

Žemaitė Aistė

National minorities in political and juridical discourse: cases of Ukraine and Lithuania

UDC 342.57

DOI <https://doi.org/10.24195/2414-9616.2022-6.17>

Žemaitė Aistė

PhD in Political Science, Lecturer
Vytautas Magnus University
K. Donelaičio, 58, Kaunas,
Republic of Lithuania
ORCID: 0000-0002-8244-3264

The article is concerned with the political and juridical basis meant to assure the rights of national minorities living in Ukraine and Lithuania in the dynamics of its development and through the prism of the current challenges. The article aims to reveal the peculiarities of using the term “national minorities”, the guarantees provided for them by the states at the level of specially targeted laws and the Constitution, the extent of legally defined state commitments and the main issues of modern political and juridical discourse related to support for the national minorities’ rights. The main method of research is the method of comparative analysis that helped compare the Lithuanian and the Ukrainian experiences of legal support for the national minorities. Discourse analysis was used to reveal the content of the socio-political discussion of the bills concerned with the national minorities. The statistical method was used to analyze the development dynamics of the ethnic structure for the both countries. The author assumes that the main problem of modern political and juridical discourse in the both countries is renovation of the legislation and adoption of a new relevant law on national minorities. The problem of a more exact definition of such concepts as “national minority” (community) is common for the both countries. In fact, the Ukrainian bill envisages only cosmetical correction of the existing standards, focusing on changing the term “national minority” and “national community”, the change proposed being very debatable from the viewpoint of the expert community, whereas the Lithuanian analogue appreciably broadens the rights of minorities primarily in the spheres of use of language and education (those are the fields the Ukrainian bill does not touch upon). Restriction of the state’s commitments in the fields of education and use of the language in public causes numerous discussions and resistance in the Lithuanian political elite. Nowadays, unlike the Lithuanian bill, the Ukrainian bill has already become a law, whereas most of the experts’ remarks have been ignored.

Key words: national minorities, national communities, Ukraine, Lithuania, laws, political and juridical discourse.

Introduction. The status of the candidate for the EU membership acquired by Ukraine foregrounded the problem of synchronizing political and legal standards in compliance with the European standards. This is the “homework” to be done, even regardless of the war. One of the assignments of the European integration process is adherence to particular conventional standards of assuring the rights of national minorities. In this respect, it is essential to study the ethnic policy of the Ukrainian countries, especially the ethnic policy of those having similar historical experience and geopolitical risks. Therefore, we have chosen Republic of Lithuania for comparative analysis of ethno-political discourse, taking into consideration a particular correlativity of the very creative process and the development dynamics of the legal framework meant to protect national minorities along with a number of political circumstances problems common for both Lithuania and Ukraine. This correlativity is justified by the following factors:

- the Soviet background with juridical and practical ignorance of national minorities’ rights;
- the “zero” variant introduced both in Lithuania and in Ukraine by providing their citizenships without any terms to be met;

- adoption of specially designed laws on national minorities at the very beginning of state formation which played a generally positive role in preserving ethno-political stability;

- at the same time, controversial character of ethno-political development process which included adoption of democratic laws on national minorities at the very beginning of independence on the one hand, and the priority of lingual and ethnic cultural development of the title ethnic nation to comply with the assignments of emancipating “the nation being nationalized” (according to R. Brubaker) on the other hand [1];

- accession to Framework Convention for the Protection of National Minorities of the Council of Europe;

- discussions concerned with renovation of the related legal framework held already for a few years, the discussions that have recently actualized as a result of almost synchronic (in terms of time) presentation of the new Bill on National Minorities both in Lithuania and in Ukraine;

- external propagandistic and provocative influence of Russian Federation in terms of the condition of the Russian-speaking population.

At the same time, we assume the restrictions existing in comparative analysis of the two countries resulting from the essential difference in the ethnic structure and in the geopolitical conditions first of all. The ethnic range of Ukraine is more motley, which is added by the variety of historical development as well as by the variety of socio-cultural and lingual design from the regional point of view. Besides, being an EU member state, Lithuania has some specific commitments and obligations in terms of national minorities' rights falling beyond Framework Convention for the Protection of National Minorities of the Council of Europe, whereas Ukraine's being in the war badly affects all the processes of national and international political development.

Aims. The article aims to reveal the peculiarities of using the term "national minorities", the guarantees provided for them by the states at the level of specially targeted laws and the Constitution, the extent of legally defined state commitments and the main issues of modern political and juridical discourse related to support for the national minorities' rights.

Methodology. The main method of research is the method of comparative analysis that helped compare the Lithuanian and the Ukrainian experiences of legal support for the national minorities. Discourse analysis was used to reveal the content of the socio-political discussion of the bills concerned with the national minorities. The statistical method was used to analyze the development dynamics of the ethnic structure for the both countries.

Results.

Ethnic structure

According to the census conducted in 2001, there were 10,7 million (22,2%) representatives of national minorities. The biggest of them are the Russians (8 334 100, 17,3%), the Byelorussians (275 800, 0,6%), the Moldavians (258 600, 0,5%), the Crimean Tatars (248 200, 0,5%), the Bulgarians (204 600, 0,4%) , the Hungarians (156 600, 0,3%) and the Jews (103 600, 0,2%) [2].

