

Kornev Arkady Vladimirovich , No. 6 2019

Digitalization of Law: Problems and Prospects

Annotation. The article discusses certain problems that are associated with the digitalization of the legal environment and some types of legal activities. These include the growth of electronic document management, the so-called "electronic justice", electronic communication technologies in lawmaking and law enforcement. The thesis about the inevitability of the transformation of the legal system under the influence of information and communication technologies is substantiated. The experience of some foreign countries in which the technologies of the fourth industrial revolution have been applied for a long time is shown. The problems that arise with the use of digital technologies in the legal field are outlined. The role of digital information and its importance for making management decisions are noted. The changes related to the legal forms of state activity are reflected. Forecasts are made regarding the development of the legal system and the system of legislation, the legal profession and some types of legal activity in the near term. The thesis is substantiated that the development of technologies is perhaps the main factor in the competitiveness of a modern state.

Artemov Vyacheslav Mikhailovich , No. 6 2019

Moral and philosophical analysis of the practice of digitalization in modern education for lawyers: a look into the future

Annotation. *The article analyzes the phenomenon of digitalization in modern education from a moral and philosophical standpoint on the example of a law school and in the aspect of understanding the possible future (inheriting the best from the past, it should be humane, reasonable and viable) . Based on the analysis of the practice of digitalization and its consequences, including the educational field of the law university, an approach is positioned according to which teachers are called upon not only to give young people a certain amount of knowledge, but also to build a morally justified, promising paradigm of their proper*

application in terms of the development and improvement of a person and society. including some of its institutions, including those related to entrepreneurial activity.

Sitnik Alexander Alexandrovich , No. 6 2019

Financial technologies: concept and types

Annotation. This article is devoted to the study of the impact of the digital economy on financial law. It was determined that in the context of the digitalization of the economy, new technologies, on the one hand, lead to the expansion of the subject of legal regulation, and on the other hand, they are a tool that contributes to regulation, administration, financial control and supervision. The paper deals with various types of financial technologies, primarily regulatory (RegTech) and supervisory technologies (SupTech). Based on the results of the study, the author concludes that the term "regulatory technologies" is generally unfortunate. Moreover, it should be said that in a narrow sense, financial technology is a set of tools and methods used exclusively in financial markets, in a broad sense - used in all areas related to financial regulation, control and supervision.

Kamalyan Vladislav Mikhailovich, No. 6 2019

Legal risks of using digital technologies in banking

Annotation. In this work, the author, based on the analysis of the legal risks of using smart contracts in banking, concludes that there is a need for special legal regulation of the use of digital technologies in banking, which would minimize the considered legal risks. The author believes that such legal regulation, in order to minimize legal risks, should define a smart contract not as a structure of a written contract, but as a way of fulfilling obligations. Analyzing the legal risks associated with personal identification in the implementation of digital technologies in banking, the author proposes the use of blockchain technology as the basis of a customer identification system, while using exclusively the advantageous capabilities of this technology in compliance with the requirements of international standards and national AML / CFT legislation. This solution will simplify and

protect the system of identification and processing of data on bank customers, but it requires effective government support and legal regulation.

Ayusheeva Irina Zoriktuevna , №6 2019

Features of civil-law regulation of relations to provide for the use of real estate in the conditions of the joint consumption of the economy (sharing economy)

Civil law regulation of rent a real estate in sharing economy

***Abstract:** Currently, the relations of the digital economy are developing; in the context of the Fourth Industrial Revolution, their regulation is changing. At the same time, environmental problems and limited resources are gradually changing attitudes towards the culture of their consumption: there has been a tendency to move from a consumer society to a sharing economy , characterized by the collective use of goods and services. These trends are manifested in various areas, including in the field of ownership and use of real estate, in particular, residential premises. Currently, various services are emerging, for example, Airbnb , which allow you to provide real estate for use, the format of joint use of office premises (coworking) is developing. Relevant is the definition of the nature of contracts that arise between users and owners of services, as well as directly between users, the establishment of the rights and obligations of the parties, the scope of their responsibility, which requires a more detailed study of the designated problem.*

Currently, the digital economy is developing, which can lead to the Fourth industrial revolution and change the usual relations. At the same time, environmental problems and limited resources are gradually changing the attitude to the culture of their consumption: there is a trend of transition from consumer society to the economy of joint consumption (sharing economy), characterized by the collective use of goods and services. These trends are manifested in various areas, including the ownership and use of real estate. Currently, there are various services, such as Airbnb, which allow to provide real estate for use, developing the format of office space sharing (coworking). It is important to determine the nature of contracts that arise between users and owners of services, as well as directly

between users, to establish the rights and obligations of the parties, the scope of their responsibility, which requires a more detailed study of the problem ...

