



Parliamentary Control and Investigative Commissions: Comparative View

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Abstract

The Constitution of the Republic of Albania in its basic principles defines that sovereignty belongs to the people, to all citizens. The people exercise their sovereignty in the ways and within the limits provided by the Constitution itself. One of the most important ways of expressing popular sovereignty is the election of members of the Assembly. So, citizens participate in the governance of Res Publica through their representatives. Parliament structurally consists of one chamber and is a central institution in our constitutional system. In addition to the representative function, it performs the legislative function and the control function. Parliamentary control over the Government is concretized in several institutions of parliamentary law and aims to highlight its political responsibility towards the Assembly. For the sake of truth, it should be emphasized that it makes sense to talk about parliamentary control only for the period of political pluralism because before this period the Parliament executed the party-State directives. The government, in parliamentary republics, answers to the Parliament for its activity because it is inextricably linked to the vote of confidence it receives from it. One of the most important tools to oversee the Government's activity is the establishment of Investigative Commissions. These Commissions aim to guarantee the transparency and responsibility of the activity of the Government supported by the parliamentary majority.

Keywords: Parliament, parliamentary control, Government, parliamentary interpellation, investigative commission

1. Introduction

The separation of powers and the balance between them, provided for by the Supreme Law of the Republic of Albania,¹ is one of the main principles of the rule of law. The principle of separation of powers constitutes one of the basic pillars of any democracy in order to control and balance the branches of power. The controlling function of Parliament is a very important element of the principle of separation and balance between powers. We emphasize that the legislation in force does not directly define the concept of parliamentary control. The definition of this very important concept, in parliamentary republics, can be found in the jurisprudence of the Constitutional Court. According to constitutional practice, parliamentary control means the right of the legislative power to be informed and to carry out supervision regarding the implementation of laws by public authorities in order to take the necessary measures for the prevention of

¹ Neni 7, Kushtetuta e Republikës së Shqipërisë, parashikon se: Sistemi i qeverisjes në Republikën e Shqipërisë bazohet në ndarjen dhe balancimin ndërmjet pushteteve ligjvënës, ekzekutiv dhe gjyqësor.

illegality as well as the issuing of responsibilities, according to specific cases.²

Parliamentary control is realized through an administration that accounts, reports and answers for its activity. Through this control, the parliamentarians have the right to be informed about the power administration issues and the implementation of laws, or about certain issues, the knowledge of which is considered necessary for the realization of their goals and duties, but always within the framework of the constitutional function. In a democratic society, this opportunity given to deputies derives from the people's right to know what is being done in their name. Therefore, parliamentary control is also exercised in the context of the constitutional right of every citizen to receive the necessary information³ regarding issues related to the public interest. The bodies of public power that are subject to parliamentary control, by transmitting facts and data to the representatives of the people, simultaneously fulfill the constitutional obligation to be transparent in relation to the public.⁴ Parliamentary control aims to detect and prevent government abuses, to hold the government accountable for the management of public finances in order to improve the efficiency of public spending, to supervise the policies programmed by the government, and to make the government's activities transparent in order to strengthen the trust of society against the rule of law.⁵

Parliamentary control in the Republic of Albania has begun to be realized with objectivity in the period of political pluralism because before this period we can say without any doubt that the Parliament executed the directives of the party-state. With the affirmation of the political parties, the Parliament is divided into a majority and a political minority. In majoritarian parliamentarism, the opposition criticizes and opposes the actions of the Government, and if it is almost impossible to remove it, because the parliamentary majority supports the Government, it uses control instruments to make its critical activity more public and influential in order to create conditions in rather than being alternated in the subsequent elections.⁶

On the other hand, if there is no real difference of roles between the parliamentary majority and the minority, as happens in compromise parliamentarism,⁷ the instruments of parliamentary control are suitable for other uses that have nothing to do with the political accountability of the government. In general, governments supported by the parliamentary majority try to limit the power of the opposition to control their activity. The main reason for sabotaging parliamentary control lies in the fact that Governments do not want to be exposed to the mismanagement of the *res publica* and to divide power further.

