

EDITED BY M. FIAMOVÁ

**ANTI-SEMITIC
LEGISLATION
IN SLOVAKIA AND IN EUROPE**

ÚSTAV PAMÄTI NÁRODA

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*Anti-Semitic
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*Collection of papers from the
international scientific conference
Bratislava, September 8–9, 2011*

The collection was published with financial support from the European Network Remembrance and Solidarity.



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Edited by
Martina Fiamová

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Introduction

On September 8–9, 2011, the international scientific conference *Anti-Semitic Legislation in Slovakia and Europe* was held on the ground of the Faculty of Law of Comenius University in Bratislava. It was organized by the Nation's Memory Institute and the European Network of Remembrance and Solidarity in cooperation with the Department of Legal History of the Faculty of Law of Comenius University and the Department of General History of Faculty of Philosophy of Comenius University in Bratislava. The conference was to commemorate the 70th anniversary of passing the so-called Jewish Code (Regulation No. 198/1941 Sl. z. on the Legal Position of the Jews), the most extensive anti-Jewish legislation in the Slovak Republic.

During the conference the public could learn not only the main, but also hitherto less-known information enabling comparative cognition of this tragic period in the European history, which involved not only the countries directly controlled or occupied by the Nazis, but also countries that found themselves in the position of the satellites of Germany. The results of the scientific research in the field of anti-Jewish legislation were at the conference presented by more than thirty historians and lawyers from thirteen countries, who in seven blocks brought a valuable scientific insight into the correlation of anti-Jewish legislation, discrimination and destruction of the Jewish communities in 1930s and 1940s. The authors in their studies explained the abuse of applicable laws in order to carry out the persecution of the Jewish population, as well as the creation

of a new anti-Jewish legislation, and they defined its role in the persecution and destruction of the Jewish minority in Europe. Finally, they highlighted the common and the distinctive features of anti-Jewish legislation in 15 European countries – Slovakia, Germany, Austria, Czech Republic, Bulgaria, Romania, Serbia, Croatia, Macedonia, Italy, Poland, France, the Netherlands, Hungary and Ireland.

Experts as well as the general public has now the opportunity to become familiar with most of the articles in the given collection which was issued by the Nation's Memory Institute with the financial support of the European Network of Remembrance and Solidarity both in Slovak and English language versions.

The editor

Anti-Semitism as a Historical Phenomenon

Ján Vyhnánek (Slovakia)

INTRODUCTION

Anti-Semitism has always been embedded in the legislative measures in the whole of Europe. It is like a red thread that meanders through the history of a mankind. Despite the fact that throughout the history, there were several types of anti-Semitism,¹ two of them dominantly influenced the entire anti-Jewish legislation – medieval religious and the modern racial ones. What was their origin and what were the reasons that led the legislators to a special treatment of the Jews?

RELIGIOUS ANTI-SEMITISM

For more detailed explication of the legal status of the Jews in the Middle Ages, it is necessary to outline a particularly religious, political and philosophical base of the society of the period. It was floundering in an antagonistic perception

1 For example of cultural, religious, social, economic, political, and racial – compare: HARAP, L.: *Creative Awakening: The Jewish Presence in Twentieth-Century American Literature, 1900–1940s*. New York 1987, page (p.) 76; BRUSTEIN, W. I.: *Roots of Hate: Anti-Semitism in Europe before the Holocaust*. Cambridge 2003, p. 49, 95, 177, 265; HAMACHER, W. – HERTZ, N. – KEENAN, T.: *Responses: On Paul de Man's Wartime Journalism*. Lincoln 1989, p. 273.

of the Jews, on the one hand, as the Christ killers,² but on the other hand, as human beings and the children of God. Since the medieval jurisprudence perceived the state as a community of believers (Christians), where the spiritual and secular elements corresponded to the relationship between body and soul, and created the community headed by Jesus Christ as a spiritual king and good shepherd, the Jews, stigmatized as infidels, were excluded from that unity. Such an understanding would entirely eliminate Jews from the legal life of each country, and with the legal status of second-class citizens, they would often act only as an object (not subject) of legal relations. This exclusivity was partially compensated by the above-mentioned treatment of the Jews as human beings and children of God, which entitled them to have at least a certain diapason of rights. Their being economic asset and participation in the building of God's state were undeniable. Thus, their legal protection and partial integration into the legal and political life of the country as a *sui generis* group was ensured, compromisingly, through the so-called *Judenschutz*. That is why the Jewish law was, during the Middle Ages, an integral part of the European legal particularism. Especially three sources were taken as the dominant fountain of such positive law: a) the so-called *Judenrecht* – recorded in writing of privileges and rights of the Jews, which had a prescribed form and were subject to sanctioning by the state; b) the judicial decisions, which by a restrictive interpretation often reduced the effect of Jewish privileges to a minimum; and c) fundamental ideas and opinions of the jurisprudence of the period.³

The above privileges, particularly concerning the rights of Jews to life, property, and human dignity, enabled them to practice religious ceremonies, trade and establish independent courts for Jewish affairs, and last, but not least, they also governed their relationship to the state power and their tax liabilities. These were granted by the monarch at first to individuals, but later also to entire Jewish communities and, ultimately, to all Jews living in a certain territory. The oldest documents of this kind, in existence today, are the so-called *Judenschutzbriefe*, issued during the reign of Frankish Emperor Louis I Pious,⁴ between the years 814–840. Emperor Henry IV granted the Speyer and Worms Jews similar privileges in the years 1084–1090. The Jews were required to pay

2 Compare for example: BERGER, D.: *History and Hate: The Dimensions of Anti-Semitism*. Philadelphia 1986, p. 53–54; STRAUSS, M.: Antiglobalism's Jewish Problem. *Foreign Policy*, 2003, number (no.) 139, p. 58 and following.

3 KISCH, G.: The Jews in Medieval Law. In: PINSON, K. S. (ed.): *Essays on Antisemitism*. New York 1942, p. 59.

4 It was the first Christian emperor, who delegated the Jews under his direct custody. Compare WEINBERG, M.: *Because They Were Jews: A History of Antisemitism*. New York 1986, p. 65.

taxes to the ruler for their protection, which were only slightly higher than the taxes imposed on Christian merchants. This commitment later developed into a special patronizing and legal relationship, the so-called Kammerknechtschaft, when in the late Middle Ages, the Jews became *servi camerae imperialis* (regis) and were required to pay the tax directly to the monarch. This legal concept was not limited solely to Germany, but appeared in the same form in England, Spain, Poland and the Czech Republic.⁵

Within these privileges, Jewish life was relatively calm and they could peacefully pursue their businesses, take care of their own property and establish contacts with the majority Christian population. However, neither legal protection could effectively prevent pogroms that appeared across Europe, connected to the first crusade.⁶ After a certain lull, in 1103, the so-called Landfriede was adopted in Germany, in which the Jews were, for the first time in the history, designated as *homines minus potentes*. In 1119, actually in direct succession, the papal bull of Calixtus II called the *Sicut Judaeis* (*Constitutio for Judeis*), guaranteed Jews the right to life, property and religious ceremonies. This was of great importance for the Jewish communities in the whole of Europe – as it enabled them to return to where they were expelled from, and develop religious and social life in their communities. Approximately until the mid-14th century, the legal position of Jews was almost identical with the Christian population. In towns, they enjoyed the right of domicile, the legal protection of life and property, they were entitled to acquire real estate and mortgages throughout the whole of urban territory and reside among the Christian population.⁷ The Jews were, just like the Christian townspeople,

5 Ruler in privilege, which demarcated the relationship, defined the Jewish population as his property and any attack on them was qualified as an attack on the royal estate. Jews were also subsumed directly under the royal jurisdiction, and thus were not subject to municipal courts. For further reference, see: BEN-SASSON, H. H.: *History of Jewish People*. Cambridge 1976, p. 418–420.

6 For further reference, see: ABULAFIA, A. S.: *Religious Violence between Christians and Jews*. New York 2002, p. 21–43.

7 This was the case, for example, in medieval Bratislava, when Jews originally inhabited mainly the territory in location of today's Nedbalova Street, however, their right to free movement and residence are documented by archaeological items found in other parts of the city (e.g. the portal with the Hebrew text in the circumferential courtyard wall of the wing of the house at 11 Panská Street). From the abovementioned, it is legitimate to make a claim that the Jews then lived inside the municipal walls, scattered among the Christian population. After their expulsion in 1526, and subsequent repatriation to Podhradie, under the patronage of Count Pálffy in 1599, an enclosed Jewish ghetto, restricting freedom of movement and residence, was created. Compare for example: BÁRKÁNY, E. – DOJČ, L.: *Židovské náboženské obce na Slovensku*. Bratislava 1991, p. 15; BOTEK, A.: *Stredoveký portál s hebrejským textom. Nezodpovedané otázky*. *Zborník Múzea mesta Bratislavy*, volume (vol.) 18, 2006, p. 49–62.

required to pay municipal taxes and participate in the military defense of the city. The only significant limitation was related to the city administration – Jews were not subjects of political rights, and thus they were not entitled to hold public offices. On the other hand, the Jewish religious community had an autonomous status and it guided the community's own internal and external affairs by itself, including a judiciary, and was subject directly to the king.⁸

At secular courts, Jews had an equal position with Christians. Such positive status was again the result of the period concept of God being the source of all rights. Medieval society did not exceed the horizon of archaic society, and thus did not differentiate between law and morality. Any violation of the law therefore meant committing a sin. The judge thus became God's representative, his surrogate and the equality of all people before God led to equality of all people before the law. Therefore, litigations, where Jews were one of the parties, were regulated by the same legal principles as exclusively Christian proceedings. In records of Magdeburg courts, which were some kind of German supreme courts, and their decisions, were respected in the whole of Europe of 12th–15th centuries, it is impossible to find even one judgment, in which the judge violated laws because of his own anti-Jewish prejudices.⁹

From the above mentioned, it follows that the legal position of European Jews was, paradoxically, during the “Dark Ages” relatively positive, and if any anti-Semitic statute or law was adopted, it had anti-Judaist rather than an anti-Jewish character. This means that medieval legal and social discrimination against Jews had religious, rather than ethnic or racial character. As an example and evidence of this postulate, it is legitimate to mention the legal book – the Swabian Mirror, which was adopted in 1275, under the influence of the Catholic Church and contained many anti-Jewish laws. One of them was a provision prohibiting sexual relations between Jews and Christians. The violation of this law was punished by being burned to death. However, the formulation of “*rejection of the Christian faith*” was used as a justification for such a draconian punishment. The perpetrator's attack was thus directed at the state religion, and his offense was regarded as adultery (Ungelouben). During the Middle Ages, principally every heresy and apostasy was punished by burning.¹⁰

8 *In concreto*, in Bratislava, Jews could acquire houses and land, but not the bourgeois rights, because when it was necessary to pass the Christian oath, Jews could not accept it. Therefore, they did not have either active or passive suffrage in the election for mayor or annual renewal of the city council. They were subject to the supervision of the Jewish mayor, who was appointed from among the Christian burghers by the king himself. Compare: HRADSKÁ, K.: *Židovská Bratislava*. Bratislava 2008, p. 17.

9 KISCH, G.: *The Jews in Medieval Law*, p. 62.

Despite the fact that, in genre, the law and acts were relatively well disposed towards the Jews, this was not the rule. Especially in the late Middle Ages, there were massive and brutal interferences in their natural rights. In 1290, King Edward I expelled Jews from England by his edict. In 1306, Philip IV the Fair followed this example in France and about two centuries later, in 1492, Ferdinand and Isabella did the same in Spain.¹¹ However, in addition to the royal interventions, which had support in law, Jews suffered also in other ways. For example, in 1348–1349, during the plague in Europe, there was a massive persecution of the Jews, who were considered to be its agents. Public burnings became a conventional practice (Aargau, Bern, Basel, Zurich, Freiburg, Constance, Schaffhausen, and Überlingen). In Strasbourg, the entire Jewish community, which consisted of about 2,000 people, was locked in a wooden building in the Jewish cemetery and burned alive, and then their property was split among the killers. From Switzerland and France, pogroms spread to Spain and Germany, where Jews ended up at public stakes in cities of Speyer, Mainz, Worms, and Cologne, cases of self-burning were not rare as well (e.g. on August 24, 1349, about 6,000 Jews in Mainz deliberately took their lives in fire), later the center of persecution moved to Erfurt, Frankfurt and Austria.¹² Paradoxically, the only territory where such violent actions were absent was subject to the jurisdiction of the Pope – Avignon and Rome. Roman popes in the Middle Ages re-issued the bull *Constitutio Judeis*,¹³ and despite the fact that the Jews were considered to be heathens and infidels, the popes were not supporters of their slaying, but Christianization¹⁴ (therefore the Jewish community

10 The origin of such penalty in relation to religious fornication goes back to ancient times. E.g., in ancient Israel, it was considered the most intensive and strictest means of a particularly serious sin (offense). The Torah demanded the application of the death penalty – the burning for two offenses: unauthorized relationship with a woman and her mother (Lev. 20:14) and adultery of a priest's daughter (Lev. 21:9). Both proceedings evoked the cultic sexual orgies of surrounding nations, in which sexual promiscuity was practiced in different variations. The latter also, with such daughter affronted her father (Dt 27:16) and priest, the direct representative of God (compare Dt 17:12).

11 SCALES, L.: Medieval barbarism? *History Today*, vol. 49, 1999, no. 10, p. 42.

12 FALK, A.: *A Psychoanalytic History of the Jews*. Cranbury 1996, p. 495.

13 Five popes in the 12th century and all popes in the 13th century. Exemplary Innocent III in 1199. Compare for example: GOW, A. – GRIFFITHS, G.: Pope Eugenius IV and Jewish Money-Lending in Florence: The Case of Salomone Di Bonaventura during the Chancellorship of Leonardo Bruni. *Renaissance Quarterly*, vol. 47, 1994, no. 2, p. 282–329 and following; LEVY, R. S.: *Antisemitism: A Historical Encyclopedia of Prejudice and Persecution*. Vol. 1. Santa Barbara 2005, p. 346.

14 This is related to the edict of the Fourth Lateran Council (1215), which ordered Jews to wear a conical hat and a sign – yellow circle (or a star) as a symbol of betrayal of

in Rome was the only one in Europe that was spared reprisals until World War II).¹⁵ This shows that if the Jews were subjected to persecution in the Middle Ages, this was caused by the fact that their position was not influenced only by the legal fundamentals, but also the overall cultural, social, economic and religious situation in the given state.

RACIAL ANTI-SEMITISM

Despite the radical religious, economic and legal metamorphosis of the society in modern times, the position of Jews did not change radically. On the contrary, during the period of Reformation, in 1555, Pope Paul IV issued the decree *Cum Nimis absurdum*, which legally institutionalized Jewish ghettos. Segregation of Jews was taken as a means of on placing restrictions on their social contacts with Christians, and punishment for their rejection of Christ and christening.¹⁶ Since in the 16th and 17th centuries, anti-Jewish legislation was still marked by the medieval religious (Christian) anti-Semitism. The 18th century brought a new approach, and the birth of the Enlightenment. This was characterized by a schizophrenic attitude to Jews. On the one hand, accenting their oppression was used to discredit Christianity; on the other hand, Judaism was seen as a particularly anti-social religion, and its exclusivity contributed to the national particularism, and therefore it was taken as an evolutionary brake on the society. Despite this accessory social anti-Semitism, the main ideas of the Enlightenment culminated in the late 18th and early 19th century, when the worldwide legal emancipation of Jews took place. After

Judas Iscariot (in fact, he sold Jesus for 30 silver coins). Humiliating public signing was likely to serve as a motivational factor to convert. Compare for example:

SKINNER, P.: *The Jews in Medieval Britain: Historical, Literary, and Archaeological Perspectives*. Rochester 2003, p. 109; BROWNE, L.: *Stranger Than Fiction: A Short History of the Jews from Earliest Times to the Present Day*. New York 1933, p. 227; GRAETZ, H.: *History of the Jews*. Vol. 3. Philadelphia 1949, p. 518.

- 15 PERRY, M. – SCHWEITZER, F. M.: *Jewish-Christian Encounters over the Centuries: Symbiosis, Prejudice, Holocaust, Dialogue*. New York 1994, p. 145.

- 16 Paul IV considered it absurd that practicing Jews resided freely among the Christian population. The ghetto, to which they were required to return every night at a certain time, should facilitate the specification of the target group of the Catholic Priests. During the day, when the Jews were outside the ghetto, they were easily identifiable through their mandatory labeling – a hat and a yellow Star of David, so they were exposed to the strong program of restoration by the dominant religious community – the Roman Catholic Church. Compare: KOLICH, A. M.: Miriam and the Conversion of the Jews in Nathaniel Hawthorne's the Marble Faun. *Studies in the Novel*, vol. 33, 2001, no. 4, p. 430 and following.

in the USA (1788) and in France (1791), they formally acquired equality in Hesse (1808), Westphalia (1808), Frankfurt (1811), Prussia (1812), Greece (1830), Canada (1832), the Netherlands (1834), Sweden (1835), etc. Here we can find an embryonic stage of the so-called political anti-Semitism, which declared that the legal and political equality would result in Jewish world domination. Stereotypical perception of Jews as a centrifugal group within the boundaries of the state, led to the emergence of racial anti-Semitism in the late 19th century, which was associated with the so-called scientific racism. The basic postulate of the respected scientific discipline back then, which arose from modern anthropology – Darwinian biology and eugenics – was the theory that behavior of specific individuality is conditioned by the race.¹⁷ Revitalization of national awareness of European nations in the mid-19th century naturally turned into its fusion, with racism at its end. While the Declaration of the Rights of Man and of the Citizen in the 18th century conferred a right to life, liberty, building personal happiness and equality before the law to all nationals, the nationalism of the 19th century eliminated this cosmopolitanism by guaranteeing the above rights only to members of a culturally unidentifiable nation. The Jews who did not share the language of a majority population, their traditions and history, found themselves in a marginal and peripheral position once again. Scientific racism, in its pure essence, was not anti-Semitic. The works of the most important protagonists (Arthur de Gobineau) did not have an anti-Jewish orientation at all. The extraordinary exodus of Eastern Jewish communities from Russia to the west, as a corollary of indigenous pogroms in the late 19th century, had the greatest impact on the European integration of racial theories and anti-Semitism. While the Western European Jewish community had relatively small number of members and had reached a considerably high degree of assimilation (its leaders were also respectable business magnates, such as Rothschilds in France), the Jewish emigrants from the East showed a low level of adaptability, and their religious conservatism, traditionalism, separatism and socialist political orientation stimulated European society (including indigenous western Jews) to their assessment as being fanatical diehards. In the context of growing European colonialism, nationalism, scientific racism, social and political anti-Semitism, this migration became a base for the genesis and multiplication of the real racial anti-Semitism.¹⁸ According to which, the Jews were considered a separate race, which, although

17 Compare: CASHMORE, E.: *Encyclopedia of Race and Ethnic Studies*. London 2004, p. 385–389.

18 Compare: BRUSTEIN, W. I.: *Roots of Hate: Anti-Semitism in Europe before the Holocaust*. Cambridge 2003, p. 95–117.

it was at a lower level than the Aryan,¹⁹ it was also the most dangerous of all the second-class races. Such understanding of “the Jewish question” led to the gradual adoption of anti-Jewish measures, which culminated in the German Nuremberg Laws (1935),²⁰ and the Slovak Jewish Code (1941).

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19 According to these theories, the Aryan race was superior in morality, physique and health, piety, values formation in the field of philosophy, science and religion. Members of the Semitic race were regarded as exploiters and immoral plagiarists. Compare: PULZER, P. G. J.: *The Rise of Political Anti-Semitism in Germany and Austria*. New York 1964, p. 52.

20 TAL, U.: *Faith, Politics, and Nazism: Selected Essays*. London, 2003, p. 17.

- KISCH, G.: The Jews in Medieval Law. In: PINSON, K. S. (ed.): *Essays on Antisemitism*. New York: Conference on Jewish Relations, 1942.
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Nuremberg Laws

Daniel Krošlák (Slovakia)

On the timeline, we are in the mid-1930s, after the following events had already occurred, we mean the appointment of Adolf Hitler as the Reich Chancellor, the Reichstag Fire on February 27 and 28, 1933, subsequent abolishment of freedoms guaranteed by the Constitution (Verordnung des Reichspräsidenten zum Schutz von Volk und Staat) and the elections of March 5, 1933, which brought an absolute majority in the Reichstag to the Nationalsozialistische Deutsche Arbeiterpartei (NSDAP), and also after the cancellation of mandates of the Communist Party. In the above situation, Hitler presented the Authorization Act (Gesetz zur Behebung der Not von Volk und Reich, *Reichsgesetzblatt* [RGBl.] I, 1933, p. 141) in the Reichstag (parliament) for discussion. In this Act, the government (and thus also the NSDAP) was vested with the full legislative power, including the possibility to deviate from the Constitution.¹ The Act was passed also with the help of votes of centrist parties on March 24,

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- 1 Hitler justified the adoption of such a law and tried to persuade the members of the Reichstag as follows: *"It would be against the significance of the national uprising and it would cause difficulties in meeting its objectives, if the government had to discuss and humbly ask the Reichstag to agree with the measures on a case by case basis. [...] However, the government of the national uprising generally insists that this matter should be discussed. It offers a chance for the peaceful development of Germany and reconciliation between the parties represented in the Reichstag [...] However, it is also resolutely ready to face the negative attitude, and take it as the attitude of the opposition. You, the Members of Parliament, you have to decide what you wish*

1933.² The total elimination of democracy was completed in July 1933, when all the political parties, except for the NSDAP were banned.

The new regime launched a number of restrictive and discriminatory measures against the Jews. From April 1, 1933, a boycott against the Jewish shops, banks, doctors and lawyers had been ordered. Later, on April 7, 1933, the Law for the Restoration of the Professional Civil Service (*Gesetz zur Wiederherstellung des Berufsbeamtentums*, RGBl. I, 1933, p. 175), which had to ensure the “racial purge” in the state machinery (as it was stated in section 6 of the party program of NSDAP), was promulgated. The German public, in general, did not take a stand on these steps. In this way, the Nazis seized the opportunity to increase the anti-Jewish pressure. In order to carry out their anti-Semitic intentions to the utmost, it was necessary to define who was a Jew. Regional government officials and Gestapo repeatedly requested the passing of guidelines, which would provide unambiguous rules. On the other hand, the measures being introduced from the beginning of April provoked protests by Jewish organizations.³ There were frequent quarrels between the party activists and the state apparatus, caused by the lack of a clear policy, amongst other things. In addition, the public demanded a clear and public definition of the official attitude to the Jewish question.

to happen, peace or war.” See: DOMARUS, M.: *The Essential Hitler: Speeches and Commentary*. Wauconda 2007, page (p.) 224 and following.

- 2 Alan Bullock describes the atmosphere prior to the adoption of the Act: “While the parties were discussing how to vote, large sections of the SA [Sturmabteilung – D. K.] did not stop menacingly repeating: ‘We want special powers – or you will pay for it severely.’ Hitler reaffirmed the centrists and promised to put it in writing to them. However, despite repeated requests, they did not receive any letter, but most of them, regardless the protests of Brüning [former Chancellor – D. K.], decided to vote ‘for’. Only the Social Democrats, who were the target of constant harassment and teasing from the SA, abstained. Statement by the President Otto Wels, who rejected the proposal, provoked Hitler into rage. Without taking into account von Papen, who was trying to restrain him, he went into a gross screaming tirade, and said that just for the sake of justice and psychological reasons he asked the Reichstag to ‘guarantee what we actually could impose otherwise’. He also sent a message to the Social Democrats, saying that: ‘I can only say, I do not want you to vote ‘for’; Germany will be free, but it will not be due to your merit!’ Ovarions and loud shouts of ‘Heil!’ followed, approving Hitler’s outburst. He repeated his words again when the results were announced – 441 votes ‘for’ to 94 ‘against’.” BULLOCK, A.: *Hitler a Stalin: Paralelné životopisy*. Praha 2005, p. 312.
- 3 Bernhard Lösener describes his own experience, in the position of an official in the Reich Ministry of Interior in those days as follows: “Since the Nazis had been at the helm for three months, there was already a stack of written demands and ‘recommendations’ [Anregungen] for all possible anti-Semitic measures, as well as an array of protests and emergency appeals from Jewish organizations. All were addressed to the Ministry of the Interior, or landed there as coming under its jurisdiction. In order

The Gestapo report from the spring of 1935 stated that ordinary members of the NSDAP were interested in the solution of the Jewish question, and thus the government should take this issue into consideration. A wave of attacks, vandalism and boycotts by old party members (Alte Kämpfer) and members of the Sturmabteilung (SA) against the German Jews followed in the spring and summer of 1935, which were far more violent than the anti-Semitic campaigns in the preceding two years. The situation described above tipped the balance in favor of Hitler, as it gave his ideas a hallmark of legitimacy.⁴

Hjalmar Schacht, Minister of the Economy, came out against anti-Semitic attacks by old NSDAP and SA members, and claimed that such behavior hindered his policy of development of the German economy. Schacht believed that Jews had certain entrepreneurial skills that could be used in the further economic development of the German Reich. Therefore, in his case, we cannot speak about

to clear his desk, and because there was no designated Desk for such matters, Pfundtner turned these things over to me, along with a bundle of all other sorts of letters, and told me to draft a short reply to each, making the reply, for the time being, as evasive as possible. This I did, as well, or as poorly, as the circumstances allowed. Then Pfundtner, who was overrun with visitors and petitioners, started to shove those who were most burdensome and embarrassing off on me, including those who showed up because they had been affected, actively or passively, by the 'Jewish Question' [Judenfrage]. After a while, I came to be seen as having some expertise in this area, and gradually these matters began to cling to me, in addition to my primary responsibilities at the Desk for Matters of Citizenship. I was unable to effectively counter this development, especially because I was, at first, one of the very few Party members from the pre-1933 period in the Ministry, and therefore could hardly claim any aversion to taking care of these matters." SCHLEUNES, K. A. (ed.): *Legislating the Holocaust: The Bernhard Loesener Memoirs and Supporting Documents*. Boulder 2001, p. 36.

- 4 "In one of his earliest anti-Semitic writings, a 1919 letter to his commander, while still an army private in Munich, the thirty-year-old Adolf Hitler cautioned that the 'anti-Semitism of pure emotion' would never progress beyond sporadic pogroms. To curb the noxious influence of the Jews, a different kind of anti-Semitism was required – 'anti-Semitism of reason' which alone would form a legal basis for the systematic deprivation of Jewish 'privileges' and, ultimately, their total 'removal' [Entfernung]. An uncanny sensation steals over us as we read Hitler's distinction, articulated in full, decades before the outbreak of World War II, between the two varieties of anti-Semitic perpetration: the one excited by passion, vented locally by individuals or small groups, and destined to subside with little impact – and the other, grounded in a sober 'recognition of the facts' and committed to a step-by-step process of first restricting, then eliminating the Jews, through the instrumentalities of a 'government of national power'. The first, being subjective and short-lived, would quickly burn itself out; the second, objective and enduring, promised a racially pure community." BRYANT, M. S.: *Punishing the Excess. Sadism, Bureaucratized Atrocity, and the U.S. Army Concentration Camp Trials, 1945–1947*. In: STOLTZFUS, N. – FRIEDLANDER, H. (eds.): *Nazi Crimes and the Law*. Cambridge 2008, p. 63.

the moral denunciation of anti-Jewish attacks, but rather about his intention to point out the need of passing applicable legislation. After several complaints from Schacht, and reports on public opposition to the wave of anti-Semitic violence, on August 8, 1935, Hitler commanded to halt all individual actions against German Jews. On August 20, 1935, a conference of ministers was held, where the negative economic impacts of party members' actions against the Jewish people were discussed. Hitler brought forward an idea that attacks would cease, when the government fixed the basic points of an anti-Jewish policy.⁵

This resolution should have been fulfilled during the 7th Congress of NSDAP (Reichsparteitag der Freiheit), taking place on September 10–16, 1935. During this event, the Nazis wanted to celebrate the cancellation of the fifth part of the Peace Treaty of Versailles, concerning the disarmament of Germany. Additionally, they planned that the Reichstag would pass the Reich Flag Law (Reichsflaggengesetz). The above legislative act would be Hitler's response to the so-called Bremen Incident of July 26, 1935 in New York, during which a group of anti-fascist demonstrators destroyed the Nazi party's flag, provocatively hanging out on an ocean liner SS Bremen, which was anchored on the Hudson River. When the German consul reacted to this action via a protest note, U.S. officials responded that only a symbol of a political party had been damaged, and not the German national flag.⁶

Hitler, in his main speech at the congress, intended to express his support for the impending Italian aggression against Ethiopia. However, he changed his mind at the last moment under the persuasion of Minister of Foreign Affairs von Neurath (who regarded such performances as too provocative for public opinion abroad, and also being in contrast to Hitler's previous "peace speeches"). That is why it was necessary to find another program content for the momentous session of the Reichstag in Nuremberg (which was actually the first session in this city since 1543, and Hitler invited there all of the elder foreign diplomats from Berlin, to hear his views on foreign policy).⁷

On September 12, 1935, virtually two days after the beginning of the congress, the Chair of the Reich Association of Physicians Gerhard Wagner announced surprising news that the Nazi government would soon introduce Law for the Protection of German Blood (Gesetz zum Schutz des deutschen Blutes), to avoid future mixed marriages between Jews and "Aryans". On September 13, Hitler immediately ordered the officials, who should draw up an appropriate motion,

5 KERSHAW, I.: *Hitler 1889–1936: Hubris*. New York 1999, p. 563.

6 See for example: HUCHTHAUSEN, P. A.: *Shadow Voyage: The Extraordinary Wartime Escape of the Legendary SS Bremen*. Hoboken 2005.

7 KERSHAW, I.: *Hitler 1889–1936*, p. 567–568.

summoned to Nuremberg: Bernhard Loesener, Franz Albrecht Medicus, and many others.⁸

Since the law had to be approved by the Reichstag on September 15, the entire preparatory phase gave an impression of hasty improvisation.⁹ The only requirement from party (formulated by Wagner) was that the law also had to include the descendants of the Jews, and that on its basis, the existing mixed marriages would be either annulled, or it would stipulate that the Aryan partners of Jews would be treated the same way as the Jews themselves.¹⁰

Around midnight on September 14 to 15, officials learned of Hitler's new demands – to develop four variants of a law for the protection of German

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- 8 Lösenner describes the mentioned events as follows: “On Friday the 13th, we met for a long and leisurely twilight drink to celebrate the fact that I had, two weeks previously, been promoted to Ministerial Counselor. It went well into the night. Around 11 P.M., I was called to the telephone: my wife informed me that the Ministry had just informed her that at 7 A.M. the next morning, I had to fly from Tempelhof Airport [in Berlin] to Nuremberg. It concerned a Jewish Law [Judengesetz], she was told; I needed to take along my files. Shortly after this call, Kettner, who held the Desk of Personal Assistant to Secretary of State Stuckart, was also called to the telephone and passed along the same orders in Stuckart’s name. Accompanied by a colleague, Kettner as I recall, I hastily made my way to the dark RmdI [Reichsministerium des Innern], at that time still housed at the Königsplatz, in the same building as the General Staff, in order to pick up some notes, drafts, the document registry, and other writings from my office and the offices of my various superiors. Because everything was locked, we woke up the concierge [Bürodirektor], Stoppel, who lived in the building and who proceeded to help us. I also had to alert my forwarding clerk, Culmsee, and have him come from Spandau to the Ministry, because I could not recall the whereabouts of some papers that might have been important. Around 2:30 A.M., I finally returned home, slept for two hours, left Tempelhof around 7 A.M., together with Medicus, and was in Nuremberg at 9 A.M., the day before the Reichstag session.” SCHLEUNES, K. A. (ed.): *Legislating the Holocaust*, p. 46.
- 9 Some recent works argue that with regard to the approval of the Nuremberg racial laws, it was not a spontaneous decision. Compare for example: GRUNER, W. (ed.): *Die Verfolgung und Ermordung der europäischen Juden durch das nationalsozialistische Deutschland 1933 – 1945*. Volume (Vol.) 1. München 2008, p. 123–129.
- 10 Lösenner: “In the course of the morning, Sommer, then Ministerial Counselor from the Brown House in Munich, joined us as Party envoy. (Sommer later became Ministerial Director in the Party Chancellery, and eventually served for a time as President of the Reich Administrative Court.) He announced the Party demand that the law would, as a ‘matter of course’, include Jewish offspring and must either dissolve already existing mixed marriages or stipulate that Aryan partners of Jews would be treated exactly like Jews. He came in the name of Dr. Gerhard Wagner, the ‘Leader of Reich Physicians’ [Reichärztführer] and one of the most vehement forces behind measures related to the Jewish Question. Throughout the hours leading up to the opening of the Reichstag, Wagner, in order to secure the most ruthless law possible, kept close to Hitler’s side.” SCHLEUNES, K. A. (ed.): *Legislating the Holocaust*, p. 47–48.

blood of different strictness, and also to draw up a Reich Citizenship Bill (Reichsbürgergesetz).¹¹ Although at dawn, Hitler approved the Reich Citizenship Bill (written in about one hour); it was not certain which variant of the German Blood Protection Act he would prefer. Finally, he chose the mildest variant – but the key phrase limiting the personal scope of the Act solely to full Jews was missing. Hitler personally deleted this sentence, but ordered that for the purposes of publication by the German Press Agency (Deutsche Presse-Agentur, DPA), it would remain in the law. Facsimile of the Nuremberg racial laws, published after their ceremonial proclamation in the party newspaper *Völkischer Beobachter*, did not contain the phrase limiting the personal scope of the Act only to the pure Jews.¹²

Texts of laws:¹³

THE REICH CITIZENSHIP LAW

§ 1

- (1) *A subject of the State is a person who belongs to the protective union of the German Reich, and who therefore has particular obligations towards the Reich.*
- (2) *The status of subject is acquired in accordance with the provisions of the Reich and State Law of Citizenship.*

§ 2

- (1) *A citizen of the Reich is only that subject who is of German or kindred blood and who, through his conduct, shows that he is both desirous and fit to serve the German people and Reich faithfully.*
- (2) *The right to citizenship is acquired by the granting of Reich citizenship papers.*
- (3) *Only the citizen of the Reich enjoys full political rights in accordance with the provision of the laws.*

¹¹ Ibid., p. 49.

¹² Ibid., p. 51.

¹³ This is author's own translation from: Reichsbürgergesetz. *Reichsgesetzblatt* (RGBl.) I, 1935, p. 1146; Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre. RGBl. I, 1935, p. 1146–1147.

LAW FOR THE PROTECTION OF GERMAN BLOOD
AND GERMAN HONOR

Entirely convinced that the purity of German blood is essential to the further existence of the German people, and inspired by the uncompromising determination to safeguard the future of the German nation, the Reichstag has unanimously resolved upon the following law, which is promulgated herewith:

§ 1

- (1) Marriages between Jews and citizens of German or kindred blood are forbidden. Marriages concluded in defiance of this law are void, even if, for the purpose of evading this law, they were concluded abroad.*
- (2) Proceedings for annulment may be initiated only by the Public Prosecutor.*

§ 2

Sexual relations outside marriage between Jews and nationals of German or kindred blood are forbidden.

§ 3

Jews will not be permitted to employ citizens of German or kindred blood younger than 45 as domestic servants.

§ 4

- (1) Jews are forbidden to display the Reich and national flag or the national colors.*
- (2) On the other hand, they are permitted to display the Jewish colors. The exercise of this right is protected by the State.*

§ 5

- (1) A person who acts contrary to the prohibition of Section 1 will be punished with hard labor.*
- (2) A person who acts contrary to the prohibition of Section 2 will be punished with imprisonment or with hard labor.*
- (3) A person who acts contrary to the provisions of Sections 3 will be punished with imprisonment up to a year and with a fine, or with one of these penalties.*

THE REICH CITIZENSHIP LAW

Reich Citizenship Act provided that a citizen of the Reich is only that subject who is of German or kindred blood. Basically, this was the implementation of paragraph 4 of the program of the NSDAP from 1920: *“National may be only the one who is a countryman [Volksgenosse]. Countrymen can only be ones who have German blood, regardless of creed. That is why a Jew cannot be a countryman.”* Passing this Law meant for German Jews the loss of their political rights: they became the Staatsangehörige (nationals). By contrast, the Germans having so-called Aryan origins were designated as Reichsbürger (Reich citizens).

The provisions of the Reich Citizenship Law were, by 1943, specified and amended by a total of thirteen implementing regulations, systematically depriving Jews of all their civil rights. Less than two months after the adoption of the Law (November 14, 1935), the First Implementing Regulation was issued. It accurately determined who was considered a Jew or a half-caste (RGBl. I, 1935, p. 1333). On its basis, the subjects had to complete the prescribed questionnaire about the origin of their parents and grandparents, and the accuracy of these data had to be substantiated by relevant documents.

Under this legislation, every person who had either three or four Jewish grandparents was considered a Jew. A person who had two Jewish grandparents was considered either a Jew or a half-caste of the first degree. A person was considered to be a Jew if he/she:

- a) was a member of the Jewish religious community as of November 14, 1935, or became a member later (during the period of the effectiveness of the law); or
- b) was married to Jew as of November 14, 1935, or entered into marriage with a Jew later (during the period of effectiveness of the law); or
- c) had parents that entered into marriage as of September 30, 1935, or were married later (during the period of effectiveness of the law), and one of the parents was a Jew; or
- d) was born to married parents after July 31, 1936, and one of the parents was a Jew.

If such person was not classified as a Jew, on the above four criteria, he/she was considered to be a half-caste of the first degree (if he/she had two Jewish grandparents). A person who had only one Jewish grandparent was considered a second-degree half-caste. (Graphical illustration of the mentioned division can be seen in the figure.)

It is obvious that the determination of a Jewish nationality was not easy at all. To determine whether someone's grandparents were Jewish or not, it was



necessary to identify the personal status of grandparents. Realization of such an examination was practically difficult to achieve, therefore it was automatically assumed that the grandparents were Jews, if they belonged to the Jewish religious community. In other words, a grandparent “of German blood”, who married a Jew and converted to the Jewish religion, was considered a Jew in case of determination of the nationality of their offspring in the second generation.

First Implementing Regulation to the Reich Citizenship Law also specified that a Jew should not hold any public office, and Jewish officials had to retire on December 31, 1935. Though Jewish officers who fought at the front in World War I were granted full business benefits until they reached the retirement age, these rights were limited, and later completely abolished (see the Seventh Implementing Regulation to the Reich Citizenship Law of December 5, 1938 – RgBl. I, 1938, p. 1751).

On the Fourth Implementing Regulation of July 25, 1938, the licenses to practice medicine, of Jewish physicians, were revoked as of September 30, 1938.¹⁴ Out

14 See: LÖSENER, B. – KNOST, F. A.: *Die Nürnberger Gesetze nebst den Durchführungsverordnungen und den sonstigen einschlägigen Vorschriften*. Berlin 1939, p. 69 and following.

of the overall 3,152 practicing physicians, 709 received revocable exemptions, and thus could work as orderlies for Jewish patients.¹⁵

The Fifth Implementing Regulation meant the ultimate end of the services provided by Jewish lawyers (that right was previously restricted under the Act on authorization to practice law of 1933), as of November 30, 1938.¹⁶ Out of the remaining 1,753 attorneys, 172 could perform consulting work for Jewish clients, via a special permission given to them.¹⁷

Based on the Tenth Implementing Regulation of July 4, 1939, (RGBl. I, 1939, p. 1097) the Reich Association of Jews in Germany (Reichsvereinigung der Juden in Deutschland), which functioned as an extended hand of the Reich Security Bureau (Reichssicherheitshauptamt), was established and later became notorious for cooperation in carrying out deportations.

Eleventh Implementing Regulation to the Reich Citizenship Law of November 24, 1941 (RGBl. I, 1941, p. 772), stipulated that Jews who emigrated abroad should be deprived of state citizenship and property. An obvious goal of this law was transferring the remaining assets of deported Jews to the Reich, without any further decisions needed.¹⁸ Since a considerable amount of deportations were directed to the territory of the General Government (Generalgouvernement), Eastern Reich Commissariat (Reichskommissariat Ostland) or Reich Commissariat of Ukraine (Ukraine Reichskommissariat), which were not regarded by the imperial law as being abroad, the circular of the Minister of Interior of December 3, 1941, stated that these areas were “*for the purposes of the Eleventh Regulation*” classified as abroad.¹⁹

15 KWIET, K.: Nach dem Pogrom: Stufen der Ausgrenzung. In: BENZ, W. (ed.): *Die Juden in Deutschland 1933–1945*. München 1966, p. 548.

16 See: LÖSENER, B. – KNOST, F. A.: *Die Nürnberger Gesetze*, p. 73 and following.

17 KWIET, K.: *Nach dem Pogrom*, p. 548.

18 „Das Vermögen des Juden, der die deutsche Staatsangehörigkeit auf Grund dieser Verordnung verliert, verfällt mit dem Verlust der Staatsangehörigkeit dem Reich. [...] Das verfallene Vermögen soll zur Förderung aller mit der Lösung der Judenfrage im Zusammenhang stehende Zwecke dienen.“

19 SCHMID, H.D.: „Finanztod“ – Die Zusammenarbeit von Gestapo und Finanzverwaltung bei der Ausplünderung der Juden in Deutschland. In: PAUL, G. – MALLMANN, K. M. (eds.): *Die Gestapo im Zweiten Weltkrieg*. Darmstadt 2000, p. 151. For information on the issue of Aryanization and restitution of Jewish property see also the comparative work: GOSCHLER, C. – THER, Ph. (eds.): *Raub und Restitution: ‚Arisierung‘ und Rückerstattung des jüdischen Eigentums in Europa*. Frankfurt/Main 2003. In 1968, the German Federal Constitutional Court gave its opinion on the Eleventh Implementing Regulation in its jurisdiction, within the restitution process concerning Jewish property, and formulated the quite often quoted legal statement: „Nationalsozialistischen ‚Rechts‘ vorschriſten kann die Geltung als Recht abgesprochen werden, wenn sie fundamentalen Prinzipien der Gerechtigkeit

The Thirteenth Implementing Regulation to the Reich Citizenship Law of July 1, 1943, (RGBl. I, 1943, p. 372), deprived Jews of access to the courts. Crimes committed by the Jews were punished by the police, and after the death of a Jew, his/her property was expropriated in favor of the Reich.

The Reich Citizenship Law and its Implementing Regulations were finally abolished by the Control Council Law No. 1 of September 20, 1945.

LAW FOR THE PROTECTION OF GERMAN BLOOD AND GERMAN HONOR

When we talk about the Law for the Protection of German Blood and German Honor, it is necessary to clarify the term “Rassenschande” in this context. The above Nazi term stood for the condemnation of sexual relations between Aryans and Jews. Those were prohibited on the Law for the Protection of German Blood and German Honor.²⁰ Marriages between Jews and Aryans were banned as well.²¹ Violation of these bans was usually punished by imprisonment or forced labor.

In this respect, it was curious that the ban on sexual relations between Aryans and Jews was applied only to men. This determination is often attributed to Hitler personally. It actually corresponds to his notion of women as sexually immature persons. Following Hitler’s wishes, the regulation according to which a woman, regardless of her action, should remain fully free, was issued on Feb-

so evident widersprechen, daß der Richter, der sie anwenden oder ihre Rechtsfolgen anerkennen wollte, Unrecht statt Recht sprechen würde. In der 11. Verordnung zum Reichsbürgergesetz vom 25. November 1941 [RGBl. I, p. 772] hat der Widerspruch zur Gerechtigkeit ein so unerträgliches Maß erreicht, daß sie von Anfang an als nichtig erachtet werden muß.“ Bundesverfassungsgericht, February, 14, 1968 (2 BvR 557/62).

20 According to the decision by the Imperial Court of December 9, 1936 (Grosser Strafsenat 4/36), the term sexual relations “*in the context of the Blood Protection Laws does not include every kind of illicit sexual act [Unzucht], but is also not restricted to sexual intercourse alone. It includes the entire range of natural and unnatural sexual relations that, in addition to sexual intercourse, include all other sexual activities with a member of the opposite sex, which according to the nature of the activities are intended to serve as a substitute for sexual intercourse in satisfying the sexual needs of a partner.*” Text of the decision is available at: <http://www.ushmm.org/wlc/en/article.php?ModuleId=10007905>.

21 The question was – What would happen with mixed marriages that were entered into before the date of entry into force of this Act? Opinions on this issue varied from radical, which tried to express the futility of such marriages, to those that opposed to doing anything in this respect. Since no clear policy was established on this issue, the existing marriages remained essentially “*untouched*”.

ruary 16, 1940.²² Wilhelm Stuckart and Hans Globke in their *Commentary on Racial Laws*, gave a purely practical reasoning: for the criminal conviction it was necessary to get the testimony of the woman concerned, who was regarded as fully free, and thus had right to not testify.²³

Paragraph 3 of the Act on the Protection of German Blood and German Honor, forbade Jews from employing German housemaids under the age of 45 years. For violation of this prohibition, they were threatened with imprisonment for up to one year and a fine, or one of these penalties.

Shortly after passing the Law on the Protection of German Blood and German Honor, the First Implementing Regulation (RGBl. I, 1935, p. 1334) was also promulgated, whereby the half-castes were allowed to enter into marriage with a German or second-degree half-caste only with explicit permission. However, such applications remained largely unsuccessful and, after 1942, “in the time of war” they were not accepted at all.

Quite the contrary, marriages between Germans and the second-degree half-castes were permitted. It was justified by the muddled thesis that, in this way, the protection of the “*racially precious Aryan blood*” would be assured, because a small proportion of Jewish blood would vanish after several generations. In accordance with paragraph 6 of the Implementing Regulation, the ban on marriages was extended to all those who would threaten “*the purity of German blood*”. Under the internal interpretation all “*gypsies, blacks and their bastards*” belonged to this group.²⁴

Law on the Protection of German Blood and German Honor and its Implementing Regulations were similar to the Reich Citizenship Law, abolished by the Control Council Law No. 1 of September 20, 1945.

CONCLUSION

Anti-Semitism as an official policy of the government in Germany had asserted itself even before the two Nuremberg racial laws (by the Law for the Restoration of the Professional Civil Service enacted on April 7, 1933) were passed.²⁵ These laws – the Reich Citizenship Law and the Law for the Protection of German

22 GRUCHMANN, L.: „Blutschutzgesetz“ und Justiz. Zu Entstehung und Auswirkung des Nürnberger Gesetzes vom 15. September 1935. *Vierteljahrshefte für Zeitgeschichte*, vol. 31, 1983, p. 441.

23 STUCKART, W. – GLOBKE, H.: *Kommentare zur deutschen Rassengesetzgebung*. Vol. 1. München – Berlin 1936, p. 18–19.

24 FRIEDLÄNDER, S.: *Das Dritte Reich und die Juden. Die Jahre der Verfolgung 1933 – 1939*. München 2000, p. 170.

25 Identically: SCHLEUNES, K. A. (ed.): *Legislating the Holocaust*, p. 52–53.

Blood and German Honor – were drawn up very hastily, so they obviously did not deal with a number of issues. Therefore many implementing regulations and other legislative measures, which widened the scope for the implementation the anti-Jewish policy that was to culminate in the systematic genocide of Jews in Europe (Endlösung der Judenfrage), were passed in the following years.²⁶

26 For further reference see the minutes from the session of the high-ranking officials of Nazi Germany, which took place on January 20, 1942 at a villa on the bank of Lake Wannsee in the Berlin suburb. At: http://www.holocaust.cz/cz2/resources/documents/final_solution/wannsee_protocol.

Anti-Jewish “Legalism” in the Third Reich and Its Radicalization between 1935 and 1942

The Example of Jewish Property in Occupied Poland

Ingo Loose (Germany)

Beyond academic historiography, Nazi legislation targeting Jews after January 1933 is quite often perceived as a thoroughly planned and executed master plan, which more or less directly led to the Holocaust soon after the beginning of World War II. In historiography, however, important theoretical approaches like, for instance, Ernst Fraenkel’s *Dual State* or the phrase of the “*twisted road to Auschwitz*”, coined by Karl Schleunes, pointed to a far more complex history of the legal or rather pseudo-legal persecution of Jews, with different velocities, initiators, and protagonists.

Within this framework, in the last ten, fifteen years, international historiography of National Socialism – focusing especially on anti-Jewish persecution during the 1930s – has been intensively dedicated to the topic of so-called Aryanization of Jewish property and assets after 1933, and especially in the second half of the 1930s.¹ The Nazis introduced a significant number of anti-Jewish

¹ KREUTZMÜLLER, Ch. – LOOSE, I. – NIETZEL, B.: Nazi Persecution and Strategies for Survival. Jewish Businesses in Berlin, Frankfurt am Main, and Breslau, 1933–1942. *Yad Vashem Studies*, volume (vol.) 39, 2011, number (no.) 1, page (p.) 31–70. See also the comprehensive overview: NIETZEL, B.: Die Vernichtung der wirtschaftlichen Existenz der deutschen Juden, 1933–1945. Ein Literatur- und Forschungsbericht. *Archiv für Sozialgeschichte*, vol. 49, 2009, p. 561–613. The most important studies are: HÄNDLER LACHMANN, B. – WERTHER, T.: *Vergessene Geschäfte, verlorene Geschichte: Jüdisches Wirtschaftsleben in Marburg und seine Vernichtung im*

measures, before it became more or less clear with the infamous Nuremberg Laws in 1935, i.e. with the introduction of the “racial definition” of Jews, who exactly should be defined as being a Jew. However, this was not the only juridical problem that the Nazis were confronted with while implementing an ever growing mass of limitations, exclusions, barriers and obstacles for the Jewish minority, until the last threshold of naked violence was passed in November 1938 at the latest.

Looking at all these more than 1,000 legal measures, orders etc. against Jews in Nazi Germany until September 1939² – from low level authorities up to Hitler’s personal orders – there are two prevailing aspects or aims, first the racist based compulsory reduction of “Jewish-Aryan” relations and communication that led to the emergence of a inner-Jewish subgroup within the German society, and second the takeover of Jewish property, whose allegedly overwhelming dimensions was, in the interwar period, an integral part of European feelings of anti-Semitism. The takeover of Jewish property by the Nazis was an underlying continuum, which can be found in combination with or close relationship to almost every form of anti-Jewish discrimination and persecution, first in Germany, later in the occupied and dominated countries or in Germany’s allies like Slovakia, Hungary, Romania or elsewhere.

Property related anti-Semitism is especially interesting, because it was obvious to everyone among the German population, including the most ardent Nazis themselves, that this legislation, which deeply intervened in such away in the economic system, was only sort of a pseudo-legalism – obviously illegal aims had to function within an entire system of property related legislation, which had, of course, to remain untouched in its basic structure and function.³

Nationalsozialismus. Marburg 1992; BRUNS WÜSTEFELD, A.: *Lohnende Geschäfte: Die „Entjudung“ der Wirtschaft am Beispiel Göttingens*. Hannover 1997; FICHTL, F. et al. (eds.): *„Bamberg’s Wirtschaft judenfrei“: Die Verdrängung der jüdischen Geschäftsleute in den Jahren 1933 bis 1939*. Bamberg 1998; DAHLMANN, H. Ch.: *„Arisierung“ und Gesellschaft in Witten: Wie die Bevölkerung einer Ruhrgebietsstadt das Eigentum ihrer Jüdinnen und Juden übernahm*. Münster 2001; BRUCHER LEMBACH, A.: *„... wie Hunde auf ein Stück Brot“: Die Arisierung und der Versuch der Wiedergutmachung in Freiburg*. Bremgarten 2004; KLATT, M.: *Unbequeme Vergangenheit: Judenverfolgung und Wiedergutmachung in Westfalen, 1925 – 1965*. Paderborn 2009.

2 WALK, J. (ed.): *Das Sonderrecht für die Juden im NS-Staat. Eine Sammlung der gesetzlichen Maßnahmen und Richtlinien – Inhalt und Bedeutung*. Heidelberg 1996.

3 Cf.: Die Rechtssicherheit als Grundlage der Volksgemeinschaft. Rede des Reichsministers und Preuß. Ministerpräsidenten Hermann Göring vor der Akademie für Deutsches Recht. *Deutsche Justiz. Rechtspflege und Rechtspolitik*, vol. 96, 1934, no. 46, p. 1427–1432.

Putting it this way, the unique phenomenon of Jewish property poses a series of crucial questions: If the Nazis were ready to make use of violence, were these legal or legalistic measures directed against the Jewish victims, really meant to control the different groups of beneficiaries, including the German Reich itself? Second, did the pseudo legal system hold back more drastic forms of anti-Semitism – at least until the summer of 1938 (when anti-Jewish riots in Berlin and elsewhere took place, anticipating the pogrom in November) – or was it from the outset an efficient instrument for discrimination against Jews – first in Germany, and later in the occupied countries? In addition, how can this mechanism be described, given that only two-three years later, indescribable crimes went hand in hand with the legalism? In other words: What is the relation between legalism, be it anti-Jewish or not, and the dynamic radicalization starting with the November pogrom up to mass murder in death camps, i.e. within only two years?

Going further, “Aryanization”, this specific form of “legalistic robbery”, was scrutinized and evaluated by the Nazis themselves, first in the Reich, later in annexed Austria and the Protectorate Bohemia and Moravia⁴ and afterwards in occupied Poland and elsewhere. In addition, the handling of Jewish property sheds light on the relations between the Jewish and the non-Jewish population in the dominated, occupied or allied countries. Was anti-Jewish pseudo-legal legislation the door-opener for increasingly radical measures by the local authorities towards the Jews, or at least for passivity towards their deportations to ghettos and death camps? Finally, what were the long-term, i.e. post-war, consequences of the “new property order” installed during the Holocaust, for instance, in Poland or Hungary, i.e. with the very significant numbers of Holocaust victims who could not claim their property after the war, because they were simply no longer alive.

In this paper, I would like to confine myself to focusing on the transformation from the aforementioned legal or legalistic measures to the much more brutal excesses which accompanied all aspects of Jewish property in occupied Poland. Taking the dynamics of the process as an example, undoubtedly the biggest caesura became the attack on Poland where the anti-Jewish measures, which had emerged in the Reich over six years after 1933, were not only adopted, but executed in only a couple of weeks and in a far more radical way than in Germany before. The next threshold of radicalization, with even more brutal effects, was passed with the attack on the Soviet Union in early summer of 1941.

It is quite obvious that “Aryanization” cannot be the adequate term for describing the process of spoliation in the annexed Polish territories and in the

General Government. It is not by chance that the term “Aryanization” is very seldom used in the archival materials, and other terms like “Germanization” and “Transfer of Jewish property into German hands”, etc. were much more common. To give the things the right name: We are talking about looting, plunder and robbery – and about the question, how this was related to legislation.

In April 1938, Reich Propaganda Minister Joseph Goebbels noted in his diary that the time had now come to “*drive the Jews completely out of Germany*”. As of May 1938, he wrote repeatedly in his diary about a “*Berlin anti-Jewish program*” that he wanted to embark on now.⁵ On various occasions he also referred to a “*Jewish ghetto*” that the Police Chief of Berlin, Wolf-Heinrich Count von Helldorf, and he would establish namely in Berlin, and that the “*rich Jews*” should have to pay for themselves.⁶ By October 1938, rumors were circulating abroad that ghettos for the Jewish population were soon to be established in Nazi Germany. Then during the famous conference on November 12, 1938, i.e. immediately following the November pogrom, Reich Minister and General Field Marshal Hermann Göring, who was responsible for the “Aryanization” in the Reich government, and Reinhard Heydrich, Chief of the Security Police, also intensely discussed the idea of establishing ghettos. Göring, in particular, assumed that ghettos would be erected “*on a very large scale in the cities*”.⁷ Heydrich stated: “*I do not think it is possible for the police to enforce a ghetto, in the form of completely sealed off city districts where there are only Jews.*”⁸

The social isolation of the Jews was intensified after the November pogrom, and potential isolation in ghettos, from the onset would also mean exemption from law and thus loss of the last remnants of legal protection in Nazi Germany, at least those that seemed to be given to Jews – while violence and murder, officially remained violence and murder under the *Reich’s Criminal Code* (*Reichs-*

5 *Tagebücher von Joseph Goebbels*, Vol. 5, p. 325–326 (Entry from May 30–31, 1938); see: GRUNER, W.: Lesen brauchen sie nicht zu können... Die Denkschrift über die Behandlung der Juden in der Reichshauptstadt vom Mai 1938. *Jahrbuch für Antisemitismusforschung*, vol. 4, 1995, p. 305–341.

6 *Tagebücher von Joseph Goebbels*, Vol. 5, p. 366 (Entry from July 2, 1938); GRUNER, W.: *Lesen brauchen sie nicht zu können*, p. 322–322.

7 Quoted in: THALMANN, R. – FEINERMANN, E.: *Die Kristallnacht*. Hamburg 1993, p. 155–158.

8 *Ibid.*, p. 155. See also: LOOSE, I.: Thus ends... the golden age of Jewry in Germany. Reactions to the November Pogrom in the Jewish Press in Poland in 1938/39. In: NACHAMA, A. – NEUMÄRKER, U. – SIMON, H. (eds.): *Fire! Anti-Jewish Terror on “Kristallnacht in November 1938”*. Berlin 2008, p. 128–135; LOOSE, I.: Reaktionen auf den Novemberpogrom in Polen 1938 – 1939. In: *Die Novemberpogrome 1938. Versuch einer Bilanz*. Berlin 2009, p. 44–58.

strafgesetzbuch).⁹ Less than twelve months later, in the fall of 1939, the National Socialists, after invading Poland, set up the first ghettos, which are one of the most outstanding examples of how the Nazis realized plans in Poland they had developed already in the Reich before 1939. The first ghetto was established in early October 1939 in Piotrków Trybunalski in the Generalgouvernement. As of spring 1940, additional ghettos were established throughout the entire territories of occupied Poland, especially by Gauleiter Arthur Greiser in the Warthegau and by Hans Frank in the General Government. So the question is, if and to what extent did economic issues of the prewar period also serve as a blueprint, when the Germans began to build up their occupation policy in Poland. Was there any evaluation carried out, as one might say, of the experience they had in implementing this in Austria, Bohemia, Danzig, Upper Silesia, etc. or was the situation the Nazis found in Poland simply too difficult for the adaption of already existing patterns?

For a couple of decades, international, especially German historiography dealing with “Aryanization”, in the broadest sense of this word, has limited its focus starting in the year 1939. Hence, the Holocaust period has been practically excluded from the attention of economically orientated questions – as if economic issues ceased to have an impact on the Nazi Judenpolitik during the World War II and the Holocaust in particular. This state of matters has changed in the past few years, beginning with the outstanding book by Martin Dean about *Robbing the Jews* (2008),¹⁰ where he traces the entire development from the first Nazi measures in 1933, the Kristallnacht in 1938, until the fiscal preparation of deportations, when in autumn 1941, on the eve of the first deportations to “the East”, German Jews had to fill out their last inventory lists, one or a few days before they were drawn into the deportation trains.

Interestingly, Dean also takes the perspective of the Jewish victims into account and gives an impression how the dozens and hundreds of discriminatory measures were met by the Jews.¹¹ Emigration was only one, but the most important answer towards the growing pressure. The mere process of confiscation

9 Of course, this paper is not the right place to intensively discuss Ernst Fraenkel's famous book *The Dual State*, first published in the United States in 1914; see: FRAENKEL, E.: *Der Doppelstaat*. Hamburg 1974, 2001. [*The Dual State. A Contribution to the Theory of Dictatorship*. New York 1941, 1969.]

10 DEAN, M.: *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933–1945*. Cambridge 2008. On Martin Dean's book see: LOOSE, I.: Plunder by decree – Martin Dean. *Robbing the Jews*. Review Essay. *Yad Vashem Studies*, vol. 38, 2010, no. 2, p. 221–234.

11 See: WALK, J. (ed.): *Das Sonderrecht für die Juden*; for the time after 1939, there is no comprehensive collection of anti-Jewish measures, including the occupied or annexed territories.

and the description of the entire systematical machinery to register and steal the property of the Jews hardly say anything about the consequences that these measures had for the Jewish victims themselves. No other issue than emigration, better illustrates the dilemma the Jews found themselves in, because the Nazis pursued two aims: to foster Jewish emigration, on the one hand, and to confiscate as much money from them as possible, on the other hand. The latter issue, however, became a decisive factor in making emigration more difficult, if not impossible, and in accelerating the impoverishment of the Jewish population throughout the entire Reich. Emigration – or ghettoization – became more and more synonymous with the total loss of one's property.

According to a famous proverbial phrase, coined already in the 19th century, trade follows the flag, i.e. that economic structures are often built up right after the military has conquered a foreign country or territory. This is not only true for 19th century's colonial history, but also for the policy of occupation the Nazis established in subjugated Europe, whether in Poland, in France or in the Soviet Union.

Right from the beginning the annexed Polish territories, especially the Reichsgau Wartheland, were intended to become the very center of the entire Germanization program in the East. It was absolutely clear that two groups, *eventually*, had to vanish from this earth – the Poles as well as the Jews, together several million people. However, there was no master plan on how to realize that, and hence every German, every military unit and every administrative structure did what they thought would be a step in this direction. Of course, everybody hoped to make a great fortune as well, although – and this should be stressed – the volume of stolen assets and property remained limited. In autumn 1939, the Chiefs of the Civil Administration signed a huge number of orders concerning the registration and later confiscation of Jewish property, not to mention businesses, banking accounts, real estate, etc. All these measures were directed exclusively against the Jews, for many of whom this meant the immediate end of their businesses and the total loss of property they had worked for during their lifetime. The rigid limits on money that Jews were allowed to have in cash, forced many Jewish entrepreneurs into immediate liquidation of their businesses, yet before the Nazi administration could confiscate their property.¹² In addition, during the first weeks of September, the so-called Devisenschutzkommandos operated in occupied Poland, which were special looting units of the SS (Einsatzgruppen of the Security Police and of the Rasse- und Siedlungshauptamt). Quite active also were the district commis-

12 Cf.: LOOSE, I.: Credit Banks and the Holocaust in the Generalgouvernement, 1939–1945. *Yad Vashem Studies*, vol. 34, 2006, p. 177–218, especially p. 185–186.

sars and mayors, which led to overlapping of orders and measures while robbing the Jews.¹³ Notwithstanding the competitive character of these lootings, in almost every German institution thus being involved, there predominated the conviction that it was now time to do with Jewish property absolutely anything that they wanted to do – from individual theft to tremendous contributions imposed on numerous Jewish communities.¹⁴ Besides that, the Police, the SS, and the civil administration did everything, no matter whether legal or illegal, to make every Jew's life – to say the least – as unbearable as humanly possible.

The Nazis did what they had done before in the Reich, but at the same time had no idea, whether these measures were “economically efficient” or not. The result was chaos, but a very specific one, because everywhere the approach to the “Jewish question” was quite similar: anything is allowed. For instance, the first German banks enthusiastically opened their first branches two weeks after the Wehrmacht had invaded Poland, but long before the last resistance of Polish troops in Central and Eastern Poland was broken by the German army and Soviet troops as well. The new bank directors were fully aware of the fact that the first measures of the military and civil administration were openly directed against Jews and their property, and the first reports the banks sent to Berlin leave no doubt that the moment had come that the entire property of the “Fremdvölkische”, especially of the Jews, would soon be fully at the disposal of the Reich. From now on, the differentiation between “legal” and “illegal robbery” could be described only as the difference between state-controlled confiscation and solely private enrichment. What, then, were the legal measures good for?

However, in this context, the questions of property were only one aspect. The attack on Poland paved a new way for the Nazis, in terms of how to deal with Jews as a whole, and this also had repercussions in the Reich. Evidently, the occupation policy was characterized by a full set of discriminatory measures against Jews and their property – especially in comparison with the developments in the Reich before 1939, where similar measures had taken several years to become implemented. If there had been some preconditions needed for the Nazis to deal with the Jews after the November pogrom, in Poland every thinkable threshold was passed not within a couple of years, but in a matter of days or weeks. Apparently there were no problems with resistance, with public opinion, with the

13 Cf.: BÖHLER, J.: *Auftakt zum Vernichtungskrieg. Die Wehrmacht in Polen 1939*. Frankfurt am Main 2006; DATNER, S.: *55 dni Wehrmachtu w Polsce. Zbrodnie dokonane na polskiej ludności cywilnej w okresie 1. IX. – 25. X. 1939*. Warszawa 1967.

14 Cf.: DMITRZAK, A.: Causes of imposing contributions and methods of levying them in Polish territories under the Nazi occupation during the Second World War. *Studia Historiae Oeconomicae*, vol. 21, 1994, p. 157–166.

own morals – and how deep this caesura really was, can be seen not only in the “final solution of the Jewish question”, but also in the implementation of the “euthanasia” mass murder, which also took place in occupied Poland starting in October 1939.

In addition, the Nazis were faced with totally different demographic conditions than in the Reich: in the autumn of 1939, roughly 1.7 million Polish Jews found themselves in the territories controlled by the Germans, in the Warthegau more than 435,000 people alone.¹⁵ Finally, in Poland the plunder of Jewish property was deeply embedded in, or at least went parallel with, the processes which directly led to the decision on the Final Solution, i.e. the total annihilation of European Jews.

In the summer of 1939, the Nazis had accumulated rich experience about mechanisms and efficient measures to steal property of the Jews up to the last handkerchief. Greater problems were produced by the difficulties with emigration after September 1, 1939, and the notorious rivalry between various Nazi leaders and their adherents. The attack on Poland now meant the “great hour” of Hermann Göring who, at the latest after the November pogrom, had become active in reasserting state control over confiscation and in strengthening his Four-Year-Plan Moloch against his rivals, such as Himmler’s apparatus. In October 1939, he founded the next institution, which brought him direct access to Jewish (and Polish) property in conquered Poland: the infamous Main Trustee Office or *Haupttreuhandstelle Ost* (HTO). The fact that it was namely Göring who secured for himself a decisive influence on all questions concerning assets and plunder, is enough for us to understand that we must carry out some kind of an evaluation of the “Aryanization” process prior to 1939.

While the agrarian sector remained with Himmler and his apparatus of the Reich Commissariat for Strengthening Germanhood, the HTO, with its branches in Danzig, Kattowitz, Posen and Litzmannstadt would take over all Polish State property, as well as Jewish and Polish businesses in the annexed territories. These would effectively run by trustees and then given to different groups of beneficiaries, who would not only have the know-how in a given branch, but would also be racially and ideologically worthy of such an ambivalent present from the Regime, according to the Nazi hierarchy ideology. Besides this, the HTO was

15 On the problem of reliable figures – the last census in Poland carried out in 1931, cf.: GOLCZEWSKI, F.: Polen. In: BENZ, W. (ed.): *Dimension des Völkermords. Die Zahl der jüdischen Opfer des Nationalsozialismus*. München 1996, p. 411–497, especially p. 414–416; *Mały Rocznik Statystyczny 1939*. Warszawa 1939 [Reprint: Warszawa 1989], p. 22–26.

also responsible for reorganizing the banking and credit system, as well as for the integration of the entire territory into the German economy, which meant, above all else, to expand the food production for the Reich's needs during the war.¹⁶ So that was the idea.

The most astonishing fact here, however – and this issue has already been discussed with regard to other territories – is that the attack on Poland brought an unprecedented growth of violence on the one hand, whereas the process of “taking over” the property of the “Fremdvölkische” was conducted mainly on the basis of legal measures – legal measures, which were, of course, pseudo-legal. Was this the good old German “precision” (“deutsche Gründlichkeit”) which made such a “legalism” necessary? Did it promote the efficiency of the process, be it the process of confiscation or the later process of exploitation through “Aryan” trustees? In addition, how can we describe the link between massive plundering of more than ten percent of the entire Polish population and the general aims of the Nazi occupation policy – Germanization of the annexed territories and unprecedented exploitation of forced labor in the Generalgouvernement? An equally important question to ask is – who were the beneficiaries? Finally, scholars have discussed the question of whether it makes much sense to differentiate between the property of Poles and Jews¹⁷ in occupied Poland, and whether it is possible at all to provide reliable figures for the entire process of taking over the private property of Poles and Jews.

As was already mentioned, in recent years, the phenomenon of “Aryanization” has attracted more and more scholars.¹⁸ At first, its meaning focused on private beneficiaries, making “Aryanization” a process from the bottom upwards. This issue has been sometimes described as – Martin Dean coined this phrase – “*pressure from below steered from above*”.¹⁹ Later on, however, the term's semantic meaning shifted towards the state's or the regime's policy, interpreting the process as a centrally planned strategy. As a result there were obvious problems with the precise definition of “Aryanization”, whose meaning in some

16 *Verordnungsblatt des Reichsstatthalters im Reichsgau Wartheland* No. 2, January 15, 1940, p. 19.

17 In this context is meant the property of Jewish and Polish citizens of the Second Polish Republic. This differentiation is based upon the Nuremberg Laws, in order to focus on all victims of anti-Semitic measures of the Nazis. Cf.: Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre. RGBl. I, September 15, 1935, p. 1146; Erste Verordnung zum Reichsbürgergesetz. RGBl. I, November 14, 1935, p. 1333, especially § 5.

18 See, for instance: WILDT, M.: *Volksgemeinschaft als Selbstermächtigung. Gewalt gegen Juden in der deutschen Provinz 1919 – 1939*. Hamburg 2007.

19 DEAN, M.: *Robbing the Jews*, p. 25.

publications has been broadened to such an extent that hardly any aspect of anti-Jewish persecution in Nazi Germany can be subsumed under this term.

At least one answer can be given for certain: the legalism gave the individual trustees, the German people, the administration, the institutions and private businesses (for instance, the aforementioned German bankers in occupied Poland) the feeling of having a legal title, and not as villains and accomplices in a state approved and organized robbery. Even the pseudo-legal character of some measures remained only on paper, for the confiscation of Polish and Jewish property by the HTO was done on a huge scale, and right from the outset, although the legal basis for systematic confiscation was established not earlier than with the Decree concerning Polish Assets (*Polenvermögensverordnung*), issued on September 17, 1940. This means that all confiscation of Jewish and Polish property was “legalized” no earlier than one year after the invasion, when the situation, at least of the Jewish population, had already deteriorated to such an extent – most of them were already living in ghettos – that one might pose the question of whether the beneficiaries really still needed a legal title to rely on. So the phrase “*plunder by decree*” (Martin Dean²⁰) has certain limitations, and with regard to the extreme potential for violence and for mass murder, decrees seemed to be superfluous. Their importance depended not on the Jewish victims, not even on the individual beneficiaries, but in their function within the constant rivalry of different patriarchs within the Nazi hierarchy, that is between Göring and the HTO, the local Gauleiter, the Wehrmacht and Himmler’s SS.

However, the fact that discriminatory measures against the Jews were adopted long before the Nuremberg Laws were officially introduced in the annexed territories in May 1941, produced problems.²¹ A certain legalistic approach was necessary, as no one knew how to define who was Jewish and who was not – it turned out to be a problem to define Germanhood with the help of the German Volksliste in occupied Poland. The Nazis simply did not have enough information that they could rely on, and one has to keep in mind that the Nazis needed several years in the Reich to collect similar data on a much smaller group of Jews, than those living in Poland. In addition, legalism was necessary for a second reason. These territories had to become German as fast as only possible, and especially during the war, even the German Volksgemeinschaft – whatever this might mean in detail – urgently needed basic forms of reliability and stability – at

20 Ibid., p. 257–259.

21 Verordnung über die Einführung der Nürnberger Rassengesetze in den eingegliederten Ostgebieten. RGBl. I, May 31, 1941, p. 297. In the Reichsgau Wartheland the decree was introduced on October 1, 1940; in practice, the “racial laws” were applied starting in September 1939.

least granted to those who found themselves in the higher ranks of the racist hierarchy. In order to safeguard the political victory of the Nazi movement, the economy had to remain an integral part of what Ernst Fraenkel called the “normative state” in his model of a “Dual State” in National Socialism – and this provides a certain model also for occupied Poland, of course, as long as we do not mix up the theory with the reality.

However, for an adequate account of the Nazis’ confiscatory policy in Poland, it is also important to realize, that the robbery among the non-Jewish population took on similar forms as was the case with the Polish Jews. As the main evidence can serve the aforementioned decree – the so-called *Polenvermögensverordnung* – issued on September 17, 1940. After the Polish State property had already been declared German in January 1940, the September decree dealt with the property and assets of the citizens of the former Polish State, within the territory of the Greater German Reich, including the annexed Polish territories.²² Together with the decree’s date in the late summer of 1940, which resulted from the struggle between the different ministries being involved, its most significant issue was that it legalized measures and the *status quo* that had evolved from the German anti-Polish and anti-Jewish policy during the preceding twelve months. At this point, the thesis that the Nazis acted mostly in a “legalistic” way has obvious limitations. Notwithstanding these parallels, the differences between the two groups are nevertheless striking. It might be sufficient to mention the ghettos here, even if we assume that their establishment, since autumn 1939, was not a previously intended step towards later annihilation of their inhabitants.²³

The aforementioned rivalry and competition between several Nazi leaders in the field, inevitably led to a radicalization of the policy, especially against the Jewish population. Apparently, there were only a few steps needed between the confiscation of property and deportation of its owners. The impoverished Jewish population – much bigger in occupied Poland than in the Reich – was perceived by the German administration only as a disturbing financial burden. The above

22 Verordnung über die Behandlung von Vermögen der Angehörigen des ehemaligen polnischen Staates. RGBl. I, September 17, 1940, p. 1270; cf.: ROSENKÖTTER, B.: *Treuhandpolitik. Die „Haupttreuhandstelle Ost“ und der Raub polnischer Vermögen 1939–1945*. Essen 2003, p. 125–133; LOOSE, I.: Die Beteiligung deutscher Kreditinstitute an der Vernichtung der ökonomischen Existenz der Juden in Polen 1939–1945. In: HERBST, L. – WEIHE, T. (eds.): *Die Commerzbank und die Juden 1933–1945*. München 2004, p. 223–271, here p. 238–240.

23 Cf.: MOSTOWITZ, A.: Łódzkie getto. Rabunek żydowskiego mienia (1). In: MOSTOWITZ, A.: *Łódź, moja zakazana miłość*. Łódź 1999, p. 50–61; MOSTOWITZ, A.: Szanowane banki i firmy. Rabunek mienia żydowskiego (2). In: MOSTOWITZ, A.: *Łódź, moja zakazana miłość*. Łódź 1999, p. 61–69.

mentioned ideas spread quickly – to concentrate them in ghettos and later to deport them somewhere to the East, then to Madagascar and finally again to “the East”, which had already taken on a new, deadly meaning. *“If the Holocaust is to be understood as a function of the bureaucratic process, this is particularly well illustrated by the perpetrators’ exhaustive efforts to register all Jewish property in conjunction with the deportation and murder of the Jews.”*²⁴ Hence, it is (and most probably remains) a subject for scholarly debates, whether the confiscation of Jewish property was a precondition, a side effect or a consequence of the Holocaust.

Instead of going into details of the ghetto economy, some words about the real and the alleged beneficiaries might be sufficient. Undoubtedly in a hurry, the Nazi regime had to integrate such institutions, which by their function promised to be able to cooperate, namely credit banks, the entire financial administration, insurance companies, but also the private economy. The question of the beneficiaries of this huge robbery is far more complicated than the term itself suggests. Often mentioned in scholarly literature are – besides the administration and Party structures themselves – the German “resettlers” from Eastern Europe, members of the SS, the group of the so-called Volksdeutsche, who had lived here already during the interwar period and Germans from the Reich, who came here to make their fortune. Among them were many profiteers, but nevertheless this is only part of the truth, which has much to do with the aspect of “legal” and “illegal robbery”, because individuals were not automatically owners, but were made legal owners by the regime itself.

The trustees, who were nominated by the HTO and were intended to become a smooth solution for the entire process of looting, confiscating and Germanizing of Jewish property, actually turned out to be the pivotal problem, all the way until the end of the occupation. It can be summed up this way: there are significant archival materials dealing mostly or exclusively with the bad professional level, as well as with various forms of corruption and illegal self-enrichment by the trustees. In addition, special courts had to deal with a large percentage of lawsuits filed against the trustees.

However, there was an important reason why the trustees failed. Being appointed as trustees, they mostly thought that they were made trustees first, and then later would become the legal owners of the – let us say – enterprises. In constant debates or rather quarrels, the HTO, Himmler and the Wehrmacht created lists stipulating in which order the mentioned groups should benefit and

24 DEAN, M.: *Robbing the Jews*, p. 2.

take over formerly Jewish or Polish property. Talking about the participants in these crimes, the most difficult tasks for the Nazis to solve were the competing interests of Göring, Himmler and the regional satraps like Gauleiter Arthur Greiser and Albert Forster. One such example was the re-integration of some 60,000 German resettlers, mostly from Lithuania, in autumn 1939 and spring 1940, i.e. the Baltic Germans who really had strong anti-Semitic and pro-Nazi backgrounds. Before the transfer of property could be made into these “German hands”, the process was blocked, and with only few exceptions, the transfers were postponed to the end of the war, since it was felt that the soldiers of the Wehrmacht should have equal opportunities to get their fair share of such properties. In practice this meant that the HTO still sat on hundreds of thousand unsolved cases of property, enterprises, assets, with deeply unsatisfied trustees, and at the same time, tens of thousands of German resettlers from the Soviet Union, Romania and Hungary living in camps. Most of these Germans were never settled in the newly Germanized East, but started their march directly from their camps to the West in the last weeks of the war, when the Red Army advanced. It was as early as 1941, when a witticism spread that the Warthegau is only a “waiting Gau”.

To conclude: Indeed, the Germans tried to adopt certain strategies and experience when they started their occupation in Poland. Maybe Bernhard Rosenkötter in his book about the notorious Haupttreuhandstelle Ost was the first scholar who tried to link the legalistic pre-war property policy against Jews with the anti-Jewish activities of the Treuhandstelle and the overall occupation policy, including the Holocaust in Eastern Europe.²⁵ In the beginning, the Nazis were convinced of the efficiency of their legalistic approach. The main difference, as opposed to the period prior to 1939, is undoubtedly the unprecedented scale of the violence, which was an integral part of all measures adopted against the Polish Jews. Legalism helped to safeguard the cooperation of the German civil population, the private economic sector and the administration, but became useless at the moment when the process of Germanization, at least of property, came to an end in 1941. In addition, the integration of the annexed territories into the German economy turned out to be far too complex under the circumstances of the war.

The Nazis were deeply convinced of the efficiency of their pseudo-legal measures and tried to transplant them to the situation in occupied Poland. Indeed, these organized confiscations increased efficiency, but mainly for the reason

25 ROSENKÖTTER, B.: *Treuhandpolitik*, p. 26–80.

that this “legalism” enabled different collaborating institutions to take an active part in the robbery. This was true also for the German population, as one can see, for instance, in the public auctions, where the property and households of deported, ghettoized and murdered Jews were sold, and in the takeover of former Jewish apartments, houses and businesses.²⁶ Besides the main authorities being in charge of the entire process (HTO, SS, the Gauleiter), the question of the direct beneficiaries in occupied Poland can be answered to a less convincing extent than in the Reich, Austria or the Protectorate of Bohemia and Moravia. In particular, the HTO branches show a sort of a “learning effect” of the state and the ministries involved, which were engaged not to leave the entire profits in the hands of private German businesses. Nevertheless, while collecting and confiscating Jewish and Polish property, the authorities deeply needed the cooperation of private firms, especially the banks. However, the ranking of different groups, being entitled to take over former enterprises and assets, became so difficult that a growing number of businesses had to remain within the administration of the HTO until the end of the war – and these were never transferred into “German hands”.²⁷

As I have tried to show, the Polish and Jewish population in Poland suffered from a similar confiscatory policy, imposed by the Nazis. Enterprises, real estate and assets were officially taken over and became “property of the Reich”, regardless who the former owner had been. With regard to the Holocaust, we may assume that the impoverishment of the entire non-German population was a crucial factor in what is often called a process of radicalization. However, the different fate of the Poles and the Jews shows that this is only one out of several factors – within a broader setting of issues – that led to the decision on the Final Solution, which actually began in the Warthegau with the first systematic killing of Jews in the gas vans at Kulmhof in December 1941.

Given our actual state of knowledge, it is impossible to provide exact figures about the amount of plundering and stolen property in occupied Poland. It is even more disturbing that, in a territory where crimes took place on an unprecedented scale and with an unfathomable cruelty, the outcome of the “legal

26 Cf.: LOOSE, I.: *Beteiligung deutscher Kreditinstitute*, p. 223–271; LOOSE, I.: *Credit Banks*, p. 177–218; LOOSE, I.: *Kredite für NS-Verbrechen. Die deutschen Kreditinstitute in Polen und die Ausraubung der polnischen und jüdischen Bevölkerung 1939–1945. Studien zur Zeitgeschichte*, vol. 75, 2007; WIXFORTH, H.: *Die Expansion der Dresdner Bank in Europa. Die Dresdner Bank im Dritten Reich*, Vol. 3, 2006, p. 583–588.

27 On the results of the HTO policy cf.: ROSENKÖTTER, B.: *Treuhandpolitik*, p. 274–277.

robbery” and plundering was rather a limited one. In many cases there were simply no beneficiaries at all, so huge parts of the entire “economic policy” in Poland can be described only in terms of a tremendous destruction and liquidation of values. However, this image changes when we take into account the forced labor, and as a very simple guideline one may say that the economic “potential” of Jewish forced laborers in the ghettos and in the labor camps, was by far greater than what they had owned in the summer of 1939. This state of affairs was absolutely clear to all German authorities involved by the end of 1940, or at least by the spring of 1941. Thus, Franz Stangl, the former commander of the Treblinka death camp, when he stated in prison that the Nazis just wanted the Jews’ money,²⁸ was not only wrong, but he even must have known that he was wrong. The Holocaust was the result of a radicalization process, but its main motifs were undoubtedly of noneconomic origin.

28 SERENY, G.: *Am Abgrund: Gespräche mit dem Henker. Franz Stangl und die Morde von Treblinka*. München – Zürich 1995, p. 115.

The Jurisdiction as Precursor for the Financial and Economic Exploitation of the Jewish Minority in the Altreich

Christine Schoenmakers (Germany)

This paper highlights the context of the judicial discrimination against Jews and the Nazi regime's anti-Semitic policy, affecting the Third Reich's general criminal law as well as its special jurisdiction against the Jewish minority. Stigmatized as the so-called *Fremdvölkische* and therefore excluded from the racially immaculate Aryan *Volksgemeinschaft*, Jews were *per se* assigned a lower legal status within the (political) community. Special laws and regulations classified Jewish citizens as *Volksschädlinge*, wielding bad influence on the social cohesion in Germany. Consequently, laws were established to help expel Jews from the community. These laws degraded people of Jewish "origin" to second-class citizens. High-ranking jurists and legal scholars, have edited and commented on anti-Semitic acts and decrees, which set the foundation for a criminal law based on racial principles, that had been executed until 1945 (not only) against the Jewish minority.

The regime's criminal and civil law, as well as far-reaching financial goals, influenced and reinforced each other in the actual legal treatment of the Jews. These economic aspects distinguish the judicial persecution of Jewish citizens from the treatment of other excluded groups. The jurisdiction voluntarily instrumentalized itself to set the course for an aggressive Aryanization policy, forcing by law a massive pauperization amongst the Jewish population. Its legal exclusion from the *Volksgemeinschaft* followed an economic exodus, providing the regime with infinite possibilities to Aryanize a huge amount of Jewish

property that was used to finance the upcoming war. By applying criminal and civil law, the Jewish minority was stigmatized as alien to the Volksgemeinschaft and convicted as “criminals *per se*”. This set the foundation for the Nazi anti-Semitic policy resulting not only in the massive financial deprivation of the Jewish population, but also in its systematic obliteration.

“CRIMINALS QUA RACE”:
THE EXPULSION OF THE JEWS FROM THE
GERMAN VOLKSGEMEINSCHAFT

The transition from the constitutional state to a predominantly despotic justice operating within the framework of the *völkische Bewegung* took place by a renunciation of liberal and democratic principles, individual fundamental rights and equality before the law. Moreover, juridical terms were not taught anymore, but rather seen and felt by those who had internalized qua race the National Socialist spirit.¹ Especially criminal law was not applied to establish fair justice, but to secure the state’s omnipotence through the courts. National Socialist laws purposely remained vague and unclear – leaving space for their unlimited interpretation by judges and prosecutors.² What concerned the defendant, the racial ideology of the Nazis prescribed that the likelihood of committing a crime depended on the perpetrator’s personality traits which, in return, were genetically inherent and congruent to the subject’s “race”. Racially justified perpetrator profiling soon was extended to all politically unwanted persons.³

Anti-Semitism became a central pillar within the Nazi regime’s social and judicial policies. Laws and decrees supporting the anti-Jewish argumentation of the regime’s propaganda were established from the very beginning in 1933. The so called Aryan paragraph was the start of the state organized expulsion of people of Jewish faith, as well as German citizens who fell into the category of “Jews”, according to the conditions set by the bureaucrats of the Nazi state. On September 15, 1935, the systematic elimination of the Jewish people or De-Jewification, as it was officially called in the National Socialist Party- and state-bureaucracy

1 National Socialist jurist Carl Schmitt cited in: ANDERBRÜGGE, K.: *Völkisches Rechtsdenken: Zur Rechtslehre in der Zeit des Nationalsozialismus*. Berlin 1978, page (p.) 27.

2 See: RÜTHERS, B.: *Die unbegrenzte Auslegung, Zum Wandel der Privatrechtsordnung im Nationalsozialismus*. Tübingen 2005.

3 MAJER, D.: „Fremdvölkische“ im Dritten Reich: Ein Beitrag zur nationalsozialistischen Rechtssetzung und Rechtspraxis in Verwaltung und Justiz unter besonderer Berücksichtigung der eingegliederten Ostgebiete und des Generalgouvernements. Boppard am Rhein 1981, p. 109.

jargon, was supplemented with the Law of the Protection of German Blood and Honor, which was a series of laws that became known as the Nuremberg Laws. These racial policies were supported by a ferocious mixture of ideology, pseudo-scientific findings and doctrines. These paved the way for the systematic social expulsion and isolation of the Jews by labeling them as Volksschädlinge through a chain of acts and administrative orders.

Jews were considered to be “criminals *qua race*”. Already in the 1920s, anti-Semitic tendencies heavily spread out in the extreme right wing propaganda, having a strong impact on how Jews were perceived in society. They were blamed for the loss of the World War I, serving as scapegoats in the so-called Dolchstoßlegende. The assimilated Jewish minority was stigmatized as vermin living on the back of the Volksgemeinschaft.⁴ The Nazi propaganda took over stereotypes of rich Jews incorporating capitalism, speculation and money-making – considered as a sort of economic crime that the German community needed to be defended from.⁵ Moreover, the rhetoric of Blood and Honor was used as legal argument to persecute and wipe out “born criminals”, such as were per racial definition the Jews. However, their discrimination took place not only within the framework of National Socialist criminal law, but on all judicial areas – beginning with civil law and mostly ending with economic jurisdiction. Many professions were, by law, no longer accessible to Jews, and thus they were forbidden to use social and cultural facilities like public pools, parks, libraries, cinemas and theaters.⁶

FINANCING THE UPCOMING WAR: LEGAL FOUNDATIONS FOR MASSIVE ECONOMIC EXPLOITATION

The collaboration between a politically dependent jurisdiction and the regime’s anti-Semitic policy was triggered, and enforced, by the growing exclusion of Jews from all social life. This came not only from the judicial authorities, but also from the lower levels of the NSDAP as well as communal administrative units and courts. At the beginning, the main objective of the new rulers was to

4 See: BAJOHHR, F. – POHL, D.: *Der Holocaust als offenes Geheimnis: Die Deutschen, die NS-Führung und die Alliierten*. München 2006.

5 See: FÜLLBERG STOLBERG, C.: Sozialer Tod – Bürgerlicher Tod – Finanztod: Finanzverwaltung und Judenverfolgung im Nationalsozialismus. In: STENGEL, K. (ed.): *Vor der Vernichtung: Die staatliche Enteignung der Juden im Nationalsozialismus*. Frankfurt am Main 2007, p. 31–58.

6 GIBAS, M.: „Ich kam als wohlhabender Mensch nach Erfurt und ging als ausgeplündert Jude davon“: *Schicksale 1933–1945*. Erfurt 2008, p. 6.

force the Jews to leave the country.⁷ The National Socialists applied the following methods in order to achieve this: legally backed acts of discrimination (laws, decrees), harassment by administrative authorities, psychological terror and use of direct physical violence through “spontaneous eruptions of the people’s wrath” or by state organized pogroms like the Night of the Broken Glass in November 1938. However, the economic aspects of the Jewish citizens’ judicial persecution distinguish it from the treatment of other excluded groups. The jurisdiction voluntarily instrumentalized itself to set the course for an aggressive Aryanization policy, forcing by law a massive pauperization of the Jewish population.⁸ The term “Aryanization” was used in the jargon of the authorities to name the process of systematic expropriation of the Jewish citizens after 1933. It was one of the most profound transfers of property in modern German history and would not have been possible without a legal framework.⁹ Hence, the legal exclusion of the Jews from the Volksgemeinschaft followed an economic exodus, providing the regime with infinite possibilities to Aryanize a huge amount of Jewish property that was used to finance the upcoming war. The determined politics of expulsing Jews from Germany was therefore financially motivated. Different statutory orders and enactments accelerated the process of expropriation: Soon after 1933, many Jewish businesses were in a difficult situation due to the boycott-campaigns, the refusal of bank loans and other forms of harassment. The owners had to declare themselves bankrupt, and were forced to sell their

7 Ibid., p. 7.

8 The term Aryanization describes the economic expropriation of Germany’s Jewish population between 1933 and 1945, especially in the sense that capital and illiquid property went over into Aryan hands. Moreover, during the last years, historians and researchers refer to the term to broadly explain the societal exclusion of the Jews and their economic and physical annihilation. See: ZIEGLER, D.: “Aryanization” and the Role of the German Great Banks, 1933–1938. In: FELDMAN, G. D. – SEIBEL, W. (eds.): *Networks of Nazi Persecution: Bureaucracy, Business, and the Organization of the Holocaust*. New York – Oxford 2005, p. 44–68, p. 47; DEAN, M.: *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933–1945*. New York 2008, p. 3. Harold James points out that “there is no single typical process of ‘Aryanization’, but rather a multiplicity of measures.” JAMES, H.: *The Deutsche Bank and the Nazi Economic War Against the Jews*. Cambridge 2001, p. 211.

9 While Martin Dean deals with the overall process of Aryanization (see: DEAN, M. – GOSCHLER, C. – THER, Ph. /eds./: *Robbery and Restitution: The Conflict over Jewish Property in Europe*. New York 2007), the network concept itself is discussed by Gerald D. Feldman and Wolfgang Seibel (FELDMAN, G. D. – SEIBEL, W. /eds./: *Networks of Nazi Persecution: Bureaucracy, Business, and the Organization of the Holocaust*. New York – Oxford 2005). On the economic level, Avraham Barkai (BARKAI, A.: *Das Wirtschaftssystem des Nationalsozialismus: Ideologie, Theorie, Politik, 1933 – 1945*. Frankfurt am Main 1998) analyzes the connection between economic policy and

businesses. What took place was a subtle form of expropriation, legalized by law, which coincided with the dictatorship's policies aiming to "free the German economy of all Jewish influence".¹⁰

Nazi ideology and Michael von Prollius (VON PROLLIUS, M.: *Das Wirtschaftssystem der Nationalsozialisten 1933–1939: Steuerung durch emergente Organisation und Politische Prozesse*. Paderborn 2003) pictures the different dependencies of a multitude of agents and concludes that the Nazi economic policy was more or less characterized by coincidence and a bottom-up-structure than from being strictly top-down controlled regime. In his groundbreaking book, Adam Tooze (TOOZE, A.: *The Wages of Destruction: The Making and Breaking of the Nazi Economy*. New York 2007) concentrates on the economic situation during the Weimar Republic until the German defeat after World War II. He demonstrates that the expropriation of the Jewish population, being systematically enforced by the Nazi regime, resulted from concrete economic-political demands: To fix the holes in the state budget, restrict the lack of foreign currency and simultaneously keeping an enormous machinery of war moving. Fritz Kieffer describes the impact these considerations had on the mass exodus of the German Jews in his 2002 published book (KIEFFER, F.: *Judenverfolgung in Deutschland – eine innere Angelegenheit?: Internationale Reaktionen auf die Flüchtlingsproblematik 1933–1939*. Stuttgart 2002). The author depicts in detail the dilemma of the Reich working on the one hand towards a mass emigration of the Jews by simultaneously facing an "exodus of capital" that resulted in important and lasting disadvantages for the German economy – in a time when the German exports had nearly come to a standstill. A Jewish exodus was simply unaffordable for the Reich. Instead, the Jewish capital was meant to be applied in other ways. The historian Götz Aly is a representative of the disputed hypothesis that the regime bought the mass consent of the German population for its war from Jewish money (ALY, G.: *Hitlers Volksstaat: Raub, Rassenkrieg und nationaler Sozialismus*. Bonn 2007). On a local scale, Susanne Meinl and Jutta Zwilling explored the role of the financial departments of the state of Hesse in the expropriation and confiscation of Jewish property. In their 2004 published monograph (MEINL, S. – ZWILLING, J.: *Legalisierter Raub: Die Ausplünderung der Juden im Nationalsozialismus durch die Reichsfinanzverwaltung in Hessen*. Frankfurt am Main 2004), the researchers shed light on the institutional ways that the expropriated capital went after its confiscation until its exploitation for the Nazi economy. The book gives insight to a complete bureaucratic network as it specializes on the expropriation of Jewish capital, whose agents proceeded with extreme accuracy across county and state borders. Single measures as well as the function and interlocking of the involved corporations are dealt with both on a local/regional and national level. Similarly, Frank Bajohr (BAJOHR, F.: *Arisierung in Hamburg: Die Verdrängung der jüdischen Unternehmer 1933–1945*. Hamburg 1997) investigated the situation of the city of Hamburg during 1933–1945. In addition, two new studies focus on the role that the fiscal authorities of the state of Bavaria played in the confiscation of Jewish property. (KULLER, C.: *Finanzverwaltung und Judenverfolgung: Die Entziehung jüdischen Vermögens in Bayern während der NS-Zeit*. München 2008; DRECOLL, A.: *Der Fiskus als Verfolger: Die steuerliche Diskriminierung der Juden in Bayern 1933–1941/42*. München 2009). They serve as excellent foundation for further, more detailed research.

¹⁰ GIBAS, M.: *Schicksale*, p. 7.

The Act on the Confiscation of Subversive Capital (July 14, 1933) and the Act on the Establishment of a Reich Department for Exchange Control (December 18, 1933) affected those Jewish citizens who had left Germany primarily for political reasons or who had escaped after the boycott in 1933. Their property was initially sequestered, then confiscated by the Reich and finally transferred by the local Gestapo headquarters for its further exploitation. Immovable property was sold. Furniture and other household effects were given to the Nazi party's local offices or were auctioned off. The treasury used the revenues to settle tax debts and estate fees.¹¹

Additionally, the foreign exchange control was considerably tightened. Until 1934, a tax-exempt trade in the amount of up to 15,000 Reichsmark (RM) could be executed without permission of the Currency Office. In February 1934, only 10,000 RM were still allowed, an amount lowered in June to 2,000 RM. Eventually, in October 1934, the transfer of capital was and remained legally prohibited.¹² At the same time, Jewish citizens were subjected to massive financial discrimination. In the case of emigration, emigrants had to notify the local police department of their departure and their intention to take permanent residence abroad. They were then considered as financial non-residents. Only by the Currency Office's authorization was it possible to exchange Jewish property into foreign currency. The value of the Jewish capital, resulting from such a transaction, changed continuously between 1935 and 1938. While initially the Currency Office allowed an exchange of thirty percent of Jewish assets into foreign currency, the percentage steadily decreased to twenty-four percent (March 1937), thirteen percent (January 1938), eight percent (July 1938), and only six percent after the pogrom in November 1938. For Aryan emigrants, in contrast, the exchange rate stayed at constant ratio of 2:1 until 1945.¹³

11 MEINL, S. – ZWILLING, J.: *Legalisierter Raub*, p. 38.

12 KÖHLER, I.: *Die ‚Arisierung‘ der Privatbanken im Dritten Reich: Verdrängung, Ausschaltung und die Frage der Wiedergutmachung*. München 2008, p. 436. See also: WOHLTHAT, H.: *Devisenbewirtschaftung und zwischenstaatlicher Zahlungsverkehr*. In: LAMMERS, W. H. (ed.): *Grundlagen, Aufbau und Wirtschaftsordnung des nationalsozialistischen Staates: Die Wirtschaftsordnung des nationalsozialistischen Staates*. Berlin 1938, volume (vol.) 3, number (no.) 54, p. 6. Helmut Wohlthat (1893–1952) was a ministry official in the Reich Ministry for Trade and Industry as well as Head of the Reichsstelle für Devisenbewirtschaftung. He was responsible for special tasks in the Four Year Plan Office under Hermann Göring. In this role, Wohlthat negotiated with the commissioner of President Roosevelt, George Rublee, on the financing and organization of the Jewish emigration. The main results were the Rublee-Wohlthat-Agreement from February 1939, which had only restricted impact until September 1939 due to the beginning of World War II.

13 KÖHLER, I.: *Die ‚Arisierung‘ der Privatbanken*, p. 437.

Without the Currency Office's permit, Jewish emigrants were only allowed to take a scanty travel amount with them. From October 1934, a maximum of ten Reichsmark per person in hard German or foreign currency was allowed. The respective amount was entered into the passport. If emigrants were issued a Priority Certificate and a Fiscal Certificate of Non-Objection, an extra amount of fifty Reichsmark could be de-allocated. As for very distant travel destinations, this travel amount could be increased by allowing a boarding amount of thirty Reichsmark per day for ship passages.¹⁴ Later, provisions amounting to more than ten Reichsmark per person were authorized only for very special cases.

Additionally, the Reich Flight Tax, which had already been introduced in 1931 in order to prevent an exodus of capital, was used to confiscate and exploit emigrant assets for the Reich's benefit. The capital that had been left in Germany, still remained the property of the financial non-resident, but after 1931, it was increasingly controlled by more and more restrictive Foreign Exchange Safeguarding Clauses. Moreover, the tightened exchange control regulations, introduced in December 1936, had long-range consequences: The government created the Security Order as instrument for universally accessing and exploiting Jewish capital.¹⁵ From 1938, German Jews were denied access to their property, which was frozen in special security accounts. Hence, a legal gateway was established to either loosen the fiscal persecution from its emigration context and to preemptively access Jewish assets. Up until this point, fiscal persecution of Jews had not been a straightforward, targeted process, but a rather non-simultaneous action of single regulations in different legal sectors. Therefore, the treatment of emigrants has to be interpreted and classified in view of the general foreign exchange policy.¹⁶

A SOLUTION TO GERMANY'S ECONOMIC PROBLEMS: ROBBING THE EMIGRANTS

In 1931, the Brüning cabinet introduced a strict foreign exchange control because of the persistent decline in exports.¹⁷ Since exports were considered

14 KIEFFER, F.: *Judenverfolgung in Deutschland*, p. 74.

15 DEAN, M.: *Robbing the Jews*, p. 59–60.

16 KULLER, C.: *Finanzverwaltung und Judenverfolgung*, p. 199.

17 "Foreign exchange control comprises all measures affecting the collection, administration, and utilization of the supply of foreign exchange and gold which becomes currently available. It contains, in addition, all provisions regulating the trade for foreign currencies in terms of the national money standard." (NATHAN, O.: *The Nazi Economic System: Germany's Mobilization for War*. New York 1944, p. 125). See also: Verordnung des Reichspräsidenten über die Devisenbewirtschaftung (Act on the Exchange Control Policy issued by the President of the Reich). RGBl. I, August 1, 1931.

essential for Nazi Germany's economic survival, these regulations remained intact long after Hitler came into power. However, the conditions on the international markets neither improved nor stabilized during the regime's first years – a situation resulting mainly from the ongoing global economic protectionism, the Reich's aggressive debt policy and its growing anti-Semitism that evoked both global protests and sporadic international boycotts of German goods. At the beginning of the 1930s, Germany's foreign commerce threatened to come to a standstill:

*“Without exports, Germany could not pay its desperately needed imports, or service its foreign debts... The livelihood of thousands of firms and millions of workers depended on finding customers abroad.”*¹⁸

By the end of August 1934, the Central Bank's gold and foreign currency reserves were reduced to the lowest acceptable value: Seventy-five million Reichsmark.

*“Already in 1933, many analysts and economists were convinced that the German national economy would break down in less than two years.”*¹⁹

Cash and bank assets of emigrants leaving Germany after August 3, 1931 were to be deposited in a special bank account of a domestic foreign exchange licensed bank. Hence, all possessions remaining in Germany were treated as foreign property, which was equally “blocked” by governmental regulations.²⁰ Without special permission, the emigrant's relationship bank could restrictively transfer these assets, indicated as Sperrmark, upon deduction of a non-refundable discount, to the German Gold Discount Bank.²¹

Within the network of Walter Funk (1890–1960, Minister for Trade and Industry and President of the Central Bank), Hermann Göring (1863–1946, Commissioner for the Four Year Plan), Helmuth Wohlfahrt (Head of the Four Year Plan Office and Commissioner for the Jewish emigration), and Fritz Reinhardt (1895–1969, State Secretary in the Reich Ministry for Finance), one institution, which was being greatly influenced by the aforementioned institutions and played a considerable part in the preparation and execution of the withdrawal of Jewish assets, still remains open for investigation: The German Gold Discount Bank (Deutsche Golddiskontbank, DeGo), which was founded as the Central Bank's subsidiary and later functioned as the custodian for the Reich Ministry for Trade and Industry. By 1938, the DeGo served as the trade center for the expropriated

18 TOOZE, A.: *The Wages of Destruction*, p. 72.

19 KIEFFER, F.: *Judenverfolgung in Deutschland*, p. 71.

20 KÖHLER, I.: *Die „Arisierung“ der Privatbanken*, p. 436.

21 Bundesarchiv Berlin (BA), R 182/521, Letter of the DeGo's trusteeship addressed to district court president Dr. Gernsheim in Berlin-Schmargendorf, May 1952.

Jewish capital (cash, securities and illiquid property), arranging its registration, transfer and utilization in favor of the Nazi economy.²² A comprehensive study of the foreign exchange problem, edited in 1938, defined the Dego's role under the Nazi regime as follows:

*"The Dego has been activated for special tasks concerning exchange control. [It] is an institute of public law closely linked to the Central Bank, initially established for these reasons."*²³

These new tasks comprised exchanging so called "emigrant assets" with foreign currency. This exchange took place after receiving special advice of the responsible Currency Office and was carried out at a rate of fifty percent, in order to spare Nazi Germany significant losses. However, Jewish citizens could not receive this rate of exchange:

*"The advice of the Currency Office to the Dego is a precondition for this kind of capital transfer and must not be issued to Jews in consideration of the Law of the Protection of German Blood and Honor. Special regulations are to be applied for these people."*²⁴

According to this exchange rate, being introduced by the Berlin Bourse, the Dego exchanged Sperrmark into convertible, free Reichsmark. In most cases, to the emigrants' disadvantage, over ninety percent losses resulted from this exchange. The Dego exploited the frozen assets in favor of export stimulation, subsidizing those German goods that could not be traded on international markets without a monetary balancing of losses. Due to the systematic elimination of the Jewish population, especially the aggressive emigration policy, the Reich soon faced the dilemma that a Jewish exodus was being promoted, but was far too costly for the German economy – especially since the Central Bank would have to provide a massive amount of foreign currency, which it did not have access to. Means had to be found to get rid of the Jewish minority, without making the emigration unduly burdensome on the state.²⁵

22 BA, R 182/521, Letter of the Dego's trusteeship addressed to district court president Dr. Gernsheim in Berlin-Schmargendorf, May 1952.

23 MÜLLER, C. H.: *Grundriß der Devisenbewirtschaftung*. Berlin – Wien 1938, p. 205.

24 Ibid., p. 249.

25 KÖHLER, I.: *Die 'Arisierung' der Privatbanken*, p. 436; KULLER, C.: *Finanzverwaltung und Judenverfolgung*, p. 199; DRECOLL, A.: *Der Fiskus als Verfolger*, p. 125; DEAN, M.: *Robbing the Jews*, p. 54–55. The regulations to prevent the capital exodus in case of emigration functioned as important instrument during the course of the persecution and exploitation of the Jews. However, these regulations had already been introduced in 1931 with the Reich Flight Tax and exchange control – without any specific anti-Semitic context. The "great tasks of exchange control" were

With the Statutory Order on the Registration of Jewish Capital of April 26, 1938, the domestic and foreign assets of those Jewish citizens, either still living in Germany or having already emigrated, were registered nation-wide. In addition, the order legitimated Göring, the Commissioner for the Four Year Plan, to secure the exploitation of the registered Jewish capital in accordance with the economy's interests.²⁶ Hence, the successful implementation of these measures was considered endangered if emigrants tried to transfer their property abroad.²⁷ From June 1938, Jewish "emigrant assets" remained frozen and were not released. If a de-allocation was still considered, it depended on the permission of the responsible Currency Office.

*"I herewith confirm that in accordance with § 54 of the Reich's foreign exchange regulations, permission is not obligatory for the disposition of frozen (emigrant) assets. However, it is important that in the future, prior to the purchase of emigrant assets, the responsible Currency Office will have to prove if there are any concerns against the liquidation of this capital. From now on, the purchase of emigrant assets has to depend on the presentation of a fiscal and legal Certificate of Non-Objection. With the intervention of the Currency Office, the Dego will be discharged from assessing, if the emigration of the asset vendor is desired or not. The assessment of this question is exclusively carried out by the responsible Currency Office."*²⁸

The transfer of the emigrants' personal illiquid belongings (removal goods) was equally restricted.²⁹ Until May 1938, transfer permissions were not required; only later they became subject to authorization and taxing with the Reich Ministry for Trade and Industry's circular decree No. 38/38 that made the emigrant register his personal belongings at the responsible Currency Office fourteen days prior to departure; for newly purchased goods the Currency Office arbitrarily

to "systematically register and utilize foreign currency for the German economy". (WOHLTHAT, H.: *Devisenbewirtschaftung*, p. 5.) All actions endangering these tasks should therefore be controlled – in particular, the trade with valuables such as gold, precious metals and stocks. The administration's reorganization was enacted after 1933 under considerable anti-Jewish aspects. Doing so, the Nazi regime could build on foundations that had already been set in the Weimar Republic.

26 DEAN, M.: *Robbing the Jews*, p. 1.

27 BA, R 182/476, Letter of the Reich Ministry for Trade and Industry addressed to the Heads of the Reich's Currency Offices coordinating the registration and confiscation of Jewish capital, June 7, 1938.

28 BA, R 182/476, Letter of the Reich Ministry for Trade and Industry addressed to the Dego on June 30, 1938.

29 BA, R 182/521, Letter of the Dego's trusteeship addressed to district court president Dr. Gernsheim in Berlin-Schmargendorf, May 1952.

determined a Dego-disagio in order to prevent emigrants from investing their capital in goods or valuables, declared as personal belongings, that were easier to transfer. If emigrants wanted to transfer their belongings, they had to pay a non-refundable discount that amounted to approximately two or three times the goods' original acquisition value.

*"Starting in December 1938, prior to their departure, emigrants had to hand in a questionnaire. The Currency Office then decided to permit deposits and disbursements of the emigrant's domestic income on a blocked account at a foreign exchange licensed bank. There was no rule for a maximum amount."*³⁰

These regulations inhibited the emigrants' property transfer abroad and even if it "succeeded", then it was done under the acceptance of considerable losses. In 1938, *"the most important transfer practices, which had still been allowed by the Reich Ministry for Trade and Industry, were either strongly restricted, became irrelevant or were completely stopped... only in very rare single cases, were emigrant Sperrmark exchanged at a rate of eight percent, with a ninety-two percent loss for their owners."*³¹

After a respective deduction of twenty-five percent for taxes (especially the Reich Flight Tax) and deficits accrued by the sale of property, another ninety percent of the capital was confiscated by the Reich through exchanging it into foreign currency. From 1938, most emigrants, supposing they had the means to finance their emigration, left Germany penniless and only with the prescribed ten Reichsmark per person.³²

Later on, the same regulations were applied to stocks (and shares), which until then remained the only possibility to finance the exodus. Hence, the marginal increase of emigrants until 1938 was not only a result of the aforementioned financial barriers but also an effect of a lack of accommodation capacity and willingness of the receiving countries:

*"Even though the government could force the emigrants to leave, it was not able to influence the receiving countries' entry regulations: The remaining few countries, that still accepted refugees, required the presentation of cash checks as proof of a minimum cash amount that the immigrants could build their life on."*³³

The November 1938 pogrom caused a drastic increase of people willing to leave Nazi Germany, but the immigration quota of most receiving countries was

30 MEINL, S. – ZWILLING, J.: *Legalisierter Raub*, p. 410.

31 KIEFFER, F.: *Judenverfolgung in Deutschland*, p. 269.

32 RICKMANN, G. J.: *Conquest and Redemption: A history of Jewish assets from the Holocaust*. New Brunswick – London 2007, p. 29.

33 KIEFFER, F.: *Judenverfolgung in Deutschland*, p. 303–304, 318.

already exhausted. Fearing that they could become a financial burden, many foreign governments denied destitute Jews entry and therefore sealed the fate of Jewish families unable to leave the Reich.

From 1939, the state increasingly absorbed the securities of Jewish emigrants. For them, selling stocks was often the only alternative for financing their departure and a new start abroad. In those cases, in which the Currency Office required payments from the emigrant to the Dego (e.g. via entrainment of personal belongings, Aryanizations, devaluation profits and estate businesses), the emigrants were allowed to settle their debts by selling securities instead of cash assets.³⁴ A precondition of the sale of stocks was – similar to the frozen cash assets – both a fiscal and a legal Certificate of Non-Objection stating that all tax payments had already been settled. However, the exchange of the securities was limited only to those on the exchange list for Jewish stocks issued by the Berlin Bourse. Likewise, a possible stock transfer was carried out under consideration of unfavorable exchange rates (over ninety percent loss) to the disadvantage of the emigrants.³⁵ Later, the exploitation of stocks for financing the emigration and the settlement of taxes was increasingly restricted.

The November 1938 pogrom triggered reinforced stock transfers, since more and more Jewish citizens decided to emigrate, but were denied Certificates of Non-Objection in order to exchange their Sperrmark into foreign currency. However, all deposits offered to the Dego at this time were already completely depleted. By the end of the 1930s, the Dego's daily Sperrmark demand added up to 400,000–500,000 RM.³⁶ This amount was needed to both finance Germany's export and to bring in foreign currency. It had to be borrowed on the international markets, causing a rise in the exchange rates and thus carrying the risk that the demand could not be satisfied. As a result of the new restrictions for trading Jewish cash and stock deposits, passed by the Nazi regime in 1941, meeting the demand for Sperrmark was impossible within a short time. A vicious cycle unfolded, swallowing more and more money.

34 BA, R 182/521, Letter of the Dego's trusteeship addressed to district court president Dr. Gernsheim in Berlin-Schmargendorf, May 1952.

35 While emigrants were formerly allowed to exchange their stocks under 92% value losses, the Reich Ministry for Trade and Industry decreased the payout amount to four percent in 1941. BA, R 182/476, Letter of the Dego addressed to the Deutsche Bank on October 20, 1941.

36 BA, R 182/476, Letter of the Dego addressed to the Reich Ministry for Trade and Industry concerning Sperrmark assets of Jewish emigrants, December 1938; File memo of the Dego concerning the non-cancellation policy of already concluded transactions resulting from the purchase of Jewish securities on November 17, 1939.

FROM EMIGRATION TO DEPORTATION: THE STATE'S ALL-ENCOMPASSING ACCESS TO JEWISH PROPERTY

The persistent foreign exchange problem, the question of how to finance the Jewish exodus and the reorganization of the German economy from peace to war and armament soon required the nation-wide exploitation of emigrant deposits for financing long-term export orders. Hence, the government decided on the absolute exploitation of the Jewish minority: Until 1942, every citizen wanting to leave Germany was confronted with a huge number of regulatory barriers. The aim was to prevent Jewish emigrants from transferring their property past the Reich's exchequer. In 1940, the government introduced new taxes on wages, exclusively for Jews; one year later, the entire Jewish capital, still remaining in Nazi Germany, was registered, in particular the stock deposits:

*"According to § 11 of the Act on the Application of Jewish Property of December 3, 1938, all foreign exchange licensed banks must forward a listing of those Jews or Jewish financial funds, that own and maintain stock deposits, by August 20, 1941 [...] The respective capital of all Jews with German citizenship as well as stateless Jews, including those persons being considered as enemy foreigners, must be registered."*³⁷

With the beginning of the deportations in October 1941, all Jewish property was eventually transferred to the Reich (11th Statutory Order on the Act of Citizenship of the Reich³⁸). Stocks and securities passed into the deposits of the State Bank of Prussia, which allocated the revenue to the main funds of the Reich. The Dego, as the custodian bank of the Reich Ministry for Trade and Industry, was

37 Ibid., Letter of the Reich Ministry for Trade and Industry addressed to the Association of Private Banks on July 30, 1941.

38 With the 11th Statutory Order on the Act of Citizenship of the Reich of November 25, 1941, new regulations to accelerate the expropriation were introduced. Now, the property's dissolution became automatically effective, as soon as a Jewish citizen crossed the Reich's borders and took permanent residence abroad. This statutory order is seen as the most important legal foundation for the complete exploitation of the German Jews; it was effective for emigrants and deportation victims. The order considerably reinforced the temporary and factual autonomy of the financial authorities, since the administration and exploitation of Jewish property could be initiated right after its owners' deportation. In contrast to the former policy, the officials had not had any personal or at least written contact with the persecuted victims. Christiane Kuller refers to the local officials' *"considerable decision autonomy on how and when they executed the exploitation of Jewish capital, especially who profited from it."* (KULLER, C.: *Finanzverwaltung und Judenverfolgung*, p. 203.)

able to exploit the emigrants' Sperrmark and stock assets in favor of the Reich's export stimulation.

After the pogrom on November 9–10, 1938, the Nazi government took the next step, proclaiming the compulsory Aryanization of businesses to fulfill its politico-economic objectives.

*"Until 1939, around 100,000 businesses owned by German citizens of Jewish origin had to be given up or sold to buyers of German descent. One of the reasons for the Aryanization processes was to ban the 'typical Jewish' enrichment through German economic life. The creeping expulsion of Jewish enterprises was not the only result of the anti-Semitic policies of the government. The economic repression was also heavily dependent on the behavior of the Aryan entrepreneurs."*³⁹

On December 3, 1938, the Law on Expropriation of Jewish Enterprises and Businesses was issued, which came into force on January 1, 1939. The so-called trust corporations were established to massively carry out the Aryanization and liquidation of Jewish illiquid capital (businesses, houses, etc.). In its role as export custodian, the Dego particularly kept an eye on those Jewish companies that were of essential importance for Germany's foreign trade. As already mentioned, the Dego managed the export fund. This fund was supplied with Jewish capital and served mainly to subsidize exports and enable foreign importers to purchase German goods at lower prices. For quite some time, the regime hesitated in Aryanizing, liquidating and expropriating large Jewish companies that were heavily involved in the export businesses, stating that *"all efforts must be taken to preserve exports, being undertaken by these Jews, for the German economy."*⁴⁰ However, in the aftermath of the November 1938 pogrom, this consideration was gradually dropped.

During the course of an Aryanization, the Dego functioned as the information agency of the Reich Ministry for Trade and Industry, starting the communication process by requesting information on the respective companies from the responsible Chamber of Trade and Commerce. Having received the necessary details, the Dego reported back to the ministry, which then decided on the next steps, e.g. the continuation of payments for loss compensation.⁴¹ Eventually, the ministry authorized the Dego *"to autonomously enact the cancellation of payment in case of insolvency or liquidation, as long as these amounts*

39 GIBAS, M.: *Schicksale*, p. 8.

40 BA, R 182/468, Express letter of the Reich Ministry for Trade and Industry addressed to the Chambers of Industry and Commerce on November 21, 1938.

41 Ibid., File memo of the Dego, December 1, 1938; Letter of the Reich Ministry for Trade and Industry addressed to the Dego on December 6, 1938.

do not exceed 1,000 RM.”⁴² In addition, information flow towards the company to be Aryanized was tightly controlled by the Dego:

*“If we learn that the new business owners, who are taking over the company, are already active within the firm or a trustee is set in place, a message may be delivered to the respective company in the usual way. If, on the other hand, we only learn about Aryanization aspirations, without further details regarding their success, we will abstain from an immediate notification of the company in order to prevent disturbances of the ongoing export business of the Jewish company.”*⁴³

During Aryanizations and liquidations of Jewish export firms, not only the Dego, but also the regional Currency Office was heavily involved. During the war, the National Socialist policies towards the Jews became increasingly radicalized. From 1941 onwards, it was no longer about the dispossession and emigration, but rather about the annihilation of the Jewish citizens. On November 25, 1941, the Regulation on the Confiscation of Jewish Assets in case of deportation was decreed; all Jewish property was eventually transferred to the Reich. Stocks and securities passed into the deposits of the main funds of the Reich and were exploited in favor of the Reich’s export stimulation. The emigrants’ attempts at transferring their property abroad failed – the mass transports of Jews into the ghettos and extermination camps began on May 26, 1942.

CONCLUSION

In the period of 1933 to 1945, the Nazi authorities generated a high number of measures that were aimed at the fiscal extortion and confiscation of financial assets of Jews. All levels of public authority participated directly in the extortion of the Jewish citizens. The Reich ministry of finance, especially the regional ministries of finance, the affiliated exchange control offices, as well as the fiscal authorities and main customs offices on the local level implemented the aforementioned policies. The Currency Office oversaw the Reich Flight Tax that had to be paid by those who decided to emigrate. They collected charges such as the Judenvermögensabgabe and taxes for personal effects and moving items. They blocked bank accounts, enforced export and foreign exchange acts and applied penalties on those, who did not comply with exchange control regulations. With help of Security Orders, they were able to freeze all Jewish private and company assets. Whoever attempted to avoid the requirements of the fiscal

42 Ibid., Letter of the Reich Ministry for Trade and Industry addressed to the Dego on July 1, 1939.

43 Ibid., File memo of the Dego, December 10, 1938.

authorities by fleeing the country was criminally traced through search warrants. An indicator for a primarily economic background of the judicial prosecution of Jews is their massive fiscal and legal discrimination, as well as their criminalization as currency offense criminals.

An effective network of authorities exploited Jewish capital. It disposed a multitude of information about the emigration plans of German Jews or their companies that could be Aryanized, and maintained relationships with local and trans-regional institutions such as Chambers of Trade and Commerce, the Central Bank and the Reich Ministry for Trade and Industry. Therefore, with the help of the judicial, financial and economic authorities, the government was able to channel a considerable economic profit from the Aryanization of Jewish property into the funds of the Nazi regime. Furthermore, if there was no other way to legally Aryanize Jewish businesses, the regime convicted Jewish entrepreneurs of having committed currency offenses.

*“From 1933 to 1942, Aryanization was wide-spread across Germany, benefiting a variety of profiteers. Once the state executed excessive taxes and financial regulations specifically targeting Jews and their assets, an increased pull of Jewish capital by the state becomes evident. The climax of this process was reached by 1941, when all Jewish property became entirely administered and exploited in the course of the deportations.”*⁴⁴

Research clearly indicates that the law was used as pretense for the financial and economic exploitation of the Jews. By applying criminal and civil law, the Jewish minority was stigmatized as alien to the Volksgemeinschaft and convicted “criminals *per se*”. The climax of this process was reached by 1941, when all Jewish property became entirely administered and exploited in the course of the deportations. This set the foundation for the Nazi anti-Semitic policy resulting not only in the massive financial deprivation of the Jewish population, but also its systematic obliteration. The smoothly operating bureaucracy was a

44 KULLER, C.: *Finanzverwaltung und Judenverfolgung*, p. 209. See also: FELDMAN, G. D.: Financial Institutions in Nazi Germany: Reluctant or Willing Collaborators? In: NICOSIA, F. R. – HUENER, J. (eds.): *Business and Industry in Nazi Germany*. New York 2004, p. 15–42. “Aryanization had simply become a business for most of those involved. Indeed, when one digs deep enough, one discovers that financial institutions were part of the network of governmental and private institutions engaged in Germany’s long-term imperial and racial goals, and that Aryanization was part and parcel of these efforts.” Martin Dean finally emphasizes the “close relationship between property seizure and the development of the Holocaust.” DEAN, M.: The Seizure of Jewish Property in Europe: Comparative Aspects of Nazi Methods and Local Responses. In: DEAN, M. – GOSCHLER, C. – THER, Ph. (eds.): *Robbery and Restitution: The Conflict over Jewish Property in Europe*. New York 2007, p. 21–32.

basic element of the terror against the Jews and facilitated a crucial task within the framework of their annihilation.⁴⁵

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45 Ibid., p. 209. See also: RICKMANN, G. J.: *Conquest and Redemption*, p. 1: “The Nazis not only sought to murder the Jews but they sought to take everything from them... Like their murder then, the robbery of the Jews was an organized, institutionalized effort that produced the largest robbery in history. The key to understanding the Holocaust in this sense lies in this structural composition and motivation... The organized robbery of the Jews created the system facilitating their slaughter.”

