Ershova Inna Vladimirovna, No. 11 2018

Law and Business 2018 - the tradition continues

Annotation. The article provides a brief overview traditional VII All-Russian Scientific and Practical Conference Law and Business "Legal Environment of Business: Integration of Science, Education, Practice", held on June 1, 2018 at the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy). The main speakers are indicated, attention is paid to the problems of the reports and the modular format of the scientific event.

Feyzrakhmanova Daria Rinatovna, No.11 2018

Reforming the institution of large transactions and related-party transactions: results, problems and prospects

annotation... The article highlights the results of the VII International Scientific and Practical Conference Law and Business "Legal environment of business: integration of science, education, practice" and the round table "Large transactions: problems and prospects." A palette of opinions of leading experts in this field is presented, as well as conclusions and recommendations aimed at improving the legal regulation of the institution of large transactions and interested-party transactions in Russian law.

Levushkin Anatoly Nikolaevich, No. 11 2018

Family entrepreneurship in the system of small and medium-sized businesses: legal nature and ways of development

Annotation. Family entrepreneurship is traditionally considered to be the most widespread type of business, prevailing in quantitative terms in countries with developed market economies.

This article analyzes family entrepreneurship, its role in the system of small and medium-sized businesses in the Russian Federation. Analyzed certain approaches in relation to the concept and essence of family entrepreneurship. The

legal nature of family business and the peculiarities of family business in the Russian Federation are revealed. The features of family business and the legal status of a family business are determined. The prospects for the development of family entrepreneurship in the Russian Federation have been determined and a conclusion has been drawn about the separation of family entrepreneurship into an independent type of entrepreneurial activity and the need for its special legal regulation.

Efimtseva Tatyana Vladimirovna, No. 11 2018

TOhotel lassifications in the Russian Federation

Annotation. This article is about the fact that the development of tourism in our country directly depends on the cost and quality of hotel services. These indicators are reflected in ghotel classification, which seems ambiguous and fuzzy, and therefore causes certain problems in its application in practice.

The author refers to the main problems of the legislative classification of hotels: the lack of a unified classification system for all types of hotels, the undeveloped procedure for passing the classification, the overestimated cost of the hotel classification procedure. It will be possible to overcome these shortcomings if an appropriate regulatory legal act is adopted that regulates the procedure for classifying hotels and provides for various parameters of the quality of hotel services.

Inshakova Agnessa Olegovna, No. 11 2018

Schengen Information System: European Experience in Legal Development of Telecommunication Technologies of the Integration Association

Annotation. The article is devoted to pan-European information technologies and software and hardware aimed at optimizing control over the increase in migration flows of the population, crossing the state borders of the pan-European

territory included in the Schengen zone, in the face of the growing threat of international terrorism, intensification of international relations and expansion of interstate cooperation. The historical prerequisites for the creation of the Schengen information system, the main milestones in the formation of its architecture and legal regulation are identified. The priority directions of improving the Schengen information system in modern conditions are investigated, legislative measures are determined to ensure the process of formation of the “European space of freedom, security and justice”. It is claimed that a positive effect should be expected from the introduction of the European Search Portal, in particular in terms of the impact on migration and the asylum procedure. Measures are listed to minimize the risks of fraudulent actions with personal identification data. It is recommended that a European strategy for integrated border management be developed, serving both the migration policy and the security policy of the Union. It is noted that the need to study common European information technologies for the formation of a "European space of freedom, security and justice" is due to the tense foreign economic and foreign policy situation, sanctions against our state and reorientation to cooperation of member countries of integration associations with the participation of the Russian Federation.

Zankovsky Sergey Sergeevich, No. 11 2018

Problems of property liability of the developer of aviation equipment for damage caused by it structural defects

Annotation: The article discusses the features that characterize the developer of aviation technology, and on this basis, the concept of a given participant in civilian turnover is formulated. Based on this, an attempt was made to determine the boundaries of his liability for damage caused by structural defects of aircraft.

