

Influence on Latvia's Notarial System by Occupying Powers during the World War II

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The Latin type of the notary services was in place in Latvia in advance of the World War II. The Soviet Union occupied the Republic of Latvia in the summer of 1940, and the Soviet system of law was imposed on the country. On June 22, 1941, the Soviets were replaced by German Nazis, and that regime existed in parts of Latvia until the end of the war. This paper is focused on reforms which the occupying powers implemented in Latvia's notarial system. The author would like to emphasise the fact that the origins of individuals were important when the notaries were selected – that was the most important amendment of all. The origins of individuals during the Soviet occupation meant belonging to a social class or referred to the employment of the individual or his or her parents. The Nazis, in turn, sorted the people on the basis of race and "purity of blood." Both occupying powers ignored the principle of equality when it came to the candidates for notary posts and to notaries themselves.

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Introduction

Although Latvian historians have written many papers over the past decades about the events of the World War II and analyzed the consequences of those events, the fact that this relatively short period of time has not been sufficiently studied despite its saturation with radical and essential changes. There have been only a few publications from law historians which have evaluated the reforms which occupying powers made to the laws of Latvia during the World War II.¹ This is a very broad topic, since over the course of five years the governing ideology was changed several times. This meant the transformation of the entire judicial system, and so this paper is focused only on the transformation of the notarial system in Latvia during the World War II. Before the war, Latvia had the so-called Latin type of notary services, with notaries belonging to the judicial branch of government and being comparable to government officials. However, according to this model, the notaries were not

civil servants, but self-employed. This model was established by a decree in France on September 29, 1791, introducing a unified model for notary services in the entire country.² During the course of the 19th century, the French or Latin type notarial system was adapted in most of the continental Europe.³

The Latin type notarial system was established by the Russian Empire in accordance with new regulations that were approved on April 14, 1866 (*Временное положение о нотариальной части*).⁴ In Latvia the new rules were implemented on July 9, 1889, as a part of a broader set of reforms in the judicial system. After the establishment of the Republic of Latvia the principles of notary operations and their organisation did not change much. On December 6, 1918, the People's Council of the Republic of Latvia approved temporary regulations on Latvian courts and court proceedings. The courts and related institutions continued to use the local and Russian laws that had prevailed until October 24, 1917.⁵ Until the coup of May 15, 1934, the Republic of Latvia was a democratic country in which the rule of law prevailed. Notaries observed the principles of objectivity, neutrality, lawfulness and equality in their work, as required in the Constitution, various laws, and the notaries' code of ethics. A new law on notaries that was adopted on December 14, 1937, was passed in an authoritarian country, but it did not reject the Latin type traditions that had taken root in Latvia, preserving the principles which notaries in Latvia had observed before. Rules concerning notaries, however, were focused on the approval of experienced and educated people as notaries without any thought given to their origins.⁶

The Republic of Latvia was occupied by the Union of Soviet Socialist Republics (USSR) in the summer of 1940.⁷ Soviet law was introduced in the country. One year later, on June 22, 1941, the Soviet occupation was replaced by the Nazi German occupation, and at least in parts of Latvia it remained until the very end of the war.⁸ The Nazis insisted that they would reinstate the laws of the Republic of Latvia, but that was not done because Nazi ideology and the war did much to adjust laws and the judicial system.⁹ Socialist law, in turn, was reinstated in Latvia just as soon as the Soviets reoccupied the country. Between 1944 and 1946, Soviet law was reinstated under conditions of war and thereafter, and the operations of military and civilian institutions were also restarted.¹⁰

The occupying powers of the World War II introduced substantial changes in the organisation and operations of notary institutions, because the occupants reviewed fundamental aspects of the judicial system such as objectivity, neutrality, lawfulness, and the equality of all individuals before the law. Each of the powers implemented its own ideology and its own ideas about enemies of the people. The author will address the way in which the values of the occupying powers have influenced the organisation and operations of notary institutions.

