

Civil and Parliamentary Control in Kazakhstan in Comparison with Germany

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Abstract

The article examines the main features of the implementation of civil and parliamentary control in the Republic of Kazakhstan and Germany. A key area of work was the assessment of the need to improve the existing system of parliamentary control in the Republic of Kazakhstan. The author substantiates the modern problems of the systems of civil and parliamentary control, which are not covered by both national regulatory legal acts and scientific researchers. It is identified that at this stage of development, the system of parliamentary control in Kazakhstan is undergoing significant changes, striving to adapt to the rapidly and rapidly developing challenges of the twenty-first century. The article shows that civil control is the right of the population of the country, enshrined at the highest legislative level, to exercise joint government in order to increase the effectiveness of the implementation of the main social functions assigned to them.

Keywords: civil control, parliamentary control, accountability, form of parliamentary control, Constitution, legal culture.

The twenty-first century has become a century of paradoxes. On the one hand, democracy, as an ideal government and a set of political institutions, has won in most countries of the world. As before, democracy remains the universal highest value for most countries in the world. However, despite the clear advantages of the democratic order, in recent years there has been disappointment in the results of democracy in practice, which is associated with the implementation of a number of types of control, in particular parliamentary and public.

Today parliamentary and civic control play a key role in resolving the paradox of a democratic state structure and its effectiveness. Parliament, as the central institution of democracy, intended to embody the will of the people through the government, to respond to their needs and to solve the pressing problems that the population faces in their daily lives. Parliament has a unique responsibility to reconcile the conflicting interests and expectations of different groups and communities through democratic means of dialogue and compromise. As the main legislative body, parliament must adapt the laws of society to its rapidly changing needs and circumstances. As the body charged with overseeing the government, it is responsible for ensuring that government is fully accountable to the people.

At the same time, the system of parliamentary control is undergoing significant changes, striving to adapt to the rapidly and rapidly developing challenges of the twenty-first century. Over the past few years, in the practice of many countries, numerous efforts made to better interact with the public and to improve performance, in particular, aimed at improving and increasing accountability of activities as a key instrument for exercising both parliamentary and civilian oversight.

Key issues related to the research of the categories “civil control” and “parliamentary
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control” are widely covered in the works of B.A. Taitorina, Zh.U. Tlembaeva, N.N. Turetskiy, O.V. Shiyani, P.A. Koryagin and etc. (Taitorina B.A. 2015, Tlembaeva Zh.U. 2016).

Despite the large number of studies, there are a number of problematic aspects that need to be solved in accordance with the existing best practices (Germany) and including issues of improving the mechanism of functioning of the systems of civil and parliamentary control in Kazakhstan.

The purpose of this work is to carry out a comparative analysis of the systems of civil and parliamentary control in Kazakhstan and Germany in the face of institutional challenges.

In accordance with the purpose of the article, we have set the following tasks:

1. to explore the peculiarities of the implementation of parliamentary control in Kazakhstan and Germany.
2. to study the structure and mechanism of functioning of the system of civil control in Kazakhstan and certain features in Germany.
3. to justify the need for best practices in the process of improving civil and parliamentary control in Kazakhstan.

The scientific methods and techniques used in research: systemic approach, comparative analysis and synthesis.

The information base of the study made up of periodic scientific publications, the work of leading scientists in the field of political science, sociology and government, international conceptual documents, national regulatory enforcement of the functioning of civil and parliamentary control institutions in Kazakhstan and Germany.

Consideration of German practice as an outstanding example of the best practice of civil and parliamentary control provides for a comparative analysis of the positions of both countries, Germany and Kazakhstan, in the world's leading rankings. Taking into account the objectives of the study, the research has analyzed in such areas:

1. country's place in the “Global competitiveness index”, GCI;
2. country's place in the “Human Development Index”, HDI;
3. country's place in the “Corruption Perceptions Index”, CPI.

The purpose of the above-mentioned comparative analysis is to establish how strong the institutional capacity of the countries under study is to create a favorable environment for socio-economic development and to develop systems of civil and parliamentary control.

Table 1 *Comparative analysis of the dynamics of the rating of Kazakhstan and Germany in international indices ratings GCI, HDI, CPI*

Year	GCI		Ranked HDI		CPI	
	Kazakhstan	Germany	Kazakhstan	Germany	Kazakhstan	Germany
2010	72	5	66	10	121	15
2011	55	7	68	9	120	14
2012	51	6	50	4	133	13
2013	50	4	69	5	140	12
2014	50	11	67	5	126	12
2015	42	4	56	4	123	11
2016	53	5	58	5	131	10
2017	57	5	58	5	122	12
2018	59	3	50	4	124	11
2019	55	7	50	4	113	9

Source: compiled by the author since (The World Economic Forum 2019, Transparency International 2021, United Nations Development Programme. Human Development Insights

2020).

