

інститутів, де центральне місце посідає система органів кримінальної юстиції» [7, с. 43].

Отож, цілком очевидним є той факт, що як у літературі, так і в законодавстві, паралельно вживаються терміни «правоохоронні органи», «правозахисні органи», «органи кримінальної юстиції» і т.п. Причому найбільш поширеною є позиція, що органи кримінальної юстиції входять до правоохоронних органів, а виділяти їх можна на основі наявності в них спеціальної мети.

1. Закон України «Про державний захист працівників суду і правоохоронних органів». *Голос України* від 02.03.1994
2. Концепція реформування кримінальної юстиції України. Затверджена Указом Президента України від 8 квітня 2008 року N 311/2008. *Урядовий кур'єр* від 17.04.2008, № 72
3. Топчий Н.В. Стан правового регулювання діяльності органів кримінальної юстиції. *Європейські перспективи* № 4, 2014. С.151-156.
4. Кальман О., Чікін О. Кримінологічні проблеми реформування органів кримінальної юстиції України. *Право України*. 2010. № 11. С. 33-38.
5. Ківалов С. Українська юстиція на шляху до Європейських стандартів. *Голос України*. 2006. № 86 (3836). С. 7.
6. Однотько І.В. Концепція реформування органів кримінальної юстиції в контексті протидії корупції. *Криміналістика і судова експертиза*. Випуск 65. С.262-270.
7. Черкасов М. О. Системно-структурний аналіз органів кримінальної юстиції. *Право і Безпека*. 2009. № 3. С. 42-45.

Knysh V.V.

*Vasyl Stefanyk Precarpathian national university,
doctor of law, professor of the department of
constitutional, international and administrative law of
the educational and scientific law institute*

FEATURES OF THE LEGAL CONSOLIDATION OF CONSTITUTIONAL RESPONSIBILITY IN ITALY

Constitutional and legal responsibility was also enshrined in the Italian Constitution of 1947. The principle of separation of powers is also the basis for establishing a positive constitutional and legal responsibility of the subjects of state power relations. Therefore, based on the above, we should start with the positive responsibility of the bicameral Italian Parliament, which includes the Chamber of

Deputies and the Senate. Parliament is responsible for carrying out its functions in the following areas:

1) the main positive responsibility for legislative activity based on Art. 70 of the Constitution of Italy. At the same time, subsidiary (additional) positive responsibility in this area may be assigned to the Government of the Republic (Council of Ministers). This is due to the fact that the implementation of the legislative function can be delegated to the Government, provided that the principles and guidelines for such delegation are determined and it is provided only for a limited time and on a number of issues. However, according to Art. 77 of the Italian Constitution, the government can not without a clear power of the chambers to issue decrees that would have the force of a simple law [1; 2];

2) responsibility for proper parliamentary control over the government and executive bodies;

3) positive responsibility in the financial sphere, which is reduced to the development and adoption of the state budget, identifying ways of socio-economic development. For Art. 81 of the Italian Constitution, the chambers annually approve the budget and the law on budget implementation submitted by the Government;

4) positive responsibility in the field of international, foreign and defence policy of the state. According to Art. 80 of the mentioned Constitution, by issuing laws of the Chamber allow ratification of international treaties of a political nature [3];

5) positive responsibility in the field of organization of law enforcement activities at the highest state level. According to Art. 82 of the Italian Constitution, each chamber may conduct inquiries into matters of public interest. To this end, it appoints a commission from among its members in a proportion that reflects the ratio of the various factions. The Commission of Inquiry conducts investigations and inspections with the same powers and restrictions as the judiciary [4].

Positive constitutional and legal responsibility of the President of Italy is regulated in the following areas:

1) positive responsibility in the field of interaction with the parliament. This means that under Art. 87 of the Italian Constitution, he may send messages to the chambers; appoints elections of new chambers and determines the day of the first meeting; authorizes the

adoption by the chambers of government bills; promulgates laws, issues decrees that have the force of law, and resolutions;

2) positive responsibility in the field of democracy. It is manifested in the fact that he calls a referendum in the cases specified by the Constitution;

3) positive responsibility in the power-personnel policy, in particular, appoints in the cases specified by the law, officials of the state;

4) positive responsibility in the field of international relations. It accredits and receives diplomatic representatives, ratifies international treaties and, where appropriate, with the prior permission of the chambers;

5) positive responsibility in the field of defence. The President of Italy is the commander of the armed forces, presides over the Supreme Council established by law, declares, by decision of the chambers, the state of war;

6) positive responsibility in the penitentiary sphere is manifested in the fact that the President of Italy can grant pardons and mitigate punishment [1; 5].

