

SECTION 2

CONSTITUTIONALISM AS MODERN SCIENCE

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PRINCIPLES AND PROCEDURE FOR FORMING TEMPORARY INVESTIGATION COMMISSIONS OF THE VERKHOVNA RADA OF UKRAINE

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Summary

Realization an investigation by temporary investigative commissions of the Verkhovna Rada of Ukraine is one of the leading forms of parliamentary control in Ukraine. Nevertheless, their legal framework still needs to be improved, and parliamentary investigations are relatively infrequent with insufficient efficiency. In this regard, there is a need to study the current legal framework for the formation of temporary investigative commissions.

The purpose of the work is an in-depth analysis of the principles and procedure for forming temporary investigative commissions of the Verkhovna Rada of Ukraine, determination their essence and features, as well as substantiation the priority directions for improving the constitutional and legal framework of their organization and activities.

Methods. To solve the problems of the research, a number of methods of scientific knowledge were used, including formal-legal method, which determined the current state and problems of legal regulation of the formation of temporary investigative commissions. System-structural method – the unity and interrelation of the procedure of formation and termination of powers of temporary investigative commissions, staffing of their personnel are characterized; logical-semantic method – the essence of the grounds for the formation of temporary investigative commissions is revealed.

Results. It is established that the formation of temporary investigative commissions for investigation certain «issues of public interest» allows to take into account the variability of such public interest and the objective impossibility of its exhaustive legal definition. However, this does not preclude the abuse of the right to form temporary investigative commissions in the absence of established parliamentary practice, traditions and political culture. The formation of the staff of the temporary investigative commissions based on

proportional representation of each parliamentary faction (group) provides a majority in the temporary investigative commissions to the parliamentary coalition, which may be disinterested in conducting a thorough parliamentary investigation.

Conclusions. It is substantiated that the development of constitutional and legal bases for the formation of temporary investigative commissions of the Verkhovna Rada of Ukraine should include expansion of constitutional guarantees for the formation of temporary investigative commissions and clarification of issues that cannot be the subject of parliamentary investigation. Other measures should be bringing the rules of procedure of the parliament in line with the relevant Law of Ukraine, taking into account the modern parliamentary practice of Ukraine and the experience of democratic countries, as well as application of disciplinary measures to members of the temporary investigative commission in case it fails to submit a report. It is also advisable prohibition of conducting parliamentary investigations into issues pending before the court, guaranteeing the opposition at least half of the seats in the temporary investigative commission, as well as legislative establishment of its minimum and maximum quantitative composition. The following measures should be establishing requirements for the professionalism and competence of the members of the temporary investigative commission and prohibition of combining senior positions in temporary commissions and committees of parliament.

Key words: legal status, parliamentary investigation, control, public interest, People's Deputy of Ukraine

1. Introduction

The complexity and responsibility of the control and other functions of the Verkhovna Rada of Ukraine make increased demands on the organization of its work, an integral part of which today is the functioning of temporary parliamentary committees. Their activity constitutes the optimal form of thorough professional preparation and preliminary research of issues considered by the Verkhovna Rada of Ukraine. At the same time, temporary investigative commissions differ from committees (as well as temporary special commissions) of the Verkhovna Rada of Ukraine not only by a more complex and problematic (often resonant and politicized) subject of their activity, but also by less development of this legal institution, some instability and fragmentary constitutional and legal regulation. As a result, it should be noted the relatively low intensity of the formation of temporary investigative commissions of the Verkhovna Rada of Ukraine and often the nominal nature of their activities with contradictory efficiency. Although, as rightly noted by O.O. Maidannik, ensuring the fundamental human rights and freedoms (as well as the proper functioning of the system of checks and balances) depends not least on the quality of control activities of the temporary investigative commissions of the parliament (Maidannik, 2008). Thus, in the context

of improving the constitutional and legal status of the temporary investigative commissions of the Verkhovna Rada of Ukraine, the modern peculiarities of their organization and activity are considered actual.

