Klimov Ivan Pavlovich, No. 4 2017

Sources of transport law in the Soviet state (October 1917 - 1920)

Annotation. The article analyzes the historical and legal experience of the formation of sources of transport law in the Soviet state after the October Revolution, the 100th anniversary of which is celebrated in 2017.The first months of Soviet power were characterized by the desire of state bodies to abandon the legal institutions that operated in imperial Russia, and to be guided by revolutionary legal consciousness with the prospect of the withering away of law as a legal category in the future. However, everyday reality convinced of the inexpediency of the immediate implementation of this step, the concept of preserving legal norms until the "implementation of the communist system" is being developed. The leading normative legal act of transport law is becoming the decrees, in the preparation of which the All-Russian Congress of Soviets, the All-Russian Central Executive Committee (VTsIK), and the Council of People's Commissars (SNK) participated. In the conditions of the civil war, the decisions of the Council of Workers and Peasants' Defense (SRKO) were an important source of transport law. The author believes that one should take into account not only the law-making activity of the Soviet state bodies, but also the governments of the white movement, the “democratic counter-revolution”, operating in a number of regions of the country. The hierarchical ladder of sources of transport law also included decrees, orders, orders, decisions of departmental governing bodies, statutes of railways, business customs, and international treaties. The author's position on the debatable issue of the possibility of classifying party acts as sources of law is stated. Shows the specifics of the sources of transport law.

Alfimtsev Vladimir Nikolaevich , No. 4 2017

In search of the exclusive competence of the constituent entities of the Russian Federation in the field of national policy

Annotation. Consideration of the constitutional and legal foundations for the implementation of national policy through the prism of its concept, based on the works of domestic and foreign researchers and limited by two main areas that reveal its scope, clearly illustrates the importance of the exclusive competence of the constituent entities of the Russian Federation in the field of national policy and prompts the need to analyze the sufficiency of its legal regulation. The statement of the research problem in this way allows us to answer the question of the possibility of independent legal regulation of the implementation of national policy by the constituent entities of the Russian Federation in the part not covered by the subjects of joint jurisdiction. The analysis of the Constitutions and Charters (Basic Laws) of the constituent entities of the Russian Federation allows the author to identify 6 approaches to the legal regulation of issues of national policy in their supreme legislative acts. In conclusion, proceeding from the existential significance of national policy for multinational Russia, a conclusion is made about the need to consolidate its individual issues, referred to as subjects of independent jurisdiction, at the level of federal legislation.

Portnova Elena, No. 4 2017

The legal nature and limits of the formation of legal positions of the constitutional (charter) courts of the constituent entities of the Russian Federation

Annotation. The article discusses various points of view on the concept of "legal position of the Constitutional Court of the Russian Federation". Based on the analysis of the above points of view, the author identifies the main features of this concept, and also proposes the author's definition of the legal positions of the constitutional (charter) courts of the constituent entities of the Russian Federation. An analysis of the regional legislation on constitutional (charter) courts shows that the legal positions of the constitutional (charter) courts of the constituent

entities of the Russian Federation and the decisions of these bodies are not identical concepts. P ravov th positions I trial - it is formulated by the court rule on the case before it, which is the result of interpretation by the court legal act. The legal position of the regional body of constitutional justice is endowed with a normative and interpretative nature and its effect extends not only to a purely specific normative legal act that is subject to assessment in this case, but also to normative legal acts that duplicate the provisions of the law assessed by the court.

Strelnikov Anton Olegovich , No. 4 2017

Legal regulation of the activities of territorial public self-government

Annotation:

The subject of the research is the issues of legal and organizational regulation of the activities of territorial public self-government.

The object of the research is the issues of the activity of territorial public self-government in the Russian Federation.

The author analyzes the legal status of territorial public self-government, the organizational structure of TPSGs, the relationship between federal legislation and municipal legal acts in relation to this area. Analysis of the literature on the topic of the research revealed the main shortcomings in the legal regulation of the activities of territorial public self-government.

The main conclusion drawn from the study is that federal legislation regulating the activities of territorial public self-government needs further improvement. The main contribution made by the author in this article is to identify the need for the federal legislator to regulate the organizational structure of territorial public self-government.

The novelty of the article lies in the development of proposals for further improvement of legislation in the aspect of ensuring regulation of the main elements of the organizational structure of TPSGs, in particular, the author proposed to include in federal legislation such elements as the executive and control bodies of

TPSGs (in a sole or collegial form), to establish deadlines of such bodies, to include a provision on granting to a meeting (conference) of citizens exclusive powers to early terminate the activities of these bodies.

