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## *The Editing of Legal History Sources Referring to the Medieval and Early Modern Ukraine (1991–2012)*

### Abstract

It was after a long period of the Soviet censorship and reprisals that, upon the gaining of independence and restoring intellectual freedom in their land, the Ukrainian legal historians entered a new era, particularly in the area of publication of normative acts of the medieval and modern epochs. Kyiv and Lviv became the centres in which the research on legal history was made and the editing of historical documents was taken up. Some editing being also made in Chernihiv, Zhytomyr, Odessa and Poltava. The editing taken up in that period may be divided into several thematic groups. These were: constitutional and legal history (the acts and documents referring to Galych-Volynian Duchy, Grand Duchy of Lithuania, and particularly the Cossack State (*Het'manshchyna*) of the 17<sup>th</sup> through 18<sup>th</sup> centuries; social history (citizens of towns, peasants, nobles); history of the Church (particularly that of the Greek-Catholic Church); history of art and culture. Upon the end of the Soviet era the censorship and particular limitations were lifted, the number of publications considerably increased, the range of studied themes and research publications was broadened, the emphasis was laid on the publishing of comprehensive sets of normative acts. Among the negative tendencies in publishing legal sources one can indicate the absence of large projects which would cover the entire territory of Ukraine, the fact that the publications are not systematic, the occasional weakness of the standard of editing, its poor institutional framework and the absence of specialized journals.

**Key words:** editing legal sources, Ukraine, editing projects, legal history research

**Słowa kluczowe:** edycja źródeł prawnych, Ukraina, projekty wydawnicze, badania historyczno-prawne

When Ukraine became independent in 1991, it inherited from the former state an almost complete neglect in the area of the study of legal sources of the medieval and early modern eras.<sup>1</sup> Since these studies were directly or indirectly linked with the state cultural

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<sup>1</sup> Situation in Ukrainian historiography in the Soviet period see: D. Doroshenko, *A Survey of Ukrainian Historiography*, "The Annals of the Ukrainian Academy of Arts and Sciences in USA" 1957, vol. 5–6, p. 13–304; O. Ohloblin, *Ukrainian Historiography: 1917–1956*, "The Annals of the Ukrainian Academy of Arts and Sciences in USA" 1957, vol. 5–6, p. 305–435; N. Polon'ska-Vasylenko, *Abriss der Historiographie*

and historical tradition of the Ukrainian people, they therefore, in the repressive Soviet state, were considered to be something unwanted and consigned to oblivion. Historical and legal studies in Ukraine existed primarily for the modern and recent periods of the late 18<sup>th</sup> through the 20<sup>th</sup> centuries, when the Russian Empire and the Soviet Union controlled the Ukrainian lands. In such a situation, the need for the publication of sources of law with respect to the Galych-Volynian state, the Kingdom of Poland, the Grand Duchy of Lithuania, and the Hetman state actually disappeared.

The source editions of the medieval and early modern periods which appeared in print in the Soviet times were an irregular sampling that aimed to stress only social, national and class character with a predetermined Marxist interpretation. What was first of all published were the sources reflective of the so-called class struggle, social oppression exerted by the Polish nobles on the Ukrainian peasants and also supposedly constant struggle of the Ukrainian people for the reunification of the Ukrainian lands with Russia etc. Most of these publications have weak research apparatuses and were sometimes published without indexes and commentary.

Paradoxically those who assumed the task of publishing the historical and legal documents of the old time were the historians of the language. Several collections of documents under the title: “Ukrainian charters of the 14<sup>th</sup> century”<sup>2</sup> and “Ukrainian charters of the 15<sup>th</sup> century”<sup>3</sup> were published by linguists from the Institute of Ukrainian Language. However, from a historical point of view these editions present great problems. The collection of *Gramots* were published in incomplete version, a lot of questions that demanded historical and legal commentary and also those referring to chronology, topography etc. remained unsolved. Thus, Iaroslav Dashkevych wrote a crushing review on the publication of the Ukrainian charters of the 15<sup>th</sup> century by Vitali Rusanivskyi, actually accusing the publisher of incompetence.<sup>4</sup>

In the Soviet times, numerous Communist censors intervened in the edition of documents, omitting passages and sometimes openly falsifying the text in favor of the political moment. For example, in the wake of a current of anti-Semitism in the Soviet Union, one of the censors had all references to a Jew changed to an “innkeeper” in one of the historical editions about the class struggle in the Ukraine in the 18<sup>th</sup> century. Thus, the modern researcher must carefully treat the historical documents published during the Soviet era.

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*der Ukraine*, “Jahrbuch der Ukrainekunde” 1982, vol. 19, p. 15–42; S.M. Horak, *Ukrainian Historiography 1953-1963*, “Slavic Review” 1965, vol. 24, 2, p. 258–272; T. Mackiw, *Ukrainian Historiography: Past and Present*, “The Ukrainian Quarterly” 1984, vol. 40, 3, p. 117–135; J. Pelenski, *Soviet Ukrainian Historiography after World War 2*, “Jahrbücher für Geschichte Osteuropas” 1964, vol. 12, 3, p. 373–418; L. Wynar, *The Present State of Ukrainian Historiography in Soviet Ukraine: A Brief Overview*, “Nationalities Papers” 1979, vol. 7, 1, p. 1–23; S. Ploky, *The History of “Non-historical” Nations: Notes on the Nature and Current Problems of Ukrainian Historiography*, “Slavic Review” 1995, vol. 54, 1, p. 709–716.

