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“Vesnik Hrodzenskaha Dziarzhaunaha Universiteta Imia Ianki Kupaly.
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Legal forms of realization of the innovation function of the state

[*Pravovye formy realizatsii
innovatsionnoi funktsii gosudarstva*]

D. M. Stepanenko

Belarusian-Russian University (Belarus)

Mira Ave., 43/4, 212000, Mogilev, Belarus; e-mail: erstesieger@mail.ru

Abstract. The article is devoted to the research of the innovation function of the state as one of the main directions of its activity at the beginning of the 21st century. In the introduction the relevance of the problem is justified, the circle of authors dealing with certain aspects of the research of the influence of the state impact on the rates of scientific and technological progress is indicated. The object of the research is the innovation function of the state as the main direction of its impact on the life of society. The purpose of the research is to identify and substantiate the legal forms of realization of the innovation function of the state. In the main part the author’s definition of the innovation function of the state is proposed, law-making, law-enforcement and law-based forms of realization of this function are investigated. The basic characteristics and features of each of the legal forms of realization of the innovation function of the state are established. It is proved that the activity of the state within the framework of the law-making form of realization of its innovation function underlies the entire process of legal regulation of innovation activity in the country. It is substantiated that the innovation legislation of the state is a natural result of its corresponding law-making activity. The main groups of social relations that constitute the subject of regulation of innovation legislation are singled out. It is substantiated that the activity of the state within the framework of the law-enforcement form of realization of its innovation function represents the authoritative creative executive and administrative work of various state bodies connected with the daily resolution of various management issues in the innovation sphere. The peculiarities of law-based activity of state bodies, implemented in the framework of the state’s realization of its innovation function, are investigated. In the conclusion the main finding is formulated that the research of legal forms of realization of the innovation function of the state makes it possible to more fully, deeply and thoroughly comprehend its nature, content and social purpose.

Keywords: function of state, innovation, innovation activity, innovation development, innovation function of state, legal form of realization.

Bibliography – 15 titles

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UDC 342.1

Interpreting the Constitution: concept, procedure, problems

[*Tolkovanie Konstitutsii:
poniatie, poriadok, problemy*]

O. N. Shupitskaya

Yanka Kupala State University of Grodno (Belarus)

Dovatora Lane, 3/1, 230012, Grodno, Belarus; e-mail: oshupitskaya@mail.ru

Abstract. The interpretation of the Constitution of a state is a form of interpretation of legal norms. The object of this research is the public relations connected with the interpretation of the Constitution as the Fundamental Law of the state. The subject of the research is definition, importance, legal regulation, problems of interpretation of the Constitution as a form of legal activity. In the introduction it is analyzed the degree of knowledge of issues of interpretation of law and in particular the interpretation of constitutional legal norms, it is determined the relevance of the issues researched in the study. In the article it is defined the essence of interpretation as a kind of cognitive activity, on the one hand, and legal activity of the subjects on the other hand; objective and subjective reasons of interpretation of the law; it is analyzed legal regulation of this type of legal activity in the Republic of Belarus and the Russian Federation. In the analysis of Belarusian normative legal acts regulating this question, the author turns to the text of the Constitution of the Republic of Belarus and the articles of the Law of the Republic of Belarus "On normative legal acts of the Republic of Belarus". In the publication it is discussed the position of the researcher about the necessity and importance of interpreting the Constitution in view of the availability of the Fundamental Law as the legal norms and principles, that content is revealed in different ways depending on various factors. In the article much attention is paid to the activities of the Constitutional Court as the body to carry out the official enforcement and interpretation of the Constitution. It is set the problem of the legal regulation interpretation of the Constitution by the Constitutional Court and proposed ways to resolve them. The conclusions can be used for training purposes, for further research in the area of interpretation of the law, the provisions of the Constitution, to improve law-making and law enforcement practice in the research area.

Keywords: interpretation of law, interpretation of Constitution, principles of Constitution, norms of Constitution, subject to interpretation of Constitution, procedure for interpretation of Constitutional Court.

