



THE PROCEDURE FOR FORMING THE CONSTITUTIONAL OVERSIGHT COMMITTEE

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Article history:	Abstract:
<p>Received: 30th May 2025 Accepted: 28th June 2025</p>	<p>This article analyzes the establishment of the Constitutional Oversight Committee, the procedure for its formation, and the legal foundations of its activities. As a key body ensuring the supremacy of the Constitution, the composition of the Committee, the mechanism for appointing and dismissing its members, as well as their powers, are examined. Special attention is given to the principles of impartiality, independence, and legality that underpin the Committee's operations. The research also includes a comparative analysis of international practices and provides conclusions and recommendations regarding the effectiveness of the current system in Uzbekistan</p>
<p>Keywords: Constitutional oversight, committee composition, committee formation, state bodies, powers, rule of law, operating principles, constitutional court.</p>	

INTRODUCTION

One of the important factors influencing the effectiveness of the activities of state authorities is the procedure for their formation. At the same time, a detailed definition of the procedure for the formation of the Committee of Constitutional Supervision of the Republic of Karakalpakstan will have a direct impact on the effective implementation of the tasks facing them.

In turn, the procedure for the formation of the Constitutional Oversight Committee is based on the relevant legal foundations, special principles, and the specifics of the legal status of the committee members.

In particular, the legal basis for the procedure for the formation of the Constitutional Oversight Committee is regulated by the Constitution of the Republic of Uzbekistan, adopted in a new edition on April 30, 2023 [1], the Law of the Republic of Uzbekistan "On the Constitutional Court of the Republic of Uzbekistan" of April 27, 2021[2], the Constitution of the Republic of Karakalpakstan of April 9, 1993 [3], the Law of the Republic of Karakalpakstan "On the Constitutional Oversight Committee" of June 12, 2021[4].

Thus, the procedure for the formation of the Constitutional Control Committee of the Republic of Karakalpakstan is defined in Article 85 of the Constitution of the Republic of Uzbekistan, which states that "The sovereign Republic of Karakalpakstan is part of the Republic of Uzbekistan." From this it follows that the Republic of Karakalpakstan, based on its legal status of state sovereignty, has independence in the formation of state authorities, and this circumstance ensures that the Republic of Karakalpakstan independently carries out the formation of the Committee of Constitutional Control from the Republic of Uzbekistan.

Although not directly related to the formation of the Committee for Constitutional Control of the Republic of Karakalpakstan, the Law "On the Constitutional Court of the Republic of Uzbekistan" can be cited as a legal document regulating some aspects of constitutional control in the Republic of Karakalpakstan.

This law reflects some organizational and legal aspects related to the formation of the Constitutional Oversight Committee. In particular, Article 6 of this law establishes the procedure for electing the Constitutional Court, according to which the Constitutional Court is elected with the inclusion of a representative of the Republic of Karakalpakstan.

Here, the inclusion of a representative of the Republic of Karakalpakstan in the composition of the Constitutional Court of the Republic of Uzbekistan, the expression by the Constitutional Court of the attitude of the Republic of Karakalpakstan on each of the issues considered in the Constitutional Court in the process of exercising its constitutional powers are ensured.

In the relevant case, special attention is paid to the reflection of the legitimate interests of the Republic of Karakalpakstan in the consideration of both legal and political aspects directly defined in the Constitutions of the Republic of Uzbekistan and the Republic of Karakalpakstan regarding the relations between these states, their fair and full consideration.

The next legislative document on the formation of the Committee of Constitutional Control of the Republic of Karakalpakstan is the Constitution of the Republic of Karakalpakstan. In particular, the formation of the Committee for Constitutional Control of the Republic of Karakalpakstan is defined in Chapter XXIV of the Constitution of the Republic of Karakalpakstan,



dedicated to constitutional control. According to Article 112 of this chapter, the authority to form the Committee of Constitutional Control of the Republic of Karakalpakstan is vested in the Jokargy Kenes of the Republic of Karakalpakstan.

In particular, when forming the Committee for Constitutional Control of the Republic of Karakalpakstan and selecting its members, the Jokargy Kenes will have to select and select them from among specialists in the field of politics and law.

