Vorobyov Alexey Sergeevich , No. 8 2017

And nstitut state crimes in the Code is the period of the penalties of criminal and correctional 1845 g . : the problem of defining its scope and content

Annotation. The article discusses the problems s approach to understanding the content of the Institute of State crimes in the Code is the period of the penalties of criminal and correctional 1845 g . The article considers the provisions of Section III "On State Crimes" and a number of other articles of the Code of Criminal and Correctional Punishments of 1845 .

In the context of the considered judgment of the first on the subject of pre-revolutionary, with ovetskih and modern lawyers put forward and defended the position of the author , suggesting that the most effective will such an analysis of the Institute of State crimes and its development, in which it investigated his comp oyanie in the conditions of his time . Analyzing the state of this institution during the period of the Code of 1845 , it is necessary to proceed precisely from the positions that the legislator himself expressed in the conditions of drawing up the corresponding legislative act regulating the institution of state crimes in the period under study.

The most effective will be such a study that does not seek to "correct" the shortcomings of the legislator of that time, but studies the subject in the form in which it was presented in the corresponding period.

Dongak Olga Shur tuyevna ,

Shirizhik Vyacheslav Mikhailovich , No. 8 2017

The main signs of the formation of the Mongol Empire in the XIII century.

Resume: This article is devoted to the study of the main features of the empire with a comparative analysis of the Mongol empire. The authors of the article come to the conclusion that the nomadic peoples of Central Asia in the XIII century. were able to form the Mongol Empire with all its features. This fact is very important from the point of view of the history of state and law, the theory of state and law, legal scholars, historians and ethnographers did not study the emergence of the Mongol Empire, taking into account the signs that were inherent in European empires. But the Mongol Empire had its own peculiarity, which we must take into account, namely, the Mongol and Tatar tribes were mobile. The sign of the mobility of the Mongol Empire distinguishes this state from other empires that existed in the Middle Ages.

Strelnikov Anton Olegovich , No. 8 2017

Legal regulation of the formation of the Constitutional Assembly in the Russian Federation

Annotation. The subject of the research is the issues of legal and organizational regulation of the activities of the Constitutional Assembly.

The object of the research is the activities of the Constitutional Assembly in the Russian Federation. The author analyzes some of the legal concepts developed by experts in the framework of regulating the activities of the Constitutional Assembly. An analysis of the literature on the research topic revealed the main shortcomings in the proposed draft laws, the main one of which is the lack of detailed principles for the activities of the Constitutional Assembly of the Russian Federation.

The main conclusion drawn from the results of the study is that the Federal Constitutional Law regulating the activities of the Constitutional Assembly of the Russian Federation must necessarily contain detailed principles of activity and the corresponding mechanisms for their implementation. The main contribution made by the author in this article is to identify the need to formulate fundamental

requirements for the activities of the Constitutional Assembly due to the fact that this institution combines both legal and political components.

The novelty of the article lies in the development of the relevant principles for the activities of the Constitutional Assembly of the Russian Federation and the analysis of possible mechanisms for their implementation, aimed, first of all, at preventing the adoption of a Constitution that contradicts the foundations of humanism, the rights and freedoms of man and citizen. In particular, the author proposes five of the most important principles: maintaining a balance of interests, which includes both the interests of federal government bodies and the interests of the constituent entities of the Russian Federation, professionalism, independence of activity, rational spending of budgetary funds and operational efficiency.

Sayfutdinova Venera Maksutovna, No. 8 2017

Federation Council of the Federal Assembly of the Russian Federation: specifics and prospects

Annotation. Since the adoption of the Constitution of the Russian Federation, issues related to the functioning of the Federation Council of the Federal Assembly of the Russian Federation have not lost their relevance. The activities of the organs of state th power is determined by the fact that this part of the Russian parliament and represents the interests of the Russian Federation as a whole and the interests of the regions. The essential characteristics of the Federation Council have not actually changed since 1993, in contrast to the order of its formation, which changes periodically. In the article, the author highlights some specific features of the Federation Council, as a part of the Russian parliament, and gives the point of view that there is a need to change some of the most important parameters of the Federation Council, primarily powers and functions.

In modern conditions, the issue of the Council of Federation of the Federal Assembly of the Russian Federation acquires special significance, since its role in the development of federal relations is significant, but a number of aspects of its formation and activities raise questions.