Another reason why governments sabotage control lies in the fact that parties in power do not want to see their power to implement their policies weaken.⁸ Usually, the Constitutions and Regulations of the parliaments are the acts that determine the means at the disposal of the Parliament to exercise the function of control. The Constitution and the Regulations of the Assembly of the Republic of Albania determine the instruments that the parliament has to exercise the controlling function. These instruments are: questions, interpellations, motions, control by the permanent committees of the Assembly, reporting to the Assembly, petitions and investigative commissions.

2. Legal and Doctrinal Aspects of the Parliament's Instruments to Exercise the Controlling Function

a. Question

The Constitution stipulates that the Prime Minister and every other member of the Council of Ministers is obliged to answer... the questions of the deputies within three weeks.⁹ The institute of questions serves the deputies, as

² *Shih vendimin nr.18, datë 14.05.2003 të Gjykatës Kushtetuese të RSH me objekt interpretimin e nenit 77/2 të Kushtetutës së Republikës së Shqipërisë.*

³ *The right to information is a fundamental human right and represents one of the most important rights for the functioning of democracy in the country. This right aims to protect the general interest in informing the public and presupposes that in a democratic state the activities of the rulers should be made public.*

⁴ *Shih vendimin nr.18, datë 14.05.2003 të Gjykatës Kushtetuese të RSH me objekt interpretimin e nenit 77/2 të Kushtetutës së Republikës së Shqipërisë.*

⁵ *Temistocle Martines, Diritto Costituzionale, Giufre Editore, Milano, 1997, fq.225-226*

⁶ *Bin, R. Ragionevolezza e divisione dei poteri, në La ragionevolezza nel diritto, a cura di M. La Torre e A. Spadaro, Torino, Giappichelli, 2002, 212-213*

⁷ *Compromise parliamentarism occurs in a multipolar system where the parliamentary procedure is arranged in such a way as to favor a compromise between the majority and the minority. So, there is a lack of a real opposition and the Parliament is the place to seek compromise. It should be noted that compromise parliamentarism is provided for in some provisions of the current Constitution, especially regarding the approval of laws by qualified majority and the appointments of some constitutional and legal institutions.*

⁸ *Bin Pitruzela, Diritto Costituzionale, Giufre Editore, Milano, 2003, fq.212-213*

⁹ *Neni 80, Kushtetuta e Republikës së Shqipërisë.*

representatives of the sovereignty of the people, to receive information on certain issues from the Prime Minister or the members of the Council of Ministers. The questions, in written and clear form, are first presented to the Speaker of the Assembly, who notifies the competent member of the Council of Ministers to whom the question is addressed.¹⁰ As for the answers to questions from the Prime Minister, the Deputy Prime Minister and any other member of the Council of Ministers, they can give them in the plenary session or in the competent permanent committee.

But in this case it should be emphasized that the place and form of giving the answer is decided by the deputy who asked the question and it is not left to the discretion of the subjects to whom the question was addressed. The regulation of the Assembly provides, in accordance with the constitutional provision, a deadline of three weeks for giving answers in the plenary session from the date of submission of the questions and a deadline of 10 working days from the date of their submission to the committee.¹¹ Regarding the written answers to the questions, we underline that the Rules of the Assembly have provided for a different arrangement compared to the giving of answers to oral questions. More specifically, if a deputy requests a written answer to the question, he addresses the competent member of the Council of Ministers, who must respond within 10 working days from the date of receipt of the request. The MP's request is forwarded within 2 days to the relevant institution. If there is no answer in the specified time, the Speaker of the Assembly, at the request of the deputy, includes the answer as the first item on the agenda of the meeting of the permanent committee that is related to the object of the question.¹² If giving the answer is not included as the first item on the agenda of the committee meeting, the deputy has the right to request a debate on the issue or to request additional information. The member of the Council of Ministers/General Secretary of the Council of Ministers sends the additional information within 10 working days from the submission of the request by the deputy.¹³ Unlike the regulations of the Assembly of the Republic of Albania, the Regulations of the Chamber of Deputies and the Chamber of the Senate in the Republic of Italy determine that it is at the discretion of the Government to answer questions. Therefore, the Government has the right to declare to the Assembly, stating the reasons, that it cannot answer or that it must postpone the answer to another specific day.¹⁴