It should be noted that we have already considered the general issues of the legal nature of the temporary investigative commissions of the parliament in Ukraine and some features of foreign experience of their formation (Zozulia, 2019). In addition, the issue of organization and activity of temporary investigative commissions of the parliament in Ukraine and foreign countries has already been considered in scientific works of domestic and foreign scientists. In particular, S.V. Boldyrev investigated the role of temporary investigative commissions as subjects of parliamentary control in Ukraine (Boldyrev, 2011); O.V. Marcelliak – the status of parliamentary investigative commissions in different countries (Marcelliak, 2006). In addition, R.I. Mateychuk investigated the peculiarities of functioning of temporary investigative commissions of the Verkhovna Rada of Ukraine (Mateychuk, 2016); A.B. Medvid – the main elements of their constitutional and legal status (Medvid, 2008); M.P. Rachynska – ways of ensuring the effectiveness of control activities of temporary investigative commissions (Rachynska, 2014). At the same time, their research reveals mostly

only certain aspects of the legal status of temporary investigative commissions. They do not disclose the current state of the legal basis for formation and functioning temporary investigative commissions as working bodies of the Verkhovna Rada of Ukraine, the impact of relevant procedures for their formation on the effectiveness of parliamentary investigation and significance for further development of parliamentarism in Ukraine.

In turn, after discussing the results of the work of the temporary investigative commission, the Verkhovna Rada of Ukraine must decide on the completion or continuation of its work (Part 6 of Article 3 of the Law of Ukraine of December 19, 2019 № 400-IX). Taking into account the collegial nature of decisions by the Verkhovna Rada of Ukraine, cases of non-adoption by parliament of any of these decisions should also be identified – for example, automatic termination of the temporary investigative commission if parliament fails to continue its work.

The constitutional right of at least one third of the constitutional composition of the Verkhovna Rada of Ukraine to form temporary investigative commissions to investigate issues of public interest is one of the key means and guarantees of parliamentary control by a minority in the current lack of institutionalization of the parliamentary opposition. Such a broad definition of the subject of activity of temporary investigative commissions generally corresponds to the foreign practice of conducting parliamentary investigations of «cases of general importance» or issues of «state»/»public» interest, etc. As indicated in the scientific literature, «issues of public interest» are definitively uncertain and have an evaluative nature, depending on the specific situation and time requirements (Barabash, 2004, p.104; Martselyak, 2006; Mitskevich, 2002, p.86; Rachynska, 2014, p.79). Therefore, in general, we can say that such investigative commissions deal with quite different issues of state and political life, which have a public resonance (Shemshuchenko, 2001, p.171), and their functioning contributes to resolving the constitutional and political crisis (Mateychuk, 2016, p.78, 80).

We believe that the abstractness of the category of «issues of public interest» as a basis for the formation of temporary investigative commissions, on the one hand, allows us to take into

account the variability of public interest and the objective impossibility of its comprehensive legal definition. However given in Parts 2, 3 of Article 4 of the Law of Ukraine of December 19, 2019 № 400-IX the list of grounds for the formation of temporary investigative commissions (reports of violations by public authorities, the threat to sovereignty, mass violations of human rights, etc.), should be considered as no exhaustive, but as a generalizing and indicative. Thus, Part 7 of Article 76 of the Rules of Procedure of the Verkhovna Rada of Ukraine of February 10, 2010 № 1861-VI additionally provides for the establishment of a temporary investigative commission to collect or verify information concerning the issue of recall of the Chairman of the Verkhovna Rada of Ukraine.

At the same time, the Proposals of the President of Ukraine of September 23, 2019 explicitly emphasized that the absence of clearly established by law criteria for determining the public interest and the grounds for creation a temporary investigative commission does not comply with the Constitution of Ukraine. We have to disagree with this, because the Constitution of Ukraine does not set requirements for legislative detailing of the grounds for the formation of temporary investigative commissions, in fact leaving the decision on this issue to the discretion of parliament within its competence. Therefore, the Verkhovna Rada of Ukraine, as the authorized representative body of the Ukrainian people, considering the establishment of a temporary investigative commission, directly in each case determines the presence or absence of public interest.

