therein consisted in exceeding the powers of the occupying power, which established and actually exercised the authority of its army in the conquered territories. Secondly, these norms protected the rights of the population of the occupied territories, that is, the population of the enemy state, and the individuals, communities (municipalities) and their members (residents) functioning within it, as well as institutions (ecclesiastical, charitable, educational, fine arts and scientific). Third, the norms cited were very general, and yet the seeds of the norms of the IMT Charter can be identified in the Hague Regulations. The degree of similarity between the two agreements described varies from regulations that are relatively semantically convergent or even identical (e.g., the statutory injunction to respect the lives of individuals and the prohibition of murder of civilians, also derived from the IMT Charter), to similar ones (e.g. the statutory prohibition of confiscation of property and the prohibition of robbery of property in the IMT Charter), to norms merely allowing affinities to be established (e.g., the statutory limited authority to require services from municipalities and residents, and the prohibition of deportation for forced labor or other purposes of the civilian population in the IMT Charter). However, it would be incorrect to say that the charter merely detailed the regulations - it seems to have enriched them with customary arrangements and modernized the language. The Nuremberg Judgment of 1946 stated that although the signatories of the Hague Convention (IV) wanted to revise the legislation of war, by 1939 the Rules of Procedure had managed to become customary law: "By 1939 these rules laid down in the Convention [of 1907 respecting the Laws and Customs of War on Land] were recognized by all civilized nations, and were regarded as being declaratory of the laws and customs of war which are referred to in Article 6 (b) of the Charter."¹⁷² . According to the adjudicators, the legal international validity of the indicated norms was determined by practice and their recognition by all civilized nations.

In addition to the Regulations, the Nuremberg Judgment invoked five articles of the 1929 Geneva Convention, which defined possible actions and omissions of the enemy state against prisoners of war, that is, persons captured by them. In addition to them, the convention protected persons belonging to one of several categories listed in Articles 1-3 of the regulations (Article 1(1) of the convention) and captured members of the enemy's naval and air forces (Article 1(2)). Thus, prisoners of war could be combatants and non-combatants included in the armed forces of the belligerent: land, sea and air. The similarity between the norms of the 1929 Geneva Convention and the IMT Charter also varied. As manifestations of the Charter's indicated general prohibition of ill-treatment of prisoners of war, one can consider the Convention's derived injunctions, among others, to protect them from attacks of rape, insult and public curiosity, and the prohibition of retaliatory measures against them (Article 2). To sum up - the prohibition of war crimes in force in Poland and Germany resulted not so much from its post-war recognition, which would have meant violating the principles of *lex retro non agit* and *nullum crimen sine lege*, as from the establishment of customary law in the IMT Charter. The 1946 Nuremberg

¹⁷² *Ibid.*, p. 254.

Judgment reconstructed the prohibition using the treaty law contained in the 1907 Hague Regulations and the 1929 Geneva Convention. Formally non-binding on Germany, the regulations nevertheless applied to them, albeit on the basis of other sources of international law, namely general principles of law, as the Nuremberg Tribunal pointed out in 1946.¹⁷³ The applicability of the 1929 Convention in wartime is unquestionable. The prohibition of war crimes was established to protect the rights of the enemy population temporarily under the authority of the enemy state, as they were at a disadvantage, being deprived of the legal protection of their own state. Among the enemy population, the definition in the IMT Charter singled out groups who, by virtue of their pro-state activities, could expect particularly discriminatory treatment from the enemy state, such as prisoners of war.

It should be noted that despite the contemporary close ties in international law, the prohibitions on war crimes, crimes against humanity and crimes of genocide¹⁷⁴, as well as crimes against peace have a different genesis. The definitions of war crimes and crimes against peace were based on treaty law, customary law and general principles of law in effect during World War II. In contrast, the crimes against humanity and crimes of genocide described later in this monograph were not codified before the outbreak of World War II.

Protection of the remaining civilian population

The subject of the protection of the laws of war became not only the population of the belligerent party, but any civilian population. Although in uncodified form, the prohibition of crimes against humanity derived from the 1945 IMT Charter also applied under certain circumstances during and before World War II.

Prohibition of crimes against humanity in the 1945 IMT Charter

Also, the prohibition of crimes against humanity was included in the 1945 IMT Charter. Although it was a definitional *novelty*, it regulated customary international law in force prior to its treaty establishment. The prohibition of crimes against humanity, grounded in the idea of the humanization of war contained in the Martens Clause of the Hague Convention (IV), came to be regarded as an international legal specification of possible incidents that were not normalized in the existing laws adopted by the signatories to the Convention. The lack of codification of the prohibition of crimes against humanity was eliminated - by its establishment - as a response to the actual violation of the rights of civilians not belonging to the warring parties.

¹⁷³ *Ibid.*, p. 254.

¹⁷⁴ G. Mettraux, *International Crimes and the "ad hoc" Tribunals*, Oxford 2005, p. 315.

The prohibition was first defined in Article 6(c) of the IMT Charter, and covered "murder, extermination, turning people into slaves, deportation and other inhumane acts committed against any civilian population, before or during the war, or persecution on political, racial or religious grounds in the commission of any crime falling within or in connection with the jurisdiction of the Court, whether in accordance with or in conflict with the law of the country in which the crime was committed."

In addition to the general characteristics of crimes against humanity, also indicated in the described prohibitions on crimes against peace and war crimes, the cited definition also takes into account the other elements of its chapeau: the subjective jurisdiction of the protected group, the connection of the acts committed to the war, the dependence of the crime on any other crime tried by the tribunal, and the lack of influence of national law on the unlawful nature of crimes against humanity.

The general denominations made it possible to distinguish crimes against humanity from, similar in specific denominations, war crimes. Before analyzing this issue, it is necessary, for the sake of order, to point out the basic acts of crimes against humanity - murder, extermination, turning people into slaves, deportation and persecution, the commission of which was limited by an enumerative list of possible motives: political, racial and religious. The openness of the catalog of potential unlawful acts and omissions was emphasized by the addition of the phrase "other inhumane acts."

However, the conditions for qualifying acts as crimes against humanity expressed in its general characteristics, which allow distinguishing these crimes from war crimes, deserved attention in the first place. The first criterion is the protected subject. In the case of war crimes, the guarantees covered the population of the occupied enemy state, and with crimes against humanity - "any civilian population," that is, both the non-occupied state and its own. Hence the conclusion that a crime against humanity belongs to the category of international legal crimes committed without regard to an individual's legal ties to a state in a particular state.

The second general characteristic of crimes against humanity concerns the connection of the underlying acts (all except persecution) with the war. Their commission could only occur before or during the war. While it seemed relatively uncomplicated to determine the duration of the war and especially when it began, it could prove difficult for adjudicators to determine when the period before the war began.

The exclusion of the need for persecution in pre- or wartime circumstances was replaced by a requirement that it be linked to any crime tried by the tribunal, that is, war or crimes against peace. This criterion also applied to all other categories of acts that are crimes against humanity, as was finally stated in the protocol correcting the discrepancy in the October 6, 1945 charter.¹⁷⁵ The definition of crimes against humanity emphasized their relationship to crimes against peace and war, both in temporal terms (the simultaneity of

¹⁷⁵ Contrary to the intentions of the legislators and the meaning of the 1945 IMT Charter, in its English and French versions the condition of committing at or in connection with any crime tried by the tribunal referred only to persecution. The disjunctive alternative resulting in this error, on the other hand, did not appear in the Russian text. As a result, a correction was made in the English version - the semicolon was replaced by a comma. The French text was also rewritten accordingly (Protocol Rectifying Discrepancy in the Charter [of the International Military Tribunal, October 6th, 1945] [in:] Trial..., vol. I, pp. 17-18).

the crimes expressed by the phrase "at the time of the commission"), as well as in subject and object terms ("connection with it [another crime]"). In practice, this meant the obligatory connection of the committed acts with at least a plan or conspiracy to provoke an aggression war, the establishment of which made it possible to determine the first moment of the occurrence of crimes against humanity.

The prohibition of crimes against humanity indicates that it applies to civilians regardless of citizenship, so the act is unlawful regardless of the law of the country where the crime was committed. Thus, even if domestic laws permitted the commission of the acts mentioned in the IMT Charter, they were contrary to international law. Essentially, therefore, in this regard, the signatories of the IMT Charter expressed *désintéressement* vis-à-vis domestic law and ordered the competent tribunal to refrain from determining the domestic legal status.

Using terminology taken from the Hague Regulations' description of the laws and customs of war, it should be noted that the prohibition of crimes against humanity could apply to acts committed by:

- occupying state on the civilian population of the enemy state,
- occupying state on its own civilian population (possibly later also of an enemy state),
- enemy state on its own civilian population.

The term "states committing crimes" could not be replaced by terms referring to states at peace with each other, because then the connection between crimes against humanity and a state of war would be crossed out.

In pointing out the differences between crimes against humanity and war crimes, it is also useful to examine and compare the justifications contained in the Nuremberg Judgment of 1946 and the verdicts of U.S. military tribunals issued in twelve follow-up trials. The proceedings were conducted in the U.S. occupation zone in Germany between 1946 and 1949 against persons suspected of committing crimes listed in the Control Council's promulgated Law No. 10 of December 20, 1945.

To carry out the proceedings, six tribunals were established, proceeding under Decree No. 7 of October 18, 1946¹⁷⁶, issued by the military board of the US occupation zone. The first of these tribunals handled the first and eighth cases, the second handled the second, fourth and ninth cases, the third handled the third and tenth cases, the fourth handled the fifth and eleventh cases, the fifth handled the twelfth and seventh cases, and the sixth handled the sixth case. Of the 185 defendants, 177 were tried, as 4 committed suicide after the indictment was announced and before the verdicts were handed down, while another 4 were found unfit to stand trial. A total of 142 people were found responsible for the crimes, while the remaining 35 were acquitted. The death penalty was imposed in 25 cases (12 of which were carried out), life imprisonment in 20 cases (none of the convicts served their sentences), imprisonment in 97 cases (almost all of the convicts were released before the deadline), and forfeiture of all property in 1 case (this was later restored to the convict)¹⁷⁷

¹⁷⁶ Ordinance No. 7. Organization and Powers of Certain Military Tribunals (MGGGUSZ 1946, B, 10).

¹⁷⁷ Trials..., vol. XV, pp. 1140-1142.

. The size of the sentences handed down was frequently reduced, in addition to which convicts were pardoned or conditionally released¹⁷⁸ . Sometimes the course of their sentences was affected by their health condition. The last three German criminals tried in the Nuremberg follow-up trials, i.e. those sentenced to death in the so-called Einsatzgruppen trial - Adolf Ott, Ernst Biberstein and Martin Sandberger - left prison on May 9, 1958. The first two also sentenced to death, viz. Franz Eirenschmalz and Heinz Schubert, were released as early as 1951. Thus, despite the tremendous efforts of U.S. prosecutors and judges involved in the organization and conduct of the trials, the results of their work were lost as a result of the policy pursued toward the criminals by the occupation authorities.

Turning to *strictly* legal issues - the prohibitions on crimes against humanity and war crimes contained in Article II (1) (c) and (b) of Law No. 10, respectively, did not differ significantly from the wording familiar from the IMT Charter. The discrepancies were in the common general elements. Law No. 10 omitted the circumstances of the defendants' actions as serving the interests of the European Axis countries, individually or as a result of participation in organizations (Article 6(1) of the Charter), which was framed as follows: "Without regard to nationality or the capacity in which he [any person who committed a crime] acted" (Article II, paragraph 2 of the law). The stage and phenomenal forms of the crimes were defined somewhat differently

- They were modified, made more specific or expanded. In addition to less significant changes in the wording of provisions in Law No. 10:
- ventures (enterprises) were mentioned instead of collusion (conspiracy) (Article II, §2(d));
- The condition of the defendant's participation in an organization or group related to the commission of a crime was added as a possible condition (Article II §2(e)¹⁷⁹ ;
- With regard to the leaders committing the prohibited acts, it was indicated that they may have "occupied high political, civilian or military positions (including the General Staff) in Germany or in one of [the countries of] its allies, joint belligerents or satellites, or held a high position in the financial, industrial or economic life of any such country" (Article II § 2(f));
- abolished the responsibility of the perpetrator of the crime in any form for any acts committed by anyone in connection with the execution of the criminal plan in favor of responsibility within the limits of one's own participation in the commission of the crime;
- omitted the requirement of fairness as a justification for leniency when the defendant acts on command (Article II, § 4(b));

¹⁷⁸ The relaxation of the military tribunals' sentences was mainly the result of the actions of John McCloy, the American High Commissioner to Germany from 1949 to 1952 (M. Lee, *The Beast Reawakens. Fascism's Resurgence from Hitler's Spymasters to Today's Neo-Nazi Groups and Right-Wing Extremists*, New York - Abingdon 2000, pp. 69-71).

¹⁷⁹ Cf. the IMT adjudicators' argument regarding the criminal character of selected German state organs, party and police organizations: *Trial...*, vol. I, pp. 268-279.

- explicitly deprived the accused of the benefits of National Socialist legislation from January 30, 1933 to July 1, 1945 (restrictive provisions of the law, immunity, clemency or amnesty on the subject) in order to avoid trial or punishment (Article II, Section 5).

Law No. 10 amended the general and specific elements of crimes against humanity and war crimes. The prohibition of crimes against humanity defined the three basic acts not specified in the IMT Charter, namely *imprisonment (imprisonment)*, torture (*torture*) and rape (*rape*), and eliminated the condition of linking the prohibited acts to a state of war, and henceforth did not require the occurrence of their interdependence with other crimes tried by the tribunal.

Symbolically, the act revised the definition of the prohibition of war crimes. Redefining its scope, the signatories of the act emphasized that violations of the laws and customs of war are crimes against persons or property (*atrocities or offenses against persons or property*), originating in civilians "from" occupied territory (the phrase "occupied territory or *in occupied territory*" - *of or in occupied territory* - was dropped).

Despite these changes, the similarity of the prohibitions and the fact that the statutory terms were derived directly from the IMT Charter make it possible to compare the judgments of tribunals using similar definitions of the prohibitions of war crimes and crimes against humanity.

Before analyzing the ruling most relevant to determining the essence of the prohibition of crimes against humanity, the Nuremberg Judgment of 1946, it is worth emphasizing that the tribunal identified political opponents and Jews belonging to "any civilian population," most often connected to Germans by citizenship, as a protected group. Nonetheless, crimes committed against these populations before the outbreak of World War II were not recognized in the judgment as crimes against humanity, since in committing them there were no crimes falling under another category tried by the tribunal or there was no connection to war crimes or crimes against peace. The same acts committed after the start of the war were considered by the tribunal to have been committed in the implementation of a war of aggression or in connection with it, which made it possible to qualify them as crimes against humanity. In practice, therefore, the possibility of fulfilling the elements of crimes against humanity before the outbreak of World War II was significantly limited, if it could be proven at all. The IMT also identified two characteristics of terror against Germany's political enemies, namely, its planfulness and systematic nature, defining the organizational and realization sides of the crime, respectively¹⁸⁰. Further clues to distinguish between war crimes and crimes against humanity appeared in the sentences handed down in the follow-up trials. Thus, sequentially, in the so-called Doctors' trial, the tribunal found that the subject whose rights were guaranteed was defined differently - war crimes applied to civilians, prisoners of war and persons at sea from countries at war with Germany, while crimes against humanity applied to German and civilians from other countries¹⁸¹.

The so-called Milch Trial listed as examples of protected civilian populations Hungarian Jews and representatives of other nationalities living in Hungary and Romania. These

¹⁸⁰ *Ibid*, pp. 254-255.

¹⁸¹ *Trials...*, vol. II, p. 174.

countries were not belligerent parties against Germany, although the Reich did in fact occupy them. In view of the equivalence of the German acts against Hungarians, Romanians, Poles and Russians, and taking into account the conclusions of the judgment of the IMT, the tribunal in the second follow-up trial recognized the described acts as war crimes, not crimes against humanity¹⁸².

The verdict in the third follow-up trial, the so-called lawyers' trial, stressed that war crimes involved, among others, the civilian population of occupied enemy states, while crimes against humanity involved other civilians, primarily those with German citizenship or who had other German citizenship (such as domicile). The possibility was ruled out that acts by German citizens not grounded in administrative directives or affirmed by the German government, but directed against individuals, could be considered crimes against humanity. Otherwise, the general characteristic of the prohibition relating to the protection of the rights of any civilian population, that is, the collective, would not be fulfilled¹⁸³. Historical examples of official German protests in defense of the interests of the civilian population were also pointed out - the 1872 joint opposition of Germany, the United States and five other countries to the atrocities and pogroms against Jews carried out in Romania, and the 1915 joining of the German government in an international remonstrance against Turkey's actions against the Armenian minority. Also recalled was Germany's 1938 armed intervention in Czechoslovakia, justified by alleged violations of the rights of the Sudeten German minority¹⁸⁴. Thus, since the German authorities' presumptions about the position of the German population in Czechoslovakia were sufficient reason to initiate military action, the more likely - organized and systematically carried out - German violations of the rights of its own civilian population could, in the context of Germany's historical practice, be the subject of the tribunal's evaluation.

The standard for qualifying acts as crimes against humanity was drawn by the tribunal ruling in the fourth follow-up trial from German international law doctrine, and thus from outside treaty and common law. The author of the normative was Gustav Radbruch, who in 1947 identified three basic levels of crimes against humanity: "cruelty to human existence, dishonor of human dignity and destruction of human culture."¹⁸⁵. In addition, the judges recognized the danger that collective responsibility could be applied to the German people for crimes against humanity and war crimes, and indicated the limits of punishability of the crimes. With regard to the defendant Leo Volk, the tribunal stressed that the imputation of personal responsibility for crimes against humanity requires not only participation in the organization that committed them, but also the defendant's awareness of its acts¹⁸⁶.

The fifth follow-up trial, the so-called Flick trial, ended with the announcement of a verdict in which the judges rejected the charge that it was a crime against humanity to expropriate Jewish entrepreneurs. They found that the military tribunal had ruled by

¹⁸² *Ibid.*, pp. 790-791.

¹⁸³ *Trials...*, vol. III, pp. 972-973.

¹⁸⁴ *Ibid.*, pp. 981-982.

¹⁸⁵ "Der Grausamkeit gegen menschliches Dasein, der Entehrung der Menschenwürde und der Zerstörung menschlicher Bildung" (G. Radbruch, *Zur Diskussion über die Verbrechen gegen die Menschlichkeit*, "SJZ" Sondernummer. Humanitätsverbrechen und ihre Bestrafung (1947), p. 132).

¹⁸⁶ *Trials...*, vol. V, pp. 978, 1004, 1048.

referring to Law No. 10, of which the 1945 London Agreement was an integral part. The IMT Charter, on the other hand, was "incorporated" into the agreement, not merely "attached". The purpose of the London Agreement was to try "major war criminals," which, according to the tribunal, justified the recognition of the occurrence of a state of war or a connection to it as a sign of war crimes and crimes against humanity. Hence, the adjudicators' doubts arose over the fact that the prohibition of crimes against humanity formulated in Law No. 10 did not indicate the connection of the acts to an ongoing war as a condition, and they considered the tribunal's interpretation extending jurisdiction as not deriving from the IMT Charter. The judges also considered it unauthorized to classify acts against the property of civilians as crimes. Concluding that the prohibited acts described as crimes against humanity are against the life and liberty of the civilian population, they limited the scope of the phrase "and other inhumane acts" to those very values¹⁸⁷.

The judgment issued in the sixth follow-up trial clarified the war tribunal's subject *matter* jurisdiction (*ratione materiae*). It stated that acts against property could only be war crimes, not crimes against humanity. It was pointed out that acts committed outside German-occupied territory could not be considered war crimes, and such areas were not Austria or the so-called Sudetenland¹⁸⁸.

In its judgment concluding the seventh follow-up trial, the court stressed the need for enforceability of international law norms, including those extra-tractual, which, acting as a deterrent, positively affects the implementation of obligations between subjects of law. The judges pointed out that obstacles to the application of the law, such as its "*hopelessly inadequacy*," obsolescence, injustice or procedural weakness, should be specified. They reported that the problem could be solved by introducing amendments to eliminate the

¹⁸⁷ Trials..., vol. VI, pp. 1212-1216.

¹⁸⁸ In the case of the Anschluss, resulting in Germany's violation of Article 80 of the Treaty of Versailles - since the Austrian authorities did not establish an exile government and the troops there did not support the anti-German coalition forces during World War II (Austria therefore did not clearly oppose its annexation to Germany) - it can only be assumed with difficulty that its territory was occupied by Germany. The opposite conclusion was reached by Judge Hu Anderson in the separate opinion attached to the verdict issued in the tenth follow-up trial due to: the Austrian government's disagreement with the Anschluss and the post-war internal settlements with collaborators (also Germany after the end of the war symbolically, most likely to disinform and reassure the Allies, made a judicial assessment of the crimes, which, however, does not prove that it was occupied by a National Socialist government...). The occupation of Austria and Czechoslovakia was called "a unilateral war". From the tribunal's reasoning in the verdict in the so-called IG Farben trial, it followed that Germany would derive a legal advantage from violating the norms of international law by accepting the Munich Agreement in 1938 (an act of international law concluded to the detriment of Czechoslovakia, constituting a *pacta in odium tertii* - accepted admittedly *per facta concludentia* by the Czechoslovak authorities, but under coercion by the other signatories), since the acts committed by them in that territory could not be considered war crimes. However, the Munich Agreement was not registered with the secretariat of the League of Nations, and its provisions concerning the German-Czechoslovak border were violated by Germany, which determined the illegality, or expiration, of the agreement. Thus, Germany's occupation of the so-called Sudetenland, while maintaining the appearance of legality, violated the norms of international law and could not result in Germany's release from its obligations to prohibit war crimes in the area (Trials..., vol. VIII, pp. 1130, 1084-1085; Trials..., vol. IX, pp. 1459-1460; Agreement Signed at Munich Between Germany, the United Kingdom, France, and Italy (September 29, 1938) [in] Documents on German Foreign Policy 1918-1945. Series D (1937-1945). Germany and Czechoslovakia 1937-1938, vol. 2, Washington 1949, pp. 1014-1016. cf. Abkommen zwischen Deutschland, dem Vereinigten Königreich, Frankreich und Italien, getroffen in München, am 29. September 1938 (RGBl. II 1938, 49, 853). See Vertrag zwischen dem Deutschen Reich und der Tschechoslowakischen Republik über Staatsangehörigkeits- und Optionsfragen (RGBl. II 1938, 52, 896); Erlass des Führers und Reichskanzlers über die Verwaltung der sudetendeutschen Gebiete. Vom 1. Oktober 1938 (RGBl. I 1938, 157, 1331).

aforementioned difficulties¹⁸⁹. The tribunal's comments, by virtue of the subject matter of the trial, referred first to war crimes, but then also to crimes against humanity. In the judges' conclusion, the influence of the principles of the Anglo-Saxon legal system became apparent.

The judges of the IMT in the trial of the main German criminals identified as the source of the prohibition of war crimes the norms contained in Articles 46, 50, 52 and 56 of the 1907 Hague Regulations, while the verdict concluding the eighth follow-up trial, the so-called RuSHA trial, stated that both war crimes and crimes against humanity were defined in Articles 23, 45, 46, 47, 52, 55 and 56 of that act. The judges found it to be a cumulative source of prohibitions, although the listed provisions *expressis verbis* concerned violations of the rights of the population of an enemy state¹⁹⁰. Thus, they could not be applied to the prohibition of crimes against humanity, which provides for the protection of, among other things, its own civilian population.

The verdict of the ninth follow-up trial made familiar claims from earlier rulings regarding the basic distinction between war crimes and crimes against humanity - the origin of the civilian population (from areas occupied or not occupied by Germany) and citizenship were identified as criteria¹⁹¹.

The verdict concluding the tenth follow-up trial did not contain conclusions particularly relevant to the delineation of crimes against humanity and war crimes, nor did it identify the essential characteristics of the former.

Thanks to the openness of the catalog contained in the definition of the prohibition in Law No. 10, the specific elements of crimes against humanity were made more specific in the judgment in the eleventh follow-up trial. At that time, the conscription of representatives of foreign nationalities into the German army and the SS, treated on a par with forcing them to perform slave labor, the mental abuse of those sentenced to death by leaving them without information as to when or whether their punishment would be carried out, and, in addition, the evacuation of the population and its forced settlement, were considered basic acts. The judges' statement that the possible evacuation of Poles from the so-called "General Government" and the resettlement of Germans to the aborigines' abandoned settlements would have to be considered crimes against humanity was exceptional. Polish citizens under German occupation were, after all, the civilian population of an enemy state which, inside and outside Poland's borders, put up armed resistance approved by the legitimate Polish authorities. Therefore, there was no basis for considering the Poles of the so-called GG as any civilian population - they were the civilian population of the belligerent party. The verdict also stressed that acts committed by Germany against citizens of Germany or one of its allied states did not violate the laws or customs of war, i.e. in principle they did not constitute war crimes. In addition, the claim that the incorporation of occupied territories into Germany abolished obligations under the rules of war was rejected. In the context of these conclusions and rulings in other follow-up trials, the tribunal's classification of the evacuation of the Polish population as a crime

¹⁸⁹ Trials..., vol. XI, pp. 1240, 1254.

¹⁹⁰ Trials..., vol. V, p. 153.

¹⁹¹ Trials..., vol. IV, p. 411.

against humanity does not seem fully justified. It would have been more justifiable to consider the events as a war crime, but in the tribunal's view, despite the uncertainty about the laws and customs of war, they did not apply to the basic principles relating to the Hague legislation. In addition, the adjudicators pointed out that those participating in or condoning the theft of Jewish property or that belonging to other concentration camp inmates are guilty of crimes against humanity if their acts were part of the extermination plan and one of its objectives. In principle, the responsibility of the perpetrators of these acts was considered "independent" of the murders, which meant applying the concept of limited accessory. Thus, the material scope of crimes against humanity was expanded to include not only acts against individual life and liberty, but also property, although the act or omission had to be related to the extermination acts. In addition to the theft of Jewish property, its confiscation was also listed¹⁹².

The historical justification for prohibiting crimes against humanity and stating that individuals are responsible for their commission was cited in the verdict in the twelfth follow-up trial¹⁹³. The judges cited as an example the trial of Peter von Hagenbach, a mercenary leader in the service of Charles the Bold, Duke of Burgundy. The condottier's main tasks were to administer the territories (including Alsace) that Sigismund Habsburg, regent of Tyrol and Anterior Austria, had given as a mortgage in 1469 under the Treaty of Saint-Omer, and to collect taxes from the inhabitants of those territories. To extinguish a rebellion in Breis against Burgundian authority, Charles the Bold ordered a mercenary to burn down the town combined with looting, plundering and raping its inhabitants. These crimes were tried by an international criminal tribunal made up of representatives of 26 states affiliated to the Holy Roman Empire, which found Peter von Hagenbach liable for "crime against *the laws of God and Man*" (*crime against the laws of God and Man*) and sentenced him to have his entrails opened, i.e. disembowelled, and quartered¹⁹⁴. His death became the immediate cause of the outbreak of the Burgundian Wars, fought between 1474 and 1477. It should be noted that although Breisach, being part of the Burgundian mortgage, was not occupied, the city could be affected by hostilities¹⁹⁵. In this situation, the judges in the aforementioned verdict stated that a crime analogous to crimes against humanity in their contemporary, i.e. post-war, sense had been proven. However, they did not clarify which of Peter von Hagenbach's crimes they considered to fulfill the specific elements of crimes against humanity - only those directed against individual life and liberty, or also against property. The condottier's acts were treated cumulatively, which means that the material scope of the definition of crimes known under Law No. 10 was expanded.

To sum up - the rudimentary criterion differentiating war crimes and crimes against humanity concerned the protected subjects rather than the underlying acts, since these in some cases seemed not only similar, but even identical. The IMT Charter's legal definition of crimes against humanity differed qualitatively from that in Law No. 10, essentially removing restrictions on qualification - until now, acts committed during or in connection

¹⁹² Trials..., vol. XIV, pp. 548-549, 608, 611, 633-634, 654, 678, 685, 689.

¹⁹³ Trials..., vol. XI, p. 476.

¹⁹⁴ M. Bassiouni, Perspectives on International Criminal Justice, "VJIL" 2 (2010), pp. 298-299.

¹⁹⁵ William Schabas, mentioning the trial of Peter von Hagenbach, considered his actions to be war crimes (W. Schabas, An Introduction to the International Criminal Court, Cambridge - New York 2017, p. 1).

with war or other crimes tried by the tribunal were considered necessary. As Guénaél Mettraux has suggested, this link in the IMT Charter was established to avoid the charge that the legal standard applies *ex post facto*¹⁹⁶. Nevertheless, the defense often raised this allegation both in the main Nuremberg trial and in the subsequent trials. Besides, the essence of the crime against humanity was determined by its planning and organized execution.

A review of the judgments handed down by the IMT and US military tribunals proceeding at Nuremberg revealed the jurisprudential difficulties arising from the application of the definitions of the prohibitions of crimes against humanity derived from the IMT Charter and Law No. 10. Dilemmas arose in particular around the possibility of classifying acts prior to the outbreak of World War II as crimes against humanity and the precise determination of which protected group the victims belonged to. It was considered, for example, that Jews, although they had the citizenship of many countries, both hostile to Germany and allied, were covered by the guarantees contained in the prohibition of crimes against humanity. On the other hand, with regard to persons of Polish nationality and with Polish citizenship, there were discrepancies - according to the cited tribunal rulings, crimes against them could result in responsibility for both crimes against humanity and war crimes.

The principles of Anglo-Saxon law, incorporating the tenets of *common law*, proved to be characteristic of the procedural mode of American tribunals. The judgment of the IMT could, in principle, be considered a precedent created on the basis of codified common law. Its findings, in accordance with the rule of *stare decisis*, the obligation to follow precedents established by higher courts, were properly taken into account by military tribunals (including the IMT, although formally there was no hierarchy). Nevertheless, definitions of crimes against humanity were being clarified. For example, the verdict in the so-called Flick trial declared that acts against property, due to the definitional limitations in Law No. 10 and the prohibition of expansive interpretation, could not constitute crimes against humanity. This by no means invalidated the precedential significance of the IMT judgment and did not escape overruling, i.e., overruling precedent.

The codification of crimes against humanity, although imperfect, was a quantum leap not only toward declaring them unlawful, which was, after all, based on common law and general principles of law, but also toward criminalizing those acts that affected civilians who were not necessarily members of the warring parties. From 1945 to the present, the numerous dilemmas surrounding the definition of crimes against humanity have not been resolved¹⁹⁷.

Prohibition of the crime of genocide

¹⁹⁶ G. Mettraux, *International Crimes...*, p. 320.

¹⁹⁷ On the subject of post-war development of legislation and jurisprudence on the establishment of prohibitions of crimes against humanity and war crimes and in the context of the activities of the ICTY, ICTY, ICTR, information has appeared in numerous studies and articles (see A. Szpak, *War crimes vs. crimes against humanity in the jurisprudence of ad hoc international criminal tribunals (criteria for differentiation)*, "PiP" 1 (2012), pp. 76-87; T. Iwanek, *Crime of genocide and crimes against humanity in international law*, Warsaw 2015, pp. 171-175; G. Mettraux, *International Crimes...*, pp. 23-190).

The term "genocide," regardless of its definition, seems to most fully characterize mass crimes and is synonymous with the greatest atrocities committed in the history of humanity. In the international legal sense, the prohibition of genocide was in force in Polish-German relations in a non-treaty form. It was codified in the UN Convention of 1948, already after the end of World War II.

Prohibition in the 1948 UN Convention versus the non-treaty prohibition of genocide

The concept of genocide¹⁹⁸ is permanently associated with the figure of its creator, who managed to name a phenomenon hitherto occurring in the history of mankind, although terminologically undefined. Raphael Lemkin, a Pole of Jewish origin, born in 1900 in the village of Bezwodne in the Borderlands of the former Polish-Lithuanian Commonwealth (then under Russian annexation), not only introduced into dictionaries a neologism aptly describing the extermination of groups, but also became the father of the international agreement that defined the prohibition of genocide. After his military service in 1919-1920 (i.e., during the Bolshevik-Polish war), he began his academic career at the Jagiellonian University in Krakow¹⁹⁹, which he concluded with a doctoral degree from the Jan Kazimierz University in Lviv. As a legal secretary of the General Secretariat of the Codification Commission of the Republic, headed since 1924. Emil Rappaport, he participated in the codification of Polish law. At first he was professionally involved in the prosecutor's office (from 1929 he served as a sub-prosecutor of the district court in Brzeżany in the Ternopil province, then became a sub-prosecutor of the district court in Warsaw), and in 1934 he began practicing law in Warsaw. He devoted his life to the cause of the profound humanization of the law of armed conflict and the guarantee of protection for civilians, which international treaty law had not adequately provided before the outbreak of World War II. After the hardships of wartime wandering (he traveled from Lithuania to Sweden, then through the USSR and Japan to the United States), and then efforts to adopt the prohibition of genocide, Raphael Lemkin died in New York in 1959. He became a permanent part of the list of Polish patriots and the most prominent domestic coryphaeus of international law²⁰⁰.

¹⁹⁸ See an extremely interesting and passionately written monograph on the origins of the concepts of genocide, as well as crimes against humanity: P. Sands, *Return to Lvov. On the origins of "genocide" and "crimes against humanity"*, transl. J. Soszyński, Warsaw 2018; cf. *idem*, *East West Street. On the Origins of Genocide and Crimes against Humanity*, London 2016. see also J.-L. Panné, *Some remarks on the genesis of the term "genocide," "PiS" 1 (2007), pp. 373-382.*

¹⁹⁹ P. Zhukovsky, *The Cracow days of Rafał Lemkin's studies, "DN" 1 (2011), pp. 139-158.*

²⁰⁰ See Raphael Lemkin, *A Hero of Humankind*, edited by A. Bieńczyk-Missala et al, Warsaw 2010, pp. 31-98; A. Jones, *Genocide. A Comprehensive Introduction*, London - New York 2011, pp. 8-12; J. Wojciechowska, *Rafał Lemkin - the author of the term "genocide" [in:] Hominum causa omne ius constitutum est. Jubilee book in honor of Professor Alicja Grześkowiak*, ed. A. Dębiński et al., Lublin 2006, pp. 140-147; S. Ziębicki, *Some remarks on Rafał Lemkin - the creator of the concept of "genocide" [in:] Wybitni prawnicy na przestrzeni wieków*, ed. M. Marszał et al., Wrocław 2006, pp. 250-259; W. Schabas, *Genocide in International Law. The Crime of Crimes*, New York 2009, pp. 28-30; M. Kornat, *Rafał Lemkin (1900-1959) - a biographical study, "ZH" 147 (2004), pp. 107-157; S. Salmonowicz, Contribution of Polish science of law to world heritage [in:]*

The visionary nature of Lemkin's idea was that it allowed cumulative assessment of acts committed by states and individuals leading to the multifaceted destruction of groups of civilians and treating them as phenomena. Also significant is his ability to anticipate, as evidenced by Rafal Lemkin's proposal²⁰¹ 211 presented to the participants of the Fifth International Conference on the Unification of Criminal Law, held in Madrid from October 14-20, 1933.²⁰² Its author did not make it to the meeting, as his delegation was withdrawn by the Polish government. The political situation was becoming increasingly tense - less than a week after the scientific session Germany withdrew from the League of Nations, and Spain, the host of the session, was undergoing deep internal crises. The Madrid demands of Raphael Lemkin were based on the arrangements made at the First International Conference on the Unification of Criminal Law in Warsaw in 1927. - A procedural formula was worked out then, which the Polish jurist described as follows: "by way of analysis [one should] create a series of factual states containing actions so harmful and dangerous to the international community that their character of *delictum iuris gentium* will be universally recognized and will not raise special objections"²⁰³ . Raphael Lemkin believed that acts threatening not so much universal security as interstate security, that is, "the interests of a number of states or their inhabitants"²⁰⁴ , should be prosecuted and tried on the basis of universal repression. The jurist included in the category of *delicta iuris gentium* the acts pointed out by participants in the Warsaw forum: "maritime robbery, forgery of money and credit papers, trafficking in slaves, women and children, drug trafficking, trafficking in pornographic publications, the deliberate use of any means capable of causing general danger."²⁰⁵ . He also mentioned the crime of incitement to war of aggression, the internationalization of which was handled by Emil

Contribution of achievements of Polish science and technology to world heritage, ed. I. Stasiewicz-Jasiukowa, Warsaw-Krakow 2009, p. 319; R. Szawłowski, Rafał Lemkin - creator of the concept of "genocide" and the main architect of the Convention of 9 December 1948 (on the fortieth anniversary of his death), "PiP" 10 (1999), pp. 74-86; S. Mikke, Lawyer Rafal Lemkin - an outstanding unknown, "Palestra" 1/2 (2006), pp. 110-113.

²⁰¹ Raphael Lemkin's paper was originally printed in French, and later also appeared in Polish and German - in a Viennese legal journal (R. Lemkin, Les actes constituant un danger général (interétatique) considérés comme délits des droit des gens. Rapport spécial présenté à la V-me Conférence pour l'Unification du Droit Pénal à Madrid (14-20.X.1933). Explications additionnelles, Paris 1933; *idem*, Akte der Barbarei und des Vandalismus als "delicta iuris gentium," Anwaltsblatt Internationales 11 (1933), pp. 117-119; *idem*, Crimes of causing interstate danger as delicta iuris gentium. Conclusions to the Fifth International Conference for the Unification of Criminal Law in Madrid," Voice of the Law 10 (1933), pp. 598-604. Cf. English-language translation of the Polish jurist's dissertation: *idem*, Acts Constituting a General (Transnational) Danger Considered as Offences Against the Law of Nations, transl. J. Fussell, <http://www.preventgenocide.org/lemkin/madrid1933-english.htm>, accessed 29 II 2020).

²⁰² The Polish delegation to the unification conference included Lucjan Bekerman, head of the International Law Department at the Ministry of Justice and a Supreme Court prosecutor, and Emil Rappaport, vice-president of the International Criminal Law Unification Bureau and a Supreme Court judge. Information about the conference appeared in the Polish legal press, including the Lodz-based "Legal News." In his coverage of the conference (on p. 36), Emil Rappaport mentioned Rafal Lemkin's paper only in the context of his colleague's critical opinion on the possibility of codifying the crime of terrorism. The theme of internationalization of terrorism was the axis of Raphael Lemkin's speech at the next, 6th International Conference on the Unification of Criminal Law in Copenhagen, held between August 30 and September 4, 1935 (see Communication of the Polish Commission for International Legal Cooperation (Warsaw, Supreme Court Building), "WP" 1 (1934), p. 33; E. Rappaport, The Fifth International Conference on the Unification of Criminal Law and its predecessors (a handful of memories, impressions and thoughts 1927-1933), "WP" 2 (1934), pp. 33-40; R. Lemkin, Terrorism, "GSW" 41 (1935), s. 561-564).

²⁰³ R. Lemkin, Crimes..., p. 600.

²⁰⁴ *Ibid.*

²⁰⁵ *Ibid.*, pp. 598-599.

Rappaport²⁰⁶. Attempts to codify the prohibition of terrorism, made, among other things, in scientific discourse within the framework of the Third and Fourth International Conferences on the Unification of Criminal Law, he considered, in turn, to be inexpedient. An important *novelty* was that the jurist added "a) acts of barbarism, b) acts of vandalism, c) causing catastrophe and interruption of international communication, d) spreading pestilence" to the listed acts considered *delicta iuris gentium*²⁰⁷. The later idea of prohibiting the crime of genocide grew out of the concept of prohibitions of barbarism and vandalism formulated at the time.

Raphael Lemkin considered the crime of barbarism to be exterminatory acts directed against the individual as a member of the collective. Their results were slaughters, pogroms, inhumane treatment and undermining the economic foundations of existence of group members. In addition to the intent of the perpetrator, seeking to destroy the group, the punishability of these acts in their individual dimension is based on norms derived from national criminal law orders (murder and theft were incriminated). Raphael Lemkin argued that the criminalization of acts of barbarism as a crime of international law is due to the need to implement the principles of justice and humanitarianism, the violation of community rules of social coexistence as a result of such acts, their exemplary nature (they became a model for other countries), the economic results of the crime for the exterminated population and the countries providing refuge for them, the increase in criminal tendencies among refugees, and the fact that these crimes are carried out systematically and involve many acts²⁰⁸. He considered as acts of barbarism not only acts against life, dignity and freedom of individuals, but also against property. The perpetrator's intent expressed in his hatred of the collective or desire to destroy it remained undisputed. Among the protected groups, Raphael Lemkin listed racial, religious and social communities²⁰⁹, creating an enumerative catalog of them. In addition, crimes directed against those who stood in solidarity with the persecuted collectivity or took up its cause were to be subject to the same punishment as an act against the group. Thus, the circle of protected subjects included collectivities and individuals actively supporting them in the face of attack. The Polish jurist also provided for the punishability of the non-criminal phenomenal forms of the crime, namely incitement and aiding and abetting. He formulated his proposals in the form of a draft international agreement consisting of seven articles, which was accepted by Emil Rappaport, then president of the Polish Commission for International Legal Cooperation²¹⁰.

²⁰⁶ *Ibidem*, p. 599. See E. Rappaport, *Propagande de la guerre d'agression comme délit du droit des gens*, Warsaw, 1929. Article 113 § 1 of the Polish Criminal Code criminalized incitement to offensive war, and § 2 made the prosecution of the act contingent on its punishability in the law of the state to which the incitement pertained (Decree of the President of the Republic of Poland of July 11, 1932. Criminal Code, Journal of Laws of 1932, No. 60, item 571).

²⁰⁷ R. Lemkin, *Crimes...*, p. 600.

²⁰⁸ *Ibid.*, pp. 601-602.

²⁰⁹ In 1944, he stressed that at the time he understood a nation as a social group, and a religious community as a denomination. However, the mentioned pairs of terms are not synonymous, in a society - unlike in the case of a nation - there need not be deepened ties based on language, culture or history, while a denomination is an organizationally separate group within a religion, such as Protestantism, Orthodoxy or Catholicism in Christianity (R. Lemkin, *Governance...*, p. 122).

²¹⁰ *Ibid.*, p. 603.

Complementary to acts of barbarism, according to Raphael Lemkin, were acts of vandalism, consisting of the planned and systematic destruction of works of culture and art of a given community. The criminalization of a crime of this type in the country's criminal codes was a guarantee for the owners of certain property. However, the internal regulations did not take into account an additional aspect that changed the qualification of the act, namely the intent of the perpetrator, aiming to exterminate the group by destroying its collective cultural and artistic heritage. According to the jurist, this deficiency was to be eliminated by the adoption of the relevant act of international law. In his draft definition of acts of vandalism, he reiterated the general characteristics accompanying their commission - the perpetrator's intent, the catalog of protected groups and the punishable phenomenal forms²¹¹, which stem from the construction of the crime of barbarism. After arriving in the United States, Raphael Lemkin published in 1942 a collection of German legislation from the collaborationist states (Belgium, the Netherlands, Norway and France), the so-called lands incorporated into the Reich (including the western and northern regions of Poland) and the remaining occupied territories (including the central and eastern parts of Poland)²¹². Based on his analysis, he formulated the concept of genocide in the form of genocide. He described it, and made a thorough case study of the German occupation of Europe in a monograph published in print in English in 1944²¹³, and in Polish, his native language, only in 2013.²¹⁴ The political situation confirmed his 1933 conjecture: "The ingenuity of criminals is usually ahead of the foresight of the legislature. The abundance and variety of life phenomena make individual criminal acts come to the attention of the legislature only when their danger to society becomes apparent."²¹⁵.

From an international legal point of view, the most relevant considerations are contained in the relatively concise Chapter IX of the first part of the publication, divided into three points: "Genocide - a new concept and a new concept of annihilation of peoples," "Techniques of genocide in various fields," and "Recommendations for the future." Although the author did not present a draft legislation at the time, he comprehensively described the essence of the prohibition of genocide. The novelty of his proposal lay primarily in capturing the phenomenon of the destruction of collectivities, which he understood as "a coordinated plan of various actions aimed at the annihilation of the group itself."²¹⁶. He added that in the context of the implementation of destructive intentions, "genocide does not necessarily mean the immediate destruction of a nation."²¹⁷. The neologism "genocide," used by Raphael Lemkin to capture the intent, plan and process of annihilating groups, the Polish jurist formed from the Greek word *γένος*, meaning race, tribe or genus, and the Latin suffix *-cida*, indicating the murderer. The author of the

²¹¹ *Ibid*, pp. 602-604.

²¹² R. Lemkin, *Key Laws, Decrees and Regulations Issued by the Axis in Occupied Europe*, Washington 1942. See *idem*, *German Administration of Justice under Military Occupation*, "TJAJ" 2 (1945), pp. 10-13.

²¹³ *Idem*, *Axis Rule...*

²¹⁴ *Idem*, *Axis rule...* Cf. S. Salmonowicz, Review: R. Lemkin, "Axis rule in occupied Europe...", "ZH". 2 (2014), pp. 158-160; R. Szawłowski, Rafał Lemkin's work "Axis rule in occupied Europe" (1944) in the 2013 Polish translation, "Palestra" 5/6 (2014), pp. 260-266; S. Dębski, Some remarks in connection with the Polish edition of Rafał Lemkin's work "Governments of the Axis States in occupied Europe," "SM" 3 (2014), s. 113-120.

²¹⁵ R. Lemkin, *Crimes...*, p. 599.

²¹⁶ *Idem*, *Governance...*, p. 110.

²¹⁷ *Ibid*.

concept pointed to two phases of genocide. The first was "the destruction of the national patterns of life of the oppressed group," while the second was "the imposition of the ways of life of the oppressor." Using traditional concepts to illustrate these phases was not enough, according to the jurist, in the case of the multifaceted phenomenon of genocide. Even denationalization, such as depolonization combined with Germanization, would indicate the cultural, economic and social side of the process, not including the biological liquidation of the Polish nation.

Raphael Lemkin believed that in the face of total war, which involves fighting the enemy's civilian population to the point of its destruction, genocide was another occupation technique. He even mentioned that it was the degree of implementation of the genocidal plan - even against the final results from the battlefields - that would make it possible to determine which side, due to demographic and thus economic success, won the war and which was defeated²¹⁸. As an aside to his considerations, it is worth noting that the premise of total war was its dehumanization to the fullest extent possible, which manifested itself in the extension of warfare to the enemy's civilian population. An idea known, for example, from the Punic Wars (the Roman republic destroyed Carthage and its inhabitants in 146 BC) or the European conquests of the Mongol khans in the 12th century, came to life as a result of the democratization of political life lasting since the French Revolution of 1789. Since the people, created to legitimize the power of democrats, gained the theoretical possibility of exercising power through their representatives, they nominally became the most important subject in the state, capable of directing its destiny. As a result, starting a struggle against another state meant for the democratized nation that devastating actions should be directed against the citizens of that state and its partisans. Thanks to French thinkers and politicians in the late 18th and early 19th centuries, the semantically altered notion of the nation and the belief in its existence began to be used to shape systems of government, leading to extreme forms of self-exaltation of the nation, as was the case in Germany at the political, intellectual and public opinion levels.

Developing his theory, Raphael Lemkin distinguished the following levels of genocidal techniques: political, social, cultural, economic, biological, physical, religious and moral, after which he briefly presented examples of German actions in each area. Among the political methods, he included the way in which occupied areas were administered, the introduction of the German official language and German spelling of names, the categorization of the occupied area's inhabitants' affiliation with the German state (e.g., by degree of racial kinship or merit), the diversification of political privileges, the displacement of certain groups of indigenous people and their replacement by German settlers, who were given preferential conditions. Raphael Lemkin considered the social techniques of genocide to be the destruction of the local justice system and the introduction of German solutions and cadres, as well as the suppression of the leadership strata of the occupied territories. In the cultural sphere, he pointed to the restriction of general education and higher education, as well as the rationing of cultural and artistic activities and the theft and destruction of works of art, book collections, and archival materials. Raphael Lemkin considered the deprivation of the population's means of subsistence as

²¹⁸ *Ibid*, pp. 111-112.

economic hallmarks of genocide, including through confiscation of property, seizure of banks and exclusion from trade and commerce. As biological methods, he mentioned depopulation of racially unrelated people combined with attempts to increase the number of representatives of the so-called master race. This was served by the prohibition of marriage and the separation of women from men among racial strangers (e.g., by deportation to forced labor), the malnutrition of racially hostile persons, and social privileges for Germans with numerous offspring. As physical measures, Raphael Lemkin considered discrimination in access to food on the basis of racial criteria, the creation of a health emergency for members of foreign races and their extermination. On the religious level, he listed the destruction, confiscation and looting of the property of religious and faith communities, persecution of the clergy and obstruction of spiritual development. In the moral sphere, on the other hand, the manifestations of genocide, according to the lawyer, were attempts to strengthen primitive instincts in the "non-Aryan" population, disregarding their needs of a higher order, that is, promoting pornography and gambling, and alcoholization²¹⁹.

De lege ferenda Raphael Lemkin proposed that a prohibition of genocide should be introduced into the Hague Regulations covering two categories of basic acts. The first was to include acts against the life, liberty, health, property, honor and bodily integrity of individuals committed because of their membership in a national, religious or racial group, and the second was to include any policy of group discrimination. He justified this on the grounds of the fragmentary nature of the codification contained in this act, which resulted in a lack of systemic and organizational coverage of the phenomenon, i.e., a failure to take into account the links between individual crimes. Although some of the basic acts of genocide were prohibited in the regulations, such as in Articles 46, 48, 52 and 56 and the Martens clause, these norms were insufficient to properly regulate a phenomenon that could occur in times of both war and peace. The aggregate definition of acts lacked the connecting factors of protection of group interests and intent to destroy the group by attacking the individual. Raphael Lemkin pointed out that the prohibition of genocide needs to be implemented in the form of a multilateral international agreement, from which there will be an order to protect groups in the domestic (constitutional and criminal) law of the signatory. In his view, a catalog of punishments for the crime of genocide should be introduced and defendants should be prevented from evading responsibility by citing orders from superiors. He argued that the crime should be recognized as a *delictum iuris gentium*, and therefore its prosecution should be organized on the principle of omnibus repression (without violating the laws of countries traditionally not applying this rule). The Polish jurist advocated that, as in Articles 86-88 of the 1929 Geneva Convention (*per analogiam* to the norms for controlling the fate of prisoners of war), compliance with the revised occupation law should be verified by means of an international inspection agency. It would have the right to visit occupied states, initiate and conduct investigations into the occupying power's policies toward the civilian population of the enemy state²²⁰.

On the basis of Raphael Lemkin's proposals in his landmark 1944 monograph, the ban on genocide was adopted in an international agreement four years later. Since the publication

²¹⁹ *Ibid.*, pp. 113-120.

²²⁰ *Ibid.*, pp. 121-125.

of the book, he has devoted himself entirely to establishing the definition of genocide and the ban, and after its adoption in 1948, he fought for the ratification of the UN Convention, then for its application. Repeatedly in the pages of legal and diplomatic journals²²¹, press organs of organizations²²², but also newspapers and magazines²²³ he explained to specialists and laymen the validity of the idea of prohibition, its content and the consequences of its establishment; at the same time he continued to refine his concept. He did not hesitate to inquire whether the acts of states can be qualified as genocide, such as those that led to the great famine in Ukraine in 1932-1933²²⁴, or the persecution of Jews in Czechoslovakia and the USSR (including the Soviet anti-Jewish campaign of 1948-1953, held in 1952. Prague show trial of Rudolf Slánský, general secretary of the Communist Party of Czechoslovakia, and thirteen other Communist dignitaries, mostly of Jewish origin, and the so-called "Kremlin doctors' conspiracy" of 1952-1953)²²⁵.

In a 1945 article in *Free World* magazine, Raphael Lemkin stated that the perpetrators of genocide could be not only representatives of the state, but also members of political and social groups. He ruled out the possibility that the perpetrator of genocidal acts could defend himself, pointing to the compatibility of his acts with domestic law, since genocide is a violation of international law and morality. He added that those suspected of committing crimes cannot be judged by the state in whose interest they acted, and therefore recommended that their acts be judged by an international court or a specially created chamber within the ICJ²²⁶. He included an important comment regarding the purpose of the crime of genocide, manifested in the perpetrator's intent to destroy a group: "Genocide is directed against a national group as an entity and the attack on individuals is only secondary to the annihilation of the national group to which they belong."²²⁷. The emphasis on the secondary nature of the attack on the individual was not accidental. It

²²¹ R. Lemkin, *Le génocide*, "RIDP" 3-4 (1946), p. 193; *idem*, *Genocide, a New International Crime. Punishment and Prevention*, "RIDP" 3-4 (1946), p. 188; *idem*, *Genocide as a Crime under International Law*, "AJIL" 1 (1947), pp. 145-151; *idem*, *Senate Weighs Genocide Convention*, "FPB" 29 (1950), pp. 2-3; *idem*, *Genocide*, "The American Scholar" 2 (1946), pp. 227-230. cf. the French-language version of the latter text and its contemporary Spanish translation: *idem*, *Le crime de génocide*, "RDISDP" 24 (1946), pp. 213-222; *idem*, *Le génocide*, "RIDP" 17 (1946), pp. 371-386; *idem*, *Genocidio*, transl. C. Arrubla, <http://www.preventgenocide.org/es/lemkin/escolar-americanos1946.htm>, accessed 29 II 2020. See an essentially exhaustive list of publications by Raphael Lemkin: A. Redzik, *Raphael Lemkin (1900-1959). Co-creator of International Criminal Law. Short Biography*, Warsaw 2017, pp. 59-64.

²²² R. Lemkin, *Genocide as a Crime under International Law*, "UNB" IV (1948), pp. 213-222; *idem*, *Genocide - A Modern Crime*, "FW" 4 (1945), pp. 39-43. Cf. R. Lemkin, *Genocide - A Modern Crime* [in] *Punishment of War Criminals. Hearings before the Committee on Foreign Affairs, House of Representatives, Seventy-ninth Congress, First Session, on H.J. Res. 93, Washington 1945*, pp. 94-98.

²²³ *Idem*, *The Legal Case Against Hitler*, "TN" of 24th Feb. 1945, p. 205; *idem*, *The Legal Case Against Hitler*, "TN" of 10th Mar. 1945, p. 268; *idem*, [Letter to the Editor], "NYT" of 26th Aug. 1946, p. 17; *idem*, [Letter to the Editor], "NYT" of 6th Feb. 1947, p. 8; *idem*, [Letter to the Editor], "NYT" of 20th Dec. 1947; *idem*, [Letter to the Editor], "NYT," 14th June 1952, p. 10; *idem*, *War against Genocide. General Assembly of the UN Faces Problem*, "CSMM" of 31st Jan. 1948, p. 2; *idem*, *Genocide Must Be Outlawed. Only 4 Nations of the 20 Required Have Ratified the UN Convention. Truman Is for It, but Senate Hasn't Acted Yet*, "TBBM NJM" October (1949), p. 44; *idem*, *My Battle with Half the World*, "CJF NQ" 1 (1952), 100-101; *idem*, *My Battle with Half the World*, "CJF NQ" 2 (1952), p. 98.

²²⁴ In 1953, Raphael Lemkin classified the acts committed by the USSR as genocide during a lecture delivered at New York's Manhattan Center as part of the 20th anniversary of the tragic events in Ukraine (R. Lemkin, *Soviet Genocide in Ukraine*, "Holodomor Studies" 1 (2009), pp. 3-8).

²²⁵ *Genocide (the Newest Soviet Crime)*, discussion by R. Lemkin and J. Burns, New Haven 1953; R. Lemkin, *Is it Genocide?*, "ADLB" 1 (1953), pp. 3, 8. Cf. K. Kaplan, *Zpráva o zavraždění generálního tajemníka*, Praha 1992; J. Rapoport, *Stalin's Last Crime. 1953: The conspiracy of the Kremlin doctors*, Warsaw 2011.

²²⁶ R. Lemkin, *Genocide - A Modern Crime...*, "FW" 4 (1945), p. 43.

²²⁷ *Ibid.*, p. 39.

implied that the degree of realization of genocide, while it may have been helpful in proving the perpetrator's intent (as a result of the existence of a presumption of fact), did not have a 100 percent impact on the classification of the act as genocide. First and foremost, what mattered was the perpetrator's conscious orientation toward achieving the genocidal goal²²⁸.

In turn, in a text printed in 1946 in *The American Scholar* (and published three times in French), Raphael Lemkin appealed to the UN to adopt a ban on genocide, which he defined as the conspiracy to exterminate national, religious or racial groups. He excluded from the catalog of protected goods the honor of the individual, whose legal significance has gradually weakened since the amendment of the Hague Regulations. The author also clarified the issues related to the extradition of genocide suspects, namely, he pointed out that for the purposes of the extradition procedure, they should not be treated as political criminals, and the administrative action of transferring them to the requesting state should take into account the existence of sufficient evidence of the possibility of a fair trial by the requesting state. Raphael Lemkin recognized as the phenomenal forms of the crime: perpetration (e.g., issuing and carrying out orders from superiors), participation (e.g., in a conspiracy to commit genocide or members of the government or political bodies in the organization of genocide or its toleration), incitement (e.g., "through the formulation or teaching of the criminal philosophy of genocide," i.e., scientific and propaganda activities), and as the stage forms: preparation of a genocidal plan and its execution. Taking into account the organizational development of the UN, the Polish lawyer developed a working procedure for the application of the ban by the UN Security Council, taken not against individuals, but against states. The council would proceed either on its own initiative or on the basis of a petition filed by members of religious, racial or national groups residing inside or outside the accused state. In the course of qualifying the acts of a suspected state, it could ask the ICJ for an advisory opinion on the case under investigation. If the state is found to have committed violations, the UN Council could impose certain sanctions on it. In turn, in order to make it possible to control the occupation and prevent genocides, the jurist sought to give an international body (such as the ICRC, ensuring compliance with humanitarian principles) supervisory powers in the occupied state. He also stressed the urgency of including clauses prohibiting genocide in future peace treaties with the allies of the European Axis states (Romania, Bulgaria and Hungary), and added that the possible signing of a multilateral agreement containing this prohibition should not deter willing states from strengthening protections against genocide in bilateral agreements or regional pacts²²⁹. Significantly, in a 1946 text, Raphael Lemkin first submitted a preliminary draft of the genocide ban, which reads as follows: "Whoever, while participating in a conspiracy to destroy a national, racial or religious group, undertakes

²²⁸ Intent, in the case of the crime of genocide the general marker for its qualification, is sometimes treated as a nuance outside the doctrine of international law. For example, historians and sociologists create numerous definitions of genocide, but because they are focused on assessing the effects of states or specific perpetrators, they are generally characterized by less accuracy in describing the phenomenon than the broad (and not without various flaws, but taking into account the intention, plan and implementation of genocide) concept of Raphael Lemkin (see L. Nijakowski, *The delight of revenge. Historical sociology of genocidal mobilization*, Warsaw 2013, pp. 64, 76-78).

²²⁹ R. Lemkin, *Genocide*, "The American Scholar"..., p. 230.

an attack against life, liberty or property of members of such groups is guilty of the crime of genocide."²³⁰ .

In 1947, Raphael Lemkin, looking at the work of the IMT adjudicatory panel and the actions of the UN, was able to express his observations, assessments and comments on the subject. In the pages of the *American Journal of International Law*, he mentioned that the signatories of the 1945 London Agreement eliminated discrepancies in the French and English versions of the IMT Charter, with the result that only acts committed during or in connection with the war became punishable. The proposal for the prohibition of genocide formulated by the Polish author did not include a temporal limitation - genocidal acts were to be unlawful and punishable regardless of the state of war. Raphael Lemkin, repeating his earlier demands that clauses prohibiting genocide be included in peace treaties with the European allies of the Axis states, added with emphasis that the obligation to criminalize the prohibition of genocide in domestic criminal legislation must also be imposed on Germany - if it was not included in the peace act, the obligation should be included in the order of the occupation authorities and - or - in the constitutions of the German states²³¹ .

The concept of genocide was included during the work on how to judge German crimes as a possible category for proving the acts of suspects²³² . According to a report by Robert Jackson, the American representative at the London International Conference convened to prepare the war trials, the word "genocide" was mentioned only once, and that in the very early stages of the negotiations. In the preliminary memorandum of June 1945, which contained the American negotiating position and was presented to the delegations of the other participating countries (Britain, France and the USSR), the concept of genocide was set in the context of proving that the accused had instigated, committed or condoned atrocities and crimes. These crimes were to be committed before or during the war of aggression initiated by Germany, and included violations of international law (customary or treaty) and domestic law (of Germany, its allies, jointly belligerent parties and satellite states), as implied in Section 1(d)(4) of the US memorandum. The document's definition of genocide considered destruction, the object of which could be racial minorities or a subjugated population, as its synonym, which created a wide field of interpretation regarding the last concept. An enumerative catalog of basic acts of genocide was presented, which, as in Lemkin's division, included physical and biological destruction of individuals by starvation, sterilization and castration, deprivation of clothing, shelter, fuel, adequate sanitation, medical care, deportation to forced labor and employment in inhumane conditions (§ 9(a) of the memorandum). Genocide was linked to the state of war, emphasized to be racial in nature and targeting civilians, and excluded from its scope acts categorized by Raphael Lemkin as acts and omissions in the political, social, cultural, economic, religious and moral spheres. Although unlawful expropriation, looting and forced sale in occupied areas, unlawful destruction of property, and taking control of other

²³⁰ *Ibid.*

²³¹ R. Lemkin, *Genocide as a Crime...*, pp. 147-148, 151.

²³² See U.S. diplomatic correspondence addressing, among other issues, the establishment of the ICW: *Discussions Regarding Procedures and Scope of the United Nations Commission for the Investigation of War Crimes and the Setting Up of the International Military Tribunal*, "FRUS DP [1945]" III (1968), pp. 1151-1169.

nations through the use of threats of violence, invasion or other unlawful means were mentioned (§ 9 b-d of the memorandum)²³³, they were not considered to be manifestations of genocide. Thus, the memorandum's definition of genocide included acts against the life and liberty of individuals, and treated acts against their property as an independent category. However, the deliberators did not take up the American proposals, and as a result, as suggested by Guénaël Mettraux²³⁴, instead of genocide as a category of crimes against humanity in the IMT Charter there was a reference to persecution²³⁵. According to the Swiss academic, the reasons for abandoning Raphael Lemkin's concept were the Allies' reluctance to divide the prosecution into multiple trials of persecuted groups and their fear that the trials would be used as an instrument of group revenge (or at least the impression would be created)²³⁶.

In the official documents for the main trial of German criminals at Nuremberg, the term "genocide" appeared once, not in the 1946 verdict, but only in the indictment²³⁷. In its section on the characteristics of the war crimes charge, and more specifically when describing the murder and mistreatment of the civilian population of the occupied territories or from them, it stated: "They [the defendants] conducted deliberate and systematic genocide, viz. [i.e. *videlicet*], the extermination of racial and national groups, against the civilian populations of certain occupied territories in order to destroy particular races and classes of people and national, racial, or religious groups, particularly Jews, Poles, and Gypsies and others."²³⁸. Thus, the connection of genocidal acts with the conception of a specific intention and the preparation of an adequate plan was emphasized, and the repetitive nature of the acts was noted, which referred to the manner of their execution. To the traditional triad of groups subject to genocide - national, racial and religious - were added other collectivities derived from the civilian population, i.e. races and social classes. Examples of communities subject to destruction included Jews and Poles. Although the prosecutors were aware of the different scale of genocidal ventures directed against these collectivities, they considered the intentions of the perpetrators to be equivalent and allowing for uniform qualification. The indictment considered extermination to be synonymous with genocide. Thus, a very narrow, physical aspect of the phenomenon under consideration was prejudged. Thus, in essence, the fundamental assumptions of Lemkin's concept were taken into account, but many specific features were eliminated. The fact that the Nuremberg verdict of 1946 did not mention the crime of genocide was explained by Guénaël Mettraux by the difficulty of proving that its

²³³ R. Jackson, Planning Memorandum Distributed to Delegations at Beginning of London Conference, June 1945 [in:] *idem*, Report of Robert H. Jackson United States Representative to the International Conference on Military Trials, London 1945, pp. 64-68.

²³⁴ G. Mettraux, *International Crimes...*, p. 194.

²³⁵ This observation was made because the UN Secretary-General, in a memorandum to the UN General Assembly, stated that persecution as a category of crimes against humanity is "in fact closely related" to the crime of genocide (The Charter and Judgment of the Nürnberg Tribunal. History and Analysis (Memorandum Submitted by the Secretary-General), UN Doc. A/CN.4/5 (1949), p. 68).

²³⁶ G. Mettraux, *International Crimes...*, p. 196.

²³⁷ See more on the use of the term "genocide" during the Nuremberg trials: W. Form, *Strategies for "Genocide Trials" after World War II - How the Allied Powers Dealt with the Phenomenon of Genocide in Occupied Germany* [in:] *The Genocide Convention. Sixty Years after its Adoption*, ed. C. Safferling et al, The Hague 2010, pp. 69-82.

²³⁸ *Trial...*, vol. I, pp. 43-44.

prohibition was in effect at the time of the acts being tried, and by possible allegations that the imposition of the ban was an attempt at revenge²³⁹ .

In the twelve ensuing Nuremberg trials held before U.S. military tribunals in the occupation zone there, the term "genocide" appeared repeatedly, not only in the indictments, but also in the verdicts. Although it had a legal genesis, in international legal terms it was not treated as a basis for prohibition, but as a concept that as comprehensively as possible captures the essence of the destruction of groups of civilians.

In the so-called doctors' trial, and more specifically in his opening statement, the prosecutor, Brigadier General Telford Taylor, on December 9, 1946, pointed to genocidal acts such as the implementation of the euthanasia program, sterilizations and mass slaughters (he singled out Jews, Poles, Roma and Russians)²⁴⁰ .

In contrast, in a judgment handed down in the so-called lawyers' trial, the judges considered the racial persecution of German citizens before the war by Germany as genocide²⁴¹ . They classified genocide as equivalent to crimes against humanity, and cited its definition from the UN General Assembly resolution of December 11, 1946 (described below) as comprehensively reflecting the tribunal's consideration of the essence of the crimes committed²⁴² . They concluded that the accused Ernst Lautz, the Reich Superintendent, assisted and participated knowingly in the preparation of the government's plan to exterminate the Jewish and Polish races, thereby committing the crime of genocide²⁴³ . They rightly pointed out the comprehensiveness of the acts of Oswald Rothaug, a judge of the German People's Tribunal, classifying them as participation in the crime of genocide: "The individual cases in which [Oswald] Rothaug applied the cruel and discriminatory law against Poles and Jews cannot be considered in isolation. It is of the essence of the charges against him that he participated in the national program of racial persecution. It is of the essence of the proof that he identified himself with this national program and gave himself utterly to its accomplishment. He participated in the crime of genocide."²⁴⁴ . The Court thus implicitly ruled as to defendants Ernst Lautz and Oswald Rothaug that at the time they committed the alleged acts, there was a legal prohibition against the crime of genocide, which, in the course of applying the law, was sufficient to establish their individual responsibility. What's more, Poles and Jews (in that order) were again found to be subject to the German genocidal program.

In contrast, in the verdict issued in the fourth follow-up trial, the so-called WVHA trial, the adjudicators adopted a succinct definition of genocide, indicating that it is the systematic extermination of a race²⁴⁵ .

During the eighth follow-up trial, the so-called RuSHA trial, acts against the biological and cultural development of the civilian population (including depriving the individuals belonging to it of their livelihood through confiscation of property, deportation, creation of

²³⁹ G. Mettraux, *International Crimes...*, p. 197.

²⁴⁰ *Trials...*, vol. I, pp. 38, 48; cf. *ibid*, p. 838.

²⁴¹ *Trials...*, vol. III, p. 963.

²⁴² *Ibid*, p. 983.

²⁴³ *Ibid*, p. 1128.

²⁴⁴ *Ibid.*, p. 1156.

²⁴⁵ "The scientific extermination of a race" (*Trials...*, vol. V, p. 1135; cf. *ibid*, pp. 250-251, 253, 912-913).

conditions calculated to cause high mortality of the population, kidnapping of children) were considered manifestations of genocide. It added: "These techniques of genocide, while neither so quick nor perhaps so simple as outright mass extermination, are by the very nature of things far more cruel and equally effective."²⁴⁶ . In addition, as a result of the defense's statements that there was no legal basis to charge the crime of genocide²⁴⁷ , in his closing speech the prosecutor stated that the indictment did not include the crime of genocide per se, but charged criminal acts whose genocidal purpose was to strengthen Germany's position vis-à-vis neighboring states. The destruction of their civilian population proved to be the primary means of achieving these intentions²⁴⁸ . This remark corresponded with the words quoted by Raphael Lemkin²⁴⁹ of Alfred Rosenberg, the Reich's leading ideologist and its minister for the occupied eastern territories from 1941 to 1945, who maintained: "history and the task of the future no longer foretell a struggle between classes, further disputes between ecclesiastical and otherwise derived dogmas, but a conflict between blood and blood, race and race, nation and nation."²⁵⁰ . It should be emphasized that the assumptions of German total war, taking into account the idea of the nation as the foundation of democracy and the state, reinterpreted by French Enlightenment thinkers, meant that the conflict initiated by Germany in 1939 could not be limited to military purposes.

The indictment presented in the ninth follow-up trial, the so-called Einsatzgruppen trial, stated that, classified as crimes against humanity, the acts, leadership, plans and undertakings in which the defendants participated were part of a "A systematic program of genocide, aimed at the destruction of foreign nations and ethnic groups by murderous extermination."²⁵¹ . In his closing speech on February 13, 1948, prosecutor Telford Taylor declared the crime of genocide to be a violation of international law equivalent to the other categories of crimes identified in the IMT Charter: "The defendants have not seriously endeavored to controvert these facts, which conclusively prove the crimes of genocide and the other war crimes and crimes against humanity charged in the indictment."²⁵² . The term "genocide" was used both for legal qualification and to describe the destruction of groups that the Germans carried out before and during World War II²⁵³ . Therefore, Karolina Wierczynska's statement on what meaning was ascribed to the term "genocide" in this process seems partly true: "During the proceedings before the tribunal and later in the ruling, the word 'genocide' was mentioned several times, but it was not understood as a separate crime, but rather as a term for the mass crimes committed by the Einsatzgruppen, as a method and tool used by the Nazis. One can conclude from this that in the minds of judges and prosecutors it was still only a subcategory of crimes against

²⁴⁶ Trials..., vol. IV, p. 627; cf. *ibid.*, pp. 599, 609, 613, 622-623, 626-627, 634, 637, 663, 666, 687, 689, 693-694, 701, 709, 1075-1076; Trials..., vol. V, pp. 48, 65, 89.

²⁴⁷ Trials..., vol. V, pp. 1, 3-5, 27.

²⁴⁸ *Ibid.*, pp. 30-31.

²⁴⁹ R. Lemkin, *Genocide - A Modern Crime...*, "FW" 4 (1945), p. 40.

²⁵⁰ "Geschichte und Zukunftsaufgabe bedeuten nicht mehr Kampf von Klasse gegen Klasse, nicht mehr Ringen zwischen Kirchendogma und Dogma, sondern die Auseinandersetzung zwischen Blut und Blut, Rasse und Rasse, Volk und Volk" (A. Rosenberg, *Der Mythos des 20. Jahrhunderts. Eine Wertung der seelisch-geistigen Gestaltenkämpfe unserer Zeit*, München 1936, pp. 1-2).

²⁵¹ Trials..., vol. IV, p. 15.

²⁵² *Ibid.*, p. 370.

²⁵³ *Ibid.*, pp. 30, 32, 48, 247, 356, 399, 450-451, 469-470.

humanity."²⁵⁴ . From the quoted words of Telford Taylor, it appears that genocide was a separate group of crimes, he said explicitly about the crime of genocide. The conclusion, often repeated in the literature, that the crime of genocide is a type of crime against humanity, seems disputed. If this were indeed the case, it would have to be treated as a crime, since there would be a generic similarity between the two (they originated in the legal system). On the other hand, the thesis of the predominant relationship between the crime of genocide and the crime against humanity is not clear in the context of how the IMT Charter defines war crimes and the Hague Rules define the laws and customs of war, as will be discussed below.

Perhaps the most comprehensive and synthetic description of the German genocide was presented in the verdict in the eleventh follow-up trial, the so-called "Ministry Trial. The adjudicators included in their arguments the aforementioned two-phase concept of Raphael Lemkin, involving, on the one hand, the annihilation of members of a designated group, and, on the other hand, Germanization combined with the naming of selected individuals from the eliminated groups, which the German authorities assumed could be effectively incorporated into the German nation. On the basis of the charges formulated in the indictment, the following acts were considered genocidal in the verdict:

- Displacement (especially in Poland and the occupied eastern territories) associated with confiscation and sequestration of property and German settlements;
- The establishment of German racial registers and the introduction of legislation allowing the selection of the population according to the racial key;
- forcing individuals to accept German citizenship or imposing it on them, with the result that they had to perform civic duties, such as serving in the armed forces;
- punishing individuals for civil disobedience, such as evading military service, which was linked to the forced granting of German citizenship;
- Punishing individuals deemed unable or refusing to accept German identity (e.g., through forced labor, confinement in camps, murder);
- The use of justice in the occupied territories for the destruction of inferior races;
- The establishment of police tribunals and summary courts in Germany and the occupied territories, criminal abuses against foreign civilians and denial of access to the judiciary and trial of criminal cases;
- Adoption of exceptional legislation providing for summary trials in special courts and capital punishment or imprisonment in concentration camps for opponents of German power policies;
- handing over to the police and secretly transporting people suspected of crimes against the Reich or its armed forces to Germany for trial and punishment without notifying relatives of the accused of the outcome of the cases;

²⁵⁴ K. Wierczyńska, *The concept of genocide in the context of the jurisprudence of "ad hoc" international criminal tribunals*, Warsaw 2010, p. 32.

- Introducing legal terror through discriminatory treatment of suspected criminals who are members of a racially, nationally or politically undesirable group (e.g., deprivation of legal defenses and transfer to the Gestapo for summary proceedings);
- arrests, imprisonments, deportations, and murders of innocent persons subjected to punishment as a result of the application of collective responsibility to persecuted groups, the detention of such persons, their deportation, hanging, and execution;
- executions and deportations of those collectively responsible according to an arbitrarily set ratio of their number for attacks by undetected perpetrators on German installations or personnel in the occupied territories;
- organizing, among prisoners of war and citizens of occupied countries, recruitment campaigns for the SS and often forced conscription into such units as the Waffen-SS, concentration camp administrations with the SS, and penal battalions;
- The involvement of these units to carry out pacification tasks in the occupied territories (by committing atrocities and crimes against the civilian population);
- persecution of the Jewish population in all German-dependent territories;
- Disenfranchisement, confiscation of property, imprisonment in concentration camps and murder of Jewish persons with citizenships of various countries;
- The barbaric mass murder of Jews and other civilians in the occupied territories;
- changing in 1942 the plan to expel the Jews to a plan for their eventual elimination in concentration camps located in Eastern Europe;
- deportations of people of Jewish origin as labor groups to eastern areas, murdering the physically weak during transport and bringing to death by slave labor those capable of performing it temporarily²⁵⁵.

In the proceedings of the so-called Flick, IG Farben, Krupp trials and the Balkan hostage murder trial, the term "genocide" was not used. Lapidary references to it appeared, however, in the initial phase of the so-called "Higher Command Trial"²⁵⁶.

On December 11, 1946, two months after the announcement of the Nuremberg verdict, the UN General Assembly adopted a draft resolution, "The Crime of Genocide"²⁵⁷, drafted, among others, by Raphael Lemkin, who originally presented it at the UNGA meeting in Lake Success in October 1946. Its further procedure was supported by India, Cuba and Panama, which made it possible to place it in the UNGA picture order. The document was referred to the Legal Committee, which established a subcommittee to prepare the final text. Raphael Lemkin stated: "The draft carried two additional points as compared to the

²⁵⁵ Trials..., vol. XIV, pp. 468-470; cf. *ibid.*, pp. 41, 914, 927, 1003; Trials..., vol. XII, pp. 44, 48, 218.

²⁵⁶ Trials..., vol. X, pp. 36, 139.

²⁵⁷ General Assembly Resolution 96 (I) of December 11, 1946 (The Crime of Genocide). Cf. N.Z. General Assembly Resolution of December 11, 1946. [in:] J. Sawicki, *Genocide from the Concept to the Convention 1933-1948*, Cracow 1949, pp. 157-158. See translated key documents related to the adoption of the Genocide Convention of 1948: *Prosecution and Punishment...*, pp. 274-333. See generally on the agreement of the text of the Convention and its adoption: J. Dülffer, *The United Nations and the Origins of the Genocide Convention 1946-1948* [in:] *The Genocide Convention...*, pp. 55-68.

original, a reference to moral law and a specification of the responsibility of public officials."²⁵⁸ .

In the resolution adopted unanimously as proposed by the subcommittee, genocide (which is a denial of a group's right to exist) was compared to murder (which negates an analogous individual right). Thus the unnecessary anthropomorphization of the collective, so characteristic of German phraseology, was avoided. Yes, in Rafal Lemkin's earlier proposals, the catalog of protected groups was left open, but *expressis verbis* three types of communities were listed: religious, racial and political. The exclusion of national groups from the list in favor of political ones was a significant *novelty*. It seemed crucial to emphasize the illegality and punishability of the crime of genocide, considered a *delictum iuris gentium*: "The General Assembly, therefore, affirms that genocide is a crime under international law [...] and for the commission of which principals and accomplices [...] are punishable.". The verb used was *to affirm*, which indicated that the legal international prohibition of genocide was being affirmed, rather than creating a new²⁵⁹ . In the latter case, the word to declare would have been more appropriate, referring to the act of declaring²⁶⁰ . The validity of this statement is indicated, for example, by the fact that the word to affirm was also used in the UNGA resolution "Affirmation of the Principles of International Law recognized by the Charter of the Nurnberg Tribunal," which affirmed international legal norms derived from the IMT Charter and the Nuremberg Judgment of 1946, and thus from other, previously accepted sources of obligation. In addition, the 1946 resolution on the prohibition of genocide repeatedly stressed that the international concern was not to define the crime or seek recognition of its illegality, but to punish and prevent its commission. The act identified perpetrators and accomplices as subjects of the crime, and in punishing and preventing it, instead of universal jurisdiction, opted for international cooperation, which in practice meant reference to extradition procedures. Genocide was not linked to war, which distinguished its definition from that adopted in the IMT Charter. Despite the non-binding nature of the UNGA resolution, it contained an element indicating that states were under an obligation: the illegality of the crime of genocide reflected the principles of customary international law (per analogiam to the described example of the resolution on the principles and the Nuremberg Judgment). Since the UNGA could not adopt a universally applicable standard in this regard, it requested the Economic and Social Council to undertake the necessary studies, draft a convention regulating the criminalization and prevention of the crime of genocide, and submit it to the next ordinary session of the UNGA.

Accordingly, the Economic and Social Council, in a resolution of March 28, 1947, instructed the UN Secretary-General to begin work with the support of specialists in international and criminal law and to submit a draft convention after consultation with

²⁵⁸ R. Lemkin, *Genocide as a Crime...*, p. 150.

²⁵⁹ In the Polish translation of the resolution prepared by Jerzy Sawicki, the verb "to state" appeared, which, however, did not fully capture the nature of the statement contained in the resolution (Resolution of the General Assembly of the N. Z. of December 11, 1946. [in:] J. Sawicki, *Genocide...*, p. 157).

²⁶⁰ Despite the semantic difference, the verbs to declare and to affirm used in UNGA resolution 96 (I) of December 11, 1946 were both treated as synonyms in Raphael Lemkin's 1947 discussion and in the convention text accompanying UNGA resolution 260 (III) of December 9, 1948. R. Lemkin, *Genocide as a Crime...*, p. 150; General Assembly resolution 260 (III) of December 9, 1948 (Prevention and Punishment of the Crime of Genocide).

the Committee for the Progressive Development and Codification of International Law²⁶¹, the Commission on Human Rights (if there was one), and after consulting with all member governments²⁶².

The secretary-general commissioned the Human Rights Section to prepare a draft, which was published on June 26, 1946²⁶³ and consisted of two main parts: the first contained the draft itself, and the second (much more extensive) - a commentary on it, along with methodological information on the secretary-general's work, an explanation of basic problems related to the international punishment of the crime of genocide, such as the definition of protected groups, the meaning of the term "genocide," the scope of the convention and responsibility for the crime of genocide, the manner of application of the prohibition, and the conditions for the entry into force of the convention. Compared to Raphael Lemkin's concept and the statement made in the UNGA resolution of December 11, 1946, the Secretary-General's proposals went quite far, although they should be considered a set of general guidelines rather than a draft of acceptable legislation: "[...] the Secretary-General did not intend to recommend one political solution rather than another, but wished to offer a basis for full discussion and bring out all the points deserving of notice."²⁶⁴ . It was clear from the draft that not only national, religious and racial groups, but also political and linguistic groups were protected (Article I, paragraph I). The unlawful acts specified in the act (Article I, paragraph II), according to Lemkin's terminology, could be classified into six categories - biological, physical, political, economic, cultural, religious devastation. It was proposed to criminalize not only the perpetration of the act, but also voluntary participation in it, incitement, attempt, and participation in a conspiracy to commit genocide (Article II(I)(1) and Article II(II)). In addition, acts involving multifaceted preparatory forms were incriminated, and a separate article proposed to criminalize genocidal propaganda (Article II(I)(2)(a-c) and Article III). The principles already proposed appeared in the document: the criminalization of states and individuals regardless of their political position (Article IV); the impossibility of excluding criminalization due to a superior order or domestic law (Article V); the obligation to institutionalize the prohibition of genocide in domestic law and secure its implementation (Article VI); and universal jurisdiction (Article VII) with certain exceptions (Articles VIII-IX). Competent to try the acts of those suspected of committing genocide was to be an international tribunal with jurisdiction to evaluate all international crimes (Article X of the first proposal) or only genocide (Article X of the alternative proposal). One of the most important regulations was the obligation on signatories to disband groups and organizations involved in acts of genocide (Article XI), which explicitly referred to the Nuremberg Judgment of 1946, which criminalized four organizations involved in the crimes described in the IMT Charter: the NSDAP, the SS (with the exception of the SS

²⁶¹ *Prima facie*, the phrase used in the committee's name seems like a pleonasm, but one can imagine evolutionary development being to some extent the opposite of dynamic or progressive development precisely.

²⁶² Economic and Social Council Resolution 47 (IV) of March 28, 1947 (Crime of genocide) (E/325). Cf. Resolution of the Economic and Social Council of March 28, 1947. [in:] J. Sawicki, *Genocide...*, p. 159.

²⁶³ Draft Convention on the Crime of Genocide Prepared by the Secretary-General in Pursuance of the Economic and Social Council Resolution 47 (IV) (E/447, June 26, 1947). Cf. Draft Convention on the Prevention and Prosecution of the Crime of Genocide (prepared on June 6, 1947 by the Secretary-General in Pursuance of the Economic and Social Council Resolution of 28. III. 1947) [in:] J. Sawicki, *Genocide...*, pp. 160-166.

²⁶⁴ Draft Convention on the Crime of Genocide Prepared by the Secretary-General in Pursuance of the Economic and Social Council Resolution 47 (IV) (E/447, June 26, 1947, p. 16.

Raiders, i.e., the SS-Reiterstandarten), the SD, and the Gestapo²⁶⁵. It was also proposed to introduce an optional power for signatories to initiate intervention by UN bodies to prevent or suppress crimes of genocide wherever in the world they occurred (Article XII). It established a state's obligation to compensate for genocide committed by its government or by a group operating in the state outside the control of its authorities. The type and amount of compensation was to be determined by the UN (Article XIII). However, as member states did not express the views required by the UN resolution of December 11, 1946, the Committee for the Progressive Development and Codification of International Law, in a letter to the Secretary-General on June 17, 1947, stated that it was abstaining from formulating its own position²⁶⁶. Nevertheless, Raphael Lemkin, as the originator of the concept of the prohibition of genocide, and prominent representatives of the doctrine of international law took part in the work on the draft: Henri Donnedieu de Vabres, French judge adjudicating the trial of the main German criminals at Nuremberg, and Vespasien Pella, Romanian academic, initiator of the cyclical conferences of international criminal law unification, president of the International Criminal Law Association, also active in the Association of International Law and the Inter-Parliamentary Union²⁶⁷. Raphael Lemkin and Vespasien Pella suggested the inclusion of two recommendations in the text of the convention - that the signatories of the agreement should take measures to mitigate antagonisms and conflicts based on race, nationality and religion, as well as establish special national offices to monitor possible antagonisms and inform the Secretary General²⁶⁸. The proposals were thus intended to establish mandatory prevention of the crime of genocide.

As a result of the failure to comply with the requirement for international consultation of the draft convention discussed, the Economic and Social Council, in a resolution of August 6, 1947, urged member states to take appropriate action (the secretary-general sent requests to states in this regard on July 7, 1947). After receiving their opinions, the secretary-general was to send them along with the draft to the Economic and Social Council. The resolution stressed that the draft had also not been considered by the Committee for the Progressive Development and Codification of International Law or the Commission on Human Rights. Attached to the resolution was a draft submitted by the Secretary-General with annexes on the proposed Article X of the Convention²⁶⁹. They included proposals to establish an International Criminal Court with jurisdiction over crimes of international law or a permanent or temporary (*ad hoc*) International Court with jurisdiction to try crimes of genocide. Both concepts were prepared on the basis of the Convention on the Establishment of an International Criminal Court, adopted in Geneva on November 16, 1937 (the act did not enter into force, without even seeing a single ratification)²⁷⁰.

²⁶⁵ Trial..., vol. I, pp. 263, 268, 273.

²⁶⁶ Draft Convention on the Crime of Genocide Prepared by the Secretary-General in Pursuance of the Economic and Social Council Resolution 47 (IV) (E/447, June 26, 1947, p. 65).

²⁶⁷ J. Waszczyński, Drafts of the International Criminal Code, "AULFI" 35 (1988), s. 99-100.

²⁶⁸ Draft Convention on the Crime of Genocide Prepared by the Secretary-General in Pursuance of the Economic and Social Council Resolution 47 (IV) (E/447, June 26, 1947, p. 64).

²⁶⁹ Economic and Social Council Resolution 77 (V) of August 6, 1947 (Genocide). Cf. Economic and Social Council Resolution of August 6, 1947. [in:] J. Sawicki, Genocide..., pp. 167-168.

²⁷⁰ Convention for the Creation of an International Criminal Court [in:] Proceedings of the International Conference on the Repression of Terrorism, Geneva, November 1st to 16th, 1937, Geneva 1938, pp. 19-34.

The Secretary-General forwarded the draft convention to the UN General Assembly in a note dated August 25, 1947, stressing that the opinions of member states would be included upon receipt²⁷¹. The Assembly sent the draft to the Legal Committee, from where it went to a subcommittee as a result of the inability of committee members to reach a common position, which rejected the subcommittee's recommendation to proceed with the draft²⁷². The General Assembly, however, in a resolution of November 21, 1947, demanded that the Economic and Social Council intensify its efforts: conduct a study of the draft convention, prepare a report and submit it with the draft to the Third Ordinary Session of the UNGA, even if all the opinions of the member states had not flowed²⁷³. In a resolution of March 3, 1948, the Economic and Social Council once again called on member states that had not yet done so to express their position on the draft convention prepared by the Secretary-General. An *ad hoc* committee composed of representatives of China, France, Lebanon, Poland, the United States, the USSR and Venezuela was set up, and its members were required to meet at UN headquarters and prepare a draft convention on the crime of genocide, taking into account the UNGA's previous recommendations, the Secretary-General's draft and the opinions of the states. At the same time, the Secretary General was instructed to support the committee members in carrying out their tasks. The draft developed by this committee, together with the recommendation of the Human Rights Commission, was to be forwarded to the next session of the Council²⁷⁴.

The members of the committee presented a report²⁷⁵ on May 24, 1948, on the results of their 28 meetings held between April 5 and May 10, 1947. It contained information on the committee's activities and the draft convention, composed of nineteen articles, was preceded by a commentary containing the observations of the members of the body on each article. Although the document prepared by the Secretary General was not taken as the basis for the draft, its main terms were included. Thus, the proposed act's preamble referred to the 1946 verdict on major German criminals who were convicted of committing acts "Similar to those which the present Convention aims to punish.". It recognized that the possibility of committing genocide is independent of the occurrence of a state of war (Article I of the draft). Compared to the document drafted by the Secretary General, the number of punishable states of war was reduced - only acts committed with the aim of physical and biological destruction of a group were indicated (Articles II, III). The punishable stage and phenomenal forms of the crime (Article IV) and the responsibility for its commission (Article V) were regulated more synthetically. Effective application of the prohibition of genocide and prevention was guaranteed by: ordering signatories to the convention to adopt relevant domestic legislation (Article VI), establishing jurisdiction (Article VII), the possibility of preventive action by the UN at the request of the state concerned (Article VIII), and obliging signatories to extradite persons suspected of committing the crime of genocide in accordance with national law and their international obligations (Article IX).

²⁷¹ Note by the Secretary-General, Draft Convention on the Crime of Genocide (A/362, August 25, 1947).

²⁷² K. Wierczynska, Concept of..., p. 20.

²⁷³ General Assembly Resolution 180 (II) of November 21, 1947 (Draft Convention on Genocide).

²⁷⁴ Economic and Social Council Resolution 117 (VI) of March 3, 1948 (E/734, Genocide).

²⁷⁵ Report of the Ad Hoc Committee on Genocide and Draft Convention Drawn Up by the Committee, 5 April - 10 May 1948 (E/794).

In a resolution of August 26, 1948,²⁷⁶ the Economic and Social Council announced that it would send to the Third Ordinary Session of the UN General Assembly the report of the Provisional Committee with its draft convention, attaching the records of the Seventh Session of the Council on these issues²⁷⁷. The UNGA decided on September 24, 1948, to forward the documents received from the Council to the Legal Committee with instructions to continue its work²⁷⁸.

The draft interim committee was indeed used by the Legal Committee, which deliberated on its issues at meetings from 63 to 134²⁷⁹, held from September 30 to December 2, 1948, during the Third Ordinary Session of the UNGA. On November 13, 1948, an Editorial Committee was established, composed of representatives from Belgium, China, Cuba, Egypt, France, Poland, the USSR, the United Kingdom and the United States (representatives from Australia, Brazil, Czechoslovakia and Iran were later added, and a delegate from Uruguay replaced a Cuban). Members of the committee, at four meetings from November 16 to 22, 1948, considered the draft convention prepared by the Legal Committee and its draft resolutions (on international criminal jurisdiction and extending the force of the convention to dependent areas), and drafted a preliminary version of a resolution recommending adoption of the draft convention by the UNGA²⁸⁰.

The Economic and Social Council on December 3, 1948 proposed to the UNGA the adoption of three related resolutions (including one containing a draft convention) and submitted a report on its work on them²⁸¹. On December 6, 1948, an errata was attached, which changed the wording of the definition of genocide - political groups were added to the collectivities protected against it (however, the amendment was not made to the draft convention, but only to the report on the discussions on it)²⁸².

At this point, it is worth mentioning the drafts of the agreement submitted by four powers in the course of work on it. The United States presented its draft on September 30, 1947²⁸³, France on February 5, 1948²⁸⁴, the USSR on April 5, 1948 (memorandum Basic Principles of the Convention on the Crime of Genocide, providing guidelines for a future

²⁷⁶ Economic and Social Council Resolution 153 (VII) of August 26, 1948 (E/1049, Genocide).

²⁷⁷ Economic and Social Council Official Records, 3rd Year: 180th, 201st, 202nd, 218th, 219th Meeting, Held at the Palais des Nations, Geneva, July 21, 17, 26 August 1948 (E/SR.180, E/SR.201, E/SR.202, E/SR.218, E/SR.219).

²⁷⁸ Report of the Sixth Committee of the General Assembly, Genocide: Draft Convention and Report of the Economic and Social Council (A/760, December 3, 1948).

²⁷⁹ Sixth Committee of the General Assembly, Summary Records of Meeting Nos. 63 to 69, 71 to 87, 91 to 110, 128 to 134 Held from 30 September to 2 December 1948 (A/C. 6/SR. 63, 64, 65 and 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 128, 129, 130, 131, 132, 133 and 134).

²⁸⁰ Report of the Drafting Committee, Genocide: Draft Convention and Report of the Economic and Social Council (A/C.6/288, November 23, 1948).

²⁸¹ Report of the Sixth Committee of the General Assembly, Genocide: Draft Convention and Report of the Economic and Social Council (A/760, December 3, 1948).

²⁸² Report of the Sixth Committee of the General Assembly, Genocide: Draft Convention and Report of the Economic and Social Council (Corrigendum 2, December 6, 1948).

²⁸³ Draft Genocide Convention submitted by the U.S. A.P. Government as a statement to the draft secretariat on September 30, 1947. [in:] J. Sawicki, Genocide..., pp. 169-175.

²⁸⁴ Draft genocide convention submitted by the French government on February 5, 1948. [in:] *ibid*, pp. 178-180.

agreement)²⁸⁵, and the People's Republic of China on April 16, 1948²⁸⁶ The key differences related to the catalog of protected groups, criminal acts and the forms in which they were committed. In all texts, national, racial and religious groups were considered protected (in the American and Chinese drafts, additionally, political groups, and in the French draft, groups of people with shared beliefs). Acts committed in the physical and biological spheres were unanimously treated as genocide (the United States also indicated acts against the property of individuals, and the USSR and China cultural genocide). It should be added that the French and Soviet memoranda defined genocide as a form of crime against humanity, while the American (Article IX) and Soviet (Article VIII(a)) memoranda obliged signatories to dissolve an organization or group guilty of participating in the commission of genocidal acts (as proposed by the US) or inciting racial, national and religious hatred and the crime of genocide (as suggested by the Soviets).

Here are the characteristics of each project:

- U.S. - leniency was allowed when the act resulted from an order of law or a superior's order (Article IV); a condition of immediacy and audience was added for criminal incitement to commit a crime (Article II, point 3); and procedures for the application of the law by national and international judicial authorities were expanded (Articles V-VIII);
- French - genocidal intent was replaced by the condition that an attack was made on the life of a group or individual, and that the leadership of the state committed, directed or tolerated the genocide (Article I); the procedure for the application of the law and enforcement of judgments rendered in genocide cases by the forthcoming International Criminal Court in The Hague was expanded (Articles III-X);
- Soviet - the crime of genocide was linked to National Socialism, fascism and other racial theories (Item I); the catalog of criminal acts and the forms in which they are committed was expanded (Articles II-VII); numerous preventive and guarantee measures were included (Articles VIII and X); and the jurisdiction of national courts was introduced (Article IX);
- Chinese - provided for the criminalization of the commission, conspiracy, attempt and incitement to commit genocidal acts (Article I, second paragraph) and the jurisdiction of the court of the place where the crime was committed or the accused was detained, possibly an international tribunal to be established in the future (Article III); the proposed convention was concise, consisting of only four articles governing substantive issues and an introduction.

However, returning to the substantive legislative process - the discussion of the draft of the Legal Committee presented to the UNGA by the Economic and Social Council ended

²⁸⁵ Draft Principles of a Convention on Genocide Submitted to the Special Committee on Genocide by the Delegation of the Soviet Union on April 5, 1948 [in:] *ibid*, pp. 182-185. cf. Ad Hoc Committee on Genocide: Basic Principles of a Convention on Genocide (Submitted by the Delegation of the Union of Soviet Socialist Republics) (April 7, 1948; E/AC.25/7).

²⁸⁶ Draft Rules to the Genocide Convention Proposed to the Special Committee on Genocide by the Chinese Delegation on April 16, 1948. [in:] J. Sawicki, *Genocide...*, pp. 186-187.

on December 9, 1948, with all 53 countries present at the Paris meeting²⁸⁷ the resolution on this issue adopted unanimously, and the other two - by a majority vote. Thus, the UNGA proposed signing and ratification or accession to the Convention on the Prevention and Punishment of the Crime of Genocide²⁸⁸. The communist Polish delegation, like representatives of other countries of the so-called people's democracies, protested the failure to introduce, in their view, effective preventive measures against the crime of genocide, the arbitrary attempt to establish a judicial body in the form of the International Criminal Court, the failure to take into account the connection of the crime of genocide with fascism, and finally the attempt to introduce guarantees for political groups, which was contrary to the interests of the USSR, whose authorities for decades continued their genocidal policy against class enemies (national and religious too)²⁸⁹.

The convention entered into force on January 12, 1951, after the first twenty instruments of ratification were deposited and countries notified of their accession. Poland acceded to the agreement on November 14, 1950²⁹⁰, and the German Federal Republic acceded on November 24, 1954²⁹¹. Poland's objections concerned Article IX (it demanded that the consent of all parties to a dispute must be obtained if a case is brought before the International Court of Justice) and Article XII (it indicated that the convention should also be applied to all non-autonomous territories, including trust territories)²⁹². Similar comments were made by the German Democratic Republic, which acceded to the Convention on March 27, 1973.²⁹³ The Convention did not differ from its version submitted to the UNGA by the Economic and Social Council, but it is nevertheless important to summarize its main legal elements relevant to understanding the prohibition of the crime of genocide and the resulting scope of protection²⁹⁴. The agreement is divided into two

²⁸⁷ Representatives of El Salvador, Costa Rica and the Union of South Africa did not appear at the UNGA meeting. The latter wanted to avoid the isolation caused by that country's apartheid policy (J. Sawicki, *Genocide...*, p. 199).

²⁸⁸ See extensive documentation of the preparatory work for the adoption of the Convention: *The Genocide Convention. The Travaux Préparatoires*, vol. 1-2, ed. by H. Abtahi et al., Leiden-Boston 2008.

²⁸⁹ Doubts after abstaining from voting on the draft while the Legal Committee was still working were expressed on behalf of the Polish side by Stefan Litauer, and after the vote at the UNGA by Juliusz Katz-Suchy (Statement of the Polish delegate Stefan Litauer before the Legal Committee of the UNGA on December 2, 1948. [in:] J. Sawicki, *Genocide...*, p. 197; Statement of Polish delegate Juliusz Katz-Suchy in connection with the adoption of the draft convention by the UNGA on December 9, 1948. [in:] *ibidem*, p. 197; See W. Materski, Stefan Litauer. A Contribution to Biography, "DN" 2 (2011), pp. 25-58).

²⁹⁰ Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on December 9, 1948 (Journal of Laws of 1952, No. 2, item 9); Government Statement of August 27, 1951 on the ratification by Poland of the Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948 (Journal of Laws of 1952, No. 2, item 10).

²⁹¹ Gesetz über den Beitritt der Bundesrepublik Deutschland zu der Konvention vom 9. Dezember 1948 über die Verhütung und Bestrafung des Völkermordes. Vom 9. August 1954 (BGBl. II 1954, 15, 729).

²⁹² On Oct. 16, 1997, the Polish government notified the Secretary General that it was withdrawing its reservations with regard to Article IX of the Convention (Government Statement of 23 I 1998 on the withdrawal by the Republic of Poland of reservations concerning the exclusion of compulsory jurisdiction of the International Court of Justice and compulsory arbitration, which Poland made upon ratification or accession to certain international agreements, Journal of Laws 1998, No. 33, item 178).

²⁹³ Convention on the Prevention and Punishment of the Crime of Genocide. Adopted by the General Assembly of the United Nations on December 9, 1948. Accession by the German Democratic Republic, "Treaty Series. Treaties and International Agreements Registered or Filed and Recorded with the Secretariat of the United Nations," 861 (1980), pp. 200-201.

²⁹⁴ See K. Wierczyńska, *Concept of...*, pp. 37-45; T. Iwanek, *Crime of...*, pp. 284-290, 307-369; D. Drózd, *Crime of Genocide in International Criminal Law*, Warsaw 2010, pp. 61-73; A. Szpak, *Genocide in the Jurisprudence of the ad hoc International Criminal Tribunals*, Toruń 2012, pp. 43-45. Cf. C. Tams, L. Berster, B. Schiffbauer,

articulated parts, covering substantive (preamble, Articles I-IX) and formal (Articles X-XIX) provisions. The laconic preamble referred to the first codification of the crime of genocide by the UNGA resolution of December 11, 1946. Genocide was recognized as the cause of numerous losses of humanity and stated that international cooperation was necessary to realize its prohibition. The introduction lacked references to customary law, morality and general principles of law, but pointed out that genocide is contrary to the spirit and goals of the UN and condemned by the civilized international community of states.

The axis of the agreement was the concept of genocide and its prohibition, introduced to prevent and punish the crime of genocide (Article I). The *actus reus* - acts in the form of action or omission - constituting genocide were considered:

- "(a) the murder of group members,
- (b) causing serious bodily injury or mental health disorder to group members,
- (c) deliberate creation of living conditions for members of the group, calculated to cause their total or partial physical destruction,
- (d) the use of measures to stop births within the group,
- (e) forcibly transferring the children of group members to another group" (Article II).

Based on Lemkin's conception, these acts should be categorized as genocide in the biological (Article II(d, e) and physical (Article II(a, b, c) spheres. Symbolically, the work on the convention did not take into account Raphael Lemkin's recommendation that genocide in the cultural, religious and economic spheres should also be considered punishable. This did not mean the legality of acts classified under these groups, but only the non-codification of the relevant prohibition.

The 1948 agreement criminalized numerous forms and stages of genocide regardless of their connection to the war (Article I). In addition to the designated acts, conspiracy, direct and public incitement, attempt and complicity were criminalized. Preparation was omitted, however, and incitement was limited to direct and public due to the importance of freedom of speech in the United States²⁹⁵.

The acts described could not be attributed a genocidal character unless the perpetrator's special directional intent (*dolus coloratus specialis*) was established, which constituted the *mens rea* of the crime, i.e., its subjective element, relating to the ability to recognize the criminal act. The intent included the desire to destroy in whole or in part national, ethnic, racial or religious groups as such (Article II). In other words, responsibility for genocide required, for example, that in addition to the desire to kill an individual, there must be a desire to achieve an overriding goal, namely, the destruction of the group. Motivations for

Convention on the Prevention and Punishment of the Crime of Genocide. A Commentary, Baden-Baden 2014; N. Robinson, The Genocide Convention. A Commentary, New York 1960, *passim*.

²⁹⁵ J. Sawicki, T. Cyprian, *Struggle...*, pp. 184-185. cf. Eighty Sixth Meeting, Held at Palais De Chaillot, Paris, on Thursday, October 28, 1948 (Continuation of the Consideration of the Draft Convention on Genocide [E/794]: Report of the Economic and Social Council [A/633]) (A/C.6/SR.86).

the qualification of the act turned out to be irrelevant, i.e., the murder could be committed for personal or financial motives.

In turn, the perpetrator's intention, as manifested in his actions, did not have to concern the entire group. The intention to destroy a part of it, such as the outnumbered collective or its leadership layer, consisting of representatives of the government and the intelligentsia, was sufficient. The intention to destroy a part of a group is sometimes understood differently by theorists and those applying the law, and still arouses much controversy today²⁹⁶.

The identification of four categories of protected groups, i.e., national, ethnic, racial and religious, was thought-provoking, especially with regard to the differences between national and ethnic groups and the reasons for including ethnic groups (and not political groups, as suggested in the final preparatory stage of the Convention) in the catalog. The inclusion of these groups in the phrase "as such" suggested that the assignment of a particular group to a particular category was the result of a subjective, relatively subjectivizing, approach. The perspective of the perpetrators of the crime was taken, who, for the purposes of the crime, defined groups as national, ethnic, racial or religious. It seems that it was not necessary to objectively determine whether a group actually (according to scientific knowledge) constituted a distinct community or not. What mattered was the perpetrators' view, even the furthest from accepted notions (e.g., Germany's recognition of Poles as subhuman). If the creators of the agreement had wanted to objectify the assessment of whether individuals belonged to a particular protected group, a problem would have arisen, for example, with Polish victims of Jewish origin. For if the German racial theories were to be stripped of their scientific value and disqualified, it would have to be admitted that the Jewish victims primarily belonged to the Polish nation, or some of them to a Jewish religious group. Therefore, it seems that the term used in the convention is clarifying, although it had to remain biased, i.e. dependent on the view of the perpetrators. Eliminating the phrase "as such" would result in the particularistic (non-universal) nature of the agreement and difficulties in its interpretation. Responsibility for the crime of genocide was established in the Convention on the basis of guilt, so ignorance and negligence precluded the imputation of this crime. To qualify acts as genocide, it had to be proven that the perpetrator sought to commit genocide - at least he knew of the existence of the genocidal plan and was aware of the effect of his acts. The regulation took into account the direct responsibility of the state acting through its organs (paragraph 2 of the preamble, Article I) and the responsibility of individuals (holding office as a member of the government or a state official did not exempt one from responsibility; Articles IV and IX).

The formal provisions of the convention included regulations on its authentic texts (Article X), the terms and conditions for signing or acceding to the agreement and determining the depositary of the instruments of accession (Article XI), the extension of the validity of the convention to the dependent territories of states (Article XII), the method of entry into force of the agreement (Art. XIV), the ten-year basic period of validity, the procedure for extending the validity of the act (for successive periods of five years) and its termination

²⁹⁶ T. Iwanek, *Crime...*, pp. 328-335.

(Articles XIV and XV), the possibility for each signatory to revise the convention (Article XVI), the substantive scope of the Secretary-General's notification (Article XVII), the indication of the place of deposit of the original of the agreement and the question of granting certified copies (Article XVIII), and the date of registration of the act of law by the Secretary-General (Article XIX).

The Convention's norms were recycled into national legal orders. German legislation referred directly to the contractual definition of genocide - the prohibition was eventually codified in Article 1 § 6 of the VStGB of June 26, 2002.²⁹⁷ In contrast, in Polish legislation, Article 118 of the CC of June 6, 1997²⁹⁸ expanded the scope of the guarantee by adding the following protected groups: political, religious, and those with a particular worldview.

On November 26, 1968, the UN General Assembly adopted a resolution proposing member states to sign the Convention on the Non-Application of Statutes of Limitations to War Crimes and Crimes against Humanity²⁹⁹, which was primarily due to the fact that the German Federal Republic was attempting to close the settlement with criminals. The Convention was an international legal tool for the temporally unlimited prosecution of crimes that pose the greatest threat to the world³⁰⁰. Its adoption was initiated by Poland, which submitted a proposal to the UN Commission on Human Rights on March 5, 1968³⁰¹

²⁹⁷ The prohibition contained in Article 1 § 6 of the German Code of Crimes against International Criminal Law read as follows: "(1) Anyone who, with the intent to destroy a national, racial, religious or ethnic group as such in whole or in part, 1. kills a member of the group, 2. inflicts serious physical or psychological harm on a member of the group, particularly in the manner provided for in § 226 of the Criminal Code, 3. creates living conditions for the group that are capable of causing its physical destruction in whole or in part, 4. takes measures to prevent births within the group, 5. violently introduces a child belonging to the group into another group, shall be sentenced to life imprisonment. (2) In the less serious cases referred to in paragraph (1)(2)-(5), the sentence of imprisonment imposed shall not be less than five years" ("(1) Wer in der Absicht, eine nationale, rassische, religiöse oder ethnische Gruppe als solche ganz oder teilweise zu zerstören, 1. ein Mitglied der Gruppe tötet, 2. einem Mitglied der Gruppe schwere körperliche oder seelische Schäden, insbesondere der in § 226 des Strafgesetzbuches bezeichneten Art, zufügt, 3. die Gruppe unter Lebensbedingungen stellt, die geeignet sind, ihre körperliche Zerstörung ganz oder teilweise herbeizuführen, 4. Maßregeln verhängt, die Geburten innerhalb der Gruppe verhindern sollen, 5. ein Kind der Gruppe gewaltsam in eine andere Gruppe überführt, wird mit lebenslanger Freiheitsstrafe bestraft. (2) In minder schweren Fällen des Absatzes 1 Nr. 2 bis 5 ist die Strafe Freiheitsstrafe nicht unter fünf Jahre"). Gesetz zur Einführung des Völkerstrafgesetzbuches. Vom 26. Juni 2002 (BGBl. I 2002, 42, 2254). See H. Gropengießer, *The Criminal Law of Genocide. The German Perspective*, "ICLR" 5 (2005), pp. 332-333.

²⁹⁸ Currently, Article 118 of the Polish Criminal Code reads as follows: "§ 1. Whoever, with the aim of exterminating in whole or in part a national, ethnic, racial, political, religious group or a group with a particular worldview, commits murder or causes grievous bodily harm to a person belonging to such a group, shall be subject to the penalty of deprivation of liberty for a term of not less than 12 years, 25 years' imprisonment or life imprisonment. § 2. Whoever, for the purpose specified in § 1, creates living conditions for persons belonging to such a group that threaten its biological destruction, applies measures intended to stop births within the group, or forcibly removes children from persons belonging to such a group, shall be subject to the penalty of deprivation of liberty for a term of not less than 5 years or the penalty of 25 years' imprisonment. § 3 (repealed)". Law of 6 VI 1997. - Penal Code (Journal of Laws of 1997, No. 88, item 553). See Criminal Code. Special part, vol. 1: Commentary. Art. 117-221, ed. M. Królikowski et al., Warsaw 2017, pp. 10-21. cf. Penal Code. Particular, vol. 2: Commentary to Articles 117-211a, ed. W. Wróbel et al., Warsaw 2017, pp. 44-49; Penal Code. Particular. Commentary, ed. J. Giezek, Warsaw 2014, pp. 22-25; Penal Code. Commentary, ed. A. Grześkowiak, Warsaw 2018, pp. 779-781; Penal Code. Commentary, ed. M. Filar, Warsaw 2016, pp. 851-854.

²⁹⁹ General Assembly Resolution 2391 (XXIII) of November 26, 1968 (A/7218, Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity).

³⁰⁰ See K. Wierczyńska, *Concept of...*, pp. 48-49.

³⁰¹ The Question of Punishment of War Criminals: Communication from the Government of Poland (E/CN.4/885, March 5, 1965); Provisional Agenda of the Twenty-First Session of the Commission on Human Rights (E/CN.4/879/Add.1, March 5, 1965). See relevant documents from the resolution preparation process: *Prosecution and Punishment...*, pp. 334-457.

. A special contribution to the drafting of the agreement was made by Polish lawyers Stefan Glaser³⁰², a specialist in international criminal law, and Zbigniew Resich, the first president of the Polish Supreme Court and a member of the UN Commission on Human Rights. The convention includes a prohibition on the statute of limitations for prosecuting representatives of states and individuals (its Article II) accused not only of committing war crimes and crimes against humanity, but also genocide (Article I(a, b)). It also provided for extradition procedures to be carried out free of time constraints (Article III) and ordered that domestic law be brought into line with the Convention (Article IV). The crime of genocide was singled out in the section on crimes against humanity, but it is difficult to say that they were considered the same, if only because they were specified and different legal grounds were given. Poland signed the agreement as early as December 16, 1968³⁰³, and ratified it, with reservations regarding Articles V and VII, on February 14, 1969.³⁰⁴ East Germany acceded to the convention, with similar reservations, on March 27, 1973³⁰⁵, and West Germany, after legally and morally discrediting parliamentary debates (scandalous policies were also pursued by the German executive and judicial branches), expressed no desire to join the agreement³⁰⁶.

To conclude the discussion of the treaty prohibition of the crime of genocide, it is necessary to address the customary genesis of this prohibition and the basis for its validity. Guénaël Mettraux stated quite categorically: "There was no way for the Allies to argue that this crime [of genocide] existed under international law prior to this time [prior to the IMT judgment]. It simply did not."³⁰⁷ Challenging the Swiss academic's statement (which expresses the prevailing view in international law doctrine) would prejudice the legal international possibility that Germany committed the crime of genocide during World War II³⁰⁸. What if there was an non-treaty prohibition of genocide in Polish-German relations?

First, the quoted comment was absolute for at least several reasons. It appears to apply to codified law, based on international agreements in force between states. However, the failure to establish a norm in a positive way was not an obstacle to declaring the acts sanctioned by it unlawful, at most it prevented the punishment of individuals for their commission (in practice, the application of a legal basis expressed *expressis verbis* was a

³⁰² D. Janicka, Polish criminal legal thought of the XIX-XX century. Authors and their works. From the classical to sociological school, Toruń 2017, pp. 205-207.

³⁰³ Convention on the Non-Application of Statutes of Limitations to War Crimes and Crimes against Humanity, adopted by the United Nations General Assembly on 26 XI 1968 (OJ 1970, No. 26, item 208, Annex).

³⁰⁴ Government statement of 10 X 1970 on the entry into force of the Convention on the Non-Application of Statutes of Limitations to War Crimes and Crimes against Humanity, adopted by the United Nations General Assembly on 26 XI 1968 (OJ 1970, No. 26, item 209).

³⁰⁵ Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. Adopted by the General Assembly of the United Nations on 26 November 1968. Accession by the German Democratic Republic, "Treaty Series. Treaties and International Agreements Registered or Filed and Recorded with the Secretariat of the United Nations," 862 (1977), p. 410.

³⁰⁶ The issues of prosecuting international crimes and stopping, or abrogating, the course of their statute of limitations were regulated in West Germany by means of national laws and bilateral agreements (see A. Rückerl, Criminal prosecution of Nazi crimes 1945-1978, Warsaw 1980, pp. 25-57; J. Gorzkowska, E. Zakowska, Zbrodniarze hitlerowscy przed sądami NRF, Warsaw-Poznań 1964, pp. 83-91; Z. Resich, Prosecution of war crimes and crimes against humanity under international law [in:] Crimes and Perpetrators. Nazi genocide before the court of humanity and history, ed. C. Pilichowski, Warsaw 1980, pp. 792-795; A. Klafkowski, Prosecution of Nazi criminals as a problem of international law, "PiŻ" 12 (1964), pp. 1-7).

³⁰⁷ G. Mettraux, International Crimes..., p. 197.

³⁰⁸ See W. Schabas, Genocide in International Law and International Relations Prior to 1948 [in:] The Genocide Convention..., pp. 19-34.

sine qua non for trying an individual suspected of committing a crime). Among the sources of international law, in addition to agreements, were international custom and general principles of law, and it was also from these that the obligations of states, including orders and prohibitions, could be derived. In order to conclude that genocide was an unlawful act prior to the adoption of the Convention in 1948, the contractual or non-treaty source of the prohibition would have to be determined in an unobjectionable manner.

Secondly, on the basis of inference *a fortiori*, in the form of argument *a minori ad maius* ("if less is forbidden, then all the more is forbidden more"), the following inference occurred in connection with the presented regularity: if a single murder is forbidden, then all the more so mass murder and mass killings carried out with the intent to destroy a group, etc. Their prohibition in wartime against the population of an enemy state was based primarily on the Martens clause in the Hague Convention (IV), which dealt with, among other things, unspecified gross violations of rights by the occupying power, and the Hague Regulations. Germany's prohibition of genocide would thus be limited to the state of war, including occupation.

Third, the doctrine of international law generally agreed that the crime of genocide in the December 9, 1948 Convention was treated as a crime against humanity, although this was not a precise statement. It was defined in the 1945 IMT Charter alongside crimes against peace and war crimes. The Nuremberg Tribunal and the U.S. military tribunals repeatedly stated in their rulings the legal basis for the prohibition of war crimes and crimes against humanity, stressing in their formulation that the principles of legality - *lex retro non agit* and *nullum crimen sine lege* - were upheld. In the judgment issued in the third follow-up trial, the so-called lawyers' trial, the panel held that the prohibition of crimes against humanity derives not only from contractual law, but also from extra-contractual law (as does the prohibition of war of aggression), and the punishability of the criminal acts of individuals depends on the state of their consciousness: "Whether the crime against humanity is the product of statute or of common international law, or, as we believe, of both, we find no injustice to persons tried for such crimes. They are chargeable with knowledge that such acts were wrong and were punishable when committed."³⁰⁹ . The existence of war crimes, on the other hand, according to the adjudicators, was clear from the Martens Clause. On the basis of the IMT Charter, German criminals were tried for committing both types of crimes. Criminal acts were also qualified from Law No. 10, which formulated prohibitions on war crimes and crimes against humanity almost identical in substance to those contained in the IMT Charter (the difference being that in the prohibition of crimes against humanity, the necessity of linking the crime to war was removed, so in practice the prohibition was expanded). In addition, the catalog of crimes against humanity was enriched, which seemed legally sound, since in the IMT Charter the enumeration of unlawful acts was open-ended, limited to indicating examples of them. The link between crimes of genocide and crimes against humanity was that they were committed for a specific purpose - in the definition of the crime of genocide, this was described as a direct directional intent to destroy a group, while in the case of crimes against humanity, it was described as "political, racial or religious considerations" motivating persecution on the occasion of or in connection with crimes of war or against

³⁰⁹ Trials..., vol. III, p. 983.

peace. Therefore, the general and specific elements of Germany's prohibition of the crime of genocide under the IMT Charter would have to be the same as the elements of the prohibitions of war crimes and crimes against humanity under the IMT Charter and Law No. 10. Both prohibitions were derived from these acts, and were relied upon in sentencing in crime cases. The catalog of basic acts of the prohibition of the crime of genocide had to be derived from the enumerations in the Hague Convention (IV) and the IMT Charter. In formulating the prohibitions of war crimes and crimes against humanity, the openness of the catalog of prohibited acts was repeatedly pointed out, as evidenced by the following quotes - "the violation shall include, but not be limited to", "deportation for forced labor or other purpose" (with the definition of war crimes), "and other inhumane acts" (with the definition of crimes against humanity). This made it possible to conclude that the underlying acts are derived from the December 9, 1948 Convention. Thus, "murder of members of a group" (from the Convention) was substantially the same as and included in the concept of murder (from the Charter), and "causing serious bodily or mental harm to members of a group," "deliberately creating conditions of life for members of a group , calculated to cause their total or partial physical destruction," "the use of measures to stop births within the group," and "forcibly transferring children of group members to another group" (from the convention) were manifestations of "extermination" or at least "maltreatment" (from the charter). By analogy with the Hague Convention (IV) and the IMT Charter, it would be appropriate to limit, in terms of the punishable stage and phenomenal forms of the crime, their regulation in the reconstructed prohibition of the crime of genocide.

Fourth, the introduction of a definition and prohibition of the crime of genocide into positive law was the subject of numerous efforts made even before the outbreak of war by a group of lawyers, led by Raphael Lemkin³¹⁰ . The absence of a prohibition in the IMT Charter was due to resistance from the British authorities, who considered that an extratextual concept could not appear in a legal act³¹¹ , which was arbitrary and political rather than international law. It is possible that some influence was exerted by the Soviet side, which, wishing to avoid comparative reflections, may have sought to limit the formal procedures for prosecution and the substantive grounds for responsibility of German criminals. Nevertheless, the objection raised that the established tribunal would have difficulty justifying the validity of the prohibition of crimes of genocide seemed exaggerated, as similar difficulties applied to the prohibition of crimes against humanity. Nevertheless, a convincing argument was made. Giving the crime a different name, clearly indicating the perpetrator's directional intent and removing the connection to war (which was made more difficult by the restrictions of the Hague Convention (IV)) would be enough to establish a material similarity, bordering on identity, between the crime against humanity known under the IMT Charter and the crime of genocide described in the 1948 UN Convention.

³¹⁰ See J. Barrett, Raphael Lemkin and "Genocide" at Nuremberg, 1945-1946 [in:] *The Genocide Convention...*, pp. 35-54.

³¹¹ British representatives were extremely cautious in establishing the prohibition of the crime of genocide both in the IMT Charter and in the later Convention (see F. Ryszka, *Nuremberg...*, pp. 156-167, 202- 203, 215-218; T. Cyprian, J. Sawicki, *Struggle...*, p. 175).

Fifth, in the indictments, both in the main Nuremberg trial and in the subsequent trials, as well as in the seven proceedings conducted between 1946 and 1948 against German criminals before the Polish Supreme National Tribunal, the word "genocide" appeared repeatedly. It was understood in two ways: as an international legal category when it came to the prohibition of the crime, but above all as the best factual description of the phenomenon. Thus, the essence of the acts of individuals was pointed out, that is, their structural connection expressed by genocidal intent derived from official German national and racial ideology. Therefore, even if the adjudicators did not decide to punish individuals guilty of the crime of genocide, this by no means meant that its prohibition did not apply, and states could carry out genocide without fear that their responsibility would be demonstrated and their obligation to provide compensation enforced.

Sixth, on the level of arguments from the intersection of law and history, it should be pointed out that the possible failure to bind the Reich to the ban on the crime of genocide during World War II would have prevented Germany from committing genocide not only against Poles, but also against Jews³¹². If the opposite assumption is made, then Germany could have violated the ban on genocide crimes against various groups, such as national groups. This has been repeatedly recognized in proceedings before American military tribunals, as already detailed. Victims of Polish nationality were treated on an equal footing with Jewish victims, they were listed side by side. The fact that a significant number of Jews deprived of their lives during the Holocaust had Polish citizenship proved to be significant. Acknowledging that the Germans may have committed genocide during World War II also against members of non-Jewish protected groups by no means changed the fact that it was against the Jews that genocidal intentions were realized to the greatest extent.

In the context of the above arguments, it should be noted that Germany, before 1945, was obliged, with respect to Poland, to observe the prohibition of the crime of genocide to the extent arising from the coincidence of its elements with the elements of war crimes and crimes against humanity³¹³, as defined in the IMT Charter and Law No. 10, and also out of necessity, in order to keep the definition of the crime consistent with the rules of legal inference. On the other hand, the prohibition of the crime of genocide was derived from codified violations of the laws and customs of war known from the Hague Regulations. Therefore, proving that the prohibition of genocide was in force in the part concerning the protection of at least groups of civilians in occupied territories did not pose significant international legal difficulties. Intent in this case could be considered a qualifying element, the presence of which did not undermine the correctness of reasoning *a minori ad maius*, e.g., since individuals belonging to the enemy's civilian population could not be killed because of specific intent. On the other hand, with regard to the coincidence of the elements of the crimes of genocide and against humanity, an additional difficulty was proving the duty to protect any civilian population. However, it was overcome by the IMT in its judgment, as already explained in detail. Thus, during World War II, Germany was

³¹² H. Reginbogin, The Holocaust and the Genocide Convention of 1948 [in:] The Genocide Convention..., pp. 83-98. The IMT did not recognize the Holocaust as a crime of genocide in the international legal sense.

³¹³ G. Mettraux, International Crimes..., pp. 325-342; cf. A. Szpak, Crimes....

bound in its relations with Poland by the prohibition of the crime of genocide to the extent of contractual and customary law.

Finally, it should be emphasized that the prohibition of genocide applied not only to crimes against humanity (being, as is generally accepted in the doctrine of international law, their qualified form), but also to a large extent to the prohibition of war crimes, as well as the laws and customs of war codified in the Hague Convention (IV). The definition of the prohibition of the crime of genocide in the 1948 Convention included protected groups regardless of the state of war and enemy affiliation, which distinguished the prohibition of the crime of genocide from the prohibitions of crimes against humanity and war crimes. Thus, while the prohibitions described in the IMT Charter and Law No. 10 could be considered complementary in their comprehensive protection of their own and the enemy's civilian populations, the codified prohibition of genocide lifted the limitation on guarantees arising from the mandatory connection of acts to war. The prohibition of the crime of genocide, in effect during World War II, was not the same as its version in positive law. The coincidence of names resulted from the need to define the phenomenon of the destruction of groups as precisely as possible, and the term proposed by Raphael Lemkin seemed to meet this criterion. The use of the term genocide had to be considered as legitimate as the use of terms like "war crimes" and "crimes against humanity." It should be remembered that until the adoption of the Convention in 1948, the prohibition of the crime of genocide was limited to acts committed in wartime, and against civilians (their own and those of an allied state), and the armed forces of the enemy. The introduction of the prohibition of the crime of genocide and the order that the statute of limitations should not apply to the prosecution and punishment of those guilty of its commission was initiated by prominent Polish lawyers, supported by a group of cooperating domestic and foreign representatives of the doctrine of international law. Polish legal thought, represented by Rafał Lemkin, as well as Stefan Glaser and Zbigniew Resich, made it possible to define in international treaty law the "crime without a name" and make it possible in the future to prohibit and punish those guilty of it. There is reason to conclude that the contribution of Poles to the development of international humanitarian law was of paramount importance in the 20th century.

CHAPTER IV

Systematization and review of Germany's acts against Poland in 1939-1945

The synthetic presentation of the genesis and outbreak of the armed conflict with Poland, and in particular the course of the German occupation, during which the German state consistently and methodically destroyed the Polish nation, serves rather to reveal the essence of the plan for the extermination of the Poles and to indicate its key elements, than to describe in detail the individual crimes (which would be characteristic of the historical sciences). In connection with the use of historical material for historical-legal analysis, the use of a terminological apparatus that includes legal concepts is justified. Thus, this chapter does not contain a comprehensive historical narrative or qualification of Germany's acts (these are placed in the next chapter), but it does show the facts.

The internal structure of this part of the study was subordinated to presenting the manner in which Germany carried out the genocidal intent to destroy the Polish nation, as well as the different scopes of this intent: material - the plan was to abolish the Polish state, administration and legislation, and to introduce the German model of administration; subjective - resulting from the fact that it was guided by the victims' belonging to the Polish nation, rather than their citizenship; and temporal - the actions taken to carry out the annihilation even before the outbreak of World War II were also included. The lack of correlation of the structure of this chapter with the definition of the crime of genocide is due to the fact that the focus was on proving the intent to destroy the Polish nation and indicated its scope. A description of the issue according to convention acts would have made it impossible to realize the chosen concept: first, Germany's unlawful acts and omissions that were genocidal acts often served at the same time to achieve a specific effect (e.g., the extermination of the leadership strata), so it is difficult to separate them without missing the point; second, specific acts were planned to be carried out throughout the area inhabited by Poles, although general conditions and regional specificities were taken into account; third, a description of the facts according to acts would not reflect Germany's plan against the Poles.

Planning for and preparing for breaches of international law

The main circumstance that allowed the German state to carry out its intention to destroy the Polish nation was the fact that the Polish state had been effectively abolished beforehand, and the Poles had been deprived of their authority in the areas they inhabited and had hitherto administered. Had this not been done, the attempts to annihilate the Poles could not have reached such significant proportions.

Therefore, a war was planned with Poland and the annexation of the Free City of Danzig, whose foreign relations - according to international law - were the responsibility of the

Republic. The German state first prepared to destroy Poland's political, religious, social and financial elite, then to develop activities calculated to annihilate the rest of the nation, regularly liquidate the resurgent resistance movement and forcibly Germanize selected Poles.

Concepts of war with Poland and annexation of the Free City of Danzig and their further concretization

Planning for war with Poland and the annexation of FCD, the German authorities began long before September 1, 1939.¹ To this end, they passed numerous acts and issued numerous orders that made the German armed forces capable of attacking a neighboring state and a separate administrative area. Characterization of even the most important documents proving Germany's aggressive intentions would definitely go beyond the scope of the monograph, so only key testimonies in this regard are described. As a rule, the findings of the highest German authorities were carried out by lower-level officials and party functionaries. Thus, there was no need to present further evidence of intent to invade, except for erudite purposes.

The documents mentioned below were presented during the trial of the major war criminals. During the proceedings, as can be seen from the transcripts of the hearings, the defendants repeatedly referred to the letters, confirming their authenticity. Therefore, the historical and evidentiary value of these sources is beyond doubt, and for this reason the monograph generally refers directly to them. The fundamental importance of these materials stems from the fact that they were compiled on the basis of the directly expressed will of the Führer, which in Germany was the primary source of applicable law.

The intentions revealed by Adolf Hitler, primarily to the highest state functionaries, members of the government and the heads of the armed forces, obliged to implement them. To this end, they developed appropriate action programs, schedules, propaganda guidelines² and possible scenarios of events. Choosing the most effective ways possible,

¹ See studies on German preparations for war with Poland and the implementation of their main objectives: K. Radziwończyk, *The Third Reich's political plans for Poland and their implementation in the period from September 1 to October 25, 1939*, "NDP. MiSzoIIWŚ" XII (1968), pp. 5-38; B. Holyst, *Germany's aggressive policy in the light of documents*, "BGKBZHwP" VIII (1956), pp. 5-53; S. Żerko, *Poland, Germany and the genesis of World War II*, "PZ" 2 (2009), pp. 3-32; L. Moczulski, *The military preparations of the Third Reich for war with Poland in 1939*, "PZ" 3 (1969), pp. 18-60.

² An example of preparations for war in the information sphere is a document dated Oct. 1, 1938, listing possible violations of international law by German or enemy troops against Germany in the course of a possible war with Czechoslovakia. The Wehrmacht High Command presented in tabular form a description of hypothetical situations with their international legal assessment and justification from the point of view of the laws of war. Reading this instruction, consulted with the relevant branches of the Supreme Command of the Land Forces, Navy and Air Force, as well as the Foreign Ministry, gives an idea of the propaganda methods used by Germany, including at the time of the invasion of Poland. Thus, if the Germans had destroyed the residence of the Czechoslovak president, i.e. Hradčany Castle, the intention was to justify its military importance. On the other hand, the damage to the Berlin embassy of France by the Czechoslovak air force was planned to qualify as a violation of the norms of international law, to attribute to the enemy the intentionality of the attack and to condemn it in view of France's pacifist aspirations and the presence of civilians in the outpost (Document 002-C Suggestion Drafted in Tabular Form by the OKW, October 1, 1938 [...] [in:] Trial...,

they made the Reich Commander's concepts a reality. The implementation of his will required the involvement of a large part of the German administrative apparatus (civilian and military), and the process took into account the commander's principle of lawmaking, known as the *Führerprinzip*.

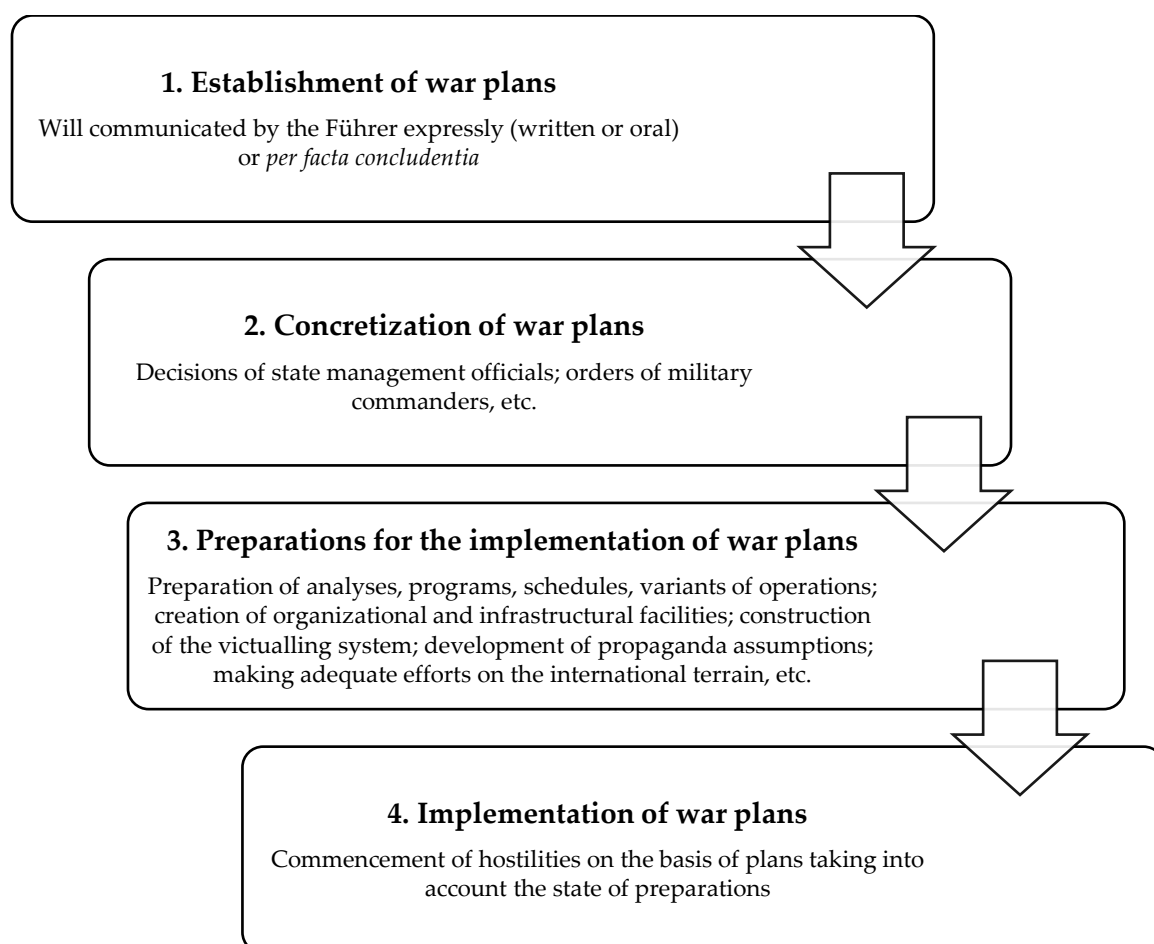


Diagram 2. Simplified schematic representation of the implementation of war plans.

In reconstructing Adolf Hitler's war plans, the records (though not transcripts) of the meetings the commander in chief held with senior commanders of the armed forces, among others, and General Wilhelm Keitel's order on preparations for war with Poland were helpful. The list of key documents³ includes:

- Field Marshal Werner von Blomberg's directives of June 24, 1937. - "Instruction on the unified preparation of the Wehrmacht for war";

vol. XXXIV, pp. 145-158. Cf. Polish translation of the statement with commentary: S. Ordon, *Defensive War of Poland in 1939 on the Coast and Sea in the Light of International Law*, Wrocław 1974, pp. 91-102).

³ Part of the remaining planning documentation, relevant especially to the issue of naval warfare, was described by Stanisław Ordon (see S. Ordon, *Poland's Defense War...*, pp. 72-88).

- Transcripts of four conferences of Adolf Hitler on November 5, 1937 (report of Col. Friedrich Hoßbach), May 23, 1939 (report of Lt. Col. Rudolf Schmundt), August 22, 1939 (from the so-called Obersalzberg speech) and November 23, 1939;
- An order from Lt. Gen. Walther von Brauchitsch dated December 8, 1938, containing guidelines for the 3rd Army's high command in the event of war;
- General Wilhelm Keitel's order of April 3, 1939, along with the "Wehrmacht's Instruction on Uniform War Preparation for 1939/1940" (originally, three appendices were provided for it, concerning, among other things, the plan to attack Poland, or "Fall Weiss," and the annexation of FCD; three more were later added);
- approval of the aforementioned order of Gen. Wilhelm Keitel by Adolf Hitler on April 11, 1939;
- The Führer's directives of May 10, 1939, containing "Instructions for Combating the Enemy Economy (Economic Warfare) and Protective Measures for One's Own Economy" (were Annex VI to the "Instructions" of April 3, 1939).

As early as mid-1937, Field Marshal Werner von Blomberg, the Reich War Minister, issued a 22-page "Instruction" ("Weisung für die einheitliche Kriegsvorbereitung der Wehrmacht"), divided into three main parts: "General Guidelines" ("Allgemeine Richtlinien"), "Probable War Cases (Army Concentrations)" ("Wahrscheinliche Kriegsfall (Aufmärsche)") and "Special Preparations" ("Sonder-Vorbereitungen").

"The Instruction" went into effect on July 1, 1937. Its German text was included in the Nuremberg trial as evidence of the US prosecution ref. USA-69 and marked in the general collection of documents from the proceedings before the IMT as 175-C⁴. The theses presented in the text were discussed, among others, on the 12th and 13th days of the trial, i.e. December 4 and 5, 1945⁵.

The "Instruction" indicated that the Reich War Minister did not consider an attack on Germany likely due to the pacifist sentiment prevailing especially in the West and the lack of readiness for war by many countries, mainly the USSR. Accordingly, it was stressed that Germany's goal was not to prepare for and launch a war of aggression. Despite this declaration, it was assumed that German troops should at all times be able to counterattack and militarily exploit politically favorable circumstances that may arise in the future⁶.

The enigmatic-sounding wording revealed the real intentions of the German government, which, acting in stages, was aiming for war. To eliminate unnecessary doubt and conjecture in those carrying out the orders, allusive vocabulary was used, which became common practice in carrying out Adolf Hitler's will. It was suggested that certain possibilities would arise, and when these did not, however, it was increasingly openly suggested that they should be initiated and thus avoid nullifying the actions so far taken.

⁴ Document 175-C. Blomberg's Directive for Unified War Preparations by the Wehrmacht, June 24, 1937, and First Addendum, December 7, 1937. Schedule for "Probable" Wars... [in] Trial..., vol. XXXIV, pp. 732-747.

⁵ Cases..., pp. 62-63, 76-77; Trial..., vol. III, pp. 111-112, 199-201.

⁶ Document 175-C..., pp. 734-735.

Although the "Instruction" primarily contemplated the implementation of "Fall Rot" and "Fall Grün" (plans for the conquest of France and Czechoslovakia, respectively), it took into account that Poland could become involved in hostilities against the Reich, which could be initiated as a result of a German attack on France or Czechoslovakia. It was assumed that Polish intervention in the political situation at the time was unlikely. However, if it were to happen, Poland's cooperation with the USSR and Czechoslovakia was to be expected, as well as a strike by Polish troops against East Prussia, the interruption of their communications with the Reich and an attack on Silesia⁷.

The first conference relevant to preparations for war with Poland took place on November 5, 1937, at the Reich Chancellery; it lasted four hours and a quarter. Its proceedings are known thanks to a November 10, 1937 report by one of the participants - Colonel Friedrich Hoßbach, Adolf Hitler's adjutant for the armed forces. The meeting was also attended by Werner von Blomberg, Werner von Fritsch (land army commander), Erich Raeder (naval commander), Hermann Göring (air force commander) and Konstantin von Neurath (Reich foreign minister). The transcript of the proceedings of the meeting in German was included in the Nuremberg trial document collection ref. 386-PS as evidence USA-25, presented by the US prosecution⁸. Although the original report could not be found, the authenticity of the attached copy was confirmed by Colonel Friedrich Hoßbach under oath before the IMT⁹ and in his book¹⁰.

During the meeting, Adolf Hitler primarily discussed the directions of German foreign policy, recognizing these deliberations as the result of his nearly five-year reign. He treated them in the event of his own death as his "last will and political testament," which showed the significance of his words. The selection of the recipients, mainly members of the generals, in turn confirmed that he intended to implement the plans through military action. The Führer subordinated international actions to the goals of the German people. He pointed out that the *raison d'être* of the nation was demographic growth, which could be achieved by expanding Germany's living space, which he considered a "fabulous

⁷ Ibid, pp. 736, 744-745.

⁸ Document 386-PS. Memorandum by Colonel Hossbach, November 10, 1937, on the Conference held November 5, 1937 at the Reich Chancellery... [in:] Trial..., vol. XXV, pp. 402-413. Cf. English translations of the document (No. 19. Memorandum [in:] Documents on German Foreign Policy 1918-1945. Series D, vol. 1, London 1949, pp. 29-39; Document 386-PS [in:] Nazi Conspiracy and Aggression, vol. 3, Washington 1946, pp. 295-305) and Polish (Report of Colonel Friedrich Hoßbach of November 10, 1937 (Document 386-PS) [in:] T. Cyprian, J. Sawicki, Aggression..., part 1, pp. 21-30).

⁹ Affidavit, June 18, 1946, by Friedrich Hossbach... [in:] Trial..., vol. XLII, pp. 228-230. The Führer's adjutant stated at the time: "on the occasion of the interrogation on March 13, 14 and 15, 1946, on the basis of the photocopy presented to me, I expressed the view that I could no longer state with certainty whether the photocopy was an exact, verbatim reproduction of my transcript. The content, editing and style summarily correspond to my own transcript, and on reading or rather reading the photocopy reminded me of passages, others I did not remember or only vaguely recalled" ("Anlässlich der Vernehmung am 13., 14. und 15.3.1946 habe ich auf Grund der mir vorgelegten Photokopie der Auffassung Ausdruck gegeben, daß ich nicht mehr mit Sicherheit sagen könne, ob es sich bei der Photokopie um eine genaue, wörtliche Wiedergabe meiner Niederschrift handele, daß ich jedoch nach Inhalt, Abfassung und Stil in summa eine Wiedergabe meiner eigenen Niederschrift als vorliegend annehmen müsse, und daß beim Lesen bzw. Vorlesen der Photokopie mir Stellen des Inhaltes erinnerlich wurden, andere mir nicht oder nur ungenau erinnerlich geblieben seien").

¹⁰ F. Hossbach, Zwischen Wehrmacht und Hitler 1934-1938, Wolfenbüttel 1949. cf. W. Bußmann, Zur Entstehung und Überlieferung der "Hoßbach-Niederschrift", "VJH f. ZG" 4 (1968), s. 373-384.

remedy" in the current situation¹¹. In his view, developing an agrarian economy on the basis of intensive farming assumptions would not meet Germany's needs without an increase in acreage. However, the leader rejected the vision of autarky and colonial policy, preferring European conquest over them. He stated that it was necessary to begin with attacks on the Reich's neighboring states. He estimated that conquering Austria and Czechoslovakia would make it possible to feed some 5-6 million Germans. He stressed that the European war should be triggered by 1943-1945, as by then the Reich would have achieved a significant advantage over the countries it intended to conquer. Although aggression meant risk, the Führer pointed out ways to neutralize it. He cited the internal crisis in France and France's war with another country, making it incapable of coming to Czechoslovakia's defense, as examples of a convenient situation to attack Czechoslovakia. Adolf Hitler did not fear an armed response from Poland in the event of a German-French war, if Germany was victorious. Otherwise, he foresaw a Polish strike against East Prussia, Silesia and Pomerania. He used a similar calculation when planning the conquest of Austria and Czechoslovakia - he expected that Poland, due to German strength and the Soviet threat, would not support its southern neighbor. Adolf Hitler therefore included Poland as a secondary target for striking before the 1943-1945 period, should Poland decide to side with countries not yet attacked. He seems to have planned that the intended European war, due to the ideological premise of the racial inferiority of Slavs in general and Poles in particular, would end with the destruction of Poland. Admittedly, some authors indicate that the Führer did not consider Poland a target for attack at the time, for example, because of his expressed respect for Poles and reverence for Marshal Jozef Pilsudski. Such claims, however, seem inconsistent with the facts: Germany had not come to terms with the "Versailles dictate," demanding a revision of the borders and the return of FCD to the Reich, and the Führer applied the rule "the end justifies the means" and ideologically advanced traditional German theses about the inferiority of Poles.

The meeting, held in the late afternoon, was not the only important event that took place at the Reich Chancellery on November 5, 1937. At 10 a.m. Adolf Hitler received a delegation from the Union of Poles in Germany, composed as follows: Stefan Szczepaniak (vice-president of the association), Jan Kaczmarek (general manager) and Bruno Openkowski (legal trustee)¹². At the invitation of the Führer, representatives of the German Polish community paid him a visit, during which the leader read the Declaration of the Polish and German governments on the treatment of their recognized national minorities¹³. This allowed him to reinforce his false image as a leader sympathetic to Polish affairs. Stefan Szczepaniak and Jan Kaczmarek remembered the chancellor this

¹¹ "VielleichttraumhaftererscheinendeAbhilfe"(Document386-PS.MemorandumbyColonelHossbach,10November 1937, on the Conference held November 5, 1937 at the Reich Chancellery... [in:] Trial..., vol. XXV, p. 406).

¹² E. Osmanczyk, November 5, 1937, "Odra" 11 (1945), pp. 1-3.

¹³ Polish-German Declarations on Minority Matters, "Western Front" 9 (1937), pp. 1-3. The text of the German aide-mémoire given to Ambassador Józef Lipski after the end of his audience with Adolf Hitler (contained in the aforementioned German white paper) contained numerous comments, requests, and suggestions of the German government in connection with the adopted declaration (Aide-mémoire of the German government to the Polish government of November 5, 1937. [in:] T. Cyprian, J. Sawicki, Aggression..., part 1, pp. 122-124. See H. Chałupczak, Declaration of November 5, 1937 and the problem of the Polish minority in Germany, "PZ" 1989 (1), pp. 103-126; D. Matelski, German minority policy and the "November 5 line" in the assessment of the Polish embassy in Berlin (November 5, 1937 - January 28, 1938), "PZ" 5/6 (1990), pp. 198-206.)

way on that memorable day: "He breathes death! This man carries death with him for all who are in his circle."¹⁴ .

After members of the Union of Poles in Germany left the commander's office, Jozef Lipski, the Polish ambassador to the Reich, was invited to an audience. To him, too, Adolf Hitler made fraudulent assurances about the friendship he allegedly had for the Poles, and stressed that the Danzig issues were no obstacle to a Polish-German agreement. He expressed satisfaction that the 1934 declaration had made it possible to normalize relations by regulating them bilaterally between the parties involved¹⁵ . A day earlier, on November 4, 1937, Hermann Göring made many similar pledges to Jan Szembek, Polish Deputy Foreign Minister. He stressed emphatically that Polish entitlements in FCD were inviolable, as was the Polish-German border¹⁶ . This type of propaganda effectively kept the Polish authorities convinced that there was no real threat from Germany. Meanwhile, on December 8, 1938, Lt. Gen. Walther von Brauchitsch, who replaced Werner von Fritsch as commander of the land forces on February 4, 1938¹⁷ , issued an order containing guidelines for the 3rd Army's high command in the event of war. He envisioned a solution to the FCD and Klaipeda District issue and tried to plan for the effective protection of East Prussia: "The matter should be resolved so that the "Memel" and "Danzig" plans can be implemented immediately, and the East Prussian forces will be ready in a short time for both offensive use and defense of the province."¹⁸ .

¹⁴ E. Osmanczyk, November 5..., p. 2.

¹⁵ No. 33 Official Communiqué on the Polish Ambassador's Audience with the Reich Chancellor [in:] Official Documents..., New York 1939, p. 41. Cf. Official Communiqué on the Polish Ambassador's Audience with the Reich Chancellor of November 5, 1937. [in:] T. Cyprian, J. Sawicki, Aggression..., part 1, pp. 15-16. At the Nuremberg Trial, a communiqué concerning the meeting between the Chancellor and the Ambassador was submitted by the British prosecution as evidence under reference GB-27 (see Document 073-TC (33). Official Communiqué (Polish White Book), November 5, 1937... [in] Trial..., vol. XXXIX, pp. 73-74).

¹⁶ Notification of Deputy Foreign Minister Jan Szembek regarding his conversation with Hermann Göring to Foreign Minister Jozef Beck, November 4, 1937. [in:] T. Cyprian, J. Sawicki, Aggression..., part 1, pp. 37-40.

¹⁷ On February 4, 1938, a series of resignations of German commanders opposed to Hitler's plans for the conquest of Europe and the commander-in-chief himself occurred as a result of political intrigue hatched by Hermann Göring, Heinrich Himmler and Reinhard Heydrich. Moral allegations were made against Field Marshal Werner von Blomberg, minister of war (marriage to a former prostitute), and General Werner von Fritsch, commander-in-chief of the land forces (ultimately unconfirmed suspicion of homosexuality). As a result of the so-called Blomberg-Fritsch affair, the Reich War Ministry (Reichskriegsministerium, in existence since May 21, 1935) was abolished, sixteen generals were retired, the OKW was established, and Adolf Hitler became commander-in-chief of the armed forces. Werner von Fritsch was cleared of the charges by a court of honor, and although he did not return to his post, he took part in the September campaign. He fell as the second German general during the siege of Warsaw, September 22, 1939. Werner von Blomberg, on the other hand, decided to take a briefing and move to Bavaria after he was made aware of material compromising his young wife. The elimination of likely opponents and organizational changes in the command of the German armed forces increased the chances of implementing aggressive plans for conquest. Thus, the opposition of the Wehrmacht representatives, who were counting on the possibility of defeat, was weakened, and they were left to raise official doubts formulated under the guise of concern for compliance with the norms of international law (Wehrgesetz. Vom 21. Mai 1935 (RGBl. I 1935, 52, 609). See T. Szafar, The Generals' Affair, Warsaw 1961; H. Kirst, The Generals' Affair, transl. E. Ptaszyńska-Sadowska, Warsaw 1995; K. Grünberg, SS..., pp. 120-121; H. Foertsch, Schuld und Verhängnis. Die Fritsch-Krise im Frühjahr 1938 als Wendepunkt in der Geschichte der nationalsozialistischen Zeit, Stuttgart 1951; K.-H. Janßen, F. Tobias, Der Sturz der Generäle. Hitler und die Blomberg-Fritsch-Krise 1938, München 1994).

