

CONSTITUTIONAL MECHANISM OF SEPARATION OF POWERS IN UKRAINE

The idea of separating the functions of the state mechanism originated in antiquity, developed in the Middle Ages and in the Renaissance transformed into the idea of dividing a single state power into separate branches, and in modern times turned into the theory of separation of powers. Since the end of the 18th century, the principle of separation of powers has been constitutionally enshrined in the United States and France. Today, this principle is the main pillar of the state system of all developed democratic countries, including Ukraine.

The principle of separation of powers provides for

- distribution of functions and competence between state bodies;
- enshrining a certain degree of independence of each government body in the exercise of its powers;
- giving each body the opportunity to oppose the decision of another body, thus controlling its actions to a certain extent.

The principle of the separation of powers in Ukraine has its own peculiarities of implementation. Currently, this principle is formally enshrined in the Constitution of Ukraine. This primarily is caused by the uncertainty of the place and role of the President of Ukraine in the state mechanism and the lack of real power of the Cabinet of Ministers of Ukraine. According to the Constitution of Ukraine, the President of Ukraine occupies a special place in the system of state institutions. Article 102 of the Constitution of Ukraine defines that the President of Ukraine is the head of state and acts on its behalf [1]. The President of Ukraine has broad powers of authority.

The President of Ukraine has a special legal position – he is the head of state, and his attribution to one or another branch of government is a subject of debate among many scholars. Most often in the world practice, the head of state heads

the executive branch (formally or actually). According to the Constitution of Ukraine, the President of Ukraine has very broad powers to influence each of the branches of state power, but at the same time, he does not formally belong to any of them and is not responsible for this activity results.

At the same time, the President of Ukraine, although not formally part of the branches of state power, is functionally closer to the executive branch and has the broadest possible influence on its activities. This ambiguity of the legal status of the head of state leads to significant misunderstandings in the functioning of the institutional system as a whole. On the one hand, the head of state is formally distanced from the executive branch. On the other hand, he is actually organically intertwined with the executive branch.

Analysing the system of checks and balances enshrined in the Constitution of Ukraine, it should also be noted that the Verkhovna Rada of Ukraine has quite significant levers of influence on the Cabinet of Ministers of Ukraine and other executive authorities. In particular, the Cabinet of Ministers of Ukraine is controlled and accountable to the Verkhovna Rada of Ukraine. The Parliament of Ukraine considers and decides on the approval of the Programme of Activities of the Cabinet of Ministers of Ukraine, appoints the Prime Minister of Ukraine etc. (Article 85(11-13) of the Constitution of Ukraine).

The Verkhovna Rada of Ukraine, upon the proposal of the President of Ukraine or at least one third of the people's deputies of Ukraine from its constitutional composition, may consider the issue of responsibility of the Cabinet of Ministers of Ukraine and adopt a resolution of no confidence in it by a majority of the constitutional composition of the Verkhovna Rada of Ukraine (part 1 of Article 87 of the Constitution of Ukraine).

At the same time, it is quite obvious that under the Constitution of Ukraine, the President of Ukraine has more levers of influence on the activities of the Ukrainian Parliament than the Cabinet of Ministers of Ukraine.

Thus, the President of Ukraine, as the head of state (part 1 of Article 102 of the Constitution of Ukraine), plays an important role in the functioning of the entire

institutional system of state power in accordance with the provisions of the Constitution of Ukraine. This means that he or she is called upon to consolidate all branches of state power, ensure their mutually coordinated activities to optimize the functioning of the state mechanism of Ukraine as a whole.

In its turn, according to the Constitution of Ukraine, the Cabinet of Ministers of Ukraine does not have any effective state powers that would allow it to act as a deterrent in relations with the legislature and judiciary, although according to Article 6 of the Constitution of Ukraine, the Cabinet of Ministers is actually recognized as one of the three equal branches of state power.

Relatively recent events in the field of constitutional reform, namely, the return of the Parliament of Ukraine to the parliamentary-presidential form of government of 2004 and further changes in the system of institutionalisation of the branches of state power (development and submission by the President of Ukraine of the draft Law of Ukraine on Amendments to the Constitution of Ukraine, appointment by the President of Ukraine of early elections to the Verkhovna Rada of Ukraine for 26 October 2014), show that Ukraine is implementing reforms of the mechanism of state power.

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