The Italian Constitution also defines the areas and directions of positive constitutional and legal responsibility of local authorities, distinguishing the areas of their responsibility with the responsibility of central government. In particular, Art. 117 of the Italian Constitution stipulates that the region is responsible for the following areas: the organization of departments and administrative agencies subordinate to the region; territory of communes; local city and village police; fairs and markets; charitable institutions, sanitary and hospital services; craft and vocational training and school assistance; museums and libraries of local significance; urbanism; tourism and hotel business; trams and automobile lines of regional significance; road, water and public works of regional significance; lake shipping and piers; mineral and healing waters; quarries and peat development; hunting; fishing in inland waters; agriculture and forests; crafts; other issues specified by constitutional laws [6].

The Constitution of Italy also structures the negative constitutional and legal responsibility of the subjects of state-power relations as follows:

1) negative responsibility of the parliament to the President of Italy. According to Art. 88, the President of the Republic may, after hearing the chairmen of the chambers, dissolve both chambers or one of them;

2) the negative responsibility of the President of Italy to parliament and society. For Art. 90 of the Constitution of Italy, the President of the Republic is responsible for actions taken in the performance of his duties, excluding treason or encroachment on the Constitution. In such cases, it is submitted to the court by the Parliament at a joint sitting of the chambers by an absolute majority of its members [1; 7];

3) negative responsibility of the government to the parliament and society. St. 94 of the said Constitution stipulates that the Government must gain the confidence of both chambers. Each chamber confers or denies confidence by means of a reasoned resolution adopted by roll-call vote. No later than ten days after the formation of the Government shall be submitted to the Chambers for confidence. The vote of one or both chambers against any proposal of the Government does not necessarily entail his resignation. A motion of censure must be signed by at least one tenth of the members of the House and may not be put to the debate earlier than three days after its submission. According to Art. 95 of the Italian Constitution, the Prime Minister directs the general policy of the Government and is responsible for it. Ministers are collectively responsible for the actions of the Council of Ministers and individually for the actions of their departments. For Art. 96 of the Italian Constitution, crimes committed in the performance of their duties by the Prime Minister and Ministers are considered even after their termination in the ordinary course of proceedings with the permission of the Senate or the Chamber of Deputies in accordance with constitutional law [8];

4) negative responsibility of local authorities. According to Art. 126 of the Constitution of Italy, the regional council may be dissolved if: a) she commits acts contrary to the Constitution or serious violations of the law; b) does not comply with the Government's proposal to remove the junta or its head who have committed similar acts or violations; c) by dissolution for reasons of national security.

Dissolution is ordered by a motivated decree of the President of the Republic after hearing a commission of deputies and senators on regional issues [1; 9].

Thus, the Italian Constitution has formed an appropriate system of positive and negative constitutional and legal responsibility of state structures at both the national and local levels. In fact, the basis of such an organization of constitutional and legal responsibility and mutual responsibility of the authorities is the principle of combining centralization and decentralization.

1. Конституція Італії 1947 года. URL: <http://ibib.ltd.ua/otdel-sostavlenie-zakonov-27014.html/>
2. Кирпичов О. А., Соловійова В. В. Конституційне право зарубіжних країн: Навчальний посібник. Донецьк: Юго-Восток, 2006. 371 с.
3. Шаповал В. М. Державне право зарубіжних країн: Підручник. К.: Арттек, Вища шк., 1997. 264 с.
4. Алебастрова І. А. Конституционное право зарубежных стран: Краткий курс лекций. М.: Юрайт, 2004. 264 с.
5. Алебастрова І. А. Конституционное (государственное) право зарубежных стран: В 4 т.: Учебник для студ. юрид. вузов и фак. М.: БЕК, 1993. Т. 3. Особенная часть: Страны Европы. М.: БЕК, 1997. 764 с.
6. Калиновський В. С. Історія держави та права зарубіжних країн: Конспект лекцій. К.: МНТУ, 1995. 200 с.
7. Конституційне (державне) право зарубіжних країн: Навч.-метод. посіб. / Чернівецький національний ун-т ім. Ю. Федьковича / А. З. Георгіца (уклад.). Чернівці: Рута, 2008. 128 с.
8. Бостан С. К., Сажнев І. В. Державне право зарубіжних країн: Навч.-метод. посібник для курсантів, студентів, слухачів. Запоріжжя: ЗЮІ МВС України, 2001. 254 с.
9. Григонис Э. П. Конституционное право зарубежных стран: Курс лекций. СПб.: Питер, 2002. 414 с.