Bibliography – 17 titles

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Competence of state bodies, institutions that ensure the functioning of the education system in the system of guarantees for the realization of the right to higher education in the Republic of Belarus

[*Kompetentsiia gosudarstvennykh organov,
uchrezhdenii, obespechivaiushchikh funkcionirovanie sistemy obrazovaniia,
v sisteme garantii realizatsii prava na vysshee obrazovanie
v Respublike Belarus*]

O. V. Drobysh

Belarusian State University (Belarus)

Leningradskaya St., 8, 220030, Minsk, Belarus; e-mail: o.drobysh@grsu.by

Abstract. In the introduction it is defined the object of the research – public relations developing in the process of implementation of the competence of state bodies and institutions of the Republic of Belarus that ensure the functioning of the system of higher education. The purpose of the study is to analyze the legislation that establishes the competence of these entities in the system of organizational guarantees for the realization of the right to higher education, i.e. legal norms aimed at creating optimal conditions for the realization of rights. In the main part, on the basis of the conducted research, it is noted that all state bodies participating in the regulation of higher education with the aim to ensure the proper functioning of this system are endowed with the necessary competence, the proper implementation of which is an organizational guarantee for the realization of the right to higher education. It is estimated the effectiveness of the system of scientific and methodological support of higher education. It is established that the structure of the system of scientific and methodological support of education due to its complexity is to certain extent ineffective, irrational, and cost-inefficient. The conclusion is drawn on the need to merge institutions that have the competence to provide scientific and methodological support into a single institution at the national level that is subordinate and accountable to the Ministry of Education in order to ensure the continuity of the content of educational programs for secondary, vocational and higher education. The competence of the mentioned institution should be the issues of designing and implementing new educational technologies, creating elements of innovative infrastructure, conducting research in the field of education and improving the skills of teaching staff at all levels. It is formulated proposals to improve the legislation on education in order to overcome uncertainties and omissions in the organization and financing of certain types of activities.

Keywords: realization of right to higher education, organizational guarantees; competence of institutions that ensure functioning of system of higher education.

Bibliography – 15 titles.

**On the problems of the initiating of the administrative process
on the fact of domestic violence**

[*O problemakh nachala administrativnogo protsessu
po faktu nasiliia v sem'e*]

O. G. Karazei¹,
V. V. Koliago²

¹ *Ministry of Internal Affairs of the Republic of Belarus (Belarus)*
Gorodskoi Val St., 2, 220005, Minsk, Belarus; e-mail: aleh.krz@gmail.com
² *Academy of the Ministry of Internal Affairs of the Republic of Belarus (Belarus)*
Masherova Ave., 6, 220005, Minsk, Belarus; e-mail: Kolyago-33@mail.ru

Abstract. In the introduction it is revealed the relevance of the problems associated with the beginning of the administrative process in the sphere of family and household relations. In particular, it is noted that domestic violence is the most acute problem requiring active intervention by the state. The family is the basis of society, therefore ensuring its safety should be one of the priority areas of public policy. The analysis of statistical information on the state of the crime situation in the sphere of family and household relations is carried out. The purpose of the study is to identify problems of law enforcement practices related to the imperfection of legal regulation of the procedure for initiating the administrative process on the facts of domestic violence, and the development of scientifically sound proposals aimed at their elimination. In the main part the problems associated with the commencement of the administrative process under Article 9.1 of the Code on administrative offenses are investigated by the prosecutor on the basis of Part 1 of Article 9.4 of the Code of execution procedure of the Republic of Belarus on administrative offenses in the absence of the victim's demand to bring the guilty to administrative responsibility. One of the problems is connected with the ambiguous interpretation of the phrase “the administrative process can be initiated by the prosecutor”, which entails difficulties in law enforcement practice. The conclusion is substantiated that the participation of the prosecutor in the decision to start the administrative process under Article 9.1 of the Code on administrative offenses is inexpedient. This is due to both the low level of public harm of administrative offenses in comparison with crimes and the need to immediately take decisions on the application of administrative detention to the person in respect of which the administrative process is being conducted in order to protect the rights of a family member who is dependent on him or other reasons, unable to independently defend their rights and legitimate interests. It is argued that it is advisable to authorize the officials of the body conducting the administrative process to independently decide on the commencement of the administrative process under Article 9.1 of the Code on administrative offenses, in the absence of the request of the victim or a legal representative to bring the person who committed the administrative violation to administrative responsibility. In the conclusion the proposals on introducing amendments and additions to Chapter 9 of the Code of execution procedure of the Republic of Belarus on administrative offenses aimed at solving problems of law enforcement practice, protecting the rights and legitimate interests of participants in the administrative process are formulated.

Keywords: administrative processes, initiating administrative process, domestic violence, administrative violation, administrative responsibility.

