

UDC 342.4
DOI: 10.46493/2663-2675.33(1).2023.32-38

Liana Spytska*

*PhD in Law. Full Doctor in Psychology, Professor. ORCID: <https://orcid.org/0000-0002-9004-727X>.
Volodymyr Dahl East Ukrainian National University, 01042, 17 John Paul II Str., Kyiv, Ukraine*

Historical-retrospective and legal analysis of the conditions, values and consequences of the Constitution of Pylyp Orlyk

Abstract. The history of the Constitution of Pylyp Orlyk is sufficiently studied both in Ukrainian and foreign historiography, but the issue remains rather relevant for a full historical and legal review, so the interpretation and consideration of events of those times, and especially the legal study of the underlying document, is still important. The purpose of this article is to study the Constitution of Pylyp Orlyk, for the sake of interpretations of the events of 1710, to trace the processes and reasons that followed, to analyze the historical and legal role, the conditions and consequences of the adoption of the constitution, and consider the role of Pylyp Orlyk in its establishment. The study used various historical methods and approaches to analyze and select information relevant to the adoption of the Constitution of Pylyp Orlyk. Also, the article widely used methods of analysis and synthesis, general methods of scientific knowledge and methods of empirical research. Historical comparative, retrospective and abstract methods made it possible to reconstruct and model in greater detail the processes that were taking place before the adoption of the Constitution, as well as its consequences. It is argued that the Constitution was created based on democracy, which was the main factor in the creation of the historical goal, which was the development of state reforms. From the point of view of the law, a complete analysis of the new state system, which was referred to by the provisions of the Constitution, was carried out. In the process of research, the Constitution of Pylyp Orlyk was studied, as well as some factors that helped construct and reconstruct the conditions, values, and consequences that led to the adoption of the Constitution of 1710. It was determined that the specified Constitution depicts the improvement of relations in power, and can also be used as a regulator of the state tradition of the Ukrainian people. It has been investigated that the described and analyzed historical-political aspects fully describe the motive for the adoption of the Constitution of Pylyp Orlyk, caused by the completion of these events in the new time and the possibility of researching this issue as in domestic historiography

Keywords: History of Ukraine, the Constitution of Bendery, Zaporizhian Host, European law, constitutionalism, law

Introduction

This article aimed to determine the role of Pylyp Orlyk in the establishment of the Constitution in 1710, as well as a historical-retrospective and legal analysis of the document. The study considered different views on the adoption of the Constitution of Pylyp Orlyk, its historical role in the History of Ukraine, and a full legal analysis of the document was conducted.

The defection of Hetman Mazepa to Sweden and the subsequent defeat of the united Cossack-Swedish army near Poltava in 1709, played a significant role in the historical development of the map of Eastern Europe. It is during these events that the attempts of the domination of the Swedish state and that of Russian statehood with the subsequent transformation of the Moscow Principality into the Russian Empire (Knysh, 2021). Also, these events have negatively influenced the Cossack autonomy within the Moscow Principality, as a result of which the

integration movement takeover of the Cossack Hetmanate and Zaporozhian Sich has only intensified (Ivanov, 2021). The answer of the first Cossacks' government in particular following Mazepa, Hetman Pylyp Orlyk, who wanted to give a worthy rebuff to Moscow's tsarism, is perfectly manifested in its constitution, which determined the basis of the state structure and form of government, called "the Constitution of Pylyp Orlyk". The analysis of this document and the events that preceded the signing of the document reveal the full picture in the understanding of the further role of the Constitution of Pylyp Orlyk in the legal and historical-retrospective aspects (Ivanov, 2022).

The study of the Constitution of Pylyp Orlyk is fairly objective due to the completion of these processes in modern history, but requires detailed consideration due to the poor study of the issue in a comprehensive study. The Constitution of Pylyp Orlyk is one of the important

Suggested Citation:

Spytska, L. (2023). Historical-retrospective and legal analysis of the conditions, values and consequences of the Constitution of Pylyp Orlyk. *Foreign Affairs*, 33(1), 32-38.

Received: 28/10/2022, Revised: 13/01/2023, Accepted: 01/02/2023

*Corresponding author

chains in understanding the construction of the thought of Ukrainian statehood, as well as the deepest will of the people in modern times. The importance of this topic lies in the extraordinary process, the study of which will allow for the historic analysis from a new perspective and for implementing of further improvements on previously analyzed errors gained experience in the adoption of the Constitution of Pylyp Orlyk, the development of the Ukrainian state thought has further affected all the peripeteia (Danilyan et al., 2021).

