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Functional Interaction between Public Bodies: Experience of Central Africa Countries

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Abstract---This paper examines the constitutional approaches accepted in the Central African countries regarding the formalization of interaction between the chambers of parliaments. The study found that all constitutional texts of the considered group of countries as a universal (typical) form of interaction between the chambers of parliament consolidate the adoption of legislative acts; joint meetings (on the taking of their oath by the heads of states or members of the Constitutional Court, making a decision on the introduction of a state of emergency or siege in the country, dismissing the head of state, appointing officials, etc.); the formation of joint commissions and supreme bodies of state power, and the appointment of officials. It was noted that despite the "constitutional equality" of the chambers in terms of introducing bills, financial bills are submitted exclusively to the lower chamber of parliament. The ratification of international treaties by the chambers of parliament (Gabon, Congo) is classified as an atypical (specific) form of interaction between the chambers of parliaments.

Keywords---atypical forms, chambers parliament, constitution, countries Central Africa, interaction.

Introduction

The identification of constitutional kinds for communication and interaction among the chambers of parliament is primarily due to the fact that it acts as a single body imperatively authorized not only to adopt legislative acts on behalf of the state but also to participate in the implementation of various functions of the latter (control, international, personnel, security, etc.). Such a constitutional prerogative of a parliament determines the interest in its study, especially in the course of considering the activities of bicameral parliaments - since only thanks to the interaction between both chambers, first of all, the legislative power in the state is realized. As an example, it is possible to cite the provisions of Art. 35, the Constitution of Gabon (Khabrieva, 2020): "Legislative power is represented by Parliament comprising two chambers: The National Assembly and the Senate." Similar formulations are enshrined in Art. 100, the Constitution of the Democratic Republic of the Congo (Khabrieva, 2020): "The legislative branch consists of the Parliament, which consists of two chambers: The National Assembly and the Senate"; Art. 107, the Constitution of the Congo (Khabrieva, 2020), says that: "Parliament consists of two chambers: The National Assembly and the Senate. Parliament exercises legislative power, as well as powers to control the activities of the Government"; Art. 55, the Constitution of Equatorial Guinea (Khabrieva, 2020), establishes: "Parliament belongs to the legislative power of the state. It consists of two Chambers: The Chamber of Deputies and the Senate." It is worth noting that in all constitutional texts of the studied group of countries, the "lower chamber" is named the "first chamber" of parliament. We believe that such constitutional wording indicates its status priority in the activities of the parliament.

It is worth mentioning that the constitutional texts of the studied group of countries with a bicameral structure of parliament provide for various forms of cooperation between the chambers (Nikonova et al., 2017). In the legal doctrine, the problems concerning the parliaments of African countries were developed in connection with the study of women's representation in parliaments (Bauer, 2012; Enaifoghe, 2019), in the context of consideration of regional parliamentary bodies of Africa (Jancic, 2019), and their influence on the basis of state policy in the field of gender equality (Nijzink et al., 2006), in the course of the analysis of decisions taken by African parliaments (Ertan, 2020), in the analysis of democratic foundations (Blaser Mapitsa et al., 2020). Note that a separate study related to identifying the interaction forms among the chambers of parliament in Central Africa has not been carried out. Filling the gap in the doctrinal aspect, we believe it is vital to examine the constitutional acts of the nations in Central Africa to identify the interaction forms among the chambers of parliaments.

Methodology

To accomplish the aim of the study, the present article is utilized several general scientific strategies and techniques of scientific cognition (formal-logical, induction, approaches analysis, deduction, synthesis, as well as system-structural). Amongst the latter are comparative legal, formal legal, and linguistic and legal employed to investigate the Central African nations' constitutional texts

to regulate the interaction forms among chambers of parliaments in them (Dzybova et al., 2018; Minasyan et al., 2019).

Results and Discussion

The doctrinal interest of the study is represented by the analysis of the constitutional texts of 4 countries from Central Africa (Gabon, Democratic Republic of the Congo, Congo, and Equatorial Guinea) with a bicameral parliament. The named group of countries was formed on the basis of data obtained on the United Nations website (<https://unstats.un.org>) (out of 9 Central African countries presented on the website, only 4 have a bicameral parliament). We believe that an analysis of the constitutional texts of Central African countries will make it possible to identify both typical (universal) interaction forms among chambers of parliaments (this assumption is determined both by the common geographic space and the period of adoption of constitutions: all constitutions were adopted after 1990), and atypical (Fatikhova & Ziiatdinova, 2021; Diachenko et al., 2021).

