

Sakun A. V.,
Doctor of Philosophy, Associate Professor, Head of the Department
of Philosophy, Political Science and Ukrainian Studies
Kiev National University of Technology and Design

Kadlubovych T. I.,
Candidate of Political Science, Associate Professor of the Department
of Philosophy, Political Science and Ukrainian Studies
Kyiv National University of Technology and Design

Prodanyuk F. M.,
Candidate of Historical Sciences, Associate Professor of the Department
of Philosophy, Political Science and Ukrainian Studies
Kyiv National University of Technology and Design
Kiev, Ukraine

MAIN STAGES OF THE IMPLEMENTATION OF THE MAGDEBURG LAW ON THE TERRITORY OF UKRAINE IN THE XIII – FIRST HALF OF THE XVIII CENTURY

The process of introducing local self-government in a democratic state should not only take into account European principles and approaches, but also base on national achievements in this field. Therefore, it is important to study the history of local self-government on the territory of Ukraine and, first of all, to analyze the main milestones of the Magdeburg Law implementation on Ukrainian lands in the 13th – 18th century.

Analysis of studies and publications. Self-government problems are covered in the writings of many foreign scholars: T. Byrne, J. Vedel, D. Wilson, S. Geim, S. Leach, J. Offerdal, G. Hollis, etc. Among Ukrainian researchers, this issue was explored by V. Andrushko, V. Barkov, O. Batanov, P. Bilenchuk, I. Gritsyak, L. Dunaeva, O. Yevtushenko, I. Kaliushko, A. Kovalchuk, A. Kolodiy, V. Kuibida, Y. Maslov, G. Muzychenko, A. Nekryach, N. Nyzhnyk, S. Teleshun and others.

A considerable amount of scientific and popular science literature is devoted to the emergence and spread of Magdeburg law on the territory of Ukraine. Methodological principles for studying this problem were laid down in the works by well-known Ukrainian scientists: V. Antonovich, D. Bagaliy, M. Vladimirskui-Budanov, M. Hrushevsky, M. Kostomarov and others. Among the modern researchers there are the works of N. Belous, T. Hoshko, O. Gurzhiy, M. Kobyletsky, A. Reznikov and others.

The purpose of the study is to analyze the features and main stages of implementation of Magdeburg law in Ukraine.

Presentation of the main material. Both local traditions and European socio-political processes have been the historical basis for the emergence and formation of local governments in Ukraine. First of all, the emergence and significant spread of Magdeburg law in Germany, and later on the all territory of Europe. In 1188, the Catholic Archbishop Wichman, who run the city of Magdeburg (Saxony), gave his residents a number of privileges. The population of Magdeburg was freed from feudal dependence. The system of city management was defined, the procedure for election and authority of self-government bodies were regulated as well as the order of court and the judiciary, the rights and obligations of certain social states, etc. In 1294, these privileges were confirmed by the Saxon prince Albert. The city's self-government diploma and collections of common law Saxony Eiche von Rankov's «Spekulum Sacsonum» (Saxon mirror) and the municipal law (jus municipalitatesale) formed the basis for the formation of Magdeburg city law (Jus theutonicens magdeburgens) The Magdeburg City Council was given the right to provide certificates for the right to live under the Magdeburg City Law, first in German cities, and subsequently throughout Europe. It was brought to the territory of Poland, Lithuania and Ukraine by German colonists.

It is accepted in the scientific literature to distinguish several stages (waves) of Magdeburg law spreading on the territory of Ukraine.

The first stage (the beginning of the XIII – the first half of the XIV century) is the period of implementation of the Magdeburg Law in separate cities on the territory of the Ukrainian lands. As in other countries of Central and Eastern Europe, this process is closely linked to the emergence of German colonists in Ukrainian cities. Danilo Halytsky began granting the Germans the privilege to exercise his right and his own judiciary, and his successors continued this. There is no single point of view among Ukrainian researchers which Ukrainian city was the first to receive the Magdeburg right. Some contemporary scholars support the views of a well-known Ukrainian public and political figure, a scholar and jurist, historian of Ukrainian law, Andriy Yakovliv, who believed that this process was initiated by the rulers of the Galicia-Volhynia state. He considered the city of Nowy Sacz as the first city to receive the Magdeburg right in 1294 on ethnic Ukrainian lands. The second group of researchers is convinced that the first such right was granted in 1329 to the Transcarpathian cities of Khust, Tyachiv, Vyshkove, which at that time were part of the Hungarian kingdom. The third group includes representatives of the Ukrainian diaspora, who consider such city to be a city Vladimir Volynsky (1324) [8, p. 1427]. The most numerous should be considered the fourth group, to which the vast majority of contemporary national historians belong. They argue that for the first time this right was granted in 1339 to the city of Shianok by the last Galician-Volhynia governor, Yuri II Boleslav [7, p. 415]. Representatives of the fifth group tend to think that such a Ukrainian city was Lviv (1356).

A characteristic feature of Magdeburg Law implementation in Lviv was that the Polish King Casimir II granted local self-government rights not only to German colonists, but to all residents of the city [10, p. 115].