- KULLER, C.: *Finanzverwaltung und Judenverfolgung: Die Entziehung jüdischen Vermögens in Bayern während der NS-Zeit*. München 2008.
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Anti-Semitic Legislation and the Vienna Police, 1938–1942

Gregory Weeks (Austria)

Police always perform a dual function, at the same time both punitive and supportive in which they differ from purely military organizations. In Austria under National Socialist rule, the use of the police to single out citizens for exclusion from society and eventual disenfranchisement was a use of police powers that turned the police into an instrument of terror against the civil population, especially Jewish citizens and foreigners, and placed them in a primarily punitive role.

The role of regular beat police in the implementation of the Nuremberg Race Laws, which excluded Austrian Jews from public life, has received limited attention from historians. Using the command orders of the Vienna Police Department, this paper will examine the complicity of the Viennese Police in evicting Jews from their apartments, forcing them to emigrate, taking away their rights of citizenship, and eventually deporting them to death camps in Poland and elsewhere.

The collected daily command orders (*Tagesbefehle der Wiener Polizei*), housed at the Police Headquarters in Vienna, clearly show how the rights of Jews in Vienna were slowly curtailed. In addition, in these documents one sees the disenfranchisement and theft of property which took place in Austria – renamed the “Ostmark” (Eastern March) by the National Socialists – from March 1938 when Austria was annexed by Germany until 1942, when mass executions were being regularly carried out by police battalions in Poland and the Soviet Union and most of the Jews of Vienna had already been deported.

The strong involvement of the Vienna Police in the system that led to these crimes becomes clear when one examines the documentation, although the documents say little about the individual perpetrators.

For scholars examining the history of the Viennese police from 1938 to 1942, it is clear that the police leadership (meaning the officer corps in particular) as well as many individual policemen were already sympathetic to the National Socialist movement long before the Anschluß (German Annexation) of March 1938. National Socialists had heavily infiltrated all areas of the civil service, including the police and Gendarmerie.¹

It is enough to say that the first Allied *List of Austrian War Criminals* following the end of hostilities included numerous Viennese policemen. Among them were Dr. Leo Gotzmann, Chief of Police in Vienna; Dr. Herbert Hedrich, Regierungsdirektor and Assistant Chief of Police in Vienna; Franz Josef Huber, SS-Brigadeführer und General Major of the German Police and head of the Gestapo in Vienna; Dr. Ernst Kaltenbrunner, SS-Obergruppenführer, General of the German Police and Head of the SD; Dr. Rudolf Mildner, SS-Standartenführer and Assistant of the Gestapo head in Vienna; Dr. Karl Ebner, SS-Obersturmbannführer, Assistant of the Gestapo head in Vienna and head of the Gestapo Judenreferat in Vienna.²

When examining the role of the Vienna City Police in the persecution and murder of Jewish citizens from 1938 to 1942, one finds that the police were inextricably involved in the rounding up and persecution of Jews and a full and integral part of the National Socialist system of terror in the “Ostmark”.

The Vienna Police’s command orders show the persecution of the Jews and other groups at the fringes of society, including homosexuals and foreigners, in a way that other documents at higher levels do not. The businesslike manner in which Jews, Roma, Sinti, and foreigners were registered and catalogued for their later deportation and almost certain death at the hands of their National Socialist persecutors shows the involvement of the police at the earliest stages of the registration and deportation process.³ With this examination, one sees very clearly the complicity of the Vienna Police in the terror apparatus of the National

1 A fine example of this infiltration is the case of Ludwig Nebel, who was a National Socialist spy in the ranks of the Styrian Gendarmerie.

2 WETZ, U.: *Geschichte der Wiener Polizeidirektion vom Jahre 1945 bis zum Jahre 1955 mit Berücksichtigung der Zeit vor 1945*. Dissertation. University of Vienna 1970, page (p.) 325; STEINWENDER, E.: *Von der Stadtguardia zur Sicherheitswache: Wiener Polizeiwachen und ihre Zeit. Teil 2: Ständestaat, Großdeutsches Reich, Besatzungszeit*. Graz 1992, p. 294. On Ebner, see also: *Profil*, 30, July 23, 2001, p. 43.

3 Archiv der Bundespolizeidirektion (BPD) Wien, Various command orders detailing the registration of foreigners in Vienna.

Socialist regime in the “Ostmark” and the focus of higher police authorities on promotions, medals, and the furthering of their careers by carrying out orders, which curtailed civil rights and turned neighbor against neighbor. The police worked not only through denunciations and informants but also through traditional beat patrolmen who carried out a great portion of the groundwork necessary for the smooth functioning of the “final solution of the Jewish question” after 1942.

Following the Anschluß, the police and the Schutzstaffel (SS) were entirely interwoven and this integration meant that all policemen and officers were given SS ranks, equivalent to their police ranks. The goal of this integration was the creation of a community composed of SS and police forces to secure total control over internal affairs, with the stated objective of protecting the Third Reich. Of 227 Austrians in the German Wehrmacht who were promoted to the rank of general, twenty of them served in the police.⁴

For the most part, the integration of the Vienna Police or Sicherheitswache into the Schutzpolizei of the Third Reich was completed by late 1939.⁵ The new organizational structure decreased the autonomy previously enjoyed by the Vienna city police and continued a trend towards the centralization of police forces begun in Germany after 1935. The autonomous structure of German police forces up until the middle 1930s was put under pressure by Heinrich Himmler, the head of the Prussian Police and the SS. Himmler worked to modernize the police and develop central command structures and thus increased and expanded his authority over a large portion of Germany and eventually the “Ostmark”.

In fact, Vienna had the largest Gestapo headquarters in the entire Third Reich, with almost 900 employees, until 1944 when it was surpassed only by Prague. By way of comparison, it should be noted that the Vienna Gestapo had a budget that was over twice as large as that of the Berlin Gestapo.⁶

It was also in Vienna that the first transports of Jews to concentration and death camps were implemented, and it was in Vienna that the first Central Office for Jewish Emigration (Zentralstelle für jüdische Auswanderung) was established under the watchful eye of Adolf Eichmann who received his orders from higher police officers including the head of the Vienna Gestapo’s Judenreferat Dr. Karl Ebner and Vienna Gestapo Chief Franz Josef Huber.⁷

Persecution in the “Ostmark” began immediately. Following the invasion on March 12, 1938, between 50,000 and 76,000 people were arrested, most of them

4 STEINWENDER, E.: *Von der Stadtguardia zur Sicherheitswache*, p. 292.

5 *Ibid.*, p. 291.

6 *Profil*, 30, July 23, 2001, p. 42.

7 *Ibid.*

in Vienna. On April 1, 1938, the first 151 Austrians were put on a transport to the Dachau Concentration Camp. In May and June 1938, two transports with 600 Jews each left Vienna for Dachau. Following the November 1938 Pogrom, 6,547 Jews were arrested. Of that number, 3,700 were later sent to Dachau. By the end of 1938, the Vienna Gestapo reported to Berlin that it had “*handled 20,793 people into protective custody.*”⁸

One only has to take a closer look at the biography of the future Vienna Police Chief Leo Gotzmann to find that he, like many others who later became high-ranking police officials under the National Socialists, was convicted, with accomplices from the outlawed Austrian Nazi Party, of plotting to demolish the Vienna State Opera House in a bombing attack in the Austrian Civil War in the summer of 1934. He was sentenced to the life imprisonment by an Austrian court on March 23, 1935, and imprisoned after his arrest on July 25, 1934, until he was freed in an amnesty on February 18, 1938. Following his release and the events of March 1938, Gotzmann was rehabilitated by special order of Adolf Hitler and reinstated onto the police force. He was promoted to Polizeirat and finally to Police Chief of the City of Vienna upon the death of Otto Steinhäusl on January 24, 1941.⁹ He served as Police Chief until his death in December 1945.

Both Gotzmann and Steinhäusl, who later was promoted to SS-Standartenführer, were illegal Austrian National Socialists before Hitler invaded Austria, and both served long prison terms because of their high treason against the Austrian Corporatist State. Looking at the documentation, their illegal National Socialist activities and the severity of their prison sentences seem to have been major factors in their later appointments as Police Chiefs under German rule.

THE DISENFRANCHISEMENT OF THE VIENNESE JEWS

The slow erosion of basic rights for Jewish citizens through changes in the law can be seen in the daily command orders of the Vienna Police Department. Each time a law was changed or a new law passed, a command order was issued telling patrolmen on the beat how they were supposed to implement the law. No law can be effective without implementation and the Vienna Police were one of the main instruments through which Jews were persecuted in the name of law and order.

8 Ibid., p. 45.

9 For more detailed information on Leo Gotzmann, see the file No. 20.035, E20.970 Polizeipräsident von Wien Dr. Gotzmann, Leo housed at the Dokumentationsarchiv des österreichischen Widerstandes in Vienna.

The police swore an official oath of allegiance to Hitler at Vienna's Heldenplatz on March 16, 1938. The head of the German Police Kurt Daluege, Heinrich Himmler, and the Vienna Gauleiter Josef Bürckel were all present.¹⁰ The swearing-in of the police just three days after the annexation of Austria proved to be a watershed event in the future administration of the Vienna police, and in the treatment of those deemed unworthy of participation in the National Socialist state.

Almost overnight, everything at police headquarters in Vienna changed, from the organization of the various departments and the command structures, to the uniforms that the police were required to wear. Seldom have such significant changes been carried out in such a short span of time. The reorganization of the Vienna City Police was carried out in Blitzkrieg fashion and with such speed and in such a way as to prevent the organization of resistance.

On April 1, 1938, the first "prisoner" transport left Vienna for Dachau. Among the 151 prisoners were many prominent representatives of the interwar Austrian Corporatist State, including Dipl. Ing. Leopold Figl, Dr. Josef Gerö, Dr. Alfons Gorbach, Dr. Robert Hecht, and Dr. Josef Kimmel. In addition, it is interesting to note that many prominent police officials were also a part of this transport. Among those on this first transport were Dr. Rudolf Manda, the Central Inspector of the Vienna Sicherheitswache, Hofrat Dr. Friedrich Streitmann, and Polizeirat Dr. Heinrich Hüttel, who, as a loyal supporter of the Corporatist State, was appointed Commander of the Alarm Division of the Vienna Police, following the arrest of Leo Gotzmann in 1934.¹¹

A few examples from the Daily Command Orders of the Vienna Police Department, and its role in the disenfranchisement and exclusion of Jews from public life after 1938, should suffice to show not only police involvement but also the active participation of police officers in the crimes of the National Socialist state.

The first exclusionary laws were put into effect in Vienna and vicinity almost immediately after the German occupation. These included the wearing of yellow stars, the stamping of all Jewish passports with the first names Israel and Sara and the general implementation of the Nuremberg racial laws. Even before this, however, authorities in Vienna, including the police, consciously and silently tolerated the repression of Jewish citizens in everyday life, including the marking of stores with racist slogans and the theft of Jewish property.

On December 7, 1938, the Vienna Police were given the order to begin registering Jews in a card file and by order of the Reichsstatthalter from February 7, 1939,

10 Wien 1938, p. 227.

11 STEINWENDER, E.: *Von der Stadtguardia zur Sicherheitswache*, p. 294.

to implement the Law for the Changing of Family and First Names, which had been passed on August 17, 1938. This law required all German citizens of the Jewish "race" to adopt the first names Israel or Sara. All Jews living in Vienna were thus required to have their passports stamped by April 30, 1939, or risk punishment.¹²

As early as 1939, the Vienna police's daily orders included the recommendation to read the book *Court Jews (Hofjuden)* edited by Peter Deeg and published by Julius Streicher's Stürmer Publishing House. In the diction of the Assistant Police Chief Josef Fitzthum:¹³ "*The purchase of this book is warmly recommended,*" and members of the police force were offered a special reduced price for the purchase of the 548-page volume.¹⁴

On January 13, 1939, a command order was issued by Police Chief Otto Steinhäusl reiterating an order given by Hermann Göring in his authority as Representative for the Four Year Plan, that all new actions with regard to the marginalization of Jews be routed through Göring's office in Berlin to stop authorities from taking unapproved action. The order from Göring states in part: "*To secure the necessary standardization in the handling of the Jewish question, which strongly affects all economic interests, I ask that all ordinances and other important orders that touch upon the Jewish question be forwarded to me for my approval before their release. Therefore, I ask that all departments belonging to your section be told that any independent actions on the Jewish question cease [immediately].*"¹⁵

In a command order dated October 13, 1939, and again signed by the Vienna Police Chief Otto Steinhäusl on the subject of "*Registration of Jews who have their permanent domicile or regular residence in Vienna*", it is firmly stated that many Jews had not yet registered with the police. Therefore, these people were required to register with the police on specified dates based on the first letter of the alphabet for their last names from October 16 to October 26, 1939, regardless of their citizenship. In the case of inability to register due to illness or absence from Vienna, the persons in question were required to submit a written explanation of the reason for their failure to register. The closing line of the order states that "*Jews who do not follow this order or do not submit to it in due course should expect the most drastic measures.*"¹⁶

12 Archiv der BPD Wien, Tagesbefehl March 17, 1939, Betrifft: Ausstellung der Kennkarten für Juden.

13 Polizeivizepräsident Fitzthum.

14 Archiv der BPD Wien, Tagesbefehl July 22, 1939, Betrifft: Das Buch Hofjuden.

15 Ibid., Tagesbefehl January 13, 1939, Betrifft: Einheitlichkeit in der Behandlung der Judenfrage.

16 Ibid., Tagesbefehl October 13, 1939, Betrifft: Erfassung der Juden, die in Wien ihren Wohnsitz oder gewöhnlichen Aufenthalt haben.

Almost exactly one year later on October 15, 1940, a further order, regarding the registration of Jews was issued by Leo Gotzmann. It begins: *"In order to secure exact checks of all Jews who still live in Vienna and to make possible the freeing of Jewish residences for party comrades [Volkgenossen], I order [that]: From October 25, 1940 onwards, all persons who are Jews or are regarded as Jews according to the Race Laws, no matter whether they have German citizenship or foreign citizenship, are required to fill out a registration form..."*

Further, Gotzmann notes, *"I, therefore, stress to the registration centers that they confirm the given address as well as proof of identity on the completed forms brought in by the Jews – which can be easily checked against the required registration card – with a stamp and the signature on the form of the District Head or his deputy."* Without proper proof of registration, Gotzmann notes that Jews will not be able to obtain a food-rationing card.¹⁷ It seems clear here, that Jews have already lost all of their civil rights, but the situation will only become worse.

Please consider the following: Two years later, Vienna Police Chief Leo Gotzmann is given notice in a letter from the Vienna Gestapo that, *"On February 15, 1941, the Viennese Jews will be evacuated to the [Polish] General Government. In order to prevent the flight of Jews to other portions of the Reich, I [Huber, head of the Gestapo] have given an order that Jews who have their permanent residence (domicile) in Vienna not be allowed to leave the Gau area of Vienna, without the permission of the Zentralstelle für Jüdische Auswanderung [Central Office for Jewish Emigration] in Vienna's fourth district, Prinz Eugenstrasse Number 22."* What the meaning of the word "evacuation" was at that time is clear to us today.

On April 13, 1942, the Gestapo Leitstelle in Vienna made the following statement to the Vienna City Police: *"Because the Jews use every possibility to continue to camouflage themselves, it is now necessary to mark the residences of Jews."*¹⁸

In the memo that follows signed by Regierungsdirektor and Assistant to the Police Chief in Vienna Dr. Herbert Hedrich, exact instructions are given for marking the doors of Jewish residences with the yellow Star of David. According to the instructions, only one Star of David made of yellow paper was to be affixed to the door of a residence, no matter how many Jews lived there. Further, exact instructions were given for the marking of residences where both Jews and gentiles lived. In this second case, the Star of David was only to be affixed to the nameplate of the Jewish resident and not to the nameplate of the gentile.

17 Ibid., Rundverfügung October 15, 1940, Betrifft: Erfassung der Juden bei der polizeilichen Anmeldung, Erteilung von Meldebestätigungen für den Bezug von Lebensmittelkarten durch Juden.

18 Ibid., Rundverfügung April 22, 1942, Betrifft: Kennzeichnung der Wohnungen von Juden.

In the Reichsgaue Vienna, Carinthia, Lower Danube, Upper Danube, Salzburg, Styria, Tyrol and Vorarlberg, the application of this order was to be carried out by the Staatspolizeileitstelle in Vienna in conjunction with the Zentralstelle für Jüdische Auswanderung, and the Stars of David were to be distributed by the Israelitische Kultusgemeinde in Vienna. Two-hundred-forty copies of the order were sent to the Command of the Schutzpolizei in Vienna.

Nearly one week later, on April 28, 1942, a similar order, again signed by Dr. Herbert Hedrich, was given restricting the use of public transportation by Jews. In this order, Jews were required to carry a signed pass allowing them to use public transportation and forbidden completely from using the street car lines “D” and “40” which serviced the wealthy 18th and 19th districts of Vienna, where a majority of National Socialists lived. Any failure to follow these orders meant immediate “protective custody” (Schutzhaft).¹⁹

By 1942, however, there were very few Jews left in Vienna. Adolf Eichmann and the staff of his Zentralstelle für Jüdische Auswanderung (Central Office for Jewish Emigration) had done their work well. The aid of the police, in cooperating with Eichmann, had speeded this process immensely. Like a well-oiled machine, transports left Vienna for the East on a one-way voyage for their passengers. The end of the “Emigration” line was usually a gas chamber, and the police had thrown a wide net to make certain that no one escaped the murderous “final solution of the Jewish question”. Yet their complicity was not fully recognized after the end of the War, and within the course of a mere five years, the Vienna Police had removed or replaced most police officers who had a connection to these crimes, without prosecuting them.

To give a better idea of how heavily National Socialist the Vienna Police were, here are just a few figures: From May to December 1945, 5,126 policemen left the Vienna Police Force. They were replaced by 5,982 new recruits. Of the 5,126 policemen who left the force, 527 were normal resignations due to retirement, death, etc. Another 1,876 left the force of their own free will to pursue other careers and 2,723 were forced to resign because of their political views or past political activities. From the end of 1945 to 1950, a total of 3,415 men left the force and 4,802 were removed from the force for various undisclosed reasons. After 1950, most of the major personnel, changes were complete and the attrition rate for the Vienna Police Force returned to normal.²⁰ Based on these figures, we see that almost half of the Vienna Police Force had been removed

19 Ibid., Rundverfügung April 28, 1942, Betrifft: Benützung der Verkehrsmittel durch Juden.

20 WETZ, U.: *Geschichte der Wiener Polizeidirektion*, p. 337.

by 1950.²¹ Much of the rounding up and transport of Jews and other “undesirables”, which occurred in the early war years depended on the work of the police. The involvement of the regular uniformed police in the crimes of the National Socialist dictatorship was downplayed following the conclusion of peace and with the post-1945 forced resignations, the subject was closed for the police, who had other concerns.

From the available archival evidence, the complicity of the Vienna Police in carrying out the preparatory work for the Holocaust, as well as their role in deportations and mass executions is evident. Unraveling the involvement of local Schutzpolizisten in the crimes of the National Socialist regime, both in Vienna and Eastern Europe, helps to better explain not only the success of National Socialist anti-Semitism and terror, but also why such a large portion of the population so willingly supported anti-Semitic legislation and participated in the exclusion of Jews. The presence of policemen lent the program of exclusion, deportation, and mass murder the air of authenticity, and officially, it needed to reach its peak by early 1942.

The Vienna Police were the key instrument of terror that made anti-Semitism and deportation function on the home front in Vienna, and they ideologically indoctrinated, supported, and trained their comrades in the East, who were assigned to finishing off the process that had begun with the Nuremberg Race Laws. The conclusion here is that support and participation of anti-Jewish policy by the Vienna Police Department from 1938 to 1942 led directly to the “Final Solution”, and the murder of nearly two-thirds of the Jewish population of Europe, for without the local police, the rail transports could never have rolled eastward from Vienna, fully loaded, at the pace they did.

The brainpower for organizing the transports was provided by Adolf Eichmann and the Zentralstelle für Jüdische Auswanderung, but the infrastructure and manpower for concentrating and deporting Vienna’s Jews was provided by the Vienna Police, who carried out these tasks with murderous and zealous efficiency.

21 BUCHSBAUM, L. (ed.): *Taschenjahrbuch für Sicherheitswachbeamte Österreichs*. Wien 1937. Buchsbaum lists the total personnel of the Vienna Police at 9,316 in 1936 and 9,136 in 1937, meaning that anywhere from one third to one half of the force had to be removed after 1945 depending on how one reads the figures.

Forced Labor Camps for Hungarian Jews along the South-East Wall

Claudia Kuretsidis-Haider (Austria)

As it became more and more apparent to German leaders, that the end of World War II and their defeat was not far off, they ordered to build a so-called South-East Wall (Südostwall) in the second half of 1944, which meant a system of tank ditches and heavy fortifications intending to halt the Red Army in its advance towards Vienna.

Along the south-eastern frontier of the then German Reich, the South-East Wall extended from Bratislava to the southern border of Styria.¹ Members of the local civilian population, as well as members of the Hitler Youth (Hitlerjugend, HJ) and the Volkssturm, foreign laborers and Hungarian Jews were recruited for forced labor. The Austrian Historian Eleonore Lappin recently published a monograph analyzing the historical facts as to why even Jews from Hungary were forced into slave labor in Austria in 1944/45.

THE SONDEREINSATZKOMMANDO EICHMANN AND THE GERMAN OCCUPATION OF HUNGARY

The Jewish labor service was part of the final solution strategy of the Nazi regime. On March 19, 1944, German troops marched into Hungary, because the Hungarian government under the pro-German regent Miklós Horthy no

¹ See: RAUCHENSTEINER, M.: *Vom Limes zum Ostwall*. Wien 1972; BANNY, L.: „Schild im Osten“. *Der Südostwall zwischen Donau und Untersteiermark*. Eisenstadt 1985.

longer seemed trustworthy to the Nazi-regime.² That is also when in Hungary the systematic extermination of the Jewish population began, under the lead of Adolf Eichmann and his special commando unit.³

Members of the Eichmann staff in Budapest, amongst others, were:⁴

- SS⁵-Oberscharführer Hermann Krumei
Krumei accompanied Eichmann to Budapest in the spring of 1944 and was then camp commandant in Debrecen. As a member of the German Security Police, he took active part in the mass deportation of Hungarian Jews. After 1945, the People's Court⁶ in Vienna investigated Krumei for his participation in the crimes committed against Hungarian Jews, especially during the death marches at the end of the war.⁷ After revision of a five-year jail sentence, he was convicted in 1969 to life imprisonment by the District Court of Frankfurt am Main because of his complicity in the deportation and murder of Hungarian Jews in the concentration camps of Auschwitz and Bergen-Belsen.⁸
- SS-Hauptsturmführer Franz Abromeit
From 1939 to 1941, Abromeit was head of the SD⁹-Special Section for the Evacuation of Poles and Jews, and from 1942 was the Jewish adviser to Croatia in the Jewish Section of the RSHA (Reichssicherheitshauptamt, Reich Security Main Office). In 1944 he was employed with Eichmann's special commando unit to overlook the deportations to Auschwitz.¹⁰

2 LEVAI, J.: *Black book on the martyrdom of Hungarian Jewry*. Zürich 1948; MAY, K. (ed.): *Judenverfolgung in Ungarn*. Frankfurt/Main 1959; LEVAI, J.: *Eichmann in Ungarn*. Budapest 1961; BRAHAM, R. L.: *The Destruction of Hungarian Jewry*. New York 1963; BRAHAM, R. L.: *The Politics of Genocide. The Holocaust in Hungary*. New York 1981; RANKI, G.: *Unternehmen Margarethe. Die deutsche Besetzung Ungarns*. Wien – Köln – Graz 1984; BRAHAM, R. L.: *Studies on the Holocaust in Hungary*. New York 1990; GERLACH, Ch. – ALY, G.: *Das letzte Kapitel. Der Mord an den ungarischen Juden*. Stuttgart – München 2002.

3 HILBERG, R.: *Die Vernichtung der europäischen Juden. Die Gesamtgeschichte des Holocaust*. Berlin 1982, page (p.) 887.

4 See: SAFRIAN, H.: *Eichmann's Men*. New York 2010.

5 Schutzstaffel.

6 Between 1945 and 1955 Nazi criminals were charged by so called People's Courts (Volksgerichte). See the chapter Aftermath – Austrian post-war trials in this contribution.

7 Landesgericht für Strafsachen (LG) Wien Vg 9 Vr 748/55, LG Wien Vg 1h Vr 6374/48, LG Wien Vg 6d Vr 6669/46.

8 See: RÜTER, Ch. F. – MILDIT, D. W.: *Die Westdeutschen Strafverfahren wegen nationalsozialistischer Tötungsverbrechen 1945 – 1997. Eine systematische Verfahrensbeschreibung mit Karten und Registern*. Amsterdam – Maarssen 1998, case 716, p. 170.

9 Sicherheitsdienst.

- SS-Hauptsturmführer Siegfried Seidl
From 1941 to 1943, Seidl was commandant of the Theresienstadt ghetto and chief of the Gestapo in the Bergen-Belsen concentration camp. Subsequently he was recalled to Mauthausen as a member of Eichmann's special commando unit and dispatched to Budapest and Debrecen to organize the deportation of Jews. As an acting leader of the SS Special Deployment Command Outpost Vienna (SS-Sondereinsatzkommando Außenstelle Wien), Seidl exercised control over the forced-labor camps for Hungarian Jews in Vienna and Lower Austria in 1944/45. In October 1946, the Viennese People's Court sentenced him to death; he was executed in February 1947.¹¹
- SS-Obersturmführer Ernst Adolf Girzick
Girzick was the person in charge of the deportation of Viennese Jews to Theresienstadt and to concentration camps in Poland. From 1939 to 1943, he was the deputy of Alois Brunner at the Central Office for Jewish Emigration (Zentralstelle für jüdische Auswanderung) in Vienna and from March to December 1944, a member of Eichmann's staff in Budapest. In September 1949, the Viennese People's Court sentenced him to 15 years imprisonment.¹² In 1953, he was released from prison by an act of clemency of the Austrian president Theodor Körner.¹³
- SS-Hauptsturmführer Dieter Wisliceny
As Eichmann's superior in the SS, Wisliceny served as an official in the Reich Central Office of Jewish Emigration. From September 1940, he was attached to the German delegation in Bratislava as an advisor on Jewish questions to the Slovak government. In March 1944, he was called to Budapest to join Eichmann's special commando unit. At the Nuremberg War Crimes Trial, Wisliceny was a witness for the prosecution. Eventually extradited to Czechoslovakia, he was sentenced to death and executed in Bratislava in February 1948, for complicity in mass murder.¹⁴

10 See the investigation of the Viennese People's Court versus Abromeit: LG Wien Vg 9 Vr 748/55.

11 LG Wien Vg 1b Vr 770/46. See also: Seidl, Dr. Siegfried. See at: <http://www.ghetto-theresienstadt.de/pages/s/seidls.htm>.

12 LG Wien Vg 1 Vr 8881/46.

13 KURETSIDIS-HAIDER, C.: „Persönliche Schuld ist faktisch keine vorhanden“ – Innenminister Oskar Helmer und die Begnadigung von verurteilten NS-Tätern. *Justiz & Erinnerung*, volume (vol.) 8, 2003, p. 1–6. See at: <http://www.nachkriegsjustiz.at/service/archiv/Rb8.pdf>.

14 *The Eichmann Henchmen. "The Squalid Engineers of Human Misery."* See at: <http://www.holocaustresearchproject.org/holoprelude/eichmen.html>.

- SS-Hauptsturmführer Otto Hunsche
From March to November 1944, Hunsche was active as a legal adviser for “Jewish affairs” at the department of the interior in Hungary. He personally organized the deportation of Hungarian Jews from the internment camp in Kistarcsa to Auschwitz. After revision of an acquittal by the Federal Court of Justice in 1969, he was convicted by the District Court of Frankfurt am Main to twelve years imprisonment as a co-defendant of Hermann Krumey.¹⁵
- SS-Hauptsturmführer Franz Novak
Novak worked in the Central Office for Jewish Emigration in Vienna, Berlin, and finally in Prague. He was Eichmann’s railroad and timetable expert and accompanied him on the deportation of Hungarian Jews in 1944 to Auschwitz. Following Eichmann’s trial in 1961, he was arrested and sentenced to eight years imprisonment by an Austrian court in 1964. In the 1960s and 1970s, three verdicts of the District Court in Vienna were revoked by the Supreme Court. After the third repeal to the Supreme Court, in 1972 a verdict of guilty was passed again by the court. The jury explicitly denied that Novak acted under obligation to obey binding orders. He was convicted, however, not for murder, but for committing “*public violence under aggravating circumstances*” by transporting human beings without providing sufficient water, food and toilet facilities.¹⁶ Seven out of eight members of the jury did not find him guilty of being an “*accessory to murder*” and conceded to the limitation of the crime. As a result Novak was jailed for seven years. The Supreme Court prohibited any further appeals and pleas of nullity.¹⁷

On April 4, 1944, it was decided that all Hungarian Jews should be “*brought to the final solution.*” Between May 14, and July 9, 1944 more than 430,000 Hungarian Jews were deported to Auschwitz by means of Eichmann’s special commando unit, approximately 300,000 of them were murdered.¹⁸ After

15 See the investigation of the People’s Court in Vienna: LG Wien Vg 9 Vr 748/55. See also: RÜTER, Ch. F. – MILD, D. W.: *Die Westdeutschen Strafverfahren*, case 716, p. 170.

16 Die „Eisenbahn-Paragraphen“ des alten österreichischen Strafgesetzes. See at: http://www.nachkriegsjustiz.at/service/gesetze/gs_eisenbahnparagraphen.php.

17 LG Wien 20 Vr 2729/63. See also: PÄTZOLD, K. – SCHWARZ, E.: „Auschwitz war für mich ein Bahnhof“. Franz Novak – der Transportoffizier Adolf Eichmanns. Berlin 1994.

18 JÄCKEL, E. – LONGERICH, P. – SCHÖPS, J. H. (eds.): *Enzyklopädie des Holocaust: die Verfolgung und Ermordung der europäischen Juden*. Vol. 3. Berlin 1993, p. 1467; BRAHAM, R. L.: *The Destruction of Hungarian Jewry*, p. XX; VARGA, L.: Ungarn. In: BENZ, W. (ed.): *Dimension des Völkermords. Die Zahl der jüdischen Opfer des Nationalsozialismus*. München 1991, p. 344; GERLACH, Ch. – ALY, G.: *Das letzte Kapitel*, p. 275.

that, Miklós Horthy – fearful of a coup by the Hungarian right wing – prohibited further deportations to Auschwitz, taking into account the apparent defeat of the German Reich, as well as due to pressure from abroad. At that time there were still some 200,000 Jews living in Budapest, along with approximately 80,000 Jewish “labor service conscripts”¹⁹ in the Hungarian army.

When Horthy declared an armistice between Hungary and the Soviet Union in October 1944, the fascist Arrow Cross (Nyilas) led by Ferenc Szálasi seized power, aided by German troops stationed in Hungary. Eichmann returned to Budapest as soon as possible in order to complete the “Final Solution”, which had come to a standstill in Hungary after Horthy had forbidden further deportations in July.²⁰ The Nyilas agreed to lend Jewish laborers to the Germans until the end of war for deployment in the arms industry. The reason was, that in June 1944 the mayor of Vienna, SS-Brigadeführer Karl Blaschke, had already sent a request to the head of the Reich Security Main Office Ernst Kaltenbrunner to provide workers for Vienna. This was due to the loss of the Eastern territories, the reservoir of so-called Eastern workers had disappeared, i.e. civilian workers who had come to the German Reich more or less “voluntarily” for deployment as laborers. In Austria, this led to a severe labor shortage that was felt not only in the war industries, but also in agriculture, civilian industry and trade. The Jews, who were crammed together in Hungarian ghettos, waiting for their deportation to Auschwitz, were an obvious replacement for these Eastern workers. In June 1944, some 15,000 Jews from the ghettos in Szolnok and Debrecen arrived in Strasshof an der Nordbahn (Lower Austria). With the help of the labor-exchange offices, they were allocated to firms in Vienna, Lower Austria, Burgenland and southern Moravia. There they were put to work, doing heavy manual labor, and frequently had to live under very difficult and inhuman conditions.²¹

THE CONSTRUCTION OF THE SOUTH-EAST WALL

Along the border between Hungary and the German Reich work had begun on the construction of the so-called South-East Wall in early October 1944. Between November 6, and December 1, 1944, the fascist Arrow Cross handed over 76,209 Jews to the Germans for this special purpose.

19 The Jews were even permitted to serve in the army, but only in the “supplementary reserve” and were barred from regular military service.

20 LAPPIN, E.: *The Death Marches of Hungarian Jews through Austria in the spring of 1945*. See at: http://www1.yadvashem.org/odot_pdf/Microsoft%20Word%20-%203218.pdf.

21 Ibid., p. 2.

In Hegyeshalom – today the border crossing on the Hungarian-Austrian frontier – the Hungarian guards delivered the Jews to the SS.²² Many of the captives were shipped on to concentration and labor camps in the Reich. The rest were distributed to Austrian industrial enterprises, but mostly to camps along the frontier. There, together with German and Austrian civilians, Hitler Youth, foreign workers, and POWs (prisoners of war) they were forced into doing hard labor, digging trenches and excavations for the South-East Wall.²³ The Hungarian-Jewish trench-diggers were under the command of the Lower Danube Gauleiter Hugo Jury and the Styrian Gauleiter Siegfried Uiberreither, who, in their capacity as Reich defense commissioners (Reichsverteidigungskommissare), were responsible for the construction of the South-East Wall.²⁴

Commandants of the fortification works were the local “political leaders” (Politische Leiter), who controlled the progress of the digging works. The technical planning and inspection of the work was in charge of the Organisation Todt – the Task Force for the South-East Special Construction Management (OTEinsatzgruppe Süd-Ost, Sonderbauleitung).²⁵ The recruitment of the guards and the lodging of the forced laborers were in the administrative accountability of the Nazi party officials.

From November 1944, the Hungarian-Jewish construction laborers were deployed in the area of Sopron and Kőszeg, as well as in the Lower Danube Gau. From Christmas in 1944, groups of Jewish labor conscripts were also sent to work in the Gau of Styria.²⁶ Altogether, there were twenty forced labor camps along the “Austrian” part of the South-East Wall. About 35,000 Hungarian Jews were forced into slave labor. The northernmost camp was situated in Engerau²⁷ (today Petržalka, a district of Bratislava).²⁸

22 SZABOLCS, S.: Die Todesmärsche der Budapester Juden im November 1944 nach Hegyeshalom-Nickelsdorf. *Zeitgeschichte*, vol. 22, 1995, number (no.) 3/4, p. 124–137.

23 LAPPIN, E.: Ungarisch-jüdische Zwangsarbeiter in Österreich 1944/45. In: KEIL, M. – LAPPIN, E. (eds.): *Studien zur Geschichte der Juden in Österreich*. Vol. 2. Bodenheim – Mainz 1997, p. 141–168, in place p. 148; LAPPIN, E.: Das Schicksal der ungarisch-jüdischen Zwangsarbeiter in Österreich. *Sommerakademie-News*, vol. 6, 1996, p. 18–21.

24 LAPPIN, E.: *The Death Marches of Hungarian Jews*, p. 9.

25 For more information about OT see: <http://www.historisches-centrum.de/zwangsarbeit/todt.html>.

26 BANNY, L.: „Schild im Osten“, p. 111; RAUCHENSTEINER, M.: Das Holz der Schuhe. *Die Presse*, April 1, 1995, p. III.

27 Before the Nazi occupation Engerau (Hungarian Poszonyligetfalu, Slovak Petržalka) was a multi-ethnic village. On October 10, 1938 it was affiliated to the Ostmark/Gau Niederdonau. See: SZABOLCS, S.: Das Arbeitslager von Engerau 1944/45. *Unsere Heimat. Zeitschrift für Landeskunde von Niederösterreich*, vol. 64, 1993, no. 3, p. 173–181.

THE FORCED LABOR CAMP IN ENGERAU²⁹

On December 3, 1944 about 2,000 Hungarian Jews from the Budapest ghetto arrived in Engerau in livestock wagons. The captives were put up in seven camp sections, in barracks, but also in farms, barns, stables, and cellars, very close to the resident population. The working and living conditions were quite similar to a concentration camp. The prisoners were guarded by members of the SA³⁰ (most of them from Vienna) as well as by political leaders.

The seven camp sections of Engerau:³¹

CAMP SECTION	LODGING	NUMBER OF PRISONERS
Auliesl	garret	350
Fürst	garret, barn	300
Schinawek	garret in a factory	300
Wiesengasse	two barns	250
Leberfinger	stable of the tavern	200
Bahnhofstraße	garrets	250
Krankenrevier	in an abandoned factory	80

The AULIESL CAMP was originally a dairy farm, situated outside the Engerau village on a peninsula.³²

The SCHINAWEK CAMP was set up in a factory in the Holzgasse close to the Schinawek auto repair shop. Berta Gregorowitsch, the daughter of the proprietor, gave evidence before the Viennese People's Court in 1946 and described the

28 WARTLIK, H.: *Das Arbeitslager für ungarische Juden in Engerau (3. Dezember 1944 – 29. März 1945) im Rahmen des Südostwallbaues aus der Perspektive der Prozesse vor dem Volksgericht Wien 1945–1955*. Diploma thesis. Wien 2008. See also: SZABOLCS, S.: The forced labor of Hungarian Jews at the fortification of the western border regions of Hungary in 1944–1945. In: BRAHAM, R. L.: *Studies on the Holocaust in Hungary*, p. 175–193.

29 LAPPIN, E.: *Ungarisch-Jüdische Zwangsarbeiter und Zwangsarbeiterinnen in Österreich 1944/45*. Wien 2010, p. 222–237.

30 Sturmabteilung.

31 WARTLIK, H.: *Das Arbeitslager für ungarische Juden in Engerau*, p. 54.

32 KURETSIDIS-HAIDER, C.: „Das Volk sitzt zu Gericht“. *Österreichische Justiz und NS-Verbrechen am Beispiel der Engerau-Prozesse 1945–1954*. Wien – Innsbruck – Bozen 2006, p. 211.

living conditions in the camp, where the Jews were housed at the garret of the factory, as follows: *"They had to lie down on the bare floor like herrings."*³³

The WIESENGASSE CAMP, a barn, was one of the most horrible camp sections in Engerau. There the prisoners were crammed, waiting for death. The building was so desolate that the inhabitants perished from the cold, even though the barn door was closed.³⁴

The prisoners in the BAHNHOFSTRASSE CAMP, alongside today's Petržalka train station, were housed in the garrets of residential houses, as were the Jews in the Fürst camp, which was the name of the property owner.³⁵

The LEBERFINGER CAMP was located in a horse stable of a tavern near the riverbank of the Danube River.³⁶

One survivor, the merchant Ernö Honig from Kisvejke, gave the following evidence to the People's Court in Vienna: *"I was put up in the Leberfinger Tavern. There 200 men were sleeping in a stable with a concrete floor without any pads or heating, so that only twenty of us remained alive when we left Engerau. The rest were either slain while working or they died because of exhaustion or from the aftermath of severe frostbite. We were forbidden to wash ourselves and so we were full of lice and festering sores."*³⁷

Another survivor, the manager Ignaz Blau from Budapest, recorded the following: *"I was put up in a barn with a roof full of holes, which did not protect us from the rain and snow coming through. The sidewalls, too, had huge cracks in them, so that we were constantly exposed to drafts. We had straw to lie on, but it was completely wet and rotten. Out of the 150 people, who had originally been there, less than thirty remained alive."*³⁸

Commandant of the Engerau camp SA-guards was Scharführer Edmund Kratky and afterwards Scharführer Erwin Falkner. They were subordinated to SA-Unterabschnittsleiter Gustav Terzer from the SA-headquarter in Kittsee (Burgenland). Chief of the Engerau political leaders was NSDAP³⁹-Ortsgruppenleiter Karl Staroszynsky.

In the course of a meeting held in March 1945 in Vienna, the Reichsführer SS Heinrich Himmler advised the commandant of the Mauthausen concentra-

33 Third Engerau trial (LG Wien Vg 1c Vr 3015/45), vol. 6: trial protocol, vol. 1, 5th day (October 21, 1946), p. 17.

34 Ibid., p. 34.

35 Ibid., 3rd day (October 18, 1946), p. 47.

36 Ibid., p. 18.

37 Second Engerau trial (LG Wien Vg 1a Vr 4001/48), Witness report Ernö Honig (August 15, 1945).

38 Ibid., Witness report Ignatz Blau (August 15, 1945).

39 Nationalsozialistische Deutsche Arbeiterpartei.

tion camp Franz Zireis that the Hungarian-Jewish forced laborers were to be evacuated to Mauthausen.

When the Soviet Army approached the frontier of Ostmark (Austria) in March 1945, Kreisleiter Alfred Waidmann ordered the evacuation of the Engerau camp. Due to the fact that the Reichsbahn could not provide trains, the SA-commandant Falkner decided that the prisoners should walk from Engerau via Wolfsthal and Hainburg to Deutsch-Altenburg (Lower Austria). Afterwards, the Kreisleitung intended to transport the Jews by ship downstream to Mauthausen.

In the afternoon of March 29, the inmates of the Engerau camp sections crowded in the area near the train station and in the front of the then Semperit, and later on the Matador factory, waiting for the decampment, which started late in the evening. Right from the very beginning of the evacuation march, the SA-guards started massacring those prisoners who were not able to walk as fast as their tormentors wanted them to walk. On their way to Bad Deutsch-Altenburg, approximately 100 prisoners were shot, killed or died because of exhaustion. The survivors described the “death-march” as a kind of “hare hunting” (“Hasenjagd”). After a stopover night in the Deutsch-Altenburg spa-gardens, they, together with the Hungarian-Jewish prisoners of the forced-labor camp of Bruck an der Leitha (Lower Austria), were loaded onto ships in Bad Deutsch-Altenburg, heading for the concentration camp of Mauthausen.

ENGERAU AND THE SLOVAK COMMISSION FOR INVESTIGATION OF NAZI ATROCITIES AGAINST THE LOCAL CIVILIAN POPULATION⁴⁰

On April 20, 1945, the Executive Committee of the Slovak National Assembly installed a governmental commission to investigate the Nazi damages and atrocities in Engerau. Members of the commission were delegates of the provisional government, a state attorney, and assistants of the institute for forensic medicine, as well as of the institute for pathology, press photographers and journalists. The president of the commission was state attorney Dr. Július Viktory.

The investigation started on April 28, 1945 and lasted until May 4. Five mass graves containing 460 male bodies were exhumed at the Engerau cemetery.⁴¹

40 KURETSIDIS-HAIDER, C.: *Verbrechen an ungarisch-jüdischen Zwangsarbeitern vor Gericht. Die Engerau-Prozesse vor dem Hintergrund der justiziellen „Vergangenheitsbewältigung“ in Österreich 1945–1955*. Dissertation thesis. Wien 2003, p. 93.

41 Slovenský národný archív (SNA), fund (f.) Národný súd, Tu ľud. 6/46–13 III D, file 61, 16/52.

Only 49 persons could be identified.⁴² Afterwards a memorial stone was erected and a selection of names of the victims was engraved on several grave and memorial stones.⁴³

The Slovak news agency and the two daily newspapers *Pravda* and *Čas* printed the results of the investigation commission. A brochure with photos of the exhumation and a description of the atrocities was published on the first anniversary of the foundation of the Slovak republic.⁴⁴

OTHER FORCED LABOR CAMPS FOR HUNGARIAN JEWS ALONG THE SOUTH-EAST WALL

The mentioned above Engerau was the northernmost camp along the South-East Wall. As Eleonore Lappin-Eppel recently elaborated⁴⁵, there were also other camps in Donnerskirchen, Purbach, Siegendorf⁴⁶, Deutsch Schützen and Deutschkreuz⁴⁷ (Burgenland) and Bruck an der Leitha⁴⁸ (Lower Austria) as well as on the other side of the today's frontier in Hungary.⁴⁹

In December 1944, about 700 Hungarian Jews were housed in a wine cellar (the so called Esterházy cellar) between Donnerskirchen and Purbach.⁵⁰ The

42 The index of the identified names is published in: KURETSIDIS-HAIDER, C. – SALNER, P.: Erinnerungen über die Grenzen hinweg. Slowakisches und österreichisches Gedenken an die ermordeten ungarisch-jüdischen Zwangsarbeiter des Lagers Engerau. In: ARNBERGER, H. – KURETSIDIS-HAIDER, C.: *Gedenken und Mahnen in Niederösterreich, Erinnerungszeichen zu Widerstand, Verfolgung, Exil und Befreiung*. Wien 2011, p. 103–115, in place p. 107.

43 Since 2000 the Austrian Research Center on Post-war Trials (Zentrale österreichische Forschungsstelle Nachkriegsjustiz) organized every year a commemoration ceremony, together with the Jewish community of Bratislava. For more information see: http://www.nachkriegsjustiz.at/service/archiv/engeraugedenken_indexNEU.php.

44 WETZLER, A. – ILLEK, D.: *Nemecké a gardistické zverstvá*. Bratislava 1945.

45 LAPPIN, E.: *Ungarisch-jüdische Zwangsarbeiter und Zwangsarbeiterinnen*, p. 219–369.

46 In the Siegendorf sugar refinery about 1,100 Hungarian Jews were interned. See: LAPPIN, E.: *Ungarisch-jüdische Zwangsarbeiter und Zwangsarbeiterinnen*, p. 270–272.

47 *Ibid.*, p. 277–279.

48 *Ibid.*, p. 238–241. See also: WEISS, P. – KARLSSON, I.: *Die Toten von Bruck. Dokumente erzählen Geschichte*. Berndorf 2008; WEISS, P.: *Das Judenlager in Bruck*. See at: http://www.doew.at/aktuell/mitt/190_bruck.html.

49 See also: SZABOLCS, S.: *Verschleppt, verhungert, vernichtet. Die Deportation von ungarischen Juden auf das Gebiet des annektierten Österreich 1944 – 1945*. Wien 1999.

50 LAPPIN, E.: *Ungarisch-jüdische Zwangsarbeiter und Zwangsarbeiterinnen*, p. 261–265.

living conditions were horrific (there were no toilets or lavatories) and the work in the forests and trenches was very hard. The inmates suffered from dysentery, spotted fever and insects. They were given only one liter of water per day for drinking and washing. The construction manager Nikolaus Schorn was especially cruel, having committed a huge number of crimes. He isolated seriously ill prisoners in a barn, without windows and doors, and let them die from starvation. When any person suffered from fever, Schorn forced him to lay down naked in the snow to reduce the temperature. More than 500 people died because of this treatment.

At the end of 1944, approximately 600 Hungarian Jews were assigned to strengthen the Rechnitz Defense Line.⁵¹ Besides other quarters, they were also housed in the cellars of the Batthyány Castle, living in appalling conditions. Many of them were arbitrarily beaten and shot, particularly by Franz Podezin, a Gestapo administrator and leader of the Rechnitz Nazi Party.

On March 24, 1945, the countess Margit Batthyány hosted a “farewell” party for the members of the local Nazi Party, SS, Gestapo and Hitler Youth members. After a phone call, very likely from the Kreisleitung, a few of the party guests left the castle with their firearms. In the meantime, some 200 half-starved Jews were delivered by truck to the Kreuzstadel barn, where they were subsequently shot or slain. Then the party proceeded until the daybreak.⁵² The massacred bodies have not been found up to now.⁵³

Commandant of the subsection (Unterabschnitt) Deutsch Schützen was HJ-Bannführer Alfred Weber. From early 1945, about 500 Hungarian-Jewish forced laborers had to dig trenches under the control of SA-guards and were housed in two silos. The local priest’s office was responsible for the food and tried to help the laborers where possible.

51 Ibid., p. 290–300.

52 A few years ago a debate rose up concerning the role of the countess Margit Batthyány in the course of this massacre, as well as concerning the characterisation of these huge and cruel crimes in the last days of the war. See: MANOSHEK, W.: Nationalsozialistische Moral, situativer Rahmen und individuelle Handlungsspielräume als konstitutive Elemente bei der Vernichtung der Juden. In: MANOSHEK, W. (ed.): *Der Fall Rechnitz. Das Massaker an Juden im März 1945*. Wien 2009, p. 5–24. The facts and circumstances of the massacre were processed in the film *Alles Schweigen* [All silence]. See at: <http://www.kreuzstadel.net/downloads/allerschweigen.avi>. The Austrian Nobel Prize Winner Elfriede Jelinek wrote a play about the massacre *Rechnitz. Der Würgeengel* [Rechnitz. The strangle angel], which premiered in November 2008 in Munich. See at: <http://www.zeit.de/2008/50/Jelineks-Rechlin>.

53 See at: http://www.kreuzstadel.net/massengrab_long.html.

At the end of March, Weber ordered a few members of the Hitler Youth and the Volkssturm to shoot a group of the Jews in a glade near the old church of Deutsch Schützen.⁵⁴ Eighty of them did not survive this massacre. The bodies were hastily buried in the woods. Only in 1995 was this mass grave located.⁵⁵

AFTERMATH – AUSTRIAN POST-WAR TRIALS⁵⁶

Responsibility for the prosecution of Nazi war criminals, who committed offences as specified in the Nazi Banning Law (Verbotsgesetz, VG) of May 8, 1945, and in the War Criminals Law (Kriegsverbrechergesetz, KVG) of June 26, 1945, were passed over to a special jurisdiction, the so called People's Courts (Volksgerichte).

Offences to be punished, amongst others, were:⁵⁷

- war crimes in a restricted sense and crimes against humanity;
- inciting people to war ("Kriegshetze");
- torture and acts of cruelty;
- violation of human dignity;
- expulsion, expropriation, evacuation and resettlement;
- unlawful taking of possessions (mainly aimed at the cases of "Aryanization" – "Arisierung" – during the years 1938–1939);
- denunciation;
- propagandist and other forms of preparation for the annexation (Anschluss) in 1938 conducted by those in "influential positions" ("high treason against the Austrian People");
- membership in the clandestine Austrian NSDAP before 1938.

54 LAPPIN, E.: *Ungarisch-jüdische Zwangsarbeiter und Zwangsarbeiterinnen*, p. 314–320; HOLPFER, E.: *Das Massaker an ungarisch-jüdischen Zwangsarbeitern zu Kriegsende in Deutsch-Schützen (Burgenland) und seine gerichtliche Ahndung durch die österreichische Volksgerichtsbarkeit*. See at: http://www.nachkriegsjustiz.at/ns_verbrechen/juden/deutschschuetzen_eh.php; STRASSL, H. – VOSKO, W.: *Das Schicksal ungarisch-jüdischer Zwangsarbeiter am Beispiel des Südostwallbaues 1944/45 im Bezirk Oberwart unter besonderer Berücksichtigung der Massenverbrechen bei Rechnitz und Deutsch-Schützen*. Diploma thesis. Wien 1999.

55 Massengrab aus Zweitem Weltkrieg gefunden. *Die Presse*, August 25, 1995.

56 See: ALBRICH, T. – GARSCHA, W. R. – POLASCHEK, M. (eds.): *Holocaust und Kriegsverbrechen vor Gericht. Der Fall Österreich*. Innsbruck – Bozen 2006; KURETSIDIS-HAIDER, C.: „Das Volk sitzt zu Gericht“. *Österreichische Justiz und NS-Verbrechen am Beispiel der Engerau-Prozesse 1945 – 1954*. Wien – Innsbruck – Bozen 2006; see also: <http://www.nachkriegsjustiz.at/prozesse/volksg/index.php>.

57 See in detail: <http://www.nachkriegsjustiz.at/service/gesetze/index.php>.

The People's Courts each consisted of two professional judges and three lay assessors. The election of the lay assessors was the responsibility of the Ministry of Justice, to which the three parties involved in the formation of the first provisional government on April 27, 1945, People's Party, Socialist Party, and Communist Party, had to provide a selective lists.

As for the legal proceedings of the People's Courts, the provisions of the Code of the Criminal Procedure on rights of appeal were pronounced invalid (objections to indictment, appeal and plea of nullity as well as appeal against the court's decisions). Those sentences passed were to be executed without any reprieve. Only the president of the Supreme Court was given the power – if relevant doubt existed about a sentence passed by the People's Courts – to bring the case before the senate in the Supreme Court, which was permitted to reverse the sentence and to organize another trial before a differently composed People's Court.

The People's Courts worked from 1945 to 1955. During that time, legal proceedings against 136,387 people were conducted, based on suspicions that they had committed crimes according to the KVG or the VG. More than 28,000 people were brought to trial, of these, 48,3% (that is 13,600 people) were sentenced. Thirty receiving death sentences were actually executed. After 1948, no death sentences were passed, and only six more life imprisonment sentences were passed.

The abovementioned crimes, committed in the camps along the South-East Wall in the last days of the Nazi terror regime, were subject of numerous Austrian post-war trials. The very first such trial in Austria (held on August 14–18, 1945, before the District Court in Vienna in session as a People's Court) dealt with the Engerau atrocities. The Engerau proceedings caused the most extensive court case in the history of the People's Courts, as to the number of the trials (six)⁵⁸, the number of the convicted people (twenty; out of these, nine received death sentences – among these were the two SA-commandants Edmund Kratky and Erwin Falkner – and one life-imprisonment) and the period of time it lasted (from 1945 to 1954). In total, investigations against 72 alleged Engerau perpetrators were conducted until the 1990s.

58 First Engerau-trial (LG Wien Vg 2b Vr 564/45) versus Alois Frank, Rudolf Kronberger, Wilhelm Neunteufel, Konrad Polinsky; Second Engerau-trial (LG Wien Vg 1a Vr 4001/48) versus Karl Hahn, Franz Heger, Johann Tabor, Gustav Tamm; Third Engerau-trial (LG Wien Vg 1c Vr 3015/45) versus Emanuel Albrecht, Josef Entenfellner, Erwin Falkner, Walter Haury, Erwin Hopp, Josef Kacovsky, Edmund Kratky, Willibald Praschak, Franz Schalk, Johann Zabrs; Fourth Engerau-trial (LG Wien Vg 8e Vr 299/55) versus Gustav Terzer et.al.; Fifth Engerau-trial (LG Wien Vg 1 Vr 99/53) versus Heinrich Trnko; Sixth Engerau-trial (LG Wien Vg 1a Vr 194/53) versus Peter Acher.

Overall, the trials against the murderers and torturers of Hungarian Jews were numerous, because these crimes had been committed in the final phase of the war, and the evidence was still fresh. Most of the cases were tried in the period between 1945 and 1948, after which, public, political, and judicial interest in punishing National Socialist crimes waned.⁵⁹ This was also manifested in the dwindling reporting in the press. Likewise, the severity of the penalties imposed lessened in later sentences, though there were some exceptions. Thus, the defendant in the last Engerau trial, held in July 1954, was sentenced to life imprisonment, and in 1972 he was set free.⁶⁰

Nonetheless, the sentences handed down by the People's Courts in the late 1940s and 1950s were markedly more lenient, and the number of acquittals rose. In one example, the People's Court in Vienna sentenced five members of the Hitler Youth, guilty of involvement in the murder of Jewish forced laborers in Deutsch-Schützen, to imprisonment ranging between fifteen months and three years in 1946. The sentence took into consideration the young ages of the defendants. In 1955, the Hitler Youth unit commander Alfred Weber, who had given the orders in Deutsch-Schützen, was tried but acquitted due to insufficient evidence.⁶¹ Only in November 2009, another perpetrator was investigated by the public prosecutor of the District Court of Duisburg, but he died before the opening of the main trial.⁶²

Nikolaus Schorn from the Donnerskirchen camp had to stand two trials. In December 1947 he was sentenced to four and a half years imprisonment. After an appeal, he was sentenced to life imprisonment in September 1951 by the Viennese People's Court.⁶³

Franz Podezin – one of the men in charge of the Rechnitz massacre – was never sentenced. After 1945 he worked as an agent for the Western Allies in the Soviet occupation zone, where he was given 25 years imprisonment for espionage, but was released to West Germany after serving eleven years of his sentence. Later on he lived in South Africa.⁶⁴

59 LAPPIN, E.: *The Death Marches*, p. 37.

60 KURETSIDIS-HAIDER, C.: „Das Volk sitzt zu Gericht“, p. 298–322.

61 LG Wien Vg 2d Vr 2059/45; LG Wien 20a Vr 661/55. An analysis of the two trials see: HOLPFER, E.: *Der Umgang der burgenländischen Nachkriegsgesellschaft mit NS-Verbrechen bis 1955 am Beispiel der wegen der Massaker von Deutsch-Schützen und Rechnitz geführten Volksgerichtsprozesse*. Diploma thesis. Wien 1998.

62 See at: <http://www.n-tv.de/politik/Ex-SS-Mann-stirbt-vor-Prozess-article996086.html>.

63 LG Wien Vg 1a Vr 1322/49; LAPPIN, E.: *Ungarisch-Jüdische Zwangsarbeiter und Zwangsarbeiterinnen*, p. 297–300.

64 See at: <http://sz-magazin.sueddeutsche.de/texte/anzeigen/33506/7/1>.

In Austria, the Rechnitz-massacre was investigated by a total of three People's Courts proceedings. Only a few of the alleged perpetrators were sentenced to marginal penalties.⁶⁵

In total, 96 trials involving crimes committed in South-East Wall camps⁶⁶ and 32 trials concerning the evacuation marches⁶⁷ were conducted between 1945 and 1955.

CONCLUSION

The assignment of the Hungarian Jews along the South-East Wall was the last chapter of the Holocaust in Austria, which was brought to light only in the last ten years by Austrian and Hungarian historians, such as in the publications of Eleonore Lappin and Szabolcs Szita as well as in the works of the author of this paper. The basis of the research was in many cases the Austrian trial records.

We do not know how many victims died or could have survived. We do not know all the mass graves where the victims were hastily buried. Although many post-war trials were conducted from 1945 onwards, most of the perpetrators remained unknown.

65 Rechnitz I (LG Wien Vg 2f Vr 2832/45), Rechnitz II (LG Wien Vg 11d Vr 190/48), Rechnitz III (LG Wien Vg 8e Vr 70/54). See: HOLPFER, E.: *Das Massaker an ungarisch-jüdischen Zwangsarbeitern zu Kriegsende in Deutsch-Schützen (Burgenland) und seine gerichtliche Ahndung durch die österreichische Volksgerichtsbarkeit*. See at: http://www.nachkriegsjustiz.at/ns_verbrechen/juden/deutschschuetzen_eh.php.

66 LAPPIN, E.: *Ungarisch-jüdische Zwangsarbeiter und Zwangsarbeiterinnen*, p. 499–501.

67 USLU-PAUER, S.: „Vernichtungswut und Kadavergehorsam“. Strafrechtliche Verfolgung von Endphaseverbrechen am Beispiel der so genannten Todesmärsche. In: ALBRICH, T. – GARSCHA, W. R. – POLASCHEK, M. (eds.): *Holocaust und Kriegsverbrechen vor Gericht*, p. 279–304, in place p. 282.

Introduction of Anti-Jewish Laws in the Protectorate of Bohemia and Moravia

Pavel Suk (Czech Republic)

The beginnings of Czechoslovak and hence Czech anti-Jewish legislation can be found already in the post-Munich Second Republic. This was related not only to the transformation of the First Republic's democratic political system to authoritarian one,¹ but also with a wave of refugees from the border areas annexed to Nazi Germany, many of whom were Jews.

The influx of refugees from Nazi Germany affected Czechoslovakia after the year 1933, i.e. in the period of the economic crisis. It is then that Czech anti-Semitism started to rise, although it was still moderate.

Most historians studying the 19th century agree on two basic dissimilarities of the Czech anti-Semitism. The first difference was in its connection with the economic situation in the period when the Czech entrepreneurs wanted to “*eliminate competition from the side of Jews, to allow the Czech national movement in the economy to develop.*”² This type of Czech anti-Semitism is sometimes referred

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- 1 For further reference, see for example: RATAJ, J.: *O autoritativní národní stát. Ideologické proměny české politiky v Druhé republice 1938–1939*. Praha 1997, or GEBHART, J. – KUKLÍK, J.: *Druhá republika 1938–1939. Svár demokracie a totality v politickém, společenském a kulturním životě*. Praha – Litomyšl 2004.
 - 2 GOLDSTÜCKER, E.: K dějinám českého antisemitismu. In: POJAR, M. (ed.): *Hilsnerova aféra a česká společnost 1899–1999. Sborník přednášek z konference na Univerzitě Karlově v Praze ve dnech 24.–26. listopadu 1999*. Praha 1999, page (p.) 147.

to as economic anti-Semitism.³ The second difference is that “*in the territory of historic Czech lands, anti-Semitism was not racially understood by the general public until the World War II, but – and therein lies the specificity in comparison to other countries – it was seen ethnically.*”⁴ Jaroslav Med states about this issue that “*traditional religious intolerance was replaced by harsh socio-nationalist resistance against the Jews, who were perceived by the Czech society not only as economic competitors, but also as bearers of Germanization.*”⁵

This was fundamentally rejected by Michal Frankl in his study⁶: “*Derivation of anti-Semitism from an ethnic conflict constructs a false causality and assumes that the change in language and ethnic customs of the Jewish minorities could overcome anti-Semitism. The enormous rise of the Czech anti-Semitism occurred in the era, when the considerable number of Jews in the Czech lands (and especially in Bohemia) adhered to the Czech language, and were highly integrated into the Czech society.*”⁷

It is interesting that the German Nazis, in the analysis of the Czech anti-Semitism, rather inclined to traditional interpretations by the Czech historians. In 1940, Dr. Fritz Karl Lehmann published – in a monthly magazine on politics, national culture and the Jewish question *Der Weltkampf* – his great essay entitled *Czech anti-Semitism*. A part of it was also published in the newspaper *Vlajka* (Flag) on April 28, 1940.⁸ Lehman said that because of the tendencies of Germanization applied on Jews in the second half of the 19th century “*Czech politicians and the nation turned against the Germans, who were taken as being on the same line with Jews against them. Czech resentment, which should have turned against the Habsburg emperor and his Jewish ‘trabants’, was then applied to everything German without exception, and saw its task as being connected with the culture of Russia and the Western ‘democracies’, so that they could help the Czech nation to free itself from the German living space. The Jewish question has become an ethnic question, and the Jew is hated as long as he speaks German, but he is welcomed as a fellow, if he ‘assimilates’ to the Czech culture.*”⁹

3 Ibid., p. 146.

4 KREJČOVÁ, H.: Specifické předpoklady antisemitismu a protizidovské aktivity v Protektorátu Čechy a Morava. In: HOENSCH, J. K. – BIMAN, S. – LIPTÁK, L.: *Emancipácia Židov – antisemitizmus – prenasledovanie v Nemecku, Rakúsko-Uhorsku, v českých zemiach a na Slovensku*. Bratislava 1999, p. 147.

5 MED, J.: Antisemitismus v české kultuře druhé republiky. *Soudobé dějiny*, volume (vol.) 15, 2008, number (no.) 1, p. 10.

6 FRANKL, M.: „*Emancipace od židů*“. *Český antisemitismus na konci 19. století*. Praha – Litomyšl 2007.

7 Ibid., p. 311.

8 Český antisemitismus. *Vlajka*, vol. 10, 1940, no. 94, p. 10.

9 Ibid.

After the Munich events, a large increase in anti-Semitism occurred in the country. Anti-Jewish articles were published in Bohemia and Moravia, not only in marginal fascist and Nazi press of Fascist League or Flag, but also in the press of the ruling Agrarian Party. This was confirmed also in the memoirs of the then Minister of Agriculture in both Syrový and Beran governments, Ladislav Karel Feierabend, who wrote, *"It was embarrassing that the Agrarian papers wrote this way."*¹⁰ However, as it will be proved later, Feierabend's claims must be carefully checked in the sources, because sometimes they are misleading, perhaps even deliberately false.

In addition, Feierabend claimed that in case of anti-Semitism of the Second Republic, it was not *"racial or religious anti-Semitism, but a national one"*.¹¹ Since December 1938, it was clear that the new government would have to solve the *"Jewish question"* somehow. However, as the Prime Minister Rudolf Beran noted in a government statement, *"the relationship of the state to those Jews, who have been living in the territory of the Republic for a long time and who have a positive attitude to the needs of the state and its people, will not be hostile."*¹² Although Feierabend was supposedly *"recommended by some of the Jewish friends to make anti-Jewish operations quickly and radically,"*¹³ Beran indicated in the government's statement that this would happen especially in the case of *"foreign immigrants"* who *"principally cannot expect that they could permanently anchor in our lives. Narrowing living space forces us to openly warn them that they must seek their permanent residence in the states with greater economic capacity."*¹⁴

In December 1938, the government acquired from the parliament a very important legal instrument in the form of the Enabling Act, which was passed on December 15, 1938. This Constitutional Act No. 330/1938 Coll., empowered the government to amend or supplement laws by government regulations, and the President of the Republic, Dr. Emil Hácha was under Article I, and paragraph 1, also entitled to amend constitutional laws.¹⁵ As Minister Feierabend noted, he

10 FEIERABEND, L. K.: *Politické vzpomínky I*. Brno 1994, p. 155.

11 Ibid., p. 54.

12 Government statement of December 13, 1938, see at: <http://www.psp.cz/eknih/1935ns/ps/stenprot/156schuz/s156003.htm>.

13 FEIERABEND, L. K.: *Politické vzpomínky*, p. 55.

14 Government statement of December 13, 1938, see at: <http://www.psp.cz/eknih/1935ns/ps/stenprot/156schuz/s156003.htm>.

15 The institute has been used for the second time since 1918, in the first case it was in Act. 95/1933, which was related to the economic measures in the period of the economic crisis. In addition to fascist Italy, the Enabling Act was passed also in Nazi Germany on March 23, 1933. This Gesetz zur Behebung der Not von Volk und Reich (Act to Remedy the Distress of People and Reich) was approved by the Reichstag and signed by President Hindenburg March 23, 1933. It enabled Adolf Hitler and his

did not know whether he should “regard the passed laws as comedy or tragedy. Actually, it was a tragedy, because it was burying a parliamentary democracy, and the comedy lay in the fact that the German deputies and senators granted unlimited empowerment to the Czechoslovak government.”¹⁶

Less than a week later, the Executive Order of December 21, 1938 On changing certain personnel circumstances in public administration, under which officers from the state and municipal institutions “who were on October 1, 1938 in active service could be moved *ex officio* to any other field of public service or to the service of employers listed in Part Two.”¹⁷ This Regulation may be regarded as one of the first national anti-Jewish laws. Subsequently, in January 1939, the government discussed the issue of Jewish civil servants, and on January 27, 1939, they passed a resolution that these employees would not be “left in active service”, while only those employees whose “both parents (illegitimate mother) professed, if only for a limited period of time, the Jewish religion or the Jewish nationality,” were regarded as Jews.¹⁸ Further anti-Jewish regulations were passed only after the Protectorate of Bohemia and Moravia was established.

The Decree of the Fuehrer and Reich Chancellor on the Establishment of the Protectorate of Bohemia and Moravia of March 16, 1939, can be taken as the first Protectorate anti-Jewish legislation, which in Article II deals with the question of German nationals, who could be in particular “citizens of the Protectorate, who are members of the German nation... under the provisions of the Act of September 15, 1935 (*Reichsgesetzblatt I*, page 1146) On the Reich citizens... Because also the Law on the Protection of German Blood and German Honor applies to them.”¹⁹

In addition to anti-Semitism (or rather anti-Judaism), which intensified in the Czech environment, especially in the second half of the 19th century, also the German Nazi racial legislation²⁰ entered into the legal environment, although thus far they were related solely to the Germans living in Bohemia and Moravia.

As for Germany, after the Nazi takeover of power, it became the first state, in which racism and anti-Semitism were directly incorporated into the state

government to pass laws for the following four years and to adopt laws without the prior approval of the Reichstag.

16 FEIERABEND, L. K.: *Politické vzpomínky*, p. 75.

17 Vládní nařízení ze dne 21. prosince 1938 o úpravě některých personálních poměrů ve veřejné správě č. 379/1938 Sb. *Sbírka zákonů a nařízení státu československého*, part 119 as of December 30, 1938, p. 1299–1304.

18 SVATUŠKA, L.: *Židovské předpisy v Protektorátu Čechy a Morava a vývoj rasového práva v Říši*. Praha 1940, p. 37.

19 *Verordnungsblatt für Böhmen und Mähren (Verordnungsblatt des Reichsprotektors in Böhmen und Mähren)*, March 21, 1939, no. 2, p. 7–10.

20 See: SVATUŠKA, L.: *Židovské předpisy v Protektorátu Čechy a Morava*, p. 15–21.

ideology. It became the “*thing that touched each individual in his personal existence.*”²¹ Nuremberg racial laws clearly defined the dividing line between Jews and non-Jews and anti-Semitism was “*established in offices, neighborhoods, schools and bedrooms, in short, in all economic and private territories, where it was previously forbidden.*”²²

Nazi anti-Semitism was closely associated with the racial theory, which was used by the Nazis to justify their relationship to the Jews as a protection of the “*national community*”. Members of the nation, as set in the above theory, were not determined by a common language, but by consanguinity. “*No one, who was not born as a German, could become German in their life, and accordingly, the person born as a German, can never cease to be of this nationality.*”²³ Hitler was concerned with the issue of racial theories in the 11th chapter of the first volume of *Mein Kampf*.²⁴

In January 1939, Hitler publicly implied his intention to resolve the Jewish question, when he said, among other things, that “*Today I want to express a prophecy once again: if the Jewish financiers succeed... to plunge the nations into a world war again, the result will be... the extermination of the Jewish race in Europe.*”²⁵

Dr. Viktor Knap, in his significant study entitled *Problém nacistické právní filosofie* in connection with the consequence of Nazi racial theory, brought up his own “*note not legal*”: “*German racial belief on being in the right led to the fact that the blood of millions of innocent people was shed with ease and pleasure, which is not at all understandable for a normal healthy brain.*”²⁶

After the Protectorate of Bohemia and Moravia had been established, the Nazis demanded the introduction of racial norms into Czech legislation. The above-mentioned Ladislav Karel Feierabend in his memoirs, among other things, wrote: “*The Germans immediately after their arrival prohibited the Jewish lawyers and physicians from practicing their professions, and later they placed a ban on transferring Jewish property and ordered its marking.*”²⁷

This is not the only statement by him, which totally contradicts the facts. This begs the question, why Feierabend does not tell the truth in these statements. The above quoted statements may be rebutted not only by archival documents,

21 ARENTOVÁ, H.: *Původ totalitarismu*. Praha 1996, p. 491.

22 KOONZOVÁ, C.: *Svědění nacizmu*. Praha 2009, p. 234.

23 KNAP, V.: *Problém nacistické právní filosofie*. Praha 1941, p. 135.

24 HITLER, A.: *Můj boj*. Praha 2000, p. 163–205.

25 ARENTOVÁ, H.: *Původ totalitarismu*, p. 483.

26 KNAP, V.: *Problém nacistické právní filosofie*, p. 143.

27 FEIERABEND, L. K.: *Ve vládě Protektorátu*. New York 1962, p. 24.

but also by the Protectorate's period press. Rudolf Beran's incumbent government, at its session on March 17, 1939, passed a set of anti-Jewish measures, under which the Jewish physicians and lawyers were forbidden to practice their professions.²⁸ Actually, these were not measures taken by the Nazis, but by the Protectorate government.

It came from the article *Provolání českého národního lékařstva* (Czech organizations of professionals) of March 16, 1939, signed by Prof. MD. Arnold Jirásek in the name of Medical Chamber for the Czech Country and MD. A. Zelenka in the name of Medical National Association and MD. Josef Malík in the name of Central Association of Czech Physicians. In their manifesto, they asked the government *"to place a ban on all physicians of non-Aryan origin to practice medicine in all public and health bodies and social insurance facilities."*²⁹ Only a day after the government had approved this appeal (on March 18, 1939), the chairmanship of the Central Association of Czech Physicians excluded all the Jewish doctors from their ranks.³⁰

As for the Jewish lawyers, the government took note of the act of the Bar Association in Prague, under which it stopped the activities of *"non-Aryan lawyers, with a justifying that in the near future this issue would be resolved after consultation with the Bar Associations and also through legislation. However, the subsistence of barrister's employees will be taken into account too."*³¹ After the lawyers, the government also had to deal with the judiciary, and on April 21, 1939, they passed the regulation concerning *"exclusion of certain persons from holding the public functions in the judiciary... if for the reasons of public peace and order they are not able to hold these offices."*³²

However, the main problem of the Protectorate government and Nazi occupation administration was Jewish property. On March 21, 1939, the government attempted to take over the Jewish enterprises and to transfer them to the Czech hands through trustees via Regulation No. 123/1939 Coll. This Regulation, *inter alia*, empowered the minister *"in whose province the enterprise is located, to appoint, if required by the public interest, a confidant at the expense of the*

28 K Á R N Ý, M.: *„Konečné řešení“*. *Genocida českých židů v německé protektorátní politice*. Praha 1991, p. 22.

29 *Provolání českého národního lékařstva*. *Národní politika*, vol. 57, March 18, 1939, no. 77 C, p. 5.

30 *Národní politika*, vol. 57, March 19, 1939, no. 78 E, p. 4.

31 Po advokátech i mezi lékaři vyřešení otázky praxe nearijců. *Polední Národní politika*, vol. 57, March 18, 1939, no. 77, p. 1.

32 Vládní nařízení č. 123 ze dne 21. 4. 1939 o vyloučení některých osob z výkonu veřejných funkcí v soudnictví. *Sbírka zákonů a nařízení státu československého*, part 46 of March 24, 1939, p. 55.

enterprise or, if it is an enterprise particularly important in terms of public interest, or which its owner has left, an enforced administrator.”³³ On March 27, 1939, it also approved the outline of the Executive Order, which was intended to restrain the handling of certain chattels, and under which the Jewish property had to be transferred into Czech hands.³⁴

The Committee of the newly emerged National Community became involved in this matter, and at its meeting on March 25, 1939, in its statement based on the recommendation of the national economy committee, called on the government to issue “regulations, according to which in the entire territory of the Protectorate of Bohemia and Moravia would be prohibited any dispositions, by which the property of non-Aryans is transferred.”³⁵ It also declared that “only the government is entitled to appoint the supervisory authorities to enterprises in urgent cases, particularly if this will be necessary to maintain uninterrupted operation of these enterprises” and called for registration “of all non-Aryan assets” at the latest by April 15, 1939.³⁶

The Nazis undoubtedly became aware of the intention of the government and thus the chiefs of the civil administration in Bohemia and Moravia prevented the transfer of the Jewish property into Czech hands at the very beginning. Avoiding “unacceptable interference in the economy of the country of Moravia”, actually a ban on “nominating appointees of commissioner” (another term for trustees) to Jewish enterprises, their “purchase or lease” was issued by the chief of civil administration at the Military Group 5 (in Moravia), Josef Bürckel, in his Regulation on March 20, 1939,³⁷ the day before the Executive Order was passed and he continued on March 22, 1939, with the Regulation On the Prohibition of Alienation of Jewish Real (Immovable) Property in the Country of Moravia.³⁸ The chief of civil administration at Army Group 3 (in Bohemia), Konrad Henlein, followed Bürckel’s example and on March 29, 1939, when he issued his regulations concerning the alienation of Jewish property.³⁹ All these three regulations were subsequently cancelled by the well-known Regulation of Reichsprotektor on the Jewish Property of June 21, 1939.

33 Vládní nařízení č. 87 ze dne 21. 3. 1939 o správě hospodářských podniků a o dozoru nad nimi. *Sbírka zákonů a nařízení státu československého*, part 33 of March 31, 1939, p. 461–462.

34 KÁRNÝ, M.: „Konečné řešení“, p. 24.

35 Úkoly Národního souručenství. *Národní politika*, vol. 57, March 26, 1939, no. 85, p. 1.

36 Ibid.

37 Odstranění nepřípustných zásahů do hospodářství na Moravě. *Národní politika*, vol. 57, March 21, 1939, no. 80 C, p. 1. Also: SVATUŠKA, L.: *Židovské předpisy v Protektorátu Čechy a Morava*, p. 92.

38 Ibid., p. 92.

39 Ibid., p. 93.

Feierabend also states in his memoirs that at the beginning of May 1939, the government was ordered to implement anti-Jewish laws in the manner of Nazi legislation.⁴⁰ Minister of Education and National Enlightenment, Prof. Jan Kapras, reportedly suggested the government to issue “*a bit more moderate anti-Jewish law, but the majority of ministers decided to reject this command.*”⁴¹ He claims that the government unanimously agreed, regardless of Frank’s pressure, not to issue the laws, otherwise they would resign. According to Feierabend, the Nazis also “*did not ask us to issue anti-Jewish laws... and the Protectorate was the only territory under the Nazi influence, which did not pass anti-Jewish laws.*”⁴²

Historian Tomáš Pasák also agrees with this statement, which is not based on the real facts, in his fundamental work on the history of the Protectorate in the period of 1939–1941 *Pod ochranou Říše* and says, among other things, that Neurath tried “*at first to compel the prime minister Eliáš to issue relevant measures; however, Eliáš, as the Jewish rabbi Dr. Friedmann told, fundamentally refused anti-Jewish Nuremberg laws and their implementation in the Protectorate.*”⁴³

The chairman of the Protectorate government, Ing. Alois Eliáš, sent a draft of the executive order concerning the Jewish question to the Reich Protector Konstantin von Neurath on May 11, 1939.⁴⁴ However, all the governmental acts were subject to prior approval of Nazi authorities. While drafting the proposal, the government apparently expected Hitler’s proclamation, which is shown in the record of his conversation with Reichsprotektor on May 2, 1939, “*Der Führer hat angeordnet, dass die Tschechen die Judenfrage selbst regeln sollen und dass wir ihnen nicht herein reden sollen.*”⁴⁵

The reality was converse. Discussion on some outlines of drafted regulations by the Protectorate government was most likely deliberately protracted by the Office of the Reichsprotektor. This was also stated by the Ministry of Interior in the material supplemented by the Minister Jiří Havelka, who refuted Feierabend’s statement. He states in the above material that “*the Czech nation suffered a great harm on the occasion of the solution of the Jewish question. Protectorate government dealt with the problem of Aryanization in the Executive Order No. 87 Coll. of March 21, 1939, according to which the enforced administrators and trustees were assigned to the Jewish businesses. It was an effective step toward ousting the*

40 FEIERABEND, L. K.: *Ve vládě Protektorátu*, p. 44.

41 Ibid.

42 Ibid., p. 45.

43 PASÁK, T.: *Pod ochranou Říše*. Praha 1998, p. 124.

44 KÁRNÝ, M.: *Anatomie okupační politiky hitlerovského Německa v „Protektorátu Čechy a Morava“*. Dokumenty z období říšského protektora Konstantína von Neuratha. *Sborník k problematice dějin imperialismu*. Vol. 21. Praha 1987, p. 205–215.

45 Ibid., p. 203.

Jewish element from economic life, after which further legislative measures on the Jewish question were prepared. However, all the approved outlines of the executive orders remained stuck at the Office of the Reich Protector until today, and they must not be published without his consent. Instead of these, the Reich Protector issued his own regulations concerning the Jewish property on June 21, 1939... Only Reich authorities are entrusted to implement this norm and their trustees to replace the administrators nominated by the Protectorate administration in their positions. This way also enterprises, which were built from Czech capital and by Czech labor, come under the German administration and into German hands. Regulation on Jewish Property thus becomes a means of Germanization under the guise of Aryanization.”⁴⁶

The above Neurath regulation is officially called Regulation of Reichsprotektor of June 21, 1939 on the Jewish Property⁴⁷ and therefore should only apply to property; however, § 6 of the Regulation is very important, as it, in accordance with the Nuremberg Laws,⁴⁸ defined who was considered to be a Jew. § 12 is also very important, because it provided that paragraphs 1, 2 and 4, which concern Jewish property, “*have retroactive effect from March 15, 1939 and deals made in the interim, which need to be approved will not be legally effective until being approved additionally.*”⁴⁹ In this way, the principle of retroactivity was anchored in the Czech legislation. The state secretary of the Reich Ministry of the Interior and the head of the Central Office for Bohemia and Moravia JUDr. Wilhelm Stuckart, co-author of the Nuremberg Laws, most likely participated in drawing up the final text of the Regulation. He arrived in Prague on Friday, June 16, 1939, “*for talks with the Reich Protector*”, and officially he came to participate in the “*events of the district German Cultural Week*”.⁵⁰ From today’s perspective, it is a striking coincidence that Stuckart’s visit took place five days before the Neurath Regulation was passed. Interestingly, the news of his stay in Prague was published in *Lidové noviny*, but not in the widely read Protectorate daily newspaper – *Národní politika*.

46 OTÁHLOVÁ, L. – ČERVINKOVÁ, M.: *Dokumenty z historie československé politiky 1939–1943. Svazek 2. Spolupráce československé emigrace na západě s domácím odbojem, její vztah k tzv. protektorátní vládě a germanizační politika okupantů*. Praha 1966, p. 464–465.

47 Nařízení Reichsprotektora in Böhmen und Mähren o židovském majetku. *Verordnungsblatt des Reichsprotektors in Böhmen und Mähren*, July 7, 1939, no. 6, p. 45–49.

48 SVATUŠKA, L.: *Židovské předpisy v Protektorátu Čechy a Morava*, p. 15–21.

49 Ibid., p. 48.

50 Dr. Stuckart v Praze. *Lidové noviny*, vol. 47, 1939, no. 300, p. 2.

The government finally approved the outline of the Executive Order on the Legal Position of the Jews in Public Life at its fourth session in July 1939. The above proposal, which had been sent to the Reich Protector on May 11, 1939, did not apparently differ from the finally approved version, but it fundamentally differs from the version officially published in the *Collection of Laws and Regulations of the Protectorate of Bohemia and Moravia*. The original paper is even more radical than Neurath's Regulation of June 21, 1939. For that reason, a dispute broke out between the Office of the Reich Protector and the Reich Minister of the Interior and his State Secretary, the mentioned Dr. Stuckart. The dispute, which can be reconstructed based on the documents published in the edition entitled *Anatomie okupační politiky hitlerovského Německa v „Protektorátu Čechy a Morava“*,⁵¹ ended only after ten months. The changed Executive Order No. 136/1939 Coll. of July 4, 1939 On the Legal Position of the Jews in Public Life was published in the *Collection of Laws and Regulations of the Protectorate of Bohemia and Moravia* on April 24, 1940, when it also came into effect.⁵² This Executive order was amended by the Executive Order of June 1, 1943 On the Genealogical Office of Bohemia and Moravia, which omitted § 2 of the original decree of 1939, which determined that “*the proof of whether someone is or is not a Jew, can also take a form of a certificate issued by the district office, and in cities with their own municipality, by the Land Office on the basis of official documents of origin.*”⁵³ It will henceforth be issued by the aforementioned Genealogical Office of Bohemia and Moravia.

This executive order, in accordance with the Regulation of Reichsprotektor of June 21, 1939, unified the definition of who was considered a Jew and specified the areas in which Jews were forbidden to work, including the judiciary, public administration, practice medicine, practice veterinary work, and in the “*institutions and enterprises engaged in art*” or journalism.

Protectorate government later issued several more regulations directed against the Jews. In 1942, this was primarily the Executive Order No. 85 of March 7, 1942, On issuing additional provisions on Jews and Jewish half-castes,⁵⁴ which came into effect on July 1, 1942. It specified the term Jew and the Jewish half-caste in

51 K Á R N Ý, M.: *Anatomie okupační politiky hitlerovského Německa v „Protektorátu Čechy a Morava“*. Documents concerning the Executive Order on the Legal Position of Jews in Public Life are published on pages 203–2241.

52 Vládní nařízení ze dne 4. 7. 1939 o právním postavení židů ve veřejném životě. *Sbírka zákonů a nařízení státu československého*, part 44 of April 24, 1940, p. 337–342.

53 Ibid., p. 337.

54 J U R Á Š E K, S.: *Předpisy o židovském majetku a další předpisy Židů se týkající*. Praha 1942, p. 61–80.

§ 1, and then, in the following sections, it concerned particularly the marriage of Jews and Jewish half-castes, including the prohibition of extramarital sexual intercourse between a “*Jew and a Protectorate citizen*” (§ 5) or the employment of women in a Jewish household and ban on “*hoisting the Protectorate flag as well as showing the Protectorate colors*” (§ 9).⁵⁵ On April 20, 1942, the Executive Order No. 137/1942 Coll.,⁵⁶ which regulated the employment of Jewish half-castes in the public service, was passed.

The government addressed the terms of employing the Jews by Regulation of July 17, 1942, which significantly limited the rights of Jews as employees. According to this regulation, Jews were not entitled to obtain additional payments for overtime work or work on weekends or public holidays; moreover, a ban on any further compensation or benefits was issued as well. Henceforth Jews were not entitled to received paid leave, were excluded from pension funds and could be dismissed whenever “*at the end of the next working day*” (§ 7). However, employers were not allowed to leave money saved this way, because § 10 ordered that “*the amount of money saved under this Regulation should be transferred to the Central Office for Jewish Emigration – Emigration Fund for Bohemia and Moravia*.”⁵⁷

Most of the subsequent anti-Jewish persecution measures taken by the Protectorate authorities, apart from the particular rules and regulations by Nazi authorities, were issued in the form of decrees of ministries or through the police directorates. In the summer of 1939, the police headquarters in Prague ordered owners of certain facilities to put up the inscription “*Juden nicht zugänglich – Inaccessible for Jews*” immediately. Businesses whose owner or operator was a Jew had to be stamped “*Jüdisches Geschäft – Jewish business*”. As for the non-Jewish businesses, in July 1940, under the Decree of the Police President Rudolf Charvát,

55 Ibid.

56 Ibid., p. 91–102.

57 Prague Central Office for Jewish Emigration (Zentralstelle für jüdische Auswanderung) was founded in July 1939, and its establishment was initiated by Adolf Eichmann. The office had to serve the purposes of eviction of Jews from the Protectorate. Initially it was led by SS-Standartenführer Franz Walter Stahlecker, who was eventually replaced by Hans Günther... Finances of the Central Office were administered by Emigration Fund for Bohemia and Moravia (Auswanderungsfond für Böhmen und Mähren), which was established on March 5, 1940, and where, among other things, assets of liquidated Jewish organizations were transferred. These funds of the Fund were also used to fund the deportation of the Protectorate’s Jewish population to concentration camps. After the Wannsee Conference in January 1942, the Central Office was renamed the Central Bureau for Organization of the Jewish Question in Bohemia and Moravia (Zentralamt für die Regelung der Judenfrage in Böhmen und Mähren), which was to ensure the implementation of the “final solution of the Jewish question”.

time for doing shopping was reserved for Jews from 11 A.M. to 1 P.M., and from 3 P.M. to 4:30 P.M., and as of January 1941 it was even limited to two hours in the afternoon.

In 1940, Jews were banned from staying in hotels (since summer of 1940), visiting cinemas and theaters, and they were excluded from membership in Prague and Brno Commodity Exchanges. There were also issued regulations, under which they might only board the last car of trams.

Persecution from the Protectorate authorities grew mainly in 1941. Not only that in January Jews had to surrender their drivers licenses and papers from vehicles, but they were also limited to visiting offices only between 8 A.M. and 9 A.M. In July 1941, the police headquarters in Prague banned Jews from going into forests and also from entering and “*lingering on the banks of Vltava River*” in Prague.⁵⁸ At the beginning of September, a ban on access to public libraries followed, in December they were not allowed to visit archives, museums, galleries and exhibitions. In September 1941, public playing of music by Jewish authors was also banned,⁵⁹ there was a restraint on the purchases in the markets⁶⁰ and from September 19, 1941, Jews were not allowed to leave their place of permanent residence. The Protectorate people learned about these new

58 Jews forbidden to linger on both banks of the Vltava River. Police headquarters in Prague declared: “*With reference to the local Decree of August 14, 1939 No. 19, 334 pres. concerning relations between Jewish and non-Jewish population, under Article 2 paragraph. I. of the Act On Organization of the Political Administration of July 14, 1927 No. 125 Coll. Jews were with immediate effect prohibited from lingering on both sides of the Vltava River in the area between the railway bridge in Smíchov and the Hlávkův Bridge. Failure to comply with the prohibition of this Decree shall be punished in accordance with the provisions of Article 3 paragraph. I. of quoted act, with the penalty of money from 10 crowns to 5,000 crowns or imprisonment for 12 hours to 14 days.*” Židům zakázáno prodlévati na obou březích vltavských. *Národní politika*, vol. 59, July 30, 1941, no. 210, p. 4.

59 Ban on Jewish Music. The regulation issued by the President in Prague concerning the ban on Jewish music was passed and published in *Úřední list (Official Journal)* on September 11. This regulation prohibited the public performance and mechanical reproduction of musical works, which were produced in cooperation with Jews as songwriters, producers and music tracks performers. The mechanical reproduction involved broadcasting through radios, film sound devices, such as orchestrons, street organs, etc. District (government, police) authorities are empowered to Punish Offences with penalties of money from 10 crowns to 5,000 crowns or imprisonment from 12 hours to 14 days. (Czech News Agency – ČTK). *Zákaz židovské hudby. Národní politika*, vol. 59, September 12, 1941, č. 254, p. 4.

60 Shopping time for Jews to weekly markets. In municipalities where the weekly markets are held regularly, the time to purchase for the Jews is adjusted, so that the time reserved for them is the last hour of the time specified in a market order. (Út.) *Různé zprávy. Národní politika*, vol. 59, September 27, 1941, no. 296, p. 4.

means of persecution of the Jews mainly from the daily newspapers, where such regulations were usually published.

Then, the labeling of Protectorate Jews was a specific matter. In February 1940, the Ministry of Interior ordered the police authorities to mark the Jews' civil legitimacies with a red letter J and a month later the Ministry of Interior ordered to mark also passbooks of Jews at Poštovní spořitelna with letter N, which was subsequently extended to non-Jewish spouses of Jews. On September 1, 1941, the Regulation of Reichsprotektor 27/1941 prohibited "*the Jews... who have reached the sixth year of life... to appear in public places without the Jewish star*" (§ 1). The Regulation also specified the pattern of the Jewish star. The force of this Regulation, signed by Reinhard Heydrich "*by an order of the Reich Minister of the Interior*", came into force 14 days after it had been passed. Since it was published in *Věstník říšského protektora v Čechách a na Moravě* (*the Gazette of the Reich Protector of Bohemia and Moravia*) on September 5, 1941, it came into force in the territory of Protectorate on September 19, 1941.

The above begs the question, how the Protectorate press responded to anti-Jewish measures. If we ignore the press of the Czech Nazi organization Vlajka, the Protectorate Czech press showed no great appetite for anti-Semitic journalism. E.g., with regard to the above-mentioned Neurath Regulation of June 21, 1939, the most widely read daily, *Národní politika*, imprinted the text of Regulation without further personal comments,⁶¹ it only published an excerpt from the commentary of the Prague correspondent to the central Nazi newspaper *Völkischer Beobachter*, who made no secret of the main purpose of the Regulation, namely, to ensure that "*once for all*" it will prevent "*the entire losing and concealing of Jewish property*."⁶²

Quite the contrary, an editorial of the then President of the National Union of Journalists Dr. František Bauer could seem curious, which was published on the front page of *Národní politika* daily on June 23, 1939, next to the official comments on the Neurath Regulation. He entitled his editorial *Serie zločinů* (*Serie of Crimes*) and at the end, he wrote, among other things, "*Science on the basis of statistics has proven where to look for the underlying causes of criminality. Surroundings, the whole atmosphere of insecurity, mental disarray and internal volatility often bring people on the path of evil, which results in a puddle of blood, shed by the innocent. Individuals, who carry within them dangerous tendencies, if they get in a draught of uncertainty and unbalanced spiritual values, often see a valve in criminal acts.*"

61 Nařízení říšského protektora v Čechách a na Moravě o židovském majetku. *Národní politika*, vol. 57, July 22, 1939, no. 173, p. 1–2.

62 Komentář pražského zpravodaje „V. B.“. *Národní politika*, vol. 57, June 22, 1939, no. 173, p. 2.

Of course, we do not want to excuse them, we are for the strict penalties, but we are just trying to explain why there are so many of them at once."⁶³

In the period until the autumn of 1941, thus Reinhard Heydrich's arrival in the Protectorate, official Czech Protectorate journalism, represented by daily papers such as *Národní politika* or *Lidové noviny*, except for the directly ordered propaganda actions, did not voluntarily publish the texts that could be described as anti-Semitic. Conversely, from time to time, some periodicals imprinted "*news or announcements in the insert or even in the editorial section, where the life anniversaries, name days, deaths and other personal affairs of Jews were stated,*"⁶⁴ which did not escape the censorship by the Czech authorities and the Nazis.

These cases occurred sporadically, especially in 1940. In January 1940, the head of the group Press in the Cultural and Political Department of the Office of Reichsprotektor, Wolfgang Wolfram von Wolmar, criticized that "*papers of the National Community published in the period around January 1, congratulatory inserts of employees of Jewish businesses to the owners (to Mr. Isidor Veilchenduft... from grateful staff). These inserts, and, particularly in the papers of the National Community, are in a strange relationship with the dignity of the nation, and do not contribute to increase in the level of the press.*"⁶⁵

In July 1940, he criticized the fact that rural newspapers published a notice of mourning of the death of two Jews, which was unacceptable, "*especially if it is a Jew who died in a concentration camp, so he was certainly suspected of some anti-state crimes. Something like that is not in the interest of the nation, nor the paper in question.*"⁶⁶ Subsequently, he warned that "*in this case, the press has to obey the Aryanization principle, otherwise it must be seen as a Jewishized press.*"⁶⁷

On January 8, 1941, *Prager Abend* published an article that launched a massive campaign in the Protectorate press. The article criticized the Chairman of the board of directors of Živnostenská banka Dr. Jaroslav Preiss, who had sent New Year's greetings to the Jewish "King of Čáslav" Pick, as well as abbot Metod

63 BAUER, F.: Serie zločinů. *Národní politika*, vol. 57, June 23, 1939, no. 174, p. 1.

64 Pokyny pro tiskovou přehlídku č. 338 ze dne 11. 7. 1940. Národní archiv České republiky, fund Národní soud, box number 22, TNS 8/46.

65 Porada šéfredaktorů denního tisku dne 26. 1. 1940. KONČELÍK, J. – KÖPPLOVÁ, B. – KRYŠPÍNOVÁ, J.: *Český tisk pod vládou Wolfganga Wolframa von Wolmara. Stenografické zápisy Antonína Fingera z protektorátních tiskových porad 1939–1941*. Praha 2003, p. 46.

66 Pravidelná týdenní porada šéfredaktorů denního tisku 11. 7. 1940. KONČELÍK, J. – KÖPPLOVÁ, B. – KRYŠPÍNOVÁ, J.: *Český tisk pod vládou Wolfganga Wolframa von Wolmara*, p. 154.

67 Všeobecná tisková konference 19. 7. 1940. KONČELÍK, J. – KÖPPLOVÁ, B. – KRYŠPÍNOVÁ, J.: *Český tisk pod vládou Wolfganga Wolframa von Wolmara*, p. 160.

Zavoral, who also had sent New Year's greetings to the Jew Robert Mandelík. In this atmosphere, the press body of the National Union of Journalists, *Tisk a novináři*, published the remembrance to mark the 40th anniversary of Dr. Jaroslav Preiss's joining the editorial board of *Národní listy*.⁶⁸ It was harshly criticized by Wolfram von Wolmar, who said that "*it is real rudeness that it was the National Union of Journalists, which dared this incredible deviation.*" Wolfram then explicitly, warned that "*all of these clearly show that the magazine did not understand that it aspired to be a body entitled to equip Czech journalists with tools and material necessary for their difficult work.*"⁶⁹

The Nazis were aware of the low number of anti-Semitic articles in the daily papers. In this context, since autumn 1940, they exhorted journalists to be more active. "*Strengthening the work in winter is now the most necessary task of a journalist, who cannot avoid it. Above all they had to discuss the Jewish question and interpret the guidelines and, where appropriate, use German literature.*"⁷⁰ Partial increase of anti-Semitic articles occurred in connection with the production of an anti-Semitic film by the director Veit Harlan entitled *Jud Süß* presented in the Protectorate cinemas. The screening of Harlan's film partially substituted and supplemented anti-Semitic propaganda in the printed media.

However, the rise of anti-Semitic texts in print media in the period of the screening of the film *Jud Süß* was only temporary. In April 1941, E. Schubert, Wolfram's deputy, reproached the editors in chief of the daily newspapers because the "*Jewish question, despite all the efforts, is not correctly promoted in the press. Except for anti-Semitic and a few daily papers, there has been no reference to this topic in the press for weeks.*"⁷¹

At the turn of 1940–1941, the journalists were also criticized for writing the word Jew incorrectly, many of them still wrote it with the small initial letter. This happened for example in the report on the Decree of the Ministry of Finance, concerning abolishing of the Jewish passbooks and certificates of deposit.⁷² In

68 H A B.: Výročí novin a novinářů. *Tisk a novináři*, vol. 15, 1941, no. 5–6, p. 86.

69 Pravidelná porada šéfredaktorů denního tisku 28. 2. 1941. KONČELÍK, J. – KÖPPLÖVÁ, B. – KRYŠPÍNOVÁ, J.: *Český tisk pod vládou Wolfganga Wolframa von Wolmara*, p. 313.

70 Pravidelná týdenní porada šéfredaktorů denního tisku 15. 11. 1940. KONČELÍK, J. – KÖPPLÖVÁ, B. – KRYŠPÍNOVÁ, J.: *Český tisk pod vládou Wolfganga Wolframa von Wolmara*, p. 225–226.

71 Pravidelná porada šéfredaktorů denních listů dne 18. 4. 1941. KONČELÍK, J. – KÖPPLÖVÁ, B. – KRYŠPÍNOVÁ, J.: *Český tisk pod vládou Wolfganga Wolframa von Wolmara*, p. 337.

72 Zrušení židovských vkladních knížek a vkladních listů. *Národní politika*, vol. 58, November 19, 1940, no. 322, p. 7.

the information article, it was stated that *“From the day of entry into force of this Regulation, Jews, Jewish businesses and Jewish associations are not permitted to deposit money into their personal passbooks and savings books, as well as bankbooks.”*⁷³ Wolfram von Wolmar pointed out that it was always necessary to write the word Jew with a capital letter, because *“it is always a ‘Jew’ in the racial sense and not religious.”*⁷⁴ Current orthographic guide, *Pravidla českého pravopisu*, recommends writing the word Jew with a small letter *“in the ethnic sense”*.⁷⁵

In September 1941, under the Regulation on the labeling of Jews, all the Czech journalist were ordered to publish their own comments, and Wolfram von Wolmar *“appreciated that... the fact that the labeling of Jews with the Star of David will be done in the Protectorate from September 15, is the far-reaching merit of the Czech press, which has requested it for a long time and welcomed the identification of Jews.”*⁷⁶ However, this Wolfram regulation should rather lead to the discrediting of Czech journalism, because the only periodical, which since 1940 had demanded the mandatory labeling of Jews, was *Arijský boj*.⁷⁷ Actually, Wolfram himself urged writing articles on the similar topic on August 29, 1941. *“There will be no objection in case that the labeling of Jews is requested to recognize them at a glance. Write only factually and calmly and without attacks on official and government positions. This has already been in process, but it is confidential.”*⁷⁸

Gradual turnaround in the frequency of anti-Semitic texts came in the second half of 1941. Nazi Germany invaded the Soviet Union, and Reinhard Heydrich was appointed as the representative of the Reich Protector of Bohemia and Moravia, and a key moment was the appointment of Emanuel Moravec into the lead of the Ministry of Education and the Office for the People's Enlightenment in January 1942. At this time, anti-Semitic texts had already appeared in periodicals in a greater extent, and it is possible to say that the Nazis became satisfied with anti-Semitic articles in the Czech media. The last complaint, within the so-called press conferences, was given to reporters by Kraus only a few days before the

73 Ibid.

74 Pravidelná týdenní porada šéfredaktorů denního tisku dne 22. 11. 1940. KONČELÍK, J. – KÖPPLOVÁ, B. – KRYŠPÍNOVÁ, J.: *Český tisk pod vládou Wolfganga Wolframa von Wolmara*, p. 231.

75 *Pravidla českého pravopisu*. Školní vydání. Praha 1993, p. 382.

76 Pravidelná týdenní porada šéfredaktorů denního tisku dne 12. 9. 1940. KONČELÍK, J. – KÖPPLOVÁ, B. – KRYŠPÍNOVÁ, J.: *Český tisk pod vládou Wolfganga Wolframa von Wolmara*, p. 417.

77 Viditelná páska označí Žida. *Arijský boj*, vol. 1, 1940, no. 10, p. 1; L.: Fašistické jednoty a skupiny nacionalistů ve východních Čechách do aktivity!; DrHü (JUDr. Antonín Hübschmann): Ghetto a žlutou barvu pro Židy. *Arijský boj*, vol. 1, 1940, no. 15, p. 1.

78 Tisková konference dne 29. 8. 1941. KONČELÍK, J. – KÖPPLOVÁ, B. – KRYŠPÍNOVÁ, J.: *Český tisk pod vládou Wolfganga Wolframa von Wolmara*, p. 394.

assassination of Reinhard Heydrich took place. *“Finally, I would like to point out that you should not let the anti-Jewish campaign fall silent in the press. There are some written documents concerning a kind of lukewarmness in the anti-Jewish struggle. This lukewarmness then rapidly reflected in the attitude of the holders of the Star of David, who very readily reared their heads. Remember the important thing, which is purging of our national life, and do not stop appealing to the Aryan consciousness of the Czech person. However, this must be done continuously and without interruption.”*⁷⁹

When we summarize the anti-Jewish measures in the Protectorate of Bohemia and Moravia in the years 1939–1941, we can say that especially in the period between March and June 1939, or rather April 1940, the hidden conflict between the Nazis and the Protectorate Government took place. It was related to the question of who will receive the property confiscated from Jews in the future. Of course, that Protectorate government rightly saw the Aryanization as a Nazi tool for Germanization, so it can be reasonably assumed that it was the reason why they prepared their own draft of regulation, which for example defined a Jew, even more radically than the Nuremberg Laws of 1935. They tried assigning of the Czech confidants to the Jewish enterprises, by their regulations immediately after the Protectorate had been established. Nazis were well aware of the government's efforts to transfer the Jewish property into the Czech hands, but they did not intend to allow it in any case. Therefore, at the time when the government had already handed over the draft of their anti-Jewish measures, under which the Jewish property would be transferred into Czech hands, Konstantin Neurath issued his own regulation, which stipulated that the Jewish property would be passed into the hands of the Nazis.

However, the government of General Alois Eliáš still had not given up their efforts to transfer confiscated Jewish property into Czech hands. They reminded Neurath via the press that *“the Jews acquired property from the Czech hands”* and quoted from his statement issued before he took the office, that he saw *“the deepest meaning of his task in showing the world that the German nation is able to sustain the people subjected to it, in feeling their natural rights and winning them over without touching their honor and respect for the community.”*⁸⁰ Then, at the end of the article, they sent word that from this speech *“a hope can be drawn that the first major economic regulation regarding the Jewish question*

79 Pravidelná týdenní porada šéfredaktorů denního tisku ve Scale dne 22. 5. 1942. In: GEBHART, J. – KÖPPLOVÁ, B. (eds.): *Řízení legálního českého tisku v Protektorátu Čechy a Morava. Edice tiskových konferencí z let 1939–1945*. Praha 2010. CD included.

80 Hospodářské řešení židovské otázky. *Národní politika*, vol. 57, June 24, 1939, no. 175, p. 2.

will not go against the Czech nation.”⁸¹ Protection of “*Czech national interests*” related to the transfer of the Jewish property was also demanded by the National Community.⁸²

However, as all of the Protectorate executive orders were subject to prior approval by the Reich Protector, the dispute was resolved at the beginning of 1940, when it became clear that confiscated Jewish property would fall exclusively into the hands of the German Nazis. However, the government did not remain passive, as concerned anti-Jewish regulations, as it is sometimes stated, and through the Czech Protectorate, the authorities issued a number of repressive anti-Jewish measures, as it was mentioned above.

81 Ibid.

82 O zajištění židovského majetku pro Čechy. *Národní politika*, vol. 57, June 24, 1939, no. 175, p. 2.

Legislation on the Disposal of Jewish Property in the Protectorate of Bohemia and Moravia¹

Jaromír Tauchen (Czech Republic)

INTRODUCTION

The purpose of this paper is to point out the legislative basis of restraints on handling Jewish property and its subsequent administration in the period of the Protectorate of Bohemia and Moravia (1939–1945). This contribution does not deal with the real course of events related to “Aryanization” and the confiscation of Jewish property, but analyzes relevant legislation, based on which the discriminatory measures of an economic and proprietary nature against the Jews should have been implemented.²

Legal relations of Jews were regulated by legal norms, issued by either the Reich Protector or the Protectorate government. According to their substance,

1 This paper represents the output of the standard grant project GAP408/10/0363 Vývoj soukromého práva na území České republiky.

2 For a list and brief commentary on major anti-Jewish regulations of proprietary nature, see for example in: SVATUŠKA, L.: Přehled právních předpisů o Židech v Protektorátu Čechy a Morava. *Moderní stát*, volume (vol.) 14, 1941, number (no.) 11, page (p.) 277–283; JURÁŠEK, S.: Právní a hospodářské postavení Židů v Protektorátě Čechy a Morava. *Právník*, vol. 79, 1940, no. 7, p. 391–404; UTERMÖHLE, W. – SCHMERLING, H.: *Die Rechtsstellung der Juden im Protektorat Böhmen und Mähren*. Prag 1940; PETRŮV, H.: *Právní postavení Židů v Protektorátu Čechy a Morava (1939–1941)*. Praha 2000.

anti-Jewish regulations, issued during the period of the Protectorate of Bohemia and Moravia, can be divided into two main groups. The first group consists of restrictions of personal character concerning mainly the exclusion of Jews from public life and regulation of social contacts between the Aryan population and Jews, while the second group includes restrictions of an economic and proprietary nature. The first group of relations was characterized primarily by interventions of the government and Protectorate ministries, while the most important measures of an economic and proprietary character were issued by the Reich Protector of Bohemia and Moravia.³ There were a huge number of anti-Jewish laws governing the right for handling the property, but not all were published in the official publication collections, some of them were, for example printed only in newspapers, so primarily, the regulations by the Protectorate ministries were not transparent. The entire matter of rules of the process, in which the Jews were “legally” deprived of virtually all of their assets, was changed very often, and the majority of the laws were issued in the first two years of the existence of the Protectorate. The Reich regulations stood as the model for the anti-Jewish legal standards in the Protectorate, where the exclusion of Jews from public and cultural life had been completed, and the process Aryanization was in full swing.⁴ The purpose of the anti-Jewish proprietary legislation was involving the property of the Protectorate Jews into the German national economy, and preventing further increasing of their assets.

THE FIRST RESTRICTIONS ON HANDLING OF THE JEWISH PROPERTY

As early as six days after the establishment of the Protectorate of Bohemia and Moravia, the possibility that the economic enterprises should be subject to supervision by the state appeared.⁵ This process, at the end of which the exist-

3 SVATUŠKA, L.: Přehled právních předpisů o Židech v Protektorátu Čechy a Morava. *Moderní stát*, vol. 14, 1941, no. 11, p. 277.

4 TAUCHEN, J.: 1938 – Křišťálová noc a některé navazující otázky právního postavení židovské menšiny v období národního socialismu. In: *Olomoucké právnícké dny 2008. Sborník příspěvků z konference*. Olomouc 2009, p. 779–786; JURÁŠEK, S.: Právní a hospodářské postavení Židů v Říši. *Právník*, vol. 78, 1939, no. 9, p. 480–502; JURÁŠEK, S.: Právní a hospodářské postavení Židů v Říši (Dokončení). *Právník*, vol. 78, 1939, no. 10, p. 558–566; overview of anti-Jewish legislation in European countries occupied by Nazi Germany is presented in: MEDEAZZA, J.: Judenfrage und Judengesetzgebung in Europa. *Deutsches Recht*, vol. 11, 1941, no. 13, Ausgabe A, p. 673–682.

5 Executive order of March 21, 1939 No. 87/1939 Coll. concerning the administration of economic enterprises and supervision over them.

ing economic autonomy of industrial enterprises was gradually removed, was launched. In the following years of the war, the economic autonomy waned and the entire production of Protectorate enterprises had to serve, above all, for the purposes of war and interests of German corporations.

Supervision of economic enterprises took the two forms.⁶ The Ministry could appoint a trustee for the economic enterprise. If the company in question was especially important, in terms of public interest, or was abandoned by its owner, the Ministry could establish a so-called enforced administrator at the enterprise. The appointee supervised whether the operation of economic enterprise was in accordance with the public interest. All measures of the enterprise, which were covered by the power of the appointed fiduciary, were subject to his approval, under the threat of penalty of invalidity of the measure. If the enforced administrator was assigned to a company, he was entitled and obliged to take all measures necessary for the proper operation of the enterprise. The entire management was passed on to him; he was allowed to take all legal actions and represented the enterprise before the courts and other authorities.

Enforced administrator needed the approval of the Ministry or other empowered authority to take the measures, which did not belong to everyday management, such as sale of the company's assets, lease or loan. Legal actions of enforced manager that exceeded 200,000 crowns always required the approval of the Ministry to which province the enterprise belonged. As Miroslav Kárný stated in his work, although in the above regulation, it was not explicitly stated that this applied to Jewish businesses; it was obvious that it was a means of the Protectorate government to Aryanize the Jewish businesses, which should go into Czech hands.⁷ This attempt on Czech Aryanization was transparent, and therefore unsuccessful.⁸

The last week of March 1939, a series of provisions was issued by the chief of the civil administration at Army Group 3, which implemented the interventions of the occupation government into the economic life in Bohemia, with the intention of preventing the displacement of Jewish property. However, the period commentary expressed the concern about their long-term validity, since even in their very nature they did not follow the permanent arrangement of the legal re-

6 Overview of provisions on forced administration in the Ordinance of Ministry of Justice of August 17, 1942, No. 43.417 concerning the relation of trusts under special regulations and trusts held by legal representatives, printed in: HOFFMANN, J. and others.: *Nové zákony a nařízení Protektorátu Čechy a Morava. Vol. IV. (1942)*. Praha 1942, p. 1144–1145.

7 KÁRNÝ, M.: „Konečné řešení“. *Genocida českých Židů v německé protektorátní politice*. Praha 1991, p. 22–29.

8 UHLÍŘ, J.: *Protektorát Čechy a Morava v obrazech*. Praha 2008, p. 697.

lations of the Protectorate, but only intermediate targets. The Protectorate bodies were called to implement these regulations and amend them.⁹ Retroactively, from March 15, 1939, any measures related to Jewish property of all kinds were banned, and only the appropriate chief of the civil administration could grant exception from this prohibition. The content of the above Regulation, by the chief of the civil administration, applied only to Bohemia; however, analogous measure was issued also for Moravia. According to the head of the civil administration at the Military Group 5, buying, leasing or donating of businesses and real estate, which were entirely or partially in the possession of Jews, were forbidden, and it was again only the head of the civil administration, who could grant exceptions.¹⁰ It was forbidden to appoint fiduciaries and enforced administrators to Jewish enterprises, which prevented the application of the above Executive Order No. 87/1939 Coll., so the occupation authorities could exclusively decide about handling of the Jewish property. All these regulations expired on June 21, 1939, when they were substituted by the Regulation of Reich Protector on Jewish property (*Gazette of the Reich Protector in Bohemia and Moravia, Verordnungsblatt des Reichsprotektors in Böhmen und Mähren*, VBIRProt., p. 45), forming the basis for the legal regulation of disposition of the Jewish property.

EXCHANGE CONTROL REGULATIONS

In connection with the first restrictions on the dispositions of Jewish property, which were introduced by the German military administration immediately after the establishment of the Protectorate of Bohemia and Moravia, the Protectorate Ministry of Finance issued several circulars intended for financial institutions or their unions, at the end of March and during April 1939. Their purpose was to protect the currency, as well as asset properties registration and protection before being taken abroad.¹¹

9 HOFFMANN, J. and others: *Nové zákony a nařízení Protektorátu Čechy a Morava. Vol. I. (1939)*. Praha 1939, p. 483–484.

10 Decree of the chief of the civil administration at the military group 5 of March 20, 1939, on the prevention of undue interferences into the economy of Moravia, published in *Úřední list* of the Land Office in Brno of March 21, 1939, no. 67; Decree of the chief of the civil administration at the military group 5 of March 23, 1939 ref. 121/39 on a ban on alienation of the Jewish real properties in Moravia, published in *Úřední list* of the Land Office in Brno of March 25, 1939, no. 71.

11 The basic measure in this respect was Circular of the Ministry of Finance of March 25, 1939, ref. 6.766/39-VI, on certain measures to protect the currency, full version published in: HOFFMANN, J. and others.: *Nové zákony a nařízení Protektorátu Čechy a Morava. Vol. I. (1939)*, p. 1080–1081.

All safe deposit boxes and closed custody of third parties at financial institutions were subject to enclosure, and could only be opened in the presence of official bodies, which were the bodies of the Audit Department of the Ministry of Finance or the District Headquarters for Financial Administration, with co-operation of Reich German Customs Investigation Offices. In case of danger of delay, only the Reich German Investigation Office was empowered to implement urgent control measures to protect foreign exchange management.¹² The owners of closed boxes and escrows had to be listed by financial institutions. If the controlling body responsible for supervising the opening of safe deposit boxes or custody found that their owner was a Jew, a protocol, in which all the valuables (cash in local and foreign currency deposit books, securities, coins, jewelry and other valuables objects) were registered, had to be written.¹³ Revealed cash was placed into a blocked – non-Aryan – account of the owner, securities and passbooks into the depot account. Valuables were left at a financial institution in the safe box and provided with official seals.¹⁴

Jews were, in principle forbidden to use money deposited into their bank accounts, (giro, depot), accounts for securities or on deposit books. The only exception was represented by withdrawals of money to be used for operating purposes. If the above accounts were in the personal possession of Jews, they were allowed to use only the amount not exceeding 1,500 crowns per week.¹⁵ In 1940, the total amount of money drawn from all blocked accounts, without permission from the Ministry of Finance, could not exceed 2,000 crowns per month, or possibly 3,000 crowns if the account owner was married.¹⁶ Financial institutions were also required to create a list of Jewish accounts. If the Jewish owners of accounts were residents in the territory of the German Reich, outside the Protectorate, payments were prohibited unless the financial institution obtained consent from the Reich Bank, and its subsidiary, the National Bank for Bohemia and Moravia.¹⁷ To allow owners of accounts, deposits and safe deposit

12 Circular of the Ministry of Finance of March 31, 1939, ref. 6.766/39-VI. Ibid., p. 1081.

13 For further reference, see: (author not stated) *Výběry ze safeů a uzavřených účchov Židů. Spořitelni obzor. Věstník svazu spořitelien*, vol. 39, 1940, no. 2, p. 56–57.

14 Circular of the Ministry of Finance of April 21, 1939 No. 8.407/39-VI. HOFFMANN, J. and others: *Nové zákony a nařízení Protektorátu Čechy a Morava. Vol. I. (1939)*, p. 1081.

15 For further details, see: MUŽÁK, A.: *Peněžní styk se Židy. Spořitelni obzor. Věstník svazu spořitelien*, vol. 39, 1940, no. 5, p. 109–111.

16 Ordinance of Ministry of Finance (department of revisory control) of December 6, 1940 No. 73.537/40-VI on free withdrawals from the Jewish blocked accounts (deposits). *Úřední list*, 1940, no. 288, p. 9670.

17 Circular of the Ministry of Finance of May 6, 1939 No. 8.882/39-VI; Circular of the Ministry of Finance of June 26, 1939 No. 12.923/1939-VI. HOFFMANN, J. and others: *Nové zákony a nařízení Protektorátu Čechy a Morava. Vol. I. (1939)*, p. 1082–1083.

boxes to freely dispose of their stored resources, they had to provide the financial institutions with filled in so-called Aryan statements, which had been sent to them by post. If the financial institution did not receive these statements from all eligible clerks, the account was marked as non-Aryan.¹⁸ Giving credits to Jews were subject to the authorization of the Ministry of Finance.¹⁹

If Jews owned some property and leased it, as of November 1939, they were obliged to deposit the rent into a special blocked account for rentals. It was not necessary to pay into the rent, the amount of demonstrable payable costs directly related to the administration and maintenance of the property (taxes, fees, insurance, necessary repairs). The rent could also cover mortgage payments, provided that the creditor was Aryan. The owner was entitled to handle the blocked account for rentals only with the permission of the District Financial Directorate.²⁰

As of January 1940, it was possible to make all payments in favor of the Jews or Jewish enterprises only into blocked accounts at some of the exchange banks²¹ or domestic financial institution authorized by the Ministry of Finance. This did not apply to payments for Jewish enterprises in which Aryan administration was appointed, as well as to payments up to 100 crowns.²² Jews, who were employed as manual workers, could have weekly wages up to 500 crowns paid directly.²³ If the debtor deposited a sum of money at a notary or lawyer in favor of his Jewish creditor, whose residence was unknown, a notary or lawyer was obligated to immediately deposit this amount of money onto the passbook identified as Jewish (non-Aryan).²⁴ After appointing the authorized administrators to Jewish

18 Ordinance of the Reich Protector on the right to dispose of the accounts, deposits and deposit boxes of June, 26, 1940 No. II-1-3F/6015/40. HOFFMANN, J. and others: *Nové zákony a nařízení Protektorátu Čechy a Morava. Vol. II. (1940)*. Praha 1940, p. 1151.

19 BING, M.: Poskytování úvěrů Židům. *Spořitelní obzor. Věstník svazu spořitelén*, vol. 39, 1940, no. 7–8, p. 167–169.

20 Ordinance of the Ministry of Finance (department of revisory control) of November 10, 1939, No. 18.753/VI- on payment of rents for landed and real estates of Jews *Úřední list*, 1939, no. 258, p. 3794.

21 Exchange banks are listed in the Ordinance of the Ministry of Finance (1), of July 8, 1939, which promulgates the measures of National Bank for Bohemia and Moravia in Prague concerning the exchange banks No. 160/1939 Coll.

22 Ordinance of the Ministry of Finance of January 23, 1940 No. 25.761/39-VI. *Úřední list*, 1940, no. 22, p. 490; HOFFMANN, J. and others: *Nové zákony a nařízení Protektorátu Čechy a Morava. Vol. II. (1940)*, p. 1577.

23 Ordinance of the Ministry of Finance of December 9, 1940 No. 74.155/40-VI; for further reference, see: (author not stated) *Zajištění židovského majetku. Spořitelní obzor. Věstník svazu spořitelén*, vol. 40, 1941, no. 1, p. 22.

24 BING, M.: Židovská deposita u notářů a právních zástupců. *Právní praxe*, vol. 4, 1939–1940, no. 9–10, p. 283–284. BING, M.: Židovská deposita u notářů. *České právo. Časopis spolku notářů Českomoravských*, vol. 22, 1940, no. 7, p. 49.

firms, their debtors often deposited the owed amount to judicial custody, because they did not know whether to pay to the existing Jewish owner, or appointed administrator. Court could give the judicial deposit only to the authorized administrator, but never to the Jewish owner.²⁵

Disposition of funds deposited into savings books at Poštovní spořitelna was also significantly reduced. They were labeled with either a capital letter “A” or a capital letter “N” according to whether the bankbook owner was Aryan or non-Aryan. Prior to any payment, the paying officer had to make sure whether the bankbook was owned by Aryan or non-Aryan, and proceed accordingly. If the bankbook was not still marked, the clerk asked for an official statement that the owner was not a Jew.²⁶ Jews were allowed to withdraw only 1,500 crowns a day for them and their family members.²⁷ Starting in 1940, the foreign exchange restrictions were also applied to the non-Jewish spouse of a Jew, if the marriage lasted.²⁸

In addition, in case of the payment by check vouchers, it was verified whether the recipient was a person of Jewish origin. Prior to paying out the check voucher, the paying clerk pointed out the necessity of filling a declaration, which was located on the reverse side of the check. In case that the recipient was a Jew, the check was not paid out, and the financial institution set up a blocked account for the recipient, to which the amount of money was transferred.²⁹

By December 31, 1940, Jews and Jewish businesses were required to submit their deposit and savings books, as well as certificates of deposit to those financial institutions that had issued them for the purpose of abolition.³⁰ If these passbooks were in custody by a Gentile custodian, this obligation also applied to

25 C E R M A N, J.: K otázce vydání soudního deposita správci židovského podniku. *Právní praxe*, vol. 4, 1939–1940, no. 7–8, p. 225–228.

26 Ordinance of the Ministry of Transport of March 7, 1940 No. 15.113-C/1 on impounding the Jewish properties, payments in savings service. *Věstník ministerstva dopravy pro obor pošty*, 1940, no. 11b, p. 90.

27 Ordinance of the Ministry of Transport of February 26, 1940 No. 12.669-C/1 on impounding the Jewish properties, payments in savings service. *Věstník ministerstva dopravy pro obor pošty*, 1940, no. 9b, p. 77.

28 Ordinance of the Ministry of Finance of March 8, 1940 No. 9.221/40-VI on the exchange measures regarding persons of non-Jewish origin living in marriage with a Jew. *Úřední list*, 1940, no. 58, p. 1561.

29 Ordinance of the Ministry of Transport of April 29, 1940 No. 21.355-C/1 on examining the racial origin of payees of remittances from clearing accounts. *Věstník ministerstva dopravy pro obor pošty*, 1940, no. 22b, p. 187; also: (author not stated) Dispozice židovskými šekovými účty Poštovní spořitelny. *Spořitelní obzor. Věstník svazu spořitelén*, vol. 39, 1940, no. 1, p. 24.

