

**PYLYP ORLYK'S CONSTITUTION 1710:  
ADOPTION AND HISTORIC MEANING FOR UKRAINE**

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The relevance of the topic is based on the history of Ukrainian law and its impact on the modern legal outlook. Going back to the beginning of the 18th century, the time of the Cossack Hetmanate, one can see that it was a harsh time for the Slavic warriors, who sought independence and unity. The huge obstacle on their way was the Russian Empire, which claimed to empower its influence all over the Ukrainian

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territory. However, the Cossacks did not surrender and the burgeoning dream was still on.

The 18th century has left significant traces in history by producing the constitutions of the United States (1787), France and Poland (1791). Nevertheless, they were preceded by the Constitution, promulgated by Pylyp Orlyk, the Ukrainian “hetman” or leader. The document’s original name was “The Pacts and Constitutions of Rights and Freedoms of the Zaporozhian Host” and was adopted in 1710.

The adoption was quite a difficult task for Orlyk and his brothers-in-arms who were believed to be in exile at that time. According to O. Pritsak, “it is important to stress that the Constitution of 1710 was not just a work of the Ukrainian political elite in emigration. At that time Hetmán Orlyk still had a part of the Ukrainian territory under his control” [1, p. 472]. It may be inferred that some questions concerning the future document were debated in Ukraine as well. Indeed, “The Pacts and Constitutions...” was written by the Cossack leader himself: “I myself composed most of the Treaty and edited the entire Treaty [Constitution]. I composed it according to a certain plan, following the way such public treaties were being composed by other nations...” [1, p. 473]. It is noticeable that acceptance of Orlyk’s Constitution was recognized by Sweden and Ottoman Turkey.

In general, the Constitution provisioned array of civil liberties and, what is more, it was the first document ever known before to establish the separation of powers. First of all, the division of the government into legislative, executive and judicial branches was reflected in the Article VI: “Therefore we, the general officers, the Chief Ataman, and the whole Zaporozhian Host, have concluded... to adopt a law... that general officers should be [elevated to the position of] foremost councilors in our fatherland, both as a mark of respect for their original offices and because of their continuous residence at the Hetman’s side. They are to be followed in the usual order by colonels in command of town regiments, who should be honoured in a similar manner as public councilors” [2]. Thus, the Hetman’s executive authority was limited due to the establishment of the government bodies mentioned above. One should state here that the basement of the judicial power was set in Article VII. Its main concern was about the crimes committed against the Hetman. Consequently, he could not inflict the punishment, because such a case could only be referred to the general court.

The establishment of the separation of powers in this constitution was unique because no other documents of the time provisioned such a principle. Even the well-known founders of this theory, French philosophers Montesquieu and Voltaire, had not created their treatises at the time when the constitution was adopted. The well-known article VI was a result of a long-time work and effort made by Orlyk and his companions. O. Pritsak reflects on Orlyk’s remarks which confirmed the difficulties while composing the document. According to the Cossack Hetman, they “worked on this [article 6 of the Constitution] longer than one month. My emissaries traveled twice to and from Ukraine...” [1, p. 474].

Summing up, the Constitution of 1710 was the first one to be promulgated by the Ukrainian elite. The document consists of progressive provisions, therefore it is considered as a success: “It was the first written political and legal document that

affirmed basic rights and regulations to the people of the Ukrainian state” [3]. Although it was not put into practice, the Constitution made a great impact on the long tradition of Ukrainian political activity. Now it is a monument of Ukrainian history that should be taken into account by the people and their leaders in order to broaden the legal traditions of the country.

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