Morozov Alexander Alekseevich , №4 2019

Formation of the legal status of the English "new nobility" in the Tudor era

Annotation. This article is devoted to the study of the process of formation of the legal status of the English "new nobility" in the Tudor era. It should be admitted that in recent decades the interest of Russian scholars in the economic history of Britain has weakened. Despite a solid research base, an appeal to the history of England in the late 15th - early 17th centuries. reveals a number of unresolved problems in the economic and political sphere. Meanwhile, the development of capitalist relations in the English countryside led to noticeable social shifts that affected all major categories, both land users and owners. First of all, it should be noted the blurring of the social boundaries of the elite of English society - the nobility. The social and military-political role of the English knighthood has changed significantly over the century. In the XVI-XVI I centuries. still retained the basic, military meaning of the knighthood as a designation of a mounted warrior, who was still the main striking force of the army of that era.

Seregina Tatiana Sergeevna , No. 4 2019

Horticultural and horticultural partnership as a type of consumer cooperative in the USSR

Annotation. Horticultural and horticultural partnerships were first legislatively consolidated in the domestic legal system in the twenties of the last century, since the appearance of the first horticultural cooperative partnerships on vacant land near industrial centers. In practice, the activities of horticultural and horticultural associations were regulated by special legislation on horticulture, horticulture, cooperation in the USSR, concretized in the model charters of 1956, 1966, 1985, and was formed in accordance with the situation in the country.

According to the author, horticultural and gardening partnerships, according to the legislation of the USSR period, were not independent legal entities, they belonged to consumer cooperative associations and organizations. Each cooperative

association of the Soviet period was formed under the influence of a single economic, political and ideological situation in the USSR.

At present, in the solution of many legal issues, the tendencies of the Soviet period are still preserved, which necessitates the introduction of significant legislative changes from January 1, 2019.

Savvina Olga Vladimirovna , No. 4 2019

Ethical bases for gamete donation regulation and co - parenting practice

Annotation. The article analyzes the practice of legislative regulation of gamete donation and their ethical foundations. Gamete donation is often used in conjunction with assisted reproductive technology (ART) for the treatment of infertility and / or family planning. The study uses an interdisciplinary approach: it is based on research in the field of philosophy (bioethics), jurisprudence, medicine, sociological polls are involved.

The article shows that the introduction of this practice affects traditional family values, dilutes sibling relations, making genetic brothers and sisters strangers to each other, transforms the family, creating new forms of it through the practice of co - parenting , which is gaining popularity in English-speaking countries. The article also outlines the problem of negative attitudes towards the practice of gamete donation on the part of religious authorities. Legislative regulation cannot fail to take into account the mood of the population, and the percentage of believers in the state when introducing legislative regulation of gamete donation is an important factor. Another important problem considered in the article is the welfare and rights of the unborn child, conceived with the help of gamete donation, his “right to know” and “the right not to know” his secret of birth.

Voronyuk Ekaterina Pavlovna , No. 4 2019

Public Services and Digital Technologies: Legal Formation in Constitutional Law

Annotation. The purpose of the article is to identify the role and place of digital technologies in the provision of public services. Considering the content and significance of the constitutional and legal regulation of the provision of public services using digital technologies in the context of the implementation of the constitutionally enshrined social statehood of Russia, the author formulates the following conclusion: the goal of a modern state is to most fully ensure the implementation of the needs of citizens and the provision of public services to them using digital technologies.

The analysis of doctrinal approaches and normative consolidation of the information-technological organization of interaction between citizens and public authorities showed that the innovative path of digital technologies has been chosen and normatively fixed in modern Russia, as the basis of economic development - the basis of social statehood. This requires scientific understanding and the development of mechanisms for its implementation in social issues in the legal plane.

The article also gives a brief author's overview of the main risks of introducing digital technologies in Russian constitutional law at the present stage of development. The problematic issues in the theoretical and practical plane are identified, possible options for their solution are proposed.

Osintsev Dmitry Vladimirovich , No. 4 2019

The prosecutor as a subject of an administrative offense

Resume: The article deals with a rather unexpected and practically not discussed in the literature issue of the prosecutor as a special subject of an administrative offense. The current legislation allows us to consider the named person not only as a subject of administrative jurisdiction, a special participant in proceedings in cases of administrative offenses, but also as a subject that may incur administrative responsibility, unfortunately, a special mechanism for bringing the prosecutor to administrative responsibility is not spelled out in detail, therefore, options are proposed qualifications of possible offenses with his participation, the specifics of the appointment of certain types of punishment and the transformation

of both the types of responsibility of the prosecutors themselves and the prosecution authorities as legal entities.

