

# THE INTERACTION OF THE PRESIDENT OF UKRAINE WITH THE PARLIAMENT AND BODIES OF THE EXECUTIVE POWER: PROBLEMS OF THEORY AND PRACTICE

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**Annotation.** *The article explores the issues of interaction between the President of Ukraine and the Verkhovna Rada of Ukraine and the executive authorities in Ukraine. The research has shown that the constitutional ambiguity and differences in the legal norms defining the powers of the president and the parliament cause problems of interaction between them. It was also revealed that problems may arise in the process of forming a majority in the parliament, which may lead to political instability and complicate the interaction between the president and the parliament. This article also substantiates that the existing constitutional and legal norms regarding the veto power of the President of Ukraine regarding laws adopted by the Verkhovna Rada and the performance of the duties of the President of Ukraine by the Chairman of the Verkhovna Rada in cases where his powers were prematurely terminated require additional improvements. It was established that the problems of interaction between the President of Ukraine and the executive authorities are related to the existing procedure for appointing the heads of local state administrations, the lack of an effective control system over the executive authorities, insufficient coordination of the actions of the President of Ukraine and the executive authorities, and the problem of the constitutionality of the President's powers in relation to some executive authorities. The mentioned problems can lead to abuse of power, corruption and inefficient activity of state bodies, therefore this article offers options for solving the mentioned problems. The work highlights important aspects of the interaction of key state institutions and can be useful for students and researchers in the legal field. This study contains interesting conclusions and recommendations regarding the further improvement of interaction between the President and the authorities in Ukraine.*

**Keywords:** *President of Ukraine, Parliament of Ukraine, Verkhovna Rada of Ukraine, Executive authorities, Cabinet of Ministers of Ukraine, Interaction, Problems of theory and practice, political system of Ukraine, the Checks and Balances system.*

## 1. Formulation of the problem.

According to the Constitution of Ukraine, state power in Ukraine is exercised on the basis of its division into legislative, executive and judicial (Article 6 of the Constitution of Ukraine). The highest body of legislative power in Ukraine is the Verkhovna Rada of Ukraine (Article 75 of the Constitution of Ukraine), and the highest body of executive power is the Cabinet of Ministers of Ukraine (Article 113 of the Constitution of Ukraine). The President of Ukraine is the head of state and acts on its behalf (Article 102 of the Constitution of Ukraine). According to the current Constitution of Ukraine, the President of Ukraine is not assigned to any branch of government, which leads to a number of problems in determining his legal status and interaction with other higher bodies of state power in Ukraine.

The effective functioning of the political system of Ukraine depends on the ability of these institutions to interact with each other in a productive and constructive manner. However, the interaction between the President, the Parliament, and the executive authorities in Ukraine is often marked by challenges and difficulties, both in terms of theory and practice. On the theoretical level, there are questions about the distribution of powers and responsibilities among these institutions, as well as about the mechanisms for ensuring accountability and transparency in their actions. In practice, the interaction between the

President, the Parliament, and the executive authorities can be hampered by political polarization, conflicts of interest, and bureaucratic inefficiencies.

This article seeks to explore the problems and issues that arise in the interaction between these key institutions of power in Ukraine. Additionally, the article will propose possible solutions for improving the interaction between the President, the Parliament, and the executive authorities, with a focus on change in legislation, enhancing accountability, transparency, and efficiency in the political system of Ukraine.

## **2. Analysis of scientific publications.**

The issue of the interaction of the President of Ukraine with the parliament and/or with bodies of the executive power was raised in the scientific works of M. Tymoshenko [1], D. Cherednychenko [4], M. Shevchuk [10], O. Kuznetsov [11], S.V. Kuzik [12], O. Gubska [13], L. Deshko [15–17], Y. Bysaga [18; 19].

