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**THE INFLUENCE OF THE IDEOLOGY OF THE ENLIGHTENMENT
ON THE POLITICAL AND LEGAL CULTURE OF THE NATIONAL ELITE
OF THE UKRAINIAN COSSACK STATE
(SECOND HALF OF THE XVII-XVIII-TH CENTURY)
AND ITS SIGNIFICANCE FOR UKRAINIAN STATE-BUILDING PROCESSES**

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Stengach N.O., Danilova A.V. The influence of the ideology of the Enlightenment on the political and legal culture of the national elite of the Ukrainian Cossack state (second half of the XVII-XVIII-th century) and its significance for Ukrainian state-building processes.

The period known as the Enlightenment, which spanned the seventeenth and eighteenth centuries, had a significant impact on the political culture of the Cossack officers (starshyna) in Ukraine. This era was characterised by the dissemination of ideas of rationalism, secularisation, and social progress, which found expression in the worldview and activities of the Ukrainian elite.

The authors observe that starshyna, as an educated stratum of society, actively perceived new philosophical and political trends in Europe. The ideas of rationalism and secularisation penetrated Ukrainian society, contributing to the formation of a new approach to governance and the state system. In particular, the role of religion in public life was redefined, and attention to secular aspects of governance increased.

The authors also emphasise that in the eighteenth century, Ukraine witnessed the development of education and science, which was an important factor in the spread of Enlightenment ideas. The Hetmanate supported educational institutions that taught modern sciences and philosophy. This contributed to the formation of a new generation of starshyna who were aware of European achievements and sought to implement them.

The influence of Enlightenment ideas on the starshyna during the late 17th and 18th centuries is evident in their contemplation of state system reform. This period saw the initiation of projects designed to enhance governance system efficiency and the rights and liberties of citizens. These initiatives signalled the Ukrainian elite's aspiration to modernise the state per European standards. The present article aims to analyse the impact of the European legal traditions of the Enlightenment on the processes of formation of the political and legal culture of starshyna in the second half of the seventeenth and eighteenth centuries.

The result of the study indicates that the codification processes in the Hetmanate were influenced by two main factors. Firstly, there were internal needs to streamline the legal system, and secondly, external factors were in play, in particular, European legal models. The authors emphasise that the main legal documents of the Hetmanate of the eighteenth century, such as the Constitution of P. Orlyk of 1710 and the Rights of the Little Russian People of 1743, reflected the desire of the Ukrainian elite to adapt European legal norms to local conditions.

The conclusions drawn by the researcher assert that the codification of law in the Hetmanate constituted a component of a more extensive process of Europeanisation of legal systems in Eastern Europe, wherein local legal traditions were amalgamated with European norms and principles, and European ideas of the Enlightenment exerted a profound influence on the formation and development of the political and legal culture of the Hetmanate in the eighteenth century.

Key words: political, legal and socio-cultural processes, Enlightenment, rationalism, secularization, Hetmanate, state-building processes, codification, constitutionalism.

Стеньгач Н.О., Данилова А.В. Вплив ідеології Просвітництва на політико-правову культуру національної еліти Української козацької держави (друга половина XVII-XVIII ст.) та її значення для українських державотворчих процесів.

Епоха Просвітництва, яка охоплювала XVII-XVIII століття, суттєво вплинула на політичну культуру козацької старшини в Україні. Цей період характеризувався поширенням ідей раціоналізму, секуляризації та суспільного прогресу, що знайшло відображення у світогляді та діяльності української еліти.

Автори статті зазначають, що козацька старшина, будучи освіченою верствою суспільства, активно сприймала нові філософські та політичні течії Європи. Ідеї раціоналізму та секуляризації проникали в українське суспільство, сприяючи формуванню нового підходу до управління та державного устрою. Зокрема, відбувалося переосмислення ролі релігії в суспільному житті та зростала увага до світських аспектів управління.

Також автори підкреслюють, що у XVIII столітті в Україні спостерігалось піднесення розвитку освіти та науки, що було важливим чинником у поширенні просвітницьких ідей. Гетьманська держава підтримувала освітні заклади, де викладалися сучасні на той час науки та філософія. Це сприяло формуванню нового покоління козацької старшини, яка була обізнана з європейськими досягненнями та прагнула впроваджувати їх у життя.