1 Restructuring of notary institutions during the Soviet occupation (1940–1941)

The Republic of Latvia was occupied on June 17, 1940, but sworn notaries did not lose their jobs immediately. It took approximately six months before the occupying power was "legitimated"¹¹ and established by incorporating Latvia into the USSR as one of its Soviet republics.¹² Only at that point the reforms to courts and the judicial system took place. First of all, some laws deriving from the Russian Federation Soviet Socialist Republic (KPFSR) were implemented. This was done via a decree from the Presidium of the Supreme Council of the USSR on November 26, 1940, "On the

Temporary Application of the Criminal, Civil and Labour Laws of the KPFSR in the Lithuanian, Latvian and Estonian Soviet Republics.”¹³

Sworn notaries continued their work until the end of 1940. On December 13 of that year, the People's Commissar for Judicial Affairs of the Latvian Soviet Socialist Republic (Latvian SSR) issued the Instruction No. 176 to the effect that all notaries were being dismissed as of January 1, 1941. Ironically, this instruction was in line with the 1937 law on notaries, because the law stipulated that notaries were hired and fired by the Minister of Justice.¹⁴ At that moment, there were 58 notary offices in Latvia.¹⁵

Decision No. 704 of the Council of People's Commissars of the Latvian SSR declared that as of January 1, 1941, new regulations about the state notarial system of the Latvian SSR would be in place. All laws and regulations which did not satisfy the new requirements were declared null and void, and on March 4, 1941, the instructions in relation to the issue were released by the People's Commissar for Judicial Affairs of the Latvian SSR.¹⁶

Although limitations on the work of notaries, the way in which notaries were appointed, and the competence of such individuals were all fairly similar to the law on notaries, the Soviet system of notaries differed from the Latin-type notarial system that was accepted in Europe. Notaries in the Soviet system lost their independence and in practice the new rules concerning their work were based on the ideas of Marxism and Leninism.

At the time when Latvia was occupied, the Soviet state had already undergone a certain amount of evolution. Soviet Russia was the “pioneer” and “flagship” of the Soviet law establishment. That was the reason why, in the territories that were occupied during the World War II, only certain laws from the KPFSR took effect at first. Later, special “local” laws were adopted. In some cases they spoke to small local specifics, but in general terms they were based on the KPFSR model. Like other governmental and judicial institutions, the notarial system in the Latvian SSR was established on the basis of examples from the KPFSR. This was done via new regulations on the state notarial system of the Latvian SSR, as adopted on December 16, 1940. The regulations lost force on November 20, 1946, when the Council of Ministers of the Latvian SSR approved Decision No. 958, “Regulations on the State Notarial system of the Latvian SSR.”¹⁷ It, in turn, was replaced by a new law on the Soviet republic's notarial system that was approved by the Council of Ministers on December 9, 1955.¹⁸

In 1940, the governmental notarial system of the KPFSR had experienced nearly a quarter-century of the genesis and evolution of its spirit. After the Bolshevik coup on October 25, 1917, the entire tsarist judicial system was completely dismantled.¹⁹ This related to the belief among those who had taken power that a new phase in the lives of people would begin in the wake of the revolution – no exploitation, and therefore – no rights or forced structures from the government. The new Soviet regime was initially meant to deny the previous regime, because it was believed that “*the proletariat cannot utilise the machinery of a bourgeois country. A socialist revolution must break that machine.*”²⁰

One consequence of the revolution was that Russia's statehood underwent fundamental transformations. Its goal was to set up a society in which there would be no state and no rights, because Communism would be achieved. Since Communism could not be achieved instantly, however, a socialist state was set up to achieve it and to bring communist ideals to life in the society. The socialist state was given much power, because its job was to fight against domestic and foreign enemies.²¹

The restructuring led to the establishment of the Soviet state and its laws. The Soviet state notarial system was fully established between 1917 and 1922.²²

On November 22, 1917, the All-Russian Central Executive Committee approved Decree No. 1, "On the Judicial System," thus liquidating the entire existing judicial system.²³ After the Bolshevik coup, all of the values that had governed Russian previously were revisited. This included families and properties – an area in which stability was partly guaranteed by the notarial system. Decrees in 1918 repealed the right of private real estate ownership, and people were no longer allowed to present, sell or inherit it.²⁴ The People's Commissar for Justice, Dmitry Kurskiy (1874–1932) wrote a letter to accompany a draft civil process code to say that "*under the so-called war Communism circumstances, civil case turnover has almost completely disappeared*".²⁵ Obligation rights only related to alimentation demands, the distribution of family properties, and everyday transactions such as purchase-sale, bartering, etc. These areas, too, were limited.

On February 3, 1918, the People's Council of Commissars (TKP) issued Decree No. 2 "On the Judicial System," specifying that notaries would handle notary functions. A law on the notarial system that had been issued in 1866 was declared null and void, and it was replaced by temporary regulations concerning notary institutions related to committees of people's deputies. The TKP also issued instructions regarding the operations of notary institutions.²⁶ Sworn notaries were replaced by people's notaries who were a part of local councils.

