



Sovereignty of Karakalpakstan: a right or a dream of the people?

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The essence of state sovereignty and its characteristics

The concept of state sovereignty reflects the essential characteristics of state power and the state itself¹. The founder of the concept of state sovereignty is considered to be the French political thinker of the 16th century Jean Bodin. Bodin outlined his views on state sovereignty in his work “Six Books on the Republic”, written in 1576. According to Bodin’s ideas, sovereignty is a fundamental feature of the state. State power, which the monarch personified, Bodin believed, was of a supreme nature in relation to his subjects or any other power sanctioned by it, for example, the power of the head of a family over his household. The state itself was defined by Jean Bodin as “the exercise by sovereign power of management in accordance with law”². Consequently, the power of the state, despite its sovereign character, should not be arbitrary, since, Bodin argued, the law of nature and the law of God had superiority over the positive law created by the state; it is the embodiment in the legislation of the state of the principles of divine and natural law that distinguishes a genuine state from the usual effective use of violence³.

After the appearance of Jean Bodin’s “Six Books on the Republic”, over the next several centuries the idea of state sovereignty was adopted by many European political thinkers, acquiring in their works the meaning of the supreme power in the state. In the 18th century Swiss lawyer Emmerich de Vattel was the first to focus on two separate – internal and external – manifestations of state sovereignty, that is, the right of the state to independently decide its internal and external affairs.

Since then, the understanding of the essence of state sovereignty as a whole has not changed. The modern interpretation of the concept of state sovereignty has inherited from the Middle Ages the idea of the sovereign’s full power, with the only fundamental difference that if under the typical monarchical form of government of the Middle Ages the sovereign was associated with the monarch, then under the conditions of the modern republican organization of state power the sovereign has a collective character – these are the citizens of the country. In the republican understanding, the people are the only source of the power of the state and the powers of its bodies. In the republican version, state sovereignty is a derivative of popular sovereignty, its consequence. There is an obvious correlation between the sovereignty of the people and the sovereignty of the state. The result of the implementation of popular sovereignty is the emergence of sovereign statehood, while the loss of sovereign statehood marks the end of popular sovereignty. At the same time, a situation is possible

¹ Шаповал В. Сучасний конституціоналізм : моногр. К.: Салком; Юрінком Інтер, 2005. С. 121.

² Бодэн Жан. Шість книг о государстве Жана Бодэна. *Антология мировой правовой мысли. В 5 т. Т II. Европа: V-VIII вв. М.*: Мысль, 1999. С. 693.

³ Себайн Дж., Торсон Т. Історія політичної думки. К.: Основи, 1997. С. 367.

when the abolition of popular sovereignty due, for example, to the usurpation of power or the establishment of a totalitarian regime does not lead to the loss of sovereign statehood.

It is the fact that the only source of state power is the people that determines its sovereign, that is, supreme character. It is common for modern constitutions to consolidate provisions on the people as the source of state power and the powers of its bodies. “All state power comes from the people” is enshrined, in particular, in Part 2 of Art. 1 of the Constitution of Bulgaria of 1991⁴. “State power comes from citizens” is established in Part 1 of Art. 2 of the Constitution of Slovakia of 1992⁵. Part 2 of Art. 1 of the Croatian Constitution of 1990 states that “power comes from the people and belongs to the people as a community of free and equal citizens”⁶. According to Part 1 of Art. 5 of the Constitution of Ukraine of 1996, “the bearer of sovereignty and the only source of power in Ukraine is the people”⁷. It looks like Part 1 of Art. 2 of the Constitution of Albania of 1998 stipulates that “the bearer of sovereignty in the Republic of Albania is the people”⁸. According to Part 2 of Art. 1 of the Spanish Constitution of 1978, “national sovereignty belongs to the Spanish people, from whom the powers of the state emanate”⁹. “The sovereign power of the State of Latvia belongs to the people of Latvia” is proclaimed in Art. 2 of the Constitution of Latvia of 1922¹⁰. In Art. 1 of the Japanese Constitution of 1947, despite the presence of a monarchical form of government, it is established that the people “belong to sovereign power”¹¹.

Since state sovereignty is derived from popular sovereignty, its fundamental feature is inalienability. It is impossible to deprive the people of the right to sovereign political existence, since this is their inalienable right. Therefore, a sovereign state, which by the very fact of its existence embodies the constituent will of the people, cannot be legally deprived of sovereignty. The abolition of state sovereignty marks the cessation of the very existence of the state and encroachments on the sovereignty of the state are classified as criminal acts by the criminal legislation of developed countries. The idea of the inalienability of state sovereignty is sometimes reflected constitutionally. “The sovereignty of the Republic of Croatia is inalienable, indivisible and non-transferable” is established in Part 1 of Art. 2 of the Croatian Constitution of 1990¹². “No one can infringe or limit the sovereignty of the people, or appropriate the sovereign will that belongs to the entire people” – enshrined in Part 1 of Art. 3 of the Constitution of Lithuania 1992¹³. “No one can usurp state power” is stated in Part 4 of Art. 5 of the Constitution of Ukraine 1996¹⁴.

In general, in modern government science, state sovereignty is understood as a defining property or integral attribute of state power, the supreme nature of the power of the state within its own borders and independence, independence in relations with other sovereign states.

The defining feature of state sovereignty is the supremacy of state power within its territory. The presence of sovereignty as the supreme power is a fundamental, distinctive feature of a real state. A political entity that does not have supreme power within its territory cannot be considered a real state. The supremacy of the power of a state within its sovereign territory does not allow the possibility of the existence of another state power (the power of another state). On its sovereign territory, the state forms a system of bodies, endowing them with the right to exercise certain functions

⁴ Конституция Республики Болгарии от 12 июля 1991 г. URL : <http://www.parliament.am/library/sahmanadrutyunner/bulgaria.pdf>.

⁵ Конституция Словацкой Республики от 1 сентября 1992 г. URL : <http://slovakia.kiev.ua>.

⁶ Конституция Республики Хорватия от 22 декабря 1990 г. URL : <http://legalns.com/download/books/cons/croatia.pdf>.

⁷ Конституція України : Закон України від 28 червня 1996 р. № 254/96-вр. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

⁸ Конституция Республики Албания от 21 октября 1998 г. URL : http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/albania/albani-r.htm.

⁹ Конституция Королевства Испании от 29 декабря 1978 г. URL : <https://legalns.com/download/books/cons/spain.pdf>.

¹⁰ Конституция Латвийской Республики от 15 февраля 1922 г. URL : <http://www.uznal.org>.

¹¹ Конституция Японии от 3 мая 1947 г. URL : <https://legalns.com/download/books/cons/japan.pdf>.

¹² Конституция Республики Хорватия от 22 декабря 1990 г. URL : <http://legalns.com/download/books/cons/croatia.pdf>.

¹³ Конституция Литовской Республики от 25 октября 1992 г. URL : https://www.lrs.lt/home/Konstitucija/Konstitucija_RU.htm.

¹⁴ Конституція України : Закон України від 28 червня 1996 р. № 254/96-вр. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

and powers. Within the limits of their competence, public authorities make decisions that are final until they are revised in the manner established by the state (its law). If, on the territory of a certain political entity, the final decisions on the most important issues for society are made not by the entity itself, but by another entity, it does not have real sovereignty, that is, it is not a state. The supremacy of state power also provides for the legal subordination to the state of all entities within its sovereign territory. Any reservations regarding this subordination (for example, diplomatic privileges and immunities) are possible only with the consent of the relevant state.

Another important feature of the sovereignty of a state is its independence. The independence of a state consists in its ability and right to carry out its internal and external functions outside the power of other states. A sovereign state, regardless of the power of other states, decides the most important issues of its socio-political and economic development, and also carries out its foreign policy¹⁵.

Although the signs of sovereign power are its supremacy and absoluteness, these signs should be taken only in a certain sense. The sovereignty of the state is not literally absolute: any state operates within a legally defined framework and any activity of the state is always limited by law. In particular, in the foreign policy sphere, the activities of a sovereign state are limited by the norms of international law. For example, according to Part 2 of Art. 1 of the Constitution of Slovakia of 1992, “The Slovak Republic recognizes and complies with the general rules of international law, international treaties by which it is bound, and its other international obligations”¹⁶. According to Part 1 of Art. 24 of the Constitution of Bulgaria of 1991, “the foreign policy of the Republic of Bulgaria is carried out in accordance with the principles and norms of international law”¹⁷. “The Republic of Moldova undertakes ... to build its relations with other states on generally recognized principles and norms of international law” is established in Part 1 of Art. 8 of the Constitution of Moldova of 1994¹⁸. “The Republic of Poland complies with the international law that binds it” is enshrined in Art. 9 of the Polish Constitution of 1997¹⁹.

So, a state cannot act arbitrarily in relation to other states and must fulfill its obligations in accordance with the international treaties it has concluded, etc. At the same time, the very principles of international law, such as the sovereign equality of states, mutual respect for state sovereignty, non-interference of states in each other’s internal affairs, territorial integrity of states, etc. correspond to the idea of state sovereignty. It is believed that the sovereign rights exercised by the state in relations with other states must reflect the principle of sovereign equality of states and their implementation cannot harm the independence of other states²⁰. Within its own borders, state activity is also limited. A sovereign state acts in accordance with the legal order it creates, and its power is supreme only in relation to other authorities sanctioned by it. Even the sovereign power of the state is limited by the natural rights of man and the principles of law established by the state itself.

State sovereignty also provides that the power of the state in its internal and external dimensions cannot be limited contrary to the will of its source – the people. Therefore, any actual restrictions on its sovereign rights (for example, by the state delegating certain functions to local governments or international organizations of which sovereign states are members) are carried out voluntarily by the state. Also, no one can legally limit the actions of the state, which it carries out in accordance with the will of its citizens.

The sovereign power has the full scope of powers to carry out the tasks and functions of the state, and the sovereign power carries out these tasks and functions in its own right. In this understanding, the sovereign power is universal – it embodies all manifestations of state power, carries out all the functions of the state and has the full scope of its powers. The sovereign power exercises its powers discretionarily (at its own discretion) and at any time.

¹⁵ Шаповал В. Сучасний конституціоналізм : К.: Салком; Юрінком Інтер, 2005. С. 123.

¹⁶ Конституция Республики Хорватия от 22 декабря 1990 г. URL : <http://legalns.com/download/books/cons/croatia.pdf>.

¹⁷ Конституция Республики Болгарии от 12 июля 1991 г. URL : <http://www.parliament.am/library/sahmanadrutyunner/bulgaria.pdf>.

¹⁸ Конституция Республики Молдова от 29 июля 1994 г. URL : <http://www.md.undp.org>.

¹⁹ Конституція Польської Республіки (з передмовою Володимира Шаповала). К.: Москаленко О. М., 2018. С. 46.

²⁰ Шаповал В. Сучасний конституціоналізм : К.: Салком; Юрінком Інтер, 2005. С. 122.

