

**Saryan William Karpovich,
Levashov Viktor Konstantinovich, No. 6 2020
The main trends in the development of information and communication
systems for making government decisions**

Abstract

In the context of the growing legal and socio-technological problems of the converged information and communication environment, the information security of the state acquires strategic importance. Inaccurate information about the processes taking place in society turns into a toolkit of the information sphere of society and can influence the adoption of state management decisions. Dysfunctions of institutions and mass media and communication are growing, methods of mass manipulation of information are actively used, which negatively affects both the adoption of state administrative decisions and the implementation of one of the main functions of interaction between society and the state - the receipt and implementation of state information services by citizens. There is an urgent need to form a state security administration system and the reliability of the provision of information services to citizens. This is especially true for emergency situations when the provision of life and health of citizens is under threat.

**Rozhdestvenskaya Tatiana Eduardovna
Alexey Guznov, No. 6 2020**

Digital financial assets: problems and prospects of legal regulation

Abstract

. The emergence and spread of digital values, and, above all, cryptocurrencies, have led to the need for their legal regulation. The article analyzes the main approaches to legal regulation, which has already been implemented in the Civil Code of the Russian Federation and other federal laws. Particular attention is paid to the novelties of legal regulation, which are reflected in the draft federal law "On digital financial assets", which is currently being discussed in the State Duma of the Federal Assembly of the Russian Federation. The article analyzes in detail the concept of digital financial assets as a specific type of digital rights, including

comparing it with the concepts of uncertified securities and non-cash funds. The issues of issuing digital financial assets into circulation, as well as the peculiarities of the circulation of digital financial assets, are analyzed.

**Egorova Maria Alexandrovna,
Belitskaya Anna Viktorovna, No. 6 2020**

**Legal regulation of the issue and placement of cryptocurrency: trends
and prospects**

Abstract

Abstract

Recently, legislation on cryptocurrencies has been rapidly developing both in foreign countries and in the Russian Federation. This article analyzes the trends and prospects of legal regulation of the issuance and placement of cryptocurrencies, presents various approaches to this issue in the international arena. Analysis of the latest trends in the development of legislation on the issuance and placement of cryptocurrencies in the world indicates that states are more and more striving to regulate digital sphere. Having determined the legal nature of cryptocurrencies and referring them to one or another object of legal regulation, the state will thereby streamline and systematize the rules that will be applied in relation to mining and ICO. Whether the market is interested in such regulation is a philosophical question,

Efimova Lyudmila Georgievna, No. 6 2020

**Application of distributed ledger technology for settlements by letters of
credit**

Abstract

The article contains a legal analysis of three models of settlements by letters of credit using distributed ledger technology. First, we are talking about a settlement model in which blockchain is used as a way to transfer documents under a letter of credit. Secondly, a settlement model has been investigated in which two smart contracts are used. According to the author, these smart contracts should be

considered as a way of executing those contracts that, in practice, formalize the procedure for settlements with letters of credit. Thirdly, the most interesting is the settlement model, in which the payer and the recipient of funds enter into one smart contract, which provides non-cash payments between them on the P2P principle. In this settlement model, there is no financial intermediary organizing non-cash payments. This difference allows us to conclude that that letter-of-credit-like settlements using blockchain technology, which are carried out on the basis of the P2P principle, should be considered as a new form of non-cash payments. A feature of this form of non-cash settlements is the opportunity given to direct participants in settlements to fulfill their monetary obligations without using cash and without the help of financial intermediaries.

Olga Tarasenko

Entrepreneurial activity of the Bank of Russia

Abstract

. The focus of this work is the possibility of the Bank of Russia entering the banking services market, their legitimation and the impact on the state of competition and supervision in the banking and national payment system (NPS) of the Russian Federation. The strengthening of the entrepreneurial component in the activities of the Bank of Russia is noted, which occurred, among other things, during the implementation of tasks for the digitalization of the banking system of Russia. It is concluded that the adopted model of admission of fintech to the banking services market is limited to a certain extent, which will not allow it to develop in conditions of free competition. The negative aspects of the presence of the Bank of Russia in the banking services market are revealed, which entails a conflict of interests of the Bank of Russia, accompanied by the adoption of extraordinary and also restricting competition acts, and also makes market development inert and slows down the digital economy. Regulatory novelties are proposed that allow the development of clear restrictions on the implementation of entrepreneurial activities by the Bank of Russia.

