

## Public Influence on Legislative Process in the Problem of De-occupation of Donbas

Olena Gilchenco  
Yulia Konstantinova  
Natalia Pashina

Department of International Relations and Foreign Policy,  
Mariupol State University  
Budivelnkyiv Ave. 129a,  
Mariupol 87500, Ukraine  
E-mail: olenagilchenko@gmail.com  
E-mail: ujin-m@ukr.net  
E-mail: npash2@gmail.com

**Abstract:** *In the context of the Ukrainian crisis, the Law ‘On the specifics of state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Lugansk regions’, which is also called the ‘Law on De-occupation (or Reintegration) of Donbas’, became the key point. After four years of occupation of parts of southeastern Ukraine, the adoption of such a law was necessary, since this particular law formed and legally established the legal and organizational conditions for the resumption of territorial integrity of Ukraine. The importance of this law and the consequences of its adoption caused public involvement on behalf of civic organizations, political analysts, representatives of the academic and economic elite in the process of its discussion. However, due to the small amount of time from the stage of the legislative initiative to the publication of the law, it was not officially discussed by the public. Despite this, the enactment of the law led to an active public debate.*

*Our study is aimed to investigate the degree of public involvement in the political decision-making process and the extent of public influence on lawmaking in Ukraine on the example of this legislative act.*

**Keywords:** *civil society, de-occupation, Donbas, lawmaking process, Ukraine*

## **1. Introduction**

Having chosen the path toward democratic development, Ukraine began the construction of the country with the rule of law whose main characteristic is advanced civil society. Active involvement of citizens and civic organizations in the process of developing and adopting of political decisions is a form of democracy and manifests freedom of speech in the country. A nationwide discussion of vital issues makes it possible to work out optimal solutions in a particular area.

The war in the southeast of Ukraine is one of the key factors that affects all spheres of the country's life today, and influences the adoption of certain political decisions that are frequently more populist than objective. At the stage of the legislative process and during the discussion of draft laws the realization of the right of citizens to freedom of speech allows to involve the general public in the development of the most complete and objective decisions.

The aim of the article to investigate the extent of citizens' involvement in public politics and the impact of the civil society on the operating of official power on the example of Law on the De-occupation of Donbas.

The specificity and complexity of the study of the public influence on legislative processes in Ukraine and, in particular, on the adoption of the Law on the De-occupation of Donbas, provides for interdisciplinary and methodological synthesis, the use of the principles and methods developed in the field of modern philosophical, political, legal, and sociological sciences.

The study is based on the dialectical method of cognition, sociocultural and synergetic approaches, also the systemic, institutional, structural and functional, sociological methods are used in the present research, as well as modeling and discourse methods.

The study of the subjects of the legislative process on the issue of the de-occupation of the Donbas was carried out using the institutional method of research (Zelenko, 2014; Novakova, 2016; Shchedrova, 2016), since the institutions form the structure of motivations for human behavior, organize everyday life, and ensure the stability of the social development. To study the value components of the development of democracy in Ukraine, the interaction between the civil society and state institutions, the de-occupation of Donbas, and the increasing role of the public in this process, the sociocultural approach was used (Males, 2009; Nagorna, 2011; Chernysh & Rovenchak, 2005; Shaigorodsky, 2009). It involves

the integration of the methods and techniques of various social sciences and an understanding of the role of culture (in our case, primarily political and legal) in modern life, and its decisive significance for the socio-political transformations in Ukraine.

The synergetic approach (Vasilkova, 1999) allowed us to consider the influence of the public on the legislative process of the de-occupation of Donbas as an indicator of self-organization, one of the most important factors determining the essence and content of the transformation of the Ukrainian society.

The main structural components of the political decision-making process for the de-occupation of Donbas, the tasks and functions that each element performs, are determined with the use of the structural-functional method (Parsons, 1937).

In our opinion, the most productive method of studying the influence of the public on the adoption of the Law on the De-occupation of Donbas is the system analysis method, which considers politics as an integrated, complex system (Iston, 1997; Nelipa, 2011; Surmin, 2003), using the system-dynamic method as a whole and system-factor analysis (Gabrielyan, 2012; Gorbatenko, 2006; Tkachuk, 2006; Degtyarev, 2004; Gachkevich, 2012; Plotinsky, 2001). The substantial model of the interactions between the state and the public within the legislative process for the de-occupation of the Donbas is constructed, a number of the factors and features of its formation are determined. The main determinants of the legislative process for the de-occupation of Donbas, in our opinion, are the following: military operations in southeast Ukraine, the European integration course of Ukraine, and the state of civil society.

The use of sociological and empirical methods (discourse techniques, document analysis, statistical method, etc.) made it possible to substantiate the conclusions made in the work practically (Akhremenko, 2006; Batrakova, 2012; Mannheim & Rich, 1986; Lasswell, 2002; Berelson, 1959; Borishpolets, 2005; Yadov, 1995).

The primary sources for the study include the Constitution of Ukraine; the Association Agreement between the European Union and its Member States, on the one hand, and Ukraine, on the other; the Law ‘On the specifics of state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Lugansk regions’; the National Strategy for the Development of Civil Society in Ukraine for 2016–2020; the Law of Ukraine ‘On information’, the Law of Ukraine ‘On access to public information’, the Law of Ukraine ‘On citizen’s appeals’; and others.