Grin Oleg Sergeevich , No. 6 2019

Transformation of requirements for the form of contracts, taking into account the development of digital technologies

Resume: The article discusses the main issues related to the improvement of the provisions of Russian civil legislation on the form of the transaction, most of which are related to the adoption of the Federal Law of March 18, 2019 No. 34-FZ "On Amendments to Parts One, Two and Article 1124 of Part third of the Civil Code of the Russian Federation ". The adoption of these changes was due to the implementation of the federal project "Normative Regulation of the Digital Environment" within the framework of the national program "Digital Economy of the Russian Federation". The author noted the similarity of the approaches adopted by the Russian legislator with the provisions of international acts, in particular, the UNCITRAL Model Law on Electronic Commerce of 1996 and the UN Convention "On the Use of Electronic Messages in International Agreements" 2005. there are 2 basic variations of the written form (one document signed by the parties and the exchange of documents) and 2 basic fictions of this form (acceptance by action on a written offer and the conclusion of a transaction using electronic or other technical means).

Chernykh Irina Ilyinichna , No. 6 2019

Legal forecasting in the field of civil proceedings in the context of the development of information technologies

Resume : The article is devoted to the study of the possibilities of applying the methods and means of legal forecasting in the field of lawmaking, law enforcement judicial activity and in the field of providing legal assistance in the context of the development of information technologies in relation to civil proceedings. Forecasting technologies are tested on the example of the analysis of one of the draft laws in the field of civil proceedings. The questions of the formation of working groups of futurologists, the collection of information in the study of the forecast background using digital technologies, the creation of predictive legal models when taking into account legal risks using applied computer programs are considered. The importance of participation of the scientific community in the implementation of legal forecasting, as well as the need to develop the foundations of legal regulation of the use of predictive technologies and the need for state control over this activity are emphasized.

Ershova Inna Vladimirovna ,

Trofimova Elena Valerievna , No. 6 2019

Mining and entrepreneurship: in search of a balance

***Annotation.** The article reveals the content and outlines approaches to determining the legal nature of mining. Attention is drawn to the need for legal regulation of these activities, which is predetermined by the federal project included in the structure of the national program "Digital Economy of the Russian Federation", which provides for the normative regulation of the digital environment. In order to ensure the mission of eliminating digital illiteracy, which is also provided for by the named national program, the etymology and meaning of the term "mining" are explained, various doctrinal interpretations of this concept are given. For a better understanding of the blockchain technology associated with mining, its analogies with a public ledger, DNA, and a puff pie are presented. The material, technical and organizational foundations of mining are revealed. The advantages and disadvantages of solo mining, mining through pools and cloud mining are shown. The results of comparative monitoring of attitudes towards the*

recognition of cryptocurrency as a means of payment are presented. Attention is drawn to the liberal legal regulation of blockchain technology and mining by the legislation of the Republic of Belarus. The stages of the legislative process aimed at the legal support of mining in Russia are shown. Based on the results of comparing the concepts of entrepreneurial activity and mining, it was concluded that mining is one of the new types of entrepreneurship, brought to life by the needs of the digital economy. A proposal was made on the recognition of mining entities as self-employed persons. It is noted that the entrepreneurial nature of mining activity causes questions about the measures of its state regulation, which is difficult within the current paradigm, but which should be based on a balance of private and public interests.

Egorova Maria Alexandrovna

Maria A . Egorova , # 6 2019

Bitcoin as a special type of cryptocurrency: the concept, meaning and prospects of legal regulation in business

Annotation . In order to develop the digital economy in the Russian Federation, by order of the Government of the Russian Federation of July 28, 2017 N 1632-r, the Program "Digital Economy of the Russian Federation" was approved, which, among other things, is aimed at creating a regulatory framework for the legal regulation of new relations in the field of the digital economy. Particularly relevant, in this regard, is the issue of legal regulation of cryptocurrency and bitcoin. The article discusses in detail a special type of cryptocurrency - bitcoin. The main problems associated with the need for legal regulation of cryptocurrencies are analyzed, it is concluded that the legal regulation of cryptocurrency as a means of payment requires an integrated approach and is impossible without taking into account the peculiarities of the legal regulation of "bitcoin". The relationship of the concept of bitcoin with other key concepts is given: virtual currency and digital currency. It is concluded that it is necessary to create a non-state self-regulatory organization with support from the state in order to protect

the interests of the cryptocurrency business . Since the survey of the legal regulation of cryptocurrencies is of a global nature, the article examines the foreign experience of legal regulation of cryptocurrencies and their types.

