Valiev Rafail Gazizullovich, No. 5 2020

Institutional and legal foundations of the general legal model of discretionary powers

Abstract

. The study is devoted to the practical and theoretical aspects of the legal institutionalization of the discretionary powers of the powerful subjects of legal activity. Within the framework of the theory of institutionalism, the concept of legal institutionalization is considered as a methodological basis for understanding the systemic legal nature of legal institutions and conceptualizing the general legal status of the institution of discretionary powers. The systematic approach and the modeling method made it possible to go beyond the sectoral interpretation of the institutions of law and, in order to develop the institutional theory of law, update the concept of a general legal model of their perception at the level of systemic connections of normative legal prescriptions of national and international law. In the context of the doctrine of legal technology, the technical and legal potential of the legal institutionalization of the discretionary powers of the powerful subjects of legal activity is revealed. The conclusion is substantiated that the general legal status of the institution of discretionary powers is based on the unity of technical and legal constructions of normative legal prescriptions, abstractly general, with respect to certain norms and principles of substantive and procedural law.

Grammatikov Valentin Vladimirovich, No. 5 2020

The nature of deformation of professional legal consciousness (on the example of advocacy)

Abstract

The quality and level of development of the legal consciousness of a lawyer determines the degree of protection of human rights and freedoms, as well as the state of legality and legal order. Taking into account the foregoing, the fight against manifestations of deformation of professional and legal consciousness is an urgent problem of building a legal and social state. Prevention and elimination of professional deformation of a lawyer is impossible without establishing the reasons

for its occurrence. The article is devoted to the study of the essence of the deformation of the legal consciousness of a lawyer, the identification of external and internal factors contributing to its appearance, as well as the search for the reasons for the formation of this negative phenomenon of legal reality, carried out by example, including advocacy. It is noted that the circumstances leading to distortions of professional legal consciousness, affect representatives of the legal community in the same or almost the same way, but only a minority of them violate the requirements of legal norms and corporate ethics. A natural question arises about the reasons why the indicated "anomalies" of the structure of legal consciousness arise in some cases, but not in others. The author, based on general methods of cognition, as well as such particular scientific methods as empirical and comparative legal, makes the following conclusion: the "trigger" of professional deformation of both a lawyer and any other person is the degradation of the moral structure of the personality - individually formed ideas about conscience, about shame, about justice, the measure of what is permitted, and so on. however, only a minority of them violate the requirements of legal regulations and corporate ethics. A natural question arises about the reasons why the indicated "anomalies" of the structure of legal consciousness arise in some cases, but not in others. The author, based on general methods of cognition, as well as such particular scientific methods as empirical and comparative legal, makes the following conclusion: the "trigger" of professional deformation of both a lawyer and any other person is the degradation of the moral structure of the personality - individually formed ideas about conscience, about shame, about justice, the measure of what is permitted, and so on. however, only a minority of them violate the requirements of legal regulations and corporate ethics. A natural question arises about the reasons why the indicated "anomalies" of the structure of legal consciousness arise in some cases, but not in others. The author, based on general methods of cognition, as well as such particular scientific methods as empirical and comparative legal, makes the following conclusion: the “trigger” of professional deformation of both a lawyer and any other person is the degradation

of the moral structure of the personality - individually formed ideas about conscience, about shame, about justice, the measure of what is permitted, and so on.

Nobel Artyom Robertovich, №5 2020

The concept, legal nature and features of the principles of proceedings in cases of administrative offenses

Abstract

. The article provides a comparative analysis of existing views on the concept and legal nature of legal principles. The author emphasizes the importance of the principles for the regulation of proceedings in cases of administrative offenses. Draws attention to the absence in legal science of a unified approach to understanding the essence of the principles, describes the shortcomings of certain approaches. The author substantiates his own position in relation to the terminological definition of the concept of the principles of proceedings in cases of administrative offenses, the legal nature of the principles. The paper formulates the author's definition of the concept of the principles of proceedings in cases of administrative offenses, highlights their characteristic features in the administrative-jurisdictional process. It is concluded that the regulatory impact of the requirements,

