

POLITOLOGY

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The basic form of government and parliamentarism: legal aspects of interaction

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Abstract. The article examines the uniqueness of the parliament as a political institution, which plays a role of interest groups at the state level, forms. At the stage of democratic reforms a change of a social structure occurs rapidly, and it often happens, that the role of mediator between society and executive authorities; a system, where the nation's ruling will, based on a structured representation necessary institutional changes occur with considerable delay in time. The inertia of the Ukrainian political system is largely related to deficiencies in the functioning of the parliamentary institution. The modern Ukrainian political practice shows an inability of government institutions to manage effectively the socio-economic and political processes. A distinctive feature of the post-Soviet Ukraine was the continued instability of the entire state system, which deepens by the lack of forms of authorities responsibility to overcome the modernization syndrome. Reducing of a transitional democratic transformation period in Ukraine objectively requires the formation of a working system of feedback between the social environment and political system. Here the role of national parliaments can not be overemphasized. The process of consolidation of a democratic society has to happen against achievement by the Ukrainian parliament of the corresponding external forms (a democratic election system and the constitutional fixing of the appropriate parliamentary authority, inherent parliamentarism of the western type). Filling of these forms by the democratic content should be accompanied by ordering of an effective system of political representation of real public interests, creation of effective mechanisms of control over the executive branch, increasing the degree of openness of the parliamentary process.

Keywords: *Parliament, parliamentarism, political institution, society, authorities, democracy*

The uniqueness of the Parliament as a political institution lies in its role of mediator between society and the authorities; a system, where the nation's ruling will, based on a structured representation of interest groups at the state level, forms. At the stage of democratic reforms a change of a social structure occurs rapidly, and it often happens, that the necessary institutional changes occur with considerable delay in time. The inertia of the Ukrainian political system is largely related to deficiencies in the functioning of the parliamentary institution. The modern Ukrainian political practice shows an inability of government institutions to manage effectively the socio-economic and political processes. A distinctive feature of the post-Soviet Ukraine was the continued instability of the entire state system, which deepens by the lack of forms of authorities responsibility to overcome the modernization syndrome.

Reducing of a transitional democratic transformation period in Ukraine objectively requires the formation of a working system of feedback between the social environment and political system. Here the role of national parliaments cannot be overemphasized. The process of consolidation of a democratic society has to happen against achievement by the Ukrainian parliament of the corresponding external forms (a democratic election system and the constitutional fixing of the appropriate parliamentary authority, inherent parliamentarism of the western type). Filling of these forms by the democratic content should be accompanied by ordering of an effective system of political representation of real public interests, creation of effective mechanisms of control over the executive branch, increasing the degree of openness of the parliamentary process.

The form of government is an essential characteristic of any state as the way of social organization, ordered and controlled arrangement of society. The history of political thought contains a set of various approaches to the classification of forms of state [1]. Since anti-feudal bourgeois revolutions the fundamental importance got the opposition of monarchic and republican forms of government,

which had fixed in the modern theory of state and law. Subsequently, a republican form of government was subdivided to the presidential and parliamentary forms. But for such a distinction criteria there are taken, as before, the formal legal features such as the source of power (it can be recognized by the will of a person, the will of all the people or the will of some supreme social group – the oligarchy) and the procedure for establishing and updating of the State government (election or succession). Accordingly, a monarchical form of government is when the supreme power in the country belongs entirely to one person who also recognized as its source. Republican is a form of government that involves the recognition of people as the sovereign, the supreme power, which is delegated their representatives for a clearly defined period of time; in which the head of state and all authorities are elected and changeable, and the executive power – a derivative from a representative institution or voters. Citizens of the Republic have the opportunity initially (directly or indirectly) to influence on carriers of the power and their decisions. The essential features of the republican political system since the time of the ancient polisy are implementation of an elective principle of all bodies of public management, determination of term of powers of authority, periodic removability of officials [2].

The forms of government are divided on ways of governance in its formal source. In today's environment there are two basic forms of government: monarchy and republic. In a monarchy the source of power is one person – the monarch (king etc.). In the republic – a source of the power are the people.

Parliamentarism has a long story. In XII century in England there was created the first parliament as a body of class representation. But the real significance the parliament acquires only in XVII – XVIII centuries, when in the bourgeois revolutions in Western Europe there were created the representative bodies of government. In the United States and other American countries the parliament is called the Congress, in Turkey – the Grand National Assembly, in Ukraine, Belarus and others – the

Parliament, in Sweden - Riksdag etc. The emergence of the parliament showed the practical implementation of the principle of separation of powers, in which the legislature gets its independence in the form of representative institutions. The exclusive role, associated with acceptance and development of legislative acts, in the mechanism of the government performs the parliament. Its status and powers are regulated by the constitution. Political mission of parliament is connected with realization of fundamental interests of dominating political forces.

