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## THE PLACE OF LEGAL DEPARTMENTS OF LOCAL GOVERNMENTS IN THE SYSTEM OF THE OCCUPATION REGIME OF THE REICHSKOMMISSARIAT “UKRAINE” AND THE MILITARY ZONE OF OCCUPATION (1941–1944)

*The article considers legal departments as a necessary component of the German regime, which was established after the occupation of Ukrainian territories. It was noted that the need to regulate the daily needs of the population of the occupied zones of Ukraine, to establish their relations with the German and local authorities required appropriate normative influence, and specific prescriptions had to be understandable to all subjects of social relations at that time. Therefore, legal departments were introduced to the staff lists of many local government bodies. The creation of legal departments in the structure of local government bodies is explained not only by the need for them to perform the functions of judicial bodies and notaries at a time when they did not yet exist, but also by the need to regulate legal relations with the German civil and military authorities. The study of the activities of legal departments of local governments was briefly or in more detail carried out by Ukrainian researchers: Shaykan V., Ivanenko A., Goncharenko O., Kunytskyi M., Lysenko O. However, in the mentioned works, the scientists focused on the regional aspect or on a specific direction of activity or work of legal departments was considered in the context of the activities of local government bodies in general.*

*Based on all of the above, it can be concluded that the legal departments of local governments played a major role both before the creation of a full-fledged judicial system and during its existence. In the first months after the establishment of the occupation regime, legal departments were actually the only body that regulated the lawful behavior of the local population by non-repressive methods, which was absolutely necessary for the local administration. After the introduction of the judicial system, the legal departments began to perform mostly advisory functions, in addition, they became effectively part of the executive branch of government with all the possible range of powers accordingly.*

**Key words:** legal department, local administration, administration, judiciary.

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## МІСЦЕ ПРАВОВИХ ВІДДІЛІВ МІСЦЕВИХ УПРАВ У СИСТЕМІ ОКУПАЦІЙНОГО РЕЖИМУ РАЙХСКОМІСАРІАТУ «УКРАЇНА» ТА ВІЙСЬКОВОЇ ЗОНИ ОКУПАЦІЇ (1941–1944 РР.)

*У статті розглядається правові відділи, як необхідна складова частина німецького режиму, який був встановлений після окупації українських територій. Зазначено, що необхідність врегулювання повсякденних потреб населення окупованих зон України, налагодження їх стосунків із німецькою та місцевою владою потребувала відповідного нормативного впливу, а конкретні приписи мали бути зрозумілими усім суб'єктам тогочасних соціальних відносин. Тому до штатних розписів багатьох органів місцевого управління було введено правові відділи. Створення правових відділів у структурі органів місцевого управління пояснюється не лише потребою виконання ними функцій судових органів і нотаріату в той період, коли їх ще не існувало, а й необхідністю врегулювання правовідносин з органами німецької як цивільної, так і військової влади. Дослідженням діяльності правових відділів місцевих управ побіжно чи більш детально займалися українські дослідники: Шайкан В., Іваненко А., Гончаренко О., Куницький М., Лисенко О. Але у згаданих працях науковцями було здійснено акцент на регіональний аспект чи на конкретний напрямок діяльності або робота правових відділів розглядалась у контексті діяльності органів місцевого управління в загальному.*

*Виходячи з усього вищезазначеного можна зробити висновки, що правові відділи місцевих управ відігравали велику роль як до створення повноцінної судової системи, так і в період її існування. Перші місяці після встановлення*

*окупаційного режиму правові відділи фактично були єдиним органом, який регламентував правомірну поведінку місцевого населення нерепресивними методами, що було конче необхідно місцевій адміністрації. Після запровадження судової системи правові відділи почали здебільшого виконувати консультативні функції, окрім того, стали фактично частиною виконавчої гілки влади з усім можливим спектром повноважень відповідно до цього.*

**Ключові слова:** правовий відділ, місцеве управління, управа, судочинство.

**Formulation of the problem.** After the establishment of the civilian occupation administration in the Reichskommissariat “Ukraine” and the administrations in the territory of the military zone of occupation, the need to regulate the daily needs of the population of the occupied zones of Ukraine, to establish their relations with the German and local authorities required appropriate normative influence, and specific prescriptions had to be understandable to all subjects of the then social relations. The transfer of certain powers from this sector of the occupation policy to local government bodies turned out to be an effective, but still insufficient means of influencing people’s lawful behavior. Some of the German administrators understood these circumstances, and therefore acted quite rationally and adequately to the conditions of the management reality that developed at that time. Therefore, legal departments were introduced to the staff lists of many local government bodies. In some places they received the names of legal departments. The names of these structures could be different, but the scope of official powers of their employees remained constant.