The purpose of this article is to study the phenomenon of the Constitution of Pylyp Orlyk; to analyze the steps taken by historians to study this issue for the most objective coverage. The object of the study was the materials obtained from previous studies, as well as the normative acts and documents of that period. With the help of the research materials, it was possible to reconstruct the full picture of the adoption of the Constitution of Pylyp Orlyk, to investigate external influences on these events, to define the role of Pylyp Orlyk and another active member in the coverage of the event and the signing of the Constitution for social, the legal and political situation in Ukraine.

The relevance of this topic is due to its importance for studying the development of Ukraine in the Modern Age, which in turn allows for revealing its significance for all subsequent events in the Russian Empire. The novelty of the topic lies in the integrated approach of the study, which allowed for the analysis of the conditions, meanings, and consequences of the adoption of the Constitution of Pylyp Orlyk in many aspects.

The studies carried out earlier in an attempt to analyze and systematize the process of adoption of the Constitution of Pylyp Orlyk contain a variety of information on this topic (Haggman, 2020). Some sources focus on the consequences of the signing of the constitution, as well as the reaction of the Cossack syndic and the Moscow state, and some other focus on the adoption of the constitution as a single event that affected the course of development of the whole of Ukraine. In one of the sources used in the study, the author (Kozachenko, 2019) focuses more on the role of the Cossack uprising led by Mazepa, whose apologist was the signing of the Constitution of Pylyp Orlyk. With the help of materials used in the study, it was possible to illustrate in as much detail the events and state before and after the signing of the Constitution of Pylyp Orlyk, as well as to define and describe in detail the biographical and legal aspects, as well as the role of Pylyp Orlyk in this matter. Kozachenko A.I. analyzed the division of state power according to the Constitution of Pylyp Orlyk and the Polish Constitution (Kozachenko, 2019). Ya. Vashchenko described the Constitution of Pylyp Orlyk, in which modern categories of constitutional and administrative law were indicated and described (Vashchenko, 2019). S. Kryvenko studied symbols in Ukrainian public discourse (Kryvenko, 2021). T. Savchenko in his writings focused on the volume-spatial compositions of Poltava buildings at the end of the 19th and beginning of the 20th centuries (Savchenko, 2020). V. Makarchuk, I. Terlyuk, and A. Lytvynenko the Cossack law of the Hetmanate was studied as a political and legal phenomenon (Makarchuk, 2021).

Materials and Methods

The study used various historical methods and approaches to analyze and select information relevant to the historical and legal analysis of the conditions, meanings, and consequences of the adoption of the Constitution of Pylyp Orlyk. Some of them are classical research methods, and some are special historical methods, which are aimed at following historical processes, their analysis, and testing of objectivity. With the help of special historical methods, it became possible to consider the processes of adoption of the Pylyp Orlyk Constitution in terms of its stages and cause-effect relationships.

This article used the historical periodization method to consider events important for the understanding of the conditions, values, and consequences of the Constitution of Pylyp Orlyk 1710. A retrospective method was also used, which made it possible to trace the processes that led to the signing of the Pylyp Orlyk Constitution and to evaluate the external backgrounds of the process throughout its development. The method of diachronic analysis made it possible to establish the status, both of a certain period and the entire process, of the establishment of the Constitution as a whole, in a certain period or point in time. This method was also used to analyze the status of individual processes related to the signing of the constitution about the chronological line. The constitution of Pylyp Orlyk, and the related studies on the subject, were not one thing and presented breaking reports, but thanks to the historical-comparative method, it was possible to analyze many of the writings that described the events in Bender, as well as the consequences of the signing of the Constitution.

General methods of scientific knowledge also play an important role in the writing of the article, such as theoretical research methods such as idealization, abstraction, deduction, and induction. Idealization of the historical process takes place through the absolutization of one of its meanings and the application of this value as the basic quality of the process. An idealization is an auxiliary tool for constructing a theoretical model of a phenomenon, as well as a cause-and-effect model. The abstraction method is also very important in the study of historical processes and is also an auxiliary tool for building theoretical models, finding cause-and-effect relationships, and the like by focusing on two or three characteristics of interest and using them in further modelling of the situation.

Also, the article widely used methods of analysis and synthesis, general methods of scientific knowledge, and methods of empirical research. Through methods of empirical research, observation, and comparison, it has been possible to analyze the information in some detail and compare some phenomena with others, to assess their significance, influence, consequences, reactions of the population, and so on. Empirical methods of cognition are among the most important in the historical study since it is the possibility of spatial modeling and analysis of the information obtained that allows us to draw objective conclusions about the events taking place.

