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CONSTITUTIONAL PRINCIPLES OF REGULATORY REGULATION OF PARLIAMENTARY PROCEDURES IN MODERN UKRAINE: THEORETICAL AND LEGAL ANALYSIS

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Abstract. The subject of the study is a theoretical and legal analysis of the constitutional foundations of the regulatory framework of parliamentary procedures in modern Ukraine. **The methodology of the research** is based on a combination of general and special scientific methods, which were chosen with regard to the purpose and subject of the study. The author uses the dialectical method to study the existing trends in the scientific understanding of the role of the Constitution and the Rules of Procedure in the regulation of parliamentary procedures. The methods of analysis and synthesis helped to identify the features and directions of changes in the constitutional regulation of the nature and purpose of the Rules of Procedure and their role in the development of parliamentarism. The hermeneutic method contributed to the interpretation of the content of the relevant constitutional and regulatory provisions, as well as the legal positions of the Constitutional Court of Ukraine on the interpretation of constitutional provisions in the context of understanding the legal nature of the Rules of Procedure. The systemic-structural method helped to study certain constitutional principles of the rules of parliamentary procedure. The application of the prognostic method allowed to identify possible directions of development of the constitutional principles of the Rules of Procedure regulating parliamentary procedures. **The purpose** of the study is to provide a theoretical and legal assessment of the peculiarities of the constitutional anchoring of the rules of parliamentary procedure in Ukraine, as well as the role and place of parliamentary rules in the regulation of state-political relations of governance. The results of the study prove the peculiarity of the constitutional entrenchment of the regulatory framework for parliamentary procedures, the distinction of its legal and political parts which determine the development of procedural and procedural aspects of parliamentarism, and reveal certain gaps in such regulation (constitutionalization of the role of the parliamentary minority (opposition), which should be filled in accordance with the legal positions of the constitutional jurisdiction body at the level of the Fundamental Law of the State and further be specified in the provisions of the Parliamentary Rules of Procedure). **Conclusions.** The role of the constitutional principles of regulatory framework for parliamentary procedures is to enshrine at the level of the Fundamental Law of Ukraine the defining, basic, starting points regarding the essence and focus of such regulation, the legal form of the Parliamentary Rules of Procedure in the normative system of parliamentarism, and the correlation of legal and political components therein. This approach determines the originality of the Ukrainian model of such principles in comparison with the European constitutional experience embodied in the basic laws of the European countries. In this system, the Parliamentary Rules of Procedure are clearly postulated as an act of supreme legal force (law), the exclusive subject of regulation of which is the procedure of the Verkhovna Rada of Ukraine. Its constitutionally defined functions and powers determine the need for their procedural regulation (implementation procedure) at the level of the rules of this Regulation in their systemic interconnection. Trends in the development of the constitutional foundations of procedural regulation are to systematically streamline the legal and political parts of procedural regulation, while the latter is atypical in terms of constitutional regulation, based on the European experience. The subject matter of the Rules of Procedure of the Verkhovna Rada of Ukraine imperatively includes regulation of the principles of organization, operation and termination of parliamentary factions, as well as of the coalition of parliamentary factions. At the same time, the allocation of the institution of a parliamentary coalition at the constitutional level determines the need for simultaneous

regulation at the level of the same constitutional principles of the principles of organization and operation of the parliamentary minority (opposition) with a view to protecting the political rights of Ukrainian citizens, developing democracy and parliamentarism in accordance with the rule of law.

Key words: Constitution of Ukraine, constitutional principles, Verkhovna Rada of Ukraine, Rules of Procedure of the Verkhovna Rada of Ukraine, parliamentarism, parliamentary procedures, coalition of parliamentary factions, parliamentary minority (opposition), Constitutional Court of Ukraine.

Introduction. According to modern legal doctrine, it is the representative nature of the parliament, its place and role in the state mechanism that entrusts it with the leading organisational, political and legal role in the power triangle (the head of state, the parliament, the government) (Shapoval, 2015) with regard to the implementation of the pluralistic concept of the state legal policy. Such a role of the parliament in the constitutional model of the organisation and exercise of public power requires the proper regulation of all procedures for the exercise of parliamentary powers in the main procedural and procedural legal act – the rules of procedure of the legislative body (Nyzhnyk, 2023, pp. 9–10).

Today, the concept of parliamentary rules of procedure is generally recognised as an important component of the doctrine of parliamentary procedure (Zvozdetska, 2021; Likhachev, 2018), which in turn is one of the components of the science of constitutional procedural law (Sovhyrya, 2010). As the Ukrainian scholars who wrote the commentary on the Venice Commission's report "The Rule of Law at the National Level: Ukraine's Practice" recognise, the main purpose of this regulation is to comprehensively regulate the issues of parliamentary procedure (Rule of Law, 2020, p. 27), although it may contain certain provisions of substantive law (Nyzhnyk, 2023, p. 12), which further complicates its legal nature.

In modern conditions, the study of parliamentary rules of procedure in different countries is at a fairly high level, since this normative document is naturally considered a key legal act in the functioning of the parliament, sometimes even a proof of its autonomy and sovereignty (Savchyn, 2019, pp. 11–25), an act that confirms the crucial, if not decisive, role of the parliament in the political system of society and in the mechanism of the state. Almost every state with a functioning parliament has codified and fairly stable rules of parliamentary procedure, which are either systematised in a single act – usually the Rules of Procedure – or (in the case of bicameral parliaments) may be unsystematised (separate rules for one chamber, separate rules for the other, etc.). In general, however, when we speak of the Rules of Procedure, we mean a systematic presentation of the rules of organisation and operation of the parliament, usually in a single systematised legislative act, regardless of its specific name (Rules of Procedure, Parliamentary Rules of Procedure, etc.) (Sas, 2005, pp. 135–139).