## **3. Presentation of the main material of the study.**

The interaction between the President, the Parliament and the executive authorities in Ukraine is one of the key components of the democratic process in the country. Problems in the theory and practice of this interaction can arise for various reasons, such as imperfect legislation, incomplete agreement between different branches of government, or insufficient communication and coordination of actions between them. First, we will analyze the problems of interaction between the President of Ukraine and the Verkhovna Rada of Ukraine and offer options for solving them.

1. Constitutional ambiguity and discrepancies in the legal norms defining the powers of the president and the parliament.

The norms of the Constitution of Ukraine, as well as legislative acts regulating interaction between different branches of government, contain various terms, formulations and concepts, therefore it is not always clearly defined which powers belong to the President and which powers belong to the Verkhovna Rada of Ukraine. The inconsistency of legal norms leads to certain legal instability, imbalance in the field of power, interdependence and various conflicts between the president and the parliament, which over time can negatively affect the political situation in the country [1].

Therefore, we conclude that in order to solve this problem, clarification of the provisions of the legislative acts that regulate the interaction between the president and the parliament to ensure the effective and stable functioning of the state is required.

2. Problems in the process of forming a majority in the parliament, which can lead to political instability and complicate the interaction between the president and the parliament.

The problem is that, over time, national political parties can split and coalition agreements can break down because of disagreements between partners over policy, power-sharing, or other issues. This can lead to instability in the parliament and the government, as well as complicate the interaction between the parliament and the president.

For example, in 2019, after the elections to the Verkhovna Rada, a difficult political situation arose in Ukraine, when it was not possible to quickly form a coalition and a government, which caused a loss of public trust in the political elite and the president [2]. It would be expedient to solve this problem by strengthening the role of the opposition. Creating an effective opposition can help avoid the formation of too strong a majority, which can disturb the balance of power and complicate the interaction between the parliament and the president.

3. Existing constitutional and legal regulation of the right of veto of the President of Ukraine regarding laws adopted by the Verkhovna Rada.

Attention should be paid to the number of votes of the Verkhovna Rada's deputies to overcome the veto. According to the Constitution of Ukraine, at least two-thirds of the votes of the constitutional composition

of the Verkhovna Rada (Part 3, Article 94) are required to override the veto [3]. Such requirements are not characteristic of countries that are mixed republics, but are characteristic of presidential republics. In most cases, the veto is overridden by either a simple majority or another qualified majority, which, however, is less than 2/3 [4]. For example, according to the Constitution of Poland, the veto of the president is overridden by three-fifths of the votes of the lower house of the parliament, if at least half of the members are present [5].

Therefore, we believe that in order to solve this problem, it is necessary to amend the Constitution of Ukraine in accordance with the model of the European Union countries, which are also mixed republics, where the veto of the President can be overridden by another qualified majority of votes, but less than 2/3, so that the role of the President was not as strong as in presidential republics.

4. Existing constitutional and legal regulation of the performance of the duties of the President of Ukraine by the Chairman of the Verkhovna Rada of Ukraine in cases where his powers were prematurely terminated.

According to Art. 112 of the Constitution of Ukraine, in case of early termination of the powers of the President of Ukraine in accordance with Art. 108, Article 109, Art. 110, Art. 111 of this Constitution, the Chairman of the Verkhovna Rada of Ukraine is entrusted with the performance of the duties of the President of Ukraine for the period before the election and entry into office of the new President of Ukraine. The same article establishes certain restrictions on the exercise of the powers of the President of Ukraine by the Chairman of the Verkhovna Rada of Ukraine. In particular, Art. 112 of the Constitution of Ukraine establishes that the chairman of the Verkhovna Rada of Ukraine cannot exercise the powers provided for in paragraph 2, 6–8, 10–13, 22, 24, 25, 27, 28 st. 106 of the Constitution of Ukraine [3].

The problem of such constitutional and legal regulation consists in depriving the Chairman of the Verkhovna Rada of Ukraine of exercising the powers provided for in clause 10) of Art. 106 of the Constitution of Ukraine. As a result, the Chairman of the Verkhovna Rada of Ukraine cannot submit to the parliament a submission on the appointment of the Minister of Defense of Ukraine and the Minister of Foreign Affairs of Ukraine. Under normal circumstances, this is not a problem.

