

ENGLISH TRANSLATION: Andrew Rajcher

In the criminal proceedings against

former Hauptmann [Captain] of the Schutzpolizei [Protection Police] Paul Degenhardt, born on 5th January 1895 in Landeshut/Schlesien, residing in Unterlüss, Celle District

- currently in custody in the Lower Saxony State Hospital in Lüneburg,

the jury at the Lüneburg District Court, in sessions on 29th and 30th December 1965, 3rd, 4th, 5th, 6th, 7th, 10th, 11th, 12th, 13th, 17th, 18th, 19th, 24th January, 4th, 9th, 16th, 24th February, 1st, 2nd, 3rd, 4th, 7th, 8th, 9th, 10th, 11th, 15th, 16th, 17th, 18th, 28th, 29th, 30th, 31st March, 1st, 4th, 5th, 13th, 18th, 22nd, 25th April, 5th, 13th, 16th, 17th, 20th, 21st, 24th May 1966, declared on 24th May 1966:

The Accused is guilty of:

25 counts of murder, which he committed jointly in five counts, as well as murder in two counts, of concurrent twenty counts each, and a further count of murder in contiguous six counts.

He is sentenced to life imprisonment for each count of murder.

His civil rights are revoked for life.

In eight cases, the Accused was acquitted.

If he has been convicted, the costs of the proceedings will be imposed upon him. Otherwise, they are charged to the State Treasury.

REASONS

I. The Defendant's Curriculum Vitae

The Defendant, Paul Degenhardt, was born on 5th January 1895 in Landeshut/Schlesien. He was born into a large family of roofers. He and his five siblings were mainly raised by their mother (Anna *nee* Wit), as their father died in a work accident at the turn of the century.

The Defendant attended elementary school and then began work in a silk weaving plant where, through self-study, he became a pattern draughtsman.

In August 1914, he volunteered as a soldier. During the First World War, he was deployed on the Eastern Front and was twice slightly wounded by grazing shots. Following the end of the war, he joined the *Freikorps*, fighting in the east. In November 1919, he joined the *Sicherheitspolizei* [Security Police] in Breslau. In 1920, after attending a police academy, he

came to Oels and, after having worked in various commandos in Kreuzberg and Gleiwitz and taking part in other courses, he became a police sergeant in 1927.

On 23rd February 1931, in Gleiwitz, he married Charlotte Arn. The Defendant's three adult daughters came from this marriage. A son died soon after birth.

On 1st September 1932, the Accused became a member of the National Socialist Party, membership number 1,330,601. In the following years, he became actively involved in the party. In 1932-1934, he also belonged to the S.A. In 1938, as police chief, when he took over the local police station in Ackerfelde, he also became the local group leader of the NSDAP in Ackerfelde.

Then, on 1st June 1940, he joined the general SS and, having been promoted to lieutenant in the Security Police, he immediately received the rank of SS-Untersturmführer. Around this time, for official reasons, he needed to change his place residence several times. At the end of 1941 or the beginning of 1942, on 39th January 1941, he became an SS-Obersturmführer and, about the same time, he was promoted to SS-Hauptsturmführer.

In the spring of 1942, the Defendant was moved from Sosnowiec to Częstochowa, where he commanded the local police – taking over from Hauptmann Heutz, who was not a member of the SS. He remained in command there until the autumn of 1943. The events, which are still to be described in detail and which are the subject of the present proceedings, fall within the period of this activity.

After leaving Częstochowa, the Defendant returned to Sosnowiec for a short time – to the police headquarters, which had been established there in the meantime. At the end of 1943, he was then transferred to the staff of the commander of the Ordnungspolizei in Corinth. One of his responsibilities there was to fight partisans. When the Front was receding, he returned, via Vienna, to what was then Reich territory and ended up in northern Germany.

In April 1945, on the Elbe, he was taken prisoner-of-war by the Soviets – but he was soon able to escape. Shortly after, near Ludwigslust, he was picked up by English troops, but escaped again. With “any” papers which he had been able to get hold of along the way. He went to Leipzig, where his brother-in-law Arn. gave him civilian clothes. He then made his way to Silesia [Pol: Śląsk]. Here, he was arrested by Polish militiamen and was imprisoned in Ratibor [Pol: Racibórz].

After fleeing again, he took a job with a farmer in Thuringia, but then moved west, when American troops evacuated Thuringia. In Regensburg, he had papers issued in the name of his father-in-law and, as a construction worker, worked there and in the surrounding area. He then joined a refugee transport heading to Upper Bavaria and, still under a false name, worked as a farm hand until 1950.

Around this time, he found out that there was a police officer, living in Celle, who knew him from previous joint official activities before the war. The Accused then went to see him – it was Hauptkommissar [Chief Inspector] Galonska. He told him that he had recently been released from Polish captivity. After Galonska confirmed his identity, he had the correct

papers issued again. He remained in Celle, working in various jobs. From Celle, he again got in touch with his family, who had found shelter in the Ore Mountains. Together with them, in 1951, he moved into an apartment in Unterlüss. Since then, the Defendant has not pursued any gainful employment. He receives benefits according to law, Article 141 of the Basic Law.

At the end of 1951, for the first time, the Accused showed signs of a mental disorder. He was admitted to the Lower Saxony State Hospital in Lüneburg by decision, on 18th November 1955, of the Celle District Court – in accordance with Articles 9 and 10 of the SOG [?]. The medical officer's relevant report, dated 17th November 1955, contained the diagnosis that the Accused was suffering from increasing mental and physical restlessness, which had increased to nocturnal "wanderlust" and that, according to his own statements, he was hearing voices that he had heard from his earlier experiences in fighting against partisans.

In addition, the medical officer had found an injury on the Accused, the result from an attempted suicide. However, a final decision on accommodation was not made, as the Accused agreed to remain in the hospital voluntarily. The "final improvement", when he was released on 7th January 1956, did not last. On the advice of his family doctor, the Defendant returned to the Lüneburg State Hospital. From there, on 7th July 1956, he was released as largely improved.

Almost three years later, namely on 11th May 1959, for a third time, the Accused entered the Lüneburg State Hospital for treatment of an "endogenous psychosis". It was here, on 14th December 1959, an arrest warrant (15 Gs 1051/59), dated 9th December 1959, was executed. He was suspected of being an accessory to murder. Pre-trial detention was ordered to be carried out in the State Hospital because of the Accused's state of health.

Another arrest warrant (VU 2/63) was issued on 23rd October 1963 by an investigating judge of the Lüneburg District Court and executed on the Accused on that day. It was based on the suspicion of murder

The pre-trial detention, currently being carried out on the basis of this warrant, after the first was overturned by decision of the First Serious Crime Division of the Lüneburg District Court on 12th March 1965

The Defendant has no previous convictions.

II. General Conditions in Częstochowa in the Years 1939-1945

The actions of the Accused, to be judged by the jury in the present case, are excerpts from the Jewish policy pursued and implemented by the rulers of the Third Reich in the years 1933-1945, the ultimate goal of which was the physical annihilation of European Jewry. The extermination measures against the Jews, that began in 1941 in the General Government, were also aimed at this goal. When the extermination plan, known as "Operation Reinhard", was implemented, thousands of Jews were sent to extermination camps and killed there.

The Defendant is not criminally Accused of having participated in these actions. Rather, the opening resolutions are only individual acts of violence which he is said to have committed against Jewish people in the years 1942 and 1943.

The scene for the events, which are yet to be described in detail, was the city of Częstochowa, which had already been occupied by German Wehrmacht troops on 3rd September 1939. At that time, the city had a population of 130,000-140,000, of whom 28,000-30,000 had a Jewish origin.

The majority of citizens lived in the residential areas west of the Warta River, on both sides of the Katowice-Warsaw railway line, which ran roughly from south to north. In the suburbs, east of the Warta River, such as Zawodzie and Raków, there were industrial companies. Also, in the above-mentioned urban area, there was the French-owned "Pelcery" factory, near the train station, the "Metallurgia" metal foundry on ul. Krótka and other small businesses, many of which had Jewish owners.

The majority of the city's Jewish residents lived in the district between the railway station and the Warta River. Polish citizens also lived there. Also, Jewish families lived in the "Polish part" of the city, west of the railway. There was, therefore, no closed Jewish residential area.

Soon after the city was occupied, the number of its Jewish residents grew as Jews, from villages and smaller towns in the area, moved in. They did so because they felt safer in a larger community than in their previous places of residence. Forced resettlements, from other areas, also increased the Jewish population of Częstochowa. After that, by June 1942, that number had grown to around 40,000-50,000 people.

After the German Wehrmacht combat troops had marched through the city, the local civil administration was immediately established. The highest local administrative official was the city governor, whose office was in the former Polish district. The first city governor was the former mayor of Ratibor, Dr. Niklas. He was replaced, in October or November 1939, by Dr Wen., who now lives as a lawyer in Munich. In around March 1942, Dr. Fra. Was appointed – he is now a lawyer in Dortmund. He served until the spring of 1943.

The area of responsibility of the city governor corresponded to that of a mayor or district administrator within the Reich, insofar as it related to the care of the German civilian population. It did not include special administrative areas such as the tax office, the employment office, the water management office and similar authorities established over time.

On the other hand, the city governor was the supervisory authority over the Polish administration, which was still in place under Dr. Fra. It was able to work relatively independently. The further administrative work of the city governor, which is of no further interest here, was diverse and extensive. This was because Częstochowa was of considerable importance as a supply centre. Within it were located an air warfare School and several large military hospitals. It was also a transport hub.

In the first few months following the city's occupation, apart from a pogrom against Poles and Jews, and similar individual attacks which cannot be judged in the present proceedings, the only orders issued by the German side primarily affected the economic life of the Jewish population.

However, the situation changed radically in April 1941, when the ghettoisation" was carried out. During that month, Dr. Wen issued an order creating an exclusively Jewish residential area, hereafter referred to as the "Big Ghetto". From north to south, it encompassed ul Kawia and ul Krótka on one side, and ul Katedralna and ul Strażacka on the other. Its eastern border was ul Wilsona and the Warta River.

As already mentioned, mainly Jewish inhabitants lived in this area which, from north to south, stretched for 1,200 metres and, from east to west, about 700 metres. The Polish citizens, still living there, were resettled into the "Jew-free" parts of the city, while the Jews, living outside the area, were moved into the "Big Ghetto". Its borders were monitored by police patrols and signs were erected marking the ghetto as a restricted area. For Jews, leaving it without permission was forbidden.

Nevertheless, there was still an active connection between them and the outside world. This was because non-Jews were allowed to enter and because the Polish workers, from the western parts of the city, went through the "Big Ghetto" to the factories east of the Warta River. The lively traffic on ul Warszawska, which cut through the "Big Ghetto" from south to north, also encouraged contact between Jews and non-Jews.

Most of the able-bodied residents of the "Big Ghetto" were required to work in the armaments factories. Some of these work sites were administratively combined within "HASAG" - Hugo Schneider AG, with its headquarters in Leipzig. These included "HASAG-Raków" (an ironworks set up as an ammunition factory in the suburb of the same name), and the previously mentioned Pelcery, which also manufactured ammunition. Other workplaces were in "Metallurgia" and in similar small companies. Those Jews, who were required to work, were provided with work cards, which were issued by the German authorities.

The German administration set up workshops on the outskirts of the "Big Ghetto". They were located in a large block of buildings at Aleja NMP 14, on the corner of ul Wilsona – which stretched as far as the "German" Synagogue at the corner of ul Wilsona and ul Garibaldięo. That synagogue was destroyed in the autumn of 1939¹. This block, although located to the east of the railway, was not included in the "Big Ghetto"² and was, therefore, especially guarded. It was here that Jewish craftsmen, such as carpenters, tailors and shoemakers, were quartered, together with their families. They were required to meet the needs of the German administration and other departments.

As an organisational link to the Jews, the German administration established a *Judenrat*, which consisted of 8-15 leading Jewish figures.

¹ TN: It was the winter – in December 1939.

² TN: It was right on the border of the "Big Ghetto"

The police department in Częstochowa, which the Defendant took over in the spring of 1942 as the successor to Captain Heutz, initially comprised 30-40 German officers. It was reinforced to 50-60 men by the summer of 1942. Over time, the name of this command was changed to the "Schutzpolizeikommando" ["Protection Police Command"]. Its area of responsibility corresponded to that of a comparable agency within the Reich.

Accordingly, the command was required to ensure the general protection of the population, to provide security and patrol duty, to regulate road traffic and, if necessary, provide operational service for air raid protection tasks. In addition to that part of the command which could be described as a guard department, there was a department known as the Commercial Field Service, which was headed by Lieutenant Wer. – who reported to Hauptmann Degenhardt. In addition to food supply policing tasks, the Commercial Field Service was also responsible for price monitoring and combatting the black market and smuggling.

The security police command was first located in the Polish town hall on the Aleja NMP, then later in the building of the city administration of the former Polish district and, finally, at Aleja NMP 75. The staff quarters, initially established on ul. Jasnagórska, were later moved to Aleja NMP 77, where the command was again combined – with the exception of the officers in private quarters and a few personnel living with their families in Częstochowa.

To support the *Schutzpolizeikommando* [Security Police Command], Degenhardt had around 240 Polish policemen at his disposal, whose police stations were distributed throughout the city. Ultimately, he was responsible for the Jewish security service, which was deployed in the Jewish residential area. Its members were identified by an armband.

As the leader of a unit of the *Schutzpolizei*, Hauptmann Degenhardt reported to the commander of the *Ordnungspolizei* [Order Police] in Radom, who was also the commander of the police regiment with its headquarters in Radom, parts of which, namely a battalion or a few companies, were temporarily barracked in Częstochowa. Radom was also the official seat of the "SS and Police Leader ", responsible for Częstochowa, an authority established in 1942-1943 by the SS-Standarten or by Oberführer Dr. Böttcher. His superior was the "Higher SS- and Police Leader East " in Kraków, who reported directly to Himmler.

These departments were commissioned to implement the plan, known as "Operation Reinhard", to exterminate the Jews in the General Government. Dr. Böttcher (who, in 1949, was sentenced to death by a Polish court) was not Degenhardt's immediate superior, but was required to pass on his orders to him through the commander of the *Ordnungspolizei*, who was obliged to pass them on to Degenhardt. However, he received orders directly from Dr. Böttcher and felt compelled to carry them out, especially as Dr. Böttcher appeared presumptuous and imperious.

In order to achieve the goal of "Operation Reinhard", extensive organisational preparations were required. For Częstochowa, there were carried out by Dr. Böttcher and his staff, which included his Adjutant Blum and Criminal Advisor Feucht. Feucht, who was a member of the SD, had already prepared several resettlements and had participated in their implementation.

The aforementioned preparations included the provision of freight trains with which the Jews, selected for killing, were to be taken to Treblinka. They also included bringing in auxiliary police units, which were to support the local forces available at the time. In preparation for the resettlement concerning the Cześćochowa ghetto, Dr. Böttcher, who came from Radom to Cześćochowa, with Blum und Feucht, for this purpose, held a meeting there in the summer of 1942 at which, as instructed, the Accused also attended.

Using a plan, he showed the location of the Jewish residential district and explained the other circumstances of the Jews living in the district. Dr. Böttcher appointed him as the leader of the entire resettlement campaign and gave him local command authority regarding this, as well as for all other orders that had to be made for the care, accommodation and other regulation of the living conditions of the Jews who had not been resettled. As a result, Degenhardt later described himself as the “father of the Jews”. They saw, in him, the “Lord of life and death.

The date, 22nd September 1942, was set for the beginning of the operation [*Akcje*] in Cześćochowa – it was the day after the Jewish holiday of Yom Kippur on 21st September 1942.

When the German authorities were informed that the operation was to begin on 22nd September 1942, some Jews heard about it from policemen whom they knew. Apart from this, on the day before Yom Kippur, throughout the “Big Ghetto”, news spread that “Blacks” had arrived at the railway station. This was an auxiliary police force, consisting mainly of Ukrainians and Lithuanians, which the Jews called a “Jewish extermination battalion”.

These events aroused considerable unrest amongst the Jewish population, who were busy preparing for Yom Kippur which is, as far as possible, observed with fasting and prayer. Member of the *Judenrat* soon brought the fears of the people, whom they represented, to Degenhardt. Although [Degenhardt] knew about the resettlement and when it would take place, having already made the organisational preparations for it, he declared, contrary to the truth, that there was nothing to worry about.

Some of the Jews believed in the soothing message then issued by the *Judenrat*. With rumours circulating – albeit without foundation – that the end of the war was imminent and that the International Red Cross was working to save Jews, others wavered, back and forth, between the doubtful hope that the rumours were true and the fear that the threatening disaster could no longer be averted.

Others, again, endeavoured to exploit their already existing relationships with German police officers or to get in touch with them in some manner. Often, by handing over valuables, they hoped to avoid being checked during the forthcoming resettlement. This was reflected in reports from other cities in which resettlements had already taken place and had become known. A large number of Jews, whose deportation was feared due to their age or their state of health, sought out their prepared hiding-places or were taken there by relatives.

Full of anxiety and uncertainty, the inhabitants of the “Big Ghetto” observed the evening and day of Yom Kippur, after which they sat and ate together. At night, on 22nd September 1942, after a few buildings on ul Garibaldiog had been cleared to make room for storage, the local

akcja began when members of the “Jewish extermination battalion”, armed with rifles, together with members of the *Schutzpolizeikommando*, reinforced by police and SD personnel, surrounded the “Big Ghetto” and completely sealed it off from the outside world.

Before dawn on 22nd September 1942, Jewish police announced that the remaining residents of ul Garibaldi and other streets, mainly in its vicinity, were to leave their homes. They were to take only hand luggage with them and to assemble on the street by 7:00 am – otherwise they would be shot. Jews, who did not live on these streets were either expressly forbidden to go onto the street or they were prevented from leaving their homes by, on order of the Jewish police, keeping their street-facing doors locked. The Jewish police had given the respective caretakers such instructions. For some residential areas, such as large blocks of residences at Aleja NMP 6, an order was issued that Jews, living there, had to be ready, “on call”, with their luggage. When it became light, patrols checked as to whether the buildings, whose evacuation had been ordered, had indeed been abandoned and enforced the evacuation of the apartments – by force, if necessary.

The anxious people, waiting on the streets, were formed into columns. They were driven along ul Krótka, in the direction of ul Wilsona. Later in the morning, they were led to the Nowy Rynek [New Market Square]. Their respective paths were lined by uniformed men, who were supposed to make it impossible to escape from the columns and who sometimes ruthlessly used their firearms.

In the carrying out of Dr. Böttcher’s resettlement orders, Degenhardt had lined up, with other members of his command, on ul Krótka, in front of the *Metallurgia* gate. Near him stood Dr. Böttcher, Blum und Feucht, who observed the course of events, with Feucht intervening “helpfully”. Those Jews, who were in possession of a work card, were to hold up their card and walk past Degenhardt. In his hand, he held a riding crop, with which he indicated “right” or “left”. “Right” (from his point of view) meant going into a column which was being driven on - consisting mainly of older men, women, children and the infirm. “Left” meant to await instructions at *Metallurgia* and to continue remaining in Częstochowa. These instructions by Degenhardt, which were based upon the principle of “fit for work or not”, took no account of the family or of other ties of those affected. Even the possession of a work card did not guarantee its owner a place at *Metallurgia*.

Over the course of this event, indescribable scenes took place. Children did not want to be separated from their parents, wives went with their husbands and relatives stayed together. Degenhardt put an end to such and similar “insubordination”, in many cases, by killing those who seemed objectionable to him – these will be discussed later, with regard to individual cases forming the subject of the judgment.

The Jews, who were sent to *Metallurgia*, ran there in a panic, a fear heightened by the shots fired by the guards. Lying on the streets, they saw the corpses of Jews, who had been shot by the guards. Gravediggers, whom Degenhardt had arranged for before the *akcja* had begun, drove along the streets in horse-drawn carts and collected the corpses. They were taken to a mass grave on ul Kawia, where they were thrown into the pit and covered with chlorinated lime.

This scary march of those who had been selected, which can barely be put into words, first ended at a freight station near the main train station. There, after they had taken off their seemingly usable shoes, they were crammed into freight wagons. As already mentioned, the selection continued through the morning. After the northern part of the “Big Ghetto” had been cleared, the freight wagons were still not full. From ul Krótka to the Nowy Rynek, the surrounding streets had been cleared.

At the Nowy Rynek, also, Degenhardt divided the columns into “able to work” and “unable to work” in the manner already described. The former group was led, in groups, to *Metallurgia*. The others were herded to the station and put into the freight cars. When the train, which consisted of fifty-eight wagons and two passenger wagons for escort crews, was full, the *akcja* ceased for the day. The Jews, who were still waiting “on call”, were allowed to return home. This also applied to those Jews who had already been selected, but whom the train could no longer take.

The train was then routed via the main railway station and departed, on a fixed timetable, at noon. Its destination was Treblinka, via Piotrków, Warsaw and Małkinia. It arrived [in Treblinka] on 23rd September 1942 in the early hours of the morning (5:23 am). There, the Jews were killed in the gas chambers of the extermination camp. The empty train returned immediately to Częstochowa.

Here, the resettlement *akcja* continued on 25th September 1942, in the manner already described. Within the next three or four weeks, further selections followed, the course of which was similar to that already. Only the last of the three selections differed from those previous in the manner described below.

