

## LEGAL STATUS OF THE PARLIAMENTARY OPPOSITION IN EUROPEAN COUNTRIES: OPPORTUNITIES FOR UKRAINE

Oleksandr Zozulia,\* Ihor Zozulia,\*\* Svitlana Melnychuk,\*\*\* Lyudmyla Luts\*\*\*\*

**Abstract:** Various effective models of parliamentary opposition have been implemented in European countries. Depending on the form of state government and political system, they differ in the degree of institutionalization of the parliamentary opposition, its role in lawmaking, and the ways it controls activities of the majority and the government. The development of the institution of parliamentary opposition based on the positive experience of European countries is an important condition for the evolution of parliamentary democracy in Ukraine within the framework of its European integration. This requires a synthesis of the advantages of different models of parliamentary opposition with due regard to the current realities, namely, the form of the government and political system of Ukraine as an Eastern European, post-Soviet country. The main principles of development of the institution of parliamentary opposition shall be as follows: to distinguish the status of majority and opposition, to ensure a balance of their rights and obligations, and to take into consideration the interests of the minority when exercising of power by the parliamentary majority. Besides, the legislative recognition of the parliamentary opposition in Ukraine shall contribute to its institutionalization, recognition of role of the parliamentary opposition as a political actor, as well as normalization of relations with the parliamentary coalition.

**Keywords:** opposition, parliament, status, rights, guarantees, responsibilities

### INTRODUCTION

Parliament, as one of the main forms of representative democracy, should represent the whole society and ensure effective and equal participation of its elected representatives in consideration and adoption of laws, the formation of state policy, etc. An important condition for democracy is the presence of organized parliamentary opposition which is endowed with real rights and guarantees for meaningful participation in all parliamentary processes, and authority to control activities of the majority in parliament. According to Gerald Schmitz, the opposition is meant to perform representative democracy functions, it embodies internal dialogue, coordination, and synthesis of viewpoints, and thus causes public resonance.<sup>1</sup> Since, according to Resolution 1601 (2008) of the Parliamentary Assembly of the Council of Europe,<sup>2</sup> a democratic character of parliament is

\* Associate Professor Oleksandr Zozulia, Doctor of Science of Law, Department of Comparative Constitutional and Municipal Law, Scientific Research Institute of State Building and Local Government, Kharkiv, Ukraine

\*\* Professor Ihor Zozulia, Doctor of Science of Law, Department of Law Enforcement and Police, Kharkiv National University of Internal Affairs, Kharkiv, Ukraine

\*\*\* Associate Professor Svitlana Melnychuk, Doctor of Science of Law, Department Administrative and Civil Law disciplines, Precarpathian Faculty of National Academy of Internal Affairs, Ivano-Frankivsk, Ukraine

\*\*\*\* Professor Lyudmyla Luts, Doctor of Science of Law, Department of Theory and Philosophy of Law, Ivan Franko Lviv National University, Lviv, Ukraine

<sup>1</sup> SCHMITZ, G. *The opposition in a parliamentary system*. Ottawa: Library of Parliament, Research Branch, 1988, p. 21.

<sup>2</sup> Resolution 1601 (2008). Procedural guidelines on the rights and responsibilities of the opposition in a democratic parliament. In: *Parliamentary Assembly of the Council of Europe* [online]. [2020-09-09]. Available at: <<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17626>>.

measured by the means available to parliamentary opposition to carry out its responsibilities.

However, the status of the parliamentary opposition in Ukraine remains unsettled by law, and it's mainly determined not by legal norms, but by political expediency and depends on the situation. As a result, it often has a negative impact on the institutionalization of parliamentary opposition and its ability to influence the processes within parliament and may lead to parliamentary crises. Various models of parliamentary opposition have been introduced in European countries, their specifics and differences are due to the country's constitutional system, degree of parliamentarism, type of legal system, legal and political culture, etc. One of the priority aims for improving the status of the parliamentary opposition in Ukraine in the framework of its European integration is to use the positive experience of European countries. That is why to regulate and develop the legal status of the parliamentary opposition in Ukraine we find relevant to make a detailed description of its current position and prospects of improvement with due regard to the experience of various European countries.

It stands to mention several thorough scientific publications devoted to the analysis of the experience of European countries in regulating the legal status of the parliamentary opposition. Thus, P. Kopecký and M. Spirova give a comparative legal description of the parliamentary opposition in post-communist Eastern Europe,<sup>3</sup> although the empirical basis of this study is somewhat limited by parliamentary practice primarily only in Bulgaria, the Czech Republic, and Hungary. From this perspective, it bears mentioning a broader comparative analysis of legal support of the parliamentary opposition in both Anglo-American and Romano-Germanic legal systems made by A. Grubinko and A. Kucher.<sup>4</sup> Besides, the peculiarities of the legal status and the actual role of the parliamentary opposition in certain European countries are reviewed in the scientific works of R.B. Andeweg, L. de Winter, and W.C. Müller as in the cases of Austria, Belgium, the Netherlands,<sup>5</sup> Z. Drago as in the case of Slovenia,<sup>6</sup> A. Kaiser as in the case of the United Kingdom<sup>7</sup> and others. At the same time, these scientific works largely concern not only the constitutional and legal regulation of parliamentary opposition, but also study the empirical experience of certain stages of institutionalization and functioning of the parliamentary opposition in the specified European countries. Therefore, the study of the theoretical and legal foundations of the parliamentary opposition should be continued.

Taking into consideration the current state of knowledge of the legal status of the parliamentary opposition, the scope and purpose of our study determine the use of dialectic

<sup>3</sup> KOPECKÝ, P., SPIROVA, M. Parliamentary Opposition in Post-Communist Democracies: Power of the Powerless. *The Journal of Legislative Studies*. 2008, Vol. 1-2, No. 14, pp. 133–159. DOI: 10.1080/13572330801921117.

<sup>4</sup> GRUBINKO, A., KUCHER, A. Legal support of the parliamentary opposition in the Anglo-American and Romano-Germanic legal systems: comparative analysis. *Current issues of jurisprudence*. 2020, Vol. 1, No. 1, pp. 5–11.

<sup>5</sup> ANDEWEG, R. B., DE WINTER, L., MÜLLER, W. C. Parliamentary Opposition in Post-Consociational Democracies: Austria, Belgium and the Netherlands. *The Journal of Legislative Studies*. 2008, Vol. 1-2, No. 14, pp. 77–112. DOI: 10.1080/13572330801921034.

<sup>6</sup> ZAJC, D. Role of opposition in contemporary parliamentary democracies – the case of Slovenia. *Journal of Comparative Politics*. 2016, Vol. 9, No. 1, pp. 19–35.

<sup>7</sup> KAISER, A. Parliamentary Opposition in Westminster Democracies: Britain, Canada, Australia and New Zealand. *The Journal of Legislative Studies*. 2008, Vol. 1-2, No. 14, pp. 20–45. DOI: 10.1080/13572330801920887.

cal, formal and legal, comparative and legal, system-defined and structural-defined, logic-based and semantic-based, and other methods of scientific knowledge.

