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Samofalov L. – Ph.D in Law, Associate Professor, Associate Professor of the Department of Theory and History of State and Law, Constitutional Law of the Academy of the State Penitentiary Service, Chernihiv, Ukraine;

ORCID: <https://orcid.org/0000-0001-7626-4270>;

Sakir-Molochko N. – Postgraduate Student of the Department of Theory and History of State and Law, Constitutional Law of the Academy of the State Penitentiary Service, Chernihiv, Ukraine;

ORCID: <https://orcid.org/0000-0002-5632-1597>

Features of Linguistic Representation in the Federal and Local Parliaments of the Kingdom of Belgium and their Experience for Ukraine

The purpose of the article is to study the principles and elements of the electoral system used in countries with several national languages and should be a tool for representing each language group in the representative bodies. An example of such electoral system is the system of formation of representative bodies in the Kingdom of Belgium. The article examines the constitutional and legal framework and the mechanism of the formation of representative and legislative bodies in the Kingdom of Belgium, where there are three official languages, and therefore the population is divided into three language groups. The authors research the main characteristics, features and elements of the electoral system of the Kingdom of Belgium. The main sources of research are the legal acts of the Kingdom of Belgium, in particular constitutional and electoral legislation. Particular attention is paid to the level of representation of each linguistic group in local and federal authorities. Scientific novelty consists in a detailed system analysis of the ways of forming representative authorities of the Kingdom of Belgium at all levels. For the first time, the effectiveness of using a proportional electoral system to achieve an adequate representation of all language groups of the country in which there are three official languages is researched (using the example of the Kingdom of Belgium). The authors conclude that the mechanisms used in the formation of the local and federal parliaments of the Kingdom of Belgium do not fully ensure the proportional representation of each of the linguistic groups of the country. The experience of the Kingdom of Belgium can be used in developing the principles of reforming the electoral legislation of Ukraine, in particular in terms of using a proportional electoral system with open lists.

Keywords: electoral system; proportional electoral system; representative bodies; the Kingdom of Belgium; linguistic representation; language groups.

Introduction

The main indicator of the state's democracy level is the exercise of people's power, which in the conditions of modern state creating (in Ukraine as well as on other countries), manifests itself in the functioning of representative bodies of power. Ways of forming representative bodies of power are determined by the electoral system. The electoral system that determines how representative bodies are formed must meet the generally accepted requirements for equitable representation of all groups of the population in the authorities and ensure that the electorate is adequately represented in the relevant government body. Most scholars agree that a proportional electoral system should be used to achieve this goal. Linguistic factor is one of the factors that determinate the division of the population into groups.

According to the article 25 of the International Covenant on Civil and Political Rights, the electoral system should ensure the equitable representation of all groups of voters in the legislature, and therefore states should take comprehensive measures to facilitate direct participation in elections for all groups of voters in all constituencies and at all

levels (International Covenant on Civil and Political Rights, 1966). Moreover, within the framework of any electoral system introduced in the state, the participating states are called upon to ensure that the votes of all voters are of equal weight. The procedure for determining the boundaries of the constituencies and the method for counting the number of voters should not contradict their actual distribution, discriminate against any group of people, deprive or unreasonably restrict the right of citizens to freely choose their representatives (International Covenant, 1966).

There is generally accepted approach that representation may have at least four forms: geographic, ideological, party-political and descriptive (Reinolds, Reilly & Ellis, 2005). The geographical representation means that each separate region chooses its own members of the legislature in its territory; legislature's composition is accountable to voters in the region. The division of society into different groups according to the ideological principle can also be seen in the composition of the legislative body. In addition, the legislature should reflect the support of

political parties in the country. The concept of the descriptive representation suggests that the legislature should be a kind of «mirror of society», which accurately reflects the public sentiment, the social structure of the country and the true voters' preferences.

