

Tajikistan*

Constitutional Court

Overview

Against the backdrop of the adoption of the Constitution of the Sovereign Republic of Tajikistan as the country's fundamental law, and taking into account the society's recent achievements, constitutional reforms have been carried out to date, marking a new stage in the development of the constitutional framework. This allowed for amendments to the Constitution on 26 September 1999, 22 June 2003, and 22 May 2016, thereby improving the content and substance of the legal system and reinforcing its democratic, rule-of-law, and secular foundations.

It should be noted that at each of the three stages of introducing amendments to the Constitution of the Republic of Tajikistan, there were specific reasons and factors, and it was natural that these occurred in line with societal progress and qualitative changes in social life within the process of political, economic, social, cultural, and legal reforms. From another perspective, following the dissolution of the Soviet Union and the transition to a new model of national statehood—that is, to a sovereign, democratic, rule-of-law, secular, unitary, social state with a civil society incorporating specific elements and characteristics—the main driving factor for introducing amendments to the Constitution of the Republic of Tajikistan emerged. Against this backdrop, comprehensive changes took place across various spheres of public and state life, and the system of state governance and the prospects for the development of key sectors of the national economy were determined.

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I. An Overview of the Factors and Procedural Stages in Amending the Constitution of the Republic of Tajikistan and the Subsequent Enhancement of Legislative Development

A. The main factors for introducing amendments to the Constitution of the Republic of Tajikistan

1. National factors

National factors include the historical and organizational-legal foundations of the country's actual capacity to ensure social standards, the formation of economic, financial, labour, and energy resources, the characteristics of national cultural heritage, the widespread use of national traditions, the strengthening of the legislative, executive, and judicial branches of state power, as well as the improvement of legal techniques and the rules of Tajik orthography.

2. International factors

International factors include the development of the country's external relations with regional and international organizations, the strengthening of fundamental initiatives in addressing environmental and security issues at the international level, the country's accession to a number of influential financial and trade organizations, and the expansion of bilateral and multilateral relations with countries of the region and the wider world in the spheres of political, economic, social, and cultural cooperation, among others.

Furthermore, in the contemporary era, processes such as the emergence of global political and financial crises, globalization, the clash of civilizations, and the intensification of issues related to energy, finance, resources, and the environment have become influential factors affecting the internal systems of individual states. Such developments, in turn, give rise to comprehensive and substantive amendments to the Constitution of the Republic of Tajikistan.

II. The procedural stages of constitutional amendment in the Republic of Tajikistan

A. The first stage of introducing amendments to the Constitution of the Republic of Tajikistan dates from 26 September 1999. For the first time, amendments to the Constitution were adopted on 26 September 1999 through a nationwide referendum, resulting in substantive, normative, and legal changes. In particular, amendments were made across ten sections and to 28 relevant articles of the Constitution.

Within this framework, the right of citizens to association was more comprehensively regulated, and on the basis of these amendments, Chapter Three of the Constitution (the Supreme Assembly – comprising 16 articles) was revised in a new wording. For the first time in the country's political history, a bicameral parliament was established and subsequently commenced its functioning. Furthermore, the procedures for the election of members of parliament, the appointment of members of the National Assembly, parliamentary immunity, the

mechanisms governing the internal functioning of the legislature, the procedures and grounds for holding joint sessions, and the scope of powers of the upper chamber (the National Assembly) and the lower chamber (the Assembly of Representatives) were clearly defined. As a result, the effectiveness of both the joint and separate activities of the chambers of the Supreme Assembly was strengthened.

Furthermore, at this stage, the term of office of the President was extended from five to seven years, and the scope of presidential powers was increased from 26 to 30. Article 82 granted the right of legislative initiative to the Assembly of People's Deputies of the Gorno-Badakhshan Autonomous Region, while the judicial system provided for the establishment of economic courts in the Gorno-Badakhshan Autonomous Region, the regions, and the city of Dushanbe. This phase may be characterized as the first stage of refining the constitutional norms of the Republic of Tajikistan, or, in other words, as a stage of constitutional reform in the country.

Against the backdrop of this first stage of constitutional amendments, the development of the legislative system was significantly intensified. During this period, five constitutional laws, five codes, and 63 comprehensive laws were adopted; numerous amendments were introduced to a wide range of other normative legal acts; and a considerable number of subordinate legal acts were enacted. In addition, during this period, three concepts, two strategies, and 21 state programs were adopted, thereby laying the groundwork for the further development of legislation across various sectors.

B. The second stage of introducing amendments to the Constitution of the Republic of Tajikistan dates from 22 June 2003. The amendments adopted at this stage were aimed at refining and consolidating social relations, taking into account the fundamental elements of a sovereign, democratic, rule-of-law, secular, unitary, and social state. At this stage, amendments were introduced to the Preamble and 54 articles within the framework of 56 provisions. For the first time, transitional provisions, comprising four clauses, were incorporated into the Constitution of the Republic of Tajikistan.

Article 5 recognized the individual, and his or her rights and freedoms, as the highest value, while Article 6 enshrined nationwide referendums and elections as the highest direct expression of the people's power. Article 8 recognized political parties as an element of the political system and established the unity of the state ideology in opposition to the ideology of any political party, public association, religious organization, movement, or group.