Klimov Viktor Vladimirovich, No. 5 2020

The institution of financial ombudsman is a new mechanism for ensuring the balance of private and public interests in the financial sector

Abstract

. The article examines the new legal institution of the financial ombudsman - its place and role in the system of consumer protection, the basic prerequisites for the creation and the basic principles of organization and work. It also describes the basics of the public-legal status of the financial ombudsman, the criteria for classifying disputes within the competence of the financial ombudsman, and the procedure for their consideration. The mechanisms that ensure the independence, impartiality of decision-making, increasing the accessibility of justice for citizens, as well as tools that stimulate the pro-consumer behavior adjustment of financial

market participants are considered. The article examines the mechanisms incorporated in the new legal regulation that balance the public interest in consumer protection with the private interests of citizens and financial organizations that are participants in regulated processes. The analysis of the first results of law enforcement, assessment of emerging trends is made. Based on the analysis of statistical data, it was concluded that for citizens the process of resolving disputes with a financial organization has become easier, more accessible and faster. As for correcting the behavior of market participants, it is too early to talk about reliable statistics. At the same time, the available data show that some adjustment has been outlined.

Boltinova Olga Viktorovna, No.5 2020

Federal budget expenditures for the creation of megascience-class installations in national projects of the Russian Federation

Abstract

. The article is devoted to the federal budget expenditures for financing installations of the "megasies" class in national projects. The role of science in the development of the economy of the state is substantiated, where the stages of formation and development of the state scientific and technical policy and basic principles are highlighted. Modern scientific research and development of innovative activities, including, among other things, the creation of a network of unique installations of the "megascience" class contribute to the achievement of qualitative breakthroughs in the Russian Federation in fundamental and applied research. It has been established that the financing of unique scientific installations of the "megascience" class is carried out within the framework of national projects and federal target programs. Attention is drawn to the fact that the sources of funding for the Program are budgetary allocations from the federal budget, as well as budgetary allocations of the constituent entities of the Russian Federation and extra-budgetary funds. The use of budgetary funds is the main instrument of scientific and technical policy not only of the Russian Federation, but also of developed countries.

Sitnik Alexander Alexandrovich,

Tkachenko Roman Vladimirovich, No. 5 2020

Legal regulation of financing "megascience" projects

Abstract

. This article is devoted to the consideration of issues related to the legal regulation of financing the development, construction and operation of large-scale research infrastructures. In the course of the study, the features of "megascience" projects were highlighted, various approaches to the definition of this category were considered, the organizational and legal forms of international cooperation in the implementation of "megascience" projects were studied, the mechanisms of financing large research infrastructures implemented both in the territory of the Russian Federation and abroad. It has been determined that the norms of financial law regulate a whole range of social relations associated with financial activities in the area under consideration, including budget funding and attracting other sources for the creation of large-scale research infrastructures, the establishment and use of tax incentives for scientific and other organizations involved in the creation and operation of global research infrastructure facilities, financial control in the implementation of megascience projects. It is concluded that the approach based on the creation of international government organizations or national legal entities incorporated on the territory of the state in which the object of the global research infrastructure will be located is more effective than the Russian approach, in which “mega-science” projects in most cases are implemented on the basis of existing budgetary scientific institutions. establishment and use of tax incentives for scientific and other organizations involved in the creation and operation of global research infrastructure facilities, financial control in the implementation of megascience projects. It is concluded that the approach based on the creation of international government organizations or national legal entities incorporated in the territory of the state in which the object of the global research infrastructure will be located is more effective than the Russian approach, in which "mega-science" projects in most cases are implemented on the basis of existing budgetary scientific institutions. establishment and use of tax incentives for scientific and other organizations involved in the creation and operation of global research infrastructure

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Rassolov Ilya Mikhailovich
Chubukova Svetlana Georgievna, No. 5 2020

Protection of genetic data in genetic testing and gene therapy: informational and legal aspects

