Popov Fedor Alekseevich , No. 3 2017

The electoral system on the territory of the Provisional Government of the Far East

Resume: The article is devoted to the discussions that accompanied the creation of the electoral system of the Primorsky state formation before the elections to the Provisional People's Assembly of the Far East in the summer of 1920. The civil war in the Russian Far East at its final stage (1920-1922) was characterized by the competition of several state projects. The main participants in the conflict were the Far Eastern Republic (FER), which was completely dependent on the Bolsheviks, the white Transbaikalia and Primorye, controlled by the regional zemstvo. It was within the framework of the seaside statehood that the most developed parliamentary system of that period was formed. However, the predominance of the socialists in the Primorye People's Assembly was reflected accordingly in his lawmaking. Based on the protocols of the commission for the development of the regulation on the representative body, the author argues that the electoral system of Primorye, designed according to the patterns of socialists, radically influenced the results of the elections. Developed in the course of discussions between socialist and liberal lawyers, the electoral legislation of Primorye contributed to the victory of the left forces, under whose auspices the work of the local parliament later took place.

Egorov Alexander Alexandrovich , No. 3 2017

Evolution of the category "offense" in the 17th - 18th centuries.

Annotation. The article examines the process of evolution of such important aspects of the category of offense as the concept of offense, types of offenses and the composition of the offense in the 17th - 18th centuries. in the context of the most important monuments of law of the specified historical period - the Cathedral Code of 1649 and the Military Article of 1715.

Koz yreva Anna Borisovna , No. 3 2017

Corporate norms: legal nature, signs, sanctions and correlation with legislative norms[2]

Resume: The article examines an autonomous approach to understanding corporate norms, which is an attempt to refute the Soviet approach to understanding corporate (local) norms, where the state is the only subject of lawmaking. The author proves the legal nature of corporate norms and formulates their main features, gives a theoretical description of corporate sanctions and their types, and also correlates corporate and legislative norms. Based on the study, the author concludes that the theory of law needs to revise many questions, the answers to which will allow us to talk about a paradigm shift in the science of law.

Zhukova Elena Sergeevna, No. 3 2017

By ulturno and educational th function I state.

The article examines the main problems associated with the implementation of the cultural and educational function by the state , provides a justification for the need for state regulation of culture and education, gives the main approaches to defining the concept of the function under study and gives its author's definition. The article reveals the content of cultural-educational function, which is reduced, according to the author, to comprehensive state support for the development of culture - literature, art, theater, cinema, as well as the State Second support is, of science, its natural integration into the market conditions, support for e Priority Development fundamental theoretical research and fundamentally new technologies. The directions of the state's activity in the sphere of culture and education are highlighted, as well as the existing problems are analyzed. The author

substantiates the expediency of assessing the effectiveness and implementation of the cultural and educational function by the state both from the point of view of management efficiency and from the standpoint of the population's satisfaction with the quality of services provided in these areas and the general state of the cultural and educational sphere .

Sochilin Andrey Andreevich, No. 3 2017

THE CONCEPT OF NATURAL LAW AND ITS DEVELOPMENT IN THE HISTORY OF MORAL PHILOSOPHY

Annotation . The article examines the logical structure and history of the development of the concept of "natural law" (jus naturāle) within the framework of the pre-European history of European moral philosophy: Greek and Latin. The practical-legal and theoretical-philosophical aspects of the concept of natural law are highlighted. The need to study the second aspect is indicated in order to clarify the general theoretical foundations of jurisprudence and ethics, as well as to increase the effectiveness of their interdisciplinary communication. The approach to the analysis of the concept of "natural law" is substantiated from the position of the methodology of the discipline "history of concepts". The paradigm on which the presented research is built is outlined briefly. The contradictoriness of the concept of "natural law" is analyzed, which was recorded in the so-called "discussion of physis - nomos" (nature vs. establishment) in ancient Greek philosophy. The role of this contradiction in the development of the theory of natural law is demonstrated. Two lines of development of the theory of natural law are highlighted, corresponding to two sides of this contradiction: the theory of human nature (rational and social), on the one hand, and the theory of natural normativity (the subject and object of the requirement of natural law), on the other. The role of ancient Greek philosophy and Christian theology in the development of these theories is shown . The connection of “natural law” with the key concepts that provide its theoretical context is explicated: human nature, rational nature (natura rationālis), natural “society” (societas) of a person, moral action (actus morālis, actio morālis), natural law (lex

naturālis) , divine law (lex divīna), conscience (conscientia). The historical and philosophical context of the development of the theory of natural law is illustrated by a number of paradigmatic formulations from the works of the most significant thinkers who developed certain aspects of the theory - from Aristotle to Hugo Grotius. The terminological and conceptual gap between the ancient, medieval and early modern European moral philosophy, on the one hand, and modern humanities and social sciences, on the other, is noted. The necessity of overcoming it by means of the analysis of the philosophical foundations of ethical and legal thought, fixed in the philosophical tradition of natural law, is indicated.

