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ДВОПАЛАТНИЙ ПАРЛАМЕНТ: ПОРІВНЯЛЬНИЙ АНАЛІЗ І ДОСВІД КОНСТИТУЦІЙНОГО РЕФОРМУВАННЯ В УКРАЇНІ

Анотація. У процесі становлення і розвитку інституту парламенту виникає необхідність своєчасного вдосконалення організаційно-функціональної основи, конституційного та іншого законодавства, що сприяє ефективному функціонуванню цієї інституції. На переконання багатьох фахівців, бікамералізм є серйозним фактором зменшення політичної напруженості в країні, оскільки в двопалатному парламенті, як правило, менше конфліктів між партіями, що призводить до стабілізації парламентської діяльності, заснованої на системі стримувань і противаг. З урахуванням актуалізації обраної тематики статті її мета полягає у компаративному дослідженні досвіду конституційного реформування країн у сфері запровадження двопалатного парламенту, узагальненні позитивної практики та знаходженні можливостей її апробації на теренах України. Особливістю статті стало поєднання науково-теоретичного та емпіричного рівнів вивчення проблем конституційно-правового закріплення інституту парламенту, його структури та діяльності, взаємодії з іншими гілками єдиної державної влади в рамках конституційного принципу поділу влади. Автором, з урахуванням вказаної мети, були вирішені наступні завдання: розглянуто поліваріантність науково-практичних підходів до досліджуваної проблематики; проведено порівняльно-правовий аналіз досвіду формування палат у парламентах держав; сформовано обґрунтовані висновки та пропозиції щодо можливості запровадження двопалатного парламенту в Україні. Аналіз ролі парламентів дозволив скласти більш ґрунтовне уявлення про систему поділу влади в тій чи іншій країні, про існуючі в ній стримування й противаги з метою подальшої адаптації позитивного досвіду на теренах нашої держави та обґрунтування відповідних реформ. Крім того, проведений аналіз надав змогу констатувати, що така реформа є нагальною та необхідною, однак має бути проведена за умови дотримання запропонованих авторських концептів, які повністю корелюються із обраним нашою державою вектором європейської інтеграції.

Ключові слова: бікамералізм, європейська інтеграція, реформування законодавства України, Палата депутатів.

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TWO-CHAMBER PARLIAMENT: COMPARATIVE ANALYSIS AND EXPERIENCE OF CONSTITUTIONAL REFORMING IN UKRAINE

Abstract. *In the process of formation and development of the institute of parliament, there is a need for timely improvement of the organisational and functional basis, constitutional and other legislation, which contributes to the effective functioning of this institution. The existing legal non-regulation, both at the level of the Constitution and at the level of current legislation, do not allow the parliament to fully exercise its functions. According to many experts, bicameralism is a serious factor in reducing political tensions in the country, as there is usually less conflict between parties in a bicameral parliament, which leads to stabilisation of parliamentary activity based on a system of checks and balances. Taking into account the actualisation of the chosen topic of the article, its purpose is to comparatively study the experience of constitutional reforming of the countries in the field of bicameral parliament introduction, generalisation of positive practice and finding opportunities for its testing in Ukraine. The peculiarity of the article has been the combination of scientific-theoretical and empirical levels of studying the issues of constitutional-legal fixing of the institute of parliament, its structure and activity, interaction with other branches of a single state power within the framework of the constitutional principle of separation of powers. The author, in view of the stated purpose, has solved the following issues: the multivariate scientific and practical approaches to the studied problems have been considered; a comparative legal analysis of the experience of forming chambers in the parliaments of the states has been conducted; conclusions and proposals on the possibility of establishing a bicameral parliament in Ukraine have been substantiated. An analysis of the role of parliaments has made it possible to come to a more thorough picture of the system of separation of powers in a particular country, about the existing restraints and counterbalances in order to further adapt the positive experience in the territory of our country and justify the relevant reforms. In addition, the analysis made it possible to state that such a reform is urgent and necessary, but it must be carried out, provided that the proposed copyright concepts are fully correlated with the vector of European integration chosen by our country.*

Keywords: bicameralism, European integration, reform of Ukrainian legislation, Chamber of Deputies.