However, a different situation arises in the case of, for example, the introduction of martial law. In accordance with Part 1 of Art. 19 of the Law "On the Legal Regime of Martial Law" it is prohibited to hold elections for the President of Ukraine under martial law conditions [6]. In Part 2 of Art. 20 of the Election Code of Ukraine, it is established that in case of introduction of a state of war or state of emergency in Ukraine or in some of its localities, the electoral process of national elections shall be terminated from the date of entry into force of the relevant decree of the President of Ukraine [7].

That is, in the event of the introduction of martial law, a situation may arise when the powers of the President of Ukraine were terminated in accordance with Art. 108, Article 109, Art. 110, Art. 111, but extraordinary elections of the President of Ukraine cannot be held. At the same time, the Chairman of the Verkhovna Rada of Ukraine cannot submit a submission to the parliament on the appointment of the Minister of Defense of Ukraine. Such a situation can pose a significant danger to the state, since the introduction of martial law means the presence of aggression or the threat of an attack, a danger to the state independence of Ukraine, its territorial integrity, according to Art. 1 of the Law "On the legal regime of martial law". It should be noted that the Minister of Defense of Ukraine performs an important function and has important powers regarding the defense of Ukraine, according to the Law "On the Defense of Ukraine" and the Law "On National Security of Ukraine".

Therefore, during martial law, if the powers of the President of Ukraine are terminated, and the Minister of Defense of Ukraine is absent, it will be impossible to appoint the latter until martial law is lifted. It turns out that one of the key subjects of the defense of Ukraine will be absent and it will not be possible to appoint him until martial law is abolished. There will also be no possibility to make changes to the Constitution of Ukraine, because according to Art. 157 of the Constitution of Ukraine, the Constitution of Ukraine cannot be changed under conditions of war or state of emergency.

In order to improve the constitutional and legal regulation of this situation and prevent the emergence of a dangerous situation for Ukraine during a direct or potential military conflict, it is necessary to make changes to Art. 112 of the Constitution of Ukraine and exclude item 10) of Art. 106 from the list of powers

of the President of Ukraine, which cannot be exercised by the Chairman of the Verkhovna Rada of Ukraine within the limits of Art. 112.

Interaction between the president and the Verkhovna Rada of Ukraine is an important element of state management. To solve these problems, it is necessary to develop new mechanisms and approaches to state management, in particular, to improve the constitutional regulatory framework, create a positive political culture, ensure transparency and openness in decision-making, as well as increase the level of professional competence of political leaders.

Forward, we will analyze the problems of interaction between the President of Ukraine and the executive authorities and offer options for solving them.

#### 1. The existing procedure for appointing heads of local state administrations.

According to Art. 118 of the Constitution of Ukraine [3] and Part 1 of Art. 1 of the Law "On Local State Administrations" [8], executive power in regions and districts, the cities of Kyiv and Sevastopol is exercised by local state administrations. According to Part 2 of Art. 1 of the Law on Local State Administrations, local state administrations are local executive bodies and belong to the executive branch of government [8].

At the same time, in accordance with Part 4 of Art. 118 of the Constitution of Ukraine [3], and Part 2 of Art. 8 and clause 2) part 2 of Art. 9 of the Law "On Local State Administrations", the heads of local state administrations are appointed and dismissed by the President of Ukraine at the request of the Prime Minister of Ukraine [8]. In this case, it is worth remembering that the highest body in the system of executive authorities according to Art. 118 of the Constitution of Ukraine is the Cabinet of Ministers of Ukraine, not the President of Ukraine. Moreover, the President of Ukraine does not belong to the executive branch of government. Nevertheless, the President of Ukraine has the authority to form executive power at the territorial level.