## II. FEATURES OF UNDERSTANDING AND REGULATING THE STATUS OF THE PARLIAMENTARY OPPOSITION IN EUROPEAN COUNTRIES AND UKRAINE

### II.1 Basic models of the parliamentary opposition

In European countries, parliamentary opposition has its own more or less formalized status due to the special features of the form of government and the political system of a particular state. According to Petr Kopecký and Maria Spirova, the status of the parliamentary opposition in post-communist Eastern Europe is particularly influenced by the ways the executive and the legislative powers interact. Depending on the degree of institutionalization of parliamentary opposition and its influence on parliamentary and other political processes, the Westminster, the French, the German, and the Nordic models of parliamentary opposition can be distinguished.<sup>8,9</sup> It is possible to correlate the current state of the legal status of the parliamentary opposition in Ukraine with the French model of parliamentary opposition due to the following characteristics: proportional representation of parliamentary factions in parliamentary bodies, creation of temporary commissions of inquiry for parliamentary investigations, the right to interpellation and constitutional appeal, etc. The main disadvantage of the French model is the absence of a comprehensive institutional status of the parliamentary opposition, which significantly slows down its development, weakens and limits its ability to effectively influence relevant parliamentary processes (for example, the process of agenda-setting). Furthermore, Drago Zajc, using the example of Slovenia, highlights the importance of participation of the institutionalized parliamentary opposition in legislative and political processes to ensure a high level of parliamentary democracy.<sup>10</sup>

Despite the non-institutionalization of the parliamentary opposition, we can see some elements of the Westminster model in Ukraine, (for example, the question hour, supervisory activities of the committees of the Verkhovna Rada of Ukraine). At the same time, a complete implementation of the Westminster model in Ukraine will mean not only a highly formalized institutionalization of the parliamentary opposition but also its relatively insignificant role in the legislative process and internal parliamentary organization. After all, as André Kaise points out, in the United Kingdom and other Westminster democracies the opposition parties often don't coordinate their political strategies in parliament

<sup>8</sup> GRUBINKO, A., KUČER, A. Legal support of the parliamentary opposition in the Anglo-American and Romano-Germanic legal systems: comparative analysis. *Current issues of jurisprudence*. 2020, Vol. 1, No. 1, p. 9.

<sup>9</sup> Status of the opposition: domestic and foreign experience, recommendations (information-analytical study). Kyiv, 2006. p. 9, 11. In: *Laboratory of Legislative Initiatives* [online]. [2020-09-01]. Available at: <[https://parlament.org.ua/docs/files/8/1162220481\\_ans.pdf](https://parlament.org.ua/docs/files/8/1162220481_ans.pdf)>.

<sup>10</sup> ZAJC, D. Role of opposition in contemporary parliamentary democracies – the case of Slovenia. *Journal of Comparative Politics*. 2016, Vol. 9, No. 1, pp. 19–35.

and have relatively little opportunity to influence policy-making.<sup>11</sup> The Nordic model suggests a unique (as compared to Ukraine) political and party system which allows a formally non-institutionalized parliamentary opposition to play a significant role in lawmaking (e.g. committee work, participation in the formation of the parliamentary agendas, etc.) and exercise parliamentary control. Therefore, the German model is considered quite interesting in terms of expanding the rights and increasing the effectiveness of the parliamentary opposition in Ukraine. More specifically, in the context of partial institutionalization of parliamentary opposition it is possible to significantly influence legislative process and government activities (e.g. by occupying some of the leadership positions in the standing committees, vetoing government bills, filing constitutional appealing of laws, incorporating opposition in the government, etc.). However, the latter may blur in some way the responsibility between opposition and government for particular legislative acts. It should be emphasized that these rights and guarantees of parliamentary opposition shall not prevent the coalition from formulating and implementing its proper state policy to the full extent, as the coalition has political and legal responsibility for doing this. In view of the above-mentioned facts, we can't completely agree with the conclusion of the Laboratory of Legislative Initiatives (Kyiv, Ukraine, 2006) that the best models for defining and protecting the rights of the parliamentary opposition in Ukraine are the German and the Westminster ones.<sup>12</sup>

Therefore, we believe that a synthesis of the advantages of different models of parliamentary opposition should be taken as a basis for creating the institution of the parliamentary opposition in Ukraine. It is also necessary to take into account the current realities of government and political system of Ukraine as an Eastern European, post-Soviet country. More specifically, the Ukrainian semi-presidential form of government, which provides for government formation by the parliamentary majority, requires separation of the status of majority and control over the executive branch exercised by the opposition. At the same time, a balance between the rights and responsibilities of the opposition and the majority in parliament should be found. After all, according to Helms Ludger, the lack of adequate rights of opposition is associated with the weakening of democracy and legitimacy of the political system, while the excess of oppositional powers can weaken the parliamentary majority and reduce political stability.<sup>13</sup> Opposition activities should be aimed at safeguarding its interests when the parliamentary majority exercises the power. A fine example would be Article 6 of the Constitution of the Czech Republic of 16 December 1992<sup>14</sup> which states that the decision-making of the majority shall take into consideration the interests of the minority.

<sup>11</sup> KAISER, A. Parliamentary Opposition in Westminster Democracies: Britain, Canada, Australia and New Zealand. *The Journal of Legislative Studies*. 2008, Vol. 1-2, No. 14, pp. 20–45. DOI: 10.1080/13572330801920887.

<sup>12</sup> Status of the opposition: domestic and foreign experience, recommendations (information-analytical study). Kyiv, 2006, p. 32. In: *Laboratory of Legislative Initiatives* [online]. 2006 [2020-09-01]. Available at: <[https://parlament.org.ua/docs/files/8/1162220481\\_ans.pdf](https://parlament.org.ua/docs/files/8/1162220481_ans.pdf)>.

<sup>13</sup> HELMS, L. Studying Parliamentary Opposition in Old and New Democracies: Issues and Perspectives. *The Journal of Legislative Studies*. 2008, Vol. 1-2, No. 14, pp. 6–19. DOI: 10.1080/13572330801920788.

<sup>14</sup> Ústava České republiky: dated December 16, 1992. In: *Poslanecká sněmovna Parlamentu České republiky* [online]. 16. 12. 1992 [2020-09-11]. Available at: <<https://www.psp.cz/docs/laws/constitution.html>>.

## II.2 Concepts and signs of parliamentary opposition

The various models of parliamentary opposition implemented in European countries do not always require legitimization of the concept of opposition. In some cases, established parliamentary traditions handle the relations between minority, coalition, and a government. Besides, it is quite difficult to clearly define characteristics of the parliamentary opposition, its relationship, and differentiation from related categories, such as “parliamentary minority” and “political opposition”. Therefore, some European countries (for example, Germany and Poland) have regulated the legal status of the entire parliamentary minority, i.e. those factions and members of parliament that are not part of the coalition. At the same time, in the United Kingdom, Lithuania, Portugal, and Romania, consistent rights and guarantees are established mainly for parliamentary opposition. For example, Articles 114 and 228 of the Portuguese Constitution of 25 April 1976<sup>15</sup> explicitly specifies the right of political parties to democratic opposition, which cannot be limited by amendments to the constitution. We believe that legislative recognition of the parliamentary opposition in Ukraine will improve structuredness of the political system and contribute to the institutionalization of the parliamentary opposition, recognition of its place and role as a political actor, as well as normalization of relations with the parliamentary coalition, non-opposition minority (which does not declare its opposition to the majority) and extra-parliamentary opposition. Hence, we shall agree with D. Sternberger that recognition, legitimization, and institutionalization of a parliamentary opposition is an integral part of political culture.<sup>16</sup> Moreover, as Helms Ludger points out, in representative democracies a parliamentary opposition holds a special place, if not always in empirical terms, certainly when looked at from a normative perspective.<sup>17</sup>