INTRODUCTION

One of the most pressing issues of constitutional reform is the change in the institutional structure of state power, in particular through the possibility of establishing a bicameral parliament [1]. According to many experts, bicameralism is a serious factor in reducing political tensions in the country, as there is usually less conflict

between parties in a bicameral parliament, which leads to stabilisation of parliamentary activity based on a system of checks and balances. This is especially true for the current realities of Ukrainian politicum, when the confrontational style of behaviour of political parties leads to the destabilisation of many state institutions, first of all, the Verkhovna Rada of Ukraine.

Indeed, if to look at the constitutionally mandated powers of the upper chambers of parliament and the practice of their activity in the countries of Europe and North America, it can be concluded that this chamber is intended to block the questionable enough in terms of the benefits for the state and public development decisions of the lower chamber that is by its nature more prone to politicisation of approved decisions [2–4]. That is, the upper chamber is an institutional element that is able to subdue political passions and add stability to public policy processes.

The introduction of a bicameral parliament in Ukraine would reduce the level of conflict in the mechanism of exercising state power, strengthen the representative function of the parliament, increase the authority of local self-government, promote the better development of regions, and ensure the stability of Ukraine's political course. In general, bicameral parliaments provide a more sophisticated system of national representation than unicameral parliaments. They are better at overcoming law-making mistakes and making more balanced decisions.

In addition, the point of view is very spread that the upper chambers are carriers of a particular type of knowledge, depth of political thought and sound conservatism [5]. Thus, joining the upper chamber in Italy is associated with outstanding services in the social, scientific or artistic fields. Thus, during the construction of the building of the Brazilian Parliament, architect O. Niemeyer chose a quiet dome for the meeting room of the upper chamber, the Senate, while the dynamic “bowl” crowns the hall of the lower chamber, the Chamber of Deputies [6].

In the context of public debate, it should be emphasised that a bicameral parliament is not a mandatory affiliation of a federal state. Given the number of unitary countries with bicameralism on the European continent, a bicameral parliament can function harmoniously in states with a simple administrative and territorial structure. Thus, at least 10 such countries can be found on the map of Europe, namely: Belarus, Ireland, Spain, Italy, Netherlands, Poland, Romania, France, Croatia and the Czech Republic (although in some cases the ambiguity of the “simplicity” of the territorial structure of these countries should be taken into account, such as Italy and its autonomous regions).

At the same time, it should be noted that not all representatives of science, practice and experts support the idea of establishing a bicameral parliament in the territory of our country. In particular, constitutional law expert B. Bondarenko argues that the implementation of the bicameral parliament concept can take ten years, and such a reform will not lead to a projected positive impact on the effectiveness of the Verkhovna Rada of Ukraine. In addition, the presence of paramilitary conflict and partial occupation on the territory of Ukraine will facilitate, in the context of delineated reform,

the creation of regional parties that will produce a negative impact on the constitutional reform of the state as a whole [7].

The alternative outlined approaches substantiate the chosen purpose of the article, which consists in a comparative study of the experience of constitutional reform of countries in the field of bicameral parliament introduction, generalisation of positive practice and finding opportunities for its testing in Ukraine. With this purpose in mind, the following tasks were set: 1) to consider the multivariate scientific and practical approaches to the studied issues and to substantiate the feasibility of establishing a bicameral parliament in Ukraine; 2) to conduct a comparative legal analysis of the experience of forming chambers in the parliaments of the states; 3) to summarise the positive foreign experience of the existence of a bicameral parliament, to formulate sound conclusions and proposals regarding the possibility of establishing a bicameral parliament in Ukraine.

1. MATERIALS AND METHODS

The article uses general scientific and special scientific methods of research, in particular. General methods that define philosophical and worldview approaches that express the most universal principles of thinking. Among them are dialectical and phenomenological methods that have made it possible to analyse the nature, concepts and meanings of constitutional reform and the introduction of a bicameral parliament.

General scientific methods have also come in handy, where empirical research has played an important role: observation, comparison, description. Widely used theoretical and logical methods: deduction, induction, systematic approach, methods of analysis, synthesis, statistical method, the use of which allowed to obtain reliable knowledge about the processes and features of the formation of the parliamentary institution in Ukraine and its reforming.