Late in 1918 it was suggested that the notarial system should be shut down altogether, but by February 1919, it was decided to preserve it after all. Notaries were part of the judicial investigation departments of cities and of local people's courts in rural areas.²⁷ It can be said that the notarial system of tsarist Russia was terminated between 1917 and 1921, because the old system of the Russian Empire was entirely dismantled.

The Soviet Union quickly introduced new economic policies aimed at recovery of the destroyed Soviet economy. A particular attention was devoted to the security of transactions and to the notarial system in this regard. A decree issued in March 21, 1921, "On Replacing Tax Revenues from Food and Natural Resources with a Natural Tax," allowed farmers to sell their produce in market, thus partly reinstating private retailing and private capital in trade and manufacturing.²⁸ This meant gradual restoration of civil law practices. The economic situation in the country became more stable.

On October 4, 1922, the Soviet government approved a law on notary services in the Russian SSR.²⁹ Prior to this, the government published theses about the notarial system, emphasising that the system was necessary to enable the government to monitor aspects of civil law, particularly in those cases where a government institution was one of the parties in a case. The public and legal nature of the Soviet notarial system was particularly emphasised, thus explaining the difference between the Soviet system and the notarial system abroad: "*The notary is a government official who is paid by the state. The notary works to guarantee socialist rights.*"³⁰ This law completely organised the Soviet notarial system. In the Latin notarial system, notaries enjoy the typical freedom and independence of judicial officials. Clients pay for the work of notaries in accordance with state-set fees. Soviet notaries, in turn, were part of the national system.³¹ Notaries were paid by the state, but their status was that of civil servants. The job of a notary lost its previous prestige and importance in the Soviet state.

In accordance with the 1922 law, notaries were appointed by the presidiums of the People's Legal Councils of the various districts of Russia. The job was open to people with suffrage rights, i.e., those who were not limited in terms of their political rights.³² The appropriateness of individuals for the post of a notary had previously been evaluated on the basis of their citizenship, qualifications and obedience before the law.³³ Now, however, other criteria were in place. Not all citizens could be hired for state jobs, because some of them were seen as enemies of the people and were limited in their rights.³⁴ This was clearly seen in the first declarations approved by the new regime. On January 12, 1918, for instance, the 3rd All-Russian Plenary Session of Workers', Soldiers' and Peasants' Councils declared that "*those who engage in exploitation have no role in any of the country's organs of power. Power must fully belong to the working people*".³⁵ One's status as a member of the community of working people depended on one's employment and lineage (the employment of one's parents), and this was true also when it came to selecting candidates for notary jobs. The 1922 law made it clear that the most important element in evaluating candidates for such jobs was the person's lineage and his or her belonging to the working people. Only those candidates who satisfied the criteria were further evaluated in terms of their knowledge and their experience.³⁶ Candidates had to pass a test to prove their knowledge about notary issues. The People's Justice Commissar approved a programme for the testing process. Late in 1922, a provincial court in Moscow established the first courses to train notaries, and people who were loyal to the new regime learned the fundamentals of politics, as well as of material and procedural law.³⁷

Soviet law on the notarial system spoke to instances in which notarial functions could be handled by other government officials – judges and local government representatives.³⁸

The Soviet notarial system was characterised by its dual linkage to the Ministry of Justice and the court, as inherited from the Russian Empire.³⁹ Notaries had limited opportunities to merge several jobs. They were allowed to work as pedagogues and to be elected to office. The right to be elected to offices in state and local government systems was contrary to the principle of a separation of powers, as well as the Latin-type order of notarial systems. Basically, Soviet notaries preserved their traditional functions:

- 1) Preparing notarial documents under circumstances provided for by law;
- 2) Notarisation of contracts if required to do so by law;
- 3) Notarisation of contracts if not required to do so by law, but desired by the parties;
- 4) Preparation of documents from notarial books and registers;
- 5) Storage of documents.⁴⁰

Other functions were also assigned to notaries that had previously been handled by different institutions.⁴¹ These included the issuance of confirmation about citizens who were lost without a trace or had died, confirmation that citizens were alive, and transfer of announcements from citizens and institutions to other citizens and institutions.⁴²

During the period before Latvia's occupation, the original 1922 law on the notarial system was replaced with several new versions:

