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Concepts of the Cabinet of Ministers and government: a scientific-theoretical analysis of similarities and differences

Abstract: In this article, the similar and different aspects of the concepts of the Cabinet of Ministers and the government, as well as the issues related to the scientific-theoretical analysis of these aspects, have been examined. Opinions on the concept of the Cabinet of Ministers, its administrative-legal status and important functions as a higher executive power and a collegial body were noted. The results of analysis and comparisons are noted.

Keywords: Cabinet of Ministers; government; higher executive authority; collegial body; legal literature; public administration bodies; legal status.

In order to determine the legal status of the Cabinet of Ministers, first of all, it is important to determine the institutions that make up the mechanism of state power and in this context, to determine the various concepts of government, including the essence of the concepts of “government” and “cabinet”. Despite the fact that the term Cabinet of Ministers is used a lot, its concepts such as “Government”, “state body”, “higher authority”, and first of all the concepts of “government” and “cabinet of ministers” in general should be clarified. There is no unified approach to the use of these terms in the scientific-theoretical literature or in the constitutional practice of individual countries [6, p. 37].

Since the Cabinet of Ministers, unlike other bodies and organizations, has powers of authority and its activity is of the nature of authority, it is necessary to determine its legal status, as well as its place in the system of state power and the mechanism of executive power, its interaction with the President as the supreme executive body of the Republic of Azerbaijan and other branches of state power, it is of great importance for the study of issues such as rights and duties, composition, order of organization, adopted legal acts, participation in norm-creating activities.

The government is a collegial body of executive power that has general powers and exercises leadership in state administration [14, p. 509]. In the legal literature, “government” and “cabinet of ministers” are sometimes used as synonyms, and sometimes they express different but close concepts. In a number of countries, the term cabinet of ministers is accepted as an official concept, in other countries, both the concepts of cabinet of ministers and government are used in legislation in different meanings, and in some countries, this institution is not a cabinet of ministers, but a body with a special name (for example, in France, Belgium, a number of the Council of Ministers in French-speaking African countries) [14, p. 509]. For example, in Great Britain, the terms Cabinet and Government are distinguished. When we say the government, we mean the prime minister, ministers, ministers without portfolios, state ministers, etc. means the supreme body of the executive power, which includes more than 80 ministers and other officials. The cabinet is the highest decision-making body in the government, consisting of the most influential ministers chosen by the

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prime minister. Many of its members head government departments under the title of “Secretary of State”. “Primus inter pares” - the prime minister, who is the first among equals, acts not as an individual with independent powers, but as a member of the collective decision-making body - the Cabinet. The government is represented by ministers in the House of Lords. In France, government refers to the supreme executive body under the chairmanship of the prime minister, i.e. the head of government (cabinet council), and the Council of Ministers (council) means the supreme executive body under the chairmanship of the president [17, p.177]. Apparently, the concept of “cabinet of ministers” is not used as a term in this country. In some countries, the concept of the cabinet of ministers is used to officially express the supreme collegial body of the executive power (Republic of Azerbaijan). There is another group of countries that use a special term denoting the Cabinet of Ministers - the supreme executive body. For example, in Norway and Finland, this body is called the Council of State - Federal Council, and in the Russian Federation, it is generally called “Правительство Российской Федерации” - the government of the Russian Federation [18]. As can be seen in the last case, the word government is identified with the concept of cabinet of ministers. Federal central executive authorities in the Russian Federation include federal ministries, committees, services, agencies, commissions, etc. in the case of inclusion, the composition of the Government of the Russian Federation consists of the head of government, his deputies and federal ministries, that is, the Government operates in cabinet status [18].

In order to determine the legal status of the Cabinet of Ministers as an executive body, it should be noted that although the concept of “government” is used in different ways in different countries or is the same as the term Cabinet of Ministers, in scientific literature it is more generalizing term Cabinet of Ministers or it is used as a term that unites the supreme executive body, which is simply called the government, or the supreme executive bodies, which have their own special name. The term “government” refers to supreme collegial state bodies exercising executive power.

