Davydov Konstantin Vladimirovich , No. 10 2019

The right to participate in the consideration of an administrative case as the fundamental right of participants in an administrative procedure: a comparative legal analysis

Resume : The article analyzes the basic right of participants in an administrative procedure - the right to consider an administrative case. There are three main components of the latter: the right to be heard, the right to notify, the right to familiarize himself with the materials of the administrative case. The dependence of the content of such rights on various doctrines, the degree of development of legal order and on the types of procedures is shown. The conclusion is made about the fundamental applicability of the progressive achievements of Western legal systems to Russian public law.

Kulikov Anton Sergeevich

Chirkin Kirill Vadimovich , No. 10 2019

Failure to comply with the legal requirements of a deputy (for example, the legislation of the city of Moscow)

Annotation. This study is devoted to such a specific composition of an administrative offense as failure to comply with the legal requirements of a deputy, which had no analogue in Soviet administrative law. The subject of the analysis was the norms of regional legislation, primarily the Code of Administrative Offenses of the City of Moscow 2007 and related provisions of other laws of the City of Moscow. Taking into account the interrelated legal norms, the object of the said administrative offense is established, the concept of "legal requirements of a deputy" is defined, the content of other elements of the offense is revealed - the objective side, the subject and the subjective side. At the same time, a number of shortcomings of the law were identified and ways of their correction were proposed. In particular, the unification in one part of the article of the Code of Administrative Offenses of

the City of Moscow of two administrative offenses with different direct objects, the absence of a legal definition of the concept of "legal requirements of a deputy", the absence of administrative responsibility for obstructing the activities of a deputy for citizens, excessive leniency of sanctions for violation of the terms of consideration appeals of a deputy in comparison with similar administrative offenses that have less public danger.

Zbaratsky Bogdan Anatolyevich , No. 10 2019

Judicial legislative initiative in the constituent entities of the Russian Federation

Annotation. The article examines the legislative initiative of the judicial authorities at the level of the constituent entities of the Russian Federation. Comparing the consolidation of legislative initiative in the courts in the Constitution of the Russian Federation and the constitutions (charters) of the constituent entities of the Russian Federation, the author comes to the conclusion that the content of the right of legislative initiative in the overwhelming majority of constituent entities of the Russian Federation is similar to the federal one. The author examines the various positions of the legislators of the constituent entities of the Russian Federation on endowing the judiciary with legislative initiative. The peculiarity of empowering the right of legislative initiative not only to the judicial authorities belonging to the level of the subjects of the Russian Federation (constitutional (statutory) courts), but also federal courts (courts of general jurisdiction and commercial courts) is highlighted, the problems associated with such an allotment are investigated. The author distinguishes between the concepts of judicial bodies, chairmen of courts and presidiums of courts as subjects endowed with the right of legislative initiative. Analyzing the variety of formulations regarding the empowerment of the judiciary, their officials and internal structural units, the author comes to the conclusion that only the court as a body as a whole can have the right to initiate legislation. According to the author, in some constitutions (charters) of the constituent entities of the Russian Federation there is a clear contradiction to federal legislation. However, the empowerment of the courts

with the right of legislative initiative at the level of the constituent entities of the Russian Federation is undoubtedly necessary.

Rybakova Svetlana Viktorovna,

Savina Anna Vladimirovna, No. 10 2019

Changing the content of the principle of transparency (openness) in the context of the functioning of the budget system using digital technologies

Annotation. In the n rovoditsya of the principle of opening (transparency) budget system requiring filling another under the application of information technologies. Certain elements of this principle, enshrined in the current edition of the Budget Code of the Russian Federation, are questioned, while other elements in digitalization conditions must undergo a corresponding transformation. The reflections of the authors are based on the study of the current financial legislation, regulatory legal acts and policy documents accompanying the formation of the information society, including in the field of budget technologies. Relevant research is carried out in the aspect of studying modern budgetary and legal policy.