Famous scholars dedicate their research to the electoral systems of the world, their classifications and characteristics: J. D. Lambert, E. Leykman (Leikman & Lambert, 2005), A. Lijphart (Lijphart, 2000), R. Taagepera, M. Shugart (Taagepera & Shugart, 1990), D. Farrell (Farrell, 2001), V. Shapoval (Shapoval, 2006). The features of European electoral law are investigated by Ukraini-

an scholar Shveda Yu. (Shveda, 2010). National electoral legislation in the area of securing the people's power is the subject of research of M. Stavnichuk (Stavnichuk, 2006). The best practices of representing are described in the works of M. Afanasieva (Afanasieva, 2012) and Yu. Kliuchkovskiy (Kliuchkovskiy, 2011). Nevertheless, domestic scientific, analytical and reference sources almost do not have information on the detailed characteristics of the electoral systems of the European countries, in particular in the part of linguistic representation in state authorities in countries with several official languages.

The purpose

The authors' aim is to consider the basic principles of the formation and functioning of the electoral system that involves a proportional representation of the population, which belongs to different linguistic

groups, in the representative bodies of power. As an example of such electoral system the authors consider the system of formation of representative bodies of the Kingdom of Belgium.

Presentation of the main material

The Kingdom of Belgium is a federal constitutional monarchy with a parliamentary system. Belgium has a linguistic feature – three official languages – Dutch, French and German. The electoral system should take into account such characteristics and ensure that the proportional representation of all categories of the population of Belgium and their interests and views is as objective as possible. Belgium was the first state where a proportional electoral system was introduced (in 1889).

Administrative division of Belgium comprises 3 communities: the Flemish Community, the French Community and the German-speaking Community; 3 regions: the Flemish Region, the Walloon Region and the Brussels Region; 4 linguistic regions: the Dutch-speaking region, the French-speaking region, the bilingual region of Brussels-Capital and German-speaking region (The Belgian Constitution, 2017).

In Belgium, each of the communities and each of the regions has its own representative body – parliament (The Belgian Constitution, 2017).

All regional parliaments in Belgium are elected by proportional electoral system with open lists (using D'Hondt method) for a period of 5 years.

The Flemish Parliament is the legislative body of both the Flemish Region and the Flemish Community (unlike the rest of the regions and communities where there are two parallel parliaments).

The Flemish Parliament consists of 124 members. 118 members are elected by direct voting in the Flemish Region. These members have the right to vote both on the issues about the entire Flemish community, and about those relating only to the Flemish Region. 6 members are elected by direct voting in the Brussels Capital Region by those

voters who voted for the Netherlands-language party at the parliamentary elections. These 6 members are not entitled to vote on the issues about the Flemish Region.

Elections of the Flemish Parliament takes place within 6 constituencies (the number of deputies elected from each district varies from 6 to 33).

The Walloon Region Parliament consists of 75 members. All members of the Walloon Region Parliament are at the same time also members of the Parliament of the French Community, except of German-speaking members (they represent German-speaking population and they are advisory members of the Parliament of the German-speaking Community).

The Walloon Region Parliament is the only Regional Parliament in Belgium that is still elected in community-based constituencies (the administrative division of Belgium implies the existence of regions that are divided into provinces, and provinces to communities). There are currently 13 constituencies in the Walloon Region, with the number of deputies ranging from 2 to 13.

The Parliament of the French Community is the legislative assembly of the French Community.

The Parliament of the French Community consists of 94 members: all 75 members of the Walloon Region Parliament (except of German-speaking members that are replaced by the French-speaking members from the same party); 19 members elected by the French-language group of the Parliament of the Brussels-Capital Region (from its members).

The Parliament of the Brussels-Capital Region consists of 89 members.

Elections take place in a single multi-mandate constituency, with a proportional system with open party lists, as well as elections to other regional parliaments, but with separate lists of Dutch-speaking parties and French-speaking parties. Voters, who vote for the Dutch-speaking party, also vote for members of the Flemish Parliament (6 members of the Flemish Parliament are elected in such way).

