

## SECTION 7. INTERCULTURAL COMMUNICATION

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### VERBALIZATION OF LEGAL CONCEPTS IN THE TEXTS OF THE CONSTITUTIONS OF THE UKRAINIAN PEOPLE'S REPUBLIC, THE UKRAINIAN STATE OF HETMAN PAVLO SKOROPADSKYI, AND THE PROVISIONAL CONSTITUTION OF CZECHOSLOVAKIA

### ВЕРБАЛІЗАЦІЯ ПРАВОВИХ КОНЦЕПТІВ У ТЕКСТАХ КОНСТИТУЦІЙ УКРАЇНСЬКОЇ НАРОДНОЇ РЕСПУБЛІКИ, УКРАЇНСЬКОЇ ДЕРЖАВИ ГЕТЬМАНА ПАВЛА СКОРОПАДСЬКОГО ТА ТИМЧАСОВОЇ КОНСТИТУЦІЇ ЧЕХО-СЛОВАЧЧИНИ

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**Introduction.** Constitutional acts of the Central Council and the Hetmanate represent striking examples of Ukrainian state- and law-making, reflecting the legal segment of the conceptual and linguistic worldview of Ukrainians during the era of the liberation struggles in the early 20th century. Despite the ultimate loss of statehood that marked the conclusion of those struggles, the texts preserved the verbalized experience of shaping both democratic and authoritarian systems of governance and their corresponding legal frameworks. For comparative purposes, the Provisional Constitution of Czechoslovakia, a state that emerged from the ruins of the Austro-Hungarian Empire, is also considered herein.

#### ***The Constitution of the Ukrainian People's Republic***

On the final day of the functioning of the parliament of the Ukrainian People's Republic – the Ukrainian Central Council (April 29, 1918) – the Constitution of the Ukrainian People's Republic was adopted. It was titled “**Charter on the State Structure, Rights, and Freedoms of the Ukrainian People's Republic**” (notably, the lexemes *Charter (Стамум)* and *freedoms*

(*вільності*) demonstrate continuity with the Statutes of Lithuania). The document comprises 83 articles organized into 8 chapters.

The Constitution verbalizes STATE LAW (ДЕРЖАВНЕ ПРАВО), proclaiming FREEDOMS (ВІЛЬНОСТІ) of citizens and INDEPENDENCE (НЕЗАЛЕЖНІСТЬ) of the state as the highest legal and ideological values. That is encapsulated in its opening article. (*Відновивши своє державне право, яко Українська Народна Республіка, Україна, для кращої оборони свого краю, для певнішого забезпечення права і охорони вільностей, культури і своїх громадян, проголосила себе і нині єсть державою суверенною, самостійною і ні від кого незалежною* – Art. 1).

The subject of law in the Ukrainian People's Republic was proclaimed to be the people of Ukraine (*Суверенне право в Українській Народній Республіці належить народові України, цеб-то громадянам УНР всім разом* – Chapter I, Art. 2). The people were declared the SOURCE OF LAW (ДЖЕРЕЛО ПРАВА) (*Вся власть в УНР походить від народу* – Chapter III, Art. 22).

The functions of the highest legislative authority as well as the formation of executive and judicial authorities, were entrusted to the All-People's Assembly (*Всенародні Збори*) (Chapter III, Art. 23). The supreme executive power was exercised by the Council of People's Ministers (*Рада Народніх Міністрів*), while the highest judicial authority was vested in the General Court of the UPR (*Генеральний Суд УНР*) (Arts. 24–25). The head of state was the Chairperson of the All-People's Assembly (*Голова Всенародніх Зборів*), who acted in the name of the Republic and performed all duties associated with representing the Republic (*іменем Республіки сповняє всі чинності, звязані з представництвом Республіки*) (Art. 35); the Chairperson of the All-People's Assembly formed the Council of People's Ministers in consultation with the Council of Elders of the Assembly, to be further approved by the Assembly (*Формує Раду Народніх Міністрів Голова Всенародніх Зборів за порозуміння з Радою Старшин Зборів, і потім Рада Народніх Міністрів подається на затвердження Всенароднім Зборам*) (Art. 52). However, the powers, functions, and procedures for forming the Council of Elders (*Ради Старшин*) were not defined, nor was the office of head of government explicitly declared.

It is worth noting that the structure of the highest state (legislative and executive) POWER (ВЛАДА) proclaimed by the Constitution, lacking both president and prime minister, was highly vulnerable given the numerous external and internal threats to the state's very existence. Power was decentralized to the maximum extent, in stark contrast to the highly centralized, hierarchical, and terrorist authority of the Moscow-Bolshevik regime. The vulnerability of decentralized democratic governance in the face of centralized hostile power echoes the historical situation of Kyivan Rus

during the Mongol-Tatar invasion. This highlights the significant dependency of STATE SECURITY (ДЕРЖАВНА БЕЗПЕКА) on the STRUCTURE OF POWER (СТРУКТУРА ВЛАДИ), which in turn reflects the underlying legal ideology.

