

**Kornev Alexander Dmitrievich , No. 7 2017**

**Annotation.** In the article, on the basis of a comparative legal study, the legal nature and signs of fiscal fees and parafiscal payments are studied. The paper compares the doctrinal concepts of fiscal fees and para-fiscalities proposed by leading representatives of the science of financial law, formulates the author's definition of para-fiscality as a mandatory payment established by the public authorities for targeted financing of the activities of persons performing public functions and not being public authorities and local self-government bodies enrolled in a stand-alone fund that does not participate in the financing of general budget expenditures.

**Vorontsov Oleg Grigorievich , No. 7 2017**

**EFFECT OF THE PRINCIPLES OF THE BUDGETARY SYSTEM OF THE RUSSIAN FEDERATION IN RELATION TO MANDATORY FISCAL PAYMENTS**

**Resume:** The article examines the features of the operation of the principles of the budgetary system of the Russian Federation in relation to various types of compulsory payments of a fiscal orientation. The limits of action of the named principles in relation to funds of funds formed as a result of the collection of these payments are determined. The classification of compulsory payments of a fiscal orientation is carried out in accordance with the decrease in the role of legislative acts in securing the elements of their structures. The author highlights and substantiates the main feature for identifying one or another compulsory payment as parafiscal. There is an increase in the interest of the business community in improving the system of non-tax payments. The author comes to the conclusion that the presence of para-fiscalities in the legal system of the Russian Federation leads to a number of legal problems, and the assessment of the prospects for reforming the

system of non-tax payments should be preceded by clarification of the legal nature of its elements.

**Chirkov Alexey Vladimirovich , No. 7 2017**

**Legal regulation of pre-contractual relations between a microfinance organization and a borrower**

**Abstract:** The author examines the issues of pre-contractual informing the borrower of a microfinance organization. The article analyzes the regulatory requirements for the provision of information before the conclusion of the contract, compares the provisions of the law "On consumer credit (loan)" and the law "On microfinance activities and microfinance organizations", analyzes their compliance with Directive No. 2008/48 / EC of the European Parliament and the Council of the European Union "On consumer lending agreements and repealing Council Directive 87/102 / EEC".

**Ayusheeva Irina Zoriktuevna , №7 2017**

**CONDITIONAL FULFILLMENT OF OBLIGATIONS IN CIVIL LAW OF THE RUSSIAN FEDERATION**[\[7\]](#)

**Annotation.** The article is devoted to the study of the new provisions of the Civil Code of the Russian Federation, contained in its Art. 327.1, on the conditional performance of an obligation. It is indicated that the very understanding of conditional performance was known to domestic civil law earlier. It is noted that counter-obligations, based on the literal interpretation of the provisions of Art. 327.1 and Art. 328 of the Civil Code of the Russian Federation, can be considered as a type of obligations with conditional performance. The ability to provide for other

actions and circumstances in the contract that may determine the fulfillment of obligations has also never contradicted the basic principles of civil law. Finally, the concept of a conditional transaction is not new for domestic civil law. The article notes that in connection with the introduction of the norm of Art. 327.1 of the Civil Code of the Russian Federation, the question of determining the legal nature of the conditional performance of an obligation, as well as the relationship of this concept with the concept of a conditional transaction, has become relevant. The conclusion is substantiated that neither the legislator nor the court practice classifies the conditional performance of an obligation as conditional transactions. In general, the emergence of the new norm is assessed positively, since in this way the legislator recognized the possibility of including in the contract the conditions for the fulfillment of the obligation, the exercise, change or termination of the rights under the contract, which are completely dependent on the will of the parties (test conditions)

**Poduzova Ekaterina Borisovna , No. 7 2017**

## **ENSURING AN ORGANIZATIONAL COMMITMENT: CHALLENGES AND CONTRADICTIONS**

**Annotation.** In the article, based on the analysis of current civil legislation and law enforcement practice on the use of a deposit to ensure the fulfillment of an organizational obligation, problems are identified related to its legal nature and the mechanism for applying the deposit to secure an organizational obligation - a non-property, non-reciprocal obligation without a reciprocal grant.