¹⁸ "Die Bearbeitung hat so zu erfolgen, daß die Durchführung des Falles "Memel" und "Danzig" sofort erfolgen kann, daß im übrigen die ostpreußischen Kräfte sowohl für offensive Verwendung als auch für die Verteidigung der Provinz raschestens bereit sind." In addition to Lt. Gen. Walter von Brauchitsch's order of December 8, 1938, Document 120-C included the order of Gen. Wilhelm Keitel, described below, Adolf Hitler's orders of April 11 and May 10, 1939, and Gen. Wilhelm Keitel's order of May 10, 1939 (Document 120-C. Note by Keitel, April 3, 1939: By Order of Hitler Staff Work for Case "White" (Attack against Poland) to Be Prepared

The international events leading up to 1939 - the Anschluss (March 12, 1938), the transfer of Czechoslovakia's Sudetenland to Germany (October 1-10, 1938), the creation of the so-called Protectorate of Bohemia and Moravia (March 16, 1939) and the annexation of Lithuania's Klaipeda District (March 22, 1939) - left no illusions about Germany's aggressive intentions. By the end of March 1939, Gen. Wilhelm Keitel, head of the OKW, already knew that Adolf Hitler had forwarded the order to attack Poland to the commander-in-chief of the various military types: the navy - Adm. Erich Raeder, the air force - Field Marshal Hermann Göring, and the land forces - Gen. Col. Walter von Brauchitsch¹⁹. Accordingly, on April 3, 1939, i.e. nearly five months before the outbreak of war, he issued an order addressed to these commanders entitled "Instruction on Uniform War Preparation of the Wehrmacht for 1939/1940." They each received a copy of the order, and two more were delivered to Gen. Walter Warlimont for use by the Abteilung Landesverteidigungsführungsamt OKW (Abteilung Landesverteidigungsführungsamt Wehrmacht Supreme Command). The document and its attachments were submitted by the British prosecution as Exhibit GB-41, marked in the Nuremberg document collection with the reference 120-C.

"Instruction" by General Wilhelm Keitel was soon signed by Adolf Hitler on April 11, 1939. It contained three annexes that dealt with securing German borders (Annex I), the plan to attack Poland "Fall Weiss" (Annex II)²⁰ and the annexation of FCD, described as its "taking possession" (Annex III). The first and third annexes were decided to be issued in mid-April, and the second was attached to an order from Gen. Wilhelm Keitel. In addition, the Reich Chancellor settled the question of command in East Prussia, should hostilities ensue (appendix IV). Another annex, not mentioned in the order, referred to the designation of operational areas for ground troops (appendix V).

The head of the OKW, in the preface of the order, conveyed Adolf Hitler's orders as to the implementation of preparations for an attack on Poland - he pointed out the need for the OKW to be ready to attack at any time after September 1, 1939, for the OKW to draw up a timetable of actions and their coordination among the three types of troops, and stressed that the deadline for submitting comments to the OKW was May 1, 1939.

The second annex began with a deadly diagnosis for Poland: "Poland's present behavior requires, in addition to the plan for the defense of the eastern borders, that military preparations be made to eliminate once and for all any threat from that side, should this prove necessary."²¹ This meant that it was based on false premises. The desire to revise the borders and obtain reparations for the allegedly unjust Treaty of Versailles allowed Germany to attribute aggressive intentions toward the Reich to Poland, which was not borne out by the facts. Germany's perception of its own injustice was doubly distorted - first, it lost the territories that the Kingdom of Prussia had illegally seized jointly with Russia and Austria as a result of the three partitions of Polish lands in the second half of the 18th century, and second, Poland was not preparing for a war of aggression. It was not

in such a Way that Operations Could Begin any Time After September 1, 1939... [in:] Trial..., vol. XXXIV, pp. 380-422. The above quotation is from p. 417).

¹⁹ H. Greiner, Behind the scenes of OKW, Warsaw 1959, p. 34.

²⁰ See the Polish translation of Part 2 of the "Instruction" of April 3, 1939: Fall Weiss [in:] T. Cyprian, J. Sawicki, Agresja na Polskę w świetle dokumentów, part 2, Warsaw 1946, pp. 41-46.

²¹ Ibid, p. 41.

until March 4 that the defensive operational plan "West" began to be created, the preliminary draft of which was presented to the General Inspector of the Armed Forces on March 22, 1939.

Despite the lack of a real threat from Poland, Germany comprehensively prepared to attack its eastern neighbor. "Fall Weiss" was divided into: political tasks and objectives (part 1), military conclusions (part 2), tasks of the armed forces (part 3), tasks of the various types of armed forces (part 4). The last section details the dispositions intended for the ground forces, navy and air force.

The order implied that Poland could be destroyed militarily regardless of the provisions of the 1934 declaration. Hostilities were planned to be limited to the area of Poland and FCD, and counted on the passivity of France and Great Britain, the complacency of the Baltic states, the alliance with Italy, the precariousness of Hungary and the inability of the USSR to support Poland. The Polish lands were to be conquered by means of Blitzkrieg - powerful, sudden strikes by armed forces combined with urgent surveillance of the remaining Reich borders and securing the Lithuanian border. Land troops were to occupy Gdansk Pomerania, and an attack from the Slovakian side was expected. At sea, it was assumed the destruction of the Polish navy and merchant fleet, the blockade of Polish bases, the need to maintain communications with the Reich and the securing of waterways to the Baltic states and Sweden. According to the plan, the German air force, supporting the land forces, should have made a surprise attack to destroy the Polish aviation. In addition, its actions were to prevent the mobilization of Polish troops.

The description of "Fall Weiss" was accompanied by special orders that regulated, among other things, mobilization, operational area, executive authority, rules of subordination and maintenance of communications. The first point indicated the legal basis for aggression. It was emphasized that a state of defense or war as defined by the secret Reich Defense Act of September 4, 1938²² would not be declared, and that all actions and demands would be based on peace legislation. The authorities declared their willingness to faithfully fulfill the Hague Regulations in accordance with their sense (*sinngemäß*). This treatment helped convince those with doubts about the plan to undertake it, as it somehow weakened their reservations about the illegality of the actions taken.

Annex III, devoted to the seizure of FCD, shows that the contemplated plan for aggression against its territory may have been independent of the invasion of Poland, conditioned rather by a favorable political situation. The task of capturing FCD rested with ground troops, the strike should have been made from East Prussia, although naval and air force participation was considered. Here, too, special orders were issued, basically containing thematically similar groups of arrangements. The introductory paragraph, with general remarks, included the following comment: "it can be assumed that after a long separation the Free City of Danzig, as a purely German area, will once again take possession of the German Reich"²³. From this comment, placed quaintly in the introduction of the military

²² Geheime Kommandosache. Reichsverteidigungsgesetz vom 4. September 1938, unreported text, Document 2194-PS. Top-Secret: Reich Defense Law, 4 September 1938... [in:] Trial..., vol. XXIX, pp. 319-326.

²³ "Es ist davon auszugehen, dass durch die Inbesitznahme des Freistaates Danzig ein rein deutsches Gebiet nach langer Trennung wieder unter die Hoheit des Deutschen Reiches gestellt wird" (Document 120-C..., p. 398).

guidelines, it is clear how Germany treated the FCD as German territory that the Reich was forced to part with. However, the time had come to punish Poland, which was guilty of this separation.

"Instructions" of April 3, 1939. Adolf Hitler supplemented it in directives dated May 10, 1939. They included: "Instructions for Combating the Enemy Economy (Economic Warfare) and Protective Measures for One's Own Economy"²⁴ (Appendix VI). Commanders of the various types of troops were ordered to indicate by August 1, 1939 how they intended to implement the commander's order. In essence, the "Instructions" of May 10, 1939 were divided into two parts, devoted to the economic warfare respectively in the situation where the plan for border protection in accordance with the Annex and General Wilhelm Keitel's order of April 3, 1939, and in the event of an attack on Poland ("Fall Weiss"), as described in Annex II of the order, was implemented. Thus, the first part referred to actions against Great Britain and then economic aggression against France, and the second part contained guidelines in the event of the occupation of Polish lands by German troops. It was postulated that Polish businesses should be preserved intact during hostilities if possible. Breaking this rule could only result from a military emergency. The intention was to take over the Upper Silesian industrial area as quickly as possible. Blocking the supply of goods to Poland, both through Polish ports where ships under neutral flags could enter and through neutral ones, was considered an important element of economic warfare.

Thirteen days after issuing the "Instruction," Adolf Hitler openly recounted the goals of his policy and acquainted the fourteen military officers present with a diagnosis of Germany's position. Among the participants in the meeting were the supreme commanders of the various types of troops (taking into account the personnel changes that took place on February 4, 1938). The report on the meeting was prepared by Lt. Col. Rudolf Schmundt, which is why it is sometimes referred to in the literature as the Schmundt-Protokoll or Kleiner Schmundt. Its German text was printed in a collection of Nuremberg writings and was assigned the reference 079-L as evidence for the prosecution of the U.S.S.R. 27²⁵. The report was repeatedly mentioned at the trial before the IMT²⁶.

At the outset, the leader introduced two perspectives: the first concerned the changes in the Reich between 1933 and 1939, i.e. since the National Socialists took power, and the second the general geopolitical situation. Adolf Hitler considered the most significant obstacle to Germany's development to be the lack of arable land, the possession of which could ensure the demographic growth he considered desirable. He stressed that obtaining colonies would not solve the problem due to their remoteness and the uncertainty of access to resources in the event of a wartime blockade. Therefore, he pointed to the destruction of other states and nations as necessary: "Without breaking into foreign countries or

²⁴ Document 120-C..., pp. 403-408. See the Polish translation of the contents of Annex VI: *Wojna obronna Polski 1939. Wybór źródeł, zeb. i oprac.* E. Kozłowski et al., Warsaw 1968, pp. 231-234.

²⁵ Document 079-L. Undated Account of a Discussion between Hitler and the Commanders and Senior Officers of the Three Services in the Reich Chancellery, 23 May 1939... [in:] Trial..., vol. XXXVII, pp. 546-556. See. Polish translation of Lt. Col. Rudolf Schmundt's report: *Minutes of the Lt. Col. Rudolf Schmundt's conference held on May 23, 1939 (Document 079-L)* [in:] T. Cyprian, J. Sawicki, *Aggression...*, part 2, pp. 46-56.

²⁶ Trial..., vol. II, pp. 278-284; cf. *Instruction on the Political Situation and Future Plans. Minutes of the conference of May 23, 1939.* [in:] T. Cyprian, J. Sawicki, *Polish Affairs...*, pp. 46-48. See also Trial..., vol. IX, pp. 38-39, 47-48, 58, 116-118, 308-309; Trial..., vol. X, pp. 513-514; Trial..., vol. XIII, pp. 37-39; Trial..., vol. XIV, pp. 38-39, 134.

attacking foreign property, this [solution to economic problems] is not possible."²⁷ . Brutal assaults and theft were to characterize a new era in German history. So the Führer did not give up his populist assumption that Germans should be materially privileged over other nations. From this came the following reasoning: if reality does not allow Germans to achieve their proper social and demographic position, reality must be changed regardless of the cost.

Obtaining Lebensraum in the east was to enable future victories in the west. The chancellor stated: "The Pole is no additional enemy. Poland will always be on the side of our opponents."²⁸ . The following conclusions can be drawn from this sentence: the hostile actions of Germany aimed at destruction should be directed against the Poles (by virtue of their belonging to the Polish nation), Poland as the state of the Poles is the eternal enemy of Germany, and its location in the east is an additional justification to attack it. The leader added: "there is no question of sparing Poland, and it remains to attack Poland at the first possible opportunity."²⁹ . From this perspective, the desire to solve the problem of the German minority in FCD was not a true *casus belli*. Its area was strategically important, as it allowed for efficient transport of goods and military dominance in the southern part of the Baltic Sea. Poles, regardless of their civic affiliation (German, Polish or Danzig), were assigned at best a subservient role; in the future, as slaves, they were to work for Germany.

Adolf Hitler's speech also contained international legal themes. He intended to violate Germany's treaty norms, including those concerning the neutrality of European states. He referred to the Great War as World War I, which indicated his intentions - apparently the next one was to go down in history as World War II. Despite this speculation, during the meeting the Führer did not include the participation of the United States in the conflict, which basically meant that the war would be fought on the European continent. To develop the technical and organizational side of the venture and to keep war preparations secret, the chancellor set up a research staff within the OKW.

The May meeting described above provided the commanders of the military types with a relatively large number of general guidelines for the onslaught. Detailed plans were made from the second half of May through August 1939. On August 22, 1939, the commander summed up the preparatory period during another important meeting with army commanders at his Berghof residence on the slopes of the Obersalzberg. As U.S. prosecutor Sydney Alderman stated during the trial, the Führer did this twice, most likely before noon and after³⁰ .

²⁷ "Ohne Einbruch in fremde Staaten oder Angriff fremden Eigentums ist dies [die Lösung der wirtschaftlichen Probleme] nicht möglich" (Document 079-L..., p. 548).

²⁸ "Der Pole ist kein zusätzlicher Feind. Polen wird immer auf der Seite unserer Gegner stehen" (ibidem, p. 548).

²⁹ "Es entfällt also die Frage Polen zu schonen und bleibt der Entschluss bei erster passender Gelegenheit Polen anzugreifen" (ibidem, p. 549).

³⁰ Trial..., vol. II, p. 286.

Three versions of the transcripts of the event were submitted to the adjudicators at the IMT, identified as 798-PS (Exhibit USA-29)³¹, 1014-PS (Exhibit USA-30)³² and 003-L³³. In addition, a copy of Adm. Gen. Hermann Boehm's notes, still taken on the evening of August 22, 1939, at Munich's "Vier Jahreszeiten" ("Four Seasons") hotel³⁴, appeared in the collection of Nuremberg writings. It was authenticated by attorney Walter Siemers and marked in the trial as Raeder-27. US prosecution documents from the OKW archives were considered evidence in the case of the main Nuremberg criminals - they were referred to as Adolf Hitler's first and second speeches, and many doubts have grown around the authenticity of the last variant over the years. The panel of judges of the IMT did not grant it evidentiary value. However, its importance and the interest of researchers stemmed from the fact that the document included the so-called Armenian quote, in which the dictator announced his ruthless plan to exterminate all Poles, and compared it to the not chronologically distant Turkish slaughter of Armenians. The passage should be quoted without abbreviation: "Our strength consists in our speed and in our brutality. Genghis Khan led millions of women and children to slaughter - with premeditation and a happy heart. History sees in him solely the founder of a state. It's a matter of indifference to me what a weak western European civilization will say about me. I have issued the command - and I'll have anybody who utters but one word of criticism executed by a firing squad - that our war aim does not consist in reaching certain lines, but in the physical destruction of the enemy. Accordingly, I have placed my death-head formations in readiness - for the present only in the East - with orders to them to send to death mercilessly and without compassion, men, women, and children of Polish derivation and language. Only thus shall we gain the living space ("*Lebensraum*") which we need. Who, after all, speaks today of the annihilation of the Armenians?"³⁵.

³¹ Document 798-PS. Address by Hitler to the Commanders-In-Chief, August 22, 1939, on his Intention to Wage War and his Political Preparations for War, with Prophecies as to the Attitude of other European States and the Probable Course of The War... [in:] Trial..., vol. XXVI, pp. 338-344. Cf. the translation of extensive excerpts of the text into Polish: Adolf Hitler's Speech of August 22, 1939. (Document 798-PS) [in:] T. Cyprian, J. Sawicki, Aggression..., part 2, pp. 133-139; Note from the briefing of the commander-in-chief at Obersalzberg containing Adolf Hitler's speech of August 22, 1939 (Document 798-PS) [in:] T. Cyprian, J. Sawicki, Polish Affairs..., pp. 48-50, as well as the English translation of the entire typescript: No. 192. Unsigned Memorandum. Speech by the Führer to the Commanders in Chief on August 22, 1939 [in:] Documents on German Foreign Policy 1918-1945, Series D (1937-1945), vol. 7, London 1956, pp. 200-204; Trial..., vol. II, pp. 287-291.

³² Document 1014-PS. Hitler's Second Speech to the Commanders-In-Chief on August 22, 1939. Hitler States he Will Provide a Propagandistic Incident to Start the War; Complete Destruction of Poland Necessary; Victory, not Law, Is the Important Factor... [in:] Trial..., vol. XXVI, pp. 523-524. cf. the Polish translation of the report: Second Speech by the Führer on August 22, 1939 (Document 1014-PS) [in:] T. Cyprian, J. Sawicki, Aggression..., part 2, pp. 139-140, and English: No. 193 Unsigned Memorandum. Second Speech by the Führer on August 22, 1939 [in:] Documents on German Foreign Policy 1918-1945, Series D (1937-1945)..., vol. VII, pp. 205-206.

³³ Document 003-L [in:] Trial..., vol. XXXVII, p. 391. Cf. Polish translation of the first part of the document: Führer's speech on August 22, 1939 (Document 003-L) [in:] T. Cyprian, J. Sawicki, Aggression..., part 2, pp. 140-142.

³⁴ Document Raeder-27. Contents of Speech by Hitler at Obersalzberg, 22 August 1939, Written Down Subsequently by Hermann Böhm, Former Admiral-General; Hitler's Estimate of the Political Situation - Poland, Mussolini, Franco, etc. (Exhibit Raeder-27) [in:] Trial..., vol. XLI, pp. 16-25.

³⁵ L. Lochner, What about Germany?, New York 1943, p. 2. See the full text of Document 003-L: *ibid.*, pp. 1-4. Richard Albrecht, a contemporary German sociologist, used the question summarized in the quote as the title of a book on Adolf Hitler's speech of August 22, 1939. In the monograph, he included a German-language version of the typescript revealed by Louis Lochner (see R. Albrecht, Anhang: Das L-3 Dokument [in:] "Wer redet heute noch von der Vernichtung der Armenier?" Adolf Hitlers Geheimrede am 22. August 1939, Aachen 2007, pp. 86-92).

Document 003-L was presented to the public by Louis Lochner, an American journalist and 1939 Pulitzer Prize winner, in his 1942 book (reprinted in 1943). He then submitted the text to the IMT judges in Nuremberg. His mysterious informant allegedly handed over this three-page typescript a week before the German invasion of Poland began. Although U.S. prosecutor Sydney Alderman did not question the reresponsibility of the text, he noted: "By comparison of those two documents [798-PS and 1014-PS] with the first document [003-L], we concluded that the first document was a slightly garbled merger of the two speeches."³⁶ . Polish researchers of the problem, in turn, stated: "The three versions of this speech are explained by the fact that, probably, in addition to the official minutes, those present at the meeting took notes that more or less faithfully reflected the proceedings of the conference. In any case, however, all three versions partially coincide with each other and nowhere contradict each other - at most they more or less emphasize certain parts of the speech, while omitting others."³⁷ . Richard Albrecht³⁸ and Kevork Bardakjian³⁹ attributed the authorship of document 003-L to Abwehr chief Adm. Wilhelm Canaris. Perhaps to encourage the British to intervene in the defense of Poland, the report was written bluntly and expressively. Hermann Göring's reaction to the commander's speech should also be mentioned. According to informant Louis Lochner, the Luftwaffe commander climbed on the table with joy, delivered an impassioned speech of thanks and promised to carry out brutal orders⁴⁰ .

A reading of three transcripts of the Führer's speeches on August 22, 1939, shows that the primary goal of Germany's attack on its eastern neighbor was the extermination of its population regardless of the situation: "The destruction of Poland in the foreground. The aim is to eliminate vital forces, not to reach a certain line. Even if war breaks out in the West, the destruction of Poland remains in the foreground. [...] I will give a propaganda reason for starting a war, no matter how plausible. No one will ask the victor later whether he told the truth or not. When the war begins and continues, it is not the right that counts, but the victory. A heart closed to mercy. Brutal proceedings. 80 million people must get their rights. Their existence must be secured. The stronger has the right. The greatest ruthlessness."⁴¹ . As is also clear from the Führer's reflections presented earlier, the crackdown on the Poles was not to be limited to the liquidation of their statehood. He sought, as he admitted, to destroy the Poles, depopulate their lands and then colonize them by Germans. To accomplish these tasks and start the conflict, he did not hesitate to use propaganda, regardless of the degree of credibility of its claims. He recommended brutality to military commanders, since, in his view, the law of the stronger applies in relations

³⁶ Trial..., vol. II, p. 286.

³⁷ T. Cyprian, J. Sawicki, Aggression..., part 2, p. 142.

³⁸ R. Albrecht, "The Historian as Detective" [in:] "Wer redet heute noch von der Vernichtung der Armenier?"..., pp. 31-48.

³⁹ K. Bardakjian, Hitler and the Armenian Genocide. Special Report No. 3, Cambridge 1985, pp. 21-24.

⁴⁰ L. Lochner, What about Germany?..., p. 4.

⁴¹ "Vernichtung Polens im Vordergrund. Ziel ist Beseitigung der lebendigen Kräfte, nicht die Erreichung einer bestimmten Linie. Auch wenn im Westen Krieg ausbricht, bleibt Vernichtung Polens im Vordergrund. [...] Ich werde propagandistischen Anlass zur Auslösung des Krieges geben, gleichgültig, ob glaubhaft. Der Sieger wird später nicht danach gefragt, ob er die Wahrheit gesagt hat oder nicht. Bei Beginn und Führung des Krieges kommt es nicht auf das Recht an, sondern auf den Sieg. Herz verschließen gegen Mitleid. Brutales Vorgehen. 80 Millionen Menschen müssen ihr Recht bekommen. Ihre Existenz muß gesichert werden. Der Stärkere hat das Recht. Größte Härte" (Document 1014-PS..., p. 523).

between states. He cynically calculated that the victors would not be held accountable for their atrocities and lies.

The leader admitted that the decision to attack Poland was made in the spring of 1939, and its timing was determined by the timing of the predicted collapse that was to await Germany as a result of the inability to implement the National Socialist economic plan⁴². Planning centralism regardless of its pedigree (Soviet, German or Polish) meant interference with the market equilibrium and was bound to fail, as Adolf Hitler was aware. In addition, he argued that time was working against Germany, which, having exhausted its own opportunities for development, would be weakened by the strengthening of countries considered hostile. He added that he would not have opted for anything other than a lightning crackdown on Poland. He ruled out a conflict lasting more than a year or two. Although France and Great Britain were originally to be the targets of an invasion, the commander-in-chief soon changed his mind, as he was primarily concerned with establishing a secure food supply base for Germany, independent of a possible economic blockade.

Nor did he expect these countries to stand up to Poland. He despised their impotence and weakness, as he saw, for example, in the remilitarization of the Rhineland and in the takeover of Czechoslovakia. He relied on direct contacts with, for example, Benito Mussolini and Francisco Franco, whose support or at least friendly neutrality he counted on. He believed that as long as he was not killed, he had a chance to realize his political project of conquering Europe thanks to the sovereignty he was widely accorded both inside and outside Germany. Still, he did not foresee the United States joining the war, which, after all, could have significantly changed the situation on the fronts.

How Adolf Hitler assessed the implementation of his intentions can be learned from the minutes of a meeting held after the conquest of Poland, on November 23, 1939. The report was drawn up by a participant of the meeting, unknown by name, and was later deposited in the archives of the German government. The material was included in the Nuremberg document collection under the reference 789-PS, and was evidence of the American prosecution marked USA-23⁴³.

On that November day at 12, senior German commanders listened to the commander's speech, from which it was clear that the struggle for living space in the east was the meaning of both individual and collective existence, and in contemporary terms meant the struggle of races. The territory of Poland was to be obtained because of the postulated demographic development of the German people, so hostile to National Socialist ideals seemed to Adolf Hitler proposals for mass emigration or a reduction in the number of children born, which he described as killing them: "if the nation follows this path, all weaknesses will appear. To renounce external violence and use violence against oneself,

⁴² The Four-Year Plan was attempted to become a reality between 1936 and 1940, with basically no regard for conditions in German industry, economy and society. Hermann Göring, commander-in-chief of the Luftwaffe, was appointed responsible for its implementation (Verordnung zur Durchführung des Vierjahresplanes. Vom 18. Oktober 1936, RGBl. I 1936, 96, 887).

⁴³ Document 789-PS. Address by Hitler to the Commanders-In-Chief, November 23, 1939, on the War Situation and His War Aims... [in:] Trial..., vol. XXVI, pp. 327-336. See Polish translation: Minutes of Hitler's meeting with senior commanders on November 23, 1939 (Document 789-PS) [in:] T. Cyprian, J. Sawicki, Aggression..., part 1, pp. 209-221.

killing a child - this means the greatest cowardice, a reduction in numbers and importance."⁴⁴ .

The Führer, spinning a historical tale, considered the attack on Poland exceptionally important. He stated that for the first time in many decades Germany had succeeded in launching a war that was fought on a single front. He attributed the victory to the favor of divine providence. Comparing himself to the great German leaders, he emphasized his own determination and claimed that he would fight until the fullness of victory, which he understood as the end of the entire war, not just its individual stages. This was only possible if Germany maintained its military superiority over its enemies. A living leader, personally responsible for the fate of the Reich, had no right to defeat or surrender.

Adolf Hitler considered himself the resurrector of Germany's power. He claimed that he was able to recreate their army thanks to appropriate ideological upbringing. He acknowledged that it was not intended for defensive purposes, but rather for offensive action. In addition, he pointed out that he freed the state from international legal constraints by taking Germany out of the League of Nations and breaking off the Conference of Disarmament.

With its specific application of international law - following the rule that obligations are respected as long as it benefits Germany - it allowed the commander-in-chief to develop a policy that was virtually independent of constraints. The belief that international legal norms could be treated instrumentally was reinforced by Germany's impunity after it had committed significant violations. Therefore, any conduct of the Polish government, even the most conciliatory, could not dissuade Adolf Hitler from attacking Poland, a decision he had, after all, made much earlier. The Polish authorities did not know the rules of the political game, in which the Führer was both a competitor and determined the outcome.

One of the few employees of the Polish Foreign Ministry who saw Adolf Hitler's goals already at the dawn of the National Socialist era was Stanislaw Schimitzek, a counselor at the Polish embassy in Berlin from 1931 to 1933. In 1933 he returned to the country and was appointed director of the Administrative Department of the Foreign Ministry. Describing MP Alfred Wysocki's first contacts with the Reich Chancellor, he aptly noted: "We realized that Hitler's emphasis on peacemaking and striving for the elimination of disputes is largely connected with the main objective of his current policy - the issue of the remilitarization of the Reich. However, the information of the Polish missions in Paris and London did not give any grounds for supposing that Poland could, by stiffening its position towards the waving olive wand of Hitler, counteract the concessions of the statesmen of the West in the matter of the remilitarization of Germany."⁴⁵ .

It should be noted that the current analysis of the international situation presented at the November 23, 1939 meeting indicated that in the next year or two Germany should not fear a military threat from the USSR, Great Britain will be incapable of conflict at least

⁴⁴ "Geht ein Volk diesen Weg, so werden alle Schwächen mobilisiert. Man verzichtet auf Gewalt nach aussen und wendet die Gewalt gegen sich selbst an durch Tötung des Kindes. Das bedeutet die grösste Feigheit, Dezimierung der Zahl und Entwertung" (Document 789-PS..., p. 329).

⁴⁵ S. Schimitzek, *Drogi i bezdroża minionej epoki. Memories of the years of work in the Ministry of Foreign Affairs (1920-1939)*, Warsaw 1976, p. 304.

until the summer of 1940, and the United States presents a neutral posture and only slightly supports Germany's enemies. The commander-in-chief noted that as long as Germany does not initiate further attacks, its allies will not join in military action (the USSR's intervention in Poland on September 17, 1939, clearly proves the truth of this thesis). In the context of Germany's defense, the possession of the Ruhr region played a major role due to the wealth of raw materials found there and the presence of numerous industrial plants.

In conclusion - Adolf Hitler, from the beginning of his political career, made no secret of his hostile intentions towards Poland and the Poles, which found wide support in the circles of German society, not only among the local elite. He could begin to realize them when he took full power in Germany, reorganized and strengthened the army and neutralized the threats that could occur during the campaign against Poland. The plan of attack had been maturing since 1937, moving into the preparatory phase in the spring of 1939. Its implementation primarily involved the Wehrmacht high command and the superiors of the various types of troops. Those present at the meetings were subordinate to Adolf Hitler and carried out his intentions, as will be described later in the monograph. Therefore - and in the context of the brutal actions of German soldiers during the Polish campaign - the myth of the honorability of the Wehrmacht is not reflected in reality. The agreement to the destruction of the Poles is vividly evidenced by the aforementioned scene when Hermann Göring went wild with joy and ran around the table in the Berghof residence.

The Reich leader, although he revealed his plans gradually, did not hide his contemptuous attitude toward Poles. His hatred of people of Polish speech and nationality pushed him to radical solutions: by destroying the state, he aimed to liquidate the nation. He temporarily envisioned a marginal role for the Poles; they were to be a reservoir of slave and cheap labor after the extermination of the Polish leadership, and if this potential was exhausted, they were to be gradually disposed of. An indirect motive for the attack turned out to be the desire to acquire fertile Polish land that could provide provisions for Germany in the event of a future war with the West. The extermination of the Poles, however, was not to be a side effect of gaining Lebensraum, but their elimination was to provide the added benefit of obtaining the necessary living space.

Depolonization and Germanization intentions

The pattern of extermination of the Polish nation adopted by the German state involved depolonization, which was preceded by Germanization (possibly combined). The terms are not synonymous. Depolonization is generally a preliminary process to Germanization, involving the removal of signs of Polishness in a given area and among the population living there. Germanization, on the other hand, is usually a secondary process involving the germanization - in the case under analysis, of the depolonized territory and the people belonging to the Polish nation according to the criteria of German eugenics.

The program for extermination of the Polish elites and destruction of the rest of the Polish nation and preparations for its implementation

An idea of the fate of Poles under the German yoke is given by the documents described above, from which the intention to attack Poland is evident. Persons recognized as leaders, i.e., those in power, local government officials, clergymen, organizers, businessmen, social workers, veterans of uprisings, members of associations, in a word, all those who, according to the German authorities, carried the potential of Polonization, were subject to extermination. Poles of merit to the fatherland or who could act in its defense not only threatened the German plan to gain living space in the east, but had to be punished with immediate or postponed death for a not-too-distant time, since the Führer suspected them (as confirmed by their resumes) of being capable of spreading Polish national patterns⁴⁶.

Dieter Schenk referred to the victims of Germany's liquidation of the Polish leadership stratum (known as the "action to liquidate the nucleus of Polishness" or "political cleansing of the foreground") as protective prisoners (*Schutzhäftlinge*)⁴⁷. Although the representatives of the Polish elite destined for extermination were often not captured members of the armed forces, they were considered capable of fighting to preserve Polish national identity. The adequacy of this characterization is underscored by the establishment of civilian prisoner of war camps in Stutthof (Zivilgefangenenlager Stutthof) and in Danzig's Nowy Port (Zivilgefangenenlager Neufahrwasser), where arrested Polish leaders, mainly from the FCD, were placed. Curiously - from the perspective of international law - they were called civilian prisoners of war, which reflected the point of view of the German authorities. In the case of proving a person's strong ties to Polishness, any declaration that he had undergone a national transformation was irrelevant. However, previously uninvolved Poles were allowed to redefine their attitude toward Germanness, for example, by making an appropriate declaration of nationality. The same was done with robbed Polish children destined for Germanization - their guilt could not yet be proven (the remark did not apply to the more conscious older children, participating, for example, in scouting activities).

Prima facie the situation of the rest of the population seemed more favorable than that of the Polish leadership. Adolf Hitler, according to the documents analyzed concerning the

⁴⁶ See studies devoted to German plans for the extermination of the Polish elite and the rest of the Polish nation: J. Marczewski, Basic Directives of Hitler's Occupation Policy in the Polish Case (September-October 1939), "PZ" 2 (1967), pp. 256-275; C. Madajczyk, Polityka III Rzeszy w okupowanej Polsce, vol. 1-2, Warsaw 1970; idem, Hitler's leaders towards the Polish issue in the period from October 1939 to September 1940, "PZ" 1 (1958), pp. 1-46; idem, War and Occupation in Poland as an Instrument for the Destruction of the Nation, "DN" 1 (1969), pp. 15-25; idem, The Shaping of the Occupation System in Central Europe by the Third Reich (1938-1945), "DN" 1-2 (1971), pp. 159-178; S. Żerko, Poland in Hitler's conception of foreign policy 1933-1939, "SnFiZH" XXIV (2001), pp. 247-275; T. Janicki, German economic policy in the lands incorporated into the Reich in 1939-1945, "PZ" 2 (2009), pp. 33-58; C. Pilichowski, The Background, Plan and Consequences of the Third Reich's Policy toward Poland during World War II, "SnFiZH" III (1977), pp. 165-176. Cf. the English translation of Czesław Pilichowski's text: idem, The Background, Plan and Consequences of the Third Reich's Policy toward Poland during the Second World War, "SFHC" V (1980), pp. 111-122.

⁴⁷ D. Schenk, Night of the Murderers..., p. 60. Historically, one should distinguish between the terms "protective prisoner" and "preventive prisoner." The legal status of the former was granted to selected arrestees by the Gestapo, while that of "preventive prisoner" was granted by the Kripo (see A. Lasik, Protective Relays in the German concentration camp system. Organizational Development, Evolution of Tasks and Structures, and the Sociological Picture of SS Camp Crews, Auschwitz 2007, pp. 89-101).

attack on Poland, wanted to use the Polish population as cheap labor to provide provisions for Germany. The supply of food and other goods from the area not far from the Reich was to contribute to victories in the planned war against the Western states. The Führer's chosen course of action makes it possible to conclude that the extermination of the remaining Poles was to be postponed until conditions favorable to its implementation occurred. The hierarchy of objectives (the elimination of the Jews was considered a priority) did not affect the attitude toward the Poles. All representatives of this nation were to be exterminated. The immediate elimination of all Poles was out of the question. Lack of technical means, other tasks, insufficient personnel capable of carrying out executions, and finally the possible resistance of part of public opinion at home and abroad - all this meant that the Polish nation had to be exterminated in stages. First a selection was made, the Poles who had to be murdered first were chosen. In general, the steps taken in this direction can be described as preparation.

In practice, this consisted of collecting data on the past activities of individuals tentatively identified as Polish leaders or enemies of Germanness. Operational crackdowns were mainly handled by the SS Reichsführer Security Service (*Sicherheitsdienst des Reichsführers SS, SD*). It was the National Socialist Party's secret information service and an SS formation that Reinhard Heydrich had organized since 1931 to control and combat opposition⁴⁸. In relation to the Gestapo, the secret state police, also headed by Reinhard Heydrich, the SD had a pre-emptive function. It collected and compiled materials on environments deemed dangerous. Observations in the form of expert reports and situational assessments allowed Gestapo officers to conduct investigations⁴⁹.

Until the Reich Main Security Office (*Reichssicherheitshauptamt, RSHA*) was established by order of Heinrich Himmler on September 27, 1939⁵⁰, the SS security service apparatus consisted of a central Main Security Service Office (*SD-Hauptamt*)⁵¹ and field structures, territorially limited to military (*SD-Oberabschnitte*) and state administration units (*SD-Abschnitte* and *SD-Aussenstellen*)⁵². The Main Office of the Security Service was divided into three basic Offices (*Ämter*): I - under the name Administration and Law (*Verwaltung und Recht*), II - Country (*Inland*), and III - Intelligence (*Abwehr*); in addition, there was an Office for Special Tasks (*Amt zur besonderen Verfügung*). The core offices consisted of central divisions (*Zentralabteilungen*), main divisions (*Hauptabteilungen*), departments (*Abteilungen*) and papers (*Referate*)⁵³.

⁴⁸ A. Ramme, *SS Security Service*, transl. B. Jodkowska, Warsaw 1984, pp. 25-33; K. Grünberg, *SS...*, Warsaw 1975, p. 25. See G. Browder, *Die frühe Entwicklung des SD. Das Entstehen multipler institutioneller Identitäten* [in:] *Nachrichtendienst, politische Elite, Mordenheit. Der Sicherheitsdienst des Reichsführers SS*, ed. by M. Wildt, Hamburg 2003, pp. 38-56.

⁴⁹ K. Grünberg, *SS...*, pp. 70-71.

⁵⁰ The RSHA included, among others, the criminal police (*Kriminalpolizei, Kripo*), the secret state police (*Geheime Staatspolizei, Gestapo*) and the security service (*Sicherheitsdienst, SD*), while the order police (*Ordnungspolizei, Orpo*) was left as independent. On the transformation in the structure of central police offices in Germany, see F. Ryszka, *Construction and Operation of the Coercive Apparatus. "The SS State"* [in:] *idem, The State of Emergency...*, pp. 267-305.

⁵¹ Adrian Weale aptly characterized the essence of the Main Office of the Security Service and presented it against the background of similar party and state organizations in Germany (A. Weale, *SS. Historia pisana na nowo*, Wrocław 2010, p. 119. cf. H. Höhne, *Order of the Corpse Skull*, Warsaw 2006, p. 201).

⁵² K. Grünberg, *SS...*, pp. 71-72.

⁵³ A. Ramme, *Service...*, pp. 52-58; cf. H. Höhne, *Order...*, p. 199.

From at least October 7, 1938, when it was declared to the staff of Office II that Polish affairs had taken priority, efforts began to intensify agent and diversionary activities. Tasks were to be carried out by members of the German minority who had Polish citizenship. They were registered by employees of the Main Department II/21 Nation (Volkstum), then selected candidates were trained in Germany. From January 1939, SS-Sturmführer Ernst Damzog, an SD officer and at the same time border inspector of the East section (Grenzinspekteur Ost), instructed the managers of the state police posts (*Staatspolizeistellen*) on the border with Poland on what extermination undertakings should be carried out in the future. The heads of the state police from Breslau, Opole, Frankfurt/Oder and Legnica were prepared. In April 1939, a demand was sent by Office II to the SD superdistricts (SD-Oberabschnitte) in Stettin (North), Berlin (East), Königsberg (Northeast), Breslau (Southeast)⁵⁴ and Düsseldorf (West) involved in collecting and compiling data on Volksdeutsche. Only the SD outpost in the west of Germany, based in Düsseldorf, was asked to analyze the activities of members of the Polish minority living in the Ruhr, employed mainly in the mining industry there⁵⁵.

On May 22, 1939, Head Office II P(olska), or Zentralstelle II P(olen)⁵⁶, was established in the Main Office of the Security Service. Formally, the unit was subordinated to SS-Standartenführer Franz Siks, head of Office II, and its work was headed by SS-Obersturmführer Hans German, clerk of Department II/212, under the name Minorities (Minderheiten). Headquarters employees were obliged to elaborate on the problems of Germanness in Poland in terms of worldview, politics, culture, economy and propaganda. The Polish affairs desk officers also gathered in this unit personal and material files on the Polish leaders selected for future physical liquidation⁵⁷. In doing so, they used a number of sources; they obtained information from, among others, social and state organizations conducting eastern research (Ostforschung)⁵⁸. They created an operational

⁵⁴ Correspondence from the SD South East superregion regarding the network of German informers in the Polish state, containing data on those involved in pro-Polish activities, was published in 1947 (Documents of German Aggression of 1939, "SZ" 10-12 (1947), pp. 333-338).

⁵⁵ A. Ramme, Service..., pp. 109-110.

⁵⁶ A Polish translation of the order on the matter was printed in 1961 in the magazine "Stolica" (see W. Chelmikowski, From the archives of the Gestapo. How police action was planned in the campaign against Poland, "Stolica" 38-39 (1961), pp. 28-29).

⁵⁷ A. Ramme, Service..., pp. 110-111.

⁵⁸ The involved research institutes and universities in Germany and abroad conducting biased and propaganda-oriented research on Germanness outside the Reich were centralized in the Ethnic German Research Communities (Volksdeutschen Forschungsgemeinschaften, VFG) consortium, which had been in existence since 1931. The predecessor of the VFG was the Foundation for Ethnic German Research (Stiftung für deutsche Volksund Kulturbodenforschung), operating in Leipzig under the auspices of the Reich Ministry of the Interior (Reichsministerium des Innern) from Oct. 30, 1926 to Aug. 8, 1931. The VFG published many journals, had significant state financial support and numerous contacts with ethnic German organizations. The VFGs included the following associations: Alpenländische Forschungsgemeinschaft (Alpine Research Community), Southeast German WB (Südostdeutsche FG), Northeast German WB (Nordund Ostdeutsche FG), East European WB (Osteuropäische FG) and West German WB (Westdeutsche FG). The largest was the Northeast German WB, which dealt with Polish affairs and was established in 1935 as a result of the transformation of the North German WB (Norddeutsche FG), which had existed since December 19, 1933. It was headed by Albert Brackmann, a medievalist and director-general of the Prussian State Archives, and the Community's affiliated Central Publications Office (Publikationsstelle) Berlin-Dahlem was headed by archivist Johannes Papritz. Pseudo-scientific research on the Germanness of the East was carried out both before 1933 and after 1945, although no longer in such an aggressive form due to the less favorable political climate (K. Grünberg, SS..., p. 63; H. Olszewski, 13th Eastern Research [in:] idem, The Science of History in Decline. A Study of Historiography and Historical Ideology in Imperialist Germany, Warsaw-Poznan 1982, pp. 378-386. See M. Cyganski, The Negative Role of Ostforschung Historians of the Third Reich in Polish-German

file, which, as Helmut Knochen wrote in a staff memo, "must be turned over to possible operational groups."⁵⁹ . As Alwin Ramme pointed out, the database consisted of the following files:

- personal of Germans in Poland,
- personal of Poles in Germany,
- institutions of Germans in Poland,
- institutions of Poles in Germany,
- localities,
- factual⁶⁰ .

Correspondence from German security authorities shows that the notorious proscription lists⁶¹ , which included data on persons hostile to Germans (*deutschfeindlich eingestellten Personen*)⁶² , not only from Poland, but also from the Free City of Danzig, began to be compiled unofficially as early as June. They were included in the "Special Gentile Book for Poland" ("Sonderfahndungsbuch Polen")⁶³ . Grzegorz Bębnik assessed that the Reich

Relations in 1933-1945, Poznań 1978; M. Burleigh, Germany Turns Eastwards. A Study of Ostforschung in the Third Reich, London 2002; M. Burkert, Die Ostwissenschaften im Dritten Reich, part 1: Zwischen Verbot und Duldung. Die schwierige Gratwanderung der Ostwissenschaften zwischen 1933 und 1939, Wiesbaden 2000; I. Eder-Stein, Publikationsstelle Berlin-Dahlem 1931-1945. Bestand R 153, Koblenz 2003; M. Fahlbusch, Wissenschaft im Dienst der nationalsozialistischen Politik? Die "Volksdeutschen Forschungsgemeinschaften" von 1931-1945, Baden-Baden 1999; I. Haar, Nord und Ostdeutsche Forschungsgemeinschaft [in:] Handbuch der völkischen Wissenschaften. Personen - Institutionen - Forschungsprogramme - Stiftungen, ed. I. Haar et al., München 2008, pp. 432-443; idem, Historiker im Nationalsozialismus. Deutsche Geschichtswissenschaft und der "Volkstumskampf" im Osten, Göttingen 2000; C. Unger, Ostforschung in Westdeutschland. Die Erforschung des europäischen Ostens und die Deutsche Forschungsgemeinschaft 1945-1957, Stuttgart 2007).

⁵⁹ W. Chelmikowski, From the archives..., p. 28.

⁶⁰ A. Ramme, Service..., pp. 111-112.

⁶¹ Proscriptiones (from the Latin proscriptiones) meant, in the Roman republic, the promulgation of a list of opponents of the authorities who were deprived of their civil rights for political reasons. Their property was confiscated and their slaves were freed. There were monetary rewards for murdering a person on the list (made known on stone tablets in public places) or surrendering them to the authorities. This type of restriction was particularly favored by the dictator Sulla (he used proscription in 83-81 BC) and members of the Second Triumvirate, namely Mark Antony, Octavius and Lepidus (in 43 BC). The ancient tradition was continued by the German authorities, who from the beginning of the 19th century published lists of those prosecuted in various forms. If one considers the scope, causes, consequences and administrative nature of the persecutions, the analogy exposed in Polish historiographical writing between proscription lists and the German Goon Book for Poles seems legitimate (Sonderfahndungsbuch Polen. Special Goon Book for Poland. Reprint, introduction by G. Bębnik, Katowice, Warsaw 2019, pp. III-VI; M. Jaczynowska, History of ancient Rome, Warsaw 2008, pp. 118-119, 155-156; M. Cary, H. Scullard, History of Rome, vol. 1, transl. J. Schwakopf, Warsaw 2001, pp. 455-456, 563-568).

⁶² K. Grünberg, SS..., p. 146.

⁶³ Generally, in Polish historical literature, the phrase Sonderfahndungsbuch Polen was translated as "special book of Poles prosecuted by letter of appointment." However, this was not a precise translation, as can be seen from the bilingual title of the book issued in 1940 by the commander of the security police and security service in the so-called GG: A Detailed Surveillance Book in Poland. Supplementary Appendix regarding escaped or prematurely released criminal prisoners, to the investigative cases of inmates, as well as criminals wanted by the Criminal Police. Sonderfahndungsbuch Polen. Ergänzungsnachtrag über entwichene oder vorzeitig entlassene Strafoder Untersuchungsgefangene sowie über kriminalpolizeilich gesuchte Verbrecher, Krakow 1940. A copy of it is in the collection of the National Library in Warsaw and is one of three existing originals, and a digital copy has been posted online (Sonderfahndungsbuch Polen. Sonderfahndungsbuch..., p. XIV; Szczegółowa Księga Inwigilacyjna w Polsce..., [https:// polona.pl/item/szczegolowa-ksiazka-inwigilacyjna-w-polsce-dodatek-uzupelniajacy-odnosnie-zbiegnych-lub,NzUyODI1NDQ/4/#info:metadata](https://polona.pl/item/szczegolowa-ksiazka-inwigilacyjna-w-polsce-dodatek-uzupelniajacy-odnosnie-zbiegnych-lub,NzUyODI1NDQ/4/#info:metadata), accessed 29 II 2020).

Criminal Police Office did not print the records until after September 19, 1939⁶⁴, since it was not until that day that Gdynia was renamed Gotenhafen, literally "port of the Goths" (the Prussian name Gdingen was not given). On the basis of source research, he suggested that earlier, for operational purposes, Einsatzgruppen officers used a "secret goth list" (but not in a standardized published version), and members of local ethnic German organizations - most likely locals - created lists that became the basis of the "Special Register." An example of such a registry, used by members of the Upper Silesian Sonderformation "Ebbinghaus," was a "regional goon book" containing an alphabetical index titled "Reservists' Union and Insurgents" (it is now kept at the Municipal Museum Facility in Mikolow). It is very likely that also members of the Selbstschutz in Gdansk Pomerania and Greater Poland, even before obtaining the official version of the "Special Book," acted on the basis of their own information, to a certain extent authenticated and accepted by the German authorities in connection with its prior transmission to the staff of consulates, embassies and German minority organizations⁶⁵.

On July 18, 1939, the Berlin Gestapo issued a demand that data on those involved in anti-German excesses in Poland be sent to the Reich Foreign Ministry (Reichsministerium des Auswärtigen) by July 26, 1939. In fact, information useful for compiling lists of individuals designated for the extermination planned after the invasion of Poland was collected. The Ministry received the materials from German diplomatic missions in the country, which in turn obtained them from confidants. Delivered to Berlin, the lists were prepared by employees of, among others, the consulate in Lodz (July 11, 1939, i.e. even before the official Gestapo request), the consulates general in Torun (August 18, 1939) and Katowice (July 4, 1939, where the support of members of the German JdP and DVB associations, discussed below, was used) and the embassy in Warsaw (July 25, 1939). The lists included details of, for example, members of the Polish Western Union, the Mazurian Union (Masurenbund), government officials, clergymen, businessmen and journalists of the local Polish press, and thus were not the perpetrators or organizers of the anti-German speeches⁶⁶.

⁶⁴ A clue was provided by the fact that the term "E K 16 III Bromberg" appeared next to the names of some of those prosecuted, which could indicate the Bydgoszcz branch of Einsatzkommando 16, which was established on September 26, 1939, and existed at least until November 19, 1939. Therefore, the period in which the "Special Book" could have been published was shortened from the proposal made by Grzegorz Bębnik (Sonderfahndungsbuch Polen, published by Reichskriminalpolizeiamt Berlin C2, Wederscher Mark 5/6, Berlin 1939; J. Böhler, K.-M. Mallmann, J. Matthäus, Einsatzgruppen..., p. 57). In addition, in 2010-2011 Maria Rutowska and Anna Ziolkowska carried out a project to develop the Sonderfahndungsbuch Polen as part of the source series "Documenta Occupationis," published by the Western Institute in Poznań. The publication has not appeared so far (Sonderfahndungsbuch Polen - Special book of Poles prosecuted with a letter of appointment, <http://www.iz.poznan.pl/projekty/zrealizowane/sonderfahndungsbuch-polen-specjalna-ksiega-polakow-sciganych-listem-goncym>, accessed February 29, 2020). Meanwhile, in 2019, Grzegorz Bębnik prepared and published, with an introduction, a facsimile of Sonderfahndungsbuch Polen based on a copy from the IPN Archives Branch in Katowice (AIPN Ka, 32/899), helpfully using the version remaining in the resources of the Silesian Library in Katowice (II 849588). Sonderfahndungsbuch Polen. Special Book..., pp. 1-192.

⁶⁵ G. Bębnik, Captain Ebbinghaus's Falcons. Sonderformation Ebbinghaus in the warfare in Upper Silesia in 1939, Katowice-Krakow 2014, p. 400, note 205; idem, Sonderfahndungsbuch Polen. A Special Goon Book for Poland, "BIPN" 9 (2017), pp. 19-31; A. Szefer, How the German Special Goon Book Sonderfahndungsbuch Polen was created, "Zaranie Śląskie" 3 (1983), pp. 213-240; R. Kaczmarek, Sonderfahndungsbuch Polen - a list of deaths, "Silesia" 9 (1999), pp. 30-31.

⁶⁶ Similar Gestapo demands addressed to various state institutions were mentioned by Adam Szefer, who dated them to June 12, 1939. In turn, Pawel Dubiel, citing a teletype dated May 27, 1939, stated that the Main

The first two pages of the 1939 "Special Book" included relevant explanations and instructions for its use. If the name of a wanted person was not marked with additional signs or file references, or had a "÷" or "x" next to it, it meant that the person being proscribed was to be detained and handed over to the Gestapo departments listed in the instructions. The letters "E G" next to the name indicated that the person in question was a fugitive, released or under arrest, while "E K" and "E Gr" indicated that the wanted person should be detained for a nearby Einsatzkommando or Einsatzgruppe. Those intended for surrender to the Gestapo, Einsatzgruppen or Einsatzkommandos had to be brought to the nearest outpost or central unit of the state police, and the law enforcement agency was to be immediately and directly informed and the detainee's whereabouts indicated. Fugitive or released convicts and detainees, on the other hand, had to be delivered to a nearby service post of the criminal police (Kripo). Until their legal situation was clarified, these persons had to be held in preventive detention. The detention notice had to be forwarded to the office of the Reich Criminal Police to remove the wanted person from the records.

The line about the prosecuted person included his name, place of residence, sometimes also the date, place of birth and occupation. The information contains numerous typographical and factual errors, often related to improper translation of personal data and toponyms from Polish to German. Poles were sought who, due to their past activities, could have had a significant impact on the preservation of the distinctiveness of the Polish nation, and thus were capable of organizing resistance against the German authorities. Among those prosecuted, the following categories were distinguished, established according to their main activities (the listing is not exhaustive):

- Clergy (especially from the Catholic Church),
- Officers of the Polish police and other uniformed services, soldiers and officers of the Polish Army (including retired),
- former insurgents (such as those from Silesia and Greater Poland) and plebiscite activists from Upper Silesia, Warmia and Mazury,
- persons of noble origin,
- Teachers, educators, pedagogues, social workers and lecturers,
- representatives of the professions (doctors, dentists, veterinarians, musicians, writers, journalists, members of the bar),
- Parliamentarians, representatives of the central and local administrations,
- significant entrepreneurs and landowners,
- members of patriotic organizations, especially the Polish Western Union, but also the Maritime and Colonial League, the Western Borderlands Defense Association, the

Office of the Security Service (Hauptamt SD) in Berlin had been collecting data on Poles threatening the German nation as early as May 1939 (T. Rabant, *Anti-Polish Activities of the German Diplomatic and Consular Service in Poland on the Eve of World War II*, "PiS" 1 (2006), pp. 207-208. Cf. A. Szefer, *How it Was Formed...*, p. 219; P. Dubiel, *September 1939 in Silesia*, Katowice 1963, p. 30).

Kurkoye Shooting Fraternity, the Society of Insurgents and Warriors, the Polish Gymnastic Society "Sokol."

- representatives of Polish associations in the Reich, such as the Polish Scouting Association in Germany and the Union of Poles in Germany⁶⁷.

"The Special Book" was conceived as a publication to be developed by its publishers and recipients. Changes - which included the addition of information on new searches, corrections and arrests - were to be noted as follows: by making notes on blank pages after the section covering names beginning with a given letter and marking the entered name with a cross in the appropriate paragraph of the printed text; handwritten additions with corrections; deletions of wanted names already found. The names are arranged in alphabetical-phonetic order. If a user of the "Special Book" could not find a particular surname, he should have searched its other paragraphs.

The book contained 8,300 indications of wanted persons in the original, not about 60,000, according to numerous online and historical publications. Perhaps the inflated estimate gained popularity because of its suggestiveness - operational groups (in cooperation with other units, as discussed below) had just approximately murdered 60,000 people. However, if one takes into account the volume of regional go-books specified by Grzegorz Bębnik, e.g. from Chorzow (more than 700 names), Swietochlowice (more than 200) or Mikolow (650), it is likely that in total the regional lists and the "Special Book" issued at a later date and essentially containing the data of those still unaccounted for may have contained as many as approx. 60,000 items.

Meanwhile, the dynamic pace of the work of Headquarters II P allowed to move to the next phase of the extermination project. July 5, 1939, just before the start of the vacation, SS-Obergruppenführer Reinhard Heydrich convened a meeting at Sipo headquarters (in Berlin's Kreuzberg district), attended by SS-Obersturmbannführer Erich Neumann, as well as representatives of the security service (SS-Brigadeführer Heinz Jost, SS-Sturmabführers Walter Schellenberg and Helmut Knochen) and the Gestapo (SS-Brigadeführer Werner Best, SS-Standartenführer Heinrich Müller)⁶⁸. It was agreed at the time that special operational groups of the Security Police and Security Service (Einsatzgruppen der Sicherheitspolizei und des SD) would be formed⁶⁹, which would exterminate the Polish elite after the invasion of Poland. The plan was to involve 2,000 officers assigned to four groups, commanded respectively by Joseph Meisinger, Ernst Damzog, Emanuel Schäfer and Bruno Streckenbach. Each group was to consist of five squads (Einsatzkommandos), and each squad of one hundred officers. It was indicated that the security service would staff the project with 350-450 people, and that Werner Best, who headed the Legal and Administrative Office within the Main Office of the Security

⁶⁷ This type or similar composition of the Polish elite (including all Poles with higher and even secondary education) appeared in many German planning studies, such as that of November 25, 1939 (see Rassenpolitischen-Amt's 1939 nationality program for the Polish lands, "BGKBZNwP" IV (1948), p. 155).

⁶⁸ The staff note of the conference, dated July 8, 1939, was written by Helmut Knochen. It was translated and printed in Polish. However, the German authors of the monograph on the history of the Einsatzgruppen did not mention that Erich Neumann attended the meeting (W. Chelmikowski, *From the Archives...*, p. 29. Cf. J. Böhler, K.-M. Mallmann, J. Matthäus, *Einsatzgruppen...*, pp. 14-15).

⁶⁹ The special groups included numerous representatives of the German intellectual elite (see C. Ingrao, *Believe and Destroy. Intellectuals in the SS war machine*, transl. M. Kaminska-Maurageon, Wolowicz 2013).

Police, as well as the Gestapoamt department, or police counterintelligence, would be responsible for the organizational side of the undertaking. Heinrich Himmler, Reichsführer of the SS and head of the German police at the Ministry of the Interior⁷⁰, ordered that a study be made of the penitentiary possibilities for the incarceration of future detainees⁷¹.

The idea of the Einsatzgruppen was not strictly related to the invasion of Poland. They were intended to be used during the Anschluss and in the occupation of Czechoslovakia⁷². As formations to pacify occupied areas, they had been operating since at least August 13, 1938, a concept consistently implemented by the German security service⁷³. In the context of the attack on Poland, the Einsatzgruppen were set different objectives. This was linked to the fact that the extermination of the Polish nation was intended to begin with its leadership layers. This was pointed out by Reinhard Heydrich in a July 2, 1940 memo to Heinrich Himmler regarding the appointment of a senior SS and police commander in Paris: "the guidelines according to which the police action was carried out were extraordinarily radical (e.g., the order to liquidate thousands of people from among the Polish leadership circles), and could not be communicated to all the higher military commands and, naturally, to members of their staffs, as a result of which the activities of the police and SS appeared to be brutal arbitrariness."⁷⁴.

The actual nature of the Einsatzgruppen's activities in Poland was revealed soon after a meeting at Reinhard Heydrich's home in early July 1939. As early as July 14, in the absence of the chief, Werner Best⁷⁵ convened a meeting of desk officers and officially instructed them to prepare lists containing data on persons considered undesirable on nationality grounds and information on Polish leaders hostile to Germanness.

According to notes in Werner Best's calendar, several more meetings were held from mid-July 1939 on the invasion of Poland and the related activity of operational groups⁷⁶.

July 31, 1939. Werner Best issued "Guidelines for the Foreign Use of the Security Police and Security Service" ("Richtlinien für den auswärtigen Einsatz der Sicherheitspolizei und des SD")⁷⁷. They show that the primary task of the units was to combat those deemed enemies of Germany - by this was meant arresting, not torturing or murdering, those

⁷⁰ In accordance with Adolf Hitler's decree of June 17, 1936, the functions of Reichsführer SS and Chief of the German Police in the Ministry of the Interior were combined in his hand by Heinrich Himmler, thus ending the process of complete subordination of the German Police to him, which Wilhelm Frick, Minister of the Interior, had opposed (Erlass über die Einsetzung eines Chefs der Deutschen Polizei im Reichsministerium des Innern. Vom 17. Juni 1936, RGBl. I 1936, 55, 487).

⁷¹ J. Böhler, K.-M. Mallmann, J. Matthäus, *Einsatzgruppen...*, pp. 14-15; W. Chelmikowski, *From the Archives...*, p. 29.

⁷² Ł. Gladysiak, *Kill Everyone. Einsatzgruppen 1938-1941*, Warsaw 2012, pp. 137-150.

⁷³ E. Crankshaw, *Gestapo. A Tool of Tyranny*, transl. J. Dewitz, Warsaw 1959, p. 165.

⁷⁴ H. Krausnick, *Hitler und die Morde in Polen. Ein Beitrag zum Konflikt zwischen Heer und SS um die "Verwaltung der besetzten Gebiete"*, "VJH f. ZG" 2 (1963), pp. 206-209. Excerpts of this note are reprinted in the German original and Polish translation: K. Leszczynski, *Activities...*, pp. 175-176, 281. The quote is from p. 281.

⁷⁵ See extensively on Werner Best's character and political activities: U. Herbert, *Werner Best. A Biographical Study. On radicalism, worldview and reason 1903-1989*, transl. M. Kurkowska, Warsaw 2007.

⁷⁶ J. Böhler, K.-M. Mallmann, J. Matthäus, *Einsatzgruppen...*, p. 15; D. Schenk, *Night of the Murderers...*, p. 54.

⁷⁷ See the reprint of the German version of the document and its Polish translation: K. Leszczynski, *Activities...*, pp. 161-164, 267-270.

captured. This kind of formal relaxation may be surprising, given the actual purpose of the operational groups, but the ban had a convincing justification. Well, it was introduced in order to win the support of the Wehrmacht, which owed approval to the plans of the security police and security service at the rear of the front⁷⁸.

In the context of the attitude of the German authorities toward Poles and the subsequent occupation, it should be emphasized that the ban was provisional. Efforts were made to protect the command and soldiers of the Wehrmacht from complicity in a brutal extermination action devoid of judicial basis. Therefore, a semblance of its legality was created, e.g., instead of murdering Polish leaders on the basis of an administrative decision, makeshift adjudicatory bodies were created, which in principle legitimized previously adopted plans. Similarly, efforts were made to remove from the executors of death camp executions and mass shootings the incriminating conviction of their direct perpetration through the use of lethal gases and the appointment of many people to fire salvos⁷⁹. The attitude towards Poles evolved of Hans Frank, the Governor General of the occupied Polish territories (forming the so-called General Government), who justified his actions against people of this nationality differently before different audiences. When he began to perceive the real condition of the German economy, exhausted by the long war, he decided to take care of the Polish labor force, by no means for humanitarian reasons, but to raise the quality of life of Germans and support the German army. Besides, he had an increasingly scarce police force, busy with operations in the conquered areas. Thus, easing the course against the Poles served to win the war, and was also a necessity under the circumstances. May 16, 1944. Hans Frank languished: "We are forced to be two-faced [*zweideutig*]: on the one hand, 16 million people must be kept at work, and on the other hand, the National Socialist should say: 'How beautiful it would be if everything without rest could be arranged differently.' The party doesn't have to worry about these political necessities. It can say: 'Beautiful, all this is necessary for political reasons, but the program has not been abandoned - it lies in a drawer'"⁸⁰. Slightly earlier, on January 14, 1944, he stated that after the victorious war he would grind the Poles to a pulp ("aus den Polen [...] Hackfleisch gemacht werden"), in another translation - "he will make a chopped-up mess of them."⁸¹. This is how the representatives of the German government acted,

⁷⁸ D. Schenk, *Night of the Murderers...*, pp. 54-56.

⁷⁹ The Germans' behavior can be explained using the so-called "wagoner's dilemma," an ethical thought experiment popularized by Philippa Foot in 1967 in popular culture. Flipping the switch, which resulted in the death of one instead of several people, seemed utilitarianly acceptable to many of those studied and did not arouse significant moral objection in them. To the basic version of the dilemma, Judith Thomson in 1976 added a story about a fat man on a footbridge - the only way to stop a speeding carriage was to throw an innocent man of repulsive appearance onto the tracks. This type of action elicited strong resistance from respondents. In both situations, however, there was complicity in murder, except that the indirectness of the action increased the level of acceptance of the act leading to the crime. The use of this mechanism, later described in detail, seemed to influence the conduct of the German authorities toward the executors of murderous and morally unjustifiable decisions (P. Foot, *The Problem of Abortion and the Doctrine of the Double Effect*, "Oxford Review" 5 (1967), pp. 5-15; eadem, *The Problem of Abortion and the Doctrine of the Double Effect in Virtues and Vices*, Oxford 1978; J. Thomson, *Killing, Letting Die, and the Trolley Problem*, "The Monist" 59 (1976), pp. 204-217; eadem, *The Trolley Problem*, "Yale Law Journal" 94 (1985), pp. 1395-1415).

⁸⁰ S. Piotrowski, *Dziennik Hans Frank*, Warsaw 1957, pp. 38-39; *Fortsetzung der Arbeitsbesprechung des Arbeitsbereiches Generalgouvernement der NSDAP im Königssaal der Burg* [16. Mai 1944] [in:] *ibidem*, pp. 382-383.

⁸¹ *Ibidem*, p. 39; *Einführung des Gouverneurs Dr. von. Burgsdorff in sein Amt als Distriktstandortführer des Distrikts Krakau im Sitzungssaal der Distriktstandortführung Stefansplatz 9* [14. Januar 1944] [in:] *ibidem*,

and in view of the above examples, it is impossible to believe in the sincerity of the seemingly favorable actions towards Poland - whether they concerned the conquest of its territory or the total destruction of the nation.

In the context of Werner Best's analysis of the July 31, 1939 "Guidelines," it must be emphasized, following Dieter Schenk, that the September 13, 1939 decree no longer prohibited the killing of detainees. The July "Guidelines" show that operational groups consisted of Gestapo, criminal police and security service officers. The Einsatzgruppen were to report to their commanders. The following tasks were imposed on their members: the performance of state police duties, the preventive arrest of persons belonging to one of three designated categories (i.e., those revealed on proscription lists, German emigrants, and opponents of German authority with a strong position and authority) and reporting these facts to the Gestapoamt, and the prevention of organized anti-German activity. In the course of these activities, officers were to beware of sexual contact with foreign women, by no means for the sake of the well-being of the raped, but for the racial sinfulness of such relations⁸². Members of the security service, on the other hand, were to take part in field operations only exceptionally, if there were delays in their implementation that could cause danger. In principle, they should have organized an information network on the basis of the subject and object files that had been compiled (especially among members of the German fifth column), reported to the heads of the Einsatzgruppen on the orders of the Wehrmacht and civil authorities, and ensured the proper storage and processing of confiscated materials relating to pro-Polish activities.

In August 1939, the formation of operational groups was completed. On August 18, 1939, a meeting was held in Berlin, attended by the founders of the Einsatzgruppen, namely representatives of the vanguard of the German security police and party security: Heinrich Himmler, Reinhard Heydrich, Heinrich Müller and Werner Best, as well as commanders of future flight extermination units. The latter were instructed on their assigned tasks. It was not made clear at the time that the operatives of the operational groups would liquidate the Polish elite. Only after the start of the war, when mass murders were carried out, did the acts committed begin to be described more explicitly. The final element necessary to introduce operational groups into gradually occupied Polish territory was an agreement with the Supreme Command of the Land Forces (Oberkommando des Heeres, or OKH for short). On August 29, 1939, it was concluded by Werner Best and Reinhard Heydrich, as representatives of the police and security service, and Oberstleutnant Eduard Wagner, chief of the Quartermaster General's Staff at the Supreme Command of the Land Forces, who stated that a consensus was quickly reached⁸³. Under these agreements, five Einsatzgruppen divisions were formed and given digital designations on

p. 370. Cf. the numerous no less amoral statements illustrating Hans Frank's hypocritical manner, also characteristic of representatives of other German authorities: *ibidem*, pp. 35-63.

⁸² D. Schenk, *Night of the Murderers...*, pp. 54-56; see J. Böhler, *Crimes...*, pp. 200-201.

⁸³ D. Schenk, *Night of the Murderers...*, pp. 56-58. See J. Böhler, *Crimes...*, p. 221; J. Böhler, K.-M. Mallmann, J. Matthäus, *Einsatzgruppen...*, p. 15.

September 4, 1939, according to Reinhard Heydrich's teletype, but signed by Werner Best⁸⁴, instead of the previous ones referring to where they were formed:

- Einsatzgruppe Wien (Vienna), later EG I under the command of SS-Standartenführer Bruno Streckenbach, composed of four Einsatzkommandos (they were designated in order: 1/I - led by SS-Sturmbannführer Ludwig Hahn, 2/I - SS-Sturmbannführer Bruno Müller, 3/I - SS-Sturmbannführer Alfred Hasselberg, 4/I - SS-Sturmbannführer Karl Brunner);
- Einsatzgruppe Oppeln (Opole), later EG II under the command of SS-Obersturmbannführer Emanuel Schäfer, composed of two Einsatzkommandos (1/II - at its head was SS-Obersturmbannführer Otto Sens, 2/II - SS-Sturmbannführer Karl-Heinz Rux);
- Einsatzgruppe Breslau (Breslau), later EG III under the command of SS-Obersturmbannführer and at the same time Regierungsrat Dr. Ludwig Fischer, composed of two Einsatzkommandos (1/III - headed by SS-Sturmbannführer Wilhelm Scharpwinkel, 2/III - SS-Sturmbannführer Fritz Liphardt);
- Einsatzgruppe Dramburg (Drawsko Pomorskie), later EG IV under the command of SS-Brigadeführer Lothar Beutel, composed of two Einsatzkommandos (1/IV - at its head was SS-Sturmbannführer and Regierungsrat Helmut Bischoff, 2/IV - SS-Sturmbannführer and Regierungsrat Walter Hammer);
- Einsatzgruppe Allenstein (Olsztyn), later EG V under the command of SS-Standartenführer Ernst Damzog, composed of three Einsatzkommandos (1/V - led by SS-Sturmbannführer and Regierungsrat Heinz Gräfe, 2/V - SS-Sturmbannführer and Regierungsrat Robert Schefe, 3/V - SS-Sturmbannführer and Regierungsrat Walter Albath).

The composition of the leadership of the operational groups and units is shown in Appendix D, entitled "Einsatzgruppen und Einsatzkommandos der Sicherheitspolizei im besetzten Gebiet" ("Einsatzgruppen and Einsatzkommandos der Sicherheitspolizei im besetzten Gebiet") to Reinhard Heydrich's information letter (signed by Werner Best) dated September 13, 1939⁸⁵, providing an overview of the newly created offices and units as of the previous day.

In the course of the September campaign, two Einsatzgruppen and an Einsatzkommando independent of them were established. As early as September 3, 1939, as can be seen from the aforementioned teletype signed a day later by Werner Best, the Einsatzgruppe zum besonderen Verwendung (Einsatzgruppe z. b. V. for short), or Einsatzgruppe for special tasks, was established. Its commander was SS-Obergruppenführer Udo von Woyrsch, and the EK's superior in this group was SS-Oberführer Otto Rasch⁸⁶. On the other hand, on

⁸⁴ See the document in German and in Polish translation: K. Leszczynski, *Activities...*, pp. 165-166; 272. Cf. BAL, B 162/239, Order of the Chief of the Security Police with the Naming of the Einsatzgruppen in the Tannenberg Action [document in German], September 4, 1939, k. 146.

⁸⁵ See the contents of Annex D to Reinhard Heydrich's letter in German and Polish: K. Leszczynski, *Activities...*, pp. 172, 278. Cf. BAL, B 162/239, Appendix D to the letter of the Chief of the Security Police concerning the organization of Einsatzgruppen and Einsatzkommandos in the occupied area, as of September 12, 1939. [document in German], September 13, 1939, k. 162.

⁸⁶ K. Leszczynski, *Activities...*, pp. 165-166, 172, 272, 278.

September 12, 1939. in Frankfurt/Oder, in accordance with two orders from Reinhard Heydrich signed by Werner Best⁸⁷, Einsatzgruppe VI was formed, commanded by SS-Oberführer Erich Naumann, and composed of two Einsatzkommandos (1/VI - headed by SS-Sturmbannführer Franz Sommer, 2/VI - SS-Sturmbannführer Gerhard Flesch), and in the FCD an independent Einsatzkommando 16, headed by SS-Sturmbannführer Rudolf Tröger (which confirmed the status quo). The unusual numbering of the EK was due to the fact that the existing detachments were summed up in operational groups, of which there were just 16. The officers who were part of EK 16 came from the Danzig Gestapo, the criminal police, the protective police (Schupo) and the general SS (Allgemeine SS). Thus, they drew on the personnel resources of the Internal Defense, which numbered more than 1,500. members of the Internal Defense (civic militia formation) "Danzig" (SS-Heimwehr "Danzig"), commanded by SS-Obersturmbannführer Hans-Friedemann Götze, and the 400-member Guard and Assault Detachment "Eimann" (SS-Wachsturmbann "Eimann" - so named because of its commander, SS-Sturmbannführer Kurt Eimann). It was anticipated that this unit - unique because of the stationary nature of the operation in Danzig-Pomerania - would consist of 100 members (in reality there were 500⁸⁸). On average, the 100-member operational detachment consisted of 15 security officers, 30 - Gestapo and Kripo, as well as 20-30 members of auxiliary personnel⁸⁹. In total, the staff of the operational groups consisted of 2,700 people directly involved in the extermination of Polish leaders⁹⁰. In 1966, the scale of these groups' activities in Poland was vividly illustrated by Kazimierz Radziwończyk. He noted that their cadre was larger than the entire apparatus of the security police and security service in the so-called General Government (its size did not exceed 2,500 people). Moreover, if only members of the Gestapo, Kripo and the security service are included, four times more of them took part in the attack on Poland than during the attack on the USSR⁹¹.

The commanders of the special operations groups were generally subordinated to the commanders of the German land armies, originally the army superiors respectively: EG I - 14th Army, Colonel General (Generaloberst) Wilhelm List, EG II - 10th Army, General of Artillery (General der Artillerie) Walter von Reichenau, EG III - 8th Army, General of Infantry (General der Infanterie) Johannes von Blaskowitz, EG IV - 4th Army, General of Artillery Günther von Klug, EG V - 3rd Army, General of Artillery Georg Küchler⁹². The three units formed later operated in Greater Poland (EG VI), Upper Silesia and Těšín Silesia (EG z. b. V.) and Gdansk Pomerania (EK 16), i.e., in lands destined for incorporation into Germany, where it became necessary to intensify extermination efforts in order to more effectively Germanize the Polish western lands.

In order to coordinate the execution of operational tasks entrusted to special groups and commands, a special referral for Operation "Tannenberg" (das Sonderreferat des

⁸⁷ See Reinhard Heydrich's two orders of September 12, 1939 in German and Polish: *ibidem*, pp. 166-167, 273.

⁸⁸ Cf. M. Wardzyńska, *It was 1939...*, pp. 60-62; K. Grünberg, *SS...*, pp. 149-150.

⁸⁹ K. Radziwończyk, *Action "Tannenberg"...*, p. 96.

⁹⁰ D. Schenk, *Night of the Murderers...*, p. 57.

⁹¹ K. Radziwończyk, *Action "Tannenberg"...*, p. 96.

⁹² On September 29, 1939, according to a telegram received by the operational group commands from the Supreme Command of the Land Forces, the headquarters of EG II and III were merged, and after the German army occupied Warsaw, the officers of EG IV were to become active in the area of operations of the 8th Army (M. Wardzyńska, *It Was 1939...*, p. 52; K. Grünberg, *SS...*, p. 148).

Unternehmens "Tannenberg") was created in the Main Office of the Security Police on August 25, 1939 in accordance with a decree by Reinhard Heydrich⁹³ - the name referred to the place where the battle was fought on July 15, 1410, in which the combined Polish-Lithuanian army decisively defeated the forces of the German Teutonic Order. Thus, symbolically, the extermination of the Polish elite was to be, how dishonorable, a revenge for the defeat of more than five hundred years ago.

The method of maintaining communication between the operational groups and commandos and the special desk of Operation Tannenberg was defined by Werner Best in his "Guidelines" of July 31, 1939⁹⁴, in which he necessarily referred to the Gestapoamt instead of the desk even more generally. He imposed an obligation on each Einsatzgruppe to submit daily reports. The reports sent were to describe the stopovers of the operational commands, predictions about their whereabouts on the following day, special events and the number of people arrested.

Reinhard Heydrich abolished the Special Referat of Operation Tannenberg by decree of October 17, 1939.⁹⁵ From now on, correspondence related to the extermination of the Polish elite was to be directed to the Poland Referat (Polen-Referat) in Office IV Combating the Enemy - Gestapo (Amt IV, Gegnerbekämpfung - Gestapo), operating within the Reich Security Main Office.

The formal Einsatzgruppen was not disbanded until more than a month later. November 20, 1939. Werner Best, replacing Reinhard Heydrich, issued an order⁹⁶, according to which Gestapo and security service officers from EG I were to begin serving under the orders of the commandant of the security police and security service in Cracow, members of EG II and III in Lublin and Radom respectively, and EG IV in Warsaw. Gestapo officers from the commands comprising EG VI were to obtain duty assignments in Poznań, Łódź and Inowrocław from the Staff of the Inspector of the Security Police and Security Service in Poznań. Gestapo members from the Einsatzgruppe for special tasks were placed under the orders of the State Police Office in Katowice, Gestapo from the EK 16 in Danzig were placed under the State Police Office in Grudziądz, and those from Bydgoszcz were placed under the State Police Office in Bydgoszcz. At the same time, it was noted that the assignments provided for EG VI and EK 16 had already been made. Changes were allowed depending on the staffing needs of the state police offices. Kripo members were either transferred to the nearest criminal police office to their station (in Torun, Bydgoszcz, Poznan, Lodz or Katowice) or placed at the disposal of the SS and police commander in Cracow, who was authorized to determine their assignment. Officers to stationary posts were transferred according to the principle that the heads of operational groups and units were given command positions in permanent police units, examples of which were pointed out by Maria Wardzyńska⁹⁷. The manner in which the groups were established, their division, the scope of their tasks and their execution, the personal staffing of the leadership

⁹³ K. Grünberg, SS..., p. 148. See the letter regarding the office hours of the special desk of Operation Tannenberg in the original German and translation into Polish: K. Leszczyński, Activities..., pp. 158, 264.

⁹⁴ Ibid, pp. 161, 268.

⁹⁵ Ibid, pp. 158-159, 264-265.

⁹⁶ See the order on the dissolution of the Einsatzgruppen in German and Polish translation: K. Leszczynski, Activities..., pp. 173-174, 279-280.

⁹⁷ M. Wardzyńska, It was 1939..., pp. 53-54.

and the entrenchment of the groups in the state apparatus all testify to the fact that the intention to destroy the Polish nation was being carried out.

Relatively rare in the Polish literature is the mention of the episode related to the appointment and formal commencement of operations by dozens of members of operational groups at the behest of Heinrich Himmler formed under the aegis of the SS Main Office of Race and Settlement (Rasse- und Siedlungshauptamt SS, RuSHA) in the German border areas: in the Sudetenland, Upper Silesia and Gdansk Pomerania⁹⁸. These officers had previously worked as race and settlement experts in the so-called Protectorate of Bohemia and Moravia (Protektorat Böhmen und Mähren). Each group had a modest staff of 8-9 racial experts. The first unit, designated "A," was organized in Bartošovice (Partschendorf), near Nový Jičín (Neu Titschein), in occupied Moravia, and was commanded by SS-Sturmbahnführer Friedrich Brehm; group "B," under SS-Standartenführer Theodor Henschel, was formed in Breslau. Group "C," formed in Falkenburg (Zlocieniec), was initially headed by SS-Standartenführer Horst Strathmann⁹⁹, and later in turn by SS-Sturmbahnführer Peter Carstens and SS-Standartenführer Hammer¹⁰⁰. It is possible that at the beginning of the war there were briefly two more RuSHA operational groups, whose superiors were SS-Oberführer Curt von Gottberg, head of the Prague Land Office (Bodenamt), and SS-Standartenführer Schimmelpfennig, his associate.

The RuSHA groups were obliged to work closely with the police operational groups, but - as a result of their immediate independence in Danzig-Pomerania - at 4:40 p.m. on September 1, Werner Best, on behalf of Reinhard Heydrich, terminated these units, and the next day, by order of Heinrich Himmler, their officers were incorporated into the police operational groups, where they performed their duties. There were also disagreements with the Wehrmacht at this stage. The resumption of activity of the units, but already designated by successive letters of the alphabet as race and settlement advisory (or advisory) units, or Rasseund Siedlung-Beratung (RuS-Beratung), occurred on September 11, 1939. The "A" advisory was part of the First Operational Police Group performing tasks in Upper Silesia and the later established so-called "General Government. Advisory

"B" operated at the III Einsatzgruppe in Lodz and Kielce, and advisory "C" in the IV operational police group - in Gdansk Pomerania and Greater Poland. The staff of the RuS advisory boards, deployed after the war campaign in Poznań, Kraków and Wrocław,

⁹⁸ T. Berenstein, A. Rutkowski, German military administration in the occupied Polish territories (September 1 - October 25, 1939), "NDP. MiSzOIWW" VI (1962), p. 48; I. Heinemann, Race, Land, German Blood. The SS Main Office of Race and Settlement and the New Racial Order of Europe, transl. J. Górny, Gdansk 2014, pp. 177-183; J. Młynarczyk, Wehrmacht occupation policy in Poland in the first weeks of the war (September-October 1939), "Klio. Czasopismo Poświęcone Dziejom Polski i Powszechnym" 3 (2012), pp. 97-99.

⁹⁹ This version of the name was given by Isabel Heinemann, while Tatiana Bernstein and Adam Rutkowski indicated that it was Strothmann. (T. Berenstein, A. Rutkowski, German Administration..., p. 48; I. Heinemann, Race..., p. 178).

¹⁰⁰ The coincidence of the names of the commander of the 10th police operations unit and the last head of group "C," the proximity of the place where these groups were established, in Dramburg (Drawsko Pomorskie) and Falkenburg (Zlocieniec), respectively, their cooperation, and their possible promotion soon from SS-Sturmbannführer to SS-Standartenführer, allow us to assume that the head of group "C" was Walter Hammer (Ł. Gladysiak, Kill Everyone..., pp. 178, 343).

consisted of only 26 people in November 1939, a symbolic figure compared to the several thousand-strong staff of the Einsatzgruppen.

Despite the small number of advisory officers, they were to play a momentous role. SS-Gruppenführer Günther Pancke, head of the RuSHA, intended, with their help, to strip the Reich Ministry for Food and Agriculture (Reichsministerium für Ernährung und Landwirtschaft, RMEL) of its authority over settlement policy. In this way, he wanted to prevent the disputes of competence between the party office and the ministry that occurred in the so-called Protectorate of Bohemia and Moravia.

The groups were to secure large agricultural estates owned by Poles, as well as all land owned by Polish Jews, the State Treasury, the Catholic Church and Polish financial institutions. The confiscation of estates in the future was to make it possible to assess the property of these groups of owners, to block land circulation and agrarian reform, and to liquidate agricultural cooperatives.

Friedrich Brehm, commander of Advisory "A," indicated in October 1939 in Report No. 13 to the head of the RuSHA that he had succeeded in requisitioning property of more than 200 hectares. Particularly noteworthy in the letter is the proposal for an almost model implementation of the eastern policy with regard to Polish citizens, involving in turn the immediate deportation of Jews and representatives of the Polish intelligentsia, the racial selection of the remaining members of society, the deportation of residents who did not represent the desired racial value (taking into account the needs of the Upper Silesian industry, as Friedrich Brehm wrote about the solution for this area), and then colonization with German settlers.

In turn, a report by the head of Advisory "B" addressed to the head of RuSHA, and sent on January 2, 1940, shows that members of the group secured Polish land records, banned notaries from confirming land property transactions, and established the land ownership rights of all Jews and Poles owning farmsteads of more than 25 hectares (abandoned estates were to be managed by the head of the civil administration). In an October 7, 1940 report to SS-Obersturmführer Heinrich Mundt, head of the Central Land Office (Zentralbodenamt), Theodor Henschel stated that in November 1939, members of Advisory "B" in the vicinity of Lodz took the following actions: with the support of the Einsatzkommando, they abolished the land offices in Lodz and Kielce, banned real estate transactions, inventoried the land properties of Poles and Jews, arrested the owners of the most attractive farms (in terms of acreage, location, crops, livestock, etc.); they also often murdered landowners under various pretexts (e.g., illegal possession of weapons), then took over their manors into a trust organized by the head of the civil administration, and eventually handed them over to selected Germans. This type of practice was also used by the employees of Advisory "C," whose commander Hammer reported on November 11, 1939, that they had managed to seize at least 208 Polish estates that could be used as SS training centers. It seemed that they were the nucleus of the projected SS state.

In addition to the RuS police and advisory groups and operational units, colonization and extermination tasks were carried out by other SS units, such as SS-Wachstrumbann "Eimann" and SS-Heimwehr "Danzig." Mass murders were committed by officers hailing from the 2nd Corpse Head Regiment "Brandenburg" (SS-Totenkopf-Standarte

"Brandenburg")¹⁰¹, the unit that managed and guarded the concentration camps, and from the "Adolf Hitler" Peripheral Guard (SS-Leibstandarte "Adolf Hitler")¹⁰². Both the regiment and the guard were later incorporated into the Armed SS (Waffen SS).

However, the formation whose activities contributed most to the intensification of the murders of the Polish leadership strata turned out to be the Self-Defense of Ethnic (having domicile outside the Reich and generally lacking German citizenship) Germans (Volksdeutscher Selbstschutz)¹⁰³. Its establishment was basically the result of the concentrated activity of the various German services, diplomacy, military, police, state administration and party apparatus, which led to the consolidation of the German fifth column in Poland under the National Socialist banner. At the beginning of the Third Reich, in the early summer of 1934, at a meeting with representatives of ethnic Germans, Adolf Hitler precisely indicated their future political role: "The means do not interest me. [...] Forget everything you have learned up to now. [...] Your mission is to gain a leadership role in the world for Germany."¹⁰⁴. Thus, not only German optants¹⁰⁵, but also Polish citizens of German nationality were engaged to carry out anti-Polish operations. Members of the Ukrainian minority (often associated with the Organization of Ukrainian Nationalists, OUN) were also mobilized against the Poles, with militia groups established in the southeastern provinces of the Republic.

¹⁰¹ On Aug. 1, 1937, the SS-Totenkopfverbände (Dead Head Troops), which had formally existed since March 29, 1936, were reorganized, and three regiments were formed at that time; a fourth was created after the Anschluss (A. Lasik, *Personnel evolution of the SS "Totenkopf" formation and the participation of Polish Volksdeutsche in the crew of the Auschwitz concentration camp*, "PZ" 4 (1989), pp. 105-108).

¹⁰² M. Wardzyńska, *It was 1939...*, pp. 61-62.

¹⁰³ The following discussion of the Volksdeutscher Selbstschutz is based in content and structure on a text of mine included in a collection of studies devoted to the activities of this German organization (see M. Mazurkiewicz, *Legal Basis for the Functioning of the Selbstschutz in Polish Lands Incorporated into the Third Reich and in the General Government* [in:] *Hitler's Forgotten Executioners...*, pp. 11-23).

¹⁰⁴ J. Skorzynski, *Selbstschutz - V column*, "BGKBZHWP" X (1958), p. 14. It was clear from this speech that the policy of German minority structures outside the Reich was subject to centralization in accordance with his will. As early as 1934, the commander-in-chief stressed that ethnic German organizations should facilitate and support the implementation of a military attack on a designated state. At the same time, he recognized the need to preserve the apparent differences between associations operating abroad. He proposed preserving at least two minority organizations in countries with large German populations. One association was to propose radical solutions to the host state, the other - conciliatory. He added that the strength of the Germans ("the true chosen people"), like the power of the Jews, came from the Diaspora (H. Rauschning, *Gespräche mit Hitler*, Zürich - Wien - New York 1940, pp. 136-138; idem, *Conversations with Hitler*, transl. J. Hensel et al., Warsaw 1994, pp. 156-160).

¹⁰⁵ In accordance with Article 91 of the Treaty of Versailles and Articles 3-5 of the so-called "minority treaty" signed with Poland, a certain group of Germans living in the territories granted to Poland (having domicile in them) gained the right to choose German citizenship, or so-called "option. The choice was connected with the obligation to go to Germany, although both the optants themselves, due to their estates, and the German state, forced to support those returning to their homeland (and thus losing arguments for the Germanness of the eastern territories due to the loss of the German element) were reluctant to do so. The matter was regulated by the Vienna Convention of Aug. 20, 1924 (specific departure dates were adopted), but on Oct. 24, 1925, as a result of Poland's international situation and German pressure, the Polish authorities abandoned strict enforcement of international legal norms. According to data from the German Embassy in Poland in February 1933, the Toruń consular district was inhabited by more than 8,600 German optants, and the Poznań consular district by 7,500. Thus, they should be considered reichsdeutsche, who had not lost their German citizenship, but resided outside the borders of the Reich (Treaty between the Principal Allied and Associated Powers and Poland, signed at Versailles on June 28, 1919, Dz.U. of 1920, No. 110, item 728; Convention between Poland and Germany on the Citizenship of Former German Citizens of Upper Silesia, signed in Vienna on August 30, 1924 (Dz.U. of 1925, No. 21, item 148); T. Rabant, *Antipolish Activities...*, p. 206; P. Hauser, *The German Minority in Pomerania in the Interwar Period*, Poznań 1998, pp. 61-63; M. Stażewski, *The Forced Departure of German Optants from Poland in 1925*, "Studia Historica Gedanensia" V (2014), pp. 95-112).

Germans living in Poland were entrusted with protecting the German population in Poland during the future war campaign, securing, vital to German interests, industrial plants, mines, transportation and energy infrastructure facilities, collecting weapons and paramilitary training, seizing Polish coins treated as bullion, abducting, attacking and murdering Poles, attacking Polish villages, facilitating the smuggling of weapons and saboteurs into Poland, assisting people of German origin to flee to Germany, especially those fearing military conscription, creating unrest among the Polish and German populations, disseminating anti-Polish propaganda, provocative attacks on German property, monuments and association headquarters (which was to provide pretexts for attacking Poland)¹⁰⁶ - also arson, destruction of Polish facilities¹⁰⁷, and finally preparing assassinations of members of the Polish authorities. Increased diversionary activity on the territory of the Republic was undertaken at least since the spring of 1939. It was carried out by officers of the security service, the Abwehr, the Wehrmacht and the Gestapo, as well as the Headquarters for the Support of Ethnic Germans (Volksdeutsche Mittelstelle, VoMi), functioning under that name since February 1, 1937, within the SS under the leadership of Obergruppenführer SS Werner Lorenz. SS Standartenführer Hermann Behrends became its chief of staff. Thanks to earlier cooperation with these officers, Heinrich Himmler and Reinhard Heydrich gained control over state policy toward ethnic Germans¹⁰⁸.

¹⁰⁶ German documents published by Edmund Osmańczyk and obtained from Berlin lawyer and notary Alois Glugla show that German authorities planned 180 attacks on 223 German facilities. Many of these were not carried out, perhaps due to the withdrawal of the assassins (German property was to be destroyed), the unfavorable circumstances of the operation or the preventive activities of the Polish services. The organization of the attack was handled by the security service, and the execution was carried out mainly by Polish citizens of German origin with the support of German agents. The propaganda campaign culminated in three false flag operations (actions designed to attribute responsibility to the enemy) carried out on the night of August 31 to September 1, 1939: attacks on a German radio station in Gleiwitz (Gliwice), a customs house in Hochlinden (Stodoly, now a district of Rybnik) and a forester's lodge in Pitschen (Byczyna). The attacks were not a pretext for launching military action, but were intended to provide evidence of Polish aggression as arguments for Britain and France not to carry out their Allied commitments. They should not be equated with the "Tannenberg" action, aimed at the extermination of the Polish leadership layers, as has been done, for example, by Tomasz Chinciński - perhaps using older German studies (E. Osmańczyk, *Dowody prowokacji* (unknown archive of Himmler), Warsaw 1951; A. Spieß, H. Lichtenstein, *Unternehmen Tannenberg. Der Anlass zum Zweiten Weltkrieg*, Wiesbaden-München 1979; *idem*, *Action "Tannenberg"*. The Pretext for Unleashing World War II, transl. B. Floriańczyk, Warsaw 1990; *Unternehmen Tannenberg*. August 1939: Wie der SD den Überfall auf Polen vorbereitete, "Der Spiegel" 32 (1979), pp. 62-74; *Unternehmen Tannenberg*. August 1939: Wie der SD den Überfall auf Polen vorbereitete (II), "Der Spiegel" 33 (1979), pp. 67-74; *Unternehmen Tannenberg*. August 1939: Wie der SD den Überfall auf Polen vorbereitete (III), "Der Spiegel" 34 (1979), pp. 68-78; T. Chinciński, *The Fifth Column*, "Polityka" 34 (2006), pp. 11-16; *idem*, *Hitler's Forpoczta*. German diversion in Poland in 1939, Warsaw-Gdansk 2010; *End of peace, beginning of war*. German diversionary activities in the Polish campaign of 1939. Selected Aspects, ed. G. Bębnik, Katowice 2011; A. Szefer, *Hitler's Provocation in Gliwice and Stodoly and Byczyna on August 31, 1939*, Gliwice 1989).

¹⁰⁷ August 28, 1939. Antoni Guzy, a Pole of German origin from Bielsko, planted a bomb in the Tarnów train station building, resulting in the deaths of 20 people (Karol Pospieszalski indicated the number of 22 killed). Often the slogans to launch the attacks were communicated through the radio or the press - specific words, phrases, wedding notices or obituaries were used for this purpose (K. Pospieszalski, *On the significance of the Tarnów bombing and other Nazi provocations of August and September 1939 for the occupation policy of the Third Reich towards Poland*, "PZ" 5-6 (1983), pp. 97-109; *Encyklopedia Tarnów*, ed. A. Niedojadło, Tarnów 2010, p. 516).

¹⁰⁸ T. Chinciński, *German Diversion in Poland in 1939 in the Light of Police and Military Documents of the Second Republic and the Special Services of the Third Reich*, part 1: March-August 1939, "PiS" 2 (2005), pp. 167-189; *idem*, *German Diversion in Poland in 1939 in the Light of Police and Military Documents of the Second Republic and the Special Services of the Third Reich*, part 2: August-September 1939, "PiS" 1 (2006), pp. 165-197; V. Lumans, *Himmler's Auxiliaries. The Volksdeutsche Mittelstelle and the German National Minorities of Europe, 1933-1945*, Chapel Hill - London 1993, p. 41; *idem*, *Werner Lorenz - Chef der*

Such mass organizations of Germans of Polish citizenship as the Deutsche Vereinigung (Deutsche Vereinigung, DV), the Young German Party in Poland (Jungdeutsche Partei in Polen, JdP), the German People's Association in Poland (Deutscher Volksverband in Polen, DVP) and the Deutscher Volksbund für Polnisch-Schlesien (Deutscher Volksbund für Polnisch-Schlesien, DVB)¹⁰⁹ were subordinate to the headquarters. Because of the varying numbers of people of German descent in the various Polish territories, the varying degrees of their identification with Germanness and their knowledge of the German language, these organizations-and other party agencies, no less numerous-were forced to diversify their tasks: from outright regermanization (such as teaching Polish Germans to read and write in German) to extermination (advanced preparation of the local German population for a nationalist struggle against the Poles).

According to the Polish second census of December 9, 1931¹¹⁰ the Republic was inhabited by at least 740 thousand people of German origin (mother tongue was the classification criterion)¹¹¹, including 193 thousand in the Poznań province, 105 thousand - in the

"Volksdeutschen Mittelstelle" [in:] Die SS. Elite unter dem Totenkopf. 30 Lebensläufe, ed. R. Smelser et al., Paderborn 2000, pp. 332-345; K. Grünberg, SS..., pp. 126-127.

¹⁰⁹ J. Mikulska-Bernaś, F. Bernaś, V kolumna, Warsaw 1987, pp. 131-159. See idem, Hitler's Front Guard, Warsaw 1964; The German Fifth Column in Poland, London-Melbourne [1940]; F. Gentzen, The Role of the German East Marches Union (Ostmarkverein) in the Formation of the Fifth Column of German Imperialism in Poland and the Preparation of World War II, "PZ" 3 (1959), pp. 56-75; idem, "Deutsche Stiftung" - Secret institution of the German government for organizing the "fifth column," "PZ" 4 (1961), pp. 295-303; R. Staniewicz, The German minority in Poland - Hitler's fifth column? "PZ" 2 (1959), pp. 395-438. cf. general texts on the German minority in Poland: W. Rogala, The rise of revisionist sentiment among the German national minority in Poland in 1924-1926, "PZ" 6 (1959), pp. 298-317; Z. Zieliński, Political goals of the German minority in Poland in 1925, "DN" 1 (1996), pp. 93-100; Z. Wartel, The aspiration of the German minority to expand its powers in Poland after the May Coup, "DN" 2 (1977), pp. 123-135; W. Rogala, The German national minority in Poland during the period of economic negotiations (1927-1932), "PZ" 3 (1961), pp. 103-120; P. Stawiecki, The German minority in Poland in the years 1918-1936 in the light of the Polish expertise of 1936, "PZ" 1 (1968), pp. 46-61; A. Woźny, The problem of the German minority in Poland 1938-1939 in the light of documents of the Ministry of Internal Affairs and key military authorities, "PZ" 4 (1990), pp. 33-62.

¹¹⁰ Decree of the Council of Ministers of September 2, 1931 on conducting the second census of the population (Journal of Laws of 1931, No. 80, item 629). Although the results obtained in the second census were questioned by, among others, Edward Szturm de Sztrem, a long-time employee of the Central Statistical Office and its president in 1929-1939, alleging irregularities in the nationality estimates in eastern Poland, and Janusz Żarnowski, a historian, stressing the need to treat the results of the census obtained in the countryside with caution, the register should be considered the most fully reflective of the actual state of affairs, because it was conducted on a huge research sample. The aforementioned reservations were primarily related to the national consciousness of the inhabitants of the Polish countryside and eastern provinces, which was not formed according to post-revolutionary canons (E. Szturm de Sztrem, Prawdziwa statystyka, "Kwartalnik Historyczny" 3 (1973), p. 666; J. Żarnowski, Społeczeństwo Drugiej Rzeczypospolitej 1918-1939, Warsaw 1973, p. 373).

¹¹¹ Second census of population of 9.XII.1931. dwellings and households. Population. Occupational relations. Poland (abridged data), "Statistics Poland. Series C" 62 (1937), p. 27. cf. S. Waszak, Number of Germans in Poland in 1931-1959, "PZ" 6 (1959), pp. 318-349.

Pomeranian¹¹² , 90 thousand - in the Silesian¹¹³ , 261 thousand. - in central Poland (Warsaw, Warsaw, Lodz, Kielce, Lublin, Bialystok provinces)¹¹⁴ , of which as many as 155 thousand - in the Lodz province, 49 thousand - in Eastern Poland (Volhynia, Polesie, Novogrudok, Vilnius provinces), and 40 thousand - in Southern Poland¹¹⁵ (Krakow, Lvov, Stanislawow and Ternopil provinces). In 1937, some 200,000 Germans living in Poland, or 27 percent of their population, were involved in National Socialist organizations¹¹⁶ and potentially formed a fifth column¹¹⁷ .

Members of the aforementioned associations often participated in the liquidation of Poles. Aleksander Lasik pointed out that in the SS crew at the Auschwitz-Birkenau concentration camp, the percentage of ethnic Germans from Poland (who had Polish citizenship until 1938) in 1940 was 9.6 percent, in 1943. 6.5 percent, and in 1945. 7.8

¹¹² See studies on the German minority in Pomerania and Greater Poland: J. Wojciechowska, Contribution to the participation of the German minority in the Nazi extermination campaign in Bydgoszcz, "PZ" 5 (1958), pp. 99-106; R. Dąbrowski, German territoriality in Wielkopolska in the years 1920-1939, "PZ" 4 (1983), pp. 15-25; D. Matelski, Germans in Greater Poland in the months preceding the outbreak of World War II, "PZ" 1 (1994), pp. 77-101; M. Stażewski, The option of the German population in Greater Poland and Pomerania in the 1920s, "PZ" 1 (1994), pp. 31-55; A. Kucner, The German minority in Poland and the aspiration of the German government, "PZ" 4 (1958), pp. 272-305; Poland-Germany-German minority in Greater Poland. Past-Present. A collective work, ed. A. Sakson, Poznań 1994; Deutsche und Polen zwischen den Kriegen. Minderheitenstatus und "Volkstumskampf" im Grenzgebiet. Amtliche Berichterstattung aus beiden Ländern 1920-1939, vol. 1-2, ed. R. Jaworski et al., München - New Providence - London - Paris 1997; M. Wojciechowski, Minority..., pp. 317-325.

¹¹³ See texts devoted to the problems of the German minority in Silesia: K. Grünberg, Nazi-Front Schlesien. German political organizations in the Silesian army in the years 1933-1939, Katowice 1963; M. Cyganski, Volksbund in the service of the Third Reich 1933-1938, Opole 1968; idem, Hitler's V column in the Silesian and Cracow provinces in 1939, Opole 1972; K. Jonca, The Nationality Policy of the Third Reich in Opole Silesia in the Years 1933-1940, Katowice 1970; R. Staniewicz, The German Minority in the Silesian Province in the Period of Preparations for Hitler's Aggression against Poland (15 III - 10 VIII 1939.), "PZ" 4 (1964), pp. 332-375; idem, The German minority in the Silesian province in the years 1922-1933, Katowice 1965; K. Fiedor, Bund Deutscher Osten (BDO) in the system of anti-Polish National Socialist policy on the example of Opole Silesia, "SnFiZH" XXIII (2000), pp. 133-163; M. Maciejewski, Z dziejów nacjonalistycznej i antysemickiej propagandy nazistowskiej na Śląsku w latach 1921-1933, "SnFiZH" XXIV (2001), pp. 419-441; E. Waszkiewicz, Notes on the reception of the National Socialist doctrine among the German minority in the Silesian province, "SnFiZH" III (1977), pp. 353-360.

¹¹⁴ See publications on the German minority in central Poland: M. Cyganski, Mniejszość niemiecka w Polsce centralnej w latach 1919-1939, Łódź 1962; J. Doroszewski, Mniejszość niemiecka na Lubelszczyźnie w latach 1918-1939, "PZ" 5/6 (1983), pp. 141-152; K. Wójcik, Statystyka mniejszości niemieckiej w województwie lubelskim w latach 1918-1939, "DN" 2 (2009), pp. 3-12.

¹¹⁵ See the study on the German minority in Malopolska: M. Cyganski, Hitler's V Column....

¹¹⁶ "Fifth Column" [in:] Dictionary of Civic Knowledge, edited by A. Łopatka et al., Warsaw 1970, p. 314.

¹¹⁷ The term "fifth column" was used by Gen. Emilio Mola, a Francoist commander during the Spanish Civil War. In 1936, he stated in a radio address that in addition to the four columns of Gen. Francisco Franco's troops heading toward Madrid, a column composed of civilian Nationalist partisans was still operating in the capital. On 16 X 1936, William Carney, a correspondent for The New York Times, reported from Madrid that the day before, Republican police, presumably as a result of Gen. Emilio Mola's claims, had begun searching for rebels holed up in the city. A few days earlier, on October 14, 1936, a reference to the fifth column appeared in the local American newspaper, the Fitchburg Sentinel. In reference to General Emilio Mola's statement, Ernest Hemingway gave the title The Fifth Column to his only play, which he wrote during the bombing of Madrid in 1937. The meaning of the phrase thus went beyond its strictly military or combat understanding. Estimates of the size of the German fifth column in Poland before the outbreak of World War II varied depending on the definition adopted, but membership in National Socialist organizations can be taken as evidence of at least passive support for the German regime (Madrid Rounds Up Suspected Rebels; 2,000 Are Seized in Homes as Result of Mola's Boast of Aid from within the Capital, The New York Times, Oct. 16, 1936, pp. 2; Premier Commands All Madrid Forces; "Commissioner For War" Named to Control and Harmonize Militia and Army, "The New York Times," 17 Oct. 1936, p. 9; D. Bolinger, Fifth Column Marches on, "American Speech" 1 (1944), pp. 47-49; E. Hemingway, The Fifth Column, and the First Forty-Nine Stories, New York 1938; cf. J. Mikulska-Bernaś, F. Bernaś, Fifth Column..., pp. 13-14.

percent.¹¹⁸ Another example was the Polish volksdeutsche affiliated with the JDP, who in May 1939 thronged the ranks of the Volunteer Corps of the German Workers' Union (Freikorps der Gewerkschaft Deutscher Arbeiter). It was organized by the OKW from Breslau, and Hauptmann Ernst Ebbinghaus became the commander of the Freikorps, for which reason the group was called the Sonderformation "Ebbinghaus." Before the outbreak of war, members of the Freikorps carried out extensive diversionary activities. When the Wehrmacht entered Polish territory, they began attacking the Polish army and insurgents, and then also murdered Polish leaders and the remaining civilian population. Thus, in Upper Silesia they carried out tasks within the framework of the "Tannenberg" action analogous to those of the Selbstschutz (however, the scale of extermination differed from that in Pomerania and Greater Poland)¹¹⁹.

Because they were familiar with local conditions and often fluent in Polish, the future selbstschutzmen were perfectly suited to carry out liquidation tasks. And because they were imbued with big-German ideas, grateful for their alleged liberation from Polish rule, often harbored long-standing personal grudges against their Polish neighbors and were driven by a primitive desire to enrich themselves at their expense (of course, the primary motive was national hatred), they willingly took part in liquidating Poles.

In the quoted July 2, 1940 memo to Heinrich Himmler, Reinhard Heydrich summarized the activities of the Selbstschutz of ethnic Germans, aptly describing the extermination carried out with its participation: "Moreover, the Selbstschutz committed atrocious, out-of-control acts of revenge right from the very beginning [...] and this was later attributed to the SS and the police to their detriment."¹²⁰ . As rightly pointed out by Tomasz Ceran, who called the acts committed a neighborhood crime¹²¹, it should not be forgotten that the murder of the Polish elite was an integral (albeit radical) part of the overall program for the total elimination of the Polish nation.

Volksdeutscher Selbstschutz, in the legal sense, functioned in the so-called territories incorporated into Germany between September 26 (in fact, activity was undertaken earlier) and November 26, 1939, in the so-called General Government¹²² while from September 1939 to the summer of 1940. Unofficially, on the other hand, according to the testimony of witnesses - currently impossible to verify due to documentary deficiencies - analyzed by Jozef Skorzyński, German Selbstschutz existed from the turn of August and September 1938.¹²³ Tomasz Chinciński rightly noted that although many historians have rejected the thesis of the establishment of the Selbstschutz before the September campaign¹²⁴, it should probably be verified again, if only due to the fact that September

¹¹⁸ A. Lasik, *Evolution...*, pp. 108-109, 112-117.

¹¹⁹ G. Bęblik, *Falcons...*, pp. 63-84, 232-420; A. Szefer, Unknown documents on the activities of the so-called Freikorps in the Bielsko region on the eve of the outbreak of World War II (May-September 1939), "Zaranie Śląskie" 2 (1965), pp. 535-541; T. Chinciński, *German diversion...*, part 1, p. 170; idem, *German diversion...*, part 2, pp. 172-173; M. Wardzyńska, *The year was 1939...*, pp. 128-136.

¹²⁰ K. Leszczyński, *Activities...*, pp. 175-176, 281; the quote is from p. 281.

¹²¹ T. Ceran, *Murderers or assassins? Wilhelm Papke, Willi Thiess and the Klamry crime near Chelmno 1939* [in:] *Hitler's forgotten executioners...*, p. 161.

¹²² See J. Adamska, *The Selbstschutz Organization in the General Government* [in:] *Crimes and Perpetrators...*, pp. 504-518.

¹²³ J. Skorzyński, *Selbstschutz...*, p. 28; T. Chinciński, *German Diversion...*, part 1, p. 167.

¹²⁴ See Ch. Jansen, A. Weckbecker, "Der Volksdeutsche Selbstschutz" in *Polen 1939/40*, München 1992, pp. 42-46; J. Böhler, *The 1939 invasion...*, p. 169.

3, 1939 was indicated as the first day of service in the German Samoobrona by members of the 6th company of the 116th regiment of the Allgemeine SS¹²⁵. Before the Selbstschutz was officially established in the second half of September 1939, local groups had been formed since the start of World War II, originally of a defensive nature, whose members, as a result of the reorganization of their replacements and the consolidation process, often joined the Samo Defense, which was subordinate to the authorities. Their organizational and combat experience was used to develop groups of ethnic Germans¹²⁶.

The role of the German minority grew as the Wehrmacht advanced deeper into Poland. Between September 8 and 10, 1939, a conference was held at Hitler's headquarters, chaired by Himmler. It was decided then to officially establish the Selbstschutz. This is evident from the testimony that Gottlob Berger gave as a witness at the eighth Nuremberg trial (the so-called People's Trial)¹²⁷.

The intention was to create three Selbstschutz districts - the southern one was to be located in the Reich (with its headquarters in Breslau), the central one in occupied Poland (in Poznan), and the northern one in Danzig, recently annexed to the Reich. The first two were subordinated to SS-Obergruppenführer August Heissmeyer, head of a special department named after him in the SS Main Office of Race and Settlement, and the third to SS-Obergruppenführer Heydrich, later head of the Reich Security Main Office (established on September 27, 1939)¹²⁸. As an aside, it is worth quoting the information provided by Christian Jansen and Arno Weckbecker that already on September 7, 1939, i.e. before the aforementioned conference, the first marching order was given to members of the Self Defense¹²⁹. The findings of the deliberations are confirmed, in a way, by teletype No. 576, sent on September 12, 1939 in the early afternoon from the "Heinrich No. 83" train. It shows that recruitment to the Selbstschutz was about to take place, for which SS-Oberführer Ludolf von Alvensleben was to be responsible¹³⁰.

¹²⁵ T. Chinciński, *German Diversion...*, part 2, p. 182.

¹²⁶ For example, as mentioned by Włodzimierz Jastrzebski, a union of ethnic Germans called the Defense of the Fatherland (Heimatwehr) was established in Gdansk Pomerania on September 5, 1939. The unit was established by Fritz Hermann, head of civil administration at the 4th Army command, issuing an appropriate letter addressed to landrats. On September 6, 1939, he issued a decree with directives for the conduct of the new organization. In it, he set the age range of members of this so-called auxiliary police (Hilfspolizei) at 18-45 years. The group was to consist of two types of detachments. The more active one was planned to be formed in county towns and temporary county seats, and was established and paid for according to the rules used by the German military. Troops of the second type, ad hoc, were intended to be used for orderly tasks, taking care of security and traffic (they were also to guard camps for interned Poles and Jews). By design, its members worked professionally in addition to serving in Defense of the Fatherland. The number of active troops was estimated at 50, and less active at 80 (with the proviso that larger cities could have larger troops). The matter of armaments was postponed indefinitely, and the salary, which was to be paid at an "appropriate" rate for each hour worked, was also vaguely defined. Defense members were distinguished from other officers by their clothing; they were ordered to wear a white armband with the inscription "Hilfspolizei" on their right arm. Individual units were to report to landrats, representatives of the local administration. They were charged with recruiting and training members of the formation. Later, in Gdansk Pomerania, the structure and organization of the Homeland Defense was largely taken over by the Selbstschutz - including a division into active groups - A, and less active groups - B (W. Jastrzebski, *Terror and Crime. Extermination of the Polish and Jewish population in the Bydgoszcz Regency in 1939-1945*, Warsaw 1974, pp. 58-60).

¹²⁷ J. Skorzyński, *Selbstschutz...*, p. 41.

¹²⁸ Ibid.

¹²⁹ Ch. Jansen, A. Weckbecker, *"Der Volksdeutsche Selbstschutz"...*, p. 48, note 26.

¹³⁰ J. Skorzyński, *Selbstschutz...*, p. 42.

On September 20, 1939, SS-Ergänzungsamt (SS-Ergänzungsamt) chief Gottlob Berger was ordered to organize Selbstschutz in Poland¹³¹. On September 21, SS Reichsführer Heinrich Himmler appointed SS-Gruppenführer Richard Hildebrandt, senior commander of the SS and police (who was also appointed to this position on the same day), as the head of the Selbstschutz in the so-called Danzig-West Prussia district. A similar hierarchy was established in the so-called Wartheland district¹³².

Formally, however, the Self-Defense Force was created a few days later by an order of Reichsführer SS Heinrich Himmler on September 26, 1939.¹³³ Its addressees were the heads of civil administration established at the commands of the 3rd, 4th, 8th, 10th and 14th Armies, Army Group South and for the eastern area of Upper Silesia, the heads of administration at the military commands in Poznań and Gdańsk, as well as the relevant commanders of the order police (in the case of the head of civil administration at the 3rd Army command, the order was sent to the inspector of the order police in Königsberg). For information purposes, the letter was also forwarded to the chief commands of these armies and the chief military commanders in Poznan and Gdansk.

The Self-Defense of Ethnic Germans was defined in the document as a police organization. The aforementioned heads of civil administration and administration were responsible for its formation. The heads of the Selbstschutz became the commanders of the order police. This meant the subordination of the members of the Selbstschutz to its local outposts. In order to properly carry out the assigned tasks, commanders of this police force were to be assigned officers (SS-Führer) and SS non-commissioned officers (SS-Unterrführer) to the extent necessary (in dem notwendigen Umfang). Himmler called on the SS staff to work closely with the command and forces of the police order, which should have guaranteed the smooth operation of the Self-Defense. SS staff commanders in Army command districts 3, 4, 8, 10 and 14 were subordinated to the order police command, or possibly to a special police command. The relationship was normalized differently in the military districts of Poznań, Danzig-West Prussia and Upper Silesia, where SS staff commanders were to report directly to the chief of order police.

The authority to issue the necessary instructions for arming and training members of the Self-Defense of Ethnic Germans was transferred to the order police command. It was also to exercise official supervision over the organization.

October 7, 1939. Himmler sent another letter - "Provisional Guidelines for Organizing Selbstschutz in Poland" ("Vorläufige Richtlinien für die Organisation des Selbstschutzes in Polen") - to the higher SS and police commanders¹³⁴ in Krakow, Lodz, Breslau and

¹³¹ B. Bojarska, *Extermination of the Polish intelligentsia in Gdansk Pomerania...*, p. 52.

¹³² K. Pospieszalski, *Competence of the higher SS and police commander in the field of policing*, "PZ" 2 (1970), p. 339.

¹³³ BAL, B 162/22049, Order of Heinrich Himmler, Reichsführer SS and Chief of the German Police concerning the establishment of the Selbstschutz, September 26, 1939, k. 502-504.

¹³⁴ The higher SS and police commanders in the districts or provinces created in the so-called "incorporated lands" of the Reich were appointed by the Reichsführer SS and chief of the German police, to whom they were therefore personally and directly subordinate. In addition, they were subordinate to the governors (Reichsstatthalter) of the Reich districts or the super-presidents (Oberpräsidenten) of the Reich provinces. Governors and Oberpräsidenten not only exercised supreme administrative authority in the region as plenipotentiaries of the German government, but also held the positions of heads (gauleiters) of regional units of the National Socialist Party. Werner Best, in his 1941 monograph on the German police, pointed out its

Poznań. Its excerpts were quoted by Józef Skorzyński, a researcher of Selbstschutz issues¹³⁵, and German authors Christian Jansen and Arno Weckbecker¹³⁶.

The order, like the September 26, 1939 document, declared that the Selbstschutz was a police organization. It could have been regarded as a mass structure. By way of illustration, it is worth mentioning that in Gdańsk Pomerania, where it was most numerous, more than 38,000 men belonged to it, i.e. more than half of the 70,000 selbstschutzmen on duty in occupied Poland (as of October 1939)¹³⁷. On March 30, 1940, Obergruppenführer SS Friedrich Krüger estimated the unit's personnel in the so-called GG at 12,600 officers¹³⁸. The criteria for membership were age (a candidate had to be at least 17 but not over 45) and dignity, which was verified in an unspecified way, as the concept was vague. Service was treated as an honorable occupation, and the noblest goals were considered to be "to raise and strengthen in volksdeutsche self-confidence and valor."¹³⁹.

The scope of the Selbstschutz's activities was presented in the form of a sample open set of tasks. Among the priorities were handing over prisoners and fugitives to the Gestapo, protecting and securing enterprises and strategic facilities crucial to German interests, and participating in searches and actions carried out by the police. The euphemistic terminology concealed, as practice showed, a plan to exterminate the Polish leadership layer.

An order of October 7, 1939 introduced a three-tier internal structure for the Selbstschutz. In view of the need to achieve a certain size (of one hundred men), it was ordered that units be formed within a given locality, and when this was not possible - within the boundaries of a district (Kreis). The district units were to consist of inspectorates, over which the Selbstschutz commander, who was an SS officer, exercised authority. The SS headquarters, established at the military districts in consultation with their commanders, were to take care of the proper building of the organization. Tasks for members of the Self-Defense were assigned by the local commander of the order police. It is worth mentioning

two-tiered leadership structure: at the central level, the Reichsführer SS and head of the German police exercised authority over the police, and at the regional level, the senior SS and police commanders. The dominance of the latter over the nominal police superiors, especially on the level of extermination and Germanization tasks, was confirmed by Heinrich Himmler in his famous Poznań speech of Oct. 4, 1943, addressed to 92 SS officers - historically significant because of its themes concerning the extermination of the Jews (K. Pospieszalski, *Kompetencja...*, pp. 332-333; idem, *Responsibility of the chief superiors of the field administration for war crimes in occupied Poland*, "PZ" 3 (1962), pp. 3-27; W. Best, *Die deutsche Polizei*, Darmstadt 1941, p. 50; Document 1919-PS. Speech by Himmler on the Occasion of the SS Group Leader Meeting in Posen, 4 October 1943... [in:] *Trial...*, vol. XXIX, pp. 166-167).

¹³⁵ J. Skorzyński, *Selbstschutz...*, pp. 42-43.

¹³⁶ Ch. Jansen, A. Weckbecker, "Der Volksdeutsche Selbstschutz"..., pp. 52-53.

¹³⁷ M. Wardzyńska, *It was 1939...*, p. 64. The author quoted estimates after: C. Łuczak, *Poland and the Poles in World War II*, Poznań 1993, p. 70. It is difficult to indicate, even approximately, what percentage of the German minority belonged to the Selbstschutz. The problem stems from the difficulty of estimating the actual number of Germans with a domicile in Poland (however, those obtained in the second census of 1931 should be considered as the baseline data). Some members of the Selbstschutz of German nationality had Polish citizenship (volksdeutsche), some renounced it as a result of an option, although they did not leave Poland (optants, reichsdeutsche), and still others left and returned with the outbreak of war. In addition, Germans from the FCD joined the Selbstschutz. It is possible that in the ranks of the organization were, for example, for conjunctural reasons, few Poles.

¹³⁸ *Occupation and Resistance in Hans Frank's Diary 1939-1945*, vol. 1, transl. D. Dąbrowska et al., compiled by S. Płoski, edited by Z. Polubiec, Warsaw 1972, p. 180.

¹³⁹ J. Skorzyński, *Selbstschutz...*, p. 43.

that, at the request of their superior, members of the Selbstschutz were obliged to carry out police activities also outside the borders of their locality. In this case, the territorial affiliation of the unit did not affect the limitation of its functions in non-local areas.

The order indicated that a member of the Selbstschutz was primarily to dispose of weapons confiscated from the Poles. Shortages of ammunition were intended to be made up with the captured resources of the former Polish Army. The document clearly stated that final decisions had not yet been made: "The missing armaments will "presumably" ["voraussichtlich"] be supplemented from the stocks of the former Polish Army. Negotiations on this matter are ongoing."¹⁴⁰ . Each weapon should have been equipped with fifty rounds of ammunition.

Provisioning depended on the time on duty. If the performance of police tasks did not exceed four hours on a given day, a member was not entitled to a free meal. He was entitled to it if the service lasted more than four hours, provided that a meal was provided during the service. In that case, the relevant regulations for law enforcement officers applied. This solution certainly facilitated the joint performance of duties by police and Selbstschutz officers. Similarly, the ordinance established the amount and system of pay. Up to four hours of service was unpaid, while for longer hours the full rate of "cash remuneration established for the person obligated to serve" (Notdienstpflichtige festgesetzten Barvergütung) was applied. One-tenth of this rate and a clothing allowance (or lump sum) (Bekleidungsentschädigung) were paid for each hour started.

The order also regulated the uniform of Selbstschutz members. No special uniform was provided for them, but it was indicated that they should distinguish themselves from other groups performing police tasks with a white armband with the name of the organization printed in black¹⁴¹ . It was forbidden to make police uniforms available to the Self Defense.

Serving in the Selbstschutz was associated, under certain conditions, with pay and social privileges, which may have influenced the decision to join its ranks. In addition to prestige, membership in the organization meant real power over Polish neighbors, the ability to seize their property and violently resolve pre-war personal or professional disputes.

The October 7, 1939 order was the most detailed normative act regulating the structure and character of the Selbstschutz, the functioning and hierarchy of its members, as well as their rights, duties and powers. Once again, the authority of the commanders of the order police over the Selbstschutz units was emphasized, as well as the need to involve SS cadres in the construction of the formation's structures. Selbstschutz members and police officers had the same duties. The euphemistically described tasks (the main objective, which was the extermination of Polish leaders, was not explicitly indicated) could only be carried out with the voluntary participation of the large German minority from Poland. Formally carrying out the orders of the commanders of the order police, the "fit and useful" members of the Self-Defense made their contribution to the restoration of the Germanness

¹⁴⁰ "Fehlende Bewaffnung wird voraussichtlich aus Beständen des ehemaligen polnischen Heeres ergänzt. Verhandlungen hierüber sind im Gange" (Ch. Jansen, A. Weckbecker, "Der Volksdeutsche Selbstschutz"..., p. 52).

¹⁴¹ Maria Wardzyńska indicated that the armband was green in color and selbstschutzmen wore it on their left arm (M. Wardzyńska, It was 1939..., p. 64).

of the eastern lands (i.e., they murdered their Polish neighbors), thanks to which they gained a chance for professional and social advancement - for recruitment to the SS or the order police.

It is worth mentioning the quasi-judicial procedure, not provided for in this act, which was used in practice by members of the Selbstschutz. In the proceedings before the summary court, the accused was not afforded the right to a defense. As a result, a Pole charged with the testimony of at least two or three Volksdeutsche could be shot, sent to a concentration camp or released. The ruling was made by the commander of the Selbstschutz. The decision of such a court could not be appealed to a higher instance, the proceedings were single-instance, and the verdict was final¹⁴².

The illegal activities of members of the Self-Defense of Ethnic Germans were approved by Hitler, who provided them with legal protection. Under a decree of October 4, 1939, any German citizen who committed crimes (*Straftaten*) against Poles between September 1 and the date of the decree was exempted from criminal responsibility - bitterness (*Erbitterung*) at the cruelty of Poles was indicated as an exempting circumstance. The act authorized the discontinuation of all proceedings in this matter, and the penalties imposed by final court judgments were donated¹⁴³.

Officially, the Selbstschutz was disbanded by Heinrich Himmler with an order dated November 26, 1939. According to the testimony of Albert Forster¹⁴⁴, gauleiter and Reich governor of the so-called Danzig-West Prussia district, he issued it as a result of Adolf Hitler's order, which most likely resulted from his intervention with the Führer Hermann Göring. The merit of convincing the latter to liquidate the Self-Defense was attributed to Albert Forster, who justified this necessity by the effects of the organization's activities¹⁴⁵.

The Selbstschutz was excluded from the authority of the police force by Heinrich Himmler's order of November 8, 1939. According to this act, at the end of November the formation lost the status of a police organization given to it by the order of September 26, 1939, and confirmed in the "Provisional Guidelines" of October 7, 1939. It was to cease performing police tasks under the orders of police commanders. The Selbstschutz was incorporated into the SS structure, which meant its subordination to that structure. The Selbstschutz leadership was to be subordinate to the higher SS and police commanders¹⁴⁶.

However, it was one thing to have guidelines from Berlin and another to fulfill them in the provinces. Field practice seemed to be a product of the expectations of superiors regarding the effectiveness of carrying out extermination tasks (as part of the strengthening of Germanness) and the size of the cadres. Probably also of importance were factors more difficult to document - disputes over competence and personnel, the

¹⁴² Ibid, pp. 72-73; J. Skorzyński, *Selbstschutz...*, pp. 45-47.

¹⁴³ J. Skorzyński, *Selbstschutz...*, pp. 52, 56.

¹⁴⁴ See D. Schenk, Albert Forster. Hitler's Governor of Danzig. Nazi Crimes in Danzig and West Prussia, translated and footnoted by W. and J. Tycner, Danzig 2002.

¹⁴⁵ J. Skorzyński, *Selbstschutz...*, p. 54.

¹⁴⁶ Ibid, pp. 54-55.

willingness of local Germans to continue to belong to the organization, and the resistance of the Polish population to arrests and increasingly probable murders.

On the day of the official dissolution of the Selbstschutz, Sunday, November 26, 1939, a roll call was held in Bydgoszcz, where Albert Forster thanked the leadership of the Selbstschutz for the efficient construction of its structures and announced its liquidation in Gdansk Pomerania. He paid special tribute to SS-Oberführer Ludolf von Alvensleben¹⁴⁷, presenting him with the Cross of Danzig 1st Class (Kreuz von Danzig der 1. Klasse) for his dedicated service as founder and commander of the Selbstschutz in the so-called Danzig-West Prussia district. The official part was followed by a camaraderie evening (Kameradschaftsabend), during which the district and local commanders of the Selbstschutz had a chance to fraternize with members of the organization's staff and spend time in their own company in a social atmosphere characteristic of the Germans, combined with common singing. This is how the course of the meeting was described in a short press report in the Bydgoszcz daily "Deutsche Rundschau"¹⁴⁸. Behind the laconic statement that "the Selbstschutz has fulfilled the tasks entrusted to it" ("Der Selbstschutz habe seine Aufgaben erfüllt"), there was a shocking truth, hardly penetrating the bustling atmosphere of the Sunday celebration arranged for ethnic Germans by the Reich state authorities. They were celebrating the successful execution of a plan to exterminate Polish leaders who, before the outbreak of war, had often been neighbors of the selbstschutzmen and were well acquainted with them. Danzig-West Prussia became the only district of the Reich in which the Selbstschutz was disbanded in time for the November 8, 1939 act.¹⁴⁹

On the other hand, in the so-called Wartheland, there was a shortage of SS officers and non-commissioned officers who could coordinate the recruitment of Selbstschutz members into the SS. As a result, the higher SS and police commander decided not to apply the order of November 8, 1939 in Greater Poland until mid-March 1940. Therefore, the Selbstschutz was still formally entrusted with police tasks, and its superior remained the commander of the order police¹⁵⁰.

In the so-called Ciechanow Regency (Regierungsbezirk Zichenau), i.e. the northern part of the Warsaw province incorporated into East Prussia (in what is known as Southeast Prussia), the Selbstschutz was abolished no earlier than the spring of 1940. Christian Jansen and Arno Weckbecker set this date, taking into account that the last source-confirmed shootings of Poles with the participation of the Selbstschutz took place in February 1940, selbstschutzmen began to be conscripted into the SS in late March and early April 1940, and local formation inspector Norbert Scharf was appointed inspector of the Buchenwald concentration camp in early May 1940.¹⁵¹ The researchers' findings

¹⁴⁷ Ludolf von Alvensleben by no means ceased his duties as commander of the Selbstschutz with the liquidation of the organization in Gdansk Pomerania. He continued to hold this position in the so-called GG. July 10, 1940. Hans Frank authorized Friedrich Krüger to include Ludolf von Alvensleben on the staff of the higher commander of the SS and police in the so-called GG, located in Cracow (Conference with F.W. Krüger on the new policy toward Jews and the dissolution of the Selbstschutz [of July 10, 1940] [in:] Occupation..., vol. 1, p. 228. See translation of the entire document: ibidem, pp. 227-228).

¹⁴⁸ Forster dankt den Selbstschutzorganisationen. Appell in Bromberg, "Deutsche Rundschau," 27 XI 1939, p. 3.

¹⁴⁹ Ch. Jansen, A. Weckbecker, "Der Volksdeutsche Selbstschutz"..., p. 193.

¹⁵⁰ J. Skorzynski, Selbstschutz..., p. 55.

¹⁵¹ Ch. Jansen, A. Weckbecker, "Der Volksdeutsche Selbstschutz"..., p. 196.

appear inaccurate in the context of a report that SS-Gruppenführer Jakob Sporrenberg, commander of the northeastern SS superdistrict (SS-Oberabschnitt Nordost) in Königsberg, sent to the head of the SS Main Office (SS-Hauptamt) on July 15, 1940. It shows unequivocally that in the so-called Ciechanow District the Selbstschutz was to cease to exist on July 31, 1940.¹⁵²

The situation was somewhat different in the so-called General Government. The backstory of the dissolution of the Samoobrona is more obscure, especially from the legal side. Governor General Hans Frank recorded in his diary that on July 10, 1940, Friedrich Krüger informed him that he intended to abolish the Selbstschutz, whose officers incorporated into the Special Service (Sonderdienst), which was essentially a fringe police force of the Governor General, would remain employed at the organization's still-functioning training headquarters in Lublin¹⁵³. In addition, on July 12, 1940, Krüger mentioned the dissolution of the Selbstschutz to court assessor Dr. Theodor Viehweg and ministerial advisor Kurt Willem. The conversation concerned the concern of the judicial community about the course of the extraordinary pacification action "AB" (ausserordentliche Befriedungsaktion)¹⁵⁴. It is worth mentioning that the Self-Defense in the so-called GG was created and then subordinated to the higher SS and police commanders on the basis of orders from the Reichsführer SS in September and November 1, 1939.¹⁵⁵

The extermination of the Polish leadership strata continued until spring - in the so-called Reich incorporated territories (some historians have disputed this thesis) - or summer 1940. - in the so-called "General Government," where its principal phase did not begin until spring. In contrast, the most important phases of the undertaking in the so-called "incorporated territories" were carried out by late October/early November 1939. The rush was connected with the assumption of leadership in the occupied districts by the heads of the civilian administration attached to the commander-in-chief in the military districts, who were to replace the previous military authority. This occurred on October 26, 1939.

This aroused obvious concern among those in charge of the operation about its success, as evidenced by an account of their October 14, 1939 meeting in Berlin, when it was agreed that the "liquidation of the leading Poles" (Liquidierung des führenden Polentums) should be carried out by November 1, 1939. The meeting was attended by Reinhard Heydrich, head of the Reich Main Security Office¹⁵⁶, the heads of the offices (Amtschefs) operating

¹⁵² BAB, NS 33/191, Report from Jakob Sporrenberg to the head of the SS Main Office, July 15, 1940, k. 43.

¹⁵³ Conference with F.W. Krüger on the new policy toward Jews and the disbanding of the Selbstschutz [dated July 10, 1940] [in:] *Occupation...*, vol. 1, p. 228.

¹⁵⁴ The "Tannenberg" and "AB" actions were part of the operation "to liquidate the Polish leadership layer" (Conference on the repercussions of the implementation of the extraordinary pacification action in the GG [of July 12, 1940] [in:] *Occupation...*, vol. 1, pp. 228-229).

¹⁵⁵ J. Skrzyński, *Selbstschutz...*, p. 53.

¹⁵⁶ Reinhard Heydrich's presence at the meeting is confirmed by the document's use of the letter identifier C. This symbol was used to indicate the head of the British Secret Intelligence Service (Secret Intelligence Service, or SIS for short, also known as Military Intelligence Section 6, or MI6 for short). Because of the fascination of the then RSHA chief with British intelligence, the letter C was also used to denote his position (M. Allen, *Hidden Agenda*, New York 2002, p. 259. Cf. J. Waller, *The Unseen War in Europe. Espionage and Conspiracy in the Second World War*, London 1996, p. 171).

within the RSHA, the unnamed commander of the Einsatzgruppen and Arthur Greiser¹⁵⁷, gauleiter and governor in the so-called Reichsgau Posen (Reich District of Posen), renamed Reichsgau Wartheland (Reichsgau Wartheland) in 1940. Attention was given to the possibility of capturing Poles destined for extermination who were just returning from the war campaign. On the other hand, they reckoned with opposition from the civil administration, which could disrupt the course of the so-called direct action¹⁵⁸. The unease over the termination of the military administration, in the civilian section basically submissive to party factors, is also evidenced by a letter from Rudolf Oebisger-Röder, commander of Einsatzkommando 16 in Bydgoszcz. He indicated that superiors outside the NSDAP, i.e., unacquainted with the goals of the action, may have prevented the executions. He added that despite the use of ruthless methods, only about 20,000 Poles from West Prussia were murdered¹⁵⁹. A month after the establishment of the civil administration, the Selbstschutz was abolished. Barbara Bojarska assumed that this officially occurred on November 26, 1939¹⁶⁰, although it actually depended on local conditions¹⁶¹. Nevertheless, this non-coincidental date indicates the organization's deep functional connection with the Einsatzgruppen, established to exterminate the Polish leadership strata. These elite groups, after carrying out their assigned tasks, also lost the sense of existence in their previous form. The dissolution of all groups and special units was announced by the head of the police and security service in a letter dated November 20, 1939. Werner Best, one of the top SD officers, ordered that the structures in Pomerania be reorganized: members of Einsatzkommando 16 be transferred to the state police unit in Danzig (Staatspolizeistelle Danzig), officers from the Torun office be transferred to Grudziadz (Staatspolizeistelle Graudenz), and those from Bydgoszcz be transferred to the police unit there (Staatspolizeistelle Bromberg)¹⁶². Selbstschutzmen were gradually recruited into police units, as well as into the SS and other National Socialist organizations¹⁶³.

Following Germany's invasion of Poland, the program for the extermination of the Polish leadership strata under the "Intelligence" action was coordinated at numerous meetings attended by top Reich dignitaries. In addition to the described threads on the establishment of operational groups and the Selbstschutz, the current situation in the occupied territories was commented on, the action was adjusted and plans were adapted to the circumstances. Juxtaposed, for example, with the current theses on the late publication of the "Special Book," this confirms the overwhelming influence of members of

¹⁵⁷ See C. Luczak, Arthur Greiser. Hitler's Ruler in the Free City of Danzig and the Warta Country, Poznań 1997; C. Epstein, Model Nazi. Arthur Greiser and the occupation of the Wartheland, transl. J. Włodarczyk, Wrocław 2011.

¹⁵⁸ BAL, B 162/239, Meeting of the Chief of the Reich Main Security Office, October 16, 1939, k. 107-108; K. Radziwończyk, The "Tannenberg" Action..., pp. 115-116. See J. Sziling, Extermination of the Polish Catholic clergy in Bydgoszcz and the Bydgoszcz district in 1939-1945, "Works of the Commission of History" VI (1969), p. 145.

¹⁵⁹ T. Esman, W. Jastrzębski, The First Months of the Nazi Occupation of Bydgoszcz in Light of German Sources, Bydgoszcz 1967, p. 61. Cf. Rudolf Oebisger-Röder's report of October 21, 1939, in which he reported to the RSHA on the arrests of Polish teachers and "plans to liquidate radical Polish elements" ("Es ist geplant, die radikalen polnischen Elemente zu liquidieren"): M. Wildt, Generation des Unbedingten. Das Führungskorps des Reichssicherheitshauptamtes, Hamburg 2002, p. 478.

¹⁶⁰ B. Bojarska, Extermination of the Polish intelligentsia in Gdansk Pomerania..., p. 57.

¹⁶¹ Cf. Ch. Jansen, A. Weckbecker, "Der Volksdeutsche Selbstschutz"..., pp. 193-197.

¹⁶² BAL, B 162/239, Dissolution of Einsatzgruppen and Einsatzkommandos, November 20, 1939, k. 184-185.

¹⁶³ Ch. Jansen, A. Weckbecker, "Der Volksdeutsche Selbstschutz"..., pp. 91-94.

the German minority on the course of the liquidation and their arbitrariness - they not only acted on their own information, but also committed unjustified looting. German commanders repeatedly accused local Germans of brutality and indiscipline.

However, as early as September 3, 1939. Reinhard Heydrich issued a decree regarding the arrests and planned murders of representatives of the Polish elite. On September 6, 1939, he held a briefing with Rudolf Lehmann, head of the OKW's legal department, during which it was concluded that the liquidation was going too slowly. The next day, a briefing of Einsatzgruppen commanders took place with the head of the Security Police and Security Service. It was agreed then that the elimination of Polish leaders should be carried out as efficiently as possible. A distinction was made between "leadership layers" and "secondary persons." Members of the first group were planned to be transported to concentration camps in the Reich, and the second to temporary lagers in the border areas. Reinhard Heydrich revealed his real intentions on September 8, 1939, in a conversation with Wilhelm Canaris. He stated that as a result of the tardiness of the courts-martial only two hundred executions a day were being carried out, and recommended that Poles be murdered without any proceedings, i.e. in accordance with administrative decisions taken in advance (although the removal of the buffer in the form of an apparent judicial procedure may have had a negative psychological effect on the enforcers). As Wilhelm Canaris recalled, on September 12, 1939, he met with Adolf Hitler, Joachim von Ribbentrop, Gen. Wilhelm Keitel and Gen. Alfred Jodl on the commander's special train (*Sonderzug des Führers*) in Ilnau (Yelowa) in Opole Silesia.

The meeting was also attended by Colonel Erwin Lahousen, head of the Abwehr's Second Department for Sabotage and Special Tasks (*Sabotage und Sonderaufgaben*), and a close associate of the head of German intelligence and counterintelligence¹⁶⁴. The head of the Abwehr lamented to General Wilhelm Keitel that the executions of captured Poles, especially nobles and clergy, would burden the Wehrmacht. This view was in line with international legal norms, which stipulated that authority in occupied territories was exercised by the military. Wilhelm Keitel replied that the extermination of the Poles was approved by Adolf Hitler, and if the Wehrmacht commanders did not intend to participate in its implementation, heads of civilian administrations would be appointed at the military districts (*Militärbezirke*) to carry it out and coordinate it. In the context of ending the German-Polish war, he pointed to the fourth partition of Poland as a possible solution. The next day, that is, September 13, 1939, Werner Best issued a decree concerning, among other things, the tasks of operational groups. Unlike his "Guidelines" of July 31, 1939, which in principle were intended to neutralize possible concerns of the Wehrmacht command about the extermination activities of the German police in Poland, the September instructions no longer contained a ban on killing Polish leaders. Further directives on the liquidation of the Polish intelligentsia were addressed by Reinhard

¹⁶⁴ Although the print marked 3047-PS and containing in its second item the notes of Adolf Hitler's train conference of Sept. 12, 1939, was presented during the trial of the main German criminals as a document of the US prosecution with the symbol USA-80, it was not officially recognized as evidence in the case. Therefore, it was searched for in vain in the 31st volume of the trial documents, where, according to the order, its version in German should have been presented (*Legal References and List of Documents Relating to Joachim von Ribbentrop [in:] Nazi Conspiracy...*, vol. 2, pp. 515-516, 522; *File Notes on the Conference in the Fuehrer's Train in Ilnau on 12.9.1939 [in:] Nazi Conspiracy...*, vol. 5, pp. 768-770; cf. K. Abshagen, Canaris, Stuttgart 1949, pp. 208 et seq.).

Heydrich to the commanders of the operational groups in Berlin on September 21, 1939, and were sent to the attention of the army leadership on September 30, 1939. The head of the security service and the Gestapo stated at this meeting that when it came to solving the Polish problem (*die Lösung des Polenproblems*), different methods would be used depending on whether a member of the Polish people belonged to the leadership or labor strata. He estimated that there were still 3 percent of representatives of the Polish elite in the occupied territories, who should be rendered harmless by being placed in concentration camps. Regarding the middle class, which included clergy, teachers, nobility, returning officers and legionnaires, he ordered officers of operational groups to draw up lists of names to enable the arrest and deportation of designated persons of Polish nationality outside the occupied territories (*Restraum*). On the other hand, members of the last category, "primitive Poles" (*die primitiven Polen*), i.e., laborers and peasants, should have been harnessed to work for the Reich and gradually deported to a foreign district. The pastoral care envisaged for them was to be provided in German. Reinhard Heydrich emphatically, succinctly admitted that the goal of the Eastern policy was to make the temporarily remaining Poles into seasonal laborers and labor migrants. Also on September 21, 1939, General Walther von Brauchitsch issued an order justifying the need for the Wehrmacht to respect the tasks carried out by the operational groups and indicating the scope of cooperation between the Führer, the head of the German police in the Reich Ministry of the Interior, the head of the security police and security service and the commanders of the operational groups, on the one hand, and the Wehrmacht leadership, on the other. The order was sent to all army group chiefs, army commanders and occupation military districts in Pomerania, Poznan and Krakow¹⁶⁵.

October 3, 1939. Hans Frank, reporting at a conference in Poznan on Adolf Hitler's views on war and armaments policy in Poland¹⁶⁶, stressed that, according to the commander-in-chief, after the ruthless plundering of the Polish economy, it was necessary to make Poland a colony and the Poles "slaves in the service of the Greater German World *Reich*" (*die Sklaven des Grossdeutschen Weltreichs*). The Führer demanded that the Poles be exterminated biologically (by reducing their access to the necessities of life to the bare minimum) and culturally (as a result of the liquidation of all Polish institutions that could contribute to national revival and the formation of a new leadership layer). This opinion was repeated by Adolf Hitler on October 17, 1939, during an evening conference with General Wilhelm Keitel¹⁶⁷. The leader indicated that the revival of the Polish

¹⁶⁵ K. Radziwończyk, *Action "Tannenberg"...*, pp. 94-118; J. Böhler, K.-M. Mallmann, J. Matthäus, *Einsatzgruppen...*, pp. 14-65; B. Bojarska, *Extermination of the Polish intelligentsia in Gdansk Pomerania...*, pp. 61-65; D. Schenk, *Night of the Murderers...*, pp. 50-62.

¹⁶⁶ Document 344-Ec Extract From A File Of The Field Economy Office (FeldWirtschaftsamt) Concerning German Armament Econ-Omy In Poland 1939140 Observations By Frank, 3 October 1939, On His Intentions In Poland: Removal Of All Supplies, Raw Materials And Machines Serviceable For War Economy; Labor To Be Drafted To The Reich; Poland To Be Kept Down To Bare Subsistence Level; Prevention Of Revival Of A Polish Intelligentsia; In General, Creation Of Colonial Status-Goring's Attitude Similar. Certification, 8 May 1946 (Exhibit Usa-297) [in:] *Trial...*, vol. XXXVI, pp. 327-331.

¹⁶⁷ The minutes of the conference held on Oct. 17, 1939, were presented as evidence of the US indictment with reference USA-609 in the trial of major German criminals. The Führer's meeting with Gen. Wilhelm Keitel "circa 20 X 1939" was mentioned by Hans Frank during a police briefing on May 30, 1940. The concordance of the subject matter covered makes it plausible that the governor general's recollections relate to the 17 X 1939 conference. If this were indeed the case, one would have to conclude, following Hans Frank, that the meeting was attended, in addition to the persons indicated above, by Martin Bormann, Heinrich Himmler, Wilhelm Frick, Reich Minister of the Interior (Reichsminister des Innern), Hans Lammers, head of the Reich

intelligentsia should be prevented. On the other hand, on October 14, 1939, during a briefing with the commanders of the operational groups, Reinhard Heydrich demanded that the Polish leadership layers be liquidated by November 1, 1939, the pre-established deadline for the civil administration to take over the occupied territories. From that date onward, the continuation of the "Intelligence" operation could have been hampered by the lack of formal Wehrmacht protection and the fact that the judicial and civilian authorities of the middle and lower levels were not informed of the intentions of the highest state factors. However, these fears proved to be completely unfounded¹⁶⁸.

In 1940, already after the extermination of the Polish leadership strata, both in the so-called "incorporated territories" and in the so-called "GG," there were favorable circumstances to evaluate the entire action in retrospect. The German authorities by no means felt any remorse for the murders they carried out. On the contrary, e.g. Heinrich Himmler, speaking on September 7, 1940 to members of the officer corps of the elite "Adolf Hitler" Step Guard at an evening meeting on the occasion of Metz Day¹⁶⁹, stated openly that the execution of the Polish elite was a necessity and required the steadfastness of the enforcers. He justified the deportation of Poles by the need to Germanize Polish lands by settling ethnic Germans, such as those from Volhynia. An indication of how primitively he motivated his listeners to brutally implement the nationality policy is the fact that the payoff for effective murder was to be honor, admiration and decorations. In addition, he mentioned the social preference of SS members, to whom the housing program was directed. According to the Reichsführer SS, its implementation would have been impossible if the "scum of humanity" (*der Abschaum der Menschheit*), among others, had not been forced to work. It can be assumed that he counted Poles, who were often educated and enterprising, but were a threat to the German authorities, among this infamous group.

On October 2, 1940, in a Berlin apartment, Adolf Hitler met with close associates: Hans Frank, Erich Koch, Baldur von Schirach, Gauleiter of Vienna, and Martin Bormann, Chief

Chancellery (Chef der Reichskanzlei) and Reich Minister without portfolio (Reichsminister), Wilhelm Stuckart, Secretary of State (Staatssekretär) and the Governor General (Document 864-PS. Top-Secret Report, 20. October 1939, on the Conference between Hitler and Keitel on 17 October 1939, Concerning the Future of Poland... [in:] Trial..., vol. XXVI, pp. 377-383; Top Secret Note, 20 October 1939, on Conference between Hitler and Chief OKW Concerning Future Relations of Poland to Germany, 17 October 1939... [in:] Nazi Conspiracy..., vol. 3, pp. 619-621. See Minutes of the Conference of A. Hitler with the head of the Wehrmacht High Command, Gen. Col. W. Keitel, on October 17, 1939, on the policy of the Third Reich toward the GG and the abolition of the military administration and the transfer of authority to the civil administration [dated October 20, 1939.] [in:] Occupation..., vol. 1, pp. 119-120. cf. J. Sehn, Hitler's Plan for Biological Warfare against the Polish Nation, "BGKBZNwP" IV (1948), pp. 115-117. see also Document 2233-PS (also 3465-PS and D-970). Excerpts from the Diary of Hans Frank, Governor General of the Occupied Polish Territories, October 25, 1939 to April 3, 1945... [Polizei-Sitzung am Donnerstag, dem 30. Mai 1940] [in:] Trial..., vol. XXIX, p. 440; Minutes of a police meeting devoted to all matters relating to the state of security in the GG [dated May 30, 1940] [in:] Occupation..., vol. 1, p. 190.

¹⁶⁸ K. Radziwończyk, Action "Tannenberg"..., p. 103.

¹⁶⁹ The transcript of Heinrich Himmler's speech was presented as evidence to the U.S. prosecution in the trial of Germany's major criminals before the IMT and is identified with the reference USA-304 (Document 1918-PS. Himmler's Address to the Officers' Corps of the SS Leibstandarte (Bodyguard Company) "Adolf Hitler", September 7, 1940... [in:] Trial..., vol. XXIX, pp. 98-110. Cf. English translation of extensive excerpts of the September 7, 1940 speech: Himmler's Address to Officers of the SS Leibstandarte "Adolf Hitler" on the "Day of Metz" (Presentation of Historical Nazi Flag) [in:] Nazi Conspiracy..., vol. 4, pp. 553-558).

of Staff (Stabsleiter) of Rudolf Hess and Reichsleiter (Head of the Reich)¹⁷⁰. The commander stated that Poles, due to their negative national characteristics (including laziness) and the tenets of German nationality policy, should be used as cheap labor. He considered their permanent residence in the Reich inadvisable because of the need to meet the consumption needs of laborers beyond the period of their seasonal usefulness for work in agriculture, bricklaying, road construction or other unskilled occupations. From this heartfelt speech comes a quote widely circulated in the literature, due to its suggestiveness, explaining the necessity of exterminating Polish leaders: "There can be no 'Polish masters'; if Polish masters still exist, they must be, though it sounds hard, exterminated. [...] Poles can have only one master - a German; two masters side by side cannot exist, and therefore all representatives of the Polish intelligentsia must be exterminated. It sounds hard, but this is the law of life."¹⁷¹. The leader added that the remaining members of Polish society should be kept in a state of national passivity, including through lack of access to formal education and the use of Catholic clergy, who, receiving their livelihood from the German authorities, would be forced to keep the faithful in obedience to the occupiers. Adolf Hitler recommended that if a priest resisted, a short trial should be held, which in practice meant a death sentence and execution. The purpose of the lives of Poles, who could not *in gremio* be immediately murdered, was to work for the Germans. Any relations between representatives of the two nationalities - other than the issuance of work orders - were to be categorically prohibited. In order to avoid "mixing of blood" ("naturally, we could not mix our blood with the Poles"¹⁷²), not only Polish men, but also women were to be engaged in work for the Reich. The commander considered it desirable to bring the surviving Poles to a situation in which acquiring enough money to support their families would force them to work in the Reich. Hans Frank noted that the Poles sent to Germany were not being paid enough to carry out these intentions. Erich Koch, on the other hand, stated that Poles earn about 60 percent of what Germans earn, and stressed that this is correct. He added that part of the income they receive should go to the budget of the so-called GG. After completing their tasks, generally seasonal work in agriculture, Polish workers should have returned to the so-called GG - "a Polish reservoir" (*eine polnische Reservation*), "a huge Polish labor camp" (*ein grosses polnisches Arbeitslager*) and "a lending center for uneducated workers" (*die Ausleih-Zentrale für ungelernte Arbeiter*). Therefore, in order to maintain order in such an exploited territory, a German administration had to be established. In conclusion, Adolf Hitler reiterated his four main theses regarding Polish workers: 1) the economic position of the least well-off German worker and peasant must always be 10 percent higher than that of any Pole, 2) part of the earnings of Poles must be sent to their families in the so-called "GG. GG, 3) a

¹⁷⁰ The author of the report of the meeting was Martin Bormann, and its transcript was presented at the Nuremberg Trial as evidence of the Soviet prosecution under the symbol 172-USSR (Document 172-USSR. File Memorandum by Bormann on a Conference with Hitler, October 2, 1940... [in:] Trial..., vol. XXXIX, pp. 425-429. Cf. Martin Bormann's memo based on statements made by A. Hitler on GG policy and the treatment of the Polish population [dated October 2, 1940] [in:] Occupation..., vol. 1, pp. 307-310. See also K. Pospieszalski, Hitler's "law"..., part 2, pp. 31-35. Cf. idem, Responsibility..., p. 16.

¹⁷¹ Translation of this excerpt from the commander's speech: B. Bojarska, Extermination of the Polish intelligentsia in Gdansk Pomerania..., pp. 63-64. Cf. Martin Bormann's memo based on A. Hitler's statement on his policy toward GG and his treatment of the Polish population [dated October 2, 1940] [in:] Occupation..., vol. 1, p. 309. See the translated document: ibidem, pp. 307-310.

¹⁷² "Blütlich durften wir uns natürlich nicht mit den Polen vermischen" (Document 172-USSR. File Memorandum by Bormann on a Conference with Hitler, October 2, 1940... [in:] Trial..., vol. XXXIX, p. 427).

