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The Nobility in Bohemia and in the Habsburg Monarchy within the Legal and Social Context of the 19th Century

Abstract: In this study the author specifically summarises Czech research on nobility in relation to the Habsburg Monarchy during the 19th Century. She demonstrates that the nobility did not comprise a monolithic, internally undifferentiated unit, because its lifestyle was still regulated by the specific provisions of the aristocratic hierarchy, which did not always have the nature of a standard legal norm. It was above all the nobility who clung to its observances and enclosed itself in an increasingly tighter, though not hermetically sealed, individual group of persons. In terms of their number, they represented a mere fraction of the entire society, but their significance could not be entirely ignored. Meanwhile, in the traditional area of aristocratic influence its impact was gradually fading. During the 19th Century this process probably progressed most rapidly in the army and specifically amongst the senior officers. A more complex situation arose at a higher level of the Catholic hierarchy, whereas this trend manifested to its least extent within the diplomatic service. Meanwhile the nobility that did not have any direct ties to the Imperial Court was gradually losing-out. In the mid-19th Century the nobility lost both their rights and their obligations as landed lords. On the other hand, usually nothing would prevent them from participating in a modern business. Not everybody belonging to this social layer, however, had both the necessary ability and/or the desire to do so.

Keywords: nobility – Habsburg Monarchy – Bohemia – 19th Century

During the long 19th Century the aristocratic families' privileges that had been traditional in Central Europe since the Middle Ages increasingly came into conflict with the gradually changing overall legal environment. On the other hand, the area of society that the family privileges concerned did comply with its rules at least to the same extent as it had in the past. Due to the changed legal and social reality, however, alongside the aristocracy a completely new and different elite began to take shape. An elite of this nature could build its success and make an impact mainly based on its own talents and skills, their own work and their resultant wealth. Throughout the long 19th Century both these groups coexisted here in parallel. Although it might seem

that these different worlds must be incompatible, in fact they actually influenced each other to quite a considerable extent. The “old elites” – the category of the nobility that benefitted from their family privilege – could not continue to rely solely on maintaining their position only on the basis of a legal proviso. In addition to the legislation, they were also obliged to accept the changing economic rules and to at least ensure taking care of and maintaining their wealth. The “new elites” – which defines those individuals who obtained their significant posts based on their abilities – were, on the contrary, fascinated by the aristocratic lifestyle and they frequently attempted to imitate it.¹ During this period no laws were ever implemented within the Habsburg Monarchy that would be restrictive against the nobility as an identifiable group of people. However, a long series of laws came into force that extended the power of the State while also strengthening the rights of all its citizens. On one hand this was implemented by expanding the previously “empty” legal space, which had not been specifically defined in any manner and on the other hand, by shifting the competencies that had previously belonged to someone else, which, in practice, meant primarily to the nobility. This was how, *de facto*, the nobility lost a significant amount of its power during the 19th Century. Only compensated, however, were those whose property was directly affected.

Already in the early 19th Century the legal theories current at that time were reflected in practice within in the Habsburg Monarchy where all its citizens were considered as being equal before the law. The new criminal and civil law codes placed the nobility, specifically as individuals, in a previously unfamiliar situation, however. The principle of equality before the law that is enshrined in the General Civil Code (*Allgemeines bürgerliches Gesetzbuch...*, 1811) displaced any nobleman or a noblewoman from their century-ingrained position of excellence and to some extent it drove them from the notional protective bulwark built by the exclusivity of the family affiliation that established the legal proviso. In the first stage, in terms of public influence, nobility's rights and their obligations increased rather than decreased.² These mainly comprised the expanded and the more clearly defined delegated powers of the State, which primarily concerned the

1 This issue is dealt with more specifically in Milena LENDEROVÁ – Zdeněk BEZECNÝ – Jiří KUBEŠ (eds.), *Proměny elit v moderní době* [Changes of Elites in Modern Times], České Budějovice 2003, for example.

2 These were based primarily on the *Code on crimes and on severe criminal misdemeanours* from the year 1803, which was subsequently amended in 1852 as *Criminal Code No. 117/1852 of the Imperial Code*. In the area of civil rights the *General Civil Code* (*Allgemeines Bürgerliches Gesetzbuch für die gesamten deutschen Erbländer der österreichischen Monarchie*) followed shortly afterwards in 1811, which was even more stable and lasted virtually until the outbreak of the First World War without any major amendments being made. To this end, from the more recent literature, for example, in Wilhelm BRAUNEDER – Milan HLAVAČKA (Hg.), *Bürgerliche Gesellschaft auf dem Papier: Konstruktion, Kodifikation und Realisation der Zivilgesellschaft in der Habsburgermonarchie*, Berlin 2014.

patrimonial administration and thereby also affected a large segment of the nobility. In the same area there were also significant changes to the State Administration, especially that of the first-instance type (this was largely organised by the nobility who were fulfilling the previous role of the landed nobility), which had to build on the state-implemented justice administration of a higher instance. All the landed nobility, and thereby also the aristocracy, were not only obliged to bring these qualitative changes (the existence of university educated officials, their doctoral exams, etc.) to life, but also to pay for them. With only minor amendments, this system remained in force, throughout the first half of the 19th Century. Conversely, in the economic sphere, the legal complex temporarily remained in force that tied certain parts of the free enterprise of non-aristocrats to the explicit consent of the sovereign and the exemptions that he granted. It should be acknowledged, however, that during this period, the nobility, as a whole, rather preferred to hold onto the traditional economic activities and only sporadically they issued on the still somewhat shaky ground of the manufacturing (or sometimes even the factory) business, for example. Daredevils like these, however, did have an advantage over their non-aristocratic competitors not just in terms of having a larger amount of capital that was often available for a start-up, but also better access to the Court, and therefore that requisite legal exemption was tied to the sovereign's decision.

