

**Arzumanova Lana Lvovna, No. 6 2017**

**Review of the plenary session**

**I V Moscow Legal Forum:**

**"Law and Economics: Interdisciplinary Approaches in Science and Education"**

**Resume:** The article highlights the main reports that became the subject of discussion at the plenary session of the IV Moscow Legal Forum, held by the University named after O.E. Kutafina (Moscow State Law Academy).

**Ilyinskaya Olga Igorevna,**

**Teymurov Elvin Sakhavat oglu , No. 6 2017**

**On the results of the scientific and practical conference "The future of international economic law"**

**Abstract:** The review presents the main provisions of the reports submitted by the leading international lawyers 07.04.2017, at the scientific-practical conference "The future of international economic law" within the I of the V Moscow Legal Forum (Kutafinskie reading). The essence and ways of solving the problems highlighted by the participants of defining the subject, principles, structure and place of international economic law in the system of international law, its codification and teaching, legal regulation of deepening and improving integration within the EAEU, implementation of the EAEU Customs Code, the role of judicial institutions in development integration processes, the ratio of the universal, regional and national levels of economic relations management, the relationship of international economic law with international environmental, labor, fishing law, human rights, etc.

**Sadovnikova Galina Dmitrievna, No. 6 2017**

## **The science of constitutional law at the IV Moscow juridical Forum "Law and economics: Interdisciplinary Approaches in Science and Education"**

**Annotation.** The article provides information on the participation of constitutionalists from law universities in Russia and Belarus, practicing lawyers, graduate students and applicants in the work of the IV Moscow Legal Forum "Law and Economics: Interdisciplinary Approaches in Science and Education", within which the events of the Department of Constitutional and Municipal Law were held University named after O.E. Kutafina (Moscow State Law Academy): Expert platform "Constitutional and legal aspects of modern economic policy" and the Scientific and educational session of the Second All-Russian meeting of constitutionalists dedicated to the anniversary of academician O.E. Kutafina (Constitutional Law undergraduate, graduate and postgraduate studies).

A brief overview of the performances of the participants is given. The author comes to the conclusion that the main meaning of the theses of the Expert Platform proposed for discussion was reduced not only to the need to improve constitutional and legal norms, but also to the increasing relevance of complex interdisciplinary approaches, in which the norms of constitutional and municipal law should be correlated with the norms of related industries. The problems of law enforcement practice, including the established practice of protecting socio-economic rights, have not been ignored either. The discussion that took place within the framework of the Scientific and Educational Session showed that the participants ambiguously and indifferently perceive the decisions of the educational authorities in terms of competencies, requirements for educational results, rather frequent changes in educational standards and on other issues. The exchange of views of constitutionalists at such a representative forum contributes to the development of common approaches to teaching state and legal disciplines, improving the quality of legal education.

**Krylov Konstantin Davydovich, No. 6 2017**

**Towards proactive scientific development of international innovations  
in labor and social security**

**Annotation.** With a brief I LIGHT AET results of scientific discussion of basic issues of the 106th Session of the International Labor Conference, were reflected in the IV Moscow Legal Forum in the framework of the International scientific-practical conference "Innovations in the development of the fundamental international principles in the sphere of labor and social security", International Round Table "The anti-crisis potential of labor law and social security law", International round table "Public and private beginnings in the regulation of cross-border labor" and in the section "Traditions and innovations in labor law and social security law", which were held in the University is, after O. E. Kutafina (Moscow State Law Academy) in April 2017 .

**Ksenofontova Daria Sergeevna, No. 6 2017**

**Round table "Legal regulation of the economic function of the family in  
modern Russia." Review of performances**

**Annotation.** The article provides an overview of the round table "Legal regulation of the economic function of the family in modern Russia", which took place on April 6, 2017 at the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy) within the framework of the IV Moscow Legal Forum. The review presents the main theses of reports devoted to modern theoretical and practical problems of legal regulation, first of all, of family property relations, which mediate the implementation of the economic function of the family. In the reports of the round table participants, such topical issues for family law science as socio-economic and legal support for the fulfillment of alimony obligations, the ratio of the interests of family members and the interests

of participants in civil turnover, the formation of family property on the example of the legislation of the Baltic countries, an imbalance in the norms of constitutional and military legislation in the field of guaranteeing the housing rights of family members of military personnel, the definition and legal protection of family secrets, and proposals were made to improve family legislation.

