

CAUSES OF CONFLICTS IN THE INTERACTION BETWEEN THE LEGISLATIVE AND EXECUTIVE BRANCHES OF UKRAINE

The article analyzes the causes of conflicts between the Legislative and Executive branches in Ukraine, reveals their factors, and considers technologies for preventing and resolving conflicts between the branches of government.

Having studied the reasons for the appearance of conflicts in the interaction between the Legislative and Executive powers in Ukraine, it should be pointed out that they exist on the surface of relations between these two branches of government. Therefore, the author believes that we cannot hope for the existing conflicts in Ukraine between the Legislative and Executive branches to be solved without deep and fundamental reforms in all spheres of public life.

Keywords: conflict, causes of conflicts, interaction between the Legislative and Executive powers, branches of government, public relations.

ПРИЧИНИ ПОЯВИ КОНФЛІКТІВ У ВЗАЄМОДІЇ МІЖ ЗАКОНОДАВЧОЮ ТА ВИКОНАВЧОЮ ВЛАДОЮ В УКРАЇНІ

У статті проаналізовано причини появи конфліктів між законодавчою та виконавчою владою в Україні, розкрито їх фактори та розглянуто технології попередження і вирішення конфліктних ситуацій між гілками влади.

Розглянувши причин появи конфліктів у взаємодії між законодавчою та виконавчою владою в Україні, варто вказати, що вони існують на поверхні відносин між цими двома гілками влади. Тому, авторка вважає, що не потрібно надіятись на розв'язування існуючих конфліктів в Україні між законодавчою та виконавчою владою без глибокого та корінного реформування в усіх сферах суспільного життя.

Ключові слова: конфлікт, причини появи конфліктів, взаємодія між законодавчою та виконавчою владою, гілки влади, суспільні відносини.

Problem statement. Today, in our country, the problem of conflict is included in more than one research direction. Conflict as a phenomenon exists in the research field of political science, public administration, sociology, history, pedagogy, philosophy, psychology, etc. Important role in the study of problems and causes of conflicts within the public authorities was played by the studies of functional conflict by L. Coser, R. Dahrendorf's concept of the conflict model of society, the general theory of conflict by K. Boulding, and the concept of the social conflict universality which is inherent in A. Touraine's post-industrial society, sociology of social conflicts by L. Kriesberg, conflict sociology by R. Collins, and E. Mayo's human relations approach. This approach to the conflict interaction between the government and the public is based on the approaches of all these authors to the foundations of society. However, this problem is not yet fully investigated, so we need to consider the main causes of conflicts between the Legislative and Executive branches in Ukraine more in-depth.

The relevance of the topic is due to the fact that conflicts in the interaction between the Legislative and Executive branches in Ukraine are quite frequent, so it is worth learning about the causes of conflict moments between the branches of government to eliminate or mitigate them.

Analysis of recent research and publications. Given the specifics of the study on the causes of conflicts between the Legislative and Executive power in Ukraine, there is a need to use a large number of theoretical materials, as well as articles and analytical studies.

The sources of conflicts between the Legislative and Executive branches, as well as factors and technologies for their prevention and resolution, are examined by a lot of foreign and Ukrainian scientists, among which we should mention the works of A. Bandurko, I. Vashchenko, N. Dovgan, O. Kravchenko, O. Zdravomyslova, O. Salienko, N. Fedchun, and others.

At the same time, a number of problems that require further analysis remain without the attention of researchers.

Presentation of the main research material. The interaction of the Legislative and Executive branches in a democratic legal state aims to spread the democratic rights, freedoms and influence of citizens to all spheres of public and state life. But if the system of interaction between the Legislative and Executive authorities is not effective, does not bring the expected results and does not perform the role of communication and dialogue, then conflicts or certain protest phenomena occur. However, such a social phenomenon as conflict accompanies humanity at all stages of existence and it is not possible to avoid it. But, in our opinion, the conflict between the Legislative and Executive power can also give positive results if we clearly recognize the reasons for its appearance.

However, conflicts between the branches of government should not only be resolved in a timely manner, but also prevented at the right time. At the highest state level, this is the function of the head of state as a guarantor of compliance with the Constitution, and at lower levels, such a restraining role can and should be carried out by the heads of regions, administrations, representative and judicial bodies, etc.