In the author's opinion, the general legal principle of fairness requires bringing aircraft developers to responsibility in the form of compensation for damage caused. To this end, part 4 of Article 37 of the Air Code of the Russian Federation should be supplemented with an indication of the developer's functions in the period after the

development of design documentation for aircraft, namely: the establishment of increased resources or service life of aircraft, technical support, field supervision during its production, operation and repair. ... The next step should be the formation of judicial practice on disputes on compensation for damage with the participation of aircraft developers. The study of the practice of courts in economic disputes in various categories of cases shows

Gromova Elizaveta Alexandrovna, No. 11 2018

Problems of balancing private and public interests of the parties to business agreements

Annotation. The article is devoted to the issues of ensuring the private and public interests of participants in agreements on the implementation of entrepreneurial activity (agreements on the conditions of activity) within the boundaries of territories with a special regime of economic activity. The author comes to the conclusion that the current legislation does not fully ensure the interests of the counterparties of these agreements and proposes solutions to the identified problems.

As one of the problems, the author considers the absence in the current legislation of a clear indication of the sectoral affiliation of agreements on the implementation of activities in the SEZ. Consistently substantiating the civil-legal nature of such agreements, the author considers it necessary, in order to eliminate possible disputes regarding the sectoral affiliation of the agreements under study, to supplement the legislation with provisions that would indicate the civil-legal nature of these agreements.

The article also notes that ensuring the balance of the parties to the agreements (contracts) under consideration is also hampered by the fact that in the legislation on agreements on the implementation of entrepreneurial activity (agreements on the conditions of activity), the norms on the responsibility of their parties are either absent at all, or are not disclosed to the proper extent. In this regard, it is advisable to point out that each of the counterparties under an agreement on the

implementation of entrepreneurial activity (an agreement on the conditions of activity) should be liable in accordance with the current legislation of the Russian Federation.

Ulbashev Alim Khuseynovich, No. 11 2018

"Two Bodies of a Corporation": Legal Personality of a Legal Entity and Certain Problems of Corporate Responsibility

Annotation:the problems of civil liability are one of the oldest and at the same time complex in civil law theory. The main approaches to understanding responsibility were formed back in the Soviet period, when the legislator refused in principle to recognize many traditional institutions of private law (first of all, corporate law). Today, in the context of the revival of corporate law in the system of Russian legislation, there is a question of the need to revise and update approaches to understanding responsibility. In this regard, the article offers the author's view of civil liability, taking into account the peculiarities of the corporate relations themselves, as well as guilt as one of the most important grounds for bringing to civil liability. The corresponding conclusions are based on the provisions of domestic and foreign doctrine, and also correspond to the established judicial practice. Although the author proceeds from the premise that responsibility in corporate relations is sui generis, that is, it presupposes a combination of private and public law principles, nevertheless he denies the possibility of recognizing corporate law as a "complex" branch of law due to the predominance of civil law. started. In conclusion, the author gives his own understanding of the "two bodies of a corporation", and also explains the significance of this concept for the application of civil liability. that is, it presupposes a combination of private and public law principles, nevertheless, he denies the possibility of recognizing corporate law as a "complex" branch of law due to the predominant significance of civil law principles. In conclusion, the author gives his own understanding of the "two bodies of a corporation", and also explains the significance of this concept for the application of

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Tselovalnikova Irina Yurievna, No. 11 2018

Civil liability of participants in corporate relations

Annotation. This article discusses general provisions on civil liability as a type of legal liability, types of civil liability. The specificity of civil liability of participants in corporate relations has been investigated. The paper analyzes the current legislation and judicial practice of applying the provisions on civil liability, establishing the criteria for "actual opportunity" and the legal characteristics of "connectedness relations" in the field of corporate relations in cases of insolvency (bankruptcy). Based on the results of the study, the author comes to the conclusion that in order to solve the problems of law enforcement practice, in order to ensure the effectiveness of the application of the current regulatory provisions on liability in corporate relations,

Mikhailov Andrey Valerievich, No. 11 2018

Problems of the formation of the digital economy and the development of business law

Annotation. The article analyzes the content of the category “digital economy, identifies its main features, draws conclusions about how the science of business law and legislation on entrepreneurial activity should respond to the digitalization processes taking place in Russia. Two main strategies for the digitalization of the economy are investigated: market and planned. The tendencies of the Russian legislation of recent years are revealed. The analysis of certain types of digital technologies is carried out and their influence on the development of legislation is investigated. An assessment of the impact of digital technologies on

the interaction of business entities is proposed. The problem of determining the legal regime of artificial intelligence is also supported.

