Smolyakov Pavel Nikolaevich , No. 12 2019

About tvetstvennost s legal persons for offenses recorded by special technical means

Resume: The article is devoted to the release of legal entities from liability for administrative offenses recorded by special technical means operating in an automatic mode, having the functions of photographing and filming, video recording, or by means of photographing and filming, video recording. It is noted that the regulation in the Code of Administrative Offenses of the Russian Federation in its interpretation by the highest court and other courts makes such responsibility ephemeral, allowing it to be arbitrarily shifted , for example, to individuals - drivers of vehicles belonging to legal entities, in the absence of an effective mechanism for punishing these persons in the Code of Administrative Offenses of the Russian Federation ... This situation allows legal entities, for which a large number of commercial vehicles are registered throughout the country, to easily avoid paying large amounts of administrative fines to the budgets, which negatively affects the filling of the treasury and encourages further illegal behavior on the roads of their drivers. The author proposes to discuss the state of legislation and law enforcement practice on this issue.

Rudenko Artem Valerievich , No. 12 2019

On Respecting e principle of federalism at bringing to administrative responsibility

Annotation. P Redmet study is to disseminate the principle of federalism on the action codec sa Russian F EDERATION of Administrative great vonarusheniyah. The question of its extension to normative legal acts adopted by the authorities of the constituent entities of the Russian Federation and municipal normative legal acts is raised .

The article provides an analysis of decisions of courts of different levels on bringing to administrative responsibility on the basis of the norms of the Code of

the Russian Federation on Administrative Offenses for violation of the norms of the laws of the constituent entities of the Russian Federation.

The article formulates conclusions on the need to adjust the provisions of Article 1.3 of the Code of the Russian Federation on Administrative Offenses. A proposed I by Design standards , clearly delimit the powers of the Russian Federation and the subjects of the Russian Federation in the establishment of administrative responsibility, and eliminate the possibility of involvement of the Russian Federation Code of Practice of Administrative Offenses to administrative responsibility for violation of Normat ivnyh legal acts of subjects of the Russian F EDERATION and municipal authorities.

Mikhaleva Ekaterina Sergeevna

Shubina Ekaterina Aleksandrovna, No. 12 2019

Problems and prospects of legal regulation of robotics

Annotation. The modern world almost continuously emphasizes the importance for humanity of new tasks and solutions in all areas and spheres of life. The emergence of new technologies and the improvement of familiar mechanisms to meet the requirements of digital realities pose new challenges for any social science and practice; especially important is the role of law as an instrument of regulatory impact on public relations. Recently, for the Russian and world legal science, the issue of regulating the ubiquitous artificial intelligence, cyber-physical systems, advanced "smart" robots and other achievements of engineering science has arisen.

The authors of this article consider the issue of possible approaches to the legal regulation of robotics. In connection with the latest trends in the development of legal norms on robotics in foreign countries, in particular in the European Union, the issues of legislative recognition and determination of the status of a robot, that is, the prospect of endowing a robot with legal capacity, or strengthening and concretizing the legal regime of a robot solely as an object of legal regulation.

This study is aimed at studying topical issues of possible directions of legal regulation of robotics, as well as considering the main approaches to determining the legal status of robots and responsibility for harm caused by robots when they perform actions autonomously.

Shmeleva Marina Vladimirovna , No. 12 2019

Digital technologies in state and municipal procurement: future or reality

This article discusses the issues of digitalization in state and municipal procurement . Every year the sphere of state and municipal procurement is becoming more and more technological, new technologies and solutions are being introduced, procurement processes are being automated. Rapid changes in the field of state and municipal purchases force the subjects of such purchases to intensively master the latest technologies, such as chat bots, artificial intelligence, blockchain, etc. As a result of the study, the author came to the conclusion that the existing regulation of state and municipal purchases is already quite sufficient now so that smart contracts are successfully integrated into the Russian legal system.

