

DOI <https://doi.org/10.51647/kelm.2023.5.32>**MIĘDZYNARODOWA PRAKTYKA KONTROLI USTAWODAWSTWA DELEGOWANEGO****Anna Lysenko***aspirant Katedry Praw Człowieka i Metodologii Prawnej**Narodowego Uniwersytetu Prawniczego imienia Jarosława Mądrego (Charków, Ukraina)*

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Adnotacja. W większości współczesnych państw procedura legislacyjna jest złożonym i długotrwałym procesem. Często dochodzi do sytuacji, w której parlament nie ma czasu na terminowe reagowanie na zmiany zachodzące w społeczeństwie poprzez przyjmowanie ustaw. Okoliczności te doprowadziły do konieczności delegowania przez parlament uprawnień ustawodawczych na inne organy państwowe, co skutkuje wydawaniem aktów na podstawie delegowanych uprawnień ustawodawczych. Międzynarodowa praktyka kontroli nad aktami delegowanego ustawodawstwa rozwinęła się w taki sposób, że podlegają one obowiązkowej kontroli parlamentarnej, sądowej, administracyjnej, a niekiedy publicznej i społecznej. Artykuł dowodzi, że kontrola nad delegowaniem uprawnień ustawodawczych pozwala zachować rolę parlamentu jako organu ustawodawczego, a także zakres, charakter i korelacja uprawnień prawotwórczych najwyższych organów państwowych jest kryterium oceny stopnia realizacji zasady podziału władzy i zachowania hierarchicznych relacji między normatywnymi aktami prawnymi.

Słowa kluczowe: kontrola, ustawodawstwo delegowane, subdelegacja, prawo, kompetencje, parlament, sąd.

INTERNATIONAL PRACTICE OF EXERCISING CONTROL OVER DELEGATED LEGISLATION**Anna Lysenko***Postgraduate Student at the Department of Human Rights and Legal Methodology**Yaroslav Mudryi National Law University (Kharkiv, Ukraine)*

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Abstract. In most modern states, the legislative process is a complex and time-consuming endeavor. Often, situations arise where the parliament cannot promptly respond to societal changes through the enactment of laws. These circumstances have necessitated the delegation of legislative powers by the parliament to other state bodies, resulting in the issuance of acts based on delegated legislative authority. International practice in the control of acts of delegated legislation has evolved in such a way that they are subject to parliamentary, judicial, administrative, and sometimes even civil society scrutiny. The article demonstrates that control over the delegation of legislative powers helps preserve the role of parliament as a legislative body, furthermore, the scope, nature, and distribution of lawmaking powers among higher state bodies serve as criteria for evaluating the degree of implementation of the principle of separation of powers and the preservation of hierarchical relationships between normative legal acts.

Key words: control, delegated legislation, sub-delegation, law, powers, parliament, court.

МІЖНАРОДНА ПРАКТИКА ЗДІЙСНЕННЯ КОНТРОЛЮ ДЕЛЕГОВАНОГО ЗАКОНОДАВСТВА**Анна Лисенко***аспірант кафедри прав людини та юридичної методології**Національного юридичного університету імені Ярослава Мудрого (Харків, Україна)*

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Анотація. У більшості сучасних держав законодавча процедура є складним і тривалим процесом. Часто виникає ситуація, за якої парламент не встигає своєчасно реагувати на зміни, що відбулися в суспільстві, шляхом прийняття законів. Дані обставини зумовили необхідність делегування законодавчих повноважень парламентом іншим державним органам, результатом якого є видання актів на підставі делегованих законодавчих повноважень. Міжнародна практика здійснення контролю за актами делегованого законодавства сформувалася таким чином, що вони в обов'язковому порядку підлягають парламентському, судовому, адміністративному й іноді суспільно-громадському контролю. У статті доведено, що контроль делегування законодавчих повноважень дозволяє зберегти роль парламенту як законодавчого органу, крім того, обсяг, характер й співвідношення правотворчих повноважень вищих державних органів, є критерієм для оцінки ступеня реалізації принципу поділу влади та збереження ієрархічних зв'язків між нормативними правовими актами.

Ключові слова: контроль, делеговане законодавство, субделегування, закон, повноваження, парламент, суд.

