Fedunov Vladimir Viktorovich,

Staritsyn Alexey Valentinovich, No. 10 2017

Organizational and legal activities

Tavrichesky provincial zemstvo in 1887-1908

Annotation. Modern problems associated with the search for the most effective forms and methods of regional government, the optimal placement of the sphere of local self-government in the political system of the Russian Federation, as well as the contradictions existing in the regions between the heads of local self-government and the structures of state power show how relevant, necessary and important an objective analysis of the theory is. and the history of local government. The priority is turning to the pre-revolutionary practice of local government, without a thorough study of which the formation of a modern democratic system is problematic. It seems that it is here that one can find answers to many questions put on the agenda by the modern development of regional governance and local self-government in Russia. On the example of Taurian province zemstvo author 's taken and attempt to generalize the practice of organizational activity of self-government in the territory of Crimea, its features and practical results, interacting with the provincial organ of state power, revenues and expenditures, the rationale for expanding the circle pension entities, increasing the legal basis for the maintenance costs road infrastructure. To prepare decision-making in the Provincial Zemstvo, commissions were created, without the positive conclusions of which issues were not considered at the sessions. When writing the article, the authors used sources from the funds of the rare book department of the Central Yalta City Library named after A.P. Chekhov.

Vasiliev Stanislav Alexandrovich,

Andriyanov Dmitry Vadimovich, No. 10 2017

Correlation between theory and legal regulation of citizenship issues in international and national judicial practice

Annotation. The article examines the impact of international and domestic judicial practice on legal relations associated with the acquisition of citizenship. The modern doctrine to a greater extent devotes its research to the issues of material understanding of the normative provisions on this issue, or only to individual procedural points. At the same time, an integrated approach, within the framework of which the norms of domestic and international law, as well as judicial practice of the interstate and domestic Russian level, are considered, makes it possible to cover the essence of the subject of legal regulation as widely as possible, on the basis of which the problems of normative regulation can be identified and ways to improve it. Thus, the test of "close connection" developed by international judicial institutions and the freedom of discretion in deciding issues of citizenship are gradually becoming part of the practice of the courts of the Russian Federation, which is manifested in real modern judicial precedents. It is this systematics that should take place in cases of the development of specific proposals in terms of the creation or transformation of the existing regulatory legal regulation. Life itself, the social relations that exist, should determine further legal development. In this case, it does not matter in what form it is expressed - judicial precedents, doctrinal research, analysis of citizens' appeals, etc.

Pochepko Ksenia Ivanovna, No. 10 2017

Constitutional rights to self-defense under the conditions of the development of civil of societies and in Russia

Annotation. The article analyzes modern scientific approaches to determining the content of the constitutional human right to self-defense of their own rights and freedoms as one of the elements of the mechanism for protecting human rights and freedoms. The author establishes the position of reference to self-defense neyurisdiktsionn th form m protection of the rights of the individual. A brief review of the composition of the constitutional legal relations I , arising from the implementation of the human right to self-defense. Since civil society has certain mechanisms for detecting and expressing, and, if necessary, for creating public opinion, which can be used to tackle social conflicts, the work considers ways of

self-defense of rights through various institutions of civil society (media , political parties , public associations and others), supported by relevant examples from their daily practice . The prospects for the development of legal regulation of self-defense in Russia have been determined .

Rashidov Evgeny Fakhraddinovich, Kovtun Yulia Sergeevna, No. 10 2017

Administrative and legal regulation of the burden of maintaining the adjacent territory

Annotation. The article discusses an important problem in the context of modern law enforcement practice, which concerns the imposition of obligations on business entities to clean up the territory adjacent to their property. The authors made an attempt to consider this issue through the prism of the institution of public property, in particular, through the concept of administrative-property law, which is its core. The need for further development of legal norms and the approval of a unified legal position regarding the administrative and legal obligation for the maintenance of common areas is noted.

