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THE VETO RIGHT AS A MODERN POLITICAL AND LEGAL INSTITUTION: CONCEPT AND FEATURES

Abstract. Constitutional theory in some states considers the head of state as a mandatory participant in the legislative process. Constitutions of individual countries (Great Britain, India, etc.) include the head of state in the parliament as its organic part. The legal expression of this concept is the fact that the law comes into force only when it is authorized by the head of state. Refusal of the sanction - veto - pulls a number of serious legal consequences.

The participation of the head of state in the legislative process is one of the main elements of the system of restraint and balances. In a number of countries, it is a mandatory participant in the legislative process. Moreover, in some constitutions (Great Britain, India, etc.) it is included in the parliament as its organic part. Heads of state of many countries have the right of legislative initiative. After the adoption of the law by the parliament, they sign it, after which it becomes a state law or impose a veto on it, that is, they return the bill to parliament for revision.

The veto as a modern political and legal institution is one of the leading rights and an element of the constitutional and legal status of the President and is characterized by a number of specific features and procedural aspects, which together determine its legal nature.

Keywords: Veto, power, President, jurisdiction, Parliament, court, Supreme court, promulgate.

Introduction

The term "veto" comes from the Latin word "veto", which means "forbid". In the primary meaning, it concerns the powers of one of the members of an elected body, which decides to terminate (suspend) the actions of such a body. (Mishin, 1999)

In modern explanatory dictionaries, the term "veto" is used in such basic meanings:

1) in the state law of the bourgeois type - a final or conditional ban, which imposes a supreme state power on the decision of a lower body; (Sukharev, 2003)

2) in international law - the right of a member of any body that consists of representatives of different states to protect the adoption of a decision with which he does not agree; (Slovar, 2012)

3) the prohibition or suspension by the supreme body of state power or the head of state of the enactment of a legislative order (to the parliament or one of its chambers). (Efremova, 2005)

4) the right granting the authority to a person or group of persons to block the adoption of a decision unilaterally. (Deryuzhinskiy, 1907)

Today, the term "veto" is rarely fixed in the constitutions of states, and its content is revealed through complex constitutional formulations. According to some researchers, this is due to the fact that in the constitutional regulation of the legislative process it is important to define the boundaries and the method of participation in the legislative process of the head of state, and not just give a name to these powers. Therefore, the creators of the constitution give preference to the creation of structures defining the right of veto of the head of state in its substantive part, and thus avoid ambiguous interpretations about the content of this right.

Thus, the term "veto" is usually not contained in constitutions and has the character of a scientific category (it is used, for example, in the Basic Laws of Mongolia, Portugal, Ukraine). In legal literature, the term "veto" is defined as the refusal of the head of state to authorize or sign and promulgate a law adopted by the parliament, but such that the law has not entered into force and inform the parliament of this with an explanation of the relevant reasons. (Okunkov, 2002)

Etymologically, the term “veto” is interpreted ambiguously, but all interpretations can be reduced to one semantic meaning - the prohibition of the enactment of acts of law-making adopted by the legislature, the subject of the supreme power (usually the President), with appropriate powers.

Main part

It is impossible to underestimate the importance of the President’s veto in the system of guarantees of the legal protection of the Constitution. Only the president has the right to react in time to possible violations of the constitution by the parliament through the adopted law at the stage when he did not gain strength. The head of state at the same time signals the parliament itself that the law cannot be promulgated as amended and requires clarification and refinement.

At the same time, the opposite effect should be taken into account. So, A.N. Yarmysh and A.N. Kolomiets believe that any form of the veto institution is not democratic, because the activities of an elected body are made dependent on the head of state, for whom certain political forces always stand. (Yarmysh, 2001)

In general, it can be stated that the right of veto in the system of legal protection of the Constitution, exercised by the President, refers to the means of constitutional control, along with the right to annul acts of the executive branch, as well as the right to appeal to the Constitutional Court. Therefore, it can be interpreted as one of the mechanisms of the head of state to prevent the enactment of potentially unconstitutional laws at the stage of their adoption.