The author systematizes and analyzes various theoretical and practical approaches to substantiating the legality of applying the existing structure of the deposit to ensure organizational commitment.

Special attention is paid to those opinions of scientists that are essential for law enforcement practice. Highlighted the constitutive signs of organizational

commitment. On the basis of these features, it is concluded that there is no mechanism in the current civil legislation to apply the deposit to ensure organizational obligations; the existing mechanism for applying the deposit is incompatible with these constitutive features.

The above problems are investigated taking into account the main current trends in the development of doctrine and law enforcement practice, taking into account the legal positions of the higher courts.

**Tasalov Philip Artemievich , №7 2017**

**RECOVERY OF FAILURE UNDER THE FRAMEWORK OF THE LEGISLATION OF THE RUSSIAN FEDERATION ON THE CONTRACT SYSTEM IN THE SPHERE OF PROCUREMENT**[\[eight\]](#)

**Annotation.** The article presents an analysis of antimonopoly and judicial practice in relation to the determination of the amount of forfeit and the procedure for its collection in accordance with the legislation of the Russian Federation on the contract system.

The author considers the question of the form of securing the terms of liability in the contract by the customer, analyzing and explaining the approaches of the antimonopoly authorities and courts. Special attention is paid to the issues of withholding the forfeit from the bank guarantee and funds.

The ratio of the mechanisms of forfeit, bank guarantee and cash is shown.

The issues of the ratio of the fine, penalties and the grounds for their application are investigated, the thesis of the unreasonably overstated amount of the legal penalty in relation to suppliers is proved, the analysis of risks in connection with the overestimated amount of penalties, both for customers and in respect of suppliers , is carried out .

The article proposes to consider the issue of penalties from the point of view of the need to ensure a balance of private and public interests within the contractual system.

**Chikulaev Roman Vladimirovich, No. 7 2017**

## **LEGAL FEATURES OF DOMICILED VEKSELS**

**Resume:** This article examines the legal characteristics of domiciled bills and the peculiarities of their civil circulation. The concept of a domiciled bill of exchange is revealed, and the main types of such bills are determined. The author establishes the circle of persons who have the right to include a domiciliation clause in the text of a bill. The legal status of the domicile is determined. The legal consequences of the inclusion of the domiciliation clause in the text of the bill for various participants in the circulation of the bill are determined. An analysis of the judicial practice of considering disputes related to domiciled bills is given. The ways of reforming the regulatory framework on promissory notes are outlined.

**Blagov Evgeny Vladimirovich, No. 7 2017**

## **EXEMPTION FROM CRIMINAL LIABILITY IN CONNECTION WITH ACTIVE REPENTANCE**

**Annotation.** The article analyzes the prescriptions provided for in Part 1 of Art. 75 of the Criminal Code of the Russian Federation, as well as the relevant explanations contained in the resolution of the Plenum of the Supreme Court of the Russian Federation of 06/27/2013 N 19 (as amended on 11/29/16) " On the application by courts of legislation regulating the grounds and procedure for exemption from criminal liability . " Attention is drawn to the imperfection of some provisions of the law (the name of Art.75 of the Criminal Code of the Russian Federation, indications of the person who first committed a crime of small or

medium gravity, voluntariness of surrender, facilitating the disclosure and investigation of the crime ), as well as the inaccuracy of certain clarifications of the Plenum (about the loss of a public danger, on facilitating the disclosure and investigation of a crime, on compensation for damage and making amends, on the possibility of making amends with the consent of the person who committed the crime). It is concluded that in order to exempt from criminal liability under Part 1 of Art. 75 of the Criminal Code of the Russian Federation, the combination of all the circumstances indicated in it is necessary and sufficient.