It should be noted that it is advisable to improve this constitutional requirement, excluding the inclusion of representatives of the political sphere in the selection of specialists for committee membership. The main reason for this is that constitutional control should be connected only with law and should be governed by legal relations. This means that the essence of constitutional control should be based on specific norms established within the framework of law.

In this regard, political views are largely based on the subjective views of politicians, and their consideration by the constitutional oversight body, the analysis and assessment of the constitutionality of such actions, is primarily political activity. It will not be possible to fully assess such activities based on the norms of the Constitution.

The important thing here is that if the Constitutional Control Committee considers political issues for compliance with the Constitution of the Republic of Karakalpakstan, then it partially reflects the characteristics of a political subject. This situation does not correspond to the legal nature of the Constitutional Oversight Committee, since it is a legal body, not a political one, and its main task is to proceed from and be guided only by specific constitutional norms, without entering into political relations.

Accordingly, it is advisable to exclude the word "politics" from the norm of part 2 of Article 112 of the Constitution of the Republic of Karakalpakstan, related to the formation of the Committee of Constitutional Control of the Republic of Karakalpakstan, which states: "The Committee of Constitutional Control is elected by the Jokargy Kenes of the Republic of Karakalpakstan from among specialists in the field of politics and law as the chairman of the Committee of Constitutional Control, his deputy, and members of the Committee."

It should be acknowledged that there is another controversial situation here. In particular, in the process of forming the Committee for Constitutional Oversight, the question of what composition it should be elected in is defined at the constitutional level. In particular, such a composition is defined as the chairman of the Constitutional Oversight Committee, his deputy, and

members of the committee. However, defining this structural composition at the constitutional level, firstly, does not correspond to the status of the Constitution as the main legal document, and secondly, it is not expedient from the point of view of legislative technique.

Based on the above analysis, it can be noted that it is advisable to exclude, firstly, the word "politics," and secondly, the words "chairman, his deputy and members of the committee" from the norm given in part 2 of Article 112 of the Constitution of the Republic of Karakalpakstan.

At the same time, important aspects related to the formation of the Constitutional Oversight Committee and requiring improvement of its procedure are, firstly, the issue of the participation of the Chairman of the Jokargy Kenes in this process, and secondly, problems related to the quality of persons elected to this committee.

Regarding the first issue, since the main task of the Constitutional Oversight Committee is to monitor the compliance of normative legal acts adopted by legislative and executive bodies with the content of the Constitution, then its legal status should be independent of the bodies belonging to these branches of government. In turn, such institutional independence is directly influenced by the procedure for the formation of the Constitutional Oversight Committee.

Based on this, the constitutional and legal status of the Constitutional Oversight Committee should be based on the basic constitutional principle defined in Article 11 of the Constitution: "The system of state power of the Republic of Karakalpakstan is based on the principle of separation of powers into legislative, executive, and judicial branches."

From this it follows that if the Committee of Constitutional Supervision is formed by legislative and (or) executive bodies, then it becomes subordinate to these bodies and weaker than them. Such a situation does not meet the requirements of the principle of separation of powers. This means that the process of forming the Constitutional Oversight Committee should not depend solely on the Jokargy Kenes itself. Otherwise, the controlling body remains under the care and influence of the forming body and becomes vulnerable to it. Here, such a negative situation should be assessed as a fundamental error and shortcoming related to the regulation of the organization of state power. It has a negative impact on the democratic foundations of the constitutional system.

DISCUSSIONS



Correctly criticizing this problem, B.M. Berdimuratova notes: "The Committee of Constitutional Control of the Republic of Karakalpakstan is to a certain extent dependent on the deputies of the Jokargy Kenes. In other words, it is a body that does not adhere to the principles of the judicial system and is subordinate to the Jokargy Kenes"[5].

Accordingly, part 2 of Article 112 of the Constitution of the Republic of Karakalpakstan establishes a procedure for the election of the Committee for Constitutional Oversight directly only by the Jokargy Kenes of the Republic of Karakalpakstan, which does not correspond to the principle of separation of powers and has its own shortcomings.

In turn, to solve this problem, it is necessary that the body of state power, responsible for ensuring stability and balance in the interaction of branches of government, as well as fully subordinate to any branch of government and, based on this, having its own separate independent powers and the legal possibility of influencing each branch of government, directly participate in the process of forming the Constitutional Oversight Committee and have the appropriate powers.

