**Kulakov Vladimir Viktorovich, No. 5 2017**

**Family law principles**

**Annotation.** The article analyzes the problem of defining the essence of special principles of family law. It is concluded that they are an independent form of law with higher legal force in comparison with other forms, being a reflection of the objective socio-economic laws of society. The multidirectional nature of such principles is noted. The location of the principles in Article 1 of the RF IC indicates that they are primarily addressed to the legislator for consideration in law-making activities. It has been substantiated that the principles of family law are obligatory for their application by the courts. Some principles of family law are formulated as requirements for the behavior of participants in family relationships. Based on the content of the provisions of Art. 5 of the RF IC made a conclusion about the application of the principle of good faith to family legal relations. The legal nature of the principles specified in Art. 1 of the RF IC as the need to build family relations based on feelings of mutual love and respect, mutual assistance and responsibility to the family of all its members

**Naruto Svetlana Vasilievna, No. 5 2017**

**WITH emya as a constitutional value**

**Annotation.** The article deals with the issues of constitutional and legal consolidation of the family as a value for the state and society. The article analyzes the normative content of the constitutional human right to a family and the constitutional obligation of parents to support and raise children. Attention is paid to the problem of competition of the right to a family and other fundamental rights. Problems of admissibility of legal limitation of the constitutional human right to family are investigated. Special attention is paid to the issues of constitutional and

judicial protection of the rights of fathers, mothers and children. The author turns to the analysis of federal legislation and laws of the subjects of the Russian Federation, regulating the delineation of powers of federal and regional government bodies to regulate family support as a guarantee of the implementation of the constitutional human right to a family. The conclusion is made about the need for the federal government to stimulate the adoption of independent decisions by the regions that contribute to their economic and social development, as well as to soften the rigid model of centralization of tax revenues and to ensure the financial equalization of the levels of budgetary provision of the constituent entities of the Russian Federation. These measures are aimed at ensuring the rights of citizens, including the right to a family.

**Levushkin Anatoly Nikolaevich, No. 5 2017**

**P Reform of family law : improvement of the structure C emeynogo Code P USSIAN F EDERATION and regulation separate marital and family relationships**

**Annotation.** The development process of modern family legislation has led to an increased interest in the study of individual institutions contained in family legislation, as well as in the study of sectoral family legislation in general, taking into account the main development trends.

We believe that improving the legal regulation of family relations should be based on a scientifically based system of legislation. The article formulates separate proposals for changing and supplementing the current marriage and family legislation. Unfortunately, we have to admit that many family law norms are not only ineffective, but also contradict the concept of the unity of the legal regulation of relations arising from marriage and family affiliation.

**Kosova Olga Yurievna, No. 5 2017**

**On the conceptual basis for the development of Russian family legislation**

**Annotation** . The notions of the family that have developed in society are a prerequisite for the legal regulation of relations in the family sphere, they are formed under the influence of a number of factors. The state, as a special institution that organizes and manages society, interacts in a certain way with the institution of the family, the most important instrument of governance is law. The activities of state bodies should ensure the preservation and development of society, its demographic well-being, which cannot but be reflected in the legislation. Analysis of the Constitution of the Russian Federation and the main political and legal sources that formulate the state family policy of Russia leads to the conclusion that support and protection of the "traditional" family is declared as its priority. This conceptual ideological attitude is in the interests of the development of Russian society and is shared by the majority of the population. The basic source of family legislation, the RF IC, is generally focused on solving the problem of preserving the traditional family organization and can be considered a normative basis for its further development. Legalization of the processes of the so-called "family transformation" can have a negative impact on the institution of the family, in fact it leads to a legal deformation of this category. From the standpoint of the need to support and protect the family and traditional family values, a general assessment is given to individual draft laws in the field of family legislation, which presuppose unjustified interference of state bodies and non-profit organizations in intra-family relations; further devaluation of the value of motherhood due to the deprivation of the surrogate mother of the right to formalize her motherhood.

**Bulaevsky Boris Alexandrovich, No. 5 2017**

**The concept of improving family legislation**

**as a necessity**

**Annotation.** The article provides an assessment of the attempted systemic reform of the family legislation of the Russian Federation.