The term parliamentary covers the totality of the mechanisms of parliamentary practice, specific structural separation, the amount of competencies, methods of legitimization, forms of interaction with other governance structures, as well as communications and relations with the executive and the judiciary powers. Parliamentarism is a variety of state government forms in a democratic republic with a strong presidential power (the U.S.), the republics of moderate presidential power (France, Ukraine) in countries with weak presidential power (Austria, Germany, Italy, etc.) or even in a constitutional monarchy (United Kingdom, Belgium, Holland, Sweden, Denmark, Spain, etc.). The viability and effectiveness of the parliament depends not only on regulatory and constitutional provisions and methods for its legitimization, but also on the effectiveness of parliamentary igraktyks from communication of the parliament with the various groups of voters, on compliance of the normative documents accepted by it, to the rights and freedoms of citizens. In parliamentarism the mechanism of interaction with the institutions of parliamentary executive and judicial powers plays a huge role. The manifestation of political pluralism in practice, when compromises and consensuses are made and a civilized balance is provided in society, are practical activities of the parliament. Parliamentarism in fact is a way to establish the social contract by political means, when various social groups, social communities, layers having various interests inherent only in them, agree among themselves about a certain balance and coordination of interests. Parliamentarism is a way of a natural selection of political leaders, political professionals possessing profound knowledge on various problems of public life.

A variety of parliamentarism as the form of government is defined by existence of certain factors. If a state form is the presidential republic, so parliamentarism is presidential, if parliamentary-cabinet republic, so parliamentarism is cabinet, if it's the constitutional monarchy, so parliamentarism is monarchical (exists where the monarchy is actually involved in government). If the system in the country is two-party, the parliament has two leading political parties: the ruling and opposition (UK, Canada and USA). If the state has double-sided system, then the parliament consists of two units, established by many political parties: the unit that governs and the opposition bloc (Sweden, Germany). If governance is characterized by a multi-party system, so the parliament is multi-partial (Poland, Ukraine, Italy, Belgium, Holland et al.). The structure of the parliament also diverse: the bicameral parliament (USA, UK, France, Japan, Canada, Russia, etc.) and unicameral – Denmark, Sweden, Ukraine, Belarus and others.

The parliamentary republic is characterized by government formation on a parliamentary basis with proportional party representation following the results of elections. The government is formally responsible to the parliament which is allocated with the right of control of activity of the government and its dissolution. The government is allocated with the executive authority, a legislative initiation, and also the right of petition to the president about a parliament dissolution. In most countries, membership in the government is compatible to saving of the deputy mandate. This allows the government to involve not only the leaders of political parties, but also other influential members of the parliament and therefore, to control the parliament. Though the head of the government (the prime minister, the chancellor) officially not the head of state, actually in the political hierarchy is the main person. The president as the head of state actually takes in it more modest place: he can be chosen either by the parliament, or by meeting of electors, or directly by the people. The non-confidence vote to the government causes his resignation. The president in the parliamentary republic has generally representative powers, and the main thing, he carries out the function of the head of state according to the indication of the government. The parliamentary republic remains in Italy, Germany, Austria and others. Notable distinctions of parliamentarism occur in system of state regulation, where they are reflected in concrete forms of political interaction of various political forces. In activity of any parliament there are three main functions: legislative work, control over state finance, control over the government. The parliament as the spokesman of interests of the people living in the certain territory and united by certain statehood is competent to state the will of the society, wishing order and justice legitimization. The parliament also takes control over state finance, activity of the executive authority in limits and the competence established by the constitution.

Certainly, the system of presidency and parliamentarism is a natural consequence of the rapid development of democratic forms of government and governance. In the constitutional state there is no absolute power, no unregulated by principles and norms of the constitution laws. Distribution of the power into legislative, executive and judicial reaches mutual control, the system of controls and counterbalances that act as a guarantee from authority misuse and prevention of its transformation into the authoritative, absolute power.

Implementation of the Supreme Rada of Ukraine instrumental functions is complicated by deficiencies of the electoral mechanism, the lack of a stable party system, the inability to form a parliamentary majority elected representatives, especially the type of political participation mobilized Ukrainian population. Ukrainian parliament is not fundamentally different in this regard from the institutions of government and administration; it increases the gap between the interests of parliamentarians and national interests.

Characteristic features of the functioning of the Supreme Rada of Ukraine are: lack of feedback mechanisms with voters; twisting or ignoring the will of the voters; clannish nature of the structure of the parliament; competition and opposition members of the parliament and the presidency [3].

