Artemov Vyacheslav Mikhailovich , No. 11 2017

H EQUAL DIMENSION AND HUMAN POTENTIAL OF LAW

Annotation . The review article as a whole covers the course and some key points of the content of the International Scientific and Practical Conference "Moral Dimension and Human Potential of Law", held on April 21-22, 26, 2017 at the O.E. Kutafin (Moscow State Law Academy) and dedicated to the 15th anniversary of the philosophical and legal club "Moral Dimension of Law", which exists on the basis of the Department of Philosophical and Socio-Economic Disciplines, under the leadership of Doctor of Philosophy, Professor Vyacheslav Mikhailovich Artemov.

Makarov Sergey Yurievich , No. 11 2017

EXTENDING THE ETHICAL REQUIREMENTS ESTABLISHED FOR LAWYER'S ACTIVITIES OUTSIDE THE PROFESSIONAL ACTIVITIES OF LAWYERS

Resume: This article is devoted to the extensive interpretation and application of ethical norms that exist and apply to lawyers, which is expressed in the raising of increased requirements for lawyers both in the framework of their professional activities and beyond - that is, in fact, already in the sphere of the private life of lawyers, with examples from the history of the legal profession of Ancient Rome and the Russian Empire. The mechanism of the formation and expression of public opinion in relation to lawyers is analyzed, with the amendment not the degree of objectivity of this opinion, but also the opinions of the lawyer community itself in relation to its individual representatives in terms of their morality. Separately, on the example of the case of A.V. Lokhvitsky shows the extremely tough attitude of the Russian jury to the observance of moral requirements by jury attorneys and assistants of attorneys at law, and investigates the reasons for this attitude.

Vorobyov Alexey Sergeevich, No. 11 2017

RELATIONSHIP OF JUSTICE AND LAW

Annotation. The article is devoted to the problems of correlation between the categories of justice and law. The discourse on justice is one of the most ancient for both philosophy and legal science. Approaches to the category of justice have been designated throughout history by both philosophers and legal scholars. The main concepts that existed at different stages of history are considered, the views of the philosophical and legal community, their mutual influence are analyzed. In jurisprudence, justice is positioned as a principle of rule-making, state activity, and the application of legal norms. For example, the fairness of legal responsibility would mean punishment for the offender commensurate with the deed.

The purpose of law is to ensure the triumph of justice, and morality ensures the triumph of conscience.

It is concluded that justice and law are not identical, and neither of these categories covers the other completely. At the same time, these are interrelated and interpenetrating phenomena.

Egorov Alexander Alexandrovich , No. 11 2017

THE CATEGORY OF "OFFENSE " IN THEORETICAL AND PR AVOUS VIEWS OF V.S. SOLOVIEV

Annotation. The article examines the formation and development of the category of offense in the views of V.S.Soloviev. The formation of the prototype of illegal behavior within the framework of a primitive community in the context of the emergence of the custom of blood feud is analyzed. Using the example of Russkaya Pravda, the author examines the relationship between private law and public law principles in the concept of an offense. Based on the analysis of the main works of V.S. Solovyov, a conclusion is formulated about the significance of his theoretical and legal concepts for legal science . In the author's opinion, deep, scientifically grounded conclusions, of course, have enriched not only domestic, but also the world

theoretical and legal thought, exploring the genesis, current state and ways of further development of the category of offense.