The article analyzes individual provisions of the Concept for improving family legislation of the Russian Federation and Proposals for improving family legislation in the context of expectations determined by the Concept of state family policy in the Russian Federation for the period up to 2025.

Particular attention is paid to the principles of family law, their interaction and combination within the framework of the regulation of family relations.

The possibility and necessity of consolidating the principle of good faith based on the presumption in modern family legislation is substantiated.

It is proposed to consolidate the principle of preserving and strengthening traditional family values as a principle of family legal regulation. Attention is drawn to the potential of this principle and the possibility of its use outside of family law.

The absence of not only substantive, but also methodological unity of the measures taken to improve family legislation is stated.

It is concluded that it is necessary to prepare a new Concept for improving family legislation in the Russian Federation.

**Chkhutiashvili Lela Vasilievna, No. 5 2017**

**About the main directions of the implementation of the new family policy of the state**

**Annotation.** Overcoming the demographic crisis and preventing its catastrophic consequences is possible only within the framework of the new family policy of the Russian Federation, aimed at strengthening the institution of the family, reviving family values and preserving family culture. The development and improvement of family legislation will allow, in our opinion, to create conditions for the best performance by the family of its functions, harmonization of individual

rights and the needs of Russian society. The development and improvement of measures to support the family, motherhood and childhood will, in our opinion, create conditions for the family to best perform its functions and create conditions for ensuring the health of its members, ensuring the development of personality and realizing the personal interests of each member of the harmonization of Russian society. The family is the most important instrument of society. Only in this way will the state ensure the social security of the family, its well-being, conditions for the performance of socially significant functions.

The concept of the development of family legislation in the Russian Federation, in our opinion, takes into account the trends and demands of modern Russian society, fills the gaps in it, eliminates the contradictions between the Family Code of the Russian Federation and other acts of the current legislation.

**Velichkova Oksana Ivanovna , No. 5 2017**

**Improving family legislation on mediation**

**Annotation.** The author notes the generally mediaable nature of most family disputes and speaks of the need to change family legislation on mediation issues. The importance of the Concept of improving family legislation as a document that outlines the main ideas for reforming the RF IC on mediation is noted. The author justifies the need to exclude the mediation procedure in cases of the application of measures of family legal responsibility to parents and persons replacing them. The possibility of introducing compulsory mediation in a number of family disputes is analyzed, options for such compulsory mediation, the conditions for its introduction are proposed, a conclusion is made about the problems with the introduction of compulsory mediation. The author analyzes the status of the child during mediation on family disputes concerning the interests of children, it is concluded that the child in this case is not a third party within the meaning of Part 5 of Article 1 of the Federal Law "On Mediation", and appropriate amendments to the legislation are proposed. The provisions of the Federal Law "On Mediation" on confidentiality and

the provisions of the RF IC on the need to protect the rights of the child are analyzed, a conclusion is made about the priority of family legislation, and appropriate changes in legislation are proposed.

**Gaidaenko -Sher Natalya Ivanovna, No. 5 2017**

**In nifikatsi I requirements for the qualification of the mediator: mediator and mediator in family disputes**

**Annotation.** The question of the criteria for assessing the professionalism of a general mediator and a mediator in family disputes is actively discussed in the international professional community. This issue is also relevant after the approval of the Russian professional standard for a specialist in the field of mediation. Based on a comparative legal analysis of the requirements for the theoretical and practical training of family mediators in some countries, including those where the legislation provides for a mandatory pre-trial information meeting with a mediator on a number of categories of disputes, including family disputes, as well as skills standards systematized by the International Institute for Mediation and behavior of mediators, the author comes to the conclusion that it is necessary to improve the system of requirements for the qualifications and practical experience of specialists in the field of family mediation. Formation of special requirements for family mediators can be achieved, among other things, by eliminating the concept of "non-professional mediator" from the legislation, introducing a system of voluntary accreditation based on user feedback, creating registers of mediators differentiated by their specialization, introducing the practice of compulsory supervision by beginners mediators, the widespread practice of co-mediation conducted by mediators of various specialties.

