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**The Constitutional Court of the Republic of Belarus  
Канстытуцыйны суд Рэспублікі Беларусь**

**Anglais / English / Englisch / английский**

# **CONSTITUTIONAL COURT OF THE REPUBLIC OF BELARUS**

## **National Report for the XVI Congress of the Conference of European Constitutional Courts**

### **“The Cooperation of Constitutional Courts in Europe – Current Situation and Perspectives”**

The common legal space of Europe is mostly predetermined by the fact that the absolute majority of countries of the continent are Member States of the Council of Europe, and many of them are also Member States of the European Union (hereinafter – EU). It presumes united strategy of development of national legal systems, integration of countries by means of establishing of all-European institutions, active cooperation of the constitutional review bodies of these countries with the European Court of Human Rights (hereinafter – ECtHR) and the Court of Justice of the European Union (hereinafter – CJEU).

The Republic of Belarus for the present is not a Member State of the European Union and the Council of Europe. At the same time interaction between our country and the Council of Europe continues being in progress. Belarus is one of the contracting partners of some agreements of the Council of Europe (in the field of culture, education, law, sports, etc.), is part of the Group of States against Corruption (GRECO), takes part in steering committees of the Council of Europe on culture, heritage and landscape; on education policy and practice; on youth etc., and also in a number of programmes and initiatives.

The provisions of the Constitution of the Republic of Belarus comply with the universal international human rights standards and are close to the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Belarus as a European State while developing its legal system is guided in many respects by legal regulation which is common for all European countries.

#### **I. Constitutional Courts between Constitutional Law and European Law**

1. In the Belarusian jurisprudence and practice the term “European law” is understood in a broad sense, namely, as a body of rules including the legislation of the European Union, the legislation of the Council of Europe and other European international organisations which regulates the totality of economic, social, political, scientific and cultural relations, the principles of law which ensure the functioning of the European system of human rights protection, as well as multilateral and bilateral international treaties of European countries.

Moreover, the European law is considered not only as a system of mixed-level regulatory provisions, but also as a legal doctrine – the result of the centuries-old scientific research of legal scholars, who in spite of belonging to different national law schools have given a synthetic character to European jurisprudence and have enriched the jurisprudence with natural law, sociological, psychological conceptions. Thus, besides the regulatory function the European law as the value which has accumulated the European human-focused philosophical heritage forms all-European legal consciousness.

In the modern world human rights are recognised as one of the highest values of human civilisation. The preamble to the Universal Declaration of Human Rights, 1948, enshrines that recognition of inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. In 1993 at the World Conference on Human Rights representatives of more than 170 countries adopted the Vienna Declaration and Programme of Action. Article 1 of this Declaration states that the universal nature of human rights and freedoms is beyond question.

It should be emphasised that the mechanism of protection of the rights and freedoms enshrined in European regional and sub-regional treaties should not conflict with human rights standards developed at the level of international law acts of universal nature. It should be based on generally recognised principles of international law. The Republic of Belarus is a member of the United Nations since 1945. Our country signed and ratified such important international legal acts as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, etc., which directly flow from the Universal Declaration of Human Rights.

The European system of human rights protection is characterised by multi-dimensionality – it was created and it operates within the framework of the Council of Europe, the EU, the Organisation for Security and Cooperation in Europe (OSCE).

The main document is the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) signed in Rome on November 4, 1950. Its special role is determined by supranational control mechanism. For more than half a century, the ECtHR has strengthened and developed the standards of the Convention. It also plays a key role in ensuring human rights values which are common to all the countries of Europe by means of consistent establishment of uniform rules for the legal order for the states – parties to the Convention.

2. In the modern world, despite the fact that the conception of state sovereignty remains the cornerstone of the functioning of a separate state, any state is solidly bound by international law, including acts of interstate integration formations. This “multi-layering” regulation brings together international and national law as concerns their subjects as well as the character

of provisions. The Republic of Belarus is a party to the basic international treaties in various fields including protection of human rights. The Constitution of our country enshrines principles and provisions which regulate application and implementation of international law provisions and interaction of international and national law.

