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**NOBILITY COURT IN LVIV (1783 – 1855):
ORGANIZATION, FUNCTIONING, LEGAL BASIS OF ACTIVITY**

Abstract. *The purpose of the article is to do analysis on the activities of the Lviv Nobility Court in the context of its origin, functioning, and organization of work. The research methodology is based on the principles of historicism, verification and the use of general scientific (analysis, synthesis, generalization), special and historical (prosopographic, historical and typological, historical and systemic) methods. The scientific novelty: the history of establishing and functioning of the Lviv Nobility Court has been elucidated. The management apparatus has been analyzed through the prism of duties division and selection of government officials, the competences of the court have been outlined; the legal principles of the court functioning have been clarified. The Conclusion. The Lviv Nobility Court emerged as an integral part of a new judicial system that was formed during the first decades on the territory of Galicia after its entry into the Austrian Empire. The Lviv Nobility Court began its activities in 1783. In the German-language version, it was named Landrecht in Lemberg, in the Polish-language version – “sąd szlachecki”, in the Latin-language version – “Forum nobilium”. The court had a developed judicial and administrative apparatus that ensured its work. The management team was represented by the chairman and advisers. Current document circulation was provided by a large*

staff of secretaries, record keepers, etc. Its jurisdiction extended to the whole of Galicia, and with the creation of similar courts in Stanisławów and Tarnów, it was limited to the territory of Berezhany, Zhovkva, Zolochiv, Lviv, Przemyśl, and Sambir povits. In each of the povits, the court had its own representation, which consisted of storekeepers, tax assessors, and inspectors. The authorities of the court created a diverse group based on their ethnic, social and religious affiliation. Obviously, they were selected based on their professional qualities primarily. The Lviv Nobility Court considered property disputes in which the nobility was one of the parties. First of all, these were the owners of domains, but the court did not refuse to consider cases in which the “free” nobility was one of the parties. Individual institutions and territorial communities could also apply to the Lviv Nobility Court. The legal activity of the court was based on Austrian legislation, since 1812 it was the civil code. Procedural issues were also regulated by a separate regulatory document. To organize work of individual employees, the court issued its own regulatory documents.

Key words: the Lviv nobility court, Landrechte in Lemberg, Forum Nobilium, judiciary in Galicia in the 19th century, Galician society in the 19th century.

ЛЬВІВСЬКИЙ ШЛЯХЕТСЬКИЙ СУД (1783 – 1855): ОРГАНІЗАЦІЯ, ФУНКЦІОНУВАННЯ, ПРАВОВІ ЗАСАДИ ДІЯЛЬНОСТІ

Анотація. *Мета дослідження* – здійснити інституційний аналіз діяльності Львівського шляхетського суду у контексті його виникнення, функціонування, організації роботи. **Методологія дослідження** базується на принципах історизму, верифікації, а також використанні загальнонаукових (аналіз, синтез, узагальнення) та спеціально-історичних (просопографічних, історико-типологічних, історико-системних) методів. **Наукова новизна:** висвітлена історія створення і функціонування Львівського шляхетського суду. Проаналізовано урядовий апарат через призму розподілу обов’язків та добору урядовців, окреслено компетенції діяльності суду; з’ясовано правові засади його функціонування. **Висновки:** Львівський шляхетський суд постав як складова частина нової судової системи, що формувалася у перші десятиліття на теренах Галичини після входження її до складу Австрійської імперії. Львівський шляхетський суд розпочав діяльність у 1783 р. У німецькомовній версії за ним закріпилася назва *Landrecht in Lemberg*, у польськомовній – “*sąd szlachecki*”, у латиномовній – “*Forum nobilium*”. Суд мав розвинутий судово-урядницький апарат, що забезпечував його роботу. Керівний склад був представлений головою і радниками. Поточний документообіг забезпечували численний штат секретарів, протоколістів тощо. Його юрисдикція поширювалася на усю Галичину, а зі створенням аналогічних судів у Станіславові і Тарнові обмежилася територією Бережанського, Жовківського, Золочівського, Львівського, Перемишльського, Самбірського округів. У кожному з округів суд мав своє представництво, що складалося з коморників, таксаторів, інспекторів. Урядовці суду за етнічною, соціальною і конфесійною приналежністю творили строкату групу. Вочевидь, їх добирали, керуючись передовсім професійними якостями. Львівський шляхетський суд розглядав майнові суперечки, де однією зі сторін була шляхта. Насамперед це були власники домінії, однак не відмовляв у розгляді справ “вільній” шляхті. Окремі інституції, територіальні громади також могли звертатися до Львівського шляхетського суду. Правова діяльність суду опиралася на австрійське законодавство, з 1812 р. це був цивільний кодекс. Процесуальні питання також регулювалися окремим нормативним документом. Для організації роботи окремих працівників суд видавав власні нормативні документи.