In national jurisprudence, the legal nature of parliamentary rules of procedure against the background of the formation of the national model of parliamentarism has been studied in the scientific works of a number of scholars, in particular, N. Agafonova, Yu: N. Agafonova, Y. Barabash, Y. Bysaha, O. Bogachova, N. Ganzha, V. Goncharenko, V. Hoshovska, V. Yermolaev, V. Zhuravskyi, A. Zayets, I. Zvozdetska, O. Zozulia, V. Kafarskyi, O. Kopylenko, L. Kryvenko, V. Kryzhanivskyi, N. Lykhachov, I. Magnovskyi, M. Markush, R. Martyniuk, A. Nyzhnyk, V. Opryshko, Y. Pererva, Z. Pogorelova, V. Pohorilko, A. Rysheliuk, S. Sas, A. Selivanov, V. Sirenko, V. Skomorokha, O. Skrypniuk, I. Slovska, O. Sovhyra, M. Teplyuk, T. French-Yakovets, V. Shapoval, S. Sharanych, Y. Shemshuchenko, O. Yushchyk and others. In one way or another, they touched upon the analysis of constitutional elements of the regulatory framework of parliamentary procedures, but no comprehensive study has been carried out so far.

The concept of parliamentary regulations in constitutional law

A prominent national legal researcher, Professor V. Pohorilko, once revealed the origin of the concept of "regulation" from the French word "regle" (rule) and the Latin word "regula" (rule), and defined this term as a set of rules establishing the procedure for the work of a particular public author-

ity, local self-government body, organisation or institution (Likhachev, 2017, p. 100; Pohorilko, 2007, p. 759). In its extended form, this researcher also defined regulation as: 1) a set of rules or a normative act determining the procedure for the activity of a public authority, local self-government body, organisation or institution; 2) the procedure for holding meetings, sessions, conferences, congresses and other gatherings; 3) the name of an international legal act (Pohorilko, 2003, p. 736). With regard to the latter interpretation, regulations are still considered in European law as sources of law that are normative legal acts of a general nature, binding on all subjects of European law and having direct effect, as they are subject to unconditional application by all EU Member States (Watras, 2022, p. 118).

In our study, we focus on this approach of understanding regulations as a legal document (normative act) containing systematised rules of procedure of a representative governmental body. In this sense, regulations can be both a parliamentary document and an act of a representative body of local government (Lyndyuk, 2016, pp. 308–310). Since we are analysing the constitutional principles of regulatory regulation of parliamentary procedures, we will talk about a set of permanently valid "rules of procedure" in national parliaments. Therefore, parliamentary rules can be defined as an "internal" law for the parliament itself, because it is this act that clearly establishes the procedure for its activity. Despite this, the norms of regulations of foreign states regulate not only the internal activities of the parliament, but also activities related to interaction with other state authorities (Frantzuz-Yakovets, 2012, p. 63).

As rightly noted in the literature, the core of modern parliamentary autonomy is the independent resolution of issues of its internal organisation by the parliament as a component of constitutional democracy (Savchyn, 2019, p. 12). In this way, the rules of parliamentary procedure are institutionalised and systematised. Although the main function of these rules is to establish procedural guidelines for legislative action, they often play an important role in structuring the internal organisation of the national parliament, defining the duties and powers of committees, and outlining the limits and methods of normatively desired behaviour of parliamentarians. In many parliaments, standing orders can regulate important organisational aspects such as committee structure, leadership roles and even the organisation and behaviour of party groups in parliament. In addition, these rules may affect the legislature's relations with the executive and some other branches of government, as well as its interaction with the public.

In jurisprudence, the term "rules" is also considered in a broad and narrow sense. In a broad sense, the term "rules" refers to the entire set of rules governing the work of the parliament. According to this approach, the regulations include all norms relating to the internal functioning of the legislative body, regardless of their legal source and level of legal force. These include, in particular: norms contained in the Constitution of the State and in relevant legislative acts; some defining aspects of internal parliamentary life; the Rules of Procedure of the Parliament (or its chambers); sub-regulatory acts, i.e. separate decisions of the Parliament or its structural units on certain organisational issues, as well as parliamentary precedents and customs. In a narrow sense, the term "regulations" refers to a single codified regulatory legislative act, usually of higher legal force, adopted by the parliament itself or each of its chambers, regulating its internal life and, in most cases, having its own name "Regulations" (Linetsky, 2017, pp. 10–11). It is in the latter sense that in our study we are talking about regulations as a specific legislative act of a specific state body – the Regulations of the Verkhovna Rada of Ukraine.

The key elements of the rules of procedure of national assemblies are derived from the provisions of the national constitution. In a democratic society, the constitution influences these rules in three main ways. First, the constitution defines the wider system of government of which the representative assembly is a part. The rules of procedure of the assembly must be compatible with this structure. Second, the constitution must contain some specific provisions governing particular

aspects of the organisation of the assembly and the rules for the conduct of its business. Third, the constitution must specify how additional rules can be adopted by the assembly itself. The development of effective rules of procedure for national parliaments is an extremely detailed and complex process that benefits greatly from the experience of other democratic assemblies, especially those in similar constitutional systems of government. The content of parliamentary rules of procedure is usually characterised by a fairly detailed regulation of parliamentary procedures. This is due, first of all, to the fact that the more detailed the procedural issues are regulated, the fewer reasons there are for disputes and conflicts both within the parliament itself and between it and other state authorities (Lykhachev, 2017, p. 103). Instead, the state constitution creates a kind of permanent, stable and rather rigid regulatory framework for regulatory regulation, which is reflected in the concept of constitutional principles.

