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**«TREATY ON THE CONSTITUTIONAL RIGHTS AND FREEDOMS
OF THE ZAPOROZHIAN ARMY»
AS THE CONSTITUTIONAL PRINCIPLES OF STATE LIFE
OF THE UKRAINIAN COSSACK STATE OF THE SECOND HALF
OF THE XVII-XVIII CENTURIES**

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Summary

The article examines the legal foundations of the state life of the Ukrainian Cossack state in the second half of the XVII-XVIII centuries through the prism of the «Treaty on the Constitutional Rights and Freedoms of the Zaporozhian Army». The content of the Ukrainian-Muscovite articles is analyzed as an example of early modern constitutionalism in Eastern Europe. The political and legal significance of these documents for the formation of the idea of limited power, representative government and social protection is revealed. The efforts of the Cossack elite to preserve autonomous rights are highlighted. It is proved that Cossack law is a unique form of constitutional tradition in the history of Ukrainian state formation.

To analyze the content and meaning of the «Treaty on the Constitutional Rights and Freedoms of the Zaporozhian Army» as the fundamental constitutional principles of the Ukrainian Cossack state; to determine their influence on the formation of the political and legal system and mechanisms of state administration.

The methodological basis of the scientific article: the historical-legal method for the reconstruction of the legal bases and traditions of the Cossack statehood; a systemic-structural approach to identify the institutional elements of the state system established in Cossack law; source method for analysis of normative acts.

The concept of the «Treaty on the Constitutional Rights and Freedoms of the Zaporozhian Army» not only reflected customary law, but also acquired a normative design that corresponded to the principles of constitutionalism in early modern Europe.

It is shown that despite the formal dependence on the Moscow protectorate, the Ukrainian Cossack elite defended autonomous «rights and freedoms» as the political and legal foundation of their statehood.

The Document formed a unique model of state and legal thinking, which combined democratic principles, military organization and customary law. The study allows us to assert that the Cossack state of the second half of the XVII-XVIII centuries had developed features of early modern constitutionalism. Legal codification of «freedoms» was not only a means of preserving identity, but also a political mechanism for resisting external pressure by the Moscow state.

Key words: rights and freedoms; Constitution of Pylyp Orlyk; Zaporozhian Army; Cossack law; constitutionalism; autonomy; hetman state; early modern era.

1. Introduction

In the context of Ukraine's modern struggle to preserve its independence, democratic order, and European values, turning to its own historical and legal traditions is of particular importance. Studying the «Treaty on the Constitutional Rights and Freedoms of the Zaporozhian Army» allows us to more deeply understand the origins of Ukrainian constitutionalism, legal culture, and democratic governance.

First, in the era of decentralization, self-government reforms, and strengthening of civil society, turning to the Cossack experience of self-organization, representative democracy, and separation of powers helps to form modern legal institutions based on their own historical soil.

Secondly, the contractual articles of the Ukrainian hetmans record the limitations of power, the rights of communities, and the mechanisms of control over officials. This allows us to talk about the continuity of the Ukrainian legal tradition with the best examples of Western constitutionalism, which is an important component of national identity in the era of military aggression and political turbulence.

Thirdly, at a time when Russia is trying to rewrite history and deny the existence of Ukrainian statehood, appealing to documents that record the tradition of autonomous, and later sovereign, legal thinking serves as a historical and legal argument in the struggle for truth, memory, and statehood continuity.

Thus, the study of the rights and freedoms of the Cossacks is not only an academic matter, but also an important tool for modern state-building, the formation of national legal consciousness, and the protection of Ukrainian legal tradition in the face of the challenges of the XXI century.

Modern historiography increasingly recognizes «Treaty on the Constitutional Rights and Freedoms of the Zaporozhian Army» not just as a historical phenomenon, but as a legal and political code of the Ukrainian tradition of self-government, which was formed long before the emergence of modern national law. There is growing interest in codifications of Cossack law, elements of parliamentarism in the Hetmanate, as well as legal protection of the individual in the Cossack environment. The study of the political and legal culture of the Cossack elders in the 17th–18th centuries has attracted the attention of many Ukrainian historians. Among them, it is worth noting the works of such scholars as V. Smolii, V. Stepankov, V. Horobets, T. Chukhlib, V. Matyakh, and V. Kononenko, who examined the political and legal aspects of the functioning of the Cossack foremen, their role in state-building processes, and their impact on social development. O. Ohloblyn and Z. Kohut emphasized that the political and legal acts of the Hetmanate sought to secure the sovereignty of Cossack autonomy and to protect it from the constant pressure of Russian

autocracy, which was characteristic of European political thought during the Enlightenment era.

