

EUROPEAN PARLIAMENTARISM AND ESTABLISHING THE CONTENT OF THE INSTITUTIONAL AUTHORITY WITHIN THE EU PARLIAMENT

Hrebeniuk Dmytro

DOI: <https://doi.org/10.61345/1339-7915.2023.6.11>

Annotation. This article is devoted to the study of the role of the European Parliament in the global political and legal context. The author focuses on the characteristics and peculiarities of the European model of parliamentarism, in particular, institutional authority and its role in the decision-making process. The research includes an analysis of the views of various authors on the term “institutional authority”, in particular in the context of the functioning within state bodies. Different views help to reveal aspects of the definition of this term and its role in a positive assessment of the activities of public authorities. A special emphasis is placed on the importance of personal authority of the head of the body in comparison with institutional authority, which allows us to consider leadership not only through the prism of the position, but also personal qualities. This aspect of the study is a promising area that can help understand the interaction between institutional and personal authority. The definition of the term “institutional authority” becomes a key element for further elucidating the concept of supranational parliamentarism in the context of the European Union Parliament. This study contributes to a deeper understanding of the functions of the parliament at the supranational level and may open up new perspectives in the development of European integration processes. A key aspect of the study is the methodology used to analyse and study European parliamentarism and institutional authority. The methods used allow for a more complete understanding of the structure and functions of the European Parliament. The article also highlights the prospects for the development of the concept of supranational parliamentarism in international law. The author’s vision of the term “institutional authority” serves as a basis for further development of the concept within the framework of supranational interaction and decision-making at the international level. In general, this research article offers an in-depth legal analysis and understanding of the genesis of European parliamentarism, highlighting key aspects of the institutional authority of the European Union Parliament and the prospects for the development of supranational parliamentarism. The study makes a significant contribution to the understanding of the interaction of parliamentary institutions at different levels and can serve as a basis for further research on the role of parliaments in shaping the world order.

Key words: International law, EU law, EU Parliament, parliamentarism, conception, institutional authority, supranational.

1. Introduction.

The European model of parliamentarism plays a key role in the political and legal landscape of Europe and has a significant impact on various subjects of international law. Understanding and legal analysis of its genesis is becoming extremely important, and this research paper aims to study the role and functions of European parliamentarism within the global political and legal framework. The purpose of this article is also to describe the characteristics and define the peculiarities of the European model of parliamentarism, as well as to compare it with other systems of governance and assess the impact it has on the legal space. The focus of the research will be on the role of parliamentary institutions, their authorities, interaction with other global actors and influence on decision-making.

By researching this issue, we understand that this is not just a national phenomenon, but an integral part of the international legal system. The study of European parliamentarism will help us better understand its impact on the formation and development of international law and contribute to further discussion of the role of parliaments in shaping the world order.

2. Analysis of scientific publications.

The basis of the research is the analysis of scientific literature, and we note that we research various sources, such as articles and monographs. It should note that this allows us to understand the approaches and various theoretical concepts, as well as to identify current trends in the study of this issue. It is worth noting that this research paper uses scientific works of Ukrainian and Western scholars. Among Ukrainian scholars, we can single out O. Vyshniakov, K. Smirnova, M. Skrypchuk, V. Formaniuk, O. Pasechnyk, L. Ivashova, L. Antonova, O. Shevchuk, I. Myronenko, V. Popko, O. Rudenko, E. Streltsova, and O. Shchokina. Among the Westerners, these are A. Mills, D. Arato, R. Zimmerman, and N. Jansen.

3. The aim of the work.

The research is aimed at studying and understanding the modern European parliamentarism and key aspects in the process of defining the institutional authority of the European Parliament. The growing role of the European Parliament in decision-making and representation is an important topic in the context of a dynamic political and legal environment and the ongoing development of European integration. The research is based on a comprehensive analysis of literature, legal acts and other sources to enrich our understanding of the processes taking place in the European space. The key aspect of this research is undoubtedly the methodology. It defines the approaches, tools and methods that are necessary for the study of this issue. We use a variety of means to understand the European model of parliamentarism as best we can and to try to define the meaning of the term "institutional authority". The research methods include descriptive analysis, comparative analysis and systemogenesis approach to the study of the structure and functions of the European Parliament. It should be noted that this article will contain some material that will continue to explore the concept of supranational parliamentarism in the context of the European Parliament's powers and should determine the institutional balance with a focus on how the European Parliament interacts with other institutions of the European Union. Therefore, this objective is aimed at deepening the understanding of the functions and role of the European Parliament, which may have an important impact on the further development of European integration processes.