Table 1 shows stark differences in institutional development as an area of civil and parliamentary control.

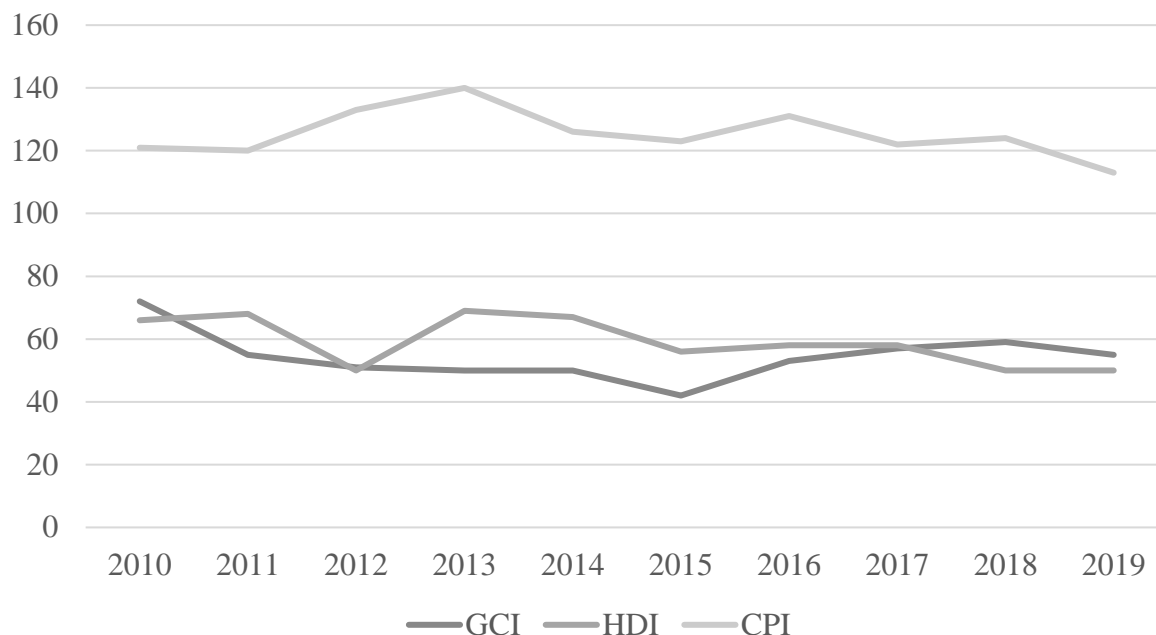


Figure 1 shows the dynamics of the change in the study indicators for Kazakhstan.

Figure 1. Dynamics of Kazakhstan's index rating change GCI, HDI, CPI.

Source: compiled by the author on the basis of (The World Economic Forum 2019, Transparency International 2021, United Nations Development Programme. Human Development Insights 2020).

As can be seen from Figure 1, the dynamics of Kazakhstan in international rankings is almost unchanged for the last 10 years, with slight deviations at below-average level.

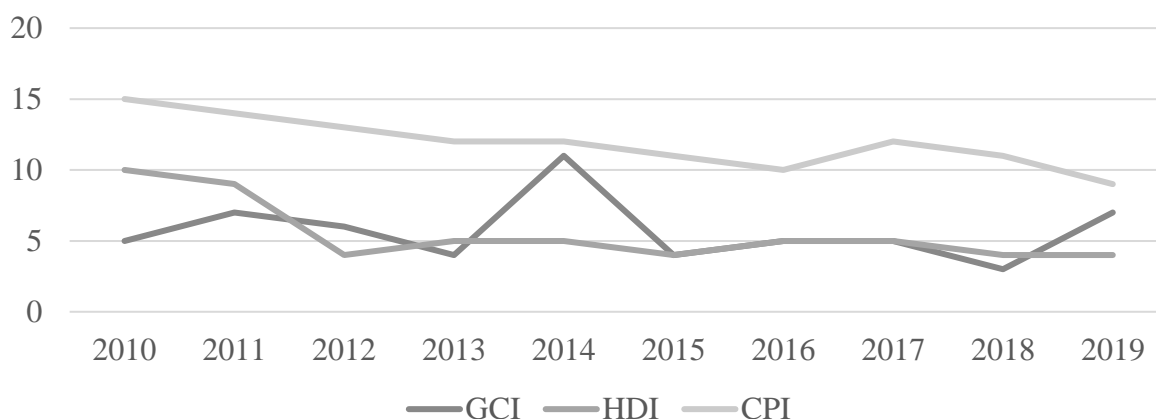


Figure 2 shows the dynamics of the change in the study indicators for Germany.

Figure 2. Dynamics of Germany's index rating change GCI, HDI, CPI.

