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WORK PRACTICES OF LOCAL CRIMINAL COURTS IN THE TERRITORY OF CHERNIHIV AND SUMY REGIONS DURING THE GERMAN OCCUPATION (1941–1944)

The German administration widely used extrajudicial, repressive and punitive measures to influence the behavior of the local population, trying to force them to work to ensure the goals and objectives of the occupation policy. Despite certain historiographical assets in the field of researching the history of the Second World War, the work of researchers in this direction continues, and provides deeper and more thorough materials on this issue. In the context of their own research, Yu. Levchenko, V. Shaikan, O. Honcharenko, and M. Kunytsky considered the activity of judicial institutions, and the judicial system in general. V. Shaykan describes the activities of judicial institutions in general terms. This state of affairs is partly caused by the discovery of new, previously unexplored sources that complement or fundamentally change the understanding of the subject under study. Therefore, this research is relevant and necessary in today's realities. A study of the practice of local criminal courts in the occupied territory of Ukraine shows that they were overloaded with cases related to misdemeanors and minor crimes committed by representatives of the local population. Exceptions were cases of similar acts committed by Jews by nationality. The most common categories were crimes against human life and health, defamation and insult to the honor and dignity of a person, as well as theft of property and hooliganism. The study of the practice of criminal justice in the territories of the modern Chernihiv and Sumy regions shows that judicial bodies considered cases of misdemeanors and minor crimes committed by representatives of the local population. Court proceedings were also opened against employees of local government bodies and the police. However, bringing these persons to criminal liability in accordance with the verdicts of local courts required the authorization of German authorities. The functions of the cassation institutions also belonged to the competence of the civil and military occupation authorities.

Key words: court, court case, punishment, offense, imprisonment, fine.

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ПРАКТИКИ РОБОТИ МІСЦЕВИХ КРИМІНАЛЬНИХ СУДІВ НА ТЕРИТОРІЇ ЧЕРНІГІВСЬКОЇ ТА СУМСЬКОЇ ОБЛАСТЕЙ У ЧАСИ НІМЕЦЬКОЇ ОКУПАЦІЇ (1941–1944)

Німецька адміністрація широко застосовувала позасудові, репресивно-каральні заходи впливу на поведінку місцевого населення, намагаючись примусити його працювати на забезпечення мети і завдань окупаційної політики. Не зважаючи на певні історіографічні надбання у справі дослідження історії Другої світової війни, робота дослідників у даному напрямку триває, і надає глибші та ґрунтовніші матеріали з даної проблематики. Діяльність судових установ, і взагалі систему судочинства, у контексті власних досліджень розглядали Левченко Ю., В. Шайкан, О. Гончаренко, М. Куницький. В.Шайкан у загальних рисах описує діяльність судових установ. Такий стан справ частково зумовлений відкриттям нових, раніше не опрацьованих дослідниками джерел, що доповнюють або й докорінно змінюють уявлення про досліджуваний предмет. Тож дане дослідження є актуальним і необхідним у сьогоденних реаліях. Вивчення практики роботи місцевих кримінальних судів на окупованій території України показує, що вони були завантажені розглядами справ щодо проступків та дрібних злочинів, вчинених представниками місцевого населення. Виняток становили випадки вчинення аналогічних дій, свреямта за національністю. Найпоширенішими категоріями були злочини проти життя й здоров'я людини, наклеп та образа честі й гідності особи, а також крадіжки майна й хуліганство. вивчення практики кримінального судочинства на територіях сучасних Чернігівської та Сумської областей показує, що судові органи розглядали

справи щодо проступків та дрібних злочинів, вчинених представниками місцевого населення. Судові провадження відкривалися також щодо працівників органів місцевого управління та поліції. Проте притягнення цих осіб до кримінальної відповідальності відповідно до вироків місцевих судів потребувало санкціонування службовцями органів німецької влади. Функції касаційних установ також відносились до компетенції цивільної та військової окупаційної влади.