German laborer should not work more than 8 hours to earn enough money to live in decent conditions, and a Pole working 14 hours should not earn more than a German, 4) Poles must have small land holdings in the so-called GG, providing basic sustenance for their families, but if they want to improve their material situation, they must take up employment in the Reich. The Führer's claims were mutually exclusive. On the one hand, the leader regarded Poles as enemies of the Reich and attributed numerous negative traits to them, while on the other hand, by brutally exterminating the Polish intelligentsia, he affirmed the Poles' capacity for self-organization and feared opposition from them. It would seem that the work of the Polish workers was so indispensable to Germany, mired in an economic crisis caused by social spending and deepening as the situation at the front worsened, that their chances of survival, despite the intention to destroy the entire Polish nation, were increasing. Nothing could be further from the truth, the implementation of the labor program (about which more below), even under such difficult political conditions, caused a significant decline in the Polish population, prevented demographic growth and basically led to the next goal of German eastern policy - preparing the so-called GG for settlement by Germans. This plan was to be implemented after the war in a situation where the so-called lands incorporated into the Reich would be sufficiently Germanized.

In historical writing, due to the education, social and professional position of a significant portion of the Poles destined for direct extermination, Operation "Tannenberg" was assigned the code name "Intelligence." Its continuation outside the so-called areas incorporated into the Reich, i.e. in the so-called General Government, was Operation "AB." Organizing the preemptive extermination of the Polish leadership strata outside an area largely populated by ethnic Germans and destined for incorporation into the Reich, and without the camouflage of ongoing hostilities, posed a logistical and political challenge. Therefore, the decision-making process before the start of liquidation operations in the so-called GG looked different. The arrangements were made not by the Reich's central police authorities, but by the executive authorities of the so-called GG, headed by Hans Frank. However, the implementation of the "AB" action took place with the participation and support of the police forces.

Documents show that the concept of eliminating Polish leaders in the so-called "General Government" was presented in the spring of 1940. During a meeting of the Reich Defense Council (Reichsverteidigungsausschuss) for the so-called GG, which began at Warsaw's Brühl Palace on March 2, 1940 at 10:30 a.m., Hans Frank reported on the security situation in the so-called GG and addressed the comments that his colleagues had made in this regard¹⁷³. The meeting was also attended by Standartenführer Joseph Meisinger, Generalmajor Erwin Jaenecke and Bruno Streckenbach, commander of the security police and security service in the so-called GG, who discussed the Polish resistance movement in

¹⁷³ Document 2233-PS (also 3465-PS and D-970). Excerpts from the Diary of Hans Frank, Governor General of the Occupied Polish Territories, 25 October 1939 to 3 April 1945... [Sitzung des Reichsverteidigungsausschusses 2. März 1940] [in:] Trial..., vol. XXIX, pp. 433-437. Cf. translated excerpts from Hans Frank's speech of 2 March 1940: 1st meeting of the Reich Defense Committee at the Brühl Palace in Warsaw. Saturday, March 2, 1940. [in:] S. Piotrowski, Diary..., pp. 417-418. The course of this meeting was also presented in the first volume of Occupation, which included reports by Joseph Meisinger, Erwin Jaenecke and Bruno Streckenbach. In turn, the version of the minutes revealed during the trial of the main German criminals included a detailed description of Hans Frank's speech (see Minutes of the meeting of the Reich Defense Commission for the GG - reports by J. Meisinger, E. Jaenecke and B. Streckenbach on the resistance of Polish society in the GG [of March 2, 1940] [in:] Okupacja..., vol. 1, pp. 158-168).

the so-called GG. Joseph Meisinger estimated that there were more than fifty Polish underground organizations in Warsaw, with exemplary structures that were difficult to deconstruct. Erwin Jaenecke expressed concern that an armed uprising would break out in western Europe when the German offensive began. He stated that before irredentism could occur, the Polish resistance should be smashed when it was penetrated enough to be completely liquidated. Bruno Streckenbach, on the other hand, considered the elimination of Polish underground patriotic organizations to be harmful; rather, he proposed that their independent leaders should be removed and replaced by German leadership, which would ensure that the authorities of the so-called GG would have control over the conspiratorial activities of Poles. He stressed that achieving this goal could be facilitated by cooperation with Ukrainians and Polish police officers in the so-called GG, known as the Navy-Blue Police. Hans Frank stated: "we have an enormous responsibility to keep this area [the so-called GG] firmly under German rule, to break the Poles' backs once and for all, so that from this area even the slightest resistance can never again threaten German Reich policy. This task cannot be accomplished with some gigantic destructive expedition, say with machine guns, for example. Finally, we cannot exterminate 14 million Poles. Nor can this struggle be carried out by systematic terror, because we do not have the people to build such an apparatus."¹⁷⁴ . The solution was to use Poles as cheap labor, primarily in Germany for agricultural seasonal work. Hans Frank also mentioned that German soldiers, officials and local ethnic Germans should be supplied. This required many Poles to serve in the so-called "GG," creating conflict between the authorities of the "Polish reserve" and the Reich. The Governor General was concerned about future harvests, which required guarantees that his Polish subjects would remain alive. However, he pointed out that their standard of living, regardless of plane, should not be higher than that of Germans and had to allow for a modest survival. Hans Frank thus explained why it was impossible to immediately murder all Poles in the so-called GG.

Temporarily, therefore, it was limited to the extermination of the Polish elite, which was announced more explicitly on March 8, 1940, at a meeting of the heads of departments (Abteilungsleiter) of the occupation government of the so-called GG (Regierung des Generalgouvernements), held in the building of Krakow's Mining Academy, where its headquarters were located¹⁷⁵ . Hans Frank expected that a resistance movement could be formed by three groups of Polish society - the clergy, former officers and representatives of the intelligentsia. If there was indeed a Polish uprising in the so-called GG, he planned to organize a "monstrous crackdown" using "the cruelest terror." The governor general admitted that in order to preserve order in the territories he administered, he preemptively arrested several hundred Poles recognized by the so-called GG authorities

¹⁷⁴ 1st meeting of the Reich Defense Committee at the Brühl Palace in Warsaw. Saturday, March 2, 1940. [in:] S. Piotrowski, *Diary...*, p. 418 Cf. Document 2233-PS (also 3465-PS and D-970). Excerpts from the Diary of Hans Frank, Governor General of the Occupied Polish Territories, October 25, 1939 to April 3, 1945... [Sitzung des Reichsverteidigungsausschusses 2. März 1940] [in:] *Trial...*, vol. XXIX, p. 434.

¹⁷⁵ Document 2233-PS (also 3465-PS and D-970). Excerpts from the Diary of Hans Frank, Governor General of the Occupied Polish Territories, October 25, 1939 to April 3, 1945... [Abteilungsleitersitzung in der Bergakademie. Freitag, den 8. März 1940] [in:] *Trial...*, vol. XXIX, pp. 371-373. Cf. Excerpts from Hans Frank's speech of March 8, 1940, translated into Polish: Meeting of Department Heads at the Mining Academy. Friday, March 8, 1940. [in:] S. Piotrowski, *Journal...*, pp. 404-407.

as members of opposition structures. He indicated that the radicalization of his stance in this regard resulted from recommendations given to him by Adolf Hitler.

The March prelude to the physical crackdown on the Polish intelligentsia allowed Hans Frank to officially announce on May 16, 1940, "extraordinary pacification action," or "AB"¹⁷⁶. However, as early as April 23, 1940, Bruno Streckenbach indicated that the operation began on March 30, 1940, with the arrest of about a thousand Polish leaders¹⁷⁷. The transition to the extermination phase prompted Hans Frank to organize a *de nomine* conference in Krakow on the application of extraordinary measures necessary to secure order in the so-called GG. It was attended by (in order of attendance list): Hans Frank, Arthur Seyss-Inquart, deputy governor general, Josef Bühler, head of the Office of the Governor General (Amt des Generalgouverneurs), Brigadeführer Bruno Streckenbach¹⁷⁸, commander of the police and security service in the so-called GG, Standartenführer SS Schulz and Johannes Müller, commander of the order police in the so-called GG.

At a meeting on May 16, 1940, the Governor General indicated that in view of the reduction in the number of police and army officers in the so-called GG, the activity of the Polish resistance movement was a threat. It should be recalled that Germany attacked Denmark and Norway on April 9, 1940, and France, Belgium, the Netherlands and Luxembourg on May 10. Thus, the interest of world public opinion focused on military operations in Western Europe, which allowed the carrying out of a preventive extermination operation in the so-called GG without undue image damage. Bruno Streckenbach was appointed to carry out the detailed objectives of the action, which had been agreed upon during the deliberations, and was to submit a report on its implementation to Hans Frank by May 30, 1940, with a completion date tentatively scheduled for June 15, 1940.

On May 30, 1940, a police meeting was held in Krakow, Poland, to summarize the results of the "AB" operation to date and to indicate the schedule of related future tasks¹⁷⁹. The meeting lasted from 10:20 a.m. to 1:10 p.m. and, in addition to Hans Frank, was attended by Bruno Streckenbach, Obergruppenführer SS Friedrich Krüger, senior police and SS commander in the so-called GG, district governors, senior police and SS commanders, and members of the order police, security service and SS. Hans Frank deplored the influx into the so-called GG from the so-called "incorporated lands" of the Reich of representatives of

¹⁷⁶ Document 2233-PS (also 3465-PS and D-970). Excerpts from the Diary of Hans Frank, Governor General of the Occupied Polish Territories, 25 October 1939 to 3 April 1945... [Beratung über außerordentliche Maßnahmen zur Sicherstellung von Ruhe und Ordnung im Generalgouvernement]. [in:] Trial..., vol. XXIX, pp. 398-400. See the Polish translation of the report of the meeting on the preservation of order in the so-called GG of May 16, 1940: Conference on the Application of Extraordinary Measures to Suppress the Resistance of Polish Society in the GG [of 16 May 1940] [in:] Occupation..., vol. 1, pp. 184-186. Cf. Proceedings on Extraordinary Ordinances to Secure Peace and Order in the General Government [of 16 May 1940] [in:] S. Piotrowski, Diary..., pp. 432-434.

¹⁷⁷ Minutes of a working conference with Col. Gen. J. Blaskowitz, F.W. Krüger, B. Streckenbach, H. Becker and others on the state of security in the GG [dated April 23, 1940] [in:] Occupation..., vol. 1, p. 177.

¹⁷⁸ K. Radziwończyk, Crimes of General Streckenbach, Warsaw 1966.

¹⁷⁹ Document 2233-PS (also 3465-PS and D-970). Excerpts from the Diary of Hans Frank, Governor General of the Occupied Polish Territories, October 25, 1939 to April 3, 1945... [Polizei-Sitzung am Donnerstag, dem 30. Mai 1940] [in:] Trial..., vol. XXIX, pp. 440-459. See the minutes of the meeting of May 30, 1940. translated into Polish: Minutes of the police meeting devoted to all matters relating to the state of security in the GG [of 30 May 1940] [in:] Occupation..., vol. 1, pp. 189-220. Cf. Meeting on Police Matters. Thursday, May 30, 1940. [in:] S. Piotrowski, Journal..., pp. 419-427.

the Polish intelligentsia and Polish prisoners of war released from captivity, who, in his opinion, showed a tendency to organize themselves. He indicated that their liquidation should be combined with the elimination of "traditional Polish criminality." He justified the extermination of the Polish elite on the basis of guidelines obtained from Adolf Hitler, who proposed that the murder campaign be carried out as needed, i.e. if another group of Poles capable of opposing the German regime appeared. The governor general did not envisage deporting those arrested in action to concentration camps so as not to burden the German penitentiary system. He deplored the possible deterioration of the mental condition of officers assigned to executions. Accordingly, he recommended that police summary courts be created to sentence Poles to death. These institutions were unlawful and makeshift, and were intended to give the enforcers the impression of the legality of the extermination measures taken. Hans Frank also summarized the personnel losses incurred during Operation "AB." They amounted to 91 dead and 55 wounded - from the security and order police, gendarmerie, SS, Polish police, Selbstschutz, as well as reichs- and volksdeutsche who were not their officers. This indicates the units involved in the operation. For his part, Bruno Streckenbach said that some 2,000 men and several hundred women had been arrested, and that the execution of sentences on them, which he referred to as collective summary proceedings¹⁸⁰, was nearing completion. He added that, according to security service materials, there are still about 2,000 members of the Polish leadership layer. As a result of the measures taken, according to him, about 3,500 representatives of the Polish elite and about 3,000 criminal offenders were captured. Ernst Zörner, governor of the so-called Lublin District, postulated that Polish peasants and workers, who were politically active only to a limited extent, should not be murdered, due to the fact that the extermination stirred up unrest among farmers. Incidentally, he demanded that members of the Selbstschutz not carry out the action on their own, but in cooperation with the SS and police, since some of them do not speak German at all. Referring to Ernst Zörner's first suggestion, Hans Frank acknowledged that, according to his order, peasants and workers should not be liquidated in principle. Friedrich Krüger, on the other hand, stressed that requisitions by members of the Selbstschutz must be ended. Returning to matters of principle related to Operation "AB," Hans Frank forbade the transfer of arrested Poles to concentration camps. This was based on his experience of the action against the Krakow professors and the complaints formulated by the Reich's penitentiary authorities. In addition, he stressed that looting (he euphemistically referred to it as requisitioning) by German authorities, police officers and soldiers against Poles was strictly regulated, although he conceded understandingly that "the lust for loot is one of man's oldest instincts."¹⁸¹ He reiterated the need to use Polish laborers as efficiently as possible, so he supported the idea of leaving released prisoners of war in the Reich and forcing them to work. Here is how he described the method of German occupation and the attitude of the German authorities toward the Poles: "The conclusion of peace would allow us as a world power to carry out our general political moves much more effectively, to expand our colonization activities; however, the principle would remain the same. We would continue to stand on a decidedly anti-Polish position, with the necessary consideration, however, of the need to maintain the capabilities of the Polish workers and

¹⁸⁰ Minutes of a police meeting devoted to all matters relating to the state of security in the GG [dated May 30, 1940] [in:] *Occupation...*, vol. 1, p. 203.

¹⁸¹ *Ibid.*, p. 217.

peasants."¹⁸² . Concluding his argument, he announced that the next meeting on the extermination action would take place at the end of June. However, it was not until July 10, 1940 at 5 pm that Bruno Streckenbach reported to Hans Frank on the completion of the "AB" action¹⁸³ . Two days later, a conference took place between the Governor General and Ministerial Counsel Kurt Willem, head of the Legislative Department (Justiz) in the Governor General's office, and Judicial Assessor Theodor Viehweg, deputy head of the Legislative Department, regarding the concerns raised among representatives of the German judiciary by the varied methods used during the "AB" action¹⁸⁴ . Hans Frank disputed the validity of these concerns, stating that the extraordinary pacification operation had been completed. He indicated that he would soon hold a meeting with the participation of Josef Bühler, then already Secretary of State, Friedrich Krüger, Bruno Streckenbach and Kurt Willi, the subject of which would be the treatment of those arrested in the "AB" operation. However, there is no mention of such a meeting in Hans Frank's diary. However, on July 23, 1940, he met with ministerial advisors Kurt Wille and Oskar Plodeck, head of the trusteeship department (Treuhandstelle)¹⁸⁵ . Kurt Wille again informed the Governor General of the concerns about the course of the "AB" action among members of the German bar in the so-called GG. The latter firmly countered that the operation had come to an end. In his diary, Hans Frank noted that at a meeting at the end of July 1940, the pacification action was not discussed, which by no means means means that local police structures had not yet carried out related activities in the field.

The plans to exterminate the Polish elite, combined with the German authorities' intentions for the rest of Polish society, were the essence of the program to destroy the nation. The enslavement of Polish workers and farmers through the multi-directional weakening of their health and procreative capacity was to lead to their depopulation and, as a consequence, to the complete decay and disappearance of the national community. The additional settlement areas thus obtained could be settled by Germans, especially those from outside the Reich, i.e. ethnic Germans. In order to accelerate the Germanization of Polish areas, in addition to depopulation by administrative methods, ad hoc displacement actions were used. They were carried out particularly intensively in the so-called lands incorporated into the Reich, and on an experimental basis also in the so-called GG, which is discussed in more detail later in this monograph.

The Generalplan Ost (Master Plan for the East)

¹⁸² Ibid, p. 218.

¹⁸³ Report by B. Streckenbach on the completion of the extraordinary pacification action in the GG [of July 10, 1940] [in:] *Occupation...*, vol. 1, p. 227. Cf. Conference with Brigade Commander Streckenbach [of July 10, 1940] [in:] S. Piotrowski, *Journal...*, p. 435.

¹⁸⁴ Conference on the repercussions of the implementation of the extraordinary pacification action in the GG [dated July 12, 1940] [in:] *Occupation...*, vol. 1, pp. 228-229. Cf. Conference with Ministerial Counsel Willem and Court Assessor Dr. Viehweg [dated July 12, 1940] [in:] S. Piotrowski, *Journal...*, pp. 435-436.

¹⁸⁵ The presence of the latter at the conference is evidenced by the information provided in Hans Frank's diary, which was translated by Stanislaw Piotrowski (Conference with Ministerial Counsellor Wille and Ministerial Counsellor Plodeck [dated July 23, 1940.] [in:] S. Piotrowski, *Diary...*, p. 436. Cf. Conference with K.F. Wille on the repercussions of the extraordinary pacification action and the state of the GG prison system [of July 23, 1940] [in:] *Occupation...*, vol. 1, pp. 233-234).

The symbolic expression of the German drive to destroy the Polish nation became the General Plan East, or GPW (Generalplan Ost, GPO)¹⁸⁶, prepared from at least November 1941 to early 1942 by SS Standartenführer Dr. med. Hans Ehlich, working in the RSHA under the directives of Heinrich Himmler, acting as Reichskommissar für die Festigung Deutsches Volkstums (Reichskommissar für die Festigung Deutsches Volkstums, RKFDV)¹⁸⁷. However, earlier, after the Polish campaign, which was victorious for Germany, there was a separate nationality plan for the so-called lands incorporated into the Reich - "The Case of the Treatment of the Population of the Former Polish Areas from a Racial-Political Point of View" ("Die Frage der Behandlung der Bevölkerung der ehemaligen polnischen Gebiete nach rassenpolitischen Gesichtspunkten")¹⁸⁸. Its copy, dated November 25, 1939, was prepared by Dr. Erhard Wetzel, head of the Advisory Headquarters of the NSDAP's Office of Racial Policy (Hauptstelle Beratungsstelle des Rassenpolitischen Amtes der NSDAP), and Gerhard Hecht, head of the Department for Ethnic Germans and Minorities in the NSDAP's Office of Racial Policy (Abteilung für Volksdeutsche und Minderheiten im Rassenpolitischen Amt der NSDAP), thus within the party organ. It was assumed that the theses contained in a copy of the WSE, which has not yet been found, would be developed in the General Settlement Plan

¹⁸⁶ See studies on German nationality policy toward Poles and studies on the WSE and related documents: C. Madajczyk, *Generalna Gubernia in Hitler's Plans*. Studies, Warsaw 1961, pp. 91-109; idem, *Generalplan Ost*, Poznań 1962; idem, *Hitler's Genocide of Jews and Slavs. Plans versus the Decision of Implementation* [in:] *Polish Society towards the Martyrdom and Struggle of the Jews in the Years of World War II. Materials from the session at the Institute of History of the Polish Academy of Sciences on 11.III.1993*, ed. K. Dunin-Wasowicz, Warsaw 1996, pp. 9-17; idem, *General Plan East Hitler's Master Plan for Expansion*, "PWA" 2 (1962), pp. 391-442; I. Kostyushko, *Contribution to Generalplan Ost*, "DN" 1-2 (1971), pp. 179-183; I. Heinemann, *Race...*, pp. 165-254, 297-343; G. Aly, S. Heim, *Architects of Annihilation. Auschwitz and the Logic of Destruction*, transl. A. Blunden, Princeton 2002, pp. 253-282; B. Mačior-Majka, *General Plan East. Ideological, Political and Economic Aspects*, Cracow 2007, pp. 109-204; A. Szczesniak, *Plan for the Extermination of the Slavs. Generalplan Ost*, Radom 2001; B. Wasser, *Himmlers Raumplanung im Osten. Der Generalplan Ost in Polen 1940-1944*, Basel 1993; J. Borejsza, *A Ridiculous Hundred Million Slavs. Around Adolf Hitler's worldview*, Danzig 2016.

¹⁸⁷ *Erllass des Führers und Reichskanzlers zur Festigung deutschen Volkstums. Vom 7. Oktober 1939* [in:] M. Moll, *"Führer-Erlasse" 1939-1945. Edition sämtlicher überlieferter, nicht im Reichsgesetzblatt abgedruckter, von Hitler während des Zweiten Weltkrieges schriftlich erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung*, Stuttgart 1997, pp. 100-102. Heinrich Himmler was appointed commissioner in the introduction to this normative act. The decree was not published in the official German promulgator, although it was commented on in the National Socialist press, such as in the pages of the daily *Völkischer Beobachter* (26 October 1939 issue), the press organ of the NSDAP. In addition, marked as NO-3075, it appeared in the Nuremberg document collection. The compilation included 105 volumes of a collection devoted to the activities of National Socialist organizations - NO stood for Nuremberg Organizations.

¹⁸⁸ The study was included in the Nuremberg collection of documents under the reference NO-3752. See the document in German and its translation into Polish: K. Pospieszalski, *Hitler's "law"...*, part 1, pp. 2-28; *Nationality Program of the Rassenpolitischen-Amtu of 1939 in the Polish lands*, "BGKBZNwP" IV (1948), pp. 136-171; Excerpt from a memorandum by Dr. E. Wetzel and G. Hecht of the NSDAP racial policy office on the treatment of the population of occupied Poland [dated November 25, 1939] [in:] *Occupation...*, vol. 1, pp. 129-138; *Die Frage der Behandlung der Bevölkerung der ehemaligen polnischen Gebiete nach rassenpolitischen Gesichtspunkten*, "Zeszyty Oświęcimskie" 2 (1958), pp. 43-50. See also excerpts and elaboration of the extensive 358-page settlement plan entitled S-planning Area II. Peasant Colonization in Pomerania and Posen (S-Planung Gebiet II. Die bäuerliche Besiedlung Pommerellens und Posen), prepared in August 1939. by the settlement planning department of the Reich Peasant Leader's Staff Office (Stabsamt des Reichsbauernführers), working under Walther Darré, Reich Minister for Food and Agriculture, and comments on its October 1939 supplement entitled S-Planning Area II (Supplement). Remaining Area [i.e., the territories annexed on April 1, 1938 to Pomerania and Posen] and Upper Silesia (S-Planung Gebiet II (Ergänzungsband). Restgebiet und Oberschlesien): C. Madajczyk, *Nazi settlement project in Poznańskie and Pomerania of August 1939*, "NDP. MiSzoIIWW" V (1961), pp. 103-151; *Law of June 12, 1937, on changing the borders of the Poznań, Pomerania, Warsaw and Łódź provinces* (Dz.U. of 1937, no. 46, item 350).

(Generalsiedlungsplan, GSO) - Professor Konrad Meyer-Hetling¹⁸⁹ , then head of the Institute for Agricultural Economics and Policy (Institut für Agrarwesen und Agrarpolitik) at the University of Berlin, informed Heinrich Himmler in a letter dated February 15, 1943.¹⁹⁰ As a result of German military setbacks, the commitment of planners to serve the army or the Armed SS, and the need to reduce costs, work on the study was definitely curtailed¹⁹¹ .

Although both earlier and later various German officials, including at a high level, formulated official assumptions of nationality policy toward Poles, and the GPW itself was subject to numerous corrections and additions¹⁹² , it reflected German assumptions with regard to the liquidation of the Polish nation. In principle, the following units of the German state apparatus, or at least to some extent dependent on it, were involved in the creation of plans for the destruction of the Poles on the occasion of deportation, which differed somewhat from each other, usually in terms of their *modus operandi*:

- The Chief Staff Office of the Reich Commissar for the Strengthening of Germanness (Stabshauptamt des RKFDV) - as the primary planning center in cooperation with the Reich Security Main Office (in practice, this meant the cooperation of officers and officials subordinate to Heinrich Himmler and Reinhard Heydrich);
- The Institute for Agricultural Economics and Policy at the University of Berlin, the Reich Institution for Spatial Planning, and other research centers support the main administrative activities and give the intentions a semblance of scientificity;
- Security Service - in the preparation and implementation of the displacement of Poles;
- Headquarters for the Support of Ethnic Germans - at the organization of the settlement of ethnic Germans;
- SS Main Office of Race and Settlement - Germanizing Poles capable, according to the occupation administration, of adopting the German national pattern;
- German Resettlement Trust Ltd. (Deutsche Umsiedlungs-Treuhand GmbH, DUT) - among other things, confiscating the property of displaced Poles, i.e. legalizing theft;
- Reich Ministry of Food and Agriculture;

¹⁸⁹ I. Heinemann, *Wissenschaft und Homogenisierungsplanungen für Osteuropa*. Konrad Meyer, der "Generalplan Ost" und die deutsche Forschungsgemeinschaft [in:] *Wissenschaft - Planung - Vertreibung. Neuordnungskonzepte und Umsiedlungspolitik im 20. Jahrhundert*, vol. 1, ed. I. Heinemann et al., Stuttgart 2006, pp. 45-72.

¹⁹⁰ *General Plan East...*, p. 271. See *Vom Generalplan Ost zum Generalsiedlungsplan. Dokumente*, ed. C. Madajczyk et al., München - New Providence - London - Paris 1994. Cf. a compilation of several source texts on German nationality assumptions of a general nature: "Generalplan Ost. Concepts and Plans of Adolf Hitler's Eastern Policy (Selection of Texts), selection and compilation. J. Zaborowski, Warsaw 1977.

¹⁹¹ *General Plan East...*, p. 31.

¹⁹² Czesław Madajczyk, an eminent expert on the problems of German migration concepts in the Polish lands during World War II, has prepared an exhaustive collection of documents concerning not only the chronology of work on the WSE, the means of its implementation, but also the reproduction of the content of it, as well as other German testimonies of displacement-settlement projects (see *General Plan East...*, pp. 51-417).

- Reich Ministry for the Occupied Eastern Territories (Reichsministerium für die besetzten Ostgebiete, RMfdbO)¹⁹³ .

The multiplicity of these structures resulted in numerous disputes over competence, which is characteristic of a state of emergency in which, in accordance with the principle of chieftainship, efforts were made to read the Führer's will and carry it out reliably. This is evidenced by documents collected and compiled by a team of researchers led by Czesław Madajczyk. However, in addition to those participating in the displacement and resettlement actions, there were other links implementing the plans decided upon, as discussed below.

A chronological overview of the most significant National Socialist intentions toward Poles should begin with the aforementioned document dated November 25, 1939. The report is divided into three parts: the first presents demographic data and the national and racial structure of Poland, the second presents methods of dealing with the population of the occupied areas, and the third presents issues related to Western Poland. The introduction states that the problem of Poland and Poles is both racial and national-political in nature. It follows that the solution to the Polish question (which was basically limited to gradual extermination - as a result of deportations, the so-called robbery of children, the selection of forced laborers and the selection of future concentration camp inmates) had an anti-national dimension.

The instructions provided definitions of German, German-Polish hybrid and Polish¹⁹⁴ , which were intended to be helpful in distinguishing between these categories for the purpose of treating them differently. A German was a person of German blood (racial factor) who cultivated his German nationality (national element), customs and way of family life (cultural indicator). Confirmation of German ancestry, allowing entry on the German national list (Deutsche Volksliste, DVL), required one of the following conditions: membership in a German political, economic, cultural, scientific or sports organization before September 1, 1939, or possession of German blood, which could generally be evidenced by speaking German, having German ancestors, being raised and living daily in the German spirit. Persons of German descent not counted as Germans, as well as Germans or German women from mixed marriages, were considered hybrids. These individuals, even if they used the Polish language or allowed their children to become Polonized through education conducted in that language, were to be regermanized, ultimately in the Reich. Members of the intermediate layer presenting antisocial behavior or earning little (which was to indicate innate laziness) were destined for deportation. People who spoke Polish as their mother tongue and admitted to Polish nationality, and who adopted and nurtured political and ideological patterns appropriate to Poles, were considered Poles. The Kashubians, Mazurians, borderland Poles (literally water Poles or

¹⁹³ Ibid, pp. 31-32.

¹⁹⁴ The second part of Heinrich Himmler's memorandum featured a passage entitled Who is Pole? (Wer ist Pole?). The fundamental importance of the definition contained therein stemmed not only from the stature of its author, but also from the fact that it assumed the possibility of applying a criminal policy against those classified as Poles. While the status of the Pole under German legislation has not yet received a comprehensive description, the position of Jews in this context was presented in detail by Feliks Celnikier, a Polish lawyer of Jewish origin (see F. Celnikier, *Żyd, czyli kto?* The concept of the Jew in the doctrine and Hitler's legislative actions. A study of absurdity and mystification, Warsaw 2014).

"diluted" - Wasserpolen)¹⁹⁵ and highlanders (Goralen)¹⁹⁶ were firmly excluded from the group of Poles; Silesians were considered Polonized Germans. A more synthetic definition of a Pole appeared in a 1941 act introducing German criminal legislation in the so-called "incorporated lands" of the Reich¹⁹⁷. The decree stated that Poles were "wards and stateless persons of Polish nationality" (Part 5, Item XV). The term reflected an intention to destroy the legal bond of citizenship linking Poles to their state.

The practical consequence of being recognized as a German was the granting of Reich citizenship, entailing obligations to work for the state in the Reich Labor Service (Reichsarbeitsdienst, RAD) and perform military service. Members of the intermediate layer were to be given temporary nationality until they were completely Germanized, which involved changing their names to German. Poles were excluded from German law and were not subject to social legislation. They were to lose ownership of businesses and landed property, which were subject to expropriation. Freedom of economic activity was restricted by the prohibition of craft work. No provision was made for the employment of Poles in administrative positions. Persons of Polish nationality were not allowed to marry Germans. The wages received by Poles and members of the intermediate layer should have been set at a much lower level than those of Germans. The ban on the use of the Polish language and the restriction of education to the bare minimum were aimed at the denationalization of Poles, a small group of them was planned to be subjected to ruthless and hasty Germanization. The annihilation of the nation was to be achieved by replacing Catholic and Protestant clergy with National Socialist-minded Germans; using the German language for religious ceremonies; abolishing Polish church holidays; liquidating Polish corporations, unions and associations, restaurants, cafes, cinemas and theaters while forbidding entry to German cultural establishments and venues; closing Polish publishing houses, magazines and newspapers; depriving Poles of radios and gramophones and banning the sale of alcohol. In addition, admissions to the NSDAP and

¹⁹⁵ The term Wasserpolen originated in Lower Silesia, where the Prussians referred to their Polish neighbors as such, especially those engaged in water-related activities, i.e. fishing and rafting. The word was used in reference to his countrymen by Adam Gdaczusz, from 1646 pastor of the Evangelical Augsburg parish in Kluczbork. With time, the term was extended to Poles using the Upper Silesian dialect, and later to those living in the Polish-German borderland, and in the latter sense the term appeared in the text (K. Kwaśniewski, *Wasserpolaacken i inne polsko-niemieckie etnopolizmy*, "PZ" 4 (2001), pp. 3-18; J. Harasimowicz, *Dolny Śląsk*, Wrocław 2007, p. 73).

¹⁹⁶ The realization of the idea of building the so-called "Goral nation" (Goralenvolk) and the related attempt to establish the Goral Volunteer Armed SS Legion (Goralische Freiwilligen Waffen SS Legion) ended in complete failure and compromise of the leaders of the emancipation effort, primarily due to top-down control of the movement and lack of political interest among the Podhale people (W. Szatkowski, *Goralenvolk. History of Betrayal*, Zakopane 2012; R. Klimek, *Ludobójcza akcja Goralenvolk*, Zakopane 2006; I. von Günther-Swart, *Die Goralen. Nation und Staat 1940/1941*, Krakau 1942; D. Markowski, *Goralenvolk - anatomy of betrayal*, "Mówią Wieki" 1 (2010), pp. 22-26; S. Żerko, *Próba formowania na Podhalu "Legion Góralski" Waffen-SS*, "PZ" 3 (1997), pp. 217-222).

¹⁹⁷ *Verordnung über die Strafrechtspflege gegen Polen und Juden in den eingegliederten Ostgebieten* (RGBl. I 1941, 140, 759); *Ordinance on Criminal Justice for Poles and Jews in the Incorporated Eastern Areas of December 4, 1941*. [in:] *A Selection of Source Texts...*, pp. 41-46. See M. Becker, *Mitstreiter im Volkstumskampf. Deutsche Justiz in den eingegliederten Ostgebieten 1939-1945*, München 2014, pp. 165-213, 275-285; D. Majer, *Ordinance of December 4, 1941 on Criminal Law for Poles and Jews in the Eastern Lands Incorporated into the Reich (Ordinance on Criminal Law for Poles)* [in:] *"Nationally Alien" in the Third Reich. A Contribution to National Socialist Legislation and Legal Practice in the Administration and Administration of Justice with Special Reference to the Lands Incorporated into the Reich and the General Government*, transl. T. Skoczny, Warsaw 1989, pp. 270-278.

other National Socialist organizations were rationed, which essentially meant the total exclusion of Poles.

The report considered the three basic goals of eastern policy in the so-called "incorporated lands" to be: the Germanization of able-bodied individuals, the expulsion of individuals unsuitable for Germanization and the remaining racially and nationally alien groups, with the aim of settling the recovered territories with German colonists as a result. Germanization could only apply to individuals with desirable racial, national and political characteristics, otherwise the effect would only be the apparent adoption of German speech and lifestyle. Polonized Germans, who, because of their pro-Polish national-political beliefs, actively opposed regermanization, were considered a problematic group. Germanized children from families where racial, national and political influences mixed were to be handed over to German educational institutions (but not to the church) and settled in the old Reich (Altreich - Germany within the 1937 borders), as were the few racially valuable Polish children (up to the age of 10). The intention was to avoid the formation of dense clusters of Poles and to deny parents influence over the upbringing of their offspring. It was estimated that of the 6.6 million Poles living in the so-called "incorporated territories," only 1-1.2 million were expected to be Germanized. "Wasserpols" (another 1.2 million people), Kashubians and Mazurians (a total of about 300,000) and Silesians, unless they adopted a pro-Polish stance, were expected to stay in their previous settlements. The remaining Poles, not promising positive assimilation, were planned to be deported to the residual Polish state: immigrants from the remaining areas of the Polish state and the Reich, and those arriving in the so-called incorporated territories after October 1, 1918, representatives of the elite (with the exception of mixed marriages and advocates of the German cause prior to September 1, 1939) and patriotic activists, those who were nationally and politically ambivalent (the majority faced expropriation and being sent to forced labor), agricultural workers (considered the least racially valuable), as well as Jews, Polish-Jewish and German-Jewish hybrids (those with a positive attitude toward Germanness were to be left in the Reich). In total, of the 6.6 million Poles, it was envisaged that 5.4 million would be deported to the hulking Polish state - in effect, it would have a population of 18.1 million, to which were to be added some 0.8 million Jews from the Reich, Austria, the so-called Sudetenland and the Protectorate of Bohemia and Moravia (the Greater German Reich) and some 0.5 million from the so-called lands incorporated into it, as well as some 100,000 Roma and other subhumans.

Displacement planning was inextricably linked with German settlement of the acquired western Polish lands. Within the framework of the settlement, the intention was to create strips towards the German state border with a width of 150-200 km and a low population density. Germans arriving there would obtain more favorable development, economic and demographic conditions than in the "old Reich." The settlers had to present impeccable racial and national characteristics and political attitudes. Germans who left Poland after 1918 should have received land first, followed by those from central Poland, Baltic Germans and those from Polish areas under Soviet occupation (Tyroleans, Soviet Germans and Balkan Germans were excluded, except those from Bessarabia and Dobruja). Emigration of members of the German diaspora from the rest of the world (up to 150,000 people) was considered. They would be given local Polish agricultural workers. In the state reserve, however, it was intended to leave significant areas of farmland taken from the

Poles, which could allegedly provide an incentive for German farmers to have numerous offspring in the future.

With regard to the inhabitants of Polish lands that were not part of the Reich but were under German administration, two solutions were proposed: 1) to establish an equally low standard of living for Poles and Jews (naturally, combined with a ban on association and political life; 2) to favor the Jewish population over the Polish on a cultural and economic level, which would break the Poles. Such *prima facie* demands do not fit the idea of the situation of Jews under German rule. However, especially in the early period of the German occupation of Polish lands, the status of Poles seemed decidedly worse than that of their Jewish neighbors.

Different from the so-called incorporated territories, it was wanted to regulate the functioning of Poles in the remaining Polish territories. The intention was to leave the people's schools, where basic skills and simple professions would be taught. Polish teachers, especially female teachers, who were treated as particularly politically dangerous, would be replaced by retired Polish policemen. Given the ban on political organizations, the plan was to target church associations. Cafes, restaurants, publishing houses, theaters and cinemas were to be restricted, and censorship was to be applied. Medical care was to be aimed at inhibiting the transfer of diseases to the Reich. Various methods of controlling childbearing, the exclusion of the criminalization of abortion and homosexual behavior in Poles and state approval of the official sale of contraceptives were supported. The flight of Poles to other countries, such as those located in South America, was considered harmful because of their ability to build political commitment around the Polish cause. The greatest threat, however, according to German authorities, which was frequently mentioned in the document, was Catholicism and the nurturing by Poles of "the national idea of a great Polish kingdom with Maria as queen" (*Nationalideal vom grosspolnischen Königreich unter der Königin Maria*)¹⁹⁸.

The danger of a religious ethos of this magnitude was not perceived in Jews, who, according to the authors of the political memorandum, should be privileged - allowed to receive a better education and greater access to culture. It was suggested that the creation of ghettos be abandoned, but censorship and the exclusion of Yiddish from official (but not colloquial) circulation were supported. No economic or professional restrictions were envisaged for Jews. They were to be distinguished from Germans by their typical names and surnames. It was intended to expropriate agricultural and forest land properties owned by Jews. The level and goals of health care for them were not to differ significantly from the standards provided for Poles. It concluded by stating that until further notice, the policy toward Jews should be more lenient than toward Poles¹⁹⁹.

¹⁹⁸ K. Pospieszalski, Hitler's "law"..., part 1, p. 26.

¹⁹⁹ The more difficult legal and factual position of Poles in relation to Jews living in the area of the occupied Polish state in the period 1939-1941 was pointed out by Richard Lukas, a contemporary American historian of Polish origin. The comparisons he made in this regard, although unpopular due to the peculiar unquestionability of the uniqueness of the Holocaust in scholarly discourse, were nevertheless somewhat justified by sources, as evidenced, for example, in the analyzed report of Dr. Erhard Wetzel and Gerhard Hecht in 1939. Richard Lukas stated: "In 1939-1941, the native Polish population was even more vulnerable than the Jews to arrest, deportation and death; for the Jews were only being herded into ghettos. Emmanuel Ringelblum, a well-known Jewish historian whose help from Poles prolonged his life, noted in his diary under

The division of Polish society described in the report of November 25, 1939, in accordance with the Roman principle of "*divide and rule*" (*divide et impera*), was a model example of German attitudes toward Polish racial and national enemies, which Nazi dignitaries repeatedly mentioned explicitly. To illustrate - Heinrich Himmler, in a top-secret memorandum *A Few Thoughts on the Treatment of Foreigners in the East* (*Einige Gedanken über die Behandlung der Fremdvölkischen im Osten*), addressed to and approved by Adolf Hitler and dated May 25, 1940²⁰⁰, stated that among the Poles it was necessary to distinguish as many antagonistic groups as possible, after which the distinctiveness of these artificial communities should be liquidated. He instructed that from among the Poles, individuals of national and racial value should be selected, and after selection, they should be Germanized in the Reich, including through state education and party upbringing. For the rest of the Polish population, he envisioned a four-class school, at the end of which Poles were to be able to count to 500 at most, write their own name and adhere to the worldview that obedience to Germans is by divine right and one should be honest, diligent and polite. Learning to read, according to the SS Reichsführer, was superfluous. The commander ordered the text of the German police chief to be read by his most trusted colleagues and treated as a guideline, but never revealed in official orders. This course of action indicates the general mechanism of the crime - in order to achieve the desired goals, the strict superiors prepared plans and took the necessary actions, and influenced the executors on many levels through education, upbringing, mass media, pseudo-scientific theories, social privileges and the ideology of national and racial superiority. The analysis of November 25, 1939 can be considered a prelude to the General Plan East, created in late 1941 and early 1942. Although the original document authored by Hans Ehlich or even copies of it have not survived into the postwar era, its contents are known from indirect accounts. These include sworn statements made by prof. Konrad Meyer-Hetling, Rudolf Creutz, his deputy, and Ulrich Greifelt, head of the Chief of the Commissioner's Staff Office (*der Chef des Stabshauptamtes des RKFDV*), as well as the interrogation reports of Hans Ehlich, Konrad Meyer-Hetling, Margarethe Pasi, his

the date of May 8, 1940, that Poles were being deported to the Reich, and that Jewish barbers had to cut them beforehand. As another Jewish historian noted, Poles wishing to avoid the threat of deportation or execution roundups discovered "an unusual means of rescue - the Star of David." Namely, they bought or borrowed these badges in order to use them to evade roundups. At that time, even a Jew, if he proved that he was not a hiding Pole, was safe." Richard Lukas's views escape controversy. The theses from the aforementioned report do not coincide in many respects with the realities of German occupation policy in the so-called GG. The issue of comparing the situation of Poles and Polish Jews in 1940 is ambiguous. In the large ghettos, which were cut off from their surroundings, the extermination of Polish citizens of Jewish origin took place as a result of difficult living conditions (R. Lukas, *Forgotten Holocaust. Poles under German occupation 1939-1944*, transl. S. Stodulski, Poznań 2012, p. 65; cf. idem, *The Forgotten Holocaust. The Poles under German Occupation 1939-1944*, New York 1990). In contrast, Czesław Madajczyk stated: "Had it not been for food smuggling, the situation of the Polish population in the GG in 1941-1943 would have resembled that of the ghetto population in 1940-1941" (C. Madajczyk, *Politics...*, vol. 2, p. 369).

²⁰⁰ This date was given in the trial documents. Jan Sehn indicated May 15, 1940. The document in the Nuremberg collection of materials is marked NO-1881. See the memorandum in the original language: H. Krausnick, *Denkschrift Himmlers über die Behandlung der Fremdvölkischen im Osten* (Mai 1940), "VJH f. ZG" 2 (1957), pp. 196-198. Cf. English and Polish translation of the text: Translation of Document NO-1880. Prosecution Exhibit 1314. "Reflections on the Treatment of Peoples of Alien Races in the East." A Secret Memorandum Handed to Hitler by Himmler on May 25, 1940 [in:] *Trials...*, vol. XIII, pp. 147-150; J. Sehn, *Hitler's Plan...*, pp. 117-125; Introductory remarks and memorandum by H. Himmler, accepted by A. Hitler, on the treatment of the population of occupied Poland [dated May 15, 1940] [in:] *Occupation...*, vol. 1, pp. 288-290.

secretary, and Rudolf Creutz from the eighth follow-up Nuremberg trial, the so-called RuSHA trial²⁰¹.

However, two documents containing commentary on the WSE with references to excerpts from it have been found and revealed. The first, dated April 27, 1942, is titled Position and Thoughts on the Reichsführer SS General Plan East (Stellungnahme und Gedanken zum Generalplan Ost des Reichsführer SS), and was written by Erhard Wetzel²⁰². At the outset, he admitted that he had known since November 1941 that the plan was being prepared by Hans Ehlich, a desk officer from the Reich Security Main Office.

It should be mentioned that Erhard Wetzel assessed the WSE in retrospect. He perceived that the settlement plan did not take into account the territories obtained as a result of the recent German conquests in the USSR, starting from Ingermanland, a historical land in the Leningrad region, across the Dnieper line to the Crimea in the south. He considered it appropriate to move the border of the colonization project in its northern and central sections eastward, from Lake Ladoga to Bryansk. The numerical estimates apply only to the areas indicated in the WSE variant he received.

The plan was to be implemented within up to thirty years of the end of the war. The plan was to deport 31 million of the 45 million people previously living in eastern Siberia to western Siberia and replace them with 10 million Germans. The foreigners selected for Germanization, however, were not intended to be sent to the so-called "old Reich," but to be left in their former places of residence, which meant a change in policy toward those subjected to Germanization. The Party planner considered the calculation overstated, assuming that in the most optimistic scenario only 8 million Germans could be settled in the east. He said that Germanization could be intensified if German propaganda eliminated the widespread belief among reichsdeutsche that eastern settlement was unattractive, and that the fertility rate of German couples could be increased through family-friendly policies. In turn, he calculated the number of people needed for resettlement at 46 to 51 million, taking into account, among other things, the higher demographic growth rate recorded among eastern nations than among Germans.

Turning to considerations of individual nations, Erhard Wetzel referred to demographic information on the size of the Polish nation. In the WSE, the number of Poles was

²⁰¹ See excerpts from testimonies and statements with references in the collection of Nuremberg documents, General Plan East..., pp. 294-318; C. Madajczyk, General Gubernia..., p. 93.

²⁰² The document was microfilmed in the Nuernberg [*sic!*] Government (NG for short) series, published in 1971 and comprising more than 5,000 copies of evidence used during the twelve subsequent Nuremberg trials. It was prepared by the staff of the US Office of Chief of Counsel for War Crimes. According to the information contained in the introduction to this collection, a copy of Erhard Wetzel's deliberations was marked NG-2325 and was on the 26th roll of published materials (148 volumes in all). The memorial was used in the 8th follow-up trial against RuSHA officers (Records of the United States. Nuernberg War Crimes Trials. NG Series, 1933-1948, Washington 1971. See also Nuernberg Trials Records Register Cards to the NG Document Series 1946-1949, Washington 1985. Cf. other publications of the text of April 27, 1942 in German and the translation into Polish: H. Heiber, Der Generalplan Ost, "VJH f. ZG" 3 (1958), pp. 297-324; General Plan Ost..., pp. 82-110; Hitler's Plan for the Displacement of 50 Million Slavs, "BGKBNwP" V (1949), pp. 211-242; K. Pospieszalski, Hitler's polemic against the SS Reichsführer's "Generalplan Ost," "PZ" 2 (1958), pp. 346-369; Excerpts from a study by Dr. E. Wetzel, head of the Department of Racial Policy in the Reich Ministry for the Occupied Eastern Territories on the General Plan East (Generalplan Ost), which provided, among other things, for the resettlement of 80-85% of the Polish population in Siberia [dated April 27, 1942] [in:] Occupation..., vol. 1, pp. 569-570).

estimated at 20-24 million, of whom 80-85 percent, or 16-20.4 million, were projected for deportation and the remainder for forced Germanization. Determining the assumptions of the deportation policy on the basis of the current assessment of the Reich Commissioner for the Strengthening of Germanness, the author concluded that, for example, in the so-called Danzig-West Prussia district, only 3 percent of the Poles were worth germanizing, so 97 percent of the Polish nationality, or 19-23 million, should be deported. The selection criteria used by RuSHA employees in the evacuation of Poles from the so-called Danzig-West Prussia district were criticized by the author for being too strict in terms of outward appearance. In his opinion, the racial requirements defined in this way would not have been met by a significant number of Germans, as they constituted guidelines appropriate only for German elites.

Polish displaced persons were to be sent to western Siberia, and there to weaken the dominant position of the Russians and the Siberians, who were singled out from among them. Thanks to the presence of a large Polish diaspora, in the long run doomed to extinction, the German method of dividing conquered peoples could be applied. For political reasons, however, the author of the commentary ruled out treating Poles like Jews - since physical extermination could result in condemnation from world public opinion and action by independent states against Germany, and representatives of other nations under German occupation could have legitimate concerns about their national existence. He considered the mass deportation of Poles, including the intelligentsia, to South America, mainly Brazil, in order to deprive them of their previous national designation. The inclusion of the elite in the deportation plans seems to indicate that Erhard Wetzel was unaware of their extermination. He did not foresee the liquidation of the rest of the nation in the occupied Polish state because of the possible international consequences. He pointed out that, despite everything, the Poles were still the most numerous and hostile eastern nation against the Germans, capable of effective conspiracy and inspiring pity because of their martyrdom.

Regardless of the methods used, the removal of Poles from the areas they had hitherto occupied would have provided the German state with land for Germanization. How unreasonable were the German authorities' aspirations to obtain living space is evidenced by the fact that they frantically sought ways to administratively and propagandistically encourage the reichsdeutsche to participate in the colonization plan. The intention was to convince them to have numerous offspring through promises of land grants in the east. The land was to come from plundered Poles. The intention was thus to counter the trend of having one child, forgetting that improved livelihoods do not increase fertility.

The author of the report raised the problem of people of partial German descent, including those with Polish-German roots. Although they belonged to the German nation, in the Reich they were sometimes treated as second-class residents and a threat to the implementation of national-racial policy. In the long term, it was envisaged that they would be removed from Germany, and some of them (e.g., former citizens of the Baltic states) would serve in the apparatus for governing the occupied nations.

To assess the position of Poles in the German occupation system of the East, it must be compared with the status of other nations. The GPW shows that the Estonians, Latvians and Lithuanians did not have to fear displacement, since a large proportion of the

representatives of these nations (with the possible exception of the Lithuanians) were considered by the occupation authorities to be Germanizable. The liquidation of the leadership strata and the expulsion of the remaining residents from their homes could discourage many people with desirable racial characteristics from adopting the German national pattern, and the volitional element (the desire to enter the German national community), in addition to the physical, was considered important in the process of Germanization. Various percentages were set for individual nations - the intention was to displace 80-85 percent of Poles (up to 96 percent, according to estimates by the Commissioner for the Strengthening of Germanness), 75 percent of Byelorussians, 65 percent of Ukrainians, 50 percent of Czechs. Erhard Wetzel recommended that Ukrainians be deported not to Siberia, but to the so-called Reichskommissariat Ukraine (Reichskommissariat Ukraine), while Byelorussians should be left in their current locations for the time being, and later sent to western Siberia, as should Czechs. He postulated that the Germanizable Russians (discussed below), Ukrainians and Byelorussians should be transferred to the so-called "old Reich" to replace shortages of German labor and limit racially inferior immigration from southern and southeastern Europe.

Although the WSE did not analyze issues concerning Russians, the author of the commentary included this problem in his considerations. He concluded that Russians should be politically separated from other nations living in the USSR, in whom a sense of national distinctiveness would have to be aroused, since their members were unsuitable for Germanization. This type of action would essentially mean a return to *korienization* (rootedness), a nationality policy designed to maintain the independence of Soviet peoples, replaced in the USSR in the 1930s by Russification²⁰³. Erhard Wetzel suggested the availability and legality of the murder of unborn children, sterilization, the spread of contraceptives, the advocacy of divorce, the elimination of social legislation providing assistance to large families, and the reduction of childcare and pediatric care as factors causing the demographic collapse of the Russian population. The degree of devastation of the Russian people was to depend solely on German settlement capabilities in the acquired territories.

The pseudo-scientific nature of Erhard Wetzel's argument was representative of German writing that serves political ends. Confusing cause with effect, for example, he stated: "these deductions of [Wolfgang] Abel [an anthropologist affiliated with the Berlin-Dahl establishment]²⁰⁴ should be addressed as seriously as possible, as they deserve the greatest possible attention."²⁰⁵. In addition, he noted that the populations of industrial workers and peasants in "cultural countries" have lower fertility rates than in undeveloped ones. However, he was unable to point out the reasons for this phenomenon, which was, after all, due not to the individual's profession or the "culturalization" of the nation, but to the introduction of social legislation and insurance, eliminating the need to

²⁰³ F. Hirsch, *Empire of Nations. Ethnographic Knowledge and the Making of the Soviet Union*, Ithaca 2005; T. Martin, *The Affirmative Action Empire. Nations and Nationalism in the Soviet Union (1923-1939)*, Ithaca 2001; R. Suny, *A State of Nations. Empire and Nation-Making in the Age of Lenin and Stalin*, Oxford 2010.

²⁰⁴ H.-W. Schmuhl, *The Kaiser Wilhelm Institute for Anthropology, Human Heredity and Eugenics, 1927-1945: Crossing Boundaries*, Berlin 2008, p. 350.

²⁰⁵ Hitler's plan..., p. 230.

have many children as a security for the family's future existence. The payment of pensions by the state administration gave citizens a sense of social security. A small part of the funds seized from active people was given back to them by the state when they reached the age set by the legislation. In this way, it proved possible to permanently break family ties and even slowly reduce the population, which the German authorities tried unsuccessfully to prevent. However, this was difficult to do in the homeland of social security²⁰⁶ - first, the social system had been in place there for too long, and second, few German intellectuals saw it as the cause of the demographic collapse.

The second document from which the theses of the General Plan East could be reconstructed is the memorandum General Plan East. Legal, Economic and Spatial Foundations for the Reconstruction of the East (Generalplan Ost. Rechtliche, wirtschaftliche und räumliche Grundlagen des Ostaufbaus)²⁰⁷. Its author was Professor Konrad Meyer-Hetling, who collaborated on the financial studies with Felix Bösl of Friedrich Schiller University in Jena (Friedrich-Schiller-Universität Jena). The report and its summary were attached to a letter from the Berlin academic dated May 28, 1942, addressed to Heinrich Himmler, but through Ulrich Greifelt. The Chief of the Main Staff Office of the Commissar for the Consolidation of Germany did not forward the documents to the SS Reichsführer until July 2, 1942.

This rather extensive expert report was divided into three parts: A - "Demands for a future settlement order" ("Forderungen an eine künftige Siedlungsordnung"), B - "Outline of the costs of reconstruction of the incorporated eastern districts and their acquisition" ("Überblick über die Kosten des Aufbaus der eingegliederten Ostgebiete und ihre Aufbringung"), C - "Demarcation of settlement spaces in the occupied eastern districts and general features of reconstruction" ("Abgrenzung der Siedlungsräume in den besetzten Ostgebieten und Grundzüge des Aufbaues"). Part B was thus devoted to the colonization of the so-called Polish lands incorporated into the Reich, while A and C were devoted to nationality policy in the areas east of the so-called new Reich. The authors of the memorandum planned a system of land ownership and jurisdiction based on the fief system. They called for the establishment of German settlement points - "settlement bases" (Siedlungsstützpunkte) - along transportation routes: 14 in the so-called General Government (including Zamojszczyzna), eight in Ukraine and 14 in the so-called Reichskommissariat Ostland, a German occupation administration unit established in

²⁰⁶ The first universal and compulsory social insurance system was introduced in the Second Reich in accordance with the intentions of Chancellor Otto von Bismarck. It was reformed primarily through three normative acts: the law on workers' sickness insurance of June 15, 1883, the law on insurance against accidents of July 6, 1884, and the law regulating insurance against invalidity and old age of June 22, 1889 (M. Orlicki, *Ubezpieczenia obowiązkowe*, Warsaw 2011, pp. 33-34. Cf. E. Reidegeld, *Staatliche Sozialpolitik in Deutschland*, vol. 1: Von den Ursprüngen bis zum Untergang des Kaiserreiches 1918, Wiesbaden 2006, pp. 208-236. See Gesetz, betreffend die Krankenversicherung der Arbeiter. Vom 15. Juni 1883 (RGBl. 1883, 9, 73); Unfallversicherungsgesetz. Vom 6. Juli 1884 (RGBl. 1884, 19, 69); Gesetz, betreffend die Invaliditäts- und Altersversicherung. Vom 22. Juni 1889, RGBl. 1889, 13, 97).

²⁰⁷ A summary of the memorandum, titled *Kurze Zusammenfassung der Denkschrift Generalplan Ost - rechtliche, wirtschaftliche und räumliche Grundlagen des Ostaufbaus*, was included in the collection of Nuremberg documents and marked with the reference NO-2255, the full version of the text was then considered lost (Generalplan Ost. Rechtliche, wirtschaftliche und räumliche Grundlagen des Ostaufbaus, submitted by SS-Oberführer Prof. Konrad Meyer-Hetling, Berlin-Dahlem, Juni 1942. cf. Generalplan..., pp. 116-146; C. Madajczyk, *Generalplan Ost*, "PZ" 3 (1961), pp. 70-103. See Begegnungs- und Gedenkprojekt 75 Jahre "Intelligenz-Aktionen", 75 Jahre Facheinsatz Ost und europäische Zivilcourage in Berlin 1939-1945, <http://gplanost.x-berg.de/>, accessed 29 II 2020).

1941 and covering part of the eastern Polish lands, areas inhabited by Belarusians and territories of the Baltic states or near Ostland (more precisely, Ingermanland).

Czesław Madajczyk assessed the value of the report as follows: "Meyer-Hetling's GPO is partly a controlling analysis of the basic assumptions of this plan [GPW prepared by RSHA], and partly a development of these assumptions."²⁰⁸ .

After reading this report, Heinrich Himmler formulated his comments in a letter to Ulrich Greifelt on June 12, 1942²⁰⁹ . He stated that he would present the prepared General Plan East to the commander in due course. His goal, however, was to draw up a total settlement program (Gesamt-Siedlungsplan) that also included earlier assumptions concerning, among other things, the so-called Reich districts of Danzig-West Prussia and Wartheland, the provinces of Upper Silesia and Southeast Prussia. He anticipated the inclusion of relevant maps and calculations. He stressed with emphasis that the Germanization of the so-called GG must be completed within twenty years.

To summarize - the German authorities' plans for policy toward the Poles were concretized, starting from the moment it became probable that there would be an attack on Poland that might allow their implementation. Members of the Polish nation were basically divided into two categories: the leadership strata and the workers and peasants, and sometimes the middle class was also mentioned. The classification was based on the extent to which a particular collective threatened the interests of the Reich. It was created to differentiate the treatment of Poles, and thus to implement the Eastern policy as effectively and quickly as possible. Hierarchization was based on the limitations (military, political and economic) in terms of the possibility of completely destroying the Polish nation. Thus, the implementation of the plan was staggered - the division did not mean a change in ideological assumptions, presented not only by the National Socialists, but successfully developed in the era of the Weimar Republic, and earlier - Imperial Germany. On the contrary, it was a logical consequence of the extermination program undertaken, a way to make it a reality.

The establishment, staffing, organization, assignment of powers and tasks of the bodies for the extermination of Poles - all this took place after the implementation of intensive military preparations related to the invasion of Poland, but before the assault. Operational groups, or flying squads made up of officers from various formations of the German police and security service, were established, whose members were required to carry out (or supervise, as it later turned out) the executions of Polish leaders. Not without significance was the cooperation of the police with the Wehrmacht, whose superiors made it possible to carry out liquidation orders in occupied territory.

In practice, however, administrative steps toward extermination began in the autumn of 1938. Prior to this, a policy was pursued for many years to maintain the population of ethnic Germans in the Polish-Lithuanian Commonwealth (e.g., optants were reluctantly admitted), and later to organize and integrate them (despite the appearance of preserving the separateness of some circles, considered consensual, for example). The reichs- and

²⁰⁸ C. Madajczyk, *Generalplan Ost*, "PZ" 3 (1961), p. 68.

²⁰⁹ Heinrich Himmler's note to Ulrich Greifelt, dated June 12, 1942, appeared in the collection of Nuremberg documents marked NO-2255. See its contents: H. Heiber, *Der Generalplan Ost...*, p. 325.

volksdeutsche residing in Poland were incorporated into official activities when the possibility of resolving the Polish question arose. The centrally controlled activity of German parties, associations and unions operating in Poland and the Free City of Danzig made it possible to gather operationally relevant information on Poles potentially dangerous to the Reich. These were the basis of local proscription lists and the "Special Gentile Book for Poland," allowing relatively precise identification of victims.

During the war, in addition to the Einsatzgruppen and other SS units, local organizations of ethnic Germans were included in the implementation of the extermination policy. Selbstschutz functionaries had a special share in the execution of Poles and robbing them. Their bestiality made a negative impression not only on members of the communities in which they operated, but even on the German authorities, police and army. What they feared was not the results of their actions, as expected by the way, but that the brutality of the Selbstschutz would be recognized as a measure used and approved by German authority.

From the moment Germany invaded Poland, steps were taken to arrest the leaders of the Polish nation and then murder them. It was assumed that the western territories of Poland would be incorporated into the borders of the Reich, resulting in the need to hastily Germanize them. Methods were used whose effects proved irreversible. The physical liquidation of the Polish elite, the "Intelligence" action, was undertaken. During it, German officers slightly adjusted the course of the operation, taking into account the circumstances.

Similar steps, albeit on a smaller scale, were already taken in 1939 in the central Polish provinces. Until the legal position of the so-called General Government, the *raison d'être* of the area and the status of its inhabitants was clarified, no general program of assassination of Polish leaders was initiated there, apart from ad hoc assassinations. However, in the spring of 1940, when the war campaign in western Europe was being planned and the resistance movement in Poland was expected to develop, detailed guidelines for Operation "AB" began to be drawn up, which was launched in May 1940, although the first arrests of later victims took place in late March. In addition to these two operations, a number of local extermination initiatives, known as special operations, were carried out. They took place in the so-called GG, and were similarly carried out after the German invasion of the USSR on June 22, 1941. When the German authorities took control of the Polish eastern territories (seized after September 17, 1939 by the USSR), they aimed there to destroy the Polish nation. The task proved easy, as Soviet sovereignty had already managed to crack down on the Polish elite to a large extent. The surviving Poles deemed dangerous from a national point of view were subjected to special treatment, which for them meant arrests and executions, often combined with torture, humiliation and looting.

It is worth mentioning that pseudo-scientific research conducted on a large scale by institutions financed by the German state - or under their aegis - was used to justify the future murder of leaders and the enslavement of the rest, which allowed the Germanization of Polish lands. The scientific consortia formed by associations of German intellectuals published numerous publications, including journals, and actively participated in political life. By means of these procedures, the appearance of scientism was created for propagandistic research results, absorbed by the German media and the

public. The German cult of knowledge and contestation of reality to prove the assumed theses were instrumental in the success of this method.

Also significant was the fact that the idea had long been propagated in Germany that the living space in the east should be conquered, colonized and its inhabitants expelled, starting with the leadership strata. Jan Berger, a Polish Germanist and historian of German literature, rightly noted: "currents of this kind, having encountered resistance, easily collapse, but with a change of conditions they emerge again just as easily, if they are not prematurely completely suppressed."²¹⁰ . An expression of German settlement concepts is, for example, a 1915 elaboration by Erich Keup, an economist and director of the Society for the Support of Internal Colonization (*Gesellschaft zur Förderung der inneren Kolonisation*), published between 1913 and 1925. The study, entitled *Die Notwendigkeit der Gewinnung von Siedlungsland*²¹¹ (The need to obtain settlement land), contained a program for the Germanization of Polish lands. The axis of this idea was the creation of an isolation belt bounded by a line from Grodno to Będzin County, with an area of nearly 34,000 square kilometers and a population of more than 3.2 million. The author envisioned that most Poles would be expelled from the area and German colonization would begin. The Poles remaining in the area were to serve the Germans as seasonal laborers. The application of this solution was intended to enable the realization of the primary goal, the destruction of the Polish nation. The main difficulties in this regard were to do with the political justification of the action and the reluctance of Germans to settle in the east. Nevertheless, intensive efforts toward depolonization were being made by the German authorities, first by the Prussian and, after German unification in 1871, also by the Kaiser, even before the outbreak of the Great War. A particular threat to plans to germanize the Grand Duchy of Posen and its population was seen in the activities of the stratum of Polish intelligentsia, as well as the nobility and clergy, which had been emerging in the 19th century. Therefore, administrative methods were used to make it difficult for Poles to obtain secondary education and positions in government offices. At first, white-collar workers and later also teachers were forbidden to join Polish social associations, scientific institutions, educational and singing associations. The number of Polish judges, assessors and people's school teachers was reduced not only by indirect means, but also by resettling the intelligentsia in remote provinces of the Reich²¹² . However, such efforts would have been impossible if the state had not taken authority over the education system it organized and there was no extensive clerical apparatus. Therefore, representatives of the free professions, such as Polish doctors and lawyers, did not suffer repression to such an extent from the Prussian authorities. It turned out that the weaker the German state's interference in a particular area of activity, the less scope it had to introduce discriminatory anti-Polish regulations.

²¹⁰ J. Berger, One of the German plans for the displacement of Poles during World War I, "PZ" I (1949), p. 37.

²¹¹ E. Keup, *Die Notwendigkeit der Gewinnung von Siedlungsland*, Berlin 1915. Cf. Erich Keup's dissertation submitted to the Friedrich-Wilhelms-Universität (Friedrich-Wilhelms University) in Berlin, which included his chauvinistic and anti-Polish ideas: idem, *Die volkswirtschaftliche Bedeutung von Groß- und Kleinbetrieb in der Landwirtschaft auf Grund von Erhebungen in Pommern und Brandenburg*. Kapitel I, II, IV, und V, Merseburg 1913.

²¹² W. Molik, The policy of the Prussian authorities towards the Polish intelligentsia in the Grand Duchy of Poznań in the years 1848-1914, "PZ" 4 (1980), pp. 88-107.

Although Germany's basic assumptions about Poland and Poles seemed to have changed little at least during the period described, the scale and instruments of their implementation varied. Erhard Wetzel, in a memorial dated April 27, 1942, emphatically stated: "The interest of Germany's eastern policy is thus only to exploit other nations for itself."²¹³ . It remained a matter of pure formality to add that the Poles were the first and main obstacle to the realization of German interests in the east. The 1939 September campaign, which was victorious for Germany, and the subsequent many years of occupation of Polish lands created an opportunity to eliminate a neighbor. That is why Heinrich Himmler, as Reich Commissioner for the Strengthening of Germanness, acted, as Czesław Madajczyk mentioned, according to the motto: "acquire [Poles for Germanization] or [destroy them]"²¹⁴ .

The scale of the implementation of the extermination objectives against Poles and Jews (in significant numbers with Polish citizenship) was different, but comparable, if the total population of the Polish state is taken as a reference point. Norman Davies emphasized that: "the ratio of deaths of Jewish and non-Jewish residents of Poland was actually 1:1. For every Polish Jew who died in the Holocaust, there was a Polish Gentile whose death occurred under similar horrific wartime circumstances."²¹⁵ . The plans and methods for the elimination of the Polish people did not differ much from those for the Jews. What was different was the intensity of the extermination effort, which was related to technical capabilities and the anticipation that Poles would be exterminated over a longer period of time than Jews. In the event of a war that was victorious for Germany or protracted, as Richard Lukas recognized, "the Poles would have been completely exterminated either in the gas chambers - as the Jews were - or as a result of the consistent policy of the Germans implemented in occupied Poland, which consisted of executions, forced labor, starvation, birth control and Germanization."²¹⁶ . This suggestion is confirmed by Czesław Madajczyk's apt remark: "Whether the intention to resettle [Poles] to the east was the real intention, or rather camouflage, as was the case with the Jews, also directed to the east ostensibly to settle there, cannot be definitively determined. [...] Camouflage may also be indicated by the expansion of the gas chambers and crematorium ovens at a time when the extermination of the Jews was already coming to an end."²¹⁷ .

To conclude the discussion of German plans to exterminate the Polish elite and other members of the nation through deportation and slave labor, it should be emphasized that this problem, along with the concept of provoking a war against Poland and the Free City of Danzig, is a key issue in the international legal classification of German crimes. This is because they indicate an intention to destroy the entire nation, albeit with regard to its social stratification, and therefore by different methods and unevenly.

Ways, course and effects of depolonization

²¹³ Hitler's plan..., p. 218.

²¹⁴ General Plan..., p. 20.

²¹⁵ N. Davies, Foreword [in:] R. Lukas, *The Forgotten Holocaust...*, p. 10.

²¹⁶ R. Lukas, *The Forgotten Holocaust...*, pp. 28-29.

²¹⁷ C. Madajczyk, *Politics...*, vol. 2, p. 370.

The liquidation of Polish statehood and the administrative autonomy of the Free City of Danzig

The first step enabling the Reich to exterminate the Polish nation was the destruction of the most important structure of Polish resistance, which was the native state apparatus. Due to the legal international obligations of the Free City of Danzig to Poland, this area was also stripped of its administrative distinctiveness, effectively undermining Polish interests and Polish citizens in Danzig.

Establishment of occupation administration and police structures

As a result of the victorious war campaign, Germany was able to proceed relatively quickly with the depolonization of Polish lands and the subsequent Germanization of their authorities. During the period of hostilities and shortly thereafter, there was a German military administration, which in time was transformed into a civilian one. Part of the Polish lands, mainly in the west, were in fact incorporated into the German state, and from the remainder a framed so-called General Government was created. The dynamic situation on the Eastern Front and the attack on the USSR in 1941 brought Germany sizable territorial acquisitions. They took possession of the Borderlands, the Polish eastern lands. There, too, they began to establish their occupation administration and repression apparatus.

German military administration of the Polish territory and the annexation of the Free City of Danzig

The realization of plans to exterminate the Polish nation could not come without a victorious military campaign. During the operations in Poland, which lasted from September 1 to October 6, 1939, the Germans managed to destroy Polish military forces in the country. They were supported from the east by the USSR, whose authorities on September 17, 1939, proceeded to implement the arrangements resulting from the secret protocol to the Molotov-Ribbentrop Pact of August 23, 1939.

The Polish state was a subject of international law having legislative, executive and judicial authorities that functioned under the law and within its limits. Thus, the liquidation of Poland consisted first of all in preventing its sovereign authorities from exercising their powers, and secondly in imposing German occupation. State structures and organs were destroyed in parallel with the implementation of the program to exterminate the Polish elite, making it easier to govern the remaining layers of society.

Polish organs of political representation were abolished and the central and local administrations, the police, the judiciary, higher and general education and health care, among others, were transformed. Property, family, social, economic relations and labor law regulations were redefined. The Polish legislative system was effectively replaced by German occupation directives resulting from the Eastern policy.

According to Edward Jędrzejewski, two periods can essentially be distinguished in the evolution of the occupation administration system on Polish soil. The first began with the Wehrmacht's invasion of Poland and lasted until October 25, 1939, when the German military administration held power in Poland, while the second was dominated by civilian authority, existing from October 26, 1939 until the actual end of the occupation²¹⁸.

The basic guidelines for the organization of power in areas of warfare were contained in the secret Reich Defense Act (*Reichsverteidigungsgesetz*) of May 21, 1935²¹⁹, which was repealed by another secret Reich Defense Act of September 4, 1938.²²⁰ This in turn was amended one year later, on September 4, 1939²²¹. These acts were not published in the

²¹⁸ E. Jędrzejewski, *Hitler's Concept of State Administration 1933-1945: A Political and Legal Study*, Wrocław 1974, p. 180. A slightly different division was proposed for the so-called General Government by Alfons Klafkowski, who, in the context of German policy regarding the legal position of the area, distinguished three characteristic periods of occupation. This classification, however, is sometimes considered controversial, as highlighted by Adam Wrzyszc (A. Klafkowski, *Okupacja...*, pp. 47-112). The following discussion of the liquidation of the Polish administration and the introduction of German administration is based on the aforementioned study by Edward Jędrzejewski, whose conclusions are enriched by information provided by other authors. See the basic items used in the study: C. Madajczyk, *Politics...*, vol. 1, pp. 27-233; E. Jędrzejewski, *System hitlerowskiej administracji na ziemiach polskich włączonych do Trzeciej Rzeszy (1939-1945)*, "SnFiZH" I (1974), pp. 85-116; Z. Janowicz, *Ustrój administracyjny ziemi polskich wcielonych do Rzeszy Niemieckiej 1939-1945 (so-called. districts of Warta Country and Danzig-West Prussia)*, Poznań 1951; T. Berenstein, A. Rutkowski, *German military occupation...*, pp. 45-57; W. Kozyra, *Okupacyjna administracja niemiecka na ziemiach Rzeczypospolitej Polskiej w latach 1939-1945*, "Annales Universitatis Mariae Curie-Skłodowska. Sectio G" 1 (2013), pp. 35-51; M. Wrzosek, "Organizational Structures of the German Occupation Administration on Polish Lands in Autumn 1939," "Independence and Memory" 15 (1999), pp. 137-151; idem, "The Beginnings of the German Occupation System on Polish Territories Captured by the German Army in Autumn 1939," "Podlasie Studies" VI (1996), pp. 33-77; T. Friedman, *Die höchsten Nazi-Beamten im General-Gouvernement in Polen in den Kriegs-Jahren 1939-45*, Haifa 2002; J. Sehn, *Organization of the German Police in the Reich and General Government*, "BGKBZNwP" 3 (1947), pp. 175-189; A. Konieczny, *Organization of the Gestapo in the Polish territories incorporated into the Reich in 1939-1945*, "SnFiZH" XXX (2008), pp. 331-349. The source basis for this part of the study is the relevant normative acts issued by the German authorities and published in document collections and official promulgators. See the aforementioned printed collections of Nuremberg documents and the compilations prepared by Karol Pospieszalski, Martin Moll, and: *A Selection of Source Texts from the History of State and Law. The period of the Nazi occupation of the Polish territories, selection and compilation*. A. Konieczny, Wrocław 1980.

²¹⁹ *Reichsverteidigungsgesetz*. Vom 21. Mai 1935. The law and its accompanying note were included in the Nuremberg collection of documents as evidence for the prosecution of U.S. USA-24 under reference PS-2261 (*Reichsverteidigungsgesetz*. Vom 21. Mai 1935 [in:] *Trial...*, vol. XXX, pp. 60-62; Vermerk zum *Reichsverteidigungsgesetz* vom 21. Mai 1935 [in:] *Trial...*, vol. XXX, p. 62. cf. their English translation: *Reich Defense Law of 21 May 1935* [in:] *Nazi Conspiracy...*, vol. 4, pp. 934-936; Note on the Law for the Defense of the Reich of 21 May 1935 [in:] *Nazi Conspiracy...*, vol. 4, p. 936).

²²⁰ *Reichsverteidigungsgesetz*. Vom 4. September 1938 (unpublished text). This piece of legislation and the accompanying annotation in the Nuremberg document compilation were marked PS-2194. They were evidence for the prosecution of the US-36 (*Reichsverteidigungsgesetz*. Vom 4. September 1938 [in:] *Trial...*, vol. XXIX, pp. 319-326; Vermerk zum *Reichsverteidigungsgesetz*. Vom 4. September 1938 [in:] *Trial...*, vol. 29, p. 326. Cf. their English translation: *Reich Defense Law of 4 September 1938* [in:] *Nazi Conspiracy...*, vol. IV, pp. 845-851; Note to the Reich Defense Law [in:] *Nazi Conspiracy...*, vol. , s. 851).

²²¹ See information about the amendment without indicating its details or citing its contents or stating where it was published: E. Jędrzejewski, *Hitler's conception of...*, p. 181.

official German promulgator, but the 1935 and 1938 laws were evidence in the trial of major German criminals.

From the first Reich Defense Act of 1935 came the Führer's authority to declare a state of defense (Verteidigungszustand) for the Reich area threatened by war (Article 1 § 1). This involved the complete assumption of executive power (vollziehenden Gewalt) by Adolf Hitler, exercised by the Reich War Minister (Reichskriegsminister) appointed on May 21, 1935²²² in cooperation with the departmental ministers acting on his behalf (Article 1 § 2-3). A state of defense also arose if mobilization was ordered, unless it had been previously declared (Article 2 § 4(2)). Mobilization meant the existence of a state of war (Kriegszustand, Article 2 § 4(3)), which in practice involved the occurrence of two exceptional states. The law took effect on the day it was signed by Adolf Hitler, Gen. Werner von Blomberg, Reich Minister of War, and Wilhelm Frick, Reich Minister of the Interior, i.e. May 21, 1935.

The Reich Defense Act of 1938 virtually reiterates the provisions for the imposition of a state of defense on Reich territory or parts thereof (Article I § 1(1)), the declaration of a state of war when the German people are forced to fight an external enemy (Article II § 8(1)), and total or partial mobilization (Article I § 1(2)). As for the prerogatives of the executive after the declaration of a state of defense (Article I § 2(1)) and the determination of the operational area (Operationsgebiet) by the supreme commander of the Wehrmacht (der Oberste Befehlshaber der Wehrmacht; Article I § 2(3). 3) was adopted on the principle that it was exercised, without the need for additional relevant orders (Article I § 2(1)), by the Commander-in-Chief of Land Forces (Oberbefehlshaber des Heeres) and the Commander-in-Chief of Army Groups or Armies (Oberbefehlshaber der Armeen). Among the executive's powers were the issuance of ordinances, the establishment of special courts, and the issuance of directives to authorities and services in the operational area with the exception of the Reich's highest authorities, the highest Prussian national authorities, and the NSDAP party leadership (Article I, §2(2)). From the above enumeration - in connection with General Walther von Brauchitsch's introduction of German criminal law²²³ , the delegation of authority to issue laws to the chief administrative officer (Oberverwaltungschef) by the commander-in-chief of the East (Oberbefehlshaber Ost)²²⁴ , as well as the shaping of the judicial system by the military authorities, their influence on judicial verdicts and the determination of the rules of criminal responsibility of the population of the occupied territories - it is clear that the executive power was not understood narrowly. It also had legislative and jurisdictional powers²²⁵ . The centralization of authority by the military authorities in the occupied territories also resulted from the regulations (literally - "provisioning") of the land forces (Versorgung des Feldheeres) of June 1, 1938.²²⁶ It indicated that the higher authorities of the Reich were obliged to obtain the approval of the commander-in-chief of the land forces

²²² Wehrgesetz. Vom 21. Mai 1935 (RGBl. I 1935, 52, 609).

²²³ Ordinance on the introduction of German criminal law. dated September 5, 1939 (OJ ROOP 1939, 2, 2). Even before the outbreak of war, it was predicted to take effect on August 26, 1939.

²²⁴ Decree of the Commander-in-Chief of the East on entrusting the authority to issue laws to the chief administrative officer. dated October 16, 1939 (OJ ROOP 1939, 12, 53).

²²⁵ E. Jedrzejewski, Hitler's Concept of..., pp. 182-183.

²²⁶ Versorgung des Feldheeres, part 1, Berlin 1938. The regulations were also referred to by the abbreviation H. Dv. 90 - from Heeres-Druckvorschrift 90 (Printed Order of Ground Forces 90).

for their orders and undertakings (Article 28). The 1938 law was signed by more German officials than the 1935 normative act in question, namely Adolf Hitler, Hermann Göring, Rudolf Hess, Wilhelm Frick, Walther Funk, Reichswirtschaftsminister, Joachim von Ribbentrop, Wilhelm Keitel and Hans Lammers. It took effect immediately after it was signed in Berchtesgaden (where the Berghof residence was located), that is, on September 4, 1938 (Article IV, § 17).

A state of defense in accordance with the 1938 law was declared in the areas of concentration of German troops near the Polish border and in western Germany due to the military actions planned for the end of the summer of 1939. As of September 1, 1939, more Polish lands occupied by the Wehrmacht were gradually covered by it. Adolf Hitler had previously delegated executive authority to the Commander-in-Chief of the Land Forces, and this authority was ceded to the commanders of German armies and army groups, which took place on August 25 or 26, 1939. Chiefs of the Civil Administration with a variable area of office (mobile Chefs der Zivilverwaltung) were established at the army commanders, whose activities were under the specialized supervision of the army commanders, with the Reich Minister of the Interior as their direct official superior. Thus, at the commander of the 3rd Army, Erich Koch was appointed head of the civil administration; at the commander of the 4th Army, Fritz Hermann, president of the Dresden police; at the commander of the 8th Army, SS-Brigadeführer Harry von Craushaar, deputy president of the so-called²²⁷ Ústí nad Labem (Aussig in the so-called Sudetenland) district; at the commander of the 10th Army, Hans Rüdiger, hitherto president of the so-called Oppeln (Opole) regency and former head of the civil administration in the so-called Opava (Troppau in the so-called Sudetenland) regency, and at the commander of the 14th Army - SS-Oberführer Gottlob Dill, former deputy to Württemberg Interior Minister Jonathan Schmid and head of the office of the Austrian governor. In addition, in the areas of the Reich bordering future areas of warfare, i.e., operational areas, there were heads of the civil administration with a permanent place of office (nicht mobile Chefs der Zivilverwaltung)²²⁸.

The territorial jurisdiction of the heads of the civilian board naturally changed with the progress of hostilities in Poland, and thus the modification of the operational area. Basically, their task was to carry out the party priorities set out in the framework of eastern policy, that is, the liquidation of Polish leaders (in cooperation with police and Wehrmacht operational groups), the management of Polish industrial, manufacturing and agricultural processing facilities through trustees (Treuhänder), the restriction of property and other property rights of Poles and the removal of any remaining signs of Polishness. On the other hand, they developed the functioning of the German national community by organizing the health service, shaping employment policy and expanding the German

²²⁷ Although some Polish studies translate the phrase *Regierungspräsident* as president of a district, the predominant term today is "president of a district." This nomenclature seems to correspond with the name of the "super-president" (province) - *Oberpräsident*.

²²⁸ Jan Sziling to the heads of the civil administration with a variable area of office (mobile Chefs der Zivilverwaltung) used the phrase "heads of the civil administration in enemy territories" (Chefs der Zivilverwaltung - Feind), and to the heads of the civil administration with a fixed place of office (nicht mobile Chefs der Zivilverwaltung) - "heads of the civil administration in the homeland" (J. Sziling, Hitler's civil administration in Toruń during the period of military administration (September 7 - October 25, 1939), "Acta Universitatis Nicolai Copernici. Humanities and Social Sciences. History" XI (1977), p. 178).

insurance and social security system. The administration of communications was excluded from their scope of authority, but this regulation was often only formal. Also, the judiciary was not officially subordinate to the heads of the civil administration, yet in practice they not only decided on the structure of courts, such as the special courts (Sondergerichte) created by the plenipotentiaries for the judiciary (Beauftragte für Justizangelegenheiten), but also interpreted laws and determined the substantive scope of criminal law. Their administrative authority can therefore be described as full, integrated, which corresponds to the principle of unity of administration (Einheit der Verwaltung).

The heads of civilian boards attached to army commanders carried out their tasks through their offices, which consisted of departments such as general, administrative and economic. The units, however, did not have secured finances for operation, which, combined with demands for compensation from Poles formulated by the Volksdeutsche and arbitrary clerical actions, resulted in the robbery of Polish public and private property on a massive scale. Prussian state and party functionaries generally became employees of these offices. Legislative acts were issued by the heads of civil boards in the form of daily orders (Tagesbefehle), ordinances (Verordnungen), instructions and circular letters, etc. The landrats and mayors informed the local population about the applicable laws in notices, printed in the form of posters or in the press. Most of the aforementioned normative acts, generally transmitted to landrats (who also received daily orders via courier from the head of the civil administration), mayors of cities and municipalities, were published in the relevant promulgators.

September 8, 1939. Adolf Hitler issued a secret decree - "Guidelines for the Establishment of Military Administration in the Occupied Eastern District"²²⁹. He addressed it to the commander-in-chief of the land forces, and indicated in it that he entrusted the leadership of military administrative authority to the commander-in-chief of the east subordinate to the commander-in-chief of the land forces (digit I). In the occupied Polish territory, with the exception of Upper Silesia and a portion of Podlasie and part of the Warsaw province, which were to be incorporated into East Prussia (digit V), the commander-in-chief ordered the creation of four military districts (Militärbezirke) - Westpreußen (West Prussia), Posen (Posen), Lodz (Lodz) and Krakau (Cracow; digit II). A dichotomous, administrative-military division of power was to be established in the districts (digit IV). Accordingly, on the one hand, it was planned to appoint commanders (Befehlshaber) of their military staffs (Kommandostäbe), and on the other, heads (Verwaltungschefs) of their administrative staffs (Verwaltungsstäbe), acting as heads of administration (Digit IV). These positions were assumed by appointment by the military high command, which consulted its choice with the Reich Minister of the Interior (digit IV). Appointed as chiefs were Albert Forster for the military district of West Prussia, Arthur Greiser for the military district of Posen and Hans Frank for the district of Lodz (digit IV). They were to be subordinate to the military commanders and the chief administrative head of the entire Polish area (Verwaltungschef für das gesamte polnische Gebiet), who became Hans Frank (numeral IV), president of the Academy of German Law (Akademie für Deutsches Recht). During

²²⁹ Befehl des Führers und des Obersten Befehlshabers der Wehrmacht. Richtlinien für die Einrichtung einer Militärverwaltung im besetzten Ostgebiet. Vom 8. September 1939 [in:] M. Moll, "Führer-Erlasse"..., pp. 92-94.

the annual ceremonial meeting of the members of this institution, the future governor general of the Polish lands formulated the following flattery: "For the first time in the history of the nation, love for the Führer has become a legal concept."²³⁰ . His pseudo-intellectual attitude toward the law and his loyalty to Adolf Hitler and his anti-Polish plans foreshadowed a cruel captivity for the Poles. However, the function of chief administrative head of the entire Polish area was actually performed on behalf of Hans Frank by Harry von Craushaar, his deputy. The administration was to be based on land and municipal commissioners (Landund Stadtkommissare, cyf. III). Authority in the municipalities was intended to be vested in ethnic Germans, or in their absence, trusted locals (cyf. III).

The first to be created was the military district of Poznań, with General Alfred von Volland-Bockelberg appointed military commander the day before, and administrative command in Greater Poland in the second half of September 1939 was assumed by Arthur Greiser, recent president of the Senate of the Free City of Danzig, its governing and executive body, named analogously to the corresponding institutions of the free Hanseatic cities: Hamburg, Bremen and Lübeck. The staffing of the various military districts was based on the regulations contained in Adolf Hitler's Decree on the Organization of Military Administration in the Occupied Former Polish Territories of September 25, 1939²³¹ (digits I item 2 and II item 2). The military district of Danzig-West Prussia was established as the second. Its military commander was appointed General Walter Heiz, while Albert Forster became administrative commander. The district included both FCD and part of the Pomeranian Voivodeship. Albert Forster's subordination to the chief administrative commander in Poland was limited in its civil authority to West Prussia, but excluding FCD.

The solution was due to the special status of the Free City of Danzig, whose administrative separateness from Germany was violated on the very first day. It was incorporated into the Reich in accordance with the Act on the Reunification of the Free City of Danzig with the Reich²³² . The act was passed by Albert Forster, who had been acting as head of the FCD (Staatsoberhaupt der Freien Stadt Danzig) since August 23, 1939²³³ .

The Incorporation Act shows that it was a German law unanimously adopted by the Reichstag. According to it, the constitution of the FCD was abolished (Article 1 § 1), full legislative and executive power was transferred to the FCD's supreme authority (Article 2 § 1), and the territory and citizens of the FCD were incorporated into the Reich (Article 3 § 1). The Reich Minister of the Interior became responsible for the unification of the FCD

²³⁰ S. Piotrowski, *Diary...*, p. 12; cf. G. Rühle, *Das Dritte Reich. Dokumentarische Darstellung des Aufbaues der Nation mit Unterstützung des Deutschen Reichsarchivs. Das Dritte Jahr 1935*, Berlin 1936, p. 276.

²³¹ Erlass des Führers über die Organisation der Militärverwaltung in den besetzten ehemals polnischen Gebieten. Vom 25. September 1939 [in:] M. Moll, "Führer-Erlasse"..., pp. 97-99. See Polish translation: Führer Decree on the Organization of Military Administration in the Occupied Former Polish Territories. Of September 25, 1939. [in:] *Selection of source texts...*, pp. 12-15.

²³² Gesetz über die Wiedervereinigung der Freien Stadt Danzig mit dem Deutschen Reich. Vom 1. September 1939 (RGBl. I 1939, 155, 1547); Law on the Reunification of the Free City of Danzig with the German Reich of September 1, 1939. [in:] *Selection of Source Texts...*, pp. 23-24.

²³³ Foerster declared himself superior of the Free City of Danzig, "Gazeta Lwowska" 192 (1939), p. 1. See more extensively on the character and activities of Albert Forster: D. Schenk, *Hitlers Mann in Danzig. Gauleiter Forster und die Verbrehen in Danzig-Westpreußen*, Bonn 2000; idem, *Albert Forster...*; M. Podgóreczny, *Albert Forster. Gauleiter and the Accused*, Danzig 1977.

with the Reich, and was given the authority to implement the Incorporation Act (Section 5 § 1-2). It also settled the question of the citizenship of Danzigers - they were granted German citizenship, and the conditions for its acquisition were to be determined later (§ 2). This possibility was taken away from local Poles, who were additionally deprived of their estates²³⁴. The law went into effect on the day it was promulgated, i.e. as early as September 1, 1939, as was evident from the arrangements made earlier. It was signed by Adolf Hitler, Wilhelm Frick, Rudolf Hess, Hermann Göring, Joachim von Ribbentrop and Hans Lammers.

The actual decision to incorporate the FCD into the Reich was made by the Führer at the telegraphic request of Albert Forster²³⁵. Although he gave his consent, he additionally confirmed it with the aforementioned legal act, which was announced (as was the inquiry formulated in the telegram) in the German Law Gazette due to the iniquitous form of the decisions made earlier. The Chancellor thanked the Danzigers for their loyalty to Germany and appointed Albert Forster as head of the FCD civil administration (Chef der Zivilverwaltung).²³⁶

Carl Burckhardt, the last League of Nations High Commissioner in Danzig, in office since 1937, was forced to leave the territory he administered at 8 a.m. on September 1, 1939. His departure, according to the ultimatum presented to him by Albert Forster, was to take place within two hours. The Swiss diplomat set off for his homeland via Königsberg and Kaunas and joined his wife, who had left Danzig a few days earlier²³⁷.

More brutal treatment was meted out to Marian Chodacki, who had held the post of Commissar General of the Republic of Poland in Gdansk since 1936. As Jozef Wójcicki demonstrates, due to the alleged possibility of retaliation by the Polish authorities against German diplomats staying at the Reich embassy in Warsaw, the commissioner and some of his associates were first detained and on September 5, 1939 transported to Lithuania, where they were released²³⁸.

After the establishment of the military districts of Posen and Danzig-West Prussia, the military districts of Krakow and Lodz were created, as provided for in Adolf Hitler's September 25, 1939 decree. For the provinces of Cracow and part of Silesia, i.e., the military district of Cracow, General Wilhelm Lista was appointed commander (Article I, point 2, of the September 25, 1939 decree), although in practice military authority there was exercised by Chief of Staff Colonel Herbert Osterkamp, then Colonel Kewitsch, and Arthur Seyss-Inquart was appointed civilian superior (Article II, point 2) - in reality, however, the administration was headed by Dill, head of the 14th Army's civilian board.

According to a decree of September 25, 1939, the head of the civil administration in the Lodz district, which included the Lodz, Kielce and part of the Warsaw provinces, was Hans

²³⁴ R. Lemkin, *Governance...*, pp. 180-181.

²³⁵ No. 131: M. Foerster's Telegram to Chancellor Hitler. September 1, 1939 [in:] *Official Documents...*, New York 1939, pp. 133-134.

²³⁶ No. 132: Chancellor Hitler's reply to M. Foerster's telegram. September 1, 1939 [in:] *Official Documents...*, New York 1939, pp. 133-134.

²³⁷ S. Mikos, *The Free City of Danzig...*, p. 345; C. Burckhardt, *My mission in Danzig 1937-1939*, transl. M. Giniatowicz, Warsaw 1970, p. 248; cf. idem, *Meine Danziger Mission 1937-1939*, München 1960.

²³⁸ J. Wójcicki, *Wolne Miasto Gdańsk...*, p. 326; S. Mikos, *Działalność Komisariat Generalu Rzeczypospolitej Polskiej w Wolnym Mieście Gdańsku 1920-1939*, Warsaw 1971, pp. 380-381.

Frank, who was also given the post of chief administrative officer (Oberverwaltungschef, digits II pt. 2). An expression of the dominant position of the Lodz military district authorities was the appointment as its military commander of General Gerd von Rundstedt, commander-in-chief of the east, based in Spala near Tomaszow Mazowiecki (digits I pt. 1-2). The Lodz district was not established until early October 1939, at which time the commander-in-chief of the east began to carry out his duties. As early as October 8, 1939, Gen. Gerd von Rundstedt was replaced by Gen. Johannes Blaskowitz.

The hierarchy of German authority in the occupied Polish territories resulting from the September 25, 1939 decree was as follows: It was headed by the Führer, who appointed the commander-in-chief of the land forces to exercise authority, who in turn delegated it to the commander-in-chief of the east and the commanders of the military districts (digits I, points 1, 4). The civil administration attached to the military districts was organized by its commander-in-chief (digit. II item 1). Management of land and city districts, i.e., administrative units smaller than military districts, was delegated to land and city commissioners (Landund Stadtkommissare, digit IV). They were appointed by the commander-in-chief of the land forces, who made the appointment on the proposal of the Reich Minister of the Interior in consultation with the chief administrative officer (cyf. IV). For larger cities, provision was made for the introduction of presidents or directors of police (Polizeipräsidenten, Polizeidirektoren), who were subordinate to both the military commander of the district in which the district was located and the civilian commander (digit IV). A decree of September 25, 1939 established a coordinating body for the administration of occupied lands - the Central Post for the Occupied Eastern Areas (Zentralstelle für die besetzten Ostgebiete), run by the Reich Ministry of the Interior (digit. IX, point 1). Wilhelm Stuckart, Secretary of State in the Reich Ministry of the Interior, was appointed its head (digit. IX, point 2). The Central Post's cooperation with the other government ministers was carried out with the help of general referents (Generalreferenten) established by them and in their ministries, as stipulated in a circular issued by the Reich Minister of the Interior on October 3, 1939. However, Hubrich, a ministerial counselor from the Reich Ministry of the Interior, became the liaison referent with the Reich authorities at headquarters.

Legislative competence in the occupied Polish territories was vested in the Supreme Commander of the Land Forces, the Supreme Commander of the East and the commanders of the military districts. Formally, the legislative capabilities of the Reich authorities were limited, as they could legislate only indirectly, through the Central Establishment, and with the assistance of the Supreme Commander of the East and in consultation with the Supreme Commander of the Land Forces. The Supreme Chief of Administration did not have legislative powers until October 16, 1939, when a relevant decree in this regard was issued by the Supreme Commander of the East. Meanwhile, the heads of administration in the military districts were not prevented from issuing legislation by lack of authority.

While the structure and organization of authorities in the military districts of Poznań, Gdańsk-West Prussia, Łódź and Kraków were defined in decrees of September 8 and 25, 1939, the status of Upper Silesia, as well as parts of Białystok and the northern part of the Warsaw province, collectively referred to as Southeast Prussia (Süd-Ostpreussen),

remained unclear until regulations were issued by the commander-in-chief of the land forces on September 28, 1939²³⁹. In the latter area, which was later transformed into the so-called Ciechanow Regency (Regierungsbezirk Zichenau), which was incorporated into the so-called East Prussia province, executive authority was entrusted to the Commander-in-Chief of the East and Section Commander of the North (Oberbefehlshaber des Abschnitts "Nord"), and Erich Koch, the superintendent of East Prussia, became head of the civil administration. Military authority in Upper Silesia was assumed by the Supreme Commander of the East and Gen. Georg Brand, commander of the 3rd section of the border guards (Kommandeur des Grenzschutz-Abschnittskommandos 3), and Otto Fitzer, president of the Chamber of Industry and Commerce of Breslau, was appointed head of the civil administration - his superior, however, because of the plan to incorporate Upper Silesia into the Reich, was not the chief administrative officer.

So-called Polish territories incorporated into the German Reich

The dismantling of the occupying military power in the Polish lands began with Adolf Hitler's decision on October 5, 1939 to exclude the military district of Danzig-West Prussia from its jurisdiction and hand over the administration in Pomerania to Albert Forster, who became Reich Commissioner there. The next day, however, the commander-in-chief changed his mind, as he stated that the area envisioned for incorporation into the Reich would be incorporated at the same time.

Therefore, on October 8, 1939. The Führer, Wilhelm Frick and Hans Lammers issued the Decree on the Structure and Administration of the Eastern Lands²⁴⁰, which was to take effect on November 1, 1939. However, on October 20, 1939,²⁴¹ accelerated the process by depriving the commander-in-chief of the land forces of executive authority in military districts incorporated into the Reich as of October 25, 1939. Also in the remaining Polish territory, the military administration, including the administration functioning alongside it, was abolished. The transfer of authority to the Governor General resulted from a decree by the Reich Commander in Chief on October 19, 1939²⁴² and also took effect at the end of October 25, 1939.

According to a decree of October 8, 1939, the Polish western and northwestern territories, as well as part of the northern territories that did not necessarily belong to the Reich before 1914, were incorporated into Germany. (such as Lodz and Kalisz). These included the provinces of Pomerania, Poznan, Silesia and partly Lodz, Krakow, Kielce, Warsaw, as

²³⁹ C. Madajczyk, *Politics...*, vol. 1, pp. 52-53.

²⁴⁰ *Erlass des Führers und Reichskanzlers über Gliederung und Verwaltung der Ostgebiete. Vom 8. Oktober 1939 (RGBl. I 1939, 204, 2042); Decree of the Führer and Reich Chancellor on the Division and Administration of the Eastern Areas of October 8, 1939. [in:] Selection of Source Texts...*, pp. 25-27.

²⁴¹ *Erlass des Führers und Reichskanzlers über das Inkrafttreten des Erlasses über Gliederung und Verwaltung der Ostgebiete. Vom 20. Oktober 1939 (RGBl. I 1939, 207, 2057).*

²⁴² *Decree by the Führer and the Reich Chancellor to transfer the administration in the General Government to the Governor General. dated October 19, 1939. [in:] Selection of Source Texts...*, pp. 19-20.

well as the Suwałki district and part of Augustów. The annexed area was about 92,000 square kilometers, and was inhabited by about 10 million people²⁴³.

Two so-called Reich districts - West Prussia and Posen - were created in the incorporated territories. The former was renamed the so-called Danzig-West Prussia district in accordance with an amendment to Adolf Hitler's October 8, 1939 decree, which was signed on November 2, 1939²⁴⁴ by the commander-in-chief, Reich Minister of the Interior, and Hans Lammers, Reich Minister and Head of the Reich Chancellery (Reichsminister und Chef der Reichskanzlei). It included the already annexed Free City of Danzig and the West Prussian Regency, separated from the so-called province of East Prussia. The district was divided into the so-called Danzig (Danzig), Kwidzyn (Marienwerder) and Bydgoszcz (Bromberg) districts. The so-called Poznań district, in turn, was named the so-called Warta Country (Wartheland) with an amendment to the decree made on January 29, 1940.²⁴⁵ and signed by the aforementioned dignitaries. It encompassed the so-called Inowrocław (Hohensalza), Kalisz (Kalisch) and Poznań (Posen) districts.

The German provinces of Silesia and East Prussia also received territorial acquisitions. The former (Provinz Schlesien) included the so-called Katowice (Kattowitz) regency, formed from fragments of the Cracow, Kielce and Silesian provinces, while the remaining parts of the Silesian (Lubliniec County, a fragment of Rybnik) and Kielce (Blachownia and Zawiercie counties) provinces were incorporated into the already existing so-called Opole (Oppeln) regency. On the basis of a Prussian law of December 20, 1940,²⁴⁶ the so-called Silesian province was divided into the so-called Lower Silesian (Provinz Niederschlesien) and Upper Silesian (Provinz Oberschlesien) provinces. The Polish lands were included in the latter. It should be noted that Auschwitz and Birkenau, as well as the German extermination camp Auschwitz-Birkenau located there, were located in the Reich from October 26, 1939. The administrative affiliation is another argument against the so-called immortal geographical mistake (or rather, deliberate act), as Stanisław Salmonowicz points out, of referring to this camp as Polish.

In turn, the so-called East Prussia province was expanded to include Suwałki county and a section of Augustów county, as well as the northern part of Warsaw province. From most of these lands, the so-called Ciechanów Regency (Zichenau) was formed, while the remainder (the city of Działdowo and sections of Działdowo County) were incorporated into the so-called Olsztyn Regency (Allenstein). The aforementioned areas of Białystok province were incorporated into the so-called Gąbin Regency (Gumbinnen).

New districts were created from the areas annexed to the Reich, or were attached to existing provinces. They were headed by governors or super-presidents, respectively, who were under the official authority of the Reich Minister of the Interior. According to the October 8, 1939 decree (§ 12(1)), the minister was to exercise his powers through the

²⁴³ German occupation of Polish lands 1939-1945 [in:] Nowa encyklopedia powszechna PWN, vol. 6, ed. B. Kaczorowski, Warsaw 2004, p. 149.

²⁴⁴ Erlass des Führers und Reichskanzlers zur Änderung des Erlasses über Gliederung und Verwaltung der Ostgebiete. Vom 2. November 1939 (RGBl. I 1939, 219, 2135).

²⁴⁵ Erlass des Führers und Reichskanzlers zur Änderung des Erlasses über Gliederung und Verwaltung der Ostgebiete. Vom 29. Januar 1940 (RGBl. I 1940, 23, 251).

²⁴⁶ Preußisches Gesetz über die Bildung der Provinzen Oberschlesien und Niederschlesien. Vom 20. Dezember 1940 (PGS 1941, 1, 1).

Central Office for the Incorporated Eastern Districts (Zentralstelle für die eingegliederten Ostgebiete), which replaced the Central Office for the Occupied Eastern Districts. The subordination of the highest authorities in the regions to the minister was, in practice, meaningless, since the governors and super-presidents simultaneously held the positions of gauleiters, i.e., NSDAP party district chiefs and commanders of replacement troops (Befehlshaber der Ersatzheeres). Therefore, their activities were directly influenced primarily by Adolf Hitler and senior party dignitaries, especially the Reichsführer of the SS and police. In a conversation on June 24, 1942, the leader admitted that he had made the gauleiters "kings of the party districts."²⁴⁷ . Gradually, Reich ministers also formally lost many powers to them, such as in the spheres of financial policy, justice, religion and employment²⁴⁸ . District presidents (Regierungspräsidenten), who held positions of district inspectors (Gauinspektoren) in the party administration, were also stripped of their powers. Party dependencies weighed on their functions to such an extent that, for example, in the so-called Danzig-West Prussia district, the Office of the District President was incorporated into the Office of the District Governor. In view of the expansion of the power of governors and super-presidents in the so-called incorporated lands, even party and state establishments lost their lawmaking competencies. The governors (with the exception of Albert Forster)²⁴⁹ and super-presidents in the spring of 1940 took over from the higher SS and police commanders (Höheren SS und Polizeiführer, HSSPF) the functions of commissioner plenipotentiaries for the strengthening of Germanness. Deprived of their posts, the senior SS and police commanders became deputies to the new plenipotentiaries.

Districts and provinces were divided into regions, which in turn consisted of city and land districts (Stadt und Landkreise), headed respectively by superintendents (Oberbürgermeister) and starosts (Landräte). Each time, they also assumed the positions of district party managers (Kreisleitern) on the authority of governors or super-mayors (with the formal approval of the Reich Minister of the Interior), which was an expression of the fusion of state and party power in the so-called incorporated districts. The district boundaries from the period of military administration were essentially maintained; they underwent adjustments in border areas. In accordance with a Decree of the Reich Minister of the Interior of December 21, 1939²⁵⁰ in the so-called incorporated lands, the question of local government bodies in urban districts and all municipalities of the Free City of Danzig was also regulated. Self-governing communities were to be gradually organized on the German model on the basis of the German law of January 30, 1935.²⁵¹ In the land districts and municipalities outside the FCD, self-governing administration was introduced by governors (in districts) and super-presidents (in provinces), who made decisions in this regard after determining that there was a sufficient German population in the area. Its

²⁴⁷ K. Pospieszalski, *Responsibility...*, p. 14.

²⁴⁸ Zweite Verordnung zur Durchführung des Erlasses des Führers und Reichskanzler über Gliederung und Verwaltung der Ostgebiete (RGBl. I 1939, 218, 2133). Following the example of the law on the construction of administration in the so-called Reich District of Sudetenland of 14 April 1939, according to which some of the special administration departments were "attached" (angliedern) to the governor's office, a decree of the Reich Minister of the Interior "incorporated" (eingliedern) many of them into the governor's office (see Gesetz über den Aufbau der Verwaltung im Reichsgau Sudetenland (Sudetengaugesetz). Vom 14. April 1939, RGBl. I 1939, 74, 780).

²⁴⁹ E. Jedrzejewski, *Hitler's Concept of...*, p. 249, note 80.

²⁵⁰ Verordnung über die Einführung der Deutschen Gemeindeordnung in den eingegliederten Ostgebieten. Vom 23. Dezember 1939 (RGBl. I 1939, 254, 2467).

²⁵¹ Die Deutsche Gemeindeordnung. Vom 30. Januar 1935 (RGBl. I 1935, 6, 49).

presence allowed the NSDAP's Main Office for Municipal Policy (Hauptamt für Kommunalpolitik NSDAP) to control local governments through its local structures (Kreisamt für Kommunalpolitik).

However, before a local community was recognized as trusted and capable of implementing nationality policy, governors and super-presidents established official districts (Amtsbezirke), consisting of two or more municipalities, and defined their boundaries (Article III, §2 of the Dec. 21, 1939 ordinance). They were headed by official commissars (Amtskommissare), who had the powers of both state and local government authority, and exercised police authority. Extensive official districts were subdivided auxiliary into municipalities, unrelated to municipalities in the sense of self-government, which helped administer the district to the commissioner, who was assisted by the head of the district municipality (Amtsvorsteher, Bürgermeister). As a result, local Germanization centers were established in villages that were the seats of the district commissars (called main villages, or Hauptdörfer). They were arranged as clusters of Germans equipped with administrative and economic amenities to accelerate depolonization processes and discriminate against the displaced, generally outside the main villages, population of Polish origin²⁵².

According to Minister Wilhelm Frick's second decree of November 2, 1939, police authority in the so-called "incorporated areas" of the Reich was entrusted to senior SS and police commanders, who deputized in the districts and provinces for the Reichsführer of the SS and police and were personally and directly (persönlich und unmittelbar) responsible to the governors and super-presidents (§ 2(1)). Senior SS and police commanders were appointed by a normative act of the Reich Minister of the Interior and the Prussian²⁵³ of November 13, 1937.²⁵⁴ These positions were created to unify the authority over the German police and transfer it to the SS command. In connection with the function of the Reich Commissioner's plenipotentiaries for the strengthening of Germanness (§ 2(1)), the tasks of the higher SS and police commanders in Poland included the implementation of the policy of exterminating Poles, their deportation, denationalization and liquidation of the Polish resistance. In practice, their powers were based on regional specifics and personnel arrangements. The inspectors of the security police and security service²⁵⁵ (Inspekteure der Sicherheitspolizei und der SD) and the inspectors of the order police (Inspekteure der Ordnungspolizei, § 2(3)) were subordinated to them, coordinating the divisions of their respective police types at the regional level. The separation of functions mirrored an analogous phenomenon known from the German police - subordinate to state authorities on the one hand and party authorities on the other. In the so-called

²⁵² The postulated functions of official districts were presented by Walter Christaller, German geographer and planner and creator of the central locality system (Theorie der zentralen Orte): W. Christaller, *Die Zentralen Orte in Süddeutschland. Eine ökonomisch-geographische Untersuchung über die Gesetzmässigkeit der Vorbereitung und Entwicklung der Siedlungen mit städtischen Funktionen*, Jena 1933. Cf. S. Golachowski, *The role of Christaller's theory in Nazi planning*, "Silesian Studies" X (1966), pp. 167-177; K. Kegler, *Deutsche Raumplanung. Das Modell der "Zentralen Orte" zwischen NS-Staat und Bundesrepublik*, Paderborn 2015.

²⁵³ A legislative body other than Hans Buchheim was pointed out by Alexander Lasik, who attributed the issuance of the act to Heinrich Himmler (see A. Lasik, *Protection Relays...*, pp. 127-135).

²⁵⁴ H. Buchheim, *Die Höheren SS- und Polizeiführer*, "VJH f. ZG" 4 (1963), s. 362.

²⁵⁵ Their abbreviated name - "security police inspectors" - appeared in the regulation.

"incorporated lands" of the Reich, the senior SS and police commanders (Höhere SS und Polizeiführer) were (the appointment process was not immediate):

- In Pomerania, where the 20th SS Weichsel Superdistrict was located - Richard Hildebrandt (until 1943) and Fritz Katzmann (from 1943);
- In Greater Poland - in the 21st SS Warthe District - Wilhelm Koppe (until 1943), Theodor Berkelmann (in 1943) and Heinz Reinefarth (from 1944);
- In Silesia - in the 8th SS Südost District - Erich von dem Bach-Zelewski²⁵⁶ (until 1941) and Ernst-Heinrich Schmauser (from 1941);
- In East Prussia - in the 1st SS Nordost District - Wilhelm Redieß (until 1940), Jakob Sporrenberg (1940-1941), Hans Prützmann (1941-1945), George Ebrecht (1941- 1944 - as deputy, i.e. Stellvertretender), Otto Hellwig (1945, also as deputy)²⁵⁷ . According to a circular of the Reichsführer SS and Police of November 7, 1939²⁵⁸ also, the executive offices of the state secret police (Staatspolizeileitstellen) and the offices of the state secret police (Staatspolizeileitstellen), i.e., the Gestapo, were obliged to carry out in accordance with the directives of the RSHA (Part II) the orders of the district governors and provincial super-presidents (which applied to the executive offices) and the presidents of the districts (which applied to the police offices, Part III, points 1-2).

The so-called General Government

The administration of lands not incorporated into the Reich but occupied by German troops was in principle regulated by Hans Frank with three relevant ordinances²⁵⁹ . He issued the first of these on October 26, 1939²⁶⁰ , the second, the Uniformity of Administration Ordinance, on December 1, 1940²⁶¹ , and the third, the so-called

²⁵⁶ See W. Bartoszewski, *The truth about von dem Bach*, Warsaw-Poznan 1961.

²⁵⁷ See more on the personal and territorial specifics of the activities of the higher SS and police commanders: R. Birm, *Die Höheren SS- und Polizeiführer. Himmlers Vertreter im Reich und in den besetzten Gebieten*, Düsseldorf 1986.

²⁵⁸ Organisation der Geheimen Staatspolizei in den Ostgebieten. Rund-Erlass des Reichsführer SS und Chef der Deutschen Polizei in Reichsministerium des Innern vom 7.11.1939 (MBL. dRPMdI 1939, 2291). See the original contents of the document: Organisation der Geheimen Staatspolizei in den Ostgebieten. Rund-Erlass des Reichsführer SS und Chef der Deutschen Polizei in Reichsministerium des Innern vom 7.11.1939 [in:] K. Pospieszalski, *Hitler's "law"...*, part 1, pp. 101-103; Polish translation of the circular: Organization of the Secret State Police in the Eastern Areas [dated 7 November 1939] [in:] *Selection of Source Texts...*, pp. 32-34.

²⁵⁹ Although the Polish-language official German version of these acts used the term "reconstruction," the terms "structure" or "construction" seem more appropriate for logical reasons.

²⁶⁰ First decree on the reconstruction of the administration of the occupied Polish territories. Of October 26, 1939 (Dz. RGGPO 1939, 1, 3). Cf. A 120 First Ordinance on the Reconstruction of the Administration of the General Government. Of October 26, 1939. [in:] A. Weh, *Laws of the General Gubernatorship in material arrangement with explanations and detailed index*, Krakau 1941. Although in this collection the pages of legal acts were marked, the numbering was not continuous. Documents had to be searched for by their letter-number symbols.

²⁶¹ Second Ordinance on Reconstruction of the Administration of the General Government (Ordinance on Uniformity of Administration). Dated December 1, 1940 (Official Gazette of the RGGPO 1940, 68, 357). Cf. A 121. Second Ordinance on the Reconstruction of the Administration of the General Government (Ordinance on Uniformity of Administration). Of December 1, 1940. [in:] A. Weh, *Law*.

Organization of the Government of the General Government, on March 16, 1941²⁶² They came into effect successively on October 27, 1939 (Section 10(2) of the 1939 Ordinance), December 9, 1940 (Section 9(1) of the 1940 Ordinance) and April 1, 1941 (Section 5(1) of the 1941 Ordinance). Their legal basis was Adolf Hitler's decree of October 12, 1939 (§ 5(1))²⁶³.

Pursuant to a 1939 decree, the so-called General Governorate for the occupied Polish territories²⁶⁴ (§ 1) was created from parts of the provinces (although not explicitly mentioned, they were designated) of Warsaw, Cracow, Kielce, Lublin, Lodz (without Lodz, whose affiliation was not decided at the time) and Lvov (without Lvov). The entity was recognized as a legal entity with powers and obligations, and represented externally by a general governor (§ 7). German became the official language in the so-called GG, although the use of Polish was permitted (§ 9). The so-called GG covered some 96,000 sq. km.²⁶⁵, and had a population of some 12.5 million²⁶⁶. Krakow was chosen as the capital (§ 2). Initially, however, the seat of the Governor General was located in Lodz at 15 T. Kosciuszko Avenue²⁶⁷. He was to move to Wawel Castle by November 15, 1939. His office was located in the building of the Mining Academy in Cracow at 30 A. Mickiewicza Avenue, renamed Außering 30 during the occupation, which was announced on November 13, 1939²⁶⁸, and divided into thematically organized departments (§ 3(2)).

The Governor General and his deputies were subordinated to both the head of the Office of the Governor General and the higher commander of the SS and police, who at the same time became the Reich Commissioner's plenipotentiary for the strengthening of Germanness. The higher SS and police commander was in turn subordinated to the commanders of the order police (Befehlshaber der Ordnungspolizei) and the security police and security service²⁶⁹ (Befehlshaber der Sicherheitspolizei und des SD, § 3 (1) and (3)).

²⁶² Third Ordinance on the Reconstruction of the Administration of the General Government (Organization of the Government of the General Government). Dated March 16, 1941 (RGG Official Gazette 1941, 21, 99). Cf. A 122. Third Ordinance on the Reconstruction of the Administration of the General Government (Organization of the Government of the General Government). Of March 16, 1941. [in:] A. Weh, Law.

²⁶³ Erlass des Führers und Reichskanzlers über die Verwaltung der besetzten polnischen Gebiete. Vom 12. Oktober 1939 (RGBl. I 1939, 210, 2077). See the Polish translation of the decree: A 100. Decree of the Führer and Chancellor of the German Reich on the Administration of the Occupied Polish Areas. Of October 12, 1939. [in:] A. Weh, Law...

²⁶⁴ This long full name of the administrative unit was abbreviated by Hans Frank to "General Government" in his decree of July 31, 1940, not promulgated in the official promulgator. An analogous abbreviation applied to the name of its functions (A 102. Decree on New Organizational Regulations in the General Government. Of July 31, 1940. [in:] A. Weh, Law...). It should be mentioned that the actual decision to abbreviate the name was made by Adolf Hitler in a secret decree of July 8, 1940, of which he notified Hans Frank. The change was politically motivated. With it, mention of the Polishness of the occupied lands was eliminated and any aspirations of Poles to have their own state were symbolically crossed out (S. Datner, 55 Days of the Wehrmacht in Poland. Crimes committed against the Polish civilian population in the period 1.IX - 25.X.1939, Warsaw 1967, p. 63).

²⁶⁵ See the consideration of the size of the area of the so-called GG in the originally established borders and after later modifications: A. Wrzyszczyk, Occupation Judiciary..., p. 60, note 70.

²⁶⁶ The population of some districts was attempted to be estimated by Josef Bühler in a study on the administration and economy of the so-called GG. (J. Bühler, Das Generalgouvernement. Seine Verwaltung und seine Wirtschaft. Sammlung von Vorträgen der ersten wissenschaftlichen Vortragsreihe der Verwaltungsakademie des Generalgouvernements, Krakau 1943, p. 33).

²⁶⁷ Notice on the address of the Office of the General Governor for the occupied Polish territories. dated October 31, 1939 (Dz. RGGPO 1939, 2, 16).

²⁶⁸ B 100. Announcement on the definitive official seat of the Governor General for the occupied Polish territories. dated November 13, 1939. [in:] A. Weh, Law ...

²⁶⁹ The regulation uses the abbreviated term: "commander of the security police."

Police authority in the so-called GG was exercised by the following senior police and SS commanders (HSSPF Ost): Theodor Eicke (in 1939), Friedrich-Wilhelm Krüger (1939-1943) and Wilhelm Koppe (1943-1945). Auxiliary police and SS commanders (SSund Polizeiführer, SSPF) were appointed in each district.

The occupied territories were administratively divided into four districts, known as the Warsaw, Cracow, Lublin and Radom districts (§4). The head of each district became the district chief, referred to as the chief (Distriktschef) or district governor (Gouverneur des Distrikts, § 5(1)). They administered the entire administration in their districts; in addition, each was subordinate to the head of the district chief's office and the SS and police commander (§ 5(1) and (2)). Thus, supreme authority in the so-called districts was exercised by:

- At Warsaw's Ludwig Fischer (1939-1945);
- In Krakow Otto von Wächter (1939-1942), Richard Wendler (1942-1943), Ludwig Losacker (deputy governor, later commission governor in 1943) and Kurt Burgsdorff (1943-1945);
- In Lublin Friedrich Schmidt (1939-1940), Ernst Zörner (1940-1943), Ludwig Fischer (as acting governor in 1943) and Richard Wendler (1943-1944);
- In Radom Karl Lasch, Hans Frank's brother-in-law (1939-1941), and Ernst Kundt (1941-1945).

The districts consisted of urban districts (Stadtkreise), comprising district separate cities (Kreisfreie Stadt) and rural districts (Landkreise, §6(1)). Urban districts were headed by city chiefs, and rural districts by county chiefs. The districts were divided into urban (Stadtgemeinden) and rural (Landgemeinden) municipalities.

The 1939 decree reiterated, in accordance with Adolf Hitler's decree of October 8, 1939, that Polish legislation was, as a general rule, applicable in the so-called GG (§ 8(1)). However, exceptions, in that the German administration took over in contravention of Polish regulations and military orders could not be enforced, in practice precluded its application. The regulation did not specify either the circle of entities entitled to claim that Polish law should be restricted, or its procedure. The provision thus served the ostensible purpose of maintaining the compliance of occupation law with international legal norms, but the discretion granted to German officials in this regard prevented the application of Polish legislation. In addition, the ability to enforce the decrees of the commander-in-chief of the army and the bodies authorized by him was restricted. Legislative acts issued by them were to cease to be valid if, due to the establishment of the so-called "GG," they were deemed pointless (§8(2)). Henceforth, normative acts adopted in the form of ordinances were to be constituted by the Governor General (§ 10(1)). The authentic texts used to interpret them, although Polish translations were also printed, came from German-language versions of the documents. A rule was established that ordinances would come into effect the day after they were issued (§ 10(2)).

Under a 1940 decree, the Office of the Governor General was transformed into the Government of the General Government (§1). It was to be headed, subordinate to the

Governor General, by the Secretary of State (§ 2). In an earlier decree, he was described as acting as head of the Office of the Governor General. The government consisted of departments headed by managers (§2). Government enforcers were to formulate guidelines for the direction of field administration by district heads (§ 4), who in turn, as deputies of the government in the districts they administered, supervised district and city starosts (§ 5). District chiefs, on the other hand, were recognized as deputies of the government in county areas (§6). The government was prevented from establishing power expositives other than the administration of the district chief (§ 7(1)), and a similar prohibition applied to the operation of district chiefs in rural districts or separate towns (§ 7(2)). Exceptions were made for the operation of the German courts, the offices of the East Railway (i.e., the *Generaldirektion der Ostbahn* and the four *Ostbahnbetriebsdirektionen*) and the German postal service of the East (§ 7(3)). At the same time, the railroad and postal executives were obliged to inform the district heads and district chiefs of their orders, when necessary, with reasonable advance notice (§7(3)). The police authorities continued to be bound by the regulations contained in the first decree of 1939 (§ 9(3)).

A 1941 decree reorganized the government of the so-called General Government. Uniformity of its authority and subordination to the Secretary of State, deputized by an Undersecretary of State, were indicated (§ 1(1)). The government consisted of a secretariat of state and twelve principal departments (§1(2) and §2), these of divisions, and these in turn of departments, principal papers and papers respectively (§3(1) and (2)). In addition, provision was made for the formation of a government as a professional advisory body by the secretary of state and the police authorities specified in the decree and the heads of the economic, financial and banking units of the so-called GG gathered under the chairmanship of the governor general (§ 4 (1)). Department heads, as before, were members of the government (§ 4(2)).

The area of the so-called GG was also subject to significant transformation. Its territory shrank as a result of the implementation of the German-Slovak agreement of November 21, 1939 on the annexation to Slovakia of 52 Polish communes located in Spiš and Orava (with an area of about 770-800 square kilometers, inhabited by nearly 35,000 people). The agreement was signed by Joachim von Ribbentrop on the German side and Matúš Černák, Slovak deputy to the Third Reich²⁷⁰.

²⁷⁰ The conflict over the Spiš land heated up in 1918. On Jan. 1, 1919, a Polish-Czechoslovak border agreement was adopted, by virtue of which Poland was granted the entire Dunajec River basin, i.e. the so-called *Zamagurze* (the border ran along the ridges of the Spiš Magura). The Council of Ambassadors in Spa on July 28, 1920 decided on a different division, as a result of which Poland received only 13 Orava villages and 14 Spiš villages. The Spisz settlements comprised three municipalities: Bukowina Tatrzańska, Lapsze Niżne and Nowy Targ. From then on, their area was called Polish Spisz. The change came after the creation of the so-called Protectorate of Bohemia and Moravia, when on November 30, 1938 a delimitation protocol was signed in Zakopane on the cession to Poland of the Slovakian part of Spisz, i.e. Jaworzyna Tatrzańska, Leśnica Pienińska and areas of Orava. Soon after, during the September campaign, both the Polish Spisz and the lands ceded in 1938 were occupied by Slovak troops. This factual state of affairs was confirmed by the German-Slovak agreement of November 21, 1939 (W. Rojek, *Formation of the Polish-Czechoslovak state border in 1945, "Zeszyty Historyczne [Si vis pacem, para bellum. Poland's security and politics]"* 12 (2013), pp. 433-434. See also *Decision of the Conference of Ambassadors of July 28, 1920. (Cieszyn, Orava and Spisz) [in:] Reconstruction of Polish Statehood. The most important documents 1912 - January 1924*, ed. K. Kumaniecki, Warsaw-Krakow 1924, pp. 376-382; *Protocol of delimitation of the state border, between the Republic of Poland and the Czechoslovak Republic, signed in Zakopane on November 30, 1938. [in:] Contemporary Political Europe. Collection of International Agreements 1919-1939*, ed. W. Kulski et al, Warsaw, Cracow 1939, pp.

After Germany went to war with the USSR, the hitherto Soviet-occupied provinces of Stanislawow, Ternopil and 13 of the 27 eastern districts of Lwow were incorporated into the so-called GG, along with Lviv, which became the capital of the new district. Adolf Hitler decided on the fate of these territories against the suggestions of Martin Bormann and Alfred Rosenberg that East Lesser Poland, as in the time of the Austrian partition (then called Galicia), should immediately be made a German state and incorporated into the Reich. However, the commander-in-chief feared that the influence of Ukrainian nationalists would grow and they would try to establish their center there. Civil authority there was assumed by the Governor General, in accordance with the first decree of Adolf Hitler, Hans Lammers and Wilhelm Keitel on the introduction of civil authority in the newly occupied eastern territories of July 17, 1941²⁷¹ (digits I). From these lands, according to Hans Frank's decree of August 1, 1941²⁷², the so-called Galicia (Galizien) district was created at 12:00 on the same day. Its area was 51,200 square kilometers, and it was inhabited by about 4.4 million people. Its administrative structure was regulated as in the rest of the so-called GG (§ 3 of the decree). The establishment of the so-called Galicia district resulted in border adjustments: 36 municipalities east of the San River with Przemyśl were incorporated into the so-called Cracow District (Deutsch-Przemysl and Przemyśl were merged), and two municipalities (Tarnawa Niżna and Sianki) from the so-called Cracow District were incorporated into the so-called Galicia District. Part of the lands of the so-called Lublin district located south of Tomaszow were incorporated into the so-called Galicia district. The governors of the district were successively Karl Lasch (1941-1942) and Otto von Wächter (1942-1944). Interestingly, in the introduction to the decree of August 1, 1941, it was emphasized several times that Eastern Lesser Poland had hitherto included territories belonging to the Polish-Lithuanian Commonwealth, thereby negating the conquest of the USSR and its rule in the Borderlands in 1939-1941. Analogous to the creation of the so-called GG (discussed below), Hans Frank issued on August 1, 1941 a proclamation²⁷³ addressed to the inhabitants, this time of Eastern Lesser Poland. He regarded the functioning of the Polish administration in the area as "the mindless arbitrary regime of the Warsaw government clique," and described the period of Soviet rule as cruel despotism led by Jewish-Bolshevik cruelties. He announced the return of Eastern Lesser Poland to the bosom of the community of European culture, which was to mean the restitution of private property and respect for religious worship, customs and culture. He was silent about the cultivation of national values, by all means. He ended the proclamation with a request to God to bless the common work, which was a rhetorical ploy directed against the USSR.

311-329. cf. Spisz, Orawa and Ziemia Czadecka in the Light of Ethnic Relations and Historical Past (with map), Cracow 1939; Terra Scepusiensis. Stan badań nad dziejami Spiszu, ed. R. Gladkiewicz et al., Lewocza-Wrocław 2003; T. Trajdos, Spisz środkowy i północny w naszym stuleciu, Warsaw 1987; J. Stopka, Podział administracyjny Orawy na przestrzeni lat 1920-1995 [in:] Spisz and Orawa w 75. rocznicę powrotu do Polski północnych części obu ziemie, ed. T. Trajdos, Cracow 1995, pp. 53-56).

²⁷¹ Erster Erlass des Führers über die Einführung der Zivilverwaltung in den neu besetzten Ostgebieten. Vom 17. Juli 1941 [in:] M. Moll, "Führer-Erlasse"..., pp. 189-190.

²⁷² Ordinance on the administration of Galicia. dated Aug. 1, 1941 (Official Gazette RGG 1941, 67, 443). The Governor General referred in the document to the relevant decrees of Adolf Hitler of 17 and 22 July 1941. Karol Pospieszalski reported that they had not been promulgated (K. Pospieszalski, Hitler's "law"..., part 2, p. 71, note 73).

²⁷³ Proclamation [of Aug. 1, 1941] (OJ RGG 1941, 67, 442).

The assets of the Polish state left behind in the so-called GG, including real estate, movable property and receivables, were confiscated by the authorities of the so-called GG in accordance with the relevant decree of Hans Frank issued on November 15, 1939²⁷⁴ (§ 1(1)). Responsibility for the recording of individual assets, their supervision and their use was entrusted to the Trust Office for the General Government (Treuhandstelle für das Generalgouvernement), functioning under the Office of the Governor General (§ 1 (2)). Implementation of this regulation was entrusted to the head of the Economic Department (Leiter der Abteilung Wirtschaft) in consultation with the head of the Finance Department (Leiter der Abteilung Finanzen) at the Office of the Governor General (§ 2).

The liquidation of the so-called General Government as an administrative unit took place in a de facto manner. Individual districts ceased to exist as a result of the seizure of the seats of their authorities by Soviet and Allied troops - Lublin was captured on July 22, 1944, Lviv on July 27, and the following year Radom on January 16, Warsaw on January 17 and Krakow on January 18.

In the context of the essence and purposes of the existence of the so-called GG, it is impossible to ignore the official and confidential declarations made by German government officials. Adolf Hitler at the aforementioned meeting of October 17, 1939²⁷⁵ stated that Poland should be made independent in the interest of Germany. By no means did this mean caring for its economic or financial development. The idea was to introduce a formal separation from the so-called "incorporated lands" of the Reich. Fragmentation of Polish territory was necessary because of the need for an area where nationally undesirable Poles temporarily living in the new eastern districts of the Reich could be deported. Secondly, the administrative separateness of the German-occupied Polish state made it possible to carry out the nationalist struggle (*Volkstumskampf*) without regard to the Reich's statutory restrictions. Poland was given the status of a military base for the planned German conquests.

In turn, Hans Frank, the chief administrator of the Polish lands, issued a proclamation on his first day in power, October 26, 1939,²⁷⁶ in which he unambiguously indicated the purpose of establishing a new administrative unit - to ensure that Poles universally fulfilled their duty to work for the Reich. He described the period of interwar independence of the Republic as a historical episode, justified by the assumptions of the Treaty of Versailles and the cavalier activities of Polish and English politicians. The German administration was supposed to contribute to the introduction of social order and the formation of an appropriate attitude of Poles towards Germans. Adherence to German legislation was to allow Poles to cultivate their traditions: "You may continue to live your life according to the customs you have faithfully preserved; your Polish characteristic will

²⁷⁴ Decree on confiscation of property of the former Polish state in the territory of the General Government. Of November 15, 1939 (Dz. RGGGOPO 1939, 6, 37).

²⁷⁵ Document 864-PS. Top-Secret Report, 20. October 1939, on the Conference between Hitler and Keitel on 17 October 1939, Concerning the Future of Poland... [in:] Trial..., vol. XXVI, pp. 377-383. See Minutes of the Conference between A. Hitler with the head of the Wehrmacht High Command, General Colonel W. Keitel, on October 17, 1939, regarding the Third Reich's policy toward the GG and the abolition of the military administration and the transfer of authority to the civil administration [dated October 20, 1939] [in:] Occupation..., vol. 1, pp. 119-120.

²⁷⁶ Proclamation of the General Governor [dated 26 October 1939] (OJ RGGGOPO 1939, 1, 1). Cf. A 110 Proclamation of the General Governor. Of October 26, 1939. [in:] A. Weh, Law ...

be allowed to be preserved in all the symptoms of the community." The falsity of this statement is directly indicated by the anti-Polish actions carried out and the mentioned confidential conversations among German dignitaries. Hans Frank mentioned the extermination of the leadership strata rather mildly, stating that the Poles were "freed from the compulsion of the adventurist policy [...] of the intellectual ruling stratum."

The Governor General repeated his discriminatory theses more than once and developed them to increasingly degenerate forms. During the already described meeting of the so-called Reich Defense Council for the so-called GG on March 2, 1940, he mentioned that the area he administered was a "kind of reserve" (eine Art Reservation) for the population of Polish origin, which was not intended to be granted German citizenship. Temporarily, it was not to be subject to Germanization processes due to Germany's war and domestic policies. The population of the so-called GG should have provided food for Germany in a future armed conflict with Great Britain. The timing of its Germanization depended on when the so-called western Polish territories incorporated into the Reich could be Germanized. The promise to preserve Polish national life contained in the proclamation of October 26, 1939. Hans Frank took a utilitarian approach. The Polish population may have perceived the proclamation as a sign of humanitarianism on the part of the German authorities, but in reality the project of exterminating Poles through labor, stunting their demographic development (they achieved a much higher birth rate than the Germans) and eradicating their national consciousness and identity, i.e. Polish culture, traditions, history, as well as language, was ruthlessly pursued. Any subsequent apparent changes in the governor general's policy toward Poles were not due to an abandonment of his intention to eradicate the Polish nation, but to the fodder needs of the German military and society. Hans Frank also stressed (as happened to him very often) that he was the supreme authority in the so-called GG and directly subordinate only to the Führer. In connection with the megalomania and rapacity of the Polish administrator, German bonzos joked that the so-called GG was Frankreich - Frank's state (pointing to the wealth he obtained there), and that he himself was the uncrowned king²⁷⁷. His rule meant, as Adolf Hitler directly emphasized, the realization in Poland of the "devil's work" (Teufelswerk)²⁷⁸.

On May 30, 1940, the already described meeting on the "AB" action took place in Cracow. At that time, Hans Frank made an interesting remark about the administrative characteristics of the so-called GG: "Our aim here, therefore, cannot be to establish a state based on an established legal system [Rechtsstaat], but to conduct eastern policy, with our most important task, always coming to the fore, being to carry out the orders of the Governor General."²⁷⁹.

²⁷⁷ T. Cyprian, J. Sawicki, *Do not spare Poland!*, Warsaw 1962, p. 130.

²⁷⁸ With these words, the Reich Chancellor, as recalled by Ulrich von Hassell (diplomat and member of the anti-Hitler movement) and Hans Gisevius (high Gestapo officer, Abwehr member and German diplomat, later oppositionist), addressed Hans Frank and Wilhelm Keitel back in 1939 (C. Madajczyk, *Politics...*, vol. 1, p. 124. See U. von Hassell, *D'une autre Allemagne. Journal posthume (1938-1944)*, Paris 1948, p. 104).

²⁷⁹ Minutes of a police meeting devoted to all matters relating to the state of security in the GG [dated May 30, 1940] [in:] *Occupation...*, vol. 1, p. 215.

Thus, the so-called GG cannot be considered a state in the international legal sense, but only an illegally established occupation creation. Albert Weh's deductions²⁸⁰ on the legal personality of the so-called GG show that this entity was not a legal successor to the Polish state, although it can be regarded as the homeland (*Heimstaat*) of the Poles. Hans Frank considered it "a component part of the Greater German power influence" and "a fringe country [*Nebenland*] of the Greater German Reich." Article I of the German-Soviet Border and Allied Agreement of September 28, 1939²⁸¹ referred to the Polish lands under German occupation as the Reich's area of national interest (Soviet authorities requested that the name Poland not be used). There was a customs and currency border between Germany and the so-called GG.

Martin Broszat, a German historian specializing in the study of the occupation of Poland, aptly concludes that the so-called GG "remained in legal-state and legal-international terms outside the German Reich as an ad hoc constructed German 'contiguous state,' extraterritorial to the Reich, intended for possibly legally non-binding rule, lacking the character of a state, with stateless inhabitants of Polish nationality."²⁸²

Reinhard Heydrich, at a conference with RSHA department heads on September 29, 1939, stated that a Reichsgetto should be created from parts of the occupied Polish territories for politically, nationally and racially undesirable individuals²⁸³.

This indicates that he advocated the establishment of an administratively designated territorial district where people would be temporarily detained by coercion in a very limited area. The idea was not that Poles should live or thrive there, but that they should live until the moment designated by German administrators when it would be determined that the work they provided was unnecessary or a threat to German interests.

The Kresy (the Eastern Borderlands) under occupation

Somewhat as an aside, it should be noted that as a result of the implementation of the "Barbarossa" plan, i.e. the attack on the USSR, Germany occupied the entire pre-war Polish territories. From the southeastern part of them, the so-called Galicia district was created, but a different administrative division was introduced in the rest. The Borderlands became part of the following units - the so-called Bialystok District (Bezirk Bialystok), the Reich Commissariat East and the Reich Commissariat Ukraine.

²⁸⁰ A 120th First Regulation..., fn. 2.

²⁸¹ In Polish historical writing, one also encounters another name for this act, namely the Treaty on the Borders and Friendship of the Third Reich - USSR. See the agreement and its additional protocol of October 4, 1939 in the official German-language version: Bekanntmachung über den deutsch-sowjetischen Grenzund Freundschaftsvertrag sowie das dazugehörnde Zusatzprotokoll. Vom 30. Dezember 1939 (RGBl. II 1940, 1, 3), and in Polish translation: A 101st Announcement on the German-Soviet Border and Allied Agreement and the Additional Protocol belonging to it [in:] A. Weh, Law...

²⁸² Quoted in A. Wrzyszczyk, *Occupation Judiciary*..., p. 63. Cf. M. Broszat, *Nationalsozialistische Polenpolitik*..., p. 72.

²⁸³ K. Radziwończyk, *Action "Tannenberg"*..., p. 104.

From the vast majority of the Bialystok province, excluding the Suwałki district and two municipalities on the right bank of the Pisa River, as well as from parts of the Polesie, Warsaw and Novogrudok provinces, the so-called Bialystok district was created at 12:00 a.m. on August 1, 1941. Officially, the establishment of this unit came with the exclusion of its territory from the operational area of the land forces linked to the assumption of authority by civilian administration in accordance with the order of the Führer and the Wehrmacht Commander-in-Chief of July 22, 1941²⁸⁴ (cyf. I pt. 2). Soon after November 1, 1939 (by decree of September 18, 1941²⁸⁵), the Grodno region was incorporated. The so-called Bialystok district covered an area of just over 31,000 square kilometers and had a population of nearly 1.7 million. Its head, with the rank of head of the civil administration (Chef der Zivilverwaltung), was Erich Koch, superintendent and gauleiter of East Prussia - the legal basis was the chancellor's first decree on the introduction of civil authority in the east of July 17, 1941 (digit. I). The appointment in connection with the withdrawal of military authority was confirmed in an order of July 22, 1941 (digit II) and the Führer's order on the temporary administration of the so-called Bialystok district of August 15, 1941.²⁸⁶ The head of the civil administration reported directly to the Reich Chancellor and was to receive directives from him on the organization of the administration. He was given legislative powers, which he was to exercise by issuing ordinances. Since Erich Koch held other positions, he performed this function with the help of permanent deputies (ständiger Vertreter), who were Waldemar Magunia, district chairman of the German Labor Front (Gauobmann der Deutschen Arbeitsfront) in East Prussia (1941-1942), and Friedrich Brix (1942-1945), formerly of the Landrat of Tilsit-Ratz. The district was divided into so-called district commissariats (Kreissskommissariate): the Bialystok (Bialystok), Bielsk (Bielsk), Grajewo (Grajewo), Grodno (Grodno), Lomza (Lomscha), Sokolka (Sokolka), Wolkowyski (Wolkowysk) and the city of Bialystok (Bialystok), as a district-level unit. The district commissariats consisted of official districts (Amtskommissariate), and these in turn consisted of numerous municipalities. The so-called Bialystok district was to be incorporated into the Reich in the future, as determined at a conference between Adolf Hitler and Hermann Göring, Wilhelm Keitel, Hans Lammers and Alfred Rosenberg on July 16, 1941²⁸⁷, but this never happened. Due to the fact that the head of the district also held other offices, the district's governance was strongly influenced by directives and personnel reaching Bialystok from Königsberg (Königsberg). Although formally there was a police border between the district and the so-called East Prussian province, the customs border was abolished in November 1941. Czesław Madajczyk correctly noted that the so-called Bialystok district had the character of a regency, which was planned to be

²⁸⁴ Befehl des Führers und des Obersten Befehlshabers der Wehrmacht betrifft Ausscheiden von Gebietsteilen im Osten aus dem Operationsgebiet des Heeres und Einführung der Zivilverwaltung. Vom 22. Juli 1941 [in:] M. Moll, "Führer-Erlasse"..., pp. 191-192.

²⁸⁵ Erlass des Führers über die Abgrenzung des Bezirkes Bialystok. Vom 18. September 1941 [in:] M. Moll, "Führer-Erlasse"..., pp. 199-200.

²⁸⁶ Erlass des Führers über die vorläufige Verwaltung des Bezirks Bialystok. Vom 15. August 1941 [in:] M. Moll, "Führer-Erlasse"..., pp. 194-195. The order had no internal division of content.

²⁸⁷ The memorandum was included in the Nuremberg document collection under file number 221-L as evidence of the U.S. prosecution USA-317 (Document 221-L. File Memorandum, 16th July 1941, on a Discussion by Hitler with Rosenberg, Lammers, Keitel and Goring, Taken Down by an Unknown Participant... [in] Trial..., vol. XXXVIII, pp. 86-94. Cf. English Translation of Document L-221 [in] Nazi Conspiracy..., vol. 7, pp. 1086-1093).

incorporated into the so-called East Prussian province²⁸⁸. Instead, it was temporarily a corridor between lands administered by Erich Koch, whom Karol Pospieszalski called "the ruler over the entire inter-maritime area" (his rule stretched from the Baltic to the Black Sea)²⁸⁹. Besides, the creation of the buffer so-called Bialystok district was intended to prevent a possible resurrection of the idea of a Polish-Lithuanian state. The coordinators of the police services in this district, responsible, among other things, for carrying out extermination tasks, became the commanders of the police and SS (SSPF Bialystok). These positions were held successively by Werner Fromm (1942-1943), Otto Hellwig (1943-1944) and Heinz Roch (in 1944).

The remaining Polish borderlands became part of two Reich commissariats. The head of their civil administration was the Reichsminister für die besetzten Ostgebiete (Reichsminister für die besetzten Ostgebiete, RMfdbO), who, according to Adolf Hitler's decree of July 17, 1941²⁹⁰, became Alfred Rosenberg, a leading German theorist of racism (§ 4). In turn, the commissariats were headed by Reich Commissars. They were subordinate to the commander-in-chief and the aforementioned minister, and their authority was further limited by the powers provided for the military command, Heinrich Himmler, Reichsführer SS and chief of the German police, and Hermann Göring, plenipotentiary for the Four-Year Plan (Beauftragte für den Vierjahresplan, § 3, 7). The Reich Minister for the Occupied Eastern Territories, however, had legislative powers, the exercise of which he could delegate to officials in charge of the administrative units under him - the Generalbezirke (Generalbezirke, § 8). Disputes of competence between the Reich Commissars and the Reich Minister for the Occupied Eastern Areas were to be resolved, in principle, by direct agreement between the parties concerned (for this purpose, the Minister was to maintain close communication with the Commissars) - but if agreement could not be reached, the matter was to be settled by Adolf Hitler through the head of the Reich Chancellery, Hans Lammers (§ 10). The decree provided for the division of general districts into principal districts (Hauptbezirke), with principal commissioners at the head (Hauptkommissare), these in turn were to be made up of districts (Kreisgebiete), governed by district commissioners (Gebietskommissare, §5-6). The power to appoint the heads of the commissariats and general districts was reserved to Adolf Hitler, while the selection of the chief and district commissars belonged to the Reich Minister for the Occupied Eastern Territories (§ 6).

The so-called Reich Commissariat East was created from the northern Polish borderlands, namely the provinces of Vilnius, Novogrudok and the northern part of Polesie, on the basis of the aforementioned Commander-in-Chief's decree of July 17, 1941 (digit. I). Its capital was established as Riga (Rīga, digit. III), and Kaunas (Kaunas) was designated as the

²⁸⁸ C. Madajczyk, *Politics...*, vol. 1, pp. 211-212.

²⁸⁹ K. Pospieszalski, *Responsibility...*, p. 17.

²⁹⁰ *Erlass des Führers über die Verwaltung der neu besetzten Ostgebiete. Vom 17. Juli 1941* [in:] M. Moll, "Führer-Erlasse"..., pp. 186-188. The decree was signed by Adolf Hitler, Wilhelm Keitel and Hans Lammers. In the trial of the major German criminals, this act was the evidence of the American prosecution designated as USA-319. In the Nuremberg collection of documents, it is numbered 1997-PS (see Document 1997-PS. Letter from Lammers to the Supreme Reich Authorities, July 18, 1941... [in] *Trial...*, vol. XXIX, pp. 234-237. See Partial Translation of Document 1997-PS [in] *Nazi Conspiracy...*, vol. 4, pp. 634-636).

temporary seat of the Reich Commissariat²⁹¹. The commissariat was headed by the Reichskommissar für das Ostland (Reichskommissar for the East), who was initially Hinrich Lohse (1941-1944), Oberpräsident der Provinz Schleswig-Holstein (Oberpräsident of the Province of Schleswig-Holstein) and its gauleiter (digit III). He was replaced by Erich Koch, Oberpräsident and gauleiter of East Prussia and head of the civil administration of the so-called Bialystok district (he held his post in the commissariat officially from 1944 to 1945, but *de facto* until Soviet troops occupied it). The so-called General Commissariat East was divided into two so-called general districts inhabited by a large Polish minority: Lithuania (Litauen) and Belarus (Weißruthenien). The former included the western part of Vilnius province with Vilnius and the northwestern slice of Novogrudok, while the latter included the rest of the aforementioned area. The administrative head of the so-called General District in Lithuania, or Commissar General, was Theodor von Renteln, hitherto head of the Main Office of Trade and Crafts in the Reichsleitung der Reichsleitung der NSDAP (Hauptamtsleiter Handel und Handwerk in der Reichsleitung der NSDAP), for the entire period of German occupation in Lithuania; in Belarus, this function was held successively by Wilhelm Kube (from 1941 until his death in a bombing in Minsk on September 22, 1943), gauleiter of the party district of the Brandenburg March (Gau Mark Brandenburg), and Curt von Gottberg (from 1943), former head of the Settlement Office (Amtschef des Siedlungsamtes) within the structures of the SS Main Office of Race and Settlement. Both were suspected of corrupt activities and abuse of power. The so-called General District of Belarus, in accordance with Adolf Hitler's order (also signed by Wilhelm Keitel and Hans Lammers) of April 1, 1944²⁹², was excluded from the so-called Reich Commissariat East (cyf. I). The commissar general of this unit was immediately subordinated to the Reich Minister for the Occupied Eastern Territories (digit I). A higher commander of the SS and police (HSSPF Ostland und Russland-Nord) was appointed as police coordinator in the RKO. This function was performed by Friedrich Jeckeln (1941-1945), and in the last months of the occupation by Hermann Behrends (1945). In the general districts, in turn, police and SS commanders were appointed. The so-called Reich Commissariat East was dissolved in the spring of 1945 as a result of the withdrawal of German troops.

In turn, the southern borderlands, i.e., the Volhynia province and most of the Polesie province, were placed in the so-called Reich Commissariat Ukraine, in accordance with the Führer's decree of August 20, 1941.²⁹³ (digits I). Erich Koch, who held many positions in and outside the Reich, was appointed Reich Commissar with headquarters in Rivne (digit. III). The transfer of authority to the civil administration as a result of the exclusion of the commissariat from the operational area of the ground forces was scheduled for September 1, 1941 at 12:00 a.m., which resulted from an order from the Wehrmacht

²⁹¹ Befehl des Führers und des Obersten Befehlshabers der Wehrmacht betrifft Ausscheiden von Gebietsteilen im Osten aus dem Operationsgebiet des Heeres und Einführung der Zivilverwaltung. Vom 18. Juli 1941 [in:] M. Moll, "Führer-Erlasse"..., pp. 190-191. The transitional seat is indicated in Article III of the order.

²⁹² Erlass des Führers über die Ausgliederung des Generalbezirks Weißruthenien aus dem Reichskommissariat Ostland. Vom 1. April 1944 [in:] M. Moll, "Führer-Erlasse"..., pp. 408-409.

²⁹³ Zweiter Erlass des Führers über die Einführung der Zivilverwaltung in den neu besetzten Ostgebieten. Vom 20. August 1941 [in:] M. Moll, "Führer-Erlasse"..., p. 195.

commander-in-chief and commander-in-chief on August 20, 1941²⁹⁴ (digit. I, point 1). The Commissariat was divided into six general districts, with the Polish lands in the westernmost one, Volhynia-Podolia (Wolhynien-Podolien), with its headquarters in Lutsk. The district's general commissar was Heinrich Schoene, the police president (Polizeipräsident) from Königsberg. Police authority in the OCR belonged to the senior police and SS commanders of the area proper (HSSPF Russland-Süd), who were Friedrich Jeckeln (in 1941) and Hans-Adolf Prützmann (from 1941). The latter was appointed in 1943 to the post of supreme SS and police commander (Höchster SSund Polizeiführer, HöSSPF) and held this position (HöSSPF Ukraine) until 1944. The second supreme SS and police commander was Karl Wolff, who held this position in Italy (HöSSPF Italien) from 1943 to 1945. SS and police commanders operated at a lower level. The so-called Reich Commissariat Ukraine *de facto* ceased to exist at the beginning of 1944, when Soviet troops occupied it.

To sum up - in the course of World War II, Germany occupied the entire pre-war territory of the Republic of Poland and the area of FCD, in the international legal dimension organically connected with Poland between the wars. Although the periods of German rule in Polish lands varied considerably, from at least two and a half years in the Borderlands to more than five years in the western reaches of Poland, everywhere the Reich authorities sought to completely abolish Polish administration. Between 1939 and 1945, Polish territories were assigned to eight German administrative units (their names were changed), the so-called Reich District of Danzig-West Prussia, Reich District of Wartheland, Silesian and East Prussian Provinces, GG, Bialystok District, Reich Commissariat East and Reich Commissariat Ukraine. In some cases, it was decided to temporarily preserve or reactivate Polish organs of the lowest administrative level, especially in the so-called GG, in order to curry favor with the Polish population, maintain order and offset resistance from part of the population. In the Borderlands, on the other hand, which Poles inhabited jointly with, among others, Byelorussians and Ukrainians, filling the lowest posts served to antagonize the communities. Indeed, the principle of appointing an official from a national minority in a given locality (a Pole among the dominant Ukrainian community, or a Byelorussian in a Polish siole) was used, so that the Germans would gain the position of peacemakers and *de facto* administrators. The destruction of Polish administrative structures was a prelude to the total elimination of the nation. Depriving the Poles of state organizational facilities allowed the German authorities to exploit their preferred method based on the Roman rule of "divide and rule." Consequently, Poles traditionally turned to alternative structures based on the hierarchy of the Catholic Church. Under the aegis of the Polish government-in-exile (until 1940 in Paris and Angers, later in London), the Polish Underground State²⁹⁵, which was regarded

²⁹⁴ Befehl des Führers und des Obersten Befehlshabers der Wehrmacht betrifft Ausscheiden von Gebietsteilen im Osten aus dem Operationsgebiet des Heeres und Einführung der Zivilverwaltung. Vom 20. August 1941 [in:] M. Moll, "Führer-Erlasse"..., pp. 196-197.

