



## COMPARATIVE ANALYSIS OF THE FEATURES OF THE PRESIDENTIAL FORM OF GOVERNMENT IN THE REPUBLIC OF UZBEKISTAN AND THE UNITED STATES.

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### ABSTRACT

*In this article, the features of the presidential form of government between the two states, the analysis of theoretical and legal aspects of the integrative function of the president, as well as the analysis on the key laws of the countries related to presidential duties and their election to the presidential office have been considered.*

The presidential form of government is one of the modern forms of government, which, on an equal footing with parliamentarianism, combines the rights of the head of state and head of government in the hands of the president at the same time [2].

The main advantages of the presidential form of government are:

1. Punishing or rewarding the president for his policies, which is why it increases the president's accountability to the electorate;
2. Providing great efficiency in governance especially in times of crisis;
3. Increasing the legitimacy of the political system;
4. Retention of parliamentary ambitions, which in turn leads to improved democracy.

Along with its advantages, the presidential form of government also has its disadvantages, such as:

1. Dual democratic legitimacy.

2. Lack of flexibility in terms of government.
3. Encouragement of political outsiders.
4. Majoritarian character.

Main features of presidential republic:

1. Broader powers of the head of state than in a parliamentary republic;
2. Extra-parliamentary method of electing the president and forming the government;
3. Responsibility of the government to the president, not to parliament.

The president, who is elected by the population, is also the head of the executive branch. In a presidential republic, the president has more independence and independence in his actions from the parliament in contrast to the parliamentary republics, but in a presidential republic there is, and a great possibility of the emergence of an authoritarian regime, namely dictatorship, and to avoid this, there is a complex system based on principles - checks and balances. The lack of responsibility of the executive power for



its policy before the parliament is the main feature of the presidential form of government. Therefore, in this form of government the president can belong to one party and the majority of the parliament to another, which means that they will need to cooperate with each other.

Of course, the presidential republic will be very effective during the transition period of state development. Therefore, in the case of urgent or rapid decision-making, the presidential republic will be a no alternative. However, in the case of a stable period of state development, the presidential form of government can also carry hidden threats to democracy.

As for the post-communist countries, they have the opportunity to assess the history and learn valuable experience, which they need to take into account in the transition to the presidential form of government, so that in the future at first stages there would not be authoritarian trends in governing the country, because of the underdevelopment of democratic political institutions, this was the problem which caused the development of the phenomenon of over-presidency.

One of the first republics of the former Soviet Union that switched to the presidential form in 1990 was Uzbekistan. Since then, the president of the Republic of Uzbekistan is the head of state, its highest official, who ensures the coordinated interaction of all bodies of state power. The President is the supreme commander-in-chief of the Armed Forces of the Republic of Uzbekistan, acts as a guarantor of civil rights and freedoms, the Constitution and laws, takes necessary measures to protect the sovereignty, security and territorial integrity of the country, represents

Uzbekistan inside the country and in international relations. The people of Uzbekistan by universal and secret ballot elect the President for a term of five years.

Under article 11 of the Constitution, the system of State authority is based on the principle of the separation of powers between the Legislature, the Executive and the Judiciary. Until 2008, the President of Uzbekistan was at the same time head of the executive. The norms stipulating that the President of the country is at the same time the head of the executive power were deleted from the Constitution as a politico-legal act of great importance. The President, while exercising state power, performs the most important state functions, at the same time, under the Constitution, he is not part of any branch of power.

It should be noted that the post of head of state exists in all forms of government. In monarchical states, it is a hereditary monarch, in republics - an elected president. The state feels the need for the existence of an official who ensures the constitutional order, stability and continuity of the mechanism of power, as well as the highest representation in international relations. This is the head of state, usually vested with wide powers in the sphere of relations with the legislative, executive and judicial powers, acting as a kind of symbol of the state and official representative of the people. The head of state is called to cement state power, to ensure constitutional resolution of all crises and conflicts between state authorities.