Andriyanov Dmitry Vadimovich, No. 6 2020

The use of smart contracts and blockchain platforms in cross-border oil and gas transactions: aggravation of the conflict problem

Abstract

. The modern international circulation of hydrocarbons is becoming more and more autonomous and decentralized. This is facilitated not only by the introduction of such network technologies as smart contracts and blockchain platforms into contractual practice, but also by the widespread use of sources of non-governmental regulation (*lex petrolea*). In the context of the network paradigm of private international law, the classic problem of the conflict of laws is aggravated. The article discusses the conflict aspects of the use of smart contracts based on blockchain technology in cross-border oil and gas transactions, taking into account that the use of computer algorithms does not create a new contract, but is only a special form of transaction. Such “automated” transactions in the oil and gas sector, involving multiple jurisdictions, generate uncertainty in their legal regime. In the absence of a full-fledged substantive regulation, as well as in connection with the *lex petrolea* phenomenon, the collisional method of regulation is in fact dominant. The author shares his reasoning about the possibility of extending to smart contracts Regulation No. 593/2008 of the European Parliament and of the Council of the European Union "On the law applicable to contractual obligations (Rome I)", from which he concludes that the existing regulation is quite applicable to smart contracts executing cross-border oil and gas transactions. An entirely different question is whether the law, applicable by virtue of a conflict of laws rule, offers a suitable substantive basis. To date, only a few US states have adopted specific legislation on smart contracts. It is predicted

Ayusheeva Irina Zoriktuevna, №6 2020

Civil law communities in a sharing economy

Abstract

. The development of the sharing economy is recognized as one of the markers of the digital economy. Innovations and advances in digital technologies are driving

the creation of a large number of information platforms that allow uniting an unlimited number of participants who are able to share resources. In what organizational and legal form is it permissible to operate within the framework of the sharing economy? Today, commercial and non-profit organizations operate in the field of the economy of the collective use of goods and services. The participation of commercial organizations reflects the ideas of an access economy, within which the features of a market economy are preserved. Associations of persons that do not pursue the goal of making a profit can be created in the form of non-profit organizations or act as a civil society empowered to make decisions of assemblies, entailing legal consequences, without the status of a legal entity. The role of civil law communities is great for the development of models of the sharing economy, in connection with which the rules governing the procedure for their activities need to be further improved.

Borisova Lilia Vladimirovna, No. 6 2020

Electronic justice as a form of judicial protection in Russia

Abstract

. The article draws attention to the priority of the judicial form of protection of the rights and legally protected interests of citizens, organizations, state and public interests, as well as its gradual filling with information technologies that ensure the openness of court proceedings, saving time and money for participants in the process, reducing the time for filing procedural documents , etc. Based on the analysis of the approaches to defining the meaning of e-justice proposed in the legal doctrine and legislative acts, the author proposes a three-pronged understanding of it, which may have practical meaning depending on the stage of development of e-justice in Russia. Particular attention is paid to the analysis of an expanded approach to the definition of e-justice, including the use of artificial intelligence systems. Potential advantages and possible risks associated with the implementation of systems that provide assistance to the judge in the adoption of final judicial acts ("companion of the judge") and systems that replace the judge in the adoption of

