

UDC 342

THE ROLE of PARLIAMENT IN RESTRICTING HUMAN RIGHTS

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Summary. This article examines the important role Parliament and the Constitutional Court play in relation to issues connected with human rights restrictions.

Introduction. The relevance of the research topic is determined by the importance of the selected category. Human rights are the inalienable rights of every inhabitant of the planet regardless of their nationality, place of residence, gender, ethnicity, skin color, religion, language or any other signs. These rights include: the right to life and liberty, the right to freedom from slavery and torture, the right to freedom of opinion and its expression, the right to work and education. Restriction of human rights is the method of pressure that should be used only in cases of special importance. For example, when there is a need to ensure public order, national security or when public health protection is required, and so on.

Task formulation. Examine the role of Parliament in issues connected with human rights restrictions.

Methods of research. Analysis, synthesis, induction, systemic method, method of law interpretation, method of formal legal analysis and comparative legal method.

The purpose of the study is to examine the powers Parliament has in the issues connected with human rights restrictions.

The role of legislative bodies in issues connected with human rights restrictions in a number of countries, including the Republic of Belarus is great. According to the Constitution, it is the Parliament that is authorized to restrict human rights by issuing relevant laws.

Thus, in accordance with Part 1 of Article 23 of the Constitution, the concept of "law" should be interpreted as an act adopted by the Parliament as the highest legislative body of the country, and not as legislation in general [1]. Consequently, the state body that has the authority to restrict human rights is the Parliament of the Republic of Belarus. It follows that the restriction of human rights can only occur through the issuance of a law by Parliament.

For comparison, let us consider the institution of human rights restrictions existing in the Russian Federation. According to Part 3 of Article 55 of the Constitution of the Russian Federation: "The rights and freedoms of a person and a citizen may be restricted by federal law..." [2, Article 55]. However, in the provision of the Constitution of the Russian Federation it is more precisely stated what normative legal act regulates the sphere of human rights restrictions, and, accordingly the subject of law authorized to restrict human rights is more precisely established, since "federal law" is interpreted only as a normative legal act adopted by the Federal Assembly of the Russian Federation and does not lend itself to other interpretations, in contrast to the wording in the Constitution of the Republic of Belarus, where "law" can mistakenly be interpreted as legislation as a whole.

Another example. The Constitution of the Republic of Poland stipulates that restrictions on constitutional human rights are established by law, i.e. by a normative legal act adopted by the Sejm of the Republic of Poland [3, Article 31]. Having compared the provisions on the restriction of human rights existing in different Constitutions of European democratic states, using the specific examples of the Republic of Poland and the Russian Federation, we came to the conclusion that in European democratic states the subjects of law with the power to restrict human rights are the highest legislative bodies as well as in the Republic of Belarus, respectively, the Republic of Belarus complies with generally accepted democratic standards that relate to subjects of law with the power to restrict human rights.

A number of constitutional rights in the Republic of Belarus are restricted at the level of parliamentary laws. For example, the Law of the Republic of Belarus "On Information, Informatization and Information Protection" establishes restrictions on the use of information; the Law of the Republic of Belarus "On the Legal Status of Foreign Citizens" restricts the right to freedom of movement, etc. These restrictions on constitutional rights are permanent.

We should also mention the resolutions of the Council of Ministers of the Republic of Belarus, which are issued under the law for the implementation of those very laws in the field of human rights restrictions. For example, the Resolution of the Council of Ministers of the Republic of Belarus No. 208 "On the introduction of a restrictive measure" [4], which was issued under Part five of Article 23 of the Law of the Republic of Belarus No. 340-3 "On the sanitary and epidemiological welfare of the population" [5, Article 23]. The adoption of this resolution is dictated by the current complex epidemiological situation. This is a sort of restrictions on human rights "on the basis and for the implementation of the law". At the same time, the adoption of an act that restricts

constitutional rights is weaker in legal force than the main one that establishes them and in general does not correspond to the constitutional doctrine, but corresponds to the goals in the field of restrictions on human rights. It should be noted that in the modern period, the role of Constitutional courts in issues connected with human rights restrictions is great.

At the same time, law enforcement practice shows that it is possible to work in two directions.

First, Constitutional courts through the exercise of their powers can create precedents for the abolition or clarification of human rights restrictions, for example, with the help of such power as the right to interpret constitutional and legal norms. The states in which the Constitutional Court has the power to interpret the Constitution are the Russian Federation, Ukraine, and Hungary. The removal of restrictions in the activities of the Constitutional courts is also possible through the implementation of the procedure of subsequent constitutional control on the recognition of a normative legal act that does not comply with the Constitution. For example, the Constitutional Court in Ukraine has declared unconstitutional certain provisions of the Cabinet of Ministers' resolution on the establishment of quarantine restrictions in Ukraine in connection with the coronavirus epidemic.

Secondly, in some states, the Constitutional court may restrict human rights and freedoms by revoking previously adopted legal acts. An example of this is the constitutional practice in the Republic of Poland, when the Constitutional Tribunal of the Republic of Poland declared unconstitutional the provision of the Abortion Act of 1993, which allowed termination of pregnancy in case of serious and irreversible disability of the fetus or its incurable disease. In this regard, it declared abortion illegal in almost all cases, including severe and irreversible disabilities, as well as life-threatening diseases of the fetus. Abortion became possible only in two cases: if there was a rape, and if the life and health of the woman was at risk. Thus, a woman's right to an abortion was restricted.

Conclusion. Thus, the role of Parliament in restricting human rights is crucial, since the law being an act of the legislative body can restrict human rights in exceptional cases. Restrictions on constitutional rights in parliamentary acts are permanent and apply until the relevant laws are abolished. As a result of the study, it is pointed out that the Belarusian practice of restricting human rights through the adoption of an act that is less legally valid than the main one that establishes rights (for example, at the level of the Resolution of the Council of Ministers). In the modern period the law enforcement practice of the constitutional courts is of particular importance in the field of human rights restrictions. At the same time, two directions can be distinguished: a) in the activities of the Constitutional courts, through the interpretation of constitutional norms, restrictions on human rights can be both introduced and abolished; b) in the implementation of subsequent constitutional control, a number of restrictions on human rights previously established can be removed.

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