**Poduzova Ekaterina Borisovna**

**Krasavchikova Larisa Ivanovna, No. 6 2017**

**Scientific conference "Reform of the Law of Obligations and Development of the Economy of the Russian Federation" (April 7, 2017, within the framework of the IV Moscow Legal Forum): an overview of the event**

**Annotation.** The article presents the main aspects of the speeches of the scientific conference "Reform of the Law of Obligations and Development of the Russian Federation Economy", which took place on April 7, 2017 at the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy), a summary of the reports of the participants is also presented.

The scientific conference was based on the main results of the reform of the law of obligations of the Russian Federation in the light of the new course of development of the Russian economy, current trends in civil science and in law enforcement practice. The court practice was also taken into account, which contains new approaches to the interpretation of the norms of modern Russian law of obligations. In this regard, the acts of the Supreme Court of the Russian Federation were of particular importance for the speeches of the participants (for example, Resolution of the Plenum of the Supreme Court of the Russian Federation of March 24, 2016 No. 7 "On the application by courts of certain provisions of the Civil Code of the Russian Federation on liability for violation of obligations", Resolution Plenum of the Supreme Court of the Russian Federation dated November 22, 2016

No. 54 "On some issues of the application of general provisions of the Civil Code of the Russian Federation on obligations and their implementation").

During the conference, the participants and moderators presented and analyzed the main directions of modern civil science in the field of theoretical and practical problems of law of obligations in the light of civil law reform.

**Sitnik Alexander Alexandrovich , No. 6 2017**

**Overview of scientific-practical conference "Financial and legal tools for implementation of strategy of economic security of Russia" (7 April 2017)**

**Annotation.** The article provides an overview of the meeting of the scientific and practical conference "Financial and legal instruments for the implementation of the strategy of economic security of Russia" , held by the Department of Financial Law of the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy) in the framework of the IV Moscow Legal Forum.

**Chaikina Alena Vasilievna , No. 6 2017**

**Round table " Reform of the civil process and justice in the economic sphere ": an overview of the event**

**Annotation.** The article provides an overview of the round table " Reform of the civil law process and justice in the sphere of economics" , conducted by the Department of Civil and Administrative Judicial Proceedings of the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy)

within the framework of the IV Moscow Legal Forum "Law and Economics: Interdisciplinary Approaches in Science and Education" .

**Tabakov Alexander Leonidovich, No. 6 2017**

**Justice and Positive Law: Problems of Correlation in Russian Philosophy of Law of the Second Half of the 19th - First Half of the 20th Centuries.**

**Annotation.** The article is devoted to the analysis of the issues of the relationship between justice and positive law in the Russian philosophy of law in the second half of the 19th - first half of the 20th centuries. The views of representatives of the sociology of law (L.I.Petrazhitzky, M.A.Reisner, S.A. Muromtsev) and supporters of natural law (B.N. Chicherin, P.I. Novgorodtsev, V.S.Soloviev) are considered. Representatives of the psychological school of law (L.I. Petrazhitzky, M.A.Reisner) consider justice as an intuitive right and in this sense oppose it to positive law, without denying a certain relationship between them. S.A. Muromtsev, a classic of Russian sociology of law, is looking for the center of gravity of justice in public relations. For B.N. Chicherin, as an active proponent of philosophical and legal methodology and a defender of the theory of natural law, justice is rooted in the human mind, acting as a tool for assessing positive legal institutions. Supporters of neo-Kantian philosophy of law (P.I. Novgorodtsev, V.S.Soloviev) substantiate the legitimacy of criticism of positive law from the point of view of a priori principles of morality, which are an integral part of human consciousness as a rational moral being. Attention is also paid to some modern problems of the theory of law: in particular, the question is raised about the admissibility and validity of the existence of the so-called evaluative categories in modern Russian legislation, which include justice.