²⁹⁵ The clandestine organs of the PPP functioned in the occupied country from September 27, 1939, when an underground organization subordinate to the government in exile called the Polish Victory Service was established, until July 1, 1945, when the independent Council of National Unity and the Government Delegation for Poland dissolved themselves as a result of the withdrawal of international recognition of the Polish government in exile. Most likely for the first time in the press, the term PPP (the words appeared in a different order) was used in the "Information Bulletin" of 13 January 1944 (Underground Polish State. Around unified authorities - a unified society, "Biuletyn Informacyjny" 2 (1944), pp. 1-2). The pioneer of research on

as a phenomenal example of independent administration in a Europe oppressed by Germany and the USSR, was also established, independent of the occupier.

Introduction of German law and administration of justice

In the context of the liquidation of the Polish state and the administrative separateness of the Free City of Danzig, it should also be mentioned that in the occupied territories Polish and Danzig laws were replaced by German political directives and so-called legislation²⁹⁶.

Given the administrative manner in which the executive branch created and enacted laws, it is difficult to call this process lawmaking. Rather, due to the dominance of German party structures over state structures in the occupied territories, it should be described as the implementation of political intentions.

The law on the unification of the FCD with the Reich stipulated that until Adolf Hitler regulated the validity of German law in the FCD, Danzig legislation, with the exception of the constitution, would remain in force (§1 Article IV and §3). It was stipulated that all German and Prussian national law would take effect in the FCD on January 1, 1940 (§ 4(1)). This could have occurred earlier as a result of agreements between the Reich Minister of the Interior and the minister concerned (§ 4(3)). However, the competent Reich Minister, in consultation with the Minister of the Interior, could limit the temporal and material scope of the introduced law, or even exclude its application, which, however, required publication in a German-wide promulgator (§ 4(2)). The applicability of §§ 3 and 4 was confirmed *expressis verbis* in § 8 of the October 8, 1939 decree.

In the first decree of September 12, 1939²⁹⁷, issued to implement the Incorporation Act, Wilhelm Frick and Gen. Walther von Brauchitsch indicated that laws and decrees of the

the history of the PPP was Stanisław Salmonowicz, earlier, in the years of the Polish People's Republic, contributions to the subject were developed by Stanisław Kauzik (under the pseudonym Stanisław Dołęga-Modrzewski) in exile and Józef Garliński in the second circuit. Studies on the subject were continued by, among others, Grzegorz Górski, a student of Stanisław Salmonowicz, Waldemar Grabowski and Zbigniew Hirs (S. Salmonowicz, *Polskie Państwo Podziemne. Z dziejów walki cywilnej 1939-45*, Warsaw 1994; idem, *Polskie Państwo Podziemne (PPP). 1939-1945 [in:] Underground Struggle in Pomerania in 1939-1945. On the 50th Anniversary of the Polish Victory Service. Materials of the session in Toruń, September 27-28, 1989*, ed. J. Sziling, Toruń 1990, pp. 11-50; S. Kauzik, *Polish Underground State*, London 1959; J. Garliński, *Polish Underground State 1939-1945*, Warsaw 1985; G. Górski, *Polish Underground State 1939-1945*, Toruń 1998; *Polish Underground State in the Years 1939-1941*, ed. W. Grabowski et al, Warsaw 2003; W. Grabowski, *Polish Secret Civil Administration 1940-1945*, Warsaw 2003; *Information Activities of the Polish Underground State*, ed. W. Grabowski, Warsaw 2003; *Security Organs and Justice of the Polish Underground State*, ed. W. Grabowski, Warsaw 2005; Z. Hirs, *Czynniki polityczno-społeczne warunkujące funkcjonowanie systemu państwa w latach wojny i okupacji 1939-1945*, "Prawo, Administracja, Zarządzanie" 1 (1990), pp. 301-342; idem, *Historia polityczna Polski 1939-1998*, vol. 1: *The Polish Underground State*, Białystok 1998; M. Ney-Krawicz, *Armia Krajowa. Armed Forces of the Polish Underground State*, Warsaw 2009).

²⁹⁶ The use of the phrase "so-called" in the context of German legislation served to emphasize that the normative acts introduced in Poland that excluded Polish law were internationally illegal in legal terms, while at the same time they were actually in force on Polish soil and were used to achieve political goals.

²⁹⁷ *Erste Verordnung zum Gesetz über die Wiedervereinigung der Freien Stadt Danzig mit dem Deutschen Reich. Vom 12. September 1939 (RGBl. I 1939, 177, 1759).*

Reich Defense Council (Ministerrat für die Reichsverteidigung)²⁹⁸ adopted after September 1, 1939, unless expressly stipulated otherwise, are valid in the FCD (§ 1), as are the Flag Law of September 15, 1935²⁹⁹, the Emblem Ordinance of November 5, 1935³⁰⁰ and the Seal Decree of March 16, 1937³⁰¹ (§ 2). The decree came into effect on the day of promulgation (§ 3).

In the second decree, dated October 19, 1939³⁰², the Reich Minister of the Interior, exercising his authority to make German and Prussian law applicable in the FCD earlier than the Unification Act (§ 4(3)), ordered the implementation of a number of ordinances regulating war issues (item 1). At the same time, he continued to suspend the application in the FCD of the German laws and ordinances of the Reich Defense Council that he mentioned (Section 2).

The rule that legislation adopted after September 1, 1939, resulting from the first decree of September 12, 1939, is valid in the FCD, was extended and made applicable not only to acts issued by the Reich Defense Council, but also to decrees of the Plenipotentiary for the Four-Year Plan, the General Plenipotentiary for Reich Administration, the General Plenipotentiary for the Economy and the Chief of the Supreme Command of the Armed Forces. The new rule was found in the first decree of the Minister of the Interior on October 26, 1939³⁰³ for the implementation of Adolf Hitler's decree on the division of Polish lands and their administration of October 8, 1939 (§ 2(1)).

On the other hand, in the so-called Polish territories incorporated into the Reich, according to Adolf Hitler's decree of October 8, 1939, the existing legislation was to remain in force until further notice (§ 7) - an exception was made for situations where it was incompatible with the fact that Polish lands had been incorporated into Germany (§ 7). However absurdly and imprecisely this provision was worded, its significance proved momentous. For in practice, it was recognized that the application of the Polish legal order prevented the implementation of German depolonization policy and was incompatible with the National Socialist worldview, and therefore dangerous to the interests of the Reich. In fact, Polish legislation was not so much abrogated as negated and abandoned. Instead, party directives began to be implemented under the guise of introducing German law. The competence to establish German state law and Prussian national law in the incorporated lands in the form of a decree was given to the Reich Minister of the Interior acting in consultation with another minister with substantive competence (Section 8).

²⁹⁸ The body was created by Adolf Hitler (the decree was also signed by Hermann Göring and Hans Lammers) to unify administrative and economic leadership in a situation of international tension. The committee, chaired by Hermann Göring, was formed from the transformation of the Reich Defense Council, the Reichsverteidigungsrat, which functioned under the law of April 4, 1933 (Erlass des Führers über die Bildung eines Ministerrats für die Reichsverteidigung. Vom 30. August 1939, RGBl. I 1939, 154, 1539).

²⁹⁹ Reichsflaggengesetz. Vom 15. September 1935 (RGBl. I 1935, 100, 1145).

³⁰⁰ Verordnung über das Hoheitszeichen des Reichs. Vom 5. November 1935 (RGBl. I 1935, 122, 1287).

³⁰¹ Erlass über die Reichssiegel. Vom 16. März 1937 (RGBl. I 1937, 34, 307).

³⁰² Zweite Verordnung zum Gesetz über die Wiedervereinigung der Freien Stadt Danzig mit dem Deutschen Reich. Vom 19. Oktober 1939 (RGBl. I 1939, 207, 2058).

³⁰³ Erste Verordnung zur Durchführung des Erlasses des Führers und Reichskanzlers über Gliederung und Verwaltung der Ostgebiete. Vom 26. Oktober 1939 (RGBl. I 1939, 214, 2108); First Order for the Implementation of the Decree of the Führer and Reich Chancellor on the Division and Administration of the Eastern Areas of October 26, 1939. [in:] Selection of Source Texts..., pp. 27-28.

Exercising his authority to issue laws to implement the Commander-in-Chief's decree of October 8, 1939 (§ 12), the Reich Minister of the Interior, in a decree of October 26, 1939, regulated the validity of the law in the FCD, and for the so-called Reich District of Danzig-West Prussia (in addition to the FCD and the former West Prussian Regency³⁰⁴), the Reich District of Poznań, the Ciechanów and Katowice Regencies, established the principle that German laws and ordinances of the Reich Council of Ministers for the Defense of the Reich (§ 1(1)) did not apply. Defense of the Reich, the Plenipotentiary for the Four-Year Plan, the General Plenipotentiary for Reich Administration, the General Plenipotentiary for the Economy and the Chief of the Supreme Command of the Armed Forces (§ 1(1)). Exceptions were legal acts issued since October 26, 1939, the validity of which was expressly stated (§ 1(1)). The Reich Minister of the Interior, together with the materially competent ministers with whom he was required to communicate on the matter, became the authority authorized to issue a binding interpretation regarding the determination of the validity of a particular piece of legislation (§ 3). He performed his actions in accordance with administrative procedure (§ 3).

German legislation was gradually introduced on Polish soil from the first days of the occupation. German criminal law, as already mentioned, was based on the Ordinance of the Commander-in-Chief of the Land Forces of September 5, 1939. Along with this legislation were printed excerpts from the Ordinance on German Criminal Law in Times of War and Special Actions of August 17, 1938³⁰⁵ (§ 1-5) and passages from the Reich Military Criminal Code³⁰⁶ (§ 134, 160-161). They were promulgated in the original German, as well as in a Polish translation. The ordinance of September 5, 1939, during the period of military administration, was supplemented by ordinances extending the authority of the German judiciary, also on the temporal plane, i.e., the punishability of acts prior to September 1, 1939, henceforth to be subject to criminal evaluation in light of German laws³⁰⁷.

Following the cessation of the military administration for the so-called "incorporated territories," the Reich Minister of the Interior and the Reich Minister of Justice issued the Ordinance on the Introduction of German Criminal Law³⁰⁸ on June 6, 1940. Its Article II, containing special criminal provisions for the incorporated eastern territories, was repealed by the Ordinance on Criminal Justice for Poles and Jews³⁰⁹ in the incorporated eastern territories, issued by the Reich Defense Council on December 4, 1941³¹⁰ (Part 5,

³⁰⁴ In connection with the creation of the so-called Kwidzyn Regency from the West Prussian Regency (from the so-called East Prussian Province), it was decided to preserve Reich legislation in the area that was part of the German state prior to September 1, 1939 (§ 2(2)).

³⁰⁵ Verordnung über das Sonderstrafrecht im Kriege und bei besonderem Einsatz (Kriegssonderstrafrechtsverordnung). Vom 17. August 1938 (RGBl. I 1939, 147, 1455).

³⁰⁶ Einführungsgesetz zum Militär-Strafgesetzbuche für das Deutsche Reich. Vom 20. Juni 1872 (DRGBl. 1872, 18, 173); Militär-Strafgesetzbuch für das Deutsche Reich. Vom 20. Juni 1872 (DRGBl. 1872, 18, 174).

³⁰⁷ Ordinance on the prosecution of crimes committed before September 1, 1939 in the German-occupied Polish territories of October 1, 1939 (Dz. ROOP 1939, 7, 24).

³⁰⁸ Verordnung über die Einführung des deutschen Strafrechts in den eingegliederten Ostgebieten. Vom 6. Juni 1940 (RGBl. I 1940, 100, 844).

³⁰⁹ In connection with the extermination of the Jews in the Polish territories, the circle of legal subjects specified in the regulation was in fact systematically reduced, if that had any relevance to the practice of applying the regulation to Jews.

³¹⁰ Verordnung über die Strafrechtspflege gegen Polen und Juden in den eingegliederten Ostgebieten (RGBl. I 1941, 140, 759); Ordinance on Criminal Justice for Poles and Jews in the Incorporated Eastern Areas of December 4, 1941. [in:] Selection of Source Texts..., pp. 41-46; See Supplementary Ordinance: Verordnung zur

Item XVI). It provided for draconian punishments for Poles and Jews, among them the death penalty for juvenile offenders (not necessarily resulting from the provisions for a specific act), imprisonment (in an aggravated prison camp - from 2 to 15 years, in a penal camp - from 3 months to 10 years), fines (which could be converted to imprisonment in a penal camp - from one week to one year) and confiscation of property (Part 1, point III, paragraphs 1-2, 4). Reduction of punishment was possible only if the offender committed a crime against the person of his own nationality (part 1, item III, paragraph 3). Relative to the ordinance of June 6, 1940, the catalog of offenses that Poles and Jews could commit against Germans in connection with their nationality, against representatives of German authorities (military, administrative and party) and their actions was clarified and expanded (Part 1, point I, paragraphs 2-5). In addition, Poles and Jews were to be punished for violations of German criminal law (Part 1, Item II), which they were obligated to obey (Part 1, Item I, Paragraph 1).

The aforementioned ministers also adopted the Ordinance on Civil Justice of September 25, 1941³¹¹, which recognized German civil legislation as valid in the Polish territories incorporated into the Reich - while listing many German laws to remain in force.

German military law, known in the Reich as defense law (Wehrrecht), was implemented in the so-called incorporated lands by decree of April 30, 1940³¹², signed by Wilhelm Keitel and Wilhelm Stuckart, deputy Reich Minister of the Interior. It enumerated a number of legal acts that were retroactively set to take effect on March 1, 1940, unless they had previously come into force in parts of the so-called incorporated lands (§ 1). In addition, numerous caveats were indicated as to their scope of application and methods of implementation were specified (§ 3-7).

Officially, racial laws in the so-called "incorporated territories" were not implemented until 1941, according to a decree issued by the Reich Minister of the Interior and the Reich Minister of Justice on May 31, 1941.³¹³ Among them were the so-called Nuremberg Laws - on Reich citizenship³¹⁴ (§ 1-2) and on the protection of German blood and German honor³¹⁵ (§ 3), both dated September 15, 1935. At the same time, it was indicated that Poles, with the exception of Volksdeutsche, were not subject to the guarantees of the latter

Ergänzung der Verordnung über die Strafrechtspflege gegen Polen und Juden in den eingegliederten Ostgebieten. Vom 31. Januar 1942 (RGBl. I 1942, 9, 52).

³¹¹ Verordnung über die bürgerliche Rechtspflege in den eingegliederten Ostgebieten (Ost-Rechtspflege-Verordnung - ORpflVO). Vom 25. September 1941 (RGBl. I 1941, 112, 597). See also Erste Durchführungsverordnung zur Verordnung über die bürgerliche Rechtspflege in den eingegliederten Ostgebieten (Erste Ost-Rechtspflege-Durchführungsverordnung - 1. ORpflDVO). Vom 25. September 1941 (RGBl. I 1941, 112, 599).

³¹² Verordnung über die Einführung von Wehrrecht in den eingegliederten Ostgebieten. Vom 30. April 1940 (RGBl. I 1940, 79, 707). See excerpts from the decree translated into English: Decree Concerning the Introduction of Military Law in the Incorporated Eastern Territories, April 30, 1940 [in:] R. Lemkin, Governance... (appendix), p. 508.

³¹³ Verordnung über die Einführung der Nürnberger Rassengesetze in den eingegliederten Ostgebieten. Vom 31. Mai 1941 (RGBl. I 1941, 60, 297). See Order partially translated into English: Order Concerning the Organization and Administration of the Eastern Territories, May 31, 1941 [in:] R. Lemkin, Governance... (appendix), p. 509.

³¹⁴ Reichsbürgergesetz. Vom 15. September 1941 (RGBl. I 1935, 100, 1146).

³¹⁵ Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre. Vom 15. September 1941 (RGBl. I 1935, 100, 1146).

act. This regulation was repeated in the so-called Second Ordinance of May 31, 1941³¹⁶ (§ 1) to implement this law, issued by the Reich Minister of the Interior, the Reich Minister of Justice and Martin Bormann, Head of the Party Chancellery (Leiter der Partei-Kanzlei).

The introduction of German law was not welcomed by local superiors and party bonzos at the same time. Erich Koch stated as early as May 27, 1940, in connection with the establishment of a special court in Ciechanow by the Reich Minister of Justice (after the super-president suspended the activities of the special court in Przasnysz at the end of 1939), that "no law applies in the Ciechanow district."³¹⁷ Arthur Greiser, on the other hand, was opposed to the introduction of German criminal law in the Wartheland before the autumn of 1940, on the grounds that it could hinder the punishment of Poles, so far effective³¹⁸. The fears turned out to be misplaced; the adjudicators carried out party directives and displayed a fully formed National Socialist conscience. Legislative competence was assumed by governors and super-presidents - with the approval of the Reich Minister of the Interior or as party district heads, they issued acts regulating legal relations in general and abstract terms.

Hans Frank, the general governor of lands not incorporated into the Reich, and the superiors of the units created in the Polish borderlands seized by Germany as a result of the war with the USSR had no dilemmas. These territories remained outside the Reich (although some of them were planned for incorporation into Germany, such as the so-called Bialystok district, and in prospect also the so-called GG), and the degree to which they were formally bound by Reich legislation varied from minor and framework to dominant. For example, in the so-called Bialystok District, German criminal law was introduced on November 1, 1942 by Erich Koch's decree of September 30, 1942.³¹⁹, although there were legal and administrative conditions specific to the area. The situation was aptly characterized by Katrin Stoll: "The Bialystok district had, from both a legal and administrative point of view, a special status [...]. The structure of the occupation apparatus in the Bialystok district combined elements [...] characteristic of the Reich and the General Government."³²⁰.

For the sake of order, the sources of the law should be indicated. Initially, while still under military administration, regulations in the gradually occupied Polish territories were in practice made by the commander-in-chief of the land forces, and in the final period of military authority also by the chief administrative officer. Their acts were published in

³¹⁶ Zweite Verordnung zur Ausführung des Gesetzes zum Schutze des deutschen Blutes und der deutschen Ehre. Vom 31. Mai 1941 (RGBl. I 1941, 60, 297). See excerpts from the ordinance in English translation: Second Order Implementing the Act for the Protection of German Blood and German Honor, May 31, 1941 [in:] R. Lemkin, *Governance...* (appendix), pp. 509-510.

³¹⁷ M. Broszat, *Nationalsozialistische Polenpolitik...*, pp. 138 et seq; E. Zarzycki, *Exterminatory and discriminatory activities...*, pp. 18-19.

³¹⁸ In a letter dated April 30, 1940, the Reich Minister of the Interior cited Arthur Greiser's position on the choice of legal system in occupied Greater Poland (E. Zarzycki, *Exterminatory and Discriminatory Activities...*, p. 15).

³¹⁹ Verordnung des Oberpräsidenten als Chef der Zivilverwaltung über die Einführung des deutschen Rechts im Bezirk Bialystok. Vom 30. September 1942 (AO ZBB 1942, 16, 129).

³²⁰ "Der Bezirk Bialystok hatte sowohl rechtlich als auch verwaltungstechnisch einen Sonderstatus [...]. Die Struktur des Besatzungsapparates im Bezirk Bialystok vereinigt [...] Elemente, die sowohl für das Reich als auch für das Generalgouvernement charakteristisch sind" (K. Stoll, *Die Herstellung der Wahrheit. Strafverfahren gegen ehemalige Angehörige der Sicherheitspolizei für den Bezirk Bialystok*, Berlin 2012, p. 152).

the bilingual German-Polish journal *Verordnungsblatt für die besetzten Gebiete in Polen*. Journal of Ordinances for the Occupied Areas in Poland." A total of twelve issues were published between September 11, 1939 and October 23, 1939. In addition, during the same period, the heads of the civil administration under German army commanders issued normative acts in accordance with their limited powers. Some of these were published in the following promulgators, known as ordinance journals (*Verordnungsblätter*), among others:

- "*Verordnungsblatt der Armee. Chef der Zivilverwaltung*" head of civil administration at the 8th Army;
- "*Verordnungsblatt des Chefs der Zivilverwaltung Krakau*" by the head of the civil administration at the 14th Army;
- "*Verordnungsblatt des Chefs der Zivilverwaltung beim Militärbefehlshaber von Posen*" in the military district of Poznań;
- "*Militärverordnungsblatt Danzig-Westpreussen*" in the military district of Danzig-West Prussia;
- "*Verordnungsblatt des Grenzschutz-Abschnitt-Kommando 3*" in Upper Silesia, from No. 12 of October 5, 1939 entitled "*Verordnungsblatt des Abschnitt Oberschlesien, Chef der Zivilverwaltung*," and from No. 16 of October 16, 1939. - "*Verordnungsblatt des Militärbereichs Oberschlesien, Chef der Zivilverwaltung*".

After the official Danzig promulgator, the "*Gesetzblatt für die Freie Stadt Danzig*," was abolished, the administrative journal began publishing under the name "*Verordnungsblatt für die Zivilverwaltung in den dem Gauleiter Forster als Chef der Zivilverwaltung unterstellten besetzten Gebieten*"³²¹. During the period of military administration, the "*Verordnungsblatt des Militärbefehlshalters Danzig-Westpreussen*" was published, containing legal acts applicable to the entire Danzig-West Prussian military district.

After the new administrative division of the FCD and the so-called Polish territories incorporated into the Reich was established, the legal regulations applicable to the annexed territories were promulgated in the Reich Law Gazette (*Reichsgesetzblatt*). In addition, Reich governors at the district level and super-presidents - at the provincial level - were given legislative competence. Their acts were issued in the following German-language promulgators:

- The regulations of the governor of the so-called Reich District of West Prussia and then Danzig-West Prussia and the administrator of the FCD were published respectively in "*Verordnungsblatt des Reichsstatthalters Reichsgau Danzig*" (1939.), "*Verordnungsblatt*

³²¹ See issues 1-5 of the publication: Pomeranian Digital Library, *Verordnungsblatt für die Zivilverwaltung in den dem Gauleiter Forster als Chef der Zivilverwaltung Unterstellten Besetzten Gebieten*, <http://pbc.gda.pl/dlibra/publication?id=73575&tab=3>, accessed 29 II 2020.

des Reichsstatthalters Reichsgau Danzig-Westpreussen"³²² (1939-1940) and "Verordnungsblatt des Reichsstatthalters in Danzig-Westpreussen" (1940-1945);

- acts of the governor of the so-called Reich District of Posen and then Wartheland - in "Verordnungsblatt des Reichsstatthalters im Reichsgau Wartheland" (1939-1940), "Verordnungsblatt des Reichsstatthalters im Reichsgau Posen" (several issues in 1940) and "Verordnungsblatt des Reichsstatthalters im Warthegau" (from 1940 to at least 1944);
- regulations for the so-called Silesian and East Prussian provinces - in the "Preußische Gesetzsammlung"³²³.

In the so-called GG, the acts of the General Governor in 1939-1940 were promulgated in the bilingual German-Polish "Verordnungsblatt des Generalgouverneurs für die besetzten polnischen Gebiete. Journal of Ordinances of the General Governor for the Occupied Polish Areas"³²⁴, and after the name of the administrative unit was shortened, the title of the promulgator was also modified - as "Verordnungsblatt für das Generalgouvernement. Journal of Ordinances for the General Government"³²⁵ was published from 1940 to 1945. After the Galicia district was incorporated into the so-called GG, the occupation legislation in force there was published in the Journal of Ordinances of the so-called GG. The heads (later governors) of the various so-called GG districts issued their own official gazettes, the names of which changed, respectively:

- "Amtsblatt des Chefs des Distrikts Krakau im Generalgouvernement für die Besetzten Polnischen Gebiete" (in German and Polish-Ukrainian, 1939-1940³²⁶);
- "Amtsblatt des Chefs des Distrikts Warschau im Generalgouvernement für die Besetzten Polnischen Gebiete. Official Journal of the Warsaw Chiefdom District at the General Governor's Office for the Occupied Polish Territories"³²⁷ (1939-1940), "Amtsblatt des Chefs des Distrikts Warschau im Generalgouvernement. Official Journal of the District Head of

³²² See the bulk of the publication's issues for 1939-1940: Pomeranian Digital Library, Verordnungsblatt des Reichsstatthalters Reichsgau Danzig-Westpreussen, <http://pbc.gda.pl/dlibra/publication?id=73582&tab=3>, accessed 29 II 2020.

³²³ See law collection numbers for 1907-1940: Jagiellonian Digital Library, Preußische Gesetzsammlung, <https://jbc.bj.uj.edu.pl/dlibra/publication/459069#structure>, accessed 29 II 2020.

³²⁴ See Maria Curie-Skłodowska University Digital Library, Verordnungsblatt des Generalgouverneurs für die besetzten polnischen Gebiete. Journal of Ordinances of the General Governor for the Occupied Polish Areas, <http://dlibra.umcs.lublin.pl/dlibra/publication?id=7523&tab=3>, accessed 29 II 2020.

³²⁵ See selected issues of the diary for 1940-1943: ICU Digital Library, Verordnungsblatt für das Generalgouvernement. Journal of Ordinances for the General Government, <http://dlibra.umcs.lublin.pl/dlibra/publication?id=11395&tab=3>, accessed 29 II 2020; selected issues of the journal for 1944: UMCS Digital Library, Verordnungsblatt für das Generalgouvernement. Journal of Ordinances for the General Government, <http://dlibra.umcs.lublin.pl/dlibra/publication?id=7529&tab=3>, accessed 29 II 2020. Cf. some issues of the journal from 1941-1942 published in the Ukrainian-language version: Polon Digital National Library, Dennik Rozporâdkiv dlâ General'nogo Gubernatorstva, https://polona.pl/search/?query=Dennik_Rozpor%C3%A2dkiv_dl%C3%A2_General%27nogo_Gubernatorstva&filters=public:1, accessed 29 II 2020.

³²⁶ The time intervals given in parentheses indicate the confirmed period of issuance of the promulgator, although in reality it may have been longer.

³²⁷ See Polon Digital National Library, Amtsblatt des Chefs des Distrikts Warschau im Generalgouvernement für die Besetzten Polnischen Gebiete. Official Gazette of the District Headquarters Warsaw at the General Governor's Office for the Occupied Polish Territories, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Warschau_im_Generalgouvernement_f%C3%BCr_die_Besetzten_Polnischen_Gebiete&filters=public:1, accessed 29 II 2020.

Warsaw at the General Governor's Office"³²⁸ (1940), "Amtsblatt des Chefs des Distrikts Warschau im Generalgouvernement. Official Gazette of the Chief of the Warschau (Warsaw) District in the General Government"³²⁹ (1940-1941), and later "Amtsblatt für den Distrikt Warschau im Generalgouvernement. Official Gazette for the Warschau District in the General Government"³³⁰ (1940-1941);

- German-Polish "Amtsblatt des Chefs des Distrikts Radom im Generalgouvernement für die Besetzten Polnischen Gebiete. Official Journal of the Head of the Radom District in the General Government for the Occupied Polish Areas" (1939-1940)³³¹ ;

- "Amtsblatt des Chefs des Distrikts Lublin im Generalgouvernement für die besetzten polnischen Gebiete. Official Journal of the District Chief of Lublin at the General Governor's Office for the Occupied Polish Areas" (1939-1940)³³² , "Amtsblatt des Chefs des Distrikts Lublin im Generalgouvernement. Official Journal of the Chief of the Lublin (Lublin) District in the General Government" (1941)³³³ ; "Amtsblatt des Distriktschefs in Lublin im Generalgouvernement. Official Gazette of the District Chief in Lublin in the General Government"³³⁴ (1941) ; "Amtsblatt des Chefs des Distrikts Lublin im Generalgouvernement. Official Gazette of the Head of the Lublin District in the General Government"³³⁵ (1941); "Amtsblatt des Gouverneurs des Distrikts Lublin im

³²⁸ This name refers to only one issue of the publication, i.e., No. 9 of September 16, 1940. See Polon Digital National Library, Amtsblatt des Chefs des Distrikts Warschau im Generalgouvernement. Official Gazette of the District Headquarters of Warsaw at the General Governor's Office, <https://polona.pl/item/amtsblatt-des-chefs-des-distrikts-warschau-im-generalgouvernement-dziennik-urzedowy,ODUyNDU4ODE/0/#info:metadata>, accessed 29 II 2020.

³²⁹ See Polon Digital National Library, Amtsblatt des Chefs des Distrikts Warschau im Generalgouvernement. Official Journal of the Chief of the Warschau (Warsaw) District in the General Government, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Warschau_im_Generalgouvernement&filters=public:1, accessed 29 II 2020.

³³⁰ See Polon Digital National Library, Amtsblatt für den Distrikt Warschau im Generalgouvernement. Official Gazette for the Warschau District in the General Government, https://polona.pl/search/?query=Amtsblatt_f%C3%BCr_den_Distrikt_Warschau&filters=public:1, accessed 29 II 2020.

³³¹ See Radom Digital Library, Amtsblatt des Chefs des Distrikts Radom im Generalgouvernement für die besetzten polnischen Gebiete. Official Gazette of the Head of the Radom District in the General Government for the Occupied Polish Areas, <http://bc.radom.pl/dlibra/publication?id=16820&tab=3>, accessed 29 II 2020.

³³² See Polon Digital National Library, Amtsblatt des Chefs des Distrikts Lublin im Generalgouvernement für die besetzten polnischen Gebiete. Official Journal of the District Headquarters of Lublin under the General Governor for the Occupied Polish Territories, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Lublin_im_Generalgouvernement_f%C3%BCr_die_besetzten_polnischen_Gebiete&filters=public:1&sort=date%20asc, accessed 29 II 2020.

³³³ See Polon Digital National Library, Amtsblatt des Chefs des Distrikts Lublin im Generalgouvernement. Official Journal of the Chief of the Lublin (Lublin) District in the General Government, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Lublin_im_Generalgouvernement._Dziennik&filters=public:1&sort=date%20asc, accessed 29 II 2020.

³³⁴ See Polon Digital National Library, Amtsblatt des Distriktschefs in Lublin im Generalgouvernement. Official Journal of the District Chief in Lublin in the General Government, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Lublin_im_Generalgouvernement._Journal&filters=public:1&sort=date%20asc, accessed 29 II 2020.

³³⁵ One issue of this publication is available digitized, i.e., No. 8/9 of September 26, 1941. See Polon Digital National Library, Amtsblatt des Chefs des Distrikts Lublin im Generalgouvernement. Official Gazette of the Chief of the Lublin District in the General Government, <https://polona.pl/item/amtsblatt-des-chefs-des-distrikts-lublin-im-generalgouvernement-fur-die-besetzten,ODY5MjYzODY/0/#info:metadata>, accessed 29 II 2020.

Generalgouvernement. Official Gazette of the Governor of the Lublin District in the General Government"³³⁶ (1941-1942);

- "Amtsblatt des Gouverneurs des Distrikts Galizien im Generalgouvernement" (1942-1944).

The legal acts that were issued for the so-called Bialystok district by Erich Koch, who was at the same time its governor, super-president of the so-called province of East Prussia and Reich Commissioner, appeared successively in the following publications: "Amtsblatt des Oberpräsidenten der Provinz Ostpreussen, Zivilverwaltung für den Bezirk Bialystok. Gazeta Urzędowa Nadprezydenta Prowincji Ostpreussen, Zivilverwaltung für den Bezirk Bialystok" (1941-1942), "Amtsblatt des Oberpräsidenten, Zivilverwaltung für den Bezirk Bialystok" (1942), "Verordnungsblatt des Chefs der Zivilverwaltung für den Bezirk Bialystok" (1943-1944). The texts in them were published in German, and partially in Polish and Russian.

The Reichskommissar's orders (Anordnungen), which were in effect in the so-called Reichskommissariat East, were printed from 1941 to 1942 in the German-language "Verkündungsblatt des Reichskommissars für das Ostland," which was published from 1942 to 1944 under the title of

"Verordnungsblatt des Reichskommissars für das Ostland"³³⁷. Various types of announcements (*Bekanntmachungen*), statutes of associations and organizations (*Satzungen*), tariffs (*Gebührenordnungen*), decrees (*Erlasses*), ordinances (*Verordnungen*), tariff regulations (*Tarifordnungen*) and service orders (*Dienstanordnungen*) were, in turn, published in the "Amtlicher Anzeiger des Reichskommissars für das Ostland," published from at least 1943-1944³³⁸. Given the legislative competence of the Reichskommissar for the occupied eastern territories, the "Verordnungsblatt", published from 1942 to 1944, was also relevant. "Verordnungsblatt des Reichsministers für die besetzten Ostgebiete." The general commissars printed their official journals. In the northern Borderlands, there were normative acts published in "Amtsblatt des Generalkommissars in Kauen" (1942-1944) for the so-called General District of Lithuania, and in "Amtsblatt des Generalkommissars für Weissruthenien" (1941-1942) and "Amtsblatt des Generalkommissars in Minsk" (1942-1944) for the so-called General District of Belarus. The dailies printed German versions of selected acts from the aforementioned publications of the Reich Commissioner, as well as their translations into Lithuanian and Belarusian.

In the so-called Reichskommissariat Ukraine, regulations issued by the commissioner there were promulgated in the Amtliche Mitteilungen des Reichskommissars für die

³³⁶ See Polon Digital National Library, Amtsblatt des Gouverneurs des Distrikts Lublin. Official Gazette of the Governor of the Lublin District in the General Government, https://polona.pl/search/?query=Amtsblatt_des_Gouverneurs_des_Distrikts_Lublin&filters=public:1, accessed 29 II 2020.

³³⁷ Verordnungüber die Form der Rechtsetzung des Reichskommissars für das Ostland. Vom 17. April 1942 (VBl. RKO 1942, 18, 59). A significant number of issues of the above two publications from 1941-1944 have been digitized and made available on the pages of the Latvijas Nacionālā Digitālā Bibliotēka (Latvian National Digital Library): Latvijas Nacionālā Digitālā Bibliotēka, Verordnungsblatt des Reichskommissars für das Ostland, <https://periodika.lndb.lv/#periodical?id=105489224744420581523827780106827241587>, accessed 29 II 2020.

³³⁸ See some issues of this official newspaper: Latvijas Nacionālā Digitālā Bibliotēka, Amtlicher Anzeiger des Reichskommissars für das Ostland, <https://periodika.lndb.lv/#periodical?id=23961467523568060577353502470526261006>, accessed 29 II 2020.

Ukraine (1941-1942), and later in the *Verordnungsblatt des Reichskommissars für die Ukraine* (1942-1943). The journal of ordinances was divided into two parts: "Verordnungen" ("Ordinances") and "Bekanntmachungen" ("Announcements"). In turn, the General Commissioner of the so-called General District of Volhynia-Podolia issued a bilingual German-Ukrainian "Amtsblatt des Generalkommissars für Wolhynien und Podolien in Luzk" in 1942-1944. Competent for this administrative unit was the aforementioned promulgator of acts of the Reich Minister for the Occupied Eastern Territories.

After the German occupier took control of all Polish territories, i.e. from 1941 onward, their variable division into eight administrative units functioned. These were the so-called Reich District of Danzig-West Prussia, the Reich District of Wartheland, the Province of East Prussia, the Province of Upper Silesia, the GG, the District of Białystok, the Reich Commissariats of the East and Ukraine. As a result, Polish citizens were subject to eight different legislative orders due to the legislation of the superior German administrations there. They therefore differed in their legal status³³⁹, in the extent to which discriminatory laws and political directives were applied to them, and in their access to the judiciary, whose decisions in practice served to depolonize them.

The creation and execution of German law in the Polish territories involved the establishment of an occupation justice system in the occupied Polish territories. Depending on the administrative unit, different judicial bodies developed. In some cases, a dualistic model of justice was applied, with a separate division dedicated to people of German nationality. In principle, the activity of the German judiciary in the Polish occupied territories during the period of military administration began with the outbreak of World War II and ended on October 25, 1939. Three types of courts functioned during this period: military, police and special courts³⁴⁰.

The German military judiciary was built on the basis of the laws of May 12, 1933³⁴¹ and June 26, 1936³⁴², two ordinances of August 17, 1938 on special criminal law in wartime and special actions, and an ordinance regulating the relevant procedures³⁴³. These became effective on August 26, 1939. At the top of the hierarchy of military justice was the Reich War Court (Reichskriegsgericht), while below it were courts of first and second instance, separate for the land forces, navy and air force. Legislative competence was vested in Gen. Walther von Brauchitsch, commander-in-chief of the land forces, who also exercised authority over the military judiciary. On his behalf, supervision of the judiciary was exercised by General Quartermaster General Eugen Müller, who had a specialized unit for this purpose - Branch III, which supervised field military justice (Gruppe III,

³³⁹ See S. Salmonowicz, *The Legal Status of the Pole...*, pp. 345-360; M. Mitera, *Ordinary Fascism. The Legal Position of Citizens of the Second Polish Republic in the General Government 1939-1944* ???

³⁴⁰ The basis for consideration of the German occupation judiciary during the period of military administration and later in the so-called GG was German normative acts and the monograph by Andrzej Wrzyszczyński, in which he thoroughly elaborated this issue for the so-called GG (see A. Wrzyszczyński, *Okupacyjne sądownictwo...*, pp. 36 et seq.).

³⁴¹ Gesetz über Wiedereinführung der Militärgerichtsbarkeit. Vom 12. Mai 1933 (RGBl. I 1933, 50, 264).

³⁴² Gesetz über Wiedereinrichtung eines Obersten Gerichtshofs der Wehrmacht. Vom 26. Juni 1936 (RGBl. I 1936, 61, 517).

³⁴³ Verordnung über das militärische Strafverfahren im Kriege und bei besonderem Einsatz (Kriegsstrafverfahrensordnung - KStVO). Vom 17. August 1938 (RGBl. I 1939, 147, 1457).

Feldjustizverwaltung). In addition to the Reich War Court, military field courts (Feldkriegsgerichte) and military boarding courts (Bordkriegsgerichte), there were courts of chief field commanders, courts of field commands, courts of corps commands and courts of division commands in occupied Polish territory. Their personal jurisdiction, in addition to those serving in the army and its officials, extended to prisoners of war and civilians accused of guerrilla warfare, espionage, defeatism, treason against the country or the state, destruction of military installations and violation of orders of the military commander, and therefore also to Poles. Regardless of the nationality and nationality of the accused, they were tried for all crimes committed at a facility belonging to the German armed forces or in the area of hostilities, when such a trial resulted from operational needs. Otherwise, cases were sent, as decided by army commanders, to the general courts that had already been established in the occupied Polish areas. Judicial action was generally taken by the body that was first officially informed of the crime and acted in a simplified manner, i.e., the accused was interrogated, given the right to the last word, and a verdict approved by the relevant commander was passed by majority vote.

At the beginning of the military administration period, Gen. Walther von Brauchitsch established military summary courts (Standgerichte), independent of military courts. They adjudicated on the basis of the Ordinance on the Possession of Arms of September 12, 1939³⁴⁴, which applied to areas excluded from operational activities, bounded in the west by the line of the San and the middle Vistula, and in the north by the Narew River (introduction of the act). Its material scope was undefined and allowed for broad interpretation. The decree established a basic obligation to surrender any war equipment in one's possession to German military or police stations (§1(1)), although authorized army commanders could exempt this obligation for persons of German nationality (§1(2)). Only the death penalty was provided for possession of weapons (§ 2). It was also imposed on persons who committed any rape against the German armed forces or their members (§ 3). The convicted person had no legal remedies, and the sentence pronounced by a summary court composed of a colonel (or equivalent commander of another unit) and two soldiers was to be executed immediately (§ 4). The regulation did not take into account the realities of war. Polish soldiers who had not yet been disarmed and organized groups of civilian defenders that were part of the Polish armed forces were subject to punishment, which took away their right to self-defense. As of October 6, 1939, the decree of September 12, 1939³⁴⁵ applied to all Polish territory under German occupation, and summary courts were created up to the battalion level³⁴⁶.

The second category of courts operating during the period of military administration were police ad hoc courts. They were established (in connection with pressure on the military command by German police authorities demanding their own independent judicial bodies)

³⁴⁴ Ordinance on the possession of arms. Dated September 12, 1939 (OJ ROOP 1939, 3, 8). See J. Böhler, *Invasion...*, pp. 173-174, 202-203.

³⁴⁵ Second Ordinance to Supplement the Ordinance on Possession of Arms. Of 6 X 1939 (OJ ROOP 1939, 8, 32).

³⁴⁶ Europa unterm Hakenkreuz. Die Okkupationspolitik des deutschen Faschismus 1938-1945. Die faschistische Okkupationspolitik in Polen (1939-1945), selection of documents and introduction by W. Röhr, collaboration by E. Heckert et al., Berlin 1989, p. 122.

by the Commander-in-Chief of the Land Forces by decree of September 21, 1939³⁴⁷, which was supplementary to the Ordinance on Possession of Arms. As Alfred Konieczny demonstrates, the powers of military summary courts were actually transferred to their police counterparts³⁴⁸. They were created by the commanders of regiments or battalions of the order police and the Einsatzgruppen. The main procedural difference was that rulings made by three-member panels of judges could be reviewed by the commander of the army or military district. In case of doubt, they had the right to bring the ruling back for re-approval, this time by a higher police authority.

The last type was the special courts (*Sondergerichte*). They operated as organs of the civil administration, i.e., attached to the heads of the civil administration, but were under the service supervision of the Reich Minister of Justice (*Reichsjustizminister*), who exercised this supervision through a desk created in the first half of September, headed by Superintendent Werner von Haack, and the Reich Ministry of Justice's plenipotentiaries for the judiciary (*Beauftragte des Reichsjustizministeriums für die Justizangelegenheiten*), subordinate to the heads of the civil administration. In addition, the head of the civil administration in Lodz sent a request to the Reich Minister of Justice on October 20, 1939, for the establishment of a special clerk to introduce organizational order in the field of justice in Warsaw. The special courts were established by a Reich Government decree of March 21, 1933³⁴⁹; they were to combat political opponents of the National Socialists. Prosecutors' offices attached to the national courts, located in the districts of the special courts, formulated the charges. Over time, their powers were greatly expanded - their fixed (obligatory) substantive jurisdiction was supplemented by mobile (optional) jurisdiction. In the occupied Polish territories, special courts were regarded as universal, which resulted from the Ordinance on Military Criminal Procedure of August 17, 1938 (§ 3(2-3)). They were introduced by General Walther von Brauchitsch by decree of September 5, 1939. The Reich Minister of Justice informed the authorities of the German general courts and their prosecution offices (from the presidents of the higher national courts and the general prosecutors upwards) of their establishment in a letter dated September 13, 1939.

Special courts were established as the front line moved eastward: in Bydgoszcz (September 6, 1939), Częstochowa (also September 6), Wieluń, Cracow (September 13), Piotrków Trybunalski (to where the court from Wieluń was transferred on September 22), Kielce, Radom, Katowice, Łódź, Poznań and Przasnysz. Proceedings concerning crimes committed in the area of operations of the German armed forces were conducted by military courts, and if they did not affect the army's security situation, the military authorities transferred the cases to special courts. It was also up to the latter to establish a civilian justice system. At the level of municipal courts, the Polish judiciary was slowly reactivated, supervised by the Reich Ministry of Justice. In practice, the special courts participated in the liquidation of the Polish nation, handing down exaggerated punishments not provided for in the law,

³⁴⁷ Ordinance to supplement the ordinance on the possession of arms. Of September 21, 1939 (OJ ROOP 1939, 4, 9).

³⁴⁸ A. Konieczny, *Under the War Criminal Law of the Third Reich. Upper Silesia 1939-1945*, Warsaw-Wrocław 1972, p. 311.

³⁴⁹ *Verordnung der Reichsregierung über die Bildung von Sondergerichten vom 21. März 1933* (RGBl. I 1933, 24, 136).

handing over suspects (e.g., members of the Union of Silesian Insurgents) to the Gestapo (which meant that a special procedure was applied to them, i.e., executions were carried out) and organizing mass murders (e.g., in retaliation for the suppression of German sabotage in Bydgoszcz)³⁵⁰.

After the period of military administration, both police and military justice lived to see appropriate regulations in the so-called incorporated territories, the so-called GG (as described in detail by Andrzej Wrzyszczyk) and the Borderlands. State administration of justice in the so-called incorporated territories was regulated in the so-called Second Decree of November 2, 1939, which Wilhelm Frick³⁵¹ issued to implement Adolf Hitler's decree of October 8, 1939. This act indicated that the Reich Governor at the level of his district was the head of, among other things, the Reich's judicial administration (including financial and propaganda). On his behalf, the administration of justice was headed by the president of the higher national court (Oberlandesgerichtspräsident) or the attorney general (Generalstaatsanwalt, § 5(1)). In connection with their subordination to the district governor, they were to use the following names: "Reich Governor (President of the Higher State Court)" or "Reich Governor (Attorney General)" (§ 5(2)). If the governor could not manage judicial affairs, they were to be handled on his behalf by the president of the regency (§ 3), who became the general deputy (allgemein Vertreter) of the governor (§ 2(2)). The judiciary in the so-called Katowice and Ciechanow regencies and in the area included in the so-called Gąbin regency were subordinated to special boards (Sonderverwaltungen), and these in turn to the super-presidents of the so-called Silesian and East Prussian provinces. It was thus up to their directives, until this regulation was repealed by the Reich Minister of the Interior in consultation with the appropriate Reich Minister (in this case, the Reich Minister of Justice), to determine how matters of justice were conducted (§9 (1)). District special boards were made dependent on landrats or mayors (§ 9(2)).

German justice in the so-called Polish lands incorporated into the Reich was established by decree of June 13, 1940³⁵² Wilhelm Frick, Reich Minister of the Interior, and Franz Gürtner, Reich Minister of Justice. In essence, this act shaped the German justice system along the lines of that functioning in the Reich, with an enumerative list of laws and regulations to take effect on June 15, 1940 (§3) - including those relating to the structure and functioning of the justice system, the examination process for candidates wishing to practice the legal profession and the qualifications of those holding positions in the German justice system (§2), which in practice excluded Poles. It was also clarified that the courts issue judgments on behalf of the German people (§ 1).

The Decree on Criminal Jurisdiction for Poles and Jews in the Incorporated Eastern Territories of December 4, 1941, issued almost a year and a half later, set forth rules for access to justice for the aforementioned groups. The prosecution of crimes that Poles and

³⁵⁰ E. Zarzycki, *Exterminatory and discriminatory activities...*, pp. 17-18, 45-71.

³⁵¹ *Zweite Verordnung zur Durchführung des Erlasses des Führers und Reichkanzlers über Gliederung und Verwaltung der Ostgebiete*. Vom 2. November 1939 (RGBl. I 1939, 218, 2133). See the translation of the decree in Polish: *Second Decree for the Implementation of the Decree of the Führer and the Reich Chancellor on the Division and Administration of the Eastern Areas of November 2, 1939*. [in:] *Selection of Source Texts...*, pp. 29-32.

³⁵² *Verordnung über die Gerichtsverfassung in den eingegliederten Ostgebieten*. Vom 13. Juni 1940 (RGBl. I 1940, 113, 907). See English translation of the ordinance: *Order Concerning Organization of Courts in the Incorporated Eastern Territories*, June 13, 1940 [in:] R. Lemkin, *Governance...* (appendix), pp. 510-511.

Jews were suspected of committing was carried out on the initiative of the prosecutor if he determined that the public interest required the initiation of an investigation (Part 2, Section XI). They were deprived of the possibility of private prosecution (Part 2, Item XI). They were even prohibited from being sworn in as witnesses, but if they were found to have given false testimony, they were subject to penalties for perjury (Part 2, Section IX). The prosecutor gained the authority to bring charges against Poles and Jews in any case before a special court or alternatively, with lesser gravity of the offense, before a local judge (Amtsrichter, Part 2, Section V, paragraph 2). He could either appeal the local judge's ruling to the Higher Land Court (Oberlandergericht) within two weeks (Ch. 2, pt. VI, para. 1), or file a complaint there (Ch. 2, pt. VI, para. 2). If one assumes the immediate enforceability of sentences, the two-week appeal period made this institution ineffective. Convicts were not allowed any remedies at all (Ch. 2, pt. VI, para. 1). The position of the People's Tribunal (Volksgerichtshof) in the occupation court system of the so-called "incorporated lands" remained unchanged (Ch. 2, pt. V, para. 3). Poles and Jews had limited access to the German judiciary, intended in principle for Germans, and could also be tried by summary courts (Part 3, point XIII, para. 1). The authority to establish them on an optional basis was gained by district governors and provincial super-presidents with the approval of the Reich Minister of the Interior. They then determined the staffing of the courts and the proceedings before them (Part 3, Section XIII, paragraph 3). Their substantive jurisdiction was to cover grave offenses against Germans or the activities of German authority, and their territorial jurisdiction was to cover all or part of the area administered by the court organizer. Two types of decisions were envisaged - the death penalty and waiver of the death penalty combined with the transfer of the sub-judge to a Gestapo unit (Part 3, Section XIII, paragraph 2).

For the so-called General Government, on the other hand, Hans Frank issued an ordinance on the reconstruction of the judiciary³⁵³ 353 on the day this unit was established, October 26, 1939. In it, he defined a dualistic model of the judiciary, providing for the operation in the so-called GG of a German and Polish judiciary (§1) after the boundaries of that unit were established (§4). The personal jurisdiction of the German courts included citizens of German nationality, and the substantive jurisdiction included cases of crimes against life, health, property, security and the authority of the German nation and state (§ 2(1-2)). German courts were to issue rulings on behalf of the German people (§ 2(3)). German judges were given the additional authority to review final verdicts of Polish courts - if they were overturned, they would transfer the cases to a German court (§ 3).

Later, the functioning of the judiciary under the administrative authority of the so-called GG was regulated in detail. First, by decree of November 15, 1939³⁵⁴ , special courts were established in each district at the seats of district chiefs and their divisions (§ 1 sections 1-2) on the basis of the special courts already existing during the period of military administration (§ 10), and established by the Decree of the Commander-in-Chief of the Army on Special Courts in Occupied Polish Areas of September 5, 1939. In the so-called Galicia district, they were established as a result of the entry into force of the relevant

³⁵³ Ordinance on the reconstruction of the judiciary in the General Government. dated October 26, 1939 (Official Gazette of the RGGPO 1939, 1, 4).

³⁵⁴ Ordinance on special courts in the General Government. Of November 15, 1939 (Official Gazette of the RGGPO 1939, 6, 34).

order of October 13, 1941³⁵⁵, issued by Kurt Willi, head of the chief justice department in the government of the so-called GG. Special courts were established in Lvov, Stanislawow and Ternopil (§ 1 (1)). They were allowed to undertake judicial activities appropriate to German courts and administrative activities provided for German courts and the higher German court until they were established in the so-called Galicia district (§ 2(1)).

The intention to realize a dualistic judicial model became apparent when two decrees were issued on February 19, 1940, regarding the construction of the German³⁵⁶ and Polish³⁵⁷ judiciary. The first of these created a two-instance judiciary, consisting of German courts and higher German courts (Ch. I § 1(1)). Single-judge German courts were established in Krakow, Rzeszow, Lublin, Chelm, Piotrkow, Warsaw and Zyrardow (Ch. I § 2(2)), while the higher German courts, adjudicating in principle by three judges, were established in the seats of the district heads (Ch. I § 2(1)). The judiciary intended for Poles was to be made up of municipal, district and appellate courts (Ch. II § 5(1) of the relevant decree). The Supreme Court was suspended (Ch. II § 5(2)) and the labor courts were abolished (Ch. II § 7). Also in the so-called Galicia District, on the day it was annexed to the so-called GG, Hans Frank by decree of August 1, 1941³⁵⁸ (§ 1) established a dual³⁵⁹ justice system. He indicated that the German judiciary would be established on the basis of regulations adopted and executed in the so-called GG, and that the duty to establish it rested with the head of the chief justice department of the government of the so-called GG (§ 2(1)). Questions concerning the organization of the non-German judiciary were left undefined (§ 2(2)). Theoretically, Polish legislation was restored as of August 31, 1939 (§ 3) - thereby repealing Soviet legislation. It was emphasized that this applied in particular to criminal and civil law, especially contract, commercial, property, family and inheritance law (§ 3).

There was a ruthless crackdown on the Polish administrative judiciary in the so-called GG. By decree of July 23, 1940³⁶⁰, Polish legislation concerning the Supreme Administrative Tribunal was repealed (§ 1), proceedings against Polish administrative authorities from the so-called GG were suspended, declaring them to be without subject (§ 2). Until further notice, the right to appeal administrative-court rulings of administrative authorities was also suspended (§ 3).

In the course of gaining control over the increasingly extensive territory of Poland, the German authorities changed the existing legal order and justice system. At first, normative acts were issued by military authorities. Later, during the period of civilian administration, Polish legislation was expunged and replaced by regulations modeled on those in force in Germany, which for the new administrative units were created by their superior authorities. This scheme was also applied in the Borderlands occupied by the

³⁵⁵ Order on the establishment of special courts in the Galizien district (Galicia). Dated Oct. 13, 1941 (RGG 1941, 101, 603).

³⁵⁶ Ordinance on the German Judiciary in the General Government (Official Gazette of the RGGPO 1940, 13, 57).

³⁵⁷ Ordinance on the Polish judiciary in the General Government (Official Gazette of the RGGPO 1940, 13, 64).

³⁵⁸ Ordinance on the restoration of justice in the Galizien district (Galicia). Dated August 1, 1941 (RGG 1941, 68, 445).

³⁵⁹ Unlike in the case of the so-called GG, the division between the German and Polish judiciary was abandoned - probably in order to make a gesture to the large Ukrainian minority living in Galicia.

³⁶⁰ Decree on the temporary regulation of administrative justice in the General Government (RGGPO 1940, 47, 222).

USSR in 1939-1941, which were then systematically occupied by Germany as a result of the war. Although a dualistic model of justice was applied in the so-called GG, its Polish or non-German organization should be described as ancillary at best to the German one. A more limited judiciary for Poles was established in the so-called annexed territories, while a different procedure was followed in the Borderlands. For example, in the so-called Bialystok district, Erich Koch established summary courts by decree on April 12, 1942³⁶¹, and German justice was established on November 1, 1942, simultaneously with the introduction of German criminal law in the area. Nevertheless, regardless of the domicile of Poles in a given German administrative unit, they were discriminated against - obliged to obey draconian laws and a judiciary was established to support other German bodies in the liquidation of the Polish people.

Extermination of Polish elites

While the depolonization of the occupied territory, which had been organized as a state since 1918, as a result of the war campaign, which was victorious for Germany, did not present great difficulties, the depolonization of the local population and the subsequent Germanization of a small part of it - due to numerous restrictions - had to be staggered.

The extermination of the Polish nation began even before the outbreak of World War II - Poles were persecuted in the Reich and the Free City of Danzig. Above all, it was decided to deprive them of their intellectual, political and financial elites, capable of transmitting national patterns and creatively developing them. The criminal plan was vigorously implemented from the first days of the war.

German Reich

The destruction of the structures of the Polish state, which guaranteed the rights of Polish citizens under regulations independent of the occupiers, undoubtedly made the protection from the German and Soviet authorities disappear. The deterioration of the legal situation of Poles as a result of the establishment of the German normative order and the associated judiciary made it possible to continue the extermination of the Polish leadership strata, which was planned even before the outbreak of war. However, it would be a mistake, which could result in an incorrect international legal qualification of the acts of the German authorities, to consider the murder of the Polish elite only in relation to the occupied area of the Republic, although researchers have devoted the most extensive studies to this issue.

The leaders of the Polish national movement in the Reich were the first to fall victim to the intention to exterminate Poles on the basis of their nationality. In their case, it did not matter whether they held German citizenship - it was the national, racial and political

³⁶¹ K. Pospieszalski, *Responsibility...*, p. 9.

classification determined by the German authorities that was decisive. Exterminations were carried out simultaneously in the Free City of Danzig and the occupied territories of western and central Poland. A similar fate befell the leaders of the Poles in the east after the German army occupied the Kresy.

How Poles earmarked for extermination were dealt with was influenced primarily by the possibilities and suitability of extermination at a given time. Thus, for example, the expected resistance of Polish society to the relatively overt killings, the reactions of international opinion, the size of the police cadres preparing the extermination, the necessary firing squads and the current objectives of Germany's war and supply policy projected the intensity of the extermination of the Polish people and the selection of methods for carrying out this task. In addition to this, the anticipated reluctance of the German lower-level civil administration administering the occupied Polish territories and the uncertain attitude of representatives of the German judiciary toward the planned extermination of Poles, and finally doubts about the attitude of the enforcers who might refuse to carry out the order - all this resulted in the correction of deadlines and procedures.

Before the outbreak of World War II, there were about 1.5 million people of Polish origin living in the Reich³⁶², although according to the German census of May 17, 1939³⁶³ there were only about 14,000 of them.³⁶⁴ Polish settlement included three types of clusters located in border areas³⁶⁵ (Upper³⁶⁶ and Lower Silesia, Western Pomerania³⁶⁷, Lubusz land³⁶⁸, Powisle³⁶⁹, Warmia and Masuria), outgrowing areas (Rhineland and Westphalia)

³⁶² W. Wrzesiński, *Polski ruch narodowy w Niemczech w latach 1922-1939*, Toruń 2005, pp. 25-33. Cf. information on the size of the German Polish community in the 19th and early 20th centuries: J. Kozłowski, *Poles on German lands in the 19th century (until 1870)*, "PZ" 1 (1988), pp. 23-42; K. Rzepa, *Wychodźstwo polskie w Niemczech do 1914 r.*, "PZ" 5/6 (1979), pp. 224-257.

³⁶³ See normative acts governing the census: Gesetz über die Durchführung einer Volks-, Berufsund Betriebszählung. Vom 4. Oktober 1937 (RGBl. I 1937, 109, 1053); Gesetz zur Änderung und Ergänzung des Gesetzes über die Durchführung einer Volks-, Berufsund Betriebszählung. Vom 6. Juli 1938 (RGBl. I 1938, 105, 796); Verordnung über die Durchführung der Volks-, Berufsund Betriebszählung 1939 in den sudetendeutschen Gebieten. Vom 21. Februar 1939 (RGBl. I 1939, 32, 281).

³⁶⁴ Although the number of Poles indicated in the census should be considered a definite underestimate, many of them actually decided to declare German nationality in the face of expected repression. In order to make their German ancestry more plausible, some respondents had already begun to cut themselves off from Polishness six months earlier, including avoiding services conducted in their native language. The Polish diplomat in Berlin notified the Ministry of Foreign Affairs in Warsaw of this practice as early as November 1938 (A. Poniatowska, *Historico-political aspects of the activities of the Union of Poles in Germany in 1922-1939*, "PZ" 4 (1984), pp. 19, 21. cf. R. Breyer, *Das Deutsche Reich und Polen 1932-1937*, Würzburg 1955, p. 294; J. Małczyński, *My Work in the General Consulate of the Republic of Poland in Opole*, ed. by W. Lesiuk, Opole 1980, p. 87).

³⁶⁵ H. Zieliński, *Z problematyki narodowościowej na pograniczu polsko-niemieckim w dobie międzywojennej*, "PZ" 9-10 (1949), pp. 263-272; A. Targ, *Polska ludność rodzima na ziemiach odzyskanych*, "PZ" 6 (1947), pp. 481-495; W. Wrzesiński, *Problematyka polskiej ludności rodzima na ziemiach postulowanych w latach II wojny światowej*, "PZ" 5-6 (1989), pp. 153-167.

³⁶⁶ M. Lis, *The Polish minority in the German part of Upper Silesia [in:] "Awake, my heart, and think". A Contribution to the History of Relations between Silesia and Berlin-Brandenburg*, edited by K. Bózdziach, Berlin-Opole 1995, pp. 261-270.

³⁶⁷ L. Gustowski, *Western Pomerania. Between the First and Second World Wars (1918-1945)*, "PZ" 4/5 (1945), pp. 244-320; K. Slaski, *History of Polishness in Western Pomerania*, "PZ" 7-8 (1948), pp. 89-101.

³⁶⁸ M. Sczaniecki, *The History of the Polish Population in the Lubuska Land*, "PZ" 5 (1948), pp. 479-494; idem, *The Nationality and Religious Question in the Past of the Lubuska Land*, "PZ" 6 (1948), pp. 586-600; Z. Rutkowski, *Life of the Polish population in Zielona Góra in the years 1890-1939*, "PZ" 5 (1960), pp. 138-149.

³⁶⁹ B. Bojarska, *The Polish minority of Powiśle on the eve of World War II*, "PZ" 3 (1974), pp. 139-153.

and in urban agglomerations (Berlin³⁷⁰, Wrocław, Szczecin). The German Polish community was primarily affiliated with the Union of Poles in Germany³⁷¹, established on August 27, 1922. Its founding convention was convened by the Polish National Committee, which had been in operation since May 19, 1919, and whose authorities were working hard to unite the diaspora³⁷². In 1924, the association numbered about 32,000 people, and in 1937-1938 about 16,000³⁷³. This decline was associated with the increasingly intense anti-Polish policies of the German state. Other Polish organizations were marginal in the interwar period; in practice, the union became a political representation of Poles to the German authorities. However, there were many other unions and societies in Germany: religious (by far the most numerous), gymnastic, women's, workers', self-help, singing, chancer, theater, professional, scout, youth, educational, scientific and student societies. The German Polish community could count on the support of the Polish state, which, however, subjected it to the control of the Polish embassy in Berlin (elevated to the rank of embassy in 1934). The scale of assistance is evidenced by the fact that the value of subsidies amounted to about 90 percent of the financial outlay for Polish national activities. However, maintaining the national consciousness of Poles in Germany was not intended to be used to justify possible territorial claims³⁷⁴, as was the case with Germans settled in Polish lands.

Poles in Germany had minority rights under Article 113 of the Weimar Constitution of August 11, 1919, which read: "The free national development of the foreign-speaking population groups of the Reich shall not be restricted by law or administration, especially in the use of their language in teaching, as well as in internal administration and justice" ("Die fremdsprachigen Volksteile des Reichs dürfen durch die Gesetzgebung und Verwaltung nicht in ihrer freien, volkstümlichen Entwicklung, besonders nicht im Gebrauch ihrer Muttersprache beim Unterricht, sowie bei der inneren Verwaltung und der Rechtspflege beeinträchtigt werden")³⁷⁵. Although the German Basic Law did not use the concept of national minorities (nationale Minderheiten), superseded in the constitutional debate by the phrase "foreign-speaking population groups of the Reich" (fremdsprachigen Volksteile des Reichs)³⁷⁶, groups defined on the basis of linguistic affiliation were granted the right to national development (prohibition of legislative and administrative discrimination by German authorities) and the right to use their native speech (in education and contacts with the judiciary and administration). The obligation to treat Poles with German citizenship as a separate national group resulted from acts of

³⁷⁰ A. Czubinski, Poles in Berlin, "PZ" 2 (1988), pp. 21-35.

³⁷¹ There is a rich historical literature on various aspects of the activities of this largest Polish organization in Germany (see B. Czajkowski, Rodło, Warsaw 1975; H. Lehr, E. Osmańczyk, Polacy spod znaku Rodła, Warsaw 1972; A. Poniatowska, S. Liman, I. Krężalek, Związek Polaków w Niemczech w latach 1922-1982, ed. J. Marczewski, Warsaw 1987; Związek Polaków w Niemczech. Materials from the scientific session on the 50th anniversary of the ZPwN, Opole 15 X 1972, ed. F. Hawranek, Opole 1974; E. Osmańczyk, Wisła and Kraków to rodło, Warsaw 1985).

³⁷² A. Poniatowska, Polish organizations in Berlin during the years of the Weimar Republic, "PZ" 5-6 (1975), pp. 47-49.

³⁷³ H. Chalupczak, II Rzeczpospolita a mniejszość polska w Niemczech. Principles and forms of financing of the Polish minority in Germany in 1919-1939, "PZ" 1 (1988), p. 129.

³⁷⁴ H. Chalupczak, II Rzeczpospolita..., pp. 128-130.

³⁷⁵ Constitution of the German Reich..., p. 393.

³⁷⁶ J. Sandorski, Polish national minority in Germany in light of international law, "RPEiS" 2 (2010), pp. 95-97.

international law, i.e., the Treaty of Versailles (its Article 91) and the so-called Geneva Convention on Upper Silesia of May 15, 1922³⁷⁷, which regulated the status of persons "belonging to a national minority" (Angehörigen der Minderheiten, e.g., Articles 76, 78-81)³⁷⁸. However, the second of these agreements expired on July 15, 1937.³⁷⁹ In addition, the Reich authorities pledged to regulate the legal situation of the Polish community in Germany in the Declaration of the Governments of Poland and Germany on the Treatment of Their Recognized National Minorities of November 5, 1937. Leading German scholars of the Nazi period, such as Carl Schmitt, Kurt Trampler, Max Boehm, Gustav Walz and Helmut Nicolai, considered minority issues in the context of the problems of national groups (Volksgruppen)³⁸⁰, which could be resolved through the intervention of the Reich authorities³⁸¹. However, the extent to which the aforementioned laws were applied was determined by how the German administration dealt with representatives of the local Polish elite and, later, the Polish community.

Before the outbreak of World War II, murders were committed against members of Polish organizations and activists known for their patriotic activities. The death of August Kosny, a physician, participant in the Third Silesian Uprising, and member of the Silesia Superior corporation³⁸² a Polish social activist, testified to the intentions of the German authorities towards Poles and that a new stage of extermination had begun. In July 1939, he died at the hands of undisclosed perpetrators, most likely German police officers. His body, loaded with stones, was thrown into the Berlin Landwehrkanal, but the official announcement stated that he fell into the water as a result of alcoholic intoxication³⁸³. The case was widely reported in both the Polish³⁸⁴ and German press³⁸⁵. In addition, Polish activists were sometimes interrogated so brutally that their deaths occurred. Kazimierz Lisowski, the long-time chairman of the Polish Craftsmen's Society in Zielona Góra and the local branch of the Polish Union, lost his life in this way. He died on September 25, 1935 during

³⁷⁷ Deutsch-polnisches Abkommen über Oberschlesien. Vom 15. Mai 1922 (RGBl. II 1922, 10, 238); Law of 24 May 1922 on the ratification of the German-Polish Convention, concerning Upper Silesia, signed in Geneva on 15 May 1922 (Journal of Laws of 1922, No. 44, item 370). See Polish-German Upper Silesia Convention concluded in Geneva on May 15, 1922, Geneva 1922.

³⁷⁸ See more extensively on the situation of the Polish minority living in Upper Silesia: M. Maciejewski, Prawne aspekty położenia mniejszości narodowych na Górnym Śląsku w latach 1918-1939, "CPH" 1 (2013), pp. 249-269; S. Kutrzeba, Polskie prawo polityczne według traktatów, part 2, Cracow 1923, pp. 185-218; M. Korowicz, Górnośląska konwencja genewska pomiędzy Polską i Niemcami 1922-1937, Katowice-Warszawa 1937.

³⁷⁹ S. Komar, On the eve of the expiration of the Upper Silesian Geneva Convention, "Communications. Series II" 32 (1936-1937), pp. 1-6; S. Rundstein, Acquired Rights in the Face of the Expiration of the Upper Silesian Convention, "RPEiS" 4 (1936), pp. 354-366.

³⁸⁰ Gustav Walz distinguished between the concepts of national minority and national group in his research (G. Walz, Neue Grundlagen des Volksgruppenrechts, Berlin-Leipzig-Wien 1940, pp. 91-92, 95).

³⁸¹ E. Waszkiewicz, The problem of national minorities in the doctrine of the National Socialist Party (NSDAP) and in German science, "SnFiZH" XI (1987), pp. 115-119.

³⁸² P. Tomaszewski, Polskie korporacje akademickie w latach 1918-1939, Toruń 2011, pp. 233-234.

³⁸³ W. Wrzesiński, Polish Movement..., p. 493.

³⁸⁴ See Stigmatizing German Lies About the Alleged Persecution of Germans in Poland. Martyrology of 1,500,000 Poles in the Reich, "Lech. Gazeta Gnieźnieńska," September 1, 1939, p. 6. Reading this synthetic article, although it deals with the repressive measures practiced against the Polish community in Germany up to that time, allows one to imagine quite easily the scale and methods of the occupation of Poland, as well as the future conduct of the German authorities toward the Poles.

³⁸⁵ See Wie starb Dr. A. Kosny? Ein Leichenfund in Berlin und ein Gräuelmärchen aus Polen, "Das 12 Uhr Blatt," August 3, 1939, p. 1.

another interrogation at the Zielona Gora Gestapo headquarters, officially from a heart attack³⁸⁶.

The elimination of Polish intelligentsia from administration and local government bodies in Germany began as early as the end of the summer of 1933, when Poles were stripped of their official positions and functions. The action was carried out in western and central Germany, where Poles mainly hailing from Silesia and Greater Poland lived. Their steadfastness in the fight against Germanization was due to the fact that they had experienced it during the Prussian partition. According to a December 30, 1938 circular from the Reich Ministry of the Interior, the authorities of the Union of Poles in Germany were to remove from minority organizations all persons with Polish citizenship³⁸⁷.

A prelude to a physical crackdown on the leaders of the Polish movement in Germany was the gathering of information on future victims, but this proved difficult. On June 7, 1939, the Reich Ministry of the Interior asked the Union of Poles to hand over the statutes of Polish youth organizations and the personal details of their leaders by July 1, 1939. In turn, on July 15, 1939, Gestapo officers entered the headquarters of the union's third district³⁸⁸ in Bochum and demanded a list of its board members. In both cases, the Poles refused - the second time this resulted, among other things, in a search of the premises of the organization's regional branch and the fact that on July 29, 1939, its head, Michał Wesolowski, was imprisoned (for four days). On August 17, 1939, the Polish Union's headquarters office was closed and its associates were arrested. Jan Kaczmarek, who had been on leave in Poland since July 1939, was demanded to appear. Other Polish activists also had to leave Germany to protect their lives and those of their loved ones. Some of them were ordered to be evicted from the border belt and to provide labor. Many Poles were conscripted into the Wehrmacht, but their access to weapons was restricted, and they also proceeded to confiscate printed editions of Polish newspapers. At the beginning of the school year, on August 4, 1939, repression affected the authorities, teachers and students of the few Polish schools in Germany. On August 25, 1939, at 5 p.m., SS officers and the so-called auxiliary police, 150 in number, arrested the staff and students of the Polish grammar school in Kwidzyn³⁸⁹. The reaction of local Germans and officers to the closure of the institution was as follows: "Outside the police cordon a crowd is growing, from which hostile anti-Polish shouts are heard every now and then. [...] in the first cars go the youngest, 10-year-old boys. They look on in astonishment at everything and calmly stare at the raging crowd, which the police are restraining so that it does not collapse on the cars. [...] Checking attendance according to the lists is carried out by a new group of

³⁸⁶ Z. Rutkowski, *Życie...*, p. 147; H. Szczegół, Lisowski Kazimierz [in:] *Lubuski słownik biograficzny*, ed. H. Szczegół, Zielona Góra 1984, pp. 118-119.

³⁸⁷ M. Cyganski, Hitler's persecution of the Polish community in Rhineland-Westphalia in 1933-1945, "PZ" 2 (1974), pp. 214, 220, 229.

³⁸⁸ The structure of the union included its division into five districts, designated successively from I to V, with headquarters in Opole (I), Berlin (II), Bochum (III), Olsztyn (IV) and Złotów (V). The annexation of Austria prompted work to establish the VI district there.

³⁸⁹ The history of the gymnasium was described after the war by Władysław Gębik, its director, who was imprisoned in a number of German camps from September 20, 1939 to May 5, 1945. He recalled that repressions against people associated with the institution had been taking place long before the start of World War II as a result of the ratting out of local press editors and party factors. Just three months after the school opened, on February 19, 1937, shots were fired from a small-caliber weapon that wounded a Polish student spending a break between classes in the schoolyard. The perpetrators of the incident were naturally not detected (W. Gębik, Polish Gymnasium in Kwidzyn, "PZ" 4 (1962), pp. 313-314).

uniformed Nazis, each of whom considers it his duty to yell as loudly as possible, threaten, make excuses and spew insulting epithets."³⁹⁰ . From Powisle, the detainees were first transported to a mental institution in Tapiau, then to camps in Grünhoff and Strobjehnen near Königsberg³⁹¹ . From there, most of the Kwidzyn teachers were sent to the civilian POW camp in Stutthof³⁹² and concentration camps in Sachsenhausen³⁹³ , Mauthausen, Gusen and Dachau, some students - to the army, the youngest were released. Similar measures were intended to be taken on August 28, 1939 at the Bytom Gymnasium, but Gestapo officers found neither staff nor students at the institution (the Polish school authorities had previously suspended its activity). Arrests of Polish teachers from East Prussia were scheduled for August 26, 1939. During World War II, most of the 71 Polish teachers from Germany died in death camps³⁹⁴ . Catholic clergy active in the Union of Poles and Polish Evangelical pastors shared the fate of other representatives of the Polish intelligentsia. Rev. Wacław Osinski, president of the union's 4th district, a plebiscite activist in Warmia and a promoter of Polishness, although he retired in 1933, was imprisoned in a penal labor camp (Strafarbeitslager) in East Prussia's Hohenbruch and later Sachsenhausen. Despite being transferred to hospital custody, he died of exhaustion in 1945. Death was also suffered by, among others, the Blessed Father Władysław Demski, an educator (murdered in 1940 in Sachsenhausen for disobeying an order to trample a rosary) and Father Maximilian Grochowski, president of the 5th district of the union (who died in 1939 as a result of repression after his arrest). As a prisoner of the Ravensbrück and Dachau concentration camps, the war was survived by Fr. Joseph Styp-Rekowski, an employee of the union's headquarters in Berlin and its president since 1964³⁹⁵ . September 4, 1939. Reinhard Heydrich liquidated all Polish organizations in Germany by decree, of which representatives of the Polish Association (Bruno Openkowski, Franciszek Lemanczyk and Jan Michalek), who had been summoned to the Reich Ministry of the Interior, were notified on September 7, 1939. The ban also applied to Polish schools, libraries (deleted and deprived of their book collections in accordance with an order of August 16, 1939)³⁹⁶ , educational institutions, the Polish Scouting Association in Germany³⁹⁷ , newspaper editorial offices, publishing houses, banks and cooperatives. Land

³⁹⁰ Ibid, p. 319.

³⁹¹ B. Bojarska, *Minority...*, p. 148.

³⁹² Polish residents of Powisle, Warmia, Masuria, and the Pomeranian Voivodeship, along with citizens of Danzig of Polish descent, were the first to be sent to the Stutthof camp, as early as the beginning of September 1939 (W. Gajdus ks., No. 20998 tells, Cracow 1962, p. 106). See the monograph on the liquidation of Poles in the Stutthof camp: D. Drywa, *Säuberungsaktion na Pomorze Gdańskim w świetle dokumentów KL Stutthof (1939- 1942)*, Sztutowo 2015.

³⁹³ T. Cieślak, Poles in the Sachsenhausen concentration camp near Berlin, "PZ" 3 (1959), pp. 76-87.

³⁹⁴ W. Gębik, *Polskie gimnazjum...*, p. 306. See H. Chalupczak, Polish teachers in Germany between the wars, "PZ" 4 (1983), pp. 27-56.

³⁹⁵ A. Nadolny, Activities of priests in the Union of Poles in Germany, "PZ" 4 (1984), pp. 110-112, 117-122.

³⁹⁶ H. Szurgacz, Liquidation of Polish organizations and their outposts in the Opole region in 1939-1941, "Studia Śląskie. Seria Nowa" IX (1965), p. 286.

³⁹⁷ The Polish Scouting Association in Germany was established on May 6, 1925, during a convention of Polish scouting organizations in Bytom, where its headquarters were placed. In 1939 it had about 2,700 members. Leaders of the scouting movement died in concentration camps (including East Prussian Hufca commander Leon Włodarczak, teachers Józef Groth and Jan Bauer) or were executed for treason against the Third Reich - for example, scoutmaster Józef Horst and teacher Maksymilian Golisz were killed in Brandenburg an der Havel (H. Kapiszewski, *The Polish Scouting Association in Germany. Zarys historyczny ze szczególnym uwzględnieniem lat 1933-1939*, Warsaw 1969; *Związek Harcerstwa Polskiego w Niemczech na Śląsku (1920-1939)*. A Selection of Sources, ed. M. Lis, Opole 2000; I. Lasończyk, *Zarys rozwoju Związku Harcerstwa Polskiego w Niemczech na Śląsku Opolskim w latach 1920-1939*, Opole 1963).

properties and assets belonging to Polish organizations, including the 4 million marks of the Union of Poles, were confiscated for the German state. On September 11, 1939, the Reich Minister of the Interior appointed a commissioner for the fiduciary administration of Polish property, who became August Schmid, head of the land office³⁹⁸. In total, slightly more than 2 thousand representatives of the Polish elite were arrested³⁹⁹ - they were sent to camps in Hohenbruch, Sachsenhausen, Stutthof, Ravensbrück, Dachau and Buchenwald, among others, where they belonged to and led the resistance movement⁴⁰⁰. They were murdered according to German standards in this regard, but before that they were enslaved, robbed, devastated by labor, had their food rations reduced to a minimum, were prevented from accessing medical care, were tortured with primitive devices, humiliated, and convinced of delusional guilt. Victims' bodies were used, for example, ashes from burned corpses were used as fertilizer for local farmers. As a result of their stay in the camps, many Polish activists died, for example, out of 249 arrested from the Ruhr region, as many as 200 died⁴⁰¹. Moreover, for example, in the so-called Opole region, at a meeting on January 21, 1941, the landrats planned to deport the families of Polish leaders sent to the lagers and expropriate them⁴⁰². The liquidation of Polish organizations in the Reich was legalized only by normative acts of February 27⁴⁰³, April 24 and 27, 1940.⁴⁰⁴ The first of these stated: "The activities of organizations of the Polish national group in the German Reich (associations, foundations, companies, cooperatives and other enterprises) are prohibited. New organizations of the Polish national group may not be established."⁴⁰⁵ (§ 1(1)).

The termination of Polish institutions in the Reich corresponded with the plan to abolish Polish diplomatic missions in areas administered by German authorities: embassies (in Berlin), ten consulates-general (in Berlin, Düsseldorf, Frankfurt am Main, Hamburg, Königsberg, Kwidzyn, Munich, Vienna, Wrocław and Prague), six consulates (in Klaipėda, Olsztyn, Opole, Pila, Szczecin and Moravian Ostrava) and a vice-consulate (in Elk). In late August 1939, the Polish state entrusted Sweden, then neutral, with the protection of its citizens and property in the Reich. An analogous request regarding the protection of the German state's property and interests in Poland was made by the Berlin authorities to the Netherlands. Germany wanted to gain access to the resources of Polish establishments as soon as possible, which led it to send an appropriate note to the Swedish embassy on November 20, 1939. Although Swedish officials did not share the German view that the

³⁹⁸ A. Konieczny, Liquidation of Polish possessions in Germany in 1939-1944, "SnFiZH" I (1974), p. 48.

³⁹⁹ C. Wiczorkiewicz, Polonia in West Germany in 1945-1952, "PZ" 3 (1965), p. 118, note 1.

⁴⁰⁰ M. Cyganski, Hitler's persecution of the Polish community..., pp. 231-232.

⁴⁰¹ Ibid. Cf. K. Schnöring, Polen - Staatsbürger zweiter Klasse? "Deutsch-Polnische Hefte" 7-8 (1961), pp. 376-377. Without taking into account data on the deaths of leaders and activists associated with District II of the Union of Poles in Germany, in its other units the losses amounted, according to Mirosław Cygański's estimates, to at least 407 people (M. Cyganski, Hitler's persecution of the leaders and activists of the Union of Poles in Germany in 1939-1945, "PZ" 4 (1984), pp. 57-60. Cf. W. Gładkiewicz, Nazi repression against the Westphalian-Upper Rhine Polish community in 1939-1945, "PZ" 5-6 (1975), pp. 261-268).

⁴⁰² F. Polomski, Intentions to liquidate Polish activists in the Opole region in 1939-1944, "Studia Śląskie. Seria Nowa" I (1958), p. 214.

⁴⁰³ Verordnung über die Organisationen der polnischen Volksgruppe im Deutschen Reich. Vom 27. Februar 1940 (RGBl. I 1940, 39, 444).

⁴⁰⁴ W. Wrzesiński, Polish movement..., pp. 487-502.

⁴⁰⁵ "Die Tätigkeit der Organisationen der polnischen Volksgruppe im Deutschen Reich (Vereine, Stiftungen, Gesellschaften, Genossenschaften und sonstige Unternehmen) ist verboten. Neue Organisationen der polnischen Volksgruppe dürfen nicht gegründet werden."

rationale for taking care of Polish affairs in Germany had disappeared, they soon agreed to transfer it to the relevant German offices. The transfer protocol was signed on December 8, 1939. A conflict arose between the Gestapo and the Reich Ministry of Foreign Affairs in connection with the review of documents of Polish posts, which were generally of little value. The analysis of these materials was not completed until 1945. Embassy staff in Berlin left Germany on September 2, 1939, and consular staff were not allowed to leave, including for Denmark and Hungary, until September 13-14, 1939. In retaliation for the disappearance of August Schillinger, the German consul from Krakow, three Polish diplomats were detained: Jerzy Warchałowski, consul general from Königsberg, Witold Winiarski, consular attaché, and Bohdan Jałowiecki, consul from Olsztyn. The last of them was not released and died as a prisoner of the Działdowo camp⁴⁰⁶.

Free City of Danzig before and after annexation

Repression also affected Poles in the Free City of Danzig. In the context of the policy of the German authorities toward the Polish elite there and members of the rest of society, it can be deduced that the FCD became the most effectively depolonized area occupied by the Reich. According to the August 18, 1929 census, 36,000 people of Polish descent lived there, accounting for about 11 percent of the total FCD population⁴⁰⁷. The Polish population formed clusters in Danzig and Sopot, where they generally partook in crafts, commerce and industrial work. Rural settlement was concentrated on the left bank of the Vistula and in Żuławy⁴⁰⁸. In the FCD there were various Polish associations and societies similar to those operating in the Reich, and they had analogous problems related to the anti-Polish policy of the authorities. As early as April 21, 1921, the Polish Community in the FCD was established, representing the interests of Danzig's Poles and attempting to organize a Polish movement. Ordinary, full-fledged members of it could only be Poles of Danzig citizenship, and extraordinary members, with an advisory vote, could also be Polish citizens. In 1923 it had 7,500 members, including 3,500 extraordinary members, and in 1933 it had more than 5,000, including 1,000 extraordinary members. On June 13, 1933, the Union of Poles in the Free City of Danzig, competing with the Commune, was established⁴⁰⁹. Unlike the municipality's pro-endowment-oriented authorities, the union

⁴⁰⁶ H. Batowski, The fate of Polish consulates in Germany after September 1, 1939, "PZ" 5-6 (1989), pp. 121-129. See more on the history of Polish consular posts in East Prussia: M. Szostakowska, *Konsulaty polskie w Prusach Wschodnich w latach 1920-1939*, Olsztyn 1990.

⁴⁰⁷ Danuta Drywa considered this number to be most likely understated (D. Drywa, *Säuberungsaktion...*, p. 49. Cf. W. Jedliński, *History of Education and Culture in the Free City of Danzig and Powisle 1920-1939*, Malbork 1998, pp. 20-21).

⁴⁰⁸ A. Drzycimski, *Poles in the Free City of Danzig in 1920-1933*, Wrocław-Warszawa-Kraków- Danzig 1978, p. 49).

⁴⁰⁹ Annually, on the initiative of the authorities of the Union of Poles, summaries of its work were published, containing information on, among other things, the functioning of the organization and the problems of the local Polish community (see *First Year of Work of the Union of Poles in W.M. Danzig. Report on Activities for the Time from May 1, 1933 to April 30, 1934*, ed. P. Jeż, Danzig 1934; *The Second Year of Work of the Union of Poles in W.M. Danzig. Report on activities for the time from May 1, 1934 to April 30, 1935*, ed. J. Wayzner, Danzig 1935; *Third Year of Work of the Union of Poles in W.M. Danzig. Report on activities for the time from May 1, 1935 to April 30, 1936*, ed. J. Wayzner, Danzig 1936; *The fourth year of work of the Union of Poles in*

supported the government, and membership was open to both Danzig and non-Gdansk Poles. Between 1936 and 1937, between 5,000 and 8,000 people belonged to the municipality. The municipality lost subsidies from the Polish government, transferred since 1933 to the association. Due to the aggressive anti-Polish activities of the Danzig authorities, Marian Chodacki, Commissioner General of the Republic of Poland in FCD, led to the merger of the two organizations into the Polish Commune Union of Poles in the Free City of Danzig. It began its activities on May 23, 1937.⁴¹⁰

The Treaty of Versailles prohibited discrimination against Poles in the future Polish-German Convention: "this convention: [...] 5. shall ensure that no distinction shall be made in the Free City of Danzig to the disadvantage of Polish citizens and other persons of Polish origin or speaking Polish" (Article 104(5)). This regulation was essentially repeated in the Paris Convention, although this act prohibited bias to their detriment, especially in legal regulation and administration (its Article 33). Provision was made for the protection of racial, religious and linguistic minorities similar to that provided by the Polish authorities on the territory of the Republic, and resulting from the so-called Little Treaty of Versailles (Article 33 of the Convention). The implementation of international legal norms in the Basic Law occurred in Articles 4 and 77 of the Danzig Constitution of November 17, 1920.⁴¹¹ The former guaranteed the free national development (*freie volkstümliche Entwicklung*) of the Polish-speaking part of the population (*polnisch sprechende Volksteil*), which in particular was to include the right to use the Polish language in education, internal administration and the administration of justice, which was to result from the relevant legislation and actions of the administration. Article 77, in turn, forbade the use against members of a given nationality of Danzig institutions established from general public funds for the purpose of internal colonization. A brief review of the basic sources of minority rights in the FCD reveals their similarity to the Weimar Constitution. The Danzig authorities eliminated the concept of a national minority from their Basic Law by defining Poles as a group of the Danzig population according to linguistic criteria, rather than voluntary membership in the Polish nation. This amounted to a narrowing of the provisions contained in the Treaty of Versailles and the Paris Convention. The normative definition of the Polish minority did not strictly bind the German FCD authorities in selecting future victims of the anti-Polish policy. Which Poles were decided to be imprisoned first, which generally preceded their liquidation, was determined by practical considerations. In addition to ancestry (ascertained, among other things, on the basis of linguistic criteria, place of birth, religion, ancestral nationality, political and social activity), probable Polonia-forming potential, affiliation with Polish authorities, parties or

W.M. Danzig. Report on activities for the time from May 1, 1936 to March 31, 1937, Danzig 1937). After the merger of the Union of Poles with the Polish Community, the issuance of reports continued.

⁴¹⁰ S. Mikos, *Gmina Polska w Wolnym Mieście Gdańsku* [in:] *Studia z dziejów Gdańska 1918-1939*, ed. S. Potocki, Gdańsk 1975, pp. 161-184.

⁴¹¹ See the consolidated text of the constitution after the amendments of December 9, 1920, May 17, 1921, and April 4, 1922: *Inkraftsetzung vorstehender Gesetze und Beschlüsse* (GBl. f. d. FSD 1922, 30, 144); *Verfassung der Freien Stadt Danzig in der Fassung der Bekanntmachung vom 14. Juni 1922*, Danzig 1922. See the consolidated text of the Basic Law after the amendment of 4 July 1930, i.e., as it stood until the liquidation of FCD in 1945: *Bekanntmachung der Verfassung der Freien Stadt Danzig in der Fassung des Gesetzes vom 4. Juli 1930*. Vom 17.9.1930 (GBl. f. d. FSD 1930, 35, 181); *Verfassung der Freien Stadt Danzig in der Fassung des Gesetzes vom 4. Juli 1930*. Neuverkündert am 17. September 1930 (G.Bl. 1930 S. 179 ff.), Danzig 1930.

other organizations, property owned, and even pre-war interneighborhood conflicts proved to be important factors.

The "Special Gentile Book for Poland" included more than 290 names of Poles living in FCD. The police authorities there took part in the planning, preparation and execution of the German extermination of Poles in the subordinate territory⁴¹². The Victoria Schule in Danzig and the so-called emigration stage (former Prussian artillery barracks) in the Danzig district were adapted for the liquidation of the Polish leadership strata

New Port (Neufahrwasser), and a camp was established in Graniczna Wies (Grenzdorf). In these places, camps for civilian prisoners of war (Zivilgefangenenlager) were established, subordinate to the commandant of the POW camps of Danzig⁴¹³.

Since September 1, 1939, property of the Polish state and Polish citizens was seized in the FCD. German and Danzig police officers seized the property of at least the Commissariat General of the Republic of Poland, the Polish Railway Administration, the Polish Post Office, the Polish Customs Inspectorate and its outposts, the Polish Telegraphic Agency, the Polish Delegation of the Port and Waterways Council, Polish educational and student institutions (e.g., a gymnasium, an academic house, a trade school), Polish banking units, and even the apartments of Polish officials⁴¹⁴. Estimating the number of representatives of Gdansk's Polish community murdered by the Germans is a breakneck task. Piotr Semkow found it likely that from September 1, 1939 to March 22, 1940, when the second mass execution took place in the Stutthof camp, 242 Poles were liquidated, among them 52 defenders of the Polish Post Office in Gdansk (39 of them were shot in Zaspka on October 5, 1939. as a result of judicial murder, the rest were sent to Stutthof)⁴¹⁵, 20 railwaymen from Szymankowo, 68 murdered in Stutthof in March, and 102 people deprived of their lives mainly in the forests near Wielka Piaśnica, during military operations and as a result of ad hoc individual murders. The materials containing data on victims of German repression for the entire occupation period, more or less plausible and not necessarily complete, included 1,023 personal cards. In turn, Piotr Semkow compiled a list containing 620 names of murdered Poles from the FCD⁴¹⁶.

Of the 130 teachers working in Danzig, 29 died as a result of German repression⁴¹⁷. Numerous Polish officials, politicians, military officers (including defenders of the Military

⁴¹² J. Daniluk, SS in Gdańsk. Selected Issues, Gdańsk 2013, pp. 95-109. cf. M. Wąs, Wartime and Postwar Gdańsk, Warsaw 2016, pp. 68-75.

⁴¹³ A. Męclewski, Neugarten 27. Z dziejów gdańskiego gestapo, Warsaw 1974, pp. 61-67. See more information on the Stutthof concentration camp and its Polish prisoners: Stutthof. Hitlerowski obóz koncentracyjny, ed. K. Ciechanowski et al., Warsaw 1988; K. Dunin-Wąsowicz, Obóz koncentracyjny Stutthof, Gdańsk 1970; M. Owsński, Polscy więźniowie polityczni w obozie Stutthof 1939-1945, Toruń 2001, pp. 91-98; D. Drywa, Säuberungsaktion..., pp. 49-79.

⁴¹⁴ M. Wardzyńska, It was 1939..., pp. 82-83.

⁴¹⁵ D. Schenk, The Polish Post Office in Danzig. The history of a certain German judicial murder, transl. W. and J. Tycner, Gdańsk 1999, pp. 61-148; A. Świtalski, Crime sanctioned. Skazanie na śmierć obrońców Poczty Polskiej w Gdańsku w świetle prawa, Wrocław-Warszawa-Kraków-Gdańsk 1979, pp. 31-122; F. Bogacki, Poczta Polska w Gdańsku, Warsaw 1978, pp. 90-113; A. Śnieżko, Poczta Polska w Wolnym Mieście Gdańsku, Wrocław 1964, pp. 93-102.

⁴¹⁶ P. Semków, Polityka Trzeciej Rzeszy wobec ludności polskiej na terenie byłego Wolnego Miasta Gdańska w latach 1939-1945, Toruń 2001, pp. 128-130, 165-186.

⁴¹⁷ M. Wardzyńska, It was 1939..., p. 87.

Transit Depot at Westerplatte)⁴¹⁸ , members of other uniformed services, Polish activists, doctors, lawyers, postal workers, customs officers⁴¹⁹ , railroad workers, farmers, craftsmen, restaurateurs and laborers were murdered. Eight of the twelve clergymen serving in the churches of the Diocese of Gdansk were killed⁴²⁰ . The Danzig scouting movement also suffered losses. Because of its growing influence⁴²¹ and the actions of its leadership, preparations for the area's unification with Germany were significantly hampered. After the unification of the FCD with the Reich on September 1, 1939, the Danzig authorities began searching for scouting leaders and its rank-and-file members, posting placards with their names and photographs. They were signed as follows: "These are the ones who betrayed Danzig." Among those arrested from among Danzig's Polish community were Volkstag deputy Antoni Lendzion, bank director and activist Franciszek Kręcki, physician Stefan Mirau, scoutmaster and teacher Alfons Liczmański, Danzig port pilot commander Tadeusz Ziolkowski, and shipbuilding engineer and ZHP activist Gustav Niemiec. After interrogations, a large number of them were sent to the prison in Nowy Port, and from there to the camp in Stutthof, where many were deprived of their lives⁴²² .

So-called Polish territories incorporated into the German Reich

In the territory of the Republic occupied since September 1, 1939, the German occupation authorities carried out a project of exterminating the Polish elite. As part of this action, numerous Polish property owners (farms, businesses, industrial plants, stores, restaurants, etc.) were deprived of their lives, whose estates were seized for the use of German settlers brought to the so-called western Polish territories annexed to the Reich. The planned killings continued until the end of 1939 in the so-called incorporated territories and until mid-1940 in the so-called GG. Later, the threat from the resurgent Polish resistance movement and state authorities in the occupied country was removed on an ad hoc basis. In the Borderlands, occupied by Germany after 1941, representatives of the Polish leadership strata, generally from the larger administrative centers, were killed preemptively (selectively, but en masse). The extermination of elites in the east was not everywhere carried out with such determination as in western and central Poland. This

⁴¹⁸ J. Tuliszką, *Westerplatte 1926-1939: The History of the Military Transit Depot in the Free City of Gdańsk*, Toruń 2003, pp. 209-220.

⁴¹⁹ A. Męclewski, *Celnicy Wolnego Miasta. Z działalności polskich inspektorów celnych w Wolnym Mieście Gdańsku w latach 1923-1939*, Warsaw 1971, pp. 356-378; H. Kula, *Polscy inspektorzy celni w Wolnym Mieście Gdańsku*, Gdańsk 2009, pp. 329-409.

⁴²⁰ A. Baciński, *Martyrologia polskich kapłanów katolickich w Gdańsku w latach 1939-1945*, "Kościół Katolicki na Ziemiach Polski w Czasie II Wojny Światowej. Materials and Studies" 1 (1973), pp. 185-205.

⁴²¹ Formally, its structures as foreign units were subordinate to the Polish ZHP authorities. In 1920, the first scouting units were formed in Gdansk - a men's troop and a separate women's troop; a men's troop was established in 1928, and a women's troop in 1931. The number of members of the men's troop in 1935 was 641, and that of the women's troop was 576. In accordance with the order of the head of the ZHP No. 1 of January 10, 1935, the rank of the Danzig troop was raised to that of a choral command. Its size in 1939 was 2007 people (K. Kubik, *Polish Scouting in the Free City of Danzig*, "Danzig Yearbook" 1 (1972), p. 112; R. Wozniak, *Polish Scouting in the Free City of Danzig 1920- 1939*, Warsaw 1977, pp. 28, 35, 47, 52).

⁴²² K. Kubik, *Scouting...*, pp. 112-113; R. Wozniak, *Scouting...*, pp. 71, 82. Cf. information on the activities of German youth associations in FCD: C. Pallaske, *Die Hitlerjugend der Freien Stadt Danzig 1926-1939*, Münster - New York - München - Berlin 1999.

was due to the fact that the Polish intelligentsia and the landowning class had already been depleted by the Soviet authorities; moreover, other police tasks, such as liquidating Jews and antagonizing national and religious minorities, were considered more urgent.

During the September campaign and in the first months of the occupation, essentially until early 1940, the Polish leadership layer was liquidated in the so-called lands incorporated into the Reich on October 26, 1939 - at least 50-60 thousand Poles were murdered in the "Intelligence" action⁴²³.

The largest number of people, up to 36-42 thousand, were exterminated in Gdansk Pomerania⁴²⁴. Executions were carried out in more than four hundred towns located in the pre-war Pomeranian province. Executions were carried out in forests (near Piaśnica Wielka⁴²⁵ near Wejherowo, where 23 mass graves were discovered, Barbarka⁴²⁶ near Toruń, Szpęgawski Forest, with 32 grave pits, and Gdański Forest in Bydgoszcz), gravel pits and sand pits (in Paterek⁴²⁷ near Nakło nad Notecią. Nakło nad Notecią and sub-Drudziądz Mniszek), ditches, prisons and detention centers⁴²⁸, camps run by members of the Selbstschutz and Gestapo functionaries⁴²⁹ ("execution house" in Rypin⁴³⁰, artillery barracks in Bydgoszcz and camps in Radzim and Karolewo⁴³¹), farms, fields, Jewish and Catholic cemeteries. To intimidate the Polish population, public executions were used. Collective punishments were imposed and those captured were exterminated. Victims were usually beaten, shot or murdered with blunt instruments such as a shovel or rifle butt - they were robbed beforehand, tortured and humiliated in elaborate ways. Particularly many mass executions were carried out on the day Poland regained its independence, November 11, 1939, to further emphasize the collapse of the state and depress the Polish citizens exterminated that day. Quasi-judicial bodies, such as three-person commissions, which generally included two members of the Selbstschutz, handed down death sentences. The Poles were cited as guilty of, among other things, their "fanatical attachment to Polishness" (sind als fanatische Pole anzusehen), arson of German property and activities against Germanness⁴³², which German neighbors often

⁴²³ Maria Wardzyńska indicated, following Czesław Łuczak, a conservative estimate of the number of victims of the direct extermination action. A higher tally was given by Witold Kulesza (M. Wardzyńska, *Był rok 1939...*, p. 74. See C. Łuczak, *Poland...*, pp. 99-104; R. Majewski, *Waffen SS. Myths and Reality*, Wrocław 1977, p. 53. Cf. W. Kulesza, The possibility of developing an indictment of the perpetrators of the Katyn crime. Legal premises and reality [in:] *Katyn Crime. Guilt and Accusation*, ed. I. Kowalska et al., Warsaw 2004, p. 65).

⁴²⁴ B. Chrzanowski, *Pomorze Gdańskie pod okupacją Niemiecką (1939-1945)* [in:] *Stutthof...*, p. 34. Cf. D. Steyer, *Eksterminacja ludności polskiej na Pomorze Gdańskim 1939-1945*, Gdynia 1967, pp. 87-90, 153-161; W. Jastrzębski, J. Sziling, *Okupacja hitlerowska na Pomorze Gdańskim w latach 1939-1945*, Gdańsk 1979, pp. 95-105; W. Jastrzębski, *Terror i zbrodnia...*, Warsaw 1974, pp. 123-146.

⁴²⁵ See *Piaśnica Accuses. Aftermath of the scientific conference "Piaśnica 1939-1941" and the Fourth District-Municipal Photo Contest "Nekropolia Piaśnicka"*, ed. S. Janke, Wejherowo 2009.

⁴²⁶ See S. Grochowina, J. Sziling, *Barbarka. Site of German executions of Poles from Toruń and the surrounding area (October-December 1939)*, Toruń 2009.

⁴²⁷ See T. Ceran, *Paterek 1939: Crime and Memory*, Bydgoszcz, Gdansk-Warsaw 2018.

⁴²⁸ J. Adamska, *Organization of prisons and court arrests in the Polish territories that were part of the Third Reich in 1939-1945, "BGKBZHP" XXIX (1979)*, pp. 98-136.

⁴²⁹ See *The System of German Camps in Pomerania and Neighboring Areas (1939-1945)*, ed. S. Grochowina et al., Toruń 2010.

⁴³⁰ See A. Witkowski, *Mordercy z Selbstschutzu*, Warsaw 1986, pp. 12-14, 63-72, *passim*; M. Krajewski, *In the Shadow of War and Occupation. Ziemia Dobrzyńska w latach 1939-1945*, Rypin 1995, pp. 53-59, *passim*.

⁴³¹ See I. Mazanowska, *Karolewo 1939: crimes in the Selbstschutz Westpreussen camp*, Gdańsk-Warsaw 2017; B. Bojarska, *Camps of destruction...*

⁴³² K. Daszkiewicz, *Niemieckie ludobójstwo na narodzie polskim (1939-1945)*, part 1, Toruń 2009, p. 94; M. Wardzyńska, *Był rok 1939...*, p. 169.

took advantage of to seize their property. Sometimes the families of the murdered received information that their relatives had left for the so-called GG and contact with them was impossible⁴³³.

Representatives of the elite and other wealthy Poles were dealt with similarly in the Polish western lands, both before and after their incorporation into the Reich, although there were regional differences. The first distinctiveness was due to the smaller numbers of ethnic Germans in Greater Poland, Polish Upper Silesia and lands incorporated into East Prussia than in Gdansk Pomerania. As a result, there was a more modest participation of local Volksdeutsche in Selbstschutz units, which, outside of Pomerania, generally did not achieve a strong position in the extermination apparatus. Not having such a well-developed network of shop stewards and agents as in Pomerania, drawn largely from the German national minority, in the course of the extermination operation the German authorities most likely had to supplement lists with details of those recognized as Polish leaders. For example, Arthur Greiser, head of the civil administration under the military commander in Poznań, ordered on September 29, 1939, the preparation of lists of names of representatives of the Polish elite - clergymen, teachers, landowners, merchants and industrialists⁴³⁴.

It was characteristic of German criminals in Greater Poland that they carried out mass executions, even several times in a given location, in public places, such as in town squares (in Śmigł, Kościan, Szamotuły, Mosina, Kostrzyn, Murowana Goślina, Kórnik, Śrem, Gostyń, Leszno, etc.) and in smaller towns (by the church in Otorowo, Osieczna, Poniec, Włoszakowice, etc.)⁴³⁵. Exposing, unsupported by facts, allegations of anti-German diversion, possession of weapons and brutality of Polish victims against their German neighbors allowed to intimidate Poles and stir up hatred against them among soldiers and local Volksdeutsche. It is likely that a total of about 10,000 people were murdered in the Wartheland as part of the "Intelligence" operation⁴³⁶.

In turn, in the Polish lands incorporated into East Prussia, Erich Koch's directives were implemented and the area was ruthlessly Germanized. An expression of Koch's ambitions was the fact that his foundation (Erich-Koch-Stiftung) took over the Krasinski and Czartoryski estates of nearly 19,000 hectares. On the site of their palace, which was demolished in 1940 on the orders of the German authorities, the super-president erected a country villa, the construction of which meant the burning of 160 Polish farms and the displacement of their 757 inhabitants⁴³⁷. In East Prussia, members of the Polish leadership strata were murdered with secrecy, so transports of those planned for extermination were limited to concentration camps located outside the province. For this reason, SS-Brigadeführer Otto Rasch, commander of the operations branch in the EG z. b. V., and from November 1939 to November 1941 inspector of the security police and security service in Königsberg, established a transit camp for Polish civilian prisoners (Durchgangslager für polnische Zivilgefangene) in Działdów in late 1939 and early 1940,

⁴³³ M. Wardzyńska, *It was 1939...*, p. 177

⁴³⁴ *Ibid.*, pp. 186-187.

⁴³⁵ *Ibid.*, pp. 192-198.

⁴³⁶ *Ibid.*, p. 217.

⁴³⁷ *Ibid.*, p. 225.

using the existing camp there for Polish prisoners of war, Einsatzgruppen personnel and Volksdeutsche from the Selbstschutz⁴³⁸.

In the Polish part of Upper Silesia, the peculiarity of the extermination of the Polish leadership strata was that executions were carried out immediately. In September 1939, they were carried out by Wehrmacht soldiers, police officers and members of paramilitary formations such as the Sonderformation "Ebbinghaus." In the first instance, they slaughtered Silesian Poles who offered them strong and organized resistance. Among the victims, in addition to those belonging to the Union of Silesian Insurgents and other civilian defenders, were young people from the Polish Scouting Association and the Union of Insurgent Youth. It was of particular importance to the Germans to liquidate as many Silesian insurgents from 1919-1921 and plebiscite activists as possible⁴³⁹. This was due to the fact that they were considered to be a Polonia-forming element and implacable enemies of Germanness, who had already managed to prove their negative attitude towards the German state. In September 1939, German functionaries murdered some 1,400 Poles in the Polish part of Upper Silesia. According to Czesław Madajczyk, although the number of victims seems surprisingly low, it is justified by the conviction of the police authorities that the local population does not support the insurgents, Silesian industrial plants should be put into operation by the hands of their Polish employees, and many representatives of the Polish intelligentsia left the area before the Germans entered⁴⁴⁰.

After the end of hostilities in Poland, Polish activists began to be eliminated in Silesia. In Upper Silesia, unlike in Pomerania, East Prussia and Greater Poland, representatives of the elite (especially teachers and clergy) were generally sent to camps (including Auschwitz, Mauthausen, Gusen, Dachau and Sachsenhausen), where they were eliminated through slave labor, starvation, corporal punishment and restricted access to medical care. Repression continued even until May 1940.⁴⁴¹

Donald Steyer rightly concluded that during the period of intensive extermination of the Polish elite (i.e., from September to December 1939), as part of the "Intelligence" action in the areas considered annexed, "Poles were murdered in every town, in almost every village."⁴⁴² Although this action was planned in detail by the German authorities, its effects in Pomerania, thanks to the fact that local ethnic Germans were engaged as enforcers, seemed to exceed the expectations of Berlin decision-makers and local administrative superiors. For this reason, the notion of "1939 Pomeranian crime"⁴⁴³,

⁴³⁸ M. Orski, *Camps in Działdów. Forgotten testimonies of German terror during World War II* [in:] *System of camps...*, p. 132.

⁴³⁹ M. Wardzyńska, *It was 1939...*, p. 129.

⁴⁴⁰ C. Madajczyk, *Politics...*, vol. 1, p. 44.

⁴⁴¹ *Ibid.*, pp. 137, 139.

⁴⁴² D. Steyer, *Extermination Policy of the Nazi Occupant in Gdansk Pomerania*, Gdansk 1971, p. 23.

⁴⁴³ Both the term itself and its explanation raised formal and substantive questions. The author of this publication expressed them in a polemic with Tomasz Ceran. They concerned mainly the subjective, intentional and chronological aspects of the crime. Tomasz Ceran took into account only the geographical location of the execution sites, located in the pre-war Pomeranian province. However, he did not take into account the fact that the German authorities intended to exterminate the Polish elite, not the Pomeranian elite (the nationality rather than the regional affiliation of the victims was decisive), the actual justifications for the crimes committed (national or eugenic reasons), and he omitted executions carried out after 1939 (the disbanding of Selbstschutz or Einsatzgruppen did not translate directly into factual actions). Nevertheless, the creation of the term in question is justified by the exceptional scale of the program of murdering members of the Polish elite. Despite reservations about the name of the crime, its victims were commemorated with a

proposed by Tomasz Ceran, a historian of the occupation of Pomerania, continues to be singled out in Polish writing and historical discourse. Despite hundreds of studies on the martyrdom of Poles in the first period of the German occupation, new publications are still being written, devoted to this issue not only in the context of Pomerania⁴⁴⁴, but also Greater Poland, the land of Lodz, Upper Silesia and northern Mazovia, incorporated with parts of Suwałki into East Prussia. In view of the passage of many years since the events described, their authors tend to focus on clarifying and verifying numerical estimates, in line with the postulate expressed by Zbigniew Herbert, an outstanding Polish poet, essayist and playwright, to "establish the names / of all those who perished / in the struggle against inhuman power."⁴⁴⁵

The so-called General Government

Less support from the German national minority than in the so-called "incorporated territories," the virtually paramount position of Hans Frank in the hierarchy of power of the so-called GG, the dominance of the Polish community in the demographic structure of the entity, the fear of the reaction of international public opinion and the possible disapproval of the central German authorities of the independent actions taken by the Governor General - all this led to the formation of a different model for the extermination of the Polish leadership strata.

Before the criminal "AB" operation was implemented in 1940, the German administrators of the so-called GG applied ad hoc repressions. Numerous representatives of the Polish elite were eliminated as a result of arrests, raids and searches, carried out especially in October and November 1939. As in other regions of occupied Poland, death penalties began for alleged or proven possession of weapons. Many victims of German terror in the so-called Warsaw District were sent to the prison of the security police and security service in the capital's Pawiak (Gefängnis der Sicherheitspolizei und des SD Warschau) and the penitentiary (Deutsche Strafanstalt) on ul. Rakowiecka, from where they were transported for brutal interrogations to the office of the Kommandeur of the Security Police and Security Service for the Warsaw District (Kommandeur Sicherheitspolizei und des Sicherheitsdienst für den Distrikt Warschau), located in part of the buildings of the former Polish Ministry of Religious Denominations and Public Enlightenment at Al. J. Szucha 25. The executions were carried out on the Vistula embankment at the back of the Polish parliament, in the so-called Sejm gardens, from where some of the bodies were

monument unveiled in downtown Toronto on October 6, 2018. (See T. Ceran, *Pomeranian Crime 1939*, "WHzWoS" 4 (2017), pp. 4-9; M. Mazurkiewicz, "Ad vocem" of the so-called Pomeranian Crime 1939, "WHzWoS" 1 (2018), pp. 18-20; T. Ceran, "Ad vocem to ad vocem. On the Pomeranian crime 1939 once again, "WHzWoS" 1 (2019), pp. 15-19. cf. informational brochure on the extermination of Pomeranian Poles: T. Ceran, *Pomeranian crime 1939*, Warsaw 2018).

⁴⁴⁴ See I. Rychert, *Extermination of the population of Tczew and Tczew County in 1939-1942 in the light of selected examples from the documents of the District Commission for the Investigation of Nazi Crimes in Gdańsk* [in:] *Wyniszczyć - wypędzić - wynarodowić. Sketches to the history of the German occupation in Kashubia and Kociewie (1939-1945)*, ed. G. Berendt, Gdańsk 2010, pp. 164-180.

⁴⁴⁵ Z. Herbert, *Mr. Cogito on the need for accuracy* [in:] *idem, Collected Poems*, ed. ed. by R. Krynicki, Cracow 2008, pp. 517-522.

taken away, while others were buried on the spot. Numerous Varsovians (representatives of the Polish authorities, parliamentarians, clergymen, teachers, doctors, lawyers, businessmen) died in execution sites prepared near the capital, including in the Kabaty Forest and in a separate clearing near the village of Palmiry in the Kampinos Forest, where at least some 1,700 people were executed (24 mass graves were discovered there after the end of the war)⁴⁴⁶.

On the other hand, in the so-called Krakau, Lublin and Radom districts, special actions (Sonderaktion Krakau, Sonderaktion Lublin and Sonderaktion Tschenschostochau) began in early November 1939. They were the equivalent of the repressions carried out in the so-called lands annexed to the Reich as part of the "Intelligence" action. However, due to the predominance of the Polish population, there were greater operational difficulties in the so-called GG than in western Poland. The fact that in the center of the country (apart from the land of Lodz, included in the so-called Wartheland) far fewer Germans participated in intelligence operations made it impossible to construct sufficiently accurate proscription lists. Secondly, while the nationality structure in the lands incorporated into the Reich allowed propaganda to justify the murder of Poles (antagonisms between Poles and ethnic Germans were aroused) and to carry out crimes, the so-called GG lacked real reasons to hit Polish elites.

An international scandal (even Benito Mussolini intervened with Adolf Hitler) culminated in a special action in Cracow, during which at least 183 people were arrested, mainly those associated with the Polish academic community (lecturers at Jagiellonian University, the Academy of Mining, the Academy of Commerce, Stefan Batory University in Vilnius and the Catholic University of Lublin, secondary school teachers), as well as a few random individuals. On November 3, 1939, Brunon Müller, commander of the 2nd Operations Detachment within the 1st Einsatzgruppe, demanded that Prof. Tadeusz Lehr-Splawinski, rector of the Jagiellonian University, convene a meeting of research and teaching staff on German higher education policy for November 6. Instead of the expected substantive paper, Brunon Müller, in the presence of an audience gathered in Nicolaus Copernicus Lecture Hall 66 in the UJ's Collegium Novum, gave a short speech, stating, among other things: "My gentlemen, I have summoned you to tell you that the University of Cracow has always been a focal point of anti-German sentiment, in this spirit of unkindness it has raised its youth [...]. Therefore, you will be arrested and sent to a camp."⁴⁴⁷. Initially, the arrested Poles were held in the building of the former military prison on Montelupich Street (Polizeigegefängnis Montelupich). A few were released and the rest were sent to the Sachsenhausen concentration camp. More than half of the inmates were released from the camp on February 8, 1940, primarily as a result of protests by prominent figures in European and world academia. Unfortunately, the dire health condition of the liberated and their advanced age led to deaths in many cases. Younger scientists were transferred to concentration camps in Dachau, Buchenwald, Mauthausen and Gusen, from where most of them were released after months of gehenna. Just three days after the special action in Cracow, on November 9, 1939, further arrests were made, this time mainly of members of the broadly defined elite (high school teachers, lawyers,

⁴⁴⁶ M. Wardzyńska, *It was 1939...*, pp. 239-243.

⁴⁴⁷ A. Chwalba, *Okupacyjny Kraków w latach 1939-1945*, Kraków 2016, p. 165.

clergy, parliamentarians, etc.). Nearly 120 people were captured, many of whom were sent to the Auschwitz extermination camp. In historical writing, these actions by the German police are sometimes referred to as the Second Cracow Special Action (Zweite Sonderaktion Krakau). The persecution of the Polish intelligentsia in the so-called Kraków district (including Rzeszów, Jarosław and Przemyśl) continued in the later months of⁴⁴⁸.

Similarly, the German authorities dealt with the victims of the special action in Lublin, which was launched on November 9, 1939, which was linked to the fact that SS-Brigadeführer Odilo Globocnik became commander of the SS and police in the so-called Lublin district. As a result of the arrests, made mainly in November 1939, Polish higher education (the KUL community), secondary education and the judiciary in Lublin were virtually eliminated, and the hierarchy of the Catholic Church in the region was shattered. The manhunts continued in later months (intensified in January 1940) also in other parts of the Lublin region (Chelm, Hrubieszów, Krasnystaw, Lubartów, Łeczna and Zamość). Those arrested from Lublin were held in the prison of the Security Police and Security Service (Gefängnis der Sicherheitspolizei und des SD Lublin) at the local Castle, from where most were released by the summer of 1940. Some were murdered (the Lublin Jewish cemetery was often used as an execution site) or transferred to concentration camps (such as Sachsenhausen). The total number of victims of the November Sonderaktion Lublin was estimated at about 250, and the repressions, which were also carried out in the so-called Lublin District in the following months, involved about 2,000 representatives of the Polish elite⁴⁴⁹.

Polish leaders in the so-called Radom District were dealt with somewhat differently. Security and security police conducted arrests mainly from October to November 1939. Also in Częstochowa, the manhunts intensified on November 9, 1939. A special action in that city (Sonderaktion Tschenstochau) was carried out by members of the German security, criminal and order police, who were formed into a dozen detachments. Poles were held in Częstochowa's Zawodzie prison. Propaganda pointed to the failed bombing attempt on Adolf Hitler, carried out on November 8, 1939, by carpenter and National Socialist opponent Georg Elser in a Munich beer hall, the Bürgerbräukeller, as the cause of the repression in Częstochowa. Most of the Poles captured by November 1939 were released when the Germans became convinced that the pacification of the elite and the remaining population of the administered area had been successful. Data obtained during the interrogation of the victims of the special action in Częstochowa was used to invigilate the Polish intelligentsia and was used in the "AB" operation. After November

⁴⁴⁸ H. Pierzchała, Mechanisms of extermination of Cracow scholars in the "Special Action Cracow" - "Sonderaktion Krakau" 1939-1945, Cracow 2007; idem, Den Fängen des SS-Staates entrissen: die "Sonderaktion Krakau" 1939-1941, Cracow 1998; idem, Extermination of professors of the AGH University of Science and Technology in Hitler's "Sonderaktion Krakau," "Biuletyn Informacyjny Pracowników AGH" 159 (2006), pp. 3-5; J. Zaborowski, S. Poznański, Sonderaktion Krakau. W dwudziestą piątą rocznicę 6 listopada 1939, Warsaw 1964; Z. Starachowicz, Sonderaktion Krakau. Memories of the action against university professors in Cracow (November 6-10, 1939), introduction and compilation. K. Starachowicz et al, Gdańsk 2012; S. Gawęda, Jagiellonian University during World War II 1939-1945, Kraków 1986; J. August, Sonderaktion Krakau. Die Verhaftung der Krakauer Wissenschaftler am 6. November 1939, Hamburg 1997; M. Wardzyńska, Był rok 1939..., pp. 255-256.

⁴⁴⁹ Sonderaktion Lublin. November 1939, ed. Z. Mańkowski, Lublin 1989; Hitler's Prison in Lublin Castle 1939-1944. A Collective Work, ed. Z. Mańkowski, Lublin 1988; J. Marczuk, Straceni w Noc Wigilijną. Lublin 23 XII 1939, Lublin 2000; The fate of the staff and students of the Catholic University of Lublin during the German occupation, ed. J. Ziółek, Lublin 2009; M. Wardzyńska, Był rok 1939..., pp. 247-248.

1939, the liquidation of the Polish leadership strata continued, with the deaths of numerous farmers, clergymen, civil servants and even scouts⁴⁵⁰.

In May 1940, the decentralized anti-Polish policy, which had been carried out in individual districts of the so-called GG, was replaced by the "AB" action, which was prepared throughout the so-called GG. In principle, it lasted until the fall of 1940, although it was officially ended earlier. Poles in German prisons and jails were exterminated directly (they were murdered, for example, in Palmiry near Warsaw) or sent to concentration camps, mainly Sachsenhausen, Buchenwald, Gross-Rosen, Ravensbrück, Dachau and Auschwitz. The June 13, 1940 transport of more than seven hundred inmates from the German Penitentiary (Deutsche Strafanstalt) in Tarnow to Auschwitz proved to be the symbolic opening of a new chapter in the German occupation of Polish lands. Polish prisoners delivered at that time to Auschwitz, located in the so-called "Reich incorporated lands," became its first residents (not counting the thirty German criminal prisoners from Sachsenhausen who made up the functional camp staff). At least 3,500 representatives of the Polish elite (parliamentarians, artists, writers, teachers, clergymen, doctors, state dignitaries, publicists, athletes, political activists, students, former insurgents, military officers) and another 3,000 Poles from the so-called GG, whom the German authorities considered criminal offenders, were murdered in various ways as part of Operation "AB."⁴⁵¹ The end of the operation by no means meant the end of the persecution, but only a reduction in its intensity.

The Kresy (the Eastern Borderlands)

Military successes allowed the Germans to control the Borderlands, occupied by the USSR until mid-1941. Białystok⁴⁵², as well as a small part of other Polish eastern territories were occupied by Wehrmacht troops in September 1939. Soon, as a result of the implementation of the Soviet-German agreement, Germany handed over the captured

⁴⁵⁰ Z. Grzędziński, J. Pietrzykowski, *Polentumsträger. Dzieje nauczycieli na ziemi częstochowskiej 1939-1945*, Katowice 1988; J. Pietrzykowski, *Walka i męczeństwo. Z wojennych dziejów duchowieństwa diecezji częstochowskiej (1939-1945)*, Warsaw 1981; idem, *Cień swastyki nad Jasną Górą. Częstochowa during the Nazi occupation 1939-1945*, Katowice 1985; R. Seidel, *Deutsche Besatzungspolitik in Polen. Der Distrikt Radom 1939-1945*, Paderborn-München-Wien-Zürich 2006, pp. 170-214.

⁴⁵¹ *Ausserordentliche Befriedungsaktion 1940, AB Action on Polish Territories. Materials from a scientific session (November 6-7, 1986)*, introduction and ed. by Z. Mańkowski, Warsaw 1992; J. Pietrzykowski, *AB Action in Częstochowa. AB-Aktion*, Katowice 1971; S. Piątkowski, *Z badań nad genezą i przebiegiem akcji AB - Ausserordentliche Befriedungsaktion w dystrykcie radomskim (listopad 1939 - lipiec 1940)*, "Biuletyn Kwartalny Radomskiego Towarzystwa Naukowego" 1-4 (2001), pp. 73-91; K. Daszkiewicz, *Niemieckie ludobójstwo...*, part 1, pp. 72-83; M. Wardzyńska, *Był rok 1939...*, pp. 244, 259-270.

⁴⁵² The crimes committed in the so-called Białystok district by German functionaries in cooperation with Lithuanian, Ukrainian and Byelorussian members of police formations against representatives of the Polish intelligentsia have not yet been comprehensively presented in the domestic historical literature; only lists of mass killing sites and studies of a local nature are available. Polish victims from the summer of 1941 were exterminated in parallel with mentally ill persons regardless of their nationality, Jews and Soviet prisoners of war (see J. Smurzyński, *Czarne lata na łomżyńskiej ziemi (masowe zbrodnie hitlerowskie w roku 1939 i latach 1941-1945 w świetle dokumentów)*, Warsaw-Łomża 1997; W. Monkiewicz, *Nazi crimes in Hajnówka and the surrounding area*, Białystok 1982; idem, *Nazi crimes in Białowieża*, Białystok 1982; J. Kowalczyk, *Wehrmacht crimes against civilians in the Białystok region [in:] Crimes and perpetrators...*, pp. 272-277; K. Daszkiewicz, *German genocide...*, part 2, pp. 29-43).

Polish territories to the USSR. After the restoration of German occupation in the Borderlands, the extermination of the surviving members of the Polish elite did not immediately proceed⁴⁵³. Reinhard Heydrich, in order No. 2 to commanders of operational groups on July 1, 1941, instructed that Poles recognized as members of the intelligentsia layer should not be subjected to immediate repression, as they could be used ad hoc to antagonize particular national, religious and class groups⁴⁵⁴. The hostility of the Poles to the Communists, among whom were many Jews sympathetic to Soviet power, enabled the Germans to neutralize the so-called enemies of the Reich gradually, depending on the threat posed. The extermination schedule was tailored to military and supply needs and the availability of uniformed officers capable of carrying out executions.

Due to its historical significance as a capital city, Vilnius and the surrounding areas have been of special interest to the Kaunas Lithuanian authorities since their incorporation into the reborn Republic. Thus, the incorporation of Vilnius into the Lithuanian state after the start of World War II seemed to be the fulfillment of repeated and strenuous Lithuanian demands. The formal Lithuanian occupation was soon replaced by Soviet occupation in mid-June 1940, and by German occupation in 1941. - German. On November 17, 1940, the Lithuanian Activist Front (Lietuvos Aktyvistų Frontas, LAF) was formed in Berlin, mainly from representatives of Lithuanian émigré circles in the Reich, with some 36,000 members before the start of hostilities. The activists formed their own military and police units to support German troops in Lithuania and the Vilnius region. These so-called Lithuanian partisans committed mass murders, robberies and rapes of Poles, such as near Braslav. Contrary to the expectations of the LAF, an independent Lithuanian state on the Slovak model was not established. Since the German superiors did not recognize an independent Lithuanian government, the LAF was dissolved as early as September 26, 1941. However, some of its members cooperated with the German occupation authorities. In July 1941, a Lithuanian collaborationist special detachment of the SD and German Security Police (vokiečių saugumo policijos ir SD ypatingasis būrys) was formed with a strength of about 150 men, composed primarily of individuals who had belonged to the pre-war paramilitary Lithuanian Rifle Association (Lietuvos Šaulių Sąjunga), known as Shaulis. The formation, operating as a Sonderkommando, became part of the Lithuanian Security Police (saugumo policija), which was subordinate to the German Security Service

⁴⁵³ For example, Soviet militia in the Vilnius region during its first short-lived occupation began arresting Polish patriots and holders on September 25, 1939, and detained at least 560 people. In turn, just before the evacuation of Soviet authorities from the Borderlands attacked by German troops, there were so-called "prison massacres" carried out by Soviet militiamen. Of the approximately 40,000 inmates in 46 Soviet prisons and several hundred detention centers located in the Soviet-occupied Borderlands, between 20,000 and 30,000 prisoners, mostly Ukrainians and Poles, died as a result of direct extermination and transports deep into the USSR. The most tragic course was the actions in Lviv, where 3.5 to 7 thousand inmates were killed (L. Tomaszewski, *Kronika wileńska 1939-1941*, Warsaw 1990, pp. 34-36; D. Schenk, *Night of the Murderers...*, pp. 98-102; B. Musiał, *Execute the Counter-Revolutionary Elements! Brutalization of the German-Soviet War in the Summer of 1941*, Warsaw 2001, pp. 11, 78, 93-104, 125; G. Motyka, *Ukrainian Partisans 1942-1960. Activities of the Organization of Ukrainian Nationalists and the Ukrainian Insurgent Army*, Warsaw 2006, p. 87; *Criminal Evacuation of NKVD Prisons and Detention Facilities in the Eastern Borderlands of the Second Polish Republic in June-July 1941. Materials from a scientific session on the 55th anniversary of the evacuation of NKVD prisoners deep into the USSR*, Łódź, June 10, 1996, ed. J. Mikoda, Warsaw 1997, p. 18, passim; J. Węgiński, *Lwów under Soviet occupation 1939-1941*, Warsaw 1991, pp. 270-276).

⁴⁵⁴ C. Madajczyk, *Politics...*, vol. 1, pp. 209-210; see document: M. Wardzyńska, *Terror in occupied Vilnius in 1941-1943 in light of "Ereignismeldungen UdSSR" and "Meldungen aus den besetzten Ostgebieten"*, BGKBZ p-ko NP 34 (1992), p. 111, note 44.

and Security Police. With the support of German special groups and the SS, Lithuanian security police officers and the Sonderkommando murdered many representatives of the Polish elite, including those belonging to the Home Army. In the unfinished fuel depot in Ponary near Vilnius, intended for use by Soviet troops, between a dozen and 20,000 Poles were exterminated between 1941 and 1944. The condemned were transported there by car or rail, and sometimes escorted on foot, generally from Vilnius' Lukiszki prison. The social and occupational profile of the victims basically coincided with the cross-section of groups liquidated in other parts of occupied Poland. The main wave of arrests of Poles began in the spring of 1942, when Archbishop Romuald Yalbrzykowski, Metropolitan of Vilnius, was interned at the Marian Monastery in Marijampolė. Ponary became a place of execution not only for Poles, but also for Jews, Communists and Roma, with a total of about 100,000 people killed there. Mass atrocities also took place in Nemenčin, Novaya Vileyka, Orany, Jaszuny, Ejszyski, Troki and Swieciany, among others. The selection of Poles to be exterminated would have been made more difficult if not for the help of local confidants - Lithuanians living in Vilnius and a small number of ethnic Germans. Their role in the operational unraveling of the Polish community proved crucial and can be compared to the surveillance activities of Polish Volksdeutsche⁴⁵⁵.

Slightly south of Vilnius, in the Novogrudok province, most of which was included in the so-called General District of Byelorussia, in the so-called Reich Commissariat East, the Polish intelligentsia was persecuted in the early summer of 1943. Mass arrests of Poles took place from June 26 to 30, 1942, in Baranovich, Novogrudok, Lida, Slonim, Nesvizh, Stolptsy and Hancevichi, among others. Detainees were generally incarcerated in the nearest prisons, some in the Baranowicze penitentiary. After interrogation by local Gestapo officers, the victims were usually shot in secluded places (e.g., in a forest near the former military barracks in Novogrudok, in the Baranovich Orthodox cemetery), having previously been looted, stripped and tortured. The few detainees were transferred to the Koldychev camp or Minsk prison. Mass transports of the captured to concentration camps were not organized. Executions by SS men and Lithuanian and Byelorussian functionaries continued in principle until March 1943. Information obtained from local Byelorussian collaborators denouncing Polish neighbors proved invaluable support. Also exterminated during the operation were Byelorussians and Tatars considered enemies of German authority. As a result of the police actions, a total of at least 680 people of various nationalities from Novogrudok region were executed⁴⁵⁶. The repressions did not bypass the Polish social and intellectual elites of the southeastern Polish lands in 1941 incorporated into the so-called GG or Reich Commissariat Ukraine. The murder of Lviv academicians, their relatives and roommates can be regarded as an almost model liquidation of their representatives. Friedrich Krüger, higher commander of the police and SS in the so-called GG, ordered SS-Brigadeführer Eberhard Schöngarth, commander of the security police and security service in Krakow, to form an operational unit for special

⁴⁵⁵ J. Mackiewicz, Ponary-"Baza", "Orzeł Biały" 35 (1945), pp. 8-9; idem, Ponary, Katyn, Warsaw 1985; M. Tomkiewicz, Crime in Ponary 1941-1944, Warsaw 2008; P. Niwiński, Ponary. The place of "human slaughter," Warsaw 2015; M. Wardzyńska, Terror..., pp. 95-111; H. Pasierbska, Ponary and other places of martyrdom of Poles from the Vilnius region in 1941-1944, Łowicz 2005; K. Sakowicz, Dziennik 1941-1943, preface and ed. M. Wardzyńska, Warsaw 2014.

⁴⁵⁶ A. Galiński, Extermination of the Polish intelligentsia in the summer of 1942 in Novogrudok (research problems), "BGKBZ p-ko NP" 33 (1991), pp. 185-198.

tasks (Einsatzkommando zur besonderen Verwendung), commonly referred to as the Einsatzkommando "Galizien." Before arriving in Lviv on July 2, 1941, officers of this unit most likely had proscription lists with the names of Lviv scholars of Polish nationality. They were to be prepared by Ukrainian students collaborating with the German authorities, who were familiar with the relations prevailing in Lviv academic circles. On the night of July 3-4, 1941, 52 Polish scholars, mainly from Jan Kazimierz University and Lviv Polytechnic, were arrested with the assistance of Ukrainian militia⁴⁵⁷. They were all taken to the dormitory of the former Abrahamovych Educational Institution, and on the morning of July 4, 1941, most of them were escorted on foot to the Vuletsk Hills, where they were executed. Then a cursory search was made of the corpses and personal items were seized. German police officers had already seized some of the valuable furniture, jewelry paintings, carpets and archives belonging to representatives of Lviv's intellectual elite. Many of these were appropriated by Pieter Menten, a Dutch manipulator and art collector who had already acquired Polish citizenship before the outbreak of World War II, who collaborated with the German authorities. Occasionally, residential properties were seized, and headquarters in the occupied villas were organized by staffers from the Special Branch. The physical liquidation of Lviv's elite continued in subsequent years, with the murder of scientists associated with the university and polytechnic, the Academy of Veterinary Medicine, the Academy of Foreign Trade, the Ossoline National Institute and the seminary, among others. Removal of evidence of the crimes of early July 1941 began on the night of October 7-8, 1943. Members of Sonderkommando 1005 dug up the bodies of 2,000 victims from the graves on the Wuleckie Hills and plundered them again. They transported the corpses to the Krzywczycki Forest, placed them in layers in piles of wood, which they doused with gasoline and smeared with grease to speed up the whole process. They sifted the ash and bone crumbs through a sieve to make sure they didn't miss valuables, and then scattered them in the fields⁴⁵⁸.

The liquidation of the Polish elite in the Borderlands was not limited to Lviv and its immediate environs. From August 8 to 9, 1941, Ukrainian policemen arrested, on the orders of Hans Krüger, head of the security police and security service in Stanislawow, some three hundred representatives of the Polish intelligentsia of that city, mainly teachers. They were incarcerated in the local Gestapo prison on Bilinsky Street (in the former district court building) and forced to perform construction work for the next few days. On the night of August 14-15, 1941, about 250 of the captured were transported to the Black Forest near the village of Pawancze, and after torture were shot. Among the families of the victims, efforts were made to maintain the belief that their loved ones were alive. It is estimated that about 860 Poles were killed in Stanislawow and its environs

⁴⁵⁷ A different course of action was taken with Kazimierz Bartel, a multiple Polish prime minister and professor at the Lviv Polytechnic, who was captured by Gestapo officers as early as July 2, 1941, and placed in the headquarters of this formation on Pelczyńska Street, and then taken to a prison on Lacki Street in Lviv. He was murdered on the orders of Heinrich Himmler on July 26, 1941 (S. Kalbarczyk, *Circumstances of the death of Professor Kazimierz Bartel in Lvov in July 1941*, "BGKBZ p-ko NP" 34 (1992), pp. 112-123. Cf. idem, *Kazimierz Bartel. The last victim of the crime against Lviv professors in July 1941*, "BIPN" 7 (2011), pp. 88-95).

⁴⁵⁸ D. Schenk, *Night of the Murderers...*, pp. 143-200, 288-293; P. Łysakowski, *Murder of Lvov Professors - July 1941*, "DN" 3 (2012), pp. 71-92; *Killing of Lvov Professors - July 1941. Studies and Relations and Documents*, collected and compiled. Z. Albert, Wrocław 1989; W. Bonusiak, *Who killed the Lvov professors?*, Rzeszów 1989; K. Lanckorońska, *Wspomnienia wojenne (22 IX 1939 - 5 IV 1945)*, Kraków 2017).

during the German occupation. Eight mass graves were discovered in the Black Forest in 1988⁴⁵⁹. The operation carried out in Krzemieniec between July 28 and 30, 1941 had a similar course. Here, too, proscription lists drawn up in cooperation with Ukrainian collaborators were used. Mainly the lecturers of the prestigious Polish high school, known as the Athens of Volhynia, were arrested, as well as many respected citizens of the city (lawyers, doctors, financiers, scoutmasters) and student youth. German and Ukrainian policemen tortured them and then executed them near the Cross Mountain⁴⁶⁰. Similar events took place in dozens or perhaps hundreds of towns in the Borderlands throughout the German occupation. Complementing the overview of crimes against the elite is a description of the repression of groups, starting with the Polish Catholic clergy⁴⁶¹. The immediate reason for their extermination, however, was not their religion, but their nationality. German Roman Catholic priests from the Reich and the Free City of Danzig were not threatened with death to the same extent as Polish priests. Although the information on victims of German repression indicated below relates to dioceses and archdioceses whose boundaries did not necessarily coincide with the division lines of the occupation administration units, they illustrate the occupier's attitude toward the Catholic Church, whose support for the national development of Poles was considered particularly dangerous to German interests. This is because there was a likelihood that Poles would use the structures of the Church to cultivate Polishness. The most severe losses were suffered by the diocesan clergy (bishops, priests and seminarians) of the Chelmno diocese, located basically in Gdansk Pomerania. Of the 701 priests of this unit, 323 priests, or almost half, did not survive the occupation (died in concentration camps, as a result of bombings, shootings, as victims of war or disappeared). The cited calculations show the criminal nature of Albert Forster's anti-Polish policy, implemented, among other things, with the support of paramilitary units of local ethnic Germans. Arthur Greiser, the governor there, acted similarly in Greater Poland. A total of 719 clergymen were killed from the Gniezno and Poznan archdioceses, as well as the Lodz and Wloclawek archdioceses, located mostly in the Land of Warta⁴⁶². In the Diocese of Silesia, much of which was in the so-called Silesian Province, 64 priests lost their lives, and in the Diocese of Plock (the largest part of which was in the so-called East Prussian Province) 116. By comparison, in the Archdioceses of Warsaw and Krakow, mostly included in the so-called GG, 96 and 39 pastors died, respectively. The compilation of losses for the Borderlands would be unrepresentative due to the previous activity of the Soviet authorities in eastern

⁴⁵⁹ T. Kaminski, *Mystery of the Black Forest*, Cracow, 2001, pp. 21-22; T. Olszanski, *Kresy Kresów - Stanislawow*, Warsaw 2008, p. 121. Cf. D. Schenk, *Night of the Murderers...*, pp. 261-262.

⁴⁶⁰ W. Siemaszko, E. Siemaszko, *Ludobójstwo dokonane przez nacjonalistów ukraińskich na ludności polskiej Wołynia 1939-1945*, Warsaw 2000, p. 478; G. Motyka, *Od rzezi wołyńskiej do akcji Wisła. The Polish-Ukrainian Conflict 1943-1947*, Cracow 2011, p. 66.

⁴⁶¹ The position of the Catholic hierarchy and faithful (below) during the German occupation, as characterized in the study, was directly related to the extermination of representatives of the Polish leadership strata due to the dominant nature of the Roman Catholic faith among Poles and the centuries-old relations between the Polish and Church authorities. For these reasons, considerations of other Churches and religious associations functioning in the pre-war Republic have been omitted (see J. Sziling, *Hitler's Policy Toward Religious Denominations on Polish Lands (Taking into Account the Problem of Extermination)* [in:] *Crimes and Perpetrators...*, pp. 201-221. Cf. information on the position of the Catholic Church in German-occupied Poland: idem, *Polityka okupanta hitlerowskiego wobec Kościoła katolickiego 1939-1945*, Poznań 1970).

⁴⁶² See B. Stasiewski, *Die Kirchenpolitik des Nationalsozialismus im Warthegau 1939-1945*, "VJH f. ZG" 7 (1959), pp. 46-74; K. Smigiel, *Die katholische Kirche im Reichsgau Wartheland, Dortmund 1984*. cf. idem, *The Catholic Church in the so-called Warthegau District 1939-1945*, Lublin 1979.

Poland (until 1941) - anti-Polish, targeting private property and religion, which resulted in repression against the Catholic Church, among other things. By far the largest number of Catholic clergy (including diocesan and religious clergy - male and female) died in the Dachau concentration camp (798 such persons of Polish origin), followed by Auschwitz (167), Soldau (90), Sachsenhausen (85), Gusen (71) and Stutthof (40)⁴⁶³. The relationship between the number of deceased clergy from the so-called areas incorporated into the Reich and from the so-called GG⁴⁶⁴ confirms the described policy of the German authorities toward Polish lands and Poles - the annexed areas were subjected to brutal and immediate Germanization, which also meant the physical liquidation of the Catholic clergy, which was one of the strata of the Polish leadership.

At the execution sites of Poles murdered because of their nationality, dysfunctional people in the light of German racial theories and the Polish medical and support staff (doctors, therapists, nurses, etc.) caring for them were also deprived of their lives. A consequence of the German eugenics policy was the "T4" action. As part of the elimination of "lives not worth living" (*Lebensunwertes Leben*), at least 200,000 people of German origin, Poles and Soviet citizens, who were characterized by disabilities, handicaps, birth defects or some type of disease (e.g. schizophrenia, epilepsy, dementia), were eliminated between 1939 and 1945. The acronym "T4" was derived from the headquarters of the project's central office, located in Berlin at Tiergartenstraße 4. After the outbreak of war, the Germans also carried out mass killing operations in the Republic (in forests near Piasnica Wielka in Pomerania, in Działdów and Vilnius) and organized specialized extermination centers and units (e.g. Among others, in psychiatric treatment facilities in Poznań, Świecie, Kocborow, Dziekanka, Chełm, Kościan, Gostynin, Kochanówka, Warta, Choroszcz, Otwock, Lubliniec, Rybnik, Kobierzyn). Various methods were used: shooting, gassing, injecting poisons, starvation. Extermination was carried out by members of the German medical staff and scientists in cooperation with SS officers and police units. In 1941, the euthanasia program was expanded to include Operation "14f13" - as part of it, at least 20,000 disabled concentration camp inmates of non-German origin were murdered. The abbreviation "14f13," according to records kept by SS members in concentration camps, stood for the death of a prisoner ("14") and the cause of his death ("f13") - gassing for euthanasia motives. The perfidy and rapacity of German officials led them to exploit the death of the sick economically. Sometimes the relatives of the murdered were ordered to pay for the upkeep of fictitious graves. The main planners and executors of the extermination of the disabled were convicted in the first Nuremberg trial that followed - the doctors (officially "The United States of America against Karl Brandt et al."), which took place between December 9, 1946 and August 20, 1947 before a US military tribunal. Of the 23 defendants, 7 were sentenced to death by hanging, another 9 were sentenced to life imprisonment or less, and 7 were acquitted⁴⁶⁵.

⁴⁶³ W. Jacewicz, J. Woś, *Martyrologium polskiego duchowieństwa rzymskokatolickiego pod okupacją hitlerowską w latach 1939-1945*, z. 1: *Straty osobowe*, Warsaw 1977, pp. 82-88.

⁴⁶⁴ J. Sziling, Chapter IV. Extermination of the Clergy [in:] *Christian Churches in the Policy of the German Occupation Authorities in the General Government (1939-1945)*, Toruń 1988, pp. 189-205.

⁴⁶⁵ The question of when the German superiors began to reckon with defeat remains open. Military experts, according to Stanisław Salmonowicz, must have lost their last hopes for a German victory after losing the Battle of Prokhorovka on July 12, 1943, which, as part of the Battle of the Kursk Arc, was the largest armored clash in the history of the world.

Anticipating the possible international legal consequences of their actions⁴⁶⁶, the German authorities began early to obliterate traces of crimes committed, among others, on Polish soil. The decision to take action was also determined, for example, by sanitary reasons (the seepage of fragments of decomposing and improperly buried bodies into the groundwater and the resulting contamination of the ground could cause the development of diseases and even epidemics) and prestige (the burden of unprecedented crimes committed by the German people). Operation "1005" (Aktion "1005"), led by SS-Standartenführer Paul Blobel, was carried out between 1942 and 1944 to locate, exhume, re-plunder and cremate the bodies of the victims, regardless of the reason for their extermination. The site was then cleaned up - leveled, covered with turf or planted with trees. Members of the 1005 special units (Sonderkommandos 1005) carried out tasks in areas of mass extermination operations, mainly in concentration and extermination camps and forest areas. As for the origin of the officers, the composition of these units was similar to that of the Einsatzgruppen. They were made up of members of the security service, security police and order police supported by concentration camp inmates (mainly Jews) who were forcibly conscripted into the formations and murdered after completing their work⁴⁶⁷.

As early as November 1939, compromising documentation of the extermination activities of the Pomeranian Selbstschutz was destroyed, which indicated the scale of fraud by the organizers of the mass murders, i.e. the number of appropriated properties belonging to murdered Poles. Ludolf von Alvensleben, commander of the Selbstschutz in the so-called Reich District of Danzig-West Prussia, most likely took possession of these materials. When Albert Forster demanded that he provide the organization's archives with a list of the names of the victims and an inventory of the property they left behind, a convenient moment appeared for the incriminating evidence to be destroyed. The car with the files was involved in an accident on the road from Bydgoszcz to Gdansk, just 20 kilometers from the point of departure. Two officers sent by Ludolf von Alvensleben to Danzig returned just an hour later with the information that the car had been attacked, riddled with bullets and burned lies in a ditch. The Self-Defense Commander went to the scene and took a photograph of the wrecked vehicle, which was later included in an album entitled Selbstschutz Westpreussen. His prediction about the possible use of evidence of the crimes committed by the formation he led came true after the end of World War II. Thanks to the destruction of the documentation, Albert Forster, in his trial before the Polish Supreme

⁴⁶⁶ G. Aly, *Burdened. "Euthanasia" in Nazi Germany*, transl. V. Grotowicz, Wolowiec 2015, pp. 9, 21; W. Grode, *Die "Sonderbehandlung 14f13" in den Konzentrationslagern des Dritten Reiches. Ein Beitrag zur Dynamik faschistischer Vernichtungspolitik*, Frankfurt am Main 1987; *Zagłada psychicznie chorych w Polsce 1939-1945*, ed. Z. Jaroszewski, Warsaw 1993; T. Nasierowski, *Zagłada osób z zaburzeniami psychicznymi w okupowanej Polsce*, Warsaw 2008; S. Batawia, *The extermination of the mentally ill, "BGKBZNwP" III (1947)*, pp. 93-106; M. Musielak, *Sterilization of people for eugenic reasons in the United States, Germany and Poland (1899-1945)*, Poznań 2008; Y. Ternon, S. Helman, *Extermination of the Mentally Ill in the Third Reich-from National Socialist theorists to SS practitioners*, transl. E. Baumritter, Warsaw, 1974; H. Friedlander, *The Origins of Nazi Genocide. From Euthanasia to the Final Solution*, Chapel Hill 1995; K. Daszkiewicz, *German Genocide...*, part 1, pp. 103-112.

⁴⁶⁷ J. Hoffmann, *"Das kann man nicht erzählen. "Aktion 1005" - wie die Nazis die Spuren ihrer Massenmorde in Osteuropa beseitigten*, Hamburg 2013; *"Diese außerordentliche deutsche Bestialität. Wie die Nazis die Spuren ihrer Massenmorde in Osteuropa beseitigten. Augenzeugenberichte und Gespräche*, ed. J. Hoffmann, Hamburg 2013; B. Meissner, *"Sonderaktion 1005" [in:] Crimes and Perpetrators...*, pp. 414-418.

National Tribunal, was able to claim, pointing to an accident, that he had no data on the number of Poles murdered by the Selbstschutz⁴⁶⁸.

Indisputably, those serving in the German armed forces had a part in the crimes against the Polish elite. Military commanders were informed of the German police's plans and, at the very least, helped carry them out; at the same time, until October 25, 1939, they exercised occupation authority over Polish lands captured in the September campaign (a similar situation occurred in the Borderlands, where, until the establishment of civil administration, authority belonged to military commanders). In addition, massacres were committed against Polish prisoners of war (e.g., on September 9, 1939, some three hundred were murdered in Ciepielów)⁴⁶⁹ and civilians, led by unfounded accusations by German propaganda, which exposed alleged Polish atrocities against German civilians and instilled in soldiers a panicky fear of Polish partisans. In retaliation for the so-called Bydgoszcz Bloody Sunday, when on September 3 and 4, 1939, Poles suppressed German diversion⁴⁷⁰ and resisted the Civic Guard in Bydgoszcz, many mass murders were carried out on the residents of the city and surrounding areas. Shortly after the German army occupied the city, hundreds of civilians were rushed to Bydgoszcz's Old Market, arrested during searches of houses located on the route of the soldiers' march. Despite the lack of evidence, they were found to be co-responsible for the alleged serial crimes against Germans. Public executions in various parts of the city were carried out by firing squads composed of Wehrmacht soldiers, Einsatzgruppen officers and local ethnic Germans⁴⁷¹. Approximately 600-800 Poles were then executed. Arguments about Polish cruelty (*polnische Greuel*)⁴⁷² and German personal losses suffered as a result of the war effort and the evacuation of the ethnic German population deep into Poland were used by German propaganda to justify the extermination of Polish elites from Bydgoszcz, Kuyavia and Vistula Pomerania⁴⁷³. To emphasize the validity of these acts, quasi-judicial proceedings

⁴⁶⁸ T. Ceran, *Im Namen des Führers... Selbstschutz Westpreussen and the crime in Łopatki in 1939, Bydgoszcz-Gdańsk 2014*, pp. 21-22; M. Wardzyńska, *Był rok 1939...*, p. 74; K. Daszkiewicz, *German genocide...*, part 1, p. 90.

⁴⁶⁹ J. Böhler, *The 1939 invasion...*, pp. 202-207; see S. Datner, *Wehrmacht crimes against prisoners of war in World War II*, Warsaw 1961.

⁴⁷⁰ Disputes over the initiation of partisan fighting by the Germans in Bydgoszcz against Polish defenders of the city that have been occurring for years between Polish and German historians now seem difficult to resolve. However, if one considers the subsequent zeal of the local Volksdeutsche in carrying out the extermination tasks carried out by the Selbstschutz, the scale of penetration of their milieu by German service officers, their significant support for National Socialist ideology and the manner in which the German fifth column in Poland was created and propagandized, aggressive speeches by the Volksdeutsche seem highly probable. Conflicting witness accounts and other source materials complicate fact-finding in this case. Diversionary activities in Bydgoszcz were most likely undertaken, and as a result of the chaos associated with the withdrawal of Polish soldiers and the takeover of the city by German troops, a rather small group of ethnic Germans were killed (see Bydgoszcz September 3-4, 1939. *Studies and Documents*, ed. T. Chinciński, P. Machciewicz, Warsaw 2008; W. Jastrzębski, *Diversion or Massacre? Civilian defense of Bydgoszcz in September 1939*, Gdansk 1988; G. Schubert, *Bydgoszcz Bloody Sunday. Death of a legend*, ed. M. Wojciechowski, transl. I. Jakubowicz, Bydgoszcz 2003; cf. idem, *Das Unternehmen "Bromberger Blutsonntag". Tod einer Legende*, Köln 1989).

⁴⁷¹ J. Wojciechowska, *Contribution...*

⁴⁷² J. Sehn, "Greuelnachrichten" and "Greuelpropaganda" in the policy of the Third Reich [in:] *Expertises and Rulings before the Supreme National Tribunal*, part 5, ed. C. Pilichowski, Warsaw 1980, pp. 13-19; J. Bossowski, "Documents of Polish Atrocities" (German propaganda methods), "BGKBZNwP" III (1947), pp. 149-171.