Ключові слова: суд, судова справа, покарання, правопорушення, ув'язнення, штраф.

Hitler's occupation of Ukraine became one of the most difficult periods of Ukrainian history. In the event of Germany's victory in that war, the very fact of the existence of our people was put in jeopardy. But despite the cruel conditions of life at that time, the German occupation administration had to use judicial forms and means of regulating both social relations and the observance of lawful behavior by the population. Of course, the German administration widely used extrajudicial, repressive and punitive measures to influence the behavior of the local population, trying to force them to work to ensure the goals and objectives of the occupation policy. But at the same time, purely judicial means of influencing the legitimate behavior of the local society played a certain role in this process.

Despite certain historiographical assets in the field of researching the history of the Second World War, the work of researchers in this direction continues, and provides deeper and more thorough materials on this issue. This state of affairs is partly caused by the discovery of new, previously unexplored sources that complement or fundamentally change the understanding of the subject under study.

In the context of their own research, Yu. Levchenko, V. Shaikan, O. Honcharenko, and M. Kunytsky considered the activity of judicial institutions, and the judicial system in general. V. Shaykan describes the activities of judicial institutions in general terms (Левченко Ю. І., 2011; Шайкан В. О., 2005; Гончаренко О. М., 2011; Гончаренко О. М., 2009; Куницький М. П., 2014).

In the section "Management system of the occupied territories" of the collective work of O. Honcharenko, O. Lysenko and T. Pershina "History of the Second World War: a view from the 21st century" the procedure for the creation and functioning of German and Ukrainian judicial institutions, their competences and powers is analyzed, the legal and legal mechanisms and means of the influence of the German occupation administration on the local population in the sphere of social relations (Гончаренко О. М., Лисенко О., Першина Т., 2010. 735 с.).

A study of the practice of local criminal courts in the occupied territory of Ukraine shows that they were overloaded with cases related to misdemeanors and minor crimes committed by representatives of the local population. Exceptions were cases

of similar acts committed by Jews by nationality. The most common categories were crimes against human life and health, defamation and insult to the honor and dignity of a person, as well as theft of property and hooliganism. Of course, similar actions by representatives of the local population committed against citizens of the Third Reich, ethnic Germans, servicemen of the Wehrmacht, employees of the German administration and persons equated to them, were considered by special courts or were generally conducted out of court. Similarly, the punishments for these actions had a completely different form and ended, at best, in prison or sent to a concentration camp. The death penalty was mostly applied to guilty persons from the local population for committing these illegal acts. There was also the institution of collective responsibility and hostages, which were widely used by the German occupation authorities in order to subjugate the occupied territorial space.

On the territory of that regions there was no unified regulatory framework for resolving judicial conflicts of the local population. But as many as twelve types of crimes were assigned to the jurisdiction of local criminal courts in separate time frames (ДАСО. ф. Р-1841. оп. 4. Спр. 353. 32 арк.).

"Temporary rules for the investigation of petty crimes and the trial of criminal and civil cases" were in effect in the territory of the field commander's office No. 194 (now Chernihiv Oblast), according to which minor bodily injuries, negligent bodily injuries, and beatings were punishable. The document established the maximum amount of punishment – imprisonment and fines (Архів СБУ у Чернігівській області. ф. ОФ. Спр. 12961. 154 арк.). For example, citizen M. Chepak (ДАЧО. ф. Р-3067. оп. 1. Спр. 111. 15 арк.). But M. Samoilenko was convicted for causing P. Pavlenko's bodily injuries, as a result of which he lost his ability to work for six weeks. The court sentenced the woman to two weeks in prison (ДАЧО. ф. Р-3067. оп. 1. Спр. 47. 7 арк.).

