

Legal regulation of foreign affairs governance: foreign experience for Ukraine

*Regulación legal de la gobernanza de asuntos exteriores:
experiencia extranjera para Ucrania*

*Regulamentação legal da governança de relações exteriores:
experiência estrangeira para a Ucrânia*

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Abstract

The organization of foreign affairs governance in different countries reveals differences in approaches to legal regulation in the status, competence, structure and principles of interaction of foreign affairs governance bodies. This is primarily due to the peculiarities of the form of government and the state system, the practice of public administration and current foreign policy goals. The advantages and shortcomings of the organization of foreign affairs governance in different countries should be one of the main sources of optimizing the foreign affairs governance of Ukraine. That is why the purpose of this article is to analyze the advantages and disadvantages of different approaches to the legal regulation of foreign affairs governance, to determine features of the legal status of subjects of foreign affairs governance in different countries, as well as to substantiate the priority areas for improving the organization of foreign affairs governance in Ukraine. This leads to the use of dialectical, formal-legal, comparative-legal, system-structural, logical-semantic and other scientific methods. Effective implementation of foreign policy requires a modern constructive organization of foreign affairs governance, taking into account the peculiarities of the state system, foreign policy interests and potential of the state, as well as progressive trends and positive experience of other states. Proper legal organization of foreign affairs governance should provide for its integration into a single system of public administration, centralization and hierarchical of the system of foreign affairs governance bodies, the system-forming role of the Ministry of Foreign Affairs, clear division of powers between it and higher authorities, professional diplomatic service etc.

Keywords: Foreign affairs, foreign policy, governance, legal regulation, Ukraine.

Resumen

La organización de la gobernanza de los asuntos exteriores en los distintos países revela diferencias en los enfoques de la regulación jurídica del estatuto, la competencia, la estructura y los principios de interacción de los órganos de gobernanza de los asuntos exteriores. Esto se debe principalmente a las peculiaridades de la forma de gobierno y del sistema estatal, a la práctica de la administración pública y a los objetivos actuales de la política exterior. Las ventajas y deficiencias de la organización de la gobernanza de los asuntos exteriores en diferentes países deberían ser una de las principales fuentes de optimización de la gobernanza de los asuntos exteriores de Ucrania. Por ello, el propósito de este artículo es analizar las ventajas e inconvenientes de los diferentes enfoques de la regulación jurídica de la gobernanza de los asuntos exteriores, determinar las características del estatuto jurídico de los sujetos de la gobernanza de los asuntos exteriores en diferentes países, así como fundamentar las áreas prioritarias para mejorar la organización de la gobernanza de los asuntos exteriores en Ucrania. Para ello se utilizan métodos dialécticos, jurídico-formales, jurídico-comparativos, sistémico-estructurales, lógico-semánticos y otros métodos científicos. La aplicación eficaz de la política exterior requiere una organización constructiva moderna de la gobernanza de los asuntos exteriores, que tenga en cuenta las peculiaridades del sistema estatal, los intereses de la política exterior y el potencial del Estado, así como las tendencias progresistas y la experiencia positiva de otros Estados. Una organización jurídica adecuada de la gobernanza de los asuntos exteriores debe prever su integración en un sistema único de administración pública, la centralización y jerarquización del sistema de órganos de gobernanza de los asuntos exteriores, el papel formador de sistemas del Ministerio de Asuntos Exteriores, una clara división de poderes entre éste y las autoridades superiores, un servicio diplomático profesional, etc.

Palabras clave: asuntos exteriores, política exterior, gobernanza, regulación jurídica, Ucrania.

Resumo

A organização da governança das relações exteriores em diferentes países revela diferenças nas abordagens da regulamentação legal no status, competência, estrutura e princípios de interação dos órgãos de governança das relações exteriores. Isto se deve principalmente às peculiaridades da forma de governo e do sistema esta-