### **Voronin Vyacheslav Nikolaevich , No. 7 2017**

**The quality of criminal law protection of information constituting a state secret: problems of constructing norms and differentiating criminal liability**[\[nine\]](#)

**Annotation.** An enormous role in the application of the criminal law norm is played by the quality of construction of this norm. This is especially important when it comes to protecting such a valuable good as state security in the field of state secrets protected by law. From the standpoint of the quality of criminal law, the author examines the latest legislative innovations in this area. The analysis is focused on legislative norms that provide for the following offenses: Art. 275 of the Criminal Code "High treason; Art. 276 of the Criminal Code "Espionage"; Art. 283 of the Criminal Code "Disclosure of state secrets"; Art. 283<sup>1</sup> of the Criminal Code "Illegal receipt of information constituting a state secret." Based on the criteria of the quality of the criminal law, the author identifies the problems associated with the design of these norms of the Criminal Code, and, as a result of the study, proposes new editions of the considered norms. One of these problems, the author sees a low level of differentiation of criminal liability, and as a consequence, suggests differentiating criminal liability depending on the subject of the crime - the qualitative characteristics of the information given out.

**Nekrasov Vasily Nikolaevich, No. 7 2017**

**TOPICAL ISSUES OF CRIMINAL LEGAL PROTECTION OF  
INNOVATIVE ACTIVITIES IN RUSSIA**

**Annotation.** The article analyzes the concepts and essence of the terms "innovative activity", "innovation", "innovative project". On the basis of the analysis, the author's concept has been developed, revealing the essence of innovation. The article examines the elements of crimes available in the domestic criminal legislation, dedicated to the protection of the results of innovative activities. In particular, Art. 147 of the Criminal Code of the Russian Federation, which lists actions that violate invention and patent rights. In addition, the author made an attempt to predict the impact of the innovation process on criminal law, as well as to formulate the rules for the criminalization of acts related to encroachments on the results of innovative activities that may appear in the future. On the basis of the study, a presumption was formulated, on the basis of which in the future it is advisable to formulate norms on responsibility for encroachments on the results of innovative activities.

**Mukhacheva Irina Mikhailovna , No. 7 2017**

**CONCEPT AND TYPES OF PSYCHOPHYSIOLOGICAL STATE OF  
A PERSON WHO COMMITTED A CRIME**

**Annotation.** The article gives the following concept of the psychophysiological state of the subject of a crime: an integral functional reaction of the human body to changes in the external and internal environment, based on the complex interaction of the structures of the mental, physiological and behavioral levels, affecting the degree of conscious-volitional regulation of his behavior during the commission of criminal acts. It is concluded that the concept of "psychophysiological state" is broader than the concept of "mental state" and defines

human behavior as an integral response of the body to changes in the external and internal environment. The criminal-legal significance of the psychophysiological state lies in its influence on the qualification of a crime and the appointment of punishment.

The following psychophysiological states of criminal law significance are highlighted: affect, the state of the mother upon the murder of a newborn child, intoxication, pregnancy, and the juvenile age of the perpetrator.

**Kachalov Viktor Ivanovich, No. 7 2017**

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

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 connected with this) and with the **degree of influence on the sentence (affect the sentence in whole or in part)**. At the same time, the degree of significance of this or that criterion and its determinative nature in relation to the subject criterion of jurisdiction cannot be determined unambiguously for all issues to be considered at this stage of the proceedings.

**Kashtanova Natalya Sergeevna, No. 7 2017**

**About interchangeability temporary dismissal with preventive measures in the form of detention and house arrest of the criminal procedural legislation of Russia: a matter of opinion s aspect s theory and practice**



**Annotation.** This article examines the controversial from the theoretical and practical sides issues of the simultaneous application of temporary suspension from office with measures of restraint in the form of detention or house arrest. Taking into account a comprehensive analysis of the current Russian criminal procedure law, as well as the practice of its application, it is judged that the choice of these measures of suppression in relation to the suspect or the accused in the presence of exceptional circumstances does not prevent the application of another measure of procedural coercion against these categories of persons in the form of temporary suspension from office. Based on the results of the study, specific applied recommendations were proposed.