According to Article 8 of the Constitution the Republic of Belarus recognises the supremacy of the generally recognised principles of international law and ensures the compliance of laws therewith. Thus, the Belarusian state proceeds from the priority compliance with the generally recognised principles of international law, conforms the whole system of national legislation from the Constitution and laws to subordinate legislation to these principles.

International treaties of the Republic of Belarus are part of the national legal system. In accordance with the provisions of Article 20 of the Law “On Normative Legal Acts of the Republic of Belarus”, Article 33 of the Law “On International Treaties of the Republic of Belarus” rules of international treaties of the Republic of Belarus are part of the legislation applied in the territory of the State, they are to be directly implemented, except in cases when an international treaty requires the adoption (publication) of an internal legal act for implementation of such rules.

Recognising the priority of the generally recognised principles of international law and ensuring compliance of the legislation therewith the Republic of Belarus adheres to the conception of human rights and freedoms based on equal recognition of rights and freedoms of every individual, regardless of his race, national origin, sex, social and property status.

According to the Constitution the individual, his rights, freedoms and guarantees to secure them are the supreme value and goal of the society and the State (part one of Article 2); the State shall guarantee the rights and freedoms of citizens of Belarus that are enshrined in the Constitution and laws, and specified by the State's international obligations (part three of Article 21).

The Constitution enshrines personal, political, socio-economic and cultural rights and freedoms which are based on such basic international acts in the field of human rights as the Universal Declaration of Human Rights, the International Covenants of 1966. Constitutional rights and freedoms of a man and a citizen comply with international standards developed both within the UN and regional international organisations – the Council of Europe, the Commonwealth of Independent States, which confirms that the legal status of an individual in Belarus complies with international human rights standards.

It is necessary to take into consideration the provisions of the Constitution, according to which the Republic of Belarus in its foreign policy shall proceed from the generally recognised principles and norms of the international law (part one of Article 18); everyone shall have the right in accordance with the international legal acts ratified by the Republic of Belarus

to appeal to international organisations to defend his rights and freedoms, provided all available domestic legal remedies have been exhausted (Article 61).

The Constitutional Court of the Republic of Belarus shall ensure the supremacy and direct effect of the Constitution throughout the state, the compliance of normative legal acts of state bodies with the Constitution, the establishment of legality in rule-making and law enforcement. In accordance with the Constitution and other legislative acts the Constitutional Court is empowered to exercise constitutional review *a posteriori* as well as constitutional review *a priori*. Moreover, the practice of the Constitutional Court includes decision making *ex officio* to eliminate gaps in legal acts and to exclude collisions and legal uncertainty from these acts.

In the Message of the Constitutional Court on the Constitutional Legality in the Republic of Belarus in 2011 which was addressed to the President and the Parliament, it was emphasised that the state based on the rule of law could not exist without supremacy of law in political, social and economic life. In a democratic state constitutional values, especially rights and freedoms of each individual and citizen which are guaranteed by the Constitution, are protected by the constitutional justice.

On the basis of the provisions of Articles 8 and 116 of the Constitution, Articles 7 and 20 of the Law “On Normative Legal Acts of the Republic of Belarus”, Article 33 of the Law “On International Treaties of the Republic of Belarus” the Constitutional Court in its practice takes into consideration provisions of generally recognised principles of international law and international treaties of the Republic of Belarus.

3. When considering the great majority of cases and establishing its legal positions the Constitutional Court makes extensive use of the provisions of international legal acts of universal and regional nature.

Thus, for the period from 1994 to 2012 the Constitutional Court took more than 160 decisions in which legal positions were argued by referring to principles and provisions enshrined in international legal acts.

In the mentioned decisions the Constitutional Court referred to the provisions of more than 100 international legal acts, about 90 of them are multilateral international acts, more than 10 are bilateral treaties.