Morozov Yuri Vasilievich, No. 4 2017

Administrative and legal regime of transit movement of foreign citizens and stateless persons through the territory
Russian Federation

Annotation . The paper analyzes the administrative and legal regime of transit movement of foreign citizens and stateless persons through the territory of the Russian Federation. The author discloses the characteristics of this legal regime, reveals its features, presents a classification of foreign citizens carrying out transit through the territory of Russia, clarifies the definition of "transit", as well as formulates definitions of the concepts "transit movement of foreign citizens through the territory of the Russian Federation" and "administrative legal regime transit movement of foreign citizens through the territory of the Russian Federation ”. The problematic issues are revealed and the ways of their solution are announced.

Bekkin RI, Aliskerov M . S. , no.4 2017

Features of the Islamic financial sector in Russia
at the present stage and prospects for its growth

Annotation. *The financial sector plays an important role in the economy of every country. Russia is no exception in the sense that after the political sanctions imposed against our country, the issue of improving the investment climate in the country has become especially urgent. In this regard, Islamic finance can thus serve as a source of internal financial reserve, allowing to establish relations with the Gulf countries and at the same time give impetus to the lagging sectors of the economy.*

Yandiev Magomet Isaevich , No. 4 2017

Islamic finance: distant prospects for the formation of a full-fledged financial model

Resume **:** This article is devoted to the study of the features of the Islamic financial model. The key conclusion of the article is that Islamic finance is not a fully developed model of financial relations. The Islamic financial model (IFM) does not yet have its own developments on a number of methodological issues arising from the requirements of Sharia for finance, and uses solutions borrowed from traditional finance. Therefore, despite the name, the IFM has not yet become a model and, despite the presence of serious prospects, it still remains an integral part of the traditional financial system.

B agdasarova Anaid Eduardovna , No. 4 2017

AND THE actualization of the legal regulation of relations for compensation for moral harm in the context of systematizing the problems of their legislative regulation

The article is devoted to the actualization of the legal regulation of relations for compensation for moral harm in the context of the systematization of the problems of their legislative regulation. In order to formulate the directions of updating the legal regulation of the institution of compensation for moral harm, the article examines, summarizes (grouped) certain problems of legal regulation of relations for compensation for moral harm, which have been repeatedly discussed and analyzed by domestic civilians, and methods of their solution are studied. Traditionally, such problems include: unreasonable limitation of methods of compensation for moral harm, lack of a complete and adequate definition of the definition of moral harm, individual collisions of the terminological apparatus, the absence of both a complete list of criteria for determining the amount of compensation for moral harm, and a method for determining the amount of compensation for moral harm. The systematization of the problems of legal regulation of compensation for moral harm made it possible to substantiate and

isolate certain areas of updating the legal regulation of the institution under consideration: 1) improving the conceptual apparatus of the institution of compensation for moral harm; 2) improving the legal regulation of individualization and differentiation of compensation for moral damage; 3) consolidation at the legislative level of the methodology for determining the amount of compensation for moral damage.

Uksusova Elena Evgenievna, No. 4 2017

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

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 us to reveal the nature and identify a pronounced manifestation of such relationships, which is significant in the course of researching the procedural sphere of legal proceedings through the subject of judicial activity, taking into account its substantive and legal specifics. This focus of the study is illustrated by examples of the current state of legal regulation and judicial application.

Sabylina Anastasia Igorevna , No. 4 2017

Making audio and video recordings for self-defense purposes and using them as evidence in court

Annotation. The paper assesses the theoretical and legal content of the concepts of self-defense as an institution of material civil law and the admissibility of evidence as an institution of procedural law on the example of the use of audio and video recordings as evidence in court. Based on the fundamental work of

V.P. Gribanov "Implementation and protection of civil rights" identified the most significant aspects of the admissibility of the production of audio and video recordings for the purpose of self-defense. As a result of the analysis of modern judicial practice, the author came to the conclusion that in the practice of representatives and in court decisions there is a substitution of the assessment of the admissibility of evidence by the court by the assessment of the “admissibility” of self-defense when making audio and video recordings. The result of this work is the identification of the incomparability of the concepts under consideration: self-defense of civil rights is a way to protect civil rights, while the rule of admissibility of evidence is associated with their procedural form. Such a substitution leads to the lack of an assessment of the admissibility of audio and video recordings in law enforcement practice.

