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Ethno-National Policy of Ukraine in the Context of National Security: Problems and Prospects

Abstract: The process of national consolidation is closely related to the implementation of a consistent ethno-national policy in accordance with modern conditions. The integration of Ukraine into the European Union is impossible without the regulation of ethno-national development processes in accordance with the standards of the European Union. The effectiveness of the state's ethno-national policy depends on the extent to which its principles and tasks reflect the ethno-national situation in the country, ensure the participation of civil society in the processes of regulating ethnonational relations. The legislation of Ukraine in the field of ethno-national policy was formed under the influence of internal international relations and international legislation. The analysis of the content of the national legislation shows that it enshrines fundamental international norms regarding the protection of national minorities, at the same time, it also has certain shortcomings: blurred provisions, lack of specification of basic terms, obsolescence of the legislative acts themselves, etc. New political realities require revision of most of the adopted legislative acts. Neglecting issues of ethno-national development carries the danger of turning the ethno-national factor from a cultural asset into a source of conflicts and contradictions, leading to the loss of the rational security and country's territorial integrity. Unregulated relations between ethno-cultural groups aggravate the problems of inter-ethnic communication, create conflict situations, etc. The adoption of the Concept of the State target national and cultural program "Unity in Diversity" for the period until 2034, which was developed in close consultation with national minorities (communities) with the involvement of representatives of the European Commission, the Council of Europe, and embassies of ethnically related national minorities (communities) of Ukraine.

Key words: ethno-national policy, national security, national minority, ethno-national processes

The full-scale invasion by Russia, migration processes, and the strengthening of European integration sentiments and efforts high-

light the importance of studying ethno-national challenges and processes. New political realities necessitate revision of many existing legislative acts. Neglecting issues of ethno-national development poses the risk of turning the ethno-national factor from a cultural asset into a source of conflicts and contradictions, jeopardizing the national security and country's territorial integrity. Therefore, *the goal* is to deepen scientific knowledge and identify challenges and prospects of the ethno-national policy of Ukraine in the context of European integration.

Kolodiy A., Kotyhorenko V., Motsa A., Yavir V., and others have made significant contributions to the study of the ethno-national policy of Ukraine. As A. Motsa notes: "There is an urgent need to direct national law-making and practical activities to improve national legislation and eliminate its shortcomings and non-compliance with European international legal standards for the protection of minority rights. Effective mechanisms for the legal protection of the special rights of national minorities should be formulated in the legislation of Ukraine" (Motsa, 2022, p. 23).

Ethnopolitical disintegration in the form of armed conflict and temporary occupation of territories, along with the issues of reintegration of Crimea and Donbas, has become a powerful challenge for the ethno-national policy of Ukraine. At the same time, these events have caused positive changes, such as increasing the institutional capacity of authorities, enhancing activity and control by civil society, and improving legal support in countering hybrid threats and disintegration trends in the ethnopolitical sphere. They have contributed to the formation of ethno-national stability, or the ability of the state, in interaction with civil society, to resist external and internal destructive influences, respond promptly to asymmetric threats, and recover after destructive processes. This is achieved through the intensification of ethno-political integration processes, both internal (consolidation) and external (reintegration of temporarily occupied territories) (Kotygorenko, Panchuk, 2020, p. 38).

The strengthening of foreign policy threats to the national security and territorial integrity of Ukraine, caused by the processes of ethnic politicization of individual communities, attempts at their sovereignty, manifestations of separatism, unclear ethno-national policy of the state, underscores need for scientific substantiation of strategic guidelines. These guidelines should determine Ukraine's consistent course toward becoming a stable and strong, united and democratic state with and active and responsible civil society. Ethno-political security and stability, national consolidation and integration based on justice and tolerance, nondiscrimination, and respect for ethno-cultural diversity, as well as human and citizen rights and freedoms, should become such guidelines. These orientations are actual tasks of both politics – active, purposeful, effective – and science, which should give politics with a clear and unambiguous theoretical and practical basis (Kresina, Kovalenko, 2011).

The research design is based on the analysis of the legislative foundation of ethno-national policy in Ukraine as a key to the sustainable functioning of society. The research involved the following *scientific methods:* the systematic analysis of problems and prospects of ethnonational policy of Ukraine; the comparative assessment of the compliance of Ukrainian legislation with European requirements for the protection of national minority rights; and the prognostic method of identifying the prospects of national policy in the context of European integration.

