UDC 342.3
https://doi.org/10.32689/2617-2224-2020-4(24)-228-237

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THE OVERVIEW OF SCIENTIFIC SOURCES ON ASPECT OF FUNCTIONING OF THE SYSTEM OF CHECK AND BALANCES IN UKRAINE

Abstract. The development of scientific theory and practice of applying the constitutional foundations of the functioning of the institutions of the state power gives the system of checks and balances a key role in the formation of a coherent and constructive public policy. The researches conducted in the field of public administration, constitutional construction and political theory has shown the gradual and inevitable introduction of a system of checks and balances at different levels of the government in the state.

The main directions of the theoretical researches of the idea of checks and balances are allocated in the article, actual and perspective positions of scientists on the chosen problems are singled out. The significance and direction of the work related to the issue of coordinated, controlled and interconnected work in the government institutions of the state are formulated. Conclusions on the review were made and proposals for further exploration in the processing of this issue were formulated.

In today's conditions, the problem of scientific substantiation and legislative consolidation of the mechanisms for implementing the idea of checks and balan-

ces does not lose its relevance, but on the contrary, requires effective, efficient and fruitful work in the direction of constitutional, legislative, institutional changes and developments. The forms of interaction and mutual control, the scope of powers and activities of the state institutions are not stable, so the theory of establishing a democratic system of checks and balances must constantly develop the current aspects and facets of the domestic statehood.

Reviewing key, fundamental and diverse positions that reveal the essence and content of the system of checks and balances will contribute to further improvement of the public administration, the formation of the civil society and the rule of law, democracy, practical application of the principle of separation of powers in Ukraine.

Keywords: system of checks and balances, separation of powers, democracy.

ОГЛЯД НАУКОВИХ ДЖЕРЕЛ З ПИТАНЬ ФУНКЦІОНУВАННЯ СИСТЕМИ СТРИМУВАНЬ І ПРОТИВАГ В УКРАЇНІ

Анотація. Викладено розвиток наукової теорії та практики застосування конституційних основ функціонування інститутів державної влади, що приділяє системі стримувань та противаг ключову роль у формуванні злагодженої та конструктивної державної політики. Дослідження, проведені у сфері державного управління, конституційного будівництва та політичної теорії, засвідчили поступовість та невідворотність впровадження системи стримувань і противаг на різних рівнях організації влади у державі.

Виділено основні напрями теоретичних досліджень ідеї стримувань і противаг, актуальні та перспективні позиції науковців з обраної проблематики. Сформульовано значення та спрямованість робіт, які стосуються питання проведення злагодженої, контрольованої та взаємопов'язаної роботи у владних інституціях держави. Зроблено висновки з приводу проведеного огляду та сформульовано пропозиції з подальших розвідок в опрацюванні вказаного питання.

В умовах сьогодення проблема наукового обґрунтування та законодавчого закріплення механізмів реалізації ідеї стримувань і противаг не втрачає своєї актуальності, а навпаки, вимагає дієвої, ефективної та плідної роботи у напрямах конституційних, законодавчих, інституційних перетворень і напрацювань. Форми взаємодії та взаємоконтролю, обсяг повноважень і напрями діяльності інституцій державної влади не є сталими, тому теорія щодо налагодження демократичної системи стримувань і противаг повинна постійно розвивати актуальні аспекти та грані вітчизняного державотворення.

Проведення огляду ключових, фундаментальних і різнопланових позицій, які розкривають сутність та зміст системи стримувань і противаг, сприятиме подальшому вдосконаленню публічного управління, формуванню громадянського суспільства та правової держави, поширенню демократії, практичному застосуванню принципу поділу влади в Україні.

Ключові слова: система стримувань і противаг, поділ влади, демократія.