Zdeněk Bezcený considers that the position adopted by the nobility in regard to diplomacy and to foreign policy in general, and also in the army and in the Church as being as traditional as it was in the 19th Century. While throughout the 19th Century foreign policy and therefore diplomacy too remained in the sphere of influence of the sovereign and thereby also close to the nobles, the other two mentioned areas were also the first ones, where, already during the first half of the 19th Century (or in the period immediately preceding it) the non-aristocratic element could penetrate even into high positions.

There were still a considerable percentage of nobles amongst the army officers, but their number was steadily declining during the 19th Century in favour of skilled and capable non-aristocrats (there are evident differences between the weapons employed, while more non-aristocrats were serving in officer positions with infantry weapons and technology, the fewest in the cavalry). Although in the past it would not have been impossible that, in the event of the concurrence of specifically favourable circumstances, a man without a predicate had ascended to any of the senior officer ranks, this did not happen very often. The Coalition and the Napoleonic Wars did bring about a significant change, however. First, the huge number of men, particularly non-aristocrats, who reached the battlefields in comparison with the past. Secondly, the large number of officers who died in a large number of major battles and had to be replaced. For a nearly

20-year period of wars such a high number of men could not be provided exclusively from the nobility. Especially in the battlefields, the promotion was often immediate and to merit. At that time the armies that were spread across Europe received in their officer corps a number of capable non-aristocratic commanders, including some bearing a general's rank. As the way in which wars were conducted in Europe had changed, the structure of the Officer Corps also changed. Individual personal skills were evaluated and subsequently, during peacetime, in-depth institutional education as well. If the term "good family" could be added in, that was considered as a bonus, but not as a primary condition. Objections of aristocratic officers to this trend are virtually absent. Although it is possible to indicate closer social ties between nobles of a corresponding category, this is not relevant during service, however. Ancestry could be decisive in regard to who will dine with whom and in whose company, but not in regard to who will command whom.³ This trend significantly strengthened following the issuance of the modern Armed Forces Act (so called *Allgemeine Wehrpflicht*, the *Reichsgesetzblatt Nr. 151*) in the year 1868. The universal conscription for men virtually had enshrined in it anointed differences what family privilege could bring about in this environment.

Careers in other traditional areas of activity of aristocrats, i.e. in the service of the Roman Catholic Church, had already been opened-up to non-aristocrats for a long time, on the basis of the appropriate training having been received. In the church hierarchy it was possible for a capable and suitable loyal clergyman to advance, although – unlike in the army – some of very high-level positions were specifically reserved for nobles almost until the outbreak of the Second World War. Therefore, during the 19th Century, not so many drastic changes to the situation took place in the church as they did in the army. Nobles were only disappearing from amongst the high-ranking church officials very slowly but their numbers amongst the parish clergy had also not increased. In regard to the female religious orders, however, it became self-evident that they had lost their attraction for noblemen's daughters. There was no longer any significant need to place a number of these girls in a convent, if there were no appropriate offers for their hand in the marriage market.⁴

3 About this, for example, Marie MACKOVÁ, *Mladší princ. Karl Gustav Wilhelm Hohenlohe-Langenburg 1777–1866* [Younger Prince. Karl Gustav Wilhelm Hohenlohe-Langenburg 1777–1866], Brno 2014. There is also a list of additional literature.

4 More recent works written about the status of the Roman Catholic Church in the Habsburg Monarchy of the 19th Century include, for example: Zdeněk R. NEŠPOR – Kristina KAISEROVÁ (eds.), *Variety české religiozity v "dlouhém" 19. století (1780–1918)* [Variety of Czech Religiosity in the "Long" 19th Century], Ústí nad Labem 2010; Zdeněk NEŠPOR, *Náboženství 19. století: nejcirkevnější století, nebo období zrodu českého ateismu?* [Religion of 19th Century: the Most Religious Century, or the Time of Birth of Czech Atheism?], Prague 2010. However no one expressly deals with the status

