

Parliamentary Opposition in the System of Legislative Power (Ukrainian Dimension)

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Abstract. The aim of the article is to study current issues and trends in the formation, development, and functioning of the institution of parliamentary opposition in Ukraine, taking into account the leading experience of foreign countries. The methods of this research include monographic analysis, analysis and synthesis, systems approach, generalization, institutional method, forecasting, legal-dogmatic, comparative-legal, etc. The article analyzes modern theoretical and legal approaches to the interpretation of the concepts of "political opposition" and "parliamentary opposition." The importance of the institution of parliamentary opposition for the formation and functioning of a democratic state in general and the system of governance is substantiated. The article examines the rights and mechanisms of influence of the parliamentary opposition on the legislative process. An analysis of the classification of the main global models of parliamentary opposition is provided. The results of a study on the experience of forming the institution of parliamentary opposition in Ukraine are presented. Considerations are given regarding the resolution of the problem of regulating the legal status of the parliamentary opposition in Ukraine. The article offers proposals for improving the institutional and legal support for the functioning of the institution of parliamentary opposition in Ukraine.

1. INTRODUCTION

One of the integral elements of modern representative democracy in the system of development and functioning of political power is the institution of parliamentary opposition. As long as there are different interests in society, there will be opposing views of citizens and, accordingly, different positions in political parties. In many foreign countries, which are distinguished by established traditions of democracy and parliamentarism, an integral condition for the functioning of these features of the political system is the legislative consolidation of the legal status of the parliamentary opposition.

The political opposition is one of the institutions of modern parliamentarism, the activity of which contributes to the democratization of the political system. The legitimate role of the opposition creates the prerequisites for the active participation of responsible citizens in the political processes of the state, which strengthens democratic public dialogue. The process of post-war reconstruction of Ukraine, which will one way or another acquire a temporal dimension, will bring an urgent need to improve the system of political organization of the functioning of government institutions. This primarily concerns the legislative branch, which, in the conditions of a long and complex process of transit of the political system of Ukraine from totalitarianism to a developed democracy, has a low level of public trust. In such a transformation, the parliamentary majority and the opposition play an increasingly important role.

The need to normalize the activities of the parliamentary opposition in Ukraine is caused by a number of factors, in particular, the need to improve the organization of the work of the Verkhovna Rada (hereinafter referred to as the VR) of Ukraine, change the nature of relations between the government and the opposition, and improve control over the legislative and executive bodies, which indicates the relevance of the topic under study.

2. METHODOLOGY

The study used dialectical, a number of general scientific and special scientific (special legal) methods of scientific research. The analysis method allowed to clarify the range of issues related to the definition of the functions, role and place of the parliamentary opposition in the system of legislative power of Ukraine, to work out the existing regulatory framework for the functioning of the parliamentary opposition in Ukraine. The comparative analysis method was used when considering the experience of regulatory regulation and functioning of the institution of parliamentary opposition in foreign countries. Moreover, analysis, synthesis and generalization allowed to systematize factual information about the features of the activities and interaction of the parliamentary majority and the parliamentary opposition at different stages of the modern Ukrainian state formation, to form the author's vision of the main directions of further regulatory and institutional fixation of the activities of the parliamentary opposition. Thanks to the systemic and structural-functional methods, the method of theoretical generalization, the problems of the functioning of the parliamentary opposition in Ukraine were critically analyzed, and possible ways of solving them were formulated. The use of the institutional method allowed us to identify the factors of organizational and legal institutionalization and

political positioning of the parliamentary minority. The predictive method allowed us to formulate certain author's considerations regarding the most optimal directions of development of the institution of parliamentary opposition and parliamentarism in general in the conditions of the post-war restoration of the state. The use of the legal and dogmatic method made it possible to explore modern scientific views on the problem of the political and legal nature, formation and development of the institution of parliamentary opposition in the conditions of the formation of a democratic legal state. The method of interpretation of legal norms was applied in the course of studying the texts of regulatory legal acts and draft legislation. The comparative legal method was used in the process of studying models of parliamentary opposition in the world practice of parliamentarism. It allowed us to analyze the Ukrainian specifics of the relationship between the government and the opposition in the context of foreign experience.