Ключові слова: Львівський шляхетський суд, *Landrechte in Lemberg*, *Forum Nobilium*, судочинство у Галичині у XIX ст., галицьке суспільство XIX ст.

The Problem Statement. The history of the judiciary organization on the territory of Galicia during the period of Austrian rule is one of the promising directions of institutional history. Its study allows us to deepen knowledge of the history of the state and law of Ukraine at the end of the 18th and the beginning of the 20th centuries; as well as to deepen knowledge about the history of civil service on Ukrainian territory; to expand the idea of the Austrian bureaucratic apparatus functioning. The latter, in turn, is the key to clarifying the history

of document circulation and facilitates the research of the archival heritage of judicial and administrative institutions of Galicia. The Lviv Nobility Court was an integral part of the judicial system in Galicia. Thus, studying broader contexts of the history of the legal system of the Austrian era on the territory of Western Ukraine, it is impossible to bypass the activity of the Lviv Nobility Court.

The Analysis on Recent Research Papers and Publications. The research on the activities of the Lviv Nobility Court was done by legal historians at the end of the 19th century. Relevant information can be found in J. Louis Wawel, who studied the formation of the Austrian legal system in Galicia and mentioned the Lviv Nobility Court succinctly (Louis-Wawel, 1899, p. 404). During the interwar period, the Lviv Nobility Court was mentioned in the research papers of L. Łysiak and D. Kaminsky. Both historians studied the history of similar institutions that existed in Tarnów and Stanisławów (Łysiak, 1955; Kaminski, 1972). It's quite surprising, however, the Lviv Nobility Court never became the subject of their research. Among modern Polish historians, K. Ślusarek mentioned the Forum Nobilium, studying the history of the Galician small nobility of the end of the 18th – the first half of the 19th centuries. However, he used the court documents only to factually confirm his reasoning regarding the legal status of the nobility factually (Ślusarek, 2017, p. 391; Ślusarek, 1994, pp. 79, 87–88). In Austrian historiography, the Lviv Nobility Court is mentioned in the context of administrative territorial and socio-political changes implemented by the Viennese imperial court on the newly annexed territories of the former Ruthenian Voivodeship of the Polish-Lithuanian Commonwealth. The information about the Court contained in the studies of Austrian historians is of a general nature and lacks details about the organization, functioning and legal basis of the functioning of this institution. It is primarily about the research of H. Glassl, who studied the history of Galicia during the first decades of the Austrian rule (Glassl, 1975, pp. 84–85), and also about the works of Mark Rudolph and Roskau-Rydel (Roskau-Rydel, 1993, p. 37; Mark Rudolf, 2019, pp. 586–589; Mark Rudolf, 1994, pp. 4–13). Some information about the Lviv Nobility Court can be found in the works of modern Ukrainian historians of state and law. It is also extremely concise and does not contain qualitatively new information (Eder, 2019). Experts in genealogy wrote about the documents of the Lviv Nobility Court, analyzing their potential as sources (Smutok, Lyseyko & Smutok, 2020).

The purpose of the article is to do analysis on the activities of the Lviv Nobility Court in the context of its origin, functioning, and organization of work.

