

## NUREMBERG LAWS<sup>1</sup>

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**Abstract:** *The Nuremberg Laws of 1935 were anti-Semitic laws in Nazi Germany introduced at the annual Nuremberg Rally of the Nazi Party. The article describes their ideological and legislative genesis and analyzes their content, as well as selected implementing regulations which were adopted in the coming years.*

**Keywords:** *Nuremberg Laws, Anti-semitic legislation, Adolf Hitler, Jews, the Third Reich, Germany*

### INTRODUCTION

On the timeline, we are in the mid-1930s, after the events had already occurred, such as the appointment of Adolf Hitler as 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 after the cancellation of mandates of the Communist Party. In this situation, Hitler presented the Enabling 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.<sup>2</sup> The Act was passed also with the help of votes of centrist parties on March 24, 1933.<sup>3</sup> The total elimination of democracy was completed in July 1933, when all the political parties, except for the NSDAP were banned.

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<sup>2</sup> 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 to happen, peace or war." See: DOMARUS, M. *The Essential Hitler: Speeches and Commentary*. Wauconda: Bolchazy-Carducci, 2007, p. 224.

<sup>3</sup> Alan Bullock describes the atmosphere prior to the adoption of the Act: "While the parties discussed among themselves how to vote, the massed detachments of SA men kept up a menacing chant of 'We want the Enabling Act - or there'll be hell to pay!' Hitler had given reassurances to the Centre Party and promised to put them in writing. Despite repeated enquiries, no letter was received, but the majority (against Bruning's opposition) decided to vote in favour. Only the Social Democrats, who had had to endure harassment and taunting from the SA, stood out. The speech of their chairman, Otto Wels, rejecting the bill roused Hitler to fury. Brushing aside von Papen, who tried to restrain him, he launched into an abusive tirade, shouting that it was only on account of justice and for psychological reasons that he was appealing to the Reichstag 'to grant us what in any case we could have taken'. As for the Social Democrats: 'I can only tell you: I do not want you to vote for it. Germany shall be free, but not through you!' A prolonged ovation and loud shouts of 'Heil!' greeted Hitler's outburst, to be repeated when the result - 441 to 94 in favour - was announced." See: BULLOCK, A. *Hitler and Stalin: Parallel Lives*. London: Fontana, 1998, p. 342.

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 article 6 of the party program of the NSDAP), was promulgated.<sup>4</sup>

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.<sup>5</sup> 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.

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.<sup>6</sup>

<sup>4</sup> For more see: TAUCHEN, J. Právní postavení úřednictva ve Třetí říši. *Časopis pro právní vědu a praxi*. 2007, Vol. 15, No. 3, pp. 245–249.

<sup>5</sup> 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 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: Westview, 2001, p. 36.

<sup>6</sup> “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*. New York: Cambridge University Press, 2008, p. 63.

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 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.<sup>7</sup>

This resolution should have been fulfilled during the 7<sup>th</sup> 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.<sup>8</sup>

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).<sup>9</sup>

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

<sup>7</sup> KERSHAW, I. *Hitler 1889–1936: Hubris*. New York: W. W. Norton, 1999, p. 563.

<sup>8</sup> See: HUCHTHAUSEN, P., A. *Shadow Voyage: The Extraordinary Wartime Escape of the Legendary SS Bremen*. Hoboken: Wiley, 2005.

<sup>9</sup> KERSHAW, I. *Hitler 1889–1936: Hubris*. New York: W. W. Norton, 1999, pp. 567–568.

up an appropriate motion, summoned to Nuremberg: Bernhard Loesener, Franz Albrecht Medicus, and some others.<sup>10</sup>

Since the law had to be approved by the Reichstag on September 15, the entire preparatory phase gave an impression of hasty improvisation.<sup>11</sup> 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.<sup>12</sup>

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 blood of different strictness, and also to draw up a Reich Citizenship Bill (*Reichsbürgergesetz*).<sup>13</sup> 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.<sup>14</sup>

<sup>10</sup> Löesener describes the mentioned events as follows: “On Friday the 13<sup>th</sup>, 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: The Bernhard Loesener Memoirs and Supporting Documents*. Boulder: Westview, 2001, p. 46.

<sup>11</sup> Some recent works argue that with regard to the approval of the Nuremberg racial laws, it was not a spontaneous decision. Cf. GRUNER, W. (ed.). *Die Verfolgung und Ermordung der europäischen Juden durch das nationalsozialistische Deutschland 1933–1945*. Volume 1. München: Oldenbourg, 2008, pp. 123–129.

<sup>12</sup> Löesener: “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 or 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: The Bernhard Loesener Memoirs and Supporting Documents*. Boulder: Westview, 2001, pp. 47–48.

<sup>13</sup> *Ibid.*, p. 49.