On the other hand, arbitrary interpretation of «issues of public interest» does not preclude the abuse of the possibility of setting up temporary investigative commissions in the absence of established parliamentary practice, traditions and political culture. Therefore, in the parliamentary practice of Ukraine, as stated by Yu.G. Barabash, there are numerous examples of the decision to establish temporary investigative commissions without proper reasoning (Barabash, 2004, p.107). To prevent cases of groundless creation of temporary investigative commissions, some scholars propose to provide by law a clear list of grounds for their formation (Nazarenko, 2011). There are other proposals for the

legislative specification of the subject of parliamentary investigation (Boldyrev, 2011, p.147). However, we believe that such an approach may result in an artificial restriction of the dynamic and changing constitutional category of «issues of public interest» as a basis for the establishment of temporary investigative commissions, thereby reducing the capacity of parliamentary investigation as a means of parliamentary control. Here we should agree with V.S. Zhuravsky that parliamentary investigation, as the most acute form of parliamentary control, should be conducted only in emergencies in case of impossibility to use the usual forms of parliamentary control (Zhuravsky, 2001, p.18).

Undoubtedly, the possibility of creating a temporary investigative commission by a relatively small number of people's deputies of Ukraine causes the problem of abuse of this right. However, we do not share the position of Yu.G. Barabash and Ya.M. Nazarenko on the establishment of mandatory preliminary verification by the regulatory committee of the validity of proposals to create a temporary investigative commission (Barabash, 2004, p.107; Nazarenko, 2011). On the one hand, such verification will in fact allow the regulatory committee at its discretion to block the creation of separate temporary investigative commissions (primarily those initiated by opposition parliamentary forces). On the other hand, the regulatory committee is unlikely to be able to actually prevent the «groundless» formation of a temporary investigative commission if a significant number of people's deputies of Ukraine (for example, a parliamentary majority) supports its formation. Therefore, we believe that the question of the validity of the creation of temporary investigative commissions should depend largely on the political and legal culture of the deputies and their political responsibility.

In general, effective parliamentary investigation in Ukraine requires in-depth analysis of the principles and procedure for forming temporary investigative commissions of the Verkhovna Rada of Ukraine, determination their essence and features, and substantiation priority directions for improving the constitutional and legal framework for organization and activity of temporary investigative commissions. This

is the purpose of the article. Its novelty lies in the formulated directions of improving the constitutional and legal status of temporary investigative commissions of the Verkhovna Rada of Ukraine based on comprehensive generalization of advantages and disadvantages of the current constitutional and legal regulation and relevant draft practice taking into account current needs of effective parliamentary investigation. The objectives of the article are to analyze and characterize the procedure for the formation of temporary investigative commissions of the Verkhovna Rada of Ukraine and the termination of their powers, as well as the peculiarities of the formation personnel of these parliamentary investigation bodies.

The subject and purpose of this research, taking into account the state of scientific development of the legal status of temporary investigative commissions of the Verkhovna Rada of Ukraine determine our use of dialectical, formal-legal, comparative, system-structural, logical-semantic and other methods of scientific knowledge.

2. Formation of temporary investigation commissions and termination of their powers

First, it should be noted that the legal consequences of failure to submit a report to the parliament by the temporary investigative commission within the specified period (according to Part 8 of Article 3 of the Law of Ukraine of December 19, 2019 № 400-IX) are insufficient, limited to automatic termination of such commission. The failure of the temporary investigative commission to submit a report is most likely indicate improper exercise of its powers by its management and members. Therefore, in this case, it would be appropriate to apply to them (in particular at the initiative of the Regulatory Committee) certain disciplinary measures (eg, termination of reimbursement of expenses related to the exercise of deputy powers, restriction of the right to be a member of temporary commissions, etc.). The parliament must also provide an appropriate political and legal assessment of the work of this temporary investigative commission. The need to regulate responsibility for evasion of the powers of the temporary investigative commission and its members is also

generally noted by M.P. Rachynska (Rachynska, 2014, p.81).