The main problem of the ethno-national policy of Ukraine

Ethno-national policy is a unique, complex system of mechanisms and means of state influence on the development and orientation of ethnonational processes. Its main components are: legislative and regulatory framework; concepts and political agreements; practical activities related to the implementation of state policy in the field of inter-ethnic and ethnonational relations; and socio-political and socio-economic mechanisms for regulating inter-ethnic relations, etc.

The main problem of the ethno-national legislation of Ukraine is that the primary legal acts have not been updated and improved for many years, do not correspond to the modern reality and ethno-political challenges, and therefore cannot be effective or modern. In order to satisfy the interests and needs of national minorities in Ukraine, a state which has declared its intention to join the EU, a legislative base must be created (Trusova, Synchak, 2020).

Ukraine is one of the multi-ethnic states with a complex historical heritage and significant regional, cultural, linguistic, and ethnic differences that have not been resolved within the framework of ethno-national politics. This created a breeding ground for separatist tendencies among some national minorities. The reintegration of the annexed territories has added to the tasks of the ethno-national policy of Ukraine, which includes, in particular, solving the problems of national consolidation, inter-ethnic relations, the establishment of ethno-cultural tolerance, and the culture of ethno-national relations (Sabadash et al., 2020).

However, the ethno-national policy of Ukraine remains unsystematic and inconsistent, and it does not ensure a timely response to challenges in the field of ethno-national relations or adequately satisfy the rights and needs of the ethnic communities that make up the multi-ethnic Ukrainian nation. This is primarily because it lacks adequate legislative support (Whitman, 2007).

The irregularity of ethno-national relations can lead to extremely negative consequences for our country, destabilizing it both from the internally and externally. Recognizing the importance of national security issues, the Law "On National Security of Ukraine" was adopted in 2018. Although the Law does not address the ethno-national factor of national security, it states: "State policy in the spheres of national security and defense is aimed at protecting: people and citizens – their lives and dignity, constitutional rights and freedoms, safe living conditions; society – its democratic values, well-being and conditions for sustainable development; the state – its constitutional system, sovereignty, territorial integrity, and inviolability of the territory" (*Zakon Ukrainy...*, 2018).

Chapter II of the Law states that the principles of state policy in the spheres of national security and defense include, in particular: "Integration of Ukraine into the European political, economic, security, and legal space, membership in the European Union and the North Atlantic Treaty Organization, and the development of equal and mutually beneficial relations with other states" (*Zakon Ukrainy*..., 2018).

Ensuring and protecting the democratic rights and freedoms of citizens and integration into the European space is impossible without solving problematic issues, in particular ethno-national issues. It is important to highlight the main strategic orientations of the political and legal development of the Ukrainian state and, accordingly, the urgent problems that require immediate solutions in the context of introducing changes to the national legislation.

The need to change the paradigm of ethno-national policy in Ukraine has long been emphasized by Ukrainian scientists – legal scholars, political scientists, ethnologists, etc. This is evidenced by numerous scientific works, scientific notes for state authorities, legislative proposals, expert opinions on individual bills and initiatives, speeches at scientific forums, and interviews in mass media (Dudchenko et al., 2021, p. 54).

At the time of its adoption, the Law of Ukraine "On National Minorities in Ukraine" (1992) was recognized as the most progressive and democratic among all similar legislative acts in the post-Soviet space. However, currently, some of its provisions do not meet European standards for the protection of national minorities. Some of them are declarative, which accumulates discontent and encourages the politicization of ethno-national issues. This, in turn, can lead to domestic and foreign political destabilization.

The creation of a legislative framework for ethnic and cultural autonomy in Ukraine will contribute to the formation of an effective system for protecting the rights of citizens belonging to national minorities in Ukraine, aligning with international standards in this field. This, in turn, will mean fulfilling Ukraine's obligations under the acts of international law ratified by the Verkhovna Rada of Ukraine, and will bring the legislation on the protection of national minorities rights closer to the EU standards. Each national minority will have the right to create its own ethnocultural autonomy to address issues of preservation and development of ethno-cultural identity without demands or claims on the state and the state budget. This will eliminate the declarative nature of the relevant legislation, increase the level of self-organization among national minorities, and contribute to the harmonization of ethno-national relations and inter-ethnic harmony in Ukraine.