<sup>14</sup> *Ibid.*, p. 51.

**Texts of laws:****Reich Citizenship Law of September 15, 1935**

(Translated from *Reichsgesetzblatt I*, 1935, p. 1146.)

The Reichstag has unanimously enacted the following law, which is promulgated herewith:

**Article 1**

1. A subject of the state is a person who enjoys the protection of the German Reich and who in consequence has specific obligations toward it.
2. The status of subject of the state is acquired in accordance with the provisions of the Reich and the Reich Citizenship Law.

**Article 2**

1. A Reich citizen is a subject of the state who is of German or related blood, and proves by his conduct that he is willing and fit to faithfully serve the German people and Reich.
2. Reich citizenship is acquired through the granting of a Reich citizenship certificate.
3. The Reich citizen is the sole bearer of full political rights in accordance with the law.

**Law for the Protection of German Blood and German Honor of September 15, 1935**

(Translated from *Reichsgesetzblatt I*, 1935, pp. 1146–7.)

Moved by the understanding that purity of German blood is the essential condition for the continued existence of the German people, and inspired by the inflexible determination to ensure the existence of the German nation for all time, the Reichstag has unanimously adopted the following law, which is promulgated herewith:

**Article 1**

1. Marriages between Jews and subjects of the state of German or related blood are forbidden. Marriages nevertheless concluded are invalid, even if concluded abroad to circumvent this law.
2. Annulment proceedings can be initiated only by the state prosecutor.

**Article 2**

Extramarital relations between Jews and subjects of the state of German or related blood are forbidden.

**Article 3**

Jews may not employ in their households female subjects of the state of German or related blood who are under 45 years old.

**Article 4**

1. Jews are forbidden to fly the Reich or national flag or display Reich colors.
2. They are, on the other hand, permitted to display the Jewish colors. The exercise of this right is protected by the state.

**Article 5**

1. Any person who violates the prohibition under Article 1 will be punished with a prison sentence.
2. A male who violates the prohibition under Article 2 will be punished with a jail term or a prison sentence.
3. Any person violating the provisions under Articles 3 or 4 will be punished with a jail term of up to one year and a fine, or with one or the other of these penalties.

**Article 6**

The Reich Minister of the Interior, in coordination with the Deputy of the Führer and the Reich Minister of Justice, will issue the legal and administrative regulations required to implement and complete this law.

**REICH CITIZENSHIP LAW**

Reich Citizenship Law provided that a citizen of the Reich is only that subject who is of German or kindred blood. Basically, this was the implementation of article 4 of the party 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.

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.<sup>15</sup> Out of the overall 3,152 practicing physicians, 709 received revocable exemptions, and thus could work as orderlies for Jewish patients.<sup>16</sup>

The Fifth Implementing Regulation meant the ultimate end of the services provided by Jewish lawyers (that right was previously restricted under the Law on Authorization to Practice Advocacy of 1933), as of November 30, 1938.<sup>17</sup> Out of the remaining 1,753 attorneys, 172 could perform consulting work for Jewish clients, via a special permission given to them.<sup>18</sup>

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.<sup>19</sup> Since a considerable amount of deportations were directed to the territory of the General Government (*Generalgouvernement in Poland*), 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

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<sup>15</sup> See: LÖSENER, B., KNOST, F., A. *Die Nürnberger Gesetze nebst den Durchführungsverordnungen und den sonstigen einschlägigen Vorschriften*. Berlin: Franz Vahlen, 1939, p. 69.

<sup>16</sup> KWIET, K. Nach dem Pogrom: Stufen der Ausgrenzung. In: Benz, W. (ed.). *Die Juden in Deutschland 1933–1945*. München: C. H. Beck, 1966, p. 548.

<sup>17</sup> *Ibid.*, p. 73.

<sup>18</sup> *Ibid.*, p. 548.

<sup>19</sup> „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.“

December 3, 1941, stated that these areas were “for the purposes of the Eleventh Regulation” classified as abroad.<sup>20</sup>

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

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 First World War, serving as scapegoats in the so-called *Dolchstoßlegende*. The assimilated Jewish minority was stigmatized as vermin living on the back of the *Volksgemeinschaft*. The Nazi propaganda took over stereotypes of rich Jews incorporating capitalism, speculation and moneymaking – considered as a sort of economic crime that the German community needed to be defended from. Moreover, after the adoption of the Law for the Protection of German Blood and German Honor in 1935 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.<sup>21</sup>

When we talk about the Law for the Protection of German Blood and German Honor, it is also necessary to clarify the term “*Rassenschande*”. 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.<sup>22</sup> Marriages between Jews and Aryans were banned as well.<sup>23</sup> Violation of these bans was usually punished by imprisonment or forced labor.

