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# The features of the system of checks and balances in post-soviet presidential republics

UDC 328.1/.132.7:342.511(574+575.3+575.1+575.4)  
DOI <https://doi.org/10.24195/2414-9616.2024-6.4>

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*The study of the system of checks and balances in post-Soviet presidential republics is relevant in view of its impact on political stability, democratic development and respect for the rule of law. This article examines the peculiarities of the functioning of the system of checks and balances in post-Soviet presidential republics, identifies its strengths and weaknesses, and analyzes the factors that affect its effectiveness. The purpose of the study is to determine the peculiarities of the system of checks and balances in Kazakhstan, Uzbekistan, Turkmenistan, and Tajikistan. The following research methods were used to study this topic: systemic, institutional, and comparative. The author analyzes the separation of powers in the post-Soviet presidential republics, which is enshrined in the constitution. Particular attention is paid to comparing the models that have developed in different countries of the region, with an emphasis on the degree of concentration of power in the hands of the president, the level of independence of the judiciary and the influence of parliament on key decisions. The main features of the system of checks and balances in post-Soviet presidential republics are: semi-rigid separation of powers and unbalanced system of checks and balances; election of the president; the existence of the post of the so-called administrative prime minister (where it exists), who has no significant power and acts in accordance with the instructions of the president; formation of the government by the president with limited participation of the parliament; the president's right to dissolve the parliament; the president's right to legislative initiative; the existence of the institution of the presidential commission; the existence of the presidential commission. The article also examines the challenges associated with the lack of effectiveness of the system of checks and balances in Kazakhstan, Uzbekistan, Turkmenistan, and Tajikistan, in particular in terms of its ability to prevent the usurpation of power and ensure democratic development.*

**Key words:** system of checks and balances, post-Soviet presidential republics, president, parliament, government, judiciary.

**Introduction.** The system of checks and balances is one of the key elements of democratic governance, which ensures a balance of power between different branches of the state and prevents the concentration of powers in one hand. In post-Soviet presidential republics, where authoritarian models of governance have historically dominated, adapting this system is an important and challenging task. Despite the formal introduction of the system of checks and balances in the constitutions of many post-Soviet states, their functioning often faces serious challenges in practice.

Among the numerous studies and publications that cover the issue of the system of checks and balances in post-Soviet presidential republics, the works of the following researchers deserve special attention: O. Valevskyi, N. Haidaienko, H. Zabavska, V. Reb-kalo, I. Salo, L. Silenko, V. Surrin, etc.

**The purpose** of the article is to analyze the system of checks and balances in post-Soviet presidential republics.

The research **methods** are systemic, institutional and comparative. The use of the systemic method is due to the system of supreme bodies of the state in post-Soviet presidential republics. The systemic method is used to study the formation and functioning of public authorities in Kazakhstan, Uzbekistan, Turkmenistan, and Tajikistan. The institutional method involves the identification and analysis of the more or less formalized phenomena and processes of political life in society, and is used to distinguish the institution

of the president, parliament, and government. The comparative method is used to analyze the system of checks and balances in post-Soviet presidential republics.

**Discussion.** A presidential republic is a form of republican government. The presidential republic was first introduced in the United States. After the collapse of the USSR, the presidential republic was also established in a number of former Soviet republics – Kazakhstan, Tajikistan, Turkmenistan, and Uzbekistan.

The main features of a presidential republic are: strict separation of powers and a balanced system of checks and balances; election of the president in general elections; combination of powers of the head of state and the head of government in the person of the president and, as a rule, the absence of the post of prime minister; formation of the government by the president with limited participation of the parliament; lack of political responsibility of the government to the parliament; absence of the president's right to dissolve the parliament; absence of the right of legislative initiative of the president; absence of the institution of counter-signature.

A presidential republic is characterized by a strict separation of powers. That is, the branches of state power do not have close functional relations. In a classical presidential republic, there are two centers of power that are independent of each other: the parliament (legislature) and the government headed by

the president (executive). The main feature of the strict separation of powers in a classical presidential republic is that the government is not politically accountable to the parliament and cannot be dismissed by it, and the president has no right of legislative initiative and no right to dissolve the parliament. The judiciary is separated from the legislative and executive branches.