The presence of conflicts between the Legislative and Executive branches of government in Ukraine is due to a number of legal and social factors. The most significant, in our opinion, should include:

- transitional state of public relations;
- departure from one dominant ideology;
- departure from the leadership of one political party to a political and ideological diversity;
- the lack of significant experience in solving complex state-building issues by using consensus among government structures at the national and local levels;
- the gap between the procedural legal norms of the Constitution and the material;
- the lack of a sufficient set of organizational and legal mechanisms for resolving conflicts between various subjects of the legal and state relations;
- low level of political and legal culture of various segments of the population –and of representatives of the state apparatus in particular;
- the desire of the Legislative and Executive branches to obtain as much authority as possible;
- the interference of the Legislative branch with the competence of the Executive branch, and vice versa;
- contradictions in the legislation;
- poor legal regulation of public relations;
- violation of the Constitution provisions, laws and regulations by the subjects of legal state relations;
- different interpretations of the Constitution by the branches of government.

The technologies for preventing and resolving conflicts between the branches of government include systematic negotiations between the representatives of conflicting branches, document exchange, work of conciliation commissions, etc. Legal and political means of conflict resolution are intertwined and successfully complement each other. In particular, the political settlement of conflicts should end with the development and signing of documents that have legal force. At the same time, there is no single universal way to resolve conflicts, because, being an extremely complex phenomenon, conflicts require an integrated approach for their peaceful resolution.

We believe that the main cause of conflicts between the Legislative and Executive powers in Ukraine is the functional fragmentation of the system of the entire state apparatus, which is expressed in:

- the desire of the Legislative and Executive authorities to appropriate each other's functions;
- the overlapping of the management functions of these two state bodies;

- chronic inconsistency of the planning and budget financing processes;
- constant competition between the electoral and lobbying methods for representing mass and group interests.

Considering the activities of the Legislative and Executive authorities in Ukraine, it is worth analyzing the conflict phenomena that arose between them and suppressed the democratic development of the state. The Legislative and Executive branches each – have their own competence, an independent system of bodies, and are guided by the according legislation. However, in real life, the functions of the two branches of government sometimes overlap or enter into mutual contradictions, which causes a conflict with characteristic features.

Yes, conflict is a relationship between the subjects of social interaction, characterized by their confrontation based on opposing motives (needs, interests, goals, ideals, beliefs) or judgments (opinions, views, assessments, etc.).

Therefore, conflicts between the branches of government should always be resolved by legitimate, constitutional means. Violation of the Constitution is exactly what creates a conflict between the authorities. Even if the conflict between the branches of government was resolved by non-constitutional means, its conclusion must have a legal form. Moreover, there is no higher arbiter over the two branches of government than the sovereign people themselves. Therefore, the conflict in the sphere of power distribution can be considered and resolved either by the government itself or by the people – through a referendum or such a direct expression of will that is typical for revolutionary situations. In addition, a long-term conflict between the branches of government creates a political and social crisis in society and has a negative impact on different aspects of life. Therefore, the resolution of such a conflict requires quite a broad involvement of various political forces in the situation that has arisen.

Modern performance of the Legislative and Executive authorities in Ukraine shows that their mutual claims are mostly fair. Even though the legislative power was the one to lay the foundation for implementing fundamental reforms by adopting more than 500 laws, the pace of legislative work is far from meeting modern requirements. The quality and stability of the legislation, planning and organization of the legislative work face a lot of criticism. The scientific validity of laws is insufficient, there is no proper system of accounting for public opinion, and there are quite a few flaws in the use of legislative technology. The level of political and legal culture of many deputies prevents them from making extremely necessary compromise decisions and does not allow them to get rid of legal nihilism.

Significant shortcomings and deviations from the requirements of the laws are also inherent in the activities of the Executive power. Its work is affected by the fact that a single national Executive vertical from the President to the local administration has not yet been created. This creates a lack of clear distribution of powers between the Executive and Representative authorities in the field. There is no clear legislative regulation of relations between various centers of

the Executive power – the Office of the President, the Cabinet of Ministers, ministries, and local Executive bodies. State discipline is of low quality. It is necessary to strengthen the control over the activity of the Executive power, proper use of mechanisms of legal responsibility for violation of law and discipline.

In our opinion, to overcome the inherent shortcomings in the activity of both the Legislative and Executive authorities today, we need a clearer distinction between the Legislative and Executive branches of government, improvement in the quality of work of each of them. It is about overcoming the obvious interference of the branches of government into each other's sphere of competence and preventing the branches from going beyond their constitutional powers. It is necessary to eliminate the gap of the lack of a sufficiently detailed delineation and consolidation of measures of interaction between the Legislative and Executive branches of government, a system of their mutual checks and balances. A significant contribution to this was made through the adoption of a constitutional agreement between the Verkhovna Rada and the President of Ukraine.