Abstract

. The aim of the article is to study the problems of protecting genetic data from the standpoint of information law. The methodological basis of the work is a systematic approach, methods of analysis and synthesis, comparative jurisprudence. In the work, genetic information is considered as confidential information about health, as an object of population genetics and as biometric data. Analysis made it possible to conclude that the protection of genetic information requires the introduction of special mechanisms of legal protection - a regime of strictly controlled use. Genetic data can be used in two main directions: to study the characteristics of individuals as a result of the analysis of their genetic data; to identify individuals by their genetic imprints. Genetic analysis of facial characteristics may only be performed for medical or scientific purposes. The individual's consent must be obtained prior to the study. Russian legislation requires clarification regarding the form and duration of such consent. DNA fingerprint analysis in the field of civil proceedings can only be carried out at the request of a court and with the consent of the person concerned. Prohibition of "discrimination" on the basis of health status, including the prohibition of taking into account the results of genetic tests predicting an unidentified disease or genetic predisposition to a disease , can be seen as a general ban on the use of "predictive" genetic tests for economic and social purposes.

Shuvalov Igor Ivanovich, No. 5 2020

Problems of civil legislation through the prism of regulation of holding structures

Abstract. The current legislation, which in one way or another regulates holding relations and the activities of holdings, contains very significant gaps that give rise to practical problems. One of such gaps is the lack of a universal legislative definition of the concept of "holding" used in regulatory legal acts of various levels. The lack of an official definition of the concept in question inevitably leads to uncertainty in identifying the signs of this association (as such, the doctrine calls economic or corporate control, a sign of organizational unity, building relationships according to the model of subsidiaries of economic companies, etc.) and, as a consequence, makes it difficult qualification of one or another integration association of two or more legal entities as a holding. Lack of regulatory material is also observed in solving issues of creating a holding, its organizational structure, corporate relations, including issues of holding management. Taking into account the fact that in modern Russia, holdings are one of the most common forms of corporate associations, the study of these and other aspects of the legal regulation of the creation and operation of holdings is one of the tasks of paramount importance for the development of entrepreneurship. , referring not only to doctrinal sources, but also to judicial practice, as well as to the experience of foreign countries.

Gabov Andrey Vladimirovich, №5 2020

Reorganization of a peasant (farm) economy - a legal entity

Abstract. As a result of the reform of civil legislation, the legal status of the peasant (farm) economy has significantly changed. After a long break, the legislator again recognized the possibility of creating a peasant (farm) economy as a legal entity (along with peasant (farm) farms that do not have the status of a legal entity). The legislator defined a peasant (farm) economy, which is a legal entity, as a commercial corporate organization that occupies an intermediate position between business partnerships and business entities. Unfortunately, such a radical legislative

novelty was not accompanied by the establishment of detailed regulation of almost all the most important issues of the creation, operation and termination of a new type of legal entity. This conclusion fully extends to the grounds the procedure, conditions and consequences of the reorganization of this type of legal entity. The Civil Code of the Russian Federation (Art. 86.1) assumes that the peculiarities of the legal status of a peasant (farm) economy, created as a legal entity, must be determined by law. However, there is still no such law. Federal Law No. 74-FZ of June 11, 2003 "On the Peasant (Farm) Economy" only regulates the features of the legal status of the respective farms that do not have the status of a legal entity. In practice, such regulation can create a lot of difficulties when trying to reorganize a peasant (farm) economy - a legal entity. created as a legal entity must be determined by law. However, there is still no such law. Federal Law No. 74-FZ of June 11, 2003 "On the Peasant (Farm) Economy" only regulates the features of the legal status of the respective farms that do not have the status of a legal entity. In practice, such regulation can create a lot of difficulties when trying to reorganize a peasant (farm) economy - a legal entity. created as a legal entity must be determined by law. However, there is still no such law. Federal Law No. 74-FZ of June 11, 2003 "On the Peasant (Farm) Economy" only regulates the features of the legal status of the respective farms that do not have the status of a legal entity. In practice, such regulation can create a lot of difficulties when trying to reorganize a peasant (farm) economy - a legal entity.

