

JAKUB
DRÁPAL

**DEFENDING NAZIS
IN POSTWAR CZECHOSLOVAKIA**

THE LIFE OF K. RESLER,
DEFENCE COUNSEL
EX OFFICIO OF K. H. FRANK

KAROLINUM



Defending Nazis in Postwar Czechoslovakia

The Life of K. Resler, Defence Counsel ex officio of K. H. Frank

Jakub Drápal

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In Spring 2012 I asked Prof. Jan Kuklík, professor of legal history and dean of the Law Faculty at Charles University, to give a short talk about post-war society before a screening of the film *Ex offo*. He kindly agreed, and was delighted with my interest in Kamill Resler.

The matter didn't end there – subsequent discussions with him led me to decide to write this book, and Prof. Kuklík was extremely supportive in helping me to access the archive materials relevant for my research, discussing the book with me, and providing me with some materials he had in his collections that related to the K. H. Frank trial. There is little a student could want more than that his teacher welcome his ideas, support him in them, discuss them with him, and eventually help him to bring them to the wider world. My heartfelt thanks therefore go to Prof. Kuklík. Without him, this book might never have been possible; certainly, it would not have taken shape so soon.

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I wish to extend my thanks, too, to my Czech language and literature teacher at secondary school, Eva Podzimeková, for having awoken my interest in literature and history, over the five years that she taught me, together with a desire to interpret literary texts and apply literary characters' experiences to real-life situations. If she had studied law, I believe that with her enthusiasm for work, literature and ethics she could well have resembled a modern-day Kamill Resler. Instead, as a teacher she has succeeded in inspiring hundreds and thousands of students to pursue their projects, of which this book is one.

While working for barrister Pavel Čižinský for eighteen months I learned what great things a barrister can achieve, and that even today there are barristers who dedicate themselves to pursuing justice even when that means defying public opinion and the national authorities. Interesting though it was to observe Čižinský defend a murderer, what really caught my attention were the small, everyday cases at which he defended foreigners, often enabling them to stay in the country and giving them – sometimes for the first time in

their life – an understanding of what justice is. This book is therefore dedicated to Pavel.

I am grateful to the staff of the Literary Archive at the Museum of Czech Literature, The Prague City Archives, the Archives of the National Museum and of the National Museum Library, the Archive of Charles University, the East Bohemian Museum in Pardubice, the Central Military Archive and the Archives of the Czech Bar Association, for their exceptional willingness to assist me. Furthermore, my thanks go to Pavel Muchka, who wrote a bachelors dissertation on Kamill Resler, for his kind help.

Last but not least I am grateful to my parents, who encouraged me to write this book, and in particular my mother, who read and commented on my manuscript at many stages.

Jakub Drápal

PREFACE

It is a great pleasure indeed to contribute this foreword to the English edition of “Poslušen zákonů své země a svého stavu: Kamill Resler – obhájce K. H. Franka”, a book written by one of our faculty’s promising graduates, Jakub Drápal, that looks at the life and work of the eminent Czech defence lawyer Kamill Resler.

I would like to make use of this foreword to introduce new readers to this book that they have just opened, in a few words. The first thing worth noting is how it came into existence. It is certainly not a common occurrence that a master’s student should write such a highly acclaimed book that the university publishing house decides not only to publish it in the Czech original, but subsequently also to publish it in English translation. I am delighted that this has happened to a student of the law faculty and I am pleased to have been able to contribute to the book’s progress and watch it take shape right from the beginning. I first met Jakub to discuss his academic writing essays and our paths crossed again at a screening of the film *Ex Offo*, which brought Kamill Resler’s story to the screen back in 1998. Jakub impressed me not only with his stylish writing, but in particular with his desire to see K. H. Frank’s defence counsel in a broader context and on several levels. Resler’s life interested him sufficiently that he was willing to give up most of his free time to undertake detailed research using the relevant literature and archival materials. The results of this research were turned first into his dissertation and subsequently into a stand-alone book – the first complete book-length biography of Resler, which was not only favourably reviewed in the legal press, but was also praised by the Rector of Charles University as one of the best academic monographs written by researchers from Charles University in year 2014.