Constitutional principles of regulatory regulation of parliamentary procedures: concept and content

In the etymological sense, the concept of "principle" denotes the basis of something, the main thing on which something is based; the initial, main position, the basis of a worldview, a rule of behaviour, a method, a purpose for implementing something (Ryabovol, 2017, p. 50). Instead, in legal science the term "principle" is specified, which denotes the basic, initial provisions of a certain legal phenomenon, the basis on which certain activities are carried out, ideas that determine the strategic direction of the state's activities in any sphere of social life; the implementation of principles is carried out through the formation of principles; principles determine the content of principles, and the latter are derived from principles; principles determine the main bases and patterns of a certain phenomenon, their purpose is to balance, coordinate the influence exerted; the implementation of principles is carried out through the definition of the mechanism and specific bodies entrusted with the responsibility for the implementation of a certain policy (Kravtsova, 2019, p. 23).

Constitutional principles are defined in legal science as fundamental system-forming provisions of a constituent nature, which are enshrined in the Constitution of the state and constitute the legal basis for the legal regulation of relevant social relations (Kulaga, 2005, p. 4); initial, main, fundamental ideas, provisions of a general nature, which are embodied in the content of the Constitution of Ukraine or follow from it, and which, on the one hand, reflect the source of their origin (the norms of the Basic Law of Ukraine), and, on the other hand, show in which system of social and regulatory coordinates they are located (again, this is the Constitution) (Luzhansky, 2021, p. 107). The significance of these principles for legal regulation lies in their universality, which is due to the special place of the Constitution in the legal system of the state; laconicism, which embodies the spirit and content of the Constitution; elasticity, which creates the possibility of adapting specific constitutional norms to the constantly changing conditions of social life; are characterised by a high degree of legal generalisation and embody general social and value ideals in the form of a certain abstract declarative power; have a constitutional-foundational content, i.e. they underlie the legal regulation of relevant social relations (Chubaruk, 2010, pp. 61–63).

We agree with the opinion of experts that in this sense the term "constitutional" should be understood as those which are directly defined by the Constitution, or those which are derived from its "spirit", i.e. are logically conditioned and are in an inseparable value system connection with the institutions normatively enshrined in it; the aforementioned term is also interpreted as "guided by the Constitution" (Luzhansky, 2021, p. 107). Such principles, by virtue of their origin and legal nature, are internally balanced and mutually consistent, which indicates their characteristic of integrity. As an expression of qualitative certainty, these principles are objectively and comprehensively interrelated, each of them does not exist in isolation from the others. All of them are characterised by mutual influence and constitute not only a mechanical whole, but an organic unity and a holistic system (Luzhansky, 2021, p. 107).

Constitutional principles determine the nature and direction of the regulation of parliamentary procedures, but they do so in different ways and with different levels of detail. Given the organic affiliation of the domestic constitutional tradition to European roots (Savchyn, 2010, pp. 83–89), as well as taking into account the European integration course of the Ukrainian state (On Amendments to the Constitution, 2019), which is manifested primarily in the constitutional and legal sphere, in particular in the corresponding reform of state-political power relations, it makes sense to consider more closely the specifics of the constitutional consolidation of the regulatory regulation of parliamentary procedures in Ukraine.

First of all, it should be noted that in the current Constitution of Ukraine textual references to the Rules of Procedure of the Verkhovna Rada of Ukraine occur four times: in parts five and nine of Article 83, in paragraph 15 of Part One of Article 85 and in part three of Article 88 of the Constitution of Ukraine (Constitution of Ukraine of 1996), which in general represents a relatively small part of the total volume of constitutional regulation of the organisation and activity of the Verkhovna Rada of Ukraine. At the same time, in the original version of the Constitution of Ukraine of 1996 such references were recorded only twice, and if compared with the Constitution of Ukraine of 1978, which was in force before the adoption of the Constitution of Ukraine of 1996, then only once (Constitution of Ukraine, 1978). The above indicates a gradual trend of expanding the framework of regulation of parliamentary procedures directly in the constitutional text, which means a natural elevation of parliamentary procedures as an object of constitutional regulation. It is also important to note that the relevant constitutional provisions concerning the subject specificity of the Rules of Procedure of the Verkhovna Rada of Ukraine are united by a common subject criterion (regulatory regulation of parliamentary procedures, although the concept of these procedures is not directly used in the Constitution of Ukraine), interconnected by systemic and logical links, and form a single subject block of constitutional principles (Chubaruk, 2010, p. 64), which are aimed at determining the framework and features of regulatory regulation of parliamentary procedures. Taking this into account, as well as based on the main focus of constitutional regulation of social relations, including state-political power relations, it is possible to propose the following definition of constitutional principles of regulatory regulation of parliamentary procedures. These are basic, defining, key provisions and ideas directly (textually) established in the Constitution of Ukraine or those derived from its content on the basis of systematic interpretation of its norms, aimed at fixing (consolidating), ensuring action and development of the regulatory regulation of parliamentary procedures, which serve as a stable legal basis for development, the adoption, operation and amendment of the Rules of Procedure of the Verkhovna Rada of Ukraine in accordance with the modern requirements of the development of parliamentarism and the establishment of the principles of the rule of law and the rule of law in the sphere of the functioning of the Verkhovna Rada of Ukraine as the sole body of legislative power of the State. These principles determine the basis of constitutional legality in the sphere of the functioning of parliamentary representation and must permeate all the norms of the aforementioned Rules of Procedure, constitute their value-normative core and determine the logic and system of regulatory regulation of parliamentary procedures on the basis of and in accordance with the requirements of the fundamental law of the State. They are designed to promote the normal, natural, objectively favourable process of development of the parliament, the proper implementation of its functions and powers, and not to act as a brake on it or destabilise parliamentary processes (Belov, Yakymovych, 2014, p. 123). These principles are also important from an epistemological point of view, as they provide a unified understanding of the nature and purpose of the Rules of Procedure of the Verkhovna Rada of Ukraine in the system of state-political power relations.