⁴⁷³ Under the aegis of the German Foreign Ministry, three editions of a publication documenting alleged Polish crimes against ethnic Germans were published in 1940. The first edition, a German-language one, indicated that 5437 murders had taken place, while the second edition, also intended for foreign audiences (English-, Spanish-, Italian- and French-speaking), estimated the number of victims at more than 58,000 (*Die polnischen*

were even organized to reinforce the official message and document the guilt of specific Poles. This resulted in judicial killings - the Bydgoszcz Special Court (Sondergericht Bromberg) sentenced 243 people to death (and another 182 to imprisonment, including life imprisonment)⁴⁷⁴. The liquidation of the Polish intelligentsia by Selbstschutz and Einsatzkommando 16 continued for months to come. Between 1,200 and 3,000 people of Polish and Jewish origin from Bydgoszcz and the surrounding area were murdered in Fordon, near Bydgoszcz. The course of the retaliatory actions is known, for example, from the account of Helmut Bischoff, commander of Einsatzkommando I of Einsatzgruppe IV, who recalled that very bitter German soldiers and police officials committed "severe beatings." Major General Eccard von Gablenz, commander of the "Netze" battle group and interim commander of the Bydgoszcz garrison, pointed out the illegality of the hostile acts undertaken by the arresting officers⁴⁷⁵.

While one could hardly find any basis for the repression of Poles in the Bydgoszcz events, in Czestochowa the cause of the massacre of civilians carried out on the so-called Bloody Monday of September 4, 1939 by Wehrmacht soldiers and Einsatzgruppe II officers supporting them turned out to be the inexperience of the military and the influence of the propaganda myth of the threat posed by Polish partisans. Although the people of Czestochowa did not organize resistance, there were two shootings in the city. In retaliation, the German command ordered thousands of residents to Magistracki Square, Nowy Rynek and the square in front of the cathedral. After hours of searches combined with torture, executions began, with victims ranging from 227 (that's how many bodies of men, women and children had already been exhumed in the spring of 1940) to some 500 people. The opportunity was seized and then, as a result of the unlawful use of collective responsibility, eighty more representatives of the local Polish and Jewish intelligentsia were detained⁴⁷⁶. The Wehrmacht murdered many Polish civilians, including representatives of the intelligentsia, as well as prisoners of war also outside Bydgoszcz and Czestochowa⁴⁷⁷.

The fact that the criminal activities of the army in occupied Poland were revealed shortly after the end of World War II did not cause German public opinion to change its

Gräueltaten an den Volksdeutschen in Polen. Im Auftrage des Auswärtigen Amtes auf Grund Urkundlichen Beweismaterials zusammengestellt, ed. H. Schadewaldt, Berlin 1940; cf. E. Dwinger, *Der Tod in Polen. Die volksdeutsche Passion*, Jena 1940; see T. Kees, "Polnische Gräuel". *Der Propagandafeldzug des Dritten Reiches gegen Polen*, Saarbrücken 1994).

⁴⁷⁴ E. Zarzycki, *Activities of the Nazi Special Court in Bydgoszcz in 1939-1945*, Bydgoszcz 2000, p. 55.

⁴⁷⁵ J. Böhler, *Najazd 1939...*, pp. 140-149; idem, *Wehrmacht Crimes...*, p. 147. Cf. W. Jastrzębski, *Terror and Crime...*, p. 28; Report of Obersturmbannführer SS Helmut Bischoff on the Campaign against Poland, 3 March 1943 [in:] T. Esman, W. Jastrzębski, *The First Months...*, p. 231.

⁴⁷⁶ J. Böhler, *The 1939 invasion...*, pp. 178-183; idem, *Wehrmacht crimes...*, pp. 107-115; J. Böhler, K.-M. Mallmann, J. Matthäus, *Einsatzgruppen...*, p. 85; S. Datner, *55 Days of the Wehrmacht in Poland...*, pp. 216-218; J. Pietrzykowski, *Cień swastyki...*, p. 19; idem, *Hitlerites in Czestochowa in 1939-1945*, Poznań 1959, pp. 10-11.

⁴⁷⁷ J. Böhler, *Crimes of the Wehrmacht...*; S. Datner, *55 days...*; idem, *Crimes of the Wehrmacht* (selection of documents), Warsaw 1974; J. Młynarczyk, *Politics...*; K. Radziwińczyk, *Participation of the Wehrmacht in Nazi aggression, occupation and crimes* [in:] *State and prospects of research in Nazi crimes. Materials from a scientific conference held on April 27-28, 1970*, vol. 1, Warsaw 1973, pp. 247-259; T. Sudol, *Wehrmacht crimes against Polish prisoners of war in September 1939*, "BIPN" 8-9 (2011), pp. 78-84; W. Kulesza, *Wehrmacht crimes in Poland - September 1939*, "BIPN" 8-9 (2004), pp. 19-30; J. Zieliński, *Mordowanie inteligencji przez Wehrmacht*, "Tygodnik Powszechny" 21 (1960), p. 5; idem, *Mordowanie inteligencji przez Wehrmacht* (2), "Tygodnik Powszechny" 26 (1960), p. 7; S. Biernacki, *Wehrmacht and Nazi crimes in Poland 1939-1945*, "DN" 2 (2002), pp. 15-21.

assessment on this issue. For years, the German authorities and researchers and journalists there fueled the myth of the impeccable attitude of all German soldiers, which had no cover in the facts from the beginning.

In the GDR, on the other hand, the attribution of Wehrmacht crimes to the East German state was generally frowned upon, since it was West Germany that had the status of successor to the Third Reich. The long-standing conviction of Germans about the propriety of the entire Wehrmacht in the occupied countries is evidenced, for example, by the hysterical reactions of some circles in connection with the dissemination of knowledge about the crimes of the German military in World War II during the so-called exhibition on the Wehrmacht (Wehrmachtsausstellung) and the subsequent development of scholarly discourse on this issue, neglected by German academics⁴⁷⁸.

In summary - the extermination of the Polish intelligentsia was carried out by the occupying German authorities on a continuous basis. The intensity of executions was determined by technical considerations, such as the number and armament of cadres, the possession of lists of victims, and the possibility of transporting them to execution sites, as well as other factors, such as military operations, the functioning of the military board, victualling needs, military aspects, the ambitions of those in charge of the operation and the propaganda use of opportunities to justify the killings.

Therefore, the execution of thousands or perhaps tens of thousands of minor executions⁴⁷⁹, remaining, as it were, in the shadow of mass actions, should not be particularly surprising. Determining the ratio of the number of victims of summary persecution of the Polish elite and the balance of serial executions indicated in the literature is a scientific challenge. Nevertheless, in the context of the arguments presented, the number of 63,500 victims of German repressions targeting the leadership strata, derived from estimates of the effects of the "Inteligencja" and "AB" actions, seems to be grossly underestimated. This is because it does not take into account indirect extermination (during deportations, imprisonment in various types of camps and in slave labor), and it omits Polish victims from the Borderlands (murdered after 1941). It should be noted that the Germans extended repression to Poles with different legal statuses: Polish, Austrian, German, Danzig and Soviet citizens (Poles from the Kresy were *de facto regarded* as such when the German-Soviet war began).

The Polish intelligentsia was murdered primarily by officers of the Einsatzgruppen, drawn from, among others, the SS, various German police formations, and their collaborators from the RuSHA, as well as members of the Selbstschutz and Wehrmacht soldiers.

⁴⁷⁸ Vernichtungskrieg. Verbrechen der Wehrmacht 1941 bis 1944 (Catalog zur Ausstellung "Vernichtungskrieg - Verbrechen der Wehrmacht 1941 bis 1944"), ed. H. Heer et al., Hamburg 1996; B. Musiał, Bilder einer Ausstellung. Kritische Anmerkungen zur Wanderausstellung "Vernichtungskrieg. Verbrechen der Wehrmacht 1941 bis 1944," VJH f. ZG" 47 (1999), pp. 563-591; K.-H. Schmick, Untersuchungen zur Ausstellung "Vernichtungskrieg. Verbrechen der Wehrmacht 1941-1944," Ludwigsfelde 2000; Wie Geschichte gemacht wird. Zur Konstruktion von Erinnerungen an Wehrmacht und Zweiten Weltkrieg, ed. W. Manoschek et al., Wien 2003; C. Hartmann, J. Hürter, U. Jureit, Verbrechen der Wehrmacht. Bilanz einer Debatte, München 2005.

⁴⁷⁹ As Maria Wardzyńska pointed out, members of the Commission for the Investigation of Nazi Crimes in Bydgoszcz and Gdansk, based on the results of surveys and investigations, proved more than 950 executions carried out in Gdansk Pomerania, in which fewer than ten people were killed each time (M. Wardzyńska, Był rok 1939..., p. 274).

Extermination was intensified in the period from September 1939 to January 1940 (action "Intelligence")⁴⁸⁰ in the Reich, FCD and the so-called annexed territories, in October and November 1939 (special actions), from May to autumn 1940. (Aktion "AB") in the so-called GG, and in July and August 1941 and in the summer of 1942 in the Borderlands, depending on the geographic location of Polish centers (repressions in Bialystok, Vilnius, Novogrudok, Volhynia and Eastern Lesser Poland). Particularly many executions were carried out during Polish national holidays (e.g., November 11, 1939, the anniversary of regaining independence)⁴⁸¹ and Catholic holidays (e.g., Christmas and Christmas Eve).

Various forms of direct extermination of representatives of the Polish elite were used, such as shooting them and murdering them with other tools. Most often, they were deprived of their real estate and movable property (including personal belongings), tortured, humiliated, starved, forced to perform work derogatory to their dignity, exposed to public view, ridiculed (Teodor Bolduan, the mayor of Wejherowo, was ordered to collect garbage in the market square of that town) and unjustifiably attributed guilt. On many occasions, the Germans used subterfuge to lure victims. To this end, they organized teachers' meetings (in Torun, Lipno, Rypin), academic meetings (in Cracow), as well as meetings with church hierarchs, which ended in arrests.

Unable to indicate to the public, and often even to the enforcers, the real reasons why Poles were selected for extermination, German superiors looked for convincing pretexts. Sometimes circumstances favored them, such as the unclear situation in Bydgoszcz related to the liquidation of diversions in that city during the encroachment of German troops; in other cases this proved difficult, so they were aided by rulings issued by quasi-judicial bodies (committees composed of members of the Selbstschutz, among others) and sentences of various types of German courts. Possession of weapons (in Czestochowa it was enough to have a razor, razor blade or penknife during a search)⁴⁸², fanatical attachment to Polishness (organizing national celebrations, displaying flags), hostility to Germanness, and the need to take revenge on alleged Polish criminals were cited as reasons for persecution.

Representatives of the Polish elite, who were designated for extermination, were also killed in general actions against Polish civilians (e.g., when they resisted the invaders) and prisoners of war, and due to the application of collective responsibility. When they were killed in a planned manner, victims of other categories were placed on their bodies in pits near the execution sites, such as the disabled murdered in the "T4" action. The effectiveness of the German criminals became apparent when they began to destroy evidence of the crimes they had committed (they burned the corpses in action "1005", liquidated the documentation), which, combined with the disinformation of the victims' families carried out from the beginning, their displacement or physical elimination,

⁴⁸⁰ See W. Jacobmeyer, *Der Überfall auf Polen und der neue Charakter des Krieges* [in:] September 1939: Krieg, Besatzung, Widerstand in Polen. Acht Beiträge, ed. by Ch. Kleßmann, Göttingen 1989, pp. 16-37.

⁴⁸¹ Hans Frank ordered the execution of one man from each house on which a patriotic poster was hung that day. He also forbade the holding of ceremonial services. To secure reprisals, unlawful punishments of a collective nature were used, e.g. 120 people were captured and arrested in Cracow (Hans Frank's Preventive Orders in connection with the anniversary of November 11 [of November 10, 1939] [in:] *Okupacja...*, vol. 1, pp. 86-87).

⁴⁸² J. Böhler, *Invasion...*, p. 180.

provided the perpetrators with some security in the eventual judicial evaluation of their actions carried out from the perspective of international law.

In connection with the liquidation of Polish leaders, members of their families (including women and children), neighbors and co-workers were also murdered. In addition, juveniles were killed, such as Polish scouts⁴⁸³. In principle, the catalog of victims was not categorically defined. Many factors mattered, above all regional specifics. However, even a radical violation of the guidelines did not mean greater consequences for the enforcers. After all, it was ultimately intended to exterminate the entire Polish nation anyway, so no excessively harsh punishments were applied, for example, in the case of arbitrary ethnic Germans (their situation was regulated by Adolf Hitler in the decree of October 4, 1939 on the exclusion of criminal responsibility of German citizens committing punishable acts against Poles in the period from September 1, 1939 until the issuance of this normative act). If Germans were officially held responsible for crimes against Poles, it was out of concern for military, state and judicial order⁴⁸⁴. The executors took part in stealing from the victims, in addition, libations were organized for them and other entertainments were taken care of, and they were held in high esteem by the authorities and the public.

Destruction of the rest of the Polish nation

In parallel with the elites, the rest of Polish society was exterminated. Different methods were used depending on local, personal, state-wide and international circumstances. The extermination of the Polish nation was one of the primary criminal intentions of the German state during World War II, but was only partially realized.

German Reich

In the German program to exterminate Poles, the liquidation of the intelligentsia was the first action carried out, but there were already opportunities to marginalize, discriminate, persecute and exploit them. The Danzig and German authorities were not bothered by the actions restricting the rights of Poles, and in the later interwar years began to actively support them and even participated in them. The breakthrough was associated with the outbreak of World War II, when favorable circumstances occurred for the visions of generations of German politicians, scholars and clergy to become reality.

Despite Germany's propaganda gestures, such as the November 5, 1937 declaration on the treatment of minorities, the situation of Poles in the Reich gradually deteriorated. The moment the National Socialists took power by no means proved to be a special caesura in this regard. The Third Reich simply continued the anti-Polish actions of its predecessors.

⁴⁸³ See *Girl Scouts 1939-1945: Relationships - memoirs, selection and compilation*. K. Wyczańska, Warsaw 1985.

⁴⁸⁴ E. Zarzycki, *Exterminatory and discriminatory activities...*, p. 67.

Rather, the difference in the scale of repression was due to Germany's immediate goals, which pushed for conflict with Poland by, among other things, exploiting minority issues. Besides, the administration's treatment of Poles in the Reich was a kind of test for the Republic, the results of which determined subsequent German moves. There was the following regularity: the weaker the reaction of the Polish authorities, the more the discrimination in Germany intensified. Only in June 1939. Jozef Beck, the foreign minister, decided to introduce retaliation on a 1:1 basis, allowing the application of more far-reaching consequences. In practice, Poland's unorganized retaliatory actions proved ineffective in the face of centralized and systematic German actions⁴⁸⁵.

The adversity it faced was pointed out by the German Polish community in a memorial that the Union of Poles sent to the Reich Minister of the Interior on June 2, 1938. The accompanying memorial ran to 3209 pages. It characterized anti-Polish activities and listed minority demands. The issues presented in the document can be attributed to eight areas of the Polish movement and Poles in Germany - education, the operation of economic organizations, labor relations and social policy, the application of the Hereditary Homestead Act, the rugging of the Polish language, the germanization of place names and Polish names, the germanization carried out among the Catholic clergy and the sabotage of the activities of Polish associations. To this list would have to be added the execution of the Sterilization Law in an anti-Polish spirit in the later period and the adoption of orders for the deportation of Poles and their placement in concentration camps⁴⁸⁶.

After the start of World War II, the Poles were basically divided into two groups - the leaders faced death in the gulags, while the rest were gradually limited in their ability to survive by administrative methods, murdered in collective repression or burdened with slave labor leading to physical destruction. In the course of its forced provision, the workers were mistreated in a variety of ways, from verbal harassment, limited access to food and rationing of basic health care, to torture, the use of collective responsibility and bestial murder.

Many of the examples of the destruction of the Polish nation described below relate to the German part of Upper Silesia, which was part of the so-called Opole Regency in the so-called Silesian Province. The most numerous Polish diaspora in Germany functioned there, numbering 600-800,000 people (out of a total of about 1.5 million Poles in the Reich). The vast majority of local Poles, about 80 percent, lived in the countryside; Polish workers, rarely merchants and craftsmen, lived in the cities. The intelligentsia layer had a residual presence. There were about 380-560 thousand Poles in Masuria, Warmia and Powisle, and about 299.5-359 thousand in the rest of the Reich (including Greater Poland, North Rhine, Westphalia, Kashubia and Lower Silesia)⁴⁸⁷. With the start of hostilities in September 1939 in these Reich territories, 4 Polish printing houses and 14 magazine editorial offices, 76 educational institutions (including 14 kindergartens, 60 common schools⁴⁸⁸ and 2

⁴⁸⁵ W. Wrzesinski, *Polish Movement...*, p. 490.

⁴⁸⁶ A. Targ, *Outline of the activities of the Union of Poles in Germany*, "PZ" 4 (1962), pp. 253-255.

⁴⁸⁷ W. Wrzesinski, *Polish movement...*, pp. 26-29.

⁴⁸⁸ Wladyslaw Gębik indicated the number of 68 common schools (W. Gębik, *Polskie gimnazjum...*, p. 306).

gymnasiums), 35 financial institutions, all libraries, community centers, clubs⁴⁸⁹ were immediately dissolved.

Statewide and regional laws adopted in the Reich were used as tools to combat Polishness in Germany. *Prima facie* non-discriminatory laws were applied by the German administration in such a way that they served an anti-Polish policy. To justify the marginalization of Poles, the appearance of legality (Scheinlegalität) was maintained⁴⁹⁰. From an economic perspective, the way in which the Reich Hereditary Homestead Act of September 29, 1933 was implemented proved to be a blow to Polish peasants in Germany⁴⁹¹. This act was intended to secure the German agricultural economy for the then distant future war needs and to stop the migration of the rural population to urban and industrial centers. The intentions were carried out by imposing restrictions on the circulation of landed property and associated buildings and livestock, known as hereditary homesteads (Erbhöfe). These ranged in acreage from sizes that allowed a peasant family to be self-sufficient up to estates of 125 hectares (§ 2-3 of the law). Protected homesteads were not subject to subdivision, generally not subject to mortgage encumbrances either, could be used by a single farmer and inherited by only one heir. A farmer owning such a homestead had to demonstrate his ability to manage (Bauernfähigkeit; §1), which required meeting three criteria: ethical, racial and professional. Failure to carry out his duties could even lead to expropriation. Although the scope of the regulation's subject matter included only German citizens of German blood and race (§ 12-13), in practice - in order to obtain the authority to dispose of the estates of Poles - their farms were also counted as hereditary homesteads. For the purposes of applying the law, it was assumed that a second-generation Pole was a German, regardless of national origin and any declaration of affiliation⁴⁹². The Union of Poles in Germany repeatedly protested against the expansion of the German authorities' powers in this regard, which proved unsuccessful. It is worth pointing out that, according to the information that the president of the so-called Opole Regency provided to the Reich Minister of the Interior, Polish peasants in the Olesko district alone filed as many as 322 objections to the recognition of their farms as hereditary homesteads. Of these, 59 cited belonging to the Polish nation as justification⁴⁹³. Their appeals, however, were irrelevant due to the established line of jurisprudence: Poles fulfilled the prerequisite of being counted among those of "blood similar to German," as required by Section 13 of the law⁴⁹⁴. Thus, although the normative acts made it possible to expropriate Poles, the German authorities preferred to consider them as having the rights of persons of German nationality. The law was also applied to the farm of Franciszek Mysliwiec, president of the union's 1st district (who died in Dachau in 1941). Further restrictions were that permission had to be obtained from the authorities to dispose of non-

⁴⁸⁹ M. Cyganski, Hitler's persecution of leaders..., p. 58.

⁴⁹⁰ K. Jonca, Application of the law and nationality policy of the Third Reich to the Polish minority in Germany (1933-1939), "SnFiZH" I (1974), p. 14.

⁴⁹¹ Reichserbhofgesetz. Vom 29. September 1933 (RGBl. I 1933, 108, 685). See an analysis of this legislation and its most important provisions: A. Mycielski, Hitler's Law on Hereditary Homesteads Against the Background of the General Assumptions of German Nazism, "RPW" X (1939), pp. 117-124.

⁴⁹² W. Wrzesinski, Hitler's policy toward Polish public law institutions in the Third Reich, "SnFiZH" I (1974), p. 76.

⁴⁹³ K. Jonca, Application of..., p. 17.

⁴⁹⁴ H. Müller, Die polnische Volksgruppe im Deutschen Reich. Ihre Stellung in Verfassung und Verwaltung seit 1871. Rechtswissenschaftliche Abhandlung, Warschau 1941, pp. 191-192.

agricultural and forestry properties of more than 2 hectares (under the Law Amending the Notice on the Circulation of Agricultural Land of January 26, 1937⁴⁹⁵), and in the so-called Olsztyn and Opole districts on April 22, 1937, this limit was lowered to 1 hectare. It was also made compulsory to obtain permission from the landrat to participate in the auction of real estate, and the authorities' approval of the disposal of real estate was made conditional on the opinion of a party factor, i.e. a representative of the village organization (Kreisbauernführer)⁴⁹⁶.

Securing the development of agriculture based on the property of German peasants required the sanitation of farm finances. Soon after seizing power, the National Socialists initiated a debt relief campaign, using the Act on the Regulation of Agricultural Contractual Obligations of June 1, 1933.⁴⁹⁷ Some of the debts were written off, and the repayment terms of the others were administratively extended for up to half a century. To prevent credit institutions from losing their liquidity, the German authorities decided to support them with loans and subsidies. However, this action did not extend to Polish institutions, which meant discrimination against them. Had it not been for the funds set aside by the Polish state and the self-help campaign organized among the Polonus, the debt relief could have ended with the collapse of Polish banks in Germany⁴⁹⁸.

The use of the protection of hereditary homesteads against the interests of Polish peasants was one of the many manifestations of discriminatory application of the law in the field of farming and real estate transactions. In 1932, the editors of "Ruch Prawniczego, Ekonomiczny i Socjologiczny" informed their readers about a shocking case - the Prussian state authorities exercised the right to redeem a farm in Zakrzew near Zlotow, belonging to a German, Arthur Sanger, because he had leased it to a Pole⁴⁹⁹. The regulations limiting Polish colonization adopted back in the period of partition (at the end of the 19th century) were then applied, and found to be compatible with the Weimar Constitution of 1919. It was recognized that Article 109(1) of the Basic Law ("All Germans are equal before the laws," "Alle Deutschen sind vor dem Gesetze gleich")⁵⁰⁰ did not mean equal law for all. In court proceedings, the buyout of Arthur Sanger's property was found to be lawful, which meant great property damage to him and was essentially the same as expropriation. The trials lasted from 1929 to 1931, i.e. before the National Socialists took power, and were one of many such proceedings against Poles. This testified to the practice of discriminating against the German Polonia, which was well-established during the Weimar Republic.

⁴⁹⁵ Gesetz uber nderung der Bekanntmachung uber den Verkehr mit landwirtschaftlichen Grundstucken. Vom 26. Januar 1937 (RGBl. I 1937, 8, 32).

⁴⁹⁶ A. Targ, Outline..., pp. 253-254; K. Jonca, Applying..., pp. 16-18; K. Orzechowski, The Struggle for Land in Opole Silesia under Nazi Rule. From studies of the minority policy of the authorities of the Third Reich, "Silesian Studies. Seria Nowa" IV (1961), pp. 7-114; W. Wrzesiński, Antypolska polityka wadz hitlerowskich na lsku Opolskim w latach 1933-1939 w wietle raportw konsulw polskich, Wrocław-Warszawa-Krakw 1970, pp. 97 et seq.

⁴⁹⁷ Gesetz zur Regelung der landwirtschaftlichen Schuldverhaltnisse. Vom 1. Juni 1933 (RGBl. I 1933, 61, 331).

⁴⁹⁸ W. Wrzesinski, Hitler's policy..., pp. 77-78.

⁴⁹⁹ The Reich Constitution and the Rights of Minorities, "RPEiS" I (1932), pp. 11-15.

⁵⁰⁰ Constitution of the German Reich..., p. 392.

Similar effects were caused by the execution of the Law on Reich Border Protection and Retaliatory Measures of March 9, 1937⁵⁰¹ and its implementing decree of August 17, 1937⁵⁰² and its two amendments: of June 16, 1940⁵⁰³ and June 5, 1941⁵⁰⁴. The general wording appearing in these normative acts made it possible to remove Polish workers from the industrial plants of Upper Silesia⁵⁰⁵ and to deprive the national minority of the right to purchase real estate, which led to a decrease in the possession of Poles in Germany⁵⁰⁶. In the years 1937-1939, the authorities of the so-called Opole Regency presumably issued 230 refusals regarding real estate transactions⁵⁰⁷. In the context of the territorial validity of the Executive Order (§ 11), one can conclude that it was intended to use it to expropriate Poles and deprive them of employment in the Reich counties bordering Poland. Similar repressions on the basis of the geographic scope of the normative act's application were extended to the Sorbs of neighboring Saxony and Brandenburg and the Czechs of eastern Bavaria. It is interesting to note that the ordinance omitted dense concentrations of Poles in North Rhine-Westphalia and minorities from Western and Northern European countries (Denmark, France, Belgium, the Netherlands, Luxembourg, Austria and Switzerland), which were treated much better despite the political dispute. Thus, it can be assumed that the described legislation was introduced to clear the foreground of a future armed conflict and then to devastate the Polish nation. With the help of amendments to the ordinances to the 1940-1941 law, the prohibition on the acquisition and inheritance of real estate by Poles of German citizenship was actually implemented. In practice, the German authorities cited numerous reasons for refusal, such as subscribing to the Polish press, attending services held in Polish, participating in the Silesian and Greater Poland uprisings, and finally admitting Polishness in the May 17, 1939 census.⁵⁰⁸

The expulsion of Poles from border lands was accompanied by an internal settlement campaign both during the Weimar period and after the National Socialists took power.

⁵⁰¹ Gesetz über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen. Vom 9. März 1937 (RGBl. I 1937, 30, 281). See the ordinance extending the law to the annexed so-called Sudetenland: Verordnung über die Einführung des Gesetzes über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen in den sudetendeutschen Gebieten. Vom 17. Februar 1939 (RGBl. I 1939, 30, 257).

⁵⁰² Erste Durchführungsverordnung zum Gesetz über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen. Vom 17. August 1937 (RGBl. I 1937, 95, 905).

⁵⁰³ Verordnung zur Änderung der Ersten Durchführungsverordnung zum Gesetz über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen. Vom 16. Juni 1940 (RGBl. I 1940, 108, 881).

⁵⁰⁴ Verordnung zur Änderung der Ersten Durchführungsverordnung zum Gesetz über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen. Vom 5. Juni 1941 (RGBl. I 1941, 61, 301).

⁵⁰⁵ On November 25, 1937, the Reich Minister of the Interior gave the president of the Opole region the authority to dismiss industrial workers on the basis of a law and its executive order. Officers of the local Gestapo drew up lists of employees who were deemed a threat to the security of the Reich - the regency president then used these lists to administratively interfere with labor relations. This action began at the end of December 1937. It happened that the German courts ruled in favor of the dismissed workers, which prompted the German authorities to justify the dismissals differently: henceforth they did not cite factual reasons (such as unsuitability for the mining profession or low productivity), but explicitly pointed to the need to protect the Reich's borders. Because of presumed retaliation from Poland, the dismissal of workers did not take on a mass character. Nonetheless, for fear of further repression by the German administration, the activities of the trade union and Polish labor movement were curtailed (F. Ryszka, *The 1937 Law on the Protection of the Reich's Borders as a Tool for the Oppression of the Polish Worker in Upper Silesia*, "PZ" 1 (1949), pp. 459-480).

⁵⁰⁶ K. Jonca, *Application of...*, p. 18.

⁵⁰⁷ K. Orzechowski, *Struggle for land...*, pp. 78-83.

⁵⁰⁸ K. Jonca, *Application of...*, pp. 20-21.

The German colonists, who became, among others, German optants from Poland, distinguished Reichswehr soldiers and participants in paramilitary groups, were financially and ideologically supported by, for example, the Bund Deutscher Osten, the Commissioner for Settlement (Reichskommissar für das Siedlungswesen) and the RuSHA. Between 1924 and 1933, some 4,700 Germans from central and western Germany settled in the east, a negligible share of the total number of colonizers. Indeed, most of them, before 1933 an average of about 90 percent, came from the local population, e.g. The so-called East Prussian Province⁵⁰⁹. In the so-called Opole region, the pro-Polish oriented population was displaced during World War II and was selected by local landraces. Depending on the district, they selected up to five hundred people destined for deportation. It was enough for a Pole to admit his nationality in the last census of May 17, 1939, or to publicly display Polishness, such as using the language. The heavier charges were considered to include making buildings owned available to Polish organizations, participation in the Silesian uprisings, spying for the Polish authorities, plebiscite agitation, and membership in Polish organizations. The Poles, however, were not deported to the so-called General Government, but to Silesia or deep into the Reich as agricultural laborers or for forced labor in industry. In the process, their properties were confiscated and handed over to German settlers. The expulsion action, as a result of its abandonment by the administrative authorities, was undertaken by the Gestapo⁵¹⁰. The property of expelled persons and pre-September emigrants, as well as those in and released from concentration camps, was subject to expropriation⁵¹¹. The Law on the Forfeiture of Property of Enemies of the Nation and the State of July 14, 1933 proved helpful in this regard.⁵¹² As part of the depolonization of the land, the campaign to eradicate the Polish language from public and private space was reinforced. Difficulties arose in the use of the Polish language during services and in religious instruction, especially in Opole Silesia and North Rhine-Westphalia, where Polish-speaking German priests initially continued the Germanization they had practiced during the partition period. They changed their conduct when the German Center Party (Deutsche Zentrumspartei), which had provided political support to the church hierarchy, was dissolved on July 5, 1933. In view of the new situation, German clergy in the west sought help from Polish structures⁵¹³. As early as the 1920s, the Union of Poles in Germany often addressed all-German memoranda to local ordinaries so that the German church hierarchy would respect the rights of the Polish-speaking faithful⁵¹⁴. With similar appeals, the authorities of the First District of the Polish Union addressed the Archbishop of Wrocław, Cardinal Adolf Bertram. One of the last appeals was dated March 10, 1937.⁵¹⁵ Clergy celebrating mass in Polish received a leaflet that read: "We expect you to change your attitude, judged by all political factors to be wrong. So you will want to take into account the just demands of the population and hold church services only in the German language. Rejecting these demands will also

⁵⁰⁹ K. Fiedor, Characteristics and function of settlements in the eastern areas of Germany between the wars, "PZ" 2 (1975), pp. 286-289.

⁵¹⁰ F. Połomski, Intentions..., pp. 198-216.

⁵¹¹ A. Konieczny, Liquidation..., pp. 51-53.

⁵¹² Gesetz über die Einziehung volksund staatsfeindlichen Vermögens (RGBl. I 1933, 81, 480).

⁵¹³ M. Cyganski, Hitler's persecution of the Polish community..., pp. 221, 225.

⁵¹⁴ See Memorjał dotyczący sprawy kościelnych polskiej mniejszości narodowej w Niemczech, Berlin 1929; Kwestie narodowościowe poza Polską. Germany. Poles in Germany. Memorjał w sprawie konkordatu, "Sprawy Narodowościowe" 2 (1929), pp. 302-304.

⁵¹⁵ A. Targ, Outline of..., pp. 255-256.

mean declaring yourself against Germanness and supporting Polish pretensions. We will no longer tolerate such an attitude, especially since the Polish people, blinded in their hatred, are openly persecuting our brothers and sisters for merely being Germans. With this in mind, we urge you to change your attitude, in case you reject our advice we will draw far-reaching consequences."⁵¹⁶ . In April 1939, during a convention of local pastors from the Opole region on Mount St. Anne, a resolution was passed outlining the demands of Catholics. It called for the protection of the linguistic rights of the Polish-speaking faithful and an end to the repression of priests who celebrate mass in Polish. The desideratum was addressed to Josef Wagner, super-president of the so-called Silesian province. In defense of the Polish community, Archbishop Adolf Bertram had to stand up, due to pressure from the faithful, and sent appropriate letters to Josef Wagner and Hans Rüdiger, president of the so-called Opole region. However, he read the possibility of using the Polish language in the Church not in the context of protecting national rights, but religious rights. It was not long before one could see his true face. On June 27, 1939, the archbishop allowed pastors to replace services in Polish with so-called "silent masses," ostensibly because of national conflicts⁵¹⁷ . In addition, a ban on celebrating Masses in Polish was introduced on August 18, 1939 in the Diocese of Warmia in the East Prussian province⁵¹⁸ .

Germanization of the land involved the removal of Polish place names. Even before the outbreak of World War II, toponyms were germanized administratively. For example, in Opole Silesia, where special regulations were in effect under the Geneva Convention on Upper Silesia of May 15, 1922, as many as 1,220 place names had been changed by 1936, and on February 12, 1936, the super-president of the Silesian province issued a decree ordering the Germanization of all remaining Polish toponyms in the Toszecko-Gliwice district. Analogous processes were taking place in other border districts inhabited by a large Polish minority⁵¹⁹ .

Legislation regulating sterilization (the Law for the Protection of Hereditarily Sick Offspring of July 14, 1933⁵²⁰) and restricting marriage (the Law for the Protection of the

⁵¹⁶ W. Wrzesinski, *Polish Movement...*, p. 490.

⁵¹⁷ The assessment of Archbishop Adolf Bertram's actions is ambiguous: on the one hand, he happened to stand up for the linguistic rights of Poles and Polish forced laborers, while on the other, he practiced the principle of cooperation between church and state authority, believing that both came from God. For this reason, he sent birthday greetings to Adolf Hitler every year on behalf of the Fulda Episcopal Conference, of which he was chairman - from 1941 onward, due to the protest of Bishop Konrad von Preysing, he sent private expressions of remembrance (A. Bertram, *Charisms of the Soul and Priestly Work*, transl. S. Grelewski, Poznań 1936, p. 211; S. Wójcik, *Catholic Catechism for Children and the Traditions of the Polish Book in Silesia*, "Silesian Historical Quarterly *Sobótka*" 1-3 (1996), p. 440; A. Zawisza, *Polish Students at the University of Wrocław in the years 1918-1939*. Catalog of preserved archival materials, Wrocław 1972, pp. 202-203; *Akten Deutscher Bischöfe über die Lage der Kirche 1933-1945*, vol. 5, ed. L. Volk, Mainz 1983, pp. 527 et seq.; M. Sadowski, *Correspondence between Cardinal Adolf Bertram and Adolf Hitler* [in:] *Ludzie śląskiego Kościoła katolickiego*, ed. K. Matwijowski, Wrocław 1992, p. 116; G. Bönisch, K. Wiegrefe, *Das größere Übel* [in:] *Die Gegenwart der Vergangenheit. Der lange Schatten des Dritten Reichs*, ed. S. Aust et al., Reinbek 2005, p. 271).

⁵¹⁸ W. Wrzesinski, *Polish movement...*, pp. 490-492.

⁵¹⁹ K. Jonca, *Stosowanie...*, p. 14. See studies on the germanization of local names in Silesia: L. Musioł, *Zniemczone nazwy miejscowości na Śląsku*, Katowice 1936; K. Fiedor, *Walka z nazewnictwem polskim na Śląsku w okresie hitlerowskim (1933-1939)*, Wrocław-Warszawa-Kraków 1966.

⁵²⁰ *Gesetz zur Verhütung erbkranken Nachwuchses*. Vom 14. Juli 1933 (RGBl. I 1933, 86, 529). See the amendments to the law: *Gesetz zur Änderung des Gesetzes zur Verhütung erbkranken Nachwuchses*. Vom 26. Juni 1935 (RGBl. I 1935, 65, 773); *Zweites Gesetz zur Änderung des Gesetzes zur Verhütung erbkranken Nachwuchses*. Vom 4. Februar 1936 (RGBl. I 1936, 16, 119).

Mental Health of the German People, or the Marriage Health Law of October 18, 1935⁵²¹) were also used to liquidate the Polish minority in Germany. These acts served as a legal basis to impoverish members of the Polish community and limit demographic growth among them on the basis of nationality⁵²², although it was declared that the aim was to establish guarantees for people of German descent. The 1933 law outlined nine indications for sterilization: congenital mental retardation, schizophrenia, bipolar affective disorder, hereditary epilepsy, Huntington's chorea, blindness, deafness, severe physical deformities and even advanced alcoholism (Section 1, paragraphs 1-3 of the act). They were at the same time an obstacle to marriage (§ 1(1)(d) and § 1(2) of the Marital Health Act of 1935), as a requirement was established that a certificate of fitness to marry (Ehetauglichkeitszeugnisse) be delivered to the registry office, confirming the absence of medical statutory contraindications (§ 2). The exclusion of the application of the Sterilization Law to Poles in Upper Silesia was refused by Felix Calonder⁵²³, president of the Mixed Commission (Gemischte Kommission für Oberschlesien)⁵²⁴ and president of the Swiss Confederation in 1918, who, in an opinion dated July 23, 1936, pointed out that the authority lacked the competence to issue a decision on the matter, since the ruling on sterilization is in judicial form, not administrative (he cited Article 149). According to calculations by Franciszek Połomski, in 1934 as many as 2156 applications for permission for sterilization were submitted to German courts in the Breslau region, and another 1482 were being prepared. These letters concerned not only people of Polish nationality, but also Germans⁵²⁵. Progress in implementing the sterilization program was reported to readers on September 1, 1939 by the Gniezno daily *Lech*: "On the basis of the relevant laws, Poles and Polish women resistant to Germanness have already been castrated or sterilized in dozens of cases. A sufficient reason for sterilization is the lack of knowledge of the German language, which is considered a symptom of "mental retardation." Among other things, a 14-year-old boy named Nocoń was sterilized because he had made poor progress in German school. In fact, the issue was that he was the sole heir to a large Polish farm."⁵²⁶. So while the eugenics laws were intended to help achieve the purity of the German race, in the process they served as a pretext to permanently weaken the demographic potential of Poles in Germany.

In addition to the aforementioned normative acts, which applied to the German Polish community as a whole, its narrower groups (of a certain professional or civil status) were

⁵²¹ Gesetz zum Schutze der Erbgesundheit des deutschen Volkes (Ehegesundheitsgesetz). Vom 18. Oktober 1935 (RGBl. I 1935, 114, 1246).

⁵²² F. Połomski, Spór o stosowanie nazlerowskiego legislstwa sterlizacyjnego dla Polaków na terenie Opolszczyzny, "Studia Śląskie. New Series" III (1961), pp. 174-196; K. Dörner, Nationalsozialismus und Lebensvernichtung, "VJH f. ZG" 2 (1967), s. 129.

⁵²³ S. Komar, Views of the President of the Upper Silesian Mixed Commission, "Communications. Series II" 50 (1936-1937), s. 1-6.

⁵²⁴ The Commission, like the Upper Silesian Arbitration Tribunal (Schiedsgericht für Oberschlesien), was the arbitration body for the application of the Upper Silesian Convention. Its functioning and procedures were generally regulated in Articles 577-586 of the said agreement. The commission was based in Katowice (in the Polish part of Upper Silesia) and the tribunal in Beuthen, or Bytom (within Germany).

⁵²⁵ F. Połomski, The Discriminatory Function of the "Racial Law" (Rassenrecht) of the Third Reich (1933-1945), "SnFiZH" I (1974), p. 32. See a rather unique contribution for Polish historiography on the repression of German authorities against their own citizens of German nationality: F. Marek, J. Rostropowicz, Nazi crimes committed against Germans in Opole Silesia during World War II, "SnFiZH" IV (1979), pp. 87-101.

⁵²⁶ We stigmatize..., p. 6.

affected by regulations contained in, among others, the Editors Act of October 4, 1933⁵²⁷, the National Labor Order Act of January 20, 1934⁵²⁸, the Theaters Act of May 15, 1934⁵²⁹, Voluntary Labor Service Act of December 13, 1934⁵³⁰, and the Act for the Unification of Marriage and Divorce Laws in Austria and the Other Districts of the Reich of July 6, 1938.⁵³¹ The legislation made it possible to create a system of social, professional and administrative privileges for Germans to shape the model German national community (*Volksgemeinschaft*). The mechanism was based on the assumption that the state, with funds raised from individuals and legal entities affiliated with it, returns part of the funds in various forms to citizens. At the same time, the conditions of their access to, among other things, state health care facilities, education and government employment, as well as social welfare benefits were determined. Relations between private entities were interfered with by establishing additional requirements, the fulfillment of which depended on the arbitrary decisions of the authorities. In other words: the broader the authority the state has over the spending of public funds (as, for example, in extended socialism), the greater the potential for discrimination against individuals and groups.

Based on an analysis of the implementation of the aforementioned laws, numerous manifestations of the described regularity can be identified. The operation of the centrally controlled mechanism resulted in the disintegration of the Polish minority in Germany, a process that was further intensified in connection with the armed conflict with Poland. Although, for example, young Poles were not required, as a result of the exemption obtained by the Union of Poles in Germany, to belong to the Hitler Youth (Hitlerjugend)⁵³², in practice, lack of involvement meant repression against their parents or difficulty in obtaining work, not only in the public sector, but also in the private sector. In September 1937, the Gestapo banned the use of the scout emblem (the rhodiola lily), the display of

⁵²⁷ Schriftleitergesetz. Vom 4. Oktober 1933 (RGBl. I 1933, 111, 713).

⁵²⁸ Gesetz zur Ordnung der nationalen Arbeit. Vom 20. Januar 1934 (RGBl. I 1934, 7, 45).

⁵²⁹ Theatergesetz. Vom 15. Mai 1934 (RGBl. I 1934, 56, 411).

⁵³⁰ Gesetz über den freiwilligen Arbeitsdienst. Vom 13. Dezember 1934 (RGBl. I 1934, 134, 1235). Cf. an ordinance on the subject adopted while the Weimar period was still in progress, as well as a law in practice repealing the law of 13 December 1934 and introducing the obligation to work for the state for six months, carried out under the Reichsarbeitsdienst: Verordnung über den freiwilligen Arbeitsdienst. Vom 16. Juli 1932 (RGBl. I 1932, 45, 352); Reichsarbeitsdienstgesetz. Vom 26. Juni 1935 (RGBl. I 1935, 64, 769).

⁵³¹ Gesetz zur Vereinheitlichung des Rechts der Eheschließung und der Ehescheidung in Lande Österreich und in übrigen Reichsgebiet. Vom 6. Juli 1938 (RGBl. I 1938, 106, 807).

⁵³² The structure and rules of the Hitlerjugend were regulated by the Hitlerjugend Act of December 1, 1936. The organization operated as a successor to the NSDAP Youth Union (Jugendbund der NSDAP), established on March 8, 1922. It was a youth party formation enabling the indoctrination of children from the age of 10 until they reached 18 (21 in the case of girls). Separate structures were established for both sexes in the age categories of 10-14 and 14-18 (in the case of young men) and 10-14 and 14-17 (this applied to the ladies after the establishment of the Werk des Bundes Deutscher Mädel "Faith and Beauty", or Werk des Deutscher Mädel "Glaube und Schönheit", in which they served from age 17 to 21, in 1938). Since the adoption of two executive orders on March 25, 1939 to the 1936 law, membership in the Hitlerjugend was mandatory (and expensive). The organization was headed by the Reich Youth Commander (Reichsjugendführer). This position was held successively by Baldur von Schirach (from 1931 to 1940) and Artur Axmann (from 1940 to 1945). Members of the Hitlerjugend volunteered to work in the countryside as part of the Hitlerjugend's rural service (Landdienst der HJ), similar to the institution of the forced rural service year (Landjahr). In July 1943, some of the older Hitlerjugend youths became part of the 12th SS Panzer-Division "Hitlerjugend" - the 12th SS-Panzer-Division "Hitlerjugend" (K. Grünberg, Hitler-Jugend, Torun 1998; M. Kater, Hitlerjugend - Hitler's children, transl. O. Knopinska, Warsaw 2013; B. Lewis, Hitlerjugend. In times of war and peace 1933-1945, transl. G. Siwek, Warsaw 2008). See the relevant normative acts: Gesetz über die Hitlerjugend. Vom 1. Dezember 1936 (RGBl. I 1936, 113, 993); Erste Durchführungsverordnung zum Gesetz über die Hitler-Jugend (Allgemeine Bestimmungen). Vom 25. März 1939 (RGBl. I 1939, 66, 709); Zweite Durchführungsverordnung zum Gesetz über die Hitler-Jugend (Jugenddienstverordnung). Vom 25. März 1939 (RGBl. I 1939, 66, 710).

Polish national colors and the wearing of uniforms by members of the Polish Scouting Association in Germany. The following year, numerous scouting courses and camps were prevented. Analogous were the consequences of children attending Polish schools - for example, social allowances were administratively denied to Polish families with many children (decisions were changed if offspring were transferred to German educational institutions). In turn, in order to enter military service or take up a job (even in a private enterprise), one had to confirm fulfillment of labor obligations or membership in the German Labor Front (Deutsche Arbeitsfront)⁵³³, a corporate organization replacing trade unions as of May 10, 1933. A similar restriction was applied to the profession of journalism, which one could become a journalist only after the candidate had been admitted to the Reich Press Chamber (Reichspressekammer)⁵³⁴ and had obtained entry on the professional list (Berufsliste)⁵³⁵ of the Reich Association of the German Press (Reichsverband der Deutschen Presse)⁵³⁶. In addition, institutional repressive censorship (e.g., confiscation of printed editions) was introduced to eliminate from the German media market any content deemed undesirable, i.e., inconsistent with government policy⁵³⁷. The press law succeeded in eliminating the independence of the Polish press and journalism

⁵³³ The German Labor Front went from being an intermediary institution between employees and employers to becoming, with its numerous agencies like Strength through Joy (Kraft durch Freude), an organizer of the working life of German workers. In addition, it began to fund educational initiatives, workplace libraries, canteens, holidays, concerts, theater and opera tickets, etc. Its commander (DAF-Führer) from 1933 to 1945 was Robert Ley, Reichsleiter der NSDAP. At the peak of its activities, 22 million people belonged to the Front (R. Hachtmann, *Das Wirtschaftsimperium der Deutschen Arbeitsfront 1933 bis 1945*, Göttingen 2012. See the legal basis for the organization's functioning: Document 2271-PS. Verordnung des Führers vom 24. Oktober 1934 [in:] *Trial...*, vol. XXX, pp. 68-71; Document 2271-PS. Verordnung des Führers vom 12. November 1934 [in:] *ibidem*, p. 71. Cf. Translation of Führer's Decree on the Essence and Purpose of the German Labor Front, 24 Oct. 1934 and its amendment of 12 Nov. 1934, in English translation: Translation of Document 2271-PS. Hitler's Decree, October 24, 1934 [in:] *Nazi Conspiracy...*, vol. 4, pp. 941-943; Translation of Document 2271-PS. Hitler's Decree, November 12, 1934 [in:] *ibid.*, p. 943).

⁵³⁴ The body was established by the Reich Chamber of Culture Act (Reichskulturkammer) of September 22, 1933 (Section 2(1)). The Reich Chamber of Culture, as an institution overseeing cultural life and the activities of artists in Germany, was divided into seven professional corporations, among which were the Reich Press Chamber, Reich Chamber of Music (Reichsmusikkammer), Reich Chamber of Theaters (Reichstheaterkammer), Reich Chamber of Writing (Reichsschrifttumskammer), Reich Chamber of Radio Broadcasting (Reichsrundfunkkammer), and Reich Chamber of Fine Arts (Reichskammer der bildenden Künste; § 2 para. 2-6) and the hitherto separate Reich Film Chamber (Reichsfilmkammer; § 3), established by the Act on the Establishment of a Temporary Film Chamber of July 14, 1933. The Reich Chamber of Culture was headed by the Reich Minister for National Enlightenment and Propaganda (Reichsminister für Volksaufklärung und Propaganda, § 1), namely Joseph Goebbels (U. Jensen, *Reichskulturkammer* [in:] *Enzyklopädie des Nationalsozialismus*, ed. W. Benz et al, Stuttgart 1997, pp. 680 ff; U. Faustmann, *Die Reichskulturkammer. Aufbau, Funktion und rechtliche Grundlagen einer Körperschaft des öffentlichen Rechts im nationalsozialistischen Regime*, Aachen 1995). See the relevant legislation: Gesetz über die Errichtung einer vorläufigen Filmkammer. Vom 14. Juli 1933 (RGBl. I 1933, 82, 483); Reichskulturkammergesetz. Vom 22. September 1933 (RGBl. I 1933, 105, 661). Cf. the supplement to the Reich Chamber of Culture Act: Ergänzungsgesetz zum Reichskulturkammergesetz. Vom 15. Mai 1934 (RGBl. I 1934, 56, 413).

⁵³⁵ Entry on the professional list was regulated in detail in the Ordinance on the Entry into Force and Enforcement of the Editors Act of December 19, 1933 (Verordnung über das Inkrafttreten und die Durchführung des Schriftleitergesetzes. Vom 19. Dezember 1933, RGBl. I 1933, 144, 1085).

⁵³⁶ Existing from 1910 to 1945, the union was a professional representation of German journalists. In 1933, it was incorporated as a specialized unit into the structure of the Reich Press Chamber. Thus, the representation of the journalism industry was subordinated to the state authorities.

⁵³⁷ W. Wrzesinski, *Hitler's policy...*, pp. 78-81.

in Germany⁵³⁸, which led to cutting off public opinion from information on the persecution of Poles.

In the course of World War II, many Poles from the Reich were conscripted into the Wehrmacht, so they shared the fate of German soldiers: some of them died on the fronts, while others were sent to Allied prisoner of war camps after the end of hostilities. For example, of the 63 students of Polish schools in the Bytow (Kreis Bütow) district of Kashubia, 20 died during military service: 13 on the eastern front and 7 on the western front⁵³⁹. In contrast, many Polish workers with German citizenship survived the war because they were considered essential to the functioning of the Reich's arms industry⁵⁴⁰.

Free City of Danzig before and after annexation

Since the establishment of the FCD⁵⁴¹ this administrative unit, if not in an international legal sense, then in practice, was dependent on external German influence. The unification drive is evidenced by the words that Ernst Ziehm, vice president of the Senate, addressed to Field Marshal Paul von Hindenburg, visiting Malbork on May 31, 1922: "We look forward to that moment when we will belong to the Fatherland again. We have come here to declare this to Your Excellency."⁵⁴². Rapprochement with Germany was the leitmotif of the activities of Danzig's superiors throughout the interwar period. Before the right moment came for reunification, Polish influence in FCD was ruggedized as much as possible. This was facilitated by the fact that the Danzig administration was based on officials of German origin, often Prussian. The situation was similar in the police (and numerous paramilitary formations), education and the Church, especially the Evangelical Church. Anti-Polish policy was created by the Danzig Volkstag, where, in addition to the Social Democratic Party of the FCD (Sozialdemokratische Partei der Freien Stadt Danzig),

⁵³⁸ Repression of publishers of Polish newspapers and periodicals and members of their editorial boards had a long tradition in Germany, which became firmly established during the reign of Chancellor Otto von Bismarck. Wiktor Kulerski, creator of the *Grudziadz Gazeta*, the third largest (in terms of circulation, which reached about 128,000 copies in 1914) all-German newspaper, faced as many as 87 lawsuits for his pro-Polish activities. His associates also did not escape harassment from the Prussian authorities. Although Wiktor Kulerski died in Owczarki near Grudziadz on September 18, 1935, the Germans took their revenge on him posthumously. His grave was desecrated in October 1939, and machinery from Wiktor Kulerski's printing and graphic works was taken to the Reich (T. Astramowicz-Leyk, *Wiktor Kulerski (1865-1935). Politician - publisher - journalist*, Toruń 2006; T. Krzemiński, *Politician of two eras. Wiktor Kulerski (1865-1935)*, Toruń 2008; G. Gzella, *Press trials of the editors of "Gazeta Grudziadzka" in the years 1894-1914*, Toruń 2010; *Nauka gotowania do użytku ludu polskiego ułożona z prac konkursowych Maria Reszelskiej, Stanisława Mittmann i Stefanii Królikowskiej*, oprac. and edited by J. Dumanowski et al., Grudziadz 2012, pp. 20-28; W. Chojnacki, *German police supervision over the Polish press and national activity in Westphalia and the Rhineland in the years 1861-1924*, "PZ" 1 (1980), pp. 122-134).

⁵³⁹ J. Mazurek, *Polish schools and the fate of their students in the Bytow district in 1919-1975*, "DN" 4 (1975), pp. 106-107.

⁵⁴⁰ C. Wiczorkiewicz, *Polonia...*, pp. 118-119.

⁵⁴¹ See information on the legal international status of FCD, its governing bodies, social and economic relations: *History of Pomerania*, vol. 5: 1918-1939: The Pomeranian Voivodeship and the Free City of Gdansk, part 1: System, society and economy, ed. S. Wierchosławski, P. Olstowski, Toruń 2015, pp. 332-416.

⁵⁴² S. Mikos, *Activities of the Commissariat...*, p. 143. Cf. G. Boehnert, *Hindenburg in Marienburg*, "Danziger Allgemeine Zeitung," 1 VI 1922, p. 2. See W. Panecki, *Senators do not want the Free City*. Polish interpellation in the Danzig Sejm, "Gazeta Gdańska," 10 VI 1922, p. 1.

the FCD Center Party (Zentrumspartei der Freien Stadt Danzig) and the FCD German National People's Party (Deutschnationale Volkspartei der Freien Stadt Danzig), which were hostile to the Polish community, played a significant role. The political demands were consistently implemented by the Danzig Senate⁵⁴³. The High Commissioner, an organ of the League of Nations, also played an important part in their implementation. As a result of the elections to the Volkstag on May 28, 1933, the National Socialists seized power and marginalized the role of the Volkstag in favor of a system of political monoculture developed in parallel in Germany. The rights of Polish citizens in the FCD began to be restricted as early as the early 1920s. High Commissioner Richard Haking, in a decision dated December 16, 1921, legitimized the competence of the Danzig Senate to expel Polish citizens from the FCD, specifying the relevant procedure⁵⁴⁴. Between 1923 and 1930 they were expelled from there, based on Prussian laws of 1850⁵⁴⁵ and 1883⁵⁴⁶, a total of 1133⁵⁴⁷. Although Polish citizens were formally guaranteed rights (including economic rights) under the applicable acts of international law, the administration applied them in a discriminatory manner⁵⁴⁸. On the other hand, Danzig citizens of Polish nationality were germanized in a form somewhat different from that of the Partitions. Although in accordance with the law of October 11, 1922, they were guaranteed access to justice in their native language, numerous additional conditions were specified that hindered this⁵⁴⁹. Polish-language education in FCD was severely restricted by bureaucratic methods⁵⁵⁰. Polish students had to sing the song of the Germans (das Lied der Deutschen), the German national anthem, which was a school ritual. The issue of education in the FCD was regulated in the Law on the Education of the Polish Minority of December 23, 1921⁵⁵¹, which provided not only numerous restrictions on the establishment and operation of public schools or classes with the Polish language of instruction (§ 1-11), but also significant restrictions on the operation of Polish private schools (§ 12-13). In 1923, there were only 8 public Polish schools in the FCD (7 in Gdansk and 1 in Sopot) and 3 classes at German schools in the countryside. Macierz Szkolna in FCD led to the launch of a private Polish gymnasium in Danzig. The Technical University of Danzig (Technische Hochschule) nurtured its German character. The corporation of Polish students, the Union

⁵⁴³ A. Drzycimski, *Poles...*, pp. 48-49, 83-87.

⁵⁴⁴ Decision of the High Commissioner of December 16, 1921. [in:] *Collection of Official Documents...*, part 2, pp. 89-91.

⁵⁴⁵ Gesetz über Polizei-Verwaltung. Vom 11. März 1850 (GS f. d. KPS 1850, 18, 265).

⁵⁴⁶ Gesetz über die allgemeine Landesverwaltung. Vom 30. Juli 1883 (GS f. d. KPS 1883, 25, 195).

⁵⁴⁷ S. Potocki, *Sytuacja ludności polskiej w Wolnym Mieście Gdańsku* [in:] *Studia z dziejów Gdańska 1918-1939*, ed. S. Potocki, Gdańsk 1975, p. 227.

⁵⁴⁸ A. Drzycimski, *Poles...*, pp. 108-109.

⁵⁴⁹ The validity of the law was extended until further notice by an act of September 13, 1923 (Gesetz über den Gebrauch der polnischen Sprache bei der Rechtspflege. Vom 11. Oktober 1922 (GBl. f. d. FSD 1922, 51, 470); Gesetz zur Verlängerung der Geltungsdauer über den Gebrauch der polnischen Sprache bei der Rechtspflege vom 11. Oktober 1922 (Gesetzblatt Seite 470). Vom 5.9.1923 (GBl. f.d. FSD 1923, 68, 952). See the Polish translation of the normative acts: Law of October 11, 1922 on the use of the Polish language in the administration of justice [in:] *Collection of Official Documents...*, part 2, p. 175; Law on Extending the Validity of the Law on the Use of the Polish Language in the Administration of Justice of October 11, 1922 (*Journal of Laws* p. 470). Of 5.9.1923 [in:] *ibid*, p. 268).

⁵⁵⁰ See W. Jedliński, *Dzieje oświaty...*; H. Polak, *Szkolnictwo i oświata polska w Wolnym Mieście Gdańsku 1920-1939*, Gdańsk 1978.

⁵⁵¹ Gesetz betreffend den Unterricht der polnischen Minderheit (GBl. f.d. FSD 1921, 36, 223). See the Polish translation of the law: the Law on Teaching the Polish Minority [in:] *Collection of Official Documents...*, part 2, pp. 266-267.

of Danzig Academicians "Vistula"⁵⁵², which was struggling with difficulties on the part of the university authorities and German students, was active at it.

The seizure of power by the National Socialists began a period of intensified preparations for the unification of FCD with the Reich. One of the primary goals was to cleanse this administrative unit of any Polish influence. This was served by legislation⁵⁵³ 553 - ordinances issued by the Danzig Senate under the Act on the Removal of Threats to the Nation and State of June 24, 1933⁵⁵⁴ On its basis, the Senate, an executive authority, was granted unlimited legislative powers by the Volkstag⁵⁵⁵ for four years⁵⁵⁶. At this point, oppression, hitherto realized through the execution of formally non-discriminatory legal norms against Poles, could be framed in normative acts. Interfering with labor relations was the Third Ordinance on the Maintenance and Promotion of Casual Labor of August 15, 1933.⁵⁵⁷ It made it compulsory to employ as much as 25 percent of the current German citizens of Danzig participating in the Great War in enterprises. It also established the Office of the Labor Trustee (Treuhänder der Arbeit), whose responsibility was to set contract terms and service regulations. Poles were also marginalized through regulations on the operation of retail establishments and craft workshops. Under a decree of February 6, 1935,⁵⁵⁸ the police president was given the authority to issue permits to trade in foodstuffs. In the facts specified by this act, he could refuse to issue permits for trade without being obliged to pay compensation. His authority was also expanded by the Ordinance on the Protection of Retail Trade and Handicrafts of March 14, 1935.⁵⁵⁹ - the police president's approval was indicated as a condition for enlarging a store or workshop or moving its headquarters. The Danzig Senate became the appeal instance against his decision. As a result of an amendment to this act on November 19, 1938⁵⁶⁰, decisions on starting a trade or craft business, relocating, taking over or closing their establishments due to public interest objections were to be made by the Chamber of Industry and Commerce or the Chamber of Crafts. The boycott of Polish businesses was made easier by the obligation to disclose the names of owners on signboards, as provided for in the amendment to the Ordinance on the Conduct of Business of July 20, 1936.⁵⁶¹ The possibility of arbitrary tax concessions if domestic servants were hired, but only from

⁵⁵² A. Drzycimski, *Poles...*, pp. 108-109, 115, 120, 123, 128.

⁵⁵³ The following selection of characterized Gdansk acts comes from Henryk Stępiak's publication devoted to the activities of the Gdansk Polonia (H. Stępiak, *Polish population in the Free City of Gdansk*, Gdansk 1991, pp. 158-165. Cf. K. Weiss, "Swoi" and "strangers" in the Free City of Gdansk 1920-1939, Torun 2002, 62-74).

⁵⁵⁴ Gesetz zur Behebung der Not von Volk und Staat. Vom 24. Juni 1933 (GBl. f. d. FSD 1933, 33, 273).

⁵⁵⁵ The takeover of the FCD's supreme legislative body was staggered and took the National Socialists several years, starting in 1933 (M. Andrzejewski, *The process of the Nazis' capture of the Danzig Volkstag*, "Zeszyty Naukowe Wydziału Humanistycznego Uniwersytetu Gdańskiego" 11 (1981), pp. 57-67).

⁵⁵⁶ From the entry into force of the law until September 1, 1939, only six normative acts were adopted with the participation of the Volkstag (M. Podlaszewski, *Organy władzy ustawodawczej Wolnego Miasta Gdańska w okresie przedhitlerowskim (1920-1933)*, "Rocznik Gdański" XXIII (1964), p. 128).

⁵⁵⁷ Dritte Verordnung zur Erhaltung und Vermehrung von Arbeitsgelegenheiten. Vom 15. August 1933 (GBl. f. d. FSD 1933, 59, 383).

⁵⁵⁸ Rechtsverordnung betreffend Einführung einer Erlaubnispflicht für den Handel mit marktregulierten Erzeugnissen der Landwirtschaft und der Fischerei. Vom 6. Februar 1935 (GBl. f. d. FSD 1935, 12, 386).

⁵⁵⁹ Verordnung zum Schutze des Einzelhandels und des Handwerks. Vom 14. März 1935 (GBl. f. d. FSD 1935, 22, 425).

⁵⁶⁰ Verordnung zum Schutze des Einzelhandels und des Handwerkes. Vom 19. November 1938 (GBl. f. d. FSD 1938, 80, 678).

⁵⁶¹ Verordnung zur Abänderung der Gewerbeordnung. Vom 20. Juli 1936 (GBl. f. d. FSD 1936, 55, 297).

among Danzig citizens, was stipulated in the Ordinance of December 11, 1934.⁵⁶² , amended by the Executive Order of October 9, 1935.⁵⁶³ to take the form of the Tax Ordinance. An ordinance of August 15, 1936⁵⁶⁴ introduced control over the sale and purchase of goods for tax purposes, which allowed Danzig administration officials to interfere in the turnover of goods. Access to the profession was restricted for Polish craftsmen⁵⁶⁵ , doctors⁵⁶⁶ , dentists⁵⁶⁷ , pharmacists⁵⁶⁸ , lawyers⁵⁶⁹ and all laborers (including port laborers, who were subject to labor mediation without exception)⁵⁷⁰ and officials from the public and private sectors⁵⁷¹ . The obligation to provide labor was imposed on those between the ages of 17 and 25⁵⁷² , allowing for their National Socialist indoctrination. Its fulfillment was linked to receiving privileges in employment in the Danzig public service and the local employment agency serving private entrepreneurs seeking workers⁵⁷³ . Poles were essentially excluded from the leadership bodies of the economic self-government⁵⁷⁴ . A compulsion was established for Polish craftsmen to participate in politicized craft guilds⁵⁷⁵ , inland ship owners and brokers in the Inland Shipping Association⁵⁷⁶ , and real estate owners in the Real Estate Owners Association (Hausbesitzerzweckverbandes)⁵⁷⁷ . There was the threat of the possibility of expropriating part or all of a farm for up to five years as a result of being found unproductive or earning

⁵⁶² Verordnung betreffend Einführung eines neuen Einkommensteuergesetzes. Vom 11. Dezember 1934 (GBl. f. d. FSD 1934, 96, 781).

⁵⁶³ Durchführungsbestimmungen zum Steuergesetzes. Vom 9. Oktober 1935 (GBl. f. d. FSD 1935, 106, 1015).

⁵⁶⁴ Verordnung über die Verbuchung des Warenausgangsverordnung (Warenausgangsverordnung). Vom 15. August 1936 (GBl. f. d. FSD 1936, 59, 327).

⁵⁶⁵ Rechtsverordnung betreffend die Einführung von Handwerkerkarten. Vom 25. Februar 1932 (GBl. f. d. FSD 1932, 14, 118). Cf. Verordnung betreffend Aufbau des Handwerkes. Vom 21. Juli 1936 (GBl. f. d. FSD 1936, 54, 293).

⁵⁶⁶ Rechtsverordnung betreffend den Erlass einer Ärzteordnung. Vom 1. Dezember 1933 (GBl. f. d. FSD 1933, 90, 589).

⁵⁶⁷ Rechtsverordnung betreffend Erlass einer Dentisten-Ordnung. Vom 18. Dezember 1936 (GBl. f. d. FSD 1936, 2, 5).

⁵⁶⁸ Verordnung betreffend Zugang zur Apotheker-Laufbahn. Vom 4. Dezember 1934 (GBl. f. d. FSD 1934, 95, 769).

⁵⁶⁹ The regimentation of access to the practice of legal professions by Poles and Jews was carried out on the basis of the letters of the Danzig Senate of 24 II 1936 (H. Stępnia, *Population...*, pp. 164-165).

⁵⁷⁰ Verordnung betreffend Arbeitsvermittlung der Hafenarbeiter. Vom 14. Februar 1935 (GBl. f. d. FSD 1935, 13, 397).

⁵⁷¹ Verordnung über Änderung des Arbeitsvermittlungsgesetzes. Vom 19. Januar 1935 (GBl. f. d. FSD 1935, 7, 219).

⁵⁷² Verordnung betreffend die Einführung des Danziger staatlichen Arbeitsdienstes. Vom 19. Februar 1934 (GBl. f. d. FSD 1934, 47, 459).

⁵⁷³ Verordnung betreffend die Anrechnung und sonstige Berücksichtigung der im Danziger Staatlichen Hilfsdienst abgeleisteten Dienstzeit. Vom 3. März 1936 (GBl. f. d. FSD 1936, 27, 145).

⁵⁷⁴ Verordnung zur Neugestaltung der Wirtschaftsvertretungen. Vom 28. Juli 1934 (GBl. f. d. FSD 1934, 65, 633). See Verordnung zur Errichtung der Industrie- und Handelskammer. Vom 28. Juli 1934 (GBl. f. d. FSD 1934, 65, 634); Verordnung zur Errichtung der Handwerkskammer. Vom 28. Juli 1934 (GBl. f. d. FSD 1934, 65, 639); Verordnung zur Errichtung eines Wirtschaftsrats. Vom 28. Juli 1934 (GBl. f. d. FSD 1934, 65, 641); Verordnung über die Errichtung einer öffentlich-rechtlichen Berufsvertretung der Danziger Landwirtschaft. Vom 14. Juli 1933 (GBl. f. d. FSD 1933, 42, 313).

⁵⁷⁵ Verordnung zur Abänderung der Verordnung zur Errichtung der Handwerkskammer vom 28. Juli 1934. vom 9. September 1935 (GBl. f. d. FSD 1935, 94, 923).

⁵⁷⁶ Verordnung betreffend Abänderung und Neufassung der Verordnung zur Errichtung eines Schifffahrtbetriebsverbandes für die Wasserstraßen im Gebiet der Freien Stadt Danzig vom 1. August 1933 (G. Bl. S. 365) und 28. Mai 1934 (G. Bl. S. 475). Vom 26. Februar 1935 (GBl. f. d. FSD 1935, 17, 409); Verordnung betreffend Erlass einer Satzung des Schifffahrtbetriebsverbandes für die Wasserstraßen im Gebiet der Freien Stadt Danzig. Vom 26. Februar 1935 (SA f. d. FSD I 1935, 26, 131).

⁵⁷⁷ Verordnung über die Errichtung eines Hausbesitzerzweckverbandes. Vom 15. Mai 1936 (GBl. f. d. FSD 1936, 35, 187).

insignificant income⁵⁷⁸. With the decree on the security service of October 10, 1938⁵⁷⁹ the construction of the Danzig armed forces was initiated. Citizens there between the ages of 18 and 25 were required to perform personal services in the security service, while those between 25 and 50 were obliged to perform auxiliary services. Discrimination affected owners of Polish press publications and editors of the Polish press. Among other things, the Law on Securing Public Order of June 30, 1931 was used to block Polish news channels independent of the Danzig authorities.⁵⁸⁰ Its biased interpretation allowed Polish newspapers to be stripped of their debits, or distribution permits. In addition, press circulation was confiscated, magazine editorial offices were searched and inspected, journalists were invigilated, and legal proceedings were taken against some of them. Sometimes editors were expelled from the FCD and an aggressive boycott of Polish periodicals was implemented⁵⁸¹.

The legislation described above resulted not only in a reduction in the number of Polish stores and craft workshops in the FCD, but also in their turnover⁵⁸². As a result of the application of these regulations, Poles gradually lost their economic base, as they were hindered from working in many sectors, were ruggedly removed from decision-making bodies in the economic self-government, and grounds were laid for taking away agricultural property along with livestock. With the help of restrictions in educational law and the subjection of Polish youth to German propaganda, deprivation was carried out. The establishment of the Danzig administration's influence over social, labor, economic and educational relations allowed it to arbitrarily decide on the intensity of discriminatory anti-Polish policies. Danzig legislation passed up to September 1, 1939 was secondary to the analogous German law, both in content and purpose.

During the German occupation of the FCD, a policy of extermination of the Polish nation was implemented using normative acts, administrative decisions and discriminatory execution and application of the law. Frequently, German superiors gave orders to subordinates to implement anti-Polish intentions. First, Poles were deprived of white and firearms. According to a Decree of SS-Oberführer Johann Schäfer, Plenipotentiary of the Head of the Civil Administration for Police Affairs, dated September 8, 1939.⁵⁸³ (came into effect the day before), failure to surrender weapons was punishable by death or imprisonment. By decree effective September 7, 1939.⁵⁸⁴ Johann Schäfer restricted the movement of Polish nationals between the ages of 18 and 60, regardless of citizenship, and required them to report frequently. Polish teachers lost their jobs as a result of a normative act signed on September 8, 1939 by Adalbert Boeck, plenipotentiary of the head of the civil

⁵⁷⁸ Verordnung über die Sicherung Landbewirtschaftung. Vom 26. August 1936 (GBl. f. d. FSD 1936, 62, 343).

⁵⁷⁹ Rechtsverordnung betreffend den Sicherheitsdienst. Vom 10. Oktober 1938 (GBl. f. d. FSD 1938, 68, 523). See W. Borowski, Agrarian Policy of the Free City of Danzig (1921-1939), "Rocznik Gdański" XXII (1963), pp. 65-116.

⁵⁸⁰ Gesetz zur Sicherung der öffentlichen Ordnung. Vom 30. Juni 1931 (GBl. f. d. FSD 1931, 32, 605).

⁵⁸¹ A. Romanow, Polish Press in the Free City of Danzig (1920-1939), Danzig 1979, pp. 218-232.

⁵⁸² See J. Daniluk, Polscy handlowcy w międzywojennym Gdańsku [in:] "Swój do swego". Z dziejów przedsiębiorczości polskiej w Gdańsku okresu Wolnego Miasta (1920-1939). Sketches, ed. J. Daniluk, Gdynia 2016, pp. 23-36.

⁵⁸³ Verordnung betreffend polnische Staatsangehörige und Angehörige der polnischen Minderheit in Danzig. Vom 7. September 1939 (GBl. f. d. FSD 1939, 94, 479).

⁵⁸⁴ Verordnung über die Meldepflicht polnischer Staatsangehöriger und Angehöriger der polnischen Minderheit. Vom 7. September 1939 (GBl. f. d. FSD 1939, 96, 485).

administration for science, culture, education and church affairs. Polish educational institutions in the FCD were closed in accordance with Adalbert Boeck's decree, effective September 9, 1939. All Polish organizations in the FCD were liquidated on September 11, 1939, and their property was confiscated. Members of these organizations were banned from holding meetings. The property of the Polish state, Polish legal entities and individuals left in the FCD was almost entirely seized. A residence permit was ordered for all foreigners, that is, also non-German Polish citizens. There were press reports that the non-German population had to greet party, administrative and uniformed officials⁵⁸⁵.

After the end of hostilities in Poland, the German FCD authorities began displacing local Poles. October 11, 1939. Heinrich Himmler authorized the Security Police and Security Service to carry out the operation, specifying in Order 1/II of October 30, 1939⁵⁸⁶ that the deportations should include Polish nationals hailing from so-called Congress Poland. The undertaking was originally planned for the period from November 1939 to February 1940, although Poles were expelled until 1944. In practice, not only those coming from the so-called Congress Kingdom to FCD after 1919 were expelled, but also family members of repressed individuals (defenders of Westerplatte, the railway station in Szymankowo, the Polish Post Office in Gdansk), individuals considered hostile to Germanness or asocial (Jews, criminals, prostitutes). From January 1940, the operation was directed by the Gdansk Special Referat for the Evacuation of Poles and Jews, and from January 1941. - The Central Resettlement Post in Gdynia (Umwandererzentralstelle Gotenhafen). Families forced to leave the FCD were usually informed at night or in the morning. First the properties were taken away, then the movable property. Next, Poles were transported to Gdynia, from where they were sent by rail to resettlement camps in Torun (to the lard and oil processing plant, the so-called "szmalcówka")⁵⁸⁷, to Potulice or Tczew (to the "Arkona" factory). There, searches were again carried out to find valuables, funds and food. Of those destined for deportation, RuSHA functionaries selected Poles capable, in their opinion, of being Germanized, and an assistant of the National Labor Office in Gdansk selected candidates for suitability for physical labor on German farms. The others were transported by rail to the so-called GG. Among others, Baltic Germans were settled in the FCD instead⁵⁸⁸.

The institution of registration on the German nationality list, based on a decree of March 4, 1941⁵⁸⁹ signed by Wilhelm Frick, Rudolf Hess and Heinrich Himmler, also proved to be a tool of discrimination against Poles. Its entry into force was preceded by the issuance of a circular on certificates of non-Polish nationality dated November 14, 1940,⁵⁹⁰ and in a

⁵⁸⁵ P. Semkow, *Politics...*, pp. 97-102.

⁵⁸⁶ See Order of H. Himmler on Displacement of the Population in the So-called Lands Incorporated into the Reich [in:] *Displacement of the Polish Population in the So-called Lands Incorporated into the Reich 1939-1945*, selection of sources and compilation. C. Luczak, Poznań 1969, pp. 1-2.

⁵⁸⁷ T. Ceran, "Szmalcówka". History of the German camp in Toruń (1940-1943) against the background of Nazi ideology, Bydgoszcz-Gdańsk 2011. cf. idem, *The History of a Forgotten German Camp. Nazi Ideology and Genocide at Szmalcówka*, New York 2015.

⁵⁸⁸ P. Semkow, *Politics...*, pp. 106-111.

⁵⁸⁹ Verordnung über die Deutsche Volksliste und die deutsche Staatsangehörigkeit in den eingegliederten Ostgebieten. Vom 4. März 1941 (RGBl. I 1941, 25, 118).

⁵⁹⁰ Bescheinigung über die Nichtzugehörigkeit zum polnischen Volke. Rund-Erlass des Reichsministers des Innern vom 14. November 1940 [in:] K. Pospieszalski, *Hitler's "law"...*, part 1, pp. 118-119.

regulation dated September 12, 1940.⁵⁹¹ Heinrich Himmler defined the categories of the population (Groups A through D) living in the FCD territories annexed to the Reich and the western areas of the Republic. The subjective scope of the decree of March 4, 1941 included former Polish citizens who had Polish citizenship on October 26, 1939, and persons with stateless status hitherto holding Polish citizenship or living on the indicated date in the so-called "territories annexed to the Reich". The ex-Polish citizens who had Polish citizenship on September 1, 1939, or stateless persons who had Polish citizenship on September 1, 1939, or persons with stateless status who had Polish citizenship on that date or who were living on that date in the former territory of the FCD (§ 1 Section 3 (b)). Excluded from the obligation to register on the German nationality list were former Polish and Danzig citizens who were living in the so-called FCD on the date the regulation came into force (i.e., March 7, 1941), unless they moved there only after December 1, 1939. (§ 1(4)(a)), had managed to acquire foreign citizenship by March 7, 1941 (§ 1(4)(b)), or Danzig citizens who met the conditions for inclusion in Group I or Group II of the German nationality list (§ 1(4)(c)). The entity authorized to determine the various categories was the Reich Minister of the Interior, who was to make the decision in consultation with the Reichsführer SS, acting as Reich Commissioner for the Strengthening of Germanness (§ 1(2)). It was agreed that Category I of the German nationality list would include persons of German nationality acting in the interests of the Third Reich (Volksdeutschen), while Category II would include members of the German minority who were aware of their origins, spoke German and cultivated German national traditions, but passive before the German occupation (Deutschstämmigen), to III - Poles of German origin and indigenous people recognized by German authorities as partially Polonized, but described as "gravitating to Germanness" (Eingedeutschten), to IV (the conditions for admission to it were specified by Heinrich Himmler in a circular of February 16, 1942.) - Polonized Germans active in support of the Polish state and in Polish organizations between the wars (so-called "renegades"), those with strong ties to the Catholic and Protestant Churches, persons of German nationality married to foreigners (including Poles), and Poles assessed by German functionaries as capable of Germanization due to racial qualities and political attitudes (Rückgedeutschten). The effectiveness of the implementation of the Ordinance on the German nationality list, contrary to the intentions of the lawmakers, proved so low that Albert Forster issued a proclamation on February 22, 1942, demanding that the local population submit completed personal questionnaires allowing entry on the list by March 31, 1942. He threatened: "Whoever rejects this offer must realize that in the future he will also be externally labeled as a Pole and will be subject to the provisions against Poles. It is clear that he will thereby be equated with the greatest enemies of the German people."⁵⁹² . Between September 9 and October 23, 1941, the staff of the Danzig nationality list assigned 28 people to nationality group III, while between March 26 and April 7, 1942, 26 people were assigned to category IV. The enrollment action was gradually abandoned from the first half of 1943.⁵⁹³

⁵⁹¹ Erlass für die Überprüfung und Aussonderung der Bevölkerung in den eingegliederten Ostgebieten (12.9.1940) [in:] ibidem, pp. 114-118.

⁵⁹² E. Cichy, *Fascism in Danzig...*, p. 146.

⁵⁹³ P. Semków, *Politics...*, pp. 134-137; cf. W. Jastrzębski, *Polity narodowościowa w okręg Rzeszy Gdańsk-Prusy Zachodnie (1939-1945)*, Bydgoszcz 1977, pp. 64-66; W. Jastrzębski, J. Sziling, *Okupacja...*, pp. 190-191; M. Wąs, *Gdańsk...*, pp. 75-85.

Linked to the institution of entry was the issue of conscription of recruits into the German armed forces. Enlistment began as early as 1940 on the basis of the Reich Military Service Act of March 16, 1935⁵⁹⁴ and its implementing regulations, and thus before the ordinance of March 4, 1941 was adopted. Poles with Danzig citizenship were then included in the German army. Later, recruits belonging to Group I, II or III of the German nationality list were accepted. Special regulations applied to those in category III. According to an October 2, 1942 decree of the Wehrmacht High Command, if conscripts were refused inclusion in Group III prior to enlistment, they were to be exempted from service. The effect of inclusion in Group IV of at least one of the conscript's parents was to be similar. Soldiers in Group III generally did not form compact subunits, their service promotions were restricted, and they faced the death penalty for violations of discipline, sabotage and desertion, and reprisals (in the event of desertion) for their closer and more distant relatives⁵⁹⁵.

German authorities tried hard to restrict contact between Germans and Poles. Initially, the restrictions applied to the spheres of commerce and sexual intercourse. Polish workers were banned from using public transportation for purposes other than commuting to work. The general Polish population was banned from attending social and cultural events such as theatrical performances, film screenings and dance gatherings, as well as from attending religious services (except those designated for them). Before the summer season of 1942, in May, Poles were practically forbidden to enter the Baltic beaches in the so-called Danzig Regency. Particularly among police officers and soldiers, Polish-sounding surnames were germanized (from October 25, 1939 to March 31, 1940, as many as 1,025 were changed) and toponyms were Germanized (23 place names from the FCD in September 1942, based on Albert Forster's order of May 25, 1942). German postal workers could refuse to deliver mail not addressed in German⁵⁹⁶.

Danzig's Catholic Church hierarchy generally supported the local authorities' actions against Poles with Danzig and Polish citizenship. About 34 percent of FCD residents professed Catholicism and about 65 percent professed Lutheranism⁵⁹⁷. This division did not reflect nationality differences, although the vast majority of Poles declared themselves to be Catholics. The determination of the FCD's position in church administration was met with dissatisfaction by both Danzig Germans and Poles. In accordance with a decision by Pope Pius XI on April 24, 1922, FCD was neither incorporated into the Chelm diocese (as the Polish faithful wished) nor into the Warmian diocese (as German Catholics expected), but became an apostolic administration directly subordinate to the Pope. Initially, its structures were germanized due to the personnel decisions of Eduard O'Rourke, appointed as administrator, previously bishop of Riga. The apostolic administration was transformed into the Diocese of Danzig by Pius XI with the bull *Universa Christi fidelium cura* of

⁵⁹⁴ Proklamation der Reichsregierung an das deutsche Volk. Vom 16. März 1935 (RGBl. I 1935, 28, 369).

⁵⁹⁵ P. Semków, *Politics...*, pp. 141-143. Cf. on the recommendation of Piotr Semków: W. Kozaczuk, *Wehrmacht 1933-1939. Rozbudowa sił zbrojnych Trzeciej Rzeszy jako narzędzia presji, ekspansji terytorialnej i wojny*, Warsaw 1978, pp. 173-180; K. Ciechanowski, *Pobór Polaków z Pomorza Gdańskiego do armii niemieckiej i zmilitaryzowanych oddziałów roboczy w latach II wojny światowej*, "Stutthof. Zeszyty Muzeum" 6 (1986), pp. 49-52.

⁵⁹⁶ P. Semkow, *Politics...*, pp. 138-140.

⁵⁹⁷ In addition, small groups of adherents were formed by Calvinists, Jews, Mennonites, Baptists, Muslims, Karaites, Orthodox Christians, Anglicans and Methodists (L. Zhukowska, *Between Death and the Devil. The Evangelical Church in Danzig during NSDAP rule (1933-1945)*, Bydgoszcz-Gdansk 2014, pp. 35-36, 45).

December 30, 1925. The function of its bishop was retained by former administrator Bishop Eduard O'Rourke, who resigned and was relieved of his office on June 12, 1938, and was replaced the following day by Bishop Carl Splett. He formally served until 1964. The dominance of German priests in the Catholic and Protestant church hierarchies meant that initially there was resentment in these circles against the language demands of the Danzig Poles. Later, especially after 1933, when the position of the Danzig Catholic Church gradually weakened as a result of the policies of the National Socialist authorities, the interests of the Polish faithful were to some extent understood. In 1933, there were only two Polish outposts in the diocese that did not have parish status, and on October 7, 1937, Bishop Eduard O'Rourke signed the erection decrees of two Polish personal parishes. As early as October 13, however, he revoked the decision due to pressure from Arthur Greiser, president of the Danzig Senate⁵⁹⁸. Implementing a conservative policy, Bishop Carl Splett complied with the subsequent demands of the German authorities, explaining that he was trying to save the Danzig clergy and Catholics, who would be in danger if he showed overt opposition. During the period of war preparations, in July 1939, Polish services were suspended in the rural parish of Trąbki Wielkie, and on July 19 the Danzig police arrested Father Wiecki, who was released after three days because the charges proved unfounded⁵⁹⁹. After the liquidation of the Free City of Danzig, the bishop, on orders from the Gestapo, ordered that for the Führer's visit on September 19, 1939, churches and parsonages should be decorated with German flags and the bells of Danzig churches solemnly sounded. As early as September 6, he sent out a circular letter to parishes in the Diocese of Danzig suspending services in Polish. In 1940, at the request of the German authorities, he gradually eliminated the Polish language from the church space - on January 2 he banned sermons and prayers in Polish, on April 1 he extended the ban to the Chelm diocese, adding that preparatory teachings for communion and confession should be conducted in German, on May 25 he banned confessions in Polish, on August 25 he ordered the use of prayer books and song books in German (Albert Forster banned the use of their Polish-language versions on September 1, 1942). All polonica from churches were removed by his decree of May 17, 1940 (the ban on their storage also applied to presbyteries and private homes)⁶⁰⁰. The head of the Gdansk Catholic Church became the executor of the policy of Germanization in FCD. His attitude was reflected in the local adaptation of Hitler's slogan "one nation, one Reich, one leader" ("Ein Volk, ein Reich, ein Führer") - after the change introduced by Albert Forster it read: "one gauleiter - one Reich governor - one bishop" ("Ein Gauleiter - ein Reichsstatthalter - ein Bischof")⁶⁰¹. It is difficult to agree with Dieter Schenk, whose opinion is that Bishop Carl Splett⁶⁰² acted in

⁵⁹⁸ L. Żukowska, *Between Death...*, p. 41. cf. M. Pleniewicz, *The Catholic Church in the Free City of Gdańsk 1933-1939*, Bydgoszcz 1980, pp. 129-133.

⁵⁹⁹ M. Pleniewicz, *Catholic Church...*, p. 142.

⁶⁰⁰ See P. Semków, *Politics...*, pp. 102-106; A. Kmak-Pamirska, *Transformations of the image of Bishop Carl Maria Splett in historical memory in Poland and Germany over the years* [in:] *Letnia Szkoła Historii Najnowszej* 2012. Referrals, vol. 6, ed. K. Dworczak, Ł. Kamiński, Warsaw 2013, p. 187.

⁶⁰¹ D. Schenk, *Danzig 1930-1945: The End of a Certain Free City*, transl. J. Sawicki, Gdansk 2014, pp. 186-187.

⁶⁰² In a similar vein, the attitude of Bishop Carl Splett was assessed by Tadeusz Bolduan, an expert in the occupation history of Gdansk: "It was not Splett who closed the gates of the churches to the Poles; he opened them to them. [...] The path he took was prudent. He did not sit on the throne of Cracow, but in Danzig, the city of hell. It was very difficult to get out of it." A different view, as recalled by Dieter Schenk, was presented by Czesław Madajczyk, reproaching the Danzig clergyman for his sympathy for Adolf Hitler (T. Bolduan, *Bishop Carl Maria Splett - from myths to truth*, "Studia Pelplińskie" XX (1989), pp. 92-93. Cf. S. Bogdanowicz,

a state of higher necessity. The bishop's pastoral letter of September 4, 1939, read in Danzig parishes on September 10, 1939, should be regarded as overly loyal⁶⁰³ : "Sadness filled us when twenty years ago our beautiful German city of Danzig, in spite of its firm "no", was torn away from the Motherland. Today we rejoice and heartily thank God that the wish of all Danzigers for an imminent return to the German community has been fulfilled. There are also no words to express gratitude for the heroism and self-sacrificing efforts of our Danzig sons and brothers, thanks to whom our little homeland was saved from destruction by the enemy. In this historic, historical hour, let us not forget to thank the Most High God and ask Him to bless the Führer, the nation and the homeland for the future."⁶⁰⁴ .

Occupied Polish Territories

In the Polish-Lithuanian Commonwealth, unlike in the Reich and FCD, the Germans could not undertake extensive depolonization measures before the outbreak of World War II (e.g., through discriminatory conduct by the administration or legislation), although they tried to take advantage of the presence of the German minority. It was not until the armed conflict that the German authorities were able to implement a program of extermination of the Polish nation, which is characterized below by way of an overview, along with an indication of representative manifestations of the extermination of Poles on the basis of their nationality.

The first phase of the extermination of the Polish leadership strata was a prelude to further ad hoc repressions against the nascent resistance movement and the numerous Polish organizations operating between the wars - scientific, insurgent, military, religious and political. Persons suspected of belonging to the resurgent Polish elite were physically liquidated. Persecution was not defined in terms of time, but rather in terms of purpose - the actions were intended to be carried out until the Poles became a completely obedient mass to the Germans without national or religious affiliation. The list of organizations hostile to the German people, whose members were to be prosecuted after the completion of the "Intelligence" action, was signed on January 3, 1940, by Emil Haussmann, previously commander of a minor unit within a detachment from Operational Group VI. The list, effective in the so-called "Country of Warta," included the Polish Western Union, the Union of Greater Poland Insurgents, the Peowiak Union, the Polish Scouting Association, the National Party and Catholic Action⁶⁰⁵ . The scale of the planned persecution is evidenced by the number of people whose elimination, due to their political burden (politische Belastung), was sought by the German authorities. SS-

Karol Maria Antoni Splett. Bishop of Danzig during the War, Special Prisoner of the Polish People's Republic, Danzig 1995; P. Raina, Karol Maria Splett. Biskup gdański na ławie oskarżonych, Warsaw 1994; A. Kmak-Pamirska, Przemiany..., pp. 184-196).

⁶⁰³ Similar intentions were expressed in a pastoral letter by Johannes Beermann, bishop of the Danzig municipality of the Evangelical Augsburg Church (P. Semkow, Politics..., p. 102).

⁶⁰⁴ S. Bogdanovich, Karol..., p. 46.

⁶⁰⁵ Document 17: Rapp's report of 26.I.1940 on the course of displacement in the Wartheland, "BGKBZHwP" XII (1960), pp. 70-71.

Sturmbahnführer Albert Rapp, formerly commander of the security service at EG VI headquarters, included 16,000 names (nearly 1,500 of which were of German origin) in his January 26, 1940 report on the list of persecuted activists of the Union of Greater Poland Insurgents⁶⁰⁶.

In addition to repressions against Poles, whose involvement in the nation-building process was considered by the German authorities to be at least plausible (so it was not so much about the leadership, but about rank-and-file members and sympathizers of pro-Polish organizations), many actions were taken to liquidate the Polish armed and political underground. Although, in principle, conspiratorial activity was not permitted under international law, due to the total violation of the rights and obligations of the occupying power by Germany, these regulations did not apply to the Polish population due to the need for its self-defense. Germany lost the benefits of the existing norms. Among the dozens of anti-German organizations, it would be difficult to identify those whose members did not experience terror from the German police. Due to the methods of conspiracy, the formation of the structure, the methods of operational work, the experience of commanders, the range of operations and cooperation with the Polish authorities in exile, harassment affected the largest clandestine organizations to a somewhat lesser extent (although their losses were sometimes considerable), such as the Union of Armed Struggle, the Home Army⁶⁰⁷, the National Military Organization, the National Armed Forces, the People's Guard *Wolność-Równość-Niepodległość* and the People's Guard. In Gdansk Pomerania, the structures of the Secret Military Organization "Gryf Pomorski" (in 1943-1944)⁶⁰⁸, the Grunwald (from 1940), the youth Battalions of Death for Freedom (in 1940), the Polish Independence Action (in 1940) and the Polish Combat Union for Independence (mainly in 1944)⁶⁰⁹ were worked out and destroyed. In the so-called territories incorporated into Germany and the Reich, there was the repressed Military Organization *Jaszczurczy Union*⁶¹⁰, in the occupied Polish territories - the *Komenda Obrońców Polski*, in Upper Silesia and Malopolska - the Secret Military Organization "Association of the

⁶⁰⁶ Ibid, pp. 67-68.

⁶⁰⁷ Attributing fascist views to the command or members of the Home Army is, as Stanisław Salmonowicz rightly points out, an error often reproduced, for example, in European, American or Russian historiography. The Home Army was the legal armed force of the Polish state under Soviet and German occupation. Speaking against the USSR, the Polish authorities basically sought to eliminate the threat to Polish independence posed by Germany's Soviet partner of 1939-1941. It is possible that the USSR introduced the narrative of a fascist Home Army to justify the Yalta division of Europe, which was detrimental to Poland (in addition, Germany could accuse Poles of complicity in the Holocaust). Its punishment, as well as that of the Polish state that had firmly established it, made it possible, however, to prove the legitimacy of taking the Borderlands from Poland (see S. Salmonowicz, *Tragiczna noc okupacji hitlerowskiej. On the problematics of "grassroots collaboration"* in the General Government (1939-1945), "SIT" XI (2012), pp. 148, 170, note 43. Cf. J. Zimmerman, *Polskie Państwo Podziemne i Żydzi w czasie II wojny światowej*, transl. M. Macińska, Warsaw 2018, pp. 13-25).

⁶⁰⁸ The fate of the Secret Military Organization "Gryf Pomorski," ed. J. Borzyszkowski, Gdańsk 2000; A. Gąsiorowski, K. Steyer, *Tajna Organizacja Wojskowa "Gryf Pomorski"*, Gdańsk 2010. See also M. Golon, *Tajna Organizacja Wojskowa "Gryf Pomorski" vis-a-vis the Red Army and the post-war fate of Gryfowcy*, Gdańsk 2000.

⁶⁰⁹ Pomeranian conspiratorial organizations (outside the Home Army) 1939-1945, ed. S. Salmonowicz et al., Toruń 1994; K. Komorowski, *Pomeranian Conspiracy 1939-1947*, Gdańsk 1993; T. Jaszowski, W. Jastrzębski, *Gestapo in struggle with the resistance movement over the Vistula and Brda*, Bydgoszcz 1985; K. Ciechanowski, *Ruch oporu na Pomorze Gdańskim 1939-1945*, Warsaw 1972; D. Steyer, *Z dziejów ruchu oporu w Toruniu (1939-1945)*, "Rocznik Toruński" 9 (1974), pp. 267-282.

⁶¹⁰ B. Chrzanowski, *Związek Jaszczurczy i Narodowe Siły Zbrojne na Pomorzu 1939-1947. Unknown cards of Pomeranian conspiracy*, Toruń 1997; S. Jaworski, *Związek Jaszczurczy - Narodowe Siły Zbrojne*, Chicago 1982.

White Eagle"⁶¹¹, and in the so-called "GG" - the Polish People's Action. GG - Polish People's Independence Action⁶¹², Revolutionary Workers' and Peasants' Councils "Hammer and Sierp"⁶¹³, Polish Revolutionary Military Organization, Association of Friends of the USSR and Polish Armed Organization "Znak"⁶¹⁴. The unconspiratorial resistance members were subjected to brutal interrogations in order, among other things, to reveal the personalities of other members of underground organizations. Generally, they were later sent to concentration camps on the basis of decisions or sentences, although many conspirators were executed after the investigations were completed. Even if an independence activist was sentenced only to imprisonment, once the sentence was served (if it was adjudicated for more than six months), protective custody (Schutzhaft) began, according to an RSHA circular on March 11, 1943, consisting of a preventive and mandatory referral to a concentration camp. As of January 1944, in the so-called incorporated territories, the minimum sentence served necessary to apply this arrest was one year⁶¹⁵ 615. The encroachment of German troops into the Borderlands led to the liquidation of the Polish underground in the eastern territories. The scale of the planned and carried out repression is evidenced by the fact that on June 21, 1941, Heinrich Himmler's decision was announced to recognize Bialystok, the areas that later formed the so-called Reich Commissariats East and Ukraine and the GG, as an area of anti-apartheid fighting⁶¹⁶.

The systematic elimination of successive links of the Polish underground did not halt its development. They even managed to organize armed rebellions against the German occupier. After the end of the September campaign, Major Henryk Dobrzański "Hubal" with a group of a dozen to about 70 volunteers began partisan fighting in the Kielce region. At the beginning of March 1940, his Separate Unit of the Polish Army already numbered approx. 300 soldiers. As a result of the clashes, units of the German army, police and SS suffered disproportionately high losses in personnel and equipment. The commander of the unit was killed on April 30, 1940, in a skirmish with German soldiers attacking the partisans' staging area in a forest near Anielin. His body was further massacred and put on display. Before Major Henryk Dobrzański's formation could be smashed, the so-called "Hubal pacifications" were carried out, involving the riot police, the SS, the Selbstschutz and the National Socialist Motor Corps (Nationalsozialistisches Kraftfahrkorps, NSKK). The reprisal action, which lasted from March 30 to April 11, 1940, affected 31 villages in Kielce, Konecki and Opoczyn counties. 712 civilians of Polish nationality were murdered, and four villages were burned to the ground⁶¹⁷.

⁶¹¹ K. Pluta-Czachowski, *Organization of the White Eagle. Outline of Genesis, Organization and Activity*, Warsaw 1987; A. Nowak, *Organization of the White Eagle in Świętokrzyskie*, "Biuletyn Informacyjno-Historyczny Koła nr 1 Światowego Związku Żołnierzy Armii Krajowej" 3 (2006), pp. 20-23; M. Wardzyńska, *Był rok 1939...*, p. 251.

⁶¹² J. Drewnowski, Kazimierz Koźniewski, *The First Battle with the Gestapo. A Memoir of Polish People's Independence Action*, Warsaw 1969.

⁶¹³ P. Gontarczyk, *Polish Workers' Party. The Road to Power (1941-1944)*, Warsaw 2006, p. 550.

⁶¹⁴ D. Williamson, *Polish resistance movement (1939-1947)*, transl. J. Szkudliński, Poznań 2015; *Polish Resistance Movement 1939- 1945*, ed. B. Kobuszewski, Warsaw 1988; T. Strzembosz, *Assault Troops of Conspiratorial Warsaw 1939-1944*, Warsaw 1983.

⁶¹⁵ C. Madajczyk, *Politics...*, vol. 2, pp. 253-254.

⁶¹⁶ K. Radziwończyk, *The role and specificity of physical terror in the Nazi system of fighting the resistance movement in the occupied Polish territories in 1939-1945 [in:] Crimes and perpetrators...*, p. 260.

⁶¹⁷ Z. Koszyła, *Wydzielony Oddział Wojska Polskiego Majora "Hubala"*, Warsaw 1987, pp. 44-46, 82-85, 172-196, 200-205, passim; J. Sawicki, *"Hubal" and his Wydzielony Oddział Wojska Polskiego 1939-1940*, Warsaw

A tragic example of the activities of a united Polish resistance movement was the overt struggle waged against the German occupiers in the Warsaw Uprising. It began on August 1, 1944, and lasted 63 days, or until October 3. Its purpose, in addition to liberating Warsaw from German occupation, was to halt the expected Sovietization of Poland. During the uprising, the German authorities used a number of terror and occupation techniques targeting not only partisans, but also the civilian population. As a result of insufficient support from the Allied countries, the Germans brutally suppressed Polish resistance⁶¹⁸.

Polish losses in the Warsaw Uprising amounted to about 10 thousand killed⁶¹⁹ and 6 thousand missing partisans, 150-200 thousand civilians also lost their lives. About 20 thousand combatants were wounded. About 15 thousand of them were taken prisoner, and of the 600-650 thousand civilians expelled from Warsaw and its environs, about 150 thousand were sent to concentration camps or forced labor. The buildings of the left-bank part of Warsaw were destroyed by 84 percent, and Praga by 65 percent.⁶²⁰ As many as 674 ruined religious and secular buildings in the capital had historic value⁶²¹. According to the "Report on Warsaw's War Losses"⁶²², prepared in 2004 by a team of advisors to the mayor of the capital, material losses resulting from the German occupation amounted to 18.2 billion zlotys (according to the value of the Polish zloty in August 1939), or \$45.3 billion (taking into account exchange rate changes and the value of the U.S. currency)⁶²³. The personal and material losses of Varsovians far exceeded those suffered by Parisians

2015; Nazi Terror in the Kielce Countryside. A Selection of Source Documents, "Rocznik Świętokrzyski," XV (1988), pp. 13, 22-23, 41-45; M. Wańkowicz, *Hubalczyki*, Warsaw 1970; M. Derecki, *Tropem majora "Hubala"*, Lublin 1982; M. Szymański, *Major "Hubal's" detachment*, Warsaw 1999; M. Wardzyńska, *Był rok 1939...*, pp. 252-255.

⁶¹⁸ See, among others, A. Kunert, *Chronicle of the Warsaw Uprising*, Poznań 2014; S. Salmonowicz, *The Warsaw Uprising. An attempt to organize the problems of genesis and general assessment*, Toruń 1990; A. Przygoński, *The Warsaw Uprising in August 1944*, vol. 1-2, Warsaw 1988; J. Kirchmayer, *The Warsaw Uprising*, Warsaw 1984; J. Ciechanowski, *The Warsaw Uprising. Zarys podłoża politycznego i dyplomatycznego*, Pułtusk- Warsaw 2009; W. Bartoszewski, *Dni walczącej stolicy. Chronicle of the Warsaw Uprising*, Warsaw 2008; A. Sowa, *Who passed the sentence on the city? Operational plans of the ZWZ-AK (1940-1944) and the ways of their implementation*, Cracow 2016; N. Davies, *Uprising '44*, transl. E. Tabakowska, Kraków 2014; A. Borkiewicz, *The Warsaw Uprising. Outline of military operations*, Warsaw 1969; W. Henzel, I. Sawicka, *Warsaw Uprising 1944 Selective Bibliography*, vol. 1-3, Warsaw 1994-1996; *Warsaw Uprising 1944 Bibliography*, vol. 4-5, compiled and ed. by I. Sawicka, Toruń 2004; *Warsaw Uprising 1944. Selective Documents*, vol. 1-5, ed. by P. Matusak, Warsaw 1997-2003.

⁶¹⁹ The difficulty in estimating the number of, for example, murdered insurgents in the Warsaw sewers, by which they made their way between resistance points, is due to the fact that, in the face of heavy rainfall, the bodies of some of them floated into the Vistula (H. Janczewski, *Całe życie z Warszawą*, Warsaw 1986, pp. 138-141).

⁶²⁰ The summary balance of damage also took into account damage sustained during the 1939 September campaign and as a result of the suppression of the Warsaw Ghetto Uprising, which lasted from April 19 to mid-May 1943 (see S. Datner, *Destruction of Warsaw* [in:] *Straty wojenne Polski w latach 1939- 1945*, ed. W. Cienkowski, Poznań-Warsaw 1962, pp. 107-133; R. Piotrowski, B. Lachert, B. Małachowski, *Zniszczenie Warszawy* [in:] *Ekspertyzy i orzeczenia przed Najwyższym Trybunałem Narodowym*, cz. 9, ed. C. Pilichowski, Warsaw 1982, pp. 325-373; R. Piotrowski, *Zniszczenia Warszawy dokonane przez władze okupacyjne* [in:] *Ekspertyzy...*, cz. 9, pp. 374-380).

⁶²¹ M. Getter, *Human and material losses in the Warsaw Uprising*, "BIPN" 8-9 (2004), pp. 67-73; K. Dunin-Wąsowicz, *Warsaw in 1939-1945*, Warsaw 1984, pp. 355-356.

⁶²² Report on war losses of Warsaw, compiled by W. Fałkowski et al., Warsaw 2004.

⁶²³ Ibid, p. 6.

and Pragueers during the anti-German uprisings in the capitals of France (August 19-25, 1944)⁶²⁴ and Czechoslovakia (May 5-9, 1945)⁶²⁵.

Despite the urban planning assumptions, known as the Pabst plan (or rather, plans)⁶²⁶, to relegate Warsaw to the role of a provincial transportation hub and a center populated by the German elite and National Socialist progenitors, there were no opportunities (technical or propaganda) to demolish much of the city and rebuild it. The outbreak of the Warsaw Uprising provided the Germans with a convenient pretext to destroy the Polish capital and exterminate its population, among whom, against German efforts, the intelligentsia strata were being revived⁶²⁷.

Repression of Warsaw's insurgents, prisoners of war and civilians began after Adolf Hitler's order to evacuate the able-bodied German population from the city was carried out. The commander had already decided in early August 1944 to demolish Warsaw and exterminate its inhabitants, implemented by the Wehrmacht, German police formations and other SS units, both German and collaborationist (Ukrainian, Latvian, Lithuanian, Azerbaijani, Cossack, Norwegian and even Muslim, descended from East Turkish peoples)⁶²⁸. Military actions - carpet raids and artillery shelling⁶²⁹ - were often undertaken without justification when not necessary from a military perspective (attacks on historic

⁶²⁴ F. Billotte, *Two Uprisings. Paris-Warsaw 1944*, Łódź 1996; W. Thornton, *The Liberation of Paris*, London 1963.

⁶²⁵ J. Marek et al, *Padli na barikádách. Padlí a zemřelí ve dnech Pražského povstání 5.-9. května 1945*, Praha 2015; *Květen 1945 v českých zemích (May 1945 in the Czech Lands). Pozemní operace vojsk Osy a Spojenců*, Praha 2004.

⁶²⁶ Under the direction of Friedrich Pabst, who had held the position of chief architect of Warsaw since 1939, Hubert Gross and Otton Nurnberger created a project for the reconstruction of the city (dated Feb. 6, 1940), the implementation of which resulted in the administrative and demographic degradation of Warsaw. The result was to be a new German city of Warsaw (*die neue deutsche Stadt Warschau*). In turn, in 1942, Friedrich Pabst proposed the erection of a party people's hall (*Parteilvolkshalle*) and a monument to Germania. The right-bank part of the future Warsaw (about 6 sq. km.) was to be inhabited mainly by Germans settled in residential complexes (*Ortsgruppenhaus*) located around the center, and the left-bank part (1 sq. km.) by Polish slaves incarcerated in a camp. In Polish historical writing, the totality of Germany's urbanizing destructive policies towards Warsaw is sometimes referred to as the Pabst Plan. Guidelines for its destruction were formulated since 1939 by both Adolf Hitler and Hans Frank (P. Majewski, *Time of the End, Time of the Beginning. Architektura i urbanistyka Warszawy historycznej 1939-1956*, Warsaw 2018; B. Lachert, *The intentions of the Germans with regard to Warsaw in the aspect of the urban studies of February 6, 1940. "Warschau die neue deutsche Stadt" [in:] Expertise...*, vol. 9, pp. 306-308; E. Sułkowski, L. Suzin, *"Warschau die neue deutsche Stadt. 6 Februar 1940 [in:] Ekspertyzy...*, vol. 9, pp. 309-324; A. Ciborowski, S. Jankowski, *Warsaw 1945 and Today*, Warsaw 1971, p. 23; *Plan Generalny Warszawy, conception and elaboration*. A. Ciborowski et al, Warsaw 1965, p. 7; N. Gutschow, B. Klain, *Holocaust and Utopia. Urban Planning of Warsaw in 1939-1945*, transl. E. Dappa et al., Warsaw - Frankfurt am Main 1995; M. Drozdowski, A. Zahorski, *Historia Warszawy*, Warsaw 2004, p. 322; J. Sawicki, *Zburzenie Warszawy. Testimony of German generals before the Polish prosecutor member of the Polish delegation to the International War Tribunal in Nuremberg*, Warsaw 1949).

⁶²⁷ According to Heinrich Himmler's speech to the commanders of military districts and school commanders in the Jägerhöhe on September 21, 1944, upon hearing of the outbreak of the Warsaw Uprising, he declared to Adolf Hitler: "My 'Führer,' the time is not very auspicious for us. Historically, it is a blessing that the Poles are doing this. After five or six weeks we will break out of this. And after that Warsaw, the capital, the head, the intelligence of this former nation of 16, 17 million Poles will be destroyed, this nation that has been blocking our east for 700 years and has been in our way since the first battle of Tannenberg. And then, historically, the Polish problem will no longer be a big problem for our children and for all those who will come after us, yes, even already for us" (*Crimes of the occupying forces during the Warsaw Uprising in 1944 (in documents)*, ed. S. Datner et al., Warsaw 1962, p. 306. See A. Przygoński, *Uprising...*, vol. 1, p. 221).

⁶²⁸ See J. Gdański, *Hitler's Forgotten Soldiers*, Warsaw 2005; C. Bishop, *Foreign SS Formations. Foreign volunteers in the Waffen-SS in 1940-1945*, transl. G. Siwek, Warsaw 2008.

⁶²⁹ A. Przygoński, *The Rise of ...*, vol. 1, p. 221.

sites⁶³⁰ - religious buildings, Old Town tenements, the Sigismund's column, the Tomb of the Unknown Soldier, the remains of the Royal Castle and hospitals clearly marked with the Red Cross symbol⁶³¹). German police officers and members of SS units murdered prisoners of war and Warsaw civilians. Collective responsibility was practiced (some of those punished were used as human shields covering infantry and tank assaults)⁶³² , those captured were forced to work (ex. dismantling barricades and building fortifications)⁶³³ and starved them, mass executions were carried out with firearms, gasoline and grenades (in apartments, basements, water canals, parks, businesses, hospitals, religious buildings, courtyards of tenement houses, streets and cemeteries), and German snipers (so-called "pigeon shooters") fired at passers-by⁶³⁴ . After the extermination of the residents of the so-called police district in South Śródmieście began (August 2, 1944)⁶³⁵ , the cruel slaughter in Wola (mainly August 5-7, 1944) was carried out by units commanded by SS-Gruppenführer Heinz Reinefarth. The grouping included, among others, sixteen police companies from the so-called Wartheland and the SS Special Regiment "Dirlewanger," consisting of German criminals, hitherto incarcerated in prisons and concentration camps⁶³⁶ . The pacification in Ochota (especially August 4-12, 1944), carried out by a brigade of the Russian National Liberation Army (SS RONA), headed by SS-Brigadeführer Bronisław Kaminski⁶³⁷ , was similarly brutal. In insurgent Warsaw, not only adults (including women, clergy, hospital patients) were murdered, but also children and young people. The bodies of the victims were burned - Poles conscripted into the so-called

⁶³⁰ S. Kopf, *Judgment on the City. Warsaw Thermopylae 1944-1945*, Warsaw 2001, p. 97; N. Davies, *Uprising '44...*, p. 475.

⁶³¹ *Warsaw Uprising August 1 - October 2, 1944. Register of Places and Facts of Crimes Committed by the Nazi Occupant on Polish Lands in 1939-1945*, compiled by M. Motyl et al. M. Motyl et al., Warsaw 1994, pp. 20, 35, 52, 88, 116; *Crimes of the Occupant...*, p. 203; L. Bartelski, *Mokotów 1944*, Warsaw 1986, p. 448; J. Hanson, *Nadludzkiej poddani próbie. The civilian population of Warsaw in the 1944 Uprising*, Warsaw 2004, p. 46; N. Davies, *Uprising '44...*, p. 477; A. Kunert, *Chronicle...*, p. 99.

⁶³² A. Przygoński, *Uprising...*, vol. 1, pp. 242-243, 426; idem, *Uprising...*, vol. 2, pp. 281, 403; A. Borkiewicz, *Uprising...*, pp. 99, 117, 132, 151, 178, 191, 252-257; *Warsaw Uprising August 1 - October 2, 1944...*, pp. 65-66; *Civilians in the Warsaw Uprising*, vol. 1: *Memoirs, Accounts, Testimonies*, part 2, selected and compiled by M. Drozdowski et al, Warsaw 1974, pp. 203, 449-450, 459-460.

⁶³³ A. Przygoński, *Uprising...*, vol. 2, p. 281; A. Borkiewicz, *Uprising...*, p. 191.

⁶³⁴ J. Hanson, *The superhuman put to the test...*, p. 38.

⁶³⁵ According to data from the District Commission for the Investigation of German Crimes in Warsaw in July 1946, more than 5.5 tons of human ashes were found in the basement of the Main Inspectorate of the Armed Forces at 1/3 Ujazdowskie Avenue (A. Przygoński, *Uprising...*, vol. 1, pp. 240-241; A. Borkiewicz, *Uprising...*, pp. 63-64; *Crimes of the Occupant...*, pp. 141, 143, 283; *German Crimes in Śródmieście during the Warsaw Uprising*, ed. L. Zaborowski, Warsaw 2018).

⁶³⁶ *Crimes of the Occupant...*, pp. 11, 25-77; see *Warsaw. German crimes in Wola in August 1944*, ed. L. Zaborowski, Warsaw 2017; P. Gursztyn, *Rzeź Woli. Zbrodnia nierozliczona*, Warsaw 2014; K. Móraski, K. Oktabiński, L. Świerczek, *Wola - Warsaw Thermopylae 1944. A historical guide to the places of fighting and execution from the days of the Warsaw Uprising*, Warsaw 2000. See studies devoted to the unit commanded by SS-Oberführer Oskar Dirlewanger: H.-P. Klausch, *Antifaschisten in SS-Uniform. Schicksal und Widerstand der deutschen politischen KZ-Häftlingen, Zuchthaus und Wehrmachtsgefangenen in der SS-Sonderformation Dirlewanger*, Bremen 1993; F. MacLean, *The Cruel Hunters. SS-Sonder-Kommando Dirlewanger, Hitler's Most Notorious Anti-Partisan Unit*, Atglen 1998; R. Michaelis, *Das SS-Sonderkommando Dirlewanger. Der Einsatz in Weißrussland 1941-1944*, Berlin 2006; C. Ingrao, *Black Hunters. The Dirlewanger Brigade*, transl. W. Gilewski, Wolowiec 2011.

⁶³⁷ *Crimes of the Occupant...*, pp. 78-107; A. Borkiewicz, *Uprising...*, p. 113; W. Bartoszewski, *Days...*, p. 47; *Civilian Population in the Warsaw Uprising*, vol. 1: *Memoirs, Accounts, Testimonies*, part 1, selected and compiled by M. Drozdowski et al, Warsaw 1974, p. 198; L. Ujazdowska, *Zagłada Ochoty*, Warsaw 2005, pp. 111-114; *Powstanie warszawskie 1 VIII - 2 X 1944...*, pp. 58-61, 101, 170. See J. Wroniszewski, *Ochota 1944*, Warsaw 1970.

Cremation Squad (Verbrennungskommando) were used for this task⁶³⁸. On August 8, 1944, a special unit of the security police attached to the Reinefarth battle group (Einsatzkommando der Sicherheitspolizei bei der Kampfgruppe Reinefarth) was formed, commanded by SS-Hauptsturmführer Alfred Spilker. The unit was to select Poles expelled from Warsaw, who were to be exterminated immediately. Among those selected were those suspected of involvement in the uprising, those considered to be representatives of the Polish intelligentsia, Poles of Jewish origin, as well as the wounded, sick and infirm⁶³⁹. There were numerous acts of rape and looting of property (alcoholic libations and orgies were organized especially by SS RONA soldiers)⁶⁴⁰. August 5, 1944. SS-Obergruppenführer Erich von dem Bach-Zelewski, who took command of the troops suppressing the Warsaw Uprising, ordered that instead of murdering women and children, they should be sent to transit camp 121 (Durchgangslager 121), located in the former Railway Repair Plant in Pruszków⁶⁴¹, but his order did not take effect immediately. On August 12, he forbade the murder of Polish men who had not taken part in the uprising, but this did not apply to prisoners of war. Erich von dem Bach-Zelewski's decisions had a practical rather than humanitarian dimension. He believed that an operation was less effective when pacifiers also fought civilians instead of primarily armed insurgents. Secondly, he was aware that German officers and soldiers were committing theft, rape and participating in libations, which prolonged military operations. Besides, it was in the interest of the German state to obtain as many forced laborers as possible⁶⁴². The civilian population of Warsaw and the surrounding area was forbidden to stay where they had previously lived as of October 25, 1944, which resulted from the Agreement on the Cessation of Hostilities in Warsaw, concluded on October 2, 1944 in Ożarów by SS-Obergruppenführer Erich von dem Bach-Zelewski, Lieutenant Colonel Kazimierz Iranek-Osmecki "Heller" and Lieutenant Colonel Zygmunt Dobrowolski "Zyndram", plenipotentiaries of the Home Army Headquarters⁶⁴³. The expellees were mainly sent to nearly forty transit camps, and then deported to forced labor or concentration camps⁶⁴⁴. Despite the restrictions, 400 to 1.5 thousand "Warsaw robins" hid in the ruins of the abandoned city, and in many cases remained there until the entry of the Red Army and the 1st Polish Army in mid-January 1945.⁶⁴⁵ The appearance of Soviet and Polish troops in the capital marked the end of the liquidation of Warsaw ordered by Heinrich Himmler⁶⁴⁶.

⁶³⁸ A. Przygoński, *Uprising...*, vol. 1, p. 316; M. Getter, *Losses...*, p. 66. See T. Klimaszewski, *Verbrennungskommando Warschau*, Warsaw 1984.

⁶³⁹ A. Przygoński, *Uprising...*, vol. 2, pp. 495-496; W. Bartoszewski, *Warsaw Ring of Death 1939-1944*, Warsaw 1970, pp. 430, 436.

⁶⁴⁰ J. Hanson, *The superhuman put to the test...*, pp. 48-49.

⁶⁴¹ A. Przygoński, *Uprising...*, vol. 1, pp. 306, 310; see E. Serwański, *Dulag 121 - Pruszków. August-October 1944, Poznań 1946*; Z. Zaborski, *Durchgangslager 121. Niemiecka zbrodnia specjalna*, Pruszków 2010; idem, *Tędy przeszła Warszawa. Epilogue of the Warsaw Uprising*, Warsaw 2004.

⁶⁴² A. Przygoński, *Uprising...*, vol. 2, p. 495; *Crimes of the Occupying Power...*, p. 425.

⁶⁴³ S. Kopf, *Judgment...*, p. 17.

⁶⁴⁴ *Exodus of Warsaw. People and the city after the 1944 Uprising*, vol. 1: *Memoirs, accounts, selection and compilation*. M. Berezowska, Warsaw 1992, pp. 50-51.

⁶⁴⁵ *Ibid.*, p. 16.

⁶⁴⁶ Heinrich Himmler stated in a conversation with Paul Geibel, commander of the SS and police in the so-called Warsaw District, that he had discussed the demolition of Warsaw with the Führer as many as four times, a unique circumstance. The SS Reichsführer characterized the future of the Polish capital in the following words: "This city is to disappear completely from the face of the earth and serve only as a reloading point for Wehrmacht transport. Not a stone on a stone should remain. All buildings are to be demolished down

. Many of the capital's residential, service, administrative, historic, sacred and industrial buildings were first robbed (after October 22, 1944, a so-called evacuation staff, or Räumungsstab, was established for this purpose)⁶⁴⁷, and then set on fire, which led to their permanent and irreversible destruction. Incendiary units (Brandkommando) were in charge of starting fires in the buildings, and explosive units (Sprengkommando) were in charge of blowing them up⁶⁴⁸. The Germans left a sizable number of booby-trapped mines in the ruins⁶⁴⁹. It has been estimated that the deliberate extermination activities of German police, soldiers and other functionaries caused the deaths of at least 63,000 civilians during the Warsaw Uprising⁶⁵⁰. As a result of the outbreak of the uprising, Heinrich Himmler ordered the assassination of General Stefan Rowecki "Grot", commander-in-chief of the Home Army, previously held in the Sachsenhausen concentration camp⁶⁵¹. Based on the methods used to suppress the Warsaw Uprising, it is possible to see what the German depolonization policy would have looked like under circumstances favorable to the propaganda development of extermination. Although the plan for the total annihilation of the Polish nation had long existed, it was only the independence uprising in Warsaw that allowed the Germans to implement it on a large scale in the Polish capital and its environs.

The German fight against the resistance was not limited to real enemies, and illusory opponents were often hit, who did not plan or undertake defensive or partisan actions. Despite the lack of evidence of aggressive intentions against the Germans, many Polish villages were pacified. It has been estimated that during World War II at least eight hundred such actions were carried out in localities on the present territory of Poland and many more in the Borderlands⁶⁵². During the September campaign, the German ground forces command issued order No. 183/39, which contained regulations on persons fit for military service in an enemy country. It was indicated that resistance, strikes and acts of sabotage should be ruthlessly suppressed, and their perpetrators should be given the death penalty. Provision was made for the use of collective responsibility, the execution of those captured and the internment of men⁶⁵³. At least 434 settlements were pacified during the conquest of Poland⁶⁵⁴. The reasons for destroying rural areas and murdering Poles (including women, children and the elderly) included false perceptions of vicious

to their foundations. Accommodations for the army will be arranged in the basement - hotels no longer exist. Only technical equipment and railroad buildings will remain" (Crimes of the occupying forces..., p. 426).

⁶⁴⁷ The scale of the looting was evidenced by calculations by Czesław Madajczyk, who indicated that from mid-August to mid-December 1944, more than 26,000 wagons filled with various industrial goods, such as factory equipment, raw materials and commodities, more than 3,000 wagons loaded with agricultural crops, as well as about 850 trucks with seized property, such as pieces of home furnishings and personal effects belonging to Varsovians, left the devastated Warsaw for the Reich (Exodus of Warsaw. People and the City after the 1944 Uprising, vol. 2: Memoirs, accounts, selection and compilation. M. Berezowska, Warsaw 1993, p. 391; K. Dunin-Wąsowicz, Warsaw..., p. 371).

⁶⁴⁸ M. Getter, Losses..., p. 72.

⁶⁴⁹ S. Kopf, Judgment..., p. 105.

⁶⁵⁰ Warsaw Uprising August 1 - October 2, 1944..., p. 12.

⁶⁵¹ A. Borkiewicz, Uprising..., p. 87.

⁶⁵² Nazi crimes in the Polish countryside in 1939-1945. Wspomnienia, pamiętniki i relacje, ed. S. Durlej et al., Kielce, Warsaw 2008, p. 12; A. Jankowski, Wieś polska na ziemiach okupowanych przez Niemiec w czasie II wojny światowej w postępowanie karnych organów wymiaru sprawiedliwości RFN, "Glaukopis. Socio-Historical Magazine," 13-14 (2009), pp. 177-178. See C. Madajczyk, Hitlerowski terror na wsi polskiej 1939-1945. zestawienie większych akcji represyjnych, Warsaw 1965.

⁶⁵³ M. Markiewicz, Nazi repression against the Białystok countryside, "BIPN" 12-1 (2003-2004), pp. 65-68.

⁶⁵⁴ P. Kosinski, September 1939, "BIPN" 8-9 (2009), p. 30. cf. Nazi crimes in the countryside..., p. 10.

Polish partisans, stirred up and fueled by German propaganda, a belief in the civilizational backwardness of Poles and Polish atrocities, inexperience of German soldiers resulting in uncontrolled shooting, revenge for the resistance of the Polish army, tactical considerations - e.g. the need to illuminate the area at night (that's why fires were started) or an attempt to create disorganization on the Polish side⁶⁵⁵. In the later period of the occupation, the civilian population was pacified (in the area of Hubal's and partisans' operations in the Zamojszczyzna region as part of the "Sturmwind I" and "Sturmwind II" actions of 1944)⁶⁵⁶ or specific settlements were destroyed. Arson and murder were committed not only by the German army, but also by SS combat units (SS-Verfügungstruppe), Selbstschutz, Einsatzgruppen, SS-Leibstandarte "Adolf Hitler" and German police officers⁶⁵⁷. Criminal expeditions were organized, for example, because of the existence in the so-called GG of the regulations on collective responsibility contained in the Ordinance for the Suppression of Acts of Rape issued by Hans Frank on October 31, 1939.⁶⁵⁸ This act contained an extensive catalog of acts punishable by death, and provided for the exceptional possibility of "trial" of such acts by the prosecuting authorities under a simplified administrative procedure (§ 11(3)). The delivery of quotas⁶⁵⁹, i.e., compulsory deliveries of agricultural crops and animal husbandry products, was imposed throughout occupied Poland. Polish residents of Białystok⁶⁶⁰ and the Borderlands were affected by the so-called "War Jurisdiction Order" ("Kriegsgerichtsbarkeitserlass"), issued on behalf of Adolf Hitler by Field Marshal Wilhelm Keitel on May 13, 1941.⁶⁶¹ The act contained guidelines for dealing with the civilian population in the future occupied eastern territories and provided, among other things, for collective responsibility, deprivation of legal guarantees for the local population and exclusion of criminal responsibility for perpetrators of crimes against civilians and prisoners of war. In addition, the Borderlands suffered from the implementation of "Instruction No. 46 for the Conduct of War," issued by Adolf Hitler on August 18, 1942.⁶⁶² The document included "Guidelines for the Intensified Combating of the Spread of Gangs in the East," which instructed the brutal

⁶⁵⁵ J. Böhler, *Crimes of the Wehrmacht...*, pp. 22, 42, 49, 66-68, 71, 75-76, 90, 172, 176.

⁶⁵⁶ Little Military Encyclopedia, vol. 1, ed. J. Bordziłowski, Warsaw 1967, p. 574; Encyclopedia of World War II, ed. K. Sobczak, Warsaw 1975, pp. 193-195, 406.

⁶⁵⁷ Nazi crimes in the countryside..., pp. 10, 69-70, 72; J. Fajkowski, J. Religa, *Nazi crimes in the Polish countryside 1939-1945*, ed. by A. Pulawski, Warsaw 1981, pp. 295-296.

⁶⁵⁸ Ordinance to combat acts of rape in the General Government. Of 31 October 1939 (Official Gazette of the RGGPO 1939, 2, 10).

⁶⁵⁹ Nazi crimes in the countryside..., p. 11.

⁶⁶⁰ See M. Gnatowski, W. Monkiewicz, J. Kowalczyk, *Wieś białostocka oskarża. Ze studiów nad eksterminacją wsi na Białostocczyźnie w latach wojny i okupacji hitlerowskiej*, Białystok 1981.

⁶⁶¹ The full title was as follows: *Erlass über die Ausübung der Kriegsgerichtsbarkeit im Gebiet "Barbarossa" und über besondere Maßnahmen der Truppe* (Order on the Exercise of War Jurisdiction in the "Barbarossa" Area and on Special Measures of the Army). See document: *Erlass des Führers und Oberster Befehlshaber der Wehrmacht* (i.a. von Keitel gezeichnet) über die Ausübung der Kriegsgerichtsbarkeit im Gebiet "Barbarossa" und über besondere Maßnahmen der Truppe [in:] M. Moll, "Führer-Erlasse"..., pp. 172-174. See information on the order and the consequences of its application to the civilian population of the occupied Borderlands and part of the territory of the USSR: S. Datner, *Crimes of the Wehrmacht...*, pp. 98-100; H. Krausnick, *Kommissarbefehl und "Gerichtsbarkeitserlass Barbarossa" in neuer Sicht*, "VJH f. ZG" 25 (1977), pp. 682-738; F. Römer, "Im alten Deutschland wäre solcher Befehl nicht möglich gewesen. Rezeption, Adaption und Umsetzung des Kriegsgerichtsbarkeitserlasses im Ostheer 1941/42", "VJH f. ZG" 56 (2008), pp. 53-99; J. Förster, *Das Unternehmen "Barbarossa" als Eroberungs- und Vernichtungskrieg* [in:] *Das Deutsche Reich und der Zweite Weltkrieg*, vol. 4: *Der Angriff auf die Sowjetunion*, ed. H. Boog et al, Stuttgart 1983, pp. 413-447.

⁶⁶² Weisung Nr. 46 für die Kriegführung. Richtlinien für die verstärkte Bekämpfung des Bandenunwesens im Osten. Vom 18.8.1942 [in:] *Hitlers Weisungen für Kriegführung 1939-1945. Dokumente des Oberkommandos der Wehrmacht*, ed. W. Hubatsch, Koblenz 1983, pp. 201-205.

repression of the civilian population and the restriction of their food supply in order to weaken partisans cooperating with the locals. Lithuanian⁶⁶³ and Ukrainian⁶⁶⁴ formations participated in the pacification of the Borderlands. An intensified wave of repression justified by the need to fight the resistance movement occurred, among others, in Mazovia as a result of the Warsaw Uprising and in Gdansk Pomerania in the fall of 1944. Russian officers of the so-called "goon squads" (Jagdkommandos) also took part in the destruction of Pomeranian villages and the murder of their inhabitants⁶⁶⁵.

However, uprisings by insurgents against the occupier that were an irrefutable pretext to develop extermination operations against Poles did not occur excessively often. It would have been difficult for the German authorities to justify the immediate liquidation of the Poles in view of their relative obedience. In addition, a slave labor force would have been lost and a significant number of enforcers would have had to be deployed to perform other operational tasks, perhaps more urgent, at any given time. Therefore, the extermination of Poles often used indirect methods and took into account the balance of anticipated benefits and damages.

One of the models of depolonization commonly used in the so-called incorporated territories, and ad hoc also in the so-called GG, consisted in the organization of mass expulsions of the Polish population combined with their plunder, deterioration of living conditions, deprivation of the basis of economic existence, the breakdown of family, civic and territorial ties, and the imposition of a German national pattern⁶⁶⁶. As a result of the displacement of Poles, favorable conditions were created for the development of German settlements, especially in the so-called lands incorporated into the Reich⁶⁶⁷.

The first wave of deportations was organized by German local authorities and groups of ethnic Germans, who were often motivated by financial motives, seeking to seize Polish movable and immovable property. According to estimates by Włodzimierz Jastrzębski, some 300,000 Poles from the western lands moved to central Poland in fear of hostilities. Their return to their homeland proved difficult, as the Germans sought to ensure that as few Poles as possible lived in areas slated for Germanization. It even happened that those returning were murdered by Wehrmacht soldiers or SS and German police officers. Displacement coercion, which included restrictions on access to health care and social

⁶⁶³ See, for example, information on the participation of Lithuanian Sauguma functionaries in the shooting on June 20, 1944. 38 residents of Gliniszki in the Vilnius region: J. Wolkonowski, *Vilnius District of the Union of Armed Struggle of the Home Army in 1939-1945*, ed. G. Lukomski, Warsaw 1996, p. 246.

⁶⁶⁴ See, for example, indications of the participation of units composed of Ukrainians in the pacification in early 1944 of the inhabitants of Polish villages located in the Janow Forest in the Lublin region: K. Schuller, *The Last Day of Borow. Polish Peasants, German Soldiers and the Impermanent War*, transl. E. Borg et al., Warsaw 2011, pp. 72-73.

⁶⁶⁵ Stutthof..., p. 18.

⁶⁶⁶ See the monograph on the problem of the German authorities' rugging of Poles from their previous places of residence: M. Wardzyńska, *Wysiedlenia ludności polskiej z okupowanych ziem polskich włączonych do III Rzeszy w latach 1939-1945*, Warsaw 2017; J. Sobczak, *Hitler's resettlement of the German population in the era of World War II*, Poznań 1966.

⁶⁶⁷ See W. Jastrzębski, *Hitler's Displacement from Polish Lands Incorporated into the Reich 1939-1945*, Poznań 1968; M. Rutowska, *Wysiedlenia ludności polskiej z Kraju Warty do Generalnego Gubernatorstwa 1939-1941*, Poznań 2003; J. Marczewski, *Hitler's concept of colonization and resettlement policy and its implementation in the "Wartheland"*, Poznań 1979; *Wysiedlenia na Pomorzu w latach 1939-1948. Materiały po konferencyjne*, ed. J. Borzyszkowski, Gdańsk-Wejherowo 2004; *Wypędzeni 1939... Deportacje obywateli polskich z ziemów wcielonych do III Rzeszy*, ed. J. Kubiak, Poznań 2015.

benefits, was especially applied to Polish citizens (the so-called "Kongresowiaks") who had settled in the western territories after 1918.⁶⁶⁸

Displacement in Gdansk Pomerania, carried out initially according to instructions issued in September 1939 by Albert Forster to his subordinate state and party organs, reached considerable size: "quite undesirable Poles expel immediately"⁶⁶⁹. The deportations of the Polish population were organized, among others, by Werner Kampe, the mayor of Bydgoszcz and head of the party organization there, and Günther Modrow, the head of the Kosciierzyna district and party leader. As many as 10,000-13,000 people were expelled from Kosciierzyna and the surrounding area. As a result of the so-called wild deportations, some 30-40 thousand Polish citizens, especially from Gdansk Pomerania, were forced to leave the so-called lands incorporated into the Reich. Properties were often taken from wealthy Poles, and it also happened that soldiers and police officers secured specific areas or city districts whose residents were designated for deportation. They were allowed to take only a few personal items and necessary food⁶⁷⁰. With the Decree on the Strengthening of Germanness of October 7, 1939. Adolf Hitler defined the general tasks of Reichsführer SS Heinrich Himmler, who was appointed Reich Commissioner for the Strengthening of Germanness - to bring to Germany the reichsi volksdeutsch intended for settlement in the German state (digit. I pt. 1), to eliminate the harmful influence of representatives of foreign nationalities threatening the interests of the Reich and Germans (digit. I pt. 2), and to create settlement areas for people of German nationality (digit. I pt. 3). These goals were to be pursued through administrative methods, and their executors were exempted from the jurisdiction of the military judiciary as part of the measures taken (Digit I). In practice, this meant that Poles were displaced in violation of their personal and property rights, and German settlements were carried out. As early as October 11, 1939. Heinrich Himmler authorized the Security Police and Security Service to deport Poles from the agglomerations in Danzig Pomerania and Greater Poland⁶⁷¹. For example, SS-Gruppenführer Richard Hildebrandt, a senior SS and police commander there appointed Reich Commissioner Plenipotentiary for the Strengthening of Germanness⁶⁷², was made responsible for the deportations in Pomerania. On November 8, 1939, a conference on "Settlement or Evacuation in the Eastern Territories" was held in Krakow⁶⁷³. It was attended by SS-Brigadeführer Bruno Streckenbach, commander of the SD and security police in the so-called GG, who was initially responsible for general supervision of the resettlement, Friedrich Krüger - higher commander of the SS and police in the so-called Reich districts of Danzig-West Prussia and the Wartheland, and Herbert Becker, commander of the order police in the so-called GG. It was then planned to resettle

⁶⁶⁸ Stutthof..., p. 38; W. Jastrzębski, Hitler's displacements..., pp. 16, 23; History of Bydgoszcz, vol. 2, part 2, ed. M. Biskup, Bydgoszcz 2004, pp. 106-107; B. Chrzanowski, Expulsions from Pomerania, "BIPN" 5 (2004), pp. 37-38; M. Wardzyńska, Był rok 1939..., pp. 94-99; S. Salmonowicz, On the fate of the native population of Gdansk Pomerania in 1939-1950, "Acta Cassubiana" 15 (2013), pp. 263-270.

⁶⁶⁹ Displacement in Pomerania..., p. 14.

⁶⁷⁰ W. Jastrzębski, Hitler's displacements..., pp. 20, 21; B. Chrzanowski, Expulsions..., p. 38; Kosciierzyna and the Kosciierzyna district during World War II 1939-1945, ed. by A. Gąsiorowski, Kosciierzyna 2009, pp. 154-155; History of Bydgoszcz..., pp. 106-107, 120; C. Luczak, Nazi deportations in the so-called "eastern lands" incorporated into the Reich, Zamosc 1972, pp. 5, 16.

⁶⁷¹ B. Chrzanowski, Expulsions..., p. 38.

⁶⁷² Displacement in Pomerania..., p. 14.

⁶⁷³ Friedrich Wilhelm Krüger's report on the state of the German police in the GG and on the resettlement policy [dated November 8, 1939] [in:] Occupation..., vol. 1, pp. 85-86.

one million Poles and Jews from the so-called annexed lands to the so-called GG by spring 1940.

Particularly significant transformations of the national and demographic structure occurred as German authorities began to implement a plan to displace the Polish residents of Gdynia⁶⁷⁴. This modern port, shipbuilding center and important transportation hub was chosen as a transit point for future German settlers, mainly so-called Baltic Germans (Baltendeutschen), hailing from the Baltic republics (mostly Estonia and Latvia), which were in the Soviet sphere of influence. In addition, its important role in the Third Reich's armaments industry was foreseen. A precursor to the limitation of unorganized displacement was Adolf Hitler's order to expel Polish civilians from Gdynia, recorded in the Wehrmacht's warfare log on September 20, 1939.⁶⁷⁵ Heinrich Himmler appointed a resettlement staff, and on October 14, 1939, Albert Forster's subordinates developed selection criteria to assess the nationality of Gdynia's citizens. They created three categories of the Polish population for the migration proceedings. The first group - its members were to be immediately deported to the so-called GG - included those who arrived in the city after 1918 and representatives of the Polish elite who had so far escaped repression. The second consisted of autochthons from the vicinity of Gdynia, but residing in the city - they were subject to so-called internal rugation (Verdrängung), which meant resettlement to the suburbs or to their places of origin. Representatives of the third category, i.e., the remaining Polish residents of Gdynia, were allowed to stay in the city until the need arose to claim their apartments for the incoming German settlers. Due to staff shortages, highly qualified Poles, such as surviving doctors and engineers, were excluded from the displacement action⁶⁷⁶. The criteria described in practice eliminated from Gdynia, which before 1926 was a fishing settlement⁶⁷⁷ of about 12,000 inhabitants, most of its population, reaching 130,000 before the outbreak of war. Between October 12 and 26, 1939, some 12,000 residents were deported from Gdynia, some 38,000 Poles left due to terror, and in 1940 another 22,000 Gdynia residents were displaced⁶⁷⁸. The number of Gdynia businesses taken over by the Germans during the years of the city's occupation was estimated at 774 (some belonged to Polish citizens of Jewish origin). Initially they were managed by trustees, later they were usually closed down and sold⁶⁷⁹. Displacement also affected many Polish citizens from other parts of Gdansk Pomerania and Greater

⁶⁷⁴ See Displacement of Poles from Gdynia in 1939-1945 by the German Occupant. Materials from the Popular Science Sessions of November 19, 2002 and December 2, 2003, Gdynia 2006. Cf. subsequent post-conference volumes from sessions held in 2005-2012: Wyszczególnienie Polaków z Gdyni w latach 1939-1945 przez okupanta niemieckiego. Materials from the Third Popular Science Session, December 7, 2005, Gdynia 2006; Displacement of Poles from Gdynia in 1939-1945 by the German Occupant. Materials from the Fourth Popular Science Session on November 28, 2006, Gdynia 2007; Displacement of Poles from Gdynia in 1939-1945 by the German Occupant. Materials from the 5th popular science session on November 27, 2007, Gdynia 2009; Displacement of Poles from Gdynia in 1939-1945 by the German Occupant. Materials from the 6th popular science session on April 24, 2012, Gdynia 2012.

⁶⁷⁵ Displacement in Pomerania..., p. 32.

⁶⁷⁶ M. Tomkiewicz, Displacement from Gdynia in 1939, "BIPN" 12-1 (2003-2004), pp. 33-34.

⁶⁷⁷ See Ordinance of the Council of Ministers of 10 II 1926 on allowing the rural municipality of Gdynia in Wejherowo County, Pomeranian Voivodeship, to adopt the system according to the Prussian municipal ordinance for six eastern provinces of 30 May 1853 (Journal of Laws of 1926, No. 21, item 127).

⁶⁷⁸ Displacement in Pomerania..., pp. 32-36; M. Tomkiewicz, Displacement..., pp. 33-37; D. Schenk, Albert Forster..., p. 255.

⁶⁷⁹ B. Męczykowska, Seizure of Polish companies by the German occupant in Gdynia (Stadtkreis Gotenhafen) in 1939-1945 [in:] Wyszczególnienie - wypędzić - wynarodowić. Szkice do dziejów okupacji niemieckiej na Kaszubach i Kociewiu (1939-1945), ed. G. Berendt, Gdańsk 2010, pp. 20, 21-86 (list of appropriated companies).

Poland⁶⁸⁰. November 28, 1939. Heinrich Himmler changed his decision - he took the task of coordinating the deportations away from the police and entrusted it to the Reich Main Security Office⁶⁸¹. Against the backdrop of migration policy in the areas administered by Albert Forster, a dispute arose over competence between the party and administrative bodies and the police. The axis of the dispute, in addition to personal ambitions, was the approach to the selection of migrants. The Danzig governor and gauleiter wanted to recruit German settlers who were racially and nationally valuable and earmarked many Poles for Germanization, such as by listing them on the German nationality list. In contrast, Heinrich Himmler and local police superiors felt it necessary to displace as many Poles as possible and replace them with ethnic Germans, not necessarily very attached to Germanness⁶⁸². As a result, in July 1940, a so-called "settlement staff" with branches in district towns was established under the Danzig Plenipotentiary of the Reich Commissioner for the Strengthening of Germanness. Its employees selected Polish farms and businesses for German newcomers⁶⁸³. On November 15, 1940, the Danzig Central Resettlement Post (Umwandererzentralstelle, UWZ) was created under the auspices of the RSHA to carry out migration-related tasks. Such police, party and state authorities as the special desk of the Danzig Security Service (SD-Sonderreferat), the National Labor Office (Landesarbeitsamt) in Danzig cooperated with the UWZ in the field of resettlement activities, Main Colonization Office for Ethnic Germans of the SS (SS-Hauptamt Volksdeutsche Mittelstelle), the Land Office (Bodenamt) in Danzig⁶⁸⁴, the National Socialist Welfare Society (Nationalsozialistische Volkswohlfahrt, NSV) and the Main Trust Office East (Haupttreuhandstelle Ost, HTO)⁶⁸⁵. In April 1940, after organizational transformations, a Central Resettlement Post was established in Poznań⁶⁸⁶. The described activities were carried out most intensively in Greater Poland. Approximately 625,000 Poles were displaced, resettled or expelled from the so-called Wartheland in 1939-1944⁶⁸⁷.

⁶⁸⁰ See M. Roth, *Nationalsozialistische Umsiedlungspolitik im besetzten Polen - Ziele, beteiligte Institutionen, Methoden und Ergebnisse* [in:] *Umgesiedelt-Vertrieben: Deutschbalten und Polen 1939-1945 im Warthegau. Beiträge einer Tagung am 16.-18. Oktober 2009 in Poznań (Posen), veranstaltet von der Deutsch-Baltischen Gesellschaft e.V. (Darmstadt) und dem Instytut Zachodni (Poznań)*, ed. E. Neander et al., Marburg 2010, pp. 9-20.

⁶⁸¹ W. Jastrzębski, *Hitler's Displacement...*, pp. 32-33.

⁶⁸² D. Wróbel, *Settlement of Germans from the East in the Reich District of Danzig-West Prussia* [in:] *German Authorities and Society in Eastern Pomerania and Kuyavia in the Years of German Occupation (1939- 1945). Materials of the 14th popular science session in Toruń on November 13, 2004*, ed. K. Minczykowska et al., Toruń 2005, p. 54; D. Schenk, *Albert Forster...*, pp. 255-256, 297-299, 305; W. Jastrzębski, J. Sziling, *Okupacja...*, pp. 146, 266; W. Jastrzębski, *Hitler's displacements...*, pp. 52, 72.

⁶⁸³ *Displacement in Pomerania...*, p. 15.

⁶⁸⁴ The land offices were organs of the SS occupation administration. They were established on the basis of operational groups operating under the auspices of the SS Main Office of Race and Settlement. After the establishment of offices in Danzig, Poznań, Katowice (until the end of 1939) and Ciechanów, their employees were subject to the substantive control of the head of the SS Main Office of Race and Settlement, while institutionally the posts were subordinated on April 1, 1940 to the Reich Commissar for the Strengthening of Germanness. The primary tasks of the officials were the registration and redistribution of land belonging to Poles. In turn, the inventory and seizure of the properties of Polish entrepreneurs, such as stores, factories, print stores and restaurants, were handled by employees of the Main East Trust Office (I. Heinemann, *Race...*, pp. 186-188, 574).

⁶⁸⁵ *Ibidem*, pp. 15, 62; W. Jastrzębski, *Hitler's Displacement...*, pp. 43, 47; *Authorities and Society...*, p. 56. See B. Rosenkötter, *Treuhandpolitik. Die "Haupttreuhandstelle Ost" und der Raub polnischer Vermögen 1939-1945*, Essen 2003.

⁶⁸⁶ M. Grynia, *German Genocide...*, p. 69.

⁶⁸⁷ M. Rutowska, *Displacement...*, pp. 56-58.

The deportation action in the Żywiec region of Upper Silesia was a model, from where Polish residents were deported regardless of their social standing, intellectual qualities and political attitudes. As early as September 24, 1939. Friedrich Brehm, commander of racial advisory "A," suggested in Report No. 11 to Günther Pancke, head of the RuSHA, that due to patriotism and anti-German attitudes, Poles should be evicted from Żywiecczyna and their homes prepared so that they could be settled by German colonists. Political hostility made Friedrich Brehm describe the local Poles as racially degenerate. Data obtained from the commander of Advisory "A" allowed Erich von dem Bach-Zelewski, a senior SS and police commander, to plan mass deportations. However, due to a dispute between the SS and the civil administration over the scale and methods of the deportation, its execution was delayed⁶⁸⁸. As part of the Aktion "Żywiec" (Aktion "Saybusch"), carried out between September 1940 and January 1941, nearly 18,000 Poles (about 50,000 by the end of World War II) were robbed of their farms and property, and 600-700 German families were settled in their place⁶⁸⁹.

Other resettlements of the Polish population also took place in Upper Silesia and the Dąbrowa Basin. In addition, a network of some thirty so-called Polish camps (Polenlager) was established there, supervised by the Main Office of the Central Office for the Support of Ethnic Germans (Hauptamt Volksdeutsche Mittelstelle), four of which were located in occupied Czechoslovakia (in Bogumin, Dolní Benešov, Fryštát and Piotrowice near Karviná). They were placed in secular and sacred buildings, often taken from local Poles and the Church. The Polenlager system was established on the basis of a relevant decision by Heinrich Himmler in mid-1942. The regional administration of the facilities was carried out by the Operational Command of the Headquarters for Upper Silesia (Einsatzführung Oberschlesien), and SS officers supervised the prisoners. The camps received members of Polish families displaced from Silesia and the Zagłębie region who, as a result of the impossibility of deporting them to the so-called "GG" (from March 1941 onward, as discussed below), were turned into slaves performing forced labor for the German state and its affiliated companies. Their imprisonment was primarily due to the needs of the German settlement program⁶⁹⁰.

Citing preparations for the German invasion of the USSR, Hans Frank ordered that no transports with Polish displaced persons be accepted into the so-called GG from March 15, 1941. In view of the economic difficulties resulting from the deportations, he had already

⁶⁸⁸ I. Heinemann, *Race...*, pp. 179-181.

⁶⁸⁹ M. Sikora, M. Bortlik-Dźwierzynska, *Aktion Saybusch. Displacement of inhabitants of the Żywiec region by the German occupiers 1940-1941*, Katowice 2010; M. Sikora, *Aktion Saybusch. Genesis and Purpose of German Resettlement Actions*, "BIPN" 8-9 (2009), pp. 84-92; A. Szefer, *Hitler's Attempts to Settle the Silesian-Dąbrowa Land during World War II (1939-1945)*, Katowice 1984; A. Konieczny, *Wysiedlenia ludności polskiej powiatu żywieckiego w 1940 roku (Saybusch-Aktion)*, "Studia Śląskie. Seria Nowa" XX (1971), pp. 231-249. In the case of the "Saybusch" action, the Commission for the Prosecution of Crimes against the Polish Nation at the Institute of National Remembrance in Katowice conducted an investigation in 1998-2005, which it concluded with a discontinuance, since those guilty of the crime were tried in the Nuremberg trials. The justification aptly summarized the mechanism of the German settlement policy (Decision of March 31, 2005 to discontinue the investigation into the deportation of Poles from the Żywiec area in 1940, <https://ipn.gov.pl/download/1/79925/31032005DeportacjePolakowzZiemizywieckiejw1940rS5-00-Zn.pdf>, accessed 29 II 2020).

⁶⁹⁰ R. Hrabar, *Niemieckie obóz dla Polaków na Śląsku w czasie II wojny światowej "Polenlager"*, Katowice 1972, pp. 34-123; *Nazi prisons in Silesia, Zagłębie Dąbrowskie and Częstochowa 1939-1945*. collective work, ed. A. Szefer, Katowice 1983; A. Szefer, *Hitler's attempts to settle the Silesian-Dąbrowa land during World War II (1939-1945)*, Katowice 1984, pp. 107-141; idem, *German Resettlers in Upper Silesia in 1939-1945*, Katowice 1974.

made similar efforts, generally without success⁶⁹¹. Following his decision, the migration authorities in the so-called annexed territories applied new nationality engineering measures. They proceeded with so-called family komasacja (the accommodation of several Polish families in one apartment or farm), internal displacement (the rugging of Poles to less attractive areas) and deportation for forced labor to the Reich. Some Poles were incarcerated in collective camps (in Pomerania, from February 3, 1941, subordinated to the Central Displacement Outpost in Gdansk and transformed into permanent places of detention in August), while others were subjected to intensive Germanization, which involved their relocation and indoctrination in Germanization camps⁶⁹².

Among the Polish resettlers were family members of those murdered as part of the "Intelligence" action⁶⁹³, wealthy people, the infirm, women, children, youth and Jews. During the deportations, there were beatings, thefts, murders and deaths resulting from deportation conditions (lack of medical care and food). Many people were sent to the Reich for forced labor. Numerous pretexts were used to remove Poles - for example, the need to retaliate for actions against Germans or the need to designate an area for military or economic purposes were pointed out. Ethnic Germans were settled in the houses and apartments of the expelled Poles, who took over the property of the rightful owners⁶⁹⁴.

The operations in the Zamojszczyzna region, located in the so-called Lublin District⁶⁹⁵, were of a pilot nature in relation to the displacement actions carried out in western Poland. They involved an attempt to create a German settlement area (one of several planned bastions of Germanness - ein deutsches Bollwerk) in an area inhabited by a dense Polish community. As a result of Heinrich Himmler's decision in 1941, displacement of Poles, preceded by evacuations in November 1941, was carried out, which was accomplished in two main phases - the first lasted from the night of November 27-28, 1942 to March 1943 and involved the residents of 116 villages, and the second, the "Werewolf" action (Aktion "Werewolf"), from June 23 to August 15, 1943 and involved Poles from 171 villages. The original intention was to displace Polish nationals from 696 settlements, but the final figure was 293 villages. A total of 100,000-110,000 people were expelled from Zamojszczyzna, including some 30,000 children, many of whom were destined for Germanization in Lebensborn centers (about which more below) or placed in a prevention camp for young Poles of the security police in Lodz (Polen-Jugendverwahrlager der Sicherheitspolizei in Litzmannstadt)⁶⁹⁶. Resisting adults were murdered and the rest were subjected to racial selection in resettlement camps in Zamosc⁶⁹⁷, Zwierzyniec, Lublin, Frampol and Bilgoraj, among others, subject to the Lodz branch of the Central

⁶⁹¹ W. Jastrzębski, *Hitler's Displacement...*, p. 43; B. Chrzanowski, *Expulsions...*, p. 44.