Although the years 1848–1849 produced several relatively short attempts to implement various profound changes to the administrative system and thereby also, to some extent to, the social system in operation in the Habsburg Monarchy,⁵ but it was administrative reform that eventually became equally important in regard to the status of the nobility, since it liquidated the patrimonial management and together with that of the delegated first-instance administrative jurisdiction of the landed lords: i.e. an undeniable aspect of the nobility. The domain, as the basic element of first instance administration, was cancelled. Most of its patrimonial powers were transferred to the newly emerged political or judicial districts (*Bezirke*), while some of them were also taken over by a newly constituted self-government and a tiny fraction was forwarded to the State Administration of a higher instance.⁶ Thereby the only continuously ongoing factor became the implementation of the patronage law that had been adopted by the newly

of nobility within the church structures; marginally referring to this issue is, for example, Jitka JONOVÁ, *Kapitoly ze života Lva Skrbenského z Hříště pohledem Svatého stolce* [The Life of Lev Skrbenský von Hříště from the Papal Throne's View], Uherské Hradiště 2013; EADEM, *Olomoucký arcibiskup Theodor Kohn z pohledu vybraných fondů Vatikánského archivu* [Olomouc Archbishop Theodor Kohn in the Mirror of the Vatican Archives], in: Pontes ad fontes: církevní dějiny ve světle pomocných věd historických a příbuzných oborů, Hradec Králové 2011, pp. 298–310; EADEM, *Theodor Kohn (1845–1915). Kniže arcibiskup olomoucký, titulární arcibiskup pelusijský* [Theodor Kohn (1845–1915). Prince Archbishop of Olomouc], Brno 2015. A probe into the world of female ecclesiastical orders during the period monitored, for example in Marie MACKOVÁ, *Voršilky v Čechách do 1918* [The Ursulines in Bohemia to 1918], Pardubice 2007.

- 5 Some researchers characterise this as a change towards a conservative attempt to preserve the pre-March situation. See, for example, Jan ŽUPANIČ, *Nová šlechta rakouského císařství* [New Nobility od Austrian Empire], Prague 2006, p. 15 – who refers to the figure of the Emperor as having been the last guarantor of the previous continuity, though he does not take into account its administrative and economic aspects in this context.
- 6 Concerning the issue of the administrative reform of 1850 and the details of the transition from a patrimonial model of administration to a state and local administration, look for example, in Adam WANDRUSZKA – Peter URBANITSCH, *Die Habsburgermonarchie 1848–1918, Bd. II, Verwaltung und Rechtswesen*, Wien 2003², pp. 270–305; Lukáš FASORA – Jiří HANUŠ – Jiří MALÍŘ (eds.), *Občanské elity a obecní samospráva 1848–1948* [Civil Elites and Municipal Administration 1848–1948], Brno 2006; Milan HLAVÁČKA, *Zlatý věk české samosprávy. Samospráva a její vliv na hospodářský, sociální a intelektuální rozvoj Čech 1862–1913* [Golden Age of Bohemian Local Administration 1862–1913], Prague 2006; Pavel KLADIWA, *Lesk a bída obecních samospráv Moravy a Slezska 1850–1914, Part I, Vývoj legislativy* [Local Administration in Moravia and Silesia 1850–1914: Development of Legislation], Ostrava 2007; Pavel KLADIWA – Andrea POKLUDOVÁ – Renata KAFKOVÁ, *Lesk a bída obecních samospráv Moravy a Slezska 1850–1914, Part II, Vol. I, Muži z radnice* [Local Administration in Moravia and Silesia 1850–1914: The Men from Town Halls], Ostrava 2008; EADEM, *Lesk a bída obecních samospráv Moravy a Slezska 1850–1914, Part II, Vol. II, Finance a infrastruktura* [Local Administration in Moravia and Silesia 1850–1914: Finances and Infrastructure], Ostrava 2009; Pavel KLADIWA – Aleš ŽÁŘICKÝ (eds.), *Město a městská společnost v procesu modernizace 1740–1918* [Town and its Society during the Modernisation Process 1740–1918], Ostrava 2009.

created *Großgrundbesitz*.⁷ The private noble properties were transformed in order to create these estates. Its further operation and its eventual prosperity, however, were affected by the definitive abolition of *Untertänigkeit* in September 1848.⁸ Thereby, from a legal perspective it was primarily the rural population that was equalised. The nobility, as former landed gentry lost some of their material benefits without receiving any compensation, which previously had been considered as tributary obligations. Monetising, on the other hand, was established for a purchase of rustic land by those who farmed on it so far. From this step being taken there was a resultant direct economic loss for the gentry, but this was certainly not sufficient to compromise the security of their property, in any way. At the social level the situation was more complex, however. Although the abolition of *Untertänigkeit* represented a desirable and welcome step for a predominant part of society, the residues of previous ties were still traceable for a relatively long time.

Most notable is that it was published during the early stages of the existence of the modern self-governing system. The administration of municipalities (towns and villages) was entrusted to the hands of representatives who were elected from amongst their inhabitants. The first modern type of elections for municipal councils, pursuant to the interim Municipal Act (*Provisorisches Gemeindegesetz*) of 1849, showed how much influence the nobility had, especially in villages and in small rural towns. This stemmed from the ending of the role of the landed nobility, who previously had quite a substantial influence on the administration of municipalities, but who were also capable of making valid decisions and, in most cases, also took responsibility for their decisions. If a nobleman wished to continue to influence the development of former serf towns and villages, he was obliged to participate in a regular election. His advantage in regard to being elected was his knowledge and experience of both legal and official machinations in general (whether real or imaginary), his extensive personal contacts and, last-but-not-least, especially for part of the rural population, the appealing possibility of being able to hide behind his authority in the event of any problem arising. However, even the social prestige and the universal respect, that some of the nobles enjoyed by fulfilling the role of the landed nobility, should not be disregarded, since it will not disappear from one

7 For more detail see Stanislav PŠENIČKA, *Vývoj patronátního práva v českých zemích od doby osvěcenského absolutismu do roku 1949* [Development of Patronage Law in the Czech Lands from the Rule of Joseph II to 1949], *Revue církevního práva* 22/2, 2002, pp. 127–160.