From the viewpoint of ethnic structure, Lithuania is a relatively homogeneous country. The percentage of ethnic Lithuanians is increasing: in 1989 it equaled 79,6% and according to the census conducted in 2001 poky it reached 83,45%. Although the percentage of Lithuanians decreased in 2011 by 82,68%, according to the census conducted in 2021, the number of Lithuanians equaled 84,61%. Only 11 ethnic groups are constituted by 1000 and more representatives. As compared to the Lithuanians, the proportions of all the minorities are decreasing after acquisition of independence in 1990: in 2001 the main minorities were the Poles (234 989, 6,7%), the Russians (219 789, 6,3%), the Byelorussians (42 866, 1,2%), the Ukrainians (22 488, 0,7%) and the Jews (4007, 0,1%). Until 2021, these groups were reduced to the following

numbers and proportions: the Poles 183 421 (6,5%), the Russians 141 122 (5%), the Byelorussians 28 183 (1%), the Ukrainians 14 168 (0,5%) and the Jews 2256 (0,08%). Other nationalities constitute 13 844 (0,5%) [3].

Terminology and legislative definition of the "national minority"

The law of Ukraine "On national minorities in Ukraine" dated of June 25th, 1992 de jure formulated the term "national minority", specifying that "national minorities are constituted by groups of Ukrainian citizens who are not Ukrainian by nationality, who are revealing the feeling of national self-awareness and community among themselves" [4]. Though the Lithuanian "Law on national minorities" dated of November 23d, 1989 handled the term "national minorities", it did not specify its content, using the term "nationalities", which was evidently the heritage of Soviet terminology [5]. Neither the Ukrainian law nor the Lithuanian one contained any specifications of the quantitative indices or the historical time of living in the country. But the both laws separately specified that belonging to a national minority and readiness to implement the rights obtained depends exclusively on a particular individual's will and cannot be an element of coercion.

At the constitutional level, Ukraine introduce the new concept "core nations" to the legal environment which stands alongside "national minorities" and was not apparently equal to them. Article 11 of the Constitution of Ukraine emphasizes that the state shall promote "development of ethnic, cultural, lingual and religious identity of all the core nations and national minorities" [6]. Instead, till the very 2021 the Ukrainian legislation no longer contained the term "core nations". Nor did the Ukrainian legislation contain any juridical interpretation of what nations are to be understood as "core nations" or of how they differ from national minorities. As late as in 2021 a separate Law on core nations was adopted. According the document, the core nation is to be understood as an ethnic minority formed on the territory of Ukraine which is the carrier of an authentic culture and, which is the most essential thing, has no state formation beyond the territory of the country. This is what distinguishes them from national minorities. According to the Law, the core nations of Ukraine are the Crimean Tatars, the Karaites and the Krymchaks [7].

The Constitution of Republic of Lithuania does not use the term "national minorities" (though at that moment the Law on national minorities was not in force). Instead, the constitution introduces a new definition, such as "national communities". The context of its application in two articles of the Constitution is a little bit different. Article 37 tackles "citizens belonging to national communities" [8]. According to the article, they have the right to development of their language, culture and traditions. Thus,

from the viewpoint of formal definition, this can be interpreted as individual rights. But from the viewpoint of practical implementation, they can be implemented only at the collective level.

Article 45 defines “national communities” as legal entities. Their activities can be understood from the context which means organized forms of national minorities’ existence. They have the right to independently attend to issues concerned with their national culture, enlightenment, charity and mutual aid, the state helping them about all that [9].

Assuring the rights of national minorities

In the Ukrainian and the Lithuanian laws, these rights are guaranteed in two dimensions, which is typical on the whole and coincides with the long-established international approaches to protection of minorities: firstly, protection from discrimination and equal opportunities; secondly, additional rights in terms of preservation of cultural identity, including the right to education in the mother tongue. The Ukrainian law contains (though without interpretation) the term of national cultural autonomy. Though the organizational framework of national cultural autonomy is not specified, it is manifested in national cultural communities whose status has always been described as that existing in usual civil groups. According to the Law, the state assumed some particular obligations to financially promote national and cultural development of national minorities and their associations [10].

Unlike the Ukrainian law, Lithuania very carefully pointed at the state’s commitment to provide for that development. The Lithuanian law did not contain any financial guarantees and in most cases, “the state” accentuated the “right” of a national minority instead of accentuating its “commitment” to promote that right [11].

Institutions of ethno-political management

Both Ukraine and Lithuania demonstrate similar inconsistency in carrying out ethnic political management by the executive power. Over the last three decades the related institute has undergone numerous and not always clear transformations and even liquidations. For a certain period of time, both in Ukraine and in Lithuania there has been an institutional and functional vacuum and lack of stable legislative and institutional mechanism of regulating interethnic relations. Now there already a state department concerned with ethnic political issues in Ukraine, whereas in Lithuania there is a department concerned with national minorities affiliated to the Government of Republic of Lithuania [12; 13].