3. RESULTS AND DISCUSSION

3.1. The Essence and Functions of the Parliamentary Opposition

Opposition (Latin *oppositio* – “opposition”, “denial”) is a political party or individual candidates who oppose the policies pursued by the party or coalition of parties in power (Zozulia, 2021, p. 22). The subject of our study is not the political opposition in general, which is very often heterogeneous both in ideological beliefs and in the means and methods of achieving power, but the parliamentary opposition as a legal political force that is constructive in relation to the government and implements its programmatic objectives in accordance with the established procedure.

In political science, the term “political opposition” is defined as a form of opposition to the dominant opinion of the government, the system of power, or the political system as a whole by such subjects of political activity as organization, party, group, individual (Shumeiko, 2023, p. 51). As a rule, the political definition of this concept is identified with the legal concept of “parliamentary minority”, and “government coalition” is identified with the legal concept of “parliamentary majority”. Accordingly, the opposition minority in parliament should be a counterweight to the monopolization of power by the Bolshevik government.

In the constitutions of the absolute majority of countries in the world, the terms “opposition” and “parliamentary opposition” are not mentioned. They are used only in the constitutional law of Great Britain, Canada, Portugal, Colombia, more often it is about the rights of the parliamentary minority (Puvovar, 2022, p. 399).

The scientific approach, according to which the opposition is characterized as a specific form of political influence on state authorities by various social and political groups with the aim of legislatively securing their interests, is noteworthy. The structural units of the opposition should also be considered individuals - persons and members of social groups who represent and protect (express) their interests, and are created to protect the interests of individuals and legal entities, act through relevant associations (organizations) and parties that oppose state authorities if the latter does not take into account and implement the interests of the opposition in its domestic and foreign policy.

Parliamentary opposition is a parliamentary (deputy) group/faction of a political party represented in parliament or a coalition of parties that disagree with the political course of the executive branch and/or the head of state on fundamental issues of state policy (Kutsyn, 2018, p. 105). O. Lanyo defines the parliamentary opposition as “a parliamentary association, the right to which is guaranteed by the Constitution of Ukraine, which includes people's deputies of Ukraine - members of deputy factions and groups, opposition deputy factions (groups) that do not support the official political, economic and social course of the President of Ukraine and/or the Cabinet of Ministers of Ukraine and/or the coalition of the Verkhovna Rada of Ukraine” (Lanyo, 2018, p. 70).

So, traditionally, the parliamentary opposition is one or more factions/groups in parliament that have a similar political platform (political views, ideology, program of action), which differs from the political platform of the ruling party or coalition of political forces.

In general, a modern parliament inevitably consists of a binomial majority/opposition as a mechanism for self-control over majority decisions. A parliamentary majority can be defined as the ability of a group or groups of parliamentarians to impose their initiatives, which are discussed in legislative forums, by voting (Shumeiko, 2023, p. 51). Meanwhile, the opposition is a set of political groups, parties, or blocs that, individually or collectively, oppose the government, individually or collectively, are politically opposed to the ruling regime or the policies of the government in power (Pavlenko, 2020).

The institutionalization of the parliamentary opposition is an effective means of solving social problems, part of the system of “checks and balances” in the structure of political relations and provides for a gradual increase in the influence of opposition activities on the entire ensemble of political relations.

We support the opinion of V. Kovalchuk that the parliamentary opposition should be considered as an independent subject of parliamentary law, which together with the government coalition actively influences the legislative process. Therefore, the parliamentary opposition should be considered not as an informal association of deputies, but as a formalized institution of parliamentary law, fixed at the legislative level. According to the authors, “in conditions of constitutional democracy, the opposition, which represents the interests of the minority in parliament on an equal footing with the government, is the representative of the will of the majority, is part of the legitimately elected government” (Kovalchuk, 2021, p. 15-16). Each of them performs its own functions.

A number of main tasks in the activities of the parliamentary opposition can be distinguished: 1) supervision and control over the proper performance of the functions of the President of Ukraine and/or the Cabinet of Ministers of Ukraine; removal from office of the President of Ukraine and/or individual members of the Cabinet of Ministers of Ukraine, and/or the Cabinet of Ministers of Ukraine, and/or the coalition of the Verkhovna Rada of Ukraine according to the procedure established by the current legislation of Ukraine; early termination of the powers of individual (usually those who are members of the parliamentary majority), people's deputies of Ukraine; change of the political vector of the state's development; representation of one's electorate.

Meanwhile, researcher N. Penkovska focused on the procedural powers of the parliamentary opposition: formation of a “shadow” government; voting; the right to speak in parliament; approval of the agenda of parliamentary activities; requests to the government and other government bodies; receiving information from the government on the current situation and monitoring the activities of the government; the right of access to the mass media; proportional number of seats in parliamentary committees and commissions (Penkovska, 2014, p. 262).