Ermolova Olga Nikolaevna, No. 11 2018

Social aspects of entrepreneurship

Annotation. The article is devoted to the study of the social value of entrepreneurial activity and the possibility of its consolidation in legislation. The author notes the positive and negative social consequences of the activities of entrepreneurs; the factors influencing the social performance of entrepreneurship are highlighted. In the aspect of the internal factor, the author examines the importance of social responsibility of an entrepreneur for the economy, society and the state.

Based on the study, the author notes that social responsibility is manifested, in particular, in the decision by trade enterprises to sell their goods to retirees with discounts at certain working hours, in the provision of services by service organizations to pensioners and students at different, lower rates than for other citizens, other similar cases.

Legal formalization of the social responsibility of an entrepreneur finds its embodiment in acts of the local level - orders, orders, regulations - and should be one of the grounds for classifying an entrepreneur as a subject of social entrepreneurship.

Ananyeva Anna Anatolyevna, No. 11 2018

The role of operator services in traffic management and responsibility for their improper performance as a condition for the development of mixed passenger traffic

Annotation. The article examines the role of the operator in organizing passenger transportation in direct mixed traffic, civil-law means of managing such transportation, as well as responsibility for improper performance of his duties to provide such services. Russian legislation absolutely does not take into account today the global trend aimed at imposing responsibilities for the organization of

transportation in direct mixed traffic on the multimodal transport operator, which assumes responsibility for the implementation of the entire range of services for the delivery of passengers and baggage in direct mixed traffic, which is criticized by the author ... In addition, the author insists that the powers of the operator of multimodal transportation of passengers and baggage, in addition to organizing services related to transportation, should include planning, accounting and control,

Ershov Denis Valerievich, No. 11 2018

Improvement of bankruptcy legislation in terms of regulating the procedure for holding tenders

Annotation. The article discusses the provisions of the draft Federal Law "On Amendments to the Federal Law" On Insolvency (Bankruptcy) "and certain legislative acts of the Russian Federation in terms of improving the procedure for the sale of property in bankruptcy", in particular, such proposals as: the abolition of the "tender", "bidding by means of a public offer" and the organization of bidding on the principle of the "Dutch auction" (mixed bidding procedure), which provides that bidding is carried out by means of a sequential step-by-step change (increase, decrease) of the initial price by one bidding step; expanding the list of entities capable of acting as the organizer of the auction and establishing the responsibility of the arbitration manager for compliance with the procedure for holding the auction, including when the organizer of the auction is involved in their conduct; introduction of the obligation of the bidder to purchase property at the price specified in the bid for participation in the bidding; establishing the minimum amount of the deposit for participation in the auction, as well as securing the possibility of its transfer by a third party; determination of the initial sale price of the property based on its liquidation value; limiting the range of electronic platforms on which trading in electronic form can be conducted in bankruptcy procedures. The author draws a conclusion about the degree of elaboration of these proposals, the possibility of practical implementation of the legislative initiative, expresses a point of view on the issue of ways to improve the existing procedure for conducting trade procedures.

specified in the application for participation in the auction; establishing the minimum amount of the deposit for participation in the auction, as well as securing the possibility of its transfer by a third party; determination of the initial sale price of the property on the basis of its liquidation value; limiting the range of electronic platforms where trading in electronic form can be conducted in bankruptcy procedures. The author draws a conclusion about the degree of elaboration of these proposals, the possibility of practical implementation of the legislative initiative, expresses a point of view on the issue of ways to improve the existing procedure for conducting trade procedures. specified in the application for participation in the auction; establishing the minimum amount of the deposit for participation in the auction, as well as securing the possibility of its transfer by a third party; determination of the initial sale price of the property based on its liquidation value; limiting the range of electronic platforms on which trading in electronic form can be conducted in bankruptcy procedures. The author concludes about the degree of elaboration of these proposals, the possibility of practical implementation of the legislative initiative, expresses a point of view on the issue of ways to improve the existing procedure for conducting trade procedures. determination of the initial sale price of the property on the basis of its liquidation value; limiting the range of electronic platforms on which trading in electronic form can be conducted in bankruptcy procedures. The author draws a conclusion about the degree of elaboration of these proposals, the possibility of practical implementation of the legislative initiative, expresses a point of view on the issue of ways to improve the existing procedure for conducting trade procedures. determination of the initial sale price of the property on the basis of its liquidation value; limiting the range of electronic platforms on which trading in electronic form can be conducted in bankruptcy procedures. The author concludes about the degree of elaboration of these proposals, the possibility of practical implementation of the legislative initiative, expresses a point of view on the issue of ways to improve the existing procedure for conducting trade procedures.