The Results of the Research. In 1772 the first division of the Polish-Lithuanian Commonwealth led to territorial changes, in particular, the territory of the Ruthenian Voivodeship fell to the Austrian Empire. Therefore, during the first decades, a gradual process of the social system reconstruction and its integration into Austrian realities unfolded in the annexed territories. Among other things, these changes provided for reorganization of judicial and administrative institutions of the former Polish-Lithuanian Commonwealth and the creation of new ones. The reform was carried out gradually and lasted for several years. It was previously planned to create Court of Appeal in Lviv instead of Town and Zemstvo courts, as well as courts of Armenian and Jewish jurisdiction; noble courts in Lviv, Stanisławów, Tarnów; criminal courts in Lviv, Mysłenychi, Sambir, Stanisławów, Pilsen; there were to be separate courts for the burghers, as, after all, for the peasants (Louis-Wawel, 1899, pp. 353–354). However, implementation of these ideas was extremely slow and was not implemented until the end. In particular, in July of 1774, the government forbade Town and Zemstvo courts to accept new cases, limiting their activity to the study and sentencing of cases that had been

initiated before the specified deadline. The latter were also planned to be considered by 1777. In parallel, in 1774, the royal tribunal in Lviv began its work, which would take over the jurisdiction of the Town and Zemstvo courts. However, the reform was developed by a special commission (Rectifications-Hofcommission), and was not fully implemented. In 1778, the work of the old Polish-Lithuanian Commonwealth judicial institutions was continued and continued for several more years. In 1780, the Regional Tabula was established at the Lviv Royal Tribunal, where property agreements of the nobility were registered. Thus, Town and Zemstvo courts lost the right to notarize property transactions. In 1783, they were finally liquidated, as, in the end, the activity of the royal tribunal was terminated. All issues that were subject to their jurisdiction in civil and criminal cases, concerning the nobility of Galicia, were transferred to the Nobility Court, which began its activity on January 1, 1783 (Łysiak, 1955, pp. 306–307).

The official name of the new institution (Landrecht) is literally translated from German as “land court”. Obviously, this corresponded to the Austrian tradition and the ideas of the Austrian government officials about the competence and specificity of the Court activity. In the Latin version of the name of the Court (Forum Nobilium), as well as the Polish version (Sąd szlachecki), certainly there were taken into account local historical traditions, but the versions did not correspond to each other completely. In the former Polish-Lithuanian Commonwealth there were Zemstvo courts, which, among other things, were also located in Lviv, Przemysł, Halych, Sianok, Kholm (in Polish – Chełm), Perevorsk (in Polish – Pszeworsk), but they differed from the Austrian counterpart in the scope of their powers. Therefore, soon there was a need to distinguish between the two institutions, and the Zemstvo court of the Austrian era was defined by several definitions, i. e. alongside the name Landrecht in government documents, and therefore in historiography, another name was used – Forum Nobilium or Sąd szlachecki (Łysiak, 1955, p. 306).

The structure of the Lviv Nobility Court was developed and it was multi-level. Basically, it remained unchanged, although certain variations in the nomenclature and number of management officials are recorded in different years. In particular, the leadership was represented by a chairman (präsident), vice-chairman (vece-präsident) and two dozen regional councilors (landrätthe). The latter had to be at least 18. For example, in 1799 there were 21 of them, in 1836 – 17 and one vacant place, in 1850 – 19. The secretariat was staffed with various categories of management officials, numbering two dozen. In 1799, these were: 5 secretaries (sekretare); 4 auditors (Auskultanten) and 5 regional protocolists (Rathaprotokollisten), and in 1836 – 6 secretaries, 5 regional protocolists and 8 auditors. The Lviv Nobility Court had separate registry and expedition departments, staffed by a large staff of clerks. For example, in 1850 the expedition department consisted of a director, 1 adjunct, 19 recorders, 11 assistants, and 2 accountants. The archive of Zemstvo and Town acts was also subordinated to the Lviv Nobility Court, where up to two dozen government officials-chancellors worked (Szematysmus, 1799, pp. 223–224; Szematismus, 1836, pp. 159–161; Szematismus, 1850, pp. 222–224).