Bibliography – 14 titles.

**Museology as a direction of cultural activity:
new approaches in the Code of the Republic of Belarus on culture**

[*Muzeinoe delo kak napravlenie kul'turnoi deiatel'nosti:
novye podkhody v Kodekse Respubliki Belarus' o kul'ture*]

I. E. Martynenko

Abstract. The aim of the research is the formation of the concept of protection of historical and cultural heritage through the development of the reserve museum forms of protection. The scientific significance of the proposed study is to clarify the legal scientific conceptual apparatus through the inclusion of new for the Republic of Belarus concepts and definitions – “historical settlement”, “historical place”. In the introduction it is set the research object that is the social relations arising in the sphere of protection, use and restoration of historical and cultural heritage of the Republic of Belarus; features of the implementation of museum activity as a direction of the cultural activity. In the main part the attention is referred to the theory and history of protection of museum assets; it is revealed the content of new concepts and definitions introduced into practical usage in connection with the entry into force the Code of the Republic of Belarus on culture on February 3, 2017 (subject of museum appointment, museum item, scientific auxiliary and raw material, raw material); it is analyzed existing legislation and on this basis a proposal on the expediency of fixing in this normative legal act concepts of “historical settlement”, “historical place” is put forward. Special attention is paid to the possibility of development of such forms of museum activity for the protection of cultural property as a museum under the open sky and a reserve museum. It is given examples of legislative decisions on these issues in the states – participants of CIS. The article is addressed to practical workers connected with the sphere of protection and use of cultural, including museum, values. The obtained results can be taken into account in the legislative activity related to the modification of the Code of the Republic of Belarus on culture with respect to the first experience of its application.

Keywords: historical and cultural heritage, cultural activity, protection of historical and cultural monuments, museology, codification of legislation.

Bibliography – 10 titles.

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**Violation of fire safety legislation:
modern administrative enforcement**

*[Narushenie zakonodatel'stva o pozharnoi bezopasnosti:
sovremennoe administrativnoe pravoprimerenie]*

E. Yu. Pasovets¹,
A. P. Lazovik²

¹ *Civil Protection University of the Ministry of Emergency Situations of the Republic of Belarus (Belarus)*
Mashinostroitelei St., 25, 220118, Minsk, Belarus; e-mail: lena.eu@tut.by

² *Civil Protection University of the Ministry of Emergency Situations of the Republic of Belarus (Belarus)*
Mashinostroitelei St., 25, 220118, Minsk, Belarus; e-mail: mit020280@tut.by

Abstract. Operational and quality prevention of violations of fire safety rules is an important segment of the state policy on ensuring national security of the Republic of Belarus. For violation of fire safety legislation including the binding requirements of technical normative legal acts of system of fire-prevention regulation and standardization in Belarus administrative responsibility is provided. However, in the Republic of Belarus there is no monographic work and no current recommendations, where the algorithm for differentiating administrative responsibility for violating of fire safety legislation would be clearly defined. In the article it is provided the legal basis for the application of article 23.56 of the Code of the Republic of Belarus on administrative offenses; the results of a survey of the subjects of implementation of administrative responsibility for violation of fire safety legislation as well as results of the study on cases of administrative offenses in this area are presented. As a result, problematic issues of enforcement of Article 23.56 of the Code of the Republic of Belarus on administrative offenses are identified and considered; attention is paid to the process of formation of internal belief of officials in determining the sentence as the main criterion for the implementation of administrative responsibility; modern scientific approaches to differentiation of responsibility are considered; it is concluded that it is necessary to work out and form a single approach to differentiate administrative responsibility for violation of fire safety rules and develop effective practical tools for applying sanctions of Article 23.56 of the Code of the Republic of Belarus on administrative offenses. It is suggested to differentiate responsibility for violating the fire safety legislation taking into account the set of unlawful acts, their public danger and repetition.

Keywords: fire safety, administrative enforcement, state fire safety authorities, fire safety legislation, differentiation of liability, penalties.

Bibliography – 9 titles.