Grin Elena Sergeevna

Koroleva Anastasia Georgievna , No. 6 2019

Formation of basic models for the protection of virtual and augmented reality technologies in the field of intellectual property law

Annotation. The development of digital technologies has affected almost all spheres of human activity. Today, virtual and augmented reality technologies stand out among the most significant results of the digital transformation of the economy. The qualitative growth of these technologies, as well as their active widespread use, give rise to a considerable number of legal problems. One of them is the definition of mechanisms for the protection of technologies of virtual and augmented reality, as well as the products of their use by the norms of intellectual property law.

The article examines the features of the legal nature of virtual and augmented reality technologies, analyzes the concepts of virtuality, virtual and augmented reality from the point of view of various approaches found in the literature. The main objects of intellectual rights realized in technologies of virtual and augmented reality, as well as generated by them, are revealed. The authors conclude that it is possible to ensure the protection of the considered results of intellectual activity and means of individualization by the main institutions of intellectual property law, however, the question is raised about the necessary development of new models for the protection of the results of creative work in the area under consideration.

Lyutov Nikita Leonidovich , No. 6 2019

Adaptation of labor law to the development of digital technologies: challenges and prospects

Resume: *The article analyzes two key challenges for labor law that have arisen in connection with the development of information technologies: a change in the structure of employment (the transition of labor activity from the sphere of production to the sphere of services, the withering away of old and the emergence of new professions) and the transformation of labor relations in connection with the emergence of new forms of employment, leading to the erosion of the most important signs of the labor relationship, including the subordination of the employee to the employer and control over the implementation of labor as a process.*

In connection with the first of the challenges for labor law, the author considers the problems of labor regulation of the most vulnerable category of workers from the point of view of changing the types of professions - workers of retirement and retirement age.

On the second challenge, related to the transformation of the labor relationship as such, the author proposes to start discussing the possibilities of including mechanisms for protecting the labor rights of workers in the event of economic dependence of the person performing the work on the person who instructs to perform this work, regardless of the form of the contract concluded between the parties.

Andrey A. Aryamov ,

Gracheva Yulia Viktorovna, No. 6 2019

Digitalization: Criminal Risks in the Economy

Annotation. Any industrial revolution not only opens up new opportunities for society and the state, but also endows criminals with methods and tools for committing crimes that did not exist before. The fourth industrial revolution is characterized by the automation and robotization of production, artificial intelligence, 3D printing, the creation of new materials and technologies (biotechnology and information technology), etc.

One of the objects of criminal law protection, the threat of harm to which is created as a result of digitalization, is the economy (social relations arising in

connection with the normal functioning of the economy as a single national economic complex). Currently, one can distinguish such cyber threats to the economy as attacks on banks; but also on a broker, as well as on a settlement system, theft through Internet banking and some other actions performed through the use of malicious programs. Their main goal is the unlawful seizure of other people's property. The most common ways to commit theft is a manual transfer of funds from the owner of the computer account through remote access, avtozaliv, menu social engineering, the use of n programs Partial-extortionist, Mr. epravomernoe use of the brand and others.

In the context of digitalization, the science of criminal law is faced with the task of developing a model for systematic updating of domestic criminal legislation, developing general rules and clear criteria for its implementation, and not a spontaneous response to the immediate needs of a law enforcement officer by designing special compositions of cybercrimes.

Chuchaev Alexander Ivanovich ,

Malikov Sergey Vladimirovich , No. 6 2019

Liability for damage to highly automated Transportat m means th : state and prospects

Annotation . The article provides a description of the existing in Russia legal regulation of liability for causing harm to a highly automated (unmanned) vehicle (BPS). The most significant at present include: the Convention on Road Traffic ; With strategies are I road safety in the Russian Federation ; "Road th car that " to improve the legislation and the elimination of

administrative barriers in order to ensure the implementation of the National Technology Initiative in "Avtonet". Emphasis is placed on the development of the Federal Law, wherein said first approaches to regulating exploitation of highly automated transport assets, named entities responsible in case of damage to the UAV. The principles of BTS functioning and the degree of their autonomy are shown in general terms. Analyzes available in the domestic criminal law approaches to the liability of persons managing the BPS, and approaches being developed in foreign countries with regard to the regulation of exploitation of highly automated transport assets. The main approaches to the definition of a criminal law prohibition are indicated and the most important algorithms for the criminalization of the act in question are highlighted. The proposed structure of the Federal Law on the regulation of the use of vehicles equipped with automatic control system on the territory of the Russian Federation.