Pimenova Oksana Igorievna , No. 11 2017

With UBSIDIARNOST b as morally AH , philosophical AH and Human AH Category I

Annotation. The article examines subsidiarity from two positions: moral and philosophical and legal. Both aspects are synergistic, predetermining the dynamic and ambiguous nature of subsidiarity as a principle aimed at better achievement of the set goal through mutual assistance and mutual support of the subjects of power relations. Do not take from others what they can successfully do themselves! This is the moral and ethical quintessence of subsidiarity and the most significant value aspect of its practical application. Without denying its Catholic roots and philosophical nature, today subsidiarity mainly acts as a principle of competence in multilevel decision-making systems, in which the question of the best (appropriate) level of exercising jointly owned powers always arises. By including the principle of subsidiarity in its primary law and consistently developing it in the norms of constituent treaties, the European Union (EU) showed the entire world community practical ways of applying this principle for the purpose of qualitatively improving supranational legislation adopted on issues jointly implemented with the EU member states. Without going into a deep analysis of the material content of the principle of subsidiarity, the author pays special attention to such procedural aspects of the practical application of the principle of subsidiarity in EU law as justification of the need to implement the regulatory prerogatives of the EU (to be included in the preamble of EU draft laws) and subsidiary control mechanism (implemented by national parliaments in relation to bills of the EU). The judicial aspect of the practical application of the principle of subsidiarity was also not ignored. In the course of the study, the author evaluates the effectiveness of the application of the principle of subsidiarity in the EU as a legal category. In conclusion, it is concluded

that the prevailing political approach to resolving disagreements between supranational and national legislators over the correct application of the principle of subsidiarity in the EU legislative process. However, this fact in no way has a leveling effect on the legal relevance of the principle of subsidiarity in order to achieve the goals of better implementation of the EU's regulatory prerogatives.

K. Arnaushenko Leonid Vladimirovich, No. 11 2017

INSTITUTE OF THE STATE IN THE CONDITIONS OF PROGRESS OF INFORMATION AND COMPUTER TECHNOLOGIES: LEGAL ASPECTS OF COUNTERING THREATS AND RISKS

Resume *:* The article notes that the transforming society at the beginning of the XXI century. significantly changes the conditions for the functioning of the social institution of the state, creating a number of threats and challenges to social order and stability, primarily in the information and communication subsystem, as well as in a number of other subsystems and structural elements. Due to the existing objective circumstances, the social institution of the state, realizing the functions of social control, will inevitably strengthen and modernize the system of legal norms designed to effectively counter the emerging threats and challenges.

Gorbatovskaya Elena Sergeevna, No. 11 2017

A NATIONAL ELEMENT IN THE CONTENT OF THE CULTURAL AND NUTRITIONAL FUNCTION OF THE STATE

Annotation. This article is devoted to the main problems associated with the disclosure of the content of the cultural and educational function of the state, in relation to which the author comes to the conclusion about its inherent national element. The article analyzes the relationship between the content of the investigated function and the directions of the cultural policy of modern Russia, substantiates the

conclusion about the recognition as one of the priority directions of the cultural and educational function of the state of the activity on the formation of Russian national identity. The main approaches to the question of finding a balance between the activities of the state in the formation of Russian national identity and the tasks of preserving the national identity and interests of all cultures and ethnic groups represented in the state are presented. Conclusions were drawn about the possibility of developing and strengthening domestic cultural and educational ties, taking into account interethnic and interethnic interests.

Sergeev Alexander Leonidovich , No. 11 2017

Constitutional and legal foundations of management and law enforcement: functioning problems and solutions

annotation

This article is devoted to the problems of reforming management systems and law enforcement in modern Russia. To date, the project of westernizing Russia, on which great hopes were pinned in previous decades, has not justified itself. At the same time, during the specified period, the Russian legislator made a large-scale reception of foreign public law norms in the domestic legal order. The introduction of many constitutional and legal principles characteristic of Western countries was often carried out mechanically, without regard to both the peculiarities of the countries in which they were formed, and the real possibility of integrating these novels into the domestic legal space. This process has led to a number of negative results. The failure of the administrative reform, slippage in the implementation of the principles underlying law enforcement, the fundamental discrepancy between the theory of local self-government and the practice of its implementation in many respects speaks of the need to revise many of the current regulations and the search for new approaches to solving existing problems.

In this study, an attempt is made to systematically evaluate the above process, to state the mistakes made and to outline the ways to search for appropriate alternatives.

Sitnik Alexander Alexandrovich , No. 11 2017

SUPERVISION IN THE NATIONAL PAYMENT SYSTEM

Annotation. The article is devoted to the consideration of the mechanism of legal regulation of supervision in the national payment system. In the course of the study, the author analyzes the concept of "national payment system", expanding its content, traces the relationship between supervision in the national payment system and banking supervision, examines the supervision system in the national payment system, which includes the subject, objects, relations, between these persons, regulatory subsystem, objectives and principles of supervision. The conclusion is drawn about the peculiarities of the legal status of the Bank of Russia in the national payment system, which determine the non-proliferation of the provisions on supervision to the payment system of the Bank of Russia. The article also examines the forms of supervision in the national payment system, reveals the content of preliminary, current and subsequent supervision. The author identifies and analyzes the legal, organizational and legal principles on the basis of which the Bank of Russia exercises supervision in the national payment system.