<sup>2</sup> *Hramoty XIV st.*, ed. M.M. Peshchak, Kyiv 1974.

<sup>3</sup> *Ukraïns'ki hramoty XV st.*, ed. V.M. Rusaniv's'kyi, Kyiv 1965. See also: *Dilova mova Volyni i Nad-dniprianshchyny XVII st.*, eds. V.V. Nimchuk, V.M. Rusaniv's'kyi, K.S. Symonova, V.I. Franchuk, T.K. Chertoryz'ka, Kyiv 1981.

<sup>4</sup> D. Iaroslavych [I. Dashkevych], *Z pryvodu novoï publikatsii Ukraïns'kykh hramot XV st. – Rets. na kn.: Ukraïns'ki hramoty XV st. / Pidhot. tekstu, vstup. st. i koment. V. M. Rusaniv's'koho. – K.: Nauk. dumka, 1965. – 163 s.: il.*, “Arkhivy Ukraïny” 1966, vol. 6, p. 87–95. This review was recently republished: I. Dashkevych, *Maisternia istoryka: dzhereloznavstvo ta spetsial'ni istorychni dystsypliny*, Lviv 2011, p. 40–52.

At the end of the 1980s, the liberation of the Ukrainian historical research from the shackles of Communist censorship took place. Historians were able to freely choose topics for their research and documents to publish. Since at this time there were no researchers in the field of editing legal documents of the old regime period, legal source editions continued to be nonsystematic and to bear the shadow of the previous Soviet era. In 1990 in Kyiv, a collection of documents about the trade in Right-Bank Ukraine from the 14<sup>th</sup> to the mid of the 17<sup>th</sup> centuries was published.<sup>5</sup>

From this time, we have not seen the intervention of Communist censorship with its distinguishing themes of class struggle and national conflict. The compilers of these new collections were professional archivists who created detailed indexes, explained specific terms of tax, money, weights, etc. They did everything to facilitate the use of the source material.

In 1993, a collection of documents under the title “Peasant movement in Ukraine: 1569–1647” was published, a work which can be considered to be an echo of the Soviet period in the Ukrainian historiography, because the historians have deliberately sought documents about class struggle in the Ukrainian lands.<sup>6</sup> In fact, the publication of this collection may be considered to be the “last monument” of the previous Soviet era.

At the same time a source edition of the documents illustrative of the proceedings in the Hetman State of the 18<sup>th</sup> century was published. The compilers have collected samples of documents of the time, but had a motley collection of thematic content. This collection performed rather the function of a handbook for students than that of the classic volume of historical and legal nature.<sup>7</sup>

The Institute of Ukrainian Archeography that was newly established in 1991 tried to change trends in historical research in Ukraine. This institution was intended to promote the restoration of basic research sources of the Ukrainian past on the basis of source empirical materials. Among other things, the institute has discussed the systematic publication of legal sources and other documentary acts in the form of publications on political and legal culture of Ukraine. Other academic institutions in the Academy of Sciences of Ukraine (Institute of History, Institute of State and Law), as well as university centers, have not become active centers of historical research studies and publications.

A landmark publication on legal history of Ukraine was published in 1997 under the title “Laws by Which the Little-Rus People Are Judged (1743)”.<sup>8</sup> This work publishes documents produced by the Ukrainian lawyers in the Hetman State of the 17<sup>th</sup> and 18<sup>th</sup> centuries who worked to gain autonomous status for the Ukraine within the Russian Empire. This legal codex took into account the Lithuanian Statute, as well as other legal sources of the Polish-Lithuanian state in the previous period.

At the beginning of the Ukrainian state in the 1990s, Ukrainian legal scholars restored the knowledge of their predecessors in the field of research and publication

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<sup>5</sup> *Torhivlia na Ukraïni: XIV – seredyna XVII st. Volyn' i Naddniproianshchyna*, eds. V.M. Kravchenko, N.M. Iakovenko, Kyiv 1990.

<sup>6</sup> *Selians'kyi rukh na Ukraïni. 1569–1647 rr.: Zbirnyk dokumentiv i materialiv*, eds. H.V. Boriak, K.A. Vyslobokov, T.I. Hyrych, Kyiv 2003.

<sup>7</sup> *Dilova dokumentatsiia Het'manshchyny XVIII st.*, eds. V.I. Horobets', V.V. Panashenko, Kyiv 1993.

<sup>8</sup> *Prava, za iakymy sudyt'sia malorosii'skyi narod: 1743 r.*, eds. K.A. Vyslobokov, V. Polishchuk, I.L. Butych, Kyiv 1997.

of historical and legal sources, such as Mykola Vasilenko,<sup>9</sup> Lev Okynshevych<sup>10</sup> (both were researchers of the Hetman State), Andrii Iakovliv<sup>11</sup> (researcher of the Magdeburg law) and others. At this time, historians occasionally published a few documents or collections of legal documents, such as documents and charters (universals) of Hetman Bohdan Khmelnytsky,<sup>12</sup> other Cossack leaders, Orthodox and Uniate bishops and metropolitans.<sup>13</sup> Iurii Mytsyk was especially active in the publication of these acts and proposed to establish a new series under the title “Ukrainian codex of documents (“dyplomatarii”) from the 16<sup>th</sup> to the 18<sup>th</sup> centuries.”<sup>14</sup> But to the end of the 1990s these source publications did not grow into serial publications.