The separation of powers is a necessary condition for the functioning of state power and is enshrined in the constitutions of post-Soviet presidential republics in one form or another – through the separation of functions and powers of the legislative, executive and judicial branches. For example, Article 3(4) of the 1995 Constitution of Kazakhstan states that state power is divided into legislative, executive and judicial branches. The interaction of the branches of state power is based on the use of a system of checks and balances [3]. Article 6 of the 1992 Constitution of Turkmenistan provides that the state power is divided into legislative, executive and judicial branches. They act independently, balancing each other [6]. Article 9 of the 1994 Constitution of Tajikistan states that the state power is divided into legislative, executive and judicial branches [4]. Article 11 of the 1992 Constitution of Uzbekistan states that the state power is divided into legislative, executive and judicial branches [5].

The features of a presidential republic vary in post-Soviet countries. The main features in post-Soviet presidential republics are: semi-rigid separation of powers and an unbalanced system of checks and balances; election of the president in elections; the existence of the post of the so-called administrative prime minister, who has no significant power and acts in accordance with the president's instructions; formation of the government by the president with limited participation of the parliament; the president's right to dissolve the parliament; the president's right to legislative initiative; the existence of the institution of counter-signature (in Kazakhstan).

The system of checks and balances in post-Soviet presidential republics is unbalanced. In these states, there is an increase in authoritarian tendencies in the functioning of the presidential institution. It is worth noting that the less democratic experience of the country, the greater the powers of the president became over time [1, p. 140].

In general, the manifestations of the growing authoritarian tendencies of presidential rule are: the recognition of the first presidential term as zero, and therefore the possibility to run for the third time: I. Karimov (Uzbekistan), E. Rahmon (Tajikistan), N. Nazarbayev (Kazakhstan); lifetime presidency: S. Niyazov (Turkmenistan). Authoritarian features in the functioning of the presidential institution have been significantly strengthened by the practice of using referendums to amend the constitution to allow presi-

dents to serve more than two terms: N. Nazarbayev (Kazakhstan); increase of the presidential term from five to seven years (N. Nazarbayev, E. Rakhmon, I. Karimov), introduction of the presidency for life (S. Niyazov). In this regard, E. Rahmon has been on the power Olympus for 30 years. N. Nazarbayev was the President of Kazakhstan for 29 years (he resigned in March 2019) [1, p. 140].

The system of checks and balances in Kazakhstan is implemented as follows. Thus, the activities of the President of Kazakhstan and the judiciary are carried out on the basis of laws adopted by the Parliament of Kazakhstan. The President has the right of a suspensive veto over laws adopted by the Parliament, which can be overridden by a two-thirds vote of the total number of members of both chambers of the Parliament. The President appoints the President of the Constitutional Court with the consent of the Senate and four judges of the Constitutional Court. Three judges of the Constitutional Court are appointed by the Senate and three judges by the Majilis. The Chairman and judges of the Supreme Court are elected by the Senate on the proposal of the President of Kazakhstan. The chairpersons and judges of local and other courts are appointed by the President of the Republic on the recommendation of the Supreme Judicial Council. The Chairman of the Supreme Judicial Council is appointed by the President with the consent of the Senate. The President also appoints the akims (local executive authorities) of the regions, cities and the capital. Unlike the President of the United States, the President of Kazakhstan has the right to dissolve the Parliament. Thus, the President of Kazakhstan, after consultation with the heads of the chambers of parliament and the Prime Minister, may dissolve the parliament or the Majilis (lower house) of parliament (Article 63(1) of the Constitution of Kazakhstan of 1995) [3]. However, the President of Kazakhstan cannot exercise this right in the last six months of his term of office, as well as within one year after the previous dissolution (Article 63(2) of the Constitution of Kazakhstan of 1995) [3]. The government may be dismissed in the event of a vote of no confidence by the parliament (Article 70(3) of the Constitution of Kazakhstan of 1995) [3]. In a classical republic, the parliament does not have the right to dismiss the government. The Parliament has the right to remove the President of Kazakhstan from office by impeachment in case of high treason (part 2 of Article 47 of the Constitution of Kazakhstan of 1995) [3]. In violation of the system of checks and balances in a presidential republic, the President of Kazakhstan has the right of legislative initiative (Article 61 of the Constitution of Kazakhstan of 1995) [3]. The institute of counter-signature is not used in presidential republics. The Prime Minister of Kazakhstan (who has no significant power and acts in accordance with the instructions of the President),

as well as ministers, are subordinate to the President and completely dependent on him, so there is no need for counter-signature. However, the 1995 Constitution of Kazakhstan provides for the counter-signature of presidential acts proposed by the government itself: «3. Acts of the Parliament signed by the President of the Republic, as well as acts of the President issued on the initiative of the Government, shall be preliminarily endorsed by the Chairman of each of the chambers of the Parliament or the Prime Minister, respectively, who shall be legally responsible for the legality of these acts» (clause 3, Article 45) [3].