All members of the parliament of the Brussels-Capital Region are divided into 2 language groups: 72 members belong to the French-speaking group and 17 – to the Dutch-speaking group.

The Parliament of the German-speaking Community is the legislative assembly of the German-speaking Community.

The Parliament of the German-speaking Community consists of 25 members. These 25 members have the right to vote. There are also some members with an advisory vote, in fact they are not deputies, but have the right to attend and take part in the meetings.

The advisory members are: the Provincial Councilors of Liege, members of the Parliament of Wallonia (German-speaking members), members of the House of Representatives and members of the Senate (living in the German-speaking Region), members of the European Parliament elected by German-speaking Electoral College.

Functions and powers are divided between Regional and Community Parliaments. It should be noted that in the case of the Flemish Region and the Flemish Community, all relevant functions and powers are attributed to the Flemish Parliament. The Flemish Parliament has the competences relating to the entire Flemish community, as well as those relating only to the Flemish Region. In the case of the Regional Parliaments of Wallonia and the Brussels-Capital Region and the Community Parliaments of French and German-speaking communities, the functions and powers are distributed as follows.

The main functions of Regional Parliaments are:

- development and adoption of legislative acts on regional issues, which are local laws, which have a legal effect on all residents of the region and on the institutions of the relevant language groups in Brussels;
- appointment and control of the government of the region;
- approval of the budget of the region;
- ratification of international treaties related to the powers of the parliament of the region.

The drafting and adoption of legislative acts on regional issues is carried out by the parliaments of the regions in the following areas:

- economics, employment and energy policy – includes state support for business, employment policy, agriculture and fisheries, distribution of elec-

tricity and natural gas, development and use of new energy sources, promotion of responsible energy use;

- urban planning, housing, land development and nature conservation – includes regional planning, construction permits, social policy, housing policy, urban renewal, conservation of monuments and natural objects, land consolidation and nature protection;

- environmental and water policy – includes reduction of air, soil and water pollution, noise control, sewage treatment, production and distribution of drinking water, waste management policy;

- scientific research – this branch is fully located in the field of regional authority, except aerospace and military research (they remain at the federal level);

- public works and transport – includes roads, ports, regional airports, city and regional transport;

- agriculture – includes almost all areas of agrarian policy (education in agriculture, rural development, agricultural and horticultural products, fisheries policy), with the exception of aspects such as food safety and animal welfare that remain in the field of federal government authority;

- local government – includes the allocation of financial resources to municipalities and provinces, as well as administrative supervision of these communes and provinces and their laws;

- international relations – includes the conclusion of international treaties with all countries; this competence includes the development of cooperation and foreign trade.

The main functions of the Community Parliaments are:

- election and control of the government of the community;
- development and adoption of decrees for the community;
- adoption of the annual budget of the community.

The development and adoption of decrees on the community is carried out by Community Parliaments in the following areas:

- culture – includes the issues of cultural heritage protection (literature, fine arts), tourism and the media.

- linguistic question – includes the use of language in schools and universities, in the relations between employers and employees, in local administrations, with the exception of some «language facilities» used by some municipalities;

- all «matters relating to the person» – include youth protection, family policy, child protection, disability policies, retirees, equal opportunities for immigrants;

- education – includes all questions from kindergarten to university, including scholarships. However, the issue of setting deadlines for compul-

sory education, requirements for the provision of scientific degrees, and retirement provision for teachers remain at the federal level;

– health care – includes preventive medical examination, home health care. Medical insurance, hospital financing, and most other competencies remain at the federal level.

The Belgian Federal Parliament is bicameral and consists of the House of Representatives and the Senate (The Belgian Constitution, 2017).

The House of Representatives consists of 150 (The Belgian Constitution, 2017).

Members of the House of Representatives are elected by direct voting with a proportional system with open regional lists – political parties nominate lists of candidates in each constituency. Each voter has one vote and can vote either for the party's list as a whole or for a separate candidate on the list (the vote in support of the candidate is considered as a vote in support of the whole party).