The theoretical foundations of the study of public influence on the legislative process for the de-occupation of the Donbas are formed of the works of Ukrainian academicians E. Libanov (2017), Yu. Bogutsky (2017), O. Mayboroda (20017, 2018), M. Mikhalchenko (2016), S. Pirozhkov (2017), O. Rafalsky (2018), and others, in which they investigate the theoretical and practical aspects of democratic transformations of the Ukrainian society, as well as analyze the political mechanisms of the modern reforms in accordance with the strategic goal of the European integration for Ukraine.

## **2. The state of civil society in Ukraine**

The basis for the development of a democratic state is the principle of recognition of the people to be the only source of power that has real control in public and state affairs. According to the Constitution, Ukraine is a democratic, legal state, the citizens of which are guaranteed the right to participate in the management of public affairs (Art. 38(2) of the Constitution of Ukraine).

After the signing of the Association Agreement between Ukraine and the EU, Ukraine was faced with the task of complying with the new European rules. One of these tasks was the problem of revising the relations of the state and the public, the development of new principles of cooperation with the civil society. Moreover, the representatives of the civil society of Ukraine and members of the European Economic and Social Committee created the Civil Society Platform to inform the Ukrainian public about the implementation process of the Association Agreement between Ukraine and the EU and to exchange views on this issue (Art. 469, 470 of the Association Agreement, 2014).

With the beginning of modernization of Ukraine as a European state, it became necessary to strengthen the various forms of democracy, including the creation of conditions for the development of civil society in the future. To this end, in 2016, the National Strategy for the Development of Civil Society in Ukraine for 2016–2020 was adopted. The adoption of the Strategy was the result of changes in the internal life of the country and its international situation caused by the events of 2014. A procedure for public participation during the formation and implementation of state and regional policies and addressing issues of local significance were implemented (para. 4.2 of the National Strategy, 2016).

By today, the formation of the so-called transitional type of civil society in Ukraine has been completed. It is characterized by the preservation of elements

of the post-Soviet bureaucratic system and the presence of deficiencies in state funding. At the same time, the implementation of external elements is observed both as a model for reforming and as a financial source.

The next stage of development of civil society in Ukraine involves engagement in public society of civil society institutions and, above all, the public, and the growth of their influence on actions carried out by the official authorities. This process should be implemented through various forms of cooperation between the civil society institutions and public authorities. According to the survey conducted by the Razumkov Center at the end of 2018, 45% of respondents trust or rather trust NGOs, 65% respondents trust volunteer organizations (*Ukraine 2018–2019: Cautious Optimism...*, 2018). This indicates a high degree of Ukrainian citizens' confidence in such associations, since these organizations are the connecting link between the government bodies of different levels and the population.

Overcoming the exclusion of citizens from political processes is necessary for the development of a truly democratic state. An understanding of this need was announced during the meeting of the Council of Europe Forum for the Future of Democracy in 2007 in Sweden. The Forum made a decision to prepare the Code of the Best Practices for Public Participation in the Decision-Making Process. In 2009, the Code was adopted at the Conference of International Non-Governmental Organizations of the Council of Europe. Its task is “to promote the creation of favourable conditions for non-governmental organizations in Council of Europe member states and Belarus by defining a set of general principles at European level, guidelines, tools and mechanisms for public participation in political decision-making” (Code of the Best Practices, 2009, pp. 3–4).

For Ukraine, the Code can be a mechanism to encourage civil society involvement in public policy. According to the importance of the issue for public policy, there are four levels of civil society participation. The lowest level is ‘information’, which involves the providing of direct access to information and research to identify problem issues and how to solve them. The second level is ‘consultation’. The tool for its implementation is a system of electronic petitions and online consultation. A deeper level of engagement is ‘dialogue’, which can be implemented through public hearings and forums, as well as organizing contacts with government officials and the public. Finally, the closest level of cooperation is ‘partnership’. The mechanism for its implementation is formation of a working group or committee as an expert group to consult with the accordance to the policy priorities (Code of the Best Practices, 2009).

In Ukrainian legislation, each of the abovementioned levels is specified by the legal and regulatory framework. Thus, the level of ‘information’, in the process of involving the public in political decision-making, is regulated by the Laws of Ukraine ‘On information’ (1992) and ‘On access to public information’ (2011). The level of ‘consultation’ is provided by the Constitution of Ukraine, which establishes “the right of individuals to send individual or collective written appeals or personally apply to state authorities, local governments and officials of these bodies” (Art. 40(2) of the Constitution of Ukraine). In addition, the Law of Ukraine ‘On citizens’ appeals’ (1996) is valid. Unfortunately, the important Law ‘On public consultations’ which obliges MPs, the Cabinet of Ministers, and central authorities to consult with the public, has been under revision for more than two years (Draft Law of Ukraine ‘On citizens’ appeal’, 2017). As for such levels of public involvement in the law-making process as ‘dialogue’ and ‘partnership’, their practical implementation arises and disappears depending on the relevance of the political issues being resolved. The permanent institutions whose activities are aimed at involving citizens in the political decision-making process include the Coordination Council on the Development of Civil Society under the President of Ukraine (n.d.). The Council consists of various working groups, and the institution carries out its activities as an organization of communication events (round tables, conferences) and creation of awareness.

### **3. The war in the southeast of Ukraine as a factor of the transformation of the Ukrainian society**

The year 2014 was a milestone for Ukraine, marking a radical change of the political regime and the authoritarian regime was replaced by the democratic one. The institutions of state power as well as the President, the government, and the Parliament changed dramatically. From the perspective of revolutionary transformations, the institutions of state power are being updated, concepts such as ‘lustration’, ‘anti-corruption strategy’, ‘renovation’, etc. are being used in everyday life, and democratic reforms are being carried out.