b. Interpellations

The Basic Law of the Republic of Albania defines that the Prime Minister and every other member of the Council of Ministers is obliged to respond to interpellations...within three weeks.¹⁵ In the interpellation, the interpellator requests in writing the Prime Minister, the Deputy Prime Minister or any other member of the Council of Ministers, to receive explanations about the motives, intentions and attitude of the Council of Ministers or regarding important aspects of their activity.¹⁶ As can be seen, the object of the question is the truth of certain issues, while the object of the interpellation is to know the position or the political intentions of the Council of Ministers in relation to a fact or an issue of its activity. As in the case of questions, the interpellation is presented to the President of the Assembly, and the latter immediately informs the member of the Council of Ministers, to whom the request for interpellation is addressed. Unlike questions, interpellation can be requested by any MP, group of MPs or parliamentary group, and can only be conducted in a plenary session, as a rule, on the three following Mondays from the date of presentation.¹⁷

The questions and interpellations in question are developed according to a precise adversarial relationship between the parliament and the government, the time of which is determined by the parliamentary regulations.¹⁸ The Regulation of the Assembly, in addition to the traditional interpellations, also provides for the interpellations for urgent matters, which have a faster procedure for holding them. In this case, a chairman of the parliamentary group or 7 deputies have the right to request interpellation for urgent issues. Each parliamentary group leader may request no more

¹⁰ Neni 90, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

¹¹ Neni 92-93, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

¹² Neni 94, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

¹³ Po aty

¹⁴ Neni 149/3, Regolamentoo del Senato della Repubblica Italiana,

¹⁵ Neni 80, Kushtetuta e Republikës së Shqipërisë.

¹⁶ Neni 96/1, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

¹⁷ Po aty.

¹⁸ Regarding the questions, Article 92, paragraph three, provides that: The Prime Minister answers the question asked for no more than 6 minutes, while the minister no more than 3 minutes. Within this time, the reading of the question and the name of the deputy who submitted it are also included. As for interpellations, Article 96, the fifth paragraph provides that: the deputy, who submitted the interpellation, has the right to explain it no more than 7 minutes and after the declaration no more than 20 minutes of the member of the Council of Ministers, to whom the interpellation was directed, to express in no more than 15 minutes the reasons if he is satisfied or not with the answer given. After the speech of the deputy, the minister has the right to speak and after him the deputy who submitted the interpellation for no more than 3 minutes each.

than two interpellations for urgent issues during a month, and each deputy may sign no more than two such interpellations during a month. Unlike traditional interpellations, the interpellation for urgent issues is normally filed in the Assembly no later than Monday at 2:00 p.m. and it takes place as the first item on the agenda in one of the plenary sessions of the following week.¹⁹ Regarding interpellations for urgent matters, the Regulation of the Italian Senate, in article 156-bis, determines that the presidents of the parliamentary groups, on behalf of their respective groups, and the representatives of the mixed group, may present no more than one group interpellation in month.

Whereas, for interpellations signed by at least one tenth of the members of the Senate, the procedures and deadlines mentioned in this article are approved. Each Senator can sign no more than nine interpellations in a year by abbreviated procedure. The interpellations mentioned in this article are included in the agenda within fifteen days of their presentation. The representative of the parliamentary group that proposes the interpellation, or one of the senators who signed the interpellation, according to point 2, can conduct the interpellation for no more than ten minutes. After the Government's statements, a response of no more than five minutes is allowed.²⁰

c. *Motions*

The motion can be presented by a parliamentary group leader or at least 7 deputies in order to conduct a debate in the Assembly on a particular issue. The question that naturally arises is this, where does the motion differ from interpellations and questions? The answer to this question can be found in the normative text of the regulation, which provides that after the conclusion of the debate in the assembly, the subjects proposing the motion can propose the approval of a resolution or statement, the text of which is attached to the request for the development of the motion.²¹ The legal regime of the motion request has some significant changes with the legal regime of questions and interpellations. In this aspect, the regulation determines that the request for the development of a motion is presented to the Speaker of the Assembly, who has three days to convene the Conference of Speakers²² to decide on the date of the development of the motion in the plenary session. In case the date is determined by agreement in the Conference of Speakers, it is announced to the Assembly in the first plenary session, but if in the Conference of Speakers no agreement is reached between the heads of the parliamentary groups, the Speaker of the Assembly presents the request in the plenary session, proposes a date of holding the motion and asks the Assembly to decide by open vote after listening to one speaker for and one against for no more than 10 minutes. However, the debate cannot take place later than 30 days from the date of submission of the motion by the relevant entities.²³

