



THE ROLE OF THE PARLIAMENT IN ENSURING NATIONAL SECURITY IN USA AND EUROPEAN COUNTRIES (COMPARATIVE LEGAL ANALYSIS)

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Article history:	Abstract:
Received: June 10 th 2022 Accepted: July 11 th 2022 Published: August 20 th 2022	This article talks about the role of the parliament in foreign countries in the issue of ensuring national security, their comparative legal analysis. Indeed, the parliament plays an important role in supporting democratic traditions and the process of civil control, ensuring the smooth functioning of the institutional system of public administration. In many countries, the parliament is often seen as the official body that controls the executive and brings the president's proposals into line with the provisions of the country's basic law.
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Particular attention has been paid to ensuring national, economic, information and military security in our country since independence, and reforms in this direction have been carried out continuously for many years. In today's era of globalization, interaction and cooperation with the global community is more important than ever. Ensuring the national interests of the state is directly related to the national security policy. To do this, first of all, it is important to develop the legislative branch based on international standards and local conditions, give it the necessary powers, and clearly define tasks.

The creation of a capable parliamentary institution that meets the requirements of democracy is one of the most important tasks facing our countries. Today, the parliament in charge of the state must face various economic, social and political problems in the world and become one of the institutions that organize effective and democratic civilian control over security and defense issues.

Security issues are now viewed from a much broader perspective than in the past. Today, security is not only personal protection, protection from military threats and armed attacks, but also remains one of the main priority goals and objectives of each state. After all, the concept of security is very broad and includes various issues, such as protection against epidemics and infectious diseases, the fight against terrorism and organized crime, ensuring the security of a "safe citizen" and a reliable food supply, and preventing catastrophic climate change. Countries are becoming more dependent on the outside world due to the growth of globalization. Each country solves problems

arising from the specifics of its development, the availability of resources and the possibility of interaction with other countries.

Parliament plays an important role in supporting democratic traditions and the process of civil control by ensuring the smooth functioning of the institutional system of public administration, as well as the creation of appropriate legislation, taking into account the various opinions of citizens. In many countries, the parliament is often seen as the official body that controls the executive and brings the president's proposals into line with the provisions of the country's basic law.

Academician A.A. Kokoshin the following provisions of are important: "All Western countries have at least two common features. This is the presence of a clear system of civil administration in the territories that are part of the national security system, and the important role of parliaments in the implementation of this policy" [1]. M.Yu. Dundukov, A.S. Gogitidze, V.M. Redkovs, E.Z. The scientific works of such scientists as Troshkin [2] and a number of other scientists are devoted to the analysis of various legal aspects of the activities of the national security agencies of foreign countries.

Today, the US National Security Strategy reflects the following main areas of government work:

- resolve issues peacefully;
- mutual cooperation between the US and the EU in determining policy on major international issues;
- assistance to countries in the processes of democratization;



- To promote the spread of Western culture as the most attractive and universal [3].

In some countries, the authority to manage national security is vested in the government. For example, in Australia, national security policy is primarily the responsibility of the executive branch, that is, the government. According to the Basic Law of Australia, national security is a state policy related to foreign relations, defense, intelligence, counter-terrorism, immigration and border security [4].

Recently, in various countries where the government has played a key role in the implementation of national security policy, there have been various calls from members of the public for the transfer of powers in this direction to parliament. For example, in 2011 the UK switched to a system where Parliament must participate in the process of declaring war. Accordingly, it was decided that the decision to declare war would now be approved by Parliament. In particular, in 2013 the lower house of the British Parliament rejected the proposal of the government led by Prime Minister John Cameron to join the US military efforts in Syria.

A similar situation exists in Latin American countries, where the parliament has failed to win the respect of the population due to the lack of clear results in the performance of its control functions and the lack of proper implementation of this policy.

However, as a prerequisite for the development of a democratic state, parliament plays an important role in monitoring security-related legislation, mobilizing and using public resources for security. After all, this structure is the highest and first link of power.

In our opinion, a properly functioning parliament, in addition to fulfilling its legislative role, should also exercise control over national functions. This includes maintaining political order, law and order and ensuring peace and security, as well as the proper use of the security forces to resolve conflicts.

The problems of the mechanisms of parliamentary control in the field of national security and the observance of the principle of separation of powers were often clearly manifested in practice in matters of the use of armed forces, and often in resolving disagreements between the President and the executive branch over the scope of powers and their boundaries. "To put it simply, parliamentary control is an activity related to the application of direct and indirect sanctions against the bodies of the executive power system" [5].

In our opinion, parliamentary control, as well as the system defined in the legal norm, regulates the activities of executive authorities that have made official decisions on their activities, controlling,

checking, evaluating and imposing sanctions on them (expression of no confidence in the government). It should be noted that among the subjects of parliamentary control, firstly, the government and parliament (for example, in Germany), in France and the United States, criminal liability and impeachment of the president are applied together with the government. Secondly, when the majority of members of the government participate in parliament (for example, in Germany), the majority of members of parliament are in opposition to the president (for example, in the USA), thirdly, when the majority of members of parliament are in opposition to the president and the majority of those who are in opposition to the president or government (preferably deputies (eg France) as long as the subsidiary bodies exercise indirect oversight, unless they participate in the parliamentary process. These include: Various US Congressional Investigative Services (defunct in 1995), Office of Technology Quality, Office of the Budget, Swedish Ombudsman, auditors of the Lithuanian Seimas. Representative of the Ukrainian Rada for the protection of human rights, representative of the Bundestag for defense, the Accounts Chamber, etc. [6].