The sovereign power of the state is supreme in relation to the authorities subordinate to it (state authorities, their officials). The latter, unlike the supreme power of the state, have a clearly defined scope of functions and powers. The authorities subordinate to the sovereign power of the state are authorized only to carry out certain tasks within the competence that is established for them by acts of the supreme power or other higher bodies of state power relative to them. Subordinate powers are derived from the supreme sovereign power and are formed on the basis of its legal regulations. The supreme sovereign power determines the scope and content of the competence of the authorities subordinate to it, thereby determining their status. In this sense, the functions and powers of the subordinate authorities are not their own functions and powers, since they are conferred on them by the sovereign power. Therefore, any activity of subordinate authorities is under the control of the supreme authority and can be terminated by it. Legal acts of subordinate authorities, if they are illegal or unconstitutional, may be canceled in accordance with the procedure established by law. Bodies and officials of subordinate authorities may be held legally accountable for their actions. However, the supreme sovereign power is not subject to legal control and is not legally responsible to anyone.

So, the signs of state sovereignty are the origin of state power from the will of its citizens, the supreme nature of state power in relation to any other authorities within the borders of the state, autonomy and independence in relations with other states and their collective entities. A sign of the sovereignty of state power is its prerogative to make final decisions, for the results of which the sovereign state is responsible only to its own citizens. The sovereign supreme power of the state is vested with the right to make decisions on a range of issues, the independent solution of which ensures the very existence of the state. Therefore, it is state power that is the real, actual embodiment of state sovereignty, the main means of achieving the internal and external goals of the state²¹.

The absence of internal or external manifestations of state sovereignty indicates the non-sovereign nature of the corresponding political entity. A clear example of the lack of state sovereignty is the legal status of the subjects of the federation. Although in terms of the scope of political autonomy of their constituent entities, federations differ significantly, in all of them sovereignty belongs only to the state as a whole, and not to its components – the constituent entities of the federation. The absence of state sovereignty among the subjects of the federation is evidenced, first of all, by the following fundamental features of their legal status: the legislation of the subjects of the federation cannot contradict federal legislation, in particular, the federal constitution; subjects of the federation do not carry out foreign policy functions, do not enter into relations with sovereign states, that is, they are not subjects of international law; subjects of the federation do not have the right of secession, that is, the right to secede from the federation.

Constitutional consolidation of state sovereignty

Since state sovereignty is an essential characteristic of a state, it is impossible to talk about the existence of a sovereign state deprived of independence. A state that proclaims its sovereignty, but is unable to actually guarantee it, actually loses its independence and ceases to exist as a sovereign state. Therefore, any constitutional provisions on state sovereignty, if they cannot be realistically applied, are in reality legal fictions. Meanwhile, the very norms in which the provisions on state sovereignty are fixed, taking into account the nature of the constitution as the fundamental law of the state, are its immanent, integral component. Typically, constitutions consolidate state sovereignty by defining its characteristics and the sovereign rights of the state. The sovereign rights of a state reveal the essence of its sovereignty. These rights mean the right of a state to declare war and make peace, the right to pass laws, the right to form its own government bodies, the right to determine its own attributes (symbols, etc.), the right to establish taxes, the right to appoint its representatives in other states and international bodies, the right to enter into interstate unions, etc. Sovereign rights exercised by the state in relations with other states embody the principle of sovereign equality of states. In Part 8 of Art. 2 of the Croatian Constitution of 1990, for example, states: “The Republic of Croatia enters into alliances with other states, retaining the sovereign right to independently decide on the delegation of

²¹ Правовые проблемы определения и реализации государственного суверенитета на современном этапе : М., 2010. С. 16-19.

powers and the right to freely withdraw from them”²². According to Part 1 of Art. 7 of the Constitution of Slovakia of 1992, “The Slovak Republic, on the basis of a free decision, may enter into a state union with other states”²³.

Sovereign power is supreme and independent of any other power. The consequences of the sovereignty of state power are the unity and indivisibility of the territory of the state, the inviolability of its borders and non-interference in its internal affairs. That is why in constitutions provisions on state sovereignty are often accompanied by related language about the extension of sovereignty to the entire territory of the state, about the integrity and inviolability of the latter. In the Constitution of Ukraine of 1996, for example, the proclamation of the sovereignty and independence of the Ukrainian state (Art. 1) is accompanied by indications that sovereignty extends to its entire territory, that the territory of Ukraine is integral and inviolable (Art. 2)²⁴. According to Art. 4 of the Constitution of Slovenia of 1991, “Slovenia is a territorially united and indivisible state”²⁵. “The territorial integrity of the Republic of Bulgaria is inviolable” is established in Part 2 of Art. 2 of the Constitution of Bulgaria 1991²⁶.

The idea of state sovereignty is also often reflected in the preamble of the constitution. The preamble of the Constitution of Moldova of 1994, for example, enshrines “the desire of the people to live in a sovereign country”²⁷. The preamble of the Constitution of Slovakia of 1992 speaks of the centuries-old experience of the struggle of the Slovak people “for national existence and their own statehood”²⁸, and the preamble of the Constitution of Croatia of 1990 speaks of “the historical right of the Croatian people to full state sovereignty”²⁹.

In many cases, the formation of a new sovereign state is accompanied by the adoption of a special act – a declaration of state sovereignty. An example of such an act is, in particular, the Declaration on State Sovereignty of Ukraine dated July 16, 1990. According to this Declaration, state sovereignty is the supremacy, independence, completeness and indivisibility of the power of the state within its territory, independence and equality in external relations³⁰.

Constitutional and legal mechanism for ensuring state sovereignty

Within the meaning of the constitutions of developed countries, state sovereignty is one of the most important constitutional values. An analysis of constitutional norms on state sovereignty indicates that the definition of state sovereignty as a constitutional value presupposes enshrining in the basic law of the state and the mechanism for ensuring this value. The most important elements of the mechanism for ensuring state sovereignty are the corresponding constitutional functions and powers of state authorities.

Normally, the constitutional duty to guarantee state sovereignty, given the constitutional status of the head of state as the supreme commander of the armed forces, rests with him. For example, according to Part 2 of Art. 126 of the Polish Constitution of 1997, “The President of the Republic ... stands guard over the sovereignty and security of the state”³¹. The President of France “is the guarantor of national independence” (Part 2 of Art. 5 of the French Constitution)³², and the President

²² Конституция Республики Хорватия от 22 декабря 1990 г. URL : <http://legalns.com/download/books/cons/croatia.pdf>.

²³ Конституция Словацкой Республики от 1 сентября 1992 г. URL : <http://slovakia.kiev.ua>.

²⁴ Конституція України : Закон України від 28 червня 1996 р. № 254/96-вр. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

²⁵ Конституция Словении от 23 декабря 1991 г. URL : <https://legalns.com/download/books/cons/slovenia.pdf>.

²⁶ Конституция Республики Болгарии от 12 июля 1991 г. URL : <http://www.parliament.am/library/sahmanadrutyunner/bulgaria.pdf>.

²⁷ Конституция Республики Молдова от 29 июля 1994 г. URL : <http://www.md.undp.org>.

²⁸ Конституция Словацкой Республики от 1 сентября 1992 г. URL : <http://slovakia.kiev.ua>.

²⁹ Конституция Республики Хорватия от 22 декабря 1990 г. URL : <http://legalns.com/download/books/cons/croatia.pdf>.

³⁰ Декларация про державний суверенітет України. *Відомості Верховної Ради УРСР*. 1990. № 31. Ст. 429.

³¹ Конституція Польської Республіки (з передмовою Володимира Шаповала). К.: Москаленко О. М., 2018. С. 46.

³² Конституция Французской Республики от 4 октября 1958 г. URL : <https://legalns.com/download/books/cons/france.pdf>.

³² Конституция Португальской Республики от 2 апреля 1976 г. URL : https://www.concourt.am/armenian/legal_resources/world_constitutions/constit/portugal/portug-r.htm.

of Portugal “ensures national independence” (Art. 120 of the Portuguese Constitution)³³. According to Art. 102 of the Constitution of Ukraine of 1996, the President of Ukraine is the guarantor of state sovereignty and territorial integrity of the state, and in accordance with Clause 1 of Part 1 of Art. 106 of the Constitution of Ukraine, the President of Ukraine ensures the independence of the Ukrainian state³⁴.

The status of the guarantor of state sovereignty is directly related to the status of the head of state as the supreme commander-in-chief of the armed forces, since the supreme leadership of the country's armed forces and other military formations provided for by law is a means of directly guaranteeing state sovereignty and the territorial integrity of the state. Depending on the situation, the role of the Supreme Commander-in-Chief may consist of both political leadership of the bodies ensuring the defense capability of the state and direct strategic control of the country's armed forces.

Securing the status of the head of state as the supreme commander of the armed forces is typical for modern constitutions. The Constitution of the United States of America of 1787 (Part 1, Section 2, Art. II), for example, states: “The President is the Commander-in-Chief of the Army and Navy of the United States, as well as the people’s militia of the individual States during their active service to the United States...”³⁵. Paragraph 9 of Art. 87 of the Italian Constitution of 1947 established that the President commands the armed forces and heads the Supreme Defense Council³⁶. “The President of the Republic ... is the Supreme Commander-in-Chief of the armed forces”³⁷ – is enshrined in Art. 123 of the Portuguese Constitution of 1976. According to Paragraph h of Art. 62 of the Spanish Constitution of 1978, “the duties of the King include ... the exercise of supreme command of the armed forces”³⁸. In Belgium, the King, according to the country's 1994 Constitution, “commands the armed forces” (Paragraph 1 of Art. 167)³⁹. Therefore, taking the oath before ascending the throne, he promises to “ensure national independence and territorial integrity” (Part 3 of Art. 91)⁴⁰.

A component of the constitutional and legal mechanism for ensuring state sovereignty is also the corresponding powers of the government. In states with a parliamentary form of government, despite the formal status of the head of state as the supreme commander of the country's armed forces, the armed forces are actually at the disposal of the government. The mentioned situation in a parliamentary form of government is reflected, in particular, in Art. 45 of the Greek Constitution of 1975 stating that “The President of the Republic heads the armed forces of the country, which are led by the Government...”⁴¹.

In a mixed republic, the hallmark of which is the dualism of the executive branch, the authority to direct the armed forces is distributed between the president and prime minister and other executive officials. The common approach for mixed republics to the distribution of powers between the president and the prime minister in the areas of joint competence of these entities is that, although their respective powers are “intertwined”, the powers of the president are decisive. The head of state – the president – makes strategic decisions, and the prime minister solves tactical problems and carries out operational day-to-day management. For example, according to Art. 15 of the Constitution of the Fifth French Republic of 1958, “The President of the Republic is the Commander-in-Chief of the Armed Forces” and in this status “presides over the highest councils and committees of national

³³ Конституция Португальской Республики от 2 апреля 1976 г. URL : https://www.concourt.am/armenian/legal_resources/world_constitutions/constit/portugal/portug-r.htm.

³⁴ Конституція України : Закон України від 28 червня 1996 р. № 254/96-вр. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

³⁵ Конституция Соединенных Штатов Америки от 17 сентября 1787 г. URL : https://uk.wikisource.org/wiki/%D0%9A%D0%BE%D0%BD%D1%81%D1%82%D0%B8%D1%82%D1%83%D1%86%D1%96%D1%8F_%D0%A1%D0%A8%D0%90.

³⁶ Конституция Итальянской Республики от 22 декабря 1947 г. URL : <http://www.casacultureivrea.it/costituzione/russo.pdf>.

