

## **Retrospective Analysis of the Formation of the Legal Base of Ukrainian-Polish Relations in Terms of Totalitarianism (1946 - second half of the 80th)**

This article considers the peculiarities of the formation of the legal base of Ukrainian-Polish relations in terms of totalitarianism on the basis of retrospective analysis. It should be noted that the formation of diplomacy of this period did not always meet the established norms of international law in foreign relations, as contracting parties often resorted to radical (power) means of settling disputes. In this regulatory and legal system, the scheme of Ukrainian-Polish relations reproduced mainly formal contractual and legal process, the contents of which did not always meet the interests of both sides, but fully satisfied the ruling elite. As a result, relations between Ukraine and Poland had an extensive character.

**Key words:** diplomacy, contractual and legal base, bilateral cooperation, Poland, Soviet (Ukrainian)-Polish relations, Ukraine.

**Formulation of the scientific problem and its significance.** Formation of the Ukrainian-Polish cooperation has a lot of interweavings, many examples of wide good neighborhood, common struggle for social ideals, contains periods of improvement and aggravation of relations and there was influenced by various historical events that take place in the history of the two countries. The period from 1946 to the second half of the 80th deserves special attention, as the contractual and legal base that emerged at this time in the so-called «socialist community» has its own characteristics, methods and norms that did not meet the established practice of normalization of interstate relations between subjects of opposing socio-economic systems.

**The purpose of this article** is deep analysis of the legal framework of the Ukrainian-Polish relations in the context of Soviet-Polish relations in the postwar period of their history with the allocation of the main components of the contractual and legal framework (treaties, conventions, agreements, common legislative acts and so on), that determined the main priority areas of cooperation, as well as those who later made the basis for the legal interstate relations between independent Ukraine and Poland.

**Analysis of the research of a problem.** Most of the modern Ukrainian, Russian, Polish historians, political scientists, legal experts from various issues of Ukrainian-Polish relations and their appropriate legal registration (V. Derevinskyi, L. Zashkilniak, I. Kozlovskyi, V. Motsok, V Bonusiak, R. Torzhetskyi and so on) in their studies tend to believe that the starting point in this process are the main events, that are associated with the solution as Ukrainian and Polish issues in the international arena during and after the Second World War as well as with the first foreign actions of the newly formed Polish and Ukrainian authorities.

**The main material.** Difficult and controversial dialogue on important issues initiated by Polish and Ukrainian postwar community of the neighboring Slavic countries gained the status of international problem. Abnormal situation in Poland, where there were two governments and no clarity about the boundaries and many other issues of internal and external character demanded urgent resolution. On February 4-11, 1945 Big Three executives gathered for the second time at the international conference in the Crimea (Yalta) [1]. It was decided to seek the formation of a new Polish government with the participation of Poles from the country and emigration, because the Polish emigration government did not go to any compromise.

According to the historical facts of both countries, the establishment of the contractual and legal base of the Soviet (Ukrainian)-Polish relations since the second half of the 40th was conducted with a significant deviation from the accumulated experience and traditions of the international practice and implementation of international relations as well as ignoring of the statutory requirements and recommendations of the UN. Party and state leadership of the Soviet Union initially started to form their own system of international relations, which were dominated not by the organizational and legal factors but by the party and political ones and elements of democratic equality of the participants of contract process were replaced by strong-willed, dictatorial and personnel decisions.

In addition, there was a brutal centralization of the organizational structures with the legal status for

providing international cooperation. These functions were given to the Central Committee of the Communist Party of the Soviet Union, the Presidium of the Supreme Council of the USSR and the Soviet Foreign Ministry, in fact to the CPSU Central Committee headed by the secretary or secretary general. It was considered that the relevant republican institutions, «voluntarily» depriving themselves the status of subjects of international cooperation "delegated" their authority to this. Later, this circumstance, after it was subjected to severe criticism from international human rights centers, was fixed de jure in the Constitution of the USSR (1978, chapter 4, article 28) [2, p. 580].