The time of the debate for the motions is determined by the Conference of Speakers and the deputies who wish to discuss in the general debate must be registered in the list of debaters at least two hours before the start of the debate.²⁴ Regarding the written amendments to the draft resolution or draft declaration, they must be registered in the Secretariat for Procedures and Voting at least 24 hours before the time set for the debate and distributed to all deputies. After the end of the general debate, the author of the amendment has the right to present his proposal for no more than 5 minutes and each deputy has the right to discuss up to 5 minutes about the presented amendment.²⁵ The chairman of the session puts to the vote the amendments that seek to add or change words in the text of the draft declaration or the initial draft resolution, starting with the amendment that is furthest from the text, then those that seek to remove words or parts of it, and finally at all the text presented by the initiators of the motion.²⁶

According to the regulations of the Parliament of the Republic of Italy, the motion can be presented by 5 senators²⁷ and by the chairman of a group or 10 parliamentarians.²⁸ In conclusion, the purpose for which a motion is presented is to bring to the discussion and an approval of the Parliament on issues that affect the activity of the government. It should be

¹⁹ Neni 97/2, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

²⁰ Neni 156-bis, Regolamento del Senato della Repubblica Italiana.

²¹ Neni 98/1, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

²² According to the Regulation of the Assembly, article 12/2 provides that: *The Conference consists of the President of the Assembly, the deputy presidents of the Assembly, the presidents of the parliamentary groups and the presidents of the permanent parliamentary committees or, in their absence, the vice presidents. The Conference of Speakers is chaired by the Speaker of the Assembly, or in his absence by the Deputy Speaker..... The Conference is called by the Speaker of the Assembly or at the request of the Council of Ministers or one of the chairmen of the parliamentary groups. The member of the Council of Ministers, responsible for maintaining relations with the Assembly, also participates in the Conference of Speakers.*

²³ Neni 98/2, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

²⁴ Neni 99/2, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

²⁵ Neni 99/3, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

²⁶ Neni 99/4, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

²⁷ Neni 157/1, Regolamento del Senato della Repubblica Italiana, ndryshuar në vitin 2022.

²⁸ Neni 110, Regolamento della Camera dei Deputati della Repubblica Italiana.

noted that, unlike our legal regime, the Italian Government can raise the issue of trust.²⁹ Regarding the consideration of questions, interpellations and motions, in principle the debate takes place separately from any other discussion, but the President of the Assembly, after consulting with the Conference of Speakers, may decide that questions, interpellations or motions related to the same or similar issues are grouped together and be examined simultaneously. When the petitioning deputies do not agree with the President's opinion, the matter is presented to the Assembly in the first plenary session, which takes a decision by open vote and without debate.

It should be emphasized that the submission of questions, interpellations and motions is not an unlimited right. The President of the Assembly can limit this right, i.e. the presentation of questions, interpellations and motions if they are formulated with inappropriate words, if issues are presented that are not under the responsibility of the Council of Ministers, if they violate the honor, private life or personality of an individual or the institution, if they are contrary to the Rules of the Assembly or questions and interpellations that have been consumed before or motions that have been discussed or decisions have been made for the same reason within the session. If the deputy does not agree with the Speaker's opinion, the matter is submitted to the Assembly, which, after listening to the opinion of the Speaker and the requesting deputy for no more than 10 minutes, decides by open vote and without debate.³⁰

d. The permanent committees of the Assembly

Permanent commissions are internal bodies of the Assembly and are recognized directly by the Constitution.³¹ The main competences of the permanent commissions consist of examining according to relevance the draft laws, draft decisions and other issues that are presented to the Assembly, conduct studies on the effectiveness of the laws in force, follow the implementation of the laws. In addition to these powers, the permanent commissions, according to the Constitution³² and the regulation of the assembly,³³ control the activity of the ministries and other central bodies, proposing to the Assembly or the Council of Ministers the taking of relevant measures. More specifically, the Commissions have the right to call the ministers at any time to give explanations and clarifications on issues in their areas of responsibility, or for the implementation of laws, decisions, resolutions and statements approved by the Assembly, the highest representative body of the sovereignty of the people. The heads of various state institutions, at the request of the commissions, give explanations and inform about issues related to their activity, as well as issues related to the implementation of the recommendations of independent institutions addressed to them.³⁴ In addition, the above-mentioned commissions, within their respective areas of responsibility, may perform or request documentation that they consider necessary for examining a specific matter of public interest. In this case, the Speaker of the Assembly is notified in writing by the chairman of the committee. At the end of the control, the commissions draw up a report, which is forwarded to the Speaker of the Assembly and becomes publicly known, including the opinion of the minority.³⁵