³⁷ Конституция Португальской Республики от 2 апреля 1976 г. URL : https://www.concourt.am/armenian/legal_resources/world_constitutions/constit/portugal/portug-r.htm.

³⁸ Конституция Королевства Испании от 29 декабря 1978 г. URL : <https://legalns.com/download/books/cons/spain.pdf>.

³⁹ Конституция Бельгии от 17 февраля 1994 г. *Конституции государств Европейского Союза / Под ред. Л. Окунькова*. М.: НОРМА-ИНФРА-М, 1999. С. 137.

⁴⁰ Ibid. С. 123.

⁴¹ Конституция Греции от 11 июня 1975 г. URL : <https://legalns.com/download/books/cons/greece.pdf>.

defense”⁴². At the same time, Art. 20 of the Constitution stipulates that the armed forces are “at the disposal” of the Government⁴³. Clause 17 of Part 1 of Art. 106 of the Constitution of Ukraine of 1996 enshrines the status of the President of Ukraine as the Supreme Commander-in-Chief of the Armed Forces of Ukraine, indicating, in particular, that he exercises leadership in the field of national security and state defense⁴⁴. At the same time, according to Art. 8 of the Law of Ukraine “On the Armed Forces of Ukraine” dated March 25, 1992, “The Minister of Defense of Ukraine exercises military-political and administrative leadership of the Armed Forces of Ukraine”⁴⁵.

Constitutions also often contain provisions recognizing the special role of the armed forces in ensuring the sovereignty of the state. According to Art. 8.1. of the Spanish Constitution of 1978, “The Armed Forces ... are called upon to guarantee the sovereignty and independence of Spain and to defend its territorial integrity...”⁴⁶. Art. 9 of the Bulgarian Constitution of 1991 establishes that “the armed forces guarantee the sovereignty, security and independence of the country and protect its territorial integrity”⁴⁷. “The Armed Forces ensure the independence of the state, and also protect the integrity of its territory...”⁴⁸ is enshrined in Part 1 of Art. 12 of the Albanian Constitution of 1998. According to Part 2 of Art. 17 of the Constitution of Ukraine of 1996, “the defense of Ukraine, the protection of its sovereignty, territorial integrity and inviolability are entrusted to the Armed Forces of Ukraine”⁴⁹.

Historically, the armed forces played the role of the most important institutional guarantee of state sovereignty, and the formation of sovereign statehood has always accompanied the formation of its armed forces. The presence of armed forces is a fundamental attribute of a sovereign state. On the contrary, the absence of its own armed forces indicates the illusory nature of state sovereignty. That is why one of the primary tasks that a sovereign state must solve in the process of its formation is to form its own combat-ready armed forces. The peculiarity of the place and role of the armed forces in the state mechanism is that it is one of its primary elements, which begins the process of state formation and ensures its very sovereign existence.

Background to the issue of the sovereignty of Karakalpakstan

Among the leadership of the Communist Party of the Soviet Union there was no consensus on which Soviet republic should include the lands inhabited by Karakalpaks. Therefore, these lands were transferred several times from one republic to another⁵⁰. In 1924, the Karakalpak Autonomous Region was formed as part of the Kazakh Soviet Socialist Republic. In 1930, the region became part of the Russian Soviet Federative Socialist Republic. In 1932, the Karakalpak Autonomous Region was transformed into the Karakalpak Autonomous Soviet Socialist Republic. In 1936, the Karakalpak Autonomous Soviet Socialist Republic became part of the Uzbek Soviet Socialist Republic and remained there until the collapse of the Soviet Union. In 1992, the Karakalpak Autonomous Soviet Socialist Republic received the name Karakalpakstan.

On December 14, 1990, the Supreme Council of the Karakalpak Autonomous Soviet Socialist Republic adopted the Declaration of State Sovereignty, in which it proclaimed the status of Karakalpakstan as an independent state. On January 9, 1993, contrary to the Declaration of State

⁴² Конституция Французской Республики от 4 октября 1958 г.
<https://legalns.com/download/books/cons/france.pdf>.

⁴³ Ibid.

⁴⁴ Конституція України : Закон України від 28 червня 1996 р. № 254/96-вр. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

⁴⁵ Про Збройні Сили України : Закон України від 25 березня 1992 р. № 1934-XII. *Відомості Верховної Ради України*. 1992. № 9. Ст. 108.

⁴⁶ Конституция Королевства Испании от 29 декабря 1978 г. URL : <https://legalns.com/download/books/cons/spain.pdf>.

⁴⁷ Конституция Республики Болгарии от 12 июля 1991 г. URL : <http://www.parliament.am/library/sahmanadrutyunner/bulgaria.pdf>.

⁴⁸ Конституция Республики Албания от 21 октября 1998 г. URL : http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/albania/albani-r.htm.

⁴⁹ Конституція України : Закон України від 28 червня 1996 р. № 254/96-вр. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

⁵⁰ Веретильных А. Проблемы становления и развития государственности Республики Каракалпакстан. *Nowa Polityka Wschodnia*. 2020. № 3 (26). S. 119.

Sovereignty, an interstate agreement “On the entry of the Republic of Karakalpakstan into the Republic of Uzbekistan for a period of 20 years” was signed between the political leadership of Uzbekistan and the political leadership of Karakalpakstan. According to the agreement, Karakalpakstan became part of Uzbekistan with the status of an autonomous entity. After the expiration of the agreement, Karakalpakstan had the right to secede from Uzbekistan. However, in 2013, when the agreement expired, a referendum on the Republic’s secession from Uzbekistan was not held in Karakalpakstan, nor was the term of the agreement extended. The political leadership of Uzbekistan made an unsuccessful attempt to subject the agreement to oblivion. So, as a result of the conclusion of a temporary agreement with Uzbekistan in 1993, Karakalpakstan received satellite status, that is, it became a formally independent state, but actually subordinate to Uzbekistan. Over the years during which Karakalpakstan was part of Uzbekistan, the political leadership of Uzbekistan established complete control over the political elite of Karakalpakstan and achieved its unconditional political loyalty.

It is noteworthy that the original interstate agreement, signed by the political leadership of Uzbekistan and the political leadership of Karakalpakstan on January 9, 1993, is classified and is not in the public domain⁵¹. Therefore, it is impossible to find out the essence of the agreements underlying the contract. It is also impossible to establish the reason why Karakalpakstan became part of Uzbekistan on the basis of autonomy, and did not form a confederation with Uzbekistan, thus maintaining real state sovereignty. This may indicate the desire of the current senior officials of Karakalpakstan to hide the truth about the contents of the agreement from the population of the Republic and to prevent a referendum on its independence from being held in Karakalpakstan⁵².

In 2022, a new edition of the Constitution of Uzbekistan was submitted for public discussion in Uzbekistan, which was approved in a referendum on April 30, 2023. In the draft Constitution of Uzbekistan, submitted for public discussion, there was already no provision on the sovereignty of Karakalpakstan, as well as on its right to withdraw from composition of Uzbekistan. The complete “cleansing” of the Constitution of Uzbekistan from the norms that consolidated the sovereignty of Karakalpakstan caused mass protests in large cities of Karakalpakstan, which began on July 1, 2022. Although the political elite of Karakalpakstan turned out to be indifferent to the desire of the Uzbek political leadership to finally end the sovereignty of Karakalpakstan, ordinary Karakalpaks showed strong resistance to this. Trying to prevent the uncontrolled growth of public protests in Karakalpakstan, the Oliy Majlis – the Parliament of Uzbekistan – abandoned the attempt to remove norms regarding the sovereignty of Karakalpakstan from the Constitution of Uzbekistan. Therefore, on April 30, 2023, at a national Uzbek referendum, the version of the Constitution of Uzbekistan was approved, which retained the provisions on the “sovereign Republic of Karakalpakstan” and its right to secede from Uzbekistan, as well as other norms of the previous version of the Constitution of Uzbekistan regarding the sovereignty of Karakalpakstan.

Declaration of State Sovereignty of Karakalpakstan dated December 14, 1990

The Declaration of State Sovereignty of the Republic of Karakalpakstan was adopted at the fourth session of the Supreme Council of the Karakalpak Autonomous Soviet Socialist Republic on December 14, 1990. The Declaration legalized and legitimized the emergence of a new state – Karakalpakstan, which recognized itself as the successor of the Karakalpak Autonomous Soviet Socialist Republic. The Declaration proclaimed the sovereignty of Karakalpakstan and enshrined its most important guarantees:

- the status of the main links of the state mechanism of Karakalpakstan – the Supreme Council of the Republic of Karakalpakstan, the Council of Ministers of the Republic of Karakalpakstan, the Supreme Court of the Republic of Karakalpakstan;
- the right of the people of Karakalpakstan to create their own statehood on their sovereign territory;
- the right of the people of Karakalpakstan to exercise the supreme power that belongs to them directly and through the system of bodies created by them;

⁵¹ Каракалпакия: мечтатели-сепаратисты или путь к независимости? URL : <http://politcom.ru/18300.html>.

⁵² Веретильник А. Проблемы становления и развития государственности Республики Каракалпастан. *Nowa Polityka Wschodnia*. 2020. № 3 (26). S. 123.

- the supremacy of the Constitution and laws of Karakalpakstan on the territory of the Republic;
- the principle according to which relations between the Republic of Karakalpakstan, the Soviet Union and the Uzbek Soviet Socialist Republic were to be built on a contractual basis; Karakalpakstan reserved the right to suspend the validity of international agreements and treaties concluded by it;
- the principle of integrity and indivisibility of the territory of Karakalpakstan;
- objects of exclusive property of the Republic of Karakalpakstan;
- the possibility of Karakalpakstan secession from the Soviet Union and the Uzbek Soviet Socialist Republic as the exclusive right of Karakalpakstan;
- single citizenship of Karakalpakstan, which does not allow the combination of citizenship of the Soviet Union or citizenship of the Uzbek Soviet Socialist Republic;
- attributes of the Karakalpak state – coat of arms, flag, anthem;
- the status of the Karakalpak language as the state language of Karakalpakstan.

The Declaration enshrined the provision on its role as the substantive basis of the future Constitution of Karakalpakstan and the new Karakalpak legislation. Also noteworthy is the provision of the Declaration, from the content of which it can be established that since the adoption of the Declaration, the entry of Karakalpakstan into the Uzbek Soviet Socialist Republic has become a thing of the past.

Provisions of the Constitution of the Republic of Karakalpakstan of April 9, 1993 on the state sovereignty of Karakalpakstan

The adoption of the Constitution of Karakalpakstan on April 9, 1993 marked the beginning of the process of constitutional “winding down” the sovereignty of Karakalpakstan. The Declaration of State Sovereignty of Karakalpakstan dated December 14, 1990 stated that it is the basis of the new Constitution of the Republic of Karakalpakstan and the determining basis for the development of laws of the Republic of Karakalpakstan. So, the new Constitution of Karakalpakstan was supposed to implement the provisions of the Declaration, creating a legal mechanism for their implementation. However, the Constitution of the Republic of Karakalpakstan dated April 9, 1993 does not contain any mention of the Declaration. The Declaration of State Sovereignty of Karakalpakstan dated December 14, 1990, which, according to its drafters, was supposed to play a fateful historical role in the construction of a sovereign Karakalpakstan state, from the point of view of the developers of the Constitution of Karakalpakstan dated April 9, 1993, did not exist. This eloquent fact indicates that at the time of the adoption of the Constitution of Karakalpakstan on April 9, 1993, the political elite of Karakalpakstan abandoned the ideas of the Declaration of State Sovereignty of Karakalpakstan dated December 14, 1990 in favor of secret agreements reached with the Uzbek political leadership in the process of concluding the agreement dated January 9, 1993 on the entry of Karakalpakstan into Uzbekistan. This explains why the Constitution of Karakalpakstan dated April 9, 1993, which was supposed to be adopted on the basis and in development of the provisions of the Declaration on State Sovereignty of Karakalpakstan dated December 4, 1990, largely distorted and refuted the principles of the Declaration.