Let's also draw attention to the fact that employees and policemen who worked in the respective local occupation structures did not have absolute immunity from criminal punishment for the offenses they committed. Yes, the policemen of Ponornytsia M. Fedosenko and V. Andriichenko were accused of misappropriating belongings of "partisan families" (ДАЧО. Ф. Р-3067. Оп. 1. Спр. 56. 5 арк.). At the

same time, the final punishment for their illegal actions belonged to the German authorities. Such a conclusion can be made by analyzing the criminal cases of the Sumy City Court. Thus, F. Novikov, the head of the 4th precinct under the Shalyginsky auxiliary police department, being in a drunken state, committed an act of physical violence against fellow villager S. Gorbachev, who called him a “drunkard”. The local judge, who did accept this lawsuit, recognized the policeman's actions as a lynching and forwarded his findings to the German law enforcement agencies. Further personal fate of F. Novikov is not traced in the materials of the criminal case (ДАСО. Ф. Р-2209. Оп. 1. Спр. 23. 14 арк.).

Employees of local authorities could also become defendants in criminal proceedings, in particular for fraud, abuse of official authority.

At the same time, we are aware of cases when local courts of the Supreme Court did impose punishments on employees of the relevant law enforcement agencies. Thus, one of the policemen of the Novgorod-Siversky district, holding a firearm, killed a Soviet prisoner of war. For this crime, the local court sentenced him to four months in prison. Such disproportionate composition of the crime as a type of criminal punishment was imposed in connection with the fact that the policeman committed the murder as a result of careless handling of the weapon (Архів СБУ у Чернігівській обл. Ф. ОФ. Спр. 11633. Арк. 20).

Normative legal acts provided for the possibility of criminal cases involving murders to be prosecuted by the local courts of the Higher Regional Trial Court. However, in practice, local courts considered only exceptional cases where the identity of the criminal was unknown. In fact, they made a decision that established the fact of murder. Yes, on January 20, 1943, near the village of The body of an unknown man was found in Utskovo. No personal documents were found with him. The examination suggested that the person was killed by a shot from a firearm to the head. The very application for judicial review of this case was submitted by the investigator of the Shalyginsky district, who actually found the body of the murdered man. In the report on the inspection of the scene and examination of the body of the deceased, it was noted that the man “may have been killed by partisans”. No one appeared at the court session, and therefore the criminal case was terminated due to the lack of facts of the crime (ДАСО. Ф. Р-2209. Оп. 1. Спр. 57. 4 арк.).

The same Shalyginsky court heard a criminal case about the murder of the local police chief M. Belkin. The records of interrogations of seven people who actually did not see the murder itself, but only claimed

that they “heard screams” and “saw partisans in the city” were attached to the case. Some of the witnesses talked about the clash between the partisans and the local police, but could not confirm whether M. Belkin was among the police at that time. The investigator sent the case to the local court with a conclusion that M. Belkin was murdered by partisans. As a result, none of the “interested parties” appeared at the court session, and therefore the criminal case was closed (ДАСО. Ф. Р-2209. Оп. 1. Спр. 46. 16 арк.).

In some cases, during the judicial proceedings of criminal cases, the plaintiff who provoked the defendant could also become the accused. Thus, G. Zalozna filed a lawsuit at the Ponomnytskyi Magistrate's Court regarding the infliction of physical injuries on her by V. Hnyp. The latter served in the local police. At the trial, it was revealed that the woman insulted the policeman, calling him a “partisan”. The judge sentenced both of them. H. Zalozna was fined 300 kr., but V. Hnyp, despite his service in the auxiliary police, had to pay a fine of 500 kr. for causing bodily harm (ДАСО. Ф. Р-3067. Оп. 1. Спр. 17. 6 арк.). Such cases were no exception to the rule.

In fact, each field commander's office issued a separate legal act that regulated criminal proceedings. In particular, the “Temporary Rules on Jurisdiction and the Procedure for Consideration of Court Cases in the Territory of Sumy” provided for punishment in the form of forced labor for a term of up to 3 months or a fine of up to 300 KRB for inflicted insults and slander. In April 1942, changes were made to the “Temporary Rules...”, which increased the fine to 1,200 rubles. (ДАСО. Ф. Р-1841. Оп. 4. Спр. 353. Арк. 9; Архів СБУ у Сумській обл. Ф. О. Спр. 3895. Арк. 3).