Most often in its decisions the Constitutional Court proceeds from the principles and provisions enshrined in the Universal Declaration of Human Rights, 1948, the International Covenant on Civil and Political Rights, 1966, the International Covenant on Economic, Social and Cultural Rights, 1966, the Vienna Convention on the Law of Treaties, 1969, the Convention on the Rights of the Child, 1989, Body of Principles for the Protection of All Persons under

Any Form of Detention or Imprisonment, 1988, a number of conventions of the ILO, etc.

There are some approaches in the practice of the Constitutional Court concerning application of international treaties when making decisions and giving conclusions.

The first approach provides for referring to international treaties as sources of law which regulate some social relations without reference to their specific provisions. For example, in its Decision of October 29, 2009 “On the conformity of the Law of the Republic of Belarus “On State Ecological Expertise” to the Constitution of the Republic of Belarus” the Constitutional Court provided the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), 1998, as a source of legal regulation in this field (the Republic of Belarus is a party to this Convention).

In the Decision of October 31, 2008 on the Law “On Making Alterations and Addenda to Some Codes of the Republic of Belarus on Payment of Alimony for Maintenance of Children” the Convention on the Rights of the Child, 1989, ratified by the Republic of Belarus is determined as a source of legal regulation of relations in the field of payment of alimony for maintenance of children.

With the second approach provisions of international treaties are considered when the Constitutional Court evaluates the conformity of a reviewed normative legal act to the international legal acts ratified by the Republic of Belarus.

Thus, in the Decision of October 30, 2008 on the Law “On Making Alterations and Addenda to Some Laws of the Republic of Belarus on Combating Illegal Migration, Distribution of Slave Labor, Child Pornography and Child Prostitution” it is emphasised that prohibition and restrictions for combating illegal migration, distribution of slave labor, child pornography and prostitution provided by the Law conform to the international obligations of the Republic of Belarus in accordance with the Convention on Slavery, 1926, the Convention on the Rights of the Child, 1989, and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, 2000.

In the Decision of October 30, 2008 “On the conformity of the Law of the Republic of Belarus “On Making Alterations and Addenda to the Law of the Republic of Belarus “On People Radiation Protection” to the Constitution of the Republic of Belarus” it is stated that the special procedure of manipulation with sources of ionizing radiation as well as measures to limit circulation of such sources conform to the international obligations of the Republic of Belarus, in particular the Joint Convention of the International Atomic Energy Agency, signed in Vienna on September 5, 1997.

When reviewing the constitutionality of the Law “On Air Protection” (Decision of December 8, 2008) the Constitutional Court states that the mentioned Law implements the provisions of the Convention on Long-range Transboundary Air Pollution of November 13, 1979 and its Protocols ratified by the Republic of Belarus concerning the regulation of emission of pollutants into the air for the existing and newly installed technological equipment by the use of the best available techniques.

In accordance with the third approach provisions of international treaties are actively applied by the Constitutional Court when formulating and justifying legal positions while making decisions, especially in the exercise of obligatory preliminary review of the constitutionality of laws. However, the Court takes into consideration not only provisions of ratified international treaties, but also provisions of international treaties that do not bind on the Republic of Belarus. In this case international legal acts adopted in the European legal space and establishing European recognised standards and requirements for the legal regulation in a particular area are most commonly applied.

The Constitutional Court in a number of its decisions as well as in annual messages on the constitutional legality in the Republic of Belarus has referred to provisions of the ECHR as a source of international legal regulation of certain legal relationship.

In its Message “On Constitutional Legality in the Republic of Belarus in 2000” the Constitutional Court stated that “the Constitutional Court frequently refers to European Convention on Human Rights by which the European Court on Human Rights is guided in its activities. Analysis of the mentioned Convention which is not obligatory for the Republic of Belarus, as well as analysis of decisions of the European Court shall promote the formulation by the Constitutional Court of the Republic of Belarus of its position on concrete issues. Recent decisions of the Constitutional Court have been exclusively based on the provisions of the Constitution and international law”.