The electoral threshold is 5 %. Mandates in the district are distributed between parties with the Hare method (natural quotas). Particular candidates from the party list which will get seats in the House of Representatives are determined with the D'Hondt method. First of all mandates are got by the candidates from the list who receive more votes than the electoral quota. If not all mandates received by the party are used, their balance is distributed among other candidates from the party list in such way: to the quantity of votes for the candidate with the highest results in the list the quantity of votes for the party are added (in the quantity to achieve the electoral quota). This procedure should be applied till all votes for the party are exhausted or all mandates are distributed.

The members of the House of Representatives are elected in 11 constituencies. The distribution of seats between constituencies is proportional to the number of voters in each of them and is reviewed every 10 years.

All members of the House of Representatives are divided into 2 language groups: Dutch-speaking and French-speaking. Representatives elected in the Flemish Region (in constituencies: Antwerp – 24 representatives, East Flanders – 20, Flemish Brabant – 15, Limburg – 12 and West Flanders – 16) automatically belong to the Dutch-speaking language group. Representatives elected in the Walloon Region (in constituencies: Eno – 18, Liege – 15, Luxembourg – 4, Namur – 6, Walloon Brabant – 5) form the French-speaking language group. The 15 elected representatives in Brussels can choose to which language group to join. It should be noted that in the Walloon Region there is the German-speaking community of Belgium, which corresponds to the constituency of Liege. Representatives elected in Liege constituency belong to the French-speaking language group in the House of Representatives. A German-speaking language group

in the House of Representatives doesn't exist. Representatives elected in Brussels belong to the language group in whose language they make the oath.

To be a member of the House of Representatives one must: be Belgian, enjoy civil and political rights, have reached the age of 18, and be resident in Belgium (The Belgian Constitution, 2017).

The members of the House of Representatives are elected for 5 years (The Belgian Constitution, 2017).

The powers of the House of Representatives concern, first of all, the adoption of laws and the control over the activities of the government. The bills are adopted in one reading and passed to the Senate.

The Senate is the upper house of the Belgian Federal Parliament. The Senate was established in 1831 as authority that is absolutely equivalent to the House of Representatives, but after a series of reforms (in particular in 1993 and 2014), it became the upper house of the Belgian Federal Parliament. In the 2014 elections, the Senate was formed for the first time not from members elected by voters, but from members Regional and Community Parliaments, as well as co-opted members. Thus, now the Senate is the platform for discussion and exchange of experience between different communities and plays a minority role in federal legislative processes.

The Senate is composed of 60 senators (The Belgian Constitution, 2017) and is divided to 2 language groups: French-speaking (43 senators) and Dutch-speaking (16 senators); 1 senator appointed by the Parliament of the German-speaking Community does not belong to any language group.

Senators are appointed as follows:

– 29 senators appointed by the Flemish Parliament from among its members or from the members of the Dutch linguistic group of the Parliament of the Brussels–Capital Region;

– 10 senators appointed from among its members by the Parliament of the French Community;

– 8 senators appointed from among their own members by the Parliament of the Walloon Region;

– 2 senators appointed from among its members by the French linguistic group of the Parliament of the Brussels–Capital Region;

– 1 Senator appointed from among its own members by the Parliament of the German-speaking Community;

– 6 senators co-opted by 29 senators appointed by the Flemish Parliament from among their own members or the Dutch linguistic group of the Parliament of the Brussels–Capital Region;

– 4 senators co-opted by 8 senators appointed by the Parliament of the Walloon Region from among their own members and 2 senators appointed by the French linguistic group of the Parliament

of the Brussels–Capital Region from among its members (The Belgian Constitution, 2017).

The German–speaking senator is elected by a simple majority, while other seats held by representatives of Regional and Community Parliaments are distributed on the basis of the results of the House of Representatives elections. These senators have a dual mandate.