In the same period the publication of documents from the old regime period of Ukraine with linguistic perspectives, such as book of the Kiev court of *succamerarius*

<sup>9</sup> He was the second president of the Ukrainian Academy of Science in 1921–1922 and repressed by Soviet power in 1924. See monograph about his scientific activity and public life: V.V. Voronenko, L.D. Kisters’ka, L.V. Matveieva, I.B. Usenko, *Mykola Prokopovych Vasylenko*, Kyiv 1991.

<sup>10</sup> See: I. Padokh, *Lev Okynshevych – vydatnyi istoryk derzhavnoho prava Ukraïny-Het’manshchyny XVII–XVIII st.*, “Ukraïns’kyi istoryk” 1981, vol. 1–4, p. 105–117, “Ukraïns’kyi istoryk” 1982, 3–4, p. 92–105; I. Padokh, *Lev Okynshevych – vydatnyi istoryk derzhavnoho prava Ukraïny-Het’manshchyny XVII–XVIII st. (1898–1980)*, New York–Munich 1985.

<sup>11</sup> His main book about the Magdeburg law in Ukraine was published in German: A. Jakowliw, *Das deutsche Recht in der Ukraine und seine Einflüsse auf das ukrainische Recht im 16–18 Jahrhundert*, Leipzig 1942. His publication about the interpretation of the Ukrainian-Russian Arrangement in Pereiaslav in 1654 became very famous: A. Iakovliv, *Ukraïns’ko-moskovs’ki dohovory XVII–XVIII st.*, Pratsi Ukraïns’koho naukovoho instytutu, vol. 19, Praha 1934.

<sup>12</sup> I.L. Butych, *Dva nevidomi lysty Bohdana Khmel’nyts’koho*, “Zapysky naukovoho tovarystva im. Shevchenka” 1991, vol. 222, p. 319–326; I. Fedoruk, *Khmel’nychchyna v dokumentakh: mizh Zamostiam ta Zborovom*, “Ukraïna v mynulomu” 1992, vol. 1, p. 113–139; I.L. Butych, *Lyst Bohdana Khmel’nyts’koho do Iana II Kazymyra*, “Ukraïna v mynulomu” 1993, vol. 4, p. 132–135; I.L. Butych, *Shche do universaliv Bohdana Khmel’nyts’koho za 1656 r.*, “Zapysky naukovoho tovarystva im. Shevchenka” 1994, vol. 228, p. 427–433. These publications were attachment to fundamental publication of Bohdan Khmelnytsky documents, realized with the active participation of Ivan Krypiakievych, the famous Ukrainian historian: *Dokumenty Bohdana Khmel’nyts’koho: 1648–1657 rr.*, eds. I.P. Kryp’iakievych, I.L. Butych, Kyiv 1961.

<sup>13</sup> I.A. Mytsyk, *Nevidomi dokumenty Ivana Mazepy*, “Pam’iatky Ukraïny” 1991, vol. 6, p. 56–58; I.L. Butych, *Univertsy Ivana Vyhovs’koho Lubens’komu Mhars’komu Preobrazhens’komu monastyrevi*, “Zapysky naukovoho tovarystva im. Shevchenka” 1993, vol. 225, p. 348–354; *Lysty Ivana Sirka*, eds. I.A. Mytsyk, M.V. Kravets’, Kyiv 1995; I.A. Mytsyk, *Nevidomi lysty het’mana Sahaidachnoho*, “Borysten” 1995, vol. 2, p. 10–11; I.A. Mytsyk, *Z dyplomatychnoi dokumentatsii B. Khmel’nyts’koho ta I. Vyhovs’koho*, “Natsional’noho universytetu ‘Kyievo-Mohylians’ka akademiia’, istorychni nauky” 1999, vol. 14, p. 93–112; I.A. Mytsyk, *Desiat’ dokumentiv do istorii Starodubshchyny ta Starodubs’koho polku XVII–XVIII st.*, “Siverians’kyi litopys” 1996, vol. 1, p. 103–109; I.A. Mytsyk, *Z novykh dzherel do istorii tserkovnoho zemlevolodinnia na Chernihivshshyni XVII–XVIII st.*, “Siverians’kyi litopys” 1997, vol. 1–2, p. 100–116; I.A. Mytsyk, *Z Ukraïns’koho dyplomatarii druhoi polovyny XVII st.*, „Zapysky naukovoho tovarystva im. Shevchenka” 1997, vol. 233, p. 360–397; I.A. Mytsyk, *Iz nevidomykh lystiv vykladachiv i studentiv Kyievo-Mohylians’koï akademii ostann’oi tretyni XVII st.*, „Naukovi zapysky natsional’noho universytetu ‘Kyievo-Mohylians’ka akademiia’, istorychni nauky” 2000, vol. 18, p. 4–11.

<sup>14</sup> I.A. Mytsyk, *Ukraïns’kyi dyplomatarii XVI–XVIII st.: dokumenty het’maniv, polkovnykiv i koshovykh Viis’ka Zaporiz’koho [in:] Ukraïns’ka arkhеоhrafii: suchasnyi stan ta perspektyvy rozvytku*, ed. P.S. Sokhan’ et al., Kyiv 1988, p. 36–39. The author realized this project partly only concerning the first years of the Bohdan Khmelnytsky ruling: *Dzherela z istorii Natsional’no-vyzvol’noi viiny Ukraïns’koho narodu 1648–1658 rr.*, ed. I. Mytsyk, vol. 1: 1648–1649, Kyiv 2012.

in the 16<sup>th</sup> and 17<sup>th</sup> century,<sup>15</sup> the Volynian charters of the 16<sup>th</sup> century,<sup>16</sup> and two books of the Zhytomyr castle administration (last project was realized at the beginning of the 2000s) was continued.<sup>17</sup> However, the historical part of these publications increased and the quality of the scientific reference system also improved.

