



# THE PROBLEMS OF THE INCREASING THE EFFICENCY OF THE PARLIAMENTARY CONTROL IN THE REPUBLIC OF UZBEKISTAN

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## ABSTRACT

*This article is devoted to the theoretical and legal study of foreign and modern experience in the development of parliamentary control. The emphasis is placed on the forms of the parliamentary control and implementation problems in the Republic of Uzbekistan. In order to achieve optimum correlation between the government and the parliament, their place within the system of state power, it is justified to further strengthen the liability of Government. Author also provides some recommendations for the improvement of some legislation in this sphere.*

**KEYWORDS:** *parliamentary control, national legislation, interpellation, parliamentary hearings, question time, parliamentary investigation.*

## INTRODUCTION

There can be no democratic system of government without transparency and accountability. The primary responsibility in this field falls squarely on the shoulders of parliament. Through its core oversight function, parliament holds the government to account on behalf of the people, ensuring that government policy and action are both efficient and commensurate with the needs of the public.

According to A. Latifov, a lawyer, one of the requirements of democratic state is control, the need for public opinion in the accountability and control of public authorities law [1]. In this sense, parliamentary oversight is an important tool for assessing the activity of public authorities. Parliamentary oversight is also crucial in checking excesses on the part of the government.

## THE LEGAL CONCEPT OF PARLIAMENTARY CONTROL

Legal scholars have given different definitions of the institute of parliamentary oversight and its features. For instance, parliamentary control is “The review, monitoring and supervision of government and public agencies, including the implementation of policy and legislation” [2]. M.Najimov points out that the best way to get acquainted with the execution of the law is to monitor it, the main purpose of which is not to punish those who do not comply with or hinder the implementation of the law, but to

eliminate shortcomings in law enforcement and improve this mechanism[3].

According to A.D.Kerimov, parliamentary control is necessary, first of all, to prevent the administration from seizing power in the state completely and in practice in an unrestricted manner, and to prevent the abolition of the activity of democratic institutions [4].

According to B.Strashun and V.Rijkov, the executive branch often emerges as the object of the institute of parliamentary control. In some cases, parliamentary oversight may be applied to the head of state, the judiciary, and local authorities. The institution of parliamentary control is exercised politically over the government and legally over other state bodies [5].

In our opinion, these definitions reflect the content and role of parliamentary control in state power. The main purpose, object and importance of parliamentary control are not fully explained. It should also be noted that the very tightness of parliamentary control should not adversely affect the normal functioning of the government. At the same time, the parliament should act only within the requirements of the law in the exercise of its oversight powers. It is obvious that the main object of parliamentary control is the activity of the executive branch. If the legislature does not monitor the implementation of laws, they will remain on paper.

Based on the above, parliamentary oversight is given the following author’s definitions:



parliamentary control is the oversight over the full implementation of laws and the rule of law in the activity of the executive power and officials, as well as through the detection of obstacles to the implementation of laws and the application of measures to eliminate them.

A mixed form of governance in the Republic of Uzbekistan with presidential and parliamentary features includes a strong head of state, the responsibility of the executive branch and the basis of parliamentary control [6]. Indeed, as noted by the President of the Republic of Uzbekistan, "it is necessary to strengthen the activities of the parliament in making important decisions and monitoring the implementation of laws" [7].

In this sense, one of the most important functions of parliament is to improve the oversight activity. For the first time strengthening the concept of "parliamentary control" in the Constitution of the Republic of Uzbekistan in 2014 served as a legal basis for the adoption of the Law of the Republic of Uzbekistan "On Parliamentary Control" On April 11.

The main areas of parliamentary control in the Republic of Uzbekistan include: the implementation of state programs on the constitution and laws, parliamentary decisions and decisions of the head of state; on observance of human rights and freedoms; on defense and security; on the execution of the state budget; control over the formation of public administration and government bodies; control over foreign policy activities.

In accordance with the legislation, the subjects of parliamentary control include: the chambers of the Oliy Majlis, its bodies, fractions of political parties, deputies, members of the Senate and the Representative of the Oliy Majlis for Human Rights (Ombudsman).