In addition, according to Part 7 of Article 3 of the Law of Ukraine of December 19, 2019 № 400-IX, the maximum term of office of the temporary investigative commission is one year from the date of its formation, which is explained by the volume and nature of tasks, its special powers. However, the expiration of this term, taking into account Part 2 of Article 9 of this Law of Ukraine, does not automatically terminate the powers of such a commission. At the same time, in case of timely submission of a report by the temporary investigative commission in the intersessional period, it will formally continue to retain its status, which can be used politically by the members of this commission. So, this should be taken into account in the existing rules of completion of the work of the temporary investigative commission.

Conceptually, it is necessary to agree with the defined Part 4 of Article 4 of the Law of Ukraine of December 19, 2019 № 400-IX issues, on which a temporary investigative commission cannot be created. For example, it cannot be formed on the issues of realization of justice by a court or defining the presence of guilt of a person in a criminal offense. Although in some foreign countries, the activities of temporary investigative commissions are aimed at exercising parliamentary control over the activities not only of the government but also of the judiciary (Martselyak, 2006, p.7). We believe that in Ukraine this could be seen as parliamentary interference in the realization of justice and a violation of the constitutional guarantees of the independence of courts and judges. At the same time, a ban on conducting a parliamentary investigation into issues pending before the court would also be justified (Barabash, 2004, p.122). First, it will eliminate duplication and indirect influence of the temporary investigative commission on the court. In addition, the trial of a case compared to a parliamentary investigation should a priori ensure not only compliance with procedural standards of proof, but also legal professionalism and impartiality of the assessment of the collected evidence. Therefore, taking into account the different nature of parliamentary investigation and proceedings, today it is unlikely to be appropriate to provide temporary inves-

tigative commissions procedural rights equal to judicial powers, a proposal on which at one time, for example, was supported by O.O. Maidannik (Maidannik, 2001, p.130).

Regarding the legislative restriction of the subject of activity of the temporary investigative commissions, we note Part 5 of Article 89 of the Constitution of Ukraine, in which the subject of legislative regulation includes only the «organization and procedure of activity» of temporary investigative commissions, and not the restriction of the constitutional basis (purpose) of their formation. The Constitution of Ukraine also does not directly establish on which issues temporary investigative commissions cannot be established. In view of this, in order to ensure compliance with such constitutional and legislative bases, as well as to prevent potential abuse of the legislative narrowing of the subject of parliamentary investigation, becomes relevant the constitutional definition of those issues on which temporary investigative commissions of the Verkhovna Rada of Ukraine cannot be established.

In the parliamentary practice of Ukraine, is actually quite common blocking by the leadership of the Verkhovna Rada of Ukraine and representatives of the parliamentary majority the creation of certain temporary investigative commissions. Thus, as noted, during the work of the Verkhovna Rada of Ukraine of the VII convocation, out of 34 initiated temporary investigative commissions, only three were actually created (LIGA.net, 2013). Another example is the artificial delay in setting up the Temporary Investigative Commission to investigate possible wrongdoing by officials that could have led to evasion of responsibility by members of «Wagner's private military company» (draft resolution of September 16, 2020 № 4105). This issue, despite receiving the Opinion of the profile committee dated October 7, 2020, was not actually included in the agenda of the Verkhovna Rada of Ukraine for more than six months. After all, as rightly emphasizes M.P. Rachynska (Rachynska, 2014, p.79), despite the fact that the decision to establish a temporary investigative commission is made by parliament, the appearance of this issue on the agenda depends on the regulatory committee.