Article 93 of the Constitution of the Republic of Uzbekistan specifies 25 fundamental powers and rights of the President of the country:



1. To guarantee observance of rights and freedoms of citizens, the Constitution and laws of the Republic of Uzbekistan;
2. To take the necessary measures for the protection of the sovereignty, security and territorial integrity of the Republic of Uzbekistan, and implementation of decisions regarding its national-state structure;
3. To represent the Republic of Uzbekistan within the country and in international relations;
4. To conduct negotiations and sign treaties and agreements for the Republic, and ensure the observance of the treaties and agreements negotiated by the Republic and obligations assumed by it;
5. To receive letters of credence and recall from diplomatic and other representatives accredited to him/her;
6. To present to the Senate of the Oliy Majlis (parliament) nominees for appointment as diplomatic and other representatives of the Republic of Uzbekistan to foreign states;
7. To present to the Oliy Majlis of Uzbekistan annual reports on major matters of social and economic life, home and foreign policies of the country;
8. To form the office of executive authority and direct it; ensure interaction of the supreme bodies of authority and administration of the Republic; form and abolish ministries, state committees and other bodies of state administration with subsequent submission of decrees on these matters for approval by the chambers of the Oliy Majlis ;
9. To present to the Senate a nominee for election to the post of Chairperson of the Senate;
10. To present for consideration and approval by the chambers of the Oliy Majlis

- a nominee for the office of Prime Minister, and relieve the Prime Minister of that post;
11. To approve, on the nomination of the Prime Minister, members of the Cabinet of Ministers, and relieve them of their posts;
12. To appoint a Procurator-General and deputies, subject to approval by the Senate, and relieve them of their posts;
13. To present to the Senate nominees for the posts of Chairperson and judges of the Constitutional Court, Chairperson and judges of the Supreme Court, Chairperson and judges of the Higher Economic Court, Chairperson of the Board of the Central Bank, and Chairperson of the State Committee for the Protection of Nature;
14. To appoint judges of regional, inter-district, district, city, martial and economic courts, and relieve them of their posts;
15. To appoint and relieve khokims of regions and the city of Tashkent of their posts with their subsequent approval by relevant Kenghashes of people's deputies. The President shall have the right to relieve, by his decision, khokims of districts and cities of their posts, should they violate the Constitution or laws, or perform acts discrediting the honour and dignity of a khokim;
16. To suspend and repeal acts passed by bodies of state administration, as well as khokims;
17. To sign and promulgate laws; the President shall have the right to return a law, stating his objections, to the Oliy Majlis for a second debate and vote;
18. To announce a state of war in the event of an attack on the Republic of Uzbekistan, or arising from treaty obligations on mutual defence from aggression; and within 72 hours to submit



such decision for approval by the chambers of the Oliy Majlis;

19. In exceptional cases (real external threat, mass disturbances, major catastrophes, natural calamities, epidemics), in the interests of ensuring citizens' security, to proclaim a state of emergency in the entire territory or in particular localities, and within 72 hours to submit such decision for approval by the chambers of the Oliy Majlis. Conditions and the procedure for introducing a state of emergency shall be regulated by law;

20. To serve as the Supreme Commander-in-Chief of the Armed Forces, appoint and relieve the supreme command of the Armed Forces, and confer the highest military ranks;

21. To award orders, medals and certificates of honour and confer qualification and honorary titles of the Republic of Uzbekistan;

22. To rule on matters of citizenship and the grant of political asylum;

23. To propose to the Senate any acts of amnesty and effective pardoning of persons sentenced by the courts;

24. To form the National Security Service and nominate and relieve the Chairperson of the National Security Service of his post, subject to approval of decrees on these matters by the Senate;

25. To exercise other powers stipulated by the Constitution and laws of the Republic.

If to analyze the form of government in the Republic of Uzbekistan, it is possible to group opinions on this issue into two groups: the first group includes opinions of scientists, who consider the Republic of Uzbekistan as a presidential republic (F.H.Rakhimov [3], Sh.Abboshujaev [4]). The second group consists of the opinions

of scholars who consider the Republic of Uzbekistan as a mixed republic (A.Azizkhojaev, O.Mukhamedjanov, G.R.Malikova). For example, according to O.Mukhamedjanov "In the Republic of Uzbekistan a peculiar model is formed, which combines features of presidential and parliamentary republics, which largely determines the status of parliament (its chambers), its powers in the system of separation of powers. Undoubtedly, there are features of a presidential republic in the organization of state power in the Republic of Uzbekistan: The President is the head of state, directly elected by the population, has considerable constitutional powers in the sphere of executive and judicial branches, but at the same time, a certain balance of power is preserved due to the system of checks and balances, the President has the right to veto (the right to return the law with his objections to the Parliament for a second discussion and voting), from the President's initiative, and the powers of the executive. But at the same time the organization of the state power in the Republic testifies to the development of the tendency inherent in a parliamentary republic: the Parliament can override the President's veto, the appointment of the Prime Minister is agreed with the Parliament, the Parliament can be dissolved by the President in cases and in the manner prescribed by the Constitution". [5].