In the Decision of April 3, 2001 “On the Right of Citizens to Appeal to the Court on the Issues Arising due to Exercise of Criminal Procedure Relations”, the Constitutional Court noted: Resolution 78 (8) of the Committee of Ministers on Legal Aid and Consultations, adopted by the Committee of Ministers of the Council of Europe of March 2, 1978 specifies that the right to access to justice and fair hearing, which is guaranteed by Article 6 of the ECHR, shall be one of the fundamental features of any democratic State.

In the Decision of June 23, 2010 “On the conformity of the Law “On Amnesty in Honor of the 65th Anniversary of the Victory in the Great Patriotic War of 1941-1945” to the Constitution of the Republic of Belarus” the Constitutional Court emphasises that application of amnesty complies with part

four of Article 6 of the International Covenant on Civil and Political Rights, 1966, which stipulates that “amnesty, pardon or commutation of the sentence of death may be granted in all cases”, as well as with other international legal instruments, including those of the Council of Europe, in the field of human rights and justice. The Republic of Belarus focuses on its provisions, in particular on provisions of the Recommendation № Rec (99) 22 of the Committee of Ministers of the Council of Europe “On prison overcrowding and prison population inflation” of September 30, 1999.

In addition to the above-mentioned acts the Constitutional Court in its decisions has repeatedly referred to the European Prison Rules of February 12, 1987 recommended by the Committee of Ministers, the European Convention on the Compensation of Victims of Violent Crimes of November 24, 1983, the European Convention on International Commercial Arbitration of April 21, 1961, the Recommendations № R (84) 5 of the Committee of Ministers to member states on principles of civil procedure aimed at improving the judicial system of February 28, 1984, documents of the OSCE, the recommendations of the Parliamentary Assembly of the Council of Europe and other international documents.

4. At present the ECtHR judgments become an independent source of law for national legal systems of Member States of the Council of Europe. The Republic of Belarus is not a Member of the Council of Europe and a party to the Convention. Therefore our country is not bound by legal obligations flowing from the state recognition of the jurisdiction of the ECtHR.

It should be taken into consideration that the judgments of the ECtHR are not only an act of application of the Convention, which produces effects to the parties to a specific dispute, but also an act of interpretation of the Convention which contains legal positions. Due to this fact it is possible to talk about the impact of the ECtHR practice on the national legislation and national law enforcement not only of the parties to the Convention, but also of other countries, including the Republic of Belarus, which are aimed at involvement in the European system of protection of human rights and freedoms in the future. This approach is based on the fact that through interpretation of the provisions of the ECHR and its Protocols the ECtHR not only reveals wrongful practice in a particular State and adopts pilot judgments in which the respondent state is directly asked to make alterations to the national legislation in order to eliminate the initial cause of violation of the applicant's conventional rights, but often formulates provisions expanding the content of existing standards or being relevant to the subsequent practice of States concerning the establishing of a new standard of human rights and freedoms.

The special role of the ECtHR judgments for the Constitutional Court of the Republic of Belarus consists in influence of the ECtHR legal positions on

the formulation of legal positions by the Constitutional Court while reviewing the constitutionality of normative legal acts. There is an example, when the practice of the ECtHR has been taken into account by the Constitutional Court while justifying its legal position and has been directly mentioned in the text of the Decision. In particular, in the Decision of June 29, 2012 “On the conformity of the Housing Code of the Republic of Belarus to the Constitution of the Republic of Belarus” the Constitutional Court referred to the Judgement of the ECtHR of February 21, 1986 on the case of *James and Others v. the United Kingdom* citing the legal position of the ECtHR that modern societies consider housing of the population to be a prime social need, the regulation of which cannot entirely be left to the play of market forces; the unlimited activity of these forces, especially in a period of economic transformation, can create the danger of undesirable social consequences, and therefore reflects not only the private but also the public interest.

In the Decision of December 23, 2011 on the Law “On Advocacy and Legal Practice in the Republic of Belarus” the Constitutional Court drew attention to the ECtHR approaches to this issue, according to which belonging to a professional association, even as obligatory, is not regarded as an interference with a free association and is not considered as restriction of the rights guaranteed by Article 11 of the ECHR, but is regarded as contribution to the protection of professional rights.