A state body is an institution consisting of a collective of citizens that has authority, is organized and operates in a manner defined by law, carries out functions in one or another sphere, and closely interacts with other elements of the state mechanism. Within the framework of their rights, state bodies make decisions on issues related to their competences, adopt legal acts, determine obligations for their implementation, implement measures for the implementation of adopted decisions and legal acts, and monitor their implementation. Decree No. 609 of the President of the Republic of Azerbaijan dated April 5, 2019 “On the application of the Law No. 1510-VQD of the Republic of Azerbaijan dated February 19, 2019” on amending the Law of the Republic of Azerbaijan “On Patent” adopted on April 12, 2019 The Cabinet of Ministers, in its Decree on ensuring the implementation of the Decree, defined the obligations of the Ministry of Justice of the Republic of Azerbaijan, the Intellectual Property Agency of the Republic of Azerbaijan, and the central executive authorities in connection with the implementation of the Decree. According to part 1.1 of the order, in agreement with the Intellectual Property Agency of the Republic of Azerbaijan and other relevant state bodies (legal entities of the state) to be determined during the implementation process, the laws of the Republic of Azerbaijan and the acts of the President of the Republic of Azerbaijan are amended in the Law of the Republic of Azerbaijan “On Patents” of the Republic of Azerbaijan 2019- 1510-VQD dated February 19, 2018, must submit its proposals to the Cabinet of Ministers of the Republic of Azerbaijan within two months. In the order, the issue related to the control of implementation was also resolved, and the control of the implementation of the 1st, 3rd, 4th and 5th parts of the order was entrusted to the legal department of the Office of the Cabinet of Ministers of

the Republic of Azerbaijan, and the control of the implementation of the 2nd part was entrusted to the humanitarian and social affairs department. As we have seen, the Cabinet of Ministers has adopted an Order on the implementation of the Presidential Decree within its powers, defined the duties of the relevant bodies on the issue, and determined its responsibility for monitoring the execution of these duties.

The Cabinet of Ministers is a collegial body in the form of decision-making when exercising its authority. The institution of civil servants, established in accordance with the legislation and financed from the state budget, is a state body that implements the goals and functions of the Republic of Azerbaijan within the limits determined by the legislative acts of the Republic of Azerbaijan.

The form of governance is the characteristics of the structure and mutual relations of the supreme state authorities (first of all, the head of state, the parliament and the government), their role in the governance of the country, as well as the methods of direct and opposite relations between the rulers and the ruled. Due to the legal status of the head of state and the nature of his relations with the population, two main forms of government are traditionally distinguished: monarchy and republic [9]. Monarchy is a form of government in which the head of state receives his state office and special honorary title hereditary and for life and passes it on to his successor. The following forms of the monarchy form of government are distinguished: absolute, dualistic and parliamentary monarchy. Absolute monarchy, characteristic of pre-capitalist stages of development, still remains in a few countries. For example, the Sultanate of Oman has no parliament and the government is organized by and accountable to the king. In a dualistic monarchy, there is a constitution and a parliament. The government (Council of Ministers) is appointed by the monarch and is responsible only to him and not to parliament. In a parliamentary monarchy, the democratically adopted constitution is in force, and the legislative power belongs to the elected parliament. In a parliamentary monarchy, the government is responsible only to the parliament. Although under the constitution the government is usually appointed and dismissed by the monarch, such appointments and removals are usually purely formal in nature. In fact, the government is formed by the leader of the party that is appointed by the king as the prime minister and has the majority in the parliament. A republic is a form of government in which the head of state is a president elected for a certain period of time from among citizens who have the necessary characteristics. Presidential and parliamentary forms of republic are distinguished. In a presidential republic, the cabinet or government is formed by the party that won the presidential election, not the parliamentary election. In presidential republics, the president is free to choose members of the government and does so at his discretion. Most of the presidential republics do not have a special position of prime minister, his powers belong to the president. The government's policy is determined by the president, and meetings of the council of ministers are held under his leadership, where the most important issues are resolved. The responsibility of the government (ministers) to the president, not to the parliament, is the main feature of a presidential republic. The main difference between presidential and parliamentary republics is the procedure for appointing the government. However, unlike the presidential republic, it has a formal character. According to the constitution, as in the presidential republic, the government is appointed by the president in the parliamentary republic. However, unlike the presidential republic, it has a formal character. Unlike a presidential republic, in a parliamentary republic the head of state is not the head of government, and he is not free to choose the prime minister. The prime minister then determines the composition of the government (cabinet) and submits it to the parliament for approval. The president appoints a person who has gained the confidence of the parliament as the head

of the government, otherwise the government will not be approved by the parliament. In a parliamentary republic, the government is not responsible to the president, but only to the parliament.

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**Понятия кабинета министров и правительства:
научно-теоретический анализ сходства и различия**

Аннотация: Рассмотрены сходные и различные аспекты понятий Кабинета Министров и правительства, а также вопросы, связанные с научно-теоретическим анализом этих аспектов. Были отмечены мнения о концепции Кабинета Министров, его административно-правовом статусе и важных функциях как высшего исполнительного органа и коллегиального органа. Отмечаются результаты анализа и сравнения.

Ключевые слова: Кабинет Министров; правительство; высший орган исполнительной власти; коллегиальный орган; юридическая литература; органы государственного управления; легальное положение.

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