Activities of political institutes for ensuring socio-political stability in days of independence led to considerable losses of industrial and agricultural capacity of Ukraine, an impoverishment of the majority of the population and does not allow to provide its reproduction. [4].

A distinctive feature of the Ukrainian economy is the uncertainty of its achievements, rentokapitalization domination, and high level of corruption. Economic characteristics of society testify about progressing alienations of the Ukrainian authorities from society, which threatens the state existence.

Functioning of the parliament during this period and under these conditions does not reflect the requirements to the political system. In the created legislation shortcomings of the accounting of a social and economic situation are observed; laws, especially social, are not carried out. In Ukraine there is no positive influence on economy from a democratic political system. This increases the unpopularity of the parliament in Ukraine, the denial of parliamentary and democratic values.

Insufficiency of middle class, assignment on this category of the population of the main tax burden, absence of representation and protection of its interests, and, thus, deprivation of its social potential, is the certificate of unfortunate trends in political system of the country in general and in the representative authority, in particular.

Conflict nature of relationship of the parliamentary and presidential power is caused by nature of the constitutional fixing of the political mechanism of functioning of the parliament, a priority of the presidential power in system of division of the authorities and existence of the main imperious resources at the head of state.

Productivity of the Ukrainian public policy is defined by fragmentation of the political power, absence of consensus as bases of political culture of elite groups, a configuration of political system - existence of an imperious pyramid of authoritative type with the leader and his environment (partially presented in the parliament) in the center and its representatives on places.

The political culture of the Ukrainian population, insufficiently developed civil society generate absence of a stable "political center" as a part of the parliament and its inability to serve as a counterbalance of the presidential and executive authority. For the purpose of policy-making parliamentary majority is formed artificially, sometimes with the use of undemocratic methods. A representation system in Ukraine is characterized by remoteness of citizens from the process of policy-making and distancing government from their interests.

The Supreme Rada of Ukraine implements corporate interests separate elite groups. Lack of realization of interests of a general population, in insufficient degree outlined and aggregated by political parties, though are reflected in activity of the parliament of Ukraine, do not provide a sufficient level of legitimacy of all system of the power.

The parliament of Ukraine, which is created as political institute of the western type, carries out general and specific parliamentary functions ineffectively. Democratic communication channels both between parliamentary groups, and between parliament and society as a whole, the state and society functions non-optimal.

The above provisions resulted in the need for political reform for the purpose of reduction of the transformational period of the Ukrainian political system, optimization of parliamentary activity and prevention of the collapse of Ukrainian state. Implementation of its provisions will enable the established party-list parliament, as political institutions more sensitive to social demands, manage economic lines, ensuring stability of the political system [5].

The positive aspect of parliamentary government is its flexibility, the opportunity to react to changing needs of life, according to them, change the character of the government and most of its personnel. The parliament not only creates laws and approves the budget, but also directs and supervises the activities of the government. The parliamentary system, if it besides is based on party-proportional basis, stimulates a movement in political dialogue and a party-ideological compromise between political forces, enabling more responsive and flexible reflection in the structures and operations of higher government various needs and attitudes of citizens and communities. Under these conditions, the people get the government for which they voted. However, according to a known formula, it also means that people have a government for which they deserve ... Because the other side of flexibility of parliamentary government is the government instability.

Ukrainian establishment since independence has shown an open inconsistency in the formation of a civilized party system that has claimed responsibility for the formation of purely democratic principles of government.

The desired evolution direction of government institutions for Ukraine lies through increasing the role of political parties, which may be provided on terms of implementation of parliamentary-presidential model of mixed government.

It is believed that such democratic changes create favorable political conditions for the formation of influential parties, numerous public organizations and civil society in general, because the natural structuring of political forces, the formation of strong parties is best achieved when there is a direct involvement of the parliamentary faction in creating of the government and overseeing its activities.

Implementation of these objectives would result in the introduction in the society of the party power – the social and political phenomenon widespread in the countries of parliamentary democracy. The main positive of party power is that this power ceases to be anonymous, impersonal, and the principle of its formation will be transparent and understandable to the public.

In the conditions of the party power the parliament entirely consists of winner parties on elections, and the parliamentary majority forms the cabinet of ministers. Under such circumstances it becomes clear for the citizens, that the power is a coalition of certain parties. If the government fails to fulfill election promises of the parties, the next parliamentary elections will create the new government with other parties. In addition, under these circumstances works the mechanism of rotation of the ruling elite – a necessary condition for the democratization of society.