Roy Anastasia Alexandrovna №4 2017

Features of the procurement of goods by public law entities for state and municipal needs

Abstract: In a market economy the volume g osudarstvennyh procurement of goods are constantly increasing, so the government procurement can truly be considered an incentive for the production of competitive products, as well as state programs to support domestic producers and small businesses. The application of anti-dumping measures is analyzed. The article deals with both positive and negative aspects of the adoption of the Federally of the law and from 0 5 .04.2013 number 44-FZ "About contract system in the procurement of goods, works and services for state and municipal district UZ", analyzes the main differences from the federal th law as of 21 .07. 2005 No. 94-FZ "On placing orders for the supply of goods, performance of work, provision of services for state and municipal needs . " It is proposed to exclude the auction from the methods of determining suppliers for purchases for state and municipal needs , since it contradicts the

principle of stimulating innovation , giving preference to a tender as one of the priority methods for determining suppliers.

Demidov Nikolay Voltovich , No. 4 2017

Administrativeism as a paradigm of Soviet labor law

Resume : in the article on the example of the Soviet legislation of the 1920-1930s. the concept of administrativeism as a rule-making paradigm inherent in labor law is proposed and developed. The content of the paradigm is understood as the regulation of labor and related relations by a centralized method through the establishment by state bodies of detailed regulatory requirements for the widest possible range of social relations. As elements of administrativeism, the following are indicated: the absence of a fixed scientific and theoretical expression and justification, a constant increase in the number of normative legal acts of the federal level, a violation of the systematic nature of sectoral sources, an emphasis on state supervision and control in the world of labor, the susceptibility of labor legislation to the influence of the political environment, the orientation of legal awareness towards centralized authoritarian solution of labor law problems. The conclusion is made about the presence of certain features of this paradigm in modern Russian labor law.

Lepikhin Maxim Olegovich, No. 4 2017

Bribery mediation in the light of amendments to the Criminal Code of the Russian Federation

Resume: Recently, there has been a fairly specific tendency in the criminal legislation to introduce changes aimed at combating corruption. Many of the changes do not have the character of an absolute novel, which can be clearly seen in the case of Art. $291^{1 \text{ of the}}$ Criminal Code of the Russian Federation. This article was previously present in the Criminal Code of the RSFSR in 1960 and again found its place in the current Criminal Code. This article is devoted to the consideration of the

problem that arose in connection with the addition of the Criminal Code of the Russian Federation with articles providing for criminal liability for mediation in commercial bribery, as well as for petty bribery and petty commercial bribery. The addition of the Criminal Code of the Russian Federation with these articles is of a reactionary nature, since this is caused by the high excitement around corruption crimes committed by officials and received rather wide publicity. The article will consider the positive and negative aspects associated with the addition of the Criminal Code of the Russian Federation with these articles, as well as suggest ways to solve the emerging problems of criminal law.

Kochina Madonna Sergeevna, No. 4 2017

Intermediation in bribery: the history of the legislator ARISING and Practice

Abstract :

The article examines certain issues in the history of Russian legislation on liability for mediation in bribery. It is noted that the norm introduced in the Criminal Code of the Russian Federation in 2011 was previously known to Soviet criminal legislation (Criminal Code of the RSFSR 1922, editions of 1926 and 1960), it is also proposed in the Model Criminal Code for the CIS member states (1996.).

When analyzing Article 291 [1 of the] Criminal Code of the Russian Federation, attention is drawn to a number of controversial formulations in the dispositions and sanctions of the norms contained in this article. The author's edition of the disposition of part 1 of Art. 291 [1 of the] Criminal Code of the Russian Federation.

The article also examines the decisions of the Plenum of the Supreme Court of the Russian Federation (RSFSR, USSR) on liability for mediation in bribery, provides modern law enforcement practice. It is noted that certain recommendations of the highest court of the state must be brought into line with the letter of the law - the legal definition of mediation in bribery.

Yanina Irina Yurievna , No. 4 2017

Endangering compounds

Annotation. The subjective side of the compositions of endangering, provided for in Art. Art. 215, 217 and 247 of the Criminal Code of the Russian Federation, is characterized by a deliberate or careless form of guilt. In science, a unified concept has not been developed in relation to the legislative structure of endangering compounds. Some scholars recognize the compounds of endangering as formal, others as material. The author is a supporter of the latter position. In situations where the components of endangering are carried out by several persons, of whom at least one subject acts intentionally, and the rest - carelessly, it is advisable to talk about crimes committed by means of mediocre infliction. The article substantiates the need to provide in the compositions of endangering identical socially dangerous consequences in the form of: 1) the threat of inflicting grievous bodily harm to one or more persons, 2) the threat of causing death to one or more persons, and 3) the threat of inflicting other grave consequences.

