Dadashev Musa Bakhtiyar oglu, No.4 2018

Formation and systematization of family legal obligations of a man to pay current material costs in Muslim law of the 8th-10th centuries: characteristics and features

Annotation. This article will focus on nafaka - the material obligation of a man in Muslim family law of the 8th-10th centuries. and its formation in the Arab Caliphate. This article will reveal the legal nature of this institution that protects the rights of women in Muslim family law, examines the legal guarantees for a woman to receive this right and the difference from mahr - a premarital gift given by a man to a woman before marriage. Nafaka was subdivided into several types, one of the main and key ones were such as nafaka to provide for the wife and a certain circle of persons. Also, the work illustrated various types of nafaka and their legal nature, studied the approaches of various madhhabs (theological and legal schools) into the circle of persons who was due nafaka. In addition, the article shows the procedure for the appointment of a faculty and the legal mechanism for the removal of a faculty,

Fedin Ilya Gennadievich, No. 4 2018

Conscientiousness as a legal category

Annotation. The article examines the general signs of good faith as a multidimensional concept of Russian law, and substantiates the need for their generalization at the level of legal categorization for the purposes of enrichment, as well as the development of structural elements of the legal system, in which the concept of good faith is included as an evaluation criterion. To solve the tasks set in the work, conscientiousness is considered as a moral concept in the context of the relationship between morality and law. Particular attention is paid to the study of conscientiousness as an evaluative concept, which must be considered from the objective and subjective side, as a qualitative and defensible concept. Conscientiousness in the article is also considered as one of the beginnings of Russian law, a legal principle, a legal axiom, universal concept and fundamental idea

of Russian law. As part of summarizing the analysis of the theoretical and empirical base of the research, the author proposes an approach to understanding conscientiousness as a legal category.

Trofimova Galina Anatolyevna, No. 4 2018

Invalidation legal (including regulatory legal) act as a measure of responsibility

Annotation: Invalidation (cancellation, termination, loss of legal force, recognition as inconsistent with a higher legal force, recognition as inconsistent with the Constitution of the Russian Federation, cancellation) of a legal, including a regulatory legal act, is one of the most significant measures to restore law and order in the country, to protect rights and freedoms of citizens, ensuring that the activities of power structures comply with the law. This article is devoted to the analysis of the legal nature of measures to invalidate legal and regulatory legal acts from the point of view of the possibility of their use as measures of responsibility.

Channov Sergey Evgenievich, No. 4 2018

Development of the constitutional responsibility of deputies of representative bodies of power

Annotation: The article analyzes the issues of responsibility of deputies of representative bodies of municipalities, through whose fault these bodies were dissolved. The author notes the difficulties that may arise with the implementation of this responsibility. At the same time, in his opinion, the use of these measures is correct and in the future it is possible to raise the question of expanding this mechanism. In the article, the author raises the question of the possibility of legislative deprivation of deputies, in respect of whom the fact of inactivity has been established, of the right to run in the next elections.

Kulakov Nikolay Andreevich, No. 4 2018

The institution of administrative responsibility as a way to protect the right to remuneration for service works

Annotation. The article is devoted to the study of the institution of administrative responsibility as a way to protect the right to remuneration for a work of service. The article analyzes the legal foundations of administrative responsibility for offenses in the field of copyright and violation of the right to remuneration, as one of the variants of this offense. Based on the results of the study, the author comes to the conclusion that the violation of the right to remuneration for an employee's work should be isolated into a separate norm of the legislation on administrative responsibility, and also to give the Federal Labor Inspectorate the right to consider cases on this administrative offense. It is also advisable to assign to the said body the verification of compliance with the right to remuneration as a direction of control and supervisory activities.

Ponomareva Karina Aleksandrovna, No. 4 2018

Trends in legal regulation in the field of combating tax abuse: application of international experience in Russian practice

Annotation. The article is devoted to the analysis of trends in legal regulation in the field of combating tax abuse. Changes in Russian tax legislation in recent years are largely due to the use of the experience of international organizations, in particular, the Organization for Economic Cooperation and Development, as well as the implementation of the BEPS plan. The article examines and analyzes the changes in the Tax Code of the Russian Federation, normatively fixing the cases of receiving an unjustified tax benefit by a taxpayer, and a brief analysis of the idea of developing an integrated approach to combating abusive tax practices.