- 1) The August 24, 1923, the law on the state notarial system, which was almost the same as the previous edition apart from a few precisions of norms so that they would be in line with the new Code of Civil Process;⁴³

- 2) The October 4, 1926, the law on the state notarial system of the Russian SSR was linked to the establishment of a federative country and to a decision taken by the Soviet Commissar on People's Council on May 14, 1926, on the fundamental principles of organising the state notarial system. Local councils of people's deputies appointed notaries on the basis of recommendations from a court. The law also expanded the competence of notaries;⁴⁴
- 3) The July 20, 1930, Russian SSR law on the state notarial system,⁴⁵ which involved a revision of the previous law so as to specify changes in civil and civil procedure laws.⁴⁶

The new versions of the law did not implement any essential changes in the organisation of the work of notaries or their jobs, instead expanding the competence of notaries. All of the republics of the Soviet Union, except for the Ukrainian SSR, introduced the model of notary services that was created in the Russian SSR. When new regulations on the Soviet Latvian state notarial system were drafted in 1940, the Soviet Russian, law on the state notarial system issued on July 20, 1930, was used as a foundation for the work.⁴⁷

Early in 1941, 47 state notary offices were established in the Latvian SSR. They employed 188 people, among whom 47 were notaries. Former notaries (19), former judges (5), former employees of the Land Book (4), former notary assistants and secretaries (17) and other people were appointed to office. Of them, 13 had a higher education in the law, one had taken a three-month course on the law, three had various higher education, 27 had a secondary education, and three had an elementary education. Much attention was devoted to the caste of each candidate, looking to see whether he or she was a member of the working people or an exploiter. The job was not open to people whose ancestors were "exploiters" or their "running dogs." Neither was it open to people who were not politically trustworthy because they had been politically active in the Republic of Latvia. Active social and political employees from the period of Latvian independence were dismissed if they were notaries.⁴⁸ The notaries who were approved in 1941 were declared to be good in that they satisfied Soviet criteria about Soviet citizens. Of these people, 20 were working people, 15 were farmers, three were craftspeople, and nine were servants. These data were presented to the Justice Commissar, Andrejs Jablonskis (1880–1951) by the director of the Notary Division, Rūdolf Velde, in early 1941.⁴⁹

The restructuring of the entire state apparatus occurred in a methodical way which involved an understanding of mission and ideological values, because the Russian SSR had already developed experience in terms of establishing a socialist system of law. The Soviet notarial system reflected the legal relations and ideological positions of the society of the day, and this significantly differed from the previous system. Regulations about the system directly reflected the limits on civil law transactions (banning people from exploiting others, i.e., hiring salaried workers and removing manufacturing resources from the civil law system). Private ownership was limited, properties which the Soviet state considered to be manufacturing resources (land first and foremost) were nationalised,⁵⁰ the concept of "private property" was replaced with the idea of "personal property", public law dominated over private law,⁵¹ the state monopolised all areas of public relations (with notaries being salaried civil servants), the party took on a controlling role in all areas of public life, and there was only one proper world view that was rooted in Marxism-Leninism (those who took tests to become notaries had to answer political and ideological questions). Soviet doctrine did not distinguish between the private and the public law, feeling

that all rights were of equal public importance. State property hegemony and the regulation of economic life with national economic planning processes dictated the fact that imperative norms in the Soviet Union dominated over dispositive norms.⁵² Of essential importance here is the fact that the Soviet state, as opposed to a democratic one in which the rule of law prevailed, did not believe that all people were equal and had equal rights. Soviet ideology stated that those who were seen as enemies of the working people could face limitations of their rights⁵³ and were subject to repressions.

2 Restructuring of notary services during the Nazi occupation (1941–1945)

The Soviet occupation in Latvia was replaced by a Nazi German occupation from 1941 until 1945. Although Latvian law was formally reinstated during this period, several major amendments were made to it.⁵⁴ The amendments were based on Nazi ideology. Germany's intentions in Latvia were precisely marked out by Reichsminister Alfred Ernst Rosenberg (1892–1946), who wrote: *“Estonia, Latvia and Lithuania must become a German protectorate so that these territories can later be turned into components of Greater Germany. Racially appropriate elements shall be Germanised and colonised with the representatives of the German race, while undesirable elements shall be destroyed.”*⁵⁵