The jurisdiction of the court extended to the entire territory of Galicia. In 1787, similar nobility courts were established in Stanislaviv and Tarnów. These nobility courts limited the activities of the Lviv Nobility Court to the territories of Berezhany, Zhovkva, Zolochiv, Lviv, Przemysł, and Sambir districts (in Polish – cyrkuł). However, the Lviv Nobility Court continued to control property circulation of real estate, i.e. Kraiyeva Tabulia remained under its supervision. At the same time, it retained control of fiscal (tax) matters throughout the

territory of the “regium Galiciae et Lodomeriae”. In each of the six districts there was a peculiar representation of the Lviv Nobility Court, which consisted of several people (Judicial-Kreis-Gränzkämmerer des Lemberger landrechtlichen Bzeiks). As a rule, they resided in different places, representing certain areas. Their location was determined by the appellate tribunal, which at the same time appointed them. For example, in Berezhany district, these were: Jan Khryzostom Hordynskiy from Svir, Yosyf Zayachkovskiy from Berezhany and Vincentiy Romanskyi from Rohatyn. In 1836, Przemyśl district was represented by Yuliy Veher from Mostyska, Philip Yachymovych from Jaroslavl, and Stanislav Gzdova Sychevsky from Przemyśl (Szematismus, 1836, p. 163).

At local places, staff of management officials was supplemented by the so-called property appraisers or, in other words, tax assessors (Gerichtliche Güterabschätzer des k.k. Lemberger landrechtlichen Beziks). There were about a dozen of them in each district. Appraisers had their own defined territory-district. For example, in 1850 in Sambir district, these were Karol Belkhayskyi from Roliv, Jan Stsheletskyi from Komarnyky, Jan Bybovskiy from Sokilnyky, Yosif Manasterskyi from Blazhiv, Felix Thorzytskyi from Yanovychi, Petro Krynytskyi from Bilyna Velyka, Vincenti Belianskyi from Turka (Szematismus, 1850, p. 227). Land surveyors (geometra) worked together with them. Judicial inspectors were also included in the staff of local management officials (Gerichtliche Landmesser), who were responsible for communication between management apparatus and branches at local places, provided document circulation and supervised implementation of decisions. The number of inspectors ranged from one to two dozen.

At the Lviv Nobility Court, there was a lawyer collegium, numbering several dozen lawyers (in 1836 – 25, in 1850 – 52) (Szematismus, 1836, p. 167; Szematismus, 1850, p. 227).

In the 1850s, during the last years of its existence, a group of translators worked at the Lviv Nobility Court – translations from Italian, Ruthenian, i.e. Ukrainian, and Hebrew, i.e. Yiddish are meant (Szematismus, 1850, p. 228).

The officials of the Court formed a rather diverse group in terms of their social, ethnic and religious affiliation. This diversity distinguished them from the management officials of the Town and Zemstvo courts of the Former Polish-Lithuanian Commonwealth, where there were extremely narrow selection frameworks that allowed only people from the local Polish nobility to work in judicial and administrative spheres. Apparently, the Austrian authorities required applicants for positions to know the languages (Polish, Latin, and German), to be good at spelling and basics of document management, and certain legal knowledge. The latter, after all, could vary: for councilors or lawyers, there was probably one set of requirements, for protocol clerks or storekeepers – a different set of requirements (Godsey, 1999, p. 61; Mark Rudolf, 2019, p. 599; Mark Rudolf, 1994, p. 33; Roskau-Rydel, 1993, p. 227).

Higher echelons of the Court were occupied by people from the local aristocracy, such as, for example, Albin Belskyi (CSHAUL, f. 165, d. 3, c. 164, pp. 82–83) or Count Ihnatius Los (Szematismus, 1836, p. 160; Szematismus, 1850, p. 223). However, the position of a councilor was also available to people from the ordinary nobility, which is evidenced by the life path of Basil Bilinskyi Tarasovych (CSHAUL, f. 165, d. 6a, c. 41, p. 72) and Yuriy Kulchytsky Hust (CSHAUL, f. 165, d. 6f, c. 42, pp. 166–167). Half of all councilors, as a rule, were of non-local origin. People from Austria, Bohemia, Hungary and Italy were invariably involved in the board of councilors. Each of them built their career differently, but all of them worked in the legal system in one way or another. The majority were Doctors of Law, at the same time they could hold positions in the Ministry of Justice in Vienna or be members of other courts, for