According to A.Azizkhodjaev and G.R.Malikova, the Republic of Uzbekistan is gradually transitioning to a mixed form of government [6].

This is confirmed by the following norms of legislative acts:

- the President is elected on the basis of general elections (Article 90 of the



Constitution of the Republic of Uzbekistan), which is a sign of a presidential republic;

- existence of the post of the Prime Minister (article 98 of the Constitution), which is a sign of a parliamentary republic;
- the President shall form and abolish ministries, State committees and other Government agencies on the recommendation of the Cabinet of Ministers, and then submit the relevant decrees to the chambers of the Oliy Majlis for approval (article 93 of the Constitution);
- the President submits the candidature of the Prime Minister for the consideration and approval of the chambers of the Oliy Majlis and dismisses him or her in the event of his or her resignation, a vote of no confidence in the Prime Minister passed by the chambers of the Oliy Majlis, or in other cases provided for by law (article 93 of the Constitution);
- members of the Cabinet of Ministers are appointed by the President on the recommendation of the Prime Minister and dismissed by him (article 4 of the Cabinet of Ministers Act);
- deputy Ministers and chairpersons of State committees are appointed and dismissed by the President. The heads of other bodies of state administration and their deputies are appointed and dismissed by the President of the Republic of Uzbekistan, unless otherwise stipulated by law (article 6 of the Cabinet of Ministers Act);
- the Prime Minister, in coordination with the President, divides the duties between deputy prime ministers and systematically informs the President of the work of the Cabinet of Ministers (article 15 of the Cabinet of Ministers Act);

- the President appoints and dismisses Khokim of the regions and of Tashkent City on the advice of the Prime Minister, in accordance with the law. The President has the power to dismiss khokims of districts and towns if they violate the Constitution or the law or if they commit acts that denigrate the honor and dignity of the khokim (Constitution, art. 93);
- the President suspends or revokes the acts of the organs of State administration and the khokims if they are not in line with the law; and has the power to preside over meetings of the Cabinet of Ministers (Constitution, art. 93);
- in its activities, the Cabinet of Ministers is responsible not only to the President but also to Parliament (Constitution, art. 98);
- the acting Cabinet of Ministers resigns its powers before a newly elected parliament (Constitution, art. 98), which is a sign of a parliamentary republic;
- determination by Parliament of the main thrusts of domestic and foreign policy (Constitution, art. 78), which is a characteristic of a parliamentary republic;
- the nomination of the Prime Minister by the political party that won the most seats in the elections to the lower house (Constitution, art. 98), which is a characteristic of a parliamentary republic;
- the system of censure (art. 98 of the Constitution), which is a characteristic of a parliamentary republic;
- the right of the President to dissolve the Parliament (Article 95 of the Constitution of the Republic of Uzbekistan), which is a feature of a parliamentary republic.

Another country with the presidential form of government is the USA. The origins of emergence and many years of experience, which help to avoid over-presidency, lie exactly in the United States. As we know, at



the first stage of the formation of American statehood, the legislative and executive powers were concentrated in one representative body - the Continental Congress [7]. Congress chose its own president, who had limitations on the presidency. "Thus in 1787 in Philadelphia in adopting the Constitution of the United States," [8] a difficult but historic choice was made between a republic and a monarchy. Because most Americans had just freed themselves from the British monarchy, they were opposed to having a monarch, albeit one with limited powers. However, the principle of "one person of state" won out, and the founding fathers of the United States decided that all power should be in the hands of one, and then he became known as the president of the United States. That is when the institution of the presidency was formed there. The office of president is one of the key elements of a presidential republic.

The Executive Office of the President of the United States consists of more than 1,700 people, which is a powerful unit and consists of officials who, in turn, are part of the subordinates of the President of the United States. The creation of the apparatus is based on orders from the president, who has his own advisers in management.

The presidential staff consists of three gradations of positions:

- senior (aides to the president);
- deputy aides to the president;
- junior, who serve as deputy aides.

