

STATE ADMINISTRATION

UKRAINIAN CONSTITUTION IN THE SYSTEM OF EUROPEAN CONSTITUTIONALISM

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Current world is dealing with so many political and economic challenges. Modern Ukraine through Revolution of Dignity in 2014 showed European vector of public policy, furthermore, war actions in 2022 caused few serious problems, but also helped Ukraine to award official EU candidate status.

Thus, it is essential task for researchers in the sphere of public administration to accomplish structural and conceptual comparison of the Constitution of Ukraine with European ones, in order to define its role in this system.

According to commentators of the time, the adoption of the Constitution of independent Ukraine was a significant victory for the center-right presidential forces and the national camp that supported them. The Constitution of Ukraine was generally positively evaluated by the international community as well, because it declared universal, universal European principles. Some of the "fathers" of the Constitution even called it "the best in Europe" [1].

The current stage of constitutional reforms in Ukraine is aimed at the democratization of the state regime, which is accompanied by the reorientation of the constitutional process in the direction of European integration. All public authorities are involved in it, which depends on bringing the legislation of Ukraine into compliance with European standards. The Constitutional Court of Ukraine does not remain aloof, whose role in the modern constitutional process is seen to be to bring the actual constitution into line with the legal constitution as soon as possible, i.e. to include in the "letter of the law" such a "spirit of the law" that would correspond to the fundamental principles of European constitutionalism.

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Taking into account the current political trends, it would be fair to conclude that Ukrainian constitutionalism has adopted the fundamental principles of European constitutionalism. Summarizing the practice of European constitutionalism, S. Holovaty singled out the rule of law, democracy and human rights among them [2, p. 159–174]. It should be noted that among these fundamental principles, human rights occupy the first place. The other two are necessary because the experience of the constitutional development of foreign countries is convincing: careful observance of the principles of the rule of law and democracy is an important factor in ensuring an adequate level of protection of human rights, which allows achieving the goal of modern constitutionalism. At the same time, it is important not only to establish a number of principles of constitutionalism in legislation in accordance with European standards, but also to understand them in such a way that, in accordance with modern European trends, would contribute to the implementation of these principles in modern constitutional and legal realities with the aim of establishing the constitutional and legal freedom of man as goals of modern constitutionalism. After all, the formulation of the concept and disclosure of the content of the principles of constitutionalism is of great importance for the formation of a holistic concept of Ukrainian constitutionalism based on its own categorical apparatus.

In particular, according to Article 2 of the Consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union (Lisbon Treaty), respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including respect for the rights of minorities, are recognized as the fundamental values of the European Union.

As stated in the national constitutional doctrine, the analysis of the European approach to understanding the principle of the rule of law and the practice of the activity of the Ukrainian body of constitutional justice gives reason to note that the implementation of the fundamental principles of European constitutionalism, in particular through the interpretation of the content of these principles, was not always effectively carried out by the Constitutional Court of Ukraine. Thus, in total, as of March 13, 2014, the Constitutional Court of Ukraine made 310 decisions, 10 of which mentioned European standards ratified by Ukraine: in 1999, 2000, and 2008 – one decision each, in 2007 and 2010 – in two decisions, in 2011 – in three decisions [3].

However, the latest events of this year indicate positive changes in the relevant statistics. If we analyze the activity of the Constitutional Court of Ukraine in the direction of the Europeanization of constitutional legislation, a very favorable trend emerges. Within two months (March 13 – May 13, 2014), three decisions were adopted, each of which contains, *inter alia*, a reference to the European standards ratified by Ukraine [4], and one of them is also a reference to the relevant practice of the European Court of Human Rights [5].

Considering constitutionalism as a doctrine and practice of limited government, three models of constitutionalism can be distinguished: American, English and European (continental). Each of them involves a kind of embodiment of the universal principles of constitutionalism through its own tools and mechanisms with appropriate doctrinal support. In addition to distinctive ideological foundations and doctrinal features, the mentioned models of constitutionalism have certain inherent features, a specific structure, and various practical implementations in the form of corresponding constitutional systems: constitutional presidentialism, monarchical or republican parliamentarism, mixed presidential or parliamentary government.

In conclusion, the European model of constitutionalism is a unique phenomenon, because the level of uniformity and integration of some of its elements led to the question of the emergence of a European constitutional identity. A significant role in its development was played by the formation of the Council of Europe, whose system of standards significantly influenced the content of the European model of constitutionalism. It is worth noting that after becoming a member of the Council of Europe in 1997, Ukraine actually decided on a model of constitutionalism, taking on the responsibilities of implementing these standards. Despite the fact that we have been moving in this direction for quite a long time, until today there is a lack of understanding of the European model of constitutionalism as a complete system with its internal logic, development laws, and regularities. Evidence of this, in particular, is the proposals of certain political and public figures, as well as lawyers regarding the liquidation of the Constitutional Court of Ukraine, the introduction of presidential rule, et [7].

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