**Tychinin Sergey Vladimirovich, No. 5 2017**

**About EFINITIONS ie the size of maintenance for minor children in court**

**Annotation.** International acts and Russian legislation consider the child's right to care and receive property support as priority rights. In real life, this right is not always ensured. Over two million children in Russia do not receive child support. It is necessary to carry out work to further strengthen the legal guarantees of underage children who find themselves without an adequate level of maintenance. Establishing the minimum size of the elements recovered from minors and children will eliminate cases of unreasonable reduction in the amount of alimony. Judicial practice, focused on establishing the amount of alimony, taking into account the debtor's obligation to pay alimony in relation to other children, seems to be incorrect. A differentiated approach is supported in determining the rates for the amount of alimony on the basis of a regressive scale, depending on the amount of the debtor's income.

Based on the norms of international law and domestic Russian legislation on the priority of the rights and interests of underage children, it is proposed to provide in the current Russian family legislation the possibility of compensation for unpaid amounts by debtors from state funds.

It is unacceptable to restrict the right of adult children to recover a forfeit who had the right to alimony, when such claims are made after a three-year period from the moment of reaching the age of majority.

**Vasilenko Natalya Vladimirovna, No. 5 2017**

**Sizing**
**alimony obligations in court**

**Annotation.** The article discusses the need to change family legislation in the field of alimony in connection with pressing problems that create preconditions for the violation of the rights of minor children and other persons entitled to receive maintenance. The analysis of points of view on the problems of alimony is carried out and the most discussed areas of reforming this area are identified, taking into account legislative initiatives. The article substantiates the expediency of transition from a shared system for calculating alimony awarded for the maintenance of minor children in court, to a system of calculation that provides for the base rate of alimony in the absence of an alimony agreement. The article points out the need for a complete rejection of the share calculation system in connection with the socio-economic situation that has changed in comparison with Soviet times. It is proposed to use the subsistence minimum as the base rate. The need to unify this approach is explained not only with respect to minor children, but also with respect to other persons entitled to receive alimony.

**Savelyeva Natalia Mikhailovna, No. 5 2017**

**H Protecting and rights of the debtor in maintenance obligations of parents and children**

**Annotation.** The state, while implementing a comprehensive program to ensure the unimpeded exercise by children of their alimony rights, at the same time, leaves without due attention the guarantees of the rights of the alimony payer. Therefore, the article analyzes some of the problems that arise in judicial practice when protecting the rights of not recipients, but payers.

One of the ways to protect rights is to change the legal relationship. Particular attention is paid to the analysis of Art. 119 of the RF IC, the wording of which allows the law enforcement officer to take an individual approach to determining the amount of alimony, taking into account all the circumstances of a particular case, but in fact "nullifies" the debtor's rights in alimony obligations, since it does not guarantee the possibility of protecting his right to reduce the amount of alimony.

On the basis of a specific court case, the author comes to the conclusion that the situational method of family legal regulation often does not allow protecting the interests of the debtor in the alimony obligations, expresses his own opinion regarding the interpretation of some family legal norms concerning alimony. Attention is drawn to the fact that the alimony obligation, despite its clearly expressed property content, has a personal moment, therefore, this fact must be taken into account by the law enforcement officer when resolving alimony disputes, proposals are made to improve the current legislation.

**Maksimovich Lyubov Borisovna, No. 5 2017**

**Child support: the problem of misappropriation**

**Annotation.** The article discusses the legislative and law enforcement aspects of changing the method and procedure for executing a court order (decision or order) on the recovery of child support by allowing the transfer of no more than half of the amount of child support to an account opened in the name of the child in the bank. This measure is intended to prevent the inappropriate spending of child support amounts by the parent receiving them. It was concluded that it is necessary to supplement the provision of the Family Code, which allows transferring no more than fifty percent of the amount of alimony to accounts opened in the name of children, with an approximate list of grounds on which alimony payers will have the right to go to court with a corresponding claim. It is also proposed to supplement Chapter 17 of the RF IC with a provision granting the court the right to oblige a parent receiving alimony for a child, the amount of which exceeds the amount specified in the law, to submit a monthly written report on the expenditure of alimony to the parent paying alimony .