Resolution 1601 (2008) of the Parliamentary Assembly of the Council of Europe states that the main function of the parliamentary opposition is to control the government and ensure transparency in the making of government decisions (Resolution No. 1601, 2008). The terms “parliamentary opposition” and “parliamentary minority” are synonymous. Paragraph 13 of the Resolution stipulates that the parliaments of the member states of the Council of Europe shall define the following rights in relation to the opposition/parliamentary minority: the opposition shall participate in making political decisions; the opposition shall

participate in supervising, checking and controlling the policies of the government; the opposition and representatives of the majority shall have the right to receive the same information from the government; representatives of the opposition shall have the right to ask more questions of the government than representatives of the majority; representatives of the opposition shall have the right to demand the establishment of a commission of inquiry or a parliamentary mission and to become their members; representatives of the opposition shall have the right to demand the holding of an extraordinary session (if there is a quorum – ¼ of the members of parliament); opposition representatives have the right to appeal to the Constitutional Court of Ukraine and demand a review of adopted laws.

An important function of any parliament is to promote the expression of a real, credible opposition as a possible alternative to the ruling party. The division of the opposition into party and ideological groups contributes to the systematic and responsible opposition activities of a particular political party (Nesterovych, 2020, p. 79).

V. Koliukh identified the following list of functions of the parliamentary opposition: control over the activities of the government; constructive criticism of the government; formulation of a political alternative in the opposition programs of social, economic and cultural development of the state (Koliukh, 2019, p. 66). The main functions include criticizing the government and the ruling majority in parliament, exercising control over the activities of the government or the head of state; putting forward political alternatives.

The implementation of the control function of the parliament largely occurs through the institutionalization of the parliamentary opposition, the main tasks of which include: critical analysis of the actions of the ruling majority; identification and exposure of shortcomings in the state policy of the authorities; publication and justification of critical assessments of the activities of the government (head of state); development and submission to the parliament (or its chambers, if any) of alternative solutions regarding the socio-economic and political life of society.

3.2. Rights And Mechanisms of Influence of the Parliamentary Opposition on the Legislative Process

The subjects of the parliamentary opposition in modern democratic countries can be individual deputies, parliamentary (deputy) groups or factions of the party represented in parliament, coalitions (associations, blocs) of parliamentary parties. Depending on the party and electoral systems that have been formed in the process of political development of the state, the parliamentary opposition can be represented either by a "monopolist" faction that constitutes the parliamentary minority, or by a faction-leader of the parliamentary minority, or by a coalition of equal factions of the parliamentary minority (Hrubinko & Kucher, 2020, p. 9).

If the rights of the opposition in the sphere of control over the actions of the authorities can be ensured by formally or informally assigning it certain positions in the legislative and some other collegial bodies, then the functions of criticism and alternative can also be implemented within the framework of the opposition "shadow" government, as is the case in Great Britain, Australia, Canada and a number of other states of the Anglo-Saxon legal tradition.

The regulation of the rights of the parliamentary opposition in the context of democratic transition is a positive phenomenon and can be carried out both at the level of constitutional principles and rules of procedure. Such institutionalization involves the consolidation of the specified rights of the parliamentary minority using a number of legal mechanisms. The rules of procedure are a special regulatory act, which is usually adopted under a different procedure than an ordinary law and is not subject to constitutional control and the veto of the president. The Venice Commission indicates that the rules of procedure must be stable and cannot be changed regularly to the detriment of the parliamentary minority (Cheretun, 2020).

An important component of the status of an opposition MP as a member of parliament is parliamentary immunity. This refers to immunity from prosecution for votes, opinions and expressions related to the exercise of the parliamentary office, or in other words, broader freedom of speech (indemnity) than ordinary citizens, and "immunity", or immunity in the literal sense, which is a special legal protection for parliamentarians accused of violating the law. First of all, it concerns arrest, detention or prosecution without the consent of parliament (Zozulia et al., 2022).

One of the main mechanisms for ensuring the rights of the opposition is the distribution of positions, which should be carried out according to the principle of quota distribution. It is necessary to strictly adhere to the regulatory provisions regarding the impossibility of one faction obtaining more than one position in the leadership of one committee. The presence of an opposition representative in the leadership of committees is mandatory. The leader of the opposition or its leading representative usually has direct access to the leadership of the parliament, for example, they hold the position of deputy speaker. Moreover, it is important that opposition representatives are given the opportunity to have effective powers in those committees that establish the rules of internal procedure or resolve disputes (the Rules Committee, the Committee on Parliamentary Immunity and Ethics, etc.).