30 (Author not stated) Zrušení židovských a vkladních spořitelních knížek (vkladních listů). *Spořitelní obzor. Věstník svazu spořitelén*, vol. 39, 1940, no. 11, p. 281–283.

him. Financial institutions cancelled the passbooks in question, and transferred the deposits to blocked Jewish accounts. Jews also were not allowed to deposit money into the deposit books at Poštovní spořitelna and similarly, deposits could not be transferred into the Jewish passbooks.³¹ In connection with the abolition of customs borders between the Protectorate and other Reich territories, the Nazis feared that funds would be transferred from the Reich to the Protectorate. Therefore, all payments from Reich were automatically transferred into a blocked account.³² Jews were also required to register their claims of up to 10,000 crowns (e.g. current and giro accounts, savings books, etc.) deposits, safety deposit boxes, which they had at the financial institutions somewhere else in the Reich territory with the Ministry of Finance.³³

REGULATION OF THE REICH PROTECTOR ON JEWISH PROPERTY

Regulation of the Reich Protector on Jewish Property³⁴ was published not only in *Verordnungsblatt des Reichsprotectors in Böhmen und Mähren*, but also in the Prague newspaper *Der Neue Tag*. It was preceded by the following text describing the purpose of this regulation, as it was seen by the Nazi ideology:

“The Reich Protector of Bohemia and Moravia today issued a regulation on Jewish property. This regulation has the crucial importance for the development of the entire economic life in the Protectorate; it provides a legal basis for the transfer of property, which is in Jewish possession. This measure of the Reich Protector has a form of regulation, which solely follows the economic interests in the countries of Bohemia and Moravia and admits alienation of Jewish holdings both in favor of Germans and Czechs.

31 Ordinance of the Ministry of Transport of November 23, 1940 No. 50.013-C/1 on a ban on accepting deposits to the Jewish bankbooks of Poštovní spořitelna (Postal Savings Bank). *Věstník ministerstva dopravy pro obor pošty*, 1940, no. 73b, p. 759.

32 Ordinance of Ministry of Finance of October 1, 1940 No. 65.992/40-VI on impounding the Jewish properties, money orders of Jews, full version published in: HOFFMANN, J. and others: *Nové zákony a nařízení Protektorátu Čechy a Morava. Vol. II.* (1940), p. 1576–1577.

33 Ordinance of the Ministry of Finance (department of revisory control) of December 11, 1940 No. 74.244/40-VI on registration of Jewish claims in other Reich territories and on handling such claims. *Úřední list*, 1940, no. 294, p. 9925.

34 To analyze of this Regulation see e.g.: HAVELKA, J.: Omezení převodů nemovitostí. *Právní praxe*, vol. 4, 1939–1940, no. 6, p. 162 and following; BOBEK, J.: Řešení židovské otázky v hospodářství. *Obzor národohospodářský*, vol. 45, 1940, no. 3–4, p. 115–121; (author not stated) Nařízení říšského protektora v Čechách a na Moravě o židovském majetku. *Spořitelní obzor. Věstník svazu spořitelén*, vol. 38, 1939, no. 6–7, p. 160–164.

Some time ago, the efforts were asserted here, which were targeted to put an end to the business and industry overfilled with a foreign element, which increasingly prevailed. These efforts were only in the thinnest cases crowned with resounding success. Only today, the regulation of the Reich Protector allows the transferring of assets, which is necessary for the interests of the state's economy."³⁵

However, these were just empty proclamations that were to obscure the true interests and goals of the occupiers. In practice, the Aryanized property was almost exclusively passed into German hands.³⁶ This regulation, to which overall nine implementing decrees³⁷ were issued, included not only the rules for the dispositions and management of the Jewish property, but also the definition of the terms "Jew" and "Jewish enterprise", which were then used in other anti-Jewish laws and regulations. This Regulation along with the nine implementing decrees, was applied to Jews of foreign nationality, but located in the territory of the Protectorate.³⁸

A Jew was considered especially one who had at least three full Jewish grandparents, members of the Jewish religious community; as it would be difficult to prove that a grandparent was a Jew, a statutory incontrovertible presumption was established that a grandparent was a "full" Jew (Volljude) if he/she belonged or had belonged to the Jewish religious community. This was judged by objective signs, such as enrolment, fees, etc.³⁹ Then, there was also the half-caste, a descendant of two fully Jewish grandparents, who belonged to the Jewish religious community on September 15, 1935, or became its member later, or who was married to a Jew on September 15, 1935, or entered into marriage after that date, or who came from a marriage with a Jew entered into after September 15, 1935, or the one who came from an illegitimate intercourse with a Jew and was born as the illegitimate child after July 31, 1936, these all were considered to be Jews.⁴⁰

35 Quoted and translated from *Der Neue Tag* published in: HOFFMANN, J. and others: *Nové zákony a nařízení Protektorátu Čechy a Morava*. Vol. I. (1939), p. 552.

36 KÁRNÝ, M.: „Konečné řešení“, p. 28–29.

37 Specification of certain decrees: (author not stated) *Prováděcí výnosy k nařízení o židovském majetku. Spořitelní obzor. Věstník svazu spořitelén*, vol. 39, 1940, no. 2, p. 7–58.

38 Ordinance of the Ministry of Justice of August 28, 1941 No. 43,528 on interpretation of Reich Protector's regulations in Bohemia and Moravia concerning the Jewish properties (author's note: abridged text). *Věstník ministerstva spravedlnosti*, 1941, no. 8–9, p. 143.

39 JURÁŠEK, S.: *Právní a hospodářské postavení Židů v Protektorátě Čechy a Morava*, p. 395.

40 In the original version of the Regulation of Reich Protector on Jewish Property were later deadlines. On July 1, 1939, in the newspaper *Der Neue Tag* was announced an amendment that expanded the range of people and companies covered by the Regulation on Jewish Property.

A company was considered to be Jewish, when its owner was a Jew. General partnership or limited partnership was regarded as Jewish if there was at least one personally liable partner that was a Jew. In case of a legal entity, it was considered as Jewish if one or more legal representatives or members of the Management Board or the Supervisory Board were Jews, or if more than one quarter of the capital belonged to Jews or if the votes of Jews reached half of the total number of votes, the company was declared Jewish. A branch of a Gentile company was perceived as being Jewish, if the leader, or one of the several leaders, was a Jew. A certificate stating that the company was not “Jewish” could be issued by any of the authorized business and trade chambers.⁴¹

According to the regulation of the Reich Protector on Jewish Property, Jews, Jewish businesses and Jewish associations were deprived of their right to dispose of their property, rights to property, economic plants and their shares, securities, as well as the lease of landed properties and factories. The disposition of this property was allowed only after the specific written permission of the Reich Protector, who was entitled to transfer his jurisdiction wholly or partially to other offices. These were the Higher Land Councilors (Oberlandrat), who could grant an agreement to handle the Jewish economic enterprises not exceeding one hundred employees or annual turnover of three million crowns (excluding banks, insurance companies and some other selected companies).⁴² Further acquisition of the above assets by Jews was prohibited.

Approval from the Reich Protector, or Oberlandrat was not necessary in case of transactions relating to bills of exchange, checks, bills of lading, warehouse receipts, and corn leaves and similar securities, if such operations were realized in the ordinary course of business.

During the years 1939–1940, Jews were imposed an obligation to register their property of all kinds in order to create an inventory of Jewish property, which then served as the basis for subsequent Aryanization and confiscation measures. Regulations, under which the Jews were obliged to surrender their property valuables and lost their real power to handle their assets, were published soon afterwards.

41 Ordinance of the Ministry of Justice of May 4, 1940 No. 17.046/40/11 on issuing certificates confirming non-Jewish character of enterprises by business and trade chambers published in: HOFFMANN, J. and others: *Nové zákony a nařízení Protektorátu Čechy a Morava. Vol. II. (1940)*, p. 936.

42 The First Implementing Regulation of the Reich Protector of Bohemia and Moravia of June 21, 1939 On the Regulation of Jewish Property (VBIRProt., p. 45); Sixth Implementing Regulation of the Reich Protector of Bohemia and Moravia of March 29, 1940 On the Regulation of Jewish Property (VBIRProt., p. 146).

The deadline for Jews, Jewish businesses and Jewish associations to register with the Higher Land Councilor (Oberlandrat) their agricultural and forest lands, which were in their own or common possession, or which they had rented, was set for July 31, 1939. By March 15, 1940, Jews and Gentile spouses of Jews had to register their land ownership, rights to land, as well as all stocks and shares in companies via a form that was available from the District Central Office. Jewish businesses were required to register all their domestic and foreign operating assets as of December 31, 1939.⁴³

The registration obligation also touched objects of gold, platinum, silver, and precious stones and pearls. Jews were required to register these objects, in their own or common possession, with the National Bank or other authorized institutions.⁴⁴ Besides the registration obligation for these objects, a ban was also placed on their further acquisition, alienation or debiting. These restrictions were related to other precious and art objects if their price exceeded the amount of 10,000 crowns. Since January 1940, Jews were allowed to sell these items only with permission of the Reich Protector in special place – the trading companies Hadega Ltd. based in Prague.⁴⁵ Securities (except for bills of exchange, checks, bills of lading, warehouse receipts and similar trade securities) had to be registered by November 15, 1940, via the official form, which could be picked up at the exchange banks (if not obtained earlier).⁴⁶

Within the period up to April 30, 1940, the Jews were obliged to put their shares and similar securities, as well as items made of gold, platinum and silver including precious stones and pearls into the custody at one of the foreign

43 Fourth Implementing Regulation of the Reich Protector of Bohemia and Moravia of February 7, 1940 On the Regulation of Jewish Property (VBIRProt., p. 45).

44 The management of these applications, however, met with considerable difficulties because Jews meanwhile sold their property to the company Hadega Ltd., so applications disagreed. For this reason, on September 13, 1940, Ministry of Finance passed Regulation on the obligation of Jews to register objects made of gold and precious metals, and precious art objects ref. 63.048/40-VI, published in *Úřední list* on September 16, 1940, no. 116; see: (author not stated) *Další hlášení drahých kovů, drahocenných a uměleckých předmětů v židovském vlastnictví. Spořitelní obzor. Věstník svazu spořitelén*, vol. 39, 1940, no. 9, p. 215–217.

45 Third Implementing Regulation of the Reich Protector of Bohemia and Moravia of January 26, 1940 On the Regulation of Jewish Property (VBIRProt., p. 44).

46 Eighth Implementing Regulation of the Reich Protector of Bohemia and Moravia of September 16, 1940 On the Regulation of Jewish Property (VBIRProt., p. 507); see: (author not stated) *Přihláška židovského majetku podle prováděcího výnosu k nařízení říšského protektora o židovském majetku. Spořitelní obzor. Věstník svazu spořitelén*, vol. 39, 1940, no. 10, p. 245–246; (author not stated) *Povinnost k ohlášení nově získaného židovského majetku. Spořitelní obzor. Věstník svazu spořitelén*, vol. 39, 1940, no. 11, p. 283–284.

banks.⁴⁷ By March 15, 1941, the Jews also had to put into custody their collections of postage stamps. Handling them was possible only after prior authorization from Audit Department of the Ministry of Finance.⁴⁸

If the Reich Protector of Bohemia and Moravia acknowledged as appropriate, he could appoint administrators to the Jewish enterprise, who were under his supervision and command, for whom he also set rights and obligations. At his discretion, he could also remove fiduciaries and enforced administrators appointed under the Protectorate regulations. If the Reich Protector did not exercise his right and did not appoint a fiduciary to a Jewish business, the Protectorate Ministry could appoint him base on Decree No. 87/1939 Coll. Power to appoint a trustee to a Jewish business was partly transferred to Oberlandrat.⁴⁹ The appointed trustee had the right to conduct on his own behalf and for the enterprise everything to achieve the set goal. The instrument of putting in office, issued by Reich Protector or Oberlandrat, demonstrated both in public and in private law the right to take legal actions on behalf of the company. In his activities, the trustee had to perform everything with due diligence and be responsible for any damages caused by failure of diligence. Neither Regulation of the Reich Protector on Jewish property, nor the second implementing decree, addressed the relationship between the trustee and owner of the enterprise, respectively, the property rights of the non-Aryan business owner. The period literature also pointed out this serious gap.⁵⁰

From an economic perspective, the Jewish enterprises managed by the appointed administrator were on the same level as non-Jewish businesses, which was especially true in the allocation of contingents, public orders, and dealing with banks or reap bank accounts.⁵¹

Regulation of the Reich Protector on the Jewish property also contained provisions of criminal law for the case there would be a breach thereof. German courts in the Protectorate were competent for criminal proceedings and they applied the Reich criminal law.

47 Fifth Implementing Regulation of the Reich Protector of Bohemia and Moravia of March 2, 1940 On the Regulation of Jewish Property (VBIRProt., p. 81).

48 Ordinance of the Ministry of Finance of February 5, 1941 No. 51.919/1941-VI on the obligation of Jews to lodge their collections of stamps. *Úřední list*, 1941, no. 33, p. 1022.

49 Second Implementing Regulation of the Reich Protector of Bohemia and Moravia of December 8, 1939 On the Regulation of Jewish property (VBIRProt., p. 318).

50 БОБЕК, J.: *Řešení židovské otázky v hospodářství*, p. 117.

51 Circular of the Ministry of Interior of May 7, 1940 No. B-5881-3/5-40-14 on taking steps against the Jewish enterprises with the trustee in the lead. *Věstník ministerstva vnitra*, 1940, no. 5, p. 209; see: (author not stated) *Postup vůči židovským podnikům, řízeným správcem. Právní prakse*, vol. 4, 1939–1940, no. 9–10, p. 274.

FURTHER LIMITATIONS ON JEWISH PROPERTY DISPOSITIONS

The Regulation of the Reich Protector on Jewish Property created only a kind of basic standard of basic principles to limit the property rights. More legislation was then left to the implementing regulations, which were passed by the Reich Protector. Certain regulations were virtually meaningless, since they contained only minor changes to the previous legislation, while, quite the contrary, several implementing regulations complemented and significantly went beyond the Regulation on Jewish Property. Out of the most significant implementing directives, it is necessary to point out the Second Implementing Regulation of the Reich Protector on the Jewish Property, which set the rules for writing data to the public books and records.⁵²

Before the Second Implementing Regulation had been passed, in some courts an unsustainable practice occurred, according to which in case of entries into the land register, parties to an action were required to submit seven certificates of baptism. On the basis of the Second Regulation, a declaration as to whether Jews, Jewish businesses and Jewish associations were present at the proceeding had to be attached to all applications for registration in the public books. This statement did not have to be written on any particular document; it was fully sufficient when formed as a part of the application for registration in the land register. This statement did not have to be sworn, or signatures on it did not have to be verified.⁵³ In the absence of such a declaration, the court had to refuse the application for registration. If court or other competent authority had reasonable doubts about the correctness of a statement, it was obliged to ask for the proof that the confirmation of a legal act by Reich Protector or Oberlandrat was not needed. If the legal change was written down in the public book, based on unapproved legal action, the approval authority could request the library court or other competent authority to register the note.⁵⁴

52 Ministry of Justice published explanatory notes on the registration of data to the public books in the Decree of June 23, 1940, Ref. 29,080, an interpretation of §§ 7 and following of the Second Implementing Regulation on the Regulation of Jewish Property from December 8, 1939. *Věstník ministerstva spravedlnosti*, 1940, no. 6, p. 111.

53 See e.g.: HAVELKA, J.: *Omezení převodů nemovitostí*, p. 167; HRDLÍČKA, V.: *Průkaz ve smyslu nařízení o židovském majetku při zápisu do knih pozemkových a rejstříku*. *Všehrd*, vol. 21, 1940, no. 4–5, p. 151–152; GLOS, J.: *Vyřizování věcí rejstříku obchodního a společenstevního se zřetelem k vl. nař. č. 26/40 a č. 34/40 a k § 7 nařízení o židovském majetku z 21. 6. 1939*. *Soudcovské listy*, vol. 21, 1940, p. 58–61.

54 JURÁŠEK, S.: *Právní a hospodářské postavení Židů v Protektorátě Čechy a Morava*, p. 401–402.

The Second Implementing Regulation also affected the proceedings to be held before a notary or lawyer. They were required to notify their clients of the existence of the Regulation on Jewish Property and ask them if the parties to an action were Jews. A similar procedure was applied even when probate took place at the estate probate court or commissioner, who questioned whether the testator, or any other interested party were Jews.

THE FINAL SEIZURE OF JEWISH PROPERTY

The year 1941 was marked by the final deprivation of the Jews of their property. On November 2, 1941, the daily *Der Neue Tag* published a ban on the sale of any assets of Jews without special permission, so that no asset escaped Aryanization measures.⁵⁵

Eleventh Implementing Regulations for the Law on Reich Citizenship of November 25, 1941 (*Reichsgesetzblatt*, RGBl. I, p. 722) affected the Protectorate only marginally. Jews staying abroad (in the Protectorate, and therefore, outside the Reich territory) were deprived of German nationality and their property was expropriated in favor of the Reich. A year later, a similar regulation was issued, which deprived Jews of the Protectorate of citizenship and their property, if they were staying outside the territory of the Protectorate.⁵⁶

The Regulation of Reich Protector of March 5, 1940 On taking care of Jews and Jewish organizations (VBIRProt., p. 77) led to the establishment of the Center for Jewish Emigration and the Emigration Fund for Bohemia and Moravia. At the end of 1941, the Central Office was charged with liquidation of the property of Jewish emigrants.⁵⁷ "Liquidation" of the Jewish property was conditioned by the fact that the Jews themselves had to propose it.⁵⁸ Every "emigrant" had to sign this proposal in a prison camp when getting onto the transport. The deported Jew even had to give the power of attorney to the Central Office for Jewish Emigration, based on which ongoing Aryanization proceedings were

55 KÁRNÝ, M.: „Konečné řešení“, p. 67.

56 Regulation on the loss of Protectorate citizenship of November 2, 1942 (RGBl. I, p. 637).

57 Second Regulation of Reich Protector On taking care of the Jews and Jewish organizations of October 12, 1941 (VBIRProt., p. 555).

58 When disposing of property, ongoing litigations, foreclosures, bankruptcies and composition proceedings were interrupted. If during the liquidation of a Jewish company, the creditor would be caused damage, he could turn to the Act On Provision of Compensation for Transfer of Property of the December 9, 1937 (RGBl. I, p. 1333); see: (author not stated) *Péče o Židy a židovské organisace. Spořitelní obzor. Věstník svazu spořitelén*, vol. 40, 1941, no. 12, p. 430.

completed. Under pressure, the Jews were also required to sign a declaration, based on which all their property was transferred to the Emigration Fund for Bohemia and Moravia (except for assets that they had in their luggage and which were taken from them when they arrived at the concentration camps).⁵⁹

CONCLUSION

As this contribution has shown, Jews were, during the years 1939–1941 gradually deprived of any dispositions related to their assets. However, that was not through wickedness, but on the basis of precise legislative rules issued by both the occupation administration and the Protectorate government and its ministries. The Nazis and Czech collaborators could hide behind the veil of the law. The number of anti-Jewish legislative measures issued by the Protectorate authorities points out an anti-Jewish orientation of the Protectorate representation manifested mainly by seeking “Czech Aryanization”, which repeatedly specifies Miroslav Kárný in his study.⁶⁰

The total amount of money, which was seized by the Nazi occupiers in the process of Aryanization, is frequently discussed and disputed among historians, and probably will never be determined exactly. It is estimated at around 20 billion crowns.⁶¹

In the period of the Protectorate of Bohemia and Moravia, Jews were robbed of everything they had; moreover, they were even deprived of the most precious thing – their lives.

59 K Á R N Ý, M.: „Konečné řešení“, p. 66–67. Arzyaniyation of the Jewish property in the recent literature, see e.g.: K U K L Í K, J.: *Znárodněné Československo*. Praha 2010, p. 87 and following.

60 K Á R N Ý, M.: „Konečné řešení“, p. 13–14.

61 Ibid., p. 68.

Some Projects of Anti-Jewish Discriminatory Law in Interwar Poland

Context and Circumstances

Grzegorz Krzywiec (Poland)

At the beginning of the 20th century, and specifically the period between 1905 and 1914, in the so-called Congress Poland, the Russian part of Polish lands constituted a certain matrix of Polish-Jewish relations. The spread of political anti-Semitism, at least after the 1905 Revolution, led to a serious change in the Polish attitudes towards Jews. A no less important phenomenon that affected Polish-Jewish relations was a powerful increase in the number of Jews in the Polish lands.¹ The period of Polish monoculture, sustained by both sides, Polish and Jewish, was no longer possible. The majority of the Polish political class did not want to recognize this fundamental fact.²

1 WEEKS, T. R.: *From Assimilation to Antisemitism. The "Jewish Question" in Poland, 1850–1914*. Illinois 2006, page (p.) 64–66. On the effect of the 1905 Revolution on the Jewish community see: HOFFMAN, S. – MENDELSON, E. (eds.): *The Revolution of 1905 and Russia's Jews*. Philadelphia 2008. See as well: DATNER, H.: *Ta i tamta strona. Żydowska inteligencja Warszawy drugiej połowy XIX wieku*. Warszawa 2007, p. 275. On general: POLONSKY, A.: *The Jewish in Poland and Russia. 1881 to 1914*. Volume (Vol.) 2. Oxford 2010, p. 382–386.

2 See: WEEKS, T. R.: Poles, Jews and Russian, 1863–1914. The Death of the Ideal of Assimilation in the Kingdom of Poland. *Polin. A Journal of Polish-Jewish Studies*, vol. 12, 1999, p. 271–283. For more general view among Polish intellectual elites of these days see also my paper: Polish Intelligentsia in the face of the Jewish Question 1905–1914. *Acta Poloniae Historica*, vol. 100, 2009, p. 129–167.

However, this new attitude had many names. For the National Democracy (Narodowa Demokracja, also known from its abbreviation ND as Endecja), the main political movement of the Right, it signified the exclusion of all the “non-Polish” groups from the national collectivity, up to the wish to turn the fight against the “Jewish enemy” into the fulcrum of all its ideology.³ In the Catholic opinion, the Jewish minority in Poland posed a threat to the identity of the Polish nation and to Christianity as such.⁴ For other groups, those referring to the tradition of the Enlightenment, in the Polish context like the “pro-independence socialists” (such as the Polish Socialist Party, Polska Partia Socjalistyczna, PPS) or liberals, it expressed an actual hegemony of Polish culture and repeated demand for an absolute loyalty of the minorities.⁵

Anti-Semitism in various forms then became one of the permanent elements of the world-view of the right wing, conservative section of Polish society, while a negative attitude towards the Jews was, for this part of society, the basic indicator of its national identity. In other words, patriotism meant for them a fight against the “Jewish influence”. Jews were seen as virtually synonymous with all the subversive and destabilizing forces of the modern world, from Socialism with Marxism at the top, through foreign capital to pornography, and were often linked with the freemasons, as a part of an international conspiracy of evil. No wonder then, from this time forward, Jews, and not only in Poland, started to view Polish society and Polish history as being in a perpetual process of growing Anti-Semitism.

World War I and the Communist Revolutions in Russia, Germany and Hungary galvanized and exacerbated this pre-existing anti-Semitism.⁶ To some

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- 3 On anti-Semitism of National Democracy see: OPPENHEIM, I.: The Radicalisation of the Endecja Anti-Jewish Line during and after the 1905 Revolution. *Shevut*, vol. 9, 2000, number (no.) 25, p. 32–66; MICHLIC, J.: *Poland's Threatening Other. The Image of the Jews from 1880s to the Present*. London 2006, p. 46; TEREJ, J.: *Idee, mity realia. Szkice do dziejów Narodowej Demokracji*. Warszawa 1971, p. 46. For more detailed reconstruction compare as well: SOB CZAK, M.: *Narodowa Demokracja wobec kwestii żydowskiej na ziemiach polskich przed I wojną światową*. Wrocław 2007, p. 119–131.
 - 4 See: BLOBAUM, R. E.: The Revolution of 1905–1907 and the Crisis of Polish Catholicism. *Slavic Review*, vol. 47, 1988, no. 4, p. 667–686; PORTER, B. A.: Antisemitism and the Search for a Catholic Identity. In: BLOBAUM, R. E. (ed.): *Antisemitism and its Opponents in Modern Poland*. Ithaca–London 2005, p. 103–123; LEWAŁSKI, K.: *Kościół Chrześcijański w Królestwie Polskim wobec Żydów w latach 1855–1915*. Wrocław 2002, p. 223–237.
 - 5 WEEKS, T. R.: Polish Progressive Antisemitism 1905–1914. *East European Jewish Affair*, vol. 25, 1995, no. 2, p. 49–68; ŚLIWA, M.: The Jewish Problem in Polish Socialist Thought. *Polin. A Journal of Polish-Jewish Studies*, vol. 9, 1996, p. 14–31.

extent, the prominent role of Jewish communists such as Trotsky, Zinoviev, and Bela Kun gave rise to a perception that Judaism and Bolshevism were largely indistinguishable. These anti-Semitic tendencies were reinforced by most of the Polish press, and not only on the right. Moreover, the new reborn Polish state, especially its military propaganda, used this type of rhetoric as a weapon against the Soviets in the Polish-Soviet War in 1919–1920. Not only the right, but also the center-right viewed this conflict with the Soviets as an eternal battle against “Judeo-bolshevism” (Polish version, known as “Żydokomuna”).⁷

On one side then the Second Polish Republic had been constituted a parliamentary democracy, modeled on that of the Third French Republic, in which Jews had been granted civil and political rights and liberties, on the other side, political anti-Semitism, from the outset, played a significant and often crucial role in Polish life. Shortly after the independence wars and uprisings had to come to an end, many Polish citizens, primarily ethnic Poles began to feel that their country was now under threat from the country’s greatest historical enemies – Soviet Russia and Germany. This general feeling had great impact on Polish political life and especially on the conditions of various ethnic minorities. In principle, the multi-national population presented for Polish elites another problem. The new nation-state was only two-thirds ethnically Polish, the rest of the population being Ukrainian, Belorussian, German and Jewish. The Jews were seen as not capable of any form of integration, and so for the *Endecja* ethnic policy meant either the suppression, or at least forced assimilation of minorities, though in the eastern regions of the country the majority of population was composed of non-ethnic Poles.

Yet at the outset, it was the Jews, who made up about 10 percent of the population, who became the main target of growing Polish nationalism. From the very beginning, two competing visions of the new Poland would determine the situation of Polish Jewry. One was that of Roman Dmowski, chief leader of National Democracy, which envisioned Poland as national state ruled by ethnic Poles, where there was no room for Jews and other minorities. The second one was that of Marshal Józef Piłsudski, hero of the independence wars, which saw Poland

6 ZIELIŃSKI, K.: Polish-Jewish Relations in the Kingdom of Poland During the First World War. *European Journal of Jewish Studies*, vol. 2, 2008, no. 2, p. 269–282; In more comprehensive way compare: ZIELIŃSKI, K.: *Stosunki polsko-żydowskie na ziemiach Królestwa Polskiego w czasie pierwszej wojny światowej*. Lublin 2010.

7 For Polish case in Eastern European context see: GERRITS, A.: Antisemitism and Anti-Communism. The Myth of ‘Judeo-Communism’ in Eastern Europe. *East European Jewish Affairs*, vol. 25, 1995, no. 1, p. 62–66.

as a regional political power, an expansive multi-national and to some extent multi-confessional entity, in which Jews could be included as loyal minority.⁸

The so-called necessary defense against the threat of growing Jewish supremacy was shared by almost the entire political right and center-right. E.g. The National Party of Labor (Narodowa Partia Robotnicza, NPR), a Christian center-right party called for driving out all Jews who had not converted to Christianity before 1918. Therefore, from this side came the first proposals to abandon the existing policy, which had been recognized internationally as well.⁹ The anti-Semitic slogans were immediately matched by deeds. From the very first days of the independent Polish state, the National Democratic movement, the largest mass right-wing movement on the Polish political scene, called for some way of curbing the political and civil rights of the Jewish minority. Immediately after the National Assembly (Sejm Ustawodawczy) was elected on March 19, 1919, the political representation of the Endecja proposed a law that eventually led to the creation of the Commission for Jewish Affairs. The aim of this commission was, as it was publicly stated – to carry out a “*comprehensive examination of the Jewish question [...] and the presentation of conclusions thus derived, with a view to resolving the problem*”.¹⁰

From the very beginning, the Endecja became the first to impose anti-Semitic discriminatory legislation, in a form of a *numerus clausus* law, restricting the numbers of all non-Christian students at universities and in secondary education.

8 In very concise version, see: SNYDER, T.: *The Reconstruction the Nations, Poland, Ukraine, Lithuania, Belarus, 1569–1999*. New Haven – London 2003, p. 58–59. Compare as: PRAŻMOWSKA, A.: *Poland A Modern History*. London – New York 2010, p. 116–117. On the positions of Dmowski and Piłsudski in Polish politics of those days see: WALICKI, A.: The Troubling Legacy of Roman Dmowski. *East European Politics and Societies*, vol. 14, 2000, no. 1, p. 26–27. On Dmowski's Anti-Semitism in more comprehensive way from the very beginning, compare: KRZYWIEC, G.: *Szowinizm po polsku. Przypadek Romana Dmowskiego, 1886 – 1905*. Warszawa 2009, p. 232–270.

9 In interwar Poland the documents that defined the legal condition of national minorities were the so-called Small Versailles Treaty and afterwards the Constitution of March 1921 see: Traktat między Głównymi Mocarstwami Sprzymierzonymi a Polską. In: KULERSKI, W. – POTULICKI, M. (ed.): *Współczesna Europa polityczna: Zbiór umów międzynarodowych*. Warszawa 1939, p. 146–150. More specifically, Article No. 96 of the Constitution of March 1921 declared that “all citizens are equal before the law”. For critical overview: ŻYNDUL, J.: *Państwo w państwie? Autonomia narodowo-kulturalna w Europie Środkowowschodniej w XX*. Warszawa 2000, p. 63–82. Compare as well: POŁONSKY, A.: *Politics in Independent Poland 1921–1939. The Crisis of Constitutional Government*. Oxford 1972, p. 50.

10 Druki Sejmu Ustawodawczego, 1922, no. 119, quoted in: RUDNICKI, S.: From “*Numerus Clausus*” to “*Numerus Nullus*”. *Polin. A Journal of Polish-Jewish Studies*, vol. 2, 1987, p. 246.

The All Polish Youth (Młodzież Wszechpolska, MW), an organization of young nationalists, launched a nationwide campaign aimed at forcing the government to introduce legislative measures to establish a Jewish quota. This attempt failed, but in reality, at some Polish universities, especially in these regions where the Endecja was the dominating political force, a sort of an informal *numerus clausus* law was implemented. E.g. in the city of Poznań, the stronghold of National Democracy, at the new state university, a percentage quota system was introduced in 1919, and this lasted until World War II.¹¹ One could risk forming a hypothesis that the universities became, in 1920, the testing ground for the National Democracy's discriminatory legislation. As Szymon Rudnicki, a Polish scholar who studied the Endecja, has pointed out, there were at least three stages of this campaign. First, at the universities young nationalists, with support from the ND deputies, called for a *numerus clausus* law. In the second stage, when the latter was finally accomplished in late 1920s, the slogan was replaced by the *numerus nullus* (no Jews in public institutions) and the so-called ghetto bench. Finally, in the second half of the 1930s, the campaign had moved from the propaganda level to physical confrontation and street terror.¹² On the other hand, we have to keep in mind that the goal of complete segregation of Jews in all public activities, drawn up by the nationalists in the 1930s, had been discussed many years earlier in the nationalist press.¹³ This is an issue outside the scope of this paper, yet it should be mentioned that although the Jews were always the first target of such attacks, similar campaigns were also waged against other minorities.

At the height of this *numerus clausus* debate, an agreement was reached with the center-right government of Wincenty Witos of the Polish Peasant Party (Polskie Stronnictwo Ludowe-Piast, PSL-Piast) in the spring of 1923. One of the principles in this agreement was the tenet: "*Young Poles shall be guaranteed an opportunity to be educated at secondary and tertiary level and at vocational institutes, according to the appropriate proportions of the national groups within the state.*"¹⁴ In fact, all these plans and attempts were smashed by the May

11 LISTAK, H.: *Narodowa Demokracja w Poznańskim, Poznań 2008*, p. 23–26.

12 See: RUDNICKI, S.: *From "Numerus Clausus"*, p. 247. At universities, especially on medicine faculties see: ALEKSUN, N.: Christian Corpses for Christians! Dissecting the Anti-Semitism behind the Cadaver Affair of the Second Polish Republic. *East European Politics and Society*, vol. 2, 2011, no. 3, p. 393–409.

13 A postulate of the *numerus nullus* for Jews, for the very first time appeared in 1923, in a semi-official nationalist daily envisaged by Stanisław Pieńkowski, one of the chief journalists of the National Democratic press. See: PIEŃKOWSKI, S.: *Numerus Nullus. Gazeta Poranna 2 Grosze*, June, 30., 1923, p. 1.

14 See: *Zasady współpracy stronnictw polskiej większości parlamentarnej w Sejmie w r. 1923. Materiały źródłowe do historii polskiego ruchu ludowego*, vol. 3, Warszawa 1967, p. 81–82.

Coup in 1926.¹⁵ Other factors also contributed to these early fiascos of anti-Semitic measures. It is not subject of this paper, but on the other side, a mass mobilization of Polish Jewish organizations to seek support from the League of Nations and especially from the powerful friends of Poland like France or Great Britain played in this failure of *numerus clausus* law some significant role.¹⁶ To make matters worse for Jews, some Polish governments in the 1920s, even though not composed of the so-called Polish majority (meaning with Endecja predominance), instituted a series of static economic reforms. Among these was the famous financial reforms by Władysław Grabski, while not aimed specifically at the Jews, it forced many Jewish small businessmen out of various sectors of the economy. At this time, it became virtually impossible for Jews to find work in the public sector, in neither state nor municipal administrations. The experience of short parliamentary regimes of the 1920s presented many Poles with a picture of anarchy, corruption of politicians and rabid social and ethnic conflicts.¹⁷ Above all else, the people wanted order and security. Józef Piłsudski's *coup d'état* in 1926 mostly answered these demands. Józef Piłsudski's coup of 1926 was supported by the liberal intelligentsia, socialists, and even the communists. In addition, a large majority of Jews also supported this coup. Although Piłsudski, in contrast to the Endecja, envisaged a more tolerant, heterogeneous and federally organized state, he never lived up to his own ideals. The official policy towards minorities, mainly Ukrainians and Belorussians, and to some extent Germans, was hostile from the beginning, and starting in the late 1920s assumed even violent forms.¹⁸ Although the National Democracy had been politically marginalized under the Sanacja, and actually never again came into power, the Endecja vision began to determine Polish politics even under Piłsudski's semi-dictatorship.¹⁹ The early response of Polish nationalist

15 See: GOLCZEWSKI, F.: The Problem of Sunday Rest in Interwar Poland. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover – London 1989, p. 169–170.

16 FINK, C.: *Defending the Rights of Others. The Great Powers, the Jews, and the International Minority Protection, 1878–1938*. Cambridge 2004, in particular p. 283–294.

17 The most comprehensive landscape of Polish politics of those days: POLONSKY, A.: *Politics in Independent Poland 1921–1939*. Oxford 1972, p. 97–146; GARLICKI, A.: *Od maja do Brześciu*. Warszawa 1981.

18 ZŁOCH, S.: *Polnischer Nationalismus. Politik und Gesellschaft zwischen den beiden Weltkriegen*. Köln – Weimar – Wien 2010, p. 347.

19 At this time, National Democracy had undergone the evolution towards fascism. On detailed review see: RUDNICKI, S.: *Narodowa Demokracja po przewrocie majowym: Zmiany organizacyjne i ideologiczne (1926–1930)*. *Najnowsze Dzieje*

to the Piłsudski coup was the Camp for Greater Poland (Obóz Wielkiej Polski, OWP).²⁰ The new organization was modeled after the Italian fascist party.²¹ Dmowski controlled all the positions in this new organization. The new regime had no specific Jewish policy until the second half of the 1930s. At the same time, the governments honestly opposed and persecuted all manifestations of violent anti-Semitism. This also meant new opportunities for Jews as a community, even as other ethnic minorities such as the Ukrainians and the Germans languished under the Piłsudski's regime. In April 1931, the House of Deputies (Sejm), under Piłsudski finally passed a law eliminating the last "*exceptional decrees connected with descent, nationality, race and religion*".²² Moreover, Agudat Israel, a political representatives of conservative Jewry made an informal political alliance with the regime. As a result, the regime remained entangled in a defensive and largely futile war to prove that it was not a "Jewish protective guard". However, this recovery of the Jewish position was temporary. From this aforementioned peak, there came a slow and systematic descent. On one hand, we had here the most culturally and socially dynamic Jewish society in Europe, on the other, this was an ethnic minority, in a state of constant and growing hostility from the so-called Christian surroundings, suffering from intolerance, religious and ethnic hatred, street violence and even pogroms in the beginning of the 1930s.²³ Nonetheless, the pre-war history of Jews in Poland was not very different from the fate of Jews in Eastern Europe. It seems clear that the new "nation states" of this region with a few exceptions, treated Jews, despite their "citizenship" as not being of the national group, but as aliens and therefore not

Polski, 1914–1939, vol. 11, Warszawa 1967, especially p. 352–369; POLONSKY, A.: Roman Dmowski and Italian Fascism. In: POGGE VON STRANDMANN, R. J. – POLONSKY, A. (eds.): *Ideas into politics: aspects of European history, 1880 to 1950*. London – Totowa 1984, p. 130–146.

- 20 For more detailed study: RUDNICKI, S.: *Organizacja Narodowo-Radykalna. Geneza i działalność*. Warszawa 1985, p. 11–88.
- 21 For a synthesis see: POLONSKY, A.: *Roman Dmowski and Italian Fascism*, p. 132–133. See: BOREJSZA, J. W.: East European Perceptions of Italian Fascism. In: STEIN UGELVIK, L. (ed.): *Who Were the Fascists. Social Roots of European Fascism*. Bergen – Oslo – Tromsø 1980, p. 354–366. For a synthesis see: WARESZYCKI, H.: Fascism in Poland. In: SUGAR, P. F. (ed.): *Native fascism in the Successor States*. Santa Barbara 1971, p. 85–86.
- 22 See: RUDNICKI, S.: Anti-Jewish Legislation in Interwar Poland. In: BLOBAUM, R. (ed.): *Antisemitism and its Opponents in Modern Poland*, p. 158.
- 23 On first appearance of change of attitudes amongst ethnic Poles towards Jews in late 1920s see: POLONSKY, A.: A Failed Pogrom: The Demonstrations in Lwów, June 1929. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover – London 1989, p. 109–125.

deserving to benefit from the national wealth.²⁴ The situation of the Jews was further aggravated by the economic and social crisis in the 1930s.²⁵

Apart from widespread and growing popularity of anti-Semitism, inter-war Poland under Piłsudski's regime was not like the case of Nazi Germany though.²⁶ Drawing direct examples from Nazi Germany was, in the long perspective, less probable. Germany, whether democratic or Nazi, remained, in inter-war Poland, one of the country's two mortal enemies. This conviction, widely shared in the society, became one of the determining factors in Polish politics. The nationalist right, openly flirting with the Nazi ideology, like the radical left with its relations with Soviet Russia, became to be regarded as "un-Polish" and thus was undoubtedly deprived of any overwhelming popularity. On the other hand, anti-German attitudes had a strong historical basis, and were part of the rise of Polish nationalism. Therefore, most nationalist parties remained, on the one side generally anti-German, but on the other, especially after 1933, they were quite happy with and enthusiastic about the "de-Judaization" of Germany.²⁷

Anti-Semitism in Poland of those days, was not rationalized or provoked by the so-called Jewish overrepresentation in communism and in the professions and by Jewish leaders' threats of war on Polish anti-Semitism, at least from the regime's side, but rather flared up mostly on economic and cultural grounds. It became a real problem when economic crisis of the 1930s spread its shadow over the country, when the naked struggle for a job became a battle of the two nationalities. General fears, stimulated by increased competitiveness and the

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- 24 MENDELSON, E.: *The Jews of East Central Europe Between the World Wars*. Bloomington 1983, p. 255–258. See as well: HAUMANN, H.: *A History of East European Jews*, trans. J. Patterson. Budapest–New York 2002, p. 224–228.
- 25 Still worth reading remarks by: ETTINGER, S.: *Jews and Non-Jews in Eastern and Central Europe between the Wars: An Outline*. In: VAGO, B.–MOSSE, G. L. (eds.): *Jews and Non-Jews in Eastern Europe 1918–1945*. New York–Toronto 1974.
- 26 For more comprehensive view see: HAGEN, W.: *Before the Final Solution; Toward a Comparative Analysis of political Anti-Semitism in Interwar Germany and Poland*. *The Journal of Modern History*, vol. 68, 1996, no. 2, p. 351–381. See as well: GUTMAN, Y.: *Polish Antisemitism Between the Wars: An Overview*. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover–London 1989, p. 107–108.
- 27 See: GRÜNBERG, K.: *The Atrocities against the Jews in the Third Reich as seen by the National-Democratic Press (1933–1939)*. *Polin. A Journal of Polish-Jewish Studies*, vol. 5, 1990, p. 103–105. On reactions of the nationalist press on Nazi deportations of Jews and the Kristallnacht see: TOMASZEWSKI, J.: *The Polish Right Press, the Expulsion of Polish Jews from Germany, and the Deportees in Zbąszyń, 1938–1939*. *GAL-ED*, vol. 18, 2002, p. 89–100. On a more general level see: VITAL, D.: *A People Apart. The Jews in Europe 1789–1939*. Oxford–New York 1999, p. 803–804. On detailed discussion: KOTOWSKI, A.: *Hitlers Bewegung im Urteil der polnischen Nationaldemokratie*. Wiesbaden 2000.

prospect of unemployment were directed against the minorities, the Jews in particular, since they were a convenient target. Therefore, one of the biggest obstacles to the building of a civil society was the situation in the economy. The other important difference between Poland and Post-Versailles Germany was the situation of minorities as such. On this level, Germany could be considered in terms of the Wilsonian nation-state model, with small, dispersed minorities. All these circumstances had an affect on the dominant types of anti-Semitism. In Poland, this anti-Semitism was rooted largely in the popular Catholic conservative mentality of the population. In Germany, it relied more on pseudo-scientific grounds, being openly racist in content and paranoid in form.²⁸

The Polish political establishment, especially shortly after death of Józef Piłsudski in 1935, did not view the Jews as an organic threat to the national community, but as potentially disloyal and overpopulated social and cultural element, which may constitute some serious obstacles to the modernization of the Polish state. Of course, changes in this argument and terminology still developed at this time. E.g., a new generation of Piłsudskites joined forces with some of the young nationalist groups. This is not the place for us to retrace this element in detail, though it is essential when considering the political shift in high-ranking mainstream echelons.

On first sight, this made little difference in Nazi Germany, but it greatly affected the situation of the Polish Jewry. Even so, Jews, as an ethnic minority group, still somehow supported the government.²⁹ Moreover, the radical right of the Zionists movement, the so-called Revisionists-Zionists, under the leadership of Wladimir (Zeev) Jabotinsky, not only wished to make alliances with the Sanacja regime, but also wished to become open admirers of Piłsudski's cult.³⁰ On the opposite side, the authorities supported Jewish emigration on the basis of an agreement with the Zionist Revisionists.³¹

28 CAPLAN, S.: Polish and German Antisemitism. In: MILFULL, J. (ed.): *Why Germany?: national socialist anti-Semitism and the European context*. Providence – Oxford 1992, p. 221–226.

29 See: MENDELSON, E.: The Dilemma of Jewish Politics in Poland: Four Responses. In: VAGO, B. – MOSSE, G. L. (eds.): *Jews and Non-Jews in Eastern Europe 1918–1945*. New York – Toronto 1974, p. 203–219.

30 MENDELSON, E.: *On Modern Jewish Politics*. Oxford 1993, p. 35; BLATMAN, D.: The Bund in Poland, 1935–1939. *Polin. A Journal of Polish-Jewish Studies*, vol. 9, 1996, p. 82.

31 TOMASZEWSKI, J.: Ministerstwo Spraw Zagranicznych RP a antysemityzm (1936 – 1939). *Polski Przegląd Dyplomatyczny*, 2009, no. 1 (47), p. 137–147. For more discussion on the problem in European context see as well: BRECHTGEN, M.: *Madagaskar für die Juden. Antisemitische Idee und Politische Praxis 1885 – 1945*. Oldenburg 1998.

Having in mind this situation, we can follow the second wave of attempts to introduce anti-Jewish discriminatory legislation, which came up in the first half of 1930. In early 1930, the nationalist camp, at this time being the main opposition group in the country, not only called for regulations on student quotas in academic institutions, but openly demanded to deprive Jews of all “*political rights and that this entails*”.³² At this time, the Endecja regarded Jews as Poland’s principal, as well the most pernicious, enemy. The National Democratic press repeatedly argued for restricting Jewish political and civil rights and for the removal from Poland of as many Jews as possible. The most comprehensive policy toward Jews and other minority was formulated and published in November 1932.³³ The pamphlet called for a complete separation of Jews from “Aryan society”. It was assumed that the *numerus nullus* would be introduced in all schools and public institutions. All contacts with Jews, along with mixed marriages, would have been forbidden. These projects were immediately followed by a violent street campaign. There were more than a dozen acts of public aggression involving crowds of people, with nationalist thugs attacking the Jews, and a far greater number of attacks on a smaller scale. The anti-Semitic terror at the provincial level is, not well known yet, and still needs more comprehensive research studies. The first vitriolic anti-Semitic campaign of the OWP, which had engulfed the country, was forcefully suppressed by the Piłsudskites’ government. In 1933, the regime, after series of local anti-Semitic excesses by the OWP, banned the whole organization. To some extent, this was the Piłsudskites’ answer to the way the Polish nationalist right enthusiastically reacted to the Nazi seizure of power in Germany in January 1933.³⁴

Anti-Semitic activities and actions grew dramatically shortly after Piłsudski’s death. Once again, anti-Semitism became the war-machine of the nationalists against the government, against the left and, last but not least, against Jews.³⁵

32 Wytyczne w sprawie żydowskiej. Zjazd naczelny Młodzieży Wszechpolskiej (15. – 17. v. 1932). *Akademik Polski*, June 7, 1932, p. 1. See as well: RUDNICKI, S.: *From “Numerus Clausus”*, p. 254.

33 Wytyczne w sprawach żydowskiej, mniejszości słowiańskich, niemieckiej, zasad polityki gospodarczej. Warszawa 1932. For an extensive discussion about document, see: RUDNICKI, S.: *Obóz Narodowo-Radykalny. Geneza i działalność*. Warszawa 1985, p. 138–144.

34 See my article: The Hitler’s Machtergreifung and the Polish Nationalist Paradigm regarding the Jewish Question (1933–1939). *Politeja*, 2010, no. 2 (14), p. 259–267.

35 For detailed data see: MICHLIC, J.: *Poland’s Threatening Other*, p. 109–130; ŻYNDUL, J.: *Zajścia antyżydowskie w Polsce w latach 1935–1937*. Warszawa 1994. On radicalization of anti-Semitic excesses on the case of Warsaw University, see: NATKOWSKA, M.: *Numerus clausus, numerus nullus, “paragraf aryjski”: Antysemityzm na Uniwersytecie Warszawskim, 1936–1939*. Warszawa 1999. For

On the other side, the Sanacja regime, after Piłsudski's death had assumed a more fascist bent, or at least para-fascist policies were enacted. This para-fascist style during the post-Piłsudskites' era had its brief heyday in 1937, with the foundation of the Camp of National Unity (Obóz Zjednoczenia Narodowego, OZON). In July 1937, the University Act was issued, on the basis of which the Minister of Education allowed the rectors to issue public order instructions regarding segregating seating for Polish and Jewish students. This was the legal affirmation for the "ghetto bench" (this administrative obligation meant that both Jewish students, and students of Jewish origin, had to sit separately from other Non-Jewish students). Only the socialists (Polish Socialist Party, Polska Partia Socjalistyczna), liberal democrats (Stronnictwo Demokratyczne, SD, 1937) and the communists (Polish Communist Party, Komunistyczna Partia Polski, KPP), at that time all rather weak groups with a limited influence on the Polish political scene, opposed these solutions that were proposed by the regime and widely applauded by the nationalist opposition.³⁶

Further steps towards the resolution of the "Jewish question" were taken up in speeches of the leaders of the OZON.³⁷ On the Jewish question, the regime advanced the so-called thorough Polonization of economic, political, and social life. As early as during his famous inaugural speech in the Sejm on July 4, 1936, the new Prime Ministers, Felicjan Sławoj Składkowski though condemning physical assaults on Jews, approved an economic boycott.³⁸ At this time, several bills, mostly economic in character, were put before the Sejm, which were designed to root out Jews from various fields of the economy.³⁹ This trend lasted until the outbreak of the World War II. One could argue that on the grounds a sharp rightward shift in Polish politics, Dmowski's vision, with a massive boycott of Jewish businesses and industries and fierce competition with parasitic Jews, won. All measures taken by the regime and implemented

synthesis, compare also: WAPIŃSKI, R.: The Endecja and the Jewish Question. *Polin. A Journal of Polish-Jewish Studies*, vol. 12, 1999, p. 280–283.

36 MISHKINSKY, M.: The Communist Party of Poland and the Jews. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover–London 1989, p. 56–74.

37 Deklaracja ideowo-polityczna szefa Obozu Zjednoczenia Narodowego Adama Koca i przemówienia przewodniczącego organizacji miejskiej Obozu Zjednoczenia Narodowego Stefana Starzyńskiego. Warszawa 1937. In detail see: MAJCHROWSKI, J.: *Silni-Zwarci-Gotowi: Myśl polityczna Obozu Zjednoczenia Narodowego*. Warszawa 1985, p. 127–137.

38 RUDNICKI, S.: *Anti-Jewish Legislation in Interwar Poland*, p. 159.

39 The best known of these projects was on the issue of ritual slaughter. For more detailed discussion see: RUDNICKI, S.: Ritual Slaughter as a Political Issue. *Polin. A Journal of Polish-Jewish Studies*, vol. 7, 1992, p. 147–160; RUDNICKI, S.: *Anti-Jewish Legislation in Interwar Poland*, p. 162–163.

by the Sejm coincided with the boycott campaign directed by the nationalist movement. Even though it was true when we take it as a principle, it did not prove true in each case.

In general, from the late 1930s, on ideological level, the Sanacja began to disintegrate. The only one binder for all diversified interest groups, amongst them a considerable part of the Jewish community (in spite of adoption by the government some anti-Jewish legislation), which supported the regime, was self-preservation. To some extent, one could point out the regime hoped to lessen the nationalist appeal, which grew simultaneously with the economic crisis of the 1930s, by showing that it too could be anti-Semitic. Interestingly, this aforementioned rightwing shift of the Sanacja also crystallized more liberal and leftist opposition within the regime. A group of dissidents broke off from the ruling camp in October 1937 to form the Democratic Party (Stronnictwo Demokratyczne). After months of chaos and tensions within the establishment, it soon became apparent that the compromise between the left-leaning side of the regime and its reactionary and chauvinistic wing had been attained at the price of adopting official Anti-Semitism.⁴⁰

The conclusion of the *Theses on the Jewish Question* and its subsequent elaboration, contributed by Bolesław Miedziński, editor in chief of the *Gazeta Polska*, the official organ of the regime, in the autumn of 1938, constituted a sort of an official program of the authorities regarding the Jewish question up to the World War II.⁴¹ The view about the fate of the vast majority of Jews went as follows: “*It is a foreign body, dispersed in our organism so that it produces a pathological deformation. In this state of affairs, it is impossible to find a way out other than the removal of this alien body, harmful through both its numbers and its uniqueness.*”⁴² Together with the so-called economic offensive against the Jews, mass emigration was seen as “the only proper method” to settle the Jewish question.⁴³

Most strikingly, these last pronouncements of the regime galvanized Polish Jewry into action both in the country and abroad. As Edward Wynot stated:

40 In detailed examination, see: WYNOT, E. D.: *A Necessary Cruelty: The Emergence of Official Anti-Semitism in Poland, 1936–1936*. *American Historical Review*, vol. 76, 1973, no. 4, p. 1048–1049.

41 MIEDZIŃSKI, B.: *Uwagi o sprawie żydowskiej*. Warszawa 1938.

42 WYNOT, E. D.: *A Necessary Cruelty*, p. 1050.

43 TOMASZEWSKI, J.: *Ministerstwo Spraw Zagranicznych Rzeczypospolitej Polskiej wobec Żydów, 1938–1939 (dokumenty)*. *Polski Przegląd Dyplomatyczny*, vol. 3, 2003, no. 1 (11), p. 197–204. MELZER, E.: *Antisemitism in the Last Years of the Second Republic*. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover–London 1989, p. 126–137; RUDNICKI, S.: *Anti-Jewish Legislation in Interwar Poland*, p. 161.

“this brought forth the most determined show of Jewish resistance yet seen”.⁴⁴ Even for Polish observers, these strikes were remarkable in their form. On the other hand, one would have expected some further steps towards discriminatory anti-Jewish legislation.

Nevertheless, in Polish politics of those days, theory and ideology were one thing and reality another. Short-term tactical necessity dictated the regime to cooperate with Jews up to the end. After Adam Koc, chief of the OZON, resigned, all far-reaching plans fell apart again. With a rise in tensions within the government camp, the Jewish question disappeared from both the official view and state propaganda, until the autumn campaigns for parliamentary elections in October 1938. Although the theme was revived during the election, the OZON propaganda, especially in the provinces, urged the Jews to vote for the regime. The Sanacja was far from being the strongest of groups in various regions. The opposite was the case, and in some parts of the country, it may have been the weakest group. In fact, for their cooperation, Jews were offered five seats in the Sejm, and even one representative in the Upper Assembly (Senat). Even though by the end of 1938 the state propaganda could declare that the regime would resolve the Jewish problem, the reality was far more complex. The Sanacja could not afford to totally alienate neither the Jewish community nor the Western democracies by appearing to give in to the pressure from Nazi Germany.⁴⁵ By the end of the Second Republic, all these processes were being driven by deep, endemic and to some extent overlapping controversies of various kinds. The government needed support, wherever it could find it, and Jews, especially, the conservative groups and the Zionists provided substantial assistance to the political establishment.⁴⁶ From the historical perspective, the Polish Jews, like those in Austria, Hungary and Romania in those days, found

44 WYNOT, E. D.: *A Necessary Cruelty*, p. 1052. BLATMAN, D.: The National Ideology of the Bund in the Test of Anti-Semitism and the Holocaust, 1933–1947. In: JACOBS, J. (ed.): *Jewish Politics in Eastern Europe: The Bund at 100*. Warszawa 2001, p. 201–206; BRUMBERG, A.: The Bund and the Polish Socialist Party in the Late 1930. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover – London 1989, p. 83–94. On general, see as well: MENDELSON, E.: Jewish Reactions to Antisemitism. In: REINHARZ, J. (ed.): *Living with Antisemitism. Modern Jewish Responses*. Hanover – London 1987, p. 296–310.

45 See: MELZER, E.: Relations between Poland and Germany and their Impact on the Jewish Problem in Poland (1935–1938). *Yad Vashem Studies*, vol. 12, 1977, p. 215–220; MELZER, E.: *No Way Out: The Politics of Polish Jewry 1935–1939*. Cincinnati 1994, p. 123–126.

46 BACON, G. C.: Agudat Israel in Interwar Poland. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover – London 1989, p. 33.

themselves in the absurd position of looking to moderate anti-Semites for protection against the extreme ones.⁴⁷

Nevertheless, by this time, the idea that the Jews did not have the right to live in Poland, had deeply penetrated into the governing camp and not only among nationalist and Polish fascists.⁴⁸ As the year 1938 came to close, it became clear that amongst the new generation of Piłsudskites, the repulsion of Jews was a hot theme on the political agenda. Nonetheless, all of the projects that were put before the Sejm to separate Jews from Poles, though few were in fact considered by the legislative commission, were implemented.⁴⁹ In most cases, they failed to receive the requisite number of signatures to proceed further. Despite the ineffectiveness of anti-Jewish initiatives in parliament, the right continued a press campaign to push for a complete ridding of Jews from public life, pointing this time at the "Judaization" of parliamentary systems all over Europe, and especially the ruling camp in Poland.

The threat from Nazi Germany, especially after March 1939, forced the regime, and to some extent, the nationalist groups, to abandon these plans.

In this context, even more striking is the fact that, on the eve of the World War II, on the one side, Polish political anti-Semitism was one of the most vicious in Europe of those days, and even though it had made greater systematic inroads into all social strata of Polish society, it did not dampen the Jewish community. E.g., though the role of Jews in Polish politics and public life was at this time almost reduced to zero, their positions in commercial life and small businesses was left largely unimpeded.⁵⁰ In the final analysis, paradoxically enough, there was no anti-Jewish law passed that applied to all Jewish citizens. All the same, this equilibrium was fragile. The introduction of far more comprehensive anti-Jewish measures was only a question of time. This is not the place to explore this

47 More complex view of Jewish politics of this time see: MENDELSON, E.: Jewish Politics in Interwar Poland: An Overview. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover – London 1989, p. 15–19.

48 WYNOT, E. D.: *Polish politics in transition : the camp of national unity and the struggle for power, 1935–1939*. Georgia 1974. See as well: TOMASZEWSKI, J.: Memoriał z 1938r. w sprawie polityki państwa polskiego wobec Żydów. *Teki Archiwalne*, vol. 1, 1995, p. 119–130.

49 See: LANDAU-CZAJKA, A. – LANDAU, Z.: Posłowie polscy w Sejmie 1935–1939 o kwestii żydowskiej. In: *Rozdziały wspólnej historii: Studia z dziejów Żydów w Polsce ofiarowane prof. Jerzemu Tomaszewskiemu w siedemdziesiątą rocznicę urodzin*. Warszawa 2001, p. 212.

50 TOMASZEWSKI, J.: The Role of Jews in Polish Commerce, 1918–1939. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover – London 1989, p. 153–157. On general as discussed in: MAHLER, R.: Jews in Public Service and the Liberal Professions in Poland, 1918–1939. *Jewish Social Studies*, vol. 4, 1944, p. 342–346.

phenomenon in detail, but it needs to be kept in mind that on the eve of the World War II, nearly all legal Polish political parties had recommended that mass Jewish emigration should be adopted as a solution to the “Jewish question”. Even many socialists were, to say the least, ambivalent in their defense of the political rights of Jews and quite prepared to join with clearly anti-Semitic parties in plans for mass emigration, for the sake of the so-called Polish national cause (and their political survival).⁵¹ In the second part of 1938, some members of the ruling group suggested even organizing large-scale forced migrations of Jews.⁵²

Overall, the fate of Jews in interwar Poland varied over short periods. At the very beginning, the conditions were very bad for all Jews, and then they changed into fairly good conditions for Jews as Polish citizens, but not for the community.⁵³ Afterwards they finally returned to the roots at the outset of Polish independence. Overall, the Polish case leads to further questions about role and place of popular grass-rooted anti-Semitism in Eastern Europe, before implementation of the Final Solution.⁵⁴ Nonetheless, it is important to note that, despite those aforementioned conditions, social and legal position of Jews in 1939 was still substantially different from the situation after September 1939.

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- 51 On general: HOLZER, J.: Polish Political Parties and anti-Semitism. *Polin. A Journal of Polish-Jewish Studies*, vol. 8, 199, p. 196. CRANG, J.: The Opposition Parties in Poland and Their Attitude towards the Jews and the Jewish Problem. *Jewish Social Studies*, vol. 1, 1939, p. 251. On the peasant parties see: МАЊКО, S.: *Polski ruch ludowy wobec Żydów (1895–1939)*. Warszawa 2010, p. 385–416. See as well in: WYNOT, E. D.: The Polish Peasant Movement and the Jews, 1918–1939. In: GUTMAN, Y. (ed.): *The Jews of Poland Between Two World Wars*. Hanover – London 1989, p. 52–54.
- 52 TOMASZEWSKI, J.: *Memoriał z 1938r. w sprawie polityki państwa polskiego wobec Żydów*, p. 121–1925.
- 53 LUPOVITCH, H. N.: *Jews in Judaism in World History*. London – New York 2010, p. 214.
- 54 See: SYMET, D.: Polish State Anti-Semitism as a Major Factor Leading to the Holocaust. *Journal of Genocide Research*, vol. 1, 1999, no. 2.

Science at the Service of the Race

Population and Racial Policy in Fascist Italy: The Case of Franco Savorgnan

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Although he had successfully directed the Italian National Institute of Statistics (Istituto Centrale di Statistica, ISTAT) since its foundation in 1926, Corrado Gini was forced to step down in 1931 and was soon replaced by Franco Savorgnan, with the Royal Decree of February 1932.¹ If the reasons behind Gini's unexpected departure would seem to refer, on one hand, to the “*resistance caused by traditional bureaucracy towards his ‘technocratic’ centralization strategy*” and, on the other hand, his personal opposition to the total “*subordination of statistical science to the political and ideological interests of the regime*,”² far less is known about the reasons underpinning Savorgnan's appointment.

Although back then he was widely esteemed among Italian demographers, at the time of his appointment as director of the ISTAT, Savorgnan was unable to boast the same international acclaim as his illustrious predecessor. In reality, it seems that it was not so much “*his great modesty, scientific restraint and*

1 For a general framework, see: IPSEN, C.: *Dictating demography. The problem of population in Fascist Italy*. Cambridge 1996; LETI, G.: L'ISTAT e il Consiglio Superiore di Statistica dal 1926 al 1945. *Annali di Statistica*, volume (vol.) 125, 1996, number (no.) 8, page (p.) 145–156.

2 Regarding Gini's departure, see: CASSATA, F.: *Il fascismo razionale. Corrado Gini fra scienza e politica*. Roma 2006, p. 92–109.

loathing of any ostentatious display” that went in his favor, but most of all his submissiveness towards the regime.³

This hypothesis is partly borne out by an opinion expressed by Mussolini himself, who stated the following during a private conversation in 1934 with the Italo-German sociologist, Robert Michels: “[Gini] is a real worker; he created statistics in Italy. I like him. He must be well known abroad as well. Is that not right? Of course, I had to remove him from the post of director of statistics. I brought him in and said to him, ‘You have got a bad temperament’. He was forced to agree. His successor, Savorgnan, is better-natured.”⁴

In addition to substantiating the main hypotheses, used up until now, to explain the replacement of Gini by Savorgnan, this testimony alone helps introduce the general issue of the controversial connection between science, racism and fascism, which will be examined in the following pages through the intellectual figure of Franco Savorgnan (1879–1963). He was a paradigm of a scientist “at the service of the race” – who took part in the implementation of the ambitious population policy of the fascist regime starting in the early 1930s. Savorgnan held important public offices as the President of Istituto Centrale di Statistica (1932–1943), President of Società Italiana di Economia, Demografia e Statistica (1943–1945) and Deputy Director of the International Statistical Institute (1934–1947).

Prior to launching into any other reflections, it would seem appropriate to explain why – as part of an examination aimed at reviewing the meaning and origins of anti-Semitic legislation in Europe – it is deemed necessary to reflect on the connection between science and racism and, more generally, on the connection between culture and fascism, which is an issue that has already been explored in depth.⁵ An explanation is therefore required as to why I deem it equally important to focus on a seemingly marginal figure like Savorgnan, who,

3 TAGLIACARNE, G.: Franco Savorgnan. *Barometro economico*, 40, 1932, p. 483–489, especially p. 483.

4 Archive of Fondazione Luigi Einaudi, Turin, Robert Michels Archive: *Udienza dal Duce*, December 14, 1934, XIII.

5 See: TRANFAGLIA, N.: *Dallo Stato liberale al regime fascista. Problemi e ricerche*. Milano 1973, p. 113–127; MANGONI, L.: *L'interventismo della cultura. Intellettuali e riviste del fascismo*. Roma – Bari 1974; PAPA, E. R.: *Fascismo e cultura. Il prefascismo* (1974). Venice 1978; TURI, G.: *Il fascismo e il consenso degli intellettuali*. Bologna 1980; DE FELICE, R.: *Intellettuali di fronte al fascismo. Saggi e note documentarie*. Roma 1985; TURI, G. (ed.): *Libere professioni e fascismo*. Milano 1994; TURI, G.: *Lo Stato educatore. Politica e intellettuali nell'Italia fascista*. Roma – Bari 2002; BELARDELLI, G.: *Il Ventennio degli Intellettuali. Cultura, politica, ideologia nell'Italia fascista*. Roma – Bari 2005.

if compared to other “intellectual functionaries” that firmly subscribed to the fascist plan of creating the “new man”, could appear to be rather secondary.

The answer to both these questions mainly lies in the fact that, for entire decades before the outbreak of the violent racist campaign by the fascist regime in 1938 and the subsequent introduction of strict anti-Semitic legislation in Italy, this issue had been underestimated for the most part. To this end, it is sufficient to mention the opinion of an internationally renowned scholar George L. Mosse – whom De Felice would also quote. Mosse was not only quick to absolve Mussolini of the accusation of having been an outright racist, but also put the laws of 1938 down to the mere matter of political cynicism. In his opinion, by meeting the needs of internal and foreign policies, these laws would in fact have helped, on the one hand, to restore a revolutionary edge to an increasingly troubled regime and, on the other hand, to reinforce the alliance with Nazi Germany.

As part of a narrow range of interpretation that was profoundly conditioned by the myth of a fascist regime with a “human face” and, as such, not wholly assimilable to the Nazi regime, Mosse had reached the conclusion that, in Italy, anti-Semitic racism never played a constitutive role within fascist ideology and that, compared to Germany, anti-Semitic legislation had, therefore, taken on a mostly bland nature here.⁶ However, even though there is no doubt that fascist and Nazi anti-Semitism were significantly different phenomena, this does in no way allow the turning point of 1938 to be trivialized, in terms of a mere improvisation promoted by opportunistic elements of internal and foreign policies. On the contrary, as more recent studies have shown, this was the product of a logic that was an intrinsic part of fascism, fully keeping with its plans of an anthropological revolution.

In most recent years, particular credit has been given to Emilio Gentile, among others, for having conclusively placed fascist racism within the wider totalitarian plan of creating the “new man”, and the palingenetic transformation of the political, economic and cultural makeup of Italy, as well as the biological strengthening and cleansing of Italians.⁷ In the wake of the contributions made by Gentile, and within the more general framework of a renewed focus on the issue of debatable connections between fascism and modernity in the 1990s, Italian historiography had taken note of the fact that the highly debatable connection between racism and fascism is still far from being conclusively exhausted. It also marked a new period of studies devoted, on the one hand, to the analysis of the various “components” of fascist racism and, on the other hand, to the

6 MOSSE, G. L.: *Toward the Final Solution. A History of European Racism*. New York 1978, p. 200–201.

7 GENTILE, E.: *Fascismo. Storia e interpretazione*. Roma – Bari 2002, p. 235–264.

examination of the “scientific matter”, namely the role played by the sciences starting in the mid-1920s in the formation of culture, ideology and the political objectives of fascism.

Whereas, on the one hand, this made it possible to pinpoint more precisely the “sophisticated” nature of fascist racism and the fundamental terms of the prolonged ideological and political clash between its various components – biological, nationalist, traditionalist and esoteric⁸ – on the other hand, a heated debate could be started regarding the connections between eugenics, racism, population policy and fascist ideology. In this specific context, the studies conducted by Giorgio Israel and Pietro Nastasi⁹, Anna Treves¹⁰, Domenico Preti¹¹, Roberto Maiocchi¹², Francesco Cassata¹³ and Claudia Mantovani¹⁴, among others, were very useful. They helped by finally and resolutely facing the most crucial historiographic problem, which can be summed up in the following question: Was combining racial laws with the indigenous tradition of Italian racism merely a clever discovery of fascist propaganda to support the acceptance of anti-Jewish legislation, in terms of public opinion and the mobilization of scientists? Or did, clear racist elements truly exist in Italian scientific culture back in those days, which were capable of significantly encouraging the turning point of 1938?

The answers to these questions have of course differed, and thus given rise to an intense debate, aimed for the most part at shedding light on the relationships between science and fascism, as well as the role of the Catholic Church. This within a wide comparative framework involving the debatable connections between Nordic and Latin eugenics, between negative and positive eugenics, between qualitative and quantitative eugenics, and between Mendelian-based and Lamarckian-style eugenics, whereby one is based on methods of sterilization, abortion and obligatory birth control and the other on preventive social medicine, mother and child assistance and pro-natalist demography.

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- 8 ISRAEL, G.: *Il fascismo e la razza. La scienza italiana e le politiche razziali del regime*. Bologna 2010, p. 26 and p. 95–156.
 - 9 RASPANTI, M.: I razzismi del fascismo In: JESI, F. (ed.): *La menzogna della razza*. Bologna 1994, p. 73–89.
 - 10 ISRAEL, G. – NASTASI, P.: *Scienza e razza nell'Italia fascista*. Bologna 1998.
 - 11 TREVES, A.: *Le nascite e la politica nell'Italia del Novecento*. Milano 2001.
 - 12 PRETI, D.: *La modernizzazione corporativa (1922-1940). Economia, salute pubblica, istituzioni e professioni*. Milano 1987.
 - 13 MAIOCCHI, R.: *Scienza italiana e razzismo fascista*. Firenze 1999; MAIOCCHI, R.: *Gli scienziati del duce. Il ruolo dei ricercatori e del CNR nella politica autarchica del fascismo*. Roma 2003; MAIOCCHI, R.: *Scienza e fascismo*. Roma 2004.
 - 14 CASSATA, F.: *Molti, sani e forti. L'eugenica in Italia*. Torino 2006; MAIOCCHI, F.: «La Difesa della razza». *Politica, ideologia e immagine del razzismo fascista*. Torino 2008.

As Claudia Mantovani and Francesco Cassata rightly pointed out, one of the most important conclusions of this intensive debate suggests that the connection between science and fascist racism in Italy should be looked at, first, from the point of view of comparative studies and, second, in light of a vaster time scale, which allows it to be positioned at the convergence of two crucial junctures in contemporary European history. The first juncture coincides with the emergence, as from the late nineteenth century, of a laical paradigm of comprehension and management of social reality as an outcome of the secularization process, and the extraordinary legitimacy given to scientific thinking by technological progress. Between the late nineteenth century and the first decades of the twentieth century, this paradigm was transformed into a marked tendency towards the “biologization” of social reality and, more specifically, the standing of the degeneration/regeneration binomial. Eugenics as a “political science” of human reproduction essentially stems from this. The second juncture, on the other hand, coincides with the tension created at the heart of the liberal ideology by the triumphant standardization of social relations and the consequent emergence of political models, which replaced the traditional centrality of the individual with the new centrality of the community and the State as the supreme voice and manager of ethics. It was in this very context that the professionalization and politicization strategies of the technocracy of doctors, health specialists, political leaders and demographers gradually became integrated.¹⁵

In accordance with what has been written thus far, it becomes clear that, in relation to the 1938 outcomes, the examination into the connection between science, racism and fascism in Italy suggests a clearer rethinking of the whole course followed by the social sciences between the last few decades in the nineteenth century and the World War I. In view of this objective and hence a rereading not merely limited to an examination of the fascist period, reconstructing the “collective biography” of the generation of scientists and administrative officials at the service of the regime – with particular reference to those who signed the so-called *Manifesto della razza* of 1938 – allows us to explore some of the essential terms of the relationship between science and racism. We thus can retrace its birth and development in that long period in the political and cultural history of Europe between the nineteenth and twentieth centuries, marked by the reciprocal and problematic tainting between the myths of progress and decline, historical pessimism and social Darwinism, as well as nationalism and racism.¹⁶

15 MANTOVANI, C.: *Rigenerare la società. L'Eugenetica in Italia dalle origini ottocentesche agli anni Trenta*. Soveria Mannelli 2004.

16 Ibid., p. 356 and following.

The preceding statement therefore enables us to gain an understanding of the underlying reasons for the interest aroused by the seemingly marginal figure of Franco Savorgnan. An examination of this intellectual figure provides an initial contribution towards exploring the “scientific issue” in Italy – within the narrow framework of personal and nevertheless paradigmatic circumstances. In the early part of his career, as the main student of Ludwig Gumplowicz and a regular contributor to *Rivista Italiana di Sociologia* (*Italian Journal of Sociology*), he contributed to the success of the emerging sociological discipline and the diffusion of certain paradigms that were typical of German and Austrian sociology during the early twentieth-century Italian culture.¹⁷ First as the director of Istituto Centrale di Statistica and later, as the signatory of the 1938 *Manifesto della Razza*, not only did Savorgnan play a decisive role in implementing the population policies of the fascist regime, but he also actively contributed to the promotion of racial prejudice in early twentieth-century Italian political and scientific culture.

Establishing whether he was an instigator or, more simply, he merely executed racist fascist policy, and likewise, ascertaining whether he spoke out in favor of the idea that politics should follow what is suggested by scientific investigation in a diligent way or, on the other hand, whether he subscribed to the idea that scientific investigation only puts into practice the directives of the

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- 17 For a general framework, see: CESA, C.: Tardo positivismo, antipositivismo, nazionalismo. In: AA. VV.: *La cultura italiana tra '800 e '900 e le origini del nazionalismo*. Firenze 1981, p. 69–101; LANARO, S.: *Nazione e lavoro. Saggio sulla cultura borghese in Italia 1870–1925*. Venice 1979; PANCALDI, G.: *Darwin in Italia. Impresa scientifica e frontiere culturali*. Bologna 1983; MOSSE, G. L.: *Nationalism and Sexuality. Respectability and abnormal sexuality in modern Europe*. New York 1985; PAPA, E. R. (ed.): *Il positivismo e la cultura italiana*. Milano 1985; BARBANO, F. – SOLA, G. (ed.): *Sociologia e scienze sociali in Italia, 1861–1890. Introduzioni critiche e repertorio bibliografico*. Milano 1985; MANGONI, L.: *Una crisi fine secolo. La cultura italiana e la Francia fra Otto e Novecento*. Torino 1985; LA VERGATA, A.: *L'equilibrio e la guerra della natura. Dalla teologia naturale al darwinismo*. Napoli 1990; CROOK, P.: *Darwinism, War and History. The Debate over Biology from the “Origin of Species” to the First World War*. Cambridge 1994; KEVLES, D. J.: *In the Name of Eugenics. Genetics and the Uses of Human Heredity*. Cambridge 1995; BURGALASSI, M. M.: *Itinerari di una scienza. La sociologia italiana tra Otto e Novecento*. Milano 1996; HAWKINS, M.: *Social Darwinism in European and American Thought 1860–1945. Nature as Model and Nature as Threat*. Cambridge 1997; VICARELLI, G.: *Alle radici della politica sanitaria in Italia. Società e salute da Crispi al fascismo*. Bologna 1997; BURGIO, A. (ed.): *Nel nome della razza. Il razzismo nella storia d'Italia 1870–1945*. Bologna 1999; PADOVAN, D.: *Saperi strategici. Le scienze sociali e la formazione dello spazio pubblico italiano tra le due guerre mondiali*. Milano 1999; SHIPMAN, P.: *The Evolution of Racism. Human Differences and the Use and Abuse of Science*. Cambridge 2002; SCARTABELLATI, A.: *Intellettuali nel conflitto. Alienisti e patologie attraverso la Grande Guerra (1909–1921)*. Bagnaria Arsa 2003.

policy are all basically minor matters – compared to the fact that his biographical and intellectual career, placed as it is in the background of certain crucial changes in Italian cultural and political history in the nineteenth and twentieth centuries, allows us to make the complicated connection between science and racism to be taken into consideration in the long term. It therefore also allows for the verification of the hypothesis proposed by Claudio Pogliano, according to whom the fascist regime tapped directly into the “*arsenal of ideas, interventions and plans*” inherited from liberal Italy. This hypothesis, based on the observation of a clear “*continuous registry of personnel and facilities*” and a shared “*conceptual horizon*”, helped Pogliano reach the following conclusion: “*Something else about the age of positivism would stem from a set of studies – which are lacking and should be started – regarding the ‘consensus’ fabricated in the 1920s and 1930s by scientists and technicians within the outline of a fascist culture. Considerable energy and effort were turned towards the creation of a ‘new man’, fully integrated within a happy community project, unhindered by the totalitarian disguise of the liberal institutions and the decline of all traditional freedoms. Doctors and health specialists, demographers and sociologists, economists, psychiatrists and jurists in particular were all very serious about overcoming the classes to form a ‘nation’ as well as defending the ‘race’. On closer inspection, this is the same galaxy that had appeared on the horizon half a century previously. However little we might know about them, they were all committed to transforming the country and its structures, to improving the living conditions and the ‘race’.*”¹⁸

The “continuist” hypothesis, which did not wish to be trivialized in terms of pure and simple “anticipation”, can clearly be proven in the specific case of Savorgnan, who purposely published an article in the first edition of the journal edited by Telesio Interlandi, *Difesa della Razza*. In this article, by soliciting widespread investigation into the physical traits found “*more frequently in the Italian race*”, he tried to convince that it would prove useful “*not only from a scientific point of view, but also for the action that the Regime proposes to carry out in the racial field.*” He referred explicitly to the anthropometric surveys already conducted by Ridolfo Livi towards the end of the nineteenth century.¹⁹ This hypothesis, however, naturally stands for much more. The shared “concep-

18 WEILER, B.: Ludwig Gumpowicz und sein begabtester Schuler. Der Triestiner Franco Savorgnan. *Archiv für die Geschichte der Soziologie in Österreich*, July 22, 2001, p. 26–50.

19 POGLIANO, C.: Nuovi temi e interpretazioni del positivismo. In: PAPA, E. R. (ed.): *Il positivismo e la cultura italiana*. Milano 1985, p. 467. The theory of the substantial continuity of Italian social science is also supported in: GARZIA, M. B. C.: *Political Communities and Calculus. Sociological Analysis in the Italian Scientific Tradition (1924–1943)*. Bern 1998, p. 3–16.

tual horizon” underlined by Pogliano can be seen in Savorgnan, especially with regard to the theoretical incidence of Gumpłowicz’s sociology, essentially based on the inevitability of a clash between races, on historical and anthropological pessimism, on a methodological gruppensoziologisch approach and, finally, on an anti-democratic orientation.

It is sufficient to recall that, at the very beginning of the twentieth century, Savorgnan began his academic career by translating Gumpłowicz’s *Il concetto sociologico dello Stato* and publishing several essays, which were profoundly inspired by his theories.²⁰ He concluded his career in the late 1950s after having managed to avoid any sort of indictment, publishing a final tribute – yet again – to the Graz-based scholar.²¹

It is interesting to observe how, in the assimilation process of Gumpłowicz’s macro-sociology of conflict, Savorgnan had begun to reinterpret some important segments in a nationalistic and anti-Slavic sense, present since the very beginning of the century. For example, in a short article dating back to 1906, in which, by emphasizing numerous social groups that were fighting among themselves for power (“*um die Teilnahme an der Herrschaft kämpfen*”) within a multi-ethnic state like the Habsburg Empire, he sets out the reasons for irredentism and the Italian opposition to the threat of Slavic predominance along the Adriatic coast.²² Setting aside any ethical evaluations, the issue of “oppressed minorities” was ineliminable to Savorgnan, which was part of the constant conflictual relations between dominant and dominated groups. This was based on the cyclic conception of history, which had driven Gumpłowicz to reformulate the Schopenhauerian assertion “*eadem sed aliter*” as “*eadem et non aliter (ewige Wesengleichheit)*”. Savorgnan was in fact convinced that both Italian irredentism and any Slavic irredentism were a response to a natural logic of development, according to which all social and state aggregation was a *mixtum compositum*, founded on the antagonism between heterogeneous groups and the exploitation of one group by another.²³

20 SAVORGNAN, F.: I problemi della razza e l’opportunità di un’inchiesta antropometrica sulla popolazione italiana. *La Difesa della Razza*, vol. 1, August 1, 1938, p. 18.

21 GUMPOŁOWICZ, L.: *Il concetto sociologico dello Stato*, A cura di F. Savorgnan. Torino 1904. See also: SAVORGNAN, F.: Zur Soziologie der Staatengründung. *Politisch-Anthropologische Revue*, vol. 4, 1905, no. 6, p. 317–325; SAVORGNAN, F.: La monogenesi e l’unità del linguaggio. *Rivista italiana di sociologia*, vol. 10, March–April 1906, p. 230–234, SAVORGNAN, F.: Zur Soziologie der Seevölker. *Politisch-Anthropologische Revue*, vol. 6, 1907, no. 4, p. 242–251.

22 SAVORGNAN, F.: *Nel cinquantenario della morte di Ludwig Gumpłowicz*. Roma 1959.

23 SAVORGNAN, F.: Das Wesen des Irredentismus. *Politische-Anthropologische Revue*, vol. 5, 1906, no. 8, p. 474–476.

On a purely ideological level, there is another essay, also dating back to the turn of the century, which demonstrates Gumpłowicz's influence on the development of Savorgnan's political ideas.

In *Die politischen Wirkungen des allgemeinen Wahlrechts*, Savorgnan denied the theoretical premises – naturalness of rights, universal equality and general will – which underpin the concept of “popular sovereignty”. Moreover, he emphasized that the rights of individuals originated from the position of power held within the State by corresponding social groups of reference and social differentiation was always the product of a historical process of development. Therefore, the right ratified by the norm could not be an expression of an abstract general will, but rather the ensuing “*aus der Kräften der um die Macht kämpfenden Parteien: ‘Winners and losers, the dominant and the dominated, this is the eternal feature of the State, so that the power relationships are absolutely necessary to uphold the State. A State in which all social groups exercise the same political power, where no-one is therefore politically superior, belongs to the category of the impossible and unthinkable.*’”²⁴

If the inability to overcome the division between the dominant (Herrschende) and the dominated (Beherrschte) was not only in line with the truth of the matter, but was also the very essence of any historical process, then to Savorgnan it was clear that the concept of “popular sovereignty” and its related principles of Liberté, Égalité and Fraternité were simply expressions of “political astuteness” (politische Klugheit). These were used by the various groups, which were fighting among themselves for power, in an attempt to attract the approval of the masses, which, on the other hand, were always “*ready to fight and die for simple, easily comprehensible and exciting ideas*”.²⁵ The actual European history of the last century clearly showed the purely instrumental and rhetorical nature of the major democratic dogmas: universal suffrage, the main tool used to realize the general will, had been adopted in republican constitutions and constitutional monarchies. However, instead of contributing in a decisive way to the reversal of social relations, it had become a “toy”, which, having fallen into the hands of an unscrupulous adventurer like Bonaparte, had allowed for realizing objectives of a completely different nature to be reached. In other words, to Savorgnan, extending the right to vote, albeit an expression of an unavoidable modern trend, did not bring with it an increase in the political weight of the popular masses in line with their substantial numbers. On the contrary, incapable of getting their act together and coherently expressing their interests in the political fight, the popular masses were left in a state of

24 GUMPOWICZ, L.: *Il concetto sociologico dello Stato*, in particular § 2 of Book VI (L'impulso della propria affermazione), p. 176–180.

25 SAVORGNAN, F.: *Die politischen Wirkungen des allgemeinen Wahlrechts. Sonderdruck aus der Politisch-Anthropologische Revue*, vol. 7, 1908, no. 6, p. 4.

complete passivity. To this end, fully concurring once more with Gumpłowicz's declaration in 1897, who had stated that the idea of general will was none other than a "phantasmagoria"²⁶, Savorgnan emphasized that universal suffrage was merely an "extraordinary tool to exploit the power of the masses in a political way".

A crucial move in the development of his intellectual career later coincided with the paper that he dedicated to the issue of progress,²⁷ on the fringe of discussions held at the 8th International Congress of Sociology, organized in Rome in the winter of 1911. Presupposing the existence of a goal, as well as an upward movement in view of reaching this goal, progress was – in Savorgnan's opinion – a teleological concept, distinct from the concept of evolution, which, referring to the Heraclitean principle of *πάντα ρεῖ*, (everything flows) merely implied that the law of social life was flow and not stagnation. Being unable to establish with any certainty the existence and nature of this goal, entire generations of thinkers therefore relied on their "imagination", maintaining, with a wide range of arguments that it would consist, optimistically, in the "implementation of good, justice or peace", and so the very story of evolution always finished "with a happy ending". Specifically referring to Gumpłowicz's anti-teleological notion, whereby civilization did not remotely consist in the moral progress of humanity, but, more simply, in the continual "increase of needs, in the increment of the division of labor and in the larger number of inventions created in order to satisfy those needs".²⁸ Savorgnan therefore judged the idea of the general progress of humanity as "inadmissible" and proposed an alternative expression, namely "special progress in certain fields", exclusively referring to technical and economic developments.²⁹

While acknowledging scientific progress as an "incontestable fact", the Trieste-born scholar did not fail to point out that, in the technical and economic field, a multitude of doubts could nevertheless arise regarding the correlation between costs and benefits. In terms of technological progress, the question remained unanswered as to whether, exceeding the "capacity of man's nervous system", this was responsible for that "feverish" modern life – a symptom of a diseased and potentially fatal state for the existence of the race – which was corroborated by the "staggering increase in mental illness, neurasthenia and [...] suicides." Similarly, despite believing that it would have reduced the "painfulness of labor", increased the overall production of goods, and, in general, improved the living conditions of humanity, Savorgnan denied all connections between the quantitative and

26 Ibid., p. 5.

27 SAVORGNAN, F.: *Die politischen Wirkungen des allgemeinen Wahlrechts*, p. 7.

28 SAVORGNAN, F.: Il concetto di progresso. *Rivista italiana di sociologia*, XV, IV, September–October, 1911, p. 566–570.

29 GUMPOWICZ, L.: *Il concetto sociologico dello Stato*, p. 198 and 201.

qualitative fulfillment of the needs – and thereby the very idea of a possible equation between economic progress and happiness: “As primary needs become satisfied, others arise that make their presence known in a pressing and painful way, and satisfying these new needs sparks yet others and so forth, so that the *crescit eundo* of needs never stops. Thus mankind, despite working incessantly, like the Danaids in the ancient myth, never sees the light at the end of the tunnel.”³⁰

Put in these terms, in the first decade of the twentieth century, the problem of the much-discussed connection between progress and degeneration dramatically soon re-emerged. Then in particular, following the outbreak of the World War I, which had long been hoped for and celebrated as a healthy explosion of vitality capable of regenerating European society on a physical and spiritual level, it was denounced as a supreme form of biological degeneration, as “reverse eugenics”.

Was this an extreme and beneficial form of “racial selection” or a “counter-selective” attack on the biological integrity of the race? This was the crucial, new question investigated by a whole generation of scientists. Numerous palingenetic aspirations, which went hand in hand with the end of the conflict in Europe, focused on this issue. The gravity of the destruction and devastation was such to sever continuity with the past, and decide that the time had come for total regeneration and perpetual mobilization in the name of the longed-for destinies of collective redemption. Savorgnan, in his book of 1918, was the one who voiced these concerns:

*“The war, with its horrors, grief and sicknesses, wields a totally dysgenic action, which damages the healthiest nucleus of the nation. The post-war problem of the population will therefore be an essentially eugenic problem; and it will not be enough that the peoples re-form in terms of numbers, but it should be reborn as a race. Therefore, the future will belong to the nations that resolve the population problem, not with the bestial brutality of undisciplined sexual instincts, which procreates blindly, but with the eugenic principles that intelligence, reason and science are able to suggest. In this way, the virtue of the race could rise again in an organized manner and prove itself again, renewed, in that fight for power, which seems to be the supreme law that governs the evolution of humanity.”*³¹

Under the effects of the traumatic revelation of the destructive and “dysgenic” potential of modern technological war, the activism of regenerators by profession – namely, doctors, statisticians, demographers and biologists willing to place their skills at the service of the well-being of the race and, therefore, to act as eugenicists of the community – was meant to reintroduce health and radically anti-modern

30 SAVORGNAN, F.: *Il concetto di progresso*, p. 567.

31 *Ibid.*, p. 570.

myths. This led a return to nature and ruralism in an aggressive way, extolling, for example, the virtues of outdoor physical activity, healthy eating and sexuality. However, this regenerative activism also revealed itself, almost paradoxically, willing to make a much more modern use of what the conflict passed down to the post-war societies: the experience of a war whereby the entire productive apparatus was put at the service of the military undertaking in a huge effort to centralize decision-making, streamline procedures, and coordinate resources by the state authority.

Immediately after the war, this vast and extremely modern organizational experiment manifested itself in the success of two veritable political myths of particular importance for the subsequent enforcement of the fascist regime as perpetrators of a new direction towards political power by socio-professional groups, attracted more by the prospects of the biological regeneration of humanity. In the first place, it dealt with the myth of the “state-management” of collective resources and, secondly, the myth of the State entrusted with the supreme duty of safeguarding the community.

Beginning with the enforcement of these myths, in the early 1920s, Italian doctors and health specialists discovered the regenerative potential of the health policy. In their turn, Italian demographers like Savorgnan relied on a population policy managed rationally from above and capable of not sacrificing the “quantity” for the “quality” of the population: hence, not just births, but selected births achieved by encouraging “*the multiplication of those in possession of the racial qualities that need to be preserved and handed down to descendants*”.³² This resulted in the theoretical need for a close cooperation between a “qualitative” population policy, capable of “rebuilding the race”, and a science, capable, in turn, of having a direct impact on mankind. This close cooperation would proceed to be put into practice in 1926 with the foundation of the Istituto Centrale di Statistica. This would be reinforced gradually over the coming years, as borne out by Savorgnan’s statement in 1940: “*A population policy that is restricted to preaching the biblical crescete et multiplicamini (go forth and multiply), leaving to Providence the responsibility of tending to the needs of a population increase, would be lacking in substance, and thus futile. Now, Italy has the good fortune that it is the sense of the reality of things that determines all of the Duce’s actions. [...] This need explains the conquest of the Empire, as well as the whole soil redemption policy, also known as ‘bonifica integrale’, whose ultimate goal is to give future generations the possibility to live and work.*”³³

32 SAVORGNAN, F.: *La guerra e la popolazione. Studi di demografia*. Bologna 1918, p. 141.

33 GIBELLI, A.: *L'officina della guerra. La grande guerra e la trasformazione del mondo mentale*. Torino 1991.

Anti-Semitic Legislation in Italy from the National Socialist Viewpoint in the Period 1938 to 1942

Kilian Bartikowski (Germany)

INTRODUCTION: THE NATIONAL SOCIALIST VIEWPOINT ON ITALIAN FASCISM

In the 19th century Italy, Italian Jews were highly integrated into society. Besides the religious resentment, anti-Semitism was a phenomenon comparatively unimportant to Germany or to other European nations.¹ After Benito Mussolini came to power in 1921, the situation did not change as dramatically as it did in Germany after Adolf Hitler's takeover in 1933. Unlike in the party manifesto of the Nationalsozialistische Deutsche Arbeiterpartei (NSDAP), a strongly perceptible anti-Semitism in the Italian Fascist Party was an issue that would arise only later. For this reason, historical scholarship has for many years debated the key question – Why did Mussolini and his regime institute racist and anti-Jewish legislation so suddenly at the end of the 1930s?

Contrary to the formerly accepted view of Renzo De Felice, recent research proves that the development of anti-Semitism in Fascist Italy had domestic origins, and was not the result of the influence of Nazi-Germany upon Italy.² Michele

1 WYRWA, U.: *Juden in der Toskana und in Preußen im Vergleich. Aufklärung und Emanzipation in Florenz, Livorno, Berlin und Königsberg in Preußen*. Tübingen 2003.

2 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*. Torino 1993; for a English translation see: DE FELICE, R.: *The Jews in Fascist Italy. A History*. New York 2001.

Sarfatti and other Italian scholars have provided a compelling new account of how these anti-Semitic laws in Fascist Italy were actually developed and implemented.³ These scholars have come to the conclusion that the development of anti-Semitism in Fascist Italy was the result of an internal Italian law-making process and a self-imposed attitude of reserve in the application of this legislation. For this reason, Italian anti-Semitism during Fascism may be called “home-grown”.⁴

In light of this new research, it is especially important to consider how National Socialism perceived the beginnings of anti-Semitism in Italy. In 1978, the Israeli historian Meier Michaelis had already suggested that the situation in Fascist Italy can be best understood when we read both German and Italian sources.⁵ By considering both perspectives on the matter, he provided persuasive evidence that in 1938 there was no German pressure on Italy to institute anti-Semitic Laws.

Even if we can reject this idea that Nazi Germany forced Fascist Italy into an anti-Semitic policy, the following question still remains: How did the National Socialists treat the subject of anti-Semitism in Italy before and, more importantly, after they came to power? We need also to ask whether there were some other, more subtle, but nonetheless powerful, kinds of influences that Nazi Germany might have had upon Italy. Given the fact that radical anti-Semitism was a central element of National Socialist ideology, we have to consider that the National Socialist regime in Italy would have carefully observed the development of an anti-Semitic and racist policy. In this connection, we need to ask the following questions: How did the National Socialists regard the introduction of racist legislation in Italy? How strong was the German confidence in its Italian ally, when it came to this issue? How did the National Socialists assess the

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- 3 SARFATTI, M.: *Gli ebrei nell'Italia fascista. Vicende identità persecuzione*. Torino 2007; FABRE, G.: *Mussolini razzista. Dal socialismo al fascismo: la formazione di un antisemita*. Milano 2005; COLLOTTI, E.: *Il fascismo e gli ebrei. Le leggi razziali in Italia*. Roma 2003; see also: ZIMMERMAN, J. D. (ed.): *Jews in Italy under Fascist and Nazi rule, 1922–1945*. Cambridge – New York 2005; SCHLEMMER, T. – WOLLER, H.: Der italienische Faschismus und die Juden 1922 bis 1945. *Vierteljahrshefte für Zeitgeschichte* (VfZ), volume (vol.) 53, 2005, page (p.) 165–200; WETZEL, J.: Der Mythos des „braven Italiens“. Das faschistische Italien und der Antisemitismus. In: FRAML, H. – KÖNIGSEDER, A. – WETZEL, J. (eds.): *Vorurteil und Rassenhaß. Antisemitismus in den faschistischen Bewegungen Europas*. Berlin 2001, p. 49–75.
 - 4 SARFATTI, M.: Autochtoner Antisemitismus oder Übernahme des deutschen Modells. Die Judenverfolgung im faschistischen Italien. In: KLINKHAMMER, L. – OSTI GUERRAZZI, A. – SCHLEMMER, T. (eds.): *Die „Achse“ im Krieg. Politik, Ideologie und Kriegführung 1939 bis 1945*. Paderborn 2010, p. 231–243.
 - 5 MICHAELIS, M.: *Mussolini and the Jews. German-Italian relations and the Jewish question in Italy, 1922–1945*. London 1978; MICHAELIS, M.: La politica razziale fascista vista da Berlino. L'antisemitismo italiano alla luce di documenti inediti tedeschi (1938–1943). *Storia Contemporanea*, vol. 11, 1980, p. 1003–1045.

different Italian racial theories, which concerned biological and non-biological orientation, and how did they perceive the leading Italian exponents of these theories? In addition to these questions, we need to ask when the general topic of anti-Semitism in Italy became a daily political issue in Germany, and when it ceased to be such an issue, and why.

This paper focuses mostly on the year 1938, as well as the time period of the early 1940s. The aim of this article to show that within National Socialism – as a political system being far removed from any pluralistic thinking – a permanent viewpoint on the development of an anti-Semitic policy did not exist.

FROM 1920 TO 1935: NS-CRITICS – ABSENCE OF ANTI-SEMITISM IN FASCIST ITALY

Even if Italian Fascism is considered as a model that influenced the development of National Socialism in Germany, as Wolfgang Schieder had noted,⁶ many National Socialists in the 1920s distinguished their own movement from Italian Fascism, by the absence of anti-Jewish sentiment in Italy. In 1925, Julius Streicher called Mussolini a “Judenknecht”⁷ (servant of Jews) and Alfred Rosenberg was convinced, that in Italy things were not going so well, because he thought that Italian Jewry had decisive influence on the Fascist government.⁸ As these two examples of two high-ranking NS-politicians show, it was a commonly held opinion in the NSDAP that not only had the Italian government neglected to implement an anti-Semitic policy, but also that Italian Jews were significantly influential in politics. Very often National Socialist writers took State-Secretary Aldo Finzi as an example that Jews could make a political career in the Fascist state, even though he never was a member of the Jewish community.⁹ The way of looking upon Italy was based more on clichés and stereotypes than on facts and knowledge. Of course, anti-Semitism in Italy of the 1920s did not play the same role as it did in Germany or other European states. However, this does not prove that Italian Jewry had any influence on the Fascist government. How then did this way of thinking arise?

6 SCHIEDER, W.: Das Italienische Experiment. Der Faschismus als Vorbild in der Krise der Weimarer Republik. *Historische Zeitschrift*, vol. 262, 1996, p. 47–70.

7 HOEPKE, K. P.: *Die deutsche Rechte und der italienische Faschismus. Ein Beitrag zum Selbstverständnis und zur Politik von Gruppen und Verbänden der deutschen Rechten*. Düsseldorf 1968, p. 156.

8 ROSENBERG, A.: *Auf der schiefen Ebene. Der Weltkampf. Die Judenfrage in Geschichte und Gegenwart*, vol. 1, 1924, p. 36.

9 For the National Socialist viewpoint see: DRESLER, A.: *Mussolini*. Leipzig 1924, p. 50–54; with thanks to Mrs. Fiametta Finzi for the certificate of birth and baptism of Aldo Finzi.

The distinguishing differences in the two ideologies had their origins in World War I, where the two countries saw each other as arch enemies. One example is the “Völkische Bewegung”, a radical nationalist and anti-Semitic movement in Germany, from which some members of the NSDAP obtained their ideological beliefs. As a result of the South Tyrol question, this movement fostered strong anti-Italian sentiment among Germans.¹⁰ Similarly, Hitler’s plan to annex Austria resulted in strong anti-German feeling among the Italians. However, Hitler himself was not happy with some members of his party who criticized Italian Fascism, since he saw such opinions as destructive to his plans to recruit Mussolini and his regime as a potential partner in National Socialism. For this reason, Hitler forbade attacks on Italian Fascism after his imprisonment in Landschut in 1925 and his return to the political scene.¹¹ It is obvious that Hitler’s dictum mitigated the strength of criticism in the rank and file of his own followers, but in times of political crisis between Fascism and National Socialism, as in the spring of 1934, the old animosities against the Italians resurfaced in Germany.¹² When the Austrian fascist dictator Engelbert Dollfuss was killed by a group of Austrian National Socialists, Mussolini sent troops to the Italian-Austrian border, because he interpreted the assassination of the Austrian dictator as an attempt by Germany to expand its territory to the south. At the same time, Gestapo-Headquarters in Berlin became interested in whether a potential Jewish influence existed in Italy.¹³

However, one year later convergence was recreated, because of the Italian invasion of Abyssinia (Ethiopia) in 1935 and the consequent colonial war, Nazi Germany grew closer to Fascist Italy.¹⁴ An analysis of how this conflict was perceived in Germany indicates that a shared racist ideology facilitated

10 MICHAELIS, M.: *La politica razziale fascista vista da Berlino*, p. 1013–1014.

11 Ibid., see also: *Hitlers zweites Buch. Ein Dokument aus dem Jahr 1928. Eingeleitet und kommentiert von Gerhard L. Weinberg*. Stuttgart 1961, p. 223–224.

12 For the anti-German feelings in Italy see: Bundesarchiv, Berlin-Lichterfelde West (BArch), NS 43, 222, Bd. 1, Außenpolitisches Amt der NSDAP; DUCI, R.: Deutschland Ende 1934. *Il Cantiere. Settimanale di cultura politica* 2, 12. 1. 1935.

13 Politisches Archiv des Auswärtigen Amtes (PA/AA) Berlin, Inland II a, R 72855, vol. 8, Innere Politik, Parlament und Parteiwesen; Schreiben von Smend vom 8. 4. 1934; the Gestapo was interested whether rumors about the nomination of 14 Jews as Senators in Rome were true. The German Ambassador Ulrich von Hassel denied this request; see also: Ibid., Schreiben von Hassel an Köpke vom 24. 5. 1934 und 8. 6. 1934 mit Aufzählung der jüdischen Mitglieder im italienischen Senat.

14 BERNHARD, P.: Die „Kolonialachse“. Der NS-Staat und Italienisch-Afrika 1935 bis 1943. In: KLINKHAMMER, L. – OSTI GUERRAZZI, A. – SCHLEMMER, T. (eds.): *Die „Achse“ im Krieg. Politik, Ideologie und Kriegführung 1939 bis 1945*. Paderborn 2010, p. 147–175.

the strengthening of relationships between Italian Fascists and the National Socialists.¹⁵ Indeed, in this relationship anti-Semitism played a minor role, because before the fascist press campaigns of 1936, anti-Semitism in Italy had a relatively subtle form. Nevertheless, this strengthening of the ideology was noticed by certain National Socialist experts on Racial Policy, among the most notable of these experts being Walther Gross head of the Rassenpolitische Amt der NSDAP (Office of Racial Policy).¹⁶

Old conflicts were mitigated by unofficial visits to Italy and Germany by such experts from both countries, as well as by former diplomats. It is worth noting that Italy probably took the first step toward this relationship. Shortly after the invasion of Abyssinia, the Italian government initiated contact with Germany when it organized the unofficial mission of former consul Gino Scarpa to German specialists in eugenics and important members of the Nazi Party, like Darrè, Goebbels, Rosenberg and Ribbentrop.¹⁷ Since these meetings were of a clandestine nature, they were not often discussed in the mainstream press and open cooperation in the development of a racial policy was still to come.

1938: FASCIST ITALY AS A POTENTIAL PARTNER IN AN “ANTI-SEMITIC AXIS”

In 1938 the situation changed. German politicians and experts in racial policy back then followed the developments of 1938 in Italy and saw a promise of ideological support. The now overt anti-Semitic politics in Italy had a decisive impact on the German perception of Italy as a potential partner nation in racial politics. Where Germany had previously stood alone in the practice of such politics, it could now cite Italy as a second European country that initiated its own racial policy.

The political situation in the Berlin–Rome Axis served as a catalyst in the strengthening of this relationship.

15 BARTIKOWSKI, K.: Italy's Abyssinia Campaign 1935–1936 and Italian Colonial Policy from the National Socialist Viewpoint. In: BESIÈRE, G.: *Fascism, communism and the consolidation of democracy. A comparison of European dictatorships*. Berlin – Münster 2006, p. 33–40.

16 PA/AA, Nachlass Hans Georg von Mackensen, vol. 7; Bericht von Walter Groß zur Vorgeschichte des italienischen Rassenmanifestes vom 26. 8. 1938; see also: MICHAELIS, M.: Un aspetto ignoto del ravvicinamento tra fascismo e nazismo durante la guerra d'Etiopia in un documento inedito tedesco. In: SERRA, E. – MIGLIAZZA, A. – DE CLEVA, E. (eds.): *Diplomazia e storia delle relazioni internazionali. Studi in Onore di Enrico Serra*. Milano 1991, p. 391–410.

17 PA/AA, Nachlass Hans Georg von Mackensen, vol. 7; Bericht von Walter Groß zur Vorgeschichte des italienischen Rassenmanifestes (note 1616).

This move toward anti-Semitic policy by the Italian government provoked hopes among National Socialists that a strong racial consciousness would arise in Italy as well. How were the particular steps taken toward racial policy by the Italian Government evaluated?

At first, it did not seem that Mussolini fostered anti-Semitism in Italy in the way that the National Socialists did in Germany. After a preparatory press campaign in 1937, the Italian Ministry of Propaganda (Ministero della Cultura Popolare) published the issue *Informazione Diplomatica* No. 14 on February 16, 1938.¹⁸ In contrast to other nations, the German reaction shows restrained dissatisfaction, because in this document the Italian government proposed a solution of the so-called Jewish Problem in Italy by the invention of a *numerus clausus* and the creation of a Jewish state. Although the Italian government made it clear that Palestine, then under British mandate, was out of the question,¹⁹ this issue was not acceptable for National Socialist ideologists like Joseph Goebbels. The Minister for Press and Propaganda interpreted this paper as an Italian protest against racial anti-Semitism, and a sign of loyalty with the Italian Jews.²⁰

A few months later, after Hitler's state visit to Italy in April 1938, the situation changed again, and racism became an overt item of Fascist politics. However the *Manifesto della razza degli scienziati italiani* – the Italian Racial Manifesto – published on the July 15, 1938, came as a surprise to Germany, just as to other nations. In contrast to the rest of the world, this step received very positive reviews in the Nazi press.²¹ When we compare this published praise with reports about these events from the German Embassy in Rome, we find no significant differences. Immediately after the publication of the Italian Manifesto, German Press attaché Hans Mollier produced a twenty page report investigating its origins.²² In this document, Mollier stressed that there was no significant connection between

18 FABRE, G.: L' *Informazione Diplomatica* N. 14 Febbraio 1938. *La Rassegna Mensile di Israel*, vol. 73, 2007, p. 45–101.

19 Ibid., p. 87.

20 Ibid.

21 DRESLER, A.: Faschistische Anerkennung der Rassenfrage. Erklärung faschistischer Hochschulprofessoren zur Rassenfrage. Errichtung einer Generaldirektion für Bevölkerungs- und Rassenpolitik. Absage an die Latinität. *Der Weltkampf. Die Judenfrage in Geschichte und Gegenwart*, vol. 15, 1938, p. 338–341; Die Fortführung der Rassenfrage in Italien. *Der Weltkampf. Die Judenfrage in Geschichte und Gegenwart*, vol. 15, 1938, p. 439–446; Der neue Stand der Judenfrage in Italien. *Der Weltkampf. Die Judenfrage in Geschichte und Gegenwart*, vol. 15, 1938, p. 484–487.

22 PA/AA, Botschaft Rom, 1436, vol. 1, Rassenfrage 1938; Report of Mollier from August 8, 1938; for a copy of Molliers report of the August 8, 1938 see also: PA/AA, R 99168, the report was sent to Ministry of Propaganda and the Foreign Ministry; for the report see also: MICHAELIS, M.: *Mussolini and the Jews*.

the former population policy in Italy and the sudden publication of the Racial Manifesto. At the same time, he offered no alternative account of how the sudden adoption of this racial policy came to pass. Leaving open the question of how the Italian Manifesto originated, he positively judged the adoption of a racist policy, and remarked that it would find fertile soil in Italy so long as Nazi Germany did not interfere excessively in the Italian situation.²³

In keeping with this opinion, NS press regulations required that the development of anti-Semitic policy in Italy be depicted as an indigenous process.²⁴ Being cautious to avoid injuring Italian national pride, it was forbidden to present anti-Semitism as an ideology imported from Germany.²⁵ The thesis that the presence of this ideology in Italy was not the result of German influences appeared correct.

Like the manifesto, the “leggi razziali” and the process that lead up to their ratification were carefully observed and evaluated by German diplomats. At this point, the once favorable opinion in the German diplomatic corps about the Italian situation diminished. When, in October 1938, the Grand Council of Fascism dismissed an anti-Semitic race-declaration and when the Italian government ratified the Racial Laws the following November, we see a marked change of attitude in diplomatic reports on Italy from the German Embassy. These reports were particularly critical of the Italian definition of the word “Jew” being presumed in this legislation, and of the absence of the Nazi concept Mischling, a concept of so-called half-breeds.²⁶

Given that German diplomats took their Nuremberg Laws as a standard model of adequate legislation, they failed to recognize the radical nature of the Italian laws, and how these laws systematically excluded Italian Jews from wider Italian society. In their reports, we find indications that Nazi anti-Semitism was more radical than its analogue in Italy. However, this does not suggest that the Italian legislation enshrined an insignificant form of anti-Semitism, when we consider that these measures were evaluated by comparison with the

23 Ibid.

24 BOHRMANN, E. (ed.): *NS-Pressenanweisungen der Vorkriegszeit. Edition und Dokumentation*. Vol. 6/II: 1938, München 2007, p. 659–660; in the press instruction of August 8, 1938 it was declared that Italian comments about the “Racial Question” should be depicted but not commented.

25 The *B. Z. am Mittag* wrote an article under the title *Italien erläßt Judendekrete nach dem Muster der Nürnberger Gesetze*. Nachtsitzung des Faschistischen Großrats unter Mussolini. See: *B. Z. am Mittag*, on October 7, 1938, the Ministry of Propaganda criticized the article as not being appropriate, because it attacked Italian national pride; see: BOHRMANN, E. (ed.): *NS-Pressenanweisungen der Vorkriegszeit. Edition und Dokumentation*. Vol. 6/III: 1938, München 1999, p. 932.

26 MICHAELIS, M.: *Mussolini and the Jews*, p. 170.

radical German case. It is also worth noting that the critical opinion of the German diplomats towards Italian Racial Laws did not, as yet, have any political consequences.

Twice in this period Hitler himself called Mussolini's decision to ratify anti-Jewish legislation "*a big step towards an anti-Jewish Europe*", because this decision meant that Germany would no longer stand alone as a proponent of an anti-Jewish policy.²⁷ For a short time, the common growth of anti-Semitism in Italy and Germany also became a topic of the official axis propaganda. We see this development, for example, in the "State Visit" of Roberto Farinacci and Julius Streicher in January 1939.²⁸ He and his fellow "Jew-baiter" Julius Streicher had the opportunity to imitate Mussolini's visit to Germany in 1937 and Hitler's visit to Italy in 1938, with one important change: anti-Semitism played a clear and important role in the speeches of the satraps. This was not the case in the prior State Visits of Mussolini and Hitler.²⁹

The National Socialist's promising start towards Racist and anti-Semitic co-operation found its sudden end with the dismissal of Guido Landra as Chief of the Office of Racial Politics in the Italian Ministry of Propaganda in the Spring of 1939. Landra, as Mussolini's official ghostwriter of the Racial Manifesto, was a promoter of German-Italian contacts in eugenics and racial politics. After his replacement with his opponent Sabato Visco, German-Italian relations in racial politics turned sour.³⁰

27 The first time that Hitler mentioned Italian racism and anti-Semitism as remarkable steps towards a Fascist Europe was in the opening speech at the Nuremberg party conference of 1938; see: DOMARUS, M. (ed.): *Hitler. Reden und Proklamationen 1932–1945. Kommentiert von einem deutschen Zeitgenossen*. Vol. 1, 2. Wiesbaden 1965, p. 892; the second time was in his speech at the Reichstag on the January 30, 1939; see: *Verhandlungen des Reichstags*, 4. Wahlperiode, vol. 460, Stenographische Berichte 1939–1942, p. 1–21.

28 BARTIKOWSKI, K.: Der Deutschlandbesuch von Roberto Farinacci im Januar 1939. Zur Inszenierungspraxis faschistischer Regime. *Jahrbuch für Antisemitismusforschung*, vol. 20, 2011, p. 180–194.

29 BENZ, W.: Die Inszenierung der Akklamation. Mussolini in Berlin 1937. In: GRÜTTNER, M. – HACHTMANN, R. – HAUPT, H. G. (eds.): *Geschichte und Emanzipation. Festschrift für Reinhard Rürup*. Frankfurt am Main – New York 1999, p. 401–417; BAXA, P.: Capturing the Fascist Moment. Hitler's Visit to Italy in 1938 and the Radicalization of Fascist Italy. *Journal of Contemporary History*, vol. 42, 2007, number (no.) 2, p. 227–242; BAUERKÄMPER, A.: Die Inszenierung transnationaler Praxis. Der Staatsbesuch Hitlers im Mai 1938. In: VOGT, S. (ed.): *Ideengeschichte als politische Aufklärung*. Berlin 2010, p. 129–153.

30 KUFELKE, K.: Rassenpolitik und Rassenhygiene in Italien. Der Anthropologe Guido Landra als Leiter des Amtes zum Studium des Rassenproblems. *Jahrbuch für Antisemitismusforschung*, vol. 10, 2001, p. 265–286, p. 273.

AT THE BEGINNING OF THE 1940S: DISTRUST OF THE ITALIAN PARTNER

If we look at the beginning of the 1940s, we see that the situation changed again. Certain events of 1941 and 1942 prove that Germany's once positive appraisal of Italy during the appearance of the Italian Manifesto waned after Italy was evaluated as an inconsistent collaborator in World War II.³¹

The fact that Italy had its own anti-Jewish legislation and its own way of dealing with the Jewish Question, provoked tension between Fascism and National Socialism, because the National Socialists had to accept the sovereignty of the Italian State. Walther Gross, a former patron of German-Italian cooperation in racial politics proposed in 1941 that the different anti-Semitic legislations of the states collaborating with Germany should be observed and evaluated more carefully.³²

We have to bear in mind that the National Socialist regime radicalized its own Jewish policy in the years between 1939 and 1941. The regime now changed from the discrimination and persecution of Jews in Germany and in the occupied territories, to the practice of exterminating Jews.³³ Given the German support for such an extreme form of anti-Jewish policy, the less extreme form of anti-Semitism at work in Italy appeared to German onlookers to be insufficiently robust.

To illustrate this thesis, it is worth analyzing the function of the opinion-forming processes between state-authorities and the Nazi Secret Service SD (Sicherheitsdienst des Reichsführers SS).

The German Government's increasingly critical reports on Italy, as well as its intransigent commitment to the so-called *Endlösung*, provoked again a change in how National Socialist observers perceived their Italian partner. Basically, the German point of view changed in 1940 when Italy entered World War II and when the SD began a systematic observation of Italy and its politics.

A comment by an SD-Trainer in a preparation course for Nazi spies and their work in Italy in the Führerschule der Sicherheitspolizei in Berlin-Charlottenburg is a significant example of National Socialist paranoia about a Jewish anti-German conspiracy.³⁴ The trainer emphasized in his speech that espionage in a

31 KÖNIG, M.: *Kooperation als Machtkampf. Das faschistische Achsenbündnis Berlin – Rom im Krieg 1940/41*. Köln 2007.

32 GROSS, W.: *Die rassenpolitischen Voraussetzungen zur Lösung der Judenfrage*. München 1943.

33 POHL, D.: *Verfolgung und Massenmord in der NS-Zeit 1933 – 1945*. Darmstadt 2008.

34 Special Archive in Moscow (RGVA SA), fund (f.) 500, Op. 1, 1081, Ausbildungspläne, Vorträge über den italienischen faschistischen Staat, für die Kommandeurenschule der Sicherheitspolizei, p. 23–32; Vortrag über die Aufgabe der nachrichtendienstlichen Arbeit in Italien vom 7. 6. 1940.

friendly Fascist Italy would be highly dangerous for both the German spy and for the “German Reich”, if the spy were to be discovered by the Italian authorities, because this would provoke distrust in the Italian government. Nevertheless, he described the work of the German Intelligence Service as highly necessary, because he believed that in Fascist Italy groups existed that could be extremely hostile to the Berlin – Rome Axis.³⁵ As a matter of fact, Nazi spies very often tried to find specific Jewish influences in Italy, and described the actions of the Italian government against Italian Jews as insufficient.³⁶

A clear example of how this opinion-making process was influenced by individuals is a meeting of the two self-confessed anti-Semites Johann von Leers and Giovanni Preziosi in 1941 in Rome. In 1941 Leers, who was a polyglot, rhetorically gifted and a propagandist of German racial politics, was invited as a speaker at a series of lectures at the Bibliotheka Hertziana, organized by Werner Hoppenstedt’s Department of Humanities.³⁷ At the same time, he worked as an un-official informant of the SD. During his residence in Rome, Leers came in contact with Giovanni Preziosi who was, as the Italian editor of the *Protocols of the Elders of Zion*, one of the leading protagonists in Italian anti-Semitic circles and a close acquaintance of the dismissed Guido Landra, who had arranged this contact between Leers and Preziosi.³⁸ In an unofficial meeting, Preziosi reported to Leers that the situation in relation to the “Racial Question” was getting worse in Italy, because a group of Freemasons was working against the Berlin – Rome Axis. Preziosi and Landra identified Sabato Visco and Giacomo Acerbo as the leaders of this anti-German conspiracy.³⁹ Conspiratorial thinking often influenced the perception of racial issues in the inner circles of the SD.

Parallels in the reports of the German diplomatic corps can also be found. In these reports, Nazi spies criticized the anti-Jewish policy of the Italian government, emphasizing that it was not strong enough, even though Italy had radicalized that policy between 1939 and 1943. State Secretary Martin Luther,

35 Ibid.

36 PAEHLER, K.: Ein Spiegel seiner selbst. Der SD-Ausland in Italien. In: WILDT, M.: *Nachrichtendienst, politische Elite, Mordeinheit. Der Sicherheitsdienst des Reichsführers SS*. Hamburg 2003, p. 241–266.

37 BARTIKOWSKI, K.: Der italienische Antisemitismus im Urteil des Nationalsozialismus. Eine Auswertung der im sogenannten Sonderarchiv befindlichen Berichte des SD-Ausland über die Lage in Italien. *Bulletin des deutschen Historischen Instituts Moskau*, vol. 2, 2008, p. 100–112.

38 Ibid., p. 105.

39 With thanks to Martin Finkenberg who gave me the unpublished documents of Johann von Leers, see: RGVA SA Moscow, f. 1283, 12b, Bericht über meine Studienreise nach Italien [1940?], p. 36–41.

Head of Referat D III, the so-called Department of Jewish Affairs in the German Ministry of Foreign Affairs, complained repeatedly in 1941 about the Italians and their lack of racial consciousness when he considered the Italians as potential partners in the Holocaust.⁴⁰

We must keep in mind that these reports are rooted in ideology and that their authors very often were convinced of a Jewish anti-German conspiracy in Italy. This paranoia circulated amongst the authorities of the Nazi State, as in the department of Martin Luther. This strengthened the opinion in these administrations that Fascist Italy had no interest in the so-called Final Solution.

CONCLUSION

Contrary to other works on anti-Semitism in Fascist Italy, this essay has utilized a perceptual method of carrying out historical scholarship. The main goal was to describe and analyze the processes of perception and the evaluation of the anti-Semitic and racist policy in Italy by the National Socialist Regime.

In conclusion, three points should be stressed: It is clear that in Germany no homogenous evaluation existed about the situation in Italy. Germany's opinion of Italy can be, at best, described as "oscillating". We have to consider as well that a variety of such opinions existed in Nazi Germany, and that these opinions differed in quality. Some expressed naive clichés, whereas others statements were the result of much more detailed observation. The permanent anti-Semitic attitude of Nazi politicians, and of authorities in the NS-state and the radicalization of this anti-Semitism, created the opinion that anti-Jewish sentiments in Fascist Italy were too mild. Again, we have to bear in mind that National Socialist politicians looked upon Italy from an especially radical anti-Semitic perspective. The purpose of this article is to show that Italian Fascism had an indigenous form of racism and anti-Semitism. This can be demonstrated by the perceptions of the National Socialist – which have been illustrated here. Of course, we should not equate the forms of anti-Semitism in Nazi-Germany and those in Fascist-Italy. However, the idea that there was no genuine and home grown anti-Semitism in Italy, will only lead to the construction of myths.

40 PA/AA, R 99164, Aufzeichnungen Vollmers über Deutsch-italienische Zusammenarbeit auf rassepolitischem Gebiet, see also: POMMERINM, R.: Rassenpolitische Differenzen im Verhältnis der Achse Berlin – Rom 1938 – 1943. VfZ, vol. 27, 1979, p. 646–660.

“Discriminazione, non persecuzione?”

The Situation of Italian Jews in the Years 1938–1943

Piotr Podemski (Poland)

Despite its widely proclaimed totalitarian ambitions, Italian Fascism has long been known as *il totalitarismo imperfetto* (an “imperfect” or “incomplete” totalitarianism). In order to demonstrate this abovementioned characteristic, it would hardly be possible to indicate a more adequate aspect of its policies than the Jewish question. This paper aims at an examination of the Italian Racial Laws of 1938, in the light of earlier fascist social and racial policies, an issue that is still controversial and subject to various interpretations. The practical implementation of the Laws, as well as some additional legislation, will be analyzed in the second section, whilst the last part will be devoted to the impact of the social factor, in an attempt to depict the range of attitudes towards fascist discriminatory practices of both Italian Jews themselves and the rest of the country’s population. What all these issues have in common is that they refer to the period between 1938 and 1943, i.e. the time of an independent Italian fascist anti-Jewish policy, following the declaration of the Racist Manifesto in 1938, and terminating with the Nazi occupation of the country as a result of Italy’s withdrawal from World War II on the Axis side. As a foreign scholar, with no direct or long-term access to the archives, I will confine my study to the examination of the official documents and a presentation of a panorama of up-to-date findings of my Italian and Anglo-Saxon colleagues.

1. THE ROOTS AND CHARACTERISTICS OF THE RACIAL LAWS (1938)

For many, the coming to power of Mussolini and Fascism in 1922 hardly seemed a prelude to any alteration in the Jews' traditional good status in Italian society.¹ With the exception of some radical Catholic circles and a few nationalists, there had been no widespread hatred or violence directed against the Jews, who constituted – to make things clear from the very beginning – a tiny minority, somewhere around 0.1% of the country's population (some 45,000 people in the 1930s).² For historical reasons their presence was concentrated in the ghetto of Rome, a traditional Jewish quarter within the papal city, and a group of major towns in the North (Milan, Trieste, Livorno, Florence).³ With an important exception of the more conservative Roman Jews, they tended to intermarry with the rest of the Italian population, and some even converted to Christianity, professing well-rooted Italian patriotism, e.g. spilling their blood in the World War I. Their social and economic status – just like their level of education – was generally higher than the Italian average.⁴ Jewish attitudes towards Italian politics mirrored those of the rest of the king's subjects, as they supported a wide range of parties and movements.⁵ Although the 19th century witnessed, as everywhere in Europe, an era of national revival, Italy had developed a special tradition in this respect. It is often argued that Italian nationalism and later racism – at least up to a point – was “spiritual” and not “biological”, very much in accordance with the ideas of Vincenzo Gioberti, the author of the famous book *Del primato morale e civile degli italiani*. The word *stirpe* (Italian for “race”, but even better “breed” or simply “people”) was in common use, but – as many researchers point out – it referred to a “spiritual” or “cultural”, rather than “biological” community of the Italian people. It bore striking resemblance to ancient Romans' superiority complex towards “barbarians”, people deemed inferior because of their different language as well as their primitive culture and living conditions.⁶

1 COLLOTTI, E.: *Il fascismo e gli ebrei. Le leggi razziali in Italia*. Roma 2003, page (p.) 6–7.

2 ZIMMERMAN, J. D. (ed.): *Jews in Italy under Fascist and Nazi Rule, 1922–1945*. Cambridge 2005, p. 4.

3 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 68.