With the help of the mentioned research methods, it was possible to highlight and consider the conditions, significance, and consequences of the adoption of the

Constitution of Pylyp Orlyk 1710, namely, to objectively examine the role of Pylyp Orlyk in the events described, to make a historical and legal analysis, and consider this event from the perspective of the interpretation of different authors.

Results and Discussion

Historical and Retrospective Analysis of the Pylyp Orlyk Constitution of 1710

The Battle of Poltava, which took place on July 8, 1709, in which the Swedish-Cossack army under King Charles XII suffered a complete defeat from the Russian-Cossack troop of Peter I, also became a disaster for the national liberation struggle under the leadership of Ivan Mazepa. Mazepa not only failed to unite the Ukrainians in the struggle for the separation of the Cossack Hetmanate from the Tsardom of Muscovy, but also lost the Ukrainian territory, the majority of like-minded, accomplices, and at the end of his own life. The death of Ivan Mazepa made his supporters face a serious challenge of what to do next. The question about the heir arose acutely and inexorably (Vashchenko, 2019).

This question should have been raised at the Cossack council in the city of Bender (the Ottoman Empire) on April 16, 1710. The decision was made in two aspects by the election of Pylyp Orlyk, who had previously served as the chief clerk of the new hetman, and to gain new hope and support both among his supporters in Moldova and among the population of Ukraine, for the same purpose the agreement, which entered into history under the name “Constitution of Pylyp Orlyk” is accepted (Kryvenko, 2021). Interestingly, for the first time in Europe, a real model of a free, independent state, based on the natural right of a people to freedom and self-determination, based on the unknown democratic principles of social life, was developed. It should be noted that it is unlikely that such a document could be produced by the Hetman and Petty Officer. All indications are that in it was laid the thoughts of Mazepa himself have considered for a long life.

Although, unfortunately, it was not fully introduced into public life due to the unfavorable political features of the time, the Constitutional Treaty of P. Orlyk, although partially, was in force in Right-Bank Ukraine until 1714 and became a unique historical document, creating on the Cossack basis the basis of the democratic system of Cossack Hetmanate. Thus, the Constitution of Pylyp Orlyk, which enshrined the sovereignty of the Ukrainian Cossack state and its democratic system, based on human rights and popular power, appeared more than a hundred years before the Constitution of the United States (Savchenko, 2020). To be as precise as possible and to consider the constitutional process in other countries, the United States Constitution was adopted in 1787, the Polish National Constitution in 1791, and the French Constitution in 1791.

The main content of the Constitution is the agreement between Hetman Pylyp Orlyk and his fellow Cossacks with King Charles XI of Sweden as protector and guarantor of the independence of Ukraine, based on which Ukraine withdrew under Swedish protection, and its citizens were guided by it in their daily lives. Pylyp Orlyk committed to the following: limitation of hetman autocracy, increase,

and deployment of Cossack democracy in leadership, reduction of social oppression of philistines and peasants, protection of privileges of the Cossack state, protection of the special state of the Zaporozhian Cossacks, struggle for political and ecclesiastical secession of Ukraine from Russia in case of victory of the followers of Mazepa and transformation of Pylyp Orlyk from hetman in exile into the legitimate leader of the nation.

With the election of Pylyp Orlyk of Hetman of Ukraine was approved and a new general petty officer – the highest military and administrative leadership of Cossack Hetmanate, who operated the Cossack troop and its structural subdivisions (artillery, military training, finance, chancellery, property, etc.). Thus, the newly elected Hetman chose Ivan Lomykovskiy as the general coachman, who held this post at the time of Ivan Mazepa. Ivan Maksymovych became the general clerk, Klim Dovgopolyi became the general judge and Grygoryi Herzik and Fedor Myrovych became the general osavuls. Also included in the general petty officer were such notable representatives of the Cossacks as Kost Gordienko, being at the head of the Zaporizhian Cossacks, and Dmytro Gorlenko, who was generally respected as a senior colonel of Cossack Hetmanate in emigration (he became colonel of Pryluky in 1693). Having led the national liberation movement, the newly elected Hetman was aware of the heavy burden and responsibility that he had assumed. In this regard, B. Krupnytskyi wrote: “Having decided to accept the candidacy, Orlyk sacrificed his private life to patriotic tasks against the homeland, as he understood them. But he also demanded expressive support from the Swedes. In connection with his candidacy, he obtained from Charles XII the insurance contract, providing Ukraine with a promise not to lay down weapons until Ukraine and the Cossacks are released from the Moscow yoke” (Makarchuk, 2021).