Positive moments of the activities carried out by the new government include:

- Active cooperation with the civil society organizations functioning in the field of combating corruption and monitoring of government activities;
- Engagement of civil society activists as advisers for the highest officials; they also obtain full-time employment in the higher bodies of state authority;

- High level of openness to the public and the media, etc. (*Ukraine 2014-2015: Overcoming Challenges*, 2014)

The greatest positive changes occurred in the Ukrainian society. The events of the Maidan, a mass movement of volunteers for defence of the territorial integrity of the country, widespread volunteering, conscious material and financial support of the citizens by the army and other armed groups demonstrated that there is an effective civil society in Ukraine. The Russian aggression has become a stimulus for the consolidation of the Ukrainian political nation, the growth of patriotism, and at last has led to blur the border between territorial and socio-cultural differences in the Ukrainian society (Balabanov, 2018, pp. 290–365).

The war in Donbas, which has become a challenge for the regional and global security systems, has been a decisive factor in the development of the Ukrainian society over the past five years. The Anti-Terrorist Operation (ATO), which began in 2014 under those conditions, was a balanced and logical decision made by the Ukrainian authorities. In four years, according to the UN Monitoring Mission, from 12,800 to 13,000 people were killed, from 27,000 to 30,000 were injured (Gubenko, 2019). At the end of 2018, according to official figures, in Ukraine there were about 1.6 million internally displaced persons who had left the territory of Lugansk and Donetsk and the Autonomous Republic of Crimea after the start of the war (*Kanal 24*, 2018). For the Ukrainian society there is an acute problem of their adaptation in the new place of residence. Delaying the decision of the problems of immigrants at the state (legislative) level made the public to take care of them, from providing products to participating in the development of draft laws on their integration and adaptation in the new conditions.

In addition, the Donbas region bore significant losses in economic terms. Regional transportation was disrupted and industrial infrastructure was damaged; the industrial potential keeps on bearing losses in the temporarily occupied territories; the life support facilities of enterprises and the housing sector was damaged; the equipment of enterprises was removed and destroyed, moreover the environmental situation was also deteriorating.

All of the above requires the adoption of appropriate decisions at the legislative level, but serious progress in this direction was outlined only in 2017 when a number of legislative initiatives were taken.

Thus, at the end of 2017, the Targeted State Program for Recovery and Peacebuilding in the Eastern Regions of Ukraine was adopted, which contains a list of measures to stabilize the socio-economic situation in the region



(Resolution no. 1071 of the Cabinet of Ministers of Ukraine). It specified strategic directions for restoring peace in conflict regions—namely, the restoration of critical infrastructure and social services in the key areas of economic activity; economic recovery; increasing social sustainability, development of peace and public security.

In early 2018, the Cabinet of Ministers of Ukraine clarified the list of settlements not controlled by the Government of Ukraine, which allowed to work out a more specific approach to the development forecasts for these territories.

The next key point on the way to resolving the problems of Donbas was the Law ‘On the peculiarities of state policy for ensuring state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Lugansk regions’, adopted in January 2018.

By 2018, the conflict had reached a low-intensity phase—the situation had stabilized in a way and it was possible to predict the course of the conflict. All of the above allowed changing the format of the Anti-Terrorist Operation (ATO) to the Combined Forces Operation on “repulsing and deterring the armed aggression of the Russian Federation in Donetsk and Lugansk oblasts” (Law ‘On the peculiarities...’, 2018). This provision had become one of the most important norms of the law on de-occupation. The adopted law contains the following important regulations:

- Documentation of the act of armed aggression by the Russian Federation and the occupation of the part of the Ukrainian territory;
- Determination of the status of the Donbas territories not controlled by Ukraine as “temporarily occupied”, where the “occupation administrations of the Russian Federation” operate;
- Confirmation of the right of Ukraine for self-defence in accordance with the norms of international law;
- Confirmation of the policy for political settlement of the conflict in Donbas.



#### 4. The Law on the De-occupation of Donbas as an example of public participation in law-making process in Ukraine

From the very beginning, the key factor in the military operations in Donbas was the self-organization of the Ukrainian population, the wide participation of civic movements, and volunteers, who in the early stages of the conflict performed the functions of the state (*Ukraine 2014–2015: Overcoming Challenges*, 2014). Therefore, it is quite illustrative while determining the level of public involvement in the legislative process of Ukraine to consider civil society participation on the example of the adoption of the relevant and most important laws for the state. One of such laws is ‘On the peculiarities of the state policy on ensuring the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Lugansk regions’ (2018). According to the explanatory note, the bill “aims to create a new legal framework for solving the task of overcoming the enemy’s aggression of the Russian Federation in Donbas. Moreover, in the future—to restore the territorial integrity of Ukraine within its internationally recognized borders” (Law of Ukraine ‘On the peculiarities...’, 2018).

It is necessary to emphasize that, despite the high level of public interest and debatable nature of this law, it took five months in total to adopt the law. In October 2017, the bill was passed to the Verkhovna Rada from the President of Ukraine as an urgent one. The bill passed two readings and in January it was adopted by a majority of MPs, in February it was signed by the President of Ukraine and was published in the official newspaper of the Verkhovna Rada of Ukraine *Golos Ukrainy* (‘Voice of Ukraine’).