The occupied Republic of Latvia was turned into one general district that was divided into the Liepāja, Jelgava, Valmiera, Daugavpils and Rīga rural region commissariats. The city of Rīga was a separate unit of governance. Although instructions on a civilian system of governance had been issued, military governance remained in place in Latvia between June and August of 1941. The Germans established a branched structure of governance in Latvia, with a great many civil servants, police and gestapo officers, constables, gendarmes and representatives of the Wehrmacht. Accordingly, a great many German civil servants worked in Latvia. Historian Antonijs Zunda wrote that *“there were several reasons for this. First of all, many German institutions were established here in relation to the planned colonisation of the Baltic States. Secondly, Germans themselves wanted to live in the Baltic provinces, because the level of material supplies was better here than in Germany. Many joined the civil service because that allowed them to avoid military service.”*⁵⁶ The historian goes on to emphasise the fact that *“an exaggerated bureaucratic apparatus was typical not only of the Soviet, but also the Nazi occupation regime.”*⁵⁷ All instructions and rules were published in Latvian and German, but if there were differences in the texts, the official version was the German one.⁵⁸

The German regime reinstated the notarial system of the Republic of Latvia. The general commissioner of Latvia, Otto-Heinrich Drechsler (1895–1945), issued a decree in this regard on October 15, 1941: *“I declared that notaries would reinstate their operations in the territory of the independent Latvian state as soon as I approved them. Laws had to be implemented that were in force on June 17, 1940. Sections 37, 60, 62 and 76.5 of the December 14, 1937, law on notaries are null and void. I have taken over the rights which the law awarded to the justice minister.”*⁵⁹ It is important here that the notary law that was approved during the authoritarian period of governance in Latvia, with the Minister of Justice having an influence on the notarial system, served the interests of the Nazi occupants, because enabled allowing the general commissioner to assume control over notaries by taking over “the rights of the

justice minister.” Although the operations of notaries were reinstated in accordance with the 1937 law, there were fundamental alterations in regulations that related to notarial acts and books, their organisation and their storage. The decree stated that “*Notarial acts and books which apply to:*

1. *Confirmation of heirs;*
2. *Protection of inheritance;*
3. *Proclamation of someone being lost without a trace or dead;*
4. *Mortgaging of buildings;*
5. *Executive acts on the basis of documents shall be transferred immediately insofar as that has not yet happened to the relevant judicial institutions.*⁶⁰ Because of these amendments, notaries lost much of their independence and sovereignty.

On March 13, 1942, a decree was issued on the temporary operations of local judicial institutions in the Latvian general district. The decree set out foundations for the appointment of judges as well as prosecutors, investigatory judges, commanders of places of incarceration, notaries, attorneys and private attorneys.⁶¹ Section 4.1 of the decree stated that all people involved in the judicial systems including judges, “*shall be presented by the general director of the Judicial Board to the general commissioner for approval.*”⁶² Section 8.1 stated that “*local courts shall begin their operations in civil cases, particularly civil disputes, insofar as their authority reaches.*”⁶³ Although the operations of courts were restored, the handling of public registers was suspended until new rules about them could be put in place.⁶⁴

It was only on June 13, 1942, that the new rules were approved on the rights and activities that were in force in the general district of Latvia in terms of rulings and decisions.⁶⁵ The new rules affirmed the existing German tactic of leaving “the rights of the independent Latvian state” in place insofar as this was not in violation of Nazi ideology and the interests of Germans in Latvia.⁶⁶

The rules decreed that “*as of July 2, 1941, norms that were in force in the independent Latvian state until June 17, 1940, are in force in the general district of Latvia insofar as they:*

1. *Are not in violation of the taking over of governance by the Great German state, or*
2. *Have not been amended or repealed since July 1, 1941 and have not involved different rules since July 1, 1941.*⁶⁷

Legal norms that were introduced by the Soviet regime between June 18, 1940, and July 1, 1941, were nullified. It is of an essential importance here that this applied not only to the laws but also, in part, to legal transactions. Section 3 of the regulations stated that:

- “1. *Legal relations emanating from family and inheritance law shall be based on the norms that were in force as of June 17, 1940, even if these relations were created between June 18, 1940, and July 1, 1941;*
2. *Other legal relations that were created between June 18, 1940, and July 1, 1941, shall also be considered on the basis of the legal norms that were in force on June 17, 1940, insofar as the application of Soviet law is in contradiction to healthy legal emotions.*”⁶⁸