**Vasiliev Pavel Vyacheslavovich , No. 6 2017**

## **About the concept of legal criterion**

**Resume :** The article substantiates the relevance of the theoretical study of legal criteria, distinguishes between the concepts of "legal criterion" and "legal indicator", identifies the functions of legal criteria, defines the most common signs of legal criteria, offers the author's definition of the concept of "legal criterion".

**Mikheeva Irina Evgenievna, No. 6 2017**

### **Loan repayment period : topical problems of theory and practice**

**Abstract:** This paper discusses issues related to the determination of terms of repayment. Separately, the author analyzes the actual problems of judicial practice regarding the early reclamation of a loan by the bank and early repayment of the loan at the initiative of the borrower.

**Poduzova Ekaterina Borisovna , No. 6 2017**

**Round table " Novels of civil legislation and judicial practice on the issues of execution and enforcement of obligations " ( February 16, 2017 , Moscow State Law University named after O.E. Kutafin (MSLA) ): overview of speeches**

**Annotation.** The article presents the main results of the round table "Novels of civil legislation and judicial practice on the execution and enforcement of obligations", held on February 16, 2017 at the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy), a summary of the participants' speeches is also presented.

The concept of the round table was based on the main results of the reform of the law of obligations of the Russian Federation, new trends in civil science and in law enforcement practice. The court practice was also taken into account, which contains new approaches to the interpretation of modern Russian law of obligations. In this regard, the acts of the Supreme Court of the Russian Federation were of particular importance (for example, Resolution of the Plenum of the Supreme Court of the Russian Federation of March 24, 2016 No. 7 "On the

application by courts of certain provisions of the Civil Code of the Russian Federation on liability for violation of obligations", Resolution of the Plenum of the Supreme Court of the Russian Federation Of the Russian Federation of November 22, 2016 No. 54 "On some issues of the application of general provisions of the Civil Code of the Russian Federation on obligations and their performance").

During the round table, the participants and moderators presented the main directions of modern civil science in the field of theoretical and practical problems of fulfillment and enforcement of obligations in the light of civil law reform.

**Vasilevskaya Lyudmila Yurievna , No. 6 2017**

**Features of the legal structure of a pledge  
obligation rights**[\[five\]](#)

**Annotation.** As a result of the reform of the law of obligations, in § 3 of Chapter 23 of the Civil Code of the Russian Federation "Securing the fulfillment of obligations" there appeared norms on certain types of pledge, among which a special place is given to the pledge of liability rights (claims).

The article examines the complex structure of contractual ties in the pledge of rights, highlights the features of the relationship between the pledgee, the debtor under the main obligation and the third party pledgor; internal and external relations between the specified subjects are analyzed.

The conclusion is substantiated that the application of the rules on surety to the relationship between the pledgee, the third party pledgor and the debtor under the main obligation contradicts the legal nature of the pledge. With regard to the pledge of rights under obligation, the law establishes special rules that make it possible to highlight significant differences in the regulation of relations under the surety and pledge of rights. It is concluded that in the case of a surety, the legislator provides for the construction of subrogation, which is inapplicable for the pledge of rights (encumbrance of rights). The creditor under the main obligation (the mortgagee), on the basis of the pledge agreement of claims, becomes the holder of



the right, therefore, when the rights are pledged, a different mechanism, which is incompatible with either cession or subrogation, operates, in contrast to the surety.