Although according to Part 3 of Article 85, Part 2 of Article 87 of the Rules of Procedure

of the Verkhovna Rada of Ukraine of February 10, 2010 № 1861-VI the principle of proportional representation of factions and groups in the temporary investigative commission takes into account cases of failure to submit their proposals on its composition in due time. This allows the formation of a temporary investigative commission without the participation of representatives of such factions (groups). Moreover, the issue of forming a temporary investigative commission should be included in the agenda of plenary sessions without a vote (Part 1 of Article 87 of the Rules of Procedure of the Verkhovna Rada of Ukraine of February 10, 2010 № 1861-VI). We believe that the prevention of such abuses primarily requires not only the elimination of gaps and clarification of the procedure for establishing temporary investigative commissions, but also raising the level of culture, political and legal responsibility of the deputies.

Also, as noted by Yu.G. Barabash, previously the rights of the temporary investigative commission were widely granted to the committees of the Verkhovna Rada of Ukraine (Barabash, 2004, p.121). Similarly, the Special Control Commission on Privatization in accordance with the Resolution of the Verkhovna Rada of Ukraine of July 15, 1998 № 44-XIV simultaneously acquired the status of a temporary investigative commission and a committee. In our opinion, this not only did not correspond to the constitutional principles of organization of committees, temporary investigative and temporary special commissions as separate working bodies of the parliament, but also hindered the development of independent legal status of temporary investigative commissions (temporality of functioning, own order of formation, forms and guarantees of activity, etc.). In addition, although such bodies concentrated additional powers that were not typical of them, in practice they were usually unable to conduct parliamentary investigation effectively enough, as they had to perform other functions at the same time.

3. Peculiarities of forming the composition of temporary investigation commissions

First, it should be noted the principle of proportional representation in the temporary investigative commission of each parliamen-

tary faction (group). In general, this approach (including a ban on holding several senior positions in the temporary investigative commission by members of the same faction/group) reflects the current heterogeneous political structure of parliament in the composition of temporary investigative commission, taking into account as much as possible the diverse interests of voters of all parliamentary political forces. However, in this case, the majority in the temporary investigative commission (including in leading positions) will have a parliamentary coalition, whose probable lack of interest in conducting a thorough parliamentary investigation may negatively affect its effectiveness as a form of opposition activity. Although, as rightly noted by K.O. Kolesnyk (Kolesnyk, 2003, p.170, 171), the formation of temporary investigative commissions is one of the constitutional guarantees of the parliamentary opposition, designed to ensure its control over the government. After all, according to O.M. Peklushenko (Peklushenko, 2005), conduction an investigation by a minority significantly strengthens the role of temporary investigative committees (commissions) as effective tools for monitoring the executive branch.

Therefore, since the Constitution of Ukraine already allows the establishment of a temporary investigative commission by a parliamentary minority, it would be entirely acceptable in the interests of an objective parliamentary investigation to guarantee it at least half of the seats (including leading positions) in the temporary investigative commission. Ya.M. Nazarenko, M.P. Rachynska and others takes a similar position, noting the expediency of basing the formation of the staff of temporary investigative commissions not on the principle of proportionality, but on the principle of parity of the parliamentary majority and minority (Nazarenko, 2011; Rachynska, 2014, p.79; Agency for Legislative Initiatives, 2009, p.7, 8). At the same time, the real implementation of this principle of forming the composition of temporary investigative commissions is possible only if the Verkhovna Rada of Ukraine would be more structured and the parliamentary minority (opposition) would be institutionalized. In addition, in view of the recommendations of the Parliamentary Assembly of the Council of

Europe set out in Resolution 1601 (2008), it is possible and appropriate to legally guarantee the position of the chairman of the temporary investigative commission to a representative of the parliamentary minority (opposition). Other scientists (Nazarenko, 2011; Slovka, 2014) generally support this.

