

PROBLEMS OF PARLIAMENTARY CONTROL AND IMPLEMENTATION MECHANISMS IN UZBEKISTAN

Mirakulov M.M.

*Mirakulov Miravzal Mirodilovich - Doctor of law sciences,
MILITARY-TECHNICAL INSTITUTE OF THE NATIONAL GUARD OF THE REPUBLIC OF UZBEKISTAN,
TASHKENT, REPUBLIC OF UZBEKISTAN*

Abstract: *this article is devoted to the comparative study of modern theories and foreign experience in the development of parliamentary control. The emphasis is placed on the organization of parliamentary control, which is an important factor in improving national legislation and law enforcement practice in this area.*

Keywords: *parliamentary control, national legislation, implementation mechanism, comparative study.*

Comparative study of modern theories and foreign experience in the development of parliamentary and in the sphere of the organization of parliamentary control is an important factor of the improvement of national legislation, law-enforcement practice in this sphere. In modern theories of management the purpose of any administrative activity, including the sphere of management of social processes is that ideal final model, the end result to which achievement of this administrative process and activity of its participants is directed. The purposes which are set before itself by the state and society at a certain stage of development and parliamentary control as one of the major legal institutes is carried out for achievement of definite purposes.

Thus, the purpose is the major independent legal institute and the most important component of parliamentary control. Designing of the most control function of parliament begins with definition of the purpose. Tasks, means, a subject, subject structure of parliamentary control, a form of its implementation and other major components which define an essence and content of control function (activity) of parliament are defined with the purpose of control. The exclusive role of goal-setting in legislation, including the sphere of parliamentary control is caused by its political and legal signs, mechanisms of legislative fixing. First, legislatively fixed purpose incorporates the most important interests of the society and the state. Secondly, both of them carry standard, legal and obligatory character in a form according to contents. Thirdly, realization of the purpose in legislation and law-enforcement practice is provided with the power of government and support of society.

In modern theories of parliamentary the purpose of parliamentary control is usually structured depending on importance of the interests put in it and realization or providing of social, political, etc. values. Social, political and legal values, democratic principles enshrined in Constitutions of the democratic countries and also in the major international legal acts are the most important factors in hierarchy of the purposes. These values are: rights and freedoms of the person and citizen, rules of the Constitution, laws and rights in general, democracy, authorities division, social justice and equality, sovereignty, recognition of variety, need of protection of all forms of ownership, some other principles and values of democracy.

Taking everything into account, the purpose of this study is to show the role of identifying proper purposes and tasks related to the monitor of the Parliamentary control and mechanisms of their implementation in Uzbekistan through comparing methodological positions on the problems of parliamentary control declared in the legislation, legal doctrines of foreign countries, normative legal acts of the international organizations. Emphasis is laid onto organization of parliamentary control is an important factor of the improvement of national legislation, law-enforcement practice in this sphere.

Being the supreme legislative body of the state, the parliament is urged to provide observance, implementation and protection of all social, political and legal values. All of them are reached, firstly, by adoption of laws and, secondly, by implementation of different forms and means of parliamentary control.

According to the American specialist Walter Oleszek the fundamental purpose of parliamentary control is reduction of executive officials to responsibility for implementation of the delegated powers. This purpose is especially important, considering huge expansion of influence of executive power in the present period [1, p. 3].

According to other foreign scientists, the purpose of parliamentary control of activity of the government is to increase the system effectiveness of public administration. Emphasis on the attention of appropriate public authorities and officials on shortcomings revealed during parliamentary control for their elimination and involvement of guilty persons to responsibility according to the current legislation, etc [2, p. 12].

H.White, giving definition to control as the activity including studying of expenses, administration and the policy of the operating government claims that "improvement of process and results" should be the initial purpose of this control. The scientist notes that it is important to distinguish influence of the control on activity process of the government from its influence on results. During the control of the process the following question is set: "Do authorities do what they are obliged to do at decision-making?" From the Whyte's point of view an important point as the control at this stage will promote quality assurance and legality of government solutions. It is possible to prevent acceptance of the solution by executive authority which is insufficiently effective at this stage of administrative process by means of parliamentary control because of inadequate influence, the shortage of the corresponding consultations, and abuse of authority and so on. During the studying of the results of executive authorities' activity many other questions appear: Does the result coincide with what the government meant? Could this result be achieved more effectively? Is such outcome considered the best?