In addition to the Jews, who had been registered as able to work, there was also a large number of Jewish men, women and children in *Metallurgia*, who had managed to evade selection by bribing guards or by other means, where they believed that they would be safe from being deported. Degenhardt, who had not failed to notice that the number of Jews, held in *Metallurgia*, far exceeded the number whom he had directed there, conducted a selection from amongst the Jews in *Metallurgia* prior to the final transport leaving. The majority of those, who were “unauthorised” to be in *Metallurgia*, fell victim [to this selection].

Likewise, before the last transport left for Treblinka, Degenhardt – in a manner which will be described in detail later – reduced the number of personnel in the Jewish police force by means of a selection on Aleja NMP, through which he found an unspecified number of Jewish policemen, whose stay in Częstochowa he considered to be useless – they too were sent by train to Treblinka.

In mid-October 1942, after the entire *akcje* were over, of the 40,000-50,000 Jews who had lived in the “Big Ghetto”, only about 4,000-5,000 remained in Częstochowa. If they were not assigned to work in the city, they were taken to the armaments factories and temporarily billeted near their jobs.

Immediately after the homes of those who had been selected had been cleared, commandos from the field service and the SS, to which Jewish workers had been assigned, began to search

and clear out the abandoned apartments. Any gold, jewellery and similar valuables found were listed and taken to Radom by members of the SS. Anything else, which seemed worth taking away, was stored in warehouses set up in ul Garibaldi. Also, "wild commandos", or loners, used the opportunity to find their prey. Patrols searched properties for hidden Jews. Degenhardt, himself, took part in these searches, inspecting the respective residential districts. Insofar, as he was Accused, in this connection, of having killed Jews or having caused them to be killed, this, like other offences of which he is Accused, will be discussed on a case-by-case basis.

Even after the major *akcje* had ended, the search for hidden Jews continued. These were people who had managed to avoid being transported to Treblinka. Depending upon the attitude of the person who encountered such hidden people, they were either "overlooked", taken to the police station or were shot on the spot, i.e., like Police Lieutenant War, who testified as a witness, were "simply killed".

Already, during the "cleansing" of the "Big Ghetto", as just described, a start was made on setting up a smaller, Jewish residential area - the "Small Ghetto". It encompassed the north-eastern part of the previous ghetto, with the streets and alleyways, mentioned below, in the oldest part of the city, which had always been considered as the "poor persons' quarter".

This north-south length, which was fenced off with barbed wire, was around 300 metres long and around 200 metres east-west. As announced by signs, entering it was prohibited to unauthorised persons and was punishable by law. Jews, who left the Jewish residential area without authorisation, were threatened with the death penalty. The only access to the "Small Ghetto", blocked off by a barrier, led from Rynek Warszawski to ul Nadrzeczna, whose parallel streets, which originally led to Rynek Warszawski, had been blocked off. In a building, roughly opposite the barrier, there was a guard post, manned by members of the Schutzpolizei. In addition, a detention centre, known as the "jatkan", was set up in a former butcher shop.

In November or December 1942, the individual Jewish work groups were brought back from the factories, near which they had previously been housed and were brought together inside the "Small Ghetto". Accommodation was based on the following criteria: only men were admitted into ul Nadrzeczna (whose eastern side, with the backyards, bordered on the Warta River), women to ul Kozia and only married couples in ul Garncarska. The Jewish policemen were concentrated in ul Kozia. There were also workshops and a laundry there. One hospital was set up on ul Garncarska and another on ul Jaskrowska. The *Judenrat* also had its headquarters on ul Garncarska.

Only skilled workers and their families lived outside the "Small Ghetto". They lived in the aforementioned craftsmen's house at Aleja NMP 14. However, in the spring of 1943, they were also resettled into the "Small Ghetto".

The existing buildings were not sufficient, as decent housing, for the 4,000-5,000 inhabitants of the "Small Ghetto". Every room was overcrowded. The sanitary conditions were completely inadequate.

In accordance with the purpose of the ghetto, which was to be purely regarded as a labour camp, its inhabitants had to report for a work shift and were led to their jobs. Only the respective caretaker, or persons not required to work outside the ghetto, were allowed to remain in the buildings during the day. Nevertheless, a number of Jews, who did not belong to this group of people, remained in the "Small Ghetto" - mainly those who did not have a work card and who had found shelter in the "Small Ghetto", without being registered by the German authorities. Police patrols checked whether anyone was "unauthorised" in the buildings. Numerous acts of violence also occurred during these inspections which, insofar as they are subject to these proceedings, will be discussed later.

At the end of June 1943, the German authorities suspected that weapons had been hidden in some houses on ul Nadrzeczna. During a search carried out, under Degenhardt's leadership, weapons were found, hidden in underground passages, in three or four houses at the northern end of ul Nadrzeczna. As a result, a number of Jews, who were found in the houses concerned, were shot.

The next day, under Degenhardt's direction, a large raid took place in order to eliminate any pockets of resistance and, at the same time, to track down Jews hiding in the "Small Ghetto". To this end, Degenhardt did not allow the work groups to go to their places of work. Instead, he had them line up in front of the ghetto on the Rynek Warszawski, which was then surrounded by guards. He called out to anyone, hiding in the ghetto, to come out and that nothing would happen to them. Thereupon, a number of Jews, among them many women and children, came out. Then, with the help of Jewish policemen, he began investigating those Jews, who were housed on ul Nadrzeczna, by questioning those who stood before him. Those, whom he identified, were shot dead. Others were taken to the cemetery in trucks and, there, were shot by police firing squad.

Other Jews also suffered this fate. They seemed to belong to a group of suspects in the resistance or who could not provide proof that they were properly registered. A group of about twenty children, who were also to be shot in the cemetery, on Degenhardt's orders, were saved from certain death, as will be described later. They were saved due to the intervention of the director of the HASAG works, Lü.. Apart from these children, Degenhardt left Lü. some other Jews, whom he took, with the children, to Pelcery.

This *akcja* which, as such, is no longer part of these proceedings, initiated the evacuation of the entire "Small Ghetto". Its residents were not killed, but were grouped together in work columns and were housed in barracks that had been set up near the respective workplaces. After that, the Jewish police, whose task had ceased to exist when the "Small Ghetto" was liquidated, was also "liquidated". At the end of June and the beginning of July 1943, the "Small Ghetto", with most of its houses having been blown up, looked like a field of ruins.

The Defendant continued working in Częstochowa until after the destruction of the "Small Ghetto". The reason why he was recalled in the autumn of 1943 could not be clarified. Many of the Jews, who remained in Częstochowa, believed that he had been transferred because he allegedly had an affair with his Jewish housemaid Helena Tennenbaum, something of which his superiors had become aware. The witness Izb. also has this view, which was

widespread in Jewish circles. In the trial, with drastic words, Dr. Böttcher had had the Accused removed because he had "cheated on the Führer and had betrayed his wife".

Following the evacuation of the "Small Ghetto", the Jewish work groups were relocated to the industrial plants and remained there until mid-January 1945. When Soviet Army troops approached Częstochowa at about this time, some of the work groups were transferred to concentration camps within the Reich. Russian troops occupied Częstochowa on 17th January 1945 and found about 1,000-2,000 Jews there.

III. The Crimes Alleged Against the Accused

1.) The shooting, on 21st September 1942, at the beginning of the large-scale resettlement, of twenty-five "butchers" in the courtyard of the synagogue on ul Garibaldięo

As already mentioned, the Jewish holiday of Yom Kippur, which fell on 21st September 1942, is a holy day observed with fasting, among other things, which is why it is also known as the "long day". Once it is over, a celebratory meal is held. In 1942, despite all the external adversities, some of the Jewish residents of the "Big Ghetto" also wished to observe this day.

To this end, with the aid of butchers, on the days prior to 20th September 1942, they had slaughtered cattle in houses and had hidden the meat. The Jewish police had been informed about this. As a result, on the night of 20th September 1942, members of the Schutzpolizei searched the houses in which the illegally slaughtered meat was suspected. They confiscated the meat which they found and waited there for it to be collected. The commander of this squad was Oberwachtmeister Kirsch (nothing is known about his later fate).

On 21st September 1942, at around 5:00 am, he ordered that the carter Herscz Le., who was living at ul Nadręczna 74, be woken up and that his horse-drawn cart be harnessed. Supervised by Kirsch, Le. first drove along the bank of the Warta River, behind the houses on ul Nadręczna, up to No. 76. Here, the meat was confiscated. Two or three people, who were suspected of the illegal slaughter, had to follow the vehicle after they had been arrested. This process was repeated in another house on ul Nadręczna and in two apartments on ul Garibaldięo and ul Spadek. When the meat had been collected from the fourth residence, Le.'s cart was followed by eight to twelve arrested Jews, who were followed by the police officers, who had confiscated the meat during the night.

Kirsch directed this train to the Nowy Rynek [New Market Square], where Le., who was following instructions to the Aleja NMP, noticed that the arrested people, marching behind his cart, and the police officers, had disappeared – except for Kirsch. Where they had gone, Le. could not tell. He brought the meat to the police station on ul Jasnogórska and dumped some of it there. The rest, under Kirsch's supervision, he took to the slaughterhouse.

The arrested "butchers" were probably shot in the courtyard of the destroyed synagogue on ul Garibaldięo. The Accused, like other police officers, such as the former Accused Löb. und Jer., was charged with killing these "butchers", who numbered twenty-five. The Defendant

has denied having participated in this shooting. His admission, that he knew nothing about the whole event, cannot be refuted.

Machine worker, Abraham Goldberg, who emigrated to the USA after the war, claims to have been an eyewitness to the incident described and accused the Defendant of taking part in the shooting of the “butchers”. During his sworn interrogation before the German Consul, on 8th November 1960, Goldberg stated the following about this case:

I clearly remember an incident involving twenty-five butchers, who were imprisoned for illegal slaughtering. The prison was on ul Zawalna. One of the butchers was called Berek Naparta. All twenty-five butchers were crammed into a corner of the front of the German Synagogue, on ul Garibaldiego, and were shot there by officers of the Schutzpolizei. Among the police were Jer., Löb., Kirsch und Bartel. Degenhardt supervised the shooting. Unkelbach was there also. Some of the butchers did not die from the shooting. I had to load them all onto a wagon, including those who were not yet dead, and bury them in the mass grave on ul Kawia. Here, too, I saw, with my own eyes, how Degenhardt led the operation and shot the butchers with his own hand.

However, on 16th November 1959, in declaration recorded by the notary public, Mary E. Fallon in New Jersey, Goldberg stated:

Reference: SS. Sch., Jer., Löb. and Kirsch. I also buried twenty-five butchers who were still alive. The SS man wounded them and I was ordered to bury them while they were still alive.

A comparison of these two statements, first shows a contradiction, insofar as the notarial declaration speaks of an SS man (in the original English text “man”), while his sworn interrogation, before the Consul, contains the names of several police officers. There is no information about the time of the incident at all – with the exception of the time of day. Above all, these statements by Goldberg are not able to convince the jury that the Accused participated in the shooting of the twenty-five “butchers. The court was not able to clarify the abovementioned contradiction and could not clarify any further details of what happened, as Goldberg cannot be located.

The testimony of the witness Hercz Le. showed the court to be certain that eight to twelve “butchers” were arrested on 21st September 1942 and that he had heard that they were also to be shot later. However, Hercz Le. could not provide any information about the perpetrator or perpetrators. No other witnesses, who could help to clarify the incident, were available to the court. The former co-Defendants, Löb. and Jer., and Degenhardt’s driver at the time, Unkelbach, who was sentenced to life imprisonment in 1959 by a Hanau jury, for murders committed in Częstochowa in 1942/1943, all testified that they knew nothing about the shooting of the “butchers”.

The Accused is, therefore, acquitted of the charge of having participated in the shooting of the “twenty-five” butchers.

2.) The shooting of seventy-nine-year-old Josef Swi., during the first selection on 22nd September 1942, on ul Krótka, in front of the *Metallurgia*

The then thirty-six-year-old plumber, Marek Swi., and his family were among those who were subject to the orders of the Jewish Police - in the early hours of 22nd September 1942, to leave their homes and to go to ul Krótka. Swi. lived at ul Warszawska 43, in the northern part of the "Big Ghetto", with his wife, who was born in 1910, his frail seventy-nine-year-old father Josef, his seventy-six-year-old mother and his seven-year-old daughter. They left their house as instructed.

With their fellow sufferers, they walked towards ul Krótka. Killed Jews lay on the street, which was lined with armed men in uniform. Swi., supporting his aged, frail father, followed behind his wife, child and mother. Two or three rows behind them was the then nineteen-year-old shoemaker David Her., who was accompanied by his father. While these two, and Marek Swi., had work cards, Swi.'s father did not.

As these people approached "Metallurgia", in the stream of other Jews, a murmur passed through the rows that Degenhardt was standing there, on the street, and was dividing the stream of people. As already stated, this was correct. Since Marek Swi. belonged to the group who had to show their work card, he had to slow down a little. As a result, he lost sight of his mother, wife and daughter, who were being driven on towards ul Wilsona. He never saw them again.

Supporting his father with one hand and holding his work card in the other, he pushed his way to Degenhardt. As he stood in front of him, he looked at the work card and instructed him to go to *Metallurgia*. He pulled Marek Swi. away from his father, so that he, deprived of his son's support, fell to the ground. Before being pushed into *Metallurgia*, Marek Swi, saw Degenhardt draw his pistol and shoot Josef Swi.. Dead, he remained lying on the street, while the selection continued as if nothing had happened.

David Her. watched this incident in horror. Immediately afterwards, when he stood, with his father, in front of Degenhardt, he was also instructed, by him, to go to *Metallurgia*., After his work card had been torn up, on Degenhardt's order, his father was required to join the stream of Jews being herded towards ul Wilsona. His son never heard from him again.

The Defendant's submission, in this case, as in all other cases in which he is Accused, is initially that he never killed a Jew during his entire activity in Częstochowa and that he never gave a single order to kill Jews. The Accused even claimed that, at the time in question, he had not fired any shots from his gun or from anyone else's. The ammunition that he had received for his pistol – he did not own any other weapon, in particular, a machine-gun - was returned completely and without having been replenished beforehand, when he was transferred from Częstochowa.

It is true that Jews were shot in Częstochowa, which he had learned about at the time. In no case did he, himself, take part in such an execution. When he heard that the "Hiwis", i.e., the non-German helpers, had shot Jews at random, he had no doubt that this had actually happened. As he was aware, a human life did not mean much to these "Hiwis" and, for that

reason, they had probably used their weapon, the rifle, ruthlessly. In doing so, they had killed Jewish people, especially during the deportation ordered by Radom and carried out by the SS in Częstochowa.

Because of these events, he had immediately turned to the responsible office in Radom, the SS and Pol. leader. But he was told that he should stay out of it, because it was none of his business. To his chagrin, he was unable to prevent these killings. He felt like a father to the Jews and tried his best to ease their lot. No Jews were shot by police officers under his command, the *Schutzpolizei*, at least none of whom he was aware. When German police officers shot Jews – as happened in 1943, when the Jewish intellectuals from the “Small Ghetto” were shot – the perpetrators were troop police, who did not report to him. His “men” were only to cordon off. Since he had no authority over the troop police, he was also unable to prevent the shooting which they had carried out.

The Accused further stated that the Jewish witnesses, if and to the extent they Accused him, only did so because they did not know the true perpetrators and, therefore, should not be taken into account. In addition, it would be better to see the then leader of the police commando as a Defendant in court, because the effect, on the public, is greater than if you Accused minor, unknown police officers or “Hiwis”.

The hatred of these witnesses was then directed at him, the then Hauptmann of the Schutzpolizei, who was available and about whose murders they had been asked to testify by the public. The statements of all the Jewish witnesses, that he had killed Jews or had them killed, are therefore fantastical. These witnesses would all have lied.

The German witnesses, afraid of involving themselves in proceedings against them, testified cautiously and, therefore, did not clearly exonerate him – as they would have done had they told the full truth. Had they told the full truth in court, they would have had to testify that he had helped the Jews, insofar as much as was in his power.

Even the Jewish doctor, Dr. Bre., testified that he - Degenhardt – had been humane and had saved Jews. After all, none of the German witnesses – with the exception of the director of the HASAG-Works, Lü., - would have reported a single case in which he – the Accused – had shot a Jew or caused such a shooting. How Lü. came to his contrary statement was incomprehensible to him. If he – the Accused – had shot as many Jews as he was Accused of, the German witnesses would not have been unaware of this and they, too, would have reported something about it.

In addition to the general admission, which related to all the cases, the Defendant claims, with regard to the alleged killing of Josef Swi., that this incident could not have happened as stated by witnesses Marek Swi. and David Her.. This was because the selection did not take place in front of *Metallurgia* on ul Krótka, but on the Nowy Rynek. It is certain that members of the SS, from Radom, were present at the selection, which is why the further statement by the two witnesses, that all the Germans wore the same uniform, is not correct.

It may be true that the Defendant turned to Radom [for help], because of the “Hiwis”, whose atrocious acts endangered his order being intensified. This says nothing regarding the

question of whether the Accused shot Jews himself, in individual cases or that he ordered shootings. It may also be true that the Defendant occasionally showed himself humane and helped Jews. For, apart from the fact that no human being is free from contradictions, it would be improbable if the Defendant had used murder and terror against all the Jews, without exception, during the entire time he spent in Częstochowa. The fact that, apart from the witness Lü., none of the other German witnesses testified about shootings carried out or being ordered, by the Accused, does not lead to the conclusion that such incidents did not occur.

Irrespective of the fact that these witnesses did not report any case of a shooting of Jews by other members of the Schutzpolizei, although the court is certain that at least police officers Unkelbach und Jer., who belonged to the commando, shot Jews, they did not even have to deliberately conceal anything if they do not incriminate the Accused in a specific case. It cannot be ruled out that they were not present when the Accused committed the crimes and also did not hear anything about them.

So many terrible things occurred at that time. The lives of Jews meant nothing and details of these terrible events were lost. Many Germans in Częstochowa - in the correct knowledge that enormous crimes were committed against the Jews - closed their eyes to them, as much as possible, and were reluctant to talk about these things. So that it is also possible that the German eyewitnesses were silent about Degenhardt's acts of violence, at the time, and that the few German witnesses, who are still alive and heard by the jury, actually know nothing of any specific case of a killing committed or caused by the Accused.

However, the court is convinced that Unkelbach should have known something about some cases that are still to be described. The Accused's former driver, who was sentenced to life imprisonment for murdering Jews in Częstochowa, lied when he claimed not to know anything about any specific case of a shooting carried out by Degenhardt and merely admitted that "something like this was probably possible and that such cases had occurred".

The reticence with which the testimonies of the witnesses Scho. und Bu., who were members of the police command at the time, are to be evaluated, is clarified by their statements. They estimated the number of Jews, living in Częstochowa in 1942, at around 2,000, of whom 500 to 1,000 could have been selected. In view of the actual figures of 40,000-50,000 Jews, of whom 36,000 to 45,000 were sent to Treblinka during the large-scale resettlements alone, the suspicion then arises that these two witnesses ignored reality to an unimaginable extent - or that they do so today.

As far as the Defendant claims that other people - "Hiwis" and members of the troop police and the SS - shot Jews in Częstochowa, that is correct. Under the conditions of the time, murders of Jews were commonplace. As already mentioned, the lives of Jews counted for nothing. They were to be eradicated. However, it is not the task of the court to clarify and understand such incidents. All that needs to be verified is whether the Defendant's admission, that he did not shoot any Jews, or gave orders to that effect, deserves credence,

According to the result of hearing of the evidence, this admission is untrue.

Already, in appraising the case concerning the shooting of Josef Swi., it seems necessary to discuss the circumstances that played a role in all of the cases with which the Defendant is Accused and which, therefore, had to be taken into account in the evaluation of all the statements. The jury is aware of the difficulties that the present criminal trial presents, more than other trials, in establishing the facts. It, therefore, checked every witness statement.

The first thing to keep in mind is that the incidents, reported by the witnesses, occurred more than twenty years ago. In addition to considering that human memory and the ability to remember can be defective, there is also the fact that the Jewish witnesses all had a difficult and chequered fate. In Częstochowa, they went through a period of suffering that can hardly be described. For them, it was about saving their lives and avoiding the death which they faced. They were thus so preoccupied with their personal destiny, that they might not have paid attention to, or remember, incidents which did not directly affect them or that were ultimately immaterial incidents.

These considerations can go in favour of the Accused – namely that the witnesses' powers of observation were too poor to base a conviction upon their testimonies. But they can also be evaluated in the sense that the witnesses are only unable to reproduce details, because they did not perceive such events at all or only perceived them as insignificant side effects, which faded behind the essential event that the Accused was involved in the shooting of Jews. Finally, there is no ignoring the fact that the Jewish witnesses, almost all of whom lost relatives as a result of the persecution measures, could have wrongly Accused the Defendant, who represented their persecutors at the time, out of bias, or even deliberately made false testimonies out of hatred.

The court also did not ignore the fact that these witnesses may have talked about their terrible experiences with other sufferers from Częstochowa, or from other areas from the past, and may have heard from newspapers, radio, films and other relevant reports from trials, about the persecution of Jews. So, their own experiences, and those of others, may have mixed in their imagination. The Accused's reference to the fact that the world press was calling out Hauptmann Degenhardt, who was believed to be dead and is still alive, that a case had been brought against him and that people, who could testify about "this murderer" would like to come forward, has not remained unnoticed. This contains the possibility, albeit unintentionally, that the testimonies of the witnesses have been steered in a certain – wrong - direction.