Compliance with the European standards

Development of the Ukrainian legislation concerned with protection of national minorities was going on simultaneously or it was following development of the related international law.

Ukraine adopted and ratified such documents of the Council of Europe as Framework Convention for the Protection of National Minorities and European Charter of Regional and Minority Languages. By the way, the language problem itself was the acutest one among all the problems of the ethnic political field. We are not aimed at profound analysis of the language legislation, because it is a separate title of research. But we would like to emphasize that ratifying European Charter of Regional and Minority Languages in 2003, Ukraine undertook to create an additional protection mode for particular languages. It is the Ukrainian legislator who is to define what languages must be protected and what kind of protection mode must be adjusted, since the Charter is of non-regulatory character, proposing a number of protection mechanisms. Each country has to decide on which mechanism is suitable for it. But the Law of Ukraine “On ratification of European Charter of Regional and Minority Languages” actually aimed the European Charter at the main languages and at the languages of numerous national minorities rather than at the endangered languages (which is in fact the aim of the Charter) [14, p. 99–100]. Article 2 of the Law of Ukraine “On ratification of European Charter of Regional and Minority Languages” does not enumerate the languages. It enumerates the minorities, such as Byelorussian, Gagauz, Greek, Hebrew, Russian, etc.: in total, there are 13 minorities [15]. But it is the languages – not the minorities – that is the subject of the Charter. The subject of the Charter is the languages that can disappear from the languages map of Europe, other regional and minority languages and their support. The basic authentic term of the Charter “regional or minority languages (English), “langues regionales ou minoritaires” (French) was incorrectly translated as “regional languages or languages of minorities”. Its correct Ukrainian analogue is “regional or minority languages”, i.e. the languages used in a particular region are less spoken than others within the boundaries of a particular region. The Charter does not envisage introduction of any particular protection measures in terms of the languages of all the minorities in the country without exception as it is specified in the Ukrainian law on ratification of the Charter. In fact, the Ukrainian legislator aimed the European Charter at protection of the basic languages as well as at the languages spoken by the biggest minorities, in particular Russian rather than at the endangered languages. The Charter ratified that way opened a juridical gap as a source of juridical improvement of the status of Russian as a regional language (see Kivalov-Koliesnichenko Law that was in force in y 2012–2019) [16].

Lithuania was one of the first countries to sign Framework Convention for the Protection of National Minorities and European Charter of Regional

and Minority Languages on February 1, 1995. However, it was ratified by Lithuania only in 2000. Lithuania did not express any precautions. Nor did Lithuania present any declarations or other messages indicating that this document was adopted as that dealing with all the ethnic groups of the country. In other words, not one of the provisions of that Framework Convention was applied in Lithuania to the greatest extent. As far as the legislation of Lithuania, it was to have been made to comply with the provisions of the document [17]. As a matter of fact, since the Convention was ratified in 2000, the legislation hasn't undergone any alterations or amendments concerned with fulfilling the commitments. Lithuania did not fulfill some of the "lingual" commitments of the Convention: the use of the minority language in the relations between the citizen and the government agency, the right to use the first name and the last name in the minority language, reproduction of the traditional names of streets and other toponymic names. One can assume that such a fundamental right as the use of the language in public and private fields is implemented only partially.

Unlike Ukraine, Lithuania neither signed nor ratified the Charter of Minority and Regional Languages. The recommendation of the Parliamentary Assembly of the Council of Europe specified that in Lithuania "the right to use the languages of national minorities is envisaged at the legislative level in conformity with the principles of European Charter of Minority and Regional Languages". However, since this document is not even signed, one can assume that the national legislator must decide whether the provisions of the national legislation should comply with the provisions of the Charter. Signed and ratified by Lithuania, the European Charter of Local Self-Government guarantees the Lithuanian national minorities the right to use sign plates in their mother tongues. On the one hand, this issue partly compensates non-ratification of the Charter of Regional and Minority Languages. On the other hand, it does not conflict with the Law on the Language of Lithuania [18].

Modern condition of the political and juridical discourse

The events of Euromaidan the Revolution of Dignity in Ukraine brought about the change of state power elites and provided an opportunity to renovate the state mechanism and the society. Over 2015-2019 a number of sectoral laws were adopted. These laws strengthened the status of the Ukrainian laws, in particular the Law on Functioning of the Ukrainian Language as the state language. [19]. Finally, the constitutional concept "core nations" was specified.

However, renovation of the special Law on National Minorities is still on the agenda. Among the urgent issues that need the related juridical consideration, one can enumerate the following:

- self-organization of national minorities fell beyond civil groups in the form of national cultural associations long ago; it needs special specification along with legal opportunities of civil political activity;
- lingual guarantees of the Law of 1992 are abstract and broader than the modern lingual legislation;
- the commitment to fund the activities of national minorities' associations assumed by the state is not fulfilled.