There is no register of national minorities in Ukraine, and no regulatory act establishes their official list. The Law provides a very general definition of a national minority: "groups of citizens of Ukraine who are not Ukrainian by nationality and show a sense of national identity and community among themselves." The Basic Law only guarantees national minorities the protection of their languages and obliges the state to promote their ethnic, cultural, linguistic, and religious identity. According to Article 1 of the Law "On National Minorities in Ukraine": "Ukraine supports the development of national self-awareness and self-expression of citizens" (*Zakon Ukrainy...*, 1992).

The Law "On National Minorities in Ukraine" lacks specific effective mechanisms for the protection of national minorities rights. For example, it establishes the right to ethno-cultural (national-cultural, not nationalterritorial) autonomy. Article 6 states that the state guarantees all national minorities the right to national-cultural autonomy, including the use and study of the native language in state educational institutions or through national-cultural societies, the development of national cultural traditions, the use of national symbols, the celebration of national holidays, practicing their religions, satisfying needs in literature, art, mass media, creating national cultural and educational institutions, and any other activity that does not contradict the law. However, this article interprets national-cultural autonomy very simplistically. Provisions on the definition of national-cultural autonomy as an organizational structure, as an institution for the protection of national minorities rights, and the disclosure of its content, features, and powers must be detailed and understandable. The introduction of ethno-cultural autonomy can take place through the adoption of the Law "On Ethno-cultural Autonomy in Ukraine", a draft which was developed by scientists from V. M. Koretsky Institute of State and Law, National Academy of Sciences of Ukraine (Kresina, Yavir, Khodakivskyi, 2018). Alternatively, the Law "On National Minorities in Ukraine" should be amended.

The uncertainty surrounding the institution of ethno-cultural autonomy presents an additional source of ethno-political threats. Under the guise of ethno-cultural autonomy, certain national minorities try to justify the need for national-territorial autonomy within the unitary state of Ukraine. In the current context, this is seen as a manifestation of separatism and a violation of the territorial integrity of our state.

Ukraine ratified the European Framework Convention for the Protection of National Minorities of 1995 and adheres to this document in matters of legal regulation of ethno-national relations. In the acts of the Council of Europe, all ethnic communities in Ukraine are defined exclusively as national minorities. In its conclusions, the Venice Commission has repeatedly emphasized that the proposed criteria for recognizing certain ethnic communities in Ukraine as indigenous peoples, namely their number, share in the population, absence of an ethnically identical or related state outside of Ukraine, historical oppression, and circumstances of occupation, are groundless. Ukrainian ethnic communities do not meet the international legal criteria for indigenous peoples. They belong to national minorities and have no grounds to enjoy the rights reserved for indigenous peoples. The Venice Commission unequivocally and sharply condemned Ukraine's attempts to define any special status and rights for indigenous peoples, viewing it as establishing inequality and even hierarchy among national minorities, leading to their discrimination and violation of the state's obligations to comply with the norms of international law. Instead, it is proposed that Ukraine address the issues of affected, vulnerable, and small national minorities thorugh temporary, reasonable

and, limited special measures of protection and support, rather than by granting special rights and preferences.

The idea of recognizing certain ethnic communities in Ukraine as indigenous peoples to support the process of deoccupation of Crimea does not justify itself. The deliberate legal construction of *de jure* absent indigenous peoples in Ukraine violates national and international law, undermines the integrity of the political and legal system and its democratic foundations, and national security as a whole. Such actions deteriorate the international image of Ukraine and cause conflicts with other states due to violations of national minorities rights. Playing with the rights and sentiments of ethnic communities leads to unjustified expectations, political radicalization, and threatens the political unity and territorial integrity of the state.

The priority task of the Ukraine's state ethno-national policy is the development of an adequate legislative framework that, on the one hand, aligns with the realities of ethno-national relations, and on the other hand, brings Ukraine closer to implementing ratified international legal documents, in particular the European Framework Convention for the Protection of National Minorities. To achieve this, it is essential to adopt a political and legal document that consolidates the democratic foundations of the state ethno-national policy, including its goals, tasks, achievements, and implementation mechanisms. This document could be the "Concept of State Ethnonational Policy of Ukraine" (Kresina, Loiko, Yavir, 2010).