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**Market of organic (ecologically clean) products in Russia:
legal issues**

[*Rynok organicheskoi (ekologicheskoi) produktii
v Rossii: pravovye voprosy*]

**A. P. Anisimov¹;
O. V. Popova²**

¹ *The Volgograd Institute of Business (Russia)*

Shosse Aviatorov, 1, 400075, Volgograd, Russia; e-mail: anisimovap@mail.ru

² *Immanuel Kant Baltic Federal University (Russia)*

A. Nevskogo St., 14, 236016, Kaliningrad, Russia; e-mail: volodina1973@mail.ru

Abstract. In the article it is considered modern problems of development of production of ecologically clean products on the example of the Russian Federation. The purpose of the work is to examine the existing regulation of the production of ecologically clean products in Russia and to make suggestions for its further development, the support of ecological entrepreneurship and the measures of state economic incentives. Scientific novelty is that in the article for the first time in Russian legal science attention is paid to the study of problems of production of ecologically clean products in the context of problems of development of ecological entrepreneurship and the suggestions for the development of eco-labels for organic products in the context of foreign experience and providing information about environmentally friendly products through advertising in the media are made. In the introduction it is set out the relevance of the chosen problem, the current situation in Russia and the foreign experience of organic farming are briefly highlighted. In the main part it is focused on problems of regulation of production of ecologically clean (organic) products in Russia, gaps in the current legislation are identified, the concept of environmental entrepreneurship, a variety of which is the production of ecologically clean products is considered, the problems of ecological marking of organic products in the context of foreign experience are analyzed, the problems in the implementation of advertising of organic production are identified. In the conclusion it is found out in order to stimulate organic production, as well as to create an effective market for ecologically clean products, it is necessary to legislate this institution, develop government management and control measures, as well as economic incentives, including the purchase of only ecologically clean production for public needs. The results of the study can be applied in agricultural and environmental legislation of Russia.

Keywords: ecologically clean products, consumer, environment, labeling, information, Russia.

Bibliography – 15 titles.

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**Agreement as a form of social partnership
in the sphere of agro-industrial complex
of the Republic of Belarus**

[*Soglashenie kak forma sotsial'nogo partnerstva
v sfere agropromyshlennogo kompleksa Respubliki Belarus*]

A. I. Shishko

Yanka Kupala State University of Grodno (Belarus)

Dovatora Lane, 3/1, 230012, Grodno, Belarus; e-mail: urgrodnofpb@mail.ru

Abstract. In the article it is explored the notion “agreement” on social issues in the sphere of agro-industrial complex of the Republic of Belarus. It is analyzed the essence, significance and role of the research concept in the regulation of social and partnership relations in the sphere of the agrarian sector of the economy between its bearers by the representative bodies of social partners in the labor and social law of Belarus and the legislation of other countries. The particular attention is paid to the analysis of tariff agreements concluded at the republican, regional and district levels in the agro-industrial complex, existing different points of view of scholars in the field of law on the term “agreement”, comparing the concept “agreement” in domestic legislation and legislation of other countries on the example of the Russian Federation. In the article it is noted that two tariff agreements are concluded between the social partners at the republican level: Tariff agreement between the Ministry of Agriculture and Food of the Republic of Belarus, the Belarusian Trade Union of Agro-Industrial Workers and the Belarusian Agricultural Union “BelAPS”; Tariff agreement between the Belarusian State Concern of the Food Industry “Belgospisheprom”, the Belarusian Trade Union of Agro-Industrialists and the Belarusian Agricultural Union “BelAPS”. The social partners of these tariff agreements are the Belarusian Professional Union of Agro-Industrial Workers and the Belarussian Agro-Industrial Union “BelAPS”. The Ministry of Agriculture and Food of the Republic of Belarus and the Belarusian State Concern of the Food

Industry “Belgospisheprom” respectively are parties to one of the tariff agreements. With the aim of further development of social and partnership relations in the sphere of agro-industrial complex of the Republic of Belarus it is formulated the corresponding conclusions and made suggestions on improving the current legislation and practice of its application in the sphere under consideration.

Keywords: social partnership, law, legislation, normative act, trade unions, agro-industrial complex of Republic of Belarus, social and labor sphere, collective agreement, tariff agreement.

Bibliography – 14 titles.

