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LEGAL FORM AND STRUCTURAL ELEMENTS OF THE BASIC LAW AS THE FUNDAMENTAL SOURCE OF THE LEGISLATION OF THE KYRGYZ REPUBLIC

Abstract: The article reveals the main form of the constitution as a set of ways through the implementation of which the content of the basic law is formed. The author provides a classification of the basic law and analyzes the main features of the Constitution. In addition, in the course of his research, the author emphasizes the specific individual features inherent in the constitution.

Key words: legal form, Basic Law, Constitution, structural elements of the Constitution, principles of the constitution, source of legislation, characteristics of the constitution.

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Introduction

Any constitution has a socio-political essence, reflected in the balance of political forces, political interests of various parts of society. The Constitution of the Kyrgyz Republic fixed that the state power in the Kyrgyz Republic is based on the principle of division of power into legislative, executive and judicial.

The form of the constitution is a set of ways by which the content of the constitution is formed, its essence is formed. Distinguish between internal and external forms. The corresponding terms are quite often found in the literature when there is a need for additional characterization of a particular constitution [4]. The oldest classification, which was used back in the 19th century, is still used today. In accordance with the internal form, the constitution includes: 1) the procedure for drafting the constitution, 2) the procedure for adoption, 3) the procedure for approval, 4) the internal structure. The external form of the constitution is expressed in such structural elements as: 1) the name of the constitution, 2) the order of enactment, 3) the order of implementation, 4) the order of revision, 5) the order of protection. The

Constitution has the following legal properties (features that characterize it as the Basic Law). The main features of the Constitution can be distinguished:

1. The Constitution is one of the legal acts, is a law and has all its features. This is the adoption by the Parliament of a universally binding normative legal act, designed for repeated application, based in its action on the authority and strength of the state. The Constitution has legal supremacy.

2. The Constitution is the basis of the current legislation, in accordance with which the provisions of the Constitution are developed, its norms are concretized.

3. The constitution is characterized by a special procedure for its adoption and amendment [5].

The constitution has its own functions, so in the theory of constitutionalism they single out its constituent function, which legislates the independence of the state. The constitution also performs an organizational, political function [6].

We are in solidarity with the opinion of Soodanbekov S.S. and Ukusheva M.K. that the constituent function of the Constitution of 1993 of the Kyrgyz Republic is that it legislated the independence

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of the Kyrgyz state, thereby becoming a full-fledged subject of international legal relations [1]. Naturally, the Constitution fixes the most significant social relations, in contrast to the current legislation, which singles out separate parties and aspects of certain social relations as an object [7].

Each of the current constitutions has specific individual features, while at the same time, all constitutions have some common features:

a) all constitutions in one form or another proclaim the idea of popular sovereignty;

b) all constitutions in one form or another fix the institution of property;

c) the basic principles of the theory of separation of powers are reproduced and consolidated in constitutions;

d) all constitutions establish and fix the form of government of the state - a republic or a monarchy;

e) constitutions establish and fix the unitary or federal form of government;

f) all constitutions in one form or another proclaim and establish the rights and freedoms of man and citizen;

g) all constitutions define the principles of organization of the system of higher bodies of state power and the procedure for the activities of its constituent subsystems [8].

Some constitutions have rules governing the foreign policy of the state.

Principles act as an obligatory element of the theoretical basis of any science. It should be noted that in the legal literature there is a rather huge layer of interpretations of the concept of principles. The Constitution of the Kyrgyz Republic also establishes a fairly wide range of fundamental principles similar to the generally recognized universal, fundamental principles of constitutionalism [9].

The analysis of the norms of the Constitution of the Kyrgyz Republic shows that constitutional principles should be divided into two groups according to the form of expression: 1) fixed in the Constitution; 2) unfixed, introduced through the analysis of constitutional provisions. As it is clear from the list of principles given in the Constitution, the fundamental principles of the activity of the Republic must influence the entire state, its entire mechanism, society as a whole, and associations of citizens. In other words, all these entities should take these principles as the basis of their activities, which primarily include:

Consent of the governed. The basis of the national Constitution is the theory of the social contract. Public consent is achieved and maintained by the state, its bodies as a result of their permanent activity.

The principle of separation of powers. According to this principle, the state and its institutions can act within the limits established by the Constitution. The division of state power into

branches is designed to ensure the necessary balance of interests, which makes public power whole and unified.

Noah. This balance is constitutionally guaranteed by the powers of the legislative, executive, and judicial bodies, and, accordingly, disputes between the branches of government must be resolved constitutionally, through a legal procedure, the mechanism of a system of checks and balances [10].

The Constitution of the Kyrgyz Republic enshrined the principle of legality and supremacy of the Constitution. This principle is defined as the principle, method and regime of strict, unswerving observance, execution of the rules of law by all participants in public relations (the state, its bodies, public and other organizations, labor collectives, officials, citizens).

One of the fundamental principles reflected in the Constitution of the Kyrgyz Republic is the principle of democracy. The essence of this principle is the creation of a mechanism that ensures effective functioning, in accordance with the will of the people, as well as direct decision-making by the people on the most important issues of the life of society and the state. The people of Kyrgyzstan are the bearer of sovereignty and the only source of power in the Kyrgyz Republic, the people exercise their power directly, as well as through the system of state bodies and local self-government bodies. In the same article, we are talking about the fact that the highest direct expression of the power of the people is a referendum and free elections [11].

Private property and its inviolability. The Constitution recognizes private property as an inalienable right of a person, a natural source of his well-being and secures its inviolability.

Open Society. The Constitution recognizes human rights and freedoms as natural and inalienable.

Personal inviolability. In accordance with this principle, the Constitution of the Kyrgyz Republic recognizes and guarantees the rights and freedoms of man and citizen in accordance with generally recognized principles and norms of international law, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the CIS Convention on Human Rights and Fundamental Freedoms [2].

Rule of law (principle of legal procedure). This concept, embodied in the national Constitution, assumes that laws should be applied fairly, without discrimination and in accordance with the norms of the law and the Constitution.

The principle of equality of all before the law. The Constitution establishes that all are equal before the law and the courts and guarantees equal protection of the law to all. Equality of opportunity is the main purpose of the Constitution.

The Constitution of the Kyrgyz Republic enshrined the principle of citizenship, which is

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understood as the obligation of the state to fully protect the rights and freedoms of the individual, enshrined in the Constitution, determined by citizenship. Citizenship in the Kyrgyz Republic is understood as a stable legal relationship of a person with the state, expressed in the totality of their mutual rights, duties and responsibilities, based on the recognition and respect for the dignity, fundamental rights and freedoms of a person [3].

Judicial control. The Constitution establishes that the Constitutional Chamber is the supreme body

of judicial power for the protection of the Constitution; The supreme judicial body is the Supreme Court.

An analysis of the norms of the Constitution gives grounds to single out into a special group the legal ideas that are fixed in it, but not expressed as principles. These include the principle of the supremacy of the Constitution of the Kyrgyz Republic, supreme legal force and direct action, the principle of constitutional legality.

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