Considering the historical role of the Constitution of Pylyp Orlyk, one should understand the situation at the time. Poltava disaster, death of Hetman Mazepa, gray and hungry days of emigration, lack of money, despair, and quarrels among Ukrainian exiles – all this testified to the agony and rapid decline of the disorganized Mazepa movement. However, there was a person with statesmanship who was able to stop this irreversible process of destruction, unite around the idea of liberating Ukraine from the Moscow yoke of like-minded people and lead the Mazepa resistance movement – it was Pylyp Orlyk. On his initiative, at the election of the Hetman in April 1710, between Pylyp Orlyk and fellow Cossacks agreement was concluded, called “Treaties and Regulations of the Rights and Liberties of the Troops”, which later in the Ukrainian historiography were named “The Constitution of Pylyp Orlyk”.

Thus, summing up all the above opinions, one can arrive at such conclusions. The achievements of Pylyp Orlyk in the thorny field of the Ukrainian ethnonational state include: firstly, that he gave his consent to the election of the Hetman of Ukraine and thus led the national liberation movement, which after the death of Mazepa was far from being perfect; secondly, the Hetman became the creator of a very important creative and legal document included in the historical analyses called “The Constitution

of Pylyp Orlyk”; thirdly, actively participated in the military campaign of 1711, trying to liberate the Right Bank; for the fourth time, about 30 years of intense diplomatic struggle for the complete liberation of Ukraine from the grasp of Russian tsarism (Hong, 2020).

Legal Analysis of the Constitution Pylyp Orlyk 1710

Among the monuments of the Ukrainian political and legal thought of the early modern age, the State Constitution, which had the name “Treaties and Resolutions of the Rights and Liberties of the Troops”, has attracted the attention of a wide variety of representative groups of the public for centuries. On April 5, 1710, at the General Cossack Council near the city of Bender (the Ottoman Empire) under the chairmanship of Commander of Cossack Camp Kost Gordienko, the elections of the Hetman Zaporizhian Host. At the council “Altogether with the senior general and ambassadors from the Zaporizhian Host, which remains near the Dnipro river, according to long-standing traditions and military rights elected to themselves by free unanimous votes hetman his grace Pylyp Orlyk, worthy of the hetman honor” (Kresin, 2020). At the same time, the “Treaties and Decrees of Rights and Liberties of the Troops” were announced and approved, which began to be called the Constitution of Pylyp Orlyk, and the Cossack Constitution itself on April 10 was certified as “Protector” of Ukraine by the Swedish King Charles XII.

The Constitution had an original expression: its provisions were fixed as a contract between the hetman and the Cossack Petty Officer and the Zaporozhian Cossacks, which was typical of the Western tradition and which confirms its democratic character. “We, the General Petty Officer, are here present, and we, the Commander of Cossack camp with the Zaporizhian Host ... agreed and decided with His Grace Mr. Pylyp Orlyk, the newly elected Hetman, that not only his nobility, under the happy hetman’s rule, would adhere to all the points, treaties, and decrees set forth here, on which he swore an oath, and that the future Hetmans of the Zaporizhian Host they were saved and respected”. This document essentially justified the state system of Ukraine. The Constitution consisted of a preamble and 16 articles setting out the basic principles for the establishment of an autonomous state. It was a democratic movement and a common Western European republican idea. The text of the Constitution was published in Latin and Russian (Danilyan et al., 2021), however, the question of finding the Latin-language original of the monument itself, as well as the documentary evidence involved in its appearance in the archives and libraries of European countries remains open.

The preamble to the Constitution briefly outlined the history of the people of Russian and the Zaporizhian Host. The creators of this Constitution depicted a political fabrication, according to which “Cossacks, ancient and courageous, previously called Chazar” became the founder of the Kyiv state and before Prince Vladimir Sviatoslavovych Christianity accepted Kagan. Thus the historical advantage of the Ukrainian state, where the primacy was inherent in the Cossacks, was founded. This statement

became “the basis of the idea of separate Russia – Little Russian – Ukrainian people and their natural right to their state”.

The Constitution first reflected the general points. In particular, the first paragraph it was disclosed about “Belief of the Orthodox Eastern Rite” as the national religion, as well as about the restoration of autocephaly of the Ukrainian Church under relative subordination to the Patriarch of Constantinople. State sovereignty was later reflected. The borders of the Ukrainian state were established under the terms of the Treaty of Zboriv in 1649. with the Polish-Lithuanian Commonwealth, which were attested at the time of Bogdan Khmelnytsky. Hetman was to guarantee the inviolability and inviolability of borders and preserve the territorial integrity of the state, as well as to achieve just “compensation of all losses caused to Ukraine by armed force”.