example, the Court of Appeals in Lviv, Prague, etc. It is quite obvious that some of them were not of a noble origin and the majority did not belong to the local nobility. A good illustration of this type of officials can be Franz Ksaveriy, the father of a famous Polish poet, ethnographer and historian Vincent Pol. A German by origin, during his lifetime he managed to be an officer in the Austrian army and work as a councilor to the Court of Appeal in Lublin and a judicial councilor to the Lviv and Stanislaviv Nobility Courts, and in 1815 he received the right to nobility (CSHAUL, f. 165, d. 6a, c. 37, pp. 387–398; c. 45, pp. 917–925). A similar diversity is observed among secretaries, record keepers, and registrars.

Local nobility prevailed in the districts. Storekeepers were mostly representatives of the “free” nobility, who had acquired a basic education, at least, could write and knew Latin and German. Among officials, there were people with non-noble surnames. Therefore, it can be assumed that representatives of townspeople and the clergy were also involved in the work of the Lviv Nobility Court at the level of secretaries, recorders, storekeepers, and inspectors.

Civil cases were within the jurisdiction of the Lviv Nobility Court. Debts, i. e. unpaid loans, possession of movable and immovable property claimed by several people or institutions were the subject of disputes. The court considered and handed down judgments in cases related to inheritance of movable property and land ownership, resolved disputes regarding establishment of guardianship over minors and disabled people. Usually, legal proceedings took place between individuals, as well as between individuals and state institutions, rural and urban communities, and church institutions. Since the court was noble, it was assumed that one of the parties to the conflict should be a person of a noble origin. However, this circumstance needs additional clarification (Louis-Wawel, 1899, pp. 348–351; Łysiak, 1955, p. 310; Eder, 2019, p. 99).

The nobility of Galicia did not form a monolithic community endowed with equal rights, as it was formally the case during the Old Polish-Lithuanian Commonwealth. It was presented in several categories. The criterion for entering one or another group was not origin or nobility, but land ownership. Owners of real estate where there were peasants subjects, i. e. owners of the so-called dominions (Dominia), belonged accordingly to the dominion nobility; the owners of real estate, where there were no peasants subjects, i. e. the owners of “free” lands, belonged to the “free” nobility. Finally, there were people of a noble origin who did not dispose of their own real estate, but used someone else’s, paying a certain monetary compensation. They were included in the category of rent-house nobility (Ślusarek, 1994, pp. 111, 134; Ślusarek, 2017, pp. 388–389).

Noble courts in Lviv, and later in Stanislaviv and Tarnów, according to the plan of the Austrian authorities, were created primarily for the dominion nobility. In addition, this is indicated by the fact that it was at the Lviv Nobility Court that the Regional Tabulia, formed to control and record the circulation of dominion lands, operated. No wonder, for example, in 1815, the Lviv Nobility Court refused to consider the case between Pavlo Bilynskyi and Ivan Lutskyi, arguing that their lands were not in the dominial books of the village of Luky (CSHAUL, f. 149, d. 4 c. 1597). Thus, formally the “free” nobility could not apply to the Forum Nobilium in Lviv and was subject to the jurisdiction of circular courts. However, this rule was not followed in practice. Thousands of cases of the Lviv Nobility Court testify unequivocally that the “free” nobility actively resorted to the Nobility Court in Lviv during its operating, and cases of refusal were an exception rather than a rule (Smutok, Lyseyko & Smutok, 2020, pp. 67–72). In practice, as it turned out, it was enough to have an identity card or a certificate of nobility to avoid district and gubernatorial courts, which considered the cases of peasants (Ślusarek, 1994, p. 134).

The Lviv Nobility Court could also consider certain categories of cases where the nobility was not one of the parties to the conflict. First of all, these were property cases involving the state treasure; cases related to estates that did not belong to the local administration; monastic estates; property of the Catholic, Greek-Catholic and Protestant churches; city real estate. Individual institutions that directly received permission to do so, written in their privileges, statutes, etc., also resorted to court. In particular, these were the Austrian Bank, the Vienna Chamber of Commerce (Glassl, 1975, p. 133; Eder, 2019, p. 99).