ОБЗОР НАУЧНОЙ ЛИТЕРАТУРЫ ПО ВОПРОСАМ ФУНКЦИОНИРОВАНИЯ СИСТЕМЫ ПРЕПЯТСТВИЙ И ПРОТИВОВЕСОВ В УКРАИНЕ

Аннотация. Изложено развитие научной теории и практики применения конституционных основ функционирования институтов государственной власти, что выделяет систему препятствий и противовесов как ключевую роль в формировании слаженной и конструктивной государственной политики. Исследования, проведенные в сфере государственного управления, конституционного строительства и политической теории, показали постепенность и неотвратимость внедрения системы препятствий и противовесов на различных уровнях организации власти в государстве.

Выделены основные направления теоретических исследований идеи препятствий и противовесов, актуальные и перспективные позиции ученых по выбранной проблематике. Сформулировано значение и направленность работ, касающихся вопроса проведения согласованной, контролируемой и взаимосвязанной работы во властных институтах государства. Сделаны выводы по поводу проведенного осмотра и сформулированы предложения по дальнейшей работе в разработке указанного вопроса.

В современных условиях проблема научного обоснования и законодательного закрепления механизмов реализации идеи препятствий и противовесов не теряет своей актуальности, а наоборот, требует действенной, эффективной и плодотворной работы в направлениях конституционных, законодательных, институциональных преобразований и наработок. Формы взаимодействия и взаимоконтроля, объем полномочий и направления деятельности институтов государственной власти не являются постоянными, поэтому теория по налаживанию демократической системы сдержек и противовесов должно постоянно развивать актуальные аспекты и грани отечественного государства.

Проведение анализа ключевых, фундаментальных и разноплановых позиций, раскрывающих сущность и содержание системы препятствий и противовесов, будет способствовать дальнейшему совершенствованию публичного управления, формированию гражданского общества и правового государства, распространению демократии, практическому применению принципа разделения властей в Украине.

Ключевые слова: система сдержек и противовесов, разделение властей, демократия.

Formulation of the problem. The development of scientific positions on the organization of power in the country, the introduction of the institutions of the civil society and the rule of law contributed to the creation of a fundamental basis for ensuring and streamlining the activities of the legislative, executive and judicial branches. In order to achieve significant changes in

the development of the constitutional provisions on the separation of powers, it is advisable to generalize and specify the research that through the prism of the idea of mutual checks and balances explains the algorithms for ensuring the rule of law, responsibility and legality in Ukraine.

The lack of a clear list of theoretical developments in the context of the development of the mechanism of checks and balances does not allow to look carefully and constructively at one of the most pressing problems of democracy and develop a consistent plan to adapt the best achievements of the domestic scientific thought.

With the formation of an effective state policy, the review of scientific sources related to the balanced distribution of power and the implementation of the idea of mutual checks and balances is becoming important and requires a comprehensive and complex analysis.

Analysis of researches and publications. This issue has become the object of study of many domestic scientists, in particular, V. M. Shapoval, N. M. Zhuk, O. N. Yevtushenko, V. F. Pohorilka, A. O. Selivanova, Yu. M. Todyka and others. The work of these researchers concerned the theoretical generalizations of the issue of ensuring the functioning of the system of separation of powers and the mechanism of checks and balances.

At the same time, the provision of a comprehensive description of the sources of the subject, taking into account current researches and publications, has not been carried out so far. In view of this, the conducted research does not fully reveal the current aspects of the theoretical justification of the problem of ensuring the interdependent work of the authorities in Ukraine.

The purpose of the article is to review the theoretical developments related to the functioning of the system of checks and balances in Ukraine. To achieve this goal, we propose to perform the following **tasks**: 1) to determine the key areas of research of this issue by domestic scientists; 2) to characterize scientific positions and works that concern the idea of checks and balances; 3) to summarize the results of the study and provide suggestions for further research.

Presentation of the main material. The theoretical vision of building a system of the state power and a mechanism of checks and balances is based on fundamental research of the historical, political, administration aspects of the development of the model of organization of power in Ukraine.