Karkhalev Denis Nikolaevich, No.4 2018

Exemption from contractual liability

annotation: The article deals with the actual problems of protecting civil rights and responsibility in the implementation of the protective function of civil law

in contractual and non-contractual relations. The author analyzed the grounds for exemption from contractual liability. The article proposes to distinguish between the categories of exemption and exclusion of liability. Force majeure is recognized as the main ground for exemption from liability. The article reveals the signs of force majeure - extreme and inevitable. Circumstances that exonerate from liability are also: the fault of the victim (intent or gross negligence), actions of third parties, the authority of the offender (for example, the person does not compensate for harm caused in a state of necessary defense). According to the author, the creditor is not deprived of the opportunity to withdraw from the contract, if due to delay arising in connection with the onset of force majeure circumstances, he has lost interest in performance. In this case, the debtor is not liable to the creditor for losses caused by the delay in the performance of obligations due to the occurrence of force majeure circumstances. Features of exemption from liability are shown on the example of transport and contract relations.

Eliseeva Anna Aleksandrovna, No. 4 2018

Family secret: issues of content and legal protection

Annotation. The article deals with the problematic aspects of the interpretation of the definition of "family secret". The article analyzes the provisions of the current Russian legislation and law enforcement practice in terms of the implementation of the citizens' right to privacy, personal and family secrets. It is stated that in domestic legislation there is no legal definition of the concept of "family secret", but there are only the most general guidelines for determining the place of "family secrets" in the system of protected goods. The author distinguishes between the concepts of "personal secret", "family secret" and "secret of adoption". Reasoned arguments are presented that the constitutional provisions on the right of citizens to family secrets are currently declarative in nature due to legislative uncertainty on the grounds, methods and boundaries of legal protection of family secrets. As an example of the presence of certain gaps in the legal regulation of the studied relations, the relationship of spouses associated with the regime of their property, information about which may constitute a family secret, is considered. The

conclusion is made about the need to improve the current family legislation in the studied area.

Kuryndin Pavel Alexandrovich, No. 4 2018

The right to pre-trial appeal of acts and actions of administrative bodies: peculiarities of implementation in Russia and France

Annotation. This article is devoted to a comparative analysis of the pre-trial procedure for appealing against acts and actions of administrative bodies in Russia and France. The purpose of this analysis is to reveal the features of this institution in both countries and to develop recommendations for improving the Russian legal reality in this area, taking into account the French experience. Despite the fact that in France there are more than 150 mandatory procedures for pre-trial appeal of administrative acts, the French legislator does not establish the mandatory pre-trial appeal for any life situation. The effectiveness of voluntary pre-trial appeal is demonstrated by the example of mechanisms developed in French administrative law that are capable of ensuring a comprehensive and complete consideration of complaints from individuals in an administrative pre-trial procedure. This efficiency is largely facilitated by the requirements for the complaint itself (its subject matter and object), the conditions for exercising the right to pre-trial appeal (deadlines for filing a complaint, the right to demand its consideration within a specified period), as well as the rules for combining the pre-trial and judicial stages of consideration of the complaint. In addition, an important issue is the issue of interim measures related to the suspension of the execution of an administrative act when filing a complaint.

Barabina Maria Pavlovna, No. 4 2018

Features of legal regulation of bankruptcy relations of construction organizations

Annotation. The article highlights and analyzes the features legal regulation of bankruptcy construction organizations. In particular, attention is drawn to an equal level of protection of the interests of construction participants, regardless of the type of contract under which the developer raised funds; feature interim measures in cases of bankruptcy of developers; a special rule for satisfying the claims of creditors - participants in the construction, in relation to other bankruptcy creditors, as well as a special mechanism for repaying the claims of participants in shared construction if the developer has an unfinished facility. The author notes the shortcomings of the legislative regulation of the procedurereplacement of the developer and the transfer of his rights and obligations to the new developer - the acquirer, associated with obtaining a new building permit, lack of standards on the composition of the corresponding and, accordingly, the transferred obligations of the developer, as well as the norms that determine the legal nature and the single name of the agreement on the transfer of the object of construction in progress, the land plot and the obligations of the developer, its essential and other conditions. The article containspossible solutions for the listed problems.

