Taran Pavel Evgenievich,

Strunsky Alexander Dmitrievich, No. 5 2019

The idea of law and its role in the development of the doctrine of legal interpretation: a historical and theoretical analysis of German legal doctrine in the 19th - first half of the 20th centuries.

Annotation. The article is devoted to the analysis of the theoretical provisions of the main directions of German jurisprudence in the XIX - n.p. XX centuries. in the context of the issue of legal thinking and interpretation. The article outlines the main theoretical provisions of such important scientific areas as: the historical school of law, jurisprudence of concepts, jurisprudence of interests, the school of free law, legal positivism and neo-Kantianism. The scientific works of the main representatives of these trends are considered.

The development of ideas about law and legal interpretation in German legal doctrine perfectly demonstrates the connection between the doctrine of legal interpretation and the idea of law and real legal life. During this historical period, many outstanding lawyers worked, whose teachings influenced not only the legal science of many states of Europe and Russia, but also the legal doctrine of individual states of the Anglo-Saxon legal family. Despite such a different nature of their teachings, in all there is a connection between the idea of law and their approach to the interpretation of legal provisions. This relationship is also the opposite, many scholars have solved the problem of the essence of law by referring to interpretive procedures. Similar tendencies in German legal doctrine have found support in the jurisprudence of German courts, and in the practice of the highest courts of the European Union. The article concludes that the further development of the doctrine of legal interpretation requires not only the development of the methodology of legal interpretation, but also further developments in the field of philosophy of law.

Shepelenko Marina Yurievna , No. 5 2019

The history of state-confessional relations of non-Christian peoples of the Russian Empire in the 19th - 20th centuries.

Resume: The history of the confessional Russian Empire to the most research areas of Russian historiography.

historical science cares about the historical knowledge of the past, and, in particular, about the Russian state, the realization of its and the interests of society, about the cultural, spiritual of our country.

the religious policy of the state of the period expands the knowledge of the history of our country, the history of peoples, history .

In the cultural of any country, the introduction of a person to the system of moral and values plays a role . The Orthodox religion is a special place in Russia. Consideration of its development of activities allows us to study the processes of Russian spirituality .

The obvious fact is that without knowledge of various religions ( ) it is impossible to get an idea of Russia and its parts.

The presented article analyzes the history of state-religious relations of non-Christian peoples of the Russian Empire in the 19th - 20th centuries.

The complex national and religious problems of the present time indicate that the issues related to the analysis of the cultures of non-Christian peoples have not yet lost their relevance.

Religion "own", native, integral part of culture, contributing to cultural identity and even . As a result, a direct fusion and religious ,, socio-cultural identity.

The study of the religious policy of the state of the period expands the knowledge of the history of our country, the history of peoples, history .

Gavrilova Yulia Aleksandrovna , No. 5 2019

The semantic field of law, politics, morality: the problem of interaction

Annotation. The problem of the interaction of the semantic field of law, politics and morality has practically not been studied in modern humanitarian literature, despite the fact that the concept of the semantic field has been known to the humanities for a long time, and in certain disciplines (linguistics, cultural studies, psychology) it has received detailed development in the process of developing the

subject of these sciences ... The purpose of the article is to identify the meaning and scope of use of the concept of a semantic field in law, politics and the moral sphere of society, as well as to identify the problem of the interaction of these fields, to suggest ways out of the main difficulties arising in the process of its analysis. The research methodology used by the author consists in a complex combination of the ideas of dialectics, synergetics, hermeneutics, phenomenology, communication, as well as a normative-value approach to law. Used sources on philosophy, politics, psychology, morality and law. The main results that the author comes to: analysis of the concept of a semantic field in each of the proposed areas of social knowledge requires a meaningful reinterpretation of the conceptual apparatus and filling its elements with the meaning that corresponds to the goals, objectives and nature of the subject of this particular science, which also affects the peculiarity of the methods used knowledge.