4 ORVIETO, I.: Letters to Mussolini. Italian Jews and Racial Laws. In: ROTH, J. K. – MAXWELL, E. (eds.): *Remembering for the future. The Holocaust in an Age of Genocide*. Volume (Vol.) 1. New York 2001, p. 466.

5 TOSCANO, M.: Italian Jewish Identity from the Risorgimento to Fascism, 1848–1938. In: ZIMMERMAN, J. D. (ed.): *Jews in Italy under Fascist and Nazi Rule, 1922–1945*. Cambridge 2005, p. 47.

One cannot deny that many Jews did support the Italian fascist regime right from its outset.⁷ Even if there was also a group of prominent Jews in the antifascist camp, like those signing Benedetto Croce's Intellectuals' Manifesto, this simply proves the community's perfect integration into Italian society, and its participation in the great political debates of the day, on various sides⁸. Even though occasionally some fascists might have come up with traditional accusations against the liberal West "*that has degenerated into an immense Jewish bank at the service of the ruthless, transatlantic plutocracy*",⁹ Mussolini himself in 1920 solemnly declared: "*Italy does not know anti-Semitism and we believe she will never know it. [...] In Italy we make no distinction between Jews and non-Jews, in no field, from religion to politics, from army to economy [...] Jews have their new Zion here, in this beautiful country of ours, which many of them have defended, offering their own blood.*"¹⁰ Similar declarations were made on many occasions, including those openly condemning Hitler and the still fledgling Nazi movement in Germany. Even as late as September 6, 1934, the Duce spoke of a "*superior pity*" Italians must adopt towards "*certain doctrines from outside the Alps, spread by successors of tribes that were unfamiliar with the art of writing [...] in the times when Rome already had Caesar, Virgil and Augustus.*"¹¹ Surprisingly, the Italian "spiritual" racism seemed to come down on the Germans far more than the Jews.

Thus, with no doubt, the question of the motives of the radical change of Mussolini's Jewish policy in 1938 is one of the most challenging, still controversial and yet at the same time intriguing problems, concerning the study of Fascist Italy. One cannot fully understand the nature of the Racial Laws without the context of the reasons for their promulgation. For the sake of time and space constraints, it is beyond my possibilities in the present study to summarize this debate thoroughly, and hence I shall solely expose the main perspectives.

Some earlier scholars like Renzo De Felice and Meir Michaelis claimed – which is an extremely common idea until this day – that Italian racist policies were a

6 IPSEN, C.: *Dictating Demography. The Problem of Population in Fascist Italy*. Cambridge 1996, p. 185.

7 NIDAM ORVIETO, I.: The Impact of Anti-Jewish Legislation on Everyday Life and the Response of Italian Jews, 1938–1943. In: ZIMMERMAN, J. D. (ed.): *Jews in Italy under Fascist and Nazi Rule, 1922–1945*. Cambridge 2005, p. 159.

8 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*. Torino 1961, p. 87.

9 D'ANNUNZIO, G.: *La penultima ventura: scritti e discorsi fumani, a cura di R. De Felice*. Milano 1974, p. 89, 103.

10 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 82.

11 Ibid., p. 159.

direct consequence of the Axis pact with Nazi Germany, if not simply a move imposed by Hitler.¹² Yet, more recent studies have shown there were no German pressures in this respect, and the decision must be explained within the logic of Mussolini's system itself.¹³ This does not rule out that he might have wished to consolidate his alliance with the Germans or – as some point out – might have been influenced by similar decisions made by some other regimes in what truly proved to be European Jews' *annus terribilis*.¹⁴ On the other hand, most researchers tend to stress motives relating to fascist domestic policies. Many argue that racism – and thus anti-Semitism – was an obvious consequence of the fascist totalitarian project, the “anthropological revolution” aiming at the creation of a New Italian (Italiano Nuovo), thus demanding the elimination of any “impure” elements.¹⁵ Another theory claims it was in Africa that Mussolini – previously declaring that “*the race consists of emotions rather than actual reality*”, “*there are no races*”¹⁶ – came to believe the eventuality of “*the contamination of Italian blood*” actually existed and it was the regime's mission to prevent it. This theory on the would largely perceive fascist anti-Semitism as a by-product of colonial racism, as there was an evident time correlation between the launching of the Racial Laws and the occurrence of some serious racial problems in Italian East Africa.¹⁷

However, it has recently been emphasized that some openly anti-Semitic circles had been present within Fascism – in significant numbers – and for years were tolerated by Mussolini, whose personal ideas on that issue can be considered, at best, as highly ambiguous and hesitant.¹⁸ Following the arrest of an opposition group of Giustizia e Libertà in Turin in 1934, including its Jewish members, the Duce is thought to have gradually come to believe that Jews, both in Italy and abroad, could be identified with the forces of anti-Fascism.¹⁹ Hence, notorious anti-Semites like Paolo Orano, Telesio Interlandi, Julius Evola and Giovanni Preziosi were authorized to spread their views on a far larger scale than before. Preziosi wrote in his journal *La vita italiana*: “*The Jew remains*

12 SARFATTI, M.: Characteristics and Objectives of the Anti-Jewish Racial Laws in Fascist Italy, 1938–1943. In: ZIMMERMAN, J. D. (ed.): *Jews in Italy under Fascist and Nazi Rule, 1922–1945*. Cambridge 2005, p. 7.

13 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 58.

14 SARFATTI, M.: *Gli ebrei nell'Italia fascista*. Torino 2007, p. 154.

15 GENTILE, E.: *La grande Italia: ascesa e declino del mito della nazione nel ventesimo secolo*. Milano 1999, p. 173.

16 LUDWIG, E.: *Rozmowy z Mussolinim*. Lwów 1934, p. 66, 313.

17 GERMINARIO, F.: *Fascismo e antisemitismo. Progetto razziale e ideologia totalitaria*. Roma 2009, p. 3.

18 SARFATTI, M.: *Le leggi antiebraiche spiegate agli italiani di oggi*. Torino 2002, p. 17.

19 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 21.

a Jew whatever nationality he embraces. The Jew remains a Jew whatever his political creed. The Jew remains a Jew even when he makes himself Christian."²⁰

This was nothing else, but a classic "biological" anti-Semitism, which – as it is claimed – was at some point adopted by Mussolini himself.²¹ Consequently, in the early summer of 1938, a young researcher at Rome University, Guido Landra, was summoned by Dino Alferi, the Minister of Popular Culture, and then personally by the Duce who ordered him to prepare a consistent documentary basis for the imminent racist policies.²²

Landra's text – with the Duce's personal amendments – was published on July 14, 1938 as the *Manifesto of Italian Racist Scholars*. It consisted of ten short declarations and respective explanations. Following the basic statements that "Human races exist", "There are great and small races", "The concept of race is purely biological", "There is already a pure 'Italian race'", in fact only one of the declarations was directed explicitly against the Jews: "Jews do not belong to the Italian race. [...] Jews are the only population, which has never been assimilated in Italy as it consists of non-European racial elements, absolutely different from those that gave origin to Italians." A meaningful declaration VII stated: "It is high time Italians openly proclaimed themselves as racists," revealing a dose of reluctance among some Italians to do so. The last declaration, the only one containing any practical instructions for action, among pseudo-scientific theoretical assertions of the rest of the document, affirmed that "the Italians' purely European physical and psychological characteristics must not be altered in any way",²³ which openly urged not to mix the races. The structure of the document, in my opinion, provides us with yet one more argument in favor of the "African" origins of fascist racist policies.

On the other hand, it is evident that Mussolini had undertaken a series of preparatory measures, of purely anti-Semitic nature, well prior to the publication of the Manifesto. As early as February 1938, Italian ministries were instructed to verify the numbers of Jews present in the armed forces, at universities as well as in public administration and security forces. Though at the same time, the widely propagated text of Mussolini's *Informazione diplomatica* No. 14 firmly refuted the existence of any plans to "inaugurate an anti-Semitic policy".²⁴ One might treat

20 Ibid., p. 51.

21 ZIMMERMAN, J. D.: *Jews in Italy*, p. 8.

22 SERVI, S.: Building a Racial State: Images of the Jew in the Illustrated Fascist Magazine, *La Difesa della Razza*, 1938–1943. In: ZIMMERMAN, J. D.: *Jews in Italy under Fascist and Nazi Rule, 1922–1945*. Cambridge 2005, p. 114–115.

23 For the complete text of the Manifesto see: DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 611–612; COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 60–61.

24 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 152.

this double game as a sign of the regime's hesitations or – alternatively – an attempt to conceal the well-defined projects from those who were to be affected.

Following the publication of the Manifesto, the next step towards the implementation of the principles it expressed, was the “racial census” on August 22, 1938, aiming at identification and confirmation of the whereabouts of Jews present in Italy, performed by Demorazza (Direzione generale per la Demografia e Razza), a special section created within the Ministry of the Interior just five days after the publication of the Racist Manifesto (i.e. July 19), with Antonio La Pera and Guido Buffarini-Guidi.²⁵ There could be two reasons for the new census: one of ideological and one of practical nature. The former was that – contrary to the previous census conducted in 1931 – it did not rely on the principle of declaration of one's own identity, but on a racist criterion as outlined by the authorities, in order to collect personal data of the future victims, while the latter might have been the need to find out the numbers of foreign Jews who had migrated to Italy as a result of persecutions in other European countries, e.g. Germany.²⁶ A total of 58,412 people were found to have had at least one Jewish parent, of which 10,380 were foreigners. A total of 46,656 persons were considered as “real Jews” (ebrei effettivi), with 9,415 foreigners among them.²⁷ Thus, the percentage of non-Italian Jews had almost doubled since 1931,²⁸ which implied a further complication from the point of view of the fascist regime, as the “alien” Jewish newcomers were not quite the same as their well-integrated Italian compatriots. A full 45% of the total Jewish population was involved in trade or business. Unfortunately, the personal data, so meticulously gathered by the fascist census, proved of extraordinary use to the Nazis, when after 1943 they put into practice their own version of anti-Jewish policies.²⁹

Consistently with the previous ambiguous developments, what was left as a hope to the Italian Jews, anxious about this new openly anti-Semitic measure, was a phrase from another *Informazione diplomatica* No. 18: “*To discriminate does not mean to persecute.*” (“*Discriminare, non significa perseguitare*”).³⁰ It was in this light that many tried to interpret the two Royal Decrees that were issued on September 5 and September 23, 1938. The first one, surprisingly, proceeded with a racist segregation in schools, an institution never explicitly mentioned

25 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 327.

26 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 66.

27 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 160.

28 SARFATTI, M.: *Le leggi antiebraiche*, p. 10–11.

29 PAVAN, I.: *Persecution, Indifference, and Amnesia. The Restoration of Jewish Rights in Postwar Italy*. Jerusalem 2006, p. 8.

30 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 327.

in the Racist Manifesto. A further extension of this regulation on September 23, allowed Jewish teachers and pupils, previously banished from regular state schools, to continue, albeit in special Jewish sections, while Jewish communities were also entitled to found schools of their own.³¹ The decision to commence discrimination in schools might have stemmed from the personal ambitions of minister Giuseppe Bottai or the totalitarian dimension of the entire project: the schooling system truly penetrated into each and every remote part of the country, and school certificates were to bear the note: “*di razza ebraica*”. A more practical reason could have been the will to shape the new educational system at the beginning of the school year.³² On September 7, a new Royal Decree heavily came down on non-Italian Jews, who were forbidden to reside in the kingdom. Any previous decisions conceding them Italian citizenship were declared null and void, unless issued before 1919, which meant even those who had spent two decades in the country were anyways declared foreigners. In what must be viewed as quite a harsh treatment, considering the context of the Nazi threat, they were urged to abandon Italy within six months, yet there was some doubt left whether they would not be allowed to migrate to Italian East Africa.³³

The September decrees in a way lack consistency with the logical evolution of the racist campaign. It was on the night of October 6–7, 1938, that the comprehensive racial projects outlined by Mussolini were brought back to life in what reportedly turned to be a long and troubled debate of the Great Fascist Council. As we can make out from the official transcripts, a number of senior fascists, including Cesare Balbo, Emilio De Bono and Luigi Federzoni, objected to the proposed regulations. They stressed the problems of Jewish war veterans, having fought for Italy patriotically, as well as that of their children, deprived of the opportunity to be educated as fascists (again the “spiritual”, and not “biological” concept of racism). When it was admitted that some exceptions had to be allowed for those Jews in recognition of their merits, the same leaders argued there would be so many of them as to make any discrimination pointless.³⁴

After the heated discussion, the *Declaration on Race* of the Great Fascist Council was officially proclaimed no later than the following day.³⁵ Nevertheless, it took

31 Royal decree (RD) 1390, September 5, 1938 (Provvedimenti per la difesa della razza nella scuola fascista) and RD 1630, September 23, 1938. COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 69–70.

32 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 70–71.

33 RD 1381, September 7, 1938 (Provvedimenti nei confronti degli ebrei stranieri).
DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 331.

34 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 346.

35 For complete texts of the different drafts and the final version of the Declaration see:
DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 621–629.

a month for the fascist authorities to turn the ideological principles of the Declaration into the main Racial Law, a sort of Magna Charta of fascist anti-Semitism,³⁶ the Royal Decree No. 1728 of November 17, 1938, which at least in some points simply repeated the text of the Declaration.³⁷ In the first chapter, resulting from Fascism's special attention to "*the qualitative and quantitative improvement of the Italian race*" (the *Italiano nuovo* project), marriages of Italian citizens with persons belonging to other races were prohibited. Article 8 provided a complex, casuistic definition of Jewishness, declaring Jewish any person either (a) born of both Jewish parents or (b) of one Jewish and one foreign parent or (c) of a Jewish mother and an unknown father or (d) any person professing the Jewish religion, belonging to a Jewish community or in any way demonstrating their Jewish identity. A number of restrictions were imposed on "*Italian citizens of Jewish race*" (art. 10). They were forbidden to serve in the military, to work as teachers or supervisors of youth, to own companies employing more than one hundred persons or those linked to national defense. Limits were set on Jewish ownership of land and urban real estate. Jews were not allowed to work for the public administration, the fascist party, local authorities, trade unions and numerous other organizations (art. 13). They also had to rid themselves of their "Aryan" servants at home (art. 12). The previous decisions concerning foreign Jews were confirmed (art. 17, 23), although slightly mitigated, as those over the age of 65 and those who had married Italians before October 1, 1938 were allowed to stay in the country (art. 25).

The notion of *discriminazione* was introduced, referring not to those affected by the Laws, but to those Jews who, for various reasons, could be treated in a special, better way. They were (a) the families of Jews killed in the Libyan, Abyssinian, Spanish and the Great War as well as those who died in armed struggle "for the fascist cause" (in fighting squads); (b) volunteers, the wounded and those decorated for military valor in the abovementioned conflicts, along with participants of the Fiume expedition (1919–1920), those who had joined the Fascist Party in its darkest hours (1919–1922 and 1924) and in any other extraordinary cases (art. 14). Jews willing to take advantage of the *discriminazione* were supposed to make formal demands in this respect to a special commission within the Ministry of the Interior (art. 16). If granted, this could optionally be extended to the members of their families and descendants, up to the second generation (art. 15). However, one needs to be particularly careful, when analyzing the notion of *discriminazione*. Contrary to what some came to believe, it did not equal full cancelation of one's status as a Jew, as it only

36 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 393.

37 RD 1728, November 17, 1938. DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 630–635.

nullified some specific, selected restrictions e.g. article 10, on the conditions of economic activities.

The probability of more racial regulations to come was announced, including an eventuality of the Jews settling down in colonial Ethiopia, which would, though, depend on their future attitude towards the regime. The Great Fascist Council's Declaration contained a general justification for these – this time explicitly anti-Semitic and not generally racist – policies: following the mass immigration of their foreign compatriots, Italian Jews were believed to have proved to be enemies of Fascism and all spiritual values it stood for.³⁸ Last, but not least, all persons considered as Jewish under the new law, were expected to self-report this to the local authorities (art. 19). Interestingly, article 27 explicitly stated the freedom of the Jewish religious cult and of the activities of Jewish communities was not being modified, whereas article 21 guaranteed standard retirement treatment and conditions to those who were forced to leave their positions in state administration.

The scholars of previous generations, following the example of Renzo De Felice, tended to perceive the Racial Laws as highly moderate, deriving from a great deal of social resistance against anti-Semitism and Mussolini's own scruples as – they believed – he never planned to follow the Nazi model.³⁹ Recent studies, e.g. by Michele Sarfatti, have embraced a totally different viewpoint, depicting the Laws as inconsistent and “unscientific”, in fact neither “biological” nor “spiritual” (it was enough to profess Jewish religion to be declared a Jew),⁴⁰ but first of all “drastic”, as they immediately introduced regulations similar to those that the Nazis had needed several years to implement, in a short period and even exceeding the severity of the German legislation in 1938. An important contrast to the Nazi system was that even though Italian Jews were bitterly discriminated against, they were not stripped of their Italian citizenship as such.⁴¹ Everyone was classified in an unequivocal way: they were either Jews or “Aryans” with no intermediate – “mixed” – alternative.⁴²

2. THE IMPLEMENTATION AND EXTENSION OF THE RACIAL LAWS (1939–1943)

The Racial Laws of 1938 were only the starting point in what was to occur in this process of gradual deterioration of the real situation of Italian Jews

38 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 627–628.

39 Ibid., p. 354.

40 SARFATTI, M.: *Characteristics and Objectives of the Anti-Jewish Racial Laws*, p. 73.

41 Ibid., p. 75.

42 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 169.

up to 1943.⁴³ As it was calculated by Ilaria Pavan, between September 1938 and September 1943 various Italian ministries and other authorities issued about 180 regulations concerning the Jews, which – as she suggests – often appeared “*stricter than the [original] laws themselves*”.⁴⁴ While first researchers in the field had made attempts to downplay the importance of fascist racism, by proving its propagandistic approach, scarce practical implementation and lack of mass support among the population,⁴⁵ nowadays what seems to prevail, is the stance that even though in some aspects the laws were being enforced slowly, this was due to the general inefficiency of the Italian administration, rather than its lack of enthusiasm or determination.⁴⁶

The commitment of the regime, as such, cannot be questioned, one of its symbols being the foundation on August 5, 1938 of a new organ of racist propaganda, the notorious biweekly magazine *La Difesa della Razza* (*The Defense of the Race*), edited by Telesio Interlandi and Giorgio Almirante,⁴⁷ making yet another and decisive contribution to the anti-Semitic press campaign set in motion long before.⁴⁸ The paper – published until June 20, 1943 – combined pseudo-scientific analyses by anthropologists, zoologists, demographers, physicians, biologists, sociologists and statisticians, with the most primitive medieval prejudices e.g. on ritual murders, making use of the authority of some Christian classics.⁴⁹ Nevertheless, more light is shed on the issue by the unarguable fact that, while in its beginnings the magazine’s circulation approached 150,000 copies, this circulation continued to drop afterwards, and a secret report of the Ministry of Popular Culture implied that in 1940 just some 20,000 copies were printed, of out which from 5,000 to 10,000 were the subscriptions of public institutions.⁵⁰ Thus, very few individual readers seemed to be interested in the content being offered.

As it has already been mentioned, the progress of the racist campaign was clearly visible in schools and universities. The consequence of the abovementioned Royal Decree No. 1630 of September 23, 1938 was the expulsion of some 5,600 students (4,400 from elementary, 1,000 from middle schools and 200

43 SARFATTI, M.: *Le leggi antiebraiche*, p. 5.

44 PAVAN, I.: *Persecution, Indifference, and Amnesia*, p. 11, 13.

45 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 78.

46 SARFATTI, M.: *Characteristics and Objectives of the Anti-Jewish Racial Laws*, p. 77.

47 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 64.

48 LEVI, F.: *Anti-Jewish Persecution and Italian Society*. In: ZIMMERMAN, J. D.: *Jews in Italy under Fascist and Nazi Rule, 1922–1945*. Cambridge 2005, p. 200.

49 SERVI, S.: *Building a Racial State*, p. 116–124.

50 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, s. 440; SERVI, S.: *Building a Racial State*, p. 117.

from universities).⁵¹ A total of 279 headmasters and middle school teachers were dismissed along with 114 authors of school textbooks.⁵² In some cases, for practical reasons, the manuals apparently remained in use with only the names of their Jewish authors removed, but usually the books were banned, if not simply confiscated.⁵³ In addition, 96 professors were banished from universities as well as more than 133 researchers and junior lecturers, which obviously entailed serious losses for Italian culture.⁵⁴ Moreover, Jews were forbidden to publish books or articles in the Italian press and as of February 17, 1942, they were also not permitted to use public libraries.⁵⁵ Instead, Minister Giuseppe Bottai instructed schools to subscribe to and use *La Difesa della Razza* in classes.⁵⁶

Moreover, it has been stated that in the autumn of 1938, among those who lost their jobs as a result of the Racial Laws, there were 276 bank employees and 884 bank officials, 105 officers and 4,000 freelance professionals.⁵⁷ Many posts were taken up by “Aryans”, which provided some additional support for the fascist campaign. In accordance with the previously mentioned decree on foreign Jews, some 10,000 of them were supposed to leave before March 12, 1939, while 933 were authorized to stay as a result of their age or marriages with “Aryan” Italians. Only 3,720 of them complied with the law and left, whereas before August 1939, an estimated 2,486 more foreign Jews arrived and decided to stay illegally. Against strict instructions of the fascist authorities, still more were coming and at times they were let in by Italian servicemen, even after the war broke out.⁵⁸ In spite of some projects in this respect, no distinctive marks were imposed to be worn by Jews in public.⁵⁹

An official way to avoid discrimination was, as we have said, the procedure of *discriminazione*, i.e. exemption – in recognition of special merits for the country – from some restrictions on the ownership of land and buildings as well as performing some jobs.⁶⁰ The Fascist Party itself estimated in 1938 that as many as 3,502 families could be entitled to *discriminazione* for their military service

51 Elenco dei principali provvedimenti legislativi in materia scolastica (1860-1968). In: PAZZAGLIA, L. – SANI, R.: *Scuola e società nell'Italia unita*. Milano 1997, p. 586.

52 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 213.

53 WILLIAMS, L.: *Fascist Thought and Totalitarianism in Italy's Secondary Schools: Theory and Practice, 1922-1943*. New York 1994, p. 95.

54 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 89.

55 Ibid., p. 91.

56 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 328-329.

57 PAVAN, I.: *Persecution, Indifference, and Amnesia*, p. 9-10.

58 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 424-425.

59 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 78.

60 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 177.

and 834 more for merits in economic and social activity.⁶¹ That implied some 12,000 people were thought to be candidates, constituting roughly 20% of all Jews residing in Italy. Before June 1, 1942, 8,171 demands were actually made for 15,339 persons to be granted discriminazione, of which 5,870 cases were examined by January 1943 by the Demorazza, which rejected 3,384 of them and accepted 2,486. The general tendency was that it grew more and more difficult to obtain acceptance, while at the beginning most applications were treated favorably.⁶²

With an obvious lack of consistency the Royal Decree of July 19, 1939 further mitigated the scale of the discrimination, authorizing the Ministry of the Interior to arbitrarily state one's status as an "Aryan", even against the letter of racist legislation.⁶³ Needless to say, the prospect of such arianizzazione offered a much better formal status than that of the discriminati, as it legally made a person non-Jewish and automatically cancelled any discrimination whatsoever. The temptation being immense, it was a widespread opinion that there was a great deal of corruption in the ministry, as wealthier Jews tried to obtain the precious decision at any price. Even self-declared Jews were at times declared "Aryans", the pretext being the mother's presumed adultery with an Italian, resulting in the alteration of the descendants legal status. Sometimes newly-appointed "Aryans" behaved in an ostentatiously Jewish way and the previous decisions were nullified.⁶⁴ Naturally, from the Nazi point of view of their "biological" concept, this kind of racist policy was absurd and after 1943 Germans did not respect either the arianizzazioni or the discriminazioni. Before February 1942, a total of 9,647 demands for "Aryanization" were made, out of which 3,466 were rejected and 1,787 approved.⁶⁵

The outbreak of World War II led to the further deterioration of the situation of Italian Jews. As most Italians – despite the regime's overwhelming martial propaganda – did not wish the military conflict to come, with its inevitable bloodshed, it was decided to blame the war on the Jews, so as to re-launch anti-Semitism and to turn away possible accusations from the government at the same time. Thus, Giovanni Preziosi typically wrote in his *La vita italiana*: "*The war was prepared in America by Jewry, having their major European instruments in the English government [...] The war, wished for and prepared by Jewry, was unleashed by Poland, home to the greatest number of Jews in Europe.*"⁶⁶ No

61 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 421.

62 Ibid., p. 422–423.

63 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 75.

64 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 414.

65 Ibid., p. 420.

66 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 103.

wonder that in the light of Italy's own imminent entry into the war, in May 1940, the Ministry of the Interior made preparations for the internment, in addition to the citizens of enemy countries, also of all foreign Jews, irrespective of their country of origin, as well as those Italian Jews who might become dangerous in times of war.⁶⁷ On June 4, 1940, the Ministry urged local police authorities to supply a list of such Jews residing in their districts. Interestingly, most addressees showed little zeal and delivered some very short lists or none. With the help of the Demorazza, new lists were assembled a few days later and some 200 Jews were interned.⁶⁸

As one may expect, the discourse about the Italian system of places of "concentration" or "internment",⁶⁹ as they are alternatively called, is an exceptionally delicate one. As it is assessed today, there were as many as 51 internment camps and 250 localities of "free internment" (*internamento libero*), usually small villages or islands in the South of the country, run by the Ministry of the Interior.⁷⁰ *"Most of these places (and what had happened to them) were entirely ignored (or forgotten) by historians and the local population in the years after the end of the conflict,"*⁷¹ was a point of view of an Anglo-Saxon researcher. Typically, at the same time for himself and for the phenomenon in question, Silvio Berlusconi is reported to have described these places as similar to "holiday-camps".⁷² It seems evident that up to the recent decades, many Italians did not come to terms with this aspect of their country's fascist past.

Before September 1940, there had already been 15 camps. They were generally meant for all the internees with no distinction between "enemy aliens", foreign Jews and those Italian ones who were stripped of their citizenship. The remaining ones were founded under a new Royal Decree of September 4, 1940.⁷³ Renzo De Felice stressed that all inmates were provided with subsidies for subsistence (8 lire for a man, 4 for a woman and 3 for a child every 15 days) plus 50 lire a month as indemnities for housing.⁷⁴ Apparently, from time to time fathers were allowed to visit local towns in order to provide for their families' needs. Also Daniel Carpi points out that *"there was no comparison"* between Nazi and Italian fascist camps. Families stayed together, and there were schools and cultural

67 Ibid., p. 105.

68 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 425.

69 SARFATTI, M.: *Characteristics and Objectives of the Anti-Jewish Racial Laws*, p. 76.

70 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 107.

71 FOOT, J.: *Italy's Divided Memory*. New York 2009, p. 73.

72 Ibid., p. 74.

73 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 427.

74 Ibid., p. 428.

activities for the detained.⁷⁵ Contemporary studies tend to at least partially contradict this mild image of the camps. One might cite a shocking example of the deportation of the Frankel family from Milan, whose father – formerly an Italian citizen since 1923 – was sent to Cosenza, his wife to Potenza, two more family members to Avellino and their three-year-old daughter was left in Milan.⁷⁶ It is often argued that conditions must have varied from one place to another, as most camps were arranged in places like old factories, mills, storehouses, etc.⁷⁷ The largest camp was Ferramonti di Tarsia, located near Cosenza in Calabria, a place seemingly far away from the theaters of military operations, founded in June 1940 and built on purpose to become a camp.⁷⁸ It was surrounded with barbed wire and fences, containing cabins or shacks. Some of its 2,000 different prisoners at the peak of its service in the summer of 1943 died as a result of poor living conditions.⁷⁹ While 6,386 Jews in total were detained in that moment, of which just 2,047 in camps, 1,465 stayed specifically at Ferramonti.⁸⁰ Even though, undoubtedly the Italian camps were far less harsh than the Nazi ones, certainly it does not mean staying there did not bring hardships, humiliation and suffering to their prisoners.⁸¹

Contemporary visions of Italian concentration camps as “holiday-camps” may be traced back to the message of fascist propaganda, as some fascists came up with the idea that Jews staying in concentration camps are not being discriminated against, as they benefit from their status by neither fighting in the war nor working for their living. Thus, on May 6, 1942 the Ministries of the Interior and of Corporations summoned all Jews aged 18–50, including the discriminati, to perform physical, menial jobs.⁸² What seems worth mentioning is that their health conditions were to be verified beforehand.⁸³ As of July 1943, 15,517 persons were called up, of which 1,301 were permanently and 2,410 temporarily exempted, and of the remaining 11,806 people, only 1,235 were finally sent to specific work,⁸⁴ making it little else but one more purely ideological,

75 CARPI, D.: Concentration camps. In: GUTMAN, I. (ed.): *Encyclopedia of the Holocaust*. New York – London 1990, entry: Italy.

76 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 427.

77 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 111.

78 Ibid., p. 106.

79 FOOT, J.: *Italy's Divided Memory*, p. 75.

80 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 189–190.

81 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 106.

82 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 428, 430.

83 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 113.

84 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 200.

theoretical decision with scarce practical effects, as well as a further proof for the ineffectiveness of the regime's administration. One more particular characteristic is that those who worked were paid – albeit extremely low – salaries, roughly $\frac{1}{4}$ of the standard pay, which again made it very different from the Nazi idea of forced labor.⁸⁵

Unemployment, poverty and hunger constituted one of the more serious sources of distress for the discriminated. Apart from the abovementioned regulations, new restrictions were imposed as early as June 29, 1939, banning Jews, except for the discriminated, from a long list of professions such as doctors, surgeons, pharmacists, veterinarians, midwives, lawyers, accountants, engineers, architects and agrarian and industrial experts.⁸⁶ Throughout 1940, new decrees followed, excluding Jews from running hotels, bars, travel agencies, printing companies, wine shops and selling books and radios.⁸⁷ The effect of the numerous restrictions was that before the summer of 1943, even out of those minor Jewish businesses that had not been confiscated by the Institute for Administration and Liquidation of (Jewish) Real Estate (Ente di Gestione e Liquidazione Immobiliare), 60% were either closed down or taken over by "Aryans".⁸⁸ As Ilaria Pavan puts it, "*it eroded the entire network of relationships on which the individual's life was based, undermined personal self-confidence of the breadwinner, and deprived the entire family of its income.*"⁸⁹ One last point was that Jews – as aliens – were forbidden to apply for any economic assistance from the state, which forced them to rely exclusively on themselves.⁹⁰

Towards the end of the regime – in June 1943 – among some fascist leaders there were firm tendencies to radically accelerate the anti-Jewish campaign. Mussolini was urged to proceed to the final expulsion of the remaining Jews or to their isolation in what was defined as "non-holiday sites" (luoghi non di villeggiatura).⁹¹ It is widely supposed that the order of July 15, 1943 to displace the inmates from Ferramonti to Bolzano in the North implied the next step would be to pass them over to the Nazis.⁹²

85 Ibid., p. 201.

86 RD 1054, June 29, 1939 (Disciplina dell'esercizio delle professioni da parte dei cittadini di razza ebraica). COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 75; SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 205.

87 PAVAN, I.: *Persecution, Indifference, and Amnesia*, p. 12.

88 Ibid., p. 11, 13.

89 Ibid., p. 7.

90 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 207.

91 Ibid., p. 190.

92 Ibid., p. 226.

3. THE SOCIAL FACTOR – JEWISH AND ITALIAN ATTITUDES

Jewish reactions to the publication of the Racial Laws in 1938 could be regarded as yet another argument in the discussion on whether the new regulations constituted just a logical next stage of the fascist totalitarian project, or whether they should be deemed as an irrational, radical breakthrough. Jews were extremely shocked. *“All this has come upon us like a thunder, like a disastrous earthquake, we were completely unprepared,”*⁹³ as Lucia Nissim Momigliano put it. It was a “question of morality” (un fatto morale), rather than anything else, especially to those who had always considered themselves Italians and fascists. Some Jews came to believe it was just a sort of test of their loyalty to the country and their duty was simply to bear it.⁹⁴ Some retained illusions that Mussolini meant to grant discriminazione to all “innocent” Jews and thus only a small minority of those disloyal to the regime would be subject to the new regulations.⁹⁵ When these hopes came to nothing, a strategy for survival had to be adopted. Giancarlo Sacerdoti recalled: *“The Jews had several alternatives: emigration, conversion, being patient, going crazy and hitting their head against the wall or suicide. We chose the solution of being patient and resistance.”*⁹⁶

As a result, between 1938 and 1943 only some 6,000 Jews chose to leave Italy. Most migrated to the United States and Latin America, thus, interestingly, following the traditional paths of Italian emigrants.⁹⁷ Moreover, Jewish community memberships fell sharply from roughly 45,000 in 1938 to 33,000 in 1943 (some 5,000 people formally asked to be crossed out). Certainly, this happened for a number of reasons: some former members left the country, some were afraid, but some chose to stress their Italian-ness, and for obvious reasons the Jewish birth rate in Italy dropped as well.⁹⁸

What seems an exceptionally revealing, and at the same time impressive group of sources, are the several hundreds of letters sent to Mussolini in three waves (autumn 1938, autumn 1939 and summer 1940)⁹⁹, imploring him to either change his inexplicable racist policy altogether or – more frequently – to be granted individual help due to personal merits (similar to discriminazione), without

93 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 80.

94 Ibid., p. 82.

95 NIDAM ORVIETO, I.: *The Impact of Anti-Jewish Legislation*, p. 160.

96 ORVIETO, I.: *Letters to Mussolini*, p. 468.

97 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 92.

98 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 228–230.

99 ORVIETO, I.: *Letters to Mussolini*, p. 469.

questioning the entire system.¹⁰⁰ Here is one of the moving testimonies, showing to what extent, even after the proclamation of the Racial Laws, many Jews demonstrated an unbelievable loyalty to the regime and Mussolini personally: *"Today, in a moment of pain, a mother and an Italian woman appeals to you [...] I beg you to hear me out. I sincerely believe that I am appealing in the name of all Italian Jewish mothers [...] we educated our children to love family first, work second, and Italy all along [...] If some Jew did not know how to perform his duty as an Italian or did not appreciate being one, he deserves to be punished... but the rest of Italian Jewry want only to sacrifice body and soul for Italy [...] Please help me so my ten year old child will not cry anymore because his friends tell him he is not an Italian. Please, do something so he will not curse the day he was born."*¹⁰¹

In similar letters, other Jews assured the Duce of their fervent faith in himself, as well as the spirit and ideology of fascism, which they asked to be permitted to live in or – as the last resort – they demanded help in leaving the country, swearing solemnly they would always propagate a positive image of fascist Italy abroad.¹⁰²

Strangely enough, even those sent to Italian concentration camps, often happened to have "happy" or at least good memories of them. A typical argument went as follows: *"that was, of course, nothing compared to Auschwitz"* or *"we didn't really suffer"*.¹⁰³ A Polish Jew, Maria Eisenstein, wrote: *"I hoped Mussolini would not hand foreign Jews over to Hitler. Thus, there would be nothing to be afraid of, but internment in Italy. It did not scare me too much; on the contrary, I was a bit curious. [...] Anyways, compared to certain death in Germany, the [Italian] camp was nothing, but a joke, even though certainly not a pleasant one."*¹⁰⁴

Yet, leaving aside the context of Auschwitz, in the Italian conditions, the main concern of many Jews was simply earning for the family's subsistence, in what they viewed as *"the atmosphere of endless uncertainty"*¹⁰⁵ concerning the constantly added new limitations on their freedom of economic action. Some – especially those parents who were unable to feed their children – were brought to ultimate despair. After an endless search for employment and after he had decided to commit suicide, Emilio Foa left a letter: *"My dear wife, I leave you. This way I save the family. With the insurance money you will be able to*

100 Ibid., p. 472.

101 Ibid., p. 474.

102 Ibid., p. 471.

103 NIDAM ORVIETO, I.: *The Impact of Anti-Jewish Legislation*, p. 158.

104 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 110.

105 PAVAN, I.: *Persecution, Indifference, and Amnesia*, p. 11.

have a regular income. [...] Now you are safe. [...] Please do not judge me. Love me and remember me.”¹⁰⁶

Consequently, scholars tend to differ as far as the attitude of the Italian “Ary-ans” towards the persecuted Jews is concerned. Renzo De Felice claimed the promulgation of the Racial Laws did not encounter much understanding among the Italians, if not actually destroyed their last illusions on the true nature of the regime, contributing to a further reduction in its mass support. With no doubt, even the racist publications unwittingly confirmed some dose of social resistance to anti-Semitism, as they informed with absolute indignation about cases when some libraries or bookshops refused to have *La Difesa della razza* or similar materials in stock.¹⁰⁷ An extremely telling testimony was published by a local newspaper from Piacenza, *Le scure*, on October 6, 1938: “Just where shall they go, the poor Jews? For us, fascists, this is a stupid question, a humiliating one, we keep hearing incessantly for a month from women and men, from too many people. [...] To hell, comrades, to hell will they go, your ‘poor Jews’ to pay for a minimal part of the evil they did to the world in these twenty centuries. And you will go with them, comrades, in a very good company...”¹⁰⁸

As we can see, naturally the Italian society was bitterly split over the issue, and the real question is which attitude actually prevailed. It is a generally shared stance that physical violence and aggression against Jews before 1943 were extremely rare.¹⁰⁹ Few local, isolated clashes e.g. in Rome, Ferrara, Trieste and Turin often resulted from personal motivations and were not viewed with favor by the central authorities.¹¹⁰

However, this does not mean there was no hostility towards the Jews, especially among some young fascist fanatics. At the University of Bologna, the year 1938 witnessed substantial transformations. For instance, the Fascist University Groups (GUF), which in the past used to organize meetings and events for foreign students, including Jews, in order to propagate fascism as a universal movement of a new era, was again perfectly in line with the regime’s new expectations. The union’s secretary in Bologna, Tullio Pacchioni, announced: “Bologna’s GUF has the satisfaction of seeing itself freed of all the Jewish dross which has polluted its ranks.”¹¹¹ In some parts of Italy, local administration demonstrated its zeal and loyalty to the regime by adding more restrictions on the Jews’ everyday freedom

106 NIDAM ORVIETO, I.: *The Impact of Anti-Jewish Legislation*, p. 166.

107 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 356.

108 Ibid., p. 361.

109 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 77.

110 SARFATTI, M.: *Gli ebrei nell’Italia fascista*, p. 219.

111 BRIZZI, G. P.: *Bologna 1938. Silence and Remembering. The Racial Laws and the Foreign Jewish Students at the University of Bologna*. Bologna 2002, p. 25.

of action, going well beyond the existing state legislation.¹¹² Many shop-keepers took advantage of the situation by displaying notices like “*An Aryan shop*” or “*Jews are not welcome in this place*.”¹¹³ It was also partially because of the economic competition that, after the racial census of 1938, a total of 2,633 more Jews were denounced by their Italian neighbors and added to the register.¹¹⁴

The attitude of the Italian Catholic Church and the Vatican deserves a separate treatment. What needs to be pointed out is a diversity of opinions concerning Jews among the Catholics and within the Roman Curia. Personally, Pius XI on some occasions openly criticized anti-Semitism as a principle and turned against the Nazis in his encyclical *Mit brennender Sorge* (1937).¹¹⁵ However, many Catholic circles – like the well-known for its traditional anti-Semitism *La Civiltà cattolica* on August 6, 1938 – made clear distinction between the Nazi and the fascist models of racism, and were prepared to support the Italian version: “*Those who are aware of the principles of German racism, will see at once the notable difference between their proposals and those of the group of Italian fascist scientists. That should prove that Italian Fascism does not want to be confused with Nazism or German racism, inherently and explicitly materialistic and anti-Christian.*”¹¹⁶

Thus, Pius XI – despite his alleged plans to do much more – in fact openly protested only against the prohibition to intermarry outside one’s race, as he struggled to defend the rights of all Catholics.¹¹⁷ With its own history, the Church was in no position to remonstrate fascists as they were likely to respond – as they sometimes did – by assuring the Curia that “*Jews, in one word, can be certain they will not be treated worse than the way the Popes had treated them for centuries.*”¹¹⁸

Most Italians, as it seems, at least before 1943, actually remained passive, even if they soon came to understand that scientifically racism made no sense: “*I learned that the classification of races was done by go-as-you-please and not according to science; that there was an Alpine race and a Mediterranean race; that the word ‘Aryan’ had a hundred different meanings; that there was the race of the body and the race of the soul; that the greatness of Christ could be explained by the fact that he was a son of a Syriac adulteress and a Roman legionary, of the Teutonic race.*”¹¹⁹

112 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 85.

113 SARFATTI, M.: *Gli ebrei nell’Italia fascista*, p. 218.

114 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 419.

115 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 99.

116 DE FELICE, R.: *Storia degli ebrei italiani sotto il fascismo*, p. 335.

117 SARFATTI, M.: *Le leggi antiebraiche*, p. 43.

118 COLLOTTI, E.: *Il fascismo e gli ebrei*, p. 98.

119 *Autobiografie di giovani del tempo fascista*. Brescia 1947, p. 60.

At the same time, another witness recalled the Italian attitude towards discriminated Jews in these words: “*Out of egoism, partly, superficiality and the selfish need for peace, they prefer not to see, not to know, and not to feel*” what their Jewish compatriots were going through.¹²⁰

In a recent study, an American Jewish expert, Joshua D. Zimmerman, concludes: “*Many scholars do not dispute the fact that while Nazi Germany began its genocidal assault on European Jewry in June 1941, Fascist Italy, as long as it remained a sovereign state, became a haven of safety and security not only for Italian Jews but for thousands of Jewish refugees fleeing Nazi persecution into both the peninsula as well as the Italian-occupied zones of France, Greece and Croatia.*”¹²¹

However, controversies surrounding the origins of Mussolini’s decision to launch anti-Semitic discrimination in 1938 seem to be far from resolved. The racist campaign remains as one of the clinical examples of the awkward and unpredictable nature of Italian Fascism, with its hesitations, inconsistencies, inefficiencies and dramatic transformations leaving much space for a number of conflicting interpretations. Many divergences stem from that fact that while many Italians nowadays tend to emphasize that “*in the fascist camps for the Jews, the dignity of the inmates was not offended, it is also true that the dignity of man was offended by the very facts that these camps existed.*”¹²² What I believe is crucial is the point of comparison and reference one bears in mind. If one’s focus is what the fate of Italian Jews was in the overall context of the Holocaust in Europe, they may not be called but exceptionally lucky, and what happened to them could be considered – to use the official phrase – “*discrimination, not persecution*”. Yet if you examine their experience from the point of view of modern standards of democracy, human rights and a liberal state, it is all too evident how much they were harmed physically and psychologically by the state and the nation many of them had thought was their own.

120 NIDAM ORVIETO, I.: *The Impact of Anti-Jewish Legislation*, p. 164–165.

121 ZIMMERMAN, J. D.: *Jews in Italy*, p. 1–2.

122 FOOT, J.: *Italy’s Divided Memory*, p. 76.

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APPENDIX 1



----- The borders of Italy, 1938
 Yugoslav territory annexed in 1941

Number of Jews

- ☆ 12000–13000
- 4000–6000
- △ 1000–2500
- 500–1000
- 100–500

MAP 1. The Jews of Italy, 1938.

Source: ZIMMERMAN, J. D.: *Jews in Italy*, p. XX.



----- The borders of Italy, 1938
 Yugoslav territory annexed in 1941
 [] Regions in which labor and internment camps were planned but never built due to the collapse of Italy in July 1943.

△ Internment camps between 1940 and 1943 with between 50 and 300 Jews.
 □ Internment camps between 1940 and 1943 with at least 1600 Jews.
 ☆ Major destruction of synagogues between 1938 and 1943.

MAP 2. Principal Centers of Anti-Jewish Persecution, 1938–1943.

Source: ZIMMERMAN, J. D.: *Jews in Italy*, p. XXI.

Jews in Italy (1943–1945): Arrest, Deportation and Confiscation of Property

Cinzia Villani (Italy)

“All of a sudden the square exploded. We heard orders in German, screams, loud swearing. We looked out of the window. We saw German soldiers push people out of their houses and force them into long rows [...] ‘They are taking away the Jews’, my father whispered. There was nowhere we could run, the Germans were coming towards our house. [...] Grey trucks were arriving, the Germans were shoving people or pushing them with their rifle butts onto the trucks, men women and children [...] and even people who were old or ill. Then they drove off.”¹

This is the testimony of Settimia Spizzichino, who was captured in Rome during a raid that started at dawn on October 16, 1943 and ended in the early afternoon of that same day. People were arrested in various parts of the town, but the operation centered mainly on the former ghetto, which was surrounded by troops, blocking all access to it. Overall, 1,016 Jews were captured during the raid and deported: over 80% were of Roman descent, as many as 600 were women, while approximately 27% were under the age of 15, and over a hundred were children under the age of five. They were all taken to a building,

1 SPIZZICHINO, S. – DI NEPI OLPER, I.: *Gli anni rubati. Le memorie di Settimia Spizzichino, reduce dai Lager di Auschwitz e Bergen-Belsen*. Cava de' Tirreni 1996, reprint 2001, page (p.) 25–26. I wish to thank Paola Bertilotti and Gustavo Corni for their valuable help.

the Collegio Militare (Military College), and held there for two days. From there they were taken to a railway station and put on a freight train that left Rome on October 18 and arrived at Auschwitz-Birkenau in the night of the October 22. Only 17 of the Jews deported with this transport would live to see liberation.² The arrests were carried out by a Judenkommando, a mobile operative unit led by SS-Hauptsturmführer Theodor Dannecker, a specialist who had already worked as Judenreferent (i.e. an expert reporting on matters relating to Jews) in Paris up to August 1942. He had arrived in Italy after spending nine months in Sofia, where he had been employed as adviser on the Jewish question. A squad of Italian policemen was involved in the preliminary phase to the raid: because they knew the town well, they were assigned the task to locate the victims' addresses in the various sectors into which the town had been divided.³ Leone Sabatello, who also was arrested on October 16,⁴ testified, "*They knew the names and surnames of all the members of our family.*"⁵ And further: "*The German said – 'Look here, get everything ready because you'll have a long journey, eight days!' My mother gathered some bread, a few pillow-cases... They were violent, very violent!*"⁶

On July 25, 1943, Mussolini had been deposed and arrested; King Victor Emmanuel III had appointed Marshal Pietro Badoglio to the office of Prime Minister; fifteen days earlier "Operation Husky" had been launched, and the first Anglo-American units had landed in Sicily. The "forty-five days" of the

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- 2 RIGANO, G.: 16 ottobre 1943: accadono a Roma cose incredibili. In: ANTONUCCI, S. H. – PROCACCIA, C. – RIGANO, G. – SPIZZICHINO, G. (eds.): *Roma, 16 ottobre 1943. Anatomia di una deportazione*. Milano 2006, p. 41; PROCACCIA, C. – SPIZZICHINO, G.: I sommersi e la città. In: ANTONUCCI, S. H. – PROCACCIA, C. – RIGANO, G. – SPIZZICHINO, G. (eds.): *Roma, 16 ottobre 1943. Anatomia di una deportazione*. Milano 2006, p. 14, 50–51, 56–57, [75]–76; PICCIOTTO, L.: *Il libro della memoria. Gli ebrei deportati dall'Italia (1943–1945)*. Milano – Mursia 2002, p. 44, 605, 881–882.
 - 3 KLARFELD, S.: *Vichy – Auschwitz. Le rôle de Vichy dans la solution final de la question juive en France – 1942*. Paris 1983, p. 36; STEUER, C.: *Theodor Dannecker. Ein Funktionär der Endlösung*. Essen 1997, p. 97; SAFRIAN, H.: *Die Eichmann-Männer*. Wien – Zürich 1993, p. 208; RIGANO, G.: 16 ottobre 1943, p. 39; KLEE, E.: *Das Personenlexikon zum Dritten Reich. Wer war was vor und nach 1945?* Dannecker, Theodor. Frankfurt am Main 2003, p. 101; KLINKHAMMER, L.: L'occupazione tedesca in Italia e lo sterminio degli ebrei. In: FLORES, M. – LEVIS SULLAM, S. – MATARD BONUCCI, M. A. – TRAVERSO, E. (eds.): *Storia della Shoah in Italia. Vicende, memorie, rappresentazioni Volume I Le premesse, le persecuzioni, lo sterminio*. Torino 2010, p. 435.
 - 4 PEZETTI, M.: *Il libro della Shoah italiana. I racconti di chi è sopravvissuto*. Torino 2009, p. 487; PICCIOTTO, L.: *Il libro della memoria*, p. 549.
 - 5 PEZETTI, M.: *Il libro della Shoah*, p. 60.
 - 6 Ibid., 60.

Badoglio Government had seen no change as far as the anti-Jewish laws were concerned. These laws were maintained in full, only some administrative rules were cancelled. On the evening of September 8 of that same year, it had been announced over the radio that Italy had signed an armistice with the Allies. Within a few hours, the Wehrmacht, acting on plans drawn up long beforehand, had rapidly proceeded to occupy that part of Italy that had not yet been liberated by the Allies. For the approximately 43,000 people classified as being “of the Jewish race” – in fact, about 10,000 of them were non-Jews – who at the time happened to be in Central and Northern Italy, in the territories occupied by Nazi troops, this was the beginning of the most dramatic phase of their persecution, which had started already in 1938, when the first anti-Jewish laws had come into force. Now their very lives were in danger.⁷

On September 10, 1943, Hitler had ordered a territorial reorganization of the Italian peninsula: two vast areas on the country’s northern and northeastern borders, that were of strategic importance to the operations of the Oberkommando der Wehrmacht, had been *de facto* detached from Mussolini’s Italian Social Republic, proclaimed in that same month of September. In these border territories, where there were substantial national minorities, Italian sovereignty was in fact suspended. Two separate “Operation Zones” were created, called Operationszone Alpenvorland, and Operationszone Adriatisches Küstenland respectively. The first comprised the provinces of Bolzano, Trento and Belluno, and the latter included the provinces of Udine, Trieste, Gorizia (Gorica), Pola (Pula), Fiume (Rijeka) and the territory of Lubiana (Ljubljana), which had been annexed to the Kingdom of Italy in 1941. Two Gauleiter, i.e. local governors, of adjoining regions already belonging to the Reich were appointed as highest civil authorities, with the title of Supreme Commissioners (Oberste Kommissare).⁸

In the Alpenvorland and in the Adriatisches Küstenland arrest, deportation and dispossession of property, while equally tragic, were carried out entirely

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- 7 GANAPINI, L.: *La repubblica delle camicie nere. I combattenti, i politici, gli amministratori, i socializzatori*. Milano 1999, p. 7–8; GANAPINI, L.: Crisi del regime fascista. In: COLLOTTI, E. – SANDRI, R. – SESSI, F. (eds.): *Dizionario della resistenza Volume primo Storia e geografia della liberazione*. Torino 2000, p. 23–24; ROCHAT, G.: *La campagna d’Italia 1943-1945. Dizionario della resistenza*, p. 195; KLINKHAMMER, L.: *L’occupazione tedesca in Italia 1943-1945*. Torino 1993, p. 27–32; SARFATTI, M.: *Gli ebrei nell’Italia fascista. Vicende, identità, persecuzione*. Torino 2007, p. 245–248, 252, English translation: SARFATTI, M.: *The Jews in Mussolini’s Italy. From Equality to Persecution*. Madison 2006; SARFATTI, M.: *La Shoah in Italia. La persecuzione degli ebrei sotto il fascismo*. Torino 2005, p. 99.
- 8 KLINKHAMMER, L.: *L’occupazione tedesca in Italia 1943-1945*, p. 53–54; COLLOTTI, E.: *L’Europa nazista. Il progetto di un Nuovo ordine europeo (1939-1945)*. Firenze 2002, p. 188–189.

by the local occupation authorities. The very first arrests of Jews in the entire country took place in Bolzano (Bozen), the main town of the Alpenvorland, and in one nearby village on the morning of September 9, only a few hours after the occupation had begun. In Trieste the first raids were carried out by the Gestapo's Anti-Jewish Office that had been set up in that town, and then by a special police unit called Abteilung R or Aktion R. This special operational unit, led by SS-Gruppenführer Odilo Globocnik, who had taken on locally the role of Höherer SS- und Polizeiführer (Higher Police and SS-Chief), was composed of men who had previously been employed in the Aktion Reinhardt, an operation aimed at exterminating Jews and plundering Jewish property in the Generalgouvernement. In Trieste, the first extensive raid was carried out on October 9, 1943, which was Yom Kippur, and was followed by another on the 29th of that same month. All the Jews captured in this Operation Zone – the arrests took place at different times in the various towns and villages – were conveyed at first to Trieste's town jail and subsequently to the Risiera di San Sabba. The latter was a police detention camp (Polizeihaftlager), about which more will be said further on, and which had been set up on the town's immediate outskirts.⁹

In the remaining occupied territory, forming the largest portion of that part of Italy that had not yet been liberated by the Allies, government responsibilities and civil administration were taken over by the new Fascist republican government, presided over by Benito Mussolini, which had confirmed its alliance with Germany. Shortly after September 8, anti-Jewish operations began in this part of the country too, such as the murder of 56 Jews near Lake Maggiore and in the town of Novara by men of the Panzerdivision Leibstandarte SS-Adolf Hitler. These arrests, massacres and spoliations were not the work of specialists of the Reichssicherheitshauptamt. As Liliana Picciotto has pointed out, they cannot be ascribed to a precise, preordained plan, but originated rather from the war's course and were due to the local initiative of individual units.¹⁰

9 BON, S.: *Gli Ebrei a Trieste 1930-1945. Identità, persecuzione, risposte*. Gorizia 2000, p. 316, 321; PICCIOTTO, L.: *L'alba ci colse come un tradimento. Gli ebrei nel campo di Fossoli 1943-1944*. Milano 2010, p. 27; VILLANI, C.: The Persecution of Jews in Two Regions of German occupied Northern Italy, 1943–1945: Operationszone Alpenvorland and Operationszone Adriatisches Küstenland. In: ZIMMERMANN, J. D. (ed.): *Jews in Italy under Fascist and Nazi Rule, 1922–1945*. New York 2005, p. 245, 248–250; FOGAR, G.: L'occupazione nazista del Litorale Adriatico e lo sterminio della Risiera. In: SCALPELLI, A. (ed.): *San Sabba. Istruttoria e processo per il Lager della Risiera*. Terst 1995, I: 3, p. 7–8.

10 PICCIOTTO, L.: *Il libro della memoria*, p. 818, 867–868; PICCIOTTO, L.: *L'alba ci colse come un tradimento*, p. 18.

The first document indicating that the extermination policy was being extended to Jews of Italian citizenship bears the date of September 23, 1943. On that day, SS-Gruppenführer Heinrich Müller, chief of the Gestapo, declared that Italian Jews who were outside national borders and in countries under German domination could also be subject to “measures of expulsion towards the East”, i.e. to deportation. To date it has not been possible to ascertain when this measure was extended to include Jews present on national soil as well. The historian Lutz Klinkhammer has suggested that the decision may have been taken in Berlin between the 23rd and the 27th of that same month.¹¹

At first, it was Dannecker’s Einsatzkommando, which had already carried out the October 16 raid in Rome, which was in charge of capturing Jews. Arrests were made between October and November 1943 in various places in Central and Northern Italy, such as Turin, Milan, Genoa and Bologna; in Florence the raid began at dawn on November 6, 1943, when the synagogue was surrounded by “*German troops and Italian Fascists in civilian clothes*”. Later on, a permanent anti-Jewish office was set up in Verona, similar to Eichmann’s Berlin office, and put in charge of arresting the Jews still in the country. After January 1944, its chief, having the role of Judenreferent for anti-Jewish affairs in Italy, was SS-Sturmabführer Friedrich Bosshammer.¹²

Meanwhile the Italian Social Republic had set in motion its own anti-Jewish policy. On November 30, 1943, the Interior Minister, Guido Buffarini Guidi, issued a circular ordering that all Jews, whether Italian or foreign, still present on Italian soil, should be arrested, and their property seized; the people thus arrested were to be detained in “*provincial concentration camps*”, until such time as “*special and appropriately equipped*” camps could be set up. A few days later,

11 KLINKHAMMER, L.: *L'occupazione tedesca in Italia e lo sterminio degli ebrei*, p. 434–436; SARFATTI, M.: *La Shoah in Italia*, p. 147–149.

12 STEUER, C.: *Theodor Dannecker*, p. 116; PICCIOTTO, L.: *Il libro della memoria*, p. 46, 884–885, 887, 911–913; PICCIOTTO, L.: *L'alba ci colse come un tradimento*, p. 56; PICCIOTTO, L.: *La macchina antiebraica della RSI e l'Ispettore generale per la razza Giovanni Preziosi*. In: SARFATTI, M. (ed.): *La Repubblica sociale italiana a Desenzano: Giovanni Preziosi e l'Ispettorato generale per la razza*. Firenze 2008; FERRARI, A. – NANNETTI, P.: *Carcere e deportazione*. Bologna 1943–1945. In: MANTELLI, B. (ed.): *Il libro dei deportati Volume II Deportati, deportatori, tempi, luoghi*. Milano 2010, p. 568–569; ZUCOTTI, S.: *L'Olocausto in Italia*. Milano 1988, p. 180; COLLOTTI, E. – BAIARDI, M. – CAVAROCCHI, F. – GALIMI, V. – ROCCHI, L.: *La deportazione degli ebrei dalla Toscana*. In: MANTELLI, B. (ed.): *Il libro dei deportati Volume II Deportati, deportatori, tempi, luoghi*. Milano 2010, p. 665; quotation is taken: BAIARDI, M. *Persecuzioni antiebraiche a Firenze: razzie, arresti, delazioni*. In: COLLOTTI, E. (ed.): *Ebrei in Toscana tra occupazione tedesca e RSI. Persecuzione, depredazione, deportazione (1943–1945) Volume I Saggi*. Roma 2007, p. 53.

it was announced that some specific categories of Italian Jews – people suffering from “serious illnesses”, over 70 years old, and Italian citizens with an “Aryan” parent or spouse – were to be exempt from this measure: some permanently, others only temporarily.¹³ The November 30 circular rendered everyone considered as “belonging to the Jewish race” liable to arrest by Italian authorities, who obviously were much more familiar with the territory than the occupying forces. As historian Liliana Picciotto has pointed out, “arrests, interments, and confiscation of property were in accordance with a specific policy trend of the Fascist government [...] If [...] internment was not as yet the same as ‘deporting’, it nevertheless amounted to providing tangible help to those who had devised the ‘final solution’ for Jews.”¹⁴ It should moreover be noted that since 1938, the Fascist government had carried out accurate and detailed censuses of Jews and had assembled dossiers on them. In addition, for many years an incessant campaign had deeply conditioned Italian public opinion, increasing anti-Jewish prejudice. The persecution put into practice between 1938 and 1943 was not aimed at extermination. Nevertheless, it served as groundwork for arrests, detentions and spoliations of property, making it, for instance, easier to identify individuals and families.¹⁵

Arrests began immediately. In Mantua and Asti, the first captures took place as early as December 1, 1943. In Grosseto, in southern Tuscany, the chief of the province issued an order for the setting up of a provincial concentration camp even before the November 30 circular was released. In Venice, on the night of December 5–6, in the course of a raid entirely organized and carried out by Italian authorities, 163 Jews were captured, including almost all the inmates of the local Jewish rest home, whose pantries and cellars were plundered.¹⁶

13 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 269, 278.

14 PICCIOTTO, L.: *Il libro della memoria*, p. 904.

15 Ibid., p. 876; COLLOTTI, E.: Introduzione. In: COLLOTTI, E. (ed.): *Ebrei in Toscana tra occupazione tedesca e RSI. Persecuzione, depredazione, deportazione (1943-1945) Volume I Saggi*. Roma 2007, p. 11–12; KLINKHAMMER, L.: *L'occupazione tedesca in Italia e lo sterminio degli ebrei*, p. 442.

16 ROCCHI, L.: Ebrei nella Toscana meridionale: la persecuzione a Siena e Grosseto. In: COLLOTTI, E. (ed.): *Ebrei in Toscana tra occupazione tedesca e RSI. Persecuzione, depredazione, deportazione (1943-1945) Volume I Saggi*. Roma 2007, p. 286; PICCIOTTO, L.: *La macchina antiebraica*, p. 27; FASANO, N. – RENOSIO, M.: La deportazione dalla provincia di Asti. In: *Il libro dei deportati*, p. 51; FASANO, N.: La Comunità ebraica astigiana fra storia e memoria: dalle leggi razziali alla Shoah. In: BORDONE, R. – FASANO, N. – FORNO, M. – GNETTI, D. – RENOSIO, M. (eds.): *Tra sviluppo e marginalità. L'astigiano dall'Unità agli anni Ottanta del Novecento*. Asti 2006, p. 564; MAYDA, G.: *Storia della deportazione dall'Italia 1943-1945. Militari, ebrei e politici nei lager del Terzo Reich*. Torino 2002, p. 158–159; SEFRE, R. (ed.): *Gli ebrei a Venezia 1938-1945. Una comunità tra persecuzione e rinascita*. Document number 212,

The provincial concentration camps, established after the November 30 police order, were mostly short-lived, some remaining in operation for a few weeks only; one exception was the camp in the province of Padua, which was housed in an ancient aristocratic villa and remained open for a full eight months, until July 1944. In some cities – such as Milan and, at first, Venice, Bologna and Genoa as well – Jews who had been arrested were detained in the local jails. Elsewhere all kinds of buildings were used for this purpose: schools, hotels, summer and winter holiday camps, barracks, buildings belonging to the local Jewish Communities, etc.¹⁷

The national concentration camp, which was also set up in accordance with the November 30 police order, was situated at Fossoli, near Modena, in Central Italy. The facility, chosen for this purpose, comprised a great many buildings, and had been established as early as 1942 as a prisoner-of-war camp; it remained in operation from December 5, 1943 until the summer of 1944 as a detention center for political prisoners and Jews. Between February and March 1944, most of the camp was taken over by German occupation authorities, thus becoming a Polizei- und Durchgangslager. Thousands of people, locked in the freight trains used for deportation, left Fossoli for concentration and extermination camps in the Reich. Primo Levi, who left on February 22, 1944 for Auschwitz-Birkenau, was one of them.¹⁸ However, as the Allies advanced, causing the front lines to retreat, and actions by partisans increased, Fossoli became less safe and the departure of trains headed for the Third Reich's camps more uncertain. In July–August 1944, the camp was therefore moved to Bolzano, in the Alpenvorland. In this transit camp, which remained in operation as a detention facility until the end of April 1945, living conditions for prisoners were harsher than at Fossoli. Almost all internees were forced to do exhausting labor, inside the camp as well as outside, such as removing rubble, harvesting apples, rebuild-

Venezia 1995, p. 152, 154; PICCIOTTO, L.: *Il libro della memoria*, p. 899–900.

- 17 STEFANORI, M.: “*Ordinaria amministrazione*”: i campi di concentramento per ebrei nella Repubblica sociale italiana. Ph.D. dissertation Università degli Studi della Tuscia – Université Paris Ouest – Nanterre La Défense, p. 126, 134–136, 143, 263–272; PICCIOTTO, L.: *L'alba ci colse come un tradimento*, p. 31–33; PICCIOTTO, L.: *Il libro della memoria*, p. 900–902; SPARTACO CAPOGRECO, C.: I luoghi e i giorni della deportazione e della prigionia. In: FLORES, M. – LEVIS SULLAM, S. – MATARD BONUCCI, M. A. – TRAVERSO, E. (eds.): *Storia della Shoah in Italia. Vicende, memorie, rappresentazioni Volume I Le premesse, le persecuzioni, lo sterminio*. Torino 2010, p. 652, 647–652; ZUCOTTI, S.: *L'Olocausto in Italia*, p. 193.
- 18 PICCIOTTO, L.: *L'alba ci colse come un tradimento*, p. 34–36, 39, 60–62; ORI, A. M.: *Il Campo di Fossoli. Da campo di prigionia e deportazione a luogo di memoria 1942–2004*. Carpi 2004, p. 9–10, 13, 19, 21, 24; SARFATTI, M.: *La Shoah in Italia*, p. 103.

ing damaged railway tracks, working in a ball-bearings factory, etc.¹⁹ Giorgio Diena, an anti-Fascist physician, was detained in Bolzano and then deported to Flossenbürg, where he would die on March 2, 1945.²⁰ In a letter to his wife he wrote: “Here one has to work at cleaning latrines, cleaning the camp and the huts, also do heavy work such as carrying beams or bags of cement, unloading trucks, etc. etc. There are no excuses, and if one’s strength fails for any particular kind of work, one is showered with blows on every part of the body.”²¹

In Trieste, the police detention camp (Polizeihaftlager) in the Risiera di San Sabba was in operation from December 1943 until April 1945. As it was already mentioned, this was an “urban camp”, located in one of the town’s suburbs, inside an industrial complex for rice husking. From early 1944 onwards, it also served as a transit camp for Jews and partisans, and as a place of detention for eliminating partisans and people involved in the Resistance. It even had a rudimentary crematorium designed by Erwin Lambert, the same man who had built the death facilities at Treblinka. The Risiera di San Sabba was also used for storing property plundered from Jews.²²

The November 30, 1943 circular released by the Interior Ministry of the Italian Social Republic had ordered the seizing of all real and personal property belonging to Jews. A legislative decree issued by the Duce on January 4, 1944 then ordered its confiscation, i.e. its definitive appropriation by the state. A central role in the spoliation of Jewish property was played by the chiefs of provinces, the main local civil authorities, whose task it was to investigate the property belonging to Jews, to impound it, and later to issue the confiscation orders. The management and the sale of the assets thus seized was entrusted to the Ente di gestione e liquidazione immobiliare (Real Estate Management and Liquidation Authority), usually called by its acronym Egeli for short. This agency had been created as early as 1939, to manage the land, commercial firms and real property owned by Jews that exceeded the quotas imposed by law. Up to December 31, 1944, this agency had received 6,768 confiscation orders concerning buildings, land, valuables,

19 SARFATTI, M.: *Gli ebrei nell’Italia fascista*, p. 290; ORI, A. M.: Fossoli, dicembre 1943-agosto 1944. In: MANTELLI, B. (ed.): *Il libro dei deportati Volume II Deportati, deportatori, tempi, luoghi*. Milano 2010, p. 807; VILLANI, C.: *Durchgangslager di Bolzano (1944-1945)*. In: MANTELLI, B. (ed.): *Il libro dei deportati Volume II Deportati, deportatori, tempi, luoghi*. Milano 2010, p. 825, 831–834, 840.

20 PICCIOTTO, L.: *Il libro della memoria*, p. 261, where his name is given as Davide Giuseppe Diena.

21 Private Archives Giorgio Diena, Turin, Correspondence, letter by Beppe [Giuseppe Diena] to Ele [Elettra Bruno, his wife], October 10, 1944.

22 MATTA, T.: *La Risiera di San Sabba*. In: MATTA, T. (ed.): *Un percorso della memoria. Guida ai luoghi della violenza nazista e fascista in Italia*. Milano 1996; ORI, A. M.: Fossoli, p. 807–810; FOGAR, G.: *L’occupazione nazista*, p. 15.

securities and bank deposits; in April 1945, the number of orders had reached 7,847. However, as has rightly been pointed out, the value of the spoliated property cannot be measured simply on the basis of the dossiers handled by the Egeli. Several cases are known in which these properties were managed locally, without that authority intervening in any way. In Florence, by order of the chief of the province, a Jewish Affairs Office was created and put in charge of the spoliation and appropriation of Jewish assets.²³ Besides this, so to speak, “bureaucratically legal” sequestrations and confiscations, there were thefts, robberies, spoliations and lootings carried out both by individuals and by the authorities, whether Italian or German. Unfortunately, there does not seem to be any way of quantifying, with exactitude, this most likely widespread phenomenon. In the two Operation Zones the spoliation of property, as well as the arrests, were decreed and performed by German occupation authorities using their own timing and procedures: almost none of the decrees issued by the Mussolini government in this matter came into force in these territories. One more thing to remember is that in January 1944, Jewish communities were forcibly dissolved and their property seized.²⁴

The number of Jews deported from the Italian peninsula, which it has been possible to identify so far, stands at 6,806 – of these 837 survived. To these, we must undoubtedly add several hundreds more, whose names unfortunately are not yet known at present. In addition, 322 people died on Italian soil in the course of massacres, during the time they were in custody, while attempting to escape, or because they took their own lives.²⁵

To conclude, it should be noted that the circumstances of the persecution of Jews in the 20th century have long been neglected by Italian historians, almost as if they were considered only marginal, “*an issue that does not concern the history*

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- 23 Commissione per la ricostruzione delle vicende che hanno caratterizzato in Italia le attività di acquisizione dei beni dei cittadini ebrei da parte di organismi pubblici e privati. *Rapporto generale*. Roma 2001, p. 100; PAVAN, I.: *Tra indifferenza e oblio. Le conseguenze economiche delle leggi razziali in Italia 1938-1970*. Firenze 2004, p. 151, 155, 174-177; BAIARDI, M.: Persecuzione antiebraica a Firenze: razzie, arresti, delazioni. In: COLLOTTI, E. (ed.): *Ebrei in Toscana tra occupazione tedesca e RSI. Persecuzione, depredazione, deportazione (1943-1945) Volume I Saggi*. Roma 2007, p. 103; COLLOTTI, E. – BAIARDI, M. – CAVAROCCHI, F. – GALIMI, V. – ROCCHI, L.: *La deportazione degli ebrei dalla Toscana*, p. 669-671; SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 269-270, 294; PICCIOTTO, L.: *Il libro della memoria*, p. 943, 945.
- 24 SARFATTI, M.: *Gli ebrei nell'Italia fascista*, p. 272, 293; Commissione per la ricostruzione delle vicende che hanno caratterizzato in Italia le attività di acquisizione dei beni dei cittadini ebrei da parte di organismi pubblici e privati. *Rapporto generale*, p. 115-142, 536; VILLANI, C.: *The Persecution of Jews*, p. 251; PICCIOTTO, L.: *Il libro della memoria*, p. 946.
- 25 PICCIOTTO, L.: *L'alba ci colse come un tradimento*, p. 27.

of Italian society".²⁶ For decades, Italy has been depicted by historiography, as well as in periodicals and in memoirs, as "a country without any responsibility at all in the huge tragedy that resulted in the destruction of Europe's Jews".²⁷ According to this depiction, Italian society was entirely devoid of racism and anti-Semitism, and had always shown itself sympathetic to persecuted people. The deportation of Jews was therefore to be imputed solely to the German invaders. Recent studies, resulting from a new trend in research that has developed since the second half of the 1980s, have pointed out the contrary – the connivance and complicity of individuals and of the administrative apparatus, bringing to light a far less exonerative and reassuring truth.²⁸

There were Italians who informed against Jews, who were actively involved in their capture or directly carried out the arrests.²⁹ This is confirmed by testimonies, such as that of Milena Zarfati, who was arrested in Rome on February 21, 1944:³⁰ "I was playing hide and seek, just imagine, I was thirteen at the time... the Fascist who caught us knew us well, he used to sell roast chestnuts in the square."³¹ Or of Giuliana Fiorentino Tedeschi, captured in Turin on March 8, 1944:³² "They came for us at five in the morning, in the house where we were staying as guests. We had false papers, but they were of no use to us, because the Fascists had informed on us, and had clearly indicated our true identity."³³ Then there was Settimio Piattelli, who was arrested in Rome on May 14, 1944, who told:³⁴ "They caught me and my brother. We had gone for a breath of fresh air [...] We were taken by the Fascists, there were two of them, sly people who knew the Jews."³⁵

26 COLLOTTI, E.: Il razzismo negato. In: COLLOTTI, E. (ed.): *Fascismo e antifascismo. Rimozioni, revisioni, negazioni*. Roma – Bari 2000, p. 355.

27 COLLOTTI, E.: La Shoah e il negazionismo. In: DEL BOCA, A. (ed.): *La storia negata. Il revisionismo e il suo uso politico*. Vicenza 2009, p. 239.

28 Ibid., p. 239–240; PAVAN, I.: Gli storici e la Shoah in Italia. In: FLORES, M. – LEVIS SULLAM, S. – MATARD BONUCCI, M. A. – TRAVERSO, E. (eds.): *Storia della Shoah in Italia. Vicende, memorie, rappresentazioni Volume II Vicende, memorie, eredità*. Torino 2010, p. 135, 149; NATOLI, C.: La persecuzione degli ebrei durante il fascismo: nuove tendenze storiografiche. In: *Materia giudaica. Rivista dell'associazione italiana per lo studio del giudaismo*, volume (vol.) XIV/1–2, 2009, p. 299–300; GANAPINI, L.: I persecutori italiani. In: FLORES, M. – LEVIS SULLAM, S. – MATARD BONUCCI, M. A. – TRAVERSO, E. (eds.): *Storia della Shoah in Italia. Vicende, memorie, rappresentazioni Volume I*, p. 468–470.

29 On this see: GANAPINI, L.: *I persecutori italiani*, p. 471–473.

30 PEZZETTI, M.: *Il libro della Shoah italiana*, p. 490.

31 Ibid., p. 75.

32 Ibid., p. 484.

33 Ibid., p. 79.

34 Ibid., p. 487.

35 Ibid., p. 79.

At the same time, there were undoubtedly many instances in which persecuted Jews received help, whether in the form of organized assistance or not, and solidarity to them was expressed in various forms. If the number of Shoah victims in Italy was not higher, and in the end turned out to be comparatively lower than in other European countries, this was due also to the active solidarity shown. Mainly for humanitarian reasons, according to recent research – the non-Jewish population: clergy and laity, the so-called ordinary people and public officials, men and women became actively involved in various ways in aiding and assisting those that were persecuted.³⁶ Liliana Segre was thirteen when, on January 30, 1944, together with her father, she left San Vittore, Milan's main jail, to board the train for deportation; this is her recollection of that moment: “Out of that cell block came a long line of women, old men, children. The farewell the ordinary detainees gave us was amazing: one threw us an apple, the other an orange, or a pair of socks, others shouted blessings and encouragements. For us it was a wonderful send-off.”³⁷ And then came Auschwitz.

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- 36 PICCIOTTO, L.: Il soccorso agli ebrei nel 1943-1945. In: FLORES, M. – LEVIS SULLAM, S. – MATARD BONUCCI, M. A. – TRAVERSO, E. (eds.): *Storia della Shoah in Italia. Vicende, memorie, rappresentazioni Volume I*, p. 583; GALIMI, V.: Sotto gli occhi di tutti. La società italiana di fronte alla Shoah. In: *Storia della Shoah in Italia. Vicende, memorie, rappresentazioni Volume I*, p. 528–529; 537–538; COLLOTTI, E.: *Il fascismo e gli ebrei, Le leggi razziali in Italia*. Roma – Bari 2003, p. 147; GANAPINI, L.: *I persecutori italiani*, p. 462–463; SARFATTI, M.: *La Shoah in Italia*, p. 121–122.
- 37 PEZZETTI, M.: *Il libro della Shoah italiana*, p. 105. Liliana Segre's testimony is to be found also in: ZUCALÀ, E.: *Sopravvissuta ad Auschwitz. Liliana Segre fra le ultime testimonie della Shoah*. Milano 2005.

“Swindling the Peasants and the Poor of Ireland”: the Cultural-Legal Standing of Jews in the 1930s and 1940s Ireland

Bryce Evans (Ireland)

In *Ulysses* James Joyce created the Jewish character Leopold Bloom, who endured the bar room taunt that Jews were “*swindling the peasants and the poor of Ireland*”. In Ireland, an independent state since 1922, such views enjoyed strong popular legitimacy. In 1932, the Fianna Fáil party came to power: a socially conservative, illiberal, national populist movement with strong links to the country’s Roman Catholic hierarchy. Fianna Fáil set about constructing an inward-looking Ireland – Gaelic, ruralist, small farming, Catholic, and anti-alien – and refused to join the British war effort during World War II. This paper explores the cultural and legal standing of Jews in these two pivotal decades of European history.

This paper situates Irish anti-Jewish sentiment within the European context. In the 1930s anti-Semitic legislation grew in mainland Europe. By the end of the decade, vast numbers of Jews were expelled from the German Reich, refused entry into Poland, denationalized in Romania, and systematically persecuted all across East-Central Europe. In Ireland, by contrast, the Jewish community was relatively small. Irish Jews faced legislative restrictions on economic behavior, rather than property rights and freedoms. While anti-Semitic political and religious discourse was common, legislative restrictions on the Jewish community only extended to laws banning usury as a practice antithetical to the Catholic moral economic order. There was, however, a *de facto* anti-Semitism in Irish immigration legislation. As World War II and the Holocaust developed, Irish economic policy makers moved to block the entry of Jewish refugees, arguing

that Ireland – as a small nation – could not support a large Jewish population in the post-war period. Infamously, when Hitler committed suicide in 1945, the Irish Prime Minister Eamon de Valera, who had recognized the minority status of the Jewish religion in 1937, called on the German Ambassador in Dublin to formally express his condolences.

This paper records the pervasive hostility towards Jews in Ireland during the 1930s and 1940s, exploring its religious and ideological foundations and detailing its essentially economic bent. It demonstrates how antipathy to Judaism developed in a postcolonial society and economy isolated from European and world currents for two decades, and explores the complex interplay of Anglophobia and anti-Semitism. It also lists the historical reasons why anti-Semitism in Ireland, unlike in mainland Europe, never achieved full legislative or juridical support.

This paper is based on research carried out for a forthcoming book, *The Other Lemass*, to be published in August 2011. Dr. Bryce Evans is a graduate of the University of Warwick and the National University of Ireland and is based at the Humanities Institute of Ireland, University College Dublin.

When I was a young student at the University of Warwick, in England, I chose to do my final year project on the national identity in Slovakia between the years 1918 and 1919. The reason why post-World War I Slovakia interested me was the similarity between this country and Ireland. Like Ireland, Slovakia emerged from the World War I as a small, predominately Catholic country, with a history of colonial rule, aspiring to greater independence, and informed by a romantic folk nationalism through the works of Ľudovít Štúr. The Irish war of independence, which was beginning at this same time, ended in a treaty with Britain; Ireland was divided and Northern Ireland and the Irish Free State were created. Like Slovakia, Ireland also emerged after the World War I and its aftermath with only limited independence.

In modern Ireland, political nationalism is heavily influenced by Catholicism, because Catholics, the majority of the population, had suffered discrimination at the hands of the largely Protestant English ruling class for centuries. By the turn of the century there were 3,000 Jews living in Ireland, mostly exiles from Russian pogroms. There was a general Catholic hostility towards Jewish economic practices in Ireland at this time. In 1904 there was a pogrom in Limerick against Jewish businesses, instigated by a local Catholic priest. Theoretically, Jews were protected from discrimination by British law and several of the protagonists of the Limerick pogrom were prosecuted. However, after that the Jewish emigration

1 Note: The book entitled *Sean Lemass: Democratic Dictator* was published in September 2011 in The Collins Press publishing house.

to Ireland was restricted by the British Aliens Act of 1906. James Joyce, who had his character Leopold Bloom subjected to the taunt that Jews were “*swindling the peasants and the poor of Ireland*”, claimed that there was no hostility towards Jews in pre-independence Dublin, “*but contempt, yes, the contempt people always show for the unknown*”.

Yet a number of influential Jews supported the Irish fight for independence in the early 1920s. The most famous Jewish-Irish rebel in the War of Independence was a man named Bob Briscoe. Briscoe was born in Dublin to Lithuanian immigrants. The first Jew to be elected to the Irish parliament, Briscoe joined Eamon de Valera’s Fianna Fáil party and went on to become Mayor of Dublin. Rabbi Isaac Herzog, whose son Chaim was to become President of Israel, lived in Dublin during Ireland’s revolutionary years and was a friend of the Irish nationalist cause. He counted de Valera as a personal friend and, when the latter was on the run from the British, hid him in his house.

Although Herzog and Eamon de Valera were friends, the mention of the name “de Valera” will remind many of the most infamous episodes in the Irish-Jewish question. So now I will fast-forward to May 2, 1945, when the Irish Prime Minister de Valera – leader of the Fianna Fáil Party – visited the German envoy in Dublin to express his condolences on the death of Adolf Hitler.

This shameful incident can only be understood in the context of Ireland’s fastidiously strict neutrality policy during the World War II. However, what does it suggest about the cultural-legal standing of Jews in Ireland in the 1930s and 1940s? In 1932 de Valera’s Fianna Fáil party came to power in the Irish Free State. Fianna Fáil – which in Irish means “the Warriors of Destiny” – had opposed the 1921 Treaty with Britain and was defeated in the Irish civil war that followed. For the next decade, these men of the gun set about reinventing themselves as a political party. When they were elected to office in 1932, they were widely held to be radicals who would destabilize Ireland’s fragile liberal democracy. Fianna Fáil’s ideology was Gaelic, ruralist, small farming, and anti-alien; culturally, the party appealed to the majority population of the new state, which was 95% Catholic.

So, how were Irish Jews affected by this new regime in Ireland? The Irish Free State had been rocked by a bloody civil war. Nevertheless, its constitution upheld equality before the law, guaranteeing citizenship for members of religious minorities resident in Ireland and the freedom of religious practice. When de Valera and his followers took power in 1932, many commentators feared the end of such liberal constitutionalism in Ireland.

Yet, to the contrary, after Fianna Fáil came to power in 1932, they upheld democracy and the institutions of state. Bob Briscoe attempted to combat anti-Jewish prejudice by sponsoring a bill against money-lending, which was put on

the statute books in 1933: this went some way to undermine popular intolerance against Ireland's Jews. Meanwhile, Rabbi Herzog secured legal permission for kosher butchers and an abattoir for the Jewish community in Dublin and state funding for a Jewish school. Later, when de Valera announced a new constitution for Ireland in 1937, it specifically recognized the "Jewish congregation".

Yet, like elsewhere in Europe during the 1930s, a number of anti-Semitic Catholic publications enjoyed wide circulation, linking Jews to communism. Legal guarantees masked the still-pervasive cultural contempt towards Jews. The growth of the Irish fascists – the Blueshirts – was also of concern to Ireland's Jewish community. The Irish police became aware of an increasing number of intimidating letters and articles about Jews and concerned about *agents provocateurs* based at the German and Italian legations in Dublin. The pro-Franco Irish Christian Front was active at the time and, when Herzog accepted the post of chief rabbi of Palestine in 1937, Ireland's Jewish community was left without its inspirational spiritual leader. Ireland's Jewish population did not find a replacement for Herzog until 1949.

Most ominously, in 1935 a new Aliens Act was passed in Ireland. Administered by the Minister for Justice, this illiberal piece of legislation sought to drastically limit the number of immigrants coming into Ireland at a time when Jewish emigration – especially from Germany – was steadily increasing. At the international refugee conference at Evian in 1938, Irish diplomats told their fellow delegates that Ireland was effectively closed to all immigration as it was too small to cope. The Irish Department of Justice, acting through immigration officials, continued to take an unyielding attitude towards Jewish "aliens", even as the situation in Europe rapidly deteriorated.

Although de Valera personally intervened to allow Jews to enter Ireland in a number of cases, decisions often rested first and foremost with Ireland's envoy in Berlin. Unfortunately, the Irish envoy was an anti-Semite, Charles Bewley. As Hitler marched into Prague in March 1939 Bewley reported back to Dublin that: *"The net result will be, in all probability, that a large number of Jews and German communists will be at large in Europe with Czech passports... it would be very unsafe to assume that Jews or German communists who come to Ireland from Czechoslovakia can be returned to Czechoslovakia [after the war]."*

Back in Ireland, immigration officials took note and barred Jewish refugees from Czechoslovakia from entering Ireland. Bewley continued to provide Dublin with alarmist reports about the criminal tendencies of central European Jews and their support for communism. He viewed Jews as morally debased purveyors of pornography: an accusation that had great resonance in insular, Catholic Ireland of that period. However, his opposition was essentially commercial. He warned of an influx of Jews into Ireland in the medical and legal professions. For

Ireland to admit Jews would lead to an upsurge in unpatriotic activities such as usury and fraud, he claimed. By 1938, not even the personal representations of Herzog to de Valera could persuade Ireland to accept a number of Jewish doctor refugees seeking entry.

By 1939, the Nazi sympathizer Bewley had been removed from his post. However, legal parsimony continued to characterize Irish refugee policy. In one case, in 1939, a German Jew jumped ship ten miles from the Irish coast and swam to shore. Customs officials turned a blind eye and he was entrusted to the Jewish community in Cork, who looked after him. However, when immigration officials found out, he was deported; despite a direct appeal to de Valera. He spent the rest of the war in a Nazi concentration camp. Worryingly, a new fascist movement was now active in Ireland: Ailtirí na hAiserighe (Architects of the Resurrection), an openly anti-Semitic and pro-Axis party.

At the Wannsee Conference of 1942, a table was drawn up showing the number of Jews in each country, including the neutral states: Finland 2,000; Portugal 3,000; Spain 6,000; Sweden, 8,000; Switzerland, 18,000; and finally, Ireland, 4,000. Although Ireland's Jewish population was small, yet it is reasonable to assume that had Ireland been occupied by the Nazis, the Jewish population would have been handed over to the Germans – by whatever puppet administration was then running the country – for destruction in Europe's extermination camps.

Between 1939 and 1945 Ireland was in a state of national emergency during which the presence of "aliens" became more conspicuous and was more frequently recorded by the authorities. Domestically, Ireland's influential monetary reform lobby attacked the immorality of usury throughout the war. Branding it an "anti-social enterprise", they argued that the supply of money should be controlled "*in accordance with social needs*". In outlawing money lending on Christian holidays – Sundays, Christmas Day, Good Friday and St Patrick's Day – Briscoe's Moneylenders Bill of 1933 provided legal justification for the opinion that such practices were antithetical to the Catholic moral economic order.

Some Irish groups exploited these conditions in order to juxtapose the values of Christianity with the values of Judaism. The 1939 manifesto of the Irish-Ireland Research Society expressed hostility towards the perceived lack of morality of "*racial aliens, with their special moral code and values*" and claimed that, by contrast, "*our society is ranged against world money*". In June 1942, a far-right group calling themselves the Irish Christian Rights Association published a leaflet attacking the "*pernicious evils of money-lending*". This group's newspaper *Penapa* had previously been censored for reporting on money-lending trials involving Jews.

Open and public anti-Semitism was notably espoused by the Ailtirí na hAiseirghe and from the "independent Christian" standpoint by member of

parliament Oliver J. Flanagan, who in his maiden speech to the Irish parliament in 1943 famously proposed that emergency legal orders be “*directed against the Jews, who crucified our Savior nineteen hundred years ago and who are crucifying us every day of the week*” and that “*Where the bees are there is the honey, and where the Jews are there is the money.*” Press coverage of a number of anti-Semitic acts in Dublin during the Emergency was censored, but prominent incidents did take place, including the daubing of “J E W S” in two-foot high letters on Jewish-owned premises on Dublin’s main shopping street in 1944.

Yet, according to official figures, the number of Jews sentenced to imprisonment for criminal offences in Ireland during the World War II was twelve, representing just 0.01% of the total number of committals to prison for criminal offences in those years. The question arose because Jewish TD Bob Briscoe was keen to counter the implication, raised by Flanagan, that Jews were more heavily involved in black market activities.

The de Valera government’s unwillingness to fully outlaw money-lending was attacked in the popular Catholic press, which retained its anti-Semitic tone. The government’s reluctance to extend emergency legal controls on profits, prices and money-lending indicates an attachment to finance capital and common sense liberal democracy, as well as the rejection of the more radical Catholic definitions of a moral economy.

The Irish security forces kept a file on every single “alien” resident in the country, and there is evidence that officials singled out Jews for especially illiberal treatment. During the Holocaust, and with the anti-Semitic Bewley removed, Irish diplomatic missions petitioned on behalf of Jews. Irish immigration law was overhauled as Ireland accepted 500 Jewish refugee children. One of these children, Robert Weil, wrote a long school essay entitled *Why I Love Ireland*, noting the tolerance, in comparison to Berlin. Its childish sentiment is heart-warming.

“One might expect independent Catholic Ireland to avenge the centuries of oppression by Protestants, but there is nothing of the kind. Catholics and Protestants live freely together and, in fact, the president, elected by Catholic Ireland, is a Protestant! I think it is wonderful that the Irish are not taking revenge now. They have forgotten the wrongs of the past and do not want to repeat them. May the whole world learn from Ireland to bury the past and to work in the present for a better world in the future.”

Weil’s upbeat tone reflected the fact that unlike most of Europe, Ireland guaranteed religious, cultural and economic freedom to its Jewish population during this period. However, as the historian Dermot Keogh has argued, the country’s refugee policy was reactive rather than proactive. Ireland protected its Jews by law. However, ultimately, as a liberal Western democracy, it failed its

domestic Jewish community by not admitting as many foreign Jewish refugees as it should have done.

It is therefore in this context, that de Valera's expression of condolences to the German ambassador in 1945 appears all the more distasteful. The fifteen year old Jewish refugee Robert Weil may have praised Ireland's historical tolerance, but his own parents and thousands of his co-religionists were the great missed opportunity of this same country, to express this compassion on the international stage.

Racial Legislation in France and Germany – Comparing the Implementation of Anti-Jewish Policies

Michael Mayer (Germany)

INTRODUCTION

The unique brutality with which the extermination of European Jews was realized still shocks the broader public as well as historians. The singularity of this German crime places it beyond any comparison, since this would only lead to an apologetic and relativizing approach. Nevertheless, certain questions concerning the beginnings of the anti-Jewish Policy in Germany can be compared with similar developments in Europe, when strictly taking into account the special situation in the German Reich. There the racial legislation was only one step in a development that found its horrible climax in Auschwitz – even if this road to Auschwitz was a twisted one, and not a one way road. In France, on the contrary, the racial legislation was part of a policy of segregation aimed against the Jewish population. It is completely out of question, to imagine a process of radicalization in France being comparable to Germany. Besides this, any study comparing both countries has to observe the increasing German pressure put on France to extradite the Jewish population for eventual elimination in concentration camps.

Furthermore, the dimension of time has to be considered, since Germany was in a certain way a “pioneer” in 1933, because it was the first modern industrialized state to introduce a policy of segregation aimed against the Jewish minority. When racial legislation was adopted in France in 1940, Vichy “only”

reacted to an apparently European “consensus” on an anti-Jewish policy, since Germany, Italy, Slovakia and Hungary already segregated their Jewish populations by means of such laws.

This article is based on a study that systematically compares the anti-Jewish policy in National Socialist Germany and Vichy France.¹ It is the first attempt to accentuate the similarities and differences between both countries. However, it is also meant to highlight the way that German racial policy influenced France, and respectively, how both developments were interconnected.² In contrast to other works, which only describe parallel developments in different countries, this study systematically compares the anti-Jewish policy of both states in order to gain deeper insight into the transnational factors in the persecution of Jews. Until now, such a study would not have been feasible, because Vichy documents concerning the anti-Jewish policy remained inaccessible in the French archives until recently. Over the last few years these documents were opened to the public gradually, and that is why the comparison, relying upon the original documents, was made possible. The study analyses the “techniques” used by the administration to segregate the Jewish population by means of bureaucratic procedures. It also explores the way that these procedures were implemented when, for instance German or French police (the latter acted on German orders) carried out round-ups to arrest Jews. On the other hand, this study examines how the Churches in both countries reacted to the crimes committed against the Jewish people.

This article, based on this study, is divided into three parts. It will start with a description of the way racial legislation was introduced in Vichy France in 1940. It is essential to answer the question – Was the anti-Jewish Policy adopted by the French government because of German pressure or was there a French self-interest to do so? Nevertheless, the special situation in occupied France has to be taken into account when trying to estimate the degree of autonomy that the French government was able to rely on.

The second and third parts of this article focus on the implementation of racial legislation in France and Germany. Due to the limited amount of space, it will concentrate on the purge of administration staff. It will first be shown which groups of Jewish civil servants, as well as Jewish workers and state employees, were affected by the anti-Jewish legislation in both countries. The last part of

1 See: MAYER, M.: *Staaten als Täter. Ministerialbürokratie und „Judenpolitik“ in NS-Deutschland und Vichy-Frankreich. Ein Vergleich.* München 2010.

2 Therefore the concept of “histoire croisée” is implicated. This concept explores how the history of two countries is intersected. See: WERNER, M. – ZIMMERMANN, B.: *Beyond Comparison. Histoire Croisée and the Challenge of Reflexivity. History and Theory*, volume (vol.) 45, 2006, page (p.) 30–50.

this article aims to analyze how the purging measures, stipulated by the government, were realized by the administration. This will be the most important part of the presented comparison, since the racial laws demanded the suspension of specific Jews from the civil service, without telling the bureaucracy how to find out if someone was of Jewish origin or not. Therefore, the administration in both countries had to find ways to carry into effect the policy that the government had decided upon.

It is obvious that this comparison only concerns the actions of administration in certain domains. Still it has to be taken into account that the main parts of the anti-Jewish persecution in Germany were implemented by radical members of the National Socialist Party, who did not care for any pseudo-legal reasoning. In France on the other hand, the anti-Jewish policy mostly remained on a “normative level”.

1. RACIAL LEGISLATION IN VICHY – A RESULT OF AN AUTONOMOUS FRENCH POLICY?

On June 22, 1940, an armistice was signed between France and Germany, only a couple of weeks after German troops invaded their neighboring country.³ France was divided into two parts: The German occupational zone in the north and west of the country, and a free zone in the south. The French government, which had left Paris, fleeing from the approaching German troops, settled down in the spa town of Vichy, in the free zone. There the executive branch of the government, composed of French nationalists, tried to find a balance between the necessary collaboration with the German occupational forces and the desire to preserve as much autonomy as possible under these circumstances. Germany, on the other hand, was also quite dependent on the French. Berlin had decided not to control the country like it did in Poland, but to keep the French government and the administration intact. Thus it would be possible to command the neighboring country with a limited number of German soldiers and civil servants. Their most important aim was to keep order in France, and to exploit the French economy so as to support the German war industry. Berlin did not care for French internal affairs at all. Hence, France was the only country, occupied

3 For an introduction to occupied France see: LAUB, T. J.: *After the Fall. German Policy in Occupied France, 1940–1944*. Oxford 2010; or MITCHELL, A.: *Nazi Paris. The History of an Occupation, 1940–1944*. New York 2008. For the anti-Jewish policy, see the pioneer work: MARRUS, M. R. – PAXTON, R. O.: *Vichy France and the Jews*. New York 1981.

by German forces during World War II, that was able to maintain a semi-autonomous government with a head of state, Marshall Philippe Pétain, who was overwhelmingly approved by the French population. Pétain immediately started to implement a considerable amount of internal reforms to fight everything that was seen as responsible for the French defeat against Germany, in order to re-establish the basis for a French national comeback.⁴

The apparently strong Jewish influence in France before World War II was considered one of the main factors for the French weakness. Already during the 1930s, when Germany seemed to be becoming stronger and stronger, the French government introduced laws directed against Jewish refugees fleeing from Germany. Between 1933 and 1935, several decrees were adopted that banned foreign Jewish jurists and medical scientists from practicing their professions. After having closed the French borders to most Jewish refugees, the government started sending them back to their home countries from May 1938 onwards. Stateless Jews could be placed under house arrest. From November 1938 onward, they could be committed to internment camps.⁵ In September 1939, half a year before the German invasion, the French government started a purge in the administration, removing communists and “*all other subjects endangering national defense*”.⁶ Jewish civil servants were also affected, although they were not yet the main target of the government.

The disastrous defeat of the French army in May–June 1940 clearly radicalized these anti-Jewish measures. Only a few days after signing of the armistice, the French government under Marshall Philippe Pétain continued the purge in the administration. On July 17, 1940, a decree was adopted that enabled the ministers to remove any civil servant from office who seemed not likely to support the government.⁷ In the following weeks, a number of laws were introduced to toughen the occupational restrictions on foreign Jewish jurists and medical scientists. Furthermore, a commission was established to revise all naturalizations of Jews between 1927 and 1940. In 1943, the commission reported to the

4 For the question of Franco-German collaboration, see the pioneer work: PAXTON, R. O.: *Vichy France, Old Guard and New Order. 1940–1944*. New York 1972.

5 See: MAYER, M.: *Staaten als Täter*, p. 25–27; CARON, V.: The Politics of Frustration: French Jewry and the Refugee Crisis in the 1930s. *Journal of Modern History*, vol. 65, 1993, p. 311–356; SCHOR, R.: *L'opinion française et les étrangers en France*. Paris 1985, p. 602–611.

6 Secret circular letter signed by the Minister of the Interior, Henri Roy, on April 5, 1940; cited in: BARUCH, M. O.: *Servir l'État français. L'administration en France de 1940 à 1944*. Paris 1997, p. 46. The circular letter signed by the Minister of the Interior, Albert Sarraut, on October 24, 1939 had the same intention. Cited: *Ibid.*, p. 43.

7 See: *Journal Officiel de la République Française*, July 18, 1940, p. 4538.

government that it had already made decision about more than 9,000 cases. Around 7,000 Jews were expatriated, while only 1,984 individuals were able to keep their French citizenship, due to their military service during World War I.⁸ The anti-Jewish measures, directed against foreign Jews, reached their peak on October 4, 1940, when a law was introduced that enabled local Prefects to commit “foreign people of the Jewish race” to internment camps.⁹ At the beginning of the year 1941, more than 13,000 Jews were imprisoned in camps in the non-occupied zone.¹⁰ Even after the war, the intention of this law was not concealed. The former Minister of the Interior, Marcel Peyrouton, stated during the trial of war criminals on April 22, 1948 in Paris: “*We had to deal with foreigners of the Jewish race who – as foreigners – needed to be kept under surveillance.*”¹¹

However, the French government did not just enact measures against foreign Jews. At the same time, Vichy prepared a law to settle the status of French Jews. Preliminary work had already started at the end of June 1940, when it was already stated that the main intention of this law should be the purge from the administration and the determination of occupational bans on Jews working in the domains such as justice, medicine, education, culture and media.¹² On September 10, 1940, a draft law, prepared by the Ministry of the Interior, the Ministry of Justice and the Office of the Head of State (Présidence du Conseil), was discussed at length in the cabinet. On this occasion, the Minister of the Interior Peyrouton stated that “*the activity of the Jews causes troubles. That is why we have to take measures against them.*”¹³ On September 30, 1940, the final decision was made in the cabinet. It was Marshall Pétain himself who was one of the most radical, and who insisted on a clause in the law to evict every Jew from the domains of Justice and Education.¹⁴ On October 3, 1940, Pétain signed the statute on Jews.¹⁵

8 See: MAYER, M.: *Staaten als Täter*, p. 307–308.

9 See: *Journal Officiel de la République Française*, October 18, 1940, p. 5324. A number of the French and German documents cited in this article, especially laws, are published in the German language in: HAPPE, K. – HERBERT, U. – MAYER, M. – PEERS, M. (eds.): *Die Verfolgung und Ermordung der europäischen Juden durch das nationalsozialistische Deutschland 1933–1945. West- und Nordeuropa 1940–Juni 1942*. Vol. 5. München 2012.

10 See: MAYER, M.: *Staaten als Täter*, p. 30–31.

11 Archives Nationales, Paris (AN), 3W 31–3, 3, p. 1311.

12 For the elaboration of racial legislation in Vichy-France see: MAYER, M.: „Die französische Regierung packt die Judenfrage ohne Umschweife an.“ Vichy-Frankreich, deutsche Besatzungsmacht und der Beginn der „Judenpolitik“ im Sommer/Herbst 1940. *Vierteljahrshefte für Zeitgeschichte*, vol. 58, 2010, p. 329–362.

13 Noted by Jacques Alibert, member of the cabinet; ALIBERT, J.: *Treize années noires 1933–1946. Souvenirs et réflexions*. Paris 2001, p. 130.

This statute on Jews was not only elaborated by the heads of Ministries in the new capital Vichy in the free zone, but also intensive discussions took place between the ministries in Vichy and the medium grades of administration that remained in Paris. Details of the draft law were debated in order to find a consensus.¹⁶ The representative of the French government in the occupied zone, Charles-Albert de Boissieu, communicated to Vichy the general opinion of the French administration in Paris. It seemed necessary *“that a widespread purge of the administration has to be undertaken, civil servant by civil servant, for every important post.”*¹⁷

On the other hand, the government of Vichy, seeing itself as a regime based on the Catholic religion, requested the opinion of the Catholic Church in France, concerning the introduction of anti-Jewish legislation as early as in August 1940. The French episcopacy congregated in Lyon in the free zone declared on August 31, 1940: *“The fact that there exists an internationalist Jewish community composed of Jews from all nations and the fact that the Jews are not ordinary strangers being admitted to a country but non-assimilable people can force the state to take measures of protection against the Jews in the cause of common welfare.”* Therefore the Church announced, in view of the government, that *“it is legitimate for a state to take into account a legal statute against the Jews, as it was done by the papacy in Rome.”*¹⁸ Taken as a whole, the attitude of French government, French administration and the Catholic Church in France, showed a distinct consensus regarding the introduction of anti-Jewish legislation.¹⁹

14 Recalled by the former Minister of Foreign Affairs Paul Baudouin. BAUDOUIN, P.: *Neuf mois au gouvernement, avril-décembre 1940*. Paris 1948, p. 366.

15 *Journal Officiel de la République Française*, October 18, 1940, p. 5323.

16 See: MAYER, M.: *Vichy-Frankreich*, p. 346–348.

17 Letter from the Secrétaire General de la Délégation Générale du Gouvernement Français dans les Territoires Occupés, Charles-Albert de Boissieu, to the Minister of the Interior Peyrouton from October 12, 1940, where he explained in detail which propositions were made by the respective branches of the French administration in Paris; Archive of the Ministry of Foreign Affairs, Paris, Les Papiers 1940/Papiers Baudouin/Vol. 12, p. 149. The statute on Jews was adopted on October 3, 1940, but promulgated on October 18, 1940. Therefore, Boissieu in Paris was not aware that his elaborate explanations arrived too late. Nevertheless, they were taken into account when the government in Vichy considered a modification of the statute on Jews from November 1940 onward. The first modification of the law was promulgated on April 11, 1941, the second on June 2, 1941. See: MAYER, M.: *Staaten als Täter*, p. 109–116 and 133–151.

18 Cited in: DELPECH, F.: *Sur les Juifs. Études d’histoire contemporaine*. Lyon 1983, p. 286–287.

19 For more detailed information see: MAYER, M.: *Staaten als Täter*, p. 46–47 and 96–105. For the Catholic Church see: *Ibid.*, p. 174–192.

How was the introduction of the French anti-Jewish policy affected by the presence of German forces in parts of the country? Parallel to the French draft legislation work, the German military administration also considered taking measures against the Jewish population in the occupation zone.²⁰ The officers believed that the Jews were opposed to the German forces, for which reason they should be controlled effectively, in order to prevent any anti-German behavior. Furthermore, the military administration sought to exploit the French economy to support the German war industry. Therefore, the German forces instructed the French administration to hold Jewish enterprises in trust, in the first place the armament factories. For this reason, an ordinance was enacted on September 27, 1940, which introduced “security measures” against the Jews as well as it initiated the “Aryanization” of Jewish property in France for the benefit of the French treasury.²¹

The Vichy government was furious about these German measures, which were seen as interference in internal French affairs and an affront to French sovereignty. Nevertheless, the French protest remained fruitless. The government had to accept the German measures.²² Yet, did these German measures in September 1940 affect the French draft legislation concerning the statute on Jews, which was under preparation? On September 24, 1940, the liaison officer between the French government and the German forces, General Benoît-Léon Fornel La Laurencie, wrote to Marshall Pétain that there was no need “*to aggravate or to complete the German measures by enacting ordinances on French initiative.*” On the contrary, La Laurencie suggested continuing the French projects to “*purge the higher administration and the education sector of Jewish employees and civil servants.*”²³

Altogether, the anti-Jewish policy of the Vichy government and the German occupational forces were initiated relatively independently of each other.²⁴ Time had not yet come for the Germans to impose their will ruthlessly on the French.

20 See: MAYER, M.: *Vichy-Frankreich*, p. 332–338.

21 See: *Verordnungsblatt des Militärbefehlshabers in Frankreich*, September 30, 1940, p. 92–93. For the “Aryanization” of Jewish property in France see: JUNGUS, M.: *Der verwaltete Raub. Die „Arisierung“ der Wirtschaft in Frankreich in den Jahren 1940 bis 1944*. Ostfildern 2008; AZÉMA, J. P. – BARUCH, M. O. – MARGAIRAZ, M. (eds.): *Aryanisation*. Paris 2002; PROST, A.: *Aryanisation économique et restitutions*. Paris 2000 or VERHEYDE, P.: *Les mauvais comptes de Vichy. L'aryanisation des entreprises juives*. Paris 1999.

22 See: MAYER, M.: *Staaten als Täter*, p. 44–45.

23 AN, F60 490, Letter from the Délégué Général du Gouvernement Français dans les Territoires Occupés, General Benoît-Léon Fornel La Laurencie, to Marshall Pétain, September 24, 1940.

24 For the question of German influence on the elaboration of the French racial legislation, see: MAYER, M.: *Staaten als Täter*, p. 47–67.

The Vichy administration even noted the different target goals of the French and German anti-Jewish policy. Therefore the Office of the Minister President wrote on October 24, 1940: *“The objective of the German ordinances is to deprive the Jews of all economic influence. The objective of the French laws is to deprive the Jews of any political, military, artistic or intellectual influence.”*²⁵

Overall, the French government had relative autonomy to initiate its own anti-Jewish policy. In 1940, German military officers had a clear line: *“It is outside of the military administration’s province to interfere in internal French affairs.”*²⁶ The German forces wanted to leave it to France to *“liberate itself from Jewry.”*²⁷ Anti-Jewish measures would only be durable if they were taken *“by the French government”*, as the military administration stated: *“It is inappropriate, and will not produce the desired result, if we impose pressure upon the French government to force them to bear down on the Jews.”*²⁸ Nevertheless, the fact that there existed a foreign occupation force in France, which left no doubt about its anti-Jewish intentions, surely had an indirect influence on the Vichy government.

2. WHO WAS AFFECTED BY THE IMPLEMENTATION OF RACIAL LEGISLATION IN FRANCE AND GERMANY?

The relative autonomy of the French anti-Jewish policy allows comparing certain individual questions. For this we will focus on the purges from the administrations in France and Germany. These purges were promulgated in the German Civil Service Law adopted on April 7, 1933²⁹ and in the French statute on Jews on October 3, 1940.

Which groups of people were affected by the German and French legislations? The German Civil Service Law of 1933 affected any person descending from at least one Jewish grandparent. The French law of 1940 was less strict. It only concerned people descending from three Jewish grandparents. The French law was also applied to people with two Jewish grandparents, when they were married to another Jew. The French legislators considered the fact that a so-called half-Jew,

25 AN, F60 490, Note from the Office of the Minister President (Vice-Présidence du Conseil).

26 AN, AJ40 548, vol. 1, Memorandum of the military administration (Kriegsverwaltungsrat Ludwig Mahnke) from August 22, 1940, p. 3.

27 AN, AJ40 548, vol. 1, Memorandum of the military administration (Kriegsverwaltung sacheilungschef Karl Storz) from the beginning of September 1940, p. 11.

28 AN, AJ40 548, vol. 1, Memorandum from Mahnke from August 22, 1940, p. 5.

29 Gesetz zur Wiederherstellung des Berufsbeamtentums. *Reichsgesetzblatt I*, 1933, p. 175–177.

who married another Jew, was showing a “persistence” of the “Jewish tradition”. In their eyes, this person did not follow the path to assimilation and complete loss of his/her Jewish origins, which the legislators demanded. Only continuing the marrying of non-Jews was considered the right behavior.³⁰

Furthermore, Jews were exempted from being purged from the administration, in both countries, if they had served in the army during World War I. German Jews could also stay in office if they were already employed in the service since 1914. The government considered them “trustworthy”, because they had been employed by the imperial administration. The French legislators did not envisage a similar regulation. There were no civil servants left who were hired under the reign of Napoleon III. In Germany, these exemptions were widely annulled when the Nuremberg Laws were promulgated in 1935. Only former combatants with less than three Jewish grandparents could remain in office. In France, this clause was in force until the liberation of the country in 1944.³¹

How were the administrations in France and Germany instructed by the government to establish if a grandparent was of Jewish origin or not? In Germany, the legislators had provided a fixed definition. A grandparent who was member of the Jewish religious community was considered as a Jewish ancestor.³² Although the German law was based on a racist ideology, the recourse to the Jewish religion seemed the only way to fix a criterion that enabled the administration to implement the law efficiently, without interminable enquiries.³³ Therefore, the Ministry of the Interior stated: “*The consideration of the Jewish religion of a grandparent, which is regarded as an irrefutable legal assumption for his/her affiliation to the Jewish blood, was introduced to establish legal certainty.*”³⁴

On the other hand, The French legislators had simply forgotten to fix a criterion for the administration to implement the Statute on Jews. A couple of weeks later, the French bureaucracy had to accept the fact that the German recourse to the Jewish religion – also used in the German ordinance for the occupied

30 For the French desire to punish people who did not completely abandon their Jewish traditions: MAYER, M.: *Staaten als Täter*, p. 318–322.

31 For further details see: MAYER, M.: *Staaten als Täter*, p. 71–73, 105–122, 155–158, 313–325.

32 See the decree from August 8, 1933. *Reichsgesetzblatt I*, 1933, p. 433.

33 For the criterions, the German racial legislation was based on see: MAYER, M.: *Staaten als Täter*, p. 74–78.

34 Bundesarchiv Berlin, R 1501/5508, Commentary of the head of the “Jewish Division” in the Ministry of the Interior, Bernhard Lösener, concerning the 1st decree to the Reich Citizenship Law (Reichsbürgergesetz) on November 14, 1935, p. 26. See also: LÖSENER, B. – KNOST, F. A.: *Die Nürnberger Gesetze über das Reichsbürgerrecht und den Schutz des deutschen Blutes und der deutschen Ehre nebst Durchführungsverordnungen*. Berlin 1936, p. 20.

zone starting from September 27, 1940 – was an effective way to accelerate the realization of the Statute on Jews. Nevertheless, the French government also simply used the religious criterion to implement a racist ideology. The Minister of Justice, Raphaël Alibert, stated in a circular on November 21, 1940: *“If the affiliation to the Jewish religion cannot be proven, it will be much more difficult to determine if the person concerned belongs to the Jewish race. Useful indications can be found in the aspect of the family name, in the choice of the first name as mentioned in the birth certificate, or in the fact that his/her ancestors were buried in Jewish cemeteries.”*³⁵ The aim of the Statute on Jews was to affect members of the apparent Jewish “race”, and not only people of the Jewish religion. On May 25, 1941, the French Commissary General for the Jewish Question, Xavier Vallat, wrote to Marshall Pétain: *“The assumption that a grandparent who exercised the Jewish religion belongs to the Jewish race is proven by the close bonds between the Jewish race and Hebrew religion.”*³⁶

The Office of the French Minister President therefore stated that a grandparent of a person concerned could be of the “Jewish race” without belonging to the Jewish religious community. That is why the Office wanted the text of the Statute on Jews to be modified in the nearest future. The text should not be understood in the sense that if a grandparent was not a member of the Jewish religious community he/she should not be considered as member of the Jewish “race”. Thus the Office of the Minister President proposed the following modification: *“The grandparent, having belonged to the Jewish religious community, is considered anyway as being of Jewish race.”*³⁷ By the use of the word “anyway”, it was made clear that a person was in either case considered as a Jew, if he/she descended from a certain amount of grandparents who were members of the Jewish religious community. Nevertheless, also different hints were allowed to conclude that a person was of the Jewish “race” – such as suggested by the Minister of Justice Alibert: Names, burial in a Jewish cemetery, etc. On January 27, 1942, the legal adviser of the Commissariat of the Jewish Question, Félix Colmet-Dâage, commented on this issue with the words: *“The French legislation is based on race and uses – just as the German legislation – religion as an aid to determine the race.”*³⁸

These legal provisions were applied to all Jewish civil servants in France and Germany. As for the Jewish workers and state employees, the German legislators

35 AN, F1A 3706.

36 AN, AJ38 1143, Letter from the Commissaire Général aux Questions Juives, Xavier Vallat, to Marshall Pétain, May 25, 1941.

37 AN, F60 1440, Undated note of the Vice-Présidence du Conseil (spring 1941).

38 AN, F60 1485, Conference in front of the Délégation Général du Gouvernement Français pour les Territoires Occupés.

had fixed that this group of people would be affected in the same way as the civil servants. This means that only those who were former combatants in the German army, or in service since 1914, would still be tolerated.³⁹

In France, the government had not decided about the case of Jewish workers and state employees at all. Nevertheless, the administration demanded instructions on how to treat this group of people. On December 12, 1940, the State Council decided: "*The intention of the legislators was to interdict Jews from access to, or the exercise of, any function destined to confer influence or authority of any kind.*"⁴⁰ However, for the French ministerial bureaucracy, it was still not evident which groups of workers and state employees would precisely be affected by the Statute on Jews. On December 16, 1940, the representatives of the French administration discussed which concrete conclusions should be drawn from the verdict of the State Council. No agreement was reached concerning the question of Jews who were just employed as unskilled workers or auxiliary forces – could these be "dangerous" because they might come in contact with important documents? Only one consensus was formulated: "*Overall, we have concluded that we have to mistrust people of the Jewish race. That is why we have to eliminate them from central administration.*"⁴¹ Therefore the different ministries were invited to send proposals to the Office of the Head of State. This can be seen as another example for the autochthonous desire of the French administration to segregate the Jews. Which proposals were made? The Ministry of Foreign Affairs and the Departments of Marine, Aviation and Colonies agreed that not a single Jew should be tolerated in the central administration (apart from those who were former combatants in the French army). Even an errand boy could pry about for secret documents. This point of view corresponds to the German proceeding. The French Ministry of the Interior was slightly more moderate and tended to accept manual workers in the central administration. This was comparable to the proposals of the Ministries of Industrial Production, Agriculture and Food as well as the Department of Communications, who wanted to exempt Jewish unskilled workers from the purge. Taken as a whole, the Office of the Head of State concluded that Jews could only remain in posts "*of purely technical character*" and perform a subordinate activity like copy typist or errand boy.⁴²

39 See: § 15 of the Civil Service Law (Gesetz zur Wiederherstellung des Berufsbeamtentums). *Reichsgesetzblatt I*, 1933, p. 177.

40 AN, F1B1 919, Decision of the Conseil d'État on December 12, 1940.

41 AN, F60 490, Protocol of the interministerial conference on December 16, 1940.

42 See: AN, F60 490, The circular letter of the Ministre Secrétaire d'État à la Présidence du Conseil, Vice-Admiral Jean Fernet, from February 2, 1941. See also: MAYER, M.: *Staaten als Täter*, p. 93–95.

The discussion about Jewish workers and state employees leads to several conclusions. The French legislators did not fix the conditions of their removal from office. Even the decision of the State Council did not give further guidelines. Thus the ministerial bureaucracy was free to act. It is very illuminative to note that the administration used the scope of discretion to almost full capacity. This underlines the relative autonomy of the French ministerial bureaucracy to implement its own anti-Jewish policy.

Overall, the way Jewish workers and state employees were treated was quite similar in both countries, even if the French administration was slightly less radical. On the other hand, one should not forget that the group of people concerned by this measure was larger in Germany than in France. At the same time, it widely depended on the ministry in Germany if the racial-legislation was implemented to the letter or if the legal regulations were violated.

The listed examples allow further conclusions. The German legislators had presented a relatively all-embracing Civil Service Law, which was promptly amended with executive orders. Therefore a more or less efficient and time saving implementation of the law was possible. In France, on the other hand, the Statute on Jews was considered as incomplete and deficient by the administration, which had many problems to apply the law. For this reason, the discussion about a modification started as early as October 1940.⁴³ It was mainly the situation after the defeat by German troops and the lack of possible communication between the heads of the ministries in Vichy in the free zone and the medium grades of administration that remained in Paris in the occupied zone, which was responsible for the improvisational character of the French anti-Jewish policy. The Statute on Jews had to be formulated in Vichy, without much relying on the usual preliminary work made by the civil service, which for the most part remained in Paris. When the Statute on Jews was modified in the spring of 1941, the competent officers meticulously studied the racial legislation of other countries and included proposals from the various branches of the French administration.⁴⁴ Overall, it was not a lack of professionalism that was responsible for the problems with racial legislation in France. The continuity of civil servants between the Third Republic and the Vichy State was much higher than in Germany between the Republic of Weimar and the National Socialist dictatorship.

It is astonishing that the German ministerial bureaucracy was able to enact a more or less applicable Civil Service Law, which was a cruel sort of “pioneer work” in Europe. Nevertheless, the German administration also had to enact

43 See: MAYER, M.: *Staaten als Täter*, p. 105–122.

44 See: *Ibid.*, p. 133–151.

half a dozen executive orders to solve all occurring problems, as well as many interministerial conferences had to be convened to ensure the application of the law. Like in France, there was no preliminary work to rely on. Even though anti-Semites had formulated many anti-Jewish laws in the recent past, none of these were taken into consideration by the Ministry of the Interior in Berlin. These drafts mostly tried to enact bans on marriage or intended to compel the Jewish population to a forced merger.⁴⁵ The German Civil Service Law of 1933, on the contrary, was part of a general reform of the civil service. This reform also included a purge in ministerial bureaucracy of all communists, democrats and Jews. That is why administrative questions were the focus of the discussion.⁴⁶

3. THE PURGE OF ADMINISTRATION IN FRANCE AND GERMANY – HOW TO “DETECT” JEWS IN THE CIVIL SERVICE

In France and Germany, the legislators had enacted laws to purge the administration. The next step was that this requirement had to be implemented by the ministerial bureaucracy. How did the administration in both countries establish if a civil servant (as well as a worker or a state employee) was affected by this anti-Jewish legislation? In Germany, civil servants had to fill in a declaration about their parentage. However, Chancellor Hitler had determined that not every civil servant had to fill it in, but only those whose non-Jewish descent was doubted. Thus it depended on the ministry if the search for Jewish civil servants was undertaken in a more or less rigorous way. A more radical purge was carried out in the Ministry of Propaganda and the Ministry of Education. Less radical were the Ministries of Justice, Finance, Labor and Transportation. There were also ministries which simply did not demand a declaration from civil servants whose parentage was doubted. The Ministries of the Interior, Economy and Agriculture let all civil servants fill in a declaration about their parentage.⁴⁷

How did the Vichy administration proceed? The first weeks after the promulgation of the Statute on Jews the French bureaucracy acted without further

45 See for example the draft law by a group of anti-Semites chaired by the jurist Rudolf Becker from April 6, 1933. Printed in: GRÜNER, W. – ALY, G. (eds.): *Die Verfolgung und Ermordung der europäischen Juden durch das nationalsozialistische Deutschland 1933–1945*. Vol. 1. München 2008, Document No. 27.

46 See: MAYER, M.: *Staaten als Täter*, p. 69–74; MOMMSEN, H.: *Beamtentum im Dritten Reich*. Stuttgart 1966, p. 41; MÜHL-BENNINGHAUS, S.: *Das Beamtentum in der NS-Diktatur bis zum Ausbruch des Zweiten Weltkrieges. Zu Entstehung, Inhalt und Durchführung der wichtigsten Beamtenengesetze*. Düsseldorf 1996, p. 22.

47 For the procedure in France and Germany, see: MAYER, M.: *Staaten als Täter*, p. 78–96.

specifications of the government. The only directive was: *“Every department is free to act on its own will, but it has to act.”*⁴⁸ Yet on December 16, 1940, an interministerial conference was convoked to coordinate the proceedings in the different ministries.⁴⁹ This gives the historian a unique opportunity to explore how the French ministries proceeded without having clear instructions. Thus the self-perpetuating dynamic of the Vichy administration can be investigated.

During this conference, the representative of the Ministry of Finance described the way that his department had tried to implement the Statute on Jews: *“With just a few exceptions, we demanded declarations of parentage from our staff.”* The chairman of the conference, Maurice Lagrange, asked: *“You did not invite all civil servants to make a declaration?”* The representative of the Ministry of Finance answered: *“No. The civil servants had to fill in a list and mark it off.”* During the following discussion it became clear that the Ministry of Communications and the Ministry of Industry had also chosen this method. Every civil servant in these departments had to add his name to a list and mark it off, thus showing that he/she was not affected by the Statute on Jews. Only people of Jewish origin had to fill in a declaration of parentage.

The Ministry of Education had conceived a different method. The representative explained: *“We handed over a circular letter to the heads of all large establishments – headmasters, inspectors of the academies, etc. They were demanded to establish a list of civil servants who are Jewish, based on their own information or public knowledge. These civil servants were demanded to establish their parentage.”*⁵⁰ The Ministries of Justice, War and Agriculture had chosen similar procedures. The different divisions had compiled lists of people who they considered to be of Jewish origin. Only these persons had to provide evidence of their ancestry. The Ministry of Colonies had chosen an even simpler way. Jewish civil servants were forced to enlist voluntarily, while being threatened with sanctions if they did not meet the demand.

