

Constitutional order of Belarus and its adaptability to the EAEU: a 'living constitution' workaround

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The 'dark spot' of Belarus' constitution

- Constitutions should be *court et obscure* (Napoleon) / *short and dark* (US founding fathers)
- Obscure/dark point of Belarus' Constitution is relation of international and national law

On amending the Constitution

“New problems and challenges have emerged. And time may require something new. It is necessary to start with important things if we dare to do it. We should create a group of wise people, lawyers to analyse the Constitution. If necessary, we will do it.”

A. Lukashenka



Basis of the argument

“... we must never forget that it is a constitution we are expounding.”

John Marshall



DEMOCRACY
IS SO OVERRATED.



The argument: the 'living constitution' reading

- The provision:

CC can check acts of *interstate formations* against the Constitution, international agreements, and laws and decrees of the President (Art.116 Constitution)

- The reading:

Acts of the EAEU Commission are excluded from this provision as acts of a supranational institution

Objection No. 1

Interstate formations must not be limited only to intergovernmental institutions, but should be expanded to include supranational institutions in its scope.

Objection No. 2

This interpretation contradicts Art.8 of the Constitution:

“The Republic of Belarus in conformity with the rules of international law may on a voluntary basis enter interstate formations and withdraw from them.”

Objection No. 3

The Constitutional Court is denied powers to check constitutionality.

Objection No. 4

This interpretation does not exclude the constitutional control of the acts of other institutions.

Objection No. 5

The division into intergovernmental and supranational institutions is doubtful.

Objection No. 6



Many thanks!