Thus, the veto is an effective mechanism of the president as an arbiter between the authorities, his influence on the legislature, and an instrument for the protection and observance of the Constitution.

At the same time, it should be noted that not only the President is meant as an authorized subject, although at the present stage in most countries of the world it is he who is empowered with such powers. In particular, according to O. Batalov, the quantitative and competent subjectivity of the veto is different in different democratic regimes. In bicameral parliamentary systems of power, the upper house of parliament acts as such a subject. (Batalov) The power to use the veto in some countries is owned by citizens of the state (the people). Also common is the use of the veto by the executive with respect to legislative decisions.

In bicameral parliaments, each house, sometimes, has the authority to apply a specific veto power over the actions of the other. At the same time, depending on the scope of powers, the upper chamber may be:

- weak - can postpone the decision of the lower house, but not in a position to prevent it, because its veto can be overcome by the lower house (United Kingdom, Poland);
- strong - the law cannot be passed without her consent (Italy, USA, Switzerland - 1999).

I. Kant developed a provision on the sovereignty of the people. But out of the fear that extremely radical practical conclusions could be drawn from this provision, he considered it necessary for the people’s right to discuss the question of the origin of the authority to impose a "veto". The law on the supreme power comes from the supreme legislator, it is sacred. "All power comes from God" is I. Kant's answer to the people. The current legislature should obey without question, whatever its origin would be. (Kant, 1965)

Thus, the number of subjects' veto differs in different democratic regimes. The most common is the practice of regulating a single veto of a subject - the president in the legislative process. In addition, the upper house of parliament can act as a veto. In these systems, a coalition in parliament must either include a president, or must have a qualified majority to override his veto.

S. Parechina sees in the President’s veto right one of the ways of his participation in the legislative process. This right, in her opinion, is to provide a legitimate opportunity to reject laws adopted by parliament. The existence of such a right is justified by the need to ensure the cooperation of the legislative and executive authorities, which is realized by giving the head of state the right not to sign and, therefore, not to publish the law, but to send it to the legislature for a new consideration. (Parechina, 2003)

As the analysis shows, the constitutionalists do not have a unanimous opinion about the presence of the “real” veto power of the head of state. This right “balances the state bodies, ensures the coordination of their activities - the most important condition for guaranteeing the political freedom of a person ... contributes to a significant improvement in the quality of legislative work”. (Khabriyeva, 1995) Many

constitutionalists pointed to the need for vesting with such a right, in particular A.Esmen called the veto "the only means of influence of the executive power on the legislative". (Esmen, 1898)

The use of the veto regarding the laws adopted by the parliament is one of the forms of the parliament's political responsibility to the head of state. The expression of the President's disagreement with the law adopted by Parliament, which makes amendments to it before its entry into force, allows it to be improved.

In almost all democratic countries, the heads of state are empowered to sign and promulgate laws adopted by parliament (promulgation), as a result of which they come into force. In addition to promulgation, the head of state may impose a veto on a law approved by the parliament, return it with its comments and proposals to the parliament for reconsideration and adoption.

Moreover, the President, through the promulgation toolkit, has the ability to actively influence the content and focus of the legislative process in order to exercise its constitutional status and powers, first of all, as the legitimate spokesman for the will of the whole people to prevent the adoption of legislative acts that contradict or harm national interests.

Thus, the institute of the veto is designed to promote the balance of parliamentary decisions, to ensure their compliance with the state constitution and national (rather than party-specific and lobbyist) interests, which is guaranteed by the head of state.

The head of state is entitled to veto under various forms of government, but most often it is used under presidential and mixed forms of republican government, where the president is elected in general elections, and often there are contradictions between him and the parliament.

In states with a presidential form of government, the president's veto power is sufficiently strong powers that enable the president to actively defend the interests of the executive branch in legislative activity; in parliamentary republics, these are usually rather weak powers, which are predetermined by the peculiarities of overcoming the veto power in this type of organization of the system of power. For states with a presidential form of government, a complicated procedure for overcoming the head of state's veto is characteristic; in parliamentary republics, this procedure is usually quite simple.

