

Parliamentarism as an institutions of modern democracy

Парламентаризм як особливий інститут сучасної демократії

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In the political life of democratic states, the parliament bears a particular importance. The word “parliament” comes from the French “*parler*” (to speak) that emphasizes the essential purpose of parliamentary work: the parliament is not just a state body that “makes laws”, not just a “legislative body”, but a broad, representative forum where through debates and discussions chosen representatives of the people work out policies that correspond to the interests of the state and on their basis determine the architectonics of laws, arranging the legislation system¹.

At the present stage of society development, there are many definitions that reflect the essence of parliamentarism, which allow to highlight the principles of parliamentarism, among which the following are important: the expression and

¹ Керимов А. Д. Национальное Собрание Франции: вопросы организации и функционирования / А. Керимов. – М., 1995. –р.133

protection of the interests of all social groups; the priority of legislative authorities over others; the subordination and control of the parliament by the people; the interaction between the parliament and other state bodies.

In modern science, there are two main approaches to the treatment of the parliamentarism phenomenon. The first approach considers parliamentarism as a form of a government. In the modern world, it is accepted to distinguish between the monarchical and republican form of government. Parliaments existed and continue to exist under different forms of government. Parliamentarism can be interpreted as a way of organizing state power within a particular form of government, but not as an independent form of government.

The second approach is oriented towards the political analysis and presupposes that the state power is based on the division of power, the plurality of interests of various social groups of civil society, political pluralism².

The clarification of the essence of parliamentarism requires consideration of the relationship between parliamentarism and forms of government, on which there are many thoughts. Quite often, such expressions as “presidential form of government”, “parliamentary form of government” are used. Depending on what is the formal authority of power, the way of organizing state power and the legal position of the head of state there are two main forms of government: monarchical and republican. In my opinion, in this relation “form of government – parliamentarism” the form of government is a primary one.

Parliamentarism should be considered as a system of organization of state power within the framework of one or another form of government. Parliamentarism characterizes both the organization of public life and the degree of democracy of a society. So, we can speak about the parliamentarianism only in connection with

² Журавський В. С. Основні функції та повноваження українського парламенту / В. С. Журавський // Вісник Київського ун-ту ім. Т. Г. Шевченка (юридичні науки). – 2001. – № 43. – р.77

democratic governance, although the parliament can exist within the authoritarian regimes.

In science, there is also an extended interpretation of parliamentarism, according to which parliamentarism is identified with representative democracy as a whole. According to the author of the article, we can speak about parliamentarism only in the case when in addition to the parliament there is a system of society governance, in which there is a clear division of legislative and executive functions; there is also a privileged position of the representative (legislative) body – the parliament in relation to other bodies of state power.

However, the presence of a representative and legislative body does not mean the presence of parliamentarism as a special social and political institution of a modern civilized society. Parliamentarism is a very complex and versatile system of state power organization rather than just the presence of parliament and the separation of powers. Political participation is only an external characteristic of parliamentarism, while its basic component is the functioning of representative institutions and the nature of their interaction with other elements of the political system and civil society.

In other words, the most important elements of parliamentarism include the observance of the principle of separation of powers; unconditional rule of law; presence of a legislative and representative institution-parliament in the society; existence of a system of political parties of parliamentary type and the actuality of the democratic process of parliament formation and its publicity.

The formation of parliamentarism in different countries, depending on the specific conditions, took place differently. Due to the transformation of social relations, the state system in most cases was, informally, a compromise between the bourgeoisies, dominant in all the crucial spheres of society, and, officially, made by a ruling landocracy. In addition, this stage is characterized by the emergence of political parties in Western countries and the approval of electoral law, the implementation of the concept of separation of powers, in which the parliament as a body of legislative and representative power was given an important place.

An important role in the formation of parliamentarism was also played by public opinion. However, the fusion of the theory and practice of parliamentarism took place only at the turn of the XIX and XX centuries, which in the future led to the emergence of mature forms of contemporary parliamentarism.

Thus, parliamentarism as a complex socio-political institution is structured at the following levels: parliamentary, that is, at the level of the most representative institution of the country, at the level of its interaction with other state bodies, and, finally, at the level of the political, legal, and social culture of the given society, the spiritual life of nations. These levels are the main pillars of parliamentarism.

Only the institution representing the interests of all people, which is, therefore, a collegiate body, which includes individuals elected directly by the population of the country, with the obligatory observance of democratic procedures and norms, can be considered as a full parliament. In addition, deputies must work in a supreme representative institution in accordance with traditions, style, forms and methods of parliamentary activity established in the world practice; necessarily on a permanent basis, in other words, to be completely exempted from the necessity of performing any other paid functions; have a certain social status and appropriate authority. Only with the abovementioned features, the main legislative body can act as one of the most important pillars of parliamentarism.