Similar legal regulations applied to court rulings and decisions handed down by courts during the Soviet era, as well as to decisions taken by Soviet-appointed notaries in relation to wills and heirs.⁶⁹ This was clearly dictated by the regulations:

“5. § *The following rules shall apply to court rulings and decisions, as well as to notary decisions related to the notarisation of wills and heirs, as issued in Latvia between June 18, 1940, and July 1, 1941:*

6. § *The following shall be considered null and void:*

1. *Decisions by Soviet notaries related to the notarisation of wills and heirs, Soviet court rulings and decisions that amend or overturn Latvian court rulings and decisions that took force prior to June 18, 1940;*
2. *Soviet court rulings and decisions that had not yet taken effect as of July 2, 1941.*⁷⁰

Unlike Soviet ideology, Nazi ideology did not attack the idea of private property. This meant significant differences in legal regulations, particularly in terms of private law. This, of course, had an influence on the work of the notarial system. On April 28, 1942, the commissar for the rural district of Rīga issued an announcement to owners of nationalised buildings, asking “*the former owners of nationalised buildings to submit requests for the transfer of the said properties to their management and use.*”⁷¹

The Nazis restored the system of private property, as well as the state-regulated and controlled traditional private law circulation, insofar as this was possible under conditions of war. However, the Nazi regime also amended laws in a manner that was alien to the Republic of Latvia, because the equality of residents before the law and the judicial system was liquidated. People were grouped in accordance with their lineage. For the Soviet regime, this first of all applied to social class, but the Nazis divided up the population on the basis of race and “purity of blood.”

Inspired by social Darwinist theories, Adolf Hitler (1889–1945)⁷² established a national socialist political concept in which he saw the state as a unified and healthy organism for the German nation. Representatives of other nations in Greater Germany were aliens or “guests” who could be used to benefit the Germans or destroyed. Soon after the Nazis took power, on April 7, 1933, the regime approved a law on the restoration of the professional civil service, which stated that only Aryans were allowed to be civil servants. Officials who did not satisfy this requirement were sacked.⁷³

The Nazis insisted that Aryans were a “super race” that consisted of Germans alone. The government took care of racial purity and hygiene, banning people with several inborn diseases⁷⁴ from procreating, and also banning mixed marriages.⁷⁵ On September 15, 1935, a law to protect the blood and honour of the German nation was approved, barring people with German or related blood to marry Jews (a Jew was anyone who had at least one Jewish grandparent).⁷⁶ Existing marriages could be nullified, and this involved a system in which prosecutors filed objections before a court.⁷⁷ Children who were born in violation of the rules about an unacceptable marriage were seen as bastards and were known as “hybrids” (*Mischling* in German).⁷⁸ Although the Nazis primarily attacked Jews, other non-Aryans, “people with mixed blood”, or people who were married to Jews or in-laws of Jews, faced limitations on their rights.⁷⁹

Nazi Germany used the idea of racial purity to try to transform the society. All sectors of the law, beginning with criminal law and concluding with family law, were amended in accordance with the new concept. New and ever new laws were approved. On October 18, 1935, for instance, there was a new law to protect the inborn health of the German people (*Gesetz zum Schutze der Erbgesundheit des deutschen Volkes*).⁸⁰ These laws represented substantial interference in the private lives of local residents. These changes affected not just individual laws or sectors of the law, but the entire system of jurisprudence.

In marking out his political positions in 1933, Hitler insisted that only proper Germans could work as notaries. This racial qualifications for notaries were an entirely new idea in the system.⁸¹

Nazi ideology was implemented in the occupied Latvia in terms of everyday lives and the law. People in a single territory were subject to different legal relations.⁸² This was because on April 27, 1942, a decree was issued on the application of German law to German citizens in the occupied Eastern territories. Germans were subject to the law of Greater Germany, and the occupied territories had a system of courts and institutions which only worked with Germans.⁸³ First of all, German courts were established, and the assignment of cases was based not on territorial or legal principles, but instead on the lineage of the parties. The courts only handled cases in which one or both of the parties were Germans. If there were questions about this, then the German Supreme Court was asked to rule on the matter: *“Where the nationality of a party to a case creates doubts about whether the case should be heard by a German or local court, then a ruling shall be handed down by the German Supreme Court with mandatory effect. The local court shall suspend the hearing of the case and transfer it to the German Supreme Court via the offices of the general commissioner.”*⁸⁴ In those Eastern territories that were occupied by the Nazis, a German notarial system was established to provide services only to Germans; in Latvia it took place in 1943.⁸⁵ In reporting on this new situation, the newspaper *Tukuma Ziņas* reported that *“notaries appointed in Germany can be given rescindable authority to serve as German notaries in the occupied eastern territories.”*⁸⁶ This meant that most employees of the German notarial system were appointed in Germany, though there were exceptions which were described in Section 8. § (1) *“In certain cases, German citizens who have not been appointed as notaries in Greater Germany, but are able to serve as judges, may be appointed as German notaries in the occupied Eastern territories.”*⁸⁷