Labzin Maxim Valerievich, No. 4 2018 Exclusive right as an element of legal relationship

Annotation. In the article, based on the theory of imperatives and the doctrine of legal relations, an attempt is made to show the exclusive right not in itself, but as an element of an absolute regulatory legal relationship, where the means of ensuring this right is the passive obligation of each and every one to refrain from using the protected object. Taking into account the general regulatory principle "everything is allowed that is not prohibited", the author believes that it is the passive duty that bears the main function in ensuring the interests of the copyright holder, which are that no one else uses the intellectual property object belonging to him. This view allows us to overcome the shortcomings of the negative concept of exclusive right, which was presented to many researchers as the right to prohibit. According to the author, as part of the exclusive right, which is in its usual, undisturbed state, there is

no such authority. This right presupposes only a duty of inaction established by law by means of a general prohibition to use the object of intellectual property and imposed on all persons other than the copyright holder.

Morozov Pavel Evgenievich,

Olga Shevchenko, No. 4 2018

Legal regulation of hostel activities: problems and solutions

Annotation. The article analyzes the current problems of legal regulation of hostels in the Russian Federation, which are generated by the discussion about the prospects for their further functioning both in the science of civil law, administrative law, constitutional law and labor law, and in the practice of law enforcement. There are two diametrically opposite approaches to solving these problems: securing the legal status of hostels in apartment buildings or introducing a complete ban on their activities in these buildings. Prohibition of hostels in apartment buildings will lead to a number of negative phenomena, namely: potential "criminalization" of hostels; deterioration of the economic situation in a number of constituent entities of the Russian Federation; undermining the foundations of tourism and hotel activities; violation of the labor rights of employees. Hostels are popular with the population. The authors of the article propose to establish the procedure for the functioning of hostels in residential premises, as well as certain restrictions on the organization of their activities. The article also analyzes the positive practice of regulating accommodation facilities in the constituent entities of the Russian Federation.

Kachalova Oksana Valentinovna, No. 4 2018

Accelerated pre-trial criminal proceedings: development prospects

Annotation. The article discusses the issues of creating a new model of simplified proceedings, which would not be excessively cumbersome, meet the needs of law enforcement practice and fully ensure the protection of the rights and

legitimate interests of persons involved in criminal proceedings. The bill on the introduction of a criminal offense is being analyzed. The idea is supported that the prerogative of termination of criminal prosecution against a person who has committed a criminal offense belongs exclusively to the court. The court must resolve this issue in a court session with the participation of the suspect (accused), defense lawyer, victim, his representative, prosecutor.

The author comes to the conclusion that the norms proposed in the draft law have a significant reserve for optimizing pre-trial proceedings. From the standpoint of possible consideration of foreign experience, the protocol form of proceedings on cases of criminal offenses in the legislation of Kazakhstan is analyzed, as well as the model of order proceedings in the criminal process of Kazakhstan. It is concluded that passing a verdict without a court hearing in the absence of the defendant and other participants in the process does not meet the requirements for modern justice. The author comes to the conclusion that it is very promising to establish a shortened period of pre-trial proceedings (10 days) in criminal cases against persons who have committed a criminal offense or other crime of small or medium gravity, criminal prosecution for which can be terminated with the application of a criminal law measure. Abbreviations in proving in such categories of criminal cases are also possible.

Galyashina Elena Igorevna,

Nikishin Vladimir Dmitrievich, No. 4 2018

Forensic linguistic examination of materials of extremist-terrorist orientation: qualifications and competencies of a forensic expert-speech expert

Annotation

The article discusses the issues of professional training and special competencies of a forensic expert who carries out linguistic research of materials of extremist-terrorist orientation, the delineation of analytical scientific activities in the

field of philology and practical forensic expert activities based on the methodology of forensic expertise (theory of forensic examination).

The realities of legal proceedings show that the conclusion of an expertlinguist is assessed today rather meticulously, both in terms of its content, and in terms of the expert's competence, the correspondence of the direction, level and profile of his education to the qualification and professional requirements.