Thus, the related law adopted as far back as in 1992 hasn't been complying with nowadays' requirements already for a long time both in terms of the extent of the minorities' self-organization and in terms of the assignments of ethnic policy carried out by the state. Moreover, acquiring the status of candidate for the EU membership, Ukraine must meet a great number of terms, including renovation of the legislation concerned with national minorities. In 2021 a bill called "On the national communities in Ukraine" was developed [20]. The bill was inspired and authored by Dmytro Lubynets, the then Head of the Parliamentary Committee for Human Rights and National Minorities, who is in the position of the ombudsman now. Over the period of summer-autumn 2022, that bill was actively promoted by influential political leaders regardless of criticism exerted by the export environment [see 20; 21]. The most appreciable objections were made to the proposed term "national community" which, in the authors' view, was deprived of negatively colored connotation allegedly carried by the term "national minority".

However, the term "national (ethnic) minority" is long-established in international law that does not carry any humiliating meaning. The term denotes a quantitative minority rather than qualitative inferiority. Furthermore, the word MINORITY is the fundamental one in justification of the necessity of providing additional protection rights or collective rights for those groups of the population, since without that, unlike the majority, they are incapable of efficiently developing their identity and of self-reproducing themselves. Thus, by removing the word "minority", the legislator ignores the European documents concerned with protection of the minorities' rights, the documents ratified in Ukraine. By removing this word, the legislator also removes the common sense from the very IDEA of that protection [22].

Instead, the term "national community" has juridical specification neither in the international nor in the Ukrainian legislation. A national community can be understood both as a political nation (the citizens of Ukraine) and as the ethnic majority, for example as individuals identifying themselves as ethnic Ukrainians; a national majority can also be understood as an ethnic group, with reference to how we interpret a nation: as a civil community or as an ethno-cultural community.

It is noteworthy that the aforementioned bill interprets the word “national community” like the word “national minority”, namely a particular group of Ukrainian citizens who are not ethnic Ukrainians, traditionally living on the territory of Ukraine, united by joint ethnic, cultural, religious and lingual features, those seeking to preserve and develop their lingual, cultural and religious identity [23]. In other words, there was simply a change of juridically long-established and clear term for a doubtful and very abstract definition from the viewpoint of juridical representability.

As far as the educational and the lingual fields, the bill conflicts with neither the fundamental law nor with the law on the functioning of Ukrainian as the state language. But the matter is that the national minorities will hardly ever be satisfied with the lingual and the education guarantees of the bill, since their criticism is mainly aimed at the fundamental law of 2017 which introduces compulsory Ukrainian school, beginning with the medium stage of education. The bilingualism of the public space guaranteed by the bill does not remove the lingual problem from the agenda.

Finally, the bill does not include anything new in the organizational format or in the status of the national minorities' organizations: no improvement of political participation, no proposals on national or cultural ex-territorial autonomy. All we can see is the same “civil groups”, i.e. “national cultural communities” as the main form of self-organization whose socio-political status does not almost differ from a kind of “club of interests”.

But the national minorities' organizations superseded that level long ago. Instead, there are proposals to keep restricting their influence on political decisions on their national cultural development by abstract and infeasible civil consultations councils affiliated to the state power bodies. Those civil consultations council gather very irregularly and their decisions are rather of non-regulatory character.

No doubt, the issue of politization of minorities is controversial and, in our situation, it is often a challenge. But for sure, one can ponder on a format of ex-territorial autonomy that could provide the minorities' organizations with a special status, distinct from the status of usual civil groups, and with more legal opportunities of influencing the state power's decisions concerned with the ethno-national field, since the uncertainty of this issue causes a situation when ethnic communities are forced to follow the “seaway” of a particular political force, hoping to get their interests lobbied.

No doubt, the war included two pain-causing questions in the agenda. The authors of the bill could not but take these questions into consideration, because they had been preparing the bill a year ago. The first question is survival of the Azov Greek

minority's identity. As a result of large-scale warfare, the area of compact settlement of the Azov Greeks was occupied. Most of the Azov Greeks are scattered around Ukraine and abroad. The links and the communication were disconnected. The cultural heritage as well as the related facilities suffered losses. All this looks like a non-organized but forced deportation. The risk of assimilation is very evident in future.

The other question is the question of the Russian minority. Regardless of the Russian aggression as well as of natural and understandable rejection of all Russian, it is necessary to remember that the ethnic Russians are citizens of Ukraine and the biggest national minority. Many of them are true patriots of our country. Thus, they are eligible for the guarantees of national minorities' protection. How these guarantees will be practically implemented under the conditions of “the culture of rejection” is a big question [24].

In spite of the experts' remarks, the bill underwent minimal amendments before it was adopted. The amendments are all about the term “national communities”. It is not replaced by “national minorities”; it is just used alongside. Hence, the full official name of the Law adopted on December 13th, 2022 is “On the national minorities (communities) of Ukraine”.

After the lapse of validity of the Law on National Minorities in 2010, there was a situation of juridical vacuum in Lithuania in terms of the rights and the protection of national minorities. This vacuum exists until nowadays, since a new law on protection of national minorities was not adopted. At the present time, the only legal act of Lithuania concerned with the rights of national minorities is the constitution.