Overall, the appalling “creativity” of the French ministries to find their own methods to implement the Statute on Jews proves that the officers were persuaded of the necessity to purge the administration of Jews. In the German ministries, a comparable terrifying “creativity” existed. In the branches of the administration dominated by radical National Socialists, for instance the Ministry of Propaganda, Jews were sacked even if they were veterans of World War I.

48 AN, F60 490, Statement of the special assistant of the Office of the Head of State, Maurice Lagrange, during the conference on December 16, 1940.

49 For more details, see: MAYER, M.: *Vichy-Frankreich*, p. 356–360.

50 For all citations: AN, F60 490, Protocol of the interministerial conference on December 16, 1940.

In such cases, they were retired on the grounds that staff had to be downsized. The traditional Ministries, like the Ministry of Justice acted differently. Here the dismissals conformed to the racial law and – like in France – preserved a pseudo-legal action of the ministerial bureaucracy. Therefore, more than one third of Jewish civil servants in the Ministry of Justice remained in office, until the promulgation of the Nuremberg laws, because they had fought for the German army during the World War I.⁵¹

Thus, the main difference between both countries, concerning this question, lies in the fact that the French administration – even in implementing the Statute on Jews, to a large extent, did not go beyond the requirements defined in the racial law. The German bureaucracy, on the contrary, only partly implemented the written law (like in the Ministry of Justice), partly realized a purges of administration that went far beyond the legal provisions (like in the Ministry of Propaganda) in order to put into practice the National Socialist ideology. The radicalness depended on the extent to which each administrative branch was still directed by traditionally shaped civil servants.

Altogether, the described practice in France and Germany indicates the possibilities to implement racial legislation. The government could specify the proceedings, according to what criteria to carry out a purge of the administration. In other words, the implementation of the anti-Jewish legislation was centralized. On the other hand, the procedure could be left to the ministries or the divisions. Jewish civil servants were “detected”, because their parentage was well known or they were forced to declare it themselves.

The German administration decided in favor of a centralized proceeding. The reason for this was that the ministries in Berlin wanted to prevent interference from local administrations. This was part of a general process of centralization in Germany after 1933. Local administrations gradually lost influence to the benefit of the ministries in Berlin. This development was accelerated because the ministerial bureaucracy had to deal with local administrations, where radical adherents of the NSDAP had come to power. These party members – usually without much experience in civil service – were not keen on preserving the functioning of the public administration, but tried to realize, as much as possible, the party program. Therefore, key reforms, like the restructuring of bureaucracy (which included the purge from the administration of all communists, democrats and Jews) had to rest in the hands of the Ministries in Berlin. This seemed the only way to prevent radical party members from exerting a dominating, but counterproductive influence.⁵²

51 See: MAYER, M.: *Staaten als Täter*, p. 157–158.

52 For more information see: MAYER, M.: *Staaten als Täter*, p. 81–83.

In France, on the other hand, it was the situation after the armistice that affected the proceedings. The French government had difficulties in imposing instructions on the different ministries located in the free zone in Vichy and in the occupied zone in Paris. Until autumn 1940, it was almost impossible for the French population and even for politicians or civil servants to cross the demarcation line between the occupied and the free zone. It took some time, before the German forces allowed passenger traffic between the two zones. Also communications lines were heavily damaged or were running the risk of being intercepted by the Germans. That is why it took several months to re-establish centralized structures and a direct control through the government in the country. Hence, during this time the different departments were quite free to act independently.

Focused on the purge in the administration, the bureaucratic proceedings reveal amazing parallels. This underlines the transnational mode of the operation of administrations in modern industrialized countries. These administrations tended to find solutions to any “problem” identified by the government. The absence of moral considerations is thereby significant.

Nevertheless, the differences between both countries should not be minimized, since the French anti-Jewish policy never intended the elimination of the Jewish population. Also we should not forget the fact that Germany was not only the “pioneer” of the racial legislation in Europe, but also the initiator of the elimination of European Jews.

Anti-Jewish Measures in the Netherlands in the Period of the World War II and Their Parallels with Slovak Legislation

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INTRODUCTION

Racial legislation is understood as a set of laws codifying unequal treatment of people based on their race; however, in a broader sense of the word, it is also based on religious criteria and criteria of family relations. In our contribution we compare laws (mainly issued by the executive authorities) regulating the position of the Jewish minority in the Netherlands with measures passed in Slovakia in the period of the World War II. Regulations in both countries prove a striking resemblance, which was caused by the fact that they followed the same model – racial legislation of the German Reich. We point out some basic differences in anti-Jewish laws in both of these countries; however, they are not significant enough to speak about different character or kind of racial legislation in the given countries.

1. ATTITUDE TO THE GERMAN REICH

As a part of German Nazi expansion into Western Europe, and as part of the plan called Fall Gelb, the neutral Netherlands was invaded on May 10, 1940. On May 12, Queen Wilhelmina as well as government left the territory of Netherlands and went into exile in London.¹ As a consequence of military unreadiness

1 GELDER, E.: *Histoire de Pays-Bas*. Paris 1949, page (p.) 185.

and outdated military equipment, the Netherlands capitulated on May 15, 1940, and by May 19, 1940, the entire territory of the Netherlands was under the control of the German Reich. The province of Zeeland managed to resist for the longest period. Precisely on May 19, based on Hitler's decision, the Austrian lawyer, born in Bohemia, Dr. Arthur Seyss-Inquart was assigned the post of the Reichskommissar and chief representative of the German authorities.² Within two weeks after the capitulation, a functioning civil occupation administration of the Netherlands was established. Parliament was dissolved, but executive bodies continued to function, though they were subject to occupation control by the collaborating highest officials.

Surprisingly, despite the military occupation, the Dutch political parties were not dissolved and public gatherings, as well as trade unions and other mass organizations, were still permitted. The Germans were not interested in complete humiliation of a "relative nation". However, due to the particularities of the Dutch political scene, they did not select the system of collaborating with a domestic political party. Despite the existence of a domestic Nazi party called Nationaal-Socialistische Beweging in Nederland (NSB), led by Anton Mussert, it had never been dominant in Dutch policy, not even during the occupation of the Netherlands by the German Reich. Although Hitler called Mussert, the leader of the Dutch people, on one occasion after the occupation, Mussert himself and his political party NSB never played an important role in the politics. Moreover, Mussert did not receive any governing political function, such as the position of Prime Minister. Instead of collaborating with one national political party, Germany chose the way of the direct German occupation control using the local bureaucratic machinery, members of which faithfully obeyed the commands of their German superiors. This way the country could not even pretend to be voluntarily cooperating, and even from the outside, international legal and international political perspective, this was a real occupation.

German police and Schutzstaffel (led by another Austrian, Hans Albin Rauter, as a chief of the police) and the Central Office for Jewish Emigration, with its residence in Amsterdam (officially headed by Willy Lages, but practically by Ferdinand aus der Fünten) worked as subsidiary bodies for the Dutch authorities. Deportations of Jews were directly managed by the office labeled with the abbreviation IVB4, which was led by Willy Zopf.³

Only the establishment of a seemingly pro-Nazi organization called the Dutch Union, which was supposed to replace the Nazi party NSB, could be taken as an

2 See: HORST, H.: *Dějiny Nizozemska*. Praha 2005, p. 397–401.

3 See at: <http://www.hollandscheschouwborg.nl/geschiedenis/jodenvervolging/chronologie-vervolging/vervolgers>.

indication of Dutch cooperation with the Germans, but after its true anti-German policy had been revealed, this organization was banned just as the leftist political parties.⁴ The direct Nazification of the Netherlands thus started in 1941.

In comparison with the Slovak State, the major difference was that in Slovakia domestic political leaders were employed, who more or less collaborated with the German Nazi regime. In the lead of the state, there were domestic Slovak politicians, who had Germany to thank for the establishment of their independent state. To the contrary, in the Netherlands there was real occupation, and the country was governed by Reich officials, similarly to the situation in the Protectorate of Bohemia and Moravia. However, the situation in the Netherlands remained specific, in comparison with the situation in Protectorate, because there was no strong collaborating political party and the Dutch themselves remained dissenting in their relationship to the Germans.

2. SOURCES OF ANTI-JEWISH LEGISLATIVE MEASURES

As for the forms of law, the Slovak State passed mainly executive orders, laws, regulations with the power of laws, regulations, and various decrees in the field of racial legislation.⁵ Due to the occupation's disabling of constitutional bodies, the Netherlands only issued regulations, circulars, instructions, and commands. They were passed by the German bodies authorized to carry out the civil administration of the Netherlands, particularly the Reichskommissar Seyss-Inquart and police chief Rauter.⁶ Regulations were published in the collection *Verordeningenblad voor het bezette Nederlandsche gebied*.⁷

The basic legal form of anti-Jewish regulations in both countries was represented by regulations passed by the executive bodies. It was an expression of the European distrust of the parliamentary form of government, and an attempt to replace it with a more flexible form of government, in which instead of parliament, the executive would dominate. Speculations on the antiquation of the parliamentary system occurred across Europe in the 1920s and 1930s. Extreme right and left wing rejected parliamentarianism, and called for a dictatorship of a strong hand or

4 HORST, H.: *Dějiny Nizozemska*, p. 403–404, 414.

5 Lower administrative authorities also issued legal norms of subordinate rank. The overall qualitative and quantitative review of the racial legislation in the Slovak state, see: HUBENÁK, L.: *Rasové zákonodarstvo na Slovensku (1939–1945)*. Bratislava 2003, p. 36–37.

6 For information on the historical documents concerning the early occupation administration, see: <http://niod.kominski.net/nl/thema/12/documenten/>.

7 Collection of regulations for the occupied Dutch territory.

one social class or for class parliamentarianism, as the reform of the then current parliamentarianism.⁸ These efforts were manifested for example in the period of the so-called Second Czechoslovak Republic: the Constitutional Act No. 330/1938 Coll. on authorization to amend the constitutional charter and constitutional acts of the Czechoslovak Republic and on exceptional perceptive power (Enabling Act) significantly affected the national political development from democracy to an authoritarian system. In this way, the parliament was eliminated and the president and government, as the executive bodies, were entrusted with legislative and constituent power. By this Act, the legislative power of the National Assembly was weakened, or even eliminated, and the executive authorities, mainly the government, became the centers of power. This Constitutional Act also authorized the president to issue decrees with the force of constitutional law and the government to pass ordinances regulating the affairs that could be otherwise regulated only by law.⁹

A similar situation prevailed in the Slovak State, where, as it was stipulated in paragraph 44 of the Constitution of the Slovak Republic, if an irreparable injury became imminent, the government could pass a regulation with the force of law, which had to be signed by a majority of members of the government and president. The National Assembly could additionally express its disagreement.¹⁰ The president also received normative powers – according to paragraph 40 of the Constitution of the Slovak Republic, he was authorized to issue decrees, and the Constitutional Act No. 200/1944 of the *Slovak Code (Slovenský zákonník, Sl. z.)* also empowered him to issue decrees with the force of constitutional laws.¹¹ Special enabling legislation of the Slovak State was represented by Constitutional Act. No. 210/1940 Sl. z., under which the government later passed anti-Jewish regulations. Until then, only regulations by the Ministry of Interior were issued on the basis of Act No. 190/1939 Sl. z. on the National Public Administration.¹²

In the occupied Netherlands, separate delegation of legislative power or regard for the seeming preservation of constitutionality was not necessary. The Reichskommissar's enacting power stemmed from his position as the representative of the occupying power, not from the Dutch national law.

Finally, the democratic and resistance bodies, Czechoslovak (Provisional Government in London) as well as the Dutch (Queen and the Dutch government

8 VAVŘÍNEK, F.: *Parlament a politické strany*. Praha 1930, p. 39, 49.

9 VOJÁČEK, L. – KOLÁRIK, J. – GÁBRIŠ, T.: *Československé právní dějiny*. Bratislava 2011, p. 68.

10 Compare: ŠVECOVÁ, A. – GÁBRIŠ, T.: *Dějiny státu, správy a soudnictva na Slovensku*. Plzeň 2009, p. 184.

11 VOJÁČEK, L. – SCHELLE, K.: *Právní dějiny na území Slovenska*. Ostrava 2007, p. 294.

12 HUBENÁK, L.: *Rasové zákonodárstvo na Slovensku (1939–1945)*, p. 38–41.

in exile in London) issued decrees by the head of the state, and actually without relevant participation of any real legislative body. Due to the uniqueness of this situation, and the absence of any other democratic state authority, foreign powers recognized such legislative authority. However, in the case of the Nazi regimes, this was not done out of necessity; contrariwise, the parliamentary authorities were deliberately removed or weakened. Moreover, given the exceptional legislative power of the resistance bodies, it was typical that, for example, all the decrees of the president of the Czechoslovak Republic were later ratified – additionally approved by the National Assembly on the Constitutional Act. 57/1946 Coll.¹³ However, the regulations issued by the occupying power, as well as laws issued by legally invalid state departments, and their bodies (bodies of the Slovak State) were lacking in this legitimacy. Therefore, they were recognized as invalid immediately after the collapse of the tortious regime.¹⁴

3. CHRONOLOGICAL OVERVIEW OF ANTI-JEWISH MEASURES IN THE OCCUPIED NETHERLANDS¹⁵

YEAR 1940

Among the first anti-Jewish measures in the Netherlands was a ban to serve in the air defense and ban to serve in the public service, including the denial of promotion. In order to identify the Jewish people, especially those working in offices, all clerks had to hand in a certificate confirming their Aryan origins (we discuss this later in this article). Existing and relatively detailed and accurate register of the population was thus filled in with additional data, which had been missing previously. From November 21, 1940, identified Jewish clerks were removed from duty, and later dismissed based on the collected information. This was a logical step, considering that the state bureaucracy had to continue to serve as machinery satisfying additional requirements against the Jews, which would not be conceivable, if its leaders were Jews.

13 Compare: BEŇA, J.: *Slovensko a Benešove dekréty*. Bratislava 2002, p. 19.

14 BEŇA, J.: *Vývoj slovenského právneho poriadku*. Banská Bystrica 2001, p. 129 and following. Exceptions for certain regulations by the Slovak State, which were still effective and had been passed by the Slovak National Council, only provided that these would not be in contradiction with the democratic and republican spirit of the state. However, at the moment of reception, they ceased to be the regulations of the Slovak state and their normative strength stemmed from the receptive Regulation of the Slovak National Council Number (No.) 1/1944.

15 Based on: <http://www.hollandscheschouwborg.nl/geschiedenis/jodenvervolging/chronologie-vervolging/vervolgers>.

When the clerical sphere had been subdued, anti-Jewish measures were directed at the economic sphere. Jews had to register their enterprises and Jewish households were forbidden to employ German domestic staff (servants).

Intervention in the field of culture in 1940 brought mainly the ban on publishing Jewish newspapers, with exception of the *Joodsche Weekblad*.

YEAR 1941

The following year brought further restrictions in the cultural sphere, and generally in the area of fundamental rights and liberties – equality before the law, freedom of ownership and right to property, right to education, and last but not least, the right to personal liberty.

Specifically, this was a ban on going to cinemas, ban on having a radio, ban on visiting marketplaces, swimming pools and beaches, parks, zoos, cafes, restaurants, hotels, theaters and museums. Jewish children could not attend public schools any longer, Jewish lawyers and doctors could not have non-Jewish clients and patients. A new obligation to deliver cash exceeding 1,000 guilders to the bank Lippmann, Rosenthal & Co, which was taken over by the Germans, was introduced.

A special Jewish Council was also established, which represented a body similar to the Jewish authorities in Eastern Europe, for example the Jewish Central Office in Slovakia. In the lead of the Jewish Council, as well as in its apparatus, there were Jews, who were this way at least temporarily saved from a worse fate, because by their presence in the Jewish Council, they were doing a favor to regime, since they served as mediators in relations with the Jewish population in the affected territories.

Subsequently, all Jews or people, who had at least one grandparent that was a Jew, were obliged to go and re-register. After that, the Jewish quarter in Amsterdam was fenced off with barbed wire. When there was organized a two-day raid on Jewish men 18 and 35 years old, and up to 427 Jews were deported to Mauthausen, protests by the non-Jewish population broke out in Amsterdam – a two-day strike against the deportations of Jews took place in Amsterdam in February 1941. Even such an expression of solidarity with Jews, however, could not halt the anti-Jewish measures. The second transportation of 300 Jews from Amsterdam to Mauthausen followed, then there was a third deportation of 200 men from Twente and another 100 Jews were deported from Gelderland.

YEAR 1942

During the registration of the population, special “identity cards” were introduced, which was a novelty introduced by the German occupation authorities, who were really glad to launch it, as this facilitated the identification of Jews

and all the enemies of the occupying regime. Jewish identity cards were marked with the letter “J”. Their identification would also be facilitated by the fact that every Jew, over the age of 6, had to wear a yellow star with the word Jew visibly located on the left part of the clothing. However, this obligation was introduced late, in comparison with the countries of Eastern Europe. For example, in Slovakia Jews had to wear the yellow star a year earlier. However, this measure proved partly ineffective in the Netherlands, as in many cases non-Jewish Dutch people did not scorn the Jews, but quite the contrary; they treated them with priority and respect, as a sign of solidarity.

Further restrictions on private life followed, for example a ban on fishing, the possibility to go shopping only in certain times and to certain stores, introduction of lights-out and curfew for Jews – between 8 P.M. and 6 A.M., a ban on calling and visiting non-Jewish people. Jews were prohibited from owning and riding vehicles. They were also prohibited from entering into marriage with non-Jews.

The economic destruction of the Jewish people reached its peak with the obligation to surrender gold, silver, antiques, works of art and other valuable objects to the bank Lippmann, Rosenthal & Co.

Later, labor camps were established in eastern and northern parts of the Netherlands for the beggared population. Jews had to report for transportations in the theater in Amsterdam. From there they were transported mainly to the Westerbork transit camp. Then, there remained only one step – from concentrating the Jews into one place – towards controlled deportations and liquidation of the Jewish population. In the first controlled transport, 1,135 Jews were transported from Westerbork to Auschwitz. By September 13, 1944, one transport departed from Westerbork to the death camps every week.

YEAR 1943

In addition to the prohibition for Jews to live in certain provinces of the Netherlands, concentration of the Jewish population, and already initiated transports, continued. A total of 12,000 Jews were placed in the Vught transit camp. This year the first transport to the Sobibor extermination camp took place, as well as the first transport to Theresienstadt and a transport of children to Sobibor camp. Even all foundlings (orphans or children of unknown parents) were considered to be Jews, and were deported.

YEAR 1944

In this year, the first transport to the Bergen-Belsen concentration camp took place, as well as the last transports from Vught to Auschwitz, and the last

transport from Westerbork. This was also the year that the family of the now well-known Anne Frank was deported. The year 1944 also brought the landing of Allied troops into Normandy and subsequent liberation of the Netherlands. Southern provinces were liberated by the Allies in the autumn of 1944, but northern ones only in the spring of 1945. On May 5, 1945, the German army in the Netherlands finally surrendered.¹⁶ Exceptions from deportations originally applied to about 15,000 Jews, who were economically important (for example, they cut diamonds, or worked for the German war economy), lived in marriage with non-Jews, converted to Christianity, or possibly were Portuguese Jews, and the 17,500 Jews that were cooperators with the Jewish Council. However, a few months later, the holders of these exceptions were also deported. Despite the fact that the German Reich was defeated and the Kingdom of Netherlands was liberated in 1945, the previous years of occupation resulted in sad statistics – out of a total of 160,000 Dutch Jews, 110,000 were deported and only 6,000 of these survived.¹⁷ Out of the total number of Jews, about 75% were murdered,¹⁸ or in other words, 90% of the deported Dutch Jews did not survive.

4. OVERVIEW OF THE LEGISLATION BY AREA – COMPARISON WITH SLOVAK ANTI-JEWISH LEGISLATION

DEFINITION, REGISTRATION AND CONTROL OF THE MOVEMENT OF JEWS

Regulation No. 189/1940 of October 22, 1940, defined a Jew as a person who had at least three Jewish grandparents. In addition, a person who had only two Jewish grandparents was considered to be a Jew, if:

- a) he was a member of the Jewish religious community on May 9, 1940 (the day before the invasion of the Netherlands by the German army) or he was accepted into this community later;
- b) on May 9, 1940, he had already been married to a Jew or entered into such relationship later.

A grandparent was considered to be a Jew if he was a member of the Jewish religious community.

Overall, this legal definition combined racial and religious principles with the principle of legal kinship. This definition of a Jew was intended mainly to cleanse the public affairs administration of Jews.

16 SKLENÁŘOVÁ, S.: *Nizozemsko*. Praha 2006, p. 143.

17 GELDER, E.: *Histoire de Pays-Bas*, p. 186.

18 Pozri: SKLENÁŘOVÁ, S.: *Nizozemsko*, p. 142.

Similarly, the registration of Jewish businesses, on the same regulation, served the purposes of Aryanization. At first, “Aryan” trustees were assigned to the Jewish businesses, which were later completely liquidated.

Regulation No. 6/1941, passed on January 10, 1941, had already introduced the registration obligation for all Jews. By August 22, 1941, around 160,000 cards containing various data were collected, and information about the number of Jewish grandparents was also included. Out of this number, 140,000 people were recognized as the full Jews, and 22,000 Jews were considered foreign/non-Dutch people.

Labeling Jews with a yellow star in the Netherlands had its legal basis in Regulation No. 138/1941, by which Jews were obliged to wear a Jewish star as of May 2, 1942. They bought it from the Jewish Council for four cents. Every Jew, more than six years of age, had to wear it on a visible place on the left side of his/her garments. The decision to introduce the wearing of stars like in Eastern Europe was a serious step towards the isolation of the Jewish Dutch, and a direct preparation for deportations.

The Regulation No. 83/1942, which obliged the owners of hotels and other similar facilities to report daily on who lodged there, assisted in the monitoring of the movement of the Jewish people.

From a comparison with the laws, concerning similar issues in Slovakia, it is found that the definition of a Jew, set in the Executive Order No. 63/1939 Sl. z. on the Definition of a Jew and the regulation of the number of Jews working as freelancers was notably based on religious criteria and marital cohabitation. In the Executive Order No. 198/1941 Sl. z. – the Jewish Code – there was an even more emphatic racial definition of the term Jew, which almost did not differ from the original Dutch or original German definition, and was based on the racial principle, confessional character and marital cohabitation. Moreover, the concept of Jewish half-castes was introduced in Slovakia, while in comparison with the Netherlands there was no such definition in the Dutch legislation.¹⁹

PURGE IN THE CLERICAL SPHERE

One of the first areas in which the Jewish Dutch were sanctioned or discriminated against, was the clerical sphere. Regulation No. 108/1940 of August 20, 1940, on Public Officials, authorized the Reichskommissar Seyss-Inquart to dismiss those employees whom he found necessary to be dismissed. This regulation

19 For an overview of the Slovak anti-Jewish legislation, see also: VAŠEK, A.: *Protižidovské zákonodarstvo na Slovensku*. Bratislava 1942.

did not talk specifically about the Jews, only the circular of October 11, 1940, emphasized that it was related to this group of the population. The result was that on November 4, it was decided that all Jewish clerks would be dismissed.

Regulation No. 137/1940 of September 13, 1940, adjusted the terms of employment in the state administration, so that the purging could lawfully depart from the options, which were conceded by law. However, the term Jew was not explicitly used in this context, though on September 6, 1940, the Council of State Secretaries (the highest officials of the Dutch ministries) was ordered not to employ any Jews in the civil service, and also no to promote them.

For the purposes of precise identification of Jewish clerks, all officers were given two forms on October 5, 1940 – by the first of these they proclaimed not being the Jews, but Aryans (Aryan declaration), and another form had to be filled by Jews – this way the exact number of Jews in the civil service was found out and identified.

This was similar to Slovakia, where the Executive Order No. 74/1939 Sl. z. on the exclusion of Jews from the public service confirmed that the Jews were not allowed to be employed by any public corporations. This was repeated in the Regulation No. 143/1941 Sl. z..

EXPULSION FROM EMPLOYMENT

During the war period, the general compulsory labor service, covering all of the working population, was introduced. Regulation No. 42/1941 thus modified the compulsory labor service of all Dutch people and stateless persons aged between 17 and 49 years, including the Jews. Similarly, this issue was later modified by Regulation No. 48/1942.

The converse case was precluding Jews from practicing certain professions. Regulation No. 198/1941, On Jews Practicing Certain Professions,²⁰ was effective as of October 20, 1941 and on November 1, 1941, it was used to repeal 1,600 licenses to practice a profession, which previously belonged to the Jews. Regulations No. 148/41 and 58/1942 introduced the maximum amount of salaries for Jews.²¹

In Slovakia, there was a restriction of number of the Jews in the liberal professions – Regulation No. 63/1939 Sl. z. introduced a 4% quota for Jews. However, Regulation No. 256/1940 Sl. z. abandoned the percentage system for the employment of Jews and Regulation No. 198/1941 Sl. z. even declared Jews totally unfit for practicing the liberal professions. By the Decree No. 123/1941 *Úradné*

20 See at: <http://www.hollandscheschouwborg.nl/oorlogsdocumenten, Inventarisnummer 00000119>.

21 Ibid., Inventarisnummer 00004250.

noviny (Úr. nov., *Official Journal*), the Minister of the Interior banned Jews from practicing the hostelry trade and taproom separately.

General compulsory labor service was also introduced in the Slovak Republic by the Defense Act No. 20/1940 Sl. z.. For Jews and Gypsies, the compulsory labor service was specified distinctively by the Regulation, with the force of an Act, No. 130/1940 Sl. z. and substituted military training, but only for the period of two months per year. Another Regulation No. 153/1941 Sl. z., On Compulsory Labor Service by Jews, introduced compulsory labor service for Jews 18 to 60 years of age.

MEASURES IN ECONOMIC SPHERE

Dutch Regulation No. 26/1940, implemented on June 24, 1940, and entitled “Regulation on Enemy Property”, did not specifically mention Jewish property, but allowed the police chief Rauter to issue a regulation in April 1941 directing Jews to surrender their radios.²²

Regulation No. 48/1941, implemented on March 12, 1941, adjusted the process of Aryanization of the enterprises owned by Jews.

Under the Regulation No. 102/1941, implemented on May 27, 1941, an obligation was created that required reporting of all agricultural property owned by Jews. Later, Regulation No. 154/1941, passed on August 11, 1941, concerned the registration of Jewish landed property, mortgages, hereditary leases, etc. By September 15, 1941, Jews were supposed to deliver filled in forms to the Land Administration Office, which they had to obtain from the Chamber of Commerce.

Under Regulation No. 148/1941, announced on August 8, 1941, Jews had to surrender all cash, checks, shares, etc. to the bank Lippmann, Rosenthal & Co. Regulation No. 182/1941 of June 20, ordered Jews to surrender their bicycles. In addition, Regulation No. 58/1942, coming into force on May 21, 1942, expanded the list of items that Jews had to surrender and report – e.g. life insurance policies and jeweler. They could not even rent deposit boxes in bank vaults. Impoverishment, or rather the economic liquidation, of the Jewish people was completed in this way.

From a comparison with the Slovak laws, we see that in Slovakia a special Aryanization Act (not regulation) No. 113/1940 Sl. z. on Jewish businesses and Jews employed in enterprises was adopted.²³ An inventory of agricultural estates,

22 Ibid., Inventarisnummer 00000230.

23 From the period literature, see mainly: MORÁVEK, A.: *Arizácia a právne postavenie židov*. Bratislava 1941; MORÁVEK, A.: *Príručka pre dôverníkov, dočasných správcov a arizátorov*. Bratislava 1940; RIEDLER, G.: *O arizácii v priemysle Slovenskej republiky*. *Hospodárstvo a právo*, vol. 7, 1940, no. 10, p. 6 and following.

owned by Jews (based on Executive Order No. 147/1939 Sl. z. and several other rules governing mainly leasing issues),²⁴ was carried out in Slovakia. This limited the rights of Jews to handle cash and securities – and in addition, imposed an obligation on Jews to deposit their property, especially precious metals (Regulation Nos. 271, 272 and 293/1940 Sl. z.). In particular, the Slovak Central Economic Office ordered Jews to surrender specific items – sports equipment, typewriters and the like. Regulation No. 194/1941 Sl. z. limited the rights of Jews to handle cash, securities, and precious stones.²⁵ In both countries, the Jewish minority was deprived of the bulk of their assets by the year 1942.

RESTRICTIONS ON HUMAN RIGHTS

Regulation No. 80/1940, effective from July 31, 1940, was the first regulation ever, which was specifically directed against Jews – it banned the ritual slaughter of animals. Regulation No. 114/1941, effective from July 27, 1941, impacted on the religious rights, and imposed a ban on observing Saturday as a day of rest.

Regulation No. 20/1941, passed on July 4, 1941, prohibited Jews from entering public swimming pools, public spaces and facilities,²⁶ as well as from renting rooms in hotels and boarding houses. They were also forbidden to attend horse races as spectators. According to the notification issued by the mayor of Amsterdam, Jews could only go shopping at the Jewish marketplace.²⁷

Regulation No. 199/1941, effective from October 22, 1941, prohibited Jews from being members of all non-Jewish communities, and from November 7, 1941, they were also excluded from bridge, dancing and tennis clubs.

Regulation No. 27/1941, issued on February 11, 1941, and based on the initiative of Seyss-Inquart, restricted the possibility of Jews to enroll at universities and colleges. An unregistered Jew could take tests only with the consent of the Secretary of Education, Science and Cultural Preservation.

In Slovakia, the Regulation with force of an act No. 208/1940 Sl. z., excluded Jews from studying at local schools and institutions, other than elementary schools. Regulation No. 216/1940 Sl. z., excluded Jews from being issued driving

24 See: HUBENÁK, L.: *Rasové zákonodarstvo na Slovensku (1939 – 1945)*, p. 62.

25 Ibid., p. 65–69.

26 Compare the newspaper article on the consequences of the Regulation No. 138/1941 Verordening over het optreden van Joden in het openbaar (author not stated). See at: <http://www.hollandscheschouwborg.nl/oorlogsdocumenten>, Inventarisnummer 00004250.

27 Ibid., Inventarisnummer 00000003.

licenses. In autumn of 1940, all radios were seized, hunting licenses were repealed and Jews were forbidden to go fishing. The Decree of the Ministry of Interior No. 275/1941 Ťr. nov., forbade Jews to go to public swimming pools, public marketplaces, and socialize with non-Jews. With Decree No. 381/1941 Ťr. nov., the ministry prohibited Jews from attending public and entertainment rooms, while Decree No. 510/1941 Ťr. nov. prohibited them from cycling and using phones. Ministerial Decree No. 401/1941 Ťr. nov. introduced a mandatory Jewish star to be worn. Curfew was set from 8 P.M. to 5 A.M. in the winter and 9 P.M. to 4 A.M. during the summer season.²⁸

DEPORTATIONS

In Slovakia, just like in the Netherlands, there was no explicit legislation on the deportation of Jewish people. However, in order to maintain an appearance of legality, in Slovakia this was later dealt with by Constitutional Act No. 68/1942 Sl. z..

In connection with the deportations, in Slovakia, they created the Central Economic Office and the Fund to Support Emigration of Jews (in accordance with Regulation No. 243/1940 Sl. z.), while in the Netherlands, such organizations already existed in the Central Office for Jewish Emigration and the special Section IVB4.

CONCLUSION – THE DIFFERENCES AND PARALLELS

While the Slovak State was a satellite, though formally independent and sovereign state, the Netherlands was under the occupation administration, as it was a defeated and overrun country. The different systems of administration also brought different proportions of the direct influence of the German authorities on national Dutch events. Nevertheless, the process and the results of racial legislation in both countries did not show any significant differences.

Certain specific signs of Slovak or Dutch anti-Jewish legislating are as follows:

- As for the forms of law, the Slovak State passed mainly executive orders, laws, regulations with the power of laws, regulations, and various decrees in the field of racial legislation. The Netherlands passed only regulations, circulars, instructions and orders.

28 HUBENÁK, L.: *Rasové zákonodarstvo na Slovensku (1939 –1945)*, p. 84–88.

- Racial legislation in the Slovak State, unlike in the Netherlands, was characterized by codification of racial laws into the Jewish Code (Regulation No. 198/1941); The Netherlands did not have a codified form of anti-Jewish measures.
- The Slovak State initially introduced a 4% quota for the proportion of Jews allowed in selected professions, which was based on the total proportion of Jews in the general population; Such a legislative measure was not used in the Netherlands.
- The Slovak State, as a formally sovereign state, felt the need to respect formal legality, and therefore, the legal basis for Jewish deportations was amended, at least subsequently, by the Constitutional Law No. 68/1942 Sl. z.. This kind of measure was not necessary in the occupied Netherlands.

After listing the differences, we also have to point out some parallels or common features. Among these there were:

- internment camps for Jews;
- exclusion from military service (in Slovakia based on the Defense Act No. 20/1940 Sl. z. of January 18, 1940,²⁹ and No. 30/1943 Sl. z. dated March 26, 1943)³⁰, and from the public services in general;
- prohibition to employ non-Jewish/German employees in Jewish households;
- interferences with conducting a trade, professions, ownership of vehicles (including bicycles), restriction and prohibitions on fishing, visiting cinemas and theaters, swimming pools and other public places;
- Aryanization, appointment of trustees for Jewish businesses and properties;
- existence of the Jewish Central Office in Slovakia and Jewish Council in the Netherlands;
- by 1942, Jews were ousted from society, and after that, no specific legislation was passed dealing with Jews, only some technical issues regarding Jewish property and its handling;
- transports to foreign extermination camps (from Slovakia starting in 1942, in the Netherlands as early as 1941);
- exemptions for economically important Jews.

²⁹ Compare: HUBENÁK, L.: *Rasové zákonodarstvo na Slovensku (1939 – 1945)*, p. 22.

³⁰ Ibid., p. 78.

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Human Rights of the Slovak Jewish Population, According to the Jewish Code and a Pre-Code Amendment

Michal Malatinský (Slovakia)

Regulation No. 198/1941 of the *Slovak Code* (*Slovenský zákonník*, Sl. z.) from September 9, 1941 on the Legal Position of Jews (the Jewish Code or simply Code) was the most extensive and most complex anti-Jewish legal regulation adopted in years 1939–1945 in Slovakia. It presented codification of them until then valid anti-Jewish legal amendment, and abrogated the majority of provisions in it. In addition to the quantitative change, the Jewish Code also brought qualitative changes into some particular Jewish restrictions, which I will discuss in my article concerning the general provisions and the first part of the Jewish Code.

LEGAL DEFINITION OF THE CONCEPT OF A JEW¹

Within the staging of anti-Jewish legislation, defining the concept of a Jew is usually considered as being the introductory stage.² This is logical, since actually there was needed a legal definition of a group, which was supposed to

1 In this article, in the Slovak language, I use terms “jew” with a small letter and “Jew” that is capitalized, according to the related legal regulation. The term “Jew” was used for the first time in legal regulation from May 29, 1940 Number (No.) 130/1940 Sl. z. On Temporary Adjustment of Labor Duty of Jews and Gypsies. Until then (in some legal regulations also afterwards), the term “jew” was used.

2 See e.g.: NIŽŇANSKÝ, E. – MŇAHONČÁKOVÁ, J.: Vymedzenie pojmu Žid na Slovensku a v Chorvátsku – pokus o porovnanie. In: NIŽŇANSKÝ, E. (ed.): *Z dejín holokaustu a jeho popierania*. Bratislava 2007, page (p.) 107.

become an object of legal restrictions. It was necessary, besides other things, also for the elimination of potential controversy of who falls under the concept of a Jew and who does not. In individual states, of the Europe of those days, that pursued anti-Jewish policies, defining criteria of the concept of a Jew often differed, as did the various stages of radicalization or sources of law through which this policy was pursued.

Up to present, it has not been written in our literature that the first legal definition of the concept of Jew was part of a draft bill on obtaining “membership” in a country, and the right of domicile in territory of Slovak Republic, pursued by the Ministry of Transport and Public works. This draft bill was elaborated in times of autonomy; however, it did not become a subject of a further legislative process. The proposed definition was, in its content, more or less overlapping with the later Government Regulation No. 63/1939 of the *Slovak Code*. Although according to this regulation, a Jew was also a person who, before the enactment of this law, was married to a Jew, in compliance with introductory next two criteria (see below), even though by obtaining a divorce, he or she could become free from this “Jewishness”. However, persons who were married after the law came into force did not have such an opportunity (they were to be Jews also after a divorce); hence, in this way, the later adopted amendment of the government regulation was much more benevolent.³

The term Jew was legislatively used for the first time in Government Regulation No. 36/1939 of the *Slovak Code*, which forbade non-Christians to produce and sell Christian sacral and religious items. From the text of paragraph 1 of this regulation, it is obvious that the specific group of “non-Christians” was represented by the Jews. Yet, explicitly and legally, it was specified in Government Regulation No. 63/1939 of the *Slovak Code* On defining the term Jew and setting quotas on the number of Jews in some liberal professions. The initial postulate of defining criteria of this regulation became the denominational principle. Jews were considered to be (1) persons of Israeli religion that did not convert to Christian faith before October 30, 1918;⁴ (2) descendants of persons

3 The explanatory memorandum to the draft bill literally stated that one of the aims of the proposed law was to “bring some kind of basis for solving the Jewish question, thus to define the exact concept of a Jew, as without this, it is impossible to consistently and within a formally-legal way, to follow single measures.” Slovenský národný archív (SNA), fund (f.) Ministerstvo vnútra (MV) 1938–1945, box (b.) no. 161, 3449/41.

4 Originally, a cut-off date of October 1, 1918 was proposed, conversions after this date should not have been acknowledged, as many Jews were being baptized “not because of idealism, but only for covering their racial affiliation, hence because of economic reasons.” SNA, f. MV 1938–1945, b. no. 161, 3449/41. It is not clear why the date was finally postponed by 30 days.

of Israeli religion and (3) descendants of persons according to first two criteria if they did not convert to the Christian faith before October 30, 1918. Jews were also considered to be (4) persons that were married to a Jew, defined according to the first three criteria, throughout the duration of their marriage, as well as (5) persons living with a Jew in concubinage.⁵ Official justification of this amendment can be found in regulation of the Ministry of Justice and Ministry of the Interior No. 102/1939 of *Úradné noviny* (*Official Journal*), which was an executive directive to this government regulation.⁶ Such definition of the term Jew was supposed to pursue primary economic and social goals in a way that the Slovak nationals would take over all the public, economic, and cultural positions related to the nation's life.

However, this definition did not take into consideration racial principles like the Nazi Nuremberg Laws, and thus many lawyers, journalists and other representatives headed by Dr. Martinka from the Presidency Office (*Úrad predsedníctva vlády*) pursued accepting a new definition of a Jew, which would be based on the racial principle.⁷ Under § 1 par. 1 of the Jewish Code, regardless of gender, a Jew was a person who by race descended at least from three Jewish grandparents; a mongrel Jew (see below) was a person that by race originated from two Jewish grandparents, if (1) on April 20, 1939 he/she was of, or later converted to, the Israeli religion;⁸ (2) who after the April 20, 1939 married a Jew;

5 According to J. Martinka, the meaning of last two criteria dwelled on the understanding of the danger of persons, which were not discouraged, even by the “*legal public slandering of Jews as an element dangerous for the social order*”, from entering into marriage or concubinage with a Jew. MARTINKA, J.: Niekoľko poznámok k Židovskému kódexu. *Verejné právo*, 1941, no. 8, p. 246.

6 *Úradné noviny*, volume (vol.) 21, no. 27, p. 257–260.

7 On August 20, 1941, the office of the President of Republic turned to the presidency office with few questions concerning the draft of the prepared Jewish Code. One of the questions was also about reasons for changing the definition of the concept of Jew. The presidency office labeled such legal definition as “*half way done and inconsistent*”, as the racial and religious aspects were mixed together. According to presidency, it was possible to achieve the goal of excluding the influence of Jews from social and economic life only by solving the Jewish issue from racial aspect. “*Racially full-blooded Jew has to always be considered more dangerous for the social order than such an individual who has less Jewish blood, as for the racial origin, and thus has also less of a Jewish mentality. Racially, the most distant individual, because of understanding this reality, does not incline to Jewishness, as much as a full-blooded Jew.*” From this reply, it is obvious that the grounds for accepting the new legal definition of the concept of a Jew based on a racial postulate were set. SNA, f. Úrad predsedníctva vlády (ÚPV), b. no. 47, 5566/1941.

8 Jewish Code intentionally used the term “*religion*” instead of “*faith*”, which was used in Regulation 63/1939 Sl. z., so that the racial character of legal definition of the term

(3) who descended from a Jewish marriage concluded after the April 20, 1939; (4) who was an illegitimate child of a Jew, born after February 20, 1940. According to provisions of Paragraph 1, the racial basis of defining the term Jew is evident. However, Paragraph 2 presents some kind of concession to a racial criterion, since according to that, the Jewish grandparent by race⁹ should be considered a person affiliated to the Jewish religion.¹⁰ The interesting fact is, that in an explanatory memorandum to the Government Regulation No. 63/1939 (see above) there are some aspects given that other nations used when solving the “Jewish issue”. Germany is mentioned, where the solution was based on a “racial principle”, in opposition there was a confession-affiliation approach, and a mixed system existed as well. The solution that was implemented by the proposed government regulation, was supposed to be based on a mixed model, “*with domination of the religious aspect*”, “[since] *in our country the radical solution of the Jewish issue alludes to the state’s Christian spirit, and therefore the system based on pure racial principle is unacceptable.*”¹¹ Nevertheless, the “state’s Christian spirit” was able to adapt to accepting the racial policy in two and a half years.

Paragraph 2 of the Jewish Code introduced the concept of a mongrel Jew – “*quite a new concept in the legal life of Slovakia.*”¹² The legislature was obviously inspired by the Nazi Nuremberg Laws, which introduced this concept in the Nazi law as early as 1935. The Jewish Code considered a mongrel Jew to be any person, who by race, originated from two Jewish grandparents and was not regarded

Jew would come to the fore, and the denominational one would come last. However, in practice, in this relation, affiliation to faith was decisive. MARTINKA, J.: Niekoľko poznámok k Židovskému kódexu. *Verejné právo*, 1941, no. 9, p. 276–277.

9 According to V. Cserhelyi, the Jewish Code adopted the “national-socialist definition of the term for a Jew” and this one treats race not in physiological sense, but in ethnological, “*where also intellectual traits for determining the race are decisive.*”

CSERHELÝI, V.: Pojem rasy podľa Židovského kódexu. *Verejné právo*, 1942, no. 3, p. 84.

10 According to directives of the Ministry of the Interior interpreting several provisions of the Code, “*The legislature established the presumption (preasumptio juris) to both shorten and facilitate the continuation of determining when one person is a Jew by race, and also for reasons of legal certainty. Without this legal presumption, it would mean settling a Jewish grandparent, according to race, to go back to the third generation and this would actually go on ad infinitum. This way the concept of a Jew by race would become legally uncertain.*” SNA, f. MV 1938–1945, b. no. 178, 57/42, Smernice k výkonu niektorých ustanovení nariadenia č. 198/1941 Sl. z., p. 2–3.

11 SNA, f. MV 1938–1945, b. no. 161, 3449/41.

12 VAŠEK, A: *Protizidovské zákonodarstvo na Slovensku*. Bratislava 1942, p. 20.

Introducing the establishment of a mongrel Jew into the Slovak law was promoted by R. Pažitný in 1940, precisely because of the quite frequent presence of mixed marriages of Christians and Jews in Slovakia. PAŽITNÝ, R.: Kto je židom! (Legislatívna úvaha). *Politika*, vol. 10, September 15, 1940, p. 181.

as a Jew, and a person who by race had one Jewish grandparent. Accordingly, mongrels of the first and second stage were distinguished, respectively as half-mongrels and quarter-mongrels.¹³

One version of the draft regulation (possibly of the regulation with the power of law) on confusion, unenforceability, and reparability of marriages between Jews and non-Jews, which was being prepared even before October 1940, includes in its draft nearly identical legal definitions of a Jew and a [Jewish] mongrel as the Code amendment.¹⁴ Finally, this proposed amendment was subsumed under the upcoming Jewish Code. This proves, however, that the legal definition of a Jew, according to race, was prepared almost a year before the Jewish Code.

Despite a relatively comprehensive definition of the concept of a Jew, the legislation in those days, presupposed the existence of problematic cases and adjusted their assessment (also confirmations of non-Jewishness existed). The doubtful cases were mainly in relation to the proof of Jewish and non-Jewish origins of an illegitimate child, whose paternity had not been in any way identified and recognized. Accordingly, the opportunity to issue a certificate of non-Jewishness of a child existed, if the illegitimate intercourse with a Jew was excluded due to local conditions. In these cases, similarly to the children found without known family, it was considered that these children were considered as non-Jews, unless proved otherwise.¹⁵ In this context, therefore, we could speak about some kind of presumption institute of “non-Jewishness”.

RECORDS AND DESIGNATION OF JEWS

Records and designation of Jews were presented by institutes of anti-Jewish norm setting. The particular importance of these institutes can be seen in the fact that persons covered by the legal definition of a Jew were documented and publicly identified, which later implied further anti-Jewish measures.

The relevant provisions of the Code, and on its basis published bylaw norms, passed the focus of recording Jews from the registry department of the Jewish

13 This is not the legislative dividing, however. This comes out of Code provisions, according to which some restrictions applied only to mongrel Jews, according to § 2, letter a) of the Code, which meant persons who by race originated from two Jewish grandparents, and who were not considered Jews according to § 1, par. 1, letter b).

14 SNA f. ÚPV, b. no. 160, 1060/41. More significant differences presents the absence of the wording “by race”, when relating to Jewish grandparents and setting the date of November 30, 1941 within the 4th criterion, according to which each mongrel Jew was considered a Jew.

15 SNA, f. MV 1938–1945, b. no. 178, 57/42, Smernice k výkonu niektorých ustanovení nariadenia č. 198/1941 Sl. z., p. 7.

Headquarters, to the state authorities.¹⁶ Records of Jews, under § 6 of the Jewish Code, were kept on the local level by municipal (or district) notary offices according to the domicile within its territorial jurisdiction. Police headquarters in Bratislava kept records of Jews with domicile in Bratislava, as well as of Jews living in territory of the Slovak Republic, who lived in the Slovak Republic, but did not have a permanent residence there. Based on the records kept on the local level, the Ministry of the Interior (Ministerstvo vnútra, MV) administered the central register of Jews. The MV was authorized by the Code to determine details of the records management and reporting requirements of Jews, imposed by regulation of the § 6, par. 4 of the Code, under which Jews were obliged to report data, and changes to data, necessary for their registration and kept by the above mentioned local authorities. The reporting authorities issued Jews, who met the reporting requirement, a Jewish identification card with a photo of its owner.¹⁷ Jews were obliged to carry this ID with them all the time, and if being asked, to prove their identity to security offices and authorities.¹⁸ According to the quoted provision of the Jewish Code, lists were elaborated. These served as one of the technical documents for organizing the deportations of Jews from Slovakia in 1942.¹⁹

The Jewish Code established obligatory designation of the Jewish population. Nationwide the Jews had never had such an obligation before. However, on the local level, already on March 31, 1941, the county office of the Šariš-Zemplín Province issued a public notice, by which Jews were obliged to wear the marking.²⁰ Ultimately, this notice was more severe than the amendment calling for the same thing in the Jewish Code itself, as it ordered each Jewish person, regardless of age and gender, to wear the designation. Jews of the Šariš-Zemplín Province were, in the sense of this notice, to be marked on their left arm, above the elbow on the

16 State authorities considered the registration prepared by the Jewish Headquarters to be unreliable, or even falsified. Concerning the registration carried out by the Jewish Council, A. Mach, during the meeting of State Council on March 26, 1942 stated: “*For example, the card index of Jews as a whole is counterfeit. I ordered it to be seized for other reasons, though. I was afraid it might have been destroyed. We took it, and it proved to be false. We had to prepare it all by ourselves again.*” NIŽŇANSKÝ, E. – KAMENEC, I. (eds.): *Holokaust na Slovensku 2. Prezident, vláda, Snem SR a štátna rada o židovskej otázke (1939 – 1945)*. Bratislava 2003, document (doc.) no. 57, p. 173–174.

17 Jews that were not yet 15 years old were being issued a certificate of meeting the reporting requirement.

18 *Úradné noviny*, vol. 24, no. 7, p. 197–198.

19 NIŽŇANSKÝ, E. (ed.): *Holokaust na Slovensku 6. Deportácie v roku 1942*. Bratislava 2005, p. 38–39.

20 The public notice was issued according to § 2 par. 2 of the Act No. 190/1939 Sl.z. on the internal public administration, thanks to which district authorities also had the power to issue such general regulations. This was published under No. 144 in *Úradné noviny*, vol. 23, no. 17, p. 606.

top layer of clothing, by a yellow band in the width of three centimeters, sewn all the way around. This designation was not required when attending religious acts or ceremonies.

Paragraph 8 of the Jewish Code empowered the Minister of the Interior to set specific details of the shape of the designation (sign), the way of its wearing and general exceptions after the agreement with respective minister of the territory. Other designations, in connection with the name, surname of the Jew or with a Jewish company, were in the competence of the respective minister of the territory. Not wearing or not using these marks was to be financially penalized as a misdemeanor by the district (State Police) office. Based on this authorization, the Ministry of the Interior gradually released three regulations governing the designation (signing) of Jews. The first of these regulations²¹ was milder, compared to the above-mentioned notice of the Šariš-Zemplín Province, since it contained five personally determined categories of Jews that were exempted from the obligation to wear signs, as the yellow six-pointed star. For example these Jews under the age of six years, Jews having a work permit from the Central Economic Office (Ústredný hospodársky úrad, ÚHÚ), Jewish converts to a state-recognized Christian church and baptized before September 10, 1941, etc. The second of these implementing regulations²² established that the sign had to be always visible and distinguishable by color on each garment where it was sewn – to eliminate efforts to conceal the signs.²³ Last of the regulations issued in November 1942, introduced a dual designation, smaller signs for Jews who were left in public, technical and economic life of Slovakia, according to the constitutional law on the deportation of Jews, and larger signs for all other Jews, apart from some slight exceptions.²⁴ Jews, who were obliged to wear signs, according to the stated regulations, had to buy them themselves.²⁵

INTERVENTIONS INTO PERSONAL RIGHTS

Provisions of the Jewish Code brought significant deterioration in the personal rights of Jewish people. Carrying out personal and home inspections as well as the stipulation on the privacy of postal mail were unprecedentedly amended by the Code. State security authorities could make personal inspections

21 Published under No. 401/1941. *Úradné noviny*, vol. 23, no. 51, p. 1573–1574.

22 Published under No. 103/1942. *Úradné noviny*, vol. 24, no. 10, p. 294.

23 SNA, f. MV 1938–1945, b. no. 177, 2433/1942.

24 *Úradné noviny*, vol. 24, no. 63, p. 1405–1406.

25 SNA, f. MV 1938–1945, b. no. 177, 2433/1942. Price for one Jewish designation was approx. 5 Slovak crowns.

anytime they wanted, also without a written order from authorities or the courts. They were also entitled to carry out searches at the houses of Jews, at Jewish associations, Jewish enterprises, as well as in other premises belonging to Jews or Jewish associations. In fact, the aim was to legalize the bullying of a defined group of people by the state apparatus. Under the regulation of the Minister of the Interior On authorization of members of the Hlinka Guard and of Freiwillige Schutzstaffel to monitor the abidance of anti-Jewish measures²⁶, these members were under certain circumstances able to participate in personal searches or to enter into a private apartment or a Jewish enterprise. There was also a great supervision with respect to various anti-Jewish laws (e.g. work obligation, prohibition of extra-marital intercourse between Jews and non-Jews, employing of Jews, etc.).

Mandatory labeling of Jewish mail, within continental contact, by an easily noticeable Jewish star was established and the Jewish sender had also to write down his/her correct address. Violating of this requirement was severely punished.

Restrictions on residence were another blatant interference into the fundamental human rights of Jews within the Slovak anti-Jewish policies. According to the Regulation No. 257/1940 Sl. z. On temporary administrators for houses of Jews and on dismissal of Jewish tenants, the ÚHÚ was allowed to prohibit Jews to rent apartments in certain buildings or in some parts of the village.²⁷ These regulations of the ÚHÚ also had impacts that were negatively perceived by the state representatives. There were cases when Jews, who were, because of these regulations, forcibly evicted, trying to convince property owners of apartments in other parts of the city to dismiss non-Jewish tenants. They often listed to appeals of such Jews, because of prospects of getting higher rents.²⁸

This is how the non-Jewish population was often restricted as well.²⁹ Due to the frequent occurrence of such cases, the government issued a regulation with the power of Law No. 111/1941 Sl. z. On restricting the expulsion of non-Jewish tenants from apartments, as well as on restricting transfers of the rented houses or apartments to be used by Jews. This problem was, thanks to the issued regulation, “solved”, although again, the pauperization of the Slovak Jewish population in the sphere of housing was just emphasized.

26 *Úradné noviny*, vol. 23, no. 65, p. 2013–2014.

27 ÚHÚ used this power more times; in this regard, the most known is its regulation No. 267/1940 of *Úradné noviny* On prohibiting Jews to live on the streets and squares named after Andrej Hlinka and Adolf Hitler in all the villages and towns of the Slovak Republic. *Úradné noviny*, vol. 22, no. 59, p. 740–741.

28 SNA, f. MV 1938–1945, b. no. 161, 10667/41.

29 SNA, f. ÚPV, b. no. 163, 6922.

The Jewish Code in its § 28 developed the following amendment. The Central Economic Office, in agreement with the Ministry of the Interior, could order Jews to move out of a village (town), and at the same time, it could order them to move into another village (town). This provision should have been probably used in the planned “ghettoization” of the Jewish population.³⁰ Compared to the previous amendment, the competences of the ÚHÚ were expanded and specified (even though in some cases, the prior agreement with the MV was required). Paragraph 29 allowed the MV and relevant subordinated authorities to restrict or prohibit Jews from movement in certain villages (towns), or in some of their parts, or to visit particular public places. The MV used this power by, for example, the issuance of Regulation No. 510/1941 of *Úradné noviny* On some police measures against Jews, according to which, claiming the need to maintain public order, the Jews were prohibited to visit public and entertainment facilities and venues. This list included theaters, cinemas, cafés, restaurants, fairs, and many other places and facilities.³¹

At this point, I consider it appropriate to mention the regional amendment in this regard, which preceded the Jewish Code. Relevant are the regulations of the county office of the Šariš-Zemplín Province, which was well known for its active introduction of anti-Jewish restrictions of regional impact. In accordance with Regulation No. 20/1941 of *Úradné noviny*, Jews were prohibited to enter public parks or other public places, if the municipal authorities designated these, and obtained prior approval of the county office. Banned was also the visiting of markets and fairs before 9 A.M., as well as buying necessary items outside the marketplaces.³²

Next came Regulation No. 100/1941 of *Úradné noviny*, which forbade Jews to enter public places marked as inaccessible to Jews. This one had an apparent segregating character, as it committed the owners of restaurants, cafés and hotels to put aside specific number of rooms that were inaccessible for Jews. Also in the theaters, cinemas, in public performances, in sports clubs and the like, there had to be assigned seats/places for non-Jews.³³

There was also another regulation of the MV concerning restrictions on the freedom of movement of Jews and their relations with rest of the population, which besides other things, forbade Jews to attend Aryan households

30 KAMENEC, I.: *Po stopách tragédie*. Bratislava 1991, p. 118.

31 *Úradné noviny*, vol. 23, no. 65, p. 1915.

32 Ibid., no. 4, p. 78.

33 Ibid., no. 11, p. 405. Trade licensing office of the province, or the municipal authority, in accordance with the proposal of owner or organizer of the given facility, determined for Jews all the rooms or seats. Ibid.

and Aryans were prohibited to visit Jewish families, as well as to be in mutual fellowship. Any violation of these restrictions, which had nationwide scope, was strictly penalized.³⁴

Religious rights of the Jewish population were also subjected to legal restrictions.³⁵ The Jewish Code extended anti-Jewish religious restrictions by a regulation, under which the members of the Israelite religion were allowed to practice their faith only in such iconic buildings, whose appearance did not reveal their religious purposes.

The Jewish Code adopted regulations of the former decrees from 1940, according to which Jews were not allowed to acquire authorization to carry or own weapons, or an authorization to fish.³⁶ Similarly (under the regulation of 1940), Jews could not drive Slovak vehicles, nor obtain driving permission. All the permissions, issued to Jews prior to this regulation, became invalid.

It was very interesting that Jews were not prohibited to own vehicles, as it was for instance the case with bicycles.³⁷ However, their freedom of disposition and usage of this property was limited. According to the Code, it was not possible to grant a license to own a radio receiver to a member of a household, where at least one Jew was living. Yet in 1940, in compliance with an administrative measure, Jews were deprived of their radio transmitters³⁸, whilst the legal foundation of this measure was very inconclusive. Such seized radios were subsequently assigned and loaned to state and public employees.³⁹

Another sphere of restrictions, having segregating character, affected travelling. Already by Regulation No. 215/1940 Sl. z. On the obligation of Jews to hand in their passports it is possible to mark the first legal order restricting the freedom of travel of Jews. Under this regulation, Jews having passports, identification cards similar to passports, and temporary passports (further passports and IDs), were obliged to submit them to the district (state police) office within eight days from the date when this regulation became effective, or from their return to the Slovak Republic, if being abroad. New passports and IDs for Jews could be issued only with the approval of the State Security Headquarters, al-

34 HUBENÁK, L.: *Riešenie židovskej otázky na Slovensku (1939 – 1945). Dokumenty.* Vol. 1. Bratislava 1994, doc. no. 103, p. 159.

35 The first legal regulation of this kind was the Regulation with the power of law No. 153/1940 Sl. z. on a ban of ritual slaughter and an obligation to obtund some animals before the slaughter. This regulation also banned distribution and utilization of the meat from ritual slaughter.

36 *Vestník verejnej správy vnútornej*, vol. 1, part 25 and 29, p. 250, 288.

37 *Úradné noviny*, vol. 23, no. 62, p. 1914.

38 VAŠEK, A.: *Protižidovské zákonodarstvo na Slovensku*, p. 91–92.

39 SNA, f. Snem Slovenskej republiky, b. no. 306, 55/940, 820/940.

though anytime an order could be issued to submit them within a given period of time. In this regard, paragraph 56 of the Code replaced the above-mentioned regulation, in a way that the assent for issuance of passports and IDs could be given also by the Ministry of the Interior. Their validity, however, was limited to a one-year maximum, and these provisions were equally binding on the non-Jewish spouses (husbands and wives) of Jews as well.

In accordance with the enabling provisions in § 54 of the Code, the Minister of Transport and Public Works was supposed to amend, by a notice written in *Úradné noviny*, the way Jews used the public railway and other means of public transport. Minister of the Interior was authorized to introduce further restrictions on the travel of Jews as well, and he could also set sanctions for cases of their violation. The Minister of Transport and Public Works issued Regulation No. 491/1941 of *Úradné noviny* in October 1941, under which Jews were excluded from travelling in first and second classes of all the trains, and from using the dining and sleeping cars.⁴⁰ The Minister of the Interior used his authorization in the first half of November, by issuing Regulation No. 509/1941 of *Úradné noviny* On restrictions on the travelling of Jews,⁴¹ under which Jews were banned to travel and leave the village (town) of their residence without a written permit. The permissions were issued by the competent superintendent of the notary (state police) office, or the respective commander of the working unit or center. Therefore, we can say that there was an absolute restriction placed on the freedom of movement of the Jewish people.

RESTRICTIONS IN THE SPHERE OF FAMILY AND PERSONAL LIFE

These restrictions were based on the Nazi Nuremberg Laws, precisely from the Law for the Protection of German Blood and German Honor. According to § 9 of the Jewish Code, marriages between Jews and non-Jews, as well as

40 *Úradné noviny*, vol. 23, no. 60, p. 1847. In some cases, this provision dictated in what premises Jews could travel: these premises had to be always marked by a sign: "FOR JEWS". In all the trains transporting people, Jews were allowed to travel only in separate departments of the third class. In engine and electric trains solely in the last car, and respectively in its back end when talking about a one-car train. When travelling by bus, there were no such restrictions, however, if the bus was too crowded, then non-Jews took precedence over the Jews in boarding. The described restrictions in travelling did not apply to Jews, who did not have the obligation to wear the Jewish sign. Before issuing of this regulation, there were discussions on whether Jews would be allowed to travel at least in the second class. SNA, f. ÚPV, b. no. 165, 16080/41.

41 *Úradné noviny*, vol. 23, no. 62, p. 1913–1914.

between Jews and mongrel Jews, were prohibited. The explanatory memorandum to Governmental Regulation No. 63/1939 Sl. z. also added: *"It would contravene with the Christian views of marriage, if the general ban of mixed marriages with Jews was expressed."*⁴² Therefore, the Christian view of marriage in Slovakia had to change in 2.5 years to such an extent, in order that this kind of ban would become compatible with it. Conscious violation of this ban was punished as an offence by up to a three-year imprisonment and depriving of a post, as well as voting rights, whereas application of these sanctions was cumulative. Since Jews were, according to § 12 and 13 of the Jewish Code, excluded from the voting right and from public functions, the targets of this legislation were primarily non-Jews, that is the mongrel Jews. This provision supported the exclusion of Jews from the rest of the population.⁴³ The subsequent paragraph prohibited intentional extramarital intercourse between a Jew and non-Jew.

Prior to existence of the Code, this subject matter was not regimented in the former legislative order at all. However, the legislative section of the ÚPV, already since 1940, had worked on a draft regulation with the power of law on the invalidity and separability of marriages concluded between Jews and non-Jews. In the final analysis, this draft was not accepted.⁴⁴

RESTRICTIONS OF POLITICAL RIGHTS AND FREEDOMS

Jews were excluded from voting rights and public functions. These restrictions on Jewish population referred also to mongrel Jews, who had the same status as non-Jews, unless the Jewish Code stated otherwise. The paragraphs were, to some extent, based on the previous legislation, but they also introduced new,

42 SNA, f. MV 1938–1945, b. no. 161, 3449/41.

43 Regulation in § 9 of the Code was defended by a statement that: *"Persons who entered into a mixed marriage in the subsequent years have to carry their share of the consequences for this action."* KAMENEC, I.: Štátna rada v politickom systéme slovenského štátu v rokoch 1939–1945. *Historický časopis*, vol. 44, 1996, no. 2, p. 233.

44 The draft was changed several times and its individual versions were more extensive than the Code's amendments. Also, from the qualitative side, we can state that there were many differences, e.g. entering into marriage between mongrel Jews of the same origin level was to be subject to the permission of MI, or separation of the existing marriage between a Jew and a non-Jew should have been allowed, if a non-Jewish husband/wife proposed that, even if the reason given was that his/her partner was a Jew. In the final analysis, these drafts were not adopted and this matter became a subject of the Jewish Code amendment. The relevant ÚPV file to these drafts contains a laconic note from 1941 saying: *"put together with the Code"*. SNA, f. ÚPV, b. no. 160, 1060/41.

yet legislatively unanchored anti-Jewish norms.⁴⁵ Jews did not have the voting right, actively nor passively, and they could not be appointed as state officials of public-law corporations and institutions in general. These restrictions were, except for mongrel Jews, applied also to non-Jewish spouses of Jews, although only if talking about the passive voting right. Jews were prohibited to become members of Hlinka's Slovak People's Party, members of registered parties of national groups, in the Hlinka Guard, Hlinka Youth, *Freiwilige Schutzstaffel*, and in *Deutsche Jugend*. Secretarial, officer or non-commissioned officer positions in these organizations were also denied to mongrel Jews and the non-Jewish spouses of Jews.

The Code also forbade establishing Jewish clubs or organizations, except for Jewish religious communities. Pursuant to the § 31 par. 1 of the Jewish Code, the Jewish Headquarters in Bratislava was the only and sole organization launched for representing the collective interests of Jews. It was established by Regulation No. 234/1940 Sl. z. On Jewish Headquarters, which dissolved all the Jewish clubs and organizations⁴⁶ and transferred their property to the Jewish Headquarters. Otherwise, provisions of this regulation, from the material aspect, were accepted by the Code. The Jewish Headquarters was a public-law interest corporation, whose members were compulsorily all the people defined by the term Jew. The Jewish Headquarters was subjected to the surveillance of ÚHÚ and its orders, as well, bans were mandatory for this corporation. According to § 32 of the Code, the ÚHÚ determined the details about its internal organization, bodies, rights, supervision, and duties of its members, etc. Based on § 33 of the Jewish Code, Jews were completely excluded from the right of assembly. Not only could they not organize public gatherings or processions, but they also were not allowed to attend them. By the regulation of the Ministry of the Interior No. 510/1941 of *Úradné noviny*, this restriction was extended to a ban on standing outside in private parks and orchards.⁴⁷

Restrictions on freedom of the press and publishing of literary and other artistic products were already covered in the Government Regulation No. 63/1939 Sl. z., in which § 10 restricted Jewish editorial work only to Jewish magazines, explicitly labeled as Jewish, pursuing the interests of Jewish religion and culture. Publishing, editorial and contributor activity of Jews, as well as mongrel Jews

45 VAŠEK, A.: *Protižidovské zákonodarstvo na Slovensku*, p. 57–58.

46 According to a report of A. Morávek (back then president of the ÚHÚ), which he read on March 26, 1942 at the meeting of the State Council, before the issuing this regulation, there existed 500 Jewish associations in Slovakia. NIŽŇANSKÝ, E. – KAMENEC, I. (eds.): *Holokaust na Slovensku* 2, doc. no. 57, p. 156.

47 *Úradné noviny*, vol. 23, no. 62, p. 1914.

of the first stage, was reduced by the Code only to the contingent magazine issued by the Jewish Headquarters.⁴⁸ This was the only allowed Jewish magazine. Within the territory of the Slovak Republic, it was not possible to publish, copy or to distribute scientific, literary, music, artistic or other (altogether marked as “intellectual”) products of Jews and mongrel Jews of the first stage. Even though, such products could be used for scientific purposes.

RESTRICTIONS IN THE EDUCATION SYSTEM

Particular interventions into the education of Jews were mentioned by former representatives of the Slovak Republic even before March 14, 1939, for example, in governmental notice presented in front of the Assembly of the Slovak Republic on February 21, 1939.⁴⁹

The first law restricting the right of Jews to education was the Regulation with the power of law No. 208/1940 Sl. z. On modification of some legal relations of Jews in the matters of schooling and education. Based on this regulation, Jews were excluded from studies at all domestic schools and educational institutes, with the exception of folk (elementary) schools. At the same time, Jews were prohibited to establish such schools, to acquire higher education by private teaching, and school reports from other than the folk schools issued abroad could not be

48 This was *Vestník Ústredne Židov (the Bulletin of the Jewish Council)*.

49 Dr. Jozef Tiso, former president of the autonomous government, promoted segregation of Jewish and non-Jewish pupils in a governmental notice. He literally stated: “Everywhere in state schools, where lives a large group of Jews, there will be established Jewish classes for Jewish children. At Christian schools, Christian teachers will be teaching and at Jewish ones, there will be Jewish teachers.” NIŽŇANSKÝ, E. – KAMENEC, I. (eds.): *Holokaust na Slovensku* 2, doc. no. 5, p. 28. The vast majority of Jewish pupils and students willingly studied at Jewish schools also in the period before the introduction of the anti-Jewish policy. Jelínek says that at the time, when the Regulation with the power of law No. 208/1940 Sl. z. was issued, “in Slovakia already existed 72 folk (elementary) Jewish schools, two grammar schools, two kindergartens, 12 rabbi schools and 18 schools of other kind.” JELÍNEK, J. A.: *Dávidova hviezda pod Tatrami. Židia na Slovensku v 20. storočí*. Praha 2009, p. 297. Justification of the anti-Jewish policy in the sphere of education was summarized by Prime Minister Vojtech Tuka, in a letter to Assembly presidency in September 1940. According to Tuka, the restrictions in education were the most effective means to reach the aim of excluding Jews “as much as possible from the Slovak economic and social life”. Jews were supposed to be allowed to study only at folk schools and this would solve “the possibilities of unwanted influence of the Jewish pupils – on non-Jews, where until now Jews attended folk schools along with pupils of the Christian religion.” DZUGAS, J.: *Postavenie židovského obyvateľstva v normotvorbe slovenského štátu. Právnické štúdie*, vol. 15, 1967, p. 371.

accredited. As a result of these regulations, Jews were supposed to be absolutely unable to gain higher education, than that which the folk schools offered. This regulation further controlled the study of Jews of school age, which could take place only in specific folk schools or in specific classrooms provided by the Ministry of Education and National Enlightenment. Personal and material costs of the functioning of such Jewish educational institutions were paid for by the respective Jewish religious communities. Less than a month and a half later, this regulation was replaced by Regulation No. 255/1940 Sl. z. On modification of some legal relations of Jews in schooling and education affairs. Its content was the same as the previous one, but an institute of exceptions for Jewish converts to Christianity (converting before this regulation came into force) was added. These exceptions could be approved by the Ministry of Education and National Enlightenment, or the Minister of the Economy.

The Jewish Code abrogated also this regulation, and literally adopted its content. Anti-Jewish measures in education were constructed to make it impossible for *"Jews to gain higher education and thus influence the intellectual life of Slovaks."*⁵⁰

WORKING RESTRICTIONS

In view of changes that the Jewish Code brought, it can be stated that Jews were excluded from performing the liberal professions, and in the case of dependent employment or similar involvement, Jews needed a special permission for its accomplishment.

Already in 1939, Jews could not be employed in the state services, in public-law corporations and public institutions, including also being holders of public-law insurance. They could not even work in services or subsidized institutes administered by them, enterprises, funds and facilities, except the Jewish cultural, iconic, social-health institutions, and the Jewish Council.⁵¹ The Jewish Code expanded the stated restrictions also to non-Jewish spouses of Jews and mongrel Jews, according to § 2 letter a) of the Code (the so-called mongrels of the first stage). Impeding the activity of Jews within the liberal professions has a rich history in Slovak anti-Jewish legislation. Already Government Regulation No. 63/1939 Sl. z. determined the number of Jews in advocacy, in public notary offices and in the editorial profession. Subsequently, the Government Regulation Nos. 145/1939 Sl. z. and 184/1939 Sl. z. restricted the activity of Jewish doctors and pharmacists. The

50 VAŠEK, A.: *Protižidovské zákonodarstvo na Slovensku*, p. 88.

51 See Government Regulation No. 74/1939 Sl. z. and Regulation No. 143/1941 Sl. z..

number of Jewish doctors, pharmacists and lawyers was set to a maximum of 4 percent from the total number of registered lawyers (including clerks), doctors or pharmacists (this number was to be amended annually). This amendment was meant to bring into compliance the representation of Jews in the whole population, and their representation in these liberal professions. In this connection, we can talk about a system of quotas or the *numerus clausus* system. However, it was not applied within the public notaries, since § 9 of Government Regulation No. 63/1939 Sl. z. completely forbade Jews from performing public notary functions.⁵²

Not even acknowledged lawyers, doctors and pharmacists had equal working conditions as their non-Jewish colleagues. A Jewish lawyer could represent only the side of a Jew, except in cases where there was no other lawyer, in the district of the regional court, who could represent the non-Jewish party. A Jewish lawyer could not represent legal entities at all.⁵³ The MV, after listening to the general medical council, determined the places where Jewish doctors perform their practice. It was also authorized to order, if necessary, in cooperation with the general medical council, a prohibition on the treating of non-Jewish people by Jewish doctors.

Given the fact that a rigorous application of the *numerus clausus* principle, could immensely endanger the availability of medical and legal services for the general population, the legislature allowed the Ministry of the Interior (when talking about lawyers, then the Ministry of Justice) to keep the number of Jews higher than 4 percent, to perform the mentioned liberal professions in necessary cases.⁵⁴ There were also examples of how these prohibitions were circumvented in many different ways. This was mainly possible in cases of Jewish doctors, who, even after being dismissed from the medical practice, still had all the medical equipment at their disposal. Thus, very often, they carried out their medical practice illicitly, and there were even cases of illegal profiteering using the gold of dismissed Jewish dentists.⁵⁵ Finally, this situation was solved by adopting

52 Also in the sense of § 2 par. 3 of the Government Regulation No. 13/1941 Sl. z., it was not possible to accept Jewish doctors into the dentist practice. Pursuant to § 14 par. 2 letter c) of the Act No. 49/1941 Sl. z. On Civil Engineers, Jews could not obtain a license of a civil engineer. Only the Minister of Transport and Public Works could grant a dispensation in this case, after communicating with the relevant interested engineering organization and the ÚHÚ.

53 VAŠEK, A.: *Protižidovské zákonodárstvo na Slovensku*, p. 45.

54 When talking about lawyers, it was given that no more than 10 percent can be allowed to perform their practice, from the overall number of members of the chamber (§ 5 par. 2 or the Government Regulation No. 63/1939 Sl. z.). When talking about doctors and pharmacists, there was not provided such a “top limit”.

55 SNA, f. ÚPV, b. no. 157, 120/41.

Regulation No. 23/1941 Sl. z. On the compulsory sale of medical and dental instruments, apparatus, devices, and aids of Jews.

The Code amendment led to the exclusion of Jews from performing various liberal professions. Jews could not work as public notaries, (public-notary clerks), lawyers, (attorney's clerks), civil engineers; they could not perform their medical, veterinary, and apothecary practices. These restrictions were also applied to mongrel Jews of the first stage, with the exception of civil engineer. In addition, non-Jewish husbands/wives of Jews were excluded from performing the public notary service (as well as public-notary clerk's service). Further, the only way that Jews (or mongrel Jews) could work in these liberal professions was by seeking exceptions. Under § 255 par. 1 and 2 of the Code, the president could grant partial or total exemptions from regulations of the Jewish Code, which could also be conditioned. The Jewish Code also acknowledged the effectiveness of exceptions granted according to other legal regulations (cancelled by the Code), which modified the legal status or legal conditions of Jews, whilst these were in force as exemptions from similar regulations pursuant to the Jewish Code. However, all these exceptions, as well as presidential exemptions, could have been taken back at any time.

Paragraph 22 of the Code amended the notorious labor duty.⁵⁶ For the first time⁵⁷ in relation to Jews, this duty was stipulated in the Regulation with the power of law No. 130/1940 Sl. z. On temporary labor duty of Jews and Gypsies.

According to it, Jews and Gypsies were, instead of obtaining military training, supposed to carry out labor in favor of defense of the state, which was determined by the Ministry of National Defense for two months per year. Modification of the labor duty of Jewish population was supplemented by Regulation No. 153/1941 Sl. z. On labor duty of Jews. Jews, in the age range 18 to 60 years, were required to do the work that was ordered by the Central Office of Labor.

56 The labor duty was anchored also in the Constitution. Pursuant to § 75 par. 1 of the Constitutional Law No. 185/1939 Sl. z. on the Constitution of the Slovak Republic, each citizen of male gender was subject to military service or related labor duty and was obliged to take part in the state's defense. This obligation was further amended in Regulation with the power of law No. 129/1940 Sl. z. On labor duty.

57 Besides the labor duty, according to § 22 of the Code, there was also the so-called military duty introduced by the Government Regulation No. 150/1939 Sl. z. On amendments to the military duty of Jews, and later by the Law No. 20/1940 Sl. z., known as the Military Act of the Slovak Republic. Jews could not be members of the armed forces, but they were obliged to carry out work in specific working groups. Since this type of the labor duty was not specified in the amendments of the Jewish Code, I did not deal with it in detail in this article.

Under this regulation, the labor duty was not applied to Jews working within the Regulation with the power of law No. 130/1940 Sl. z..⁵⁸

The Jewish Code derogated both of these regulations (No. 130/1940 Sl. z. only in the part relating to Jews) and introduced a stricter amendment. The lower age limit of Jews subjected to the labor duty was reduced from 18 to 16 years old, and competence to manage the work was passed from the Central Office of Labor to the Ministry of the Interior. From the labor duty were excluded Jews, which were, according to § 258 par. 2, able to remain in their current employment (applicants waiting for a decision on a work permit), and Jews granted a valid exemption, in compliance with § 256. Introducing of § 22 of the Jewish Code was significant also because it was later used/abused for other purposes than its creators probably anticipated at the time. I refer to the most distinguished cases.

Paragraph 15 of the Code and its previous regulations (see above) excluded the employment of Jews from other positions, including in state service. However, given that many Jewish state employees were hardly replaceable in their positions, individual ministries tried to circumvent this prohibition. They did this by issuing the so-called resort exemptions, which were allowed by the Jewish Code in its § 256, and also by using the above-analyzed institute of labor duty.⁵⁹

Working instructions that amended the labor duty of Jews also became the legal base for founding and operating of various labor camps and centers. Regulation No. 130/1940 Sl. z. was followed by the decree of the MV No. 137/1941 of *Úradné noviny*, based on which new labor centers were founded for Jews who were excluded from the economic life.⁶⁰

Undoubtedly, the most controversial is § 22 of the Code, in relation to the deportations of the Jewish population in the year 1942. Before the Constitutional Law No. 68/1942 Sl. z. On the deportation of Jews came into force, these were not legalized by any other specific legal action, and therefore the introduction

58 According to contemporary sources, Jews were supposed, according to Regulation No. 153/1941 Sl. z., to do “works beneficial for the society, although of such a character that did not cause decreasing of the working opportunities of non-Jewish workers.” This had to be work “being managed by the public associations, provinces, villages, committees, assemblies, etc.” SNA, f. ÚPV, b. no. 165, 13280/41.

59 In this connection, Slnková, Dudášová and Könözszyová summarized, “Ministries tried to solve the lack of qualified labor forces by using § 22 of the Jewish Code that obliged Jewish citizens to labor duty according to the assigning of the Ministry of the Interior. This way the ministries obtained cheap and qualified experts, which, however, did not have the status of being their employees.” SLNEKOVÁ, V. – DUDÁŠOVÁ, J. – KÖNÖZSYOVÁ, L.: Právne normy o vylúčení židovských obyvateľov zo štátnych a verejných služieb na Slovensku v rokoch 1938 – 1945 v dokumentoch. *Studia historica Nitriensia*, vol. 11, 2003, p. 323.

60 *Úradné noviny*, vol. 23, no. 17, p. 600–601.

of the Jewish Code imbedding the labor duty of Jews was labeled as the legal basis for the deportations.⁶¹

The first part of the Jewish Code dealt with the private employment of Jews. Initial efforts for legalization of this sphere come from the first half of the year 1939, when the government regulation on employing Jews in the private services was being prepared.⁶²

Concerning the adopted regulations, in this sphere, during the existence of the Slovak Republic 1939–1945, anti-Jewish legislation passed through various developmental stages. The first legal amendment, dealing with this issue, dates back to the first half of the year 1940,⁶³ and is represented by the Act No. 113/1940 Sl. z. On Jewish enterprises and Jews employed in these enterprises (known also as the so-called First Aryanization Act). This act in its § 8 introduced quotas on employing Jews in industrial, retail and freelance enterprises (factories), separately in top services and separately in other working categories. In the top services, Jews could present a maximum of 25% of all the employees; however, this limit was supposed to gradually decrease: by April 1, 1941, it was supposed to be 20%, by January 1, 1942 – 15%, and in further years, the limit should represent 10%. Within other categories, the principle of *numerus clausus* was applied, presenting a 4%

61 I pay intensive attention to this issue in my other work: MALATINSKÝ, M.: *Právny základ deportácií židovského obyvateľstva v období od 25. marca 1942 do účinnosti ústavného zákona č. 68/1942 Sl. z. o vystahovaní Židov*. Manuscript.

62 According to the prepared amendment, Jews could be employed only based on the permission of the relevant district office. These permissions were to be issued without time limit for those Jews, whose number did not exceed 4% of the overall number of employees of such enterprise, within the particular category. (Two groups were distinguished – employees in top services and employees in other categories.) Therefore, the principle of *numerus clausus* should have been applied. In the draft, we can see the link between both later applied discrimination techniques. In cases when it was impossible to find a non-Jewish substitution for performing of certain work, when the national-economic interests required it, or when the situation of the domestic labor market allowed, it was possible to issue further permissions of one year's maximum validity, which could be prolonged to the following year, in case the mentioned problems lasted. The explanatory memorandum illustrates the reasons, which were obviously applicable also during further amendments. It is stated that Jews were precisely disproportionately present in private services and allegedly, this situation "led to great discontent of other people". The explanatory memorandum further states that "The Jews overcrowded the business professions, banks, industrial enterprises, insurance companies, and in all of these occupations they took over the best paid jobs. This way they made it impossible for Christian people, precisely the Slovak people, to access these jobs." Jews were marked as "a foreign element in our society, against which it is necessary to fight, similarly as against the infiltration of foreign state citizens into our economic life." SNA, f. MV 1938–1945, b. no. 161, without number.

63 VAŠEK, A.: *Protižidovské zákonodarstvo na Slovensku*, p. 51.

involvement of all Jewish employees. For employing Jews above the given quotas, specific permits from the Ministry of Economy were required. This system of upper marginal limits became obsolete within few months, after Regulation No. 256/1940 Sl. z. On employing of Jews introduced the permit system, in which each private employment of a Jew in serving, working, or learning involvement, required a permit issued by the ÚHÚ. In practice, this change meant that if, according to the First Aryanization Act, the employer had an absolute freedom in choosing which employee could stay in the enterprise, and then pursuant to the new amendment, the decision-making process was transferred to the central body – the ÚHÚ. It decided in each individual case, which Jews could be further employed and under what conditions.⁶⁴ The ÚHÚ could bind the permission by conditions, as for the employer, also for the employee. These determined the validity of the relevant serving, working or learning contract. Working permits had only a temporary character, and could be revoked at any time.⁶⁵

The Jewish Code adopted the presented matter with minor changes. A working permit was required in cases where the state was the employer, and also if the employers were state enterprises, institutes, funds, etc., as well as when the state authorities (bodies) ordered Jews to work according to the Regulation with the power of law No. 129/1940 Sl. z. On labor duty. When the Code came into force, its paragraph 258 obliged those employers, who employed Jews, to apply for working permits in compliance with § 43. This was not necessary if the ÚHÚ had already decided in this matter. In practice, the applications for working permissions were submitted in relatively high numbers. According to information of A. Morávek, which he presented at the State Council on March 26, 1942, by November 15, 1940 the ÚHÚ received “13,000 applications for working permits”.⁶⁶

64 MORÁVEK, A. and others: *Arizácia a právne postavenie Židov*, p. 117–118. Collective of authors of this book under the Morávek's leadership was comprised of Dr. Viktor Harman, Ladislav Ziman and Dr. Oskar Hammer. Even though this book was issued at least in two editions, it is not present in the libraries. However, it is part of the evidence material from the after-war trial with Augustín Morávek. See: Štátny archív Bratislava, f. Ľudový súd v Bratislave, 1948, no. 4/48.

65 The contemporary explanation gave reasons for limited duration of the working permits by pointing to the fact that the final aim of the Aryanization process was “*the total exclusion of Jews from the employments as well*”, whilst during the validity of the working permit it was “*the obligation of an employer to compensate the Christian employees.*” Ibid., p. 122.

66 Morávek does not state how many applications were positively settled, although elsewhere he mentions that in March 1942, a total of 7,500 Jewish employees had a working permit, “*the working permits were being issued without greater problems just because of an agreement with the Ministry of the Interior, which said this would happen only until the time, when the issue of labor duty of Jews would be solved.*” Subsequently,

Representatives of the anti-Jewish policy gradually tried to minimize the number of privately employed Jews, what becomes clear from the above mentioned quotations, and instead of that, to prefer the utilization of the labor duty according to § 22 of the Code, and possibly to also completely get rid of the Jewish population. This, however, exceeds the framework of my article.

he also expressed confidence, that the appropriate number of permits should be 1,000 up to 1,500, whereas this number should be gradually reduced. NIŽŇANSKÝ, E. – KAMENEC, I. (eds.): *Holokaust na Slovensku* 2, doc. no. 57, p. 156, 160.

The Jewish Code on the Pages of the American Jewish Yearbook

Mara Dissegna (Italy)

INTRODUCTION

The topic of this report is a short analysis of the Jewish life in Slovakia between the years 1939 and 1944, from the point of view of the editors of the *American Jewish Yearbook* (AJY). After the first part that provides historical background of the situation in Slovakia in the period under consideration, the text will focus on the pages of the AJY, which analyzed historical events in this European country. The case of Slovakia represents an interesting case, because this republic had a priest as a president, Josef Tiso, who was the successor of Andrej Hlinka, leader of the Slovak national movement. In this country, the idea of an anti-Jewish law was proposed at the end of 1940¹, but only in September 1941 it was promulgated as an executive order concerning Jews, without public discussion in Parliament.

The paternity of this executive order was given according to the Vatican sources to the Prime Minister Vojtech Tuka. It was implemented without any pressure from Germany. On May 15, 1942, the Parliament passed a retroactive

1 Editor's note: The preparations for anti-Jewish legislation in Slovakia had begun yet before the independent state was established on March 14, 1939, actually the first definition of the Jew appeared in April 1939.

constitutional law about non-Aryans, which authorized deportations. The people, who were deported, lost their citizenship and entire property.²

The point that makes this all interesting is the relationship between the two opposite poles, which drove this country: National Socialist Germany (which, according to some authors, allowed the existence of this state) on one side, and on the other side the Vatican. Tiso tried to find an original equilibrium between these different realities; however, it was him who also influenced the course of events back then. Thus we cannot speak about an exclusive German influence, because Tiso and his government took measures and many officials used to exhibit their anti-Jewish attitudes in the public. The precision in the definition of a Jew in the “Jewish Code” (and thus the efficiency of discrimination and persecution) was, in many regards, even better than the German. one The possibility of analyzing this situation from culturally and geographically external point of view, as by the American Jewish institution³ can prove important.

A HISTORICAL OVERVIEW OF SLOVAKIA, 1938–1945

In 1918, the territory of Slovakia, formerly belonging to Hungary, was annexed to the First Czechoslovak Republic. The People’s Party, led by Hlinka, who was a priest, resumed the nationalist policies abandoned in 1913, immediately showing the anti-Jewish orientation of the party. This political group aimed, in fact, at ruling the country according to Christian ethics, so there were no relations with the Jewish part of the population.⁴

All these anti-Jewish ideas were part of the party-ideology, though they were not formally stated in a party’s program.

The social and economic crisis resulting from the political change produced a sense of frustration, which worsened the situation: the new conditions prevailing in Slovakia as a part of Czechoslovakia did not bring the expected improvements, and that made the people’s party even stronger.⁵ This Slovak party, functioning

2 BLET, P.: *Pio XII e la Seconda Guerra mondiale negli Archivi Vaticani*, edizioni San Paolo. Milano 1999, page (p.) 223 and following.

3 SARNA, J. D.: *American Judaism: A History*. London 2004.

4 This type of anti-Semitism was growing at the end of the 19th century, especially due to the translation and propagation of *Der Talmudjude*. This book stated that the Jews were corrupted and immoral people, and that their conversion was useless.

5 MENDELSON, E.: *The Jews of East Central Europe between the World Wars*. Bloomington 1983; JELINEK, Y.: *The Parish Republic: Hlinka’s Slovak People’s Party, 1939–1945*. New York – London 1976; CLEMENTI, M.: *Cecoslovacchia*. Milano 2007; COLLOTTI, E.: *Fascismo, fascismi*. Firenze 2004, p. 173–180; BOREJSZA, J. W.: *Il fascismo e l’Europa orientale*. Roma – Bari 1981.

between the two wars, was not homogeneous but was united in the struggle for independence of the Slovak part of the republic. The main features of this party, more than the autonomist push, were the catholic faith and the consequent interest in social questions.⁶ After 1925, the People's Party was renamed to Hlinka's Slovak People's Party (Hlinkova slovenská ľudová strana, HSĽS). After the rise of Hitler in Germany, the radical wing of HSĽS grew in popularity and its anti-Semitism became more and more violent. In particular, the HSĽS Congress in 1936, which was attended by several members of the Nationalsozialistische Deutsche Arbeiterpartei (NSDAP), decided to fight against Judaic bolshevism.

With the Munich Pact of 1938, the international situation partially changed: the Sudeten territory was conquered by Germany and President Edvard Beneš resigned. That allowed HSĽS to proclaim Slovakia's independence from the Czechoslovak Republic and to take control over the region where, in absence of any other party, the HSĽS became the party of national unity, and the autonomous Slovakia took on a totalitarian character. That same year Slovakia lost certain territory in favor of Hungary. The Jews were considered to be responsible for that, and this even worsened the general anti-Jewish atmosphere, and led to a wave of violent attacks against the Jewish communities. An anti-Jewish attitude of HSĽS was enhanced in the declaration of autonomy of October 6, 1938, in which there was stated that Slovakia would struggle "*an der Seite der gegen die marxistisch-jüdische Ideologie der Diversion und Gewalt kämpfenden Völker*" (*Manifesto of the Slovak Nation*).⁷

The first anti-Jewish measures were directed at silencing the opposition, therefore any political activities of the left-wing movements and the Jewish parties were prohibited; with the second wave of measures, the teachers who were considered unnecessary⁸ were not allowed to teach anymore, while the third measure con-

6 JELINEK, Y.: The Vatican, the Catholic Church, the Catholics and the Persecution of the Jews during World War II: the Case of Slovakia. In: VAGO, B. – MOSSE, G. L. (eds.): *Jews and non-Jews in Eastern Europe 1918–1945*. Jerusalem 1974, p. 221–255.

7 LIPSCHER, L.: *Die Juden im Slowakischen Staat 1939–1945*. München – Wien 1980, p. 16; VAGO, B.: *The Shadow of the Swastika. The Rise of Fascism and Anti-Semitism in the Danube Basin, 1936–1939*. London 1975, p. 73–113; GRAZIANO, I. – EORDOGH, I.: *Josef Tiso e la questione ebraica in Slovacchia*. Cosenza 2002; FATRAN, G.: La legislazione antiebraica nella Slovacchia di Tiso. In: CAPELLI, A. – BROGGINI, R. (eds.): *Antisemitismo in Europa negli anni Trenta. Legislazioni a confronto. Atti del convegno*. Milano 1998, Franco Angeli, Milano 2001, p. 70–95; HILBERG, R.: *Die Vernichtung der europäischen Juden*. Frankfurt am Main 1990, p. 766–794; *The YIVO Encyclopedia of Jews in Eastern Europe*, <http://www.yivoencyclopedia.org/article.aspx/Slovakia>; http://www.yivoencyclopedia.org/article.aspx/Antisemitic_Parties_and_Movements.

8 People of Czech nationality, Jews, political opponents.

cerned the revision of the citizenship law. The latter is not directed exclusively against the Jews, but represents an attempt to an indirect social expelling through the denial of the citizenship to all those who did not have a permanent right of residence in Slovakia at the time of the establishment of the Czechoslovak Republic in 1918. Only HSEs was allowed to take part in the general election of December 18, 1938, and vacant seats were assigned to minorities (the Jews were excluded).

The Jewish question remained among the main governmental goals, for which two solutions were proposed. The first one foresaw a slow and gradual process aimed at avoiding economic damages to the country and the fight against foreign capital. This solution was supported by the moderate politicians (and by the economists) including Tiso,⁹ who proposed “the 4% solution”: the number of Jews with a good working position should be made proportional to the number of Jews in population. The second solution was quicker and more radical; the supporters of this solution demanded the total expulsion of the Jews. This group consisted of the members of armed forces and of the leadership of the party, who claimed the need to maintain the German support. Since the government was unable to find a solution to the Jewish question, on January 23, 1939 a special committee was established for this purpose. The legal framework arrived at a later stage, but the real segregation in social life went into force. On March 5, 1939, this commission took a position in relation to anti-Jewish legislation: it defined Jews on the basis of their religion, stipulated conditions for a citizenship law and decided on more restrictions for the issuance of commercial licenses. All those decisions were then sent to the Prime Minister’s Office that could add other points. In the first half of March 1939, Germany put pressure on Slovakia, erased Czechoslovakia from the map and gave independence to Slovakia (March 14, 1939). The project of anti-Jewish laws prepared by Sidor for the autonomous Slovakia became the legislative basis for the independent Slovak State.

On March 14, 1939, the independent Republic of Slovakia was established, with a single political party headed by Tiso, who was elected the President in October. As the President, Tiso maintained his attitude to the Jewish question: this was a problem and a gradual solution must be found.

The anti-Jewish laws were being passed without prior discussion in Parliament and published in the form of executive orders on the basis of article 4 of the 1/1939 law.¹⁰ With the publication of the constitution in July 1939, the

9 J. Tiso declared in Parliament that he does not want to solve the Jewish question by adopting the methodology used by another nation (Germany).

10 According to this article, the government could approve measures necessary to enforce laws and regulations of national interest. This clause did not have a limited validity and allowed the government to make decisions without discussion in Parliament.

anti-Jewish regulations were given a legal basis in clause 44. This measure allowed the publication of 47 anti-Jewish executive orders by September 1940. The Parliament could oppose these laws within the three-month period after their publication, but this never happened, according to the sources.

On one side, Hitler “ruled” this new country, but on the other side the President was a Catholic priest and his relations with the Vatican were also important, particularly after the Pope Pius XI, at the end of 1938, had taken a posture against Racism and anti-Semitism. In addition to that, the instability of the socio-economic situation that made Slovakia a weak state on the international level, needed to be taken into consideration.

The sudden exclusion of the Jews from key-positions in each economic sector could cause serious problems at the national level. The importance of moderate postures of the government was reflected in the speed and the characteristics of the application of the solution to the Jewish question.

The HSLS’s first definition of Jew (expressed in the executive order of April 18, 1939) was essentially based on the religious identity. According to this definition, a Jew was a person who:

- a) was of the Jewish religion from birth, even if he converted to Christianity after October 30, 1918;
- b) professed no religion, but had at least one Jewish parent;
- c) was a child of person who can be considered a Jew according to a) and b), but not in case this person converted to Christianity before October 30, 1918;
- d) was not a Jew within the meaning of this regulation but married a Jew according a), b) or c) (as long as the marriage lasted);
- e) after enactment of this regulation, lived out of wedlock with a person a) or c) as well as their descendants.

The main difficulties were connected with the converted people. For the Christian religion, the conversion is sacred and irrevocable, so these people must be recognized as such. The Vatican position on this matter was very strong. For the Slovak Jews, this was a racial definition, not a religious one (as a marriage was enough to become a Jew). This was a legislative compromise adopted by Slovakia under an international pressure. Germany did not protest.

The executive order of September 1941, known as the “Jewish Code”, was different from the preceding regulations, because the definition of Jew became more racial. A Jew was a person who:

- a) had three grandparents who were ethnically Jewish;
- b) was born from a mixed marriage with a Jew;
- c) was descended from two Jewish grandparents and professed a Jewish religion before April 20, 1939.

This law prohibited mixed marriages and mixed relations as *Rassenschande*. In this case, the German influence was clearly recognizable for the similarity to the Nuremberg Laws. These regulations had consequences on the bureaucratic level: the decisions on the Jewish identity were not taken at the regional level anymore, but by the Central Economic Office (Ústředný hospodársky úrad, ÚHÚ).

The persons receiving the “presidential certificate of total/partial protection” represented an exception, because they were excluded from this definition of a Jew. These certificates were given mainly to people who served the Slovak nation, who converted to Christianity or contributed economically to the state. The Code also stated the obligation to wear the yellow star.

After confirming the definition of a Jew, the first restrictions concerning the Jewish presence in the liberal professions came into force. On April 24, 1939, the Jews were expelled from the public service. Since there were no Slovak substitutes, many Jews continued to work until 1944.

To effectively exclude the Jews from the economy, it was necessary to provide a definition of a Jewish company, and at the same time to define their agrarian properties. That is why in August 1940, a decree imposing the registration of all properties owned by Jews, Jewish company or Jewish institution, was promulgated. A company or institution was considered to be Jewish if a half of its administration board was composed by Jews. In this case, Aryan trustees were nominated *pro tempore* to supervise the business of the company and to study the Jewish methods of work, before taking the absolute control of these sectors.

The Jewish Code was not amended significantly in 1941, but its fundamental ideas were strengthened. The laws that were passed aimed at isolating Jews from the Aryan society: they were excluded from the Army and special labor brigades were created for them and the like.¹¹

Later, those who did not have any means of subsistence had to go to labor camps. The Jews did not have access to education, thus they were excluded from the Aryan society. These measures, and many others, had the objective of separating a part of the population from the rest, and in general, tended to destroy the daily life of the persecuted groups.

11 By the law of January 18, 1940, the Jews and Gypsies were forbidden to enlist in the regular military. From September 1939, the Ministry of Interior registered all the Jewish men aged 20–50 in order to recruit them for the forced-labor brigades. From May 1940, Jews and Gypsies had to work within the alternative military service for the state for two months; however, they could be excluded from this duty after paying certain sum of money.

In Ian Steiner's opinion, the process of elimination of the Jews from the Slovak economy can be analyzed in three phases:

1.	INDIRECT DEPRIVING	By 1939
2.	DIRECT DEPRIVING WITHOUT ANY CENTRAL AUTHORITY	From the end of 1939 to September 1940 ("Salzburg Meeting" on July 29, 1940)
3.	DEPRIVING THROUGH ÚHÚ AND LEGAL CODE	From September 1940

INDIRECT DEPRIVING

There was only one exception during this phase and it was represented by the decree as of March 30, 1939, which prohibited Jews from producing trade objects of the Christian cult and selling them, additionally, any infringements were punished with economic sanctions. Until the end of 1939 the number of trade licenses issued to Jewish citizens decreased, in order to reduce the Jewish economic activity. From July 11, 1939 the district offices had to check all the trade licenses, to replace the Jewish directors, and to divest Jews of their businesses permissions. On June 20, in the same year it was decided that authorities could nominate temporary heads and supervisors for business structures. In reality, every law referred explicitly to Jews.

DIRECT DEPRIVING WITHOUT ANY CENTRAL AUTHORITY

In October 1939, Tiso was elected the President and Tuka, a radical politician, became the Prime Minister. In his speech in Parliament, Tuka spoke about acceleration in taking anti-Jewish measures. In February 1940, the law on Aryanization was discussed for the first time. This law was finally approved in April 1940, as an Act No. 113. Even though a "voluntary" Aryanization¹² was possible, it was very rare. The Jewish owners were required to label their enterprise on the visible place as the "Jewish Company".

12 A Jew could possess not more than 49% of the company. The meaning of this measure was a gradual transfer of the Jewish enterprises into Aryan hands, so as the new owners could learn the methods of their management.

The second part of the Aryanization law provided that only 25% of managers, and 4% of administrative employees, could be Jewish. All these percentages had to be revised every year and gradually reduced.

In the past, the HSLS had the support of the agricultural population, and so on February 22, 1940 a land reform law for this sector was passed. The objective was always the same: the Aryanization of the sector, the nationalization of the lands owned by the Jews and the redistribution of these properties to Slovak farmers. According to the census of 1939, the Jews owned 6.5% of Slovak lands. The second phase of depriving ended on August 30, 1940 when the regulation with legal force of law was passed. It obliged all Jews to declare the value of their properties.

DEPRIVING THROUGH ÚHÚ AND LEGAL CODE

In July 1940, with the Salzburg Meeting, Germany imposed its decisions onto Slovakia:

- Ferdinand Ďurčanský had to leave the Ministry of Foreign Affairs and the Ministry of Interior;
- Vojtech Tuka (the Prime Minister) became the Minister of Foreign Affairs;
- Alexander Mach became the Minister of Interior;
- Dieter Wisliceny (officer of the SS) was invited to Slovakia as an adviser on Jewish affairs with intention to accelerate the solution to the Jewish question.

At this point, the government established the Central Economic Office, with Augustín Morávek in the lead, and with the purpose of excluding Jews from the economic life of Slovakia, and to Aryanize the Jewish enterprises. The office reported directly to the Prime Minister and had almost unlimited powers, its decisions were irrevocable.

In 1940, the Jewish Council was established.

On September 3, 1940, the constitutional law, which gave permission to increase the efficiency of the depriving policy, was promulgated. In this way, Tuka's Government was authorized to use every means to eliminate the Jews from the social and economic life of the country, and to take all the necessary measures concerning Aryanization. At this moment, the moderate wing of the Government abandoned the Jews to the radical right wing.

Within one year, about 350 anti-Jewish decrees were published. The Aryanization process culminated on September 9, 1941,¹³ when the government approved the "Jewish Code" containing the essential ideas of the anti-Jewish legislation.

13 Just one day before the expiration of the authorization constitutional law.

By depriving the Jews of their property, the number of needy people increased. In September 1940, as its first act, the ÚHÚ denied Jews control over their personal properties and prohibited every attempt to modify those properties. The Fund to Support the Emigration of Jews was created under direct control of the ÚHÚ. For every transfer of property, a tax of 20% had to be paid. On October 18, 1940, a decree was approved, according to which all Jews had to make financial transfers onto a blocked bank account, which was opened by the authorities. The aim of this measure was to give the banks a chance to identify the accounts in Jewish names and to inform the ÚHÚ. A decree was passed on October 26, 1940 that prohibited Jews from withdrawing more than 1,000 crowns per week (this amount later even decreased to 150 crowns). From October 11, 1940, employers were obliged to ask ÚHÚ for permission to employ a Jewish worker, and actually this was possible only if these workers were indispensable and irreplaceable. The revocation of work permission was fatal for the Jews in question.

On November 30, a new Aryanization order was published. It invalidated the precedent law and centralized the tasks of ÚHÚ. Voluntary Aryanization was not allowed anymore. More than 10,000 companies were liquidated and 2,223 industries and businesses became Aryan.

The Aryanization of houses was held more slowly. On October 11, 1940, temporary trustees were appointed to the houses inhabited by Jews and the rights of Jewish owners and lodgers were repealed. Then, the revocation of a rental contract became easier. The ÚHÚ prohibited the Jews to live in certain quarters or streets (for example those named after Hitler or Hlinka) and the Jewish Council had to find some other housing for those people (in a period of housing scarcity). In 1941, the government nationalized all the Jewish houses.

As far as the Aryanization of agriculture and forestry was concerned, this process proceeded very slowly to avoid a loss of harvests. It proved that through the Aryanization of the Jewish properties, the HSES was not able to keep its promises about agrarian reform. On May 16, 1942, with the publication of the regulation of the State Land Office, the Aryanization of agriculture can be considered as being achieved as the entire landed property was transferred to the state.

THE JEWISH CODE

In April 1939, a Jew was defined as such according to his/her religion. The radicals wanted a racial definition just like that in Nuremberg laws. The authorization law, that expired on September 11, 1941, enabled the government to promulgate the decree defining the legal position of Jews in Slovakia, the so-called Jewish Code of September 9, 1941, which was composed of 270 articles and was based on a racial definition of a Jew. Among others, article 8 stated the

obligation to wear the yellow star and article 28 authorized the ÚHÚ to obligate Jews to leave certain quarters or cities. The only organization representing the Jews was the Jewish Council. Subsequently, in October 1941, the Jews were expelled from Bratislava. The word “dislocation” was used, but in fact all their properties were confiscated.

In summer of 1941, the Department 14 was established by the Ministry of Interior, with the aim of finding a definite solution to the Jewish question. The head of this department was Gejza Konka and from the year 1942 A. Vašek, also known as the “king of the Jews”. His activities were:

- the supervision of the labor camps (responsibility for the construction of these camps belonged to the Jewish Council)¹⁴;
- the responsibility for the deportation of Jews to Poland in 1942.

The Jewish Code dealt mainly with the Aryanization and confiscation of properties and leaving almost nothing to the Jews. Local radicals and the German press accepted this codex, while the protests of the Vatican were directed only to baptized people. On September 2, 1940, at the time of the census, the government thought about reintroducing the state financing through a tax imposed on the Jews, but only one year after passing the law, there were no Jewish properties left.

THE DEPORTATION LAW

The Jewish expulsion took place only during the final phase of the persecution. At the end of 1941, the Madagascar plan, firstly proposed as a final solution for the Jewish question, was rejected. In January 1942, Germany asked for 20,000 Slovak workers (according to a pact signed in 1939) but Slovakia could not satisfy this request and sent the Jewish workers to Germany instead. The Central Office for Reich Security (Reichssicherheitshauptamt, RSHA) in Germany, and Department 14 of the Ministry of Interior in Slovakia, were created to deal with this matter.

On March 24, 1942, the law concerning the expulsion of the Jews from Slovak territory was presented. Even though the moderate wing tried to modify it in Parliament on March 26, the law was approved in a form of constitutional act on May 15, 1942. In the meantime 30,000 Jews, who with this law lost their citizenship, had already been deported from Slovakia,

The first article declared the permission to expel Jews from Slovakia. This law did not apply to:

14 Editor's note: The central supervision over the labor camps was in hands of the Ministry of Interior through the government official, Július Pečúch,

- people who converted before March 14, 1939;
- mixed marriages before September 10, 1941 (the Jewish Code);
- people enjoying presidential protection;
- people considered to be irreplaceable;
- partners and minor children of people possessing an exemption certificate.

Article 2 provided that the president could exempt some people from deportation. However, the important fact is that Tiso actually defined deportations as a Christian act with the only aim of elimination of the people's enemies.

Article 3 called for the loss of citizenship and the confiscation of properties of those who "left" Slovakia.

The Act 138 of June 2, 1942 is also worth mentioning as it reduced the rights of the Jews in the sector of adoptions. With the law a non-Jew cannot adopt a Jew, a Jew cannot adopt a non-Jew, and an exonerated Jew cannot adopt a Jew. This law aimed at avoiding an increase in the number of people exempted from deportation.

THE AMERICAN JEWISH YEARBOOK AND SLOVAKIA

The first volume of the *American Jewish Yearbook*¹⁵ begins with a sentence of Joseph Jacobs who wrote that "*everything must have a beginning, and the beginning is necessarily imperfect*",¹⁶ It was published in 1900 by the Jewish Publication Society of Philadelphia (JPS), which was founded in 1888. At the end of 19th century the leaders of the JPS began to see the United States as the future world center of Judaism. For that matter, the leaders thought to begin an "educational" process in the American Jewish community. The aims of this internal process were: to give to the community a self-consciousness and acquaintance with its potentialities and a contemporary external process, mainly directed at the European Jewish communities, and in particular to the German one. This publication was annual, and it was the result of two different traditions of yearbook issuing. The first was represented by the almanac, the calendar with a unique part written in Hebrew, which was maintained in the Yearbook. The German *Jahrbuch* represented the second tradition that we can see here. From this model, the AJY took the idea of publication with various academic articles about the American-Jewish world.

The American editors chose as their model *The Jewish Year Book* published in Great Britain since 1896 by Joseph Jacobs. The aim of Jacobs was to provide

15 See at: <http://www.ajcarchives.org/main.php?GroupId=40>.

16 *American Jewish Yearbook* (AJY), volume (vol.) 1, 1899–1900, p. IX.

facts that the community needed to know, so that they might plan their future. In other words, the yearbook was a basis for Jewish home education and for the self-defense of the community. Only a year after the publication of the first issue of this English yearbook, *The American Hebrew*, one of the most important Jewish journals in the United States, asked the JPS to carry out such a review for the American Jewish world. After a few years, AJY represented the worldwide stand of the Jewish communities. The structure of the yearbook was always a matter for discussion in the editorial board. The trend was a hybrid solution: the first part of the AJY was a Sammlung of different articles, while the second part was an update of the different fields of the American and worldwide Jewish realities. The part which is the most interesting for this paper, is the “Year in Review”: in all volumes there is the report of the events taking place from September (beginning of the Jewish year) to the following September, divided by countries.

For the historians even more elements of this source are important. First of all, it was a contemporary source, so the editor did not know what he would append in the future, thus he could express the effect of surprise, terror, incertitude, incredulity, and so on these pages. It is also important that the editor could not see the events with the rationality of the post-World War II person. As a result, this American-Jewish point of view had geographically “external”, but culturally “internal” relation to the events. Second, the editor wrote a report about the year as a database of facts. The aim of this report was to give to the future historians some material to study about the given period. Therefore, while in some years the report of the events was organized in a chronological order by countries, in most cases it was simply a text.

After the independence of Slovakia had been declared, the situation of Jews in this country was described as a tragedy, “*the proclamation of independence was celebrated with the pillaging of Jewish homes and the burning of synagogues.*”¹⁷ Many Jews were arrested and the foreigners or “non-citizens” were expelled. The Hlinka Guard were constantly assailing the Jewish population. The editor spoke about the process of “Aryanization” of the civil service, professions in the business and industrial sectors. Almost one-third of the Jews were expelled from the country by means of the revision of citizenship process. “*That Slovakia would introduce legislation along the lines of the Nuremberg laws, was a foregone conclusion.*”¹⁸ According to AJY on April 19, 1939, the first anti-Jewish decree was promulgated, on June 18, the government introduced the revision of the Jewish properties, and on April 22, the recording of those properties was launched just like in Bohemia

17 Ibid., vol. 40, 1938–1939, p. 277.

18 Ibid.

and Moravia.¹⁹ The bad economic situation also had a positive side. On June 2, 1939, the Minister of Justice, Gejza Fritz declared that *“the segregation of Jews under Slovakian law did not mean their elimination from economic life, and the loyal Jewish citizens would be permitted to engage in trade and manufacture,”*²⁰ but on June 22, the head of the Slovak Office of Propaganda, Alexander Match, said that *“within one year, Slovakia would be rid of all Jews”*.²¹

In the report of the following year,²² the picture of the situation in Slovakia was worse. The rights of the Jewish population were abolished by legislation and their economic panorama became even less stable. The most difficult situation was faced by the people in the cities such as Bratislava and the like. Here during the month of August 1939, numerous pogroms exploded, led by members of Austrian national socialists and local Hlinka Guard. Some synagogues were destroyed and Jewish stores were obliged to display a distinctive sign. On November 12, 1939, hundreds of Jews were arrested as members of an anti-Nazi plot. From May 1940, the exclusion of Jews continued, and they were banned from the cafés of the cities. In June, the entire quarter of the ghetto in Bratislava, built in 1399, was demolished. In July, only 24 Slovakian Jewish lawyers remain in the register out of a total of 556. According to that, the percentage of the Jews in legal profession was restricted to 4% and Jewish layers could act only for their Jewish clients. From August, the Jewish properties were to be registered and that represented the first step to their confiscation. In March 1940, the Jews were banned from holding trades, the artisans' licenses were withdrawn from them, a *numerus clausus* for the economic sector was introduced, and they also were prohibited to buy any property and land. On May 26, the government announced that in 1941 the percentage of Jews in the professions would be just 1%. Daily life of Jews became more and more problematic. The time assigned for shopping was reduced to one hour a day and the Shehitah was banned as of July 1940. The declarations of different ministers created tension: the Minister of the Interior Ďurčanský said in March 1940, that the Jews were responsible for the *“unfavorable delimitation of the Hungarian-Slovak border in 1938”*.²³ In September 1939, Jews were banned from working in the military sector, but only a month later, on October 15, they were being taken for forced labor.

In the next volumes, the editor of the reports about Slovakia²⁴ was Eugene Hevesi, who was described as the *“former Hungarian commercial attaché in*

19 Compare with the aforementioned overview of anti-Jewish measures.

20 Ibid., p. 278.

21 Ibid.

22 Ibid., vol. 41, 1939–1940, p. 353–354.

23 Ibid., p. 354.

24 Ibid., vol. 42, 1940–1941, p. 216–220.

Rumania and the United States”.²⁵ Slovakia was here described as a German military colony for the defense of the German borders and “an example of virulent anti-Semitism for all the other countries of the Danube-Balkan area.” And then the editor continued, “Today, it is an academic question which faction has played the most decisive role in bringing to power Slovakia’s cruel and barbarous anti-Jewish regime – the most moderate and responsible elements, in their naive endeavor [sic] to avert complete political submission to German war interest, or the local Nazi adventures, in their irresponsible craving for power. The fact is that [...] Slovakia has been the pacemaker for official anti-Semitism in the Danubian [sic] region.”²⁶

On August 2, 1940, all Jewish owned coffeehouses and restaurants were closed, and a few days later, from the grain monopolies and the import corporations, Jewish employees were dismissed, and 367 Jewish physicians could not practice. On September 5, according to the German press, the educational sector was closed to the Jewish people.²⁷ The Jewish people in Slovakia, after finishing primary school, could attend only Jewish schools, but these were closed, indeed. All of it was a form of educational segregation of the Jewish people. On September 3, 1940, the parliament gave authority to the government to issue Aryanization decrees without its control. From this moment, the Slovakian authorities worked to transfer all the Jewish properties to Christian owners.

After some measures, such as forced sales, in February 1940, the government approved a general Land Reform Law.²⁸ On September 15, Jews were deprived of their passports, driving licenses and radios. Other regulation prohibited the Jewish people from employing women younger than forty years of age as their domestic servants. The documents proving the Slovak citizenship to Jewish people were to be re-examined. “*The extreme injustice of this measure is the well-known fact that most people living in Slovakia were unable to produce the required documents, many of them having been born in other parts of the former Austro-Hungarian Empire. To procure the necessary papers from other sections of the former empire was very difficult, if not impossible. This inquiry into non-procurable documents proved an ingeniously simple means of expelling or at least denationalizing Jews, whose property was coveted by circles close to the Hlinka Guard.*”²⁹

25 Ibid., p. 216.

26 Ibid., p. 216–217.

27 In fact, it was the Regulation having the force of law of August 30, 1940 on adjustment of certain legal statuses of Jews in the matters of teaching and education, valid from September 1, 1940.

28 Ibid., vol. 42, 1940–1941, p. 218.

29 Ibid., p. 218–219.

In February 1941, the liquidation of almost 3,000 Jewish firms was carried out by the Central Economic Office. On February 20, the State Land Office began the redistribution of the Jewish land properties. The properties were sold to small farmers at a price by one-third lower than the market price, and with payment extended to three years. The payment went to the Land Reform Fund, which was supposed to give only “3% interest and 0.5% amortization per year” to the Jewish owner.³⁰ Apart from these national measures, there were the anti-Jewish actions from the local authorities. For example in Nitra, Jews could not reside on certain streets, or were excluded from certain hotels, public baths, etc. In some cases, the Jews had only a few shopping hours or could not appear on the streets during certain times. In March 1941, the yellow armbands became obligatory in the Šariš-Zemplín Province, and in March the urban segregation through ghettos was announced. *“A factual account of these measures can, however, hardly give an idea of their tormenting moral and mental effect on the victimized Jewish population, or of the brutal manner in which these measures were applied. Continuous raids, thousands of arrests, confinement to internment camps, police searches of Jewish homes, beating on the streets, third degree methods and desecrations, demolitions or burning of synagogues and Jewish cemeteries, were creating the real atmosphere of ‘national independence’ at its best in Slovakia.”* The perpetrators of these crimes were, according to the AJY, members of the Hlinka Guard. *“The common people are often opposed to the methods applied against the Jews, and in some villages, the Hlinka groups have been dissolved by the residents, who could not stand their gangsterism.”* The attitude of the government towards this situation can be clarified by the words of Tuka on February 21, 1941 in a speech for a German guest, when he said that *“although Slovakia was not a belligerent, this did not mean that if ‘the need arises this country would not put all its forces at the disposal of its great friend’.”* And the editor continues, *“he [Tuka] said that the bread and the blood of the Slovak people belonged to Hitler”*.³¹

The report about Slovakia for the period of 1940–1941 begins thus: *“No other government had ‘voluntarily’ stooped to such depth of sycophantic inhumanity as that of President Mgr. Tiso and Premier Tuka in Slovakia.”*³² The writer underlines that the situation in the country was worse than that in Romania. The situation of the entire Jewish population, of about 90,000 people, was described as a form of slavery, transferred into the devastated region of Eastern Galicia, under German control. The real future of this policy became clear on November 15, 1941 when the *Gardista*, the journal of the Hlinka Guard, wrote: *“At the*

30 Ibid., p. 219.

31 Ibid., vol. 42, 1940–1941, p. 220.

32 Ibid., vol. 43, 1941–1942, p. 253.

present time, the independent [sic] Slovak State is presenting itself in its best light to powers of the New Europe, and has become dear to Hitler's heart. Slovakia's economic solution of the Jewish question, and especially the heroic fight in the East, entitles Slovakia to share in the European victory."³³ In this way, the objective of the economic devastation of the Jewish population had as an aim to put Slovakia nearer to Germany. At the same time, the campaign against the Jews was "*inspired, conducted and enforced by Berlin*".³⁴ In March 1942, the deportations to ten ghetto towns began. After the Passover in 1942, the deportations took on a mass character. The writer told that some Jews, to avoid the deportations, attempted to escape to Hungary, without success, and on April 22, according to a communiqué, some military units had to intervene "*to put down the resistance of the Jews there trying to escape deportation [...] After fighting, the military captured and disarmed thirty-two men who had fought with modern weapons of unknown origin.*"³⁵ Also in this case the AJY presumed the support of Jews from the side of non-Jewish population. There was no definitive information about the situation, but from different reports and private information, the editor assumed that one half of Slovakia Jews were at that moment in the ten "ghetto towns" in Galicia, while the remaining Jewish population lived in concentration or labor camps, awaiting deportations.

On January 18, 1942, the chairman of the Central Economic Office, Augustin Morávek, declared that the Jewish problem was solved in one year through confiscation and "Aryanization". At beginning of 1941, the amount of the Jewish properties was almost 3,150,000,000 crowns, including 250,000,000 in blocked bank account and 6,000 houses. In December 1941, 9,896 Jewish enterprises were liquidated or Aryanized. On September 1, 1941, a 25% tax on Jewish properties was levied, to finance the Jewish emigration and on September 10, there was a levy of 20% on Jewish general property and 40% on bank accounts. On October 9, the income for the Jews was fixed at no more than 1,500 crowns (\$50) per month and they were forbidden to withdraw more than 400 crowns weekly from the bank. In this way, by the middle of May 1942, Jewish property was completely nationalized.

On September 9, 1941 a new "Jewish Code", based on 270 articles, was promulgated to exclude the Jews from the social, economic, political and cultural life of the country. The Code forbade contacts between Jews and "Aryans", and legally imposed the compulsory wearing of the yellow star.

33 Ibid., p. 254.

34 Ibid.

35 Ibid., vol. 43, 1941–1942, p. 224.

On September 1, the Jews, who lived in localities with more than 5,000 inhabitants, were evacuated. On October 24, the Jewish inhabitants who lived in houses constructed before the year 1920, had to vacate them. Only a few weeks after the promulgation of the Code, the first “Jewish train” left Bratislava “*for remote provincial townships*”.³⁶ From the capital, 12,000 Jews were evacuated and many more from the rest of the country. “*All that,*” the editor went on, “*is a form of preparatory measures for the final goal: the mass deportation of the Jews to Galicia. The attitude of the Slovak population was, in general, sympathetic towards the Jews, but the people were of course powerless to oppose the terror to the authorities.*” In regard to the description of the situation in other European countries, such as Hungary or Romania, this consideration about the behavior of the people towards the Jews was interesting, because in the other reports there is no mention of it. The editor wrote about many “mercy baptisms” carried out by Protestants, Calvinist and Catholic priests as a form of demonstration of a good will. The report of that year ends with a consideration: “*Slovakia was the first of all the autonomous or semi-autonomous countries within the orbit of Nazi power, where Hitler’s program of wiping out Jewish life has been carried to its ultimate, deadly consequence, tending to outstrip in a ferocious manner the original Nazi model itself.*”³⁷

The review of the year 1942–1943³⁸ began with the consideration that the mass expulsion of Jews from Slovakia did not ended, as it was planned in March 1942, and only 20,000 out of the original 90,000 Jews living in the country in 1939, still remained. The rest had been deported to Poland. The confiscation of Jewish property continued “*by the intensely pro-Nazi puppet government of Slovakia*”,³⁹ and in December, Germany presented Slovakia a bill for 700,000,000 crowns for its “services”⁴⁰ in carrying out the deportations. The editor wrote that a London newspaper reported that in April 1942, Slovakia had reduced its debt thanks to the sale of Jews to Germany for labor on the Russian front. “*It seems [...] that the sympathy of a large part of the Slovak population for the Jews and the growing dissatisfaction with the Axis ties, especially after the heavy casualties on the Russian front, have prevented the process of liquidation from being as thorough as had been intended.*”

In July 1942, the *Gardista* newspaper reported that the total number of deported Jews from Slovakia was 56,000. The London Federation of Czechoslovakian

36 Ibid., p. 256.

37 Ibid., vol. 43, 1941–1942, p. 257.

38 Ibid., vol. 44, 1942–1943, p. 319–322.

39 Ibid., p. 320.

40 Ibid.

Jews indicated that many Jews were sent to forced labor (sic) camps of Sawin and Koyszow, while the rest of the Jews went to the Polish towns of Lukow, Chelm, Miedzyrzecz-Podlaski, Lubartow, Ostrow, Rejowiec, Kamionka, Firlej, Opole, Naleczow, Zamosc and the notorious concentration camp in Oswiecim.⁴¹

In September 1942, the authorities revoked all work permits of Jews who had been declared as essential for the national economy.

In February 1943, the authorities announced that the remaining 20,000 Jews would be deported to East Poland in two months. About the Jewish confiscated possessions, the Swedish newspaper *Trotsalt* in February 1943, reported an amount of 17,000,000,000 crowns, but the Slovakian government spoke of only 4,000,000,000. Based on the Swedish journal, the last amount should represent only the sum received by the Slovak government. A total of 19,771 hectares of land were transferred from Jewish owners to Aryans, which was stated by Dr. Juraj Slávik, the Czechoslovak Minister of Interior, in his report to the Czechoslovak State Council in London in February 1943.