However, already at all stages of the legislative process, during the adoption of the Law, a number of social and political contradictions occurred on the levels of government–society, and the ruling majority–the opposition minority. One could observe special intensity at the final stage, before the second vote for the second version of the draft law. Therefore, two days before the Verkhovna Rada meeting, there were disturbances near the walls of the Parliament, initiated by civil activists who demanded that the bill was adopted. During the voting, the entire political party *Opozitsyonnyi Blok* (‘Opposition Bloc’) voted against the bill. Incidentally, there were only 33 votes against the bill (3 other votes were given by independent MPs). Thus, 280 deputies voted for the adoption of the bill (Government of Ukraine, 2017b). The next day, the political party *Opozitsyonnyi Blok* made an attempt to slow down or cancel the further process of drawing up a legal act, but they failed.

In addition, a number of problems occurred in the process of involving the public in the legislative process and with providing the proper level of information access.

First, despite the extreme importance of the bill for the future of the whole country, it was not submitted for public discussion. Therefore, representatives of the civil society were not engaged in the law-making process. The situation could be changed during the process of finalizing the draft bill after the first reading, which was carried out by the relevant Verkhovna Rada Committee on National Security and Defence, who prepared the draft law for the second reading. However, while creating a working group, the representatives of public and humanitarian organizations were not engaged in that work.

Second, after the first reading, which took place on October 6, 2017, the MPs of Ukraine submitted over 600 amendments to the relevant committee. Such increased activity of the MPs must have made the process of adopting the bill transparent and took into account all the shortcomings of the first reading. On November 17, 2017, the updated text of the bill had already been sent to the Verkhovna Rada with a recommendation to vote for the bill as a whole document in the second reading. However, only 105 of 673 submitted amendments were fully taken into account (Government of Ukraine, 2017a). Naturally, in such a short time, for meeting the one-month deadline for the bill to be completed, there could be no public discussion. Otherwise, it would be delayed for months.

Finally, the public access to information on the process of passing the draft law was violated. The fact is that according to the procedural regulations of the Verkhovna Rada of Ukraine, the full text of the draft law, after revision, must be published in the form of the final comparative table at least 10 days prior to its consideration in the session hall. In fact, the meeting of the parliament was announced, but a comparative table with the adopted amendments on the official portal of the Verkhovna Rada had not been published yet. As a result, the final text of the draft, as amended by the Committee, was published on the official website of the Verkhovna Rada only on December 19, 2017.

The abovementioned violations caused an instant reaction of the Ukrainian public. A group of the largest and most influential public organizations of Ukraine demanded an official statement from the Verkhovna Rada Committee on National Security and Defence to publish the full text of the draft law without undue delay. This requirement was signed by the representatives of the following non-governmental organizations: East-SOS, *Pravo na Zaschitu*, Public Holding Group of Influence, NGO “Donbas SOS”, Public Network “OPORA”, NGO

“Krym SOS”, the Center for Human Rights Information and Stabilization Support Services. The statement says,

*Human rights and humanitarian organizations are concerned about a significant violation of procedures for reviewing this most important document for the future of the country, withholding of information, numerous violations of the regulations, lack of engagement in the discussion process for the representatives of civil society and the MPs of Ukraine who submitted amendments to the bill (Leonova, 2014).*

While finalizing the Draft Law ‘On the peculiarities of state policy on ensuring state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Lugansk regions’ between the first and second reading, Ukrainian public human rights and humanitarian organizations submitted a number of appeals. The reason for these appeals was a serious concern about the content of certain provisions and the procedure of reviewing the Draft Law itself. Taking into account the fact that, as mentioned above, public discussion was not announced, and no representatives of the public were included in the working group on revising the Draft Law, the only way to influence the decision was an official appeal to all the involved authorities. So, the public figures sent their statements with recommendations to the Verkhovna Rada of Ukraine (Appeal of NGOs, 2018) and the President of Ukraine P. A. Poroshenko, Head of the Verkhovna Rada of Ukraine A. V. Parubiy, heads of the Verkhovna Rada fractions, the MPs of Ukraine (*KhPG*, 2017); the Verkhovna Rada Committee on National Security and Defence (Appeal of NGOs, 2017).

The social activists demanded that the Draft Law had to be returned to the relevant committee for revision in order to carry out a full review of its text with the engagement of the representatives of civil society, human rights and humanitarian organizations, and UN agencies. Because certain norms of the Law caused serious concerns among the representatives of non-governmental organizations, they came to the conclusion that the Law had to be revised. The adaptation of the law would “lead to a significant deterioration of the situation with the protection of human rights and freedoms not only in the conflict region, but throughout the territory of Ukraine” (Appeal of NGOs, 2018).

Human rights organizations such as the Ukrainian Helsinki Group for Human Rights, the Kharkov Human Rights Group, and the Media Initiative for Human Rights demanded the engagement of experts in the field of international law, human rights and international humanitarian law into the public discussion on

the Draft Law. In addition, the public figures strongly recommended for a number of provisions of the Draft Law to rely on and refer to international law—namely, the Geneva Conventions, which Ukraine has joined; the European Convention on Human Rights; Statute of the UN Security Council; and Statute of the International Committee of the Red Cross. It especially concerns issues of the treatment of prisoners of war and protection of the victims of war. The human rights activists consider not only the civilian population but also all those people who are in the combat zone (prisoners of war, hostages, wounded, missing persons) and whose freedom is limited to be the victims of war (*KhPG*, 2017).