⁶⁹² W. Jastrzębski, *Hitler's Displacement...*, pp. 88-89; B. Chrzanowski, *Expulsions...*, p. 45.

⁶⁹³ For example, Rudolf Tröger, who served as inspector of the security service and security police in the so-called Danzig-West Prussia district, admitted that at a staff meeting on November 15, 1939, it was unanimously agreed that it was necessary to deport the relatives of those murdered during the extermination of the Polish intelligentsia. His notes show that a motion to this effect was adopted on 12 I 1940 (J. Böhler, K.-M. Mallmann, J. Matthäus, *Einsatzgruppen...*, pp. 204-205).

⁶⁹⁴ W. Jastrzębski, *Hitler's Displacement...*, pp. 47, 88-89; B. Chrzanowski, *Expulsions...*, p. 45. See *Wysiedlenie i poniewierka. Memoirs of Poles displaced by the Nazi occupiers from Polish lands "incorporated" into the Reich 1939-1945, selection and compilation*. R. Dylinski et al, Poznań 1985.

⁶⁹⁵ See I. Heinemann, *Race...*, pp. 297-343; B. Maćior-Majka, *General Plan...*, pp. 205-238.

⁶⁹⁶ See J. Witkowski, *Hitler's concentration camp for minors in Lodz*, Wrocław 1975.

⁶⁹⁷ See H. Kajtel, *Hitler's Resettlement Camp in Zamość - UWZ Lager Zamość, Bilgoraj* 2003.

Resettlement Post in Poznań. In the camps, decisions were made to send them to concentration camps (mainly to Auschwitz-Birkenau and Majdanek), deport them for forced labor deep into the Reich, resettle families with their children⁶⁹⁸ to so-called "rent villages" (Rentendörfer) in the eastern part of the so-called Warsaw District, or leave the incoming colonists in service, which applied especially to the elderly. Mass executions were carried out, properties with livestock were expropriated, property was stolen, beatings and abuse were committed, and parents and children were separated, resulting in orphanhood among the children of Zamojszczyzna. Conditions were deliberately created to increase the mortality rate of Poles - displaced persons were restricted access to food and health care and inhumane transportation conditions were created. The Polish residents of Zamojszczyzna were replaced by only about 12,000 people of German origin out of the planned 60,000 Volksdeutsche arriving from the East and the Balkans. The spatial policy of the German authorities provoked resistance from Polish society and a reaction from partisans. In December 1942, members of units of the Peasant Battalions, the Home Army, the People's Guard and Soviet units began protective and retaliatory actions - Polish self-defense was organized, transports of displaced persons were obstructed, the German repression apparatus was liquidated and villages taken over by the Germans were attacked⁶⁹⁹. The effectiveness of the guerrilla operations known as the Zamojska Uprising led to a several-month-long reduction in deportations. The brutal crackdown on the partisans and the remaining Polish population was launched by SS-Brigadeführer Odilo Globocnik, commander of the SS and police in the so-called Lublin District, known for directing Operation Reinhardt (Aktion "Reinhardt"), in which some 1.85 million Jews were murdered⁷⁰⁰.

The "Werewolf" action was combined with the colonization of the edges of the abandoned areas by some 7,000 people of Ukrainian origin, who had arrived in the vicinity of Zamość as part of the Ukrainian action (Ukraineraktion). With their presence, the intention was to create a belt between German settlers and Polish society, which was to protect ethnic Germans from attacks by Polish partisans⁷⁰¹.

⁶⁹⁸ See B. Kozaczyńska, The fate of children from the Zamojszczyzna region displaced to the Siedlce district in 1943- 1945, Siedlce 2006.

⁶⁹⁹ See Peasant Battalions in Defense of the Zamość Region. Battles of Wojda, Zaboreczne and Róża 30.XII.1942 - 1-2.II.1943. Relacje uczestników i dokumenty, zeb. J. Markiewicz, Warsaw 1957; J. Grygiel, Związek Walki Zbrojnej, Armia Krajowa w obwodzie zamojskim (1939-1944). Sketches, memoirs, documents, ed. Z. Mankowski, Warsaw 1985; Walki oddziałów ZWZ-AK i BCH Inspektoratu Zamojskiego w latach wojny 1939-1944, vol. 1-2, materials collected and compiled. Z. Klukowski et al., Zamość 1990; J. Józwiakowski, Armia Krajowa na Zamojszczyźnie, vol. 1-2, Lublin 2007.

⁷⁰⁰ See B. Rieger, Odilo Globocnik. Creator of the Nazi Death Camps, transl. J. Zaus, Zakrzewo 2009; J. Sachslehner, Administrator for Death. Odilo Globocnik, extermination and the death camps, transl. M. Kilis, Warsaw 2016; S. Piotrowski, Odilo Globocnik's Mission. Reports on the Financial Results of the Extermination of Jews in Poland, Warsaw 1949; Aktion Reinhardt. Zagłada Żydów w Generalnym Gubernatorstwie, ed. D. Libionka, Warsaw 2004.

⁷⁰¹ A. Jaczyńska, Sonderlaboratorium SS. Zamojszczyzna in the General Government 1942-1943, Lublin 2012; Z. Klukowski, Crimes of the German occupants in the Zamojszczyzna [in:] Ekspertyzy..., cz. 5, pp. 83-95; L. Białkowski, The so-called German colonization for Lublin and Zamość in the light of historical facts [in:] Ekspertyzy..., cz. 5, pp. 97-98; Zamojszczyzna - Sonderlaboratorium SS...; T. Tarnogrodzki, Nazi Crimes in Zamojszczyzna [in:] Status and Perspectives of Research in Nazi Crimes. Materials from a scientific conference held on April 27-28, 1970, vol. 2, Warsaw 1973, pp. 183-188; Z. Klukowski, Pacyfikacje i egzekucje masowe w okręgu zamojskim w latach 1943-1944, "BGKBZNwP" V (1949), pp. 173-205; Diversion in Zamojszczyzna (1939-1944), ed. Z. Klukowski, Zamość-Szczebrzeszyn-Zwierzyniec 2018; Germans and Zamojszczyzna (1939-1944), ed. Z. Klukowski, Zamość-Szczebrzeszyn-Zwierzyniec 2018; German Terror in Zamojszczyzna (1939-

The mass emigration of people of German origin to occupied Poland took place as a result of the implementation of a number of international agreements, concluded by the Third Reich with, among others:

- USSR - on the issue of resettlement of Germans from Polish eastern territories, i.e. Bialystok, Vilnius, Novogrudok, Volhynia and Eastern Lesser Poland (treaty with secret protocol of September 28, 1939, agreement of November 1939), from northern Bukovina and Bessarabia (agreement of September 5, 1940)⁷⁰² and occupied Lithuania (agreement of January 10, 1941);

- Latvia and Estonia (October 1939 treaties);

- Romania - regarding the international legal basis for the resettlement of Germans from southern Bukovina and Dobruđa (October 22 agreement of 1940);

- Bulgaria (exchange of notes allowing further resettlement from Dobruđa dated January 22, 1943)⁷⁰³.

In addition, in order to deport ethnic Germans from areas dependent on the Third Reich (including the Kingdom of Hungary and the occupied territories of Czechoslovakia and the Kingdom of Yugoslavia), various acts of domestic law were adopted⁷⁰⁴. It has been estimated that in total, in 1939-1944, under the "Return to the Reich" (Heim ins Reich) program, Polish lands from the three Baltic republics (Lithuania, Latvia, Estonia), South Tyrol⁷⁰⁵, Polish eastern lands (Podlasie, Volhynia, Eastern Lesser Poland, Chełmszczyzna and Lublinszczyzna - in 1940-1941 as part of the Chelm Action, Cholmeraktion), Bukovina, Bessarabia, northern Dobruđa, Yugoslavia and the occupied in 1941. part of the USSR, some 867,000 people arrived⁷⁰⁶. In turn, some 3 million Polish citizens were forcibly displaced from the German-occupied areas of the Republic, mainly the western parts of the country⁷⁰⁷. If a Pole escaped the death threatened by, for example, the planned extermination of elites, robbery, resettlement actions or capture associated with the application of collective responsibility in retaliation for real or apparent wrongdoing by Germans, this did not reduce the risk of loss of life, but delayed it. This is because the primary task of the Polish person temporarily left alive was slave and forced labor for the Third Reich⁷⁰⁸. Persons qualified to perform it had to be divided into several groups

1944), ed. Z. Klukowski, Zamość-Szczebrzeszyn-Zwierzyniec 2018; Zamojszczyzna w walce z Niemcami (1939-1944), ed. Z. Klukowski, Zamość-Szczebrzeszyn-Zwierzyniec 2018.

⁷⁰² See contract: Der deutsch-sowjetische Staatsvertrag über die Umsiedlung der Volksdeutschen aus Bessarabien und der Nord-Bukowina [in:] Das Schicksal der Deutschen in Rumänien, ed. W. Conze, München 1985, p. 134 E-145 E.

⁷⁰³ Displacements, expulsions and escapes 1939-1959 Atlas of the lands of Poland. Poles, Jews, Germans, Ukrainians, ed. Atlas W. Sienkiewicz et al., text author G. Hryciuk et al., Warsaw 2008, pp. 158-163; I. Heinemann, Race..., p. 168.

⁷⁰⁴ See Das Schicksal der Deutschen in Jugoslawien, ed. W. Conze, München 1984; Die Vertreibung der deutschen Bevölkerung aus der Tschechoslowakei, vol. 1-2, ed. W. Conze, München 1984; Das Schicksal der Deutschen in Ungarn, ed. W. Conze, Berlin 1956.

⁷⁰⁵ See Deutsche! Hitler verkauft Euch! Das Erbe von Option und Weltkrieg in Südtirol, ed. G. Pallaver et al., Bozen 2011.

⁷⁰⁶ Enzyklopädie Migration in Europa. Vom 17. Jahrhundert bis zur Gegenwart, ed. K. Bade et al., Zürich 2007, pp. 1082-1083.

⁷⁰⁷ German Occupation of Polish Lands..., p. 149; German Crimes in Poland 1939-1945 [in:] Nowa encyklopedia powszechna PWN, vol. 8, ed. B. Kaczorowski, Warsaw 2004, pp. 811-812.

⁷⁰⁸ See source texts and studies on the provision of forced labor by Poles and other foreigners to the German state during World War II: Forced Labor of Poles under Nazi Rule 1939-1945, selection of sources and

according to the degree of voluntariness of their employment, the conditions of supervision and the type of tasks performed, as well as their legal status as civilians (*Zivilarbeiter*) or prisoners of war with ranks below that of officers (*Militärinternierten*). Among the Polish workers were a small group of volunteers and a very large number of forced laborers (*Zwangsarbeiter*). In principle, however, even volunteers were subject to regulations that in practice allowed them to be treated as slaves and discriminated against, for example on the basis of nationality. After the invasion of the USSR in 1941, the forced labor program also began to be implemented in the Polish eastern territories - workers from the Borderlands were referred to as eastern workers (*Ostarbeiter*)⁷⁰⁹.

In the initial phase of the occupation, the employment policy⁷¹⁰ was carried out mainly by the administration set up for this purpose - the national labor offices, labor offices, their branches and auxiliary posts in the so-called "incorporated lands"; the labor department in the office of the Governor General, labor departments, labor offices, their expatriates and posts in the so-called GG; the labor office in the so-called Białystok district⁷¹¹. Intensive searches were made for unemployed Poles and they were urged in various ways to take up employment. Propaganda materials were created to encourage the local population to leave. Appropriate posters appeared on the streets of Polish towns and cities, information brochures and Polish-German dictionaries were printed, and crafted letters allegedly written by people employed in the Reich were published in the Polish-language German press. These showed that although work in Germany can sometimes be light, its conditions, wages and treatment by superiors should be evaluated positively⁷¹².

As early as June 23, 1939, a meeting of the Reich Defense Council obliged the Wehrmacht High Command and Walther Funk, Reich Minister of Economics, to prepare instructions for the employment of prisoners of war. They began to be implemented even during the September campaign. Of those incarcerated in prisoner-of-war camps for privates and non-commissioned officers of the land forces (*Stammlager für kriegsgefangene Mannschaften und Unteroffiziere* - stalags), camps for members of the air force (*Stammlager für kriegsgefangene Luftwaffenangehörige* - stalags luft) and camps for non-commissioned

compilation. A. Konieczny et al., Poznań 1976; C. Luczak, *Forced Labor of Poles in the Third Reich and on the Territories of Other Countries Occupied by it (1939-1945)*, Poznań 2001; *Forced Labor in the Third Reich during World War II. Status and Research Needs. Materials from a scholarly session April 28-30, 1978*, ed. B. Koziello-Poklewski, Olsztyn 1979; *Modern Slavery - Forced Labor in the Third Reich. Materials from a scholarly conference*, ed. A. Budzyński et al., Warsaw 1997; M. Spoerer, *Forced Labor Under the Sign of the Swastika. Foreign Workers, Prisoners of War and Prisoners in Germany and Occupied Europe, 1939-1945*, transl. Ł. Plęś, Gdańsk 2015; *To Preserve Memory. Forced and Slave Labor of Polish Citizens for the Benefit of the Third Reich in 1939-1945*, ed. M. Cieszkowska et al., Warsaw-Berlin 2015; B. Maaß, *Forced Labor of Poles and Polish Women in the Third Reich* [in:] "Awake, My Heart, and Think. A Contribution to the History of Relations between Silesia and Berlin-Brandenburg from 1740 to the Present", ed. K. Bódziach, transl. M. Choroś et al., Berlin-Opole 1995, pp. 306-316; *Rüstung, Kriegswirtschaft und Zwangsarbeit im "Dritten Reich"*, ed. A. Heusler et al., München-Oldenbourg 2010.

⁷⁰⁹ W. Bonusiak, *Rekrutacja, rozmieszczenie i struktura polskich robotników przymusowych do pracy w Rzeszy (Recruitment, deployment and structure of Polish forced laborers to work in the Reich)* [in:] *Polscy robotnicy przymusowi w Trzeciej Rzeszy (Polish forced laborers in the Third Reich)*, ed. W. Bonusiak, Rzeszów 2005, pp. 40-42, 71-72.

⁷¹⁰ See C. Luczak, *Employment Policy in the Third Reich* [in:] *Polish Workers...*, pp. 19-34.

⁷¹¹ C. Madajczyk, *Politics...*, vol. 1, p. 635.

⁷¹² E. Leszczyński, *Sonderbehandlung. Crime on Polish Children*, Wrocław 2014, pp. 135-140. Cf. information on the camp press aimed at forced laborers: T. Schiller, *NS-Propaganda für den "Arbeitseinsatz". Lagerzeitungen für Fremdarbeiter im Zweiten Weltkrieg. Entstehung, Funktion, Rezeption und Bibliographie*, Hamburg 1998.

officers and privates of the navy (Kriegsmarine-Kriegsgefangenen-Mannschaftsstelllager - marlagach) were established as labor detachments (Arbeitskommandos). With the participation of state labor placement units, deputies were directed to tasks designated by external principals⁷¹³.

Until the decision on the administrative division of the occupied Polish territories resulting from the implementation of civilian administration, roundups, or manhunts, were widely practiced on random passersby in cities and people staying in apartments. They were conducted by uniformed members of German police formations, the security service and the SS, soldiers, members of the Selbstschutz and, in the so-called GG, also officers of the special service and the Polish police (Polnische Polizei im Generalgouvernement), commonly known as the Blue Police (Blaue Polizei) and supervised by the German police⁷¹⁴. Manhunts for Poles were undertaken not only to obtain slave labor, but also to detect members of the Polish resistance, surviving representatives of the Polish elite and wanted criminals. Sex slaves at the disposal of Wehrmacht soldiers and SS functionaries (according to labor officials, these could be as young as 15-year-old Polish women) were also obtained in this way⁷¹⁵. Poles captured in roundups who were sent to the Reich for forced labor were referred to as civilian prisoners of war (Zivilgefangenen). They lost their freedom because of their nationality and coincidence. They had no opportunity to prepare for their departure or inform their families of their location⁷¹⁶.

After October 26, 1939, the legal basis for engaging Poles in labor was diversified, depending on the provisions of the administration of the occupied territory. In the so-called territories incorporated into the Reich, a de facto compulsion to work for Poles was

⁷¹³ W. Bonusiak, *Rekrutacja...*, pp. 40-41. See S. Senft, *Jeńcy wojenni i robotnicy przymusowi zatrudnieni w rolnictwie śląskim 1939-1945*, Opole 1978; B. Koziello-Poklewski, *Employment of POWs and forced laborers in the economy of East Prussia during World War II* [in:] *Crimes and perpetrators...*, pp. 366-385.

⁷¹⁴ The Polish police force in the so-called GG was established as of Oct. 30, 1939, when Friedrich Krüger, the higher SS and police commander in the so-called GG, issued a proclamation ordering Polish police officials and officers on duty on Sept. 1, 1939, to report to the nearest German police offices or German districts. Evasion of the obligation to continue service or loss of weapons resulted in the harshest penalties, including death or exile to a concentration camp. Polish policemen, due to the distrust of the German authorities, dealt with the protection of public safety and order at the lowest level, such as prevention, traffic regulation and intervention. The scope of their activities was narrower than that of the Germans. In 1940, the investigative division was excluded from the Polish police and a Polish criminal police was created, subordinated to the superiors of the security police. In 1944, about 12,500 officers served in the Polish police, and about 2,800 in the Polish criminal police. Up to 30 percent of Polish police officers cooperated with underground organizations, but some uniformed officers committed crimes against the Polish and especially Jewish population, such as robbery. The formation ceased to exist in accordance with the decree of the Polish Committee for National Liberation of August 15, 1944, on the dissolution of the state police (the so-called granat police) (Dz.U. of 1944, No. 2, item 6). A. Hempel, *Policja granatowa w okupacyjnym systemie administracyjnym Generalnego Gubernatorstwa (1939-1945)*, Warsaw 1987; idem, *Pogrobowcy klęski. Rzecz o policji "granatowej" w Generalnym Gubernatorstwie 1939-1945*, Warsaw 1990; M. Getter, *Policja Polska w Generalnym Gubernatorstwie 1939-1945*, "Przegląd Policyjny" 1/2 (1999), pp. 74-91; idem, *Policja granatowa w Warszawie 1939-1944* [in:] *Warszawa lat wojny i okupacji 1939-1944*, z. 2, ed. K. Dunin-Wąsowicz, Warsaw 1972, pp. 213-237.

⁷¹⁵ Young women of Polish nationality were engaged in what were regarded as cultural and entertainment centers organized for German servicemen and SS members, known as German Soldier's Houses (Deutsche Soldatenhaus, Soldatenheim) or Wehrmacht brothels (Wehrmachtsbordelle). Sick female prisoners were deprived of life by phenol injection or gassing (see B. Beck, *Wehrmacht und sexuelle Gewalt. Sexualverbrechen vor deutschen Militärgerichten 1939-1945*, Paderborn-München-Wien- Zürich 2004; C. Paul, *Zwangsprostitution. Staatlich errichtete Bordelle im Nationalsozialismus*, Berlin 1994).

⁷¹⁶ W. Bonusiak, *Recruitment...*, p. 41.

introduced, which from 1941 included youth and children aged 12 and over in the so-called Wartheland, and 14 and over in Silesia and Gdansk Pomerania (however, children not attending school also aged 12 and over). In the so-called annexed territories there was a principle of hierarchization of professions available to Poles. They were forbidden to become active in professions considered noble, such as watchmaking, confectionery and publishing services, while in others they were allowed to be employed in the absence of German personnel (in locksmithing, turning, carpentry, butchery, baking). Preference was given to engaging Poles as agricultural and construction laborers, as well as tailors and shoemakers. In 1942, Poles between the ages of 18 and 25 were subjected to compulsory two-year labor (*Arbeitsdienstpflicht*) on farms in the so-called East Prussian province in the so-called Bialystok district, destined for later Germanization⁷¹⁷. In the so-called Silesian province, the issue was regulated by a decree of February 13, 1939, on securing labor for the realization of particularly important state objectives, and by a related order of the head of the civil administration in the Eighth Military District (Breslau) of October 24, 1939.⁷¹⁸ In the Polish western territories as areas of intensive Germanization, the aim was to completely expel Poles, so special methods were used there - people designated by the labor office were called to leave. Local Germans helped the authorities search for unemployed Poles.

Labor relations were regulated differently in the so-called GG⁷¹⁹, where on the very first day of its existence a decree was introduced on the obligation of Poles to work⁷²⁰. It was imposed on persons of Polish nationality between the ages of 18 and 60 residing in the so-called GG (§ 1 (1)). It was to be carried out especially in agriculture and in the construction of road, railroad and water infrastructure (§ 3). Remuneration was to be determined according to the principle of equity (§ 4 (1)), and the security of the workers and their families was to be determined as far as possible (§ 4 (2)). It was significant that low-paid work without social protection was made mandatory. In the first executive order of October 31, 1939.⁷²¹ Johannes Krohn, head of the Labor Department (*Leiter des Hauptamtes Arbeit*) of the Office of the Governor General for the Occupied Polish Territories, in connection with the aforementioned decree, established an obligation to work for every person capable of doing so (§ 1(1)) and a catalog of penalties against evaders, those who refrain from doing so, and those who induce such actions (§ 5(1), (2)). At the end of 1939, the subjective scope of the Ordinance on Compulsory Labor for Poles was again regulated - recognizing that youths 14 years of age and older were also subject to it⁷²². The meager results of voluntary recruitment for labor in Germany and the growing needs of the German economy and military forced the intensification of efforts to take advantage of the

⁷¹⁷ C. Madajczyk, *Politics...*, vol. 1, p. 636. See B. Koziello-Poklewski, *Foreign Forced Laborers in East Prussia during World War II*, Warsaw 1977.

⁷¹⁸ W. Bonusiak, *Recruitment...*, pp. 42-43.

⁷¹⁹ S. Grzybowski, Norms issued by the German authorities for the scope of labor relations in the area of the so-called General Government [in:] *Expert Reports and Rulings before the Supreme National Tribunal*, part 3, ed. C. Pilichowski, Warsaw 1980, pp. 139-239.

⁷²⁰ Ordinance on the introduction of compulsory labor for the Polish population of the General Government, dated October 26, 1939 (*Dz. RGGOP* 1939, 1, 5).

⁷²¹ First Executive Order to the Order of 26 X 1939 on the introduction of compulsory labor for the Polish population of the General Government (*Dz. Rozp. GGP* 1939, p. 6). dated 31 X 1939 (*Dz. RGGOP* 1939, 2, 14).

⁷²² Ordinance on extending the obligation to work for the Polish population of the General Government. Of December 14, 1939 (*Dz. RGGOP* 1939, 13, 224).

labor force still available⁷²³. On March 21, 1942, Adolf Hitler appointed Fritz Sauckel, formerly governor and gauleiter of Thuringia, to the post of General Labor Commissioner (Generalbevollmächtigter für den Arbeitseinsatz)⁷²⁴. He thus took over from the employment group (Geschäftsgruppe Arbeitseinsatz) functioning under the Plenipotentiary for the Four-Year Plan the authority to recruit Polish workers, among others. The centralization of their acquisition and the expansion of the employment apparatus made it possible to brutalize the methods of procedure and increase their effectiveness. German authorities set unrealistic quotas of Polish workers. Although the labor obligation was implemented in the so-called GG from the beginning, in the legal sphere it was introduced by an act with the misleading title Ordinance on Securing Force Requirements for Tasks of Special State-Political Significance⁷²⁵. Josef Bühler, in place of Hans Frank, issued it on May 13, 1942. In it, he stipulated the punishment of imprisonment or severe imprisonment for violation of the established service obligation (§ 5 (1), (2)). Throughout the occupation period in the so-called GG, roundups remained the typical means of obtaining workers. However, they were organized sporadically in the so-called "incorporated territories," where, as a result of the obligation to register on the German nationality list, the number of Poles subject to forced labor in the Reich radically decreased (in January 1944, some 706,000 Pomeranian Poles belonged to nationality groups III and IV)⁷²⁶.

Attempts to deport Poles for forced labor provoked opposition from Polish society and resistance actions against the German occupation authorities, such as the destruction of files with the data of arrested persons, the vandalizing of labor offices and the liquidation of the heads of labor intermediation units (including the April 9, 1943 killing of Kurt Hoffman, head of the Warsaw office, and April 13, 1943. Hugon Dietz, head of one of the working groups in this institution)⁷²⁷.

The obligation of forced labor was also extended, up to the rank of non-commissioned officer, to Polish prisoners of war released from prisoner of war camps from May 1940. To leave the camp, Poles had to undertake in writing that they would work for the Reich until the end of the war. Due to the stubbornness of Polish uniformed men, this action continued into 1941. That year, of the approximately 420,000 Polish prisoners of war in German captivity, more than 130,000 privates and nearly 19,000 officers remained in camps in 1941, without relinquishing theoretical international legal guarantees. They, too, were subject, albeit to a different extent, to compulsory labor. Efforts were made to employ Polish officers, but this was abandoned due to the anticipated underground threat. It

⁷²³ See an analysis of the methods of recruiting Poles to work in the Reich: J. Kasperek, Some aspects of recruitment for forced labor to the Third Reich from the Lublin District [in:] *Crimes and perpetrators...*, pp. 419-434.

⁷²⁴ *Erlass des Führers über einen Generalbevollmächtigten für den Arbeitseinsatz*. Vom 21. März 1942 (RGBl. I 1942, 40, 179). Cf. Executive Order issued by the Commissioner for the Four-Year Plan: *Anordnung zur Durchführung des Erlasses des Führers über einen Generalbevollmächtigten für den Arbeitseinsatz*. Vom 27. März 1942 (RGBl. I 1942, 40, 180). See S. Greve, *Der Generalbevollmächtigte für den Arbeitseinsatz und das Reichsarbeitsministerium* [in:] *Das Reichsarbeitsministerium im Nationalsozialismus*. Verwaltung - Politik - Verbrechen, ed. by A. Nützenadel, Göttingen 2017, pp. 387-422.

⁷²⁵ Ordinance on securing force requirements for tasks of special state-political significance (Ordinance on Service Obligation). Dated May 13, 1942 (RGBl. 1942, 40, 255).

⁷²⁶ E. Seeber, *Forced laborers...*, p. 149.

⁷²⁷ T. Strzembosz, *Branches...*, pp. 244-245; see idem, *Armed Actions of Underground Warsaw 1939-1944*, Warsaw 1983; H. Witkowski, "Kedyw" of the Warsaw District of the Home Army in 1943-1944, Warsaw 1986.

should be added that the German state used prisoners of war as forced laborers. During the years of the Great War, nearly 2.5 million people were exploited in this way in the German Empire⁷²⁸.

In addition to those recruited through more or less forced employment actions among POWs and civilians, Poles provided work for the Todt organization. Established in 1938, the association of state and private companies, a kind of consortium headed by engineer Fritz Todt, was to create or expand military facilities, such as the Führer's quarters, Germany's Siegfried Line, Italy's Gustav Line, the Atlantic Wall in France, the experimental V1 and V2 rocket center in Peenemünde, anti-aircraft battery sites, submarine shipyards, military airfields and strategic transportation arteries. In February 1942, the organization was placed under the authority of Albert Speer, Reichsminister für Bewaffnung und Munition (Reich Minister for Armaments and Munitions). Some of the more than 27,000 Poles employed by the organization took up their work voluntarily, while others were obliged to do so⁷²⁹.

The Reich's economy was affected by the employment of at least 180-200 thousand people of Polish nationality in concentration camps during World War II. Significant reasons for their imprisonment included the extermination of the Polish leadership (as part of the "Intelligence", "AB" and special operations), resistance participants (from underground organizations and partisans from the Warsaw Uprising) and officer cadres of the Polish army, displacement from areas undergoing Germanization (such as the Zamojszczyzna region) and the expropriation of Polish owners from coveted properties. In addition, there were numerous Poles in the concentration camps who were considered enemies of the Reich, preemptively detained after serving more than six months' imprisonment, or incarcerated because they were of little racial or national value⁷³⁰. Some Polish women in the camps, even at a young age, were put to work in "camp brothels" (*Lagerbordelle*), designed for concentration camp staff, such as functionary prisoners and German criminals.⁷³¹

Concentration camp inmates also included Polish children who were sent to the gulags either because their parents had been imprisoned or as a result of the racial selection process itself deeming them unfit for Germanization. They were beaten, starved, made it difficult to maintain personal hygiene, destroyed by working beyond their strength and had medical experiments performed on them. Many of the children of Zamojszczyzna in Auschwitz and Majdanek, children less than 120 centimeters tall and sick children were

⁷²⁸ W. Bonusiak, *Recruitment...*, pp. 79-82; cf. U. Herbert, *Fremdarbeiter. Politik und Praxis des "Ausländer-Einsatzes" in der Kriegswirtschaft des Dritten Reiches*, Berlin-Bonn 1986, p. 27; C. Westerhoff, *Forced Labor in the First World War. German Policy of Labour Control in the Occupied Kingdom of Poland and Lithuania, 1914-1918*, transl. W. Włoskiewicz, Warsaw 2014; W. Biegański, *Polish Prisoners of War in Germany. A contribution to the research on the number of prisoners of war*, "NDP. MiSzoIHWS" VII (1963), p. 63; D. Kisielewicz, *Oficerowie polscy w niewoli niemieckiej w czasie II wojny światowej*, Łambinowice-Opole 1998, p. 83.

⁷²⁹ W. Bonusiak, *Recruitment...*, pp. 82-83; see F. Seidler, *Die Organisation Todt. Bauen für Staat und Wehrmacht 1938-1945*, Bonn 1998; idem, *Fritz Todt. Baumeister des Dritten Reiches*, Schnellbach 2000; idem, *The Führer's Headquarters*, transl. A. Grabowski, Warsaw 2001.

⁷³⁰ W. Bonusiak, *Recruitment...*, pp. 83-84.

⁷³¹ See *Sex-Zwangsarbeit in nationalsozialistischen Konzentrationslagern*, ed. B. Alakus et al., Wien 2006; R. Sommer, *Das KZ-Bordell. Sexuelle Zwangsarbeit in nationalsozialistischen Konzentrationslagern*, Paderborn-München-Wien-Zürich 2009.

murdered with dosercitic injections of phenol, suffocated in the gas chambers, thrown into ditches with water-drenched slaked lime, burned alive; newborns were drowned in buckets of water. Their bodies were cremated⁷³².

The working conditions of Polish workers in the Reich must be assessed as discriminatory, they increased mortality and the incidence of disease. By decree of March 8, 1940, the German police authorities made it compulsory for Polish workers in the Reich to be marked⁷³³. A specific emblem was to be attached to each set of clothing worn by them (§ 1 (1)) - in the shape of a rhombus, with sides 5 cm long, on a yellow background there was a letter "P" 2.5 cm high in the center, and the sides of the rhombus were enclosed by an encirclement 0.5 cm wide. The color of the letter and the border was specified as purple (§ 1(2)). The marking order was stigmatizing, and in case of violation there were severe financial penalties, up to six weeks' imprisonment, or even more severe sanctions (§ 2 (1), (2)). The decree was effective in the so-called "old Reich," so not in the eastern territories incorporated in 1939 (§ 4). Also included among the so-called Polish decrees (Polen-Erlasse) was the police ordinance "Duties of civilian laborers and workers of Polish nationality during their stay in the Reich" ("Pflichten der Zivilarbeiter und -arbeiterinnen polnischen Volkstums während ihres Aufenthaltes im Reich"). It introduced numerous restrictions on personal rights, such as freedom of movement (it was forbidden to leave one's place of residence and use public transportation without police permission). In addition, nationality segregation was established - it was forbidden to attend German theaters, cinemas, restaurants, dance parties and religious services. Work evasion, sabotage or tardiness in the performance of work risked placement in educational labor camps, while cohabitation with a person of German nationality or other confidentiality risked a death sentence by special procedure (Sonderbehandlung). The punishments were to be adjudicated in the Reich, without the possibility of deporting the accused to Polish lands. The police ordinance applied to Poles residing in the Reich from the so-called "incorporated territories," the GG and the Bialystok district - after its creation. In practice, even harsher procedures were applied to Polish workers. Wages were undercut and remittances sent to occupied Poland were limited. German censors confiscated correspondence addressed to families. Employers gained the almost unlimited right to use flogging (Prügelstrafe) against Poles, with no consequences. If it was arbitrarily determined that a violation of Germany's labor and residency rules had occurred, collective executions of Polish nationals were carried out - often their compatriots were forced to participate. The rape of a Polish woman resulted in her incarceration in a prison or concentration camp. Pregnant women were ordered to abort their pregnancies or later had their children taken from them and sent to special care facilities called nurseries (Säuglingsheime), birthing homes (Entbindungsheime) and places for the care of foreign children (Ausländerkinder-Pflegestätten). There, they were generally abused, but also carried out pseudo-medical experiments⁷³⁴.

⁷³² J. Wnuk, H. Radomska-Strzemecka, *Polish Children Accuse (1939-1945)*, Warsaw 1961, pp. 112-136, 143; E. Leszczyński, *Sonderbehandlung...*, pp. 195-205; see Z. Tokarz, *Extermination of Children in Nazi Camps on Polish Lands in 1939-1945* [in:] *Crimes and Perpetrators...*, pp. 563-579.

⁷³³ *Polizeiverordnung über die Kenntlichmachung im Reich eingesetzter Zivilarbeiter und -arbeiterinnen polnischen Volkstums*. Vom 8. März 1940 (RGBl. I 1940, 55, 555).

⁷³⁴ E. Leszczyński, *Sonderbehandlung...*, Wrocław 2014, pp. 142-170. See W. Jastrzębski, *Working and Living Conditions of Forced Laborers* [in:] *Polish Workers...*, pp. 103-126; A. Zientarski, *System of Terror and*

Regulations pertaining to Polish laborers in the Reich were modeled on those pertaining to forced laborers from the eastern areas occupied in mid-1941 by German troops as a result of the invasion of the USSR. On February 20, 1942, the Reichsführer SS issued the "General Regulations for the Recruitment and Employment of Labor from the East" ("Allgemeine Bestimmungen über Anwerbung und Einsatz von Arbeitskräften aus dem Osten")⁷³⁵. Forced laborers from the occupied territories of the USSR, including borderland Poles, had to wear a stigmatizing white and blue square emblem with the letters "Ost." Conditions were set for their discrimination and national isolation.

Profits from the employment of Polish forced laborers went not only to party structures, camp administrators, the German administration and state-owned companies, but also to related private enterprises (including subsidiaries of foreign companies such as Fordwerke and Adam Opel AG, for example). The list of entities using such workers numbers 2-2,500 items. It includes such concerns, corporations, cartels, syndicates and companies as the German Railways (Deutsche Reichsbahn), Reichswerke Hermann Göring, Bayerische Motoren Werke, Deutsche Waffen und Munitionsfabriken, Thyssen, Friedrich Krupp, Bosch, Daimler-Benz, Demag, Henschel & Sohn, Junkers, Messerschmitt, Philips, Siemens, Volkswagen, Bayer, I.G. Farbenindustrie and Degesch, producing granulated diatomaceous earth saturated with hydrogen cyanide, known as Zyklon B - used to kill people in gas chambers. Some of these companies had plants or subsidiaries at or near the concentration camps⁷³⁶.

The employment of Polish economic migrants, mainly seasonal workers, was a traditional way of supporting the German economy, especially agriculture during the harvest season and other field work. At the end of the Great War, there were about 700,000 Polish workers in Germany in 1918, in 1927. - about 115 thousand, in 1938. - 69.2 thousand⁷³⁷, in addition to which German authorities used the labor force of Polish prisoners of war. During the years of World War II, some 2.83 million people, including some 300,000 prisoners of war, were deported from the territory of the Republic to the Reich for labor (in addition to those incarcerated in concentration camps)⁷³⁸. The total number of Polish forced laborers should also include the millions of Poles employed in occupied Poland.

Deportation and being sent to forced labor were the primary methods used to destroy the Polish nation. In addition, those recognized as representatives of the resistance movement and partisans were liquidated. The population not qualified for the Germanization program was subject to gradual elimination. As part of the depolonization of German-occupied territories, many measures were taken to raise the death rate among Poles, worsen their health, undermine their livelihoods and negate their sense of national and religious belonging. The assumption was to transform the Polish nation into an idealless mass, serving German interests and led by German superiors. This would make it possible

Repression against Polish Forced Laborers [in:] Crimes and Perpetrators..., pp. 435-444; R. Hrabar, Skazane na zagładę. Slave labor of Polish women in the Third Reich and the fate of their children, Katowice 1989.

⁷³⁵ Zwangsarbeit im NS-Staat, Allgemeine Bestimmungen über Anwerbung und Einsatz von Arbeitskräften aus dem Osten (20.2.1942), <https://www.bundesarchiv.de/zwangsarbeit/dokumente/texte/00357/index.html>, accessed 29 II 2020.

⁷³⁶ W. Bonusiak, Recruitment..., p. 90.

⁷³⁷ Ibid, pp. 35-36.

⁷³⁸ C. Luczak, Poland..., pp. 93-94.

to realize the next stage of the struggle against the Poles - to apply more radical extermination measures en masse.

The authorities of the various occupied administrative units in the Polish territories used various methods to liquidate Poles deemed unfit for Germanization. Many of them have already been described, but some issues need to be signaled. However, due to the variety and scale of legislative, administrative and extra-legal methods of breaking up the Polish community, it is impossible to characterize them by administrative division. Suffice it to point out that the measures taken in the so-called Polish territories incorporated into the Reich (and to some extent in the so-called Bialystok district) were intended primarily to reduce the number of Poles, while in the so-called GG and the Borderlands - to prepare their total extermination by building a system of providing slave labor. As part of the program to degenerate Poles not qualified for Germanization, they were first stated to be temporarily residing in the German state, but their nationality was not indicated.

Among other things, efforts were made to reduce the number of Poles by raising the age limit for marriage (e.g., in place of the governor of the so-called Wartheland, August Jäger stipulated on September 10, 1941, the requirement that Polish women reach 25 and Poles 28), making fetal-spending non-punishable and distributing contraceptives, breaking up Polish families by deportation to forced labor and depriving Polish families, especially those with many children, of social privileges (or imposing additional tax burdens on them). For the Poles, efforts were also made to develop methods of mass sterilization, using experience in the concentration camps, in addition to restricting their access to health care and hospital treatment. The struggle for survival and demographic development was hampered by the actions of the German administration, which reduced the rations provided for Poles and deprived them of financial resources⁷³⁹. Attempts were made to restrict births and weaken the surviving portion of the Polish population⁷⁴⁰.

The biological destruction of the Polish nation involved the liquidation of establishments that could serve as centers of Polonization, so repression affected Polish higher education, general education and national culture. The staging of Polish independent plays and the broadcasting of films were banned. Radios were confiscated⁷⁴¹, thus cutting off the Polish population from independent broadcasting. Many works of art privately owned⁷⁴² and owned by the Polish state were taken out of the country, and numerous artifacts,

⁷³⁹ See Ordinance on Temporary Regulation of Payment of Allowances to Pensioners of the Former Polish State and Polish Local Government Associations. Of December 9, 1939 (Official Gazette of RGGOP 1939, 12, 206).

⁷⁴⁰ Biological struggle of the Third Reich against the Polish nation (German documents), "BGKBZNwP" III (1947), pp. 129-145; K. Sosnowski, Hitler's crimes against the child, "PZ" 7/8 (1955), pp. 416-421; W. Jastrzębowski, Biological destruction of the Polish nation [in:] *Ekspertyzy...*, ch. 9, pp. 76-78; J. Olbrycht, Health Affairs in the So-called General Government [in:] *Ekspertyzy...*, ch. 9, pp. 79-104; idem, Treatment, Nutrition and Hospitals in the Public Health Sector [in:] *Ekspertyzy...*, ch. 9, pp. 105-112; T. Bilikiewicz, On the system of depopulation policy used by the occupying forces on the Polish population in Gau Danzig-Westpreussen with particular reference to the fields of medical treatment and public health [in:] *Ekspertyzy...*, part. 9, pp. 113-147; S. Waszak, Walka narodowościowa w tzw. Kraju Warty w świetle materiałów statystycznych [in:] *Ekspertyzy...*, vol. 9, pp. 158-160.

⁷⁴¹ See Decree on confiscation and surrender of radio apparatuses. Dated December 15, 1939 (Official Gazette of the RGGOP 1939, 13, 225).

⁷⁴² See Ordinance on the Confiscation of Works of Art in the General Government. Of December 16, 1939 (Official Gazette of the RGGOP 1939, 12, 209).

monuments, paintings and archives were looted or destroyed. Polish museums were closed, while archives in the so-called GG were deprived of Polish management⁷⁴³.

Poles were permanently discriminated against not only by means of binding normative acts and administrative decisions, but also by the German judiciary. In principle, in applying German law, the jurisdictional authorities were guided by the discretionary rule of the need to defend the interests of the Reich and its inhabitants of German origin. Therefore, in practice, Poles were subject to much more restrictive laws than Germans and could not count on any procedural guarantees. Even if the verdict found a German guilty, which was the exception, a Pole's injury was not recognized. German judges focused on preventing negative phenomena for members of the German community, such as their blatant brutality, propensity for sexual crimes and robberies⁷⁴⁴.

In order to destroy the attachment to Polishness, the German authorities implemented a number of instruments to humiliate Poles. Thus, insulting texts were published in the German and Polish-language press (so-called "gadzinny"), in which stereotypical characteristics were attributed to Poles. German dignitaries publicly made passionate Polish-heroic speeches that incited ethnic Germans to commit crimes against Poles. An obligation to bow to Germans was introduced. Freedom of movement was restricted by norms that prevented Poles from using selected means of transportation, such as a car. Nationality segregation also applied to public places (train stations, parks, cafes, etc.) and public transportation vehicles, on which often, to prevent Germans from coming into contact with Poles, placards were placed that read, for example: "For German travelers only" (Nur für deutsche Fahrgäste) or: "For Germans only" (Nur für Deutsche)⁷⁴⁵.

The German authorities envisioned the depolonization and Germanization of many Poles. This model of depolonization thus consisted of two essential elements. Its implementation was intended to further strengthen the demographic potential of the Germans, unable to

⁷⁴³ E. Krassowska, *Niszczenie kultury i oświaty* [in:] *Ekspertyzy...*, part 9, pp. 161-184; I. Jakubiec, *Action to destroy Polish education by the Nazi occupiers in the General Government* [in:] *Expertise...*, part 9, pp. 185-220; Z. Rynduch, *The persecution by the National Socialist Party of Polish education, science and culture, initially in the area of the former W.M. Danzig and later the entire "Gau Danzig-Westpreussen"* [in:] *Expertise...*, part 9, pp. 221-241; S. Lorentz, *Destruction of Polish culture by the Polish occupants* [in:] *Expertises...*, part. 9, pp. 242-258; idem, *On the destruction of Polish culture by the Germans during the occupation* [in:] *Expertises...*, part. 9, pp. 259-271; idem, *Losses in works of art and in monuments* [in:] *Expertises...*, part. 9, pp. 272-291; S. Kania, *The attitude of Nazi fascism towards Polish culture* [in:] *Crimes and perpetrators...*, pp. 656- 664; M. Banasiewicz, *Liquidation of scientific and educational life in the Polish lands incorporated into the Reich* [in:] *Crimes and perpetrators...*, pp. 672-679; R. Fuks, S. Kania, *Looting of Works of Art and Destruction of Polish Culture* [in:] *Crimes and Perpetrators...*, pp. 680-691; R. Fuks, *Activities of "Das Ahnenerbe" in Looting Works of Polish National Culture* [in:] *Crimes and Perpetrators...*, pp. 692-712; E. Kobierska-Motas, *Activities of the Special Plenipotentiary for the Safeguarding of Works of Art and Cultural Monuments in the GG* [in:] *Crimes and Perpetrators...*, pp. 713-720; M. Rutowska, *Cultural Losses of Poland in the Years of War and Nazi Occupation 1939-1945* [in:] *Crimes and Perpetrators...*, pp. 732-743; M. Motas, *Hitler's Archival Management in Poland in 1939-1945* [in:] *Crimes and Perpetrators...*, pp. 744-751.

⁷⁴⁴ J. Waszczyński, *Activities of the Nazi Special Court in Lodz in 1939-1945* [in:] *Crimes and Perpetrators...*, pp. 721-743.

⁷⁴⁵ Restrictions on contacts between Poles and Germans and on the mobility of Poles resulted from the implementation of nationality segregation in the so-called Wartheland district, as evidenced, among other things, by prohibitions and directives from the police and German authorities, administrative and normative acts, as well as documents from criminal proceedings against Poles (*Discrimination against Poles in Greater Poland during the Nazi occupation. Selection of Sources, selection and compilation.* C. Luczak, Poznań 1966, pp. 236-270). Total discrimination against Poles, with some differences, was also implemented by the German authorities in other occupied territories.

maintain the captured territories, especially the eastern ones, without a sufficient number of administrators and settlers. The successive stages of germanization of the so-called Polish lands incorporated into the Reich were implemented with difficulty, and if one takes into account insufficient population resources and the Germans' reluctance to colonize the east, it would take decades to take possession of these territories.

Nevertheless, numerous attempts were made, albeit often not very successfully, to germanize Poles from areas incorporated into the Reich⁷⁴⁶. Civil ties were attempted to be severed by means of forced registration on the German nationality list. Refusal to submit to this procedure could result in imprisonment in a concentration camp or deportation to a resettlement camp, among other things. Positive qualification meant the establishment of a legal link between Polish citizens with varying degrees of affiliation to the German state and the Reich. In general, this meant guaranteeing those assigned to a certain nationality category certain social privileges, imposing on them an obligation to perform military service for Germany⁷⁴⁷ and stopping displacement and partially discriminatory actions against them. The differentiation of the obligations of Polish citizens according to their classification was characterized in the description of the position of Poles in the Free City of Danzig, which was incorporated into the Reich. It was estimated there that at the end of 1942, 3.12 million citizens of the Polish state were registered, mainly from the so-called Upper Silesian province (1.45 million), followed by the district of Danzig-West Prussia (1.15 million), the Wartheland (476,000) and the East Prussian province (45,000)⁷⁴⁸. One should not draw hasty conclusions from this information, such as the Germanness of Silesians. Rather, it was decided to use the qualification procedure because persecution was used against the refractory in Silesia (where Poles were essential for the effective functioning of industry)⁷⁴⁹ and Gdansk Pomerania (Albert Forster preferred to Germanize Poles rather than bring in German settlers from the east)⁷⁵⁰ while an intensive displacement policy was pursued in Greater Poland, Kujawy, the western part of the Land of Lodz and the small territorial acquisitions of East Prussia.

It was not only from adult Poles that efforts were made to brutally eradicate a sense of national belonging and instill German national patterns in them. In view of the anticipated results, Polish children, who - deprived of parental care - were the obvious target of German eugenicists and nationality policy experts - were included in the

⁷⁴⁶ See G. Wolf, *Ideologie und Herrschaftsrationalität. Nationalsozialistische Germanisierungspolitik in Polen*, Hamburg 2012, pp. 376-466; H.-Ch. Harten, *Die "Deutsche Volksliste" und die Politik der Germanisierung [in:] De-Kulturation und Germanisierung. Die nationalsozialistische Rassen- und Erziehungspolitik in Polen 1939-1945*, Frankfurt am Main - New York 1996, pp. 99-121.

⁷⁴⁷ See post-conference volume with valuable studies on the service of Poles in the German army: *Pomeranians in the Wehrmacht. Materials from the XXI scientific session in Toruń on November 3, 2011*, edited by J. Sziling, Toruń 2012. cf. J. Ceraficki, *Wasserpolaeken. An account of a Pole in the service of the Wehrmacht*, compiled and ed. by A. Janiszewska, Warsaw 2018; A. Bogucki, *Veteranus bydgoski 1939-1947. The fate of Poles forcibly conscripted into the Wehrmacht and the Red Army*, Bydgoszcz 2014.

⁷⁴⁸ R. Kaczmarek, *Poles in the Wehrmacht*, Cracow 2010, p. 412.

⁷⁴⁹ See R. Kaczmarek, *German nationality policy in Upper Silesia (1939-1945)*, "PiS" 3/2 (2004), pp. 115-138; W. Merczyński, *Problem of the so-called "fingers" in Cieszyn Silesia*, "PZ" 9-10 (1949), pp. 272-280; M. Węcki, *The issue of the folkslist in Upper Silesia*, "BIPN" 9 (2017), pp. 32-44; E. Koj, *With the folkslist against the Germans*, "BIPN" 9 (2017), pp. 45-52.

⁷⁵⁰ See S. Bykowska, *German nationality list in Pomerania 1939-1944 and its consequences*, "Rocznik Gdański" 69-70 (2009-2010), pp. 87-112.

Germanization program. Germanization demands were formulated, for example, in Erhard Wetzel and Gerhard Hecht's nationality plan of November 25, 1939, for the so-called lands annexed to the Reich, titled. "The Case of the Treatment of the Population of the Former Polish Areas from a Racial-Political Point of View." It contained instructions for the germanization of Polish children, which was euphemistically described as "special treatment of racially valuable children" - The intention was to look for them among orphans and children seized by state centers from educational institutions maintained by the clergy. The plan was to carry out racial selection during resettlement and to take children away from their Polish parents ("neutrally disposed [to Germanness]") in exchange for waiving their resettlement. The age limit for effective Germanization was set at 10 years⁷⁵¹ .

The treatment of Polish children was standardized and formalized in Ordinance No. 67/I, issued on February 19, 1942 by Ulrich Greifelt, head of the Reich Commissioner's Main Staff Office for the Strengthening of Germanness⁷⁵² . Although these guidelines referred to the so-called "Wartheland," in the context of the German authorities' techniques for dealing with Polish children, they should be considered representative or even model, especially in the so-called areas incorporated into the Reich and with regard to the children of the Zamojszczyzna region. The need to find and germanize children who, due to the loss of their German parents, ended up in Polish families or orphanages was cited as the motive for issuing this act. Although no mention was made of children of Polish origin, the procedure was essentially intended to apply to them. Its various stages were as follows: employees of the youth offices registered children residing in former Polish institutions and handed over the lists to the district governor, who gave the lists to the RuSHA; RuSHA field units carried out racial and health examinations of the children and provided the governor with reports on these analyses; selected children were sent to a German orphanage run by the General Welfare Office for psychological examinations; the results of the analyses were received by the district governor, who, together with the Reich Commissioner's Plenipotentiary for the Reichsführer, issued a report on the results. The district governor, together with the Reich Commissioner's plenipotentiary for the strengthening of Germanness, issued the final decision on the Germanization of selected children. It was recommended that caution be exercised when taking children away from Polish parents - to convince them that the fate of their offspring would improve. There was no intention to discriminate against Germanized children, such as emphasizing their Polish origin. It was arbitrarily decided that children between the ages of 6 and 12 should be placed in German fatherland schools (Heimschulen), from which, after completing their education, they should be sent to foster families in rural areas of the so-called "old Reich. Younger children, between the ages of 2 and 6, were ordered to be handed over to families designated by Lebensborn employees.

Among the party structures (such as the RuSHA, VoMi, the National Socialist Welfare Association, the central resettlement offices) and state bodies at various levels (e.g., the Reichsführer SS and chief of the German police, the Reich Commissioner for the Strengthening of Germanness, the Reich Minister of the Interior, the German judiciary)

⁷⁵¹ Nationality Program..., pp. 152-153.

⁷⁵² E. Leszczyński, Sonderbehandlung..., pp. 182-185.

involved in planning and implementing the Germanization of Polish children, the Registered Life Source Association (Lebensborn e.V.) played a special role. Officially, it was an SS agenda to promote the demographic development of the German race, e.g., by mating racially valuable men and women (mainly sires from the police or SS), restricting abortions, germanizing kidnapped children and handing them over to German families, and allowing pregnant mothers from occupied countries to secretly give birth to children of German soldiers. The institution was established in Berlin on December 12, 1935 on the initiative of Heinrich Himmler, who became its president. The first Lebensborn home, called Hochland, opened on August 15, 1936 in the Bavarian town of Steinhöring. On the territory of pre-war Poland, five Lebensborn centers functioned in 1940-1945, where Polish children were germanized (in Bydgoszcz, Helenówek near Łódź, Otwock, Kraków and Smoszewo near Krotoszyn). German police commanders, RuSHA and VoMi employees were active in them. Members of the association were not only SS officers, but also people from outside the formation. They were required to finance its functioning. Their dues depended on their age, fertility, rank and marital status. From 1942, SS officers from Hauptsturmführer to Gruppenführer had to belong to the Lebensborn. In total, the Lebensborn contributed to the Germanization of up to 200,000 children and the birth of another 11,000.⁷⁵³

Polish children rejected in the selection process were sent to concentration camps, forced into slave labor, deported to the so-called GG, or transferred to special centers (in Cieszyń or Lubliniec). Criminal experiments were performed on them there, or they were put to death in euthanasia operations. The helpless were administered lethal doses of psychoactive substances, such as barbiturates (especially luminal and veronal). The mortality rate at the Lubliniec facility exceeded 90 percent of the children held there. In turn, those destined for Germanization were given German identities and all ties with Polishness were severed. In addition to the so-called lands incorporated into the Reich, where the Germanization program was intensively implemented, Polish children were also taken over in the Zamojszczyzna region. In 1944, in connection with the withdrawal of the German army from the east, the "Hay" ("Heuaktion") operation was intensified in the Borderlands, in which racially valuable children were sought and taken from their parents. As a result of these actions, ordered by the German military command, at least 40,000 children between the ages of 10 and 14 were seized. In addition, numerous children from the east were conscripted into SS auxiliary units and formations. In historical writing, it is generally assumed that 200,000 children were seized for Germanization purposes, of whom about 30,000 were found after World War II. Their separation from Polishness is sometimes referred to as the robbery of Polish children⁷⁵⁴.

⁷⁵³ See R. Hrabar, "Lebensborn," or the Source of Life, Warsaw 1975, pp. 62-66, 106-124, 164-170, passim; idem, Plunder of Children in the Activities of the "Lebensborn" [in:] Crimes and Perpetrators..., pp. 596-607; G. Heidenreich, Das endlose Jahr. Die langsame Entdeckung der eigenen Biographie - ein Lebensbornschicksal, Frankfurt am Main 2010; G. Lilienthal, Der "Lebensborn e.V." Ein Instrument nationalsozialistischer Rassenpolitik, Frankfurt am Main 2008.

⁷⁵⁴ See R. Hrabar, Hitler's Robbery of Polish Children. Abduction and Germanization of Polish Children in 1939-1945, Katowice 1960; idem, On Order and Without Order. One Hundred and One Selected Evidence of Hitler's Genocide against Children, Katowice 1968; idem, Against the World of Violence, Katowice 1982; R. Hrabar, Z. Tokarz, J. Wilczur, Time of Captivity, Time of Death. Martyrology of Polish children during the Nazi occupation, Warsaw 1979; R. Hrabar, N. Szuman, Germanization of Polish children in light of documents, "BGKBZNwP" V (1949), pp. 9-122; K. Sosnowski, Hitler's crimes..., pp. 374-429; J. Wnuk, H. Radomska-

Finally, it is important to note the repression applied to the Catholic Church in Poland. The clergy, including the hierarchs, were exterminated because they were considered to be propagators of the Polish nationalist idea. The Church also suffered considerable material damage, e.g. in the Diocese of Chelmino the Pelplin Cathedral was turned over to a police school, and other churches were used as cinemas, furniture and food warehouses or places of concentration for displaced Poles. Liturgical vessels, candlesticks, vestments, etc., often antique, were stolen. In connection with the implementation of the demands contained in the proclamation of August 12, 1941 concerning "the strengthening of the metal reserve for the decisive trial of Christian Europe against Soviet Russia," church bells were taken, both in the so-called incorporated territories and in the so-called GG. Looting was not limited to precious metals, clocks were pulled from temple towers, and lightning rods and gutters were ripped from buildings, most likely for war purposes. Apart from hatred based on nationality, it is difficult to find a rational explanation for the desecration of graves - Polish inscriptions were removed from them. Crosses and wayside chapels were liquidated, and the destruction of diocesan library books and archival collections indicates the primitivism of the occupiers. Approximately 10,000 volumes from the so-called Polish library were burned in the Pelplin sugar mill, and the private collections of the clergy also suffered significantly⁷⁵⁵. Analogous policies against the Catholic Church were carried out in the other so-called lands incorporated into the Reich. In the so-called GG, the seizure of church property was carried out on the basis of a decree of December 16, 1939, issued by the government of that administrative unit. An expression of contempt for the Polish faithful and pastors was the closure of Wawel Cathedral for public worship, which was further plundered. The precious 15th-century retable of the Dormition of the Blessed Virgin Mary altarpiece by Veit Stoss was taken from the Church of the Assumption in Cracow to the Reich. The requisitions were also carried out in monasteries - from June 1943 they affected about forty Krakow religious congregations⁷⁵⁶.

The occupying German authorities tried hard to limit the influence of the Catholic Church. In the so-called GG, for example, religious ceremonies outside temples were banned, in addition to national holidays (especially Marian holidays) were abolished⁷⁵⁷, the baptism of Jews was prohibited, and clergy were invigilated. All references to Polishness were ordered to be removed from prayer books and liturgical booklets, such as the invocation "Queen of the Polish Crown" from the Litany of Loretto. The singing of the hymn *Boże, coś*

Strzemecka, *Children...*, pp. 11-83, 137-140; S. Sawicka, German crimes against the Polish child, "PZ" II (1947), pp. 730-736; P. Lisiewicz, Crimes against children and youth committed in the psychiatric hospital in Lubliniec [in:] *Crimes and perpetrators...*, pp. 589-595; K. Uzarczyk, Ideological bases of racial hygiene and their implementation on the example of Silesia in the years 1924-1944, Toruń 2002, pp. 285-289; C. Gerlach, *Kalkulierte Morde. Die deutsche Wirtschaftsund Vernichtungspolitik in Weißrußland 1941 bis 1944*, Hamburg 1999, pp. 1077-1092; I. von Oelhafen, T. Tate, *Hitler's Forgotten Children*, transl. J. Sawicka, Warsaw 2016; D. Schmitz-Köster, *In the Name of Race. Children for the Führer - myths and reality*, transl. R. Wojnakowski, Warsaw 2000.

⁷⁵⁵ A. Liedtke, Losses of the Catholic Church in Pomerania (NTN - Trial against Albert Forster) [in:] *Expert Reports and Rulings before the Supreme National Tribunal*, part 7, ed. C. Pilichowski, Warsaw 1981, pp. 9-11.

⁷⁵⁶ J. Piwowarczyk, S. Mazanek, Persecution of the Catholic Church in Poland by the so-called government of the General Government (NTN - Trial against Josef Bühler) [in:] *Expert Reports...*, part 7, pp. 63-65.

⁷⁵⁷ Ordinance on public holidays in the General Government. Dated March 16, 1940 (Official Gazette of the RGGPO 1940, 21, 108).

Polskę (God, Thou Poland) was banned, and even a government decree to this effect was issued on January 8, 1941. Sunday and holiday rest was abolished - Poles were forced to work without days off. Round-ups for forced labor in Germany were arranged in front of temples after services. Polish clergymen were barred from administering the sacrament of marriage to Germans and Volksdeutsche, and after 1942 it was made considerably more difficult for Poles without recognition cards (Kennkarten) to perform church weddings⁷⁵⁸. The clergy was treated instrumentally, and attempts were made to force them to agitate for mass deportations of Poles to labor in the Reich, spread anti-Bolshevik propaganda, fill out more questionnaires to classify the population within the nationality list and condemn the actions of the resistance. Sometimes priests detained under collective responsibility were executed in retaliation for attacks on Germans, Polish sabotage and sabotage. The authorities of the so-called GG attempted to abolish the system of clerical education, and when this proved not entirely possible, they tried to supervise and restrict it (for example, the government of the so-called GG banned the admission of seminarians to seminaries in a letter dated July 7, 1941). Restrictions also applied to pastoral care in the German army and among Polish prisoners. German soldiers were isolated from Polish clergy - military men were forbidden to attend Catholic services and hear confessions. Prison and camp chaplains were not allowed to perform religious services, such as administering the sacrament of anointing of the sick⁷⁵⁹. Limiting the role of the Catholic Church required offering Poles a spiritual alternative. Accordingly, for the so-called Reich District of Danzig-West Prussia, its governor, Albert Forster, ordered simulations on the effects of allowing sects that competed with the Church - the New Apostolic and Catholic-Apostolic Churches. In this way, he tried to bring about a split among the faithful⁷⁶⁰. In addition, in the so-called incorporated territories, with the exception of the so-called Wartheland, the Polish language was being eradicated from the liturgical sphere. As early as 1939, the seminaries in occupied western Poland were closed and religious organizations were banned. A separation of nationalities was implemented in the churches of the so-called Wartheland, which did not apply in Gdansk Pomerania. In the Polish eastern territories, the Greek Catholic and Orthodox Churches, to which many local Ukrainians belonged, were favored⁷⁶¹. A review of the actions of the German authorities toward the Catholic Church and its faithful makes it possible to conclude that, as with depolonization, three approaches were used: in the so-called "incorporated lands," total Germanization was sought; in the so-called GG, the Catholic Church was weakened and

⁷⁵⁸ Decree on the introduction of recognition cards in the General Government, dated October 26, 1939 (Official Gazette of the RGGOPPO 1939, 1, 8). The recognition card was an identification document resembling a preliminary personal questionnaire from an investigation rather than an identity card. In addition to personal data, it contained the holder's fingerprints (§ 1(2) of the regulation). Its form and content were intended to facilitate possible investigations, as was evident if only from the order that the regulation be implemented by the senior SS and police commander (§2). In addition, the replacement of identity cards with cards resulted from the liquidation of the Polish state and the impossibility of certifying membership in it. Thus, the German authorities regarded Poles as a mass in need of denationalization (cf. Second Decree on the Introduction of Identification Cards in the General Government. Of 13 June 1941, Official Gazette RGG 1941, 55, 344). Recognition cards had previously been introduced for categories of German citizens living in the Reich as determined by the Reich Minister of the Interior (see Verordnung über Kennkarten. Vom 22. Juli 1938., RGBl. I 1938, 115, 913).

⁷⁵⁹ S. Mystkowski, Fight of the occupant against the Catholic Church in Poland with special reference to Warsaw (NTN - Trial against Ludwig Fischer) [in:] *Ekspertyzy...*, part 7, pp. 48-49; J. Piwowarczyk, S. Mazanek, *Persecution...*, pp. 58-66.

⁷⁶⁰ A. Liedtke, *Losses...*, p. 14.

⁷⁶¹ J. Sziling, *Hitler's politics...*, pp. 206-208, 213-214.

its hierarchs sought to be used to enslave Poles; and in the Borderlands, they were temporarily content to perpetuate and deepen the existing national-religious divisions⁷⁶².

In the so-called GG - the "Reich Ghetto," as Reinhard Heydrich called it - where there were numerous dense Polish concentrations and vast Polish areas, conditions were more favorable than in the so-called "incorporated territories," where Poles had to live in the neighborhood of an organizationally and numerically stronger German minority. It should not be forgotten that the Poles of the Reich, FCD, the western and northern lands of the Polish-Lithuanian Commonwealth and the Borderlands were subjected to much greater German administrative pressure due to their lack of a demographic advantage (possibly a small one). They were also threatened there by their German, Lithuanian, Belarusian and Ukrainian neighbors.

The German authorities had the longest influence on Poles (from 1918 to 1945, or as long as 27 years) in the Weimar Republic, which was transformed into the Third Reich in 1933. During this time they changed their tactics towards them - in the first years after the Great War they used repressions resulting from the depletion of German possessions in the east and FCD, later they carried out Germanization measures similar to those known from the partition period. After 1933, Poles were persecuted with the tacit approval of the German state, and in the final phase - with its active support and considerable centralization of the actions taken. After September 1, 1939, the narrative of "spontaneous protest of Germans against excessive Polish 'aggressiveness' and expression of solidarity with the German minority in Poland"⁷⁶³ gradually lost its potential, so - in the face of a favorable international situation related to the conquest of Poland - it was enough to intimidate possible opponents, and encourage supporters of the destruction of Poles to cooperate.

In the context of Germany's real influence on the Danzig authorities and the influence of the National Socialists there, it is impossible to reject the thesis that the goals of German and Danzig's anti-Polish policies coincide. Nevertheless, before September 1, 1939. Poles in the FCD were treated differently than in the Third Reich. This was due to international legal guarantees and the fact that Poland could formally oppose discriminatory measures taken in the FCD. The outbreak of World War II meant the immediate "end of a certain Free City"⁷⁶⁴ and the destruction of some of its citizens on the grounds of Polish nationality. The magnitude of the liquidation campaign assumed catastrophic proportions: first, because of the propaganda nature of the cleansing of the FCD of all manifestations of Polishness; second, because of the involvement of Albert Forster, the Gauleiter of Danzig and West Prussia, in the extermination and deportation of Poles; and third, because of the nationality relations in Danzig Pomerania (centuries-old Polish-German neighborhood) and the dominance of urban areas in the FCD, which facilitated the murder of Poles. The

⁷⁶² See S. Salmonowicz, *Spółeczeństwo polskie w latach 1939-1945. Uwagi o sytuacji badawczej* [in:] Kaszubi - Pomorze - Gdańsk. In the circle of questions about culture, history and identity. Jubilee book of Professor Józef Borzyszkowski on the occasion of the 70th anniversary of his birth, ed. C. Obracht-Prondzyński et al., Gdańsk 2016.

⁷⁶³ M. Cyganski, *Hitler's persecution of the Polish community...*, p. 219.

⁷⁶⁴ D. Schenk, *Danzig ...*

persecution of Danzig's Polish community, of varying intensity, thus continued from the establishment of the FCD in 1920 until 1945, a period of 25 years.

Definitely shorter, but using brutal methods, Poles living in the pre-war area of the Republic were fought. Here, too, there were chronological and tactical differences, although the goal of destroying the nation remained the same. While the so-called "incorporated territories" were tried to be Germanized as quickly as possible, a temporary solution was used in the GG - the largest open-air concentration camp was established for Poles. The intention was to abolish it when the German military and supply needs, met by masses of Polish slaves deprived of their own leadership, diminished. A different approach was taken in the eastern borderlands of the Republic (with the peculiarities of the so-called Galicia district, included in the so-called GG, and the so-called Bialystok district, intended for later Germanization), where the Polish minority was used to antagonize various national groups. Their usefulness in this regard by no means meant that attempts at liquidation were abandoned. They were postponed because other tasks were more urgent. Besides, the Soviet authorities had managed to eliminate many borderland Poles by murdering their leaders and conducting mass deportations deep into the USSR. German decision-makers may have expected that they would manage to complete the elimination program without too much haste. Expectations were verified by the frontline situation. Over the so-called annexed lands and the so-called GG, the German authorities exercised, at least in part, administration from 1939 to 1945, that is, for six years, and in the Borderlands for two years less.

Krystyna Daszkiewicz, on the basis of generally outdated data from the 1950s and 1960s, determined that nearly 5,000 executions took place in the German-occupied area of Poland (excluding Vilnius, Grodno, Volhynia, Eastern Lesser Poland and FCD)⁷⁶⁵. She included the murder of people of Polish nationality, who were often accompanied in the slaughterhouses by their Jewish fellow citizens. The census did not include information on crimes committed in the German concentration and extermination camp system, so the indicated estimates appear to be significantly underestimated, but still provide a starting point for further consideration and allow one to imagine the scale of extermination.

Following Stanislaw Salmonowicz, it should be pointed out that of the approximately 5.5 million Polish citizens who perished as a result of the actions of all the occupying powers in Poland during World War II, in principle about 2.3 million of them were killed by the Germans because of their nationality⁷⁶⁶. Thus, the results of the criminal anti-Jewish and anti-Polish policies of the German authorities towards the citizens of occupied Poland proved comparable in practice. Of course, extermination was not the only form of destruction of the nation, millions of Poles and Polish women suffered in many ways. In the context of losses, it should be added that regardless of declared nationality and religion, both Poles and Jews were full and equal citizens of the pre-war Republic.

⁷⁶⁵ K. Daszkiewicz, *German Genocide...*, part 2.

⁷⁶⁶ Biological losses among Polish citizens still remain undetermined. Estimates by the staff of the Office of War Damages at the Presidium of the National Council in 1947, which indicated a figure of 6 million Polish citizens exterminated solely as a result of the actions of the occupying German authorities, turn out to be unconfirmed by sources (Report on Poland's war losses and damages in 1939-1945 [in:] *Ekspertyzy...*, part 9, p. 28. See Poland 1939-1945. Personal losses and victims of repression under two occupations, ed. W. Materski et al., Warsaw 2009).

According to inaccurate accounts from 1947, the property damage to Poland and its citizens amounted to some 258.5 billion zlotys according to the value of the zloty on September 1, 1939⁷⁶⁷, or some \$643.4 billion according to their value in 2004.⁷⁶⁸

⁷⁶⁷ Report on Poland's war losses and damages..., p. 33.

⁷⁶⁸ Loss Report..., p. 6.

CHAPTER V

Germany's responsibility for crimes against Poland committed in 1939-1945

The actions and omissions comprising the acts of the German state involving the implementation of the crimes against Poland were unlawful on more than one occasion. In the perspective of Germany's international legal obligations to Poland, there were violations of numerous prohibitions and orders, contained not only in codified norms. A separate issue is the attribution of these crimes to the German state, acting mainly by its functionaries, but also by persons conducting activities on its behalf and in its name within the limits of the law. The relevant documentation and other evidence of Germany's responsibility were indicated in the previous chapter. This section of the monograph, on the other hand, describes in summary form the scope of this responsibility and lists examples of acts that are violations of international legal norms applicable to Germany in its relations with Poland.

Crimes of the anti-war law

It should be reiterated that the case-studies cited in this dissertation were not considered from the perspective of the responsibility of the individual, but of the state. This means that in order to demonstrate it, it is sufficient to establish the legally defined connections of the planners, preparers, instigators, executors, accomplices and participants in the violations with the German state. It is also important to prove that those subject to assessment under international law carried out actions or omitted them in accordance with the interests of the Reich, and not against the directives of superiors. The dependence and intentionality of their conduct is beyond doubt - the monograph points to the conscious and intentional activity of the Reich's superiors, the heads of party organizations (various types of offices) and state organs (ministries and police), military commanders, as well as regional administrative administrators, such as the governors of districts (the so-called "Reichsbahn"). Danzig-West Prussia and Wartheland), provincial super-presidents (the so-called East Prussian, Silesian and later Upper Silesian provinces), the Governor General (in the so-called GG) and Reich Commissars (in the so-called East and Ukraine Commissariats). In addition, the actions of many of those responsible for implementing the Third Reich's policy toward Poland and Poles who held positions at lower levels of government, such as in the various formations of the German police and security service and the administrative apparatus, are characterized.

The purpose of the trial was not to determine the possible consequences of violations of international legal norms, so it was limited to establishing the responsibility of the German state. This is because the application of the law is the responsibility of the competent courts, which determine the legal consequences of acts. Intellectual

considerations make it possible to theoretically identify probable sanctions for violations of international law, but not to enforce them.

The norms violated by Germany were reconstructed on the basis of the designated sources of international law. Their validity, as opposed to interpretation, did not arouse the objections of the adjudicators of the Nuremberg trials - the main and follow-up trials. They filed the relevant justifications in this case because of the doubts of the German defendants' defenders. Thanks to these deductions, taken as a basis for the application of law, the validity of many norms of international law, including those derived from non-treaty sources, was confirmed. In the dissertation, the description of the state of Germany's obligations to Poland, or the Free City of Danzig, was limited to the main sources of antiwar law, war law and the prohibition of genocide. There was an opportunity to cite further obligations, but because of their lesser importance, as indicated by the course of the Nuremberg trials, they were omitted or mentioned marginally.

The qualification of Germany's actions and omissions considered presumably contrary to the norms of international law should begin, according to the chronology of depolonization policy, with acts related to planning war against the Republic. The Polish state, which was reborn after 1918, became a reservoir of Polishness and the largest concentration of Poles, whom Germany intended to exterminate immediately or gradually (depending, among other things, on the Polish-forming potential). Therefore, Poland was a natural target for the armed assault planned by the German authorities. In order to destroy the Polish armed forces and state organs, it was necessary to occupy the Free City of Danzig. However, this administrative unit, located on the southern coast of the Baltic Sea, was established to serve Polish economic and political interests. Among other things, the Commonwealth pursued the foreign policy of the FCD. Accordingly, an attack on the FCD would have meant violating Poland's sphere of influence and necessitating the use of military force against an enemy state. German war plans stemmed from a well-established expansionist policy described as a push eastward (*Drang nach Osten*). Depending on Germany's military and political situation, the idea of colonizing the East was pursued through more or less radical methods and means, tailored to the circumstances. Appropriate diplomatic measures were taken, economic expansion was carried out or, under favorable conditions, military conquest. Its consequences for Poland may have been limited to administrative nuisance or resulted in the mass extermination of the nation. However, the idea of German domination in the east found resonance in all strata of the German national community, especially since the Reich was too late in the colonial division of the world to satisfy its pretensions. With strong popular support, Adolf Hitler seized power in Germany legally and was able to continue preparations for aggression against Poland and FCD initiated by those in power during the Weimar Republic.

Therefore, the German authorities, before they began planning their invasion of the Polish state and FCD, received the support of many voters, who gave it in a vote - a democratic act of legitimacy. Adolf Hitler's ideas were widely known before his political camp seized power in Germany, and consistently implemented after 1933.

However, the conviction that the Polish problem is solved is not tantamount to supporting its implementation, determining the order of countries attacked by the Reich¹ and choosing specific methods of action. Therefore, the Führer gradually communicated to his associates that he intended to invade Poland and annex FCD. He formulated his subsequent communications enigmatically and euphemistically, trying to give them a neutral tone until he put the matter quite openly. Then it became clear that not only were there plans in principle, but preparations for invading Poland and annexing FCD were also underway, so it would be imprudent to dismiss them.

In the context of German intentions and actions, it is difficult to assume that the German superiors did not know that an armed conflict with Poland was imminent, or did not want one. They acted with full premeditation, as evidenced by the fact that from 1937 to 1939 they took many initiatives directed at aggression, among which their written testimony deserves special attention. In the Nuremberg trials, they were generally granted evidentiary character - among the essential ones are the aforementioned directives of Field Marshal Werner von Blomberg of June 24, 1937 on preparing the Wehrmacht for war and the order of Gen. Col. Walther von Brauchitsch of December 8, 1938 containing directives on conduct in the event of war addressed to the 3rd Army high command, the order to attack Poland ("Fall Weiss") and invade FCD issued by Gen. Wilhelm Keitel on April 3, 1939, Adolf Hitler's approval of this order on April 11, 1939, the assumptions formulated by the Führer on May 10, 1939, relating to economic warfare, and the records of four conferences held by Adolf Hitler on November 5, 1937 (report by Col. Friedrich Hoßbach), May 23, 1939 (report by Lt. Col. Rudolf Schmundt), August 22, 1939 (from the so-called Obersalzberg speech) and November 23, 1939, during which he presented plans for the invasion or summarized preparations for it. The specific acts of the aforementioned individuals constituted the responsibility of the Third Reich, as they held state functions.

The planning of an armed clash with Poland and the annexation of FCD is evidenced by assurances from the highest German authorities that they had peaceful intentions. Adolf Hitler enthusiastically welcomed any pacifist proposals to continue the remilitarization of the Reich. German dignitaries were aware that the accepted commitments would remain only a unilateral tool for pressuring the other pacting parties, convenient from a propaganda point of view. Peaceful platitudes were part of a political game calculated to deceive the enemy for as long as possible. These ploys were effective insofar as those in power in Poland persisted in the belief that the Germans were making commitments in good faith and intended to fulfill them. The exceptional hypocrisy of German officials is vividly evidenced by the events of November 5, 1937. In the morning, Adolf Hitler solemnly assured the delegation of the Polish minority in Germany that he would accept the Declaration of the governments of Poland and Germany on the treatment of their recognized national minorities, which he confirmed during a personal audience with Jozef Lipski, the Polish ambassador to the Reich. Hermann Göring had made similar guarantees of Polish-German friendship the day before to Jan Szembek, Polish deputy foreign minister. Meanwhile, on the afternoon of November 5, 1937, the commander-in-

¹ Stanislaw Salmonowicz's statement that the conclusion of the German-Polish Declaration of Non-Violence of 26 I 1934 played a key role in the international strategy of the Third Reich seems correct. Perhaps if Poland had not signed this agreement, Germany would have attacked it before the occupation of Czechoslovakia.

chief was already plotting among his associates against Poland and other European countries.

In the context of the German side's unilateral denunciation of the League of Nations Pact (in 1933), the German-Polish Arbitration Treaty and the Rhenish Pact (in 1936), the proceedings described cannot be qualified as an attempt at peaceful settlement of disputes. Although the optionality of these acts was envisaged, it was based on the assumption that a general peace would be maintained. Interpreting the acts of the German authorities, planning and preparing to invade Poland and FCD, in light of their propaganda declarations of pacifism and ignoring the result of provoking and waging World War II, could lead to the conclusion, contrary to the essence of legal international obligations, that Germany sought to peacefully resolve disputes with Poland. However, not only did German officials provoke unjustified conflicts, such as those concerning the treatment of the German population in the Polish state or the belonging of Gdansk Pomerania, they rejected all constructive efforts to clarify them. Instrumentalization of the law does not bring legal benefits to a state that uses the law contrary to its purposes. Therefore, it should be considered that Germany - having failed to make every effort to peacefully resolve international disputes with Poland and to prevent, within limits, the possibility of using armed force in relations with Poland and FCD - is responsible for violating, in its relations with the Polish state and the Danzig administrative unit, its obligation under Article 1 in I of the Hague Convention of October 18, 1907. The above premises also constituted Germany's responsibility to Poland for violating the injunction of peaceful settlement of disputes and the prohibition of violence in mutual relations, arising from the bilateral Declaration of Non-Violence of January 26, 1934. In addition, the Third Reich violated in its relations with Poland and FCD contained in the Anti-War Pact of August 27, 1928. the prohibition on resorting to war to settle international disputes (Article I) and the injunction to renounce war as a tool of national policy in mutual relations (Article I), and failed to fulfill its obligation to settle peacefully any disputes that arose (Article II).

The Nuremberg IMT applied the international legal norms contained in the IMT Charter, attached to the so-called London Agreement of August 8, 1945, among them those concerning the personal responsibility of the principal war criminals of the European axis. From the described conduct of Germany's superiors - who were acting in a state capacity - there was first and foremost German responsibility for the three types of actions to which the prohibition of crimes against peace applies, namely the planning, preparation and initiation of both war in violation of international treaties, agreements or guarantees and aggression (Article VI(a)). Elected German commanders and state officers organized and directed the planning deeds, often inciting others to the crime. The finding of their personal responsibility results, to the extent indicated in the ruling, in the responsibility of the state and the criminal organizations in whose name and on whose behalf the defendants acted.

Although this responsibility applies to the German state functioning before 1945, there were many legal international and factual reasons to recognize the continuity of the German state, or to conclude that its successors are the newly created German states. Within the framework of the theory of the collapse of the Reich (Untergangstheorien), it was argued that the Reich had been conquered, resulting in the creation in 1949 of two

states with a combined territory smaller than the pre-war Reich - the Federal Republic of Germany and the German Democratic Republic. One or both of them could be considered successors to the Third Reich. In contrast, according to the basic premise of the continuity theory (Fortbestandstheorien), the Reich existed continuously. As a subject of international law temporarily incapable of exercising its international rights and obligations, it would continue to be the so-called "roof state" (Dachstaat), comprising West Germany and East Germany. A different approach was presented by the developers of the theory of identity (Identitätstheorien) of West Germany and East Germany with the Reich. They considered four variants as possible: the combined identity of the pre-war Reich with West Germany and East Germany (the theory of the core state - Staatskern), the division of the Reich's identity between equal parts - West Germany and East Germany (the theory of divided identity - Teilidentität), the identification of the Reich (with East Germany within it) with West Germany (the theory of congruence - Kongruenz), the identity of the Reich with West Germany taking into account the secession of East Germany (the theory of the core state - Kernstaat)². The determination of the succession or continuity of the German state, and taking into account doubts about the succession of state responsibility, would determine in what form modern Germany would assume responsibility for crimes committed in the name of or on behalf of the Third Reich. The Nuremberg verdict on Germany's major criminals established that the prohibition of war of aggression applied on the basis of reconstructed common law norms. In the context of its scope as indicated in the IMT and the fact that the German state adopted this prohibition before 1939, it should be emphasized that it violated it in its relations with Poland and FCD. This violation was found by the judges adjudicating at Nuremberg, and it is irrelevant that no definition of aggressor was adopted in the treaties concluded before the outbreak of World War II. Customary norms of international law were in force in international relations and could be violated, resulting in state responsibility. A norm related to antiwar law, and immediately preceding regulations relating to the conduct of armed conflict and the manner of carrying out occupation, was the imposition of an obligation to notify an enemy state of the taking of hostilities against it. The German authorities failed to do so, much less in the manner to which they were obligated, that is, by notifying the Polish authorities in advance and unambiguously in the form of either a motivated declaration of war or an ultimatum with a conditional declaration. Accordingly, Germany failed to fulfill its obligation under Article I of Article III of the Hague Convention of October 18, 1907. Germany was also obliged to inform Poland that it had taken enemy steps against FCD, for whose foreign policy the Republic was responsible. Failure to comply with the obligation did not affect the rights of Poland and the FCD during an armed conflict, but abolished possible German legal advantages.

Although among the treaty and customary norms of international law violated by Germany, only injunctions, prohibitions and obligations of a fundamental nature have been pointed out, it is impossible not to mention that these violations in many cases resulted in the failure to fulfill the Reich's other anti-war obligations. In essence, the German authorities undermined the motives and the essence of the guarantee of universal

² See M. Shaw, *International Law*, transl. J. Gojlo et al, Warsaw 2006, pp. 554-559; see M. Schweitzer, *Staatsrecht III. Staatsrecht, Völkerrecht, Europarecht*, Heidelberg 2004, no. in margin 637; M. Herdegen, *Völkerrecht*, München 2005, § 8, no. in margin 12.

peace derived primarily from the obligation to settle international disputes without resorting to violence. Germany's responsibility for violating the antiwar law was part of its responsibility for acts and omissions related to the invasion of Poland and the annexation of FCD and occupation of its territories.

Crimes of the laws of war

Subsumption of the acts committed by the German state against Poles during and before the outbreak of World War II requires that they be attributed to customary and treaty norms of international law applicable to Polish-German relations. These stemmed from the Hague Convention (IV) of October 18, 1907, the Rules and Regulations annexed thereto on the Laws and Customs of War on Land and the Charter of the IMT.

The Hague Convention (IV) and the Hague Regulations were applied during the German-Polish armed conflict, which existed in fact and in law, although Germany initiated it in violation of its international legal obligation under the Hague Convention (III). The prerequisites for the granting of veteran status, included in Articles 1 and 2 of the Regulations, were cumulatively not met by the Wehrmacht, Einsatzgruppen, Selbstschutz and certain other SS formations and volunteer units subordinate to the Third Reich, as well as the Polish Army (defending the territory of the Republic and FCD) and the Home Army (e.g., during the Warsaw Uprising) subordinate to the authorities of the Republic. Because of the subordination of these entities to either the German or Polish states, acts committed by members of these entities were chargeable, within the limits of acts and omissions on behalf of and for the benefit of the state, to Germany and Poland, respectively. Despite the fact that soldiers, officers and members of German units programmatically failed to comply with international law, although the Wehrmacht command, for example, declared demands in this regard, as a result of any subsequent finding of violations, their veteran status could not be revoked. Otherwise, violations of legal norms would result in benefits for the violators, which is against the law. Members of these units, upon their capture by the enemy, enjoyed the status of prisoners of war, and thus were subject to the guarantees of the Hague Regulations.

The civilian population of an enemy state within the meaning of the Hague Convention (IV) - from Germany's perspective - included Polish and Danzig citizens not belonging to the armed forces of the belligerent party, regardless of their national identification, domicile and residence. Of significance, however, was the occurrence of an additional condition - the existence of a state of war between Germany and Poland (FCD could not wage it on its own, since its military defense was the responsibility of the League of Nations). Thus, the legal international guarantees contained in the Hague Regulations covered, for example, Polish and Danzig citizens - both of Polish nationality - residing in the Republic, the FCD or the Reich.

In the context of the described acts of German combatants, it is necessary to state the responsibility of the German state for numerous violations of international law during and

in connection with the conquest of Poland and FCD. The most significant regulations that were violated against Polish prisoners of war and civilians were:

- The ban on killing and treacherously wounding people (Article 23(b) of the regulations) - was violated, for example, by retaliatory reprisals for the so-called Bloody Sunday in Bydgoszcz and the aerial shelling of evacuated Polish civilians;
- The prohibition on killing and inflicting wounds on the surrendering enemy (Article 23(c)) - this was violated, for example, against the soldiers of the Polish Army in Ciepielów and the defenders of the Polish Post Office in Gdansk;
- The prohibition on declaring that no one's life would be spared (Article 23(d)) - this was committed, for example, in the pacifications of Polish towns strenuously defended by Polish soldiers;
- The prohibition on destroying and seizing enemy property without the emergence of war necessities (Article 23(g)) - this was violated, for example, by looting German soldiers;
- The ban on attacking and bombing defenseless villages, dwelling houses and buildings (Article 25) - its violation, for example, was the scourge of arson attacks on Polish villages and dwelling houses;
- The obligation to warn the Polish authorities about the planned bombing, in addition to the assault - this was not fulfilled, for example, during the air raids on Warsaw (contrary to Article 26);
- the obligation to avoid destroying temples, scientific, cultural and charitable institutions, monuments, hospitals and lazarets (contrary to Article 27) - this was disregarded, for example, by deliberately attacking marked Warsaw hospitals and churches.

For the existence of an occupation during a state of war, the Hague Regulations provided guarantees for the population of the occupied territory. In order to take advantage of this possibility, it was therefore crucial to establish that an occupation had occurred. The Supreme National Tribunal, in its July 9, 1946 judgment in the Arthur Greiser case, held: "even if one were to assume ostensibly that it was nevertheless - even if only *via facti* an occupation, exercised in violation of all the requirements of the Hague Conventions adopted by Germany and all the relevant subsequent agreements - it was not the occupation during the war of an enemy area that had to be read as a monstrous caricature of foreign administration and an expression of the mockery of force over international law in general and over the rights of the local population in particular."³ . This categorical assessment does not seem to have taken into account the basic feature of a legal norm, which is the possibility of its violation. However, even a blatant violation of the norm's disposition cannot result in undermining the rationale for applying the norm included in its hypothesis. The 1946 qualification in question contained indications of extensive violations of the rights of the population in occupied territory. From September 1, 1939 to 1944-1945, Germany occupied FCD and western, central and partially northern Poland, and from June 22, 1941 to the turn of 1944 and 1945, it also occupied the Borderlands (Vilnius, Novogradok, Bialystok, Volhynia and Eastern Lesser Poland). The period of

³ Trial of Artur Greiser in Poznań (21 June - 7 July 1946) [in:] Seven Sentences..., p. 13.

occupation could not end in individual territories, for example, with the so-called incorporation of western Polish lands into the Reich and the establishment of the so-called GG, Bialystok District, Reich Commissariats East and Ukraine. The military administration's transfer of administration of occupied lands to civilian authority had no legal basis, as decisions on possible territorial changes had to be included in the peace treaty. The annexation of Polish territories and the introduction of a new administrative division on them also prevented the continuity of Polish authority. This type of action by Germany should be qualified as exceeding the acts of ordinary administration in occupied territory.

In connection with the occupation of Polish and Danzig lands, the German state became responsible for many acts against the local population, and among these, violations should be considered the most significant:

- order to respect, except in the case of absolute obstacles, the laws of the occupied country (Article 43 of the Rules of Procedure) - for example, discriminatory German legislation was introduced, administrative decisions were carried out and violence was used without legal basis;
- The prohibition on forcing the population of occupied territories to swear allegiance to an enemy state (Article 45) - for example, obliged Polish citizens conscripted into the Wehrmacht to perform compulsory military service;
- obligation to respect honor and family rights, individual lives, private property, religious beliefs and the performance of religious rites (Article 46) - e.g. were displaced, families were broken up, Polish elites, partisans were liquidated, judicial murders were committed⁴, personal items belonging to those to be exterminated were stolen, their corpses were looted, the health of Poles was deteriorated, they were exterminated through forced and slave labor, clergy were persecuted, normative acts eliminating religious freedom were introduced;
- prohibition of confiscation of private property (Article 46) - e.g., Poles were evicted from their properties and had them seized;
- the prohibition of robbery (Article 47) - this was committed, for example, during the Warsaw Uprising;
- the prohibition of collective responsibility (Article 50) - e.g., for acts allegedly or actually committed, the population was detained and those captured were murdered to intimidate the population of occupied areas;
- the prohibition on requiring requisitions in kind and services from municipalities and residents (they could only be demanded for the needs of the occupation army as authorized

⁴ If the German justice system were to try German criminals for acts on Poles that were unlawful from the perspective of international law, it would most likely result in its paralysis and, to a large extent, the state's malaise. Numerous party members, politicians, superiors of the German army and German police would have had to bear responsibility for their actions and omissions. The extermination of the Polish people would have required the trial of many members of the German armed forces and society, such as soldiers, officers of the SS, Gestapo, Kripo, security service and Selbstschutz. However, as has already been shown, the German justice system participated in the murder of Poles and took care to maintain racial and national standards among Germans.

by the commander in the occupied locality, Article 52) - Poles were forced, for example, to perform slave labor for German administrations, party agencies, state and private enterprises, and were ordered to provide numerically designated groups of laborers and food quotas (to Polish landlords);

- prohibiting the confiscation of public edifices, real estate, forests and agricultural holdings belonging to the enemy state, subject to the protection of the occupying state and administered by it in accordance with the rules of usage (Article 55) - for example, all Polish public property was confiscated;

- prohibition of confiscation of property of municipalities, ecclesiastical, charitable, educational, fine arts and scientific institutions (Article 56) - e.g., German normative acts and administrative decisions sanctioned confiscation of church property, seizure of archives and works of art;

- prohibiting the seizure, destruction or deliberate desecration of the aforementioned institutions, but also of monuments, works of art and science (Article 56) - for example, various objects and objects of national heritage were deliberately vandalized, insulted and stolen.

The states provided for in the Regulations on the Laws and Customs of War on Land annexed to the Hague Convention (IV) did not directly correspond to the realities of occupation during World War II. Although it was possible to qualify German acts internationally on their basis, representatives of the Allied states decided to codify customary laws and derived from the Hague Convention (IV) in the form of prohibitions - war crimes and crimes against humanity.

The international legal guarantees contained in the prohibition of war crimes covered civilians in or from the occupied territory and prisoners of war. In the context of the German occupation of Polish lands, the protected population, prisoners of war and those at sea should be considered to be those living in Polish territories occupied successively by Germany and having Polish citizenship or Poles to whom the Soviet authorities had managed to impose Soviet citizenship. In addition, these guarantees applied to the Danzig population. The determining factor for extending legal international protection to Danzig, Polish and Soviet citizens was the determination that there was in fact a German occupation of Poland, FCD and the USSR.

The German state was responsible for the planned, systematic and persistent commission of all basic acts in violation of the prohibition of war crimes (Article VI(b) of the IMT Charter). The Polish population in or from the occupied area, Polish prisoners of war and persons at sea were affected by the following German omissions and actions:

- murders, such as of Polish elite representatives, soldiers, partisans, Warsaw insurgents, residents of pacified Polish villages;

- mistreatment, such as humiliation, torture, starvation, sterilization, taking away offspring;

- deportations, e.g. to concentration camps, to forced labor in the Reich, displacement of the Polish and Gdansk populations to the so-called GG;

- Killing the unlawfully captured, such as preventive detainees for collective punishment;
- Plunder of public or private property, such as confiscation of Polish state property, appropriation of private Polish residential and farm property, factory buildings and their equipment;
- Mindless demolition of settlements, cities and villages, their desolation despite the lack of military necessity, such as the planned devastation of Warsaw.

In contrast, the guarantees under the prohibition of crimes against humanity extended to any civilian population. The temporal scope of protection was limited to the time before or during the war, or was made contingent on the commission of any crime falling within or related to the tribunal's jurisdiction. Therefore, one of the groups protected by this ban were Polish nationals with German citizenship.

The answer to the question of whether punishable acts in violation of the prohibition of crimes against humanity committed in the name of and on behalf of the German state against Polish citizens of the Reich were chargeable to the German state appears to be in the affirmative. The doubt as to whether there was a connection between them and the state of war or the crimes against peace or war judged by the IMT had to be resolved so that the German Polonia was covered by the protection of the prohibition of crimes against humanity.

Carl von Clausewitz, a Prussian war theorist, general and military reformer active in the late 18th and early 19th centuries, stated that "war is nothing but the continuation of politics by other means."⁵ . His universal diagnosis proved particularly apt when describing Germany's conduct toward Poland, FCD and the Poles. When German officers deemed the international circumstances, economic and military potential of the Reich sufficient, they launched a planned invasion of Poland and annexation of FCD. The armed strike allowed them to continue and radicalize the depolonization policy initiated and implemented even before the outbreak of World War II. The continuity of the implementation of successive anti-Polish demands, demonstrated in the monograph, makes it possible to conclude that violations of the prohibition of crimes against humanity against Poles with German citizenship both before and during the war burdened the German state.

Among the violations of international law norms contained in the prohibition of crimes against humanity (Article VI(c) of the IMT Charter) were Germany's acts against representatives of the German Polish community:

- murders, such as representatives of Polish organizations, Catholic clergy, Polish publishers in Germany;
- extermination, such as physically weakening Poles, often combined with their forced Germanization;

⁵ "[...] der Krieg ist nichts als eine Fortsetzung des politischen Verkehrs mit Einmischung anderer Mittel" (C. von Clausewitz, Vom Kriege, Berlin 1905, p. 640).

- Turning people into slaves, such as making them forced laborers incarcerated in concentration camps;
- Deportations, such as for placement in camps or displacement.

To summarize - the German state, depending on the nature of the repressed group, was liable for violations of the prohibitions on war crimes and crimes against humanity. While the guarantees of the war crimes prohibition applied to the Polish population in or from the occupied Polish territory or Danzig, or to Polish prisoners of war and Polish citizens at sea, the prohibition of crimes against humanity extended to Poles with German citizenship (such an unequivocal conclusion follows from this dissertation's analysis of the 1946 IMT verdict and the verdicts of American military tribunals in twelve follow-up trials from 1947-1949). The alternative classification of premeditated acts committed on behalf of and for the benefit of the German state would result in the application of Hague Convention IV. However, the Hague norms do not comprehensively capture the scale and types of violations committed by Germany. In view of the scope and progress of the depolonization policy assessed in the light of Germany's international legal obligations to Poland, it should be considered that the acts described constitute a program for the destruction of the Polish nation.

Crime of genocide

"It is indispensable that all our co-workers and collaborators see their main and most important task in the detection of all Polish leaders, people without conscience, so that they can be neutralized. Gentlemen, as camp managers, you know best how this task should be carried out. All professionals of Polish origin will be exploited in our war industry. Then all Poles will disappear from the world. In the course of this responsible work you must eradicate Polishness quickly and in the stages provided for. I give all camp commanders my mandate."⁶ . With this message Heinrich Himmler addressed the commanders of the concentration camps at their briefing on March 15, 1940. This short excerpt from the speech of the head of the German police and Reich Commissioner for the Strengthening of Germanness, and from 1943 also Reich Minister of the Interior, reveals that the programmatic elimination of all Poles was envisaged. The Reichsführer SS saw the execution of the plans as an opportunity to confirm the national and racial superiority of Germans in a peculiar way: "The hour of trial for every German is drawing nearer and nearer. It is therefore necessary for the great German nation to see its main task in the annihilation of all Poles."⁷ .

In order to get rid of possible doubts about the nature of this endeavor, one can perform a thought experiment and replace the wording indicating Polishness with those related to Jewishness - given that the Holocaust is indisputably considered a genocide. The quoted

⁶ Himmler's speech of 15.3.1940 [in:] K. Pospieszalski, *Poland under German Law 1939-1945 (Western Territories)*, Poznań 1946, p. 188. cf. F. Polomski, *Intentions...*, p. 195.

⁷ Note from the security post in the city of Mogilno containing excerpts from H. Himmler's March 15, 1940 speech on the treatment of Poles [dated August 24, 1943] [in:] *Occupation...*, vol. 1, p. 280.

paragraph would then acquire the following wording: "It is indispensable that all our collaborators and associates see their main and most important task in the detection of all Jewish leaders, people without conscience, so that they can be neutralized. Gentlemen, as camp managers, you know best how this task should be carried out. All Jewish professionals will be exploited in our war industry. Then all Jews will disappear from the world. In the course of this responsible work, you must eradicate Jewishness quickly and in the prescribed stages. I give all camp commanders my authorization."

In the case of the version adapted for the experience, it is likely that any viewer would firmly acknowledge that the statement proves an intention to completely exterminate the Jews. But would a similar conclusion regarding the intention to exterminate the Poles find recognition? This question is not only part of the popular scientific discourse of considering the extermination of Poles. In an important part, the answer to it must influence legal deliberations on the legal international qualification of the Germans' acts against the Poles.

The purpose of this dissertation is not to indicate the extent of the responsibility of individuals, but to determine the extent to which the German state, acting through its organs, planned and then consciously prepared and implemented a policy of destroying Poles on the basis of their nationality. It would seem that only a relatively narrow circle of the closest associates of the German decision-makers (i.e., the regional heads of administration and party authorities, commanders of various types of police) and basically all those who must, given the results of their actions, have had specific knowledge of the extermination of Poles, were informed of the extermination program being gradually implemented (including representatives of the Wehrmacht and paramilitary organizations involved in the executions). Awareness of the criminal nature of their decisions is indicated by at least three factors: the confidentiality of the findings, the generally oral form of their transmission, and the obliteration of traces of the murders committed, which effectively hindered the detection of the perpetrators. In the course of the extermination program of Poles, there was less and less concealment of actual intentions. Superiors directly, through official channels, passed information about the plan to exterminate Poles to people who did not need to know of its existence in order to carry out their tasks effectively. Exceptions from Heinrich Himmler's quoted speech circulated among representatives of the German authorities in the form of copies and more or less reliable accounts. The police authorities were able to use them, among other things, to intensify the extermination campaign. The conclusions of the Reichsführer SS's deductions were presented, for example, in a memo drawn up at the security service post in Mogilno, then located in the Inowrocław region of the Wartheland, in the so-called "incorporated lands" of Germany. On August 24, 1943, the document was addressed by the local SS Hauptsturmführer to his subordinate German confidants, who were compiling a census of all Poles and invigilating and breaking up the Polish community⁸. He expected that the personal details of every local Pole would be established without delay, and that the security organs would receive information about Polish neighbors presumed to be working against the Reich. Heinrich Himmler's directives were thus intended not so much to have a daring effect on informers as to arouse in them a sense of civic duty and dispel

⁸ Ibid. Cf. K. Pospieszalski, *Poland...*, pp. 188-189.

possible doubts about turning Poles over to the German security service. The news of the planned extermination of Poles reached the local Volksdeutsche through various channels: official (e.g., it appeared in the press⁹) and private (e.g., through confidants, officials, etc.). Therefore, there is a plausible assumption that, in principle, awareness of this issue largely existed among the German population living in occupied areas or settled by a large Polish minority. Even if the source of knowledge was a simplified list of manifestations of anti-Polish policy, it turned out to be sufficient to grasp the real goals of the authorities. *Ergo* German neighbors practically knew, and Polish neighbors intuited, what fate the German masters had set for them.

Taking into account the goals and methods of occupation chosen by Germany and its allies, as well as the material scope of regulations defining the status of the population of the occupied territories, Czesław Madajczyk distinguished six models of occupation introduced in European countries:

1. in Austria and the so-called Sudetenland, occupied without being occupied, the occupation policy did not significantly affect their populations;
2. in Poland and parts of the Soviet areas under German control, a "genocidal type" of occupation was applied - the intention was to completely exterminate the local population in order to use the seized territories for settlement purposes;
3. in Norway, Denmark, the Netherlands, Belgium, Estonia and Latvia, countries considered Germanic, sovereignty was to some extent maintained until it became possible to merge them with the Reich;
4. in France generally used traditional methods of occupation (with the exception of disputed Alsace and Lorraine);
5. Yugoslavia and Greece had joint German-Italian condominium boards (Serbia, however, had a military board);
6. in countries that were former or uncertain allies of Germany at least formally sought to preserve their independence¹⁰.

Of all these countries, according to the eminent historian, the most devastating and discriminatory methods against the local population were applied in Poland. Given the duration of the occupation, they were also implemented there to the greatest extent. Czesław Madajczyk's findings, however, need to be clarified because of what

⁹ A speech mobilizing the liquidation of Poles, especially representatives of their elite, was delivered on October 15, 1939 from the balcony of Toronto's city hall by SS-Oberführer Ludolf von Alvensleben, leader of the West Prussian Selbstschutz. Members of the Selbstschutz could then hear: "We will never forget the wrongs done to us on this German soil. Such deeds could only be committed by one who belongs to an inferior race. If you, my Selbstschutz men, are men, then no Pole in this German city will ever think of speaking Polish again. Softness and weakness have never yet built anything. You must be relentless and remove everything that is not German. However, you must also realize that not the mass of the Polish people, but the Polish intelligentsia instigated this war. This is where you should look for the spiritual instigators of this war." A description of Sunday's ceremony and Ludolf von Alvensleben's statement was published the next day by the local newspaper *Thorner Freiheit* (Grossappell der Thorner Selbstschutzmänner. SS-Oberführer von Alvensleben sprach zu den Volksdeutschen des Kreises Thorn, "Thorner Freiheit," Oct. 16, 1939, p. 3; quoted in T. Jaszowski, C. Sobiecki, *Silent Witness. Nazi crimes in Torun's Fort VII and the Barbarka forest*, Bydgoszcz 1971, p. 33).

¹⁰ C. Madajczyk, *Occupation Systems of the Axis States in Europe* [in:] *Crimes and Perpetrators...*, p. 223.

depolonization policy the German authorities pursued outside occupied Poland (i.e., for example, towards the Polish community in the Reich and Poles with Danzig citizenship). Indeed, the occupation model referred not so much to Poland, i.e., the state, as to Poles regardless of their domicile, since the intention was to completely exterminate them regardless of their place of residence. The liquidation of Polish statehood by launching a total war was only a prelude to the realization of the overriding postulate of depolonization.

Obstacles in the form of a functioning state or the existence of dense population groups of a particular type (national, ethnic, racial, religious) over vast areas did not apply to Jews and Roma, for example, before the outbreak of World War II. Therefore, the possibility of their relatively rapid and complete extermination proved immeasurably greater than in the case of the Poles. The intention to exterminate individuals on the basis of their membership in a particular protected group cannot be limited by the degree to which the genocidal program was carried out. Then it could turn out that only those that covered a significant percentage of a given collective could be described as genocidal crimes.

Doubts about the qualification of the German depolonization plan and policy as genocide at least with regard to Poles from the so-called lands incorporated into the Reich seemed to have no doubts about the author of this concept, namely Raphael Lemkin. In his monograph *Axis Governments in Occupied Europe* - a landmark for the creation of the concept of the crime of genocide - he stated unequivocally: "In the [Polish] territories annexed [to Germany] a particularly harsh regime was introduced, leading to genocide against the Polish population."¹¹ . The finding that the non-treaty prohibition of the crime of genocide applied to Germany in its relations with Poland during World War II is based on the applicable sources of international law. As indicated, it could not go beyond the norms applicable to the Reich contained in the Hague Convention (IV) and the IMT Charter, nor could it contradict the rules of legal inference. Therefore, in the facts described above, it concerned the basic acts specified in these acts, committed in a state of war (including during occupation) by the state or individuals (with the punishability of their acts and omissions arising from their awareness that they were committing crimes). The identity of the reconstructed prohibition of the crime of genocide with the prohibitions of war crimes and crimes against humanity, as well as the customs and norms established by the Hague Convention (IV) on occupation and the state of war, the sanctioned acts and the prohibited phenomenal and stadial forms of the crimes avoids demonstrating their existence again. However, the key element, resulting from the application of the argument *a minori ad maius*, concerns the commission of crimes with the intent to destroy a national group in whole or in part.

The occurrence of genocidal intent in both members of the German state authorities and regional administrators (governors, super-presidents, the Governor General, Reich Commissars, etc.), party officials, military and police commanders and their subordinates (especially in the Wehrmacht, Einsatzgruppen, Selbstschutz, SS and among concentration camp crews) was largely proven in the trial. For example, the destruction of evidence of the extermination of the Polish elite as part of Operation "1005," the fact that the

¹¹ R. Lemkin, *Governance...*, p. 243.

documentation of the Pomeranian Selbstschutz was probably burned in a sham car accident, and the usual oral form of issuing criminal orders prove that the perpetrators understood the nature of their acts. The genocidal plans, the preparations for them and the implementation of the depolonization program by the Reich authorities testify not only to their high level of consciousness, but also to their determination to completely destroy Poles by virtue of their nationality. Their responsibility as persons acting on behalf of and for Germany translates into the responsibility of the German state for their genocidal acts.

The subject protected by the non-treaty prohibition of the crime of genocide was, regardless of citizenship, the Polish national population living in the occupied territories of the Republic and FCD, but also the Reich. Attributed to the German state, the crimes committed against the Poles overwhelmingly happened during World War II or at least were related to its instigation. The Polish nation was intended to be completely annihilated, although - mainly due to internal, economic and wartime circumstances - this plan was not fully implemented. It should be assessed that the chances of survival of Poles in the areas ruled by the German occupation and state authorities in 1939-1945 would have been small, and would have gradually diminished over time.

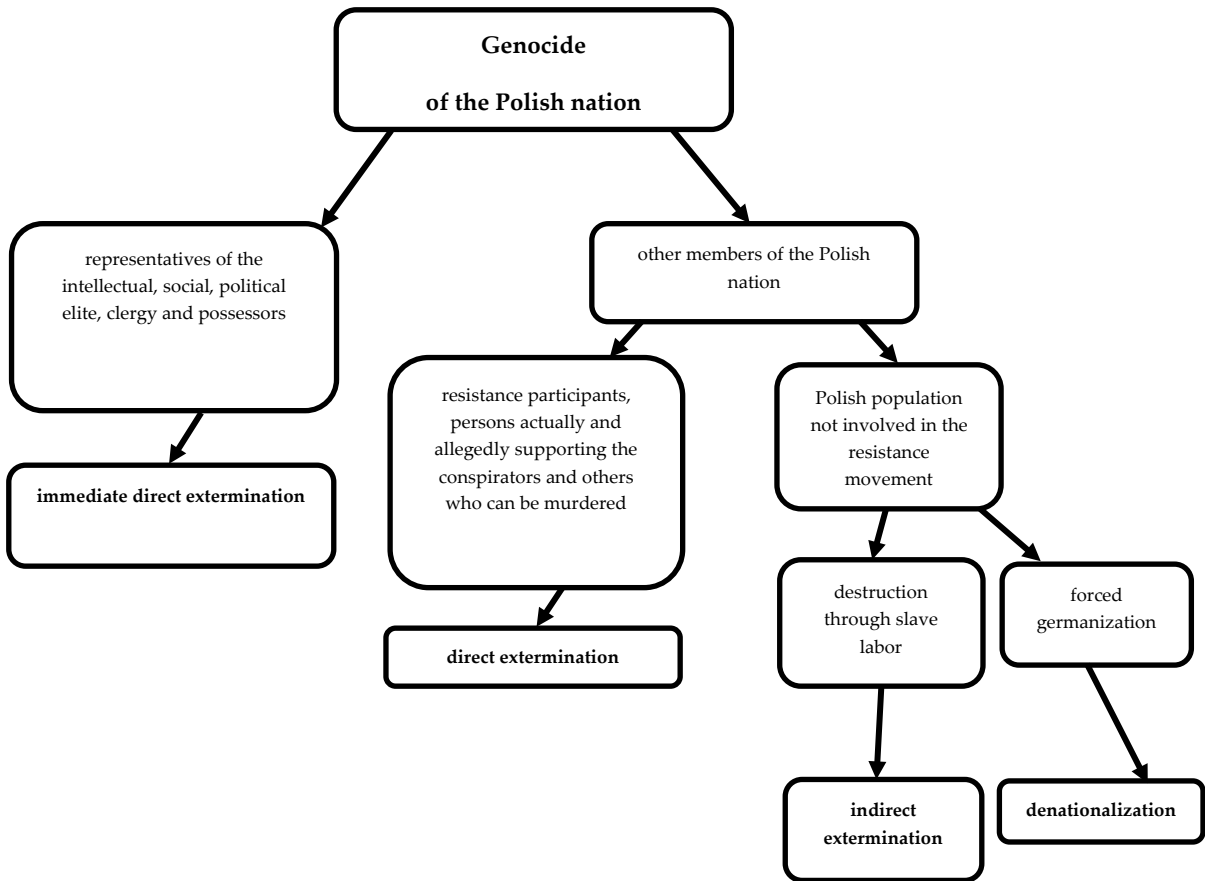


Diagram 3. Simplified scheme of the German authorities' treatment of persons of Polish nationality during World War II.

Within the framework of the qualification of acts committed in the name and on behalf of the German state, its responsibility must be established for planning and carrying out the following acts and omissions prohibited by the non-treaty prohibition of the crime of genocide, applicable to the Reich in its relations with Poland during World War II:

- assassinations of group members, such as representatives of the Polish leadership strata as part of the "Inteligencja", "AB" and other special actions;
- causing serious bodily or mental health damage to members of the group, for example, as a result of beatings, torture and humiliation by using Polish slave labor in the Reich or during the actions of military, police and party units;
- the deliberate creation of living conditions for members of a group calculated to cause their total or partial physical destruction, such as subjecting them to survival conditions in concentration camps, restricting access to health care and food;
- using measures to stop births within a group, such as through sterilization, malnutrition, restricting the right to marry, separating family members;
- Forced transfer of children of members of a group to another group, for example, as a result of the implementation of the Germanization program, which included the so-called robbery of Polish children (from Zamojszczyzna, Polish orphans, children of exterminated persons).

Not only must the representatives of the German authorities have been fully aware of the nature of the deeds committed, if only because they created the genocide plan and corrected its implementation, but also they could not deny their criminal nature. By virtue of their positions, they must have been aware of the numerous warnings and communiqués from the Polish government-in-exile and the fact that the leaders of the United Kingdom, the United States and the USSR considered the German crimes against the Poles punishable (among other things, the Moscow Declaration of October 30, 1943, mentioned that the perpetrators of the "extermination to which the Polish nation was subjected" would be judged). The genocide of the Polish people was committed by the German state with the help of its representatives consciously, deliberately, planfully and systematically, using brutal means and methods of direct extermination (e.g., beaten to death, shot, set on fire, gassed) and indirect extermination (e.g., extermination through labor, deliberate lowering of the birth rate and deterioration of the health of Poles). Responsibility for the crimes of genocide against the Polish people burdens the German state to this day.

Conclusion

Six years of German occupation of Polish lands showed that the intention to destroy the Polish nation was not only externalized, but also largely realized. Contrary to the anti-Polish activities and expectations of the German state, acting through its representatives, many Poles escaped the fate assigned to them.

For the sake of order, the conclusion of the study presents the results of the verification of the hypotheses, addresses the research problems formulated in the form of questions and summarizes the achievement of the objectives set in the introduction. As for the first issue, the veracity of both hypotheses was established. During World War II, Germany in its relations with Poland was bound by the prohibition of war of aggression. By violating it, the German state violated an international legal norm, which constituted its responsibility. The war against Poland was viewed by its authorities as a means of destroying the Polish nation. Moreover, the state of mutual obligations between the Reich and Poland makes it possible to qualify German crimes not only on the basis of contractual law, but non-treaty law. Germany, through its organs, committed violations of anti-war norms against Poland, violated numerous laws and customs of war, and violated the uncodified prohibition of the crime of genocide, demonstrating its intention to exterminate the Polish nation; to some extent, it carried out this intention.

In terms of research problems, the assessment of German crimes against Poland during World War II is significantly influenced by current historiographical findings, developments in international law and its theory. On the one hand, over the past quarter century, it has been demonstrated that the German leadership sought to destroy the Polish nation, and it has become possible to give a relatively full and nuanced description of how its extermination proceeded. On the other hand, the post-war codification of international law norms and their application have provided guidance on how to qualify German crimes against Poland, making it possible to assess not only the acts of individuals, but also the actions and omissions of the German state. The organs of the Reich, in its name and on its behalf, inspired, planned, organized and carried out the liquidation of Poles, which can be addressed from the perspective of the mutual obligations of Poland and Germany during World War II.

In the context of achieving the goals of the dissertation, it should be noted that individual chapters were essentially devoted to them. The determination of the state of Polish-German obligations contained in Chapter Three was preceded by the necessary introductory remarks on the theory of international law, and especially its sources, in Chapters One and Two. The explanations were of a historical-legal nature, so they were limited to the chronology and matter appropriate to the subject of the study. The next objective, that is, to present the plan, preparation, mechanism of execution, consequences and typology of German crimes committed against Poland and the Polish people during World War II, was realized in Chapter Four. The responsibility of the German state for the violations of international law attributed to it is demonstrated in the fifth and final chapter. Partial summaries are generally included after each subchapter. With the

determination of Germany's responsibility for crimes against Poland, as well as its comprehensive justification, the legal gap in the Polish literature on the subject has been filled.

The perpetrators of the German crimes described in the monograph have, for the most part, escaped any punishment, and the German state has no intention of fulfilling the reparation obligation arising from its responsibility for the extermination of some 2.3 million people of Polish nationality and the infliction of damage to Polish private and public property estimated at \$643.4 billion.

The bulk of the inept, often biased and contrary to due process criminal proceedings against those suspected of crimes against Poles were conducted by the West German justice system after the war¹². Their initiation could be seen as a symbolic admission by Germany of its brutal extermination policy against Poles. A small group of major German criminals were tried in Poland by the Supreme National Tribunal and the country's ordinary courts. A part of Polish public opinion welcomed information about the fate that befell them in the USSR and East Germany. In those countries, as a result of the not necessarily objective application of judicial procedures, some of them were convicted, although crimes against Poland were rarely exposed in their cases. The demands for the law to fulfill its retributive function were therefore met with little success. More than forty years after the end of World War II, Polish victims of the German occupiers received some financial compensation¹³.

The German state, as well as the judiciary and businessmen there, were dismissing Polish claims in solidarity, considering the neighbor from across the Oder as a second-class state¹⁴. They were facilitated by the fact that the People's Republic of Poland was a non-sovereign communist state. In some circles of academics, especially in the West, attempts were made to portray Poland as a fascist state whose authorities had a significant role in the extermination of the Jews, which is not confirmed by historical sources.

Although, thanks to the updating of historical findings since the end of World War II, there have been relevant indications, the relevant judicial authorities have not initiated a comprehensive investigation of Germany's crimes against Poland. Arguably, Germany need not fear international legal responsibility. Another goal of the dissertation was to confront the current historical diagnosis with acts of international law, legal materials and the opinions of theoreticians, and thus to qualify the German crimes committed against Poland by means of the norms of international law in force at the time of their commission. It should be stated that it is legitimate to attribute responsibility to the German state for violating numerous laws and customs of war codified in the Hague Convention (IV), for crimes against peace, war and against humanity as defined in the IMT Charter and for violating the prohibition of the crime of genocide. However, during World War II, crimes against Poland were committed not only by Germans. Extermination

¹² See J. Gorzkowska, E. Żakowska, *Criminals...*

¹³ The handling of financial payments to inmates of German concentration camps and forced laborers has been handled since 1991. The Polish-German Reconciliation Foundation. In principle, its activities can also serve to legitimize German claims for the return of property left in the Republic, and on the other hand give the impression that Germany has made full reparations.

¹⁴ E. Leszczyński, *Sonderbehandlung...*, pp. 285-292.

activities against the Polish people were also carried out temporarily and to some extent by the leaders of the Ukrainian national movement and Soviet dignitaries, who collaborated with the Reich.

Given the uncertainty about the qualification of Soviet crimes against Poland, representatives of domestic doctrine continue to have lively discussions about the assessment of the Katyn crime, although not only¹⁵. However, there is nothing to prevent the inclusion of German themes in the debate, especially since there is an assumption that comparativism in this regard can bring positive results for legal inference.

The basis for the comparison is not only the theoretical and legal similarities (qualification of the crimes, classification of their victims, motives and intentions of the perpetrators, proving the plan, mechanism and repetition of extermination activities, etc.), but also possible (not yet established) German-Soviet cooperation in the extermination of Poles¹⁶.

Her assertion could make it plausible that there was a German-Soviet intent to destroy the Polish nation, not just liquidate its state. Although four meetings between representatives of the NKVD and Gestapo (in October 1939 in Lviv, in January and March

¹⁵ Perhaps the most careful analysis of the issue was carried out by Fr. Zdzisław Peszkowski and Grzegorz Jędrejek, who classified the Katyn crime as a war crime in their publication. They described violations of international law committed by the USSR, characterized the attitude of the Soviet authorities to international law, proposed how to resolve the Katyn crime internationally, and included a polemic with opponents of this method. Their study is an important point of reference for the considerations presented in this study. In addition, elements of the legal classification of the Katyn crime were presented by, among others, Józef Gurgul, Sławomir Kalbarczyk, Marian Flemming, Witold Kulesza, Adam Basak and Wojciech Materski (see a summary of current proposals for the legal international assessment of the Katyn crime - but also of German crimes: M. Mazurkiewicz, *Genocide? Legal International Qualification of Selected German and Soviet Crimes against the Polish Nation (1939-1945) in the Light of the Findings of the Polish Doctrine* [in:] *Experience of Two Totalitarianisms. Interpretations*, ed. P. Kaczorowski et al, Warsaw 2018, pp. 295-334. cf. Z. Peszkowski, G. Jędrejek, *Katyn Massacre in the Light of the Law*, Warsaw - London - Orchard Lake - Pelplin 2004. cf. J. Gurgul, *Selected Legal Aspects of the Murders Committed by the NKVD in 1940. on Polish prisoners of war*, "WPP" 1-2 (1992), pp. 65-73; S. Kalbarczyk, *Polish soldiers - science workers in Soviet captivity in the period September 1939 - August 1941* [in:] *Polish science workers. Victims of Soviet crimes during World War II. Murdered - imprisoned - deported*, Warsaw 2001, p. 58; W. Kulesza, *Katyn Massacre as an act of genocide* [in:] *Katyn Massacre. In the Circle of Truth and Lies*, ed. S. Kalbarczyk, Warsaw 2010, p. 52; idem, *The Possibility...*, p. 64 et seq.; M. Flemming, *Treatment of Polish Prisoners of War by Germany and the USSR during World War II and International Law*, "WPP" 3-4 (1997), pp. 15-29; A. Basak, *Katyn. The Problem of Criminal Responsibility of the Perpetrators in Light of Nuremberg*, "SnFiZH" XXI (1998), p. 358; W. Materski, *The Katyn Massacre. The Structure of Guilt* [in:] *Katyn Massacre. Guilt...*, pp. 21-32. See also legal and source documents: *Information on the discontinuation on September 21, 2004 of the investigation into the Katyn crime, conducted by the Main Military Prosecutor's Office of the Russian Federation* [in:] *Katyn Massacre. Polish Investigation*, Warsaw 2005, pp. 182-185; *Katyn. Documents of Genocide. Documents and archival materials handed over to Poland on October 14, 1992*, transl. W. Materski, Warsaw 1992).

¹⁶ Hermann Rauschning, a German politician temporarily affiliated with the NSDAP, a few years before the outbreak of World War II, formulating the theory of a "fluid policy of opportunity and readiness for everything," did not rule out an agreement with the Kremlin, although it seemed exotic to many analysts at the time. However, it was not the phraseology, but the Weimar Republic's long-standing military cooperation with the USSR that testified to the commonality of interests. It officially began in late 1920 and early 1921, when Gen. Hans von Seeckt established Special Group R (Sondergruppe R) within the Army Board (Truppenamt) to deal with the Red Army. The first armaments agreement was for the construction of an aircraft factory by the Junkers company in the suburban city of Moscow Branch and was signed on November 26, 1922. No secret military clauses were attached to the pact concluded on April 16, 1922 in Rapallo, contrary to popular opinion among Polish historians (A. Citkowska-Kimla, *Rzeczywiste i domniemane paralele...*, p. 77; K. Fudalej, *Cooperation between the Reichswehr and the Red Army before 1933 - facts vs. myths in Polish historiography*, "DN" 1 (2017), pp. 58-63; B. Urbankowski, *Józef Piłsudski. Dreamer and Strategist*, Poznań 2014, pp. 557-560. cf. H. Rauschning, *The Revolution of Nihilism*, transl. S. Łukomski [J. Maliniak], Warsaw 1996, p. 97; S. Żerko, *Poland vis-à-vis the German-Soviet rapprochement at the end of the 1930s*, "PZ" 2 (1998), pp. 115-135; J. Krasuski, *Influence of the Treaty of Rapallo on Polish-German relations*, "PZ" 3 (1961), pp. 53-65).

1940 in Cracow and in March of that year in Zakopane, at the villas Pan Tadeusz and Telimena) immediately preceded the Katyn massacre, it is likely that extermination activities were not coordinated during them. As Grzegorz Bębnik rightly pointed out, the cooperation should have been evident, for example, in the subsequent versions of the German "Special Book of Obligation for Poland," in which the names of Polish military officers murdered in the USSR continued to appear after the Katyn massacre in 1940¹⁷. Stanisław Salmonowicz, on the other hand, pointed out that possible limited cooperation could have consisted, for example, of the Germans passing on information about the activities of the Union of Armed Struggle (ZWZ) in the so-called GG, and the USSR in the Borderlands. The occupiers did not necessarily exchange data on the results of exterminations, deportations and displacements. Allegations pointing to German-Soviet cooperation are ambiguous¹⁸, as the cause-and-effect relationship suggested above has not been proven by sources. On the one hand, historians have stated that the meetings only discussed the exchange of populations between the new spheres of influence, while on the other hand they perceived a more or less intentional harmonization of the criminal actions of both sides¹⁹.

For the record, it should be pointed out that before the outbreak of World War II, the authorities of the USSR embarked on planned crimes against Poles with Soviet citizenship. In 1937-1938, at least 110,000 Poles were preemptively exterminated on the basis of Order No. 00485, issued on August 11, 1937, by Nikolay Ivanovič Ežov, People's Commissar of the Interior of the USSR. Their extermination was justified using such absurd pretexts as espionage activities and cooperation with the POW. At the same time, mass deportations deep into the USSR were carried out (more than 100,000 Poles), and more than 28,000 people of Polish nationality were imprisoned in gulags as political prisoners, which in practice meant turning them into slaves²⁰. Successively, the NKVD's Polish operation, the "Intelligence" action, the Katyn massacre, the "AB" action and the expulsions under the "Zamosc" action were, in addition to the program for the destruction of the Polish nation through slave labor, mass deportations, Germanization and Russification, the most blatant manifestations of organized and planned depolonization,

¹⁷ Grzegorz Bębnik, a Polish historian employed by the IPN's Branch Historical Research Office in Katowice, made this remark during a scientific session organized in Radziejowice, near Warsaw, on October 16-17, 2018, under the aegis of the capital's W. Pilecki Institute of Solidarity and Valor.

¹⁸ The correlation has been pointed out by numerous Polish and foreign researchers, ruling out coincidence in this case, including Neal Ascherson, Zdzisław Jordanek, Jacek Ślusarczyk, Władysław Bartoszewski, Jerzy Łojek, Jędrzej Tucholski (see K. Karski, *Mord katyński jako zbrodnia genobójstwa w świetle...*, pp. 67-68, 73-74. Cf. N. Ascherson, *The Struggles for Poland*, London 1987, p. 124; Z. Jordanek, *Assumptions of Nazi and Stalinist policy toward officers of the Polish Army [in:] NKVD Crimes on the Area of the Eastern Provinces of the Polish Republic*, ed. B. Polak, Koszalin 1995, p. 121; J. Ślusarczyk, *Soviet Aggression against Poland in 1939*, "WPH" 2 (1993), p. 16; W. Bartoszewski, *The Molotov-Ribbentrop Pact in the Experience of the Polish Underground State [in:] For the Elimination of the Effects of Hitler-Stalin Collusion. Materials from a Conference Organized by the Legislative Committee and the Foreign Affairs and European Integration Committee of the Senate of the Republic of Poland*, Warsaw 1999, pp. 58-59; J. Łojek, *Agresja 17 września 1939*, Warsaw 1990, p. 150; J. Tucholski, *Katyn - Numbers and Motives [in:] NKVD Crimes...*, p. 133).

¹⁹ N.S. Lebedeva, W. Materski, *A puzzling document. A contribution to the hypothesis of the connection of the AB action with the Katyn crime [in:] On the Eve of the Katyn Crime. Soviet Aggression of September 17, 1939*, ed. M. Tarczyński, Warsaw 1999, pp. 69-83.

²⁰ T. Sommer, *Operation anti-Polish NKVD 1937-1938. Genesis and course of genocide committed against Poles in the Soviet Union*, Warsaw 2014. Cf. W. Kulesza, *Possibility...*, p. 68; B. Chrzanowski, P. Niwiński, *German and Soviet occupation - an attempt at comparative analysis (selected issues)*, "PiS" 1 (2008), pp. 19-20.

which was carried out by the German and Soviet occupiers under the cover of military operations.

In order to show a comprehensive picture of the situation of Poland and Poles during World War II, it is additionally necessary - in light of the international legal obligations of the time - to classify the crimes of the USSR and Ukrainian authorities against Poland. The body of historical and legal research presented in the form of a study should supplement the findings presented in this monograph. These results should also be disseminated abroad, using the opportunities arising from the perspective of *genocide studies*. It is difficult for unnamed crimes to exist in people's consciousness and find a proper place in history. Therefore, in concluding this study, which will perhaps change the perception of the tragic years of occupation, I would like to propose a historiographical term for the German crime of genocide against the Polish people as "Eradication of Poles"²¹, and count those who did not survive the extermination as "Eradicated"²².

²¹ The wording of the phrase in German - Ausrottung der Polen, French - Éradication des Polonais and Russian - Istreblénie Polâkov (Истребление Поляков).

²² The translation of the victims' names is as follows: in German - die Ausgerotteten, French - les Éradicés and Russian - Istrebitel'nye (Истребительные).

Summary

The topic of the dissertation highlights the aspects of the international law qualification of the actions and omissions of Germany towards Poland and Poles, references to the historical subject of analysis and to the basic research method applied in the dissertation. The assessment of criminal acts committed by the authorities of the German state against Poland and the Polish national group during World War II has been formulated on the basis of international law obligations of Germany towards Poland - resulting from treaty law and norms of a non-contractual nature. Apart from the historical perspective, the dynamic approach proved to be important as well: on the one hand, the legal situation had been evolving up until the outbreak of World War II, and on the other hand, during the six years of the warfare, numerous crimes were committed against Poles for the benefit and in the interest of the German state.

According to the basic assumption of the study, during World War II Germany was obliged to observe the norms of international law in its relations with Poland, although it often took a different view on this issue, and that is why Germany bears responsibility under international law for the acts of its authorities.

The validity of the claim that during the years of World War II Germany was obliged to abide by non-treaty prohibitions - not to initiate war of aggression and not to commit the crime of genocide - has been verified in this dissertation. With the reconstruction of the non-codified norms incorporating these prohibitions, it became possible to update the theoretical qualification of the acts of the German state and to support it with a relevant reasoning.

Research problems have been identified in the form of two questions. The first concerns the impact of the current developments in historical research, the evolution of international law, its theories and the application of international law norms to the scope of Germany's responsibility and its justification. The second issue relates to the area and scale of this potential impact.

The monograph was designed to accomplish three objectives: 1) to determine German international obligations towards Poland in 1939-1945; 2) to describe the crimes committed by Germany against the Polish nation on the basis of historiographers' findings; 3) to attribute these acts to international law norms and to classify these crimes with their justification, thereby filling a gap in legal inquiries and in the international current of genocide studies.

In view of these objectives, three specific matters have been examined in the study: international law as it was applied to relations between Poland and Germany during World War II, crimes committed by Germany against Poland and the Polish nation, as well as the relationship between the legal and factual state of affairs. In order to establish German obligations, a number of sources of international and national law in cognitive and formative terms, draft international agreements, documentation for drawing up the agreements and their drafts, diplomatic documents, a variety of categories of legal

pleadings (policy makers' statements, records of travaux préparatoires and procès-verbal) and court decisions were taken into account. The views of representatives of the doctrine of international and domestic law were of formative significance to substantiate the qualifications of German crimes. On the other hand, the description of the plan, implementation mechanism, typology, and the aftermath of German crimes was based on historical sources (documents, accounts, press mentions) and literature on the subject containing verified findings. The last matter investigated, i.e. the relationship between international and domestic sources of law and the output of historiography, involved drawing on comparative studies of legal theory.

The structure of the monograph stems from the formulated objectives. The dissertation is divided into five chapters that incorporate the principles of the classical model of law application tailored to the needs of international law evaluation formulated by the historian of law. Therefore, each chapter bears a historical and legal value.

The underlying assumptions are presented in the first chapter - "Prolegomena: prevailing views in German public international law doctrine and political doctrine (from the 19th century to 1945) in the assessments of selected German and Polish legal theorists". The second chapter - "Sources of international law and Germany's obligations to Poland in 1939" - depicts the theoretical foundations of international law obligations and the principles of their implementation in a historical perspective, as well as challenges the German argumentation regarding the limited validity of legal norms in relations with Poland as postulated by the German authorities. The third chapter - "Germany's international legal obligations to Poland in 1939" - contains a description of the obligations of Germany towards Poland and Poles resulted from the state of war, and the occupation of Polish territory in 1939-1945 in particular. The fourth chapter - "Systematization and review of Germany's acts against Poland in 1939-1945" - approximates the factual state of affairs based on the findings of researchers of the history of the occupation and historians of law. Examples of Germany's crimes were presented in lieu of a detailed account thereof. The current state of historical knowledge was applied to provide for the legal classification of acts committed in the interest and for the benefit of the German state, and Germany's actions and omissions were divided into two categories - plans and their execution. The fifth and final chapter - "Germany's responsibility for crimes against Poland committed in 1939-1945" - essentially includes considerations concerning the subsumption, i.e. the assignment of an existing fact situation to the relevant general and abstract norms. Following the subsumption, the breaches of law committed by Germany against Poland and the Polish people were attributed to the German state, thus making it possible to establish the extent of its responsibility. The chapters are structured according to the subject matter relevance, with a problem-based and geographic classification in chapter four. Each subchapter contains a partial summary. The monograph includes a list of abbreviations and acronyms, an extended introduction and conclusion, along with a proposal for pro futuro research postulates. The list of the sources and literature on the subject was compiled. The publication is supplemented by relevant diagrams, as well as summaries of the book and tables of contents in English and German.

The following methods were adopted in the monograph: historical and legal (in the first chapter), dogmatic, theoretical, historical and legal (in the second and third chapters), as

well as descriptive and analysis of historical sources (in the fourth chapter). The syllogistic and argumentative models of law application have been uniquely applied in the last chapter. In the study, the hypotheses presented were validated, research problems were solved, and formulated objectives were accomplished. Both hypotheses were found to be true. During World War II, the Third Reich in its relations with Poland was bound by the non-codified prohibitions of war of aggression and the crime of genocide. Their violation by the German state was a violation of international law norms and constituted Germany's responsibility. In the context of the research problems, the significant impact of up-to-date historiographical findings, developments in international law and its theories on the assessment of German crimes against Poland and the Polish nation during World War II was confirmed. The objectives of the monograph are reflected in its structure. These were accomplished by examining the subject matter of the dissertation and presenting the related results. The outline of the German-Polish obligations in the third chapter is preceded by necessary introductory remarks on the theory of international law and more specifically on the sources of international law contained in chapters one and two. The plan, preparation, implementation mechanism, aftermath and typology of Germany's crimes committed against Poland and the Polish nation during World War II were presented in the fourth chapter, while the responsibility of the German state for the claimed violations of international law was evidenced in the final fifth chapter.

Zusammenfassung

Das Thema der Abhandlung weist auf die Aspekte der völkerrechtlichen Qualifizierung deutscher Handlungen (durch Tun oder Unterlassen) gegenüber Polen und der polnischen Bevölkerung, auf den historischen Analysegegenstand und auf die in der Abhandlung angewandte grundlegende Forschungsmethode hin. Die Bewertung der verbrecherischen Handlungen, die von den Organen des deutschen Staates während des Zweiten Weltkrieges gegen Polen und die polnische Volksgruppe begangen wurden, wurde auf der Grundlage der völkerrechtlichen Verpflichtungen Deutschlands gegenüber Polen formuliert, die sich aus dem Vertragsrecht und aus Normen außervertraglicher Natur ergeben. Neben der historischen Perspektive war der dynamische Ansatz wichtig: Einerseits hat sich die Rechtslage bis zum Ausbruch des Zweiten Weltkriegs herausgebildet, andererseits wurden in den sechs Kriegsjahren zahlreiche Verbrechen an Polen im Interesse und zum Nutzen für den deutschen Staat begangen.

In der Studie wird primär davon ausgegangen, dass Deutschland während des Zweiten Weltkriegs in seinen Beziehungen zu Polen zur Einhaltung der Normen des Völkerrechts verpflichtet gewesen sei, obwohl es in dieser Frage oft eine andere Auffassung vertrat, und somit die völkerrechtliche Verantwortung für die Handlungen seiner Organe getragen habe. In der Abhandlung wurde der Wahrheitsgehalt der Behauptung geprüft, wonach Deutschland während des Zweiten Weltkriegs zur Einhaltung außervertraglicher Verbote, Angriffskrieg anzuzetteln und Völkermord zu begehen, verpflichtet gewesen sei. Die Rekonstruktion der nicht kodifizierten Normen, die diese Verbote enthalten, ermöglichte es, die theoretische Qualifizierung der Handlungen des deutschen Staates zu aktualisieren und mit einer adäquaten Argumentation zu untermauern.

Die Forschungsprobleme wurden in Form von zwei Fragen definiert. Die erste betrifft den Einfluss des aktuellen Standes der historischen Forschung, der Entwicklung des Völkerrechts, seiner Theorie und der Anwendung völkerrechtlicher Normen auf den Umfang der Verantwortung Deutschlands und ihre Begründung. Die zweite Frage bezieht sich auf den Bereich und das Ausmaß dieser möglichen Auswirkungen.

Die Monographie wurde erstellt, um drei Ziele zu erreichen: 1) die völkerrechtlichen Verpflichtungen Deutschlands gegenüber Polen in den Jahren 1939-1945 festzustellen; 2) die von Deutschland an der polnischen Nation begangenen Verbrechen auf der Grundlage der vorherrschenden Erkenntnisse der Historiographen zu beschreiben; 3) diese Handlungen den völkerrechtlichen Normen zuzuordnen und samt ihrer Begründung zu qualifizieren und damit eine Lücke in der juristischen Forschung und in der internationalen Strömung der Völkermordforschung (Genocide Studies) zu schließen.

In Anbetracht dieser Ziele befasst sich die Studie mit drei Themen: dem Völkerrecht, wie es im Verhältnis zwischen Polen und Deutschland während des Zweiten Weltkriegs Geltung hatte, den von Deutschland an Polen und der polnischen Nation begangenen Verbrechen und dem Verhältnis zwischen der Rechtslage und der Sachlage. Zur Ermittlung der deutschen Verpflichtungen wurden eine Reihe von Quellen des

internationalen und nationalen Rechts im kognitiven und kreativen Sinne, Entwürfe von völkerrechtlichen Verträgen, diplomatische Dokumente, verschiedene Kategorien von juristischen Schriften (Stellungnahmen von Gesetzgebern, Travaux Préparatoires und Procès-Verbal) und Gerichtsentscheidungen herangezogen. Bei der Begründung der Einordnung deutscher Verbrechen spielten die Ansichten von Vertretern der Völkerrechts- und Staatsrechtslehre eine gestaltende Rolle. Die Beschreibung des Plans, des Durchführungsmechanismus, der Typologie und der Ergebnisse der deutschen Verbrechen stützte sich dagegen auf historische Quellen (Dokumente, Berichte, Pressemitteilungen) und auf einschlägige Literatur mit gesicherten Erkenntnissen. Der letzte Untersuchungsgegenstand, d. h. die Beziehungen zwischen internationalen und nationalen Rechtsquellen und dem Ertrag der Geschichtsschreibung, erforderte einen Bezug zur Rechtstheorieforschung.

Die Gliederung der Monographie ergibt sich aus den gesetzten Zielen. Die Abhandlung wurde in fünf Kapitel gegliedert, die die Annahmen des klassischen Modells der Rechtsanwendung berücksichtigen, angepasst an die Bedürfnisse der völkerrechtlichen Bewertung, die von einem Rechtshistoriker formuliert wurden. Somit hat jedes Kapitel einen historisch-rechtlichen Wert.

Im ersten Kapitel "Prolegomena: Die vorherrschenden Ansichten der deutschen Völkerrechtslehre und der politischen Doktrin (vom 19. Jahrhundert bis 1945) in den Einschätzungen ausgewählter deutscher und polnischer Rechtstheoretiker" werden die Annahmen vorgestellt. Im zweiten "Quellen des Völkerrechts und deutsche Verpflichtungen gegenüber Polen im Jahr 1939" werden die theoretischen Grundlagen völkerrechtlicher Verpflichtungen und die Prinzipien ihrer Erfüllung in historischer Perspektive dargestellt und die von deutscher Seite postulierte begrenzte Gültigkeit von Rechtsnormen im Verhältnis zu Polen in Frage gestellt. Das dritte Kapitel "Die völkerrechtlichen Verpflichtungen Deutschlands gegenüber Polen im Jahre 1939" enthält eine Beschreibung der deutschen Verpflichtungen gegenüber Polen und der polnischen Bevölkerung, die sich aus dem Kriegszustand, insbesondere während der Besetzung polnischer Gebiete in den Jahren 1939-1945, ergeben. Im vierten Kapitel "Systematisierung und Überblick der deutschen Handlungen gegen Polen in den Jahren 1939-1945" wurde die Sachlage anhand der Erkenntnisse von Forschern der Besatzungsgeschichte und von Rechtshistorikern näher beleuchtet. Anstelle einer ausführlichen Darstellung wurden Beispiele deutscher Verbrechen präsentiert. Auf der Grundlage des aktuellen historischen Kenntnisstandes wurde eine rechtliche Einordnung der im Interesse und zum Nutzen des deutschen Staates begangenen Handlungen vorgenommen und sie in zwei Kategorien - Planungen und deren Ausführung - eingeteilt. Das fünfte und letzte Kapitel "Die deutsche Verantwortung für die in den Jahren 1939-1945 begangenen Verbrechen gegen Polen" enthält grundsätzlich Überlegungen zur Subsumtion, d. h. zur Zuordnung eines Sachverhaltes zu entsprechenden allgemein-abstrakten Normen. Durch die Subsumtion wurden die von Deutschen an Polen und der polnischen Nation begangenen Rechtsverstöße dem deutschen Staat zugerechnet, wodurch der Umfang seiner Verantwortung bestimmt werden konnte. Die Kapitel wurden nach dem thematischen Schlüssel gegliedert, wobei die problematische und geographische Einordnung im vierten Kapitel berücksichtigt wurde. Jedes Unterkapitel enthält eine Teilzusammenfassung. Die Monographie enthält ein Verzeichnis der Abkürzungen und

Akronyme, eine ausführliche Einleitung und Schlussfolgerung sowie einen Vorschlag für Pro-Futuro-Forschungspostulate. Eine Bibliographie der Quellen und der Fachliteratur ist erstellt worden. Die Publikation ist um entsprechende Diagramme, sowie Zusammenfassungen der Abhandlung und Inhaltsverzeichnisse in deutscher und englischer Sprache ergänzt.

In der Monographie wurden folgende Methoden verwendet: historisch-juristische (im ersten Kapitel), dogmatisch-, theoretisch und historisch-juristische (im zweiten und dritten Kapitel) sowie deskriptive Methode und Analyse der historischen Quellen (im vierten Kapitel). Im letzten Kapitel wurden ausnahmsweise die syllogistischen und argumentativen Modelle der Rechtsanwendung verwendet.

In der Studie wurden die vorgestellten Hypothesen verifiziert, die Forschungsprobleme gelöst und die gesetzten Ziele erreicht. Beide Hypothesen erwiesen sich als zutreffend. Während des Zweiten Weltkrieges war das Dritte Reich in seinen Beziehungen zu Polen an nicht kodifizierte Verbote des Angriffskrieges und der Verbrechen des Völkermordes gebunden. Deren Verletzung durch den deutschen Staat war ein Verstoß gegen internationale Rechtsnormen und begründete seine Verantwortung. Im Zusammenhang mit der Forschungsproblematik konnte der bedeutende Einfluss der aktuellen historiographischen Erkenntnisse, der Entwicklung des Völkerrechts und seiner Theorie auf die Bewertung der deutschen Verbrechen gegen Polen und die polnische Nation während des Zweiten Weltkriegs bestätigt werden. Die Ziele der Monographie spiegeln sich in ihrem Aufbau wider. Sie sind durch die Untersuchung des Themas der Abhandlung und die Darstellung der Ergebnisse realisiert worden. Der Präsentation der deutsch-polnischen Verpflichtungen im dritten Kapitel sind notwendige einleitende Bemerkungen zur Theorie des Völkerrechts, insbesondere zu den Quellen des Völkerrechts in den Kapiteln eins und zwei, vorausgegangen. Der Plan, die Vorbereitung, der Mechanismus der Ausführung, die Folgen und die Typologie der deutschen Verbrechen gegen Polen und die polnische Nation während des Zweiten Weltkriegs werden im vierten Kapitel dargestellt, während die Verantwortung des deutschen Staates für die ihm zugeschriebenen Völkerrechtsverletzungen im fünften und letzten Kapitel aufgezeigt wird.

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Glossary

Act - an action or omission.

The doctrine of law - the views of legal scholars, such as criminalists (the doctrine of criminal law).

Legal history (or the history of law) - one of the basic, in addition to legal theory and dogmatics, fields of legal science (i.e., jurisprudence), the traditional subject of which is the history of Roman law, Polish law, common law and political and legal doctrines (in Poland).

Genocide - a term coined by Raphael Lemkin (1900-1959), a Polish-Jewish lawyer to describe the extermination of representatives of groups (cf. the crime of genocide).

Norm - a rule of ought conduct.

Responsibility (in public international law) - the legal effect of prohibited acts committed by a subject of international law; demonstrating responsibility involves confirming the existence of a prohibited act and attributing it to a specific subject of international law, such as a state (acting through its organs or individuals).

A subject of international law - a state or other entity with the status of a subject of public international law (such as an organization or the Order of the Knights of Malta).

International crimes in domestic criminal law - a branch of criminal law that includes substantive and formal regulation of internationally wrongful acts under domestic law.

International criminal law - a branch of public international law that includes the substantive and formal regulation of criminal acts under international law.

Public international law - a set of legal norms in force and applicable to relations between subjects of public international law.

Anti-war law (*ius ante bellum*) - international legal norms for regulating disputes and preventing armed conflict.

Treaty law - norms arising from concluded agreements, the so-called convention norms.

Law of war (*ius in bello*) - international legal norms regulating the conduct of parties involved in an armed conflict, otherwise known as international humanitarian law.

Customary law - norms derived from international custom.

Crime - an act prohibited by norms of law.

Facts - the act charged or attributed to the accused.

Legal status - the state of legal obligations (e.g., international law) at the time of the criminal act.

Application of the law - adjudication by a competent authority of the legality (or lack thereof) of the acts that have occurred.

Legal-historical study - a study in legal history (see legal history).

Bilateral agreement (in public international law) - a bilateral obligation entered into between two authorized subjects of public international law.

Multilateral agreement (in public international law) - a multilateral obligation entered into between three or more authorized subjects of public international law.

International legal agreement (treaty) - codified obligations of an international legal nature.

Intent (*dolus*) - the relationship of the intellect (consciousness) and will (consent or willingness) of the subject committing a criminal act to carry it out; in the science of law, a distinction is made between direct, consequential and directional intent, among others (see relevant terms).

Direct intent (*dolus directus*) - consists in the fact that the subject foresees the occurrence of a crime and wants to commit it.

Directional intent (*dolus directus coloratus*) - consists in the fact that the subject foresees the occurrence of the crime, wants to commit it and has a goal (motive, motive), which he realizes by committing the criminal act - an example is the intention to murder members of a national group in order to destroy it in whole or in part (occurs in the treaty construction of the crime of genocide).

Contingent intent (*dolus eventualis*) - consists in the fact that the subject foresees the occurrence of a crime and agrees to commit it.

Crime (in public international law) - an act prohibited by the norms of international law of a particularly grave nature, such as the crime of genocide, crime against humanity, war crimes.

Crime of genocide - a crime of international law codified in the 1948 UN convention, previously prohibited in non-treaty law.

International custom - a norm resulting from the practice of the subjects of international law (*usus*) and their conviction that the practice is valid due to the existence of a legal norm (*opinio iuris sive necessitatis*).

List of abbreviations and acronyms

AB – Außerordentliche Befriedungsaktion

ABl. d. R z. D – Amtsblatt der Regierung zu Danzig

„ADLB” – „Anti-Defamation League Bulletin”

AG – Aktiengesellschaft

„AJIL” – „American Journal of International Law”

„AJILS” – „American Journal of International Law. Supplement”

AO ZBB – Amtsblatt des Oberpräsidenten, Zivilverwaltung für den Bezirk Bialystok

AULFH – Acta Universitatis Lodziensis. Folia Historica

AULFI – Acta Universitatis Lodziensis. Folia Iuridica

BAB – Bundesarchiv Berlin-Lichterfelde

BAL – Bundesarchiv Ludwigsburg

„BFSP” – „British and Foreign State Papers”

BGBL. – Bundesgesetzblatt [Deutschland], por. RGBL.

BGBL.Ö – Bundesgesetzblatt [Österreich]

„BGKBZHwP” – „Biuletyn Głównej Komisji Badania Zbrodni Hitlerowskich w Polsce”

„BGKBZNwP” – „Biuletyn Głównej Komisji Badania Zbrodni Niemieckich w Polsce”

„BIPN” – „Biuletyn IPN”, zob. IPN

„BŻIH” – „Biuletyn Żydowskiego Instytutu Historycznego”

„BŻIHwP” – „Biuletyn Żydowskiego Instytutu Historycznego w Polsce”

„CJF NQ” – „Chicago Jewish Forum. A National Quarterly”

„CPiE” – „Czasopismo Prawnicze i Ekonomiczne”

„CSMM” – „Christian Science Monitor Magazine”

„DJ-Z” – „Deutsche Juristen-Zeitung”

„DN” – „Dzieje Najnowsze”

„DP” – „Dziennik Polski”

DRGBL. – Deutsches Reichsgesetzblatt

Dz. RGG – Dziennik Rozporządzeń dla Generalnego Gubernatorstwa

Dz. RGGPO – Dziennik Rozporządzeń Generalnego Gubernatora dla Okupowanych Polskich Obszarów

Dz. ROOP – Dziennik Rozporządzeń dla Obszarów Okupowanych w Polsce

Dz. PrKP – Dziennik Praw Królestwa Polskiego

Dz. PrPP – Dziennik Praw Państwa Polskiego

Dz.U. – Dziennik Ustaw

e.V. – eingetragener Verein

„FIUW” – „Folia Iuridica Universitatis Wratislaviensis”

„FPB” – „Foreign Policy Bulletin”

„FRUS DP” – „Foreign Relations of the United States. Diplomatic Papers”

FSD – Freie Stadt Danzig

„FW” – „Free World”

GBL. f. d. FSD – Gesetzblatt für die Freie Stadt Danzig

Gestapo – Geheime Staatspolizei

GG – Generalne Gubernatorstwo

„GP” – „Głos Prawa”

GPW – Generalny Plan Wschodni

„GS” – „Głos Sądownictwa”

GS f. d. KPS – Gesetz-Sammlung für die Königlichen Preußischen Staaten

„GSW” – „Gazeta Sądowa Warszawska”

„IC” – „International Conciliation”

„ICJ” – „International Court of Justice”

„ICLR” – „International Criminal Law Review”

ICRC – International Committee of the Red Cross

IPN – Instytut Pamięci Narodowej

ISiMWP – Instytut Solidarności i Męstwa im. Witolda Pileckiego

„JdV” – „Jahrbuch des Völkerrechts”

KG – Kommanditgesellschaft

KK – kodeks karny

„KPCiK” – „Kwartalnik Prawa Cywilnego i Karnego”

„KPP” – „Kwartalnik Prawa Publicznego”

Kripo – Kriminalpolizei

LAF – Lietuvos Aktyvistų Frontas

LN – Liga Narodów

„LNOJ” – „League of Nations Official Journal”

„LNOJ SS” – „League of Nations Official Journal. Special Supplement”

LOC – Library of Congress

MBL. dRPMdI – Ministerial-Blatt des Reichs- und Preußischen Ministeriums des Innern

MGGGUSZ – Military Government Gazette Germany United States Zone

„MPH” – „Międzynarodowe Prawo Humanitarne”

MSZ – Ministerstwo Spraw Zagranicznych

MTK – Międzynarodowy Trybunał Karny

MTKJ – Międzynarodowy Trybunał Karny dla byłej Jugosławii

MTKR – Międzynarodowy Trybunał Karny dla Rwandy

„NDP. MiSzOIIWŚ” – „Najnowsze Dzieje Polski. Materiały i Studia z Okresu II Wojny Światowej”

„NP” – „Nowe Państwo”

NTN – Najwyższy Trybunał Narodowy

„NYT” – „New York Times”

OGAHCG – Official Gazette of the Allied High Commission for Germany

OGCCG – Official Gazette of the Control Council for Germany

OGCCGS – Official Gazette of the Control Council for Germany. Supplement

OKH – Oberkommando des Heeres

OKW – Oberkommando der Wehrmacht

ONZ – Organizacja Narodów Zjednoczonych

Orpo – Ordnungspolizei

„PA IPN” – „Przegląd Archiwalny Instytutu Pamięci Narodowej”

PCIJ – the Permanent Court of International Justice, zob. STSM

PGS – Preußische Gesetzsammlung

„PiP” – „Państwo i Prawo”

„PiS” – „Pamięć i Sprawiedliwość”

„PiŻ” – „Prawo i Życie”

„PN” – „Polityka Narodów”

POW – Polska Organizacja Wojskowa

„PP” – „Przegląd Polityczny”

„PP. Zał.” – „Przegląd Polityczny. Załączniki”

„PPiA” – „Przegląd Prawa i Administracji”

„PRFRUS” – „Papers Relating to the Foreign Relations of the United States”

PrGS – Gesetz-Sammlung für die Königlichen Preußischen Staaten

„PW” – „Przegląd Współczesny”

„PWA” – „Polish Western Affairs”

„PZ” – „Przegląd Zachodni”

„RDISDP” – „Revue de Droit International, de Sciences Diplomatiques et Politiques”

RFN – Republika Federalna Niemiec

RGBL – Reichsgesetzblatt, por. BGBL.