Efremova Ekaterina Sergeevna , №4 2019

Payment of arrears at the expense of the taxpayer's receivables: is it necessary to amend the legislation?

Resume: The article analyzes the application of a restorative enforcement measure in relation to taxpayers with tax arrears in the form of levying arrears in the amount owed to the debtor by the debtor.

The author reviewed the history of the development of the institution of foreclosure on the taxpayer's receivables in the domestic tax legislation of the 20th century and at the present stage, the experience of using this institution under the laws of Kazakhstan and Belarus, analyzed the rules governing the foreclosure on receivables in the current Law "On Enforcement Proceedings."

On the basis of the study, the opinion is expressed that the current procedure for collecting receivables is ineffective and, at the same time, the proposals to empower the tax authorities to apply this coercive measure directly to debtors are criticized, since they are not a party to tax legal relations.

A proposal is made to introduce into the Federal Law "On Enforcement Proceedings" additional norms providing for the right of the bailiff-executor to go to court to recover the amount of accounts receivable from the debtor and then apply the general rules of enforcement proceedings to him .

Popkova Zhanna Georgievna, №4 2019

Russian "Cohen Doctrine": problems of calculating costs and deductions in the absence of proper documents

Summary **:** provides information about foreign judicial doctrines e Cohen (Cohan rule), which is due to the court case 1930 , with the participation of George Cohen, the Broadway theater manager and

producer . This doctrine, which is still relevant in US tax law at present, does not preclude the taxpayer from applying an approximate amount of expenses when calculating income taxes in the absence of documents on expenses. It is concluded that a similar approach takes place in the domestic normative regulation, including a fixed deduction under Art. 221 of the Tax Code of the Russian Federation for individual entrepreneurs. It is proposed to introduce a similar normative regulation in relation to corporate income tax.

Tasalov Kirill Artemyevich , №4 2019

Legal problems of the Russian concept of a risk-based approach in the tax area

Annotation. The risk-based approach used by the Russian tax authorities for planning control activities contains a number of disadvantages that reduce its effectiveness in promoting compliance. The stages of the risk assessment process are reflected in various legal acts that are not combined into any system. The legal mechanism created by the tax authorities at the sub-legal level for risk assessment creates a precondition for violation of the principles of the legislation on taxes and fees. This defect is caused by the lack of delineation of risk criteria, which gives rise to interference by regulatory authorities in the economic activities of controlled persons, regardless of their compliance with all generally binding rules. The lack of a requirement for the compliance of the control measure with the identified risk allows the regulatory authorities to carry out audits on all taxes that are burdensome for controlled entities without sufficient reason. Thus, the legal structure of this approach orients the law enforcement practice of tax authorities to violate the principles of tax neutrality and the balance of private and public interests. Based on the experience of the United Kingdom tax authority (HMRC), which, like the Russian tax authorities, has been using a risk-based approach since 2007, the author identifies the main directions for the development of this approach in Russia. Among such areas, in particular, the following are highlighted: consolidation of the norms governing the process of applying the risk-oriented approach at all stages into a

single regulatory legal act of the subordinate level; elimination of latent criteria for tax risk and framework reflection in the system of publicly available criteria of all possible risk factors identified by the tax authority; creation of guarantees to ensure the protection of bona fide persons from excessive control measures.

Sannikova Larisa Vladimirovna ,

Kharitonova Yulia Sergeevna , 34 2019

New technologies and law: modern legal approach to distributed ledger technology

Resume: Currently, there is an active discussion about whether it is necessary to create legal mechanisms that mediate the use of new technologies. The authors believe that the digitalization of public relations is global in nature, changes the foundations in society and requires the development of adequate legislation based on an in-depth study of the ongoing processes. It is proved that in the first place need to develop Nauchn th concept and mechanism of legal regulation of relations with the use of technology in a distributed registry of economic activities in the areas of public administration and in public service. The article, based on the problems of law enforcement practice, formulates the main characteristics of the study, which, according to the authors, could provide a legal solution that is really necessary for the state and society. Such a study will make it possible to formulate scientifically grounded proposals for the legislative regulation of public relations using TPP, which will consist in the development of legal regimes for objects of relations arising from the use of TPP and having economic value (digital assets, in particular tokens, cryptocurrencies, digital rights); determining the legal status of entities using the TPP; the formation of a system of indicators for assessing the use of TRP in various spheres of public relations providing legal qualification of transactions in distributed ledgers and the legal consequences of their commission; creation of an integral legal mechanism for the protection of participants in legal relations using distributed ledger technologies. The main result of the proposed research will be the developed scientific concept of the mechanism of legal regulation of relations using the

technology of distributed registers in economic activity, in the areas of public administration and the implementation of public functions. Otherwise, this area will suffer from incomplete legislative regulation with the need to constantly fill the holes associated with the hasty and thoughtless adoption of the rule of law.

