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PROPERTY RIGHT AND OWNERSHIP IN HETMAN UKRAINE: CHARACTERISTICS OF THE CONCEPT

The problem of property rights and ownership of the land during the Hetman times in Ukraine is one of the most controversial issues in contemporary historical and legal science. At present, scientists do not come to a single conclusion whether there was private property right during this period.

Today Ukrainian scholars who study the history of land rights in Ukraine of the Hetmanate times have two polarized opinions. The first ones defend the position that there was no private property right relating to land and there was only ownership. Thus, A. Shevchenko states on this subject that "... the land and everything, that grows or situates on it natural way, can not be privately owned".

In turn, other scholars M. Domashenko and V. Rubanyk support contrary opinion defending the existence of the private property right relating to land during Hetmanate, stating that even the Cossacks had it. In this connection, the researchers note that "completeness, unlimitedness (except for duty to possess weapons, equipment at one's own expense and to perform military service) and hereditar-

iness of Cossacks' land property gave more reasons for classifying it as private property, because significant differences in the legal status of Cossacks' lands and lands of noble hardly were not observed.

As we believe, the main reason for the above discussion lies primarily in the complexity of the concept – the categorical definition of private property rights and land ownership. In fact, based on archival materials we have, it is seen that often in contemporary law-making practice these concepts are confused, even identified. Legislative and legal system disorder during Hetmanate should be also kept in mind. As a result, the available sources allows us concluding that throughout history of the Hetmanate, there existed two forms of land rights, namely private property right which was a reflection of this right interpreted by Roman jurists as sacred and inviolable possession; and ownership of land, which was actually a creation of Ukrainian national mental, cultural and legal traditions.

In addition, the exercise of private property right relating to land during Hetman times had ranking character.