Vyshkvartsev Vitaly Vladislavovich , No. 5 2019

MR. osudarstvenno legal and religious views , MA R eisner on morality (late 19TH century)

Annotation. Based on the analysis of the teachings of German canonists and theologians of the 19th century, the famous Russian jurist M.A. Reisner formed his own system of views on the relationship between law and morality from the point of view of their existence in a Christian state. The positions of M.A. Reisner at the beginning of his scientific career were far from socialist and closer to the ideals of the rule of law. In the conditions of this type of state, the “moral law” acts as a predetermining social regulator; the concept of “personality altruism” is being formed as a theoretical basis for understanding civil society; law is explained through its properties of moral and reconciling power; The "natural state" of the person is interpreted in the context of the impossibility of the influence of Christian dogmas on the subjective side of human will. Despite the fact that Professor Reisner

considered the existence of a Christian state in a legal one unattainable, the scientist nevertheless identified the issues of their joint jurisdiction. The conclusions drawn from the study of the works of M.A. Reisner, with the appeal of some of his views to the philosophical and legal thought of other representatives of Russian law schools (B.A. Kistyakovsky, P.I. Novgorodtsev), makes it possible to establish the commonality and relevance of their moral ideas in the modern period of time.

Vasiliev Stanislav Alexandrovich , No. 5 2019

The relationship of authorities with territorial public self-governments in the city of Sevastopol on the establishment of their boundaries

In recent years, territorial public self-government has been used in various regions as an effective means of independently resolving issues of local importance in a certain territory. This circumstance is due to the increasing state influence, including on legal relations related to resolving issues of local importance, the development of management companies, gradually expanding the range of their services, the existence and functioning with varying degrees of efficiency of homeowners' associations, etc. In the federal city of Sevastopol, in terms of the creation and functioning of territorial public self-governments, a situation that is unique for Russia has developed. Prior to the entry of this region into the Russian Federation, the population actively participated in solving public issues, including issues of local importance, using the legal constructs that were established by Ukrainian legislation. It, in turn, provided a fairly large amount of democratic freedoms to the residents of the city, to which they were accustomed. With the beginning of the integration of Sevastopol into the Russian legal space, some conditions for the implementation of direct democracy at the municipal level have changed taking into account the status of the region - a city of federal significance, in which there is traditionally a more significant state influence on the solution of many issues due to the goal of preserving the unity of the urban economy. Another relevant aspect is that decision-making, including on local issues, in Sevastopol is handled by officials, mostly from other regions, who have lived according to the

laws of the modern Russian state since its inception with the introduction of their own vision of local issues. All this leads to some kind of conflict situations between citizens who seek to implement forms of direct democracy and representatives of public authorities. The correctness of each of the parties in individual cases can be assessed in different ways. The present work is devoted to the understanding of one of them in legal practice.

Karev Dmitry Alexandrovich , No. 5 2019

Principles of Municipal Service: Approaches to Classification

Annotation . The article is devoted to the analysis of the types of municipal service and their classification. Based on the analysis of legislation and legal doctrine, the author comes to the conclusion that the list of principles of municipal service, enshrined in the legislation, is not exhaustive. It is proposed to highlight the general legal, sectoral and institutional principles of the municipal service, which differ in spheres of action. He proposes to refer to the general legal principles: the principles of the priority of human and civil rights and freedoms; legality; equality;); to sectoral - the principles of the unity of the basic requirements for municipal service, taking into account historical and other local traditions in the passage of municipal service; independence of local governments in the regulation of municipal services; differentiation of legal regulation depending on the type of municipality; a combination of private and public principles in the regulation of municipal service; stability; openness; to institutional (special): professionalism and competence; non-partisanship; responsibility of municipal employees for non-performance or improper performance of their official duties; the relationship between the municipal service and the state civil service.

Kolesnikov Denis Alexandrovich, No. 5 2019

The role of the practice of constitutional (charter) courts of the constituent entities of the Russian Federation in the protection and development of social human and civil rights

Annotation. The article highlights the activities of the constitutional (charter) courts of the constituent entities of the Russian Federation to protect the social rights of citizens and their role in the mechanism of protecting these rights. Examples from judicial practice on their guarantees, implementation and interpretation are given, attention is paid to the extra-procedural activities of constitutional (charter) courts and their contribution to the development and improvement of the theory of social rights, social norms of law, including through published and announced messages. Their positive role in strengthening the constitutional legality and principles of the welfare state is noted. The statistical data on the consideration of cases are given, namely, the correlation of court decisions on social rights issues with the total number of final judicial acts issued (on the example of the constitutional courts of the subjects of the Volga Federal District). In addition, a number of key problems of regional constitutional proceedings are highlighted, including the implementation (enforceability) of decisions of constitutional (charter) courts affecting the social rights of citizens.