It is commonly known that according to the Westminster model (the United Kingdom) the second-largest party (faction) in the House of Commons has the status of the opposition, and in other countries (e.g. Germany, Norway, Portugal) parliamentary opposition includes deputies and their factions that do not participate in the formation of the government and do not support its political course. Traditional presence in the Verkhovna Rada of Ukraine of several factions (ideologically different, but similar in size), which are not included in a majority, determines the advantage of using the latter approach. At the same time, a parliamentary faction or group can express their disagreement with the current political course by declaring its opposition and announcing its alternative political program. The use of such a constructive approach in Ukraine will be in line with the Lithuanian parliamentary practice. For instance, according to Article 41 of the Seimas Statute of 17 February 1994,<sup>18</sup> political groups or their coalitions should proclaim in the Seimas their political declarations, wherein the provisions distinguishing them from the majority of the Seimas. Similarly, according to Article 4 of the Rules of Procedure of the

<sup>15</sup> Constituição da República Portuguesa: dated April 25, 1976. *Diário da República*. 1976, Série I, No. 86/1976.

<sup>16</sup> STERNBERGER, D. *Opposition des Parlamenets und parlamentarische Opposition*. Bd. I. Meisenheim am Glan: Lebende Verfassung, 1956, p. 133.

<sup>17</sup> HELMS, L. Studying Parliamentary Opposition in Old and New Democracies: Issues and Perspectives. *The Journal of Legislative Studies*. 2008, Vol. 1-2, No. 14, pp. 6–19. DOI: 10.1080/13572330801920788.

<sup>18</sup> Lietuvos Respublikos Seimo statutas: dated February 17, 1994 No. I-399. *Valstybės žinios*. 1994, No. 15-249.

Parliament of Moldova of 2 April 1996,<sup>19</sup> parliamentary opposition includes factions that are not members of a majority and have declared their opposition.

Taking into account a multi-party system and ideological pluralism, the formation of the parliamentary opposition in Ukraine does not require an obligatory alliance of all factions and groups that declare their opposition (as, for example, was proposed in the bill of 10 January 2001<sup>20</sup> on parliamentary opposition). Due to the heterogeneity of parliamentary opposition, we find it essential to separate the powers between opposition factions and groups (as the key actors in the Ukrainian opposition) depending on their ratio in parliament and to prevent monopolization of the status of parliamentary opposition by the largest opposition faction. In more detail, according to Article 68 of the Rules of Procedure of the Verkhovna Rada of Ukraine of 19 September 2008,<sup>21</sup> a faction (or their association) can acquire the status of parliamentary opposition only if it consists of more than half of the deputies who did not join coalitions. S.S. Sharanych suggests defining an opposition faction as the one that includes at least one-quarter of the number of members of parliament.<sup>22</sup> However, the establishment of quantitative requirements for parliamentary factions and groups to recognize them as the opposition will bar small groups of deputies from gaining the status of opposition, supervising and controlling of majority and government, and promoting of their alternative programs.

### II.3 Should the status of the parliamentary opposition be regulated?

The legal status and activities of the parliamentary opposition in European countries are usually subject to constitutional provisions and/or parliamentary rules, therefore, there is no urgent need to adopt a separate law on parliamentary opposition. For instance, in the absence of relevant law, the Constitution of Germany of 23 May 1949<sup>23</sup> and the Rules of Procedure of the Bundestag of 28 January 1952<sup>24</sup> establish the rights and responsibilities of parliamentary factions, groups, and deputies who can form the opposition and exercise their powers and perform opposition activities. According to Article 51-1 of the Constitution of France of 4 October 1958,<sup>25</sup> the rules of procedure of each house determine the rights of opposition factions and minority groups. And in Lithuania, the essence and rights of parliamentary opposition are primarily defined in the Statute of the Seimas.<sup>26</sup> On the other hand, in Portugal, activities of opposition in addition to the Constitution of 25 April

<sup>19</sup> Pentru adoptarea Regulamentului Parlamentului: Lege Republica Moldova: dated April 02, 1996 No. 797. *Monitorul Oficial*. 2007, No. 50, art. 237.

<sup>20</sup> On the parliamentary majority and the parliamentary opposition: draft law of Ukraine: dated January 10, 2001 No. 6329. In: *Verkhovna Rada of Ukraine* [online]. [2020-09-10]. Available at: <<http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=9591&pf35401=14277>>.

<sup>21</sup> Rules of Procedure of the Verkhovna Rada of Ukraine: dated September 19, 2008 No. 547-VI. *Official Bulletin of Ukraine*. 2008, No. 73, art. 2451.

<sup>22</sup> SHARANYCH, S. S. *Parliamentary majority (coalition) and parliamentary opposition: theoretical and legal research*: abstract of the dissertation. Lviv, 2013, p. 19.

<sup>23</sup> Grundgesetz für die Bundesrepublik Deutschland: dated May 23, 1949. *Bundesgesetzblatt*. Teil I, 1949, No. 1.

<sup>24</sup> Geschäftsordnung des Deutschen Bundestages: dated January 28, 1952. *Bundesgesetzblatt*. Teil II, 1952, No. 5.

<sup>25</sup> Constitutionnel de la République Française: dated October 04, 1958. *Journal officiel de la République Française*. 1958.

<sup>26</sup> Lietuvos Respublikos Seimo statutas: dated February 17, 1994 No. I-399. *Valstybės žinios*. 1994, No. 15-249.

1976,<sup>27</sup> are also subject to the Law of 26 May 1998 on the legal status of opposition<sup>28</sup> and the Law of 5 September 1986 on the freedom of expression of oppositional parties.<sup>29</sup> This approach ensures legal certainty of a wide range of rights and guarantees of the parliamentary opposition in Portugal and allows it to control government activities and propose changes to the state's policy. With respect to the above-mentioned differences, the need to adopt the Law of Ukraine on Parliamentary Opposition is also either denied by the scientists (e.g. by I.M. Bernazyuk,<sup>30</sup> S.S. Sharanych)<sup>31</sup> or supported (e.g. by U. Ilnytska,<sup>32</sup> I.A. Pavlenko,<sup>33</sup> O.V. Sovgirya).<sup>34</sup>

In our opinion, in Ukraine, there is an urgent need to seek legislative actions on the status of parliamentary opposition (as well as the minority as a whole). It stems from the fact that Ukraine has the Romano-Germanic legal system which is characterized by legal positivism (common for the post-Soviet countries), underdevelopment of parliamentarism and political traditions, the need to limit the majority power, the instability of the political system, and the immaturity of civil society. At the same time, Petr Kopecký and Maria Spirova highlight the crucial link between party system stability and the ability of the opposition to influence a policy-making process.<sup>35</sup> Additional factors, such as political polarization of parliamentary forces in the context of Russia's ongoing aggression, the formation of a one-party majority in parliament, and others shall be taken into account. The Opinion of the Constitutional Court of Ukraine of 27 June 2000<sup>36</sup> states the need to improve the Constitution of Ukraine of 28 June 1996<sup>37</sup> to guarantee the rights of the parliamentary minority. The absence of these rights violates the constitutional principle of political and ideological diversity and restricts the civil and political rights of citizens. The expediency of legislative consolidation of the status of the parliamentary opposition in Ukraine is confirmed by legislative practice on this issue. Specifically, since 2000 more than 20 legislative proposals on political or parliamentary opposition have been submitted to the Verkhovna Rada of Ukraine, none of which have been adopted so far due to a lack of political con-

<sup>27</sup> Constituição da República Portuguesa: dated April 25, 1976. *Diário da República*. 1976, Série I, No. 86/1976.