Faizrakhmanova Leysan Minnurovna , No. 10 2019

Peculiarities of supervision of the insurance services market

Annotation. The article is devoted to the financial and legal aspects of insurance supervision. It has been determined that as insurance develops , the volume of state regulation increases , incl. supervision of insurance activities. The paper analyzes prudential insurance supervision and the development of models and risk-based supervision of the largest insurance companies . Based on the results of the study, the author concludes that insurance supervision is an integral part of the effective development of the national insurance market. It is carried out at all stages of the activities of insurance subjects in order to comply with the requirements of the legislation of the Russian Federation on insurance, the effective development of insurance services .

Volkov Yuri Viktorovich , No. 10 2019

The right to lay and maintain communication networks

Annotation. The article discusses the main legal aspects of the placement of communication lines on property objects that do not belong to the communication operator or subscriber. This problem is complex in nature and is one of the main obstacles to the country's information development. The goal is to find solutions to overcome obstacles to the implementation of the national program "Digital Economy" in terms of the construction of communication networks. Comparative and formal dogmatic methods are used as the main ones. The functional method is used fragmentarily. A review of Russian legislation in the scope of provisions containing norms on networks and communication lands was carried out. Proposals with amendments to the relevant sections of Russian legislation were considered and analyzed . A brief overview of certain foreign legislative and local acts containing a special right of way (wiring, laying) of communication lines is given. The search for solutions to the problem is based on the main domestic scientific works. Several ways of solving the problem have been proposed. The results can be used for further research, for legislative activity and for the educational process .

Ostrikova Larisa Kuzminichna , No. 10 2019

The Institute of Injury Obligations: Current State and Ways to Improve

Annotation. The article is devoted to the institution of obligations as a result of causing harm in the light of the reform of civil legislation and the established law enforcement practice. The concept of “harm” is investigated on the basis of the current legislation, doctrine and judicial practice. The characteristic cases of causing harm to subjects of civil law are highlighted. It is concluded that the absence of a legal definition of the concept of harm, which is widely used in Russian legislation, has led to a confusion of the legal categories of "harm" and "damage" as a condition for the occurrence of tort liability in public branches of law and in judicial practice. The author's classification of types of harm is given, the classification of property damage is highlighted. The content of the concept of non-property (reputational) harm caused to a legal entity is revealed. A comparative study of the concepts of harm, damage, loss is carried out. It is concluded that the condition for

the occurrence of tort liability is the presence of harm, and not the infliction of losses. The problems of application of recovery of the caused losses are investigated.

The author analyzes a sub-institute - obligations due to harm caused by acts of public authority: in the field of public administration and law enforcement. The conditions of tort liability for harm caused by state bodies and local self-government bodies, as well as their officials, and the peculiarities of the subject composition of a tort obligation are highlighted. The author draws attention to the civil nature of legal obligations arising as a result of causing harm in the field of criminal proceedings. The features of the conditions of tort liability for harm caused in the sphere of criminal proceedings, the subject structure of tort obligation as a result of causing harm in this area of state-power activities are highlighted.

The author proposes to introduce into the current civil legislation a norm-definition of the concept of harm as a generic concept. It is proposed to supplement the institution of obligations due to damage caused by provisions on public law formation, the property of which may be damaged; provisions on the specific division of harm caused to subjects of civil law. It is proposed to make a number of changes and additions to the sub-institute - obligations due to harm caused by acts of public authority.

Yurieva Larisa Anatolyevna , No. 10 2019

General meeting of owners of premises in an apartment building: problems of legal status and implementation of certain powers

Annotation. The article defines the place and significance of the general meeting of owners of the premises of an apartment building in modern legal science and legal practice. A classification of issues within the competence of this body is made on the basis of functional and quantitative criteria. Attention is drawn to the vagueness of the wording of certain powers of the general meeting, which creates difficulties in their implementation in practice. The expediency of clarification by the highest court of the content of the authority of this body for making decisions on the limits of use and improvement of the land plot, which is part of the common property of the owners, is noted. Duplication of powers in making decisions on the

formation of a capital repair fund and current repairs of common property of the general meeting of owners of premises in an apartment building and the will-forming body of a partnership of homeowners when managing a house by this non-profit organization was revealed. The conclusion is made about the need for legislative adjustments to these provisions in order to eliminate the conflict of powers of these bodies, specific proposals of a legislative nature are given.

