

ORGANIZATIONAL AND LEGAL ASPECTS OF STRENGTHENING THE POWERS AND CONTROL FUNCTIONS OF THE LEGISLATIVE BRANCH IN UZBEKISTAN

Khakimov R.R. Email: Khakimov684@scientifictext.ru

*Khakimov Rakhim Rasuljonovich – Doctor of Law, Associate Professor,
DEPARTMENT OF STATE LAW AND GOVERNANCE,
TASHKENT STATE UNIVERSITY OF LAW,
TASHKENT, REPUBLIC OF UZBEKISTAN*

Abstract: *the article is devoted to organizational and legal aspects of strengthening the powers and control functions of the legislative power in the Republic of Uzbekistan. The author has studied the scientific positions of scientists on this range of issues, conducts scientific dispute on these issues. The author reveals the problems of parliamentary control and maintaining a reasonable balance between the branches of government. Special attention is paid to the legal basis for ensuring the rule of law in society, the rule of law, and improving public administration through effective parliamentary control. The author analyzes in detail the norms of the law of the Republic of Uzbekistan "On parliamentary control". In addition, the author reveals the ongoing reforms in the country regarding parliamentary control in the Republic of Uzbekistan. Based on the analysis of legal gaps in the current national legislation in terms of its provision, new proposals for legislation are given.*

Keywords: *legislation, parliament, parliamentary control, Oliy Majlis, democratic reforms, principle of separation of powers, procedure for exercising parliamentary control.*

ОРГАНИЗАЦИОННО-ПРАВОВЫЕ АСПЕКТЫ УКРЕПЛЕНИЯ ПОЛНОМОЧИЙ И КОНТРОЛЬНЫХ ФУНКЦИЙ ЗАКОНОДАТЕЛЬНОЙ ВЛАСТИ В РЕСПУБЛИКЕ УЗБЕКИСТАН

Хакимов Р.Р.

*Хакимов Рахим Расулжонович – доктор юридических наук, доцент,
кафедра государственного права и управления,
Ташкентский государственный юридический университет,
г. Ташкент, Республика Узбекистан*

Аннотация: *статья посвящена организационно-правовым аспектам усиления полномочий и контрольных функций законодательной власти в Республике Узбекистан. Автор изучил научные позиции ученых по данному вопросу и раскрывает проблемы парламентского контроля и баланса между ветвями власти. Особое внимание уделяется правовой основе обеспечения верховенства закона в обществе, верховенства права и совершенствования государственного управления посредством эффективного парламентского контроля. Приведен детальный анализ Закона Республики Узбекистан «О парламентском контроле», а также реформ, в сфере парламентского контроля. На основе анализа правовых пробелов в законодательстве представлены соответствующие предложения.*

Ключевые слова: *законодательство, парламент, парламентский контроль, Олий Мажлис, демократические реформы, принцип разделения властей, порядок осуществления парламентского контроля.*

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In a democratic system of governance based on the principle of separation of powers, the activities of public authorities cannot be imagined without drawing from the principles of transparency and accountability. This, in turn, is another democratic principle that underlies any democratic state and its legal system - the content and basic requirements of the principle of democracy. The gradual implementation of these principles in the sphere of state building and development of society will largely depend on the effective functioning of the Parliament, which is formed by the people and acts on their behalf.

Implementing its main functions, such as representation, legislation and control, government policy in Parliament becomes an important guarantee that its actions will meet and be effective in the interests and needs of the people and society. At the same time, parliamentary control is one of the most effective political and legal means of ensuring the effectiveness and legality of the Executive branch's activities, and maintaining a reasonable balance between branches of government.

It should be noted that there are different opinions among legal scholars regarding the importance of the institution of parliamentary control. Japanese scholar Hironori Yamamoto said that parliamentary activity, as a body representing the interests of the people, is aimed at ensuring that public policies implemented by the administration (Executive authorities) show and meet the needs of people. Also, parliaments should be aimed at

ensuring the effectiveness and consistency of state policy implementation, taking into account universal interests [1]. This, in his opinion, is the role of parliamentary control.

According to Professor A.Akilov, the importance of the Institute of parliamentary control is manifested in its direct implementation in order to achieve greater efficiency of the government's activities and, above all, in the field of ensuring human rights and freedoms [2].

Despite the fact that, as we have seen above, there are different opinions among scientists about the importance of parliamentary control, it should be noted that the importance of the Institute of parliamentary control serves as a means of ensuring a balance of interests and mutual restraint between branches of government.