4. Review and discussion.

The European model of parliamentarism plays a key role in the political and legal landscape of Europe and has a significant impact on various subjects of international law. Understanding and legal analysis of its genesis becomes extremely important, and this article aims to explore the role and functions of European parliamentarism within the global political and legal framework. It is also worthwhile to identify the peculiarities of the European model of parliamentarism, as well as to compare them with other systems of governance and try to assess the impact they have on the legal space.

In parliamentary states, as well as in mixed republics, parliaments perform two key functions: lawmaking and government formation with subsequent control over its activities. It is the activity of the legislative body that determines whether or not the state has real opportunities to govern and implement domestic and foreign policy [1]. The concept of popular representation is the doctrinal basis of parliamentarism. Its content has been interpreted in different ways, starting with Edmund Burke, John Stuart Mill, Albert Dicey and up to modern authors [2].

K.V. Smirnova notes in her research that: "European parliamentarism should be understood as the mechanisms of interaction between national parliamentarism and interstate mechanisms of

popular representation, which are represented on the European continent by the creation of the Interparliamentary Assembly of the Council of Europe and the European Parliament within the European Union (EU). The activities of these bodies embody the national constitutional principles of the State, the principles of democracy, the rule of law and human rights protection at the international level [3].

It is established that the parliaments of most European countries engage in constant interaction, which subsequently leads to the creation of powerful international organisations. Inter-parliamentary bodies are unique forums for international cooperation and they represent modern European parliamentarism. To compare European intergovernmental models of parliaments, the author identifies the main criteria that constitute the main characteristics of parliaments, in particular: organisation and structure of parliaments; legislative functions of parliament; financial powers of parliament; mechanisms of parliamentary control; and powers of parliament in foreign policy. It is proved that unicameral national parliaments, which are traditional for many European countries, have become the main model for interstate parliaments. In essence, the structure of international parliamentary institutions and their organisation are borrowed from the classical national parliament. In other respects, however, they differ significantly from national parliaments [3].

Parliamentarism is the result of centuries of development of social relations, primarily in Western Europe. The processes of the emergence and development of democracy is associated with the development of parliaments as the only representative bodies of the people's authority. At the same time, in modern legal literature, there is no single approach to the definition of the concept of "parliamentarism". In addition, one can even trace the absence of research on the relationship between the form of government and parliamentarism, and sometimes these concepts are even mixed. Parliamentarism is not limited to the existence of the supreme representative body of the people, but is necessarily embodied in an actively functioning parliament in the system of constitutional government [4].

The opinion of K.V. Smirnova is characteristic: "At the same time, although parliament and parliamentarism are interrelated concepts, they are not identical. Without parliament, there is no parliamentarism, which, in turn, is based on a strong, full-fledged parliament endowed with powerful political and legal mechanisms. These include: a high level of reliability and transparency of elections, autonomy and independence in the system of separation of powers, constitutionally enshrined effective mechanisms in the lawmaking process, etc. At the same time, parliamentarism is the highest quality of a parliament. Parliamentarism is an organisational form of external expression of people's sovereignty and at the same time an instrument of political and legal restriction of the state power apparatus"[5].

At the present stage, the ideas and principles of parliamentarism are increasingly

are being extended to interstate entities and international organisations as a challenge to the need for closer interstate cooperation and law-making.

The fact that we use the terminology "institutional authority", quite logically, raises the question of why? It is not clearly enshrined or defined in one particular legal act, but some scholars use certain approaches to this issue to describe the role and functions that result from the status or position of an institution. In general, institutional authority is defined through the legal framework established by the state or a body that grants specific rights, duties, responsibilities and powers to a particular institution.

It would be appropriate to emphasise the peculiarity of the term mentioned earlier, taking into account the honorary professor of the University of Oxford, Paul Philip Craig, and his research on "Institutions, Power and Institutional Balance". According to the professor: "The EU institutions have always been 'one'. From the very beginning of the EEC, it has been difficult to fit the main institutions into any neat order that corresponds to a traditional nation-state. The very arrangement of legislative and executive powers in the Treaty of Rome was problematic, and these problems have been exacerbated over time as new institutions have developed, often initially outside the strict letter of the Treaty, in response to complex political pressures"[6].

However, institutional balance is not self-fulfilling. By its very nature, it involves normative and political judgements about which institutions should be able to participate in the legislative and executive branches of government and what constitutes an appropriate balance between them. This normative framework has changed over time in the EU and continues to do so. These changes will be reflected in the following analysis and form the main theme of the chapter, which is divided into four time periods [7].