Evdokimov Alexey Sergeevich , No. 5 2019

The concept of construction and development of the hardware and software complex "Safe City": implementation results, organizational and legal problems and unresolved issues

Annotation. The article discusses topical issues related to the implementation of the Concept for the construction and development of the "Safe City" hardware and software complex, approved by the order of the Government of the Russian Federation dated December 3, 2014 No. 2446-r, the main goal of which is the integration of information and analytical systems into a single information space public safety and security of the environment (monitoring, forecasting, warning).

The process of implementation of the Concept is investigated, the problems of an organizational nature that arise in this case, the lack of legal regulation and methodological support for the creation and development of the agro-industrial complex "Safe City" is noted.

In the course of the research, general scientific and specific scientific methods of cognition were applied: analytical, logical, structural-functional, comparative-legal.

The main conclusion drawn from the results of the study is that in order to optimize the activities for the creation and development of the agro-industrial complex "Safe City" on the territory of the Russian Federation, it is necessary to make significant adjustments to Russian legislation, develop a sufficient organizational and methodological base, and develop mechanisms for creating a complex for an example of a pilot constituent entity of the Russian Federation.

The main contribution made by the author in this article is the conclusion about the need to develop legislation in the field of integrated security, formulated proposals for the implementation of organizational and legal measures in the development of the agro-industrial complex "Safe City", which have theoretical and applied significance. The research results can be applied by both authorized legislative and executive authorities in their practice.

Sergeev Sergey Vitalievich , No. 5 2019

Taxation of dividends paid to foreign organizations

Resume: This article examines topical issues arising in law enforcement practice in connection with the payment of dividends by Russian organizations to their foreign participants. At the beginning of the article, the author, relying on current legislation , reveals the concept of dividends from civil and tax legal points of view, on the basis of which he concludes that these concepts do not fully coincide. This discrepancy is due to the fact that the concept of dividends from a tax and legal point of view includes, in addition to distribution of profits, other payments to foreign organizations in order to satisfy the fiscal interests of the state. Then, based on a brief analysis of specific court cases, the content of the main controversial

taxation issues arising in practice when Russian organizations pay dividends to their foreign participants is presented. Based on the results of the analysis, the author formulates conclusions regarding possible changes to Russian legislation in order to avoid similar disputes between tax agents and tax authorities in the future **.**

Yakovlev Alexey Borisovich , No. 5 2019

Counteraction to legalization (laundering) of proceeds from crime and financing of terrorism as a type of financial control

Resume: This article is devoted to the study of theoretical and legal aspects of combating the legalization (laundering) of proceeds from crime and the financing of terrorism (AML / CFT) as a type of financial control. The place of AML / CFT in the system of financial law is analyzed, the characteristic features that make it possible to isolate AML / CFT into an independent type of financial control are determined, the main directions of AML / CFT as a type of financial control are noted. The author comes to the conclusion that AML / CFT is a special type of financial control, which has such characteristic features as a comprehensive nature, a wide range of authorized control and supervisory entities, and its own tools for control and supervisory activities.

Mikheeva Irina Evgenievna , №5 2019

P ealizatsiya principles serviceability and integrity when lending borrowers

Abstract : The article examines the relationship between the principles of payment and good faith in lending to borrowers on the example of payment by borrowers of interest and other payments under a loan agreement. The author has analyzed the specifics of the manifestation of the principle of good faith when establishing, changing and collecting interest for using a loan and other payments under a loan agreement. The paper concludes that the law does not contain special rules governing the behavior of the creditor when establishing and changing interest for the use of a loan and other payments, in connection with which the provisions of

the Civil Code of the Russian Federation on the inadmissibility of unfair behavior of the parties are subject to application.

Considering that the provisions of the Civil Code of the Russian Federation on the good faith of the parties' conduct are evaluative, the author, on the basis of judicial practice, highlighted cases of unfair behavior of the creditor when establishing, changing interest for using a loan and other payments.

The article also determines the influence of the ratio of the principles of payment and good faith on the forms and methods of protecting the rights of the borrower and improving the legislation on the payment of interest and other payments .