In this regard, using the example of Uzbekistan, Professor R.R. Khakimov emphasizes: "The implementation of constitutional control by the Constitutional Court over the laws of the Republic of Uzbekistan and the decisions of the chambers of the Oliy Majlis, that is, determining their compliance with the Constitution, serves as an important tool for ensuring balance in the system of state power, guaranteeing the priority of human rights and freedoms"[6].

Regarding this problem, it should be noted that the chairman of the Jokargy Kenes of the Republic of Karakalpakstan has more legal characteristics of such a subject. In particular, the legal status of the Chairman of the Jokargy Kenes is defined at the constitutional level. In particular, according to Article 80 of the Constitution, the Chairman of the Jokargy Kenes of the Republic of Karakalpakstan is the Head of the Republic of Karakalpakstan and the highest official. The Chairman of the Jokargy Kenes is elected by the Jokargy Kenes of the Republic of Karakalpakstan from among the deputies of the Jokargy Kenes of the Republic of Karakalpakstan by secret ballot with the consent of the President of the Republic of Uzbekistan for the term of office of the Jokargy Kenes of the Republic of Karakalpakstan.

Here, a particularly important aspect of the legal status of the Chairman of the Jokargy Kenes of the Republic of Karakalpakstan is that, according to Article 81 of the Constitution, he, firstly, ensures the

coordinated work of the highest legislative and executive bodies of power of the Republic of Karakalpakstan; secondly, submits reports to the Jokargy Kenes of the Republic of Karakalpakstan on the state of affairs in the republic and other important issues; thirdly, organizes the implementation of the laws of the Republic of Uzbekistan and other decisions of the Oliy Majlis, decrees and other acts of the President of the Republic of Uzbekistan; organizes control over the implementation of the laws of the Republic of Karakalpakstan and decisions of the Jokargy Kenes.

From this it follows that the Chairman of the Jokargy Kenes of the Republic of Karakalpakstan is not an official fully subordinate to and under the control of the Jokargy Kenes, since he is elected with the consent of the President of the Republic of Uzbekistan and therefore also performs the role of a representative of the President of the Republic of Uzbekistan in the Jokargy Kenes. Also, since it is responsible for ensuring the coordinated work of the highest legislative and executive bodies of power, it will be partially independent of all branches of state power.

Based on this, since the Chairman of the Jokargy Kenes of the Republic of Karakalpakstan, on the one hand, is the highest official in the republic, and on the other hand, he is responsible for solving the task of ensuring the coordinated functioning and interaction of state authorities, he must also participate in the formation of the Committee for Constitutional Oversight. This means that the Constitutional Oversight Committee is elected by the Jokargy Kenes of the Republic of Karakalpakstan upon the recommendation of the Chairman of the Jokargy Kenes of the Republic of Karakalpakstan, and the term for which the committee is elected must be indicated.

Regarding the relevance and importance of this issue, P.P. Miklashevich emphasizes: "The parity procedure for the formation of the Constitutional Court constitutes the most important element of its constitutional status"[7].

The introduction of this procedure into the Constitution will serve to strengthen the independence of the Committee for Constitutional Control before the Jokargy Kenes of the Republic of Karakalpakstan. As a result, when the Constitutional Oversight Committee reviews the compliance of normative legal acts adopted by the Supreme Council with the Constitution and takes appropriate measures, it will have the opportunity to express its opinion in an impartial environment.

Moreover, taking into account the position of the Chairman of the Jokargy Kenes in the system of state power, it requires the introduction of certain democratic restrictions on his constitutional term of



office. Here, the necessity of introducing such a restriction also stems from the fact that Article 83 of the Constitution requires the conclusion of the Constitutional Oversight Committee in the event of the early recall of the Chairman of the Jokargy Kenes. Accordingly, it is advisable to introduce a new norm in Article 80 of the Constitution of the Republic of Karakalpakstan with the following content: "The same person cannot be the Chairman of the Jokargy Kenes of the Republic of Karakalpakstan for more than two consecutive terms."

In turn, similar restrictions exist in the experience of many foreign countries, as well as in the legislation of Uzbekistan. In particular: Article 106 of the Constitution of the Republic of Uzbekistan states: "The same person cannot be President of the Republic of Uzbekistan for more than two consecutive terms," Article 120 of the Law of the Republic of Uzbekistan "On Local State Power" states: "The same person cannot be elected Chairman of the same regional, district, city Council of People's Deputies for more than two consecutive terms."