2. «Treaty on the Constitutional Rights and Freedoms of the Zaporozhian Army» as the basis of the existence of Ukrainian society.

Historical documents attest to the active use by the political elite of the Hetmanate of such notions as «liberties», «ancient liberties», «liberties gained in blood», «rights and liberties» as well as their extended variants: «rights, liberties and privileges», «rights, privileges, advantages, liberties and freedoms», and so forth (Matyah, 2000, p. 420).

This concept, in all its semantic interpretations, acted as a symbol so widespread that it seemed to have acquired an independent status and was actively used not only in relation to the realities of political life, but was also combined with the physical existence of the people and society. Bohdan Khmelnytsky drew an equation between these values in his letter of June 2, 1648, to the Grand Crown Marshal A. Kazanowski: «...so that, in accordance with our ancient rights and privileges, under the present liberties, we might remain alive and in good health» (Smolii V., Stepankov V., 2014, pp. 42–43). In the same manner, Ivan Vyhovsky compared rights and liberties. This is evident from his letter of October 17, 1658, to the Putyvl voivode Prince Dolgorukov: «We testify before Almighty God that we shall strive for our health and for our liberties, so that they may not fall away from us and not come into the hands of the enemies who encroach upon our well-being» (Oghloblin, 2001, p. 249). «The enemy is advancing upon us and our liberties», wrote Colonel K. Andriievych on August 6, 1661, to other colonels concerning the Tatar offensive. The ideal of socio-political life, as can be inferred from Ivan Mazepa's letter to the vizier of the Crimean Khan, was a state in which «the entire Little Russian people» «enjoy their rights, liberties, and freedoms peacefully and without disturbance» (Oghloblin, 2001, p. 301).

Considering the above, it is not surprising that liberties appear in a variety of figurative constructions – epithets, comparisons, metaphors, allegories – in which they are once again presented as a condition of the existence of society and the people: «And just as a man, wishing to cultivate a field for his kin, first puts in labor and clears it of thorns, so too did our ancestors diligently devote their efforts to this, sparing not their own health, but sacrificing even more where it was necessary, casting the thorns out of their fatherland so that it might bear us liberties, which we regard as the most precious thing; for, as we see, to fish, to birds, as well as to beasts and every creature, it is equally dear» – thus, on the one hand figuratively, and on the other within the framework of the natural law concept, perceived liberties the Koshovyi O. Vasiutenko in his letter of May 21, 1667, to I. Briukhovetsky (Oghloblin, 2001, p. 306).

This attribution of independent existence to abstractions, characteristic of Baroque culture, rested on a broad politico-cultural foundation. Above all, by «liberties» was understood the political distinctiveness of the Hetmanate society and its union with the Moscow tsar solely on the basis of a treaty. It was in this way that Demian Mnohorshny, in his letter to L. Baranovych of September 26, 1668, perceived the essence of rights and liberties: «Then I, having consulted with the colonels from the other side of the Dnipro, inform you under which liberties we wish to remain: ...under the ancient liberties of the late, glorious Bohdan Khmelnytsky, Hetman of the Zaporozhian Army, confirmed for the entire Zaporozhian Army by the articles established at Pereiaslav and by privileges...» (Horobets, 2023, p. 26). The Hetman envisioned no other option (and by this he meant «the violence of the voivodes and the restriction of the liberties of the Zaporozhian Army» which he explained as the reason for the Brukhovetsky episode): «And if His Tsarist Majesty should disdain our service, we are ready to die with our liberties...» (Horobets, 2023, p. 27).