N.M.Ismailov points out the absence of boundaries of the object of parliamentary control and the complexity of their definition as one of the features of parliamentary control [8]. The object of parliamentary control is the activities of state and economic bodies and their officials in the implementation of the Constitution and laws of the Republic of Uzbekistan, resolutions of the chambers of the Oliy Majlis of the Republic of Uzbekistan and their bodies, state programs, as well as activities in performing the task and functions assigned to them [9].

The Law on Parliamentary control does not strengthen the basic principles of this activity. It is expedient to reflect in the legislation the basic principles of parliamentary control. For example, the European Parliament's activity is based on four general principles of parliamentary oversight: balance and reciprocity between public authorities; transparency; taking into account the needs of voters; accountability [10].

## FORMS OF THE PARLIAMENTARY OVERSIGHT

Forms and methods of parliamentary control differ from one state to another depending on the form of governance. In this sense, parliamentary oversight is of monumental importance in states with parliamentary and mixed forms of governance. In world practice, parliamentary oversight is mainly exercised in written and oral forms. Its main forms include:

- Parliamentary question;
- Deputy and senator question;
- Interpellation;
- Parliamentary hearings;
- Question time
- Parliamentary investigation
- Reprimand resolution

Parliamentary question is a legal instrument of parliamentary oversight that is sufficiently developed in foreign practice and the national legislative system. Requests of the legislative power are made in the form of parliamentary questions or questions of its members, deputies and senators.

According to Russian researcher V.A.Yolchev, "Parliamentary and deputy questions are not only the duty of the legislator, but also his moral points, his connection with life [11]." According to A.S.Zubarev, in constitutional law, parliamentary questions are considered as informational appeals to the executive body of the parliament to obtain the necessary information without interfering with its policy [12]. Disagreeing with Zubarev, it should be noted that parliamentary questions are not only informative, but can also influence government activities through the results of parliamentary questions.

The legal basis of the institute of parliamentary question is determined in the legislation on the activities of parliamentary chambers and the government, as well as the Law of the Republic of Uzbekistan "On Parliamentary Control", approved by the Council of the Legislative Chamber of the Oliy Majlis of August 26, 2008 No 854-I the procedure of the parliamentary question.

From the point of view of Sh.Zulfikarov, "the parliamentary question is an official request of the deputy of the Legislative Chamber. Parliamentary questions are the most effective means of parliamentary oversight. Therefore, it should be widely applied in practice. It is a powerful, impressive legal opportunity given to MPs. "Through parliamentary questions, deputies will help to meet the demands and proposals of the electorate [13]."

The first step in sending questions to Parliament and its members is to formulate a draft question. The state program for the implementation of the Action Strategy on the five priority areas of development of the Republic of Uzbekistan in the "Year of Science, Enlightenment and Digital Economy" sets the task of forming parliamentary and



deputy inquiries on the basis of the appeals of citizens in the activity of Legislative Chamber and Senate of the Oliy Majlis of the Republic of Uzbekistan from 2020 [14].

In order to implement this practice, it is necessary to create content on the website of the Oliy Majlis of the Republic of Uzbekistan that receives electronic appeals of citizens (including through social networking sites) and formulate questions of deputies and senators, taking into account the interests of the region and district. This serves to ensure the cooperation of public and parliamentary oversight in overseeing the activities of the executive branch.

According to the Law of the Republic of Uzbekistan "On the Rules of Procedure of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan", the Legislative Chamber has the right to send a parliamentary questions and requires officials of state and economic bodies to provide substantiated explanations or views on the implementation of laws, state programs and other important issues."

The proposal to send a questions is to be submitted for the consideration of Legislative chamber by the committees of the chamber, factions, as well as by at least one-fifth of the total number of deputies of the Legislative Chamber. The deputy's request is required to provide a reasoned explanation or statement of opinion on issues related to ensuring the rights and legitimate interests of voters in the relevant constituency, and the senator's request is required to provide a reasoned explanation or opinion on issues related to the interests of the respective territories.

During the five years (2015-2019) of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan 28 parliamentary questions (7 times more than in 2010-2014) on effective parliamentary control over the activities of the executive branch ) and 856 deputy questions were sent [15]. In addition, the upper house – the Senate – sent 26 parliamentary inquiries during this period [16].