By granting these Regulations a high constitutional status, the Constitution imperatively requires the legislator to take a number of positive actions: adopting the Regulations in the legal form and in the manner determined by the Constitution of Ukraine, ensuring their implementation in all its forms

(application, compliance, execution, use), timely adjustment of their content in accordance with the needs of the development of the parliament and parliamentary procedures, ensuring regulatory continuity (the situation of the parliament's activities in the absence or invalidity of the Regulations is unacceptable, that is, regardless of specific types, it, as a form of regulation of the procedure for the activities of the parliament, must occupy a mandatory place in the system of national legislation along with the Constitution).

As the Constitutional Court of Ukraine noted in its ruling back in 2000, "despite the fact that the Constitution of Ukraine has left significant space for legislative regulation of the main areas of activity of the parliament, which emphasizes its autonomy and independence in resolving procedural issues, the law on the Rules of Procedure of the Verkhovna Rada of Ukraine has not yet been adopted. This important problem requires urgent legislative regulation, since any holder of power must act in accordance with the Constitution and laws of Ukraine" (Rule, 2000). From this point of view, the situation was unacceptable when only in 2010 the Parliament of Ukraine adopted the Rules of Procedure, which in form met constitutional requirements – had the force of law, whereas until then the regulatory regulation was carried out at the sub-legal level. The lack of proper comprehensive legal regulation of all elements of the Rules of Procedure provided for by the Constitution of Ukraine prevents its full application, and also sometimes leads to constitutional conflicts, as happened, in particular, in 2019. in the course of the situation related to the lack of regulatory norms regarding the procedure for terminating the activities of the coalition of deputy factions and the early termination by the President of Ukraine of the powers of the Verkhovna Rada of Ukraine of the eighth convocation, which the Constitutional Court of Ukraine was forced to pay attention to in its Decision of 20.06.2019 (Decision, 2019).

If we analyse the placement of the specified norms, then all of them are naturally concentrated in Section IV "The Verkhovna Rada of Ukraine", which confirms their focus on regulating the exclusive sphere of relations related to the functioning of the Verkhovna Rada of Ukraine. The second aspect that should be noted is the relative constitutional stability and security of these norms. They cannot be changed through the ordinary legislative procedure, but only through the constitutionally established procedure for amending the relevant section of the Constitution of Ukraine (Articles 154–156 of the Constitutional Law of Ukraine) (Constitution of Ukraine, 1996). Such constitutional "rigidity" of these norms additionally serves the purposes of their relative immutability, constancy, clarity, comprehensibility and unambiguity of legal norms, in particular their predictability and stability as elements of the principle of legal certainty (Decision, 2017).

The uniqueness of the constitutional principles of regulation of parliamentary procedures

The Constitution of Ukraine partially reveals the legal nature of the Rules of Procedure of the Verkhovna Rada of Ukraine by establishing that "the procedure for the work of the Verkhovna Rada of Ukraine shall be established by the Constitution of Ukraine and the Rules of Procedure of the Verkhovna Rada of Ukraine" (Part Five of Article 83 of the Constitution of Ukraine) (Constitution, 1996). By using the term "the procedure of work of the Verkhovna Rada of Ukraine", the legislator essentially indicated that it is a common subject of regulation of two legislative acts: the Constitution of Ukraine and the Rules of Procedure. However, the regulation of this procedure cannot and should not be identical at the level of two legislative acts of different legal force. Obviously, in this case, the principle of complementarity was meant: the basic, initial principles of such an order are regulated by the Constitution of Ukraine (which, in the subject of its regulation, has a whole range of other issues of fundamental, fundamental from the legal point of view), while all other issues of the order of the activity of the Verkhovna Rada of Ukraine are regulated, alongside the Constitution, by its regulations. In essence, the legislator raises the legal status of the Regulations of the Verkhovna Rada of Ukraine, placing them alongside the Constitution in a substantive order, but of course not in a hierarchical order. Since the Constitution has the highest legal force (Article 8 of the Basic Law of

Ukraine (Constitution, 1996)), it is natural that the regulations have a sub-constitutional nature and must conform to it. They are hierarchically subordinate to the Constitution of Ukraine.

Let us return to the concept of the procedure for the activity of the Verkhovna Rada of Ukraine. The Constitution of Ukraine does not reveal the content of this concept, apparently leaving this issue to the Rules of Procedure themselves. In accordance with the second part of Article 1 of the Rules of Procedure of the Verkhovna Rada of Ukraine, the Rules of Procedure determine the procedure for preparing and holding sessions of the Verkhovna Rada of Ukraine, its meetings, the formation of state authorities, the legislative procedure, the procedure for considering other matters within its competence and the procedure for exercising the control functions of the Verkhovna Rada of Ukraine. The features of exercising the control functions of the Verkhovna Rada in the areas of national security and defense are determined by the Law of Ukraine "On National Security of Ukraine" (On Rules of Procedure, 2010). In fact, this formulation outlines the issues that belong to or are covered by the concept of the procedure for the work of the Verkhovna Rada of Ukraine: 1) the procedure for preparing and holding its sessions and meetings; 2) the procedure for forming state bodies by it; 3) the definition of the legislative procedure; 4) the definition of the procedures for considering other issues within the powers of the parliament; 5) the procedure for exercising the control functions of the Verkhovna Rada of Ukraine. At the same time, the second sentence of part two of Article 1 of the Regulations separately states that “the features of exercising the control functions of the Verkhovna Rada in the spheres of national security and defense are determined by the Law of Ukraine “On National Security of Ukraine” (On Regulations, 2010). Considering that “the exercise of the control functions of the Verkhovna Rada in the spheres of national security and defense” is an integral part of the procedure for exercising the control functions of the Verkhovna Rada, and therefore – an element of the procedure of work of the Verkhovna Rada of Ukraine, we believe that, from a constitutional point of view, determining the elements of the procedure of work of the Verkhovna Rada of Ukraine outside the Constitution and the Regulations contradicts part five of Article 83 of the Constitution of Ukraine (Constitution, 1996). Literally interpreting this constitutional provision, we must conclude that the legislator, having directly specified the subject of regulation of the Rules of Procedure of the Verkhovna Rada of Ukraine ("the Rules of Procedure of the Verkhovna Rada of Ukraine"):

– undertook, when adopting the Rules of Procedure, to comprehensively, systematically and comprehensively regulate in it all aspects of the rules of procedure of the Verkhovna Rada of Ukraine;

– thereby made it impossible to regulate both the rules of procedure of the Verkhovna Rada of Ukraine and individual elements of this procedure by other legislative acts of Ukraine, other than the Rules of Procedure of the Verkhovna Rada of Ukraine;

– regulation of the rules of procedure of the Verkhovna Rada of Ukraine must be based on the principles defined by the Constitution of Ukraine and be their legal concretization.

