

НАЦИОНАЛЬНЫЙ И МЕЖДУНАРОДНЫЙ ВЕКТОРЫ КОНСТИТУЦИОННОЙ РЕФОРМЫ В РЕСПУБЛИКЕ УЗБЕКИСТАН

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Статья посвящена национальному и международному векторам конституционной реформы в Республике Узбекистан. Автор рассматривает основные изменения, дополнения и уточнения статей и норм в новой редакции Конституции Республики Узбекистан, принятые в целях дальнейшего развития Узбекистана как суверенного, демократического, правового, социального и светского государства, основывающегося на конституционном принципе обеспечения системы сдержек и противовесов между ветвями власти, а также на общепризнанных принципах и нормах международного права. В статье отмечается, что на основе предложений, поступивших от граждан Республики в ходе всенародного обсуждения, в обновленной Конституции РУ количество положений о правах и свободах человека, гражданина увеличилось в три раза. При этом главным критерием в Конституции РУ, законах и деятельности государственных органов Республики Узбекистан признан принцип «Во имя достоинства человека».

Ключевые слова: *Конституция Республики Узбекистан, Новый Узбекистан, Законодательная палата, Сенат, Олий Мажлис Республики Узбекистан, Конституционный суд, международные договоры, принципы и нормы международного права*

Introduction

The Republic of Uzbekistan has always shown great respect for the applicable Constitution, including that of the Uzbek Soviet Socialist Republic. Since the state independence was obtained, the Constitution of our country, adopted on December 8, 1992, at the session of the Supreme Council of Uzbekistan, has been amended fifteen times. The current revised Constitution of the Republic of Uzbekistan is the first Basic Law that was adopted directly by the people through a referendum and entered into force directly on May 1, 2023.

It should be recognized that such a way of adopting constitutional acts, though being visually attractive and populist, can reveal the will of the people if certain questions are posed to citizens [Shagieva, 2023: 7]. During the national discussions of the draft Constitutional Law, a total of 222,715 proposals were received, and the draft was finalized and improved basing on them, while every fourth proposal was included in the draft.

During the preparation of the draft Constitutional Law, more than 400 international documents and constitutions of about 190 countries were carefully reviewed. The draft was highly appreciated by international experts and specialists as a document embodying all generally accepted norms of international law.

The number of articles in the revised Constitution of the Republic of Uzbekistan increased from the current 128 up to 155, and the number of norms became 434 instead of 275. Accordingly, 65 percent of the text of the Basic Law was updated on the basis of proposals received; the provisions on human rights and freedoms increased three and

a half times, and this became the basis for recognizing the draft as the revised Constitution of the Republic of Uzbekistan.

The updated Constitution unites the whole society around the concept of building a developed state – the New Uzbekistan, while taking into account the interests of all segments of the population. The general public, political parties, public organizations, representatives of expert scientific community and intellectuals actively participated in the development of the project; in short, the Constitution of the Republic of Uzbekistan has literally become popular.

As a solid legal basis and a reliable guarantee of the long-term development of our country, the revised Article 1 of the Constitution of the Republic of Uzbekistan establishes that Uzbekistan is a ‘sovereign, democratic, legal, social, and secular state’, and that these principles may not be changed.

These constitutional provisions are based on such important values as preservation and further strengthening of independence, transfer of a free country to future generations, non-deviation from the path of reforms aimed at the interests of the people, rule of law and justice, attention and care for people. The said values are being strengthened as the cornerstones of statehood. It is the Constitution of the Republic of Uzbekistan that should create ‘conditions for stable development of the country, formation of the most important state and public institutions, implementation of an open foreign policy, and protection of national interests’ [Kudinov, Kolmakov, 2020: 105].

The Main Points

The Constitution of the Republic of Uzbekistan stipulates that the state will assume a number of new obligations to reduce poverty, provide employment, and protect against unemployment. In general, the norms containing the social obligations of the state are tripled. For the first time, the Constitution of the Republic of Uzbekistan imposes the obligation on the state to take measures to improve the quality of life of socially needy categories of the population, to create conditions for the full participation of disabled people in the life of society and the state, and the exercise of their rights. It is emphasized that the state undertakes the creation of conditions for the full use of socio-economic and cultural facilities and services by disabled people, and provision of assistance for them.

It seems that thanks to the revised Constitution of the Republic of Uzbekistan, human and civil rights and freedoms are not only recognized, but also guaranteed in accordance with generally accepted principles and norms of international law. They will determine the essence, meaning and implementation of laws, the activities of the legislative and executive authorities, local self-government, and will be ensured by the administration of justice [Istomina, Ivanchina, 2021: 26].

The Constitution of the Republic of Uzbekistan includes the provision that the state shall create conditions for the development of preschool education and upbringing, and primary vocational education shall be free. It was emphasized that the norm of protecting the honor and dignity of teachers, taking care of their social and material welfare, professional growth served to further enhance the social status and reputation of teachers in society, playing a key role in the development of the country, and their intellectual potential.