Gorlova Elena Nikolaevna, No. 8 2017

Essence, goals and functions of legal responsibility for violation of financial legislation

Annotation. Yew aw responsibility - it is , on the one hand, universal concept, used by all the leading branches of Russian law , on the other hand, the nature of legal liability fully disclosed in the individual branches of law, and accountability in financial law is no exception. Therefore, a detailed study of the rules governing liability for violation of financial legislation is necessary. The understanding of the category of liability for violation of financial legislation by the legislator and law enforcement officials was significantly influenced by the concepts of legal liability developed in science : positive (promising) and negative (retrospective). About tvetstvennost for violation of financial laws in general is a public law, but it has elements of private law liability, expressed in its compensatory nature. The question of the ratio of punitive and legal restorative functions of responsibility for violation of financial legislation is debatable. We believe that the restorative function of legal liability always accompanies the implementation of liability for violation of financial legislation.

Izvekov Stanislav Sergeevich , No. 8 2017

Subsidiary liability as a means of fulfilling the tax obligation of a bankrupt organization

Resume: The subject of this research is the problem of correlation of legislation on taxes and fees with competition legislation, as well as the impact of the latter on the principle of personal fulfillment of tax obligations. Certain issues of the selected topic are considered sporadically within the framework of regulation of

legal relations arising in bankruptcy cases, while there are practically no complex works devoted to the peculiarities of fulfilling tax obligations in bankruptcy cases.

The research is based on the methods of historical and comparative jurisprudence. The paper reveals contradictions in legislation and judicial practice on the fulfillment of tax obligations by persons controlling the taxpayer in bankruptcy procedures and after their completion. Scattered theoretical and practical approaches are systematized according to the periods of validity of various editions of the legislation.

The author criticizes certain approaches to solving problems in the field of interaction between tax legislation and bankruptcy legislation. As a result, the positive and negative factors of the changes that have occurred in the regulation of the issues of bringing persons controlling the taxpayer to subsidiary liability were identified.

Soldatova Vera Ivanovna, No. 8 2017

Security deposit in the lease agreement

Annotation. This article discusses the use of a security deposit in a lease agreement, as well as certain types of monetary obligations under this agreement, which can be secured through a security deposit. In addition, the author identifies the issues of the use of the security deposit that are not regulated by law, as well as its difference from other methods of securing obligations. The article analyzes the novelties of civil legislation on the methods of ensuring the fulfillment of obligations, as well as the corresponding judicial practice.

The author tried to determine the legal nature of the security deposit, its characteristic features, as well as to reveal the difference between the security deposit and such well-known methods of securing monetary obligations as forfeit, pledge, withholding and deposit. The article considers the issue of using a security deposit in a preliminary contract as a security measure for the conclusion and execution of the main contract.

This article provides guidance on the determination of financial obligations under the lease, which may be provided on bespechitelnym payment, as well as the conditions do not return to bespechitelnogo payment under the lease.

Suvorov Evgeniy Dmitrievich, No. 8 2017

Topical issues of the execution of a claim secured by a pledge by virtue of arrest (clause 5 of article 334 of the Civil Code of the Russian Federation), in case of bankruptcy of the owner of the seized property

Annotation. The article substantiates the approach according to which the new edition of the Civil Code of the Russian Federation, granting the rights of the pledgee of the thing to the person who received the arrest of such thing as an interim measure, cannot be interpreted as giving the specified person an advantage in the distribution of proceeds from the sale of the seized thing in the event of the bankruptcy of the owner of the thing. With reference to judicial practice, as well as foreign sources, it is indicated that the opposite decision would violate the basic principle of bankruptcy law - the principle of equality of creditors (pari passu). It provides evidence that in foreign jurisdictions from where the "bail" is borrowed, there are balancing elements that do not allow violation of the principle of equality of creditors. In addition, theses are put forward about the unfairness of the total spread of grounds for the provision of collateral, for which the arguments in favor of the fairness of the predominant position of secured creditors are analyzed and evaluated: the argument about the deal (bargain argument) and the resulting argument about the rate, arguments about the new value (new value argument) and fame (notion argument). The provision of bail from arrest is shown to fail the relevant test.

Frolova Natalia Mikhailovna , No. 8 2017

Prevention of abuse of the right by participants in legal relations when imposing the performance of an obligation on a third party

Annotation. The reform of the Civil Code of the Russian Federation entailed serious changes in the legal regulation of property relations. New rules have appeared on the performance of obligations by third parties, which have increased the imbalance of interests of the debtor, creditor and third parties.