final judicial acts ("digital judge") are identified. As a result, it was concluded that the most acceptable for the Russian justice system is the artificial intelligence system "Judge's Companion". Complete replacement of judges with "digital judges" is, according to the author, ambiguous from an ethical and legal point of view, has many risks and will not provide effective protection of violated or disputed rights, freedoms and interests of citizens, organizations, state and public interests. providing assistance to the judge in the adoption of final judicial acts ("companion judge") and systems that replace the judge in the adoption of final judicial acts ("digital judge"). As a result, it was concluded that the most acceptable for the Russian justice system is the artificial intelligence system "Judge's Companion". Complete replacement of judges with "digital judges" is, according to the author, ambiguous from an ethical and legal point of view, has many risks and will not provide effective protection of violated or disputed rights, freedoms and interests of citizens, organizations, state and public interests. providing assistance to the judge in the adoption of final judicial acts ("companion judge") and systems that replace the judge in the adoption of final judicial acts ("digital judge"). As a result, it was concluded that the most acceptable for the Russian justice system is the artificial intelligence system "Judge's Companion". Complete replacement of judges with "digital judges" is, according to the author, ambiguous from an ethical and legal point of view, has many risks and will not provide effective protection of violated or disputed rights, freedoms and interests of citizens, organizations, state and public interests. is the artificial intelligence system "Judge's Companion". Complete replacement of judges with "digital judges" is, according to the author, ambiguous from an ethical and legal point of view, has many risks and will not provide effective protection of violated or disputed rights, freedoms and interests of citizens, organizations, state and public interests. is the artificial intelligence system "Judge's Companion". Complete replacement of judges with "digital judges" is, according to the author, ambiguous from an ethical and legal point of view, has many risks and will not provide effective protection of violated or disputed rights, freedoms and interests of citizens, organizations, state and public interests. is the artificial intelligence system "Judge's Companion". Complete replacement of judges with "digital judges" is, according to the author, ambiguous from an ethical and legal point of view, has many risks and will not provide effective protection of violated or disputed rights, freedoms and interests of citizens, organizations, state and public interests.

Antonovich Elena Konstantinovna, No. 6 2020

On the issue of international legal personality and criminal proceedings in the context of digitalization

Abstract

Abstract

. Digitalization is so confidently entering everyday life that criminal proceedings are already being investigated from the standpoint of the possibility of its transition to an electronic format. Issues are discussed not only regarding the use of information technologies in the production of certain investigative actions and the place of electronic evidence in the existing list of types of evidence, but also about an electronic criminal case. As you know, almost no criminal case can do without the testimony of witnesses. This necessitates reforming the procedure for interrogating participants in criminal proceedings, as well as recording these testimonies. Such novels are important both from the point of view of creating conditions for admissibility and, accordingly, the reliability of evidence, and from the point of view of guaranteeing the observance of the rights and legitimate interests of persons, who are involved in criminal proceedings. The same applies to other investigative actions using information technology. The national legislation of modern states creates their own standards for the production of investigative actions using digital technologies. However, all this is of particular interest when it comes to international cooperation. Based on the analysis of Russian legislation, the work explains the concept of legal personality and international legal personality. The legislation of certain foreign countries is also considered, the issues of regulatory regulation of the use of digital technologies in the production of certain investigative actions, including remote interrogation and deposition of witness testimony as part of the provision of legal assistance in criminal cases, are studied. The same applies to other investigative actions using information technology. The national legislation of modern states creates their own standards for the production of investigative actions using digital technologies. However, all this is of particular interest when it comes to international cooperation. Based on the analysis of Russian legislation, the

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Przhilensky Vladimir Igorevich, No. 6 2020

Experience of mathematization of nature in digitalization of criminal proceedings

Annotation. The article examines the problem of transforming theoretical knowledge, the implementation of which is due to the process of digitalization of legal proceedings. In the context of this problem, the author analyzes the experiences of mathematization of nature and society, their similarities and differences with the task of digitalization through the introduction of computer technologies into the functioning of the justice system. Ontological assumptions and methodological consequences of preparing theoretical knowledge for the processes of mathematization and digitalization are analyzed in detail. The article identifies and describes the inclusion of the experience of constructing natural and social reality in the task of constructing digital reality. Digitalization itself is being investigated both as a kind of cognitive, and as a kind of intellectual and as an improvement in social technology. This action is also considered from the point of view of the correspondence between experimental and theoretical and conceptual knowledge in

the field of criminal proceedings. Heuristic and cognitive possibilities of computer modeling of the actions of individuals on the basis of teleological and causal types of explanation are revealed. The article deals with some experiments in the introduction of computer technologies in the investigation of crimes and other types of law enforcement practice.