8 Most recently about this issue in Pavel KLADIWA – Andrea POKLUDOVÁ, *Hans Kudlich (1823–1917): Cesta života a mýtu* [Hans Kudlich (1823–1917): The Life and Myth], Ostrava 2012. The internal mechanisms of the process and the emphasis on the right to own property are described by still unsurpassed František ROUBÍK, *K vyvazení gruntů v Čechách v letech 1848–1853* [Transformation of the *Großgrundbesitz* in Bohemia 1848–1853], *Sborník archivních prací* 9, 1959, pp. 160–219.

day to the next. Sometimes it really did represent the will of the voters and sometimes it was the nobility that distinctly contributed to it. The result, however, was comparable: a nobleman – the owner of the estate (and a former *Obrigkeit*) – or a nobleman of a similar status was elected to the post of mayor (*Bürgermeister*).⁹ Later-on this did not happen so often, but, for example at the former Schwarzenberg Estate in Orlík, in 1861, the Prince was actually elected to the Municipal Councils in 19 municipalities out of 26 in the cadastral area in which the princely land assets were to be found. He was particularly popular amongst the lowest taxpayers. The prince took all this for granted but when, on the other hand, he was not elected, however, the estate management ceased employing the crofters (*Häusler*) from these villages in the princely service. Against his former *Untertanen* he did not have any other legal instruments.¹⁰ The nobles who were elected to the district administration, which was established in Bohemia after the year 1864, were in a different position. In these cases it was neither about the pressure nor a mistake by the voters, but rather about consciously entering into a political scene of the regional type.¹¹

During the first half of the 19th Century, political power – if it indeed existed outside the personage of the sovereign – was concentrated in the hands of the Estates, the character of which was defined in accordance with historically obtained rights and to

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- 9 For example, in Kyšperk in East Bohemia (nowadays known as Letohrad) Count Karl von Nimptsch was elected to the Council in the first modern-day election and subsequently also as the Mayor. To the residents of Kyšperk he did not represent former landed nobility in the truest sense of the expression. The actual owner of the estate was his wife Therese, née Countess Marcolini. It is questionable, however, to what extent the legal situation was actually known about in what, only a short time ago, was simply a small liege town. What was undoubtedly appreciated was his degree of influence, his experience, his knowledge of tenure, law and of management. As has been shown by subsequent developments, this was a miscalculation. The Count was interested only in social issues and then only during the first year after his election. The First Councillor (*Gemeinderath*) was obliged to do all the other necessary work for him. And since the first term lasted for a full 11 years, this inevitably represented a rather precarious situation. In more detail in Marie MACKOVÁ, “*Základem svobodného státu je svobodná obec*” aneb *Jak Kyšperští poprvé volili starostu* [The First Mayor Election in Kyšperk], in: Pocta Josefu Kollmannovi, Prague 2002, pp. 179–183.
- 10 As in Kyšperk, so also in the municipalities around Orlík, the elected Prince did not run the office himself. But he resolved this in a more favourable manner by appointing in his own place an alternative expert from amongst his economic officials. Zdeněk BEZECNÝ, *Příliš uzavřená společnost. Orličtí Schwarzenbergové a šlechtická společnost v Čechách v druhé polovině 19. a na počátku 20. století* [The Orlík Branch of the Schwarzenbergs and Noble Society in Bohemia in the Second Half of 19th and at the Beginning of 20th Centuries], České Budějovice 2005, pp. 67–69.
- 11 One specific case, for example, is described in Milan HLAVAČKA, *Vznik okresní samosprávy na Mělníku* [Establishment of District Administration in Mělník], in: *Středočeský sborník historický* 28–29, Prague 2006, pp. 77–100; Tatjana TÖNSMEYER, *Adelige Moderne. Großgrundbesitz und ländliche Gesellschaft in England und Böhmen 1848–1918*, Wien – Köln – Weimar 2012, pp. 263–267.

make any change to their composition was an extremely complex process.¹² This system was already gradually collapsing between the years 1848 and 1864, at which point in time it was finally replaced by a modern-day parliament. Even after the establishment of the modern parliamentary system in the Habsburg Monarchy, the nobility still retained a certain amount of political influence; though it was obliged to obtain it in the same manner as every other Member of Parliament: through elections.¹³ Despite this the parliamentary benches of the Bohemian *Landtag* were occupied by a relatively disproportion number of men who also belonged rather to historic than to the newly promoted nobility.¹⁴ They all accepted the changes to the State's legal and social systems and began to exploit new opportunities for their own promotion. Notwithstanding that, mostly their family privilege could only serve as a support in the social sense.