In the Preamble, justifying the reasons for the adoption of the Constitution, its developers proclaimed the commitment of the Karakalpak people to the principles of state sovereignty and pointed to the “historical experience of the development of Karakalpak statehood”⁵³. A feature of the Constitution of Karakalpakstan dated April 9, 1993 is a relatively detailed regulation of issues of state sovereignty, and therefore the relevant norms are grouped in Chapter 1 of Section I of the Constitution under the title “State Sovereignty”. Chapter 1 begins with a completely contradictory Art. 1, in Part 1 of which it is stated that “Karakalpakstan is a sovereign democratic republic, part of the Republic of Uzbekistan”⁵⁴. The quoted constitutional provision is pure nonsense. How can a sovereign state be part of another state? A sovereign state cannot be a territorial component of another state, otherwise it is no longer a sovereign state, but an autonomous political entity. Since genuine states, and not autonomous political entities within a unitary state, have real sovereignty, the constitutional provision that Karakalpakstan is part of Uzbekistan does not allow Karakalpakstan to be considered a sovereign

⁵³ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

⁵⁴ Ibid.

state. No less problematic from the point of view of its content is Part 2 of Art. 1 of the Constitution of Karakalpakstan, which states: “Mutual relations of the Republic of Uzbekistan and the Republic of Karakalpakstan within the framework of the Constitution of the Republic of Uzbekistan are regulated by treaties and agreements concluded between the Republic of Uzbekistan and the Republic of Karakalpakstan”⁵⁵. Relations between sovereign states are, by definition, relations between equal entities and must be built on a contractual basis. However, if Karakalpakstan is a sovereign state, it is impossible to explain why it builds its relations with Uzbekistan “within the framework of the Constitution of the Republic of Uzbekistan”?

Part 3 of Art. 1 of the Constitution of Karakalpakstan contains a provision that, taking into account the possibility of its implementation, can reasonably be considered a legal fiction. According to Part 3 of Art. 1 of the Constitution, “The Republic of Karakalpakstan has the right to secede from the Republic of Uzbekistan on the basis of a general referendum of the people of Karakalpakstan”⁵⁶. The quoted constitutional provision duplicates Art. 89 of the Constitution of Uzbekistan. So, formally, both the Constitution of Karakalpakstan and the Constitution of Uzbekistan provide for the possibility of Karakalpakstan to secede from Uzbekistan through a referendum.

It is impossible to reconcile the provisions of Part 1 of Art. 3 of the Constitution of Karakalpakstan that “The Republic of Karakalpakstan ... pursues a policy consistent with the policy of the Republic of Uzbekistan”⁵⁷ with the idea of state sovereignty of Karakalpakstan. The very essence of state sovereignty presupposes the right of the state to be completely independent in the implementation of its domestic and foreign policies. And if the domestic or foreign policy of a sovereign state is subject to certain normatively established restrictions, the sovereign state imposes these restrictions on itself voluntarily. From the analysis of the content connection of Art. 3 of the Constitution of Karakalpakstan with other constitutional norms, it is quite obvious that in Art. 3 we are not talking about the foreign policy of Karakalpakstan, since according to the Constitution, Karakalpakstan is not a subject of international law, and participation in international relations is the prerogative of Uzbekistan. However, in the implementation of internal policy, Karakalpakstan is also not independent and implements internal policy in the context of the political course of the Government of Uzbekistan. How can this fact be reconciled with the definition of Karakalpakstan as a sovereign state? The question is rhetorical, because the answer is obvious – no way. Regulations of Part 1 of Art. 3 of the Constitution of Karakalpakstan that “the Republic of Karakalpakstan ... pursues a policy consistent with the policy of the Republic of Uzbekistan” is also discordant with the provisions of Art. 2 of the Constitution of Karakalpakstan that “the state expresses the will of the people, serves their interests”⁵⁸ and Part 2 of Art. 7 of the Constitution of Karakalpakstan that “state power in the Republic of Karakalpakstan is exercised in the interests of the people”⁵⁹. It is doubtful that the political leadership of Karakalpakstan is pursuing a policy of renouncing state sovereignty in the interests of the people. It is obvious that the state authorities of Karakalpakstan, fulfilling the requirement of Part 1 of Art. 3 of the Constitution of Karakalpakstan, carry out policies in the interests of Uzbekistan, and not their own people.

Part 2 of Art. 3 of the Constitution of Karakalpakstan states: “The territory and borders of the Republic of Karakalpakstan are inviolable, cannot be changed and are indivisible”⁶⁰. The territorial integrity of the state, the indivisibility of its territory and the inviolability of its borders are fundamentally important signs of state sovereignty. So, in Part 2 of Art. 3 of the Constitution of Karakalpakstan formulates the principle of the immutability of the borders of Karakalpakstan. Contrary to this, Art. 84 of the Constitution of Uzbekistan establishes that “changes in the borders of the Republic of Karakalpakstan, regions, the city of Tashkent, as well as the formation or abolition of regions, cities, districts are carried out with the consent of the Oliy Mazhlis of the Republic of Uzbekistan”⁶¹. As can be seen, in Art. 84 of the Constitution of Uzbekistan, Karakalpakstan acts as one of the administrative-territorial units of the Uzbek state and changes in the administrative

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

boundaries of this unit are possible with the consent of the Oliy Mazhlis of Uzbekistan. In accordance with Art. 88 of the Constitution of Uzbekistan, “the territory and borders of the Republic of Karakalpakstan cannot be changed without its consent”⁶². This formulation indicates that the Constitution of Uzbekistan gives the Uzbek state the right to change the territory and borders of Karakalpakstan. If Karakalpakstan is a sovereign state, why can another state change its territory and borders? It is impossible to answer this question unless one considers the sovereignty of Karakalpakstan conditional.

Art. 5 of the Constitution of Karakalpakstan defines the state symbols of Karakalpakstan – the flag, emblem and anthem.

The issue of state sovereignty of Karakalpakstan is directly related to the norms of Chapter 3 of the Constitution of Karakalpakstan “Supremacy of the Constitution and Law”. In particular, in Part 1 of Art. 15 of Chapter 3 establishes: “In the Republic of Karakalpakstan, the unconditional supremacy of the Constitution and laws of the Republic of Uzbekistan and the Republic of Karakalpakstan is recognized”⁶³. The above constitutional provision reflects the parallelism of the sovereignty of Uzbekistan and the sovereignty of Karakalpakstan. In a sovereign state, there is only one source of power – the people, who form the totality of citizens of the state. This condition is fully consistent with the provision of the Constitution of Karakalpakstan that “the people are the only source of state power” (Part 1 of Art. 7). If the people of Karakalpakstan, as the subject of the supreme constituent power, embodies their constituent will in the Constitution of Karakalpakstan, creating the normative basis of their sovereign state, why do the Constitution and laws of Uzbekistan also have legal supremacy on the territory of Karakalpakstan? It is worth recalling here that in the Declaration of State Sovereignty of Karakalpakstan dated December 14, 1990, the principle of the supremacy of the Constitution of Karakalpakstan was proclaimed as the only source of law with the highest legal force on the territory of Karakalpakstan.

Art. 16 of Chapter 3 states: “None of the provisions of this Constitution can be interpreted to the detriment of the rights and interests of the Republic of Karakalpakstan. No law or other legal act may contradict the norms and principles of the Constitution”⁶⁴. Quoted provisions of Part 1 of Art. 15 and Art. 16 of the Constitution of Karakalpakstan raise several questions. How does the principle of the supremacy of the Constitution of Karakalpakstan operate in the event of a conflict between its norms and the norms of the Constitution of Uzbekistan? How does the principle of the supremacy of the legislation of Karakalpakstan operate in the event of a conflict between its norms and the norms of the legislation of Uzbekistan?

Art. 86 of the Constitution of Uzbekistan states that “The Constitution of the Republic of Karakalpakstan cannot contradict the Constitution of the Republic of Uzbekistan”⁶⁵, but Part 4 of Art. 133 of the Constitution of Uzbekistan says that “the Constitutional Court of Uzbekistan ... gives an opinion on the compliance of the Constitution of the Republic of Karakalpakstan with the Constitution of the Republic of Uzbekistan, the laws of the Republic of Karakalpakstan – with the laws of the Republic of Uzbekistan”⁶⁶. So, the Constitution and laws of Karakalpakstan are legally subordinate to the Constitution and, accordingly, the laws of Uzbekistan. However, if on the territory of Karakalpakstan the primacy of the Constitution and laws of Karakalpakstan is conditional, how can this be reconciled with the constitutional definition of Karakalpakstan as a sovereign state?

Chapter 4 of the Constitution of Karakalpakstan “International and foreign economic relations of Karakalpakstan” contains a single and brief Art. 17, which in itself is significant. Art. 17 states that “International scientific, cultural and foreign economic relations of the Republic of Karakalpakstan are carried out in accordance with the legislation of the Republic of Uzbekistan and the Republic of Karakalpakstan”⁶⁷. So, if in Art. 17 of the Constitution of Uzbekistan, Uzbekistan is defined as a

⁶² Ibid.

⁶³ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

⁶⁴ Ibid.

⁶⁵ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

⁶⁶ Ibid.

⁶⁷ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

“full-fledged subject of international relations”⁶⁸, then Art. 17 of the Constitution of Karakalpakstan reduces the international relations of Karakalpakstan to the spheres of science and culture. There is an obvious substitution of concepts, since the mentioned narrowing of the international legal personality of Karakalpakstan does not allow us to consider it, unlike Uzbekistan, as a real subject of international relations. This conclusion is convincingly confirmed by practice – at the moment, Karakalpakstan is deprived of any international representation. However, the Declaration of State Sovereignty of Karakalpakstan dated December 14, 1990 dealt with Karakalpakstan’s right to conclude international agreements and treaties. Even scientific and cultural international relations, according to Art. 17 of the Constitution, Karakalpakstan implements “in accordance with the legislation of the Republic of Uzbekistan”. If we proceed from the fact that Karakalpakstan is a sovereign state, and not a political autonomy within Uzbekistan, why should Karakalpakstan build its international relations on the basis of Uzbek legislation? In general, the content of Chapter 4 indicates the complete political and economic dependence of Karakalpakstan on Uzbekistan and the lack of desire and political will on the part of the leadership of Karakalpakstan to change the existing state of affairs⁶⁹.

