

FORMATION AND DEVELOPMENT OF THE CONSTITUTIONAL JUSTICE INSTITUTE

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Annotation: In this article, the history of the emergence and development of the Constitutional Court is analyzed first in the world experience, and then in the experience of the Republic of Uzbekistan.

Key words: Constitutional Supervision Committee, Constitutional Court, constitutional control, democratic system.

The establishment of a Constitutional Court is a cornerstone of many modern democratic systems, serving as a vital institution tasked with upholding the rule of law, protecting fundamental rights, and ensuring the supremacy of the constitution. A Constitutional Court is typically an independent judicial body with the authority to review the constitutionality of laws, government actions, and decisions, thereby playing a crucial role in balancing powers within a state and safeguarding the democratic principles enshrined in a country's constitution.

The creation of a Constitutional Court signifies a commitment to the principles of constitutionalism and the protection of individual rights against potential violations by the legislative or executive branches of government. By providing a mechanism for judicial review of laws and government actions, a Constitutional Court acts as a bulwark against tyranny, abuse of power, and infringements on the rights and freedoms of citizens.

The process of establishing a Constitutional Court involves careful consideration of its jurisdiction, composition, appointment of judges, decision-making procedures, and mechanisms for enforcement of its judgments. These elements are crucial in ensuring the effectiveness, independence, and credibility of the court in fulfilling its mandate to uphold the constitution and serve as the final arbiter of constitutional disputes within the legal system.

In many countries, the establishment of a Constitutional Court has been a significant milestone in the development of the legal system and the protection of democratic values. Through its decisions, a Constitutional Court helps to clarify the meaning and scope of constitutional provisions, resolves conflicts between different branches of government, and promotes a culture of constitutionalism that underpins the functioning of a democratic society.

The role of a Constitutional Court extends beyond mere legal interpretation; it also contributes to the stability of the political system, the protection of minority rights, and the promotion of good governance. By serving as an independent and impartial arbiter of constitutional disputes, a Constitutional Court reinforces public trust in the legal system and strengthens the foundations of democracy.

The establishment of a Constitutional Court is a vital component of a robust and functional democratic system. By providing a mechanism for the review of constitutionality, upholding the primacy of the constitution, and safeguarding fundamental rights, a Constitutional Court plays a crucial role in promoting the rule of law, protecting democratic principles, and ensuring the proper functioning of the state. It stands as a beacon of justice, accountability, and constitutional order, essential for the preservation and advancement of democracy in the modern world.

In several states, a separate body whose sole or primary function is to exercise constitutional control. It was first established in 1920 in Austria. Since then, this procedure has spread widely in Western and Eastern Europe, as well as in some countries of Asia, Africa and America. Unlike ordinary high courts, the Constitutional Court does not belong to the system of courts of general jurisdiction. In some countries (for example, the Russian Federation), the Constitutional Court is a court of a special category and, accordingly, is included in the judicial system, in other countries (FRG, Italy, Romania, Bulgaria, Mongolia) it is a separate supervisory body unrelated to the judiciary. Members of the Constitutional Court are elected by the parliament (FRG, Croatia) or appointed by the head of state (Cyprus); sometimes the members of the Constitutional Court are appointed by the parliament and other bodies of power and justice (for example, in Italy the Constitutional Court is appointed equally by the president, parliament and magistrates).

In addition to exercising constitutional control, the Constitutional Court has the right to comment on the constitution in various countries, resolves the issue of whether the activities of political parties are in accordance with the constitution, considers disputes related to powers, etc. The Constitutional Court of the Republic of Uzbekistan enters the court system, determines the compatibility of laws and other documents with the Constitution of the Republic of Uzbekistan, and is the defender of the Constitution. Its activities are regulated by the Law on the Special Constitutional Court.

The history of the origin and development of the Constitutional Court, which actually exists in the Republic of Uzbekistan, dates back to the pre-independence period. Despite active discussions around the bill, it was obvious that the developers could not go beyond the scope of the Law “On Constitutional Supervision of the USSR”, adopted on December 23, 1989. The Committee of Constitutional Supervision of the USSR exercised supervision over the compliance of laws with the Constitution and laws of the USSR union republics.

According to the Law of December 8, 1992 “On the procedure for enacting the Constitution of the Republic of Uzbekistan”, the Constitutional Supervision Committee retained its powers until the adoption of the Law “On the Constitutional Court of the Republic of Uzbekistan”. The first Law “On the Constitutional Court of the Republic of Uzbekistan” was adopted on May 6, 1993. The Law was quite laconic, consisting of four sections (32 articles). In accordance with the Law, ensuring the unconditional supremacy of the Constitution throughout According to the Law of December 8, 1992 “On the procedure for enacting the Constitution of the Republic of Uzbekistan”, the Constitutional Supervision Committee retained its powers until the adoption of the Law “On the Constitutional Court of the Republic of Uzbekistan”.

The first Law “On the Constitutional Court of the Republic of Uzbekistan” was adopted on May 6, 1993. The Law was quite laconic, consisting of four sections (32 articles). In accordance with the Law, ensuring the unconditional supremacy of the Constitution throughout the territory of the Republic of Uzbekistan was entrusted to the According to the Law, a citizen of the Republic of Uzbekistan at least 35 years of age from among specialists in the field of politics and law, who, as a rule, has at least 10 years of work experience in the legal profession, and has the high qualifications necessary to perform duties of a judge of the Constitutional Court.¹

¹Gafurov.A. Institute of Constitutional Control in Uzbekistan: Formation, Current state and development prospects. Journal of Foreign Legislation and comparative law, 2021, vol.17, no.3

However, the Constitutional Court was never formed. The Constitutional Supervision Committee functioned until 1995, when the second Law “On the Constitutional Court of the Republic of Uzbekistan” was adopted. The law regulated the basic powers of the Constitutional Court, the principles of exercising constitutional control, the procedure for the election and status of judges, the procedure and other issues of organizing the activities of the Constitutional Court.

Constitutional Court, which was defined as the highest judicial body of constitutional control in the Republic of Uzbekistan. The Constitutional Court was elected on the proposal of the President by the Oliy Majlis, consisting of a chairman, deputy chairman, secretary of the Constitutional Court and eight members of the Constitutional Court, including a judge from the Republic of Karakalpakstan.

The Constitutional Court of the Republic of Uzbekistan is a supreme judicial body that carries out constitutional control. It performs its activities independently based on the law. The authority of the Constitutional Court, its structure and the order of operation are defined by Articles 108, 109 of the Constitution of the Republic of Uzbekistan and the Law "On the Constitutional Court of the Republic of Uzbekistan" (August 30, 1995). The competence of the Constitutional Court includes hearing cases on the conformity of the documents of the legislative and executive authorities with the Constitution.

The Constitutional Court of the Republic of Uzbekistan has, among other things, the following powers: determines the compatibility of laws and decisions of the chambers of the Oliy Majlis of the Republic of Uzbekistan, decrees of the President of the Republic of Uzbekistan, decisions of the government and local state authorities, interstate contractual and other obligations of the Republic of Uzbekistan with the Constitution of the Republic of Uzbekistan, The Constitution of the Republic of Karakalpakstan provides a conclusion on the conformity of the Constitution of the Republic of Uzbekistan, the laws of the Republic of Karakalpakstan with the laws of the Republic of Uzbekistan; interprets the norms of the Constitution and laws of the Republic of Uzbekistan; Considers other cases within the scope of authority granted by the Constitution and laws of the Republic of Uzbekistan.

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