5. Since in general while reviewing the constitutionality of normative legal acts the Constitutional Court is guided by the provisions of the Constitution and the ECtHR grounds its legal conclusions on the provisions of the Convention, there are some differences in the practice of the Constitutional Court and the ECtHR concerning some issues.

Thus, the legal position of the Constitutional Court expressed in its Judgment of March 11, 2004, was based on constitutional provisions on admissibility of application of the death penalty – with the reference to the temporary nature of this form of punishment, as well as the possibility to declare moratorium on its application by the Head of State or the Parliament. According to the Protocol No. 6 to the ECHR of April 28, 1983 the ECtHR proceeds from inadmissibility and non-application of the death penalty (for example, the Judgment of the ECtHR of July 7, 1989 on the case of *Soering v. the United Kingdom*).

When reviewing the constitutionality of the laws on procedures for entry and departure from the Republic of Belarus (the Decisions of November 17, 2011 and of July 7, 2009) concerning provisions providing that a citizen of the Republic of Belarus may be provisionally restricted to leave for abroad if such citizen has knowledge of state secrets, the Constitutional Court came to the conclusion that the essence of these restrictions enshrined in the

laws conform to the provisions of part one of Article 23 of the Constitution because they are in the interests of national security, public order, protection of the morals and health of the population as well as rights and freedoms of other persons. At the same time, the ECtHR in its Judgment of December 21, 2006 on the case of *Bartik v. Russia* states that the Russian law which regulates foreign travel of persons having knowledge of state secrets sets an excessive restriction on their right to leave Russia regardless of the departure purpose and for the present there is no connection between such restrictive measure and specified safety function.

6. Approaches on the ground of which the Constitutional Court makes its decisions in some degree are similar to approaches in the judgments of the ECtHR. It can be explained *inter alia* by the fact that the content of many provisions of the Constitution is similar to the provisions of the ECHR and they go back to universal international human rights standards.

Thus, in the Decision of May 26, 2000 “On the Right of Citizens to Substitute Military Service by Alternative Service according to Religious Beliefs” the Constitutional Court stated that the right to substitute military service by alternative service according to religious beliefs should be secured by effective mechanism of its realisation. The Judgment of the ECtHR of November 22, 2011 on the case of *Ergep v. Turkey* concerning the absence of alternative service emphasises that such a system does not provide a fair balance between the interests of society in general and conscientious objectors.

When reviewing the Law “On Making Alterations and Addenda to Some Laws of the Republic of Belarus on the Prevention of Legalisation of Income Gained by Illegal Means and Financing of Terrorist Activities” (the Decision of June 4, 2009) the Constitutional Court noted: despite the fact that suspension of financial transactions, refusal of its realization and other restrictions provided by the Law affect the constitutional right of property of the participants of a financial transaction, they are legitimate and admissible because they are established at the legislative level and conform with requirements of proportionality. The Judgment of the ECtHR of February 25, 1993 on the case of *Funke v. France* states that in the field of the prevention of capital outflows and tax evasion countries encounter serious difficulties owing to the scale and complexity of banking systems and financial channels and to the immense scope for international investment, made all the easier by the relative porousness of national borders. The ECtHR therefore recognises that they may consider it necessary to have recourse to measures such as house searches and seizures in order to obtain physical evidence of exchange-control offences and, where appropriate, to prosecute those responsible. Nevertheless, the relevant legislation and practice must afford adequate and effective safeguards against abuse.

In relation to restrictions of the right of property in the above-mentioned Decision of the Constitutional Court of June 4, 2009 it is stated that this right may be restricted by the legislator insofar as it conforms to the principle of proportionality of restriction of the rights and freedoms. The Judgment of the ECtHR of November 20, 1995 on the case of "*Pressos Compania Naviera S.A. and Others v. Belgium*" specifies that a "fair balance" between the demands of the general interest of the community and the exercise of the right of property is needed for the respect of a reasonable relationship of proportionality between the means employed and the aim sought to be realised by any measure depriving a person of his possessions.