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<sup>20</sup> SCHMID, H., D. „Finanztod“ – Die Zusammenarbeit von Gestapo und Finanzverwaltung bei der Ausplünderung der Juden in Deutschland. In: Paul, G., Ullmann, K., M. (eds.). *Die Gestapo im Zweiten Weltkrieg*. Darmstadt: Primus, 2000, p. 151. For information on the issue of Aryanization and restitution of Jewish property see also the comparative work GOSCHLER, C., THER, P. (eds.). *Raub und Restitution: ‚Arisierung‘ und Rückerstattung des jüdischen Eigentums in Europa*. Frankfurt a. M.: Fischer, 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‘ vorschritten kann die Geltung als Recht abgesprochen werden, wenn sie fundamentalen Prinzipien der Gerechtigkeit 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 S. 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).

<sup>21</sup> SCHOENMAKERS, Ch. Jurisdikcia ako predzvest finančného a hospodárskeho vykoristovania židovskej menšiny v Altreichu. In: Fiamová, M. (ed.). *Protizhídovské zákonodarstvo na Slovensku a v Európe*. Bratislava: Ústav pamäti národa, 2014, p. 48.

<sup>22</sup> According to the decision by the Imperial Court of December 9, 1936 (GSSt. 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.”

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 February 16, 1940.<sup>24</sup> 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.<sup>25</sup>

Article 3 of the Law for 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 for 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 article 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.<sup>26</sup>

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.

## BEHIND ANTI-SEMITISM OF THE NUREMBERG LAWS

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.<sup>27</sup> These laws – the Reich Citi-

<sup>23</sup> 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".

<sup>24</sup> GRUCHMANN, L. „Blutschutzgesetz“ und Justiz. Zu Entstehung und Auswirkung des Nürnberger Gesetzes vom 15. September 1935. *Vierteljahrshefte für Zeitgeschichte*. 1983, Vol. 31, p. 441.

<sup>25</sup> STUCKART, W., GLOBKE, H. *Kommentare zur deutschen Rassengesetzgebung*. Band 1. München und Berlin: C. H. Beck, 1936, pp. 18–19.

<sup>26</sup> FRIEDLÄNDER, S. *Das Dritte Reich und die Juden. Die Jahre der Verfolgung 1933–1939*. München: C. H. Beck, 2000, p. 170.

<sup>27</sup> Identically: SCHLEUNES, K., A. (ed.). *Legislating the Holocaust: The Bernhard Loesener Memoirs and Supporting Documents*. Boulder: Westview, 2001, pp. 52–53.

zenship Law and the Law for the Protection of German Blood and German Honor – were drawn up very hastily, so they obviously did not deal with a number of issues. More than 1000 implementing regulations and other legislative measures were passed in the following years (until 1939) – from low level authorities up to Hitler's personal orders.

There are two prevailing aspects or aims that they are, actually, based on: first the racist based compulsory reduction of “Jewish-Aryan” relations and communication that led to the emergence of an inner-Jewish subgroup within the German society, and second the takeover of Jewish property, whose allegedly overwhelming dimensions was, in the inter-war 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.<sup>28</sup>

The takeover of property related to anti-Semitism is especially interesting, because it was obvious to everyone among the German population that this in fact deeply intervened in the economic system. It was one of the most profound transfers of property in modern German history and would not have been possible without a legal framework. 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 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”.<sup>29</sup>

All levels of public authority participated directly in the extortion of the Jewish citizens. 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 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 infor-

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<sup>28</sup> LOOSE, I. Protizidovský právny dogmatizmus v Tretej ríši a jeho radikalizácia medzi rokmi 1935–1942. Príklad židovského majetku v okupovanom Poľsku. In: Fiamová, M. (ed.). *Protizidovské zákonodarstvo na Slovensku a v Európe*. Bratislava: Ústav pamäti národa, 2014, p. 34.

<sup>29</sup> SCHOENMAKERS, Ch. Jurisdikcia ako predzvesť finančného a hospodárskeho vykorisťovania židovskej menšiny v Altreichu. In: Fiamová, M. (ed.). *Protizidovské zákonodarstvo na Slovensku a v Európe*. Bratislava: Ústav pamäti národa, 2014, pp. 49–50.

mation 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.<sup>30</sup>

## 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. Though, these laws – the Reich Citizenship Law and the Law for the Protection of German Blood and German Honor – formalized the unofficial and particular measures taken against Jews up to 1935.

They 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 of the anti-Jewish policy that was to culminate in the systematic extortion of Jews in Europe (*Endlösung der Judenfrage*), were passed in the following years.

However, we identified two prevailing aspects or aims of the Nuremberg laws and their implementing regulations: first the racist based compulsory reduction of “Jewish-Aryan” relations and communication, 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.

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<sup>30</sup> Ibid., pp. 59–60.