Під впливом просвітницьких ідей козацька старшина почала замислюватися над реформуванням державного устрою. З'являлися проекти, спрямовані на вдосконалення системи управління, підвищення ефективності адміністративного апарату та забезпечення прав і свобод громадян. Ці ініціативи свідчили про прагнення української еліти до модернізації держави відповідно до європейських стандартів. Автори ставлять за мету проаналізувати вплив європейських правових традицій Просвітництва на процеси формування політико-правової культури козацької старшини другої половини XVII-XVIII століття.

Автори статті зауважують, що кодифікаційні процеси в Гетьманщині відбувалися під впливом як внутрішніх потреб упорядкування правової системи, так і зовнішніх чинників, зокрема європейських правових моделей. Вони підкреслюють, що основні правові документи Гетьманщини XVIII століття, такі, як Конституція П. Орлика 1710 року та «Права, за якими судиться малоросійський народ» 1743 року, відображали прагнення української еліти адаптувати європейські правові норми до місцевих умов.

Дослідники акцентують увагу на тому, що кодифікація права в Гетьманщині була частиною ширшого процесу європеїзації правових систем у Східній Європі, де місцеві правові традиції інтегрувалися з європейськими нормами та принципами. А європейські ідеї епохи Просвітництва мали великий вплив на формування та розвиток політичної та правової культури Гетьманщини у XVIII столітті.

Ключові слова: політичні, правові та соціокультурні процеси, Просвітництво, раціоналізм, секуляризація, Гетьманщина, державотворчі процеси, кодифікація, конституціоналізм.

Introduction

The Enlightenment philosophies of the rule of law, separation of powers, human rights, and national identity proved fundamental to the development of democratic societies in Europe during the eighteenth century. The Cossack elders of this period were not indifferent to these processes, and their desire to modernise the state system was in line with European trends.

In the contemporary context of Ukraine's pursuit of European integration, the examination of the Enlightenment's impact on the political and legal culture of the starshyna provides a valuable lens to comprehend the traditions of Ukrainian state-building. This perspective challenges the prevailing notion of Ukraine's alleged «eternal dependence» on empires, highlighting the aspiration of the Ukrainian political elite during the second half of the seventeenth and eighteenth centuries to establish a state based on European models.

The study of the Enlightenment's influence on the political and legal culture of the starshyna contributes to a rethinking of Ukrainian history, moving beyond the paradigm of the «outskirts of the empire» to a more central and integral position within European civilisation. This repositioning helps to shape national consciousness, strengthen historical memory, and emphasise Ukraine's role in pan-European political and legal processes.

Analysis of scientific publications

The study of the political and legal culture of the starshyna of the seventeenth and eighteenth centuries has attracted the attention of many Ukrainian historians. Significant contributions have

been made by scholars such as V. Smolii, V. Stepankov, V. Horobets, V. Matiakh, L. Nagorna, and N. Yakovenko, who have examined the political and legal aspects of the functioning of the starshyna, their role in state-building processes, and their influence on social development.

In addition, O. Ogloblyn and Z. Kohut emphasise that Orlyk's Constitution reflected the ideas of separation of powers and limitation of sole rule, which were characteristic of European political thought of the Enlightenment (Ogloblyn & Kohut, 2019). Furthermore, O. Shevchenko, a Ukrainian legal historian, analysed the influence of European law on the codification of the Hetmanate's legal system (Shevchenko, 2021). In particular, he examines the processes of codification of law in Ukraine in the eighteenth century and the influence of European legal traditions on them. T. Ostapenko and Y. Dmytryshyn emphasise that the «Rights by which the Little Russian people are judged» of 1743 is an important stage in the systematisation of the law of the eighteenth-century Ukraine-Hetmanate. In addition, O. Strukevych's research investigates the endeavours of the officers to implement novel governance approaches that aligned with the European standards of the era.

These researchers make a significant contribution to the study of the political and legal culture of the starshyna, revealing its impact on the development of Ukrainian statehood and society in the seventeenth and eighteenth centuries.