The opening of a pledge account of the pledger provided for by the Civil Code of the Russian Federation is questioned, to which the rules on the pledge agreement of rights under the bank account agreement apply. The conclusion about the possibility of opening a nominal account of the pledger is reasoned. The conclusion of a nominee account agreement between the bank and the owner of the pledger account with the participation of the beneficiary-pledgee makes it possible to avoid complicating the structure of relations between these persons when pledging rights and to maintain a balance of interests of each party in the performance of the obligations secured by the pledge.

**Barkov Alexey Vladimirovich, No. 6 2017**

**Public guarantee as a way of securing the obligation of the social service provider**

**Annotation.** This article notes that the legal mechanism of public procurement from socially oriented entrepreneurs needs to be improved. In particular, one such problem that needs to be addressed is the issue of the proper enforcement of the obligation of the social service provider. It is noted that novice entrepreneurs applying for the status of a "provider of social services" do not have the property base necessary to secure a state contract and experience difficulties when applying to financial and credit organizations that provide bank guarantees.

Scientific and practical recommendations are given for solving this problematic issue. The necessity of securing the requirement for the free provision of a public guarantee as a way to ensure the obligation of the provider of social services is substantiated. The position on the complex, multi-branch legal nature of the public guarantee is supported. Attention is drawn to the fact that without substantial state financial support for non-state actors in the social services market, it is difficult to count on real competition in the field of social services.

**Kharitonova Yulia Sergeevna, No. 6 2017**

**Intercreditor agreements in Russian doctrine and practice**[\[6\]](#)

**Annotation.** The article, taking into account the interpretation of the Resolution of the Plenum of the Supreme Court of the Russian Federation of November 22, 2016 No. 54 "On some issues of the application of general provisions of the Civil Code of the Russian Federation on obligations and their performance", analyzes the nature of the agreement of creditors on the procedure for satisfying their homogeneous claims against the debtor, substantiates the conclusion that similar agreements to the type of amalgamation agreements, which, in contrast to a simple partnership, mediate relations both for the amalgamation of property and the amalgamation of persons. The possibilities of subordinating the relations of the parties to the intercreditorship agreement to the rules on decision-making by meetings of civil law communities on the basis of Chapter 9.1 of the Civil Code of the Russian Federation are investigated. The author's position is argued that, depending on the scope of the agreements under consideration, it may be necessary to manage the pledge or other requirements of creditors (debt) using the rules on the pledge management agreement.

**Shamshurin Lev Leonidovich , No. 6 2017**

**Problems of access to justice at the stage of accepting an application and initiating proceedings in the case**

**Annotation.** It is generally recognized that the accessibility of justice, the reality of the exercise of the right to judicial protection largely depends on how the procedural law regulates the procedure for filing an application and initiating a case in court. From these positions, the author examines the question of how the established system of "filters" at the stage of initiating a case in civil proceedings is consistent with the absolute nature of the constitutional right to judicial protection,

and also considers the relevant novelties of the Concept of the Unified Civil Procedure Code of the Russian Federation.

**Atagimova Elmira Isamudinovna**

**Potemkina Anna Trofimovna**

**Tsopanova Indira Georgievna , No. 6 2017**

**By onfликт interests in criminal law (special case)**

**Annotation.** The article deals with a wide range of issues related to the analysis of criminal law protection of the constitutional human right to health. The article analyzes the norms of criminal and penal legislation aimed at protecting and protecting the health of the guilty person in a criminal offense at various stages of the application of punishment. Considered and compared the position of the legislator on a similar aspect in relation to the victim, whose health has been harmed. Attention is drawn to the fact that the victim, whose interests are placed under the protection of the criminal law, pore th forced himself to take appropriate damping measures occurring to him the consequences of attacks and the restoration of impaired health crime. According to the authors, it is the state that should develop and create additional mechanisms of assistance in restoring the victim's health impaired by the crime so that, in relation to the aspect under consideration, he does not find himself in a worse situation than the perpetrator, in relation to whom there is a combination of both criminal and criminal law. - executive norms prescribing to take into account his state of health not only in the appointment, but also in the execution of punishment.