Brisov Yuri Vladimirovich, No.5 2020

Development of contract law in the field of blockchain technology application

Abstract. Abstract: The article provides an analysis of the most commonly used models of contractual regulation of private law relations using blockchain technologies. The author considers the experience of the United States as a country leading in the implementation of contractual models for the creation, financing, and development of blockchain projects, in particular, characterizes ICO as a model for raising funds for the creation of blockchain projects, analyzes approaches to

determining blockchain tokens, summarizes the powers of bodies exercising control and supervisory functions in the sphere of financial legislation. The author reveals the essence of the agreement on the conversion of investments into future tokens as one of the promising models for the legal registration of an investment transaction using blockchain technology. Based on comparative legal, formal legal, formal logical methods, the author comes to the conclusion that it is possible to adapt advanced contractual structures for the application of regulation of contractual relations using blockchain technologies in the Russian Federation. It also offers ways to adapt traditional contractual structures such as licensing agreements and commercial concessions to the new economic opportunities of blockchain projects.

Zhmaeva Elena Sergeevna, No. 5 2020

Preliminary Treaty: Problems of Definition and Interpretation

Abstract. The article is devoted to the study of the legal essence of the preliminary contract as an organizational contract. The theory of organizational contracts, including their concept, features and classification, which exists in the doctrine of civil law, is considered. The question of whether there is a need for normative consolidation of the structure of an organizational agreement is considered. The problem of independence of organizational relations in the system of civil law relations is touched upon. To solve the tasks set in the work, an analysis of the semantics of the words "organizational" and "preliminary" was carried out. In order to reveal the legal essence of the preliminary agreement, the target orientation of the preliminary agreement and its subject are analyzed. Within the framework of the problems of definition and interpretation of the preliminary contract, the relationship of the structure in question with the contract is noted, the subject of which is the future thing. The characteristic of the organizational character of the preliminary contract is considered in the aspect of its gratuitousness. Using the analysis of the theoretical basis of the study, the author objectively substantiated the theory of referring a preliminary contract to organizational contracts. Based on the analysis of doctrinal provisions and law enforcement practice, the author determines

the target orientation of the preliminary contract, which allows it to be classified as a group of organizational contracts.

Anisimov Alexey Pavlovich,

Mohrabyan Armine Samvelovna, No. 5 2020

Surrogacy agreement in Russia and foreign countries

Abstract. Based on the analysis of the norms of Russian and foreign legislation, the main problems of legal regulation of relations in the field of surrogate motherhood have been identified. The issues of theory and place of the surrogacy agreement in the system of civil obligations are considered. The analysis of foreign experience of legal regulation in the studied area is carried out. Special attention is paid to the Belarusian experience in the regulation of assisted reproductive technologies, which is of interest to domestic legislation. Specific recommendations are given for improving Russian legislation in the field of surrogacy in order to prevent disputes regarding the origin of a child or children born to a woman who was carrying a fetus after donor embryo transfer. It is concluded that it is necessary to establish non-medical restrictions at the legislative level for a surrogate mother. Recommendations are given for strengthening the mechanism of guarantees of the rights of bona fide parties to a surrogacy agreement. The expediency of establishing the maximum number of women performing the functions of a surrogate mother has been substantiated.

Pekarskaya Larisa Alexandrovna, **# 5 2020**

Directions and legal forms of investment activities of banks

Annotation. The relevance of the article is due to the fact that investment activity with the participation of banks, due to their special legal status, has a number of features of legal regulation, which allow taking into account the need to realize public interest in the activities of banks and their significant role in the economy. The basis for the emergence of discussions on the separation of investment and

