

**Iurynets J.L.**

*Doctor of Law, Associate Professor,  
Professor of the Department of Constitutional and Administrative Law*

**Verbytska A.**

*Student of the Educational-Scientific Law Institute  
Of National Aviation University*

## **CONSTITUTIONAL AND LEGAL STATUS OF THE CABINET OF MINISTERS OF UKRAINE**

Nowadays, the question of the constitutional and legal status of the Cabinet of Ministers of Ukraine is considered to be one of the most acute problems of the political and organizational character in Ukraine. In accordance with paragraph 1 of Article 113 of the Constitution of Ukraine, the Cabinet of Ministers is a collegial body of general competence that manages executive and administrative activities in the state and has the status of a higher authority in the system of executive bodies. The study of the constitutional and legal status of the Government of Ukraine provides the analysis of the structure of this concept and the definition of the content of its elements.

The constitutional and legal status of the Cabinet of Ministers of Ukraine as the Government of Ukraine determines its two main functions: - management and guidance of executive and regulatory activities in various spheres of the state life; - directing and coordinating the activities of the executive bodies, monitoring their activities.

Describing the place of the Cabinet of Ministers of Ukraine in the constitutional system of state authorities, it is necessary to highlight the most significant features and peculiarities of the Cabinet of Ministers of Ukraine:

1) in accordance with the Constitution of Ukraine, the Cabinet of Ministers of Ukraine is the supreme body in the system of executive bodies. From this constitutional provision we can see that the government manages the executive authorities, while ensuring the unification, coordination and coherence of their activities;

2) The Cabinet of Ministers of Ukraine is a national executive body of general competence, its activity extends over the whole territory of Ukraine, and the competence covers almost all the most important issues, classified according to the

principle of separation of powers. By the nature of competence in the system of executive bodies there are no more bodies similar to the government;

3) The Cabinet of Ministers of Ukraine is a collegial body of executive power, that acts in the system of the collegial decision-making. The Cabinet of Ministers of Ukraine in accordance with Part 1 of Article 114 of the Constitution of Ukraine includes: Prime Minister of Ukraine, First Vice Prime Minister, Vice Prime Ministers, Ministers.

In Ukraine, the President appoints the members of the Cabinet of Ministers, the heads of other central executive bodies, and also the heads of local state administrations of executive power on a proposal of the Prime Minister of Ukraine, in accordance with parts 10 and 15 of Art. 106 of the Constitution of Ukraine [1, p.106].

One of the peculiarities of the parliamentary-presidential republic of Ukraine lies in the limited powers of the government in the legislative process, which distinguishes it from other countries. Accordingly, the Government of Ukraine has a weak influence on the legislative process and the adoption of legislative decisions (the lawmaking initiative of the Prime Minister is not provided with a set of legal measures) [3].

According to V.B. Averyanov, the peculiarity of executive power among the branches of state power lies in the fact that in the process of its realization there is a real implementation of the laws and other normative acts of the state, the practical application of the instruments of state regulation and management of important processes of social development. The scientific discussion regarding the recognition of the legal status of "bodies of state administration" or "bodies of state power" by executive bodies in Ukraine loses its relevance, since in the current political realms the Cabinet of Ministers of Ukraine is primarily a political body of state executive power [4].

As Martselyak O. correctly pointed out, the constitutionally-legal consolidation of the rights and obligations of the subjects of legal relations does not guarantee their automatic execution, observance. Therefore, also should be the guarantees of the realization of these rights and obligations. Many leading scholars have recognized the guarantees as an important element of the constitutional and legal status of the subject. Probably the most significant guarantee of the constitutional and legal status of the executive body of Ukraine, which, in turn, determines the existence of other guarantees, is the constitutional and legal system of checks and balances [5, p. 92].

Avakyan S.A., Syrota A.I. and Gadilshina Z.I. include forms of realization of the most important rights and obligations to the elements of the constitutional and legal status of the Government of Ukraine [5, p. 93]. Frytsky Yu.O. emphasizes the existence of a legal form, through which the executive authorities exercise their functions and competence [6, p. 263]. According to Chikurliya SO, an important element of the structure of the constitutional and legal status of the executive body of Ukraine are the forms of its activities [5, p. 86].

The resolution of the problems related to the formation and activity of the executive authorities in general and the Cabinet of Ministers of Ukraine is an urgent need of the society. The fact that in Ukraine the composition of the Cabinet of Ministers is changed almost every year points to the governmental crisis. Extension of the legislative framework and, in particular, the adoption of the Law "On the Cabinet of Ministers of Ukraine" led to controversial statements by politicians and lawyers. Many of them mention that in Ukraine there is an overthrow of power towards the government [2].

Comparing the long-term nature of the formation of the branches of power in Ukraine, one can conclude that, unlike the legislative and judicial authorities, which are only undergoing the process of formation, the executive branch is well developed. This is due to the fact that the organization and activities of this power are based on the principles of social governance which are common in any country.

Based on the foregoing, we can make a conclusion that the regulation of relations between the Cabinet of Ministers of Ukraine and other branches of government is a long-term process, first of all because numerous internal contradictions and inconsistencies reduce the regulatory influence of legislation on social relations and lead to frequent changes. Though, the problems of the interaction of executive power with other branches of power destabilize the existing system of "checks and balances", which impedes the establishment of a rule-of-law and civil society in Ukraine.

#### Literature

1. The Constitution of Ukraine of June 28, 1996 Adopted at the 5th session of the Verkhovna Rada of Ukraine with amendments and supplements // Bulletin of the Verkhovna Rada of Ukraine. - 2005, No. 3 - Art.106

2. The Law of Ukraine "On the Cabinet of Ministers of Ukraine" of February 27, 2014: <http://zakon.rada.gov.ua/laws/show/794-18>
3. Tkach G. I., Martyanov I. V. State executive power in Ukraine. // Visnyk of Lviv University. - 1994. - Vip. 31. - p.98
4. Pogorilko VF Constitutional Law of Ukraine: Textbook / VF Pogorilko, VL Fedorenko; per community Ed. V. L. Fedorenko. - K.: Alerta; CST; Center for Educational Literature, 2010. - Art. 504
5. Chikurliy S.O. Constitutional and legal status of executive bodies of Ukraine: diss. ... candidate legal. Sciences: 12.00.02 / Chikkulliy Sergey Alexandrovich. - K., 2008
6. Frytsky Yu.O. State power in Ukraine: formation, organization, functioning: [monograph] / Yuriy Oryanovich Frytsky. - D .: Dnipropetrovsk state united-in cases; Lira Ltd, 2006.