Koroleva Anastasia Georgievna, No. 6 2020

Subjects of intellectual rights in the field of virtual and augmented reality technologies

Annotation. The article discusses the issues of determining the legal status and the range of subjects that can be recognized as owners of intellectual rights to technologies of virtual and augmented reality and the objects that generate them. Analyzing the range of subjects in this area, the author notes the need for a correlation between subjects and objects of intellectual rights. Particular attention in the article is paid to the problem of determining the rights of users of virtual or augmented reality platforms to virtual objects created by them. It is concluded that the creation of additional content for platforms of virtual or augmented reality, as a general rule, gives rise to copyright for their creators. Considering the range of subjects for complex objects in the field of virtual and augmented reality technologies, the author comes to the conclusion that

Grin Elena Sergeevna, No. 6 2020

The virtual image as an object of legal protection

Annotation. The article discusses the issues that arise when creating a virtual image in multimedia products, including computer games using the image of a citizen. As a rule, such images are used without the consent of the citizen, therefore, disputes began to arise regarding the legality of using real images of artists in computer games and social networks. The author analyzes the legal nature of the right to the image of a citizen and the possibility of using such an image in virtual and augmented realities. In connection with the development of digital technologies, images of citizens have begun to be actively used to create various results of creative activity, such as holograms, dance movements are used to create digital results of

creative labor. The author notes that when creating the results of creative work in virtual reality, it is necessary to respect the rights of citizens whose images are used to create digital objects. When considering these issues, an analysis of foreign experience is provided, as well as mechanisms of legal regulation of relations arising in the cases under consideration are proposed.

Lyutov Nikita Leonidovich,

Voytkovskaya Ilona Vladimirovna, No. 6 2020

Taxi drivers performing work through online platforms: what are the legal implications of “uberizing” labor?

Annotation. The article examines the problems of determining the legal status of drivers of the online platform "Uber" in the countries of the European Union and the United States of America, where the activities of "Uber" were perceived by licensed taxi services and trade unions as a threat to fair competition and social and labor rights of citizens. The article analyzes the arguments of the judicial and administrative authorities of the states of the European Union and the United States of America, which considered the appeals and claims of drivers, trade unions or transport companies. For comparison, the authors analyze the arguments of the Russian courts in disputes about the determination of the legal nature of relations between a similar Uber online platform - Yandex.Taxi and its drivers. Based on driver surveys and analysis of advertising information of the online platform in the process of attracting drivers to work in the taxi service,

Chuchaev Alexander Ivanovich,

Malikov Sergey Vladimirovich, №6 2020

Mechanism of a road traffic accident involving a drone: problem statement

Annotation. The article attempts to simulate the mechanism of a road traffic accident involving an unmanned vehicle (UAV) to solve a number of criminological, criminal-legal and forensic problems using the theoretical characteristics of the transport crime mechanism. situation), the content is disclosed, the role of each of them in the etiology of the traffic accident is shown. It is noted that the personal factor itself is not included in the mechanism of the traffic accident, which must be

taken into account when criminalizing the relevant act, which is not a violation of traffic rules, but the manufacture of a low-quality special software. It is stated that that in the mechanism of a transport accident, an information system is of fundamental importance, combining both the role of the driver and the information system itself, which is necessary to ensure the safety of the functioning of a power-driven vehicle. For this reason, it is not the questions of the reliability of the information system that should be studied, but the influence of information support on the safety of the functioning of a highly automated vehicle. Of particular importance is the problem of the so-called uncertainty characterizing the state of the information system. The ways of further research of the considered mechanism are determined on the basis of the so-called map of threats to the security of the operation of the BPS, including taking into account the possibility of interference in their work from the outside (into the software system,

**Gracheva Yulia Viktorovna,
Andrey Aryamov, No. 6 2020**

Robotization and Artificial Intelligence: Criminal Risks in Public Safety

Annotation. Large-scale robotization is becoming one of the challenges of modern society. Legal science in general and criminal law in particular cannot remain aloof from the challenges associated with the introduction of artificial intelligence in all spheres of public life. The process of forming the legal space has begun, but there is no comprehensive approach to solving the problem, since scientists consider robots within the framework of only those social relations that are included in the subject of the relevant branch of law. In this regard, there is a lag in the development of, for example, criminal law norms, since the process of determining the civil law status of a robot has not been completed, and the construction of the concept of criminal law risks in robotics and artificial intelligence depends on it.

