

Research of Formation and Legal Consolidation of the City Government of Lutsk in the Structure of the Great Duchy of Lithuania in the Works of Ukrainian and Foreign Researchers

The article analyzes the state of the study of the development and legal consolidation of the city law of Lutsk and the cities of Volyn as part of the Great Duchy of Lithuania. Authors review the works of Ukrainian, Polish and Belarusian researchers, who studied the features of city law and the impact of Magdeburg law to self-government and traditions of Ukrainian cities and the city of Lutsk, in particular. It is worth noting that the issues of the Lutsk Magdeburg law are not well-studied and debatable, and it concerns, in fact, the problems of the time of introducing self-governing traditions in the city.

Key words: local self-government, Magdeburg law, city law, city self-government, Lutsk, Great Duchy of Lithuania.

Formulation of scientific problem and its significance. The urgency of the article is determined by the fact that today the reforms of local self-government in Ukraine require a solid theoretical basis and experience of positive practices. And the experience of the establishment and development of Ukrainian city law in the difficult period of economic and social-political challenges of the Russo-Lithuanian era must be necessarily analyzed and used in modern law creation.

The formation of the local government in Europe in the context of its legal registration mainly originated from the concept of «Magdeburg Law». Magdeburg Law is one of the types of rights of free urban communities in the Middle Ages, which was a system of norms of state, criminal, civil and procedural law. Its name comes from the Saxon city of Magdeburg, whose charter was a model for obtaining city privileges at that time. They established the jurisdiction and freedom of the inhabitants of the city, their right to self-government. Also, the norms regulated social, economical and legal relations, the order of the court and the judiciary, determined the measures of criminal punishment, regulated the internal statute as well as the activities of merchant corporations, craftsmen shops and trade [12, p. 7].

The purpose and task of the study is to analyze the state of research of the problem of urban law development in Lutsk and Volyn cities in the works of Ukrainian and foreign scientists.

The summary of the main material and the justification of the results. Magdeburg Law and its application in Ukraine is an important place in the study of Ukrainian historians, lawyers and representatives of other sciences. Ukrainian lawyers began to work on problems of the Magdeburg law in the XVIII century. during the codification of Ukrainian law [9].

In the first half of the nineteenth century archaeological commissions at the universities of St. Petersburg, Kiev and Vilna began to work on historical documentary sources of the Lithuanian-Russian era, the results of which were published collections of documentary primary sources.

The Petersburg Archaeological Commission published the following collections of the primary sources of Russian-Lithuanian law: «Acts related to the history of Western Russia» (1340-1699) – Vol. 1-5, (St. Petersburg, 1846-1853); «Acts related to the history of South and Western Russia» (1361-1678) – Vol. 1-15, (St. Petersburg, 1863-1892); «Collection of ancient letters and acts of the cities of Vilna, Kovno, Troika, Orthodox monasteries, churches and various subjects» (Vilna, 1843), series «Russian Historical Library» (1872-1927).

In 1843 a part-time Kyiv Archaeological Commission at the Kiev military, Podolsk and Volyn General Commission for parsing ancient acts in the archives of state agencies, county courts and monasteries in three provinces of Southwest region were created. During the period from 1859 to 1914, 35 volumes of the collection «Archive of South-Western Russia» were published, which included historical documents and literature in the area of the monument of the Right-Bank Ukraine of XIV-XVII centuries.

In the second half of the nineteenth century, the Commission of the Vilansky Academic District for publishing documents relating to the history of Northwest Russia, which in 1867-1874, published 10 volumes of the «Archeographical collection» containing documents on the history of the statehood of the Great Motherland, was also involved in important archaeological work of the Great Duchy of Lithuania since

1406 [4, p. 4-5].

The scientists from Lviv, Kharkiv and Kyiv Universities also worked on the problems of Magdeburg Law: M. Vladimirsky-Budanov, G. Danilovich, F. Leontovich, O. Kistyakovsky, V. Antonovich, M. Hrushevsky. Among Ukrainian historians of law, an important role in the study of Magdeburg Law was played by Academician of the Ukrainian Academy of Sciences F. Taranovsky. In order to study Magdeburg Law in 1919, a special commission under the chairmanship of Academician M. Vasilenko was created. In 1934, during the Stalinist repressions, the commission was liquidated, and almost all Magdeburg law scholars were repressed. Many works by Ukrainian researchers were destroyed, including V. Romanovsky's «Corps of Magdeburg Law for Ukrainian Cities». In subsequent studies Magdeburg Law was covered in a negative context, and scholars were influenced by ideological concepts of that time. The study of Magdeburg law by Ukrainian scholars continued in exile at the Ukrainian Free University in Prague, where A. Yakovlev, R. Laschenko and others worked. The works of A. Yakovlev were written in Ukrainian, German and Czech. In the postwar period in Ukraine, V. Atamanovsky, Y. Isaevich, O. Kompan, M. Kovalsky, A. Tkach, G. Schwydko, P. Sas and others worked on problems of Magdeburg Law [16, p. 31].