In the Decision of December 28, 2011 on the Law "On the Mental Health Care" the Constitutional Court notes the following. According to the Law the court makes a motivated decision on the merits of a case which is a ground for involuntary hospitalisation and treatment of patients for the statutory period. The court is also empowered to investigate a number of facts and documents which are required by the Law, in particular: grounds for involuntary hospitalisation and treatment; application for involuntary hospitalisation and treatment; conclusion about the need for involuntary hospitalisation and treatment made by medical advisory committee of a psychiatric facility; application for the prolongation of the term of involuntary hospitalisation and treatment; conclusion about the need for the prolongation of the term of treatment made by the mentioned committee of a psychiatric facility. These powers of the court guarantee protection of human rights. The same approach to this problem is enshrined in the Judgment of the ECtHR of October 28, 2003 on the case of *Rakevich v. Russia* which found that the law requires the courts to review all cases of compulsory confinement on the basis of medical evidence, and this is a substantial safeguard against arbitrariness.

Thus, the Constitutional Court has carefully analysed the practice of the ECtHR which was developed in the previous period of its activity and which is formed by now, especially concerning post-Soviet states, considering that their national legal systems are similar in many ways. The Constitutional Court has created the electronic database of legal positions of the ECtHR which is constantly updated. These legal positions are classified in accordance with criteria (classifier) developed by the Constitutional Court.

As concerns the Court of Justice (CJEU), the special work on the analysis and synthesis of the CJEU practice is not carried on, although the Constitutional Court familiarizes in the first place with the materials on interaction of the constitutional courts of Member States of the EU and the CJEU while giving preliminary rulings on request of the constitutional courts in accordance with Article 267 of the Treaty on the Functioning of the European Union.

## **II. Interaction between the Constitutional Court of the Republic of Belarus and other constitutional review bodies of foreign countries**

1. The establishing in the Republic of Belarus of the institution of constitutional review took place by means of adoption of the European model of constitutional review and became a reality in 1994 after the establishment of a specialised body of constitutional review – the Constitutional Court of the Republic of Belarus.

The combination of the Austrian (constitutional review *a posteriori* of normative legal acts) and the French models of constitutional review (constitutional review *a priori* of laws enacted by Parliament, before the signing by the President) was the basis of the Belarusian institution of constitutional review. Later the European experience in the implementation of preliminary constitutional review has been used while elaborating legislative approaches to the exercise by the Constitutional Court of the preliminary review of the constitutionality of laws enacted by Parliament before their signing by the President of the Republic of Belarus.

Although the practice of the Constitutional Court doesn't have in the text of its decisions any direct reference to a specific decision of the constitutional court of a foreign state, the Court while formulating its own legal positions takes into consideration legal positions of foreign constitutional courts and takes into account arguments and reasons made by them in the analysis of similar legal problems.

2. At the present the exercise of powers of the Constitutional Court requires the study of any decisions on the constitutional review using all available sources in so far as they concern questions under consideration by the Constitutional Court. On the basis of specific character of obligatory preliminary review of the constitutionality of all laws (about 600 decisions in 2008-2012) decisions of constitutional courts on almost all areas of law are studied.

3. First of all the Constitutional Court studies decisions of the constitutional review bodies of such countries as Armenia, Azerbaijan, Kazakhstan, Latvia, Moldova, Russia and Ukraine which are available in Russian. In addition, the Court studies decisions of the constitutional review bodies published in other languages. For example, in the exercise of obligatory preliminary review of the constitutionality of laws the practice of the Constitutional Council of France is analysed more in-depth.