<sup>28</sup> Aprova o Estatuto do Direito de Oposição: Lei da República Portuguesa dated May 26, 1998 No. 24/98. *Diário da República*. 1998, Série I-A, No. 121/1998.

<sup>29</sup> Garantia do direito de réplica política dos partidos de oposição: Lei da República Portuguesa dated September 05, 1986. *Diário da República*. 1986, Série I, No. 204/1986.

<sup>30</sup> BERNAZYUK, I. M. Legal regulation of opposition activities in foreign countries. *Law Forum*. 2009, No. 3, pp. 48–53.

<sup>31</sup> SHARANYCH, S. S. *Parliamentary majority (coalition) and parliamentary opposition: theoretical and legal research*: abstract of the dissertation. Lviv, 2013, p. 19.

<sup>32</sup> IILNYTSKA, U. Parliamentary opposition as an institutional aspect of the control function of parliament. *Ukrainian national idea: realities and prospects of development*. 2011, Issue 23, p. 84.

<sup>33</sup> PAVLENKO, I. Legal status of the opposition. Experience of developed democracies and Ukrainian perspectives. *Political management*. 2005, No. 5, pp. 16–30.

<sup>34</sup> SOVGIRYA, O. V. *Legal status of the parliamentary opposition (comparative legal analysis)*: abstract of the dissertation. Kyiv, 2005, p. 21.

<sup>35</sup> KOPECKÝ, P., SPIROVA, M. Parliamentary Opposition in Post-Communist Democracies: Power of the Powerless. *The Journal of Legislative Studies*. 2008, Vol. 1-2, No. 14, pp. 133–159. DOI: 10.1080/13572330801921117.

<sup>36</sup> Opinion of the Constitutional Court of Ukraine in the case of amendments to Articles 76, 80, 90, 106 of the Constitution of Ukraine: dated June 27, 2000 No. 1-v/2000. *Official Bulletin of Ukraine*. 2000, No. 30, art. 1287.

<sup>37</sup> Constitution of Ukraine: dated June 28, 1996 No. 254k/96-VR. *Information of the Verkhovna Rada of Ukraine*. 1996, No. 30, art. 141.

sensus. We believe that the subject of legal regulation shall be not only the rights, responsibilities, and guarantees of the parliamentary opposition but also a proper doctrine and procedures for their implementation.

### III. RIGHTS AND GUARANTEES OF PARLIAMENTARY OPPOSITION IN EUROPEAN COUNTRIES: POSSIBILITIES FOR IMPLEMENTATION IN UKRAINE

#### III.1 Representation of the parliamentary opposition in the leadership of the parliament and its bodies

The right to occupy leading positions in parliament and its bodies is one of the key guarantees of the parliamentary opposition in European countries. At the same time, due to the isolation of opposition from the exercise of state power in European countries, and purely political reasons for electing the leadership of parliament, there are usually no legal guarantees for opposition to hold the positions of parliamentary speaker and /or his deputies. However, in some countries, as well as in Ukraine, such practice is seen as a parliamentary tradition. By contrast, Article 188 of the Statute of the Seimas of Lithuania of 17 February 1994 explicitly provides that two opposition representatives shall hold the positions of deputy speakers. While in Romania, the positions of secretaries of the speaker of the Chamber of Deputies and the Speaker of the Senate, as general a rule shall be occupied by opposition representatives (Article 146 of the Rules of Procedure of the Chamber of Deputies<sup>38</sup> and Article 124 of the Rules of the Romanian Senate). According to the Guidelines on the Rights and Duties of the Opposition in parliament (1999), the opposition shall be entitled to a fair number of deputy parliamentary seats. We believe that in Ukraine the position of deputy speaker of parliament can be assigned to the opposition (but not necessarily to its leader, as suggested by I. Pavlenko).<sup>39</sup> This will contribute to responsible participation of the opposition in the process of preparation and arrangement of meetings, and other forms of parliamentary work of the Verkhovna Rada of Ukraine, and ensure control over activities of the parliamentary majority. The same holds for entitling to opposition a number of representative and chairman positions in the committees (commissions).

In general, in European countries, as well as in Ukraine, the committees and commissions of parliament, and its other bodies (The Council of Elders in Germany, the Convention of Seniors in Poland) are formed according to the principle of proportional distribution of positions (including the leading ones) between parliamentary factions proportionate to its numbers. (e.g. in Italy,<sup>40</sup> Lithuania,<sup>41</sup> Germany,<sup>42,43</sup> Norway,<sup>44</sup> Poland,<sup>45,46</sup> Ro-

<sup>38</sup> Regulamentul Camerei Deputa ilor din România. *Monitorul Oficial*. 2020, No. 338.

<sup>39</sup> PAVLENKO, I. Legal status of the opposition. Experience of developed democracies and Ukrainian perspectives. *Political management*. 2005, No. 5, p. 27.

<sup>40</sup> Rules of Procedure of the Chamber of Deputies of Republic of Italy: dated February 18, 1971. In: *XVIII Legislatura* [online]. 15. 12. 2001 [2020-09-05]. Available at: <[https://en.camera.it/application/xmanager/projects/camera\\_eng/file/RULES\\_OF\\_PROCEDURE\\_CHAMBRE\\_OF\\_DEPUTIES.pdf](https://en.camera.it/application/xmanager/projects/camera_eng/file/RULES_OF_PROCEDURE_CHAMBRE_OF_DEPUTIES.pdf)>.

<sup>41</sup> Lietuvos Respublikos Seimo statutas: dated February 17, 1994 No. 1-399. *Valstybės žinios*. 1994, No. 15-249.



mania).<sup>47,48</sup> The legislation of European countries does not enshrine in law this approach, owing to a high degree of parliamentarism and a high level of political culture. Instead, non-observance of the principle of proportional distribution of positions in the bodies of the Verkhovna Rada of Ukraine (which we have considered earlier)<sup>49</sup> characterizes the current situation in Ukraine. By contrast, Resolution 1601 (2008) of the Parliamentary Assembly of the Council of Europe explicitly states that the composition of governing bodies of parliament shall reflect the political composition of parliament.

According to the Act of the House of Commons of 20 July 1978,<sup>50</sup> the small committee responsible for the administration and services of the House of Commons shall obligatory include a deputy nominated by the leader of the opposition. The Act highlights the significant role of opposition in the organization of the British Parliament. Another constructive solution to the problem of opposition was proposed in the Statute of the Seimas of Lithuania of 17 February 1994. Article 46 provides for electing a representative of an opposition group that unites more than half of the parliamentary minority as a chair or deputy chair of the committee on the budget and finance and the committee on audit. Likewise, according to Article 28 of the Rules of Procedure of the Parliament of Moldova of 2 April 1996, a representative of parliamentary opposition shall be in charge of a subcommittee which carries out parliamentary control over the activity of the Information and Security Service. In this way, the opposition is guaranteed the leadership positions only in those committees that perform control and supervisory functions of the parliamentary opposition. At the same time, the variation of the positions of the committee chairperson or his deputy ensures the balance of interests between the parliamentary majority and opposition. In order to solve a competition problem between different opposition factions in a multiparty system, a representative of the largest opposition factions shall be appointed to the above-noted post.