In a parliamentary republic, where the president is elected by parliament and does not have significant real power, the right of veto is rarely used, as a rule, on the initiative of the government. A strong veto strengthens parliament's responsibility to the head of state, while at the same time it greatly strengthens the position of the head of state in the legislative process. This kind of reinforcement in the conditions of divided government (oppositional opposition between the president and the parliamentary majority) may lead to the president's blocking of parliament. In this aspect, a more democratic political and legal institution is a weak veto, which is most common in the countries of the modern world.

The frequent use of the veto leads to an increase in the practice of joint voting in parliament of ideologically polarized forces, which leads to the formation of a stable coalition, whose authority is sufficient to overcome the veto. In turn, the steadfast overcoming of the veto demonstrates the president's "weakness" and the lack of opportunities for him to influence the political process.

Thus, the use of the veto by presidents of republics with a mixed form of government depends on constitutionally defined powers of the head of state and on the party configuration of parliament. In addition, the use of the right of veto by the presidents of mixed republics depends on the place allotted to the president among government bodies; The president, as a rule, is guided by his status as head of state and the guarantor of compliance with the Constitution.

Consequently, it can be stated that the current practice of vesting heads of states with a veto comes down to the fact that it directly depends on the form of government. Thus, in presidential republics, the head of state has strong powers in legislative activity. In such states, there is a complex system of overcoming the presidential veto in contrast to parliamentary ones, where this procedure is usually quite simple. The use of the veto in republics with a mixed form of government depends on the constitutionally defined powers of the President and on the party configuration of the parliament.

It should be noted that there are certain regularities in the functioning of the presidential veto right in republics with different forms of government, while international constitutional practice knows cases of deviation from the traditional normative regulation of the right of veto in states with a certain form of government.

For example, in international political practice there were cases when, after overcoming a veto by parliament, the head of state ignored his will and did not sign the law, as a result, his fate remained legally uncertain, since the law could not be made public without the signature of the head of state. In such cases, a critical situation was created when the president violated the constitutional requirements to sign and publish legislative acts, and the parliament had no means to fully implement its legislative function.

A striking example of this kind of situation is the opposition of the President and the Verkhovna Rada of Ukraine in 1997, when for the third time the Law of Ukraine "On Local State Administrations" was re-examined by the Verkhovna Rada of Ukraine. On 15 August 1997, the Verkhovna Rada of Ukraine even adopted an appeal to the President of Ukraine, but the law was never approved and signed by the President of Ukraine.

As practice shows, the electoral cycle and the high support of the president in parliament influence the frequency of the use of the veto. Thus, the president, who has a majority in parliament, imposes an insignificant number of vetoes, whereas, as a politically "weak" president, he has a fairly high level of prohibition of draft laws (Table 1.1).

Veto, speaking as a tool to protect the policy from changing the status quo, at the same time, does not allow the president to radically change the state policy. The presidential veto requires that any legislative decision necessarily include to one degree or another the advantages of the president, which guarantees a wider political course. In this aspect, there are two possible scenarios:

- the president is politically weak, the level of public approval is low, there is no party support in parliament - the parliament can pass laws on controversial issues;

- a strong position of the president, a high level of support among the population and in parliament - a small number of passing laws on controversial issues.

In addition, it should be borne in mind that unemployment, mid-term elections, bills of social significance increase the number of vetoes, while international conflicts, the popularity of the president, party support in parliament reduce his number.

Table 1.1 - The number of vettings depending on the relationship of the President-Parliament

President	Majority party in Congress	Deferred veto	Pocket veto	Total	Amount of veto overcome
The president and the majority in parliament belong to the same political force.					
J. Kennedy	Democratic	12	9	21	-
L.V. Johnson	Democratic	16	14	30	-
J. Carter	Democratic	13	18	31	-
The president and the majority in parliament belong to different political forces.					
D.Eisenhower	Democratic	73	108	250	12
J. Ford	Democratic	48	18	66	12
R. Reagan	Democratic	39	39	78	9

On the whole, as legislative practice shows, an increase in the number of laws in respect of which the veto has been applied is often observed during a period of significant aggravation of relations between the branches of government, which negatively characterizes the relationship between them and the effectiveness of the legislative process. Activation of this process, in our opinion, can lead to an imbalance between the branches of government and, ultimately, to a political crisis in the country.