In the late 1990s and the early 2000 there was a qualitative breakthrough in the publication of legal research documents with the appearance of several serials that were successfully launched and implemented. This was, of course, the result of a preparatory stage in which knowledge of previous historiography and publishing experience was recovered and mass editions of archive guides appeared in print. They included the information about repositories of legal documents and on archival and library research in Ukraine and abroad.<sup>18</sup> The Ukrainian scholars have also received invaluable experience from their foreign counterparts, especially in the methodological component of the historical and legal studies.

During this period in Ukraine a great number of charters of the Ukrainian hetmans of the 17<sup>th</sup> and 18<sup>th</sup> centuries were edited. We have volumes consistently dedicated to the epochs of Bohdan Khmelnytsky (from 1648 to 1657),<sup>19</sup> the period between Bohdan Khmelnytsky and Ivan Mazepa (until 1687),<sup>20</sup> Ivan Mazepa (1687–1709) in two parts<sup>21</sup> and his successor Pavlo Polubotok (1722–1723).<sup>22</sup> Five volumes were published and the editing will continue. The initiator of this series was the well known Ukrainian source editor Ivan Butych, who collected documents related to Ukrainian Hetmans during the Soviet era. Paradoxically, at that time he headed the publishing department of the archives of administration in Ukraine, but could not, because of censorship, publish these documents and the project only began to be realized in 1998.<sup>23</sup>

In the same year in which the first volume of the Hetman charters was published, the first volume of a series of other legal documents, dedicated to the privileges of Lviv, was edited. The idea for this publication had appeared repeatedly in the second half of the 19<sup>th</sup> century and in the interwar period,<sup>24</sup> but has been realized only recently. Three

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<sup>15</sup> *Knyha Kyivs'koho pidkomors'koho sudu: 1588–1644 rr.*, eds. H.V. Boriak, T.I. Liuta, L.Z. Histsova, Kyiv 1991.

<sup>16</sup> *Volyns'ki hramoty XVI st.*, eds. V.B. Zadorozhnyi, A.M. Matviienko, Kyiv 1995.

<sup>17</sup> *Aktova knyha Zhytomyrs'koho hrods'koho uriadu 1611 roku*, eds. A.M. Matviienko, V.M. Moisiienko, Zhytomyr 2002; *Akty Zhytomyrs'koho hrods'koho uriadu: 1590 r., 1635 r.*, ed. V.M. Moisiienko, Zhytomyr 2004.

<sup>18</sup> P. Kennedy-Grimsted, *Archives and Manuscript Repositories in the USSR: Ukraine and Moldavia*, vol. 1, Princeton 1988; P. Kennedy-Grimsted, *The Ruthenian (Volhynian) Metrica: Polish Crown Chancery Records for Ukrainian Lands. 1569–1673*, “Harvard Ukrainian Studies” 1990, vol. 14, 1–2, p. 7–83. See also very impressive edition of the great number of guides about the main Ukrainian archives in series under the scientific supervision of H. Boriak, *Arkhivni Zibrannia Ukraïny: Putivnyky (Archive Repositories of Ukraine: Guides)* (more 10 books in 2000–2009).

<sup>19</sup> *Universaly Bohdana Khmel'nyts'koho 1648–1657 rr.*, eds. I. Kryp'iakevych, I. Butych, Kyiv 1998.

<sup>20</sup> *Universaly ukrains'kykh het'maniv vid Ivana Vyhovs'koho do Ivana Samoilovycha (1657–1687)*, eds. I. Butych, V. Rynsevych, I. Teslenko, Kyiv–Lviv 2004.

<sup>21</sup> *Universaly Ivana Mazepy: 1687–1709 rr.*, ed. I. Butych, pt. 1, Kyiv 2002; pt. 2, Kyiv–Lviv 2006.

<sup>22</sup> *Universaly Pavla Polubotka (1722–1723)*, ed. V. Rynsevych, Kyiv 2008.

<sup>23</sup> About the scientific activity of Ivan Butych see more information in: I. Hyrych, *Ivan Butych – patri-arkh arkhivnoi spravy*, “Arkhivny Ukraïny” 2009, vol. 6, p. 274–279.