Saurin Sergey Alexandrovich , №10 2019

Specifics of regulating the scope of Russian telecommuting norms and their correlation with international standards

Resume: The article analyzes the approach of the Russian legislator to determining the scope of legal regulation of remote work in a circle of persons. The author compares the current Russian regulation of remote work with existing international concepts in order to answer the question of whether it is possible to consider as remote workers those who use modern information and telecommunication networks only to interact with the employer, but not to perform their job function. The issue of the possibility of the emergence of an employment relationship on remote work in the absence of a written employment contract is also considered.

Degtyarev Mikhail Vladimirovich , №10 2019

Analysis of judicial practice in cases of doping in sports

The article is devoted to the study of the possibilities of developing conceptual approaches to create a legal definition of the concept of "sports-doping agent". The foreign judicial practice has been investigated in order to identify legal positions that suggest ways to improve the definition of the concept of "sports doping".

The author explains that in the field of preventing and eliminating the illegal use of doping in sports, the administrative potential of the current state regulation is exhaustive within the framework of the modern paradigm, it has limitations for increasing the effectiveness of the law, the effectiveness of enforcement and administrative and restrictive measures. The article describes a set of necessary

regulatory and empirical materials developed by the authors to develop a theoretical basis for building a homologated (for new challenges and requirements) legal definition of the concept of "sports doping agents". The author gives a legal definition of this concept. The normative basis of the study was the legislation of 33 foreign countries. The empirical basis of the study was the jurisprudence of 16 foreign countries. On the basis of the aforementioned regulatory and empirical foundations, using the methods indicated at the beginning of the article, the author has developed the author's conceptual and in-depth legal definition of the concept of "sports doping agents", which can significantly improve government regulation in this field.

Kochoi Samvel Mamadovich , No. 10 2019

Responsibility for bribery or coercion to testify

or evasion of testimony or incorrect translation

(Article 309 of the Criminal Code of the Russian Federation): issues of legislative structure and practice of application

Resume : An analysis of the text of Article 309 of the Criminal Code of the Russian Federation has revealed a number of shortcomings in the legislative structure of its constituent offenses. It is concluded that the different degree of danger of bribery and coercion of participants in the proceedings, which is the basis for the design of their main compositions (part 1 and part 2 of Art.309 of the Criminal Code of the Russian Federation) , must be maintained in their qualified compositions (Part 4 of Art. 309 of the Criminal Code of the Russian Federation) . Ie bribery committed by an organized group, and coercion, committed by an organized group, shall be provided not at the first , and in different parts of the article. 309 of the Criminal Code of the Russian Federation, containing various sanctions .

In Art. 309 of the Criminal Code of the Russian Federation, the use of violence that is not dangerous to life or health is a qualifying sign of coercion of participants in legal proceedings (part 3). Therefore, the use of violence dangerous to life or health can only be a sign of coercion of the indicated persons.

It requires further th differentiation I liable under Part 2 of Art. 309 of the Criminal Code, because the compulsion to act objectively dangerous prospect inuzhdeni I to a standstill.

Other gaps in the legislative structure of Article 309 of the Criminal Code of the Russian Federation were identified during the study of the judicial and investigative practice of its application. It is concluded that, formally, forcing a victim to evade filing an application (or bribing him for this purpose) is not tantamount to compulsion to evade giving evidence, since filing an application with law enforcement agencies about a crime committed cannot be considered giving evidence. In this sense, it should be recognized that the disposition of the norm contained in Part 2 of Art. 309 of the Criminal Code contains a gap that needs to be addressed by indicating I on coercion to evade application of the crime.