Although not every nobleman and noblewoman belonged to the landed nobility until the mid-19th Century, these administrative still significantly changed and helped to further – mainly socially – the delimitation of the nobility as a specifically defined societal group. The Monarchy continued to survive as a significant aspect of the parliamentary system (regardless of the relatively gradual inception of this system and of its actual interruption during the years 1852–1860). Property became the primary criterion. That, of course, gave the historical nobility an advantage because, in the past, most families had been at least solidly secure economically, while many noblemen engaged in modern forms of business and continued to successfully increase their assets. On the other hand, during the shaping of the legal environment of the 19th Century, the ancient aristocratic privileges only continued to exist in the context of the internal regulations of the Imperial Court. Thereby, having a link to the Monarch and to his court environment had become vital, even though it no longer remained the centre of State Power. It was increasingly becoming rather more of a cultural and social centre, which also served to help to fulfil the sovereign's needs. However the representational function that specifically interfered with areas that were closely connected to the person of the sovereign cannot be overlooked, as was, for example, the previously referred-to foreign

12 The legal framework was still based on the provisions of the *Verneuerte Landesordnungs* from the years 1627 and 1628. To this end, for example, Antonín OKÁČ, *Český sněm a vláda před březnem 1848. Kapitoly o jejich ústavních sporech* [Bohemian *Landtag* and Government before March 1848], Praha 1947; Jiří KOŘALKA, *Češi v habsburské říši a v Evropě* [The Czechs in Habsburg Monarchy and Europe], Prague 1996. In general also Pavel BĚLINA – Milan HLAVÁČKA – Daniela TINKOVÁ, *Velké dějiny země Koruny české* [Big History of the Lands of the Bohemian Crown], Volume XI. a, Prague – Litomyšl 2013.

13 Naturally with the exception of the hereditary seats in the House of Lords.

14 Z. BEZECNÝ, *Příliš uzavřená společnost*, p. 29 in 1901 even refers to 16 % of all of the Bohemian *Landtag's* deputies.

representation of the State, the army, and last but not least the cult of the ruler in relation to the inhabitants of the Monarchy.¹⁵ Both in connection with the environment of the Imperial Court and also outside it, the tendency of the nobility to create a closed circle of individuals, who, in a certain manner, had departed further from the others and had thereby been greatly strengthened.¹⁶ This boundary, on the other hand, had a special appeal for some of those who stayed outside the fray. The bearers of the newly granted incolates had not joined any existing social groups, but rather created its additional offshoots, each with wholly distinct characteristics.¹⁷

In the 19th Century several groups of nobles coexisted in the Habsburg Monarchy who, although they lived with a legal proviso of some type of incolate, their position was different. In addition to the unofficial, but largely accepted division between the courtly and the provincial nobility, there were families who still had the Imperial incolate and whose position was complicated both by the demise of the Holy Roman Empire and by a process that was known as mediatisation.¹⁸ Then there were families whose incolate

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- 15 Re this subject from one perspective in detail, for example Martina WINKELHOFEROVÁ, *Viribus unitis. Císař a jeho dvůr. Nový pohled na Františka Josefa* [Emperor and His Court. A New Look at Francis Joseph], Prague 2011. And from a completely different perspective Jiří RAK, *Zachovej nám, Hospodine. Češi v Rakouském císařství 1804–1918* [The Czechs in Austrian Empire 1804–1918], Prague 2013.
 - 16 This, however, was not only a problem for the nobility of the Habsburg Monarchy, but during the period monitored, by and largely for the whole of Europe. To this end, recently, for example, Dominik LIEVEN, *Abschied von Macht und Würden. Die europäische Adel 1815–1914*, Frankfurt am Main 1995; T. TÖNSMEYER, *Adelige Moderne*.
 - 17 The number of extensive and more specialised works that deal with the nobility of the 19th Century, not only in the Habsburg Monarchy, has recently been increasing. We can refer to, for example: Hannes STEKL, *Adel und Bürgertum in der Habsburgermonarchie 18. bis 20. Jahrhundert*, Wien – München 2004; Rudolf BRAUN, *Konzeptionelle Bemerkungen zum Obenbleiben: Adel im 19. Jahrhundert, Geschichte und Gesellschaft*, in: *Europäischer Adel 1750–1950*, Göttingen 1990, pp. 87–95; Tomáš KNOZ – Jan DVORÁK (eds.), *Šlechta v proměnách věků* [Nobility in the Changes of Times], Brno 2011.
 - 18 22 of all the mediatised imperial noble families had their own sovereign who was seated in the Habsburg Monarchy. However, in addition, other families from individual mediatised imperial families lived there whose regents and also the predominant portion or even all of their own landed property were outside the Habsburg Monarchy. A separate contract had to be concluded with each such family that defined the rights of its members within the Monarchy. These basically represented the defunct or the retained rights of the regent families and also the degree of their conformity with the ruling Habsburg House. Re this issue, for example, J. ŽUPANIČ, *Nová šlechta*, pp. 44–47, 84; Heinz GOLLWITZER, *Die Standesherrn. Die politische und gesellschaftliche Stellung der Mediatisierten 1815–1918*, Göttingen 1964²; Thomas SCHULZ, *Die Mediatisierung des Adels*, in: *Baden und Württemberg im Zeitalter Napoleons*, Stuttgart 1987, pp. 157–174. In connection with the situation of a specific family then, for example, Hans Konrad SCHENK, *Hohenlohe vom Reichsfürstentum zur Standesherrschaft*, Künzelsau 2006. The same from the “Austrian perspective” then in M. MACKOVÁ, *Mladší princ*.