The second stage (the second half of the XIV – the first half of the XVI century) is the period of granting the Magdeburg right to the cities of Ukraine by the rulers of the Grand Duchy of Lithuania and Poland. The rulers of the Grand Duchy of Lithuania were interested in strengthening their eastern borders from the attacks of nomads and Crimean Tatars, and therefore facilitated the reconstruction of old cities and the construction of new ones in Ukrain.

During this period, the Magdeburg right was granted to the cities of Kamenets (now Kamianets-Podilskyi 1374), Przemysl (1389), Sambir (1390), Lutsk (1432), Kremenets (1438), Koropets (1453), Vladimir (1490), Kyiv (1498), Buchach (1515), Chortkiv (1522), Ternopil (1548), Gusyatin (1559) and others. [9, p. 11].

One of the peculiarities of this stage is the fact that requests are made to grant local self-government rights to the cities by the local feudal lords to the rulers of the Grand Duchy of Lithuania and Poland. During this period, Magdeburg Law was given to a number of villages, which were to become the basis for the construction of new cities. New cities in Volyn and Kyiv region were developing actively.

During this stage, the importance of the city of Lviv for other cities of Ukraine is growing. Its magistrate became the center of appeal for the urban population of Podillya and the Russian Voivodeship. Before submitting complaints to the High Court of Cracow or to the King of Poland, Ukrainian cities had to file a similar complaint to the Lviv Magistrate. This privilege was granted to the city of Lviv by the Polish King Vladislav III. On July 17, 1444, the Lviv Magistrate also got the right to «catch» criminals, murderers and thieves throughout Ukraine [10, p. 143-145]. Gradually, power in local self-government bodies is concentrated in the hands of the richest part of the population of cities in Ukraine.

The third stage (the second half of the XVI – the first half of the XVII century) – this is the period of incorporation of Ukrainian lands into the Commonwealth. The right of local self-government during this period was granted to Krupil (1570), Movchanov (1576), Jampil and motor (1578), Byshiv (1581), Chernyakhiv (1583), Korsun (1584), Pereyaslav (1585), Bila Tserkva (1588), Chigirin (1589), Pyriatyn (1592), Starodub (1620), Chernihiv (1623), Nizhyn (1625), Myrhorod (1631) and others. [7, c. 414-415].

In addition to the Magdeburg Law or the Saxon Mirror Law, the Kulm law became very widespread during this period. A significant influence on its occurrence was the work of the Polish lawyer P. Kusiewicz entitled «The Civil Kulm Law» (1646). He translated the Magdeburg Law into Polish and enriched it with the use of religious ideas, customs and other legal norms in

the Polish city of Helm [11]. The Kulm law was extended to Right-Bank Ukraine. Magdeburg law operated on the basis of arbitrary translations of primary sources by Polish lawyers Mykola Askera, Jan Kirstein and Bartolomey Groitsky.

The fourth stage (the second half of the XVII – the beginning of the XIX century) – it is a period of confirmation by the Ukrainian hetmans the right of the majority of Ukrainian cities for local self-government. At the constitutional level, they were enshrined in the Constitution of Philip Orlik in 1710. The current name of this constitutional document comes from its abbreviated Latin name – «Pacta et Constitutiones legum libertatumque exercitus zaporoviensis» (Pacts and Constitutions of Rights and Freedoms of the Zaporizhian Host). Pacts were adopted on March 5, 1710 in Bender. It was a treaty between the hetman and part of the Ukrainian people [3]. The King of Sweden, Charles XII, as the «protector» of Ukraine, confirmed this document with a special charter signed on May 10, 1710.

The constitution was written and existed in two language versions: Old Ukrainian and Latin. It consisted of the introduction and 16 sections (pacts) and the text of the oath of Hetman to the Zaporozhian Army. In preparation of this document, apart from Pylyp Orlyk also took part A. Voynarovsky (nephew of I. Mazepa), I. Hertsyk, Koshan chieftain K. Gordienko, representatives of the Cossack officers and Ukrainian clergy.

Philip Orlik's constitution had an apparent social orientation, democratic character. It guaranteed the Cossacks unlimited voting rights. It embodied the national traditions of customary law and the centuries-old practice of Cossack democratic self-government [4]. The thirteenth section approved the rights and privileges granted to Kyiv and several other Ukrainian cities. In particular, the right to self-government. It was based on the Magdeburg Law.

The onset of czarism on the foundations of Ukrainian statehood had a negative impact on the activities of local governments in Ukraine. After the abolition of the Hetmanate in 1764 and the adoption in 1781 of the «Provincial Provisions,» it began to decline. According to the royal decree of 1831 (for Kiev – from 1835 p.) Magdeburg law finally ceased to exist in the territory of Dnieper Ukraine. In Galicia, the Magdeburg right was abolished in 1786 [11].

Conclusions. Thus, the implementation of the Magdeburg Law on the territory of Ukraine allowed the vast majority of cities to free themselves from the influence of local feudal lords, facilitated the growth of cities, the development of commodity-money relations, and created a legal basis for the development of local self-government in Ukrainian lands.

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