In 2013, a draft of the Law "On the Concept of State Ethno-national Policy of Ukraine" was created and published (*Proekt Zakonu pro Kontseptsiiu derzhavnoi etnonatsionalnoi polityky Ukrainy*, 2013). The draft proposes to approve by law the Concept of the state ethno-national policy of Ukraine, which defines special terms, the state and main problems of the ethno-social and ethno-political development in Ukraine, and the principles, goals, tasks, main directions, and mechanisms for the implementation of the state ethno-national policy in various spheres.

Regarding this draft law, there are the following comments and suggestions. A significant drawback of the draft law is its lack of proper terminological clarity. Although the Concept states that its main task is to "determine the main principles and tasks, legal, organizational, financial, and other foundations for solving current problems arising in the ethnopolitical sphere, based on the provisions of the Constitution of Ukraine" (Kornat, 2021). It should be noted that some provisions and terms of the Concept do not fully correspond to the Basic Law. For example, the provision on "comprehensive development and introduction of the Ukrainian language in all spheres of public life throughout the territory of Ukraine" (Kornat, 2021) contradicts the provision of the first part of Article 10 of the Constitution of Ukraine. Additionally, the draft Concept does not sufficiently define and delimit the meaning of key concepts such as "nationalities", "ethnic communities", "national minority", "ethnic group", "re-migrants", "people", "population", etc. The Constitution of Ukraine uses terms such as "Ukrainian people" (preamble), "Ukrainian nation", "indigenous peoples", "national minorities of Ukraine" (Article 11), and "Ukrainians living outside the state" (Article 12). In contrast, the Concept uses terms like "national majority", "non-dominant national majority", "indigenous peoples", "national minorities", "minority within a minority", "ethnic groups", "ethnic minority", "ethnic non-Ukrainians", "Ukrainian diaspora", "titular Ukrainian ethnic nation", "titular ethnos", and "Ukrainian ethnos".

At the same time, it should also be noted that the Concept does not contain definitions for all the special concepts used in modern ethno-political science. Additionally, the draft Concept does not sufficiently define and delimit the meanings of key concepts such as "nationalities", "ethnic communities", "national minority", "ethnic group", "returnees", "re-migrants", "people", "population", etc.

The Concept uses such little-known terms such as "acculturation" (Chapter 2), "special (compensatory) rights" (Chapter 2), "ethno-confessional communities" (Chapter 2), "xenophobia", "racism" (Chapter 5), "ethnosocial stratification" (Chapter 7), and "value systems" (Chapter 7) (*Proekt Zakonu...*, 2013). However, the definitions of these terms are not provided.

The definition of the term "objects of state ethno-national policy" (Chapter 2) is considered imperfect, since it refers to ethnic communities not only as "objects" but also as "subjects" of ethno-national policy. In the draft, ethno-national features are inconsistently defined, sometimes including "history, culture, language, national customs, traditions, and rites" (Chapter 6), and other times "ethnic culture, language, traditions, and customs" (Chapter 6). The qualification "numerically dominant Ukrainian ethnos (the titular Ukrainian ethnic nation)" as the leading subject of state formation (Chapter 1) is seen as inconsistent with the principle of equality of Ukrainian citizens regardless of their ethnicity.

The general conclusion is that the draft law requires significant revision. In order to improve it, the concepts and terms given in the draft law should be aligned with the terminology of the Constitution and laws of Ukraine, as well as international legal acts in this area, the implementation of which is mandatory for Ukraine. Additionally, it should conform to the conceptual and categorical apparatus of modern ethnopolitical science.

Prospects for the ethno-national policy in Ukraine

Bringing the legislative framework of ethno-national policy into line with trends in the field of ethno-national relations through the adoption of relevant laws is hindered by the lack of a conceptual, basic political and legal document, a document which should become the basis of its further development. As a result, most of the problems in the ethno-national sphere remain unresolved.

Since the mid-1990s, many drafts of the concept of state ethno-national policy have been developed in Ukraine, but none has been adopted. Various legislative initiatives offer their own, sometimes contradictory, versions of the fundamental document. This actually inhibits both its adoption and the development of the entire legislative framework of ethno-national policy. Most draft laws contain provisions that are unacceptable from a scientific point of view, lobby for solutions favoring certain national minorities, and are characterized by ideological commitment.