The aim of the work

The authors' objective is to examine the impact of the Enlightenment on the political and legal culture of eighteenth-century starshyna. This study is significant not only from the perspective of historical science but also for the comprehension of contemporary political, legal and sociocultural processes in Ukraine. It enables us to comprehend the formation of the Ukrainian legal tradition, the adoption and adaptation of European ideas in the Hetmanate, and the relevance of these lessons for the present.

The article's methodology

is grounded in general scientific principles and methods of cognition, to provide an objective and comprehensive coverage of facts, events, and phenomena. It is based on the principles of historicism and objectivism in scientific research, which prioritize factual material and avoid subjective evaluations. The topic was approached using general scientific and specific historical research methods. Sources and literature were analysed and synthesized, research was structured using periodization, historical material was presented using a problem-historical method, and similar indicators and facts were compared using a comparative-historical method in the same historical conditions.

Review and discussion

The political and legal culture of Ukraine in the 17th and 18th centuries is regarded by researchers of civilisational features of societies as a distinctive sociocultural phenomenon, the defining characteristics of which were its openness to various cultural and civilisational influences and its simultaneous integration into the processes occurring in both Orthodox and Western civilisations [1, p. 420].

In terms of political and cultural orientations, the Ukrainian political elite has never been confined to its domestic political life, nor has there ever been a reaction of rejection of Western political experience. The main factor that contributed to this in the times of the Ukrainian Cossack state was the desire of the Ukrainian, as well as all Eastern European, elites to introduce values, norms and patterns of behaviour cultivated by the socio-political elite of Poland [2, p. 42-43].

Another salient factor was the aspiration of the Ukrainian political establishment to identify reliable guarantors of its state functioning in Europe, a quest that was evidenced by the endeavours of representatives of the Ukrainian elite from B. Khmelnytsky to V. Kapnist inclusive. [One of the indicative manifestations of the openness of the Ukrainian political culture, in our opinion, is P. Orlyk's vision of Ukraine's place in the system of European political balance. In particular, he convinced the European rulers that restoring historical justice and granting Ukraine independence would contribute to the embodiment of European values: «Their own interest, I say, obliges them not to sanction and not to allow the dangerous consequences for themselves to arise from the usurpation that some stronger state might commit against a weaker one under the pretext of obtaining benefits» [3, p. 301].

P. Orlyk furthermore insisted that, relying on European international law at the time based on the Treaties of Westphalia and Olive, the «restitution of Ukraine» would not only not disturb the system of European balance, but would allow «to limit the state that may soon strive to overthrow European freedom» [3, p. 306].

The political culture of the Ukrainian elite is characterised by its openness, as evidenced by the tendency of Ukrainian officers to appeal to the global community or to draw upon global experience in the event of extraordinary events in any domain of socio-political life. This phenomenon is exemplified by I. Vyhovsky's appeal to European governments regarding Moscow's policy towards Ukraine [4, p. 26] and by Y. Khmelnytsky's emphasis on 23 December 1659 on the international importance of military assistance provided by the protector: «...What is his virtue? The royal majesty and mercy to

the Zaporizhia Army will be seen by the surrounding Christian states...» [5, p. 30]. Finally, the reaction to the escape from P. Doroshenko's residence of the tsar's envoy F. Bobrovych is also worthy of note: «...There has never been anything like what your grace has done among other people and in other countries...» [6, p. 133]; out of P. Doroshenko's fear of tarnishing the name of the Ukrainian state in the international arena by frequent changes of patronage: «...I don't want to smear myself and the army with inconstancy in front of the whole world any more...» [7, p. 121]; from I. Mazepa's insistence on the participation of Kyiv monasteries' subjects in the city's defence actions, emphasises that defence matters are common to the inhabitants of each area «throughout the universe» [3, p. 413]; from the Bender Constitution's justification of the need to establish a General Council in Ukraine as a representative body, following the example of other countries; from the hetmans' frequent emphasis on the glory of the Zaporizhia Army as a glory to the whole world [3, p. 425]; from S. Divovich's arguments in 1762 against the reluctance of the Russians to recognise the equality of rank of officers with Russian ranks: «Go round all the states in your mind...» [6, p. 130]; P. Simonovskiy's use of references in his «Brief Description of the Cossack Little Russian People» collected «from various foreign histories of German Bischenge, Latin Bezoldi, and French Chevalier» [8, p. 211]. The examples go on and on.