**Dmitry Matantsev , No. 5 2017**

**IN ozmeschenie harm as a sanction in the family law**

**Annotation.** Family conflicts, due to the personal-confidential specifics of family relations, are rarely resolved by legal means; moral and ethical means of regulation are used to resolve them. Only extreme, socially dangerous forms of conflict lead to the participation of the state in their resolution. The potential of private law means of resolving such conflicts is not fully realized. The article analyzes the possibility of compensation for property and compensation for moral damage in family relations, notes the insufficient regulation of these sanctions in the family legislation of the Russian Federation. The paper substantiates the conclusion about the specificity of tort obligations arising between family members, which is due to the special nature of property relations (as applied to spouses) and a high degree of fiduciary family relations. Based on the study of family legislation of a number of foreign countries (Germany, Belarus, Ukraine, Estonia), it is concluded that it is necessary to legislatively consolidate property compensation and compensation for moral damage in the RF IC as a general way to protect family rights.

**Ruzakova Olga Alexandrovna, No. 5 2017**

**The Child's Right to a Dignified Name: Contemporary Problems, Issues of Improving Russian Legislation**

**Annotation.** This article discusses the problems of recording the name of a child at birth, violation by the parents of the deadline for applying to the civil registration authorities, as well as the double surname of the child at his birth, taking into account the draft federal law N 1051801-6 "On Amendments to Certain Legislative Acts of the Russian Federation in terms of changing the procedure for assigning and registering a name ". This draft law, planned for consideration by the State Duma in 2017, proposes the corresponding amendments to the Civil Code of the Russian Federation, the Family Code of the Russian Federation and the Federal Law "On Acts of Civil Status" analyzed in the article. The author concludes that it is necessary to adjust the requirements for the child's name, introduce the possibility

of assigning a double surname to the child, as well as other changes to the named project, taking into account the balance of the child's interests in respect of his personality and the freedom of the parents when naming the child.

**Gromozdina Maria Vladimirovna, No. 5 2017**

**The procedure for exercising parental rights in the case of separation of parents: criteria for establishing and actual implementation**

**Annotation.** The exercise of parental rights in relation to a common child in case of separation of parents is a complex and urgent issue in the family law of Russia. Despite the fact that family legislation regulates disputes related to the upbringing of children, and court practice has determined general rules for resolving disputes in the interests of children over a long period of time, there are a significant number of unresolved problems. The principle of equality of rights and responsibilities of parents, established by the Family Code of the Russian Federation, according to the author, needs to be revised, since it does not correspond to the objective realities of life, especially in conditions of separation of parents. The role and powers of the guardianship and guardianship authorities when participating in matters related to the upbringing of children require changes. Determining the place of residence of a child with one of the parents should mean a change in parental status and, as a consequence, change the principle of equality of parental rights. The lack of resolution of these issues related to the exercise of parental rights when the parents live separately does not allow effectively resolving other issues, for example, about the proper performance by parents of the obligation to support children (about alimony). The author proposes for discussion some options for solving the indicated problems.

**Kravchuk Natalia Vyacheslavovna, No. 5 2017**

**"The best interests of the child": the content of the concept and its place in the family law P RUSSIA**

**Annotation.** The article examines the content of the concept of "interests of the child" as it is understood in Russian and international law. It is noted that while Russian scientists determine the content of the concept, Western authors, proceeding from the presumption of the absence of the need to consolidate the comprehensive content of the concept, analyze the practice of its application, namely, what actions of the authorities will be in compliance with or violation of the interests of the child. The weight given to the interests of the child is analyzed when balancing the various rights and interests. While in international law the best interests of the child are assessed and taken into account as the first and foremost consideration, in Russian family law, the interests of the family as a single organism take precedence. The author comes to the conclusion that the inclusion of “the best interests of the child” among the principles of family law will help to reduce the number of unjustified removal of children from the family, which meets the goals of the reform of family law.

**Tatarintseva Elena Aleksandrovna, No. 5 2017**

**P reimuschestvennye rights in legal education of the child in the family**

**Annotation.** The article highlights the problems associated with the content of the priority right of parents to raise their child from the position of public interest in the context of the implementation of the priority direction of the state family policy of the Russian Federation to increase the authority of parenting in the family and society. Based on a comparative analysis of the norms of the Code of Sports of the RSFSR in 1969 and the Investigative Committee of the Russian Federation, the author concludes that some of the norms of the Code of Sports of the RSFSR in 1969 more fully protected and protected the personal parental right to raise a child than the modern Family Code. It is proved that, despite the identity of the legislator's wording regarding the exercise of the right of parents and guardians to demand the return of the child from any persons holding him / her unlawfully, the content of the parent's and guardians' preemptive right has its own specifics, and therefore their

complete analogy may lead to competition of these rights and, consequently, to the loss of the authority of parenting.