At the same time, it is necessary to pay attention to the duality of this institution. So, in turn, in the context of aggravated political confrontation between the branches of power, turning the veto right into an instrument of political struggle will pose a serious threat to the development of democracy in the country.

In other words, duality manifests itself in the important role in the process of preventing over-centralization of power and constitutional violations, and at the same time in the possibility of turning the veto into a tool of abuse.

Therefore, the “veto right” of the head of state is an effective mechanism for ensuring the democratic nature of the system of power and preventing its usurpation by one of the branches. At the same time, the implementation of the veto as a legal institution is influenced by political processes in the country, primarily the political configuration of parliament, the power or opposition status of the pro-presidential

forces in it, such as the political culture of society and the level of politicization of the public administration system.

The rejection by the head of state of laws adopted by parliament is provided for by the constitutions of many states, both with presidential and parliamentary forms of government. The existence of such a right is conditioned by the need to ensure the cooperation of the legislative and executive authorities and is realized by giving the head of state the opportunity not to sign the law, but to send it to the legislature for new consideration.

Thus, as the analysis shows, in the science of constitutional law the institution of the veto of the head of state is represented from five positions.

Positioning the institute of the head of state

• element of the system of restraints and balances of the legislative and executive authorities

• form of participation of the President in the lawmaking process, a means of forming state policy

• means of implementation by the President of constitutional control over parliament

• a means for the President to perform the constitutional function regarding the enforcement of the Constitution, the rights and freedoms of a person and citizen

In general, the institution of a presidential veto on the political market is a powerful means of preserving the existing status quo. It allows the parliament to work for consolidation, consolidation, and prevents the formation of oligarchic groups through the ability of the president to block the interests of certain circles in parliament.

The dual nature of the veto system is also reflected in the simultaneous existence of a counterweight to the veto in several countries. We are talking about the institute countersigning acts of the president. This procedure limits the sole decision making and powers of the head of state, primarily in the legislative process. Countering the acts of the president means signing by the head of government and / or a member of the government the act of the head of state, without which it is invalid. The mechanism of application of this institution also differs by country depending on the form of government. In countries with a parliamentary form of government, the institution applies to all or almost all acts of the president or monarch. In presidential republics, the president issues acts without contraception. In mixed republics, where the head of state, as a rule, is vested under the constitution with broad and real powers of authority, the institute of countersignation of acts of the president functions limited.

For example, art. 106 of the Constitution of Ukraine contains a list of acts of the President of Ukraine, which must be sealed with the signatures of the Prime Minister of Ukraine and the Minister responsible for the act and its implementation. The remaining acts of the President are not subject to countersignation by the head and members of the government.

The situation in Kazakhstan on this issue has no legal consolidation and is controversial. In particular, R.T. Okusheva believes that an institution close to the institution of countersignature operates in the country. (Okusheva, 2000) The justification is the norms of Part 2 of Art. 45 of the Basic Law, providing for a second signature on the acts of the president while simultaneously imposing on the signatory official responsibility for the legality of these acts. (Constitution, 1995)

However, with regard to the second signature of the chairmen of the chambers, the concept of contrasignation is not applicable, as R.T. Okusheva believes, arguing that there are no measures of responsibility for the illegality of the signed act.

“In this case, we are not dealing with counter-signature,” the author argues, “firstly, various branches of government are involved in this: the parliament is the president. Secondly, the traditionally understood countersignature implies the obligatory presence of signatures of counterparting persons at the final signing of the act by the head of state; signatures of the chairmen of the chambers in the Kazakhstan version are not put after the signature of the president ... ”. (Okusheva, 2000)

However, this logic can lead to the conclusion that it is impossible to refer to the counter signature and the preliminary signature of the Prime Minister on the laws submitted to parliament on the initiative of the government. (Constitutional law, 1995) R.T. Okusheva considers this “the institution of contraignation for the legislative process.”