Other human rights and humanitarian public organizations expressed serious concern about a number of points in the Draft Law, which in their opinion contain threats on the rights and freedoms of citizens. Due to the inability to participate directly in the process of finalizing the draft, the social activists had sent a number of written appeals with their recommendations. These serious contradictory provisions of the bill that caused a specific reaction of NGOs referred to the following items:

- Responsibility for causing harm during the conflict is assigned only to the Russian Federation, and it cannot compensate the damage for the civilians at the moment.
- The legal basis for ensuring the rights and freedoms in the occupied territories remains incomplete. In this regard, the bill refers to the Law of Ukraine ‘On ensuring rights and freedoms and the legal regime in the temporarily occupied territory’, and, in its turn, it acts exclusively in relation to the occupied territory of Crimea. The amendments to be made to it and time limits are not specified. (East-SOS, 2014)
- The public figures have found possible violations of the rights and freedoms of the civilian population in the conflict zone in Article 10 of the Draft Law. According to the Article, the military and law enforcement officials were given powers to use weapons, detain people, check documents, inspect things, and enter housing without any mechanism of control. This, according to the human rights defenders, would worsen the relationship between the military and civilian population and might violate human rights.
- A number of articles significantly limit the process of movement across the demarcation line with the temporarily occupied territory.
- Excessive powers, not specified by the Constitution, are granted to the President, including the elimination of the need for parliamentary control over the use of the Armed Forces of Ukraine to deter and repel Russian armed aggression. (Appeal of NGOs, 2018)

The legislative process for the adoption of the Law of Ukraine ‘On the peculiarities of state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Lugansk regions’ was completed in January–February 2018. On January 18, 2018, it was adopted by the Verkhovna Rada. On February 20, 2018, it was signed by President Petro Poroshenko, and on February 23, 2018, the law was published in the official newspaper of the Verkhovna Rada of Ukraine, *Golos Ukrainy*, and the following day it came into force.

Thus, the analysis of all stages of the legislative process on the adoption of the Law of Ukraine ‘On the peculiarities of state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Lugansk regions’ allows analyzing the level of civil society involvement in the political decision-making process in all four, previously analyzed, levels.

So, the ‘information’ level was generally met, with the exception of some temporary violations related to the terms of publication of the Draft Law and the comparative table after the second reading on the official website of the Verkhovna Rada.

The ‘consultation’ level was implemented to the greatest extent, since it comes from the public activists themselves in the form of electronic petitions. Humanitarian and human rights public organizations showed a high degree of activity, sending their appeals and statements to all structures of the highest state authorities. They set forth in detail their suggestions for making the necessary amendments to the Draft Law in the second reading in their appeals.

The level of ‘dialogue’ cannot be objectively analyzed, since in any case, during the four months of work on the Draft Law, numerous communication activities were carried out with the participation of the representatives of public and government bodies, which can be considered platforms for public discussions of the Draft Law.

Finally, the most illustrative level for analyzing public involvement in political decision-making is that of ‘partnership’. Here, unfortunately, it is not possible to fix the almost zero indicator of involvement. The reason is that in the process of finalizing the bill, the relevant Verkhovna Rada Committee on National Security and Defence did not set up working or expert groups for consultation which would include members of the public. On this occasion, the NGOs sent their appeals to government bodies demanding that public representatives be allowed to work on the Draft Law.

*We urge the Verkhovna Rada of Ukraine to return the Draft Law 7163 to the main committee for revision and then submit it for a second reading to complete the process of finalizing the text of the draft bill engaging the representatives of civil society, human rights and humanitarian organizations, UN agencies (Leonova, 2014).*

In general, according to the nature of the adopted quantitative and qualitative amendments proposed by the NGOs to the draft bill ‘On the peculiarities of the state policy on ensuring the state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Lugansk regions’ the following comments can be made. It should be emphasized that these amendments were adopted as a result of discussion by the responsible body—the Verkhovna Rada Committee on National Security and Defence—and in the process of the subsequent adoption of the Law by the Verkhovna Rada of Ukraine in the second reading in its entirety. The new law, adopted in the second reading, was significantly different from the first edition. However, the aspects that the public figures were concerned about and the proposed amendments to the bill were mostly not implemented.

The paper seeks to analyze the following amendments:

1. According to Article 2, responsibility for the material and non-material damage caused to Ukraine as a result of the armed aggression of the Russian Federation is assigned to the Russian Federation. The only refinement is the amendment to Article 7 about the fact that the Russian Federation as an occupying state, according to a number of international treaties, is responsible for violating the protection of the rights of the civilians. However, this amendment does not significantly affect the solution of the problem of compensation for damage to the civilians, since assigning responsibility to another state in the framework of the international order of bringing to international legal responsibility does not make sense and does not have any legal consequences.
2. To implement the rights of the citizens of the Donetsk and Lugansk region, Article 2 of the previously adopted Law of Ukraine ‘On ensuring rights and freedoms and the legal regime in the temporarily occupied territory’, which ensures such rights of citizens on the territory of Crimea, is used. The amendments expressed confirmation of “taking into account the necessary amendments” in the future. But it still remained incomprehensible what amendments should be worked out to this Law, when and how they would be able to take into account the interests of the residents of Donetsk and Lugansk regions.



3. Besides, Article 2 legally confirms the illegality of the activities of the occupation administration of the Russian Federation in the Donetsk and Lugansk regions and, therefore, any act issued by them will be invalid. An exception is the documents confirming the fact of birth or death in the temporarily occupied territory. However, in this Article, Crimea is not mentioned, which means that the documents about death or birth issued there are not legal grounds for state registration. In addition, before making appropriate amendments to the rules of registration of acts of civil status, it will be impossible to carry out state registration of a person's birth or death without a judicial procedure. At the same time, the issues of adopting other documents, such as marriage certificates, are not settled.
4. Article 12 retained a list of the rights of the military personnel and law enforcement agencies that they can implement in the area where the Act is in force to ensure national security and defense, and to repel and deter armed aggression.
5. Also, the Article contains the right of the Commander of the combined forces, taking into account the security situation, to restrict entering and exit from the temporarily occupied territory of the Donetsk and Lugansk regions.
6. Finally, a number of issues remained unresolved, which were pointed out by human rights NGOs, namely, the “areas for the implementation of measures to ensure national security and defense, repelling and deterring armed aggression of the Russian Federation”, which are provided by the new edition, do not have a clear definition. Also, the Law does not provide a mechanism for considering legal discrepancies that exist between the norms proposed by the Law and the provisions of other normative acts that already regulate the implementation of the rights.