At the same time, the current practice shows that there are problems with the use of the institution of parliamentary and deputy, senator questions and organizational and legal issues related to the further strengthening of its guarantees. For example, according to the Code of Administrative Responsibility under Article 193, officials are liable for failure to consider parliamentary questions, deputy inquiries, or senator inquiries, or violation of the terms of consideration without good reason or intentionally representing incorrect information.

In addition, the offices of the chambers of the Oliy Majlis of the Republic of Uzbekistan have the right to apply directly to the court in case of violation of the guarantees of deputy and senatorial activity as a novelty in our legislation [17].

During 2017-2018, a total of 62,714 deputy questions were sent to officials by members of the deputy corps of all levels in the country, of which 4,499 were violated the term of the consideration without good reason, and 2,956 were left without consideration at all [18].

Therefore, as a solution to the problem, it is important to further increase the personal responsibility of relevant leaders in the preparation of responses to parliamentary questions and their submission to the Oliy Majlis by members of the government, heads of ministries and departments.

In practice, there have been cases of delayed responses to questions, insufficient attention to them, and the fact that responses to parliamentary questions were signed by their deputies, not the first heads of ministries and departments. In order to prevent the above mentioned, it's proposed to introduce to the law "On Parliamentary control" that the responses should be in a quality and thorough manner and must be signed and sent by first heads of ministries and departments.

It is also necessary to include this case in the Code of Administrative Liability as a violation of the guarantees of deputy and senatorial activity.

In foreign law, parliamentary questions are called interpellations. However, this institution differs from the parliamentary questions in its peculiarities. Under Finnish law, at least twenty members of parliament (Eduskunta) may file an interpellation against the government or its member. The appeal will be considered at a session of parliament, at the end of which a resolution of no confidence can be expressed by voting for the government. At the same time, according to the constitution, if the government or its member does not have confidence, the President of the country will be forced to resign them [19].

According to Q.Djumabaev, in a parliamentary question, the parliament receives an explanation from a member of the government on a particular issue, which does not lead to immediate political action. The reprimand resolution and interpellation are completed by a vote with an explanation from the government, which in turn includes certain sanctions [20].

According to Kudratkhodjaev, interpellation is "an appeal to the government to clarify the government's domestic and foreign policies, as well as a specific issue. (For example, in countries such as Italy, Belgium, Denmark, Finland, the Netherlands, Norway, Japan). Interpellation is not used in countries that use the British legal system [21]". It can be seen that interpellation is used by the parliaments of the developed countries of the world as an effective form of parliamentary control. Therefore, in the future, it is possible to introduce the institute of interpellation into national legislation with an in-depth study of foreign experience.



Interpellation is effectively used in the legislation of most European countries. According to the Serbian Constitution, at least 50 people's deputies can file an interpellation on the activities of the Government. The government must respond within thirty days. The People's Assembly shall discuss the answer and vote on it by a majority of the total number of deputies. If the government or its member interprets the interpellation negatively, the issue of a vote of no confidence shall be on the agenda [22].

In Italy, interpellation is a complex form of parliamentary oversight, a written request from MPs on the specific goals and activities of the government. In this case, the answer to the question is heard at a meeting of the chamber. However, as a result of this institution, the parliament will not be able to take more serious action against the government or resign [23]. In addition, Italy has the institution of a resolution of no confidence in the government, which contains proposals, objections and directives on the general political course of the government.

It should be noted that the government may return a rebuttal in response to a request and interpellation by parliament if it has the appropriate grounds and evidence. Relevant information is regularly published in the bulletin of the Italian Parliament in order to inform the general public about the polls, interpellations and their results [24].

Therefore, taking into account foreign experience, in the future it is possible to introduce the institute of interpellation in the legislation of our country. The peculiarities of interpellation from a parliamentary question are: 1) the personal speech of the head of the relevant authority on the subject of interpellation in the parliamentary discussion; 2) the possibility of asking additional questions to the head of the authority on the subject of interpellation; 3) the deputy conducts negotiations on the received answer and the heard information; 4) voting on the results of data review; 5) the existence of constitutional (political) responsibility, if assessed negatively.