For White it is important to provide equally effective control over the process and the result, considering possible negative risks, effects which can result from neglecting this. Quite effective result of the government's activity will be achieved by the price of unreasonably excessive expenses. Therefore it is important to provide control not only of the work results of executive authority, but also of the process of its implementation.

From the point of view of representatives of various legal schools the purposes of parliamentary control in the sphere of law enforcement are:

- protection of the constitutional system;
- providing mode of legality;
- supremacy and direct operation of the Constitution,
- ensuring execution by law-enforcement agencies and their officials of the Constitution of the country and normative legal acts regulating their activity.

Observation of those laws and other normative legal acts adopted by specified bodies did not contradict the country's Constitution. The purpose is also increase in efficiency of state regulation, maintenance of stability of the state system here and also in case of detection of violations in activity of bodies of law enforcement – formulation of requirements about elimination of these violations. Achievement of the goals of control in this sphere has to provide protection from:

- corruption;
- abuse of official authorities related to organized crime;
- extortion;
- bribery;
- violation of the rights and freedom of citizens and other illegal manifestations in activity of law-enforcement officers.

In general, etymological definition of the concepts "purpose" and "task" does not cause a special controversy. Speaking simply, "a purpose" is that what it is necessary to aim (to reach) to, and "a task" is what needs to be made for achievement of the purpose. Problems and disagreements appear when work on designing, formulation in rules of law of the purposes and tasks begins in specific spheres of the management of social processes.

Mostly concepts "purpose" and "task" are considered as one-serial categories, or one (purpose) is given for another (task). At the same time clear split and fixing of the purposes and tasks in the theory of the right and especially in normative legal acts, has not only scientific, but also great practical value. The correct setting, formulation of the tasks directed to the achievement of the specific goal determines the content of specific functions, powers of participants of administrative process, and the field of parliamentary control as well. Thus for understanding the content of the control of legislative power over law-enforcement officers it is important to determine purposes and tasks of its conducting.

At the same time the task is considered as legislatively certain systems of legal mechanisms, means and conditions which at practical application are designed to provide implementation of the purpose in the specific sphere of public administration. From these methodological positions it is also necessary to consider the problems of parliamentary control declared in legislation, legal doctrines of foreign countries, and normative legal acts of international organizations [3, 207].

The purpose of parliamentary control as it was mentioned above, ensuring compliance with the rights and freedoms of the person, performance of the law, legality, efficiency of activity of executive authorities, quality providing public services, etc. In this regard key problems of parliamentary control, according to experts of the Inter-parliamentary union (the independent international organization of parliaments of 167 countries formed in 1889, registered in the UN as the international organization having the status of the permanent observer in the UN) the followings are:

- detection and prevention of abuses, an arbitrariness or illegal and unconstitutional behavior from the government and public institutions for the purpose of protection of the rights and freedoms of citizens;
- ensuring responsible behavior of the government on taxes of citizens for the purpose of improvement of efficiency, profitability and efficiency of government activity are spent;
- control of achievement of goals, stipulated by the legislation and own programs of the government;
- increase in transparency of the state operations and trust of society to the government which in itself is a condition of efficiency of carrying out state policy.

Considerable experience of parliamentary control is accumulated in the USA, the state with a presidential government where the principle of division of the authorities, the system of controls and counterbalances are implemented in the most rigid forms of parliamentary control (in the American sources speak about supervision more). In the report "The guide to parliamentary supervision of the USA" prepared by the experts of the Congressional Research Service (A.Dolan, E.Halchin, T.Garvey, W.Oleszek, V.Ginsberg) it is noted that supervision of the Congress of executive power is intended for execution of such tasks as [3, p. 10]:

1) Ensuring compliance with the legislative purposes by executive power. The congress, if necessary, delegates the separate powers (at discretion) to the relevant federal executive authorities. To be convinced that these officials honestly execute laws, committees and Congressmen can consider the adopted normative legal acts, measures of the relevant ministries and departments regarding their compliance to the legislative purposes.

2) Increase in productivity, efficiency and profitability of government operations. Assessment of profitability, effective management of state programs, and acceptance of the incentive or sanctions measures aimed at providing implementation defined in these programs.