Boltinova Olga Viktorovna , No. 10 2017

Budget - a fundamental category of budget law

Resume: The article examines the evolution of the budget at various stages of the formation and development of the state, where the points of view of representatives of both economic and legal science are noted. The author focuses on the material, economic and legal aspects of the concept of a budget. The features of this category and its place in the financial system of the state are highlighted. The concept of the budget in the current edition of the RF BC and the draft of the new edition of the RF BC is analyzed, and a new concept of the “budget” category is given .

Arzumanova Lana Lvovna, No. 10 2017

The strategic importance of the national payment card system: financial and legal aspect

Annotation. This article is devoted to the consideration of the issues of legal regulation of the national payment system and, in particular, such an important element of it as the national payment card system. In the article, the author analyzes the strategic objectives of the NSPK implementation, the stages of its formation, studies the implementation of the project related to the implementation of Mir cards, the main problems arising during the implementation of this project, draws conclusions about further ways of strategic development of the national payment card system.

Bogacheva Tamara Viktorovna , No. 10 2017

Legal regulation of relations for the reimbursement of the cost of inseparable improvements in leased property: problems of law enforcement

Annotation. The article examines the features of the legal regulation of relations for reimbursement of the value of inseparable improvements of the rented property made by the tenant on the basis of regulations, materials of law enforcement practice. Emphasis is placed on the legal assessment of changes in the rented property that increase its quality characteristics , on the conditions for reimbursing the tenant for the cost of inseparable improvements. The position of the author on the inadmissibility of identifying changes in the leased property as a result of the tenant's activities in the meaning provided for in paragraph 1 of Art. 616 of the Civil Code of the Russian Federation, and inseparable improvements in the meaning provided for in paragraphs 2 and 3 of Art. 623 of the Civil Code of the Russian Federation. The author emphasizes that the essence of this difference comes down to the determination of the civil law consequences of improvements in rented property. If the changes are the result of major repairs made by the lessee at his own expense in a situation of violation by the lessor of the obligation to produce it, then his failure to carry out major repairs gives rise to a special obligation of the lessor to compensate for the cost of repairs or set it off in the cost of rent in accordance with

the rules of Art. 616 of the Civil Code of the Russian Federation. Other civil law consequences arise when qualifying the legal nature of relations in the case when the actions of the lessee are conditioned solely by his private interests to improve the quality of the leased object and (or) its operational properties and are not aimed at fulfilling the lessor's obligation to maintain the property. The cost of such inseparable improvements to the leased property is subject to reimbursement according to the rules of Article 623 of the Civil Code of the Russian Federation.

Valery Aleksandrovich Belov , No. 10 2017

Person status: legal aspect

Annotation. This article discusses issues related to the definition of the legal nature (essence) of the status of a person as a legal category, as well as other aspects directly related to the determination of the goals of persons entering into certain legal relations. At the same time, the features of the manifestation of individual signs of the status of a person as a legal category are considered both in relation to relations arising in the private and public sectors. According to the results of the study, it is concluded that status as a legal category predetermines a person's ability to enter into legal relations with other members of society, and also creates conditions, i.e. becomes a means for extracting benefits from a corresponding material or intangible object, therefore, it is the status of a person that is that single benefit for members of society, to the acquisition, change or termination of which any legal relationship is directed. The above conclusion made it possible to draw the following proposition: "as long as a person has a status, he is able to satisfy needs, as soon as the status is lost, the possibility (means) of satisfying needs disappears at once."

Poduzova Ekaterina Borisovna , No. 10 2017

Simple partnership agreement as a form of organizing and conducting joint activities: problems of theory and practice

Annotation. The article presents the main theoretical and practical problems of a simple partnership agreement as a form of organizing and conducting joint activities.

The material is 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 contract law. In this regard, acts of the Supreme Court of the Russian Federation are 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").

Particular attention was paid to the legal nature, constitutive features of a simple partnership agreement, their reflection in modern civil legislation and the practice of its application.