An important issue in resolving the issue of the legal nature of the parliamentary Rules of Procedure is the issue of its form and legal force. The fact is that in the initial version of the Constitution of Ukraine of 1996 There were only two references to the Rules of Procedure of the Verkhovna Rada of Ukraine – in part five of Article 83 and part three of Article 88. And both of these norms referred to such an act as the “Law on the Rules of Procedure of the Verkhovna Rada of Ukraine” (Constitution, 1996). However, in the course of the constitutional reform, the Law of Ukraine “On Amendments to the Constitution of Ukraine” dated 08.12.2004 No. 2222-IV amended these and some other provisions of the Constitution of Ukraine, in particular, the phrase “Law on the Rules of Procedure of the Verkhovna Rada of Ukraine” was replaced with “Regulations of the Verkhovna Rada of Ukraine” (On Amendments to the Constitution, 2004). This gave grounds for some researchers to insist that the Verkhovna Rada of Ukraine, having implemented the constitutional reform, lowered the legal level of the parliamentary Rules of Procedure from a law to a by-law (Markush, 2009, pp. 4-7). In favor of this thesis, an argument was also put forward related to the changed construction of Article 85

of the Constitution of Ukraine, in which, along with the paragraph stating that the Verkhovna Rada of Ukraine adopts laws (paragraph 3 of the first chapter), a separate paragraph 15 also appeared, which referred to the adoption by the Verkhovna Rada of Ukraine of the Rules of Procedure of the Verkhovna Rada of Ukraine (Constitution, 1996). From this, it was concluded that the adoption of laws in this way is not identical to the adoption of the Rules of Procedure, therefore the latter is not and should not be a law.

Without delving into the vicissitudes of the procedural debate of 2006-2010, it should be noted that in four of its decisions (Decision, 1998-b; Decision, 2008-a; Decision, 2008-b; Decision, 2009) the Constitutional Court of Ukraine insisted that since the formula of Article 92 of the Constitution of Ukraine remained unchanged, according to which "the organization and procedure for the activities of the Verkhovna Rada of Ukraine" is determined exclusively by the laws of Ukraine (paragraph 21), then the Regulations, which regulate the organization and activities of the Verkhovna Rada of Ukraine, should be adopted exclusively as a law of Ukraine and according to the procedure for its consideration, adoption and entry into force established by Articles 84, 93, 94 of the Constitution of Ukraine" (Decision, 2008-a).

Let us add to this an additional argument in favor of the position of the Constitutional Court of Ukraine. The key titular function of the Parliament of Ukraine is the legislative function, because only the Verkhovna Rada of Ukraine is authorized to adopt laws in Ukraine (Decision, 1998-a). Only it is the constitutional body authorized to exercise legislative power (Decision, 2001). No other body of state power is authorized to adopt laws. The Verkhovna Rada of Ukraine exercises legislative power independently, without the participation of other bodies (Decision, 2003). This function consists in the adoption by the Verkhovna Rada of Ukraine of the laws of Ukraine. These are acts of higher legal force that regulate the most important social relations (Part One of Article 10 of the Law of Ukraine "On Law-Making Activity" (On Law-Making, 2023)). It would be illogical to establish the procedure for adopting laws at the level of a regulatory legal act lower than the law itself. Then the legislative procedure would be regulated by the Constitution and the resolution of the Verkhovna Rada of Ukraine, which until 2010 was the Rules of Procedure of the Verkhovna Rada of Ukraine. This situation looks absurd from the point of view of the constitutionally defined hierarchy of regulatory legal acts and the exceptionally important subject of regulation of the legislative procedure, which should be determined at the level of the Constitution of Ukraine and the Rules of Procedure of the Verkhovna Rada of Ukraine, which has the legal force of law and is itself a law.

First of all, the Constitutional Court of Ukraine expressed its legal position in the Decision of the Constitutional Court of Ukraine dated 03.12.1998 N 17-rp/98. In paragraph 6 of this Decision, in particular, it is indicated that after the Constitution of Ukraine comes into force (Article 160 of the Constitution of Ukraine), the Verkhovna Rada of Ukraine must decide exclusively on the issues of organization and procedure of activity of the Verkhovna Rada of Ukraine, as well as the status of people's deputies of Ukraine, by the Verkhovna Rada of Ukraine (paragraph 21 of part one of Article 92 of the Constitution of Ukraine), in particular by the law on the regulations of the Verkhovna Rada of Ukraine (Decision, 1998-b). Later, in the Resolution of the Constitutional Court of Ukraine dated 27.06.2000, it was directly indicated that the Verkhovna Rada of Ukraine should adopt as soon as possible "a comprehensive law on the regulations of the Verkhovna Rada of Ukraine, consistent with the norms of the Constitution of Ukraine" (Resolution, 2000). At the same time, the Constitutional Court of Ukraine resorted to a kind of expansive interpretation of the subject of regulation of the Regulations, including "rules of internal procedure, rights of parliamentary factions and deputy groups, principles of law-making ethics" (Resolution, 2000).