Source: compiled by the author on the basis of (The World Economic Forum 2019, Transparency International 2021, United Nations Development Programme. Human Development Insights 2020).

Given all of the above, we should conclude that the institutional environment for the formation of systems of parliamentary, much less civil control in the current environment, does not contribute to their development. Therefore, we have accept a number of framework documents (doctrines) to ensure the institutional environment of Kazakhstan's socio-economic development.

As can be seen from Figure 2, Germany's dynamics in international rankings have been unstable for the past 10 years. In general, it is possible to conclude the high level of development of the institutional environment in the country.

The results are a rationale for conducting a comparative analysis of the practice of parliamentary and civil control of Kazakhstan and Germany, as a country that demonstrates the best "exemplary" practices.

Parliamentary control, as noted earlier, is one of the most important components of democracy. Moreover, effective parliamentary control over accountable bodies is a prerequisite for good governance. By overseeing accountable bodies, Parliament balances powers, strengthens safeguards for the protection of citizens' rights and supports the effective work of independent bodies. Parliamentary control of the executive is crucial. Let's considerate the parliamentary control system in Kazakhstan (Table 2).

Table 2 Parliamentary control system in Kazakhstan

Study element	Content	Regulatory acts
Directivity	Ensuring compliance with the country's Constitution, enforcement of laws, protection of human and citizen's rights and freedoms, fight against corruption, etc.	The Constitution of the Republic of Kazakhstan (adopted on 30.08.1995 at the republican referendum);
Subjects	Parliament, committees, commissions, MPs	Reglament of Mazhilis of the Parliament of the Republic of Kazakhstan (adopted from
Object	Executive branch bodies, officials (executive branch representatives), verification of performance	08.02.1996); The
Forms of parliamentary control	Government issue, control, parliamentary inquiry, parliamentary financial control	Constitutional Law of the Republic of Kazakhstan from 16.10.1995 № 2529 «On the Parliament of the Republic of Kazakhstan and the Status of
Parliamentary accountability	Forms of accountability: work reports, plans, reports, etc.	Its Deputies»

Source: compiled by the author on the basis of ([Republic of Kazakhstan 1995a](#), [Republic of Kazakhstan 1995b](#), [Republic of Kazakhstan 1996](#)).

Based on table 2, it can be concluded that Kazakhstan has the right conditions for the implementation of parliamentary control.

The lower house of kazakhstan's Parliament, Majilis, has a majority of the total number of Mazhilis deputies on the initiative of at least one-fifth of the total number of Mazhilis deputies entitled to express a vote of no confidence in the Government ([Republic of Kazakhstan 1996](#)).

However, Taytorina B.A. in its research concludes that the key problem of the implementation of parliamentary control in Kazakhstan is that due to the lack of definition of "control function" in the legislation, the country's parliament does not have control powers

(Taitorina B.A. 2015).

The presence of a significant number of forms and types of parliamentary control in the world leads to the conclusion that their studies are necessary in order to improve the current national model operating in Kazakhstan.

Thus, in Tembayeva's opinion, the main choice of the form of exercise of parliamentary control "is connected with the place of parliament in the system of state bodies, the type of government" (Tlembaeva Zh.U. 2016). However, in our opinion, given the heterogeneity of the effectiveness of key measures and different level of effectiveness of parliamentary control in variable countries, we can conclude that there is a need to study best and most effective practices, particularly for the purposes of our study, Germany.

The main legislative body of Germany is the Bundestag. Since Germany is a federation, its sixteen lands participate in the legislative process through another constitutional body, the German Bundesrat (Federal Council). In addition to participating in the legislative process, Parliament oversees the executive branch and its work. The Executive power consist of the Federal President and the Federal Government (Cabinet), which consists of the Federal Chancellor and federal ministers. Despite the fact that the German Basic Law (Constitution) gives the Federal Chancellor a strong position, the legislature retains control over him throughout his term of office. With an absolute majority, the legislature can elect a successor to the incumbent Federal Chancellor and demand that the Federal President fire the incumbent Federal Chancellor by expressing a note of no confidence ([Federal republic of Germany 1945a](#), [Federal republic of Germany 1949a](#), [Federal republic of Germany 1949b](#), [Federal republic of Germany 1945b](#)).

One of the important ways to obtain information by the legislative authority is the formation of standing committees, investigative committees and parliamentary control panel. The main law provides for the creation of certain standing committees, but the Bundestag may create other standing committees, as a rule, one for each Ministry. Creating a standing committee may also be required by customary legislation, such as the Budget committee. In the current eighteenth legislative period, the legislature has formed a total of twenty-three standing committees ([Federal republic of Germany 1949b](#)).