The second thing to note concerns the chosen topic and the character of Kamill Resler in particular. He is not particularly well known in Czech circles, and very little known in the wider world. When he is mentioned, it is usually as defence counsel to K. H. Frank in his trial before the Extraordinary People’s Court in spring 1946: part of the so-called post-war retribitional trials, which took place at a time when overblown nationalist passions were still rife. Resler was a well-respected Prague barrister with high moral credit, who had been involved in the home resistance movement during the Second

World War. He became an enemy to the Czech State literally overnight when he became (not through his own decision but as an *ex officio* allocated defence counsel) the legal representative to K. H. Frank, “executioner of the Czech nation,” the man responsible for the Lidice extermination and a symbol of the break-up of the Czechoslovak state in 1938 and its occupation during the Second World War. Jakub Drápal also takes this powerful motif as the starting point for his book, but he is not only interested in the historical context of the war crime trials, but also in the right of any defendant to a fair trial, and the principle of a thorough defence even in cases when the public is convinced of the defendant’s guilt and extends its negative attitude to the defendant’s legal representative. Similarly, Jakub Drápal looks at barristers’ professional ethics, examining how Resler carried out the defence as his professional honour dictated, even in the case of a war criminal, and how this paradoxically led to him being hated by his fellow citizens, damaged his reputation forever, lost him several friends and even caused problems within his own family. Resler himself put it thus: “A barrister must forget his own feelings and attitudes, give up his own character and, however hard it might be, carry out his duty thoroughly.” All this is, moreover, intensified by the fact that K. H. Frank and Kamill Resler stood on opposite sides during the war, and, had his anti-German activities been revealed, Resler could well have been arrested and tried for them and thus the two men’s roles would have been reversed. What is more, Resler’s engagement in the post-war retribution was by no means over with K. H. Frank; as a barrister he was involved in several other no less sensitive cases involving political collaboration that were heard before the National Court.

Although these post-war retribitional cases are no doubt among the most interesting for the reader, Jakub Drápal looks beyond these at the other aspects of Resler’s life and work. Resler is, after all, connected with the eventful fate of the independent Czechoslovak state in the first half of the twentieth century. He was active at the time of its establishment and as a leading lawyer became involved in the legal, political and artistic life in Prague. He represented both left-wing intellectuals and, in 1935, German banker Kiesewetter, who was accused under the law on the protection of the Republic of plots against the Republic (i.e. treason) and acquitted thanks to Resler’s excellent defence. As you will read later in this book, Resler was already called a traitor to the Czech nation as a result of this trial, and it eventually led to him ending his long-term involvement in the Czech national sporting association Sokol.

Personally, I think that Resler’s attempt to prevent the anti-Jewish measures from being implemented at the Czech bar shows his great determination, and is nowadays rather forgotten. The Munich agreement of 1938, which not only led to the forced cession of the borderlands and their minority German population to Germany but also put an end to the liberal parliamentary

democracy of the inter-war period, affected Resler deeply; this is evident, too, from the fact that he put together a book of poems related to Munich (which was published only after the war). The undemocratic post-Munich regime known as the Second Czechoslovak Republic was marked by a growing wave of antisemitism and anti-Jewish measures, introduced following the German example but well before the Nazi occupation began. It was at this time that the Bohemian Bar Association, together with the Medical Chamber, took it upon themselves to prevent Jews from practising their professions, and it was none other than Kamill Resler who stood up against this oppression and defended his Jewish colleagues. He even proposed openly suing the group of so-called Aryan barristers for their anti-Jewish attacks, and pursued this even after 15th March 1939, when the Germans made what remained of Czechoslovakia into the Protectorate of Bohemia and Moravia. Under the Protectorate, Resler continued to represent a number of Jewish clients and besides his resistance activities fearlessly took on the defence of more than 60 Czech patriots who had been sentenced to death by German courts, including courts established under martial law.

Resler's strength of character is further demonstrated by the fact that, after the Communist Party of Czechoslovakia came to power in February 1948, he did not hesitate in suing two editors of the party's newspaper *Rudé právo* and successfully demanding his name be cleared of the defamation published in their articles.

Kamill Resler was an interesting character for many other reasons, too: he wrote poetry, had his own private publishing house, and collected books. This book, then, is one that you should not miss if you are interested in twentieth century central European history or legal history. Even small countries in central Europe have their great heroes, albeit underappreciated and rather forgotten ones.

Jan Kuklík

FOREWORD

A hunched figure, sitting smoking a cigarette in a dim room, pondering impending difficulties; yet someone of immense inner strength and courage. Those were my first impressions of Kamill Resler – as portrayed in the excellent film *Ex offo* produced by Czech Television.