In this context, it was therefore necessary to check, in all individual cases, as to whether the incident actually occurred as such, and whether the perpetrator was not the Accused, i.e., whether the witnesses were wrong about who was the perpetrator.

As has already been pointed out, the jury took all these circumstances into account in each individual case. In all cases, in which the aforementioned circumstances justify doubt as to the credibility or memory of the witnesses, no finding of guilt was made and the Accused was acquitted. This will be explained in further individual cases

Insofar as the Accused has been convicted, these circumstances should not be repeated, point by point, in order to avoid repetition. However, the jury examined all of this in these cases

and came to the conclusion that the witnesses had no reservations about the veracity of their testimonies. With regard to the possibility that the Accused was mistaken for the true perpetrator, at this point, it should be stated, just in case, that such a confusion with Oberleutnant Frankowski, the Accused's temporary deputy in Częstochowa, did not occur in the case of any witness. The Defendant, himself, did not claim that he was mistaken for Frankowski.

However, the jury, of its own accord, had reason to pursue this question. Without exception, the Jewish witnesses stated that an unmistakable identifying feature of Degenhardt was the scar or "scratch" on his face. In fact, the Accused had, which he does not deny and which is confirmed by photographs of him at the time, a deep scar on his cheek, which is still visible today. In addition, the witnesses Aron and Frieda Bir., David Go. and Moses Glü. stated that Degenhardt wore white gloves during the selections that they witnessed.

The Defendant, on the other hand, claims that he only owned grey gloves – that only Frankowski had white gloves. Furthermore, the witness Wer. testified that, as far as he could remember, Frankowski had a scar on his face – but that he could not remember for certain. The jury is convinced that Frankowski had no scar on his face. Apart from Wer., neither the Accused nor any of the German police officers, who were questioned as witnesses, claimed this. As a result, they all agreed, including Wer., that Frankowski was hardly visible to the outside world and was rather occupied with administrative matters.

As far as white gloves are concerned, none of the German police officers, questioned as witnesses, claim to have seen the Accused wearing such gloves. However, this does not rule out the possibility that Degenhardt wore white gloves on the days when the Jewish witnesses saw him. It is conceivable that he requested them from others (SS leaders or Frankowski) on those days.

The court is convinced that Degenhardt occasionally wore white gloves and that the statements about this are correct. So that there was no confusion with Frankowski. Incidentally, the Defendant could hardly be confused with Frankowski. Apart from the fact that Frankowski, as stated, worked in the office, he was slim and tall. He bore no resemblance to the Accused, who is 1.65 metres tall and is stocky. The Defendant has also admitted this.

In the present case, too, the jury has no qualms about following the statements of the witnesses Her. and Swi.. Although Swi. lost his father to the Defendant, he did not feel hatred. This is convincingly expressed in the words of this witness:

Today, he (i.e., the Accused) is an old man. Back then, he was strong. You cannot imagine what he was doing back then. Now, I even feel sorry for him. Back then, he called us 'Jewish good-for-nothings' and 'cripples'. Now, he sits there so helpless.

It is also certain that the first selection took place in front of *Metallurgia* on ul Krótka. It is true that, in the morning of 22nd September 1942, it moved to the Nowy Rynek. The northern part of the "Big Ghetto", which also contained a section of ul Garibaldiego that had been cleared the day before and was intended for the establishment of storage rooms, was the first to be cleared. Ul Krótka, which is adjacent to the north and has the spacious *Metallurgia*

factory premises, was therefore the most suitable place to begin the division of the columns, whose members had been driven out of the residential areas around ul Krótka and ul Garibaldiiego.

The veracity of this statement results from, not only the credible descriptions of the two abovementioned and many other Jewish witnesses, namely David Go., Abraham Jur. and David Le., but also from the testimony of the co-Accused Löb., who explained that, during the first selection, he had been on duty at the corner of ul Krótka and ul Wilsona, from where the flow of those driven past was directed south towards the railway station. Only when it turned out that the available wagons at the station were not yet full, although the northern part of the "Big Ghetto" had already been cleared, did the streets further south, in the area of the Nowy Rynek, have their turn.

As has already been established, other Jews were "on call" here. However, it was not clear when the selection on ul Krótka began. However, this lack of clarity provides no reason to doubt the portrayal by the two witnesses. The time at which the event took place was of no importance to any of the witnesses questioned at the time, least of all to the Jews, who feared for their lives. It is unreasonable to ask them - as the Defendant has repeatedly done - to be able to state the exact time. Because, aside from the fact that their watches had already been taken from them, you have to put yourself back in their shoes, their fear and the chaotic inferno which accompanied the selections.

Alongside these impressions, trivial matters such as the exact time or the question of whether the Accused was standing in front of *Metallurgia* - in the middle of the street or near the factory gate, faded. The same applies to the appearance of the uniforms. The witnesses' attention was not directed to such things, but only to the Accused himself and his instructions, which were decisive to their fate and the fate of their relatives.

The Defendant's further objection, that the two witnesses had conspired against him, is unfounded. This is because the statements of the witnesses are not coordinated, as can be seen from the fact that David Her. stated that he did not know who had killed Swi.. If their statements had been coordinated, Her. would probably have confirmed this as well.

The two witnesses also did not succumb to error regarding the personage of the Accused. It is true that he was only known to them by name - until the selection. But that "Degenhardt" was the one who divided up the crowd of people in front of *Metallurgia*, amongst whom were the two witnesses, they had been told by fellow sufferers, who were close by and who already knew him personally. They eyed this man and his features, remembering that he had a scar on his face. In the months that followed, they saw this man repeatedly, now known to them as Degenhardt, on his inspection rounds or on other occasions and recognised him as the perpetrator.

Both of them correctly recognised the features they saw when they were presented with photographs, showing the Accused and other police officers, during the course of the investigation in 1961. They correctly noted that the picture of the Accused presented to them, was taken some time before September 1942, and also noted that it must have been

retouched, because the scar was not visible. In the main hearing, too, both witnesses recognised the Accused as the perpetrator, beyond any doubt.

According to this, the jury is certain that, on 22nd September 1942, the Accused killed the seventy-nine-year-old Jew Josef Swi.

The Accused knew that he was firing a fatal shot, which is what he wanted it to be. So, he acted intentionally. This intentional killing (Section 212 Of the Criminal Code) is presented as murder (Section 211 Abs.2 Of the Criminal Code), because the actions of the Accused were motivated by base motives.

As examples of base motives for murder, the law cites greed and gratification of the sex drive, but, a murderer is also someone who kills "otherwise for base reasons". The motives of the perpetrator are low, if his actions were determined by ideas which are contemptible according to healthy emotions. The standard for determining "low" is formed by the generally recognised moral requirements. Beyond the examples listed in the law, political motivations for killing may also be considered as low. Killing people, simply because of their race, is killing "for base motives", namely political and racial intolerance and hubris.

Motive, within the meaning of Section 211 Of the Criminal Code, is not synonymous with intention. While this refers to the will of the perpetrator directly aimed towards the action specified in the law, motives are to be understood as those ideas which, in the individual case, decisively influenced the perpetrator's exercise of the will leading to the crime. Such motives need not be the subject of lengthy reflection. It is sufficient if the perpetrator is aware of them in the act.

The Accused, Degenhardt, shot the seventy-nine-year-old Josef Swi. for such base motives. He had to die solely because he was a Jew - in the Defendant's opinion - who had unduly disturbed order during the selection and because the Defendant assumed that such Jews should be exterminated as "vermin". The extermination of these Jews was determined by the thought that every Jew was a "subhuman" because of his race, who had absolutely no right to exist.

This idea was so clearly expressed in the manner in which the persecution of Jews took place and the way in which the Accused witnessed it in Częstochowa. He recognised the reprehensible content of this attitude, which despises human dignity and human life, and made the motives, considered base, his own. During his work in Częstochowa, he clearly expressed his inner attitude, which is incompatible with the moral code.

As the witness Izb. explained under No.17, he used the words "Let go of the whore!", when ordering him to let go of his heavily pregnant wife. After the shooting of five Jews, described under No.21, he ordered the transport of the dead with the order, "Take the dirt to Kaviastrasse!". He ordered the shooting of the Jewish steward Rechnitz (Case No.22) with the words, "Shoot the dog!". He described the group of Jews, whose fate is the subject of explanations given under No.15, as a "shitty parade". When the witness Fis. witnessed a division of Jewish work details, which was carried by one of his subordinates and a HASAG

member, he intervened with the words, "What's going on here? Who has anything to say here? I have command of this shit here!".

These examples of the Defendant's expressions towards the Jews, added to his power, make it clear that, for him, they were not human, but subhuman".

At the moment of the act, the Accused was aware of the motives and goals that mark the act as murder, i.e., he knew the circumstances were rated as "low".

This killing, as committed by the Defendant, was unlawful. The Accused had not received an order to shoot, on the spot, specific Jews who, like Swi., disturbed the speed of the march, as the result of physical ailments or – what is important in other cases – order during a selection. "Disturbed" can be defined as that they did not immediately join the group destined for deportation, according to instructions given to them, or that they remained hidden and were discovered.

The Defendant neither became involved nor did a witness testify to this. However, even if such as order, or even just a corresponding instruction, had existed and been known to the Accused, he could not use it to justify the killing of Jews. Such an order, intended to commit a crime, would have been manifestly unlawful.

The legal system only allows a person to kill another in certain, exceptional circumstances. Official decrees that, contra to the legal system, consciously deny the idea of equality and deny the legal convictions of the value and dignity of every human being – that are common to all civilised people, do not create justice. They remain wrong.

Orders to kill people, who are not "Accused" of anything other than disturbing order, would have been unlawful, regardless of who had issued the order. In addition, the death penalty was threatened for such an "insubordination" would have been grossly disproportionate to the "injustice" of such behaviour, which could not be overlooked. So, for this reason, that killing would also have been unlawful. The Defendant, a man of good comprehension, who had lived a righteous life up to that crime, would not have overlooked all of this.

Finally, the actions of the Accused cannot be excused from the viewpoint of an emergency. Being excused, based on a state of necessity, presupposes that the perpetrator had been forced to act due to a present, impending danger to life or limb, i.e., that his will had been influenced by the awareness of such a danger.

In order to be able to successfully invoke an emergency order, the perpetrator must have carried out the order only because its execution seemed, to him, the only way out of a real or perceived danger to life or limb. Anyone, who carries out an order out of misunderstood obedience or out of duty of allegiance, or who does so because blind obedience makes no attempt to circumvent the order, cannot invoke an emergency of order. When the Accused shot Josef Swi., objectively, there was no emergency.

The Accused was not in a situation, whose external circumstances inevitably contained a risk as explained above. Notwithstanding the presence of Dr. Böttcher and his staff, the master of events and the giver of orders, he was not the receiver of orders. The Defendant, also, did not

believe that there was a danger to himself. He never considered whether anything else could happen if he did not shoot Swi., let alone thing that, if he did think that if he did not kill Swi., he might be exposed to a threat to his life or limb.

The consideration, in this context, that may have been made is that the Accused could have received a reprimand from one of his superiors, who was watching the selection – if and because the selection did not proceed quickly. This is why he had acted particularly “energetically”.

The Accused made and carried out the decision to kill Swi. of his own free will. Nothing, he knew, could have prevented him from ignoring the old man and or handing him over to others. He shot Swi. because he saw this Jew as a useless creature.

The Accused is, therefore, guilty of the murder of Josef Swi.. He is also to be punished as a perpetrator. For he did not act as an accomplice to those who planned and carried out the annihilation of the Jews. He did not want to support the crimes committed by others, but wanted and committed this shooting as a crime of his own.

3.) The shooting of Juda Zelwer, with his wife and child, during the first selection, on 22nd September 1942, on ul Krótka, in front of the “Metallurgia”

In September 1942, the married couple, Samuel and Ewa Go., lived at ul Garibaldiego 26, a winery, together with their children, two sons-in-law and a grandchild. Supporting his father in the business was his son, Dawid, now forty-six-years-old, working as a clerk and living in Brooklyn. One of Samuel’s older sisters, Mania, was married to Janek Silberstein – they had no children, The other, Fryma, was married to Juda Zelwer. At the time, they had a child, who was only a few months old.

This household, as listed above - with the exception of the Silbersteins, who were employed in the Jewish ritual bath (*Mikvah*) - went, with other Jews, on the morning of 22nd September 1942, during the first selection, along ul Krótka to “Metallurgia”. There stood Degenhardt who, with his riding crop, “directed” the stream of passing Jews. At the time, an SS officer stood next to Degenhardt, watching the selection.

David Go. walked a few paces behind the others. Go. lost sight of his parents, when he stopped in front of Degenhardt - he never saw them again. Without stopping, they had been driven on to ul Wilsona, while he and the Zelwer family had been stopped to check their work cards. David Go. stayed behind his brother-in-law, Juda Zelwer, who showed Degenhardt his word card. Next to Zelwer was his wife, carrying their child in her arms.

Regardless of family ties, Degenhardt determined that Mrs. Zelwer should continue, with her child, towards ul Wilsona, while he indicated that Juda Zelwer was “fit for work” and should go to “Metallurgia”. However, they did not wish to be separated, but tried, together, to reach the safety of “Metallurgia”. Juda Zelwer wanted to take the child from his wife. Degenhardt saw this. He took out his pistol and shot dead Zelwer, his wife and the young child – in front of Dawid Go.. The Zelwer couple and the child fell to the ground dead. David Go. was then

ordered, by Degenhardt, to “Metallurgia” and was later assigned to a transport commando in HASAG-Pelcery.

In this case, too, the Defendant explained that what the witness Dawid Go. had said was wrong, if only because that the first selection, on 22nd September 1942, did not take place in front of “Metallurgia”, but at the Nowy Rynek. The court has no doubt that the witness Go. accurately recounted the incident, which he had witnessed, and that the Accused was the perpetrator.

It has already been established that the selection, on 22nd September 1942, began in front of “Metallurgia”. His recollection of the perpetrator, namely the Accused, is reliable. He had already seen Degenhardt, before 22nd September 1942, in the “Big Ghetto”. His facial features, which are memorable due to the scar on his face, were familiar to him. He knew that the man, with these facial features, was Hauptmann Degenhardt, the leader of the Schutzpolizei. When he approached “Metallurgia”, during the selection, he immediately recognised Degenhardt, who was standing there and “conducting”. The witness’s full attention was focussed on this man, when the bloody deed, committed by him, took place. A mistake by the witness is ruled out.

It is now established that the Defendant killed Juda Zelwer, his wife and child, with shots from his pistol. Each of these killings constitutes an independent act (Section 74 of the Criminal Code), because the Accused aimed and pulled the trigger, anew, each time. They present themselves as murders, because the Accused’s actions were founded on “base motives”, as has already been established in Case No.2. The insubordination of the Zelwer family, that they wished to remain together and save their lives, prompted him to shoot them.

It was clear to him that people who, as he knew, had nothing else in mind other than to avoid the terrible fate intended for them, could not simply be shot. He did it anyway, because they were Jews, whose lives were not important to him.

As in Case No.2, there are no grounds for justification or an emergency, even if only an alleged one, here. In this respect, reference is made to the discussion there.

The Accused is, therefore, to be punished for three counts of murder.

4.) The shooting of Jentla Jur., on ul Krótka, in front of “Metallurgia”, during the first selection on 22nd September 1942

When the selections began in Częstochowa, the now sixty-three-year-old tailor, Abram Jur., lived with his family – namely his wife Jentla, *nee* Cud., who was circa forty-two-years-old at the time, and his twelve-year-old-daughter Bronia. They lived at ul Warszawska 60, approximately opposite the fork of ul Kawia and ul Kiedrzyńska. At that time, he ran a scrap metal business.

In the early morning hours of 22nd September 1942, when he heard the Jewish policemen’s request that all the Jews, living in the house, should come to ul Krótka carrying only hand

luggage, he packed bundles, containing everyday necessities, for himself and his family and put them in a sack. Then, shortly before seven o'clock, he went out onto the street with his wife and daughter, carrying the sack on his back.

While they were walking, with other Jews, along ul Warszawska in the direction of ul Krótka, they saw Esther Charchort, Mrs Jur.'s aunt, lying on the street. She had obviously been shot. Mrs Jur., completely disturbed by this sight, feared the worst for herself and her family. Unsteadily, she walked with her husband and daughter, but collapsed at the beginning of ul Krótka. Her husband let her sit on the side of the road and wait there with their daughter and luggage. He, himself, continued along ul Krótka, towards "Metallurgia" to find out what was happening there.

He noticed that the flow of Jews was backing up in front of the factory gate. When he got closer to "Metallurgia", he saw the Defendant Degenhardt, whom he had known for a long time. [Degenhardt] was standing there, in the midst of other police officers and SS leaders whom he did not know. In the manner already described, Degenhardt directed a small number of Jews into "Metallurgia" and let the far greater number proceed in the direction of ul Wilsona. Those around him were watching what was happening.

Jur. became very agitated when he saw the picture in front of him. He returned to his wife and daughter, but saw no way to get his family and himself to safety, because of the cordons lining the street. So, they joined the crowd of Jews hurrying towards "Metallurgia". When they reached Degenhardt, Mrs Jur. approached him and asked for mercy. Without a word of reply, he drew his pistol and shot her. She collapsed dead.

Abram Jur. was now completely out of his mind. In the midst of the crowd, who were being driven towards ul Wilsona with shouts of "Run! Run!" and beatings from the uniformed men lining the street, he was pushed along with them. In this crowd of panic-stricken Jews, he also lost sight of his daughter. He never saw her again. On the following night, he managed to escape from the train heading to Treblinka. He later returned to Częstochowa, where he was able to join a Jewish labour column.

In this case, too, the Defendant's statement is that he could not have been the perpetrator, because the first selection did not take place on ul Krótka. In addition, the witness, himself, said earlier (this refers to an interrogation of the witness on 30th January 1961 in Paris) that an "SS man" had led the selection.

This submission, by the Defendant, is incorrect. As already mentioned, the first selection began on ul Krótka and was led by the Accused, who was standing in front of "Metallurgia". The transcript of the earlier testimony, referred to by the Defendant, does not refer to an "SS man, in general, but specifically to "SS man Degenhardt".

If it is also taken into account that the Defendant was not likely to have worn his SS uniform while on duty as a police officer, so that he hardly appeared to the witness as an "SS man" during the incident which he described, this shakes the credibility of his statement. Because the witness credibly explained, in the main hearing, that he did not exactly know the individual differences between the respective uniforms and, therefore, did not distinguish

between SS men and police officers. In his view, the SS had planned these crimes and, therefore, like many other Jews, he referred to the Germans, involved in these crimes, simply as "SS men".

Moreover, the witness did not let his testimony be guided by prejudice against Germans *per se*. This is because he pointed out, with impressive seriousness, that he had not come to the main hearing to describe all the Germans, whom he met in Częstochowa, as murderers. He emphasised this by mentioning his work group leader in HASAG – the "man" Milow, who had done nothing but his duty and who, like Werkschutzleiter Pfeiffer, was a decent man.

This witness did not even, uncritically, accuse the Defendant. This is because he – the witness – did not hold him responsible for the fact that he had lost his daughter during the selection led by the Accused. He stated that Degenhardt had to carry out this selection on orders from his superiors.

In the end, this credible witness was not wrong about the identity of the perpetrator. He had known the Defendant since the early summer of 1942. When he was shown him, with the warning call "Achtung, der Hauptmann", he noticed the scar on his face, which made an impression on him – because of that feature. The witness saw this Hauptmann Degenhardt on 22nd September 1942, leading the selection and had to watch, at close range, how he had shot Jentla Jur.. He saw him again later and recognised him as the culprit.

This Jewish woman, who was killed by the Defendant, also had to die because she was a Jew who, in his opinion, was unduly disturbing order and he believed that such Jews should be exterminated like vermin. Therefore, the Accused shot her for base motives. As explained in detail in Case No.2., this act was unlawful and inexcusable. What has been stated about the previous cases also applies here.

Therefore, the Defendant is guilty of the murder of Jentla Jur..

5.) The shooting of an unknown Jewish woman, on ul Krótka, in front of "Metallurgia", during the first selection on 22nd September 1942.

Until September 1942, the now fifty-seven-year-old tailors, Jakob Fis., having a special permit, worked in a metalworking workshop outside the ghetto. He lived with his wife, who did not have a work card, and his eight-year-old son. They lived at ul Krótka 44, the second house from the left, as seen from ul Wilsona.

When the Jewish police announced that, in this part of ul Krótka, in the morning hours of 22nd September 1942, Jews who possessed a work card should go to "Metallurgia" and that the others should go to ul Wilsona, Fis. hid his wife and child in a pre-prepared hiding place. He then went to "Metallurgia" at 7:00 am. Even before he reached it, he saw, lying on the street, two Jewish women who had been shot dead.

In front of "Metallurgia", he joined the crowd waiting there and, together with them, approached the defendant, who was standing in front of the "Metallurgia" gate, together

with other uniformed Germans. An unknown couple walked about five metres in front of Fis.. Both of the pair had a work card. Nevertheless, the woman was to be separated from the man. Her work card was torn up and a uniformed man, standing on the side of the road, drove her forward. Meanwhile, the man, as directed by Degenhardt, was pushed through the "Metallurgia" gate.

The woman wanted to follow her husband. Degenhardt noticed this and instructed the woman to go to the gate of the hospital, next to the gate of "Metallurgia". The woman, in doing this, walked on, turning her back to Degenhardt. He drew his pistol, as she passed him, and killed the woman with a shot fired at close range. The woman's body remained in front of the hospital gate.