Introduction. In the constitutional practice of many democratic countries, the delegation of legislative powers from parliament to the government has become a common phenomenon. Such delegation of powers is carried out on the basis of laws, which may have varying legal force. Specifically, in some countries, laws regarding the delegation of powers have the same legal force as amendments to the constitution (Ковриженко, 2006: 85).

It should be emphasized that the constitutions of some foreign countries, while allowing for the delegation of legislative powers, do not contain provisions that enable parliament to exercise effective control over their implementation. For example, in Switzerland, the subject of delegation is practically unlimited, but the scope of parliament's powers in the control of delegated legislation (as well as parliament's control powers in general) is extremely narrow. However, such cases are more of an exception than a rule, aimed at preventing jurisdictional disputes between the government and parliament.

Overall, international practice in the control of acts of delegated legislation has evolved in such a way that they are subject to parliamentary, judicial, administrative, and sometimes civil society scrutiny. Parliamentary control is mostly carried out on a continuous basis by special committees operating in each house of parliament, as well as the Joint Committee of the House of Commons and the House of Lords, which reviews and approves (or revokes) acts adopted under delegated powers. Judicial control is selective and associated with the consideration of specific legal cases in which a particular delegated act is applied. Administrative control is conducted at the level of ministries and other central state bodies, administered by officials. Civil society control can be exercised through mass media and public opinion regarding the acts of delegated legislation adopted (Шаповал, 2015: 59-60).

Analysis of Scientific Publications. The research on the international practice and the existing forms of exercising control over delegated legislation in the most developed countries worldwide is not comprehensively explored to date. Furthermore, international practices in the control of delegated legislation have been a subject of study for both domestic and foreign scholars for quite some time. However, it is worth noting that in domestic legal science, despite occasional scholarly interest, this experience has not yet been the subject of comprehensive research. Although certain aspects of it have attracted the attention of scholars such as I. Yu. Bohdanivska, M. P. Bondarevych, N. Donchuk, M. Ishchenko, D. S. Kovryzhenko, L. Kryvenko, D. V. Luk'yanov, A. M. Onupriienko, S. P. Pohrebniak, H. P. Ponomarova, V. Sobkova, O. Tereshchuk, V. D. Tkachenko, V. Shapoval.

The purpose of this article is to investigate the international practice and existing methods of exercising control over delegated legislation in the most developed countries worldwide in order to prevent contradictions in legislation.

The methodological basis of this research is the comparative method, which facilitated the analysis of international practices in controlling delegated legislation and allowed for an effective synthesis of existing experiences. The comprehensiveness of the chosen methodological approach is achieved by selecting countries where the experience of implementing and functioning of delegated legislation is studied, significantly increasing the variability of situations subject to analysis.

Main Section. Among scholars, there is an opinion that the primary control over the process of exercising delegated legislation in most developed countries is carried out by the parliament. The form of implementing this control is the mandatory parliamentary approval of acts issued in the specified manner.

Parliamentary control over delegated legislation takes place in countries where national constitutions legalize the delegation of legislative powers by parliament. Consequently, there are special forms of control to ensure compliance with the limits and conditions of legislative delegation.

Parliamentary control can take the following forms:

1) Mandatory submission of acts issued based on delegated legislative powers to parliament. The purpose of this form of control is to assess the conformity of these acts with the principles of delegated legislation. Typically, this responsibility falls on special parliamentary commissions or committees. If any non-compliance with the principles of delegated legislation is identified, they can raise the matter for discussion in parliament, which may revoke the act issued based on delegated legislative powers.

2) Examination of reports by ministers, which include lists of acts issued based on delegated legislative powers. In their reports, ministers justify the necessity of issuing these acts, explain the mechanisms of their implementation, and demonstrate their consistency with laws and other normative legal acts. In case of a negative assessment of the minister's report regarding acts issued based on delegated legislative powers, they may be sent back to the government for rectification or revoked by parliament.

Delegating legislative powers implies the expression of trust by parliament in the government and, in turn, the governments responsible approach to carrying out the delegated powers. Therefore, alongside specific forms of parliamentary control over the issuance of acts based on delegated legislative powers, general parliamentary control can also be considered. For example, in French Republic, it takes the forms of government notifications, government questions, and government petitions (Кривенко, 2002: 13).