Gorlova Elena Nikolaevna , No. 11 2017

COUNTERING UNFAIR TAX COMPETITION: OECD RECOMMENDATIONS AND RUSSIAN EXPERIENCE

Annotation. Unfair tax competition involves the attraction of taxpayers to the economy of offshore zones and tax havens, which entails the erosion of the tax base of other states. Currently, most states are implementing measures to counter unfair tax competition: for this purpose, OECD member countries have developed recommendations on countering unfair tax competition by adopting national legislation, supplementing the texts of bilateral and multilateral tax agreements, and expanding international cooperation. In the course of the study, the author comes to the conclusion that the most effective implementation of these measures requires the interaction of all interested states, since the actions taken at the international level will be more effective than the adoption of national measures to combat unfair tax

competition. Russian legislative practice adopts the main methods of solving the problem of unfair tax competition, among them: the development of legislation on controlled foreign companies and in the field of transfer pricing, the creation of a system for automatic exchange of tax information, as well as information received from financial market organizations.

Tsaregradskaya Yulia Konstantinovna , No. 11 2017

LEGAL REGULATION OF PUBLIC DEBT POLICY IN THE CONTEXT OF DEBT RUSSIA

FOR 2017-2019 YEARS

Annotation . This article is devoted to the consideration of issues related to the regulation of the state debt of the Russian Federation. The study showed that modern debt policy is of decisive importance for the functioning of the state debt of Russia, since it lays down the main directions for the development of debt relations, which consist in determining the types of loans, the composition of creditors, and strengthening the credit rating of the state.

It has been established that at present the Russian Federation has a percentage ratio of public debt to gross domestic product of 17.7% according to the International Monetary Fund, which does not pose a threat to the national security of the state. In this regard, the Ministry of Finance of Russia in 2017-2019 . plans to increase its leverage among Russian budget revenue sources from 20% in 2016 , up to 91% 2019 , Russia mark two tranches of medium-term Eurobonds, which were purchased by investors from the UK, France, Switzerland, as well as some of Asia and the US ... In addition, it is planned to issue federal loan bonds denominated in Chinese yuan and aimed at investors from the PRC.

Kotlyarova Vera Viktorovna , No. 11 2017

On the Subject Composition of the Participants of the Amicable Agreement in Civil Proceedings

The article examines topical issues related to the establishment of the proper subject composition of the parties to the settlement agreement. The gaps identified in this article could be eliminated by preserving the most successful provisions of civil procedural legislation, taking into account the legal positions developed by judicial arbitration practice, which would be reflected in the future unified code of civil procedure. The author, in particular, to took the tee to the media the right to conclude the settlement agreement in the first place, persons associated with legal disputes, namely, the plaintiff, the defendant and the third party, independent claims, and in exceptional cases by law provide for the participation of third persons without independent claims when an amicable agreement affects their rights and obligations.

Mokhov Alexander Anatolievich

Kharitonova Yulia Sergeevna , No. 11 2017

LEGAL REGIME OF NAMES OF BIOLOGICALLY ACTIVE SUPPLEMENTS

Annotation. The article is devoted to the legal regime of the names of dietary supplements. The authors propose to single out a special legal regime for the names of biologically active additives, regulating it on a par with the legal regime of medicines. It is proved that the name of biologically active additives, and the right to this name as marking or designation of goods arises from the moment of registration of the corresponding additive in the Federal Register of Approved Biologically Active Additives. It is proposed to legislate restrictions on the

assignment of names to biologically active additives from among the trade names of medicines and international non-proprietary names, as well as derivatives from them, or having a significant similarity with them. The inadmissibility of registration of close, similar names for such goods as biologically active additives and medicines will serve as one of the legal means of protecting the rights of both consumers and entrepreneurs. The necessity of introducing additional requirements for the design of packaging, labeling, instructions for the use of biologically active additives other than drugs for medical use has been substantiated .