The traditional mechanism for opposition control over the activities of the government in parliamentary democracies has been the right to hear the government's report and (if necessary) to express a vote of no confidence in both the government as a whole and an individual member of the government. The right to interpellation guarantees the opposition a mechanism for control over the executive branch.

3.3. World Models of Parliamentary Opposition

In world political and legal practice there is no universal standard for organizing the system of interaction between the parliamentary majority and the opposition. The degree of institutionalization of the role of the opposition in national parliaments and the implemented regulatory models vary widely, from mostly unwritten recognition to formal regulation enshrined in the constitution (Nesterovych, 2020, p. 81). The definition of a certain status of the opposition depends on the characteristics of the political regime, socio-political factors, and the type of party system (two-party or multi-party).

Pavlenko notes, the main basis of legal the purpose of regulating the status of the parliamentary opposition is to provide the opportunity to implement the functional triad "control, criticism, alternative". The experience of fixing the rights of the parliamentary opposition shows that the following basic rights are most often legally guaranteed: a) the right to representation in the leadership of the legislative body; b) the right to information about the activities of the parliamentary majority and, accordingly, the government; c) the right to parliamentary publicize one's own political position (Ionescu, 2021).

Therefore, the choice of a specific model of parliamentary opposition depends on the extent to which opposition parties are involved in the activities of parliament, the role of the minority in the legislative process, the specifics of legislative regulation of the activities of the opposition and the influence of the opposition on the political process in the country. Such models have historical, cultural and civilizational differences. These are the following models:

- The German model (Germany, Austria) is marked by accountability of political decisions. It must take into account the arguments of the opposition, adhere to a coordinated legislative process, and carry out political reforms.
- The Scandinavian model (Denmark, Norway, Sweden) is characterized by the fact that formally the opposition is not so institutionalized, but its role in governance is large, since informal rules and customs allow the minority to influence the activities of parliament.
- The French semi-presidential model, in which the opposition is institutionally and legislatively weak, and there is proportional representation of parliamentary factions in the leadership of the parliament.
- The Westminster model (Australia, Great Britain, India, Ireland, Canada, New Zealand), in which the institutional role of the opposition is highly formalized, but in practice it has little influence on policymaking. In Great Britain, Australia and Canada, the largest non-governmental faction is called "Her Majesty's Loyal Opposition", in India, New Zealand, Ireland – "Official Opposition" (Hrubinko & Kucher, 2020, p. 9). In conditions of the actual "merger" of the legislative and executive branches and the dominance of the government over the parliament, the parliamentary opposition is entrusted with control over the government (Nemtoi, 2022, p. 72).

It is worth considering that in modern parliamentary systems, two main types of opposition are distinguished: a) based on open confrontation within the framework of the "democratic game" (Great Britain, France). In such a flexible system, conflicts between parties are resolved by voting; b) based on political compromise with the aim of reconciling differences in positions (Belgium, Denmark, Germany, Italy, the Netherlands) (Ionescu, 2021).

Let us consider the variability of the aforementioned models using the example of specific countries.

In the Federal Republic of Germany, the parliamentary opposition is made up of members of parliament and parties who do not participate in the formation of the government. The main task of the opposition is to develop alternative policies to those proposed by the government and the majority (Choudhry, 2020). The Constitution of the Federal Republic of Germany and the Rules of Procedure of Parliament do not mention the opposition, but focus on the rights and obligations of individual entities and entities (members of parliament, parliamentary groups, factions) that can form the opposition. At the federal level, the "parliamentary opposition" is mentioned only in Article 92 of the Criminal Code, which states that its formation is an important constitutional principle (Strafgesetzbuch). The concept of opposition is used quite often in the constitutions of the federal states. For example, in the Constitution of the city of Hamburg Article 24 states that "the opposition is an integral part of parliamentary democracy" (Verfassung der Freien und Hansestadt Hamburg). According to the Land Law "On the Legal Status of Members of Parliament", opposition MPs receive salary supplements (Abgeordnetengesetz, AbgG). If there are several opposition parties in parliament, they should not merge into a single opposition.