**Kachalov Viktor Ivanovich, No. 6 2017**

**Subject matter of jurisdiction when considering issues related to the execution of final court decisions in Russian criminal proceedings**

**Annotation.** The article examines the criteria that indicate the definition of the subject attribute of jurisdiction when considering issues related to the execution of final court decisions. The main provisions allowing to indicate the subject sign of jurisdiction when considering issues related to the execution of final court decisions should be: x the nature of the issues considered by the court (objective, subjective, objective-subjective); in connection with the achievement of the goals of punishment (related to the goals of punishment or not related to this) and with the **degree of influence on the sentence (affect the sentence in whole or in part)**. The degree of importance of a criterion and its character-determining relation to the substantive grounds of jurisdiction can not be determined and clearly for all matters to be considered at this stage of the proceedings.

**Kim Vyacheslav Vladimirovich , No. 6 2017**

**Penitentiary law as a "right to imprisonment"**

**Resume :** This article reveals the prospects for the formation and development of the existence of a complex branch of law "penitentiary law". Also, the article pays special attention to the fact that the general (essential) features of imprisonment are in one way or another inherent in the actual implementation of a number of other coercive measures that are not punishments by their legal nature. And therefore, the concept of deprivation of liberty (and with it the understanding of penitentiary measures) can be interpreted more broadly, namely in terms of the terminology used in many authoritative international acts.

Based on the norms of international normative legal acts, it is fair to believe that administrative arrest, and criminal procedural arrest and detention, and disciplinary arrest, by their social nature, have common features with criminal deprivation of liberty.



The tactical features of using the conclusion and testimony of a specialist, as well as the conclusion of a specialist-consultant as other evidence are considered.

**Feschenko Pavel Nikolaevich, No. 6 2017**

### **On the issue of preventing "color revolutions" by reducing social tension**

**Resume:** In the article, the author examines the problem of establishing uniform approaches to assessing social tension as a relatively new negative criminologically significant phenomenon for Russia. An introduction to the scientific and practical circulation in the field of crime prevention of the concept of a social group of "citizens dissatisfied with the authorities" is proposed. The expediency of referring to this category not only the traditionally understood by this the unemployed and persons living below the poverty line, but also the representatives of the materially secured strata of society, dissatisfied with the tax, law enforcement and other activities of the authorities, is substantiated. The article examines the relationship between social tension and crimes committed under its influence, including riots and "color revolutions". It is proposed to introduce appropriate additions and changes to certain regulations and the Criminal Code of the Russian Federation in the aspect of criminalization of acts leading to a significant increase in social tension, the author's definition of "social tension" is formulated for discussion, as well as a list of priority steps to reduce it through the implementation of general social and special criminological measures of influence.

**Chirkin Veniamin Evgenievich, No. 6 2017**

### **Constitutions of "color revolutions" and "Arab spring"**

**ANNOTATION.** The experience of the "color revolutions" and the "Arab spring" testifies to new phenomena in the constitutional development of the countries of the East. The article briefly talks about the nature of these revolutions, their main social and political conditions, goals, and demands of the

people. During the consideration of individual constitutional amendments and four new constitutions (Kyrgyzstan, Morocco, Egypt, Tunisia), the constitutional and legal results of revolutions in four areas are analyzed: a person and a family, public associations and their role in society, the foundations of the social and state system, state bodies and locally of self-government. The novelties of constitutions that contribute to the experience of constitutional development and the theory of constitutional law are highlighted separately.

**Jo Eun Jin , # 6 2017**

**Taxes in P of the Republic to the Orey: concept, types and principles**

**Annotation.** In the article, on the basis of the comparative legal research, the peculiarities of the legal regulation of taxes in the Republic of Korea are studied. The article presents and analyzes the norms of the South Korean tax legislation, the doctrine of tax law. In general, despite the differences in the wording used, it can be stated that the principles of taxation in the countries under consideration actually coincide, which speaks of their objective nature.

**Pavlenko Diana Vasilievna , No. 6 2017**

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

**annotation**

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.