e. Reports to the Assembly

According to the regulation of the Assembly, the Conference of Speakers, with the proposal of the Speaker of the Assembly, decides at the beginning of each year on the calendar for the submission to the Assembly of the reports of the constitutional bodies and those created by law. The calendar contains the constitutional and legal bodies that will report, the competent committee for review, as well as the deadlines for submitting the reports. The competent committee organizes a hearing for the review of the report and, at the end of the discussions, drafts a draft resolution evaluating the work of the institution and presents it to the plenary session. In the plenary session, the head of the institution presents the report for no more than 20 minutes. In the following, the draft resolution of the relevant commission for the evaluation of the institution's work is read, and then it continues with their questions and answers. At the end of the debate, the draft resolution presented by the committee is voted on.³⁶

f. Petitions

²⁹ *Qeveria shtron çështjen e besimit ndaj një ligji (ose ndaj një ndryshimi të një ligji), duke e cilësuar këtë akt si themelor për veprimin e saj politik dhe duke e varur qëndrueshmërinë e saj në detyrë nga miratimi i tij.*

³⁰ *Neni 89, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite*

³¹ *Neni 77/1 i Kushtetutes se Republikes se Shqiperise percakton se Kuvendi zgjedh nga gjiri i tij komisione të përhershme, si dhe mund të caktojë komisione të posaçme.*

³² *Kushtetuta jonë në nenin 80/3 parashikon se: drejtuesit e institucioneve shtetërore, me kërkesë të komisioneve parlamentare, japin shpjegime dhe informojnë për çështje të ndryshme të veprimtarisë së tyre për sa e lejon ligji.*

³³ *Neni 18, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.*

³⁴ *Neni 102/2, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.*

³⁵ *Neni 102/3, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.*

³⁶ *Neni 103, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.*

Our Constitution, unlike the Constitution of the Republic of Italy³⁷ does not provide for the institution of petitions. This institute is provided for in the Regulation of the Assembly, which has the task of guaranteeing citizens the exercise of direct democracy: anyone, in fact, can address a petition to the Assembly, where it is examined by the various competent commissions. Petitions must be submitted in writing, have the name of the signatory and the relevant signatures, be understandable and clearly indicate their object. Within 45 days from the date of receipt of the petition, the chairman of the commission submits the petition to the commission, proposing at the same time the method of legal solution or the non-acceptance of the petition. If the committee deems it reasonable to resolve the case, it may authorize the chairperson of the committee to present a statement in the plenary session of the Assembly. The steps taken and the resolution of the issue raised in the petition are notified to the senders of the petition. The committee responsible for making this instrument as feasible as possible may decide to send the petition to another parliamentary committee, the Council of Ministers, public institutions and the Ombudsman for further actions, in order to obtain information. At the end, the commission gives written explanations, proposes legislative initiatives or takes a decision.³⁸

g. Parliamentary control of the EU integration process

It should be emphasized that the role of the Assembly of Albania in the process of membership in the European Union is regulated by Law no. 15/2015, dated 5.03.2015 "On the role of the Assembly in the process of integration of the Republic of Albania into the European Union."³⁹ The Regulation of the Assembly, revised by decision 85/2019 in the framework of the aforementioned law, provides that the Parliament controls the activity of the Council of Ministers in relation to the implementation of obligations for the European integration process and of independent constitutional and legal institutions. At the beginning of each year, the Assembly examines the detailed report of the Council of Ministers on the integration process, according to the National Plan for European Integration. The report is examined in a plenary session, at the end of which the Assembly approves the relevant resolution.⁴⁰ In addition, the European Integration Commission and the competent permanent commissions can call the constitutional institutions and legal institutions, which report and inform the Assembly, to report and provide information on issues of European integration.⁴¹ The competent permanent commissions of the Assembly may at any time request a hearing with the members of the National Council of European Integration,⁴² as well as request documents or any other information they deem necessary in the context of monitoring issues related to integration in the Union. European.⁴³