Fis. saw all this. Later, he found the woman's torn work card in front of "Metallurgia" He came to HASAG-Pelcry on the afternoon of 22nd September 1942. He never heard from his wife and child again.

Repeating the, already refuted, assertion that the first selection did not take place in front of "Metallurgia", the Accused submitted that, in this case, the testimony of the witness had no probative value. This was because he [the witness] had stated that the police officers, who had been deployed in Częstochowa, and he also, always wore a skull and crossbones on their caps. Since that was wrong, he could not have been the perpetrator. In addition, it was completely strange that, whenever he allegedly shot someone, he was allegedly alone.

The court has no doubts regarding the veracity of Fis.'s statements. It is true that the witness stated that the police officers, including Degenhardt, always had skulls on their caps. However, during the main hearing, when the witness was presented with photographs from that time, in which police officers were shown wearing caps, he admitted the possibility that he had made a mistake.

Such an error is understandable and does not affect the reliability of this witness. As has already be stated, the attention of the Jews, during their period of suffering in Częstochowa, was not so much directed to the details of uniforms, but on the personal appearance of those who threatened them with danger. The face of the police officer, who conducted the selection and who shot the woman in front of Fis.'s eyes, was, as Fis. remembered, marked by "a scratch" and was that of the Accused, whose name the witness still remembered, while he approached him.

The witness also did not eliminate other police officers as witnesses to the incident. He did not claim that Degenhardt was alone in the selection, expressly stressing that he was in the midst of other Germans in uniform. If the witness was not in a position to name the other people in uniform, who were involved in the selection, that says nothing against his reliability. As he has credibly testified, he did not know any of them, let alone memorise the names of "minor characters", because he did not expect to be asked about them at the time.

How balanced and well-considered the witness's testimony is, in its entirety, is finally made clear by the fact that, when it was put to him, in the main hearing, that he had seen "many"

corpses on his way to “Metallurgia”, he did not give the obvious answer of “yes”, but stressed that he had seen no corpses apart from the two dead women he had seen.

The motive behind the Accused killing the woman, whose name has remained unknown, was, as in the previously described cases, a base one. He killed the Jewish woman because she did not obey his order to join the line of Jews destined to be gassed. She thereby disturbed order and he believed that those Jews, whose lives were worthless, should simply be “killed”. What has also been stated, regarding the legal assessment of Case No.2, also applies to this case.

The Accused is, therefore, also guilty of murder.

6. & 7.) The shooting of a small child and a man, during the first selection on 22nd September 1942, on ul Krótka, in front of and in “Metallurgia”.

Dawid Le., then twenty-one-years-old and living with his parents and siblings at ul Nadrzeczna 74, was one of the men singled out, as fit for work, in the first selection. With the exception of his brother, his other family members were victims of the persecution.

In the preliminary proceedings, Le. described that, during the first selection, in front of “Metallurgia”, the Accused had lifted a small child with one hand and had shot it, using a pistol held in the other hand. In the afternoon of 22nd September 1942, the Accused killed a Jewish man in the “Metallurgia” courtyard, by shooting him with a pistol.

Based on this information, the Defendant has been charged with murder in both cases.

However, the result of the taking of evidence, is not sufficient for a conviction in this respect. In the main hearing, Le. described the general events, in front of “Metallurgia”, in the same manner as did other witnesses. But he initially said nothing about the shooting which he witnessed on that day. Following his earlier testimony, Le. also stated that he knew that he had said that before, However, in court, he was not in a position to, again, reproduce the incidents in detail.

In this situation, the jury could not determine the facts of the case in detail and could not prove, beyond doubt, that the Accused was the perpetrator.

The Accused was subsequently acquitted of the charges of having shot the small child and the Jewish man.

8.) The shooting of Bella Horowicz, née Konopińska, during the first selection, on ul Krótka, in front of “Metallurgia”

On the morning of 22nd September 1942, the witness Frieda Bir. was with her sister, Bella Horowicz and her sister-in-law. Her husband Aron was out in his horse-drawn cart, in a group marching past Degenhardt in front of “Metallurgia”.

He directed Mrs Bir., who had a work card, to “Metallurgia”, while the other two women were to continue in the direction of ul Wilsona. Bella Horowicz wanted to follow her sister. But she was pushed back, into the marching column, by a man in uniform. Now, she endeavoured to try again, to swing into the direction of “Metallurgia”. Frieda Bir., who had witnessed this, suddenly saw, with horror, that Degenhardt had drawn his pistol and shot Bella Horowicz, who fell dead. Stunned, Frieda Bir. wanted to go to her sister. She refrained from doing so after someone shouted at her, “Stop! You’ll be shot too!”. She was then pushed into “Metallurgia” and, later, was assigned to a detachment in the furniture warehouse on ul Wilsona.

In this case, the Accused stated that the testimony of the witness was contradictory and unclear. This was because the witness had initially said that she had not known him at the time of the selection, although she later claimed that he was the perpetrator.

However, the witness’s account is neither contradictory nor unclear. The decisive factor is not whether the witness had already seen the Accused before the incident had occurred, but whether she correctly recognised the perpetrator as being the Accused. The court is convinced of this.

The witness testified that she was very concerned about her sister and, from a short distance, observed the action of the police officer, who was dressed in a green uniform and who was pointing his riding crop back and forth. His face was imprinted on her memory. Sometime later, when he was accompanied by Lieutenant Rohn (who died in 1960) on a visit to her workplace, namely the furniture warehouse on ul Wilsona, she found out that the police officer, who had shot her sister, was called Degenhardt.

She recognised the perpetrator as this man, who was now correctly identified by name and later saw him, on various occasions, in the “Small Ghetto”. Her memory of Degenhardt is also particularly vivid, because he had hit the witness during an inspection of the work details, which had been brought back to the “Small Ghetto” for the “unauthorised” possession of bread.

The court is convinced of the credibility and reliability of the witness Bir.. It is, therefore, clear, that the Defendant killed the witness’ sister. This was also the killing of a Jewish woman in whose behaviour the Defendant saw as rebelliousness. The legal assessment, of which the considerations were already given in Case No.2, apply here also.

Therefore, he is also guilty of murder.

9.) The shooting of an elderly Jewish woman, on 22nd September 1942, on ul Warszawska

The southern part of ul Nadrzeczna, between ul Mirowska and ul Strażacka, was not yet affected by the first selection held on 22nd September 1942. Joel Sil., who was then twenty-five-years-old and unmarried, with his parents, lived at ul Nadrzeczna 13, opposite a former school on the Warta River side, in which the *Judenrat* had set up an office.

Sil., whose father was hiding at his place of work, on 22nd September 1942, was standing by the gate of his house at around 10:00am or 11:00am, to find out more about what had happened. Around this time, an unknown police officer came down the street, where some other Jews were staying and asked for a mechanic, who could open the locked door to the office of the *Judenrat*. Sil. responded.

He was given the task of getting together about ten people to carry typewriters from the *Judenrat* office to "Metallurgia". When Sil. had found enough people, on the instructions of the police officer, he broke the lock on the office door and, with the others, took out the typewriters. Led by the police officer, the Jews went along ul Mirowska to ul Krótka.

Ul Warszawska was already "*judenrein*" ["free of Jews"]. However, from there, Sil. still heard shots. On ul Krótka, there were many uniformed people whom Sil. did not know. The actual selection was over here. The many Jews, who were to be registered and assigned to work, were waiting of the courtyard of "Metallurgia".

After Sil. and his companions had delivered the typewriters to the "Metallurgia" office, the commando leader told them to stay there. However, Sil. asked to go back to his mother. He was permitted to do so, after the detail leader spoke to one of his superiors. Accordingly, under the supervision of a Polish policeman, he returned down ul Krótka and turned south onto ul Warszawska. Along the way, he exchanged a few words with the Polish policeman, until he suddenly warned that Degenhardt was coming. It was like this. Degenhardt approached the two and asked what was going on here. Since the Polish policeman did not speak German, Sil. explained the situation to Degenhardt.

Meanwhile, a Jewish marshal, with an elderly Jewish woman, came out onto the street from the courtyard of the house, in front of where the conversation was taking place. In this yard, through the open gate, Sil. saw German police officers looking for hidden Jews. When Degenhardt saw the accompanied Jewish woman coming out, he turned away, from Sil., to the woman and told her to go on. She replied, "Where to?", whereupon Degenhardt replied, "Forward!".

The woman now walked, diagonally across the street, to the other side, feeling like a blind woman, with her hands full of emptiness. Degenhardt then gave a sign to a security guard, who was carrying a rifle and was standing about eight or ten metres away, to shoot the woman, He correctly interpreted the sign and shot the woman, hitting her so that she staggered a few steps further and then fell to her knees about halfway down the street. The shot had not been fatal. Degenhardt noticed this and, with a derogatory gesture, showed the guard his displeasure at the "bad" shot. He then approached the Jewish woman and, with his pistol, shot her in the head.

Sil. witnessed this incident from about seven metres away. He watched as the woman's body was thrown onto a hearse. After killing the Jewish woman, Degenhardt continued his conversation with Sil. and permitted him to continue on his way. The Polish policeman handed Sil. over to a guard, standing by the road, and then turned back. At his signal, another security guard, who was blocking ul Mirowska, let Sil. through to ul Nadrzeczna.

The Defendant asserted that Sil.'s account, given in the main hearing, was inaccurate and had contradicted his previous statements. The witness' claim, that the door to the office of the *Judenrat* was locked, was false. This was because the SS and police leader had ordered that no door should be kept locked during the selection. Contradictions do exist in that Sil. had previously said that the security guard had shot the woman with a revolver and that the Accused had grabbed the collapsed woman and had turned her around. However, the witness now stated in court that the security guard had shot her with a rifle and that Degenhardt had not touched the woman. These differences make the witness unreliable.

The court has no doubts about the reliable memory of the witness Sil. in the decisive point. An error about the identity of the perpetrator is ruled out. Sil. knew Degenhardt very well.

As to the Defendant's objection that the door was locked, it seems doubtful as to whether the SS and police leader would even have bothered with such trifles. But, even if that were the case, that does not mean that the order was known and was followed everywhere. Sil.'s testimony has convinced the court that the door was locked.

The contradiction, regarding the weapon used by the guard, is only an apparent one. In the original of the transcript of the relevant police questioning of the witness, held on 28th February 1960, which was written in *Ivrit* (Modern Hebrew), the word "*roveh*" is used to designate the weapon used by the guard. This would have been translated as "rifle" and not a revolver, as it happened. In this context, Sil. only spoke of a revolver ("*ekdah*") with regard to the weapon used by the Accused. Already, in the translation of his judicial questioning, before a justice of the peace in Tel Aviv, on 27th January 1961, it correctly states "rifle".

All that remains of the Defendant's objections is that Sil.'s statement, on the question of whether Degenhardt had touched the woman, is not consistent. However, this is not essential. According to the personal impression that the court has gained from the witness Sil., he is credible. He testified in a balanced and cautious manner and only incriminated the Defendant if he had seen him, personally, during the incident in question.

In other cases, he has always stressed that he had heard something from a third party, but was unable to say anything from his own personal experience. The fact that he had previously said something different on the abovementioned minor point than in the main hearing, speaks more for the witness than against. This is because he could have easily met the criticism, that he had not always said the same thing, in every detail, by calling his earlier statement correct and his current statement, on this point, a mistake. He did not do that consciously.

That he is not prejudiced against every German, with whom he had dealings in Częstochowa at the time, can be seen from the fact that he thanked the police officer Marbach-Jaschinski and Director Lü. and referred to them as decent men.

The killing of this woman, who had disobeyed orders to leave her home, must be classified as murder. In this case, too, the legal requirements have been met, as already explained in Case No.2 – reference is made to them.

In this case, the Accused is, therefore, also guilty of murder.

10.) The shooting of a Jewish woman, on 22nd September 1942, on ul Garibaldięo

In 1940, the now sixty-two-year-old merchant, Aron Bir., moved from Sosnowiec to Częstochowa, Mrs Bir's home town, together with his wife Frieda (*née* Konopińska) and son, who was only a few months old. They moved into an apartment at the northern end of ul Warszawska, When the "Big Ghetto" was established, they resettled to ul Garncarska. In the summer of 1942, Bir worked, for the German administration, with a horse and cart – mainly removing garbage.

Prior to 21st September 1942, through Nickel, a police officer whom he knew, Bir. found out about the impending *akcje*. The police officer advised him that, instead of observing the Day of Atonement with prayer, he should take his wife and child to safety. Bir. saw no way of following this advice.

When he had just finished his supper, on the eve of the Day of Atonement, having returned from the [prayer] service, a Jewish official came into the apartment and instructed him to come, as soon as possible, with his cart, to the Nowy Rynek [New Market Square]. In accordance with this instruction, Bir. made his way to the Nowy Rynek, with his horse and cart, arriving at 10:00pm or 11:00pm. Here, other Jews had already pulled up with their carts. Together with them, Bir. awaited the dawn of 22nd September 1942. It was now clear to him that the resettlement was to begin.

Sometime later, Bir. drove to ul Kawia, in accordance with the instructions which he had been given in the meantime. The selection on ul Krótka was already over. On ul Kawia, Schutzpolizei officers searched the small houses for hidden Jews and, with workgroups, were in the process of clearing out apartments. Bir. stopped his cart by the curb to await further orders.

At that time, Degenhardt, whom Bir. had known well for a long time, came to ul Kawia. Bir. witnessed how, with Degenhardt's participation, a Jewish woman was shot in a house, an act which is not part of these proceedings. On Degenhardt's orders, Bir. loaded the body of this woman onto his cart. In accordance with Jewish custom, he took her to a house of prayer on ul Nadrzeczna. Here, he placed her next to other dead people.

It was now around noon, which was when he drove to ul Garibaldięo. There, he again stopped his cart to await further orders. His cart was stopped near a house, whose covered driveway was open to the street. Degenhardt was walking, unaccompanied, in the middle of the street. As Bir. saw it, further away, other police officers and Jewish work details were moving along the street.

An elderly Jewish woman suddenly peeped, out of the driveway of the already-mentioned house, onto the street. Degenhardt saw this and, as Bir. watched, he entered the driveway. Immediately afterwards, Bir. heard a shot coming from the driveway and, immediately, saw the Defendant step out of the driveway and shout to him, "Take that away!". The Accused then left.

Bir. walked into the gateway. He found his suspicion confirmed, that the shot had been aimed at the woman, now lying on the ground, to kill her. When Bir. approached, he found that she still had faint signs of life. When the shot had been fired, apart from the Accused, there was no other person on the street, directly in front of the house, in the driveway or in the yard. While Bir. was preparing to pick up the woman, an unknown Jew passed by and helped him to load the woman onto his cart. He also drove her to the house of prayer on ul Nadrzeczna. When he lifted her down from the cart, she had died as a result of her fatal injuries.

The Accused has also refuted the testimony of this witness by claiming that there were considerable contradictions between his testimony in court and his description during the investigation. What is correct, however, is that, according to the transcript of his earlier questioning, Bir. had testified that Degenhardt had shot the woman "in front of his eyes", while he now testified, before the court, that he did not see the woman being shot, but heard the shot at close range.

However, the details of the case, described by the witness, have convinced the court that the phrase "in front of my own eyes" was just a linguistic error and that the witness, as he has confirmed, meant nothing other than that the shooting had happened, while he was in close proximity to the crime scene.

The statement by the witness is credible. Bir. did not observe Degenhardt shooting the woman, but he had not seen anyone else in the immediate vicinity of the crime scene. The court is convinced that it was Degenhardt who fired the shot. It was impossible that Bir. was wrong about Degenhardt. Because Bir. came, as a carter, to the "Big Ghetto" every day and, in the years that followed, he often saw the Accused, whom his companion correctly referred to as Degenhardt, for the first time, in the spring of 1942. He was, therefore, well known to him.

As in the case of the woman, who was shot by the Accused on ul Warszawska (ref. Case No.8), the woman, whom the Accused shot in Bir.'s presence, had to die simply because she was in ul Garibaldiiego, without authorisation and the order to attend the selection had not been obeyed.

The killing of this woman also turns out to be murder. For legal assessment, reference is made to the statements on Case No.2.

11.) The shooting of Szmul Ajsner, at Aleja NMP 6, in the afternoon of 22nd September 1942

One of the buildings, affected by the first selection, was the block of apartments at Aleja NMP 6, near the junction of ul Berka-Joselewicza. It was in the form of a long rectangle, with one narrow side facing the street and the rear narrow side bordering gardens. The long sides of this rectangle were connected, in the middle, by a part of the building containing apartments. On the street front, facing Aleja NMP, the building had a covered walkway, from which one entrance led to the right and left to the apartments in the front building.

After passing through this gateway, one came to a courtyard, from which there were entrances, on both sides, to the apartments on the side, in the rear part of the block. The second courtyard, behind it, was reached through a second gateway that interrupted the abovementioned transverse wing. Since about 1941, on the first floor, facing the street on the right, this building housed a Jewish Police station.

Also, on the first floor, but on the left side of the first courtyard, in a three-room apartment, childless couple Leon and Dora Alt. lived, together with Mrs Alt.'s brother Szmul Ajsner, with his wife and son. On 21st September 1942, Mrs Frau Alt – now married for the second time and has the surname Woc. – observed the Day of Atonement, with her family members, with fasting and prayer.

Around noon of that day, rumours spread, in the block of apartments, about measures to be taken against the Jews, prompting Mrs Alt. to inquire further. But what she learned was inconsistent. One side told her that an extermination squad had arrived in Częstochowa. From another source, she received the information that Degenhardt had instructed the senior member of the *Judenrat*, Kopiński, to collect a contribution from the Jews. Members of the Jewish Police said that “something bad” was to be feared.

The Alt. and Ajsner families spent the night, into 22nd September 1942, not knowing what would happen. In the early morning hours of that day, under the circumstances already described, they had to leave the apartment and wait, as instructed, in the courtyard, together with other residents of the block. It was not yet certain whether they should be taken to the selection on this day or a later day.

When it was clear that the block of homes would not be selected on that day, Jewish officials announced this and permitted those, waiting in the courtyard, to re-enter their apartments. They also reported that there had been many deaths in the city. Mrs Alt. left and returned to her apartment. Around noon, for a period of time, the building's occupants were given further permission to move around the block and gardens. Initially, Mrs Alt. remained in the apartment block. When she returned to the first courtyard at around 3:00pm or 4:00pm, she again met her brother there. Both stopped near a large tree in the middle of the courtyard, around which there had been built a bench. Other Jews were also in the courtyard.

Suddenly, Mrs Frau Alt. saw the Accused, Degenhardt, and his driver Unkelbach, coming from the street, through the gateway, into the courtyard. Degenhardt was known to Mrs Alt. from his earlier, frequent visits to the Jewish Police station and was generally feared. When the other Jews caught sight of him, they fled into the doorways. Mrs Alt., who feared that Degenhardt would shoot her if she ran away, remained with her brother Szmul.

When Unkelbach went up to the Jewish Police station, Degenhardt approached Mrs Alt. and her brother, stopped in front of them and asked Mrs Alt., "Who is this man? ". She replied that he was her brother. Turning to her, Degenhardt now said, "Stay there!" and to Szmul, he said, "Go away!". He took a few steps forward and, when he was two or three metres away, Degenhardt drew his pistol and shot Szmul Ajsner, who fell dead and lay in the yard.

Full of horror at this bloody deed, Mrs Alt. broke down crying. She was then taken, unconscious, to her apartment by Jewish policemen. A few days later, Mrs Alt. was informed, by her mother, that Jewish officials had told her that Szmul Ajsner had been buried in the mass grave on ul Kawia.

The Defendant justifies his doubts about the reliability of this witness with alleged contradictions between a statement, made by the witness, made before the German Consul in Toronto, on 10th November 1960, and her testimony in the main hearing. At that time, she said that she had gone into the town, while she has now stated that she had not left the block of apartments. The Accused also complains that the witness did not recognise the Accused's driver, Unkelbach, in a photograph presented to her and, finally, he points out that it never happened that he entered residential areas alone.

The first point of the Defendant's submission is unfounded. In front of the Consul, the witness explained that, on the point made by the Accused, in the morning, they were told that they would stay and, in the afternoon, they were told by the Jewish Police that the eviction was over and that, for a few hours, they could move around. For a few hours, she then went away and, when she returned, she met her brother in the yard.

In the main hearing, the witness testified that, in the morning, the Jewish police had allowed them to re-enter their apartments. In the afternoon, they gave permission, for those waiting to be called, to move freely in the apartment block and in the gardens. She left the yard and went into the apartment block. Neither the one nor the other account shows that the witness, as the Accused claimed, said anything about being in "town". She always stated that she had left. The only thing, which she did not mention in her previous questioning, was where she went. In the main hearing, she made it clear that she went from the courtyard, which she was initially not permitted to leave, for a few hours, to the apartment block.

It is irrelevant that Mrs Alt. did not recognise Unkelbach in the photograph. The photograph presented to her, in this respect, shows Unkelbach in profile and in middle-class clothing. It is also somewhat out of focus. So that it is understandable that the witness did not identify the Accused's driver who, from this picture, was in uniform and wearing a hat.

The last point of the defendant's statement has been refuted. Apart from the fact that that the witness Alt. stated that the Accused entered the yard together with Unkelbach, other witnesses, for example the married couple Kra and Aron Bir., credibly testified that they saw the Accused, unaccompanied, in the Jewish living quarters.