In Norway, the rights of the opposition are not enshrined in the Constitution, but in the Parliament Act. The governing bodies of both houses of parliament are distributed between the factions in proportion to the votes they receive after the elections mandates. There is a system of parliamentary inquiries to the government, which is obliged to respond to them within two months. The relationship between the majority and the minority is determined by the rules of the parliament. Control commissions have great influence in Norway, Finland and Sweden, the composition of which is formed according to the number of deputies in the factions (Nemtoi, 2022).

Even in the rather conservative parliamentary practice of France, there are quite broad control possibilities provided by the Constitution for the parliamentary opposition. For example, the opposition has the right to apply to the Constitutional Council to verify the constitutionality of adopted laws and decisions of government bodies (Pavlenko, 2020). The leader of the opposition faction can raise the issue of the end of the session, checking the quorum, and a roll call vote.

In the United Kingdom, the official opposition is the second largest political party in the House of Commons. Its leader becomes the leader of the opposition. The official opposition's task is to monitor the work of the government. In general, any party that is not part of the government is automatically considered to be in opposition. The main tasks of the opposition are: to contribute to the development of legislation through constructive criticism; to oppose those government proposals that the opposition considers to be incomplete; to propose amendments to government bills (House of Commons (Administration) Act 1978). There are certain rules in the Ministerial Code of the United Kingdom that mention the opposition: "Before a minister makes a significant statement to the media, a copy of that statement must be provided to the opposition within 45 minutes" (UK's Ministerial Code, 2016).

There is no provision in British law for cooperation between the opposition and the government. The leader of the opposition consults with the prime minister in the event of a state of emergency being declared. Opposition parties also receive additional funds from the state treasury (Ministerial and other Salaries Act 1975). Traditionally, the Shadow Cabinet is composed of members of the main opposition party.

Establishing the status of the opposition within the framework of a parliamentary democracy based on the values of the rule of law is a long-term process. In this regard, the countries of Central and Eastern Europe, primarily the post-Soviet ones, had to intensively form their own traditions of parliamentarism, in which the opposition is far from always given its due role. As a rule, the winning party, either alone or in a coalition with loyal coalition members, tries to oust the opposition from the political process. Therefore, laws were often adopted without proper consideration, according to an accelerated procedure, and the opposition lost influence on appointments to key positions (Kovalchuk & Sofinska, 2022, p. 227). The danger of such processes is that they usually lead to the monopolization of power and the loss of institutions of political control over the actions of the majority. There are examples of such processes in Hungary (the Fidesz party), Poland (the Law and Justice party), and Ukraine (the Servant of the People party).

Another extreme in the functioning of transit democracies is the emergence of a "non-constructive (populist) opposition", which blocks any cooperation with the pro-government majority. In this case, populist parties transfer their disagreement to almost all spheres of political life. As a result, it can be seen inefficiency, chaos and inability to make decisions important for society and the state (Kovalchuk, 2021, p. 17).

The practice of parliamentarism in the Baltic countries is more democratic and established. For example, in the Republic of Lithuania, the rights of the opposition are enshrined in Article 41 of the Statute of the Seimas. The principle of proportional representation operates in the structures of the parliament (Balint, 2024, p. 33). Opposition representatives are guaranteed positions in committees and commissions, which is not the case, for example, in Ukraine, Poland and the Czech Republic.

3.4. Experience of Forming a Parliamentary Opposition in Ukraine

In Ukraine, the relationship between the government and the opposition has undergone quite a long and difficult evolution. A

peculiar practice of ensuring the rights of the minority (opposition) was formed. In 1990-2006, the activities of the parliamentary opposition were more informal and were determined by agreements with the parliamentary majority (On Internal Reform ... , 2016). Opposition forces received great opportunities in the distribution of parliamentary positions.

The second stage (2006–2007) is associated with changes to the Constitution of Ukraine, which provided for the institution of a “coalition of deputy factions in the Verkhovna Rada of Ukraine” (parliamentary majority). At the third stage (2007–2010), certain rights of the parliamentary opposition were introduced into the electoral legislation. This concerns the establishment of equal quotas for the representation of the parliamentary majority and the opposition in the Law of Ukraine “On Amendments to the Law of Ukraine “On Elections of People’s Deputies of Ukraine” (01.06.2007). The status and rights of the parliamentary opposition were first recorded in a separate chapter of the Law of Ukraine “On the Rules of Procedure of the Verkhovna Rada of Ukraine” (19.09.2008). The opposition was understood as a parliamentary faction that had to include more than half of the MPs who were not part of the coalition and had publicly declared their opposition. The opposition could also be a union of factions and parliamentary groups (On the Rules of Procedure ..., 2020). An institution that was still unique for Ukrainian parliamentarism was envisaged – an opposition government, vested with the powers of monitoring and alternative proposals for the government’s activities.