**Ulyanova Marina Vyacheslavovna, No. 5 2017**

**Establishing the origin of children: legal aspects**

**Annotation.** The author studies the establishment of the origin of children, the establishment of a legal connection with the mother, the concept of motherhood. To determine the basic norms governing relations to establish the origin of children, the subject of legal regulation of family, civil, medical legislation is investigated. The author draws attention to the principles of family law and legislation, the procedure for the exercise of family rights. The problems associated with the use of modern medical technologies - surrogacy are raised. The life of a born child is under the protection of the state and making decisions on the emergence of parental relations cannot be within the scope of the authority of a medical institution or other organization, other than those specified in family law. As a result, the author concludes about the priority of the norms of family law in establishing the origin of children over the norms of other branches, including civil and medical legislation; the impossibility of using other federal laws, contractual structures when establishing the origin and, accordingly, transferring children, except on the basis of family law. Further, it is concluded that the adopted legislation in this area should not be contradictory.

**Eliseeva Anna Aleksandrovna, No. 5 2017**

**P avenstv of spouses in property relations: history and current challenges**

**Annotation.** The article examines the development of the institution of property relations between spouses in Russia through the prism of the principle of equality of spouses in the family. It is noted that since ancient times the spouses had

property autonomy, were equal, but the issues of equality were interpreted differently in different eras. It is concluded that in the Soviet period, the equality of property rights of both spouses underwent certain metamorphoses, namely, it began to manifest itself not in an equal opportunity for spouses to enjoy property independence (in pre-revolutionary legislation, marriage did not generate the establishment of a system of common marital property), but in the equal potential of a husband and wife to receive the right to property acquired during marriage (marriage became the basis for recognizing the acquired property in it as common). It is noted that as a result of the “new” “revolutionary” interpretation of this principle, the traditional Russian understanding of the purpose of marriage has been lost - the creation of a family, where the community of interests is revealed, first of all, not due to the property component, but due to the spiritual one.

It is proposed to consider, within the framework of improving the family legislation of the Russian Federation, the possibility of returning to the interpretation of the principle of equality of spouses in property relations, which was historically established in pre-revolutionary Russia, namely, the consolidation of the principle of separation of matrimonial property as a legal regime of property of spouses.

**Ruzanova Valentina Dmitrievna, No. 5 2017**

**Forms of interaction of norms of family and civil law in the regulation of property relations between spouses**

**Annotation.** The article deals with the problems of resolving legal conflicts in the so-called "zones of joint regulation" of relations by the norms of family and civil law. As the main method of resolving conflicts in the case of "penetration" of the norms of some branches of law into the codes of other branches, the author proposes the principle of "mutual priority" of branch codes in relation to "their" norms. At the same time, it is recognized that this principle is not always applicable, in particular, when regulating a number of property relations between spouses. The

author analyzes the forms of interaction of norms of family and civil law in the sphere of joint property of spouses and is divided into three groups: 1. different regulation of the same relations; 2. seemingly independent regulation, in which there is a certain degree of influence of one industry on another; 3. regulation of each of the branches of one or another side of the same (or close) relations. For each of the groups, its own way of resolving collisions is proposed: for the first group - a "substantive criterion", for the second group - a way of inadmissibility of "infringement" by one branch of the rights of another branch by unjustified "intrusion" into the legal field of the latter; for the third, the combination of various "sides" of the same (or close) relations into a single complex, taking into account their diversity and variability. In this case, the "substantive criterion" is understood as the implementation of an individual approach to each specific situation, based on the understanding of the meaning of legal norms. The author comes to the conclusion that this method as an independent one can be applied only in the case when the principle of “mutual priority” of industry codes cannot be used. At the same time, it is irreplaceable as a method serving the purpose of identifying the nature of legal norms as a basis for using the principle of "mutual priority".