Ostrikova Larisa Kuzminichna , No. 12 2019

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

Annotation. 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 lack of a legal definition of the concept of harm has led to a mixture of legal categories of harm and damage as a condition of tort liability in public branches of legislation and 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 given. The condition of tort liability is harm, not damage. The problems of application of the norms on the recovery of damages are

investigated. The sub-institution is analyzed - obligations due to harm caused by acts of public authority in the field of public administration and law enforcement. The features of the conditions of tort liability for harm caused by state bodies, local self-government bodies and their officials are highlighted; features of the subject composition. Attention is drawn 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 by officials in the implementation of criminal procedural activities, the subject of tort obligation are highlighted. It is proposed to introduce a norm-definition of the concept of harm as a generic concept and a norm on the species division of harm. 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.

Romanova Olga Alexandrovna, No. 12 2019

Subjects and objects of urban planning legal relations

Annotation.

The article substantiates the relevance of the scientific analysis of the composition of urban planning relations for the further development of legal regulation of urban planning activities and increasing the efficiency of law enforcement in the field of urban planning. Based on the study of existing scientific sources, the author concludes that there is a lack of legal research in the field of legal regulation of urban planning activities. The paper shows the legal and scientific significance of studying the composition and specifics of town planning relations for the further development of town planning legislation and the formation of town planning law.

On the basis of a systematic analysis of the current urban planning and related legislation, a legal characteristic of the subjects and objects of urban planning legal relations is given, taking into account the specifics of urban planning activities, depending on its specific type, their features, problems of definition and

identification, and delimitation with adjacent legal relationships are revealed and shown.

A possible classification of subjects and objects of urban planning relations is proposed, depending on the type of urban planning activity and their nature.

Ershova Inna Vladimirovna,

Tsimerman Yuliy Solomonovich, No. 12 2019

State and municipal property: analysis of the draft law

Annotation. *The article presents an analysis of the draft Federal Law "On State and Municipal Property" posted on the federal portal of draft regulatory legal acts for public discussion. A vision of the need for the development and adoption of this draft law is presented, an excursion into the history of the problem is undertaken. Attention is drawn to the doctrinal position and constitutional basis for the adoption of this act, as well as its inclusion in the strategic document - the Main directions of the activities of the Government of the Russian Federation for the period up to 2024. A general description of the bill is given, some comments are made regarding its provisions. It was concluded that the adoption of the Federal Law "On state and municipal property" will contribute to better governance and management of state and municipal property and consolidate the foundations of the Russian state property.*

Brisov Yuri Vladimirovich , No. 12 2019

Implementation of the doctrine of good faith in corporate legal relations

Annotation. Good faith (bona fides) is presented in the Civil Code of the Russian Federation as a general principle and presumption. When resolving corporate disputes, the courts are guided by the general provisions of good faith. However, corporate relations have specific features due to, among other things, a variety of corporate forms. It can be assumed that the application of the provisions on good faith should also differ, taking into account the peculiarities of the models of the corporate structure, the types and forms of corporate relations, and the subjective circumstances of the intracorporate level.

Common law countries have developed a system of integrity elements and special tests to apply the required integrity requirement based on the context. A special place is given to fiduciary relations, as a product of fides . The author conducts a comparative analysis of the provisions of the Plenums of the Supreme Arbitration Court of the Russian Federation and the Armed Forces of the Russian Federation and the law enforcement practice of Germany, the USA, Great Britain and Canada on issues of good faith when considering corporate disputes. Special attention is paid to the relationship between corporate ethics and law.

Using the example of considering a number of key cases from the law enforcement practice of the courts of the Anglo-American system of law, the author substantiates the possibility of using special tests - objective and subjective tests of conscientiousness to regulate issues related to the application by courts of the standards of good faith from the Civil Code and special laws when considering corporate disputes. Special attention is paid to the role of courts and permissible discretion in the formation of standards for the enforcement of blanket norms and general principles of law in corporate relations.

Zaitseva Yulia Anatolyevna , No. 12 2019

Sources of formation of property of a public company

Within the framework of reforming civil legislation, a public company was recognized as an independent form of non-profit organizations . The intermediate position it occupies between a legal entity as a subject of private law and a public authority indicates the presence of peculiarities in the methods of forming its property. In the article, the author analyzes the sources of formation of the property of a public law company ; explores doctrinal approaches to understanding the essence of the sources of formation of the organization's property. The author also reveals the features of the formation of the property basis of public-law companies operating in Russia.