Uksusova Elena Evgenievna, No. 10 2017

Insolvency (bankruptcy) in Russia and judicial protection of rights: the civil procedural sphere of legal proceedings

Annotation. In response to the needs of legal practice, it is significant to determine the boundaries and content of the procedural sphere of legal proceedings in relation to insolvency in its systemic sectoral interpretation, regulated by civil procedural law. For this reason, its consideration is not limited to bankruptcy proceedings as the basic part of the considered procedural sphere. Nevertheless, the specifics of the material and legal nature of bankruptcy cases, taking into account the revealed manifestations of the relationship between material and procedural law (legislation) and characterized by other expressed features of this kind of legal proceedings, dictate an appeal to the problem of interrelated legal proceedings designated by us. Within the boundaries of the investigated procedural sphere, there are theoretical and practical issues , illustrated by examples of judicial practice, arising both in relation to insolvency cases, and in connection with them.

Zhukov Andrey Anatolyevich, No. 10 2017

Conclusions of the court on the fact in favor of the other party as a sanction in civil proceedings

Annotation. The article examines the unfavorable consequences of the unfair procedural behavior of a person participating in the case, which can affect the results of the resolution of the dispute, including the court's substantiation of its conclusions by the explanations of the party if the other party fails to provide evidence requested by the court and the court recognizes the established or refuted fact, for the clarification of which a forensic examination was ordered when the other party avoided participating in the examination. It is substantiated that in these cases the court establishes the circumstances of the case on the basis of a conditionally binding presumption. The position is defended that in this case the establishment of a fact on the basis of a presumption is a kind of protection measure (sanction) applied by the court in the event of a party's evasion from participation in the examination or withholding evidence, which corresponds to the goals of civil proceedings.

In turn, the position of Part 3.1 of Art. 70 of the APC , exempting a party from proving circumstances not directly disputed by the other party on the basis of a fictitious recognition of such circumstances. The position is defended that the p asive procedural behavior of a party is not unlawful, should not cancel the general rule on the distribution of the burden of proof or entail the application of any sanctions.

Gerasimova Elena Sergeevna , No. 10 2017

Prospects for expanding employee participation in management in Russia through participation in collegial management bodies

Annotation . The state of legal regulation of the participation of employees in the management of organizations in Russia is considered, the role and effectiveness of this mechanism for reconciling the interests of employees and employers is assessed. It analyzes the initiatives of recent years to expand the

opportunities for workers to participate in management, in particular, the creation of works councils and the proposal currently under discussion to grant the right to employee representatives to participate in collegial management bodies of organizations . The legal nature of the participation of workers' representatives in meetings of collegial bodies with the right of an advisory vote as a form of consultation between workers and employers and providing information to workers is revealed. The drawbacks of the draft law were analyzed, proposals were formulated on issues that should be resolved so that this form of participation in management could be effectively applied in practice. In particular, the need to indicate the right to receive all information discussed at meetings of collegial bodies is justified; regulate the procedure, terms and conditions for holding meetings (conferences) of employees for the election of representatives, as well as the criteria for determining the number of representatives of employees; it was proposed to settle the issues of ensuring the opportunities necessary for representatives of employees to perform their functions in connection with participation in meetings of collegial bodies and others.

Mikhailichenko Ksenia Alekseevna, No. 10 2017

State registration of a trade union: the view of the International Labor Organization and Russian practice

Annotation. In the article offered to the reader's attention, the theoretical and practical problems associated with the state registration of trade unions in Russia are analyzed. The article examines the question of the importance of the institution of state registration of trade unions in Russia, how it is viewed by international bodies and how Russian practice relates to international labor standards. Since there is a fairly diverse judicial practice on the issue under consideration, it is very relevant. The article discusses: the legal nature of state registration; the conventions of the International Labor Organization and the interpretation of the Committee on Freedom of Association on this issue; the controversy of scientists about the

importance of state registration for the legal status of trade unions; the procedure for state registration. The article also pays attention to the analysis of the most controversial issues that arise in Russian courts when considering cases of refusal of state registration of trade unions. In addition, the author analyzes the view of the International Labor Organization on Russian practice related to the refusal of state registration of trade unions. Questions concerning the legal nature of state registration of trade unions should become the subject of serious and detailed research in the science of labor law, the results of which should be further used in improving trade union legislation and the practice of its application.