Degterev Andrey Alexandrovich , №10 2019

Obstruction of the legitimate professional activities of journalists: problems of the object, the victim and the subject of the crime

Annotation. The article is devoted to the analysis of the object of the main corpus delicti under Art. 144 of the Criminal Code of the Russian Federation, which are debatable. The article considers the essence of obstruction of the legitimate professional activities of journalists by forcing them to disseminate or to refuse to disseminate information. A new interpretation of the immediate object of the crime is given. The author identifies two immediate objects: the main one is the mass media as a subsystem (structural element) of the political system; additional - the inviolability of the person. According to the author, such a ratio of the main and additional immediate objects corresponds to the theoretical provisions, according to which they should cover social relations protected by the norms of various chapters of the Criminal Code of the Russian Federation. As part of a crime under Art. 144 of the Criminal Code of the Russian Federation, the author singles out the victim as an optional feature of the object and, in the study, comes to the conclusion that in the crime under consideration, the influence is not carried out on the information

that the journalist is going to disseminate, but on himself, since it is he who is forced to commit or refuse to commit certain action.

Milikova Anna Vladimirovna , No. 10 2019

Criminal Procedure Acts of Preliminary Investigation Bodies in the General Mechanism of State Administration

Resume: *This article is devoted to a comprehensive doctrinal and legal analysis of criminal procedural acts of the preliminary investigation bodies in the general system of legal acts of management as the most effective legal instruments of public administration.*

Considering criminal proceedings in general and preliminary investigation, in particular, as a special type of public administration, a specific form of implementation of the executive and administrative functions of the state, the author comes to the conclusion that criminal procedural acts of the preliminary investigation bodies are a structural element of a unified system of legal acts of management, forming it has an independent subsystem.

In this regard, the article substantiates the position that the legal nature of criminal procedural acts of the bodies of preliminary investigation largely corresponds to the general principles and postulates inherent in general legal acts of public administration. And their theoretical basis and the corresponding legislative framework are subject to consideration, comprehension and development in the context of general methodological patterns identified and analyzed in the theory of law and state and administrative and legal science, but taking into account the specifics due to a separate sphere of criminal procedural regulation, the special purpose of criminal legal proceedings and the resulting special nature of the criminal procedural form and criminal procedural guarantees.

Rossinsky Sergey Borisovich

Milikova Anna Vladimirovna, No. 10 2019

Criminal Procedure Acts of Preliminary Investigation Bodies in the General Mechanism of State Administration

Abstract: *This article is devoted to the complex th doctrinally legal mu analysis in criminal procedure acts of the preliminary investigation in the general system of legal control acts as the most effective legal instruments of public administration.*

Considering the criminal proceedings in general and preliminary investigations in particular as persons th kind of governance, specific th forms in the implementation of executive and administrative functions of the state, the authors come to the conclusion that the criminal procedure acts of the preliminary investigation is a structural element of a unified system of legal acts management, forming an independent subsystem in it.

In this regard, the article explains the position that the legal nature of the Criminal Procedure 's Act s preliminary investigation is largely consistent with the general principles and the tenets inherent in general legal acts of the state administration. And their theoretical basis and the corresponding legislative framework are subject to consideration, comprehension and development in the context of general methodological patterns identified and analyzed in the theory of law and state and administrative- legal science , but taking into account the specifics due to the special sphere of criminal procedural regulation, special purpose criminal proceedings and the resulting special nature of the criminal procedural form and criminal procedural guarantees.

Danilova Natalia Alekseevna ,

Grigorieva Maria Alexandrovna , №10 2019

H adlezhaschee meeting the needs of law enforcement: myth or reality?

Resume: The article analyzes the modern features of the formation of judicial and investigative and prosecutorial and supervisory practice, focuses on the impact on these processes have the decisions of the highest court. We analyzed the shortcomings of the Resolution of the Plenum of the Supreme Court of the Russian Federation dated December 25, 2018 No. 46 "On some issues of judicial practice in

cases of crimes against constitutional human and civil rights and freedoms (Articles 137, 138, 138.1, 139, 144.1, 145, 145.1 of the Criminal Code of the Russian Federation) "and Resolution of the Plenum of the Supreme Court of the Russian Federation dated November 29, 2018 No. 41" On judicial practice in criminal cases on violations of labor protection requirements, safety rules during construction or other work, or industrial safety requirements of hazardous production facilities. "

Cherepenko Georgy Vasilievich , No. 10 2019

Use of tomographic medical images as objects of portrait examination

Annotation: the article provides an example from expert practice, during which a head image obtained by means of MRI was used as a sample. It is proposed to include an MRI scan in a number of objects and samples considered by the current method of portrait examination. The nature of the suitability of such an object for the production of portrait expertise has been determined. Practical recommendations are given for working with the appropriate software in order to get the most visual picture.