However, the next amendments to the Constitution of Ukraine after the decision of the Constitutional Court of 09/30/2010. The approval of the fixation of the rights and opportunities of the parliamentary opposition was suspended, and the chapter “Parliamentary Opposition” was excluded from the Law “On the Rules of Procedure of the Verkhovna Rada of Ukraine”. Only the tragic events of the Revolution of Dignity in early 2014 contributed to the resumption of work on resolving the problem. However, the return of the previous progressive norms abolished in 2011 never happened. The political situation got in the way.

In the period 1995-2015, various political forces announced the creation of their own opposition governments more than a dozen times. However, things did not go beyond declarations. The low efficiency of their activities is primarily due to the low level of political culture and the quality of Ukrainian political elites (Koliukh, 2019). The activity of the parliamentary opposition in Ukraine usually boiled down to competitions in populism with pro-government forces. In the Ukrainian parliament, due to fundamental ideological differences, in particular regarding the foreign policy vector of the state’s development, effective mechanisms for relations between the majority and the opposition were never developed. The process of cleansing the government, which began in Ukraine with a significant delay only as a result of the Revolution of Dignity in 2014, remains incomplete.

In today’s conditions, the parliamentary opposition only nominally has various opportunities to influence state policy. The Constitution of Ukraine grants the opposition (in the amount of not less than a third of parliamentarians from the constitutional composition of the Verkhovna Rada, i.e. 150 out of 450) the right to initiate the issue of government responsibility (Article 87) and the right of no confidence in the Prosecutor General of Ukraine (Article 85) (Constitution of Ukraine). The Regulations of the Verkhovna Rada of Ukraine provide for a fair distribution of representation and positions in its committees between all - both ruling and opposition factions and deputy groups, depending on their actual number. The opposition in the Verkhovna Rada of Ukraine traditionally claims to lead key parliamentary bodies (on issues of regulations, human rights, freedom of speech, budget, fight against corruption, participation in the formation of the Accounting Chamber). Also, the quota of the parliamentary opposition is the position of Deputy Chairman of the Verkhovna Rada.

The long process of actual neglect of the interests and demands of the minority by the ruling majority led to the beginning of the process of developing special legislation on the opposition. We share the opinion that the status of the opposition in the Ukrainian parliament is somewhat paradoxical, which is that without having a direct regulatory consolidation of its legal status, it still acts subject of both constitutional law and constitutional legal relations (Principles of electoral law ..., 2018). The drafters of the Law of Ukraine “On the Parliamentary Opposition” were guided by the desire to officially assign to the opposition the positions of First Deputy Chairman, heads of key committees of the Verkhovna Rada of Ukraine, head of the Accounting Chamber of Ukraine, and equal (or proportional) participation in parliamentary quotas when forming the personal composition of the Supreme Council. Justice, the Council of the National Bank, the National Council for Television and Radio Broadcasting, the Constitutional Court of Ukraine, the positions of the Commissioner of the Verkhovna Rada of Ukraine for Human Rights (Ombudsman) and the Director of the National Anti-Corruption Bureau.

Representatives of the European Parliament recommended that the status of the parliamentary opposition be fixed in a normative manner either by making appropriate amendments to the current legislation (the Constitution of Ukraine, the Rules of Procedure of the Parliament of Ukraine, the law on parliamentary committees, etc.) or by including in the text of a new special law on the opposition. Obviously, the reason for the uncertainty of the status of the parliamentary opposition in Ukraine is the reluctance to grant it the full range of powers appropriate in a democratic society.

It is worth noting that despite the absence of a special law on the parliamentary opposition, for a short period (2008-2020), its legal status was fixed by Chapter 13 “Parliamentary Opposition” of the Rules of Procedure of the Government of Ukraine, which at that time had the force of a by-law. It provided for the procedure for the formation and termination of the opposition, its rights. The opposition included a parliamentary faction with more than half of the people’s deputies who were not part of the coalition and publicly declared their opposition. Only one faction or one association of factions could be a parliamentary opposition (Cheretun, 2020). However, the repeal of the 2004 constitutional reform during the presidency of V. Yanukovich led to the exclusion of the chapters on both the parliamentary coalition and the opposition in general from the Regulations in 2010. One of the obstacles to the formation of the institution of the parliamentary opposition was the actual absence of ideological parties.