Vasin Yuri Gennadievich , No. 10 2017

Trends in the criminal law policy of combating organized crime

Annotation. The article offers the author's view of one of the ways to increase the effectiveness of countering organized crime. Based on the analysis of the tendencies of changes and additions made to the Criminal Code of the Russian Federation aimed at countering criminal structures, it was concluded that it is necessary to ensure stable criminal-legal prohibitions in this area and the inexpediency of further large-scale increase in the number of articles of the Special Part of the Criminal Code of the Russian Federation containing a qualifying or especially qualifying feature "Perfect by an organized group." In order to develop anti-crime measures proposed to apply an approach based on continuous monitoring, as the crime situation and, so , and trends in penal policy, with the construction of the relevant criminological models using both quantitative and qualitative indicators. The importance of the formation of a scientifically grounded forecast of the considered negative socio-legal phenomenon, which should form the basis of the planned activities, is separately indicated. It is noted that not all methods for analyzing time series and statistical tables can provide the necessary accuracy of the forecast being generated. It has been shown that the relationship between changes in criminal legislation and the dynamics of quantitative indicators

characterizing opposition to organized groups and criminal communities is complex and implicit . Approaches to the formation of analyzed statistical populations based on theoretical probability density distribution laws are proposed, which allows the correct use of the mathematical apparatus of the theory of stochastic processes. It is concluded that it is necessary to quantitatively assess the reliability of the formed criminological models. Suggestions were made on the formation of a "road map" of measures aimed at ensuring the priority of preventive measures in the area under consideration.

Golubev Stanislav Igorevich , No. 10 2017

Classification of Environmental Crimes: A Critical Analysis of the Criminal Law Literature

Annotation . The article is devoted to the problem of classification of environmental crimes. The author notes that this problem is complicated by at least two circumstances: firstly, only in the Criminal Code of the Russian Federation environmental crimes were singled out as an independent chapter, therefore, their division into groups is still far from complete; secondly, the totality of these acts is not defined (in other words, they are contained only in the corresponding chapter or are embedded in the structure of other chapters, for example, ecocide). In addition, the integration of environmental crimes is based on a mereological method of division, while the tasks of their legislative regulation often require a taxonomic approach. Typical shortcomings of the proposed classifications are shown, including the lack of a single basis on the basis of which the entire population is divided into corresponding groups.

According to the author, environmental crimes infringe on environmental safety, which in this case is their specific object. The allocation of environmental safety as a specific object is consistent with the essence of the generic object of a crime, which is public safety. This also corresponds to the content of public safety, which includes environmental safety as an independent type. Consequently, all

crimes combined in ch. 26 of the Criminal Code of the Russian Federation, taking into account their features, violate some aspect (aspect, element) of environmental safety, harm the safety of nature as a whole or its individual components. Thus, all acts can be summarized in two groups: 1) general crimes that infringe on environmental safety; 2) special crimes that infringe on environmental safety. The first group includes acts under Art. 246-249; in the second - the acts provided for by Art. 250-262 of the Criminal Code of the Russian Federation.

Vetoshkin Sergey Alexandrovich , No. 10 2017

On the accuracy of legal wording related to criminal penalties and Russian criminal law policy

Annotation. The article provides a legal analysis of the concepts related to criminal penalties, identifies logical inconsistencies in terms used in Russian criminal and penal legislation in this area, as well as legislative gaps that impede the implementation of the preventive task of criminal legislation when applying criminal law measures. Changes in the names of criminal sentences are proposed, the need to reduce the number of convicts serving sentences in penitentiary institutions, a fundamental reform of the system for the execution of criminal sentences, as well as the inadmissibility of weakening the criminal-legal response to the facts of violence and aggression in interpersonal relations are substantiated.

Alikhadzhieva Inna Salamovna , No. 10 2017

On the concept of sexual exploitation in international law

Annotation . Human sexual exploitation is a multifaceted and complex phenomenon that is subject to a number of normative definitions in international law. The scale of organized criminal activity, which takes on the character of a transnational threat, has led to the signing and ratification by most countries of international conventions and agreements against sexual exploitation. The article provides an overview of the main international legal acts of the UN, the Council of Europe and the CIS that use the concept of sexual exploitation and regulate the

features of counteracting it. Analyzing the concepts of sexual exploitation, human trafficking, prostitution as the main form of sexual exploitation in international documents, the author comes to the conclusion that the international legislator equates sexual exploitation with human trafficking, although the purpose of trafficking may be not only violation of the right to freedom of a person to use it. sexuality. The contradictory conceptual apparatus, the lack of a unified approach to the definition of key concepts and the list of other forms of sexual exploitation, except for prostitution and pornography, are critically assessed, which, if the provisions of international criminal law are implemented, may lead to a violation of uniformity in national law enforcement.