Historical estimates of the distribution of Magdeburg law, its role and significance in Ukraine were not unambiguous. In the historical and legal literature of the XIX - the first half of the XX century broad discussions were held on the implications of the introduction of the Magdeburg Law in Ukraine. Ukrainian historians and lawyers F. Leontovich, M. Vladimirsky-Budanov, M. Hrushevsky, R. Laschenko, L. Okinshevich. I. Krypyakevich assessed this right negatively, looking at its introduction as on the reason for the violation of the unity of the traditional Ukrainian community. Instead, V. Antonovich, D. Bagaliy, M. Dovnar-Zapolskiy, A. Yakovlev positively evaluated his influence on the development of Ukrainian cities [7, p. 22].

National historiography distinguishes legal, historical and legal approaches to the analysis of urban law. One of the first in the national historiography, the legal approach to the analysis of urban law was applied by S.M. Ivanitsky-Vasilenko. In the scientific research «The Sources of Magdeburg Law in Western Russia and the Hetmanate», introduced by I. Usenko, he did not stop on the traditional historical problems of Magdeburg, but tried to find out the content of the norms of the Magdeburg Law in Ukraine and compare it with analogues in German cities [6, p. 103].

According to I. Usenko, it is S.M. Ivanitsky-Vasilenko who laid the methodological approach, which has not yet found its worthy continuation. The historical approach directly links the legal status of the city with the city's right. A well-known researcher F. Taranovsky noted that, in particular, in Germany at the end of the XII century, according to the privileges granted by the cities, a model of a free urban community was formed, the city emerged in the legal sense as a community of free people in a fortified place with the right of own jurisdiction and self-government, the right to trade and the formation of shops [6, p. 105].

A renaissance in the study of Magdeburg Law was the period of independence of Ukraine. Then an unclassified ban on his comprehensive and objective research was lifted and the exchange between Ukrainian and foreign researchers intensified. The modern researchers include: N. Belous, G. Goshko, A. Zayats, O. Zayats, V. Kiselychik, M. Kapral, V. Marochkin, A. Reznikov, I. Usenko, P. Muzychenko, O. Vovk and others [10, p. 43].

It is also can be claimed that the urban issues of the Middle Ages and the early new time of Volyn, as well as Ukraine as a whole, have not been sufficiently developed in the national history of jurisprudence. The problems of small cities, which at that time prevailed on these lands, were not very highlighted. Although quite interesting works on the history of individual Volyn cities, which were published by the scientists of the XIX century: O. Andriyshev, P. Ivanov, L. Krushinsky, P. Batiushkov, Y. Krashevsky, A. Sendulsky, M. Teodorovich, did not lose their scientific significance up to this day. In the interwar period, Ukrainian and Polish scholars dedicated their work to the coverage of this problem. They were: O. Baranovich, S. Ivanitsky, A. Yakovlev, S. Kutsheba, I. Yavorsky, Y. Ptasnyk, V. Atamanovsky. Among the studies of 1970-1990, noteworthy are the works of G. Boryak, P. Sas [14, p. 158-159].

The work of Vasyl Kiselychynuk «City Law of Lviv (second half of the XIII - the beginning of the XX century)» is devoted to the study of Lviv city self-government and the development of its rights. In his study, the author analyzes the nature in city law, its formation and phases of the development of principles and sources and the institutional suggestions about the typical European city character and at the same time the specificity of city law, giving reason to consider it as a historical and legal basis for the development of modern municipal law in Ukraine [8].

Among the Lviv researchers M. Kobyletsky, who in his intelligence will highlight the process of

spreading the Magdeburg law in the Ukrainian lands of the Great Duchy of Lithuania, is also worth to be denoted. In his opinion, the Ukrainian cities were entitled to self-government in various ways and according to different patterns, and therefore they had rather distinctive features in the organization of urban life [9-11].

A.V. Reznikov's meaningful monograph «Magdeburg Law: Ukrainian variations on European traditions (historical and legal essay)», in which the author analyzes the peculiarities of the spread of Magdeburg law in Ukrainian lands, the formation of its sources, and the influence on the development of local self-government institutions and economic development of the region is also worth to be noted [15].

Role of the Magdeburg Law in the structure of the historical and cultural heritage of small towns of Ukraine is devoted to the study of Y. Dovgan. He points out the influence of the Magdeburg Law on the formation of the cultural and legal tradition of relations between urban residents and its positive role in the formation of administrative bodies on the basis of European traditions [5].