In proposing the term “institutional authority” in the context of the European Parliament, we should refer to the features that define its role in the EU system. In our opinion, institutional authority in this area covers a wide range of functions that determine the status and role of the Parliament in decision-making processes.

There are enough general questions about terminology, and special attention should be paid to specific aspects of competences, functions and authorities in the structure of the European Union.

Such an approach to the study of terminology will reveal not only formal definitions, but also the real context of application of these terms in the practice of the European legal area. Therefore, the author’s vision of the term “institutional authority” through the prism of the European Parliament’s activities is able to reveal how this institution interacts with other bodies, what role it plays in shaping European policy and how it ensures representation of EU citizens at the level of the European Parliament.

Currently, the European Union is a model of the most successful regional integration. This is due to the rather high level of supranationality that the member states of the organisation agreed to at the time [8].

Strengthening the supranationality of the integration association has led to a gradual increase in the scope of the EU’s competence: initially including only internal market issues, it has evolved to cover all spheres of public life (with a certain level of authority). In view of this, scholars distinguish the following EU competences: 1) internal (to regulate relations on its territory) and external (to regulate relations with other subjects of international law) competence; 2) basic (exclusive and non-exclusive) and additional (implied powers and the mechanism of advanced 3) competence in economic matters, political sphere, competence in the field of common foreign and security policy, competence in the fight against crime [8].

The founding treaties of the EEU establish and define the limits (principle of vesting) and means of implementation (principles of subsidiarity and proportionality) of the competence of this organisation (according to Article 5.1 of the TEU) [9]. The latter is also enshrined in the case law of the EU Court of Justice.

In public international law, the term “competence” is used in two cases: in the first case, it refers to the competence of state authorities and local self-government bodies on the basis of their powers to perform certain actions in the international arena, for example, to conclude international agreements of an interagency nature. The second case refers to the competence of international organisations - secondary subjects of international law established on the basis of international treaties between states [10].

Traditionally, in national law, competence is understood as the scope of problems, the range of issues to be resolved by a state body, and the powers granted to a state body to perform its tasks. In our opinion, there are two approaches to understanding competence: normative and functional. In the normative approach to understanding competence, it is defined as a set of rights and obligations or as a corresponding scope of public rights. Under the functional approach, competence is understood as the scope of issues that fall within the competence of the relevant state body [10].

Considering the European Community as an international organisation with supranational character and the European Union as a sui generis entity that combines the features of both a state entity and an international organisation, we can assume that a similar mechanism of forming their competence is used.

The question of the theory of parliamentary functions is one of the most important issues in the theory of parliamentarism. V. Denisov notes that the term “function” is used in the theory of the state

to characterise: 1) the content of the diverse activities of the State; 2) the legal form of the activities of the State bodies; 3) the powers (competence) of individual bodies of the State [11].

The functions of state bodies are determined by the place of each of them in the mechanism of the state, which is clearly defined at the legislative level. The place of a state body in the mechanism of the state is determined by the purpose of creation of the respective body and the competence of the latter. Therefore, some authors believe that the functions of state bodies are specific goals and powers (competence).

First of all, the competence of the European Parliament is defined in the field of legislation. The Parliament decides, together with the Council of the European Union, on acts in the field of common competences. In addition, the Parliament is involved in formulating and expressing its views on strategic issues. In terms of functions, the European Parliament performs legislative, budgetary and control functions. It debates and adopts laws, sets budgetary priorities, and monitors the implementation of decisions of other EU institutions. This study aims to reveal the dynamics and interactions between these aspects of the European Parliament's competence, powers and functions, in particular in the context of its role in the legislative process and the European governance system.

The Parliament, as one of the supreme bodies of state power, has certain limitations in its powers, which ensures a clear separation of powers and the functioning of the system of checks and balances. The peculiarity of the EU institutional system is that there is no separation of powers in the classical sense between the political institutions of the Union: a significant amount of powers in the legislative and executive spheres is unevenly distributed between them. Therefore, the study of the peculiarities of political responsibility of the European Parliament requires clarification of the functions it is entrusted with in the framework EU [12].

The main functions of the parliament include the following: representative, legislative, constituent (or recruitment) and control functions [13]. The representative function of the European Parliament is enshrined in art. 10 of the Treaty on European Union: "The functioning of the Union shall be based on the principles of representative democracy"; "Citizens shall be directly represented at the level of the Union by the European Parliament"[14].