The activities of the President of Turkmenistan and the judiciary are carried out on the basis of laws adopted by the parliament and the supra-parliamentary body (Halk Maskhalati). Decrees of the President of Turkmenistan have the force of law. The head of state is vested with the right of a suspensive veto over laws adopted by the Mejlis (parliament), which the latter can override by a two-thirds vote of the total number of deputies of the parliament (Article 71(10) of the 1992 Constitution of Turkmenistan) [6]. The President appoints the Chief Justice of the Supreme Court with the consent of the Mejlis (Article 71(16) of the 1992 Constitution of Turkmenistan) [6]. Judges are appointed and dismissed by the President of Turkmenistan (Article 100 of the 1992 Constitution) [6]. The head of state has the right to dissolve the parliament. The Mejlis may be dissolved in the following cases: on the basis of a decision of a national referendum; on the basis of a resolution of the Mejlis adopted by a majority of at least two-thirds of the total number of deputies (self-dissolution); by the President of Turkmenistan in case of failure to form the governing body of the Mejlis within six months (Article 79 of the 1992 Constitution of Turkmenistan) [6]. Article 92 of the 1992 Constitution of Turkmenistan states that the government is formed by the president within one month after taking office, and it must resign before the newly elected president [6]. The government is responsible to the president. The government is headed by the head of state. Until 2023, the parliament could remove the president from office by impeachment and by referendum. Thus, in case of violation of the Constitution and laws by the President of Turkmenistan, the Mejlis of Turkmenistan may express no confidence in the President of Turkmenistan. The issue of no confidence in the President of Turkmenistan may be considered at the request of at least two-thirds of the total number of deputies of the Mejlis. The decision on no confidence in the President of Turkmenistan is adopted by at least three-fourths of the established number of deputies of the Mejlis of Turkmenistan. The question of removing the President of Turkmenistan from office is submitted to a national referendum (Part 2 of Article 75 of the 1992 Constitution of Turkmenistan) [6]. In 2023, Article 75 became invalid. In violation of the sys-

tem of checks and balances in a presidential republic, Article 83 of the 1992 Constitution of Turkmenistan states that the right of legislative initiative belongs to the President of Turkmenistan [6].

In Tajikistan, the President is the head of state, while the head of the executive branch is the Prime Minister, who has no significant power and acts in accordance with the President's instructions. The President of Tajikistan has the right of a suspensive veto on laws adopted by the Parliament, which the latter can override by two-thirds or three-fourths of the total number of deputies of the Majlis Mili and Majlis Namoyandagon (upper and lower chambers of the Parliament) (Article 62 of the Constitution of Tajikistan of 1994) [4]. The President of Tajikistan nominates the chairman and deputy chairmen of the Constitutional Court, the Supreme Court and the Supreme Economic Court for appointment and dismissal of the Majlis mili (upper house of parliament) (Article 69(8) of the Constitution of Tajikistan of 1994) [4]. The President of Tajikistan is not vested with the right to dissolve the Parliament. The Parliament may be dissolved on its own initiative (self-dissolution of the Parliament) (Article 63 of the 1994 Constitution of Tajikistan) [4]. The President of Tajikistan appoints and dismisses the Prime Minister and other members of the government; submits decrees on the appointment and dismissal of the Prime Minister and other members of the government for approval at a joint meeting of the Majlisi Milli and Majlisi Namoyandagon (Article 69(4) of the Constitution of Tajikistan of 1994) [4]. The Parliament, together with the Constitutional Court, have the right to remove the President of Tajikistan from office by impeachment in case of high treason (Article 72 of the 1994 Constitution of Tajikistan) [4]. In violation of the system of checks and balances in a presidential republic, the President of Tajikistan is endowed with the right of legislative initiative (Article 58 of the 1994 Constitution of Tajikistan) [4].