Shchukin Andrey Igorevich, №4 2017

About jurisdictional immune itetah international organizations uu when considering Russian court cases on labor disputes[3] **.**

Resume: International organizations, being primarily subjects of public international law, often enter into private law relations, among which labor relations occupy a special place. Persons entering into these relations must take into account the special legal status of international organizations, their disobedience in some

cases to the jurisdiction of national courts. The article analyzes the practice of consideration by Russian courts of cases on labor disputes with the participation of international organizations. The opinion is expressed that the initiation of proceedings in a case against an international organization as a defendant and a decision on the merits of a dispute in any situation only with the explicit consent of this organization may distort the meaning and purpose of the immunity granted to it and violate the right of everyone to access to court. It is noted that in any case it is necessary to ensure a balance, on the one hand, of the rights and interests of an international organization, and on the other, of all those who enter into relations with this organization.

Ponomareva Daria Vladimirovna , No. 4 2017

Evolution of the jurisdiction of the EU Court of Justice in the field of energy

Resume: *The article examines the genesis of the jurisdiction of the judicial institution of the European Union in the field of one of the most rapidly developing economic spheres - energy. The author touches upon the issue of the main features of the supranational jurisdiction of the Court of Justice of the EU as a whole, and also analyzes the main provisions of the founding treaties of the EU and the precedents of the Court of Justice in the energy field in different periods of development of European integration, starting from 1951 - formalized by the Treaty establishing the European Coal and Steel Community of the moment the emergence of the European Coal and Steel Community, the first regional integration organization on the continent, which made a significant contribution to the creation of the European energy market, and ending with the date of entry into force of the revision Lisbon Treaty, which is still in force today, which for the first time normatively consolidated the foundations of the EU energy policy. In conclusion, the author notes the main trends in the evolution of the jurisdiction of the Court of Justice of the European Union to consider and resolve cases in the energy sector.*

Hovhannisyan Tigran Davidovich , No. 4 2017

Legal nature and essence of the pilot judgment procedure of the European Court of Human Rights

Resume: This article is devoted to the analysis of the legal nature and essence of the procedure for a pilot judgment of the European Court of Human Rights. The author examines the views of foreign and domestic scientists on the legal nature, content and other aspects of the essence of the procedure of the pilot decree. The author concludes that the initiation of the pilot judgment procedure does not cover and does not reflect all the facts of violations and related legal problems faced by the applicants, including those caused by a structural problem. The article also examines the properties of the European Court acquired as a result of the application of the pilot judgment procedure, shortcomings in the legal basis of the pilot judgment procedure and other issues related to the legal content of the procedure in question. The author of the article notes that with the consolidation of the mechanism of the pilot judgment, the Court endowed itself with a new function - the ability to indicate to the respondent states on concrete ways to eliminate the violations of the Convention found within the framework of the national legal system. In the final part of the article, it is noted that there is a need and a need for further improvement and regulation of standards, provisions that would fully reveal the essence and paradigm of the development of the procedure.

Tyagay Ekaterina Davidovna, No. 4 2017

Simple Unlimited US Title Deeds

Annotation. The article examines the nature and analyzes the features of a simple unlimited property right (fee simple absolute) - a key, fundamental title in the system of rights to real estate in the United States. It is noted that this particular title is closest to continental (including Russian) property-legal structures. The features of this title are studied: its potentially infinite validity period, alienability, the fullness of the powers granted to the owner, the absence of encumbrances, etc. The requirements for the use of certain reservations and phraseological units in the texts of contracts and unilateral transactions on the basis of which property is transferred on a simple unlimited ownership right are investigated. The controversial provisions of the doctrine, legislation and case law of the United States are analyzed, which determine the principles of applying the rules on simple unrestricted property rights. Special attention is paid to special regulatory rules, in accordance with which the intentions of the parties to property relations to transfer real estate on a simple unlimited ownership right and / or enter into this right are interpreted. In conclusion, the analysis of the Anglo-American approach to the definition of simple unlimited property rights as a subjective civil law is summarized, and the risks of artificial differentiation of property rights and objects to which these rights apply are assessed.