The jury has no reason to distrust the witness Alt. She, too, is free from feelings of hatred or revenge against the Accused. Her comment was that, "His face remains before my eyes". With an undertone of pity, she added the words, "He was so proud. Such a massive man, with his head held high. Now, he is a small man and ill, so badly ill!".

After all this, it is clear that the Defendant killed the brother of the witness Alt. under the circumstances described. Even if it is not clear that the Accused had some other reason for shooting Szmul Ajsner, it is murder. He killed him out of the base motive of racial hatred (See

Case No.2). He was a Jew and should, therefore, die. As has already been explained in Case No.2, justification or excuses do not come into consideration here either.

12.) The shooting of Szymon Jak., during the second selection, on 25th September 1942, on the Nowy Rynek (New Market Square)

In September 1942, the then thirty-one-year-old tailor Laib Ber., together with his wife and elderly parents, lived at Stary Rynek 9 [Old Market Square], near ul Mostowa. The residents of this building had not been affected by the first selection held on 22nd September 1942.

But, while it was going on, they could not leave the house, because the caretaker had kept the front door locked. During the course of that day, Ber learned that most of the Jews, who had died on 22nd September, had lived in the evacuated district. They had been taken to the train station and a small number had been instructed to go to "Metallurgia".

On the day of the second selection, Ber. and his relatives had already prepared their luggage when, again in the early hours of the morning, the order "everyone out" was commanded. As instructed, the two Ber. couples passed through a small alleyway to ul Warszawska. They joined the queue of people, who had been herded together, heading to the Nowy Rynek [New Market Square]. In the row in front of Laib Ber. stood the well-known tailor Szymon Jakobowicz, with his pregnant wife. The Jakobowicz and Ber. families headed to the Nowy Rynek as ordered.

There, the Defendant Degenhardt stood next to a lawn, surrounded by a low wire fence and separated from the cordoned off street and square. Ber. had seen him, for the first time, a few days earlier, namely on Yom Kippur when he – Degenhardt – with other police officers, had passed the house in which Ber. lived. On that occasion, other Jews had correctly told Ber. that the policeman, who walked past, smiling and slapping his boot leg with a riding crop, was the dreaded Hauptmann Degenhardt. He immediately recognised who, this time, had a walking stick, with a curved handle, with him and who, with a stick held in the air, wordlessly pointed in the direction to which those, who passed him, should go.

Even though she showed her work card, Degenhardt pointed that Mrs Jak. should join the column going to the goods depot and that her husband should join those taken to "Metallurgia". However, Jak., followed his wife and went in the direction which she had taken.

Degenhardt, who saw this, called out to him, "Where are you running to?". He then pulled him back, grasping Jak.'s neck with the curved handle of his walking stick. When Jak. was in front of him, Degenhardt hit him with the stick. Jak. tripped over the low wire fence and fell onto the lawn, bleeding. While he was lying there, Degenhardt approached him, drew his pistol and shot him point-blank. Jak. was left dead on the lawn. His wife had disappeared into the driven crowd.

Then, wiping his forehead with his handkerchief and audibly breathing a sigh of relief, he continued the selection. Degenhardt turned to the group standing there, which included Ber. He assigned Laib Ber. to those who could work and his relatives to those who were moving

on. Since then, Ber. has known nothing more. He, himself, was first brought to “Metallurgia”, together with a group of other Jews. He then belonged to a work detail, that was set up by Director Lü., and was taken to HASAG-Pelcery.

The Defendant has endeavoured to refute the account of the witness by claiming that, in Częstochowa, he had never owned a walking stick, with a curved handle, let alone used one in the manner described by the witness. Accordingly, the testimony of the witness is false in its entirety. The jury is convinced that it is correct.

The witness Sch., who was a member of the Schutzpolizei at the time, testified, on the point considered crucial by the Accused, that, at the time, many police officers carried sticks with curved handles – primarily when on duty. This non-military practice was ultimately banned. There is no reason to doubt Sch.’s statements. They support Ber.’s testimony and provide the court with certainty that the Accused possessed such a stick, on that day, and used it as the witness described.

In view of the fact that Ber. could not look at the Accused during the main hearing, despite repeated requests, the court asked this witness, with particular emphasis, as to whether his behaviour gave rise to doubts as to his impartiality. However, this is not case. The witness described the course of events objectively and dispassionately. He also correctly described the feature on the Defendant’s face, although the photograph does not show this feature. This witness’ understandable, inner reservation is not based on uncritical hatred, but on an intellectual consideration to prevent any emotional excitement which might flare up when looking at the Accused.

After all this, it is certain that the Accused shot the tailor Szymon Jakobowicz. This killing is also to be assessed as murder, because the Accused, as has already been explained in Case No.2, acted out of base motives. Here, too, justifications or excuses are not apparent. **The Accused is, therefore, guilty of murder.**

13.) The shooting of the young Zelkowicz, during the second selection, on 25th September 1942, on the Nowy Rynek (New Market Square)

On the day of the second selection, Sil. (already mentioned in Case No.8) belonged to a Jewish work detail, led by police sergeant Schott. Its task was to remove items from vacated apartments, which were then taken away in a horse-drawn cart driven by Sil..

While the selection was underway in the morning hours, with the aforementioned detachment and in his cart, Sil. drove from ul Garibaldię, via ul Berka-Joselewicza, which led to the Nowy Rynek [New Market Square]. From there, he turned right into Aleja NMP.

As already mentioned, Degenhardt divided up the crowd assembled on the Nowy Rynek. Most of the Jews driven up ul Berka-Joselewicza, he let continue straight ahead. Those, selected by him as fit to work, had to step aside and were led, in groups, to “Metallurgia”. Sil. drove his cart on the right-hand side of ul. Berka-Joselewicza, alongside the column heading for the

Nowy Rynek. A Jew, from the column, had already saved himself from the selection in the wagon. Schott had tolerated this.

When Sil. reached the Nowy Rynek, in the column to his left, he saw his father's good friend with his wife and son. The man, named Zerkowicz, tried to rescue his twelve-year-old son from the crowd pushing towards Degenhardt. At the last minute, he lifted him onto the cart as it came up next to him. However, this was not successful, as the boy's backpack got in the way. Degenhardt, who was only a few metres away, saw this attempt. He motioned to a German police officer, who was armed with a pistol, to shoot the boy.

Sil. saw this. He had turned his cart to the right, in the direction of the Aleja NMP and had to stop because of the Jews, standing in front of him, who were being taken to "Metallurgia". The policeman, whom Sil. did not know, shot the boy in front of him. The child's body remained lying on the lawn in the Nowy Rynek, where numerous Jews were already lying. Sil. could not observe more, as he had to continue his journey.

The Accused has stated that Sil.' account, of this present case, does not deserve credence because Sil. had already stated something inaccurately elsewhere (meaning Case No.8). This view of the Defendant, and the conclusions which he drew from it, are wrong – as has already been shown in that case.

The Defendant has also claimed that Sil.'s statement, on the present case, was also incorrect, because no buildings were cleared while a selection was still in progress. That is wrong. The witness Wer., who was responsible for storing the items brought from cleared streets to ul Garibaldi, stated that, while Degenhardt was busy with the selection, with his group, he had to clear buildings and remove items.

The court has no reason to doubt this statement.

Finally, the Defendant stated that he regarded Sil.'s statement as "worthless", because the witness was unable to name the police officer who carried out the shooting. Even this reference by the Defendant does not shake the conviction of the court that Sil. correctly reported the incident, which he considered to be relevant. This is because Sil. had credibly stated that he did not know the police officer, who carried out Degenhardt's execution order. The only other police officer whom he knew, at the time, was Lieutenant Rohn. However, he was not the shooter.

In addition to the statements made in Case No.8, regarding the credibility of the witness Sil., it should also be mentioned here that he was always willing to report the good deeds done by German police officers. As such, he did not conceal the fact that Schott, as stated above, had protected a Jew from selection.

Beyond that, it is clear that the young Zerkowicz was shot, by an unknown police officer, on the orders of Degenhardt. The Accused intentionally ordered this killing and wanted it to be his own act. How the action of the shooting police officer, himself, whether as a murderer or as an accomplice, remains unaddressed.

In any case, the Accused must be punished as the perpetrator. **In this case, too, the Accused is guilty of murder.**

This is because he arranged for the shooting of this innocent child, who was supposed to be lifted into the cart just to save his life. It is because his life meant nothing to him, He acted out of base motives. He had no justification or excuse for his actions. In this respect, the considerations, as state in Case No.2, apply.

14.) After the second selection, the killing of a small child, by means of a syringe, in "Metallurgia"

Barbara Kra., now forty-two-years-old, lives in Skokie, Illinois, with her husband, clerk Maurie (Moshe) Kra., who is seven years her senior. Maiden name Syt., she lived, with her parents, at Aleja NMP 8, until her marriage at the end of August 1942.

From there, with her husband, she moved into a small apartment at Stary Rynek (Old Market Square) 25 or 27. However, the couple often stayed at Aleja NMP 8 or at a house at Stary Rynek 21, where Maurie Kra.'s parents lived.

They had already prepared for the first selection, but were released to return to their apartment during the course of the morning. They were required to come out again, this time to the Nowy Rynek [New Market Square], for the second selection conducted by Degenhardt, whom they had not seen before. Both were ordered to "Metallurgia".

A makeshift infirmary had been set up there, in which Barbara Kra. worked in the days that followed, before she was assigned to a work detail together with the Jewish woman, Salah Kempner, whose fate is unknown. She also worked as a nurse.

During this time, Degenhardt came to the infirmary once, around noon. He was unaccompanied, except for a four or five-year-old boy. He exchanged a few words with Salah Kempner, which Barbara Kra. did not understand. He then handed Salah Kempner something, which he took from one of his coat pockets. He again made a comment which Barbara Kra. did not understand.

However, she saw Salah Kempner give the boy an injection into his upper arm. The child died a few minutes later, foaming at the mouth. Degenhardt watched and then he left. Barbara Kra. never found out the name of the child, whose body was later collected. Later, she had a brief conversation, about the incident, with Salah Kempner. However, this was limited to pointing out that she could not have done anything other than give the boy the injection, as Degenhardt had ordered her to do. Barbara Kra. did not find out what the syringe contained.

The Accused has described witness Barbara Kra.'s [testimony] as a product of her imagination.

The Defendant's assertion, that the witness had not told the truth, is not correct. In her testimony, the witness carefully distinguished between facts that she, herself, perceived and

events which Salah Kempner had told her had happened. The court is satisfied that the incident, described by the witness, happened as she described it and as it was established

However, these findings do not carry a guilty verdict.

What the Defendant gave nurse Salah Kempner, and what was contained in the item handed over, could be clarified, just as the content of the short conversation between them.

In the Defendant's favour, the jury assumed the possibility that the Defendant, when he ordered the injection, had not intended to kill the child and that the child died as a result of an improper injection by Salah Kempner.

Accordingly, the Defendant is acquitted in this case.

15.) The shooting of twenty-two Jews, at the Nowy Rynek [New Market Square], during the third and fourth selections, at the end of September and beginning of October 1942

In September 1942, Abraham Izb., now fifty-one years old and a trade union official in Tel Aviv, lived with his wife, Feija *née* Bro., who was eight months pregnant at the time. They also lived with his brother-in-law and his wife, and his mother-in-law. The family lived at ul Nadrzeczna 9, south of ul Mirowska.

He and his relatives were aware that the inhabitants of the ghetto were threatened with disaster. In this respect, he endeavoured to hide his fears with the hope, fuelled by rumours, that the war would soon be over and that the Red Cross had intervened to help the Jews.

Such hopes were unfounded, which Izb. saw clearly when the first selection began. To avoid it, on the morning of 22nd September 1942, with his family, he fled, through backyards and gaps in walls, from his apartment to a house at ul Garncarska 23, where his mother lived. She had been a widow since 1937.

The block, in which this house was located, was cleared in the third or fourth selection, so that Izb. no longer saw it as an option for escape. After he and the other residents had been asked to leave the house, in the manner already described, he and his relatives went out into the street. In the early hours of the morning, surrounded by his relatives and other Jews, via ul Mirowska, he headed to the Nowy Rynek.

On Izb.'s left was the St. Zygmunt church. Approximately in the middle of the Nowy Rynek, but slightly to the left, as seen by Izb., there was a writing desk next to which stood Degenhardt. Izb. already knew him, because his brother had pointed him out to him before. Pointing to the right or left, Degenhardt determined in which direction the Jews, passing before him, would go. Other Germans in uniform were standing around him.

Motor vehicles also appeared at the Nowy Rynek, including a Jeep, upon which a pivoting machine-gun had been mounted at the rear. The bonnet of this vehicle, which was standing to the left, behind Degenhardt, and about fifteen metres away from Izb, faced ul Narutowicza.

Izb. was standing a few metres in front of Degenhardt, when, suddenly, a group of men, women and children, at least twenty, emerged onto the Nowy Rynek from ul Warszawska, which had already been cleared during earlier selections. They came from Izb.'s right, i.e., on Degenhardt's left. They all appeared in a pitiful state, because they had hidden for days in the cleared part of the ghetto, without sufficient food or washing facilities.

Upon seeing the group, Degenhardt called out to a nearby police officer, "Please liquidate this shitty parade." Immediately afterwards, he signalled to the two or three policemen in the Jeep, one of whom was at the machine-gun, to reverse. This meant to back up to the group of Jews who had just emerged. The jeep driver did just that.

On Degenhardt's orders, the machine-gunner opened fire on the group, which huddled together for protection. When the first volley of shots had died away, all members of the group were lying on the ground. Those, who had not yet been killed by this volley, were shot with more machine-gun fire. Eventually, none of these Jews remained alive.

Degenhardt then turned away and, without showing any trace of excitement, remarked, "Please continue", and continued with the selection.

The Defendant has described the account of the witness Izb. as being "technically, factually and locally wrong", and has explained that there was no "Jeep" (as the witness has described, with a machine-gun) with a machine-gun at the *Schutzpolizei* station – that, at most, the troop police, who were not under his command, could have been involved in this incident.

He also stated that shooting with a machine-gun was impossible, under local conditions on the Nowy Rynek, because stray shots or ricochets would have posed an inevitable danger to those cordoning off the area. He knew that from his own experience, because he was present at a selection on the Nowy Rynek, although he could not say which one.

These statements, by the Accused, were not able to raise doubts about the description given by the witness Izb.. The court has also assumed that a Jeep, equipped with a mounted machine-gun, was not part of the *Schutzpolizei's* equipment. However, that is not the point. As has already been explained in detail, the resettlement was prepared in detail and organised locally. In Częstochowa, this occurred with the help of the troop police. As witness Unkelbach confirmed, they had machine-guns. It may be true that Unkelbach did not see any of these mounted on motor vehicles. However, this does not mean that such a vehicle was not used in this selection.

The court is convinced of the opposite. The court did not attach any significant importance to the fact that Izb. described this vehicle, which he sketched during the main hearing, as a Jeep. This is because this expression is understandably more familiar to the witness today, than the earlier military-technical expression of "*Kübelwagen*".

What the Accused stated, about the subordinate relationship of the troop police, is correct insofar as the troop police, as such, was not subordinate to the Accused. As their head, however, he had command authority over parts of the troop police who, as already

mentioned, had been assigned to carry out the selection. He made use of this in the manner already mentioned.

His statement, that the use of a machine-gun would not have been possible, because of the local conditions, is wrong. According to Izb.'s account, the group of Jews, upon whom fire was opened, had already cleared ul Warszawska, which runs almost at right angles to the Nowy Rynek, behind them. Any stray shots would have gone into the street.

Izb. did not claim that the cordoning off teams were in the danger zone. The jury has no concerns about the credibility of the witness Izb.. The allegation, made by the Accused, in this connection, that the witness said that he did not know whether the events which he was describing were a dream or reality, is false.

Izb. has not said that. Rather, in describing the terrible events, he remarked that, "I sometimes thought that everything, which I experienced, was a dream, but unfortunately everything is a reality". This remark simply means that what the witness saw was as horrific an event as is generally seen in dreams, but that what he witnessed was a horrible reality.

The objection, by the Defendant, is therefore based on objectively false assumptions and does not allow for doubts about the reliability of the witness. Such are not otherwise apparent. Izb. did not describe all the Germans, whom he met in Częstochowa, as bad – for example, he praised the behaviour of the witness Lü..

He did not even criticise the Accused with incriminating allegations. Because, when the witness was questioned about an incident – no longer part of the verdict – namely that the Accused ordered the shooting of twenty-five Jews at the beginning of January 1943, as retaliation for an attack carried out by two young Jews on Lieutenant Rohn, he expressly stated that he could not confirm this. He, himself, was one of those who was to be shot and was a direct witness of the incident. But he did not know as to whether Degenhardt had given the shooting order.

The credible witness neither made a mistake in identifying the Accused, nor incorrectly stated the number of victims.

Izb. has convincingly demonstrated that Degenhardt was the one, who gave the order to shoot the group, by stating that he already knew him by name and by reputation and that, later, he often saw him again. Izb. also correctly recognised the Defendant from photographs and, in the main hearing, as the one who was in charge at the time.

The number of twenty victims, cited by the witness, is the minimum number of those killed. Understandably, the witness did not count the group emerging for ul Warszawska. However, his statement, that there were definitely twenty victims, is the correct result of the witness' careful consideration. Because he clearly explained, in this connection that, when he saw the group mentioned on the Nowy Rynek, he had the impression that there were twenty-five or more people.

However, his impression may not be free from errors, because the actual conditions, at that time, have to be included in today's considerations. On the one hand, a group appears larger

when its members are walking around in a disorderly manner. On the other hand, it appears smaller when children, in the group, are sometimes carried. When considering these possibilities, the number he gave, as twenty victims, is the lowest limit which he can draw.

The jury has adopted the witness' logical conclusions. After all, the jury is convinced that, at least, twenty Jews were killed by the machine fire which was ordered by the Accused.

The Accused intentionally gave the order to kill these Jews and wanted the machine-gunner, whose action caused the death of the individual by pulling the weapon's trigger, to be his own act. He is, therefore, the perpetrator and not just the instigator or accomplice of this act. It happened because the Accused proceeded, from the base notion, that the lives of these Jewish people were useless. It is, therefore, to be classified as murder. The Defendant had no justification or excuse for this act. Reference is made to the comments made in Case No.2.

The defendant's order resulted in the murder of twenty people. Nevertheless, the jury is of the opinion that, in the legal sense, there is only one act.

If, as in the present case, several people are involved in an act, which had multiple successes, each of these participants must be checked separately, as to whether they only acted of their volition, or whether several acts of volition triggered the act. If there is only an act of will, then the person, acting in each case, is only to be punished as one act. If several acts of will have brought about multiple successes, punishment for several independent acts must be imposed. (Section 74 of the Criminal Code).

The Accused had only, once, expressed his will to kill twenty people, which was the aim of his order. There is only one action by the Accused. The fact that, as a result of it and that the highly personal legal interest in human life was affected twenty times, does not conflict with the legal assessment.

According to this, the Defendant is convicted on one murder, in twenty legally coincidental counts.

16.) The shooting of Kazia Abramowicz, at the Nowy Rynek [New Market Square], during the third or fourth selections, at the end of September and beginning of October 1942

After the incident, mentioned above, was over, Izb.'s aunt, Kazia Abramowicz, and her husband Chil, with their eleven or twelve-year-old daughter, now advanced towards Degenhardt. Behind them were Izb. and his mother. Between them was Izb.'s wife, who was suffering from labour pains. He and his mother supported her, as she could barely walk on her own.

Degenhardt signalled that Chil was "capable of work" – for the other relatives, it was "deportation". Kazia Abramowicz wanted to send her daughter, Liebele, to her father. But Liebele pushed her way towards her mother, because she wanted to stay with her.

Degenhardt saw this happening. Cynically, he remarked that it was not nice when a loving couple quarrels in public and approached Kazia Abramowicz. Afraid of being hit by Degenhardt, she lowered her head to her chest and, protectively, covered it with her crossed arms.

Degenhardt drew his pistol and shot Kazia Abramowicz in the neck. She fell to the ground, stirred for a moment, with blood spurting out of her mouth, and died. Degenhardt then said that everything was now legally regulated. Since the mother is dead, the child belongs to the father. He interrupted the laughter, that erupted around him, by pointing out what was to be laughed at and that one had to keep going. Izb. saw and heard all this – at close range.

The Defendant's admission, in this case, is limited to indicating the Izb.'s account is not correct. However, as explained in details in the discussion of the case described above, there are no doubts about the reliability of this witness. This also applies to the present case.

It is then clear that the Accused shot Kazia Abramowicz under the established circumstances. This act is also to be assessed as murder and the Accused is guilty of this murder.

What has been stated, in legal terms, in Case No.2, applies to this act in the same manner. In order to avoid repetition, the court refers to these earlier statements.

17.) The shooting of a young Jews, after the third or fourth selection, in front of "Metallurgia"

When Izb. and his mother lined up for the selection, Degenhardt still, in his hand, the pistol which he had used to shoot Kazia Abramowicz. Degenhardt shouted, "Let the whore go!" and directed him to those able to work. Dazed, Izb. let go of his wife. She and his mother were driven towards the train station and have since disappeared.

Izb., himself, was pushed to the other side. He found himself in a group of Jews, who had gathered at the end of the Nowy Rynek [New Market Square] and who, after a long wait, were taken to "Metallurgia" on ul Krótka. Izb. and his group had to remain on ul Krótka, in front of "Metallurgia", until the afternoon. In the "Metallurgia" yard, many Jews were waiting to be registered.