It should be noted that this issue in scientific circles has received a lot of attention: the phenomenon of separation of powers and the system of its balance were considered in the framework of dissertation research, lecture materials, scientific articles, conferences, round tables, etc. Of course, many manuals, monographs, periodicals touched on the distribution of power and the mechanism of checks and balances, exploring their relationship with the theory of public administration, the peculiarities of domestic and foreign policy, the formation of constitutional foundations of the society, the establishment of the vector of democratic development.

In our opinion, the most significant scientific sources that raise the out-

lined issue relate to such areas as constitutional construction, development of the political system, the functioning of democracy, public relations, international experience.

The study of the basics of providing a system of checks and balances, enshrined in the Constitution of Ukraine, was successfully performed by V. M. Shapoval, L. M. Sylenko, who made a significant contribution to a proper understanding of the constitutional aspects of the regulation of the process of mutual checks in the work of the authorities in Ukraine.

Thus, V. M. Shapoval rightly pointed out that the primary purpose of consolidating the separation of powers in the Constitution of Ukraine was to declare the intention to radically change the principles of organization of the state mechanism and at the same time create a legal basis for such changes [1, p. 33].

The scientist's contribution is to work out the basic principles of the legislative proclamation of the idea of separation of powers and the basis of checks and balances from the standpoint of the Basic Law of the state. The researcher raises the question of the role of the president of the state, legislative, executive and judicial authorities in achieving the effectiveness of state power, linking the development of a system of checks and balances with the theory and practice of constitutionalism.

L. M. Sylenko in his dissertation research "Constitutional foundations of the system of checks and balances as a means of organization and functioning of the state power in Ukraine" [2] focuses on the interaction of the structural elements of the system of checks and balances in accordance with the Constitution.

The author conducts a thorough analytical study of the provisions of the Basic Law in the context of the interdependence and coherence of actions, work and interaction of the structural components of the mechanism of power in the state.

The development of the idea of checks and balances in the political system of the state formed the basis of research N. A. Zhuk, N. V. Haidaenko, L. P. Priymak, O. V. Radchenko.

In the fundamental study of modernity "Parliament, President, Government: through mutual checks to balance" N. A. Zhuk highlighted extremely important aspects of the interaction between the institutions of the president, legislative, executive and judicial authorities in accordance with the constitutional principle of separation of powers [3, p. 4].

The author raises the question of the need to achieve understanding and cooperation between the branches of the government in order to find optimal and balanced solutions, achieve political consensus, and continue democratic transformations.

Analyzing the mechanism of consolidation of the political regime under the influence of checks and balances, L. P. Priymak critically notes that the permanent aggravation of the parliamentary-governmental crisis during the years of independence, which at the present stage has grown into a systemic political crisis, shows that an effective mechanism for the functioning of this system has not been formed [4, p. 127].

From the content of this study it follows that the system of checks and

balances is an indicator of the political situation in the country, and the development of this institution — an element of achieving stability of the political system.

O. V. Radchenko considers the system of checks and balances as a value imperative of the Ukrainian politics, as a factor of political stability and balance [5, p. 69].

The study of the system of checks and balances as a factor in the functioning of the political sphere reveals the importance of this mechanism for preventing political conflicts, imbalances in the Ukrainian authorities.

Interesting in the political aspect of the development of the system of checks and balances is the work of N. V. Haidaenko "System of checks and balances in the modern democracies", which covers the organization of building models of power in the modern democracies, taking into account the institution of checks and balances [6, p. 1].

The analysis shows that at different levels of the government there are characteristic manifestations of the functioning of the elements of balancing the work of the state institutions, which requires further work to identify ways to improve administration at each level of the government.

One of the most justified and relevant positions that characterize the role of the idea of balance and equilibrium in the organization of the state power is the development of democratic values.

The emphasis on the role of the system of checks and balances in the formation of the modern foundations of democracy was determined by such researchers as V. A. Shatilo, H. Yu. Zabavska.