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UDC 349.6

**Legal regulation of the “green” economy
in the context of ensuring the ecological safety
of the Republic of Belarus**

[*Pravovoe regulirovanie «zelenoi» ekonomiki
v kontekste obespecheniia ekologicheskoi bezopasnosti
Respubliki Belarus’*]

**A. G. Avdei¹,
I. V. Gushchin²**

¹ *Yanka Kupala State University of Grodno (Belarus)*

Dovatora Lane, 3/1, 230012, Grodno, Belarus; e-mail: avdej_ag@grsu.by

² *Yanka Kupala State University of Grodno (Belarus)*

Dovatora Lane, 3/1, 230012, Grodno, Belarus; e-mail: gushin_iv@grsu.by

Abstract. The object of the study is public relations that arise in the process of development and functioning of the “green” economy in the context of ensuring ecological safety. The subject of the study is a system of normative legal acts regulating the “green” economy in the context of ensuring ecological safety; scientific ideas and views existing in this area. The purpose of the study is to identify the problems of legislation related to the development and functioning of the “green” economy in the context of ensuring ecological safety, and to develop scientifically based proposals aimed at their elimination. In the introduction the urgency of the issue under consideration is noted. In the main part the legal norms devoted to the issues of ecological safety, sustainable development and the “green” economy are examined, and the dynamism of the improvement of the system of legal norms in this sphere is revealed. The essence of the economic mechanism of nature management is studied, attention is focused on the importance of the energy sector on the way to the “green” economy. It is focused on the conceptual-categorical apparatus in the field under investigation. The particular attention is paid to the analysis of concepts of ecological security, energy security, “green” economy, “green” procurement, etc. The obtained results can be used in the educational process when teaching the disciplines of the ecological and legal cycle; while continuing scientific research on topical issues of legal regulation of the “green” economy in the context of ensuring ecological security. The statement on the expediency of adopting the Laws of the Republic of Belarus “On the production and circulation of organic products” and “On electric power industry” is proved. In the conclusion it is formulated proposals for introducing amendments and additions to the current legislation, for example, to the Law of the Republic of Belarus “On mediation” and others aimed at addressing certain problems in the sphere of the “green” economy in the context of ensuring ecological security.

Keywords: ecological security, “green” economy, energy security, legislation, economic security, sustainable development, environmental protection, nature management.

Bibliography – 17 titles.

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UDC 343.3/7

**Protection and connivance on service
as typical signs of the objective side of taking bribe**

[*Pokrovitel'stvo i popustitel'stvo po sluzhbe
kak tipichnye priznaki ob"ektivnoi storony polucheniia vziatki*]

Yanka Kupala State University of Grodno (Belarus)
Dovatora Lane, 3/1, 230012, Grodno, Belarus; e-mail: tajna@tut.by

Abstract. The aim of the study is to give an exact meaning to objective signs of taking bribe – protection and connivance on service. In the article the question of problem aspects of qualification of bribery in criminal law of the Republic of Belarus is risen. In the main part such objective signs of bribery as protection and connivance on service are in detail opened, the criminal legal treatment is given to these signs and the essential attention is paid to the problem aspects of their interpretation. It is offered to correct law-enforcement practice for effective fight against corruption manifestations in society. Literal sense should be given to protection and connivance on service and both judicial and investigative practice, and science of criminal law are oriented in this direction. Taking bribe for protection or for connivance on service should be considered not only in the context of the official's use of his official powers, but also his official capacity. In the conclusion it is drawn the main findings according to which taking bribe for protection or connivance on service should be considered not only in the context of the official's use of his official powers, but also his official capacity. At the same time, official capacity in this case is characterized by the fact that the official: makes impact on other official subordinated to it on service whose authority includes making a decision in the interests of the bribe-taker or the persons represented by him; can exert impact on decision-making by other official who is not subordinated to him, who is dependent on the service (or may influence another official) with a view to taking a decision in the interests of the bribe-taker; makes impact on other people who are not officials, but whose powers include making decisions in the interests of the bribe-taker. The sphere of application is law, law-enforcement practice, law-making.

Keywords: bribery, taking bribe, connivance, protection, corruption.

Bibliography – 9 titles.