Hence, it is deemed necessary to examine each form of control over delegated legislation in each specific country. Therefore, it is appropriate to begin by examining the peculiarities of parliamentary control over the issuance of acts related to delegated legislative powers in countries belonging to the Romano-Germanic legal family, with French Republic as an example.

These peculiarities in French Republic include the requirement for a State Council opinion and the timely submission of a bill to parliament for the approval of the adopted ordinance. In other words, the French model of delegating legislative powers involves the control of the government's issuance of ordinances.

The exercise of parliamentary control in French Republic is closely linked to the moment when acts issued in the process of delegating legislative powers acquire legal force. This is justified by the fact that in most cases, for these acts to come into legal force, they must be approved by parliament. Therefore, in countries where mandatory parliamentary approval is stipulated, it is essential to clarify whether such acts acquire legal force before or after parliamentary approval (Ищенко, 2013: 133).

Analyzing Article 38, Part 2 of the French Constitution, it can be concluded that ordinances gain legal force after their official publication. However, if a bill for their approval is not introduced to Parliament before the deadline specified in the empowering law, the ordinances lose their legal force. In other words, the procedure for parliamentary approval of these acts can take place after their official publication, and thus, ordinances acquire legal force before being approved by Parliament.

Furthermore, according to Article 38, Part 2 of the French Constitution, after the adoption of a legislative act but before the end of the period for exercising legislative powers, the government must submit a bill to Parliament for the approval of its act. In French Republic, Parliament considers not the government's act itself but only the law approving this act. The Constitutional Law of July 23, 2008, sets out the deadline for approving ordinances (Constitution de la République française: constitution du 4 octobre 1958, Assemblée nationale, 2015).

Parliamentary control in French Republic is not limited to approving or disapproving government acts. It also allows for changes to be made to an «unnecessary» law at any time after it has come into effect through regular legislative procedures.

Additionally, the requirement for a parliamentary control procedure over acts issued in the process of delegating legislative powers, for them to gain legal force, and for their loss of legal force in case of non-approval by Parliament, in most foreign countries, is not intended to restrict the executive branch's powers in issuing these acts. It does not hinder these acts from taking effect if they meet all the requirements. Parliamentary control is necessary for the objective assessment of whether acts issued in the process of delegating legislative powers comply with the conditions outlined in the law on delegating legislative powers. For example, in practice, the Constitutional Council of French Republic has established certain validity conditions for these acts: 1) the presence of legislative authorization; 2) the authorization must be sufficiently precise in terms of content, purpose, and scope; 3) the legal basis of the act issued in the process of delegating legislative powers must be specified; 4) the act issued in the process of delegating legislative powers must be published in the appropriate official publication (Онупрієнко, 2009: 31).

Regarding administrative control over acts of delegated legislation in French Republic, it involves withdrawing an executive authority's jurisdiction by amending the enabling act or challenging the authority's competence in the Constitutional Court (Пономарьова, Бондаревич, 2017: 19).

In Federal Republic of Germany, the process of parliamentary control is determined by the rules of the Bundestag and establishes that regulatory acts of the Federal Government require approval from the Bundestag. The Bundestag can also request the cancellation of such acts within a certain period. These acts are forwarded by the President of the Bundestag in consultation with the Council of Elders directly to the competent committees with a deadline for submitting a report (Grundgesetz für die Bundesrepublik Deutschland, 1949).

In Kingdom of Spain, parliamentary control over the implementation of delegated powers often includes the parliament's right to approve or annul delegated legislative acts. For instance, in Kingdom of Spain, the Congress of Deputies can review the approval or annulment of a royal decree-law within 30 days from its promulgation (and the relevant issue can be included in the agenda immediately after the official publication of the delegated legislative act) (Ковриженко, 2006: 85).

There are unique features to the control of acts issued based on delegated legislative powers in countries of the Anglo-Saxon legal tradition. For example, in the United Kingdom of Great Britain and Northern Ireland, there are three types of control: parliamentary, judicial, and administrative control.

Parliamentary control takes different forms depending on the stage at which it is exercised, either prior or subsequent to the issuance of the act. Subsequent parliamentary control can be carried out in two ways: by adopting an affirmative resolution, where an act issued based on delegated legislative powers must be approved by both houses of Parliament within 40 days, or by adopting a negative resolution, which can be presented within 40 days of the act being in Parliament and results in the loss of legal force for the act. However, since the government in the United Kingdom of Great Britain and Northern Ireland is elected by Parliament, such cases are rare. Furthermore, undergoing parliamentary control does not exempt an act issued based on delegated legislative powers from other forms of control (Богданівська, 2006: 63-65).

