

Katarzyna Szwed*

E. Kuzborska-Pacha, *Ochrona prawna mniejszości narodowych w państwach bałtyckich* [Protection of the rights of national minorities in the Baltic States], Wyd. Sejmowe, Warszawa 2019, pp. 293

Review

In the literature on the subject, Lithuania, Latvia, and Estonia usually function as a bloc of countries collectively referred to as the Baltic states. However, few publications are devoted to separate political solutions developed by these countries and the problems they have to deal with on their own¹. It is hard to deny that their location, considered by many as peripheral, and the small size of their territory and population make it easier for them to pursue a common policy, and researchers often only record this state of affairs in their studies. The Baltic states can be an extremely interesting case study, especially if the protection of minority rights is analysed². And here, the comparison of the policies of the three countries – Lithuania, Latvia, and Estonia

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1 Although here a notable exception are the monographs published recently by P. Osóbka – *System konstytucyjny Łotwy*, Warszawa 2018 and *System konstytucyjny Estonii*, Warszawa 2018 and *Ustrój państwowy Republiki Estonii*, S. Sagan (ed.), Rzeszów 2018.

2 It is worth recalling that minorities in the Baltic states constitute 16-38% of the inhabitants of Lithuania, Latvia, and Estonia. In Latvia and Estonia respectively, there are 32% and 28% of people who speak Russian. See: A. Kuczyńska-Zonik, *The Securitization of National Minorities in the Baltic States*, "Baltic Journal of Law & Politics" 2017, vol. 10, no. 2, pp. 30-31.

– seems to be a deliberate, justified, and even instructive operation. It enables observation of the similarities and differences between them, which are often the result of history, a consequence of tradition, and often also an expression of the need to protect the identity and the titular language.

It is surprising that for such a long time Polish literature lacked a publication that would comprehensively discuss issues related to the protection of national minorities in the Baltic states. For the first time, this topic was comprehensively elaborated by Jarosław Sozański³. Later, this problem re-emerged only in the form of papers appearing in leading scientific journals in the field of legal and political science⁴. However, only the book by Elżbieta Kuzborska-Pacha *Ochrona prawna mniejszości narodowych w państwach bałtyckich* [The Legal Protection of National Minorities in the Baltic States], published by the Sejm Publishing House, summarizes all the issues related to the rights of national minorities, which so far have only been briefly described in Polish literature on the subject. At least in this respect, it is difficult to deny the attribute of novelty.

In accordance with the declaration of the author herself, the monograph was prepared with a view to “presenting a comprehensive assessment of the practical implementation of the international obligations of Lithuania, Latvia and Estonia in the field of protection of national minorities”, and its main message is “to promote intercultural and

3 J. Sozański, *Prawa mniejszości narodowych w niepodległej Litwie, Łotwie i Estonii (Międzynarodowoprawny zarys porównawczy sytuacji w latach 1918-1940 oraz 1990-1996)*, Warszawa 1998.

4 Undoubtedly, the authors who devote their publications to the problems of national minorities in the Baltic states are Aleksandra Kuczyńska-Zonik (A. Kuczyńska-Zonik, *Dylematy bezpieczeństwa państw bałtyckich po aneksji Krymu*, „Środkowoeuropejskie Studia Polityczne” 2017, vol. 2, pp. 125-142; A. Kuczyńska-Zonik, *Dyskurs narodowościowy na Litwie w kontekście współczesnych wyzwań*, „Rocznik Instytutu Europy Środkowo-Wschodniej” 2016, vol. 14, no. 5, pp. 281-300; A. Kuczyńska-Zonik, K. Szwed, *Prawa mniejszości na Litwie*, Raport Instytutu Wymiaru Sprawiedliwości, Warszawa 2020), Elżbieta Kuzborska-Pacha (E. Kuzborska, *Prawa językowe mniejszości narodowych na Litwie – sytuacja faktyczna mniejszości polskiej (w kontekście międzynarodowych standardów ochrony praw mniejszości narodowych)*, „Przegląd Prawa Konstytucyjnego” 2014, vol. 3, no. 19, pp. 41-71; E. Kuzborska, *Reforma oświaty mniejszości narodowych na Litwie w 2011 r. w świetle międzynarodowych standardów ochrony*, „Rocznik Stowarzyszenia Naukowców Polaków Litwy” 2014, vol. 13-14, pp. 68-81); Joanna Ligenzowska and Jakub Piecuch (J. Ligenzowska, J. Piecuch, *National Minorities integration in the Baltic States*, „Studia Ekonomiczne. Zeszyty Uniwersytetu Ekonomicznego w Katowicach”, 228/2015, pp. 167-175).

multicultural dialogue within the state in order to create a coherent society based on the values of respect for diverse identity”⁵.

It should be emphasized that the ambitious goal of demonstrating the extent to which international and supranational standards for the protection of the rights of national minorities are respected in Lithuania, Latvia, and Estonia has been achieved without reservations. The strong point of the monograph is the fact that it can be a useful position for experts in law and political science, and an enriching read for students of law, international relations, and political science, as well as a valuable source of information for laymen. The undoubted advantage of the book is the way it conducts a scientific argument. It is based on professional terminology and precision of expression, carried out on the basis of dogmatic-legal and comparative methods, and set in a historical and philosophical context. At the same time, the text remains extremely accessible, and the language is rich and swift. The author showed great erudition and was able to present the multifaceted issue of the protection of national minorities in an orderly, logical, and thoughtful manner.

The monograph has been divided into five chapters preceded by an introduction and concluded with a summary, a rich bibliography, and a list of abbreviations. Two main parts can be distinguished in the study – namely, one relating to theoretical issues (Chapter I) and to the presentation of international standards for the protection of national minorities (Chapter II) and the second on specific aspects of the protection and implementation of the rights of national minorities in the Baltic States (Chapters III-V).