Through the prism of liberties, the political courses of the Russian governments toward Ukraine were interpreted and assessed. Thus, P. Doroshenko and L. Buskevych perceived a «violation of liberties» in the fact that Moscow played a double game with the contenders for the hetman's insignia. At first, «they give hope, by the sovereign's favor, to one and to the entire Army, proclaiming him hetman, and thereafter secretly choose another for the hetmancy, and bestow upon him the charter, the mace, and the banner» (Stepankov, 1993, p. 30). The Cossack officers insisted that this could only have occurred as a result of granting «the arbitrariness of the pretenders to seniority» «contrary to their ancient rights and liberties» (Stepankov, 1993, p. 31).

Rights and freedoms were perceived as a symbol of territorial integrity and the inviolability of borders. Thus, when the Muscovite voivodes O. Trubetskoy, V. Sheremetev, and H. Romodanovsky, in Pereiaslav, declared to Yurii Khmelnytsky and his delegation the appointment of tsarist voivodes to Novhorod-Siverskyi, Chernihiv, Starodub, and Pochep, and, more generally, the ancient belonging of those towns «to the Muscovite state and not to Little Russia», the Ukrainian participants in the negotiations immediately pointed out that in this way their rights and liberties would be violated, which was impossible, since «the great sovereign had granted to their entire Zaporozhian Army... their former rights and liberties» (Stepankov, 2006, p. 252).

Rights and freedoms were also regarded as a symbol of non-interference in the internal state affairs of the Hetmanate. Defending «our military affairs» from the encroachments of the Pereiaslav voivode F. Volkonsky, Ivan Samoilovych, in a petition to the tsar of 12 October 1676, emphasized that the voivode was acting «against our military rights and liberties» (Smolii, Stepankov,

1994, p. 51). In the same role, rights and freedoms appear in the petition of Pavlo Polubotok together with the general officers to Peter I on 30 April 1723: «that His Imperial Majesty might graciously order in the future, concerning such and similar matters related to the Little Russian government, to send separate sovereign decrees directly to the Little Russian rulers, and not from the Little Russian Collegium, since at present, all affairs and orders in Little Russia, after the death of the late Hetman Skoropadsky, have been entrusted by His Majesty's own high decree to them to administer in accordance with the rights of the Little Russian people» (Oghloblin, 2001, p. 413).

The recognition of monarchical protection, as well as the Ukrainian side's obligation to fulfill the duties of a subject, was conditioned upon the guarantee of rights and freedoms. This was precisely how a Muscovite envoy understood the position of Petro Doroshenko regarding allegiance to the tsar, reporting to Moscow on 15 December 1667: «The hetman does not seek boyar rank or anything else from the great sovereign, but desires only His sovereign's grace – that the Cossack freedoms and rights may remain free» (Oghloblin, 2001, p. 425).

We encounter numerous assurances expressed by Ukrainian officers to Russian officials that guaranteeing the liberties of the Zaporozhian Army on the tsar's part would secure their faithful service to him «And if the Zaporozhian Army is to have its liberties, it will never be subject to betrayal and will remain steadfast and unwavering, as long as the Army may have its liberty» – thus concluded Pavlo Zabala and his companions in their petitionary articles to the tsar of 1 January 1669, revealing their understanding of relations with representatives of Russian society (Stepankov, 2006, p. 250).

Rights and freedoms were also perceived as a symbol of the personal dignity of the Ukrainian officers. This is evident from Ivan Samoilovych's letter of complaint to the tsar dated 12 October 1676 against the Pereiaslav voivode F. Volkonsky, ending with the demand «that he should no longer, contrary to our military rights and freedoms, presume to dishonor the Pereiaslav colonel and the local company with indecent words» (Kogut, 1994, p. 127).

Rights and freedoms, in the perception of the Cossack officers, also served as a symbol of the distinctiveness of the Hetmanate's judicial system. This is evident from the case of Colonel P. Roslavets of Starodub. The tsar's decision to send him from Moscow to Baturyn in order to have his actions examined by the General Military Court was interpreted by I. Samoylovych as the monarch's desire «to preserve us, the Zaporizhian Army and the Little Russian people, steadfastly in our military rights and liberties» (Kogut, 1994, p. 128). A similar orientation can be traced in the petition of D. Mnohorshny, submitted to the tsar on January 1, 1669. In it, among other things, the officers pointed

out the inadmissibility of interference in judicial affairs, as had been the practice of the voivodes under Briukhovetsky: «...They encroached upon Cossack rights and liberties and judged the Cossacks, which had never occurred in the Zaporizhian Army» (Kogut, 1994, p. 130).