Investigation of the sources of Kyiv City Law of the XV-XVI century are devoted to the work of O. Vovk, in which the author, on the example of the legal status of Kiev, explores the sources of urban law of Ukrainian cities during their period of belonging to the Grand Duchy of Lithuania. In addition, his dissertation paper «The Systematization of the Lithuanian-Russian Law of the Second Half of the XV - the Beginning of the XIII Century» deserves attention. It is a complex historical and theoretical study of the systematization of the Lithuanian-Russian law of the second half of the XV century and the beginning of the XVI century which reveals objective and the subjective reasons for its implementation, the regularities and consequences of this process for the further use of this experience in conducting the following codification works in Ukraine [3-4].

At present, the issue of the Luts'k Magdeburg law is not well-studied and debatable, and it concerns, in fact, the problems of the time of introducing self-governing traditions in the city. B. Malinowski made the analysis of the introduction of Magdeburg Law in Volyn region in the context of European traditions and outlined a new approach in the context of European experience and national traditions [14].

Analysis of the self-government and peculiarities of the application of the Magdeburg law in Volyn cities of Kovel, Berestechko and Olyka during the second half of the 18th century was made by A. Krishan. In his opinion, the main feature of most of Volyn's cities was their dependence on local landowners, who continued to interfere in the community even after granting them the Magdeburg law [14].

In historical researches A. Bortnikova analyzes the regulatory framework and the practice of relations between the authorities and the head of the city community and governments that acted on the principles of Magdeburg Law in the Volyn region in the 1550s - 60th years of the XVIII century; the procedure for the election, the powers of members and assistants of the city government of Luts'k for the privileges from 1432 to 1497; investigates the activities of the Volyn marshals and clerks in the XV-XVI century; introduces in the scientific circuits the translations of the letters and privileges granted to Luts'k on the Magdeburg Law [1, 2].

Conclusions: Thus, the study of Ukrainian and foreign researchers allows us to recreate the picture of the development of urban law of Ukrainian cities during the Russian-Lithuanian era and to find out that Magdeburg law had a significant influence on its development. That Magdeburg Law in Ukraine contributed to the formation of civil society, democracy and regulated public life on the basis of law, created a legal framework for the proper functioning of cities. Almost all the Ukrainian cities that were parts of the Volyn-Galician state, the Great Duchy of Lithuania, owned the Magdeburg Law. It is worth noting that the issues of the Luts'k Magdeburg law are not well-studied and debatable, and they concern, in fact, the problems of the time of introducing self-governing traditions in the city.

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Колодяжна В., Кревський Д. Дослідження становлення і правового забезпечення місцевого самоврядування Луцька в складі Великого князівства Литовського в роботах українських і зарубіжних дослідників. У статті проводиться аналіз рівня досліджень розвитку та правового забезпечення міського права Луцька та міст Волині в складі Великого князівства Литовського. Автори проводять огляд робіт українських, польських, білоруських дослідників, які вивчали особливості розвитку муніципального права і вплив магдебурзького права на формування традицій самоврядування українських міст та особливо Луцька. Магдебурзьке право багато в чому сприяло формуванню в Україні громадянського суспільства, демократизму, регламентувало життя суспільства, спираючись на правові норми, і створювало юридичну основу для функціонування незалежних від свавілля феодалів міст. Однак, варто зазначити, що позиції авторів щодо впливу магдебурзького права на процеси урбанізації українських земель не завжди однозначні і багато в чому залежать від політичних та ідеологічних чинників.

Ключові слова: місцеве самоврядування, магдебурзьке право, міське право, міське самоврядування, Луцьк, Велике князівство Литовське.

Колодяжная В., Кревский Д. Исследование становления и правового обеспечения городского самоуправления Луцка в составе Великого княжества Литовского в работах украинских и зарубежных исследователей. В статье проводится анализ уровня исследований развития и правового обеспечения городского права Луцка и городов Волыни в составе Великого княжества Литовского. Авторы проводят обзор работ украинских, польских, белорусских исследователей, которые изучали особенности развития мунципального права и влияние магдебургского права на формирование традиций самоуправления украинских городов и особенно Луцка. Магдебургское право во многом способствовало формированию в Украине гражданского общества, демократизма, регламентировало жизнь общества, опираясь на правовые нормы, и создавало юридическую основу для функционирования независимых от произвола феодалов городов. Однако, стоит отметить, что позиции авторов относительно влияния магдебургского права на процессы урбанизации украинских земель не всегда однозначны и во многом зависят от политических и идеологических факторов.

Ключевые слова: местное самоуправление, магдебургское право, городское право, городское самоуправление, Луцк, Великое княжество Литовское.