As a result of the implementation of the requirements of the Constitution of Ukraine and the legal positions of the Constitutional Court of Ukraine, the Rules of Procedure of the Verkhovna Rada of Ukraine were approved by law on February 10, 2010 (On Rules of Procedure, 2010). Thus, for the

first time, the Rules of Procedure of the Verkhovna Rada of Ukraine acquired the form of a law: before that, the regulations of 1994, 2006, 2008 and 2009 were in force, which were not laws. At the same time, the Rules of Procedure are approved by law, are its integral part and have the force of law (Part Two of Article 15 of the Law of Ukraine "On Law-Making Activity" (On Law-Making, 2023)).

In addition, it should be noted that the transition to the formula "Regulations of the Verkhovna Rada of Ukraine – law" continued the constitutional tradition that had developed in previous years and was reflected, with amendments, in the Constitution of Ukraine of 1978, but which was contradicted by the position set out in the Constitutional Treaty of 1995. The first document (Article 114) stipulated that "the procedure for the activity of the Verkhovna Rada of Ukraine and its bodies shall be determined by the Regulations of the Verkhovna Rada of Ukraine and other laws of Ukraine adopted on the basis of the Constitution of Ukraine", i.e. the form of a law was provided exclusively for the Regulations of the Verkhovna Rada of Ukraine, but at the same time the possibility of regulating the procedure for the activity of the Verkhovna Rada of Ukraine and its bodies by other laws was allowed. As far as the Constitutional Treaty was concerned, the fifth part of Article 7 of that Act stated that "the Verkhovna Rada of Ukraine shall function in accordance with the Regulations of the Verkhovna Rada of Ukraine, which shall have the force of law" (Constitutional Treaty, 1995). This wording reproduced the norm of Article 1.0.1. of the Regulations of the Verkhovna Rada of Ukraine of 27 July 1994 (On the Regulations, 1994), which also established that the Regulations had the force of law (although formally the Regulations of 1994 were not themselves a law, and amendments to them were made by resolutions of the Verkhovna Rada of Ukraine until the adoption of the Regulations of the Verkhovna Rada of Ukraine of 16 March 2006 (On the Regulations, 2006)). Therefore, we emphasise once again that the adoption of the Rules of Procedure as a law on 10 February 2010 both put an end to the long-standing constitutional uncertainty about the legal form of the Rules of Procedure and provided stability and predictability of the development of the newly adopted legislative act in accordance with its constitutional principles. The significance of the adoption of the Rules of Procedure as a law lies in the fact that, unlike parliamentary decisions, the Rules of Procedure have finally been given a permanent legal form of establishing the procedure for the work of the Verkhovna Rada of Ukraine and have also become an obligatory and integral part of the state legislative system. We do not see in it an attack on parliamentary autonomy (Savchyn, 2019, p. 15). In connection with this fact, it is worth considering more closely the wording contained in paragraph 15 of Part One of Article 85, according to which the Verkhovna Rada of Ukraine shall adopt the Rules of Procedure of the Verkhovna Rada of Ukraine (Constitution, 1996). Taking into account the legal positions of the Constitutional Court of Ukraine, this wording, separated from the wording that the Verkhovna Rada of Ukraine adopts laws (paragraph 3 of Part One, Article 85 of the Constitution of Ukraine (1996)), does not at all mean that the Rules of Procedure of the Verkhovna Rada of Ukraine have a different legal form from the law. In our opinion, something else is meant here, namely, by analogy with Articles 95–96 of the Constitution of Ukraine, which deal with the adoption of the State Budget of Ukraine (Constitution of Ukraine, 1996), we are talking about a substantive delimitation of an exclusive range of issues, which the legislator must regulate in the Rules of Procedure – the procedure for the activity of the Verkhovna Rada of Ukraine. By assigning this matter to the exclusive competence of the Verkhovna Rada of Ukraine (Article 85 of the Constitution of Ukraine, 1996), the legislator indicates that no other authority or official has the right to assume this competence or to interfere in the legislative definition of the procedure for the activity of the Verkhovna Rada of Ukraine in the form and manner that the Parliament itself deems necessary.

Moreover, since the subject of the Law on the Rules of Procedure of the Verkhovna Rada of Ukraine is clearly defined in the Constitution of Ukraine, this Law cannot interfere with the subjects of regulation of other laws of Ukraine. In this connection, again by analogy with the Law on the State Budget, it is suggested to draw a conclusion on the expediency of establishing a norm which will

make it impossible to make amendments to the Rules of Procedure and other laws simultaneously in one legislative act. Obviously, amendments to the Rules of Procedure should be made only by a separate, special law, which will not include as its subject other issues not related to the regulation of the procedure of the Verkhovna Rada of Ukraine. The opposite approach, which is now often used in particular for legislative amendments to the Rules of Procedure, undermines the autonomy of the subject of its regulation and may lead to a violation of the rights and freedoms of man and citizen.

It should also be noted that the Verkhovna Rada of Ukraine cannot act in an arbitrary or illegal manner when determining the scope of its work in the Rules of Procedure. As the Constitutional Court of Ukraine stated in its Decision No. 11-rp/98 of 07.07.1998, "the activity of the Verkhovna Rada of Ukraine is primarily aimed at ensuring the representation of the people and the expression of the state will through the adoption of laws by the vote of the people's deputies of Ukraine" (Decision, 1998-a). The key principle determining the procedure for the work of the Verkhovna Rada of Ukraine is the principle of the rule of law. The European Commission "For Democracy through Law" (Venice Commission) at its 86th plenary session on 25–26 March. 2011 in its report "The Rule of Law" indicated that the main criteria for understanding the rule of law are in particular: accessibility of the law (the law must be clear, precise and predictable); questions of legal rights must be resolved by the norms of the law and not on the basis of discretion; equality before the law; power must be exercised in a lawful, fair and reasonable manner; the elements of the rule of law are Legality, including a transparent, accountable and democratic process for implementing the provisions of the law; Legal certainty; Prohibition of arbitrariness; Equality before the law (Decision, 2019). With regard to the recognition of the procedure for the work of the Verkhovna Rada of Ukraine, the rule of law means that the parliament is limited in its actions by pre-regulated and announced rules, which make it possible to predict the measures that will be applied in specific legal relations, and, accordingly, the subject of law enforcement can foresee and plan its actions and count on the expected result (Decision, 2019). In the same sense, the Verkhovna Rada of Ukraine must regulate in its Rules of Procedure such a procedure for its work, based on the constitutionally defined competence, according to which each authority of the Verkhovna Rada of Ukraine must correspond to the appropriate procedure for its implementation, established in the Rules of Procedure at a level of detail corresponding to the legal nature of the law. For example, in accordance with the second paragraph of the first part of Article 10 of the Law of Ukraine "On Legislative Activity", the procedure for adoption of laws by the Verkhovna Rada of Ukraine is determined by the Constitution of Ukraine and the Rules of Procedure of the Verkhovna Rada of Ukraine (On Legislative Activity, 2023).