In this case, one should refer to the experience of legal regulation of the appointment of similar officials in other states that are mixed republics, like Ukraine, namely: Romania and Poland. In Romania, the prefect is appointed by the government [9], and in Poland the voivode is appointed as the head of the Council of Ministers [5].

Therefore, in order to improve the interaction between the bodies of the executive power and the President of Ukraine in the context of the formation of the executive power at the local level, it will be logical to implement certain changes in the constitutional and legal regulation.

#### 2. Absence of an effective system of control over executive authorities.

The Constitution of Ukraine provides the President with a significant arsenal of powers to control executive bodies, but the problem is that such control is not always effective. In Ukraine, an effective system of control over executive authorities has not yet been created, which has led to significant corruption and abuse of power [10]. In our opinion, the lack of effective interaction between the President of Ukraine and executive power bodies is the result of insufficient coordination between these bodies.

S. Kuznetsov believes that an ineffective control system can lead to abuse of power and inefficient activities of civil servants [11].

Examples of insufficient control over executive bodies can be cases of excessive centralization of power, interference in the legislative process, unfounded and ineffective decisions in the economic and social spheres.

Therefore, we believe that the existing system of control over executive bodies by the President should be made effective, but at the same time, the characteristics of a mixed republic should be preserved. O. Kuzyk believes that it is necessary to strengthen the system of control and supervision of the activities of these bodies by the President in order to prevent abuse of power and corruption [12].

One of the possible ways in this direction can be the establishment of a clear procedure of interaction between the president and executive authorities, which should be based on the principles of separation of powers and mutual control. New legislative acts can be developed that will more clearly define the powers of the president and executive authorities, including their functions, duties and interaction in

the process of forming and implementing state policy. It is also important to develop mechanisms for monitoring the activities of executive authorities, for example, ensuring transparency and openness in the process of forming and implementing state policy, developing public participation, strengthening the role of independent media and public organizations in monitoring the activities of executive authorities.

3. Insufficient coordination of the actions of the President of Ukraine and executive authorities.

One of the most important problems of interaction between the President and the executive authorities is insufficient coordination of their actions. This can lead to conflicts, duplication of functions and failure to complete tasks. It is necessary to develop mechanisms of coordination and cooperation between the President and executive authorities to ensure the effective work of state bodies [13].

In our opinion, insufficient coordination of actions can lead to disagreements in decision-making and non-fulfillment of tasks, which creates prerequisites for political instability and a decrease in public trust in the authorities. Also an important factor is the low level of professional competence of civil servants who are responsible for the coordination of actions.

Therefore, in order to solve this problem, it is quite important to create special advisory coordination bodies that will ensure communication and a professional level of interaction between the President and executive authorities, in particular, it is necessary to raise the professional level of civil servants and ensure proper control of their activities.

4. The problem of the constitutionality of the President's powers in relation to some bodies of executive power.

In accordance with Clause 31) Part 1 of Art. 106 of the Constitution of Ukraine, the President of Ukraine exercises other powers specified by the Constitution of Ukraine [3]. Particular attention should be paid to the phrase "defined by the Constitution of Ukraine" in the cited constitutional and legal norm. From this we can conclude that the powers of the President of Ukraine can only be established by the Constitution of Ukraine. However, the laws of Ukraine grant the President of Ukraine powers that are in no way provided for by the Constitution of Ukraine. For example, according to p. 2 h. 1 st. 9, part 1 and p. 2 h. 2 art. 11, part 2 of Art. 28 of the Law "On the State Bureau of Investigations" The President of Ukraine: determines the organizational structure of the State Bureau of Investigations, appoints and dismisses the director of the State Bureau of Investigations, appoints 3 persons to the Competition Commission, assigns higher special ranks, approves regulations on the Council of Public Control [14].

Therefore, in our opinion, it is necessary either to provide for these powers of the President of Ukraine at the level of the Constitution, or to amend Clause 31, Part 1, Article 106 of the Constitution of Ukraine, to add the phrase "and the laws of Ukraine", since in the opposite direction the question of the constitutionality of such powers.

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