It is evident that the representatives of the Hetmanate elite demonstrated a discernible openness by acknowledging and, when feasible, actively employing the geopolitical or, more precisely, regional political factor concerning their own state. A notable nuance in this context pertains to the recognition by the Ukrainian elite of the imperative for cultural, religious, and ethnic diversity to be aligned with the interests of society. This perspective is exemplified by the alliance between B. Khmelnytsky and the Crimean Khan, as referenced in [8, p. 27].

The thesis of the necessity and mutual benefit of taking into account the common regional and political interests of peoples of different cultures was conveyed to the minds of Moscow ambassadors in late 1667 and early 1668. Doroshenko's words, as recorded by P. are as follows: «I would like to wish his royal majesty to remain in brotherhood with the Crimean khan, although he is a Pagan, then not only would the Moscow cities remain calm, but the local lands and the whole of Ukraine would live in peace...» [8, p. 235, 241] P. Orlyk's Constitution also signalled the regional and political benefits of cooperation with Crimea [3, p. 396].

Consequently, the political elite of the Ukrainian Hetmanate espoused specific orientations towards the legal means of regulating political relations, namely the emancipation of political life from arbitrariness, the assurance of law and order, and the establishment of constitutional norms. The starshyna regarded law and the court as the primary regulators of socio-political relations. The foremen demanded the application of legal norms to both themselves and to representatives of the subordinate strata, as well as to representatives of the political elite of the country of the monarch-protector who were in Ukraine. Starshyna had clear orientations, according to which they demanded immunity from arrest, imprisonment, and the inadmissibility of deprivation of property without a court order [9, p. 137].

These political and legal orientations were also applicable to representatives of the elite, who engaged in a political struggle with the highest authorities in the Hetmanate. In its final form, the orientation to judicial proceedings included the requirement to present a reasoned accusation in court, and to pass a verdict as a result of the collective and impartial work of judges; to provide the accused with opportunities for acquittal and thus guarantee the principle of adversarialism. Consequently, the Ukrainian political elite adopted a stance of resistance against Russian legal norms, investigative methods and judicial proceedings. This rejection was further solidified by the establishment of a codification commission by the starshyna, which resulted in the compilation of Hetmanate laws entitled «The Rights of the Little Russian People» (1743). This collection mirrored not only the traditions of Cossack law but also the influence of Enlightenment ideas that were spreading throughout Europe during the eighteenth century. Despite the absence of official approval from the Russian government, this code gained significant traction in the law enforcement practices of the Hetmanate, reflecting the aspirations of local officials to systematise legal frameworks, safeguard personal rights, and modernise public administration [10, p. 440].

One of the key ideas of the Enlightenment was the concept of the rule of law over any personal or political interests. The «Rights...» established a clear system of norms that regulated all spheres of life in the Hetmanate: property rights, social relations, legal proceedings, and military affairs [10, p. 441].

Thus, the law had to be the only measure of justice, which is consistent with the ideas of French thinkers, in particular Charles Montesquieu. In particular, the code enshrined the principle of equality of all citizens before the law, which echoes the Enlightenment idea of social justice. At the same time, the document recognised class differences, which corresponded to the realities of the eighteenth century, but protected the rights of not only starshyna but also burghers and ordinary Cossacks [2, p. 77]. This

can be compared to European trends of limiting feudal arbitrariness by codifying laws. The document provided a detailed mechanism for protecting private property, which was an important part of the Enlightenment legal system. Property was defined as inviolable, and any seizure of it could take place only by court order [2, p. 79].

This approach is reminiscent of John Locke's concept of «natural rights», where property was one of the key elements of freedom.

The «Rights by which the Little Russian people are judged» also provided certain guarantees of impartial justice, including the establishment of a clearly defined judicial framework, which was in line with the idea of legal predictability. Independence of the judiciary from the Hetman's administration was also a key component, with the court guided by the rules of codified law rather than by political decisions. The introduction of written proceedings instead of oral ones was a significant step towards greater transparency and the justification of verdicts [10, p. 443]. These norms correlated with European ideas of the rule of law, which were being actively developed in the legal systems of France and England at the time.