Some articles (IV, V) concerned the protection of the interests of the Zaporizhian Host. It was recognized, for example, the return to the use of the Zaporizhian Host “the Terekhtemirov city with all the adjacent lands and with the crossing, located here, across the Dnipro”, Perevolochna, Vorskla River with mills located in the Poltava regiment, as well as the Kodak Fortress with all the surrounding territories and the need to destroy the Moscow strongholds and fortresses built in Zaporizhzhia (Bzorek, 2021).

But the main point is the sixth article of the Constitution, which sets out the principles of the organization of the activities of public authorities. Pylyp Orlyk established a system of government based on the separation of powers between the State authorities specified in the Constitution and the parallel integration of all branches of government into a coherent state.

A collegiate representative body plays a key role in this mechanism. If in sovereign states, as stated in the Constitution, a commendable and advantageous order for the public balance is observed, “namely, both in time of war and in peace, to gather private and public advice, contemplating the common good of the homeland, on which the independent rulers, in the presence of His Majesty, have not refused to subdue their opinion by a joint decision of officials and advisers, why would a free nation not adhere to the same fine order?” That is why the Constitution affirms that the most important problems of the state and public life should be solved by the General Councils, and repeatedly emphasizes their legislative functions. With this intention “three General Councils, which will meet annually in the Hetman Residence” were established. The first was going to the holiday of the Nativity of Christ, the second – on the holiday of Easter, and the third – on the holiday of the Protection of Our Most Holy Lady Theotokos and Ever-Virgin Mary, that is, in winter, spring and autumn. The General Councils were attended by a wide range of representatives of different ranks. These Councils must be assembled under the order of Hetman and a legal obligation “not only colonels with their officials and centurions, not only General Councilors from all regiments, but also ambassadors from the Zaporizhzhia Host for hearings and discussion of affairs to take an active part”. When Hetman puts a certain issue before the Council, then everyone without

exception is obliged to take part in its discussion. And no one has the right to be absent from his duty.

The decisions of the General Council had supreme legal force and were in some cases binding. In particular, article XII established that only “by high decision of the General Council in the presence of Hetman” can be taken “solemnly and inviolably”: to who belongs by law, and to whom should not use the right of management of public estates, and which duties should be performed on subjects. In addition, the decision taken by Hetman on the revision of various burdens ordinary Cossacks on Ukrainian soil, “wider and more will be discussed and decided at the General Council” (XIV), and on taxes and articles “Resolution will be discussed and adopted at the General Council” (XV) (Vorona, 2020).

Executive power was entirely in the hands of Hetman; whose powers were quite versatile. Firstly, Hetman had to “take care of the needs of the homeland, think, lead and decide what will need a solution”. Only with Hetman’s permission, it is necessary to choose Cossack and ordinary officials, and after the elections “to be approved by the Hetman authorities”. Hetman had to worry about recovering the “obligation to provide carts for governmental needs”, to ensure that the ordinary and ordinary people did not “impose excessive burdens, harassment, and excessive demands”, to ban abuse of ordinary Cossacks, the commoners, craftspeople, etc. Although all this Hetman was obliged to carry out under close attention, and in important cases must coordinate their decisions with the petty officer. Given the negative experience of the former hetman administration, the Constitution, to avoid the possibility of the assumption of power in the state, prescribes in detail the regulation of the activities of the hetman, establishing the limits of his powers. In particular, between meetings of the General Councils, in the event of a need to decide, change or execute certain urgent Hetman cases “is given a certain freedom of power and influence to solve such cases on the advice of the General Master”. It is characteristic that the Constitution applies the principle of restraint and control in many situations. As noted in the Constitution, forever will be preserved in the Zaporizhian Host Law, “that in our country the primacy belongs to the Senior General both because of its high services, and taking into account the constant stay under the Hetman”. So the body that oversaw Hetman’s actions was the Senior Council, which was joined by the Chief Petty Officer, civilian colonels, similar in nature to civilian advisers, and several high-ranking veterans, Honored men chosen by Hetman’s consent from each regiment. “This General President, Colonels, and General Councilors should advise the current Hetman and his successors on the integrity of the homeland, its common good, and all public affairs. Without their prior decision and consent at the sole discretion of the Hetman, nothing shall be initiated, decided or carried out” (Kozachenko, 2019).

