



GOVERNMENT FORMATION PROCEDURE: COMPARATIVE LEGAL ANALYSIS AND PROSPECTS

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Abstract: This article provides a theoretical and legal analysis of some foreign and domestic regulatory legal acts regulating the mechanism for forming the government and its composition, and proposes for further improvement of some regulatory legal acts in this area.

Keywords: "Sovereign Karakalpakstan within independent Uzbekistan," "Bodies of state power of the Republic of Karakalpakstan," "Government of the Republic of Karakalpakstan and its constitutional and legal powers."

It is known that today special attention is paid to research on determining the role of the government in the system of state power, clarifying its constitutional and legal powers and increasing its accountability to parliament, as well as assessing the status of government members and their activities by improving the legal mechanism for forming the composition of the government, and improving the relationship of the government with other government bodies.

We will try to highlight the experience of some CIS member states, as well as some republics within the Russian Federation. In particular, in Kazakhstan, Kyrgyzstan, Belarus, Tatarstan, and Bashkortostan, the government is composed of the Prime Minister, his deputies, and heads of governing bodies. In these countries, the activities of the government are headed by the Prime Minister, who is responsible to the President and accountable to the parliament on certain issues of their activities. In Turkmenistan and Bashkortostan, the activities of the government are headed by the President (or Head of the Republic), who is the head of state. In these countries, the composition of the government is formed in various ways, mainly on the basis of the form of government. Thus, in Kazakhstan, Turkmenistan, Kyrgyzstan, Belarus, Tatarstan, and Bashkortostan, most government officials are formed under the main leadership of the President of the country.

In the mechanism for forming the composition of the government of these states, the relationship between the head of state and parliament is also determined in a different order. In particular, in Kazakhstan, the composition of the government is formed under the main leadership of the President (based on the discussion and approval of the parliamentary session in the appointment and dismissal of the Prime Minister). On the recommendation of the Prime Minister, the President determines the structure of the government, abolishes or reorganizes central bodies. The president appoints members of the government and ministers (ministers of foreign affairs, defense, internal affairs, and justice) [1]. In Turkmenistan, the government delegates its powers to the newly elected President. The President presides over the government and has the right to include in its composition, in addition to the Deputy Prime Ministers and ministers, the heads of other central bodies. After assuming office, the President forms the government within a month (in agreement with the parliament when

appointing and dismissing the Ministers of Internal Affairs and Justice). If the President violates the Constitution and laws, the parliament may express no confidence in him. The issue of distrust in the President is considered at the request of at least two-thirds of the members of parliament. A decision of no confidence in the President is adopted by three-quarters of the votes of the deputies of the established parliament[2].

In Kyrgyzstan, the composition and structure of the government are formed under the main leadership of the President and parliament[3]. In Belarus, the composition of the government is formed under the main leadership of the President (on the basis of discussion and approval by the House of Representatives of the National Assembly when appointing the Prime Minister). If the President's candidacy for the position of Prime Minister is rejected twice by the House of Representatives of Parliament, the President has the right to appoint an acting Prime Minister, dissolve the House of Representatives of Parliament, and appoint new elections. Deputy Prime Ministers, ministers, and chairmen of state committees are appointed by the President[4]. In Tatarstan, the composition of the government (all heads of executive bodies) is formed under the main leadership of the President of Tatarstan (based on discussion and approval by parliament). The Government is accountable to the President and is accountable to Parliament on certain issues of its activities. The newly formed government submits to the parliament a program of activities that it will carry out during its term of office. Parliament may express no confidence in the Prime Minister and his deputies by a majority vote of the elected deputies, which will lead to their resignation[5]. In Bashkortostan, the composition of the government is formed under the main leadership of the Head of the Republic (on the basis of discussion and approval by parliament when appointing and dismissing the Prime Minister, as well as, upon the Prime Minister's recommendation, his deputies, ministers, heads of state committees, and heads of other agencies). The government is headed by the Head of the Republic. The Government has the right to include the heads of other state organizations in its composition upon the recommendation of the Prime Minister. The Government operates within the term of office of the Head of the Republic and delegates its powers to the newly appointed Head of the Republic. The newly formed government submits a program of further activities for its term of office for consideration by the Head of the Republic and the parliament [6].

In the above-mentioned foreign experience, the composition of the government and the mechanism of its formation are distinguished by common and specific features. This peculiarity lies, first of all, in the legal definition of the constitutional and legal status of each country, as well as the status of the government and its members based on the principle of separation of powers. Along with the important role of the head of state, the President (or Head of the Republic), in the formation of the composition of the government, the broad participation of parliament is also legally defined. At the same time, it is no exaggeration to say that democratic principles have also been introduced between the President (or the Head of the Republic), who participates in the mechanism for forming the government, and the parliament. In addition, we can note that the government and its members are directly responsible for their official duties, primarily to the head of state - the President (or the head of the republic), and on the main issues of their activities - to the parliament (or its lower chamber).

In sovereign Karakalpakstan, which has a parliamentary form of government within independent Uzbekistan[7], the government consists of the Chairman of the Council of

Ministers, his deputies, ministers, and heads of other agencies[8]. According to the legislation [9] the Chairman of the Council of Ministers of the Republic of Karakalpakstan is included in the composition of the Cabinet of Ministers of the Republic of Uzbekistan by virtue of his position.