Litarenko Nikolay Vladimirovich , No. 4 2017

And Design Nominal ie contractual terms of unst oyke in the Middle East

Annotation. Working with contractors from countries belonging to different legal families is often associated with legal uncertainty. This study, without claims to be fundamental, is the author's attempt to shed light on the peculiarities of the legal qualification of the institution of forfeit in the countries of the Islamic legal family. The article is focused not only on a scientific audience, but also has a pronounced practical meaning, and therefore will be useful both to "theorists" and to participants in business turnover working in the markets of the Middle East. The study raises questions about the specifics of the application of the provisions of Sharia. In particular, those that relate to the ban on the establishment of interest rates

(Riba). The question of the possibility of practical application of the Riba doctrine to the penalty is investigated. The opinion and practice of both state courts of the region and international arbitration institutions are presented. The author deduces a generalized qualification of forfeit in the countries of the Middle East. The probable reasons for the formation of the investigated institution in the existing form are highlighted. In order to enforce the conditions for penalties in the countries of the Middle East, the author gives specific recommendations for participants in the business turnover.

Bondarchuk Ilya Vladimirovich , No. 4 2017

ABOUT bedinenie citizens as a legal category: the judicial and constitutional experience of the CIS countries and prospects of modern legislation

Annotation. This article is devoted to a comparative legal analysis of the intersectoral concept of "citizens' association" in the practice of the CIS countries . The article focuses on the constitutional content of this concept in conjunction with the international principle of freedom of association . It was revealed that within the framework of the CIS countries , on the one hand, in the constitutional text there is a reproduction of international standards and principles, according to which everyone has the right to unite for the purpose of joint activities in a field of mutual interest . However, on the other hand, the subsequent constitutional provisions aimed at developing the concept of “citizens' unification” concretize and greatly limit the effect of the right to association . The author of the article defends the position that the concept of "citizens' association" and the legal status of a public association in the CIS countries, taking into account the materials

of constitutional proceedings in the field of application of the international principle of freedom of association, needs significant legislative revision .

Pavlenko Diana Vasilievna , No. 4 2017

Residential premises as an object of citizens' property rights under the legislation of the Republic of Abkhazia

Abstract :

The article is devoted to the problem of the lack of a legal definition of the concept of "living quarters" in the legislation of the Republic of Abkhazia. A comparative legal analysis was carried out on the basis of the legislation of the Republic of Abkhazia, the Russian Federation, and the Republic of Kazakhstan. The author substantiates the possibility of expanding the powers of a citizen to use living quarters, taking into account the rights of other persons, makes a recommendation to adhere to a single approach regarding the expansion of such powers, to prevent the separation of certain categories of citizens. The necessity of legislative consolidation of the characteristics of a dwelling is substantiated. The concept of "living quarters" is being developed.

Odnoshevin Igor Alexandrovich , No. 4 2017

Organization of prosecutor's supervision and over the execution of laws by bodies carrying out operational-search activities , and the limits of its implementation

Annotation **.** The article emphasizes the objective relationship of operational-search and criminal-procedural activities and, as a consequence, the inexpediency of separating prosecutorial supervision over the execution of laws by bodies carrying out operational-search activities into an independent branch of prosecutorial supervision. Taking into account the analysis of the provisions of the Constitution of the Russian Federation, federal legislation and departmental normative legal acts, the specifics of the organization of prosecutorial supervision over operational-search activities are revealed, and the need for such an organization is substantiated. The author points out the imperfection of the legislative regulation of the issues of the prosecutor's supervision over the operational-search activity. The position is substantiated that supervision over the execution of departmental normative legal acts of bodies carrying out operational-search activities, which contain provisions related to the restriction of the constitutional rights of citizens, is included in the subject of prosecutorial supervision over operational-search activities.

Eliseeva Anna Aleksandrovna, No. 5 2017

Family law reform: concept and development[four]

Annotation. At the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy) On February 27, 2017, an international scientific and practical conference "Reform of family legislation: concept and development" was held. The conference was organized by the Department of Civil Law of the University named after O.E. Kutafina (Moscow State Law Academy) with the information support of the Prospect Publishing House, the Judge Magazine, and the SPS ConsultantPlus. The event was attended by representatives of the scientific community, the legislature, the judiciary, and the legal profession. Some of the speakers' speeches were organized via videoconference. During the conference, the participants discussed the main directions, the first results and ways of further

reforming the family legislation of the Russian Federation. The article provides a brief overview of the speeches of the conference participants and elaborated recommendations on the issues discussed.