**Maksimkina Yulia Andreevna, No. 6 2017**

**Legal regulation of zoning in F Yermanov (comparative - legal aspect)**

**Annotation.** The desire to improve legal regulation in the field of urban planning activities in the Russian Federation and the harmonization of Russian and foreign law requires an analysis of the doctrine, legislation and judicial practice of foreign countries. Particular importance is attached to the study of German legislation not only by the fact that the Russian Federation and the Federal Republic of Germany belong to the same Romano-Germanic legal family, but increasingly integrated relations between citizens and economic entities of these countries. The article provides a comparative analysis of the legal regulation of urban planning zoning in Russia and Germany. Special attention is paid to the characteristic features of territorial planning in the Federal Republic of Germany, the conclusion is made about the similarity of the civil-legal model of regulation, and an assumption is made about the improvement of Russian legislation through the reception of certain norms of German law that can be applied on the territory of the Russian Federation.

**Vilkova Tatyana Yurievna , No. 6 2017**

**At the part of citizens in the administration of justice - the principle of interdisciplinary proceedings**



**Annotation.** The article substantiates the conclusion that the participation of citizens in the administration of justice, having a special constitutional and legal significance, is an intersectoral principle of legal proceedings. This conclusion cannot be shaken by the fact that at present the participation of the popular element in the composition of the court is ensured only in criminal cases and in arbitration courts: the intersectoral principle should not be necessarily implemented in all types of legal proceedings without exception and (or) in all without exception. affairs; it is important that its content reflects the essence and nature of the activities of the judiciary. Based on the analysis of statistical data and taking into account historical examples, the need to expand the forms of citizen participation in the administration of justice is shown.

**Grits Dmitry Sergeevich, No. 6 2017**

**General land use in the legislation of foreign countries: an overview and practical recommendations for improving Russian legislation**

**Annotation.** The publication provides an overview of the regulation of general land use in the legislation of foreign countries. The author emphasizes that abroad free use is possible only by certain categories of public land, through private land only a passage is possible, and, as a rule, on the basis of a public easement. Based on the best foreign experience in reforming Russian legislation, it seems appropriate to ensure a unified intersectoral regulation of common land use, as well as to consider the possibility of transferring common lands under a unified administrative management, providing for the possibility of generating income within reasonable limits.

**Ershova Inna Vladimirovna,**

**Kudryashova Evgeniya Olegovna,**

**Olga Tarasenko, No. 6 2017**

## **Business law in the context of a multi-level system of higher legal education (bachelor's, master's, postgraduate studies)**

**Annotation.** In this summary report, we cover the meeting of the educational session of the International Conference "Martemyanov Readings" held on March 3, 2017. The report is of interest from both pedagogical and scientific and methodological points of view.

The abstracts of the speakers have been processed by us with the utmost respect for the author's ideas.

**Kurochkin Anatoly Vasilievich , No. 7 2017**

### **General and specific components of the legal institutionalization of political parties in the Russian Federation**

**Abstract:** In writing the author of the article has been tasked studies be particularly and process the legal institutionalization of the example of legislation on political parties. To implement this task , the following methods were used: historical, method of legal hermeneutics, formal legal. As a result of the study, with the correlation of methods of legal regulation, the author criticized the sectoral affiliation of the institution of political parties, highlighting the object to which the relevant legal norms are directed. In this regard, the object of legal institutionalization is always dependent on the goals that are pursued in the process of formulating, adopting and implementing norms within the framework of a legal institution. The author has set about boiling and special components that determine the institutional features of Russian party organizations. The general components depend on the chosen model of state regulation of relations, since they affect the nature and content of legal norms, their legal nature and industry affiliation, as well as the mechanism and principles of legal regulation, and the peculiarities of the subject composition. Among the special components of the legal

institutionalization of political parties, it is proposed to include the type of systematization of legal norms, as well as the goals of legal regulation and interests that are realized in these legal relations.