Therefore, we consider it balanced and justified to give opposition factions (with regard to their number and quota of proportional representation) the right to elect leading positions in those committees of the Verkhovna Rada of Ukraine that shall enable the opposition to control parliamentary majority and government. Although, to properly perform control and supervisory function opposition shall not only be able to appoint its repre-

<sup>42</sup> Grundgesetz für die Bundesrepublik Deutschland: dated May 23, 1949. *Bundesgesetzblatt*. Teil I, 1949, No. 1.

<sup>43</sup> Geschäftsordnung des Deutschen Bundestages: dated January 28, 1952. *Bundesgesetzblatt*. Teil II, 1952, No. 5.

<sup>44</sup> The Norwegian Parliament Rules of Procedure and the Constitution: dated October 2020. In: *Legislationline* [online]. 2020 [2020-10-01]. Available at: <[https://www.legislationline.org/download/id/8892/file/Norway%20-%20rules\\_of\\_procedure\\_october\\_2020.pdf](https://www.legislationline.org/download/id/8892/file/Norway%20-%20rules_of_procedure_october_2020.pdf)>.

<sup>45</sup> Regulamin Sejmu Rzeczypospolitej Polskiej: Uchwała Sejmu Rzeczypospolitej Polskiej: dated July 30, 1992. *Monitor Polski*. 1992, No. 26, art. 185.

<sup>46</sup> O sejmowej komisji śledczej: Ustawa Sejmu Rzeczypospolitej Polskiej: dated January 21, 1999. *Dziennik Ustaw*. 1999, No. 35, art. 321.

<sup>47</sup> Regulamentul Camerei Deputa ilor din România. *Monitorul Oficial*. 2020, No. 338.

<sup>48</sup> Regulamentul Senatului din România. *Monitorul Oficial al României*. 2018, Partea I, No. 72.

<sup>49</sup> ZOZULIA, O. I. *Constitutional and legal status of parliamentary committees in Ukraine: monography*. Kharkiv: Maidan, 2019, pp. 345, 346.

<sup>50</sup> House of Commons (Administration) Act: dated July 20, 1978 Chapter 36. In: *Legislation of UK* [online]. 1978 [2020-09-01]. Available at: <<https://www.legislation.gov.uk/ukpga/1978/36>>.

sentatives to leadership positions in the relevant committees but also be able to participate fully in committee work (e.g. to have the right to initiate meetings, participate in discussions, demand hearings, etc.). In Germany, for example, the objectiveness of committee hearings is ensured by the right of opposition members to invite their own experts and witnesses. After all, as I.S. Khmelko and E.V. Pereguda emphasize,<sup>51</sup> parliamentary committees “are designed to promote majority power and protect the rights of minorities.”

### III.2 The leader of the parliamentary opposition, the Shadow Government and state funding as features of the status of the parliamentary opposition

In some European countries, there exists the institution of the leader of parliamentary opposition i.e. the leader of the largest opposition faction or coalition of opposition factions (the United Kingdom,<sup>52</sup> Ireland,<sup>53</sup> Lithuania).<sup>54</sup> The leader of parliamentary opposition not only offers alternative state policy but also performs communicative and representative functions in parliament. In Lithuania, in particular, the opposition leader is a member of the Seimas Council who also has the right to speak one time out of turn during discussions, as well as to be the first to state his view in the discussion following the presentation of government reports and programs, etc. Such powers of the opposition leader do not exclude the rights of individual opposition factions, but simplify the relationship between government, majority, and opposition and expand the parliamentary opposition’s ability to formulate its generalized point of view, to exercise control over the majority, and publicly criticize government policy. Often the leader of parliamentary opposition participates in shaping the agenda, initiates suspension of the plenary session and controls the presence of a quorum, etc., which restrains from hasty adoption of government’s and coalition’s legislative initiatives. In this context, the introduction of the position of the leader of the parliamentary opposition in Ukraine will improve the structuredness of the opposition and contribute to its consolidation. As a result, the influence of the opposition will grow and the level of personal responsibility of the leader of the opposition will increase. At the same time, in the conditions of the underdeveloped parliamentarism, this may result in an imbalance between the personality of the leader of the opposition and party program, and ignorance of the interests of smaller opposition factions (which are not represented by the “of the leader of the opposition”).

In the United Kingdom, the opposition leader forms and heads the Shadow Cabinet aimed at supervising the work of government ministries, developing alternative policies, and ensuring a prompt formation of a new competent government when their party

<sup>51</sup> KHMELKO, I. S., PEREGUDA, E. V. The role of parliamentary committees in the process of institutionalization of the legislature. *Political Science Bulletin*. 2014, No. 73, p. 408.

<sup>52</sup> Ministerial and other Salaries Act: dated May 8, 1975 Chapter 27. In: *Legislation of UK* [online]. 1975 [2020-09-12]. Available at: <<https://www.legislation.gov.uk/ukpga/1975/27>>.

<sup>53</sup> Standing Orders of Dáil Éireann (2020). In: *Houses of the Oireachtas* [online]. 2020 [2020-09-15]. Available at: <[https://data.oireachtas.ie/ie/oireachtas/parliamentaryBusiness/standingOrders/dail/2020/2020-02-17\\_dail-eireann-standing-orders-relative-to-public-business-2020\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/parliamentaryBusiness/standingOrders/dail/2020/2020-02-17_dail-eireann-standing-orders-relative-to-public-business-2020_en.pdf)>.

<sup>54</sup> Lietuvos Respublikos Seimo statutas: dated February 17, 1994 No. I-399. *Valstybės žinios*. 1994, No. 15-249.

assumes power. Providing a legislative framework for the formation of the shadow government in Ukraine remains a controversial subject, although it has been repeatedly proposed in legislative proposals from 6 July 2001, 12 January 2007, 30 August 2019, and others. The only legal act that for a short period defined the procedure for the formation of the opposition government in the Ukrainian parliament was Article 72 of the Rules of Procedure of the Verkhovna Rada of Ukraine dated 19 September 2008.<sup>55</sup> On the one hand, a shadow government as an advisory body allows controlling the work of particular ministers and government departments, determining in advance the composition of a future government, and ensuring their awareness of the key public policy issues. In this case, the leader of the parliamentary opposition as the head of the shadow government shall be entitled to participate in the meetings of the Cabinet of Ministers of Ukraine and speak on the issues discussed. Some scholars share a similar approach to the formation of an opposition government in Ukraine (A. Grubinko and A. Kucher),<sup>56</sup> while others consider it to be insufficiently substantiated (S.S. Sharanych)<sup>57</sup> due to possible interventions of a shadow government in the work of state power and the need for its state funding.