Special scientific methods have been used in the study of the evolution of the Institute of Parliament in Ukraine and in other countries of the world. Chronological and comparative methods were also used. The latter, divided into synchronous and diachronic methods, contributed to the development of a number of proposals based on foreign experience in optimising the functioning of the Parliament of Ukraine and the introduction of the bicameral Parliament. The article also used the historical method of enquiry, which allowed analysing the institute of parliament from the position of the past, present and future.

The peculiarity of the article was the combination of scientific-theoretical and empirical levels of studying the problems of constitutional legal fixing of the institute of parliament, its structure and activity, interaction with other branches of a single state power within the framework of the constitutional principle of separation of powers.

The method of analysis allowed us to determine that the fatal event in the development and formation of the idea of bicameralism was the holding of an all-Ukrai-

nian referendum on April 16, 2000, in which 26 million citizens of Ukraine (or 89.91%) who voted in favour of forming a bicameral parliament in Ukraine. At the same time, it is worth paying attention to the direct formulation of the question that was put to the referendum, “Do you support the necessity of forming a bicameral parliament in Ukraine, *one of the chambers of which would represent the interests of the regions of Ukraine and promote their implementation*, and make appropriate amendments to the Constitution of Ukraine and electoral law?” Thus, the people of Ukraine unanimously supported the establishment of a top-level regional representation body. The reasoning behind the stated people's decision as the basis for reforming the system of representative institutions during the further implementation of the planned vectors of transformation of the national parliament, while simultaneously amending the Constitution of Ukraine, is considered to be sufficiently substantiated. At the same time, it should be emphasised that the attempts to implement the results of the all-Ukrainian referendum have not been implemented. The most significant reason for this phenomenon was the presence of a multivariate viewpoint on the feasibility of such a reform. Unfortunately, these positions are still preserved. The Constitutional Court of Ukraine in the case of amending the Constitution of Ukraine on the initiative of the People's Deputies of Ukraine No. 2-in / 2000 of July 11, 2000, expressed quite negatively about this. In particular, the court found in its opinion that the draft proposal was not compliant with the requirements of Articles 157 and 158 of the Constitution of Ukraine regarding the establishment of a bicameral parliament. The following argument was put forward in the argumentation of the mentioned position, “*An analysis of the current constitutional practice of foreign states shows that the creation of a bicameral parliament in a unitary state is a matter of expediency. The content and scope of the rights and freedoms of a person and a citizen by itself is not directly influenced by the structure of parliament (single or double chamber). However, they may be influenced by the procedure for the formation of chambers and the distribution of powers between them*” (paragraph 3.1 of the reasoning part of the Opinion). As a consequence, given the fragmentation and inconsistency of changes in the field of implementation of the bicameral parliament in Ukraine, the Constitutional Court found it impossible to pursue constitutional reform in this part. At the same time, the contents of the institution of the upper chamber, which was proposed in the draft, did not raise any objections and objections from the body of constitutional jurisdiction.

The theoretical basis of the study is the work of foreign and domestic authors on issues of statehood, institutions of state power, constitutional reform, including parliament.

2. RESULTS AND DISCUSSION

2.1 Features of creation of a bicameral parliament in Ukraine

In the modern period of development of national statehood, a bicameral parliament building system is observed by many countries with a prosperous economy, a stable

political system and high standards of civil and social rights. More than 70 states have opted for bicameralism [8]. It seems quite reasonable that the parliamentary structure of any country is distinctive and unique, but most of the other chambers of the parliaments of the world have one thing in common – they are the specialised representations of the regions (entities) that make up the territorial units of the country (state). This is typical not only for all federal states, but also for many unitary states (France, Italy, Spain, Poland, Romania, Japan, etc.).

Turning to the practice of introducing bicameralism on the territory of our country, it should be noted that after independence, Ukraine faced the problem of defining the path of its further state development and the creation of new institutions of government, including the parliament. Even in the process of drafting the current Constitution of Ukraine, the creation of a bicameral parliament was repeatedly considered as a way of arranging a higher representative institution.