The negative consequences of changing the rules on the performance of obligations by third parties are also manifested in the fact that the provisions of Art. 313. The Civil Code of the Russian Federation is in conflict with other rules of the articles of the Civil Code of the Russian Federation, which does not contribute to the improvement of the mechanism of legal regulation of civil relations.

Analysis of the provisions of Art. 313 of the Civil Code of the Russian Federation made it possible to conclude that the rules on the fulfillment of an obligation by a third party enshrined in the Civil Code of the Russian Federation make it possible for unscrupulous participants in civil legal relations to abuse their rights. Exercising the rights granted to them by Art. 313 of the Civil Code of the Russian Federation, the debtor and third parties may violate the general limits of the exercise of civil rights in force in civil law. If the abuse of the right entailed a violation of the rights of another person, the latter has the opportunity to resort to the methods of protection available to him.

When making a decision, the courts propose to proceed from the fact that, securing for the creditor the obligation to accept performance from a third party in the cases listed in parts 1, 2 of Art. 313 of the Civil Code of the Russian Federation, the legislator acted in the interests of the creditor.

The principles in force in civil law suggest that in cases where the law allows third parties to participate in relations between the parties at the will of one of them, without asking the consent of the other, all the consequences of such interference are permissible if the interests and expectations of the other party are not violated, In this case, the only way to ensure the protection of the rights and interests of a person violated by the intervention of third parties is to recognize the actions of any of the participants in these relations as unfair, associated with abuse of law.

Ulyanov Alexey Vladimirovich , No. 8 2017

On civil protection of the interests of the subject of legal expectations

Annotation. This article is devoted to the study of the interest protected by law as a legal means that guarantees the actual exercise by the interested person of his civil legal capacity. Proceeding from the fact that not all legal possibilities are subjective rights, the author considers interests not mediated by the latter protected by law in the sphere of civil law. Among the multitude of civil (sectoral) interests, the article indicates legal interests - legal forms for those interests that are aimed at changing the legal status of an individual. As part of the legal interest and the legal means into which it is transformed, the existence of a specific legal phenomenon is substantiated, namely: the protected legal possibility is reasonable to expect the onset of beneficial legal consequences, or legal expectation. In the legal form of this legal possibility, the legal interest of a person as a participant in a developing social situation is clothed, which is fixed with the help of a legal construction of an unfinished factual composition. The author notes that the establishment of legal expectations by civil law is an incentive sanction for the good faith legal initiative of the person concerned. It is argued that all legal possibilities that contain legal expectation as a recurring feature into a sectoral legal regime are argued. Such a universal legal regime, called the legal waiting regime, includes subjective civil rights, legal interests and other legal means aimed at securing a transformative legal possibility of an intermediate nature for a person. On the basis of the study, it is proposed to amend the current civil legislation, due to which the legal expectation will be expressed in the norms of law. The article is intended for everyone who is interested in the development of the basic principles of civil law.

Grin Elena Sergeevna , No. 8 2017

P eestry complex objects intellectual property rights (for example, audiovisual works)[10]

Annotation. The article is devoted to the analysis of the system of registers of the results of intellectual activity on the example of complex objects of intellectual rights. The article examines the provisions of the European Union Directive on certain cases of permitted use of orphan works of October 25, 2012, concerning the issue of accounting for the rights of orphan works - works, the owners of the rights to which have not been established or found. The paper presents a characteristic of the registers of objects of copyright and related rights and analyzes the possibility of systematizing the mechanisms of legal protection of the results of intellectual activity, primarily objects of copyright and related rights, using blockchain technology.

The article also separately specifies the mode of so-called smart contacts ("smart contracts"). The paper concludes that it is necessary to develop mechanisms for the use of new blockchain technologies (Blockchain) to systematize the results of intellectual activity, first of all, complex objects of intellectual rights, in order to more actively involve the rights to such results in the economic turnover.

Olga Shevchenko
Igor Ponkin
Rogachev Denis Igorevich
Alena Igorevna Ponkina , No. 8 2017

Difficulties in determining the legal status of sports judges

The article is devoted to the description of the legal status of sports judges. The authors show the difficulties of determining this status. The article describes the specific features of the labor relations of sports judges, which directly affect the status of sports judges. Based on the analysis of the experience of foreign countries, scientific generalizations are made and presented regarding the

approaches implemented in foreign countries. The authors express ideas regarding the possibilities of taking into account foreign experience in Russian practice.