According to a report of the Slovak police in August 1942, some of the Jews could escape their fate, and, “*nearly two hundred Jews from the townships of Poprad and Kesmark and other places were living in caves in the Tatra Mountains. They had brought their furniture and belongings, their Torahs and religious books. In their wild surroundings, they lived, prayed and studied. A number of Slovak peasants supplied them with food.*”⁴² The position of the government was totally different and “*Dr. Joseph Tiso, [...] declared that in deporting Jews, ‘Slovakia is acting in accordance with the Lord God’s command.’*”⁴³ The Catholic and Lutheran hierarchy protested through pastoral letters, against this anti-Jewish policy.

The report in the following volume of the AJY about Slovakia started thus, “*Of the pre-war Jewish population of about 95,000, in July 1943, approximately 18,000 remained in Slovakia. This number included 3,000 Jews spared because they were judged ‘economically indispensable’ and 5,000 baptized Jews. The rest had been deported to internment camps or extermination points in Eastern Galicia. The number of deported Jews who remain alive is unknown, as news from Poland is scarce and unreliable.*”⁴⁴ The situation in the country became still bitter. In August 1943, Jews could no longer appear in the streets, unless they were going to work or home from work. In December, even more Jews were engaged into forced labor brigades, mainly for the reconstruction of roads. The Journal of the Deutsche Partei, the Nazi *Grenzgebote*, on December 24, 1943 reported that

41 Ibid.

42 Ibid., vol. 44, 1942–1943, p. 321–322.

43 Ibid., p. 322.

44 Ibid., vol. 45, 1943–1944, p. 263.

*"Hungarian and neutral merchants have persistently refused to deal with 'pure' Slovakian firms, which did not employ Jewish managers. The foreign merchants claimed," complained the Nazi organ, "that Slovaks were so inefficient that it proved impossible to do business with them. This may have been the reason for the report of the Czechoslovak government-in-exile that Slovak commissioners appointed 'Aryanizers' of Jewish firms have manifested a growing tendency to employ Jews clandestinely as managers."*⁴⁵ The editor continued and wrote that by the end of December 1943, the elimination of Jews from the economic life of this country was completed. *"It is probable that the contemplated deportation [of people over the age of thirteen] may not occur because of the victorious advance of the Russian army in the spring of 1944, almost to the frontiers of Slovakia. Growing popular dislike of anti-Jewish bestiality may be an additional factor in slowing down this process. Reiterated warnings by the Czechoslovak government-in-exile addressed to the people and to the puppet government of Slovakia, against participation in further anti-Jewish atrocities are likely to have bolstered the spirit of resistance and the fear of retribution."*⁴⁶

45 Ibid., p. 264.

46 Ibid., p. 265.

Anti-Semitic Legislation in the Legal Practice of Slovakia and in Neighboring Countries in 1939–1945

Rudolf Manik (Slovakia)

PRE-WAR ACTIVITIES OF JEWISH LAWYERS IN SLOVAKIA

Legal practice within the legal professions in the territory of present-day Slovakia in the phase of Austro-Hungarian Monarchy marked a significant representation of “pravotári” (pravotári – an archaic word for lawyers) belonging to the Jewish religion. Although in the census of 1910, among the 994 lawyers operating in Upper Hungary there were 881 of Hungarian and 82 of Slovak nationality, 28 German, 2 Ukrainian and 1 of other nationality,¹ according to the religious affiliation, most of them belonged to Jewish religion (although a lot of them did not claim their confession officially).² The statistical summary shows that the highest number of these lawyers conducted their practice in Nitra county (60) and Zemplín county (59). According to percentage rate, the largest number of them was reported in Liptov county (67.9%) and Trenčín county (62.5%). On the contrary, the lowest representation of the Jewish lawyers was reported in Orava (27.6%) and Turiec (28.6%) county. The proportional overview of Jewish lawyers in the counties of Upper Hungary was as follows:

1 VIETOR, M.: *K počiatkom buržoázneho súdnictva v ČSR*. Bratislava 1960, page (p.) 62.

2 KÁLAL, K.: *Utrpenie Slovákov*. Bratislava 2006, p. 40.

COUNTY	%	COUNTY	%	COUNTY	%
Liptov	67.9	Nitra	54.1	Tekov	36.8
Trenčín	62.5	Zemplín	51.8	Gemer-Malohont	33.3
Šariš	56.4	Zvolen	46.3	Hont	23.3
Novohrad	55.9	Abov-Turňa	45.8	Turiec	28.6
Spiš	55.6	Bratislava	41.9	Orava	27.6

Interestingly, the municipal cities, legally equal to counties, were significantly affected by the Jewish lawyer element – in Bratislava 36.5%, in Banská Štiavnica 60%, and in Košice 63.3% of the lawyers were Jews. It is worth noting the following overview of the national and religious affiliation of the representatives of the legal profession in 1910 in the counties of Upper Hungary.

COUNTY/ MUNICIPAL CITIES (TOTAL NUMBER OF LAWYERS)	RELIGION					NATIONALITY			
	JEW S	ROMAN CATHOLICS	PROTESTANT	CALVIN	OTHER	HUNGARIAN	SLOVAK	GERMAN	OTHER
Liptov (28)	19	2	7	–	–	19	7	2	–
Trenčín (72)	45	21	6	–	–	54	14	4	–
Šariš (55)	31	13	10	1	–	47	3	5	–
Novohrad (59)	33	12	7	6	1	58	1	–	–
Spiš (63)	35	10	17	–	1	55	–	8	–
Nitra (111)	60	36	14	–	1	95	12	4	–
Zemplín (114)	59	26	5	20	4	114	–	–	–
Zvolen (41)	19	8	14	–	–	35	6	–	–
Abov-Turňa (24)	11	6	1	5	1	24	–	–	–
Bratislava (62)	26	23	9	4	–	50	8	4	–
Tekov (38)	14	16	3	5	–	38	–	–	–
Gemer-Malohont (51)	17	6	16	12	–	48	3	–	–
Hont (31)	14	8	6	3	–	29	2	–	–
Turiec (21)	6	1	14	–	–	7	14	–	–
Orava (19)	8	9	2	–	–	11	8	–	–
Bratislava (74)	27	29	17	1	–	68	4	1	1
Košice (60)	38	16	2	4	–	60	–	–	–
Banská Štiavnica (5)	3	1	1	–	–	5	–	–	–

An additional 56 lawyers operating in the territory of today's Slovakia had their law firms established in Komarno, i.e. in the last municipal town of Upper Hungary, and in other counties, which are now part of the Slovak Republic (Ung, Ostrihom, Komárom, Győr and Moson). It was typical for this period that the majority of Jewish lawyers claimed Hungarian as their mother tongue. A Jewish lawyer speaking Slovak was rare, and most of the Israelite lawyers also claimed to speak the German language.³

The proportion of Jews among lawyers was significant, even after an increase in membership in both bar associations in Slovakia based in Turčiansky Svätý Martin and Bratislava during the First Czechoslovak Republic and after the declaration of independence of Slovakia on March 14, 1939. For example, in 1933 in the Slovak capital, Bratislava, there were up to 180 Jews out of 380 lawyers, of which only 30 were Slovaks!⁴ The large number of Jews among lawyers, which far exceeded the proportion of Jews in the population of Slovakia, was evidenced by their number on the bar in Turčiansky Svätý Martin, where 251 lawyers were enrolled, and in Bratislava, there were 291 Jews out of 598 lawyers.⁵ In 1941, despite a considerable expansion of conversions from Judaism to Christianity in the legal profession, there were 133 Jews out of a total of 278 lawyers registered in Bratislava itself.⁶ However, the fate of their fellows in the German Reich served as a reminder for all Israelite attorneys, and the regulation of legal conditions of German Jews came to presage their further legal existence in Slovakia.

THE FIRST LEGISLATION RESTRICTING THE LEGAL PRACTICE BY JEWS AFTER THE ESTABLISHMENT OF THE SECOND CZECHOSLOVAK REPUBLIC

The first rule of law, relating to lawyers adopted after the signing of the Munich Agreement, and the establishment of the Second Czechoslovak Republic, was Government Regulation No. 219/1938 Coll. On temporary restrictions in the trade and other gainful business, adopted on October 9, 1938, due to extraordinary circumstances caused by the military preparedness of the state after the general mobilization during the time of the Munich crisis. In paragraph 2 (1) of

3 Quoted in: HALÁSZ, I.: *Uhorsko a podoby slovenskej identity v dlhom 19. storočí*. Bratislava 2011, p. 100–101.

4 LOJEK, B.: *Kým nie je neskoro*. Budmerice 2011, p. 288.

5 HUBENÁK, L.: *Rasizmus v slovenskom zákonodarstve (1939–45)*. Bratislava 2003, p. 77.

6 SALNER, P.: *Mozaika židovskej Bratislavy*. Bratislava 2007, p. 126.

the measure, it is possible to notice the proscription standards, consisting in the option of the administration on deciding to grant a license to practice law (even if other conditions for permission were met), and to make a positive decision only if there was no objection against it due to exceptional economic circumstances, caused by the state of military preparedness of the country or due to the public interest. The authorizing institution could also grant such a license or repeal an existing one, due to the conditions that were not specified in the measure, and which thus cannot be considered as concise. Before issuing the decision, it was entitled to hear the participating interest of corporations in accordance with paragraph 5 (1). Moreover, the district office might impose a fine of up to 60,000 Czechoslovak crowns or six-month imprisonment for misdemeanors in this area. The regulation (effective as of October 11, 1938) was soon replaced by the subsequent Governmental Decree No. 265/1938 Coll. On temporary restrictions in the trade and other gainful business, approved on November 4, 1938, which had the similar content, but it was effective only for a brief period, until the Measure of the Standing Committee No. 284/1938 Collection of the Law and Regulations became effective. In the regulation, it was explicitly stated that this regulation was concerned with the liberal professions, including lawyers, doctors and civil engineers. Again it was written in the act that the decisive body, granting authorization for legal practice, did not have to make such a decision only when it was against it, due to the exceptional economic circumstances caused by the military preparedness of the state, or due to the occupation of the territory of the country by a foreign power or due to the public interest. It was again concerned with the existing or new authorizations. Time limit for appeal against a negative decision was set, in accordance with paragraph 2 (4), to 15 days, however, the appeal against the refusal of entry onto the list of lawyers or resettlement was given to the Ministry of Justice, but it had no suspensive effect. The level of penalties did not change, there was still the maximum penalty of 60,000 Czechoslovak crowns and imprisonment for 6 months.

The Regulation of the Standing Committee (National Assembly) No. 284/1938 Coll. On the Temporary Modification of Some of the Issues Related to Legal Practice presented on November 16, 1938, which became effective on December 16, 1938, can be considered as the first attorney discriminatory rule. According to paragraph 1, it enabled the Committee of the Bar to permit an entry onto the list of lawyers and allow resettlement of a lawyer only if the public interest was not concerned. Vagueness of such regulation was at the time of its adoption typical for other legal norms, which became a part of the law of the new republic. The measure also constituted the possibility of a limitation of the period for legal practice and the resettlement of a lawyer into cities with more than 50,000 inhabitants. Negative decisions in status matters of lawyers were, in accordance

with paragraph 3 of the measure, and they were important especially when not including onto the list of lawyers or resettlement of a lawyer was in favor of attorneys who would otherwise be at risk of a decent living and the need for provision. There was provided a 15-day period for filing an appeal (complaint) to the Department of Justice as well, but it did not have a suspensive effect. According to paragraph 5 (1) of the legislation, in committees and disciplinary boards of the bar association, there could be only lawyers working in a district of the chamber unallocated by a foreign power, and nationally, according to the percentage of the ethnic proportion of the population apart from lawyers of Czech, Slovak and Ruthenian nationality, thus the state-forming entities. According to this rule, the chamber committees had a 14-day period (with the exception of Slovak and Carpathian Ruthenian) to modify the composition of the authorities upon agreement, however, in case of negative results the chairmen of committees were entitled to do so. Paragraph 5 (3) setting out the obligation to organize the disciplinary panel of the Supreme Court is interesting. Moreover, at general meetings of the chambers, only those lawyers could vote, who worked in a district chamber unoccupied by a foreign power. The paragraph 7 (1) deserves close attention as well. There was stated the rule of termination of the legal practice on December 31 of the year in which the lawyer reaches the 65 years of age. Those who reached this age by December 31, 1938, the license to practice law terminated on December 31, 1939. Three months before expiry of the authorization, a lawyer could optionally ask for a prolongation of his license on the grounds of public interest or maintenance of himself and his family, and in case of a negative decision, the 15-day period allowed for filing an appeal (complaint) to the Department of Justice, however, it did not have a suspensive effect. The Regulation of the Standing Committee No. 284/1938 Coll. entered into force on November 19, 1938, and it revoked the measure on lawyers of Government Regulation No. 219/1938 Coll. valid only for a short period of time.

The often mentioned legal interpretation of the public interest was applied to the cases, when permission for registration of a lawyer or resettlement of a lawyer meant that the number of lawyers or lawyer candidates either in the district or the Bar or in a particular location increased in a way that would threaten already registered lawyers or legal practice candidates with a loss of subsistence income and necessary provisions. Committee of the Bar was also authorized for a definite period of time to limit a license by means of setting the rule that the practice of law could be carried out by a lawyer or legal practice candidate only in a certain place in the city, in which, or only in its part, more than 50,000 people lived according to the last census. It was delineated by the legal regulation that in the committees of the Bar Association, there could be only lawyers with a seat in the district of the Bar unallocated by the foreign power, which practically meant the parts of

Czechoslovakia, unoccupied by the Great German Reich, Kingdom of Hungary or Poland. Unless they were members of Czech, Slovak and Ruthenian ethnic groups, their number could be only as large as to match the ethnic composition of the population in the district of the Bar Association, which strongly discriminated against Jewish lawyers, and due to significant number of these, it is clear that the regulation was directed just against them. The number of Czech and Slovak citizens of Israelite religion living in the Slovak country was higher than the number of people who also professed to the Jewish nationality, which in 1938 accounted for about 150,000 people, though lawyers of this nationality had a higher percentage of lawyers than other nationalities, despite the fact that they represented only about 4% of the population. After the establishment of the independent Slovak Republic, and the loss of parts of its territory, the number of people decreased, and the Jews had a lower proportion in the population as well – in 1939, there were about 89,000 Jews – dropping their proportion to 2.9%.⁷

On January 27, 1939, in *Národné noviny* (*National Newspaper*) there was published the list of people, based on the aforementioned regulation, who were deleted from the list of lawyers, because they had been enrolled in it after March 31, 1938.⁸

It is interesting that at this time JUDr. Miloš Vančo was the head of the judiciary as the Minister of Justice of the Autonomous Government of the Slovakia, who in 1927–1934 was the President of the Bar Association in Turčiansky Svätý Martin, i.e. at that time he was the head of the entire legal profession in Slovakia. After the war, Miloš Vančo was reproached that during his short service in the Ministry of Justice of the autonomous government of the Slovakia, he issued an order in February 1939, according to which the judges of the Israelite religion or without religion could not serve.⁹

GOVERNMENT REGULATION OF INDEPENDENT SLOVAKIA ELIMINATING THE JEWISH ELEMENT FROM THE LAWYERS IN THE YEARS 1939–1940

A few weeks after its establishment, on March 14, 1939, the newly elected independent Slovak autonomous government adopted Act No. 1/1939 of the *Slovak*

7 BIANCHI, L. a kol.: *Dejiny štátu a práva na území Československa v období kapitalizmu*. Bratislava 1973, p. 493.

8 NIŽŇANSKÝ, E.: *Židovská komunita na Slovensku medzi československou parlamentnou demokraciou a Slovenským štátom v stredoeurópskom kontexte*. Prešov 1999, p. 117.

9 ZAVACKÁ, K.: Holokaust sa začal nenávisťnými slovami politikov. *Pravda*, volume (vol.) 18, 2008, number (no.) 22, p. 17.

Code (Slovenský zákonník, Sl. z.) On a separate Slovak state, which declared the independence of Slovakia. The day after establishment of the independent Slovakia, on March 15, 1939, the Government Decree No. 6/1939 Sl. z. On oath of office of the civil servants, public notaries and lawyers was adopted. Under its paragraph 5, the attorneys before registration on the list of lawyers swore an oath containing the following text: *"I swear by the living God, that I will always be faithful and obedient to the Slovak State and its government, I swear that I will follow all the applicable laws and regulations and that I will fulfill all my duties conscientiously. So help me God."* The act of swearing this oath was as follows: a lawyer had to repeat the text of the oath, and put his right hand on his heart, and after finishing the oath he had to shake hands with a person who read out the oath, i.e. the president of the Bar Association. Under paragraph 9, this regulation entered into force on March 16, 1939. Subsequently, on March 24, 1939, the government adopted Regulation No. 33/1939 Sl. z. On the conducting the legal practice with came into effect on March 25, 1939. According to this, the legal practice could be carried out only by those lawyers who, or whose father, had had the local citizenship in the territory of the Slovak state since October 30, 1918. That was how many Czech lawyers were deleted from the list of lawyers; however, the more drastic proscriptions were yet to come.

Already on March 30, 1939, the only two-week old regulation was amended by Government Regulation No. 41/1939 Sl. z. On adjusting the government regulation on the oath of office of judges, lawyers and public notaries. The new Government Regulation No. 176/1939 Sl. z. On amending the Government Regulation No. 33/1939 Sl. z. On conducting of legal practice had been adopted as early as on July 18, 1939, but its effect was set only for December 31, 1939. Under its paragraph 1, in the territory of the Slovak Republic, only those lawyers were authorized to practice law, who were registered on the list of the Bar Association in Bratislava or Turčiansky Svätý Martin, and moreover, those who had a home in an urban area of the Slovak Republic or in the territory, which was the administrative district of the Slovak land attached to Germany, Hungary and Poland, provided that he did not become a foreign citizen. Those lawyers, who did not meet the aforementioned conditions, were deleted from the list of lawyers within 60 days from the date of its effectiveness, i.e. after July 22, 1939. The Minister of Justice allowed exceptions for "petitions" of the lawyer filed in the Bar Association. This regulation terminated the previous Government Regulation No. 33/1939 Sl. z..

Under the Government Regulation No. 63/1939 Sl. z. On the definition of a term Jew and guidance on the number of the Jews in the liberal professions adopted on April 18, 1939, until the adoption of the Jewish Code, regardless of gender and nationality, in the legal practice field, a Jew was considered:

1. everyone who is or was of the Israelite religion, even though after October 30, 1918, he converted to any of the Christian religions;

2. everyone who is or was without a confession and originates from at least one parent of the Israelite religion;
3. everyone who comes from such a person, excepting a child who converted to Christianity before October 30, 1918;
4. everyone who has married after April 20, 1939, such a person (during the marriage);
5. everyone who lives with such a person in an extramarital partnership, as well as the offspring of such relationship from the date of the effectiveness of this regulation, i.e. after April 20, 1939.

In cases of dispute about Jewish affiliation, the district offices decided, according to the residence of the persons, and the Ministry of Interior decided on appeals against their decisions. The government decided on cases of special exemptions of belonging to the Jewish affiliation. The aforementioned Government Regulation No. 63/1939 Sl. z. restricted the freedom of the legal profession; however, as opposed to, for example public notaries, it did not fully ban, but only limited the ability of the Jews to become lawyers. In paragraph 3, using the *numerus clausus* system, it set the numbers of Jewish lawyers and trainee lawyers, so that it should have not exceed 4% of the total number of registered members of the Bar. Moreover, it was necessary *ex officio* to delete the superfluity of the Jewish lawyers and trainee lawyers from the list of the Bar. Especially those were to be deleted who did not pay their taxes, duties, charges or other encumbrances, as well as those who, according to their property status or income opportunities in other employment, were not dependent on this profession. Then came those who did not actually carry out their legal practice, those who did not know the state language appropriately and those who were not desirable in this profession from the public interest point of view. The Minister of Justice could keep the number of Jewish lawyers above the limit, up to 10% of the members of the Bar Association, but only due to necessity or another special reason. Deleting the surplus of lawyers was ordered for each committee of the Bar Associations; it was possible to lodge an appeal against the revocation to the Minister of Justice within 15 days of receipt of the decision by chamber, without a suspensive effect. Under the paragraph 6, the decision of the Minister of Justice was final.

Under this measure, a Jewish attorney was permitted to represent only a Jewish client. The only exceptions were in cases when in the district of the court, where the Jewish lawyer was located, another lawyer was not available to represent the client. The substitution of both lawyers and the trainee lawyers was fully included in it. However, under these conditions, a Jewish attorney was not allowed to represent economic and trade companies, associations or other legal entities, except those pursuing the interests of the Jewish religion and Jewish culture. In case of violation of these measures, the client represented by a Jewish

lawyer was considered to be unrepresented. For damages caused, a Jewish lawyer was liable to disciplinary action, as well property fines. Under paragraph 8, the Minister of Justice could even allow litigants to be represented by a public notary in the district court, if there was only 1 lawyer who had a seat in the district, or if any of the lawyers located there did not want or could not represent the client. In the regulation, there was a possibility for license revocation by the Minister, who could, on a proposal from the Bar Association, revoke a license at any time.

Violations of these regulations were sanctioned directly by a regulation, under which the offender could receive a jail sentence, together with activity being banned for three months and a fine of 1,000–5,000 Ks. This punishment would apply to any lawyer who was under this government regulation excluded from carrying out the legal profession, but still conducted his profession, as well as by the person who employed or allowed to employ such an excluded person, or directly or indirectly allowed the excluded person to continue in his profession, or who provided legal aid to persons to whom this was prohibited by the regulation. A member of the Bar, who committed any of these offenses, lost his profession and was, according to paragraph 12 (1), deleted from the list of the Bar Association. Penalties under this measure could not be suspended.

Upon adoption of the “Jewish Code”, i.e. the Government Regulation No. 198/1941 Sl. z. On the legal status of the Jews (the most extensive legal regulation in the First Slovak Republic – containing 270 paragraphs), anyone who had at least three Jewish grandparents was considered a Jew. According to paragraph 16 (1) letter a) of the Code, a Jew or mongrel Jew could not be a lawyer or trainee lawyer. Gradually, the status of the Jews was reduced in the liberal professions, trades, and then in the entire economic life and public services. On the basis of the Aryanization Act, i.e. law No. 113/1940 Sl. z. On Jewish businesses and the Jews employed in enterprises, the Jews were not allowed to take or establish industrial, business, trade enterprises, alienate or encumber their property without specific permission. On November 30, 1941, the Jewish people represented 2.9% of the total population of the Slovak Republic, but reportedly, they owned 45% of the national property of the Slovak Republic.¹⁰

The government regulation was implemented by resolutions of the Administrative Committee of the Bar Associations. The chamber in Turčiansky Svätý Martin adopted Resolution No. 110/1939/I On determining the number of Jewish lawyers on May 13, 1939. After the discovery that 251 lawyers and 77 trainee lawyers were enrolled in this chamber on April 20, 1939, the number of Jewish lawyers was set at 10, and Jewish trainee lawyers at 3. The chamber in Bratislava

10 MOSMÝ, P. – HUBENÁK, L.: *Dejiny štátu a práva na Slovensku*. Košice 2005, p. 285.

adopted Resolution No. 36/1939 I On determining the number of Jewish lawyers on May 23, 1939. After the discovery that on April 20, 1939, 599 lawyers and 171 trainee lawyers were enrolled in this chamber, the number of Jewish lawyers was set at 24, and Jewish trainee lawyers at 7. Both of these resolutions were published in *Úradné noviny* (*Official Journal*).¹¹ On June 9, 1939, the Resolution of the Administrative Committee of the Bar Association in Turčiansky Svätý Martin No. 110/1939/I On the unification of the names of the retained Jewish lawyers and Jewish trainee lawyers was adopted, and on June 21, 1939, a similar list of retained Jewish lawyers in the Bar Association in Bratislava was published as the Official Report No. 36/1939/I in *Úradné noviny*. It should be noted that on March 2 and April 3, 1939, the Bar Associations in Bratislava and Turčiansky Svätý Martin *contra legem* banned legal practice to all non-Aryan lawyers and trainee lawyers, and such lawyers were required to notify the chamber about Aryan substitutes within 24 hours, otherwise the Chamber Commissioner would appoint them. The Bar Association in Turčiansky Svätý Martin was even more radical, because it announced the deleting the Jews from the list of lawyers, and these Jews were obliged to give their offices to a Christian lawyer by May 1, 1939.

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- 11 According to *Úradné noviny*, part I., no. 38 on June 17, 1939, p. 304 and *Úradné noviny*, part I., no. 44 on July 28, 1939, p. 358 in the county of the Bar Association in Turčiansky Svätý Martin there were these lawyers left to carry out their legal practice in individual districts: Dr. Armin Grun (Humenné), Dr. Julius Milch (Medzilaborce), Dr. Teodor Grossmann (Námestovo), Dr. Maximilián Klein (Sečovce), Dr. Žigmund Bottenstein (Spišská Stará Ves), Dr. Emil Schick (Stará Ľubovňa), Dr. Dezider Friedmann (Stropkov), Dr. Julius Langer (Trstená), Dr. Abrahám Silbermann (Vranov nad Topľou), Dr. Aladár Bohm (Prešov) and trainee lawyers: Dr. Viliam Hexner (Humenné), Dr. Alexander Milch (Medzilaborce) and Dr. Mikuláš Spitzer (Prešov). In the county of the Bar Association in Bratislava these lawyers were left with their seats in the following cities: Dr. Karol Rosenbaum, Dr. Ernest Palán, Dr. Viktor Werner, Dr. Dezider Balla, Dr. Ľudovít Baracs, Dr. Móric Fleischhacker (Bratislava), Dr. Adolf Lakatoš (Bánovce), Dr. Jozef Kelemen, Dr. Eugen Tandlich (Banská Bystrica), Dr. Juraj Fráter, Dr. Aladár Sós (Banská Štiavnica), Dr. Štefan Donáth (Čadca), Dr. Michal Joyef Eisler (Hlohovec), Dr. Ernest Pollák (Ilava), Dr. Julius Kovács, Dr. Viktor Magyar (Nitra), Dr. Julius Spitzer (Nové Mesto nad Váhom), Dr. Michal Kuhn (Topoľčany), Dr. Adolf Suss, Dr. Gejza Pereslényi (Trenčín), Dr. Aladár Feitl (Trnava), Dr. Ernest Berceller (Zvolen), Dr. Alexander Márton, Dr. Pavel Stern (Žilina) and trainee lawyers: Dr. Eugen Stern, Dr. Vojtech Telek, Dr. Edmund Frisch, Dr. Eugen Wertheimer, Dr. Albert Stiassny, Dr. Mikuláš Weiner (Bratislava) and Dr. Vojtech Weis (Bánovce). Dr. Vojtech Telek deserved special attention on this list, because after World War II he worked as Secretary of the Action Committee of the Bar Association in Bratislava dealing with vetting of lawyers and in 1969–1971 he was a Chairman of the Central Office of the Slovak legal profession and he headed the entire legal profession in Slovakia.

The Government Regulation No. 193/1939 Sl.z. On limitation of the application or enforcement of the requests of the Jewish lawyers adopted on August 21, 1939, belonged to the framework of anti-Semitic legislation as well. This government regulation was adopted with effect for a fixed period of two years from its announcement, thus from August 29, 1939, to August 29, 1941. The regulation governed the specifics of civil proceedings in which the applicant, Jewish lawyer, applied his claim that arose before August 29, 1939, against the Gentile debtor. These specific features were based on the fact that under paragraph 1 of the regulation, the court acting at a discretionary request of the defendant, or in case of an interest of any other persons, designated in the decision to meet the period for performance of six months, one year, or until August 29, 1941. The only condition of this decision, which had to be met by the debtor, in addition to asking for determination of the maturity, was that Gentile debtor had to prove that, due to earlier enforcing of the debt, he or his family, or any person mainly dependent on him, would be at risk of livelihood, or that enforcement of such claims could result in the debtor's bankruptcy. Further regulation governed the specifics of execution, continuing in respect of entitlement as defined in paragraph 1 of the Regulation. This provision permitted a Gentile debtor to apply for delay of further execution for the same time, and under the same conditions, as in previous proceedings under the paragraph 1. It was also possible to extend such a period at the request of the debtor a minimum of 14 days before its expiration, while in the case of execution auctions, the application had to be lodged within 8 days after the effective date or receiving the permits and regulations of the enforcement action by the auctioneer. Moreover, it was possible to postpone the execution already in the auction, to be held in a period of 8 days from the regulation coming to force. The regulation in paragraph 5 stipulated that from application or enforcement of the requirements of a Jewish lawyer, who represented the Gentile, the court could not against the Gentile debtor, award attorney's fee for legal representation. In order to prevent speculative assignments of claims of the Jewish lawyers to non-Jewish debtors, this regulation stipulated that its provisions similarly applied to cases when a Jewish lawyer postponed the Gentile creditor claim, covered by this regulation, after the effective date of the Government Regulation No. 63/1939 Sl.z..

The regulation also made it impossible to lodge any other remedy than an appeal. On the other hand, the regulation stated that, if the period was postponed under this regulation, this time was not counted in a limitation or other time limits. In the definitions of a Jewish lawyer and a Gentile debtor, it was referred to Government Regulation No. 63/1939 Sl.z. On the definition of a Jew and a regulation of number of the Jews in the liberal professions stating the definition of a Jewish lawyer as follows: it was a Jewish lawyer regardless of whether he carried out his legal practice or not as well as his heir.

On September 16, 1940, an additional standard of Jewish legislation was adopted – the Government Regulation No. 228/1940 Sl. z. On prohibition of representation by a lawyer or public notary in Aryanization issues. According to the paragraph 1 of this regulation on proceedings in issues relating to the exclusion of Jews from the Slovak economic and social life and alienation of property of the Jews to non-Jews, it was forbidden their representation by a lawyer or public notary in the courts, offices or interest corporations in all cases except those in which the representation by a lawyer or public notary was obligatory. In the paragraph 2, the regulation set the penalty for violation of this prohibition for lawyers and public notaries in the form of imprisonment for up to two years and a fine up to 10,000 Ks, which, in case of non-payment, was converted, according to the degree of culpability, to substitute imprisonment of up to three months, and determined by the regional court. It was not possible to impose this punishment conditionally. At the same time, if the lawyer or public notary was legitimately convicted of a misdemeanor by a court, he lost entitlement to carry out his profession and he was deleted from the list of the chamber. The regulation was valid under the paragraph 3 as of September 23, 1940.

According to the contemporary literature, this interdiction should have affected mainly the intervention activity of lawyers. The Ministry of Justice then issued its own amendment to meet this regulation, which emphasized that hereafter the Jews could ask an attorney for legal aid in contentious and non-contentious cases in the ordinary courts, when the representation by an attorney was mandatory. The legal representation in criminal cases was not affected at all. The lawyer was entitled to write for the Jewish client any contract, any other action, write petition in the client's behalf, without annexing a warrant of attorney in the case, and so on, because the regulation demarcated the prohibition on providing legal assistance in Aryanization issues, and representation before the authorities was referred to in the regulation.¹²

From the legal norms of subordinate rank in that period, which were not published in *Slovenský zákonník* (Slovak Code), but in *Úradné noviny* or *Vestník verejnej správy vnútornej* (Journal of Interior Public Administration), the decree of the Ministry of Interior on November 16, 1940, On the publication of the Amendment of the Ministry of Justice from November 6, 1940, No. 19 072-40-8 On prohibition of representation by a lawyer or public notary in Aryanization issues (*Vestník verejnej správy vnútornej*) or the later published Decree by Ministry of Finance from April 13, 1943, No. 5 483/prez. S. 1943 On the recovery of Jewish

12 HAMMER, O. – HARMAN, V. – ZIMAN, L. – MORÁVEK, A.: *Komentovaná zbierka najnovších právnych predpisov upravujúcich arizáciu a právne postavenie Židov na Slovensku*. Bratislava 1941, p. 147–149.

lawyers (*Úradné noviny*) could be mentioned. In addition, in *Úradné noviny* there were some other documents published, for example, the announcement on personnel changes in the Bar Association in Bratislava from May 5, 1942, containing information on the deleting of Jewish lawyers from the list of lawyers from Banská Bystrica, Bratislava, Čadca, Hlohovec, Piešťany, Trenčín Trnava, Žilina Zvolen, or the notification of the association in Bratislava on deletion from the list of lawyers even in 1945.

LEGAL STANDARDS OF LAW PRACTICE IN THE YEARS 1940–1944

From mentioned legal standards, Act No. 164/1940 Sl. z. On changes and amendments to some regulations on lawyers on June 26, 1940, was primarily dedicated to the legal service, i.e. the practice of lawyer candidate, the length of which was set to five years, including three years prior to the attorney examinations. According to the paragraph 2 of the Act, the minimum practice of the lawyer candidate was 3 years, the maximum of six-month practice in the court or half of military or labor service (up to 1 year) was credited up to the mandatory five-year legal service. The explanatory report to the act referred to the fact that after the Government Regulation No. 63/1939 Sl. z. On the regulation of the number of Jewish lawyers and Government Regulation No. 176/1939 Sl. z. On conducting the legal practice coming into force and their effectiveness, there was a significant decrease in the total number of lawyers. The draft of this legal norm was proposed by the first Minister of Justice of the Slovak Republic in the years 1939–1944, JUDr. Gejza Fritz, who also belonged to the ranks of the legal profession and, in addition, he was a lawyer candidate in Prešov during the Austro-Hungarian Monarchy. According to paragraph 5, the Act came into force on July 30, 1940.

Only after adopting Act No. 48/1941 Sl. z. On the change in preparation for judicial service, on equality in judicial and attorney examinations, and on changes in the legal service of public notary trainees on March 18, 1941, the judicial and attorney examinations were equalized. Thus, the judicial practice was credited to law practice, if it followed up continuously, without interruption, after compulsory military service. However, the Minister of Justice optionally could count the non-continuous practice, or even other public or private services, into the compulsory practice. Then paragraph 2 (1) of the act equalized the 5-year work as a district judge or the prosecutor with the lawyer's practice, except in cases of dismissal from civil service for disciplinary reasons. Finally, paragraph 3 of the legal norm, effective as of March 26, 1941, allowed a similar position for a graduate from compulsory notarial practice. The final legal

amendment of judicial examination was carried out on September 10, 1942, when act No. 186/1942 Sl. z. On unitary judicial and law examination, introducing a similar test for attorneys in the preparation of judicial service, lawyer candidates and employees in the drafting service for the Financial Prosecution, was adopted. The content and form of the unitary examination of judges and lawyers was re-adjusted by Government Regulation No. 216/1942 Sl. z. On the unitary judicial and attorney examination and the examination regulations, which was adopted on November 4, 1942. This regulation established a commission for a unitary judicial and attorney examination consisting under the paragraph 1 (1) of a chairman, two deputies and 20 members. The five-member board meeting, convened by its president, decided on the admission to such a test. This rather extensive regulation consisting of up to 50 paragraphs, entered into force on November 14, 1942. The Government Regulation from May 14, 1943, No. 62/1943 Sl. z. On membership in the Commission for the unitary judicial and attorney examination, established that the Minister of Justice was eligible to appoint university professors from the Faculty of Law of the Slovak University as members of the Commission for the unitary judge and attorney examination, in addition to the aforementioned number of members.

Legal consequences of the revocation of Jewish lawyers from the list of lawyers were edited by Act No. 205/1942 Sl. z. On establishing a curator for elimination of deleted Jewish lawyer's law firm, adopted on May 20, 1942, so that in case of cancellation of a Jewish lawyer from a list of lawyers, the regulation of paragraph 37 of legal practice agenda, which governed termination of law practice following the death of a lawyer, was applied. In this case, the chamber was obliged to immediately take measures to ensure and record customer files and property of the deceased lawyer and appoint an administrator – the curator – to carry out the agenda without delay. If the seat of the chamber was located further away from the seat of a deceased lawyer, the closest district court acted in the matters of sealing and recording the files and property, which immediately informed the committee of the Bar Association and rendered the case to the chamber for further proceedings.

The source of the legal amendment, i.e. explanatory report to the proposal of this legal norm, stated that *“law firms of Jewish lawyers who had been deleted from the list of lawyers, held important documents of their clients, valuables and other economic or financial values. For the purpose of detaining the documents and property of the deleted Jewish lawyers, it was necessary to ensure that the liquidation of the offices was done under the supervision of the lawyer committee of the appointed curator, as these Jews should have been largely displaced and they were not able to liquidate their offices, so that the clients would not suffer any harm. As it was expected that the Jewish lawyers, who still carried out their*

practice, would be deleted from the list of lawyers in the coming days, editing of the establishment of curators became a matter of urgency, because the delay would cause clients irreplaceable economic, financial and other serious legal injury, because the documents, writings and values held by Jewish offices could be easily lost, what should be prevented in the public interest."¹³ Act No. 205/1942 Sl. z. entered into force on October 19, 1942.

The Act No. 173/1943 Sl. z. On regulation of some legal conditions for lawyers, adopted on December 22, 1943, according to which under paragraph 1, the Minister of Justice was given the power to determine, after hearing from the Bar Association, the seat for a new lawyer, who could change the seat only for serious reasons and with the approval of the Minister of Justice, meant a significant interference in the autonomy of the legal profession. Validity of the legal norm, which under the paragraph 3, came into force on December 30, 1943, was until the end of military readiness of the state, and thus until to extinction of the state. In the legal norm, there was the interesting provision stipulating that, if the applicant for registration in the list of lawyers or trainee lawyers (i.e. lawyer candidates) had other than Slovak nationality, the validity of his registration depended on the statement of the Ministry of Justice, by which it confirmed that in the state of the nation, into which the applicant belonged, there is maintained a reciprocity to applicants of the Slovak nationality. On the same day Act No. 174/1943 Sl. z. On amending and supplementing regulations on lawyers and public notaries, re-regulating attorney tariff and pension of lawyers, including the establishment of the Pension Assistance Fund for lawyers in the Bar Association in Bratislava, was adopted. Under paragraph 3, this fund provided disability, retirement, widow's and orphan's pensions, including educational. Its revenues included regular and additional membership fees and other incomes.

After the outbreak of the Slovak National Uprising the Regulation with the power of Law No. 195/1944 Sl. z. On extending the perimeter of the Bar Association in Bratislava to the entire national territory and on the temporary regulation of some conditions in the legal practice on October 23, 1944, it was decided that in the Slovak Republic there would operate only one Bar in Bratislava, whose district was expanded by this regulation to the entire territory of the state, and thus the Bar Association in Turčiansky Svätý Martin was therefore canceled. The lawyers from the Main court in Prešov had an exemption, because they could swear a lawyer's oath to the Chairman of the Regional Court. According to the paragraph 3 of the regulation, the lawyers were required, during the military preparedness of the

13 *The government proposal of the legal norm on the establishment of a curator for liquidation of the law firm of a deleted Jewish lawyer. Explanatory Report. Congress of the Slovak Republic, 1942, I term, 7th meeting.*

state, to stay in the seat of their law firm, and the incentive for disregarding this provision by a lawyer might be made by any individual or legal entity. If the lawyer was away and stayed outside his office continuously for at least 30 days, with no apparent cause (temporary presence in the seat for a maximum of 3 days did not interrupt this period), the Ministry of Justice could order his deletion from the list of lawyers. It was possible to lodge an appeal against the decision of the Ministry to the Minister within 15 days after its delivery and in case of non-delivery of the decision, the decisions were published in *Úradné noviny* under the paragraph 4 (2). These provisions also applied to the lawyers distancing themselves from their seat in the period since September 1, 1944, i.e. after the outbreak of the Slovak National Uprising (Slovenské národné povstanie, SNP), although this regulation came into force on November 3, 1944, which was a way to proscribe the lawyers and trainee lawyers who participated in the uprising.

The results of systematic grinding of the representatives of the legal profession, particularly in the context of racial legislation, but also the representatives of civil or communist rebellion were truly deplorable for the legal profession in our country after World War II. There was recorded a significant drop in the number of lawyers in our country, while in 1937 there were 1,379 lawyers¹⁴ in Slovakia, shortly after the war, the Bar Association registered only 329 lawyers in Slovakia, including 89 in Bratislava and 26 in Košice.¹⁵ From a regional processing of history of racial persecution in Slovakia, the fates of several Jewish lawyers are obvious;¹⁶ during the war many representatives of the legal profession belonged to the exponents of the ruling regime (Ministers of Justice Gejza Fritz, or its successor, and even the Prime Minister Štefan Tiso, from the members of the Slovak Parliament, for example, Miloš Vančo or Vendel Šuran, who was in the years 1942–1943 the district commander of the Hlinka Guard in Trnava). On the other hand, other lawyers and trainee lawyers were involved in domestic and foreign resistance fighting and many of them helped Jews in those

14 *Ročenka Republiky Československé*, vol. 17, Praha 1938, p. 287.

15 *Soznam členov advokátskej komory na Slovensku*. Turčiansky Svätý Martin 1946, p. 4 and following.

16 E.g. in monograph: LANG, T. – STRBA, S.: *Holokaust na južnom Slovensku (na pozadí histórie novozámckých Židov)*, in which from the better-known lawyers the following are mentioned: Dr. Hugo Drechsler, Dr. Albert Nemes or Dr. Paul Drechsler from Nové Zámky. From the regional history of persecution it is possible to mention also: HLAVINKA, J.: *Židovská komunita v okrese Medzilaborce v rokoch 1938 – 45*. Bratislava 2007; FIAMOVÁ, M.: *Postavenie židovskej komunity v Zlatých Moravciach*. *Pamäť národa*, vol. 4, 2008, no. 4, p. 4–18; MICHNOVIČ, I.: *Prejavy antisemitizmu v okresoch Zemplínu v období autonómie Slovenska (6. 10. 1938 – 14. 3. 1939)* In: PEKÁR, M.: *Ročenka katedry dejín*. Prešov 2002.

difficult times (the lawyer Vladimír Clementis or his lawyer candidate Gustáv Husák or the future chairman of the Slovak National Council, Jozef Lettrich).

PROSCRIPTION OF THE LAWYERS IN NEIGHBORING COUNTRIES

The Slovak Republic had a common border (except for a few months of the Polish-Slovak border in 1939) only with the Great German Reich and the Kingdom of Hungary. In these countries, numerous extensive reductions were conducted in the legal profession due to the high percentage of the Jews among lawyers and the standards of Jewish laws. This legislation, adopted according to the example of the Third Reich helped to significantly reduce the number of Jews in countries of the Axis, including the occupied countries.

The Reich of Adolf Hitler became the legal pattern of anti-Semitic legislation in the area of legal practice, including the implementation of the principle of *numerus clausus*, i.e. leaving a limited number of the Jewish lawyers in their profession, thus in the number corresponding to their percentage in the population of the state. On March 31, 1933, the Reich Commissioner for state administration of Prussia (standing at the head of justice in the largest German county, Prussia), Hanns Kerrl, issued the instruction, whereby as of April 1, 1933, the lawyers of Israelite origin could work in the court only in the aforementioned percentage and thus in the city of Berlin only 35 Jewish lawyers, out of 1,800, remained.¹⁷ The other Jewish lawyers had to lodge (mostly unsuccessfully) an application for permission of carrying out the legal practice and non-Jewish lawyers were obliged to certify, in writing, the absence of Israelite origin and afterwards, they received a special certificate. Real flurry of purges was formally brought by the Act On permission of carrying out legal practice (*Gesetz über die Zulassung zur Rechtsanwaltschaft*), issued by the Reich Government on April 7, 1933, however, the literal translation of the legislation published in the *Reich Code* (RGBl. I, p. 188) consisting of 118 paragraphs could be Act On permission for legal representation. On the basis of this standard, whose co-author was the Reich Minister of Justice, Franz Gürtner, the licenses to perform legal practice were taken away from non-Aryan lawyers on September 30, 1939. Exceptions were given to lawyers (except members of the German Communist Party and its sports, trade unions or other organizations) who:

1. performed the legal practice before Germany joined World War I (September 1, 1914) or

17 TAUCHEN, J: Vývoj trestního soudnictví v Německu v letech 1933–1945. *The European Society for History of Law*. Brno 2010, p. 61.

2. fought for the German Empire, the Austro-Hungarian Monarchy, the Bulgarian Empire and the Ottoman Empire in World War I (such a front-line fighter was only a soldier who directly participated in combat) or
3. their fathers or sons died in World War I.

The preamble of the act anticipated the following text: *“The legal representative [i.e. a lawyer] is an independent agent and advises in all legal matters. His profession is not a trade, but the service of law.”* According to paragraph 1 of the act, only the one who passed the large state exam, and thus was eligible for judicial office, could be accepted as a lawyer. There was a difference between the test and waiting service of the so-called assessors, the first one lasted one year and the second 3 years, the Reich Minister of Justice decided on the acceptance for the service. The service of such a trainee lawyer, called according to the paragraph 10 (2) the “assessor counsel”, was led by the president of the higher regional court, which ordered him to be employed by a lawyer nominated by the president of the chamber. The assessor was always nominated for a lawyer by Reich Minister of Justice in a particular court after being informed on the opinion of the president of the Reich Chamber of Legal Representatives and the subsequent agreement with the Reich leader of the Union of German National and Social Lawyers; the lawyer working in the Reich Court had to be more than 35 years old. The oath was sworn by a lawyer in front of the president of the chamber of legal representatives, in the so-called honorary (i.e. disciplinary) court, and it contained the following text: *“I swear to maintain loyalty to the Leader of the Reich and nation, Adolf Hitler, and to perform the duties of the German lawyer conscientiously, so help me God.”* According to the paragraph 22, the appointment of a lawyer might be withdrawn by the Reich Minister of Justice, after hearing the President of the Reich Chamber of Legal Representatives, besides others cases, when the status of a lawyer or his economic leadership threatened the needs of people claiming rights, or when a lawyer carried out activities contrary to the honor of his profession. This legally vague and interpretively extensive norm, allowed for the large-scale purges in the community of German lawyers. All the German lawyers were associated in the Reich Chamber of Legal Representatives, which included the president, bureau, advisory committee, honorable court and courts of honor, the presidents of the chamber of solicitors and lawyers. Under paragraph 65 (1) of the act, the disciplinary sanctions against lawyers imposed as punishments of the honorable court included warnings, reprimands, fines of 5,000 Reich Marks (RM) and exclusion from the legal profession. The legal norm was supplemented by the amendment dated June 20, 1935, (RGBl. I, p. 749) and implementing regulations e.g. on fees for admission to the profession of a lawyer dated May 28, 1935, (RGBl. I, p. 724) or the lawyers acting before the provincial authorities dated October 30, 1936, (RGBl. I, p. 936).

The consequences of the discriminatory norm were soon shown, for example, from 11,814 lawyers working on the date of the issuing of the norm, i.e. on April 7, 1939, in the Free State of Prussia there were only 8,876 Aryan and 2,009 Jewish lawyers a year later, i.e. on May 1, 1935, under the norm, 1,084 Israelite lawyers were excluded and another 280 lawyers died or they rather “voluntarily” gave up working in the legal profession. There was no longer a place neither for the original governing bodies of lawyers in the Third Reich, instead of the bar associations, the lawyers, in accordance to the legal principle of Gleichschaltung were, together with other legal professions, grouped in the National Socialist Association of German Lawyers, founded in 1928 by the lawyer Hans Frank, and in 1935 it had 9,886 members. In 1936, the organization changed its name into the National Socialist Ombudsman Association. Although the infamous Nuremberg Laws of 1935 did not relate directly to the legal profession, the fifth implementing regulation on the Reich citizenship dated September 27, 1938, published in the RGBL. I (p. 1403) had a negative impact on the Jewish part of the legal representatives, after the state propaganda labeling lawyers as “*animals living in the sewers*” by the SS newspaper *Das Schwarze Korps*. This regulation caused the ultimate exclusion of Jewish lawyers from the legal practice (in 1935 there were 2,300 Jewish lawyers) and after November 30, 1938, the remaining lawyers of Israelite origin could represent only Jews.¹⁸ Even these were successively affected by racial persecution, which ended in most cases in physical destruction, meanwhile the plentiful Jewish legal profession in Germany lost the majority of its members at the time of National Socialism, and its original representation was never restored. The irony is that among the National Socialists, there were several initially exposed attorneys, including Hans Frank and Ernst Kaltenbrunner.

Regarding legal profession organization in the former territory of the Czech and Slovak Republic included into the Reich, the Reich Chamber of Attorneys in the Protectorate of Bohemia and Moravia became the supreme body of lawyers, at the head of which there was Wilhelm Künzel, appointed by decree dated July 14, 1939, issued by the Reich Minister of Justice Franz Gürtner. The lawyers working in the protectorate were divided into 2 groups: those who could represent clients in the Reich courts (Rechtsanwalt) and those who were only entitled to represent in the courts of the Protectorate (Advokat), because the courts were classified as belonging to the Reich or the Protectorate, similarly as the administrative authorities. Due to the representation in the courts of the Protectorate, some lawyers of the German Reich were registered, and paid dues

18 Ibid., p. 76.

in one of two Protectorate Bar Associations operating in Prague, headed by Theodor Kopecký and in Brno, where Jaromír Appel became the chairman instead of Paul Kripner in 1943. In the Protectorate of Bohemia and Moravia, out of the total of 1,883 attorneys, 561 Jewish lawyers were deleted after the adoption of Government Regulation No. 136/1939 Coll. On the legal status of Jews in public life, out of which 411 were from the Prague and 150 were outside of Prague. Beside this, 197 lawyers who conducted practice in Moravia were deleted.¹⁹ Some Jewish lawyers also requested deletion from the Bar Association and emigrated before the outbreak of the World War II, like the famous Prague lawyer Jiří Klein, to escape the impending physical liquidation. According to the paragraph 1 (1) of amended legislation, under which a Jew was not allowed to be a lawyer, attorney, lawyer candidate or legal representative in criminal cases, the lawyers and lawyer candidates of Israelite origin were deleted from the links of the legal profession by the regulation of the committees of the Bar Association in Prague and Brno. According to the second part of the paragraph 1, all lawyers had at least an eight-day period to provide a written notice of their Aryan or Jewish origins, and the written evidence of this origin might have been required from them. Officially, the lawyers also had a fifteen-day period to object to their deletion by the Ministry of Justice, on the grounds that they were not Jews.²⁰ The fourth part of the discriminatory paragraph 1, prohibited the deleted lawyers the procurement of external affairs in particular, representation in the courts or out of courts, or to provide legal advice. An interesting example is paragraph § 8, allowing for substitutes of deleted attorneys or the paragraph 9 (1) of the regulation, which interfered with the civil procedure, by introducing the institute of the so-called suspension of civil court proceedings in the case of disability of the lawyer for further representation in a dispute due to his deletion from the list of lawyers, if the substitute had not been earlier elected or if legal representation was desirable. Consequently, paragraph 10 of the legal norm admitted, within a fourteen-day period, the possibility of returning to the original state (*in integrum restitutio*) in civil law and administrative procedures, in the event of cancellation of the Jewish attorney, and then the opposing party was not granted the compensation of costs due to returning to the previous state. The subsequent paragraph 11, *expressis verbis* did not grant an increase in compensation costs due to changes in the assessed lawyer, for deletion of the Jewish lawyer. The representation of Jews was still *de jure*, in accordance with the paragraph 12 (1) of the legal norm, left to the legal representatives of Jewish

19 BALÍK, S.: *Advokacie včera a dnes*. Plzeň 2000, p. 107.

20 BALÍK, S. a kol.: *Dějiny advokacie v Čechách, na Moravě a ve Slezsku*. Praha 2009, p. 108.

origin, who were supervised by the presidents of regional or high courts and the Ministry of Justice. The candidates of the Jewish legal representation (quasi-trainee lawyers) were recorded in the list of lawyer candidates after 6 years of legal practice, by the Ministry of Justice, on the proposal of the president of the high court, in accordance with the public interest, so that it was just a cliché. The Jewish legal representatives could form only 2% of the number of the lawyers working in the protectorate as of April 24, 1940, and their number should have been reviewed after 3 years, in accordance with paragraph 12 (4). In their work, they were entitled to carry out only the cases involving Jews, as well as the Jewish organizations and facilities, so their practical activity was, when compared to the pre-war period, when they represented a significant part of the Bohemian and Moravian lawyers, minimized. As for the defenders in criminal matters, the president of the high court ordered, in accordance with paragraph 17 (1) of the legal norm, the cancellation of Jewish defenders after receiving notification from the committees of the Bar Associations of their being deleted from the list of lawyers. The Government Regulation No. 136/1939 Coll., which in its paragraph 14 stipulated severe penalties for its violation (fine of up to 100,000 Crowns or imprisonment for 6 months), came into force nine months after its adoption on April 24, 1940. Other discriminatory measures in the Protectorate included the Government Regulation No. 174/1940 Coll. On amendments to provisions of the competence of the bar associations, and after the start of Heydrich governance Government Regulation No. 354/1942 Coll. On disciplinary measures against politically unreliable lawyers and lawyer candidates adopted on September 12, 1942. The mentioned Government Regulation No. 174/1940 Coll., in the article II, allowed the committees of the Bar Associations to establish the so-called deputies (substitutes) for deceased lawyers or those who were unable to carry out their profession due to illness or absence, and who had not appointed substitutes to represent them. Article III of this regulation enabled the committees to fine lawyers up to 3,000 Protectorate Crowns (K) and the lawyer candidates up to 1,000 K. The Government Regulation of March 28, 1940, entered into force in accordance with Article VI on May 31, 1940. According to the paragraph 1 of Regulation No. 354/1942 Coll., a person who by his work did not prove sufficient loyalty to the Third Reich or his previous political activities and the way of his work did not guarantee that any time and without reservation he would support the new political arrangement, should not be a lawyer in the future. Under paragraph 3, optionally without disciplinary action or fulfillment of the other conditions, it was possible to order the temporary or permanent revocation of such person from the list of lawyers by the Ministry of Justice. After the first 5 years after deletion, the deleted lawyer could be registered in the list, with the approval of the Ministry

of Justice, after previous detailed investigations into the behavior of the former lawyer and after proof of his loyalty, guaranteeing that at all times he would support the new political arrangement. Under paragraph 6, the pending disciplinary proceedings were stopped in case of deletion of a lawyer, and the deleted lawyers were not allowed to serve in external affairs (representation in the courts and outside the courts, providing legal advice) except for issues of a wife and minor children, with the exception of the obligatory legal representation. Lawyers could be fined up to 100,000 K, and a prison sentence of 6 months was possible as well. The Government Regulation entered into force, in accordance with the paragraph 8, on October 16, 1942. The consequences of the mentioned legal norms were tragic, especially for the Jewish part in the Czech law community. Throughout Czechoslovakia, about 1,000 lawyers were killed in battle, executed or tortured to death, and in the general assembly of the Prague Bar Association held on June 17, 1945, out of 642 lawyers with the Israeli elite origin only 21 were present, which was slightly more than 3%.

After the defeat of Poland by the German Reich in October 1939, some parts of the Polish territory were attached to the Third Reich and in the rest the General Government was established and led by former lawyer Hans Frank. The new constitutional situation also meant the closure of the ultimate self-governing body of lawyers, the Supreme Bar Council, led by Ludwik Domanski, however, a secret committee of lawyers was created illegally, which was in 1941 renamed to the Secret Highest Attorneys' Committee led by Boleslav Bielawski. For the Commissioner, in the case of reorganization of Warsaw legal profession, the lawyer of German origin Edward Wilhelm von Wendorff was appointed, who established a representative advisory body, the "Beirat". However, at the beginning of 1940, when he wanted to exclude all Jewish lawyers from the legal profession, and of the 15 Polish lawyers of the Beirat 14 voted against his proposal, the Beirat was never convoked again. The persecution of lawyers in Poland worsened after the occupation of the territories of the former Polish Republic by Germany in 1941, after the attack included in Barbarossa plan, as well as after the adoption of the *Regulation On the criminal justice carried out against the Poles and Jews in the affiliated eastern territories* dated December 4, 1941. (RGBL. I, p. 759). The occupied part of the Soviet administrative fifth Halič District, based in Lviv, was annexed to the General Government by the Germans. Due to deleting of a large number of mostly Jewish lawyers, there were left only 570 registered lawyers in Warsaw and just 290 in Lviv. After World War II, the greatest losses of lawyers were in the neighboring Republic of Poland out of all European countries – 56% of the 7,925 lawyers died, and up to 95% of 3,607 trainee lawyers that existed before 1939.²¹

Jewish legislation penalized the lawyers in Hungarian Kingdom operating under Act No. XXXIV/1874 On law order and its amendments: Article LIII/1913, Article VIII/1925 and the regulation of the Royal Hungarian Ministry of Justice No. IM 31.300/1925. Discriminatory standards included Article IV/1937, and especially the Article XIII/1941, and this article was applied to lawyers in the Slovak territory originally given to Hungary in 1938–1939. After the adoption of the regulation of the Royal Hungarian Ministry of Justice No. IM 9600/1938, a separate Bar Association was established in Košice, headed by Š. Vukovich and from 1940 by A. Aranyossy. In 1939, 130 lawyers (ügyvéd), in 1942, 174 lawyers and 48 trainee lawyers were enrolled in the Bar Association in Košice, out of which, 56 lawyers were located in the town of Košice. The lawyers enrolled in the Košice chamber were examined by the Hungarian Jewish law, and as a result in 1944, 25 Jewish lawyers were interned from the chamber and they were deleted from the list on May 25, 1944. Beside the cases of the Jewish lawyer Dr. Silberstein, who in 1942 was accused of hiding soap, having a Czech sign on his house and hoarding bound goods, and Dr. Vojtech Halmi, who was excluded from the municipal committee (the then city council) due to his origin – the fate of Dr. Ignác Herz as a chairman of Košice Jewish neologic religious community, who died after being deported to Oswienčim in 1944, was the more tragic case worth mentioning.²² On the other side, in the occupied territories there were the lawyers who were first exposed in the Horthy and then in Szálasi governments, some of them were registered in the Košice chamber, who in 1939 joined the right-wing National Association of Hungarian Lawyers, whose primary mission was the strengthening of the Hungarian nationalist and Christian spirit in the legal profession, with a hostile attitude to Jewish and non-Hungarian lawyers. The local group of the association was founded in Košice in 1943.²³ The Hungarian legal profession, in which the Jews had been significantly present since the time of Old Hungary, was considerably weakened due to the anti-Semitic legislation and attitude of the state towards people of Israelite origin. The most tragic fate of the Jewish lawyers came to pass after the German occupation of Hungary in 1944, but especially after the takeover of the Arrow Cross Party – the Hungarian movement of Ferenc Szálasi and the formation of the Government of National Unity in Hungary at the end of the war.

Aryanization of Land in Slovakia in 1939–1945

Martina Fiamová (Slovakia)

Land reform, which took place in the period of the First Czechoslovak Republic,¹ did not eliminate the hunger for land and did not come up to expectations of Slovak peasants, who were in most cases forced to rent a piece of land. On the one hand, the reform undermined the power of the (mainly Hungarian) chief landowners and strengthened the position of peasants owning medium-sized farms, and on the other hand, it created a new class of larger landowners. In the period before the World War II, the majority (65.6%) of agricultural enterprises in Slovakia were farms smaller than 5 ha,² which in 1930 comprised only 19.2% of the entire agricultural land.³

The radical political changes of October 1938, when the autonomy of Slovakia was declared, meant a turnabout in the question of the land ownership. Hlinka's

1 For results of the first land reform see: FALTUS, J. – PRŮCHA, V.: *Prehľad hospodárskeho vývoja na Slovensku v rokoch 1918 – 1945*. Bratislava 1969, page (p.) 157.; RYCHLÍK, J.: Pozemková reforma na Slovensku v rokoch 1945 – 1950. *Historický časopis*, volume (vol.) 41, 1993, number (no.) 4, p. 394.

2 GÖTZ, A. – HEIM, S.: *Vordenker der Vernichtung. Auschwitz und die deutschen Pläne für eine neue europäische Ordnung*. Frankfurt am Mein, 1993, p. 344. Within the framework of the first land reform, 186,648 farmers received a total of 246,777 ha of agricultural land (out of 298,034 ha of the entire land allotted to small farmers). BAUCH, V.: *Polnohospodárstvo za Slovenského štátu*. Bratislava 1958, p. 8.

3 BAUCH, V.: *Polnohospodárstvo za Slovenského štátu*, p. 21.

Slovak People's Party (Hlinkova slovenská ľudová strana, HSĽS) complained that under the terms of the first land reform, it was also made possible to seize the lands of the Church, and therefore the party urged its revision. The party, in co-operation with the Czech Catholics (Czechoslovak People's Party, Československá strana lidová), managed to stop the parceling out of Church lands, and even managed to obtain their partial removal from the seized lands fund.

The demand for the revision of the land reform became topical as a consequence of a bad situation the peasants found themselves in. This was actually caused by land disintegration and overall backwardness, as well as the consequences of the Vienna Award (Slovakia lost more than half a million ha of its agricultural lands), when Slovak settlers, who were expelled from the occupied territories started to demand their own lands. Ministry of Economy thus established the department for the land reform in Slovakia (Department No. XI), which took over the agenda of the IX Department of the Ministry of Agriculture in Prague. This department became the center, where the new land reform was constantly being prepared.⁴ The first revision draft was presented at a press conference held on February 17, 1939 in Prague. Minister of Economy of the autonomous government, Mikuláš Pružinský, proposed the establishment of a state bank, which would be responsible for the transfer of land into "*reliable Slovak hands*" by buying up the land and selling it to peasants. The Prime Minister, Jozef Tiso, mentioned this revision while reading the text of the government program several days later. "*The considerable loss of our territories has forced us to pay closer attention to the question of new land reform. Our basic aim will be the regulation of circumstances in the field of agricultural land ownership, and redress the injustice perpetrated by the first land reform, and ensure that people who really work the land will receive it.*"⁵ An opportunity to repurchase the allocated piece of land later proved to be an unfortunate solution, because this step elicited certain worries about possible outflow of foreign capital and reciprocity. The whole program of new regulation of land ownership then focused on the new land resources and became related to the "solution of the Jewish question",⁶ which along with the general expropriation of Jewish land estates, were considered by the Nazi economist Max Biehl, to be the reference points of business reorganization and agriculture intensification in Slovakia.⁷

4 RYCHLÍK, J.: Příprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938–1945. *Agrikultúra*, vol. 22, 1989, p. 143–145.

5 See at: <http://www.nrsr.sk/nrdk/dk.aspx?Lang=sk>.

6 RYCHLÍK, J.: *Příprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938–1945*, p. 145.

7 GÖTZ, A. – HEIM, S.: *Vordenker der Vernichtung*, p. 354.

According to a member of the National Assembly of the Slovak Republic, Teodor Turček, who, at a session of the Economic Committee of the National Assembly in October 1939, claimed that, “*Our first task after March 14 was to prevent further transfers of Slovak lands to the hands of ill-wishers.*”⁸ Shortly after the autonomous Slovak State had been declared, the Slovak government started issuing decisions, which prepared the way to making changes in land ownership, and the Aryanization of Jewish lands. On March 30, 1939, the Slovak Government ordered the district offices to institute interim supervision (for a three-month period) over the land estates larger than 30 ha, “*where the proper farming is for any reason endangered*”. Mayor or public notary offices were assigned the task of paying attention to these farmsteads. If this measure did not lead to a redress of the situation, the district court had to impose receivership on the given estate, which had to be done in one year. The executive order assigned fully qualified people and those who “*enjoyed the general trust*” to the positions of trustees and supervisors.⁹ The legal force of this executive order was first extended until December 31, 1942, and after December 31, 1942, its provisions were also applied to the landed estates over 30 ha. Moreover, a regulation adopted in December 1942, confirmed that this executive order would remain in force also after December 31, 1942.

Within the preparations for the changes in land ownership, the forced inventory of the Jewish landed property and lands owned by foreigners was also carried out. Furthermore, the executive order determined that the foreigners’ lands would be handled similarly to the way that foreign governments handled the land in the ownership of Slovak citizens. In June 1939, the Slovak government ordered all

8 Report from the 3rd session of the Economic Committee of the National Assembly of the Slovak Republic on October 9, 1939. My thanks belong to prof. E. Nižňanský for providing the document. Outline of the Executive Order on the interim restrictions on alienation, leasing and debiting of the estates of the foreign nationals, made by the Ministry of Economy of Slovakia, had originated in 1938. The goal of the Executive Order was to prevent such persons from selling or debiting the property in their possession and thus avoid “*possible new amendment of land holdings*”. Slovenský národný archív (SNA), fond (f.) Ministerstvo hospodárstva (MH), box number (b. no.) 3, 2047/1938, 1539/38. One of the main problems after the Vienna Award was the issue of restrictions on land ownership of Slovak people in the ceded territory, as well as Hungarian revision of the first Czechoslovak reform. After a series of negotiations, on August 2, 1941, the Hungarian-Slovak agreement on property-legal policy was signed, under which the Hungarian side undertook to annex only a certain area of the Slovak land on the ceded territory. On the other hand, Slovakia guaranteed to claim only 18,000 cadastral units of (primarily Jewish) Hungarian agricultural property. For information about the development of the Slovak-Hungarian relations and negotiations in this period see: TILKOVSKÝ, L.: *Južné Slovensko v rokoch 1938 – 1945*. Bratislava 1972, p. 82–105.

9 Slovak Code (Slovenský zákonník, Sl. z.), 1939, Executive Order No. 39.

Jews to register their agricultural real estate¹⁰, which they owned in the territory of Slovakia. The government circumscribed the right of certain groups of citizens to handle their property freely, because real estate coming under the inventory should not be alienated, debited, or leased without permission from the Ministry of Economy.¹¹ An incorrect or incomplete inventory, or failure to register the property within a given period of time, could be punished with a financial penalty from 100 to 50,000 Slovak crowns, or six-month imprisonment.

In September 1939, the XI Department of the Ministry of Economy filed a motion concerning the conditions for granting permissions to alienate, lease, or debit agricultural real estate. In case of alienating and leasing, the date of the contract was crucial. Contracts dated after September 1, 1939, could be approved by the Ministry of Economy only in case of non-parceled lands of areas larger than 30 ha. Contracts concerning smaller areas could be approved only as exceptional cases, for settlers. When approving the purchase or leasing of the land, it was necessary to take into consideration that only agricultural lands over 6 ha could be created or supplemented. Debiting of land was not allowed without regard to the date of its purchase, actually whether this happened before or after September 1, 1939.¹²

In August 1939, Executive Orders No. 146 and 147 concerning the inventory of agricultural landed estates owned by foreigners and Jews were accompanied by a regulation that obliged Jews to pay for the permission from the Ministry of Economy – 10% of the total value of the real estate to be alienated, in case of foreigners the charge was 5%. For the permission to lease the real estate, the Ministry of Economy charged 1% of the total value of the property. The permission to alienate, debit or lease land smaller than 6 ha was issued by the local state land reform offices. The collected moneys had to be deposited into the fund especially established for the purposes of the land ownership regulation.¹³ The motives for this step were clarified in the explanatory report of the executive order, where it was stated that, *“general land ownership legislation in Slovakia, which should assure the transfer of agricultural lands into the hands of working Slovak peasants, requires extensive action, given with vast financial expenses. However, the state budget did not reckon with this action.”*¹⁴ The executive order also postponed the deadline for inventory by another 30 days. In connection with this

10 Arable land, pastures, meadows, gardens, woods, ponds, marshes, barren soils, as well as residential and farm buildings and facilities and agro-industrial enterprises were regarded as agricultural property.

11 The inventory should be done within 60 days. *Slovenský zákonník*, 1939, Executive Orders No. 146, 147.

12 SNA, f. MH, b. no. 91, Prez-L-2228/13-39.

13 *Slovenský zákonník*, 1939, Executive Order No. 197.

14 SNA, f. MH, b. no. 91, Prez-L-2228/8-39.

executive order, which amended Executive Order Nos. 146 and 147, a dispute with the Ministry of Interior appeared, because this ministry did not approve the outline of the executive order. As the ministry stated, the proposed extending of the inventory obligation limited property rights and freedom of possession, something that could be done through an act, but not through an executive order. Similar reasons were given also in case of levying the fees. According to the Ministry of Interior, extending the inventory period was not possible either, so they proposed passing a law, because otherwise it would be inconsistent with the current constitution. The Ministry of Economy found it necessary to pass the law by the end of August, so considering that it was the Assembly's vacation period, only the amendment to Executive Order Nos. 146 and 147 was passed in the form of the executive order, even though the Ministry of Interior considered this to be clearly unconstitutional.¹⁵

The results of inventory realized on the basis of the above executive order proved that Jews had more than 101,423 ha of land in Slovakia in their possession and 44,372 ha of this was the arable land owned by 4,963 Jews;¹⁶ however, not all Jewish agricultural estates were registered within the inventory.¹⁷ Based on the Executive Order No. 147, until November 1939, the purchase and sale agreements were approved by the Ministry of Economy and about 994 ha of the Jewish land were transferred to the hands of "Aryans".¹⁸

On October 9, 1939, the Slovak government passed a regulation on revision of the first land reform, which specified that the Ministry of Economy should review all the measures and decisions made by the State Land Office and Ministry of Agriculture from the period of the First Czechoslovak Republic.¹⁹ Revision of the first land reform should have been aimed mainly at the prominent people of the former regime, as well as foreigners;²⁰ however, at that time the governing regime supported a new regulation of land ownership. The solution of the basic

15 SNA, f. MH, b. no. 91, Prez-L-2228/11-39.

16 KAMENEC, I.: K hospodárskej politike slovenskej buržoázie v rokoch 1939 – 1945. *Historické štúdie*, vol. 22, 1977, p. 53. BAUCH, V.: *Polnohospodárstvo za Slovenského štátu*, p. 33.

17 NIŽŇANSKÝ, E. – KAMENEC, I.: *Holokaust na Slovensku 2. Prezident, vláda, Snem SR a Štátna rada o židovskej otázke (1939 – 1945)*. Bratislava 2003, document no. 35, p. 126.

18 SNA, f. MH, b. no. 43, 704/39-XI/dôv.

19 *Slovenský zákonník*, 1939, Executive Order No. 253. This Executive order was annulled by the Act No. 46/1940 Sl. z..

20 In April 1939 the Executive Order No. 73 Sl. z. on political upstarts, on which the property of these people forfeited in favor of the state, was promulgated. A five-member commission appointed by the government on the proposal of the Ministry of Interior decided on the forfeiture of property and their decision could only be

problem – how to obtain and subsequently assign the land – was outlined by the new Minister of Economy Gejza Medrický in May 1939. Farmsteads, which could not be parceled out, alienated, and debited, with areas of about 17.26 ha, had to be created from the Jewish lands. The proposal for the land reform was submitted to the Economic Committee of the National Assembly, which accepted three basic principles – prevent any speculations with the land, not assign small pieces of land, but create medium-sized farmsteads and assure the appropriate payment for the obtained land. This regulation excluded from the reform landless people and small peasants, who were expected to pursue gardening and growing of vegetables.²¹

Outline of the act regulating land ownership, made by the Ministry of Economy, expected the transfer of land to the “*hands of people loyal to the nation and state*” by applying the purchase right of the state to all the categories of lands, the only difference was in its manner of application. The state could apply its purchase right to “Aryan property” larger than 30 ha in case of its alienation, to foreigners’ property in case of its alienation without regard to its size, and in case of Jewish property, the state had the right to apply its purchase right anytime and to the entire Jewish property. The land obtained in this way, as well as the land obtained from the revision of the old land reform, had to be transferred to the hands of specialists and local residents.²²

For the purposes of the land reform, the State Land Office was established by Act No. 45 on February 22, 1940. The office was not subordinate to the Ministry of Economy (the State Land Office was established from the former XI Department of the Ministry of Economy), but as it took over its power on issues concerning land reform, it was directly subordinate to the government. The State Land Office handled the property, which was allotted to the state within the reform program, and decided particular allocations and purchases of land. It was headed by a chairman, who was nominated by the government and appointed by the president of the republic. There was also an administrative board, which settled directives on all the issues of land reform. As stipulated in the act, every allocation had to be reported in *Úradné noviny* (*Official Journal*).²³

amended by a governmental pardon. *Slovenský zákonník*, 1939, Executive Order No. 73. RYCHLÍK, J.: *Príprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938–1945*, p. 146. DRAGÚŇ, S.: Vládne nariadenie o politických zbohatlíkoch a jeho realizácia v praxi. In: PEKÁR, M. – PAVLOVIČ, R. (eds.): *Slovenská republika 1939–1945 očami mladých historikov. Slovensko medzi 14. marcom a salzburskými rokovaniami*. Prešov 2007, p. 38–54.

21 RYCHLÍK, J.: *Príprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938–1945*, p. 146–147.

22 SNA, f. MH, b. no. 43, 704/39-XI/dôv.

23 *Slovenský zákonník*, 1940, Act No. 45.

In connection with the administration of the State Land Office, it is necessary to mention the establishment of the Supervisory Team in 1941, at first established as the Presidium of the State Land Office, and then in 1942, the Supervisory Team became independent – as the IV Department. It supervised the working groups, which carried out the reform tasks involving Jewish landed estates. Working groups were created in the same year as the organizational section of the State Land Office, and their purpose was to ensure smooth execution of reform plans. Each of them was assigned to the district of one or more district courts, where they pursued land reform.

On the same date as the Act on the State Land Office, was also passed the Land Reform Act No. 46, which specified the ways of obtaining agricultural real estate, its adjustment, allotting, and giving loans to acquirers, and appointed the State Land Office to carry out these measures.²⁴ Forced purchase of the Jewish land was rationalized in the explanatory report to the Act as follows: “*Jews took possession of the land mainly in a way inconsistent with the principles reigning in the Slovak Christian state, moreover, they do not work the land, but consider it to be only a way of saving and preserving their money...*”²⁵ Member of Parliament Dr. Miloš Vančo stated at the session of the National Assembly of the Slovak Republic, within the report of constitutional committee concerning the bill on land ownership regulation, that “*in the hands of Jews, the land has never been sacred; it was only the subject of various speculations... When we oust Jews from agriculture, in this way, we actually give them the general value of what has been taken from them, so legally no harm comes to them, furthermore, they do not suffer any agricultural damage, we only circumscribe their rampant liberalism, which allows transferring our land to anybody’s hands...*”²⁶

According to the Act, any arable land, vineyards, pasturelands, meadows, gardens, forests, ponds, residential and agricultural buildings and facilities for agriculture and forestry, as well as agricultural enterprises, if they were not legally and economically independent and served for husbandry on the agricultural land. Executive Order No. 56 amended the Land Reform Act in 1941 to the intent that, if there were some disputable Jewish agricultural estates (mainly gardens, residential buildings, and agricultural enterprises), the State Land Office, after consultation with the Central Economic Office, decided whether it

24 Slovenský zákonník, 1940, Act No. 46.

25 Report from the 3rd session of the Economic Committee of the National Assembly of the Slovak Republic of October 9, 1939. I thank prof. E. Nižňanský for providing the document.

26 NIŽŇANSKÝ, E. – KAMENEC, I.: *Holokaust na Slovensku* 2, document no. 11, p. 39.

was agricultural real estate or not. Forced purchase was also extended by this regulation to the lands of legal entities.²⁷

Land Reform Act confirmed that the state could obtain the land for the purposes of the reform by means of purchase of alienated estates over 50 ha (or at least a part of such estates), judicial sale, purchase from citizens of foreign states,²⁸ without regard to the area of land, purchase from Jews,²⁹ and revision of the decisions of the State Land Office in Prague and Ministry of Agriculture in Prague, which were accepted in the Act No. 215/1919 Coll. In case of Slovak citizens, it referred neither to allotments smaller than 10 ha, nor the property of generally acknowledged and accepted Christian Churches and endowments.

The State Land Office was entitled to purchase all the agricultural estates owned by Jews, which were under the inventory according to the Executive Order No. 147/1939 Sl. z., for an estimated price given by the appropriate local state office for the land reform, or possibly by the regional court. The State Land Office also informed the appropriate court of this fact, which was supposed to order the noting of the intended assumption in its books. Possible objections of the owner were decided by the State Land Office, which also informed the owner when the purchase price had been paid to the court. Subsequently, the owner had to surrender his/her real estate to the state. If the owner did not do so, the court could impound his/her property.³⁰

As set in the explanatory report, it was possible for Jews to retain possession of their assets only if dispossession meant some economic losses, or if they could not be assigned to productive occupancy, similar to occupancy by the previous owner. Until the State Land Office purchased the Jewish estates, or consented to their sale, it charged 20 Slovak crowns per hectare from the owner annually, as a regular contribution to the Fund,³¹ which was created in the Land Reform Act. Ministry of Economy took the forest-separated estates into its administration, which lasted until their purchase. After the entry into force of the Act No. 46, the Jews could not obtain any substantive rights to agricultural property, unless

27 *Slovenský zákonník*, 1940, Act No. 46; *Slovenský zákonník*, 1941, Executive Order No. 56.

28 On the basis of reciprocity, a foreigner could lawfully acquire agricultural property under the same conditions as the Slovak citizen, and only with the consent of the State Land Office. *Slovenský zákonník*, 1940, Act No. 46.

29 Ministry of Interior imposed a ban on expropriation of Jewish lands, unless an express consent was given.

30 *Slovenský zákonník*, 1940, Act No. 46. The complaints about the assessment of estimated prices were ultimately decided by the State Land Office, upon an amendment to the Land Reform Act on July 9, 1940. *Slovenský zákonník*, 1940, Act No. 176.

31 Fund for the Land Reform.

through legal succession, and were not allowed to enter into new leases (already existing contracts had to be voided within three years).

The State Land office did not have to exercise its right to purchase only if it concerned a Slovak citizen – peasant, who intended to buy the estates (or possibly non-peasants with prior consent of the State Land Office). The Office also charged 10% of the value of the alienated property to the seller in favor of the Fund. By law, the state had to pay the purchase price and three percent interest for the property of Jews and foreigners.³² In case of a purchase, the State Land Office faced not only a long and complicated process, but even before the property was transferred to acquirers, it was also obliged to pay the purchase price in cash to the court. In fact, this would mean that in case of mass purchases, the Office would have to pay more than half a billion crowns for the Jewish agricultural estates, which was unrealistic.³³

The State Land Office had to allocate the land to peasants or workers, craftsmen, and persons “*whose social considerations justify the allocation*”. They had to be “*morally preserved*” Slovak citizens of the Christian religion, who had to obtain allotments big enough to establish separate agricultural enterprises, able to sustain the peasant and his family. The allotment could not be alienated, debited or leased without the consent of the State Land Office, which supervised the way of husbandry on the allotted land. Land Reform Act divided the allotments into two groups – as agrarian and non-agrarian land. While agrarian allotment included an area from 6 to 15 hectares (hereditary farmsteads), an additional allotment to the size of hereditary farmsteads and allotment of a maximum 30 ha, non-agrarian allotment was less than 6 ha, allotments for industrial and public utility companies and building sites.³⁴

Before the land was allotted to the applicant, he/she had to pay half of the purchase price to the account of the Fund. In certain cases, the state had the right to repurchase all the estates, which had been allotted.³⁵

G. Medrický specified the resources of the land reform, in particular numbers, during the 26th session of the Slovak National Assembly held on February 22, 1940. Purchase of the “Aryan land” over 50 ha should comprise 800,000 ha (out of which 300,000 ha was agricultural land), the land of foreigners was 241,598 ha (61,877 ha of agricultural land), revision of the first land reform comprised 476,000 ha (226,000 ha of agricultural land) and Jewish land was 101,410 ha (44,371

32 Slovenský zákonník, 1940, Act No. 46.

33 NIŽŇANSKÝ, E. – KAMENEC, I.: *Holokaust na Slovensku 2*, document no. 35, p. 125–126.

34 Slovenský zákonník, 1940, Act No. 46.

35 Ibid.

ha of agricultural land).³⁶ However, when a few months later, the Assembly began to discuss the powers of the State Land Office, the Members of Parliament agreed that this office had no right to circumscribe the free trade with land of “Christians... Such power of the State Land Office would politically exceed the ideological framework of the existing land reform, because after all, we have never wanted to restrain transferring of the agricultural lands between Christians.”³⁷ In addition, other resources proved “disputable” during the implementation of land reform, so the reform was ultimately confined to the land owned by the Jewish people.

Overall, the Aryanization of the agricultural properties ran rather slowly, and with difficulties, in the first phase. Moreover, radical action in this area could cause very serious problems in supplying the population with food. In less than a year from the entry into force of the Act No. 46/1940 Sl. z. only 2,659 ha of land were Aryanized and another 25,299 ha of land were in the process of purchase, which took two to three months.³⁸ By August 1941, it already comprises 5,750 ha of land; however, the rest, though only formally, was still in the hands of former owners. Larger Jewish agricultural, as well as forest assets, were put under forced administration.³⁹

A radical change in the process of land reform came in May 1941, when the Executive Order of May 19, 1941, abolished the purchase of Jewish lands by the existing way. Based on this Executive Order, the Jewish agricultural property should come into possession of the Slovak Republic on the date fixed by regulation of the State Land Office, published in *Úradné noviny*, and subsequently the state had to provide compensation, which was not specified by the local office anymore, but the State Land Office, which paid it later.⁴⁰ The original owner was required to surrender his/her property to the possession of the state or a person designated by the State Land Office, at its discretion. However, until that happened, the original owner was obliged to cultivate the estate properly and pay all the taxes and fees. If such property had been leased, rents began to flow into the treasury of the State Land Office.⁴¹ Implementation of the land reform

36 Parliament Member Beňák claimed that the mentioned Jewish land had the lowest value of 400 million Slovak crowns. NIŽŇANSKÝ, E. – KAMENEC, I.: *Holokaust na Slovensku* 2, document no. 11, p. 40. BAUCH, V.: *Polnohospodárstvo za Slovenského štátu*, p. 26.

37 Quoted from: BAUCH, V.: *Polnohospodárstvo za Slovenského štátu*, p. 27.

38 KAMENEC, I.: *K hospodárskej politike slovenskej buržoázie v rokoch 1939 – 1945*, p. 54.

39 Ibid.

40 In fact, Jewish lands were expropriated virtually without any compensation.

41 *Slovenský zákonník*, 1941, Executive Order No. 93. The Regulation did not cover the forestland, which had already been transferred under the management of the Ministry of Economy in autumn of 1940. RYCHLÍK, J.: *Príprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938 – 1945*, p. 154.

involving Jewish agricultural property was also defined in the so-called Jewish Code, passed in the form of Executive Order No. 198/194 Sl. z., which in several points followed the Decree of May 19, 1941 (for example, on the transition of the property to state ownership by the decree of the State Land Office).⁴² The ultimate transition of all Jewish agricultural properties, which were under the so-called Jewish Code, to the state ownership was carried out by the Decree No. 231 by the State Land Office, published in *Úradné noviny* on May 16, 1942.⁴³

Based on the Act concerning the management of agricultural estates cultivated by Jews, the Fund for Management of Agricultural Property was established in June 1942 and it was supposed to manage the Jewish lands.⁴⁴ The law promised paying some compensation for the movable property (livestock, equipment and the like), which was not expropriated in favor of the state by the Act No. 68/1942 Sl. z., but had to come into possession of the state by the assessment of the State Land Office. According to these legal provisions, the state guaranteed to potential creditors compensation only to the extent of the taken over agricultural real and personal property; however, the way of satisfying the creditor's claims had to be modified by a specific law. On September 30, 1942, all the leases, by which non-Jewish people leased their agricultural estates to Jews, were cancelled. An important provision was that the Fund would not become the legal successor of the Jew – the original owner, but only a manager of the property appointed by the State Land Office.⁴⁵

Fund for Management of Agricultural Property managed agricultural estates, which were expropriated by the state on Regulation No. 198/1941 Sl. z. (if handed over by the State Land Office) and those, which were allotted to the Fund by the Ministry of Economy under certain conditions, and on the Act No. 108/1942 Sl. z.. It looked after these properties, either on its own account, or it was allowed to lease them until the final decision on their fate would be made. Local administrators represented the bodies of the Fund. They were under the control of local

42 Paragraph 151 confirmed that the definition of agricultural real estate did not include a) houses b) building sites in built-up parts of towns and cities (if they were not parts of the agricultural unit), c) industrial and commercial enterprises, d) gardens of areas up to 1,000 square fathoms which were not parts of the real estates a) and c). The Chief of the State Land Office, after an agreement with the Chief of the Central Economic Office, was empowered to decide the disputable cases. *Slovenský zákonník*, 1941, Executive Order No. 198.

43 *Úradné noviny*, 1942, Decree of the State Land Office No. 231.

44 Fund for Management of Agricultural Property (Fond pre správu poľnohospodárskych majetkov, FSPM) was represented by the Chief of the State Land Office. Any financial surpluses of the Fund should be used to defray the costs related to the emigration of Jews from Slovakia. *Slovenský zákonník*, 1942, Act No. 108.

45 Ibid.

inspectors,⁴⁶ located in Hlohovec, Baťovany, Ľupča, Nitra, Prešov, Senica, Trebišov, Trenčín and Topoľčany.

By the end of 1942, the State Land Office transferred agricultural real estate in the area of more than 14,000 ha to the Fund. According to the historian Jan Rychlík, the state of distribution of the Jewish land was in 1942 as follows: allocation within the reform was 22,441 ha, Fund for Management of Agricultural Property had 16,311 ha, which comprised a total of 38,752 ha. The Fund owned 8,136 ha, which were leased. In March 1944, the Fund operated approximately 25,875 ha of agricultural land and managed about 40 farmyards.⁴⁷

Under the Fund, the Central Administration was also established as the institution managing the work of the above-mentioned inferior sections of the Fund for Management of Agricultural Property (local and regional inspectorates). As a part of its 1st department, functioned so-called preparatory department, which performed the works associated with the transfer of the former Jewish properties to the management of the Fund. This department also handled the agenda of cancellation of leases of former Jewish owners, registered the property administered by the local governments, as well as those that had been left outside their competence (the so-called small estates under temporary supervision), until being leased out at public auctions.⁴⁸ Given the low expertise of local administrators, former owners often remained on the nationalized assets as advisors, and this fact also played an important role, particularly in the period of ongoing deportations, when the Fund offered the protection to several Jews from being deported.⁴⁹ Central Administration of the Fund for Management of Agricultural Property was moved in 1943 from Bratislava to Piešťany, where it resided until the liquidation of the Fund in 1948.

The process of land distribution was very complicated, and was divided into several phases, which was confirmed in the Instruction No. 1389/42 pres. by the State Land Office, amended by the circular letter of the State Land Office on July 3, 1944. The dates of execution of the land reform were fixed by the responsible officer. District president, local secretary and local leader of Hlinka's Slovak People's Party, the local chairman of the Agricultural Association, a government commissioner of the village, leading notary and local commander of the Hlinka Guard participated in this process.⁵⁰ Specific course of the process began when

46 *Úradné noviny*, 1942, Decree of the Prime Minister No. 313.

47 SNA, f. FSPM, b. no. 1, 328/44-S. RYCHLÍK, J.: *Príprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938–1945*, p. 156.

48 Some of these properties were leased also without being placed on auction (i.e. forced lease). Inventory to the Fund of the State Land Office, p. 1–11.

49 KAMENEC, I.: *Po stopách tragédie*. Bratislava 1991, p. 206–207.

50 SNA, f. FSPM, b. no. 1, 2319/44-S.

the group drafted the program, then drew up the list of parcels, evaluated them and made the plan for their parceling. The person interested in purchase of land at first filled in the form, which was taken as the allocation request, then the government commissioner of the village, notary and leader of Hlinka's Slovak People's Democratic Party confirmed it, and only then, the application form was delivered to the working group of the State Land Office. The government commissioner expressed his opinion as to the financial strength of the applicant, while the leader of Hlinka's Slovak People's Party (or Deutsche Partei) judged him in political terms. The working group then checked the applications and sent them to the State Land Office, which finally expressed its approval or disapproval.⁵¹

A particular problem was the settlement of claims of the former owners of agricultural personal and real estate properties. According to the Decree of June 1943, all the claims against the Jews who were deported or escaped had to be filed at the State Land Office by the end of October 1943.⁵² Fears of financial institutions about loans given to Jewish farmers caused a considerable alarm, and that is why banks had the option to sell the property via an executory auction, so that they could fully meet their claims from the proceeds. The auction was valid only when the State Land Office approved the person of the bidder.⁵³

Starting in 1942, the parceling of large estates, which were under the administration of the Fund for Management of Agricultural Property, was gradually halted, which meant that the only source of land reform – the land of Jewish owners was not distributed anymore.⁵⁴ The Act of February 1943, based on which a new owner of Aryanized land could get land registered to his name, only after he had satisfied the claims of creditors, was supposed to correct the situation in transferring the Jewish lands.⁵⁵

Altered military situation lead to a need for Hlinka's Slovak People's Party to reinforce its power in society, so the government decided to allocate a part of the land for the purposes of land reform in summary proceedings; however, large estates had to remain under the administration of the Fund for Management of Agricultural Property. In addition to summary proceedings involving rationing, in mid-1943, the State Land Office cancelled all the leases, which were

51 RYCHLÍK, J.: *Príprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938 – 1945*, p. 154–155. BAUCH, V.: *Polnohospodárstvo za Slovenského štátu*, p. 37.

52 *Slovenský zákonník*, 1942, Executive Order No. 85.

53 BAUCH, V.: *Polnohospodárstvo za Slovenského štátu*, p. 39–40.

54 *Ibid.*, p. 46. In May and June of the same year, the State Land Office carried out an inventory of all the agricultural property owned by Jews, and within 13 working groups, more than 4,700 owners owned nearly 47,000 hectares of land. Inventory to the Fund of the State Land Office, p. 9.

55 KAMENEC, I.: *K hospodárskej politike slovenskej buržoázie v rokoch 1939 – 1945*, p. 55.

entered only a year before, and it was decided to sell the land not farmed by the Fund at an auction. The land of small Jewish landowners, whose property did not exceed area of 6 ha, was thus sold by auction, which could be attended only by the farmers – members of the Hlinka's Slovak People's Party or front-line soldiers.⁵⁶ The estate was evaluated by the chief notary, but only the bidder, who offered the highest price, after the initial auction price had been announced, obtained the land. If no one would respond to the initial auction price, it could be gradually reduced by up to a half.⁵⁷ The acquirer had to pay at least 50% of the amount within 8 days, and until the full price was paid, the State Land Office had right to repurchase the given property.⁵⁸ Allotment prices were very high, so the successful acquirer could borrow the rest of the price from the Agrarian Common Treasury. However, the new property was passed to the acquirer at the end of the marketing year.⁵⁹

According to the historian Jiří Doležal, in the years 1943 and 1944, there were 3,260 auctions held, in which 2,204 ha of land, at an average price of 13,500 Slovak crowns per 1 ha, were sold.⁶⁰ After the outbreak of the Slovak National Uprising in 1944, the situation went completely out of control of the State Land Office. The Office sent a special commission to Eastern Slovakia, which was supposed to assure the proper functioning of the official agenda, because the administration of the Fund lost touch with its inspectorate, which was after its removal from Prešov located in Ľupča, occupied by German rebels. Some of the Fund managers and all Jews were detained by the German troops.⁶¹ The Government, at its session on October 4, 1944, designated government appointees for the eastern parts of the state,⁶² who were authorized to take actions within the land reform (except for the case of alienation of land larger than 50 ha).⁶³

56 Frontline soldiers were within the reform given preferential treatment and could apply a 20% discount on the purchase prices. SNA, f. FSPM, b. no. 1, 2319/44-S. For information on the course of auction see: RYCHLÍK, J.: *Příprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938 – 1945*, p. 157.

57 SNA, f. FSPM, b. no. 1, 2319/44-S.

58 SNA, f. FSPM, b. no. 1, 2319/44-S. According to the circular, the reform could not touch agricultural real estate, which before being put under state control, had belonged to the Jews from the USA, England, the Netherlands, Belgium, Sweden, Norway, Spain, Portugal, France, and the Republics of Central and South America.

59 SNA, f. FSPM, b. no. 1, 2319/44-S.

60 RYCHLÍK, J.: *Příprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938 – 1945*, p. 157.

61 SNA, f. FSPM, b. no. 1, 2848/44-S.

62 It was L. Kniha, a regional secretary of Hlinka's Slovak People's Party, for the Tatras Region, and A. Sabol-Palka, Mayor of Prešov, for Šariš-Zemplín Region.

63 SNA, f. FSPM, b. no. 1, 2937/44-S, 3244/44-S.

The Slovak government failed to achieve the ideological objective of the reform – the creation of a strong middle class of peasants, which would support Hlinka's Slovak People's Party, which was clear from the results of the land reform. Vlastislav Bauch stated that within the land reform, 45,379 ha of land were allotted, out of which 44,329 ha belonged to former Jewish owners. Regarding this land, allotments smaller than 5 ha were given to 11,625 people (10,180 ha), and 7,500 ha (10,000 acquirers) were sold by auction, 5,294 hectares ended in hands of 632 people by approved sales, in 50 cases the acquirer received agrarian property that could not be divided into lots smaller than 20 ha (614 ha), and 44 large separate allotments (20,741 ha). J. Rychlík cast doubt upon this data, and claimed that out of 46,888 ha of land of Jewish owners and organizations, 22,441 ha were distributed (by allocation) and 3,204 (by auction). Through the revision of the first land reform and confiscation 3,192 ha (awarded 1,104 ha) of land were obtained, and by the purchase from Hungarians it was 6,325 ha (160 ha allocated). Land of foreigners and Jews from approved sales comprised 42,983 ha or 42,476 ha.⁶⁴ Unlike the owners of shops and enterprises, Jewish landowners did not represent a very large class of people, whose property definitely could not be sufficient to satisfy the “hunger for land” of the Slovak peasants; however, in this part, Jewish property allocation was also subject to corruption.

64 BAUCH, V.: *Poľnohospodárstvo za Slovenského štátu*, p. 42. RYCHLÍK, J.: *Príprava a priebeh pozemkovej reformy na Slovensku v rokoch 1938–1945*, p. 160.

Legislative Aspects of Anti-Jewish Policy of Emigration Explained on the Example of the Wartime Slovak Republic and Protectorate of Bohemia and Moravia between the Years 1939 and 1942

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INTRODUCTION

In the following section, we try to clarify the causes and development of emigration policy in the wartime Slovak Republic and Protectorate of Bohemia and Moravia between years 1939 and 1942. By means of comparison, we point out the organizational part of Jewish emigration, the measures connected with the displacement of Jews into certain predetermined locations and finally, legislation on forced resettlement of the Jewish population.¹ Our goal is to compare the legislative and administrative regulations in the field of anti-Semitic emigration policy that was implemented in the territories sharing the same ideological base, but different in the level of their independence, methods of governance and legal-political tools applied there.

1 Establishment of forced labour camps, in a broad sense of the word, can be classified as one of the measures for the displacement of Jews; however, as their building and administration is thematically rich, and can be a topic for separate study, we will not pay closer attention to it.

1. PHASES AND METHODS OF THE GERMAN EMIGRATION POLICY

The process of expatriation of Jews from their native countries, realized under the direct or indirect influence of Nazi Germany, was determined by gradual modification of German emigration policy. German representatives did not think about the physical liquidation of millions of Jews at the beginning, quite the contrary, they preferred other, less radical ways of solving the Jewish problem. Initially they focused on supporting the Jewish emigration, and later, the concentration of Jews in the newly acquired eastern territories located mainly in Poland. The dynamics of war, as it progressed, determined the specific course of the “Final Solution”. That is why we can speak, at least in general, about three phases of German anti-Jewish emigration policy.

1. The first phase began with the outbreak of the World War II in September 1939. This period of history was characterized by supporting Jewish emigration and building new organizing bodies to support the emigration.
2. The second phase occurred between the end of 1939 or beginning of 1940 and the end of 1941 or beginning of 1942. This is considered the period of many attempts on the resettlement of Jews in newly acquired territories in the East, or in other territories under the influence of Germany (e.g. Madagascar).
3. The third phase, that took place at the end of 1941 and beginning of 1942, which was determined by the exterminatory way of waging the war against the Soviet Union, and Wannsee Conference on January 20, 1942, was the period characterized by the “final solution of the Jewish question”.

At first, Germany planned to support all forms of Jewish emigration.² On January 24, 1939, Hermann Goering informed Reinhard Heydrich about the methods for the displacement of Jews by means of establishing the Reich Central Office for Jewish Emigration (Reichszentrale für die Jüdische Auswanderung). The Reich Association of the Jews in Germany (Reichsvereinigung der Juden in Deutschland) was supposed to organize and finance emigration, so membership in this organization was mandatory. The association was expected to meet the

2 Measures, which were being taken in the Reich since 1933, were aimed at supporting Jewish emigration. For that reason, the state supported Jewish organizations that advocated emigration. There were only few countries disposed to accept Jews, so Germany elicited a global problem, which the involved countries tried to solve at the conference in Evian-les-Bains. Its purpose was to support Jewish emigration and guarantee that the Jews could take at least a part of their assets with them. However, Germany required a certain sum of money for every displaced Jew, and therefore the conference was not successful. BURLEIGH, M. – WIPPERMANN, W.: *Rasistický stát: Německo 1933–1945*. Praha 2010, page (p.) 93–94.

quotas given by the Reich Central Office, and provide entry visas into target countries and organize fund-raising campaigns for emigration purposes.³

In this way, a two-segment organization model was created. It consisted of one body controlling mainly the property aspect of the Jewish emigration, and another one centralizing the entire Jewish autonomy. Reich authorities had to “cooperate” with various Jewish organizations with mandatory membership, and virtually, the Jews themselves had to financially support and organize their emigration. This organization model was used not only in Berlin, but also in Vienna and Prague, and in some way also in Bratislava.

After the outbreak of the World War II, German authorities started to think about the deportations of Jews to newly acquired territories. After Poland had been defeated and the General Government (Generalgouvernement)⁴ established, they also thought about establishing the so-called Judenreservat, which was indeed a “Jewish reservation”. Adolf Eichmann attempted to take charge of these arrangements.⁵ However, much of this plan remained only in the experimental stage. Within the framework of the policy of establishing huge ghettos, by March

3 ZÁMEČNÍK, S.: Der Fall Nisko im Rahmen der Entstehungsgeschichte der Endlösung der Judenfrage In: NESLÁDKOVÁ, L. (ed.): *Akce Nisko v „historii konečného řešení židovské otázky“*. Ostrava 1995, p. 92–93.

4 Poland was invaded on September 1, 1939. In October 1939, the German Reich annexed western Poland, which became its new region of Warthegau (Wartheland) and north-western Poland was annexed to Prussia. Eastern Poland was overrun by the Soviet Union and the rest of areas in central and southern Poland were united into so-called General Government (Generalgouvernement) headed by H. Frank. Its capital was Krakow. The General Government was supposed to serve as a source of a cheap labour. After the invasion of the Soviet Union, the General Government was extended by the area around the town of Lviv. See: *Holocaust v Polsku*. At: <http://www.holocaust.cz/cz2/history/countries/poland>.

5 German leaders thought about establishing a “Jewish Reservation” in the neighbourhood of the town of Lublin in the General Government. They intended to resettle all the German minorities scattered throughout Europe and mainly in Baltic States, Bukovina and Volhynia, to former territories of Poland, which were annexed to Germany, and Polish, Jewish, and Gypsy people should have been resettled to the General Government. A practical attempt for the realization of this plan, were the three transports of Jews organized by A. Eichmann from Vienna, Moravská Ostrava and Katowice in October 1939. Transports departed from the railway station in Nisko on the San in the eastern part of Lubin. People from the first transports were supposed to build the camp, which should be the base for establishing the “Jewish reservation”. A. Hitler finally abandoned the idea of building one large “Jewish Reservation” and agreed to the establishment of several large Jewish ghettos. Nisko camp thus lost its role right at the beginning and was dissolved. See: *Territorialní řešení židovské otázky*. At: <http://www.holocaust.cz/cz2/history/jew/general/genera>; SEEMAN, R.: *Cesta do Wannsee*. Středokluky 2008, p. 144–145.

1941 about 365,000 Jews were deported to the General Government from the former lands of Poland, which were later annexed to Germany. Protests from the occupation administration about supply problems in this overcrowded area were not taken into consideration.⁶

According to the research work of the Russian historian Pavel Polian, in 1940, Germany tried to make an agreement with the Soviet Union about the resettlement of Jews to Birobidzhan and western Ukraine; however, the Soviet leadership rejected this idea.⁷

After the defeat of France, the French colonial empire fell into Nazi hands, which actually opened new deportation opportunities. In May 1940, Heinrich Himmler delivered a memorandum⁸ to Adolf Hitler, in which he demanded the deportations of Jews to Africa. Hitler agreed to this, but he conditioned his decision by Great Britain being defeated first. Himmler urged deportations of the “dregs of society” (Volksabschaums) to the General Government and all Jews to Africa. As soon as Hitler accepted this plan as his political line, he ordered the chief of the department for the Jewish question Franz Rademacher to implement it. Subsequently, on June 3, 1940, he proposed the displacement of Jews “for example to Madagascar”.⁹ Many Reich authorities were involved in organization of the Jewish resettlement, such as the Foreign Office, which was responsible for drawing up the peace treaties with France and Great Britain, or the Schutzstaffel (SS), which had to administer the island ghetto. A preparatory stage of the plan was connected with halting the ghettoization of Jewish population, but after the defeat of German attempts to invade Britain and the invasion of the Soviet Union, the whole plan was laid aside *ad acta*.¹⁰

6 SEEMAN, R.: *Cesta do Wannsee*, p. 144.

7 Ibid., p. 145.

8 Originally *Denkschrift über die Behandlung der „Fremdvölkischen“ im Osten*.

9 The idea of resettlement of Jews to Madagascar was popularized in inter-war period by two British men, Henry Hamilton Beamish and Arnold Leese, as well as Dutchman Egon van Winghen. This solution was proposed in Germany in January 1939 by the main ideologist of Nazi party A. Rosenberg, who wrote a theory on the solution of the Jewish question. Poland attempted the displacement of Jews to Madagascar and based on the approval from France, it sent a three-member examining board consisting of Mieczysław Lepecki, Leon Alter, and Salomon Dyk to Madagascar. Lepecki estimated the number of Jews who could settle here at 40 to 60 thousand, but Alter only at 2,000. See: *Der Madagaskar Plan. Die Umsiedlung der europäischen Juden auf die südostafrikanische Insel Madagaskar*. At: <http://www.shoa.de/holocaust/entwicklung-einer-territorialen-endloesung/182-der-madagaskar-plan.html>; SEEMAN, R.: *Cesta do Wannsee*, p. 147.

10 See: *Der Madagaskar Plan. Die Umsiedlung der europäischen Juden auf die südostafrikanische Insel Madagaskar*. At: <http://www.shoa.de/holocaust/entwicklung-einer-territorialen-endloesung/182-der-madagaskar-plan.html>.

When the war against the Soviet Union began, German special squads, called Einsatzgruppen, started the physical liquidation of Jews, and the German command finally approached the last stage of the “Final Solution”, which meant the physical liquidation of Jews in concentration camps.

The final objective was stated by the German leadership during the conference in Wannsee on January 20, 1942. *“The Wannsee Conference did not inaugurate the ‘Final Solution’, i.e. the systematic extermination of the Jewish population in Europe, for this had been under way since November 1941 [...] The object of the conference was to co-ordinate the activities of the various agencies involved in order to maximize the efficiency of the ‘Solution’ as it was being carried a stage further.”*¹¹ This resulted in the statement that, *“instead of the displacement of Jews, their evacuation towards the East seemed to be another possible solution, which had to be properly pre-approved by the leader. During the period of the final solution, Jews had to be sent to the East for labor, under the appropriate supervision. Jews capable of working would be taken to these regions in large columns separated by gender. They would work on building roads, and no doubt that a huge portion of them would disappear as a consequence of natural decreases. And the rest [...] would have to be properly treated, because no doubt this group would be the hardest one, representing the natural selection, which would be necessary to view as a source of new Jewish flowering.”*¹²

This course of events also influenced the process of displacement of Jews in individual European countries. Slovakia and the Protectorate of Bohemia and Moravia were among them.¹³ The emigration policy here went through the aforementioned three stages, but these were modified in certain ways.

2. ORGANIZATION OF JEWISH EMIGRATION

In Slovakia, the organizational preconditions for supporting Jewish emigration were created, and the newly established bodies were supposed to concentrate Jewish assets into “Aryan hands”. The organizing machinery, which was responsible for the management and centralization of the solution of the

11 BURLEIGH, M. – WIPPERMANN, W.: *Rasistický stát*, p. 107.

12 Minutes from the Wannsee Conference of January 20, 1942. SEEMAN, R.: *Cesta do Wannsee*, p. 182–184.

13 Protectorate, which was a part of the German Reich, acted within the meaning of Decree of the Fuehrer and Reich Chancellor on the Establishment of the Protectorate of Bohemia and Moravia of March 16, 1939, as an autonomous part sui generis with only a limited self-government in all areas of public life.

“Jewish question”, involved two crucial bodies – the Central Economic Office (Ústredný hospodársky úrad, ÚHÚ) and the Jewish Central Office.¹⁴

The legislative framework for their establishment was confirmed in the Constitutional Act No. 210/1940 Coll. dated September 3, 1940, by which the government authorized itself to undertake measures on the question of Aryanization. Paragraph 1 entitled the government, for the period of one year from entry into force of the Constitutional Act, to take every measure necessary for excluding Jews from Slovak economic and social life, and to transfer the assets of the Jews into the ownership of Christians.

Based on the given Constitutional Act, the Regulation No. 222/1940 of the *Slovak Code (Slovenský zákonník, Sl. z.)* On the Central Economic Office dated September 16, 1940, confirmed, in the paragraph 1, the establishment of the Central Economic Office.¹⁵ The Office was under the control of the prime minister and held extensive powers in relation to various offices, interest groups and other institutions, which were required to follow its instructions (given in paragraph 3). Within the meaning of paragraph 2 (1) of the Regulation, the Central Economic Office had to follow the special directives and do everything necessary for excluding Jews from Slovak economic and social life, and transferring the assets of the Jews into the hands of Christians.

Executive Order No. 243/1940 Sl. z. dated September 28, 1940, which reduced the latitude for handling of the property of Jews, confirmed the establishment of the Fund for the Support of Jewish Emigration (paragraph 2, article 1) by the Central Economic Office. The official role of the fund was to collect money for supporting Jewish emigration. The regulation thus conditioned the validity of acts – subject to which was the transfer, termination, alteration or restriction of the property right or other easements of the Jews or Jewish associations, with the exception of rightful inheritance, related to any personal or real property with a value higher than 500 Slovak crowns – requiring the written permission of the Central Economic Office. For issuing the permit, Central Economic Office was obliged to charge 10 to 20% of the official value of the object that was the subject

14 Establishment of this organizational structure was related to the change in political situation in Slovakia after the Salzburg negotiations and accelerating pace of Aryanization. Its formation was initiated by the German adviser on “Jewish questions” Dieter Wisliceny, who was also responsible for the construction of labor camps and obtaining agreements with German authorities on the displacement of Jews. Compare: HRADESKÁ, K.: *Genocída slovenských Židov v dobe 2. svetovej vojny*. At: <http://old.hrad.cz/president/Havel/holocaust/index.html>.

15 Central Economic Office was transformed from the former Governmental Office for Commerce, which was headed by Augustín Morávek. A. Morávek also became the head of the Central Economic Office.

to the act. The moneys obtained from the charges were collected and deposited into the Fund for the Support of Jewish Emigration. The Fund was repeatedly reconstituted and subsidized with newer and newer investments from the side of the Jews.¹⁶ Paragraph 215 of the Executive Order No. 198/1941 Sl. z. On the Legal Position of Jews (the so-called Jewish Code) counted on its existence.

The Fund subsidized by the fees collected from the Jews was *“a real dupery, because it had never carried its feigned mission and only served as a tool for blackmailing and profiting from Jewish citizens, while masking it as an effort to support Jewish emigration.”*¹⁷ This fact was confirmed by the enactment by the state, which on the one hand concentrated the Jewish assets in the hands of the Central Economic Office, of a huge number of various measures, which in fact had nothing in common with organizing the Jewish emigration. Later this fund was reconstituted once again in 1941, when it was clear that Jewish emigration was not realizable any more. The Fund for the Support of Jewish Emigration and the Central Economic Office were solely the means of seizing Jewish property and its concentration into non-Jewish hands.

The second body, which was to support Jewish emigration, was the Jewish Central Office. The government decided about the establishment of the Jewish Central Office on the enabling Constitutional Norm No. 210/1940 Sl. z., and its legal form was confirmed in the Executive Order No. 234/1940 Sl. z. On the Jewish Central Office.¹⁸ The Jewish Central Office, with its residence in Bratislava, became the only organization that acted for the interests of Jews. The membership was mandatory for every person who was regarded as being a Jew according to the law.¹⁹ Within the meaning of paragraph 2 (2) the Jewish Central Office was the only organization of the Jews living in the Slovak Republic that was

16 Regulation number (No.) 304/1940 Sl. z. of November 30, 1940, which limited the freedom to handle the property of Jews cancelled Regulation No. 243/1940 Sl. z., reconstituted the Fund and extended its application to non-Jewish husbands (wives) of Jews. The Regulation was annulled by Regulation No. 186/1941 Sl. z., which limited the freedom of handling the property of Jews and Regulation No. 198/1941 Sl. z., also reckoned with it.

17 HUBENÁK, L.: *Rasové zákonodarstvo na Slovensku (1939 – 1945)*. Bratislava 2003, p. 93.

18 The direct inspirer for the establishment of the Jewish Center was the German adviser Dieter Wisliceny. While the chief of the Central Economic Office, A. Morávek, refused Wisliceny's idea of establishing the central authority for Jews, V. Tuka accepted it. Among other things, Wisliceny stated that the Jewish organization would act as a partner in the process of displacement of Jews. HRADSKÁ, K.: *Činnosť Ústredne židov počas deportácií židov zo Slovenska*. At: <http://www.saske.sk/cas/archiv/3-2004/22Hradska.html>.

19 In 1940, the Regulation No. 63/1939 Sl. z. dated April 18, 1939, defining the term Jew and regulating the number of Jews practicing some liberal professions was still in force.

exclusively authorized to represent their interests. However, it was not just the only organization of Jews authorized to represent their interests, but also the only Jewish organization of non-religious character, as it was stated in paragraph 3 (1) and (2) of the regulation. All the other Jewish organizations and associations, with the exception of religious communities, were disbanded and their property was transferred to the Jewish Central Office. The Jewish Central Office was directly subordinate to the power and authority of the Central Economic Office, which was also supposed to issue its own detailed bylaws.

The Jewish Central Office should not be taken as the body, which participated in the Jewish emigration. This was a body, the task of which was to centralize the Jewish autonomy into a single institution, which would be more easily controllable from the side of the state, and which could participate in the resettlement of the Jews. That is why its activities in the field of supporting the Jewish emigration, cannot be compared to the activities of the Jewish Religious Community in Prague, which really participated in organizing Jewish emigration.

In the Protectorate of Bohemia and Moravia, the question of resettlement of Jews was initially solved by the enforcement of emigration, which was theoretically regarded as voluntary. Many German documents emphasized that the main role of the Jewish policy was to boost Jewish emigration. The representatives of the occupation administration, for example Wilhelm Stuckart, Franz Walter Stahlecker and L. Mokry, pointed this out as well.²⁰

On July 21, 1939, the Central Office for Jewish Emigration (hereinafter the Central Office) (Zentralstelle für Jüdische Auswanderung) was established in the manner of other central offices, which had been established earlier, actually on August 20, 1938 in Vienna and January 21, 1939 in Berlin. Walter Stahlecker, the chief of the security police, was commissioned to lead the Central Office. However, in reality it was led by Hans Günther. The Central Office's activities were connected with the Jewish Office of the Gestapo in Berlin, with A. Eichmann in the lead.²¹ Later, the Central Office was renamed the Central Office for Regulation of the Jewish Question in Bohemia and Moravia (Zentralamt für die Regelung der Judenfrage in Böhmen und Mähren), which most probably had something to do with the modification of the concept of the "Final Solution". The foundation's charter confirmed that the Central Office was responsible not only for the tasks related to the emigration, but also for other unspecified tasks. The Central Office also saw to take over the property of emigrants and supervised the Jewish religious community. As a section of Sicherheitsdienst, it also

20 K Á R N Ý, M.: *Konečné řešení: Genocida českých židů v nemecké protektorátní politice*. Praha 1991, p. 34.

21 Ibid., p. 36.

supervised the process of re-education of the applicants for emigration, with the goal to discover and arrange everything necessary for emigration. All the administrative measures were in hands of the Central Office, and thus in hands of SS members. The Government in the Protectorate was completely excluded from this process.

The Jewish self-government was supposed to participate in the process of organizing the emigration, because on March 5, 1940, the Regulation of the Reich Protector On Taking Care of Jews and Jewish Organizations was issued.²² Paragraph 1 of the Regulation of the Reich Protector entitled and obliged the Jewish religious communities to manage the Jewish emigration. Paragraph 1 (3) obliged all the Jewish religious communities in the Protectorate to follow the orders of the Jewish religious community in Prague. The Jewish religious communities were, according to paragraph 2 of the Regulation, under the surveillance of the Central Office, which followed the orders of the Reich Protector. In this way, the Jewish interest groups became forcibly centralized.²³

František Weidmann, the chief secretary of the Jewish religious community in Prague, specified the new task of the Prague religious community, which lay in resolving the question of Jewish emigration and all the questions of emigration. This situation also demanded the restructuring of the Jewish religious community. The process of emigration should be performed in a close cooperation with the Central Office for Jewish Emigration.²⁴ Meeting all the procedural requirements, in most cases, did not assure obtaining a real opportunity to emigrate.²⁵

22 *Verordnungsblatt des Reichsprotectors in Boehmen und Maehren* (VBIRProt.), 1940, p. 77.

23 The number of Jewish religious communities in Prague decreased from seven in 1939 to one in 1941. In other parts of the Protectorate, it decreased from 130 in 1939, to 14 in 1941. The Jewish communities were entirely liquidated on October 1, 1941. See: *Správa Ústředne pre židovské vystahovalectvo v Prahe*, which characterized the development of situation of Jews in the Protectorate in the period between March 15, 1939 and October 1, 1941. KÁRNÝ, M. – MILOTOVÁ, J. – KÁRNÁ, M. (eds.): *Protektorátní politika Reinharda Heydricha*. Praha 1991, p. 117.

24 WEIDMANN, F.: Zum Geleit. *Judisches Nachtichtenblatt*, volume (vol.) 1, 1939, no. 1, p. 1. At: <http://deposit.d-nb.de/online/jued/jued.htm>.

25 The appropriate papers were issued as follows: Until July 1939, the applicants themselves had to arrange issuing all the necessary papers. After the Central Office had been established, the entire emigration machinery suddenly changed. People were required to have an opportunity, visa or promise of visa for emigration. All the other documents were issued by the Central Office. Then, consideration of the application took approximately 14 days. The person who had an opportunity to emigrate could refer to the Department of Emigration of the Jewish Religious Community in Prague, where he/she obtained the application form, filled it in and enclosed all the necessary papers (birth certificate, domicile certificate, letter of

Considering that paragraph 1 of the Regulation obliged the Jewish organizations to take care of all Jews, the Central Office issued a regulation, which confirmed the required registration of all Jews of the “*non-Mosaic religion*” at the local Jewish religious communities.²⁶ In this way, the registration of Jews of non-Jewish creed was also ensured. The centralization was not focused only on establishing a centralized model of administration, but its goal was also to supervise all the Jews living in the Protectorate.

The occupation bodies were not only interested in supporting Jewish emigration, but they also intended to transfer Jewish property to the hands of Germans. Similar to Slovakia, based on the Regulation of the Reich Protector On Taking Care of Jews and Jewish Organizations of March 5, 1940, there was created the Emigration Fund for Bohemia and Moravia (hereinafter the Fund) (Auswanderungsfond für Böhmen und Mähren) as a part of the Central Office. Establishment of the public service Fund, as a vehicle of concentrating the assets of the Central Office, was stipulated in the paragraph 5 of the Regulation. The supervision powers over the Fund were given to the chief of the security police, who was also responsible for issuing its bylaws. The Central Office for Jewish Emigration would transfer all the assets of the dissolved Jewish religious organizations to the Fund. This way the Fund became richer, and by October 2, 1941, a total of 1,500 real estate properties in Prague and the Protectorate had been transferred to the Fund.²⁷

conscription, marriage certificate and certificate of citizenship). After receiving other papers from the municipal government of Prague and the finance directorate, the applicant submitted the filled application form in an office of the Department of Emigration of the Jewish Religious Community in Prague. The application was judged and a so-called Jewish tax (jüdische Umlage) was levied. The applicant was also obliged to provide a confirmation of Jewish origin and a religious tax payment. Then, the applicant had to report to the Department of Emigration of the Jewish Religious Community in Prague for revision of all the documents and subsequently went to the Central Office for Jewish Emigration, which made the final decision, and had to issue all the necessary papers for emigrants (passport, residency certificate, confirmation of tax payment, permission to take personal chattel abroad and a pass). All the data had to be written on a prescribed form. This was the so-called emigration map. See: Opatřování vystěhovaleckých dokladů. *Jüdisches Nachrichtenblatt*, vol. 1, 1939, no. 1, p. 5. At: <http://deposit.d-nb.de/online/jued/jued.htm>.

26 Nařízení Reichsprotektora upravuje péči o vystěhovalectví – Veřejnoprávní fond. Příslušnost německých soudů. *Jüdisches Nachrichtenblatt*, vol. 2, 1940, no. 11, p. 2. At: <http://deposit.d-nb.de/online/jued/jued.htm>.

27 See: *Správa Ústředne pre židovské vystahovalectvo v Prahe*, which characterized the development of situation of Jews in the Protectorate in the period between March 15, 1939 and October 1, 1941. KÁRNÝ, M. – MILOTOVÁ, J. – KÁRNÁ, M. (eds.): *Protektorátní politika*, p. 115.

The Executive Order No. 287/1939 Coll. dated November 23, 1939 On the Emigration Tax set the emigration tax at 25% of the net value of the assets subject to the tax on the date of tax liability occurrence.²⁸ Implementation of regulation No. 33/1940 Coll. ruled out the possibility to entitle the Jewish emigrants to an exemption from the emigration tax, and specified the method of evaluation of the assets for the purpose of imposing this levy.²⁹

Even though the press in those days constantly came up with new possible destinations of the Jewish emigration, for example South American countries such as Bolivia or Brazil, or such exotic destinations as Shanghai or even Ethiopia,³⁰ the conditions for emigration were not at all ideal, since the target countries had a multitude of administrative requirements.³¹ The number of emigrants kept decreasing, until it was reduced to a minimum.³²

28 Within the meaning of paragraph 8, the obligation applied to a) ratepayers who had moved out before the date of entry into force of this Regulation, from the date of its entry into force b) ratepayers who moved out after the date of entry into force of this Regulation, from the date of moving out.

29 Executive Order No. 33/1940 Coll. defined the term of resettlement. Person who wanted to move out had to have a permanent or temporary residence in the Protectorate and leave the country as an emigrant, actually under the circumstances that pointed out that the person either did not intend to return at all, or only after a long period of time. If people left the territory of the Protectorate with intention of coming back, mainly if they proved that they went to study, recuperate, or something like that, that could not be regarded as emigration. For that reason, it was proposed that the authorities would consider almost every person leaving the country as an emigrant, because they could presume that this person arrived at the decision to emigrate only additionally, though originally he/she went on, for example, a business trip. See: KOLLEK: Vystěhovalectví. Prováděcí nařízení k dani z vystěhování. *Jüdisches Nachrichtenblatt*, vol. 2, 1940, no. 6, p. 7. At: <http://deposit.d-nb.de/online/jued/jued.htm>.

30 See: Podpora vystěhovalectví. Možnosti pro židovské vystěhovalectví. *Jüdisches Nachrichtenblatt*, vol. 1, 1939, no. 5, p. 7. Podpora vystěhovalectví. Možnosti pro židovské vystěhovalectví. *Jüdisches Nachrichtenblatt*, vol. 1, 1939, no. 6, p. 7. Podpora vystěhovalectví. Fillipiny. *Jüdisches Nachrichtenblatt*, vol. 2, 1940, no. 7, p. 7. Podpora vystěhovalectví. Situace v Šanghaji. *Jüdisches Nachrichtenblatt*, vol. 2, 1940, no. 4, p. 9. Šanghaj – dobrá možnost. *Jüdisches Nachrichtenblatt*, vol. 2, 1940, no. 5, p. 8. At: <http://deposit.d-nb.de/online/jued/jued.htm>.

31 For example in case of emigration to Shanghai, the Shanghai Municipal Council specified that only people who could prove that they had at least 400 USD (in case of people younger than 13 it was at least 100 USD) or other appropriate sum of money in other currency on them, when their name was entered into the passenger name list, could settle in Shanghai. People could obtain a landing permit if they were lineal family members of refugees already settled in Shanghai, had a contract of employment with some Shanghai company, or intended to marry a Shanghai resident. The Shanghai Municipal Council was the authority that decided all motions on landing permits. These motions had to be proposed by the Committee for the Assistance of European

From the comparison, certain analogies between the organization of Jewish emigration in Slovakia and in the Protectorate became apparent. On the lowest third level, in both cases there were the Jewish authorities, such as the Jewish Center or the Jewish religious community in Prague. On the second level, there were the central state administration bodies, the Central Economic Office and the Central Office for Jewish Emigration. The highest places were held by the members of the state executive such as the prime minister or Reich Protector. On the other hand, it is necessary to point out several differences in the motivation of the administrative regulations, which were almost entirely focused on property in Slovakia, while in Bohemia they also dealt with the policy of emigration. However, in either case, the centralization created the preconditions for the forced displacement of Jews.