<sup>24</sup> See: K. Widmann, *Wiadomość o Archiwum miasta Lwowa*, “Przegląd Archeologiczny” 1883, vol. 2, p. 74; K. Badecki, *Archiwum miasta Lwowa. Jego stan obecny oraz potrzeby reorganizacyjne, inwentaryzacyjne i wydawnicze*, Lwów 1934, p. 88, 92–93.



volumes of this series have been published. The first volume contains the privileges addressed to the whole community and the government of the city from the 14<sup>th</sup> through the 18<sup>th</sup> centuries.<sup>25</sup> The second volume includes the privileges that were granted by Polish kings between the 15<sup>th</sup> through the 18<sup>th</sup> centuries for the benefit of national (ethnic) communities: Ruthenian (Ukrainian), Armenian and Jewish.<sup>26</sup> The third volume includes legal sources (statutes and privileges) related to the thirty or so artisan and merchant guilds that existed in Lviv during old regime period.<sup>27</sup> The urban theme in early modern Ukrainian archeography is being continued by some researchers from Eastern Ukraine. Natalia Bilous has published a number of documents that describe the judicial and administrative system of Kyiv.<sup>28</sup> Iurii Voloshyn in 2012 published a book describing the years 1765–1769 in Poltava, one of the regimental (“polkovnyi”) centers of the Hetman State.<sup>29</sup> This city was the last one in the Ukrainian land to receive the Magdeburg law (only in 1752). The statistical depiction of Poltava preserved in the description of Little-Rus (*Malorussia*) by Piotr Rumiantser who produced it in the second half of the 18<sup>th</sup> century, was famous for its scrupulousness.

The third significant serial project that, like previous ones, was carried out in the Institute of Ukrainian Archeography, was the edition of extant archival materials concerning New Zaporizhzhia Host in the years 1734–1775, which are well known to historians. Up to this time, five volumes that consist of a body of documents of various types of public acts, statistical documents, record keeping sources, court records, etc. have been published.<sup>30</sup>

Beside these serials, contemporary legal historians have prepared for publication several famous historical monuments that hold great importance for the Ukrainian historical memory. The Lviv historian and linguist Oleh Kupchynsky realized the megaproject of his life, which he began in old Soviet times. He undertook the publishing of the collection of charters from the era of Galych-Volynian state and references to them

<sup>25</sup> *Pryvilei mista Lvova XIV–XVIII st.*, ed. M. Kapral, “Monumenta Leopolitana”, vol. 1, Lviv 1998. See also free access in Internet: [http://www.academia.edu/2086306/Pryvilei\\_mista\\_L\\_vova\\_XIV-XVIII\\_st.\\_Privileges\\_of\\_city\\_Lviv\\_14th\\_to\\_18th\\_centuries\\_](http://www.academia.edu/2086306/Pryvilei_mista_L_vova_XIV-XVIII_st._Privileges_of_city_Lviv_14th_to_18th_centuries_) (access: 12.05.2015).

<sup>26</sup> *Pryvilei natsional'nykh hromad mista Lvova XIV–XVIII st.*, ed. M. Kapral, “Monumenta Leopolitana”, vol. 2, Lviv 2000. See also free access in Internet: [http://www.academia.edu/2086307/Pryvileji\\_natsionalnykh\\_hromad\\_Lvova\\_XIV-XVIII\\_st.\\_Privileges\\_of\\_national\\_communities\\_in\\_Lviv\\_14th\\_to\\_18th\\_centuries\\_](http://www.academia.edu/2086307/Pryvileji_natsionalnykh_hromad_Lvova_XIV-XVIII_st._Privileges_of_national_communities_in_Lviv_14th_to_18th_centuries_) (access: 12.05.2015).

<sup>27</sup> *Ekonomichni pryvilei mista Lvova XV–XVIII st.: Pryvilei ta statuty remisnychykh tsekhiv i kupets'kykh korporatsii*, ed. M. Kapral, “Monumenta Leopolitana”, vol. 4, Lviv 1998. See also free access in Internet: [http://www.academia.edu/2972468/Ekonomichni\\_pryvleji\\_mista\\_Lvova\\_XV-XVIII\\_st.\\_Economic\\_privileges\\_of\\_the\\_city\\_Lviv\\_from\\_15th\\_to\\_18th\\_centuries\\_](http://www.academia.edu/2972468/Ekonomichni_pryvleji_mista_Lvova_XV-XVIII_st._Economic_privileges_of_the_city_Lviv_from_15th_to_18th_centuries_) (access: 12.05.2015).

<sup>28</sup> N. Bilous, *Nove dzherelo do istorii vzaimovidnosyn kyiv's'kykh remisnykyv zamkovoï ta mahistrats'koï iurysdyksii*, “Arkhivy Ukraïny” 1997, vol. 1–6, p. 101–107; N. Bilous, *Pryvilei na kyiv's'ke viitivstvo XVI – pershoï polovyny XVII st.*, “Arkhivy Ukraïny” 2002, vol. 1–3, p. 112–124. See also one document about judicial situation in Kiev in the first half of the 17<sup>th</sup> century: V. Kravchenko, *Novyi dokument z istorii mis'koho sudochynstva v Kyievi 30-kh rr. XVII st.*, “Arkhivy Ukraïny” 1998, vol. 1–6, p. 113–120.

<sup>29</sup> *Misto Poltava v Rumiantsevs'komu opysi Malorosii*, ed. I. Voloshyn, Kyiv 2012.

<sup>30</sup> *Arkhiv Kosha Novoi Arkhiv Kosha Novoi Zaporoz'koï Sichi. Korpus dokumentiv, 1734–1775*, eds. L.Z. Histsova, D.L. Avtonomov, I.I. Drozd, K.H. Lashchenko, A.I. Omel'chenko, A.H. Polehailov, V.V. Stafichuk, L.A. Sukhykh, vol. 1, Kyiv 1998; vol. 2, Kyiv 2000; vol. 3, Kyiv 2003; vol. 4, Kyiv 2006; vol. 5, Kyiv 2008.

in the documents of the early modern period.<sup>31</sup> It was a scientifically difficult edition in which the author has collected documents in old Ukrainian, Latin, German, Polish and other languages. The compiler made a considerable effort to verify the published legal sources and provide them with a scholarly commentary. While doing this, he took into consideration how they were reflected in the monuments published later and in the historiography of the 19<sup>th</sup> through 20<sup>th</sup> centuries. For the Ukrainian reader this edition is very convenient because it contains translations of all the foreign language documents into Ukrainian.