Rassolov Ilya Mikhailovich ,

Chubukova Svetlana Georgievna , No. 5 2019

Intraindustry principles of genetic information processing

Annotation. The principles of the emerging legislation on the processing of genetic information are among the non-formalized legal phenomena. Revealing these principles is the task of all legal science and especially information law.

From the standpoint of information law, the article presents a new author's approach to building a system of principles of legal regulation of genetic information, among which the following are highlighted: the principle of responsibility to future generations; the principle of freedom of scientific research; the principle of protecting human dignity; the principle of privacy.

Genome protection is aimed not only at preserving the life and health of a particular person, but also at preserving the genome of his descendants. This allows us to consider the genome as the property of mankind.

Freedom of scientific research in the field of genetics implies the freedom to study genetic information, but not the freedom to use it. In relation to scientific research of genetic information of representatives of a certain population, in addition to individual consent to the processing of such information, consent expressed through the legal representatives of the relevant groups or peoples is provided.

The ideas of extended and open consent of a person to the processing of genetic information are analyzed.

It is concluded that it is necessary to consolidate the system of principles of legal regulation in the field of genetic information processing in a special law "On genetic information".

Vasilevskaya Lyudmila Yurievna , No. 5 2019

Token as a New Object of Civil Rights: Problems of Legal Qualification of Digital Law

Annotation. The article is devoted to the study of a new object of civil rights - a token (digital law). The question of the legal nature, the civil legal regime of digital rights is investigated. The article analyzes the norms of the law on the concept and content of digital rights. Considering the token as a digital way of fixing property rights makes it possible to consider it as a kind of property value, the legal regime of which is similar to the “valuable rights” ((Wertrechte) allocated in the European continental law of the German type. It is concluded that the token performs several functions in the information system: 1) recognition of the entitled person; 2) a digital unit of the price of a person's participation interest in a business project, in construction investment; 3) the digital unit of the asset balance of the property of the legal entity; 4) digital analogue of uncertified securities; 5) fulfillment of a monetary obligation in digital form; 6) digital means of payment. Existing in the form of a digital record in a register on a blockchain platform and performing various functions, a token as a sufficiently flexible digital (primarily financial) tool enables participants in digital civil turnover to make digital "transactions" in cyberspace. The article analyzes the issue of the possibility of qualifying the actions of users of the information system for making transactions with tokens as civil transactions.

Dmitrieva Galina Kirillovna , No. 5 2019

Digital financial assets: conflict regulation issues

This article discusses the problems of applying the collisional method of regulating relations associated with the introduction of digital assets into circulation in the territory of the Russian Federation, which have become especially relevant

recently. A number of legislative initiatives aimed at regulating relations for the creation and / or exchange of digital financial assets are analyzed. The author formulates the definition of digital rights - digital codes or designations that exist in a decentralized information system, which certify the rights of the owner of unique access to them to other ("real") objects of civil rights, with the exception of intangible benefits. It is proposed to legislatively consolidate the rules according to which the place of the auction, competition or the location of the exchange on the Internet is determined by the location of the organizer of such an auction, competition or exchange, and if this is not possible, then it is established on the basis of information about their venue or location indicated on the corresponding website. , or by a domain name that provides such an auction, competition or access to an electronic exchange.

Efimov Anatoly Viktorovich , No. 5 2019

Stakeholder concept of legal entity management

Annotation . The article examines two main concepts of corporate governance (European and American), the division of which is due to different attitudes towards taking into account the interests of persons interested in the activities of legal entities (stakeholders) . Despite the preservation of conservative approaches to corporate governance in some states (for example, the United States), this work reveals a global trend in the development and dissemination of the stakeholder (European) concept, which recognizes the need to take into account the interests of various stakeholders - employees, creditors, public legal entities, etc. The author also describes the approaches of Russian scientists to the role of stakeholders in corporate governance and, on the basis of developing legal regulation and emerging judicial practice, concludes that domestic corporate governance is approaching the European concept. It seems that the study of a legal entity through the prism of the stakeholder concept fundamentally changes the traditional structure of this subject of law and makes it possible to systematically solve problems related to corporate social responsibility of legal entities.