At around 5:00pm, together with other uniformed men, Degenhardt appeared in front of "Metallurgia". The Jews, here, had to line up, on the street, in rank and file. From these, who had lined up, Degenhardt selected a number of young men and ordered them onto a truck. Without actually knowing his name, Izb. knew one of these young people, who had come from Kalisz and wore a watch on each wrist.

Degenhardt saw this and said to the young man that he knew what time it was and that, now, he would join the "sky commando". Then, with his pistol, he shot the young man, who was between twenty and twenty-three-years old. He fell to the ground and, with outstretched arms, lay dead. Izb. could not see what next happened to him.

Immediately afterwards, he smuggled himself into the “Metallurgia” courtyard in order to get away from the group, which had lined up in front of it. Degenhardt was scrutinising that group, because he was afraid that the Jews, who had been sent on the truck, would also be taken to the rail station and would be sent off. Izb. later found out that this fear was unfounded when the vehicle, containing the Jews whom Degenhardt had selected, returned to “Metallurgia”. That group had been working in the city.

The Accused has also denied this incident, which was credibly described by the witness Izb.. He did so in detail, with the comment that it must seem strange that the witness pretended to know that the perpetrator’s name was “Degenhardt”, but allegedly did not know who the other police officers were, who were with the perpetrator at the scene of the crime. This information, from the Accused, also does not give rise to any doubts that the course of events, and the identity of the perpetrator, were correctly described by the witness.

When evaluating the testimony of the witness Fis. (see Case No.5), it was explained why the Jews’ attention was not directed towards the appearance of “secondary figures” or to their names. That case’s discussions also apply to Izb. He convincingly explained to the court that, when the dreaded Hauptmann Degenhardt appeared, he “only saw him”. The fact that this expression is not to be understood literally, but in the sense, as explained by the witness, that he only paid attention to what Degenhardt was doing, requires no further justification. The court fully believes the witness, that he cannot say anything about the other police officers. As previously noted, there is no reason to distrust this witness.

The Accused simply shot the young Jewish man because of his disobedience – that he had kept the watches contrary to the existing order. At the same time, he knew that this violation, by the young Jew, was by no means a crime worthy of death. He shot him anyway because the life of a Jew meant nothing to him. The Accused, therefore, made “short shrift” with Jews who, like the young man mentioned above, violated the rules – even slightly.

The base motive given, hereafter, stamps the act as murder. There are no justifications or excuses here either. What has already been explained in relation to Case No.2, also applies here.

The accused is, therefore, guilty of murder.

18.) The shooting of Icek Mon., in front of “Metallurgia”, in early October 1942, before the last selection

One of the Jewish manufacturers in Częstochowa was Icek Mon., who made shoelaces and buttons. In September 1942, with his wife, daughter and two sons, he lived at Nowy Rynek [New Market Square] 12. Of his two sons, only Alfred Mon., who is now forty-years old and works as a clerk in New York, survived the end of the War.

During the first two selections, the Mon. family was still in their home. Occasionally, surreptitiously looking out of the window, Alfred Mon. observed what was happening during the selections in the Nowy Rynek.

Before the third selection, with the help of a relative, who had bribed Sergeant Überschär, in a hearse, the whole family managed to smuggle themselves into "Metallurgia". From there, Alfred Mon., his father and brother were taken to the Golgotha Pilgrimage Cinema, next to the monastery, and were assigned to a work detail which, during the day, worked on a construction site on the western outskirts of the city.

On the day before the last selection, the entire Jewish work detail was housed in the cinema. After work, in the late afternoon, the detail, which numbered more than one hundred, had to march to ul Krótka and line up in front of "Metallurgia". When that was done, Degenhardt, whom Alfred Mon. knew well, appeared and, holding his riding crop in his hand, began to inspect those who had lined up. Walking along the rows, he asked individual Jews their age, etc. As he did so, he made them step out to the right. It was correctly assumed that the group, which he was putting together, was intended for transport.

When Degenhardt reached Icek Mon., he also asked him how old he was. At the time, being fifty or fifty-five years old, he gave a lower age. Nevertheless, Degenhardt instructed him to go to right, joining those already there, and slowly walked on. Icek Mon. stepped out of the rows but, after a few steps, he wanted to re-join the line already inspected by Degenhardt. Alfred Mon., who had been standing next to his him, watched his father's attempt.

Degenhardt also noticed that Icek Mon. was preparing to re-enter the line-up. He drew his pistol and shot Icek Mon. on the spot. In fright, Alfred Mon. ran out of the line to save himself from Degenhardt. He was pulled back into the line by other Jews, who were already destined to stay. Degenhardt did not notice this.

Icek Mon. had been killed by a shot fired by Degenhardt. His body was, later, buried in a mass grave. After this "inspection", Alfred Mon. and his brother were taken back to the Golgotha Cinema. After the "Small Ghetto" had been established, they worked for HASAG and, in January 1945, they were deported to Buchenwald. Alfred Mon.'s brother died there in April 1945.

About this, the Defendant has stated that "this witness knows very well that I did not kill his father" and goes on to say that this witness also belongs to the Jewish "conspirators" who tried to defame him – the Accused. The admission is wrong.

With moving seriousness, Alfred Mon. has described the course of events. Not only in his description, but also in the description of other events from that time. He has carefully distinguished between what he had seen himself and what, on the other hand, he had learned from third parties. He did not simply claim that his father was dead immediately after the shots were fired by Degenhardt. He admitted that he had not seen it, but only heard about the death that occurred, as a result of the shots fired by the Accused, and his father's burial in the mass grave.

He also did not report the rumour that Degenhardt had a relationship with Helene Tennenbaum, who worked in his household and whom, later, he had ordered her to be shot. He expressly emphasised that this was a general topic of conversation among the Jews. It was probably only the Accused who could say whether this was correct. If he wished to tell a lie

and to wrongly incriminate the Accused for the death of Helene Tennenbaum, he could have “blamed” the Accused for murder.

There are no indications that this witness concocted, with other witnesses, to give untrue testimony against the Accused. The jury doubted the credibility of this witness just as little as to the veracity of its representation regarding the perpetrator - namely the Accused. As has already been established, Alfred Mon. knew this exactly before the crime. He, himself, correctly recognised him as the perpetrator in the incident – both on the basis of the photographs in the preliminary hearing and, personally, in the main hearing.

When the Accused shot Icek Mon., with intent to kill, again he did this because his life meant nothing to him and that this Jew should, therefore, die immediately. Consequently, the Accused again acted out of base motives and out of racial hatred.

His is guilty of the murder of Icek Mon., for whose killing the Defendant had no justification or excuse. In this respect, reference is made to the statements made in Case No.2.

19.) The shooting of the niece of the manufacturer Landau, at the end of September/beginning of October 1942, in the office of the Landau factory on ul Krótka

The now fifty-three-year-old newspaper clerk, Martin Sc., in 1940, became a member of the Jewish Police and had seen Degenhardt often, when he had visited the Jewish Police’s infirmary on ul Kawia. Whenever possible, he avoided him because, like all Jews who knew Degenhardt, he was afraid of him.

Until the beginning of the resettlements, Sc. lived, with his parents, his wife and one of his married sisters and her husband, at Aleja NMP 5, near the Nowy Rynek [New Market Square].

During the summer of 1942, he had already heard of resettlement in other cities and, when he heard of the arrival of the “Jewish Extermination Battalion”, shortly before the first resettlement in Częstochowa, he correctly assumed that resettlement was imminent.

In the early morning hours of 22nd September 1942, after he and other Jewish policemen had announced the order to evacuate houses affected by the first *Akcja*, he momentarily witnessed Degenhardt carrying out the selection in front of “Metallurgia”. He noticed that the Jews, who had been assigned to “Metallurgia”, had not been deported.

He therefore decided to protect his relatives, from such a selection, by smuggling them into “Metallurgia”. At first, he thought that his wife was safe, because he had heard that the wives of Jewish policemen had been exempted from the large-scale resettlement process, by order of the German authorities. According to his plan, by bribing guards, he was able to bring his mother and sister to “Metallurgia” before the selection, which included houses on I Aleja. He put his father into a hiding-place. In this way, he was initially able to evade the fate of those who had been deported. But all three of them became victims of subsequent *akcje*. Only Sc.’s wife and brother-in-law escaped extermination.

After the clearance of I Aleja, Sc. went to ul Krótka, one day at the end of September or beginning of October 1942 – still during the period of the great resettlement. He went to discover whether his mother and sister were still in “Metallurgia”. When he reached the factory at around 11:00am, Degenhardt came by and ordered him to stay on the street. So, Sc. did not enter “Metallurgia” and did not dare to enter it even after Degenhardt had left.

Accompanied by Lieutenant Rohn and other police officers, he returned around 1:00pm, with the head of the Jewish Police, Parasol, and other Jewish policemen. He ordered that the “Landausche Fabrik”, next to “Metallurgia”, be searched for hidden Jews. Sc. joined the Jewish policemen, who followed this instruction. He went into the office to the right of the factory gate, following other police officers, Degenhardt, Rohn and Parasol. It consisted of two rooms, the connecting door of which was open.

While Degenhardt and Rohn checked one room, Sc. stayed in the other. His attention drawn to loud screams coming from the next room, he looked through the open door and noticed an eighteen or nineteen-year-old Jewish woman, who was kneeling in front of Degenhardt and begging for her life. Degenhardt made her stand up and step back. He then drew his pistol and shot her. The young Jewish woman lay dead in the room, bleeding from a head wound. Terrified, Sc. hurried away. He later learned that the woman, who was killed, was a niece of the manufacturer Landau.

The Accused believes that the witness, Martin Sc., who was involved “in the intellectual orientation of the matter against Degenhardt”, has lied. What this witness reported, as having taken place, could not be correct. On the day upon which, according to the witness, the incident occurred, the office of the Landau Factory, was already occupied by police officers, so that no one could have hidden there. Around this time, he – the Accused – was regularly eating in the mess hall. After all, contrary to what the witness has said, it was not possible to see into one office from the other.

The testimony of the Accused does not justify any doubts about the credibility of the witness and of the veracity of his statement. The court did not establish a specific “mental orientation” on the part of the witness to wrongly incriminate the Accused. Rather, it has gained the certainty that Sc. has described the actual events correctly, without prejudice, and was level-headed. None of the allegations, made by the Defendant, conflict with his credible account.

Even if one assumes that the office of the Landau factory, on ul Krótka, had already been occupied by police officers during the first selection, this does not rule out the possibility that the girl had snuck in, unnoticed, when the police officers were not there, and was surprised there.

The Defendant’s statement that he could not have been there, because he had regularly gone to the mess hall for lunch around noon, is of no decisive importance. The Defendant, himself, admitted that his meal time was between 12 noon and 2:00pm. The fact that the act, as explained by the witness, happened around 1:00pm, does not rule out the Accused as the perpetrator, because he may have already eaten that day or may have gone there after 1:00pm.

Incidentally, the witness Sc. did not blame the Accused for everything that happened at the time. This is because, as he explained, he was probably not responsible for the resettlement, as such, as he had only carried out orders in this respect. Moreover, during one of the selections, he had saved a child of the witness's brother-in-law. The child was intended to be taken away and was saved from this fate. Such statements, by the witness, do not look like a "conspiracy to wrongly incriminate the Accused". Furthermore, one cannot say that the witness indiscriminately labelled all Germans, in Częstochowa, as murderers. For example, the witness mentioned, with praise, Lü. and the "Meister" Milow from the HASAG.

The court had just as few reservations as to the credibility of the witness Sc., as it did about the veracity of his account. He made a strict distinction between what he saw and what he only heard about. But what he saw, he described in detail and logically. He portrayed the shooting of the girl, by the Accused, in a very calm and determined manner. Nor was he mistaken as to identity of the perpetrator. The witness knew the Accused well from his work in the Jewish Police. He did not confuse him with another person, either during the incident itself or later, when he also correctly identified him in the photographs presented to him and in the main hearing.

By deliberately killing the defenceless and helpless young girl, the Accused committed murder. He saw her life as useless. The Accused also had no justification or excuse for the killing. From a legal point of view, what has been explained for Case No.2, applies again.

20.) The killing of a small child, on ul Warszawska, prior to the last selection

Even before the last selection had taken place, Sc. and other Jewish policemen were assigned to a German police commando, under the supervision of the foreman Samsanowicz, which searched houses, on ul Warszawska, for hidden Jews.

One day, around noon, the commando was at ul Warszawska 23. In the yard, on the orders of the German police officers, the Jewish policemen called out that those, who were hiding, should come out and, because the resettlement was over, nothing would happen to them. Sc. and the others then went into the entrances leading from the courtyard to the individual wings of the building.

When Sc. emerged from the basement entrance, at the back of the right wing, he saw Degenhardt and other police officers entering the courtyard. With a policeman, Degenhardt entered the first or second entrance on the right. Shortly thereafter, a window was opened on the first floor of the building, approximately above the entrance.

A small child, estimated by Sc. as between one or two-years-old, fell, through the window opening, into the courtyard. The child remained motionless about five meters away from the wall of the building. Sc. believed the child to be dead. At that moment, it was lying about 20-25 metres away from the window.

When the child was lying on the ground, without giving any sign of life, Degenhardt fired a shot out of the window. Sc. saw this and also noticed a policeman standing behind Degenhardt. He thought that he recognised him as Hauptwachtmeister Laschinski, but was unable to say who had thrown the child into the courtyard.

When Sc. left the yard with the search squad, the child was dead. Sc. was unable to say anything about its whereabouts.

The Defendant denies knowing anything about this incident, repeating his concerns about the reliability of the witness Sc.. As was explained in the assessment of the previous case, it does not hold up. However, what has been determined to have happened, according to Sc.'s credible testimony, is not sufficient to find the Accused guilty of killing the child. As he emphasised, Sc. did not see whether the policeman, accompanying him, had thrown the child out of the window and whether the child was killed as a result. That is why it cannot be clarified.

In view of this lack of clarity, the court has assumed the most favourable possibility for the Accused – that the child had been killed by falling out of the window and that the perpetrator of this inhumane act was not him, but his companion. Since the events, immediately preceding this action, could also not be determined with certainty, there is no evidence that the Accused influenced his companion's intentions – which he, himself, might not have hoped for or was able to intervene to prevent it.

Finally, the factual evidence does not permit the safe conclusion that the Accused committed attempted murder by firing aimed shots at the child, lying in the courtyard, in order to kill him. Like Sc., he may have thought that the child was dead and had just used the shooting to scare away the Jewish policemen from rushing in.

The Accused is therefore acquitted in this case.

21.) The shooting, at ul Katedralna 7, of the Jew Gerschanowicz and four other Jews, prior to the final selection in October 1942

A short time after the murder of the niece of the manufacturer Landau, a detachment of *Schutzpolizei*, led by Hauptwachtmeister Überschär, who was known to the Jews as a murderer and who was responsible for numerous shootings of Jews, together with around 10-14 Jewish policemen (among whom was Sc.), searched houses on ul Katedralna looking for hidden Jews.

At around 10:00am, it was the turn of the building at No.7. This building had an inner courtyard from which several entrances led to apartments or basement rooms. The courtyard was connected to the street by a covered gateway. An office of the *Judenrat* had been set up here.

After Überschär had ordered the Jewish police to announce that those, who were hiding in the building, should come out and not worry, since the resettlement was over. When no one

appeared, he ordered that the building be searched. Sc. was ordered to go into a basement entrance at the back of the left wing.

As he was about to enter the doorway, Sc. stopped and turned around, because he had noticed a group of Jews coming out of one of the building's entrances, about halfway down the side of the courtyard. This group consisted of five people - namely the circa seventy-four-year-old Jew Gerschanowicz, whom Sc. knew, two women, the elder of whom Sc. believed to be Gerschanowicz's wife and the younger to be his daughter, and two children, apparently Gerschanowicz's grandsons aged seven or eight. They were all told to go through the gateway and onto the street. However, Gerschanowicz, who was leading the group, remained still in the courtyard, causing the others to stop also.

At that moment, Degenhardt came through the gateway into the courtyard. He saw the five Jews come out of the building and turned to Überschär, with whom he exchanged a few words, which Sc. could not understand, as he was standing about twenty metres away. However, he then heard Überschär calling out to the five Jews to go to the wall on the right, as seen by Sc., and stand there facing the wall. Degenhardt and Überschär wanted to shoot them all. As the five people stood against the wall, both drew their pistols and, from a few metres away, opened fire on the group.

In order to not have to watch the impending bloody deed, Sc. turned his head to the side and only looked at the wall again when the shots, fired by Degenhardt and Überschär, had died away. He saw Gerschanowicz, the two women and the two children lying dead on the ground. While Überschär and Degenhardt put their pistols back into their pockets, the latter said to a Jewish policeman, "Take the dirt to ul Kawia!". The corpses were later collected by the gravedigger detail. Following this incident, the police officers, on the property, together with Jewish policemen, continued to search the buildings.

The Defendant considers Sc.'s account of the present case to be fabricated. It is not to be believed, as Sc. pretends not to know what he, the Accused, said to Überschär and when, as he claims, he does not know the names of the other police officers who were involved in the search.

This submission, by the Defendant, does not affect the court's conviction that Sc. was telling the truth and had correctly described the incident. He clearly stated that he did not understand Degenhardt's words to Überschär, because he was too far away from them. This does not contradict the statement that Überschär had ordered the five people to stand against the wall. His loud command had echoed, across the courtyard, to the witness. The court believes that he does not know who were the other police officers. Otherwise, what has been said about the reliability of the witness in the previous cases, also applies here.

Both the Accused and Überschär shot at the group of Jews standing against the wall. Both are accomplices. It is not decisive, in this respect, whose individual shots hit or were fatal. It is not essential for complicity that each person involved fulfills all the elements of the crime themselves. Rather, what is decisive is the respective will to participate in the act as an accomplice and not as an accomplice, the joint control over the act and the promotion of the act that is intended as a joint effort. These conditions are given.

The Defendant wanted these five people dead. That was also what Überschär wanted, for whom the lives of these Jews meant just as little as they did to the Accused. When they fired, the will of both was not simply aimed at supporting the other. Both had control over what happened. The fact that both of them contributed to the promotion of the crime, with their shots, needs no further explanation.

Therefore, the Accused acted jointly with Überschär.

Five people were killed as the result of this joint action. These killings are to be assessed as independent acts (Section 74 of the Criminal Code), because they were caused by freshly aimed shots that were fired again by deliberately pulling the trigger.

Since the overall success of the crime is attributable to the Accused as an accomplice, he is guilty of the joint killing in five cases.

He is to be sentenced for joint murder. Both acted out of base motives. There are also no justifications or excuses. What has already been said, in principle, in relation to these points in Case No.2, also applies here.

22.) The shooting of the young Jewish policeman, Rechnitz, in front of the building at Aleja NMP 6, before the last selection at the beginning of October 1942

In addition to the merchant Martin Sc., already mentioned, the now fifty-eight-year-old merchant, Abraham Ste., who runs a furniture polishing business in Tel Aviv, also belonged to the Jewish Police. Until the beginning of the resettlement, unmarried, he lived with his parents and siblings, namely a sister and three brothers, in ul Przemysłowa.

During the selections, two of his brothers had come to "Metallurgia". The other brother, his sisters and parents, who had been hiding in ul Berka-Joselewicza, were discovered and, later, died.

Ste. and other members of the Jewish Police rightly assumed that their number would be reduced after the Germans had evacuated most of the Jewish population from Częstochowa. The fact that they were married could, most likely, count on them staying in Częstochowa. Ste., therefore, agreed with his older married brother that he would pass off his wife and child as his own, in the event of an investigation.

One morning, before the last selection, Degenhardt had the entire Jewish Police force line up in the middle of Aleja NMP, near building No.6., which housed a Jewish Police station. On both sides of the Aleja, he had posted foreign guards, armed with rifles. Accompanied by a few German police officers, he divided the Jewish policeman into two groups. Walking along the rows of those who had lined up, which were opposite each other, he asked each of them their age, occupation and marital status.

One group consisted of two sections – namely future Jewish policemen and those Jews assigned to work. This group was to remain in Częstochowa All the others were destined to be transported to Treblinka.

While this division was going on, Director Lü. happened to pass by and stopped, at a distance, to observe what was happening. The Jews, who had lined up, rightly concluded from the fact that Degenhardt had all the "Kavaliers" [bachelors], and predominantly younger, married men with no children, join one group and fathers of families join the other group, that the latter group would be deported.

Degenhardt had referred to a Jewish policeman named Rechnitz, whom Sc. knew and who was vaguely known to Ste.. When Degenhardt seemed distracted by questioning another Jewish policeman, Rechnitz left his group and attempted to go to the group opposite.

However, Degenhardt saw this and snapped at him harshly, saying that he was married, was a coward and had to stay where he was put. To a nearby guard, he ordered, "Shoot the dog!". The guard took Rechnitz to one side and shot him. His body was still lying on the street, when the groups were led away. Sc. remained in Częstochowa and went to work. Ste., who had to join the group of people who were to be deported, was able to escape from the transport heading to Treblinka. After returning to Częstochowa, he found shelter in the "Small Ghetto" and was able to join a work detail.

The accused has submitted that the testimonies of the witnesses, Sc., Lü. und Ste., are incorrect, because the number of staff in the Jewish Police was not reduced during the resettlement. To the certainty of the court, this assertion has been refuted by the testimonies of the three named witnesses, which are completely correct in this respect. The Accused also stated that he was "deeply shocked" by Lü. and that the witnesses had given "differing accounts" of the incident.