„RIDP” – „Revue Internationale de Droit Pénal”

RKFDV – Reichskommissar für die Festigung deutschen Volkstums

„RPEiS” – „Ruch Prawniczy, Ekonomiczny i Socjologiczny”

„RPW” – „Rocznik Prawniczy Wileński”

RSHA – Główny Urząd Bezpieczeństwa Rzeszy

RuSHA – Rasse- und Siedlungshauptamt

SA – Sturmabteilung

SA f. D – Staatsanzeiger für Danzig

SA f. d. FSD – Staatsanzeiger für die Freie Stadt Danzig

SD – Sicherheitsdienst

„SFHC” – „Studies on Fascism and Hitlerite Crimes”

„SIL” – „Studia Iuridica Lublinensia”

Sipo – Sicherheitspolizei

„SIT” – „Studia Iuridica Toruniensia”

„SJZ” – „Süddeutsche Juristen-Zeitung”

„SM” – „Sprawy Międzynarodowe”

SN – Sąd Najwyższy

„SnAiT” – „Studia nad Autorytaryzmem i Totalitaryzmem”

„SnFiZH” – „Studia nad Faszyzmem i Zbrodniami Hitlerowskimi”

SS – Schutzstaffel

„SSP” – „Studia Socjologiczno-Polityczne”

SS-WVHA – SS-Wirtschafts- und Verwaltungshauptamt

STSM – Stały Trybunał Sprawiedliwości Międzynarodowej, zob. PCIJ

„SZ” – „Strażnica Zachodnia”

„SŻ” – „Studia Źródłoznawcze”

TASS – Tielegrafnoje Agientstwo Sowietского Sojuza

„TBBM NJM” – „The B’nai B’rith Magazine. The National Jewish Monthly”

„TJAJ” – „The Judge Advocate Journal”

„TN” – „The Nation”

„TP” – „Themis Polska”

UMK – Uniwersytet Mikołaja Kopernika

UN – United Nations

„UNB” – „United Nations Bulletin”

UW – Uniwersytet Warszawski

VBl. BGP – Verordnungsblatt für die besetzten Gebiete in Polen

VBl. d. MGH – Verordnungsblatt des Militärbefehlshalters Danzig-Westpreussen

VBl. d. RSH – Verordnungsblatt des Reichsstatthalters Reichsgau-Danzig

VBl. f. d. ZV – Verordnungsblatt für die Zivilverwaltung in den dem Gauleiter Forster als Chef der Zivilverwaltung unterstellten besetzten Gebieten

VBl. RKO – Verordnungsblatt des Reichskommissars für das Ostland

VFG – Volksdeutschen Forschungsgemeinschaften

„VJH f. ZG” – „Vierteljahrshefte für Zeitgeschichte”

„VJIL” – „Virginia Journal of International Law”

VoMi – Volksdeutsche Mittelstelle

VStGB – Völkerstrafgesetzbuch

„WHzWoS” – „Wiadomości Historyczne z Wiedzą o Społeczeństwie”

WMG – Wolne Miasto Gdańsk

„WMP” – „Współczesna Myśl Prawnicza”

„WP” – „Wiadomości Prawnicze”

„WPH” – „Wojskowy Przegląd Historyczny”

„WPP” – „Wojskowy Przegląd Prawniczy”

„YILC” – „Yearbook of the International Law Commission”

„ZH” – „Zapiski Historyczne”

ZO ONZ – Zgromadzenie Ogólne Organizacji Narodów Zjednoczonych

List of references

I. Printed and digital sources²³

1. Legal sources

1.1. Acts of international law²⁴

A 101. Obwieszczenie w sprawie niemiecko-radzieckiego Układu granicznego i sprzymierzeńczego oraz należącego do niego Protokołu dodatkowego [w:] A. Weh, *Prawo Generalnego Gubernatorstwa w układzie rzeczowym z objaśnieniami i szczegółowym skorowidzem*, Krakau 1941.

Abkommen, betreffend die Gesetze und Gebräuche des Landkriegs. Vom 29. Juli 1899 (RGBl. 1901, 44, 423).

Abkommen, betreffend die Gesetze und Gebräuche des Landkriegs. Vom 18. Oktober 1907 (RGBl. 1910, 2, 107).

Abkommen über den Beginn der Feindseligkeiten. Vom 18. Oktober 1907 (RGBl. 1910, 2, 82).

Abkommen zur friedlichen Erledigung internationaler Streitfälle. Vom 29. Juli 1899 (RGBl. 1901, 44, 393).

Abkommen zur friedlichen Erledigung internationaler Streitfälle. Vom 18. Oktober 1907 (RGBl. 1910, 2, 5).

Abkommen zur Verbesserung des Loses der Verwundeten und Kranken bei den im Felde stehenden Heeren. Vom 6. Juli 1906 (RGBl. 1907, 25, 279).

Abkommen zur Verbesserung des Loses der Verwundeten und Kranken der Heere in Felde. Vom 27. Juli 1929 (RGBl. II 1934, 21, 208).

²³ In the bibliography, the division between print and digital publications was rejected in view of the use of a more useful problem classification. Access to the Internet is now so widespread that many sources have been digitized and published online, which facilitates the work of researchers, especially when it is difficult to use traditional printed sources. Separating the section of Internet sources and studies would result in unnecessary multiplication of the various sections of the bibliography.

²⁴ In addition to the official sources of international law, this section includes references to their versions contained in state promulgators and to other reprints and translations to facilitate at least indirect familiarity with the - often difficult to access - sources. For this reason, the titles of some have been written in italics, while others have been written in antiqua. Although unofficial versions are not sources of international law and are not used, they are used auxiliary to the implementation of the law. In addition, acts adopted before the mandatory registration of agreements were published in collections other than the collections of agreements issued by the League of Nations and later the United Nations. There were also secret international agreements that were printed in reference collections or historical studies, for example, after disclosure. The chronological ordering of acts was abandoned in favor of their alphabetical classification.

Abkommen zwischen Deutschland, dem Vereinigten Königreich, Frankreich und Italien, getroffen in München, am 29. September 1938 (RGBl. II 1938, 49, 853).

Acte Général du Congrès de Paris (30 Mars 1856) [w:] Les Grands Traités Politiques. Recueil des Principaux Textes Diplomatiques depuis 1815 jusqu'à nos jours, red. P. Albin, Paris 1912.

Additional Protocol Relative to Non-Intervention, December 23, 1936 [w:] Inter-American Peace Treaties and Conventions, Washington 1954.

Agreement by the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the United States of America, the Provisional Government of the French Republic and the Government of the Union of Soviet Socialist Republics for the Prosecution and Punishment of the Major War Criminals of the European Axis. Signed at London, on 8 August 1945, „Treaty Series. Treaties and International Agreements Registered or Filed and Recorded with the Secretariat of the United Nations” 82 (1951).

Agreement of Mutual Assistance between the United Kingdom and Poland–London, August 25, 1939 [w:] The British War Blue Book. Miscellaneous no. 9 (1939). Documents Concerning German-Polish Relations and the Outbreak of Hostilities between Great Britain and Germany on September 3, 1939, New York 1939.

Agreement Signed at Munich Between Germany, the United Kingdom, France, and Italy (September 29, 1938) [w:] Documents on German Foreign Policy 1918–1945. Series D (1937–1945). Germany and Czechoslovakia 1937–1938, t. 2, Washington 1949.

Anti-War Treaty on Nonaggression and Conciliation, Signed at Rio de Janeiro, October 10, 1933, „FRUS DP [1933]” IV (1950).

Arbitration Convention between Germany and Belgium (France), October 16, 1925 [w:] Locarno. A Collection of Documents, red. F. Berber, London–Edinburgh–Glasgow 1936.

Arbitration Convention between The United States and France. Signed at Washington, February 10, 1908, „PRFRUS [1908]” 1912.

Arbitration Treaty between Germany and Poland (Czechoslovakia), October 16, 1925 [w:] Locarno.

A Collection of Documents, red. F. Berber, London–Edinburgh–Glasgow 1936.

Bekanntmachung über den Beitritt des Deutschen Reichs zum Ständigen Internationalen Gerichtshof im Haag. Vom 13. April 1927 (RGBl. II 1927, 19, 227).

Bekanntmachung über den deutsch-polnischen Vertrag über Sozialversicherung. Vom 31. August 1933 (RGBl. II 1933, 37, 645).

Bekanntmachung über den deutsch-sowjetischen Grenz- und Freundschaftsvertrag sowie das dazugehörige Zusatzprotokoll. Vom 30. Dezember 1939 (RGBl. II 1940, 1, 3).

Bekanntmachung über die deutsch-polnische Erklärung vom 26. Januar 1924. Vom 16. März 1934 (RGBl. II 1934, 15, 117).

Charter of the United Nations and Statute of the International Court of Justice, San Francisco 1945.

Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949. State parties, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=365, access 29 II 2020.

Convention for the Creation of an International Criminal Court [w:] Proceedings of the International Conference on the Repression of Terrorism, Geneva, November 1st to 16th, 1937, Geneva 1938.

Convention for the Definition of Aggression, Annex and Protocol of Signature. Signed at London, July 3rd, 1933, „League of Nations. Treaty Series. Publication of Treaties and International Engagements Registered with the Secretariat of the League of Nations” CXLVII (1934), s. 69–77.

Convention Relative to the Establishment of an International Court of Prize, „AJILS” 2 (1908).

Convention Relative to the Treatment of Prisoners of War. Geneva, 27 July 1929. State parties, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=305, access 29 II 2020.

Declaration between Great Britain, Austria, France, Italy, North Germany, Russia, and Turkey as to non-Alteration of Treaties without Consent of Contracting Parties. London, 17th January, 1871 [w:] The Map of Europe by Treaty, t. 3, red. E. Hertslet, London 1875.

Declaration of German Atrocities, „FRUS DP [1943]” I (1963).

Declaration of the Five Cabinets (Great Britain, Austria, France, Prussia, and Russia). Signed at Aix-la-Chapelle, 15th November, 1818 [w:] The Map of Europe by Treaty, t. 1, red. E. Hertslet, London 1875.

Decyzja Konferencji Ambasadorów z 28 lipca 1920 r. (Cieszyńskie, Orawa i Spisz) [w:] Odbudowa państwowości polskiej. Najważniejsze dokumenty 1912 – styczeń 1924, oprac. K. Kumaniecki, Warszawa–Kraków 1924.

Deklaracja krajów sojusznicznych okupowanych przez Niemcy w sprawie ukarania hitlerowców i ich wspólników za popełnione przestępstwa (Deklaracja St. James Palace) [w:] Ściganie i karanie sprawców zbrodni wojennych i zbrodni przeciwko ludzkości (wybór dokumentów), red. C. Pilichowski, Warszawa 1978.

Deklaracja między Polską a Niemcami o niestosowaniu przemocy, podpisana w Berlinie dnia 26 stycznia 1934 r. (Dz.U. z 1934 r., nr 16, poz. 124).

Deklaracje polsko-niemieckie w sprawach mniejszościowych, „Front Zachodni” 9 (1937).

Der deutsch-sowjetische Staatsvertrag über die Umsiedlung der Volksdeutschen aus Bessarabien und der Nord-Bukowina [w:] Das Schicksal der Deutschen in Rumänien, red. W. Conze, München 1985.

Deutsch-polnisches Abkommen über Oberschlesien. Vom 15. Mai 1922 (RGBl. II 1922, 10, 238).

Deutsch-rumänischer rechtspolitischer Zusatzvertrag zu dem Friedensvertrag zwischen Deutschland, Österreich-Ungarn, Bulgarien und der Türkei einerseits und Rumänien andererseits, „JdV“ VIII (1922).

Deutsch-Russischer Zusatzvertrag zu dem Friedensvertrage zwischen Deutschland, Österreich-Ungarn, Bulgarien und der Türkei einerseits und Russland andererseits (RGBl. 1918, 77, 622).

Deutsch-schwedischer Schiedsgerichts- und Vergleichsvertrag 29.8.1924, „Niemeyers Zeitschrift für internationales Recht“ XXXIII (1924/1925).

Deutsch-schweizerischer Schiedsgerichts- und Vergleichsvertrag 3.12.1921 nebst deutscher Denkschrift,

„Niemeyers Zeitschrift für internationales Recht“ XXX (1922/1923).

Deutsch-Ukrainischer Zusatzvertrag zu dem Friedensvertrage zwischen Deutschland, Österreich-Ungarn, Bulgarien und der Türkei einerseits und der Ukrainischen Volksrepublik andererseits (RGBl. 1918, 107, 1030).

Friedensvertrag zwischen Deutschland und Finnland (RGBl. 1918, 85, 701).

General Treaty of Peace between Great Britain, Austria, France, Prussia, Russia, Sardinia and Turkey. Signed at Paris, 30th March 1856 [w:] The Map of Europe by Treaty, t. 2, red. E. Hertslet, London 1875.

Gesetz über den Beitritt der Bundesrepublik Deutschland zu der Konvention vom 9. Dezember 1948 über die Verhütung und Bestrafung des Völkermordes. Vom 9. August 1954 [Konvention über die Verhütung und Bestrafung des Völkermordes] (BGBl. II 1954, 15, 729).

Gesetz über den deutsch-polnischen Vertrag zur Regelung der Grenzverhältnisse. Vom 8. Dezember 1926 (RGBl. II 1926, 49, 723).

Gesetz über den deutsch-schwedischer und deutsch-finnischen Schiedsgerichts- und Vergleichs- vertrag. Vom 29. August 1925 (RGBl. II 1925, 43, 863).

Gesetz über den deutsch-schweizerischen Schiedsgerichts- und Vergleichsvertrag. Vom 28. Februar 1922 (RGBl. II 1922, 18, 217).

Gesetz über den Friedensschluß zwischen Deutschland und den alliierten und assoziierten Mächten. Vom 16. Juli 1919 (RGBl. 1919, 140, 687).

Gesetz über die Verträge von Locarno und den Eintritt Deutschlands in den Völkerbund. Vom 28. November 1925 (RGBl. II 1925, 52, 995).

Gesetz zu dem Vertrag über die Ächtung des Krieges. Vom 9. Februar 1928 (RGBl II 1929, 9, 97). Gesetz zu dem Vertrage über die Ächtung des Krieges. Vom 13.11.1929 (GBl. f. d. FSD 1929, 26, 147).

Karta Narodów Zjednoczonych, Statut Międzynarodowego Trybunału Sprawiedliwości i Poro- zumienie ustanawiające Komisję Przygotowawczą Narodów Zjednoczonych (Dz.U. z 1947 r., nr 23, poz. 90).

Konvention zwischen Polen und der Freien Stadt Danzig (SA f. D. 1921, 1, 1). Konwencja dotycząca praw i zwyczajów wojny lądowej (Dz.U. z 1927 r., nr 21, poz. 161).

Konwencja dotycząca rozpoczęcia kroków nieprzyjacielskich (Dz.U. z 1927 r., nr 21, poz. 159). Konwencja dotycząca traktowania jeńców wojennych, podpisana w Genewie dnia 27 lipca 1929 r. (Dz.U. z 1932 r., nr 103, poz. 866).

Konwencja genewska o ochronie osób cywilnych podczas wojny z dnia 12 sierpnia 1949 r. (Dz.U. z 1956 r., nr 38, poz. 171, załącznik).

Konwencja genewska o polepszeniu losu chorych i rannych w armiach czynnych, podpisana dnia 27 lipca 1929 r. (Dz.U. z 1932 r., nr 103, poz. 864).

Konwencja genewska o polepszeniu losu rannych i chorych w armiach czynnych z dnia 12 sierpnia 1949 r. (Dz.U. z 1956 r., nr 38, poz. 171, załącznik).

Konwencja o niestosowaniu przedawnienia wobec zbrodni wojennych i zbrodni przeciw ludzkości, przyjęta przez Zgromadzenie Ogólne Organizacji Narodów Zjednoczonych dnia 26 listopada 1968 r. (Dz.U. z 1970 r., nr 26, poz. 208, załącznik).

Konwencja o określeniu napaści, podpisana w Londynie dnia 3 lipca 1933 r. (Dz.U. z 1933 r., nr 93, poz. 712).

Konwencja polsko-niemiecka w sprawie uregulowania stosunków granicznych, podpisana w Poznaniu dnia 27 stycznia 1926 r. (Dz.U. z 1927 r., nr 54, poz. 470).

Konwencja pomiędzy Polską a Niemcami o obywatelstwie byłych obywateli niemieckich Górnego Śląska, podpisana w Wiedniu dnia 30 sierpnia 1924 r. (Dz.U. z 1925 r., nr 21, poz. 148).

Konwencja w sprawie zapobiegania i karania zbrodni ludobójstwa, uchwalona przez Zgromadzenie Ogólne Narodów Zjednoczonych dnia 9 grudnia 1948 r. (Dz.U. z 1952 r., nr 2, poz. 9).

Konwencja Wiedeńska o Prawie Traktatów sporządzona w Wiedniu dnia 23 maja 1969 r. (Dz.U. z 1990 r., nr 74, poz. 439).

Oświadczenie rządowe w przedmiocie konwencji polsko-gdańskiej, zawartej w Paryżu dnia 9 li- stopada 1920 r. [Konwencja między Polską a Wolnym Miastem Gdańskiem zawarta w Paryżu d. 9 listopada 1920 r.] (Dz.U. z 1922 r., nr 13, poz. 117).

Oświadczenie rządowe z dnia 26 lipca 1923 r. w przedmiocie złożenia dokumentu ratyfikacyjnego Protokołu podpisania Statutu Stałego Trybunału Sprawiedliwości Międzynarodowej, z dnia 16 grudnia 1920 r. (Dz.U. z 1923 r., nr 106, poz. 840).

Oświadczenie rządowe z dnia 18 grudnia 1929 r. w sprawie przystąpienia Rzeczypospolitej Polskiej do Konwencji o pokojowym załatwianiu sporów międzynarodowych, podpisanej w

Hadze dnia 18 października 1907 r. [Konwencja o pokojowym załatwianiu sporów] (Dz.U. z 1930 r., nr 9, poz. 64).

Polsko-niemiecka konwencja Górno-Śląska zawarta w Genewie dnia 15-go maja 1922 r., Genewa 1922.

Porozumienie międzynarodowe w przedmiocie ścigania i karania głównych przestępców wojennych Osi Europejskiej, podpisane w Londynie dnia 8 sierpnia 1945 r. (Dz.U. z 1947 r., nr 63, poz. 367).

Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, „League of Nations. Treaty Series. Publication of Treaties and International Engagements Registered with the Secretariat of the League of Nations” XCIV (1929).

Protocol Rectifying Discrepancy in the Charter [of the International Military Tribunal, October 6th, 1945] [w:] Trial of the Major War Criminals before the International Military Tribunal, t. I, Nuremberg 1947.

Protokoll über das Verbot der Verwendung von erstickenden, giftigen oder ähnlichen Gasen sowie von bakteriologischen Mitteln im Kriege (RGBl II, 1929, 19, 173).

Protokół delimitacyjny granicy państwowej, pomiędzy Rzeczpospolitą Polską a Republiką Czeskosłowacką podpisany w Zakopanem w dniu 30 listopada 1938 r. [w:] Współczesna Europa polityczna. Zbiór umów międzynarodowych 1919–1939, oprac. W. Kulski et al., Warszawa–Kraków 1939.

Protokół dotyczący zakazu używania na wojnie gazów duszących, trujących lub podobnych oraz środków bakteriologicznych (Dz.U. z 1929 r., nr 28, poz. 278).

Protokół podpisania Statutu Stałego Trybunału Sprawiedliwości Międzynarodowej, zatwierdzonego jednogłośnie na Zebraniu Ligi Narodów 13 grudnia 1920 r. w Genewie (Dz.U. z 1923 r., nr 106, poz. 838).

Resolution Establishing a Commission of Jurists to Consider Amendment of the Laws of War, „PRFRUS [1922]” I (1938).

Resolution Limiting the Jurisdiction of the Commission of Jurists, „PRFRUS [1922]” I (1938).

Tekst tajnego protokołu dodatkowego do Paktu o nieagresji między Rzeszą Niemiecką a ZSRR, zawartego w Moskwie w nocy z 23 na 24 sierpnia 1939 [w:] J. Łojek, Agresja 17 września 1939. Studium aspektów politycznych, Warszawa 1990.

Text of Franco-Soviet Treaty of Mutual Assistance, signed May 2, 1935, „IC” 319 (1936).

The [Inter-Allied] Declaration [signed at St. James's Palace London on 13th January, 1942] [w:] Punishment for War Crimes. The Inter-Allied Declaration Signed at St. James's Palace, London, on 13th January, 1942 and Relative Documents, London 1942.

The Laws of Armed Conflicts. A Collection of Conventions, Resolutions and other Documents, red. D. Schindler et al., Leiden–Boston 2004.

The Rhine Pact of Locarno, October 16, 1925 [w:] Locarno. A Collection of Documents, red. F. Berber, London–Edinburgh–Glasgow 1936.

Traité de Paix [à Lausanne] [w:] Treaty of Peace with Turkey, and other Instruments. Signed at Lau- sanne on July 24, 1923, London 1923.

Traité de paix entre l'Empire allemand et la France. Du 10 Mai 1871 (DRGBI. 1871, 26, 223). Traktat arbitrażowy pomiędzy Polską a Niemcami, podpisany w Londynie dnia 1 grudnia 1925 r. (Dz.U. z 1926 r., nr 114, poz. 662).

Traktat gwarancyjny pomiędzy Polską a Francją, podpisany w Londynie dnia 1 grudnia 1925 r. (Dz.U. z 1926 r., nr 114, poz. 660).

Traktat między Głównymi Mocarstwami sprzymierzonymi i stowarzyszonymi a Polską, podpisany w Wersalu dnia 28 czerwca 1919 r. (Dz.U. z 1920 r., nr 110, poz. 728).

Traktat pokoju między mocarstwami sprzymierzonymi i skojarzonymi i Niemcami, podpisany w Wersalu dnia 28 czerwca 1919 r. (Dz.U. z 1920 r., nr 35, poz. 200).

Traktat przeciwwojenny, podpisany w Paryżu dnia 27 sierpnia 1928 r. (Dz.U. z 1929 r., nr 63, poz. 489).

Treaty between France and Poland (Czechoslovakia), October 16, 1925 [w:] Locarno. A Collection of Documents, red. F. Berber, London–Edinburgh–Glasgow 1936.

Układy w Locarno podpisane dnia 16 października 1925 r. Pełny tekst protokołu końcowego konferencji w Locarno wraz z projektami traktatów i konwencji, Warszawa 1925.

Umowa pomiędzy Rzeczpospolitą Polską a Rzeszą Niemiecką o ubezpieczeniu społecznem, podpisana w Berlinie dnia 11 czerwca 1931 r. (Dz.U. z 1933 r., nr 65, poz. 487).

Umowa zawarta pomiędzy Polską a Wolnym Miastem Gdańskiem celem wykonania i uzupełnienia polsko-gdańskiej konwencji z dnia 9 listopada 1920 r. Abkommen zwischen der Freien Stadt Danzig und Polen zur Ausführung und Ergänzung der Polnisch-Danziger Konvention vom 9. November 1920, Gdańsk 1921.

Ustawa z dnia 17 grudnia 1921 r. w przedmiocie zatwierdzenia podpisanej w Warszawie dnia 24 października 1921 r. umowy, zawartej pomiędzy Polską a Wolnym Miastem Gdańskiem celem wykonania i uzupełnienia polsko-gdańskiej konwencji z dnia 9 listopada 1920 r. (Dz.U. z 1922 r., nr 16, poz. 139, załącznik).

Vertrag zwischen dem Deutschen Reich und der Tschechoslowakischen Republik über Staatsangehörigkeits- und Optionsfragen (RGBl. II 1938, 52, 896).

Vertrag zwischen Preußen, Österreich, Frankreich, Großbritannien, Russland, Sardinien und der Türkei, nebst Anlagen. Vom 30. März 1856 (PrGS 1856, 36, 557).

Vienna Convention on the Law of Treaties (with Annex). Concluded at Vienna on 23 May 1969, „Treaty Series. Treaties and International Agreements Registered or Filed and Recorded with the Secretariat of the United Nations” 1155 (1987).

Waffenstillstandsabkommen von Compiègne (11. November 1918), „JdV” VIII (1922).

Zarządzenie Prezydenta Rzeczypospolitej z dnia 26 stycznia 1927 r. w sprawie opublikowania Międzynarodowej Konwencji genewskiej z dnia 6 lipca 1906 r. o polepszeniu losu rannych i chorych w armiach czynnych (Dz.U. z 1927 r., nr 28, poz. 225).

1.2. Unilateral acts of states²⁵

A. Germany²⁶

Amtsblatt des Oberpräsidenten, Zivilverwaltung für den Bezirk Bialystok (1942). Bundesgesetzblatt I (2002).

Bundesgesetzblatt II (1954).

Deutsches Reichsgesetzblatt (1871–1872).

Dziennik Rozporządzeń dla Generalnego Gubernatorstwa (1941–1942). Dziennik Rozporządzeń dla Obszarów Okupowanych w Polsce (1939).

Dziennik Rozporządzeń Generalnego Gubernatora dla Okupowanych Polskich Obszarów (1939–1940). Gesetz-Sammlung für die Königlichen Preussischen Staaten (1850, 1856, 1883).

Military Government Gazette Germany United States Zone (1946).

Ministerial-Blatt des Reichs- und Preussischen Ministeriums des Innern (1939). Official Gazette of the Allied High Commission for Germany (1951).

Official Gazette of the Control Council for Germany (1945–1946). Preussische Gesetzsammlung (1941).

Reichsgesetzblatt (1871–1872, 1883–1884, 1889, 1901, 1907, 1910, 1918–1921).

Reichsgesetzblatt I (1932–1942).

Reichsgesetzblatt II (1922, 1925–1927, 1933–1934, 1938, 1940).

Verordnungsblatt des Reichskommissars für das Ostland (1942).

Amtlicher Anzeiger des Reichskommissars für das Ostland, <https://periodika.lndb.lv/#periodical?id=23961467523568060577353502470526261006>, access 29 II 2020.

²⁵ This section of the bibliography includes unofficial translations of legal acts, as well as normative acts issued by the authorities of the Free City of Danzig, whose international legal status caused much controversy in the interwar period.

²⁶ German sources also included normative acts of German states (e.g., Prussian), acts of authorities occupying Germany in 1945–1955, and acts established by German authorities in occupied Europe.

Amtsblatt des Chefs des Distrikts Lublin im Generalgouvernement für die besetzten polnischen Gebiete. Dziennik Urzędowy Okręgu Szefostwa Lublin przy Generalnym Gubernatorze na Zajętych Obszarach Polskich, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Lublin_im_Generalgouvernement_f%C3%BCr_die_besetzten_polnischen_Gebiete&filters=public:1&sort=date%20aschttps://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Lublin&filters=public:1&sort=date%20asc, access 29 II 2020.

Amtsblatt des Chefs des Distrikts Lublin im Generalgouvernement. Dziennik Urzędowy Szefa Okręgu Lublin (Lubelskiego) w Generalnym Gubernatorstwie, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Lublin_im_Generalgouvernement._Dziennik&filters=public:1&sort=date%20asc, access 29 II 2020.

Amtsblatt des Chefs des Distrikts Lublin im Generalgouvernement. Dziennik Urzędowy Szefa Okręgu Lubelskiego w Generalnym Gubernatorstwie, <https://polona.pl/item/amtsblatt-des-chefs-des-distrikts-lublin-im-generalgouvernement-fur-die-besetzten,ODY5MjYzODY/0/#info:metadata>, access 29 II 2020.

Amtsblatt des Chefs des Distrikts Radom im Generalgouvernement für die besetzten polnischen Gebiete. Dziennik Urzędowy Szefa Dystryktu Radom w Generalnym Gubernatorstwie dla Okupowanych Polskich Obszarów, <http://bc.radom.pl/dlibra/publication?id=16820&tab=3>, access 29 II 2020.

Amtsblatt des Chefs des Distrikts Warschau im Generalgouvernement für die Besetzten Polnischen Gebiete. Dziennik Urzędowy Okręgu Szefostwa Warszawa przy Generalnym Gubernatorze na Zajętych Obszarach Polskich, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Warschau_im_Generalgouvernement_f%C3%BCr_die_Besetzten_Polnischen_Gebiete&filters=public:1, access 29 II 2020.

Amtsblatt des Chefs des Distrikts Warschau im Generalgouvernement. Dziennik Urzędowy Okręgu Szefostwa Warszawa przy Generalnym Gubernatorze, <https://polona.pl/item/amtsblatt-des-chefs-des-distrikts-warschau-im-generalgouvernement-dziennik-urzedowy,ODUyNDU4ODE/0/#info:metadata>, access 29 II 2020.

Amtsblatt des Chefs des Distrikts Warschau im Generalgouvernement. Dziennik Urzędowy Szefa Okręgu Warschau (Warszawskiego) w Generalnym Gubernatorstwie, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Warschau_im_Generalgouvernement&filters=public:1, access 29 II 2020.

Amtsblatt des Distriktschefs in Lublin im Generalgouvernement. Dziennik Urzędowy Szefa Okręgowego w Lublinie w Generalnym Gubernatorstwie, https://polona.pl/search/?query=Amtsblatt_des_Chefs_des_Distrikts_Lublin_im_Generalgouvernement._Dziennik&filters=public:1&sort=date%20asc, access 29 II 2020.

Amtsblatt des Gouverneurs des Distrikts Lublin. Dziennik Urzędowy Gubernatora Okręgu Lubelskiego w Generalnym Gubernatorstwie,

https://polona.pl/search/?query=Amtsblatt_des_Gouverneurs_des_Distrikts_Lublin&filters=public:1, access 29 II 2020.

Amtsblatt für den Distrikt Warschau im Generalgouvernement. Dziennik Urzędowy dla Okręgu Warschau w Generalnym Gubernatorstwie, https://polona.pl/search/?query=Amtsblatt_f%C3%BCr_den_Distrikt_Warschau&filters=public:1, access 29 II 2020.

Bundesgesetzblatt Online. Bürgerzugang, <https://www.bgbl.de/xaver/bgbl/start.xav>, access 29 II 2020.

Dennik rozporâdkiv dlâ General'nogo Gubernatorstva, https://polona.pl/search/?query=Dennik_rozpor%C3%A2dkiv_dl%C3%A2_General%27ngo_Gubernatorstva&filters=public:1, access 29 II 2020.

Historische Rechts- und Gesetzestexte Online, http://alex.onb.ac.at/tab_dra.htm, access 29 II 2020.

Lemkin R., Rządy państw Osi w okupowanej Europie. Prawa okupacyjne, analiza rządzenia, propozycje zadośćuczynienia [Aneks], tłum. A. Bieńczyk-Missala et al., Warszawa 2013.

Moll M., „Führer-Erlasse” 1939–1945. Edition sämtlicher überlieferter, nicht im Reichsgesetzblatt abgedruckter, von Hitler während des Zweiten Weltkrieges schriftlich erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung, Stuttgart 1997.

Nazi Conspiracy and Aggression, t. 4, Washington 1946.

Official Gazette of the Allied High Commission for Germany, <http://deposit.dnb.de/online/vdr/rechtsq.htm>, access 29 II 2020.

Official Gazette of the Control Council for Germany, <http://deposit.dnb.de/online/vdr/rechtsq.htm>, access 29 II 2020.

Pospieszalski K., Hitlerowskie „prawo” okupacyjne w Polsce, cz. 1: Ziemie „wcielone”. Wybór dokumentów, Poznań 1952.

Preußische Gesetzsammlung, <https://jbc.bj.uj.edu.pl/dlibra/publication/459069#structure>, access 29 II 2020.

Reichsgesetzblatt (Deutschland), [https://de.wikisource.org/wiki/Reichsgesetzblatt_\(Deutschland\)](https://de.wikisource.org/wiki/Reichsgesetzblatt_(Deutschland)), access 29 II 2020.

Trial of the Major War Criminals before the International Military Tribunal, t. XXIX–XXX, Nuremberg 1948.

Verordnungsblatt des Generalgouverneurs für die besetzten polnischen Gebiete. Dziennik Rozporządzeń Generalnego Gubernatora dla Okupowanych Polskich Obszarów, <http://dlibra.umcs.lublin.pl/dlibra/publication?id=7523&tab=3>, access 29 II 2020.

Verordnungsblatt des Reichskommissars für das Ostland, <https://periodika.lndb.lv/#periodical?id=105489224744420581523827780106827241587>, access 29 II 2020.

Verordnungsblatt des Reichsstatthalters Reichsgau Danzig-Westpreussen, <http://pbc.gda.pl/dlibra/publication?id=73582&tab=3>, access 29 II 2020.

Verordnungsblatt für das Generalgouvernement. Dziennik Rozporządzeń dla Generalnego Gubernatorstwa, <http://dlibra.umcs.lublin.pl/dlibra/publication?id=11395&tab=3>, access 29 II 2020.

Verordnungsblatt für das Generalgouvernement. Dziennik Rozporządzeń dla Generalnego Gubernatorstwa, <http://dlibra.umcs.lublin.pl/dlibra/publication?id=7529&tab=3>, access 29 II 2020.

Verordnungsblatt für die Zivilverwaltung in den dem Gauleiter Forster als Chef der Zivilverwaltung Unterstellten Besetzten Gebieten, <http://pbc.gda.pl/dlibra/publication?id=73575&tab=3>, access 29 II 2020.

Weh A., Prawo Generalnego Gubernatorstwa w układzie rzeczowym z objaśnieniami i szczegółowym skorowidzem, Krakau 1941.

Wybór tekstów źródłowych z historii państwa i prawa. Okres okupacji hitlerowskiej na ziemiach polskich, wybór i oprac. A. Konieczny, Wrocław 1980.

Wysiedlenia ludności polskiej na tzw. ziemiach wcielonych do Rzeszy 1939–1945, wybór źródeł i oprac. C. Łuczak, Poznań 1969.

A 100. Dekret Führera i Kanclerza Rzeszy Niemieckiej o administracji okupowanych obszarów polskich. Z dnia 12 października 1939 r. [w:] A. Weh, Prawo Generalnego Gubernatorstwa w układzie rzeczowym z objaśnieniami i szczegółowym skorowidzem, Krakau 1941.

A 102. Dekret w sprawie nowych uregulowań organizacyjnych w Generalnym Gubernatorstwie. Z dnia 31 lipca 1940 r. [w:] A. Weh, Prawo Generalnego Gubernatorstwa w układzie rzeczowym z objaśnieniami i szczegółowym skorowidzem, Krakau 1941.

A 110. Proklamacja Generalnego Gubernatora. Z dnia 26 października 1939 r. [w:] A. Weh, Prawo Generalnego Gubernatorstwa w układzie rzeczowym z objaśnieniami i szczegółowym skorowidzem, Krakau 1941.

A 120. Pierwsze rozporządzenie o odbudowie administracji Generalnego Gubernatorstwa. Z dnia 26 października 1939 r. [w:] A. Weh, Prawo Generalnego Gubernatorstwa w układzie rzeczowym z objaśnieniami i szczegółowym skorowidzem, Krakau 1941.

A 121. Trzecie rozporządzenie o odbudowie administracji Generalnego Gubernatorstwa (rozporządzenie o jednolitości administracji). Z dnia 1 grudnia 1940 r. [w:] A. Weh, Prawo Generalnego Gubernatorstwa w układzie rzeczowym z objaśnieniami i szczegółowym skorowidzem, Krakau 1941.

A 122. Trzecie rozporządzenie o odbudowie administracji Generalnego Gubernatorstwa (organizacja rządu Generalnego Gubernatorstwa). Z dnia 16 marca 1941 r. [w:] A. Weh, Prawo Generalnego Gubernatorstwa w układzie rzeczowym z objaśnieniami i szczegółowym skorowidzem, Krakau 1941.

Allgemeine Bestimmungen über Anwerbung und Einsatz von Arbeitskräften aus dem Osten (20.2.1942), <https://www.bundesarchiv.de/zwangsarbeit/dokumente/texte/00357/index.html>, access 29 II 2020.

Anordnung zur Durchführung des Erlasses des Führers über einen Generalbevollmächtigten für den Arbeitseinsatz. Vom 27. März 1942 (RGBl. I 1942, 40, 180).

B 100. Obwieszczenie o definitywnej siedzibie służbowej Generalnego Gubernatora dla okupowanych obszarów polskich. Z dnia 13 listopada 1939 r. [w:] A. Weh, Prawo Generalnego Gubernatorstwa w układzie rzeczowym z objaśnieniami i szczegółowym skorowidzem, Krakau 1941.

Bescheinigung über die Nichtzugehörigkeit zum polnischen Volke. Rund-Erlass des Reichsministers des Innern vom 14. November 1940 [w:] K. Pospieszalski, Hitlerowskie „prawo” okupacyjne w Polsce, cz. 1: Ziemie „wcielone”. Wybór dokumentów, Poznań 1952.

Decree Concerning the Introduction of Military Law in the Incorporated Eastern Territories, April 30, 1940 [w:] R. Lemkin, Rządy państw Osi w okupowanej Europie. Prawa okupacyjne, analiza rządzenia, propozycje zadośćuczynienia [Aneks], tłum. A. Bieńczyk-Missala et al., Warszawa 2013.

Dekret Führera i kanclerza Rzeszy o podziale i administracji obszarów wschodnich z 8 października 1939 r. [w:] Wybór tekstów źródłowych z historii państwa i prawa. Okres okupacji hitlerowskiej na ziemiach polskich, wybór i oprac. A. Konieczny, Wrocław 1980.

Dekret Führera i kanclerza Rzeszy o przeniesieniu administracji w Generalnym Gubernatorstwie na Generalnego Gubernatora. Z 19 października 1939 r. [w:] Wybór tekstów źródłowych z historii państwa i prawa. Okres okupacji hitlerowskiej na ziemiach polskich, wybór i oprac. A. Konieczny, Wrocław 1980.

Die Deutsche Gemeindeordnung. Vom 30. Januar 1935 (RGBl. I 1935, 6, 49).

Die Verfassung des Deutschen Reichs. Vom 11. August 1919 (RGBl. 1919, 152, 1383).

Directive N° 6. Treaties Concluded by the Former German Reich (OGAHCG 1951, 52, 846).

Directive No. 38. The Arrest and Punishment at War Criminals, Nazis and Militarists and the Internment, Control and Surveillance at Potentially Dangerous Germans (OGCCG 1946, 11, 184).

Document 2194-PS. Top-Secret: Reich Defense Law, 4 September 1938 [...] [w:] Trial of the Major War Criminals before the International Military Tribunal, t. XXIX, Nuremberg 1948.

Document 2271-PS. Verordnung des Führers vom 24. Oktober 1934 [w:] Trial of the Major War Criminals before the International Military Tribunal, t. XXX, Nuremberg 1948.

Document 2271-PS. Verordnung des Führers vom 12. November 1934 [w:] Trial of the Major War Criminals before the International Military Tribunal, t. 30, Nuremberg 1948.

Drugie rozporządzenie dla uzupełnienia rozporządzenia o posiadaniu broni. Z 6 października 1939 r. (Dz. ROOP 1939, 8, 32).

Drugie rozporządzenie dla wykonania dekretu Führera i kanclerza Rzeszy o podziale i administracji obszarów wschodnich z 2 listopada 1939 r. [w:] Wybór tekstów źródłowych z historii państwa i prawa. Okres okupacji hitlerowskiej na ziemiach polskich, wybór i oprac. A. Konieczny, Wrocław 1980.

Drugie rozporządzenie o odbudowie administracji Generalnego Gubernatorstwa (rozporządzenie o jednolitości administracji). Z dnia 1 grudnia 1940 r. (Dz. RGGOP 1940, 68, 357).

Drugie rozporządzenie o wprowadzeniu kart rozpoznawczych w Generalnym Gubernatorstwie. Z dnia 13 czerwca 1941 r. (Dz. RGG 1941, 55, 344).

Einführungsgesetz zum Militär-Strafgesetzbuche für das Deutsche Reich. Vom 20. Juni 1872 (DRGBl. 1872, 18, 173).

Ergänzungsgesetz zum Reichskulturkammergesetz. Vom 15. Mai 1934 (RGBl. I 1934, 56, 413).

Erlass des Führers über die Abgrenzung des Bezirkes Bialystok. Vom 18. September 1941 [w:] M. Moll, „Führer-Erlasse“ 1939–1945. Edition sämtlicher überlieferter, nicht im Reichsgesetzblatt abgedruckter, von Hitler während des Zweiten Weltkrieges schriftlich erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung, Stuttgart 1997.

Erlass des Führers über die Ausgliederung des Generalbezirks Weißruthenien aus dem Reichskommissariat Ostland. Vom 1. April 1944 [w:] M. Moll, „Führer-Erlasse“ 1939–1945. Edition sämtlicher überlieferter, nicht im Reichsgesetzblatt abgedruckter, von Hitler während des Zweiten Weltkrieges schriftlich erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung, Stuttgart 1997.

Erlass des Führers über die Bildung eines Ministerrats für die Reichsverteidigung. Vom 30. August 1939 (RGBl. I 1939, 154, 1539).

Erlass des Führers über die Verwaltung der neu besetzten Ostgebiete. Vom 17. Juli 1941 [w:] M. Moll, „Führer-Erlasse“ 1939–1945. Edition sämtlicher überlieferter, nicht im Reichsgesetzblatt abgedruckter, von Hitler während des Zweiten Weltkrieges schriftlich erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung, Stuttgart 1997.

Erlass des Führers über die vorläufige Verwaltung des Bezirks Bialystok. Vom 15. August 1941 [w:] M. Moll, „Führer-Erlasse“ 1939–1945. Edition sämtlicher überlieferter, nicht im Reichsgesetzblatt abgedruckter, von Hitler während des Zweiten Weltkrieges schriftlich

erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung, Stuttgart 1997.

Erlass des Führers über einen Generalbevollmächtigten für den Arbeitseinsatz. Vom 21. März 1942 (RGBl. I 1942, 40, 179).

Erlass des Führers und Reichskanzlers über des Inkrafttreten des Erlasses über Gliederung und Verwaltung der Ostgebiete. Vom 20. Oktober 1939 (RGBl. I 1939, 207, 2057).

Erlass des Führers und Reichskanzlers über die Verwaltung der besetzten polnischen Gebiete. Vom 12. Oktober 1939 (RGBl. I 1939, 210, 2077).

Erlass des Führers und Reichskanzlers über die Verwaltung der sudetendeutschen Gebiete. Vom 1. Oktober 1938 (RGBl. I 1938, 157, 1331).

Erlass des Führers und Reichskanzlers über Gliederung und Verwaltung der Ostgebiete. Vom 8. Oktober 1939 (RGBl. I 1939, 204, 2042).

Erlass des Führers und Reichskanzlers zur Änderung des Erlasses über Gliederung und Verwaltung der Ostgebiete. Vom 2. November 1939 (RGBl. I 1939, 219, 2135).

Erlass des Führers und Reichskanzlers zur Änderung des Erlasses über Gliederung und Verwaltung der Ostgebiete. Vom 29. Januar 1940 (RGBl. I 1940, 23, 251).

Erlass des Führers und Reichskanzlers zur Festigung deutschen Volkstums. Vom 7. Oktober 1939 [w:] M. Moll, „Führer-Erlasse“ 1939–1945. Edition sämtlicher überlieferter, nicht im Reichsge- setzblatt abgedruckter, von Hitler während des Zweiten Weltkrieges schriftlich erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung, Stuttgart 1997.

Erlass des Reichsministers und Chefs der Reichskanzlei vom 26. Juni 1943, RK 7669 E [tekst nieogłoszony].

Erlass für die Überprüfung und Aussonderung der Bevölkerung in den eingegliederten Ostgebieten (12.9.1940) [w:] K. Pospieszalski, Hitlerowskie „prawo” okupacyjne w Polsce, cz. 1: Ziemie „wcielone”. Wybór dokumentów, Poznań 1952.

Erlass über die Einsetzung eines Chefs der Deutschen Polizei im Reichsministerium des Innern. Vom 17. Juni 1936 (RGBl. I 1936, 55, 487).

Erlass über die Reichssiegel. Vom 16. März 1937 (RGBl. I 1937, 34, 307).

Erste Durchführungsverordnung zum Gesetz über die Hitler-Jugend (Allgemeine Bestimmungen). Vom 25. März 1939 (RGBl. I 1939, 66, 709).

Erste Durchführungsverordnung zum Gesetz über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen. Vom 17. August 1937 (RGBl. I 1937, 95, 905).

Erste Durchführungsverordnung zur Verordnung über die bürgerliche Rechtspflege in den eingegliederten Ostgebieten (Erste Ost-Rechtspflege-Durchführungsverordnung – 1. ORpflDVO). Vom 25. September 1941 (RGBl. I 1941, 112, 599).

Erste Verordnung zur Durchführung des Erlasses des Führers und Reichskanzlers über Gliederung und Verwaltung der Ostgebiete. Vom 26. Oktober 1939 (RGBl. I 1939, 214, 2108).

Erste Verordnung zum Gesetz über die Wiedervereinigung der Freien Stadt Danzig mit dem Deutschen Reich. Vom 12. September 1939 (RGBl. I 1939, 177, 1759).

Erster Erlass des Führers über die Einführung der Zivilverwaltung in den neu besetzten Ostgebieten. Vom 17. Juli 1941 [w:] M. Moll, „Führer-Erlasse“ 1939–1945. Edition sämtlicher überlieferter, nicht im Reichsgesetzblatt abgedruckter, von Hitler während des Zweiten Weltkrieges schriftlich erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung, Stuttgart 1997.

Geheime Kommandosache. Reichsverteidigungsgesetz vom 4. September 1938 [tekst nieopublikowany].

Gesetz, betreffend die Invaliditäts- und Altersversicherung. Vom 22. Juni 1889 (RGBl. 1889, 13, 97).

Gesetz, betreffend die Krankenversicherung der Arbeiter. Vom 15. Juni 1883 (RGBl. 1883, 9, 73). Gesetz, betreffend die Redaktion des Strafgesetzbuches für den Norddeutschen Bund als Strafgesetzbuch für das Deutsche Reich vom 15. Mai 1871 (RGBl. 1871, 24, 127).

Gesetz über Änderung der Bekanntmachung über den Verkehr mit landwirtschaftlichen Grundstücken. Vom 26. Januar 1937 (RGBl. I 1937, 8, 32).

Gesetz über den Aufbau der Verwaltung im Reichsgau Sudetenland (Sudetengaugesetz). Vom 14. April 1939 (RGBl. I 1939, 74, 780).

Gesetz über den freiwilligen Arbeitsdienst. Vom 13. Dezember 1934 (RGBl. I 1934, 134, 1235).

Gesetz über die Durchführung einer Volks-, Berufs- und Betriebszählung. Vom 4. Oktober 1937 (RGBl. I 1937, 109, 1053).

Gesetz über die Einziehung volks- und staatsfeindlichen Vermögens (RGBl. I 1933, 81, 480). Gesetz über die Errichtung einer vorläufigen Filmkammer. Vom 14. Juli 1933 (RGBl. I 1933, 82, 483).

Gesetz über die Hitlerjugend. Vom 1. Dezember 1936 (RGBl. I 1936, 113, 993).

Gesetz über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen. Vom 9. März 1937 (RGBl. I 1937, 30, 281).

Gesetz über Wiedereinführung der Militärgerichtsbarkeit. Vom 12. Mai 1933 (RGBl. I 1933, 50, 264).

Gesetz über Wiedereinrichtung eines Obersten Gerichtshofs der Wehrmacht. Vom 26. Juni 1936 (RGBl. I 1936, 61, 517).

Gesetz über die Wiedervereinigung der Freien Stadt Danzig mit dem Deutschen Reich. Vom 1. September 1939 (RGBl. I 1939, 155, 1547).

Gesetz zum Schutze der Erbgesundheit des deutschen Volkes (Ehegesundheitsgesetz). Vom 18. Oktober 1935 (RGBl. I 1935, 114, 1246).

Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre. Vom 15. September 1941 (RGBl. I 1935, 100, 1146).

Gesetz zur Abwehr politischer Gewalttaten. Vom 4. April 1933 (RGBl. I 1933, 31, 162).

Gesetz zur Änderung des Gesetzes zur Verhütung erbkranken Nachwuchses. Vom 26. Juni 1935 (RGBl. I 1935, 65, 773).

Gesetz zur Änderung und Ergänzung des Gesetzes über die Durchführung einer Volks-, Berufs- und Betriebszählung. Vom 6. Juli 1938 (RGBl. I 1938, 105, 796).

Gesetz zur Einführung des Völkerstrafgesetzbuches. Vom 26. Juni 2002 (BGBl. I 2002, 42, 2254). Gesetz zur Ergänzung des Gesetzes zur Verfolgung von Kriegsverbrechen und Kriegsvergehen vom 18. Dezember 1919 (RGBl. S. 2125). Vom 24 März 1920 (RGBl. 1920, 53, 341).

Gesetz zur Ordnung der nationalen Arbeit. Vom 20. Januar 1934 (RGBl. I 1934, 7, 45).

Gesetz zur Regelung der landwirtschaftlichen Schuldverhältnisse. Vom 1. Juni 1933 (RGBl. I 1933, 61, 331).

Gesetz zur Vereinheitlichung des Rechts der Eheschließung und der Ehescheidung in Lande Österreich und in übrigen Reichsgebiet. Vom 6. Juli 1938 (RGBl. I 1938, 106, 807).

Gesetz zur Verfolgung von Kriegsverbrechen und Kriegsvergehen vom 18. Dezember 1919 (RGBl. 1919, 247, 2125).

Gesetz zur Verhütung erbkranken Nachwuchses. Vom 14. Juli 1933 (RGBl. I 1933, 86, 529). Gesetz zur weiteren Ergänzung des Gesetzes zur Verfolgung von Kriegsverbrechen und Kriegsvergehen. Vom 21. Mai 1921 (RGBl. 1921, 51, 508).

Konstytucja Rzeszy Niemieckiej, tłum. M. Litauer [w:] Nowe konstytucje, red. J. Makowski, Warszawa 1925. Law No. 10 dated 20 December 1945. Punishment of Persons Guilty of War Crimes, Crimes against Peace and against Humanity (OGCCG 1946, 3, 50).

Militär-Strafgesetzbuch für das Deutsche Reich. Vom 20. Juni 1872 (DRGBl. 1872, 18, 174).

Note on the Law for the Defense of the Reich of 21 May 1935 [w:] Nazi Conspiracy and Aggression, t. 4, Washington 1946.

Note to the Reich Defense Law [w:] Nazi Conspiracy and Aggression, t. 4, Washington 1946. Obwieszczenie o adresie Urzędu Generalnego Gubernatora dla okupowanych polskich obszarów. Z dnia 31 października 1939 r. (Dz. RGGPO 1939, 2, 16).

Order Concerning Organization of Courts in the Incorporated Eastern Territories, June 13, 1940 [w:] R. Lemkin, Rządy państw Osi w okupowanej Europie. Prawa okupacyjne, analiza rządzenia, propozycje zadośćuczynienia [Aneks], tłum. A. Bieńczyk-Missala et al., Warszawa 2013.

Order Concerning the Organization and Administration of the Eastern Territories, May 31, 1941 [w:] R. Lemkin, Rządy państw Osi w okupowanej Europie. Prawa okupacyjne, analiza rządzenia, propozycje zadośćuczynienia [Aneks], tłum. A. Bieńczyk-Missala et al., Warszawa 2013.

Ordinance No. 7. Organization and Powers of Certain Military Tribunals (MGGGUSZ 1946, B, 10).

Organisation der Geheimen Staatspolizei in den Ostgebieten. Rund-Erlass des Reichsführer SS und Chef der Deutschen Polizei in Reichsministerium des Innern vom 7.11.1939 (MBI. dRPMdI 1939, 2291).

Organisation der Geheimen Staatspolizei in den Ostgebieten. Rund-Erlass des Reichsführer SS und Chef der Deutschen Polizei in Reichsministerium des Innern vom 7.11.1939 [w:] K. Pospieszalski, Hitle- rowskie „prawo” okupacyjne w Polsce, cz. 1: Ziemie „wcielone”. Wybór dokumentów, Poznań 1952.

Organizacja tajnej policji państwowej na obszarach wschodnich [z 7 listopada 1939 r.] [w:] Wybór tekstów źródłowych z historii państwa i prawa. Okres okupacji hitlerowskiej na ziemiach polskich, wybór i oprac. A. Konieczny, Wrocław 1980.

Pierwsze rozporządzenie dla wykonania dekretu Führera i kanclerza Rzeszy o podziale i administracji obszarów wschodnich z 26 października 1939 r. [w:] Wybór tekstów źródłowych z historii państwa i prawa. Okres okupacji hitlerowskiej na ziemiach polskich, wybór i oprac. A. Konieczny, Wrocław 1980.

Pierwsze rozporządzenie o odbudowie administracji okupowanych polskich obszarów. Z dnia 26 października 1939 (Dz. RGGPO 1939, 1, 3).

Pierwsze rozporządzenie wykonawcze do rozporządzenia z dnia 26 października 1939 r. o wprowadzeniu obowiązku pracy dla polskiej ludności Generalnego Gubernatorstwa (Dz. Rozp. G.G.P. 1939 r., s. 6). Z dnia 31 października 1939 r. (Dz. RGGPO 1939, 2, 14).

Polizeiverordnung über die Kenntlichmachung im Reich eingesetzter Zivilarbeiter und -arbeiterinnen polnischen Volkstums. Vom 8. März 1940 (RGL. I 1940, 55, 555).

Preußisches Gesetz über die Bildung der Provinzen Oberschlesien und Niederschlesien. Vom 20. Dezember 1940 (PGS 1941, 1, 1).

Proclamation N° 2, dated 20 September 1945, Certain Additional Requirements Imposed on Germany (OGCCG 1945, 1, 8).

Proklamacja [z 1 sierpnia 1941 r.] (Dz. RGG 1941, 67, 442).

Proklamacja Generalnego Gubernatora [z 26 października 1939 r.] (Dz. RGGPO 1939, 1, 1).

Proklamation der Reichsregierung an das deutsche Volk. Vom 16. März 1935 (RGL. I 1935, 28, 369).

Reich Defense Law of 21 May 1935 [w:] Nazi Conspiracy and Aggression, t. 4, Washington 1946. Reich Defense Law of 4 September 1938 [w:] Nazi Conspiracy and Aggression, t. 4, Washington 1946. Reichsarbeitsdienstgesetz. Vom 26. Juni 1935 (RGBl. I 1935, 64, 769).

Reichsbürgergesetz. Vom 15. September 1941 (RGBl. I 1935, 100, 1146).

Reichserbhofgesetz. Vom 29. September 1933 (RGBl. I 1933, 108, 685).

Reichsflaggengesetz. Vom 15. September 1935 (RGBl. I 1935, 100, 1145).

Reichskulturkammergesetz. Vom 22. September 1933 (RGBl. I 1933, 105, 661).

Reichsverteidigungsgesetz. Vom 21. Mai 1935.

Reichsverteidigungsgesetz. Vom 21. Mai 1935 [w:] Trial of the Major War Criminals before the International Military Tribunal, t. XXX, Nuremberg 1948.

Reichsverteidigungsgesetz. Vom 4. September 1938 [tekst nieopublikowany].

Reichsverteidigungsgesetz. Vom 4. September 1938 [w:] Trial of the Major War Criminals before the International Military Tribunal, t. XXIX, Nuremberg 1948.

Rozporządzenie celem zwalczania czynów gwałtu w Generalnym Gubernatorstwie. Z dnia 31 października 1939 r. (Dz. RGGOP 1939, 2, 10).

Rozporządzenie do uzupełnienia rozporządzenia o posiadaniu broni. Z 21 września 1939 r. (Dz. ROOP 1939, 4, 9).

Rozporządzenie naczelnego dowódcy wschodu o poruczeniu władzy wydawania przepisów prawnych naczelnemu szefowi administracji. Z dnia 16 października 1939 r. (Dz. ROOP 1939, 12, 53).

Rozporządzenie o dniach świątecznych w Generalnym Gubernatorstwie. Z dnia 16 marca 1940 r. (Dz. RGGOP 1940, 21, 108).

Rozporządzenie o konfiskacie dzieł sztuki w Generalnym Gubernatorstwie. Z dnia 16 grudnia 1939 r. (Dz. RGGOP 1939, 12, 209).

Rozporządzenie o konfiskacie i oddaniu aparatów radiowych. Z dnia 15 grudnia 1939 r. (Dz. RGGOP 1939, 13, 225).

Rozporządzenie o konfiskacie majątku byłego państwa polskiego na obszarze Generalnego Gubernatorstwa. Z dnia 15 listopada 1939 r. (Dz. RGGOP 1939, 6, 37).

Rozporządzenie o odbudowie wymiaru sprawiedliwości w Generalnym Gubernatorstwie. Z dnia 26 października 1939 r. (Dz. RGGOP 1939, 1, 4).

Rozporządzenie o posiadaniu broni. Z 12 września 1939 r. (Dz. ROOP 1939, 3, 8).

Rozporządzenie o rozciągnięciu obowiązku pracy dla ludności polskiej Generalnego Gubernatorstwa. Z dnia 14 grudnia 1939 r. (Dz. RGGOP 1939, 13, 224).

Rozporządzenie o sądach specjalnych w Generalnym Gubernatorstwie. Z dnia 15 listopada 1939 r. (Dz. RGGOP 1939, 6, 34).

Rozporządzenie o sądownictwie karnym dla Polaków i Żydów na włączonych obszarach wschodnich z 4 grudnia 1941 r. [w:] Wybór tekstów źródłowych z historii państwa i prawa. Okres okupacji hitlerowskiej na ziemiach polskich, wybór i oprac. A. Konieczny, Wrocław 1980.

Rozporządzenie o sądownictwie niemieckim w Generalnym Gubernatorstwie (Dz. RGGOP 1940, 13, 57).

Rozporządzenie o sądownictwie polskim w Generalnym Gubernatorstwie (Dz. RGGOP 1940, 13, 64).

Rozporządzenie o ściganiu przestępstw popełnionych przed 1 września 1939 r. na okupowanych przez wojska niemieckie obszarach polskich z 1 października 1939 r. (Dz. ROOP 1939, 7, 24).

Rozporządzenie o tymczasowym uregulowaniu sądownictwa administracyjnego w Generalnym Gubernatorstwie (Dz. RGGOP 1940, 47, 222).

Rozporządzenie o wprowadzeniu kart rozpoznawczych w Generalnym Gubernatorstwie. Z dnia 26 października 1939 r. (Dz. RGGOP 1939, 1, 8).

Rozporządzenie o wprowadzeniu niemieckiego prawa karnego. Z dnia 5 września 1939 r. (Dz. ROOP 1939, 2, 2).

Rozporządzenie o wprowadzeniu obowiązku pracy dla polskiej ludności Generalnego Gubernator- stwa. Z dnia 26 października 1939 r. (Dz. RGGOP 1939, 1, 5).

Rozporządzenie o zabezpieczeniu zapotrzebowania sił dla zadań o szczególnym znaczeniu pań- stwowo-politycznym (Rozporządzenie o obowiązku świadczenia usług). Z dnia 13 maja 1942 r. (Dz. RGG 1942, 40, 255).

Rozporządzenie w sprawie administracji Galicji. Z dnia 1 sierpnia 1941 r. (Dz. RGG 1941, 67, 443). Rozporządzenie w sprawie odbudowy sprawiedliwości w okręgu Galizien (Galicja). Z dnia 1 sierpnia 1941 r. (Dz. RGG 1941, 68, 445).

Schriftleitergesetz. Vom 4. Oktober 1933 (RGBl. I 1933, 111, 713).

Second Order Implementing the Act for the Protection of German Blood and German Honor, May 31, 1941 [w:] R. Lemkin, Rządy państw Osi w okupowanej Europie. Prawa okupacyjne, analiza rządzenia, propozycje zadośćuczynienia [Aneks], tłum. A. Bieńczyk-Missala et al., Warszawa 2013.

Theatergesetz. Vom 15. Mai 1934 (RGBl. I 1934, 56, 411).

Translation of Document 2271-PS. Hitler's Decree, 24 October 1934 [w:] Nazi Conspiracy and Aggression, t. 4, Washington 1946.

Translation of Document 2271-PS. Hitler's Decree, 12 November 1934 [w:] Nazi Conspiracy and Aggression, t. 4, Washington 1946.

Trzecie rozporządzenie o odbudowie administracji Generalnego Gubernatorstwa (organizacja rządu Generalnego Gubernatorstwa). Z dnia 16 marca 1941 r. (Dz. RGG 1941, 21, 99).

Unfallversicherungsgesetz. Vom 6. Juli 1884 (RGBl. 1884, 19, 69).

Ustawa o ponownym zjednoczeniu Wolnego Miasta Gdańska z Rzeszą Niemiecką z 1 września 1939 r. [w:] Wybór tekstów źródłowych z historii państwa i prawa. Okres okupacji hitlerowskiej na ziemiach polskich, wybór i oprac. A. Konieczny, Wrocław 1980.

Vermerk zum Reichsverteidigungsgesetz vom 21. Mai 1935 [w:] Trial of the Major War Criminals before the International Military Tribunal, t. XXX, Nuremberg 1948.

Vermerk zum Reichsverteidigungsgesetz. Vom 4. September 1938 [w:] Trial of the Major War Criminals before the International Military Tribunal, t. XXIX, Nuremberg 1948.

Verordnung der Reichsregierung über die Bildung von Sondergerichten vom 21. März 1933 (RGBl. I 1933, 24, 136).

Verordnung des Oberpräsidenten als Chef der Zivilverwaltung über die Einführung des deutschen Rechts im Bezirk Bialystok. Vom 30. September 1942 (AO ZBB 1942, 16, 129).

Verordnung über das Hoheitszeichen des Reichs. Vom 5. November 1935 (RGBl. I 1935, 122, 1287). Verordnung über das Inkrafttreten und die Durchführung des Schriftleitergesetzes. Vom 19. Dezember 1933 (RGBl. I 1933, 144, 1085).

Verordnung über das militärische Strafverfahren im Kriege und bei besonderem Einsatz (Kriegsstrafverfahrensordnung – KStVO). Vom 17. August 1938 (RGBl. I 1939, 147, 1457).

Verordnung über das Sonderstrafrecht im Kriege und bei besonderem Einsatz (Kriegssonderstrafrechtsverordnung). Vom 17. August 1938 (RGBl. I 1939, 147, 1455).

Verordnung über den freiwilligen Arbeitsdienst. Vom 16. Juli 1932 (RGBl. I 1932, 45, 352). Verordnung über die bürgerliche Rechtspflege in den eingegliederten Ostgebieten (Ost-Rechtspflege-Verordnung – ORpflVO). Vom 25. September 1941 (RGBl. I 1941, 112, 597).

Verordnung über die Deutsche Volksliste und die deutsche Staatsangehörigkeit in den eingegliederten Ostgebieten. Vom 4. März 1941 (RGBl. I 1941, 25, 118).

Verordnung über die Durchführung der Volks-, Berufs- und Betriebszählung 1939 in den sudetendeutschen Gebieten. Vom 21. Februar 1939 (RGBl. I 1939, 32, 281).

Verordnung über die Einführung der Deutschen Gemeindeordnung in den eingegliederten Ostgebieten. Vom 23. Dezember 1939 (RGBl. I 1939, 254, 2467).

Verordnung über die Einführung der Nürnberger Rassengesetze in den eingegliederten Ostgebieten. Vom 31. Mai 1941 (RGBl. I 1941, 60, 297).

Verordnung über die Einführung des deutschen Strafrechts in den eingegliederten Ostgebieten. Vom 6. Juni 1940 (RGBl. I 1940, 100, 844).

Verordnung über die Einführung des Gesetzes über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen in den sudetendeutschen Gebieten. Vom 17. Februar 1939 (RGBl. I 1939, 30, 257).

Verordnung über die Einführung von Wehrrecht in den eingegliederten Ostgebieten. Vom 30. April 1940 (RGBl. I 1940, 79, 707).

Verordnung über die Form der Rechtsetzung des Reichskommissars für das Ostland. Vom 17. April 1942 (VBl. RKO 1942, 18, 59).

Verordnung über die Gerichtsverfassung in den eingegliederten Ostgebieten. Vom 13. Juni 1940 (RGBl. I 1940, 113, 907).

Verordnung über die Organisationen der polnischen Volksgruppe im Deutschen Reich. Vom 27. Februar 1940 (RGBl. I 1940, 39, 444).

Verordnung über die Strafrechtspflege gegen Polen und Juden in den eingegliederten Ostgebieten (RGBl. I 1941, 140, 759).

Verordnung über Kennkarten. Vom 22. Juli 1938. (RGBl. I 1938, 115, 913).

Verordnung zur Änderung der Ersten Durchführungsverordnung zum Gesetz über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen. Vom 16. Juni 1940 (RGBl. I 1940, 108, 881).

Verordnung zur Änderung der Ersten Durchführungsverordnung zum Gesetz über die Sicherung der Reichsgrenze und über Vergeltungsmaßnahmen. Vom 5. Juni 1941 (RGBl. I 1941, 61, 301).

Verordnung zur Durchführung des Vierjahresplanes. Vom 18. Oktober 1936 (RGBl. I 1936, 96, 887).

Verordnung zur Ergänzung der Verordnung über die Strafrechtspflege gegen Polen und Juden in den eingegliederten Ostgebieten. Vom 31. Januar 1942 (RGBl. I 1942, 9, 52).

Wehrgesetz. Vom 21. Mai 1935 (RGBl. I 1935, 52, 609).

Zarządzenie H. Himmlera w sprawie wysiedleń ludności na tzw. ziemiach wcielonych do Rzeszy [w:] Wysiedlenia ludności polskiej na tzw. ziemiach wcielonych do Rzeszy 1939–1945, wybór źródeł i oprac. C. Łuczak, Poznań 1969.

Zarządzenie w sprawie utworzenia sądów specjalnych w okręgu Galizien (Galicja). Z dnia 13 paź- dziernika 1941 r. (Dz. RGG 1941, 101, 603).

Zweite Durchführungsverordnung zum Gesetz über die Hitler-Jugend (Jugenddienstverordnung). Vom 25. März 1939 (RGBl. I 1939, 66, 710).

Zweite Verordnung zum Gesetz über die Wiedervereinigung der Freien Stadt Danzig mit dem Deutschen Reich. Vom 19. Oktober 1939 (RGBl. I 1939, 207, 2058).

Zweite Verordnung zur Ausführung des Gesetzes zum Schutze des deutschen Blutes und der deutschen Ehre. Vom 31. Mai 1941 (RGBl. I 1941, 60, 297).

Zweite Verordnung zur Durchführung des Erlasses des Führers und Reichkanzlers über Gliederung und Verwaltung der Ostgebiete. Vom 2. November 1939 (RGBl. I 1939, 218, 2133).

Zweiter Erlass des Führers über die Einführung der Zivilverwaltung in den neu besetzten Ostgebieten. Vom 20. August 1941 [w:] M. Moll, „Führer-Erlasse“ 1939–1945. Edition sämtlicher überlieferter, nicht im Reichsgesetzblatt abgedruckter, von Hitler während des

Zweiten Weltkrieges schriftlich erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung, Stuttgart 1997.

Zweites Gesetz zur Änderung des Gesetzes zur Verhütung erbkranken Nachwuchses. Vom 4. Februar 1936 (RGBl. I 1936, 16, 119).

B. Poland

Dziennik Praw Królestwa Polskiego (1918).

Dziennik Ustaw (1919–1920, 1922–1923, 1925–1930, 1932–1935, 1937, 1940, 1944, 1947, 1952, 1956, 1970, 1990–1991, 1997–1998, 2018).

Dziennik Ustaw Rzeczypospolitej Polskiej wydawany w latach 1939–1990 na uchodźstwie, <http://www.dziennikustawnauchodzstwie.gov.pl/DU>, access 29 II 2020.

Internetowy System Aktów Prawnych, <http://isap.sejm.gov.pl/isap.nsf/home.xsp>, access 29 II 2020.

Monitor Polski. Dziennik Urzędowy Rzeczypospolitej Polskiej wydawany w latach 1939–1940 na uchodźstwie, <http://monitorpolskinauchodzstwie.gov.pl/MP>, access 29 II 2020.

Dekret Prezydenta Rzeczypospolitej z dnia 6 września 1935 r. o wydawaniu Dziennika Ustaw Rzeczypospolitej Polskiej (Dz.U. z 1935 r., nr 68, poz. 423).

Dekret Prezydenta Rzeczypospolitej z dnia 12 lipca 1940 r. o tymczasowym zawieszeniu wydawania

„Monitora Polskiego” i zmianie dekretu Prezydenta Rzeczypospolitej z dnia 6 września 1935 r. o wydawaniu Dziennika Ustaw Rzeczypospolitej Polskiej (Dz.U. z 1940 r., nr 11, poz. 28).

Dekret Rady Regencyjnej z dnia 3 stycznia 1918 r. o tymczasowej organizacji władz naczelnych w Królestwie Polskiem (Dz. PrKP z 1918 r., nr 1, poz. 1).

Oświadczenie rządowe z dnia 3 sierpnia 1929 r. w sprawie złożenia dokumentów ratyfikacyjnych, dokumentów o przystąpieniu i wejściu w życie międzynarodowego traktatu przeciwwojennego, podpisanego w Paryżu dnia 27-go sierpnia 1928 r. (Dz.U. z 1929 r., nr 63, poz. 490).

Oświadczenie rządowe z dnia 24 lutego 1934 r. w sprawie wymiany dokumentów ratyfikacyjnych deklaracji pomiędzy Rzeczpospolitą Polską a Rzeszą Niemiecką o niestosowaniu przemocy, podpisanej w Berlinie dnia 26 stycznia 1934 r. (Dz.U. z 1934 r., nr 16, poz. 125).

Oświadczenie rządowe z dnia 27 sierpnia 1951 r. w sprawie ratyfikacji przez Polskę Konwencji z dnia 9 grudnia 1948 r. o zapobieganiu i karaniu zbrodni ludobójstwa (Dz.U. z 1952 r., nr 2, poz. 10).

Oświadczenie rządowe z dnia 10 października 1970 r. w sprawie wejścia w życie Konwencji o niestosowaniu przedawnienia wobec zbrodni wojennych i zbrodni przeciw ludzkości, przyjętej przez Zgromadzenie Ogólne Organizacji Narodów Zjednoczonych dnia 26 listopada 1968 r. (Dz.U. z 1970 r., nr 26, poz. 209).

Oświadczenie rządowe z dnia 23 stycznia 1998 r. w sprawie wycofania przez Rzeczpospolitą Polską zastrzeżeń dotyczących wyłączenia obowiązkowej jurysdykcji Międzynarodowego Trybunału Sprawiedliwości oraz obowiązkowego arbitrażu, które Polska złożyła przy ratyfikacji lub przystąpieniu do niektórych umów międzynarodowych (Dz.U. z 1998 r., nr 33, poz. 178).

Rozporządzenie Prezydenta Rzeczypospolitej z dnia 23 grudnia 1927 r. w przedmiocie wydawania Dziennika Ustaw Rzeczypospolitej Polskiej (Dz.U. z 1928 r., nr 3, poz. 18).

Rozporządzenie Prezydenta Rzeczypospolitej z dnia 11 lipca 1932 r. Kodeks karny (Dz.U. z 1932 r., nr 60, poz. 571).

Rozporządzenie Rady Ministrów z dnia 10 lutego 1926 r. o zezwoleniu gminie wiejskiej Gdynia w powiecie wejherowskim w województwie pomorskim na przyjęcie ustroju według pruskiej ordynacji miejskiej dla sześciu wschodnich prowincyj z dnia 30 maja 1853 r. (Dz.U. z 1926 r., nr 21, poz. 127).

Rozporządzenie Rady Ministrów z dnia 2 września 1931 r. w sprawie przeprowadzenia drugiego powszechnego spisu ludności (Dz.U. z 1931 r., nr 80, poz. 629).

Ustawa z dnia 31 lipca 1919 r. w sprawie wydawania Dziennika Ustaw Rzeczypospolitej Polskiej (Dz.U. z 1919 r., nr 66, poz. 400).

Ustawa z dnia 24 maja 1922 r. w przedmiocie ratyfikacji konwencji niemiecko-polskiej, dotyczącej Górnego Śląska, podpisanej w Genewie dnia 15 maja 1922 r. (Dz.U. z 1922 r., nr 44, poz. 370).

Ustawa z dnia 12 czerwca 1937 r. o zmianie granic województw: poznańskiego, pomorskiego, warszawskiego i łódzkiego (Dz.U. z 1937 r., nr 46, poz. 350).

Ustawa z dnia 30 grudnia 1950 r. o wydawaniu Dziennika Ustaw Rzeczypospolitej Polskiej i Dziennika Urzędowego Rzeczypospolitej Polskiej „Monitor Polski” (Dz.U. z 1950 r., nr 58, poz. 524).

Ustawa z dnia 20 września 1991 r. o zmianie ustawy o wydawaniu Dziennika Ustaw Rzeczypospolitej Polskiej i Dziennika Urzędowego Rzeczypospolitej Polskiej „Monitor Polski” (Dz.U. z 1991 r., nr 94, poz. 420).

Ustawa z dnia 6 czerwca 1997 r. – Kodeks karny (Dz.U. z 1997 r., nr 88, poz. 553).

Ustawa z dnia 20 lipca 2000 r. o ogłaszaniu aktów normatywnych i niektórych innych aktów prawnych (Dz.U. z 2018 r., poz. 644).

C. Free City of Danzig

Gesetzblatt für die Freie Stadt Danzig (1921–1923, 1929–1936, 1938–1939).
Staatsanzeiger für Danzig (1921).

Staatsanzeiger für die Freie Stadt Danzig I (1935).

Gesetzblatt für die Freie Stadt Danzig,
https://commons.wikimedia.org/wiki/Category:Gesetzblatt_f%C3%BCr_die_Freie_Stadt_Danzig, access 29 II 2020.

Gesetzblatt für die Freie Stadt Danzig, <https://www.freecitysourcebook.com/gesetzblatt-fuumlr-die-freie-stadt-danzig.html>, access 29 II 2020.

Gesetzblatt für die Freie Stadt Danzig (1923–1939),
[https://jbc.bj.uj.edu.pl/dlibra/results?action=AdvancedSearchAction&type=-3&val1=GroupTitle:Gesetzblatt+f%C3%BCr+die+Freie+Stadt+Danzig+%5C\(1923%5C-1939%5C\)](https://jbc.bj.uj.edu.pl/dlibra/results?action=AdvancedSearchAction&type=-3&val1=GroupTitle:Gesetzblatt+f%C3%BCr+die+Freie+Stadt+Danzig+%5C(1923%5C-1939%5C)), access 29 II 2020.

Staatsanzeiger für Danzig. Anlage. Oeffentlicher Anzeiger, <http://pbc.gda.pl/dlibra/publication?id=42060&tab=3>, access 29 II 2020.

Staatsanzeiger für die Freie Stadt Danzig, cz. 1,
<http://pbc.gda.pl/dlibra/publication?id=37514&tab=3>, access 29 II 2020.

Staatsanzeiger für die Freie Stadt Danzig, cz. 2: Oeffentlicher Anzeiger,
<http://pbc.gda.pl/dlibra/publication?id=39382&tab=3>, access 29 II 2020.

Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 2: 1921–1923, Gdańsk 1924.

Bekanntmachung der Verfassung der Freien Stadt Danzig in der Fassung des Gesetzes vom 4. Juli 1930. Vom 17.9.1930 (GBl. f. d. FSD 1930, 35, 181).

Decyzja Wysokiego Komisarza z 16 grudnia 1921 r. [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 2: 1921–1923, Gdańsk 1924.

Dritte Verordnung zur Erhaltung und Vermehrung von Arbeitsgelegenheiten. Vom 15. August 1933 (GBl. f. d. FSD 1933, 59, 383).

Durchführungsbestimmungen zum Steuergesetzes. Vom 9. Oktober 1935 (GBl. f. d. FSD 1935, 106, 1015).

Gesetz betreffend den Unterricht der polnischen Minderheit (GBl. f. d. FSD 1921, 36, 223).

Gesetz über den Gebrauch der polnischen Sprache bei der Rechtspflege. Vom 11. Oktober 1922 (GBl. f. d. FSD 1922, 51, 470).

Gesetz über die allgemeine Landesverwaltung. Vom 30. Juli 1883 (GS f. d. KPS 1883, 25, 195).

Gesetz über Polizei-Verwaltung. Vom 11. März 1850 (GS f. d. KPS 1850, 18, 265).

Gesetz zur Behebung der Not von Volk und Staat. Vom 24. Juni 1933 (GBl. f. d. FSD 1933, 33, 273). Gesetz zur Sicherung der öffentlichen Ordnung. Vom 30. Juni 1931 (GBl. f. d. FSD 1931, 32, 605).

Gesetz zur Verlängerung der Geltungsdauer über den Gebrauch der polnischen Sprache bei der Rechtspflege vom 11. Oktober 1922 (Gesetzblatt Seite 470). Vom 5.9.1923 (GBl. f. d. FSD 1923, 68, 952).

Inkraftsetzung vorstehender Gesetze und Beschlüsse (GBl. f. d. FSD 1922, 30, 144). Rechtsverordnung betreffend den Erlass einer Ärzteordnung. Vom 1. Dezember 1933 (GBl. f. d. FSD 1933, 90, 589).

Rechtsverordnung betreffend den Sicherheitsdienst. Vom 10. Oktober 1938 (GBl. f. d. FSD 1938, 68, 523).

Rechtsverordnung betreffend die Einführung von Handwerkerkarten. Vom 25. Februar 1932 (GBl. f. d. FSD 1932, 14, 118).

Rechtsverordnung betreffend Einführung einer Erlaubnispflicht für den Handel mit marktregulierten Erzeugnissen der Landwirtschaft und der Fischerei. Vom 6. Februar 1935 (GBl. f. d. FSD 1935, 12, 386).

Rechtsverordnung betreffend Erlass einer Dentisten-Ordnung. Vom 18. Dezember 1936 (GBl. f. d. FSD 1936, 2, 5).

Ustawa o nauczaniu polskiej mniejszości [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 2: 1921–1923, Gdańsk 1924.

Ustawa w sprawie przedłużenia ważności ustawy o używaniu języka polskiego w wymiarze sprawiedliwości z dnia 11 października 1922 (Dziennik ustaw str. 470). Z dnia 5.9.1923 [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 2: 1921–1923, Gdańsk 1924.

Ustawa z 11 października 1922 w sprawie używania języka polskiego w wymiarze sprawiedliwości [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 2: 1921–1923, Gdańsk 1924.

Verfassung der Freien Stadt Danzig in der Fassung der Bekanntmachung vom 14. Juni 1922, Danzig 1922.

Verfassung der Freien Stadt Danzig in der Fassung des Gesetzes vom 4. Juli 1930. Neuverkündert am 17. September 1930 (GBl. 1930 S. 179 ff.), Danzig 1930.

Verordnung betreffend Abänderung und Neufassung der Verordnung zur Errichtung eines Schifffahrtbetriebesverbandes für die Wasserstraßen im Gebiet der Freien Stadt Danzig vom 1. August 1933 (G. Bl. S. 365) und 28. Mai 1934 (G. Bl. S. 475). Vom 26. Februar 1935 (GBl. f. d. FSD 1935, 17, 409).

Verordnung betreffend Arbeitsvermittlung der Hafenarbeiter. Vom 14. Februar 1935 (GBl. f. d. FSD 1935, 13, 397).

Verordnung betreffend Aufbau des Handwerkes. Vom 21. Juli 1936 (GBl. f. d. FSD 1936, 54, 293).

Verordnung betreffend die Anrechnung und sonstige Berücksichtigung der im Danziger Staatlichen Hilfsdienst abgeleisteten Dienstzeit. Vom 3. März 1936 (GBl. f. d. FSD 1936, 27, 145).

Verordnung betreffend die Einführung des Danziger staatlichen Arbeitsdienstes. Vom 19. Februar 1934 (GBl. f. d. FSD 1934, 47, 459).

Verordnung betreffend Einführung eines neuen Einkommensteuergesetzes. Vom 11. Dezember 1934 (GBl. f. d. FSD 1934, 96, 781).

Verordnung betreffend Erlass einer Satzung des Schifffahrtbetriebsverbandes für die Wasserstraßen im Gebiet der Freien Stadt Danzig. Vom 26. Februar 1935 (SA f. d. FSD I 1935, 26, 131).

Verordnung betreffend polnische Staatsangehörige und Angehörige der polnischen Minderheit in Danzig. Vom 7. September 1939 (GBl. f. d. FSD 1939, 94, 479).

Verordnung betreffend Zugang zur Apotheker-Laufbahn. Vom 4. Dezember 1934 (GBl. f. d. FSD 1934, 95, 769).

Verordnung über Änderung des Arbeitsvermittlungsgesetzes. Vom 19. Januar 1935 (GBl. f. d. FSD 1935, 7, 219).

Verordnung über die Errichtung einer öffentlich-rechtlichen Berufsvertretung der Danziger Landwirtschaft. Vom 14. Juli 1933 (GBl. f. d. FSD 1933, 42, 313).

Verordnung über die Errichtung eines Hausbesitzerzweckverbandes. Vom 15. Mai 1936 (GBl. f. d. FSD 1936, 35, 187).

Verordnung über die Meldepflicht polnischer Staatsangehöriger und Angehöriger der polnischen Minderheit. Vom 7. September 1939 (GBl. f. d. FSD 1939, 96, 485).

Verordnung über die Sicherung Landbewirtschaftung. Vom 26. August 1936 (GBl. f. d. FSD 1936, 62, 343). Verordnung über die Verbuchung des Warenausgangsverordnung (Warenausgangsverordnung). Vom 15. August 1936 (GBl. f. d. FSD 1936, 59, 327).

Verordnung zum Schutze des Einzelhandels und des Handwerks. Vom 14. März 1935 (GBl. f. d. FSD 1935, 22, 425).

Verordnung zum Schutze des Einzelhandels und des Handwerks. Vom 19. November 1938 (GBl. f. d. FSD 1938, 80, 678).

Verordnung zur Abänderung der Gewerbeordnung. Vom 20. Juli 1936 (GBl. f. d. FSD 1936, 55, 297). Verordnung zur Abänderung der Verordnung zur Errichtung der Handwerkskammer vom 28. Juli 1934. Vom 9. September 1935 (GBl. f. d. FSD 1935, 94, 923).

Verordnung zur Errichtung der Handwerkskammer. Vom 28. Juli 1934 (GBl. f. d. FSD 1934, 65, 639). Verordnung zur Errichtung der Industrie- und Handelskammer. Vom 28. Juli 1934 (GBl. f. d. FSD 1934, 65, 634).

Verordnung zur Errichtung eines Wirtschaftsrats. Vom 28. Juli 1934 (GBl. f. d. FSD 1934, 65, 641).

Verordnung zur Neugestaltung der Wirtschaftsvertretungen. Vom 28. Juli 1934 (GBl. f. d. FSD 1934, 65, 633).

D. Other states

Bundesgesetzblatt [Österreich] (1920).

General Order No. 100 – Adjutant-General's Office. Instructions for the Government of Armies of the United States in the Field, oprac. F. Lieber, New York 1863.

Gesetz vom 1. Oktober 1920, womit die Republik Österreich als Bundesstaat eingerichtet wird (Bundes-Verfassungsgesetz) (BGBl.Ö 1920, 1, 1).

Konstytucja Austrii, tłum. J. Ostrowski [w:] Nowe konstytucje, red. J. Makowski, Warszawa 1925.

1.3. Acts and documents of international organizations and other entities

Free City of Danzig. Report by His Excellency Viscount Ishii (Japanese Representative) and Resolution adopted by the Council on November 17th, 1920, Genève 1920.

League of Nations. The Records of the First Assembly Plenary Meetings, Geneva 1920.

Official Document System UN, <https://documents.un.org/prod/ods.nsf/home.xsp>, access 29 II 2020. Sawicki J., Ludobójstwo od pojęcia do konwencji 1933–1948, Kraków 1949.

Ściganie i karanie sprawców zbrodni wojennych i zbrodni przeciwko ludzkości (wybór dokumentów), red. C. Pilichowski, Warszawa 1978.

Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 1: 1918–1920, Gdańsk 1923.

Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 2: 1921–1923, Gdańsk 1924.

Ad Hoc Committee on Genocide: Basic Principles of a Convention on Genocide (Submitted by the Delegation of the Union of Soviet Socialist Republics) (7 April 1948; E/AC.25/7).

Declaration Concerning Wars of Aggression. Resolution Adopted by the Assembly on September 24th, 1927 (Morning), Geneva 1927.

Defense de la Ville Libre [de Dantzig]. Rapport de Monsieur la Vicomte Ishii, Représentant du Japon, adopté par la Conseil, le 22 Juin 1921 [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 2: 1921–1923, Gdańsk 1924.

Draft Convention on the Crime of Genocide Prepared by the Secretary-General in Pursuance of the Economic and Social Council Resolution 47 (IV) (E/447, 26 June 1947).

Economic and Social Council Official Records, 3rd Year: 180th, 201st, 202nd, 218th, 219th Meeting, Held at the Palais des Nations, Geneva, 21 July, 17, 26 August 1948 (E/SR.180, E/SR.201, E/ SR.202, E/SR.218, E/SR.219).

Economic and Social Council Resolution 47 (IV) of 28 March 1947 (Crime of genocide) (E/325). Economic and Social Council Resolution 77 (V) of 6 August 1947 (Genocide).

Economic and Social Council Resolution 117 (VI) of 3 March 1948 (E/734, Genocide). Economic and Social Council Resolution 153 (VII) of 26 August 1948 (E/1049, Genocide).

Eighty Sixth Meeting, Held at Palais De Chaillot, Paris, on Thursday, 28 October 1948 (Continuation of the Consideration of the Draft Convention on Genocide [E/794]: Report of the Economic and Social Council [A/633]) (A/C.6/SR.86).

General Assembly Resolution 96 (I) of 11 December 1946 (The Crime of Genocide).

General Assembly Resolution 180 (II) of 21 November 1947 (Draft Convention on Genocide). General Assembly Resolution 260 (III) of 9 December 1948 (Prevention and Punishment of the Crime of Genocide).

General Assembly Resolution 2391 (XXIII) of 26 November 1968 (A/7218, Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity).

Note by the Secretary-General, Draft Convention on the Crime of Genocide (A/362, 25 August 1947).

Obrona Wolnego Miasta [Gdańska]. Raport p. wicehrabiego Ishii, przedstawiciela Japonii, przyjęty przez Radę, dnia 22. czerwca 1921 r. [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 2: 1921–1923, Gdańsk 1924.

Projekt konwencji o ludobójstwie złożony przez rząd francuski dnia 5 lutego 1948 r. [w:] J. Sawicki, Ludobójstwo od pojęcia do konwencji 1933–1948, Kraków 1949.

Projekt Konwencji o ludobójstwie złożony przez Rząd Stanów Zjednoczonych A.P. jako oświadczenie na projekt sekretariatu w dniu 30 września 1947 r. [w:] J. Sawicki, *Ludobójstwo od pojęcia do konwencji 1933–1948*, Kraków 1949.

Projekt konwencji o zapobieganiu i ściganiu zbrodni ludobójstwa (przygotowany dnia 6 czerwca 1947 przez Sekretariat Generalny zgodnie z uchwałą Rady Społecznej i Ekonomicznej z dnia 28. III. 1947) [w:] J. Sawicki, *Ludobójstwo od pojęcia do konwencji 1933–1948*, Kraków 1949.

Projekt przepisów do konwencji o ludobójstwie zawnioskowanych Komisji Specjalnej dla spraw ludobójstwa przez Delegację Chińską w dniu 16 kwietnia 1948 r. [w:] J. Sawicki, *Ludobójstwo od pojęcia do konwencji 1933–1948*, Kraków 1949.

Projekt zasad konwencji o ludobójstwie zawnioskowanych Komisji Specjalnej dla spraw ludobójstwa przez Delegację Związku Radzieckiego w dniu 5 kwietnia 1948 [w:] J. Sawicki, *Ludobójstwo od pojęcia do konwencji 1933–1948*, Kraków 1949.

Protocol for the Pacific Settlement of International Disputes. Adopted by the Fifth Assembly of the League of Nations on October 2nd, 1924, Geneva 1924.

Provisional Agenda of the Twenty-First Session of the Commission on Human Rights (E/CN.4/879/ Add.1, 5 March 1965).

Raport przedstawiony Radzie przez Jego Ekscelencję Wicehrabiego Ishii, przedstawiciela Japonii, dn. 17. listopada 1920 [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 1: 1918–1920, Gdańsk 1923.

Rapport présenté à la Conférence des Préliminaires de Paix par la Commission des Responsabilités des Auteurs de la Guerre et Sanctions, Paris 1919.

Rapport présenté au Conseil par son Excellence le Vicomte Ishi, représentant du Japon, le 17 novembre 1920 [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 1: 1918–1920, Gdańsk 1923.

Report of the Ad Hoc Committee on Genocide and Draft Convention Drawn Up by the Committee, 5 April – 10 May 1948 (E/794).

Report of the Drafting Committee, Genocide: Draft Convention and Report of the Economic and Social Council (A/C.6/288, 23 November 1948).

Report of the Sixth Committee of the General Assembly, Genocide: Draft Convention and Report of the Economic and Social Council (A/760, 3 December 1948).

Report of the Sixth Committee of the General Assembly, Genocide: Draft Convention and Report of the Economic and Social Council (Corrigendum 2, 6 December 1948).

Report to the Council by His Excellency Viscount Ishii, Japanese Representative, on November 17th 1920 [w:] Free City of Danzig. Report by His Excellency Viscount Ishii (Japanese Representative) and Resolution adopted by the Council on November 17th, 1920, Genève 1920.

Resolution adopted by the Council of the League of Nations on November 17th, 1920 [w:] Free City of Danzig. Report by His Excellency Viscount Ishii (Japanese Representative) and Resolution adopted by the Council on November 17th, 1920, Genève 1920.

Résolution adoptée par le Conseil de la Société des Nations le 17 novembre 1920 [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 1: 1918–1920, Gdańsk 1923.

Resolution of 18 February 1928 [w:] C. Hughes, Outlook for Pan Americanism – Some Observations on the Sixth International Conference of American States, „Proceedings of the American Society of International Law” 22 (1928).

Rezolucja zatwierdzona przez Radę Ligi Narodów dnia 17. listopada 1920 [w:] Zbiór dokumentów urzędowych dotyczących stosunku Wolnego Miasta Gdańska do Rzeczypospolitej Polskiej, cz. 1: 1918–1920, Gdańsk 1923.

Rezolucja ZO ONZ 95/I z 11 grudnia 1946 r. [w:] Ściganie i karanie sprawców zbrodni wojennych i zbrodni przeciwko ludzkości (wybór dokumentów), red. C. Pilichowski, Warszawa 1978.

Sformułowanie zasad prawa międzynarodowego przyjętych w Statucie Międzynarodowego Trybunału Norymberskiego i w wyroku tego Trybunału (zasady norymberskie) z 12 grudnia 1950 r. [w:] Ściganie i karanie sprawców zbrodni wojennych i zbrodni przeciwko ludzkości (wybór dokumentów), red. C. Pilichowski, Warszawa 1978.

Sixth Committee of the General Assembly, Summary Records of Meeting Nos. 63 to 69, 71 to 87, 91 to 110, 128 to 134 Held from 30 September to 2 December 1948 (A/C. 6/SR. 63, 64, 65 and 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 128, 129, 130, 131, 132, 133, and 134).

The Charter and Judgment of the Nürnberg Tribunal. History and Analysis (Memorandum Submitted by the Secretary-General), UN Doc. A/CN.4/5 (1949).

The Genocide Convention. The Travaux Préparatoires, t. 1–2, red. H. Abtahi et al., Leiden–Boston 2008.

The Question of Punishment of War Criminals: Communication from the Government of Poland (E/CN.4/885, 5 March 1965).

The Report of Committee No. 3 on the Recommendations Submitted by the Committee of Jurists at the Hague [w:] League of Nations. The Records of the First Assembly Plenary Meetings, Geneva 1920.

Uchwała Ogólnego Zgromadzenia N.Z. z dnia 11 grudnia 1946 r. [w:] J. Sawicki, Ludobójstwo od pojęcia do konwencji 1933–1948, Kraków 1949.

Uchwała Rady Ekonomicznej i Społecznej z dnia 28 marca 1947 r. [w:] J. Sawicki, Ludobójstwo od pojęcia do konwencji 1933–1948, Kraków 1949.

Uchwała Rady Ekonomicznej i Społecznej z dnia 6 sierpnia 1947 r. [w:] J. Sawicki, Ludobójstwo od pojęcia do konwencji 1933–1948, Kraków 1949.

1.4. Acts of justice²⁷

A. Permanent Court of International Justice

PCIJ [ICJ], <http://www.icj-cij.org/en/pcij>, access 29 II 2020.

Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels. Advisory Opinion of 26th August 1930, „PCIJ Publ. (Series A/B)” 43 (1931).

Case Concerning Certain German Interests in Polish Upper Silesia (the Merits). Judgment of 26th July 1927, „PCIJ Publ. (Series A)” 7 (1926).

Case Concerning the Payment in Gold of the Brazilian Federal Loans Issued in France. Judgment of 12th July 1929, „PCIJ Publ. (Series A)” 20/21 (1929).

Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City. Advisory Opinion of 4th December 1935, „PCIJ Publ. (Series A/B)” 65 (1935).

Dissenting Opinion by Mr. Moore, „PCIJ Publ. (Series A)” 10 (1927).

Exchange of Greek and Turkish Populations. Advisory Opinion of 21st Feb. 1925, „PCIJ Publ. (Series B)” 10 (1925).

Free City of Danzig and International Labour Organization. Advisory Opinion of 26th August 1930, „PCIJ Publ. (Series B)” 18 (1930).

Jurisdiction of the Courts of Danzig. Advisory Opinion of 3rd March 1928, „PCIJ Publ. (Series B)” 15 (1928).

Polish Postal Service in Danzig. Advisory Opinion of 16th May 1925, „PCIJ Publ. (Series B)” 11 (1925).

The Case of the S.S. Lotus. Judgment of 7th Sept. 1927, „PCIJ Publ. (Series A)” 10 (1927).

The S.S. „Wimbledon”. Judgment of 28th June 1923 (Question of Intervention by Poland), „PCIJ Publ. (Series A)” 1 (1923).

The S.S. „Wimbledon”. Judgment of 17th Aug. 1923, „PCIJ Publ. (Series A)” 1 (1923).

Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory.

Advisory Opinion of 4th February 1932, „PCIJ Publ. (Series A/B)” 44 (1932).

²⁷ The section identifies such acts of international, internationalized and domestic justice as judgments and advisory opinions. In addition, documents related to the activities of the judiciary are included: indictments, expert reports, notations of proceedings, trial evidence, as well as their reprints and digitized versions.

B. International Military Tribunal in Nuremberg

Albrecht R., Anhang: Das L-3 Dokument [w:] „Wer redet heute noch von der Vernichtung der Armenier?” Adolf Hitlers Geheimrede am 22. August 1939, Aachen 2007.

Cyprian T., Sawicki J., Agresja na Polskę w świetle dokumentów, cz. 1–2, Warszawa 1946.

Cyprian T., Sawicki J., Sprawy polskie w procesie norymberskim, Poznań 1956.

Documents on German Foreign Policy 1918–1945. Series D (1937–1945). Germany and Czechoslovakia 1937–1938, t. 2, Washington 1949.

Documents on German Foreign Policy 1918–1945, Series D (1937–1945). The Last Days of Peace. August 9 – September 3, 1939, t. 7, London 1956.

Lochner L., What about Germany?, New York 1943.

Materiały norymberskie – umowa, statut, akt oskarżenia, wyrok, radzieckie votum, oprac. T. Cyprian, J. Sawicki, Warszawa 1948.

Nazi Conspiracy and Aggression, t. 2–5, 7, Washington 1946.

Nuremberg Trials, https://www.loc.gov/rr/frd/Military_Law/Nuremberg_trials.html, access 29 II 2020.

Trial of the Major War Criminals before the International Military Tribunal, t. I–III, IX–X, XIII–XIV, XXV–XXVI, XXIX–XXX, XXXIV, XXXVI–XXXIX, XLI–XLII, Nuremberg 1947–1949.

C. US military tribunals

Bußmann W., Zur Entstehung und Überlieferung der „Hoßbach-Niederschrift”, „VJH f. ZG” 4 (1968).

Generalny plan wschodni. Zbiór dokumentów, red. C. Madajczyk, wybór i oprac. S. Biernacki et al., Warszawa 1990.

Heiber H., Der Generalplan Ost, „VJH f. ZG” 3 (1958).

Hitlerowski plan wysiedlenia 50 milionów Słowian, „BGKBZNwP” V (1949).

Krausnick H., Denkschrift Himmlers über die Behandlung der Fremdvölkischen im Osten (Mai 1940), „VJH f. ZG” 2 (1957).

Nuremberg Trials, https://www.loc.gov/rr/frd/Military_Law/Nuremberg_trials.html, access 29 II 2020.

Nuernberg Trials Records Register Cards to the NG Document Series 1946–1949, Washington 1985.

Okupacja i ruch oporu w Dzienniku Hansa Franka 1939–1945, t. 1, tłum. D. Dąbrowska et al., oprac. S. Płoski, red. Z. Polubiec, Warszawa 1972.

Pospieszalski K., Hitlerowska polemika z „Generalplan Ost” Reichsführera SS, „PZ” 2 (1958).

Records of the United States. Nuernberg War Crimes Trials. NG Series, 1933–1948, Washington 1971.

Trials of War Criminals before the Nuernberg Military Tribunals under Control Council Law No. 10.

Nuernberg, October 1946 – April 1949, t. I–VI, VIII–XV, Washington 1949–1953.

D. Supreme National Tribunal

Ekspertyzy i orzeczenia przed Najwyższym Trybunałem Narodowym, cz. 1, 3, 5, 7, 9, red. C. Pilichowski, Warszawa 1979–1982.

Proces Artura Greisera w Poznaniu (21 VI – 7 VII 1946) [w:] Siedem wyroków Najwyższego Trybunału Narodowego, oprac. T. Cyprian et al., Poznań 1962.

Siedem wyroków Najwyższego Trybunału Narodowego, oprac. T. Cyprian et al., Poznań 1962.

E. Other judicial and prosecutorial bodies

Higgins P., The Hague Peace Conferences and Other International Conferences Concerning the Laws and Usages of War Texts of Conventions with Commentaries, Cambridge 1909.

Informacja o umorzeniu 21 września 2004 r. śledztwa w sprawie zbrodni katyńskiej, prowadzonego przez Główną Prokuraturę Wojskową Federacji Rosyjskiej [w:] Zbrodnia katyńska. Polskie śledztwo, Warszawa 2005.

Postanowienie z dnia 31 marca 2005 r. o umorzeniu śledztwa w sprawie deportacji Polaków z Ziemi Żywieckiej w 1940 r., <https://ipn.gov.pl/download/1/79925/31032005DeportacjePolakowzZiemiZywieckiejw1940rS5-00-Zn.pdf>, access 29 II 2020.

United States vs. Mexico. Report of Jackson H. Ralston, Washington 1902.

1.5. Diplomatic documents and unilateral acts of states

Aide-mémoire rządu niemieckiego do rządu polskiego z 5 listopada 1937 r. [w:] T. Cyprian, J. Sawicki, *Agresja na Polskę w świetle dokumentów*, cz. 1, Warszawa 1946.

Anglo-Polish Communiqué Issued on April 6, 1939 [w:] *The British War Blue Book. Miscellaneous no. 9 (1939). Documents Concerning German-Polish Relations and the Outbreak of Hostilities between Great Britain and Germany on September 3, 1939*, New York 1939.

Atrocities Against Red Army Prisoners. The Note Sent by V.M. Molotov on November 27, 1941 [w:] *The Molotov Notes on German Atrocities*, London 1942.

Atrocities Against the Civilian Population. The Note Sent by V.M. Molotov on January 6, 1942 [w:] *The Molotov Notes on German Atrocities*, London 1942.

„Biała księga” zawierająca dokumenty dotyczące stosunków polsko-niemieckich i polsko-radzieckich w okresie od 1933 do 1939 r., Paryż 1940.

Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. Adopted by the General Assembly of the United Nations on 26 November 1968. Accession by the German Democratic Republic, „Treaty Series. Treaties and International Agreements Registered or Filed and Recorded with the Secretariat of the United Nations” 862 (1977).

Convention on the Prevention and Punishment of the Crime of Genocide. Adopted by the General Assembly of the United Nations on 9 December 1948. Accession by the German Democratic Republic, „Treaty Series. Treaties and International Agreements Registered or Filed and Recorded with the Secretariat of the United Nations” 861 (1980).

Correspondence Respecting the Conference at Brussels [...] on the Rules of Military Warfare – 1874, „BFSP” LXV (1881).

Der Führer antwortet Roosevelt. Reichstagsrede vom 28. April 1939, München 1939.

Der Staatssekretär des Auswärtigen Amts von Schubert und die Botschaft in Washington, 27. Juni 1928 [w:] *Akten zur deutschen Auswärtigen Politik 1918–1939*, Seria B, t. 9, red. P. Grupp et al., Göttingen 1976.

Discussions Regarding Procedures and Scope of the United Nations Commission for the Investigation of War Crimes and the Setting Up of the International Military Tribunal, „FRUS DP [1945]” III (1968).

Document 073-TC (33). Official Communiqué (Polish White Book), 5 November 1937... [w:] *Trial of the Major War Criminals before the International Military Tribunal*, t. XXXIX, Nuremberg 1949.

Dokumente zur Vorgeschichte des Krieges, Berlin 1939.

Druga Nota Ambasadora Francuskiego do Sekretarza Stanu Kellogga [z 21 stycznia 1928 r.], „PP. Zał.” do t. 8 (1928).

Druga Nota Sekretarza Stanu Kellogga do Ambasadora Francuskiego [z 11 stycznia 1928 r.], „PP. Zał.” do t. 8 (1928).

German Government Memorandum Handed to the Polish Government, on April 28, 1939 [w:] The British War Blue Book. Miscellaneous no. 9 (1939). Documents Concerning German-Polish Relations and the Outbreak of Hostilities between Great Britain and Germany on September 3, 1939, New York 1939.

Jackson R., Planning Memorandum Distributed to Delegations at Beginning of London Conference, June 1945 [w:] idem, Report of Robert H. Jackson United States Representative to the International Conference on Military Trials, London 1945.

Les relations polono-allemandes et polono-soviétiques au cours de la période 1933–1939. Recueil de documents officiels, Paris 1939.

Memorandum Communicated to the German Government by the Polish Government on May 5, 1939, in Reply to the German Government Memorandum of April 28, 1939 [w:] The British War Blue Book. Miscellaneous no. 9 (1939). Documents Concerning German-Polish Relations and the Outbreak of Hostilities between Great Britain and Germany on September 3, 1939, New York 1939.

No. 33. Official Communiqué on the Polish Ambassador's Audience with the Reich Chancellor [w:] Official Documents Concerning Polish-German and Polish-Soviet Relations 1933–1939, New York 1939.

Nota Stanów Zjednoczonych z dn. 23 czerwca 1928 r. doręczona w identycznej formie czternastu rządów przez akredytowanych przy nich posłów, „PP. Zał.” do t. 9 (1928).

Notification by the German Government of its Intention to Withdraw from the League of Nations, „LNOJ” 1 (1934).

Odpowiedź brytyjska na okólną notę amerykańską [z 19 maja 1928 r.], „PP. Zał.” do t. 8 (1928).

Odpowiedź francuska [z 14 lipca 1928 r.], „PP. Zał.” do t. 9 (1928).

Odpowiedź niemiecka [z 11 lipca 1928 r.], „PP. Zał.” do t. 9 (1928).

Odpowiedź niemiecka na okólną notę amerykańską [z 27 kwietnia 1928 r.], „PP. Zał.” do t. 8 (1928).

Odpowiedź polska [z 17 lipca 1928 r.], „PP. Zał.” do t. 9 (1928).

Official Documents Concerning Polish-German and Polish-Soviet Relations 1933–1939, London 1939. Official Documents Concerning Polish-German and Polish-Soviet Relations 1933–1939, New York 1939.

Oficjalny komunikat dot. audiencji polskiego ambasadora u kanclerza Rzeszy z 5 listopada 1937 r. [w:] T. Cyprian, J. Sawicki, Agresja na Polskę w świetle dokumentów, cz. 1, Warszawa 1946.

Okólna nota amerykańska do Rządów W. Brytanii, Niemiec, Włoch i Japonii [z 13 kwietnia 1928 r.], „PP. Zał.” do t. 8 (1928).

Oświadczenie delegata polskiego Juliusza Katza-Suchego w związku z przyjęciem przez ZO ONZ projektu konwencji w dniu 9 grudnia 1948 r. [w:] J. Sawicki, *Ludobójstwo od pojęcia do konwencji 1933–1948*, Kraków 1949.

Oświadczenie delegata polskiego Stefana Litauera przed Komitetem Prawnym ZO ONZ z 2 grudnia 1948 r. [w:] J. Sawicki, *Ludobójstwo od pojęcia do konwencji 1933–1948*, Kraków 1949.

Oświadczenie premiera Winstona Churchilla dotyczące odpowiedzialności Niemców za ich postępowanie na okupowanych terenach [w:] *Ściganie i karanie sprawców zbrodni wojennych i zbrodni przeciwko ludzkości (wybór dokumentów)*, red. C. Pilichowski, Warszawa 1978.

Oświadczenie prezydenta Franklina D. Roosevelta dotyczące odpowiedzialności Niemców za ich postępowanie na okupowanych terenach [w:] *Ściganie i karanie sprawców zbrodni wojennych i zbrodni przeciwko ludzkości (wybór dokumentów)*, red. C. Pilichowski, Warszawa 1978.

Pierwsza Nota Ambasadora Francuskiego do Sekretarza Stanu Kellogga [z 6 stycznia 1928 r.], „PP. Zał.” do t. 8 (1928).

Pierwsza Nota Sekretarza Stanu Kellogga do Ambasadora Francuskiego [z 28 grudnia 1927 r.], „PP. Zał.” do t. 8 (1928).

Procès-Verbaux of the Proceedings of the Committee (June 16th – July 24th 1920) with Annexes, Hague 1920.

Replies from Governments. Germany [w:] *Treaty of Mutual Assistance. Replies from Governments*, Geneva 1924.

Speech Made by M. Beck, the Polish Minister of Foreign Affairs in Parliament on May 5, 1939 [w:] *The British War Blue Book. Miscellaneous no. 9 (1939). Documents Concerning German-Polish Relations and the Outbreak of Hostilities between Great Britain and Germany on September 3, 1939*, New York 1939.

Speech of Chancellor Hitler to Reichstag, April 28, 1939, „IC” 351 (1939).

Statement by the Prime Minister in the House of Commons on March 31, 1939 [w:] *The British War Blue Book. Miscellaneous no. 9 (1939). Documents Concerning German-Polish Relations and the Outbreak of Hostilities between Great Britain and Germany on September 3, 1939*, New York 1939.

Statement Made to the Associated Press by the French Minister for Foreign Affairs (Briand), April 6, 1927, „PRFRUS [1927]” II (1942).

Text of Chancellor Hitler’s Speech to the German Reichstag, March 7, 1936, Repudiating the Versailles Treaty and the Locarno Pact, „IC” 319 (1936).

Text of German Government’s Memorandum to Other Signatories of the Locarno Mutual Guarantee Agreement, „IC” 319 (1936).

The Ambassador in France (Herrick) to the Secretary of State, July 14, 1928, „PRFRUS [1928]” I (1942).

The Ambassador in France (Herrick) to the Secretary of State, June 2, 1927, „PRFRUS [1927]” II (1942).

The Ambassador in Great Britain (Houghton) to the Secretary of State, May 19, 1928, „PRFRUS [1928]” I (1942).

The British War Blue Book. Miscellaneous no. 9 (1939). Documents Concerning German-Polish Relations and the Outbreak of Hostilities between Great Britain and Germany on September 3, 1939, New York 1939.

The French Ambassador (Claudel) to the Secretary of State, January 5, 1928, „PRFRUS [1928]” I (1942).

The French Ambassador (Claudel) to the Secretary of State, January 21, 1928, „PRFRUS [1928]” I (1942).

The French Ambassador (Claudel) to the Secretary of State, March 30, 1928, „PRFRUS [1928]” I (1942).

The German Minister for Foreign Affairs (Stresemann) to the American Ambassador (Schurman), April 21, 1928, „PRFRUS [1928]” I (1942).

The Molotov Notes on German Atrocities, London 1942.

The Polish Under Secretary for Foreign Affairs (Wysocki) to the American Minister (Stetson), July 17, 1928, „PRFRUS [1928]” I (1942).

The Secretary of State to the Ambassador in France (Herrick), April 12, 1928, „PRFRUS [1928]” I (1942).

The Secretary of State to the Ambassador in France (Herrick), June 20, 1928, „PRFRUS [1928]” I (1942).

The Secretary of State to the French Ambassador (Claudel), December 28, 1927, „PRFRUS [1927]” II (1942).

The Secretary of State to the French Ambassador (Claudel), January 11, 1928, „PRFRUS [1928]” I (1942).

The Secretary of State to the French Ambassador (Claudel), February 27, 1928, „PRFRUS [1928]” I (1942).

The State Secretary of the German Foreign Office (Schubert) to the American Ambassador (Schurman), July 11, 1928, „PRFRUS [1928]” I (1942).

The Statement Issued by President Franklin D. Roosevelt on the Execution of Hostages by the Nazis, October 25, 1941 [w:] Punishment for War Crimes. The Inter-Allied Declaration Signed at St. James's Palace, London, on 13th January, 1942 and Relative Documents, London 1942.

The Statement Issued by the Prime Minister Winston Churchill on the German Executions of Hostages, October 25, 1941 [w:] Punishment for War Crimes. The Inter-Allied Declaration Signed at St. James's Palace, London, on 13th January, 1942 and Relative Documents, London 1942.

The Tripartite Conference in Moscow, October 18 – November 1, 1943, „FRUS DP [1943]” I (1963).

Treaty of Mutual Assistance. Replies from Governments, Geneva 1924.

Trzecia Nota Ambasadora Francuskiego do Sekretarza Stanu Kellogga [z 30 marca 1928 r.], „PP. Zał.” do t. 8 (1928).

Trzecia Nota Sekretarza Stanu Kellogga do Ambasadora Francuskiego [z 27 lutego 1928 r.], „PP. Zał.” do t. 8 (1928).

UN, Official Document System, <https://documents.un.org/prod/ods.nsf/home.xsp>, access 29 II 2020.

Urkunden zur letzten Phase der deutsch-polnischen Krise, Berlin 1939.

Zawiadomienie wiceministra spraw zagranicznych Jana Szembeka dot. rozmowy z Hermannem Göringiem dla ministra spraw zagranicznych Józefa Becka z 4 listopada 1937 r. [w:] T. Cyprian, J. Sawicki, Agresja na Polskę w świetle dokumentów, cz. 1, Warszawa 1946.

1.6. Draft international agreements

Convention for the Creation of an International Criminal Court [w:] Proceedings of the International Conference on the Repression of Terrorism, Geneva, November 1st to 16th, 1937, Geneva 1938.

Draft Convention on the Law of Treaties, „AJILS” 29 (1935).

Dupuis C., L'Institut de Droit International. Session de Christiania 1912, „Revue Générale de Droit International Public” 20 (1913).

French Draft of Treaty for the Condemnation and Renunciation of War as an Instrument of National Policy, April 20, 1928, „PRFRUS [1928]” I (1942).

Kontrprojekt francuski traktatu wielostronnego [z 21 kwietnia 1928 r.], „PP. Zał.” do t. 8 (1928). Politis N., Effect of War upon Treaties and International Conventions. Project of Institute of International Law, „AJIL” 7 (1913).

Projekt francuski Paktu Wieczystej Przyjaźni między Francją a Stanami Zjednoczonymi, „PP. Zał.” do t. 8 (1928).

Projekt paktu reńskiego [w:] Układy w Locarno podpisane dnia 16 października 1925 r. Pełny tekst protokołu końcowego konferencji w Locarno wraz z projektami traktatów i konwencji, Warszawa 1925.

Projet d'une Déclaration Internationale Concernant les Lois et Coutumes de la Guerre (Texte Modifié par la Conférence), „BFSP” LXV (1881).

Text of the [Draft] Treaty of Mutual Assistance, „LNOJ SS” 16 (1923).

2. Historical sources

2.1. Documents and more²⁸

Bundesarchiv Berlin-Lichterfelde, SS-Führungshauptamt (NS 33/191).

Bundesarchiv Ludwigsburg, Materialzusammenstellung zu Einsatzgruppen und Volksdeutschem Selbstschutz in Polen 1939/40 (B 162/239).

Bundesarchiv Ludwigsburg, Nürnberger Dokumente (B 162/22049).

„Biuletyn Głównej Komisji Badania Zbrodni Hitlerowskich w Polsce” (1960, 1971).

„Biuletyn Głównej Komisji Badania Zbrodni Niemieckich w Polsce” (1947–1949).

„Biuletyn Informacyjny” (1944).

„Najnowsze Dzieje Polski. Materiały i Studia z Okresu II Wojny Światowej” (1961).

„Przegląd Zachodni” (1961, 1990).

„Rocznik Świętokrzyski” (1988).

„Ruch Prawniczy, Ekonomiczny i Socjologiczny” (1932).

„Statystyka Polski. Seria C” (1937).

„Stolica” (1961).

„Strażnica Zachodnia” (1947).

„Vierteljahrshefte für Zeitgeschichte” (1957).

„Zeszyty Oświęcimskie” (1958).

Akten Deutscher Bischöfe über die Lage der Kirche 1933–1945, t. 5, red. L. Volk, Mainz 1983.

Bataliony Chłopskie w obronie Zamojszczyzny. Bitwy pod Wojdą, Zaborecznem i Różą 30.XII.1942 – 1–2.II.1943. Relacje uczestników i dokumenty, zebr. J. Markiewicz, Warszawa 1957.

²⁸ This section of the bibliography includes collections of documents, sources printed in scientific periodicals and texts treated as sources in the dissertation.

- Boziewicz W., Kodeks honorowy. Ogólne zasady postępowania honorowego, Kraków 2012.
- Boziewicz W., Polski kodeks honorowy, Warszawa 1919.
- Boziewicz W., Polski kodeks honorowy, Warszawa 2016.
- Bühler J., Das Generalgouvernement. Seine Verwaltung und seine Wirtschaft. Sammlung von Vorträgen der ersten wissenschaftlichen Vortragsreihe der Verwaltungsakademie des Generalgouvernements, Krakau 1943.
- Christaller W., Die Zentralen Orte in Süddeutschland. Eine ökonomisch-geographische Untersuchung über die Gesetzmässigkeit der Vorbereitung und Entwicklung der Siedlungen mit städtischen Funktionen, Jena 1933.
- Cogniard T. i H., La Cocarde Tricolore, Épisode de la Guerre -d'Alger. Vaudeville en Trois Actes, Paris 1831.
- Czwarty rok pracy Związku Polaków w W.M. Gdańsku. Sprawozdanie z działalności za czas od 1 maja 1936 r. do 31 marca 1937 r., Gdańsk 1937.
- Das Schicksal der Deutschen in Jugoslawien, red. W. Conze, München 1984.
- Das Schicksal der Deutschen in Ungarn, red. W. Conze, Berlin 1956.
- Die polnischen Gräueltaten an den Volksdeutschen in Polen. Im Auftrage des Auswärtigen Amtes auf Grund Urkundlichen Beweismaterials zusammengestellt, oprac. H. Schadowaldt, Berlin 1940.
- Die Vertreibung der deutschen Bevölkerung aus der Tschechoslowakei, t. 1–2, red. W. Conze, München 1984.
- Drugi rok pracy Związku Polaków w W.M. Gdańsku. Sprawozdanie z działalności za czas od 1 maja 1934 r. do 30 kwietnia 1935 r., red. J. Wayzner, Gdańsk 1935.
- Dumersan T. et al., Les Moissonneurs de la Beauce ou le Soldat Laboureur. Comédie en 1 Acte, Paris 1821. Dwinger E., Der Tod in Polen. Die volksdeutsche Passion, Jena 1940.
- Dyskryminacja Polaków w Wielkopolsce w okresie okupacji hitlerowskiej. Wybór źródeł, wybór i oprac. C. Łuczak, Poznań 1966.
- Esman T., Jastrzębski W., Pierwsze miesiące okupacji hitlerowskiej w Bydgoszczy w świetle źródeł niemieckich, Bydgoszcz 1967.
- Europa unterm Hakenkreuz. Die Okkupationspolitik des deutschen Faschismus 1938–1945. Die faschistische Okkupationspolitik in Polen (1939–1945), wybór dokumentów i wstęp W. Röhr, współpraca E. Heckert et al., Berlin 1989.
- Feder G., Das Programm der NSDAP und seine weltanschaulichen Grundgedanken, München 1935.
- Generalny Plan Wschodni. Zbiór dokumentów, red. C. Madajczyk, wybór i oprac. S. Biernacki et al., Warszawa 1990.

„Generalplan Ost”. Koncepcje i plany polityki wschodniej Adolfa Hitlera (Wybór tekstów), wybór i oprac. J. Zaborowski, Warszawa 1977.

Generalplan Ost. Rechtliche, wirtschaftliche und räumliche Grundlagen des Ostaufbaus, przedłożył SS-Oberführer prof. Konrad Meyer-Hetling, Berlin–Dahlem, czerwiec 1942.

Goray S., Nowy kodeks honorowy, Poznań 1939.

Grygiel J., Związek Walki Zbrojnej, Armia Krajowa w obwodzie zamojskim (1939–1944). Szkice, wspomnienia, dokumenty, red. Z. Mańkowski, Warszawa 1985.

Günther-Swart I. von, Die Goralen. Nation und Staat 1940/1941, Krakau 1942.

Hitler A., Mein Kampf. Zwei Bände in einem Band, München 1943.

Hitlers Weisungen für Kriegführung 1939–1945. Dokumente des Oberkommandos der Wehrmacht, red. W. Hubatsch, Koblenz 1983.

Katyń. Dokumenty ludobójstwa. Dokumenty i materiały archiwalne przekazane Polsce 14 października 1992 r., tłum. W. Materski, Warszawa 1992.

Keup E., Die Notwendigkeit der Gewinnung von Siedlungsland, Berlin 1915.

Keup E., Die volkswirtschaftliche Bedeutung von Groß- und Kleinbetrieb in der Landwirtschaft auf Grund von Erhebungen in Pommern und Brandenburg. Kapitel I, II, IV, und V, Merseburg 1913.

Lettre de Jean-Jean, Sergent Libéré, à Son Ami Chauvin, Conscrit de 1827, avec des Principes Généraux qui Peuvent s'Appliquer aux Jeunes Soldats de Toutes les Classes, la Conduite à Tenir par les Conscrits, soit qu'ils Veuillent Servir ou se Faire Remplacer..., Paris 1828.

Martens K. von, Causes célèbres du droit des gens, Leipzig 1827.

Martens K. von, Nouvelles causes célèbres du droit des gens, Leipzig–Paris 1843.

Memorjał dotyczący spraw kościelnych polskiej mniejszości narodowej w Niemczech, Berlin 1929.

Moll M., „Führer-Erlasse” 1939–1945. Edition sämtlicher überlieferter, nicht im Reichsgesetzblatt abgedruckter, von Hitler während des Zweiten Weltkrieges schriftlich erteilter Direktiven aus den Bereichen Staat, Partei, Wirtschaft, Besatzungspolitik und Militärverwaltung, Stuttgart 1997.

Moore J., Wharton F., Digest of International Law, Washington 1906.

Müller H., Die polnische Volksgruppe im Deutschen Reich. Ihre Stellung in Verfassung und Verwaltung seit 1871. Rechtswissenschaftliche Abhandlung, Warschau 1941.

Okupacja i ruch oporu w Dzienniku Hansa Franka 1939–1945, t. 1, tłum. D. Dąbrowska et al., oprac. S. Płoski, red. Z. Polubiec, Warszawa 1972.

Pierwszy rok pracy Związku Polaków w W.M. Gdańsku. Sprawozdanie z działalności za czas od 1 maja 1933 r. do 30 kwietnia 1934 r., red. P. Jeż, Gdańsk 1934.

Piotrowski S., Misja Odyla Globocnika. Sprawozdania o wynikach finansowych zagłady Żydów w Polsce, Warszawa 1949.

Pospieszalski K., Hitlerowskie „prawo” okupacyjne w Polsce, cz. 1: Ziemie „wcielone”. Wybór dokumentów, Poznań 1952.

Pospieszalski K., Hitlerowskie „prawo” okupacyjne w Polsce, cz. 2: Generalna Gubernia. Wybór dokumentów i próba syntezy, Poznań 1958.

Pospieszalski K., Polska pod niemieckim prawem 1939–1945 (Ziemie Zachodnie), Poznań 1946. Powstanie Warszawskie 1944. Wybór dokumentów, t. 1–5, red. P. Matusak, Warszawa 1997–2003.

Praca przymusowa Polaków pod panowaniem hitlerowskim 1939–1945, wybór źródeł i oprac. A. Konieczny et al., Poznań 1976.

Rosenberg A., Der Mythos des 20. Jahrhunderts. Eine Wertung der seelisch-geistigen Gestaltenkämpfe unserer Zeit, München 1936.

Rühle G., Das Dritte Reich. Dokumentarische Darstellung des Aufbaues der Nation mit Unterstützung des Deutschen Reichsarchivs. Das Dritte Jahr 1935, Berlin 1936.

Sas-Wisłocki J., Akademicki kodeks honorowy, Warszawa 1934.

Sawicki J., Zburzenie Warszawy. Zeznania generałów niemieckich przed polskim prokuratorem członkiem polskiej delegacji przy Międzynarodowym Trybunale Wojennym w Norymberdze, Warszawa 1949.

Skarbek-Michałowski J., Zasady postępowania honorowego uzgodnione ze statutem oficerskich sądów honorowych, Zaleszczyki 1935.

Sonderfahndungsbuch Polen, wyd. Reichskriminalpolizeiamt Berlin C2, Wederscher Mark 5/6, Berlin 1939.

Sonderfahndungsbuch Polen. Specjalna Księga Gończa dla Polski. Reprint, wstęp G. Bębnik, Katowice–Warszawa 2019.

Szczegółowa książka inwigilacyjna w Polsce. Dodatek uzupełniający odnośnie zbiegłych lub przedwcześnie zwolnionych więźniów karnych, do spraw śledczych osadzonych, jak również przestępców poszukiwanych przez Policję Kryminalną. Sonderfahndungsbuch Polen. Ergänzungsnachtrag über entwichene oder vorzeitig entlassene Straf- oder Untersuchungsgefangene sowie über kriminal-polizeilich gesuchte Verbrecher, <https://polona.pl/item/szczegolowa-ksiazka-inwigilacyjna-w-polsce-dodatek-uzupelniajacy-odnosnie-zbiegłych-lub,NzUyODI1NDQ/4/#info:metadata>, access 29 II 2020.

Szczegółowa książka inwigilacyjna w Polsce. Dodatek uzupełniający odnośnie zbiegłych lub przedwcześnie zwolnionych więźniów karnych, do spraw śledczych osadzonych, jak również przestępców poszukiwanych przez Policję Kryminalną. Sonderfahndungsbuch Polen. Ergänzungsnachtrag über entwichene oder vorzeitig entlassene Straf- oder Untersuchungsgefangene sowie über kriminalpolizeilich gesuchte Verbrecher, Kraków 1940.

Trzeci rok pracy Związku Polaków w W.M. Gdańsku. Sprawozdanie z działalności za czas od 1 maja 1935 r. do 30 kwietnia 1936 r., red. J. Wayzner, Gdańsk 1936.

Versorgung des Feldheeres, cz. 1, Berlin 1938.

Vom Generalplan Ost zum Generalsiedlungsplan. Dokumente, red. C. Madajczyk et al., München – New Providence – London – Paris 1994.

Walki oddziałów ZWZ-AK i BCH Inspektoratu Zamojskiego w latach wojny 1939–1944, t. 1–2, materiały zebrali i oprac. Z. Klukowski et al., Zamość 1990.

Wildt M., Generation des Unbedingten. Das Führungskorps des Reichssicherheitshauptamtes, Hamburg 2002.

Wojna obronna Polski 1939. Wybór źródeł, zebr. i oprac. E. Kozłowski et al., Warszawa 1968.

Wybór tekstów źródłowych z historii państwa i prawa. Okres okupacji hitlerowskiej na ziemiach polskich, wybór i oprac. A. Konieczny, Wrocław 1980.

Wysiedlenia ludności polskiej na tzw. ziemiach wcielonych do Rzeszy 1939–1945, wybór źródeł i oprac. C. Łuczak, Poznań 1969.

Zamojszczyzna – Sonderlaboratorium SS. Zbiór dokumentów polskich i niemieckich z okresu okupacji hitlerowskiej, t. 1–2, red. C. Madajczyk, Warszawa 1977–1979.

Zamoyski T., Krzemieniewski E., Kodeks honorowy, Warszawa 1924.

Zbrodnia katyńska. Polskie śledztwo, Warszawa 2005.

Zbrodnie okupanta w czasie powstania warszawskiego w 1944 roku (w dokumentach), red. S. Datner et al., Warszawa 1962.

Związek Harcerstwa Polskiego w Niemczech na Śląsku (1920–1939). Wybór źródeł, red. M. Lis, Opole 2000.

Begegnungs- und Gedenkprojekt 75 Jahre „Intelligenz-Aktionen”, 75 Jahre Facheinsatz Ost und europäische Zivilcourage in Berlin 1939–1945, <http://gplanost.x-berg.de/>, access 29 II 2020.

A. Writings of Raphael Lemkin

Lemkin R., Axis Rule in Occupied Europe. Laws of Occupation, Analysis of Government, Proposals for Redress, Washington 1944.

Lemkin R., Key Laws, Decrees and Regulations Issued by the Axis in Occupied Europe, Washington 1942.

Lemkin R., Rządy państw Osi w okupowanej Europie. Prawa okupacyjne, analiza rządzenia, propozycje zadośćuczynienia, tłum. A. Bieńczyk-Missala et al., Warszawa 2013.

Genocide (the Newest Soviet Crime), dyskusja R. Lemkina i J. Burnsa, New Haven 1953.

Lemkin R., Akte der Barbarei und des Vandalismus als „delicta juris gentium”, „Anwaltsblatt Internationales” 11 (1933).

Lemkin R., Genocide, „The American Scholar” 2 (1946). Lemkin R., Genocide – A Modern Crime, „FW” 4 (1945).

Lemkin R., Genocide – A Modern Crime [w:] Punishment of War Criminals. Hearings before the Committee on Foreign Affairs, House of Representatives, Seventy-ninth Congress, First Session, on H.J. Res. 93, Washington 1945.

Lemkin R., Genocide, a New International Crime. Punishment and Prevention, „RIDP” 3–4 (1946). Lemkin R., Genocide as a Crime under International Law, „AJIL” 1 (1947).

Lemkin R., Genocide as a Crime under International Law, „UNB” IV (1948).

Lemkin R., Genocide Must Be Outlawed. Only 4 Nations of the 20 Required Have Ratified the UN Convention. Truman is for it, but Senate Hasn’t Acted yet, „TBBM NJM” October (1949).

Lemkin R., German Administration of Justice under Military Occupation, „TJAJ” 2 (1945).

Lemkin R., Is it Genocide?, „ADLB” 1 (1953).

Lemkin R., Le crime de génocide, „RDISDP” 24 (1946). Lemkin R., Le génocide, „RIDP” 3–4 (1946).

Lemkin R., Le génocide, „RIDP” 17 (1946).

Lemkin R., Les actes constituant un danger général (interétatique) considérés comme délits des droit des gens. Rapport spécial présenté à la V-me Conférence pour l’Unification du Droit Pénal à Madrid (14–20.X.1933). Explications additionnelles, Paris 1933.

Lemkin R., My Battle with Half the World, „CJF NQ” 1 (1952). Lemkin R., My Battle with Half the World, „CJF NQ” 2 (1952).

Lemkin R., Przestępstwa polegające na wywołaniu niebezpieczeństwa międzypaństwowego jako delicta iuris gentium. Wnioski na V Międzynarodową Konferencję Unifikacji Prawa Karnego w Madrycie, „Głos Prawa” 10 (1933).

Lemkin R., Reforma prawa karnego w Niemczech, „Wiadomości Literackie” (30) 1934.

Lemkin R., Senate Weighs Genocide Convention, „FPB” 29 (1950).

Lemkin R., Soviet Genocide in Ukraine, „Holodomor Studies” 1 (2009).

Lemkin R., Terroryzm, „GSW” 41 (1935).

Lemkin R., The Legal Case Against Hitler, „TN” of 24th Feb. 1945.

Lemkin R., The Legal Case Against Hitler, „TN” of 10th Mar. 1945.

Lemkin R., War against Genocide. General Assembly of the UN Faces Problem, „CSMM” of 31st Jan. 1948.

Lemkin R., [Letter to the Editor], „NYT”, 26th Aug. 1946.

Lemkin R., [Letter to the Editor], „NYT”, 6th Feb. 1947.

Lemkin R., [Letter to the Editor], „NYT” 20th Dec. 1947.

Lemkin R., [Letter to the Editor], „NYT” 14th June 1952.

Lemkin R., Acts Constituting a General (Transnational) Danger Considered as Offences Against the Law of Nations, tłum. J. Fussell, <http://www.preventgenocide.org/lemkin/madrid1933-english.htm>, access 29 II 2020.

Lemkin R., Genocidio, tłum. C. Arrubla, <http://www.preventgenocide.org/es/lemkin/escolar-americanos1946.htm>, access 29 II 2020.

2.2. Press and magazines

„Danziger Allgemeine Zeitung” (1922)

„Das 12 Uhr Blatt” (1939)

„Deutsche Rundschau” (1939)

„Gazeta Gdańska” (1922)

„Gazeta Lwowska” (1939)

„Lech. Gazeta Gnieźnieńska” (1939)

„Thorner Freiheit” (1939)

„Völkischer Beobachter” (1939)

2.3. Accounts

Bataliony Chłopskie w obronie Zamojszczyzny. Bitwy pod Wojdą, Zaborecznem i Różą 30.XII.1942 – 1–2.II.1943. Relacje uczestników i dokumenty, zebr. J. Markiewicz, Warszawa 1957.

Bertram A., Charyzmaty duszy i pracy kapłańskiej, tłum. S. Grelewski, Poznań 1936.
Burckhardt C., Meine Danziger Mission 1937–1939, München 1960.

Burckhardt C., *Moja misja w Gdańsku 1937–1939*, tłum. M. Giniatowicz, Warszawa 1970.

Exodus Warszawy. Ludzie i miasto po Powstaniu 1944, t. 1–2: Pamiętniki, relacje, wybór i oprac. M. Berezowska, Warszawa 1992–1993.

Gajdus W. ks., Nr 20998 opowiada, Kraków 1962.

Grygiel J., *Związek Walki Zbrojnej, Armia Krajowa w obwodzie zamojskim (1939–1944)*. Szkice, wspomnienia, dokumenty, red. Z. Mańkowski, Warszawa 1985.

Harcerki 1939–1945. Relacje – pamiętniki, wybór i oprac. K. Wyczańska, Warszawa 1985.

Hassell U. von, *D'une autre Allemagne. Journal posthume (1938–1944)*, Paris 1948.

Lanckorońska K., *Wspomnienia wojenne (22 IX 1939 – 5 IV 1945)*, Kraków 2017.

Ludność cywilna w powstaniu warszawskim, t. 1, cz. 1–2, wybrali i oprac. M. Drozdowski et al., Warszawa 1974.

Małeczyński J., *Moja praca w konsulacie generalnym Rzeczypospolitej Polskiej w Opolu*, red. W. Lesiuk, Opole 1980.

Okupacja i ruch oporu w Dzienniku Hansa Franka 1939–1945, t. 1–2, tłum. D. Dąbrowska et al., oprac. S. Płoski, red. Z. Polubiec, Warszawa 1972.

Piotrowski S., *Dziennik Hansa Franka*, Warszawa 1957.

Sakowicz K., *Dziennik 1941–1943*, przedm. i oprac. M. Wardzyńska, Warszawa 2014.

Schimitzek S., *Drogi i bezdroża minionej epoki. Wspomnienia z lat pracy w MSZ (1920–1939)*, Warszawa 1976.

Walki oddziałów ZWZ-AK i BCH Inspektoratu Zamojskiego w latach wojny 1939–1944, t. 1–2, materiały zebrali i oprac. Z. Klukowski et al., Zamość 1990.

Warszawa. Zbrodnie niemieckie na Woli w sierpniu 1944 r., red. L. Zaborowski, Warszawa 2017.

Wysiedlenie i poniewierka. Wspomnienia Polaków wysiedlonych przez okupanta hitlerowskiego z ziem polskich „wcielonych” do Rzeszy 1939–1945, wybór i oprac. R. Dyliński et al., Poznań 1985.

Zapisy terroru I. Warszawa. Niemieckie egzekucje w okupowanym mieście, red. L. Zaborowski, Warszawa 2017.

Zapisy terroru II. Warszawa. Zbrodnie niemieckie na Woli w sierpniu 1944 r., red. L. Zaborowski, Warszawa 2017.

Zapisy terroru, t. 3: Okupacja niemiecka w dystrykcie radomskim, red. L. Zaborowski, Warszawa 2018.

Zapisy terroru, t. 4: Zbrodnie niemieckie w Śródmieściu podczas Powstania Warszawskiego, red. L. Zaborowski, Warszawa 2018.

Zapisy terroru, t. 5: Auschwitz-Birkenau. Życie w fabryce śmierci, red. I. Jabłońska, Warszawa 2019.

Zapisy terroru, t. 6: Auschwitz-Birkenau. Los kobiet i dzieci, red. I. Jabłońska, Warszawa 2019. Zapisy terroru, t. 7: Auschwitz-Birkenau. Ofiary zbrodniczej medycyny, red. I. Jabłońska, Warszawa 2019. Zapisy terroru, t. 8: Polscy żołnierze w niewoli sowieckiej, red. I. Jabłońska, Warszawa 2019.

Zapisy terroru. Warszawa. 41. sesja Komitetu Światowego Dziedzictwa UNESCO Kraków, 2–12 lipca 2017 r., red. L. Zaborowski, Warszawa 2017.

Zbrodnie hitlerowskie na wsi polskiej w latach 1939–1945. Wspomnienia, pamiętniki i relacje, red. S. Durlej et al., Kielce, Warszawa 2008.

Zbrodnie niemieckie w Śródmieściu podczas Powstania Warszawskiego, red. L. Zaborowski, Warszawa 2018. ISiMWP, Zapisy Terroru, www.zapisyterroru.pl, access 29 II 2020.

II. Printed and digital studies

1. Monographs²⁹

Abshagen K., Canaris, Stuttgart 1949.

Adamska J., Organizacja Selbstschutz w Generalnym Gubernatorstwie [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Akcja Reinhardt. Zagłada Żydów w Generalnym Gubernatorstwie, red. D. Libionka, Warszawa 2004. Albrecht R., „The Historian as Detective” [w:] „Wer redet heute noch von der Vernichtung der Armenier?” Adolf Hitlers Geheimrede am 22. August 1939, Aachen 2007.

Aleksiejew N., Odpowiedzialność przestępców hitlerowskich, tłum. W. Bielawski, Warszawa 1969. Aliński Z. [Graliński Z.], Możliwości rewizji traktatów według Paktu Ligi Narodów, Warszawa 1927. Allen M., Hidden Agenda, New York 2002.

Aly G., Obciążeni. „Eutanazja” w nazistowskich Niemczech, tłum. V. Grotowicz, Wołowiec 2015. Aly G., Heim S., Architects of Annihilation. Auschwitz and the Logic of Destruction, tłum. A. Blunden, Princeton 2002.

Anderson B., Imagined Communities. Reflections on the Origin and Spread of Nationalism, London 1983.

Anderson B., Wspólnoty wyobrażone. Rozważania o źródłach i rozprzestrzenianiu się nacjonalizmu, tłum. S. Amsterdamski, Kraków–Warszawa 1997.

Ascherson N., The Struggles for Poland, London 1987. Askenazy S., Gdańsk a Polska, Kraków 1923.

²⁹ In this section, in addition to monographs, their chapters, post-conference volumes and their separated parts, textbooks, lexicons and encyclopedias are included.

Astramowicz-Leyk T., Wiktor Kulerski (1865–1935). *Polityk – wydawca – dziennikarz*, Toruń 2006. Atkins G., *Encyclopedia of the Inter-American System*, Westport 1997.

August J., *Sonderaktion Krakau. Die Verhaftung der Krakauer Wissenschaftler am 6. November 1939*, Hamburg 1997.

Ausserordentliche Befriedungsaktion 1940. Akcja AB na ziemiach polskich. Materiały z sesji naukowej (6–7 listopada 1986 r.), wstęp i red. Z. Mańkowski, Warszawa 1992.

Austin J., *The Province of Jurisprudence Determined. Being the First Part of a Series of Lectures on Jurisprudence, or, the Philosophy of Positive Law*, London 1861.

Banasiewicz M., *Likwidacja życia naukowego i oświatowego na ziemiach polskich włączonych do Rzeszy [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii*, red. C. Pilichowski, Warszawa 1980.

Bardach J., *Themis a Clio, czyli o potrzebie podejścia historycznego w prawoznawstwie [w:] Zagadnienia metodologiczne prawoznawstwa. Materiały z sesji naukowej, Łódź 27–28 marca 1980 r.*, red. J. Wróblewski, Wrocław 1982.

Bardach J., *Themis a Clio, czyli Prawo a historia*, Warszawa 2001.

Bardakjian K., *Hitler and the Armenian Genocide. Special Report No. 3*, Cambridge 1985.

Barrett J., Raphael Lemkin and „Genocide” at Nuremberg, 1945–1946 [w:] *The Genocide Convention. Sixty Years after its Adoption*, red. C. Safferling et al., The Hague 2010.

Bartelski L., *Mokotów 1944*, Warszawa 1986.

Bartoszewski W., *Dni walczącej stolicy. Kronika powstania warszawskiego*, Warszawa 2008. Bartoszewski W., *Pakt Ribbentrop–Mołotow w doświadczeniu polskiego państwa podziemnego [w:] O likwidację skutków zмовы Hitler–Stalin. Materiały z konferencji zorganizowanej przez Komisję Ustawodawczą oraz Komisję Spraw Zagranicznych i Integracji Europejskiej Senatu Rzeczypospolitej Polskiej*, Warszawa 1999.

Bartoszewski W., *Prawda o von dem Bachu*, Warszawa–Poznań 1961.

Bartoszewski W., *Warszawski pierścień śmierci 1939–1944*, Warszawa 1970.

Baszkiewicz J., Ryszka F., *Historia doktryn politycznych i prawnych*, Warszawa 1973.

Bayard J.-F., Pinel P.F., *Les Aides de Camp. Comédie-Vaudeville en un Acte*, Paris 1842.

Beck B., *Wehrmacht und sexuelle Gewalt. Sexualverbrechen vor deutschen Militärgerichten 1939–1945*, Paderborn–München–Wien–Zürich 2004.

Becker M., *Mitstreiter im Volkstumskampf. Deutsche Justiz in den eingegliederten Ostgebieten 1939–1945*, München 2014.

Bekker E., *Das Völkerrecht der Zukunft*, Heidelberg 1915.

Berezowski C., *O polskim projekcie międzynarodowego prawa karnego*, Warszawa 1927.

Berezowski C., *Powstanie państwa polskiego w świetle prawa narodów*, Warszawa 1934.

Berezowski C., Prawo międzynarodowe publiczne, cz. 2, Warszawa 1969.

Berezowski C., Góralczyk W., Libera K., Prawo międzynarodowe publiczne, Warszawa 1967.

Bernstorff J. von, The Public International Law Theory of Hans Kelsen. Believing in Universal Law, New York 2010.

Best W., Die deutsche Polizei, Darmstadt 1941.

Bębnik G., Sokoły kapitana Ebbinghaus. Sonderformation Ebbinghaus w działaniach wojennych na Górnym Śląsku w 1939 r., Katowice–Kraków 2014.

Billotte F., Dwa powstania. Paryż–Warszawa 1944, Łódź 1996.

Birm R., Die Höheren SS- und Polizeiführer. Himmlers Vertreter im Reich und in den besetzten Gebieten, Düsseldorf 1986.

Bischof A., Katechismus des Völkerrechts. Mit Rücksicht auf die Zeit- und Streitfragen des internationalen Rechtes, Leipzig 1877.

Bishop C., Zagraniczne formacje SS. Zagraniczni ochotnicy w Waffen-SS w latach 1940–1945, tłum. G. Siwek, Warszawa 2008.

Bismarck O. von, Die gesammelten Werke, t. 7, red. H. von Petersdorff, Berlin 1924.

Bock F. von, Zwischen Pflicht und Verweigerung. Das Kriegstagebuch, München–Berlin 1995. Bogacki F., Poczta Polska w Gdańsku, Warszawa 1978.

Bogdanowicz S., Karol Maria Antoni Splett. Biskup gdański czasu wojny, więzień specjalny PRL, Gdańsk 1995.

Bogucki A., Veteranus bydgoski 1939–1947. Losy Polaków przymusowo wcielonych do Wehrmachtu i Armii Czerwonej, Bydgoszcz 2014.

Böhler J., Auftakt zum Vernichtungskrieg. Die Wehrmacht in Polen 1939, Bonn 2006.

Böhler J., Najazd 1939. Niemcy przeciw Polsce, tłum. D. Salamon, Kraków 2011.

Böhler J., Zbrodnie Wehrmachtu w Polsce. Wrzesień 1939. Wojna totalna, tłum. P. Pieńkowska-Wiederkehr, Kraków 2009.

Böhler J., Lehnstaedt S., Die Berichte der Einsatzgruppen aus Polen 1939, Berlin 2013.

Böhler J., Mallmann K.-M., Matthäus J., Einsatzgruppen in Polen. Darstellung und Dokumentation, Darmstadt 2008.

Böhler J., Mallmann K.-M., Matthäus J., Einsatzgruppen w Polsce, tłum. E. Ziegler-Brodnicka, Warszawa 2009.

Bojarska B., Eksterminacja inteligencji polskiej na Pomorzu Gdańskim (wrzesień–grudzień 1939), Poznań 1972.

Bojarska B., Piaśnica. Miejsce martyrologii i pamięci. Z badań nad zbrodniami hitlerowskimi na Pomorzu, Wrocław 1978.

Bojarska B., Skutki hitlerowskiej polityki eksterminacyjnej na Pomorzu Gdańskim, Warszawa 1980.

Bönisch G., Wiegrefe K., Das größere Übel [w:] Die Gegenwart der Vergangenheit. Der lange Schatten des Dritten Reichs, red. S. Aust et al., Reinbek 2005.

Bonusiak W., Kto zabił Profesorów Lwowskich?, Rzeszów 1989.

Bonusiak W., Rekrutacja, rozmieszczenie i struktura polskich robotników przymusowych do pracy w Rzeszy [w:] Polscy robotnicy przymusowi w Trzeciej Rzeszy, red. W. Bonusiak, Rzeszów 2005.

Borejsza J., Śmieszne sto milionów Słowian. Wokół światopoglądu Adolfa Hitlera, Gdańsk 2016.

Borkiewicz A., Powstanie warszawskie. Zarys działań natury wojskowej, Warszawa 1969.

Bossowski J., Unarodowienie czy unifikacja prawa karnego jako problem przyszłości, Poznań 1924. Bouffał B., Ochrona mniejszości w prawie narodów, Warszawa 1928.

Breyer R., Das Deutsche Reich und Polen 1932–1937, Würzburg 1955.

Broszat M., 200 lat niemieckiej polityki wobec Polski, tłum. E. Kazimierczak et al., Warszawa 1999.

Broszat M., Der Staat Hitlers. Grundlegung und Entwicklung seiner inneren Verfassung, München 1979.

Broszat M., Narodowo-socjalistyczna polityka w sprawie Polski 1939–1945, Warszawa 1966.

Broszat M., Nationalsozialistische Polenpolitik 1939–1945, Frankfurt am Main – Hamburg 1965.

Broszat M., Zweihundert Jahre deutsche Polenpolitik, München 1963.

Browder G., Die frühe Entwicklung des SD. Das Entstehen multipler institutioneller Identitäten [w:] Nachrichtendienst, politische Elite, Mordenheit. Der Sicherheitsdienst des Reichsführers SS, red. M. Wildt, Hamburg 2003.

Brownlie I., International Law and the Use of Force by States, Oxford 2002.

Bruns V., Völkerrecht und Politik, Berlin 1934.

Bulmerincq A. von, Völkerrecht oder internationales Recht [w:] Handbuch des öffentlichen Rechts der Gegenwart in Monographien, red. H. Marquardsen, t. 1, cz. 2, Freiburg im Breisgau 1887.

Burkert M., Die Ostwissenschaften im Dritten Reich, cz. 1: Zwischen Verbot und Duldung. Die schwierige Gratwanderung der Ostwissenschaften zwischen 1933 und 1939, Wiesbaden 2000.

Burleigh M., *Germany Turns Eastwards. A Study of Ostforschung in the Third Reich*, London 2002.

Burzyński P., *Ustawowe określenie sankcji karnej*, Warszawa 2008.

Bydgoszcz 3–4 września 1939. *Studia i dokumenty*, red. T. Chinciński, P. Machcewicz, Warszawa 2008.

Cary M., Scullard H., *Dzieje Rzymu*, t. 1, Warszawa 2001, tłum. J. Schwakopf, Warszawa 2001.

Celnikier F., *Żyd, czyli kto? Pojęcie Żyda w doktrynie i hitlerowskich poczynaniach prawodawczych. Studium absurdu i mistyfikacji*, Warszawa 2014.

Ceraficki J., *Wasserpollacken. Relacja Polaka w służbie Wehrmachtu*, oprac. i red. A. Janiszewska, Warszawa 2018.

Ceran T., *Im Namen des Führers... Selbstschutz Westpreussen i zbrodnia w Łopatkach w 1939 roku*, Bydgoszcz–Gdańsk 2014.

Ceran T., *Mordercy czy zabójcy? Wilhelm Papke, Willi Thiess i zbrodnia w Klamrach koło Chełmna 1939 roku [w:] Zapomniani kaci Hitlera. Volksdeutscher Selbstschutz w okupowanej Polsce 1939–1940. Wybrane zagadnienia*, red. I. Mazanowska et al., Bydgoszcz–Gdańsk 2016.

Ceran T., *Paterek 1939. Zbrodnia i pamięć*, Bydgoszcz–Gdańsk–Warszawa 2018.

Ceran T., *„Szmalcówka”. Historia niemieckiego obozu w Toruniu (1940–1943) na tle ideologii nazi- stowskiej*, Bydgoszcz–Gdańsk 2011.

Ceran T., *The History of a Forgotten German Camp. Nazi Ideology and Genocide at Szmalcówka*, New York 2015.