3. THE CONCENTRATION OF JEWS

Displacement measures were the follow-up to a broader process related to the support of Jewish emigration, in which the Jewish autonomous organizations became centralized and mandatory membership was established. The process of displacement can be taken either in the broad or true sense of the word. In the broad sense there were all the measures related to the infringement of personal liberty, which meant not only measures related to the resettlement of the Jews to certain parts of cities or villages or to the camps, but also measures prohibiting Jews from visiting parks, gardens, restaurants and the like. In the true sense of the word, we can regard the process of the Jewish resettlement as the method of centralization of their settlement into certain streets and city districts and their placement into forced labor camps or concentration camps.

This part of the article deals with the process of displacement in the true sense of the word, and the clarification of the problem of labor camps is given in the separate section, so we will not pay closer attention to it here.

Jewish Refugees in Shanghai. Šanghaj – dobrá možnost. *Jüdisches Nachrichtenblatt*, vol. 2, 1940, no. 5, p. 8. At: <http://deposit.d-nb.de/online/jued/jued.htm>.

- 32 R. Seeman, who takes into consideration the years 1939–1943, states that 26,093 Jews legally emigrated from the Protectorate and total number of Jewish emigrants, including illegal emigrants, was 30,000. SEEMAN, R.: *Cesta do Wannsee*, p. 80. *Správa Ústředne pro židovské vystahovalectvo (Report of the Central Office for Jewish Emigration)* confirms 25,670 emigrants in 1939–1941. KÁRNÝ, M. – MILOTOVÁ, J. – KÁRNÁ, M. (eds.): *Protektorátní politika*, p. 116. J. Gronský quotes other authors and declares the number of 25,977. KREJČOVÁ, H. – SVOBODOVÁ, J. – KÁRNÁ, M.: *Židé v protektorátu*. Praha 1997. GRONSKÝ, J.: *Komentované dokumenty k ústavním dějinám Československa 1914–1945*. Vol. 1. Praha 2005, p. 355.

The elimination of opportunities for Jews to live in certain city districts and villages was regulated by various decrees from the Central Economic Office and the Ministry of Justice. On November 4, 1940, Decree No. 233/1940 *Úradné noviny* (Úr. nov., *Official Journal*), which prohibited Jews and their non-Jewish husbands or wives from living in the houses in Bratislava, on the streets bearing the names of A. Hlinka and A. Hitler, was published in *Úradné noviny*. In addition, Decree No. 249/1940 Úr. nov. dated November 15, 1940, extended the scope of this prohibition to Štefániková Street. An additional Decree No. 267/1940 Úr. nov. extended the scope of this prohibition to live on the streets bearing the names of A. Hlinka and A. Hitler to all the villages and towns in Slovakia. Several decrees were passed, which denied Jews the right to reside or rent apartments on certain streets in Piešťany, Trenčín, Prešov, and also in Topoľčany. In September 1941, the Decree of the Central Economic Office No. 374/1941 Úr. nov. prohibited Jews from living in houses and apartments in Bratislava, which were built in 1920 or subsequent years. This Decree was later substituted by the Decree of the Head of the Municipal Public Notary Office in Bratislava No. 1348/pres. 1941 Úr. nov., based on which Jews were banned from living in new buildings in the capital city of Bratislava, actually in all houses or apartments, which were built in 1920 or subsequent years.³³

Until the autumn of 1941, Jews were not allowed to live on certain streets and in new buildings in Bratislava. From September 1941, with the Decree No. 434/1941 Úr. nov. On the obligation of Jews to move out of the capital city of Bratislava issued by Central Economic Office, Jews were obliged to move out of Bratislava and left for villages specified in the displacement measures by the Jewish Central Office or other authorized offices. The Decree confirmed a broad scope of exceptions, which could be annulled or amended anytime.³⁴ The

33 Within the meaning of Regulation No. 374/1941 *Úradné noviny*, the displacement order did not apply to state and public employees in active service, doctors who were authorized to run their practices, members of the managing board of the Jewish Center, and until other regulations were passed, also foreigners who lived in their own houses. Decree of the head of the municipal public notary office No. 1348/pres. 1941 Úr. nov. extended the force of exemptions to Jewish husbands and wives of non-Jewish people and to Jews who were owners or co-owners of enterprises or just their employees.

34 Order to move did not provisionally apply to civil and public servants – those Jews that were in active service and their wives and children, Jewish wives of Gentiles, if they actually lived together, Jewish children, if they were under Gentile tutor or parental care, members of the liberal professions who were allowed to practice their profession and their wives and children if they lived in the same household, owners or co-owners of farming enterprises, their wives and children, if they lived together in the same household, and others.

imposed displacement obligations also applied to the husband, wife, children and all Jewish members of the family. Every person affected by the Decree was obliged to submit a registration to the Jewish Central Office within 8 days from the date of entry into force of the Decree.³⁵ Based on these registrations, the Jewish Central Office had to monitor the number of Jews involved, instruct them and follow the internal directions of the head of the Central Economic Office. Everything necessary had to be done to accelerate the execution of the decree. The chair of the Jewish Central Office was obliged to inform the head of the Central Economic Office on the progress of the displacement actions every two weeks, and to complete the process of displacement by the end of 1941. Furthermore, all costs of the displacement actions had to be financed by Jews. In cases of any doubts on the Jewish obligation to displace, paragraph 3 (1) of Executive Order No. 222/1940 Sl. z. confirmed the Police Directorate's right to decide. However, personally the Chief of the Central Office, Augustín Morávek, supervised the execution of this ordinance.³⁶

Since the regime started to think about the displacement of Jews, it started working on their detailed registration and identification. That was the reason why the Ministry of Interior passed the Decree on the notification obligation, registration and identification of Jews on February 10, 1942.

Paragraph 1 obliged Jews, who were residents in the Slovak Republic on the date of entry into force of the decree, actually on February 10, 1942, to provide to the appropriate local notary office, according to the place of their residence, all the information necessary for their registration. If the person was not a resident of Slovakia, he/she had to notify the Police Directorate in Bratislava. The Jews who arrived in the Slovak Republic after the date of entry into force of this Decree were obliged to do the same.³⁷ Local notary offices and Police Directorate in

35 The application should contain a large amount of data supported by relevant documents such as information on whether the person was a full-blooded Jew, half-caste Jew or Jew pursuant to another regulation (not the Code), the date from which the person was unemployed, date from which he/she lived in Bratislava, the list of the most necessary things which he/she planned to take, whether that person lived in their own apartment or in rented accommodation. All these data, as well as many others, had to be provided for each person separately.

36 According to the reports of the German ambassador in Slovakia, Hans Ludin Elard, of October 22, 1941, the Slovak Ministry of Interior did not prepare exportation of Jews from Slovakia, but following the advice of German adviser, it intended to concentrate Jews in certain areas of Slovakia and evacuate the capital city. The goal was to create ghettos in the manner of the General Government. NIŽŇANSKÝ, E.: *Holokaust na Slovensku. Dokumenty nemeckej proveniencie (1939 – 1945)*. Zvolen 2003, p. 106.

37 However, according to paragraph 1 (5) the notification obligation did not apply to alien Jews, who were staying on the territory of the Slovak Republic on a valid visa.

Bratislava should be responsible for the registration of Jews. In case of a change of domicile or place of residence, every Jew was obliged to inform the local notary public office both in the former and new place of residence and Police Directorate in Bratislava about this change within 48 hours after his/her arrival.³⁸ The appropriate authorities informed the Ministry of Interior on every change via registration letters, with intention to record all the changes in the central register of Jews. The appropriate authority then issued all Jews, who met their notification obligations and were over 15 years old, with Jewish identity cards bearing their picture – or a certificate of meeting the notification obligations, in case of Jews below 15 years of age. The Jews had to carry these identity cards on them, and show them upon being required to do so (paragraph 4).

At the end of February 1942, the Ministry of Interior passed the Decree No. 92/1942 Úr. nov., which prohibited Jews from moving out of their actual place of residence without permission or an order by the Ministry of Interior. Within the meaning of paragraph 1 (2) of the Decree, the Ministry of Interior only granted permits to move to the camps or other centers for Jews.

The Decree No. 244/1942 Úr. nov. concerning the obligation of Jews to move out from certain towns to other ones of May 22, 1942, issued by the chief of the Central Economic Office touched those Jews who resided outside of the district capitals and Bratislava. Hence, the obligation to move did not refer to the Jews living in Bratislava and other district capitals. Jews living in other villages and towns as well as Jews living in the town of Piešťany were supposed to move out of their actual places of residence and arrive at their new address within the meaning of article I (1) of the Decree as follows:

- a) Jews from various villages and towns in Bratislava District had to move to the town of Svätý Jur;
- b) from Piešťany and other villages and towns to the town of Vrbové;
- c) from other villages and towns to the capital of the district where they actually resided.

The central supervision over the execution of the Decree was in the hands of the chief of Central Economic Office, A. Morávek. However, according to the internal binding instructions of the chief of the Central Economic Office, it was mainly the head of the Jewish Central Office, the Jewish Elder, who had to take measures. The displacement actions had to be completed by June 15, 1942, and within the meaning of the article IV of the Decree, Jews themselves were obliged to bear the expenses of this displacement. However, at that time deportations

38 A temporary distancing from the place of residence, if it did not last longer than 14 days, was not considered to be a change of residence within the meaning of paragraph 3 (5).

were in full swing. Mainly the last displacement measures could be dated to the period of the real deportations.

In the Protectorate of Bohemia and Moravia it was not possible to separate the process of displacement of Jews from their deportations, because Jews started being deported to Minsk, Lublin, and Riga from 1941. The real displacement measures, in the true sense of the word, consisted of several measures to concentrate Jews in certain towns and villages, as well as to establish the Theresienstadt Camp as a place for concentration and extermination.

On October 25, 1940, the Police Directorate in Prague passed Decree No. 25.326 pres. effective immediately, and prohibiting people of Jewish origin to change their domicile and temporarily depart from the Great Prague District. The Decree was based on the Articles 2 and 3 of the Political Administration Organization Act No. 125/1927 Coll. (Organizational Act). The only exception from the Decree could be issued by the appropriate Jewish religious community after the consultation with the Central Office for Jewish Emigration.³⁹

At the beginning of September 1941, the police regulation regarding the identification of Jews (RGBl. I, p. 547), which was published in the *Reich Law Gazette* under the number 44/1941 on September 5, was passed. This regulation confirmed the obligation of all Jews, above the age of 6 (paragraph 1, article 1) to wear the Jewish star in public places and within the meaning of paragraph 2, article a, the Jews were prohibited from leaving the district of their domicile without having written permission from the local police department. This way the Jews were labeled and displaced without any opportunity to move freely in their home villages and towns.⁴⁰

In the first half of 1941, when the push against the Soviet Union started, the “final solution of the Jewish question” entered the final phase. In July 1941, Hermann Göring entrusted the chief of Reich Security Main Office (Reichssicherheitshauptamt, RSHA) and from September 27, 1941, also the Deputy Reich Protector of Bohemia and Moravia, Reinhard Heydrich, with the power to coordinate this final phase. If we ignore the case of Nisko, deportations started occurred in the Protectorate since 1941, though at first, the fate of the deported Jews had not been decided. At the conference held on October 10, 1941, there was discussed

39 See: Vyhlaška o změně stálého bydliště Židů ve Velké Praze. *Jüdisches Nachrichtenblatt*, vol. 2, 1940, no. 44, p. 5. At: <http://deposit.d-nb.de/online/jued/jued.htm>.

40 Within the meaning of paragraph 3 (a) and (b) the Regulation did not apply to Jewish husband living in the mixed marriage, if there were children from the marriage, who were not regarded as Jews. This also applied to those cases where the marriage did not last more or the only son was killed in the war. The exemption was extended to the Jewish wife in a childless marriage for the period of its duration.

the eventuality to temporarily concentrate the Protectorate Jews, apart from those being already transported to Łódź, Minsk, and Riga, in one locality in the Protectorate, until they could be transported to camps in the East.⁴¹ A kind of ghetto between two walls should be established.⁴² Then, the detailed process for the concentration of Jews was determined. It had to be financed by the resources obtained from the sales of Jewish furniture. Prior to the transports, all the clothing and textiles had to be collected. The non-Jewish population was forbidden to take any gifts, gold, or lands from Jews. Jews were supposed to take only 50 kg of luggage and food sufficient for 14 days to 4 weeks. The ghetto had to be supervised by the Protectorate police, which was under surveillance of the German security authorities.⁴³

At the conference of leaders of the occupation administration on October 17, 1941, it was decided that Theresienstadt would take on the function of a transition camp (Übergangslager). In this camp, it would be possible to accommodate 50 to 60 thousand people, who would be later deported to Minsk or Riga. After the complete “evacuation” of Theresienstadt, it would be settled by German subjects and would become a crucial point of German life.⁴⁴ Legally, the function of Theresienstadt was realized on the Regulation of the Reich Protector of Bohemia and Moravia dated February 16, 1942, concerning the placement of Jews in enclosed settlements.⁴⁵ Based on paragraph 1 of the Regulation, the municipality of Theresienstadt was dissolved. All the lands (real properties) as well as

41 A suburb, a small village or a small industrial town was proposed as a possible camp for Jews. At the conference, they proposed to establish two ghettos. In Moravia, the existing Jewish villages should be extended to one ghetto. Old Hussite castle Alt Ratibor or Theresienstadt in the Czech Republic came into consideration. Finally, the Theresienstadt was chosen. See: KÁRNÝ, M. – MILOTOVÁ, J. – KÁRNÁ, M. (eds.): *Protektorátní politika*, p. 130.

42 The idea of forcing the Jews to become concentrated in ghettos was conceived as part of a broader framework of “racial inventory”, presented by R. Heydrich on October 2, 1941 in the Czernin Palace. Population of the Protectorate was divided by Heydrich into 4 groups: 1) people of good race and a good mentality, which could be Germanized; 2) people of bad race and evil-minded, who were necessary to be expelled from the Protectorate; 3) people of bad race, but good mentality, who should be deployed for work and sterilized; 4) people of good race and evil-minded – these were regarded by Heydrich as the most dangerous ones. GRONSKÝ, J.: *Komentované dokumenty*, p. 393.

43 Heydrich’s notes from the session of the leaders of the occupying power discussing the “solution of the Jewish question.” KÁRNÝ, M. – MILOTOVÁ, J. – KÁRNÁ, M. (eds.): *Protektorátní politika*, p. 130–131

44 Notes from the session of the leaders of the occupying power held at Heydrich on future planning in the Protectorate. *Ibid.*, p. 141.

45 VBIRProt., 1942, p. 38.

the public property of the village of Theresienstadt, with exceptions specified in the regulation, were transferred to the administration of the Emigration Fund for Bohemia and Moravia. The deadline specified in paragraph 4, after which the expropriation would follow, was May 31, 1942. Paragraph 14 confirmed that the chief of the security police at the Reich Protector was authorized to pass administrative measures necessary for building the ghetto and could even deviate from the Protectorate law.

4. DEPORTATIONS AND THEIR LEGISLATIVE FRAMEWORK

In autumn of 1941, the Ministry of Interior still preferred the ghettoization of Jews to their displacement.⁴⁶ The first sign of the change in governmental posture was the attitude of the Slovak government to the question posed by German authorities – would the government agree with giving up the displacement of Jews of Slovak nationality from Germany to the Eastern ghettos in favor of the German side, or if the government itself would arrange their resettlement from Germany. After consultation with representatives of the Slovak government, Hans Elard Ludin could announce that the Slovak government agreed with yielding the displacement of Jews to the German side, under the condition that their assets would be duly catalogued and registered.⁴⁷

In February 1942, the German government offered taking 20,000 Slovak Jews for labor to the eastern territories, which was approved by the Slovak government. Moreover, it agreed to pay 500 Reichsmarks to the German side for every deported Jew. According to the German representatives, this sum of money had to be used to cover the expenses for accommodation, feeding, clothing, and re-education of the Jews.⁴⁸ As it follows from the German documents, the Slovak government, along with President Tiso, approved the “evacuation” of Jews. This “evacuation” should not have targeted about 2,000 of Jews, who had been christened before the year 1938.⁴⁹ These Jews should be concentrated in camps located in the state. Moreover, the German government claimed that the deported Jews, and Jews to be displaced from Slovakia, would not be sent back to Slovakia.⁵⁰

46 See the H. E. Ludin's report of October 22, 1941. NIŽŇANSKÝ, E.: *Holokaust na Slovensku*, p. 106.

47 Ibid., p. 112.

48 Ibid., p. 115–116.

49 Ibid., p. 127.

50 Ibid., p. 137.

Though deportations started on March 25, 1942, there was no legal framework for them. The government based them, at least formally, on paragraph 22 of the so-called Jewish Code, which confirmed that Jews, who did not pursue any work specified in paragraph 38 of the Defense Act, were obliged to pursue the work specified by the Ministry of Interior. As a consequence of outraged protests, the government proposed a bill on the displacement of Jews, which was approved by the Assembly at the 87th session held on May 15, 1942, in the form of the Constitutional Act No. 68/1942 Sl. z. On the Resettlement of Jews. As set forth in paragraph 1 of the Act, Jews could be resettled from the Slovak Republic, so no obligatory form of disposition, but rather facultative form was introduced, based on which an ad hoc decision could be made about who would be resettled and who would not be displaced. Within the meaning of paragraph 2, deportations did not apply to persons who:

- a) at the latest on March 14, 1939,⁵¹ ranked among the believers of one of the Christian religions;
- b) lived in a legitimate marriage with a non-Jewish person, which they entered into before September 10, 1941.⁵²

The Jews, who were granted a presidential exemption, based on the paragraph 255 of the so-called Jewish Code,⁵³ as well as the freelancers such as doctors, lawyers, pharmacists, and engineers, who were considered by the corresponding ministry as important for the economic life, should not have been deported.⁵⁴ The exemption was also applied to children and husband (wife), and in case of people who were christened at the latest by March 14, 1939, to their parents as well. As Dr. Orlický, the presenter of the government proposal, explained, *"It would contradict legal and moral principles, if we tear the family relationships*

51 This date was chosen because *"these persons may reasonably be expected to have been christened based on spiritual and religious motives and not under the pressure of legal actions aimed at the exclusion of Jews from Slovak economic and social life."* See: Stenografický záznam z 87. zasadnutia Snemu Slovenskej republiky. At: <http://www.nrsr.sk/dk/Download.aspx?MasterID=135194>.

52 The date refers to the date of entry into force of the Jewish Code, as until then there was no prohibition for Christians and Jews to enter into mixed marriage.

53 The mentioned paragraph in section 1 allowed the President of the Republic to grant exemptions from the provisions of the so-called Code. Within the meaning of sections 2 and 3, exemptions could be withdrawn at any time and could be partial or total. They also could be conditioned.

54 According to the Executive Order No. 118/1942 Sl. z., in cases of Jews employed in the state and public administration, this decision was made by the ministry or the department, in which a Jew was employed on the date of entry into force of the Constitutional Act. 68/1942 Sl. z., otherwise it was the ministry, which managed the section of the public, technical or economic life, in which a Jew should stay.

of people who are bound with close family bonds."⁵⁵ However, according to the report of the constituent committee, into the category in Section 1(a) and 1(b) there were included people who were supposed to stay in Slovakia permanently and in Section 2 there were people staying in Slovakia until the given decision by minister or the president would expire.

Based on paragraph 3, all the resettled Jews who had already left the state or were about to do so lost their Slovak citizenship. The entire property of displaced Jews was expropriated in favor of the state. The Jews who were granted exemptions and who were not subject to deportations could keep personal property in their possession. However, legally they could not lay claim to any real estate property, which had been taken from them before May 15, 1942. Within the meaning of paragraph 5, the government was authorized to carry out the provisions of the Constitutional Act, and it could also amend the given relations by certain decrees, although the Constitution required this in the form of laws.

Several decrees were passed to carry out the Constitutional Act No. 68/1942 Sl. z., above all the Decree No. 118/1942 Sl. z., based on which some provisions of the Constitutional Act On the Resettlement of Jews were executed, and Decree No. 151/1942 Sl. z., which regulated some questions concerning Jewish assets expropriated in favor of the state. The Decree No. 118/1942 Sl. z. determined that the crucial point for making the decision about whether certain person could or could not rank among the faithful of one of the Christian religions, was the real date of christening – at the latest on March 14, 1939 or before that. Paragraph 1 of the Decree No. 151/1942 Sl. z. specified that the state property, as stipulated in paragraph 3 (2) of the Constitutional Act No. 68/1942 Sl. z. was the entire property,⁵⁶ which was or would be in possession of the Jew on the date of his/her displacement or his/her departure from the country, as well as the assets illegally transferred to the possession of any third person. The assets of displaced Jews had to be alienated under the control of the state, which was performed by the Ministry of Finance, Central Economic Office, State Land Office and Ministry of National Defense. The Ministry of Finance was, within the meaning of paragraph 4, authorized to take all the necessary measures, and above all, it was entitled to order cataloguing, marking, and keeping the Jewish assets, as well as issuing various documents related to these assets. Moreover, it

55 Stenografický záznam z 87. zasadnutia Snemu Slovenskej republiky. See at: <http://www.nrsr.sk/dk/Download.aspx?MasterID=135194>.

56 Under the term property we understand the material objects and rights (real estate, personal property – the date of registration in the land register in favor of the state was not important, debts and other assets), which consisted of money or has some monetary value.

was allowed to obtain the Jewish houses searched by its bodies, and if there was a suspicion that Jews kept their property in the houses of non-Jews, the house searches could also be carried out in the houses of non-Jewish people. Ministry of Finance was authorized not only to keep the assets, but also to convert it into money and sell it. This way the legal genesis of the question of displacement of Jews, as well as the entire anti-Jewish legislation, was completed.

No more legislative regulations on the personal position of the Jews were passed in the Protectorate. After January 20, 1942, the role and function of Theresienstadt were modified. Theresienstadt was supposed to start functioning as so-called Altersghetto for Jews from Germany and Austria.⁵⁷ However, it continued to function as a concentration camp, where the Jews were temporarily concentrated before being transported to extermination camps.⁵⁸ Jews were deported without any legal basis, since deportations had already been arranged and organized, and dealing with the legal nuances was not important.

CONCLUSION

Legal decrees, which were passed and used to regulate the Jewish resettlement and specify the displacement of Jews, had only a partial effect, and thus they violated the principle of the generality of law, which was typical for the entire body of anti-Jewish legislation. Its peculiarity was in its racial and property character, which followed the necessity to separate Jews from the majority in society and transfer Jewish assets into Aryan hands. Since in Bohemia, the racial aspect played an important role in anti-Jewish displacement measures, in Slovakia, the dimension of property was preferred. That is why the policy of supporting Jewish emigration was not implemented on a larger scale in

57 People older than 65, people with military honors, politicians, scientists with ties to foreign countries, they all had to be concentrated here, with only purpose being to appease foreign countries and make the claim that the Jews were deported to labor camps in the East seem authentic. See: BLODIG, V.: *Terezín v „konečném řešení židovské otázky“*. At: http://old.hrad.cz/president/Havel/holocaust/speeches/sbornik_ctvrtek.html.

58 In December 1942, there were 58,000 Jews in an overcrowded ghetto, who were gradually deported to the extermination camps. In total, 86,934 prisoners from Theresienstadt were subjected to deportations. According to M. Kárný, only 3,097 of them managed to survive. However, Theresienstadt was given a nice outward appearance – as a means of silencing foreign critics. In the years 1942–1943, a coffee house was founded in Theresienstadt, where other so-called prettifying events were held, and even a Bank was established, where Jewish authorities issued worthless banknotes. BLODIG, V.: *Terezín v „konečném řešení židovské otázky“*. See at: http://old.hrad.cz/president/Havel/holocaust/speeches/sbornik_ctvrtek.html.

Slovakia, even though the organizational preconditions existed there. Restraints on emigration possibilities, and arrival of D. Wisliceny, condition the law and practice that involved the implementation of various displacement measures, which actually correspond to the course of events in the Protectorate. For the implementation of deportations, as the final phase in the solution of the Jewish question, in the conditions of an occupied country, no legal regulation was necessary. However, in Slovakia deprivation of state citizenship and displacement of population met with legal, as well as moral, obstacles and resistance. Mainly Act No. 68/1942 Sl. z., which was, on the one hand, only a kind of plaster on a warped conscience, and seemed rather a curiously from the legal point of view,⁵⁹ did, on the other hand, at least partially, moderate the impact of the displacement measures imposed against the Jews.⁶⁰

59 The law was not retrospective, and though it legalized an ongoing process, it could not be applied to a process that took place from the beginning of deportation until the Constitutional Act was passed. The Act did not mention the mandatory deportations of the Jews and only allowed displacement, which created a space for a kind of resistance against the deportations, which actually was not realized.

60 Compare: MOŠŇÝ, P.: Východiská právneho postavenia židovského obyvateľstva v období prvej Slovenskej republiky. In: KNOLL, V. (ed.): *Pocta Stanislavu Balíkovi k 80. narodeninám*. Plzeň 2008, p. 256.

Racial Legislation in Slovakia (1939–1945) in Terms of the Philosophical-Legal and International Public Law

Bogdan Wrzochalski (Poland)

The racial view of the legal position of Jews and the laws concerning it, belong to the most outrageous solutions of not only the 20th century, but also the entire history of law, which are subject to our scientific interest and research in the field of philosophy of law and international law.

Despite the perspective of a lawyer, which will dominate my contribution, I would like to start with mentioning the well-known Czechoslovak film *The Shop on Main Street* by Kadar and Klos, which won an Oscar (1966), and was made in 1965 based on the novel by L. Grosman. I do this, because I am convinced that a lawyer should and must refer to other normative systems and to other areas of human activity as well. Additionally, the Polish-Jewish accent can be found in this movie – the heroine is played by an actress from the Jewish Theatre in Warsaw, Ida Kamińska. The film opens with an inscription – reminding people that J. Tiso and the Slovak State voluntarily adopted the “Nuremberg Laws”. When the film was awarded the Oscar, nothing else could remind, both lawyers and historians, more suggestively that such matters as anti-Jewish legislation took place in Slovakia.

The ideological crisis in the history of Germany influenced the formation and development of the Nazi ideology, including anti-Semitism, passing of the Nuremberg legislation by the Third Reich, and after the outbreak of the World War II, also the adoption of racial laws in occupied countries and protectorates of the Third Reich, such as in Slovakia.

No legislation, including racial, can be passed without involving lawyers. An excellent educational as well as scientific example can be the fact that on October 21, 2001, the Law Faculty of the Comenius University approved the book entitled *Rasové zákonodarstvo na Slovensku*, Bratislava 2003 by Prof. Ladislav Hubenák, as an educational material for students.¹

On February 25, 1939, Jozef Tiso pointed out that the solution of the Jewish question would continue in the manner it was being carried out other states and nations. Jewish participation in the economic and cultural life in Slovakia should be proportional to the number of Jews living here.

Karol Sidor, during the 28th electoral meeting in November 1938 in Pezinok, said that the role of the Slovak Parliament would be the passing of acts that would make the solution of the Jewish question possible.²

A short time later, on January 23, 1939, a commission of Slovak lawyers was created, whose task was to propose anti-Jewish legislation – this was nearly two years before the “Jewish Code” was passed. Members of this Commission were K. Sidor – the chairman, M. Pružinský, F. Ďurčanský, P. Teplanský, and J. Virsík (lawyer who owned a law firm with F. Ďurčanský). On March 5, 1939, members of the Commission met at the Carlton Hotel in Bratislava. In addition to them, there were also A. Mach, M. Černák and Senator K. Mederly. The result of their meeting was the Bill of the Executive Order on Ensuring Social and Economic Equality in the Context of the Jewish Question.

The proposal included, *inter alia*, the provisions as to who was considered a Jew, in terms of the Act, and also confirmed certain restrictions to be imposed on those Jews practicing various activities/trades in various professions, as well as on their share in administration of property.

Proposals of this Commission of lawyers in 1939 reflected the anti-Semitic feelings and emotions in political circles in Slovakia. However, they were not drawn up in accordance with the racist patterns of the Third Reich. Certain restrained attitudes of such politicians as K. Sidor should also be taken into account. The structure and proposal of the Commission represented the struggle for power in the national political system of Slovakia, in relation to “the Jewish question”. For the members of the Commission, it was a test of their character and legal conscience. The Commission did not pass this examination, even though this still was not the “Jewish Code” of 1941.

It is possible to identify several stages of the maturation and sharpening of the Jewish legislation in Slovakia: establishment of a Commission of lawyers in

1 HUBENÁK, L.: *Rasové zákonodarstvo na Slovensku (1939 – 1945)*. Bratislava 2003.

2 LIPSCHER, L.: *Die Juden im Slowakischen Staat 1939 – 1945*. München – Wien 1980, page (p.) 24.

1939 and proposals concerning legislative solutions at the beginning, through negotiations in Salzburg in July 1940, and adoption of other laws in 1940 to 1941, among which the “Jewish Code” was the most important. In each phase of the gradual sharpening of additional anti-Semitic regulations, the Third Reich played a significant role. In the final stage – the entry of occupation forces of the Third Reich – no more “exceptions” were possible and deportations of Jews were restored.³

The problem of individual influence and presented attitudes of the Slovak politicians back then to anti-Jewish legislation, which is actually interesting not only for historians, but also for lawyers, reminds of the task set by V. Tuka, as a politician as well as a professor of law. The former Minister of Education J. Sivák claimed in 1947 that, “*Tiso was between two millstones, the Germans and Tuka*”, and it was V. Tuka, who urged a solution to the Jewish question following the German pattern. K. Čulen⁴ stated that this was the German demand, and “*if we do not do that, they will*”.⁵

An interesting issue in the Jewish Code of Slovakia, and also a contribution to the debate, is the question of exceptions i.e. “exemptions and exceptions” introduced into Article 255 of the Code.⁶ Ivan Kamenec claims that the exceptions were introduced in the Executive Order as a result of President J. Tiso’s interventions.⁷ Exceptions to this Code, of course, raised questions as to whom in fact they were applied to, and how many of the Jews, together with their families, were saved. Exemptions in the law may be controversial, in terms of fundamental principles of the law, such as the right to equality – because theoretically, the exception may be applied to one, and others cannot take advantage of it at all. However, where – as it turned out – this was used to save the lives of many people, each “exception” was seen as “fair”, and not just as “compassionate”.

For those who defend the priest J. Tiso, this is one of the main arguments – to ease the legal appraisals of judges, moralists, and even historians. Some have even calculated that there were about 9,000 (nine thousand) exemptions, which

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- 3 Sharpener of the measures applied against German Jews, right after September 1, 1941, is highlighted in the excellent work by D. J. Goldhagen. GOLDHAGEN, D. J.: *Hitlers willige Vollstrecker*. Berlin 1998, p. 173.
 - 4 ČULEN, K.: *Po Svätoplukovi druhá naša hlava*. Partizánske 1992, p. 431.
 - 5 The role of the German advisers (berater) in Slovakia during the war is pointed out, among others, also in the book by M. Lacko. LACKO, M.: *Slovenská republika 1939 – 1945*. Bratislava 2008, p. 92–93.
 - 6 Compare the Regulation of September 9, 1941, on the legal position of the Jews. HUBENÁK, L.: *Rasové zákonodarstvo na Slovensku*, p. 120–193.
 - 7 KAMENEC, I.: *Tragédia politika, kňaza a človeka (Jozef Tiso 1887 – 1947)*. Warszawa 2001, p. 90–91.

together with the families of the Jewish inhabitants in Slovakia could have actually save the lives of about 30,000 people.⁸

Exceptions under Article 255 assumed that only some Slovak Jews could count on protection and exclusion from persecution, and the remainder were doomed to discriminatory treatment pursuant to the Jewish Code.

History of the tragedy of Jews in the World War II knows many different circumstances and ways of saving the Jewish people from being transported to extermination camps. One of my favorite heroes, and *sui generis* saint for diplomats, is Raoul Wallenberg, who simply issued passports to Hungarian Jews from the Swedish consulate. He even negotiated with the real “devil” A. Eichmann, in order to ensure the effectiveness of his action and saving of the Jews. Others, in completely different situations, ordinary people without any attribute of power/dominance, prestige and wealth, rescued Jews by hiding them and risking their and their families’ lives (one heroic and tragic example, among many others, is the Polish family of Ulma, who were later killed). Some of those who used to help Jews were later recognized personally or through their relatives. Some of them even received one of the most touching awards in the history of mankind – the Righteous among the Nations.

I will avoid criticizing other methods or means, if they really represented opportunities for saving the lives of endangered Jewish citizens. Despite all this, Article 255 of the so-called Jewish Code was a sort of a “dissonance”, or “tolerance” from the explicit exclusion without “exceptions”. Perhaps it was a remnant of conscience and hesitation of politicians and lawmakers about whether such a Code could be effective without any restrictions.⁹

Not one of the scholars, who are interested in the totalitarian systems in the period of the World War II, will be surprised that in Slovakia not one death sentence was passed either for criminal offences or for political crimes until autumn of 1944.¹⁰

American historian Mark Mazower believes that under the leadership of the priest J. Tiso, conservative Slovak politicians “*after they happily introduced*

8 L. Hubenák implies that there might be about a thousand exceptions, which means that they were granted to about 5,000 people. HUBENÁK, L.: *Rasové zákonodarstvo na Slovensku*, p. 43.

9 Evaluation of L. Hubenák is very critical, “*paragraphs concerning exceptions, or any application of them cannot cover an anti-democratic and anti-human nature of the Jewish Code as a whole.*” HUBENÁK, L.: *Rasové zákonodarstvo na Slovensku*, p. 43; also M. Lacko, who highlights the illusiveness of exceptions to most of the Jewish community. LACKO, M.: *Slovenská republika*, p. 81–82.

10 KAMENEC, I.: *Tragédia politika, kňaza a človeka*, p. 92.

*anti-Semitic legislation in Slovakia, which complied with the German model, they were no longer concerned if the national law gained a racial character.”*¹¹

The issue involving the question of punishment for war crimes and crimes against humanity was, from the very beginning of the coalition of powers in the World War II, the subject of pervasive attention of common works, and by each side separately as well. Various opinions were outlined: the taste of reciprocation and revenge, and the evaluation of what happened as an “evil in itself” (“*malum in se*”) or a carefully prepared hearing at the tribunal judging the war criminals and criminals against humanity. In terms of the history of legal ideas, it was a choice between a political decision and a legal norm, in which the superpowers agreed to bring charges and start working through an international judiciary system.¹²

The trial of J. Tiso, A. Mach and V. Tuka was in Slovakia, after the World War II, something between a political decision and resolution based on standards of national and international law. This was a national court/tribunal involved in the political changes then leading to the incoming totalitarian system in Slovakia, as a part of Czechoslovakia, this time led by J. V. Stalin.

The process against J. Tiso does not raise any major objections, in relation to the controversies concerning the judgment of the death penalty, and especially the refusal of a pardon by the Czechoslovak government back then, and their voting in the ratio 17:6.¹³

Racial standardization and discrediting of the positive law, in its extreme form, also influenced the philosophy of law of an important German lawyer (and former Minister of Justice) Gustav Radbruch (1878–1949), as well as the philosophy of law in the post-war period in general. Radbruch’s philosophy of law had earlier resulted in the idea of invalidity of illegal law in the form of law, and “supra-statutory law”.

Before the World War II, Radbruch wrote in his Heidelberg lecture that “*vom empirisch-konkreten Menschen fuehrt der Weg nicht zu einer Rechtsordnung, sondern zur Verneinung jeglicher Rechtsordnung.*”¹⁴

This means that the starting point of legislation should be an abstract entity, and not an agent/representative of an ethnic group, for example, the Jew as a

11 MAZOWER, M.: *Imperium Hitlera*. Warszawa 2011, p. 102.

12 RYSZKA, F.: *Norymberga. Prehistoria i ciąg dalszy*. Warszawa 1982, p. 264–265.

13 KAMENEC, I.: *Tragédia politika, khaza a človeka*, p. 129.

14 “From an empirical – particular person a way does not lead to human law, but rather to negating any law...” (interpretation: T. Wojciechowska). RADBRUCH, G.: *Der Mensch im Recht*. Goettingen 1957, p. 9. Cf. also: RADBRUCH, G.: *Gesetzliches Unrecht und uebergesetzliches Recht. Süddeutsche Juristenzeitung*, 1946, p. 105–108; BRÖSTL, A.: *Dejiny politického a právneho myslenia*. Bratislava 1999.

person, as an abstract entity, but in no case a Jew as an attorney, Jew as an entrepreneur, Jew as a physician, Jew as a journalist, etc. Historically, it was also the way to the exclusion of these ethnic groups.

The question whether the “legal right” was effective after J. Tiso’s state had passed the so-called Jewish Code, and saying the language or the philosopher of law G. Radbruch, on whether the “degree of injustice” of this law reached the dimension that such right might be recognized as an “illegal law”, still remains an appraisal problem for the philosophy of law and philosophers of law as well.

Some scientists and lawyers also found this as a way to restore the natural law.

Radbruch’s attitude is well-known as the “Radbruch formula”, in which he claimed that “*if injustice of positive law reaches a level so unbearable that the legal certainty guaranteed by the positive law has no weight in regard to the injustice, the statute has to make way for justice.*” Previously, Radbruch used the term “*erroneous law*”.

Polish-American Jewish lawyer Raphael Lemkin (1901–1959) was the creator of the term *genocidum*. He influenced the international multilateral agreements, international judiciary and scientific debate, especially in the areas of public international law and criminal law. *Genocidum* is an action against the national group as a whole, intended to destroy the basic elements of the nation or preclude the possibility of the existence of the economic unit, and deprive people of their personal security etc.¹⁵

The statutes of the International Military Tribunal/Court of August 8, 1945, included the concept of “genocide” and the persecution on racial basis as phenomena subject to the jurisdiction of the Court, regardless of whether it was a breach of the national law of the country where it happened.

It is clear that racial persecution, racial legislation and the response of lawyers after the World War II accelerated the international actions in the field of international human rights. There was the *Universal Declaration of Human Rights* (1948), discussion at the United Nations and the further development of international human rights.

The fundamental issue, as concerns the interests of the philosopher of law, is not only a legal, but also a moral responsibility of politicians and lawyers for the preparation of racial legislation and their share in the implementation of the “shameful law”.

The Polish lawyers (Fr. Ryszka, K. Jonca, Fr. Polomska, and W. Suchecki) were interested in questions of the development of the legal thinking of the Third Reich, the role of lawyers in the racial legislation and the scientific results of this research.

15 RYSZKA, F.: *Norymberga*, p. 143–145.

As a young philosopher of law (in 1980s), I met with an interesting difference of opinions in the Polish non-fiction literature between Karol Wojtyła as an ethicist – the views expressed in his pre-papal period, and Marxist theorist of law Wiesław Lang. Karol Wojtyła stated that the Nuremberg Tribunal's judgment was based on the moral principles, which were superior to the positive law, and based on the natural law.¹⁶ On the other hand, W. Lang argued that *“those opinions have no legal justification either in the statutes of the Nuremberg Tribunal or in their judgment/decision or the grounds of this judgment.”*¹⁷

Personally, I believe that the influence of natural law on the system of values, which was adopted in the widely understood Nuremberg law, is respected not only by Catholic philosophers. I think that it is not a direct reference of the Nuremberg Tribunal to the formal principles of natural law. However, the fact is that the statutes of the International Military Tribunal of August 8, 1945, and other acts of international law from the period of the World War II, were approved only after the period, in which most of cases of crimes against peace and against humanity were taken to court. So in the aspect of strictly taken principles of criminal law doctrine: *lex retro non agit* and *nullum crimen sine lege*, the judgment could cast doubts.¹⁸ In relation to the controversy regarding this topic, Karl Jaspers properly stated that *“under the principles of human freedom/liberty and democracy accepted in Western culture, there have already been promulgated such laws under which it is possible to determine what action can be considered a crime.”*¹⁹ In that sense, we could speak about the humane standards of evaluation of laws and regulations established/applied during the period of the World War II and directed against Jews and other minorities.

Karol Wojtyła, as a Pope, in his speech at the World Day of Peace (2004) pointed out the *“universal principles that are more important and superior to the internal laws of states”*, and also that *“the Second World War [...] with its horrors and such a gruesome rape of human dignity provoked a profound renewal of the international rules of law.”*

Of course, the reference to natural law is not able to grant some sort of universal power or guarantee to lawyers in the sense that they will not make any mistakes in their legislative activities related to the Constitution, or laws having a special significance for political or social rights. So the natural law was abused throughout history, though this was the most common in totalitarian

16 WOJTYŁA, K.: *Elementarz etyczny*. Lublin 1983, p. 53.

17 Compare: LANG, W.: *Prawo i Moralność*. Warszawa 1989, p. 290.

18 Compare also: WRZOCZAŁSKI, B.: *Filozofia prawa Gustawa Radbrucha kontra filozofia prawa w Trzeciej Rzeszy*. Warszawa 1990, p. 316.

19 Compare: JASPERS, K.: *Zróżnicowanie niemieckiej winy*. Warszawa 1981, p. 120.

regimes. However, the history of doctrines of natural law confirms its role in the resurgence of law after the period of war, non-law and human rights violation.

In his philosophical-legal work of 2007, the Slovak lawyer, philosopher of law and (former) judge at the Constitutional Court in Košice, Eduard Bárány, thought about “notions of a good law”, in terms of four major categories existing in the history of the philosophy of law: 1) natural law, 2) human rights, 3) rules/principles of law, 4) justice and equality in law.²⁰

Under none of those categories, could any anti-Jewish legislation or other racist legislation be defended as a “good law”, because it would be in stark contrast to the tradition of natural law, rules/principles of law, as well as to justice and equality in law.

In an ever-lasting conflict in the history of ideas, between the legal positivism and natural law, steering dogmatic positivism, supported by professional opportunism of many of the lawyers back then, was one of the more dangerous views, in terms of its consequences. It actually led to activities in favor of the legalization of non-law and violation of human rights not only of individuals, but also of entire ethnic groups.

Its perceptions were different in the history of law. An example of adoption of certain European laws in the Japanese civil law is well-known. Moreover, taking over the patterns of Nuremberg laws will represent a special kind of assessment that touches the conscience of lawyers.

A philosopher of law, judging these kinds of the examples of political and legislative history of another country, not just a neighboring one, which is characterized by cultural, language and historical similarities, must maintain certain moderate views in his scientific criticism, and even more in the emotional sphere.

Slovakia and Slovaks have in their culture, and spirituality, many inspirations to observe that anti-Jewish laws were merely a tragic episode in their history. Regardless of the fact that they are/remain historical, political, legal and a human tragedy of the Slovak Jews, as well as a problem of legal and moral responsibility, for the preparation and implementation/application of the so-called Jewish Code.

Hero of Grosman’s novel, which was mentioned at the beginning, as well as the hero of the film by Kadar and Klos, goes through the human drama of a man who took part in the “Aryanization” and who was present in the final part of the tragedy of an “Aryanized” owner of the shop, and the deportation of the Jews out of the city. He was an ordinary man – not a judge or legislator. I hope that some of the lawyers back then also had certain doubts.

20 BARÁNY, E.: *Pojmy dobrého práva*. Bratislava 2007.

Knowledge of that grim and tragic part of the history of law should serve an education for future generations of young lawyers, and be a school of sensitivity and their conscience. Especially in extreme situations, when the values of “law and supra-law” are endangered, a lawyer, particularly in a role of legislator and law teacher, is not exempt from critical ethical and philosophical reflection on system of law.

Hungarian Anti-Jewish Legislation and Its Implications

Example of the Jewish Community in Levice

Marta Švoliková (Slovakia)

The oldest written material concerning Jewish residence in the nearest neighborhood of the town of Levice dates from the mid-14th century.¹ From then until modern times, no other documents have been preserved in our region. After the Mohacs events, Tekov became a part of border area between Ottoman and Hungarian imperial fortifications in the north. Despite the presence of the Turks in this area, and constant struggles in the 16th and 17th century, the trade undoubtedly thrived here and at fairs in Levice, usually Turkish as well as Christian and probably Jewish merchants participated.

As it is stated in various sources and literature, the presence of the first Jews in Levice dates from the early 18th century.² Their residence and settlement in this town in the 17th and 18th centuries was limited due to the proximity of the mining towns. The rescript issued by Leopold I in 1691 forbade Jews from selling gold and silver. The monarch, as well as the state administration of the mining and metallurgical plants, was afraid of commercial and entrepreneurial spirit

1 In 1352, the king Louis the Great donated the village of Szadice to king's pharmacists and financier Jakub Saracén.

2 LÁNYI, M. – BÉKEFFIOVÁ, H.: *Dejiny židovských náboženských obcí na Slovensku*. Košice 1933, page (p.) 263. TESÁK, P.: *Z histórie židovskej komunity v okrese Levice*. Manuscript for the lecture, which was presented at the seminar "They lived, live, and will live with us" in Tekov Museum in Levice on May 28, 2003.

of the Jewish people and they were also aware of the difficult living conditions of mineworkers. The workers used to steal expensive and non-ferrous metals and sell them on black-market, mainly to the Jewish merchants, who were their regular customers.

The mandate of Leopold I of 1693 gives clear evidence of the presence of Jews in Levice. According to that, the Jews were not allowed to settle in Tekov District (to which Levice belonged) within 7 miles from the mining towns and conduct any business and trade.³ The town of Levice, located and in this zone, was also namely referred to in the regulation. Leopold I reiterated his ban in 1695 and then other monarchs followed his example, including Maria Theresa. The Jews were allowed to come into Levice in 1791; however, permits were granted only to individuals for the period of one year. Merchants have no right to spend the night at the place where the transaction took place.

Jews in the early 18th century worked in Levice as toll collectors at the Esterházy estate. Esterházy family, similarly to other Hungarian nobles, placed the economic functions of its manors into the Jewish hands – in order to capitalize their assets.

More massive settlement began in the 1830s, actually in 1836, when it took on such a magnitude that in 1839, the municipality of Levice filed a complaint on their alleged expansionism to the Tekov District authority. According to the census of 1844, there were 32 Jewish families, and a total of 147 Jewish people living Levice. In particular, they were traders, lessors of the manor's wineries, breweries and distilleries.⁴ In 1840, the Jews founded a religious community in Levice, and took part in the revolution in 1848. The religious community was fined for 1,400 gold coins for this, which was half the amount of the fine imposed on Jews throughout Tekov District.

After 1867, the period of development and emancipation of Levice, the Jewish community started growing. In 1883, they built a new synagogue. At the turn of the 19th and 20th century, Jews already had a strong economic position in Levice. Their emancipation and assimilation were also demonstrated by the fact that the first post-revolutionary elected mayor in December 1922 was a local dental technician Géza Bräuer, a member of the Hungarian-German Social Democratic Party, who was of the Jewish origin.

Over a hundred-year long development of the Jewish community in Levice was interrupted by the Vienna Award and annexation of Levice to Hungary.

3 SÍKOROVÁ, E.: Židia a banské mestá na Slovensku. *Slovenská archivistika*, volume (vol.) 31, number (no.) 1, p. 50.

4 Štátny archív v Nitre – pobočka Levice (ŠAN-PLV), fund (f.) Magistrát mesta Levice, adm. 24/1844, box (b.) no. 37, inv. no. 430.

The position of Jews in Hungary was restricted by various regulations adopted after the World War I. In 1920, the Hungarian Parliament adopted the Act no. 25/1920, which established the *numerus clausus* (limited number) of students at universities.

Numerus clausus is the Hungarian unflattering primacy – it was the first country in Europe, which, even without coercion by Germany, adopted anti-Jewish laws, which allowed only 6% of the Jewish population to study at universities. Its goal was to weaken the influence of educated Jews in the social and spiritual sphere. Jews in Hungary were blamed for the course of events during the World War I, for the results of Trianon, and thus they were depicted as enemies of the nation. This argument became a part of the official policy afterwards.

However, both their strong positions in the national economy and considerable degree of social assimilation prevented them from being affected by anti-Jewish measures in the period before 1938. On the other side of the border, relatively stable economic and social conditions helped Jews, who professed mainly Hungarian nationality, to accept the new government system.

We assume that the effect of *numerus clausus* partially affected also the Jews in Levice, as most of the gifted children from Jewish families studied at the local grammar school and before 1919, many of them continued their studies in Budapest. One of the first Jewish settlers in 1844 was a lawyer, and at the turn of the 19th and 20th centuries, there were many Jewish lawyers and doctors working in Levice. After the establishment of the Czechoslovak Republic, they pursued not only their traditional study of law, but they studied also medicine and technical sciences such as civil engineering, architecture, land surveying, or chemical engineering. Their gradual orientation on the Comenius University in Bratislava and various Czech or German universities was also influenced by the fact that Piarist Grammar School in Levice was, in 1919, taken over by the state and Slovak language became the language of instruction.

In 1938, there were 22 physicians practicing in Levice⁵, only 6 of them were Gentile; the similar ratio of 21:7 was also in the number of lawyers. In addition to the 3 Jewish dentists there was only one “Christian”.⁶ Jews in Levice devoted themselves mainly to business, for example most of the shops with textiles and clothing, the so-called fashion goods, belonged to the Jewish merchants.

At the time of the Vienna Award, the so-called first Jewish Law came into force in Hungary. It was proposed in the Parliament on April 5, 1938, and passed as Act No. 15/1938 of May 29, 1938, On the more effective guaranteeing of balance

5 In 1938 (before the Vienna Award) Levice had 12,576 inhabitants.

6 ŠAN-PLV, f. Obecný úrad mesta Levice 9789/1938, b. no. 54.

and economic life. It was to limit the impact of Jews in the press, to weaken their influence in the economic and financial sphere and in the liberal professions, and their number was limited to 20%. In this period, no anti-Jewish law had been adopted in any other European country, except for Germany.

Levice, as a part of the territory annexed on the terms of Vienna Award, was overrun by the Hungarian army on November 10, 1938. The Jewish community was one of the groups of population, whose social status changed radically after November 1938. By the end of 1938, they felt on their own skin the hard impact of the “first Jewish Law”.

Immediately after the occupation, they started to invoke this law in the annexed territory. On its basis, in December 1938, Imrich Pető was dismissed from the post of general manager of the Tekov People's Bank, having a seat in Levice. On December 31, 1938, by the Act No. 15, the above bank also terminated the employment of the chief accountant Pavol Kemény. From the ranks of the city employees both the physician, MD. Imrich Picko, and a city engineer, architect Mikuláš Šimai, were dismissed.

Šimai was dismissed from the office by Hungarian military administration on November 15, 1938, and then he was detained, interned, and driven to Budapest. He was released only in June 1939, when the Second Jewish Law was in force, and thus he could not be employed as an officer or an architect. In September 1939, he moved to Budapest, where he managed to save his life. Here, in January 1945, he became the incumbent vice president of the Czechoslovak Committee.⁷

Since April 1, 1911, attorney Pető had been serving the Tekov Bank, which had a leading position on the local banking market. His dismissal took place back in 1939, but they did not employ him in the bank, but sent him to the factory Hungária Guttapercha és Gumiárugyár in Budapest, whose majority shares belonged to the bank. He was given a lower salary there – also due to his Jewish origin.⁸

MD. Ernest Liebermann had to leave the post of medical officer for the District Health Insurance Company in December 1938.

It was probably these sanctions, which caused a mass conversion of Jews living in Levice to the Catholic religion at the end of 1938. They assumed that this was the way to avoid restrictions and persecution.⁹

In December 1938, the Hungarian authorities took a census in the occupied territories, which proved that there were 12,236 people living in Levice, including 1,518 Jews.

7 ŠAN-PLV, f. Miestna správna komisia v Leviciach, adm. 2219/1948.

8 Archív Národnej banky Slovenska, f. Tekovská ľudová banka v Leviciach, b. no. 413.

9 ŠAN-PLV, f. Hlavnoslužbovský úrad v Leviciach (HSÚL), b. no. 1, 426-429/1938.

In autumn of 1938, the parliament was sent a Second Jewish Law (Act No. 4/1939) restricting the participation of Jews in public and economic life, which was passed by the parliament on May 5, 1939. This was a much tougher law, which defined a Jew in religious and racial terms. It determined the position of Jews in society; in particular, it restrained and revised the right to obtain state citizenship and suffrage, excluded Jews from employment in state, public and municipal offices and businesses and reduced the number of their positions in certain areas of economic and public life. It justified this by the need to reduce the proportion of Jewish people participating in economic activities of kingdom from 20% to 6% (in the private sector this was in medical, law and engineering sectors) as a consequence of an increase in the number of Jews living in Hungary after the occupation of a part of Slovakia and Transcarpathian Ukraine. Section No. 2 provided certain exceptions, which were not covered by the law, for example Jews earning merits in war, their widows and descendants, some of whom managed to get new concession documents.

The Second Jewish Law meant a further reduction in the professions, business and trades. In 1939, a blanket exchange and control of the trade licenses and concession documents was carried out in the annexed area. Christian tradesmen were in most cases issued new permits. After the Second Jewish Law had been passed, the Superior Processus Office (Hlavnoslúžnovský úrad) in Levice, as the licensing office of the first instance, deprived all the Jewish traders, entrepreneurs and small businessmen in the city of their trade licenses. Regulations revoking the trade licenses entered into force on July 1, and without valid documents, these people had to close their stores and workshops. Out of approximately 230 Jewish merchants and artisans 81 surrendered their trade licenses. In December 1939, 597 traders were operating in Levice, 81 of them (originally about 230) were Jews, i.e. 13.56%. Some traders, after being deprived of their licenses, were considered as unemployed elements and thus interned in labor camps at Hraň near the town of Trebišov, Kistarcsa and Nagykanizsa in today's Hungary. They were released at the end of December 1941, and after their return, they were under the police surveillance.¹⁰

After being deprived of trade licenses, the traders and dealers tried to get them back. They addressed their appeals to the minister for issues of the upper land – Felvidék Andor Jaross or trade minister József Varga, and then the city attorney Dr. Abu Mocsy submitted it on their behalf, or they could submit it directly in the Budapest through the local lawyer Dr. Kálmán Doroghy.¹¹ In their letters, they referred to the tradition of their trades and their duration. Izidor

10 ZUBČEKOVÁ, H.: Osudy levických Židov po Viedenskej arbitráži. In: *Monografia mesta Levice*. Banská Bystrica 2010, p. 191.

11 ŠAN-PLV, f. Magistrát župného mesta Levice (MŽML), b. no. 13, 2684/1940.

Szauer, a 78-year old building contractor, led the company, which worked on the construction of municipal buildings – the Municipal Office and city hotel, and the Teachers' Institute. He referred to the fact that his son spent three years in Russian captivity during the World War I. His letter was unique because it contained a supplement, confirmation of the solidity of the oldest construction and wood trading company in Levice, signed by Mayor Bruno Lehotzky in October 1939. Many of them, in their applications acknowledged their membership in Pálmay's group¹² in 1919, "*participation in the struggle against the Czech element and for Hungarian integrity*". They also admitted their participation in the first battle of the World War II, and their merits, and honors. In 1940, the publication *Gold Album of Hungarian Jews*¹³ was issued. It was a list of the fallen and awarded Jewish soldiers in the World War I. There are listed 48 fallen Jewish soldiers and 238 war veterans from Levice. Based on the album, some of the Jews managed to get their trade licenses back. They could refer to the fact that they were mentioned in this book. Those, who were tradesmen and their trade licenses were essential for them, had the advantage when issuing new business licenses. E.g., Printer Eugene Lánč was given his trade license at the beginning of December 1939.

Since 1939, in Hungary there was also a law on compulsory labor service of people who were not fit for military service, what actually applied mainly to the Jewish population. Special labor units were being established and sent to forced labor, at first only in the Kingdom of Hungary, later also to the back of the Eastern front. Compulsory labor service covered all men aged 21 to 23 years (later extended to the age of 60 years).

Jewish traders, who were not granted permission, were constantly controlled and checked whether they were not operating a trade or running a business illegally. In 1942, Jews were finally expelled from the Committee of the District Trade Community in Levice. Only two Jewish merchants remained members of the Committee, but they reportedly did not participate in the meetings.¹⁴ The Jewish applications for master's examinations were rejected by the District Trade Community.¹⁵ However, they got around the laws; so-called *štrómanstvo* existed there, what actually meant that Jews were doing their Jewish businesses on the trade licenses of Christians. Sometimes, even in the presence of, or under the

12 Pálmay's group – Pálmay csoport. Major Ernest Pálmay was the last captain of Levice crew before the coup in 1919, on June 1, 1919, he led the troops of Hungarian military, which overran the town of Levice.

13 HEGEDŰS, M.: *A magyar hadviselt zsidók aranyalbuma*. Budapest 1940.

14 ŠAN-PLV, f. Okresné živnostenské spoločenstvo v Leviciach, 368/1942.

15 Ibid., 605/1942.

direction of the original owner. In this case, punishment in the form of labor camp was always imminent. The Chief Officer in Levice, Tibor Rápolti-Nagy, was misusing his official position, and since 1941, was taking bribes from Jews in the villages of the district or even directly blackmailed these Jews, promising that he would arrange an abolition of police surveillance or internment.¹⁶

Since February 1939, the Hungarian authorities were preparing inspections of all private physicians who applied for a membership in the Medical Chamber. The Levice District belonged to the branch of the Medical Chamber in Nové Zámky. Ministry of Interior issued implementing regulations for the application of the Law No. 4/1939 of October 1940, concerning the attorney and medical chambers and other professional associations. The vast majority of Jewish physicians in private practice was accepted into the Medical Chamber and was permitted to provide medical treatment also for non-Jewish patients.¹⁷

Another economic restriction meant issuing the Implementing Regulations No. 8360/1939 to the Second Jewish Law, which made it impossible for Jews to dispose of land and later, it also restricted Jews from having livestock and agricultural machinery in their possession. In early 1940, 20 landowners from Levice were deprived of their estates and land without subdivision, which were preferentially assigned to privileged people. The District Movement of Valiant in Levice filed an application for the subdivision of the Jewish landed properties at the beginning of May 1940; however, its members had called for certain allocations of agricultural land previously.¹⁸

The vice district administrator of the united district of Tekov-Hont, issued a regulation on October 14, 1940, with reference to the Act No. 4/1939, under which the Jews were not allowed to participate or appear in any annual, daily and weekly markets, fairs and feasts.¹⁹ Some Jewish merchants-ragmen were issued one-time permissions, but their use was strictly controlled by the special committee determined by the district office.

In 1941, new discriminatory restrictions followed, such as obligation that Jewish cars be marked with letter E, and the confiscation of radios.

On August 8, 1941, the Third Jewish Law (No. 15/1941) was adopted, Act on the Protection and Regulation of Marital Rights or Act on the Protection of the Race, which forbade marriages between Jews and Christians. It was issued in the manner of the Nazi Nuremberg Laws of 1935. In the pre-war period, there

16 ŠAN-PLV, f. HSÚL, b. no. 41, 6766/1942.

17 SULAČEK, J.: *Biele plášte. Tragické osudy židovských lekárov na Slovensku v období druhej svetovej vojny*. Vol. 1. Bratislava 2005, p. 150–151.

18 ŠAN-PLV, f. HSÚL, b. no. 18, 3978/1940.

19 ŠAN-PLV, f. MŽML, b. no. 26, 7634/1941.

were several Jewish-Christian married couples Levice. Alžbeta Weinsteinová and Karol Halász were among those young people, who were then forbidden to get married. Charles tried to rescue his sweetheart from being sent to the concentration camp by different interventions. However, all his efforts failed, so he decided to find a hiding place for Alžbeta, her parents and her sister. They stayed in hiding for 10 months, until the liberation.²⁰

A separate chapter in the fates of the Jews from the territories occupied by Hungary was doing service in the military labor units of the Hungarian Royal Army. Jewish labor companies were established on December 2, 1940. Labor camps were located in Šamorín, Komárno, Esztergom, Csepel, Sopron, and Vác. Men working in the Jewish labor units wore civilian clothes, and had a yellow ribbon attached on the left arm.

Initially they were allocated for agricultural, industrial plants or road surfacing. Later, they were sent to the eastern front, where they performed earthwork (digging trenches, building bunkers). Their fate was sealed in October 1944, when the bulk of the Hungarian Army found itself directly under German command. German authorities insisted that the Jews working in the labor units would be gradually deported to concentration camps. Camps in Austria were determined as the place for their liquidation. Transports were directed particularly to Mauthausen, or its affiliates in Gunskirchen.

In the labor camp in Komárno, and later in Csepel, there was the Levice resident Ladislav Hoch, who was married to a Christian Catholic, and who, with her help, managed to escape from the camp in October 1944 (after Szálasi had taken office, and before being sent to the concentration camp). After Ladislav's great insistence, the commander of the camp allowed him to say goodbye to his wife, assigned a soldier to stand guard, but whom Mr. and Mrs. Hoch sat in a wine tavern. Then, at the station, he managed to get onto a train, although he had no documents and was able to get home to Levice. Until the end of the war, he remained in hiding in vineyards in Levice owned by his wife's uncle.²¹

The position of Hungarian Jews, despite all the enacted limitations, in the period from 1941 to the spring of 1944 was very different in comparison to the rest of wartime Europe. Their lives were made miserable by the enacted restrictions, but no radical solution, such as deportations, took place. Several thousands of Polish, Slovak and Austrian Jews saved their lives by fleeing to Hungary at that time. According to the government propaganda, the Kingdom of Hungary was presented as the "island of peace and security" for the Jews in Europe.

20 In 2011, he was honored with the Righteous among the Nations Award

21 According to the recollections of his daughter Helena Danišová, (born 1934), living in Levice.

Between 1941 and 1942, several hundred refugees managed to cross the border near the small towns of Kozmálovce, Hronské Kľačany and Krškany near Levice illegally and escape from Slovakia to the Hungarian side. Shortly before the first transportation of Jews from Slovakia had to take place, the circular of gendarmerie headquarters in Levice of March 18, 1942, highlighted the possibility of escapes to Hungary,²² *“On the basis of a confidential notification, I assume that certain organizations dealing with human trafficking were created. The price for each smuggled person is 1,000 Slovak crowns.”* Commander of the Gendarmerie station in Székesfehérvár, within whose scope the town of Levice belonged, warned the main administration officer that the illegal transfers of Slovak Jews across the border occurred. He demanded to severely punish and intern those who helped Jews to cross the border, and publish these cases, in order to deter other people.²³

A farmer, a Slovak citizen who neither had nor applied for the Hungarian citizenship and lived here on a residency permit, was expelled from Levice along with his family in April 1942 for helping Jewish refugees from Slovakia. His house was located in the periphery of Levice, about a kilometer from the border. The highest Slovak authorities threatened that, in case this family would not be accepted back into Hungary, they would expel from the territory of Slovakia also Hungarian citizens living in the Slovak territory, the landowners Arpád Taubinger from Krškany and Mária Čibrová from Tekovská Ves. This would have been done on the basis of the constitutional principle of reciprocity on issues involving minorities. Retraction – cancellation of the police decision was performed 4 months later.

At the beginning of April 1942, the printer Lánce was also punished, because he took and offered some food to his relatives from Slovakia, who actually stayed in his house only for two hours. His act was described as threatening national security. In addition, under the legislation back then, he was considered a foreigner. One of the methods of solving the Jewish question in the annexed areas was an effort to expel those Jews, who did not have the right of domicile in the area in question before November 1, 1938. Identifying their nationality was within the scope of the National Office for the Control of Aliens (Külföldieket ellenőrző országos központi hivatal, KEOKH). Both Jews and Christians were required to submit documents to prove that in the period from November 2, 1938 to March 1, 1939, they resided in the occupied territory. Lánce was not able to prove his Hungarian nationality, so all the appeals were in vain. In such a situation

22 ŠAN-PLV, f. HSÚL, 2620/1942.

23 ZUBČEKOVÁ, H. – POLKA, P.: *Žili medzi nami. História Židov v Železovciach, v Mikule a vo Svodove do roku 1945*. Levice 2009, p. 46–47.

authorities initially expelled Jews beyond the borders, but after the experience with expelling people to Slovakia, they interned them in special camps. On May 19, 1942, a Christian artisan requested the empty printing office and store, because “*the owner of this house was banished*”.²⁴

In Hungary, even in 1943, there were no mass deportations of Jews, so Jews from Slovakia and Poland tried to save themselves by fleeing to Hungary, also in the second half of 1943. Above all, children were guided across the border, because the Hungarian authorities usually did not expel minors, but placed them into orphanages. There is no doubt that in the border areas, people smuggling became a very profitable trade. The influx of immigrants from Slovakia ceased in March 1944, after the occupation of Hungary by the German army.²⁵

After the occupation of Hungary on March 19, 1944, the Gestapo arrested several members of the government and within few hours installed a new government led by the Dóme Sztójay, which on March 29, 1944, decided on the final solution of the Jewish question in Hungary. As of April 5, 1944, based on an executive order, Jews had to be mandatory labeled with a yellow Star of David.²⁶ On this date an endless series of commands, prohibitions and restrictions began, at the end of which, the Final Solution awaited Jews deportations. The territory of the Kingdom of Hungary was divided into five regions and the order for deportation, which had to start in the northeastern part of the state and end up in Budapest, was determined. From April 1944, the concentration of Hungarian Jews into ghettos started where there were no basic sanitary conditions, lack of food, and inhumane conditions prevailed. Within two months, from early May to early July 1944, around 450,000 Jews, regardless of their age, gender, the children and the sick, were deported from the territory of the Kingdom of Hungary to Auschwitz and partly to the transit camp in Strasshof near Vienna. At the same time, about 50,000 work-capable Jews were abducted for forced labor in Germany and about 150,000 were placed into labor camps in the Kingdom of Hungary. On April 7, 1944, a confidential regulation on the concentration of Jews in reception camps and in towns in ghettos, entered into force. In cities with more than 10,000 inhabitants, they should be concentrated in a ghetto or on streets designated and marked (as it was also resolved in Levice). On April 25, 1944, the Jews were banned to attend public enterprises.²⁷ Owners of pubs, cafes, hotels and pastry shops had to place an inscription next to the door, “*Jews not allowed.*” In addition, the operators of cinemas, the director of the theater

24 ŠAN-PLV, f. Okresný národný výbor v Leviciach, adm. 7238/1947.

25 VIETOR, M.: *Dejiny okupácie južného Slovenska*. Bratislava 1968, p. 293–294.

26 ŠAN-PLV, f. MŽML, 2508/1944.

27 Ibid., 4808/1944.

company and town swimming pool were warned of the obligation to display this sign. However, only the operator of the cinema in the city hotel, Antal Varenics, refused to put this statement up.

On May 2, 1944, mayor in the report presented to the council also stated, in a curt sentence, that the Jewish problem would soon be solved.²⁸ In practice, this meant that the inventory of the Jewish population and their property had already begun; property in the ownership of Jews was marked in the land register by a special entry. The registration of motor vehicles and telephone stations was done, and food rations for the Jewish families were reduced.

In the final phase of the solution of the Jewish question, one of the “most used” legal norms was the Regulation of the Ministry of Interior No. 1600/1944, detailed guidance of registration, retaining and handling of Jewish property, issued on April 16, 1944. Under the above Regulation, the competent authorities had to register all movable and immovable properties of Jews, for example, prior to the deportation, Jews had to deposit their assets, mainly gold and jewelry, at the authorized bank – in Levice this was Tekov People’s Bank.

In Levice, Jews did not live in an enclosed area, so the vice district administrator exactly determined the streets where they could live and concentrate. By May 10, they had to move to apartments located in other parts and streets, and surrender their own.²⁹ If the houses located in the delimited space had two entrances to the two streets (through-land) people living there were prohibited from using the entrance overlooking the prohibited area, actually, it had to be locked, or even walled up. When the residents of some streets learned of the planned establishment of the Jewish ghetto on the street, they filed a complaint to the municipality. On May 4, 1944, 41 residents on Kersékova Street (now Janka Jesenského) protested against the inclusion of the street into the ghetto “because of just two Jews, there is no reason to regard Kersékova Street as a Jewish street.”³⁰ A similar complaint was also filed by citizens from Belčákova and Damjanichova Streets.³¹ All the protests were silenced by the decree of the vice district administrator Rezső Hetényi, prohibiting the criticism of the solution of the Jewish question and expressions of sympathy with the Jews.³² Old people begged to be allowed to stay in their apartments.³³

28 Ibid., 4127/1944.

29 Ibid., 4801/1944.

30 Ibid., 4510/1944.

31 Ibid., 4511/1940. On Belčákova Street (Belcsák Béla sor) there were 26 houses and only one of the owners was a Jew. Ibid., 4551/1944. Protest of people living on Damjanichova Street – 80% of the population were Christians, May 4, 1944.

32 ŠAN-PLV, f. HSÚL, 2874/1944

33 ŠAN-PLV, f. MŽML, 4517/1944.

In Levice, it soon became clear that delimited space was not sufficient. Gradually, it was expanded to other streets, and the Levice urban ghetto eventually consisted of 22 streets, or parts thereof. This included the building of the Catholic orphanage Štefánia, standing next to the synagogue. The entrances to the ghetto streets were marked with a yellow star and a table with inscription “*Living area reserved for the Jews*”. Rest of the population of the city was not allowed entry into the ghetto. Apartments that became free after Jews were evicted, were immediately leased out, or preferably allocated to families with many members. Houses were usually allocated to members of the gendarmerie or officers.

Within the meaning of the Regulation No. 57 861/1944 of May 5, issued by the Minister of Trade and Transport, the Jewish shops were definitively closed and an inventory of the goods was made. A day later, vice district administrator passed an order to concentrate all the Jews from district in the old military barracks.³⁴ The Jewish Councils for urban ghetto – delimited the area and also a ghetto in the barracks was created. The head of the Council for Jews from the city became lawyer Dr. Štefan Fischer from Levice. He used to communicate with the vice district administrator’s office, especially about the food supplies in the ghetto.

On May 6, the regulation of the Ministry of Interior on the dissolution of the Jewish communities arrived at the municipality, but the mayor promptly replied that the Jewish communities had not worked yet.³⁵

On May 27, 1944, Dr. Fischer reported to the vice district administrator that around 572 Jews from Levice are concentrated in the barracks, and 873 people were located in the urban ghetto.³⁶ Employable young men and women worked under the supervision of gendarmes for example in Schoellerovsky’s estate property as seasonal agricultural workers. In early June 1,129 people were concentrated in the urban ghetto.

The evening before the deportation, the Jews were concentrated in the synagogue and Jewish school, where they had to hand over the keys to their apartments, houses and shops.³⁷ In the morning of June 13, 1944, the Jews from urban ghetto, the Jewish elderly from nursing home along with the Jews from the whole district (572 individuals concentrated in the old barracks) and others who were brought from Vrábľe ghetto, were concentrated in the stocks of the tobacco factory. In total, 2,678 Jews were sent away in a transport from the

34 ŠAN-PLV, f. MŽML, 4726/1944, Decision of the vice district administrator of the united Bars-Hont District No. 5990/1944 on the Establishment of the Concentration Camp.

35 Ibid., 4713/1944.

36 Ibid., 10994/1944.

37 Ibid., 4713/1944.

railway station in Levice to Auschwitz.³⁸ The trains passed through Košice, and on June 15, 1944, the transport No. 103 train with deportees from Levice passed the Košice Railway Station. Transport arrived at Auschwitz in the morning on June 16, and soon most of the transported underwent selection.

Supervision over the sale of the confiscated property of deportees was in hands of members of the Arrow Cross Party, who concentrated the abandoned property – furniture, clothing, and shoes and placed it into warehouses also guarded by their members. According to the orders of the government commissioner, the storage and sale of Jewish property was ensured. Regulation No. 3900/1944 but mostly No. 1500/1944 issued by the Ministry of Interior described in the smallest details, the way of dealing with the goods and properties of the Jews.³⁹ In July, an official trustee was appointed to the abandoned household assets by the orphan's movement of the town, the owners – the Jews, were in the decisions referred to as missing.

On October 16, 1944, Ferenc Szálasi, the leader of the Arrow Cross party, ascended to power. The next phase of the persecutions directed against baptized Jews began. Members of the Arrow Cross Party, led by Pavol Hidassy, after the appointment of Szálasi as the Prime Minister, became the unrestricted rulers of the town. On October 16, 1944, Hidassy put under police surveillance the uncomfortable, according to him, democratically minded citizens, *“who with their defeatist and destructive behavior threatened the national-socialist regime”*, for example Dr. Pavol Huberth, Director of Tekov Bank, or Ing. Karol Schlager, owner of the factory, and many others. The solution of the Jewish question started being implemented. In the evening of October 16, 1944, they rounded up and dragged Jews, who had been baptized and had Christian wives, for example, Ing. Zoltan Harkányi (baptized in 1930). The bodies of these men, delivered to the Gestapo, were later found in a mass grave near Banská Štiavnica.⁴⁰

Fortunately, the Hidassy were in power for less than two months. On December 20, 1944, Levice were liberated by the Red Army. Only about 300 Jews from Levice survived labor and concentration camps and death marches.

38 Ibid., 11093/1944.

39 Ibid., 11092/1944.

40 *Kronika mesta Levíc 1945 – 1965*. Part I, p. 109.

Anti-Jewish Decree in Serbia and Camp “Sajmište” in Belgrade (Semlin Judenlager)

Miroslav Svirčević (Serbia)

INTRODUCTION

In April 1941, Nazi-Germany launched the invasion of Yugoslavia with an immense dawn aerial attack on Belgrade. The bombing of the capital on April 6 destroyed large sections of the city and left between two to three thousand civilians dead and many more thousands wounded. After a brief, eleven-day war (April 6–17) the disorganized and poorly prepared Yugoslav Army capitulated. Germany and its allies from the Axis invaded and occupied Yugoslavia. After the defeat, the Kingdom of Yugoslavia was carved up. Substantial parts of Serbia were annexed to Hungarian-occupied territories in the north-west (region of Bačka), Bulgarian-occupied territories (area to the south of the cities of Leskovac, Pirot, Vranje and small part of Kosovo and Metohija), Italian-occupied territories (large parts of Kosovo and Metohija and north part of Sancak which was annexed to the “independent” Montenegro) and the newly created Nazi ally – Independent State of Croatia (the region of Srem, including the city of Zemun and the left bank of the River Sava in Belgrade).¹ After a dispute between Hungary, Romania and the leadership of the indigenous German community in Serbia (so-called Volksdeutsche) over the control of the region of Banat, this

1 See in details: TOMASEVICH, J.: *The Chetniks. War and Revolution in Yugoslavia 1941–1945*. Stanford 1975, page (p.) 91–92.

territory was given the status of an “autonomous administrative unit” within Nazi occupied Serbia. This region was under the effective control of the indigenous Germans until the liberation in 1944. One of two SS divisions in the Balkans consisted of these Germans from Banat. This was the “Prinz Eugen” division, whose members were responsible for crimes committed against the Serbs, Jews and other non-German nations in Banat.² The rest of Serbia was governed by a direct German military administration.³

Nazi-occupied Serbia looked like the Serbia before the Balkan Wars 1912–1913. The legal position of this Serbia was very complicated. It was not a real state in terms of legal and political sciences. Serbia was not a subject of international law and its constitutional structure was not completely clear. Serbia did not possess its own assembly, so it was not able to pass laws and other legal acts. On the other hand, Serbia also had its indigenous administration without real political power. This “government” was under the strong Nazi-German military protection led by SS commander and privy councilor Dr. Harald Turner. It was not independent in its “governing”. Its role was limited to the “technical service” of the Nazi-German Military administration. It was responsible for enforcing all legal acts of the German Reich, including anti-Jewish measures and reprisals.⁴

The first “commissar administration” was formed by Milan Aćimović, known as a pro-Germany oriented politician before the War, on April 30, 1941. However, his administration was very weak and ineffective. For this reason, already on August 29, 1941, this administration was replaced by the “Government of National Salvation”, whose head was general Milan Nedić. This administration lasted until the liberation of the country in October 1944.

During the period of September 1941–October 1944 Serbia was officially the Kingdom of Serbia, while general Milan Nedić served as a “Prime Minister”. The Yugoslav King, the teenage Peter II, was recognized as the head of Serbia, although he never recognized the administration of Milan Nedić and his Kingdom of Serbia. To the contrary, King Peter II declared Milan Nedić as a traitor of Yugoslavia and the Serbian people, and supported the Pro-Western Allied Royal Yugoslav Government in exile (London) and he headed the Pro-

2 TEJCHMAN, M.: *Balkán ve válce a v revoluci 1939–1945*. Praha 2008, p. 368.

3 TOMASEVICH, J.: *The Chetniks*, p. 95.

4 In historiography, the position of Nedić's administration is often compared with the position of France during the Vichy regime led by Marshal Phillipe Pétain (for instance, see: DRAGNICH, A. N.: *Tito's Promised Land*. New Brunswick 1954, p. 38). However, it is better to compare Nedić's administration and position of Serbia with the collaboration government of Sir Ambrose Sherwill in Chanell Islands (Guernsey and Jersey) who was the President of the Controlling Committee during the German occupation 1941–1945.

Western Allied Royal Yugoslav Army in the Homeland (Chetnicks) led by general Draža Mihailović.

1. FIRST ANTI-JEWISH REPRISALS AND LEGAL MEASURES

The German military administration set about “solving the Jewish question” in Serbia already in the first days of occupation, when the Einsatzgruppe der Sicherheitspolizei und der Sicherheitsdienst (EG Sipo und SP) was founded with its 4th division – Gestapo – in which, according to the usual organization pattern, the Judenreferat (“Jewish Police” – IV D4) was set up.⁵ A special Commissariat for the Jews was set up.⁶ After disbanding all Jewish organizations in late April 1941, the German authorities set up, with the obvious intention of entrusting it with the role of some kind of a Judenrat, the Commissariat of the Jewish Community in Belgrade, about whose short activity few traces have come down to us.⁷

From the very first days of the occupation, the Jewish community of Serbia and Banat were subjected to various discrimination policies that included registration, impoverishment and maltreatment. As early as April 13, 1941, even before the Yugoslav Army formally capitulated, Willhelm Fuchs – SS Colonel and Chief of the Operating Group of Security Police based in Belgrade ordered the registration of the city’s Jews. Shortly after, the Field Commander Colonel von Keisenberg issued the first decree that limited freedom and movement of Serbia’s Jews.⁸ Already on April 29, 1941, the newly appointed Chief of the Nazi-German Military Administration in Serbia – SS-Gruppenführer Harald Turner issued a special order regarding the registration of all Jews and Gypsies in Serbia. This decree imposed restrictions on the daily life of these people, which included wearing of yellow armbands, forced labor, limited access to food and banning the use of public-transport.⁹

5 RISTOVIĆ, M.: The Persecuted and their abettors: solidarity and help for the Jews in Serbia 1941–1944. In: VIDA KOVIĆ PETROV, K.: *Israeli-Serbian Academic Echange in Holocaust Research*. Collection of papers from the academic conference, Jerusalem – Yad Vashem, June 15–20, 2006, p. 214.

6 LEBL, Ž.: *Do „konačnog rešenja“. Jevreji u Beogradu 1521 – 1942*. Beograd 2001, p. 289–291.

7 RISTOVIĆ, M.: *The Persecuted and their abettors*, p. 214.

8 MANOSCHEK, W.: The extermination of Jews in Serbia. In: HERBERT, U. (ed.): *National Socialist extermination policies: contemporary German perspectives and controversies*. Oxford 2000, p. 164.

9 БОЖОВИ, Б.: *Страдање Јевреја у окупираном Београду 1941 – 1944*. Beograd 2004, p. 282–283.

Under strong pressure of the Nazi-German Military Administration, the “government” of Milan Nedić organized an anti-Semitic “Grand Anti-Masonic Exhibition” in Belgrade on October 22, 1941. This exhibition was directed against the Jews, masons and communists. For this exhibition, four stamps were issued, 60,000 posters, 200,000 leaflets, 100,000 leaflets and nine species in 108,000 pieces of stationery were printed, and 176 cinema advertisements were released. It is believed that the exhibition was visited by about 80,000 people. The exhibition ended on January 19, 1942.¹⁰

Basically, all of these measures were an introduction of the Holocaust in Serbia, according to the official ideology and state policy of Nazi-Germany.

2. “DECREE ON JEWS AND GYPSIES”; TWO PHASES OF THE “FINAL SOLUTION” POLICY IN SERBIA

On May 31, 1941, the Nazi-German Military Administration in Serbia passed the Decree on Jews and Gypsies, which regulated the legal status of these people in Serbia.¹¹ First, this act defined the category of “Jews”. It was a short decree based on Nazi ideology and imposed various restrictions on Jews in Serbia. It precisely defined which people belonged to this category. According to this “legal act”, all Jewish-born people, living in Serbia, belonged to this category of “Jews”. In this regard, the decree in fact did not bring anything new. It only legalized all anti-Jewish measures and actions, which were done by the Germans almost since the first days of the occupation in April 1941, based on many individual orders by the military commander of Serbia, Belgrade City Manager or the Jewish Police Commissioner.

The Decree on Jews and Gypsies contained three groups of restrictions for Jews and Gypsies.

The first group of restrictions belonged to the category of inhuman rules and prohibitions: forced labor for men from 14 to 60 and for women from 14 to 40 years of age, as well as limited access to food.

The second group of restrictions imposed the complete exclusion of Jews from social life. The Jews were required to register with a special department of police and to wear yellow armbands. These rules also prohibited the Jews to carry out

10 See in details: КОЉАНИН, М.: Антисемитски стереотипи и пропаганда у Србији 1941–1942. *Историја 20. века*, 2003, number, (no.) 1, p. 101–104; ПЕТРАНОВИЋ, В.: *Srbija u Drugom svetskom ratu 1939–1945*. Beograd 1993, p. 424–431.

11 AOS, NA, NAV, T-77, 2-60, s-109-111; ROMANO, J.: *Jevreji Jugoslavije 1941–1945. Žrtve genocida i učesnici NOR*. Beograd 1980, p. 62.

a large number of professions: they could not be public officials, veterinarians, pharmacists, owners of educational, artistic and other public institutions; they were also not allowed to work in these institutions.

There was another restriction for Jewish lawyers and doctors. They were allowed to practice only with the Jews, but not with other people.

The third group of restrictions imposed discriminatory rules concerning property rights. It is important to note that the economic staff of the general representative for economy in Serbia, led by Franz Neuhausen, was responsible for Jewish property. According to the "decree", this staff was authorized to alienate the property of Jews. The decree imposed an obligation for all Jews to register their entire property. On the other hand, they were not allowed to dispose of their property. In accordance with the regulations of the decree, Jewish companies were governed by special commissions, which were set up for this purpose. Sale of Jewish property was done via a special administration for Jewish property.

The Decree of May 31, 1941 was also applied to the Gypsies. However, the legal position of these people was not the same as the position of Jews in Serbia. The Nazi-German military administration and the collaborationist government led by Milan Aćimović pointed out that only Gypsies – Nomads should be pursued. The Gypsies that were permanent residents would be exempted from these measures. Nevertheless, the real position of the Gypsies depended on many circumstances, especially on the attitudes of local authorities.¹²

Decree on Jews and Gypsies was a basis for the Holocaust in Serbia. The destruction of Serbia's Jewry involved two distinct phases. The first phase, which lasted between July and November in 1941, involved the murder of Jewish men, who were shot as part of retaliatory executions carried out by the Nazi-German military forces (Wehrmacht) in response to acts of insurgency and sabotage. The second phase lasted between December 1941 and May 1942, involved the incarceration of the women and children at Sajmište Camp – Semlin Judenlager in Belgrade, and their gassing in the mobile gas van.

3. THE FIRST PHASE OF DESTRUCTION OF SERBIA'S JEWS

The first phase of destruction of Serbia's Jewry already started in July 1941. The Nazi authorities in Belgrade ordered the Jewish representative body (Vertretung der Jüdischen Gemeinschaft) to supply 40 hostages every week to

12 KOLJANIN, M.: *Nemački logor na Beogradskom sajmištu*. Beograd 1992, p. 25.

be executed in reprisals for attacks on German forces by the Serbian resistance movement (Pro-Western Yugoslav Royal Army in the Homeland and the Pro-Communist Partisan movement). However, in late August 1941, the Nazi-German authorities ordered the mass internment of Jewish men in concentration camps in the Topovske šupe (close to center of Belgrade) and in the city of Šabac.¹³ The first detainees at the Topovske šupe camp – which was established in a former Yugoslav Army barracks – were some 1,500 male Jews who had been deported from Banat. They were soon followed by Jews from Belgrade. On the other hand, the camp at Šabac was populated by small number of local Jews and 1,100 Jewish refugees from Austria (including women and children) who had been stranded in the city since 1940.

In early September 1941, the Nazi-German authorities (especially Harald Turner) made several attempts to have the Jews living in Serbia deported to Romania, Russia or Poland. However, suitable concentration camps had not yet been set up in Poland, and other potential destinations were still unwilling or insufficiently equipped. Thus, the response from Berlin simply stated – “*Eichmann proposes shooting*”.¹⁴ Firing squads – the method used against the Jews in Soviet lands, were also to be used in Serbia.

Over the period of a month, the number of Jewish interns in camps in Belgrade and Šabac diminished rapidly. Almost every day, truckloads of men were driven away to the execution grounds near the villages of Zasavica and Jabuka, where they were shot and buried in mass graves. Executions became more frequent after October 1941, when the newly appointed plenipotentiary military commanding general Franz Böhme introduced what he called the “*measures of atonement*”: a formal order requiring the execution of 100 civilians for every German soldier killed and 50 for every wounded soldier. Crucially, Böhme’s order stipulated that populations from which hostages are to be drawn include “*all Communists, people suspected of being Communists, all Jews, and a given number of nationalist and democratically minded inhabitants*.”¹⁵ Thus, the first to be shot were the remaining Jewish interns in Šabac and Belgrade, suspected communist sympathizers incarcerated at the nearby Banjica camp and groups of Gypsies rounded up in and around Belgrade. The Serbian civilian population was targeted mainly in provincial towns and cities where the number of local Jews and imprisoned communists was insufficient to fill the required quota of hostages, or where the German army engaged in “punitive expeditions” against

13 BROWNING, Ch.: *Fateful Months: Essays on the Emergence of the Final Solution*. London 1985, p. 49.

14 HILBERG, R.: *The Destruction of European Jews*. London 1985, p. 437.

15 BROWNING, Ch.: *Fateful Months*, p. 48.

specific villages or areas suspected of sheltering Partisans.¹⁶ During the two months of Böhme's mandate as military commander, up to 30,000 civilians had been shot in Serbia, including virtually all of Serbia's Jewish men.

In late October 1941, Harald Turner noted in a memorandum that hostages were to be drawn from among interned Jews and Gypsies, given that "*as a matter of principle*", these two groups "*represent an element of insecurity and thus pose a danger to public order and safety*."¹⁷ On the other hand, after the orders from Adolf Eichmann came through in September 1941, the reprisals became also an expedient means of dealing with the "Jewish question". As Harald Turner pointed out in his correspondence with Berlin, implementing Böhme's measures of atonement was not "pleasant work" but "*the Jewish question solves itself most quickly in this way*."¹⁸ At one point, Turner reflected on the apparent illogic of the policy of shooting Jewish hostages when retaliation should be directed "*at the Serbs*", who were the main force behind the uprising. Nevertheless, he was able to rationalize this course of action by appealing to the issues of practicality (the Jews are the ones we have in the camp) and the apparent unavoidability of the "Final Solution". However, "*they are also Serbian citizens and they have to disappear*" – Turner pointed out.¹⁹ As one German soldier remembered after the war, "*the shooting of Jews bore no relation to the Partisan attacks*"; the retaliations merely provided "*an alibi for the extermination of the Jews*".²⁰

4. THE SECOND PHASE OF DESTRUCTION OF SERBIA'S JEWS: ESTABLISHMENT OF SAJMIŠTE, THE EXTERMINATION CAMP FOR JEWISH WOMEN AND CHILDREN

The second phase of the Holocaust in Serbia – the destruction of the women and children – is dealt with in more detail in the sections on the history of the camp of Sajmište – Semlin Judenlager. The decision for the establishment of the camp was made on October 28, 1941. The destruction of Jews should have been completed in this camp, which was established on the left bank of the Sava River on the abandoned exhibition grounds on the outskirts of Belgrade. As a matter of fact, this camp was situated on the territory of the Independent State

16 MANOSCHEK, W.: *The extermination of Jews in Serbia*, p. 176.

17 BROWNING, Ch.: *Fateful Months*, p. 54.

18 MANOSCHEK, W.: *The extermination of Jews in Serbia*, p. 177.

19 BROWNING, Ch.: *The Path to Genocide: Essays on the Launching of the Final Solution*. Cambridge 1992, p. 135.

20 MANOSCHEK, W.: *The extermination of Jews in Serbia*, p. 177–178.

of Croatia. Before the camp was established, the representative of the Ministry of Foreign Affairs of the German Reich in Belgrade, Felix Benzler appealed to the German Embassy in Croatia and the Croatian government to approve the establishment of the camp on this site. The Germans approved it, but the Croats set two conditions: 1) the guards of the camp had to be Germans, not Serbs; 2) the camp had to be supplied by Serbia and not by Croatia.²¹

The same day the Croat response arrived, Harald Turner gave instructions to his regional commanders to prepare for the deportation of Jewish women and children into this new camp.

Christopher Browning noted the high degree of cooperation and the unusual harmony with which all Nazi-German government organs dealt with the matter of Sajmište. While the “*five kings of Serbia*” – as Browning terms the military commanders General Paul Bader, Wilhelm Fuchs, Harald Turner, Felix Benzler and Franz Neuhausen – were notoriously unable to agree on most matters, the selection, diplomatic negotiations, construction and financing of the Sajmište (Semlin) Judenlager proved a rare example of frictionless cooperation.²² The army supplied the logistics, Turner coordinated the whole operation, Fuchs’s Security police were directly responsible for the camp, as his men stood guard and engineered the gassings, Benzler took care of the diplomatic side and Neuhausen, the economic dictator, financed the project.²³

On December 7, 1941, all Jewish women who had registered with the authorities in Belgrade were ordered to report to the offices of the “Jewish Police” (Judenreferat) on George Washington Street. They were allowed to bring food for three days and personal baggage. In addition, they were ordered to lock their apartments and hand over the keys, marked with their addresses, at the police station. After handing over the keys to their properties, they were taken through Belgrade and across the recently constructed pontoon bridge over the Sava to the camp of Sajmište. By December 12, approximately 5,000 Jewish women and children (including those from Banat, who had been deported to the capital several months earlier) were interned in the Semlin Judenlager. Over subsequent months, as Jews from provincial Serbia (including Šabac, Niš and Kosovska Mitrovica) were also deported to this camp, the number of inmates rose to almost 7,000 people.²⁴

21 BROWNING, Ch.: *The Final Solution in Serbia: The Semlin Jugendlager – A Case Study. Yad Vashem Studies*, volume (vol.) 15, 1983, p. 58.

22 BROWNING, Ch.: *Fateful Months*, p. 70.

23 SHELACH, M.: Sajmište – An Extermination Camp in Serbia. *Holocaust and Genocide Studies*, vol. 2, no. 2, 1987, p. 246.

24 KOLJANIN, M.: *Nemački logor na Beogradskom sajmištu*. Beograd 1992, p. 59–62.

Those Jewish women and children who arrived at Sajmište were placed in the largest building, the “Yugoslav Pavilion” No. 3. The damaged roof and broken windows meant that rain, snow and strong northerly winds penetrated the interior, making living conditions unbearable. Four small furnaces could not adequately heat an area of some 5,000 square meters, so the interned suffered from cold, frostbite and pneumonia.²⁵ Because of overcrowding, each interned person had less than half a meter of space on the bare wooden bunk beds. When new consignments of interned persons started to arrive in January 1942, they were placed in Pavilion No. 1, where they faced similarly inhumane conditions.²⁶

Food for the camp inmates was prepared in the kitchen located in Pavilion No. 4. Daily rations consisted of water, weak tea, stale cabbage or potato soup and a small piece of dry corn bread. The poor diet was in part the result of the fact that Serbian collaborationist authorities, in charge of food distribution in the city, placed the “Jewish camp” at the bottom of their list of priorities. Even though there were more than 1,000 children at Sajmište, the city administration announced on February 3, 1942, that “*food deliveries to the Jewish camp can be made only after the needs of all other residents have been met*”.²⁷

In the early spring of 1942, occupational authorities in Belgrade realized that the planned deportation of the Jews to the East was not forthcoming. Releasing them was out of the question, so just like in the autumn of 1941, the local German commanders found themselves under pressure to find a “local solution” to the “Jewish problem”. This time around, however, the government in Berlin provided the necessary “equipment”. In March 1942, a gas van arrived in Belgrade. The van, which in Nazi documents was referred to by the euphemism “delousing truck” (*Entlausungswagen*) was in fact a normal truck (manufactured by the German company Saurer) whose exhaust pipe was adapted in a way that allowed the fumes to be diverted into the sealed compartment at the back. Once the exhaust pipe was placed in the required position, a 10–15 minute ride was enough to kill as many as 100 people locked in the back. The gas van had been used in the Nazi euthanasia program in 1940, and in late 1941 and early 1942, it was being tested for use in the “*final solution of the Jewish question*”.²⁸

The first victims of the gas van in Belgrade were the staff and patients at the two Jewish hospitals in the city. Over two days, March 18–19, 1942, over 800

25 SHELACH, M.: *Sajmište*, p. 247.

26 KOLJANIN, M.: *Nemački logor na Beogradskom sajmištu*, p. 77.

27 LEVENTAL, Z.: *Zločini fašističkih okupatora i njihovih pomagača protiv Jevreja u Jugoslaviji*. Beograd 1957, p. 26.

28 BROWNING, Ch.: *Fateful Months*, p. 57–67.

people were loaded into the gas van, in groups of between 80 and 100. They died of carbon monoxide poisoning as the van drove through Belgrade to the killing grounds in Jajinci, a village at the base of Mount Avala, south of the city. Upon arrival, the truck was unloaded by seven Serbian prisoners who buried the dead in mass graves.²⁹

Later, the gas van was used for the mass destruction of all other Serbian Jews, especially the prisoners from Sajmište. They were mercilessly poisoned on the way from the camp to the village of Jajinci.

As soon as the “Saurer” gas van completed its deadly mission and returned to Berlin, Serbia was declared “Judenrein”. Serbia was in fact only the second Nazi-occupied territory in Europe (Estonia being the first) to be formally declared “cleansed of Jews”. On May 29, 1942, the German Foreign office representative in Serbia, Franz Rademacher, proudly declared that “*the Jewish question is no longer an issue in Serbia.*” In August 1942, Harald Turner officially reported to Berlin that “the Jewish question” had been solved in Serbia.³⁰

5. LETTERS OF HILDA DEITCH

Hilda Deitch was born in 1922 to an affluent Ashkenazi family, which included her parents, Emil and Augusta, and younger brother Hans. Before the war, having graduated from high school as one of the top students of her generation, Hilda enrolled to study architecture at the University of Belgrade. After her studies were interrupted by the invasion of Yugoslavia by Nazi-Germany in April 1941, Hilda volunteered as a nurse at the Jewish hospital in Belgrade. Because of her father Emil Deitch’s involvement with the Representative Body in the initial stages of the occupation, Hilda’s family was unaffected by many of the harsh anti-Semitic measures and policies to which other Jews in Belgrade were subjected at the time.

In December 1941, Hilda Deitch volunteered to go to the camp of Sajmište to perform nursing duties among, as she put it, the “people in need”. The date of Hilda Deitch’s death is not known, although it is certain that she was killed along with over 6,000 Jewish women, children and elderly in the mobile gas van that was brought to the Semlin Judenlager in March 1942. Between late March and May 10, 1942, the interned were taken, in groups of between 50 and 100, on their last journey to the burial grounds at Jajinci.³¹

29 Ibid., p. 81.

30 LEBL, Ž.: *Do konačnog rešenja*, p. 332.

31 The first three letters by Hilda Deitch are the property of the Jewish Historical Museum in Belgrade, while the fourth is deposited at the Historical Archives

While working at the camp as a nurse, Hilda Deitch managed to send four letters to her two close friends. These letters are moving evidence of the last months of the lives of imprisoned Jewish women and children.

The first letter by Hilda Deitch was written on December 7, 1941, the day before she left for Sajmište. The recipient of this letter was Nada Novak, Hilda's friend from high school. Nada, who was two years older, used to be president of the school's Literary Society, which is where the two girls met. In the letter, Hilda refers to the time at school and the Society as the "*most pleasant period of her life*".

The second letter was written two days later, on December 9, and contains her first impressions of life at the camp. It was addressed to Mirjana Petrović, another school friend, who wrote to Hilda a day earlier. The letters were smuggled in and out of Sajmište by the Jewish hospital staff, who regularly visited the camp.

The third letter to Nada Novak, is said to have been written around December 13. In it Hilda reveals that members of her family are about to join her at the camp. Clearly, once all the Jews had been interned at Sajmište, the Nazis no longer had any use for the Representative Body of the Jewish Community or its leadership.

In the period between the third and the fourth letter, Mirjana Petrović met Hilda on several occasions, once together with Nada Novak. During the harsh winter of 1941–1942, the river Sava froze over, and every day, small groups of the interned, carrying stretchers with the dead and the seriously ill, could be seen walking across the ice under German guard. On the docks opposite the camp, they were met by the staff from the Jewish Hospital who unloaded the casualties onto a truck. On one occasion, Hilda managed to summon Mirjana to a small run-down inn frequented by dockworkers, where the interned, who carried the stretchers were allowed a brief rest before returning to the camp. The two friends embraced and spoke briefly. They met on two further occasions, but during their last encounter, the guard did not allow them to talk. Mirjana Petrović later recounted that by that time Hilda was thin, pale, and seemed dejected and desperate. This is evident from the tone of Hilda's last preserved letter from Sajmište, written in early February 1942.

It is not known what exactly happened to Hilda Deitch. She was probably murdered at the camp of Sajmište and buried with other victims in the mass grave in the village of Jajinci.

of Belgrade (see on letters of Hilda Deitch in details in: ALMULI, J.: *Stradanje i spasavanje srpskih Jevreja*. Beograd 2010, p. 33–45).

CONCLUSION

During the Nazi-German occupation of Serbia 1941–1944, Belgrade almost became a city “cleansed of Jews” and Serbia almost became a country without Jews. This already happened in the first year after the occupation: from April 1941 until May 1942. The Nazi-German administration passed the Decree on Jews and Gypsies on May 31, 1941, which was used as a “legal basis” for Holocaust and the “Final Solution” in Serbia. This criminal act had two phases: the first phase lasted from April 1941 until November 1941, and the second phase lasted from November 1941 until May 1942. The second phase actually coincided with the opening of the camp of Sajmište. In this phase, the *“Jewish question in Serbia was resolved”*. The *“Five kings of Serbia”* – General Paul Bader, Wilhelm Fuchs, Harald Turner, Felix Benzler and Franz Neuhausen – were responsible for the Holocaust in Serbia, while the Serbian collaboration government was responsible for providing “technical support” for this terrible action. Nevertheless, the Jewish community in Serbia was not completely destroyed. Ordinary people in Belgrade and Serbia always tried to save their Jewish compatriots, risking their own lives. That is why many people of Serbia have received awards as the “Righteous Among the Nations” by the World Center for Holocaust Research Yad Vashem in Israel.

Anti-Semitic Legislation in the Independent State of Croatia in 1941

Marija Vulesica (Germany)

On the April 10, 1941, four days after the German attack on Yugoslavia, the Independent State of Croatia (Nezavisna Država Hrvatska, NDH) was proclaimed. The radical-national fascistic movement of the Ustaša (Eng. Insurgents), being until then in exile in Italy, took power. Their leader, or poglavnik, was the politician and lawyer Ante Pavelić, who left Yugoslavia in 1929. This new state was the result of improvised and unexpected developments in Yugoslavia in the turbulent last days of March 1941. Vladko Maček, the leader of the largest Croatian party, the Peasant Party, refused the collaboration with the Germans. Therefore, the German envoy Edmund Veesenmayer stepped in contact with representatives of the Croatian nationalists in Zagreb, who were subsequently helped into power with the help of Hitler and Mussolini.¹

The new state included Slavonia, parts of Dalmatia and the whole of Bosnia-Herzegovina. It had about 6.3 million inhabitants, including almost 2 million Serbians and about 40,000 Jews. Immediately after the seizure of power, the

1 OLSHAUSEN, K.: *Zwischenspiel auf dem Balkan. Die deutsche Politik gegenüber Jugoslawien und Griechenland von März bis Juli 1941*. Stuttgart 1973; WUESCHT, J.: *Jugoslawien und das Dritte Reich. Eine dokumentierte Geschichte der deutsch-jugoslawischen Beziehungen von 1933 bis 1945*. Stuttgart 1969; HÖRY, L. – BROSZAT, M.: *Der kroatische Ustascha-Staat 1941 – 1945*. Stuttgart 1964; MATIĆ, I. P.: *Edmund Veesenmayer: Agent und Diplomat der nationalsozialistischen Expansionspolitik*. München 2002.

Ustaša government started to disenfranchise the Serbian and Jewish population as well as political opponents, to discriminate against them and to arrest them. The regime implemented a plethora of laws that should give their actions the appearance of legality. Besides this, the Ustaša also established a widespread network of concentration camps, in which tens of thousands of prisoners were killed between 1941 and 1945.²

1. MEASURES AND LAWS: DISMISSALS, RESETTLEMENT AND THE “JEWISH SIGN”

Starting from their basic political demand for a pure-Croatian land, the Ustaša immediately went into action against Serbs, Jews and all political opponents. With the help of a legislation that would give its system a legal character, similar to the German model, the disenfranchisement and the persecution of these groups began. On the first day of their government Slavko Kvaternik, the new minister of the armed forces and poglavnik's deputy, ordered to exclude all Jews and Serbs from the newly formed Croatian army.³ Even before the first anti-Semitic laws and regulations officially came into force, on April 14, the synagogue of the east Slavonic city of Osijek was destroyed. Also in Osijek, a larger number of Jews were arrested. The next day, namely on the April 15, the Ustaša deported Jews and Serbs to Danica, the first concentration camp established in northern Croatia. Until its liquidation in July 1941, about 600 Jews had been detained here. Some of them were killed there, some of them deported to another camps.⁴

The historian Nada Kisić-Kolanović stressed in her article entitled “The nationalization of Jewish property in the Independent State of Croatia”, that the legal orders did not arise from an organized legislative body, but fully reflected the view of the ruling Ustaša. Thus, the authors and inventors of these laws were Pavelić and his government itself. This again illustrates that the regime exclusively represented its own goals and ideas, and not those of a sovereign society.⁵

2 VULESICA, M.: Kroatien. In: BENZ, W. – DISTEL, B.: *Der Ort des Terrors. Geschichte der nationalsozialistischen Konzentrationslager*. Vol. 9. München 2009, page (p.) 313–336; DIZDAR, Z.: Logori na području sjeverozapadne Hrvatske u toku drugoga svjetskog rata 1941–1945. *Časopis za suvremenu povijest* (ČSP), volume (vol.) 22, 1990, p. 83–110.

3 TOMASEVICH, J.: *War and Revolution in Yugoslavia, 1941–1945. Occupation and Collaboration*. Stanford 2001, p. 380.

4 LENGEL KRIZMAN, N.: Kronologija židovskog stradanja 1938–1945. In: *Antisemitizam, holokaust, antifašizam (Zna li se 1941–1945)*. Zagreb 1996, p. 247.

5 KISIĆ KOLANOVIĆ, N.: Podržavljenje imovine Židova u NDH. ČSP, vol. 30, 1998, number (no.) 3, p. 431.

The anti-Semitic legislation of the spring of 1941 was thus an expression of the arbitrary and totalitarian character of the Pavelić regime.

The minister of the interior, Andrija Artuković,⁶ one of the most ardent anti-Semites of the regime, explained in a German newspaper in Croatia – on the occasion of the first measures being implemented against Jews – that the government of the NDH “*will solve the Jewish question in the near future in the same way that it has been solved by the German government*”. He emphasized that he would monitor the imposition of the racial laws in the shortest possible time.⁷ In addition, he made clear that the Ustaša were about to implement the German racial laws uncritically, and that they were ready to enforce them by the use of terror. The views of Artuković and the zeal of the government were even confirmed by Pavelić some weeks later, also in a German magazine. He stated, “*The Jewish question will be solved radically under racial and economic points of view.*”⁸

On April 17, the day of the Yugoslavia’s capitulation, the Legal decree on the protection of people and the state was announced. It envisaged the installation of courts martial and the death penalty in the event of any agitation against the Ustaša. The death penalty should be carried out even if the action remained an attempt.⁹ One day later, on April 18, the Legal decree on the preservation of the Croatian national property went out. It meant the cancellation of all business relations that were entered into two months before the proclamation of the NDH among Jews and between Jews and non-Jews. Many Jewish businessmen anticipated the results of this regulation and sold or gave away their possessions in order to be able to save at least a portion of their assets.¹⁰ A day later, another order was passed, which said that in all Jewish shops and enterprises, a non-Jewish supervisor

6 Born 1899 in Ljubuški. In 1932 he becomes a member of the Ustascha-movement. In 1941 he is appointed by Pavelić Minister of the Interior. He is an advocate of the terror and the unconditional solution of the Jewish question. After the end of the war he flees to the USA. In 1945 the Yugoslavian government declared him as a war criminal. Several extradition requests were rejected by the USA. Finally, in February 1986, he was transferred to the Yugoslavian authorities. In May he was sentenced to death. However, the capital punishment was not carried out because of his age and his illness. He died in the prison hospital in 1986. SUPARIĆ, D.: *Tko je tko, u NDH*. Zagreb 1997, p. 11.

7 Die deutsche Zeitung in Kroatien, April 22, 1941; quotation: JELIĆ BUTIĆ, F.: *Ustaše i Nezavisna Država Hrvatska 1941/1945*. Zagreb 1977, p. 178.

8 Berliner Börsenzeitung, May 5, 1941; quoted from: JELIĆ BUTIĆ, F.: *Ustaše i Nezavisna Država Hrvatska*, p. 179.

9 In December of the same year the order was softened. In less heavy cases the capital punishment could be converted into at least a 3-year imprisonment. GOLDSTEIN, I.: *Holokaust u Zagrebu*. Zagreb 2001, p. 117.

10 Ibid., p. 118.

had to be installed. The Croatian Jew Zeev Milo, aka Vladimir Müller, wrote in his memoirs in addition, “Already on the April 19, [...] all enterprises, shops and industrial arrangements which belonged to Jews were put under state control and supervisors were appointed to lead the businesses... In most cases, uneducated and unprofessional people had been appointed only because they were ‘good Croats’. Paradoxically, the owner had to attach a poster ‘Jewish Business’ on the door or in the shop-window, although the enterprise no longer belonged to him. If anyone had had the idea to throw a stone at the odious Jewish business, he would probably have met the supervisor.”¹¹ The memoirs of Zeev Milo deliver an insight into the events in the newly established Croatian state. He noted the rapid succession of laws and regulations, which were implemented in April 1941, as well as their effects. The irrationality of the regime was unmistakable, given it branded a Jewish business as such, and classified it as Jewish, even though it was already taken over.

The political demand of the Ustaša, namely an ethnically clean Croatian-Catholic state, intended the full exclusion of Orthodox Serbs, Jews and Roma from politics and society. Therefore, another order was issued on April 22, 1941. All judges, all prosecutors and other employees were suspended from the judicial system for a period of three months. Similarly, all employees in the postal system and the railways had to leave their positions. Traditionally, however, many Jews were active just in those areas, so that these orders served, at the end of the day, to remove only them.¹²

The complete disfranchisement and expropriation of Jews was sealed by another three anti-Semitic laws enacted April 30. The Legal decree on racial origins contained the definition about who was a Jew and who was of Aryan origin. The Nuremberg racial laws of 1935 were fully implemented by the Croatian authorities, and they were even complemented. For example, a “full Aryan” could also become a Jew if he married a Jew after April 30.¹³

The second, the Legal decree on the protection of Aryan blood and the honor of the Croatian people forbade the marriage between Jews and people of Aryan origin. Besides this, the order included a ban of illegitimate sexual relations between male Jews and “women of Aryan origin”. Any offence was punishable by imprisonment. In particularly serious cases, like a rape of a Croatian woman, the death penalty shall be imposed.¹⁴ To exclude Jews completely from society, the

11 MILO, Z.: *Im Satellitenstaat Kroatien: Eine Odyssee des Überlebens 1941 – 1945*. Konstanz 2002, p. 38.

12 TOMASEVICH, J.: *War and Revolution*, p. 382.

13 HILBERG, R.: *Die Vernichtung der europäischen Juden*. Vol. 2. Frankfurt am Main 1999, p. 757.

14 GOLDSTEIN, I.: *Holokaust u Zagrebu*, p. 120.

paragraph on the honor of the Croatian people also implied that Jews were not allowed to use Croatian national symbols or flags. Moreover, it was prohibited for them to employ women of Aryan origin under the age of 45 years in their households. For example, the family of Zeev Milo had to dismiss her maidservant and compensate her generously.¹⁵

The third, the Legal decree on nationality stated that only people of Aryan origin had to be considered as citizens of the NDH and could thus enjoy the protection of the state. This meant that for Jews, Serbs and Roma this protection was not valid – they stood outside the law, and were inevitably exposed to humiliations, deprivations of rights and persecution.¹⁶

More than twenty other anti-Semitic laws were adopted by the Ustaša between April 1941 and October 1942. For example, other anti-Jewish measures taken in the spring and summer of 1941, intended the resettlement of Jewish citizens. Zagreb was divided into a north half and a south half. All Jews from north half, the nicer and more distinguished part of the town, had to leave their homes. Those were subsequently occupied by Ustaša officials and German envoys.¹⁷ Furthermore, Jews were not allowed to leave their houses between 9 P.M. and 6 A.M. They were not allowed to visit parks, bigger squares, the city center, cinemas, swimming pools or the area around the central station. These measures were aimed at discrimination, humiliation and concentration of Jews. They led to increased suicide rates within the Jewish population in the spring and summer of 1941.¹⁸

Unlike the German counterpart of the Nuremberg laws, the Croatian racial laws contained a clause that aroused hopes among many Jews. An exception clause authorized the head of state, Pavelić, to award Jews who had rendered outstanding service to Croatia prior to the April 10, with the status of honorary Aryanhood.¹⁹ By the autumn of 1941, the authorities received about 2,000 applications for the so-called honorary Aryanhood. In addition, several hundred Jews even received the legal status of an Aryan.²⁰ The Croatian historian Ivo Goldstein explains this exception clause with the patronage relationships, which were widespread in the NDH.²¹ Zeev Milo explained the introduction of the Aryan privilege in his memoirs with the fact that some Ustaša officials had Jewish wives. Pavelić was

15 MILO, Z.: *Im Satellitenstaat*, p. 42.

16 GOLDSTEIN, I.: *Holokaust u Zagrebu*, p. 121.

17 MILO, Z.: *Im Satellitenstaat*, p. 40; GOLDSTEIN, I.: *Holokaust u Zagrebu*, p. 198–214.

18 SOBOLEVSKI, M.: Židovi u kompleksu koncentracijskog logora Jasenovac. In: *Zna li se*, p. 29.; GOLDSTEIN, I.: *Holokaust u Zagrebu*, p. 118.

19 HILBERG, R.: *Die Vernichtung*, p. 757; MILO, Z.: *Im Satellitenstaat*, p. 41.

20 Numerous examples, see: GOLDSTEIN, I.: *Holokaust u Zagrebu*, p. 132–144.

21 *Ibid.*, p. 136.

married to a Jew, his deputy Slavko Kvaternik as well. Moreover, two Jews were part of Pavelić's government. One of them, Vladimir Singer, helped organize the Ustaša movement while it was in exile.²² Milo's justification was applied sporadically though, as the amicable and informal relations in the uppermost Ustaša team were not always decisive. Thus, Singer was arrested in 1941, and he died two years later in the concentration camp Stara Gradiška.²³ Eugen Dido Kvaternik, who took charge of the concentration camps until autumn 1942, was the son of Slavko and a half-Jew. He showed no consideration to the origins of his mother. Moreover, in the next two years he gained a reputation as a notorious murderer of Jews.

From May 22, 1941, even before the Star of David was introduced in the German Reich, the Jews of Croatia, including children, had to carry this so-called Jewish sign. This piece of yellow material, provided with the letter Ž (Židov), had to be placed on the chest and on the back. To receive the Jewish sign, all Jews had to announce themselves at the police stations. "Aryans" were asked to report all Jews they knew.²⁴ The SS as well as the German envoys hoped that by this action, at least those Jews who had fled from Germany would be identified and readily deported. *"Now all Jews had to carry a Jewish badge. [...] The reaction of the people who condemned these measures was in general encouraging. One also could hear remarks such as – This is our disgrace and not yours!"*²⁵ Zeev Milo remembers. In a report of the Gestapo from May 1942, one year after the introduction of the Jewish sign, it was said: *"Thus numerous cases are known in which unknown people of different social layers (town-dweller, farmer, even German officers and soldiers) on the street or in the tram expressed their sympathy towards the Jews who carried the sign."*²⁶

Even if there were manifestations of sympathy and a silent protest, and Pavelić himself allegedly disapproved of the introduction of the Jewish sign,²⁷ this did not stop the Ustaša-government from taking further measures in order to humiliate, disenfranchise and finally destroy the Jewish population. Parallel to the adoption of anti-Semitic laws, arrests and deportations took place. At the end of April, Jews were deported to the camp Kerestinac, situated near Zagreb.²⁸ As a condition of their release, the so-called contributions were required. The

22 MILO, Z.: *Im Satellitenstaat*, p. 41.

23 GOLDSTEIN, I.: *Holokaust u Zagrebu*, p. 619.

24 Ibid., p. 125.

25 MILO, Z.: *Im Satellitenstaat*, p. 43.

26 GOLDSTEIN, I.: *Holokaust u Zagrebu*, p. 126.

27 KISIĆ KOLANOVIĆ, N.: *Podržavljenje*, p. 433.

28 On April 19, 1941, first detainees were brought to the camp Kerestinac. This day is therefore considered as the date of establishment of this camp. PERŠEN, M.: *Ustaški logori*. Zagreb 1990, p. 53–67.

Jewish community was asked to pay first 500, and then in July 1,000 kilograms of gold to the authorities in order to redeem the inmates. In Zagreb, a contribution association was founded and it actually succeeded in collecting about 100 million Dinars, the equivalent of 1,000 kilograms of gold.²⁹ With these contributions, the Ustaša pursued several aims: First, the registration and humiliation of the Jewish population, and second, their exploitation. With the robbery of the Jewish property and the expropriations of the Jews, individual Ustaša officials enriched themselves and the regime tried to maintain its ailing economy.

To the legal deprivation of rights, and the already being used physical destruction, the Ustaša introduced the principle of Jewish group liability in June 1941.³⁰ This group liability meant that it became nearly impossible for Jews to escape persecution.

Until May 1945, the Ustaša adopted laws with which they responded to each particular stage of the extermination of Jews. It was not until early May 1945, shortly before its demise, that the regime cancelled its racial legislation. However, the legal framework for the persecution and annihilation of Croatian Jews was essentially set in spring and summer of 1941.

2. EXPROPRIATION AND ARYANIZATION

The representative of the Italian fascist mission in Zagreb, Eugenio Coselschi, wrote in his report in June 1941, the Croatian government wishes to hit first the wallet of the Jews in order to free the country from the Jewish economic supremacy.³¹ For the National Socialists and their allies, the destruction of the Jews also had an economic component. Thus, the anti-Jewish measures served the Ustaša to enrich themselves. Pavelić's demand for protection of the Croatian economic interests meant in fact the successive *Aryanization* of Jewish and Serbian property.³² First, the Legal decree on unconditional announcement of Jewish property and Jewish companies required at the beginning of June 1941, that Jews declare all of their property. This implied not only land properties, real estate, shops, production facilities and big companies, but also savings books and account balances. The Ustaša procured with this decree an overview over Jewish property. At the same time, it aimed to prevent Jews from saving their possessions in any form. This

29 KRIZMAN, L.: *Kronologija*, p. 248.

30 *Narodne Novine*, June 26, 1941.

31 KISIĆ KOLANOVIĆ, N.: *Podržavljenje*, p. 433.

32 American, Swiss, British and German citizens hold stock options on the Croatian economy, too. They were not expropriated. GOLDSTEIN, I.: *Holokaust u Zagrebu*, p. 173.

was possible, for example, by sales, donations or by hiding. Zeev Milo remembers that his parents hid during the settlement many superfluous furnishings and other objects, particularly valuables like Persian carpets, with loyal friends. “*From many [Jews, M. V.] property and money was confiscated. Others succeeded in hiding a part of their property or their savings with Christian friends.*”³³

Two improvised and constantly changing offices supervised the affairs involving Jewish property. At the end of June 1941, the Office for Renewal was founded, which was responsible for the settlements and forced migrations of the population. It managed the takeovers and sales of the robbed goods. This office was authorized to declare the possession of the Jews and Serbians immediately as state property. Under certain circumstances, part of the estate could be left to the heirs, married couples or to a supervisor.³⁴ Any appeal against the decision of this Office was mostly never successful.

On July 1, 1941, the Office for Economic Renewal was brought to life. It was primarily responsible for the sales of Jewish property and Jewish companies. The competences of these two offices overlapped until they were merged in September 1941 into the State Directorate for Renewal (Državno ravateljstvo za ponovu). From now on, the State Directorate was responsible for the nationalization and the sales of Jewish property. In January 1942, there was a further reform. The competence of the State Directorate was annexed to the Ministry of Finance, which from that moment became responsible for the so-called Aryanization.³⁵

Structural reforms and a branched bureaucracy gave these systematic expropriations, similar to the German model, a pseudo-legal character. The paths of the Office acts were hardly comprehensible and thereby deliberately misleading. However, the doubling of offices and a two-time reform reveal also the structural defects in the NDH. Thus, the Pavelić-government wanted, as quickly as possible, to take over the Jewish property even without the presence of a functional bureaucratic apparatus. This was all about personal enrichment and strengthening of the Ustaša regime, in particular of the former émigrés.³⁶

With the last, the *Second decree on the nationalization of Jewish property* adopted on October 30, 1942, all Jewish property as well as all ownership rights formally passed to the NDH. This law ended the phase of expropriation and sealed the state's claims to Jewish possessions.

33 MILO, Z.: *Im Satellitenstaat*, p. 66, 73.

34 KISIĆ KOLANOVIĆ, N.: *Podržavljenje*, p. 438.

35 Ibid., p. 440; SUNDHAUSEN, H.: *Wirtschaftsgeschichte Kroatiens im nationalsozialistischen Grosraum 1941–1945. Das Scheitern einer Ausbeutungsstrategie*. Stuttgart 1983, p. 246.

36 Rundschreiben des Hauptamtes für Volkswirtschaft der Dt. Volksgruppe von February 12, 1942; cited after: SUNDHAUSEN, H.: *Wirtschaftsgeschichte*, p. 248.

The expropriation and looting of Jewish property was followed by trading with it, which was practiced until the end of the war. Confiscated and stolen Jewish property was disposed of at higher and higher prices, and nationalized companies received company commissioners who took over the management or administration. However, improper management and conduct of companies and enterprises brought considerable damage to the national economy, since the responsible ministries quickly lost control of expropriated goods and companies, and the commissioners acted at their sole discretion.³⁷ This practice caused even the opposition of some economists, who recognized that chaotic, imprecise legislation as well as ignorant guidance of the companies would destroy, in the end, the *state property*.³⁸ According to estimates, the loss of Jewish property was in the form of companies and real estate worth nearly seven billion Kuna. Besides this, Jews paid, only by October 1941, about 1,065,339 kilograms of gold in the so-called voluntary contributions to the state.³⁹

3. DEPORTATIONS

The creation of concentration camps in the Independent State of Croatia ran in parallel with the disenfranchisement and the arrests of Serbs and Jews starting on April 10. In the beginning, i.e. the first phase of annihilation, concentration camps were established as collective or transit camps, they turned very fast into the so-called death camps and places of horror.⁴⁰

The first camp Danica, near the city of Koprivnica, was established in a closed chemical plant on April 15, five days after the proclamation of the NDH, and two days before the capitulation of the Yugoslav Army. Also in April, the second camp was put into operation in Kerestinac near Zagreb. This suggests that the Ustaša was from beginning, planning to liquidate Jews, Serbs and political enemies. By July 1942, on the territory of the NDH, more than fifty camps of different types were established. Most of them served as collection or transit camps, from where the prisoners were taken away to labor and death camps. Prisons, abandoned factory buildings and schools were converted into concentration camps.⁴¹ In June 1941, the mass arrests of Jews began, although in the preceding months, small and sometimes larger groups of Jews were already

37 KISIĆ KOLANOVIĆ, N.: *Podržavljenje*, p. 442; SUNDHAUSEN, H.: *Wirtschaftsgeschichte*, p. 249.

38 KISIĆ KOLANOVIĆ, N.: *Podržavljenje*, p. 443.

39 *Ibid.*, p. 453.