Chapter 6 of the Constitution of Karakalpakstan “Citizenship” also consists of only one Art. 21 with the following content: “In accordance with the single citizenship established in the Republic of Uzbekistan, every citizen of the Republic of Karakalpakstan is a citizen of the Republic of Uzbekistan. The grounds and procedure for acquiring and losing citizenship are determined by the Law of the Republic of Uzbekistan on citizenship. Foreign citizens and stateless persons located on the territory of the Republic of Karakalpakstan are provided with rights and freedoms in accordance with international law. They bear the responsibilities established by the Constitution and laws of the Republic of Karakalpakstan and international treaties of the Republic of Uzbekistan”⁷⁰. Part 8 of the Declaration of State Sovereignty of Karakalpakstan dated December 14, 1990 declared: “Citizens of the Republic of Karakalpakstan, who were citizens of the Union of Soviet Socialist Republics and the Uzbek Soviet Socialist Republic, are now citizens of the Republic of Karakalpakstan”. Provision of Art. 21 of the Constitution of Karakalpakstan that “every citizen of the Republic of Karakalpakstan is a citizen of the Republic of Uzbekistan” indicates a rejection of the principle of single citizenship of Karakalpakstan.

Art. 21 also reveals several substantive defects. The principle of single citizenship presupposes, in particular, that the state applying this principle does not recognize the citizenship of another sovereign state among its own citizens. Citizenship of Karakalpakstan is a logical consequence of the sovereignty of Karakalpakstan, however, the constitutional formulation “every citizen of the Republic of Karakalpakstan is a citizen of the Republic of Uzbekistan” denies the sovereignty of Karakalpakstan. Moreover, if Karakalpakstan is a sovereign state, why is its citizenship regulated by the legislation of another state – Uzbekistan? It is also noteworthy that, according to Art. 21 of the Constitution of Karakalpakstan, the legal status of foreign citizens and stateless persons is determined by the Constitution and laws of Karakalpakstan and *international treaties of Uzbekistan* (emphasis added). This article indirectly confirms that Karakalpakstan is not authorized to conclude international treaties. The Constitution of Karakalpakstan (Part 2, Art. 1) and the Constitution of Uzbekistan (Part 1, Art. 90) provide for a unified form of contractual relations between Karakalpakstan and another sovereign state – these are treaties and agreements between Karakalpakstan and Uzbekistan.

Art. 50 of the Constitution of Karakalpakstan enshrines the duty of citizens of Karakalpakstan to protect the Republic of Uzbekistan. Such a duty cannot be reconciled with the status of Karakalpakstan as a sovereign state.

Obvious evidence of the symbolic nature of Karakalpakstan’s sovereignty is the absence of the post of head of state. The Constitution of Karakalpakstan dated April 9, 1993 does not provide for such a position. Meanwhile, the position of the President of the Republic of Karakalpakstan existed

⁶⁸ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

⁶⁹ Веретильник А. Проблемы становления и развития государственности Республики Каракалпакстан. *Nova Polityka Wschodnia*. 2020. № 3 (26). S. 121.

⁷⁰ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

in Karakalpakstan from November 11, 1991 to June 20, 1992. The abolition of this position in 1992 became significant and reflected the process of turning the sovereignty of Karakalpakstan into a legal formality.

Art. 81 of the Constitution of Karakalpakstan, which defines the powers of the Chairman of the Zhokargy Kenes (Speaker of the Parliament) of Karakalpakstan, establishes, in particular, some powers of this official, such as, for example, ensuring interaction between the legislative and executive branches of government (Clause 1), submitting a report to the Zhokargy Kenes “on the state of affairs in the Republic and other important issues” (Clause 2), submission to the Zhokargy Kenes for appointment to the position of the Prime Minister of the Republic (Clause 5), etc., which in the conditions of a republican form of government are components of the competence of the president. However, among the powers of the Chairman of the Zhokargy Kenes, as well as among the powers of other senior officials of Karakalpakstan, there are no foreign policy powers. At the same time, the Chairman of the Zhokargy Kenes “organizes the implementation of laws and other decisions of the Oliy Mazhlis of the Republic of Uzbekistan, decrees and other acts of the President of the Republic of Uzbekistan” (Clause 3)⁷¹. Similarly, the Council of Ministers (Government) of Karakalpakstan “ensures ... the implementation of the laws of the Republic of Uzbekistan and other decisions of the Oliy Mazhlis of the Republic of Uzbekistan, decrees, resolutions and orders of the President of the Republic of Uzbekistan, resolutions and orders of the Cabinet of Ministers (Government – author) of the Republic of Uzbekistan...” (Part 2 of Art. 87 of the Constitution of Karakalpakstan)⁷². Similar powers, according to Art. 91 of the Constitution of Karakalpakstan, vested in the local authorities of the Republic. It is clear that the regulation in the Constitution of Karakalpakstan of the mechanism for implementing Uzbek legislation calls into question the reality of the provisions of this Constitution on the sovereignty of Karakalpakstan.

Karakalpakstan has a form of government that combines the features of parliamentary and Soviet republics. Considering the absence of the post of the head of state and the content of the personnel powers of the Zhokargy Kenes established in Art. 70 of the Constitution of Karakalpakstan, the Zhokargy Kenes is a key, central element of the state mechanism of Karakalpakstan. At the same time, the Zhokargy Kenes carries out “in agreement with the President of the Republic of Uzbekistan” a number of fundamental personnel appointments, namely the appointment of the Chairman of the Council of Ministers of Karakalpakstan, the chairman and judges of the Supreme Court of Karakalpakstan for civil cases, the chairman and judges of the Supreme Court of Karakalpakstan for criminal cases, the chairman and judges of the Economic Court of Karakalpakstan, as well as judges of district and city courts. “In agreement with the President of the Republic of Uzbekistan”, the Zhokargy Kenes elects its Chairman, referred to as the “Head of the Republic of Karakalpakstan and the highest official of the Republic of Karakalpakstan”⁷³ in Art. 80 of the Constitution of Karakalpakstan. Similarly, “in agreement with the Prosecutor General of Uzbekistan”, according to Part 1 of Art. 114 of the Constitution of Karakalpakstan and Part 2 of Art. 144 of the Constitution of Uzbekistan, the Zhokargy Kenes appoints the Prosecutor of Karakalpakstan. The fundamental role of the President of Uzbekistan in the appointment of the above-mentioned officials of Karakalpakstan indicates that all the most important government positions in Karakalpakstan are occupied by persons who are at least completely loyal to the President of Uzbekistan and are ready to unconditionally support his political course. Under such conditions, it is difficult to talk about the sovereignty of Karakalpakstan and its ability to implement an independent policy. It is also unlikely to expect that any of the senior officials of Karakalpakstan being de facto proteges of the President of Uzbekistan, will initiate the creation of a legal mechanism for Karakalpakstan’s secession from Uzbekistan. It is not surprising that Karakalpakstan has not yet adopted a law on a referendum for the people of Karakalpakstan.

While establishing the powers of the Zhokargy Kenes, its Chairman and the Council of Ministers of Karakalpakstan, the Constitution of Karakalpakstan does not define the role of these entities in ensuring the sovereignty of Karakalpakstan. According to the Constitution of Karakalpakstan, the existence of the armed forces of Karakalpakstan, as well as any other legal

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid.

military formations or law enforcement agencies of Karakalpakstan, is not provided for. Karakalpakstan is deprived of these elements of the state mechanism that are fundamental to ensuring its sovereignty. The reason for Karakalpakstan's lack of its own security and defense sector is clear, because according to Part 2 of Art. 85 of the Constitution of Uzbekistan, "the sovereignty of the Republic of Karakalpakstan is protected by the Republic of Uzbekistan"⁷⁴. The meaninglessness of this constitutional formulation is striking: if Uzbekistan protects the sovereignty of Karakalpakstan, which is its administrative-territorial unit, it is encroaching on its own sovereignty.

Formally, Karakalpakstan has its own system of prosecutors, whose jurisdiction is limited to the territory of the Republic. However, in Art. 114 of the Constitution of Karakalpakstan states: "The Prosecutor of the Republic of Karakalpakstan is appointed and dismissed by the Zhokargy Kenes of the Republic of Karakalpakstan in agreement with the Prosecutor General of the Republic of Uzbekistan. Prosecutors of districts and cities are appointed and dismissed by the Prosecutor General of the Republic of Uzbekistan, upon the proposal of the Prosecutor of the Republic of Karakalpakstan"⁷⁵. Based on the contents of Art. 114 of the Constitution of Karakalpakstan, it is obvious that the prosecutor's office of Karakalpakstan is nothing more than a regional part of the prosecutor's office of Uzbekistan.

So, the Constitution of Karakalpakstan of April 9, 1993 did not create any, even fragmentary, constitutional and legal mechanism for ensuring the sovereignty of Karakalpakstan. The fundamental defect of this Constitution is the refusal to create the security and defense sector of Karakalpakstan, and above all, the armed forces of Karakalpakstan. Having deprived the people of Karakalpakstan of all fundamental instruments for ensuring the state sovereignty of Karakalpakstan, the Constitution gave it a completely formal character. The Declaration of State Sovereignty of Karakalpakstan dated December 14, 1990 enshrined the desire of the people of Karakalpakstan to create a state "on their sovereign territory". However, the Constitution of Karakalpakstan of April 9, 1993 did not ensure the emergence of a full-fledged Karakalpak state, but rather imitated its establishment. The principle of popular sovereignty, reflected in the provision of the Declaration that "the people, relying on the Constitution and laws, directly and unambiguously through elected deputies exercises public administration", given the loss of independence by Karakalpakstan, also turned out to be leveled. Ensuring the supremacy of the Constitution of Uzbekistan on the territory of Karakalpakstan, the legal subordination of the Constitution of Karakalpakstan to it indicate that the principle of the supremacy of the Constitution of Karakalpakstan proclaimed in the Declaration has undergone a significant distortion. Having secured the right of the people of Karakalpakstan to decide in a referendum on the secession of Karakalpakstan from Uzbekistan, the Constitution of Karakalpakstan with its other provisions ensuring the supremacy of Uzbek legislation on the territory of Karakalpakstan, actually made the implementation of this right impossible.

Amendments to the Constitution of Karakalpakstan dated April 9, 1993 and the state sovereignty of Karakalpakstan

The Constitution of Karakalpakstan dated April 9, 1993, which is still in force today, has undergone a number of changes during its existence, dating back to 1994, 1995, 1997, 2003 and 2014. An analysis of the current version of the Constitution of Karakalpakstan indicates the desire of the initiators of constitutional changes to deprive Karakalpakstan of the opportunity to independently make any fundamental decisions, thereby giving the state sovereignty of Karakalpakstan even more symbolic. The following amended constitutional provisions reflect this trend. Art. 8 of the primary edition of the Constitution of Karakalpakstan establishes that "the people of Karakalpakstan are citizens of the Republic of Karakalpakstan"⁷⁶. Art. 8 of the current version of the Constitution of Karakalpakstan stipulates that "citizens of the Republic of Karakalpakstan are citizens of the Republic of Uzbekistan living on the territory of Karakalpakstan"⁷⁷. The current wording of Art. 8 indicates

⁷⁴ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

⁷⁵ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

⁷⁶ Конституция Республики Каракалпакстан. Нукус: Каракалпакстан, 1993. С. 82.