According to the analysis the author concludes mainly public nature of the estate component created by public law companies, the main source of which is the public property or funds , coming into force of the provisions of the law. The

founder's interest in the property component of a public law company is made by the author dependent on the implementation by it of state and public interests , assigned to it public law functions. Based on research by the author also revealed a conflict in the law , regulating the investment of temporarily free funds of public legal companies as income-generating activities ; proposals for its resolution have been made.

Kalyuzhny Alexander Nikolaevich , No. 12 2019

The use of correlation dependences on the personal properties of criminals and victims in establishing the circumstances of the commission of offenses aimed at personal freedom

Resume: these forensic characteristics of crimes form a relatively stable, interconnected system, the change (presence) of one of the elements of which, with probability, makes it possible to assert the presence of another, necessitating the study of the correlations of these elements; analysis of the data of the forensic characteristics of attacks on personal freedom revealed the presence of characteristic relationships in the contacts of victims and criminals, forming circumstances that are important for the investigation of the investigated crimes; it is substantiated that the data on the personality of the victim of the encroachment on personal freedom are the motivational basis for the commission of the investigated crimes, determining the mechanism of the criminal behavior of the perpetrators; the classification of the victims of the analyzed crimes is carried out: those involving the exploitation of the victims and those not involving the exploitation of the victims, and the socio-demographic, moral, psychological and biological properties of the personality of the victims are substantiated, characteristic for each of the groups identified; the classification of the personal properties of criminals encroaching on the freedom of the individual is given: "kidnappers", "slave owners" and "imprisoners", and the qualitative uniqueness of the personal properties of each of the selected groups is investigated; to substantiate the correlation dependences of

criminals and victims, materials of judicial practice are analyzed, conclusions are drawn and the results of the study are summed up.

Soloviev Vladislav Sergeevich ,

Urda Margarita Nikolaevna , No. 12 2019

The importance of the Internet in the determination of illegal migration and migration crimes

Annotation. The purpose of this article is to identify the correlation between illegal migration, migration crimes and the use of Internet resources. Content analysis of advertising sites, social networks in combination with other research methods revealed the active promotion in the virtual space of services that contribute to illegal migration, and a wide demand for them. Based on the results of the study, the authors have developed the following proposals for improving measures to counter illegal migration in the Global Network. 1. A strategically important area of countering illegal migration should be the adjustment of the state's migration policy by establishing a correlation between this phenomenon and the use of modern information and telecommunication technologies for organizing and developing a criminal business to provide services to ensure illegal entry, stay (residence), fictitious registration, staging for migration registration, etc. 2. Counteracting illegal migration in cyberspace should be carried out on the basis of an integrated approach. From the standpoint of criminal law, it is necessary to supplement Part 2 of Art. 322 [1 of the] Criminal Code of the Russian Federation, which provides for liability for the qualified personnel of the organization of illegal migration, with the sign “using the media or information and telecommunication networks (including the Internet)”. From the standpoint of criminology - identifying and fixing the real conditionality of the development of illegal migration, migration crimes and the use of the Internet for their commission; improvement of statistical reporting on crime by including in the report on crimes committed in the field of telecommunications and computer information of the GIAC of the Ministry of Internal Affairs of Russia,

information on the organization of illegal migration committed using the media or information and telecommunication networks (including the Internet).

Anufrieva Lyudmila Petrovna , No. 12 2019

BRICS: on the legal nature and principles of cooperation

Resume *:* BRICS is a relatively new phenomenon in modern international political and economic life, gaining momentum and attracting more and more attention of lawyers. The central issues in this case are, firstly, the legal nature of the group of five states itself - Brazil, Russia, India, China and South Africa - and, secondly, the place, nature, content of the principles on which the international cooperation of this entity is based. Accordingly, these issues are considered in the article through the prism of theoretical analysis from the standpoint of international legal science, within which the identification of the legal nature of interaction between the BRICS countries is not only a prerequisite, but also, in fact, the foundation for solving the problem of the legal qualification of the principles of cooperation between them, and , therefore, and the answer to the question of the relationship between the latter and other principles that exist in the system of international law. For these purposes, in the course of the study, two alternative options were taken as a basis: the status of an international institution - in the case of establishing the presence of the BRICS signs of an international organization or an integration association; and recognition as a para-organization, if none exist.