In particular, the draft Basic Law submitted for national discussion in 1992 envisaged the creation of a bicameral parliament (the National Assembly) in Ukraine, which was to consist of a Council of Deputies (lower chamber) and a Council of ambassadors (upper chamber). The developers of this project sought to bring to life the idea of a “strong” upper chamber, “The Council of Deputies and the Council of Ambassadors exercise the powers of the National Assembly on the basis of equality and division of functions” (Article 139 of the project). In view of the proposed principle of equality of chambers, it was assumed that they would be endowed with identical powers in the legislative process, in particular, that both chambers would have to approve it for the adoption of the law. In order to remedy the differences, it was proposed that a conciliation committee of chambers be set up, which was responsible for developing a universal bill capable of meeting the requirements and observations of both chambers. The procedure for further “newly developed” draft law was also regulated in detail (Part 4 of Article 161 of the draft).

The idea of a bicameral parliament also found its place in the draft Constitution of Ukraine, developed by the Constitutional Commission and submitted to the Verkhovna Rada on March 11, 1996. In particular, it was anticipated that the upper chamber, the Senate, would consist of 80 members representing regions in following proportion – 3 each from the oblasts, the Autonomous Republic of Crimea and the city of Kyiv, and 2 representatives from the city of Sevastopol. The Senate's competence in the draft was to include the appointment on the submission of the President of the Supreme Court, the members of the Central Election Commission, the Prosecutor General, as well as the issue of administrative and territorial organisation.

It is worth pointing out that the idea of bicameralism has also been supported by certain political forces that have promulgated their own constitutional projects. Thus, in particular, the draft of the Ukrainian Republican Party proposed the creation of a bicameral parliament, whose term of office would be 6 years. Nominal (personnel) powers were assigned to the upper chamber, including the appointment of diplomatic

representatives and judges of the Constitutional Court. In the draft of the Christian Democratic Party of Ukraine, the Senate consisted of 150 members who were to be elected for 6 years in single-member constituencies, 3 from regions (including the capital) and 3 from the Crimean Tatar people.

Another significant event on the way to the endorsement of bicameralism in our country was the submission by the Head of State to the Parliament on March 31, 2009 of the draft Law of Ukraine “On Amendments to the Constitution of Ukraine”, which provided for the creation of an upper chamber – the Senate in the structure of Parliament. The draft of this regulatory act regulated in detail the composition and powers of the newly created Senate, the election procedure and the mechanism for exercising the assigned competence. However, this bill has not been implemented and has been criticised by various representatives of theory, practice and law-making [9].

Subsequently, the idea of introducing a bicameral parliament has repeatedly emerged in the drafting activity. Thus, a particular issue was highlighted at the beginning of the Constitutional Assembly, approved by the Decree of the President of Ukraine of May 17, 2012 [10]. In its turn, the introduction of the bicameral parliament was not a priority for reform and had a rather substantial temporal framework, but was not finally rejected.

Today, after a long process of ratification of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand (dated March 21, 2014 and June 27, 2014)¹, our state is at the stage of intensification of reformation and transformation processes. In addition, the election of the new President of Ukraine has led to a special actualisation of the introduction of a bicameral parliament in Ukraine. At present, it is possible to speak about the active preparation of the relevant bill and lively public discussion.

Thus, it can be stated that bicameralism remains a subject of close attention and a subject of debate in the theory and practice of national state formation. At the same time, the process of implementation of the proposed idea in the practical plane requires a comprehensive analysis of foreign experience, its unification and finding of good practice in order to further test it in Ukraine.

2.2 Analysis of foreign practice in the sphere of formation of parliament chambers

In the context of debating the issue of complication of the structure of the Ukrainian Parliament, it is quite reasonable to carry out a comparative analysis of foreign experience in the field of similar constitutional and legal reforms. Thus, L. T. Kryvenko stresses that the bicameral parliament is a fairly widespread structure of the highest legislative body of the state. Moreover, for a long time, most parliaments of the

¹ A plea for an association between Ukraine, from one side, that of the European Union, the European Union from the atomic energy and member states, from the other side: the Law of Ukraine. (2014, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/1678-18>

countries of the world had a bicameral (two-chamber) structure [11]. In particular, the basis for comparison is the formation of the upper chamber and its competence.