The seats of the co–opted senators (elected by other senators) are distributed among the parties according to the results of the elections to the House of Representatives. Senators are appointed for the term of 5 years.

In order to be appointed as a senator, one must: be Belgian, enjoy civil and political rights, have reached the age of 18, and be resident in Belgium (The Belgian Constitution, 2017).

Each senator makes the oath in one of the three official languages of Belgium, but the senator can do it in more than one language. A member of the Senate cannot be a member of the House of Representatives at the same time (The Belgian Constitution, 2017). Any member of the Senate appointed by the King as minister and who accepts this appointment ceases to sit in the Senate and takes up his mandate again when the King has terminated his office as minister (The Belgian Constitution, 2017). The senator cannot be a civil servant or a representative of the judiciary. However, a civil servant who is elected to the Senate does not leave office, but has the right to political leave as a civil servant. The senator cannot be a member of the European Parliament at the same time.

The main purpose of the Senate is to be a platform for discussion and exchange of experience between different groups. In spite of the fact that the federal state, regions and communities must adhere to federal loyalty, sometimes conflicts of their interests arise. The Senate resolves such conflicts by providing substantiated advice, but they are not binding. The role of the Senate in federal legislative processes is minor.

The distribution of powers between the House of Representatives and the Senate generally gives the Senate less power.

On some issues, the House of Representatives and the Senate have the same power – with regard to constitutional changes, so–called «community laws» (laws requiring a qualified majority), laws on the basic structure of Belgium, laws approving cooperation agreements between the federal state, regions and communities, laws on the organization of the judiciary, the State Council and the Constitutional Court of Belgium. In addition, all laws relating to international treaties are initially dealt with in the Senate, and then forwarded to the House of Representatives.

As for all other legislative acts, the House of Representatives has an advantage over the Senate.

However, the Senate can influence the legislative process, since the Senate has the right to review the texts adopted by the House of Representatives within certain timeframes and make changes to it if justified. In turn, the House of Representatives can accept or reject the amendments made by the Senate. The House of Representatives has the last word on all «ordinary legislation».

In Belgium, all citizens who have reached the age of 18 at the time of the election have an *active electoral right*. Voting is mandatory (since 1893), for avoiding voting there is a fine of 50–150 euros, and for re–avoiding voting there is a deprivation of voting rights. Persons in incarceration and those deprived of voting rights for a specified period shall not have the right to vote. Citizens of Belgium residing in its territory and abroad are eligible to vote in the federal elections. Individuals living in Belgium, but not citizens, cannot vote in federal elections, but may vote in local elections if they live in the territory of the region for at least 5 years.

The proportional electoral system is used in Belgium. Its task is, first of all, to represent the population in the representative bodies of power proportionally, taking into account all its features. The fact that there are three official languages in Belgium, each of which uses a certain proportion of the population, makes it appropriate to analyze the proportionality of linguistic representation in Regional, Community and Federal Parliaments of Belgium.

Proportional representation of the population on a linguistic basis in Regional and Community Parliaments and in the House of Representatives is obvious, because elections to these authorities are held within constituencies that are equal in terms of the number of voters for one deputy mandate (every 10 years a census is conducted that underlies the definition of borders constituencies).

The system of formation of the Senate (which is a «platform» for resolving disputed issues and conflicts that arise between regions and communities) does not allow the full insurance of the proportionality of the representation of these entities. At present, the distribution of the population of Belgium on a linguistic basis is as follows: 58 % – Dutch–speaking, 32 % – French–speaking, 10 % – German–speaking. In the Senate, two language groups are formed: the Dutch–speaking (constituting 71,5 % of the Senate) and French–speaking (constituting 26,5 % of the Senate). There is only one Senator (2 % Senate) who does not belong to any Senate language group and represents the German–speaking population. Thus, the degree of influence of groups of senators representing the interests of the relevant linguistic groups of the population may not fully ensure a fair solution to conflicts.