**Parliamentary hearings** ("question time") are one of the most important means of parliamentary oversight. According to R.Khakimov, one of the most important means of the parliament to influence the government and control its activities is to hear information on the activities of a particular member of the Cabinet of Ministers [25]. For the first time in the history of our parliament in 2015-2019, a new institution – the Institute of "question time" was introduced. In this period 14 "question time" and 82 parliamentary hearings were held. In particular, 32 parliamentary hearings were held in the lower house, in addition to the annual reports of the Ombudsman, the Accounts Chamber, reports of political parties and the draft and implementation of the State Budget.

The new form of parliamentary oversight – hearing the government's quarterly reports – was an important step in improving the efficiency of

deputies. In this sense, for the first time in the history of the parliament from 2019, the practice of reviewing the report of the Cabinet of Ministers on the implementation of the state program for the year has been introduced [26].

During the question time, which is widely used in the world, the process of hearing the answers of members of the government to the questions of deputies of the Legislative Chamber is carried out in a special order. An analysis of the experience of foreign countries shows that in the Institute of question time, responses are considered not only orally but also in writing. Writing questions is regulated separately in countries such as Germany and Belarus. In the experience of countries such as the United Kingdom, Germany, Canada, there is a practice of "urgent question".

Urgent questions do not require advance notice and require the government to provide a clear answer as soon as possible. According to the German legislation, in the Bundestag there is a "urgent question", which is often used effectively by opposition factions. It mainly discusses issues of general social significance. Five percent of the vote will be enough to hold the "urgent question"[27]. The Law on Parliamentary Control and the Law on the Rules of Procedure of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan should be used to ask "topical questions" during government hours.

The institution of parliamentary investigation exists as a form of parliamentary inquiry in the legislation of many foreign countries (USA, Germany, and Russian Federation). This activity is carried out through the establishment of special commissions in parliament to expose violations of public importance. The U.S. Congress, for example, has special parliamentary inquiry committees that have the power to request any person or document and to question him or her as a witness.

Article 18 of the Law of the Republic of Uzbekistan "On Parliamentary control" stipulates that parliamentary investigations may be conducted by a joint decision of the chambers of the Oliy Majlis in order to investigate certain facts or events that affect the most important interests of society and the state and may adversely affect the country's security and sustainable development. In this case, the Legislative Chamber and the Senate form a commission of deputies of the Legislative Chamber and members of the Senate to conduct a parliamentary investigation. In practice, a parliamentary investigation commission has been set up once in the country so far [28].

However, such investigation has not taken place since the adoption of the Law "On Parliamentary control". The main reason for this is that the legislation does not detail all the procedures related to the procedure, terms and results of parliamentary investigations. Foreign experience



shows that the effective use of this institution is the most effective and powerful tool of parliamentary control.

The Law of the Republic of Uzbekistan "On Parliamentary Control" uses the concept of parliamentary investigation. It is known that the word "investigation" means "study", "monitoring the implementation". In the explanatory dictionary of the Uzbek language, the word "inquiry" in a particular case means "to find out in detail", "interrogation to find out".

An inquiry is the initial stage of an investigation, at which point "parliament examines certain facts or events" and submits the collected information to the competent investigative bodies. Based on the above, taking into account foreign experience, changing the term of parliamentary inspection in the form of a parliamentary inquiry will ensure uniformity of content.

At the same time, it is expedient to clearly define the basis and procedure for the process of initiating a parliamentary inquiry. It is advisable to include in the law a provision on the right of the Chairman of the Senate or the Speaker of the Legislative Chamber to initiate a parliamentary inquiry by a quarter of the total number of deputies of the Senate or the Legislative Chamber in certain cases.

In addition, setting a clear timeline for parliamentary investigation (inquiry) is in line with the general theory of separation of powers, which means that the commission of inquiry operates within its mandate and that these commissions cease to exist in the newly elected parliament.

Therefore, in the future, the legislation should develop the "Procedure for conducting parliamentary investigations" of the Oliy Majlis, which should reflect the initiative, and procedure, timing, conclusions and decisions of the parliamentary investigation commission, the results.

In conclusion, it should be noted that the purpose of the parliamentary control is to ensure the compliance with the rights and freedoms of the person, performance of the law, efficiency of the activity of the executive authorities, quality providing public services, etc. In this regard, to achieve these goals it's important to further improvement of the parliamentary control and its mechanism in the Republic of Uzbekistan.

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