On January 1, 2020, the current Electoral Code came into force, which provides for a proportional electoral system with open regional lists and guarantees gender balance. According to the Electoral Code, voters will be able to vote not only for a party, but for a specific candidate on a party list. This electoral system, compared to the previous one, there are more progressive (Principles of electoral law ..., 2018). However, the fundamental condition for the formation of a parliamentary opposition remains the rules of procedural democracy.

Unlike the aforementioned Central European countries, this consensus has never been formed in Ukraine, which is also noticeable in modern political processes (Teremetskyi et al., 2022, 6). Relations between the authorities and the opposition were of a conflictive nature and were viewed through the prism of the dominance of the majority over the minority. The consequences of such a conflict were: minimizing the use of compromises as a tool for resolving disputes; activating extra-parliamentary forms of political struggle; political populism as a means of achieving electoral support outside the boundaries of rational discourse. The peak points of the conflict between the authorities and the opposition in the form of the Orange Revolution of 2004 and the Revolution of Dignity of 2014 showed the lack of establishment of constructive relations between the authorities and the opposition. This problem persists even in the critical conditions of the war in Ukraine.

3.5. The Problem of Legal Regulation of the Status of the Parliamentary Opposition in Ukraine

Legal regulation of the activities of the parliamentary opposition is one of factors that effectively determine its role in the political system of the state. A parliamentary state with a developed form of a democratic political system indicates the possibility of ensuring the status of the opposition through the organizational and legal forms of the parliament's activity. The rights to a position are provided for in the forms of the parliament's activity, which are often implemented at the level of traditions. This position is defended, in particular, by V. Koliukh, in whose opinion "the political and legal status of the parliamentary opposition in Ukraine is quite clearly regulated by both formal and informal norms" (Koliukh, 2019, p. 67).

As O. Zozulya notes, in the conditions of "non-recognition of the subjectivity of the parliamentary opposition, the lack of proper legal regulation of its rights, obligations, guarantees and limits of activity", the peculiarities of the domestic legal system, the insufficient development of parliamentarism and the political system actualize the comprehensive constitutional and legislative consolidation of the principles of the organization and activity of the parliamentary opposition in Ukraine (Zozulya, 2021, p. 25).

In support of the constitutional regulation of the status of the parliamentary opposition, let us turn to the opinion of the authoritative Ukrainian researcher of this political and legal institute, V. Kovalchuk. He believes that "the legitimization of the parliamentary opposition in the Constitution provides, on the one hand, legal guarantees for relations between the government and the opposition in terms of limiting the political influence of the parliamentary (ruling) majority on the minority" (Kovalchuk & Sofinska, 2022, p. 229). The authorities and the opposition bear joint responsibility for the exercise of state power.

The specificity of the opposition's activities in post-communist countries is that the opposition confronts not only its political opponents. It must fight the entire bureaucratic apparatus, which is (since Soviet times) the "authorities", "apparatus", "state", etc. After the next elections to the Verkhovna Rada of Ukraine in 2019, the country's parliamentary system faced new challenges.

Analysis of the current legislation of Ukraine shows the absence of regulatory regulation of the concept of "political opposition". The only mention of the opposition in general (the parliamentary opposition is not mentioned) is the norms of Article 12 of the Law of Ukraine "On Political Parties in Ukraine", which concerns the guarantee of freedom of opposition activities to political parties (Law of Ukraine No. 2365-III, 2001). On this basis, O. Lanyo concluded that there is no institution of parliamentary opposition in the constitutional law of Ukraine (Lanyo, 2018, p. 69).

The legislation contains the concept of "parliamentary minority". It is referred to in the following quantitative meanings: the calculation of people's deputies for consideration or initiation of a certain decision; taking into account various proposals during the discussion of issues and decision-making; establishing the possibility of submitting alternative proposals, draft laws, etc. by people's deputies; the principle of proportional representation of deputies from different factions in the bodies of the Verkhovna Rada of Ukraine. These are the norms of the Constitution of Ukraine (Constitution of Ukraine, p. 24, 83, 100), Art. 17 of the Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine". However, the concepts of "parliamentary minority" and "parliamentary opposition" cannot be equated, because the first has a pronounced quantitative parameter, and the second has a substantive and functional one.