banking at the legislative level was the adoption of the American Glass-Steggal Act, which contained the concepts of a segmented investment model and classical lending. The article analyzes the directions and legal forms of investment activities of banks in Russia, the difference between the investment activities of banks from the classical understanding of banking activities. Justified, that the main criterion for differentiation is the goal of investment and lending activities, the quality of risk, the mechanism for generating income. Investment activity, in contrast to credit, has a wider range of funding sources. The criterion for differentiation is also the responsibility of the bank, which it bears when entering into relations with individuals in the framework of investment and banking activities. The features of the legislative regulation of banking in the securities market are revealed, the role of banks in project financing and alternative (Islamic) financing is determined. It has been substantiated that the investment activity of banks is a much narrower concept in comparison with the concept of a bank's activity in the investment market, including the securities market. Investment activity, in contrast to credit, has a wider range of funding sources. The criterion for differentiation is also the responsibility of the bank, which it bears when entering into relations with individuals in the framework of investment and banking activities. The features of the legislative regulation of banking in the securities market are revealed, the role of banks in project financing and alternative (Islamic) financing is determined. It has been substantiated that the investment activity of banks is a much narrower concept in comparison with the concept of a bank's activity in the investment market, including the securities market. Investment activity, in contrast to credit, has a wider range of funding sources. The criterion for differentiation is also the responsibility of the bank, which it bears when entering into relations with individuals in the framework of investment and banking activities. The features of the legislative regulation of banking in the securities market are revealed, the role of banks in project financing and alternative (Islamic) financing is determined. It has been substantiated that the investment activity of banks is a much narrower concept in comparison with the concept of a bank's activity in the investment market, including the securities market.

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Levushkin Anatoly Nikolaevich,
Vorobyov Viktor Viktorovich, No. 5 2020

Some problems of the application of judicial conciliation (mediation) when resolving disputes in the Russian Federation

Abstract. The introduction of the judicial conciliation procedure into the arbitration, civil and administrative process can serve as a positive impetus to the development of a civilized and effective out-of-court dispute resolution in the Russian Federation. However, the relevant provisions of the Arbitration Procedure Code of the Russian Federation, the Code of Civil Procedure of the Russian Federation, the CAS of the Russian Federation and the Regulations for Conducting Judicial Conciliation contain a number of provisions that are subject to critical analysis. Noteworthy are the norms establishing the requirements for candidates for judicial conciliators, regarding the need for retired judges to conduct research activities, which can hardly be considered justified. And also, due to the specificity of the conciliation procedure itself, it is necessary to consider whether the judicial conciliators have the necessary knowledge and skills in the field of mediation.

Olga Sushkova, No.5 2020

Features of using the results of intellectual activity as part of audiovisual works for effective digitalization of the educational process in a law university

Abstract. The article points out that the educational process in a law university is impossible without the use of interactive forms of education, webinars, partial use of e-learning and the provision of other visualizing materials. The author asks the question: is it a violation to use part or all of an audiovisual work when creating educational material without the permission of the creator and without indicating his name? On the other hand, universities are called upon to use and develop various educational technologies, including distance e-learning in the implementation of educational programs. Also on March 26, 2019, the European Parliament adopted the Copyright Directive. She will level the playing field between American tech giants and European content creators, enabling copyright holders to distribute their

content through Internet platforms. The author has concerns that now in Russia, with the adoption of such a Directive, there may be a possibility of the implementation of e-learning and digitalization of the educational process in accordance with state programs. To eliminate the identified problems and contradictions, the author proposes to amend the civil legislation, and also gives recommendations to universities on the effectiveness of the use of digital technologies, both in the interests of the university itself and the teachers.

Chernykh Nadezhda Vyacheslavovna, No. 5 2020

Labor legislation of Russia vs coronavirus: who will win?

Abstract

The spread of a new coronavirus infection and the consequences caused by it (restriction of social contacts, the need for citizens to comply with the self-isolation regime, a reduction in the volume of products and (or) services provided, the suspension of activities in a number of industries) posed the problem of optimal coordination of the interests of the parties to labor relations and the interests of the state before labor legislation. ... This article attempts to consider the possible actions of the employer aimed at minimizing the negative consequences caused by the spread of the virus, both on the basis of the mechanisms already laid down in labor legislation, and taking into account the measures taken at the federal and regional levels. The author expresses hope

Posulikhina Natalia Semyonovna, No. 5 2020

Licensing Regime for the Circulation of Biomedical Cell Products: Problems of Law Enforcement