In addition, according to the principle of parliamentary autonomy, the legislature has discretion in determining the content of its own legislative acts and implementing internal parliamentary procedures, while maintaining a balance between the interests of the majority and the minority (Savchyn, 2019, p. 12). The obligation to maintain such a balance results from a number of legal positions of the Constitutional Court of Ukraine, which should be taken into account by the legislator when drafting both the constitutional principles of regular regulation of parliamentary procedures and the Rules of Procedure of the Verkhovna Rada of Ukraine. Thus, as a result of the constitutional amendments of 2004, a new Part Nine appeared in Article 83 of the Constitution of Ukraine, according to which "the principles of formation, organisation of activity and termination of activity of a coalition of deputy factions in the Verkhovna Rada of Ukraine shall be established by the Constitution of Ukraine and the Rules of Procedure of the Verkhovna Rada of Ukraine" (On Amendments to the Constitution of Ukraine, 2004). In this way, the Verkhovna Rada of Ukraine implemented the instruction of the Constitutional Court of Ukraine that “the problem of creating a working parliamentary coalition capable of effectively implementing the formed political programs should be solved by the Verkhovna Rada of Ukraine through political and regulatory measures” (Resolution, 2000). Having decided that political measures would not suffice, the Parliament resorted to entrusting the Rules of Procedure of

the Verkhovna Rada of Ukraine with the task of synthesising, together with the Constitution and on its basis, the regulation of the principles of formation, organisation of activities and termination of activities of a coalition of deputy factions in the Verkhovna Rada of Ukraine. That is, we are talking about a rather limited form of regulation at the level of rules: it is limited to the principles of formation, organisation of activities and termination of activities of a coalition of deputy factions, while the regulation of all other issues is, of course, placed in the sphere of political norms established in the relevant political agreements.

According to the position of the Constitutional Court of Ukraine, "the principles of domestic and foreign policy are the basic ideas, the main principles of the strategic line of the state activity in the mentioned areas" (Decision, 1999). By analogy with this definition, it can be concluded that the principles of formation, organisation and termination of activities of a coalition of deputies, which belong to the sphere of regulatory regulation, are the main and initial ideas in the legal regulation of formation, organisation and termination of activities of the specified coalition, which is the basis for the formation, activity and termination of activities of the specified legal entity.

However, by introducing the institution of a coalition of parliamentary factions into the Constitution of Ukraine, the legislator ignored the caveat expressed by the Constitutional Court of Ukraine itself in its opinion of 27 June 2000, which emphasised that the introduction of such a concept into the Constitution (referring to the concept of "permanent parliamentary majority") "logically necessitates the need to supplement it with guarantees in a general form". 2000, which emphasised that the introduction of such a concept into the Constitution (it referred to the terminologically identical concept of "permanent parliamentary majority") "logically necessitates the need to supplement it with guarantees (even in a general form) for that part of the composition of the Verkhovna Rada of Ukraine which is not part of the "permanent parliamentary majority" and which can be conditionally characterised as a "parliamentary minority". Uncertainty about the guarantees for the functioning of such a minority may lead to a violation of one of the fundamental principles on which public life in Ukraine is based – political and ideological diversity (Article 15 of the Constitution of Ukraine) and to restrictions on the constitutional rights of citizens, provided for, in particular, by Articles 34 and 38 of the Constitution of Ukraine" (Opinion, 2000).

Soon, as is known, problems with the institution of coalition arose: as a result of the decision of the Constitutional Court of Ukraine of 30 September 2010, the constitutional amendments of 2004 were cancelled (Decision, 2010) and the version of the Constitution of Ukraine of 28 June 1996, which did not provide for the institution of coalition as a constitutional component, was restored.

However, later, with the adoption of the Law of Ukraine "On Restoration of the Effect of Certain Norms of the Constitution of Ukraine" of 22 February 2014, the version of the Constitution of Ukraine of 8 December 2004 was restored, but no simultaneous changes were made to the Rules of Procedure (On Restoration, 2014). In particular, the formation of a coalition remained outside the regulatory framework, which in practice led to an ambiguous interpretation of the relevant constitutional norms, which the Constitutional Court of Ukraine was forced to address in 2019 in its decision of 20 June 2019 (Decision, 2019): "Contrary to the Constitution, the Verkhovna Rada of Ukraine has not restored in the Regulations the issue of termination of the activities of the coalition of deputy factions in the Verkhovna Rada of Ukraine"; "The Fundamental Law of Ukraine does not determine the procedure for termination of the activities of the coalition of deputy factions in the Verkhovna Rada of Ukraine, and the Regulations, contrary to the requirements of Article 83 of the Constitution of Ukraine, do not provide for the procedure for termination of the activities of the coalition of deputy factions in the Verkhovna Rada of Ukraine. From the above, it follows that the coalition of deputy factions is not an optional, but an imperative institution, with which the authority of the Verkhovna Rada of Ukraine is systematically associated (Article 90 of the Constitution of Ukraine (Constitution, 1996)), the "procedure for terminating the coalition's activities", according to the position of the Constitutional Court of

Ukraine, should be determined by the Rules of Procedure, which does not quite correctly reproduce the content and logic of part nine of Article 83 of the Constitution of Ukraine, which states that the subject of regulation of the Rules of Procedure is not "the procedure for terminating the coalition's activities", but only "the principles for terminating the coalition's activities", that is, a much narrower range of issues.

