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FEATURES OF CONSTITUTIONAL AND LEGAL REGULATION AMENDMENTS TO THE CONSTITUTION

Abstract: *The author considers the features of the constitutional and legal regulation of the amendment of the Constitution. A brief historical review is conducted and the key stages of constitutional reforms in the Kyrgyz Republic are presented. The author pays special attention to the historical stages of constitutional development. The author's vision of the problems of introducing and deepening democratic principles on the basis of Constitutional reform is substantiated. The existing controversial theoretical problems are described in detail and mechanisms for their resolution in the near future are proposed. Along with this, the author makes proposals to improve the constitutional and legal regulation of the amendment of the Constitution.*

Key words: *constitutional changes; constitutional system; referendum; state independence; constitutional reform; constitutional foundations; historical development; stages of constitutional development.*

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Introduction

Considering the issues of constitutional and legal regulation of amendments to the Constitution of the Kyrgyz Republic, it should be noted that over the thirty years since the proclamation of state sovereignty, the Constitutions of the Kyrgyz Republic have been adopted four times (1993, 2007, 2010, 2021). Along with this, there has been a change of power three times (2005 and 2010, 2020): "Declaration on State Sovereignty" of December 15, 1990 and the "Declaration of State Independence" of August 31, 1991.

Kyrgyzstan is going through a difficult period of its development. Despite this, important changes are taking place in the social, political and economic life of the republic, which determine the future of the country.

V. S. Nersesyants rightly notes that "a state governed by the rule of law is a state in which conditions are created for the most complete protection of human and civil rights and freedoms, as well as the most consistent binding of political power with the help of law in order to prevent abuse" [1].

The prerequisites for the democratization of the state-political regime of Kyrgyzstan were: perestroika in the USSR; de-partization - the abolition of Article 6 of the Constitution of the Kyrgyz SSR, de-ideologization, de-Sovietization; recognition of the principle of separation of powers as the basis of the constitutional system; election of a new composition of the Supreme Council, the introduction of the post of President of Kyrgyzstan.

Of course, the improvement of the constitutional system is directly related to the implementation of constitutional reform. O. G. Rummyantsev defines constitutional reform as a sequence of political and legal decisions and actions of the state authorities aimed at bringing the written norms of the highest legal law of the country in accordance with the real, "living" constitution, the constitution in the material sense of the word, which is dictated by the needs of social development and legal awareness [2].

The first-ever Constitution of independent sovereign Kyrgyzstan in 1993 contained provisions on the democratic rights and freedoms of man and citizen, the system of separation of powers, which

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created sufficient legal foundations for the formation of a democratic state. However, as the subsequent practice showed, there were no objective conditions for the implementation of the provisions of the Constitutions in the republic.

The historical feature of the formation of the state-political regime in Kyrgyzstan after the proclamation of its independence was that it took place in direct dependence on politics,

Adopted on June 27, 2010 The Constitution of the Kyrgyz Republic has provided for significant changes in the political system of the state (the parliamentary-presidential form of government, the election of the President for one term, the formation of the Government of the Jogorku Kenesh (Parliament)).

At the same time, the state-political regime in the republic has not fully stabilized, which was expressed in the uncertainty of the division of powers between the President and the Government in the field of foreign policy, the lack of a stable coalition of factions in the parliament, in some manifestations of red tape in the judiciary. That is why a referendum on changing the Constitution of the Kyrgyz Republic was held in December 2016.

At present, it is necessary to ensure the true rule of law and social justice in the Kyrgyz Republic, to conduct an effective fight against corruption, to stabilize inter-ethnic relations, to strengthen the unity of the people in every possible way, to raise the level of legal awareness, legal culture and legal literacy of the population, to wage an irreconcilable struggle against various radical movements.

The dynamics of constitutional transformations on the territory of the Kyrgyz Republic, as well as others. The experience of individual CIS states shows that since the beginning of the 1990s, the community has been actively discussing ways of constitutional reforms throughout the post-Soviet space. It should be noted that the issues of improving national legislation in general are also being discussed. Thus, L. Ch. Sydykova rightly connects the need to reform individual institutions in the Kyrgyz Republic with the change in socio-economic relations, the entry of the republic into international cooperation [3].