Panova Albina Sergeevna, No. 11 2018

Technical regulations: features of the legal nature and regulatory impact on entrepreneurial activity

Annotation: There are several approaches (concepts) to determine the legal nature of technical regulations: documentary concept, concept of normative legal act, concept of technical barrier. The author proceeds from the fact that the technical regulation is a source (form) of law, acts as a legitimate restrictor of the freedom of entrepreneurs who produce and sell products (goods) in the regime of civil law contractual relations. The supporting structure of the regulations, directly aimed at ensuring the safety of goods, are technical and legal norms. The article shows that technical regulations are capable of exerting various kinds of regulatory impact on the activities of entrepreneurs (both positive and negative). One of the manifestations of the positive impact of technical regulations on the economy and business activity is expressed in the possibility of establishing by the state through these regulations the same obligations for all market participants (manufacturers, executors, sellers) in terms of ensuring the entry of good-quality goods into the market. As a result, an economically stronger group of entrepreneurs is deprived of the opportunity to abuse their rights in relation not only to consumers of goods, but also to economically weaker market participants (manufacturers, performers, sellers). However, under certain circumstances, technical regulations can be used as tools for lobbying the interests of certain groups of entrepreneurs (most often, representatives of large business).

Alena Vyacheslavovna Spiridonova, No. 11 2018

Antimonopoly restrictions on the share of retail chains in the food market

Annotation. The article examines the problems of the effectiveness of the mechanism of antitrust restrictions in relation to the share of retail chains selling food products on the market. Based on the analysis of the judicial and law enforcement practice of the antimonopoly authorities, the author concludes that,

despite the restrictions imposed by the antimonopoly legislation on the volume of market share of 25%, retail chains in the market often occupy a much larger share, which is due to both imperfect legislation and the use retail chains of various ways of circumventing the law. In order to increase the efficiency of antimonopoly regulation in the retail food market, the author proposes to move from a prohibitive to a preventive regulatory mechanism, to remove restrictions on the maximum share of a retail chain's presence in the market,

Trofimova Elena Valerievna, No. 11 2018

Microenterprise address in the digital economy: transformation of approaches

Annotation. The article examines the issue of the discrepancy between the current legal requirements for addressing microenterprises to the realities of the digital economy. The problems of law enforcement practice and legislative initiatives in this area are analyzed, proposals for improving legal regulation are formulated. The author supports the implementation of the concept of business registration in Russian legislation without specifying the actual address. A radical change in approaches to control over the creation and activities of legal entities will require not only political will to stop putting undue pressure on business, but also the resolution of many emerging legal problems (for example, determining the place of storage of documents of a legal entity), since this approach allows state registration of legal entities to continue. perform an information function.

Demina Maria Alexandrovna, No. 11 2018

Legal regulation of scientific and innovative activities of medical organizations

Annotation. In the article, the author examines normative legal acts both at the level of laws and at the level of bylaws, regulating the scientific and innovative activities of medical organizations, in order to determine the proper legal regulation

of these types of activities, corresponding to the existing realities. Based on the study, the author comes to the conclusion about the imperfection of the current regulatory framework in this area. This conclusion is justified by the fact that, firstly, the fundamental law in the field of scientific activity - Federal Law No. 127-FZ of 23.08.1996 "On Science and State-Technical Policy" is outdated and its norms cannot adequately regulate modern science in the field of medicine, since it was adopted more than twenty years ago, and during this period of time, significant changes have occurred, in particular, high-tech medical equipment has been created, innovative developments are being introduced into the practice of medical organizations. Secondly, the fundamental law regulating innovation in general has not yet been adopted, which undoubtedly creates problems in the legal regulation of innovation in medical organizations.

Batiev Levon Vladimirovich, No. 11 2018

"Court" as a stage of the Russian adversarial process and its transformation in the late 17th - early 18th centuries.