On the other hand, in the context of a multi-party parliament, a shadow government is only one of the tools of a political struggle that can be used by various opposition factions. Besides, H. Oberreuter points out that in a multiparty parliament a “shadow government” cannot be seen as a prototype of a new government, as its formation will depend on the formation of a new majority by various parliamentary forces.<sup>58</sup> In our opinion, if the opposition has effective legal tools for monitoring government activities (e.g. interpellations, the question hours, reports, participation in government meetings, etc.), the formation of a shadow government is not compulsory to perform the functions of parliamentary opposition (i.e. constructive criticism of the government’s program and development of alternative policy) and does not directly require legislative regulation. Also, according to Alejandro Mújica and Ignacio Sánchez-Cuenca, multifaceted cooperation of parliamentary opposition with the government is important and allows the opposition to influence public policy, thus fulfilling voters’ expectations.<sup>59</sup>

Attention should be also paid to the particular benefit for the parliamentary opposition in some European countries, such as additional state funding (the United Kingdom,<sup>60</sup> Lithuania,<sup>61</sup> Germany,<sup>62,63</sup> Sweden),<sup>64</sup> which is also indirectly mentioned in the Guidelines

<sup>55</sup> Rules of Procedure of the Verkhovna Rada of Ukraine: dated September 19, 2008 No. 547-VI. *Official Bulletin of Ukraine*. 2008, No. 73, art. 2451.

<sup>56</sup> GRUBINKO, A., KUCHER, A. Legal support of the parliamentary opposition in the Anglo-American and Romano-Germanic legal systems: comparative analysis. *Current issues of jurisprudence*. 2020, Vol. 1, No. 1, p. 6.

<sup>57</sup> SHARANYCH, S. S. *Parliamentary majority (coalition) and parliamentary opposition: theoretical and legal research*: abstract of the dissertation. Lviv, 2013, p. 19.

<sup>58</sup> OBERREUTEUR, H. *Parlamentarische Opposition*. Hamburg: Westdt. Verlag, 1975, p. 277.

<sup>59</sup> MÚJICA, A., SÁNCHEZ-CUENCA, I. Consensus and Parliamentary Opposition: The Case of Spain. *Government and Opposition*. 2006, Vol. 1, No. 41, p. 89.

<sup>60</sup> Ministerial and other Salaries Act: dated May 8, 1975 Chapter 27. In: *Legislation of UK* [online]. [2020-09-12]. Available at: <<https://www.legislation.gov.uk/ukpga/1975/27>>.

<sup>61</sup> Lietuvos Respublikos Seimo statutas: dated February 17, 1994 No. I-399. *Valstybės žinios*. 1994, No. 15-249.

on the Rights and Duties of the Opposition in parliament (1999)<sup>65</sup> and Resolution 1601 (2008) of the Parliamentary Assembly of the Council of Europe.<sup>66</sup> Various financial assistance (e.g. supplemental payments and grants) to the leader and/or members of a parliamentary opposition is primarily intended to ensure the opposition's independence and party development, provide sufficient funding for the effective performance of their functions, and guarantee proportional financial resources of opposition and coalition. Nevertheless, a special purpose state funding may be effective only if its size is proportional to the responsibilities of parliamentary opposition and state capability, there exists a highly institutionalized party system, and the use of such funding is transparent and controllable. Therefore, we believe that in Ukraine, state funding of the parliamentary opposition is one of the promising methods for improving its legal status. At the same time, it requires such preconditions, as a sufficient degree of institutionalization of the parliamentary opposition, more developed parliamentarism and political system, a high level of the legal and political culture of the deputy corps, etc.

### III.3. Rights of the parliamentary opposition in the field of control

One of the fundamental rights of the parliamentary opposition in European countries is the right to receive information about the activities of the parliamentary coalition and the government, which is a key tool for the opposition to exercise control over parliament. Depending on the level of influence of parliamentary opposition and the nature of its relationship with the government, this right may differ significantly in its boundaries and forms. In most countries, in particular in Lithuania,<sup>67</sup> Germany,<sup>68,69</sup> Norway,<sup>70</sup> Poland,<sup>71,72,73</sup> and others, the information right of the opposition is legally recognized and includes,

<sup>62</sup> Gesetz über die Rechtsverhältnisse der Mitglieder des Deutschen Bundestages: dated February 18, 1977. *Bundesgesetzblatt*. 1977, No. I, p. 297.

<sup>63</sup> Die Rolle der Opposition in der Demokratie. In: *Deutscher Bundestag* [online]. 2006 [2020-09-03]. Available at: <<https://www.bundestag.de/blob/419236/64f376df7bf65033d059668e3e8614f2/wd-3-285-06-pdf-data.pdf>>.

<sup>64</sup> Svensk lag om statligt stöd till politiska partier: dated December 8, 1972 No. 625. In: *Sveriges Riksdag* [online]. 8. 12. 1972 [2020-09-05]. Available at: <[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1972625-om-statligt-stod-till-politiska\\_sfs-1972-625](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1972625-om-statligt-stod-till-politiska_sfs-1972-625)>.

<sup>65</sup> Guidelines on the Rights and Duties of the Opposition, unanimously adopted by the participants at the Parliamentary Seminar on Relations Between Majority and Minority Parties in African Parliaments (1999). In: *Inter-Parliamentary Union* [online]. 1999 [2020-09-14]. Available at: <<http://archive.ipu.org/splz-e/gabon.htm>>.

<sup>66</sup> Resolution 1601 (2008). Procedural guidelines on the rights and responsibilities of the opposition in a democratic parliament. In: *Parliamentary Assembly of the Council of Europe* [online]. 2008 [2020-09-09]. Available at: <<http://assembly.coe.int/nw/xml/Xref/Xref-XML2HTML-en.asp?fileid=17626>>.

<sup>67</sup> Lietuvos Respublikos Seimo statusas: dated February 17, 1994 No. I-399. *Valstybės žinios*. 1994, No. 15-249.

<sup>68</sup> Grundgesetz für die Bundesrepublik Deutschland: dated May 23, 1949. *Bundesgesetzblatt*. Teil I, 1949, No. 1.

<sup>69</sup> Geschäftsordnung des Deutschen Bundestages: dated January 28, 1952. *Bundesgesetzblatt*. Teil II, 1952, No. 5.

<sup>70</sup> The Norwegian Parliament Rules of Procedure and the Constitution: dated October 2020. In: *Legislationline* [online]. 2020 [2020-10-01]. Available at: <[https://www.legislationline.org/download/id/8892/file/Norway%20-%20rules\\_of\\_procedure\\_october\\_2020.pdf](https://www.legislationline.org/download/id/8892/file/Norway%20-%20rules_of_procedure_october_2020.pdf)>.

<sup>71</sup> Konstytucja Rzeczypospolitej Polskiej: dated April 2, 1997. *Dziennik Ustaw*. 1997, No. 78, art. 483.

<sup>72</sup> Regulamin Sejmu Rzeczypospolitej Polskiej: Uchwała Sejmu Rzeczypospolitej Polskiej: dated July 30, 1992. *Monitor Polski*. 1992, No. 26, art. 185.

<sup>73</sup> O sejmowej komisji śledczej: Ustawa Sejmu Rzeczypospolitej Polskiej: dated January 21, 1999. *Dziennik Ustaw*. 1999, No. 35, art. 321.

among others, the right of parliamentary opposition to initiate the creation of investigating commissions, commissions of expert and other similar commissions, the right to interpellation (of big and small inquiries), the right to the question hour (or similar procedures), the right to issue a vote of no confidence against the government, etc. In Ukraine, these basic rights are recognized only in general terms and need further development in order to simplify and expand their utilization by an institutionalized parliamentary opposition, and to clarify their legal effects.