The revised Constitution of the Republic of Uzbekistan significantly expands human rights and freedoms. In particular, the scope of constitutional rights is complemented by such rights as environmental rights, health protection, gender equality, freedom of movement, freedom of residence and dwelling, unhindered departure from the country and return, use of the Internet, protection of personal data, higher education, free

legal assistance, equality in access to public service, housing ownership and receiving compensation for deprivation thereof, confidentiality of banking transactions and accounts, and making legislative proposals.

Attention should be paid to the inclusion in the Basic Law of such rights as working in favorable labor conditions, receiving fair wages for work, guaranteed medical care at the expense of the state, exercising public control in the field of urban planning, budgeting, which will further strengthen the economic and social protection of citizens.

Due to the fact that the principle 'In the name of human dignity' is accepted as the main criterion in the Constitution of the Republic of Uzbekistan, our laws and the activities of state bodies, the revised Constitution of the Republic of Uzbekistan establishes that human dignity and honor are inviolable, and nothing may be the basis for their violation.

The adopted version of the Constitution of the Republic of Uzbekistan includes legal norms on the protection of the rights of young people, on limiting monopoly and ensuring the competitiveness of the economy and private entrepreneurship, on preserving natural resources and caring for the environment, on expanding opportunities and reliable protection for the media and civil society institutions, and on expanding the powers of the mahalla. The Constitution of the Republic of Uzbekistan provides for granting mahallas independent decision-making powers to deal with the daily problems of the people, and to create organizational and financial opportunities for this purpose. The Basic Law guarantees the freedom of the media, their right to seek, use, and disseminate information.

It should be noted that for the first time, the Constitution of the Republic of Uzbekistan includes a separate chapter on civil society institutions and guarantees for their activities, which will serve as a solid basis for strengthening the atmosphere of openness, transparency, legality in society, dialogue between the state and society, and the establishment of strong public control.

All this will serve to increase accountability, transparency, efficiency of decision-making by public authorities, and their effectiveness. The Basic Law acts as a starting point for the development of all national legislation. In turn, 'law as an institution of civilization... has become the mechanism for translating into action the requirements that ensured the 'self-preservation' of society and its development. Thanks to the law as a social regulator, not only the normal functioning of the entire social organism is ensured, but also human security in society, as well as the guarantee of fundamental rights and freedoms' [Golovina, Ivanchina, 2021: 36].

The updated Constitution of the Republic of Uzbekistan is aimed at creating a strong parliament, a compact and responsible government, as well as an independent and fair judicial system, to build a state that serves the people.

Since the system of state power is unified and integral, the modernization of one branch of government requires reform of its other branches. Accordingly, the powers of the chambers of the Parliament (the Legislative Chamber and the Senate of the Oliy Majlis of the Republic of Uzbekistan) had to be reviewed in order to ensure the effective functioning of the system of checks and balances between the branches.

The Constitution of the Republic of Uzbekistan commits to paper 'the fundamental relations between the individual and the state, as well as relations regarding the exercise of the supreme state power, forming the foundation of national legal regulation. Sometimes, these interests are multidirectional and even mutually exclusive, therefore, the main task of constitutional and legal regulation is to create a legal framework that balances opposing interests and allows them to coexist and be pursued in a single legal field' [Salikov, Mochalov, 2023: 11].

According to the reform, the powers of the Legislative Chamber and the Senate are significantly expanded, duplication in the work of the two chambers is eliminated, and

their scope of responsibilities is clearly defined. In particular, the absolute powers of the Legislative Chamber are increased from the current 5 up to 12, and those of the Senate from 14 up to 18.

Such powers as consideration and approval of the candidacy of the Prime Minister, administration of the state budget and consideration of the report of the Accounts Chamber are transferred to the jurisdiction of the Legislative Chamber directly elected by the people, which fully corresponds to the representative nature of the lower chamber and advanced foreign experience. Determining the right of the Legislative Chamber to propose to the President the dismissal of a minister whose work is considered unsatisfactory will serve to increase the accountability of government members to the people's deputies.

Based on the new tasks assigned to the Senate, in order to turn it into a compact, public-serving authority representing the interests of the regions, the Constitution of the Republic of Uzbekistan also enshrines its powers to assist local Kengashes (Councils) of People's Deputies.

These constitutional norms correspond to the priorities of the Development Strategy of the New Uzbekistan and the spirit of the administrative reform, clearly delineate the powers of the chambers of the Parliament, eliminate duplication in their activities, optimize parallel functions, and ensure effective functioning of the Oliy Majlis as a single integrated authority.

At the same time, the number of members of the upper chamber will be reduced from the current 100 down to 65, while maintaining equal representation of the regions by electing 4 senators from each region, and the number of senators appointed by the President from 16 to 9. This will make it possible to harmonize the activities of the Senate of the Oliy Majlis with the essence of the administrative reforms carried out in the country.

There is also a provision that laws introduced by the lower chamber of the Parliament must be considered in the Senate within 60 days, and if this period expires, the law will deem to be approved and will be sent to the President for signature.