Olga Benedskaya , No. 4 2019
Arbitration Proceedings and Compliance

Annotation. The article is devoted to the analysis of arbitration proceedings in the aspect of its participation in the implementation of the function of judicial regulation. Based on the idea of the general nature of the constitutional imperative of the rule of law and the Constitution of the Russian Federation and the understanding of the triune essence of the arbitration court, combining public-jurisdictional, self-regulatory (law-forming) and mediated (conciliatory) principles, the interconnection of the arbitration court is substantiated by the requirement of legality and the need to implement casual norm control in accordance with the prevailing conflict of laws rules. At the same time, the legal nature of the arbitration proceedings should, according to the author, be revealed not in a formal dogmatic manner, through submission to the requirements of legal discipline as strict as in a state court, but on the basis of an orientation towards judicial activism and the development of law in the context of the realities of social business practices. The arbitral tribunal can act contra legem in order to increase the level of protection of the rights of the parties to the proceedings, based on general, constitutional and sectoral principles of law. When faced with a norm to be applied that violates the Constitution of the Russian Federation, the arbitral tribunal must have the right to request the Constitutional Court of the Russian Federation (including in the form of an obligation to request, if the arbitral tribunal's decision is final).

Stepanov Vitaly Vitalievich , No. 4 2019
The procedural status of a person

authorized by the general meeting of owners of premises in an apartment building to represent interests in court

Annotation. The paper analyzes the provisions of housing and procedural legislation for the possibility and procedure for representing the interests of the community of owners of premises in an apartment building in court. The relevant law enforcement practice is critically assessed. On this basis, ways of improving the procedural regulation of representing the interests of owners of premises in an apartment building are determined by one of them, or by a person determined by the decision of the general meeting of such owners or members of a non-profit organization that manages the house. To this end, it is proposed to take into account the possibilities of the procedural institutions of a class action and going to court to protect the rights and legitimate interests of others.

Ashfa Daniel Mohamadovich , №4 2019

The system of internal compliance with the requirements of antimonopoly legislation in Russia: problems and prospects for the development of legal regulation

Annotation. The article is devoted to the study of the main directions of development of the system of internal compliance with the requirements of antimonopoly legislation as a new institution of competition law in Russia. Analyzed the definition, content and incentives for the implementation of the system of internal compliance with the requirements of antimonopoly legislation by business entities. The author concludes that an effective internal antitrust compliance system can provide reasonable, but not absolute, assurance of antitrust compliance. Business operators should design the compliance system in such a way as to demonstrate to the antimonopoly authority that they have actually taken all possible measures to comply with the requirements of antimonopoly laws.

Rarog Alexey Ivanovich , №4 2019

Legislator's mistake: types, reasons,

ways to fix

Annotation. The article raises the question of the inevitability of not only judicial (in specific criminal cases) errors, but also errors of law enforcement (spontaneously or at the direction of higher judicial authorities, the prevailing practice of incorrect application of criminal law), as well as legislative errors of criminal-political, systemic and technical character. Considering the specific law-making mistakes made in the norms of the General Part and in each of the structural elements of many norms of the Special Part of the Criminal Code of the Russian Federation, the author notes with satisfaction the noticeable work of the legislator to eliminate previous mistakes. At the same time, specific examples of errors are given that have been repeatedly noted in the special literature and, nevertheless, are still not corrected by the lawmaker, and ways of correcting them are proposed, in particular - amending the Rules of the State Duma of the Federal Assembly of the Russian Federation in terms of the discussion procedure bills.

Rostova Victoria Nikolaevna , No. 4 2019

Legal regulation of the stage of initiation of a criminal case: foreign experience

Resume : The article examines the main trends in the development of the stage of initiation of a criminal case in the Russian criminal process. Changes in the criminal procedural legislation of Ukraine, the Republic of Kazakhstan in terms of refusal to initiate a criminal case as a stage of criminal proceedings are analyzed. The author draws a conclusion about the significance of the stage of initiation of a criminal case in the Russian criminal process. It also does not exclude the need to improve the criminal procedural legislation in terms of regulating the stage in question by legislatively defining the rights of participants in the verification of a crime report, defining a list of investigative actions, based on the results of which it would be possible to use evidence in the preliminary investigation stage without duplicating the actions already taken, etc. etc.