Let us first turn to the formation order, which envisages two main ways – direct election of senators and the formation of the upper chamber by regional (regional) structures. According to experts, direct election of members of the upper chambers is used in 27 out of 66 cases, in 21 cases the chambers are formed with the help of regional and municipal representative bodies, and in 16 countries other ways of appointing members of such chambers are used. An example of the latter is the order of formation of the upper chamber of the National Parliament of Ireland, the Senate. It is made up of 60 members, 11 of whom are appointed Prime Ministers, and 49 are elected (43 by professional groups, 6 by universities) through a proportional representation system and secret ballot by mail. In turn, the lower chamber is also elected on a proportional basis. The cadence of both wards is 5 years [12].

Among the forms of direct elections, it is advisable to note the use of a mixed system of elections to both chambers of parliament. Thus, after the constitutional reform of 1993 in Italy, instead of a purely proportional one, a mixed electoral system was launched: from then, 75% of deputies are elected by majority, 25% by proportional system. At the same time, the outlined approach is identical for both the lower chamber and the upper chamber of parliament.

Another approach to direct elections is demonstrated by Czech and Polish parliamentarians. For example, the Chamber of Deputies of the Czech Parliament is elected on the principle of proportional representation, whereas the upper chamber, the Senate, on a majority basis, is updated with a third of the composition every two years. The Polish Parliament has a more “regional” colour. Of the 460 members of the lower chamber, the Sejm, 391 are elected by district lists of candidates in multi-member constituencies using preferences, and 60 deputies by the All-Polish list of candidates. As for the upper chamber, the Senate, the elections to it are held on a majority basis. At the same time, the majority district coincides with the territory of the voivodship, the largest territorial unit of the state. Thus, 100 senators are elected to the Senate by two from 47 voivodships and by three from the two largest voivodships – Warsaw and Katowice [13]. It is advisable to emphasise that at the level of the Polish Constitution, the term “parliament” is not used in the sense of a single legislative body. Instead, under Article 95 (1) of the Basic Law, it is stipulated that the legislature is exercised simultaneously by two institutions, the Sejm and the Senate [14–16].

Turning to the side forms of formation of the upper chamber, it is worth noting the procedure of formation of the upper chamber of the German Parliament – the Bundesrat, which consists of representatives of the governments of the lands that appoint and withdraw them. The number of members of the Bundesrat that may be delegated by a particular country depends on the population of the land: each land has the right to delegate three representatives; land with a population of more than 2 million has four votes, land with a population of more than 6 million – five votes, land with

a population of more than 7 million – six votes. It should be emphasised that the position of the land must be fully agreed on a particular issue. More complex, but more effective in terms of regional representation, the method of forming the upper chamber (Senate) was introduced in France. For example, the Senate is elected by departments (regions) of colleges consisting of elected in the department of lower chamber deputies, regional advisers, general advisers of this department, delegates of municipal councils and their deputies. The number of delegates from municipalities depends on the size of the population.

Also, the study should take into account the classification of bicameral parliaments developed by the science of constitutional law. In particular, there are parliaments with a weak upper chamber and parliaments with a strong upper chamber [17–19]. It is advisable to expose their differences and problem speculations. The tendency for the upper chamber to be strong is quite widespread; the competence of both chambers is completely or overwhelmingly equal, and under such conditions the special powers of the upper chamber are generally less significant than those of the lower chamber; vice versa. Otherwise, in the presence of a weak upper chamber, the powers are divorced and subject to jurisdiction, moreover, the lower chamber usually has advantages [3]. In most cases, chambers have the same rights to review and adopt laws. Perhaps that is why in the US the bill is allowed to enter any of the chambers of congress. The lower chambers, as a rule, have special powers in the field of finance (budget adoption), while the upper chambers are more likely to ratify international treaties. In the US and Ecuador, the upper chamber is vested with the power to approve government members and other officials appointed by the president [20].