The concept of «rights and freedoms» also extended to the perception of the economic life of the Hetmanate. The realization of this concept in this sphere, as evidenced by the universal of I. Mazepa of September 11, 1687, addressed to the Kyiv magistracy, was associated with the creation of favorable socio-economic conditions for the functioning of a given estate, formulated there as the possibility «to acquire prosperity». Any, even seemingly minor restriction or abuse in this sphere – for example, the introduction of the «bee tithe» not to mention taxes on estates, mills, or taverns – was regarded as «contrary to freedoms». A violation of «military freedoms», as I. Mazepa informed the tsar in January 1691, was likewise perceived in the Hetmanate in the arbitrariness of russian couriers, who «inflicted insults and imposed burdens» by seizing horses and carts and punishing those who sought to defend their property (Oghloblin, 2001, pp. 235, 241).

The Ukrainian officers associated rights and freedoms, as well as their violation, with the entire set of issues that became the cause of misunderstandings, military clashes, and wars between Ukraine and Russia in the period from 1657 to 1668. In the articles submitted by the General Quartermaster P. Zabyla together with his associates to the Russian envoy Ya. Khitrovo on January 1, 1669 – specifically in Article 3 – it is indicated that the reason for the disregard of freedoms lay with the hetmans, who cared only «for their own honor and the increase of their estates». Yet already in the following Article 4 it is explicitly specified that the cause of the latest war with Briukhovetsky was the indulgence shown by the voivodes to the Muscovite troops, who engaged in theft, murder, torture, and arson, while remaining unpunished, since the voivodes with their «sacred authority» always «delayed and failed to act» (Horobets, 2001, p. 140). «For this reason, and for no other, could this present war begin and grow, only because of that...». It is worth noting that in this article the officers clearly distinguished between a «war for freedoms» and the war that the «traitor Briukhovetsky» had «begun at the same time». Moreover, it was specifically emphasized: «...And besides, they were not accustomed to our nature and customs» (Okinshevich, 1926, p. 72). Thus, rights and freedoms were quite openly linked to national peculiarities as they were perceived at that time.

Within the framework of the concept of «rights and freedoms» were also considered such components of national life as religious affiliation and faith. Let us recall here, for example, only the first article of Pylyp Orlyk's Constitution: «...The Hetman Bohdan Khmelnytsky, of

glorious memory, together with the Zaporizhian Army, undertook and righteously waged war against the Polish Commonwealth for nothing else but military rights and freedoms, and above all, for the Holy Orthodox faith...» (Smolii, Stepankov, 1997, p. 177).

Through the notion of «rights and freedoms», individual persons and their private economic life were likewise protected. Thus, on April 29, 1654, I. Vyhovsky, in a letter to V. Buturlin regarding a petition to the tsar for the confirmation of Kyiv's rights, referred to the establishment by a tsarist charter of «all freedoms, according to ancient custom, for each to live in his own settlement» (Smolii, Stepankov, 2014, p. 59]. On January 12, 1676, P. Yanenko and S. Tykhy, during negotiations over the conditions of P. Doroshenko's submission to the tsar, considered it expedient and necessary to insist that «the great sovereign show favor to Doroshenko, to all his relatives, and to all the community with him... allowing them to enjoy their property and freedoms without violation» (Smolii, Stepankov, 1997, p. 103).

The active use of this symbol by the Ukrainian side led to its incorporation into the diplomatic lexicon and conceptual apparatus of the Russian side as well. This is evidenced, for example, in the «Detailed Extract of the Articles Sent for Review to the Little Russian Prikaz by Hetman Briukhovetsky». When Muscovite officials encountered the petition of the Kyiv clergy and a colonel «to reestablish Latin schools in Kyiv», the resolution – prepared, of course, by those most competent in Ukrainian affairs – employed precisely the term «freedoms»: «To tell the Hetman: if this will not be offensive to their freedoms, such schools should not be established for them; but if it will be offensive to their freedoms, then the great sovereign, showing favor, has ordered schools to be established in Kyiv and the Kyiv inhabitants to be educated therein» (Strukevich, 1997, p. 136].