In general, the main function of the president’s veto barrier is to contain radical transformations of the political process, stabilize it, streamline legislative procedures and the mechanism of state regulation.

The analysis of the existing definitions, legislative regulations and application practices makes it possible to single out the issue regarding the object of the veto right as one of the problems. The existing opinions on the object of the veto power as a whole can be divided into two positions - the law, which has not entered into force, and the bill. So some believe that the object of the right of veto are the laws. (Bachilo, 2017) Others hold the second point of view, considering the bills (Batalov) to be the object of the President's veto.

So, in particular, the judge Kairbekov A.Z. believes that "the President of the Republic of Kazakhstan, imposing a veto (in form - this is an act of applying the law) to a law adopted by the Parliament of the Republic of Kazakhstan, thereby does not give it legal force". (Kairbekov, 2017)

In our opinion, it is reasonable to recognize the position of attributing to the object of a veto only a law. So according to Part 2 of Art. 44 of the Constitution of the Republic of Kazakhstan, the President "returns the law or some of its articles for re-discussion and voting", and in accordance with paragraph 2 of the Decree of the President of the Republic of Kazakhstan of July 2, 1996 No. 3051 "Regulations on the procedure for submission for signature and consideration by the President of the Republic of Kazakhstan of laws of the Republic of Kazakhstan their registration, promulgation and storage "it is that" the law received for signature is sent "..." to prepare a report containing proposals for signing the law or returning it with objections to the Mazhilis Par lament ".

The authors, who hold the second position, mistakenly identify the law, which has not entered into force, and the bill. The last stage of lawmaking envisages the gaining of legal force by law. In this aspect, the following should be noted that, until promulgation, the bill does not become law until it is properly signed and promulgated. In addition, this process may never happen if the President's veto is not repeated again.

The definition of the scope of authority in the veto is also controversial. In general, the content of the veto right acts as a passive action in the form of not signing the law received from parliament, and as an active action in the form of a return to revision.

It should be noted that according to Part 2 of Art. 44 of the Constitution of the Republic of Kazakhstan, the obligation to sign the law by the President remains unconditional, and the refusal to implement it can be regarded as a violation of the Constitution. The legislator also provided for the reverse possibility of control - the law that is not returned within one month is considered signed.

It should be noted that in practice, when exercising the veto, the President, as a rule, performs an active-passive action - the non-signing of the law and its return for revision. Thus, the President of the Republic of Kazakhstan returned 7 laws in the first convocation, 9 laws in the second convocation, 1 law in the third convocation, and 2 laws in the fourth convocation.

Returning for revision may include two types of actions: proposals / comments on the content of the law, its individual parts, articles, their non-acceptance, comments / amendments to the form and structure of the law. In all cases, the entire law is returned for revision, regardless of the scope and subject matter of the amendments.

The third issue that deserves attention, and which does not have a unanimity of views, is to determine the legal form of the veto.

Thus, A.Z. Georgitsa notes that from the position of legal engineering, the act of applying a veto is that the head of state draws up a message setting out his objections to the draft law. (Georgitsa, 1999) This statement is not true, because according to the law, the President of the Republic of Kazakhstan issues acts in the form of decrees and orders (Constitutional law, 1995) (clause 4 of article 53 of the Constitution - laws, clause 2 of article 61 - decrees having the force of law), and appeals only to the people of the country (usually annually). In addition, the Constitution and other regulations do not specify the form of the veto. Essentially, in order to carry out active-passive actions of non-signing and returning the law, there is no need to issue any documentary act, except for the President's sheet indicating the reason.

In this regard, we fully agree with D. V. Mazur, who believes that documenting the presidential veto in a republic with a mixed form of government is not an act of lawmaking, because it does not establish, change or abolish the rule of law, but is an essential part of lawmaking process. (Mazur, 2006) The scientist proposes the exercise of the right of veto in the form of a presidential decree due to the fact that the legal nature of the institution of a veto on laws that are adopted by parliament has a legislative nature, and documenting the veto should be regarded as an optional stage of the legislative process. (Mazur, 2006)

However, this proposal, in our opinion, is unfounded. We can agree that the presidential veto is legislative in nature, being one of the final stages of this process.