Like Oleh Kupchynsky, thus also the editors of the Lithuanian Statute of the 16<sup>th</sup> century, the monuments of legislative nature of the former Great Duchy of Lithuania, made the historiographically first translation of all texts into Ukrainian and provided the translation with a detailed historical and legal commentary.<sup>32</sup> Another monument of a legislative nature “*Pacta et constitutiones Legum Libertatumque Exercitus Zapoviensis*” (1710), known as the Constitution of Pylyp Orlyk, was the subject of research and publications of various kinds, including the popular ones.<sup>33</sup> This legislation did not come into force after the defeat suffered by Hetman Ivan Mazepa, and was proclaimed by his companions in exile. Since then, it has been regarded as a legal symbol of the Ukrainian people as the people avid for independence from the Russian imperial power. Some men of learning have even considered it the first constitutional document in Europe, though in reality it was just a good historical myth.

The Ukrainian historians have published the acts from the early modern period of the Volynian (Ruthenian) metrica in a volume covering the years 1652–1673,<sup>34</sup> they also have published the registers of documents of the metrica of those Ukrainian lands that until 1569 were a part of the Grand Duchy of Lithuania (the voivodships: Volyns’ke, Bratslavs’ke, Kyivs’ke) and also of the Chernihivs’ke voivodship which was incorporated into the Polish-Lithuanian Republic in 1630<sup>35</sup> Separately, the Ukrainian historians who were involved in the publication of books from the Lithuanian metrica (Revision Ukrainian Castles 1545)<sup>36</sup> have entered into a major international project for the publication of the Lithuanian metrica that is also being conducted by Lithuanian<sup>37</sup>

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<sup>31</sup> *Akty ta dokumenty Halyts’ko-Volyns’koho kniazivstva XIII – pershoi polovyny XIV stolit’. Doslidzhennia. Teksty / Acts and Documents of 13<sup>th</sup> century – early 14<sup>th</sup> century. Halych and Volyn’ Principality: Research. Documents*, ed. O. Kupchyns’kyi, Lviv 2004. See also free access in Internet: <http://ntsh.org/kupch-book1> (access: 12.05.2015).

<sup>32</sup> *Statuty Velykoho kniazivstva Lytovy koho: U 3-kh tomakh*, eds. S. Kivalov, P. Muzychenko, A. Pan’kov, vol. 1, Odesa 2002; vol. 2, Odesa 2003; vol. 3, Odesa 2004.

<sup>33</sup> *Konstytutsiia Ukrain’s’koï Het’mans’koï derzhavy. Staroukrain’s’koiu, latyns’koiu, ukrain’s’koiu ta anhliis’koiu movamy*, ed. M.S. Trofymuk, Kyiv-Lviv 1996; *Dohovory i postanovy*, ed. O. Alf’orov, Kyiv 2010; *Pakty i Konstytutsiï” Ukrain’s’koï kozats’koï derzhavy (do 300-richchia ukkladennia)*, ed. M.S. Trofymuk, T.V. Chukhlib, Lviv 2011.

<sup>34</sup> *Rus’ka (Volyns’ka) metryka. Knyha za 1652–1673 rr.*, Pam’iatky istoriï Skhidnoi Evropy. Dzherela XV–XVII st., vol. 5, ed. P. Kulakovs’kyi, Ostroh–Warsaw–Moscow 1999.

<sup>35</sup> *Rus’ka (Volyns’ka) metryka. Regesty dokumentiv Koronnoi kantseliarii dlia ukrain’s’kikh zemel’ (Volyns’ke, Kyivs’ke, Bratslavs’ke, Chernihivs’ke voievodstva) 1569–1673*, ed. H. Boriak et al., Kyiv 2002.

<sup>36</sup> *Lytovs’ka metryka, knyha 561: Revizii ukrain’s’kykh zamkiv 1545 roku*, “Arkhivni dzherela”, vol. 7, ed. V.V. Kravchenko, Kyiv 2005.

<sup>37</sup> *Lietuvos Metrika = Lithuanian Metrica = Litovskaia Metryka*, vols. 1–32, Vilnius, 1998–[2012].

and Byelorussian historians.<sup>38</sup> In 2012, one of the books of the Lithuanian metrika was edited as a result of close cooperation of the Ukrainian and Lithuanian historians.<sup>39</sup> The Ukrainian source editors have also implemented some projects conceived by their predecessors, such as the volume of Magdeburg charters and privileges granted to the Ukrainian cities,<sup>40</sup> the project being previously unsuccessfully implemented in the period between the 1920s and 1940s.

In recent years it has become usual for legal historians to search for and publish sources with a narrow thematic orientation that are based on the accidental survival of contemporary private archival copies, such as testaments of Kyiv citizens derived from in the 16<sup>th</sup> through the 17<sup>th</sup> centuries,<sup>41</sup> documents of Bratslav voivodeship in the 1566–1606.<sup>42</sup> The edition of sources related to the history of the Greek-Catholic Church in this period, the acts of the councils of individual dioceses, such as Lviv,<sup>43</sup> and acts related to visitations (documents describing the church property and obligations of the clergy)<sup>44</sup> remain hardly explored.

