

CONSTITUTIONAL LAW IN BELARUS

SECOND EDITION

GRIGORY A. VASILEVICH



Wolters Kluwer

Constitutional Law in Belarus

Second Edition

Grigory A. Vasilevich

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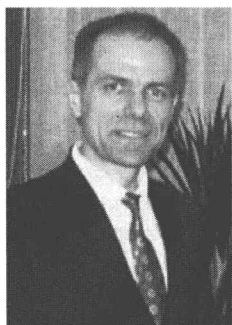
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The Author



Grigory A. Vasilevich was born on 13 February 1955 in the City of Minsk. He began his career as a workman before performing military service in the Soviet Army. In 1980 he graduated from the Law Faculty of Belarusian State University, and where he subsequently completed his post-graduate studies. He was a Professor at the Law Faculty of Belarusian State University from 1983 to 1986. In 1986 he was appointed Deputy Head of the Law Department at the Secretariat of the Supreme Soviet, then Head of the Law Department (1989–1994). He has been a Judge of the Constitutional Court of the Republic of Belarus since April 1994, and Chairman of this organisation since January 1997.

He was a member of the Constitutional Committee from the moment of its creation in July 1990 until the conclusion of its deliberations in March 1994, during which time he served as Deputy Head of the Panel on the elaboration of a new Constitution.

He presented his doctoral thesis in the sphere of labour relations law in 1984 at Kharkov Law Institute and in 1994 at Belarusian State University. His thesis is entitled 'Legislative barriers to the activities of the Supreme Soviet of the Republic of Belarus'.

His scientific interests include constitutional law, labour law, state and legal theory, the organization of state bodies, the legal status of the individual, and relations between the individual and the State.

He is the co-author of fifty books and penned more than twenty others on his own. He also co-wrote eight textbooks. He has written more than 500 scientific articles, and has been a regular contributor to Belarus' many newspapers on legal and political subjects. His most significant works include: *The Parliament of the Republic of Belarus (Constitutional and legal aspect)*, Minsk: Law and economy, 1995; *The Constitution of the Republic of Belarus: Scientific and Legal Commentary* (co-authorship), Minsk: Belarus, 1996; *Bodies of state power of the Republic of Belarus: Constitutional and legal status*, Minsk: Law and economy, 1999; *The Constitution and Aspects of Protection of the Rights and Liberties of Citizens*, Minsk: Knowledge, 1999; *Enforceable enactments of state bodies of the Republic of Belarus*, Minsk: Law and economy, 1999; *Legal Bases of Mutual Relations Between the Individual, Society and The State*, Minsk: Law and economy, 1999; *Responsibility of parties of a labour contract for damage caused*, Minsk: Belarus, 1989;

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Material responsibility of the employee for damage caused for the employer, Minsk: Amalthea, 1994; *Damage. Labour. Responsibility*, Minsk: Vedy, 1997; *Labour Law: a Textbook for Higher Educational Institutions* (co-authorship), Minsk: Amalthea, 1997; *Bases of law: a Textbook for Secondary Educational Institutions* (co-authorship), Minsk: Amalthea, 1998; *Constitution. Person. State*, Minsk: Law and Economy, 4 volumes (2000, 2001, 2002 & 2004), *The Constitution of the Republic of Belarus: Scientific and practical comments*, Minsk: Law and economy, 2001; *The Labour Code: Scientific and practical comments*, Minsk: Amalthea, 2000. (co-authorship); *Referenda in the Republic of Belarus and the Road Towards Independence at the End of the 20th Century*, Minsk: Young scientific society, 2001; *The Law on enforceable enactments of the Republic of Belarus: Comments*, Minsk: Inter press Service, 2003; *Constitutional Law of the Republic of Belarus*, Minsk: Inter Press Service, 2003; *Legal Guide to the Parliament*, Minsk, Dicta, 2004; *The Bases of the Belarusian State Ideology*, Minsk, 2004 (co-authorship); *Constitutional Law of the Republic of Belarus*, Minsk: Book House, 2005; *The Constitution of the Republic of Belarus: Scientific and Practical Comments*, Minsk: BSU, 2005; *Sources of Belarusian Law: Principles, Normative Acts, Customs, Precedents, Doctrine*, Minsk: Theseus, 2005; *The Belarusian government at the turn of the century*, Minsk: Law and economics, 2007; *The offense, the law of responsibility*, Minsk: Law and economics, 2011; 1991: *Chronicle dive country*, Minsk: Law and economics, 2012; *The Constitution – the foundation of the national legal system*, Minsk: Law and economics, 2012; *Some aspects of the application of criminal and criminal procedural law (ideas, suggestions, critical eye)*, Minsk: Law and economics, 2013; *Constitutional Justice*, Minsk: BSU Publishing Center, 2014; *Draft Constitution of the Republic of Belarus: the search for the optimal model*, Minsk: Law and economics, 2014; *Anti-corruption*, Minsk: Law and Economics, 2015.

Publications in Russia, Ukraine, Lithuania, Armenia, Poland, Bulgaria, France, Turkey, Greece; Research director of fifteen doctoral theses of post-graduate university students on legal matters and two post-doctoral theses; Chairman of the Council of Experts on Legal Subjects of the Supreme Attestation Committee of the Republic of Belarus; Member of the Republican Council of Judges; Member of the International Academy of Organizational and Managerial Science; Arbitrator, Court of Conciliation and Arbitration within the OSCE on the part of the Republic of Belarus; International Biographical Centre (Cambridge, England) member of list of outstanding people of the twentieth and twenty-first centuries; Member of the General Assembly of the National Academy of Sciences of Belarus. Reporter on many international conferences, including the conference of the World Jurists' Association in Stuttgart (2002), dedicated to constitutional issues and the increased effects of mobility and transportation on the environment; on the European Court of Human Rights in Strasbourg (2002) and at many other conferences in Russia, Ukraine, France, Italy, Turkey and other countries.

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List of Abbreviations

BSSR	Belarusian Soviet Socialist Republic
BSU	Belarusian State University
CIS	Commonwealth of Independent States
CPSU	Communist Party of Soviet Union
MIM	Minsk Institute of Management
NPS (Chernobyl)	Chernobyl Nuclear Power Station
UNESCO	United Nations Educational, Scientific and Cultural Organization
USA	United States of America
USSR	Union of Soviet Socialists Republics

List of Abbreviations