Likhter Pavel Leonidovich, No. 9 2020

The influence of consequentialism and ethics of duty on the formation of constitutional and legal institutions in the era of consumption

Annotation. The article is devoted to the impact on modern institutions of state and law of two directions of ethical theories that arose in Ancient Greece - consequentialism and ethics of duty. The author presents a brief historical outline of the differences in approaches to the hierarchy of human needs in the teachings of Aristippus, Epicurus, Plato, Aristotle and other thinkers. Some aspects of the teachings of ancient philosophers about the relationship between the realization of human desires and his political and legal life are considered. Based on the comparison of consequential concepts (hedonism, epicureanism, utilitarianism) and the ethical approaches of Plato and Aristotle, a conclusion is made about the instrumental significance of the latter for the theory of law. The ideas of the common good and the "golden mean" that permeate them, coupled with the desire for values such as justice, moderation, empathy, trust in other members of society, objectively can become the basis of the constitutional and legal system, uniting broad strata of the population. Today, the transformation of legal strategy can be functional only if it is deeply conditioned by social reforms, which, in turn, are based on the ethics of duty and are aimed at overcoming the essential risks of a consumer society.

Zenin Sergei Sergeevich,

Dmitry Leonidovich Kuteinikov,

Yapryntsev Ivan Mikhailovich, No. 9 2020

Big data in the legislative process

Annotation. the article presents possible directions of using Big Data technology in the framework of legislative activity. The essential characteristics of Big Data technology are indicated, which are a prerequisite for its implementation in the sphere of public administration. The authors describe the existing practices of the implementation of this technology in the field of jurisprudence. Taking into account the well-functioning processes of using Big Data in the private sector, the authors assessed the prospects for using this experience in the process of developing

regulatory legal acts, including in correlation with specific stages of the legislative process. Particular attention is paid to the analysis of individualized regulation and granular norms, as well as the grounds and peculiarities of the use of micro-directives as a result of the use of Big Data in the formation of legal norms.

Ivanova Ksenia Alekseevna, No. 9 2020

Citizens' Right to Geolocation Protection and Internet Privacy

Annotation. A promising direction for future research in the field of data mining will be the development of methods that take into account privacy issues. In particular, the author in this article raises the following tasks when regulating the right to geolocation. Since the main task in data extraction is the development of models of aggregated systems, can we develop such models without access to accurate information in separate repositories? In the modern world, such an issue is becoming a key issue, especially in the implementation of human rights on the Internet, since the very implementation of such rights is associated with data protection, on the one hand, and access to information, on the other. The need to maintain such a balance is one of the key challenges facing the law in modern realities.

Dremlyuga Roman Igorevich, No. 9 2020

Virtual reality: general problems of legal regulation

Annotation. The article is devoted to the analysis of general problems of legal regulation of relations emerging in the field of using virtual reality technology, as well as to the problems of regulating the development of this technology. The paper analyzes what properties of the technology radically distinguish it from others and create challenges for the development of a system of legal regulation of the use of this technology. The main factors complicating the application of existing legal regulation mechanisms are characterized and a forecast of future regulation problems is carried out. The author comes to the conclusion that this technology is fundamentally different from the existing ones in that it combines the properties of the real world and cyberspace. The properties of virtual reality that complicate the implementation of legal regulation of relations in the field of using this technology are: high realism, full immersion during the session and low cyber security of

hardware and software. The author analyzes several regulatory approaches that could be applied to virtual reality and reveals that they all have significant drawbacks. The results of modern research carried out in the field of safe use of VR in the field of education and leisure are rapidly becoming outdated, as they do not keep pace with the development of technologies, and can serve as the basis for developing a system of rules only taking into account this factor.

Chernykh Nadezhda Vyacheslavovna, No. 9 2020

Improving the legal regulation of the labor of scientific workers in Russia and abroad

Annotation. The article discusses the issues of the legal status of scientists, researchers and persons participating in scientific research (auxiliary personnel), analyzes the changes introduced by the Federal Law of 25.05.2020 No. 157-FZ "On Amendments to the Labor Code of the Russian Federation in terms of establishing the age limit for filling the positions of managers, deputy heads of state and municipal educational institutions of higher education and scientific organizations and heads of their branches ", the directions of improving legislation related to insufficient legal regulation of the issues of working time of scientific workers are noted. The issue of the regulation of the labor of scientific workers was considered, substantiated the proposal on the need to introduce labor standards for scientific workers in order to exclude their overload. In addition, the author touches upon the problems of introducing performance indicators and the effectiveness of the activities of scientific workers associated with the introduction of an "effective contract".