h. Investigative commissions

Before we deal with this argument more specifically, it should be noted that the issue of setting up parliamentary investigative commissions is one of the most problematic and debatable issues for political actors in this period. The numerous requests for the establishment of investigative commissions as well as the decisions of the Constitutional Court show the actuality of this institution, which is so important for parliamentary control. The substantive law, i.e. the Constitution and the Organic Law on investigative commissions, do not provide any theoretical definition regarding investigative commissions, while the practice of the Constitutional Court has defined them as a tool that serves the exercise of parliamentary control and as an important instrument of the parliament for performing control mainly on the executive as well as collecting information on specific issues, with the aim of reaching certain conclusions.

The purpose of setting up investigative commissions is to recognize and verify in depth a phenomenon, an event, an activity, with the aim that in accordance with reality, draw conclusions on the need to approve, complete, or correct

³⁷ Neni 50, Kushtetuta e Republikës së Italisë percakton se: Të gjithë qytetarët mund t'i bëjnë peticion Dhomave për të kërkuar masa legjislative ose për të paraqitur nevojat e përbashkëta.

³⁸ Neni 104, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

³⁹ The purpose of this law is to strengthen the role of the Assembly of Albania in the process of integration of the Republic of Albania into the European Union. This law defines the rules for the relations of the Assembly with the Council of Ministers and with the institutions of the European Union, in the process of the integration of the Republic of Albania into the European Union.

⁴⁰ Neni 103/1/2/3/4/5, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

⁴¹ Neni 103/6, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

⁴² Law no. 15/2015, dated 5.03.2015 "On the role of the Assembly in the process of integration of the Republic of Albania into the European Union" in article 6 determines that: The National Council of European Integration is the highest national advisory structure for European integration, which is set up next Assembly, which promotes and guarantees comprehensive cooperation between political forces, public institutions and civil society, as well as ensures increased transparency in decision-making on integration issues.

⁴³ Neni 103/2 pragrafi i dyte, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

special laws.⁴⁴ The Constitution of the Republic of Albania and the law no. 8891, dated 2.5.2002 for the organization and operation of the investigative commissions of the Assembly foresee the establishment of parliamentary investigative commissions as a very important instrument to exercise parliamentary control. More specifically, the Constitution in the second pregraph, article 77 determines that the Parliament has the right and, at the request of a quarter of all its members, is obliged to appoint a commission of inquiry to examine a particular issue.⁴⁵ While the organic law for the establishment of investigative commissions in the Assembly determines that the Commission is created at the request of 35 deputies.

The initiating group presents the purpose of creating the commission, the issue to be investigated, the proposal for the composition of the commission and the approximate deadline for the completion of the investigations. The Assembly is obliged to approve the establishment of the commission. The Regulation of the Assembly in Article 25 determines that the Assembly has the right and, at the request of a quarter of all its members, is obliged to appoint a commission of inquiry to examine a particular issue. It should be emphasized that the establishment of the commission at the request of a minority, that is, through the implementation of the principle of investigation with a minority vote, proves in this direction a democratic advancement of our Constitution. The existence of this principle significantly strengthens the role of the investigative commission as an efficient control instrument.⁴⁶ According to the Court, the right to set up a commission of inquiry serves as a tool in the hands of the parliamentary minority to exercise control mainly against the governing majority and to demand the accountability of the power holders. In a parliamentary system, since the government is formed by the parliamentary majority, which has many other legal tools at hand, the right of investigative control is recognized especially by the parliamentary minority, which, having limited other tools, can transform it in a powerful constitutional instrument.⁴⁷

For more, it should be added that the Constitutional Court in its latest decision regarding the establishment of investigative commissions said that: The Constitution does not limit the exercise of minority rights only to members of the parliamentary opposition, but ensures the exercise of these rights for those members of Parliament who together complete a certain quorum, regardless of its composition and establishment and regardless of membership in parties or parliamentary groups.⁴⁸ The Constitutional Court in its last decision stated that: *the right of the minority only in terms of the request for the establishment of the investigative commission remains a right unrestricted by the will of the majority. At the same time, the right of the minority to dispose of the object of the investigation limits the competence of the majority to change this object without the consent of the minority, except in cases where the purpose and object of the investigation is determined to affect the constitutional principles. However, this right cannot be considered absolutely unlimited and this limitation is related to the obligation that the object of the investigation respect the constitutional principles and standards, among others, especially those related to the principle of separation and balance between powers, the right for a proper legal process, the presumption of innocence, impartiality and respect for the individual's private life.*⁴⁹