The discourse on the protection of minority rights in the Baltic states was first presented in the context of the terminology used in the work, and then embedded in universal and regional systems of human rights protection. The introductory chapter fully corresponds to its title and deals with theoretical issues. It is also partly of a historical nature - it describes the process of shaping minority rights over time, with particular emphasis on the importance of the principle of equality and non-discrimination. In this chapter, E. Kuzborska-Pa-

5 E. Kuzborska-Pacha, *Ochrona prawna mniejszości narodowych w państwach bałtyckich*, Warszawa 2019, p. 16.

cha addresses the problem of the lack of a legal definition of national minorities in international law, which gives the Baltic states freedom to define what a minority is in their national legislation. It should be noted that in Latvia and Estonia only, persons who have the citizenship of the state of residence are recognized as representatives of national minorities. The author also categorizes the rights of national minorities and additionally makes an attempt to place the rights of minorities in the policy of states and makes a diagnosis of the current challenges for the protection of minority rights. The presentation of the legal and institutional framework for the protection of national minorities on the basis of the United Nations, the Council of Europe, the European Union, and the OSCE is a prerequisite for achieving the assumed research goals. The author presents precisely relevant international documents from the point of view of the protection of national minorities and indicates the scope of their implementation by the Baltic states.

At first glance, it might seem that this theoretical introduction, which covers the first two chapters, is too extensive and detailed. After a deeper analysis, however, the reader comes to the conclusion that it is necessary and allows for a full understanding of the situation of national minorities in the Baltic states. Without them, the issues discussed in the second part of the book would be ambivalent and devoid of very important contexts.

In the subsequent chapters, the author moves on to a careful analysis of the situation of national minorities in Lithuania, Latvia, and Estonia. The time horizon basically covers the period from the twenty-war years (1918-1940) to 2017, although, where necessary, the author makes brief reference to earlier times. The time frames have been set adequately. It seems that with such a high degree of detail of the discussed matter, there is no need to present a more extensive historical background.

In the structure of Chapter III, a subchapter was distinguished that collectively dealt with citizenship, cultural autonomy, and language rights in all the Baltic states in the period 1918-1940, i.e. until the annexation of the territories in question by the Soviet Union. Subsequently, the situation in each country was treated separately, and an appropriate analysis was made in terms of the applicable legal regulations, integration, and language policy, indications of sensitive his-

torical issues and the challenges faced by a given country. In the case of Lithuania, a thread was added devoted to the problem of re-privatization and restitution of nationalized land, which is particularly relevant in relation to Poles in Lithuania⁶. There is a general tendency in the literature to focus on the dominant minorities — Polish in Lithuania and Russian-speaking in Estonia and Latvia — therefore, it is particularly interesting to distinguish the rights of the Roma minority in the monograph.

E. Kuzborska-Pacha pays a lot of attention to the central issues of Latvian and Estonian politics, i.e. to the categories of non-citizens and to giving the titular language special importance. This is reflected in the book's composition (Chapter IV). Emphasizing the importance of the policy of citizenship is by all means right because a restrictive policy towards national minorities has resulted in a number of stateless persons unprecedented in modern Europe. The problem of non-citizens mainly affects Estonia and Latvia and is the result of the restrictive policy of granting citizenship adopted in these countries after independence. It was the subject of international criticism fuelled by Russia, which pretended to be a defender of the oppressed Russian-speaking minority. It should be noted that in the course of the argument, two important matters were emphasized. Firstly, the way of understanding the nation in the three Baltic states, which is strongly related to the national culture and loyalty to the state, and secondly, the differences in the approach to citizenship after independence, namely that Lithuania chose the inclusive direction, and Latvia and Estonia the exclusive one. These elections then determined the economic and political situation of the representatives of minorities in the discussed countries⁷.

The crowning achievement of the entire monograph is Chapter V, in which the author examines the extent to which national minorities can exercise their rights in specific areas of social life. The philosophy of thinking about the role of language as a tool to preserve identity and an important element cementing the nation-state, which is typical for the countries of the region, is exposed. The situation of

6 E. Kuzborska-Pacha, *op.cit.*, pp. 170-174.

7 *Ibid.*, p. 287.

Lithuania, Latvia, and Estonia, which have been subjected to intense processes of Russification for over 50 years, should not be underestimated. Consequently, the demography and social structure changed, and the Russian language became dominant in key sectors of industry and state administration. After independence, but also today, a significant percentage of people living in the territory of Latvia and Estonia communicate in Russian on a daily basis. In Lithuania, the debate on national minorities focuses on the Polish minority. In all three Baltic states, the reconstruction of a sovereign state assumed from the very beginning the restoration of the proper rank of the titular language. E. Kuzborska-Pacha indicates the vastness of legal regulations relating to it and precisely discusses the language requirements in each of the countries in the sphere of employment, education, the use of a minority language in public space, topographical nomenclature, freedom of expression, as well as official recognition of original names and surnames and religious freedom. It shows the relationship between the knowledge of the titular language and possible participation in the political and social life of the state.

Finally, it is worth emphasizing one more aspect of the reviewed work. The collected bibliography shows the titanic work done by the author. She analysed the relevant legal provisions contained in international documents as well as the national legislation of Lithuania, Latvia, and Estonia, and showed a very good knowledge of foreign literature, mainly in English. The author argues her theses efficiently, recalling the relevant views of the representatives of selected doctrines and providing them with relevant statistical data.

The monograph *Ochrona prawna mniejszości narodowych w państwach bałtyckich* is a reliable and complete scientific work. It is a must-read for all those who are interested in the nuances of the Baltic states' policy towards national minorities.

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