Salomatin Alexander Alekseevich , No. 3 2017

Equal access when entering municipal service: constitutional and legal aspect

Annotation:

This article examines the constitutional and legal aspect of the principle of equal access when entering the municipal service in the context of the basic requirements for citizens entering the municipal service, prescribed in federal legislation. The problem of established and regulated requirements for admission to the municipal service is quite relevant. At the moment, sufficient attention has been paid to entering the civil service, however, the municipal service, being a derivative of the first, also needs a detailed analysis of each requirement separately. Restrictions on admission to municipal service are an integral part of protecting the constitutional order, as well as the rights and legitimate interests of a citizen. The presence of certain territorial and ethnic characteristics, among the diversity of municipalities, raises the important question of delineating the requirements for equal access to municipal service in accordance with municipal legislation in particular.

Karasev Anatoly Tikhanovich

Meshcheryagina Veronika Alexandrovna , No. 3 2017

Correlation of the constitutional right to appeal with on the political rights and freedoms

Annotation. The subject of this article's analysis is the constitutional right to appeal in the system of political rights, taking into account the doctrinal approaches, legal positions of the Constitutional Court of the Russian Federation and the changes made to the Federal Law "On the Procedure for Considering Appeals of Citizens of the Russian Federation" in the last few years. The article examines the correlation of the constitutional right to deal with other political rights and freedoms. It is concluded that in relation to other types of political rights, the constitutional right to appeal is a universal prerequisite for their implementation or protection.

Kharinov Ilya Nikolaevich, No. 3 2017

State control over providers of public services in the economic sphere

Annotation. The article substantiates the criteria for differentiating public services and other publicly significant activities into two opposite categories: administrative (non-economic) public services and economic (non-administrative) public services. This approach allows us to detect differences in the way services are organized. The author analyzes the key features of the implementation of state control in the field of economic public services (transparency in the choice of service providers; ensuring the quality of services), including in the light of the adoption of the Law on the Foundations of State and Municipal Control. Taking into account the relevant law enforcement practice, controversial practical issues are raised and ways to solve them are proposed.

Keywords: state control, public services, quality of services, public service provider, economic activity, administrative legal relations

Migachev Yuri Ivanovich ,
Muravyov Ivan Alexandrovich, No. 3 2017

Theoretical and legal foundations of state control (administrative and financial aspects)

Annotation. The article Theoretical and legal foundations of state control in the Russian Federation (administrative and financial aspects) was prepared in view of the relevance of the issue of development of the system of management of both public finances and non-public finances, as well as the sector of state control over budget funds. The authors made an attempt to trace the origins of the origin of the procedure itself in the life of different states, as well as the initial forms of activity, which, in the opinion of many scholars, was state control.

The article provides the concept of control, a brief description of scientific views on it, as well as comments of prominent legal scholars regarding the essence of the concept and its other important aspects.

The structure of the system of state control, including the federal level and the level of the constituent entity of the Russian Federation, is briefly described. The competence of the main bodies exercising powers in this sector, such as the Administration of the President of the Russian Federation (Main Control Directorate), is given; The Accounts Chamber of Russia, control and accounting bodies, the Ministry of Finance of Russia, the Federal Treasury of Russia, the General Prosecutor's Office of the Russian Federation, An exhaustive list of the compositions of administrative offenses aimed at ensuring law and order in the field of state control is given.

The paper describes the methodological work on the generalization of the practice of identifying offenses related to activities in this area, as well as on their classification.

This article may be of interest to students of the course administrative law, financial law, civil service and public administration, in particular the system of state

control (supervision), in addition, the article may be of interest to researchers and other persons directly involved in the development of procedures and government tools with the help of which regulation of the public finance environment is carried out.