Regarding the second issue, the problems related to the quality of persons elected to the Constitutional Control Committee are related to the role of this committee in the system of state power and, on this basis, its need to solve special tasks in the system of public administration. Based on this, it should be recognized that since the main task of the Committee for Constitutional Control is to monitor the compliance of legal norms with the Constitution, then ensuring the solution of this task requires a highly qualified approach. In this case, such activities can be carried out by lawyers with relevant special, highly qualified knowledge and significant professional potential. Regarding the direct connection of this type of control with the legal profession, A.S. Avtonomov notes: "Specialized constitutional control is the most important and effective way to protect the supremacy of the Constitution by legal means"[8].

The application of such approaches to the formation of the body of constitutional control on this issue can be seen in the experience of many developed foreign democratic states.

For example, according to Article 159, paragraph 2 of the Constitution of the Kingdom of Spain, members of the Constitutional Court must be appointed from among judges and prosecutors, university professors, public administration officials, and lawyers; all of them must be lawyers whose powers are universally recognized and who have worked in their profession for more than fifteen years[9].

According to Article 135 (42) of the Constitution of the Italian Republic, judges of the Constitutional Court are elected from among judges, including pensioners, professors of higher general and administrative courts, law universities with twenty years of experience, and lawyers[10].

According to Article 111 of the Constitution of the Republic of Korea, the Constitutional Court consists of nine judges who meet the qualification requirements for court judges and are appointed by the President[11].

According to Article 80 of the Constitution of the Kyrgyz Republic, a citizen of the Kyrgyz Republic with higher legal education and at least 10 years of professional experience may be a judge of the Constitutional Court of the Kyrgyz Republic[12].

According to Article 103 of the Constitution of the Republic of Latvia, citizens of the Republic of Lithuania with high authority, higher legal education, and at least 10 years of legal or scientific-pedagogical work experience in a legal specialty were appointed as judges of the Constitutional Court.

Based on the experience of these foreign countries, it should be noted that it is necessary to clarify the procedure for the formation of the Committee for Constitutional Control of the Republic of Karakalpakstan. In this case, when selecting specialists for its composition, it is advisable to specify the representatives of the legal sphere. Representatives of such a legal field can become highly qualified specialists related to legal practice, as well as leading scientists of higher educational institutions.

Based on these analyses, it is advisable to replace the words "specialists in the field of law" in part 2 of Article 112 of the Constitution of the Republic of Karakalpakstan with the words "citizens with a high reputation, higher legal education and at least 10 years of legal or scientific and pedagogical work experience in the legal specialty."

CONCLUSION

Thus, as a result of the conducted research, it is necessary to state the relevant part of the above-mentioned article of the Constitution of the Republic of Karakalpakstan in the following wording: "The Committee of Constitutional Supervision is elected by the Jokargy Kenes of the Republic of Karakalpakstan from among specialists with high authority, higher legal education and at least 10 years of legal or scientific and pedagogical work experience in the legal specialty, consisting of the chairman of the Committee of Constitutional Supervision, his deputy, and members of the Committee. The term of office of persons elected to



the Committee of Constitutional Supervision is five years."

Based on this norm of the Constitution, such changes should be made to part 1 of Article 5 of the Law "On the Committee of Constitutional Control of the Republic of Karakalpakstan."

In turn, it should be especially noted that it is important to ensure the strength and stability of these legal provisions related to the structural composition of the Constitutional Oversight Committee. Here, to solve this task, it is advisable to give the special law "On the Committee of Constitutional Control of the Republic of Karakalpakstan" the status of a constitutional law. Accordingly, in such a case, it is necessary to simultaneously replace the word "law" in the version of part 6 (final part) of Article 113 of the Constitution with the words "constitutional law." As a result, it is advisable to state it in the following edition: "The organization of the Committee of Constitutional Control of the Republic of Karakalpakstan and the procedure for its work are determined by the Constitutional Law of the Republic of Karakalpakstan on Constitutional Control." Similar legal practice exists in the Republic of Uzbekistan, the Republic of Kazakhstan[13], and a number of other states, where the legal status of the Constitutional Court, which is the body exercising constitutional control, is determined by constitutional law.

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