The ideology of CRIMINAL LAW (КРИМІНАЛЬНЕ ПРАВО) codified in the Constitution is noteworthy for abolishing the DEATH PENALTY (СМЕРТНА КАРА), CORPORAL PUNISHMENT (ТІЛЕСНІ ПОКАРАННЯ), and any sanctions against a citizen's HONOR (ЧЕСТЬ) (*Громадянин УНР і ніхто інший на території її не може бути покараний смертю, ані відданий яким-небудь карам по тілу, або иншим актам, які понижують людську гідність, ані підпасти конфіскації майна, як карі* – Chapter II, Art. 14). This contrasts sharply with the Statutes of Lithuania, which prescribed all the four forms of punishment mentioned above.

### ***The Constitution of the Hetmanate***

On the same day, April 29, 1918, when the Constitution of the Ukrainian People's Republic was adopted and the Ukrainian Central Council was dissolved, the Provisional Constitution of the Ukrainian State of Hetman Pavlo Skoropadskyi was proclaimed. Titled **Laws on the Provisional State System of Ukraine**, it consisted of 44 articles grouped into 7 chapters. The Constitution declared the Hetman of Ukraine as the head of legislative power (Art. 1) and the Ataman of the Council of Ministers as the head of executive power, appointed by the Hetman, who also had the authority to approve or dismiss the Cabinet [of Ministers] (Art. 3). Additionally, the Hetman was proclaimed the Supreme Commander of the Ukrainian Army and Navy (Art. 5).

The Constitution incorporated elements of ECCLESIASTICAL (ЦЕРКОВНЕ) – more broadly, SACRAL (САКРАЛЬНЕ) – LAW (ПРАВО), stating: “*Первенствующа в Українській Державі є віра християнська, православна*”(Art. 9). It also codified aspects of MILITARY LAW (ВІЙСЬКОВЕ ПРАВО), particularly with a distinct conceptualization of the COSSACK ESTATE (КОЗАЦТВО): “*Українського козацтва і громадянства. рівно як і їх загублення, визначаються законом*” (Art. 11). Furthermore, “*Захист Вітчизни – є святий обов’язок кожного козака і громадянина Української Держави*” (Art. 12).

The final chapter, “*On the General Court*” (Arts. 42–44), articulated the conceptualization of JUDICIAL LAW (СУДОВЕ ПРАВО). On July 8, 1918, the General Court was replaced by the *State Senate* (*Державний Сенат*) of the Ukrainian State, which became the highest judicial authority entitled to supervise all courts in the country. (The term *Senate* (*Сенат*) derives from Latin, originally meaning “council of elders” from *senex* – “old”).

It is evident that the Ukrainian State under Hetman Skoropadskyi modeled its state legal framework on the historical precedent of the Ukrainian Cossack Hetmanate. This is underscored by legal lexemes such as *Hetman* (*Гетьман*), *Ataman* (*Отаман*) (of the Council of Ministers), and *General Court* (*Генеральный Суд*) (cf. the *General Judge* (*генеральный судья*), historically the third highest position in the Ukrainian Hetmanate in the 17th–18th centuries). The military conceptualization under Hetman Skoropadskyi further supports this orientation, with command positions including *General Khorunzhyi* (*генеральный хорунжий*, flag-bearer), *General Bunchuzhnyi* (*генеральный бунчужный*, banner-holder), and *General Osavul* (*генеральный осавул*, aide-de-camp), echoing the ranks of the General Staff in the Hetmanate in the 17th–18th centuries.

### ***The Provisional Constitution of Czechoslovakia***

The Czech legal language attracts linguistic attention primarily due to its unique approach to verbalizing legal concepts, shaped by the purist policies underpinning the development of the Czech literary language. As a result, the number of loanwords in it is significantly lower compared to other European languages, such as Ukrainian and English. This has led to the verbalization of legal concepts using primarily indigenous linguistic means, which directs scholarly focus toward the **specific nature of internal structure** of those verbalizations in comparison with other Slavic languages, such as Ukrainian.