**Holevchuk Artur Georgievich, №7 2017**

#### **FOREIGN TACTICAL AND PSYCHOLOGICAL INTERROGATION METHODS AIMED AT OBTAINING RELIABLE INFORMATION**

**Annotation.** The article describes modern foreign interrogation techniques aimed at verifying the reliability of information in a criminal case. Based on the analysis of various aspects of the application of the methods under consideration, the author concludes that it is advisable to discuss the relevant methods in the domestic forensic science in order to determine the prospects and possibilities of introducing the latter into the practice of criminal justice in Russia.

**Guznova Elizaveta Alekseevna , No. 7 2017**

#### **COLLISION OF DIFFERENT CRITERIA FOR DETERMINING THE TAX RESIDENCE OF LEGAL ENTITIES**

**Abstract:** *Based on the analysis of the OECD Model Convention and the Comments to the OECD Model Convention, the article discusses the criteria for determining the tax residence of legal entities and approaches to resolving situations*

*of dual tax residence. The author examines the features of two main approaches to solving this problem and reveals their features: places of effective management and control and mutual agreement (mutual agreement) .*

**Atakishi Abbas Musa oglu , # 7 2017**

**IMPLEMENTATION OF THE PRINCIPLE OF COMPETITIVENESS  
AT THE PRESENTAL STAGES OF THE PROCESS IN THE  
LEGISLATION ON CRIMINAL PROCEEDINGS OF THE REPUBLIC OF  
AZERBAIJAN**

**Resume:** The article examines the problems of the formation of the adversarial principle in modern criminal proceedings in the Republic of Azerbaijan, substantiates the conclusion that this principle operates not only in the court of first instance, but also in pre-trial proceedings whenever a procedural issue is resolved by the court, the problems of regulation of adversariality are identified in the Criminal Procedure Code of Azerbaijan and substantiates proposals for the further development of legislation and expanding the possibilities of protection to ensure the true equality of the parties.

**Zhavoronkova Natalia Grigorievna ,**

**Agafonov Vyacheslav Borisovich , No. 7 2017**

**TRENDS AND PROSPECTS FOR IMPROVING STATE POLICIES IN  
THE FIELD OF ENVIRONMENTAL DEVELOPMENT**

**Annotation.** The article examines the legal problems of improving state policy in the field of environmental development. Based on the results of the study of the current documents of state strategic planning , the theoretical concept of "environmental development" is formulated, the key factors and indicators of environmental development are determined, and the main organizational and legal problems of the implementation of state policy in the field of environmental

development of the Russian Federation at the present stage are identified . The conclusion is proved, according to which documents of state strategic planning in the field of environmental development should be adopted taking into account the continuity, assessment of risks caused by the scientific and technological development of the country, analysis of their effectiveness , the degree of influence on subsequent rule-making , economy and management, as well as in the presence of legislatively enshrined responsibility for their non-fulfillment.

**Ershova Inna Vladimirovna,**

**Olga Tarasenko,**

**Nogaeva Victoria Uruzmagovna , No. 7 2017**

## **OVERVIEW II**

**International CSO Scientific CSO SYMPOSIUM A " Business and Law " German and French - as the language of European business community " "**

*Annotation* . This review succinctly highlights the II International Scientific Symposium “Entrepreneurship and Law. German and French as languages of the European business community”, which took place on April 7, 2017 at the Moscow State Law University named after O. Ye. Kutafina (Moscow State Law Academy). Attention was drawn to the unique format of the event: speakers delivered reports on business and law in German and French. The most important and interesting reports presented at this event are presented for review on the pages of this magazine.

**Arzumanova Lana Lvovna, No. 7 2017**

**Review of the Scientific and Educational Session**

**"Law and Economics: restructuring the educational space based on the requirements of the Federal State Educational Standard of Higher Education (" 3+ ") "**

**Abstract:** The article highlights the main reports that became the subject of discussion during the first day of the Scientific and Educational Session within the framework of the IV Moscow Legal Forum, held by the O.E. Kutafina (Moscow State Law Academy).