40 UEBERSCHÄR, G.: *Orte des Grauens: Verbrechen im Zweiten Weltkrieg*. Darmstadt 2003.

41 MILO, Z.: *Im Satellitenstaat*, p. 94.

being arrested.⁴² During the period of these arrests, it was reported in the lead article of the magazine *Novi List* that several hundred Jews had been already deported and that other deportations will follow, because this was the only way that “Zagreb will become free of the Jews”.⁴³ In the middle of July, the northern Croatian town of Varaždin was declared as “judenrein”.⁴⁴ The arrests and deportations of Jews were accompanied by a large propaganda offensive.⁴⁵

The first wave of mass arrests lasted until September 1941. Pavelić blessed these arrests with the Extraordinary decree on June 26. Then in November 1941, the Decree on dispatch of undesirable people to the forced labor in collective and labor camps was passed. With this decree, the Ustaša regime legalized the camps retroactively, because by that time, several camps had already been dissolved and thousands of people had already been murdered in collection, resettlement and transit camps.⁴⁶

4. ON THE EVALUATION OF THE CROATIAN ANTI-SEMITIC LAWS IN 1941

Disagreement exists within the ranks of researchers about the anti-Semitism of the Ustaša before taking power in 1941. It is often assumed that anti-Semitism had not been an integral component of their prewar ideology and political program. In the judgment of the Yugoslavian historian, Fikreta Jelić-Butić, the Ustaša movement was not able to convert its political concept into a program during their time in exile. Their leaders merely formulated some basic views, methods and means of approach,⁴⁷ for example in the so-called Statute (ustav) and the Principles (načela).⁴⁸ The statute fixed the “armed uprising” for the freeing of Croatia from the “foreign yoke” and the creation of an “absolutely independent state” as a goal. This implied the destruction of the Yugoslavian multinational state and the creation of an ethnically homogeneous

42 KRIZMAN, L.: Logori za Židove u NDH. In: *Zna li se 1941–1945*, p. 91–94.

43 GOLDSTEIN, I.: *Holokaust u Zagrebu*, p. 259.

44 Ibid., p. 260.

45 ZUCKERMAN ITKOVIĆ, B.: Funkcija protužidovske propagande zagrebačkih novina u Nezavisnoj Državi Hrvatskoj od travnja do srpnja 1941. ČSP, vol. 38, 2006, no. 1, p. 79–89.

46 KRIZMAN, L.: *Logori za Židove u NDH*, p. 97.

46 JELIĆ BUTIĆ, F.: *Ustaše in NDH*, p. 22.

47 Ibid., p. 22.

48 POŽAR, P.: *Ustaša: Dokumenti o ustaškom pokretu*. Zagreb 1995, p. 45–53, 57–89.

SUNDHAUSSEN, H.: Der Ustascha-Staat: Anatomie eines Herrschaftssystems. *Österreichische Osthefte*, 1995, no. 2, p. 510.

“Great Croatia”. It was also stated in the statute that they had to ensure “*by all means that in the Croatian state always only the Croatian people rule and become the masters of all material and spiritual goods of their country*”.⁴⁹ Both the statute and the principles were characterized by an extremely vague programmatic and “populist muddiness”.⁵⁰

After Pavelić had gone into exile in 1929, he tried to win over first Mussolini and afterwards Hitler to his political plans.⁵¹ In October 1936, he transmitted a fourteen-page memorandum about the “Croatian question” to Hitler’s deputy Rudolf Hess. In this memorandum, he formulated for the first time his position towards Jews. The Judaism was called an “*opponent*” who does not want the national independence of Croatia, because he profits from the “*national chaos*”. Pavelić declared international freemasonry, communism and Judaism as a joint German-Croatian enemy.

Immediately after the seizure of power, the Ustaša initiated discrimination, persecution and annihilation of the Croatian Jews. They gave their actions an appearance of legality by adopting numerous laws. The question of whether the Ustaša had developed an anti-Semitic ideology already while in exile is irrelevant, in view of their actions and policy formulations after April 10, 1941. This political anti-Semitism had been set up in Croatia since the late 19th century.⁵² Almost all parties, including the Croatian Party of Rights, which was the political home of the Ustaša leaders, helped themselves with anti-Semitic rhetoric in their struggle for a political profile. Jews were always considered as enemies and saboteurs of the Croatian nation and as profiteers from the Croatian economy. These ideological preconceptions, the widely absorbed putative knowledge of the Jewish people allowed the Ustaša finally to initiate and execute their rigid anti-Semitic laws.

The anti-Semitic legislation of 1941 was thus, on the one hand the culmination of an anti-Semitism, which lay latent for decades. On the other hand, it marked the start of a four-year-long systematic annihilation of the Croatian Jews.

49 POŽAR, P.: *Ustaša: Dokumenti*, p. 45; Text was published in *Ustaša* in July 1932; HORY, L. – BROSZAT, M.: *Der kroatische Ustascha-Staat, 1941 – 1945*. Stuttgart 1964, p. 19.

50 SUNDHAUSEN, H.: *Der Ustascha-Staat*, p. 513.

51 HORY, L. – BROSZAT, M.: *Der kroatische Ustascha-Staat*, p. 13–37; JELIĆ BUTIĆ, F.: *Ustaše i NDH*, p. 30–40; KRIZMAN, B.: *Ante Pavelić i ustaše*. Zagreb 1978, p. 53–334.

52 VULESICA, M.: *Die Formierung des politischen Antisemitismus in den Kronländern Kroatien-Slawonien 1879 – 1906*. Dissertation. Berlin 2011.

From Anti-Jewish Policies to Genocide: The Fate of Bukovina Jewry

Natalya Lazar (USA)

In his speech on the occasion of receiving the literature prize of the Free Hanseatic City of Bremen in 1958, Holocaust survivor Paul Celan, one of the most prominent post-war poets writing in German, said of his life after Auschwitz: *“Only one thing remained reachable, close and secure amid all losses: language. Yes, language. In spite of everything, it remained secure against loss. But it had to go through its own lack of answers, through terrifying silence, through the thousand darknesses of murderous speech. It went through. It gave me no words for what was happening, but went through it. Went through and could resurface, ‘enriched’ by it all.”*¹

Nothing could stop Celan from writing, not even the fact that he was Jewish, and German was the language of his poems. Strangely, the oppressor’s language – but also Celan’s – reconnected him with the lost world of his homeland. Paul Celan was born in 1920, two years after the breakup of the Austro-Hungarian Empire, into a German-speaking liberal Jewish family in the city of Cernăuți,²

1 CELAN, P.: *Collected Prose*. New York 1986, page (p.) 34.

2 The same city was known as Czernowitz in German, Cernăuți in Romanian, Chernovtsy or Chernovitsy in Russian, Czerniowce in Polish, and Chernivtsi (now part of Ukraine) in Ukrainian. The changes in the composition of population, as well as the geopolitical, cultural, and linguistic developments, and the border shifts within the region over a period of hundreds years, affected toponymy.

then part of Romania. His relation to German culture was not unique. On the contrary, it was typical of most assimilated Jews in Bukovina, a former Habsburg imperial province.

Today the historic region Bukovina spans the border of modern-day Romania and Ukraine. Prior to World War I, it was a borderland, in which the coexistence of various ethnic groups unfolded in a seemingly peaceful manner. The Bukovina Jewry constituted an example of vibrant Jewish-German Eastern European culture, which vanished after World War II.

HISTORY BACKGROUND

Bukovina was established as an official administrative unit of the Austro-Hungarian Empire in 1775, Czernowitz served as its capital. At that time, 526 Jewish families lived in the region.³ The Jewish population increased more than sevenfold during the Habsburg period, and by 1910 had grown to 102,919,⁴ making it the third-largest group in the province after Romanians and Ukrainians. This growth was a result of the natural birth rate as well as favorable opportunities offered by economic development, which spurred Jewish emigration from Galicia and neighboring countries to Bukovina. Reforms introduced after the 1848 revolution gradually eliminated economic and political discrimination against Jews, culminating in their full emancipation in 1867.

Czernowitz Jews adapted to the dominant Habsburg social order during a century-long process of emancipation and acculturation. The growing Jewish middle class expressed acculturation in the adoption of the German language, the acquisition of bourgeois values, and the abandonment of traditional religious observances. The rural Jewish community of Bukovina, by contrast, continued to speak Yiddish, retained conservative traditions, and remained attached to Orthodox Jewish beliefs and practice. Hassidic courts centered in the market towns of Sadagora, Vizhnitsa, and Boyany exerted a strong influence in the Bukovina countryside and far beyond the province's borders.⁵

Highly educated and with robust connections with the rest of Europe, Bukovinian Jews had a formidable influence on the economic, political, social, and cultural life in the region and in the German-speaking part of the Habsburg

3 DOBRZHANSKY, O. – KUSHNIR, M.: *Jevreys'ke naseleennia ta rozvytok jevreys'koho natsional'nogo rukhu na Bukovyni v ostanni chverti XVIII – pochatku XX st.* Chernivtsi 2007, p. 16.

4 Ibid., p. 26.

5 Bukovina was headquarters of significant Hassidic communities. The dynasty of Rabbi Israel Friedman resided in Sadagora after he fled from Russia in 1842. Hassidic communities in Boyany and Vizhnitsa were followers of Rabbi Mendel Hager of Kosiv.

Empire in general, before World War I. The Jewish population in Czernowitz counted many scholars, artists, and writers, and Jews took an active part in the political life of the city as well. The citizens of Czernowitz twice elected a Jewish mayor: Dr. Eduard Reiss (1905–1908) and Dr. Salo Weisselberger (1913–1914).

The coexistence of ethnic communities, all with strong national aspirations, in Czernowitz before 1914 was complicated, but more or less peaceful. World War I put an end to this idyllic situation, as the region became a battleground. At the October 4, 1918 session of the Viennese parliament, the Bukovinian Jewish delegate Dr. Benno Straucher voted for joining the province to Austria. At the same time, Ukrainians in Czernowitz sought political union with Ukraine; whereas Romanians demanded union with the Romanian Kingdom.

Both Ukrainians and Romanians claimed Bukovina as their historical land, and part of their respective nations. Their national aspirations had grown noticeably during the second half of the nineteenth century. Both ethnic groups struggled against each other and against the Habsburg Empire within local and imperial institutions to promote their interests in politics, education, and culture. Romanians and Ukrainians accused imperial officials, and each other, of trying to establish control over the region. As population size was used as a means to justify territorial claims, both sides tried to prove that the official census was wrong: Romanians complained that Romanians speaking Ukrainian were counted as Ukrainians, and Ukrainians, in turn, claimed that Ukrainians speaking Romanian were categorized as Romanians.⁶ By late autumn of 1918, tensions between these ethnic groups escalated into riots. The Romanian army soon entered the region and incorporated Bukovina into Romania.

REMAKING BUKOVINA INTO A ROMANIAN PROVINCE (1918–1940)

Bukovina and its capital Czernowitz underwent major transformations under Romanian rule. Romanian officials occupied all key positions in the administration, and Romanian was declared as the official language of Bukovina. Czernowitz was now Cernăuți. Romanian officials tolerated the existing Jewish and Ukrainian schools in the early 1920s, but by the end of the decade the government embarked upon a hegemonic language program to force the population to speak only Romanian. Newspapers published in German and Ukrainian were

6 The Austrian statistics records classified populations primarily according to the language of communication and religion. The category of nationality was not present in Austrian censuses. This caused a problem for the later Romanian and Ukrainian scholars who understood Bukovina's history as a history of one nation.

censored and required to print their front pages in Romanian.⁷ These measures found support among radical nationalist groups.

As Romania sought control over political, cultural, and educational institutions, which would produce a local Romanian elite, nationalist discourse colored the interwar period. Politicians and intellectuals embraced nationalism and its inevitable twin, antisemitism. Interwar Romania embraced a radical form of antisemitism.⁸ The Jewish population in the newly acquired territories could not easily obtain Romanian citizenship, and those who already had it were targets of a denaturalization process initiated by the government.

According to historian Vladimir Solonari, the Romanian interwar intellectuals and politicians “envisioned the ethnocratic state program project as a development against other minorities.”⁹ The Romanian right-wing held that ethnic minorities were a problem. Their campaign to privilege Romanians took aim at others, with Jews as the primary targets.¹⁰ Romanian nationalists perceived minorities as “foreigners” and “parasites”, and right-wing politicians held that they represented both the symptom and the cause of the Romanian nation’s degradation.¹¹ The solution to the minorities’ problem, they declared, was the restoration of Greater Romania through the implementation of an ethnic purification policy, to cleanse the nation.

Among the newly incorporated provinces into Romania in 1918 (Banat, Transylvania, Maramureş, Bukovina and Bessarabia), Bukovina was the least ethnically Romanian. The northern part of the territory was compactly inhabited by Ukrainians, who outnumbered the Romanians. As historian Irina Livezeanu demonstrates in her study, the stratification of Bukovinian society was reflected in the province’s educational system.¹² Romanians and Ukrainians together formed a majority of the overall population (34.4% and 38.4%), but a minority of the urban population and elites.¹³ They were a majority in the

7 See, for example, Ukrainian newspaper *Час (Time)* all issues through January until December 1936 were censored by Romanian authorities. Derzhavnyy Archiv Chernivetskoji oblasti (DACHO) library, Ukraine.

8 DWORK, D. – JAN VAN PELT, R.: *Holocaust: A History*. New York 2002, p. 119–121. See more on anti-Semitism and minority treatment in Romania: DWORK, D. – JAN VAN PELT, R.: *Flight from the Reich: Refugee Jews, 1933–1946*. New York 2009, p. 29, 99, 195–196.

9 SOLONARI, V.: *Purifying the Nation. Population Exchange and Ethnic Cleansing in Nazi-Allied Romania*. Baltimore 2010, p. 13.

10 Ibid.

11 Ibid., p. 140.

12 LIVEZEANU, I.: *Cultural Politics in Greater Romania: Regionalism, Nation-Building, and Ethnic Struggle, 1918–1930*. London 1995, p. 60.

13 Ibid.

elementary schools and a minority in the mostly urban secondary schools, where Jewish and German pupils predominated.

During the interwar period, Romanian authorities tried to modify the educational system by reducing the number of Jewish youths able to receive secondary and higher education, thereby making room for a larger number of Romanian youths. These measures were seen by the Jewish community as efforts aimed to undercut its prewar position and were clearly antisemitic. Bukovinian Jews expressed their concerns with regard to the quota system in education. In 1926, interethnic tensions in the Jewish dominated capital of Bukovina exploded into violence. The 1926 fall session of baccalaureate stirred up minority protests in Bukovina and led to the arrests of Jewish youths. These events, in turn, caused a nationalistic backlash and the murder of a Jewish student. These incidents were symptomatic of the tensions that existed in Bukovinian society as a result of the Romanianization of the province. Protests held by Jewish youth on the streets of the former Habsburg province were a way in which they resisted Romanianization and the increasing political and social restrictions. The Jewish bourgeoisie and professional middle class in Bukovina were still doing well. With the implementation of anti-Jewish legislature in the late 1930s, accompanied by anti-Jewish agitation and state-inspired anti-Semitism, the position of Romanian Jews was severely affected.

FROM DISCRIMINATORY MEASURES TO ANTI-JEWISH LEGISLATURE

The first measure, in a series of antisemitic laws adopted in Romania, is dated January 22, 1938. The law was passed concerning the revision of citizenship. According to this legal act, most Jews were obliged to prove that they were in fact Romanian citizens. The law was initiated by right-wing political leaders of the newly appointed government of Alexandru Cuza and Octavian Goga. The Goga-Cuza government set a plan to realize its own anti-Jewish program. Efforts were made to implement principle *numerus clausus* in all spheres of the economy. Jewish newspapers and libraries were closed; various professional organizations expelled their Jewish members. In Bukovina, Jewish civil servants employed by the old regime, were quickly replaced by ethnic Romanians.

On February 27, 1938, a constitutional law was signed that defined membership in the Romanian nation by blood, legally distinguishing between Romanians by race and Romanians by residence. The legal method of defining who was a Jew was introduced on August 8, 1940. This measure severely restricted civil and political rights. The Romanian law gave a broader definition of a Jew than the German legislation, including in this notion all persons of “mixed blood”. The law introduced three categories of Jews, depending on when they acquired Romanian citizenship.

Jews in all three categories were barred from adopting Romanian names; none could buy property in the countryside; and those who educated their children in a spirit contrary to “religious or national principles” risked revocation of their parental authority. Marriages between Romanians “by blood” and Jews were forbidden (August 8, 1940). On December 17, 1941, decree mandating a census of those “with Jewish blood” required registration at the Central Jewish Office.

A large number of laws and regulations, with strong antisemitic intent, were issued by the Romanian government during 1940–1942. Anti-Jewish legislature established a lower legal status for Romanian Jews. Romanian authorities made a decisive step away from liberal constitutionalism, on which political and legal system of the Romanian state was based. However, since Romania had a poor record with regard to law enforcement, including the enforcement of anti-Jewish laws, much depended from the local authorities.¹⁴

LIFE AND DEATH OF BUKOVINA JEWRY (1940–1945)

An ethnically and religiously diverse borderland region, Bukovina remained a contested territory. World War II provided an opportunity to re-draw the borders, and on June 28, 1940 the Romanians withdrew from the Ukrainian part of Bukovina and Bessarabia in response to an ultimatum from the USSR. Soviet troops moved in and the Supreme Soviet decreed (August 2, 1940) that northern Bukovina, together with northern Bessarabia and a small part of old Romania containing the town of Herța would form an administrative unit (oblast’). Cernăuți officially became Chernovtsy, and soon Soviet authorities controlled every aspect of life, implementing Russification, confiscating property¹⁵ and deporting capitalists, kulaks, and all alleged enemies to Siberia.¹⁶ Among those deported were shopkeepers, wealthy citizens, former officials, and liberal and socialist intellectuals. Many Jews together with Germans and Romanians were sent to Siberia.¹⁷

14 MENDELSON, E.: *The Jews of East Central Europe Between the World Wars*. Bloomington 1983, p. 209.

15 DACHO, f. 5, op. 4, spr. 59, ark. 1–107.

16 Ibid., f. 1, op. 1, spr. 58–59, ark. 10–11; f. 1, op. 1, spr. 27, ark. 41; f. 72, op. 1, spr. 2, ark. 33–34; f. 1, op. 1, spr. 4–6, ark. 8–29; f. 4, op. 1, spr. 233, ark. 54; f. 4, op. 1, spr. 125, ark. 23, 51, 59; f. 1, op. 1, spr. 171, ark. 92–97; f. 4, op. 4, op. 1, spr. 233, ark. 41.

17 Ibid., f. 1, op. 1, spr. 58–59, ark. 10–11; f. 1, op. 1, spr. 27, ark. 41; f. 72, op. 1, spr. 2, ark. 33–34; f. 1, op. 1, spr. 4–6, ark. 8–29; f. 4, op. 1, spr. 233, ark. 54; f. 4, op. 1, spr. 125, ark. 23, 51, 59; f. 1, op. 1, spr. 171, 174, ark. 33, 62–77; f. 4, op. 1, spr. 233, ark. 54; f. 4, op. 1, spr. 125; f. 2, op. 1, spr. 122b, ark. 4–7, 9; f. 2, op. 1, spr. 18, ark. 7, 16; f. 2, op. 1, spr. 17; f. 1, op. 1, spr. 171; f. 1, op. 1, spr. 171, ark. 92–97; f. 4, op. 1, spr. 233, ark. 41.

The Soviets imposed a nationalities policy and nationalization of private property, and the arrest and deportation of “political enemies and unreliable elements” ensued, culminating in a wave of repression. These actions were part of a larger “cleansing” campaign implemented in the newly annexed western territories of the USSR.¹⁸

Historian Solonari has argued that many Romanians wanted war with the Soviet Union, in his words, “*Marshal Ion Antonescu was burning with desire to see it happen.*”¹⁹ Antonescu, who assumed dictatorial powers in his pro-German government during World War II, sought an agreement with Hitler.²⁰ Although Romania lost northern Transylvania to Germany, it was only with German support that Antonescu could defend the country’s territorial integrity and wrest back territories from the Soviet Union.²¹ Bucharest embraced the German offer of alliance and Antonescu got his chance to regain the lost eastern provinces of northern Bukovina and Bessarabia when Germany invaded the Soviet Union in June 1941. Territory wrought from Soviet control was given to Romania, even though the Reich could have claimed the right of occupation. Bukovina and Bessarabia were formally re-established as provinces of Romania on September 4, 1941.

According to the Soviet Extraordinary Commission for the investigation of atrocities of German fascists and their henchmen, 11,347 Jews were killed in the province during the summer of 1941.²² Archival documents²³ and witness accounts²⁴ provide evidence of the mass murder of the Jewish population in a three-day uncontrolled killing action on July 6–8, 1941. These days were marked by looting of Jewish homes, destruction of communal institutions such as synagogues and schools, and the public humiliation and death of many Bukovina Jews. Supported by the German Wehrmacht and Einsatzgruppe D and by the

18 See: FRUNCHAK, S.: Commemorating the Future in Post-War Chernivtsi. *East European Politics and Societies*, volume (vol.) 24, 2010, number (no.) 3, p. 435–463.

19 SOLOARI, V.: *Purifying the Nation*, p. 149.

20 Ibid.

21 DELETANT, D.: *Hitler’s Forgotten Ally: Ion Antonescu and His Regime, Romania, 1940–1944*. London 2006, p. 2–3.

22 DACHO, f. 653, op. 1, spr. 141, ark. 4–141; f. 653, op. 1, spr. 104; f. 653, op. 1, spr. 105a, ark. 12–412; f. 653, op. 1, spr. 105b; f. 653, op. 1, spr. 3,4,5,6a,6b,7; f. 653, op. 1, spr. 68, ark. 2–201.

23 Ibid., f. AP-2809, op. 3, spr. 8, ark. 127; DACHO, f. 653, op. 1, spr. 103, ark. 2–7, 20–26. According to findings of the Soviet Extraordinary Commission, approximately 6,000 Jewish inhabitants were murdered during this three-day pogrom in Czernowitz.

24 Ibid., f. P2833, op. 1, spr. 45, ark. 1 (Sarah Larina), 5 (Abram Lebtsele), 22 (Nusia Spektoran), 28 (Valentin Aisenfrants), 46 (Marchel Isenger), 50 (Berta Portnoy), 52 (Klara Altman), 56 (Norbert Aurban), 75 (Pinkhas Lutinger), 79 (Roza Linder).

local peasantry, Romanian police and soldiers murdered Jews as they reconquered Bukovina and Bessarabia (late June 1941). They followed the plan dictated by their government for the systematic “ethnic cleansing” of the country: Jews in rural areas were to be killed on the spot, while those living in the cities were spared for the time being.

Several mass executions across the reconquered province, and an initial concentration in a ghetto, were followed by the deportations of many local Jews to Transnistria. This territory was used as a dumping ground and for the imprisonment and execution of Jews from Bukovina and Bessarabia. The organization of a mass murder operation of Jews in Bukovina and Bessarabia fell to Romania, as Germany’s ally. The Romanian military and gendarmerie launched the genocidal campaign by relying on the support of the local population.²⁵ These prearranged actions resulted in the death of approximately 20,000 Jews²⁶ in Bukovina and Bessarabia between July and August 1941. Most of the Bukovina Jews who survived the summer of 1941 murders were deported on foot to Transnistria. Vladimir Solonari argues that Antonescu’s policy of ethnic homogenization became ever more violent, particularly in Bukovina and Bessarabia. These provinces served as a testing ground for the total ethnic purification of Romania²⁷ and thus sites of a horrendous social engineering experiment carried out by Romanian leaders. The mass character of the deportation shows clearly that Antonescu’s intention was “ethnic cleansing”: to eliminate Jews from these provinces. Of the 147,000 Jews deported to internment

25 Mass violence against Jews unrolled in northern Bukovina as soon as Red Army left the region. In some cases it was carried out by German and Romanian military, in others the local population was involved. Members of the Organization of Ukrainian Nationalists (OUN) organized several murderous actions in the areas where they operated. See, for example: DACHO f. 1, op. 1, spr. 140. Such cases are described in: HИМКА, J. P.: *Ukrainian Insurgent Army and the Holocaust*, p. 17 (paper prepared for the Convention of the American Association for the Advancement of Slavic Studies, Boston, November 12–15, 2009, cited with the author’s permission). SOLONARI, V.: *Patterns of Violence: The Local Population and the Mass Murder of Jews in Bessarabia and Northern Bukovina, July–August 1941. Kritika: Explorations in Russian and Eurasian History*, vol. 8, 2007, no. 4, p. 763; ANGRICK, A.: *Power Games: The German Nationality Policy (Volkstumspolitik) in Czernowitz before and during the Barbarossa campaign. Dapim: Studies on the Shoah*, vol. 24, 2010, p. 89–135.

26 In *The Destruction of the European Jews* Raul Hilberg estimated that more than 10,000 Jews were murdered in Bukovina and Bessarabia during the summer 1941. HILBERG, R.: *The Destruction of the European Jews*. Vol. 2. New Haven 1961/2003, p. 771. Radu Ioanid in *Evreii sub regimul Antonescu* adduces 23,513 as the number of murdered Jews in the first weeks of war. IOANID, R.: *Evreii sub regimul Antonescu*. București 1998.

27 SOLONARI, V.: *Purifying the Nation*, p. 142–184.

camps in Transnistria between 1941 and 1943, at least 90,000 died from typhus, starvation, malnutrition, and atrocities.²⁸

At the same time, as many as 20,000 Jewish residents of Czernowitz were permitted to remain in the city. Traian Popovici, who was appointed mayor when Czernowitz was returned to Romania, objected to the creation of a ghetto and the deportation of the city's Jews. He continued to protest to the governor and Marshal Antonescu himself, arguing that the Jews were vital to the economic stability of the town. Finally, Popescu was ordered to compile lists of Jews exempted from deportation. They were granted so-called authorizations, working permits issued to professionals, important businessmen, family members, and to people who had no professional skills whatsoever.²⁹ Enduring antisemitic persecution and internment in the Czernowitz ghetto, the Jews who remained in the city survived the war.

Reactions of Bukovinian Ukrainians and Romanians to the expropriation of Jewish property, businesses, and jobs in the wartime city differed. Many gentile Bukovinians pursued selfish interests, with greed and personal enrichment being crucial forces that dictated actions and shaped behaviors.³⁰ Advancement of career prospects in state and public structures loomed large also. Even ideological convictions could not eliminate the corruption of some officials who were in charge of the confiscation and auctioning off of Jewish property.³¹

On the one hand, Romanianization triggered the enthusiastic participation of ordinary citizens, but at the same time it created dissatisfaction among those concerned, because of its negative economic effects. Many high-ranking managers and businessmen complained to authorities about the difficulty in replacing Jewish specialists. Trying to secure the prosperity of their own businesses, many owners applied for "authorizations" for their Jewish workers.³² The disappointment of those who felt that their personal goals and expectations were not satisfied clearly emerges from the archival records. For instance, files from the collection of the Governance of Bukovina hold evidence that Christian workers complained saying that managers kept Jewish specialists in a privileged position.³³ Another popular criticism was that a significant amount of Jewish

28 DELETANT, D.: Aspects of the Ghetto Experience in Eastern Transnistria: the Ghettos and Labor Camp in the Town of Golta. In: *Ghettos 1939–1945. New Research and Perspectives on Definition, Daily Life, and Survival*. Washington 2005, p. 15–67.

29 DACHO, f. 307, op. 1, spr. 2954–2960.

30 Ibid., f. 307, op. 1, spr. 2248.

31 Ibid., f. 307, op., spr. 2176–2179.

32 Ibid., f. R. 307, op. 1, spr. 2141, ark. 26–69; f. 307, op. 1, spr. 2163–2165.

33 Ibid., f. 307, op. 2, spr. 2163, ark. 1–4.

property was not sold or auctioned.³⁴ At the same time, there were numerous applications by gentile city inhabitants asking for the authorities' permission to be treated by Jewish medical specialists.³⁵

Romanian authorities applied a variety of inconsistent approaches in implementing anti-Jewish measures. From the beginning of the war, Romania supported German antisemitic race-based policy in many ways. Romanian forces sent Jews to the death camps in Poland, and deported Jews from Bukovina and Bessarabia to ghettos and labor camps in Transnistria. Yet, Romanian anti-Jewish policy was independent of the country's alliance with Germany, and in summer 1942, Marshal Ion Antonescu changed his mind about acceding to German requests to deport the remaining Jewish population of Romania, mostly in Banat, Transylvania, Wallachia, and Moldavia, to the annihilation centers. This shift in Antonescu's policy raises important questions.

Communism was the major threat in Antonescu's view. He frequently used the label "Judeo-Bolshevism" in his speeches to characterize Jews, primarily those who lived in Bukovina and Bessarabia. Antonescu's obsession with the Bolshevik menace, along with his policy of "ethnic purification", defined Romanian anti-Jewish policy in the borderland areas. From the first days of occupation, the Romanian administration launched antisemitic policies³⁶ typically followed by an anti-Soviet propaganda campaign.³⁷ Archival materials reveal that Romanian authorities in Bukovina carried out political background checks to screen out all individuals (primarily those of Jewish and Ukrainian ethnicity) who, allegedly, collaborated with Soviet authorities or communist or leftist organizations.³⁸ They accused the Bukovina Jews of being Bolshevik sympathizers and, spreading the myth of "Judeo-Bolshevism", welcomed voluntary denunciations by citizens. These played a key role in identifying Jews who supposedly supported the Soviets.

The Red Army liberated the Bukovinian capital in March 1944 and took control of the region. With the Axis in retreat, Jewish survivors sought to go home. They found their return difficult and dangerous. Most returnees had lost their identification papers during the deportation. When Soviet soldiers, at the city's checkpoints, asked for their papers, attesting to their former residence, they were unable to prove their birthplace. As a result, they were turned away from Chernovtsy. Those fortunate enough to return to their hometown were soon

34 Ibid.

35 Ibid., f. 307, op. 2, spr. 2167, 2168.

36 Ibid., f. 307, op. 2, spr. 2728.

37 Ibid., f. 307, op. 2, spr. 2726–2727; 2733.

38 Ibid., f. 307, op. 1, spr. 107, ark. 1–10; f. 307, op. 1, spr. 108, ark. 1–22; f. 307, spr. 109, ark. 1–6; f. 307, spr. 110, ark. 14; f. 307, spr. 112, ark. 4–48; f. 307, spr. 113, ark. 3; f. 307, spr. 114, ark. 1–12; f. 307, ark. 115, ark. 7.

silenced. Soviet authorities introduced a ban on the use of German, the native language for the majority of Jewish city inhabitants. A repressive regime had succeeded a murderous one. Bukovinian Jews who had survived found themselves dealing with oppressive Soviet policies after the war. The Soviet government issued a special decree that allowed and practically demanded the emigration to Romania of Jews who had been Romanian citizens before 1940.³⁹ Officially labeled as “evacuation”, this policy was another example of the common Soviet practice of population transfer.

CONCLUSION

If Bukovina ever was home to ethnic and religious peaceful coexistence, that multiculturalism was shaken by the successive political regimes, radical ideologies, and the destruction wrought on by world wars. Romanianization throughout the 1920s–1930s aimed at transforming multiethnic Bukovina into an overwhelmingly Romanian province. The local population may have looked longingly to the Communist regime to the east as a happy alternative to forced Romanianization, but the Soviet occupation of Bukovina in June 1940 shattered their illusions. The return of Romania to the region, accompanied by the German army, brought war, ghettos, forced labor, internment, and death. Wartime antisemitic policy spelled death and destruction to the Jewish community, but peace did not bring relief. Soviet liberation in 1944 reinstalled the communist regime, which led to a new wave of emigration to Palestine or, through Romania, to the West. Survivors who left the Soviet-ruled region in 1944–45 knew that their prewar home, rich in cosmopolitan culture in which German literature, music, philosophy flourished, had been lost. Soviet authorities launched a new social engineering project, the construction of Soviet Bukovina.

39 See the resolution No. 66/2 of the Soviet of People's Commissars of the UkrSSR and the CC of the CP(B) of Ukraine of February 26, 1946, On the evacuation from the territory of Chernovtsy Province of the Ukrainian SSR to Romania of people of Jewish nationality who are residing in Northern Bukovina and were not Soviet citizens before June 28, 1940, published in: ALTSHULER, M.: The Soviet 'Transfer' of Jews from Chernovtsy Province to Romania, 1945–1946. *Jews in Eastern Europe*, 1998, no. 2 (36), p. 70–71.

Racial Legislation in Romania

Case-study: Jews of Bukovina and the “Star of David” (1941–1944)

Liviu Carare (Romania)

The period between the years 1938 and 1944 captures the evolution of Romanian anti-Semitic legislation, starting from the dictatorship of Carol II and ending with the Antonescu regime. During this period there was a gradual deterioration of the situation of Jews that culminated with the impact of territorial cessions in the summer of 1940, followed by the exclusion of Jewish elements from all state sectors and structures. Romania's relations with Western totalitarian regimes contributed to an accelerated spread of fascist elements. The pressure from Nazi Germany and Soviet Russia had led directly and indirectly to the identification of Romanian Jewry as main scapegoat for all failures of the state. Henceforth Jews would be treated as an enemy from within, and their rights and freedoms would be restricted. These restrictive measures were accompanied by violence, massacres and pogroms carried out by the local population against the Jews. To differentiate between Jews and non-Jews, the military government of Bukovina forced the Jews to wear the “Star of David”. Legislation in Bukovina, regarding the imposition and implementation of the distinctive 6-cornered sign, generated a state of panic at first, and then contributed to demoralizing the Jewish population. As in Nazi Germany, the “Star of David” worked as an identification system for those who broke the regulations. The stigma had turned inhabitants of the cities into representatives of those who made the persecution of Jews mechanism work.

The “Star of David” (yellow, black, or sometimes even red) was not systematically imposed on the entire Romanian Jewish population. Only Jews in some districts of Moldavia and in Bukovina were forced to wear this distinctive mark. Immediately after the beginning of Operation Barbarossa in the summer of 1941, the compulsory yellow badge was introduced in a number of localities in Moldavia. These were first imposed by the police of Bacău, in notices posted on city walls on July 4, 1941. Within 48 hours “every Jewish man and woman must wear on the left side of the chest the Jewish star (two overlapping triangles) of yellow cloth, whose sides are 6 cm,”¹ with the exception of Jews dressed in military uniforms. Persons who did not comply were to be denounced and turned over to police or military authorities.²

On July 29, 1941, the man in charge of the administration of Bukovina, Lieutenant-Colonel Alexandru Rîșanu demanded the head of state, Ion Antonescu, to issue an order to force Jews within the government to wear a distinctive sign. The motivation of the request was that segregation could only be beneficial to the Romanian state, because Jews (subversive elements) have been recently seen in compact masses, and moreover Jewish women and girls are seeking the company of Romanian and German soldiers, which was in fact dangerous to state affairs. Thus, according to the governor, it is necessary to compel “under criminal sanction – that Jewish men and women be required to wear a visible white armband on which the full Hebrew six cornered star is applied, in black color.”³ The next day in Czernowitz, ordinance number 1344 of July 30, 1941 was displayed, which imposed restrictions on the Jewish population, including the wearing of a distinctive mark that “consists of two equilateral triangles with bases of 6 cm, stacked so as to form the Hebrew star made of yellow cloth.”⁴ Any violation of the ordinance was punished by internment in a camp.

Local initiatives taken in introducing local stigmas in Bacău and Czernowitz caused a reaction from the Ministry of Interior. The local prefects across the country were sent a telegram dated July 31: “Please take measures that no Jew should wear any Semitic distinctive sign, because the signs of distinction may give rise to unwanted reactions.”⁵ The new situation lasted only until August 5, when Mihai Antonescu, the Vice Prime Minister, ordered the Ministry of Interior

1 Bacău County Division of Romanian National Archives, fund (f.) Primăria Bacău, folder 21/1942, page (p.) 1.

2 Ibid.

3 BENJAMIN, L. (ed.): *Evreii din România între anii 1940 – 1944*. Volume (Vol.) 3. Part 1. Bucharest 1997, document (doc.) 240, p. 346.

4 CARP, M.: *Cartea Neagră*. Vol. 3. Bucharest 1996, doc. 37, p. 98–99.

5 BENJAMIN, L. (ed.): *Evreii din România*, doc. 214, p. 319.

that the sign was to be worn from now on. In the meeting of the Council of Ministers on the same day, Mihai Antonescu criticized the Interior Secretary of State, General Ion Popescu for issuing the order through which the sign for the Jews was abolished. Moreover, he emphasized the need for a general law concerning the stigma, after a phone conversation he had with General Tataranu, who mentioned the case of Iași, where the Jews moved freely in an area where *“the army is engaged in activities that involve military operations.”*⁶ The adoption of a general law was postponed and this fact was communicated to General Nicolae Tataranu of the General Headquarters on August 13, 1941.⁷ Contrary to the government decision, in Iași, the General Headquarters ignored the order and introduced the distinctive sign on August 6⁸ and later the Police Inspectorate informed about its decision not to withdraw the ordinance, even if postponing its application was a direct order given by Mihai Antonescu.⁹

The Jewish Communities Union carried out extensive activities in trying to suppress this distinctive sign, randomly imposed by local authorities. In a memorandum sent on July 15, 1941 to Mihai Antonescu (Vice President of the Council of Ministers), Dr. Wilhelm Filderman, president of the Jewish Communities Union, upheld the idea that this regulation had no legal justification, yet nevertheless the measure still remained in force.¹⁰ Dr. Filderman continued to request the cancellation of this measure, saying that it *“harms the general economic interests, disturbs public order by subjecting an entire population to vexations and, therefore, the abolition of this vestige of the Middle Ages is demanded.”*¹¹ This appeal was not heard, and on September 3 the Council of Ministers turned the wearing of the stigma for Jews into law, by means of a direct order given to district prefects, which stated: *“all Jews (men, women and children) across your territory are obliged to wear a star with six corners (Star of David), placed in a square-shape, with dimensions of 8.5 cm, and this star shall be black on a white background. The sign will be carried sewed on garments on the left side of the chest. All Jews must be forced to wear that sign within 5 days of receipt of this order. Jews who have converted to Christianity will not be forced to wear this sign.”*¹² All

6 Ibid., doc. 102, p. 276–277.

7 United States Holocaust Memorial Museum Archive (USHMM), record group 25.013M, reel 17, file 86, p. 64. See also: BENJAMIN, L. (ed.): *Evreii din România*, doc. 224, p. 328.

8 USHMM, record group 25.013M, reel 17, file 86, p. 67.

9 Ibid., file 64, p. 95.

10 FRILING, T. – IOANID, R. – IONESCU, M. E. (eds.): *Final Report, The International Commission for the Study of Holocaust in Romania*. Iași 2005, p. 212.

11 USHMM, record group 25.013M, reel 144, file 2410, p. 394.

12 BENJAMIN, L. (ed.): *Evreii din România*, doc. 312, p. 425.

Jewish men, women, and children were subject to this law and in addition, this sign was to be displayed in every front shop window of Jewish stores.¹³

This law was finally annulled after Dr. Wilhelm Filderman managed to persuade the head of state, to order the suppression of wearing this sign in the country on September 9, 1941. Even though he was a supporter and promoter of anti-Semitic legislation, Ion Antonescu decided to cancel the law on the grounds that the act of September 3 was made without consulting him, so the authorities had randomly implemented a hallmark in the country.¹⁴

The suppression of the order of September 3 visibly disturbed the emblematic interwar anti-Semitic publication *Porunca Vremii*. This newspaper had launched a real campaign to reintroduce the yellow star in Bucharest as the distinctive sign of the Jews. Director Radulescu obtained an audience with Baron von Killinger (Nazi Germany's ambassador in Romania), requesting information on the Reich's regime for Jews in the occupied territories.¹⁵ On September 12, Radulescu signed an article entitled *Star of David and the legitimate satisfaction of Bucharest inhabitants'* demands that the people of Bucharest, as in Berlin, must have the satisfaction of being able to identify Jews through a mandatory yellow star.¹⁶ The cancellation of the order to wear the yellow star (or black) had not gone unnoticed even by the German authorities. The publication *Bukarester Tageblatt* of December 22, 1941 stressed the need for the wearing of the "Star of David", as a component of the "New Order".¹⁷

The stigma was only partially abolished. In some Moldavian towns in Bukovina and in Transnistria, the Jews continued to wear this mark during all the war years. Czernowitz authorities paid special attention to that chapter, the wearing of the "Star of David" by Jews in the area. Immediately after July 30, 1941, the date on which the governor of Bukovina decided that Jews should wear a distinctive mark, there was maintained a strict supervision of the gendarmerie and police, with regard to how the order had been applied and respected by Jews in Bukovina.

Thus, a secret informative report by the Gendarmerie dated September 16, 1941 indicates that Jews of Czernowitz were evading the mandatory wearing of the distinctive sign and, being afraid that they would be gathered into ghettos, and trying to obtain baptism certificates from various religious associations.

13 USHMM, record group 25.013M, reel 144, file 2410, p. 21.

14 Ibid., reel 17, file 86, p. 196–197. See also: BENJAMIN, L. (ed.): *Evreii din România*, p. 308–309; doc. 317, p. 429.

15 USHMM, record group 25.013M, reel 17, file 86, f. 237.

16 Ibid.

17 IOANID, R.: *Holocaustul în România. Distrugerea evreilor și romilor sub regimul Antonescu, 1940–1944*. Bucharest 2006, p. 56.

One example was the Christian Brethren Assembly, which issued such certificates to Jews in exchange for money.¹⁸

One year after the introduction of this law, military authorities in Bukovina considered it useful due to its *“beneficial effect in stimulating national consciousness by permanently making people aware of the danger produced by Jewishness, effectively contributing to the removal of Jews and their negative influence from the Christian environment.”*¹⁹ It was noted that the sign was considered useful in other countries such as Germany, Poland and more recently even in France, being implemented according to the same criteria.²⁰

Czernowitz Regional Police Inspectorate recorded on August 6, 1942 that the vast majority of Jews use various methods to hide this sign: either they wear it under the lapel of their coats, or they cover it with a suitcase used just for that purpose, and women hide it in their bags. Furthermore, the size of the sign has nothing to do with the “Star of David”, being made of materials such as cardboard, wood, metal, string or paper; the police report’s author also mentions that signs have different sizes and colors, are dirty and broken, and therefore cannot be distinguished.²¹ To end these situations the report proposes the wearing of the “Star of David” be made mandatory for all Jews in the province of Bukovina. Regarding the sign – it should be a star made from a single material, made by the Jewish County Office in Czernowitz. The new sign was to be distributed with the release of new ID cards for all Jews enrolled in the Census of persons with Jewish blood.²² Thus, the Government of Bukovina started to analyze offers from private manufacturers for the creation of uniform signs for all Jews within the province. The Alice Hurmuzachi Company, owner of a tailor shop, offered to make such a sign for a price of 22 lei each.²³ On September 10, 1942, the Military Cabinet approved the 22-leu offer and instructed each piece to be sold at a price of 30 lei.²⁴ The following month, the Jews were warned that until October 5, they had to pick up their new ID cards issued in the census of 1942. Along with the special identity cards Jews were forced to pay the fee and collect their new “Star of David” signs.²⁵

18 The National Archives of Romania, f. Inspectoratul General al Jandarmeriei, file 23/1941, p. 89.

19 USHMM, record group 31.006M, f. 307, reel 9, file 3340, p. 3.

20 BENJAMIN, L.: *Prigoană și rezistență în istoria evreilor din România, 1940 – 1944*. Bucharest 2003, p. 40.

21 BENJAMIN, L. (ed.): *Evreii din România*, doc. 264, pp. 371–372.

22 USHMM, record group 31.006M, f. 307, reel 6; BENJAMIN, L. (ed.): *Evreii din România*, doc. 264, p. 371–372.

23 USHMM, record group 31.006M, f. 307, reel 6, p. 312.

24 Ibid., p. 311.

25 Ibid., p. 328.

The regime of Jews seized for forced labor was no different, in terms of this distinctive emblem. Within the Service of the Economat – Workshops, Jews were informed that “*the wearing of the yellow brassard, issued by Czernowitz Territorial Circle in exchange for the sum of 80 lei, is strictly required.*” Deviations were not tolerated and disobedience would be severely punished, as in all cases, with camp internment.²⁶ On August 24, 1942 Governor Corneliu Calotescu redefined the relationship between the Bukovina Jewry and this distinctive sign. The “Star of David” should be worn further, as required by Article 6 of ordinance 1344 dated July 30, 1941; any deviation was punishable with internment in labor camps. Exempt from this ordinance were Jews baptized before September 4, 1941 (if their baptism was registered in the civil state records office) and Jewish women married to Christians before September 4, 1941. This ordinance, referring to government regulations, was published in the *Bucovina* newspaper and the Propaganda Department had 500 copies printed for public display, which were to be posted by the police.²⁷

This series of documents, issued by the Bukovina Government on the question of compulsory wearing of the “Star of David”, continued in 1943 as well. On February 26, 1943, General Calotescu, the military governor of Bukovina, introduced ordinance 15, which reiterated the obligation of the Jews in Bukovina to wear the “Yellow Star”. Exempted from the provisions of this order were baptized Jews, Jewish women married to Christians or who had Christian children. Ordinance 15 was introduced as a consequence of a report on the wearing of the “Star of David” created by the Military Cabinet of the Bukovina Government. The paper stressed the difficulties encountered by Romanian authorities in verifying the baptized Jews, exempted from wearing the yellow badge, due to there being no entries in the civil state registers to prove the baptisms. Considering that the transition from Jewish religion to Christianity did not change the ethnicity of the individual, the report’s author suggested that “*absolutely all baptized Jews should be made to wear the Star of David.*”²⁸ On the other hand, this document also raised the problem of Jewish women, married to Christians, who became widows but had minor children who were Christians. The conclusion was that it would have been “embarrassing” if their mother had been forced to wear the “Star” as a distinctive mark.²⁹

There were many cases in which Jews of Bukovina requested exemptions from wearing of the yellow star. Applications for exemptions especially increased after

26 USHMM, record group 31.006M, f. 307, reel 9, file 2952, p. 1.

27 Ibid., p. 8.

28 BENJAMIN, L. (ed.): *Evreii din România*, Vol. 4, doc. 167, p. 189.

29 Ibid., p. 190.

the establishment of the Czernowitz Ghetto and rumors about deportation from Bukovina to Transnistria. Some of the requests concerning exemptions came from baptized Jews, who were often arrested and released only after a proof of baptism. One example is the case of Leopold Reichmann, from Czernowitz, detained by the Police because he was found without the mandatory sign for Jews. This offense was punishable with internment in the camp, but L. Reichmann presented a certificate of baptism dated April 28, 1931, which stated that he had *“rejected the Jewish faith, and adopted the Orthodox religion”*, as a result he was released.³⁰ Others tried to obtain relief based on exceptional merit, like services to the Romanian state or its allies. Such an application was made by the lawyer Moses Glaubach, who requested that both he and his family (consisting of 5 members) be exempt from having to wear the “Star of David”, not be evicted from their housing, be exempt from any deportation to Transnistria and have the right to circulate permanently in the city. Dr. Glaubach mentioned that he was born in the village of Ostra and had a permanent residence in the city of Czernowitz since 1896, and that he *“had Romanian feelings and love for the Romanian nation many years before the union of Bucovina with the mother country, and taught for free many sons of peasants from his native village, who subsequently decided to move to secondary schools.”*³¹ During the period in which he served as a military justice officer in Vienna, Mr. Glaubach saved the doctor I. Ciurcu from Braşov and the lawyer Ioan Iosef from Rupea, who were imprisoned for high treason and conspiracies against the Austrian army. After the invasion of the USSR he helped the family of the Romanian Secret Service Inspector General Ioan Pihal and Colonel Miron when they were arrested by the Bolsheviks. All this information had been recorded in a report signed by Major G. Sion, Military Cabinet representative of the Government of Bukovina. The file ended with the conclusion that there were definite orders and ordinances related to the wearing of the distinctive sign, exemption from house eviction and free circulation, but as far as the deportation to Transnistria was concerned, only the governor was able to decide this. The file is dated October 23, 1942 and the document received the resolution *“the request is not approved”*, dated October 27.³² Another unapproved application belongs to Mrs. Hedviga Gerbel of German ethnic origin, who demanded exemption from the yellow sign and free circulation for her Jewish husband in order to help her go to the doctor daily, because she was unable to walk by herself.³³ An unsuccessful application was also made by the engineers Margulies and Landman Emanoil,

30 USHMM, record group 31.006M, f. 307, reel 6, p. 729.

31 Ibid., p. 733.

32 Ibid.

33 Ibid., p. 837.

conscripted for installation and maintenance of Röntgen and other electro-medical apparatuses at all health institutions and hospitals in the city of Czernowitz and the province of Bukovina. For these tasks the two were forced to move frequently within the province, where they had difficulty in performing the service because of the yellow star they wore.³⁴ Although it was claimed there a need for an exemption to prevent unwanted reactions from Christian masses, Jews using rail transport were nevertheless forced to wear the yellow star as well.³⁵ For the same reason the sign was not carried by specialists in industrial and agricultural fields in the rural areas, with the Patronage Council's approval, which admitted that there was no legal basis for the measure. Precisely for these reasons there was a request made for the issue of special orders concerning the status of Jews in rail transit and rural areas. In the event of a negative response from the Governor, the Council asked for the issuing of at least five "*special travel and work passes without the wearing of the star*" for Jews used on the Iosefuvca Cadobesti estate. The answer printed on the written request was negative: "*No. The star will be worn.*"³⁶

The categories of exempted Jews were reduced in number; in addition to those exempted by the ordinance, a special group of Jews who did not have to wear the yellow badge were those working in the informative service of Regional Police Inspectorates in Bukovina.³⁷ Another category was represented by Jews who had foreign citizenship. Debate broke out about their status when the young Erwin Spiegel, aged 18, a Polish and Chilean citizen, was questioned by the Police. Spiegel was arrested on August 18, 1942 for walking in the city of Czernowitz without wearing the yellow star. He said there is no ordinance referring solely to foreign subjects and pointed out that other citizens do not wear distinctive stars.³⁸ A request made to the governor by his father to clarify the situation received the answer: "*All Jews must wear the star.*" A similar response from the authorities was received by Simche Eisenberg³⁹, but the situation was resolved by the Romanian Ministry of Exterior, which decided, under pressure from protests launched by foreign legations that "*decrees concerning Jews should not be applied to foreign subjects established in Romania.*"⁴⁰

One of the few situations in which a Jew was released from restrictive measures is the extraordinary case of Max Rubinstein of Czernowitz. He received a

34 Ibid., p. 616–617.

35 Ibid., p. 666.

36 Ibid.

37 Ibid., p. 690.

38 Ibid., p. 152.

39 Ibid., p. 420, 422, 418.

40 Ibid., p. 179.

certificate signed and stamped by the German Consulate in order to be treated differently by Romanian authorities. Rubinstein had saved the lives of 18 German soldiers captured by the Soviets. He did not follow orders given by the Russians, which were to shoot the soldiers, but took care of the wounded prisoners and supplied them with food. Finally, he hid the prisoners in the house of a Ukrainian villager until they were rescued.⁴¹ The German Consulate was constantly involved in working on his certificate, which needed periodic renewals and approvals by the governor,⁴² and which gave him freedom not to wear the star and exempted him from forced labor. Moreover, he was allowed to exercise his profession of barber and to open a barber's shop with his father.⁴³

In Bukovina there were detectives and policemen with the mission to monitor Jews and report any violations of government regulations. Thus, the Czenowitz Police investigated the report of agent Miliutin Leonid, who had found the Jew Josef Mühlstein in the city without the yellow star.⁴⁴ The agent's reaction degenerated into a scandal with the "Royal" store's owner, which had requisitioned the Jew Mühlstein for work. All parties involved gave statements, from which the fact was learned that the agent asked for the Jew's papers and questioned him, because he was not wearing the "star". This is where Mrs. Natalia Poiana, the owner, defended her Jewish employee. Next, the three statements contradicted each other. On the one hand, the police officer claimed to have acted correctly and was insulted by Mrs. Poiana, who accused him of inhumane behavior in relation to the Jew, and threatened to intervene at the Governor of Bukovina's office to have the police officer dismissed.⁴⁵ On the other hand both Josef Mühlstein and Natalia Poiana said that yellow star was not worn at the time, because street clothes had been replaced with a work coat, and the insults were not real, everything was carried out in a civilized dialogue without threats.⁴⁶

The wearing of the yellow badge was a unique development in Czernowitz and Bukovina, as an image of the relationship between the Government and Jews. A legislative analysis of this shows the reflection in Bukovina of anti-Semitic policy of the Antonescu regime. Collective culpability of the Jews occurred after the start of the war, transforming them into internal and external enemies, which led to rapid deterioration of their status, culminating with ghettoization, deportation and other nightmarish events, which were part of the Holocaust in Romania.

41 Ibid., p. 789.

42 Ibid., p. 784, 785, 787.

43 Ibid., p. 219.

44 USHMM, record group 31.006M, f. 38 , reel 22, file 576, p. 1; f. 307, reel 6, p. 671.

45 Ibid., f. 307, reel 6, p. 673.

46 Ibid., p. 679.

Anti-Jewish Legislation in Bulgaria 1940–1944

Jan Rychlík (Czech Republic)

Most probably, Jews had lived in the territory of today's Bulgaria since the period of Alexander the Great. They had a relatively good position in medieval Bulgaria. Historically, anti-Semitism had never been strongly embedded in Bulgaria. The reason was the almost five hundred years of Ottoman domination (1396–1878). In the Ottoman Empire, the privileged religion was Islam; however, the Jews and Christians were tolerated and had the same legal status. Traditional “enemies” of the Bulgarians, as Christians, thus did not become Jews, but the Ottoman Turks. In national and cultural aspect, in the 19th century the Bulgarians wanted to emancipate themselves from the Greeks, who ruled the Orthodox Church and tried gradually to Grecize all the Orthodox Christians. However, Jews in the Ottoman Empire did not assimilate with the Greeks, and thus they were not seen as bearers of Hellenism. Accordingly, it was not possible to identify the Jews as allies of the Bulgarian nation's enemies, in the national aspect. Bulgarian Jews belonged mostly to the Sephardi branch of Jews, because they were the descendants of Jews expelled from Spain in the late 15th century, who were granted asylum in the Ottoman Empire. Up to 19th century, they used mostly Ladino as a language of mutual communication, which was actually an old dialect of Spanish. Since the last quarter of the 19th century, many among them already spoke Bulgarian. In the early 20th century, a part of the Bulgarian Jews professed Zionism, and another part assimilated into the Bulgarian nation. From the earliest days of the modern independent Bulgarian State (1878), there were attempts to integrate Jews into the Bulgarian society. At the so-called as-

sembly of notables, that is outstanding citizens, who had to draw up a constitution after the formation of the new state, the chief rabbi was also present. Compared with other countries, the Bulgarian Jewish community was small – in 1934 in Bulgaria lived 48,565 Jews, which is 0.8% of the population. From the economic point of view, Jews were relatively weak and there were almost no Jews in the civil service, so in Bulgaria, conditions did not exist for economically and socially motivated anti-Semitism, as they did in Central or Eastern Europe. We can say that the integration of Jews into Bulgarian society was quite successful.

The long-term political objective of Bulgaria, after the restoration of independence, was the annexation of Macedonia, because Bulgarians always considered its Slavic inhabitants as ethnic Bulgarians, and also that territory as part of the medieval Bulgarian State. In order to take this territory, Bulgaria first fought alongside Greece, Serbia and Montenegro in the First Balkan War against the Ottoman Empire (1912–1913). After the defeat of the Ottoman Empire in spring 1913, the majority of Macedonian territories were divided among Serbia (which gained the territory of the so-called Vardar Macedonia, today the Republic of Macedonia) and Greece (which gained Aegean Macedonia, a part of the coast of the Aegean Sea). This led Bulgaria in summer of 1913 to the Second Balkan War against its recent allies Serbia and Greece, later also Romania joined them and eventually even their former common enemy – the Ottoman Empire. Bulgaria lost the war, as well as a major part of its territory, acquired in the previous war. In addition, the territory of South Dobruja was lost to Romania. From the conquests of the First Balkan War, Bulgaria retained only the so-called Pirin (Eastern) Macedonia, an area of Rhodope Mountains and access to the Aegean Sea in Thrace. The effort to regain lost territories, led Bulgaria to enter into the alliance with Germany, Austria-Hungary and Ottoman Empire (Turkey) in the World War I. Although Bulgarians, with the help from Germany, managed to gain Macedonia in 1915 and after Romania had joined the war on the side of Entente in 1916, they also seized the whole of Dobruja, these were only temporary successes. Given that the German-Austrian block lost the war, and since Serbia (the future Yugoslavia), Greece and Romania were on the side of winners, according to the Peace Treaty of Neuilly-sur-Seine of November 27, 1919, Bulgaria lost not only all the temporarily gained territories in Macedonia, but also the area around the city of Petrič and the so-called Western countries (the territory around Bosilegrad and Caribrod) to the Kingdom of Serbs, Croats and Slovenes (Yugoslavia since 1929), access to the Aegean in Thrace to Greece, and again Southern Dobruja to Romania. It also was forced to reduce significantly its military, similar to other defeated states. On that occasion, almost all the Jewish officers were dismissed from the army, although actually there were not too many of them. The political conditions in the interwar Bulgaria were very unstable: the land at first experienced the “agricultural regime

of Alexander Stambolyiski” which was a peculiar dictatorship of agrarian party members (1920–1923), a bloody right-wing coup by Alexander Tsankov against Stambolyiski (June 9, 1923), an attempt of communists and left-wing agrarian party members of a counter coup (September 23, 1923), and then three years of an undeclared civil war, connected with numerous assassination. The situation became stabilized only in the year 1926, and in subsequent years, a parliamentary regime was gradually restored in Bulgaria. On May 19, 1934, the right-wing political club “Zveno” supported by another secret officers’ organization – the “Military League”, organized another coup. Parliament and all the elected regional and municipal corporations were dissolved and all political parties and movements were prohibited. A “system without political parties” was officially established in Bulgaria. In 1935, Tsar Boris III used backstairs machinations to eliminate “Zveno” and the “Military League” and gradually introduced a regime under his personal power, externally masked as an effort to restore constitutional law. In 1938, and then again at the end of 1939, elections to the National Assembly were held, but candidates could act only in their names, not as the representatives of political parties, which were still officially dissolved. Government and individual ministers were formally merely “non-political experts” responsible to the tsar.¹

A ban on all political parties and movements in 1934 also included anti-Semitic and fascist organizations, which sprung up in Bulgaria in the 1920s. Of course unofficially, nevertheless these organizations remained in existence (as well as political parties and movements), and since Nazi Germany supported them, the government was forced to tolerate them. Anti-Semitic and national socialist program was peculiar mainly to Union of Bulgarian National Legions (*Săjuz na bălgarskite bojni legioni* – legionaries), led by reserve general Ivan Lukov, and the organization *Ratnik* (fighter). The major part of “ideological” Bulgarian anti-Semites, such as later Minister of Interior Petăr Gabrovski and Commissioner for the Jewish Question Alexander Belev, came from the ranks of legionaries and *ratniks*. Both organizations, more or less, vegetated on the edge of political life, but they had support from the German embassy, which exploited them as pressure groups against the Bulgarian government. Certain part of the legionaries, especially former officers, managed to infiltrate into the state apparatus, particularly into the police force. This was also the case of Colonel Panteva, who became a Police Director in Sofia, and from this position, he used to cover various anti-Jewish activities of *ratniks*, particularly their attempt at a pogrom in Sofia in the autumn of 1939. However, the whole action did not have public support, which, quite the contrary, deplored it.²

1 For more detailed explanation of the Bulgarian political history of this period, see: RYCHLÍK, J.: *Dějiny Bulharska*. 2. edition, Praha 2002, page (p.) 288–315.

It is necessary to add that in Bulgaria there was another fascist organization – the Bulgarian social movement founded by the Prof. Alexander Tsankov, the leader of the right-wing coup of the June 9, 1923. Although he was a convinced Germanophile, his organization did not have an explicitly racist and anti-Semitic character, and it drew its inspiration mainly from Italian fascism.

The effort to regain the territories lost after the World War I gradually pushed Bulgaria into cooperation with Nazi Germany. Although after the outbreak of the World War II (September 1, 1939) Bulgaria declared neutrality, the German influence in the country was becoming stronger. With the help of Germany, Bulgaria managed to regain Southern Dobruja from Romania on September 7, 1940. This success fuelled the Bulgarian Germanophile circles. However, it is necessary to mention that such circles also existed in Romania and Yugoslavia. That is probably the reason behind the Bulgarian Government's ideas that it was necessary to deserve the favor of Germany, and thus adequately adjust the position of Jews to the conditions in Germany. In the autumn of 1940, *ratniks* proposed their project of an anti-Jewish law called the Law on the Protection of the Nation, which was drawn up in the manner of the Nuremberg racial laws.

The project of this Law, which was drafted by the Minister of Interior Petăr Gabrovski, was dated on October 7, 1940.³ In the original bill, the definition of Jews was based mainly on the "racial" criteria, although it was partially modified by a religious principle: a person who had Jewish parents or Jewish father and did not convert to the Christian religion by September 1, 1940, was considered to be a Jew. The law restricted the freedom of movement of the Jews, made it impossible for them to acquire a piece of land, and restricted their property rights and civil liberties as a whole. The law should have had only a general character, because it was supposed that on its basis, several additional anti-Jewish measures would be implemented. Gabrovski also prepared an explanatory report to the bill, in which he justified this law – as being necessary "*to keep the national purity of the Bulgarian State*". He claimed that the Jews were, and always would be, a foreign element for the Bulgarian nation.⁴

Although Tsar Boris III had certain doubts about this plan, he ultimately approved it, with argument that it would be better for Bulgaria to issue its own

2 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata na bālgarskija narod za zaštita i spasjavane na evrejite v Bālgarija po vreme na vtorata svetovna vojna 1941 – 1944*. Dokumenti. Sofia 1978, document number (doc. no.) 2, p. 18–20.

3 Centralen dāržaven archiv (CDA) Sofia, fund (f.) 190 [komisarstvo po evrejskite vāprosī], opis (op.) 3, archivna edinica (a. e.) 63, list (l.) 103.

4 Ibid., l. 104. Explanatory report is attached to the bill.

anti-Jewish act than to be exposed to possible pressure from Germany.⁵ Prime Minister Bogdan Filov and his cabinet took the same stand on this issue. Then, this outline was brought to the National Assembly in the form of an executive order. In contrast to the original proposal, some changes were made, which we will mention later, but the principles remained identical.

First reading of the law outline took place in the National Assembly on November 15, 16, and 20, 1940. The opposition subjected the bill to criticism from a legal as well as objective point of view. Member of Parliament Petko Stajnov warned that the bill contradicted Article 57 of the Constitution, in force since 1879, because it violated the equality of all citizens before the law. From the objective point of view, Stajnov rejected all racial theories as unscientific, and the law as unneeded, because the Jews in Bulgaria had no economic and political influence.⁶ As it later turned out, support from the deputies of the government majority was not univocal. Ivan Petrov, Member of Parliament, also pointed out a discrepancy with the Constitution, and he particularly was against divesting the Jews of suffrage, which contravened Article 60 of the Constitution.⁷ The same critical voices were heard even at second reading on December 20 and 24, 1940. For example the Communist Deputy Todor Poljakov⁸ highlighted the heroism of Jewish volunteers during the Bulgarian-Serbian war in 1885, and soldiers during the first and second of Balkan wars and during the World War I.⁹ The opposition also pointed out that the outline did not have the support of the Bulgarian public. However, the government of Bogdan Filov had a solid majority in the National Assembly.¹⁰ On December 24, 1940, the law was passed, and after being signed by the Tsar, it came into force on January 23, 1941.¹¹

5 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 38, p. 65.

6 Ibid., doc. no. 42, p. 71–72.

7 Ibid., doc. no. 45, p. 80–81.

8 Bulgarian Communist Party was officially banned in 1924. In the elections held in 1938 and 1939, some communists managed to be elected to the National Assembly as “independent members”, similar to other members of the opposition parties that had been dissolved. Communist deputies could fulfill their mandates with no obstacles until 1941. After the outbreak of the Soviet-German war, although Bulgaria did not take part in it, communist deputies and also some left-wing agrarians (Bulgarian Agricultural People’s Union “Pladne”) were deprived of their mandates and some were also interned.

9 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 49, p. 85–86.

10 Out of the 160 deputies elected to the XXV National Assembly in 1939, 8 were communists, 1 was an independent leftist deputy, 5 were leftist agrarians and 2 were members of the civil opposition. Other members of the government belonged to government majority.

11 *Dăržaven vestnik (State Gazette)*, January 23, 1941, no. 16.

The final Law for the Protection of the Nation (Zakon za zaštita na naciata, ZZN) was, in comparison to the original proposal of the minister Gabrovski, not only an outline law, but rather a comprehensive statute, and thus it gave quite detailed definition of restrictions to be applied against the Jews. The first part of the Law concerned the existence of “anti-national organizations”, which would not be allowed in Bulgaria in the future, and if they had already existed, they were *ex lege* dissolved. This part had purely declarative character and was completely insignificant. The second part concerned the status of Jews. As for their definition, this was a mix of racial and religious aspects and the ZZN, and therefore it was not an exact copy of the Nuremberg racial laws. Any person, who had at least one parent that was a Jew, was also considered to be a Jew; however, it did not apply to the children from such a mixed marriage who accepted the Christianity as their initial belief (§ 15). In practice, this meant that children from mixed Christian-Jewish marriages were not considered as Jews, if they were christened soon after their birth. This provision was later “specified” by the Implementing Regulation of the Ministry of Interior, so that children from mixed marriages should not be considered as Jews, only if their Jewish parent was also a Bulgarian citizen, the marriage was entered into in accordance with the principles of the Christian Church no later than on September 1, 1940, and if the Jewish parent was christened no later than on January 23, 1941, or if he/she had died before September 1, 1940.¹² There were several limitations imposed on Jews: in the field of political and civil rights (§ 21) they were deprived of suffrage, both active and passive, they could not be state or public employees, they were excluded from service in the army, were subject to compulsory labor service, might not enter into marriage with Gentiles, and if they were foreigners, they could not obtain Bulgarian state citizenship by naturalization. In the field of personal liberty (§ 23), they were prohibited from freedom of movement, because without the permission of police authorities, they could not change their domicile, in the field of property rights (§ 24), they must not possess any landed property. As for the practicing of liberal professions, studying at secondary schools and universities, and pursuing economic activities, a *numerus clausus* (§ 25) was issued for Jews, while in certain sectors they were not allowed to conduct business at all, or they could not be shareholders of a share higher than 49% of the overall company’s shares. The ZZN also imposed obligations on all Jews to register all their real estate and personal property for an inventory, and their money might only be bound by coding their special account. The Ministry of Trade and Industry was authorized

12 Pravilnikăt po prilagane na ZZN. Dăržaven vestnik, volume (vol.) 1941, no. 36; Naredba po prilagane na ZZN. Dăržaven vestnik, vol. 1941, no. 40.

to restrain economic and business activities of Jews (§ 26). The employment of Jews, as well as employment of Gentiles, in the Jewish enterprises, which were possible to be bound to specific permissions, was limited. Jews were obliged to have their surnames adjusted, so that they would not end, as it was usual in case of Bulgarian names, particularly -ov and -ev (e.g. Popov, Ivanov, Iliev). This measure allowed an easier identification of the Jews. Certain exceptions to the provisions of the Law were set in the final provisions of the ZZN. Those Jews, who were Bulgarian citizens born in Bulgaria, were christened before September 1, 1940, or entered into marriage with the Gentile before September 1, 1940, and were christened before January 23, 1941 (before the date of entry into force of the ZZN), were exempted from anti-Jewish measures. The provisions of the ZZN did not relate to the Jews, who participated in the fight for the independence of Bulgaria, as well as the widows and orphans of those fighters, as well as the Jews who were awarded a medal "For courage" (*Za chrabrost*).

Based on secret negotiations between Bulgaria and Germany, the Bulgarian government of the new prime minister and Germanophile Bogdan Filov, approached the Covenant of Three on March 1, 1941, and thus became an official ally of Germany. At the same time, Bulgaria agreed to the entry of the German army onto its territory.¹³ German aggression not only against Greece, but also against Yugoslavia followed. Germany used the Bulgarian territory to attack these countries, and also agreed that as of April 19, the Bulgarian army would occupy Macedonia, Thrace and the territory around the city of Pirot in southeast Serbia. Only the western part of Macedonia along with Kosovo was annexed to the "Great Albania" dominated by Italians. By annexation of the new territories, the number of Jews living in Bulgaria increased by approximately 12,000. These immediately became subject to all anti-Jewish regulations of the ZZN. As the Jews were not allowed to obtain Bulgarian citizenship by naturalization, those living in the new territories had the status of foreigners.¹⁴

Bulgaria's accession to the Covenant of Three also had an impact on the anti-Jewish policy. In June 1941, Minister of Finance Dobri Božilov submitted

13 SIRKOV, D.: *Vänšna politka na Bălgarija 1938 – 1941*. Sofia 1979, p. 292–294.

14 Based on the Executive Order No. 3156 of June 5, 1941, Bulgarian citizenship was granted to all former Yugoslavian and Greek citizens of "Bulgarian origin". For the other former Yugoslavian and Greek citizens living in the annexed territories an option period was set – March 1, 1943; however, they could become the Bulgarian citizens only if they also obtained a citizenship of another country by that date. Paragraph 4 (2) of the Executive Order expressly provided that granting Bulgarian citizenship and the option period should not apply to "persons of Jewish origin". See the text of the Executive Order in: BARUCH, N.: *Otkupăt. Car Boris i sădbata na bălgarskite evrei*. Sofia 1991, p. 171–172.

an outline of the law, concerning the extra tax levied on Jewish property in amount of 20–25% of its overall value, to the National Assembly. The National Assembly discussed the bill at a special session on June 21. The opposition deputy Nikola Mušanov opposed the proposal, and he even claimed that such a stringent law had not been issued even in Germany.¹⁵ Well, despite these protests, the National Assembly approved the law, and after its publication in the *Däržaven vestnik* (*State Gazette*), it entered into force on July 14.¹⁶ Although the law was officially justified by that this was a contribution of the Jews to the efforts of war, and Dobri Božilov even “explained” that the Jews in this way were actually repaying the Bulgarian State, which had enabled them to get rich, the real goal was different. The relatively prosperous Macedonian and Thracian Jews had to fill the empty state treasury and, in addition, it was intended to undermine their economic position as well.¹⁷ In reality, only the second part of their plan was realized, because the tax had a liquidating character for most of the Jewish businesses. On September 2, 1941, Božilov publicly confirmed that the Ministry of Finance received thousands of requests for permission to delay the tax payment. All these requests were rejected by the Ministry of Finance, with reference to the bad financial situation of the State, but despite this fact, in most cases they did not manage to levy the full amount of the tax. Although the Jews were impoverished, the treasury remained empty.¹⁸

On December 13, 1941, Bulgaria formally declared war on the UK and the USA and openly entered into the World War II, although Bulgaria was not in war against the USSR, but on the contrary, they had good diplomatic relations. The faith in Germany’s victory was reflected also in the new anti-Jewish laws. On June 25, 1942, the government introduced a bill in the National Assembly, according to which the Cabinet was empowered to issue the regulations directed at the complete ousting of Jews from economic life. The remnants of the opposition in the National Assembly protested again. Deputy Petko Stajnov in his speech said that the Jews in Bulgaria had lost all their rights and assets and the last thing they needed was to be declared as slaves. He concluded his presentation by the following cry, “*But no slaves can exist in Bulgarian Tsardom!*”¹⁹ Minister Gabrovski, who submitted the bill, rejected all the objections with explanation

15 VELJANOVSKI, N.: *Makedonskoto prašanje vo bugarskiot parlament 1941–1944*. Skopje 1996, p. 92.

16 *Däržaven vestnik*, July 14, 1941, no. 151.

17 VELJANOVSKI, N.: *Makedonskoto prašanje vo bugarskiot parlament 1941–1944*, p. 93.

18 KOLONOMOS, Ž. – VESKOVIČ – VANGELI, V.: *Evreite vo Makedonija vo vtorata svetska vojna 1941–1945*. Zbornik na dokumenti. I. Skopje 1986, p. 86.

19 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 77, p. 129.

that the Jewish question was being dealt with throughout Europe and Bulgaria could not keep aloof.²⁰ Then, the law was passed in its original form on June 28, 1942, Tsar Boris III signed it on July 4, and five days later, it entered into force.²¹ On its basis, on August 26, 1942, the government issued a regulation, which amended and tightened the ZZN, and provided a legal basis for establishing new institutions for “solving the Jewish question”.²² Regulation of August 26, 1942 in § 8 particularly modified the definition of a Jew, because even people, whose grandparents originally professed the Jewish religion, regardless of the fact that they later converted to one of the Christian religions, were henceforth regarded as Jews. Jewish half-castes were considered to be Jews, if they had at least two Jewish grandparents, or just one Jewish grandparent, but if at least one other second-degree ancestor embraced the Jewish faith. This new definition meant the approximation of Bulgarian norms to the German Nuremberg racial laws. The provisions concerning various exemptions for christened Jews living in mixed marriages and heroes still stood (§ 10), but according to § 52 and the Supplementary Regulation of September 4, 1942,²³ these exemptions were not granted to those heroes and honored people, who committed or in the future would commit any “*anti-state crime*” or speculation, and to christened Jews, who entered into a Christian marriage with a Gentile, and if this marriage terminated or would terminate with a divorce and there were no living children. In addition, every person who wanted to be exempted from the anti-Jewish measures had to apply for it no later than on October 1, 1942, and to submit the relevant documents justifying the claim for exemption. It can be assumed that, in such a short period of time, no applicant was able to submit evidence and therefore the claim expired. The Regulation of August 26 tightened all the anti-Jewish measures: Jews were subject to special inventory and police registration (§ 12), if they were not christened they were not allowed to have Bulgarian forenames (§ 13), if they did not have certain concessions, all of over 10 years of age were ordered to wear a yellow star as of September 29, 1942 (§ 14). As of September 15, 1942, all Jewish homes and businesses had to be visibly marked (§ 22). Jews were not allowed to have automobiles, radios, or telephones in their possession (§ 23), they were not allowed to stay in hotels, except those that had been reserved for them (§ 31), the administrative and police authorities could prohibit Jews from access to certain parts of cities and to public facilities. Marriages between Jews and Gentiles entered into after January 23, 1941, were voided (§ 24), sexual

20 VELJANOVSKI, N.: *Makedonskoto prašanje vo bugarskiot parlament 1941–1944*, p. 99.

21 *Dăržaven vestnik*, July 9, 1942, no. 148.

22 *Dăržaven vestnik*, August 29, 1942, no. 192.

23 *Dăržaven vestnik*, vol. 1942, no. 201.

intercourse between Jews and Gentiles was also prohibited and punishable. Jews could not have non-Jewish maidservants, and the maximum area of their apartments was set for them too. Jews could be displaced from Sofia to other cities or even outside of the country (§ 29).

The Regulation partially contained also the new and more stringent directives related to the economic activities of Jews and the liquidation of Jewish businesses, actually Aryanization. Jewish property was subject to inventory and the new owners were obliged to register the entire assets, and particularly shares, at Bulgarian National Bank within a period of one month. Jews could pursue any particular economic activity only if they were granted an explicit permission, and in only one enterprise, with its capital no higher than 500,000 lev (§ 32). An owner was not allowed to expand the production either in respect to its quantity or range. Money had to be bound in accounts at Bulgaria's National Bank. Liquidation of Jewish businesses could be performed on the decision of the Ministry of Commerce based on the ZZN § 26. In addition, the so-called voluntary Aryanization was also possible, what actually meant the sale of the business or at least a share in it to a Christian bidder. To the contrary, a new regulation envisaged a compulsory Aryanization, which was carried out after September 1, 1942, by the commission constituted by the Commissariat for the Jewish Questions (mentioned below). In this commission, two workers from the Commissariat sat along with a judge appointed by the chairman of the district court, and in case of firms with capital over 600,000 lev, or with a turnover of over three million lev, there were also representatives of the Ministry of Finance and Ministry of Trade. Such a committee appointed a liquidator for the company, who sold the assets at auction after satisfying all liabilities. In cases deserving special attention, direct sales were also possible with approval from the commission given to a pre-approved bidder. Money from the auction or sale was, in all cases, transferred into a blocked account at Bulgaria's National Bank. In case of joint-stock companies, Aryanization could be carried out either by direct sale or even by transfer of shares forcibly deposited in Bulgaria's National Bank. The state had the right of first refusal in the process of Aryanization.

Commissariat for the Jewish Questions (Komisarstvo za evrejskite vprosi, KEV) at the Ministry of Interior was one of the newly established institutions (§ 1). Alexander Belev, *ratnik* and a fanatical anti-Semite, who had previously led the "research group for solving the Jewish question" in the Ministry of the Interior, was appointed its head on September 3, 1942.²⁴ KEV resided in Sofia, but it sent its empowered delegates to certain areas as necessary. Forced Aryanization

24 CDA, f. 190, Inventory of the Fund of KEV (introduction).

belonged to the competence of the KEV, mainly the liquidation and sale of Jewish enterprises, as well as measures for ousting Jews from public and economic life. In implementing these measures, the state administration authorities were obliged to provide the necessary assistance to delegates of KEV. In this respect it should be added that the KEV treated Jews living in the newly acquired territories in Macedonia and Thrace as “foreigners”, and thus far more stringently than the Jews in “Old Bulgaria”. Paragraph 36 (3) of August 26, 1942, expressly stated that Jews living “in liberated territories”, with no exception, were obliged to liquidate their industrial factories and commercial enterprises within two weeks (sic!) and prohibited to practice any of liberal professions. In Macedonia, no permissions for economic activities were issued to Jews, although in Old Bulgaria, they were still being issued at that time.²⁵

Concurrently with the KEV, the only Jewish center with forced membership was established under the name of the Jewish Communities (evrejski obštiny, EO), which functioned in the manner of the German “Judenrat”. The EO, as a whole, consisted of several local Jewish communities. Every Jewish community was headed by the Jewish consistory (evrejska konsistorija), and the central consistory was located in Sofia. Jewish communities were founded in towns and districts with significant numbers of Jewish inhabitants. The EO, as a whole, was subordinated to the KEV and its affiliates were actually delegates of KEV. The EO collected religious taxes and fees from Jews, as well as fees for various ritual acts, but this money had to be in accordance with Regulation of January 27, 1943, saved in a special account of KEV, which later approved budgets of individual communities and provided them with the appropriate sum of money.²⁶ In practice, the KEV disposed of the moneys absolutely freely, and without any control, so that ultimately the Jews paid for their own persecution.

Preparations for the “final solution of the Jewish question” started in Bulgaria in the fall of 1942. By means of a verbal note of the German legation addressed to Bulgarian Ministry of Foreign Affairs No. A 4318/42 on October 15, 1942, the German government expressed its willingness to accept the Bulgarian Jews, together with the Romanian Jews for the fee of 250 Reich marks (RM) per person. On November 12, 1942, the Bulgarian government agreed to the German proposals, but at the same time, it pointed out that some of the Jews were intended to be employed in construction works at home and, moreover, it declared that the charge of 250 RM per person was too high.²⁷ In January 1943, SS-Hauptsturm-

25 CDA, f. 190, op. 3, a. e. 63.

26 CDA, f. 190, op. 3, a. e. 63, l. 58.

27 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 90, p. 146–147.

führer and Eichmann's collaborator Theodor Dannecker came to Sofia as an adviser for the solution of the Jewish question. He cooperated with the German envoy in Sofia Adolf Heinz-Beckerl and immediately opened negotiations with the Minister of the Interior Gabrovski on the "final solution of the Jewish question". On February 2, 1943, Gabrovski agreed with Dannecker that the Jews from Macedonia, Thrace and Western countries would be delivered under German "protection", as they were considered undesirable people without state citizenship. Details should be established in agreement with Belev, whom Dannecker visited on February 2.²⁸ Belev agreed with this action and responded to Dannecker's proposal that his draft should include also the "undesirable Jews" (unerwünschte Juden) from the "old territories" of Bulgaria.²⁹ On February 16, 1943, Dannecker announced to the Main Reich Security Office (Reichssicherheitshauptamt, RSHA) in Berlin that the Bulgarian government approved the plan on February 12.³⁰ On February 22, 1943, Belev and Dannecker signed a formal agreement under which 20,000 Jews should be deported from the "new areas" to Germany. As the number of Jews living in new areas was less than 20,000, Belev deleted from agreement the words "*from the new Bulgarian counties of Macedonia and Thrace*" and in this way he also extended the area of deportations to the territories of old Bulgaria.³¹ They envisaged that particularly Jewish communists and leftists would be deported from the "old territory". On March 2, 1943, after a certain debate, the government finally passed Belev's proposal.³² Other Jews were subject to civil labor mobilization, which meant their concentration in labor camps.³³

Jews from the former Greek territories (Aegean Macedonia and Western Thrace, now a part of Greece) were among the first to be deported. On the night of March 3 to 4, 1943, they were interned by police and military forces, and on March 5–9, 1943, they were transported in sealed wagons through Dupnitsa and Sofia to the Danube port of Lom. There they were delivered to the German authorities. Later, the Danube boats transported Jews to Vienna, and thence the transports continued by rail through Břeclav and Katowice to the extermination

28 KOLONOMOS, Ž. – VESKOVIČ – VANGELI, V.: *Evreite vo Makedonija*, doc. no. 313, p. 731.

29 *Bălgarija – svoenravnijat sâjuznik na tretija rajch. Dokumenti*. Sofia 1992, doc. no. 82, p. 113–114.

30 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 96, p. 157–158.

31 Ibid., doc. no. 98, p. 160–161. For the photocopy of the agreement where the text "*from newly liberated territories*" is deleted see: RYCHLÍK, J.: *Dějiny Bulharska*, p. 326.

32 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 99, p. 162–164.

33 KOLONOMOS, Ž. – VESKOVIČ – VANGELI, V.: *Evreite vo Makedonija*, p. 120.

camp in Treblinka. The first two ships departed from Lom on March 20, and the next day there were two more ships dispatched from Lom. Overall, 4,219 people were deported. It is not known today if any of these Jews managed to survive.³⁴

Deportations from Vardar in Macedonia followed, which is in the territory of today's Republic of Macedonia. On the night of March 10–11, 1943, Jews were brought and interned in a concentration camp in Skopje, which was a makeshift camp set up in former factory and warehouse of the national tobacco monopoly. On March 22, the first railway transport left from Skopje followed by other transports on March 25 and 29, 1943. All the trains were routed via Niš, Belgrade and Croatia to Vienna, and further through Břeclav and Katowice to Treblinka. As it was stated in the report from the German envoy in Sofia, 7,122 persons were deported, none of them survived.³⁵ On March 16–18, 1943, Jews from the regions of Pirot and Bosilegrad were also deported. This was an area, which had belonged to Yugoslavia, or specifically to Serbia, in the interwar period. These people were concentrated in Pirot and later taken by rail through Niš and Belgrade to Poland. None of them survived as well.³⁶

News of an action against the Jews in the Aegean area reached Bulgaria on March 4 and aroused great concerns among the Jews. Jako Baruch from Kjustendil was the first person, who took some action to rescue the Bulgarian Jews. Baruch, functionary of the social-democratic party in Kjustendil in the interwar period and a chair of the "Jewish Agency" in Bulgaria, learned that Kjustendil Jews were to be interned on March 9. Accordingly, on March 7, he visited his classmate and personal friend, deputy chairman of the National Assembly Dimatăr Pešev in Sofia. Pešev declared that he knew nothing about the deportations, however, he called to a police director in Kjustendil, who he knew personally, and he confirmed this strictly confidential information to him. Baruch announced to Pešev that a special committee of Bulgarians, which intended to intervene against the deportations, had been established in Kjustendil. Since the National Assembly's session should have been held on March 9, Pešev agreed with Baruch that on the same day a delegation of citizens from Kjustendil would also officially visit the parliament.³⁷

34 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 120, p. 202–203; MATKOVSKI, I.: *Istorija na evreite vo Makedonija*. Skopje 1983, p. 154–163.

35 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 115, p. 190.

36 Ibid., doc. no. 120, p. 203.

37 NISSAN, O.: The Bulgarian Exception. *Yad Vashem Studies*, vol. 7, 1968, p. 96–97; KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 192, p. 311–312.

On March 9, the delegation actually arrived there and informed Pešev that the previous night Kjustendil police had started to intern Jews. It soon turned out that an action against the Jews had also already started in Plovdiv, where the Metropolitan of the Orthodox Church Kiril intervened in the defense of the Jews. He managed to achieve their release. In Sliven, Dupnitsa and other cities, Pešev along with the delegation, and some other deputies immediately requested an audience with Filov, who, however, refused to receive them. The entire group thus visited the Minister of Interior Gabrovski. He found himself in a complicated situation. Since the whole deportation action should have been kept secret from the public, the minister claimed that he did not order any concentration of Jews and that it had to be a “mistake” made by subordinate authorities. Pešev immediately took advantage of it and asked Gabrovski to order the chiefs of the district police forces to stop the action and release the Jews, with regard to this “mistake”. Other deputies supported Pešev in his effort. Finally, Gabrovski, after an excited debate, consented to their demand and called off the action via the phone.³⁸

However, Pešev did not confine his activities only to the intervention with Gabrovski, but also launched a major political action. On March 17, 1943, on Pešev's initiative, 42 deputies sent a protest letter to Filov, requesting the cessation of deportations and retention of Jews in Bulgaria. Alexander Tsankov, the leader of the fascist Bulgarian social movement, was among those who signed this document. Deputies argued that there were not many Jews in Bulgaria and they did not present any danger and, inter alia, they were Bulgarian citizens, who should not be expelled from their own country.³⁹ Filov decided not to leave Pešev's action unnoticed. On March 20, the government discussed the letter and decided to submit the question of confidence in the parliament. As it was certain that the government's confidence would be proved, Filov then intended to bring up the question of Pešev's resignation from the vice-chairman post of the National Assembly.⁴⁰ The Tsar agreed to the plan on March 23. On the following day – March 24 – Filov's government really submitted the question of confidence in the chamber. Filov then roundly attacked Pešev, who resisted and refused to resign. Subsequently, Pešev was, based on the voting, officially removed from his office.⁴¹

38 OLIVER, H.: *We were saved*. Sofia 1988, p. 154–162; BARUCH, N.: *Otkupăt*, p. 163–166; KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 192, p. 311–313.

39 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 103, p. 167–169.

40 Ibid., doc. no. 105, p. 170.

41 Ibid., doc. no. 109, p. 174–175.

Pešev's action lead relatively huge reaction in Bulgaria⁴² and the suppression of his "insurgency" could no longer prevent the emergence of a broad opposition front against the deportations, in which temporarily merged the legal opposition with the undeclared one, the Orthodox Church, civic associations, as well as individual citizens. On March 22, the deputy Petko Stajnov filed an interpellation in writing to Filov and Gabrovski in the matter of deportations of Jews from the Aegean area. He inquired whether it was true that the authorities acted really inhumanely and deported even small children. Moreover, he wanted to know which nationality have the Aegean and Macedonian Jews and argued that if Macedonia and Thrace were parts of Bulgaria, it was necessary to treat the local Jews as Bulgarian citizens.⁴³ On April 2, the session of the highest authority of the Bulgarian Orthodox Church (Holy Synod) was held, in which the bishops decided to object to the deportations. It was actually the Metropolitan Stefan⁴⁴, who had a great influence on the Tsar, and who opposed the deportations. Former advisor to the Tsar, Stojan Kosturkov, referred to the monarch on March 20 with the plea on permitting the Jews to stay in Bulgaria.⁴⁵ Diplomatic representatives of other states also interceded on behalf of Jews with the Bulgarian government; The Catholic Bishop of Skopje⁴⁶ spoke up against deportations as well. On May 21, the cabinet resolved that Jews would not be deported that far, but displaced from Sofia to the countryside and, except for surgeons, pharmacists and some other specialists, they would be drafted into work units on the basis of compulsory labor service. In the meanwhile, the public protests continued. On May 24, the day of the Orthodox feast of St. Cyril and Methodius, large demonstration against the deportations of Jews took place in front of the imperial palace in Sofia. Although it was dispersed by the police, the protest apparently managed to strengthen those circles in the Bulgarian government, which strictly opposed the deportations. At last, Tsar Boris III also aligned himself with this group of ministers, so the question of deportations of Jews from the "Old Bulgaria" was postponed indefinitely.⁴⁷ When the German envoy in Sofia, Beckerle, in mid-August 1943 visited Filov and intervened to have the deportations restored, he received

42 Slovak legion in Sofia also reported on this issue. See: Slovenský národný archív (SNA), f. Ministerstvo zahraničných vecí (MZV), box (b.) no. 206, PZ Sofia March 27, 1943.

43 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 108, p. 173–174.

44 Ibid., doc. no. 112, p. 177.

45 Ibid., doc. no. 106, p. 170–171.

46 Ibid., doc. no. 115, p. 192.

47 Ibid., doc. no. 137, p. 218–221. SNA, f. MZV, b. no. 206, PZ Sofia, no. 20/T/43–80.

only an evasive answer.⁴⁸ The German diplomat then interpreted this to mean that the Bulgarian government would not deliver Jews to Berlin's Ministry of Foreign Affairs.⁴⁹

From autumn of 1943, the Jewish question gradually took a new direction. It had already been clear that Germany would lose the war and its defeat would represent a new national disaster for Bulgaria. In this situation, no one wanted to engage in the Jewish question anymore. The regime was stricken by an internal crisis, which became deeper after the unexpected death of Tsar Boris on August 28, 1943. Then, the regency council headed by Bogdan Filov, who was replaced in his post of Prime Minister by Dobri Božilov, took over the Government for the underage Simeon II. The new cabinet was gradually trying to break free from Germany. The idea of the displacement of Jews was thus finally left behind, and the government tried to get rid of its most discredited people. In Božilov's cabinet, there was no place for Petăr Gabrovski, and later Alexander Belev also had to leave office. The new Minister of the Interior, Dočo Christov, officially announced at the session of district police chiefs on October 2, 1943, that, "*we will not displace the Jews, where they are, there they will also stay.*"⁵⁰ This "new policy" also resulted in a partial annulment of the ban on Jews to reside outside of Sofia and some, even though limited possibility of their return at the end of 1943. On June 1, 1944, Božilov was substituted by Ivan Bagrjanov, who entered into secret negotiations on an armistice between Bulgaria and Western Allies in Cairo, of course in absentia of Germany. The efforts to get Bulgaria out of the war also led the Bulgarian government to changes in their attitude to the Jewish question. During a special session of the National Assembly held on August 22, 1944, the members of the government majority overtly declared anti-Semitic laws as a "mistake".⁵¹ The government responded then, on August 31, 1944, and revised the Law on the Protection of the Nation and omitted the most discriminatory paragraphs.⁵² This was a kind of half-hearted solution, which absolutely was not appropriate in the given situation. The Jews had already began to leave the working units and assigned residences on a mass scale, and a part of them even joined partisan groups, which had operated for some time in the Bulgarian mountains. Coincidentally, the Jews, who belonged to one of the partisan groups, happened to recognize the former chief of KEV Alexander Belev at the

48 KOEN, D. – DOBRIJANOV, T. – MANAFOVA, R. – TANEV, S. (eds.): *Borbata*, doc. no. 144, doc. no. 234.

49 Ibid., doc. no. 145, p. 235–236, doc. no. 147, p. 239–240.

50 Ibid., doc. no. 148, p. 241.

51 DIMITROV, I.: *Ivan Bagrjanov. Caredvorec, politik, dържавник*. Sofia 1995, p. 81.

52 *Dържавен vestnik*, September 5, 1944.

railway station in Kjustendil, and they shot him dead right there, without putting him on trial. In the chaos of those first days of September, when the Red Army suddenly appeared on the Danube River and the USSR entered into war with Bulgaria, the new Bulgarian government of Konstantine Muraviev decided to proclaim amnesty for all political prisoners, which also applied to violators of anti-Jewish regulations.⁵³ Well, this act was, in reality, insignificant, because on September 9, 1944, Muraviev's government was deposed by coup organized by parties of the so-called Patriotic Front, with communists in a dominant position and the Soviet army advancing. All the anti-Jewish measures were formally abolished by the new government on October 13, 1944.⁵⁴

Bulgarian Jews were, except for the Jews in Denmark and Finland, the only Jewish community in Europe, dominated by the Nazis, which managed to avoid the deportations to death camps located in the territory of occupied Poland, and taking place during the World War II, and who managed to survive this war. This happened also despite the fact that Bulgaria was an ally of Nazi Germany, and had German forces in its territory. The fact that the Bulgarian government refused to deliver their Jewish co-citizens to Germany, was acknowledged by the Allied States and also by the international Jewish organizations, particularly after the war, and in this way Bulgaria won great appreciation and sympathy. On the other hand, it should be seen that in Bulgaria, there were also very strict anti-Jewish laws, and in particular, that it was the Bulgarian authorities that organized the deportations of Jews from Macedonia and Thrace, when these areas were placed under Bulgarian administration in the year 1941. The question of why the Macedonian and Thracian Jews were deported, while the Bulgarian Jews were saved, is discussed among historians, but no one has given an answer that could be satisfactory and exhausting. It is possible to state a theory that – the territory of Macedonia and Thrace was given to Bulgaria by Germany only for temporary administration, and their future would have been definitively decided only after the “ultimate victory”. The Bulgarian government was not absolutely certain whether it would be possible to keep those territories. It is possible that it tried to ingratiate itself with Germany by the deportations of Jews, and also wanted to strengthen the Bulgarian ethnic character of the annexed territories, because the Jews in Macedonia and Thrace, unlike the Jews in Bulgaria, did not usually regard themselves as Bulgarians. Saving of the Jews in the “Old Bulgaria” was undoubtedly the result of the combined pressure from the public and legal, as well as illegal opposition, and the consequence

53 *Dăržaven vestnik*, September 8, 1944, no. 196, attachment.

54 *Dăržaven vestnik*, October 16, 1944, no. 227.

of the altered war situation. It is also assumed that the Bulgarian Jews were indirectly saved by Jews from the newly acquired territories, because the tragedy of Macedonian and Thracian Jews provoked the resistance of Bulgarian society against deportations.⁵⁵

55 This theory was expressed by Iskra Baeva, Modern History teacher at Sofia University St. Kl. Ohridski, in an interview with me.

The Final Solution in Yugoslav Macedonia

Trajčo Arsov (Macedonia)

Sephardic Jewish communities had lived in the multicultural Balkans under Ottoman rule for centuries, during which Anti-Semitic practices were not unknown. However, it was not until the emergence of modern national states that the destiny of Balkan Jews, who were difficult to incorporate into the concept of ethnically-confessional homogeneous countries, was seriously put into question.¹ The Jews who ended up in the Serbian portion of Macedonia spent a relatively peaceful and prosperous three decades between the end of the Ottoman rule in the Balkans and the beginning of the World War II. However, the advance of the Third Reich into South-Eastern Europe was not only a cause for concern of the hitherto vital and vibrant Macedonian Jewish community, but also posed the most serious threat to its actual future survival. The rule over most of Yugoslav Macedonia having been, according to a German-Italian agreement, ceded to the collaborationist Bulgaria, from April 1941 the question of the 7,762 Macedonian Jews became intrinsically dependent on the politics of the government in Sofia. When in September 1944 the Bulgarian rule over Macedonia collapsed before the might of the Red Army, within the boundaries of the province there was only a trifle of them left; 7,144 of them, i.e. 92%, had already disappeared in the gas chambers of Treblinka in March 1943. How it happened that, owing to Bulgarian Anti-Semitic policy, in a period of less

1 BENABASSA, E. – RODRIGUE, A.: *Juifs des Balkans, XIV^e-XX^e siècles*. Paris 1993.

than two years the legacy of a half-a-millennium's presence of the Macedonian Jewish community became practically extinct from the Macedonian multicultural thread is a question which merits addressing, and this is what this paper seeks to achieve.²

With the establishment of a Commissariat of Jewish Affairs under the aegis of the Bulgarian Interior Ministry in the autumn of 1942, the enactment of Anti-Semitic measures, of all kinds, intensified on a daily basis. At the advent of this fury of Anti-Semitism, Adolf Heinz Beckerle, the German plenipotentiary in Sofia, was pleased to inform the Foreign Ministry on the introduction of the new Anti-Jewish measures, including the one requiring Jews to wear Star of David patches, this being required even from foreign Jews, except those with a valid transit visa. At the same time, the German and Bulgarian governments entered into talks with purpose to find complete solution of the Jewish question, which in fact meant the extinction of the Jewish population from Bulgaria and the territories under its rule. Thus, Hitler's intention of exterminating all the Jews in occupied and/or allied Europe was being put into practice. In this context, the two governments discussed the preparations for deporting Jews from Bulgaria, and the German government expressed its readiness to take all the Jews that would be deported from Bulgaria. In a memorandum to the German mission in Sofia of November 1942, the Bulgarian government exultantly announced that the solution to the Jewish question was finally in sight. The government promised to make every effort in order to rid the country of its Jews, and Germany was asked to supply Bulgaria with detailed plans for the deportation of the Jews from Romania, so that they could follow the same procedures.³ By late 1942, only a few details were still unresolved in the negotiations concerning the deportation of Jews, yet there were still points of contention over who would finance the transportation and other expenses. The German Foreign Ministry maintained that Bulgaria should be prepared to spend 250 RM per person for the transportation. The Bulgarian government agreed to grant Germany a certain amount of money as payment for the expenses involved, but maintained that the sum being asked – 250 RM per Jew – was far too high, and in the “best” case scenario, if all the c. 60,000 Jews under Bulgarian rule were to be deported, then Bulgaria would have to pay 15,000,000 RM for the ethnic cleansing operation, a huge amount of money in a period of wartime hardship.⁴

2 Analysis of Bulgarian Anti-Semitic legislation 1940–1942 is omitted in view of Prof Rychlík's paper.

3 КОЕН, Д.: *Борбата на Българския Народ за Защита и Спасяване на Евреите в България*. Sofia 1978, page (p.) 146.

4 МАЙЕР, И.: *Спасението на българските евреи от унищожение, 1939 – 1944*. Sofia 1967, p. 34.

Eichmann's office and the German Embassy in Sofia continued to correspond as to who would cover the expenses accrued for the assembling and deportation of the Jews, and yet despite the financial dissonance with the Bulgarians, the Germans had solid reasons for enthusiasm. Thus, during talks with Bulgarian Foreign Minister Popov in January 1943, Beckerle proposed that, considering that the property of the removed Jews would remain in Bulgaria, and considering the great expenses being borne by the Reich, it was proposed that Bulgaria would somehow share in these expenditures. Foreign Minister Popov finally agreed that the Bulgarian government would pay a one lump sum for the removed Jews; the amount of this sum was to be determined at a later date. The drafting of a formal written agreement was also postponed to a later date. Most importantly, the Bulgarian declarations made to Beckerle included assurances for a somewhat partial "solution to the Jewish problem", namely that the deportation would target only Jews of the "newly liberated territories". Foreign Minister Popov is reported to have said, at that time "*only the Jews from Macedonia and Thrace*" were being considered for deportation – as to the Jews of mainland Bulgaria, Prime Minister Filov consented that they would only be sent to forced labor.⁵

Further negotiations on the deportation of Bulgarian Jews were delegated by Berlin to SS-Hauptsturmführer Theodor Dannecker. Prior to the German invasion of the Kingdom of Yugoslavia, Theodor Dannecker was the German Council-General in Skopje, and after the April War was appointed as the Special German Envoy to Vichy; now he was sent to Sofia as Eichmann's special representative on the Jewish issue, with the assignment to negotiate the final agreement with the Bulgarians on the deportation of that country's Jews. Dannecker arrived in Sofia in January 1943, but was absent from the meeting at which the arrangements between Beckerle and Popov were finalized. As a special emissary of the Gestapo, Dannecker's fundamental task was to accelerate preparations for the deportation of Jews, a plan that had been created, but still needed to be put into practice. Dannecker was instructed to leave all executive measures, such as rounding-up, house searching, and security squads, to the Bulgarian police and to the Commissariat of Jewish Affairs, and to limit himself only to general supervision. In early February 1943, Dannecker held talks with Commissar Belev, with whom he reached a verbal agreement, in which it was concretely determined which Jews would be considered for deportation, namely that the Reich was prepared to accept the Jewish populations from Macedonia and the Aegean, as well as any undesirable Jews from the old territories. Fol-

5 КОЕН, Д.: *Борбата на Българския Народ*, document number (doc. no.) 94, p. 153–156.

lowing this meeting and informal agreement, Commissar Belev gave a short report to his superior, Interior Minister Peter Gabrovski, and gave the Minister his own recommendations, namely: in connection with the concentration of the Jews in camps, it was necessary to have co-operation between the police and the military; the Jews in the camps should to be told that they were being moved from one district in Bulgaria to another, and not that they were to be handed over to the Germans; after the removal of the Jews, their entire property should be confiscated on behalf of the state.⁶

Preparations for executing the plans started with fervor, even before the formal agreement was signed. A day following the talks with Dannecker, Commissar Belev telegraphed his delegates in Macedonia and the Aegean, ordering them to immediately draw up detailed lists, by family names, of the entire Jewish population in their communities. All families were to be listed by their family names and permanent addresses, and their members with details such as first name, age, gender, and occupation. This census was to be completed within a few days, and one copy was to be sent to the Commissariat. From these lists, the Commissariat's statisticians were able to draft a general register of the entire Jewish population in Macedonia and Thrace, which was in effect their death roll. The census of the Jewish population in the bulk of Macedonia was carried out by delegate Ivan Zahariev. In addition to the city of Skopje, Zahariev was charged with drafting a census of the Jews in the provincial towns, in the district which fell under the jurisdiction of the Skopje Jewish Community Council; similar censuses were carried out in by delegates in the districts of Bitola and Shtip. On the basis of this census, the Jewish population of Macedonia was assessed at 2,150 families with 7,762 persons, 49% of which lived in Skopje, 43% in Bitola, 7% in Shtip, and the remaining 1% were scattered in the provincial towns in the east and north-east. Now that the Jews from the newly-liberated provinces were destined for deportation, the migration of the Macedonian and Thracian Jews was prohibited not only into the Bulgarian mainland (which was the practice since 1941), but also the migration of the Jews within the new provinces was stopped; however, permission was still granted to those Jewish families wishing to leave mainland Bulgaria and settle in the towns of the newly-liberated territories. These measures taken in early 1943 are clear evidence of the intentions of the Bulgarian government to get rid of as many Jews as possible from the mainland on the one hand, as well as to "put the cork in the bottle" for Jews in the new provinces, on the other hand. In mid-February 1943, Theodor Dannecker was pleased to report to Berlin that the deportation of Jews from Macedonia and the Aegean was finally in sight.⁷

6 ГРИНБЕРГ, Н.: *Документи*. Sofia 1945, p. 10–12.

7 КОЕН, Д.: *Борбата на Българския Народ*, doc. no. 96, p. 157–158.

German-Bulgarian negotiations shortly drew to a close, and on February 22, 1943 Dannecker and Belev signed the formal agreement on the deportation of 20,000 Bulgarian Jews into the eastern regions of Germany. Though formal ratification of Filov's government was still required, this German-Bulgarian agreement, now committed to paper, signaled the death sentence for up to 12,000 Jews in the new territories, who were the prime object of this agreement (and the "undesirable" Jews from the mainland comprised the remainder). In this agreement one can discern the methods of assembling and deportation of Jews from Macedonia and the Aegean, with all major points about the deportation stipulated in writing. After the ratification of this agreement by the Bulgarian Ministerial Council, the deportation of 20,000 Jews was to be undertaken regardless of the person's age or gender. The Reich was prepared to receive these Jews into its eastern provinces. The deportation of the Macedonian Jewry was to be carried out in 5 trains with 5,000 people from the Skopje Railway Station, and in 3 trains with 3,000 people from Bitola Railway Station. The deportation of the Jews concentrated in the Macedonian cities was to be completed by April 15, 1943. The Bulgarian Ministry of the Interior was to ensure that the transports consisted only of Jews. The Jews were not permitted to take with them any arms, poison, foreign currency, precious metals, etc. Lists of deportees were to be compiled for each transport, two copies of which were to be handed over to the German military authorities taking delivery of the transport, and one copy was to be sent to the German Plenipotentiary in Sofia. The German military units were to take delivery of the transports at the boarding stations. Under no circumstances did the Bulgarian government have the right to demand the return of the deportees.⁸ As it was indicated in the title, this was an agreement for the deportation of the first 20,000 Jews from the new territories, which leaves the question of deporting additional contingents from the mainland perfectly possible. The German version of this agreement was not found among the captured *Auswärtiges Amt's* documents or among the Bulgarian state papers. In two places of the Bulgarian version of the agreement the sentences referring to the "*newly liberated Bulgarian provinces of Thrace and Macedonia*" have been crossed out with the same ink that Belev signed his name with.⁹ This fact suggests that, had the stated number of deportees not been met from those regions, it would have been possible to make up any shortfall with Jews from the mainland, from where other contingents could have been added.

Preparations for the deportation of Jews from the two provinces began in late February 1943, while formal ratification by the Bulgarian Ministerial Council

8 ГРИНБЕРГ, Н.: *Документи*, p. 12–16.

9 CHARY F.: *The Bulgarian Jews and the Final Solution 1940–1944*. Pittsburgh 1972, p. 208–210.

was still pending. Organizers were appointed by the Commissariat of Jewish Affairs to prepare the deportation of Jews from Thrace and Macedonia. Zachary Velkov of the Commissariat was assigned to organize the operations in Macedonia as a whole, delegate Ivan Zahariev was assigned to the Skopje District, and Cyril Stoimenov to the Bitola District. At the same time, buildings started being transformed into areas to serve as temporary concentration camps, and regulations were issued as to how these camps were to be managed. Each camp was to have its own “commandant”, who would be assisted by the local delegates of the Commissariat, as well as by administrative and police authorities.¹⁰ Owing to the rapidity with which the deportation operation was to be carried out, the detailed plans that were drafted, including the Belev-Dannecker agreement, were frequently altered, but the changes were merely practical adjustments, rather than any substantial deviations from the master plan. Eventually, at the session held on March 2, 1943, the Ministerial Council approved this agreement, along with details on the organization of the deportation of 20,000 Jews from both the “new” and the “old” Bulgarian territories. The Cabinet immediately authorized the Commissariat of Jewish Affairs to start putting the agreement into effect, while its Commissar was ordered to see that the deportation of the 20,000 Jews was carried out as stipulated in the agreement with the German government.¹¹

At this cabinet session, upon German insistence, the Ministerial Council also passed a decree rescinding Bulgarian citizenship from all Jews who were to be deported. This stipulation, in particular, targeted Jews of the mainland, because under the amendment to the Law for the Urgent Solution of Pressing Matters in the Liberated Territories of June 1942, former Yugoslav and Greek citizens of Jewish origin were denied Bulgarian citizenship. Be that as it may, according to that last explicit government decree, all Macedonian Jews bound for deportation, even if some of them might have acquired Bulgarian citizenship on some obscure grounds, were now expressly divested from this protective mechanism in international law. Thereby the Bulgarian government had formally renounced any obligations in the destiny of the deportees. Moreover, having resolved to deport all Jews from Thrace and Macedonia, the Bulgarian government also made a decision to confiscate the property of all those who would be forced to depart. In the same session of cabinet, the Ministerial Council adopted a decree stipulating the liquidation of the remaining property of those Jews who were to be deported from Bulgaria. According to this decree, all real estate belonging to Jews who had “emigrated” from Bulgaria was to be confiscated by the state.

10 ГРИНБЕРГ, Н.: *Документи*, p. 16–27.

11 КОЕН, Д.: *Борбата на Българския Народ*, doc. no. 99, p. 162–164.

All personal property was to be sold by the Commissariat of Jewish Affairs at public auctions, and the money derived from such auctions was to be deposited into the Jewish Communities Fund. A number of civilians were engaged to take care of Jewish possessions until they could be disposed of; these caretakers were to be paid from the Jewish Communities Fund. As the Jewish communities were bound for destruction, their communal real estate was to be appropriated by the local municipalities.¹²

In this same cabinet session, it was also decided to invoke civilian mobilization of persons who would be engaged in the rounding up of Jews. The management of Bulgarian Railways was instructed to prepare special trains for the transportation of Jews from Macedonia and the Aegean to destinations to be later determined by the Commissariat of Jewish Affairs; the Bulgarian Railways were to receive no compensation for their services. Special requisition committees were established with orders to locate and take over suitable buildings in the towns specified by the Commissariat, which were then to be used as temporary concentration camps for Jews, prior to their deportation. In conjunction with these cabinet decisions, the Commissariat of Jewish Affairs issued Regulations for the organization and operations of the temporary concentration camps, prescribing the treatment of the Jews following their round-up: for example, § 7 stipulated that people were allowed to use lavatories only in groups and accompanied by a guard; § 10 prohibited any fire to be set in stoves or braziers, although March in Macedonia, as well as in Thrace, may still be wintertime; § 13 permitted each person to take a blanket or a quilt, some clothing, and food, but all other personal possessions were to be taken away; § 18 forbade the inmates from looking outside or even opening windows, writing letters, and reading newspapers; § 25 prescribed two meals a day for all inmates, and three meals for children under 10 years of age.¹³

In the meantime, in the second half of February 1943, Zachary Velkov, the Commissariat officer who was charged with the round-up of Macedonian Jews, travelled to Skopje and Bitola in order to familiarize himself with the terrain and find sites suitable for the establishment of concentration camps. Although they had originally intended to establish two camps, one in Skopje and one in Bitola, this plan had to be discarded due to the speed with which the Bulgarian authorities, under German pressure, executed the round-up of Jews. Therefore, Velkov ordered the establishment of only one concentration camp in Skopje, where the entire Macedonian Jewry was to be detained. The most suitable build-

12 ГРИНБЕРГ, Н.: *Документи*, p. 30–41.

13 *Ibid.*, p. 41–50.

ing for a temporary concentration camp in Skopje proved to be the Tobacco Monopoly, situated right next to the railway line, which was very convenient for the subsequent further transportation of the deported Jews. The adaptation of the Tobacco Monopoly for this purpose began in the first week of March, and cost 1,264,609 Bulgarian lev. This job was executed in total secrecy, and not even the management of the Tobacco Monopoly was fully aware of the purpose of these renovations. The entire stock of tobacco of the Monopoly was collected and locked up in five rooms, in order to make the remaining areas available for the detention of Macedonian Jews. Peyo Draganov of the Commissariat was appointed as the commandant of the camp; he was to be in charge of the camp as a whole, and to ensure its smooth functioning. Draganov was also assigned a considerable number of assistants, policemen, detectives, guards, soldiers, administrative personnel, and orderlies; the administrative personnel and the orderlies were appointed by the camp commandant himself from the ranks of civilians, for which they were to receive different wages.¹⁴

The Commissariat's plan for the round-up operation of Jews from the Aegean was executed on March 4; within a week they were transported to mainland Bulgaria, before being deported northward. As soon as the round-up of the Thracian Jews was completed, came the turn of the Macedonian Jewry. Although the preparations for the round-up had been carried out in total secrecy, unrest was nevertheless felt among the Jewish population, because there were leaks that something big was afoot. Unfortunately, the Jews had only a vague idea of the coming Anti-Semitic measures, as they could not possibly foretell the extent of the new action, or whether they were to be taken to mainland Bulgaria or somewhere else. No one had yet heard about the existence of death camps, and because (following the round-up in the Aegean) Bulgarian propaganda said that the Jews were only being taken away to forced labor, it was believed that only able-bodied young Jewish men would be taken to Bulgarian labor camps. During the next few nights, bags and rucksacks were sewn, old clothing and shoes were mended; people went to bed in their clothes, too scared to change, praying that the worst would not come. On March 10 a delegation of Bitola Jews was received by the Bulgarian Orthodox Bishop of that city, who generously pledged that he would not allow anything bad to happen to the Jews; the Jews rejoiced at this piece of good news – but this joy did not last long. In the early hours of Thursday March 11, 1943, the cities of Skopje, Bitola, and Shtip were blockaded, and Jewish quarters were surrounded by Bulgarian police and army forces; the newly created ghetto in Bitola made the job of the authorities, with respect to the round-up

14 Ibid., p. 50–59.

of the Jews, much easier. In the other towns of Macedonia, in which only a few Jewish families resided, no blockades were imposed; these families were simply arrested and sent to the camp in Skopje. The round-up of the Macedonian Jews started in the early hours of that cold Thursday morning. Armed constables, agents, and soldiers went from house to house banging on the doors to wake the people, who were soon afterwards loaded onto trucks or horse-carts. The people were ordered to take all their valuables and money, as they would need them in Bulgaria, where they were allegedly being taken.¹⁵

With the view of providing formal grounds for the confiscation of Jewish movable property, on March 13, 1943, i.e. only a couple of days after the Macedonian Jews had been rounded-up into the Skopje temporary concentration camp, the Commissariat of Jewish Affairs issued Order No. 865 on the liquidation of the property owned by persons of Jewish origin who had “emigrated” from Bulgaria. The Order gave precise instructions as to the manner in which the liquidation of the entire Jewish movable property was to take place; copies of this Order were immediately sent to the provincial bureaucrats in Macedonia and Thrace. Nevertheless, the looting of Jewish property had started already at the time of the round-up of the Jews, before they had even left their doorsteps, and during their detention in the Skopje temporary concentration camp, before being handed over into German hands, while they were still formally the owners of all their possessions. Searches of Jewish homes were carried out without the presence of their owners and without inventories being compiled, and thus when detectives returned to Jewish dwellings, after their owners had been placed in the camp, they pocketed all hidden money or other valuables; there were cases in which police repeatedly entered some sealed houses through windows or other entrances and took away carpets and other possessions. Further “illegal” events took place at the railway stations of Bitola and Shtip, as well as at the temporary concentration camp in the Tobacco Monopoly in Skopje, where the inmates were robbed of almost all possessions they had brought along with them: money, jewelry, watches, medications, soap, blankets, coats, etc., in other words, anything that took the fancy of Bulgarian police agents.¹⁶

Statements of some Jewish survivors from the Skopje temporary concentration camp before the Yugoslav Federal Commission for War Crimes, referring to the genocide of the Macedonian Jews, confirm that the Bulgarian authorities, i.e. police agents, soldiers, clerks, guards, those who searched the inmates, and those who kept written records, treated the deportees inhumanely. The inmates

15 Ibid., p. 152–159.

16 колономос, Ж.: *Евреите во Македонија во Втората Светска Војна*. Skopje 1986, p. 58.

were placed 300 to 500 to a room, on dirty bare boards, deprived of bedclothes and heating in the late winter. For four days they received no food. The living conditions lacked even the most basic hygiene. Drinking water was scarce, and washing was a great luxury. The sick received no medical help, as there was no medication available. The Red Cross did not even bother to visit the camp, let alone try to provide any assistance. The deportees were let out of their rooms once a day for only a half-hour walk, one roomful at a time. The sick and the disabled, who could not climb up and down the stairs, were forced to stay in the rooms all the time. Over half of the inmates incarcerated into the warehouses of the Tobacco Monopoly were either very young or very old people.¹⁷ According to the statistics compiled personally by the camp commandant Peyo Draganov, on March 13 the number of inmates in the Skopje temporary concentration camp was calculated at 7,240, which is about 500 people less than the data on Macedonian Jewry supplied by delegate Ivan Zahariev after the census of the preceding month. Prior to the round-up and many days after, additional guards were posted along the Bulgarian-Albanian border in order to thwart attempts at fleeing, but according to delegate Ivan Zahariev's claims, it appears that not more than a dozen Jews succeeded in escaping. Nevertheless, the differences between the officially admitted escapes and the figures provided by the census seem to be quite drastic (up to 400 from Skopje, almost 100 from Bitola, and several from the other provincial towns), for which there can be two possible explanations: either the census figures (especially with regard to Skopje) had been exaggerated, which is possible, but unlikely, or there had been many escapes, which is unlikely, but possible, yet in any case, probably not to the extent of the differences in the figures – it may be supposed that not more than 200 people had escaped.

There are some indications that several persons managed to escape even from the camp itself; however these would have been no trifle. Then again, these could not match the influx in the opposite direction: by March 22, about 80 Jewish youths from Kavala were brought into the camp, thus increasing the total number of inmates to around 7,320, which is the maximum figure of persons who passed through the camp. Only a few influential foreigners voiced their opposition to the plight of the Jews. A section of the diary of Prime Minister Bogdan Filov written on March 11, the day of the round-up of the Macedonian Jews, refers to the intervention of Charles R  dard, Swiss *charg   des affaires* in Sofia, in connection with the persecution of the Jews in Bulgaria. Charles R  dard intervened with Prime Minister Filov, and tried to rescue, for a start,

17 LEVENTAL, Z.: *Zlo  ini Fa  isti  kih Okupatora i Njihovih Pomaga  a protiv Jevreja Jugoslavije*. Beograd 1952, p. 191.

100 Jewish children by sending them via Turkey to Palestine, but to no avail. The Swiss *chargé des affaires* appealed to Filov's sense of humanity, because the deportation of Jews meant their certain death, but Filov would not reconsider the cabinet's decision.¹⁸ The accredited Italian officials in Skopje as well as the Catholic Bishop intervened with the Bulgarian authorities in trying to protect the Jews, but only those with Italian-Albanian citizenships, or those who had converted to Catholicism. After a week of incarceration, 67 doctors, pharmacists, and their immediate families were released, and one week later, another 98 Jews with foreign citizenships (74 Spanish, 19 Albanian, 5 Italian) were released from the camp, in total 165 people; those with foreign citizenship were released thanks to the intervention of their embassies, whereas the others were released because Bulgaria was badly in need of doctors and pharmacists. The Jews of Italian or Albanian citizenship were obliged to leave Bulgarian territory immediately, while the Spanish citizens were ordered to leave within six months.¹⁹

According to the Belev-Dannecker agreement, the deportation of the Jews from Macedonia was to be executed in eight trainloads, but the operation was actually carried out in three, which meant that the density on the trains was to be nearly double of what was originally planned. The transports were to be turned over to the German military authorities in accordance with lists of the deportees, which were to be compiled in both German and Bulgarian languages. The first transport, which left the Skopje temporary concentration camp on March 22, consisted of about 30 cattle wagons, each with around 80 people and their luggage, 40 kilograms per adult and 20 per child. A total of 2,338 people were jammed into these wagons, each equipped with a small barrel of water and several buckets into which the deportees could relieve themselves, 4 people died en route. This transport was escorted by an officer and 20 Bulgarian soldiers as far as the Bulgarian-Serbian border-station at Lapovo, where on March 23 it was taken by the Germans; the convoy arrived in Treblinka on March 28, and was immediately delivered to the camp commandant. The second and third transports were carried out in a slightly different manner. For the second transport, a unit of 35 German soldiers from the Police Guard of Niška Banja (Serbia) arrived in Skopje to take charge of the delivery; it departed from the camp on March 25 with 2,402 people, comprising all the Jews from Shtip and some from Skopje and Bitola, 3 of whom died en route. The last wagon of the train had no windows, which must have made the already terrible situation of those inside absolutely horrible. The second transport arrived at Treblinka on March 31; the

18 КОЕН, Д.: *Борбата на Българския Народ*, doc. no. 101, p. 166.

19 МАТКОВСКИ, А.: *Историја на Евреите во Македонија*. Skopje 1983, p. 147.

20 carriages were unloaded immediately, and the rest on April 1. Similarly, under escort of another unit of German soldiers, in the third transport, which left on March 29, were deported the remaining 2,404 Jews, 5 of whom died en route, arriving in Treblinka on April 5.²⁰

The Commissar of Jewish Affairs Alexander Belev, who first visited the Skopje temporary concentration camp on March 21, before the first transport was sent off, came again on the eve of the departure of the third transport, accompanied by Theodor Dannecker, who masterminded the entire operation. Just prior to the departure of the third transport, the camp commandant Peyo Draganov was dismissed from duty for abuse of authority, and was replaced by Assen Paytoshev. Nevertheless, the change of the head of the camp bureaucracy did not lead to the smooth execution of the deportations. What is more, the Bulgarian bureaucracy showed absolutely no remorse at the tragedy that befell the Macedonian Jewry, even after they were deported: on March 30, 1943, the Skopje District Governor Dimitar Raev issued Order No. 339 establishing a commission to determine the “damages” caused by the Jews to the Skopje Tobacco Monopoly while it was being used as a temporary concentration camp for their detention. A number of demands were submitted for the payment of bills for food, medications, and other products consumed by the Jews while in the camp. Finally a comprehensive operation commenced, involving the liquidation of the property of the deported Jews, a story that requires a lengthier analysis, so it would not be detailed here. All Macedonian Jews were deported to the Treblinka camp in Poland, and were gassed with carbon monoxide immediately after they were unloaded from the trains. The Treblinka camp thus became the common graveyard of all the Jews from Macedonia under Bulgarian rule. The three transports of Macedonian Jews contained a total of 7,144 people, which is 92% of the estimated 7,762 Jews living in Macedonia in early 1943, and accounts for 63% of the Bulgarian contribution to the Holocaust, which, together with the Thracian Jews, meant 11,343 people. This is 56% of the originally planned 20,000 Jews and 20% of all Jews under Bulgarian rule in 1943.²¹

The surrender of 7,144 Macedonian Jews by the Bulgarian authorities to be killed in Treblinka by the Germans is not only the most tragic event in the history of the Macedonian Jewish community, but also the most atrocious singular act of mass murder and ethnic cleansing on the territory of Yugoslav Macedonia, accounting for two thirds of all civilians killed during the World War II under Bulgarian rule over that province, and thus it represents the most monumental

20 LEVENTAL, Z.: *Zločini Fašističkih Okupatora*, p. 193–195.

21 КОЕН, Д.: *Борбата на Българския Народ*, doc. no. 115, p. 190–196.

dark legacy of this infamous rule. The deportation of 92% of the Macedonian Jewry in March 1943, and their inevitable murder in Treblinka early in the following month, marked the final chapter in the history of the Jews of Yugoslav Macedonia. The vibrant community which flourished in the Ottoman province for centuries, within only a couple of years under Bulgarian rule was virtually wiped from the face of the earth. The bulk of this community having already been annihilated, like in so many other places, the remaining members, who survived, preferred refuge and emigration rather than attempt to renew the vintage Sephardic communities of Skopje and Bitola. Their relatives killed, their property looted, for the decimated survivors there was hardly anyone or anything left to go back to – the Khal Aragon synagogue, one of the last remaining signs of the Jewish presence in Skopje, after being looted, was turned into a slaughterhouse for pigs.

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