In the broadest sense, the concept of «rights and freedoms» continued to be used throughout the second half of the eighteenth century, up to the very abolition of the institution of the hetmancy and the elections to Catherine II's Legislative Commission. This is convincingly demonstrated by the «Petition of the Little Russian Nobility...» of 1763. Already in the preamble and the first article of the document «On the Little Russian Freedoms in General», the issue of «rights and freedoms», alongside the issue of «contractual articles», was posed as a matter of two interrelated components of the mechanism ensuring both the normal functioning of society as a whole and, in the broadest sense of the term, the safe life of each individual citizen (Chukhlib, 2009, pp. 108–109).

Thus, the preamble emphasizes that «the granted rights, customs, privileges, freedoms, and even the contractual articles have become the protection of the weak Little Russian people». The very first article further underscores that the purpose of all former rights

and freedoms – «established by the Polish kings and the Grand Dukes of Lithuania, and by the ancestors of the All-Russian sovereigns, and especially by His Majesty Tsar and Grand Duke Alexei Mikhailovich, and confirmed by Catherine II» – was to create a situation for Ukraine-Hetmanate, and within it as well, in which «both collectively and individually, everyone could enjoy their rights, customs, freedoms, and advantages, employ them in all circumstances, and thereby protect themselves» (Chukhlib, 2009, p.112).

Under the slogan of securing rights and freedoms, the document also laid out all the specific articles, regardless of which spheres of social life they concerned. Finally, the document concluded with an appeal to the Empress, in which all the societal issues and needs of the Hetmanate were reduced to the theme of realizing the freedoms of a «free people, yet deprived of the opportunity to make use of their freedoms» (Chukhlib, 2009, p. 114).

We consider the examples and reflections cited above sufficient to agree with Zenon Kohut's assertion: «Little Russian rights and freedoms constituted the political autonomy of the Hetmanate, its institutions of self-government, social order, and administrative practice» (Kogut, 1994, p. 127).

3. «Rights and Freedoms» as the Foundations of State Sovereignty.

Alongside the concept of «rights and freedoms», in the context of the senior officers (starshyna) fulfilling their social functions as a political elite, synonymous notions such as «integrity», «peace», and «sacred peace» were often employed, indicating the ultimate goal of their activity. An example can be found in P. Doroshenko's letter to the Poltava regiment of 1665: «...We, having zealous care for the integrity of the Zaporozhian Army, direct all our efforts solely toward establishing without disruption and firmly securing peace in our lamented fatherland and strengthening military freedoms» (Serdiuk, 2020, p. 23).

As we see, here the concept of «integrity» is used both as a synonym and as a broader notion in relation to «peace» and «freedoms». Doroshenko used it similarly on November 30, 1669, in his letter to D. Mnohohrishnyi. There he employed the term «integrity» to signify the process of territorial unification of both banks of the Dnipro, viewing it as the guarantee of realizing rights and freedoms: «...On which foundation the freedoms, rights, and liberties both of the Zaporozhian Army and of our Mother the Church are to be laid and secured» (Oghloblin, 2001, p. 54). Doroshenko also used the notion of «integrity» to denote the ultimate goal of his socio-political activity toward the end of his hetmancy, when in public statements he attempted to summarize his political career. In his letter to I. Sirko in March 1676, he wrote in particular: «Yet wherever good may occur, even if only in Starodub, it is good, as long as

the integrity of Ukraine is preserved». A few days later, when nearly everyone had abandoned him, the Right-Bank Hetman in a letter to the colonels declared that from his youth he had followed the principle: «Only that military honor and the integrity of the common good should not suffer violation» (Smoliy, Stepankov, 1997, p. 269).

I. Samoilovych, in his letter to I. Sirko of December 19, 1675, defined the aim of his hetmancy and of the contractual articles established upon his election with the formula: «Fearing for the integrity of military freedoms» (Chukhlib, 2009, p. 321).

P. Ivanenko (Petryk), on April 11, 1692, when concluding an agreement and taking an oath to the Crimean nobility, expressed the ultimate purpose of his activity as follows: «...Striving, with God's almighty help, to preserve the integrity of Ukraine» (Smoliy, Stepankov, 1997, p. 129).