Bimbinov Arseny Alexandrovich , No. 8 2017

Subjective signs of lecherous actions

Annotation. The article is devoted to the characterization of the subjective side and the subject of the crime provided for by Article 135 of the Criminal Code of the Russian Federation. In the work, on the basis of the doctrinal provisions of criminal law science and materials of judicial practice, it is concluded that it is possible to commit lecherous acts only with direct intent. The issue of the place of motive and purpose in the composition of lecherous actions is also considered. The paper substantiates the position according to which a crime under Article 135 of the Criminal Code of the Russian Federation, committed in a contact form, does not have an obligatory motive and purpose. At the same time, the commission of non-contact lecherous actions has the goal of satisfying the sexual need (of the guilty person, the victim or a third person) or arousing the victim's interest in sexual activities. These goals are alternative, therefore, to qualify an act under Article 135 of the Criminal Code of the Russian Federation, it is sufficient to have one of them. In addition, when analyzing the signs of a crime subject, the question of the definition of the concept of pedophilia is raised. It has been established that in Russia the diagnosis of pedophilia is determined in accordance with the information letter of the Ministry of Health and Social Development and the Federal State Budgetary Institution “State Scientific Center for Social Development of the Republic of Belarus named after V.P. Serbian ", according to which it takes place in the case of revealing a constant or predominant desire for sexual activity with children of prepubertal or early puberty. A mandatory criterion for this is the presence of a five-year age difference with the child.

Reshetnikov Alexander Yurievich , No. 8 2017

D obrovolny rejection of crime: Theory and Practice

Annotation. The article analyzes the provisions of the criminal law on exemption from criminal liability in the presence of signs of voluntary refusal to commit a crime. Based on the results of the analysis of judicial practice and doctrinal views, attention is focused on the specifics of establishing signs of voluntariness, finality and timeliness of refusal to commit a crime. The importance of taking into account objective and subjective criteria for voluntary refusal is emphasized. The specificity of the criminal law regulation of signs of voluntary refusal of accomplices in a crime is indicated.

Rossinsky Sergey Borisovich, No. 8 2017

On the practice of implementing the criminal procedural principle of protecting human and civil rights and freedoms in production of investigative actions

Resume: This article examines the problems that arise in the practice of implementing one of the principles of criminal proceedings - the protection of human and civil rights and freedoms (Article 11 of the Code of Criminal Procedure of the Russian Federation) in terms of involving the suspect, the accused, the victim and other subjects of criminal procedure into the orbit of investigative action.

Starting from the "high" legal meaning inherent in the principle of protecting the rights and freedoms of man and citizen, the author expresses a sharply negative attitude towards fulfilling the requirements of Part 5 of Art. 164 of the Code of Criminal Procedure of the Russian Federation as a burdensome formality. At the same time, proposals are made aimed at improving practical technologies for identifying participants in investigative actions, explaining to them the procedure for their production, rights, warning them about responsibility, as well as ensuring the ability to effectively use the granted rights.

Gorban Dmitry Vladimirovich , No. 8 2017

Problems of the regime of execution (serving) of criminal sentences and ways to solve them: new theoretical approaches

Annotation. The subject of study of this article and is a mode of execution (serving) a sentence of imprisonment as one of the most important category of the penitentiary law. The article analyzes the modern approaches of scientists in the field of criminal executive law to the problems of defining the concept of "regime". A brief historical excursion shows the absence of a legislatively enshrined this concept. In the first, it was enshrined only in the PEC of the Russian Federation of 08.01.1997 No. 1-FZ in Art. 82. When analyzing scientific approaches to the concept of a regime, we examine and reveal two main aspects - the understanding of the regime as an order, and the fact that the regime ensures the fulfillment of its requirements. Special attention is paid to the concept of “non-penitentiary regime”, that is, the regime of execution (serving) of sentences not related to imprisonment. In the preparation and writing of a scientific article, the methods of analysis and synthesis, as well as the dialectical method of scientific knowledge, were applied. As a result of the analysis, the author proposes organizational and practical measures to improve the modern progressive system. The novelty of the study of the problems of the regime of execution (serving) of punishment lies in the fact that the article proposes measures to improve it, taking into account an integrated approach to the problem under consideration. Changes are proposed to the existing normative legal acts, namely to the Criminal Executive Code of the Russian Federation.