⁷⁷ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

that the definition of the people of Karakalpakstan as the totality of its citizens was removed from the Constitution of Karakalpakstan. Analysis of other constitutional norms allows us to conclude that, in accordance with the current version of the Constitution of Karakalpakstan, the people of Karakalpakstan are citizens of Uzbekistan, or more precisely, their part living in Karakalpakstan.

It is noteworthy that Part 1 of Art. 69 of the current version of the Constitution of Karakalpakstan provides for a reduction in the number of Zhokargy Kenes from 75 to 65 deputies. The reduction in the number of deputies of the Zhokargy Kenes, a very compact legislative body, makes it even more predictable and controllable. According to Part 2 of Art. 69 of the current version of the Constitution of Karakalpakstan, “*citizens of the Republic of Uzbekistan* (emphasis added) who have reached 25 years of age by election day have the right to be elected to the Zhokargy Kenes of the Republic of Karakalpakstan”⁷⁸. However, according to Part 2 of Art. 69 of the primary version of the Constitution of Karakalpakstan, “the right to be elected to the Zhokargy Kenes of the Republic of Karakalpakstan belongs to *citizens of the Republic of Karakalpakstan* (emphasis added) who have reached 25 years of age by election day”⁷⁹. So, now the subjects of passive voting rights in the elections to the Zhokargy Kenes of Karakalpakstan are not citizens of Karakalpakstan, but citizens of Uzbekistan.

Part 1 of Art. 80 of the current version of the Constitution of Karakalpakstan states: “The Chairman of the Zhokargy Kenes of the Republic of Karakalpakstan is the Head of the Republic of Karakalpakstan and the highest official of the Republic of Karakalpakstan”⁸⁰. Instead, it was enshrined in Part 1 of Art. 80 of the primary edition of the Constitution of Karakalpakstan that “The Chairman of the Zhokargy Kenes of the Republic of Karakalpakstan is the highest official of the Republic of Karakalpakstan”⁸¹. So, according to Part 1 of Art. 80 of the current version of the Constitution of Karakalpakstan, the Chairman of the Zhokargy Kenes combines in his person the statuses of the Leader and the highest official of the Republic. The definition of the Chairman of the Zhokargy Kenes as the Leader and highest official of Karakalpakstan is a completely regressive position. It can be considered a legacy of the practice of the Soviet organization of state power, in which the functions of the head of state were performed by a collegial body named the presidium of the Supreme Council, headed by its chairman. It was the chairman of the Supreme Council who was officially called the highest official of the state. However, in terms of studying the state sovereignty of Karakalpakstan, something else is important. The status of the Chairman of the Zhokargy Kenes, in particular the content of his powers, defined in Art. 81 of the current version of the Constitution of Karakalpakstan, indicates that he performs the functions inherent in both the head of state and the speaker of parliament. This circumstance is important. Firstly, it reflects the absence of a full-fledged institution of head of state in the state mechanism of Karakalpakstan. It is for the head of state that the function of foreign policy representation of the state is immanent, and wherever the position of head of state is constitutionally provided for, the foreign policy representation of the state is provided, at least formally, by its head – the monarch or the president. Another titular function of the head of state, essentially independent of the adopted form of government, is the supreme command of the country's armed forces. It is with the desire to make the proper international legal personality of Karakalpakstan and the supreme strategic leadership of its own armed forces impossible that one should associate the refusal in the organization of state power of Karakalpakstan from the post of president.

Another aspect of the constitutional status of the Chairman of the Zhokargy Kenes of Karakalpakstan is important. According to Part 2 of Art. 80 of the primary edition of the Constitution of Karakalpakstan, the Chairman of the Zhokargy Kenes was elected by the Zhokargy Kenes from among its own deputies by secret ballot “for the term of office of the Zhokargy Kenes of the Republic of Karakalpakstan and for no more than two consecutive terms”⁸². However, Part 2 of Art. 80 of the current version of the Constitution of Karakalpakstan states: “The Chairman of the Zhokargy Kenes

⁷⁸ Ibid.

⁷⁹ Конституция Республики Каракалпакстан. Нукус: Каракалпакстан, 1993. С. 91, 92.

⁸⁰ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

⁸¹ Конституция Республики Каракалпакстан. Нукус: Каракалпакстан, 1993. С. 95.

⁸² Ibid.

of the Republic of Karakalpakstan is elected by the Zhokargy Kenes of the Republic of Karakalpakstan *in agreement with the President of the Republic of Uzbekistan* (emphasis added) from among the deputies of the Zhokargy Kenes of the Republic of Karakalpakstan by secret ballot for the term of office of the Zhokargy Kenes of the Republic of Karakalpakstan”⁸³. So, from the new edition of the Constitution of Karakalpakstan, the provision on the impossibility of re-electing the Chairman of the Zhokargy Kenes more than two times in a row has been removed, while an additional condition has been established – the candidacy of the Chairman of the Zhokargy Kenes must be agreed upon with the President of Uzbekistan. These constitutional changes are interconnected and complement each other. Now the Chairman of the Zhokargy Kenes of Karakalpakstan, given the absence of anything even similar to opposition in the Zhokargy Kenes, is a protege of the President of Uzbekistan. And it is possible to re-elect the Chairman of the Zhokargy Kenes as long as he, from the point of view of the President of Uzbekistan, justifies his stay in office.

Paragraph 6 of Art. 70 of the primary edition of the Constitution of Karakalpakstan established the authority of the Zhokargy Kenes to carry out “on the recommendation of the Chairman of the Zhokargy Kenes of the Republic of Karakalpakstan, the appointment and dismissal of the Chairman of the Council of Ministers of the Republic of Karakalpakstan”⁸⁴. Submission to the Zhokargy Kenes of the candidacy of the Chairman of the Council of Ministers, in accordance with Clause 5 of Art. 80 of the initial edition of the Constitution of Karakalpakstan, the Chairman of the Zhokargy Kenes carried out “in agreement with the President of the Republic of Uzbekistan”⁸⁵. In accordance with Paragraph 6 of Art. 70 of the current version of the Constitution of Karakalpakstan, the Zhokargy Kenes appoints and dismisses the Chairman of the Council of Ministers of Karakalpakstan “upon the proposal of the Chairman of the Zhokargy Kenes of the Republic of Karakalpakstan, *agreed with the President of the Republic of Uzbekistan* (emphasis added)”⁸⁶. This is the wording of Clause 6 of Art. 70 of the Constitution of Karakalpakstan that indicates the role of the President of Uzbekistan in the appointment of the Chairman of the Council of Ministers of Karakalpakstan. At the same time, the design of Clause 5 of Art. 80 of the Constitution of Karakalpakstan has not undergone any changes.

The role of the President of Uzbekistan in the appointment of the Chairman of the Council of Ministers of Karakalpakstan is also reflected in the new edition of Art. 88 of the Constitution of Karakalpakstan, which separately regulates the status of the Chairman of the Council of Ministers of Karakalpakstan. In the new edition of Art. 88 of the Constitution of Karakalpakstan a provision is also included that “The Chairman of the Council of Ministers of the Republic of Karakalpakstan is *ex officio* a member of the Cabinet of Ministers of the Republic of Uzbekistan”⁸⁷.

Provisions of the Constitution of Uzbekistan on the state sovereignty of Karakalpakstan

The provisions of the Constitution of Uzbekistan concerning the sovereignty of Karakalpakstan are contradictory or mutually exclusive. This circumstance does not seem to have bothered the developers of the Constitution of Uzbekistan much. The very fact of regulation of the status of Karakalpakstan in the Constitution of Uzbekistan denies its sovereignty: the status of a sovereign state and the elements of its state legal system cannot be the subject of constitutional regulation of another sovereign state.

The rules that directly establish the state sovereignty of Karakalpakstan are highlighted in Chapter XVIII “Republic of Karakalpakstan” in the Constitution of Uzbekistan. This short Chapter covers 6 concise articles – Art. 85, 86, 87, 88, 89 and 90.

Art. 85 of the Constitution of Uzbekistan states: “The Sovereign Republic of Karakalpakstan is part of the Republic of Uzbekistan”⁸⁸. The very wording of Art. 85 is completely illogical. If Karakalpakstan is truly a sovereign state, it cannot be part of another sovereign state and form a

⁸³ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

⁸⁴ Конституция Республики Каракалпакстан. Нукус: Каракалпакстан, 1993. С. 92.

⁸⁵ Ibid. P. 95.

⁸⁶ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

⁸⁷ Ibid.

⁸⁸ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

separate administrative-territorial unit within it. At the same time, the sovereignty of Uzbekistan, being indivisible, can belong only to the Uzbek state in general, and not to Karakalpakstan as its administrative territorial unit.

Art. 83 of the Constitution of Uzbekistan states that “The Republic of Uzbekistan consists of regions, districts, cities, towns, villages, as well as the Republic of Karakalpakstan”⁸⁹. Therefore, according to Art. 83 of the Constitution of Uzbekistan, Karakalpakstan is an administrative territorial unit of the unitary Uzbek state. In essence, the Constitution of Uzbekistan contains mutually exclusive provisions on the status of Karakalpakstan. Within the meaning of these provisions, Karakalpakstan appears both as a sovereign state and as an administrative-territorial unit of another sovereign state – Uzbekistan. Such a blatant contradiction of the status of Karakalpakstan can be traced in many norms of the Constitution of Uzbekistan, as well as the Constitution of Karakalpakstan.

The very essence of state sovereignty as a property (attribute) of state power lies in its supremacy in relation to any other power within the state and its independence from any other power outside the state. Sovereignty as a quality (property) of the supremacy, independence and indivisibility of state power cannot be divided between the state as a whole and its parts. Therefore, the sovereignty of Uzbekistan excludes the sovereignty of Karakalpakstan and vice versa. State sovereignty indicates the full power of the state within its territory. If the state of Uzbekistan has sovereignty, no other entity can have sovereignty within its territory. On the contrary, the sovereignty of Karakalpakstan excludes the possibility of its being under the jurisdiction of Uzbekistan. In general, the provisions of the Constitution of Uzbekistan on the sovereignty of Uzbekistan and the sovereignty of Karakalpakstan indicate a certain “dualism” or “split” of state sovereignty, some kind of “parallel” existence of the sovereignty of Uzbekistan and the sovereignty of Karakalpakstan.

Part 2 of Art. 85 of the Constitution of Uzbekistan contains a provision that is no less abnormal from the point of view of the theory of state sovereignty: “The sovereignty of the Republic of Karakalpakstan is protected by the Republic of Uzbekistan”⁹⁰. This “masterpiece” of constitutional rule-making reflects the fact that Karakalpakstan is deprived of any means of guaranteeing its own sovereignty. Taking into account this fundamental circumstance, it can be argued that any provisions of the Constitution of Uzbekistan and the Constitution of Karakalpakstan on the state sovereignty of Karakalpakstan are nothing more than legal fictions.

Part 1 of Art. 86 of the Constitution of Uzbekistan states: “The Republic of Karakalpakstan has its own Constitution”⁹¹. This constitutional provision confirms that the people of Karakalpakstan have constituent power, and therefore indirectly indicates their right to establish their own sovereign state. At the same time, according to Part 2 of Art. 86 of the Constitution of Uzbekistan, “The Constitution of the Republic of Karakalpakstan cannot contradict the Constitution of the Republic of Uzbekistan”⁹².