It is true that the witnesses gave differing testimonies on details. Lü. spoke of two groups formed by Degenhardt's division. Sc. and Ste. named three groups. Ste. stated that Rechnitz had been seized by the Accused on the way from one group to another. Lü. testified that the Accused had shouted at Rechnitz, who was standing between the groups. He - Lü. – assumed that Rechnitz had been taken out of the group by the Accused. Finally, Lü., while expressly stating that his memory might not be entirely reliable, described the gunman as a police officer, while Sc. said that it was a Lithuanian auxiliary policeman. Ste. could not place the shooter in a specific formation.

The discrepancies set out above are explicable and cannot shake the court's conviction that the deed, as stated in detail, actually occurred. As to whether there were two or three groups formed, as has already been stated in the factual findings, one of the two groups divided itself. This could not be seen by Lü., because a spatial separation had only been made between the group of those who would stay and those selected for transport to Treblinka – i.e. the Jews assigned to the Jewish Police and those considered able to work stood side by side. The difference in the information is, therefore, explained by the differing insights which Lü., Sc. and Ste. had.

It is immaterial that Rechnitz was taken out of the groups, according to Lü.'s assumption, and that, according to Sc.'s and Ste.'s statements, he was taken on the way from one group. Not all three witnesses paid full attention to what was happening from the start.

Sc. and Ste. were in a completely different situation to Lü. They were standing in the ranks as possible victims and, therefore, observed very closely, from the start, what was happening. Lü. was an uninvolved spectator of what was, initially, not an unusual event – under the conditions of the time. He only became aware of the incident, when Rechnitz, who was standing about halfway between the group near Degenhardt, was shouted at by Degenhardt. Lü. did not observe where Rechnitz had appeared from and his view, that he was pulled out of a group by Degenhardt, is only a conclusion.

The essential part of the incident, that Rechnitz was not standing in line and was yelled at by Degenhardt and that he gave the order to shoot, was observed by all three witnesses and all three have described it in the same way.

The court did not attach any significant importance to the contradiction regarding the appearance of the shooter, especially since Lü. who, in this respect, emphasised that he was not sure whether his memory of this – irrelevant – point was correct.

Based on the statements of the three witnesses, who essentially agree, it is certain that Rechnitz was shot on the order of the Accused. The Accused is to be regarded as the perpetrator. In this respect, the present case is not to be judged differently, from a legal point of view, to the shooting of the boy Zelkowicz (Case No.13).

The Accused is guilty of murder. He acted out of base motives and had no justification or excuse to assist his cause. What was stated about Case No.2 applies here.

23.) The shooting of twenty sick Jews, at the mass grave on ul Kawia, in October 1942, after the end of the resettlement

Of the Jews who remained in Częstochowa following the selections, several thousand were, initially, taken to the HASAG works. Most of them had to work in the factories themselves. The already mentioned Jews, Dawid Go. and Dawid Le., had been assigned to a transport detail. Under the supervision of uniformed HASAG-Pelcery security guards, who were armed with machine guns, they had to bring items, from empty houses to Pelcery, which could be used for the factory operations and which had been approved by Degenhardt.

In this initial period after the resettlement, accommodation for the Jews, in Pelcery, was inhumane. Since everything was still being set up and remodelled, Lü., who was considered by the Jews as a “human being” and whom many witnesses have now called the “Angel of Częstochowa”, because he had done as much as possible for them, could do little about this at that time. When he was supposed to take over the thousands of Jews, who remained after the resettlement and who had been assigned to HASAG, he made it clear to Degenhardt that he could not accommodate so many people.

The labour camp outside the factories, namely the "Small Ghetto", had not yet been established. In this situation, Lü. then took in all the Jews, who had been assigned to HASAG. He persuaded them to persevere and work, as this meant preserving their lives. The Jews in Pelcery were accommodated in a workshop, with a cement floor, upon which they slept, without being able to change their clothes.

Since the sanitary conditions were also completely inadequate, an epidemic broke out amongst the Jewish work details, housed in Pelcery, at the end of October 1942. Degenhardt found out about this. He feared that the epidemic could spread and instructed the factory security to take the sick to the mass grave. As a result, one day, the security guards called upon all the sick to report to the hall, A large number of Jews complied with this. They were led out of the hall, near which stood two empty trucks, with the transport detail, to which Go. and Le. belonged. Onto one of these trucks, the works security guards loaded twenty sick people, whom Go. had heard them counting beforehand. The work detail had to sit in the open loading area of the other vehicle.

Accompanied by the security guards, both trucks drove to ul Kawia. As already described elsewhere, a mass grave had been excavated in the garden area, bordering onto the rear of "Metallurgia". The two trucks stopped by this pit, which was 20-30 metres from the road. Degenhardt, with other police officers, was already waiting between ul Kawia and the pit. At his behest, the twenty sick had to get off the truck. They were then herded towards the pit and were forced to walk around its edge.

Le. and Go. saw this from the back of the truck upon which they were standing. Amongst those who were rushed towards the pit, Le. recognised his future bride's brother, Moishe David Saitman. From amongst those Jews, Go. recognised three acquaintances – the Poslanicz brothers and the Jew Seftl.

From a security guard, who was standing nearby, Degenhardt took a machine gun and, with it, shot the group of Jews running around the pit. How many volleys of shots, and whether he changed the magazine, could not be verified. As he was shooting, he was standing 10-15 metres from the pit, the ejected earth forming a mound about knee-high. Degenhardt's shots killed all twenty Jews. Some of the corpses fell into the pit, while others remained lying against the earth wall.

Following this incident, the two trucks were put at the disposal of the transport command.

Referring to the descriptions by the two witnesses, the Defendant has stated that, "in this case, it was all a hoax" and that they had told a "fantastic story". His testimony was untrue for the simple reason that he – the Accused – was not able to issue orders to the factory security. Lü., who as HASAG director, had the authority to give orders to the factory security, was unaware of any works security personnel ever taking sick people out of HASAG. But Lü. should have learned something about this.

The testimony of the witnesses is also false, because it is impossible to shoot, from a distance of 10-15 metres, with a machine gun, twenty people, walking around a pit, without changing the magazine.

The jury is satisfied that the incident, as determined, occurred and that the Accused was the perpetrator. The witness Go., about whose credibility that are no doubts - (this has already been stated in Case No.3) – has described the incident credibly. He has a clear and correct memory of the picture. His statement is supported by the testimony of the witness Dawid Le., who in contrast to the turbulent events of the first selection, still remembered the case well and described it in the same manner as did Go.

It is then clear that the two witnesses correctly reported what had actually happened and correctly identified the Accused, whom they both knew well, as the perpetrator.

The statement by the Defendant, mentioned above, about the circumstances mentioned in connection with the witness Lü., does not shake the conviction of the court. The organisational structure of the factory could not be clarified. This is also not crucial. The court assumes, in favour of the Accused, that factory security was not subordinate to him, but to Lü. What is important is whether the Accused was nevertheless able to issue instructions to factory security, in this individual case, and whether he did so.

As has already been stated elsewhere, after the deportations were complete, the Defendant was solely responsible for the local situation of the Częstochowa Jews. He assumed that himself. Just as he, himself, followed the instructions of the SS and the police leader in Radom, who was not directly responsible for organisational matters, he was able to give orders, “in Jewish matters’, to the factory security, who did not report to him, and the latter could also carry them out. This is how it was in the present case. The Defendant took advantage of the command option, which was actually available to him, and thereby caused the sick to be transported to ul Kawia.

The Defendant’s assertion that the incident did not happen, because Lü. knew nothing about it, is just as unconvincing. It is true that, as a witness, Lü. testified that he was not aware that the factory security had taken sick people out of Pelcery and that they had been shot. However, Lü. clearly explained that he was completely overwhelmed in managing the two HASAG works – namely Pelcery and Raków-Ironworks and that, in the turbulent early days, he had neither an overview of the actual number of Jews housed in the works, nor had he received reports on the individual orders which the plant security had carried out.

Under these actual circumstances, which Lü. clearly described, it is understandable that he did not hear anything about this before the sick were transported away and was not informed about it either.

What the Accused stated about the allegedly impossible killing of the twenty Jews, from the point of view of weapon technology, is also wrong. Even if one assumes that the Accused did not change the magazine and only fired a burst from the machine-gun, this does not rule out the killing of the twenty Jews.

The magazine of a German-made machine-gun, as introduced by the German armed forces at the time, held thirty-two shots. Foreign-made machine-guns (like those used by the German armed forces), had magazines with fifty or more rounds. The obvious consideration,

that not every shot hit or was even deadly, does not rule out the killing of twenty people by a burst of fire from around fifteen metres away.

In addition, given the penetrating power of the bullets, it cannot be ruled out that a single bullet, regardless of the nature of the machine-gun, even killed several of the people who were running around the pit. The expert Kriminalhauptmeister Kohl, who was responsible for these weapons-related questions, explained everything convincingly. The court followed him.

The Defendant killed twenty people with shots from a machine-gun. Legally, it is only one act. The Defendant wanted to kill the group as such. He realised his intention – as the court has assumed in his favour – by continuously pulling the trigger of the weapon, without aiming at individual members of the group. Therefore, there is only one action performed by the Accused.

As has already been stated in Case No.15, the fact that a highly personal interest in human life was affected twenty times by this one act, does not conflict with this assessment.

The killing of these twenty Jews is considered as murder. The Defendant regarded the lives of these sick and disabled people as useless. He dismissed any difficulties, which he believed could emanate from these sick Jews, on the base motive that they were “worthless”. What has been explained, in detail, about the base motives in Case No.2, applies here also. There are also no justifications or excuses for this act. On this point, too, reference is made to the explanations for Case No.2.

According to this, the Accused is convicted of one murder, in twenty legally coincident counts.

24.) The shooting of an unknown Jewish woman, in late April or early May 1943, on the Rynek Warszawski [Warsaw Market Square], at the entrance to the “Small Ghetto”

Now living in Montreal Canada, Nacha Spo., née Jak., was almost seventeen years old when the selections took place. With the exception of her father, the Jak. family, who lived on the Stary Rynek [Old Market Square], were sent to Treblinka in the second selection. Ms. Spo. has heard nothing more from these relatives – namely her brother, her stepmother and a half-brother.

She and her father were brought to the “Small Ghetto” after it had been established and, during the day, worked in the [Pelcery-]Częstochowianka factory, which produced paper clothes.

In the early morning of a sunny Spring day, in late April or early May, when the women did not have to work in the factory, Nacha Spo. and about twenty other women were taken out of the ghetto, by two police officers, to clean up camps on ul Garibaldi and private homes. That lasted until noon.

When the women were again standing on the Rynek Warszawski, waiting to be counted at the ghetto entrance, next to this group, in which Nacha Spo. stood, another group of women

had lined up who, also, were to be taken away to do cleaning work. Frieda Bir. belonged to this group.

Nacha Spo. suddenly heard loud shouts of "Halt, Halt!" and saw, coming from the direction of ul Warszawska, two policemen approaching a Jewish woman. This woman was better dressed than the inmates of the "Small Ghetto" and, therefore, attracted attention. She was led over to the Rynek Warszawski. Frieda Bir. also saw this woman.

She was brought to Degenhardt, who had just stepped out of the door of the Jewish Labour office, which was located just behind the entrance to the ghetto. Degenhardt began talking to the woman. Neither Nacha Spo. nor Frieda Bir. heard what was said. From the woman's gestures, Nacha Spo. gathered that she wanted to enter the "Small Ghetto". Degenhardt wrapped his left arm around the woman's shoulders and guided her forward.

After a few steps, with his right hand, he drew his pistol and, after releasing her, at point-blank range, shot the woman in the back. She collapsed dead. Nacha Spo. and Frieda Bir., who observed the incident from about fifteen metres away, could no longer see to where the body was taken, because they had to leave the area immediately.

In this case, the Defendant has remarked that, if one were to believe the statements of the witnesses, he "must have been a porter in the 'Small Ghetto'". The claim, that the witnesses had described an incident and which could not possibly have happened, was supplemented by the statement that he had never been to or in the "Small Ghetto" on a Sunday. The former police major, D. Wi., who was temporarily stationed in Częstochowa in 1943, credibly testified, as a witness, that, at his request, Degenhardt had showed him the supply facilities in the "Small Ghetto" – on a Sunday morning. Furthermore, the Accused has stated that the statements below, by the two witnesses, about the clothing of the woman, were contradictory. That is correct in minor points.

Frieda Bir. has stated that the woman wore a headscarf, knotted under her chin, which is why she – the witness- assumed that the woman came from rural areas. Nacha Spo. testified that the woman wore the headscarf like a hat, i.e., not knotted under her chin. She was holding a bag in her hand. She - Nacha Spo. – had the impression that she was a city woman. However, both stated that the woman was much better dressed than the residents of the "Small Ghetto".

The court did not question the credibility of the witnesses. With regard to witness Frieda Bir., it has already been stated that there is no reason to distrust her. This also applies to witness Nacha Spo.. The memory of both witnesses is clear and correct on the decisive point – that Hauptmann Degenhardt, whom they both knew and who they correctly recognised as the Accused, shot the Jewish woman, who stood out from the other women there, because of her better clothes.

It is understandable that, after more than twenty years, the two witnesses could no longer agree in describing how the dead woman was dressed and whether she had a bag with her – this is only a minor matter. This does not call into question the reliability of the two women.

The Defendant also killed this woman because he saw, in her, a “disobedient Jewish woman”. Here, too, he acted out of base motives, as has already been explained in more detail in Case No.2. Her killing was unlawful. There are also no excuses.

Therefore, the Accused is guilty of murder.

25.) The shooting of the Jew Bender, on ul Kozia, in the “Small Ghetto”

The Defendant is further accused of having shot a Jew named Bender, on ul Kozia, in the “Small Ghetto”.

The fifty-three year old housewife Jadwiga Lub., now living in Toronto Canada, was informed about this incident. Her widowed surname was Kup., maiden surname Alt.. After her husband, who served as an officer in the Polish army, died in a German concentration camp in 1941, she lived with her father and her brother (her mother was deceased) at Aleja NMP 12, next to the craftsmen’s house.

By bribing police officers between selections, with them, she had been able to smuggle herself into “Metallurgia”. She later lived with two sisters, whose names were Bender, in the “Small Ghetto”, in a room in a building on ul Kozia. They were all forced to work in Pelcery.

In answer to a question, Jadwiga Lub. described the incident three times. The first statement, recorded in an affidavit, sworn before a Toronto notary public on 16th November 1960, reads:

"First, I was in the Częstochowa ‘Big Ghetto’, then in the ‘Small Ghetto’ and, finally, in the Częstochowa forced labour camp. I remember Degenhardt well. They called him Hauptmann Degenhardt and he was the commander of all the Jews in Częstochowa.

“It was in 1942, when we were in the “Small Ghetto”. I was in a room with two other girls. We stayed home in the morning because we were working the night shift. Suddenly, Degenhardt entered the room with his chauffeur, who was also his assistant. Also in the room was the girls’ brother, who was visiting his sisters. He asked us who this man was and we told him that he was the sisters’ brother,

“Degenhardt then told his chauffeur, whose name was Willy Unkelbach, to take the man out. Literally, he said to ‘take the pig out and kill him’. Both men then went out. Onkelmann, correctly ‘Unkelbach’, escorted Bender and Degenhardt followed them.

“We heard shots. We looked out the window. Bender was dead. We saw how both Degenhardt and Unkelbach put their revolvers back into their pockets.”

Questioned at the German Consulate in Toronto, on 1st March 1961, Jadwiga Lub. stated the following:

"I lived in the ‘Small Ghetto’, on ul Kozia, with two girls named Bendert or Bendet. The two girls were sisters. We shared a room.

"One morning – I cannot now remember the date – with his chauffeur Willi Unkelbach, Degenhardt came into our room and found me there, with the two sisters and their brother. We were at home because we were working the night shift. The sisters' brother was visiting us. Degenhardt asked us what we were doing there at that time. We replied that we were now free because we had been on the night shift. Then Degenhardt asked us who this man was and what he was doing there. The two sisters replied that he was their brother and was just visiting them.

"Degenhardt then turned to his chauffeur Unkelbach and said to him, 'Take the pig out and finish him off' or something like that. I cannot remember the last part exactly. He may also have said, 'Put an end to him.' or 'kill him'. Unkelbach then took out his revolver and ordered the young man to go out, poking him in the back with his revolver.

"After a short while, we heard some gunshots. We ran out onto our porch and saw the brother of the sisters, Bendert or Bendet, lying on the ground in a corner of the courtyard. Degenhardt and Unkelbach were standing next to him. I saw how both of them, Degenhardt also, put their revolvers back into their holsters. When we left our room, only Unkelbach had his revolver out, but not Degenhardt. I also did not see who fired the shots. I only concluded, from the fact that Degenhardt had put his revolver back into his pocket, that he also had fired a shot.

"Incidentally, Degenhardt became very angry when he found the young man in our room. At first, he wanted to hit him, but then controlled himself. After Degenhardt and Unkelbach had left, we ran over to the young man, who was lying on the ground. I saw that he had gunshot wounds in his forehead and chest, I cannot remember how many shots were there. He was dead."

Jadwiga Lub. testified before the jury on 4th April 1966. She repeated the earlier descriptions of her living conditions at that time. She also described where the incident took place – when Unkelbach, who had entered the room with Degenhardt, did not have a weapon with him. On Degenhardt's order, "Bring the pig out!", Unkelbach had grabbed the Jew Bender by the collar and led him out. Degenhardt immediately followed them.

While she and the younger Bender sister were trying to care for the older sister, who had fainted, two or three shots were heard from outside. Peering through the window of the porch, she saw Degenhardt holstering his pistol, standing near Bender, who was lying, lifeless, on the ground. Unkelbach stood a few steps away from both of them, without the impression of having been involved in what had just happened.

Based on the personal impression which it gained from the witness Lub., the court is convinced that she witnessed the shooting of the Jew Bender, that the Accused and Unkelbach were involved in this incident and that she has made an effort to correctly describe the events. However, her memory is unclear.

Therefore, the jury was unable to establish any clear facts. The earlier descriptions, that Degenhardt and Unkelbach were both armed and that Unkelbach had taken away Bender

with pistol drawn, were not upheld by Ms. Lub. in the main hearing. Rather, she emphasised that only Degenhardt had a pistol and that Unkelbach had grabbed Bender by the collar when he led him.

Contrary to her first testimony, she also testified that, after the shots were fired, when she looked out of the window, she only saw Degenhardt putting his pistol in his pocket. Unkelbach was apparently standing, uninvolved, to one side.

These differences do not relate to a trivial matter, but to an essential point of the facts. While Unkelbach played a crucial role in the shooting of Bender in her first account, he has now become a minor character. Here, in the memory of the witness, Degenhardt has come to the fore - subconsciously, because he was the "Lord of Life and Death". The testimony of the witness does not permit an unequivocal determination as to whether Degenhardt had fired or had given the order to do so.

Unkelbach's interrogation, on this case, does not provide any information either. He has stated that the incident is unknown to him, although he thinks that "something like this was probably possible".

In view of the unresolvable ambiguities and contradictions in the respective representations of the witness, the jury has decided on acquittal.

26.) The shooting of the electrician Meierowicz, in the summer of 1943, in front of the Jewish Labour Office in the "Small Ghetto"

When the "Small Ghetto" was established, the married couple, Maurie and Barbara Kra., had found accommodation in a corner house on ul. Garncarska, which was close to the ghetto entrance.

In the years that followed, Barbara Kra. was employed as a cleaner at the Schutzpolizei headquarters. Maurie Kra. worked under the head of the Jewish labour force, Bernard Kurland, in an office to the left, behind the ghetto entrance, as seen from the Rynek Warszawski, with two windows facing ul Garncarska. From them, you could see, over the barrier, Rynek Warszawski and, looking towards ul Garncarska, the corner of ul Kožia behind it.

As already described, the unmarried women lived in this street, among them being Helene Tennenbaum, who worked as a cleaner for Degenhardt and about whom there was a rumour about her having an affair with Degenhardt. He also, occasionally, visited her at home. She was shot before Degenhardt was transferred away from Częstochowa.

One day, in the summer of 1943, a few weeks prior to the "Small Ghetto" being liquidated, Maurie Kra., who worked for Kurland in the office mentioned above, saw Degenhardt driving up to the ghetto entrance in a ³DKW motor vehicle. Only he was in the vehicle. Without taking

³ DKW is a brand of car.

a guard with him, Degenhardt entered ul KoZIA. Maurie Kra. could not discover what he was doing there.

Soon after Degenhardt had disappeared from sight, Barbara Kra., who had not gone to work that day because of a minor illness, came to her husband's office. Here, she learned that Degenhardt was in the "Small Ghetto" and, like all the other Jews who knew Degenhardt, his appearance gave her a feeling of impending danger. With her husband, she watched the exit of ul KoZIA.

About ten minutes later, they both saw a young Jewish man coming out of ul KoZIA, with Degenhardt closely following him. The young man was known to Maurie Kra.. It was the electrician Meierowicz. Urged on by Degenhardt, he strode towards the ghetto entrance. Suddenly, [Degenhardt] drew his pistol and shot him from behind – two shots, at close range, from his pistol. Meierowicz collapsed dead on the street. Degenhardt then turned to the Jewish policeman, standing near the ghetto entrance, and instructed him to remove the man who had been shot. The body was later collected by the gravedigger detail.