Integrity was also regarded as the very meaning of life and service for a particular Cossack officer. This can be seen in the universal of I. Skoropadsky of November 9, 1712, addressed to the General Ensign I. Sulima concerning the villages of Stare and Kalne: «In respect of the faithful and steadfast service, labors, and merits, rendered since his youth in the Zaporizhian Army of His Tsarist Majesty, untiringly devoted to the integrity of the Little Russian fatherland» (Kononenko, 2017, p. 238).

«Integrity» was likewise conceived as an object of struggle against external enemies, which allows us to view it as a concept of general significance. Such an understanding of the term is encountered in Ya. Somko, in his letter to the tsar of June 24, 1662: «...Fighting against the enemies of the tsar and for the integrity of Little Russia»; (Smoliy, Stepankov, 1997, p. 279). I. Samoylovych, who, in greeting the serdiuks on March 2, 1676, declared: «...You have preserved integrity against the enemy's invasion...» (Strukevich, 1997, p. 137); and again I. Samoylovych, who in his letter to the tsar of December 9, 1677, regarding the defense of Chyhyryn, interpreted the notion of «integrity» in the context of territorial wholeness and protection from hostile attack: «...That the integrity of this region near Chyhyryn might be preserved from the enemy's assault» (Strukevich, 1997, p. 138).

At the same time, we have sufficient examples in which the concept of «integrity» was used in narrower senses, or its semantic meaning was reduced to describing the condition of an individual person. Thus, on May 7, 1669, P. Doroshenko proposed to D. Mnohohrishnyi to correspond «concerning the integrity of the land and the people» (Stepankov, 2006, p. 251). Later, at the end of 1676, when Prince Volkonsky demanded that the Right-Bank ex-hetman P. Doroshenko be sent to Moscow, I. Samoylovych replied that he and the General Staff had promised Doroshenko «to preserve him in integrity» that is, not to trouble him in his capacity as a

private person, which he had become (Stepankov, 2006, p. 252).

In a similar context, if we are to believe the denunciation of V. Kochubei, I. Mazepa used this term in reference to his personal situation: «I live never having full confidence in my own integrity, always in danger, expecting the axe like an ox awaits the slaughterer's blow!» (Smolii, Stepankov, 1994, p. 121). From the denunciation of the General Judge it is also evident that the hetman employed the term together with freedoms: «And we would wish to secure our further integrity and military freedom» (Smolii, Stepankov, 1994, p. 54).

The notion of «peace» was also employed quite actively. For instance, in his letter to I. Sirko of April 5, 1677, Yu. Khmelnytsky used «integrity» in the same context as «peace»: «Likewise, I, following this path and earnestly caring for the holy peace, for the integrity of our beloved motherland» (Oghloblin, 2001, p. 306). This concept, too, was actively invoked to designate the ultimate aim of the activity of a leading political actor, regarded as one of his highest merits before society. This is evident, for example, in Yu. Khmelnytsky's exhortatory letter, addressed in 1677 to the inhabitants of Kaniv: «Our father of glorious memory... together with your grace, waged war for nothing else but privileges and freedoms, so that your grace might live in peace, which your grace experienced during our rule» (Oghloblin, 2001, p. 306).

In his universal of December 8, 1708, I. Skoropadsky employed the notion of «integrity» as a contextual antonym to «devastation». And in his universal of February 16, 1709, he placed it alongside «peace», assuring the officials of Starodub that he, as commander, desired that under his rule «not only the city of Starodub, but also our entire Little Russian fatherland should remain in peace, inviolate integrity, and complete security...» (Smolii, Stepankov, 2014, pp. 42–43).

«Peace», as a political and cultural value, carried such weight that disregard for it was considered one of the gravest accusations against a representative of authority. It was precisely by emphasizing Doroshenko's alleged unwillingness to ensure socio-political stability and security in the land that I. Samoylovych, in his universal of July 31, 1676, sought to discredit his opponent in the eyes of the officer elite: «...He strove for nothing else but always to harm innocent people in their peaceful dwelling» (Stepankov, 1993, p. 29).