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UDC 343.8

**Institute of forced isolation
and medico-social readaptation
with mandatory involvement to labor
at the present stage of development
of the Republic of Belarus**

*[Institut prinuditel'noi izoliatsii
i mediko-sotsial'noi readaptatsii
s obiazatel'nym privilecheniem k trudu
na sovremennom etape razvitiia
Respubliki Belarus']*

S. L. Gaikovich

Academy of the Republic of Belarus Ministry of Internal Affairs (Belarus)
Masherova Ave., 6, 220005, Minsk, Belarus; e-mail: cgaykovich@mail.ru

Abstract. In the introduction of the article it is given a general description of the problem of the use of alcoholic beverages and narcotic drugs in the Republic of Belarus. The number of statistical data on the amount of consumption of these substances and persons registered on account of their excessive consumption is given. The retrospective analysis of the development of legislation in the field of forced isolation and medico-social readaptation with mandatory involvement of citizens to labor is conducted. The aim of the research is to develop scientific bases for the subsequent optimization of the legislation regulating the organization of the activity of medical and labor preventors of the Ministry of Internal Affairs of the Republic of Belarus. The urgency of this study is caused by the need for further improvement of the legislation regulating the procedure for the operation of medical and labor dispensaries as an important form of expressing the state policy on the application of coercive measures of isolation of citizens with their further social adaptation and mandatory involvement to labor. In the main part of the study the analysis of the development of legislation regulating the procedure for sending to medical and labor dispensary and the conditions for the presence of citizens in them is carried out. The analysis of the functioning of the research institute is made, and the measures taken by the state to strengthen enforcement measures against people with chronic alcoholism, drug addiction or substance abuse that systematically violate public order or the rights of others are studied. The main directions of improving the activity of the penitentiary system are considered. Scientific novelty lies in the fact that for the first time it is made a detailed analysis of the laws of the Republic of Belarus, departmental and other normative legal acts regulating public relations in the sphere of execution of court decisions on sending citizens to medical and labor dispensaries, the procedure and conditions for staying in them, as well as a set of theoretical and practical problems relating to the constituent elements of the legal situation of isolated offenders. In the conclusion the results of the survey are summarized. The provisions considered in the article can be taken into account when

implementing norm-setting in the field of compulsory isolation of citizens and the educational process in departmental higher educational institutions.

Keywords: medical and labor dispensary, forced isolation, medical and social rehabilitation, criminally-executive system.

Bibliography – 12 titles.

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**Ensuring road safety
in the context of integration of the Republic of Belarus
into the European road transport system**

*[Obespechenie bezopasnosti dorozhnogo dvizheniia
v usloviakh integratsii Respubliki Belarus'
v evropeiskuiu dorozhno-transportnuuu sistemuu]*

A. V. Beresneva¹,
I. A. Moiseeva²,
A. S. Antonov³

¹ *Yanka Kupala State University of Grodno (Belarus)*

Dovatora Lane, 3/1, 230012, Grodno, Belarus; e-mail: 1253593@mail.ru

² *Yanka Kupala State University of Grodno (Belarus)*

Dovatora Lane, 3/1, 230012, Grodno, Belarus; e-mail: i.moiseeva@grsu.by

³ *Yanka Kupala State University of Grodno (Belarus)*

BLK, 5, 230009, Grodno, Belarus; e-mail: antonov_as@grsu.by

Abstract. In the introduction it is shown the relevance of the ensuring road safety problem, mainly due to the steady growth of the automobilization level, the increase of the traffic participants number, and legal, organizational, technical, economic and other factors. The purpose of research is the investigation of the legal, technical and economic aspects of ensuring road safety in the context of integration of the Republic of Belarus into the European road transport system. In the main part it is presented an analysis of the problems associated with road traffic injuries in the world, the countries of the European Union and the Republic of Belarus and the ensuring road safety. The theoretical foundations and essence of the road safety definition are presented. The legal, technical and economic aspects of ensuring road safety in the context of integration of the Republic of Belarus into the European road transport system are considered. The analysis of the current state of road traffic injuries in the countries of the European Union and the Republic of Belarus is carried out. This analysis showed that there is a necessity of further improving of the legal, technical and economic measures taken by state and public organizations to ensuring road safety. The issues of legal regulation in the road safety field in the Republic of Belarus are considered in detail, and the relationship between road traffic injuries and economic damage caused as a result of a road traffic accident is shown. Effective measures to reduce the economic consequences of road accidents are proposed. Special attention in the article is given to technical support of the road traffic safety based on using of innovative engineering solutions, in particular material science solutions. Possible ways of formation an effective system for ensuring road safety are suggested and examples of their practical implementation are considered. In the conclusion of the article the importance and expediency of applying an integrated system approach in development of effective measures to ensure road safety in the Republic of Belarus in the context of integration into the European road transport system are shown.

Keywords: traffic accident, road traffic injuries, road safety, normative and juridical regulation, technical and economic support.

Images – 1. Bibliography – 15 titles.