Among the international documents, it is worth noting the "Declaration on the strengthening of international security" of the United Nations in 1970 [7]. The main purpose of this declaration is to ensure peace, cooperation and security throughout the world.

"The efforts of the United Nations aimed at establishing peace and security on earth are reflected in its "Declaration on the Strengthening of International Security", adopted on December 16, 1970, in the Special Convention of the UN General Assembly aimed at ensuring international security (December 5, 1970). 1986 and December 7, 1987)" was stated in the Resolution (December 7, 1988) "An integrated approach to strengthening international peace and security in accordance with the UN Charter". They say that peace and security are one of the global problems, and participation in their solution is an expression of the humanitarian policy of states. Therefore, ensuring peace and security on earth is a global problem that requires global cooperation" [8].

It should be noted that a number of regional organizations have adopted various documents in different areas, based on the priorities of ensuring national security. In particular, among them are the statement of the Shanghai Cooperation Organization on countering the spread of terrorism, separatism and extremist ideas, including on the Internet, the statement on cooperation in ensuring international information security, the statement on countering epidemic risks on the territory of the SCO member



countries, on cooperation in the fight against international terrorism, it is necessary to mention such things as the statement on the fight against crime, the joint initiative to eliminate the consequences of the international financial and economic crisis and economic development [9].

Also, in the Treaty on the European Union, the current version of which came into force in 2009, special and broad attention is paid to the national security policy of the member states of the Union [10].

It is important to note that the constitutions of many countries state that the parliament is responsible for the security sector or its priorities in this direction. In particular, in Article 61 of the Constitution of the Republic of Kazakhstan, among the tasks of the Parliament, "ensuring the security and defense of the state" is specifically mentioned [11].

Ensuring security in the field of information is one of the most pressing issues of our time, as well as economic security. According to D. Tajibayeva, ensuring information security and improving the information security system, organizing timely and proportionate actions against threats in the information sphere is one of the most pressing issues today. First of all, it is necessary to recognize the bitter reality that in the process of globalization, information becomes a powerful tool of ideological influence. Most ideological centers use information attacks to achieve their malicious goals [12].

Therefore, it is important to analyze foreign experience in this regard. Like Italy, France and Germany, which have 200 years of parliamentary history. The laws adopted by these countries 100 years ago still serve their people without losing their power.

It should be noted that the constitutions of some foreign countries expressly stipulate that the parliament cannot pass laws and amend the constitution on important issues relating to the foundations of the constitutional system, fundamental human rights and freedoms.

In particular, according to Article 4 of the Turkish Basic Law, which defines the country as a democratic, secular, social, republican form of government and legal norms based on national unity and justice, respects human rights, and states that the territory of the country is unified and indivisible, and the state language is Turkish., the symbols of the state and articles 1, 2 and 3 of the Constitution, establishing the capital, are unchanged, and it is also forbidden to make proposals to change them [16]. Similar provisions are enshrined in the constitutions of Greece (Article 110), Italy (Article 139), Romania (Article 148), Ukraine (Article 157) and other countries [17]. In a number of countries, supervision over the compliance

of the legislative activity of the parliament with the Constitution has been established. Such constitutional control is carried out by courts of general jurisdiction in the countries of the Anglo-Saxon legal system (Australia, India, Canada, USA), in some other countries (Germany, Italy, Hungary, Russia) by a specially created constitutional court. , and in other countries (France, Kazakhstan, Morocco, Senegal, Tunisia, Ethiopia) is carried out by the constitutional council [18].

If we turn to the experience of foreign countries in this regard, then in the exercise of parliamentary control over the execution of the state budget - the Accounts Chamber (Austria, Germany, Spain, France), the General Accounts Chamber (USA), the Main Control and Audit Office (Canada, Sweden), the State Accounts Committee (Great Britain), special financial control bodies formed by the Parliament, such as the Accounts Chamber (Brazil, Romania, Portugal, Turkey) [19]. As a rule, these bodies are entrusted with the tasks of state financial audit and state financial discipline.

In Germany, as in other developed Western countries, parliament does not play a decisive role in shaping national security policy. The decisive role in the adoption and implementation of decisions in this area, as well as the responsibility for planning and implementing national security policy, belongs to the federal government, which includes the Federal Security Council as a special mechanism. This body, headed by the Federal Chancellor, develops proposals on the most important issues of ensuring the national security of the country and coordinates the activities of the military and civilian authorities in this area [20]. Thus, in Germany, the main role in making and implementing decisions in the field of national security is assigned to the executive branch, and not to the legislature, and first of all, the federal chancellor, who forms the government, is the head of government. In times of war, the Federal Security Council acts as the Supreme Commander, expressing the concept of national security of the country, which is detailed in a special document "White Paper on the Security of the Federal Republic of Germany", which traditionally focuses on foreign policy and military aspects.[21] .