S avoskin Alexander Vladimirovich, No. 3 2017

Pre-registration for receiving state and municipal services

Annotation. The article substantiates the difference between an appointment for state (municipal) services and a preliminary appointment for a personal appointment. The article analyzes the normative regulation and practice of the activities of the authorities on the organization of preliminary registration. Three ways of registration for receiving state and municipal services have been identified and analyzed: 1) preliminary registration via the Internet; 2) pre-registration by phone; 3) receipt of a coupon when using the electronic queue management terminal. The specificity of preliminary registration in the implementation of power functions that are not classified as state (municipal) services has been analyzed. Based on the results of the analysis: 1) the author's definition of a preliminary recording was formulated; 2) revealed differences in the methods of preliminary registration; 3) the place of preliminary registration in the procedure for the provision of the service has been determined; 4) it was concluded that it is necessary to consider a preliminary recording as a special kind of appeals; 5) proposals were formulated on the legislative regulation of the institution of preliminary registration, taking into account the meaning of Articles 2, 18 and 33 of the Constitution of the Russian Federation.

Christmas Rozh Tatyana Eduardovna,

Guznova Elizaveta Alekseevna, No. 3 2017

Russian and international approaches to defining the concept of tax residency

Resume : The article examines the Russian and international approaches to the definition of tax residency, as well as the criteria underlying the determination of the tax residency of organizations. The article analyzes the latest changes in Russian tax legislation related to the determination of the residence of organizations. A comparative legal analysis of Russian and international approaches to determining the tax residency of organizations is given.

Baramidze Georgy Alekseevich , No. 3 2017

State Corporation "Rosatom" as a participant in financial legal relations

Annotation. This article is devoted to the consideration of the peculiarities of the legal status of the state corporation "Rosatom" as a participant in financial legal relations. Based on the study, the author concludes that the state corporation "Rosatom" is a participant in vertical financial legal relations as a subordinate (passive) subject (taxpayer, foreign exchange resident, object of financial control); vertical financial legal relations as an imperious (active) subject, endowed by the state with the authority to form, distribute (redistribute), use and control the use of public finances in the public interest (chief manager of budgetary funds, subject of financial control); horizontal financial legal relations as one of the equal parties to a public contract in financial law. The author also comes to the conclusion that the state corporation "Rosatom" has a special legal status, which allows combining the functions of managing the nuclear industry with the solution of economic problems.

Alekseeva Diana Gennadievna , No. 3 2017

Legal problems of improving Russian legislation in order to develop partner banking tools

Annotation. The article deals with the problems of legal regulation of partner banking - banking operations based on the observance of the principles (standards) of Sharia. The implementation of partner banking instruments can lead to the growth of the Russian banking sector. At the same time, the issue of the possibility of introducing these instruments into the banking legislation of the Russian Federation is currently on the agenda. In the case of a positive solution to this issue, it will be necessary to intensify the methods of harmonizing the norms of banking legislation and regulations of the Bank of Russia to organize the management of banking risks, effectively carry out banking operations and transactions in the integration processes of forming a single market for banking services.

Mikheeva Irina Evgenievna, No. 3 2017

Legal features of the Mudarabah agreement on Islamic law

Resume: This article is devoted to the study of the Islamic financial instrument - mudarba, with the help of which Islamic banks raise funds. By its legal nature, a mudarabah agreement is similar to a property trust agreement. At the same time, there are significant differences between these legal constructions, which are noted by the author in the article.

Kalimullina Madina Emirovna, No. 3 2017

Standardization of Islamic financial sdela to

Abstract :

This article is devoted to the issues of standardization of Islamic financial transactions. At present, Islamic financial standards also contain both concepts that can be easily and effectively conveyed by Russian-speaking counterparts (for example, the "mudaraba" transaction can be classified as trust management), and specific terms and concepts that do not have a direct common analogue in Russian (

for example, "sukuk", "best performance of obligations", "deliberate delay in debt repayment") . All these terms and concepts were formed under the influence of a number of factors, the key of which is ethical and legal. The article discusses examples of such concepts and terms with an explanation of their specifics and practical examples.

DOLINSKAYA Vladimir Vladimirovna ,

SHISHKO Irina Viktorovna , No. 3 2017

ABOUT bmannye action to st.179 Civil Code of the Russian Federation and Article 165 of the Criminal Code of the Russian Federation

Annotation:

On the basis of a retrospective analysis of Russian legislation (pre-revolutionary, Soviet and modern) and doctrine, the essential characteristics of deception (fraudulent actions) in law are derived.

In order to optimize the interaction of private and public law, as well as the application of civil and criminal law, it was carried out with an equalization of fraudulent actions under Article 179 of the Civil Code and Article 165 of the Criminal Code. At the same time, along with the current legislation, judicial acts and scientific research were used.

Particular attention is paid to the subject composition of legal relations, incl. the concepts of "owner" and "other owner of property" in civil and criminal law; grounds of responsibility, incl. the fact of causing harm, causation; forms of causing property damage by deception; the concept of "property" in civil and criminal law; differentiation between deception and delusion.