Here are some examples. Thus, a strong upper chamber in a unitary country is the upper chamber of the Italian parliament – the Senate of the Republic. The “power” of the Senate lies, first of all, in the fact that at the level of the Constitution it is recognised as equivalent to the lower chamber by the legislature: Article 70 of the Italian Constitution provides that “the legislative function is exercised jointly by both chambers”. This, in turn, means that the bill can be submitted to any of the chambers and is considered approved when deputies of both chambers vote for its adoption. It is also significant that the budget must also be approved by both chambers of the Italian Parliament (Article 81 of the Constitution) [21]. An example of a weak upper chamber is the Polish Senate. At the level of the Constitution of Poland (Part 1 of Article 95), it is stipulated that the Sejm and the Senate shall exercise legislative power. In view of the above, it is advisable to express doubts about the possibility of 100% characterisation of the two designated institutions as chambers of parliament. In particular, the content of Article 95 and other norms of the Polish Constitution shows that both the Sejm and the Senate act as separate bodies of the legislature. Moreover, as a single body called the National Assembly, the Sejm and the Senate act only in cases clearly defined by the Constitution (Part 114, Article 114 of the Constitution of Poland). It

should be noted that the powers of the Senate are not equivalent to the powers of the Sejm, especially as regards the adoption of laws.

In some cases, there are situations where it is not possible to clearly attribute Parliament to a particular group. The “mixed” nature of the competence of the upper chamber of parliament is manifested in the fact that the law can be adopted only after approval by both chambers. In this, unlike the procedure of passing a bill in parliaments with a strong upper chamber, in the event of a dispute between the fees on the bill, the Government is allowed to interfere with the law-making process by requesting the final approval of the bill by one of the chambers, as a rule, by the lower chamber. A striking example of such an intervention is France. Pursuant to Article 45 of the French Constitution, any draft law or legislative initiative is being progressively considered in both Chambers of Parliament for the adoption of an identical text. If, as a result of disagreements between the two chambers, a bill or legislative proposal has not been adopted after two readings by each chamber, or if, after one reading in each of them, the Government declares the need for urgent consideration, the Prime Minister has the right to convene a meeting of the mixed commission that is obliged to propose new text on controversial issues. The text prepared by such a committee may be submitted by the Government for approval to both Chambers. Moreover, none of the amendments can be adopted without the consent of the Government. If the mixed commission fails to adopt the agreed text or if the text is not adopted on the terms provided earlier, the Government may, after a new reading in the National Assembly (lower chamber) and the Senate (upper chamber), require the National Assembly to take a final decision.

The outlined procedure in science is called the “legislative shuttle”, which means the transfer of a bill from one chamber to another in a bicameral parliament to overcome differences between them before adopting a mutually agreed legislative text [22]. In some cases, a very detailed “legislative shuttle” procedure is envisaged at the Constitution level. In this regard, we will note the constitutional regulation of this issue in the Basic Law of Belgium (which in many respects is similar to French rules). First of all, it should be noted that the Belgian Constitution sets out the specific joint legislative competence of the lower chamber of Parliament and the King, as well as the joint legislative competence of both chambers. As a general rule, a bill passed by the lower chamber of parliament is referred to the Senate, which may consider it if at least 15 of its members so request. Over the next 60 days, the upper chamber may either decide that the bill does not need to be amended or adopt the bill after it has been amended. In the first case (as well as in a situation where the Senate did not consider the bill within the specified period), the passed bill is passed to the lower chamber of the King for signature. The Constitution also provides for the possibility of creating a mechanism for overcoming conflicts between the chambers. This is a typical institution such as the parliamentary conciliation committee, which is com-

posed on a parity basis of members of the Chamber of Representatives and the Senate, which is empowered by its decisions to resolve conflicts between the chambers in the sphere of their legislative competence, including to extend the terms of consideration of the bills. In this context, the approach of the Romanian legislators to resolving conflicts arising when the conciliation commission mentioned by us does not unanimously in its decision is quite interesting. In such a case, the variant texts are presented for discussion by the Chamber of Deputies and the Senate at a joint sitting, which will adopt the final text by a majority vote (Part 2 of Article 76 of the Romanian Constitution).