After seeing the film, I immediately wanted to know more about Resler, and so I read Ladislav Tunys' fine book *K. H. Frank – Noc před popravou* (K. H. Frank – the Night before the Execution), part of which describes Resler's character. From the references in the book it was evident to me that there must be more material on Resler than had so far been processed. And so it was that I decided to go to the archives and research Resler's life academically, in greater detail.

Studying Resler's legacy led me into the lesser known aspects of his life, and many of the documents I found positively surprised and even touched me – in particular the final letters Resler received from those condemned to death during the Second World War and passed on to their families, and his descriptions of some of the circumstances of his relations with K. H. Frank. It gradually became clear to me that Kamill Resler was not only an extremely active and able man, but also very modest. He did not boast about his successes, and never expected recognition for them. In some cases he received the recognition he deserved only after his death.

Every profession, in any era, needs people who serve it as examples, perhaps even heroes, even though they are not perfect; it is constantly on the lookout for such figures, and consciously or subconsciously appreciates them. Kamill Resler could serve many as an example to the legal profession, in the way he understood justice and worked to achieve it, in the meaning that the barrister's profession had for him, and in the fact that he was able to find happiness elsewhere once he ceased practice in the profession.

Before I begin to describe Resler's life in detail, I would like to warn my readers of one thing: Resler once mentioned that as a barrister he always stood on the defendant's side, whether he liked it or not. In the course of writing about a defence lawyer whom I consider a role model and perhaps even

a hero, I naturally tend to see things from the defence side more than that of the prosecution, however hard I attempt to give a neutral and objective account of the facts. I trust that my readers will forgive me, therefore, if I have inadvertently not remained entirely unbiased in my account.

Jakub Drápal
Prague, 12 November 2016

INTRODUCTION: THE FINAL HOURS BEFORE THE EXECUTION¹

Just three hours passed between the pronouncement of the verdict and the execution itself. Karl Hermann Frank, the highest ranking Nazi in the Protectorate of Bohemia and Moravia during the Second World War, spent almost all of that time with lawyer Kamill Resler and his assistant Drahoslav Kroupa.²

It was 1946 and the Czechoslovak retribitional courts had just passed sentence in their most important case. They had judged a man who was hated by all the Czechs – including the judges, the prosecution and even his own defence lawyer. Despite that, the trial was carried out fairly and the quality of the defence was particularly remarkable. Despite his distaste at having to defend Frank, defence lawyer Kamill Resler managed to bring himself to provide his client with both legal and personal support, in particular during Frank's final hours.

Once the full sentence had been pronounced, Frank was taken to the photographer and Resler then went to meet him in his cell. He took up the guardian role that he had to play for the following three hours even before he had reached the cell: a group of women accosted him and asked him to find out some details from Frank about a certain case. He promised them that he would pass their request on to Frank, adding that he did not want to bother him in the final hours of his life.

Frank was taken to cell A I 52 at Pankrác prison in Prague, where Czechs had awaited execution during the war – which was right opposite the “Pankrác Guillotinery.” Female prisoners walked along the corridors around the cell, as it was in the women's section of the prison. Everyone who passed by

1 This section is based on the following sources: AHMP 15, Drahoslav Kroupa. “Poslední chvíle K. H. Franka” [Kroupa's account of Frank's last hours] (for abbreviations used to refer to archival sources please see page); AHMP 15, Doslovný přepis rukopisného záznamu JUDr. Kamilla Reslera o poznatcích, diskuzích a pocitech při posledním setkání s K. H. F. [Resler's handwritten records of his last meeting with Frank]; AHMP 16 and KNM 3, NM 214/168, Lecture *Zaniknutí K. H. Franka* [On the demise of K. H. Frank]; Kroupa Drahoslav. *Poslední dny a chvíle K. H. Franka* [K. H. Frank's last days and final moments], *Almanach VIII. B, maturitního ročníku 1942 Reálného gymnázia v Třebíči* [Class VIII B final year almanach, 1942, Reálné gymnázium in Třebíč], 1997.

2 Kroupa wrote a record of events in the cell. Later, Resler also wrote an account of this time for his own personal records, and described his feelings while waiting for the execution in his lecture *Zaniknutí K. H. Franka* [The demise of K. H. Frank] (hereafter “Demise”).