And if Hetman is seen to have “something contrary to justice and deviating from the laws or harming liberties and not safe for the homeland”, then petty officers, colonels, and councilors can exercise full freedom of vote, to express, privately or publicly on the council reproaches “demanding

an account of violation of the laws and liberties of the motherland, but without slander and the slightest damage to the high Hetman honor”.

Special attention was paid in the Constitution to the management of financial affairs. Relying on the experience of the Zaporizhian Host, it was necessary, with the public consent, to elect a General Treasurer, who would take over the state treasury, run the mills and all revenues and take care of them not for their own, but for general necessity, “taking into account the opinion of Hetman”, and Hetman himself had no authority in any way to turn them to his advantage, “limited by his share of the income belonging to the Hetman Mace and personality”. At the same time, it is necessary to choose in each regiment two jury treasurers, approved by general order of two social estates: Cossacks and ordinary people (Sytnyk, & Sereda, 2019).

One of the branches of government under the Constitution was the judiciary. In case one of the petty officers, colonels, general councilors, noble Cossacks or other officials, or ordinary Cossacks commits a crime threatening the Hetman’s honor, then such criminals are not punished solely by the Hetman “his private revenge and authority”, but such an offence must be considered by the General Court, which will render a decision, “the sentence of which every criminal must bear” (Komaruk, 2022).

The Constitution of Pylyp Orlyk affirmed the state administration which “freely expressed will and voted on the equal, permanent and never violated form of authority and subjugation was accepted”. The peculiarity of this form of rule was the specific division of powers between the different branches of government, as well as the mechanism of deterrence and balance. Thus, the General Council’s decisions were binding on Hetman. Although Hetman had the right of legislative initiative, because he could offer the “public council something to discuss” (VI). Restraint was also manifested in the relationship between Hetman and the Senior Council. Without the prior decision and approval of the Senior Council, Hetman could not do anything. Additionally, the power of Hetman was restrained by the powers of the General Treasurer, although the treasurer was elected “at the discretion of Hetman” and took into account his activities and opinion (IX). The powers of the Hetman and the judiciary act independently (VII) (Taranenko, & Taranenko, 2021). For example, because of mutual restraint and control, the separate branches of government formed a single state mechanism.

Pylyp Orlyk’s Constitution is characterized by democratic principles. More than once in the provisions of this document the obligation of “free elections” and “free expression of will” was emphasized, and the election of officials was introduced. The Constitution elected the Hetman, General Council, General Petty Officer, regimental councilors, colonels, and officers, as well as the General Treasurer and two Jury Treasurers in each Regiment (IX). At the same time, it was forbidden for colonels to appoint centurion and other officials “without the free vote of the whole district” (X).

An important feature of the Constitution was the care to protect “the ordinary people”, that is, the unprivileged strata of the population, which gives this document a humanistic orientation. The Constitution defined the

rights and duties of all social states and protected the interests of ordinary Cossacks, bourgeoisie and Commonwealth, that is, peasants. It obliged Hetman to protect Cossacks and “poor people” from illegal taxes (XV), extortion of market commissars, tax collectors (XVI), and so on. He had “to generously direct and improve all rights in the country in respect of the reliable observance of inviolable public liberties” (XVI).

Pylyp Orlyk’s Constitution, with its democratic aspirations and meaning, was ahead of Europe’s public eye at the time. It was the embodiment of a real model of a sovereign, independent state born of the natural right to freedom and self-determination. The Constitution was the starting point of political thinking among Ukrainians of the eighteenth century. In it, the interests of the hetman as head of state, elders as the leading social stratum of the population, and Cossacks as a strong military force of the state were incredibly intertwined. Although, unfortunately, it was not fully introduced into public life due to the unfavorable political events of those times, but the Constitutional Treaty was a unique historical document, which created on the Cossack basis the nucleus of the democratic system of the Cossack Hetmanate.

Analyzing the articles of the Constitution 1710, it can be concluded that Ukraine, which was at the turn of two centuries, between the Western and Eastern directions managed to stand and become a democratic country. The Constitution depicts the progressive beliefs of the Ukrainian society, which slowly moved towards the formation of statehood, focusing also on the social relationship within the future state, where on a contractual basis under the scheme “power-people” management will be implemented. The document led to the emergence of new ideas that sought to “bring the Ukrainian business to the international level”, which was always facilitated by Hetman Pylyp Orlyk (Shupyk, 2020). That is, the only goal of Pylyp Orlyk was to win the political freedom of his land and people, because all his energy was aimed at asserting my rights and those of my nation in Ukraine.