In the United Kingdom of Great Britain and Northern Ireland, according to the Parliament Act 1911, the House of Lords retains the right of absolute veto over acts of delegated or secondary legislation. The powers of the House of Lords were specified in a government information bulletin from 1968, which includes the authority to review delegated legislation. However, it is a convention that the Lords never reject subordinate legislation. To this day, the House of Lords has not passed any negative resolutions and only once in its history voted against the passage of an affirmative resolution in 1968 when it voted against a Southern Rhodesia order. In 1999 and 2000, the House of Lords threatened the Labour government with rejection of certain subordinate legislation on several occasions (Parliament Act 1911, 1911).

The House of Lords' authority to impose an absolute veto on acts of delegated legislation formally allows the government to legislatively revoke these veto powers through the mechanism of initiating a bill for its passage according to the procedure established by the Parliament Act 1911 for the purpose of eliminating these powers or their reduction.

Regarding the consideration of secondary legislation by the House of Lords, there are several conventions in place that significantly limit the Lords' practical abilities. For example, acts of delegated legislation issued for more substantial powers require approval from both houses of Parliament. Some non-substantial technical acts of delegated legislation do not require parliamentary approval.

It should be noted that a special Joint Committee on Statutory Instruments has been established in Parliament, which examines delegated legislation before it is considered in the parliamentary chambers. This committee assesses whether the powers granted by Parliament in the legislation have been exercised in precise accordance with it. However, the committee's decisions are advisory, and the chambers may choose not to follow their recommendations.

The establishment of the Committee on Delegated Legislation in the British Parliament in 1944 suggests a lack of sufficient time in Parliament for the scrutiny of such acts.

In the House of Lords, there is also a Committee on Delegated Powers and Regulatory Reform, which provides opinions directly on bills regarding ministerial powers contained within them. Based on the committee's recommendations, the House decides whether to make amendments to the bills. The committee can also recommend that the powers granted by the bill be subject to an affirmative rather than a negative resolution (Ковриженко, 2006: 85).

It's important to emphasize that neither of the houses has the right to make changes or amendments to delegated legislation. In case the Lords disagree with the provisions of a subordinate act, it still gets approved. However, the House of Lords simultaneously sends recommendations to the government regarding the postponement or modification of the act. The government is expected to take into account the opinion of the upper house on this matter.

In January 2000, the Royal Commission's report «The House of Lords: Completing the Reform» was published, which devoted significant attention to the issue of the balance of powers between the two houses of Parliament. It emphasized that the upper house should retain the right of deferred veto established by the Parliament Acts of 1911 and 1949. It proposed that the absolute but unexercised veto power of the House of Lords over delegated legislation could be overcome by a positive vote in the House of Commons. This mechanism aims to ensure more focused and thorough examination of delegated legislation by the upper house and replace the practice of Lords approaching the government with non-binding representations regarding the possibility of annulment or amendment of subordinate legislation, thus raising the level of scrutiny of delegated legislation (Пономарьова, Бондаревич, 2017: 19).

As for the application of judicial control over delegated legislation in the United Kingdom of Great Britain and Northern Ireland, it to some extent depends on the characteristics of its precedent-based legal system. Such judicial control is exercised during the consideration of a specific case when reference is made to delegated legislation, or in cases where a legal case has been initiated to challenge the validity of an act. In the UK, judicial control is exercised with regard to the exceeding of powers. The court has the authority to declare an act issued under delegated legislative powers as having no legal effect if it does not comply with the law (Терешук, 2016: 127).

Judicial control in the United Kingdom of Great Britain and Northern Ireland, like all other forms of control, does not have retrospective effects, meaning that the consequences of implementing an act issued under delegated legislative powers during its validity period are not annulled.

In the United Kingdom of Great Britain and Northern Ireland, courts recognize the legal force of acts issued by the Privy Council if they do not exceed the scope of royal prerogative or the law that delegated the authority to the Crown to issue the delegated legislation. Regardless of the form, delegated legislation can be challenged in court on the grounds that it is *ultra vires*, meaning it goes beyond its delegated powers. Furthermore, it's important to note that the same rules of interpretation that apply to statutes also apply to delegated legislation. Undergoing judicial scrutiny, delegated legislation operates at the same level as a statute and is binding on those cases and individuals to which it applies (Собкова, 2007: 157).