Court cases on the assignment of insults were quite common on the territory of the Supreme Administrative Court. Thus, M. Boyevska filed a claim for defamation in the Sumy City Court. The defendant in the case was her adopted daughter T. Boyevska-Rudichenkova. The court made a decision to pay the accused 250 kr. fine. If the defendant could not pay the fine, then this punishment was replaced by involving her in three months of forced labor (ДАСО. Ф. Р-1902. Оп. 1. Спр. 2. 10 арк.).

Provided that it is impossible to pay the fine and there are additional reasons that made it impossible to replace the fine with forced labor, the accused could be released from criminal punishment altogether. Thus, by court verdict, U. Krivososova was accused of impersonating her mother-in-law and fined 200 KRB. with the possibility of replacing this punishment with one month of forced labor. But a month after the announcement of the sentence, the bailiff sent a letter to the court stating that during the description

of the things, no property was found in the convict's possession. The bailiff noted that the convict had two minor children to support. As a result, U. Kryvonosova was released from criminal punishment by a court verdict (ДАСО. Ф. Р-1904. Оп. 1. Спр. 5. 25 арк.).

There were cases of acquittal of the accused, even if they insulted a representative of the local authorities. For example, A. Melnyk was acquitted in the absence of offensive actions, although the plaintiff G. Avramenko tried to prove her guilt in a double crime: theft and insult (ДАСО. Ф. Р-1902, Оп. 1. Спр. 5. 27 арк.).

It should be noted that accusing anyone, including a representative of the government, was a criminal offense on the territory of the military zone of occupation. For example, according to Art. 26 of the "Temporary Rules" for the offense of a senior police officer p. Verby A. Buryak sentenced M. Marynchenko to a fine of 300 kroner. (ДАЧО. Ф. Р-3067. Оп. 1. Спр. 40. 5 арк.).

There was a possibility of solving the problem of domestic violence by the court. Yes, I. Sheka was punished with a fine of 300 krb. for beating his own wife (ДАЧО. Ф. Р-3067. Оп. 1. Спр. 113. 9 арк.).

According to Art. 27 of the "Temporary Rules" established punishment for defamation. Thus, P. Kolpakova filed a claim with the Ponorntskyi Magistrate's Court against F. Kozhushko "partisan" sentiments. The woman claimed that her husband was sentenced to exile by the Soviet authorities for counter-revolutionary activities. In the complaint, it was demanded to summon F. Kozhushko to the court so that he could prove his own statements. In the end, this man was sentenced for slander to pay a fine of 200 krb. In addition, he received a warning from the judge about a more severe punishment in case of further slander (ДАЧО. Ф. Р-3067. Оп. 1. Спр. 81. 13 арк.).

In the absence of a single unified act of criminal law on the territory of the VZO, since December 1941, local judges in Sumy Oblast had the right to impose punishments for robbery (imprisonment for up to 5 years), several types of theft (imprisonment for up to 3 years or forced labor for a term up to 1 year), purchase of stolen property (fine up to 1,000 rubles), embezzlement (forced labor up to 1 year or fine up to 1,000 rubles) (Архів СБУ у Сумській обл. Ф. О. Спр. 3895. Арк. 3). But within a year, these "Rules..." were somewhat changed. Several types of crimes have been added to the jurisdiction of local courts, and criminal penalties have become even tougher than before (ДАСО. Ф. Р-1841. Оп. 4. Спр. 353. Арк. 9).

Illegal actions of minors were also recognized as criminal offenses on the territory of the VZO.