According to the theory of the constituent power of the people, a constitution is an act that materializes (embodies) the supreme constituent power of the people. As an act of constituent significance, authorizing the existence of any other forms of national law and having the highest legal force in relation to these forms, the constitution cannot be legally subordinated to any other source of law. Only the people themselves – the sovereign and the primary source of power – can voluntarily coordinate the act of their constituent will – the constitution – with the norms of international law in accordance with the international obligations assumed by a sovereign state. Provision of Art. 86 of the Constitution of Uzbekistan that the Constitution of Karakalpakstan cannot contradict the Constitution of Uzbekistan not only denies the legal nature of the Constitution of Karakalpakstan as an act of the constituent power of the people, questions its legal significance (supremacy), but also denies the existence of real sovereignty in Karakalpakstan.

Art. 87 of the Constitution of Uzbekistan deserves a similar assessment, which states: “The laws of the Republic of Uzbekistan are also binding on the territory of the Republic of

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Ibid.

Karakalpakstan”⁹³. The laws of a sovereign state must comply only with that state's constitution and international treaties ratified by the state, and not with the laws of another state. The effect of the laws of Uzbekistan on the territory of Karakalpakstan cannot be reconciled with the idea of state sovereignty of Karakalpakstan.

Art. 88 of the Constitution of Uzbekistan states: “The territory and borders of the Republic of Karakalpakstan cannot be changed without its consent. The Republic of Karakalpakstan independently resolves issues of its administrative and territorial structure”⁹⁴. So, Art. 88 indicates that changing the territory and borders of Karakalpakstan is the prerogative of Uzbekistan, but this change requires the consent of Karakalpakstan. In general, Art. 88 corresponds to the “mood” of Chapter XVIII of the Constitution of Uzbekistan.

Art. 89 of the Constitution of Uzbekistan is of fundamental importance in the constitutional consolidation of the state sovereignty of Karakalpakstan, which proclaims: “The Republic of Karakalpakstan has the right to secede from the Republic of Uzbekistan on the basis of a general referendum of the people of Karakalpakstan”⁹⁵. This constitutional provision strikingly contradicts the provisions of the Constitution of Uzbekistan on the state sovereignty of Uzbekistan, in particular, Part 1 of Art. 1 on the sovereign character of the Uzbek state and Part 2 of Art. 3 of the Constitution that “the state border and territory of Uzbekistan are inviolable and indivisible”⁹⁶. The principle of the territorial integrity of the state is an immanent component of the category of state sovereignty, therefore the above provisions of the Constitution of Uzbekistan assume that the sovereignty of Uzbekistan extends to its entire territory and not a single part of this territory can be alienated from the Uzbek state. The inviolability and indivisibility of the territory of Uzbekistan deny the right of the population of any administrative territorial unit listed in Art. 83 to carry out division of the territory of Uzbekistan. According to the principle of popular sovereignty and the principle of state sovereignty, only the people – the collective sovereign and bearer of supreme power in the state – can decide the issue of territorial changes in the state. This idea is indirectly reflected in Part 1 of Art. 7 of the Constitution of Uzbekistan, in which the people of Uzbekistan are defined as “the only source of state power” and Art. 9 of the Constitution of Uzbekistan, which enshrines the right of the people of Uzbekistan to decide in a referendum “the most important issues of public and state life”⁹⁷. So, the sovereignty of the Uzbek state presupposes that only the people of Uzbekistan can, through their direct expression of will in a national referendum, decide the issue of territorial changes in Uzbekistan. Based on these theoretical positions, the right of the people of Karakalpakstan, through a referendum, to decide on the secession of Karakalpakstan from Uzbekistan, enshrined in Art. 89 of the Constitution of Uzbekistan, it is impossible to reconcile with the provisions of the Constitution of Uzbekistan on the state sovereignty of Uzbekistan. It should be expected that in the future the Uzbek political leadership will try to resolve this contradiction by removing from the Constitution of Uzbekistan the provision on the right of Karakalpakstan to secede from Uzbekistan.

Art. 90 of the Constitution of Uzbekistan contains the following provisions: “Mutual relations of the Republic of Uzbekistan and the Republic of Karakalpakstan within the framework of the Constitution of the Republic of Uzbekistan are regulated by treaties and agreements concluded by the Republic of Uzbekistan and the Republic of Karakalpakstan. Disputes between the Republic of Uzbekistan and the Republic of Karakalpakstan are resolved through conciliation procedures”⁹⁸. Relations between two sovereign states are built on the principle of sovereign equality of states. This principle assumes that states have equal status in their relations with each other, have equal (proportional) rights and responsibilities and cannot harm the independence of their partner. Sovereign states build their relations in accordance with the criteria of their own constitution. If we assume that Karakalpakstan is truly a sovereign state, it is impossible to understand why its relations with Uzbekistan are built “within the framework of the Constitution of the Republic of Uzbekistan”?

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Ibid.

A number of other provisions of the Constitution of Uzbekistan testify to the lack of real sovereignty in Karakalpakstan. Part 2 of Art. 3 of the Constitution of Uzbekistan establishes that “the state border and territory of Uzbekistan are inviolable and indivisible”⁹⁹. The principle of the territorial integrity of Uzbekistan, enshrined in Part 2 of Art. 3 of the Constitution of Uzbekistan, makes it impossible to separate any part of it from the sovereign territory of Uzbekistan, in particular, by expressing the will of the population of this part of the territory in a referendum. Only a constituent expression of the will of the entire people of Uzbekistan at a national Uzbek referendum could legalize such territorial changes. However, Art. 2 of the Law of Uzbekistan “On the referendum of the Republic of Uzbekistan” dated November 18, 1991, established a ban on submitting to a referendum the issue “on changing the territorial integrity of the Republic of Uzbekistan”¹⁰⁰. The cited legislative provision makes it impossible for Karakalpakstan to exercise its right to secede from Uzbekistan through a referendum. This conclusion confirms the provision of Art. 87 of the Constitution of Uzbekistan that “the laws of the Republic of Uzbekistan are mandatory on the territory of the Republic of Karakalpakstan”¹⁰¹.

Other norms of the Constitution of Uzbekistan relate to the sovereignty of Karakalpakstan indirectly. However, all these norms one way or another deny the state sovereignty of Karakalpakstan. In particular, the issue of state sovereignty of Karakalpakstan concerns the provision of Part 1 of Art. 7 of the Constitution of Uzbekistan that “the people are the only source of state power”¹⁰². According to the theory of the constituent power of the people, only the totality of citizens of the state i.e. the people as a collective sovereign and subject of constituent power has the right to establish a sovereign state by adopting a constitution. The population of individual administrative territorial units of a unitary state does not have constituent power and cannot accept acts of constituent power. Therefore, formally, Part 1 of Art. 7 of the Constitution of Uzbekistan denies the right of Karakalpakstan to have its own constitution – the fundamental law of the state, provided for in Art. 86 of the Constitution of Uzbekistan.

Part 1 and 2 of Art. 15 of the Constitution of Uzbekistan establishes: “The Republic of Uzbekistan recognizes the unconditional supremacy of the Constitution and laws of the Republic of Uzbekistan. The Constitution of the Republic of Uzbekistan has supreme legal force, direct effect and forms the basis of a single legal space throughout the country”¹⁰³. The provisions of Part 2 of Art. 86 are directly related to the quoted provisions of the Constitution of Uzbekistan that “The Constitution of the Republic of Karakalpakstan cannot contradict the Constitution of the Republic of Uzbekistan”¹⁰⁴. Denial of the supremacy of the Constitution of Karakalpakstan on the territory of Karakalpakstan also denies the sovereignty of Karakalpakstan.

Art. 22 of the Constitution of Uzbekistan enshrines the provisions that “in the Republic of Uzbekistan a single citizenship is established for the entire territory of the republic” (Part 1)¹⁰⁵ and that “a citizen of the Republic of Karakalpakstan is at the same time a citizen of the Republic of Uzbekistan” (Part 2)¹⁰⁶. The provision of Art. 8 of the Constitution of Karakalpakstan also echoes with the above provisions of Art. 22 of the Constitution of Uzbekistan that “citizens of the Republic of Karakalpakstan are citizens of the Republic of Uzbekistan living on the territory of Karakalpakstan”¹⁰⁷. Citizenship is directly related to the sovereignty of the state. The totality of the citizens of the state forms the people of the state as a collective sovereign. It is the people who create the state that are the source of its sovereignty. The above-mentioned provisions of the Constitution of Uzbekistan and the Constitution of Karakalpakstan on citizenship deny the significance of Karakalpak citizenship as a source of sovereignty of Karakalpakstan. It is significant that the

⁹⁹ Ibid.

¹⁰⁰ Закон Республики Узбекистан о референдуме Республики Узбекистан от 18 ноября 1991 г. № 417-XII. *Ведомости Верховного Совета Республики Узбекистан*. 1992. № 1. Ст. 37.

¹⁰¹ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

Declaration of State Sovereignty of Karakalpakstan dated December 14, 1990 proclaimed the principle of single citizenship of Karakalpakstan.

Art. 84 of the Constitution of Uzbekistan talks about the right of the Uzbek state to change the boundaries of its administrative-territorial units, among which Karakalpakstan is mentioned. Thus defining the status of Karakalpakstan as an administrative territorial component of Uzbekistan, Art. 84 of the Constitution of Uzbekistan directly denies the sovereignty of Karakalpakstan.

Section five, “Organization of State Power”, of the Constitution of Uzbekistan talks about the status of the highest bodies of the Uzbek state – the Oliy Mazhlis, the President of Uzbekistan, the Cabinet of Ministers (Government) of Uzbekistan, whose jurisdiction extends to the territory of Karakalpakstan and which have certain powers regarding the state authorities of Karakalpakstan. This circumstance also denies the sovereignty of Karakalpakstan.

The status of Karakalpakstan as an administrative territorial component of Uzbekistan is also confirmed by the procedure for the formation of the Senate, the upper house of the Oliy Majlis of Uzbekistan, enshrined in Art. 92 of the Constitution of Uzbekistan.

According to Paragraph 7 of Art. 93 of the Constitution of Uzbekistan, the joint jurisdiction of the Legislative Chamber, the lower house and the Senate of the Oliy Mazhlis includes “the admission of new state entities into the Republic of Uzbekistan and the approval of decisions on their withdrawal from the Republic of Uzbekistan”¹⁰⁸. It is not clear how the above constitutional provision relates to the provision of Art. 89 of the Constitution of Uzbekistan on the right of Karakalpakstan to secede from Uzbekistan on the basis of a “general referendum of the people of Karakalpakstan”.

Art. 114 of the Constitution of Uzbekistan, which determines the composition of the Government of Uzbekistan, states that “the Cabinet of Ministers includes, ex officio, the Head of the Government of the Republic of Karakalpakstan”¹⁰⁹. The inclusion of the Chairman of the Council of Ministers of Karakalpakstan in the Cabinet of Ministers of Uzbekistan indicates the subordination of this official to the Cabinet of Ministers of Uzbekistan and questions the status of the Council of Ministers of Karakalpakstan as the highest body in the system of executive authorities of a sovereign state. Indirectly Art. 114 of the Constitution of Uzbekistan indicates the status of the Government of Karakalpakstan as an element of the mechanism of state power of Uzbekistan. This conclusion is also confirmed by the obligation of the Council of Ministers of Karakalpakstan to ensure the execution of acts of the Oliy Mazhlis, the President of Uzbekistan and the Cabinet of Ministers of Uzbekistan, provided for in Part 2 of Art. 87 of the Constitution of Karakalpakstan.