Conclusions

The study concluded that the adoption of the Constitution of Pylyp Orlyk marked an imprint on the further development

of the state thought of Ukraine. The defeat in the Poltava battle of the united Cossack-Swedish army played a crucial role in the political activation of the Cossack elite, which eventually formalized the ideas of statehood in the Constitution of Pylyp Orlyk.

In the history of Ukrainian legal opinion, the efforts of Pylyp Orlyk have become significant. This Constitution was imbued with a democratic spirit and set a progressive historical parliamentary course for the development of State reforms. The Constitution of Pylyp Orlyk depicts not only an attempt to regulate the state tradition of the Ukrainian people, but also a modification of power relations. Although it was never implemented, it is, however, an outstanding historical state-political monument. “Treaties and rulings of the rights and liberties of the troops” should take a worthy place in historiography and, it seems, remain relevant today for independent Ukraine. The analysis of the document proves that the norms of this legal act already contained elements of the theory of natural law, and most importantly – the theory of the division of powers in the organization of public administration in three directions that operate independently – legislative, executive, and judicial. The Constitution of Pylyp Orlyk 1710 embodies the legal directions of many phenomena, namely, the sovereignty of the Ukrainian people, the separation of powers, parliamentarianism, etc. Thus, a request for the historical experience of this document is, first of all, an appeal to state ideas, which constitute the legal basis for the nationwide idea of a political character, highlighting the essence of the mood of the Ukrainian people.

The consideration of historical and political aspects is a full and comprehensive examination of the causes and consequences of the adoption of the Constitution of Pylyp Orlyk, due to the end of these events in the new time and the possibility of studying this question as in domestic historiography, as well as works written abroad and in immigration. Thus, the main aspect of an objective and comprehensive examination of this issue is the examination of some sources and factors that have served both to develop and complete these processes. The promulgation of the Pylyp Orlyk Constitution and the study of these processes have been central to the coverage of events, as have some other sources and scholarly writings.

References

- [1] Knysh, V.V. (2021). Formation and development of constitutional and legal responsibility in Ukraine during the Cossack Republic and the Hetman State. *Actual Problems of Improving of Current Legislation of Ukraine*, 55, 158-166. doi: 10.15330/apiclu.55.158-166.
- [2] Ivanov, S.B. (2021). “Rights and liberties” in Pylyp Orlyk’s Constitution through the prism of Renaissance interpretations of justice. *Bulletin of Kharkiv National University of Internal Affairs*, 93(2), 26-38. doi: 10.32631/v.2021.2.02.
- [3] Ivanov, S.B. (2022). Axiological and anthropological foundations of parliamentarism in the Constitution of Pylyp Orlyk as an embodiment of the idea of people’s rule. *Scientific Papers of the Legislation Institute of the Verkhovna Rada of Ukraine*, 1, 40-49. doi: 10.32886/instzak.2022.01.05.
- [4] Danilyan, O.G., Dzeban, O.P., Kalynovskyi, Yu.Yu., & Hetman, Ye.A. (2021). Historical and cultural-mental origins of legal consciousness of the Ukrainian people. *Revista Notas Históricas y Geográficas*, 1, 346-360.
- [5] Haggman, B. (2020). The bendery Constitution and Pylyp Orlyk and his government-in-exile in Sweden in 1715-1720. *Law of Ukraine*, 1, 288-301. doi: 10.33498/louu-2020-01-288.
- [6] Kozachenko, A.I. (2019). Principle of separation of state power under Constitution of Pylyp Orlyk of 1710 and Polish Constitution of 1791. *Problems of Legality*, 144, 8-14. doi: 10.21564/2414-990x.144.154647.