In addition, the joint powers of the chambers of the Oliy Majlis are strengthened. The Constitution of the Republic of Uzbekistan specifically establishes the institution of parliamentary investigation, which is an important form of parliamentary control.

In order to strengthen the influence, place and role of the Oliy Majlis in the life of society, some powers of the President of the Republic of Uzbekistan are transferred to the Parliament. In particular, the practice of considering candidates for the post of Prosecutor General and Head of the Accounts Chamber first by the Senate, and then their appointment by the President, electing of the heads of the antimonopoly and anti-corruption bodies by the Senate, as well as the system of election by the Senate of all members of the Supreme Council of Judges is being introduced.

According to the revised Constitution of the Republic of Uzbekistan, the implementation of the principle of separation of powers at the local level and the elimination of the institution of leadership by hokims of Kengashes (Councils) of People's Deputies (from 2024 for regional Kengashes, and from 2026 for district ones) will be a logical continuation of the administrative reforms carried out in the country and efforts to update and modernize the public administration system. These changes in the field of local public administration will contribute to democratization of the entire system of state power, consistent implementation of the principle of separation of powers, and creation of the foundations of a truly people's statehood.

Enshrining the above issues at the level of the Basic Law is extremely important, since it is difficult to overestimate the role of 'administration in the life of modern society, as well as the situation, in which the social system finds itself during structural transformations' [Novovselova, Bondarenko, 2022: 4].

The changes introduced to strengthen guarantees of the independence of the courts, the inviolability of judges and non-accountability in specific cases, and to ensure their safety, will become an important guarantee of the full and independent administration of justice. The constitutional norm as to the financing of the activities of the courts should be carried out only from the state budget and that it should ensure the possibility of full and independent administration of justice will contribute to the formation of a truly fair and independent judicial system and ensure the impartiality of the courts.

Granting citizens the right to appeal to the Constitutional Court on the constitutionality of the law applied to them by the court is a new mechanism for protecting their rights and legitimate interests, in other words, a new 'institution of constitutional complaint' is being created.

'Compliance with the Constitution is an obligatory requirement and condition for order in the state and harmony in society. In various spheres of public relations, it can be ensured in accordance with its principles and norms of legal regulation of such relations established in other normative legal acts' [Karpovich, 2020: 5]. In this regard, the possibility for citizens to protect their constitutional rights and freedoms by applying to the Constitutional Court will only increase the effectiveness of the provisions enshrined in the Constitution of the Republic of Uzbekistan.

Conclusions

The revised Preamble to the Constitution of the Republic of Uzbekistan emphasizes that our Republic is based on the universally accepted principles and norms of international law and strives to strengthen and develop friendly relations between Uzbekistan and the world community, primarily with neighboring states, on the basis of cooperation, mutual support, peace, and harmony.

The revised Article 17 of the Constitution of the Republic of Uzbekistan states that the foreign policy of Uzbekistan shall be based on the principles of sovereign equality of the states, non-use of force or threat to use force, inviolability of frontiers, territorial integrity of the states, peaceful settlement of disputes, non-interference in the internal affairs of other states, and other generally recognized principles and norms of international law. This Article is supplemented by the international legal principle of 'territorial integrity of the state'.

At the same time, the Republic of Uzbekistan shall pursue a peaceful foreign policy aimed at the comprehensive development of bilateral and multilateral relations with states and international organizations, which follows from the newly introduced Article 18 of the revised Constitution of the Republic of Uzbekistan. The Republic of Uzbekistan may enter into alliances, join commonwealths and other inter-governmental institutions, as well as withdraw from them, on the basis of the supreme interests of the state, the people, their welfare, and security.

As in other countries, in the Republic of Uzbekistan, the Constitution of the Republic of Uzbekistan, recognizes and guarantees human rights and freedoms in accordance with the generally recognized norms of international law (Article 19). In this regard, the revised Article 15 is supplemented by the norm that international treaties of the Republic of Uzbekistan, along with the generally recognized principles and norms of international law, shall be an integral part of the legal system of the Republic of Uzbekistan. If an international treaty of the Republic of Uzbekistan establishes other rules than those stipulated by the law of the Republic of Uzbekistan, the rules of the international treaty of the Republic of Uzbekistan shall apply.

An equally important provision has been enshrined in the revised Article 23 of the Constitution of the Republic of Uzbekistan that the Republic of Uzbekistan shall guarantee defense and protection to all its citizens, both on its territory and abroad. A citizen of the Republic of Uzbekistan may not be expelled from Uzbekistan or turned over to another state. The state, in accordance with the norms of international law, shall take care of maintaining and developing ties with compatriots residing abroad.

In the above provisions, the attitude of the Republic of Uzbekistan as a sovereign state towards other states and international organizations has been enshrined in a concentrated form. Furthermore, they reflect the general course of the state in the framework of international relations pursued in its own interests (the interests of the state and the people), as well as the foreign policy goals of the state. At the same time, the priority of human and civil rights and freedoms is one of the main areas of development of the today's Republic of Uzbekistan, which has been incorporated in the updated Constitution of the Republic of Uzbekistan.

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