was historically linked to either the Bohemian or the Hungarian crown. After them were always more frequently individuals and families that had acquired a modern incolate of the Austrian Empire.¹⁹ These all, however, were dealing among themselves rather in regard to their mutual relationships, their claims and their positions than with their relationships with the non-aristocratic majority that surrounded them. Thereby a special legal environment emerged, which involved only those people with an incolate and that regulated their relationships both with their sovereign and amongst themselves. At the same time this did not restrict in any way the general legal environment of the Monarchy that was applicable to all of its inhabitants, including nobility of all kinds.

After 1806 in the court environment it was first necessary (in chronological order) to address the conflict between the imperial nobility and the families that held their incolate from the hereditary lands. This could be facilitated by the reintroduction of a court rank order (*Rangordnung*) from the year 1728.²⁰ Although this standard, even as a domestic order, belonged to a completely different social context, it remained valid until early in 1873, when a new *Rangsordnung am Hofe seiner k. und k. apostolischen Majestät* was issued. That Order, however, primarily reflected alterations in the manner of the operation of the court, i.e. at that time it was only the private environment of the House of Habsburg that the current nobility could participate in a defined manner; often, however, in the role of honest servants or even of regular employees. In addition also established in 1839 was the Habsburg *Imperial Austrian Family Order* (*Kaiserlich Österreichische Familien-Statut vom 3. Ferbruar 1839*) that was revised in 1900.²¹ This Order governed the aristocratic hierarchy throughout the Habsburg Monarchy and also its internal structure, thereby confirming its exclusive link to the sovereign's court. It did not mention any relation to the non-aristocrats, with the exception of referring to nobilitation. This continued to happen and in this respect the Imperial Power was neither restricted by the parliamentarism of the last quarter of the 19th Century nor by the Austro-Hungarian Compromise (*Österreichisch-Ungarischer Ausgleich*, 1867), which altered the entire character of the State. In a few cases, the aristocratic society of the Habsburg Monarchy of this period expanded to include new dukes and counts, but the most frequent and attractive nobilitations were those of a lower level. Those could be achieved based on faithful service provided in the office, or based on generally

19 This issue is also addressed by J. ŽUPANIČ, *Nová šlechta*.

20 Re this issue, for example H. STEKL, *Adel und Bürgertum*.

21 J. ŽUPANIČ, *Nová šlechta*, pp. 17, 20.

recognised cultural merits, etc.²² The sovereign bestowed noble titles to persons in accordance with his personal will and regardless of their religion, their origin, their status or their gender. Women were also nobilitated during this period: often based on the merit of their deceased spouse or on the basis of a morganatic marriage, but also for their own merits, such as charitable works or their overall humanitarian achievements.²³

Within the general legal environment of the Habsburg Monarchy, which virtually throughout the entire 19th Century assumed, amongst other things, absolute equality before the law and that after 1850 only retained a few of the real privileges of the nobility²⁴ there were the court rules that constituted a legal proviso. These rules, in turn, however categorised people (without many any gender distinction) in accordance with their own internal guidelines (which during the 19th Century acquired their real binding form based on a supreme imperial decision – all the four monarchs during that century had successively participated in this process). It provides the idea that the further the significance of the court departed from real power, the more complex became the rules that governed the court environment. The “rigid Habsburg traditions” might thereby represent a desperate attempt to protect the vanishing world against parliamentarism (which thrived during the Monarchy) and also from the predatory rule of capital. Gradually, however, within the courtly environment the situation also changed. Both access to the Court (*Hofzutritt*) and belonging to Courtly Society (*Hoffähigkeit*) were made more simple in 1879 when barons were also ranked amongst the higher nobility. The next step followed in 1886, when other nobles, especially those of the service type, obtained free access to the court.²⁵ Especially those families that belonged to the “first society” (the oldest) who had free access to the court and were very close to the ruling house could have a problem with the acceptance of the concept of equality before the law. There were probably numerous reasons, but the most significant ones included a feeling of individual exclusivity and of the effort needed to preserve the social order

22 The number of the aristocratic titles that were awarded during the 1848–1898 period comprised: 14 princes (including 5 morganatic descendants of the ruling dynasty); 42 counts; 680 barons; 2,172 knights; 1,798 common noblemen. *Ibidem*, pp. 96, 107.

23 *Ibidem*, p. 154.

24 The right to use noble titles and/or predicates in their prescribed form, the right to use a coat of arms, the right to a pension of a specific type, scholarships and/or places in the Cathedral Chapters, in institutes for noblewomen and in educational institutes and also the right to receive an income from certain foundations, the right to dignity and honorary offices that were bound to certificates of origin and the possibility of authorising the establishment of a trust. *Ibidem*, p. 227.