The legislative function is one of the key activities of parliaments. Within the framework of political and legal practice, the European Parliament is not an independent subject of legislative acts. Firstly, there is no such type of legislative initiative as a parliamentary initiative, which allows MPs (either individually or a group of MPs) to submit a bill for consideration by the Parliament. The right of legislative initiative belongs to the European Commission. The European Parliament has limited powers here: according to art. 225 of the Treaty on the Functioning of the EU, the European Parliament may, upon a motion by a majority of its members, request the European Commission to submit a proposal; in case of refusal, the Commission must provide explanations to the European Parliament.¹³ Second, the procedure for adopting draft laws has its own specifics, which differ from those of national parliaments and are determined by the EU's institutional design. Thus, the EU founding treaties stipulate that the legislative process is carried out in two main forms: first, the ordinary legislative procedure, in which the European Parliament makes decisions jointly with the Council of the EU, and second, the special legislative procedure, in which the Council of the EU is the main actor, and the influence of the European Parliament is limited to participation in the approval or consultation procedure.

In researching the issues of this scientific article, the views of some authors on the term institutional authority are quite informative. As we understand it, this term is not defined or enshrined in law, so it can open up new frontiers of understanding this term in different contexts, for example, the functioning of public authorities. Yevhen Kurinnyi expresses his views on the institutional powers of state bodies, in particular the National Agency for the Prevention of Corruption.

The author emphasises the importance of a clearly defined status, subject matter and functions of state bodies, especially in the context of the study. He identifies powers as one of the key criteria for a positive assessment of the activities of public authorities. It also points to a shortcoming of the basic legal act, namely the absence of a clear list of tasks and functions for the body. This can complicate

the effective performance of its tasks and control over corruption. It is noteworthy that the author points out that the powers of the anti-corruption body are divided into institutional and auxiliary powers. Institutional powers define the key role of the agency in the system of rights and obligations and are crucial for the performance of its main functions. Institutional powers play a key role in the respective system of rights and obligations of the agency, and their timely and full implementation is critical to ensure effective implementation of anti-corruption policy and prevention of corruption. Therefore, the author expresses the need for clearly defined institutional powers for the effective functioning of the anti-corruption agency and fulfilment of its tasks [15].

We would also like to draw your attention from a slightly different angle, namely, to redirect the focus from the public authority to the representative or head of that authority. Evan Leybourn discusses the importance of personal credibility in leadership versus institutional authority. He expresses his belief that we are entering a new era where leadership, not just management, plays a key role. The author emphasises that it is necessary to distinguish between institutional powers that stem from the position and personal powers that are provided by the leader's environment. It is important to note that a true leader should have both types of power. Institutional authority may be linked to official status, but personal qualities and influence are also important for effective leadership. In particular, the author is interested in personal credibility, i.e. how a leader gains influence and respect through his or her own characteristics and interactions with others. The author emphasises that while there is a lot of information on leadership and management, most of it focuses on developing management skills, while personal credibility remains a lesser covered aspect [16].

Offering a definition of the term "institutional authority" may be a key element to further elucidate the concept of supranational parliamentarism in the context of the European Parliament. Strengthening the understanding of this term allows us to consider the powers of the parliamentary authorities at a level higher than the national one. It is worth noting that this concept is an idea or model that is being researched and developed in international law, but is not specifically established and unified in a legal form, like national parliamentary systems. The concept refers to the theoretical and ideological basis for the development of parliamentary structures in the international space. It is seen as a possible direction for the creation or development of supranational bodies or structures that could participate in decision-making at a level that exceeds national boundaries and perform certain functions related to international politics, law and cooperation between countries [17].

5. Conclusion.

Summing up this research, I can say that we have found out the organisation of the legislative power in the EU, and it is also worth emphasising that the aspects we have mentioned are an important tool for ensuring the effective functioning and development of the European Union, as well as for protecting the interests of citizens. By exercising these powers, the European Parliament makes a significant contribution to the maintenance of democracy and the development of the legal system in the European Union. These powers of the European Parliament allow it to have a significant impact on the legislative process, which affects various aspects of the lives of European Union citizens. The adoption of legislative acts in the European Union requires the mandatory participation of both the European Parliament and the Council of the European Union. Both institutions have equal powers in the decision-making process, which helps to prevent abuse of power and ensure the balanced development of European Union legislation. At the same time, the European Parliament acts as a representative of the citizens of the European Union, which makes it possible to ensure the democratic legitimacy of legislative decisions and the development of the European Union's legal system.