Erokhina Marina Georgievna

Arnautov Dmitry Romanovich , No. 5 2019

Using escrow in structuring mergers and acquisitions

Annotation. The article examines the legal nature and features of escrow (escrow) agreements under Russian and foreign law, as well as the procedure for performing mergers and acquisitions (M & A - mergers and acquisitions) under Anglo-Saxon and continental law. It is noted that both Russian entrepreneurs and foreign investors in such contracts prefer foreign law to Russian due to the uncertainty of legal institutions. The authors analyze the possibility of using the escrow mechanism not only for cash, as it was before, but also for other property, in particular, book-entry securities. The paper analyzes the amendments to the Civil Code of the Russian Federation, which have recently entered into legal force, introducing Chapter 47.1 into the code. On its basis, the potential possibility of applying an escrow agreement to mergers and acquisitions of companies is being considered. The authors, in general, assess the effect of the new regulation as positive, but also draw attention to the lack of regulation of the studied institutions in the Russian legal order.

Savinykh Vladislav Alekseevich , No. 5 2019

Legal regime of the results of intellectual activity of budgetary institutions in the scientific field and education

Annotation. Does a budgetary institution in the scientific and educational sphere have the right to independently dispose of its exclusive rights to the results of intellectual activity without the consent of the founder? The status of the institution as a "holder" of the founder's property makes one think about the need to apply, by analogy with the law, the provisions governing the right of operational management to relations regarding the disposal of the institution by its exclusive rights. Moreover, taking into account the fact that the prerequisites for the introduction of the consent of the founder, as a necessary condition for the disposal of the valuable property of the institution, are equally applicable both to objects of

property rights and to exclusive rights to the results of intellectual activity. However, the author substantiates the inadmissibility of applying, by analogy with the law, the provisions of the Civil Code of the Russian Federation limiting the powers of a budgetary institution to dispose of property assigned to it on the basis of operational management, pointing out the absence of a regulatory gap that would require filling. In this regard, the author comes to the conclusion that a budgetary institution, as a general rule, has the right to independently dispose of its exclusive rights to the results of intellectual activity without the consent of the founder.

Odnoshevin Igor Alexandrovich , No. 5 2019

The grounds for the implementation of operational-search activities - a guarantee of the constitutional rights of citizens involved in the field of operational-search activities

Annotation. *The article reveals the essence of the "grounds" for conducting operational-search activities - the most important guarantor of ensuring the constitutional rights of citizens involved in the field of operational-search activities. Taking into account the analysis of legal literature, the most acceptable approach to dividing the grounds for conducting operational-search measures into "factual" and "formal" (legal) grounds is highlighted. It is noted that in some cases, operational-search measures can be carried out only if there are factual grounds , however, with the obligatory registration of legal grounds in the future, after the implementation of such measures. The position is substantiated that certain circumstances, which are revealed empirically - by operational and investigative practice and are typical circumstances preceding, accompanying or following a crime, can be considered as grounds for carrying out operational-search measures. The author's position on what should be understood by "grounds" for carrying out operational-search measures is highlighted.*

Smushkin Alexander Borisovich , No. 5 2019

N rintsipy criminology

Annotation. In the article, the author examines the conceptual issues of identifying the principles of forensic science. Analyzing the opinions of various scientists on the issue under consideration, the author disputes the views on the need to use only the principles of criminal procedure in forensic science. A developed three-link system of principles of this science is proposed, including: 1 General (general scientific) principles, characteristic both for other sciences and for practical activities. 2. Private, characteristic of all forensic science in general. These are actually forensic principles that characterize its basis, directions of activity, development prospects. It is within this group of principles that the theoretical and practical aspects can be distinguished. 3. Special principles of forensic science: principles specific only to certain parts of forensic science. Without going into a discussion about the system of forensic science, let us single out the principles of the general theory of forensic science; principles of forensic technology; principles of organization of investigation and tactics of investigative actions; principles of forensic techniques. The development of an optimal system of principles of forensic science makes it possible to increase the efficiency of scientific and practical developments.

Majorina Maria Viktorovna ,

Terentyeva Lyudmila Vyacheslavovna ,

Shakhnazarov Beniamin Alexandrovich , No. 5 2019

Private international law in the context of the development of information and communication technologies

Resume : The processes of globalization, development of information and communication technologies, networkization significantly change society and, as a result, its superstructure - law. Private international law, by virtue of its own subject matter and special methodology, is at the forefront of the corresponding changes.