A significant manifestation of the Enlightenment ideas in the Code was the limitation of Hetman's sole power. The document explicitly stated that the Hetman was not permitted to pass laws independently, but was required to rely on legal norms and decisions of the Rada. This echoes the principles advocated by Charles Montesquieu, who argued for the distribution of state power among different bodies to avoid despotism.

The legal principles that guided the Little Russian people in their judicial proceedings were influenced by various European legal sources, most notably the Magdeburg Law, which was widely implemented in Ukrainian cities, and the Lithuanian Statute of 1588, which incorporated elements of judicial independence and the safeguarding of traditional rights [11, p. 103].

However, the key feature was the desire to preserve an autonomous legal system, which also corresponded to the Enlightenment ideals of self-government and the rule of law.

Given the ways, methods, forms of organisation of political life, and the political and cultural orientations that emerged from the reflection of the Hetmanate's political system, there are sufficient grounds to argue that Ukraine in the second half of the seventeenth and eighteenth centuries belonged to the group of civilised European countries. This can be demonstrated relatively easily by looking at the correspondence between the ideas of the European enlighteners of the eighteenth century and the manifestations of contemporary Ukrainian political life. While European enlighteners condemned despotism and defended republican principles, republican orientations were also strengthened among the Ukrainian elite [12, p. 227].

The socio-political thought of the Enlightenment provided the conceptual foundation for the notion of separation of powers on the basis of authority, a concept that was embraced by representatives of the Ukrainian political elite. According to experts in constitutional law, P. Orlyk's Constitution proposed a particular model for the organisation of state power in Ukraine that was based on the principle of separation of powers [13, p. 108-109]. The Constitution of Pylyp Orlyk, adopted on 5 April 1710, is a unique document of its era, reflecting the influence of the ideas of the European Enlightenment on Ukrainian political thought. The document laid the foundations for the rule of law, the separation of powers, and social and political freedoms, and not only enshrined the autonomy of the Hetmanate, but also proposed the modernisation of its governance in line with progressive European approaches [13, p. 127].

A significant indication of the Enlightenment's impact is evident in the establishment of a separation of powers within the state apparatus, as articulated in the Constitution:

- The legislative authority was vested in the General Rada, which undertook the functions of parliament and comprised representatives of starshyna and colonels.
- The executive power was concentrated in the hands of the Hetman, who, however, had limited powers and could not make decisions alone.
- The judiciary maintained its autonomy, consistent with the tenets of the rule of law [3, p. 398].

This division of power can be traced back to the ideas of John Locke and Charles Montesquieu regarding the balance between the different branches of government, which was a progressive approach for the early eighteenth century.

The Enlightenment political philosophy identified the need for control over monarchical or sole power, as evidenced by the Orlyk Constitution, which demonstrated that the Hetman did not have absolute power and his decisions had to be approved by General Rada. This is reminiscent of the limited monarchy or republican models of government that were actively considered in Europe at the time.

The constitution stipulated regular meetings of the General Council (at least three times a year), thereby ensuring the involvement of the broader Cossack population in the process of state decision-

making. This resonates with the concepts of the social contract and popular sovereignty espoused by Jean-Jacques Rousseau.

The document declared the protection of property rights, enshrined the equality of starshyna before the law, and limited the arbitrariness of the Hetman's authorities in confiscating land or property. This approach was in line with Western European Enlightenment ideas about the legal protection of the individual.

The Constitution formally recognised Orthodoxy as the official religion of the state, whilst concurrently emphasising the imperative for the advancement of education and the nurturing of cultural heritage. This demonstrates the profound influence of the Enlightenment, a period characterised by the confluence of religious tradition with progressive intellectual and educational movements [14, p. 326].

From 1760, the idea of separation of powers according to authority began to be implemented in practical political life in Ukraine. In that year the judiciary was separated into a separate branch at the level of the central government. By the Universal of Kirill Razumovsky, judicial proceedings were removed from the jurisdiction of the General Military Chancellery and entrusted to the General Military Court, which since then has had the powers of the highest judicial authority [8, p. 269].