tal, à prática da administração pública e aos objetivos atuais da política externa. As vantagens e deficiências da organização da governança das relações exteriores em diferentes países devem ser uma das principais fontes de otimização da governança das relações exteriores da Ucrânia. É por isso que o objetivo deste artigo é analisar as vantagens e desvantagens de diferentes abordagens da regulamentação legal da governança dos negócios estrangeiros, determinar as características do status legal dos sujeitos da governança dos negócios estrangeiros em diferentes países, bem como substanciar as áreas prioritárias para melhorar a organização da governança dos negócios estrangeiros na Ucrânia. Isto leva ao uso de métodos dialéticos, formal-legal, comparativo-legal, sistema-estrutural, lógico-semântico e outros métodos científicos. A implementação efetiva da política externa exige uma organização construtiva moderna da governança das relações exteriores, levando em conta as peculiaridades do sistema estatal, os interesses e o potencial da política externa do Estado, bem como as tendências progressivas e a experiência positiva de outros Estados. Uma organização jurídica adequada da governança das relações exteriores deve prever sua integração em um sistema único de administração pública, centralização e hierarquização do sistema de órgãos de governança das relações exteriores, o papel formador do sistema do Ministério das Relações Exteriores, clara divisão de poderes entre este e as autoridades superiores, serviço diplomático profissional, etc.

Palavras-chave: Relações exteriores, política externa, governança, regulamentação jurídica, Ucrânia.

I. INTRODUCTION

Effective implementation of foreign policy, representation of the state at the international arena and protection of its national interests abroad require a modern constructive organization of foreign affairs governance, taking into account the peculiarities of the state system, the practice of the state mechanism functioning, foreign policy interests, as well as a positive experience in organizing the foreign affairs governance. The current organization of Ukraine's foreign policy governance needs to form a holistic and consistent state policy in this area, update legal regulation and improve the status of foreign affairs entities.

The advantages and shortcomings of the organization of foreign affairs governance in different countries should be one of the main sources of optimization and modernization of Ukraine's foreign policy governance, prevention and elimination of problems in the implementation of its foreign policy. The use in Ukraine of foreign experience in the organization and legal support of foreign affairs governance bodies is possible only if the analysis of all its positive and negative aspects takes into account national specifics and all other significant factors.¹

Some aspects of foreign affairs governance in different countries have previously been considered in several thorough scientific publications. Thus, the institution

1 S. A. Fedchyshyn. *Diplomatic representation of Ukraine abroad in the mechanism of management of foreign affairs*. Doctoral dissertation, Yaroslav Mudryi National Law University. 2011. P. 12.

of the Ministry of Foreign Affairs was characterized by Lequesne; the peculiarities of the functioning of the Ministries of Foreign Affairs of China, India, Japan, Singapore and Thailand are considered by Loh and Kishan; the system of external relations governance in South Africa and Guinea is revealed by Dian and Molepo.

As for the organization of foreign affairs governance in Asian countries, quite thorough research is devoted to the legal mechanisms of foreign policy in Kazakhstan and Russia of Mashimbayeva and Pavlov. In this context, it should also be positively noted the broad comparative analysis of some problems of ensuring the activities of foreign affairs governance bodies in the United States and Canada by Fedchyshyn, Cherchenko, and Shcherba. In addition, the organization of foreign affairs governance in the European Union and specific European countries was considered in others scientific works of Paquin, Hadfield, Lozinska, Shevtsiv, and Szczepanik.

At the same time, such studies reveal only some issues of foreign policy governance in certain states, without comprehensively characterizing the existing experience of building and functioning of the system of foreign affairs governance bodies, and without paying enough attention to the practice of legal regulation of such state bodies. Thus, in the context of improving the system of foreign policy governance of Ukraine, the issues of different approaches to the organization of foreign affairs governance are considered relevant.

II. PURPOSE AND ASSIGNMENTS OF THE STUDY

The purpose of this article is to analyze the advantages and disadvantages of different approaches to the legal regulation of foreign affairs governance, as well as to substantiate the priority areas for improving the organization of foreign affairs governance in Ukraine. To achieve this goal, it seems necessary to analyze national and foreign legislation and scientific works, as well as to characterize the features of the legal status of higher government bodies, and of the main foreign policy department and foreign diplomatic institutions as subjects of the governance of foreign affairs in different countries.

III. METHODOLOGY

Taking into account the current state of knowledge about the organization of foreign affairs governance, the subject and purpose of our study determine the use of dialectical, formal-legal, comparative-legal, system-structural, logical-semantic and other

scientific methods. In particular, the method of dialectics allows us to consider various social relations regarding the legal organization of foreign affairs governance, through the diversity of their connections and interactions of opposite properties in the processes of their development.