Before the adoption of the first Constitution of Kyrgyzstan on May 5, 1993, the Soviet constitutions of 1929 (the Constitution of the Kyrgyz AASR), 1937 and 1978, adopted on the basis of the norms of the Constitution of the RSFSR of 1925, the constitutions of the USSR of 1924, 1936 and 1977, were in force.

In the period from 1993 to 2010, the Basic Law of the Kyrgyz Republic of May 5, 1993 was amended and supplemented 8 times. Thus, there are conditionally 9 stages of the constitutional development of Kyrgyzstan.

Thus, during the reign of the first President of Kyrgyzstan (1993-2005), amendments and additions

were made to the Constitution of the Kyrgyz Republic 4 times (in 1994, 1996, 1998 and 2003).

During the reign of the second President of Kyrgyzstan (2006-2010), amendments and additions were made to the Constitution three times: in 2006 and twice in 2007.

The Constitution of the Kyrgyz Republic was adopted by a referendum (popular vote) on June 27, 2010, and then on May 5, 2021, in accordance with the official results of the referendum, the Law "On the Constitution of the Kyrgyz Republic" was signed [4]. The new Constitution is written taking into account exactly those challenges that are relevant for the Kyrgyz Republic, it reflects the values that are cherished as a people, and the ideals that society strives for [5].

The Constitution of the Kyrgyz Republic has been amended and supplemented 8 times in 20 years and has passed 8 stages in its development. For more than 200 years, only 27 amendments have been made to the US Constitution. Of these, 10 amendments were made in 1791, known as the Bill of Rights.

So, let's consider these 8 stages of the constitutional development of the Kyrgyz Republic. The first stage of the constitutional development of Kyrgyzstan (1990-1993). The stage of making amendments and additions to the Constitution of the Kyrgyz SSR in 1978, the adoption of the first Constitution of the Kyrgyz Republic on May 5, 1993 [6].

The second stage of the constitutional development of Kyrgyzstan (1994). According to the results of the referendum held on October 22, 1994, amendments were made to the Constitution of the Kyrgyz Republic, according to which henceforth amendments and additions to the Constitution of the Kyrgyz Republic could be made by holding a referendum. The third stage of the constitutional development of Kyrgyzstan (1996).

The stage associated with the adoption of the Law of the Kyrgyz Republic "On Amendments and Additions to the Constitution of the Kyrgyz Republic" of February 16, 1996, adopted following a referendum on February 10, 1996. The fourth stage of the constitutional development of Kyrgyzstan (1998). The stage associated with the development and adoption of the Law of the Kyrgyz Republic "On Amendments and Additions to the Constitution of the Kyrgyz Republic" of October 21, 1998, adopted following the results of the referendum of October 17, 1998. The fifth stage of the constitutional development of Kyrgyzstan (2002-2003). The stage associated with the development and adoption of the Law of the Kyrgyz Republic "On Amendments and Additions to the Constitution of the Kyrgyz Republic" of February 18, 2003, as a result of the referendum of February 2, 2003. The sixth stage of the constitutional development of Kyrgyzstan (2005-2006).

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It should be noted that prior to this, the Jogorku Kenesh adopted the draft Law " On Amendments and Additions to the Constitution of the Kyrgyz Republic " No. 180 of November 9, 2006. The seventh stage of the constitutional development of Kyrgyzstan (2007). The stage of continuation and completion of the constitutional reform with the adoption of the historic decision of the Constitutional Court of the Kyrgyz Republic on September 14, 2007 and the Law " On the new version of the Constitution of the Kyrgyz Republic " of October 23, 2007 No. 157, as a result of the referendum on October 21, 2007. The eighth stage of the constitutional development of Kyrgyzstan (2010).