3) Prevention of infringement of legislative prerogatives of the Congress by executive power. Since the end of the 1960th, many experts, analysts in the field of state policy and also legislators systematically noted and pointed to the facts of exceeding by executive authorities (The president, its administration, etc.) the powers in different fields of activity. It was indicated such facts as withdrawal and use of means on unauthorized by the Congress of the purpose; establishment of different privileges of executive power; review of federal programs without the consent of the Congress, etc. In this regard need of gain of supervision - as parts of a system of the interdependence and balance directed to prevention of assignment of legislative prerogatives by executive power was proved by experts.

4) Investigation of badbehavior, inefficient administration, the facts of an arbitrariness and abuses (unacceptable behavior), separate cases of fraud, corruption in activity of public authorities and their officials. The abovementioned manifestations negatively affect implementation process of federal programs, management efficiency, undermine government bases. All this, according to authorities and also legislative and public interests cause need of gain of supervision from the Congress, conducting careful parliamentary investigations of the manifestations indicated above.

5) Assessment of ability of concrete public authorities or their officials to provide effective management, achievement of the program purposes. The possibility of the Congress to estimate the capacity of institutions and heads, their ability to provide effective implementation of state programs is reached in various ways. They are: receiving and assessment of the reports submitted by public authorities on a regular basis (annual or once in half a year) or on separate events, specific questions; the organization of activity of various, created in the Congress structures (offices of the general inspector, the thematic commissions); organization of consultation of Congressmen and committees by experts and specialists in these or those questions of efficiency of activity of the federal agencies, etc.

6) Observation and definition of federal financial priorities. The congress exercises the most effective supervision of activity of executive power during formation and expenditure of the State Budget, in realization of the powers on revision, redistribution, increase or reduction of the funds allocated for these or those programs, other events held by executive authorities.

7) Ensuring reflection of public interests in the policy of executive power. Supervision of the Congress consists in assessment of federal programs, in terms of their compliance to requirements and the interests of society. Correction of actions of executive authorities by means of the adoption of acts of the legislation or administrative decisions made within powers of the Congress can become a result of such supervision.

8) Protection of the rights and personal freedoms. Parliamentary control can help to protect the rights and freedoms of citizens and other persons; discovering and investigating the facts of abuse of power. So, parliamentary hearings, realization of other supervising functions can stop these or those illegal actions of executive power and prevent their repetition, or directly by means of adoption of the new act of the legislation or indirectly – putting pressure upon the violators (the official, public authority) who made official offense.

9) Other specific tasks directed to realization of a condition of overall objectives of supervision. These tasks are common with goals as manifestation of the many-sided parties of supervision. The short list of these tasks includes: analysis of activities of rule-making process; control over efficiency, profitability of use of contractors and consultants for rendering public services; encouragement and development of mutual cooperation between the authorities; studying of procedures of recruitment agency, etc [4, p. 7].

In conclusion, the main purpose of control, its effectiveness have to be directed to construction of the democratic, constitutional state. The condition of control allows to judge efficiency of function of a law-enforcement system, that, how precisely and honestly officials of this sphere observe the duties before citizens and society, act within legal and other social norms. Thus, for understanding of an essence, content of control of legislature of activity of law enforcement agencies it is important to understand the purposes and problems of its implementation.

It should be noted that plurality, the difficult hierarchy is more whole than parliamentary control in the sphere of public administration, social and economic, social and political development, cause a set, a variety of forms and means of its realization.

References

1. *Зубарев А.С.* Контроль Государственной Думы Федерального Собрания Российской Федерации за деятельностью федеральных органов исполнительной власти: Белгород: БГНИУ, 2015. С. 11-12.
2. Parliamentary oversight of the security sector: Principles, mechanisms and practices. IPU-DCAF handbook. Editors-in-Chief: Philipp Fluri (Switzerland) and Anders B. Johnsson (Sweden). Editor and Lead Author: Hans Born(Netherlands). Geneva, 2003. P. 207.
3. Congressional Oversight Manual / Alissa M. Dolan, Elaine Halchin, Todd Garvey, Walter J. Oleszek, Wendy Ginsberg/ December 19, 2014, P. 9-11.
4. *Kaiser Frederick M.* Congressional Oversight. Congressional Research Service Report for Congress // www.crs.gov – Congressional Research Service, 2001. P. 7-8.