The text of the *Provisional Constitution of Czechoslovakia* of 1918 (*Prozatímní ústava: Zákon ze dne 13. listopadu 1918 o prozatímní ústavě*) entirely encapsulates STATE LAW (ДЕРЖАВНЕ ПРАВО), addressing the foundational principles of the newly established STATE (ДЕРЖАВА). The document was concise and included sections on the ELECTED REPRESENTATIVE BODY (ВИБОРНИЙ ПРЕДСТАВНИЦЬКИЙ ОРГАН) (“*O národním shromáždění*”, §§ 1–6), the HEAD OF STATE (ГЛАВА ДЕРЖАВИ) (“*O presidentu republiky*”, §§ 7–12), JUDICIAL POWER (СУДОВА ВЛАДА) (“*Jak se vyhlášují rozsudky*”, § 13), and EXECUTIVE POWER (ВИКОНАВЧА ВЛАДА) (“*O moci výkonné a nařizovací*”, §§ 14–20), as well as final provisions (§ 21). The Constitution prominently verbalizes a key legal concept, the SEPARATION OF POWERS (РОЗДІЛЕННЯ ВЛАДИ), into LEGISLATIVE (ЗАКОНОДАВЧА) (*Národní shromáždění vykonává pravomoc zákonodárnou pro celý stát...*, § 4), EXECUTIVE (ВИКОНАВЧА) (*Moc výkonná a nařizovací přísluší 17členné vládě, jejíž předsedu a členy (ministry) volí Národní shromáždění*, § 14), and JUDICIAL (СУДОВА) (*Rozsudky a nálezy soudů vyhlášují se jménem republiky*, § 13). Notably, the judicial branch was addressed before the executive branch, raising questions about whether this reflects a prioritization of JUDICIAL (СУДОВА) over

EXECUTIVE (ВИКОНАВЧА) POWER (ВЛАДА) in the legal worldview. In contrast, the Ukrainian tradition typically lists branches of POWER (ВЛАДА) as LEGISLATIVE (ЗАКОНОДАВЧА), EXECUTIVE (ВИКОНАВЧА), and JUDICIAL (СУДОВА).

The PRESIDENT (ПРЕЗИДЕНТ), as the HEAD OF STATE (ГЛАВА ДЕРЖАВИ), was elected by the parliament rather than through direct public elections, as is the case in most modern states (*Hlavou státu je prezident republiky, kterého volí Národní shromáždění*, § 7). The term of office was not explicitly defined in the Constitution, ending only with the election of a new president (*Úřad presidenta trvá až do doby, kdy podle ústavy konečně nová hlava státu bude zvolena*, § 7). The PRESIDENT (ПРЕЗИДЕНТ) also served as the SUPREME COMMANDER-IN-CHIEF (ВЕРХЛІВНИЙ ГОЛОВНОКОМАНДУВАЧ) (*je nejvyšším velitelem vojska*, § 10b).

The preservation of the concept of SACRAL LAW (САКРАЛЬНЕ ПРАВО), exemplified by the OATH (ПРИСЯГА), is noteworthy. Both the president and the head and members of the government take oaths before the National Assembly, pledging to serve the welfare of the Republic and its people and to observe the law (*President republiky slíbí před Národním shromážděním na svou čest a svědomí, že bude dbáti blaha republiky a lidu a šetřiti zákonů*, § 12; *Předseda a členové vlády slíbí před Národním shromážděním na svou čest a svědomí, že své povinnosti svědomitě a nestranně budou konati a zákonů šetřiti*, § 15). The EXECUTIVE POWER (ВИКОНАВЧА ВЛАДА), represented by the government, was headed by prime minister (*ministrský předseda*, § 19) and deputy prime minister (*Vláda volí ze sebe náměstka předsedova, který zastupuje předsedu*, § 14).

A comprehensive constitution for Czechoslovakia (*Ústavní listina Československé republiky*) was adopted in 1920. The SOURCE OF POWER (ДЖЕРЕЛЮ ВЛАДИ) was declared to be the PEOPLE (НАРОД) (*Lid je jediný zdroj veškeré státní moci v republice Československé*, § 1.1). The state was defined as a democratic REPUBLIC (РЕСПУБЛІКА) (*Stát československý jest demokratická republika, jejíž hlavou je volený prezident*, § 2). Of particular interest to Ukrainian studies is the constitutional recognition of the part of Ukraine that was incorporated into Czechoslovakia at the time (*...samosprávné území Podkarpatské Rusi, které bude vypraveno nejširší autonomií, slučitelnou s jednotností republiky Československé. Podkarpatská Rus má vlastní sněm, který si volí předsednictvo*, § 3, 2–3). This provision guaranteed the territory the broadest autonomy (*nejširší autonomií*) and its own parliament (*vlastní sněm*).

**Conclusions.** The analyzed texts are of interest in several respects: a) the comparison of the conceptualization and verbalization of two state legal systems – democratic and authoritarian, with the latter centered around the Hetman as the head of state; b) the conceptualization and verbalization of the

continuity of Ukrainian state legal organization in relation to earlier systems, particularly the Cossack Hetmanate; c) the juxtaposition of this stage in the history of Ukrainian law (and legal language) with contemporary constitutional acts of other states, especially those that emerged from the ruins of the simultaneously dissolved Russian, Austro-Hungarian, German, and Ottoman Empires. The *Provisional Constitution of Czechoslovakia*, adopted in the same year (1918) as the two preceding Ukrainian constitutions, was selected for comparison.

Of particular importance is the fact that the Czech people of the early 20th century conceptualized and verbalized the continuity of their state against the early Czech period, as exemplified by the lexeme *sněm* (assembly).

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