In modern forensic speech, the most dynamically developing area of applied research is forensic linguistic examination, which is part of the class of forensic speech examinations. The need of a law enforcement officer to use special knowledge in linguistics is due to numerous information and documentary disputes, conflicts, in which texts, documents and other products of speech activity are involved, arising in the process of communication of people in all spheres of social relations. butthe problems of the ratio of the specializations of philologists and speech experts, the delimitation of their competencies in the scientific study of the problems of using the laws established in philological science, and the variety of methods developed in linguistics in forensic expertise remain undeveloped to this day.

Bondarenko Lyudmila Konstantinovna, No. 4 2018 The difference between artistic creativity and crime (on the example of the work of P. Pavlensky)

Annotation: The problem of uniformity of understanding of the basic concepts of forensic art criticism is revealed. The concept of "activity" is investigated in the art history, psychological and legal context. It is noted that the uniformity of understanding of this term has been prepared by the research of L. S. Vygotsky, A. R. Luria, S. L. Rubinstein, A. A. Leontiev, etc. On the basis of this, a concept of creativity is proposed that is relevant in expert activity. In order to determine the signs of artistic creativity, the actions of the representative of contemporary Russian (border) art P. Pavlensky are analyzed. On the grounds highlighted: philosophical, psychological, art history, legal, there are signs that distinguish various types of activities that are

relevant in forensic art history examination. It is proved that that there is an objective level of understanding of creativity, which is revealed as a result of comparing various types of activity. Based on the general scheme of behavior of subjects (mechanism of action): motive, motivation, action, result of activity, assessment, it is proved that, despite the subjective level of understanding of creativity, on the basis of the selected objective criteria, it is possible to establish signs: creativity, play, offense, crime ... It is argued that this is relevant when establishing the subject of evidence; choosing the type of forensic art criticism; despite the subjective level of understanding of creativity, play, offense, crime. It is argued that this is relevant when establishing the subject of evidence; choosing the type of forensic art criticism; despite the subjective level of understanding of creativity, on the basis of the selected objective criteria, it is possible to establish signs: creativity, play, offense, crime. It is argued that this is relevant when establishing the subject of evidence; choosing the type of forensic art criticism; correct determining the subject of forensic art examination.

Urda Margarita Nikolaevna, No. 4 2018

Countering Illegal Migration as a Direction of Russian Criminal Policy

Annotation. This article examines the features of the formation of a new direction of Russian criminal policy - the policy of combating illegal migration, which, being an integral part of the national policy, is the activity of the state in defining socially dangerous violations in the field of illegal migration, the limits of punishment in the criminal law and directly related to it migration legislation. relevant acts, as well as the result of such activities, which is a prerequisite for improving legislation and the practice of its application in the field of migration. The author defines the main directions of the criminal policy of combating illegal migration.

Lutkova Oksana Viktorovna, No. 4 2018

System-forming principles in the general classification of the principles of legal regulation of cross-border copyright relations

The article examines the concept and defines the place in the legal regulation of special legal norms - the principles of legal regulation of cross-border copyright relations. A general classification of the principles of legal regulation of cross-border copyright relations is proposed, which includes three independent groups: systemforming principles, special substantive and special conflict-legal principles. The group of backbone principles of copyright is considered in detail - the guiding rules operating in all systems of copyright protection: international, cross-border and national; and forming the specifics of copyright as an object of protection. Special substantive and conflict-of-law principles operate precisely in the system of legal regulation of cross-border copyright relations. The author includes the principle of exclusiveness of copyright, the principle of urgent protection, the principle of protection in favor of the author and his successors to the backbone principles of regulation in copyright. The system-forming principles mainly originated in the national copyright law of different states, which initially applied only to their own citizens of these states, were subsequently reproduced in basic international agreements and extended to international legal protection, as well as, accordingly, to the regulation of cross-border copyright relations.