**Analysis of studies.** Ukrainian researchers: V. Shaykan (Шайкан В., 2006), A. Ivanenko (Іваненко А., 2019), О. Honcharenko (Гончаренко О., 2011; Гончаренко О., 2010), М. Kunytskyi and О. Lysenko (Гончаренко О., Куницький М., Лисенко О., 2014) were engaged in the study of the activities of legal departments of local governments either briefly or in more detail. But in the mentioned works, scientists focused on the regional aspect or on a specific direction of activity, or the work of legal departments was considered in the context of the activities of local government bodies in general.

**Main part.** The original documentation of local authorities that we have analyzed attests to the fact that usually such structural divisions were created as part of the administrations of cities large in size and population – Kyiv, Vinnytsia, Dnipropetrovsk, Kharkiv. But legal departments were also created in the administrative bodies of relatively small cities, such as Cherkasy. In the absence of opportunities or desire to create legal departments on the basis of structural subdivisions of administrations, the position of legal consultants was introduced into the corresponding general or administrative departments, who actually dealt with practical issues of regulatory regulation of the everyday needs of the local population. This

is how the problem was solved in the Lutsk and Zhytomyr administrations, many other authorities at the district and city levels.

The creation of legal departments in the structure of local government bodies is explained not only by the need for them to perform the functions of judicial bodies and notaries at a time when they did not yet exist, but also by the need to regulate legal relations with the German civil and military authorities. It is also necessary to take into account the dynamics of the formation of German authorities, changes in their staff lists, the transfer of powers from the military to civilian administrators, and the relocation of garrison military commanders. A feature of the German military administration was the lack of real legal succession between relocated commanders. Actually, the civil authorities of the RKU did not pay attention to the regulations issued by the previous military authorities. Therefore, the system of action of the regulatory framework issued by the German side was in a certain way unbalanced, and previously accepted and newly created prescriptions contradicted each other.

The low quality of German regulatory acts also consisted in the fact that the new government introduced legal regulations, often without paying attention to the previous ones, and the prescriptions were not canceled by it. This often referred to such areas of occupation policy as: collection of taxes and payments in kind, rent, organization of harvest, wage level. And if we take into account the nominal continuation of the Soviet legislation, then of course, specialists with a purely legal education could somehow sort out the chaos of various regulations. The German managers, on the other hand, acted exclusively with “Aryan” superiority and demanded to carry out exactly them, and not pre-accepted instructions. In addition, the very failure to comply with German instructions could end extremely tragically for the local authorities. Therefore, the authorities needed experts who could professionally to explain to local managers the effect of certain normative acts, to generalize them in a certain way, to carry out elementary codification. In this regard, a separate position of legal adviser was introduced in some local authorities simultaneously with legal departments. Usually, this employee was introduced to the general department, and his manager checked and approved management documents. In fact, the position of legal adviser to the local authority was

necessary to avoid mistakes (Держархів Вінницької обл. Ф. Р-1312. Оп. 1. Спр. 1. Арк. 92). The Zaporizhzhya City Administration approached the problem of the correct application of regulations quite specifically. For this purpose, the position of advisor to the burgomaster was introduced in the staff list (Держархів Запорізької обл. Ф. Р-1433. Оп. 3. Спр. 1. Арк. 34). In fact, this official performed official powers similar to those of legal consultants.

With the creation of judicial bodies, notaries and lawyers in occupied Ukraine, it was the legal departments of local governments that received the competence to coordinate their work. For this purpose, official meetings and briefings of employees of the legal sphere were held. And in some administrations, judges, lawyers, and notaries were generally included in the job descriptions of legal departments or legal sections. These facts were recorded in Vinnytsia, Cherkasy, and other cities of Ukraine.