**Moiseeva Tatyana Mikhailovna, No. 5 2017**

**Joint property of spouses and (or) common property of spouses: an analysis of modern family and civil law**

**Annotation.** The question of the relationship between the concepts of "joint property of spouses" and "common property of spouses" in the domestic science of family law is one of the debatable. The current editions of Art. 34 of the Family Code of the Russian Federation and Art. 256 of the Civil Code of the Russian Federation use the concepts of "joint property of spouses" and "common property of spouses" as identical, equivalent.

The author of the article, analyzing the legislative and law enforcement practice, comes to the conclusion that at the present stage of development, spouses can receive income not only from labor and business activities, income from the results of intellectual activity, but also income from participation in corporate legal relations. The broad interpretation of the concept of "property" allows to include in the common property of spouses not only the property provided for in Part 2 of Art. 34 of the Family Code of the Russian Federation, but also other property, including certain types of limited property rights, property rights of claim, as well as general debt obligations, which are an integral part of married life.

As a result, based on the current legislation and judicial practice, the author of the article defends the point of view that in relation to the legal regulation of property relations between spouses, it is advisable to use the term "common property of spouses", since it most accurately and fully reflects the essence of

**Voitovich Elena Pavlovna** , **No. 5 2017**

**Legal regulation of family relations with the participation of foreigners in the Russian Federation: results and prospects**

**Annotation.** The article analyzes the results of the regulation of family relations with the participation of foreign citizens and stateless persons in the Russian Federation, notes the imperfection of the norms of Section VII of the Family Code of the Russian Federation, their inconsistency with modern needs in the legal regulation of family relations with the participation of foreigners, the presence of gaps that require elimination. The author draws attention to new types of marriage and family relations, as well as a significant complication of property and personal non-property relations of family members, emphasizes the importance of the problems of unification of family law norms, as well as taking into account new trends in the choice of applicable law and the application of foreign legislation. The

article formulates conflict of laws rules that would make it possible to create an effective system of legal regulation of family relations with the participation of foreigners. In particular, it is proposed to amend and supplement Art. 161, 163 of the Family Code of the Russian Federation, to consolidate the conflict of laws rules that determine the law to be applied to the surrogate motherhood agreement.

**Alborov Suliko Viktorovich , No. 5 2017**

**Legal relations in the field of surrogacy**

**Annotation.** For a more effective understanding of the legal relationship of surrogacy, it is necessary to determine the structure of such legal relationship. A proper understanding of the structure will make it possible to fully understand all the specifics, conditions and patterns of development of the legal relations under consideration, which, ultimately, will be of great practical importance, since such an understanding will serve as the basis for the proper legal regulation of the legal relationship of surrogacy in the future. The article examines the basis for the emergence of legal relations of surrogate motherhood, gives an idea of the object of legal relations and the surrogacy agreement, as well as the subject of the composition of such legal relations. As a result, based on the understanding of the legal relationship of surrogacy presented in the article, the author formulates the definition of the surrogacy contract, as well as the definition of the legal relationship of surrogacy in general.

**Glotov Sergey Alexandrovich, No. 5 2017**

**E European Social Charter on State Family Policy and Russian Practice**

**Abstract** : The article deals with the problems of the economic situation of families (households) associated with the instability of the economic situation in the

Russian Federation. The analysis of the provisions of the European Social Charter concerning the protection of economic, legal and social protection of family life through the payment of social, family benefits, tax incentives and exemptions, housing, help to young families; Ensure eniya equal to x persons possibly having family responsibilities. Attention is drawn to both the trends in the birth rate and the dynamics of registered marriages in Russia associated with the "demographic waves" that rise to losses during the war years, and the factors (relevant both for Russia and for other developed countries) associated with traditional lifestyles and influencing family traditions, but not directly reflected in the text of the European Social Charter. Statistical data on the birth rate in Russia, both in chronological and regional context, are presented, and their relationship with various factors influencing the birth rate is considered.