Finally, let us dwell on the fourth formulation of the Constitution of Ukraine, which directly mentions the parliamentary Rules of Procedure. This is part three of Article 88 of the Fundamental Law, according to which "The Chairman of the Verkhovna Rada of Ukraine shall exercise the powers provided for by this Constitution in the manner established by the Rules of Procedure of the Verkhovna Rada of Ukraine" (Constitution, 1996). The importance of this formulation lies in the fact that it essentially indicates that the issue of managing the parliament, which is carried out by its Chairman, also falls within the scope of the parliamentary procedure, and therefore falls under the scope of regulatory regulation.

The second aspect that follows from this formulation is, in our opinion, that by referring only the Chairman of the Verkhovna Rada of Ukraine to the subjects that perform management functions in relation to the parliament, the Constitution of Ukraine thereby imposed on him the obligation to ensure compliance with regulatory requirements during all parliamentary procedures. How and in what way this function of the head of parliament is specifically ensured, is detailed in the Rules of Procedure itself. However, judging by the content of its provisions, it shares the concept of referring the management of the parliament to the scope of the procedure for its work and imposing on the head of this state authority a number of key provisions to ensure compliance with the Rules of Procedure of the Verkhovna Rada of Ukraine.

Finally, the third element of the above constitutional formula: the Chairman of the Verkhovna Rada of Ukraine, when exercising the powers provided for by the Constitution of Ukraine in the manner established by the Rules of Procedure, may not arbitrarily exceed their scope. In addition, the Rules of Procedure cannot grant the Chairman of the Verkhovna Rada of Ukraine powers which do not result from the content of Article 88 of the Constitution of Ukraine and other provisions of the Basic Law. In this way, the constitutional principles of regulatory regulation of parliamentary procedures support the concept of self-restraint of the legislative body (Kostytskyi, Koban, 2017) and make it impossible for a senior official of the Parliament of Ukraine to arbitrarily exercise managerial powers.

Conclusions. Based on the above, the following main conclusions can be formulated.

Constitutional principles of regulatory regulation of parliamentary procedures are fundamental, defining, key provisions and ideas directly (textually) established in the Constitution of Ukraine or those derived from its content on the basis of systematic interpretation of its norms, aimed at fixing (consolidating), ensuring the action and development of regulatory regulation of parliamentary procedures, which serve as a stable legal basis for the development, adoption, operation and amendment of the Rules of Procedure of the Verkhovna Rada of Ukraine in accordance with the modern requirements for the development of parliamentarism and the establishment of the principles of the rule of law and the rule of law in the sphere of the functioning of the Verkhovna Rada of Ukraine as the sole body of legislative power of the State. The above-mentioned principles determine the basis of constitutional legality in the sphere of functioning of parliamentary representation and should permeate all norms of the above-mentioned regulations, constitute their value-normative core and determine the logic and system of regulatory regulation of parliamentary procedures on the basis of and in accordance with the requirements of the fundamental law of the State. They are intended to promote a normal, natural, objectively favourable process of development of the parliament, the proper exercise of its functions and powers, and not to act as a brake or destabilise parliamentary processes. The role of the constitutional principles of regulation of parliamentary procedures is to consolidate at the level of the Constitution of Ukraine the defining, basic, initial positions regarding the nature and direction of

such regulation, the legal form of parliamentary regulations in the normative system of parliamentarism, the relationship of legal and political components in it. This approach determines the originality of the Ukrainian model of such principles in comparison with the European constitutional experience embodied in the fundamental laws of European states. In the specified system, the rules of parliamentary procedure are clearly postulated by an act of higher legal force (law), the exclusive subject of which is the procedure for the activity of the Verkhovna Rada of Ukraine. Its constitutionally defined functions and powers determine the necessity of its procedural regulation (procedure of implementation) at the level of the norms of these Rules of Procedure in their systemic interconnection.

The trends in the development of constitutional principles of regulatory regulation consist in the systematic regulation of the legal and political parts of regulatory regulation with the atypicality of the constitutional regulation of the latter (the institution of a coalition of deputies), based on the European experience.

By directly specifying the subject of regulation of the Rules of Procedure of the Verkhovna Rada of Ukraine at the level of the Constitution of Ukraine ("Procedures of Work of the Verkhovna Rada of Ukraine"), the legislator thus undertook, when adopting the Rules of Procedure, to regulate therein all aspects of the procedure of work of the Verkhovna Rada of Ukraine in a comprehensive, systematic and complete manner; made it impossible to regulate both the procedure for the work of the Verkhovna Rada of Ukraine and individual elements of this procedure by other legislative acts of Ukraine other than the Rules of Procedure of the Verkhovna Rada of Ukraine; the regulation of the procedure for the work of the Verkhovna Rada of Ukraine should be based on the principles established by the Constitution of Ukraine and be their legal concretisation.

The constitutional peculiarity of the subject of regulation of the Rules of Procedure of the Verkhovna Rada of Ukraine is the obligatory inclusion into the sphere of legal regulation of the principles of organisation, activity and termination of deputy groups, as well as coalitions of deputy groups. At the same time, the separation at the constitutional level of the institution of a parliamentary coalition determines the need for synchronous regulation at the level of the same constitutional principles of the principles of organisation and activity of the parliamentary minority (opposition) in order to protect the political rights of citizens of Ukraine, the development of democracy and parliamentarism in accordance with the principle of the rule of law (rule of law).

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