However, all the abovementioned violations of the rules—the incompleteness of some articles of the Law, the lack of a procedure for public discussion of the Law, inaccessibility for the representatives of NGOs to participate in the working group for the discussion of the Draft Law—all this had the only justifying explanation. In wartime conditions, there was a need for the urgent adoption of the Law, under the pressure of the same civil society. The President, the relevant Committee and the Verkhovna Rada of Ukraine did not have a temporary opportunity to observe all the necessary elements of engaging civil society in the political decision-making process, as required by the norms for the development of a democratic state. Moreover, further delay with the adoption of the so-called ‘Law on De-occupation’ could have led to much more disastrous consequences in violating the rights of the civilians in



the territory of Donetsk and Lugansk regions than passing of the bill in such unfinished form.

## **5. Conclusions**

The results of this study show that the legislative process for the adoption of the Law of Ukraine ‘On the peculiarities of state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Lugansk regions’ proves the thesis expressed at the beginning of this article about the formation of the so-called transitional civil society. And the process of engaging citizens in public policy and the growing influence of civil society on the actions of the official government, is still at the initial stage of development.

The war in the southeast of Ukraine continues to be one of the key factors that affects all spheres of life in the country today and dictates the adoption of certain political decisions that are often more populist than objective. This is especially true on the eve of the upcoming presidential and parliamentary elections in 2019. The promises of the majority of candidates to resolve the situation in Donbas, often without specific programs, became the leitmotif of their presidential campaign. In this regard, the ability of public structures to influence the law-making process and political decision-making becomes an important component of the establishment of democratic norms and principles in modern Ukraine.

**Olena Gilchenco**, PhD in political science, is head of the Department of International Relations and Foreign Policy of the Mariupol State University. She graduated from the Mariupol State University with a degree in history in 2004. She completed the post-graduate training program at the Mariupol State University. In 2013, she obtained a political science degree, specializing in political institutions and processes. She lectures the following courses: ‘History of civilizations’, ‘The foreign policy of European countries’, ‘The role of the European Union in the modern world’, ‘Political geography’, ‘Political elites and leadership’, ‘Political institutions and regimes’ to students of international relations and political science. Her academic interests include the foreign policy of European countries and political processes in Europe.

**Yulia Konstantinova**, PhD in history, works as an associate professor at the Department of International Relations and Foreign Policy of the Mariupol State University. She received a degree in history from the Mariupol State University in 2004. She completed the post-

graduate training program at the Donetsk National University. In 2012, she obtained a PhD, specializing in the history of Ukraine. She lectures on international relations and political science. She has developed courses such as 'The history of international relations', 'Foreign policy of the states in America', 'Strategy and tactics of negotiation', 'Political analysis and forecast'. Her academic interests include foreign policy of the states in America, and political processes in modern Ukraine.

**Natalia Pashina**, Dr. habil. (in political science), is a professor at the Department of International Relations and Foreign Policy of the Mariupol State University. She received a degree in history in 1977. She completed the post-graduate training program at the Taras Shevchenko National University of Kyiv. In 1997, she obtained a PhD, specializing in the history of Ukraine. In 2014, she received her Habilitation degree (postdoctoral qualification) in political science, specializing on political institutions and processes. She lectures on political science, and in the course of her professional career, has created courses 'Political psychology', 'Public policy analysis', 'Political processes and political relations', and others. Her academic interests include political identity and national policy.

## References

- Akhremenko, A.** (2006), *Political Analysis and Forecasting: A Textbook*, Moscow: Gardariki.
- Appeal of NGOs (2017), Appeal of NGOs on the revision of the Draft Law no. 7163, *Pravo na Zakhist*, 24 November. Retrieved from <http://vpl.com.ua/uk/news/4034/> [accessed 12 Apr 2019]
- Appeal of NGOs (2018), Appeal of NGOs to the Verkhovna Rada of Ukraine regarding the Draft Law of Ukraine 'On the peculiarities of the state policy on ensuring the state sovereignty of Ukraine over temporarily occupied territories in the Donetsk and Lugansk regions,' *Donbass SOS*, 15 January. Retrieved from <http://www.donbasssos.org/15012017-3/> [accessed 12 Apr 2019]
- Association Agreement (2014), Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand, 24.6.2014. Retrieved from [https://zakon.rada.gov.ua/laws/show/ru/984\\_011](https://zakon.rada.gov.ua/laws/show/ru/984_011) [accessed 12 Apr 2019]
- Balabanov, K.**, ed. (2018), *The South-East of Ukraine under the Influence of the Socio-Political Crisis*, Mariupol: MSU.
- Batrakova, I.** (2012), 'Analysis of documents in political science,' in O. Gabrielyan (ed.) *Political Science: Research Methods*, Kyiv: Academy.