K. L. Tomashevsky, no. 10 2019

Home Work Legislation of the Republic of Belarus and the Russian Federation: Comparison for Compliance with International Labor Standards

Resume: *In connection with the ongoing global processes of digitalization, labor legislation does not stand still, adapting forms of employment to the changing conditions of building a digital economy. If the legal regulation of home-based CSOs work and exercised axis in the USSR in the early twentieth century, the remote work (in particular the work of computer homeworkers) became subject to regulation in the Russian Federation and in the Republics ie Belarus only in the XXI century e . The article provides a comparative analysis of the norms of the*

legislation of the Republic of Belarus and the Russian Federation on home work in order to determine its compliance with international labor standards. The author makes some suggestions for further improvement of labor legislation in this area.

Goncharov Vitaly Viktorovich , No. 10 2019

Legal regulation of the institution of public control: international and foreign experience

Annotation. This article is devoted to the analysis of the limits and the possibility of using international and foreign experience of its organization and functioning to optimize the institution of public control in the Russian Federation . The author defines the concept of public control in the Russian Federation.

The article substantiates the need to use international and foreign experience in the organization and functioning of the institution of public control in the process of optimizing this institution of civil society in Russia in the following areas: 1) in terms of formulating the very concept of the institution of civil society control over public power; 2) in terms of its consolidation in regulatory legal acts; 3) to determine its basic principles, goals and objectives; 4) to fix the list of objects in respect of which control is carried out; 5) on the development and implementation of the basic forms and methods of this control; 6) on the institutionalization of the diversity of its subjects, as well as their powers.

In this regard, a number of amendments and additions have been proposed to the current legislation of the Russian Federation regulating issues of public control. The article uses a number of methods of scientific research, in particular: analysis; historical; comparative legal; formal logical.

This will allow not only to resolve modern problems arising in the organization and functioning of public control in the Russian Federation, but also to ensure its full development as a promising institution of civil society. The article proposes a number of changes and additions to the current Russian legislation

regulating issues of public control. The results obtained can be used both in educational and scientific, and in practical activities, including in lawmaking.

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Transport crimes: the project is new - the shortcomings are old

Annotation . The article provides a critical analysis of the scientific draft of the chapter on transport crimes, presented by the team of authors, candidates of legal sciences, associate professors of the Saratov State Law Academy R.O. Dolotov, E.V. Kobzeva, K.M. Khutov under the guidance and with the participation of Doctor of Law, Professor of the same Academy N.A. Lo Pashenko within the framework of a state assignment (Criminal Code of the Russian Federation (scientific project) / edited by N.A. Lopashenko. M .: Yurlitinform, 2019. - 320 p .; Chapter author - R.O.Dolotov) . The problems of the system of norms on these acts, the criteria for classifying crimes as transport ones, are examined in detail the legislative technique of the proposed norms, their significant shortcomings are shown, and a general assessment of the doctrinal development of the topic under consideration is expressed.

Kobzeva Svetlana Ivanovna ,

Chernykh Nadezhda Vyacheslavovna , No. 10 2019

To improve the n ravovo of controlling I Labor and Social Protection of scientific and pedagogical workers : a review of the Round Table " Legal regulation of labor and social protection of teachers and researchers: results and prospects " (Moscow, April 5, 2019)

Annotation. With a thief I contains a scientific reflection of the discussions that took place at the VI Moskovsko m juridical m Forum e on the results and prospects n ravovo of controlling I Labor and Social Protection of scientific and pedagogical workers . They touched upon the specifics of the status of these categories of workers, labor contracts concluded with them, working hours and rest time, wages, guarantees and compensations, labor regulations and labor discipline, the introduction of professional standards and advanced training, violations of labor legislation, ethical and legal responsibility. Particular attention is paid to the need for interaction between science and practice in improving the legal regulation of labor in the field of scientific research and the educational process.