Abstract

This article is devoted to the consideration of issues related to legal regulation in the field of biological safety. In the course of the study, the features of the licensing regime for the production and circulation of biomedical cell products both in Russia and abroad were identified, a differentiated analysis of such concepts as the legal regime and licensing regime for the circulation of biomedical cell products

was carried out, the organizational and legal features of the general and special licensing regimes of circulation were studied. of biomedical cell products, the priority directions of legislative activity in terms of ensuring the functioning of a special licensed regime for the circulation of biomedical cell products have been determined. It was found that in the domestic legislation there is no definition of the licensing regime as a whole, and the licensing regime for the production and circulation of biomedical cell products, in particular, the peculiarities of the special licensing regime for the circulation of biomedical cell products are not fixed. It is concluded that the formation of a regulatory framework for a licensed regime for the production and circulation of biomedical cell products is one of the leading directions for ensuring biological safety both in Russia and abroad. The lack of a normatively fixed set of preventive measures aimed at minimizing the risks of the spread of infectious diseases as a result of the use of biomedical cell products can cause significant harm to the biological safety of the state. the features of the special licensing regime for the circulation of biomedical cell products are not fixed. It is concluded that the formation of a regulatory framework for a licensed regime for the production and circulation of biomedical cell products is one of the leading directions for ensuring biological safety both in Russia and abroad. The lack of a normatively fixed set of preventive measures aimed at minimizing the risks of the spread of infectious diseases as a result of the use of biomedical cell products can cause significant harm to the biological safety of the state. the features of the special licensing regime for the circulation of biomedical cell products are not fixed. It is concluded that the formation of a regulatory framework for a licensed regime for the production and circulation of biomedical cell products is one of the leading directions for ensuring biological safety both in Russia and abroad. The lack of a normatively fixed set of preventive measures aimed at minimizing the risks of the spread of infectious diseases as a result of the use of biomedical cell products can cause significant harm to the biological safety of the state. that the formation of a regulatory and legal framework for a licensed regime for the production and circulation of biomedical cell products is one of the leading areas for ensuring

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Filatyev Vladislav Alexandrovich, No. 5 2020

Detention Decision as Part of Sentence: Immediate Execution and Immediate Appeal

Abstract

. Having analyzed the criminal procedural norms governing the procedure for the simultaneous selection and appeal of the measures of restraint with the decision of the sentence, and having studied the existing law enforcement practice, the author comes to the conclusion that persons sentenced to real imprisonment and taken into custody in the courtroom are significantly realization of the right to judicial protection. Since the decision on a measure of restraint, initially of an interim nature, becomes an integral part of the sentence as a final judgment, it is impossible to challenge the detention by way of immediate appeal. The relationship with the verdict in terms of the decision on punishment does not allow revising the decision on the measure of restraint independently, separately from the verdict. However, the same circumstance does not prevent law enforcement officers from turning the sentence in terms of decisions on the measure of restraint, and therefore the corresponding punishment, contrary to the principle of the presumption of innocence, to immediate execution, which is permissible only in relation to interim

decisions. At the same time, the general procedure for appealing a sentence and the possibility of a convicted person to file a petition for the abolition of a preventive measure are not effective remedies. Seeing a violation of the principle of legal certainty, the author of the article concludes that it is necessary to eliminate doubts that a decision on a preventive measure cannot be part of a sentence, and proposes to amend the criminal procedural legislation accordingly. Problem,

Khaidarov Albert Anvarovich, №5 2020

Using the capabilities of social networks and mobile devices for defense lawyers to protect the rights and legitimate interests of suspects (accused) and to identify by prosecutors violations in criminal cases

Abstract

. The development of public relations and the transition to an information society also affects the criminal procedural sphere. The side of the defense and the prosecution begins to use the possibilities of the high-tech sphere in proving criminal cases, identifying violations, protecting the rights of participants in criminal proceedings. The effective use of these opportunities increases the effectiveness of the procedural activities of one or another participant. The author comes to the conclusion in the article that the verification of the legality of the production, the prosecution's version or the defense in modern conditions is much faster than it was before. The article deals with the use of the capabilities of social networks and mobile devices by prosecutors to identify violations in criminal cases, and by lawyers in protecting the rights and legitimate interests of their clients. The author studies two topical areas of using the sphere of high technologies in criminal cases - this is the analysis of the content of social networks and the connections between the persons registered in them, as well as the determination of the location of a person, phone, car or other object. In the conclusion of the article, recommendations were prepared for prosecutors, operational officers and lawyers on using the capabilities of social networks and mobile devices in their activities.