At the same time, the term of their punishment was reduced by a third. Thus, sixteen-year-old N. Lugova was found guilty by the Sumy city judge of stealing a purse containing 100 krb. and an order to issue 1.5 tons of peat. The verdict stated that the minor girl was convicted for the first time. In this regard, the criminal penalty was reduced to two months of forced labor (ДАСО. Ф. Р-1904. Оп. 1. Спр. 6. 18 арк.). One criminal court proceeding could relate to the illegal actions of several persons at once. For example, in one of the cases, a group of minors was prosecuted for committing a series of thefts (ДАСО. Ф. Р-1841. Оп. 4. Спр. 10. 5 арк.).

1. The court, taking into account the role of the accused in the implementation and upon proof of the fact that they committed the crime, could award different terms of the same type of criminal punishment. So, for stealing a horse and selling it, P. Aydenyants was sentenced to 8 months, and M. Bezborodny – to 1 year of forced labor. Their stay under arrest, which was chosen as a preventive measure, was also included in the sentence (Державний архів Сумської обл. Ф. Р-1841. Оп. 4. Спр. 1. 46 арк.).

As paradoxical as it sounds, individual citizens tried to sue the occupation authorities. Yes, residents of the village Viktorov, in Sumy Oblast, U. Palazhchenko and A. Karnaukh tried to challenge the taking away of a cow from them during meat processing. The men argued their claim that they had never been Soviet activists and had never worked in government positions under the former government. The protocol of the court session contains the statement of these people that there were enough former Soviet activists living in their village and it was necessary to take the livestock from them. The judge, having considered this case, issued a decision to terminate its proceedings, since the cattle were taken for meat processing by order of the German commandant's office, and therefore no crime was found in the actions of the representative of the local government (ДАСО. Ф. Р-2209. Оп. 1. Спр. 7. 7 арк.).

On the territory of Chernihiv Oblast, criminal responsibility for theft was also provided for, but the term of punishment for committing this crime ranged from one to six months. Persons who committed theft from state or public organizations were punished with the maximum term, i.e. six months imprisonment (Архів СБУ у Чернігівській обл. Ф. ОФ. Спр. 12961. Арк. 16–17, 20). In practice, the courts of Chernihiv region did not use the maximum terms of imprisonment for such persons. For example, A. Andriichenko, who was accused of stealing 30 kg. buckwheat, was found guilty and imprisoned for 2 months. The court also established mitigat-

ing circumstances in this case: the buckwheat of the public farm was intended for sowing and for two days “lay on the street without any supervision” (ДАЧО. Ф. Р-3067. Оп.1. Спр. 2. 4 арк.).

Despite the fact that the German regulations in Chernihiv Oblast did not provide for any punishment other than imprisonment for the fact of theft proven by a court, in practice judges also applied fines as a type of main punishment. Yes, A. Buryak was sentenced to pay a fine of 200 krb. for the theft of a planer (ДАЧО. Ф. Р-3067. Оп.1. Спр. 6. 10 арк.). The court could apply alternative types of criminal punishment to persons found guilty of crimes. Thus, the Ponomnytskyi Magistrate's Court, having established the fact of the theft of H. Kohas 3 kg of starch, punished her with two weeks' imprisonment. But, taking into account the difficult financial and family situation of the accused, the judge decided to replace the imprisonment with a fine of 200 krb. (ДАЧО. Ф. Р-3067. Оп.1. Спр. 31. 4 арк.)

Along with imprisonment, the courts of the High Court of Appeals could award compensation to the injured party. This is how A. Vorobyov was punished for stealing potatoes and sheep that belonged to the public farm. In addition to the 30-day imprisonment, the man had to pay the public economy the value of the stolen potatoes in the amount of 240 krb. (ДАЧО. Ф. Р-3067. Оп. 1. Спр. 53. 21 арк.)

Therefore, the study of the practice of criminal justice in the territories of modern Chernihiv and Sumy regions shows that the judicial authorities considered cases related to misdemeanors and minor crimes committed by representatives of the local population. Court proceedings were also opened against employees of local government bodies and the police. However, bringing these persons to criminal liability in accordance with the verdicts of local courts required the authorization of German authorities. The functions of the cassation institutions also belonged to the competence of the civil and military occupation authorities.

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