Using the formal-legal method, the current state of the constitutional and legal foundations of the organization of foreign affairs governance in different countries was described. Instead, the comparative legal method revealed common and different features of the legal status of foreign policy entities in different countries. The system-structural method was used to determine the unity of the system of foreign policy administration, as well as the internal organization and the relationship between its bodies.

IV. RESULTS AND DISCUSSION

First, we note that the central place in the organization of foreign affairs governance of each state is its legal regulation, the level of detail and balance of which depends its compliance with urgent tasks and needs of public administration, which largely depends on the effective implementation of state foreign policy. Here, it's necessary to take into account significant differences in the legal systems of different states, depending on which may differ as sources of legal regulation, and in general the degree of regulation of public relations in the field of foreign affairs governance. At the same time, recently there has been a tendency to increase the level of legal regulation of foreign policy governance, an example of which is the organization of Canadian foreign affairs governance. The Parliament of Canada is gradually increasing the still rather small amount of legislative regulation of the peculiarities of the foreign policy mechanism, which also continue to be determined by the relevant political and legal customs.²

The system of foreign affairs governance bodies in Ukraine and other states as a whole has the same architecture: the supreme state bodies (head of state, parliament and government); the main foreign policy department; foreign diplomatic missions (diplomatic missions abroad, consulates and missions to international organizations); and other public authorities that participate in the implementation of state foreign policy.

The system of foreign policy governance bodies in Russia, Belarus, Kazakhstan, Moldova and several other countries has such an internal structure. At the same time, usually there is no comprehensive and clear legal regulation of the composition of the

2 I. L. Cherchenko. *Constitutional and legal mechanism of foreign relations of Canada*. Doctoral dissertation, V.M. Koretsky Institute of State and Law. 2004.

system of foreign affairs governance bodies, as well as their internal system relations, principles of interaction and division of competence. Moreover, the fragmentation and lack of coherence of the legal bases for the activities of various subjects of foreign policy governance is one of the key factors in the low efficiency of foreign policy realization.

Traditionally, the head of state, who at the same time not only carries out administrative activities in the field of foreign relations, but also directly represents the state in the international arena, plays an important place in foreign affairs governance. The role of the head of state, as well as other supreme state authorities, in foreign policy governance directly depends on the established form of government and the peculiarities of the constitutional order. For example, in presidential countries, the head of state is usually also the head of the executive branch and therefore he takes an active part in the current foreign affairs governance.

In particular, from European countries only in presidential republics, the head of state occupies a truly dominant position in the field of foreign policy leadership.³ Similarly, the main role in the system of foreign relations bodies belongs to the President of Guinea, who is responsible for implementing the country's foreign policy.⁴ However, in parliamentary countries the head of state usually performs certain personnel powers, participates in the organization and legal regulation of foreign policy governance and in the definition of the principles of state foreign policy, and provides the general direction of its realization. An example of this is Canada, where the competence of the royal government (represented by the monarch of Great Britain and the Governor-General of Canada) is "purely nominally".⁵

Thus, in different countries, the most established powers of the head of state as a subject of foreign affairs governance generally include participation in determining foreign policy, legislative initiatives, veto, own by-laws, foreign policy management, and state representation in international relations.

Also, such powers are: the participation in the appointment and dismissal of the Prime Minister and the head of the main foreign policy department, the appointment and removal of heads of diplomatic missions, the assignment of diplomatic ranks, etc. It's provided by Articles 80, 83, 84, 85, 86, 89 and 90 of the Constitution of the Russian

3 O. H. Makarenko. *Constitutional and legal mechanism of foreign relations of Ukraine*. Doctoral dissertation, Institute of Legislation of the Verkhovna Rada of Ukraine. 2009. P. 12.

4 M. Dian. *Legal issues of the structure and activity of the foreign relations bodies of the Republic of Guinea*. Doctoral dissertation, V.M. Koretsky Institute of State and Law. 2001.

5 I. L. Cherchenko, *supra*, note 5.

Federation of 12 December 1993⁶, by Articles 79, 84 and 85 of the Constitution of Belarus of 15 March 1994⁷, by Articles 40, 44 and 45 of the Constitution of Kazakhstan of 30 August 1995⁸, and by articles 77, 86, 88, 94 of the Constitution of Moldova of 29 July 1994.⁹

In general, the head of state has similar powers in countries on other continents, such as Guinea. The above powers of the head of state provide a wide range of opportunities for his both direct and indirect influence on the organization and activities of foreign affairs governance bodies, the processes of development and practical implementation of state foreign policy.