Political parties, which are able to reach a representation on parliament elections, will be the real means of obtaining and implementing authorities. Accordingly, the mechanism of political "absorption" works (when in the political system of society a more or less stable "core" traditional parliamentary parties is formed and their number is reduced to functionally required for a particular society threshold).

It is noted that the Constitution of Ukraine stipulates the unbalanced nature of the state system. This limits the impact of the Supreme Rada to the formation of the Government, initiates a constant political conflict between the branches of the government for redistribution of powers and leads to a decrease the role of Parliament in the political system of the country [6].

Under these conditions, institute a parliamentary majority in Ukraine did not come into that positive meaning which it has in the modern democratic states. This is primarily due to the fact that such an institution in Ukraine exists outside the context of relations between the parliament and the government in which it operates in parliamentary and parliamentary-presidential regimes. In Ukraine parliamentary factions do not participate in the formation of the Cabinet and the implementation of government policy. Adoption of the Programme for Government, as the constitutional and political practice shown, is implemented primarily as an "indulgence in the year" for the government, but not as an act of expressing confidence of the parliament majority to the government policy.

Lack of political and legal procedures relating to the formation by the Parliament a responsible to the parliament coalition government entails the following organization of the parliamentary process: key economic and political forces, which are represented in the parliament, have no political incentive to join; parliamentary majority is a situational form, a "geometry" which changes according to the current problems of legislative activity.

In turn, this slows down the process of personalization of the political forces that provide the state policy, and makes it harder to bring them to justice during the election. For new post-socialist European countries with a mixed form of government the most balanced and demo-

cratic seems to be a parliamentary-presidential model of government that includes the benefits of parliamentary (encouraging parties to control the government and the responsibility for the consequences of government) and the president (the president's role as an arbiter). According to a parliamentary-presidential form of government, the parliament can effectively influence the executive branch only if a majority. Whose members hold to the same principles, have common interests and therefore can act as a whole in the relations with both the president and the opposition.

The formation of a presidential-parliamentary model of the "mixed" form of government in independent Ukraine has the features associated with the dual responsibility of the government – to the Head of State and to the Parliament. Under these conditions, the institute of a parliamentary majority in Ukraine, although formally declared, is not valid.

The main focus of the constitutional and legal reform in Ukraine should be a balance of power in the triangle "the President – the Parliament – the Government". It provides the amendments to the Constitution and some laws of Ukraine, acceptance of a number of acts which would form a democratic political system according to which voters on the basis of a proportional electoral system elect representatives of political associations in the parliament, fractions of winner parties on elections form the parliamentary majority, the parliamentary majority forms the coalition government and takes political responsibility for its activity, the parliamentary minority (opposition) acquires the right and possibility of control, public criticism of actions of the government and introduction of alternative offers.

The analysis of distribution of powers between the President of Ukraine, the Supreme Rada and the Cabinet of Ministers on the Constitution of Ukraine before modifications, provides, in my opinion, an appropriate reason to talk not about a presidential-parliamentary form of government, but more of a presidential form. This is evidenced by the scope of authority of the President of Ukraine in all spheres of public life of the state in comparison with powers of heads of states with various forms of government, from presidential to the parliamentary.

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Яровой Т.С. Основные формы государственного правления и парламентаризм: правовые аспекты взаимодействия

Аннотация. В статье исследуется уникальность парламента как политического института. Его роль посредника между обществом и органами исполнительной власти; системы, в которой формируется властная воля нации на основе представительства структурированных групп интересов на государственном уровне. На этапе демократических реформ изменение социальной структуры происходит форсированными темпами и часто случается так, что необходимые институциональные преобразования происходят со значительной задержкой по времени. Инерционность украинской политической системы во многом связана с недостатками в функционировании института парламентаризма. Современная украинская политическая практика демонстрирует неспособность властных институтов эффективно управлять социально-экономическими и политическими процессами. Отличительной чертой развития постсоветской Украины стала длительная нестабильность всей государственной системы, которая углубляется отсутствием форм реальной ответственности властных структур за преодоление модернизационного синдрома. Сокращение переходного периода демократической трансформации в Украине объективно требует формирования работоспособной системы обратной связи между социальной средой и системой. Здесь роль национального парламента трудно переоценить. Процесс консолидации демократического общества должен происходить на фоне достижения украинским парламентом соответствующих внешних форм (демократической системы выборов и конституционного закрепления соответствующих парламентских полномочий, присущих парламентаризма западного типа). Наполнение этих форм демократическим содержанием должно сопровождаться составлением эффективной системы политического представительства реальных общественных интересов, созданием действенных механизмов контроля над исполнительной властью, повышением степени открытости парламентского процесса.

Ключевые слова: парламент, парламентаризм, политический институт, общество, органы исполнительной власти, демократия