**Ivanova Anastasia Dmitrievna, No. 5 2017**

**Legal assistance in the implementation and protection of family rights in P of the Republic of B ELARUS**

**Annotation.** The right to legal assistance is guaranteed by the Constitution of the Republic of Belarus. In the Republic of Belarus, legal assistance is provided only on a professional basis, including in the exercise and protection of family rights. This conclusion is confirmed by the decision of the Constitutional Court of the Republic of Belarus dated 05.10.2000. In accordance with the current legislation of the Republic of Belarus, legal assistance in the exercise and protection of family rights is provided by lawyers, notaries, guardianship and trusteeship authorities, bodies registering acts of civil status and other bodies entitled to provide legal assistance. The article discusses what types of assistance can be provided to citizens in the implementation and protection of family rights. Basically, a description of the provision of legal assistance by lawyers is given. The article provides examples of what kind of legal assistance is provided by lawyers, lists the persons to whom legal assistance is provided free of charge. Including considered and other subjects who

have the right to provide legal assistance. Thus, the article examines the types of legal assistance provided by notaries, guardianship and trusteeship authorities.

**Bakulina Lilia Talgatovna, No. 5 2017**

**Means of contractual legal**

**regulation**

**Annotation.** *The article analyzes the means of contractual legal regulation, which are used both in international and national law. It is concluded that it is necessary to distinguish between the categories "contractual legal means" and "means of contractual legal regulation". The author's interpretation of the analyzed categories is offered. The general and specific features of contractual legal means are considered.*

**Romaikin Ivan Alexandrovich, No. 5 2017**

**Features of the legal nature of the federal state**
**and their influence on the essence of state power**

**Resume:** The main problem that arises when considering the influence of the legal nature of the federation on the essence and structure of state power is, in the author's opinion, in the insufficient historical and theoretical study of the key aspects of the theory of the federal state. Often the well-known provisions of the federal theory are simply transferred to the state power, which creates many contradictions in the interpretation of the features of its structure in the federation. The analysis carried out by the author allows us to assert that a detailed study of the legal nature of the federation does not reveal contradictions in it. The thesis about the origin of the federation as a result of the unification of states is historically unfounded, which removes the idea of state power as the bearer of dual sovereignty. Therefore, state power cannot have as its source the peoples of the united territories. The federal

principle of state structure is not comparable and does not contradict the state principle, therefore, state power does not express multidirectional tendencies in the state structure, and does not personify the oscillatory nature of the federation. As a result, decentralization in a federal state is one of the ways to organize centralized state power through the establishment of general federal principles for the activities of state power of the subjects of the federation. All this demonstrates the consistency of the legal nature of the federation.

**Shergin Anatoly Pavlovich, No. 5 2017**

**P azmyshleniya on administrative and tort law**

**Annotation.** On the basis of rethinking the views of administrative responsibility established in science as one of the institutions of administrative law, the author substantiates the conclusion that the rules governing issues of this type of legal responsibility form an independent branch of Russian law - administrative tort law. The evolution of these norms has changed their status, they have acquired all the characteristics inherent in the branch of law. Administrative and tort law carries out the substantive regulation of administrative responsibility. The set of its constituent norms has its own subject matter, a method of legal regulation, a separate organization of normative material in the form of the Code of Administrative Offenses of the Russian Federation and the laws of the constituent entities of the Russian Federation on administrative offenses. Integration with criminal law is characteristic of modern administrative-tort law, which makes it possible to more effectively use their powers in the prevention of offenses.

**Golovkin Vladimir Dmitrievich , Nazarov Sergey Vladimirovich , Sevastyanov Andrey Vladimirovich, No. 5 2017**

**The use of mobile applications for making decisions on administrative offenses in the field of road traffic**

**Annotation.** The possibility of issuing decisions on the appointment of administrative penalties for certain violations of traffic rules without drawing up a protocol on an administrative offense on the basis of photographic and (or) video filming materials recorded in special mobile applications in an uncorrected form, received from citizens registered on a single portal of state and municipal services, indicating the time and coordinates of the shooting.

**Rozhdestvenskaya Tatyana Eduardovna , Guznova Elizaveta Alekseevna , No. 5 2017**

**The main criteria for determining the tax residency of organizations: international approaches**

**Resume** : This article is devoted to the study of the specifics of determining tax residency that have developed in international practice. Based on the analysis of court cases, the article examines the main criteria for determining tax residency, in particular, the criteria: places of central management and control ( common law test for corporate residence ); incorporation place ( place of incorporation ); places of effective management and control.