In addition, the head of state is often endowed with certain general control functions, which are carried out in the field of foreign policy governance. Within the control powers of the head of state, he/she has the right to suspend and/or repeal acts of relevant executive bodies, including the government (Articles 85 and 115 of the Constitution of Russia, Article 84 of the Constitution of Belarus, Article 44 of the Constitution of Kazakhstan, and Article 88 of the Constitution of Moldova).

In our opinion, control is an indispensable and effective means of ensuring the legality and effectiveness of the implementation of state foreign policy. Nevertheless, the subject, procedure and forms of presidential control in this area need a clear legal regulation, which will guarantee the prevention of illegal influence of such a subject of control on the activities of the controlled body of foreign affairs governance.

The authority of the head of state to ensure the coordinated functioning and interaction of public authorities (Part 2 of Article 80 of the Constitution of Russia, Part 2 of Article 79 of the Constitution of Belarus, Part 3 of Article 40 of the Constitution of Kazakhstan) has a significant value on the organization of the system of foreign affairs governance bodies. Coherence and interaction are one of the key principles of the internal integrity and unity of any system, including the system of foreign affairs governance bodies.

The issue of ensuring interaction, division of competencies and coordinating joint activities of various subjects of foreign policy governance is currently relevant for Ukraine. We believe that giving the President of Ukraine such powers and intensifying

6 Russian Federation's Constitution. December 12, 1993 (Russia). Available at: https://www.constituteproject.org/constitution/Russia_2008.pdf.

7 Belarus's Constitution. March 15, 1994 (Belarus). Available at: https://www.constituteproject.org/constitution/Belarus_2004.pdf.

8 Kazakhstan's Constitution. August 30, 1995 (Kazakhstan). Available at: https://www.constituteproject.org/constitution/Kazakhstan_2017.pdf.

9 Moldova's Constitution. July 29, 1994 (Moldova). Available at: https://www.constituteproject.org/constitution/Moldova_2006.pdf.

his participation in ensuring the coherence of foreign affairs governance will significantly increase his productivity and correspond to the status of the head of state as head of state foreign policy.

In different countries, the parliament plays a significant role in the organization of foreign affairs governance, which also implements its general rule-making, personnel, control and budgetary powers in this area. The functional purpose of the parliament as a representative legislative body in Ukraine and other countries (for example, in Guinea), first of all, is manifested in the legislative regulation of the principles of foreign policy, status and organization of foreign affairs governance bodies, their budget funding. The specific subject of parliament's legislative regulation can differ quite significantly depending on the established division of competencies of higher state authorities. For example, the organization of the diplomatic service in Russia, Kazakhstan and Moldova is currently regulated by law (in Belarus – by-law); also, the Consular statute of Russia of 5 July 2010 was approved by law (Consular statute of Belarus of 19 February 1996, of Kazakhstan of 25 April 2016, of Moldova of 28 March 2002 – by-laws).

At the same time, the legislative regulation of relations in the field of foreign affairs governance by the parliament should be a priority, be comprehensive and concern not only individual aspects, but in general the organization of the entire system of foreign affairs governance bodies, and their implementation of state foreign policy. Therefore, we agree on the gradual growth of the functional role of the legislature in Canada's foreign policy mechanism.¹⁰

In addition to the purely legislative work of parliament in different countries, there are usually forming special profile parliamentary committees, commissions and other working bodies, holding parliamentary hearings, sending parliamentary inquiries and so on. All this is an integral part of parliamentary activities, including the organization of foreign affairs governance and the implementation of state foreign policy.

Due to the predominantly collegial nature of decision-making, the parliament naturally cannot carry out the current operational governance of foreign affairs, but it still indirectly influences it through the above lawmaking, as well as control of foreign policy entities and appropriate response to shortcomings. Balance of powers, interaction and mutual control of the highest state authorities is a key guarantee of coherence, legitimacy and constructiveness of their actions in the field of organization of foreign policy bodies, development and implementation of foreign policy.