Among other arrays of original documentation, the most complete information about the process of creating legal departments in the autumn of 1941, the official competence of their employees, is provided by the funds of the Kyiv city administration. The legal department as part of this administration appeared in the first days of the organization of local government. Similar departments were created in Kyiv district administrations. There is also a certain specialization for this structure. Thus, a criminal section headed by former lawyer V. Maikovskiy was created in the staff of the legal department of the Kyiv city administration (Галузевий державний архів Служби безпеки України, Ф. 5. Спр. 63380. Арк. 13).

As evidenced by the documentation of the Kyiv city administration, the legal department was entrusted with the following tasks: development and approval of resolutions and orders of the city government that regulated law and order and social life in the city, announcements of its departments, which were published in the press and made public; development and registration of standard charters of cooperative and other organizations, societies and banks; development of standard contracts (including the lease transfer of enterprises, buildings and other institutions) of city and district administrations; development of reports on legal issues, as well as providing consultations and conclusions to city government structures; systematization of official documents (orders, resolutions) with their subsequent publication in the "News of the City Administration"; proceedings of all court cases of city government departments.

The employees of the legal department of the Kyiv city administration also received temporary powers,

in particular: to carry out preparatory work on the creation of general legal bodies, namely: prosecutor's offices, judicial and investigative institutions, notaries and advocates; to develop temporary regulations and instructions regarding regulations that regulated the work of these bodies and institutions; consulting and instructing their employees on all legal issues, as well as on behalf of the city administration and the German civil authorities conducting inspections of their activities with drawing up relevant conclusions and proposals; together with the personnel department of the city administration to identify persons capable of working in legal services (Держархів Київської обл. Ф. Р-2412. Оп. 2. Спр. 43. Арк. 1, 3, 4).

The practical work of legal department employees who certify original documents was quite rich and multifaceted. Thus, according to the work plan of the legal consultant of the legal department of the Shevchenkiv district administration of the city of Kyiv for the first and second quarters of 1942, it was foreseen: conducting an inventory of buildings on the territory of the district, drawing up passports for them; checking the state of execution of 219 contracts regarding the employment of trade and industrial enterprises. In case of detection of violations, the authorized legal adviser of this department had to prepare the case and submit it to the court for cancellation of the contract; to renegotiate the specified contracts, since their term of validity expired on January 15, 1942; provide legal assistance to all departments of the administration and heads of buildings; hold a reception and provide legal advice to 1,500 people; find out the correctness of charging for utility services.

In the work plan for the next period of 1942, the task of organizing the accounting of unmanaged property, setting up work in the matter of appointment of guardianship and guardians was added to the duties of the legal department of the Kyiv City Administration. Also, the employees of the department had to take care of all administrative matters. From the content of the report on the work carried out, it is clear that all the planned activities were carried out. Moreover, instead of 1,500 visitors, the legal adviser received 2,130 people (Держархів Київської обл. Ф. Р-2412. Оп. 2. Спр. 102. Арк. 9, 10, 13).

Officials of legal departments worked quite intensively. For example, from the text of the report on the work carried out for the period from October 4 to December 30, 1941, we can see that the legal consultant of the legal department of the Shevchenkiv district administration of Kyiv managed to provide legal assistance to 2,220 persons during this time, conclude 233 lease agreements for



industrial enterprises, formulate 36 conclusions from various issues, develop the statute of the district administration and rules of internal procedure, draw up 15 standard contracts for property lease, sale of houses, commission conditions, regulations on the dining room, subcontract for repair works.

The work of the legal consultant of the legal department was also important for the normalization and streamlining of the functioning of the city government. Thus, this official was present at meetings of the district board, drew up conclusions on administrative cases, some of which he handed over to investigative bodies. He inspected the work of the trade department of the administration and drew up conclusions that were sent to the top management. It is important that the legal consultant codified the legal acts received by the administration from the German authorities, provided professional advice to the relevant officials of the legal departments of the Volodymyr and Sofia district administrations on organizational and purely legal issues (Держархів Київської обл. Ф. Р-2412. Оп. 2. Спр. 102. Арк. 12, 13).