We can speak about the presence of parliamentarism only if there is a special system of interaction between parliament and other state bodies, that is, such a system in which the parliament actually has the opportunity to perform its functions, thus occupying an adequate place in the political system of the country³. This is about an active participation of the parliament in defining and implementing the country's internal and external policies, about the legislative function, the control over the executive power, the formation or participation in the formation of other state bodies.

³ Денисов В. Методологія сучасного парламентаризму / В. Денисов В. // Віче. – 2000. – № 9. – р. 18.

Parliamentarism is only practically possible when the intellectual and cultural level of most citizens of the country allows to perceive it as an achievement of society as something positive and necessary; to realize and certainly to accept, as a constructor of ideas, principles, values of representative democracy and, what is especially important, as a constructor of the main way of its organization and functioning⁴.

That is to say, parliamentarism is a system of interaction between a certainly formed, structured and actually working parliament with other state bodies, which ensures its adequate position in the state mechanism and acts as the main way of organizing and functioning a representative democracy.

Ukraine as a democratic state builds its social life on the principles of political, economic and ideological diversity, which is enshrined in Art. 15 of the Constitution of Ukraine. In our country, all the prerequisites for the existence of a multi-party system are created. The famous saying that “without political parties there is no parliamentarism” is correct in the vast majority of cases, both in terms of the importance played by the parties in the elections as well as the place occupied by political parties (through their parliamentary organizations, which are factions) in the work of modern parliaments.

“The only body of legislative power in Ukraine is the parliament – the Verkhovna Rada of Ukraine” (Article 75 of the Constitution of Ukraine). Parliament as a reference name to a representative institution is used in most developed countries. In the USA and Latin America, this body is called the Congress, in Sweden –Riksdag, in Finland –Seym, in Norway –Storting, in France – National Assembly, etc.⁵

As is generally known, there are one-chamber and two-chamber parliaments. States with a federal form of state system make a two-chamber parliament. The lower

⁴ Георгіца А. З. Двопалатна структура парламенту: доктрина і сучасна конституційна практика / А. З. Георгіца // Чернівецький ун-т. Науковий вісник: Зб. наук. пр. – Чернівці, 1999. – Вип. 70: Правознавство. – р. 64

⁵ Журавський В. С. З історичного досвіду формування парламентаризму в Європі та Північній Америці / Журавський В. С. // Вісн. ун-ту внутр. справ. – 2000. – Вип. 12, ч. 1. – р. 160

chambers in one-chamber and two-chamber parliaments are always formed by direct elections⁶.

The main elements of the internal organization of chambers of parliament are party associations of chamber members; governing bodies of the chambers; parliamentary commissions (committees). In many countries, there are regulations governing the activities of party associations of chamber members, and a party minimum is established. The head of the chamber can be both non-party (Great Britain) and party member (from the fractional majority). The governing bodies of the chambers include, in addition to the heads, their deputies, secretaries and quaestors (observers). Usually the governing bodies of the chambers are formed on a proportional basis⁷.

At the present stage, the parliament is an institution of power with many functions and a special internal and organizational structure.

Representative function serves as a political expression of the differentiation of society's interests. In the process of politicization of interests, their transformation into political will and draft decisions, the parliament is called to reveal conflicts of interest and find possible compromises. The parliament exercises this function based on a democratic electoral law and a democratic election system; the implementation of this function is guaranteed by the functioning of parties as an organized political force, which is the expression and mediator of interests and will of the voters. The guarantor of the implementation of the representative function of parliament is a democratic electoral system in conjunction with competition provided a multiparty system exists. The retention and nature of representing interests in modern parliamentarism are characterized by complexity and availability of many principles. The most important of them are party representation, territorial representation, corporate representation of interests and ethnic representation.

⁶ Браун Т. Порівняльне дослідження двопалатної та однопалатної систем у федеративних і унітарних державах / Т. Браун // "Вісник «Програми сприяння парламентам України». – 1999. – № 3. – С. 12

⁷ Булаков О. Н. Парламентское право / О. Н. Булаков. – М.: Юриспруденция, 2002. – р.65

The party representation consists of the parliamentary representation of various socio-economic alternatives in proportion to the support they enjoy in a society. This principle can be guaranteed both in one-chamber and two-chamber parliamentary systems. A system of simple or complex two-chamber parliament is necessary to implement other principles of representation – territorial, corporate and ethnic. A simple two-chamber system takes place in the event that, along with the chamber of deputies, which arose by means of direct elections, the membership in the second chamber is due to a single, personal principle. Typical examples are the House of Lords, the Upper Chamber, the Senate, and so on. The second chamber may also be based on other common principle – a territorial one, in the interests of proportional representation of individual federations, provinces, etc. Based on several principles, the second chamber is characterized by a combination of personal and territorial principles with each other or with others⁸.

Parliament is the decision-making authority; therefore, it performs power functions. It chooses alternatives to socio-economic and political development of society as a whole and its main subsystems, their structure, political retention.