Lazareva Larisa Vladimirovna , No. 4 2019

ON THE property of the legal status of subjects of forensic activity

Annotation. The article discusses the main problems of the law enforcement mechanism in the appointment and production of a forensic examination. It is shown that the provisions of the current criminal procedural legislation inadequately carry out the legal regulation of the subjects of forensic expert activity. Particular attention is paid to the issues of ensuring the rights and legitimate interests of persons participating in the expert study. Analyzing the rules governing the procedure for appointing forensic examinations, attention is drawn to the absence of time restrictions on the familiarization of participants in criminal proceedings with the decision to appoint an examination. The article substantiates the possibility of vesting the defense party with the right to order an examination, which could be realized through non-state forensic institutions or private experts. Suggestions for improving legislation and law enforcement practice have been formulated. The theoretical conclusions formulated in the article serve as the basis for further research into the problems of forensic examination, and can also contribute to the improvement of rule-making in this area.

Nikishin Vladimir Dmitrievich , No. 4 2019

A religious text of an extremist-terrorist orientation as an object of hermeneutic research and a source of forensically significant information in forensic linguistic expertise

Annotation . The relevance of the chosen research topic is due to the growing need for investigative and judicial practice in the study of speech works of religious discourse in connection with the growth of extremist sentiments in modern society. Despite the obvious need for expert practice in the development of scientific and methodological support for the examination of texts of religious content, until now they remain poorly studied from the point of view of their potential conflict potential. This determined the novelty of the studied topic and its practical significance.

The purpose of the work was to study the problems of using special linguistic knowledge in cases of verbal religious extremism, namely, the problems of the theoretical aspect of forensic examination of materials of a religious nature (texts of religious discourse) of extremist-terrorist orientation.

To solve the set tasks, the corpus of sources on forensic linguistics (forensic speech), forensic expertology, Russian and foreign legislation, international legal acts, expert and judicial practice was used.

The author gives his own concept of the relationship between the concepts of "verbal (verbal) extremism", "hate speech" and "verbal religious extremism", highlighting the range of articles of the Criminal Code of the Russian Federation containing corpus delicti correlated with these phenomena.

The article examines the problem of the competence of experts-linguists involved in this category of cases, as well as the problem of the limits of their competence.

Dolgieva Madina Mussaevna , №4 2019

Operations with cryptocurrencies: topical problems of theory and practice of the application of criminal legislation

Annotation. The article discusses the views of domestic and foreign authors on the concept of cryptocurrency, the principles of its functioning and the need to establish its legal status. The author's definition of cryptocurrency is formulated and the thesis that cryptocurrency can be classified as "other property" is substantiated. The author analyzes the most common court decisions in criminal cases. Based on a study of foreign experience in combating illegal cryptocurrency circulation, it was revealed that initially, before the emergence of massive demand for cryptocurrencies around the world, the demand for them was observed in the criminal environment for settlements for the supply of drugs and weapons, in the financing of terrorism and legalization (laundering) of income criminally obtained, and therefore, many, subsequently, mistakenly assumed that transactions with cryptocurrencies are anonymous. Meanwhile, cryptocurrency is far from anonymous: every transaction carried out in a distributed network is permanently

recorded in the public blockchain, which contributes to the disclosure of crimes in this area. The adoption in the Russian Federation of a fundamental law containing the necessary terms and concepts regarding cryptocurrency activities and regulating the status of cryptocurrency in Russia, will allow in the future to develop measures for criminal protection of objects of encroachment, which are currently not regulated in any way .

Majorina Maria Viktorovna , №4 2019

The Network Paradigm of Private International Law: Contouring a Concept

Annotation . Modern society is characterized as a network society, which gives rise to the need to rethink its superstructure - law - in the logic of the network paradigm of scientific knowledge. At the junction of law and information technology, new legal and sub-legal phenomena emerge that need conceptualization. Private international law, being at the forefront of the ongoing changes, has a special methodology that can adapt to the networked society. The work analyzes individual signs that indicate the formation of a new paradigm. One of the most revolutionary products of the network has become global technological or digital platforms, within the framework of which mainly cross-border private law relations are formed, mediated by transactions, understood in the aggregate as e - commerce or m - commerce . The legal analysis suggests that there is an Americanization of platform law. The emerging practice of online arbitration in disputes involving consumers is of interest for the study of the network paradigm. A significant role in the regulation of modern cross-border relations is assigned to the norms of non-state regulation, traditionally conceptualized through the prism of lex mercatoria , which is currently systematized in the logic of the legal system with the allocation of subsystems caused by the processes of globalization. The corresponding changes indicate a modification of the architecture of regulation of cross-border relations.