In order to obtain information from the federal government, there is a common right of the Bundestag and its committees to require, by a majority vote, the presence of any member of the federal government at their public meetings. If the federal minister does not submit a subpoena, the Bundestag can enforce the request in the Federal Constitutional Court by filing a lawsuit to determine the scope of the rights and responsibilities of the highest federal body or other parties with their own rights.

In addition, minority groups and individual members of the Bundestag may submit requests to the government as a whole or to individual ministers. A group representing at least 5% of members of the Bundestag or a permanent group of members of the Bundestag from the same party, which makes up at least 5% of the members of the Bundestag (Fraktion), has the right to ask the government written questions. The answers to these questions are discussed at the plenary session of Parliament (Große Anfrage (Main request)). Another option is a request to which the government must give a written response within fourteen days, but the answer is not discussed in Parliament (Kleine Anfrage (Minor request)). In addition, separate members of the Bundestag may send short oral or written requests to the government. Minority groups can also appeal to the government during the discussion on current issues known as the "Hour

of current affairs” (Aktuelle Stunde), during which federal ministers outline the topics of their last meeting relating to their field of competence followed by the issues of parliament members. To ensure compliance with these rights, minority groups and individual members of the Bundestag may apply to the Federal Constitutional Court.

In addition to the Defense Committee, parliamentary control regarding defense policy is carried out by the Commissioner of Parliament on the Affairs of the Armed Forces.

Bundestag also has limited access to entries and databases that are under the jurisdiction of the federal government.

As a rule, for the implementation of supervisory functions of the executive branch, legislative bodies should be informed about the work of the federal government. Legislative power can either collect information on their own, or demand from the federal government to provide the necessary information.

Thus, based on the all of the above information, we can conclude that it is necessary to improve the mechanism of parliamentary control in Kazakhstan (given the results of a comparable analysis).

Regulatory regulation of civil control in Kazakhstan is presented, primarily by the Constitution of the country, in particular Article 33, which states the following: “Citizens of the Republic of Kazakhstan shall have the right to participate in the government of the state’s affairs directly and through their representatives, to address personally as well as to direct individual and collective appeals to public and local self-administrative bodies” ([Republic of Kazakhstan 1995a](#)).

Civil control in the key understanding is, among other things, managing the redistribution of the country's budget. From this point of view, we compare approaches in the countries under study (for the participation of citizens in ensuring the transparency of the use of government financial resources).

The Republic of Kazakhstan holds a series of economic and administrative reforms from the moment of independence from the Soviet Union in 1991. Currently, this is the largest economy in Central Asia and one of the fastest growing, which benefits from oil wealth, as well as diversification and liberalization of the economy. Traditionally, the institutional environment was highly centralized. The plans of the country's strategic development (see below) provide for the gradual modernization of political, administrative and legal culture in Kazakhstan. Although considerable progress has already been made in several areas, other aspects of these alleged reforms are in early stages. In particular, the public finance management system has been subjected to large-scale reforms aimed at strengthening capacity to support the strategic development of the country. Institutional architecture, including a strategically oriented ministry of the Ministry of National Economy, the Ministry of Finance and the highly developed budget code provides a professional and effective framework for budgeting.

On this strategic background and on the background of development, budgeting focus on the results of public control has improved markedly in recent years.

As for Germany, the consolidation of public sector budgets, fulfilling the requirements of fiscal policy and reform in the provision of public services made cooperation and partnership

between the government and the population are increasingly important. From the point of view of institutional theory, this led to greater asymmetry of information and changed accountability requirements in the framework of civil control.

Citizens should be able to receive information on the organizational aspect of the provision of public services with minimal efforts. Moreover, a clear and transparent idea of the organizational structure of the state body, including the types of cooperation, is important to create a basis for decision-making with such people as policies and professionals in the field of management to guarantee sustainable, efficient and effective provision of public sector activities. A cooperation report is a proven management tool in the private sector, and practitioners can get useful information from different countries, if the wide public has access to the necessary information. It could offer useful approaches for many countries with comparable problems.

In the process of achieving the goal of research and carrying out of the assignments set in the article, we've obtained justifications to conclude that Germany's practice of parliamentary and civil control could serve as a model for legislative ordering both the relationship between the country's parliament and the executive branch and between the Government and citizens.

In the Kazakhstani political system, unlike the German one, there is no feedback between the electorate and the deputies of the Parliament. Since after being elected to the post, the majority of deputies forget about their voters, the goals and objectives with which they were nominated. There is no mechanism by which voters can recall unscrupulous deputies from office in the Kazakhstani model. This is contrary to the foundations of a democratic system and the principles of the structure of the highest representative body in the system of separation of powers. Thus, some representatives of the people abuse the power vested in them, which leads to dissatisfaction of the electorate and loss of confidence in a particular political party on the part of the people.

The implementation of Germany's practice, which organized as part of a comparative analysis conducted in the work, should be the objectives of subsequent research in this field of science.

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