Kolesnikova Natalia Sergeevna, No.5 2020

Analysis of the category of information in the activity of detecting and investigating crimes

Abstract

Currently, the concept of information involved in the disclosure and investigation of crimes is one of the central concepts in modern forensic science. Moreover, the activity on the disclosure and investigation of crimes is considered as work with information about the crime and its participants. At the same time, there is a discussion among forensic scientists about which of the terms is the most correct: forensic or forensically significant information. The article reflects the analysis of a number of points of view, as well as formulated a proposal regarding the use of the term "forensic information" and offers its initial definition. According to the latter, forensic information is any factual data about an investigated crime event and related circumstances.

Novikova Tatiana Vasilievna, No.5 2020

Legal regime of the form of agreement on applicable law

Abstract

. Based on the results of the analysis of the views on the legal regime of the form of an agreement on applicable law that have developed in domestic jurisprudence, arguments are put forward in support of the liberal standard, according to which such an agreement is not bound by the form requirements traditionally imposed on transactions. The thesis is substantiated that an agreement on applicable law constitutes a sui generis phenomenon and cannot be qualified as a transaction in the sense that Art. 153 of the Civil Code of the Russian Federation. According to the author, this agreement, from the point of view of its form and content, is fully regulated by the special rule lex fori, which empowers the parties to a private law relationship with a foreign element to choose the applicable law (in the Russian Federation, first of all, Article 1210 of the Civil Code of the Russian Federation) ... Moreover, due to the recognition of not only directly expressed,

Kornev Arkady Vladimirovich, No. 6 2020

On some trends in the development of the system of Russian legislation during the crisis

Abstract

. The article contains an attempt to identify a range of factors and circumstances that in the very near future will determine the vector of development of the system of law and the system of legislation of the Russian Federation, and the legal system as a whole. The article shows the conditionality of law as a universal social regulator by those processes that occur in various segments of society, and above all, in the economy. For this reason, the article talks more about non-legal factors. First of all, about a pandemic, which clearly destroys the existing forms of life, both at the national state level and at the global level. In this regard, the previously proclaimed guidelines for the country's development, which are reflected in economic, political and legal doctrines, are being questioned. First of all, this applies to the economic system which has developed in the course of reforms of the last twenty to thirty years, which actually led to the deindustrialization of the country and difficult to overcome technological backwardness. An assumption is made about the gradual curtailment of the global economic project, and the orientation of states to the maximum satisfaction of the needs of the internal market. In this regard, the question of transforming the legal system in the context of a new reality will inevitably arise.

Zubarev Sergey Mikhailovich, No. 6 2020

Legal risks of digitalization of public administration

Abstract

Investigated the concepts of "digitalization", "digital transformation" and their relationship with the concepts of "informatization" and "robotization". The author's interpretation of the term "digitalization of public administration" is given as a process of introducing digital technologies into the activities of state bodies, which make it possible to carry out qualitative transformations in the implementation of state functions and the provision of public services, to ensure effective interaction

between citizens and the state. At the same time, digital transformation presupposes the onset of specific socially significant results from the use of digital technologies in public administration. An approach to considering digitalization as a state management decision has been substantiated, legal risks have been identified: a large number of simultaneously valid documents of different status, regulating the digitalization of public administration; lack of unity of normatively fixed goals, objectives, as well as measures to achieve them in the basic documents - the "Information State" subprogram and the federal project "Digital Public Administration"; serious shortcomings in the structure and content of the passport of the said federal project.