Kochoi Samvel Mamadovich, No. 9 2020

Fraud: theory and practice of qualifications

Annotation. This article continues the author's long-term research devoted to topical issues of the application of the norms of the Criminal Code of the Russian Federation on theft of someone else's property. Based on the analysis of a specific

criminal case, on which the author prepared a scientific advisory opinion, the deficiencies in the qualification of fraud, which are characteristic of law enforcement practice, are shown. Attention is drawn to the stereotypes prevailing among the prosecution authorities and courts in determining the amount of damage from theft, as well as errors in the application of competition rules of criminal law norms containing different elements of fraud. The fact of the artificial combination of two acts of different nature and degree of danger in part 5 of Article 159 of the Criminal Code of the Russian Federation - theft of someone else's property and deliberate failure to fulfill contractual obligations in the field of entrepreneurial activity - is stated. It was expressed regret that the legislator missed the possibility of transferring to Chapter 22 of the Criminal Code of the Russian Federation the norm on a crime in the field of economic activity - deliberate failure to fulfill contractual obligations in the field of entrepreneurial activity, causing damage (significant, large or especially large) to the interests protected by law. The conclusion about the inadmissibility of substitution of civil legal disputes with criminal legal prosecution is formulated.

Rossinsky Sergey Borisovich, No. 9 2020

Criminal procedure form: essence, problems, trends and development prospects

Annotation. The article deals with the most general issues of the theory and legislative regulation of the criminal procedure form – a necessary attribute of criminal proceedings. Proceeding from the procedural understanding of the criminal procedure form, distinguishing it from formalism as a negative phenomenon in law enforcement practice, the author comes to the conclusion that its high purpose is due to the combination of effective legal guarantees of the effectiveness and quality of the results in a criminal case. At the same time, the author considers the most important legal properties of the criminal procedure form: unity, universality, obligation, analyzes the problems associated with them that arise in law-making, as well as in the activities of the preliminary investigation bodies, the prosecutor's office, the court, the bar and other persons involved in criminal proceedings.The

results of the study allowed us to formulate the author's definition of the criminal procedure form, identify the main trends and outline prospects for its further development in the context of finding a reasonable balance between the public interests of society and the state, on the one hand, and the rights of the individual, on the other.

Malysheva Olga Anatolievna, No. 9 2020

On the need to refuse inquest as a procedural form of investigation

Annotation. Comparative legal analysis of procedural forms of inquiry and preliminary investigation leads to the conclusion about their similarity, as well as the similarity of the procedural statuses of the investigator and the inquiry officer. This testifies to the irrational distribution of forces and resources by the state in the field of criminal justice. At the same time, the existence of two similar forms of investigation does not lead to an improvement in the indicators of the legality and quality of the investigation of criminal cases, but contributes in some cases to their deterioration: in terms of ensuring reasonable time frames for criminal proceedings, compensation for damage to victims caused by crimes, which is confirmed by statistical data provided in article.

Burmagin Sergey Viktorovich, No. 9 2020

Problematic issues of adversarial construction of court proceedings at the stage of execution of a sentence

Annotation. The adversarial nature of any judicial proceedings, which is inherent in justice and corresponds to its nature, is manifested in criminal proceedings when considering not only criminal cases, but also when considering issues related to the execution of a sentence. This article examines the features of the adversarial construction of court proceedings at the stage of execution of the sentence, due to the intended purpose (tasks) and the specific subject of the trial of this category of cases. The article reveals the specifics of the conflict relationship, the essence of the legal dispute and the subject composition of the procedural parties in cases in which issues related to the execution of punishment are resolved, analyzes

the problems of ensuring equal rights of the parties and the uncertain role of the prosecutor in the execution of the sentence, and suggests ways to eliminate them at the legislative level. In conclusion, it is concluded that it is necessary to improve the procedural form of consideration of issues related to the execution of a sentence, in accordance with the principles of competition and equality of the parties and taking into account the peculiarities of the manifestation of these principles in court proceedings that arise in the course of the execution of a sentence.

Zhizhina Marina Vladimirovna, No. 9 2020

Conducting research on handwriting objects in subscription lists as part of election campaigns: "working on mistakes»

Annotation. During the election campaign last summer, the author of this article was involved by the leadership of the Central Election Commission of the Russian Federation in verifying the correctness of activities related to the expert study of signature sheets with signatures of voters in support of the nomination of candidates for deputies of the Moscow City Duma[1].This participation was due to numerous complaints of candidates for deputies, who were denied registration due to the insufficient number of reliable signatures of voters, the falsification of which was revealed by handwriting experts. Moreover, a wave of rallies and demonstrations in support of unregistered candidates swept across the country, where doubts about the correctness of expert checks and distrust of their results were actively expressed. And, basically, this was stated by people who were very far from judicial handwriting studies.In this article, we decided to address this problem in order to competently analyze the current situation, as well as to develop the most optimal ways to overcome the possible negative consequences associated with checking subscription lists by handwriting experts[1] http:// cikrf.ru " news/cec/43746/ (accessed 05.03.2020).

Danilova Natalia Alekseevna,
Nikolaeva Tatiana Gennadevna, No. 9 2020

Forensic science in the work of the prosecutor: nonsense or an urgent need?