Annotation. The article examines the main stage of adversarial proceedings, taking into account the reforms and amendments to them in the late 17th - early 18th centuries. This stage - "court", and after the decree on February 21, 1697 - "interrogation" was an exchange of the plaintiff and the defendant, an exchange of statements (the claim, the answer to it, the objections of the plaintiff and the defendant), after which the judicial investigation of the claimed claim and evidence began parties. The abolition of "court" and "confrontation" by Peter I did not mean the transformation of an adversarial process ("trial and investigation" in the terminology of the 17th century) into a search process. In fact, the role of the judge has only been strengthened, the ability of the parties to exchange mutual accusations has been reduced.

Legal proceedings of the "Moscow" period, despite careful study down to the smallest details the trial turned out to be ineffective.Decisive measures taken by Peter I to radically break the old forms did not lead to the abolition of the adversarial

form of legal proceedings and its main element - "court". The unification of legal proceedings by the decree of 1723 "On the form of the court" did not take place, and the "form" itself was pushed to the periphery of judicial practice.

Kravets Igor Alexandrovich, No. 11 2018

Constitutional law and teleology: the subject and method of the meta-branch, the scope of constitutionalization and cross-sectoral harmonization

The article discusses the problems of identifying constitutional law as a meta-branch, the boundaries of the subject and method in intersectoral harmonization. The relationship between constitutional law and teleology as a science of goals and expediency is revealed. The theoretical foundations of constitutional teleology are formulated, which forms a request for hierarchy and coordination of constitutional and other legal sectoral values and interests. Taking into account the positions available in science, the author substantiates the complex nature of the subject of constitutional law, the expansion of the subject of constitutional and legal regulation under the influence of integration processes and the constitutionalization of the rule of law and branches of Russian law.

Methodologically, doctrinal legal constructivism is used to construct the subject of constitutional law. The article considers scientific approaches to the dialectics of the development of the subject of constitutional law and the reflection in it of the principles of constitutional universalism and constitutional identity. The author proposes to identify traditional and universal, innovative and distinctive social relations within the framework of the subject of constitutional law. Special attention is paid to constitutional identity as a necessary element of the meta-branch, the development of the subject area of constitutional law due to the effect of constitutionalization of the rule of law and branches of Russian law. Traditionalism and a narrow approach to the boundaries of the subject of constitutional law are critically assessed, new vectors in the development of constitutional law are noted, as well as the most important areas of constitutionalization as new subject areas of constitutional and sectoral regulation. Within the framework of the discussion about

the universality of the constitution and constitutional law, the existence of an implicit or explicit constitutional issue in each branch of Russian law is stated: 1) referring the subject of the branch to a certain type of subject of jurisdiction (which can either be directly enshrined in the text of the Constitution of the Russian Federation, or derived through the interpretation of its norms) , 2) constitutional powers of public authorities in the field of sectoral lawmaking, law enforcement and interpretation of sectoral norms.

Isaeva Nina Valentinovna, No. 11 2018

The subject of constitutional law in an anthropological context

Annotation. The science of constitutional law needs to more decisively turn to non-classical methodology, conditioned by three global scientific turns of postmodernism: linguistic, anthropological, and practical. The anthropological approach considers a person to be the center of social reality, of which legal reality is a part. This is consistent with the constitutional principles of the highest value of a person and his rights, formal equality, and dignity of the individual. In the context of legal anthropology, the subject of constitutional and legal regulation, first of all, should be those social relations within the framework of which a person is formed and realized as a person in the conditions of the national legal system.

It becomes important to regulate those social relations where the civic activity of the individual is manifested, first of all, law-making and legislative initiatives. This requires a change in attitude towards the nature of law. Based on the meaning of Articles 2 and 3 of the Constitution of the Russian Federation, the system of human (interpersonal) interactions can give rise to something new in public life, entailing a change in power relations. At the same time, law in general, including sectoral constitutional law, should develop as a positive result of human activity, an important element of the progressive evolution of society, contributing to the development of the individual, his self-knowledge and self-realization, the achievement of such a legal quality as legal identity.

Identity is one of the elements of anthropological discourse. From the author's point of view, the legal theory of identity includes three aspects: philosophical and legal, theoretical and legal, and sectoral. The categories "legal identity" and "constitutional identity", on the one hand, act as a qualitative legal characteristic of a social subject, on the other hand, they allow analyzing the place of a person in law and legal reality in general.