According to the jurisprudence of the Constitutional Court, only the issues that are included in the controlling activity of the parliament, which do not involve confusion and transfer of powers provided by the Constitution, and not the daily issues that are handled by the Government, can be the object of the investigation. More specifically, investigative commissions can be created whenever it is estimated that a "special issue" should be investigated, according to Article 77, point 2, of the Constitution, the meaning of which the Court has analyzed within the concept of the function of parliamentary control and of the right of the parliamentary minority, considering that it means all those issues that are included within this function and that in themselves contain a public interest. In principle, the "special issue", the object of the parliamentary investigation, is an issue of special state/public importance. Although the list of issues of public interest cannot be exhaustive, since public interest is understood in a relative sense, depending on the different situations that arise, the Court has assessed that the issues of verifying the applicability of legislation, formulating proposals or legal initiatives, which are aimed at curbing and preventing negative phenomena for society and the state, are included in the constitutional concept of "special issue".⁵⁰

⁴⁴ Shih vendimin nr.18, datë datë 14.05.2003 të Gjykatës Kushtetuese të RSH me kërkesë një grup prej 32 deputetësh të Kuvendit të Republikës së Shqipërisë, me objekt: – Interpretimi përfundimtar i nenit 77 pika 2 të Kushtetutës të Republikës së Shqipërisë.

⁴⁵ Neni 77, paragrafi i dytë, Kushtetuta e Republikës së Shqipërisë.

⁴⁶ Shih vendimin nr.18, datë datë 14.05.2003 të Gjykatës Kushtetuese të RSH.

⁴⁷ Po aty.

⁴⁸ Shih vendimin 42, date 27/12/2022 të Gjykatës Kushtetuese të RSH-se.

⁴⁹ Po aty.

⁵⁰ Shih vendimin nr.18, datë datë 14.05.2003 të Gjykatës Kushtetuese të RSH-se.

The court has repeatedly stated that: the determination of the existence of an issue that requires verification and assessment, as a prerequisite for the establishment of a commission, must be carried out in an objective manner. For this reason, the object of the investigation must contain determinable facts or a complex of facts, which show what is being investigated, since in this way it also highlights the particular issue. The identification of the subjects and the object of the commission's investigative activity is a *sine qua non*⁵¹ requirement to clearly and precisely define the issues that the commission must address or to assess whether or not an investigation should be undertaken on this issue. The "special case", in the sense of Article 77 of the Constitution, consists of a series of circumstances, which determine the object of the Assembly's interest and which must be specified in the Assembly's decision to establish an investigative commission.⁵²

In summary, the investigation of the case should aim at providing information that is a function of the legislative process or that serves other functions for which the Assembly is authorized, and the object of the investigation should be focused on a specific issue. Regarding the creation of commissions of inquiry, the German Federal Law stipulates that the Bundestag has the right and, at the request of a quarter of the members, the obligation to set up a commission of inquiry, which will receive the necessary evidence in open hearings. The public may be excluded. The rules of criminal procedure shall apply *mutatis mutandis* to the taking of evidence. The confidentiality of correspondence, mail and telecommunications shall not be violated. Courts and administrative authorities should provide legal and administrative assistance. Decisions of investigative commissions may be subject to judicial review. The courts must be free to evaluate and decide on the facts that have been the subject of the investigation.⁵³ Meanwhile, the Constitution of the Republic of Italy determines that each House can decide to conduct investigations related to matters of public interest. For this purpose, it appoints a commission made up of its members in order to reflect the proportion of different groups. The investigative commission conducts investigations and reviews with the same powers and limitations as the judicial authority.⁵⁴

i. Organization and operation of Investigative Commissions according to the organic law.