On the whole, it can be concluded that in the vast majority of cases at the present stage of state-building, the Chambers of Parliaments are endowed with almost equal powers in the field of law-making. Only in some cases it is possible to find that there is a certain advantage of the lower chamber, especially in the fiscal area. For example, the Senate of the Irish Parliament has no right to change the financial laws passed by the lower chamber. The exclusive competence of the lower chamber of the Austrian Parliament is the adoption of budgetary and financial laws.

The powers of the chambers in other spheres show some unevenness. For example, in the area of scrutiny, when considering parliaments with a strong upper chamber – the Government is accountable and controlled by two chambers at once. In Romania, the Chamber of Deputies and the Senate may withdraw the confidence of the Government expressed in a joint meeting by passing a resolution of no confidence by a majority of the votes of the deputies and senators. A similar norm is enshrined in the Italian Constitution (Article 94). An example of the variability of the competences of the chambers is the provision of Article 30 (1) of the Czech Constitution, according to which only the lower chamber of parliament is empowered to set up commissions of enquiry to investigate matters of public interest.

The presented and analysed variation approaches of different countries to the formation of the parliament and its competence show that the adaptation of the tried and tested foreign models should be carried out with due consideration of the realities of a particular state, its territorial structure, and the peculiarities of the legal system. In addition, the experience of countries with “strong” and “weak” chambers of parliament must be taken into account and agreed. At the same time, the readiness of the state for such reforms should be a special factor on the way to introducing a bicameral parliament.

CONCLUSIONS

An analysis of the role of parliaments, including the upper and lower chambers, gives a more thorough picture of the system of separation of powers in a particular country, of the existing constraints and counterbalances in it, in order to further adapt the positive experience in our country and substantiate the relevant reforms. The very task of preventing the usurpation of power by a majority that ignores the

interests of the minority, and of ensuring the stability of the government, was put before politicians by the authors of the theory of separation of powers, S. Montesquieu and J. Madison, as well as their followers, who pointed out the need for a bicameral parliament. The problem of separation of powers, the formation and consolidation of checks and balances, and securing a stable government remain quite pressing issues for modern Ukraine. Studying the role of the chambers of parliament in the decision-making and implementation of political decisions (including in the sphere of foreign policy) has allowed broadening of understanding of the specifics of the political system and political regime of Ukraine, the prospects of its democratic development, taking into account the introduction of the bicameral parliament.

In addition, the analysis made it possible to state that such reform is urgent and necessary, but should be carried out with the following concepts:

1) it is desirable that upper chamber to be a true expression of regional interests, and therefore, the most optimal way of forming the upper chamber – the Senate, is to elect its members at general meetings (colleges) of deputies (or their delegates) of local councils of one or another region, cities of Kiev and Sevastopol, as well as the Autonomous Republic of Crimea. A similar method is used in France, and it has proven effective in taking into account the regional sentiments of parliament when making important decisions. The lower chamber, as an expression of the interests of the Ukrainian people, in this case, should be elected on the basis of universal, equal and direct elections in a proportional election system with open lists, although openness of the lists is no longer critical.

2) it is necessary to take into account the successful American experience of the transformation of the order of formation of the upper chamber, the Senate, equal number of representatives from the state at the beginning, with the transition to the number of representatives depending on the population, – allows to consider with optimism the modernisation of the national model of bicameralism in the future. It is also advisable to involve in the electoral process through the direct participation of representatives of the doctrine, providing representation from the National Academy of Sciences of Ukraine and branch academies of science of Ukraine, other reputable institutes of civil society (one representative each).

3) in Ukrainian realities, it is advisable to introduce a mechanism for recalling the representatives of the upper chamber by the colleges of deputies who have delegated them. This will allow the senators to liaise with their own regions and strengthen their accountability for their responsibilities.

4) to ensure the quality of law-making, it is permissible to introduce a model of “equivalent chambers”, following the example of Italy. Ability of the upper chamber to participate actively in law-making, the use of a kind of veto on the acts adopted by the lower chamber, as a consequence, the need for conciliation procedures that can significantly improve the quality of laws and other decisions by a single legislative body in Ukraine.

The above proposals are completely correlated with the vector of European integration chosen by our country and the intensification of the comprehensive reform of the legal system as a whole and the practice of law-making in the realities of today.

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