In modern political systems, parliamentary parties formulate socio-political alternatives. Voters cast their votes according to the assessment of political alternatives expressed in their programs. The support is given to the parties; the proportion of their participation in parliament reflects the will of the voters and legitimizes the strategy and program of the parties that won the election.

After the election victory and the parliamentary majority obtainment, the political programs of the party (parties) are transformed into parliamentary decisions. This transformation takes place within the framework of a specific decision-making procedure. Everyday functioning and implementation of parliamentary power is conditioned by this procedure, which simultaneously combines the legal, professional

⁸ Браун Т. Порівняльне дослідження двопалатної та однопалатної систем у федеративних і унітарних державах / Т. Браун // "Вісник «Програми сприяння парламентам України». – 1999. – № 3. – р.15

rationality and reasonableness of the decisions taken, as well as the requirements of parliamentary democracy.

The result of the parliament's work is, as a rule, the creation of any legal norm, in which a legislative function is expressed. Those legal rules that bear the function of regulation of behavior are created due to the different forms of the authority of law, within the framework of the decision-making process that meets different requirements.

Legislative powers are exercised by the parliament in accordance with the procedure provided by the chambers' regulations. The first stage of legislative process is the introduction of legislation. The parliament is obliged to pass the legislation only if a person or body having the right of a legislative initiative makes it in accordance with the established rules. According to the subjects of this right, the following initiatives are distinguished: 1) governmental initiative; 2) parliamentary initiative; 3) popular initiative; 4) special initiative (introduction of legislation by the bodies specified in the constitution). Governmental and parliamentary initiatives have the greatest significance⁹.

An important function is the political control and accountability. In the system of separation of powers, along with the presence of braking mechanisms and counterbalances, the parliament is also endowed in some cases with exceptional powers (involvement in the response of the president of the republic), in others with particular powers (government impeachment), and in third cases with special ones (for example, depriving a deputy of the right to inviolability, suspension from duties, interpellation, etc.). The competence of the parliament in the area of control, reporting and prosecution is extremely large, but it is used as essentially exclusive.

The modern parliament is the main forum of political openness, its concentrated manifestation; therefore, the parliament also performs a function of ensuring political openness. Parliament is the institution where representatives of the party, independent

⁹ Журавський В. С. Законодавча функція парламенту України / Журавський В. С. // Вісник нац. ун-ту внутр. справ. – 2001. – Вип. 14. – р.176

deputies, government, deputies, who offer different alternatives to the decision, parliamentary factions, committees are obliged to openly declare their positions, intentions, by professionally and politically advance arguments and develop them. If this does not happen, then any deputy, any commission or faction (or representative of such), any member of the government can be forced to openly argue his (her) position¹⁰.

Democratically elected parliament, which carries out its functions, is the most important institution of legitimation¹¹. The modern parliament, as a whole, as an organization and system of institutions, carries out its legitimate function with the help of legally fixed and regulated functioning. Parliamentary legitimacy is the legitimacy of an organization, institution, and not an individual; this function does not belong to the deputy or deputies, but to the parliament as a whole.

The parliament is called to act as a powerful and reliable tool, using which society implements large-scale tasks, thus ensuring its steady development, creating the necessary foundations and guarantees for the dignified and prosperous existence of citizens. It is unlikely that one can overestimate the significance of this institution, given that it imposed with an obligation to direct the movement of a social organism. It is the parliament that, by means of lawmaking, must establish and maintain the necessary legal order in the country, and approve the rule of law.

Successful execution of such a responsible mission depends on the conditions of both objective and subjective order and, first of all, on how precisely the parliament, defining its goals and tasks, reflects the main tendencies of the evolution of this society, and also to what extent these goals agree with real possibilities of their transformation into reality, to what extent these goals are compared with the state of the economy, politics, culture, and whether they meet the needs and interests of citizens, their moral principles, customs, traditions, views, mindset, thoughts, etc.

¹⁰ Котелевская И. В. Современный парламент: парламент как институт государства / П. В. Котелевская // Государство и право. – 1997. – № 3. – р. 16

¹¹ Бандурка О. М. Парламентаризм в Україні: становлення і розвиток / О. М. Бандурка, Ю.М. Древаль. – Х., 1999. – р.3

Анотація.

Розглядається природа, функціональні особливості парламентаризму як соціально-політичного інституту, аналізуються основні напрямки діяльності парламент, шляхом аналізу його функцій і структурних елементів. Даний аналіз проводиться через призму теорії влади. Особлива увага приділяється структурі і функціям парламенту.

Summary.

In given article is considered nature, functional particularities of parliamentarianism yak social-political institute, are analyzed main trends to activity of the parliament, by analysis his function and structured element. This analysis is conducted through prism of the theories authorities. Emphases is spared structure and function of the parliament.

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