In the cell where Frank waited to be taken to court each day. (AHMP)

looked into the cell out of curiosity. Resler was not sure how best to start the conversation – he offered Frank and his prison officers cigarettes, and they smoked. “I thought about how to make the dismal wait through the three final hours of his life easier both for Frank and for me,” he recalled later. The only interruption they could expect was a response to the mercy plea – Resler did not have the slightest hope that mercy would be granted, although he did expect the negative decision to be delivered.

He realised that he must move on to another topic, both for Frank’s sanity and for his own, and so he cautiously mentioned the request the women had made outside the prison. Frank jumped at this with delight, as it enabled him to think of other things, and wrote down several lines about the case as a statement for the court.

A prison officer came to ask whether Frank had any final wishes, and Resler translated this to him as a question about whether he would like anything to eat or drink, attempting to put it to Frank in a way that avoided directly mentioning the execution. At first, Frank replied that he did not want anything, but on Resler’s insistence he accepted some bread with butter and salami, although only after checking that he would not throw up the food when he was executed. In the end Resler also persuaded him to ask for eggs with salami – but he did not eat the sardines that Resler had requested in addition. To top it off, he ordered a cognac.

Frank decided to write down a few final wishes, but Resler talked him into writing down a complete legally binding will instead. In his will, Frank remembered his wife and children, to whom he left his ideals, and concluded with thoughts about Germany. He read out some of his wording to Resler, who commented on it. Some time later, after his pen had got stuck several times, Resler's assistant Kroupa lent him his own pen – he later kept that pen in Frank's memory. As there were only seats in the cell for Frank and Resler, Kroupa was sat on the closed toilet.

While Frank was writing his will the priest Monsignor Tyllínek arrived, whom Resler had previously met before another post-war execution. As before, even in his approach to the priest, Frank's wish not to offend anyone was evident. Although he did not want to speak to him, he wanted to thank him for having stopped by, and after a short conversation wished him a good day. He ended with the words: "I believe in 'god'. (...) I want to die in the spirit of the German legend."

After the priest had left, Frank finished writing his will. Suddenly, he paused and asked: "I hope it works – the thing, (...) the hanging, (...) without an ordeal." Resler nodded in agreement, convincingly and knowledgeably: "Even for a thick-skinned lawyer it is sometimes strangely emotionally difficult to do a simple thing like nodding one's head," he later wrote. Frank also wanted to remember his barrister in his will; Resler agreed to this so as not to upset him. He did not want to accept anything of material value and so made various excuses in order to refuse his watch and similar items, but asked him to leave him a button from his uniform. In the end Frank symbolically left him his personal copy of *Men and Gods* by E. G. Kolbenheyer to remember him by, although Resler knew that he would probably never receive the book since Frank's house had already changed ownership a number of times; indeed, he never did.

Frank was also interested in what would happen to his body. Resler explained to him straightforwardly that it would be taken to the anatomy institute and then to the Ďáblice cemetery. When he saw how well Frank was distracted by writing his will, he suggested that they make a copy. Frank did not want to, and asked why. Resler came up with the explanation that he would like to give a copy to Frank's family, as he could see that while writing Frank had forgotten where he was and that these were the last hours of his life.

At the end of his last will, Frank wanted to add a political testament, but he did not know if this was possible – and so turned to Resler, who confirmed that he could do so. He therefore concluded with the words "Germany must live, even if we must die! Long live the German nation! Long live the German spirit!" Resler understood this to be very significant – after two months of debate with Frank he recognised that it was an "expression of Frank's total departure from Nazism, even a direct and solemn renunciation of Nazism



Frank with his guard, Resler and Resler's son Jiří (bottom), who assisted him during the first days of the trial. (AHMP)

and its political programme. Only Germany, only the German – not Nazi – spirit. Frank here wished something that no-one, not even the Great Powers, who are now in charge there, would wish to deny Germany.”³

Frank wanted to give his calendar to one of his guards, Sergeant Major Jankovský, as he had promised to do so, but Resler encouraged him to copy it out and to keep the original for his family. Frank thought this a good idea, and so began to carefully copy it out line by line. Resler was impressed that he was able to work so meticulously in the last minutes of his life so as to pay a courtesy to the prison warden who had looked after him. When he then handed it over, Frank told Jankovský that he hoped his daughter, to whom he wanted to give the calendar, would grow into a good, pretty girl.