Titova Elena Viktorovna, No. 11 2018

The subject of constitutional law and the constitutional image of a legal person

Annotation. The article analyzes the constitutional and legal interpretation of the concept "person". The influence of the process of socio-political transformations, a change in attitude towards the role of the Constitution of Russia in the life of an individual, society, state, as well as a change in the paradigms of cognition in constitutional and legal science on the transformation of the subject of constitutional law are noted. It is proposed to use the methodological resources of the philosophy of law, philosophy of the constitution and legal anthropology in constitutional and legal research. The concept of “man” is proposed as a basic constitutional and legal concept that embodies the complex dialectical nature of the integration of a meaningful and positive form of legal freedom (natural and positive law). It is concluded that the modern knowledge of the legal person in the science of constitutional law, is located in two planes - ideological and praxeological. The foundations of the constitutional and legal status of a person and a citizen legitimize the main boundaries, frameworks and forms of legal behavior of individuals in society and the state, personify the interests of social strata of society and are an identifier of the legitimacy of the Constitution itself. The ratio of the actual and legal status of an individual can act as a determinant for the adoption of a new constitution or reform of the current one. The praxeological significance of the constitutional and legal status of a person and a citizen is that it brings theoretical research closer to understanding the vector of practical implementation of constitutional ideas and acts as a means of dialogue between a person and the state. The foundations of the

constitutional and legal status of a person and a citizen legitimize the main boundaries, frameworks and forms of legal behavior of individuals in society and the state, personify the interests of social strata of society and are an identifier of the legitimacy of the Constitution itself. The ratio of the actual and legal status of an individual can act as a determinant for the adoption of a new constitution or reform of the current one. The praxeological significance of the constitutional and legal status of a person and a citizen is that it brings theoretical research closer to understanding the vector of practical implementation of constitutional ideas and acts as a means of dialogue between a person and the state. The foundations of the constitutional and legal status of a person and a citizen legitimize the main boundaries, frameworks and forms of legal behavior of individuals in society and the state, personify the interests of social strata of society and are an identifier of the legitimacy of the Constitution itself. The ratio of the actual and legal status of an individual can act as a determinant for the adoption of a new constitution or reform of the current one. The praxeological significance of the constitutional and legal status of a person and a citizen is that it brings theoretical research closer to understanding the vector of practical implementation of constitutional ideas and acts as a means of dialogue between a person and the state. personify the interests of social strata of society and are an identifier of the legitimacy of the Constitution itself. The ratio of the actual and legal status of an individual can act as a determinant for the adoption of a new constitution or reform of the current one. The praxeological significance of the constitutional and legal status of a person and a citizen is that it brings theoretical research closer to understanding the vector of practical implementation of constitutional ideas and acts as a means of dialogue between a person and the state. personify the interests of social strata of society and are an identifier of the legitimacy of the Constitution itself. The ratio of the actual and legal status of an individual can act as a determinant for the adoption of a new constitution or reform of the current one. The praxeological significance of the constitutional and legal status of a person and a citizen is that it brings theoretical research closer to

understanding the vector of practical implementation of constitutional ideas and acts as a means of dialogue between a person and the state.

Sibileva Anna Yurievna, No. 11 2018

The limits of regulation of the political rights of citizens as a subject of constitutional law

Annotation:The article presents an analysis of the limits of the political rights of citizens in the context of constitutional and legal regulation, analyzes the specifics of this category, the issues of the legality of their restriction, and also proposes a classification of the corresponding restrictive measures. Public relations are developing dynamically, constantly receiving new content, therefore, the list of political rights of citizens, which are one of the key elements of the subject of constitutional and legal regulation, cannot be exhaustive. At the present stage, legal relations associated with the development of network information and communication technologies are actively being formed, requiring clarity and unambiguity in their normative consolidation. Among researcherš there is no consensus on the limits of state regulation of the rights and freedoms of a citizen. Therefore, it is required to analyze the legal acts in which these limits are legislatively enshrined, which makes it possible to highlight the various methods used in the formulation of legal restrictions on the political rights of citizens. When analyzing the issues of the legality of such restrictions, it is necessary to remember about the possibility of interpretation by the legislator and law enforcement officer of a broad interpretation, which may lead to excessive restrictions on human rights and freedoms. It is also important to note the need to exclude the possibility of a double-digit interpretation of the rules of law governing this area. it is necessary to remember about the possibility of interpretation by the legislator and law enforcement officer of a broad interpretation, which may lead to excessive restrictions on human rights and freedoms. It is also important to note the need to exclude the possibility of a double-digit interpretation of the rules of law governing this area. it is necessary to remember about the possibility of interpretation by the