In the context of the concept of supranational parliamentarism, the understanding of institutional authority becomes a key element. Supranational parliamentarism involves joint decisions and actions at a level that transcends national borders. Institutional authority in this context is the fundamental basis on which cooperation and interaction between different countries and their representatives in the European political and legal space is based. The conclusion is that understanding institutional authority in the context of supranational parliamentarism helps to create a clear structure of power,

define the responsibilities and functions of country representatives in joint decision-making. This contributes to the effective work of supranational structures and increases the level of democracy and mutual understanding among the members of the European community. By proposing the term “institutional authority”, we hope that this will be a significant step towards strengthening the concept of supranational parliamentarism in modern international law.

References:

1. Boryslavska O.M. Parlamentaryzm v umovakh yevropeiskoi modeli konstytutsionalizmu: doktrynalni osnovy ta suchasni vyklyky. *Pravova derzhava*. № 30. 2018 r. URL:<https://www.academia.edu/download/69882404/137206.pdf>
2. Hanna Fenichel Pitkin. *The Concept of Representation*. Berkeley and Los Angeles: University of California Press, 1967.
3. Smyrnova K.V. Yevropeyskyi parlamentaryzm yak fenomen predstavnytstva v mizhderzhavnykh intehtratsiinykh obiednanniakh: evoliutsiia stanovlennia ta suchasni tendentsii. *Pravo Ukrainy*. № 11. 2019 r. s. 153–163.
4. Kodeks nalezhnoi praktyky u vyborchkykh sporakh. Kerivni pryntsyipy ta poiasniuvalna dopovid. Strasburh. 30 zhovtnia 2002 r. URL:[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev-ukr](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev-ukr)
5. Smyrnova K.V. Yevropeyskyi parlamentaryzm yak fenomen predstavnytstva v mizhderzhavnykh intehtratsiinykh obiednanniakh: evoliutsiia stanovlennia ta suchasni tendentsii. *Pravo Ukrainy*. № 11. 2019 r. s. 153–163.
6. Craig P.P. Institutions, Power, and Institutional Balance. *The Evolution of EU Law*. 2021 y. URL: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3748492
7. Case 9/56, *Meroni & Co. Industrie Metallurgiche S.p.A. v High Authority of the ECSC* [1958] ECR 133.
8. Anufriiev M.I. Kisilevych-Chornoivan O.M. Mizhnarodne pravo ta porivnialne pravoznavstvo. naukovi zapysky. seriia: pravo | scientific notes. series: law. № 5. 2018 r. s 170– 174.
9. Consolidated version of the treaty on European Union. URL: https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF.
10. Dovhan V.M. *Pravovy status yevropeiskoho parlamentu v systemi orhaniv yevropeiskoho soiuzu*. dys. kand. yur. nauk: 12.00.11. Lviv. 2006 r.
11. Denysov V.N. *Metodolohiia suchasnoho parlamentaryzmu*. Viche. – 2000. – №8. – S. 3–18.
12. Tkach B. Mistse yevropeiskoho parlamentu v politychnii systemi YeS u konteksti vidnosyn vidpovidalnosti. *Visnyk Lvivskoho universytetu. Seriiia filos.-politloh. studii*. 2021. Vypusk 36, s. 257–263.
13. Beyme K. *Parliamentary democracy: Democratization, destabilization, reconsolidation, 1789–1999*. London: Palgrave Macmillan, 2000.
14. Treaty on the Functioning of the European Union. URL: <https://eur-lex.europa.eu/EN/legal-content/summary/treaty-on-the-functioning-of-the-european-union.html>.
15. Kurinnyi Y. *NACP institutional powers. Retrospection and modern European approaches to jurisprudence: Collective monograph*. Riga, Latvia: “Baltija Publishing”, 2021. 155 - 179 p. URL: <http://baltijapublishing.lv/omp/index.php/bp/catalog/download/175/5019/10518-1?inline=1>
16. Leybourn E. *Personal Authority vs Institutional Authority*. 2016 y. URL: <http://surl.li/qcgdj>.



-
17. Hrebeniuk D.O. Stanovlennia kontseptsii nadnatsionalnoho parlamentaryzmu v suchasnomu mizhnarodnomu pravi. Naukovyi visnyk Uzhhorodskoho Natsionalnoho Universytetu. 2023 r. s. 278–283. URL: <http://visnyk-pravo.uzhnu.edu.ua/article/download/297056/290000>.

Dmytro Hrebeniuk,

*assistant of the Department of International and European Law
National University "Odesa Law Academy"*

E-mail: grebeniuk_dmytro@onua.edu.ua

ORCID: 0000-0001-9682-3017