The work of the legal adviser was of great importance for the population of the city, because thanks to his professional activity, conclusions were drawn up regarding the exemption from rent for the disabled and pensioners, the free provision of property to burnt-out victims and persons repressed by the Soviet authorities, the inventory of the property of the deceased, the issuance of passports and the right to residence to people who returned to the city for various reasons. He was entrusted with the responsibilities of organizing the registration of the unemployed, who were planned to be sent to work in Germany.

The official cooperated extremely closely with the administrative department of the administration, in particular, he drew up conclusions on committed offenses. Legal advisor obliged to investigate abuse of office by employees of institutions subordinate to the district administration. After that, part of the cases processed by him were handed over to investigative bodies. In addition, the legal adviser checked the work of the executive of the department and the state of receipt of penalty payments to the financial department of the administration (Держархів Київської обл. Ф. Р-2412. Оп. 2. Спр. 102. Арк. 14, 15).

The requirements for the work of the legal departments of the Kyiv City Administration were unified. Thus, a similar unit of the Pechersk District Administration of Kyiv dealt with practically the same issues. It was noted in the official records of the department that its employees were also engaged in the official interpretation of normative acts adopted

by the city and German authorities (Держархів Київської обл. Ф. Р-2412. Оп. 2. Спр. 136. Арк. 1). Many of them were published in the local press (Роз'яснення правничого відділу Київської міської управи. *Нове українське слово*. 1941. 19 грудня).

During the period of absence of judicial institutions, the employees of the legal departments also had to solve issues that, under the conditions of normal organization of government, should have been within the competence of the courts. For example, in the act on the inspection of the work of the legal consultant of the Sofiyiv district administration of Kyiv, dated July 13, 1942, we read that the legal conclusions of the corresponding employee "actually played the role of court decisions and finally resolved disputes between individual citizens". The document noted that the work of the legal consultant is complicated by the absence of judges and "the still unsolved legislative order of a number of legal issues." (Держархів Київської обл. Ф. Р-2412. Оп. 2. Спр. 70. Арк. 2, 2 зв.)

Legal sections were created in the structure of individual departments of local government bodies. In any case, such a management structure as part of the housing department of the Kyiv city administration was created on October 5, 1941. Its task was to provide legal support for the multifaceted activities of the housing department of the city administration: from the development of standard lease and rental contracts to representation in courts (Держархів Київської обл. Ф. Р-2412. Оп. 2. Спр. 45. Арк. 3). It is quite obvious that the creation of such departmental divisions was associated with the complexity of organizing the management of communal economy, especially in large cities.

The creation of legal departments in the structure of city and district administrations brought its benefits. The employees of these departments not only provided various forms of legal assistance to the population, but also contributed to the specific work of local governments themselves, codifying normative legal acts, standardizing and sanctioning the activities of economic and other associations. We are convinced of this by the contents of local periodicals during the occupation. It was after the sanctions of the legal departments that business associations started their work. As a result, in the autumn and winter of 1941, economic societies "Kulinar", "Erma", "Peremoga" (Повідомлення правничого відділу Київської міської управи. *Нове українське слово*. 1941. 26 грудня), "Vodnyk", "Second Ukrainian Society of Responsible Labor", "First Kyiv Society of Responsible Labor", "Standard" began to work in Kyiv "Tailor" (Повідомлення правничого відділу

Київської міської управи. *Нове українське слово*. 1941, 27 грудня).

Over time, not only consultants, but also other employees of the legal sphere, including judges and notaries, were added to the staff lists of the legal departments of individual local governments. Based on such approaches, the staff list of the legal section of the Vinnytsia city administration was formed in June 1943. It included employees of the cassation and peace courts, as well as notaries. But the legal adviser was in the staff of the general department (Держархів Вінницької обл. Ф. Р-1312. Оп. 1. Спр. 1. Арк. 87). Reformatting of the structure of local governments was permanent. Thus, until June 1943, the employees of the notary were in the structure of the general department of the Vinnytsia city administration, and then they were transferred to the legal section (Держархів Вінницької обл. Ф. Р-1312. Оп. 1. Спр. 2а. Арк. 23).