25 This involved both the secret and the court councillors, the bearers of orders from the Monarchy, all the ministers, generals and officers who were on active duty, the members of the Cisleithanian Imperial Council and of the Hungarian Diet and all other ambassadors and/or envoys. *Ibidem*, p. 24.

of the past by maintaining the family name, honour and symbolic capital.²⁶ In everyday life, however, there was no room for any open resistance in regard to the changing legal environment. To this end occasional loudly expressed opinions were considered (and probably quite rightly so) as representing an individual's eccentricity.²⁷

This trend continued – though not totally fluently and it was also influenced by several notable twists of Great History – even in the 20th Century. The newly founded Czechoslovak Republic additionally deepened the problems of the nobility by its annulment of all the surviving legal platforms, which in any case could establish a foundation for a legal proviso for this group of people. Despite the Reception Law.²⁸

“Myths can be understood as representing a specific complex of unconscious attributes belonging to the nobility. In other words, they mostly constitute unconscious strategies that the nobility employ in their social behaviour. These strategies seem to pertain only to the nobility and are very different from the strategies used within other social groups.”²⁹

Refocusing the awareness of belonging (and of responsibility) on the social plane becomes stronger, the more that this complex of relationships is transferred from public to private space. The status cited corresponds to the situation during the 20th Century, but its roots – as with many other similar events – can already be found dating back to the 19th Century and its changes. Although their radicalism was engulfed in a saloon form. Although, by definition, for the duration of the Monarchy the nobility could not disappear from its legal space (and an incolate was always bound to a crown), this legal proviso was increasingly undermined by the modern-day legal principles of civil society. Social perceptions were not always reconciled with the applicable laws in time.

It is also necessary to bear in mind that this still represented – though through the perspective of modern statistics – only a fraction of the society. At the beginning of the reign of Emperor Franz II men with an incolate accounted for only cca 0.12 %

26 In the cited work Jan Županič considers this attitude especially in the context of its opposition to unequal marriage, which was documented during the 19th Century, while during its second half, in the context of the current situation, it appears to be an anachronism.

27 Zdeněk BEZECNÝ, *Poslední lancknecht* [The Last *Landsknecht*], in: Martin Gaži (ed.), *Schwarzenbergové v české a středoevropské kulturní historii*, České Budějovice 2008, pp. 415–422; IDEM, *Starý obránce starých práv* [The Old Defender of Old Rights], in: Zdeněk Hojda (ed.), *Věch stáří, nebo zralý věk moudrosti?*, Praha 2009, pp. 65–69.

28 This happened because of Act No. 61/1918 Coll., which was amended in 1920, but the actual changes to it were related only to the possibility of using and wearing some awards. The impact on noble families and on individuals differed, depending on the circumstances, but this is not the subject of this study.

29 Radmila ŠVAŘÍČKOVÁ SLABÁKOVÁ, *Mýtus šlechty u nás a v nás* [The Myth of Czech Nobility in Our Minds], Prague 2012, p. 146.

of the male population in Bohemia, while in Moravia the figure was 0.1 %. In 1846 2,275 holders from the 17+ age group of the noble title lived in Bohemia and this accounted for 0.11 % of the population. In Moravia and Silesia, the figure was 0.1 % and the comparable figures of well below 1 % of the total population in a given country were also applicable to other countries of the later Cisleithanian, with the exception of Galicia. In the Hungarian crown lands, this figure was much higher, because there the historical lower nobility were preserved.³⁰

In the first half of the period monitored this numerical minority, however, dominated a significant part of the economy. In the second half of the century, however, this group gradually lost its legal provisos of a corresponding type in this area. Prior to 1850 its proximity to the court and the court officers facilitated the acquisition of other benefits, but after 1850, and even more-so after 1859 (i.e. the period of the fall of the *Zunftsystem* and the subsequent entry into force of the new *Gewerbegesetz* and the new *Allgemeines Handelsgesetzbuch* 1862) it had to deal with the conditions of a liberal economy, initially in its rawest variant. Some individuals managed very well, others chose to deal with only certain aspects and utilised them efficiently.³¹ There were also some who simply shut their eyes and tried to pretend that nothing had changed and nothing will change. Those who managed and were responsible for family trusts frequently found themselves in this specific situation. Land ownership, historically developed and anchored, naturally gave the nobility an economic advantage in addition to a certain amount of knowledge that had been transferred through the collective memory and also to a long-cultivated relationship to the land. On the other hand many historical and legal provisos vanished and even those owners who came from a civic environment could become the owners of

30 Z. BEZECNÝ, *Příliš uzavřená společnost*, p. 28 with a reference to works of Ralph MELVILLE, *Adel und Revolution in Böhmen. Strukturwandel von Herrschaft und Gesellschaft in Österreich um die Mitte des 19. Jahrhunderts*, Mainz 1998 and Milan MYŠKA, *Šlechta v Čechách, na Moravě a ve Slezsku na prahu buržoazní éry (Hospodářská aktivita české aristokracie a tzv. „kapitalistická modernizace“)* [Bohemian, Moravian and Silesian Nobility at the Beginning of Industrialization and Modernization], *Časopis Slezského muzea*, B, 36, 1987, pp. 46–65. To this end also Milan HLAVAČKA – Jiří KAŠE – Jan P. KUČERA – Daniela TINKOVÁ, *Velké dějiny zemí Koruny české* [Big History of the Lands of Bohemian Crown], Vol. XI. b, Prague – Litomyšl 2013, pp. 82–83; Helmut RUMPLER – Martin SEGER, *Die Habsburgermonarchie 1848–1918*, Bd. 9, 1–2, Wien 2010.