It is impossible to reconcile with the status of Karakalpakstan as a sovereign state the constitutional requirement for its representatives to join such government bodies of Uzbekistan as the Senate of the Oliy Mazhlis (Part 2 of Art. 92 of the Constitution of Uzbekistan) and the Constitutional Court of Uzbekistan (Part 2 of Art. 132 of the Constitution of Uzbekistan).

The sovereignty of Karakalpakstan is also denied by the regulation in Chapter XXII of the Constitution of Uzbekistan of the principles of electoral law and certain conditions in accordance with which elections to the Zhokargy Kenes of Karakalpakstan are held, as well as the procedure for the formation of the Senate of the Oliy Mazhlis, in which, in particular, deputies of the Zhokargy Kenes of Karakalpakstan take part.

Art. 133 of the Constitution of Uzbekistan enshrines the fundamental safeguards for the implementation of the right of Karakalpakstan to secede from Uzbekistan through a referendum: it is the power of the Constitutional Court of Uzbekistan to give “a conclusion on the compliance of the Constitution of the Republic of Uzbekistan with the issues submitted for referendum” (Clause 3)¹¹⁰ and the power to give “a conclusion on the compliance of the Constitution of the Republic of Karakalpakstan with the Constitution of the Republic Uzbekistan, and the laws of the Republic of Karakalpakstan with the laws of the Republic of Uzbekistan” (Clause 4)¹¹¹. It is quite obvious that the Constitutional Court of Uzbekistan, as the guarantor of the supremacy of the Constitution of Uzbekistan, will not allow the creation of a full-fledged legal mechanism for realizing the right of Karakalpakstan to secede from Uzbekistan through a referendum.

¹⁰⁸ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Ibid.

Finally, when assessing the possibility of Karakalpakstan secession from Uzbekistan through a referendum of the people of Karakalpakstan, it should be understood that a referendum is a normatively established process. According to Art. 9 of the Constitution of Karakalpakstan, “the procedure for holding a referendum is determined by law”¹¹². So, a referendum on Karakalpakstan’s secession from Uzbekistan is really possible only if a special law is adopted regulating the procedure for holding this referendum. The question also arises as to which legislation – Uzbek or Karakalpak – should this referendum be the subject of? Art. 93 of the Constitution of Uzbekistan establishes that “the joint jurisdiction of the Legislative Chamber and the Senate of the Oliy Mazhlis of the Republic of Uzbekistan includes ... making decisions on holding a referendum of the Republic of Uzbekistan and setting a date for its holding”¹¹³. From this it can be indirectly established that the competence of the Oliy Mazhlis does not extend to the legislative regulation of the “general referendum of the people of Karakalpakstan” and the legislative regulation of the said referendum falls within the competence of the Zhokargy Kenes, the Parliament of Karakalpakstan. This conclusion is confirmed by the provisions of Part 2 of Art. 129 of the Constitution of Uzbekistan that “The Central Election Commission of the Republic of Uzbekistan ... carries out its activities on an ongoing basis and in its activities is guided by the Constitution and laws of the Republic of Uzbekistan (emphasis added)”¹¹⁴, as well as Part 7 of Art. 110 of the Constitution of Karakalpakstan that “The Central Election Commission of the Republic of Karakalpakstan carries out its activities on an ongoing basis and in its activities is guided by the Constitution of the Republic of Karakalpakstan, the laws on elections and referendum of the Republic of Karakalpakstan (emphasis added) and other legislative acts”¹¹⁵. It is the Central Election Commission of the Republic of Karakalpakstan, according to Part 6 of Art. 110 of the Constitution of Karakalpakstan, ensures the organization and conduct of a referendum of the Republic of Karakalpakstan. At the same time, according to Part 1 of Art. 129 of the Constitution of Uzbekistan, the Central Election Commission of Uzbekistan ensures the organization and conduct of the “referendum of the Republic of Uzbekistan”¹¹⁶.

However, there is no legislation in Karakalpakstan regulating the procedure for holding a referendum on Karakalpakstan’s secession from Uzbekistan. Therefore, until the mentioned legislation appears, it is impossible to actually hold a referendum on Karakalpakstan’s secession from Uzbekistan. However, the emergence of the mentioned legislation is also impossible. The most important obstacle to this is the provision of Art. 2 of the Law of Uzbekistan “On the referendum of the Republic of Uzbekistan” dated November 18, 1991, that “the subject of a referendum cannot be questions ... about changing the territorial integrity of the Republic of Uzbekistan”¹¹⁷. This regulatory provision negates the possibility of regulating in Karakalpak legislation the mechanism for Karakalpakstan’s secession from Uzbekistan through a referendum. Although the subject of the Law “On the Referendum of the Republic of Uzbekistan” is a national Uzbek referendum, the provision of the Law prohibiting the issue of changing the territorial integrity of Uzbekistan from being put to a popular vote establishes a general principle of legislation that, in particular, the legislation of Karakalpakstan must comply with. According to Art. 87 of the Constitution of Uzbekistan, “the laws of the Republic of Uzbekistan are mandatory on the territory of the Republic of Karakalpakstan”¹¹⁸. The Constitutional Court of Uzbekistan, authorized to ensure the supremacy of the Constitution of Uzbekistan throughout the country, in particular by checking the compliance of the laws of Karakalpakstan with the laws of Uzbekistan (Clause 4 of Art. 133 of the Constitution of Uzbekistan), will guarantee compliance with the mentioned principle.

If in the future the political leadership of Uzbekistan decides, despite the risk of popular resistance in Karakalpakstan, to remove the provision of its Art. 89 on the right of Karakalpakstan to

¹¹² Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

¹¹³ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

¹¹⁴ Ibid.

¹¹⁵ Конституция Республики Каракалпакстан от 9 апреля 1993 г. URL : <https://karakalpakstan.uz/ru/page/show/27>.

¹¹⁶ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

¹¹⁷ Закон Республики Узбекистан о референдуме Республики Узбекистан от 18 ноября 1991 г. № 417-XII. *Ведомости Верховного Совета Республики Узбекистан*. 1992. № 1. Ст. 37.

¹¹⁸ Конституция Республики Узбекистан от 8 декабря 1992 г. URL : <https://lex.uz/docs/6445147>.

secede from Uzbekistan through a referendum, the sovereignty of Karakalpakstan will be completely ended. In this case, the Constitutional Court of Uzbekistan, relying on the provisions of Part 1 of Art. 1 of the Constitution of Uzbekistan on the sovereignty of Uzbekistan, provision of Part 2 of Art. 3 of the Constitution of Uzbekistan on the inviolability and indivisibility of its state border and territory, the provisions of Part. 1 and 2 of Art. 15 that “in the Republic of Uzbekistan the unconditional supremacy of the Constitution and laws of the Republic of Uzbekistan is recognized. The Constitution of the Republic of Uzbekistan has supreme legal force, direct action and forms the basis of a single legal space throughout the country”, and the provisions of Part 2 of Art. 86 that “The Constitution of the Republic of Karakalpakstan cannot contradict the Constitution of the Republic of Uzbekistan”¹¹⁹, will abolish the norm of Part 3 of Art. 1 of the Constitution of Karakalpakstan, which establishes the right of Karakalpakstan to secede from Uzbekistan “on the basis of a general referendum of the people of Karakalpakstan” as unconstitutional.

Impact of the demographic situation

When assessing the prospects for Karakalpakstan’s secession from Uzbekistan through a referendum, it is also important to understand that in the mentioned referendum, even if it takes place, in addition to the Karakalpaks, citizens of Karakalpakstan of other nationalities, in particular the Uzbek and Kazakh ethnic groups, will participate. Currently, ethnic Karakalpaks make up approximately a third of the population of Karakalpakstan, slightly inferior in number to the Uzbek ethnic group. At the same time, since the collapse of the Soviet Union, there has been a growing trend in the share of ethnic Uzbeks in the population of Karakalpakstan. If the trend towards a decrease in the share of Karakalpaks among the population of Karakalpakstan continues, the Karakalpaks’ struggle for independence will generally lose meaning¹²⁰. In general, the demographic situation in Karakalpakstan makes the possibility of Karakalpakstan’s legal secession from Uzbekistan even more elusive.

Conclusions

The conclusion on January 9, 1993 between the political leadership of Uzbekistan and the political leadership of Karakalpakstan of an agreement on the entry of Karakalpakstan into Uzbekistan for a period of 20 years had fatal consequences for Karakalpak statehood. Having become part of Uzbekistan for 20 years, Karakalpakstan turned into a satellite state or quasi-state, and the prospects for its secession from Uzbekistan are currently completely illusory.

It is impossible to legally carry out the secession of Karakalpakstan from Uzbekistan. Despite the fact that both the Constitution of Uzbekistan and the Constitution of Karakalpakstan provide for the right of Karakalpakstan to secede from Uzbekistan through a referendum, it is difficult to imagine that under the conditions of a repressive political regime a legislative basis for such a referendum was created and it actually took place. In Uzbek legislation, there are also special safeguards for holding a referendum of the people of Karakalpakstan on the secession of Karakalpakstan from Uzbekistan. For the Uzbek political leadership, such a referendum is fundamentally unacceptable, and the political leadership of Karakalpakstan, a significant part of which are ethnic Uzbeks, shows indifference to Karakalpakstan gaining real independence. The conditions for the people of Karakalpakstan to exercise the right of their Republic to secede from Uzbekistan are complicated by the demographic situation, in particular the emigration of ethnic Karakalpaks and the decrease in their share among the population of Karakalpakstan.

Realizing the moral and psychological significance of the provisions of the Constitution of Uzbekistan on the sovereignty of Karakalpakstan for ethnic Karakalpaks, the Uzbek political leadership can continue to tolerate the presence of these provisions in the Constitution of Uzbekistan, hoping for their further gradual leveling, and over time, removal from the constitutional text altogether.

According to Art. 10 of the Constitution of Karakalpakstan, “only the Zhokargy Kenes of the Republic elected by them can speak on behalf of the people of Karakalpakstan”. However, the

¹¹⁹ Ibid.

¹²⁰ Веретильных А. Проблемы становления и развития государственности Республики Каракалпакстан. *Nowa Polityka Wschodnia*. 2020. № 3 (26). S. 128.

motives for the behavior of the political elite of Karakalpakstan have not changed since the conclusion of the agreement on Karakalpakstan's accession to Uzbekistan, so it is more than doubtful that the deputies of the Zhokargy Kenes will show the political will to realize the desire of the Karakalpak people to gain real sovereignty.

The situation, however, can be changed by extraordinary circumstances. A deep crisis in the political system of Uzbekistan could lead to a large-scale popular movement in Karakalpakstan for independence. The inability of the central Uzbek government to control the situation will likely make Karakalpakstan's political elite want to adapt to changing circumstances. Ultimately, this could lead to the people of Karakalpakstan gaining true independence and creating their own sovereign state.

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