Furthermore, Article 14 affirmed the direct applicability of human and civil rights and freedoms, recognizing them as the purpose, content, and basis for the implementation of laws, as well as for the activities of the legislative and executive authorities, local bodies of state power, and self-government, with their protection guaranteed through the judiciary. Among the significant innovations arising from the aforementioned amendments were the provisions relating to transitional arrangements. The transitional provisions of the Constitution of the Republic of

Tajikistan, set out in four clauses, regulate relations pertaining to the transitional period of the entry into force of this supreme legal act.

Against the backdrop of the second stage of constitutional amendments, the national legislation was comprehensively refined in line with the prevailing socio-economic and political-legal conditions. During this period, seven constitutional laws, 13 codes, and 258 comprehensive laws were adopted, the majority of which remain in force to this day, while some have been revised and re-enacted in updated versions in accordance with legal and sectoral requirements.

In addition, amendments were introduced to existing normative legal acts in accordance with the fundamental provisions of the Constitution, and a substantial number of subordinate legal acts were adopted. At the same time, 50 concepts, 21 strategies, and 209 state programmes were adopted during this period, thereby laying the groundwork for the further development of legislation across various sectors.

C. The third stage of introducing amendments to the Constitution of the Republic of Tajikistan dates from 22 May 2016. Within the framework of these amendments, which constitute the third stage of constitutional reform, 40 specific amendments were introduced, including changes to the title of the Constitution, the title of Chapter Six, 37 articles, and the transitional provisions. Notably, as a result of these amendments, the term ‘Basic Law’ was removed from the title and text of the Constitution.

Furthermore, the form of government of the Republic of Tajikistan as a presidential system was enshrined in paragraph 2 of Article 1. In addition, Article 8 established a prohibition on the activities of political parties of other states, the formation of political parties of a national or religious character, as well as the financing of political parties by foreign states and organizations, legal entities, and foreign citizens within the Republic of Tajikistan.

In paragraph 2 of Article 34 of the Constitution of the Republic of Tajikistan, the responsibility of parents for the education and upbringing of their children, as well as the responsibility of adult and capable children for the care and social support of their parents, was reinforced. Article 45 made the payment of taxes and duties, as established by law, mandatory.

In addition, paragraph 4 of the transitional provisions of the Constitution was revised to provide that, in accordance with the procedures established by the Constitution and constitutional laws, members of the National Assembly, deputies of the Assembly of Representatives, and members of the Government are to take the oath of office following the entry into force of the «Amendments to the Constitution of the Republic of Tajikistan».

The stage of reconstruction, refinement, and rapid development of the legislative system coincides with the third stage of introducing amendments to the Constitution of the Republic of Tajikistan. During this period, the Legal Policy Concept of the Republic of Tajikistan for 2018–2028 was adopted by Presidential

Decree No. 1005 of 6 February 2018. This Concept set out the prospects for the development and improvement of the national legislation, taking into account both national and international factors, and identified the codification of sectoral legislation as a key instrument in this process.

During this period, the national legislation was comprehensively refined in line with the prevailing socio-economic and political-legal conditions. Three constitutional laws, nine codes, and 90 comprehensive laws were adopted. In addition, amendments and additions were made to existing normative legal acts, taking into account the fundamental provisions of the Constitution and the development of the legal system, and a substantial number of subordinate legal acts were enacted. At the same time, 14 concepts, 33 strategies, and 147 state programmes were adopted, thereby laying the foundation for the further development of legislation across various sectors.

III. Conclusion

Based on the study and analysis of the factors and stages of introducing amendments to the Constitution of the Republic of Tajikistan, it can be concluded that, in general, the issues enshrined in the Constitution are divided into six main areas:

1. General constitutional values, i.e., matters relating to the Preamble of the Constitution;
2. The fundamentals of the constitutional structure (Chapter 1);
3. The status, rights, freedoms, and duties of the individual and citizen (Chapter 2);
4. The organization and division of state power (Chapters 3–9);
5. The procedure for amending the Constitution (Chapter 10);
6. Matters relating to the transitional provisions of the Constitution.

Societal progress necessitates the continuous refinement of constitutional foundations. The need to introduce amendments to the Constitution is primarily обусловлена the regulation of political, social, and economic development, as well as the strengthening of guarantees for human and civil rights and freedoms. The improvement of the Constitution has enabled further consolidation of the achievements of independence, the reinforcement of the foundations of statehood, the maintenance of social unity and stability, the establishment of a genuinely functioning civil society, and the advancement of socio-economic and political-cultural development, as well as the enhancement of Tajikistan's authority and standing in the international arena.

Overall, the central role of the Constitution of the Republic of Tajikistan in the development of the legislative system is significant. At the same time, the aforementioned issue of introducing amendments to the Constitution represents a timely necessity, as it strengthens and consolidates the content and substance of the Constitution. It also contributes to the protection of human and civil rights and freedoms, the reinforcement and improvement of the functioning of the legislative, executive, and judicial authorities, the development of legislation in the Republic of Tajikistan, and the further advancement of social relations.