Zasemkova Olesya Fedorovna , №4 2019

Dispute Resolution Using Blockchain Technology

Abstract: One of the most important technological advances of recent times is blockchain technology, which is gradually gaining more and more recognition, having a significant impact on a number of industries. At the same time, the most interesting blockchain-based technology is smart contracts, which make it possible to get rid of intermediaries and significantly reduce the costs of the parties to cross-border contracts. With the development of new technologies, new types of disputes appear that cannot always be resolved using existing mechanisms, such as court or international commercial arbitration. As a result, it becomes necessary to modify existing or introduce new mechanisms that are more suitable for resolving disputes arising in the global digital decentralized economy. One of these mechanisms is blockchain arbitrage. Currently, several projects of such arbitration have been developed, the most interesting of which are CodeLegit , SAMBA and Kleros , each of which has its own specific features. At the same time, the Kleros project deserves special attention , which is an attempt to create a decentralized quasi-judicial system for resolving disputes arising from smart contracts. Analyzing each of these projects, the author points out some of the problems that may arise when using them, and suggests ways to solve them.

Pokrovsky Alexander Vladimirovich , No. 4 2019

The role of the European Ombudsman in the implementation of the concept of good governance

Resume : The purpose of the article is to analyze the phenomena of European Union law that ensure the activities of the European Ombudsman as a body promoting the integration process in the European Union.

The subject of the article is the legal aspects of the status of the European Ombudsman, his role and place in the institutional system of the European Union.

The article provides a brief overview of the competence of the European Ombudsman and methods of carrying out his activities, examines the role of the European Ombudsman in the implementation of the concept of good governance,

analyzes the practice of the European Ombudsman and its impact on the activities of EU institutions and bodies.

It was determined that the decisions of the European Ombudsman, directed against violations of the order of governance, affect relations in various areas of the European Union, contributing to the implementation in practice of the conceptual principles of good governance. Having no legally binding force, the decisions of the European Ombudsman are embodied in acts of the EU institutions, which already establish the relevant rules as binding.

Imanly Magomed Nagi , # 4 2019

Criminal liability of minors under the Criminal Code of the Russian Federation and the Criminal Code of the Republic of Azerbaijan: comparative characteristics

Annotation . The specifics of criminal responsibility and punishment of minors both in the Criminal Code of the Russian Federation and the Criminal Code of the Republic of Azerbaijan are regulated separately. At the same time, these Codes contain both overlapping and different prescriptions. The article reveals the advantages and disadvantages of the relevant criminal law provisions in the legislation of the Russian Federation and the Republic of Azerbaijan. In the course of analyzing the criminal codes, the author shows which standards of the Criminal Code of the Russian Federation can be useful to the Criminal Code of the Republic of Azerbaijan and vice versa. Some provisions on the criminal liability of minors are proposed to be removed from the criminal legislation of both countries, while others - to be introduced into it. Legal technique from both is more perfect in both Codes.

Zhavoronkova Natalia Grigorievna

Vypkhanova Galina Viktorovna , No. 4 2019

Problems of improving the conceptual apparatus in the field of protection and use of natural medicinal resources, health-improving areas and resorts

Annotation. The article contains an analysis of theoretical problems associated with the conceptual apparatus in the health resort sector. They are largely due to the complex nature of the legal regulation of relations on the use and

protection of natural medicinal resources, medical and recreational areas and resorts by the norms of legislation on health care, civil, urban planning, environmental, land, and other branches of legislation. Accordingly, the assessment of legal concepts should cover the sphere of regulation of natural resource relations associated with the use of natural resources for medicinal and recreational purposes; on the provision of services, the implementation of sanatorium and resort activities as an integral part of health care and socio-economic relations; territorial (spatial) development of resort areas, health-improving areas; ecological relations due to the classification of such territories as specially protected. In the study of the basic concepts - "health-improving area", "resort", their features such as "therapeutic", "preventive", "health-improving" are considered, contradictions in the legislation are identified, the need to expand the criteria that is the basis for giving territories with medicinal natural resources, the corresponding legal status. The necessity of expanding the terms and concepts related to the resort sphere - “resort infrastructure”, “user of resort infrastructure”, “accommodation facility”, etc. is shown. Other proposals are substantiated in the context of recently discussed legislative initiatives in the area under consideration.