Abramov Nikita Sergeevich , No. 12 2019

International legal support for the safety of offshore oil and gas installations within the exclusive economic zone and the continental shelf

Annotation. *The purpose of the article is to assess the effectiveness of international legal means of preventing modern threats aimed at offshore oil and gas installations, and to find an optimal solution to eliminate the identified shortcomings. The stated goal stipulates two key tasks - an analysis of applicable international law and an analysis of the practice of their implementation.*

The first part of the article examines the development of the concept of safety zones as the main international legal means of ensuring the protection of installations within the exclusive economic zone and the continental shelf. The second part examines the practice of States in enforcing laws and regulations aimed at organizing the safety of installations in the context of the conclusions reached by international judicial authorities in the Arctic Sunrise case .

Based on the results of the study, it is concluded that the security zones are insufficient and ineffective to prevent modern threats. As a solution to this problem, the article substantiates the proposal to establish "warning zones" - an additional international legal means of ensuring the safety of offshore oil and gas installations.

Orlova Ekaterina Sergeevna , No. 12 2019

Interaction of international judicial bodies: based on the IES considering maritime disputes

Annotation. The article is devoted to the interaction of international judicial bodies operating on the basis of the 1982 UN Convention on the Law of the Sea.

This interaction is determined by the Convention, which singles out four procedures for the resolution of international maritime disputes. According to the author of the article, the interaction of international judicial bodies, within the framework of one treaty-legal regime, causes competition between the jurisdictions of international judicial bodies and has a productive character.

The relevance of the article is determined by the important role of international judicial bodies in resolving international maritime disputes by peaceful means.

The subject of the research is the legal relationship that develops between international judicial bodies on the interpretation and application of the 1982 UN Convention on the Law of the Sea.

The purpose of the article is to determine the norms of law on the interaction of international judicial bodies considering international maritime disputes on the basis of the Convention on the Law of the Sea.

The hypothesis of the research is that the interaction of international judicial bodies functioning within the framework of the same contractual legal regime causes competition between the jurisdictions of international judicial bodies and is productive

Makarushkova Alla Alexandrovna

Solovieva Irina Vladimirovna, No. 12 2019

Comparative legal analysis of modern sources of civil law in Russia, France and Germany

Resume: Based on a comparative legal analysis , the article examines modern approaches to the system of sources of civil law in Russia, France and Germany . Attention is drawn to the similarities and differences (in form, name, structure, content, significance) of the sources of civil law in Russia, France and Germany, due to objective and subjective factors, as well as the peculiarities of the legal systems of these countries themselves .

It is noted that the range of sources of civil law in France and Germany is much wider than in Russia. From among the sources of civil law of these legal systems, a common foundation is formed by civil codes and laws containing civil law norms.

The current trends of a significant expansion and complication of the system of sources of Russian civil law and its convergence with the legislation of France and Germany are traced .

It is concluded that it is necessary to systematize and consolidate the expanded system of sources of civil law in Art. 3 Civil Code P USSIAN F EDERATION adaptation separate legal institutes - comrade French and German civil law for the purpose of improving the Russian legislation and further development of modern sources Russian civil law and systems in the context of a combination of experience French and German law with local legal traditions.

Molchanov Dmitry Alexandrovich, 312 2019

Program release and mitigate liability for participation in cartels in P USSIAN Federation and the European Union

Annotation . The article provides a comparative analysis of the current level of development of programs for the release and mitigation of liability for participation in cartel agreements in the Russian Federation and the European Union (at the level of the entire Union). With regard to Russia, the relevant articles of the Code of Administrative Offenses of the Russian Federation and the Criminal Code of the Russian Federation, methodological recommendations of the FAS Russia, as well as judicial practice and decisions of some of the OFAS Russia have been analyzed. In relation to the EU, the main consideration was the European Commission 's Regulatory Letter on the Waiver and Reduction of Fines in Cartel Cases , as well as the Guidelines on Methods for the Calculation of Fines Imposed under Article 23 (2) (a) of Regulation No. 1 / 2003 . As a result of the analysis, a number of fundamental differences between the two programs were revealed (for example, in the EU, at the level of the entire Union, there is no criminal liability for business entities, and the list of grounds for mitigating administrative liability in the Russian Federation is wider than in the EU), however, according to the author, the general trend of their development is still developing in a single direction.