Germans themselves were divided into two groups in accordance with their lineage – the so-called State Germans (*Staatsdeutsch*) and those who belonged to the German nation (*Volksdeutsch*). Baltic Germans in Latvia were in the latter group. This division was included in the legal norms such as the February 17, 1942 decree to supplement laws related to punitive sanctions in occupied Eastern territories: *“The sentence of death or, under less serious circumstances, a sentence of hard labour shall be handed down for anyone who engages in violence against a State German or a person belonging to the German nation because of that person’s belonging to the German nation.”*⁸⁸

The anti-Semitism that was characteristic of the whole Nazi system was also manifested in the law. Nazi-occupied Latvia limited the right of Jews to choose their professions. They and their relatives were not allowed, for instance, to work for courts or related institutions. The aforementioned decree of March 13, 1942, on temporary operations of local judicial institutions in the general district of Latvia stated, in Section 4.2, that *“Jews, hybrid Jews, and persons married to or direct in-laws of Jews shall be strictly prohibited from any activities at local courts.”*⁸⁹

The right of Jews to a fair trial was also circumscribed. An April 28, 1942, decree on customs law in the Eastern territories, for instance, stated that *“6. § (1) The Reich commissar of the Eastern territories may temporarily decree that process of appeals, collection of debts and sanctions can depart from the legal ideas of Greater Germany. The said shall not be in effect insofar as defendants or petitioners who are not Jews have the right to demand a court trial in the relevant case.”*⁹⁰

Notaries, too, encountered the consequences of Nazi racial policy in terms of attacks against Jews. Executive regulations about things to be done with Jewish property in the eastern Reich commissariat were approved on October 14, 1942: “Section 1. All property of Jewish residents in the eastern Reich commissariat, including lawsuits filed by Jews against third parties, shall hereby be seized retroactively to the date upon which German units occupied the relevant territory.” Section 5 added that “legal transactions with Jews that have been concluded since the occupation of the district shall receive the authorisation of the general commissioner or his authorised institution if they shall be in force. Such authorisation shall be issued only upon demand. The demands shall be filed prior to the deadline of December 31, 1942.”⁹¹

As noted, Nazi Germany formally reinstated laws that were in force in Latvia prior to the Soviet occupation, however, the occupants made fundamental amendments. The rule of law was ignored in that the approved norms were often retroactive, and there was no more equality before the law and the courts – principles that were a part of the law in the Republic of Latvia. Extraordinary courts were established, and acts which could be in violation of the law were implemented (because, as noted above, “The Reich commissar of the Eastern territories may temporarily decree that process of appeals, collection of debts and sanctions can depart from the legal ideas of Greater Germany”).⁹² All of this created a sense of insecurity when it came to legal relations. Many of the limitations directly or indirectly affected the notarial system, too.

Summary

1. Prior to the Soviet occupation of Latvia, the December 14, 1937 law on notaries was in effect. According to the law, notaries belonged to the judicial system, were independent in their duties, and were paid for their work by their clients. Qualifications for the job of a notary set out the criteria that were related to education, work experience, age and citizenship. Notaries were banned from holding other jobs apart from educational work. Latvian notaries were expected to observe the principles of objectivity, neutrality, lawfulness and equality among individuals. This was enshrined by law and in the code of ethics of notaries.
2. When the Republic of Latvia was occupied by the Soviet Union during the summer of 1940, socialist law was implemented there. Regulations about the Soviet Latvian notarial system that were implemented on December 16, 1940, nullified the 1937 law, instead setting up a Soviet notarial system on the basis of the one in the Russian SSR. All of the notaries of the Republic of Latvia were dismissed on January 1, 1941. The former notaries who “were not enemies of the working people” were approved as Soviet Latvian notaries. Of 57 notaries who had worked in Latvia prior to the Soviet occupation, only 19 were reinstated.
3. The Soviet notarial system differed from Latvia’s model in that the wages of notaries were paid by the state and that the independence of notaries in their work was severely circumscribed. Notaries were granted competence in relation to issues that had previously been handled by other institutions such as courts and civil servants. Notaries were allowed to hold not just educational jobs, but also elected office, jobs as court assessors, etc. This violated the principle of separation of powers. The most essential difference, however, involved the qualifications of notaries, with new qualifications such as lineage and political correctness becoming more important than the candidate’s experience and knowledge.