Therefore, we believe that we should consider one of the controversial activities of the government of Ukraine during the years of its independence. In our opinion, the most conflicted is the government of Yulia Tymoshenko (both the first and the second). The first government of Y. Tymoshenko – the Government of Ukraine in the period from February 4 to September 8, 2005, approved after the Orange revolution. It should be noted that in this Cabinet of Tymoshenko-2005 there were no Ministers from the Yulia Tymoshenko Bloc (BYuT), except for Y. Tymoshenko herself. It is also worth noting that V. Yushchenko did not appoint a single head of the regional state administration from the BYuT party.

The main points that characterized the internal economic activity of the Cabinet of Ministers of Y. Tymoshenko were:

1. increase of salaries, pensions, and scholarships by one and a half to two times (in September-2005 compared to June-2004.);
2. fulfilling the pre-election promises of the President V. Yushchenko – the government increased the size of the “one-time allowance at the birth of a child” in 2005 by 12 times;
3. statements about the need for mass re-privatization of 3000 enterprises. In the end, the state re-gained control only over the largest metallurgical plant “Krivorozhstal”;
4. in April-May 2005, the so-called “gasoline, sugar, and meat crises” took place, when prices for sugar and gasoline rose by 30% -50% in 2-3 weeks. These “crises” had signs of a “price fixing” – the government of Y. Tymoshenko returned the prices to their previous levels in a month and a half (using mainly market methods – “market interventions”):
 - the “meat crisis” was caused by the fact that Y. Tymoshenko increased salaries and pensions by 1,5 times in the first months of her Premiership. This caused an increase in demand for meat – the government removed duties on meat import, speculative prices fell, but political opponents of Y. Tymoshenko – V. Yushchenko

and V. Yanukovych – continued to criticize the government of Y. Tymoshenko. At the same time, the government decided to significantly increase the production of poultry meat, as a result of the implementation of this program – in a few years Ukraine turned from an importer to an exporter of “chicken meat”;

- the “sugar and gasoline crises” had signs of “price fixing that led to a 30% -50% price jump”. The government organized the delivery of a batch of cane sugar and canceled duties on the import of petroleum products to Ukraine. And for a month or two, the prices had returned to the previous level. In addition, the “sugar crisis” was investigated by the Antimonopoly Committee, which (a whole year later, in April 2006) decided that the “sugar crisis” was a “conspiracy of monopolists”, and counted fines of more than \$20 billion on the perpetrators. It was during the “gasoline crisis” that V. Yushchenko, at a meeting of the National Security and Defense Council in May 2005, for the first time made a sharp remark to Y. Tymoshenko for “pressuring the gasoline wholesale distributors”.

On August 24 – the Independence Day of Ukraine – in his speech on the Maidan square, the President V. Yushchenko called the government of Y. Tymoshenko “the best”. However, two weeks later, on September 8, 2005, V. Yushchenko dismissed the Cabinet of Y. Tymoshenko due to the conflicts within the Executive branch of government. V. Yushchenko claimed that Y. Tymoshenko acted in the interests of certain business circles, saying, in particular, that the Government’s decision to re-privatize the Nikopol Ferroalloy plant “became the last straw that forced Yushchenko to dismiss the government”.

On September 13, 2005, President of Ukraine Viktor Yushchenko accused former Prime Minister Yulia Tymoshenko of betraying the ideals of the Maidan. In an interview with the Associated Press news agency, he said that when Y. Tymoshenko headed the UESU Company, she accumulated 8 billion hryvnias of debts and used the position of Prime Minister to get them written off.

Y. Tymoshenko’s second Premiership came during the global financial and economic crisis of 2008-2009, due to which her government had to overcome numerous non-standard challenges that threatened the collapse of the country’s economy. In addition, the government’s work was complicated by numerous provocations from the President V. Yushchenko and his team, as the government of Tymoshenko has repeatedly stated.

On December 18, 2008, Y. Tymoshenko for the first time accused the national Bank of Ukraine (NBU) of deliberate manipulation of the hryvnia, and the President V. Yushchenko – of collusion with the NBU leaders, which led to the fall of the national currency to the level of 8 hryvnia for 1 US dollar.

The gas crisis unfolded, during which V. Yushchenko took the position of protecting the corrupt intermediary “RosUkrEnergo”. Despite this factor and the pressure from the President, the crisis was overcome, and Y. Tymoshenko became V. Yushchenko’s first enemy.