According to the legislation [10], the Chairman of the Government is appointed and dismissed by the Parliament of the Republic of Karakalpakstan upon the proposal of the Chairman of the Parliament - the Head of the Republic of Karakalpakstan [11], submitted in the prescribed manner. At the suggestion of the Prime Minister, his deputies and members of the government (ministers and heads of other agencies) are appointed and dismissed by the parliament, if during the sessions - by the Presidium of the parliament, with subsequent approval by the parliament of the Republic of Karakalpakstan [12].

In this regard, when comparing the composition of the government of Tatarstan and Bashkortostan and the mechanisms for its formation with the composition of the government of the sovereign Republic of Karakalpakstan and the mechanisms for its formation from a comparative legal point of view, we see that the officials in the government of Tatarstan and Bashkortostan and their legal status are determined from a constitutional and legal point of view on the basis of the status of the republic. It is also characterized by the introduction of generally recognized democratic principles of international law in the formation of the composition of the governments of these states.

However, although the constitutional and legal status of the sovereign Republic of Karakalpakstan [13] is defined in the Constitution of the Republic of Uzbekistan and the Constitution of the Republic of Karakalpakstan, it is no exaggeration to say that to date, no administrative reforms have been carried out to modernize the composition of the government of the Republic of Karakalpakstan and the mechanism for its formation.

In sovereign Karakalpakstan, which has a parliamentary form of government within independent Uzbekistan[7], the government consists of the Chairman of the Council of Ministers, his deputies, ministers, and heads of other agencies[8]. According to the legislation [9] the Chairman of the Council of Ministers of the Republic of Karakalpakstan is included in the composition of the Cabinet of Ministers of the Republic of Uzbekistan by virtue of his position.

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In our view, the reforms being implemented in these areas, in turn, equally apply to the independent Republic of Uzbekistan and the sovereign Republic of Karakalpakstan within its structure. Therefore, in the activities of the state power of the sovereign Republic of Karakalpakstan, including the government, the time itself demands a complete abandonment of the management mechanism "inherited" from the old Soviet era. In particular, the status of the Chairman of the Government of the Republic of Karakalpakstan has not yet been fully regulated from a constitutional and legal point of view in the Constitutions of the Republic of Uzbekistan and the Republic of Karakalpakstan, as well as in the relevant legislative acts. That is, although the Chairman of the government carries out general management of the activities of the government of the Republic of Karakalpakstan and its governing bodies, it can be especially noted that in the Constitution and legislative acts the status of the Chairman of the government is included in the government of the Republic of Uzbekistan by virtue of his position, at the same time, he does not have a certain legal status in the government of the Republic of Uzbekistan.

At this point, we consider it appropriate to dwell on the democratic principles established in some legislative acts of the Republic of Uzbekistan. In particular, Article 15 of the Constitutional Law "On the Senate of the Oliy Majlis of the Republic of Uzbekistan" of December 12, 2002, stipulates that "one of the Deputy Chairmen of the Senate of the Oliy Majlis is a representative of the Republic of Karakalpakstan," and Article 5 of the Law "On the Constitutional Court of the Republic of Uzbekistan" of May 31, 2017, stipulates that "among the judges elected to the Constitutional Court of the Republic of Uzbekistan, there is a representative of the Republic of Karakalpakstan

It can be recognized that these provisions directly serve to ensure effective relations between the parliaments of the Republic of Uzbekistan and the Republic of Karakalpakstan, as well as the Constitutional Court of the Republic of Uzbekistan and the Committee for Constitutional Control of the Republic of Karakalpakstan. Therefore, taking into account the status of the Republic of Karakalpakstan within the Republic of Uzbekistan [16], and also based on the principle of separation of powers in the Republic of Karakalpakstan, and also based on the organization of the activities of a permanent representative office of the Council of Ministers under the Cabinet of Ministers to ensure relations between the governments of the Republic of Uzbekistan and the Republic of Karakalpakstan [17], the need to determine the constitutional and legal status of the Chairman of the Council of Ministers by revising the provision established in the relevant regulatory legal acts of the Republic of Uzbekistan and the Republic of Karakalpakstan that "the head of the government of the Republic of Karakalpakstan is a member of the Cabinet of Ministers of the Republic of Uzbekistan by virtue of his position"[18], is becoming extremely relevant. If the status of the Chairman of the government in the Republic of Karakalpakstan were further clarified from a constitutional and legal point of view, this, in turn, would create a legal basis for further regulation of the principle of separation of powers in the administration of the Republic of Karakalpakstan.



2) When analyzing the regulatory legal acts of the Republic of Karakalpakstan defining the composition of the government, we see that only in Article 5 of the Republican Law "On the Council of Ministers" is the composition of the government legally regulated. However, in the Constitution of the Republic of Karakalpakstan, which regulates the main activities of the government, the composition of the government is not regulated by constitutional provisions.

As is known, in the system of normative legal acts of the republic, the Constitution of the Republic of Karakalpakstan is the Basic Law with the highest legal force. On the basis of this Constitution, legislative acts of the Republic of Karakalpakstan are developed and adopted.

Taking into account the above legal analysis, we believe that the Constitution of the Republic of Karakalpakstan should establish constitutional provisions defining the composition of the government.

We conclude our thoughts with the following conceptual ideas of the President of the Republic of Uzbekistan. "Our highest and noble goal is to build a New Karakalpakstan within New Uzbekistan through our joint selfless work"[19].

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