In different countries, the government, as the highest executive body, also participates in the foreign affairs governance, in particular, according to Article 114 of

10 I. L. Cherchenko, *supra*, note 5.

the Constitution of Russia¹¹, Article 107 of the Constitution of Belarus¹², Article 66 of the Constitution of Kazakhstan¹³ and Article 96 of the Constitution of Moldova¹⁴, the Constitution of Guinea government develops and takes measures to implement state foreign policy. It organizes, provides, coordinates and manages the activity of the main foreign policy department and other executive bodies involved in the implementation of state foreign policy.

As in Ukraine, for this purpose, the governments of other states usually exercise rule-making, coordination, control, as well as personnel and budgetary powers. The government may interfere in the activities of its subordinate executive bodies, including the Ministry of Foreign Affairs, by issuing binding directives and revoking the decisions of such bodies. At the same time, the specific administrative powers of the government directly depend on the model of their distribution with the head of state and parliament. With this in mind, for example, the Cabinet of Canada not only determines the means of implementing state foreign policy and ensures the day-to-day functioning of the system of diplomatic relations, but also “formulates the state goals and priorities in foreign relations”.¹⁵

The government rule-making, in general, has a law-enforcement nature, as it's aimed at the practical implementation and enforcement of the legislative principles of foreign affairs governance and the decisions of the head of state adopted in this regard. On the other hand, the government approves the normative Regulations on the Ministry of Foreign Affairs of Belarus of 31 July 2006 and of Kazakhstan of 28 October 2004.

However, such an approach cannot be called completely logical, because in these states the status and organization of foreign diplomatic missions is determined by the head of state, which may create some inconsistency and imbalance in the legal regulation of foreign affairs governance. In addition, although legislative regulation has the highest priority, a positive example is the regulation of the organization of the main foreign ministry and foreign diplomatic missions by one entity – the head of state in Russia (President's Decrees of 11 July 2004 and of 28 October 1996). In Moldova, such

11 Russian Federation's Constitution. December 12, 1993 (Russia). Available at: https://www.constituteproject.org/constitution/Russia_2008.pdf.

12 Belarus's Constitution. March 15, 1994 (Belarus). Available at: https://www.constituteproject.org/constitution/Belarus_2004.pdf.

13 Kazakhstan's Constitution. August 30, 1995 (Kazakhstan). Available at: https://www.constituteproject.org/constitution/Kazakhstan_2017.pdf.

14 Moldova's Constitution. July 29, 1994 (Moldova). Available at: https://www.constituteproject.org/constitution/Moldova_2006.pdf.

15 I. L. Cherchenko, *supra*, note 5.

an entity is the government (Government's Resolutions of 28 March 2002, of 29 June 2007 and of 30 August 2017).

In any case, both in Ukraine and in other countries, the legal regulation of the organization of foreign policy governance, carried out by the government, parliament and the head of state, must be comprehensive and consistent with each other. This primarily requires the development and implementation of a single holistic concept of forming a system of foreign affairs governance bodies, as well as streamlining, delimiting and detailing the powers of such bodies.

The central element of the system of foreign affairs governance bodies in all modern countries is a specialized executive body – the main foreign policy office. It's traditionally called the Ministry of Foreign Affairs (but, for example, in the United States it's the State Department, in the United Kingdom it's the Foreign Office, in France it's the Ministry for Europe and Foreign Affairs, in Switzerland it's the Federal Department of Foreign Affairs, etc.). Based on the normatively defined competence of the main foreign policy department in Russia, Belarus, Kazakhstan, Moldova, Poland, Canada, Guinea and other countries, the main directions of its activity are primarily operational management and ensuring implementation of state foreign policy, as well as organization and coordination of foreign diplomatic missions.

The tasks and powers of the main foreign policy department in different countries largely coincide, due to the same managerial nature needs and generally accepted vectors of foreign policy. The essence of such tasks and powers, like in Ukraine, is mainly to ensure the unity of implementation of foreign policy, to coordinate other state bodies in this area, to support relations with other states and international organizations, and to protect abroad the state interests, rights and interests of its citizens and legal entities.

In addition to the implementation of the state foreign policy, the Ministry of Foreign Affairs may also be entrusted with other related tasks and powers. In particular, according to the relevant Regulation, the Ministry of Foreign Affairs of Belarus coordinates both the foreign policy and foreign economic activities of the state. In general, Global Affairs Canada has similar powers.