Antonovich Elena Konstantinovna, No. 6 2019

The use of digital technology in the interrogation of witnesses

at the pre-trial stages of criminal proceedings

(comparative legal analysis of the legislation of the Russian Federation and the legislation of some foreign countries)

Annotation. The testimony of witnesses is a type of evidence that practically no criminal case can do without. It is the significance of this type of evidence that determines the legislative requirements for the regulation of the preparation and procedure for interrogating a witness, as well as for the fixation of testimony. This is of particular importance both from the point of view of ensuring the guarantee of the admissibility and reliability of evidence, and from the point of view of ensuring the rights and legitimate interests of persons involved in criminal proceedings.

The national legislation of modern states creates their own standards for the use of witness testimony in evidence in criminal cases. With all the variety of

approaches, the importance of information technology in collecting, checking and evaluating the testimony of a witness can be considered in the following main areas: as a means of fixing an investigative action, as a way to establish factual circumstances that are important for the case, as a means of ensuring the production of an investigative action and as a means of transmitting information ...

Based on the analysis of the criminal procedural legislation of the Russian Federation and some foreign countries, the author investigates the problems of legislative regulation of the use of digital technologies in the interrogation of witnesses, including remote interrogation and deposition of witness testimony. Special attention is paid to remote interrogation at the request of foreign states.

Maslennikova Larisa Nikolaevna , No. 6 2019

Transformation of pre-trial proceedings into the early stages of criminal justice, providing access to justice in the era of " Industry 4.0 "

Annotation. The article examines topical problems of ensuring access to justice in criminal proceedings, substantiates the need to change the paradigm of pre-trial proceedings. The new digital reality "Industry 4.0" implies colossal rates of development, profound changes in all spheres of society, including in criminal proceedings. The author argues that the digital transformation of criminal justice in terms of ensuring access to justice is impossible without changing the legislative model (algorithm) of the initial stage of criminal justice, which ensures access to justice. The key moment in the transformation of pre-trial proceedings should be the electronic interaction of the state and society (population) in the new digital reality. P Appears fundamentally new opportunities to participate in criminal proceedings (including remote access) and new opportunities to influence decision-making and control over decision-making (automation of the registration posts of the crime and the beginning of the investigation, the possibility

of filing complaints, petitions, receive notifications, to pii solutions in electronic form).

Obidin Kirill Vyacheslavovich , No. 6 2019

On the relationship between the grounds for initiating a criminal case and the grounds for bringing charges in the context of digitalization of criminal proceedings

Annotation:

The dissemination and active use of technical means of audio and video recording in the process of identifying and proving certain types of crimes leads to the need to rethink the relationship of some theoretical concepts. The article analyzes similar elements and differences in the grounds for initiating a criminal case and grounds for bringing charges. Attention is drawn to the convergence of the content of these concepts in the context of the spread of digital technologies in criminal proceedings. The opinion is expressed that the use of audio and video recordings in the cognition procedure has a significant impact on the inner conviction of the investigator and interrogator when making procedural decisions. The possibility of initiating a criminal case solely on the basis of audio and video recording is analyzed. The article expresses the point of view on the inadmissibility of simplifying the procedure of proof in cases of the presence of audio and video recordings together with confessions, since in this case there is a violation of the basic foundations of cognitive activity in the framework of criminal proceedings.

Gavrilov Sergey Nikolaevich ,

Volodina Svetlana Igorevna , No. 6 2019

**Information (digital) ecosystem of the legal profession
in the context of the ecosystem of the digital economy of Russia**

**An IT (digital) system of an advocacy within the context of an ecosystem
of a digital economy of the Russian Federation**

Abstract: The article provides an overview of the general features of the "ecological approach" in the field of informatization. The relationship and interconnection of the concepts "digital ecosystem", "software ecosystem", "ecosystem of the digital economy", "ecosystem of the information society", "information (digital) ecosystem of the advocacy" have been determined.