Andreev Vladimir Konstantinovich , No. 11 2017

P ONYATIE AND COMPOSITION OF THE INNOVATIVE RESEARCH - Technological Center

Resume: The article provides a legal description of an innovative scientific and technological center and examines the organizations that are part of it. The rules of the project are interpreted as special rules of law that the management company possesses. It is a joint stock company, has the functions of a territorial management body of an innovative scientific and technological center and exercises powers to regulate relations during the implementation of the project. The author's understanding of an innovative scientific and technical center is given as a combination of organizations, a kind of conglomeration, the purpose of which is to carry out scientific and technological activities on the territory of an innovative scientific and technological center according to the same rules for all project participants.

Savin Viktor Tikhonovich , No. 11 2017

SOME PROBLEMS OF THE EMPLOYER'S MATERIAL LIABILITY FOR DELAYED ISSUANCE TO THE EMPLOYER

EMPLOYMENT BOOK

Annotation. The object of the research in this article is the relationship of the employer's material liability arising in connection with the illegal deprivation of the employee of the opportunity to work. The subject of the research was the issues related to the concept of the employer's liability for the delay in issuing an employee with a work book, the current state and further development of the norms of the Labor Code of the Russian Federation, aimed at regulating this type of legal liability. The author analyzes used in par. 4 tbsp. 234 of the Labor Code of the Russian Federation, the term "delay", the definition of which is absent in the specified norm, which showed its ability to cover with its concept such categories as "work book" and "duplicate work book". At the same time, special attention is paid to the consideration of the position available in the science of labor law, according to which the employer's financial liability for the delay in the work book occurs only if it prevents the employee from entering another job. The methodological basis of the study was made up of: a general scientific dialectical method, universal scientific methods (system-structural, functional, methods of analysis and synthesis, induction and deduction), as well as special scientific methods (comparative legal, formal-logical). The novelty of the research lies in the consideration of the poorly studied in the science of labor law the issue of the employer's material liability for the delay in issuing a work book. A special contribution to the study of the material liability of the employer is the scientific development of the definition of the term "delay", which, according to the author, should be fixed in par. 4 tbsp. 234 of the Labor Code of the Russian Federation, as well as making proposals for improving the norms of labor legislation.

Yartykh Igor Semyonovich , No. 11 2017

REFORM OF LAWYER IN THE LIGHT OF THE MARKET REGULATION CONCEPT

PROFESSIONAL LEGAL ASSISTANCE DEVELOPED BY THE MINISTRY OF JUSTICE OF RUSSIA

Annotation. In order to implement the State Program "Justice", the Ministry of Justice of the Russian Federation has developed a Concept for the regulation of the professional legal aid market. The concept was supported by the Federal Chamber of Lawyers of Russia. At the same time, this document is actively criticized by the legal community. The concept received a lot of negative feedback from stakeholders, as a result of which the Government of the Russian Federation did not approve it. The document assumed the implementation of such ideas as: a lawyer's monopoly on legal representation in all types of legal proceedings, a lawyer's monopoly on the provision of paid legal assistance, the commercialization of the legal profession through the implementation of market mechanisms in the organization of advocacy.

Litarenko Nikolay Vladimirovich, No. 11 2017

REDUCTION (CLARIFICATION) REGULATIONS AS SUPERIMPERATIVE IN INTERNATIONAL COMMERCIAL TURNOVER

Annotation. The classical conflict-of-law regulation of international contracts in practice often collides with special institutions of private international law, such as public order and super-mandatory rules. The law chosen by the parties to an international contract, or established by the court in accordance with conflict of laws, does not affect the operation of those peremptory norms that, due to their special significance, including for ensuring the rights and interests protected by law of participants in civil turnover, regulate the relevant relations. The concept of superimperative norms in private international law does not have a generally accepted definition. Given that the overwhelming majority of such norms do not have a direct indication of their superimperative status, their identification in practice is significantly complicated. The author comes to the conclusion that the study of the special status of the rule of law should be carried out taking into account not only the normative legal acts, law enforcement practice, but also the doctrine. From these

positions, in a comprehensive manner, the norms on the reduction / clarification of penalties of various legal families are analyzed. The study revealed a heterogeneous approach of the continental system of law to the issue of super-imperativeness of the rules on the reduction / clarification of penalties. Three main approaches to the problem have been identified. Also, taking into account the study of the legal sources of various countries, the approach of the Muslim legal family to the analyzed issue is revealed. It appears to be more homogeneous.