Also, given the likely presence in the Verkhovna Rada of Ukraine of a significant number of non-factional people's deputies of Ukraine, it would be democratic to provide them (for example, if their number is not less than the minimum number of one faction/group) opportunity to determine candidacy for the temporary investigative commission.

In our opinion, it is also expedient to establish by law the minimum and maximum quantitative composition of the temporary investigative commission. This will contribute to its balance and the real ability of the temporary investigative commission quickly and thoroughly perform all tasks, avoiding excessive increase its staff.

Defined by Part 7 of Article 4 of the Law of Ukraine of December 19, 2019 № 400-IX list of grounds on which the people's deputy of Ukraine may not be a member of the temporary investigative commission, generally covers various cases of his actual or potential conflict of interests with parliamentary investigation. According to O.V. Marcelliak, real compliance of banning the inclusion of deputies, who have various conflicts of interest, in the temporary investigative commission «will be very difficult to implement» given the representative order of its formation (Marcelliak, 2006, p.8, 9). We have to disagree with this, taken into account the importance of ensuring the most objective parliamentary investigation, as well as the relatively large number of deputies and traditionally the small number of personnel of temporary investigative commissions.

In addition to the need to harmonize this list of grounds for banning the inclusion of deputies in the temporary investigative commission with similar grounds set out in Part 3 of Article 87 of the Rules of Procedure of the Verkhovna Rada of Ukraine of February 10, 2010 № 1861-VI, their clarification is also relevant. In particular, taking into account the terminology used in the Law of Ukraine of December 19, 2019 № 400-IX, the ban on election to the temporary investiga-

tive commission should apply to the people's deputy of Ukraine, who is a close person not only of an official but also of a servant, working in the relevant body under parliamentary investigation. One of such grounds is also the existence of a private interest in the body under parliamentary investigation. Obviously, the term «private interest» in this case should be used in the meaning given in the Law of Ukraine «On Prevention of Corruption» of October 14, 2014 № 1700-VII, but the reference to this in Part 4 of Article 1 of the Law of Ukraine of December 19, 2019 № 400-IX for some reason is absent.

It should also be noted that according to Part 7 of Article 87 of the Rules of Procedure of the Verkhovna Rada of Ukraine of February 10, 2010 № 1861-VI, a people's deputy of Ukraine in approval with the relevant faction (group) may be elected as a member of only one temporary investigative commission. Agreeing with principle of membership of a deputy in only one temporary investigative commission, we consider this procedure of «approval» superfluous and inappropriate, because it is the factions and groups (not deputies in agreement with them) submit their proposals on the temporary investigative commission (Part 6 of Article 4 of the Law of Ukraine of December 19, 2019 № 400-IX). At the same time, it would be appropriate to establish the currently missing requirements for the level of professionalism and competence of the people's deputies of Ukraine, which are proposed to the composition of temporary investigative commission.

In our opinion, there is somewhat inconsistent the ban on electing to the position of the chairman temporary investigative commission the chairman of a parliament committee (Part 10 of Article 4 of the Law of Ukraine of December 19, 2019 № 400-IX), but not the chairman of the temporary special commission or special temporary investigative commission. In addition, in order to ensure greater purposefulness in the work of the bodies of Verkhovna Rada of Ukraine, we consider it appropriate to extend this ban to the combination of any senior positions in the temporary commissions and committees of the Verkhovna Rada of Ukraine. Similar to parliamentary committees (Part 4 of Article 6 of the Law of Ukraine of April 4, 1995 № 116/95-VR), a ban on holding senior posi-

tions in temporary investigative commissions by the heads of deputy factions (groups) would be appropriate. The same applies to the ban on electing the leadership of the Verkhovna Rada of Ukraine to the temporary investigative commission, which would contribute not only to impartiality, but also to the maximum intensity of the work of its personnel.