Unlike Ukraine, the related discourse in Lithuania focuses almost exceptionally on lingual and educational issues. The most debatable of them are the following:

- unavailability if legislative regulation of the use of minorities' languages in the relations with state power bodies, in private signboards and topographical names as well as in spellings of last names and first names in official documents in conformity with Framework Convention;

- adoption of a conceptional approach to bilingual and multilingual school and pre-school education as well as to maintaining contacts of children from national minorities with the Lithuanian-speaking environment and vice versa;

- the necessity to ensure that the reform of education should not lead to discrimination of school students learning in the languages of the national minorities.

The introduction of the unified curriculum in the Lithuanian language and the related state examination in 2012 caused serious problems for school students learning in the language of the national minorities, in particular in Polish.

It is noteworthy that the Lithuanian government is recurrently criticized by Russian mass media for violations of the rights of the Polish national minority, primarily the right to learn in the ethnic language of the minority and the right to use the spellings of last names of Lithuanian citizens in Polish. However, the Lithuanian government is convinced that in fact, due to support provided by Polish fellow-citizens in Lithuania in acquiring exclusive rights by the Polish community, the Russian policy is entirely aimed at acquisition of a special status by the Russian community in all the three Baltic countries. At the same time, unlike Latvia and Estonia, Lithuania considers the Russian-speaking population weakly consolidated but well-assimilated into the Lithuanian society. But Lithuania aims to provide for integration of the national minorities into society life. Lithuania does not aim to provide for assimilation in the course of which ethnic peculiarities and traditions of a national community can be lost [25, p. 28–35].

Over 11 years, there have been attempts to adopt a new law on national minorities but the bills presented have not complied with the essential requirements. For example, those bills lacked definition of a national minority, which would cause difficulties in the implementation. Or the Lithuanian MPs could not come to a consensus on important issues. The law must systematize, strengthen and precisely define lingual, educational, cultural and other rights of the national minorities guaranteed by particular constitutional provisions and various legal acts. As a result, politicians interpreted each provision in different ways, sometimes on the basis of the political environment. For these years, not one of the bills has gained the necessary majority, therefore has not been adopted.

In 2021a new bill on national minorities was developed. The bill was called “Preservation of politically correct identity” and authored mainly by Evelina Dobrovolska [26].

The bill provides definitions for such concepts as “politically correct identity”, “national community” and “national identity”. The difference of the “national community” from the “national identity” lies in organized and institutionalized character of the former.

In the lingual and in the educational fields, the bill considerably widens the rights of national minorities. The bill guarantees the right to communicate in the language of the national minority with state government entities within the municipalities where the ethnic community equals at least 15 per cent of the total number of the municipality’s population. Along with the previously provided right to spell the names in the language of the national minority, the bill also provides the right to use their last names and first names in the language of the national community. It was these articles of the bill that caused extensive criticism by experts and the civil society.

According to the opponents of the bill, this leads to restricting the constitutional status of the state Lithuanian language moreover: the bill aims to abolish the state status of the Lithuanian language which envisages compulsory use of Lithuanian in all the state government agencies, including in the vicinities inhabited by national minorities.

The four associations (the leaders of the Union Lithuanian of Freedom Fighters, the Lithuanian affiliation of Sajūdis Vilnius, the association “Assistance to Language and Nation” and the Vilnius Community) signed an address where the authors’ aspirations unconstitutional and conflicting with the oaths given by the Seimas members. They made a protest against the fact that Lithuania had illegally been converted into a federal state with territorial autonomies and three state languages. They also addressed the country’s government with the demand that Evelina Dobrovolska should be arrested [27].

Besides, the initiators of the bill and the politicians were accused of having tried to discriminate other national groups, legalizing only the Polish and the Russian languages. This decision would inevitably lead to the split of Lithuanian national minorities and to discord [28].

Audronius Azhubalis, Seimas MP, called the new law “an autonomy with silk gloves on”, meaning that it will lead to separation of national minorities [29]. Other critics of the bill also ascertain that in the regions of Vilnius, Klaipeda and Visaginas where most of the Poles and the Russians live there can be a risk of creating a territorial autonomy with regional Polish and Russian languages beneficial to the Kremlin. They argue that there is a risk of revival of the consequences of the occupation and a risk of separation of Lithuania from the legal systems of Latvia, Estonia and many other EU countries [30].

The law initiates creation of the Education Council of National Communities affiliated to Ministry of Education and Science. In revising the content and the plan of education, restructuring and upgrading the educational network, closing down and restructuring pre-school and secondary education institutions concerned with upbringing representatives of national communities, state-owned and communal institutions must make these decisions upon approval given by the Education Council of National Communities affiliated to Ministry of Education and Science. The law guarantees assurance of equal conditions for children of the national communities in learning the state language and the languages of the national communities. The novelty is the opportunity given to the state and municipal institutions to take specific temporary measures for the purpose of assuring the right of the national communities to education in the language of the national community or to equalize the opportunities of students learning the languages

of the national community with the opportunities of students learning in Lithuanian.