All this leads to the emergence of separatist attitudes and movements. In Ukraine, this has become a serious challenge to Ukrainian statehood, the constitutional order, and state system, posing a threat to sovereignty, territorial integrity, and national security. Actors contributing to the promoting of separatist sentiments and manifestations through their political activities include both certain internal figures (leaders of specific ethnic groups) and external agents. This is evidenced by repeated attempts to provoke conflict situations both within the country and in interstate relations. Combating separatism requires scientifically balanced approaches based on modern achievements in constitutional law, ethnopolitics, and conflict studies, as well as the development and improvement of political and legal mechanisms, including international legal frameworks (Dyvak, 2010).

The countering of separatism and its manifestations has been the subject of scientific research by several Ukrainian scientists (Kresina, Yavir, Khodakivskyi, 2018). Important results of these studies included legislative proposals, in particular amendments to the laws on the foundations of national security of Ukraine, and on the foundations of domestic and foreign policy, etc. However, these scientific conclusions and proposals did not receive legislative development. As a result, Ukrainian society was unprepared for an adequate response to the threats of separatism. One such threat is the attempt to create national-territorial autonomies in regions with settlements of certain national minorities, particularly the Hungarian minority in Transcarpathia.

The approval of the Cabinet of Ministers of Ukraine on May 12, 2023, of the Concept of the State Target National and Cultural Program "Unity in Diversity" until 2034 was undoubtedly a positive development. The Concept justifies the need to develop an appropriate state target program for the period from 2024 to 2034, determining the optimal approach to solving current issues in the field of ethnopolitics and outlining appropriate sets of measures within the Program (Kotyhorenko, 2008). The program is implemented in accordance with the requirements of the European Union.

The Concept is designed to ensure the implementation of the Law "On National Minorities of Ukraine" and aims to fulfill the recommendation of the European Commission of June 17, 2022, on updating the reform of the legal framework for national minorities. The development of the Concept of the State Target Program was accompanied by extensive consultations with national minorities (communities) and indigenous peoples. Specifically, as part of this process, 20 consultation meetings were held involving representatives from the Human Rights Commissioner of the Parliament of Ukraine, the European Commission, the Council of Europe, and embassies of the states of ethnic kinship of the national minorities (communities) in Ukraine.

The Concept envisages the implementation of a set of measures within the Program "aimed at creating conditions for the proper provision of the rights of national minorities and indigenous peoples, and the integration of Ukrainian society. This includes providing adequate opportunities for obtaining full general secondary education in the languages of national minorities (communities) and indigenous peoples in Ukraine, simultaneously with the state language, and studying the languages of the national minority (community), indigenous people of Ukraine in accordance with national legislation" (Kotyhorenko, 2008). Additionally, the Concept includes "measures for cooperation with EU member states to secure educational rights for national minorities (communities) of Ukraine; measures aimed at preserving the cultures and historical memory of national minorities (communities) and indigenous peoples of Ukraine; and measures aimed at overcoming the consequences of the armed aggression of the Russian Federation and ensuring the rights of national minorities (communities) and indigenous peoples, etc." (Kotyhorenko, 2008).

Adoption of the Concept allows the direct development of the State Target National and Cultural Program "Unity in Diversity" until 2034. To properly incorporate the proposals of civil society during the formation of the Program, it was announced that eight thematic groups will unite representatives of the public and competent state authorities.

On June 17, 2022, the European Commission recommended to grant Ukraine the status of a candidate for membership in the European Union, provided that certain steps would be taken, particularly to ensure the rights of persons belonging to national minorities (communities). This includes completing the reform of the legislative framework regarding national minorities, which is currently under preparation in accordance with the recommendations of the European Commission "For Democracy through Law" (hereinafter referred to as the Venice Commission), and adopting effective mechanisms for its implementation. The recommendations of the Venice Commission regarding the Law "On National Minorities (Communities) of Ukraine" concern both legislative changes and the proper implementation of national legislation and Ukraine's international obligations.