Large – scale reforms aimed at strengthening the control function of the Parliament-the Oliy Majlis of the Republic of Uzbekistan as an important element of the principle of separation of powers, the system of mutual restraint and ensuring a balance of interests have been carried out gradually and consistently in Uzbekistan in the last years of independence. The main forms of parliamentary control were still enshrined in the country's Constitution, adopted in 1992. In particular, according to the proposal of the Cabinet of Ministers, which is an important form of control in the implementation of budget policy, control over the adoption and execution of the state budget was provided.

Amendments[3] to the Constitution, made following a national referendum in April 2003, defined the constitutional and legal basis for the formation and operation of the bicameral Parliament of Uzbekistan, and significantly expanded its powers in the sphere of control. An important factor in ensuring parliamentary control was the establishment in the Constitution of the norm on the responsibility of the Cabinet of Ministers before the Oliy Majlis of the Republic of Uzbekistan. The joint competence of both chambers, on the proposal of the President of the Republic of Uzbekistan, included the powers to review and approve the powers of the Prime Minister.

“The concept of deepening democratic reforms and developing civil society” in our country, adopted in 2010, can be considered as a logical and objective continuation of reforms in the sphere of parliamentary control development. In accordance with this concept, amendments to the Constitution and other legislative acts in the field of state construction in 2011 and 2014 provided for further development of the constitutional and legal framework for parliamentary control, ensuring mutual stability and balancing the interests of the legislative, executive and judicial branches of government.

In accordance with these amendments, the basic law established the procedure for nominating the Prime Minister from political parties that won relatively more seats in the lower house of Parliament in elections, and the Prime Minister introduced the relatively unreliable institution of votum (article 98 of the Constitution), parliamentary and public control (articles 78, 32 of the Constitution).

All these innovations, implemented in recent years, laid the Foundation for the adoption of the Law of the Republic of Uzbekistan "On parliamentary control", adopted in 2016.

It is important to clearly define its functions when exercising parliamentary control. According to experts of the Union of parliamentarians (an independent international organization of parliaments of 167 countries, established in 1889, registered in the UN as an international organization and having the status of a permanent observer in it), the Parliament is one of the important tasks of control and is considered as:

- identify and prevent abuse of human rights and freedoms by the government and public institutions of an arbitrary or illegal and unconstitutional nature;
- ensure responsible spending by the state of taxes paid by citizens in order to improve the efficiency and effectiveness of state activities;
- monitoring the achievement of goals stipulated by legislation and state programs;
- increasing the transparency of state operations and public confidence in the government, which is a necessary condition for the effectiveness of state policy.

Although the Law "On parliamentary control" does not explicitly specify the above tasks as a function of parliamentary control, their main content is enhanced. According to the law, the main tasks of parliamentary control are enforcement of the Constitution and laws of the Republic of Uzbekistan, decisions of Oliy Majlis of Uzbekistan and their bodies, the implementation of state programs, as well as the effective execution of its tasks and functions.

Analysis of the results of political and legal studies has shown that the activity of controlling the activities of the Executive power is a relatively outdated concept from the idea of parliamentary control. In particular, the American scientist Joel Aberbach stated that parliamentary oversight is a review of the actions of Federal agencies, institutions and congressional commissions, programs and policies implemented by them, including during the implementation of these programs and policies, as well as information about the results of these activities.

International experience in the development of parliamentarism shows that without justification by political or legal factors, the expansion or narrowing of the powers of control of the Parliament can lead to a violation of

the balance between the branches of government, and negative consequences associated with the interference of the branches of government in each other's activities.

In this regard, it is established that the law can not be subject to parliamentary control over activities related to the consideration of certain materials of bodies that carry out operational investigative activities, bodies of inquiry and investigation, individual cases and materials in the production of courts, as well as with the conduct of enforcement proceedings and notary proceedings.

As a result of studying of foreign experience of the limits of control is determined by the following two criteria or methods: by defining the object of parliamentary control in the law (legal aspect) and scope (political and legal aspect) printing of Parliament, separation of powers, clearly limiting the scope of constitutional powers.

The rule of law in society, improving public administration, ensuring the stability of state power cannot be provided directly, without effective law enforcement. Therefore, the law (Article 19) focuses on determining the procedure for exercising parliamentary control over the activities of the Prosecutor's office at the legislative level.

As a result of Parliament's control activities, the presence of sanctions and the possibility of using various parliamentary interventions (vote of confidence, proof of reprimand, etc.) or implementation of effective public policies that have negative consequences for the object of parliamentary control, which do not provide for compliance - emphasized in this context one of the roles of the parliamentary opposition in the implementation of these functions [4].