Ceran T., *Zbrodnia pomorska 1939*, Warszawa 2018.

Chauvin T., Stawecki T., Winczorek P., *Wstęp do prawoznawstwa*, Warszawa 2009.

Chinciński T., *Forpochta Hitlera. Niemiecka dywersja w Polsce w 1939 roku*, Warszawa–Gdańsk 2010.

Chrzanowski B., *Pomorze Gdańskie pod okupacją hitlerowską (1939–1945) [w:] Stutthof. Hitlerowski obóz koncentracyjny*, red. K. Ciechanowski et al., Warszawa 1988.

Chrzanowski B., *Związek Jaszczurczy i Narodowe Siły Zbrojne na Pomorzu 1939–1947. Nieznane karty pomorskiej konspiracji*, Toruń 1997.

Chwalba A., *Okupacyjny Kraków w latach 1939–1945*, Kraków 2016.

Ciałowicz J., *Polsko-francuski sojusz wojskowy 1921–1939*, Warszawa 1971.

Ciborowski A., Jankowski S., *Warszawa 1945 i dziś*, Warszawa 1971.

Cichy E., *Faszyzm w Gdańsku 1930–1945*, Toruń 2002.

Ciechanowski J., Powstanie warszawskie. Zarys podłoża politycznego i dyplomatycznego, Pułtusk– Warszawa 2009.

Ciechanowski K., Ruch oporu na Pomorzu Gdańskim 1939–1945, Warszawa 1972.

Clausewitz C. von, Vom Kriege, Berlin 1905.

Cogniard T. i H., La Cocarde Tricolore, Épisode de la Guerre -d'Alger. Vaudeville en Trois Actes, Paris 1831.

Crankshaw E., Gestapo. Narzędzie tyranii, tłum. J. Dewitz, Warszawa 1959.

Cybichowski Z., Prawo międzynarodowe publiczne i prywatne, Warszawa 1928.

Cygański M., Hitlerowska V kolumna w województwach śląskim i krakowskim w 1939 roku, Opole 1972.

Cygański M., Mniejszość niemiecka w Polsce centralnej w latach 1919–1939, Łódź 1962.

Cygański M., Negatywna rola historyków Ostforschung III Rzeszy w stosunkach polsko-niemieckich w latach 1933–1945, Poznań 1978.

Cygański M., Volksbund w służbie III Rzeszy 1933–1938, Opole 1968.

Cyprian T., Sawicki J., Nie oszczędzać Polski!, Warszawa 1962.

Cyprian T., Sawicki J., Prawo norymberskie. Bilans i perspektywy, Warszawa–Kraków 1948.

Cyprian T., Sawicki J., Walka o zasady norymberskie 1945–1955, Warszawa 1956.

Czajkowski B., Rodło, Warszawa 1975.

Czubiński A., Historia Polski XX wieku, Poznań 2007.

Daniluk J., Polscy handlowcy w międzywojennym Gdańsku [w:] „Swoj do swego”. Z dziejów przedsiębiorczości polskiej w Gdańsku okresu Wolnego Miasta (1920–1939). Szkice, red. J. Daniluk, Gdynia 2016.

Daniluk J., SS w Gdańsku. Wybrane zagadnienia, Gdańsk 2013.

Das Gemeinschaftslager „Hanns Kerrl”, red. R. Freisler et al., Berlin 1934.

Datner S., 55 dni Wehrmachtu w Polsce. Zbrodnie dokonane na polskiej ludności cywilnej w okresie 1.IX – 25.X.1939 r., Warszawa 1967.

Datner S., Zbrodnie Wehrmachtu na jeńcach wojennych w II wojnie światowej, Warszawa 1961. Datner S., Zburzenie Warszawy [w:] Straty wojenne Polski w latach 1939–1945, red. W. Cienkowski, Poznań–Warszawa 1962.

Davies N., Powstanie '44, tłum. E. Tabakowska, Kraków 2014.

Dembiński H., Odmowa uznania faktów dokonanych w najnowszym rozwoju prawa narodów (Man- dzukuo – Abisynia – Austria – Czechosłowacja), Lublin 1939.

Demeter K., *The German Officer-Corps in Society and State (1650–1945)*, New York 1965.
Derecki M., *Tropem majora „Hubala”*, Lublin 1982.

Deryng A., *Główne tendencje rozwojowe prawa narodów w świetle orzecznictwa Stałego Trybunału Sprawiedliwości Międzynarodowej*, Lwów 1932.

Deryng A., *O podstawach mocy obowiązującej prawa narodów* [w:] *Księga pamiątkowa ku czci Władysława Abrahama*, t. 2, red. O. Balzer, Lwów 1931.

Deutsche! Hitler verkauft Euch! Das Erbe von Option und Weltkrieg in Südtirol, red. G. Pallaver et al., Bozen 2011.

Deutsche und Polen zwischen den Kriegen. Minderheitenstatus und „Volkstumskampf” im Grenzgebiet. Amtliche Berichterstattung aus beiden Ländern 1920–1939, t. 1–2, red. R. Jaworski et al., München – New Providence – London – Paris 1997.

„Diese außerordentliche deutsche Bestialität”. Wie die Nazis die Spuren ihrer Massenmorde in Osteuropa beseitigten. Augenzeugenberichte und Gespräche, red. J. Hoffmann, Hamburg 2013.

Dobrzycki W., *Historia stosunków międzynarodowych 1815–1945*, Warszawa 2007.

Drewnowski J., *Kazimierz Koźniewski, Pierwsza bitwa z Gestapo. Wspomnienie o Polskiej Ludowej Akcji Niepodległościowej*, Warszawa 1969.

Drozdowski M., Zahorski A., *Historia Warszawy*, Warszawa 2004.

Drywa D., *Säuberungsaktion na Pomorzu Gdańskim w świetle dokumentów KL Stutthof (1939–1942)*, Sztutowo 2015.

Drzycimski A., *Polacy w Wolnym Mieście Gdańsku w latach 1920–1933*, Wrocław–Warszawa–Kraków–Gdańsk 1978.

Dubiel P., *Wrzesień 1939 na Śląsku*, Katowice 1963.

Dülffer J., *The United Nations and the Origins of the Genocide Convention 1946–1948* [w:] *The Genocide Convention. Sixty Years after its Adoption*, red. C. Safferling et al., The Hague 2010.

Dunin-Wąsowicz K., *Obóz koncentracyjny Stutthof, Gdańsk 1970*. Dunin-Wąsowicz K., *Warszawa w latach 1939–1945*, Warszawa 1984. Dyskant J., *Port Artur 1904*, Warszawa 1996.

Dywersja w Zamojszczyźnie (1939–1944), red. Z. Klukowski, Zamość–Szczepreszyn–Zwierzyniec 2018.

Działalność informacyjna Polskiego Państwa Podziemnego, red. W. Grabowski, Warszawa 2003. Eder-Stein I., *Publikationsstelle Berlin-Dahlem 1931–1945. Bestand R 153*, Koblenz 2003.

Ehrlich L., *Gdańsk. Zagadnienia prawno-publiczne*, Lwów 1926. Ehrlich L., *Interpretacja traktatów*, Warszawa 1957.

Ehrlich L., Prawo międzynarodowe, Warszawa 1958. Ehrlich L., Prawo narodów, Lwów 1932.

Encyklopedia II wojny światowej, red. K. Sobczak, Warszawa 1975.

Encyklopedia Tarnowa, red. A. Niedojadło, Tarnów 2010.

Enzyklopädie Migration in Europa. Vom 17. Jahrhundert bis zur Gegenwart, red. K. Bade et al., Zürich 2007.

Epstein C., Wzorcowy nazista. Arthur Greiser i okupacja Kraju Warty, tłum. J. Włodarczyk, Wrocław 2011.

Fahlbusch M., Wissenschaft im Dienst der nationalsozialistischen Politik? Die „Volksdeutschen Forschungsgemeinschaften“ von 1931–1945, Baden-Baden 1999.

Fajkowski J., Religa J., Zbrodnie hitlerowskie na wsi polskiej 1939–1945, red. A. Puławski, Warszawa 1981. Faustmann U., Die Reichskulturkammer. Aufbau, Funktion und rechtliche Grundlagen einer Körperschaft des öffentlichen Rechts im nationalsozialistischen Regime, Aachen 1995.

Feldman J., Polish-German Antagonism in History, Toruń–London 1935.

Ferencz B., Defining International Aggression. The Search for World Peace. A Documentary History and Analysis, t. 1–2, New York 1975.

Fiedor K., Walka z nazewnictwem polskim na Śląsku w okresie hitlerowskim (1933–1939), Wrocław–Warszawa–Kraków 1966.

Foertsch H., Schuld und Verhängnis. Die Fritsch-Krise im Frühjahr 1938 als Wendepunkt in der Geschichte der nationalsozialistischen Zeit, Stuttgart 1951.

Foot P., The Problem of Abortion and the Doctrine of the Double Effect in Virtues and Vices, Oxford 1978.

Form W., Strategies for „Genocide Trials” after World War II – How the Allied Powers Dealt with the Phenomenon of Genocide in Occupied Germany [w:] The Genocide Convention. Sixty Years after its Adoption, red. C. Safferling et al., The Hague 2010.

Förster J., Das Unternehmen „Barbarossa” als Eroberungs- und Vernichtungskrieg [w:] Das Deutsche Reich und der Zweite Weltkrieg, t. 4: Der Angriff auf die Sowjetunion, red. H. Boog et al., Stuttgart 1983.

Fraenkel E., Der Doppelstaat. Recht und Justiz im „Dritten Reich”, Frankfurt am Main 1984.

Francis Lieber and the Culture of the Mind, red. C. Mack et al., Columbia 2005. Freidel F., Francis Lieber, Nineteenth-Century Liberal, Baton Rouge 1947.

Freytagh-Loringhoven A. von, Die Satzung des Völkerbundes, Berlin 1926.

Friedlander H., The Origins of Nazi Genocide. From Euthanasia to the Final Solution, Chapel Hill 1995.

Friedman T., Die höchsten Nazi-Beamten im General-Gouvernement in Polen in den Kriegs-Jahren 1939–45, Haifa 2002.

Friedrich J., Grundzüge des Völkerrechts für Studierende und Laien, Leipzig 1915.

Fuks R., Działalność „Das Ahnenerbe” w zakresie grabieży dzieł polskiej kultury narodowej [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Fuks R., Kania S., Grabież dzieł sztuki i niszczenie kultury polskiej [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Garliński J., Polskie Państwo Podziemne 1939–1945, Warszawa 1985.

Gawęda S., Uniwersytet Jagielloński w okresie II wojny światowej 1939–1945, Kraków 1986. Gąsiorowski A., Steyer K., Tajna Organizacja Wojskowa „Gryf Pomorski”, Gdańsk 2010.

Gdański J., Zapomniani żołnierze Hitlera, Warszawa 2005. Gelberg L., Zarys prawa międzynarodowego, Warszawa 1967.

Gellner E., Wyboista droga nacjonalizmu [w:] idem, Narody i nacjonalizm, tłum. T. Hołówka, Warszawa 1991.

Gerlach C., Kalkulierte Morde. Die deutsche Wirtschafts- und Vernichtungspolitik in Weißrußland 1941 bis 1944, Hamburg 1999.

Getter M., Policja granatowa w Warszawie 1939–1944 [w:] Warszawa lat wojny i okupacji 1939–1944, z. 2, red. K. Dunin-Wąsowicz, Warszawa 1972.

Giese F., Die Verfassung des Deutschen Reiches vom 11. August 1919, Berlin 1919. Gładysiak Ł., Zabijajcie wszystkich. Einsatzgruppen 1938–1941, Warszawa 2012.

Gnatowski M., Monkiewicz W., Kowalczyk J., Wieś białostocka oskarża. Ze studiów nad eksterminacją wsi na Białostocczyźnie w latach wojny i okupacji hitlerowskiej, Białystok 1981.

Golon M., Tajna Organizacja Wojskowa „Gryf Pomorski” wobec Armii Czerwonej a powojenne losy gryfowców, Gdańsk 2000.

Gontarczyk P., Polska Partia Robotnicza. Droga do władzy (1941–1944), Warszawa 2006.

Gorzowska J., Żakowska E., Zbrodniarze hitlerowscy przed sądami NRF, Warszawa–Poznań 1964.

Górnicki L., Prawo Trzeciej Rzeszy w nauce i publicystyce prawniczej Polski międzywojennej, Bielsko-Biała 1993.

Górski G., Polskie Państwo Podziemne 1939–1945, Toruń 1998.

Grabowski W., Polska Tajna Administracja Cywilna 1940–1945, Warszawa 2003.

Greiner H., Za kulisami OKW, Warszawa 1959.

- Greve S., Der Generalbevollmächtigte für den Arbeitseinsatz und das Reichsarbeitsministerium [w:] Das Reichsarbeitsministerium im Nationalsozialismus. Verwaltung – Politik – Verbrechen, red. A. Nützenadel, Göttingen 2017.
- Grochowina S., Sziling J., Barbarka. Miejsce niemieckich egzekucji Polaków z Torunia i okolic (październik–grudzień 1939), Toruń 2009.
- Grode W., Die „Sonderbehandlung 14f13” in den Konzentrationslagern des Dritten Reiches. Ein Beitrag zur Dynamik faschistischer Vernichtungspolitik, Frankfurt am Main 1987.
- Grotius H., De Contractibus [w:] De Jure Belli ac Pacis Libri Tres, in Quibus Jus Naturae et Gentium, item Juris Publici Praecipua Explicantur, Parisiis 1625.
- Grünberg K., Hitler-Jugend, Toruń 1998.
- Grünberg K., Nazi-Front Schlesien. Niemieckie organizacje polityczne w wojsku śląskim w latach 1933–1939, Katowice 1963.
- Grünberg K., SS – czarna gwardia Hitlera, Warszawa 1975.
- Grządzielski Z., Pietrzykowski J., Polentumsträger. Dzieje nauczycieli na ziemi częstochowskiej 1939– 1945, Katowice 1988.
- Grzebyk P., Odpowiedzialność karna za zbrodnię agresji, Warszawa 2010.
- Grzybowski K., Trybunały międzynarodowe a prawo wewnętrzne, Lwów 1937.
- Gursztyn P., Rzeź Woli. Zbrodnia nierozliczona, Warszawa 2014.
- Gutschow N., Klain B., Zagłada i utopia. Urbanistyka Warszawy w latach 1939–1945, tłum. E. Dappa et al., Warszawa – Frankfurt am Main 1995.
- Gzella G., Procesy prasowe redaktorów „Gazety Grudziądzkiej” w latach 1894–1914, Toruń 2010.
- Haar I., Historiker im Nationalsozialismus. Deutsche Geschichtswissenschaft und der „Volkstumskampf” im Osten, Göttingen 2000.
- Haar I., Nord- und Ostdeutsche Forschungsgemeinschaft [w:] Handbuch der völkischen Wissenschaften. Personen – Institutionen – Forschungsprogramme – Stiftungen, red. I. Haar et al., München 2008.
- Hachtmann R., Das Wirtschaftsimperium der Deutschen Arbeitsfront 1933 bis 1945, Göttingen 2012.
- Halban L., Religia w Trzeciej Rzeszy, Lwów 1936.
- Hanson J., Nadludzkiej poddani próbie. Ludność cywilna Warszawy w powstaniu 1944 r., Warszawa 2004.
- Harasimowicz J., Dolny Śląsk, Wrocław 2007.
- Harley L., Francis Lieber. His Life and Political Philosophy, New York 1970.

Harten H.-Ch., De-Kulturation und Germanisierung. Die nationalsozialistische Rassen- und Erziehungs- politik in Polen 1939–1945, Frankfurt am Main – New York 1996.

Hartigan R., Lieber's Code and the Law of War, Chicago 1983.

Hartmann C., Hürter J., Jureit U., Verbrechen der Wehrmacht. Bilanz einer Debatte, München 2005.

Hatschek J., Völkerrecht als System bedeutsamer Staatsakte, Leipzig–Erlangen 1923.

Hauser P., Mnieszość niemiecka na Pomorzu w okresie międzywojennym, Poznań 1998.

Heffter A., Das Europäische Völkerrecht der Gegenwart, Berlin 1888.

Hegel G., Grundlinien der Philosophie des Rechts, Berlin 1821.

Heidenreich G., Das endlose Jahr. Die langsame Entdeckung der eigenen Biographie – ein Lebensbornschicksal, Frankfurt am Main 2010.

Heinemann I., Rasa, ziemia, niemiecka krew. Główny Urząd Rasy i Osadnictwa SS i nowy porządek rasowy Europy, tłum. J. Górny, Gdańsk 2014.

Heinemann I., Rasse, Siedlung, deutsches Blut Das Rasse- und Siedlungshauptamt der SS und die rassenpolitische Neuordnung Europas, Göttingen 2013.

Heinemann I., Wissenschaft und Homogenisierungsplanungen für Osteuropa. Konrad Meyer, der „Generalplan Ost” und die deutsche Forschungsgemeinschaft [w:] Wissenschaft – Planung – Vertreibung. Neuordnungskonzepte und Umsiedlungspolitik im 20. Jahrhundert, t. 1, red. I. Heinemann et al., Stuttgart 2006.

Heller H., Die Souveränität, Berlin 1927.

Hemingway E., The Fifth Column, and the First Forty-Nine Stories, New York 1938.

Hempel A., Pogrobowcy klęski. Rzecz o policji „granatowej” w Generalnym Gubernatorstwie 1939– 1945, Warszawa 1990.

Hempel A., Policja granatowa w okupacyjnym systemie administracyjnym Generalnego Gubernator- stwa (1939–1945), Warszawa 1987.

Henzel W., Sawicka I., Powstanie Warszawskie 1944 r. Bibliografia selektywna, t. 1–3, Warszawa 1994–1996.

Herbert U., Fremdarbeiter. Politik und Praxis des „Ausländer-Einsatzes” in der Kriegswirtschaft des Dritten Reiches, Berlin–Bonn 1986.

Herbert U., Werner Best. Studium biograficzne. O radykalizmie, światopoglądzie i rozsądku 1903–1989, tłum. M. Kurkowska, Warszawa 2007.

Herbert Z., Pan Cogito o potrzebie ścisłości [w:] idem, Wiersze zebrane, oprac. R. Krynicki, Kraków 2008.

Herdegen M., Völkerrecht, München 2005.

Herzog J., Nuremberg, un échec fructueux?, Paris 1975.

Hirsch F., *Empire of Nations. Ethnographic Knowledge and the Making of the Soviet Union*, Ithaca 2005. Hirszt Z., *Historia polityczna Polski 1939–1998*, t. 1: *Polskie Państwo Podziemne*, Białystok 1998.

Historia Bydgoszczy, t. 2, cz. 2, red. M. Biskup, Bydgoszcz 2004.

Historia Pomorza, t. 5: 1918–1939, *Województwo pomorskie i Wolne Miasto Gdańsk*, cz. 1: *Ustrój, społeczeństwo i gospodarka*, red. S. Wierzchowski, P. Olstowski, Toruń 2015.

Hitlerowskie więzienie na Zamku w Lublinie 1939–1944. Praca zbiorowa, red. Z. Mańkowski, Lublin 1988.

Hoffmann J., „Das kann man nicht erzählen”. „Aktion 1005” – wie die Nazis die Spuren ihrer Massenmorde in Osteuropa beseitigten, Hamburg 2013.

Höhne H., *Zakon trupiej czaszki*, Warszawa 2006.

Holtzendorff F. von, *Handbuch des Völkerrechts*, t. 4, Hamburg 1887. Hossbach F., *Zwischen Wehrmacht und Hitler 1934–1938*, Wolfenbüttel 1949.

Hrabar R., *Grabież dzieci w działalności „Lebensborn”* [w:] *Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii*, red. C. Pilichowski, Warszawa 1980.

Hrabar R., *Hitlerowski rabunek dzieci polskich. Uprowadzanie i germanizowanie dzieci polskich w latach 1939–1945*, Katowice 1960.

Hrabar R., „Lebensborn”, czyli źródło życia, Warszawa 1975.

Hrabar R., *Na rozkaz i bez rozkazu. Sto i jeden wybranych dowodów hitlerowskiego ludobójstwa na dzieciach*, Katowice 1968.

Hrabar R., *Niemieckie obozy dla Polaków na Śląsku w czasie II wojny światowej „Polenlager”*, Katowice 1972.

Hrabar R., *Przeciwko światu przemocy*, Katowice 1982.

Hrabar R., *Skazane na zagładę. Praca niewolnicza kobiet polskich w III Rzeszy i los ich dzieci*, Katowice 1989.

Hrabar R., Tokarz Z., Wilczur J., *Czas niewoli, czas śmierci. Martyrologia dzieci polskich w okresie okupacji hitlerowskiej*, Warszawa 1979.

Indecki K., *Zasada nullum crimen sine lege w prawie karnym międzynarodowym* [w:] *Gaudium in litteris est. Księga jubileuszowa ofiarowana Pani Profesor Genowefie Rejman z okazji osiemdziesiątych urodzin*, red. L. Gardocki et al., Warszawa 2005.

Ingrao C., *Czarni Myśliwi. Brygada Dirlewangera*, tłum. W. Gilewski, Wołowiec 2011.

Ingrao C., *Wierzyć i niszczyć. Intelktualiści w maszynie wojennej SS*, tłum. M. Kamińska-Maurugeon, Wołowiec 2013.

Instrukcja wydawnicza dla źródeł historycznych od XVI do połowy XIX wieku, red. K. Lepszy, Wrocław 1953.

Isay E., Völkerrecht, Breslau 1924.

Iwanek T., Zbrodnia ludobójstwa i zbrodnie przeciwko ludzkości w prawie międzynarodowym, Warszawa 2015.

Izdebski Z., Funkcja opiniodawcza Stałego Trybunału Sprawiedliwości Międzynarodowej, Poznań 1936.

Jacewicz W., Woś J., Martyrologium polskiego duchowieństwa rzymskokatolickiego pod okupacją hitlerowską w latach 1939–1945, z. 1: Straty osobowe, Warszawa 1977.

Jacobs W., Der Überfall auf Polen und der neue Charakter des Krieges [w:] September 1939.

Krieg, Besatzung, Widerstand in Polen. Acht Beiträge, red. Ch. Kleßmann, Göttingen 1989.

Jaczynowska M., Historia starożytnego Rzymu, Warszawa 2008.

Jaczyńska A., Sonderlaboratorium SS. Zamojszczyzna w Generalnym Gubernatorstwie 1942–1943, Lublin 2012.

Janczewski H., Całe życie z Warszawą, Warszawa 1986.

Janicka D., Polska myśl prawnokarna XIX–XX wieku. Autorzy i ich dzieła. Od szkoły klasycznej do socjologicznej, Toruń 2017.

Janowicz Z., Ustrój administracyjny ziem polskich wcielonych do Rzeszy Niemieckiej 1939–1945 (tzw. okręgi Kraju Warty i Gdańska-Prus Zachodnich), Poznań 1951.

Jansen Ch., Weckbecker A., „Der Volksdeutsche Selbstschutz” in Polen 1939/40, München 1992. Janßen K.-H., Tobias F., Der Sturz der Generäle. Hitler und die Blomberg-Fritsch-Krise 1938, München 1994.

Jarząbek W., Rzeź Woli – wydarzenie jednostkowe czy wynikające z „logiki” niemieckiej polityki okupacyjnej w Polsce? [w:] Wola 1944. Nierozliczona zbrodnia a pojęcie ludobójstwa, Warszawa 2019.

Jasper G., Justiz und Nationalsozialismus, Hannover 1985.

Jastrzębski W., Dywersja czy masakra? Cywilna obrona Bydgoszczy we wrześniu 1939 r., Gdańsk 1988. Jastrzębski W., Hitlerowskie wysiedlenia z ziem polskich wcielonych do Rzeszy 1939–1945, Poznań 1968. Jastrzębski W., Polityka narodowościowa w okręgu Rzeszy Gdańsk-Prusy Zachodnie (1939–1945), Bydgoszcz 1977.

Jastrzębski W., Terror i zbrodnia. Eksterminacja ludności polskiej i żydowskiej w rejencji bydgoskiej w latach 1939–1945, Warszawa 1974.

Jastrzębski W., Warunki pracy i życia robotników przymusowych [w:] Polscy robotnicy przymusowi w Trzeciej Rzeszy, red. W. Bonusiak, Rzeszów 2005.

Jastrzębski W., Sziling J., Okupacja hitlerowska na Pomorzu Gdańskim w latach 1939–1945, Gdańsk 1979.

- Jaszowski T., *Hitlerowskie prawo karne na Pomorzu 1939–1945*, Warszawa 1989.
- Jaszowski T., Jastrzębski W., *Gestapo w walce z ruchem oporu nad Wisłą i Brdą*, Bydgoszcz 1985. Jaszowski T., Sobiecki C., *Niemy świadek. Zbrodnie hitlerowskie w toruńskim Forcie VII i w lesie Barbarka*, Bydgoszcz 1971.
- Jaworski S., *Związek Jaszczurczy – Narodowe Siły Zbrojne*, Chicago 1982.
- Jedliński W., *Dzieje oświaty i kultury w Wolnym Mieście Gdańsku i na Powiślu 1920–1939*, Malbork 1998.
- Jellinek G., *Die rechtliche Natur der Staatenverträge*, Wien 1880.
- Jensen U., Reichskulturkammer [w:] *Enzyklopädie des Nationalsozialismus*, red. W. Benz et al., Stuttgart 1997.
- Jędrzejewski E., *Hitlerowska koncepcja administracji państwowej 1933–1945. Studium polityczno-prawne*, Wrocław 1974.
- Johannet R., *Le Principe des Nationalités*, Paris 1918.
- Jonca K., *Polityka narodowościowa Trzeciej Rzeszy na Śląsku Opolskim w latach 1933–1940*, Katowice 1970.
- Jones A., *Genocide. A Comprehensive Introduction*, London – New York 2011.
- Jordanek Z., *Założenia polityki hitlerowskiej i stalinowskiej wobec oficerów Wojska Polskiego [w:] Zbrodnie NKWD na obszarze województw wschodnich Rzeczypospolitej Polskiej*, red. B. Polak, Koszalin 1995.
- Józwiakowski J., *Armia Krajowa na Zamojszczyźnie*, t. 1–2, Lublin 2007. Kaczmarek R., *Polacy w Wehrmachcie*, Kraków 2010.
- Kajtel H., *Hitlerowski obóz przesiedleńczy w Zamościu – UWZ Lager Zamość*, Biłgoraj 2003.
- Kalbarczyk S., *Żołnierze polscy – pracownicy nauki w niewoli radzieckiej w okresie wrzesień 1939 – sierpień 1941 [w:] Polscy pracownicy nauki. Ofiary zbrodni radzieckich w latach II wojny światowej. Zamordowani – więzieni – deportowani*, Warszawa 2001.
- Kałuński M., *On the Martens Clause in International Law Today [w:] Współczesne problemy praw człowieka i międzynarodowego prawa humanitarnego. Materiały I Warszawsko-Toruńskiego Kolokwium Praw Człowieka i Międzynarodowego Prawa Humanitarnego*, Toruń, 10–11 grudnia 2008 r., red. T. Jasudowicz et al., Toruń 2009.
- Kałuński M., *Zasada dobrej wiary w prawie międzynarodowym*, Warszawa 2017.
- Kamiński M., Zacharias M., *Polityka zagraniczna II Rzeczypospolitej 1918–1939*, Warszawa 1987.
- Kamiński T., *Tajemnica Czarne Lasu*, Kraków 2001.
- Kanarek-Równicka A., *Polskie interpretacje ustroju i prawa Trzeciej Rzeszy (1933–1989)*, Toruń 2017.

Kania S., Publikacje Głównej Komisji Badania Zbrodni Hitlerowskich w Polsce 1945–1982, Warszawa 1983.

Kania S., Stosunek faszyzmu hitlerowskiego do kultury polskiej [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Kant I., Metafizyka moralności, tłum. W. Galewicz [w:] idem, Dzieła zebrane, t. 5, red. W. Włoch, Toruń 2011.

Kant I., Werkausgabe in zwölf Bänden. Band 8. Die Metaphysik der Sitten, red. W. Weischedel, Frankfurt am Main 1977.

Kapiszewski H., Związek Harcerstwa Polskiego w Niemczech. Zarys historyczny ze szczególnym uwzględnieniem lat 1933–1939, Warszawa 1969.

Kaplan K., Zpráva o zavraždění generálního tajemníka, Praha 1992.

Kasperek J., Niektóre aspekty werbunku na przymusowe roboty do III Rzeszy z dystryktu lubelskiego [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Kater M., Hitlerjugend – dzieci Hitlera, tłum. O. Knopińska, Warszawa 2013.

Kaufmann E., Das Wesen des Völkerrechts und die Clausula Rebus sic Stantibus. Rechtsphilosophische Studie zum Rechts-, Staats- und Vertragsbegriffe, Tübingen 1911.

Kauzik S., Polskie Państwo Podziemne, Londyn 1959.

Każń profesorów lwowskich – lipiec 1941. Studia oraz relacje i dokumenty, zebr. i oprac. Z. Albert, Wrocław 1989.

Kees T., „Polnische Gräuel”. Der Propagandafeldzug des Dritten Reiches gegen Polen, Saarbrücken 1994. Kegler K., Deutsche Raumplanung. Das Modell der „Zentralen Orte” zwischen NS-Staat und Bundesrepublik, Paderborn 2015.

Kelsen H., Allgemeine Staatslehre, Berlin 1925.

Kelsen H., Czysta teoria prawa. Metoda i pojęcia zasadnicze, tłum. T. Przeorski, Warszawa 1934. Kelsen H., Das Problem der Souveränität und die Theorie des Völkerrechts. Beitrag zu einer reine Rechtslehre, Aalen 1960.

Kelsen H., Law and Peace in International Relations. The Oliver Wendell Holmes Lectures 1940–41, Cambridge 1942.

Kelsen H., Reine Rechtslehre. Einleitung in die rechtswissenschaftliche Problematik, Leipzig–Wien 1934. Kirchmayer J., Powstanie warszawskie, Warszawa 1984.

Kirst H., Afery generałów, tłum. E. Ptaszyńska-Sadowska, Warszawa 1995.

Kisielewicz D., Oficerowie polscy w niewoli niemieckiej w czasie II wojny światowej, Łambinowice– Opole 1998.

Klaflkowski A., Aktualne znaczenie tzw. prawa norymberskiego dla kodyfikacji prawa międzynarodowego, Warszawa 1971.

Klaflkowski A., Obozy koncentracyjne hitlerowskie jako zagadnienie prawa międzynarodowego, Warszawa 1968.

Klaflkowski A., Okupacja niemiecka w Polsce w świetle prawa narodów, Poznań 1946.

Klaflkowski A., Prawo międzynarodowe publiczne, Warszawa 1979.

Klaflkowski A., Ściganie zbrodniarzy wojennych w Niemieckiej Republice Federalnej w świetle prawa międzynarodowego, Poznań 1968.

Klausch H.-P., Antifaschisten in SS-Uniform. Schicksal und Widerstand der deutschen politischen KZ-Häftlingen, Zuchthaus- und Wehrmachtsgefangenen in der SS-Sonderformation Dirlewanger, Bremen 1993.

Klee E., Das Personenlexikon zum Dritten Reich, Frankfurt am Main 2007. Klimaszewski T., Verbrennungskommando Warschau, Warszawa 1984.

Klimek R., Ludobójcza akcja Goralenvolk, Zakopane 2006. Klüber J., Europäisches Völkerrecht, t. 1–2, Stuttgart 1821.

Klukowski Z., Pacyfikacje i egzekucje masowe w powiecie zamojskim w latach 1943–1944, „BGKB- ZNwP” V (1949).

Kmak-Pamirska A., Przemiany obrazu biskupa Carla Marii Spletta w pamięci historycznej w Polsce i w Niemczech na przestrzeni lat [w:] Letnia Szkoła Historii Najnowszej 2012. Referaty, t. 6, red. K. Dworczak, Ł. Kamiński, Warszawa 2013.

Kobierska-Motas E., Działalność specjalnego pełnomocnika do spraw zabezpieczenia dzieł sztuki i zabytków kultury w GG [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Kodeks karny. Część szczególna. Komentarz, red. J. Giezek, Warszawa 2014.

Kodeks karny. Część szczególna, t. 1: Komentarz. Art. 117–221, red. M. Królikowski et al., Warszawa 2017.

Kodeks karny. Część szczególna, t. 2: Komentarz do art. 117–211a, red. W. Wróbel et al., Warszawa 2017.

Kodeks karny. Komentarz, red. A. Grześkowiak, Warszawa 2018.

Kodeks karny. Komentarz, red. M. Filar, Warszawa 2016.

Koellreutter O., Grundriss der allgemeinen Staatslehre, Tübingen 1933.

Kohler J., Grundlagen des Völkerrechts. Vergangenheit, Gegenwart, Zukunft, Stuttgart 1918.

Kohn H., The Idea of Nationalism. A Study in its Origins and Background, New Brunswick – London 2008.

Kolb E., The Weimar Republic, London – New York 2005.

Komarnicki W., Określenie napastnika we współczesnym prawie narodów [w:] Księga pamiątkowa ku czci Leona Pinińskiego, t. 1, Lwów 1936.

Komorowski K., Konspiracja pomorska 1939–1947, Gdańsk 1993.

Konferencja Warszawska (Unifikacji Prawa Karnego), Warszawa 1927.

Koniec pokoju, początek wojny. Niemieckie działania dywersyjne w kampanii polskiej 1939 r. Wybrane aspekty, red. G. Bębnik, Katowice 2011.

Konieczny A., Pod rządami wojennego prawa karnego Trzeciej Rzeszy. Górny Śląsk 1939–1945, Warszawa–Wrocław 1972.

Konkordat z Rzeszą Niemiecką (zawarty 20.VII.1933 r.), red. H. Kalmowicz et al., Wilno 1934. Kopf S., Wyrok na miasto. Warszawskie Termopile 1944–1945, Warszawa 2001.

Kornat M., Polityka równowagi 1934–1939. Polska między Wschodem a Zachodem, Kraków 2007.

Korowicz M., Górnośląska Konwencja Genewska pomiędzy Polską i Niemcami 1922–1937, Katowice–Warszawa 1937.

Kosztyła Z., Oddział Wydzielony Wojska Polskiego Majora „Hubala”, Warszawa 1987.

Kościierzyna i powiat kościerski w latach II wojny światowej 1939–1945, red. A. Gąsiorowski, Kościierzyna 2009.

Kowalczuk J., 100-lecie geofizyki polskiej (1895–1995), Kraków 2001.

Kowalczyk J., Zbrodnie Wehrmachtu na ludności cywilnej na Białostocczyźnie [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Kozaczuk W., Wehrmacht 1933–1939. Rozbudowa sił zbrojnych Trzeciej Rzeszy jako narzędzia presji, ekspansji terytorialnej i wojny, Warszawa 1978.

Kozaczyńska B., Losy dzieci z Zamojszczyzny wysiedlonych do powiatu siedleckiego w latach 1943–1945, Siedlce 2006.

Koziello-Poklewski B., Zagraniczni robotnicy przymusowi w Prusach Wschodnich w latach II wojny światowej, Warszawa 1977.

Koziello-Poklewski B., Zatrudnienie jeńców wojennych i robotników przymusowych w gospodarce Prus Wschodnich w latach II wojny światowej [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Krajewski M., W cieniu wojny i okupacji. Ziemia Dobrzyńska w latach 1939–1945, Rypin 1995. Krannhals H. von, Die Einsatzgruppen der Sicherheitspolizei in Polen 1.9.1939 – 31.10.1939, Lüneburg 1965.

Kraus H., Vom Wesen des Völkerbundes, Berlin 1920.

Król M., Prawo międzynarodowe w orzecznictwie sądów krajowych, Wilno 1935.

- Krzemiński T., *Polityk dwóch epok. Wiktor Kulerski (1865–1935)*, Toruń 2008.
- Kula H., *Polscy inspektorzy celni w Wolnym Mieście Gdańsku*, Gdańsk 2009.
- Kulesza W., *Możliwość opracowania aktu oskarżenia sprawców zbrodni katyńskiej. Przesłanki prawne i rzeczywistość [w:] Zbrodnia katyńska. Wina i oskarżenie*, red. I. Kowalska et al., Warszawa 2004.
- Kulesza W., *Zbrodnia katyńska jako akt ludobójstwa [w:] Zbrodnia katyńska. W kręgu prawdy i kłamstwa*, red. S. Kalbarczyk, Warszawa 2010.
- Kunert A., *Kronika powstania warszawskiego*, Poznań 2014.
- Kutrzeba S., *Polskie prawo polityczne według traktatów, cz. 2*, Kraków 1923.
- Kutrzeba S., *Wolne Miasto pod względem prawnym [w:] Gdańsk. Przeszłość i teraźniejszość. Praca zbiorowa*, red. S. Kutrzeba, Lwów–Warszawa–Kraków 1928.
- Květén 1945 v českých zemích (May 1945 in the Czech Lands). *Pozemní operace vojsk Osy a Spojenců*, Praha 2004.
- Lachs M., *Umowy wielostronne. Studium z prawa traktatowego*, Warszawa 1958.
- Lapter K., *Pakt Piłsudski–Hitler. Polsko-niemiecka deklaracja o niestosowaniu przemocy z 26 stycznia 1934 r.*, Warszawa 1962.
- Lasik A., *Sztafety Ochronne w systemie niemieckich obozów koncentracyjnych. Rozwój organizacyjny, ewolucja zadań i struktur oraz socjologiczny obraz obozowych załóg SS*, Oświęcim 2007.
- Lasończyk I., *Zarys rozwoju związku harcerstwa polskiego w Niemczech na Śląsku Opolskim w latach 1920–1939*, Opole 1963.
- Lasson A., *Princip und Zukunft des Völkerrechts*, Berlin 1871. Lasson A., *System der Rechtsphilosophie*, Berlin 1882.
- Lebiediewa N., Materski W., *Zastanawiający dokument. Przyczynek do hipotezy o związku akcji AB ze zbrodnią katyńską [w:] W przeddzień zbrodni katyńskiej. Agresja sowiecka 17 września 1939 roku*, red. M. Tarczyński, Warszawa 1999.
- Lee M., *The Beast Reawakens. Fascism's Resurgence from Hitler's Spymasters to Today's Neo-Nazi Groups and Right-Wing Extremists*, New York – Abingdon 2000.
- Lehr H., Osmańczyk E., *Polacy spod znaku Rodła*, Warszawa 1972.
- Leszczyński E., *Sonderbehandlung. Zbrodnia na polskich dzieciach*, Wrocław 2014.
- Lewandowski S., *Retoryczne i logiczne podstawy argumentacji prawniczej*, Warszawa 2015.
- Lewis B., *Hitlerjugend. W czasach wojny i pokoju 1933–1945*, tłum. G. Siwek, Warszawa 2008.
- Lilienthal G., *Der „Lebensborn e.V.“. Ein Instrument nationalsozialistischer Rassenpolitik*, Frankfurt am Main 2008.

- Lis M., *Mniejszość polska w niemieckiej części Górnego Śląska* [w:] „Przebudź się, serce moje, i pomyśl”. Przyczynek do historii stosunków między Śląskiem a Berlinem-Brandenburgią, red. K. Bździach, Berlin–Opole 1995.
- Lisiewicz P., *Zbrodnie na dzieciach i młodzieży popełnione w szpitalu psychiatrycznym w Lublińcu* [w:] *Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii*, red. C. Pilichowski, Warszawa 1980.
- Liszt F. von, *Das Völkerrecht systematisch dargestellt*, Berlin 1889.
- Liszt F. von, *Das Völkerrecht systematisch dargestellt*, Berlin 1906.
- Liszt F. von, *System prawa międzynarodowego*, tłum. W. Olszewski, Kraków–Warszawa 1907.
- Liszt F. von, Fleischmann M., *Das Völkerrecht systematisch dargestellt*, Berlin 1925.
- Livius T., *Ab urbe condita*, t. 2: Libri VI–X, Oxonium 1961.
- Lochner L., *What about Germany?*, New York 1943.
- Lorimer J., *The Institutes of the Law of Nations. A Treatise of the Jural Relations of Separate Political Communities*, t. 1, Edinburgh–London 1883.
- Losy pracowników i studentów Katolickiego Uniwersytetu Lubelskiego w czasie okupacji niemieckiej, oprac. J. Ziółek, Lublin 2009.
- Losy Tajnej Organizacji Wojskowej „Gryf Pomorski”, red. J. Borzyszkowski, Gdańsk 2000.
- Lubuski słownik biograficzny, red. H. Szczegół, Zielona Góra 1984.
- Lukas R., *The Forgotten Holocaust. The Poles under German Occupation 1939–1944*, New York 1990.
- Lukas R., *Zapomniany Holocaust. Polacy pod okupacją niemiecką 1939–1944*, tłum. S. Stodulski, Poznań 2012.
- Lumans V., *Himmler’s Auxiliaries. The Volksdeutsche Mittelstelle and the German National Minorities of Europe, 1933–1945*, Chapel Hill – London 1993.
- Lumans V., Werner Lorenz – Chef der „Volksdeutschen Mittelstelle” [w:] *Die SS. Elite unter dem To- tenkopf. 30 Lebensläufe*, red. R. Smelser et al., Paderborn 2000.
- Lustiger A., *The Black Book of Polish Jewry. An Account of the Martyrdom of Polish Jewry under the Nazi Occupation*, Bodenheim 1995.
- Łaptos J., *Pakt Brianda–Kellogga*, Kraków 1988.
- Łojek J., *Agresja 17 września 1939*, Warszawa 1990.
- Łuczak C., *Arthur Greiser. Hitlerowski władca w Wolnym Mieście Gdańsku i w Kraju Warty*, Poznań 1997.
- Łuczak C., *Polityka zatrudnienia w Trzeciej Rzeszy* [w:] *Polscy robotnicy przymusowi w Trzeciej Rzeszy*, red. W. Bonusiak, Rzeszów 2005.

Łuczak C., Polska i Polacy w drugiej wojnie światowej, Poznań 1993.

Łuczak C., Praca przymusowa Polaków w Trzeciej Rzeszy i na okupowanych przez nią terytoriach innych państw (1939–1945), Poznań 2001.

Łuczak C., Wysiedlenia hitlerowskie na tak zwanych „ziemiach wschodnich” wcielonych do Rzeszy, Zamość 1972.

Maaß B., Praca przymusowa Polaków i Polek w III Rzeszy [w:] „Przebudź się, serce moje, i pomyśl”. Przyczynek do historii stosunków między Śląskiem a Berlinem-Brandenburgią od 1740 roku do dziś, red. K. Bździach, tłum. M. Choroś et al., Berlin–Opole 1995.

Maciejewski T., Ustrój konstytucyjny i sądowy napoleońskiego (1807–1814) i wersalskiego (1920–1939) Wolnego Miasta Gdańska w rozwoju prawno-historyczno-porównawczym, Gdańsk 2017.

Mackiewicz J., Ponary, Katyń, Warszawa 1985.

MacLean F., The Cruel Hunters. SS-Sonder-Kommando Dirlewanger, Hitler's Most Notorious Anti-Partisan Unit, Atglen 1998.

Madajczyk C., Generalna Gubernia w planach hitlerowskich. Studia, Warszawa 1961.

Madajczyk C., Generalplan Ost, Poznań 1962.

Madajczyk C., Hitlerowski terror na wsi polskiej 1939–1945. Zestawienie większych akcji represyjnych, Warszawa 1965.

Madajczyk C., Hitlerowskie ludobójstwo Żydów i Słowian. Plany a decyzja o realizacji [w:] Społeczeństwo polskie wobec martyrologii i walki Żydów w latach II wojny światowej. Materiały z sesji w Instytucie Historii PAN w dniu 11.III.1993 r., red. K. Dunin-Wąsowicz, Warszawa 1996.

Madajczyk C., Polityka III Rzeszy w okupowanej Polsce, t. 1–2, Warszawa 1970.

Madajczyk C., Systemy okupacyjne państw Osi w Europie [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Maj P., Paruch W., W obronie majestatu Rzeczypospolitej: piłsudczykowska interpretacja przewrotu majowego (1926–1939) [w:] Zamach stanu Józefa Piłsudskiego i jego konsekwencje w interpretacjach polskiej myśli politycznej XX wieku, red. Z. Karpus et al., Toruń 2008.

Majer D., „Narodowo obcy” w Trzeciej Rzeszy. Przyczynek do narodowo-socjalistycznego ustawodawstwa i praktyki prawniczej w administracji i wymiarze sprawiedliwości ze szczególnym uwzględnieniem ziem wcielonych do Rzeszy i Generalnego Gubernatorstwa, tłum. T. Skoczny, Warszawa 1989.

Majewski P., Czas końca, czas początku. Architektura i urbanistyka Warszawy historycznej 1939–1956, Warszawa 2018.

Majewski R., Waffen SS. Mity i rzeczywistość, Wrocław 1977.

- Makowski J., *Organa państwa w stosunkach międzynarodowych. Zjazdy międzynarodowe. Umowa międzynarodowa*, Warszawa 1957.
- Makowski J., *Podręcznik prawa międzynarodowego*, Warszawa 1948.
- Makowski J., *Prawno-państwowe położenie Wolnego Miasta Gdańska*, Warszawa 1923.
- Makowski J., *Prawo międzynarodowe*, cz. 1, Warszawa 1930.
- Makowski J., *Prawo międzynarodowe*, cz. 2, Warszawa 1931.
- Makowski J., *Zagadnienie państwowości W.M. Gdańska*, Warszawa 1934.
- Malatyński A., *Kodeks postępowania honorowego*, Warszawa 1932.
- Mała encyklopedia wojskowa, t. 1, red. J. Bordziłowski, Warszawa 1967.
- Manstein E. von, *Verlorene Siege*, Bonn 1955.
- Marczewski J., *Hitlerowska koncepcja polityki kolonizacyjno-wysiedleńczej i jej realizacja w „Okręgu Warty”*, Poznań 1979.
- Marczuk J., *Straceni w Noc Wigilijną. Lublin 23 XII 1939*, Lublin 2000.
- Marek J. et al., *Padli na barikádách. Padlí a zemřelí ve dnech Pražského povstání 5.–9. května 1945*, Praha 2015.
- Martin T., *The Affirmative Action Empire. Nations and Nationalism in the Soviet Union (1923–1939)*, Ithaca 2001.
- Materski W., *Zbrodnia katyńska. Struktura winy [w:] Zbrodnia katyńska. Wina i oskarżenie*, red. I. Kowalska et al., Warszawa 2004.
- Mausbach J., *Naturrecht und Völkerrecht*, Freiburg 1918.
- Mazanowska I., *Karolewo 1939. Zbrodnie w obozie Selbstschutz Westpreussen*, Gdańsk–Warszawa 2017.
- Mazurkiewicz M., *Ludobójstwo na Pomorzu? Eliminacja lokalnych elit na początku okupacji hitlerowskiej (1939–1940) [w:] Letnia Szkoła Historii Najnowszej 2014. Referaty*, red. J. Szumski, Ł. Kamiński, Warszawa 2015.
- Mazurkiewicz M., *Ludobójstwo? Prawnomiędzynarodowa kwalifikacja wybranych niemieckich i ra-dzieckich zbrodni na narodzie polskim (1939–1945) w świetle ustaleń polskiej doktryny [w:] Doświadczenie dwóch totalitaryzmów. Interpretacje*, Warszawa 2018.
- Mazurkiewicz M., *Prawne podstawy funkcjonowania Selbstschutzu na polskich ziemiach wcielonych do III Rzeszy i w Generalnym Gubernatorstwie [w:] Zapomniani kaci Hitlera. Volksdeutscher Selbstschutz w okupowanej Polsce 1939–1940. Wybrane zagadnienia*, red. I. Mazanowska et al., Bydgoszcz–Gdańsk 2016.
- Maćior-Majka B., *Generalny Plan Wschodni. Aspekty ideologiczny, polityczny i ekonomiczny*, Kraków 2007.

McClelland Ch., *Berlin, the Mother of All Research Universities (1860–1918)*, Lanham – Boulder – New York – London 2017.

Meissner B., „Sonderaktion 1005” [w:] *Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii*, red. C. Pilichowski, Warszawa 1980.

Mettraux G., *International Crimes and the „ad hoc” Tribunals*, Oxford 2005.

Męclewski A., *Celnicy Wolnego Miasta. Z działalności polskich inspektorów celnych w Wolnym Mieście Gdańsku w latach 1923–1939*, Warszawa 1971.

Męclewski A., *Neugarten 27. Z dziejów gdańskiego gestapo*, Warszawa 1974.

Męczykowska B., *Przejęcie firm polskich przez okupanta niemieckiego w Gdyni (Stadkreis Gotenhafen) w latach 1939–1945* [w:] *Wyniszczyć – wypędzić – wynarodowić. Szkice do dziejów okupacji niemieckiej na Kaszubach i Kociewiu (1939–1945)*, red. G. Berendt, Gdańsk 2010.

Michaelis R., *Das SS-Sonderkommando Dirlewanger. Der Einsatz in Weißrussland 1941–1944*, Berlin 2006.

Michelet J., *Histoire de France*, t. 1–6, Paris 1833–1844.

Michelet J., *Histoire de la Révolution Française*, t. 1–7, Paris 1847–1853.

Mikos S., *Działalność Komisariatu Generalnego Rzeczypospolitej Polskiej w Wolnym Mieście Gdańsku 1920–1939*, Warszawa 1971.

Mikos S., *Gmina Polska w Wolnym Mieście Gdańsku* [w:] *Studia z dziejów Gdańska 1918–1939*, red. S. Potocki, Gdańsk 1975.

Mikos S., *Wolne Miasto Gdańsk a Liga Narodów 1920–1939*, Gdańsk 1979. Mikulska-Bernaś J., Bernaś F., *Przednia straż Hitlera*, Warszawa 1964.

Mikulska-Bernaś J., Bernaś F., *V kolumna*, Warszawa 1987.

Mikuszewski W., *Opinie doradcze Stałego Trybunału Sprawiedliwości Międzynarodowej*, Lwów 1933.

Miller D., *The Peace Pact of Paris. A Study of the Briand–Kellogg Treaty*, New York – London 1928.

Mitera M., *Zwyczajny faszyzm. Położenie prawne obywateli II Rzeczypospolitej w Generalnym Gubernatorstwie 1939–1944*, Warszawa 2017.

Molenda J., *Piłsudczycy a narodowi demokraci 1908–1918*, Warszawa 1980.

Monaco R., *L’Ordinamento Internazionale in Rapporto all’Ordinamento Statuale*, Torino 1932.

Monkiewicz W., *Zbrodnie hitlerowskie w Białowieży, Białystok* 1982.

Monkiewicz W., *Zbrodnie hitlerowskie w Hajnówce i okolicy, Białystok* 1982.

Morawiecki W., Środki zwalczania wojny. Prawa i zwyczaje wojenne. Zakończenie i likwidacja skutków wojny, Warszawa 1957.

Morawski L., Podstawy filozofii prawa, Toruń 2014.

Morawski L., Wstęp do prawoznawstwa, Toruń 2006.

Motas M., Hitlerowski zarząd archiwalny w Polsce w latach 1939–1945 [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Motyka G., Od rzezi wołyńskiej do akcji Wisła. Konflikt polsko-ukraiński 1943–1947, Kraków 2011.

Motyka G., Ukraińska partyzantka 1942–1960. Działalność Organizacji Ukraińskich Nacjonalistów i Ukraińskiej Powstańczej Armii, Warszawa 2006.

Mórawski K., Oktabiński K., Świerczek L., Wola – warszawskie Termopile 1944. Przewodnik historyczny po miejscach walk i straceń z dni Powstania Warszawskiego, Warszawa 2000.

Müller K.-J., Armee und Drittes Reich 1933–1939. Darstellung und Dokumentation, Paderborn 1989. Musiał B., Rozstrzelać elementy kontrrewolucyjne! Brutalizacja wojny niemiecko-radzieckiej latem 1941 roku, Warszawa 2001.

Musielak M., Sterylizacja ludzi ze względów eugenicznych w Stanach Zjednoczonych, Niemczech i w Polsce (1899–1945), Poznań 2008.

Musiół L., Zniemczone nazwy miejscowości na Śląsku, Katowice 1936.

Muszalski E., Rozpoczęcie i wypowiedzenie wojny w prawie państwowem i prawie narodów, Warszawa 1926.

Nahlik S., Wstęp do nauki prawa międzynarodowego, Warszawa 1967.

Nasierowski T., Zagłada osób z zaburzeniami psychicznymi w okupowanej Polsce, Warszawa 2008.

Nauka gotowania do użytku ludu polskiego ułożona z prac konkursowych Marii Reszelskiej, Stanisławy Mittmann i Stefanii Królikowskiej, oprac. i wyd. J. Dumanowski et al., Grudziądz 2012.

Neues Patriotisches Archiv für Deutschland, t. 1, red. F. von Moser, Mannheim–Leipzig 1792.

Ney-Krwawicz M., Armia Krajowa. Siły zbrojne Polskiego Państwa Podziemnego, Warszawa 2009. Niemcy i Zamojszczyzna (1939–1944), red. Z. Klukowski, Zamość–Szczebrzeszyn–Zwierzyniec 2018.

Nijakowski L., Rozkosz zemsty. Socjologia historyczna mobilizacji ludobójczej, Warszawa 2013.

Nippold O., Der völkerrechtliche Vertrag seine Stellung im Rechtssystem und seine Bedeutung für das internationale Recht, Bern 1894.

- Niwiński P., Ponary. Miejsce „ludzkiej rzeźni”, Warszawa 2015.
- Nowożytnie niewolnictwo – prace przymusowe w III Rzeszy. Materiały z konferencji naukowej, red. A. Budzyński et al., Warszawa 1997.
- O’Connell D., *International Law*, t. 1, London 1970.
- Oelhafen I. von, Tate T., *Zapomniane dzieci Hitlera*, tłum. J. Sawicka, Warszawa 2016.
- Okupacja niemiecka ziem polskich 1939–1945 [w:] *Nowa encyklopedia powszechna PWN*, t. 6, red. B. Kaczorowski, Warszawa 2004.
- Olszański T., *Kresy Kresów – Stanisławów*, Warszawa 2008.
- Olszewski H., *Nauka historii w upadku. Studium o historiografii i ideologii historycznej w imperia- listycznych Niemczech*, Warszawa–Poznań 1982.
- Olszewski H., *Podejście historyczne w prawoznawstwie [w:] Metody badania prawa. Materiały sym- pozjum*, Warszawa, 28–29.IV.1971 r., red. A. Łopatka, Wrocław 1973.
- Olszowski K., *Artykuł 19 Paktu Ligi Narodów*, Warszawa 1925.
- Ordon S., *Wojna obronna Polski w 1939 roku na wybrzeżu i morzu w świetle prawa międzynarodowego*, Wrocław 1974.
- Organy bezpieczeństwa i wymiar sprawiedliwości Polskiego Państwa Podziemnego, red. W. Grabowski, Warszawa 2005.
- Orlicki M., *Ubezpieczenia obowiązkowe*, Warszawa 2011.
- Orłowski S., Ostrowicz R., *Erich Koch przed polskim sądem*, Warszawa 1959.
- Orski M., *Obozy w Działdowie. Zapomniane świadectwa niemieckiego terroru w okresie II woj- ny światowej [w:] System obozów niemieckich na Pomorzu i terenach sąsiednich (1939–1945)*, red. S. Grochowina et al., Toruń 2010.
- Osmańczyk E., *Dowody prowokacji (nieznane archiwum Himmlera)*, Warszawa 1951.
- Osmańczyk E., *Wisła i Kraków to rodło*, Warszawa 1985.
- Owsiński M., *Polscy więźniowie polityczni w obozie Stutthof 1939–1945*, Toruń 2001.
- Pallaske C., *Die Hitlerjugend der Freien Stadt Danzig 1926–1939*, Münster – New York – München – Berlin 1999.
- Pasierbska H., *Ponary i inne miejsca męczeństwa Polaków z Wileńszczyzny w latach 1941–1944*, Łowicz 2005.
- Paul C., *Zwangsprostitution. Staatlich errichtete Bordelle im Nationalsozialismus*, Berlin 1994.
- Peretiatkowicz A., *Ogólne zasady prawa jako źródło prawa międzynarodowego a tendencje kosmopolityczne*, Poznań 1956.
- Peszkowski Z. ks., Jędrejek G., *Zbrodnia katyńska w świetle prawa*, Warszawa – London – Orchard Lake – Pelplin 2004.

Piaśnica oskarża. Pokłosie konferencji naukowej „Piaśnica 1939–1941” i IV Powiatowo-Gminnego Konkursu Fotograficznego „Nekropolia Piaśnicka”, red. S. Janke, Wejherowo 2009.

Pieńkos J., Wpływ wojny na obowiązywanie umów międzynarodowych ze szczególnym uwzględnieniem traktatów pokoju po II wojnie światowej, Warszawa 1973.

Pierzchała H., Den Fängen des SS-Staates entrissen: die „Sonderaktion Krakau” 1939–1941, Kraków 1998.

Pierzchała H., Mechanizmy eksterminacji krakowskich uczonych w „Akcji Specjalnej Kraków” – „Sonderaktion Krakau” 1939–1945, Kraków 2007.

Pietrzykowski J., Akcja AB w Częstochowie. AB-Aktion, Katowice 1971.

Pietrzykowski J., Cień swastyki nad Jasną Górą. Częstochowa w okresie hitlerowskiej okupacji 1939–1945, Katowice 1985.

Pietrzykowski J., Hitlerowcy w Częstochowie w latach 1939–1945, Poznań 1959.

Pietrzykowski J., Walka i męczeństwo. Z wojennych dziejów duchowieństwa diecezji częstochowskiej (1939–1945), Warszawa 1981.

Pilichowski C., Słowo wstępne [w:] Ekspertyzy i orzeczenia przed Najwyższym Trybunałem Narodowym, cz. 1: Agresja III Rzeszy Niemieckiej na Polskę i okupacja hitlerowska w Polsce w świetle prawa międzynarodowego, red. C. Pilichowski, Warszawa 1979.

Plan Generalny Warszawy, koncepcja i oprac. A. Ciborowski et al., Warszawa 1965.
Plenkiewicz M., Kościół katolicki w Wolnym Mieście Gdańsku 1933–1939, Bydgoszcz 1980.

Pluta-Czachowski K., Organizacja Orła Białego. Zarys genezy, organizacji i działalności, Warszawa 1987.

Podgóreczny M., Albert Forster. Gauleiter i oskarżony, Gdańsk 1977.

Podlaszewski M., Ustrój polityczny Wolnego Miasta Gdańska w latach 1920–1933, Gdynia 1966.

Pohl D., Von der „Judenpolitik” zum Judenmord. Der Distrikt Lublin des Generalgouvernements 1939–1944, Frankfurt am Main 1993.

Pohl H., Völkerrecht und Aussenpolitik in der Reichsverfassung, Berlin 1929.

Polak H., Szkolnictwo i oświata polska w Wolnym Mieście Gdańsku 1920–1939, Gdańsk 1978.

Polska 1939–1945. Straty osobowe i ofiary represji pod dwiema okupacjami, red. W. Materski et al., Warszawa 2009.

Polska wobec paktów lokarneńskich [w:] Pakty lokarneńskie. Uwagi o przyczynach i skutkach w Locarno zawartych a w Londynie podpisanych paktów bezpieczeństwa, Kraków 1926.

Polska–Niemcy – mniejszość niemiecka w Wielkopolsce. Przeszłość – teraźniejszość. Praca zbiorowa, red. A. Sakson, Poznań 1994.

Polski ruch oporu 1939–1945, red. B. Kobuszewski, Warszawa 1988.

Polskie Państwo Podziemne w latach 1939–1941, oprac. W. Grabowski et al., Warszawa 2003. Pomian K., Negacjonizm przeciwko ludzkości [w:] Wiek nienawiści. Studia, red. E. Dimitrów et al., Warszawa 2014.

Pomorskie organizacje konspiracyjne (poza AK) 1939–1945, red. S. Salmonowicz et al., Toruń 1994.

Pomorzanie w Wehrmachcie. Materiały z XXI sesji naukowej w Toruniu w dniu 3 listopada 2011 roku, red. J. Sziling, Toruń 2012.

Poniatowska A., Liman S., Krężalek I., Związek Polaków w Niemczech w latach 1922–1982, red. J. Marczewski, Warszawa 1987.

Pospieszalski K., O znaczeniu zamachu bombowego w Tarnowie i innych prowokacjach nazistowskich z sierpnia i września 1939 r. dla polityki okupacyjnej Trzeciej Rzeszy wobec Polski, „PZ” 5–6 (1983).

Potocki S., Sytuacja ludności polskiej w Wolnym Mieście Gdańsku [w:] Studia z dziejów Gdańska 1918–1939, red. S. Potocki, Gdańsk 1975.

Powstanie warszawskie 1 VIII – 2 X 1944. Rejestr miejsc i faktów zbrodni popełnionych przez okupanta hitlerowskiego na ziemiach polskich w latach 1939–1945, oprac. M. Motyl et al., Warszawa 1994.

Powstanie Warszawskie 1944. Bibliografia, t. 4–5, oprac. i red. I. Sawicka, Toruń 2004.

Praca przymusowa w Trzeciej Rzeszy w latach II wojny światowej. Stan i potrzeby badawcze. Materiały z sesji naukowej 28–30 kwietnia 1978 roku, red. B. Koziello-Poklewski, Olsztyn 1979.

Przygoński A., Powstanie warszawskie w sierpniu 1944 r., t. 1–2, Warszawa 1988.

Rabofsky E., Oberkofler G., Verborgene Wurzeln der NS-Justiz. Strafrechtliche Rüstung für zwei Weltkriege, Wien 1985.

Radziwończyk K., Rola i specyfika terroru fizycznego w hitlerowskim systemie walki z ruchem oporu na okupowanych ziemiach polskich w latach 1939–1945 [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Radziwończyk K., Udział Wehrmachtu w hitlerowskiej agresji, okupacji i zbrodniach [w:] Stan i perspektywy badań w zakresie zbrodni hitlerowskich. Materiały z konferencji naukowej w dniach 27–28 kwietnia 1970 r., t. 1, Warszawa 1973.

Radziwończyk K., Zbrodnie generała Streckenbacha, Warszawa 1966.

Rafał Lemkin. A Hero of Humankind, red. A. Bieńczyk-Missala et al., Warszawa 2010.

Raina P., Karol Maria Splett. Biskup gdański na ławie oskarżonych, Warszawa 1994.

- Ramme A., Służba bezpieczeństwa SS, tłum. B. Jodkowska, Warszawa 1984.
- Ranke L. von, Geschichten der romanischen und germanischen Völker von 1494 bis 1514, Leipzig– Berlin 1824.
- Rapoport J., Ostatnia zbrodnia Stalina. 1953. Spisek lekarzy kremlofskich, Warszawa 2011.
- Raport o stratach wojennych Warszawy, oprac. W. Fałkowski et al., Warszawa 2004.
- Rappaport E., Naród-zbrodniarz. Przestępstwa hitlerizmu a naród niemiecki. Szkic analityczny przestępczości i odpowiedzialności osobowo-zespołowej, Łódź 1945.
- Rappaport E., Nowe horyzonty prawa międzynarodowego w świetle publicystyki niemieckiej, Warszawa 1916.
- Rappaport E., O międzynarodowym ujednolicieniu prawa karnego [w:] Księga pamiątkowa ku czci Władysława Abrahama, t. 2, Lwów 1931.
- Rappaport E., Propagande de la guerre d'agression comme délit du droit des gens, Warszawa 1929.
- Rappaport E., Przyszły kodeks karny Trzeciej Rzeszy Niemieckiej. Wskazania podstawowe prawa karnego hitlerowskiego, Warszawa 1934.
- Rappaport E., Zagadnienie prawa karnego międzypaństwowego, Warszawa 1930.
- Rauschning H., Gespräche mit Hitler, Zürich – Wien – New York 1940.
- Rauschning H., Rewolucja nihilizmu, tłum. S. Łukomski [J. Maliniak], Warszawa 1996.
- Rauschning H., Rozmowy z Hitlerem, tłum. J. Hensel et al., Warszawa 1994.
- Recht und Unrecht im Nationalsozialismus, oprac. P. Salje et al., Münster 1985.
- Redzik A., Rafał Lemkin (1900–1959). Co-creator of International Criminal Law. Short Biography, Warsaw 2017.
- Reginbodin H., The Holocaust and the Genocide Convention of 1948 [w:] The Genocide Convention. Sixty Years after its Adoption, red. C. Safferling et al., The Hague 2010.
- Reidegeld E., Staatliche Sozialpolitik in Deutschland, t. 1: Von den Ursprüngen bis zum Untergang des Kaiserreiches 1918, Wiesbaden 2006.
- Resich Z., Ściganie zbrodni wojennych i zbrodni przeciw ludzkości w świetle prawa międzynarodowego [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.
- Rieger B., Odilo Globocnik. Twórca nazistowskich obozów śmierci, tłum. J. Zaus, Zakrzewo 2009.
- Robinson N., The Genocide Convention. A Commentary, New York 1960.
- Romanow A., Prasa polska w Wolnym Mieście Gdańsku (1920–1939), Gdańsk 1979.

Rosenkötter B., Treuhandpolitik. Die „Haupttreuhandstelle Ost“ und der Raub polnischer Vermögen 1939–1945, Essen 2003.

Rostworowski M., Liga Narodów, Kraków 1939.

Roth M., Nationalsozialistische Umsiedlungspolitik im besetzten Polen – Ziele, beteiligte Institutionen, Methoden und Ergebnisse [w:] Umgesiedelt-Vertrieben: Deutschbalten und Polen 1939–1945 im Warthegau. Beiträge einer Tagung am 16.–18. Oktober 2009 in Poznań (Posen), veranstaltet von der Deutsch-Baltischen Gesellschaft e.V. (Darmstadt) und dem Instytut Zachodni (Poznań), red. E. Neander et al., Marburg 2010.

Rückert A., Ściganie karne zbrodni hitlerowskich 1945–1978, Warszawa 1980.

Rüstung, Kriegswirtschaft und Zwangsarbeit im „Dritten Reich“, red. A. Heusler et al., München– Oldenbourg 2010.

Rutowska M., Straty kulturalne Polski w latach wojny i okupacji hitlerowskiej 1939–1945 [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Rutowska M., Wyszczepienia ludności polskiej z Kraju Warty do Generalnego Gubernatorstwa 1939–1941, Poznań 2003.

Rychert I., Eksterminacja ludności Tczewa oraz powiatu tczewskiego w latach 1939–1942 w świetle wybranych przykładów z dokumentów Okręgowej Komisji Badania Zbrodni Hitlerowskich w Gdańsku [w:] Wyniszczyć – wypędzić – wynarodowić. Szkice do dziejów okupacji niemieckiej na Kaszubach i Kociewiu (1939–1945), red. G. Berendt, Gdańsk 2010.

Ryszka F., Noc i mgła. Niemcy w okresie hitlerowskim, Warszawa 1997. Ryszka F., Norymberga. Prehistoria i ciąg dalszy, Warszawa 1982.

Ryszka F., Państwo stanu wyjątkowego. Rzecz o systemie państwa i prawa Trzeciej Rzeszy, Wrocław 1985.

Sachslehner J., Zarządca do spraw śmierci. Odilo Globocnik, eksterminacja i obozy zagłady, tłum. M. Kilis, Warszawa 2016.

Sadowski M., Korespondencja kardynała Adolfa Bertrama z Adolfem Hitlerem [w:] Ludzie śląskiego Kościoła katolickiego, red. K. Matwijowski, Wrocław 1992.

Salmonowicz S., Polskie Państwo Podziemne (PPP). 1939–1945 [w:] Walka podziemna na Pomorzu w latach 1939–1945. W 50 rocznicę powstania Służby Zwycięstwa Polski. Materiały sesji w Toruniu, 27–28 IX 1989 r., red. J. Sziling, Toruń 1990.

Salmonowicz S., Polskie Państwo Podziemne. Z dziejów walki cywilnej 1939–45, Warszawa 1994. Salmonowicz S., Powstanie warszawskie. Próba uporządkowania problemów genezy i oceny ogólnej, Toruń 1990.

Salmonowicz S., Refleksje o XX wieku – epoce ludobójstwa [w:] Wiek nienawiści. Studia, red. E. Dimitrów et al., Warszawa 2014.

Salmonowicz S., Społeczeństwo polskie w latach 1939–1945. Uwagi o sytuacji badawczej [w:] Ka- szubi – Pomorze – Gdańsk. W kręgu pytań o kulturę, historię i tożsamość. Księga

jubileuszowa Profesora Józefa Borzyszkowskiego z okazji 70. rocznicy urodzin, red. C. Obracht-Prondzyński et al., Gdańsk 2016.

Salmonowicz S., Wkład polskiej nauki prawa do światowego dziedzictwa [w:] Wkład osiągnięć polskiej nauki i techniki do dziedzictwa światowego, red. I. Stasiewicz-Jasiukowa, Warszawa–Kraków 2009.

Sands P., *East West Street. On the Origins of Genocide and Crimes against Humanity*, London 2016. Sands P., *Powrót do Lwowa. O genezie „ludobójstwa” i „zbrodni przeciwko ludzkości”*, tłum. J. Soszyński, Warszawa 2018.

Sawicki J., „Hubal” i jego oddział wydzielony Wojska Polskiego 1939–1940, Warszawa 2015. Sawicki J., *Ludobójstwo od pojęcia do konwencji 1933–1948*, Kraków 1949.

Schabas W., *An Introduction to the International Criminal Court*, Cambridge – New York 2017. Schabas W., *Genocide in International Law and International Relations Prior to 1948* [w:] *The Genocide Convention. Sixty Years after its Adoption*, red. C. Safferling et al., The Hague 2010.

Schabas W., *Genocide in International Law. The Crime of Crimes*, New York 2009.

Schabas W., *Kwalifikacja prawna rzezi Woli* [w:] *Wola 1944. Nierozliczona zbrodnia a pojęcie ludobójstwa*, Warszawa 2019.

Schenk D., *Albert Forster. Gdański namiestnik Hitlera. Zbrodnie hitlerowskie w Gdańsku i Prusach Zachodnich*, tłum. i przyp. opatrzyli W. i J. Tycnerowie, Gdańsk 2002.

Schenk D., *Der Lemberger Professorenmord und der Holocaust in Ostgalizien*, Bonn 2007. Schenk D., *Gdańsk 1930–1945. Koniec pewnego Wolnego Miasta*, tłum. J. Sawicki, Gdańsk 2014.

Schenk D., *Hitlers Mann in Danzig. Gauleiter Forster und die Verbrechen in Danzig-Westpreußen*, Bonn 2000.

Schenk D., *Noc morderców. Kaźń polskich profesorów we Lwowie i holokaust w Galicji Wschodniej*, tłum. P. Zarychta, Kraków 2011.

Schenk D., *Poczta Polska w Gdańsku. Dzieje pewnego niemieckiego zabójstwa sądowego*, tłum. W. i J. Tycnerowie, Gdańsk 1999.

Schiller T., *NS-Propaganda für den „Arbeitseinsatz”. Lagerzeitungen für Fremdarbeiter im Zweiten Weltkrieg. Entstehung, Funktion, Rezeption und Bibliographie*, Hamburg 1998.

Schilling O., *Das Völkerrecht nach Thomas von Aquin*, Freiburg im Breisgau 1919. Schmalz T. von, *Das europäische Völkerrecht in acht Büchern*, ks. 2, Berlin 1817.

Schmerbach F., *Das „Gemeinschaftslager Hanns Kerrl” für Referendare in Jüterbog 1933–1939*, Tübingen 2008.

Schmick K.-H., *Untersuchungen zur Ausstellung „Vernichtungskrieg. Verbrechen der Wehrmacht 1941–1944”*, Ludwigsfelde 2000.

Schmidt B., Über die völkerrechtliche Clausula Rebus sic Stantibus, Leipzig 1907. Schmitt C., Der Hüter der Verfassung, Tübingen 1931.

Schmitt C., Nauka o konstytucji, tłum. M. Kurkowska, Warszawa 2013.

Schmitz-Köster D., W imię rasy. Dzieci dla Führera – mity i rzeczywistość, tłum. R. Wojnakowski, Warszawa 2000.

Schmuhl H.-W., The Kaiser Wilhelm Institute for Anthropology, Human Heredity and Eugenics, 1927–1945. Crossing Boundaries, Berlin 2008.

Schubert G., Bydgoska krwawa niedziela. Śmierć legendy, red. M. Wojciechowski, tłum. I. Jakubowicz, Bydgoszcz 2003.

Schubert G., Das Unternehmen „Bromberger Blutsonntag”. Tod einer Legende, Köln 1989.

Schuller K., Ostatni dzień Borowa. Polscy chłopci, niemieccy żołnierze i nieprzemijająca wojna, tłum. E. Borg et al., Warszawa 2011.

Schwarzenberger G., International Law, London 1957.

Schweitzer M., Staatsrecht III. Staatsrecht, Völkerrecht, Europarecht, Heidelberg 2004.

Seeber E., Robotnicy przymusowi w faszystowskiej gospodarce wojennej. Deportacja i wyzysk obywateli polskich ze szczególnym uwzględnieniem położenia robotników z tzw. Generalnego Gubernatorstwa (1939–1945), tłum. M. Meder, Warszawa 1972.

Seidel R., Deutsche Besatzungspolitik in Polen. Der Distrikt Radom 1939–1945, Paderborn–München–Wien–Zürich 2006.

Seidler F., Die Organisation Todt. Bauen für Staat und Wehrmacht 1938–1945, Bonn 1998. Seidler F., Fritz Todt. Baumeister des Dritten Reiches, Schnellbach 2000.

Seidler F., Kwatery główne Führera, tłum. A. Grabowski, Warszawa 2001.

Seligmann E., Abschluss und Wirksamkeit der Staatsverträge, Freiburg im Breisgau 1890.

Semków P., Polityka Trzeciej Rzeszy wobec ludności polskiej na terenie byłego Wolnego Miasta Gdańska w latach 1939–1945, Toruń 2001.

Senft S., Jeńcy wojenni i robotnicy przymusowi zatrudnieni w rolnictwie śląskim 1939–1945, Opole 1978. Serwański E., Dulag 121 – Pruszków. Sierpień–październik 1944 roku, Poznań 1946.

Sex-Zwangsarbeit in nationalsozialistischen Konzentrationslagern, red. B. Alakus et al., Wien 2006. Seydel M. von, Grundzüge einer allgemeinen Staatslehre, Würzburg 1873.

Shaw M., Prawo międzynarodowe, tłum. J. Gojło et al., Warszawa 2006.

Siemaszko W., Siemaszko E., Ludobójstwo dokonane przez nacjonalistów ukraińskich na ludności polskiej Wołynia 1939–1945, Warszawa 2000.

Sikora M., Bortlik-Dźwierzynska M., Aktion Saybusch. Wyszczepienie mieszkańców Żywiecczyny przez okupanta niemieckiego 1940–1941, Katowice 2010.

Słownik 100 tysięcy potrzebnych słów, red. J. Bralczyk, Warszawa 2005.

Słownik wiedzy obywatelskiej, red. A. Łopatka et al., Warszawa 1970.

Smurzyński J., Czarne lata na łomżyńskiej ziemi (masowe zbrodnie hitlerowskie w roku 1939 i latach 1941–1945 w świetle dokumentów), Warszawa–Łomża 1997.

Sobczak J., Hitlerowskie przesiedlenia ludności niemieckiej w dobie II wojny światowej, Poznań 1966.

Sommer R., Das KZ-Bordell. Sexuelle Zwangsarbeit in nationalsozialistischen Konzentrationslagern,

Paderborn–München–Wien–Zürich, 2009.

Sommer T., Operacja antypolska NKWD 1937–1938. Geneza i przebieg ludobójstwa popełnionego na Polakach w Związku Sowieckim, Warszawa 2014.

Sonderaktion Lublin. Listopad 1939, red. Z. Mańkowski, Lublin 1989.

Sonderfahndungsbuch Polen. Specjalna Księga Gończa dla Polski. Reprint, wstęp G. Bębnik, Katowice–Warszawa 2019.

Sowa A., Kto wydał wyrok na miasto? Plany operacyjne ZWZ-AK (1940–1944) i sposoby ich realizacji, Kraków 2016.

Spieß A., Lichtenstein H., Akcja „Tannenberg”. Pretekst do rozpętania II wojny światowej, tłum. B. Floriańczyk, Warszawa 1990.

Spieß A., Lichtenstein H., Unternehmen Tannenberg. Der Anlass zum Zweiten Weltkrieg, Wiesbaden–München 1979.

Spisz, Orawa i Ziemia Czadecka w świetle stosunków etnicznych i przeszłości dziejowej (z mapą), Kraków 1939.

Spoerer M., Praca przymusowa pod znakiem swastyki. Cudzoziemscy robotnicy, jeńcy wojenni i więźniowie w Niemczech i okupowanej Europie w latach 1939–1945, tłum. Ł. Płęs, Gdańsk 2015.

Staniewicz R., Mniejszość niemiecka w województwie śląskim w latach 1922–1933, Katowice 1965.

Starachowicz Z., Sonderaktion Krakau. Wspomnienia z akcji przeciwko profesorom uniwersyteckim w Krakowie (6–10 listopada 1939 roku), wstęp i oprac. K. Starachowicz et al., Gdańsk 2012.

Sternhell Z., Fascism [w:] Comparative Fascist Studies. New Perspectives, red. C. Iordachi, London – New York 2010.

Sternhell Z., Ashéri M., Sznajder M., Naissance de l'Idéologie Fasciste, Paris 1989.

Steyer D., Eksterminacja ludności polskiej na Pomorzu Gdańskim 1939–1945, Gdynia 1967.

Steyer D., Polityka eksterminacyjna okupanta hitlerowskiego na Pomorzu Gdańskim, Gdańsk 1971.

Stępnia H., Ludność polska w Wolnym Mieście Gdańsku, Gdańsk 1991.

Stoll K., Die Herstellung der Wahrheit. Strafverfahren gegen ehemalige Angehörige der Sicherheitspolizei für den Bezirk Bialystok, Berlin 2012.

Stolleis M., Gemeinwohlformeln im nationalsozialistischen Recht, Berlin 1974.

Stolleis M., Geschichte des öffentlichen Rechts in Deutschland. t. 3: Staats- und Verwaltungsrechtswissenschaft in Republik und Diktatur 1914–1945, München 1999.

Stoner J., S.O. Levinson and the Pact of Paris. a Study in the Techniques of Influence, Chicago 1942. Stopka J., Podział administracyjny Orawy na przestrzeni lat 1920–1995 [w:] Spisz i Orawa w 75. rocznicę powrotu do Polski północnych części obu ziem, red. T. Trajdos, Kraków 1995.

Strupp K., Eléments du Droit International Public. Universel, Européen et Américain, t. 2, Paris 1930.

Strzembosz T., Akcje zbrojne podziemnej Warszawy 1939–1944, Warszawa 1983.

Strzembosz T., Oddziały szturmowe konspiracyjnej Warszawy 1939–1944, Warszawa 1983.

Stutthof. Hitlerowski obóz koncentracyjny, red. K. Ciechanowski et al., Warszawa 1988.

Sukiennicki W., Podstawa obowiązywania prawa narodów. Studium prawnicze, Wilno–Warszawa 1929.

Suny R., A State of Nations. Empire and Nation-Making in the Age of Lenin and Stalin, Oxford 2010.

System obozów niemieckich na Pomorzu i terenach sąsiednich (1939–1945), red. S. Grochowina et al., Toruń 2010.

Szafar T., Afera generałów, Warszawa 1961.

Szatkowski W., Goralenvolk. Historia zdrady, Zakopane 2012.

Szcześniak A., Plan zagłady Słowian. Generalplan Ost, Radom 2001.

Szefer A., Hitlerowska prowokacja w Gliwicach oraz Stodołach i Byczynie 31 sierpnia 1939 roku, Gliwice 1989.

Szefer A., Hitlerowskie próby zasiedlenia ziemi śląsko-dąbrowskiej w latach II wojny światowej (1939–1945), Katowice 1984.

Szefer A., Przesiedleńcy niemieccy na Górnym Śląsku w latach 1939–1945, Katowice 1974.

Sziling J., Hitlerowska polityka wobec wyznań religijnych na ziemiach polskich (z uwzględnieniem problemu eksterminacji) [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Sziling J., *Polityka okupanta hitlerowskiego wobec Kościoła katolickiego 1939–1945*, Poznań 1970.

Sziling J., *Eksterminacja duchowieństwa [w:] Kościoły chrześcijańskie w polityce niemieckich władz okupacyjnych w Generalnym Gubernatorstwie (1939–1945)*, Toruń 1988.

Szostakowska M., *Konsulaty polskie w Prusach Wschodnich w latach 1920–1939*, Olsztyn 1990. Szpak A., *Genocide in the Jurisprudence of the ad hoc International Criminal Tribunals*, Toruń 2012. Szymański M., *Oddział majora „Hubala”*, Warszawa 1999.

Szymański W., *Cena prawdy*, Kraków 1996.

Śmigiel K., *Die katholische Kirche im Reichsgau Wartheland*, Dortmund 1984. Śmigiel K., *Kościół katolicki w tzw. Okręgu Warty 1939–1945*, Lublin 1979.

Śnieżko A., *Poczta polska w Wolnym Mieście Gdańsku*, Wrocław 1964.

Świtalski A., *Zbrodnia usankcjonowana. Skazanie na śmierć obrońców Poczty Polskiej w Gdańsku w świetle prawa*, Wrocław–Warszawa–Kraków–Gdańsk 1979.

Tams C., Berster L., Schiffbauer B., *Convention on the Prevention and Punishment of the Crime of Genocide. A Commentary*, Baden-Baden 2014.

Tarnogrodzki T., *Zbrodnie hitlerowskie na Zamojszczyźnie [w:] Stan i perspektywy badań w zakresie zbrodni hitlerowskich. Materiały z konferencji naukowej w dniach 27–28 kwietnia 1970 r., t. 2*, Warszawa 1973.

Tatarin-Tarnheyden E., *Werdendes Staatsrecht*, Berlin 1934.

Ternon Y., Helman S., *Eksterminacja chorych psychicznie w III Rzeszy – od teoretyków narodowosocjalistycznych do praktyków z SS*, tłum. E. Baumritter, Warszawa 1974.

Terra Scepusiensis. *Stan badań nad dziejami Spiszu*, red. R. Gładkiewicz et al., Lewocza Wrocław 2003.

Terror niemiecki w Zamojszczyźnie (1939–1944), red. Z. Klukowski, Zamość–Szczecznieszyn–Zwierzyniec 2018.

The German Fifth Column in Poland, London–Melbourne [1940].

The Origins of the Second World War Reconsidered A.J.P. Taylor and the Historians, red. G. Martel, London – New York 1999.

Thomas Mann's Addresses Delivered at the Library of Congress (1942–1949), red. D. Tolzmann, Oxford – New York 2003.

Thornton W., *The Liberation of Paris*, London 1963. Tocqueville A. de, *Democracy in America*, t. 2, New York 1841.

Tocqueville A. de, *O demokracji w Ameryce*, tłum. B. Janicka, M. Król, Warszawa 2005.

Tokarczyk R., *Komparatystyka prawnicza*, Kraków 2005.

- Tokarz Z., Eksterminacja dzieci w obozach hitlerowskich na ziemiach polskich w latach 1939–1945 [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.
- Tomaszewski L., Kronika wileńska 1939–1941, Warszawa 1990.
- Tomaszewski P., Polskie korporacje akademickie w latach 1918–1939, Toruń 2011.
- Tomkiewicz M., Zbrodnie w Ponarach 1941–1944, Warszawa 2008.
- Trajdos T., Spisz środkowy i północny w naszym stuleciu, Warszawa 1987.
- Treitschke H. von, Deutsche Geschichte im neunzehnten Jahrhundert, t. 1–5, Leipzig 1879–1894.
- Treitschke H. von, Politik, t. 1, Leipzig 1913.
- Triepel H., Die Hegemonie. Ein Buch von führenden Staaten, Stuttgart 1938.
- Triepel H., Völkerrecht und Landesrecht, Leipzig 1899.
- Troeltsch K. von, Versuch einer Entwicklung der Grundsätze, nach welchen die rechtliche Fortdauer der Völkerverträge zu beurtheilen ist. Eine gekrönte Preisschrift, Landshut 1808.
- Tucholski J., Katyń – liczby i motywy [w:] Zbrodnie NKWD na obszarze województw wschodnich Rzeczypospolitej Polskiej, red. B. Polak, Koszalin 1995.
- Tuliszka J., Westerplatte 1926–1939. Dzieje Wojskowej Składnicy Tranzytowej w Wolnym Mieście Gdańsku, Toruń 2003.
- Ujazdowska L., Zagłada Ochoty, Warszawa 2005.
- Umbreit H., Deutsche Militärverwaltungen 1938/39. Die militärische Besetzung der Tschechoslowakei und Polens, Stuttgart 1977.
- Unger C., Ostforschung in Westdeutschland. Die Erforschung des europäischen Ostens und die Deutsche Forschungsgemeinschaft 1945–1957, Stuttgart 2007.
- Urbankowski B., Józef Piłsudski. Marzyciel i strateg, Poznań 2014.
- Uzarczyk K., Podstawy ideologiczne higieny ras i ich realizacja na przykładzie Śląska w latach 1924–1944, Toruń 2002.
- Vanselow E. von, Völkerrecht. Einführung in die Praxis der Staaten, Berlin 1931.
- Vattel E. de, De l'Interprétation des Traités [w:] Le Droit des Gens, ou Principes de la Loi Naturelle, t. 1, Londres 1758.
- Vattel E. de, Le Droit des Gens, ou Principes de la Loi Naturelle, t. 2, Londres 1758.
- Vattel E. de, O wykładni umów [w:] Prawo narodów, czyli zasady prawa naturalnego, t. 1, tłum. B. Winiarski, Warszawa 1958.
- Vattel E. de, Prawo narodów, czyli zasady prawa naturalnego, t. 2, tłum. B. Winiarski, Warszawa 1958.

Verdross A., Die Einheit des rechtlichen Weltbildes auf Grundlage der Völkerrechtsverfassung, Tübingen 1923.

Verdross A., Die Verfassung der Völkerrechtsgemeinschaft, Wien 1926.

Vernichtungskrieg. Verbrechen der Wehrmacht 1941 bis 1944 (Katalog zur Ausstellung „Vernichtungskrieg – Verbrechen der Wehrmacht 1941 bis 1944”), red. H. Heer et al., Hamburg 1996.

Wächter K. von, Dissertatio Juridica de Modis Tollendi Pacta inter Gentes, Stuttgart 1779.

Waller J., The Unseen War in Europe. Espionage and Conspiracy in the Second World War, London 1996.

Walz G., Neue Grundlagen des Volksgruppenrechts, Berlin–Leipzig–Wien 1940.
Wańkowicz M., Hubalczyzy, Warszawa 1970.

Wardzyńska M., Był rok 1939. Operacja niemieckiej policji bezpieczeństwa w Polsce. Intelligenzaktion, Warszawa 2009.

Wardzyńska M., Wysiedlenia ludności polskiej z okupowanych ziem polskich włączonych do III Rzeszy w latach 1939–1945, Warszawa 2017.

Wasser B., Himmlers Raumplanung im Osten. Der Generalplan Ost in Polen 1940–1944, Basel 1993.

Waszczyński J., Działalność hitlerowskiego Sądu Specjalnego w Łodzi w latach 1939–1945 [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.

Wąs M., Gdańsk wojenny i powojenny, Warszawa 2016. Weale A., SS. Historia pisana na nowo, Wrocław 2010.

Weiss K., „Swoi” i „obcy” w Wolnym Mieście Gdańsku 1920–1939, Toruń 2002.

Weitbrecht D., Der Exekutionsauftrag der Einsatzgruppen in Polen, Filderstadt 2001.

Wenzel M., Juristische Grundprobleme. Bd. 1: Der Begriff des Gesetzes. Zugleich eine Untersuchung zum Begriff des Staates und Problem des Völkerrechts, Berlin 1920.

Westerhoff C., Praca przymusowa w czasie I wojny światowej. Niemiecka polityka sterowania siłą roboczą w okupowanym Królestwie Polskim i na Litwie w latach 1914–1918, tłum. W. Włoskowicz, Warszawa 2014.

Westlake J., International Law, cz. 1: Peace, Cambridge 1904.

Węgierski J., Lwów pod okupacją radziecką 1939–1941, Warszawa 1991.

What Really Happened at Paris. The Story of the Peace Conference 1918–1919 by American Delegates, New York 1921.

Wie Geschichte gemacht wird. Zur Konstruktion von Erinnerungen an Wehrmacht und Zweiten Weltkrieg, red. W. Manoschek et al., Wien 2003.

- Wielomski A., Carl Schmitt wobec narodowego socjalizmu (1.05.1933 – 15.12.1936) [w:] Niemiecka myśl polityczna wobec narodowego socjalizmu, red. Ł. Świąciecki et al., Warszawa 2016.
- Wierczyńska K., Pojęcie ludobójstwa w kontekście orzecznictwa międzynarodowych trybunałów karnych „ad hoc”, Warszawa 2010.
- Więzienia hitlerowskie na Śląsku, w Zagłębiu Dąbrowskim i w Częstochowie 1939–1945. Praca zbiorowa, red. A. Szefer, Katowice 1983.
- Williamson D., Polski ruch oporu (1939–1947), tłum. J. Szkudliński, Poznań 2015.
- Winiarski B., Bezpieczeństwo, arbitraż, rozbrojenie, Warszawa 1928.
- Witkowski A., Mordercy z Selbstschutzu, Warszawa 1986.
- Witkowski H., „Kedyw” okręgu warszawskiego AK w latach 1943–1944, Warszawa 1986.
- Witkowski J., Hitlerowski obóz koncentracyjny dla małoletnich w Łodzi, Wrocław 1975.
- Witt J., Lincoln’s Code. The Laws of War in American History, New York 2012.
- Wnuk J., Radomska-Strzemecka H., Dzieci polskie oskarżają (1939–1945), Warszawa 1961.
- Wojciechowska J., Rafał Lemkin – autor pojęcia „ludobójstwo” [w:] *Hominum causa omne ius constitutum est. Księga jubileuszowa ku czci Profesor Alicji Grześkowiak*, red. A. Dębiński et al., Lublin 2006.
- Wojciechowski M., Mniejszość niemiecka na Pomorzu wobec polsko-niemieckiej deklaracji o niestosowaniu przemocy z 1934 r. [w:] *Deklaracja polsko-niemiecka o niestosowaniu przemocy z dnia 26 stycznia 1934 r. Z perspektywy Polski i Europy w siedemdziesiątą rocznicę podpisania*. Studia, red. M. Wojciechowski, Toruń 2005.
- Wojciechowski M., Polsko-niemiecka deklaracja o nieagresji z 26 stycznia 1934, Katowice 1963.
- Wojciechowski M., Stosunki polsko-niemieckie, Poznań 1965.
- Wolański A., Edycja tekstów. Praktyczny poradnik: książka, prasa, www, Warszawa 2008.
- Wolf G., Ideologie und Herrschaftsrationalität. Nationalsozialistische Germanisierungspolitik in Polen, Hamburg 2012.
- Wolfke K., Rozwój i kodyfikacja prawa międzynarodowego. Wybrane zagadnienia z praktyki ONZ, Wrocław 1972.
- Wolfke K., Zwyczaj w współczesnym prawie międzynarodowym, Wrocław 1963.
- Wolgast E., Völkerrecht, Berlin 1934.
- Wołkonowski J., Okręg Wileński Związku Walki Zbrojnej Armii Krajowej w latach 1939–1945, red. G. Łukomski, Warszawa 1996.
- Wörterbuch des Völkerrechts. Dritter band: Rapallo-Vertrag bis Zypern, red. H.-J. Schlochauer et al., Berlin 1962.
- Woźniak R., Harcerstwo polskie w Wolnym Mieście Gdańsku 1920–1939, Warszawa 1977.
- Wójcicki J., Wolne Miasto Gdańsk, Warszawa 1976.

Wroniszewski J., Ochota 1944, Warszawa 1970.

Wróbel D., Osadnictwo Niemców ze Wschodu na terenie Okręgu Rzeszy Gdańsk-Prusy Zachodnie [w:] Władze i społeczeństwo niemieckie na Pomorzu Wschodnim i Kujawach w latach okupacji niemieckiej (1939–1945). Materiały XIV sesji popularnonaukowej w Toruniu w dniu 13 listopada 2004 roku, red. K. Minczykowska et al., Toruń 2005.

Wrzesiński W., Antypolska polityka władz hitlerowskich na Śląsku Opolskim w latach 1933–1939 w świetle raportów konsułów polskich, Wrocław–Warszawa–Kraków 1970.

Wrzesiński W., Polski ruch narodowy w Niemczech w latach 1922–1939, Toruń 2005.

Wrzyszc A., Okupacyjne sądownictwo niemieckie w Generalnym Gubernatorstwie 1939–1945. Organizacja i funkcjonowanie, Lublin 2008.

Wypędzeni 1939... Deportacje obywateli polskich z ziem wcielonych do III Rzeszy, red. J. Kubiak, Poznań 2015.

Wysiedlenia na Pomorzu w latach 1939–1948. Materiały pokonferencyjne, red. J. Borzyszkowski, Gdańsk–Wejherowo 2004.

Wysiedlenia Polaków z Gdyni w latach 1939–1945 przez okupanta niemieckiego. Materiały z sesji popularnonaukowych 19.11.2002 r. i 2.12.2003 r., Gdynia 2006.

Wysiedlenia Polaków z Gdyni w latach 1939–1945 przez okupanta niemieckiego. Materiały z III sesji popularnonaukowej 7 grudnia 2005 r., Gdynia 2006.

Wysiedlenia Polaków z Gdyni w latach 1939–1945 przez okupanta niemieckiego. Materiały z IV sesji popularnonaukowej 28 listopada 2006 r., Gdynia 2007.

Wysiedlenia Polaków z Gdyni w latach 1939–1945 przez okupanta niemieckiego. Materiały z V sesji popularnonaukowej 27 listopada 2007 r., Gdynia 2009.

Wysiedlenia Polaków z Gdyni w latach 1939–1945 przez okupanta niemieckiego. Materiały z VI sesji popularnonaukowej 24 kwietnia 2012 r., Gdynia 2012.

Wysiedlenia, wypędzenia i ucieczki 1939–1959. Atlas ziem Polski. Polacy, Żydzi, Niemcy, Ukraińcy, red. atlasu W. Sienkiewicz et al., aut. tekstów G. Hryciuk et al., Warszawa 2008.

Wyszczelski L., Marszałek Polski Edward Rydz-Śmigły (1886–1941), Toruń 2013.

Zaborowski J., Poznański S., Sonderaktion Krakau. W dwudziestą piątą rocznicę 6 listopada 1939, Warszawa 1964.

Zaborski Z., Durchgangslager 121. Niemiecka zbrodnia specjalna, Pruszków 2010.

Zaborski Z., Tędy przeszła Warszawa. Epilog Powstania Warszawskiego, Warszawa 2004.

Zacharias M., Polsko-niemiecka deklaracja o niestosowaniu przemocy z 26 stycznia 1934 roku [w:] Polska wobec zmian w układzie sił politycznych w Europie w latach 1932–1936, Wrocław 1981.

Zachować pamięć. Praca przymusowa i niewolnicza obywateli polskich na rzecz Trzeciej Rzeszy w latach 1939–1945, red. M. Cieszkowska et al., Warszawa–Berlin 2015.

- Zagłada psychicznie chorych w Polsce 1939–1945, red. Z. Jaroszewski, Warszawa 1993.
- Zamojszczyzna w walce z Niemcami (1939–1944), red. Z. Klukowski, Zamość–Szczecznieszyn–Zwierzyniec 2018.
- Zarzycki E., Działalność hitlerowskiego sądu specjalnego w Bydgoszczy w latach 1939–1945, Bydgoszcz 2000.
- Zarzycki E., Działalność hitlerowskiego sądu specjalnego w Bydgoszczy w latach 1939–1945, Warszawa 1987.
- Zarzycki E., Eksterminacyjna i dyskryminacyjna działalność hitlerowskich sądów okręgu Gdańsk-Prusy Zachodnie w latach 1939–1945, Bydgoszcz 1981.
- Zawisza A., Studenci Polacy na Uniwersytecie Wrocławskim w latach 1918–1939. Katalog zachowa- nych archiwaliów, Wrocław 1972.
- Zbrodnicza ewakuacja więzień i aresztów NKWD na Kresach Wschodnich II Rzeczypospolitej w czerwcu–lipcu 1941 roku. Materiały z sesji naukowej w 55. rocznicę ewakuacji więźniów NKWD w głąb ZSRR, Łódź 10 czerwca 1996 r., red. J. Mikoda, Warszawa 1997.
- Zbrodnie niemieckie w Polsce 1939–1945 [w:] Nowa encyklopedia powszechna PWN, t. 8, red. B. Kaczorowski, Warszawa 2004.
- Zientarski A., System terroru i represji wobec polskich robotników przymusowych [w:] Zbrodnie i sprawcy. Ludobójstwo hitlerowskie przed sądem ludzkości i historii, red. C. Pilichowski, Warszawa 1980.
- Ziębicki S., Kilka uwag o Rafale Lemkinie – twórcy pojęcia „genocyd” [w:] Wybitni prawnicy na przestrzeni wieków, red. M. Marszał et al., Wrocław 2006.
- Zimmerman J., Polskie Państwo Podziemne i Żydzi w czasie II wojny światowej, tłum. M. Macińska, Warszawa 2018.
- Zorn A., Grundzüge des Völkerrechts, Leipzig 1903.
- Zouch R., Juris et judicii fecialis, sive juris inter gentes, et quaestionum de eodem explicatio, Oxoniae 1650.
- Związek Polaków w Niemczech. Materiały z sesji naukowej w 50 rocznicę powstania ZPwN, Opole 15 X 1972, red. F. Hawranek, Opole 1974.
- Żukowska L., Między śmiercią a diabłem. Kościół ewangelicki w Gdańsku w okresie rządów NSDAP (1933–1945), Bydgoszcz–Gdańsk 2014.
- Żyndul J., Zajścia antyżydowskie w Polsce w latach 1935–1937, Warszawa 1994.
- Słownik języka polskiego PWN, <http://sjp.pwn.pl/>, access 29 II 2020.

2. Articles

Adamska J., Organizacja więzień i aresztów sądowych na ziemiach polskich wchodzących w skład III Rzeszy w latach 1939–1945, „BGKBZHwP” XXIX (1979).

Andrzejewski M., Proces opanowywania przez hitlerowców gdańskiego Volkstagu, „Zeszyty Naukowe Wydziału Humanistycznego Uniwersytetu Gdańskiego” 11 (1981).

Baciński A., Martyrologia polskich kapłanów katolickich w Gdańsku w latach 1939–1945, „Kościół Katolicki na Ziemiach Polski w Czasie II Wojny Światowej. Materiały i studia” 1 (1973).

Balcerak W., Polska polityka zagraniczna wobec układów lokarneńskich, „PZ” 6 (1959).

Baranowska M., U źródeł nacjonalizmu. Idea narodu w filozofii Jana Jakuba Rousseau, „SnAiT” 2 (2013).

Basak A., Katyń. Problem odpowiedzialności karnej sprawców w świetle Norymbergi, „SnFiZH” XXI (1998).

Bassiouni M., Perspectives on International Criminal Justice, „VJIL” 2 (2010).

Batawia S., Zagłada chorych psychicznie, „BGKBZNwP” III (1947).

Batowski H., Losy polskich konsulatów w Niemczech po 1 września 1939 r., „PZ” 5–6.

Batowski H., Podpisanie układu polsko-brytyjskiego z 25 sierpnia 1939 r. (Na podstawie dokumentów Foreign Office), „DN” 4 (1971).

Batowski H., Tak zwane „księgi kolorowe” z r. 1939/40 i zawarte w nich materiały dotyczące Polski (Studium źródłoznawcze), „NDP. MiSzOIIWŚ” VI (1962).

Baxter R., The First Modern Codification of the Law of War. Francis Lieber and General Orders No. 100, „International Review of the Red Cross” 3 (1963).

Beneš E., After Locarno. The Problem of Security Today, „Foreign Affairs” 2 (1926).

Berenstein T., Rutkowski A., Niemiecka administracja wojskowa na okupowanych terenach polskich (1 września – 25 października 1939 r.), „NDP. MiSzOIIWŚ” VI (1962).

Berenstein T., Rutkowski A., Prześladowanie ludności żydowskiej w okresie hitlerowskiej administracji wojskowej na okupowanych ziemiach polskich (1.9. – 25.10.1939 r.), „BŻIH” 38 (1961).

Berger J., Jeden z niemieckich planów wysiedlenia Polaków w czasie pierwszej wojny światowej, „PZ” I (1949).

Bęblik G., Sonderfahndungsbuch Polen. Specjalna księga gończa dla Polski, „BIPN” 9 (2017).

Biegański W., Polscy jeńcy wojenni w Niemczech. Przyczynek do badań nad ilością jeńców, „NDP. MiSzOIIWŚ” VII (1963).

Biernacki S., Wehrmacht a zbrodnie hitlerowskie w Polsce 1939–1945, „DN” 2 (2002).

- Bojarska B., Akcja zagłady w Piaśnicy pod Wejherowem, „PZ” 2 (1964).
- Bojarska B., Eksterminacja ludności polskiej w powiecie Chełmno nad Wisłą w 1939 r., „PZ” 3 (1965).
- Bojarska B., Eksterminacja polskiej ludności powiatu tucholskiego w okresie działalności Selbstschutzu, „BGKBZHwP” XIX (1968).
- Bojarska B., Mniejszość polska Powiśla w przededniu II wojny światowej, „PZ” 3 (1974).
- Bojarska B., Obozy zniszczenia na terenie powiatu sępoleńskiego w pierwszych miesiącach okupacji hitlerowskiej, „PZ” 1 (1965).
- Bojarska B., Selbstschutz w Okręgu Gdańsk-Prusy Zachodnie, „BGKBZHwP” XXIX.
- Bojarska B., Zbrodnie niemieckie na terenie powiatu Świecie nad Wisłą, „PZ” 1 (1966).
- Bolduan T., Biskup Carl Maria Splett – od mitów ku prawdzie, „Studia Pelplińskie” XX (1989).
- Bolinger D., Fifth Column Marches on, „American Speech” 1 (1944).
- Borowski W., Polityka agrarna Wolnego Miasta Gdańska (1921–1939), „Rocznik Gdański” XXII (1963).
- Bossowski J., Nowe kierunki prawa karnego w Niemczech, „RPEiS” 2 (1936).
- Bourquin M., L'Adhésion des Etats-Unis à la Cour Permanente de Justice Internationale, „Revue Générale de Droit International Public” 1930.
- Brown H., The Proposed International Prize Court, „American Journal of International Law” 3 (1908).
- Buchheim H., Die Höheren SS- und Polizeiführer, „VJH f. ZG” 4 (1963).
- Bußmann W., Zur Entstehung und Überlieferung der „Hoßbach-Niederschrift”, „VJH f. ZG” 4 (1968).
- Bykowska S., Niemiecka lista narodowościowa na Pomorzu 1939–1944 i jej konsekwencje, „Rocznik Gdański” 69–70 (2009–2010).
- Carnahan B., Lincoln, Lieber and the Laws of War: The Origins and Limits of the Principle of Military Necessity, „American Journal of International Law” 92 (1998).
- Castellan G., Tajna remilitaryzacja Niemiec w okresie międzywojennym, „DN” 1–2 (1971).
- Ceran T., „Ad vocem do ad vocem”. O zbrodni pomorskiej 1939 raz jeszcze, „WHzWoS” 1 (2019).
- Ceran T., Zbrodnie pomorskie 1939, „WHzWoS” 4 (2017).
- Chałupczak H., II Rzeczpospolita a mniejszość polska w Niemczech. Zasady i formy finansowania mniejszości polskiej w Niemczech w latach 1919–1939, „PZ” 1 (1988).
- Chałupczak H., Deklaracja z 5 listopada 1937 r. a problem mniejszości polskiej w Niemczech, „PZ” 1 (1989).

Chałupczak H., Nauczyciele polscy na terenie Niemiec w okresie międzywojennym, „PZ” 4 (1983).

Childress J., Francis Lieber’s Interpretation of the Laws of War. General Orders No. 100 in the Context of His Life and Thought, „American Journal of Jurisprudence” 21 (1976).

Chinciński T., Niemiecka dywersja w Polsce w 1939 r. w świetle dokumentów policyjnych i wojskowych II Rzeczypospolitej oraz służb specjalnych III Rzeszy, cz. 1: Marzec–sierpień 1939 r., „PiS” 2 (2005).

Chinciński T., Niemiecka dywersja w Polsce w 1939 r. w świetle dokumentów policyjnych i wojskowych II Rzeczypospolitej oraz służb specjalnych III Rzeszy, cz. 2: Sierpień–wrzesień 1939 r., „PiS” 1 (2006).

Chinciński T., Piąta kolumna, „Polityka” 34 (2006).

Chojnacki W., Nadzór policyjny niemiecki nad polską prasą i działalnością narodową w Westfalii i Nadrenii w latach 1861–1924, „PZ” 1 (1980).

Chrzanowski B., Wypędzenia z Pomorza, „BIPN” 5 (2004).

Chrzanowski B., Niwiński P., Okupacja niemiecka i sowiecka – próba analizy porównawczej (wybrane zagadnienia), „PiS” 1 (2008).

Ciechanowski K., Pobór Polaków z Pomorza Gdańskiego do armii niemieckiej i zmilitaryzowanych oddziałów roboczych w latach II wojny światowej, „Stutthof. Zeszyty Muzeum” 6 (1986).

Cieślak T., Polacy w obozie koncentracyjnym Sachsenhausen pod Berlinem, „PZ” 3 (1959).

Citkowska-Kimla A., Rzeczywiste i domniemane paralele między narodowym socjalizmem a romantyzmem, „SnFiZH” XXIX (2007).

Cygański M., Hitlerowskie prześladowania Polonii w Nadrenii-Westfalii w latach 1933–1945, „PZ” 2 (1974).

Cygański M., Hitlerowskie prześladowania przywódców i aktywu Związków Polaków w Niemczech w latach 1939–1945, „PZ” 4 (1984).

Cygański M., Niemiecka emigracja polityczna wobec paktu o nieagresji między Polską a III Rzeszą, „Przegląd Stosunków Międzynarodowych” 1 (1974).

Czapliński W., Problematyka źródeł prawa międzynarodowego w wyroku MTS w sprawie Nikaragui, „PiP” 11 (1988).

Czubiński A., Polacy w Berlinie, „PZ” 2 (1988).

Das kriegswichtige Forschungsprogramm, „Raumforschung und Raumordnung” 10 (1939).

Dąbrowski R., Obszarnictwo niemieckie w Wielkopolsce w latach 1920–1939, „PZ” 4 (1983).

Deryng A., Protokół genewski w sprawie pokojowego załatwiania sporów międzynarodowych, „PPiA” 50 (1925).

Dębski S., Kilka uwag w związku z polskim wydaniem pracy Rafała Lemkina „Rządy państw Osi w okupowanej Europie”, „SM” 3 (2014).

Diener D., Rassistisches Völkerrecht. Elemente einer nationalsozialistischen Weltordnung, „VJH f. ZG” 1 (1989).

Dörner K., Nationalsozialismus und Lebensvernichtung, „VJH f. ZG” 2 (1967).

Doroszewski J., Mniejszość niemiecka na Lubelszczyźnie w latach 1918–1939, „PZ” 5/6 (1983).

Dupuis C., L’Institut de Droit International. Session de Christiania 1912, „Revue Générale de Droit International Public” 20 (1913).

Ehrlich L., Artykuł 19 Paktu Ligi Narodów, „PP” 4–5 (1929).

Ehrlich S., Kilka uwag w sprawie metodologii nauk prawnych, „PiP” 11 (1964).

Feldman J., Traktat wersalski jako etap zmagających polsko-niemieckich, „SZ” 1 (1930).

Fiedor K., Bund Deutscher Osten (BDO) w systemie antypolskiej polityki narodowego socjalizmu na przykładzie Śląska Opolskiego, „SnFiZH” XXIII (2000).

Fiedor K., Charakterystyka i funkcja osadnictwa na wschodnich terenach Niemiec w okresie międzywojennym, „PZ” 2 (1975).

Flemming M., Definicja agresji, „WPP” 2 (1975).

Flemming M., Traktowanie polskich jeńców wojennych przez Niemcy i ZSRR w czasie II wojny światowej a prawo międzynarodowe, „WPP” 3–4 (1997).

Foot P., The Problem of Abortion and the Doctrine of the Double Effect, „Oxford Review” 5 (1967).

Fudalej K., Współpraca Reichswehry i Armii Czerwonej przed 1933 rokiem – fakty a mity polskiej historiografii, „DN” 1 (2017).

Galiński A., Eksterminacja inteligencji polskiej latem 1942 r. w Nowogródzkiem (problemy badawcze), „BGKBZ p-ko NP” 33 (1991).

Garner J., Le Développement et les Tendances Récentes du Droit International, „Recueil des Cours” I (1931).

Gentzen F., „Deutsche Stiftung” – Tajna instytucja rządu niemieckiego do organizowania „piątej kolumny”, „PZ” 4 (1961).

Gentzen F., Rola Niemieckiego Związku Marchii Wschodnich (Ostmarkverein) w tworzeniu V Kolumny niemieckiego imperializmu w Polsce i przygotowaniu II wojny światowej, „PZ” 3 (1959).

Getter M., Policja Polska w Generalnym Gubernatorstwie 1939–1945, „Przegląd Policyjny” 1/2 (1999). Getter M., Straty ludzkie i materialne w Powstaniu Warszawskim, „BIPN” 8–9 (2004).

Gębik W., Polskie gimnazjum w Kwidzynie, „PZ” 4 (1962).

Golachowski S., Rola teorii Christallera w planowaniu hitlerowskim, „Studia Śląskie” X (1966).

Gougel R., Udział nauk humanistycznych w Niemczech w przygotowaniu i popieraniu agresji hitlerowskiej w pierwszej fazie II wojny światowej, „PZ” 6 (1967).

Górnicka M., Wersja systemowa metody historyczno-prawnej na przykładzie prawa dowodowego w polskiej procedurze karnej, „FIUW” 2 (2015).

Górnicki L., Koncepcja prawa Trzeciej Rzeszy w poglądach prawników polskich (1933–1939), „SnFiZH” XVI (1993).

Górnicki L., Narodowosocjalistyczne prawo w poglądach Szymona Rundsteina, „SnFiZH” XXXIII (2011).

Gropengießer H., The Criminal Law of Genocide. The German Perspective, „ICLR” 5 (2005).

Grzebyk P., Definicja zbrodni agresji (po konferencji przeglądowej MTK), „PiP” 1 (2011).

Grzebyk P., Mord katyński – problematyczna kwalifikacja (w związku z artykułem Karola Karskiego), „SM” 2 (2011).

Gurgul J., Wybrane aspekty prawne zabójstw dokonanych przez NKWD w 1940 r. na polskich jeńcach wojennych, „WPP” 1–2 (1992).

Gustowski L., Pomorze Zachodnie. Między pierwszą a drugą wojną światową (1918–1945), „PZ” 4/5 (1945).

Hart G., Military Commissions and the Lieber Code. Toward a New Understanding of the Jurisdictional Foundations of Military Commissions, „Military Law Review” 1 (2010).

Hertz A., Honour’s Role in the International States’ System, „Denver Journal of International Law and Policy” 2 (2002).

Hirsz Z., Czynniki polityczno-społeczne warunkujące funkcjonowanie systemu państwa w latach wojny i okupacji 1939–1945, „Prawo, Administracja, Zarządzanie” 1 (1990).

Hładkiewicz W., Represje hitlerowskie wobec Polonii westfalsko-nadreńskiej w latach 1939–1945, „PZ” 5–6 (1975).

Hołyst B., Agresywna polityka Niemiec w świetle dokumentów, „BGKBZHwP” VIII (1956).

Hudson M., Les Avis Consultatifs de la Cour Permanente de Justice Internationale, „Recueil des Cours” III (1925).

Hughes C., Outlook for Pan Americanism – Some Observations on the Sixth International Conference of American States, „Proceedings of the American Society of International Law” 22 (1928).

Ihnatowicz I., Projekt instrukcji wydawniczej dla źródeł historycznych XIX i początku XX wieku, „SŻ” 7 (1962).

Jackson R., The Legal Basis of Our Defense Course. We Are Creating Important Precedents, „Vital Speeches of the Day” 13 (1941).

Janicki T., Niemiecka polityka gospodarcza na ziemiach wcielonych do Rzeszy w latach 1939–1945, „PZ” 2 (2009).

Jankowski A., Wieś polska na ziemiach okupowanych przez Niemcy w czasie II wojny światowej w postępowaniach karnych organów wymiaru sprawiedliwości RFN, „Glaukopis. Pismo Społeczno-Historyczne” 13–14 (2009).

Jędrzejewicz W., Sprawa wojny prewencyjnej z Niemcami, „ZH” 9 (1966).

Jędrzejewski E., System hitlerowskiej administracji na ziemiach polskich włączonych do Trzeciej Rzeszy (1939–1945), „SnFiZH” I (1974).

Jędrzejewski E., U źródeł decyzyzjonizmu Carla Schmitta, „SnFiZH” VIII (1982).

Jonca K., Ewolucja doktryn prawa natury i prawa narodów w Republice Weimarskiej i Trzeciej Rzeszy (1919–1941), „PZ” 4 (1992).

Jonca K., Koncepcje narodowosocjalistycznego prawa w Trzeciej Rzeszy, „SnFiZH” III (1977).

Jonca K., National Socialist Law in the Third Reich, „SFHC” V (1980).

Jonca K., Stosowanie prawa i polityki narodowościowej Trzeciej Rzeszy wobec mniejszości polskiej w Niemczech (1933–1939), „SnFiZH” I (1974).

Kaczmarek R., Niemiecka polityka narodowościowa na Górnym Śląsku (1939–1945), „PiS” 3/2 (2004).

Kaczmarek R., Sonderfahndungsbuch Polen – lista śmierci, „Śląsk” 9 (1999).

Kalbarczyk S., Kazimierz Bartel. Ostatnia ofiara zbrodni na profesorach lwowskich w lipcu 1941, „BIPN” 7 (2011).

Kalbarczyk S., Okoliczności śmierci profesora Kazimierza Bartla we Lwowie w lipcu 1941 r., „BGKBZ p-ko NP” 34 (1992).

Kanarek A., Koncepcje i instytucje narodowosocjalistycznego prawa według Karola Joncy, „SnFiZH” XXXII (2010).

Kania L., O pojedynkach, Kodeksie Bożewicza i ludziach honoru. Szkic prawno-historyczny, „Studia Lubuskie. Prace Instytutu Prawa i Administracji Państwowej Wyższej Szkoły Zawodowej w Sulechowie” 2 (2006).

Karski K., Mord katyński jako zbrodnia ludobójstwa – w odpowiedzi na polemikę Patrycji Grzebyk, „SM” 2 (2011).

Karski K., Mord katyński jako zbrodnia ludobójstwa w świetle prawa międzynarodowego, „SM” 2 (2011).

Kaufmann E., Die Gleichheit vor dem Gesetz im Sinne des Art 109 der Reichsverfassung, „Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer” 3 (1927).

Kelsen H., Dyktatura partii, „RPEiS” 1 (1936).

Kelsen H., Les Rapports de Système Entre le Droit Interne et le Droit International Public, „Recueil des Cours de l’Académie de Droit International de La Haye” 4 (1926).

KlaŹkowski A., Ściganie zbrodniarzy hitlerowskich jako problem prawa międzynarodowego, „PiŻ” 12 (1964).

Klein F., Kriegsausbruch und Staatsverträge, „Jahrbuch für Internationales Recht” 3 (1954).

Koj E., Z folkslistą przeciwko Niemcom, „BIPN” 9 (2017).

Komar S., Poglądy Prezydenta Górnośląskiej Komisji Mieszanej, „Komunikaty. Seria II” 50 (1936–1937).

Komar S., W przeddzień wygaśnięcia Górnośląskiej Konwencji Genewskiej, „Komunikaty. Seria II” 32 (1936–1937).

Komunikat Polskiej Komisji Współpracy Prawniczej Międzynarodowej (Warszawa, Gmach Sądu Najwyższego), „WP” 1 (1934).

Konieczny A., Criminal Law in the Third Reich. Tentative Characteristics, „SFHC” V (1980).

Konieczny A., Likwidacja polskiego stanu posiadania w Niemczech w latach 1939–1944, „SnFiZH” I (1974).

Konieczny A., Organizacja gestapo na ziemiach polskich włączonych do Rzeszy w latach 1939–1945, „SnFiZH” XXX (2008).

Konieczny A., Prawo karne Trzeciej Rzeszy – próba charakterystyki, „SnFiZH” III (1977).

Konieczny A., Wsiedlenia ludności polskiej powiatu żywieckiego w 1940 roku (Saybusch-Aktion), „Studia Śląskie. Seria Nowa” XX (1971).

Korczyk H., Locarno i jego geneza, „DN” 3 (1979).

Korczyk H., Recepcja koncepcji lokarneńskich w traktatach politycznych XX-lecia międzywojennego (1926–1936), „DN” 3–4 (1985).

Kordeczuk J., Poglądy Juliusza Makarewicza na zmiany w prawie karnym niemieckim po 1933 roku, „SnFiZH” XXVIII (2005).

Kornat M., Rafał Lemkin (1900–1959) – studium biograficzne, „ZH” 147 (2004).

- Kosiński P., Wrzesień 1939, „BIPN” 8–9 (2009).
- Kostiuszko I., Przyczynek do Generalplan Ost, „DN” 1–2 (1971).
- Kozłowski J., Polacy na ziemiach niemieckich w XIX wieku (do 1870 r.), „PZ” 1 (1988).
- Kozyra W., Okupacyjna administracja niemiecka na ziemiach Rzeczypospolitej Polskiej w latach 1939–1945, „Annales Universitatis Mariae Curie-Skłodowska. Sectio G” 1 (2013).
- Kódz S., Zasada narodowości w prawie międzynarodowym, „RPW” 1933.
- Krasuski J., Ekspansja Niemiec na tle rozkładu systemu wersalskiego, „PZ” 3 (1969).
- Krasuski J., Wpływ traktatu z Rapallo na stosunki polsko-niemieckie, „PZ” 3 (1961).
- Krausnick H., Hitler und die Morde in Polen. Ein Beitrag zum Konflikt zwischen Heer und SS um die „Verwaltung der besetzten Gebiete”, „VJH f. ZG” 2 (1963).
- Krausnick H., Kommissarbefehl und „Gerichtsbarkeitserlass Barbarossa” in neuer Sicht, „VJH f. ZG” 25 (1977).
- Król M., Zagadnienie agresji w prawie międzynarodowym, „RPW” X (1939).
- Królikowski M., Problem „prawa karnego międzynarodowego”, „KPP” 3 (2007).
- Kubik K., Harcerstwo polskie w Wolnym Mieście Gdańsku, „Rocznik Gdański” 1 (1972).
- Kucner A., Mniejszość niemiecka w Polsce i dążenie rządu niemieckiego, „PZ” 4 (1958).
- Kulesza W., Zbrodnie Wehrmachtu w Polsce – wrzesień 1939, „BIPN” 8–9 (2004).
- Kumaniecki K., Od republiki do protektoratu (Praga–Bratislava–Użhorod), „CPiE” 1939.
- Kuroński E. [właśc. Kaczmarek E.], Czy Niemcy są przeludnione?, „PZ” II (1948).
- Kusz A., Zasady międzynarodowego prawa karnego na tle współczesnych ustawodawstw, „GS” 6 (1933).
- Kutrzeba S., Stanowisko prawne Wolnego Miasta Gdańska, „RPEiS” 6 (1926).
- Kwaśniewski K., Wasserpöckchen i inne polsko-niemieckie etnopaulizmy, „PZ” 4 (2001).
- Kwestie narodowościowe poza Polską. Niemcy. Polacy w Niemczech. Memoriał w sprawie konkordatu, „Sprawy Narodowościowe” 2 (1929).
- La Nazionalizzazione e l’Unificazione del Diritto Penale come Problema del Futuro, „Rivista Internazionale di Scienze Sociali e Discipline Ausiliarie” 391 (1925).
- Lachs M., Walka o definicję agresji, „WPP” 3 (1952).
- Lasik A., Ewolucja kadrowa formacji SS „Totenkopf” a udział volksdeutschów polskich w załodze obozu koncentracyjnego w Oświęcimiu, „PZ” 4 (1989).
- Lauterpacht H., The Legal Remedy in Case of Excess of Jurisdiction, „The British Yearbook of International Law” 1928.

Leszczyński K., Działalność Einsatzgruppen policji bezpieczeństwa na ziemiach polskich w 1939 r. w świetle dokumentów, „BGKBZHwP” XXII (1971).

L’Huillier F., Francuzi i Niemcy w oczach Locarno. Umowy, dialogi i nieporozumienia, „DN” 2 (1973).

Łossowski P., Stosunki polsko-niemieckie w latach 1933–1939 a klęska wrześniowa. cz. 1, „WPH” 1 (1963).

Łysakowski P., Mord na lwowskich profesorach – lipiec 1941 r., „DN” 3 (2012).

Maciejewski M., Prawne aspekty położenia mniejszości narodowych na Górnym Śląsku w latach 1918–1939, „CPH” 1 (2013).

Maciejewski M., Z dziejów nacjonalistycznej i antysemickiej propagandy nazistowskiej na Śląsku w latach 1921–1933, „SnFiZH” XXIV (2001).

Mackiewicz J., Ponary-„Baza”, „Orzeł Biały” 35 (1945).

Madajczyk C., General Plan East Hitler’s Master Plan for Expansion, „PWA” 2 (1962).

Madajczyk C., Kształtowanie systemu okupacyjnego w Europie Środkowej przez III Rzeszę (1938–1945), „DN” 1–2 (1971).

Madajczyk C., Przywódcy hitlerowscy wobec sprawy polskiej w okresie od października 1939 r. do września 1940 r., „PZ” 1 (1958).

Madajczyk C., Wojna i okupacja w Polsce jako instrument zniszczenia narodu, „DN” 1 (1969).

Madrid Rounds Up Suspected Rebels; 2,000 Are Seized in Homes as Result of Mola’s Boast of Aid from within the Capital, „The New York Times”, 16 XI 1936.

Majewski M., Dokumenty dotyczące Ericha Kocha w zasobie archiwalnym Instytutu Pamięci Narodowej w Warszawie, „PA IPN” 1 (2008).

Makowski J., Pakt Kellogga, „PP” 1 (1929).

Makowski J., Rewizja traktatów na tle Paktu Ligi Narodów, „GP” 10–11 (1927).

Makowski W., Wolne Miasto Gdańsk w opiniach Międzynarodowego Trybunału w Hadze, „NP” 1 (1932).

Mancini M., Francis Lieber, Slavery, and the „Genesis” of the Laws of War, „The Journal of Southern History” 2 (2011).

Marczewski J., Podstawowe dyrektywy hitlerowskiej polityki okupacyjnej w sprawie polskiej (wrzesień–październik 1939), „PZ” 2 (1967).

Marczewski J., Zagadnienie rozwoju niemieckiej kwestii narodowej i podstawowych pojęć narodu w XIX i XX wieku, „PZ” 5–6 (1986).

Marek F., Rostropowicz J., Zbrodnie hitlerowskie popełnione na Niemcach na Śląsku Opolskim w okresie drugiej wojny światowej, „SnFiZH” IV (1979).

- Markiewicz M., Represje hitlerowskie wobec wsi białostockiej, „BIPN” 12–1 (2003–2004).
- Markowski D., Goralenvolk – anatomia zdrady, „Mówią Wieki” 1 (2010).
- Matelski D., Niemcy w Wielkopolsce w miesiącach poprzedzających wybuch II wojny światowej, „PZ” 1 (1994).
- Matelski D., Niemiecka polityka mniejszościowa a „linia 5 listopada” w ocenie ambasady RP w Berlinie (5 listopad 1937 – 28 styczeń 1938), „PZ” 5/6 (1990).
- Materski W., Stefan Litauer. Przyczynek do biografii, „DN” 2 (2011).
- Mazur Z., Niemiecko-radzieckie porozumienia z sierpnia i września 1939 r., „PZ” 4 (1989).
- Mazurczak W., Protokół w sprawie pokojowego regulowania sporów międzynarodowych. Przyczynek do działalności polskiej dyplomacji w 1924 r., „DN” 3 (1975).
- Mazurek J., Szkoły polskie i losy ich uczniów w powiecie bytowskim w latach 1919–1975, „DN” 4 (1975).
- Mazurkiewicz M., „Ad vocem” tzw. zbrodni pomorskiej 1939, „WHzWoS” 1 (2018).
- Mazurkiewicz M., Kilka uwag o polskich koncepcjach źródeł prawa międzynarodowego w okresie międzywojennym, „SIT” XIX (2016).
- Menkes J., O zaletach poprzedzania kwalifikacji prawnej czynów analizą stanów faktycznych – uwag kilka, „MPH” IV (2013).
- Menkes J., Menkes M., Sankcje w prawie międzynarodowym – wybrane zagadnienia prawa i doktryny, „Przegląd Prawa Publicznego” 1 (2017).
- Merczyński W., Problem tzw. „palcówki” na Śląsku Cieszyńskim, „PZ” 9–10 (1949).
- Mierzejewski J., O utrwalenie historycznej zasługi gen. K. Sosnkowskiego w ustanowieniu międzyna-rodowego zakazu stosowania broni bakteriologicznej, „Postępy Mikrobiologii” 2 (1999).
- Mikke S., Adwokat Rafał Lemkin – wybitny nieznany, „Palestra” 1/2 (2006).
- Mirkin-Gecevič B., L’Influence de la Révolution Française sur le Développement du Droit International dans l’Europe Orientale, „Recueil des Cours de l’Académie de Droit International de La Haye” II (1928).
- Młynarczyk J., Polityka okupacyjna Wehrmachtu w Polsce w pierwszych tygodniach wojny (wrzesień–październik 1939 r.), „Klio. Czasopismo Poświęcone Dziejom Polski i Powszechnym” 3 (2012).
- Moczulski L., Militarne przygotowania III Rzeszy do wojny z Polską 1939 r., „PZ” 3 (1969).
- Molik W., Polityka władz pruskich wobec polskiej inteligencji w Wielkim Księstwie Poznańskim w latach 1848–1914, „PZ” 4 (1980).
- Musiał B., Bilder einer Ausstellung. Kritische Anmerkungen zur Wanderausstellung „Vernichtungskrieg. Verbrechen der Wehrmacht 1941 bis 1944”, „VJH f. ZG” 47 (1999).

Mycielski A., Hitlerowska ustawa o zagrodach dziedzicznych na tle ogólnych założeń niemieckiego nazizmu, „RPW” X (1939).

Nadolny A., Działalność księży w Związku Polaków w Niemczech, „PZ” 4 (1984).

Nijakowski L., Państwo narodowe na krwawym szlaku. W stronę socjologii ludobójstw w późnej nowoczesności, „SSP” 2 (2015).

Nowak A., Organizacja Orła Białego w Świętokrzyskim, „Biuletyn Informacyjno-Historyczny Koła nr 1 Światowego Związku Żołnierzy Armii Krajowej” 3 (2006).

Nys E., Histoire Littéraire du Droit – Corneille van Bynkershoek, „Revue de Droit International et de Législation Comparée” 1 (1922).

Orzechowski K., Walka o ziemię na Śląsku Opolskim w okresie rządów hitlerowskich. Ze studiów nad mniejszościową polityką władz Trzeciej Rzeszy, „Studia Śląskie. Seria Nowa” IV (1961).

Osmańczyk E., 5 listopada 1937 r., „Odra” 11 (1945).

Pakentreger A., Dzieje Żydów Kalisza i powiatu kaliskiego w okresie okupacji hitlerowskiej, cz. 1: Do grudnia 1939 r., „BŻIHWP” 111 (1979).

Panné J.-L., Kilka uwag na temat genezy pojęcia „ludobójstwo”, „PiS” 1 (2007).

Peczenik A., Płaszczyzny badania prawa, „PiP” 2 (1968).

Peretiatkowicz A., Problem prawa międzynarodowego. Teoria H. Kelsena, „PW” 11 (1937).

Piątkowski S., Z badań nad genezą i przebiegiem akcji AB – Ausserordentliche Befriedungsaktion w dystrykcie radomskim (listopad 1939 – lipiec 1940), „Biuletyn Kwartalny Radomskiego Towarzystwa Naukowego” 1–4 (2001).

Pierzchała H., Eksterminacja profesorów Akademii Górniczej w Hitlerowskiej „Sonderaktion Krakau”, „Biuletyn Informacyjny Pracowników AGH” 159 (2006).

Pilichowski C., Podłoże, plan i skutki polityki Trzeciej Rzeszy wobec Polski w okresie II wojny światowej, „SnFiZH” III (1977).

Pilichowski C., The Background, Plan and Consequences of the Third Reich’s Policy toward Poland during the Second World War, „SFHC” V (1980).

Podlaszewski M., Organy władzy ustawodawczej Wolnego Miasta Gdańska w okresie przedhitlerowskim (1920–1933), „Rocznik Gdański” XXIII (1964).

Politis N., Effect of War upon Treaties and International Conventions. Project of Institute of International Law, „AJIL” 7 (1913).

Połomski F., Dyskryminacyjna funkcja „prawa rasowego” (Rassenrecht) Trzeciej Rzeszy (1933–1945), „SnFiZH” I (1974).

Połomski F., Spór o stosowanie hitlerowskiego ustawodawstwa sterylizacyjnego dla Polaków na terenie Opolszczyzny, „Studia Śląskie. Seria Nowa” III (1961).

Połomski F., Zamierzenia likwidacji działaczy polskich na Opolszczyźnie w latach 1939–1944, „Studia Śląskie. Seria Nowa” I (1958).

Poniatowska A., Historyczno-polityczne aspekty działalności Związku Polaków w Niemczech w latach 1922–1939, „PZ” 4 (1984).

Poniatowska A., Organizacje polskie w Berlinie w latach Republiki Weimarskiej, „PZ” 5–6 (1975).

Posner S., Królestwo Prawa, „GSW” 1 (1928).

Pospieszalski K., Kompetencja wyższego dowódcy SS i policji w zakresie policyjnym, „PZ” 2 (1970).

Pospieszalski K., Odpowiedzialność naczelników zwierzchników administracji terenowej za zbrodnie wojenne w okupowanej Polsce, „PZ” 3 (1962).

Premier Commands All Madrid Forces; „Commissioner For War” Named to Control and Harmonize Militia and Army, „The New York Times”, 17 X 1936.

Rabant T., Antypolska działalność niemieckiej służby dyplomatycznej i konsularnej w Polsce w przededniu II wojny światowej, „PiS” 1 (2006).

Raczkowski H., „Anschluss” a międzynarodowe gwarancje niepodległości Austrii, „Prawo” 5–6 (1938). Radbruch G., Zur Diskussion über die Verbrechen gegen die Menschlichkeit, „SJZ” Sondernummer. Humanitätsverbrechen und ihre Bestrafung 1947.

Radziwończyk K., Akcja „Tannenberg” grup operacyjnych Sipo i SD w Polsce jesienią 1939 r., „PZ” 5 (1966).

Radziwończyk K., Plany polityczne III Rzeszy wobec Polski i ich realizacja w okresie od 1 września do 25 października 1939 r., „NDP. MiSzOIWS” XII (1968).

Rappaport E.S., Rys zasad prawa karnego międzynarodowego w świetle ustaw karnych, obowiązujących w Królestwie Polskiem, na tle porównawczem, „KPCiK” 2 (1918).

Rappaport E., Tendencje rozwojowe prawa karnego międzynarodowego, „RPEiS” I (1934).

Rappaport E., V Konferencja Międzynarodowa Unifikacji Prawa Karnego a jej poprzedniczki (garść wspomnień, wrażeń i myśli 1927–1933), „WP” 2 (1934).

Rigaux F., Hans Kelsen on International Law, „European Journal of International Law” 9 (1998). Rigaux F., Kelsen et le Droit International, „Revue Belge de Droit International” 2 (1996).

Rogala W., Niemiecka mniejszość narodowa w Polsce w okresie rokowań gospodarczych (1927–1932), „PZ” 3 (1961).

Rogala W., Wzrost nastrojów rewizjonistycznych wśród niemieckiej mniejszości narodowej w Polsce w latach 1924–1926, „PZ” 6 (1959).

Rojek W., Kształtowanie się polsko-czechosłowackiej granicy państwowej w 1945 r., „Zeszyty Historyczne [Si vis pacem, para bellum. Bezpieczeństwo i polityka Polski]” 12 (2013).

Römer F., „Im alten Deutschland wäre solcher Befehl nicht möglich gewesen”. Rezeption, Adaption und Umsetzung des Kriegsgerichtsbarkeitserlasses im Ostheer 1941/42, „VJH f. ZG” 56 (2008).

Rostworowski M., Postępowanie przed Stałym Trybunałem Międzynarodowej Sprawiedliwości, „CPiE” XXX (1936).

Rundstein S., Narodowo-socjalistyczna doktryna prawa narodów, „PN” 6 (1935).

Rundstein S., Prawa nabyte wobec wygaśnięcia Konwencji Górnośląskiej, „RPEiS” 4 (1936).

Rundstein S., Rejestracja traktatów, „TP” 1 (1923).

Rutkowski Z., Życie ludności polskiej w Zielonej Górze w latach 1890–1939, „PZ” 5 (1960).

Ryszka F., Carl Schmitt w nauce prawa i polityki XX w. Twórca i dzieło. Szkic do portretu i wybrane wątki teorii, „SnFiZH” XIX (1996).

Ryszka F., Ustawa o ochronie granic Rzeszy z 1937 r. jako narzędzie ucisku robotnika polskiego na Górnym Śląsku, „PZ” 1 (1949).

Rzepa K., Wychodźstwo polskie w Niemczech do 1914 r., „PZ” 5/6 (1979).

Salmonowicz S., O losach ludności rodzimej Pomorza Gdańskiego w latach 1939–1950, „Acta Cassubiana” 15 (2013).

Salmonowicz S., Recenzja: R. Lemkin, „Rządy państw Osi...”, „ZH” 2 (2014).

Salmonowicz S., Status prawny Polaka pod okupacją niemiecką (1939–1945). Uwagi o potrzebie badań, „Krakowskie Studia z Historii Państwa i Prawa” 3 (2016).

Salmonowicz S., Tragiczna noc okupacji hitlerowskiej. O problematyce „kolaboracji oddolnej” w Generalnym Gubernatorstwie (1939–1945), „SIT” XI (2012).

Samson S., Francis Lieber on the Sources of Civil Liberty, „Humanitas” 2 (1996).

Sandorski J., Polska mniejszość narodowa w Niemczech w świetle prawa międzynarodowego, „RPEiS” 2 (2010).

Sas-Wisłocki J., Czesko-morawski protektorat i słowacka strefa wpływów Rzeszy Niemieckiej, „WMP” 4 (1939).

Sawicka S., Zbrodnia niemiecka nad dzieckiem polskim, „PZ” II (1947).

Schlochauer H.-J., Die Einwirkungen des Krieges auf den Bestand völkerrechtlicher Verträge, „Deutsche Rechts-Zeitschrift” 6 (1946).

Schmitt C., Der Hüter der Verfassung, „Archiv des Öffentlichen Recht” 16 (1929).

Schmitt C., Führer jest obrońcą prawa. Komentarz do przemówienia Adolfa Hitlera w Reichstagu 13 lipca 1934, tłum. P. Graczyk, „Kronos” 2 (2010).

Schmitt C., Führer schützt das Recht. Zur Reichstagsrede Adolf Hitlers vom 13. Juli 1934, „DJ-Z” 15 (1934).

Schmitt J., Konkordate, Völkerrecht und Art. 4 der neuen deutschen Reichsverfassung, „Zeitschrift für badische Verwaltung und Verwaltungsrechtspflege” 1921.

Schnöring K., Polen – Staatsbürger zweiter Klasse?, „Deutsch-Polnische Hefte” 7–8 (1961).

Scott J., International Court of Prize, „American Journal of International Law” 2 (1911).

Sczaniecki M., Dzieje ludności polskiej na ziemi lubuskiej, „PZ” 5 (1948).

Sczaniecki M., Kwestia narodowościowa i wyznaniowa w przeszłości ziemi lubuskiej, „PZ” 6 (1948).

Sehn J., Organizacja policji niemieckiej w Rzeszy i Generalnej Guberni, „BGKBZNwP” 3 (1947).

Sierpowski S., Polityczne aspekty rozbrojenia (1919–1925), „AULFH” 17 (1983).

Sierpowski S., Wejście Niemiec do Ligi Narodów a stosunki polsko-niemieckie, „PZ” 5–6 (1989).

Sierpowski S., Wystąpienie Niemiec z Ligi Narodów, „PZ” 2 (1983).

Sikora M., Aktion Saybusch. Geneza i cel niemieckich akcji przesiedleńczych, „BIPN” 8–9 (2009).

Skorzyński J., Selbstschutz – V kolumna, „BGKBZHwP” X (1958).

Sosnowski K., Hitlerowskie zbrodnie wobec dziecka, „PZ” 7/8 (1955).

Staniewicz R., Mniejszość niemiecka w Polsce – V kolumna Hitlera?, „PZ” 2 (1959).

Staniewicz R., Mniejszość niemiecka w województwie śląskim w okresie przygotowań do hitlerowskiej agresji na Polskę (15 III – 10 VIII 1939 r.), „PZ” 4 (1964).

Stasiewski B., Die Kirchenpolitik des Nationalsozialismus im Warthegau 1939–1945, „VJH f. ZG” 7 (1959).

Stawecki P., Mniejszość niemiecka w Polsce w latach 1918–1936 w świetle ekspertyzy polskiej z 1936 r., „PZ” 1 (1968).

Stażewski M., Opcja ludności niemieckiej w Wielkopolsce i na Pomorzu w latach dwudziestych, „PZ” 1 (1994).

Stażewski M., Przymusowy wyjazd z Polski optantów niemieckich w 1925 roku, „Studia Historica Gedanensia” V (2014).

Steyer D., Z dziejów ruchu oporu w Toruniu (1939–1945), „Rocznik Toruński” 9 (1974).

Sudoł T., Zbrodnie Wehrmachtu na jeńcach polskich we wrześniu 1939 roku, „BIPN” 8–9 (2011).

Szawłowski R., Dzieło Rafała Lemkina „Axis rule in occupied Europe” (1944) w przekładzie polskim z 2013 r., „Palestra” 5/6 (2014).

Szawłowski R., Rafał Lemkin – twórca pojęcia „ludobójstwo” i główny architekt Konwencji z 9 XII 1948 (w czterdziestolecie śmierci), „PiP” 10 (1999).

Szefer A., Jak powstała niemiecka specjalna księga gończa Sonderfahndungsbuch Polen, „Zaranie Śląskie” 3 (1983).

Szefer A., Nieznane dokumenty o działalności tzw. Freikorpsu w rejonie bielskim w przededniu wybuchu drugiej wojny światowej (maj–wrzesień 1939 roku), „Zaranie Śląskie” 2 (1965).

Sziling J., Eksterminacja polskiego duchowieństwa katolickiego w Bydgoszczy i powiecie bydgoskim w latach 1939–1945, „Prace Komisji Historii” VI (1969).

Sziling J., Hitlerowska administracja cywilna w Toruniu w okresie zarządu wojskowego (7 IX – 25 X 1939 r.), „Acta Universitatis Nicolai Copernici. Nauki Humanistyczno-Społeczne. Historia” XI (1977).

Szpak A., Zbrodnie wojenne a zbrodnie przeciwko ludzkości w orzecznictwie międzynarodowych trybunałów karnych ad hoc (kryteria różnicowania), „PiP” 1 (2012).

Szturm de Sztrem E., Prawdziwa statystyka, „Kwartalnik Historyczny” 3 (1973).

Szurgacz H., Likwidacja organizacji polskich i ich placówek na Opolszczyźnie w latach 1939–1941, „Studia Śląskie. Seria Nowa” IX (1965).

Ślaski K., Dzieje polskości na Pomorzu Zachodnim, „PZ” 7–8 (1948).

Ślusarczyk J., Agresja sowiecka na Polskę w 1939 r., „WPH” 2 (1993).

Święicki Ł., Carl Schmitt w polskich interpretacjach prawniczych (1928–2008), „SnAiT” 4 (2014).

Targ A., Polska ludność rodzima na ziemiach odzyskanych, „PZ” 6 (1947).

Targ A., Zarys działalności Związku Polaków w Niemczech, „PZ” 4 (1962).

The Locarno Conference. October 5–16, 1925, „World Peace Foundation Pamphlets” 1 (1926).

Thomson J., Killing, Letting Die, and the Trolley Problem, „The Monist” 59 (1976).

Thomson J., The Trolley Problem, „Yale Law Journal” 94 (1985).

Tomkiewicz M., Wysiedlenia z Gdyni w 1939 roku, „BIPN” 12–1 (2003–2004).

Unternehmen Tannenberg. August 1939: Wie der SD den Überfall auf Polen vorbereitete, „Der Spiegel” 32 (1979).

Unternehmen Tannenberg. August 1939: Wie der SD den Überfall auf Polen vorbereitete (II), „Der Spiegel” 33 (1979).

Unternehmen Tannenberg. August 1939: Wie der SD den Überfall auf Polen vorbereitete (III), „Der Spiegel” 34 (1979).

Vetulani A., Konkordat Stolicy Apostolskiej z Rzeszą Niemiecką, „PN” 1–2 (1934).

Visscher C. de, Les Avis Consultatifs de la Cour Permanente de Justice Internationale, „Recueil des Cours” I (1929).

Walz G., Die Abänderung völkerrechtsgemäßen Landrechtes, „Völkerrechtsfragen” 21 (1927).

Wardzyńska M., Terror na okupowanej Wileńszczyźnie w latach 1941–1943 w świetle „Ereignismeldungen UdSSR” i „Meldungen aus den besetzten Ostgebieten”, „BGKBZ p-ko NP” 34 (1992).

Wartel Z., Dążenie mniejszości niemieckiej do rozszerzenia swych uprawnień w Polsce po przewrocie majowym, „DN” 2 (1977).

Waszak S., Liczba Niemców w Polsce w latach 1931–1959, „PZ” 6 (1959).

Waszczyński J., Projekty międzynarodowego kodeksu karnego, „AULFT” 35 (1988).

Waszkiewicz E., Problem mniejszości narodowych w doktrynie partii narodowych socjalistów (NSDAP) oraz w nauce niemieckiej, „SnFiZH” XI (1987).

Waszkiewicz E., Uwagi o recepcji doktryny narodowosocjalistycznej wśród mniejszości niemieckiej w województwie śląskim, „SnFiZH” III (1977).

Węcki M., Kwestia folkslisty na Górnym Śląsku, „BIPN” 9 (2017).

Wieczorkiewicz C., Polonia w Niemczech zachodnich w latach 1945–1952, „PZ” 3 (1965).

Wielomski A., Interpretacje Carla Schmitta na świecie i w Polsce, „SnFiZH” XXXIII (2011).

Wojciechowska J., Przyczynek do udziału mniejszości niemieckiej w hitlerowskiej akcji eksterminacyjnej w Bydgoszczy, „PZ” 5 (1958).

Wolff-Powęska A., Polityczne treści pojęcia „Lebensraum” oraz „Grossraum”, „PZ” 1 (1975).

Wolff-Powęska A., Wpływ rewolucji francuskiej na niemiecką myśl polityczną, „PZ” 5–6 (1990).

Wolski A., Pakt polsko-niemiecki z 1934 r., „SM” 6 (1953).

Wójcik K., Statystyka mniejszości niemieckiej w województwie lubelskim w latach 1918–1939, „DN” 2 (2009).

Wójcik S., Katechizm katolicki dla dzieci a tradycje książki polskiej na Śląsku, „Śląski Kwartalnik Historyczny Sobótka” 1–3 (1996).

Wróblewski B., Cześć, godność, honor, „RPW” 8 (1936).

Wrzesiński W., Hitlerowska polityka wobec polskich instytucji prawa publicznego w Trzeciej Rzeszy, „SnFiZH” I (1974).

Wrzesiński W., Problematyka polskiej ludności rodzimej na ziemiach postulowanych w latach II wojny światowej, „PZ” 5–6 (1989).

Wrzosek M., Struktury organizacyjne niemieckiej administracji okupacyjnej na ziemiach polskich jesienią 1939 roku, „Niepodległość i Pamięć” 15 (1999).

Wrzosek M., Zaczątki niemieckiego systemu okupacyjnego na terytoriach polskich opanowanych przez wojska niemieckie jesienią 1939 roku, „Studia Podlaskie” VI (1996).

Wrzyszc A., Hierarchia aktów prawnych wprowadzonych przez okupanta niemieckiego w Generalnym Gubernatorstwie w latach 1939–1945, „SIL” 22 (2014).

Wrzyszc A., Sądownictwo SS i policji w Generalnym Gubernatorstwie (stan badań), „SIL” 19 (2013).

Zieliński H., Z problematyki narodowościowej na pograniczu polsko-niemieckim w dobie międzywojennej, „PZ” 9–10 (1949).

Zieliński J., Mordowanie inteligencji przez Wehrmacht, „Tygodnik Powszechny” 21 (1960).

Zieliński J., Mordowanie inteligencji przez Wehrmacht (2), „Tygodnik Powszechny” 26 (1960).

Zieliński Z., Polityczne cele mniejszości niemieckiej w Polsce w 1925 roku, „DN” 1 (1996).

Zmierczak M., Pozytywizm prawniczy a prawnicy i prawo w Trzeciej Rzeszy – powojenna dyskusja niemieckich historyków i teoretyków prawa o przyczynach upadku państwa prawa w czasach nazizmu, „SnFiZH” XXIV (2001).

Zorn P., Der Friedensvertrag und des Recht, „DJ-Z” 25 (1925).

Zurcher A., The Hitler Referenda, „The American Political Science Review” 1 (1935).

Żerko S., Polska, Niemcy i geneza II wojny światowej, „PZ” 2 (2009).

Żerko S., Polska w hitlerowskiej koncepcji polityki zagranicznej 1933–1939, „SnFiZH” XXIV (2001).

Żerko S., Polska wobec zbliżenia niemiecko-radzieckiego u schyłku lat trzydziestych, „PZ” 2 (1998).

Żerko S., Próba sformowania na Podhalu „Legionu Góralskiego” Waffen-SS, „PZ” 3 (1997).

Żukowski P., Krakowskie czasy studiów Rafała Lemkina, „DN” 1 (2011).

3. Other studies

Braun G., Luter i rewolucja protestancka, Warszawa 2017, movie, DVD.

Carl Schmitt [w:] OCLC WorldCat®, https://www.worldcat.org/search?qt=worldcat_org_all&q=carl+schmitt, access 29 II 2020.

Luter i rewolucja protestancka. Idea filmu, <https://luter.braunmovies.com/>, access 29 II 2020.

Mazurkiewicz M., Prawnicze a nieprawnicze wybrane kwalifikacje zbrodni dokonanych na narodzie polskim (1939–1945), ts.

Parlamentarny Zespół ds. Oszacowania Wysokości Odszkodowań Należnych Polsce od Niemiec za Szkody Wyrządzone w trakcie II Wojny Światowej, <http://www.sejm.gov.pl/Sejm8.nsf/agent.xsp?symbol=ZESPOL&Zesp=513>, access 29 II 2020.

Sonderfahndungsbuch Polen – Specjalna księga Polaków ściganych listem gończym, <http://www.iz.poznan.pl/projekty/zrealizowane/sonderfahndungsbuch-polen-specjalna-ksiega-polakow-sciganych-listem-gonczym>, access 29 II 2020.

– doctor of law, historian. He conducts independent research on the occupation of Polish lands during World War II. He focuses on the international legal qualification of crimes against Poles in terms of genocide studies. He is also interested in issues related to constitutional law, history teaching and the history and culture of food (food studies). He is interested in travelling and learning foreign languages.

75 years after the end of World War II, many of us still cannot clearly define the nature of the crimes committed against Poles at that time. Usually focusing on individual acts of cruelty, many authors do not seem to relate them to the whole issue.

Germany, guided by a plan to exterminate the Polish nation, organized an extermination apparatus and systematically carried it out until 1945. Their choice of means and methods of exterminating Poles remained extremely diverse geographically, and the process of annihilation – spread over time. However, this should not obscure the intention and essence of the crimes committed.

The proposed theoretical assessment of Germany's acts in the perspective of international law takes into account the concept of the prohibition of the crime of genocide proposed by the Polish-Jewish lawyer Rafał Lemkin. It also organizes the findings of historians to date, while at the same time updating legal research that had been abandoned in the past. The publication is therefore intended to initiate a discussion (not only) academic in Poland and abroad about the extermination of Poles, and to raise awareness of the fate of the Polish nation during the occupation. **This reading, handed over to the Readers, explains step by step how one of the largest, although as yet unnamed, genocides of the 20th century took place.**