As a result, the similarity of offenses was revealed in terms of wrongfulness, the subjective side of the crime, the intersection of the concepts of harm in civil and criminal law; such trends in the development of legislation as a narrowing of the range of compositions in Article 179 of the Civil Code, decriminalization of a number of compositions that were previously included in Article 165 of the Criminal Code.

Uksusova Elena Evgenievna, No. 3 2017

The relationship of civil procedural law with material law: problems of theory and practice (beginning)

Annotation. The article defines the initial provisions, structure and significant aspects of scientific knowledge of the relationship between civil procedural law and material law in the Russian legal system. For sectoral procedural science, their accounting allows you to reveal the nature and identify a pronounced manifestation of such interrelationships, which is significant in the study of the procedural sphere of legal proceedings through the subject of judicial activity, taking into account its material and legal specifics. This focus of the study is illustrated by examples of the current state of legal regulation and judicial application.

Kazari na (Maslova) Tamara Nikolaevna,
Emtyl Fariza Aslanovna, No. 3 2017

On the shortcomings of Article 199 of the Civil Procedure Code of the Russian Federation, as amended by Federal Law of March 4, 2013 No. 20-FZ

Resume: The article is devoted to identifying certain problematic issues and shortcomings of Article 199 of the Code of Civil Procedure of the Russian Federation, as amended by Federal Law No. 20-FZ dated 04.03.2013. The author provides a comparative legal analysis of procedural rules governing the institution of a “shortened” court decision; certain issues of appeal were considered; identified the problems of legal regulation of the noted institutions; proposals were made to improve the current civil procedural legislation.

Tsypkina Irina Sergeevna, No. 3 2017

Regulation of the labor of workers sent by the employer to other individuals or legal entities under an agreement on the provision of staff labor

annotation

This article analyzes the new chapter of the Labor Code of the Russian Federation, which deals with the specifics of labor regulation of workers sent by the employer to other individuals or legal entities under an agreement on the provision of personnel labor.

The publication discusses the essential conditions that must be specified in a civil law contract between legal entities and individuals, as well as those conditions that must be included in the content of an employment contract between an employee and an employer sending him to another employer (host) and an additional agreement to this agreement.

The work also notes the shortcomings of the current labor legislation in the field of labor regulation of sent workers (unresolved issues - about the period of warning about the termination of the employment contract on the initiative of the employee before the end of the work period; about the procedure (and the very possibility) of the employer (receiving party) to transfer the sent employee to other work in the event of an accident, catastrophe, etc .; about what wages a private agency should pay to its employees in the event of unilateral termination of the civil contract by the receiving or sending party).

Valery Novikov, No. 3 2017

Discrimination: a crime and an administrative offense

Annotation. The article discusses topical issues of criminal and administrative responsibility for violation of human and civil rights and freedoms, depending on his gender, race, nationality, language, origin, property and official status, place of residence, attitude to religion, beliefs, membership in public

associations or any social groups under the laws of the Russian Federation and other states. The changes made to Art. 136 of the Criminal Code of the Russian Federation, the state of modern judicial practice in cases of this category, and also shows the ratio of the compositions of criminally punishable discrimination and an administrative offense provided for in Art. 5.62 of the Administrative Code of the Russian Federation.

Sipki Marat Vazirovich, No. 3 2017

Organization of the activities of a terrorist organization and participation in the activities of such an organization (Article 205 [5] of the Criminal Code of the Russian Federation)

Resume: Criminal liability for organizing the activities of a terrorist organization and participation in such activities in the Russian Federation was established in 2013. At the same time, over the past three years, the corresponding norm (Article 205 [5] of the Criminal Code of the Russian Federation) has already changed its wording twice.

Added to the instability of the law is the lack of clarification on the application of a number of important provisions of the new norm. In this regard, a proposal is made to use the relevant provisions of the resolution of the Plenum of the Supreme Court of June 28, 2011 No. 11 "On judicial practice in criminal cases on crimes of an extremist nature." This is justified by the fact that the specialized Federal Law ("On Counteraction to Extremist Activity") recognizes terrorist activity as "a kind of extremist activity."

When considering the controversial points of view about which type of groups (listed in Article 35 of the Criminal Code of the Russian Federation) the terrorist organization belongs to, it was concluded that the terrorist community and the terrorist organization are, in fact, one and the same thing.

Analyzing the norms of the relevant Federal Law, the author comes to the conclusion that when compiling a list of crimes, the commission of which is

the basis for recognizing an organization as a terrorist, it is important to indicate such a condition as their commission with a “terrorist purpose”.