31 Many of those nobles who had no landed property, learned regularly about how to invest in stocks prudently. Interesting for them were not only stable state bonds, but also the shares of emerging industries. To this end, for example Jiří BRŇOVJÁK – Aleš ZÁŘICKÝ (eds.), *Šlechtic podnikatelem – podnikatel šlechticem. Šlechta a podnikání v českých zemích v 18. a 19. století* [Nobility and Entrepreneurship in the Czech Lands in 18th and 19th Centuries], Ostrava 2008. However, there are numerous case studies: e.g. also M. MACKOVÁ, *Mladší princ*.

Landtafel estates, if they had enough money to buy an estate of this kind. Amongst these were both newly nobilitated and non-aristocrats.³²

It was not necessary for the nobility of the Habsburg Monarchy in the 19th Century to deal with such a problem as its own identity beyond the Monarchy. It still did exist then, albeit in a parliamentary form, offering the possibility of identification to virtually the entire wide spectrum of the population, including nobles. The question was just how big a piece of the whole remained for any specific social group and how well did such a group of people know how to exploit it. The confessional identity that was still in force in much of the 18th Century was not fully applicable to the nobility of that time. On the other hand, the vast majority of aristocrats remained completely untouched by contemporary identification with any of the modern nations (in spite of the strong individuals who originally adopted these ideas). In the social plane the nobility attempted to create a “different reality”³³ that made the differences in lifestyles evident. Closely tied to this was an emphasis on the family tradition on which the identity of nobles of the 19th Century drew a lot. In the lifestyle realm there were significant differences; a different reality that distinguished the 19th Century aristocrat from his surroundings³⁴ and that guaranteed him a perceivable element of exclusivity. Because the legal environment forced him to blend in with others and the economy could only distinguish him if he had some specific personal qualities (e.g. he could manage his assets alone so as to make a profit, or he knew how to find the right people who could do the same thing for him). This situation that was additionally gradually changing led to a certain loss of the exclusivity of the aristocrats and also, in fact, to the ultimately signified shift – but not loss – of a sphere of influence. In addition to that it is necessary to take into account what both the collective and individual memory that was modified by the events and the changes during the subsequent 20th Century did to further this process.³⁵

32 Z. BEZECNÝ, *Příliš uzavřená společnost*, also to this end pp. 31–33.

33 *Ibidem*, p. 104.

34 *Ibidem*, p. 123.

35 Collective memory is currently a widely discussed topic that is not related only to the nobility. Re this topic at the most general level, for example: Joseph CAMPBELL, *The Hero with a Thousand Faces*, Novato 2008; Douwe DRAAISMA, *Metaphors of Memory: a History of Ideas about the Mind*, Cambridge 2000; Daniel L. SCHACTER, *Seven Sins of Memory*, Houghton Mifflin 2001; Jiří ŠUBRT – Štěpánka PFEIFEROVÁ, *Kolektivní paměť jako předmět historicko-sociologického bádání* [Collective Memory as an Object of Historical-Sociological Research], *Historická sociologie*, 1, 2010, pp. 9–29; Hayden WHITE, *Metahistory: the Historical Imagination in Nineteenth-century Europe*, Baltimore – London 1973.

Resumé

Šlechta v Čechách a v habsburské monarchii v právním a společenském kontextu 19. století

Autorka v této studii shrnuje především české výzkumy o šlechtě na území habsburské monarchie v 19. století. Demonstruje, že tato šlechta nebyla jednotným, vnitřně nediferencovaným celkem, protože její život byl stále regulován specifickými ustanoveními o šlechtické hierarchii, která většinou neměla charakter všeobecné právní normy. Na jejich dodržování však lpěla především sama šlechta a uzavírala se tím do stále těsnějšího, byť ne neprodyšně uzavřeného, okruhu osob. Početně šlo o zlomek společnosti, ovšem jejich význam nebylo možné tak úplně přehlížet. V tradičních oblastech

šlechtického působení se její vliv pozvolna vytrácel. Nejrychleji tento proces postupoval v průběhu 19. století patrně v armádě, resp. mezi vyšším důstojnictvem. Složitější situace byla ve vysoké katolické hierarchii a nejméně se tento trend projevil v diplomatických službách. Postupně ztrácela ta šlechta, která neměla přímé vazby na panovnícký dvůr. V polovině 19. století přišla šlechta o práva a povinnosti pozemkových vrchností. Na druhou stranu jí většinou nic nebránilo v moderním podnikání. Ne všichni z této společenské vrstvy však k tomu měli schopnosti či chuť.