In its activities, the Lviv Nobility Court was guided by the norms of Austrian law. The legislation of the Former Polish-Lithuanian Commonwealth, which regulated the judicial and procedural sphere on the territory of Galicia, was used at least until the beginning of the 1780s. However, its irregularity and semi-customary nature caused an urgent need to introduce fundamentally new legislation. It is worth noting that in the Austrian Empire of the second half of the 18th century the legislation was not fully standardized to a large extent. Thus, the first decades of activity of the Lviv Nobility Court fell on the period of codification of a civil and criminal law on the territory of the Austrian Empire and Galicia in particular. Therefore, it is extremely difficult to understand what legal basis was used in the court until the 1810s (Godsey, 1999, p. 77; Kaminski, 1972, p. 177; Louis-Wawel, 1899, pp. 355–356).

In 1778, the process of implementing the civil code began in Galicia, however, only partially, because work on its development continued in parallel. Just in 1797, the code was completed and implemented on the territory of Western Galicia, and in 1798 – in Eastern Galicia. However, the codification work did not end there. In 1796, regional commissions were created, which for two years had to submit their comments to the Superior Commission in Vienna regarding the draft civil code. Such commissions in Galicia were established at the appeals tribunal in Lviv and at the Tarnów and Stanislawiv nobility courts. In 1797, they developed their vision of a civil code and sent them to Vienna. However, their work was practically ignored. In 1811, the work on the civil code was completed and from January 1, 1812, it was implemented throughout the territory of the Austrian Empire. It was the civil code that was used during passing judgments in the Lviv Nobility Court (Łysiak, 1955, p. 311).

At the same time, at the end of the 18th and beginning of the 19th centuries codification of procedural law took place. In 1774, a rule regulating the work of the royal tribunal in Lviv was developed and implemented. In 1784, a judicial practice was introduced to replace it (Allgemeine Gerichtsordnung). After some changes, it was active on the territory of Eastern Galicia since 1807. In the organization of its activities, the Lviv Nobility Court was guided by it. During its existence, the court permanently issued its own normative acts (normalia), which were usually nothing more than departmental instructions and orders, designed to regulate in more detail the activities of various categories of its government officials (Łysiak, 1955, p. 311; Chodyncki, 1829, p. 333; Mark Rudolf, 2019, pp. 586–589; Mark Rudolf, 1994, pp. 77–78).

The Conclusion. The Lviv Nobility Court appeared as an integral part of a new judicial system, which was formed during the first decades on the territory of Galicia after its entry into the Austrian Empire. According to the plan of the authorities, it was supposed to partially replace Town and Zemstvo courts operating in Lviv, Przemyśl, Sianok, Halych, etc. Actually, after the liquidation of the latter, the Lviv Nobility Court began its activity in 1783. In the German-language version, the name Landrecht in Lemberg was attached to it, in the Polish-language version – “sąd szlachecki”, in the Latin-language version – “Forum nobilium”. In the court there was a developed judicial and administrative apparatus that ensured its work. The management team was represented by the chairman and councilors. Current document

circulation was provided by a large staff of secretaries, record keepers, etc. Its jurisdiction extended to the whole of Galicia, and with the creation of similar courts in Stanislaviv and Tarnów, it was limited to the territory of Berezhany, Zhovkva, Zolochiv, Lviv, Przemyśl, and Sambir districts. In each of the districts, the court had its own representation, which consisted of storekeepers, appraisers, and inspectors. Officials of the court created a diverse group based on their ethnic, social and religious affiliation. Obviously, they were selected based primarily on their professional qualities. The Lviv Nobility Court considered property disputes in which the nobility was one of the parties. First of all, those were the owners of domains, but the court did not refuse to consider the cases of the “free” nobility. Individual institutions and territorial communities could also apply to the Lviv Nobility Court. The legal activity of the court was based on Austrian legislation, since 1812 it was the civil code. Procedural issues were also regulated by a separate regulatory document. To organize the work of individual employees, the court issued its own regulatory documents.

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