The article examines the problems of formulating the concept of territorial sovereignty in the extraterritorial information space, which are of serious importance in relation to private international law, the principles of which are the general principle of the sovereign equality of states, acting as a general principle for international private law, and the special principle of the sovereign equality of national law of states. ... The problem of the implementation of the territorial nature of the conflict formulas of attachment and the grounds for international jurisdiction in relation to a certain segment of the extra-territorial information space is posed. The question of the conditionality of the adaptation of the principles and methodology of legal regulation of public relations in the context of digital technologies by the need to understand the conditions and boundaries of the realization of sovereignty, jurisdiction of the state in the information and communication space is investigated . The processes comprehended within the framework of the science of private international law are, to one degree or another, relevant for other branches of law. This paper analyzes such indicators of ongoing changes in the legal paradigm as the impact of information and telecommunication technologies on the development of private international law, the place and increasing importance of non-state regulation in the process of streamlining cross-border private law relations, and the development of non-state systems for resolving cross-border disputes. The problems of the use of blockchain technologies and the protection of intellectual property in cross-border private law relations are touched upon; private adhocratic rule-making, the formation of various social phenomena in the spirit of lex mercatoria , the influence of international commercial arbitrations, online platforms on the formation of current trends in the field of resolving cross-border disputes, etc.

Voinikov Vadim Valentinovich , No. 5 2019

Legal regulation of the procedure for the consideration of cross-border disputes in civil cases within the EU

Annotation. This article is devoted to consideration of certain aspects of legal cooperation in civil cases related to the determination of jurisdiction, recognition and enforcement of court decisions, as well as the determination of the law applicable in the examination of cross-border cases within the EU . At the EU level, a whole system of unified legal norms has been created that regulate the procedure for considering cross-border disputes in civil matters within the Union. At the same time, the EU's goal is not to replace national procedural legislation with Union acts, but to facilitate access to justice in civil cases of a cross-border nature in conditions of close economic integration. The author analyzed the concept of "legal cooperation in civil cases", and also revealed its key elements. The article singles out and examines in detail four modes of consideration of cross-border cases within the EU, notes their peculiarities, and analyzes judicial practice.

Zhavoronkova Natalia Grigorievna

Agafonov Vyacheslav Borisovich , No. 5 2019

Modern trends in rule-making in the field of land, urban planning and natural resource law

Annotation. The article is devoted to the identification features standard-setting in the field of land th, the Town Planning th and natural resource CSO law, including the main innovations in the field of legal regulation of land, urban planning and natural resource relations , development trends of the state policy in this sphere of influence of the state strategic planning documents for norm-setting in the sphere of land, town planning and natural resource relations, as well as general trends and prospects for the development of modern Russian land , town planning and natural resource legislation. According to the results of the study, the authors come to the conclusion that adopted Ia BAZOV th document as well , which will lay

the conceptual foundation for the formation of seamless, consistent, systematic, institutional framework for environmental (including natural resource), land and urban lawmaking. The creation of "development institutions" of rule-making, based on the adopted specific, achievable, long-term goals, objectives, means and methods, is perhaps the most difficult, but necessary stage of the transition to new characteristics of rule-making in the field of land, urban planning and natural resource law.

Gorlova Elena Nikolaevna

Tkachenko Roman Vladimirovich , No. 5 2019

The concept of megascience-class projects on the example of the ITER and FAIR installations

Abstract: International scientific projects aimed at the creation and operation of megascience-class installations, and, accordingly, at obtaining breakthrough, innovative scientific results of global significance, are called megascience-class projects. Currently, several large-scale projects of the "megascience" class are being implemented in the world, each of which is aimed at solving a global challenge facing humanity. The next qualitative stage in the development of civilization is impossible without removing the bottlenecks that impede such a forward movement. One of the most pressing global problems is improving energy efficiency and developing technologies for obtaining and using alternative renewable sources of electrical and thermal energy, as well as obtaining new knowledge about the structure of matter and the evolution of the Universe from the Big Bang to the present. The megascience projects ITER and FAIR are called upon to solve these problems, the Russian Federation plays an important role in the financing and technical implementation of which.