Such a combination in the competence of one ministry issues of the foreign policy and foreign economic isn't sufficiently justified given the difference in tasks, approaches and methods of foreign economic activity and the implementation of state foreign policy. Following the example of the Ministry of Foreign Affairs of Kazakhstan, it would be more effective to limit the role of the main foreign ministry only by facilitating the implementation of foreign economic policy.

The practice of subordinating the Ministry of Foreign Affairs is quite ambiguous in different countries. Thus, the Ministry of Foreign Affairs in Russia is managed by the head of state, and in Belarus is managed by the government (but on some issues by the head of state). In Moldova and Kazakhstan, this issue isn't directly regulated at all. But for example, all members of the Kazakh government take an oath not only to the people, but also to the head of state according to Part 3 of Article 65 of the Constitution of Kazakhstan.

We believe that the integrity and hierarchy of the system of foreign affairs governance bodies, as well as the coordination of actions of its components, require unambiguous regulation issues of such bodies' subordination. In the case of the Ministry of Foreign Affairs, its subordination to the head of state and/or government should be decided primarily taking into account the specifics of the established state system. In our opinion, the Ministry of Foreign Affairs, as the central body of executive power, should be subordinated to the government, but should also be guided in its activities by the decisions of the head of state as the head of foreign policy.

The organization of the activities of the Ministry of Foreign Affairs and European Integration of Moldova is enshrined in the Government's Resolution of 30 August 2017 in very general terms, revealing first only its main functions and rights, as well as the basics competence of the Minister. In comparison, the status of the Ministry of Foreign Affairs of Russia is characterized by a relatively high level of legal regulation; in particular, we note the detail and consistency of its purpose, tasks, powers and rights, the status of management and the number of employees. The same applies to Belarus and Kazakhstan.

At the same time, in the interests of comprehensive regulation of the status of the Ministry of Foreign Affairs, it would be appropriate to simultaneously consolidate its internal structural organization, as well as, equally important, forms, methods and procedures for implementing powers, specific principles of interaction within the system of foreign affairs governance bodies. One of the essential factors of effective activity of the main foreign policy department is the maintenance of connection and mutual coherence of its legal, functional, organizational, personnel and financial basis.

The general intensification of international relations, the increase of their role and significance, and the expansion of foreign policy goals, presuppose the involvement of other non-core executive bodies in the direct implementation of state foreign policy. In Canada, not only the Ministry of Foreign Affairs, but also non-core executive bodies, bear the main operational burden of implementing the foreign policy decisions of parliament and government.¹⁶ In this regard, both in Ukraine and in other countries,

16 *Id.*

ensuring the unity and consistency of implementation by all authorized subjects of foreign policy is especially important.

This is the subject of the responsibility of the Ministry of Foreign Affairs (in Russia, Belarus, Kazakhstan, Moldova, Canada and other countries), which in this area of public administration coordinates the activities not only of directly subordinated foreign diplomatic missions, but also of the relevant executive authorities. The approach to the organization of the activity of the Ministry of Foreign Affairs of Germany is quite constructive, which provides information, organizational and other support to government agencies, non-governmental organizations and citizens on foreign policy issues, but interferes in their international contacts only "in case of disagreement on specific issues of the international process".¹⁷

The settlement by a separate Decree of the President of the Russian Federation of 8 November 2011 of the coordination role of the Ministry of Foreign Affairs in carrying out the unified foreign policy line of Russia appears positive. At the same time, the main essence of the coordinating role of the foreign ministry is determined by a wide range of measures for control, coordination, as well as political, diplomatic, informational, communicational, organizational and other assistance to foreign affairs governance bodies.

Nowadays, in Ukraine such issues related to ensuring the unity of the implementation of the foreign policy course are regulated somewhat less clearly and by several legal acts of the head of state and government. Therefore, we note the priority of comprehensive legal regulation and delimitation of powers of foreign affairs governance bodies, establishing the principles, procedure and guarantees of their interaction and joint activities in the interests of coordinated implementation of state foreign policy.

Each modern state as a full member of the world community forms a system of its specialized bodies of foreign affairs governance – foreign diplomatic missions, namely diplomatic missions abroad, missions to international organizations, and consulates. These foreign diplomatic missions have slightly different purposes and, accordingly, status, although in general the main purpose of their activities is to represent the state abroad, to protect the state interests, the rights and interests of its citizens, as well as to promote the activities of state bodies and representatives abroad, including coordination and control of other foreign policy bodies.