**Nikishin Vladimir Dmitrievich
Galyashina Elena Igorevna, No. 6 2020**

Legal and linguistic approach to the study of polycode texts of criminal communication in the digital environment in order to ensure information (ideological) security

Annotation. To counteract the spread of aggressive polycode texts in the Internet environment, a legal and linguistic approach is required: the legal regulation of countering "speech" offenses should be based on a comprehensive study using special knowledge from the field of forensic speech, integrating the provisions of linguistics, social psychology, psycholinguistics, cognitive science and other sciences speech cycle. The authors considered (from the point of view of substantive law and judicial speech) the main speech actions that constitute a threat to the ideological security of communication in the digital environment and are implemented through the generation of polycode texts. The article proves that the concept of "multimodal text" is not equivalent to the concept of "polycode (creolized) text", since the selection of these linguistic entities is based on different criteria: sensory modality and communication channel. The classification of communication channels, the types of relations between the verbal and iconic components of polycode texts and other theses of the article proposed by the authors are the starting points for further legal and linguistic research of criminogenic Internet communication that threatens information (ideological) security, in the aspect of forensic linguistic expertise.

Polina Korotkova, No. 6 2020

The personality of a lawyer: qualities that contribute to successful professional activity in the context of digitalization of the legal profession

Annotation. The article analyzes the current situation in the field of informatization of the Russian legal profession, substantiates the need to create and develop a corporate lawyer working environment as part of the general digital space of Russia. The necessity of unification of disparate processes of informatization and information interaction has been substantiated. The article also examines three groups of criteria, namely professional, procedural and consumer, which are presented to qualified legal assistance provided by lawyers. The qualities of the personality of a modern lawyer are revealed, which contribute to his successful professional activity in the context of the informatization of the Russian legal

profession. These are such qualities as interest (to the chosen field of activity), morality, communication, punctuality, stress resistance.

Ponomareva Daria Vladimirovna,

Barabashev Alexander Georgievich, №6 2020

Legal regime for open access to publicly funded research and scientific information in the European Union and the United States of America

Annotation. The article discusses in detail the best practices of the European Union and its member states, as well as the United States of America in terms of the legal regulation of the relationship between intellectual property law and regulation that provides open access to the results of scientific research and scientific information. The authors note that the scope of protection afforded to research results in the two largest jurisdictions - the European Union and the United States of America - is not the same. It is emphasized that, although the implementation of the principles of protection of scientific research results provided for by supranational and national legislation is based on contractual agreements between authors, publishers and universities, the framework established by the copyright regime is a determining factor in the what form these agreements take. In conclusion, the conclusion is drawn about the harmonization of the analyzed supranational and national legal regimes. The authors point out that supranational and national copyright regimes should create favorable conditions for the dissemination and reuse of publicly funded scientific publications.

Sushina Tatiana Evgenievna, No. 6 2020

Experience of digitalization of criminal proceedings in the Federal Republic of Germany and the possibility of its use in digitalization of criminal proceedings in Russia

Annotation. The article analyzes the experience of digitalization of criminal proceedings in the Federal Republic of Germany as one of the leading states of the European Union with a high level of informatization of the mechanism of public administration. The study of German theory and practice made it possible to draw a conclusion about the rather successful adaptation of the criminal proceedings of the Federal Republic of Germany to the new digital reality and the possibility of using positive experience in the development of the Russian Concept for the construction of criminal proceedings, providing access to justice in the context of the development of digital technologies. It is proposed to consider digitalization as an irreversible and natural process of the development of criminal proceedings, requiring adjustments to the organizational foundations of criminal procedural activity. Along with this, it was concluded that

**Ershova Inna Vladimirovna,
Enkova Ekaterina Evgenievna, No. 6 2020**

"Digital" competencies of lawyers: concept, practice, problems of formation

Annotation. The article attempts to comprehend the competences of lawyers for the digital economy. The concepts of competencies, their different understanding and interpretation are given. A reasoned opinion is expressed about the significant advantages of the competence-based approach in education over the traditional one. The conclusion is drawn, including based on the results of the author's sociological research, according to which the competence-based approach is an objective trend in modern education, mainly supported by students, the business and academic community. The review of the main approaches to the classification of competencies is carried out. The results of the author's questionnaire are presented, indicating a poor awareness of students in bachelor's and master's degrees in relation to the basic competencies of lawyers for the digital economy, as well as the sources of their regulation. Identified factors preventing the formation of these competencies in

students. The article describes the main provisions of educational standards for bachelor's and master's degrees, which contain requirements for the formation of competencies of lawyers in the digital economy. Proposals for the modernization of these standards are formulated, taking into account the need to form “digital” competencies among lawyers. The role of educational literature in the process of their formation and assessment of development is shown.