The fact that the post-Soviet States have common historical past and they have had common laws for more than half a century is a major precondition for

perception and reception by the Constitutional Court of the practice of foreign constitutional courts. Until now structure and functioning of national legal systems in almost all of these countries are based on common principles which is why problems and, as a consequence, the practice of the constitutional review bodies on specific questions are undoubtedly similar. When making its decisions the Constitutional Court analyses first of all legal positions of the Constitutional Court of the Russian Federation on cases relating to similar legal problems and in some cases the Court relied on specific legal positions of this Court. It can be explained by existing relationship between Belarus and Russia. Bilateral treaties (including the Treaty on the Creation of a Union State) provide measures for the harmonization and approximation of the legislation of the Republic of Belarus and the Russian Federation. This community at the legislative level determines the community of approaches of the constitutional courts of these States to the settlement of similar cases. At present the Court has formed and has maintained on continuing basis the electronic database of the legal positions of the Constitutional Court of the Russian Federation.

At the same time it should be noted that the legal system of the Republic of Belarus is open to the reception of doctrinal approaches which are the basis of the court practice of foreign countries.

4. The instruments for cooperation of the Constitutional Court with foreign constitutional review bodies are various: exchange of experience, participation in international conferences and holding of joint activities, conclusion of international treaties on cooperation, exchange of visits by judges and employees of the Secretariats, exchange of journals, mutual consulting in the “Venice Forum” framework etc.

In particular, at present Memorandums of cooperation with the Constitutional Courts of Azerbaijan and Ukraine are signed. Annually dozens of responses of consultative nature (with a detailed analysis of national legislation, examples of the practice of the Constitutional Court of the Republic of Belarus) are prepared in the “Venice Forum” framework on demand of the constitutional review bodies of many European countries. Articles of leading European constitutionalists about doctrinal approaches to various legal problems are regularly published in the official publication of the Constitutional Court – the Bulletin of the Constitutional Court of the Republic of Belarus.

5. Research in the field of comparative law plays a big role in the development of new doctrinal approaches in the activity of the Constitutional Court. In this regard the Constitutional Court is interested in the activity of the European Commission for Democracy through Law (Venice Commission) for the complex study of some legal problems in the European constitutional space. Opinions of the Venice Commission and other documents permit to elaborate

doctrinal approaches, to formulate legal positions of the Constitutional Court based on best practices of constitutional development of the European states which contributes to the effective development of the judicial system of the Belarusian state in whole.

The Constitutional Court is actively involved in activities of international organisations in the field of constitutional justice which function under the aegis of the Venice Commission, including the Conference of European Constitutional Courts, the Conference of Constitutional Control Organs of New Democracy, the World Conference on Constitutional Justice, which permits, on the one hand, to provide objective information about changes in the field of the constitutional review in the Republic of Belarus, and on the other hand – to improve the activity of the Constitutional Court.

6. The Constitutional Court regularly sends Bulletin of the Constitutional Court (quarterly publication since 1995) in 23 states. This publication contains all decisions of the Court, information on activities of the Court, analytical studies, scientific articles of leading Belarusian and foreign constitutionalists. Materials which contain information about the most important decisions and legal positions formulated by the Constitutional Court are also sent to the Bulletin on Constitutional Case Law of the Venice Commission and to the Bulletin of the Conference of the Constitutional Control Organs of the Countries of New Democracy. This gives reason to believe that the presented ideas and the legal positions might be accepted and used by other bodies of the constitutional review in the resolution of similar legal problems.

### **Conclusion**

National legal systems of modern states, including the Republic of Belarus, are undergoing significant changes due to globalisation and integration, strengthening of the role of supranational legal instruments. However, the constitutional principles of state sovereignty, independence and independent domestic and foreign policy (Article 1 of the Constitution of the Republic of Belarus) remain major priorities of the modern Belarusian state.

Despite the fact that the immediate implementation of European law in the Belarusian legislation is not considered as an unconditional imperative in view of the limited participation of the Republic of Belarus in the European integration formations, national legislator seeks to take into account the European legal approaches to the regulation of appropriate social relations.

In its decisions the Constitutional Court indicates to the legislator and law enforcer that the content of the provisions of the Constitution on human rights and freedoms is inseparably linked to the understanding of the rights and freedoms developed by the international community in the framework of international standards in the field of human rights.