Soviet law ignored the principle of equal rights among people, because some people faced limited rights, including the right to work as a notary.

4. The Nazi German occupation replaced the Soviet occupation in Latvia from 1941 until 1945. Although the Nazis insisted that they would reinstate the laws of independent Latvia, the promise was not fully kept due to Nazi ideology and the war. The general commissioner of Latvia, Otto-Heinrich Drechsler issued a decree on October 15, 1941, to reinstate the operations of notaries and the December 14, 1937 law on notaries, but several sections of the law were declared null and void. Administrative rules were substantially changed in terms of the handling and storage of notarial acts and books.
5. The Nazi regime, like the Soviet regime, ignored the principle of equal rights for everyone, because people were limited on the basis of their lineage. Where the Soviet regime had considered a person's lineage first and foremost on the basis of social class, the Nazis divided people up on the basis of race and "purity of blood." This was based on ideology and the social Darwinist theory of an Aryan "super race" made up of pure-blooded Germans and no one else. People who were not Aryans – Jews and the Roma, for instance – faced limitations on their rights, including the right to hold government positions and notary jobs.
6. People in a single territory were subject to various legal relations, because, following the April 27, 1942 decree on the application of German law for German citizens in the occupied Eastern territories, Germans were subject to the law of Great Germany, with a system of courts and other institutions in the occupied territories that only worked with Germans. German courts were established in early 1942. They handled the cases in which one or both parties were Germans. A German notarial system was established in 1943 with German notaries providing services exclusively to German clients.

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- ¹¹ There was an attempt to establish a seeming succession and lawfulness of the new regime. On June 21, 1940, for instance, the newspaper *Latvijas Kareivis* reported that “The secretariat of President Kārlis Ulmanis has announced that a new Cabinet of Ministers has been established.” *Latvijas Kareivis*, No. 135 (5650), 21 June 1940, pp. 1, 2.
- ¹² Bleiere, D., Butulis, I., et.al., *Latvijas vēsture...*, op. cit., pp. 223, 224.
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- ¹⁵ These data come from a report that was filed by Rūdolfs Velde, director of the Notary Division of the Latvian SSR. The Soviet state did not recognise notaries, as was the case in countries which accepted the Latin type of notary services, Latvia included, instead recognising notary offices. See *Велде, Р. Начальник Отдела нотариата Латвийской СССР “Докладная записка о деятельности государственных контор Латвийской ССР в первом квартале 1941 года.”* (Velde, R. “A report on the operations of state notaries in the Latvian SSR, first quarter of 1941”).
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- ²² The word “state” is emphasised here because notaries in the Soviet model lost the independence that is typical for Latin-type notarial systems. A 1955 set of regulations about the state notarial system of the Latvian SSR does not speak to the location of notaries in the state apparatus or to the notary's rights or guarantees of independence.
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- ²⁴ For a discussion of the development of the Soviet notarial system between 1917 and 1991, see: [б.а.] *Веги советского нотариата (1917–1991)*. Available: <http://mirnot.narod.ru/sovetsk-hro.html> [last viewed 06.12.2013].
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- ³³ The 14 April 1866 law on the notarial system declared that Russian citizens who were 21 or older, were not a part of state or local government services, and had never been punished for a criminal offence could become notaries after passing a test. See: *Черемных, Г. Г., Черемных, И. Г. Возникновение*

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- ³⁴ Lazdiņš, J. Konstitucionalisma pirmsākumi un nerealizētie valstiskumi Latvijā (The Origins of Constitutionalism and Unimplemented Approaches toward Statehood in Latvia), at: *Jurista Vārds*, No. 23 (774), 11 June 2013, p. 11.
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- ³⁷ Зацепина, С. Очерк истории советского нотариата (A Review of the History of the Soviet Notarial system). Available: <http://www.mirnot.narod.ru/sovetsk-och.html> [last viewed 29.05.2013].
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- ⁴¹ Avenarius, M. Geschichte..., *op. cit.*, p. 512.
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