Isaeva Klara Asangazyevna Saylkhanova Saida Aydarbekovna, No. 4 2018

The main factors affecting the intensification of the criminal activities of organized crime groups in the field of terrorism and illegal arms trafficking in certain CIS countries

Annotation: the article presents the results of the analysis of certain areas of criminal activity committed by transnational organized crime based on the materials of the Kyrgyz Republic, the Russian Federation and the Republic of Kazakhstan at the present stage. The study formulates and outlines current trends and specific circumstances affecting the commission in these states of such most dangerous

crimes as: international terrorism, illegal international arms trafficking, etc. The article examines the relationship between modern terrorism going beyond national borders in the CIS countries; the tendencies of the expansion of terrorism and illegal arms trafficking with the activities of organized crime groups in the CIS countries are outlined. The article reflects a specific set of factors, which influenced the merging of terrorism with transnational and domestic organized crime in the CIS countries in general, and in Kyrgyzstan in particular. Special emphasis is placed on the features of modern political terrorism, which is interconnected with political extremism, as well as the aggravating ethnic and clan and religious movements that are most widespread in the Central Asian region, including the Kyrgyz Republic. The main reasons for the spread of illegal arms trafficking in some CIS countries, where the political component also played a key role, are reflected. most widespread in the Central Asian region, including the Kyrgyz Republic. The main reasons for the spread of illegal arms trafficking in some CIS countries are reflected, where the political component also played a key role. most widespread in the Central Asian region, including the Kyrgyz Republic. The main reasons for the spread of illegal arms trafficking in some CIS countries are reflected, where the political component also played a key role.

Karpyshev Maxim Andreevich, No.4 2018

Comparison of procedures related to the issuance, recognition and enforcement of international commercial arbitration awards in Russia and Japan

annotation: The article attempts to compare the decision-making process of institutional international commercial arbitration in countries such as the Russian Federation and Japan. The norms of state law, internal regulations of institutional arbitration organizations represented in the form of the International Commercial Arbitration Court at the CCI and the Japanese Commercial Arbitration Association, as well as unified norms of international law and bilateral agreements are

consistently and comprehensively compared. Issues of issuing a dissenting opinion of the arbitrator are considered; distribution of the arbitration costs of the parties involved in the case; amicable agreement; identification and correction of errors; interpretation of decisions. Attention is paid to such an important issue as the recognition and enforcement of a foreign arbitral award.

Sitnik Veronika Vasilievna, No. 4 2018

Theoretical aspects of prosecutorial supervision over the execution of laws by bodies carrying out inquest

annotation... This article is devoted to the study of the prosecutor's supervision over the procedural activities of the bodies of inquiry. The article analyzes the concept of prosecutor's supervision, its subject, the elements that make up the subject, the limits of prosecutor's supervision over the procedural activities of the bodies of inquiry. On the basis of the study, the author's definition of prosecutorial supervision over the procedural activities of inquiry bodies is proposed as a type of prosecutor's activity, which is predetermined by the social purpose of the prosecutor's office, aimed at identifying, eliminating and preventing violations of laws when considering reports of crimes and investigating crimes committed by the inquiry bodies, attracting perpetrators to the liability established by law, carried out with the use of the powers established by law and the legal means of their implementation. Also, based on a comparison of doctrinal definitions, it was determined that the subject of supervision can be understood as the legality of the procedural activities of the bodies of inquiry, which meets the purpose of criminal proceedings, when considering reports of crimes and investigating criminal cases. For the purpose of an accurate and uniform approach to determining the subject of prosecutorial supervision, the author is invited to state paragraph 2 of Art. 1 and the title of Chapter 3 of the Law on the Prosecutor's Office in the following edition "Prosecutor's supervision over the operational-search and procedural activities of the internal affairs and justice bodies." The article also refers to the expansion of the procedural independence of the head of the body (subdivision) of inquiry by

transferring to the latter a number of powers of the prosecutor in pre-trial proceedings, such as: to allow the recusals declared to the inquiry officer, as well as his self-recusals; to remove the inquiry officer from further investigation if he violated the requirements of the Code of Criminal Procedure of the Russian Federation; make decisions on the joining of criminal cases; as well as by excluding from the powers of the prosecutor the right to give written instructions on the direction of the investigation, the production of procedural actions. At the same time, the author proposes to amend the Code of Criminal Procedure of the Russian Federation, expanding, inter alia, the procedural independence of the prosecutor,

Kalenkov Alexey Yurievich, No. 4 2018

Evaluation compensation for losses due to the seizure of land plots for state (municipal) needs: problems of legal regulation

Brief annotation: The article analyzes the main points of view and approaches to the mechanism of legal regulation of the procedure for the seizure of land plots for state or municipal needs, in the aspect of compensation for losses to the copyright holders of the seized land plots.