Lebedinets Inna Nikolaevna , No. 10 2017

Freedom of conscience is the absolute right of every individual (how freedom of conscience is replaced by the freedom to manipulate consciousness)

Annotation. The article examines one of the basic (or absolute) human rights - freedom of conscience in its narrower interpretation - freedom of religion. The author examines the theoretical foundations of the definition of "absolute human rights", analyzes international legal acts aimed at protecting human rights and fundamental freedoms, the possibility of limiting the freedom of conscience provided for by these documents; considers the national legislation of the Russian Federation on religious organizations; gives examples of the activities of some religious associations (organizations), whose activities are prohibited or restricted in the Russian Federation and other countries.

Krylova Maria Sergeevna , No. 10 2017

Principles of processing personal data
in European Union law

Annotation. This article discusses the principles of personal data processing established in the legislation of the European Union. Their common features are considered, as well as the essence and specificity of the application of each principle

separately. The main systemic relationships between the principles have been established. In addition, the article reflects the main innovations adopted in the process of reforming the EU legislation on the protection of personal data Regulation (EU) 2016/679 on the protection of individuals in the processing of personal data and on the free movement of such data, which touched upon the principles of processing personal data.

Kang Taiwook, # 10 2017

We regulate e disputes between foreign investors and

host country: the example of the Free Trade Agreement between South Korea and the United States of America

A nnotatsiya : The article deals with the problem of the settlement of disputes between investors and the state (ISDS) through investment arbitration. The author specifically focuses on the problems in the framework of bilateral investment agreements (BITs) and free trade agreements (FTAs). The international investment disputes discussed in this article arise between foreign investors and the host country. Investor Government Dispute Resolution (ISDS) is the process of resolving such disputes through arbitration. In other words, these are “actions of a third party acting as an intermediary between the parties to the dispute to consider and settle such a dispute”. If it is really reasonable and fair to resolve disputes using this method, such developed countries as the United States and Australia would not abandon it. Thus, the investment arbitration system has not proven to be stable internationally.

Armless Nadezhda Ivanovna, No. 10 2017

Problems of legal regulation of the participation of the prosecutor in the consideration of cases of administrative offenses by arbitration courts.

Annotation. This article highlights the problems of legal regulation of the main issues of the participation of the prosecutor in the consideration of cases of

administrative offenses by arbitration courts. The current APC RF has a number of shortcomings regarding the definition of the role and status of the prosecutor in the process of consideration and revision of administrative-tort cases, which often creates difficulties for law enforcement officers. The heads of the Arbitration Procedure Code of the Russian Federation, directly related to the consideration and revision of cases of administrative offenses, do not at all mention the participation of the prosecutor in the case. The existing gaps and imperfections were partially eliminated by acts of the Supreme Court of the Russian Federation and the abolished Supreme Arbitration Court of the Russian Federation. On many controversial issues, there is a need to improve legislation. The author has formulated specific proposals for changing the norms of the law, which will allow to overcome the existing problems of legal regulation of the investigated sphere of legal relations.

Mikheeva Irina Evgenievna, No. 10 2017

On the Browse round table "Bank guarantee: current problems in the banking and jurisprudence"

Abstract: The article considers the main reports of the participants to the round table "Bank Guarantee: Actual Problems of Banking and Litigation ", which took place on May 26, 2017 at the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy). The reports highlighted the topical problems of banking practice that arise when working with bank guarantees, in particular with the electronic form of guarantees; the ambiguity of the notion “presentation of claims” to the guarantor; the bank's liability in case of suspension of payment under the guarantee; n p ekraschenie independent guarantee.