The Soviet leaders led by Joseph Stalin demanded the legal dictate in the international arena, particularly in the region of their far-reaching plans, that is Central and Eastern Europe. Even during the Second World War, the Soviet Union launched a new system of allied agreements on friendship, cooperation and mutual assistance – with Czechoslovakia in December 1943 and with Yugoslavia in April 1945 [3, p.133; 4, p. 177]. Such agreement was an agreement on friendship, mutual assistance and postwar cooperation between the Interim Government of Poland and the Soviet Union for 20 years term that was signed on April 21, 1945 in Moscow [5, p. 222]. It actually established a military-political alliance between the two countries under the leadership of the Soviet Union. Thus, the output level of cooperation between the USSR and Poland was determined by the inherited forms of political, rather than civilized juridical and legal framework that should have laid in the contracting process.

From the perspective of the law of international treaties on the definition of the contract and its classification, this agreement in form and structure meets the regulatory requirements of international experience: it has a preamble, the obligations of the contracting parties, the timing of their implementation, and other elements – so, the theoretical construction of the contract is mainly followed.

However, in terms of equivalence of the nature between parties to the contract, of the equality of the contracting parties as partners, and what is the most importantly in terms of essence of the contents of contractual obligations that, from the preamble which proclaims «the inviolability of union cooperation» and in the process of statement of contractual obligations from the block of military, economic, political and cultural issues, which are again dominated by the will of the Soviet side, this agreement, we believe, should be classified more as a «norm-order» [6, p. 15], but not as an independent normative act, as it automatically linked economic, cultural and spiritual spheres of Polish society with an appropriate structure, that was formed in the Soviet Union at the time. And this structure was socialist.

In the second half of 1945 between the USSR and Poland a number of other important agreements, which put the same goal – to consolidate political and economic union of the two countries were signed. Among them is the Moscow Agreement of 25 November 1945 on a direct rail link between Poland and the USSR, which assumed significant expansion of traffic opportunities at border rail points of the Ukrainian SSR and Poland [7, p. 408].

According to the article 7 of the Treaty on friendship, mutual assistance and postwar cooperation, annual deliveries of the various technical equipment, machinery, railway rolling stock to Poland from Soviet were conducted. On February 8, 1946 in Moscow the Soviet-Polish agreement under which the Soviet Union sent to Poland 200 thousand tons of grain was signed. In April, the Soviet government gave instructions to put to Poland additional 300 thousand tons of grain, and only in 1946-1947, in the dry and lean years for Ukraine, the Soviet Union put to Poland 900 thousand tons of grain and averted hunger there [8, p. 212]. And this was at a time when in their own country, especially in Ukraine, particularly in its central and eastern regions, population was starving and barely made ends meet.

The next Soviet-Polish agreement, which prompted the Polish side for cooperation, was signed in March 1947 in Moscow. They signed an agreement on the settlement of mutual financial calculations, according to which, a number of Polish government commitments totaling more than 280 million rubles were repaid or recognized as such that have lost power [9, p. 146-148]. Financial liabilities were settled: on January 1, 1947 the USSR gave Poland the gold loan in the amount of 27,875 thousand dollars for the purchase of investment equipment in the West.

With the increasing domestic needs of Poland in coal, With the increasing domestic needs of Polish coal, there was agreed to reduce by half the Polish coal supplies to the Soviet Union and the agreement on scientific and technical cooperation, the first document of this kind, was signed between the USSR and the countries of people's democracy. This list can be continued.

Appraising in general the state and prospects of Soviet-Polish contractual process, the Prime Minister J. syrankevych at the first session of the newly elected Legislative Sejm noted: «Friendship and constructive cooperation with the Soviet Union ... is the foundation of our policy» [8, p. 216]. The internal political situation in Poland proved completely different point. Major disputes between the most influential parties of that time – the Polish Peasants' Party and the Polish Workers' Party which were associated with the

problem of Poland sovereignty happened over the Soviet-Polish relations. Advocating good neighborly interstate relations between two countries on the basis of civilized law the Polish Peasants' Party sought to «balance» them using ties with the West and rejected all manifestations of Soviet interference into the inner life of Poland, employing an appropriate legal framework for this purpose. The number of protests against the Soviet military presence and deportations of the opposition to the USSR increased in Polish society [10, p. 80].