3 It remains unclear to what extent Frank renounced Nazism – it is unclear, for example, whether Frank had, with this declaration, also renounced the ideas of the German Reich and the annexation of the Sudetenland to Germany. See also Andrej Tóth, Lukáš Novotný, and Michal Stehlík. *Národnostní menšiny v Československu 1918–1938: od státu národního ke státu národnostnímu*. [National minorities in Czechoslovakia 1918–1938: From a national state to an ethnic state]. Prague: Univerzita Karlova v Praze, Filozofická fakulta a TOGGA, 2012; and Milan Sládek. *Němci v Čechách. Německá menšina v Českých zemích a Československu 1848–1946*. [Germans in the Czech lands. The German minority in the Czech lands and Czechoslovakia 1848–1946]. Prague: PRAGMA, 2002.

Resler left the cell briefly to ask presiding judge Kozák whether a response to the mercy plea had arrived. Since it hadn't, the conversation then turned once again to that topic. Resler told Frank that he had prepared a request for the hanging to be changed to execution by firing squad, and that he could have it sent within five minutes. Frank replied that he had considered it, but that he believed the final rite should be carried out according to Czechoslovak customs. Resler then asked him whether he wouldn't like to write a final letter to his wife - like those that Resler had frequently passed on to his executed clients' relatives during the war. He popped out once more to ask whether a reply to the mercy plea had come, but did not manage to reach anyone, and so instead went to look at the gallows in their final stages of preparation.

At 12:11 on 22 May 1946, Frank sent his last letter to his wife, in which he wrote that despite everything the two of them remained respectful and clean people and that he was depending on her to continue their good Frank family tradition.

When Resler returned to the cell, Frank asked him about the fate of his gold and platinum teeth. "I am a horrible person," replied Resler. "I had already thought of that." Frank laughed at this, with what sounded like natural amusement. The last food was then brought, and as Resler later recalled, "t[T]he last snack one hour before death makes those present feel rather sombre." Frank remarked to Resler that he had had the public up to his neck during his life, and gestured to that effect; Resler reflected that the fact that he was about to be hanged in public had perhaps not even occurred to him at that moment.

A little while afterwards, crews started to film from the corridor, and when Frank and Resler objected to this the cameramen responded that they had permission to film. Once Resler had established that they had only been given permission to film the execution itself, he ordered them to leave, and shut the cell doors. Not long afterwards they came into the cell again and this time it was Frank who stood up and went to shut the door.

A few minutes before being taken to the execution, in his most grave moment, Frank took out a leather pouch containing family portraits and with great affliction and a stricken look on his face gave them to Resler. "At that moment K. H. Frank parted with the thing most dear to him, and in so doing began to part with life. I did not take the pouch straight away. I put down my pen, stood up, leaned a little towards K. H. Frank, and then took the pouch with both hands from him and held it there for a moment or two, in the hopes that this ceremonial handover silently indicated that I had solemnly received his most treasured keepsake, that I would keep it safe for his family, and that I would thus fulfil the last wish he had of me."

Angry and upset, Frank threw down his wedding ring on the table, took a sip of brandy (even though he had asked for cognac) and smoked his last cigarette. He asked whether he would be handcuffed. He would be, as there

were no exceptions to this practice, but even so, Resler said that he would try to arrange for him not to be. He left the cell, found one of the judges, and asked him to convey the condemned's final wishes to the presiding judge. He quickly returned to the cell to bid Frank farewell: "Mr Frank, the time has come for us to part. I must leave you. There is no other option, you must die. Die like a man!" - "Mr Doctor, I thank you very much, thank you!" replied Frank warmly, and shook Resler's hand, which Resler clasped with the words "It was my duty!" and quickly left. On his way out, all he heard was the question whether Frank had to be handcuffed. When he reached the corridor and heard that the presiding judge had agreed to Frank's final wish, despite the hangman being strongly against it, Resler returned to the cell once more and told this to Frank. Resler was himself pleased that the judge had decided thus - "far from taking the pernickety and easy approach, he took great responsibility and defended his decision strongly." Only later did he learn that the judge had had to stand up for his decision against the hangman and a representative of the Ministry of Justice. When he told Frank, he responded gratefully: "You succeeded. Thank you, I thank you very much. I am very glad. I am most grateful to you," while all the time clasping Resler's hand. Resler left the cell once more, and with that his duties for Frank were almost over.



Presiding Judge Kozák reads the sentence before the execution, prosecutor Drábek stands at his side. Resler observes from the first row (with his briefcase), next to him stands prosecutor Gemrich. Guard Beneš stands next to Frank. (AHMP)