- Berelson, B.** (195), 'Content analysis,' in S. Fiske, D., T. Gilbert & G. Lindzey (eds.) *Handbook of Social Psychology*, London: Addison-Wesley Publishing Co.
- Borishpolets, K.** (2005), *Methods of Political Research: A Textbook*, Moscow: Aspekt Press.
- Chernysh, N. & Rovenchak, O.** (2005), 'Sociocultural approach in socio-humanitarian research: exchange of meanings,' *Sociology: Theory, Methods, Marketing*, no. 4, pp. 92–103.
- Code of the Best Practices (2009), Code of the Best Practices for Public Participation in the Decision-Making Process, Conference of INGOs of the Council of Europe, CONF/PLE(2009)CODE1, 1.10.2009. Retrieved from <https://rm.coe.int/16802eeddb> [accessed 12 Apr 2019]
- Degtyarev, A.** (2004), *Priniatie politicheskikh reshenii: Uchebnoe posobie* [Political decision-making: A textbook], Moscow: KDU.
- Draft Law of Ukraine 'On citizens' appeal' (2017), *Proekt Zakonu pro publichni konsul'taciyi*, no 7453, 27.12.2017. Retrieved from [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=63237](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63237) [accessed 12 Apr 2019]
- Easton, D.** (1997), 'Categories of a systematic analysis of politics,' in *Anthology of World Political Thought. Foreign Political Thought in the 20th century*, vol. 2, Moscow: Thought.
- East-SOS (2014), Analysis of the Draft Law 'On the peculiarities of the state policy on ensuring the state sovereignty of Ukraine over temporarily occupied territories in the Donetsk and Lugansk regions', Charitable Foundation East-SOS, 23 November. Retrieved from [https://vostok-sos.org/analysis\\_7163/](https://vostok-sos.org/analysis_7163/) [accessed 12 Apr 2019]
- Gabrielyan, O.**, ed. (2012), *Political Science: Research Methods: A Textbook*, Kyiv: Academy.
- Gachkevich, A.** (2012), 'Method of modeling in political science,' in O. Gabrielyan (ed.) *Political Science: Research Methods: A Textbook*, Kyiv: Academy.
- Gorbatenko, V.** (2006), *Political Forecasting: Theory, Methodology, Practice*, Koretsky Institute of State and Law of the NAS of Ukraine, Kyiv: Genesis.
- Government of Ukraine (2017a), Comparative table, 4.10.2017. Retrieved from <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=62638&pf35401=435284> [accessed 12 Apr 2019]
- Government of Ukraine (2017b), The results of voting for the draft Law of Ukraine 'On the Peculiarities of State Policy for Ensuring State Sovereignty of Ukraine in the Temporarily Occupied Territories in the Donetsk and Lugansk Regions', 5.10.2017. Retrieved from [http://w1.c1.rada.gov.ua/pls/radan\\_gs09/ns\\_golos?g\\_id=16610](http://w1.c1.rada.gov.ua/pls/radan_gs09/ns_golos?g_id=16610) [accessed 12 Apr 2019]
- Gubenko, D.** (2019), 'UN: Almost 13 Thousand People Have Become the Victims of the conflict in the East of Ukraine,' *DW*, 21 January. Retrieved from <https://www.dw.com/uk/оон-жертвами-конфлікту-на-сході-україни-стали-майже-13-тисяч-людей/a-47172250> [accessed 12 Apr 2019]

- Kanal 24* (2018), 'Skol'ko v Ukrainie pereselentsev iz okkupirovannykh Donbassa i Kryma' [How many internally displaced persons in Ukraine are from the occupied Donbas and Crimea], 19 December. Retrieved from [https://24tv.ua/ru/skolko\\_v\\_ukraine\\_pereselencev\\_iz\\_okkupirovannyh\\_donbassa\\_i\\_kryma\\_n1083260](https://24tv.ua/ru/skolko_v_ukraine_pereselencev_iz_okkupirovannyh_donbassa_i_kryma_n1083260) [accessed 12 Apr 2019]
- KhPG* (2017), Statement by Ukrainian human rights organizations requesting a revision of the draft law of Ukraine no. 7163 'On the peculiarities of the state policy on ensuring the state sovereignty of Ukraine over temporarily occupied territories in the Donetsk and Lugansk regions', *Kharkiv Human Rights Protection Group*, 27 November. Retrieved from <http://khpg.org/index.php?id=1511810633> [accessed 12 Apr 2019]
- Lasswell, G.** (2002), 'The structure and functions of communication in society,' in *Mass Communication in the Modern World: A Reader*, Moscow: Case, pp. 131–132.
- Law of Ukraine 'On citizens' appeals' (1996), *Zakon Ukrayiny 'Pro zvernennyya hromadyan'*, no. 393/96-BP, 2.7.1996. Retrieved from <https://zakon.rada.gov.ua/laws/show/393/96-%D0%B2%D1%80> [accessed 12 April 2019]
- Law of Ukraine 'On access to public information' (2011), *Zakon Ukrayiny 'Pro dostup do publichnoyi informaciyi'*, no. 2939-VI, 31.1.2011. Retrieved from <https://zakon.rada.gov.ua/laws/show/2939-17> [accessed 12 April 2019]
- Law of Ukraine 'On information' (1992), *Zakon Ukrayiny 'Pro informaciyu'*, 13.11.1992. Retrieved from <https://zakon.rada.gov.ua/laws/show/2657-12> [accessed 12 Apr 2019]
- Law of Ukraine 'On the peculiarities of the state policy of ensuring the state sovereignty of Ukraine in temporarily occupied territories in Donetsk and Lugansk regions' (2018), *Zakon Ukrayiny 'Pro osoblyvosti derzhavnoyi polityky iz zabezpechennyya derzhavnogo suverenitetu Ukrayiny na tymchasovo okupovanykh terytoriyakh u Donec'kij ta Luhans'kij oblasti'*, no. 2268-VIII, 18.1.2018. Retrieved from <https://zakon.rada.gov.ua/laws/show/2268-19#n24> [accessed 12 Apr 2019]
- Leonova, M.** (2014), 'Hromads'ki orhanizaciyi vymahayut' oprylyudnyly tekst zakonoproektu 'Pro deokupaciyu' [NGOs demand the publication of the text of the Draft Law 'On de-occupation'], 24 November. Retrieved from <https://hromadske.ua/posts/hromadski-orhanizatsii-vymahaiut-opryliudnyly-tekst-zakonoproektu-pro-deokupatsiiu> [accessed 12 Apr 2019]
- Males, L.** (2009), 'Interdisciplinary possibilities of 'sociocultural' in an analysis modern society,' in *The Scientific Studios of Lviv Sociological Forum: Collection of Scientific Works*, pp. 151–155.
- Mannheim, J. & Rich, R.** (1986), *Empirical Political Analysis. Research Methods in Political Science*, New York & London: Longman.
- Mikhailchenko, M.**, ed. (2016), *Transformation of the Political Institutions of Ukraine: Problems of Theory and Practice*, Kyiv: Kuras Institute of Political and Ethnic