In Ukraine, there are many published sources from early modern times that are statistical in nature but have legal implications, such as inventories, descriptions of localities, possessions and property registries.<sup>45</sup> In 2007, Volodymyr Aleksandrovych launched a new series entitled “Sources of the history of art and culture,” devoted to the publication of newly found documents in order to explore more deeply the culture and art of Ukraine. In the first volume he published a series of inventories of Olyka castle in Volyn.<sup>46</sup> In the early 2000s two source publications that describe the huge estates of the Princes of Ostroh (Ostroz’ki), the richest family in the Ukrainian lands at the end of the 16<sup>th</sup> and the beginning of the 17<sup>th</sup> century,<sup>47</sup> were edited. The Polish parliament in 1609 adopted the so-called Ostroh ordination or “majorat” about the indivisibility of the estates of the Princes of Ostroh, which amounted to 24 towns and 604 villages (they all are described in the inventory from 1620). These sources of legal character are interesting not only for historical and legal studies, but also for historians of society, of art history, and those interested in economic relations etc.

<sup>38</sup> See: *Metryka Vialikaha kniastva Litoŭskaha. Kniha 28 (1522–1552)*, eds. V. Mianzhynski, U. Svi-azhynski, Minsk 2000; *Metryka Vialikaha kniastva Litoŭskaha. Kniha 43 (1523–1560)*, ed. V. Mianzhynski, Minsk 2003; *Metryka Vialikaha kniastva Litoŭskaha. Kniha 46 (1562–1565)*, ed. V. Mianzhynski, Minsk 2006 etc. Only during 2000–2007 in Minsk were published six books of this series.

<sup>39</sup> *Lietuvos Metrika (1548–1549) Kn. 32*, eds. A. Blanutsa, D. Vashshuk, D. Antanavičius, E. Deveikytė, Vilnius 2012.

<sup>40</sup> *Korpus mahdeburs’kykh hramot ukrains’kym mistam: dva proekty vydan’ 20–40-kh rr. XX st.*, eds. V.I. Andreitsev, V.I. Ul’ianovs’kyi, V.A. Korotkyi, Kyiv 2000.

<sup>41</sup> N. Bilous, *Testamenty kyian seredyny XVI – pershoi polovyny XVII st.*, Kyiv 2011.

<sup>42</sup> *Dokumenty Bratslavs’koho voievodstva 1566–1606 rokiv*, eds. M. Krykun, O. Pidubniak, Lviv 2008.

<sup>43</sup> *Sobory L’vivs’koï ieparkhii XVI–XVIII stolit’*, ed. I. Skochylias, Lviv 2006.

<sup>44</sup> *Heneral’ni vizyatsii Kyivs’koï uniinoï mytropoliï XVII–XVIII stolit’*: *L’vivs’ko-Halyts’ko-Kam’ianets’ka ieparkhiia*, ed. I. Skochylias, vol. 2: *Protokoly heneral’nykh vizyatsii*, Lviv 2004.

<sup>45</sup> V. Kravchenko, *Inventarni opysy volyns’kykh maietkiv kniaziv Sanhushkiv druhoi polovyny XVI st.*, “Zapysky naukovohto tovarystva im. Shevechenka” 1999, vol. 238, p. 385–414; I. Mytsyk, *Nevidomyi inventar Bilotserkivs’koho starostva 1652 r.*, “Ukraïna v Tsentral’no-skhidnii Ievropi” 2000, vol. 1, p. 207–237 etc.

<sup>46</sup> *Inventari Olyts’koho zamku XVII–XVIII st.*, ed. V. Aleksandrovych, Luts’k 2007.

<sup>47</sup> *Volodinnia kniaziv Ostroz’kykh na skhidnii Volyni: za inventarem 1620 roku*, ed. I.O. Voronchuk, Kyiv 2001; *Opysy Ostrozchchyny druhoi polovyny XVI – pershoi polovyny XVII stolittia*, ed. V. Atamanenko, Kyiv–Ostroh–New York 2004.



Some collections of documents were devoted to the life and public or military activities of famous historical individuals of the Ukraine, such as hetman Ivan Mazepa,<sup>48</sup> the last leader of Zaporizhia Host (koshovyi) Petro Kalnyshevskiy,<sup>49</sup> Cossack leader Ivan Sirko.<sup>50</sup> The capital of the Hetman State at the time of Ivan Mazepa – the city of Baturyn – also received a separate book of documents, with emphasis on its metropolitan past.<sup>51</sup> The publication of documentary sources on the history of the Ukrainian autonomous state (the Hetman State) has been the focus of many researchers. Obviously, the largest number of documents from the castle and other official books was published by group of authors from the Central State Archive of Ukraine in Kyiv.<sup>52</sup>

In accordance with an old tradition, Ukrainian historians have published many legal documents in their articles and the appendices attached to their books to confirm their hypotheses and to complement the main text with source material.<sup>53</sup> Many of the small selections of legal documents and individual documents have been printed in historical periodicals, such as “Ukraïns’kyi arkhеоhrafichnyi shchorichnyk,” “Zapysky naukovoho tovarystva im. Shevchenka,” “Arkhivy Ukraïny,” “Ukraïna v mynulomu” etc. Unfortunately, at the time of the independent Ukraine there was no specialized publishing institution that would deal with the publication of the Ukrainian legal documents of medieval and early modern time.