Before the election of 2021, the ruling Party of Freedom, Evelina Dobrovolska, the author of the law being a member of that party, promised to promote the adoption of the Law. Instead, the law was not included in the government's priorities after the election.

Conclusions. The main issue of the modern political and juridical discourse in terms of assuring the rights of the national minorities of Ukraine and Lithuania is renovation of the legislative framework and adoption of a new related Law. The related bills were developed in 2021 and, according to the authors, are supposed to make the legal terrain comply with nowadays' condition of ethno-political life and meet the national minorities' needs. There is a trend common for the both countries, the trend of more precise definitions of the concepts "national minority" (community). The Ukrainian bill envisages just cosmetic correction of the existing standards, paying special attention to a change of the term "national minority" to the term "national community", which is very debatable from the viewpoint of the expert environment. the Lithuanian analogue of the bill appreciably broadens the minorities' rights primarily in the fields of language and education (the Ukrainian bill almost does not touch upon this problem). The strengthening of the state's commitments in the field of education and in the field of use of the language in the public sphere caused numerous discussions and resistance in the Lithuanian political community. Nowadays, unlike the Lithuanian bill, the Ukrainian bill has already become a law, whereas most of the experts' remarks have been ignored.

BIBLIOGRAPHY:

1. Brubaker R. Nationalism reframed: Nationhood and the national question in the New Europe / R. Brubaker. Cambridge : Cambridge University Press, 1996. 216 p.
2. Бородінов В., Сисоєва І. Етнонаціональна структура українського суспільства. *Наука. Релігія. Суспільство*. 2013. № 4. С. 16–21.
3. Tautinės mažumos lietuvoje. URL: <https://tmde.lrv.lt/lt/tautiniu-mazumu-kulturos-centrai-ir-tautines-bendrijos/statistika>.
4. Про національні меншини в Україні : Закон України. URL: <https://zakon.rada.gov.ua/laws/show/2494-12#Text>
5. Law on Ethnic Minorities (1989, as amended through 29 January 1991). URL: <https://www.eui.eu>
6. Конституція України. URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>
7. Про корінні народи України : Закон України. URL: <https://zakon.rada.gov.ua/laws/show/1616-20#Text>
8. Constitution of The Republic of Lithuania. URL: <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=rivwzv-pvg&documentId=TAIS.211295&category=TAD>
9. Constitution of The Republic of Lithuania. URL: <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=rivwzv-pvg&documentId=TAIS.211295&category=TAD>
10. Про національні меншини в Україні : Закон України. URL: <https://zakon.rada.gov.ua/laws/show/2494-12#Text>
11. Law on Ethnic Minorities (1989, as amended through 29 January 1991). URL: <https://www.eui.eu>
12. Державна служба України з питань етнополітики і свободи совісті. URL: <https://dess.gov.ua/>
13. Tautinių mažumų departamentas prie Lietuvos Respublikos Vyriausybės. URL: <https://tmde.lrv.lt/lt/>
14. Балабанов К. В., Пахоменко С.П. Національно-культурне та громадське життя греків України у другій половині ХХ – на початку ХХІ ст / К. В. Балабанов, С. П. Пахоменко. Маріуполь, 2006. 260 с.
15. Про ратифікацію Європейської Хартії регіональних мов або мов меншин : Закон України. URL: <http://zakon2.rada.gov.ua/laws/show/802-15>
16. Про засади державної мовної політики : Закон України. URL: <https://zakon.rada.gov.ua/laws/show/5029-17#Text>
17. Vasilevich H. National minorities and diasporas in Lithuania. *Central European Journal of International and Security Studies*. Vol. 4. Issue 2. P. 97–98.
18. Vasilevich H. National minorities and diasporas in Lithuania. *Central European Journal of International and Security Studies*. Vol. 4. Issue 2. P. 97–98.
19. Про забезпечення функціонування української мови як державної : Закон України. URL: <https://zakon.rada.gov.ua/laws/show/2704-19#Text>
20. Кулик В. Законопроект про «національні спільноти»: неякісний товар у гарному пакуванні. URL: <https://www.pravda.com.ua/columns/2022/08/9/7362359/>
21. Майборода О. Чому термін «національні спільноти» у відповідному законі лише зашкодить нацменшинам в Україні. URL: <https://zmina.info/columns/chomu-termin-natsional%CA%B9ni-spil%CA%B9noty-u-vidpovidnomu-zakoni-lyshe-zashkodyt%CA%B9natsmenshynam-v-ukrayini/>
22. Пахоменко С. Національне питання: чи на часі законопроект «Про національні спільноти» URL: <https://v-variant.com.ua/article/natsionalne-pytannia-bloh-ua/>
23. Про національні меншини (спільноти) України : проект Закону. URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=75234
24. Рада ухвалила закон про нацменшини, необхідний для руху в ЄС. URL: <https://www.eurointegration.com.ua/news/2022/12/13/7152421/>
25. Kuczyńska-Zonik A. States. *Baltic Journal of Law & Politics*. 2017. Vol. 10, № 2. P. 26–45. URL: <https://content.sciendo.com/view/journals/bjlp/10/2/article-p26.xml>
26. Pirmasis skirsnis bendrosios nuostatos. URL: <https://www.infolex.lt/ta/81200>
27. Vasario 16-osios išvakarėse Lietuvos valdžia raginama susirūpinti Lietuvos teritoriniu vientisumu. URL: <https://alkas.lt/2021/02/15/vasario-16-osios-ismakarese-lietuvos-valdzia-raginama-susirupinti-lietuvos-teritoriniu-vientisumu/>
28. Ką mums žada E. Dobrovolskos rengiamas Tautinių mažumų įstatymas. URL: <https://alkas.lt/2021/03/01/ka-mums-zada-e-dobrovolskos-rengiamas-tautiniu-mazumu-istatymas/>