The activities of the President of Uzbekistan and judges are regulated by laws adopted by the Oliy Majlis. The President of the Republic of Uzbekistan is the head of state and acts as an arbiter of the regulation of other state authorities (Article 105 of the 1992 Constitution of Uzbekistan). The President submits candidates to the Constitutional Court, the Supreme Court, and the Supreme Judicial Council for approval by the Senate (Article 109(13) of the 1992 Constitution of Uzbekistan) [5]. The head of state is vested with the right of a suspensive veto over laws adopted by the bicameral parliament, which the latter can override by a two-thirds vote of the total number of deputies of the Legislative Chamber and the Senate of the Oliy Majlis of the Republic of Uzbekistan (Article 99 of the 1992 Constitution of Uzbekistan) [5]. In contrast to the system of checks and balances in a classical presidential republic, the President is

vested with the right to dissolve the Parliament. Thus, Article 111 of the 1992 Constitution of Uzbekistan states that the Legislative Chamber and the Senate of the Oliy Majlis of the Republic of Uzbekistan may be dissolved by a decision of the President of the Republic of Uzbekistan, adopted in coordination with the Constitutional Court of the Republic of Uzbekistan, in case of insurmountable differences in their composition [5]. The Legislative Chamber or the Senate, which pose a threat to their normal functioning, or their repeated adoption of decisions contrary to the Constitution of the Republic of Uzbekistan, as well as insurmountable differences between the Legislative Chamber and the Senate, which pose a threat to the normal functioning of the Oliy Majlis [5]. The Parliament, namely the Legislative Chamber, may pass a vote of no confidence in the Prime Minister. The vote of no confidence is considered to be passed if two-thirds of the total number of members of the Legislative Chamber vote for it. After that, the President dismisses the Prime Minister. In accordance with Article 98 of the 1992 Constitution of Uzbekistan, the President is vested with the right of legislative initiative [5].

**Results.** Thus, the system of checks and balances in post-Soviet presidential republics is characterized by some peculiarities that a classical presidential republic does not have. Among them are the following: semi-rigid separation of powers; election of the president in elections; the existence of the post of the so-called administrative prime minister, who has no significant power and acts in accordance with the president's instructions; formation of the government by the president with limited participation of the parliament; the president's right to dissolve the parliament; the president's right to legislative initiative; the president's right of a suspensive veto; the activities of the president and the judiciary on the basis of laws adopted by the parliament; participation of the president and parliament in the appointment of judges; a small range of offenses for which the president can be impeached, etc.

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## Особливості системи стримувань і противаг у пострадянських президентських республіках

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*Дослідження системи стримувань і противаг у пострадянських президентських республіках є актуальним з огляду на її вплив на політичну стабільність, демократичний розвиток і дотримання верховенства права. У даній статті розглядаються особливості функціонування системи стримувань і противаг у пострадянських президентських республіках, виявляються її сильні та слабкі сторони, а також аналізуються фактори, що впливають на її ефективність. Метою роботи є визначення особливостей функціонування системи стримувань і противаг у Казахстані, Узбекистані, Туркменістані, Таджикистані. При дослідженні даної теми були використані наступні методи дослідження: системний, інституціональний, порівняльний. Аналізується поділ влади у пострадянських президентських республіках, який закріплюється на конституційному рівні. Особливу увагу приділено порівнянню моделей, що склалися в різних державах регіону, з акцентом на ступінь концентрації влади в руках президента, рівень незалежності судової влади та вплив парламенту на прийняття ключових рішень. Основними ознаками системи стримувань і противаг у пострадянських президентських республіках є: напівжорсткий поділ влади і не збалансована система стримувань і противаг; обрання президента на виборах; наявність посади так званого адміністративного прем'єр-міністра (там де він є), який не має вагомих владних повноважень і діє відповідно до настанов президента; формування уряду президентом за обмеженої участі парламенту; наявність у президента права розпуску парламенту; наявність у президента права законодавчої ініціативи; наявність інституту контрасигнатури (в Казахстані); наділення президента правом відкладального вето; діяльність президента і судової влади на основі законів, які приймає парламент; участь президента і парламенту у призначенні суддів; не велике коло правопорушень за яких можливий імпичмент президента тощо. У статті також досліджуються виклики, пов'язані з недостатньою ефективністю системи стримувань і противаг у Казахстані, Узбекистані, Туркменістані, Таджикистані, зокрема з точки зору її спроможності запобігати узурпації влади та забезпечувати демократичний розвиток.*

**Ключові слова:** система стримувань і противаг, пострадянські президентські республіки, президент, парламент, уряд, судова влада.