Scientific novelty

Scientific novelty consists in a detailed system analysis of the ways of forming representative authorities of the Kingdom of Belgium at all levels. For the first time, the effectiveness of using a proportional electoral system to achieve an adequate

representation of all language groups of the country in which there are three official languages is researched (using the example of the Kingdom of Belgium).

Conclusions

In the Kingdom of Belgium, a proportional electoral system is used to accurately represent public opinion and, according to most scholars, is more equitable than other systems.

Since Belgium is divided into regions and communities, the law provides for the formation of local parliaments – Regional and Community Parliaments. All of them are formed by direct voting of the population of the region and the population of the community. Thus, the interests of all groups of the population are taken into account.

The Federal Parliament of Belgium consists of the lower house – the House of Representatives and the upper house – the Senate.

The members of the House of Representatives are elected under a proportional electoral system within the regions of the country, with open regional party lists of candidates for multi-mandate constituencies. From 4 to 24 deputies' mandates are allocated to the constituency.

Senate members are elected on a mixed system – through indirect elections and co-optation. Indirect elections prescribe the appointment of senators by Regional and Community Parliaments from among its members. Co-optation of senators is carried out by their election by already appointed senators.

The proportional representation of the population according to the linguistic feature in local parliaments and the House of Representatives is obvious, since elections to these authorities occur within districts equal to the number of voters for one deputy mandate.

The system of formation of the Senate does not allow to fully ensure the proportionality of the representation of the population belonging to different linguistic groups.

The experience of the Kingdom of Belgium may be useful for improving the constitutional and electoral legislation of Ukraine, in particular, the composition of the Verkhovna Rada of Ukraine and the introduction of a proportional system with open lists.

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Самофалов Л. П. – кандидат юридичних наук, доцент, доцент кафедри теорії та історії держави і права, конституційного права Академії Державної пенітенціарної служби, м. Чернігів;
ORCID: <https://orcid.org/0000-0001-7626-4270>;

Сакір-Молочко Н. В. – аспірант кафедри теорії та історії держави і права, конституційного права Академії Державної пенітенціарної служби, м. Чернігів;
ORCID: <https://orcid.org/0000-0002-5632-1597>

Особливості лінгвістичного представництва у федеральному та місцевих парламентах Королівства Бельгії: досвід для України

Метою статті є дослідження засад й елементів виборчої системи, яку використовують у країнах з кількома державними мовами, що має бути інструментом репрезентації кожної з мовних груп у представницьких органах влади. Прикладом такої виборчої системи є система формування органів представницької влади Королівства Бельгії. Розглянуто конституційно-правові засади та механізм формування органів представницької та законодавчої влади в Королівстві Бельгії, де передбачено три державні мови, а отже, населення поділяється на три мовні групи. Автори досліджують основні характеристики, особливості й елементи виборчої системи Королівства Бельгії. Основними **джерелами** дослідження є нормативно-правові акти Королівства Бельгії, зокрема конституційне та виборче законодавство. Увагу акцентовано на рівні репрезентації кожної лінгвістичної групи в місцевих і федеральних органах влади. **Наукова новизна** полягає в детальному системному аналізі способів формування представницьких органів влади Королівства Бельгії всіх рівнів. Уперше досліджено ефективність використання пропорційної виборчої системи для забезпечення адекватного представництва всіх мовних груп населення країни, у якій є три офіційні державні мови (на прикладі Королівства Бельгії). Автори доходять **висновку**, що механізми, які використовують у процесі формування місцевих і федеративного парламентів Королівства Бельгії, не цілком забезпечують пропорційне представництво кожної з мовних груп країни. Досвід Королівства Бельгії може бути застосований для розроблення засад реформування виборчого законодавства України, а саме щодо використання пропорційної виборчої системи з відкритими списками.

Ключові слова: виборча система; пропорційна виборча система; органи представницької влади; Королівство Бельгія; лінгвістичне представництво; мовні групи.