29. Aistros dėl Tautinių mažumų įstatymo: ar įstatymai ir Konstitucija išties draudžia rusų ir lenkų kalbą įstaigose? URL: <https://www.lrt.lt/naujienos/lietuvoje/2/1371771/lrt-faktai-aistros-del-tautiniu-mazumu-istatymo-ar-istatymai-ir-konstitucija-isties-draudzia-rusu-ir-lenku-kalba-istaigose>

30. Ką mums žada E. Dobrovolskos rengiamas Tautinių mažumų įstatymas. URL: <https://alkas.lt/2021/03/01/ka-mums-zada-e-dobrovolskos-rengiamas-tautiniu-mazumu-istatymas/>

REFERENCES:

1. Brubaker R. (1996) Nationalism reframed: Nationhood and the national question in the New Europe / R. Brubaker. Cambridge : Cambridge University Press.

2. Borodinov V., Sysioeva I. (2013) Etnonatsionalna struktura ukrainosho suspilstva. *Nauka. Religija. Suspilstvo*. № 4 [in Ukrainian].

3. Tautinės mažumos lietuvoje. URL: <https://tmde.lrv.lt/lt/tautiniu-mazumu-kulturos-centrali-ir-tautines-bendrijos/statistika> [in Lithuanian].

4. Pro natsionalni menshyny v Ukraini : Zakon Ukrainy (1992). URL: <https://zakon.rada.gov.ua/laws/show/2494-12#Text> [in Ukrainian].

5. Law on Ethnic Minorities (1989, as amended through 29 January 1991). URL: <https://www.eui.eu>

6. Konstytutsia Ukrainy (1996). URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text> [in Ukrainian].

7. Pro korinni narody Ukrainy : Zakon Ukrainy (2021). URL: <https://zakon.rada.gov.ua/laws/show/1616-20#Text> [in Ukrainian].

8. Constitution of The Republic of Lithuania (1992). URL: <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=rivwzvpg&documentId=TAIS.211295&category=TAD>

9. Constitution of The Republic of Lithuania (1992). URL: <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=rivwzvpg&documentId=TAIS.211295&category=TAD>

10. Pro natsionalni menshyny v Ukraini : Zakon Ukrainy (1992). URL: <https://zakon.rada.gov.ua/laws/show/2494-12#Text> [in Ukrainian].

11. Law on Ethnic Minorities (1989, as amended through 29 January 1991). URL: <https://www.eui.eu>

12. Derzhavna sluzhba Ukrainy z pytan etnopolityky i svobody sovisti. URL: <https://dess.gov.ua/> [in Ukrainian]

13. Tautinių mažumų departamentas prie Lietuvos Respublikos Vyriausybės. URL: <https://tmde.lrv.lt/lt/> [in Lithuanian].

14. Balabanov K. V., Pakhomenko S. P. (2006) Natsionalno – kulturne ta hromadske zhuttia hrekiiv Ukrainy u druhii polovyni XX – na pochatku XXI st. Mariupol [in Ukrainian].

15. Pro ratyfikatsiu Evropeiskoi Khartii rehionalnykh mov abo mov menshyn : Zakon Ukrainy (2003). URL: <http://zakon2.rada.gov.ua/laws/show/802-15> [in Ukrainian].

16. Pro zasady derzhavnoi movnoi polityky : Zakon Ukrainy (2012). URL: <https://zakon.rada.gov.ua/laws/show/5029-17#Text> [in Ukrainian].

17. Vasilevich H. National minorities and diasporas in Lithuania. *Central European Journal of International and Security Studies*. 2010. Vol. 4. Issue 2. P. 97–98.

18. Vasilevich H. National minorities and diasporas in Lithuania. *Central European Journal of International and Security Studies*. 2010. Vol. 4. Issue 2. P. 97–98.

19. Pro zabezpechennia funktsionuvannia ukrainsoi movu yak derzhavnoi : Zakon Ukrainy (2019). URL: <https://zakon.rada.gov.ua/laws/show/2704-19#Text> [in Ukrainian]

20. Kulyk V. Zakonoproiekt pro “natsionalni spilnoty”: neiakisnyi tovar u harnomu pakuvanni. 2022. URL: <https://www.pravda.com.ua/columns/2022/08/9/7362359/> [in Ukrainian].