Unlike Ukraine, in some European countries (e.g. the United Kingdom, Germany, Romania, France) which implement the recommendations of Resolution 1601 (2008) of the Parliamentary Assembly of the Council of Europe, it is the opposition who shall determine topics for discussion during the question hour (or relevant political debates) and have priority in selecting the questions to the government. This approach allows the parliamentary opposition to use effectively the given method of parliamentary control in order to obtain comprehensive information directly from the government and at the same time make it public (for example, by the broadcasting of such parliamentary sessions in France). According to the Guidelines on the Rights and Duties of the Opposition (1999), an adequate control and criticism of the action of the government ensure transparency, integrity, and efficiency in the conduct of public affairs, prevent abuses by the authorities, and guarantee the defense of the public interest.<sup>74</sup>

The parliamentary opposition of the Scandinavian model has wider opportunities to control the government's activities. According to Flemming Juul Christiansen and Erik Damgaard, in the Scandinavian countries, the influential parliamentary opposition performs under a minority government and can easily bring such a government to responsibility with the help of parliament and electorate.<sup>75</sup> It is noteworthy that in Portugal and the Czech Republic a quarter of members of parliament (its lower house) is sufficient to initiate a vote of no confidence against the government (Article 194 of the Portuguese Constitution of 25 April 1976,<sup>76</sup> Article 72 of the Czech Constitution of 16 December 1992),<sup>77</sup> while in Spain and France one-tenth of the members of the lower house of parliament can call a motion of censure (Article 113 of the Spanish Constitution of 27 December 1978,<sup>78</sup> Article 49 of the French Constitution of 4 October 1958).<sup>79</sup> It should be noted that in order to accommodate the interests of the small and/or politically divided parliamentary opposition in Ukraine it is necessary to reduce the number of deputies required to pass a vote of no confidence in government or a member of it. An additional means of control of the

<sup>74</sup> Guidelines on the Rights and Duties of the Opposition, unanimously adopted by the participants at the Parliamentary Seminar on Relations Between Majority and Minority Parties in African Parliaments (1999). In: *Inter-Parliamentary Union* [online]. 1999 [2020-09-14]. Available at: <<http://archive.ipu.org/splz-e/gabon.htm>>.

<sup>75</sup> CHRISTIANSEN, F. J., DAMGAARD, E. Parliamentary Opposition under Minority Parliamentarism: Scandinavia. *The Journal of Legislative Studies*. 2008, Vol. 1-2, No. 14, pp. 46-76. DOI: 10.1080/13572330801920937.

<sup>76</sup> Constituição da República Portuguesa: dated April 25, 1976. *Diário da República*. 1976, Série I, No. 86/1976.

<sup>77</sup> Ústava České republiky: dated December 16, 1992. In: *Poslanecká sněmovna Parlamentu České republiky* [online]. 16. 12. 1992 [2020-09-11]. Available at: <<https://www.psp.cz/docs/laws/constitution.html>>.

<sup>78</sup> Constitución Española: dated December 27, 1978. *Boletín Oficial del Estado*. 1978, No. 311.

<sup>79</sup> Constitutionnel de la République Française: dated October 4, 1958. *Journal officiel de la République Française*. 1958.

parliamentary opposition shall be the right of a certain number of deputies to lay charges against the head of state (Ireland)<sup>80</sup> or members of the government (Spain).<sup>81</sup> Exercising of such powers by parliamentary opposition (or by other members of a minority) allows not only to conduct political opponency to the authorities but also to respond to crimes committed by the head of state or a minister, thereby effectively defending public and state interests.

Also worth highlighting is the systematic approach to ensuring the information rights of the parliamentary opposition in Portugal. First of all, Article 114 of the Constitution of Portugal of 25 April 1976 guarantees at the legislative level a regular exchange of information between the government and the opposition on the issues of public interest. Besides, the Law of Portugal no. 24/98 of 26 May 1998<sup>82</sup> states the right of the opposition to conduct a constructive dialogue with the government as well as to carry out advisory activities with the government and participate at state functions, etc. Moreover, Ukraine can adopt the experience of Portugal in publishing annual reports from the government on opposition rights obligation, which is a necessary component of the proper implementation of any legal status.

The right to constitutional appeal is one of the key means for parliamentary opposition to control the constitutionality of decisions made by the parliamentary majority and the government. For instance, according to Article 61 of the Constitution of France of 4 October 1958, sixty deputies or senators may appeal to the Constitutional Council regarding the constitutionality of laws “before their promulgation”. In our opinion, in order to implement Resolution 1601 (2008) of the Parliamentary Assembly of the Council of Europe, the opposition could perform a more significant function by reviewing the constitutionality or legality of laws and government regulations already existing.

#### III.4. Organizational guarantees of the parliamentary opposition and its responsibilities

The rights of the parliamentary opposition in Ukraine and most European countries (e.g. Lithuania, Germany, Portugal, Romania, France) to express its alternative political position in parliament, generally coincide in form and content. In particular, these are the right to submit an issue and a legislative proposal to parliament, to speak, to call for an extraordinary sitting, to give the floor in turn to representatives of the minority and the majority, to freely express their position in media, etc. Today, in a democratic society, these rights are basic for all deputies and their associations and, in general, do not require special recognition. However, in order to ensure the coverage of the generalized point of view of the institutionalized parliamentary opposition in Ukraine, it may be appropriate to give the opposition the right to speak out of turn during important discussions in parliament (e.g. of a program or government report).

<sup>80</sup> Standing Orders of Dáil Éireann (2020). In: *Houses of the Oireachtas* [online]. 2020 [2020-09-15]. Available at: <[https://data.oireachtas.ie/ie/oireachtas/parliamentaryBusiness/standingOrders/dail/2020/2020-02-17\\_dail-eireann-standing-orders-relative-to-public-business-2020\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/parliamentaryBusiness/standingOrders/dail/2020/2020-02-17_dail-eireann-standing-orders-relative-to-public-business-2020_en.pdf)>.

<sup>81</sup> Constitución Española: dated December 27, 1978. *Boletín Oficial del Estado*. 1978, No. 311.

<sup>82</sup> Aprova o Estatuto do Direito de Oposição: Lei da República Portuguesa dated May 26, 1998 No. 24/98. *Diário da República*. 1998, Série I-A, No. 121/1998.

Conversely, owing to the freedom of information nowadays, we find it inappropriate to entrench in details the right of the parliamentary opposition to broadcast on state radio and television (e.g. Article 40 of the Portuguese Constitution of 25 April 1976) or establish regulation on organization of press conferences for the opposition at least twice a week (Article 132 of the Statute of the Seimas of Lithuania of 17 February 1994). On the contrary, it is crucial to avoid political use of state-owned media and other types of information resources and provide balanced and impartial coverage of events.