On February 5, 2009, the Verkhovna Rada did not support the decision to dismiss the government of Y. Tymoshenko for the second time. On February 10, 2009, at a meeting of the National Security and Defense Council (NSDC), President V. Yushchenko sharply criticized Y. Tymoshenko and the economic policy of her government. The Prime Minister denied the accusations.

Despite the confrontation with the President, opposition, and most importantly – at the peak of the global economic crisis, Y. Tymoshenko managed to keep off the country's default.

Conclusion. Therefore, it is appropriate to note that the balance of powers of the Executive and Legislative authorities is, without a doubt, a key, but not decisive, circumstance that characterizes the observance of the principle of separation of powers in Ukraine. One of the most important issues of state construction in modern Ukraine is the differentiation of subjects of competence and powers between state authorities.

However, at the present stage of development of the Ukrainian state, the issue of solving the problem of political conflicts quickly, effectively and without harmful consequences for society is relevant. Therefore, overcoming political conflicts should be accompanied by further satisfaction of the interests of the conflicting parties and obtaining a progressive result for the entire society after the conflict situation.

Sources of literature

1. Бандурка А.М. (1997). *Конфликтология*. Харьков: УН-Г внутр. дел. 196 с.
2. Ващенко І.В. (2002). *Конфлікти: сучасний стан, проблеми та напрямки вирішення в органах внутрішніх справ*. Харків: ОВС. 256 с.
3. *Взаємодія законодавчої, виконавчої гілок влади та референдуму в системі народної влади*. URL: http://megalib.com.ua/content/1295_Vzaemodiya_zakonodavchoi_vikonavchoi_gilok_vladi_ta_referendymu_v_sistemi_narodovladdya.html
4. Довгань Н. (2004). *Технології врегулювання конфліктів у державному управлінні*. Київ: Вид-во НАДУ. С. 148-149.
5. *Допомога при народженні дитини (2001–2008)*. URL: http://zakona.net.ua/links12_5.htm
6. *За рік (червень до червня) номінальна зарплата в Україні зросла майже на 40%*. URL: http://www.mediaport.ua/news/ukraine/25700/za_god_nominalnaya_zarplata_v_ukraine_vyiroslo_pochti_na_40
7. Здравомыслов А.Г. (1996). *Социология конфликта: учеб. пособие*, Москва: АспектПресс. 317 с.
8. Кравченко О.П. (2004). *Погляд конфліктолога на онтогенез конфлікту*. Соціологічні дослідження, № 9, С. 103-112.
9. *Основні технології вирішення конфліктів*. URL: http://pidruchniki.com/78514/psihologiya/osnovni_tehnologiyi_virishennya_konfliktiv
10. *Печальные итоги*. URL: <http://www.dsnews.ua/policy/art21299.html>

11. *Природа і види конфліктів у сфері державного управління*. URL: http://pidruchniki.com/78497/psihologiya/priroda_vidi_konfliktiv_sferi_derzhavnogo_upravlinnya
12. *Регіони не змогли відправити Тимошенко у відставку*. URL: https://www.pravda.com.ua/news_print/2008/7/11/78676.htm
13. Салієнко О.О. (2015). *Природа та причини конфліктів між законодавчою та виконавчою владою в Україні*. Вісн. Нац. акад. держ. упр. при Президентові України, № 1, С. 94-100
14. *Скандальний брифінг Тимошенко: Президент покриває і заробляє на валютних спекуляціях*. URL: <https://www.pravda.com.ua/articles/2008/12/18/3642740>
15. *Тимошенко: всупереч президенту, ВР і опозиції ми не допустили дефолту*. URL: <https://tsn.ua/ukrayina/timoshenko-vsuperech-prezidentu-vr-i-opozitsiyi-mi-ne-dopustili-defoltu.html>
16. *Тимошенко може реприватизувати до 3000 підприємств, які покривав Кучма і Ко*. URL: <https://www.pravda.com.ua/rus/news/2005/02/16/4385734/>
17. Федчун Н.О. (2009). *Конфлікти в діяльності органів місцевого самоврядування: причини, шляхи розв'язання та прогнозування*: автореф. дис. канд. наук з держ. упр., Київ: Нац. акад. держ. упр. при Президентові України, 20 с.
18. *Характеристика конфлікту як соціального явища*. URL: <http://posibnyky.vntu.edu.ua/psihol/2rozd/24.htm>
19. *Ющенко і Тимошенко почубилися на РНБО, як кішка з собакою*. URL: <https://www.pravda.com.ua/articles/2009/02/10/3724698/>
20. *Ющенко: Тимошенко зловживала посадою*. URL: https://www.bbc.com/ukrainian/domestic/story/2005/09/printable/050913_yushchenko_ap.shtml