As for the composition of the investigative commissions, the law defines a minimum number of not less than 9 deputies and a maximum number of not more than 15 deputies of the parties of the position and of the opposition, in ratios as close as possible to representation, but the difference of be no more than one member. The committee is led by the President, who belongs to the group of deputies who initiated the creation of the committee, in accordance with this organic law, as well as with the Rules of the Assembly.⁵⁵ Meetings are called and led by the chairman and/or with his authorization by the deputy chairman of the commission, which are usually open, except when the commission decides otherwise. Committee meetings are valid when the absolute majority of its members participate in them. The decisions taken by the Commission can be classified into two types. Intermediate decisions, which are taken by the majority of the members present, and final decisions, which are taken by the majority of all its members.⁵⁶ In the exercise of its powers, the Commission conducts investigations, summons heads of institutions for questions, as well as requests information or official documents from them; interrogates witnesses and other persons; prepares and approves the final decision of the investigation, together with the minority opinion; presents the final report to the Assembly for approval.⁵⁷

Investigations are called completed when all points of the investigation plan are fulfilled and when the commission creates a clear opinion on the matter under investigation. It should be emphasized that the end of the investigations is declared by an interim decision. After the completion of the investigation by the Commission, the chairman of the commission submits the final report of the investigation, which contains the conclusions of the investigation, the evidence that led the commission to these conclusions, as well as proposals for the resolution of the case or punitive measures for responsible persons, if any.⁵⁸ Members of the commission who have a different opinion with the conclusions of the final report, must prepare their opinions in writing, which are attached to the final decision.⁵⁹ The final report is presented to the Assembly for approval, and when the report approved by the Assembly contains data on the existence of criminal

⁵¹ *Kerkese e dosmosdoshme.*

⁵² *Shih vendimet nr. 12, datë 20.05.2008; nr. 20, datë 04.05.2007 të Gjykatës Kushtetuese të RSH-se.*

⁵³ *Neni 44, Grondwet voor de Bondsrepubliek Duitsland, rishikuar me 26 gusht, 2006.*

⁵⁴ *Neni 82, Regolamento della Camera dei Deputati della Repubblica Italiana.*

⁵⁵ *Neni 9-10, Ligj Nr. 8891, datë 2.5.2002, Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit.*

⁵⁶ *Neni 13, Ligj Nr. 8891, datë 2.5.2002, Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit.*

⁵⁷ *Neni 14, Ligj Nr. 8891, datë 2.5.2002, Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit.*

⁵⁸ *Neni 20, Ligj Nr. 8891, datë 2.5.2002, Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit.*

⁵⁹ *Neni 21, Ligj Nr. 8891, datë 2.5.2002, Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit.*

offenses, then it is sent to the General Prosecutor for the initiation of the criminal case.⁶⁰ With the submission of the final report to the Assembly, the Commission ceases to exist.

3. Conclusions

Parliamentary control is exercised by the highest representative constitutional institution in the Republic of Albania. This type of control is carried out through different instruments, which aims to question the governance of the parliamentary majority and to inform the public about the administration of *Res Publica*. In principle, we can say that parliamentary control refers to all state activity and all public authorities. However, this expanded function does not mean that the Parliament can exercise control over every decision of the institutions, initiate procedures to impose sanctions on them, or take decisions on behalf of the institutions that have such competence because one thing such would amount to denying the principle of separation and balance between powers. The jurisprudence of the Constitutional Court has advanced a lot in the establishment of some rules in the exercise of parliamentary control by the parliamentary minority, especially regarding the establishment of investigative commissions.

Regardless of the progress made by the jurisprudence of the Constitutional Court in the implementation of the instruments of parliamentary control, we think that it is urgent that the Parliament revise the organic law for investigative commissions and the regulation of the parliament to make these instruments that influence the development of democracy as effective and efficient as possible in our country. A good and transparent government does not have to be afraid of parliamentary control, which is generally exercised by the parliamentary minority. During the transition period, the instruments available for parliamentary control have been limited by the hegemonic decision-making of the parliamentary majority. In general, governing majorities try to prevent parliamentary control because, in a way, this control limits the implementation of their policies and they do not want to share power with parliamentary minorities. However, the failure to effectively control the power of the parliamentary minority over the executive power can be considered as the main component of the crisis of parliamentarism.

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⁶⁰ Neni 22, Ligj Nr. 8891, datë 2.5.2002, *Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit*.