Migachev Anton Yurievich , No. 8 2017

Comparative analysis of the legislation of the Russian Federation and the French Republic in the field of state financial control

Annotation. This article provides a comparative legal study of the legislation of the Russian Federation and the French Republic in the field of state financial control. So, the study of the legal regulation of financial relations of foreign states using the method of comparative jurisprudence makes it possible to more fully assess the processes taking place in the field of public finance. France's experience in reforming state financial control can be used to update the financial control system in Russia.

The article examines modern legislation in the field of state financial control in the Russian Federation and the French Republic, as well as key government bodies exercising financial control.

The article may be of interest to students of the course financial law, tax law, budget law, as well as to academic staff, and other persons involved in the study of procedures and government instruments through which the regulation of the sphere of public finances is carried out.

Kashtanova Natalya Sergeevna, No. 8 2017

On the interchangeability of temporary suspension from office with preventive measures in the form of detention and house arrest under the criminal procedural legislation of Kazakhstan and Russia: on controversial aspects of theory and law enforcement 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. The study reflects the foreign experience of legal regulation of similar legal relations, offers specific applied recommendations.

Zhulich Tatyana Vyacheslavovna, No. 8 2017

State supervision as a way of legal support for the use of land plots in accordance with the established restrictions

Annotation. The article is devoted to the problems of the effectiveness of state supervision as a method of legal support for the use of land plots in accordance with the restrictions arising from the establishment of zones with special conditions for the use of the territory. The issue of the validity of supervision over compliance with restrictions in zones with special conditions for the use of the territory within the framework of specialized (non-land) supervision is considered. The problems of the application of supervisory and control measures, carried out without interaction with stakeholders, in the field of supervision over the observance of the regime of zones with special conditions of the territory are analyzed. It was proposed to include zones with special conditions for the use of the territory in the number of objects for scheduled (raid) inspections, as well as other surveillance activities without interaction with stakeholders, to determine the features of conducting surveillance activities without interaction with stakeholders in zones with special conditions for the use of the territory; to provide for the legal consequences of the offender's failure to respond to the announcement by the state supervisory authority of a warning.

Ershova Inna Vladimirovna

Olga Tarasenko

Filippovich Anna Andreevna, No. 8 2017

Schools of Science : A Palette of Opinions or Unity of Views?

Annotation. In this summary report, we present an overview of the meeting of the scientific session of the International Scientific and Practical Conference "Martemyanov Readings" held on March 3, 2017. Discussion positions regarding the concept of "scientific school" are highlighted; classifications and characteristic features of the category under consideration are given; a brief overview of the leading scientific schools of Russian business law is given. The report is of interest from both scientific and pedagogical and methodological points of view. The theses of the speakers were processed by us with the utmost respect for the author's ideas.

Poduzova Ekaterina Borisovna

Morgunova Elena Alekseevna, No. 8 2017

Review of the All-Russian Scientific and Practical Forum of Young Scientists "Representation in substantive and procedural law: problems and development prospects" (April 22 - 23, 2017, Moscow State Law University named after O.E. Kutafin (MSLA))

Annotation. The article presents the main aspects of the events and speeches of the All-Russian Scientific and Practical Forum of Young Scientists "Representation in Material and Procedural Law: Problems and Development Prospects", held on April 22 - 23, 2017 at the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy), a summary of the directions of the participants' reports is also presented.

The scientific forum was based on the main results of reforming the substantive and procedural law of the Russian Federation in the light of the new course of development of the Russian economy, current trends in legal 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 legislation on representation. 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 legal science in the field of theoretical and practical problems of representation in the light of legal reform.

Petrova Inga Vadimovna,

Sitnik Alexander Alexandrovich , No. 8 2017

Review of the round table in the form of a webinar "Novels of Financial Legislation" (December 15, 2016) and a student round table dedicated to the memory of N.I. Khimicheva (March 16, 2017)

Annotation. This article provides an overview of the speeches of the teachers of the department of the Moscow Law University named after O.E. Kutafina (Moscow State Law Academy) at the round table "Novels of Financial Legislation" held on December 15, 2016 together with the Department of Financial, Banking and Customs Law of the Saratov State Law Academy, using video conference technologies. The article also provides an overview of the student round table dedicated to the memory of N.I. Khimicheva, conducted by these departments on March 16, 2017. The article emphasizes the importance of further expanding the practice of using modern technologies in order to expand and strengthen interdepartmental ties.