In the course of analysing the four constitutions of the Central African region, we identified two groups of interaction forms among the chambers of parliaments: typical (universal) and atypical (specific). The development and adoption of legislative acts are one of the universal forms of cooperation between the chambers of parliaments of Central African states. So, Art. 36, the Constitution of Gabon enshrines the right of Parliament (based on the context of the constitutional act, we are talking about two chambers) "to vote for laws." It was noted that "Any bill ... is consistently considered in both chambers of Parliament." It should be noted that constitutional roles regarding the submission of a bill to a particular chamber have not been established. This approach of the legislator is also shared by other parliaments under consideration (for example, Article 130, the Constitution of the Democratic Republic of the Congo, Article 147, the Constitution of the Congo). The only exceptions are financial bills (Article 54, the Constitution of Gabon) (Heald & Steel, 2018; Cannon & Grossfield, 1979).

Similar formulations regarding the consolidation of the powers of the parliament during the adoption of laws are contained in other constitutional acts of the focus group of countries under study. So, Art. 100, the Constitution of the Democratic Republic of Congo reflects that "Parliament adopts laws"; Art. 124, the Constitution of the Congo has enshrined: "Parliament adopts only laws"; Art. 55, the Constitution of Equatorial Guinea formalizes: "Both bodies participate in the development of laws." It should be emphasized that in all constitutional acts the right of legislative initiative is addressed exclusively to the Government of the state and members of parliament (article 53, the Constitution of Gabon, article 130, the Constitution of the Democratic Republic of the Congo, article 143, the Constitution of the Congo). The exception is Equatorial Guinea (article 68, the Constitution) where in addition to deputies and senators, the right of legislative initiative belongs to the head of state. At the same time, the constitution reflects that the implementation of this power by the President is possible only if he/she represents the Council of Ministers. Note that this approach of the legislator in terms of reflecting the subject composition of persons who have the right to

initiate legislation is not traditional for most European and CIS countries (Benesch et al., 2018; Mondada, 2009; Anike et al., 2017).

The study also systematized some of the universal interaction forms among the parliament chambers arising from the adoption of legislative acts. These include, for example, the adoption of a law in an identical version (Article 58a, the Constitution of Gabon, Article 135, the Constitution of the Democratic Republic of the Congo), approval of the state budget (Article 48, the Constitution of Gabon, Article 126 of the Democratic Republic of the Congo, Article 124, the Constitution of Congo, Article 70, the Constitution of Equatorial Guinea), resolution of disagreements regarding an adopted bill through the formation of a mixed commission (Article 58a, the Constitution of Gabon, Article 113 of the Democratic Republic of the Congo, Article 148 and Article 150, the Constitution of the Congo). It seems necessary to comment on the last-named form of interaction between the chambers of parliament, i.e. the formation of mixed commissions (conciliation commissions) (Saia, 2018; Ilie, 2010; Berryter, 2019). These commissions are formed both by the initiative of the Prime Minister (Gabon, Congo) and by the initiative of the chambers of parliament (Democratic Republic of the Congo) in the event of disagreements between the chambers during the adoption of laws. Mixed commissions are created from parliamentarians of both chambers of parliament, the result of which is the development of a single text of the bill. The Gabonese Constitution enshrined the provision that in case of impossibility of adopting a joint text, the "final decision" is made by the National Assembly. Analysis of this form of cooperation between states made it possible to establish the reasons for their implementation, including:

- Ceremonial (participation in the procedure for taking oath by the head of state (Art. 12, the Constitution of Gabon, Art. 77, the Constitution of the Congo, Art. Art. 37, 45, the Constitution of Equatorial Guinea) or by members, the Constitutional Court (Art. 90, the Constitution of Gabon)). We believe it necessary to emphasize that the Constitution of Equatorial Guinea establishes the provision on the formation of the "Honour Council" (consists of members representing the Bureau of the parliament's Chambers, the Supreme Court and the Constitutional Tribunal), which is necessary for the inauguration of the President. This approach is not widespread in the practice of constitutional formalization of both African countries and countries of the European and Asian regions;
- Hearing messages from the head of state (Article 24, the Constitution of Gabon, Part 3, Article 119, the Constitution of the Democratic Republic of the Congo, Article 94, the Constitution of the Congo);
- Participation of the chambers of parliament in bringing charges against the head of state (Article 166, the Constitution of the Democratic Republic of the Congo, Article 95, the Constitution of the Congo) and the Prime Minister (Article 166, the Constitution of the Democratic Republic of the Congo);
- Ratification of the appointment of the Vice-President (Article 33, the Constitution of Equatorial Guinea);
- Revision, the Constitution (part 1, article 119, the Constitution of the Democratic Republic of the Congo);
- approval of the decision of the head of state regarding the introduction of a state of emergency or special state (part 2, Article 119, the Constitution of