Given the above arguments, the state of the legal system and the legislative system, the actual activities of the parliamentary opposition as an unofficial institution should be appropriately and legally enshrined in regulatory legal acts. We support O. Lanyo's position that it is necessary to normatively fix, first of all, the right of the opposition to create and publicize alternative views and the right to act as an equal subject of the political process (Lanyo, 2018, p. 70).

We will formulate a number of proposals to improve the legal support for the functioning of the institution of parliamentary opposition.

1. To provide for the existence of the institution of parliamentary opposition in the Constitution of Ukraine (Section 3. Verkhovna Rada of Ukraine).

2. The law should define the concept of "parliamentary opposition" taking into account the characteristics of European continental models of the functioning of this political and legal institution. As O. Zozulya notes, this is about "a synthesis of the advantages of different models of parliamentary opposition" (Zozulya, 2021).

3. In terms of implementing the parliamentary opposition's right to representation, the parliamentary opposition should be provided with the positions of chairmen of those committees that enable it to perform its main functions (control over the work of the ranks, criticism of the government, formation of alternative proposals).

4. The right to information about the work of executive authorities is exercised mainly through forms of parliamentary control (deputy inquiries, etc.).

5. To strengthen the role of electronic petitions as a tool for effective democratic influence on the authorities, which should be accompanied by the development and implementation of appropriate mechanisms for their implementation (Reshota et al., 2021, p. 8).

6. Introduce the position of leader of the parliamentary opposition (following the example of Great Britain, Germany, Sweden, and other countries).

7. In order to guarantee the right of the parliamentary opposition to express and defend its position, it may be allocated a certain time for speeches and the right to make a report (co-report) during the consideration of important issues, the list of which must be clearly defined.

8. Introduce the right to interpellation (an appeal by a member of parliament to the government or its representative on a specific issue, after discussion of which a corresponding resolution is adopted, up to and including a vote of no confidence in the minister or the government as a whole).

9. At the legislative level, it is necessary to fix the political responsibility of opposition political forces for unfounded and unconstructive criticism of the authorities that crosses ethical boundaries.

10. It is worth remembering the preservation of the rights of an individual deputy and his duties as a representative of the people. Some authors quite rightly defend the idea that the Constitution should create a regime of opposition rights, considering such a regime as "institutionalized power" (Choudhry, 2020).

"On the Parliamentary Opposition" remains debatable. The Venice Commission did not recommend adopting a "special law" on the opposition (Balint, 2024, p. 32). Therefore, the adoption of this law is desirable, but not mandatory from the point of view of the need to regulate the legal status of the parliamentary opposition. There is no unity on this issue even among the factions of the current Verkhovna Rada of Ukraine of the 9th convocation (Cheretun, 2020). Therefore, the likelihood of the adoption of the law in the near future is minimal.

4. CONCLUSIONS

According to the results of the study, it can be concluded that the constructive activity of the opposition contributes to the development of parliamentarism, multi-party system and, as a result, increasing the efficiency of governance. Opposition activity is manifested and implemented through the functions of the opposition in the political system: representative, informational, critical and control functions, the formation of alternatives for social development, conflict resolution, promotion of democratization of society, political competition and pluralism. At the same time, it is worth clearly distinguishing between the broad concepts of political opposition and parliamentary opposition.

The experience of foreign countries should be implemented in domestic practice, provided that the corresponding institution of the opposition is introduced into the legal field (legislation) of Ukraine. The most advanced models for effective activity and protection of the rights of the opposition are the German and Westminster models of parliamentary opposition.

In our opinion, the regulation of the rights of the parliamentary opposition in the conditions of democratic transit is a positive phenomenon and can be carried out both at the level of constitutional principles and the norms of the rules of procedure. The parliamentary opposition as a political and legal institution should find its place in the text of the Constitution of Ukraine. At the level of special legislation, we consider the optimal approach to be the first to make the necessary changes to the Rules of Procedure of the Parliament of Ukraine in terms of regulating the issues of organization and activity of the parliamentary opposition. At the same time, mechanisms for the implementation of the rights of the opposition and practical guarantees for their protection should be separately provided for. It is advisable to do this together with the fixation of the activities of the ruling coalition. Meanwhile, the adoption of a special law on the parliamentary opposition is debatable and has little chance of approval in the parliament itself due to the political situation. Ukraine has no political tradition, as well as a rather low level of political culture of the ruling elites regarding the interaction of parliamentary majorities and minorities (opposition). This complicates the process of determining the status and rights of the latter.

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