The place of the information (digital) ecosystem of the legal profession is determined as a part of the ecosystem of the digital economy of Russia and the ecosystem of the information society. The structure and general characteristics of the information (digital) ecosystem of the legal profession are described.

Elena A. Antonyan ,

Kleshchina Elena Nikolaevna , No. 6 2019

Cyber-victimhood

Resume: In the article, taking into account the fact that modern cybercrime is gaining in scale, acquiring various forms: from theft of personal information of users, Internet fraud, hacking, violation of copyright and related, inventive and patent rights, illegal obtaining and disclosure of information constituting commercial and bank secrecy prior to involvement and activity in terrorist and extremist organizations. The presented victimological analysis has shown that the greatest threat is posed by organized forms of cybercrime, the latest electronic technologies used in their criminal activities, blockchain platforms in order to commit such crimes of a terrorist and extremist nature. Problems of countering cybercrime cannot be solved without taking into account the victimological characteristics of the behavior of victims of these crimes, among whom there are always potential victims, especially when it comes to simply clicking on a link specified in a message or in an incoming email, which leads to downloading malicious software security and criminals gain access to content, such as a phone book, bank card and other personal data.

Semikalenova Anastasia Igorevna ,

Ryadovsky Igor Anatolyevich , No. 6 2019

The use of specialized knowledge in the detection and fixation of digital traces: an analysis of modern practice

Resume: The article presents and analyzes the results of studying the current practice of identifying, fixing, preserving and preceding forensic examination of the study of digital traces of a crime. As a toolkit for monitoring investigative and operational-search activities in this area, personal conversations and interviews with employees of the Investigative Committee of the Russian Federation, investigative and operational-search divisions of the Ministry of Internal Affairs of Russia, employees of other services and departments, cadets and senior students of higher educational institutions, studying for the relevant specialization. In addition, experts in the field of computer information technologies, both private and public sector, involved in conducting investigative actions and operational-search activities, were interviewed.

The article presents the results of this study, identifies the actual problems of criminal proceedings, which are faced by representatives of law enforcement agencies investigating crimes associated with information and computer technologies when seizing and recording computer information.

Barabashev Alexander Georgievich ,

Ponomareva Daria Vladimirovna , No. 6 2019

Personal data protection and research activities: experience of EU legal regulation

Annotation.

Legal regulation of the use of personal data plays a significant role in ensuring the quality of scientific research . P eglament of the European Parliament and of the Council number 2016/679 of 27 April 2016 " On the protection of the rights of natural persons with regard to processing of personal data and on the free movement of such data , canceling D Directive 95/46 / EC " (hereinafter - Regulations) [\[5\]](#), aims to unify the norms governing the protection of human rights to privacy, both in the EU and, under certain conditions, outside of it. This novelty, introduced by the Regulation into the EU legal framework , complements and

updates the “*acquis communautaire*” reached within the framework of Directive 95/46 / EC on the protection of personal data . The Regulation establishes both general rules applicable to any type of personal data processing, and special rules applicable to the analysis of certain categories of personal data, such as information obtained in the course of clinical trials. This article provides an overview of new regulations (in force since May 2018) regulating aspects of the processing of personal data in the context of research activities (personal health data, genetic, biometric information, etc.).

Laptev Vasily Andreevich,

Solovyanenko Nina Ivanovna , No. 6 2019

"Forensic cloud": legal issues of data structuring and protection

Abstract: Technologies of formation and architecture of cloud databases affect legal approaches to processing and storing information in digital form. Providing access to data stored in the "cloud" via the Internet has made access to user information extraterritorial. The modern digital society uses cloud technologies due to the lack of competitive alternatives for remote and secure data storage.

When the cloud storage (Eng. *Cloud is storage*) the owner of the digital information is not aware of the particular location of the hard disk with digital data. They are stored on multiple servers distributed over the network. Data is available over the Internet anytime, anywhere .

In this paper, the authors investigate the problem of cloud data formation. The “judicial cloud” used in the activities of Russian courts was chosen as a specific subject. This issue is essential for the digital state and business.

The architecture of cloud systems is revealed. The characteristics of the algorithms for the operation of the cloud system are given. Particular attention is paid to the description of the principles and methods of information security, including in order to ensure the interests of the state. Some aspects of the possible

use of artificial intelligence in the administration of the "forensic cloud" are also considered.