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Yadrikhinsky Sergey Alexandrovich, No. 11 2018

Reasonable duration of tax audit as a legitimate interest of the taxpayer

Annotation: The article examines the term of a tax audit through the category of legitimate interest of the taxpayer, the protection of which is guaranteed by federal law (Article 22 of the Tax Code of the Russian Federation). It is with the legitimate interest in the quiet conduct of the economic activity of the taxpayer that the legislator linked the temporary restrictions of the tax audit. The author comes to the conclusion that the unreasonable duration of the tax audit violates the legitimate expectations of the taxpayer, undermines the credibility of the law and the actions of public authorities. Time-unlimited control is not only redundant, but, as shown in the article, is carried out outside the competence of tax officials. Zero tolerance for violations of the statutory deadlines is substantiated, since a vicious practice is incompatible with respect for the dignity of the taxpayer's personality (Art.

Koryts Sergey Ivanovich,

Surgutskov Vadim Igorevich,

Filippov Oleg Yurievich, No. 11 2018

Public Order Powers of Municipal Bodies: In Search of the Golden Mean

Annotation:the organizational and legal aspects of the creation and prospects for the effective functioning of municipal bodies for the protection of public order in the Russian Federation are considered. It is noted that in recent years some work has been done in Russia to develop the system of these bodies. The points of view

of scientists on this issue are presented. It is concluded that the very idea of the need to create a municipal militia (police) has both supporters and opponents. The main models of the development of the institute of municipal police in our country are considered. The draft federal laws "On the municipal police in the Russian Federation" introduced in 2014 and 2016 were subjected to critical analysis. to the State Duma of the Federal Assembly of the Russian Federation, implying the vesting of municipal bodies for the protection of public order with police powers. It is concluded that it is necessary to expand the powers of municipal bodies in the field of public order protection, as well as to establish limits for the implementation of these powers, with the consolidation of the procedure for interaction between municipal bodies and the Ministry of Internal Affairs of Russia in the federal law on municipal police. The optimal directions of activity of municipal bodies for the protection of public order are proposed.

Abdullaev Elshan Elshad oglu, No. 11 2018

Modern problems of regulation of labor relations with the participation of foreign citizens on the territory of the Russian Federation

Annotation: The main problem is determined by the discrepancy between the constitutional-legal and administrative-legal elements of the legal status of foreign workers. Its essence lies in the fact that the constitutional and legal aspect of the status of a foreign citizen allows us to consider them as general subjects of labor relations. The legislation proceeds from the application of the principle of national treatment in the field of labor relations, which is based on the fact that foreign citizens enjoy the rights and bear obligations on an equal basis with Russian citizens, they are subject to all general provisions of labor legislation.

At the same time, the administrative and legal aspect of the legal status of a foreign citizen establishes their special legal personality within the framework of labor legal relations, accordingly limiting legal capacity. This is due to the imperfection of legal norms and the presence of legal gaps in the regulation of the labor activity of foreign workers on the territory of the Russian Federation, as a result

of which the legal category "foreign worker" used by Law No. 115-FZ does not fully correspond to the category of "worker" defined by labor legislation ...

The negative consequences of such inconsistencies can be partially offset by the implementation of targeted law-making activities.

Russkevich Evgeny Alexandrovich, No. 11 2018

Malicious computer program concept

Annotation. The paper attempts to revise the traditional definition of the harmfulness of a computer program based on its ability to cause such consequences as unauthorized destruction, blocking, modification or copying of information protected by law. The author draws attention to the fact that the prevailing interpretation of the harmfulness of a computer program does not allow to classify spyware as such, the purpose of which is not to harm information assets or infrastructure, but to collect information about the user's activity on the Internet, programs "evil jokes" (" Bad Jokes "), virus constructors, as well as programs objectively adapted to commit crimes, but executed on the basis of legal software. The conclusion is substantiated that

Kurmanov Midkhat Mazgutovich, No. 11 2018

Contradictions of the federal law "On advocacy and the legal profession in the Russian Federation"

Annotation. An analysis of the provisions of the Federal Law of May 31, 2002 "On advocacy and the legal profession in the Russian Federation" is presented. To eliminate internal contradictions and bring the Federal Law of May 31, 2002 No. 63-FZ "On advocacy and the legal profession in the Russian Federation" in accordance with other federal laws, it is proposed to amend this Law as follows: exclude paragraphs 3 and 4 of Article 1; in clause 1 of article 2, exclude the words "and also hold government positions in the Russian Federation, government positions in the constituent entities of the Russian Federation, government service positions and municipal positions" in subparagraph 1 of paragraph 1 of article 16, after the word "election", add the word (appointment).