In accordance with the recommendations of European partners, on December 8, 2023, the Parliament of Ukraine adopted amendments to certain laws, reflecting expert assessment of the Council of Europe and its bodies regarding the rights of national minorities (communities) in specific areas. This draft amends the Laws "On Local Self-Government in Ukraine", "Higher Education", "Education", "Functioning of the Ukrainian Language as the State", "Comprehensive General Secondary Education", "National Minorities (Communities) of Ukraine", etc. (*Zakon Ukrainy...*, 2023).

The general conclusion is that the state ethno-national policy in Ukraine is conducted in accordance with international norms and standards. However, there is a need for significant improvement of the legislative framework, conceptual and terminological certainty, and compliance with European norms. The most important steps include further strengthening of the legal status of national minorities, ensuring greater openness of bodies involved in meeting minority needs, and the improvement of judicial protection applicable to individuals and collective rights of national minorities. Neglecting ethno-national development issues risks transforming the ethno-national factor from a cultural asset into a source of conflicts and contradictions, potentially leading to the loss of the country's territorial integrity. Therefore, Ukraine's priority in the current stage of ethno-national relations development is to improve the legislation and enhance the efficiency of state institutions. The effectiveness of ethnonational policy depends on its main principles, accuracy with which they reflect the ethno-national situation, and the state's ability to consider the interests of various ethnic groups and the state-forming nation, promoting their reconciliation. Ukraine has made significant steps to improve the protection of national minorities and ethnic groups. The Concept of the State Target National and Cultural Program "Unity in Diversity" until 2034 was developed in close consultation with national minorities (communities). The initiative involved representatives of the European Commission, the Council of Europe, and embassies of related national minorities (communities) in Ukraine. Furthermore, the Ukrainian parliament approved the Law "On Amendments to Certain Laws of Ukraine to Incorporate the Expert Assessment of the Council of Europe and its Bodies Regarding the Rights of National Minorities (Communities) in Specific Areas." The European integration of Ukraine will undoubtedly contribute to the improvement in domestic legislation concerning ethnonational policy, thereby strengthening of national security.

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Polityka etniczno-narodowa Ukrainy w kontekście bezpieczeństwa narodowego: problemy i perspektywy

Streszczenie

Proces konsolidacji narodowej jest ściśle związany z realizacją spójnej polityki etniczno-narodowej dostosowanej do współczesnych warunków. Integracja Ukrainy z Unią Europejską jest niemożliwa bez uregulowania procesów rozwoju etniczno-narodowego zgodnie ze standardami Unii Europejskiej. Skuteczność polityki etniczno-narodowej państwa zależy od tego, w jakim stopniu jej zasady i zadania od-zwierciedlają sytuację etniczno-narodową w kraju, zapewniają udział społeczeństwa obywatelskiego w procesach regulacji stosunków etniczno-narodowych. Ustawodawstwo Ukrainy w dziedzinie polityki etniczno-narodowej zostało ukształtowane pod wpływem wewnętrznych stosunków międzynarodowych i ustawodawstwa międzyna-rodowego. Analiza treści ustawodawstwa krajowego pokazuje, że zawiera ono pod-

stawowe normy międzynarodowe dotyczące ochrony mniejszości narodowych, a jednocześnie ma pewne niedociągnięcia: nieprecyzyjne przepisy, brak zdefiniowania podstawowych terminów, przestarzałość aktów prawnych itp. Nowe realia polityczne wymagają rewizji większości przyjętych aktów prawnych. Zaniedbanie kwestii rozwoju etniczno-narodowego niesie ze sobą niebezpieczeństwo przekształcenia czynnika etniczno-narodowego z dobra kulturowego w źródło konfliktów i sprzeczności, prowadząc do utraty bezpieczeństwa narodowego i integralności terytorialnej kraju. Nieuregulowane stosunki między grupami etniczno-kulturowymi pogłębiają problemy komunikacji międzyetnicznej, tworzą sytuacje konfliktowe itp. Ważnym krokiem jest przyjęcie koncepcji państwowego docelowego programu narodowego i kulturalnego "Jedność w różnorodności" na okres do 2034 roku, który został opracowany w ścisłej konsultacji z mniejszościami narodowymi (społecznościami) przy udziale przedstawicieli Komisji Europejskiej, Rady Europy i ambasad etnicznie powiązanych mniejszości narodowych (społeczności) Ukrainy.

Slowa kluczowe: polityka etniczno-narodowa, bezpieczeństwo narodowe, mniejszość narodowa, procesy etniczno-narodowe.