Ibragimov Alikhan Fazilievich , No. 11 2017

CROSS-BORDER BANKRUPTCY: ON THE WAY TO FORMATION OF UNIFIED APPROACHES AND FUR ANISMS OF LEGAL REGULATION

Resume: in the article the author examines the theoretical and practical aspects of transnational bankruptcy cases . In particular, it is proposed to distinguish between the criteria for bankruptcy, complicated by a foreign element, and the procedural models of its implementation. The study is based on the analysis of domestic and foreign legislation, judicial practice and legal doctrine. The paper also provides an overview of the existing approaches in determining the content of the principle of reciprocity, applied in the framework of the exequatur of foreign judgments, and also notes the features of its application by Russian courts. The author believes that the introduction of procedural models into the Russian legal system, which are actively used in Europe and the United States, can serve as an incentive for strengthening interaction and economic cooperation with foreign partners.

Migachev Anton Yurievich , No. 11 2017

With tanovlenii E and development of E STATE FINANCIAL TO warning light in the Russian Federation and the French Republic

Annotation. 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 of reforming th state financial control can be used when updating the system of financial control in Russia. The author made an attempt to trace the origins of the very procedure of state financial control in Russia and France. The article briefly describes the stages of formation and development of the institution of state financial control in Russia and France over the course of eight centuries. The legal foundations of the functioning of state institutions that carried out the functions of control and supervision in the field of finance during this period are considered.

This article may be of interest to students of the course financial law, tax law, budget law, in particular the system of state control (supervision), in addition, the article may be of interest to researchers, and other persons directly involved in the development of procedures and state instruments with which the regulation of the sphere is carried out. public finance.

Jo Eun Jin , # 11 2017

THE CONCEPT OF THE TERM "TAX" IN THE REPUBLIC OF KOREA AND THE RUSSIAN FEDERATION

Resume: The article is devoted to the comparison of the concept of tax in the Republic of Korea and the Russian Federation. The article is determined that the tax is a basic category and plays an important role in theories uu financial law in general, and in fiscal m rights is, in particular . In scientific doctrine, there are many definitions of the concept of tax. On the basis of the existing definitions, the author concludes that in the legal, economic, social and political sciences e tax determination differ . The first in the science of financial law provides a comparative analysis of the considered definitions in the two countries and reveals that the Russian th Federation - there is a legal definition of the tax, which is fixed

in the Tax Code of the Russian Federation (RF) (hereinafter - the Tax Code), at the same time , in the Republic of Korea (hereinafter - RK) this term is not reflected in the law: it exists only in the scientific doctrine.

Zhukova Natalia Vladimirovna , No. 11 2017

ON THE DEFINITION OF THE MECHANISM OF ENSURING THE RIGHT OF CITIZENS TO A FAVORABLE ENVIRONMENT AND THE DISADVANTAGES OF ITS ACTION IN RUSSIA

Annotation: the article reveals the concept of a mechanism for ensuring the realization of the right of citizens to a favorable environment and, based on the analysis of the Federal Law "On Environmental Protection", the Federal Law "On the Protection of Atmospheric Air" and the Forest Code of the Russian Federation, it is concluded that this mechanism It does not justify fully its first assignment I. The study showed that the general social and legal conditions (guarantees) for the realization of the right of citizens to a favorable environment, declared in the scientific doctrine, in practice cannot be fully used by the entire population of our country, without exception. In other words, the mechanism for ensuring the implementation of the citizens' right to a favorable environment, in reality, is not able to fully fulfill the role for which it is intended. It can be stated that the corresponding mechanism is aimed at achieving the opposite goal - instead of ensuring the realization of the right to a favorable environment, it provides a poorly controlled opportunity to use environmental resources.