*Conclusions.* During the two decades that followed the arrival at the independence and the restoration of intellectual freedom in Ukraine after a long period of Soviet censorship and oppression, Ukrainian legal historical world of learning has entered a new era, especially in the field of the medieval and early modern period. One of its features is the publishing of legal sources.

Over the years there has been no single center that could lead and organize work with the publication of legal documents in Ukraine. In the past this work has been conducted unsystematically and sporadically. As often as not, researchers implemented various publishing projects in this area on their own initiative. In view of the above – when compared with the Soviet period – the number of publications grew but only a few projects have managed to assume the character of publications that would be of a series or multivolume nature. Kyiv and Lviv have become the main centers for the development of historical-legal studies of the medieval and early modern periods and the publishing of documents, though some editions were also implemented in Chernihiv, Zhytomyr, Odessa, and Poltava.

In this period, we can divide all source editions into several thematic groups:

1) history of state and law (mainly the Galich-Volynian state, the Grand Duchy of Lithuania, and especially the Hetman state in the 17<sup>th</sup> and 18<sup>th</sup> centuries);

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<sup>48</sup> *Doba het'mana Ivana Mazepy v dokumentakh*, ed. S. Pavlenko, Kyiv 2007.

<sup>49</sup> *Petro Kalnyshevskiy ta iohno doba. Zbirnyk dokumentiv ta materialiv*, eds. V.V. Hrabovskiy, V.I. Mil'chev, I.L. Syniak, Kyiv 2009.

<sup>50</sup> *Lysty Ivana Sirka*, eds. I.A. Mytsyk, M.V. Kravets', Kyiv 1995.

<sup>51</sup> *Baturyn: storinky istorii. Zbirnyk dokumentiv i materialiv*, eds. O.B. Kovalenko, H.V. Boriak, R.B. Vorobei, V.O. Diatlov, Chernihiv 2009.

<sup>52</sup> *Natsional'no-vyzvol'na viina v Ukraïni. 1648-1657. Zbirnyk za dokumentamy aktovykh knykh*, eds. L.A. Sukhykh, V.V. Strashko, Kyiv 2008.

<sup>53</sup> M. Kapral, *Natsional'ni hromady L'vova XVI–XVIII st. (sotsial'no-pravovi vzaiemyny)*, Lviv 2003; M. Kapral, *Liudy korporatsii: L'vivs'kyi shevskiy tsekh u XVII–XVIII st.*, Lviv 2012 etc.

- 2) social history (town citizens, peasantry, nobility);
- 3) history of Magdeburg Law in the Ukrainian lands (especially in Lviv and Kyiv);
- 4) history of the Church (particularly focused on the Greek Catholic Church);
- 5) history of Art and Culture (inventories).

The published sources represented a wide range of documents: legal documents, documents of constitutional type (charters, privileges), private acts (testaments, acts of sale, mortgage, etc.), documents of statistical nature (inventories, visitations of churches, etc.).

Thus, one can see both positive and negative aspects of the entire process of publication of legal documents in the Ukraine over the last twenty years. Positively, there has been an ever increasing number of publications since the end of the Soviet era, censorship and political restrictions have been lifted, the repertoire of subjects and research publications has expanded, emphasis has been shifted to the publication of entire acts and legal books, and there are some examples of international cooperation.

The negative trends in the publication of legal sources include the lack of large-scale projects that would cover the entire territory of Ukraine, inconsistent and non-systematic publications, an occasional weaknesses of the standard of editorial work (incomplete indexes, limited scholarly commentary etc.), weak institutional framework (absence of specialized journals).

## Streszczenie

### Edycja prawnych źródeł historycznych epoki średniowiecznej i nowożytnej na Ukrainie (1991–2012)

W ciągu dwóch dziesięcioleci od uzyskania niepodległości oraz przywrócenia wolności intelektualnej po długim okresie sowieckiej cenzury i represji historycy prawa na Ukrainie weszli w nową erę, w szczególności w dziedzinie publikacji prawnych aktów średniowiecznych i nowożytnych. Kijów i Lwów stały się głównymi ośrodkami rozwoju badań historyczno-prawnych oraz edycji dokumentów; niektóre edycje były realizowane w Czernichowie, Żytomierzu, Odessie i Połtawie.

W tym okresie możemy podzielić nowe edycje źródłowe na kilka grup tematycznych: historia państwa i prawa (akta i dokumenty Księstwa Halicko-Wołyńskiego, Wielkiego Księstwa Litewskiego, a zwłaszcza Państwa Kozackiego [Hetmańszczyzna] w XVII i XVIII wieku); historia społeczna (obywatele miasta, chłopci, szlachta); historia prawa magdeburskiego na ziemiach ukraińskich (zwłaszcza we Lwowie i Kijowie); historia Kościoła (szczególnie przez Kościół grekokatolicki); historia sztuki i kultury.

Od końca ery radzieckiej cenzura i ograniczenia polityczne zostały zniesione, wzrosła liczba publikacji, rozszerzył się repertuar tematów i publikacji naukowych, nacisk położono na publikację kompleksów akt prawnych. Wśród negatywnych tendencji w publikacji źródeł prawa widoczny jest brak dużych projektów, które obejmowałyby całe terytorium Ukrainy, publikacje nie są systematyczne, pojawia się okazjonalna słabość kultury edycji, słabe są ramy instytucjonalne i brakuje specjalistycznych czasopism.