The leading role in the French intelligence system is played by the DGSE, which reports to the Ministry of Defense but also has direct contact with the president and prime minister. His responsibilities include collecting information related to external security. The DGSE has approximately 4,500 members of 3,200 civilians and 1,300 military personnel. The mandate of the DGSE includes a wide range of tasks and responsibilities: collection and analysis of information relating to the security of France; to detect



and prevent subversive activities against France outside its borders; conducting top-secret operations in the national interest, when necessary [22].

E.Z.Troshkin and A.S.Gogitidze characterize the modern system of special services throughout France and rightly distinguish the following features: the highest executive power - tight control over its activities by the president and prime minister and the absence of any control by the parliament; the presence of a multi-level system of control and coordination bodies, which sometimes complicates the interaction of special services of different ministries - defense and internal affairs bodies; strengthening the role of intelligence, which was manifested in the restructuring of its work in relation to the domestic and foreign political situation; therefore, there is a certain parallelism in the activities of special services and long-term competition between them [23]. An analysis of the scientific literature on the topic under consideration makes it possible to single out the following features of the legal basis for the organization and activities of the French national security agencies [24]. The legal status, control and system of responsibility of the French special services are based on the norms of the French Constitution [25]. The French national security agencies are controlled by the president and prime minister, who carry out full intelligence and counterintelligence activities. For example, according to Article 5 of the French Constitution, "The President controls the observance of the Constitution. Through his arbitration, he ensures the normal functioning of public authorities, as well as the continuity of the state. This is the main guarantee of national independence, territorial integrity, compliance with international treaties." According to Article 15 of the French Constitution, "The President of the Republic is the commander-in-chief of the armed forces. He chairs the highest councils and committees of national defense."

The French Parliament does not have real powers to control the activities of the secret services, but can create various commissions and hold hearings on issues related to the activities of the intelligence and counterintelligence agencies.

The legal documents of the highest state bodies only determine the foundations of the legal status of the French national security bodies, provide for their so-called "legal existence", the forms and methods used, powers and tools regulated by closed, confidential departmental legal documents [26].

In the United States, where the presidential model of government is being implemented, there is a long tradition of division of powers between different branches of government. The US Congress takes a strong stance on the executive branch, especially

when the opposition has a majority in one or both houses. Of course, this can significantly hinder presidential policy. However, the US is not the only country with a presidential model of government. This happens in Latin America, most of Africa and a number of countries in the Baltic region. It can also be found in Indonesia, the Philippines and South Korea.

Parliamentarianism prevails in most European countries. In this form of government, there is no clear separation between the executive and legislative branches of government. After all, the executive branch is elected from the legislature. As a result, the composition of the parliament and executive authorities are interdependent, which is a factor that determines the nature of the relationship between the legislative and executive authorities. The president is elected by parliament and has little influence on the executive branch. It plays a very symbolic role. In turn, the head of government, the prime minister, has full executive power and is fully accountable to the legislature. If the Parliament does not support the Prime Minister, or if the Parliament does not approve the government's policy, it has the right to remove him by a vote of no confidence.

The dependence of the head of the executive branch on parliament ensures the flexibility of parliamentarianism and the possibility of rapid adaptation, which is not the case in the presidential system. Unlike a strong president who stays in power until the end of his legal term if the people lose support, the prime minister's term can be terminated by parliament at any time if his policies become unpopular. In fact, a vote of no confidence is a powerful legal means of exercising control over the government, which is characteristic of a parliamentary republic.

It should be noted that there are some variations of the model of parliamentary government. Great Britain and Canada are representatives of the Westminster model [27], which is characterized by the presence of only one party in the executive branch. The most striking example of the continental model of parliamentarism, found in most European countries, is Germany [28].

In this, parliamentarism relies on a political consensus between a coalition of executive power and parties in the implementation of public policy. The head of state is completely removed from executive power and plays a symbolic role [29]. Switzerland is considered a "plebiscite of the parliamentary system" because important political decisions are often tested in a popular referendum.

In some foreign countries, the activities of economic entities are also included in the scope of parliamentary control. For example, under French law,



Parliament has the right to control both the executive branch and the activities of localized enterprises, as well as the activities of enterprises with a state share of more than 50 percent. In Finland, the parliament has the right to control companies with state participation.

Foreign countries such as Japan, France, Italy, Spain, USA, Mexico, Russia, Germany and Switzerland have a bicameral parliamentary system. They use different methods to form the Senate. For example, the upper chamber of the parliament of such countries as the USA, Italy, Japan, Switzerland is formed by direct elections, and in France – by indirect voting and representatives of the territorial community of the republic. Belgium and Ireland use election and appointment methods [30].

Based on the foregoing, it should be noted that, based on international experience, it is necessary to form a strong parliament capable of defending its position in matters of foreign policy and defense at the national and international levels.

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