**Matskevich Petr Nikolaevich, No. 5 2017**

**On the effect of the prejudice property of a court decision when considering issues of inclusion in the register of creditors' claims in the framework of bankruptcy proceedings**

**Annotation.** The article examines the theoretical and practical problems of protecting the interests of creditors in the framework of bankruptcy proceedings when a new creditor submits an application for the inclusion of his claims in the register of creditors' claims. The current legislation on bankruptcy does not allow

the filing of objections to the declared claims, if they are confirmed by a judicial act that has entered into legal force. The author comes to the conclusion that this rule is a rule of prejudice with unreasonably extended subjective limits. It is pointed out that it is inadmissible to expand the subjective limits of prejudice, when the interests of a person who did not participate in the case were not indirectly represented in the proceedings. They criticized the procedure for protecting the interests of creditors formed by judicial practice, which involves appealing the said judicial act as violating the interests of the creditor and issued without his participation. Contradictions in judicial practice are analyzed when using this method of protection. The author comes to the conclusion that in this case there are no theoretical grounds for prohibiting the filing of objections to the claims confirmed by a judicial act. As a final conclusion, it is proposed to exclude this prohibition from the current legislation.

**Uzdenova Madina Nazbievna , No. 5 2017**

**Storage, transportation and processing as forms of illegal timber trafficking (Article 191.1 of the Criminal Code of the Russian Federation)**

**Annotation.** For the purpose of in-depth study of the crime under Art. 191.1 of the Criminal Code, in article deals with those forms of illicit trafficking of wood as its ne revozka, storage and processing for the purpose of marketing . On the basis of the current legislation and judicial practice, the content of these acts was disclosed. For each studied form of the objective side, the content of this form, the method of commission, the place, the moment of the end, the special purpose of the crime were investigated. C conclusions were drawn about actions indicating the presence of signs of storage of illegally harvested timber; analogies are drawn in the understanding of the term "storage" for other crimes, in particular, those related to illegal arms trafficking; correlated the concepts of "transportation", "transportation", "removal"; skidding and mole rafting of illegal timber are excluded from the content of transportation ; the options of liability in complicity of the driver of the vehicle

are considered; disclosed all forms and types of processing of illegal timber , identified mandatory signs of the final product of processing .

**Shchukin Andrey Igorevich, No. 5 2017**

**P thinned s implementation of international (intergovernmental) organization entitled to judicial immunity**

Resume: In the course of considering civil cases with the participation of international (intergovernmental) organizations, the question often arises before the court, which right to give preference: the right to access to court or the right to judicial immunity? Related to this is the question of whether it is possible to consider a civil case in full, if one of the obligatory co-defendants - an international organization - refers to judicial immunity? According to the author of the article, sometimes the only way to find an answer to the questions posed is to refer to the category of "good faith of a person" in civil proceedings. The author reveals a number of circumstances indicating the unfair behavior of an international organization, abuse of the right to judicial immunity in relation to the case of mandatory complicity of this organization on the defendant's side in court proceedings.

**Grits Dmitry Sergeevich, No. 5 2017**

**The right to common land use: problems of protection and legal liability for violation of the right**

**Annotation.** At the present stage of the socio-economic development of Russia, the issues of the implementation and protection of the right to common land use are of particular relevance, the implementation of which allows citizens to move freely and stay on various land plots and territories, thereby realizing their social,

cultural, political, and other rights, and satisfying everyday needs. The presence of lands with a common land use regime is de facto the basis for the recognition of the legal right to common land use. But this right is not sufficiently secured and guaranteed, including by means of responsibility and the lack of opportunities for a citizen to protect his individual right by civil and de facto judicial means. It was revealed that the mechanisms for the implementation of the right of common land use remain either unworked and insufficient for the full realization of this right, or are absent altogether. In practice, they resort mainly to administrative protection of the right of free access of citizens to a public water body and its coastal strip, while the issues of protecting the rights of citizens from unauthorized restriction of access to public land plots, general access to forests, remain unresolved. There is also a need to consolidate the mechanisms for the implementation and protection of rights at the individual level, including with the use of civil law instruments.