Within the framework of the above, foreign diplomatic missions carry out internal and external management activities of organization, coordination and interaction,

17 T. I. Byrkovych. *Legal regulation of the diplomatic service in Ukraine*. Doctoral dissertation, Humanities University Zaporizhzhya Institute of State and Municipal Administration. 2007. P. 6.

coordination and control, preparation, adoption and implementation of management decisions, etc.

Regardless of the specifics of legal regulation of the organization of foreign diplomatic missions in each state, their tasks and functions, principles of relations with the host country authorities, status and guarantees of personnel of foreign diplomatic missions are the same for all modern states, governed by international law. In view of this, a number of countries (Russia, Belarus, Kazakhstan, Moldova, etc.), just like Ukraine, have common features and problems of forming foreign diplomatic missions.

In particular, with regard to Ukraine and most other countries, proposals on improving the national legislation of Guinea in terms of regulating the structure, principles and procedures of its foreign missions can be extrapolated, establishing clear qualification requirements for diplomatic and consular staff.¹⁸ It should be borne in mind that in the organizational structure of diplomatic missions of Great Britain, the United States, Germany and other leading countries, the number of special diplomatic units is increasing.¹⁹

In the context of the organization of foreign diplomatic missions, it should be noted that the integration of the state into the European Union, which involves delegating to the all-Union bodies a certain part of the state's foreign policy powers, causes several changes in the organization of its foreign affairs governance. In particular, this is reflected in the status, functions and structure of the diplomatic missions of members of the European Union, which may differ depending on the affiliation (non-affiliation) to the European Union of the host country.

For the diplomatic missions of the European Union, members in other European Union countries become atypical structural departments for financial issues, fisheries, protection of marine natural resources, etc., at the same time may be formed departments for European policies or integration, etc.²⁰ And according to the Treaty on the Functioning of the European Union, for example, the functions of foreign diplomatic missions of European Union member states in third countries are somewhat expanded, namely to protect in the host country not only their citizens but also citizens of other European Union members.

In Russia, the status and organization of diplomatic missions abroad is established by the Regulations on the Embassy of the Russian Federation of 28 October 1996. Moreover, although determining the form and level of foreign diplomatic missions of

18 M. Dian, *supra*, note 7.

19 S. A. Fedchyshyn, *supra*, note 4.

20 S. A. Fedchyshyn. *Diplomatic missions of EU member states (administrative and legal aspect)*. KRYMSKYI YURYDYCHNYI VISNYK 8. 2010. P. 214-215.

the state is its exclusive competence, in our opinion, it would be acceptable to regulate the organization of not only embassies but also missions as a kind of foreign diplomatic missions. On the positive side, we note the substantive determine in Regulations on the Ambassador Extraordinary and Plenipotentiary of the Russian Federation in a foreign country of his/her tasks, rights and responsibilities, while in Ukraine the status of such a diplomatic representative isn't regulated in sufficient detail.

On the other hand, not only fullest regulation by several legal acts, but also their reduction into a single consolidated legal act will contribute the complexity and balance of the legal framework for organizing the activities of foreign diplomatic missions. In this perspective, it's worth noting the Regulations on diplomatic missions and consular offices of Belarus of 9 July 1996, which in a coordinated manner determines the common principles of formation and functioning of all foreign diplomatic missions of this state.

In addition, the Regulations on Diplomatic and Equated Representation of Kazakhstan of 4 February 2004 corresponds to criteria of comprehensive regulation, establishing the status, tasks, functions and rights of embassies, diplomatic missions and missions to international organizations, as well as the responsibilities and rights of their management, the basics of the status of other staff, the approximate structural composition, etc. At the same time, in terms of improving the organization of foreign diplomatic missions of Ukraine, there are also quite relevant proposals for Guinea²¹ regarding more precise definition by national legislation, their functions and powers, ensuring proper coordination and interaction of such foreign affairs bodies.