Compared with the Rules of Procedure of the parliament of Ukraine of February 10, 2010 № 1861-VI it should be noted as positive the possibility of recall not only the chairman, his deputy and secretary, but also a member of the temporary investigative commission (Part 13 of Article 4 of the Law of Ukraine of December 19, 2019 № 400-IX). At the same time, the cases of their obligatory replacement remain unresolved, which, in our opinion, should take place, for example, in the event of a conflict of interests in a member (official) of the temporary investigative commission. It also needs further elaboration of the issue of political and legal consequences that would be applied in case of concealment of a conflict of interests by a member (official) of the temporary investigative commission. Moreover, the current ban on participation in the voting of a member of the temporary investigative commission if he has a conflict of interest (Part 2 of Article 21 of the Law of Ukraine of December 19, 2019 № 400-IX) is mostly declarative and does not provide means of confirmation this conflict or the consequences of voting by such person.

In case of systematic evasion of a member of the temporary investigative commission from performing his duties according to Item 8 Part 1 of Article 14 of the Law of Ukraine of December 19, 2019 № 400-IX the chairman of the temporary investigative commission only informs about it the chairman of the relevant faction (group) and the Speaker of Parliament. However, this does not imply a mandatory legal response to such cases, which, in our opinion, should be expressed at least in initiating the recall of this member of the temporary investigative commission.

4. Conclusions

Today, temporary investigative commissions of the Verkhovna Rada of Ukraine are formed relatively infrequently, and their activities are often nominal with contradictory

efficiency. The establishment of temporary investigative commissions to investigate certain «issues of public interest» makes it possible to take into account the variability of such public interest and the objective impossibility of its exhaustive legal definition. However, this does not preclude the abuse of the right to form temporary investigative commissions in the absence of established parliamentary practice, traditions and political culture. The formation of the staff of the temporary investigative commission based on proportional representation of each deputy faction (group) provides a majority in the temporary investigative commission to the parliamentary coalition, which may be disinterested in conducting a thorough parliamentary investigation.

The development of the constitutional and legal bases for the forming of temporary investigative commissions of the Verkhovna Rada of Ukraine in the context of modern constitutional reform should include:

1) expansion of constitutional guarantees for the formation of temporary investigative commissions, clarification of their tasks in the field of parliamentary control and issues that cannot be the subject of parliamentary investigation;

2) bringing the rules of procedure of the parliament in line with the Law of Ukraine of December 19, 2019 № 400-IX, taking into account the modern parliamentary practice of Ukraine and the experience of democratic countries;

3) clarification of the right of the parliament to hear the report of the temporary investigative commission ahead of time, which should not allow early termination of its powers;

4) automatic termination of the powers of the temporary investigative commission in case of inability of the parliament to make any decision based on the results of the discussion of its report;

5) application of disciplinary measures against members of the temporary investigative commission in case it fails to submit a report;

6) ban on conducting a parliamentary investigation into issues pending before a court;

7) guaranteeing the parliamentary minority (in case of its greater institutionalization) at least half of the seats in the temporary investigative commission;

8) legislative establishment of the minimum and maximum quantitative composition of the temporary investigative commission;

9) establishing requirements for the level of professionalism and competence of people's deputies of Ukraine, which are proposed to the composition of temporary investigative commission;

10) prohibition of combining any leading positions in temporary commissions and committees of the Verkhovna Rada of Ukraine or deputy factions (groups);

11) obligatory recall of a member of the temporary investigative commission in case of his conflict of interests.

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ЗАСАДИ ТА ПОРЯДОК ФОРМУВАННЯ ТИМЧАСОВИХ СЛІДЧИХ КОМІСІЙ ВЕРХОВНОЇ РАДИ УКРАЇНИ

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Анотація

Постановка проблеми. Проведення розслідування тимчасовими слідчими комісіями Верховної Ради України є однією з провідних форм парламентського контролю в Україні. Попри це законодавчі засади їх діяльності все ще потребують удосконалення, парламентські розслідування проводяться порівняно нечасто з суперечливою ефективністю. У зв'язку із цим існує необхідність дослідження сучасних правових засад формування тимчасових слідчих комісій.