Yulov Dmitry Vladimirovich №3 2017

The concept and types of international legal guarantees of the rights of foreign investors

Annotation. The article analyzes the international legal guarantees of the rights of foreign investors.

International legal guarantees can be classified according to the scope of the rights they grant, as general and specific guarantees.

General international legal guarantees are guarantees of human rights, in the field of civil and political rights, as well as economic, social and cultural rights, these guarantees are generally recognized basic international legal guarantees that must be followed by states.

International guarantees of the rights of foreign investors can be called special in relation to general international legal guarantees, since they have a special subject of regulation - the obligations of the states accepting foreign investments in the field of ensuring the protection of the property of foreign investors.

International legal guarantees of the rights of foreign investors, being special guarantees, are contained in international multilateral and bilateral agreements and include guarantees of property rights of foreign investors, compensation, insurance, guarantees for the resolution of international investment disputes, but these guarantees are aimed at ensuring the protection of property rights foreign investors.

It should be noted that the international legal guarantees of foreign investors are the legal obligations of the recipient states, enshrined in international multilateral and bilateral agreements, extending their effect in relation to foreign investors, through which foreign investors have the opportunity to exercise their rights and legitimate interests in the field of theirs. on the ownership of investments in the recipient states.

Elena Ivanovna Kholodova ,
Turshuk Lyudmila Dmitrievna , No. 3 2017

Bioethics and Human Rights: International Legal Regulation and Ways of Implementation

Resume: New biotechnologies not only expanded the scientific field of research of biologists and physicians, but also generated a lot of ethical and legal problems, including the problem of abortion, surrogacy, euthanasia, implantation, transplantation, the use of new reproductive technologies, and others. The Universal Declaration on Bioethics and Human Rights obliges the member states, including the Russian Federation, to use the achievements in the field of biological and medical sciences, the latest technologies on the basis of respect for human rights and fundamental freedoms. The article proposes to consolidate the fundamental principles of international law in the field of bioethics in the Constitution and legislation of the Russian Federation, in particular, providing for the protection of the human embryo.

Taking into account the foreign experience, the achievements of medical science, the proposals of Russian lawyers on the protection of human life and health even before his birth, during the period of intrauterine development, it is advisable to legally establish liability for harm caused by damage to the health or death of a human embryo.

Slepak Vitaly Yurievich, No. 3 2017

Legal regulation of military-political integration within the framework of the Union State of Russia and Belarus

Annotation. In this article, the author analyzes the main legal mechanisms and spheres of military cooperation between the Russian Federation and the Republic of Belarus, the legal aspects of cooperation in the field of armaments, the legal foundations for the creation and functioning of a regional military grouping of troops of Russia and Belarus. The article also analyzes the relationship between Russia's international legal obligations under the Treaty on the Establishment of the Union State, the Treaty on Collective Security, and the Treaty on the Eurasian Economic Union.

Zaplatina T.S. No. 3 2017

Common system of mutual recognition of professional qualifications in the latest legislation of the European Union

Annotation. The article is devoted to the analysis of the acts of the European Union, establishing the systems of professional recognition. Particular attention is paid to the general recognition system or the non-automatic recognition system. Within the framework of the general recognition system, a legal relationship is formed, where the applicant has the right to recognition, and the relevant state authorities are obliged, if the qualifications meet the required level, to recognize this qualification. The latest legislative acts of the European Union establish the material and procedural aspects of this recognition system. It can be compared to a non-automatic academic recognition system. The latter has a number of disadvantages, the analysis of the general system of professional recognition in the European Union can be used to modify the system of academic recognition.

Plekhanov Denis Alexandrovich , No. 3 2017

Competition protection from the state and local authorities (for example, P RUSSIA, Respublikui A ac ross , the Republic of Lithuania, the Republic of Belarus)

Resume *:* This article is a systematic review of the normative legal regulation of relations to protect competition from the actions of state authorities and local governments in Russia and some foreign jurisdictions. The position is substantiated according to which the legal regulation of these relations is not a specificity of exclusively Russian legislation, but is characteristic of a number of foreign states. The author identified the similarities and differences in approaches to the consolidation of legal norms, considered the composition of violations of antimonopoly legislation by the authorities in Russia and other countries, suggested possible ways of developing the domestic legal framework. In addition, attention is paid to the issues of granting state (municipal) preferences . The necessity of consolidating the institution of preliminary examination of draft normative (non-normative) legal acts of state authorities and local self-government bodies in the antimonopoly legislation in order to reduce the number of violations by authorities and prevent such violations in the Russian Federation is substantiated.