the Democratic Republic of the Congo), the extension of a state of emergency or state of siege in the country (article 157, the Constitution of the Congo), as well as the declaration of war (part 2, Article 119 Constitution of the Democratic Republic of the Congo and Article 156, the Constitution of the Congo);

- the appointment of members of the relevant authorities (for example, members of the Constitutional Court - Art. 158, the Constitution of the Democratic Republic of the Congo).

The consolidated powers of the chambers of parliaments of Central African countries are reduced to the formation of government bodies and the appointment of officials. Thus, the chambers of parliament participate in the appointment of members of the High Court (article 80, the Constitution of Gabon), the Constitutional Court (article 89, the Constitution of Gabon, article 158, the Constitution of the Democratic Republic of the Congo, article 182, the Constitution of the Congo), the National Council of Communications (article 113, the Constitution Gabon), Public Defender (Article 123, the Constitution of Equatorial Guinea). The joint powers of the parliament's chambers for the formation of individual government bodies, for example, the High Chamber of Justice in the Congo (article 191 of the Constitution), a mixed commission for interaction with the Public Defender in Equatorial Guinea (article 124 of the Constitution), as well as permanent and special commissions ([Leeson, 2011](#); [Ben-Bassat & Dahan, 2008](#)).

A typical form of interaction between the chambers of parliament is "consultations" by the chambers with the President on issues of state importance. Among the reasons for giving consultations is the dissolution of the lower chamber of parliament (Art. 19, the Constitution of Gabon, Art. 148, the Constitution of the Democratic Republic of the Congo, Art. 162, the Constitution of the Congo); clarification of issues submitted to the referendum (Article 59, the Constitution of Equatorial Guinea); threat to territorial integrity (Article 93, the Constitution of the Congo); the introduction of a state of emergency or siege in the country (Article 25, the Constitution of Gabon).

The investigation of the constitutional tests of this group of nations facilitated identifying the ratification of international treaties as an atypical (specific) form of communication among the chambers ([Arnawa et al., 2019](#); [Hadi et al., 2018](#)). Despite the traditional constitutional consolidation of the targeting concerning the named powers to both chambers of parliament, the Central African region went its own way with regard to the formalization of this right. So, according to the constitutional provisions stipulated by Art. 113 (Gabon), international treaties are ratified by the President after their approval by the chambers of parliament. It was also noted that the Chairpersons of the Chambers, together with the Head of State, are notified of any negotiations "aimed at concluding an international agreement that is not subject to ratification." Similar powers are reflected in Art. 217, the Constitution of the Congo, which enshrines a list of treaties subject to mandatory parliamentary approval. Among others, issues related to peace, defence, and also the territory of the state are regulated by the document ([Luzardo et al., 2014](#); [Blom et al., 2004](#)).

Conclusion

The texts examination from the constitutions of Central African nations with a bicameral parliament structure assisted in identifying typical (universal) and atypical (specific) forms of communication among the chambers of parliament. Typical forms of this interaction are: the adoption of laws, including the state budget; joint meetings of the chambers of parliament on hearing messages from the head of state (Gabon, Democratic Republic of the Congo, Congo), participation of the chambers of parliament in indictments of the head of state (Democratic Republic of the Congo, Congo) and the Prime Minister (Democratic Republic of the Congo), ratification of the appointment of the Vice President (Equatorial Guinea), revising the Constitution (Democratic Republic of the Congo), approving a decision by the head of state to declare a state of emergency or special state (Democratic Republic of the Congo), prolonging a state of emergency or state of siege in the country (Congo), declaring war (Democratic Republic of the Congo and Congo), appointment of members of the Constitutional Court (Democratic Republic of the Congo); formation of authorities and appointment of officials (Gabon, Democratic Republic of the Congo, Congo, Equatorial Guinea); consultations of the Chambers of parliament (Gabon, Congo, Equatorial Guinea). An atypical form of interaction between the chambers of parliaments of the countries from the Central African region is the ratification of international treaties (Gabon, Congo).

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