21. Maiboroda O. (2022) Chomu termin “natsionalni spilnoty” u vidpovidnomu zakoni lyshe zashkodyt natsmenshynam v Ukraini. URL: <https://zmina.info/columns/chomu-termin-natsional%CA%B9ni-spil%CA%B9noty-u-vidpovidnomu-zakoni-lyshe-zashkodyt%CA%B9natsmenshynam-v-ukrayini/> [in Ukrainian].

22. Pakhomenko S. Natsionalne pytannia: chy na chasi zakonoproiekt “Pro natsionalni spilnoty”. 2022. URL: <https://v-variant.com.ua/article/natsionalne-pytannia-bloh-ua/> [in Ukrainian].

23. Proiekt Zakonu Pro natsionalni menshyny (spilnoty) Ukrainy. URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=75234 [in Ukrainian].

24. Rada ukhvalyla zakon pro natsmenshyny, neobkhidnyi dlia rukhu v YES (2022). URL: <https://www.eurointegration.com.ua/news/2022/12/13/7152421/> [in Ukrainian].

25. Kuczyńska-Zonik A. States. *Baltic Journal of Law & Politics*. 2017. Vol. 10, № 2. P. 26–45. URL: <https://content.sciendo.com/view/journals/bjlp/10/2/article-p26.xml>

26. Pirmasis skirsnis bendrosios nuostatos. URL: <https://www.infoplex.lt/ta/81200> [in Lithuanian].

27. Vasario 16-osios išvakarėse Lietuvos valdžia raginama susirūpinti Lietuvos teritoriniu vientisumu. URL: <https://alkas.lt/2021/02/15/vasario-16-osios-ismakarese-lietuvos-valdzia-raginama-susirupinti-lietuvos-teritoriniu-vientisumu/> [in Lithuanian].

28. Ką mums žada E. Dobrovolskos rengiamas Tautinių mažumų įstatymas. URL: <https://alkas.lt/2021/03/01/ka-mums-zada-e-dobrovolskos-rengiamas-tautiniu-mazumu-istatymas/> [in Lithuanian].

29. Aistros dėl Tautinių mažumų įstatymo: ar įstatymai ir Konstitucija išties draudžia rusų ir lenkų kalbą įstaigose? URL: <https://www.lrt.lt/naujienos/lietuvoje/2/1371771/lrt-faktai-aistros-del-tautiniu-mazumu-istatymo-ar-istatymai-ir-konstitucija-isties-draudzia-rusu-ir-lenku-kalba-istaigose> [in Lithuanian]

30. Ką mums žada E. Dobrovolskos rengiamas Tautinių mažumų įstatymas URL: <https://alkas.lt/2021/03/01/ka-mums-zada-e-dobrovolskos-rengiamas-tautiniu-mazumu-istatymas/> [in Lithuanian]

Національні меншини в політико-правовому дискурсі: кейси України і Литви

Жемайтите Айсте

кандидат політичних наук, викладач
Університету Вітаутаса Великого
вул. К. Donelaičio, 58,
Каунас, Литовська Республіка
ORCID: 0000-0002-8244-3264

У статті розглянуто політико-правову базу забезпечення прав національних меншин України та Литви в динаміці її розвитку та кризь призму актуальних викликів сьогодення. Метою роботи є з'ясування особливостей використання терміну «національні меншини», гарантії надані ним обома державами на рівні спеціальних законів та Конституції, ступень юридично визначених державних зобов'язань та основні питання сучасного політико-правового дискурсу щодо розвитку національних меншин. Стверджується, що основне питання сучасного політико-правового дискурсу обох країн – це оновлення законодавчої бази і прийняття нового відповідного Закону щодо національних меншин. Спільним для двох країн є тенденція до більш чіткого визначення понять «національна меншина» (спільнота). Серед нагальних питань що потребують відповідного юридичного з'ясування виділено такі: 1) самоорганізація національних меншин давно вийшла за рамки громадських об'єднань у вигляді національно-культурних товариств і потребує особливої унормування рівно як і правові можливості громадсько-політичної активності; 2) мовні гарантії закону 1992 р. є абстрактними і ширшими за сучасне мовне законодавство; 3) взяте державою зобов'язання фінансувати діяльність об'єднань національних меншин не виконується. Натомість український законопроект передбачав лише косметичне корегування існуючих норм, приділяючи особливу увагу досить спірній з точки зору експертного середовища зміні терміну «національна меншина» на «національна спільнота». Литовський аналог значно розширює права меншин перш за все в мовно-освітній сфері (якої майже не торкається український законопроект). Посилення державних зобов'язань у сфері освіти і мовного ужитку в публічній сфері викликає чисельні дискусії і спротив у литовському політикумі. На теперішній час, український законопроект, на відміну від литовського, вже став Законом, а більшість зауважень експертів було проігноровано.

Ключові слова: національні меншини, національні спільноти, Україна, Литва, закони, політичний та правовий дискурс.