- [7] Vashchenko, J. (2019). The Constitution of Pylyp Orlyk: Contemporary categories of constitutional and administrative law. *Logos (Lithuania)*, 99, 73-84. doi: 10.24101/logos.2019.31.
- [8] Kryvenko, S. (2021). Symbols in the Ukrainian public discourse (Analysis of presidential speeches on the occasion of Constitution Day). *Kyiv-Mohyla Law and Politics Journal*, 7, 109-127. doi: 10.18523/kmlpj249911.2021-7.109-127.
- [9] Savchenko, T. (2020). Volume-spatial compositions of buildings Poltava of the late nineteen – early twenty centuries. *Przestrzeń i Forma*, 44, 143-162. doi: 10.21005/pif.2020.44.B-09.
- [10] Makarchuk, V., Terlyuk, I., & Lytvynenko, A. (2021). Cossack law of the Hetmanate as a political and legal phenomenon. *Law Review of the Kyiv University of Law*, 1, 22-26. doi: 10.36695/2219-5521.1.2021.02.
- [11] Hong, S. (2020). From autonomy to independence: Evolution of Ukrainian political thoughts. *Korean Journal of Ukrainian Studies*, 1(1), 1-11. doi: 10.22968/KJUS.2020.12.1.1.1.
- [12] Kresin, O. (2020). Ukrainian-Swedish relations and treaties of the XVII-XVIII centuries. *Law of Ukraine*, 2, 291-301. doi: 10.33498/louu-2020-02-291.
- [13] Bzorek, D. (2021). Pylyp Orlyk and Franciszek II Rakoczy in a comparative perspective. *Studia Polsko-Ukraińskie*, 8, 157-164.
- [14] Vorona, P.V. (2020). Confirmation of the mentality of freedom of the Ukrainian people in the Constitution of Pylyp Orlyk. *Economy and State. Series: Public Administration*, 1(1), 4-8. doi: 10.46922/2306-6806-2020-1-1(13)-4-8.
- [15] Sytnyk, O., & Sereda, Yu. (2019). Prerequisites for the promulgation of the constitutional draft of 1710. *Problems of Humanities. History*, 1(43), 35-46. doi: 10.24919/2312-2595.1/43.184260.
- [16] Komaruk, O.V. (2022). Historical and cultural significance of the Constitution of Pylyp Orlyk. In *Reforming the legal system in the context of European integration processes: Materials of the VI International Scientific and Practical Conference* (pp. 40-44). Sumy: Sumy State University,
- [17] Taranenko, M.G., & Taranenko, M.M. (2021). The Constitution of Pylyp Orlyk of 1710 as the first source of the development of constitutionalism in Ukraine. *Subcarpathian Law Herald*, 2, 23-30. doi: 10.32837/pyuv.v0i2.867.
- [18] Shupyk, N.S. (2020). Anti-corruption Constitution of Pylyp Orlyk. In *Realities and prospects of the development of the rule of law in Ukraine and the world: materials of the 3rd International Scientific and Practical Conference* (Part 1) (pp. 47-51). Sumy: Sumy State Pedagogical University named after A.S. Makarenko.

Ліана Спицька

Канд. юридичних наук. Д-р психологічних наук, професор. ORCID: <https://orcid.org/0000-0002-9004-727X>.
Східноукраїнський національний університет імені Володимира Даля, 01042, вул. Іоанна Павла II, 17, м. Київ, Україна

Історико-ретроспективний та правовий аналіз умов, значення та наслідків ухвалення Конституції Пилипа Орлика

Анотація. Історія конституції Пилипа Орлика значною мірою вивчена як в українській, так і в зарубіжній історіографії, проте це питання залишається досить вагомим для повноцінного історичного та правового розбору, тому інтерпретації та розгляд подій тих часів, а особливо правовий аналіз цього фундаментального документа актуальне й досі. Мета статті дослідити Конституцію Пилипа Орлика задля інтерпретації подій 1710 р., простежити процеси та причини, що зумовили їх, проаналізувати історико-правову роль, умови та наслідки ухвалення Конституції та розглянути роль Пилипа Орлика в її становленні. У дослідженні використано різні історичні методи та підходи до аналізу та відбору інформації, що стосується ухвалення Конституції Пилипа Орлика. Також у статті широко застосовано методи аналізу та синтезу, загальні методи наукового пізнання та методи емпіричного дослідження. Історико-порівняльний, ретроспективний та абстрактний методи дали змогу детальніше реконструювати та моделювати процеси, що відбувалися напередодні ухвалення Конституції, а також його наслідки. У дослідженні проаналізовано Конституцію Пилипа Орлика, нові ідеї, які вона містить, та її роль у процесах державного будівництва. Стверджено, що Конституція була створена на базі демократії, що було головним чинником при створенні історичної цілі, якою був розвиток державних реформ. З погляду права здійснено повний аналіз нового державного устрою, на який посилалися положення Конституції. У процесі дослідження вивчено Конституцію Пилипа Орлика, а також низку факторів, які допомогли конструювати та реконструювати умови, цінності й наслідки, що зумовили ухвалення Конституції 1710 року. Визначено, що вказана Конституція зображує покращення відносини у владі, а також може застосовуватись у якості регулятора державницької традиції українського народу. Досліджено, що описані та проаналізовані історико-політичні аспекти є повністю описують мотив прийняття Конституції Пилипа Орлика, зумовленим завершенням цих подій у новому часі та можливістю дослідження цього питання як у вітчизняній історіографії

Ключові слова: історія України, Бендерська конституція, Військо Запорозьке, європейське право, конституціоналізм, право