The similar position is held by the judge of the Constitutional Court of Ukraine M. D. Savenko, who considers the sheet of the President of Ukraine as the most suitable form for this, which is an official document containing the will of the head of state regarding the refusal to sign the law, and has legal consequences in the form of cancellation of voting results for law in the Verkhovna Rada of Ukraine, obliges the parliament to re-consider the law. By its legal nature, this document is an act that has legal value. (Savenko, 2003)

At the same time, in the constitutional-legal field of Ukraine there is a sufficient variety of opinions on this matter. When adopting a decision, the Constitutional Court of Ukraine on the case on the constitutional representation of 73 deputies regarding the Law "On Amendments to Article 98 of the Constitution of Ukraine" adopted by the Verkhovna Rada of Ukraine on the registration of the President's veto:

- the veto of the President of Ukraine is an act, the adoption of which requires further consolidation in the act-document;
- The President's veto is not an act of the President of Ukraine, and therefore cannot be the subject of an assessment of the Constitution of the Court of Ukraine;
- the veto is the right (possibility) of the President of Ukraine to return the law of parliament for reconsideration by adopting a specific act or by competent notification (in writing) of the return of the law for reconsideration with relevant proposals;
- Act of the President of Ukraine on the imposition of a veto on a law has signs of such a legal act as the use of law;
- The proposals of the President of Ukraine, firstly, in terms of content are the legal form of the exercise of the right of veto, secondly, the form of the will of the head of state, and thirdly - a legal act that entails the corresponding legal consequences. (Barabash, 2009)

Some authors believe that the veto of the President of Ukraine should be formalized by decree of the head of the Ukrainian state, since it is an act of state power and has significant legal consequences. (Pogorelova, 2015)

Since the right to form solve the main problems of social and economic and political life of society. Kazakhstan law is designed to provide people with protection and their interests, to modernize the society, to create a high level of good state. In modern terms, a large role belongs to the state ideology, which reflects the interests, world outlook and ideals of the state and society, plays the most important defining role in developing countries. [27, p.52]

In our opinion, to eliminate this legal gap, it is necessary at the legislative level to determine in what legal form the President should apply the veto, securing the organizational and legal form for the President to return the laws using the veto. For example, in Art. 20 of the Law "On the President of the Republic of Kazakhstan" to make additions of this nature: the law is returned in the exercise of the right of veto or in the form of an explanatory note with proposals and comments to the structure, content or form of the law or in the form of an accompanying sheet, if no proposals are made to amend the law .

The regulation of the President's veto, and even more its publication in official publications, will increase the level of democratization and openness of public authority, become familiar with the content of vetoing, and provide an opportunity to protest the veto document before the Constitutional / Supreme Court.

Conclusion

Thus, summarizing the results of the analysis regarding the definition of the content of the veto right as a political, legal and constitutional institution, its constituent characteristics and characteristics can be distinguished:

1) an element of the system of restraints and balances of the legislative and executive authorities, a political tool;

2) the form of participation of the President in the lawmaking process and the formation of state policy;

3) a means for the President to implement constitutional control over parliament and the quality of legislative acts;

4) a means of performing the law enforcement and human rights functions of the President (ensuring compliance with the Constitution, human and civil rights and freedoms).

5) the exclusive constitutional right of the President;

6) a set of active-passive actions in relation to an unsigned law on the procedure for its return to parliament;

7) urgent nature - strict regulation of the terms during which the President can use the veto (15 days in accordance with part 2 of article 94 of the Constitution of Ukraine, a month in accordance with article 44 of the Constitution of Kazakhstan);

8) distinctive legal consequences - cancellation of voting results and return of the law for revision to parliament;

9) an element of a political market that makes a political system more democratic and transparent;

10) a tool for compromise between the president and parliament.

Summing up the peculiarities of the use of the veto right in political and legal practice and doctrine, its main purpose as a system of restraints and balances can be determined to ensure the democratic nature of the process and results of the legislative process in the country, optimization and legalization of the process of formation of the national legal system.