In summary, in the United Kingdom of Great Britain and Northern Ireland, parliamentary and judicial control over delegated legislation is established legally, but in practice, it is rather weak.

Administrative control as a form of control over the issuance of acts based on delegated legislative powers in the United Kingdom of Great Britain and Northern Ireland is carried out by administrative bodies, primarily ministries and central agencies regarding acts of local government bodies (Ткаченко, Погребняк, Лук'янов et al, 2003: 34).

As for parliamentary control in the United States, for a long time, there was a practice of legislative veto (where resolutions to cancel executive branch acts were not enforced if passed within a specified period by Congress) (Ковриженко, 2006: 85).

In the United States of America, control over the delegation of legislative powers is, in most cases, carried out by federal courts. Courts independently determine the permissible scope of regulation for acts issued under delegated legislative powers. For example, if the U.S. Supreme Court, after reviewing the powers delegated by Congress, concludes that they are indeterminate, it has the authority to invalidate the law delegating those powers as unconstitutional.

In the United States of America, judicial control over delegated legislation involves reviewing them only during the consideration of specific cases. However, because the supervisory functions of the courts are casuistic and inconsistent, and in most cases, the courts do not have the authority to give their decisions retroactive effect, it is nearly impossible to escape the negative consequences of implementing delegated legislation. Subdelegation, in particular, is difficult to control, which refers to the process of transferring delegated powers to subordinate administrative bodies based on a subordinate normative act of the empowering authority (Дончик, 2012: 31).

In Canada, the history of delegated legislation began on August 22, 1914, when the federal parliament, during wartime with The German Empire, enacted the War Measures Act (War Measures Act). This act granted

the government the authority to enact any measures for the protection of the state's interests without parliamentary approval. One of the main arguments behind this was the necessity for a swift response to changing circumstances without waiting for the convening of parliament and the completion of mandatory procedures. The War Measures Act was challenged in the Supreme Court of Canada in 1918, which upheld the parliament's right to delegate such powers (In Re George Edwin Gray, 1918).

World War II further expanded the powers of executive bodies. During that time, the Canadian parliament first heard a proposal for a special parliamentary committee to oversee delegated legislation (Mallory, 1953: 359).

Later, in 1950, the Canadian parliament passed the Regulations Act, which contained a provision that all orders and regulations made in the exercise of parliamentary legislative powers must be published and laid before the House of Commons for review (Regulations act, 1950). However, this proved to be insufficient, and it all boiled down to formal debates in parliament (Kersell, 1959: 132-144). The Special Committee on Procedure of the House of Commons analyzed the practice of delegated legislation in Canada for five years from 1964 to 1969 and made recommendations, which it presented to parliament in a report known as the McGivern Report.

In 1971, in accordance with the requirements of Section 19 of the Statutory Instruments Act, a permanent Joint Committee for the Scrutiny of Regulations, commonly known as the Standing Joint Committee for the Scrutiny of Regulations, was established in parliament (Standing joint committee for the scrutiny of regulations). The committee is composed of 8 members of the House of Commons (currently 12) and 8 senators, with equal representation from the governing party and opposition. The committee is endowed with extensive powers, from overseeing the process of creating regulatory acts to initiating the revocation of the delegated powers themselves (Law Reform Commission of Canada, 2009).

The committee reviews delegated legislation based on criteria established by the Senate and the House of Commons at the beginning of each parliamentary session. Typically, these criteria include: 1) whether the regulation is authorized by the enabling statute or violates any requirement of that statute; 2) whether it conflicts with the Canadian Charter of Rights and Freedoms; 3) whether it has retroactive effect without explicit legislative authority; 4) whether it increases government expenditures or imposes fees in favor of the government or another governmental body, or alters the level of such expenditures or fees without explicit legislative authority; 5) whether it imposes fines, imprisonment, or other penalties without explicit legislative authority; 6) whether it directly or indirectly restricts the jurisdiction of courts without explicit legislative authority; 7) whether it violates the Legislation Revision and Consolidation Act, including provisions regarding the referral of the regulation to the Clerk of the Privy Council, registration, and publication; 8) whether it interferes with the rule of law; 9) whether it unnecessarily restricts the rights and freedoms of individuals; 10) whether it unreasonably subjects rights and freedoms of individuals to the discretion of an administrative decision-maker or conflicts with principles of natural justice; 11) whether it leaves open the possibility of unforeseen or unusual uses of the powers delegated by the statute that authorized it; 12) whether it goes beyond the scope of regulatory authority that can be exercised without the direct involvement of Parliament; 13) whether it contains defects in form or manner or for any other reason requires clarification of its form or substance (Parliament of Canada).