So, as we can see, in some city and district administrations, local courts and notaries were part of local administration bodies. And sometimes lawyers were also transferred to them. As a result, all employees of legal institutions were united in one management structure. This allowed the authorities to control their professional activities more effectively. Of course, we have no reason to claim “independence” or “independence” of the work of the bar and the court during the occupation period. Both judges and lawyers carried out their professional activities within strict and clearly limited regulations. Any arbitrary actions of judges were prohibited and subject to immediate punishment. But the judges actually lacked the authority to render decisions in important civil disputes or criminal proceedings. German officials also understood this, stating that the extension of the competence of local judges can only be carried out by the Reich Commissioner, but this has not yet happened (Держархів Вінницької обл. Ф. Р-1312. Оп. 1. Спр. 1. Арк. 92).

The unification of all employees in the legal field into a single staff unit at the local authorities has also brought positive results. Yes, it gave judges, lawyers and notaries an opportunity to jointly discuss the innovations of the German administration in the legal sphere, consult and interpret the procedure for the practical application of legal norms. At official meetings, judges who are senior in terms of official status familiarized them with the normative prescriptions of the authorities, specific instructions of German managers. As a result, they achieved unity in the application of legal norms. In addition, reaching an agreement in the application of the current regulatory framework, agreeing on joint approaches

with the German superiors on many issues of the judicial process made it possible to avoid punishment for wrongly pronounced decisions and sentences.

The specific content of the work of the legal departments of local governments is illustrated by their original documents, in particular the minutes of official meetings. For example, on August 24, 1943, the order of organizing the work of the legal section of the district administration was considered at the meeting of the clerks and lawyers of the city of Cherkasy. From the content of the meeting, it is clear that the legal section, which included lawyers, was headed by a civil judge. The collegiality of the section’s work is evidenced by the fact that those present at the meeting made a joint decision to give lawyers the opportunity to consider issues that required a qualified legal assessment (Держархів Черкаської обл. Ф. Р-50. Оп. 1. Спр. 1. Арк. 44).

At the same time, the diversity and lack of a unified approach to the creation and organizational development of local government bodies on the part of the German leadership led to the fact that in some regions of the country legal departments received more serious official powers, in particular in the field of justice. Thus, in Cherkasy in May 1942, that is, even before the official creation of courts in the RKU, the judicial process was carried out directly by the legal department. This fact is evidenced by the cassation appeals of the parties to the civil process. Thus, on February 19, 1943, the applicant K. Zinchenko appealed to the Cherkasy District Administration with a complaint against the decision of the legal department dated May 21, 1942 to collect 3,000 krb from her. The applicant asked the district administration “as a supervisory body to cancel the decision of the consultant and the legal commission on this case, and to transfer the case for consideration in a court of law to the police officer of the 1st section of Cherkasy” (Держархів Черкаської обл. Ф. Р-5. Оп. 1. Спр. 2. Арк. 2, 3).

The internal records of the legal department of the Cherkasy district administration analyzed by us testify to the fact that as of August-September 1942, when the judicial system of the RKU already existed, all employees of the legal sphere were also united in a single full-time unit. Thus, in the lawsuits for consideration of civil cases of local residents, it is clearly stated that they do not apply to the court, but directly to the legal department. But at the same time, the civil process was conducted by the schlichter. In the same way, in the summons for the appearance of the defendants in court, it was stated that they were summoned by the “Legal Department of the Cherkasy District Administration.” During the public meeting

of the legal department of the Cherkasy district administration on September 16, 1942, the lawyers of the parties to the civil process were also present (Держархів Черкаської обл. Ф. Р-22. Оп. 1. Спр. 3. Арк. 4, 8, 9). So, as we can see, both the city courts and the legal department of the administration performed the same functions.

**Concluding.** Based on all of the above, it can be concluded that the legal departments of local governments played a major role both before the creation of a full-fledged judicial system and during

its existence. In the first months after the establishment of the occupation regime, legal departments were actually the only body that regulated the lawful behavior of the local population by non-repressive methods, which was absolutely necessary for the local administration. After the introduction of the judicial system, the legal departments began to perform mostly advisory functions, in addition, they became effectively part of the executive branch of government with all the possible range of powers accordingly.

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