Because the president combines the two functions of head of state and head of the executive branch, there are no checks and balances in the relationship between the government and the president in a presidential republic. Therefore, the

president has the right to remove ministers and other officials from office, and in such cases, no justification is required of the president, since the president has the right not to work with those with whom he does not wish to do so. In a number of exceptions, there are appointments of ministers from their party leaders [9].

The president chairs all official meetings, and the role of ministers in this case is purely advisory. Given the rigid separation of the executive and legislative branches, the policy of the presidential republic carries a large part of the authoritarian regime, which may also have negative consequences for the country. Especially since the U.S. is a country that shows the whole essence of presidentialism and provides an example for other states. Consequently, the U.S. president must primarily be a great motivator who shows not only to his citizens what it takes to be president, but also to the presidents of other countries that have adopted the presidential form of government.

Incentivizing employees and subordinates, who undergo rigorous selections and are entrusted with tremendous authority, is also considered by the president of the United States. His categorical and demanding nature is much higher, which subsequently affects the work of the entire executive branch as a whole, but there are also a number of requirements and powers that are imposed on the president himself. For this purpose, a number of regulations have been created and developed, which are spelled out "in the U.S. Constitution" [10]. They describe all the activities of the presidential form of government. If you analyze the list of regulations, it is noted that someone who is not a citizen of the United States from birth cannot become



president, so there are different interpretations - citizenship by birth. The most common is: "only a person who was born in this country can be president of the United States." This interpretation significantly limits the rights of the category of citizens, who for various reasons were not born in this country, but they have lived there all their lives, and many of them are active politicians.

Consider a case where a person was not born in the United States because his parents were military or diplomatic and served overseas. Therefore, in 2008 presidential candidate John McCain also nearly fell under the anti-democratic wording because he was born "near the Panama Canal on a military base." U.S. lawyer Leo Donofrio took advantage of the ambiguity of the "citizenship by birth" interpretation and filed a lawsuit in U.S. court in which he questioned candidate Barack Obama's eligibility to assume the U.S. presidency. Donofrio believed that a "citizen by birth" is only a citizen who was not only born in the United States, but also whose parents are not foreigners, as Barack Obama's father was a citizen of Kenya. Therefore, the American electoral system's rejection of one of the most important democratic electoral principles of direct voting was understandable. The population votes to elect electors from a list of presidential candidates. At this point, I would like to point out a restriction for electoral candidates that is not democratic. It says that a person who has participated in revolts or rebellions against the United States, or who has in any way aided or abetted the enemies of the United States, may not be an elector. This infringement gives the courts relative latitude in interpreting the category of "aiding and

abetting enemies of the United States. [11], which somehow borders on the anti-democratic possibility of removing the popularly elected elector in order to please the country's dominant political parties and positions. The electors were originally analyzed as free agents who have nothing to do with the opinion of their constituents, but even now, there are cases where, despite being elected on party lists, the electors may vote for a candidate from a competing party. The algorithm of popular election of electors is not legislated, which, in theory, does not preclude their election even by the legislature. In 48 states, there is such a system, as "the winner takes all" [12]. This means that the entire electoral roll joins the candidate who gets the most votes, no matter what the gap between these candidates is. Neither the presence and 99% turnout, nor the huge election expenses can guarantee the people, in their democratic right, the free expression of their electoral will.

Based on the above, we can conclude that: First, the legal status of the head of state and his actual role in the exercise of state power is directly related to the form of government and the political regime of a particular country.

Secondly, the President of the Republic is central to the system of organs of State power and the core of Uzbekistan's political system.

Thirdly, Uzbekistan has a presidential-parliamentary republic, i.e. a mixed form of government.

Fourthly, the institution of the presidency in its essence is an institution of the executive branch of power.

Fifthly, in the current American legal reality such notions as "elections", "democracy", "human rights" become only



ideological statements intended only for external use. That is why not flawless presidential election and thus not flawless presidential form of government gets one of the most important problems - it is the problem of democratization of the electoral legislation in the United States. And this is no longer a problem only of Washington and U.S. citizens. It is a problem for the entire international legal community. No factor in the governance of a country, no

matter presidential or parliamentary form of government, should stop the democratic and international transformation of humanitarian law. Any attempts to take national electoral law beyond the bounds of international legal law are unacceptable. And such omissions in the normative legal acts of the United States make the system of the Presidential form of government not perfect, but on the contrary only brings out all the pitfalls.

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