Alexey Vishnevsky

Grakhotskiy Alexander Pavlovich, No. 12 2019

The criminal law ideas of V.D. Spasovich:

to the 190th anniversary of the birth of the scientist

Annotation. Peru V.D. Spasovich owns the first in the Russian Empire "Textbook of Criminal Law". The progressive criminal law ideas formulated by the author aroused indignation in reactionary circles. By the decision of the special commission of the III department, the textbook by V.D. Spasovich was excluded from the educational process, and its author was prohibited from teaching. For a long time, Vladimir Spasovich was not mentioned among the representatives of the brilliant galaxy of pre-revolutionary forensic scientists. Only in the last years of the work of V.D. Spasovich were republished and gradually entered the scientific

circulation. The purpose of this article is to study the criminal law ideas of V.D. Spasovich and the definition of the scientist's contribution to the science of Russian criminal law. In the article, the author comes to the conclusion that the ideas of V.D. Spasovich laid the foundations for the formation of the classical school of criminal law in the Russian Empire. The scientist has carried out a deep theoretical development of problems related to the corpus delicti, the goals and measure of punishment, free will, and the statute of limitations. In his works V.D. Spasovich substantiated the fundamental principles of criminal law science: legality, equality, justice, commensurability of crime and punishment, respect for the dignity of the individual, the value of human rights and freedoms.

Dmitry Shabarov ,

Gubin Vladimir Alekseevich ,

Moldovanov Andrey Vladimirovich , No. 12 2019

Psychological and pedagogical support of training prosecutors for professional activities

The relevance lies in the absence in the domestic educational psychology of a program of psychological and pedagogical support for the training of specialists in prosecutorial activities.

The goal is to develop a toolkit for studying the perceptions of prosecutorial activities among persons with a higher legal education and a comprehensive program for training newly hired prosecutors from the prosecutor's office of the Russian Federation for various types of supervisory activities.

Methods and techniques used in the development of the diagnostic complex "Concept of prosecutorial activities" and the Comprehensive program for training newly hired prosecutors of the prosecutor's office of the Russian Federation for various types of supervisory activities - the method of expert assessments, comparative analysis, the method of two portraits. 50 graduates of the departmental higher education institution of the prosecutor's office of the Russian Federation and

non-departmental legal higher education institutions, as well as 10 prosecutors, highly qualified and experienced professionals, who acted as experts, took part in the study of ideas about prosecutorial activities.

Results. The article presents the results of a study of ideas about prosecutorial activities among various categories of prosecutors. As a diagnostic toolkit, the diagnostic complex "The concept of prosecutorial activities" (hereinafter referred to as the Complex) was used, which consists of five methods that were developed by the authors and tested on the basis of the prosecutor's office of St. Petersburg. The methods make it possible to determine the perception and focus on prosecutorial activities among persons with a higher legal education, as well as to form an individual vocational and educational route for improving existing knowledge, skills and abilities within the framework of the Comprehensive program for training newly hired prosecutors of the prosecutor's office of the Russian Federation for various types of supervisory activities (hereinafter -Program). The presented Complex and Program have found their application and are successfully implemented in practice in the prosecutor's offices of several constituent entities of the Russian Federation.

Output. The methods included in the Complex can be useful for regional, specialized prosecutors, mentors of young specialists of the bodies and institutions of the prosecutor's office of the Russian Federation, when deciding on the formation of an individual plan for training and education of newly hired prosecutors. The presented Program can be used by personnel departments of the bodies and institutions of the prosecutor's office of the Russian Federation in order to improve knowledge and improve the qualifications of both newly hired prosecutors and those who have changed the direction of their supervisory activities. The practice-oriented approach involves mastering this comprehensive program both independently and in organized forms of training (lectures, seminars, etc.) on the basis of city, regional and specialized prosecutor's offices, prosecutor's offices of the constituent entities of the Russian Federation.