Furthermore, it is important to point out some additional guarantees aimed at expanding the opportunities of the institutionalized parliamentary opposition to participate fully in the organization of parliamentary work. For instance, according to Articles 97, 108, 162 of the Statute of the Seimas of Lithuania of 17 February 1994, the opposition draws up the agendas of certain parliamentary sittings, it's not allowed to terminate a discussion in case of objection from opposition group, the leader of the parliamentary opposition may submit a legislative proposal for adoption with an emergency procedure. In fact, I.A. Pavlenko<sup>83</sup> directly points to the importance of adoption of a similar law in Ukraine which shall give the opposition the right to designate the orders of the day of certain parliamentary sittings. In France, according to Article 48 of the Constitution of France dated 4 October 1958,<sup>84</sup> one sitting day per month is reserved for an agenda determined by opposition factions in the relevant house. Similar provisions are provided for by Article 43-1 of the Rules of Procedure of the Parliament of Moldova of 2 April 1996.<sup>85</sup> In accordance with Resolution 1601 (2008) of the Parliamentary Assembly of the Council of Europe, this is one of the basic rights of the opposition that should be formalized. Although, in our opinion, it would be a more balanced and rational idea to give the opposition the right to decide the agenda of parliamentary sittings on par with the majority (as, for example, provided for by Article 176 of the Portuguese Constitution dated 25 April 1976). Similarly, in Poland, the agenda of sessions of the Sejm is set up with regard to the viewpoint of the Convention of Seniors of the Sejm, which consists of representatives of all factions and groups (Article 16 of the Rules of Procedure of the Sejm of Poland of 30 July 1992).<sup>86</sup> In general, we find the above-mentioned guarantees constructive and believe that their implementation (specifically in Ukraine) requires not only legislative recognition of the parliamentary opposition, but also established practice of its functioning, coordination of interests of various opposition factions and groups, and a high level of legal and political culture of the members of parliament in order to prevent abuse of the rights and guarantees of the parliamentary opposition.

<sup>83</sup> PAVLENKO, I. A. Some aspects of resolving the issue of legal regulation of the status of the parliamentary opposition in Ukraine. In: *National Institute for Strategic Studies* [online]. [2020-09-06]. Available at: <<https://niss.gov.ua/sites/default/files/2020-04/parlamentska-opozytziya.pdf>>.

<sup>84</sup> Constitutionnel de la République Française: dated October 4, 1958. *Journal officiel de la République Française*. 1958.

<sup>85</sup> Pentru adoptarea Regulamentului Parlamentului: Lege Republica Moldova: dated April 2, 1996 No. 797. *Monitorul Oficial*. 2007, No. 50, art. 237.

<sup>86</sup> Regulamin Sejmu Rzeczypospolitej Polskiej; Uchwała Sejmu Rzeczypospolitej Polskiej: dated July 30, 1992. *Monitor Polski*. 1992, No. 26, art. 185.

Finally, it should be noted that the responsibilities of the parliamentary opposition in Ukraine and other European countries are insufficiently institutionalized. In particular, as the Guidelines on the Rights and Duties of the Opposition (1999) point out, the responsibilities of the opposition are defined by the very nature of political life and not by legal norms and therefore do not require separate codification.<sup>87</sup> On the contrary, according to Drago Zajc, the traditional functions of the parliamentary opposition (to propose, oppose, expose) in post-socialist countries are often highly politicized and used to block the government's proposals and delegitimize the coalition government.<sup>88</sup> Alejandro Mújica and Ignacio Sánchez-Cuenca state that while in Western democracies (the United Kingdom, Italy, Germany) there exist a high level of consensus and cooperation between the government and parliamentary opposition, in less-democratic countries the opposition confronts the government in all possible ways.<sup>89</sup> Therefore, along with the rights and guarantees, the responsibilities shall be an integral part of the legal status of the parliamentary opposition in Ukraine. In our opinion, the main responsibilities of the opposition can be generally defined through the prism of its functions and rights. They are: to supervise and criticize the work of the coalition and the government, to prepare an alternative political program and inform the public about it, to act in compliance with current laws, to serve the public and state interests, as well as to refrain from unreasonable, unconstructive criticism of the government and actions aimed at overthrowing the legally established government. As accurately acknowledged by Resolution 1601 (2008) of the Parliamentary Assembly of the Council of Europe, parliamentary opposition shall show political maturity, responsibility, and constructiveness, and use its rights not only to criticize but to increase the effectiveness of parliament as a whole.

#### IV. CONCLUSIONS

In European countries, the status of the parliamentary opposition is mainly determined by the peculiarities of the form of government and political system and may vary according to the degree of institutionalization of the parliamentary opposition, its role in law-making, and means of controlling majority and government. To build the institution of the parliamentary opposition in Ukraine requires a synthesis of the advantages of different models of parliamentary opposition with due regard to the current realities, namely, the form of the government and political system of Ukraine as an Eastern European, post-Soviet country. The main principles of development of the institution of parliamentary opposition shall be distinguishing the status of the majority and the opposition, ensuring a balance of their rights and obligations, and taking into consideration the interests of the minority when exercising of power by the parliamentary majority.

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<sup>87</sup> Guidelines on the Rights and Duties of the Opposition, unanimously adopted by the participants at the Parliamentary Seminar on Relations Between Majority and Minority Parties in African Parliaments (1999). In: *Inter-Parliamentary Union* [online]. 1999 [2020-09-14]. Available at: <<http://archive.ipu.org/splz-e/gabon.htm>>.

<sup>88</sup> ZAJC, D. Role of opposition in contemporary parliamentary democracies – the case of Slovenia. *Journal of Comparative Politics*. 2016, Vol. 9, No. 1, pp. 19–35.

<sup>89</sup> MÚJICA, A., SÁNCHEZ-CUENCA, I. Consensus and Parliamentary Opposition: The Case of Spain. *Government and Opposition*. 2006, Vol. 1, No. 41, pp. 87–88.



Legislative recognition of the parliamentary opposition in Ukraine (following the examples of Lithuania and Portugal) will contribute to its institutionalization, recognition of its place and role as a political actor, as well as to normalization of relations with parliamentary coalition and non-opposition minority. The subject of legislative regulation of the status of the parliamentary opposition in Ukraine shall first and foremost be rights, responsibilities, and guarantees of the parliamentary opposition, as well as principles and procedures for their implementation.

With regard to the traditional multiparty system of parliament in Ukraine, it is crucial that any parliamentary faction or group can get the status of parliamentary opposition regardless of their association (following the examples of Moldova and Portugal) in order to prevent monopolization of status of the parliamentary opposition by the largest opposition faction. Another current issue (similar to Lithuania, Germany, and Romania) is to assign the position of deputy speaker of the Verkhovna Rada of Ukraine to the parliamentary opposition and to give the opposition factions the right to elect the leading positions in those committees which will allow them to control the parliamentary majority and the government.

Introduction of the position of the leader of the parliamentary opposition in Ukraine (following the examples of the United Kingdom, Germany, and Sweden) will improve the structuredness of the opposition, contribute to its consolidation, and will increase the level of personal responsibility of the leader of the opposition. The research indicates that, if the opposition has effective legal tools for monitoring government activities, formation of a shadow government is seen as a possible, but not compulsory type of activity of the parliamentary opposition in Ukraine. State funding of the parliamentary opposition in Ukraine (following the example of the United Kingdom, Germany, and Sweden) can improve its status and increase efficiency but requires a sufficient degree of institutionalization of the opposition, more developed parliamentarism and political system, and a high level of the legal and political culture of the deputy corps.

In order to improve cooperation with the government, the parliamentary opposition in Ukraine may be given the right to determine topics for discussion during the question hour, organize consultations with the government, and receive reports from the government on opposition rights obligation (following the examples of UK, Germany, and Romania). In order to increase the opportunities of the opposition to express its position, it may be given the right to speak out of turn during important discussions in parliament, as well as to decide the agenda of certain parliamentary sittings (following the examples of Lithuania, Portugal, and France). An integral part of the legal status of the parliamentary opposition should be its responsibilities to supervise and criticize the work of the coalition and the government, to prepare an alternative political program and inform the public about it, as well as to refrain from unreasonable, unconstructive criticism of the government and actions aimed at overthrowing the legally established government.