The judicial reform of 1763 began the process of separating executive and judicial power at the regimental level. The colonels retained the presidency of the Grodno courts, which dealt only with criminal cases [8, p. 273]. In the Hetmanate the process of separation of the representative, from the elders, legislative (mainly in its legislative manifestation) branch of government began. The mutual balancing of powers was facilitated by the delimitation of competencies within the then-most powerful executive branch of government, which, together with the civilian branch, distinguished the military power. On 5 December 1763, the Hetman issued an instruction to the «low-rank starshyna» that they were responsible for managing the day-to-day affairs of the army [8, p. 281]. As the documents show, between December 1763 and April 1765, the «low-rank starshyna», performing the tasks assigned to them, formed a separate collegial body that concentrated military and administrative affairs and supervision over the state of the Cossack army's combat capability.

Opposing the republic to despotism, the Enlightenment praised political virtues such as patriotism and the willingness to sacrifice personal interests for the good of society. Thus, according to Montesquieu, Rome fell when it lost what made it glorious – civic spirit and patriotism. In Ukraine, these traits were considered obligatory for a representative of power [1, p. 429]. It was a concern for the common good that justified the leading role of officers in society. It was «love of the Fatherland», «patriotic inspiration» and concern for the public, not the «particular», that the unknown speaker saw as the means of restoring «the order and well-being» of «our dear Fatherland» [1, p. 430].

The characterised political and legal orientations were extrapolated to the manifestations of both domestic and foreign political life, embodied in the orientations of rejection, and denial of the legitimacy of actions carried out with the use of force. This was followed by orientations to prevent arbitrariness on the part of representatives of the non-ethnic elite. In addition to the well-known constitution by P. Orlyk, the «Anonymous Note on the Necessity of Limiting the Power of the Hetman» should, in our opinion, be considered as a draft of a small constitution. Without touching on the relationship between the state institutions and society, and its individual classes, this document was presented as a means of regulating relations between the leading actors in the political life of the then Hetmanate. [15, p. 238].

Using the criterion of comparing the political characteristics of their society with those of other societies, the orientations of starshyna of the Ukrainian Hetmanate correlate with the open type of culture, which developed in a pan-European way and acquired characteristics of a political entity within European civilisation.

Conclusions

The Enlightenment had a significant impact on the political culture of starshyna in the eighteenth century. The spread of rationalist and secularist ideas contributed to a rethinking of approaches to governance, and the development of education and science, and stimulated the desire for political reform and modernisation of the state.

In the eighteenth century, starshyna of the Hetmanate actively implemented the ideas of the Enlightenment through a series of state projects aimed at modernising the administrative system, education and culture. These initiatives reflected the desire to rationalise governance and improve the level of education and cultural development. The Cossack elite recognised the importance of education for the development of society. They supported the establishment and operation of educational institutions, such as the Kyiv-Mohyla Academy, where representatives of starshyna studied. This contributed to the spread of Enlightenment ideas among Ukrainian intellectuals and the formation of a new generation of educated leaders.

The Constitution of Pylyp Orlyk was a vivid example of the combination of Cossack tradition with the ideas of the European Enlightenment. It laid the foundations for modernising the political system of the Hetmanate and was one of the first attempts in the world to enshrine the principles of separation of powers, democracy and the rule of law. Although the document never came into force, its provisions demonstrate the Cossack elite's desire to adapt modern political ideas to their own state model. This makes Orlyk's constitution a unique phenomenon in the history of political thought in Ukraine and Europe.

Another important milestone in the development of Ukrainian legal thought was the 'Rights by which the Little Russian People are Judged', which was a vivid example of the influence of Enlightenment ideas. The document not only codified local law, but also reflected European trends: the principles of the rule of law, social equality before the courts, the protection of property and the separation of powers. Although the code never gained official status in the Russian Empire, it was used in the judicial practice of the Hetmanate until the end of the 18th century. It became an important example of how the Ukrainian Cossack elite attempted to adapt modern legal concepts to local realities, while preserving the traditional rights and autonomy of the Hetmanate.

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