The scientist V. A. Shatilo rightly pointed out that the problem of further development of the democratic principles of organization of an effective system of state power, prevention of its imbalance, prevention of systemic political crisis due to confrontation between higher authorities remains the main issue of the state building and development of the developed society [7, p. 41].

Indeed, today the achievement of parity and mutual control in the work of the mechanism of the state power is a priority for the development of the public administration relations, which affects the development of democratic traditions and values, the establishment of the rule of law and civil society.

H. Yu. Zabavska considers the system of checks and balances as an attribute of democracy and proves that it is a multidimensional institution [8, p. 27].

It should be noted that adherence to democratic and legal principles is a requirement of the modern administrative, political and social transformations.

The elaboration of the question of state-administrative relations, which arise and develop in combination with the idea of checks and balances, formed the basis of the theoretical substantiations of V. A. Rebkal, M. M. Lohunova, V. A. Shakhov, V. V. Obraztsova and others.

The scientific and methodological recommendations "System of checks and balances in the field of public administration relations" edited by V. A. Rebkal, M. M. Lohunova, V. A. Shakhov [9] detailed the position

on deepening the processes of democratization of the public administration relations in connection with the application of mechanisms for balancing the state powers.

The scholars reveal the idea of applying the mechanism of checks and balances in the administration sphere in order to ensure an open and democratic public policy, which is a justified direction towards the Europeanization of the public administration in Ukraine.

Considering this issue, V. V. Obraztsova says that the resolution of political conflicts in the field of public administration relations directly depends on the effectiveness of the system of checks and balances [10, p. 109].

In other words, the system of power relations, which is based on the principles of separation of powers and is accompanied by the use of models of checks and balances, must respond in a timely, accurate and effective manner to negative trends in administration interaction.

The issue of application and research of the international experience is convincingly analyzed by K. O. Zakomorna, N. M. Zhelykh, O. V. Khomenko.

Thus, addressing the foundations of the constitutional law of the foreign countries, K. O. Zakomorna considers the manifestations of the system of checks and balances in the countries with a republican form of government [11, p. 12].

Aspects of consolidation in the mechanism of power of the foreign states, questions of distribution of the powers and structural elements of algorithm of their interaction are separately opened.

N. M. Zhelykh in his work raises the issue of foreign experience of interaction between the authorities depending on the political system and the form of government [12, p. 2].

Undoubtedly, the study of foreign models and key components of the state power, international instruments for the adaptation of the system of checks and balances contributes to the improvement and modernization of the domestic legal system.

Taking into account the fundamental and purposeful nature of the American experience of implementing progressive democratic provisions concerning the separation of powers, the use of the system of checks, O. V. Khomenko analyzes the doctrinal provisions of the separation of powers in the USA.

Studying the practical experience of a foreign country allowed the researcher to conclude that the balance of branches of the government does not remain stable, it changes periodically due to rivalry between the branches of the government; it is necessary to provide a system of checks and balances both horizontally (between the branches of the government) and vertically (between higher and lower authorities) [13, p. 410].

We agree that only a comprehensive and consistent approach to the use of instruments of constitutional separation of powers can turn the idea of checks and balances into an effective tool for achieving coherence and interaction in the public administration at different levels of the government.

Conclusions. The review of theoretical aspects of the system of checks and balances showed that this issue is

still relevant and is important in the context of implementing the constitutional principles and principles of the public administration, adaptation of the international experience and the establishment of democratic values. The diversity of research on issues related to the coordinated and mutually controlled work of the government institutions allows for a deeper consideration of the political, administration and legal nature of this phenomenon, to form a modern approach to understanding the transparent and fair distribution of powers in the public administration relations.

Further research in this area should relate not only to the outlined areas, but also to justify the current positions and conditions in which the system of checks and balances is developing today. First of all, it concerns the processes of overcoming the crisis, decentralization, reform of the judicial and law enforcement systems, land relations, domestic and foreign policy of Ukraine.

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