

Обратим внимание, что в ч. 2 ст. 7 Основного Закона установлено, что он обладает высшей юридической силой, а все акты государственных органов издаются в соответствии с Конституцией. Важно то, что в данной статье идет речь обо всем тексте Конституции, куда входит и Преамбула.

Ответ на вопрос о том, является ли Преамбула нашего Основного Закона источником права, на самом деле, не однозначный. Данная тема требует дальнейшего научного осмысления и анализа. Если бы содержащиеся в Преамбуле принципы не были раскрыты в основной части Конституции, можно было бы с большей уверенностью говорить о Преамбуле как источнике права. Также такой вывод можно сделать исходя из ч. 2 ст. 7 Основного Закона, где в качестве источника права говорится о Конституции в целом, без каких-либо оговорок. Кроме того, подкрепляет выводы соответствие Преамбулы признакам источника права.

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A COMPARATIVE STUDY OF CONSTITUTIONAL REVIEW SYSTEMS IN CHINA AND BELARUS

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As the fundamental law of the country, a constitution stipulates a country's operating model, its political system, powers of state institutions, and people's basic rights, and has the highest legal force. Laws, regulations, other normative documents, state powers, and citizen behavior should have a constitutional basis. Therefore, constitutional review of various legal forms has become a necessary means to safeguard the authority of a constitution, and nowadays, there are different models of systems of constitutional review in the world.

Since the founding of the People's Republic of China, China's constitutional system has begun to have its own characteristics, mainly through extensive solicitation of people's opinions. China has a large population. As a state power organ, the National People's Congress, which exercises state power on behalf of the people, has the power to formulate the constitution, to amend the constitution, and to review the constitutionality of other laws.

According to Articles 62 and 67 of the Constitution of the People's Republic of China, the National People's Congress has the power to supervise the implementation of the Constitution and revoke administrative regulations, resolutions which contradict with the Constitution.

It is worth noting that in March 2018, the First Session of the 13th National People's Congress passed a constitutional amendment, and later changed the Legal Committee of the National People's Congress into the Constitution and Legal Committee of the National People's Congress. This means that we have given the NPC the power to review the Constitution in a more clear institutionalized way.

The objects of constitutional review in China only include laws, administrative regulations, local regulations, autonomous regulations and some other regulations and rules.

The process of constitutionality review.

China's review procedures include active review and passive review.

If the special committee of the National People's Congress or the working body of the Standing Committee of the National People's Congress believes that administrative regulations of government bodies and normative legal acts (local regulations, autonomous regulations and separate regulations) of local bodies conflict with the Constitution or laws, or there are issues with their constitutionality or legality, they may submit the case to a rule-making body which passed the document. If the normative document following a written review opinion is modified or abolished by the rule-making bodies, the review will be terminated.

On the contrary, the Standing Committee of the National People's Congress shall submit proposals and suggestions for cancellation to the Chairman's Conference, which shall decide and submit them to the Standing Committee for deliberation and decision.

Then there is a passive review, in which the State Council, the Central Military Commission, the National Supervisory Commission, the Supreme People's Court, the Supreme People's Procuratorate, and the Standing Committees of the People's Congresses of provinces, autonomous regions, and municipalities think that administrative regulations, local regulations, autonomous regulations, and separate regulations to be unconstitutional. A written request for review may be submitted to the Standing Committee of the National People's Congress, and the relevant special committees and working bodies of the Standing Committee of the National People's Congress will review and put forward opinions. Other state agencies, social groups and individuals may also submit written opinions to the Standing Committee of the National People's Congress.

In general, the constitutional review systems of the two countries are very different. China's review subject belongs to the National People's Congress, while Belarus has a special constitutional court.