By referendum (by popular vote) A new version of the Constitution of the Kyrgyz Republic was adopted on June 27, 2010. Accordingly, changes and additions were made eight times in terms of the status, functions and powers of the head of state - the President of the Kyrgyz Republic, the norms regulating issues of his constitutional and legal responsibility were changed

The special procedure for making constitutional amendments established by article 116 of the Constitution of the Kyrgyz Republic defines a characteristic feature of the Constitution – its stability, which in turn is the most important condition for the supremacy of the Constitution, the rule of law, the stability of the legal system and the state mechanism, a factor of certainty in the relations between the individual, society and the state.

According to article 116 of the Constitution, there are two main procedures for changing constitutional norms – through a referendum and by a legislative body.

The Constitution, as an act of a special nature, contains the most generalized, fundamental rules [7]. Therefore, the constitutional provisions of article 116 of the Constitution contain the basic, strictly mandatory procedural rules for the adoption of the law on amendments to the Constitution. At the same time,

a number of important and necessary procedures that require detailed legislative regulation remain outside the constitutional regulation. In particular, issues related to the development of a draft law on introducing constitutional amendments, procedures for implementing a constitutional initiative, rules for publishing a draft law, terms and forms of national discussion, terms and methods of considering proposals, procedures for developing a final version, and a number of other issues that should have found their clear and consistent legislative expression, excluding any arbitrary interpretation [8]. In other words, the provisions of article 116 of the Constitution require development in a separate law, which should clearly and consistently fix the procedure for changing the current Constitution and the procedure for adopting a new Constitution of the Kyrgyz Republic.

It is obvious that the stability of the Constitution does not mean its absolute immutability. However, we must not forget that the Constitution is a special normative legal act that regulates the foundations of the life of the state and society. In addition to the special legal properties of the Constitution, such a socio-political value as nationality is inherent [9]. The Constitution expresses the interests of the entire people, and in this sense, the procedures for developing and discussing a draft law should be carried out in an atmosphere of maximum publicity, with a special organization of mass discussion [10]. Regardless of the content of the amendments and the degree of their relevance and necessity, the procedure for changing the provisions of the Constitution should proceed in a balanced and measured manner.

We are talking about the Basic Law of the country, every intervention in the content of which should be exclusively verified, and this requires a broad popular discussion of the proposed amendments, as well as a slow, thorough and systematic promotion of the legislative process.

References:

1. Nersesyants, V. S. (1993). *The history of the ideas of legal statehood*. (p.15). Moscow.
2. Rummyantsev, O. G. (1994). *Fundamentals of the constitutional system of Russia: concept, content, questions of formation*. (p.14). Moscow.
3. (2013). *Conceptual issues of reforming the criminal justice system of the Kyrgyz Republic (Transcript of the expert Forum)*. (p.7). Bishkek.
4. (2021). *Law of the Kyrgyz Republic" On the Constitution of the Kyrgyz Republic " dated May 5, 2021 No. 59*.
5. Dzhumabaev, M. D. (2004). *Development of the electoral system of the Kyrgyz Republic*. - M.: Academy of Management of the Ministry of Internal Affairs of Russia: Diss. .cand. jurid. sciences'. 12.00.02. 2004, p.271.
6. Dubanaev, B. C. (1999). *Constitutional and legal bases of the organization and activity of*

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- local self-government bodies of the Kyrgyz Republic.* - M.: Academy of Management of the Ministry of Internal Affairs of Russia: Autoref. diss. .cand. jurid. sciences'. 12.00.02. 1999, p. 28.
7. (2003). *Constitutions of foreign states: A textbook.* B. Maklakov. (p.624). Moscow: Volters Kluver.
 8. Alliulov, P. P. (2004). *The mechanism of management of internal affairs bodies (questions of theory and practice).* Moscow: Academy of Management of the Ministry of Internal Affairs of Russia: Diss. . doct. jurid. sciences'. 12.00.11. 2004, p. 450.
 9. Matrosov, S. N. (2000). *The grounds of constitutional responsibility. The activity of internal affairs bodies to strengthen law and order and public security: A collection of articles by adjuncts and applicants.* (p.160). Moscow: Law Institute of the Ministry of Internal Affairs. RF.
 10. Krasnov, M. A. (1993). Public-legal responsibility of representative bodies for violation of the law. *State and law*, No. 6, p. 14.