In the mechanism of appointing heads of foreign diplomatic missions, it's important that the head of state makes a such decision on the proposal of the Minister of Foreign Affairs, or of the Government, after consultation with the relevant parliament committees or commissions (Decree of the President of Russia of 7 September 1999, Decree of the President of Belarus of 9 July 1996). For example, in Kazakhstan and Poland, and according to the Model Law "On Diplomatic Service" of 13 June 2000, they don't provide for such consultations or approvals with parliamentary bodies.

It should be noted that coordination of the positions of all higher state authorities and the main foreign ministry in this and other key issues of foreign affairs governance is a necessary condition for the systematicity and integrity of foreign policy governance, coherence and unity of action of various actors in state foreign policy.

The experience of Great Britain, which provides for a complex two-stage examination of persons seeking diplomatic service, and there is a reasonable differentiation of the requirements for professional training of the employee depending on the nature

21 M. Dian, *supra*, note 5.

of his job responsibilities²², is interesting in terms of staffing the diplomatic service of Ukraine. Personnel policy in the field of diplomatic service should take into account not only foreign experience, but also the existing practice of diplomatic training, the current realities of training, and professional activity in Ukraine.

In addition, in the organization of the foreign affairs governance of Ukraine it will be expedient to introduce the positive experience of Great Britain, Iceland, Canada and other states in approving the Disciplinary Statute and the Code of Conduct for Diplomatic Service Employees.²³

V. CONCLUSIONS

The organization of foreign affairs governance in different countries reveals differences in approaches to legal regulation in the status, competence, structure and principles of interaction of foreign affairs governance bodies. This is primarily due to the peculiarities of the form of government and the state system, the general practice of public administration, and current foreign policy goals. The advantages and shortcomings of the organization of foreign affairs governance in different countries should be one of the main sources of optimizing the foreign affairs governance of Ukraine, its adaptation to modern requirements and realities, prevention and elimination of problems of organization and activities of foreign affairs entities.

In most countries, there is no single holistic approach to the legal regulation of the foreign affairs governance, which often results in the inconsistent and unclear definition of the composition and management model of the system of foreign affairs, the division of competence between foreign affairs governance bodies, and the principles of their interaction and joint activities.

Effective implementation of state foreign policy requires a modern constructive organization of foreign affairs governance, taking into account the peculiarities of the state system, the practice of the state mechanism, foreign policy interests and potential of the state, as well as progressive trends and positive experience of other states.

Proper organization of foreign affairs governance in Ukraine and other countries should provide for its integration into a single system of public administration, centralization and hierarchy of the system of foreign affairs governance systems, the

22 V. Tsivatyy & N.-T. Anoshyna. *Diplomatic service and diplomats of Great Britain: Historical traditions, modern institutional model (experience for Ukraine)*. UKRAYINA DYPLOMATYCHNA 12. 2011. P. 495-496.

23 S. A. Fedchyshyn, *supra*, note 5. P. 11.

system-forming role of the Ministry of Foreign Affairs, clear division of powers between it and higher authorities, professional diplomatic service, etc.

VI. REFERENCES

- I. L. Cherchenko. *Constitutional and legal mechanism of foreign relations of Canada*. Doctoral dissertation, V.M. Koretsky Institute of State and Law. 2004.
- O. H. Makarenko. *Constitutional and legal mechanism of foreign relations of Ukraine*. Doctoral dissertation, Institute of Legislation of the Verkhovna Rada of Ukraine. 2009.
- M. Dian. *Legal issues of the structure and activity of the foreign relations bodies of the Republic of Guinea*. Doctoral dissertation, V.M. Koretsky Institute of State and Law. 2001.
- S. A. Fedchyshyn. *Diplomatic missions of EU member states (administrative and legal aspect)*. KRYMSKYI YURYDYCHNYI VISNYK 8. 2010. P. 214-215.
- S. A. Fedchyshyn. *Diplomatic representation of Ukraine abroad in the mechanism of management of foreign affairs*. Doctoral dissertation, Yaroslav Mudryi National Law University. 2011.
- T. I. Byrkovych. *Legal regulation of the diplomatic service in Ukraine*. Doctoral dissertation, Humanities University Zaporizhzhya Institute of State and Municipal Administration. 2007.
- V. Tsivatyy & N.-T. Anoshyna. *Diplomatic service and diplomats of Great Britain: Historical traditions, modern institutional model (experience for Ukraine)*. UKRAYINA DYPLOMATYCHNA 12. 2011. P. 495-496.