Along with the formation and development of the legal contractual framework of economic relations, the Soviet Union and Poland actively worked on the formation of a coordinated foreign policy. A lot of allied agreements on the coordination of joint actions in the international arena, the fundamental theoretical and practical basis of which was socialist internationalism were signed. Signing on May 14, 1955 in Warsaw the Treaty on Friendship, Cooperation and Mutual Assistance, known as the Warsaw Pact, by the Soviet Union, Poland, East Germany, Czechoslovakia, Bulgaria, Yugoslavia, Romania and Albania and establishing the Unified Military Command became the climax of this process [11].

Since that time the relationships of Polish People's Republic and the Soviet Union have been defined by the provisions of the bilateral Agreement signed in 1945 as well as the Warsaw Pact, which declared that its members «would act in a spirit of friendship and cooperation with the aim of further development and strengthening of political, economic and cultural relations between them» [7, p. 391].

We should add to this the ideological postulates of the new Polish Constitution, adopted by the Sejm on July 22, 1952 [12, p. 564] which proclaiming the introduction of a single centralized system of «public authority» (a totalitarian one – on the Soviet model, instead of its division into legislative, executive and judicial branches of power) were irreversibly oriented to support to the USSR foreign policy in international relations; also the decisions of parties' congresses of the CPSU and the PUWP, which since the XX Party Congress (February 1956), at their party forums (every 5 years) had adopted the binding specific programs on a common foreign policy on the joint political platform and had finally consolidated the legislative initiatives of the communist parties in international relations.

The legal basis formed at that time should be viewed first of all as one that has significant discrepancies with international practice of international relations legal registration because the material collisions associated primarily with such external factors as negative dynamics of the relationships outside of the «commonwealth» (so-called «iron curtain») laid the foundation of it; also as formal rejection of many treaties, agreements which were concluded in the «commonwealth» by the legislative bodies (parliaments, congresses, etc.) of the USA, some Western European countries and Japan; as legal procedural complications which arose during the signing of intergovernmental agreements with the representatives of countries which have the opposite system (capitalist) and others.

Secondly, formal collisions – contradictions in the legal system or the content of international treaties which have a subjective nature and are generated by internal disturbances. The main factors of such a disturbance: in Ukraine – the actual removal of the republic from active participation in the process of creating the legal basis of its relationships with neighboring countries due to excessive centralization of legislative state power and its substitution in international relations by the party dictates represented by the CPSU Central Committee; in the PPR – the unequal nature of partnership, the resistance of creative environment to strengthening of totalitarian tendencies in the PUWP policy under ever-increasing pressure from the Kremlin.

Nevertheless it should be noted that according to contractual obligations the Ukrainian SSR was obliged to fulfill the most significant volume of large-scale programs on the Soviet-Polish cooperation, virtually on all economic and humanitarian issues. For this purpose, the conclusion of Ukrainian-Polish agreements by the ministries, departments, public organizations, which would concretize the programs of their cooperation in pre-determined terms, specifying volumes, concrete subjects etc was allowed.

Concerning the cooperation at the national level, it should be noted that on February 15, 1961 the Ministry of Road Transport and Highways of the Ukrainian SSR and the Ministry of Railways of the PPR signed the Agreement on Crossborder Bridges on the Soviet-Polish border [13], which specified the list of works and responsibilities of parties regarding keeping the bridges on the river Western Bug in areas Yagodyn – Dorogusk and Ustyluh – Zosin in a proper state. The state border between the USSR (the Ukrainian SSR) and the PPR was agreed to be located in the middle of the bridge, regardless the water boundary.

Only in 1975 – 1977 about 50 agreements on various issues of cultural exchange such as common tours of artistic groups, decades, arts festivals, films screening, exhibitions, plein-air, exchange of experience, etc between the ministries of culture of the USSR and the PPR were concluded [14, p. 135].

The main principles of cooperation between the Ukrainian SSR and the PPR in education and

science were also consolidated in the fundamental Treaties on friendship, mutual assistance and postwar cooperation (1945 and 1965) based on which the relevant sectoral ministries, departments, the Academies of Sciences, some universities adopted in the prescribed manner one-year and since the 60's years – two or five-year partnership programs in the educational and scientific spheres, etc [15, p. 128-129].