Studies of the National Academy of Sciences of Ukraine.

- Nagorna, L.** (2011), *Socio-Cultural Identity: Traps of Value Delimitation*, Kyiv: Kuras Institute of Political and Ethnic Studies of the National Academy of Sciences of Ukraine.
- National Strategy (2016), National Strategy for the Development of Civil Society in Ukraine for 2016–2020, 26.2.2016. Retrieved from <https://zakon.rada.gov.ua/laws/show/ru/68/2016> [accessed 12 Apr 2019]
- Nelipa, D.** (2011), *System Analysis in Political Science: Theory, Methodology, Practice of the Ellipse*, Kyiv: Center for Educational Literature.
- Novakova, O. & Pashina, N.** (2016), *Political Processes and Political Relations*, Kyiv: Publishing House of NPU MP Dragomanov.
- Parsons, T.** (1937), *The Structure of Social Action*, Glencoe, IL: The Free Press.
- Pirozhkov, I.; Bogutsky, Yu.; Libanova, E.; Maiboroda, O. et al.** (2017), *Ukraine: The Road to Social Consolidation: A National Report*, Kyiv: Kuras Institute of Political and Ethnic Studies of the National Academy of Sciences of Ukraine.
- Plotinsky, Yu.** (2001), *Models of Social Processes: A Textbook for Higher Education Institutions*, 2nd ed., Moscow: Logos.
- Rafalsky, A. & Maiboroda, O.**, eds. (2018), *Social Reform Policy: Strategy, Mechanisms, Resources. Collection of Scientific Works*, Kyiv: Kuras Institute of Political and Ethnic Studies of the National Academy of Sciences of Ukraine.
- Resolution of the Cabinet of Ministers of Ukraine no. 1071, On Approval of the State Target Program for Restoration and Peace Building in the Eastern Regions of Ukraine, 13.12.2017. Retrieved from <https://zakon.rada.gov.ua/laws/show/1071-2017-%D0%BF> [accessed 12 Apr 2019]
- Shaygorodsky, Yu.** (2009), *Politics: The Interaction of Reality and Myth: [Monograph]*, Kuras Institute of Political and Ethnic Studies of the National Academy of Sciences of Ukraine, Kyiv: Knowledge of Ukraine.
- Shchedrova, G.** (2016), 'Self-organization of civil society: theory basis and practical realities,' *Gileia: Scientific Bulletin*, vol. 114, pp. 341–345.
- Surmin, Yu.** (2003), *Systems Theory and System Analysis: A Textbook Manual*, Kyiv: MAUP.
- The Constitution of Ukraine (1996), Government of Ukraine, 254k/96-BP, 28.6.1996. Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80> [accessed 12 Apr 2019]
- The Coordination Council (n.d.), Koordynacijna rada z pytan' rozvytku hromadyans'koho suspil'stva Prezydentovi Ukrayiny [The Coordination Council on the development of civil society under the President of Ukraine]. Retrieved from <https://civil-rada.in.ua/about-us> [accessed 12 Apr 2019]
- Tkachuk, V.** (2006), *Modeling as a Method for Analyzing Political Processes*, Candidate of Political Science thesis, 23.00.01, Lviv.

*Ukraine 2014–2015: Overcoming Challenges (Assessments)* (2014). Retrieved from [http://razumkov.org.ua/uploads/article/2014-2015\\_Pidsumky.pdf](http://razumkov.org.ua/uploads/article/2014-2015_Pidsumky.pdf) [accessed 12 Apr 2019]

*Ukraine 2018-2019: Cautious Optimism before Elections (Assessments)* (2018). Retrieved from [http://razumkov.org.ua/uploads/article/2019\\_Pidsumky\\_2018.pdf](http://razumkov.org.ua/uploads/article/2019_Pidsumky_2018.pdf) [accessed 12 Apr 2019]

**Vasilkova, V.** (1999), *Order and Chaos in the Development of Social Systems. Synergetics and the Theory of Social Self-Organization*, St. Petersburg: Doe.

**Yadov, V.** (1995), *Sociological Research: Methodology, Program, Methods*, Samara.

**Zelenko, G.**, ed. (2014), *Institutional Changes in the Political System of Modern Ukraine: Assessment and Trends in Optimization: An Analytical Report*, Kyiv: Kuras Institute of Political and Ethnic Studies of the National Academy of Sciences of Ukraine.