If the committee determines that errors have been made, the relevant minister is asked to correct them, or they become subject to discussion in the House of Commons. The House can pass a resolution instructing the Governor General or the minister to revoke such a regulatory act. One of the most common defects in delegated legislation, according to committee members, is «subdelegation», where an entity to which legislative authority has been delegated by Parliament further delegates the exercise of those powers to another entity.

In 1971, the Law Reform Commission of Canada was also established as a permanent independent expert body responsible for studying and systematically analyzing the Canadian legal system. The commission successfully collaborated with Parliament and the Canadian government, and many of its recommendations contributed to improving the quality of Canadian legislation, including arguments used by parliamentarians to advocate for the repeal of delegated legislation (Law Reform Commission of Canada, 2009).

Judicial control over delegated legislation in Canada is considered ineffective because it is situational and only occurs during the examination of specific cases where a particular regulation is challenged. At the federal level, there have been few cases where courts have found instances of exceeding delegated powers. In these cases, their decisions were based on the Canadian Charter of Rights and Freedoms and the doctrine of legitimate expectations, leading to the recognition that such regulations lack legal force (Keyes, 2004: 49-70).

Administrative control practices concerning delegated legislation in Canada involve recommending that the process of preparing bills and subordinate regulations occur simultaneously. The detailed regulation of the process of preparing delegated legislation, the granting of coordinating functions to the Department of Justice, and the strengthening of the role of the Privy Council Office (the Prime Minister's Office) indicate an increased emphasis on administrative control in Canada. It is worth noting that provincial executive bodies in Canada also follow this trend. For example, the province of Newfoundland and Labrador has passed the «Statutes and Subordinate Legislation Act», and Ontario has the «Delegated Administrative Authorities Act». Canadian experts find this logical because all delegated legislation aims to implement laws, making executive bodies responsible for its quality (Keyes, 2010: 611).

As for public control over delegated legislation in Canada, the Canadian government has adopted a Directive on Regulatory Policy Principles (Government of Canada regulatory policy, 1999) to ensure that the use of government regulatory powers results in the greatest benefit to Canadian society. Citizens of Canada should have the opportunity

to participate in the development and modification of regulatory acts by executive authorities. The government must demonstrate that a problem or risk exists, government intervention is justified, and regulation is the best alternative.

Additionally, a Guide to Making Effective Regulations was adopted, which defines the goals, principles, and methods used by the government to support the high quality of regulations enacted. The principles of efficiency include protecting societal interests and democratic values, utilizing knowledge accumulated by Canada and other countries, and fostering cooperation. Each ministry has adopted its guidelines for effectively involving the public in decision-making, considering the specifics of its activities (Health Canada, 2000).

In this context, it is possible to discuss the development of public control over delegated legislation in Canada. To enhance the effectiveness of public control, it is necessary to provide free full-text access to draft regulations. For this purpose, a dedicated portal (www.regulation.gc.ca) has been established.

Thus, in Canada, there are parliamentary, judicial, administrative, and public controls over acts adopted through delegation of powers. These forms of control do not exclude each other but, on the contrary, complement one another. Their purpose is to uphold the legal force of the law (statute) by overseeing the legislative delegation powers, thereby promoting effective governance.

Conclusions. The conducted research allows us to conclude that exercising control over the delegation of legislative powers is reasonable and contributes to the separation of powers between state authorities regarding the adoption of legislative acts, preventing contradictions in legislation. Additionally, the analyzed forms of control complement each other, uphold the legal force of the law (statute), and promote effective governance. This perspective arises from the fact that the scrutiny of government acts falls within the competence of the courts. However, compliance with the conditions of delegation is primarily monitored by the parliament in most countries, which can initiate the review of such disputes in court or take necessary independent actions.

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