In the former Soviet Union, the Ukrainian SSR initiated the development of cooperation between its border regions and the PPR voivodships, districts and counties, twin cities. The first crossborder contacts were established in August – September 1956 between Lviv and Volyn regional committee of the Ukrainian CP and Lublin voivodship committee of the PUWP with the permission of the Central Committee of the CPSU and the Central Committee of the PUWP [16]. Over time this sphere of contacts was constantly expanding and got much popularity among the population on both sides of the border that in terms of «closeness», «secrecy», was the most favorable opportunity for mass communication. But these possibilities were also limited to the strict regulation by party officials who were the organizers and direct executors of all the programs of such exchange.

All the legal pyramid of the system, from the Constitution of the USSR (1977), in the first articles of which the rule of leading party in international relations was consolidated, and to organizational, political and ideological institutions which insistently developed all relations «on the basis of internationalism» for economic, political and military strengthening of the world socialist system was a kind of monument, the creators of which considered the national reconciliation only through the prism of protection the basis of socialist system.

In this legal system the scheme of Ukrainian-Polish relations mainly reproduced formal contractual and legal process, the content of which did not always meet the interests of both sides, but it completely satisfied the ruling elite. As a result, ties between Ukraine and Poland were extensive in nature. In fact, until 1991 at the international level Poland was seen as a partner of the Soviet Union, but not of Ukraine.

**Conclusions.** The analytical survey of Ukrainian-Polish relations in terms of forming the legal basis of relations in the Soviet period represented above shows that the totalitarian system has not managed to establish coordinated state legal system that, on the one hand, would objectively present the state interests of the USSR in the international arena, on the other – would serve as a universal regulatory factor of mutually beneficial economic, political, cultural and other relations with partners in the «commonwealth», creating the most favorable conditions to all subjects of ally to develop their own national policy in the field of international relations and its legal support at the civilized level.

Although both countries equally suffered from totalitarianism, Poland, in comparison with Ukraine, still had more opportunities for gradual democratization of the legal foundations of foreign policy. This became especially noticeable in the second half of the 80's, when Gorbachev's «perestroika» in the Soviet Union in general liberated the socialist system and in particular the Polish one from the «patterns of development in accordance to the Soviet model». This fact was appreciated by the majority of Polish society as the first real step toward building equal relations between two countries.

However, Ukraine as well as Poland taking into account the previous communication experience and all the relationships in the past century learnt the most important lesson: building of civilized relations on democratic principles is possible only between independent sovereign states in terms of mutually beneficial and equal partnership. In this context, relevant legal framework should be formed.

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**Гороть А. Ретроспективний аналіз формування договірно-правової бази українсько-польських відносин в умовах тоталітаризму (1946 – друга половина 80-х рр.).** У статті на основі ретроспективного аналізу розглядаються особливості формування договірно-правової бази українсько-польських відносин в умовах тоталітаризму. Слід зауважити що формування дипломатії даного періоду не завжди відповідало усталеним нормам міжнародного права у зовнішніх зносинах, оскільки договірні сторони нерідко вдавалися до радикальних (силових) засобів вирішення спірних питань. У цій нормативно-правовій системі схема українсько-польських відносин відтворювала в основному формальний договірно-правовий процес, зміст якого не завжди відповідав інтересам обох сторін, але цілком задовільняв правлячу верхівку. Як наслідок, зв'язки між Україною і Польщею носили екстенсивний характер.

**Ключові слова:** дипломатія, договірно-правова база, двостороннє співробітництво, Польща, радянсько (українсько)-польські стосунки, Україна.

**Гороть А. Ретроспективный анализ формирования договорно-правовой базы украинско-польских отношений в условиях тоталитаризма (1946 – вторая половина 80-х гг.).** В статье на базе ретроспективного анализа рассматриваются особенности формирования договорно-правовой базы украинско-польских отношений в условиях тоталитаризма. Следует заметить, что формирование дипломатии данного периода не всегда отвечало устоявшимся нормам международного права во внешних сношениях, поскольку договаривающиеся стороны часто прибегали к радикальным (силовым) средствам решения спорных вопросов. В этой нормативно-правовой системе схема украинско-польских отношений воспроизводила в основном формальный договорно-правовой процесс, содержание которого не всегда отвечало интересам обеих сторон, но вполне удовлетворяло правящую верхушку. Как следствие, связи между Украиной и Польшей носили экстенсивный характер.

**Ключевые слова:** дипломатия, договорно-правова база, двустороннее сотрудничество, Польша, советско (российско)-польские отношения, Украина.