References

1. Bandurka A.M. (1997). *Konfliktologiya*. Kharkov: Un-t vnutren. del. 196 s.
2. Vashchenko IV. (2002). *Konflikty: suchasnystan, problemytanapriamyyikbvyrishennia v orbanakbvnutrishnikhsprav*. Kharkiv: OVS. 256 s.
3. *Vzaiemodiia zakonodavchoi, vykonavchoi hilok vlady ta referendumu v systemi narodovladdia*. URL: http://megalib.com.ua/content/1295_Vzaiemodiya_zakonodavchoi_vikonavchoi_gilok_vladi_ta_referendymy_v_sistemi_narodovladdya.html
4. Dovhan N. (2004). *Tekhnolohii vrehuliuvannia konfliktiv u derzhavnomu upravlinni*. Kyiv: Vyd-vo NADU. S.148-149.
5. *Dopomoha pry narodzhenni dytyny (2001–2008)*. URL: http://zakona.net.ua/links12_5.htm
6. *Za rik (cherven do chervnia) nominalna zarplata v Ukraini zrosla maizhe na 40%*. URL: http://www.mediaport.ua/news/ukraine/25700/za_god_nominalnaya_zarplata_v_ukraine_vyirosla_pochti_na_40
7. Zdravomyslov A.H. (1996). *Sotsiologiya konflikta: ucheb. posobie*, Moskva: AspektPress. 317 s.
8. Kravchenko O.P. (2004). *Pobliad konfliktoloha na ontosyntezi konfliktu*. Sotsiolohichnidoslidzhennia, № 9, S.103-112.

9. *Osnovnytekhmolohiiuvyrishenniakonfliktiv*. URL: http://pidruchniki.com/78514/psihologiya/osnovni_tehnologiyi_virishennya_konfliktiv
10. *Печальные итоги*. URL: <http://www.dsnews.ua/policy/art21299.html>
11. *Pryroda i vydy konfliktiv u sferi derzhavnoho upravlinnia*. URL: http://pidruchniki.com/78497/psihologiya/priroda_vidi_konfliktiv_sferi_derzhavnogo_upravlinnya
12. *Rehiony ne zmozhly vidpravyty Tymoshenko u vidstavku*. URL: https://www.pravda.com.ua/news_print/2008/7/11/78676.htm
13. Saliienko O.O. (2015). *Pryroda ta prychny konfliktiv mizh zakonodavchoiu ta vykonavchoiu vladoiu v Ukraini*. Visn. Nats. akad. derzh. upr. pryPrezydentoviUkrainy, № 1, S.94-100
14. *Skandalnyi bryfinh Tymoshenko: Prezydent pokryvaie i zarobliaie na valiutnykh spekulatsiakh*. URL: <https://www.pravda.com.ua/articles/2008/12/18/3642740>
15. *Tymoshenko: vsuperech prezidentu, VR i opozytii my ne dopustyly defoltu*. URL: <https://tsn.ua/ukrayina/tymoshenko-vsuperech-prezidentu-vr-i-opozitsiyi-mi-ne-dopustili-defoltu.html>
16. *Tymoshenko mozhe reprivatyzuvaty do 3000 pidpriemstv, yaki pokryvav Kuchma i Ko*. URL: <https://www.pravda.com.ua/rus/news/2005/02/16/4385734/>
17. Fedchun N.O. (2009). *Konflikty v diialnostiorhanivmistsevohosamovriaduvannia: prychny, sbliakhy rozviazanniataprobnozuvannia*: avtoref. dys. kand. nauk z derzh. upr., Kyiv: Nats. akad. derzh. upr. pryPrezydentoviUkrainy, 20 s.
18. *Kharakterystyka konfliktu yak sotsialnoho yavyshecha*. URL: <http://posibnyky.vntu.edu.ua/psihol/2rozd/24.htm>
19. *Iushchenko i Tymoshenko pochubylysia na RNBO, yak kishka z sobakoiu*. URL: <https://www.pravda.com.ua/articles/2009/02/10/3724698/>
20. *Iushchenko: Tymoshenko zlovzhyvala posadoiu*. URL: https://www.bbc.com/ukrainian/domestic/story/2005/09/printable/050913_yushchenko_ap.shtml