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***THE RELATIONSHIP BETWEEN UKRAINIAN STATEHOOD AND UKRAINIAN CONSTITUTIONALISM: ACHIEVEMENTS, PROBLEMS AND PROSPECTS***  
**(СПІВВІДНОШЕННЯ УКРАЇНСЬКОГО ДЕРЖАВОТВОРЕННЯ ТА УКРАЇНСЬКОГО КОНСТИТУЦІОНАЛІЗМУ: ЗДОБУТКИ, ПРОБЛЕМИ ТА ПЕРСПЕКТИВИ)**

At this stage of development, the thirtieth anniversary of Ukrainian statehood (since 1991) and the twenty-fifth anniversary of Ukrainian constitutionalism (since 1996) have been marked by both positive and contradictory development trends.

Among the achievements of Ukrainian statehood and Ukrainian constitutionalism are the following:

1) the adoption of the Act of Independence of Ukraine of August 24, 1991, which solemnly proclaimed the independence of Ukraine and the creation of an independent Ukrainian state - Ukraine [1];

2) logical democratic confirmation of the Act of Independence of Ukraine. In this regard, it should be noted that the first national referendum was a referendum on the declaration of independence of Ukraine, which was held on December 1, 1991. One question was put to the referendum: "Do you confirm the Act of Independence of Ukraine?". The text of the Act of Independence of Ukraine, adopted by the Supreme Council on August 24, 1991, was listed in the ballot paper. Citizens of Ukraine spoke in support of independence. 31,891,742 people took part in the referendum

- 84.18% of the population of Ukraine. Of these, 28,804,071 people (90.32%) voted in favor, answering "yes" [2];

3) the existence of a transitional stage from the establishment of statehood to the formation of modern Ukrainian constitutionalism. At this stage, the Constitutional Agreement between the Supreme Council of Ukraine and the President of Ukraine "On the basic principles of organization and functioning of state power and local self-government in Ukraine for the period before the adoption of the new Constitution of Ukraine" of June 8, 1995 was adopted [3]. At this stage, the effect of this Constitutional Treaty was determined for a period of one year, ie until the adoption of the Constitution of Ukraine;

4) adoption of the Constitution of Ukraine of June 28, 1996 [4].

However, despite a number of achievements, the adoption of the current Constitution of Ukraine, its content, and especially - the ways and methods of its implementation were marked by a number of negative features, in particular:

1) in comparison with the Act of Independence of Ukraine of August 24, 1991, which solemnly proclaimed the independence of Ukraine and the creation of an independent Ukrainian state - Ukraine, the Constitution of Ukraine was not approved in an all-Ukrainian referendum, but only at the Supreme Council of Ukraine, which calls into question the very fact of its legitimacy. This is also confirmed by the provision of Article 5 of the current Constitution of Ukraine that the bearer of sovereignty and the only source of power in Ukraine is the people [4]. That is why the people of Ukraine should confirm or deny the legitimacy of this Constitution;

2) a significant shortcoming of the current Constitution of Ukraine, which does not correspond to the directions of state formation and democracy as the perception of the opinion of the people of Ukraine as the only source of power, is in the recent Ukrainian history of popular revolutions. A clear example of this is the events of January 2000 ("Velvet Revolution-2"), the events of November 22 - early December 2004 ("Orange Revolution"), as well as the events of late 2013 - early 2014 ("Revolution of Dignity"). It should be noted their significance, in particular, for constitutional law, as the result of the "Orange Revolution"

and the "Revolution of Dignity" - amendments to the Constitution of Ukraine;

3) an important shortcoming of the content of the current Constitution of Ukraine is also that the unity of approaches in the concepts of "legal constitution" and "de facto constitution" is not ensured. The scientific literature defines that the legal Constitution is the official definition of the actual state of affairs, a means of legal regulation of real social relations, and the actual constitution - is actually valid in a country social order (constitutional order), based on those objective relations, which determine the most important economic, political, social and other features of society [5]. For example, according to Part 3 of Article 49 of the Constitution of Ukraine, the state creates conditions for effective and accessible medical care for all citizens. In state and municipal health care facilities, medical care is provided free of charge; the existing network of such establishments cannot be reduced. The state promotes the development of medical institutions of all forms of ownership [5]. In this case, the content of the legal constitution, which is supported by the positivists, does not correspond to the actual constitution in full. Even in state and municipal health care facilities, medical care is in fact paid (in the form of applications and payments in the form of voluntary donations of citizens. If we analyse the reformist actions of former Minister of Health V. N. Suprun, they are generally unconstitutional in the sense that the existing network of such institutions cannot be reduced (for such actions a person should be brought to justice);

4) Section 3 of the Constitution of Ukraine "Elections. Referendum" also does not withstand criticism. Democracy is reduced to elections and referendums with a general reference to other forms of direct democracy (only six articles). These other forms of democracy are not mentioned - the right to uprising, revolution, crowdsourcing, regulated popular initiative, meetings, rallies, demonstrations, etc .;

5) An important shortcoming that scholars and legal practitioners do not notice or do not want to notice is outdated definitions and outdated Soviet formulations in the Constitution of Ukraine (in particular, the wording "Verkhovna Rada (Supreme Council) of Ukraine", which in

principle can not be supreme, is the people of Ukraine, and the parliament should be renamed the National Assembly, National Congress, People's Congress, National Assembly, People's or National Assembly, etc. This will correspond to the derivative nature of the parliament from the people of Ukraine as the only source of state power. According to the name, it is a group of certain officials who "closed" in a separate cabinet and solves problematic issues separately from the people of Ukraine as a remnant of the Soviet era. for their implementation);

6) the subjects of the right of legislative initiative are significantly limited. According to Article 93 of the Constitution of Ukraine, they include the President of Ukraine, people's deputies of Ukraine and the Cabinet of Ministers of Ukraine. It should be noted that the number of such entities illegally did not include representatives of the people of Ukraine (in the amount of 25, 50 or 100 thousand, the judiciary and local governments);

7) for political reasons, Section 7 of the Constitution "Prosecutor's Office of Ukraine" has been unlawfully excluded, while Section 8 enshrines Article 131-1, which superficially defines the functions of the Prosecutor's Office;

8) Section 11 of the Constitution of Ukraine "Local Self-Government" is particularly flawed in the context of decentralization of state power and reform of local self-government. It does not properly reflect the dynamics of municipal reform at all, and also superficially defines the legal, organizational, material and financial basis of local self-government in Ukraine. In this part, the Constitution of Ukraine does not perform its regulatory and dynamic function at all;

9) The largest number of remarks is caused by Section 12 of the Constitution of Ukraine "Constitutional Court of Ukraine". On the one hand, this body and its judges work according to the principles of the judicial system of Ukraine, and on the other hand - according to Article 124 of the Constitution of Ukraine, they are removed from the general justice system (despite the fact that constitutional justice is part of the justice system in Ukraine). It seems that they are a special jurisdiction in the state, which is not responsible for anything and which can be equated

in status to people with special needs (physical or mental), including disability (in 2020, they successfully demonstrated this).

Thus, the current Constitution of Ukraine has only partially fulfilled its functions in terms of statics of constitutional law (permanent and unchanging provisions) and does not fully correspond to the dynamics of this branch of law (development and reform processes).

Therefore, taking into account the above, the Constitution of Ukraine in its current version is subject to repeal after the adoption of a new modern Ukrainian constitution with its subsequent mandatory approval in an all-Ukrainian referendum.

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