As can be seen from the above examples, there existed no clearly defined hierarchy of subordination among the concepts of «integrity», «peace», and «freedom». Depending on the specific context, their semantic coordination and interrelation assumed diverse shades and connections. All of this ultimately points to the use of these notions by the officers as contextual synonyms and as symbols of the self-sufficient functioning of Ukrainian society in the full variety of its manifestations.

Ultimately, if we accept the legitimate assumption that each historical epoch possesses characteristic «concepts which may serve as a key to understanding its culture», then for the period of the Ukrainian Cossack state of the late seventeenth to eighteenth centuries, such a key concept was embodied in the notion of «rights and freedoms».

4. Conclusions.

In general, while agreeing with Z. Kohut's interpretation of the essence of the «Little Russian rights and freedoms», it is important to emphasize that the concept of «rights and freedoms» encompassed the entire spectrum of social life and the functioning of Ukrainian society as a whole, including its political dimensions. These rights and liberties reflected both the actual status of political actors and the envisioned ideal state of maximum political subjectivity. Thus, they functioned as a symbolic construct that consistently oriented society toward the broadest possible expansion of political agency and distinctiveness.

Accordingly, the rights and liberties of the Zaporizhian Army can be regarded as a corporate code of rights and obligations of the Ukrainian Cossack state in the late seventeenth to eighteenth centuries – one that established the foundations of self-regulation and political autonomy. In this sense, the rights and liberties of the Hetmanate constituted an essential component in the development of Ukrainian statehood in the early modern period. Their study allows for a more comprehensive and profound understanding of Ukraine's early modern history.

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«ПРАВА І ВОЛЬНОСТІ ВІЙСЬКА ЗАПОРОЗЬКОГО» ЯК КОНСТИТУЦІЙНІ ЗАСАДИ ДЕРЖАВНОГО ЖИТТЯ УКРАЇНСЬКОЇ КОЗАЦЬКОЇ ДЕРЖАВИ ДРУГОЇ ПОЛОВИНИ XVII–XVIII СТ.

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Анотація

У статті досліджено правові основи державного життя Української козацької держави у другій половині XVII–XVIII ст. через призму «прав і вольностей» Війська Запорозького. Проаналізовано зміст українсько-московських статей як приклад ранньомодерного конституціоналізму в Східній Європі. Розкрито політико-правове значення цих документів для формування ідеї обмеженої влади, представницького управління та соціального захисту. Висвітлено зусилля козацької еліти щодо збереження автономних прав у контексті зовнішнього тиску Московської держави. Доведено, що козацьке право становить самобутню форму конституційної традиції в історії українського державотворення.

Проаналізувати зміст і значення «прав і вольностей» Війська Запорозького як засадничих конституційних принципів Української козацької держави; визначити їхній вплив на формування політико-правової системи та механізмів державного управління у другій половині XVII–XVIII ст.

Методологічною основою наукової статті є комплекс загальних та спеціально-наукових методів пізнання. Авторами були використані: історико-правовий метод для реконструкції правових засад і традицій козацької державності; системно-структурний підхід для виявлення інституційних елементів державного устрою, закріплених у козацькому праві; джерелознавчий метод для аналізу нормативних актів.

Уточнено, що поняття «права і вольності» козацтва не лише відображало звичаєве право, а й набувало нормативного оформлення, яке відповідало принципам конституціоналізму ранньомодерної Європи.

Показано, що попри формальну залежність від московського протекторату, українська козацька еліта послідовно відстоювала автономні «права і вольності» як політико-правовий фундамент своєї державності. «Права і вольності» Війська Запорозького сформували унікальну модель державно-правового мислення, яка поєднувала демократичні принципи, військову організацію та звичаєве право. Дослідження дозволяє стверджувати, що козацька держава другої половини XVII–XVIII ст. мала сформовані риси ранньомодерного конституціоналізму, що випереджали багато європейських аналогів. Збереження і правове кодифікування «вольностей» було не лише засобом збереження самобутності, а й політичним механізмом протистояння зовнішньому тиску та централізації з боку Московської держави.

Ключові слова: права і вольності; Конституція Пилипа Орлика; Військо Запорозьке; козацьке право; конституціоналізм; автономія; гетьманська держава; ранньомодерна епоха.