The author comes to the conclusion that at the moment there is no optimal and balanced criterion of "fair compensation" for compensation for losses due to the seizure of land plots for state needs within the framework of land legal relations, which has direct practical application. Taking this into account, a proposal is being formulated to supplement the provisions of the current legislation in terms of assessing the legal category of "fair compensation" for losses due to the seizure of land plots for state or municipal needs.

Gracheva Yulia Viktorovna, Alexander Korobeev, Sergeev Danil Nazipovich, No. 4 2018

Refugees and global migration
(Review of the IX session of the International Forum

"Crime and criminal law in the era of globalization")

Annotation. The article is devoted to the activities of the IX session of the International Forum "Crime and Criminal Law in the Era of Globalization", held on December 9-12, 2017 in India. The session was held on the theme "Perspectives of Refugees and Global Migration" and brought together more than 60 delegates from 13 states (Argentina, Bulgaria, Bosnia and Herzegovina, Brazil, India, Spain, Italy, Kenya, Macedonia, Poland, Russia, Serbia, Philippines). Forum participants discussed global and local patterns of movement of migrants, human trafficking, crime and criminal behavior among migrants. The article contains the main provisions of the reports of the participants of all delegations of the forum. The most detailed reports are given by the Russian delegates. Yu.V. Golik suggested using the concept of "criminological futurology" to characterize the predictive direction of the science of crime, revealing the main futurological problems. V.P. Konyakhin spoke about the international experience in the criminalization of illegal migration and the problems of the implementation of international norms in the Criminal Code of the Russian Federation. A.I. Korobeyev and Ya.O. Kuchina presented a report on the problems of determining the jurisdiction of the criminal law in relation to "cloud data", as well as on the access of law enforcement agencies to such data. AND I. Kozachenko spoke about the content of national and international anti-terrorist measures and the models used in the design of these measures. ON THE. Lopashenko presented the developed scale of four degrees of risks of criminality of migration processes. D.N. Sergeev made a report on the study of the spread of radical views among convicts in Russian correctional institutions. A.I. Chuchaev and Yu.V. Gracheva presented a report on the concept and social danger of illegal migration. A number of delegations (Argentina, Spain, Brazil) focused on the problems of protecting the rights of migrants in criminal proceedings, creating social institutions for migrants. The reports of the representatives of Bosnia and Herzegovina, Italy, Serbia, Macedonia dealt mainly with the criminal-legal problems of illegal migration. The speeches of the Indian delegation touched upon the economic, social, environmental and political preconditions of outgoing migration. Macedonia dealt

mainly with the criminal-legal problems of illegal migration. The speeches of the Indian delegation touched upon the economic, social, environmental and political preconditions of outgoing migration. Macedonia dealt mainly with the criminal-legal problems of illegal migration. The speeches of the Indian delegation touched upon the economic, social, environmental and political preconditions of outgoing migration.

Poduzova Ekaterina Borisovna,

Krasavchikova Larisa Ivanovna, No. 4 2018

Expert platform "Legal problems of housing stock renovation"
(November 28, 2017, within the framework of the XIII Annual Scientific and Practical Conference "Kutafin Readings" of the O.E. Kutafin University (MSLA) and the XVIII International Scientific and Practical Conference of the Law Faculty of M. V. Lomonosov: an overview of the event

Annotation. The article presents the main aspects of the speeches within the framework of the scientific section-expert platform "Legal problems of the renovation of the housing stock", which took place on November 28, 2017 at the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy), a summary of the reports of the participants is also presented.

The scientific section-expert platform was based on the main results of the reform of the housing law of the Russian Federation in the light of the new course of development of the housing stock in Russia on the basis of renovation measures, current trends in legislation, lawmaking, civil science and law enforcement practice. The court practice was also taken into account, which contains new approaches to the interpretation of the norms of modern Russian housing law.

During the scientific section-expert platform, the participants and moderators presented and analyzed the main directions of modern legal practice and science in the field of theoretical and practical problems of renovation in the light of the reform of the housing law of the Russian Federation.