Legal scholar A. Zubareva believes that one of the tasks of parliamentary control is to draw attention to the shortcomings identified in the process of parliamentary control by the relevant state bodies and officials, to eliminate them and bring the perpetrators to justice in accordance with current legislation [5].

A German lawyer V. Stefan believes that parliamentary control is a process of checking the activities of the government and governing bodies, criticism of it either directly (the parliamentary majority), or indirectly (the opposition), or Vice versa, evaluation also means the possibility of imposing sanctions on a decision made by the government [6].

According to American expert Walter Olezhek, "the main purpose of parliamentary control is to hold Executive officials accountable for their failure to exercise their existing powers in accordance with the law. Given the very rapid growth of the Executive's influence in the modern era, this task of parliamentary control is very important" [6].

It should be noted that due to the fact that the lawyer scientist noted, the mentioned law created the necessary legal framework for taking strict measures to influence the results of parliamentary control. In particular, the subjects of parliamentary control exercise control over the results of parliamentary control within their competence:

- ensures consideration and execution of decisions taken by subjects of parliamentary control;
- develops and (or) takes decisions on necessary measures aimed at implementing the proposals and recommendations developed as a result of parliamentary control;
- reports to the subjects of parliamentary control on the results of consideration of proposals and recommendations, as well as measures taken on them;
- it takes measures of responsibility in relation to officials of state bodies and management bodies who have committed violations of the law.

- The following duties are assigned to officials of public authorities and governing bodies:
- creating the necessary conditions for the exercise of parliamentary control;
 - compliance with legal requirements of subjects of parliamentary control, as well as their non-interference in their activities;
 - providing the subjects of parliamentary control with the necessary documents and information for the implementation of parliamentary control, as well as to ensure their reliability and objectivity.

At the same time, the law strictly stipulates that officials of state authorities and management bodies review and review decisions made by subjects of parliamentary control based on the results of parliamentary control, and inform them of the results of the review and the measures taken.

In general, it should be noted that the adoption of the Law of the Republic of Uzbekistan "On parliamentary control" serves to strengthen the constitutional and legal capacity of the Parliament to perform its duties, develop and strengthen the foundations of democratic statehood, as well as the formation of people's power and parliamentarism in the country. In turn, the implementation of legal norms, which occupy a special place in the system of national legislation, in law enforcement practice, are modern methods and forms of implementing the Supervisory functions of the chambers of the Oliy Majlis, the content and essence of parliamentary control, and conducting systematic research aimed at clarifying its legal basis. This requires extensive explanatory work to promote the content and essence of this law among the Executive authorities and the population.

Despite the fact that the General legal framework of the Institute of parliamentary control in our country is fully formed, there are three legal gaps in the current national legislation in terms of its provision from an

organizational and legal point of view. In particular, it should be noted that although the law "On parliamentary control" clearly states the forms of direct parliamentary control, the issues related to the organizational and legal support for their implementation are not set out in detail. We can observe this situation directly in the form of the implementation of legislative acts, law enforcement practice, which is one of the main forms of parliamentary control established by the above-mentioned law, the study of the legislative chamber, the Senate and their adoption of legislative acts in the form of monitoring.

In the norm established by article 17 of the Law "On parliamentary control", it is noted that the legislative chamber, members of the Senate can exercise control over the timely adoption of legislative acts in order to ensure the implementation of newly adopted laws, the results of monitoring can be considered at meetings of the Legislative chamber, members of the Senate.

In turn, the above-mentioned law does not specify the mechanism for monitoring the timely adoption of legislative acts in order to ensure the implementation of newly adopted laws in other existing legislative acts, which are also the subject of the activities of the parliamentary chambers. In particular, the Law of the Republic of Uzbekistan "On amendments and additions to certain legislative acts of the Republic of Uzbekistan", adopted on December 29, 2015, the law of the Republic of Uzbekistan "On Regulations of the Legislative chamber of the Oliy Majlis of the Republic of Uzbekistan" is included in the norm on the timely adoption of legislative acts of the Republic of Uzbekistan.

In addition, article 243 of the "Regulations on the Legislative chamber of the Oliy Majlis of the Republic of Uzbekistan", approved by the resolution of the Legislative chamber of the Oliy Majlis of the Republic of Uzbekistan dated 29 January 2016, also establishes the norm for monitoring the implementation of the law within the framework of monitoring the implementation of the law. It is noteworthy that the procedure for organizing and exercising control of the legislative chamber over the adoption of legislative acts, in particular over the execution of newly adopted legislative acts, is not clearly established.

In our opinion, the elimination of these legal loopholes directly dictates the need to make additional changes and additions to the Law "On parliamentary control" and other relevant legislative acts.

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