According to the author, the listing of the positions "government positions of the Russian Federation", "government positions of the constituent entities of the Russian Federation", "positions of the civil service" in the Federal Law "On advocacy and the legal profession in the Russian Federation" do not fully comply with federal legislation and as envisaged by the federal public service and the public service in state authorities of the constituent entities of the Russian Federation.

The statement “election” to a government body does not take into account that, in addition to the legislative body of a constituent entity of the Russian Federation, the bodies of state power of a constituent entity of the Russian Federation are executive bodies. And citizens in these bodies are appointed to the position.

Barinov Sergey Vladimirovich, No. 11 2018

The content and features of the tactical operation "red-handed arrest" in cases of criminal violations of privacy

Annotation. The article discusses aboutfeatures of the tactical operation "Red-handed arrest" in cases of criminal violations of privacy.

It has been established that among the motives of the commission of the considered group of crimes, which are often encountered in the investigative and judicial practice, one can single out the mercenary motives aimed at making a profit for providing information constituting personal or family secrets or for refusing to disseminate such information.

Taking into account the fact that the disclosure of criminal violations of privacy is associated with certain difficulties, in order to solve the problems of their investigation, it is recommended to use the capabilities of the bodies vested with the right to carry out operational-search activities as part of the tactical operation "Red-handed arrest". A number of general recommendations for its planning and content are given.

As the basis for the implementation of the considered tactical operation, depending on the model of criminal activity, the operational-search measures "Test purchase" or "Operational experiment" are defined. On examples from operational-investigative practice, the features of their implementation are considered.

Other operational-search measures that can be carried out as part of a tactical operation and are aimed at obtaining operational information about the identity of criminals, the nature of their relationship, the method of committing a crime, methods of conspiracy, as well as investigative actions that should be carried out after the physical arrest of a suspect are considered.

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Fundamentals of Prevention of Regional Crime: Problems and Ways to Solve Them

Annotation. The subject of research in this article is regional crime and its prevention. The article analyzes the modern approaches of scientists-criminologists to the problem under study. According to the majority of scientists, crime in a particular region is characterized by: qualitative and quantitative indicators, level and certain dynamics; the peculiarities of the causal complex, as well as the conditions for the commission of crimes; the specific composition of persons committing crimes; the need to use targeted and effective prevention measures for a given area. When preparing and writing a scientific article, the methods of analysis and synthesis, as well as the dialectical method of scientific knowledge, were applied. Based on the analysis of statistical data, the authors have developed a classification (typology) of the constituent entities of the Russian Federation by the crime rate. Effective measures are proposed to increase the efficiency and intensity of preventive measures on crime in the regions of Russia that are part of the so-called "risk group" with a crime rate exceeding two and a half thousand. The authors concluded that in the field of regional crime prevention, the development of comprehensive programs is of great importance. A draft of a comprehensive regional

crime prevention program has been developed, taking into account the shortcomings of the existing programs. The requirements that must be taken into account when developing them are listed. The authors concluded that in the field of regional crime prevention, the development of comprehensive programs is of great importance. A draft of a comprehensive regional crime prevention program has been developed, taking into account the shortcomings of the existing programs. The requirements that must be taken into account when developing them are listed. The authors concluded that in the field of regional crime prevention, the development of comprehensive programs is of great importance. A draft of a comprehensive regional crime prevention program has been developed, taking into account the shortcomings of the existing programs. The requirements that must be taken into account when developing them are listed.

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Views of Czech jurists on the subject of constitutional law

Annotation. Modern Czech textbooks on constitutional law contain diverse approaches to understanding the branch of constitutional law and its subject. Without directly calling constitutional law a "political branch", they give a noticeable place in its subject to relations related to the implementation of state sovereignty and the activities of the state, both within the country and abroad. At the same time, the value of such principles as democracy, representative government, mediation of political parties between the state and society is emphasized. The restoration of scientific exchange with Eastern European countries can enrich the Russian science of constitutional law.