Based on the results of the analysis, the author's definition of the category is proposed: the veto is a constitutional right belonging to the head of state, at a certain time from the day of receipt of the regulatory act adopted by the country's legislative body, to refuse to sign it (postpone signing) and send it for reconsideration with suggestions and comments regarding the form or content.In general, the veto institution forms a constitutional government, in which all power is limited by the law from dictatorship, is exercised by giving the head of state the right not to sign the law, but to send it to the legislature for a new consideration, which ensures cooperation between the legislative and executive authorities.

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ВЕТО ҚҰҚЫҒЫ ҚАЗІРГІ САЯСИ ЖӘНЕ ҚҰҚЫҚТЫҚ ИНСТИТУТ РЕТІНДЕ: ТҮСІНІГІ ЖӘНЕ ЕРЕКШЕЛІКТЕРІ

Аннотация. Кейбір мемлекеттердегі конституциялық теория мемлекет басшысын заңнамалық процеске қатысушы ретінде қарастырады. Кейбір елдердің (Ұлыбритания, Үндістан және т.б.) конституциялары мемлекет басшысын парламенттегі өзінің органикалық бөлігі ретінде қамтиды. Бұл тұжырымдаманың заңды көрінісі заңның мемлекет басшысының рұқсаты болған жағдайда ғана күшіне енеді. Санкциядан бас тарту - вето - бірқатар елеулі құқықтық салдарларға әкеп соғады.

Мемлекет басшысының заң шығару процесіне қатысуы бөгет пен теңгерім жүйесінің негізгі элементтерінің бірі болып табылады. Бірқатар елдерде бұл заңнамалық процестің міндетті қатысушысы болып табылады. Сонымен қатар, кейбір конституцияларда (Ұлыбритания, Үндістан және т.б.) парламентке оның органикалық бөлігі ретінде қосылады. Көптеген елдердің мемлекет басшылары заңнамалық бастама алуға құқылы. Парламент заң қабылданғаннан кейін, оған қол қояды, содан кейін ол мемлекеттік заңға айналады немесе оған вето қойды, яғни заң жобасын қайта қарау үшін парламентке қайтарады.

Заманауи саяси және құқықтық институт ретінде вето - бұл Президенттің конституциялық және құқықтық мәртебесінің негізгі құқықтары мен элементтерінің бірі және оның құқықтық сипатын анықтайтын бірқатар ерекшеліктер мен процедуралық аспектілермен сипатталады.

Түйін сөздер: вето, билік, Президент, юрисдикция, Парламент, сот, Жоғарғы сот, жариялылық.

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ПРАВО ВЕТО КАК СОВРЕМЕННЫЙ ПОЛИТИКО-ПРАВОВОЙ ИНСТИТУТ: ПОНЯТИЕ И ОСОБЕННОСТИ

Аннотация. Конституционная теория в некоторых государствах рассматривает главу государства как обязательного участника законодательного процесса. Конституции отдельных стран (Великобритания,

Индия и др.) включают главу государства в состав парламента как его органическую часть. Юридическим выражением этой концепции является тот факт, что закон вступает в силу только тогда, когда он санкционируется главой государства. Отказ от санкции – вето – тянет за собой ряд серьезных правовых последствий.

Участие главы государства в законодательном процессе является одним из основных элементов системы сдерживании и противовесов. В ряде стран он является обязательным участником законодательного процесса. Более того в некоторых конституциях (Великобритания, Индия и др.) он включен в состав парламента как его органическая часть. Главы государств многих стран имеют право законодательной инициативы. После принятия закона парламентом они подписывают его, после чего он становится законом государства или накладывают на него вето, то есть возвращают законопроект в парламент для доработки.

Право вето как современный политико-правовой институт является одним из ведущих прав и элементом конституционно-правового статуса Президента и характеризуется рядом специфических признаков и процедурных моментов, что в совокупности определяют его юридическую сущность.

Ключевые слова: вето, власть, президент, юрисдикция, парламент, суд, Верховный суд, обнародование.

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