The Defendant's submission, in this case, that what the Kra. couple had seen, was not true., if only because he had never been in the "Small Ghetto", without taking a police officer with him. The court has no reason not to believe the Kra. couple's perception of this or to cast doubt on their credibility. At the time of the crime, the Accused was known to them. The witnesses are not wrong in identifying the perpetrator. With certainty, they recognised him as "the perpetrator" in the main hearing.

The Defendant has also committed murder by killing Meierowicz. Even if Meierowicz had violated an order by being in ul KoZIA without permission, as the Accused knew, this was not a crime worthy of death, a punishment administered by the immediate shooting. He acted out of base motives. To justify this assessment, reference is again made to the relevant statements in Case No.2. There are no grounds for justification or excuses, as per Case No.2.

Therefore, the Defendant is to be punished for the murder of Meierowicz.

27.) The shooting of the child of Donia Meisels, on ul KoZIA, in June 1943

In September 1942, Jakob Akiba Kos., now fifty-seven years old and living in Munich, lived at ul Garibaldiego 16. As already mentioned, ul Garibaldiego was part of the area cleared during the first selection, so that Kos. and his relatives – who, with the exception of one sister and one nephew - all fell victim to the persecution of the Jews - were already included in the selection.

He was sent to Metallurgia and, after two days, was put into a work detachment, assigned to the police battalion stationed in the Piłsudski school and housed near the school. Members of this detail had to move later, when the "Small Ghetto" was established. Kos., who continued to work in the police battalion, lived there at ul Nadrzeczna 54. From his repeated visits to the "Small Ghetto", he recognised Degenhardt, whom he initially encountered during the first selection.

On a June afternoon in 1943, after he had come back to the "Small Ghetto", having finished his work, Kos. wanted to visit his sister, who lived on ul Kožia. The building in which she lived was, as was usual with many buildings in Częstochowa, built around a courtyard, the entrance to which faced the street. When Kos. had almost passed through the gateway, he saw a police officer from behind, who he thought he recognised as the accused Degenhardt.

In front stood a Jewish girl, aged about eleven or twelve, who begged the police officer, "'Herr Hauptmann, Herr Hauptmann, let me live. I don't want to go back to my mother either. I want to work in HASAG!'. When the policeman reached for his pistol, without replying, Kos. ran away to avoid being seen. However, he later went to see his sister and, from her, learned that the little girl's name was Donia Meisels, who had been hiding, with her mother, in the "Small Ghetto". She had been shot and that the perpetrator, as she had heard, was Degenhardt.

The child's mother had also been shot on that or on the following days. However, Kos. did not find out more about this.

The Defendant's view, that Kos.'s testimony is unclear and vague, is incorrect. The witness described the course of events, which the court established above, clearly and decisively. His credibility and reliability are underlined by the fact that he made a precise distinction between his own perceptions, personal impressions and communications with third parties.

The finding, based on the witness's own observations, namely that a police officer was standing in front of the girl who begged him for her life, addressing him as "Herr Hauptmann", do not, however, convict the Accused. Kos., as he expressly stated, did not see that this police officer was actually the Accused. He also did not see that this police officer shot the girl. He only assumed the former – the latter was told to him a few hours after the incident, pointing out the Accused as the perpetrator.

These facts leave open the possibility that the notification was false and that someone other than the Accused had shot the child. The child's call of "Herr Hauptmann, Herr Hauptmann", mentioned by Kos., does not necessarily indicate the accused, because it cannot be ruled out that the child used this form of address, "Hauptmann", incorrectly.

The Defendant is, therefore, acquitted in this case.

28.) The shooting of the Jewish woman Glü. and

29.) in June 1943, six other Jews, in the "Jatka" courtyard, opposite the entrance to the "Small Ghetto"

The now fifty-year-old commercial clerk, Chil Wie., who lives in Paris and grew up in Częstochowa, had to move from ul Targowa to ul Berka-Joselewicza 6 when the "Big Ghetto" was established. He lived there with his mother, stepfather, brother, sister and her husband. They then lived at ul Krótka 13, diagonally across from Metallurgia.

Like many other Jews, Wie. heard about the deportations during the summer of 1942. He had learned more about this from a Pole, who had witnessed a resettlement in Piotrków. When Wie. heard that the Jewish extermination battalion had arrived in Częstochowa, he correctly assumed the resettlement was imminent.

During the first selection, with his wife and mother-in-law, he remained in a hiding place near his home. But they could not stay there for a long time. They were included in one of the later selections, during which Degenhardt had singled out Wie. and his wife as able to work. They were the only ones in the family who survived. They first worked in a mill, then in HASAG-Pelcery.

Following the establishment of the "Small Ghetto", with his wife, he lived on ul Garncarska. She worked in the ghetto kitchen. When the "Small Ghetto" was liquidated, both were sent to the labour camp near Pelcery, where his wife remained until the Russian troops invaded in January 1945 while Wie., who had been sent into the Reich as a special worker, only left in April 1945. He had regained his freedom after escaping from the Buchenwald camp.

On a warm, sunny day in June 1943, Wie. had not gone to Pelcery for his morning shift, but remained in the "Small Ghetto". On the previous day, he had met with his former foreman from the mill, a German named Müller, and asked him if he could bring him back to the mill, where the working conditions were better than in Pelcery. Müller agreed to do so and that Wie. should be ready to be picked up, in the "Small Ghetto", the next morning. On that day, there was also a large number of other Jews in the "Small Ghetto" – namely those who did not have a shift or those who were otherwise released from work, for example, because of illness. But there were also those who did not have some other reason to stay in the "Small Ghetto".

At around 8:30am, there was considerable unrest amongst all these people because, at that time, armed men in uniform, mostly Ukrainians, were marching up to the entrance of the ghetto. Correctly realising that a raid was imminent, Wie. turned to the doctor in the ghetto and told him that he had been waiting, in vain, to be picked up for work. He asked the doctor for a medical certificate so as not to attract attention during the raid.

He advised Wie. to contact Hauptwachtmeister Überschär, and to report to the ghetto guard. Wie. did do. Überschär locked him up in the "Jatka", opposite to the entrance to the ghetto, where, as mentioned, a detention centre had been set up. Other Jews, who had been arrested during the raid, were also brought there during the course of the morning. When this was over, at around noon, there were twenty-five to thirty men and nine women in the "Jatka" – among them being Glü, a Jewish woman, whom Wie. had known for years.

At around noon, Wie. heard a trumpet call. He and the other detainees had to step out onto the Rynek Warszawski, which was surrounded by Ukrainian guards. Here, next to the entrance to the ghetto, the other Jews, who had "justifiably" been in the ghetto, had already lined up.

Degenhardt, whom Wie. knew, walked around the square, accompanied by some of his subordinates. After lining up the group of detainees in front of the "Jatka", he walked over to inspect them. Meanwhile, on his instructions, the group of Jews, standing next to the ghetto

entrance moved back in to the ghetto. Wie. was the first whom Degenhardt asked as to the reason for his absence from work. Wie. explained the true facts to him and referred to Hauptwachtmeister Überschär, who was standing at the ghetto entrance. In response to Degenhardt's enquiry, he answered that this was correct. This was accepted by Degenhardt.

He then turned to the nearest Jew, who was obviously unable to work due to his hands being covered in blistering burns. To demonstrate his inability to work, he showed Degenhardt his hands. Degenhardt hit his hands with his riding crop. The man collapsed and was dragged to one side by Ukrainian guards. The third, whom Degenhardt questioned, claimed that he had been verbally released from work by the doctor. Nevertheless, he had to go next to the man who had just been beaten. Over the course of his inspection, Degenhardt added, to the other two, a further five Jews, and the Jewish woman Glü.

At his command, the Ukrainian guards led the seven men and the woman, who had been chosen, into the "Jatka" yard. This group had to be followed by Wie. and the other Jews, with Degenhardt remarking that they should go inside to see what happened to those who shirked work. Degenhardt also entered the "Jaka" area. He then ordered the Jewish woman, Glü., to climb onto a pile of rubble, lying in the corner of the yard, and to undress. She complied with this command, albeit reluctantly. When she was only wearing underwear, Degenhardt stepped a little closer to her saying, "Oh, you whore, if only I could shoot you twice!". He took out his gun and shot her. She collapsed onto the pile of rubble and, there, lay dead.

The other Jews of the group remained, in the "Jatka" yard, under the guard of the Ukrainians. The group, which included Wie., was led, by works security guards, in the direction of ul Warszawska, with the aim of taking them to HASAG-Pelcery. Even before they had reached ul Krótka, a Ukrainian came running after it – the group was turned back into the "Jatka" courtyard.

The seven Jews, mentioned above, were standing in a corner, half-dressed. Degenhardt was also still there. One of the seven men began to loudly lament about the execution which he, like everyone else in the yard, was predicting. He shouted that he had been duly registered as sick.

After checking the veracity of that statement, in the medical book shown to him, Degenhardt had the man step out of the group of seven and then, with the word "Umlegen" and a corresponding hand gesture, gave the order, to the guards, to shoot the six remaining Jews. The Ukrainians, in the yard – about ten in number, shot the six Jews with their rifles. They remained lying dead in the yard. Wie. could not discover where their corpses and that of the Jewish woman Glü., still lying in the rubble, had been taken. This was because, after their execution, with the other Jews, he was taken to Pelcery.

Referring to the testimonies of the witness Wie., the Defendant has remarked that it was "all a single lie", which was done in an attempt to incriminate him alone. If what the witness had said was true, he should have known and said more about the other police officers who, he said, were present. In addition, he, the Accused, was no longer in Częstochowa at the time when the incidents were supposed to have happened.

The Defendant's latter allegation is refuted. According to his own account, the Defendant was transferred from Częstochowa after the "Small Ghetto" was liquidated. Regarding the liquidation of the "Small Ghetto", he had not rejected the allegations, made against him, on the grounds that he had not been in Częstochowa. Indeed, he had countered them with the declaration that he accepted that he could not resist Dr. Böttcher's desire to liquidate the "Small Ghetto" and, therefore, could not prevent the destruction of the houses in that district.

The incidents, which Wie. described, occurred before the "Small Ghetto" was liquidated. The court is convinced of the credibility of this witness. Like other witnesses, he is not a member of a "conspiracy" against the Defendant and has testified without bias, He even went as far as not to hold the Accused responsible for the deportations of the Jews to Treblinka. Instead, he told the court that Degenhardt must have carried these selections in accordance with orders. The witness has thus clearly expressed that he does not shift, onto the Accused, the responsibility for the selections and the subsequent killing of the Jews. He only regards him as responsible for those killings which the Accused committed or ordered – of his own free will.

The words of the witness – "but the seven Jews, whom he killed, might still be alive like me" – express this emphatically and convincingly. The court has no indication that this credible witness no longer has reliable memories of the incidents which he has described or that he was the victim of an error regarding the identity of Accused.

When the incidents occurred, Wie. very well knew the Accused, He correctly recognised him as the one who shot the Jewish woman Glü. and who ordered the shooting of the other six Jews. During his questioning in the preliminary proceedings, held in Paris in 1961, he correctly identified the face of this perpetrator from photographs, presented to him, and also correctly identified the accused as the perpetrator in the main hearing. The fact, that he no longer knew how many photographs had been shown to him, is irrelevant.

Regarding the death of the Jewish woman Glü., the Accused, knowingly and willingly, committed this by his own hand and he also brought about the killing of the other six Jews by his own order, which was carried out by the guards. He is, therefore, the perpetrator in both cases.

The finding, that six people were killed on the basis of his orders, does not lead to the finding that the Accused is the perpetrator in six cases. The decisive factor for the legal assessment is that the Accused only expressed his will to kill the six Jews once – with the order aimed at this. In this respect, what was stated in Case No. 15 and what is referred to, to avoid repetition, also applies here. Therefore, there is one killing in six legally coincident cases.

Both the killing of the Jewish woman Glü. and the killing of the six other Jews are classified as murder. Even if one assumes in favour of the Defendant, with regard to the finding that he allowed one Jew, recorded in the sick book to live, and that none of the seven Jews, who were shot, had a valid reason for not being able to work on that day, as the Defendant knew, there was no reason to shoot these people or to have them shot.

When he shot the Jewish woman Glü. and ordered the shooting of the six other Jews, he proceeded from the view, rooted within him, that the life of a Jew counted for nothing and could only be preserved as long as he was needed for work and was also capable or willing to work – without objection. He no longer regarded these prerequisites, as given, in the case of those who were later killed. In his view, their life, as the life of “shirkers”, was worthless and, in accordance with his racial hatred, should be destroyed. He acted out of base motives. What was stated in Case No.2 also applies here.

The court has been unable to clarify why the Defendant shot the Jewish woman by his own hand. However, what special reasons prompted him to do so can remain undecided. This does not change the base motive of racial hatred. She also had to die because she had abstained from work without any verifiable reason and was, therefore, a useless being in the eyes of the Accused.

With regard to these two acts, there are also no justifications or excuses. In this respect, reference is made to earlier statements.

Accordingly, the Defendant is guilty of two murders, one of which was committed in six concurrent cases.

30.) The shooting of Fella Cza. and her two children, on the Rynek Warszawski, at the end of June 1943.

At the end of 1943, the German authorities suspected that a resistance movement was being organised inside the “Small Ghetto”. As a result, a search was carried out which revealed that underground passages had been dug under some buildings at the northern end of ul Nadrzeczna, in which weapons had been found.

A number of those, whom Degenhardt found living in these buildings, he had shot on the spot. That event is no longer the subject of the present proceedings.

On the following day, in order to dig out other pockets of resistance and to capture hidden Jews, a major raid was carried out in the “Small Ghetto”, under Degenhardt’s direction, in which members of the troop police took part, in addition to police officers from the Schutzpolizei as well as auxiliary police officers.

On that day, Degenhardt had not sent the work details to their shift, but had them line up on the Rynek Warszawski, which was surrounded by auxiliary police officers, and around which he and other police officers moved about. After he had the Jewish policemen, in the “Small Ghetto”, proclaim that those in hiding should come out and that nothing would happen to them, a not inconsiderable number of Jews, including many women and children, emerged.

Degenhardt then set himself up in the square. If he suspected that these Jews belonged to the resistance, he had them shot on the spot or taken by truck to the cemetery, where they were shot by a troop police firing squad. These events are also no longer part of these proceedings.

Aron Bir. was standing in the midst of the work details, which were positioned on the Rynek Warszawski. He anxiously watched those events, accompanied by shots and noticed, to his horror, a group of about twenty children which, on Degenhardt's orders, also boarded a truck to be taken to the cemetery. Shortly before the vehicle's departure, Lü., who had noticed that the work details had not arrived at Pelcery, appeared at the Rynek Warszawski.

The horrific picture which confronted him prompted him to turn to the Defendant, who was brandishing his pistol with an expression of extreme excitement, in an attempt to prevent further acts of violence. Here, there was a violent exchange of words with the Accused, which broke out mainly because of the children, whom Lü. correctly assumed were to be killed. Finally, the Defendant gave in to Lü.'s idea that he could use the children to work in HASAG. He left the children and some of the Jews, designated to be transported to the cemetery, to him.

After Lü. had left with those who had been rescued in the manner just described, Aron Bir. suddenly saw his sister Fella Cza., née Bir., step out onto the square with her two sons, Henryk and Jakob, who were aged between five and eight.

As already mentioned, shots had been fired earlier. But Bir. could not find out who had fired them, because he was too far away from Degenhardt and the other police officers. While he watched, with concern, his sister and the two children, he again heard shots and saw them fall to the ground. This time, also, he could not determine which of the police officers fired and where Degenhardt was at that moment. As stated, his gaze was directed at his sister and her children. Aron Bir. only suspects that the Accused was the shooter. However, as he expressly emphasised, he does not know it as a fact. He later learned that his sister and her children had been fatally injured. He was also unable to say to where the bodies had been taken.

In this case, also, the Defendant considers the account given by the witness Bir. to be unbelievable, but has otherwise limited his testimony, asserting that he knew nothing about what happened. The court has no doubts about the credibility and reliability of the witness Bir.. The only thing which needs to be added is that the distinction made by the witness, with impressive objectivity, between his own perceptions and conjectures and, finally, from reports from third parties. strengthened the court in its conviction that this witness was only stating the absolute truth.

However, what has been established, on the basis of this statement, is not sufficient to convict the Accused. Bir.'s assumption, that the Defendant himself had shot Fella Cza. and the two children, does not convey the certainty that this actually occurred. Even the statement that Degenhardt led the raid and, over its course, numerous other Jews were shot in addition to Fella Cza. and her children, does not necessarily lead to the conclusion that the Accused ordered the killing of precisely these three people or voluntarily allowed it to happen. In the Defendant's favour, the court has assumed the possibility, which cannot be ruled out based on the established facts, that Fella Cza. and her two children were the victims of shots which the Defendant did not initiate and over which he had no influence when they were fired.

In this case, the court grants an acquittal.

IV. Sentencing and Costs

According to the above, the Accused is guilty of:

- a) seventeen cases of murder listed under No.'s 2, 4, 5, 8, 9, 10, 11, 12, 13, 16, 17, 19, 21, 22, 24, 26 and 28,
- b) three cases of murder in Case No.3,
- c) five cases of murder, jointly committed, in Case No.18,
- d) twenty legally coincident murders in Case No.15,
- e) twenty legally coincident murders in Case No.23 and
- f) six legally coincident murders in Case No.29.

The Accused is, therefore, sentenced for the twenty-eight cases mentioned above.

Under Section 211, Sub-Section 1, of the Criminal Code, the law imposes only one punishment for murder – namely, imprisonment for life. The court imposes this penalty, upon the Accused, twenty-eight times.

In eight Cases dealt with under No.'s 1, 6, 7, 14, 20, 25, 27 and 30, in which the defendant was found to be not guilty, the Accused is acquitted.

The Accused is a multiple murderer.

He and his orders have killed seventy-one people in less than a year. As a result, the Accused violated and disregarded, to a particularly large extent, the commandments, common to all civilised peoples, to respect human life and human dignity. In doing so, he placed himself outside the order of the human community.

Therefore, his civil rights are revoked for life (Section 32 Of the Criminal Code).

The decision on costs is made in accordance with Sections 465 and 467.

V. German Penal Code 602/66

In the name of the people

in the criminal proceedings against

Schutzpolizei Hauptmann Paul Degenhardt, from Unterlüss, Celle District, born on 5th January 1895 in Landeshut (Silesia),

currently in custody,

for murder.

The Fifth Criminal Senate of the Federal Court of Justice ruled in the session, which took place of 7th February 1967:

The Defendant's appeal against the verdict of the jury in Lüneburg, delivered on 24th May 1966, is dismissed.

The costs of the appeal will be charged to the Complainant.

REASONS:

The jury sentenced the Defendant to life imprisonment for twenty-five counts of murder, five of which were for conspiracy to commit murder, two counts of the murder of twenty people each and one count of the murder of six people.

The Defendant alleges a violation of procedural law and lodges a substantive complaint.

The appeal is unfounded.

I. The procedural objections

The procedural complaints are rejected.

1. The complaint, that the judgment should have been communicated to the Defendant, as well as to the defence counsel, cannot be successful if only because the judgment cannot be based on the omission. Section 145a, paragraph 4 of the Code of Criminal Procedure, is merely a regulatory provision.

2. The complaint, that some witnesses were wrongly sworn in, is inadmissible because the appeal does not name the witnesses. The same applies to the objection that member of the Jewish Police were wrongly sworn in as witnesses.

3. A breach of the obligation to provide information under Section 55, paragraph Abs.2 of the Code of Criminal Procedure cannot support the appeal (vgl. BGHSt. 11, 213).

4. The witness Lü., as the manager of the works in Częstochowa, was not yet suspected of participation in the actions of the Accused. On the contrary, based on the testimonies of Jewish witnesses, the jury found that Lü. did everything in his power to make life easier for the Jews and to preserve it, e.g., he saved twenty children from death (UA S.545, 592).

5. The clarification complaints (Section 244, paragraph 2 of the Code of Criminal Procedure) raised by the appeal, in various places in the statements on the objection, must also remain unsuccessful.

The circuit jury need not feel compelled to hear a psychiatrist regarding whether the Defendant is sadistic or acted in a knee-jerk manner in committing the offences.

Furthermore, the clarification complaints are inadmissible because the appeal does not describe any evidence that the court should have used (vgl. BGHSt. 2, 168).

II. The objection

The extensive explanations of the substantive complaint are essentially directed against the findings of the judge of fact and the assessment of the evidence by the judge. This is not subject to any legal concerns. It violates neither the laws of thought nor general principles of experience. It is not necessary to require that the conclusions, drawn by the judge of fact, be compelling. It is sufficient that they are possible (vgl. BGH MDR 1951, 117). The court also did not violate the principle that, in case of doubt, the decision should be made in favour of the accused.

Further explanations are only required on the following points:

1. The acceptance of base motives is not subject to any legal objections. It is enough for Section 211 of the Criminal Code to apply that a material motive – that was the racial intolerance of the Accused – be low. The jury did not fail to recognise that the Accused was also upset about a violation of the rules by the victim. Such minor violations did not preclude the Defendant from killing the victims because of their Jewish race.

2. In Case No.21 (UA S.577 f.), the assumption of the joint murder in five separate cases, is not subject to legal objection.

3. The fact that the drafter of the judgment confused Case No.21 and Case No.18 with each other, in the summary listing of the individual acts (UA S.593), cannot not jeopardise the validity of the judgment.

The decision corresponds with the request of the Prosecutor General of the Federal Republic.