Annotation. The article substantiates the position of the authors, criticized by some modern Russian scientists, on the need for the prosecutor to possess forensic knowledge when supervising the observance of the rule of law in the investigation of crimes. This position is supported both by the results of the analysis of law enforcement practice, the authors ' own long-term experience in the system of retraining and advanced training of prosecutor's employees, and the examples given in the article of the prosecutor's study of such criminal case materials as the protocol of inspection of the scene of the accident and the expert's opinion on the subject of identifying by the prosecutor not only violations of the criminal procedure law, but also errors of a forensic nature. This approach will allow the prosecutor to identify the existing gaps in the evidence base, determine the possibility, ways and means of filling them, and ultimately make a legitimate and informed decision. The authors conclude that only in the case of sufficient knowledge in the field of criminalistics (recommendations for studying the materials of a criminal case on a specific type of crime, as well as the methodology for investigating this crime), the prosecutor's decisions to return the criminal case for additional investigation, or other decisions provided for by the Criminal Procedure Code of the Russian Federation, will be justified and motivated.

Terentyeva Lyudmila Vyacheslavovna, No. 9 2020

Legal nature of UDRP arbitration centers

Annotation. Taking into account a number of procedural and legal consequences, determined both by the fact of the conclusion of an arbitration (arbitration) clause, and by the fact of an arbitration award, the author raises the question of the possibility of qualifying domain disputes considered by arbitration centers under the UDRP procedure as arbitration (arbitration) proceedings Along with the characteristics of dispute resolution under the UDRP procedure that are obviously incompatible with arbitration proceedings (the absence of an arbitration agreement between the disputing parties, the inconclusiveness of the decision made, the lack of confidentiality, etc.), the author singles out as a key factor not in favor of

the generality of the legal nature arbitration courts and centers considering disputes under the UDRP procedure,a non-jurisdictional form of protection in these centers. Based on the analysis of Russian and foreign doctrine and judicial practice, the article raises the question of the expediency of legitimizing the procedural and substantive provisions of the UDRP Policy and Rules in the Russian legal system, and also attempts to determine the legal nature of the consideration of disputes under the UDRP procedure ...

Slepak Vitaly Yurievich, No. 9 2020

Legal aspects of the movement of weapons and goods of defense significance between the EAEU member states: towards the formation of an arms market?[1]

Annotation. The functioning of a single arms market in the post-Soviet space is not directly regulated by international treaties. However, an analysis of the provisions of the Treaty on the Eurasian Economic Union and agreements adopted within the framework of the Collective Security Treaty Organization allows us to conclude that, in general, the existing legal framework contributes to the formation of similar (comparable) and similar regulatory mechanisms in this area, based on market principles and the use of harmonized or unified legal regulations. The EAEU Treaty predominantly forms a general framework for the movement of goods and its possible restrictions, while detailed rules aimed at creating harmonized rules of norms that exclude the need to resort to exceptions to the free movement of goods are created already at the CSTO level. In fact, the CSTO plays the role of an “agent” of the EAEU in terms of regulating economic issues of military integration, creating conditions for the opening of arms markets. The legislation of the Russian Federation uses two competing approaches to the functioning of arms markets: a restrictive one, which allows closing the national market for public safety reasons

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without any additional excuses (used in the legislation on arms export and state defense orders), and a broad one, which allows the market to be closed in exceptional cases. (applies in cases where the supply of goods is not directly related to defense and security issues).

Zaplatina Tatiana Sergeevna, No. 9 2020

Problems of the distribution of the results of intellectual activity within the framework of projects of the megascience class[2]

Annotation. The concept of intellectual property rights (IP) in the framework of megasiens class projects is based on common international, supranational and national standards in the field of IP. The problem of the distribution of the results of intellectual activity (ID) created within the framework of the megasiens class project is caused by the collectivity of its creation, the belonging of the ID to both the project participants (team) and the megasiens center itself. Often, the rules of a specific contract for the creation of an IP address the distribution of the results of a collective ID. In the case of mega-science projects, an important point is the norms of the research centers themselves, like a contract between private individuals that form the basic principles for the distribution of IDs. The form of organization of the research center also influences the order of distribution of the results of the ID within the megasiens class projects, so ILL, which is a national legal entity, makes a distinction in the division of the ID depending on the characteristics of the project and the level of access to the research objects, without distinguishing the concept of the basic IP for ILL. ESS, which is an integrated structure of megasiens, provides for the basic IP of the center when conducting research. Such a basic IP can be used under a non-exclusive license by a participant in the project that uses the basic IP.

Ershova Inna Vladimirovna, No. 9 2020

Head of the department as a triad of hypostases: manager, teacher, scientist

[2] The work was supported by the grant: "Formation of a legal model for managing the creation and operation of the International Center for Neutron Research based on the high-flow research reactor PIK" 18-29-15015 mk.

Annotation. The article attempts to comprehend the legal status of the head of the department with the identification of the most significant areas of his activities. The basics of the labor law status of the head of the department of a Russian university are shown, with the use of a comparative approach, their relationship with the legal norms of France and Germany is carried out. A review of strategic approaches to filling the position of the head of the department has been carried out. The models of organizational behavior of the head of the department, his styles of leadership, methods of managing the department are analyzed. A model of the qualities of the head of the department of the university has been built, attention is paid to professional competence, as well as the system of its constituent competencies. The characteristic of the pedagogical function of the head of the department is given, a reasoned opinion is expressed about the growth of its role in the conditions of digitalization of education. The scientific component of the functional of the head is considered through the prism of criteria for an academic degree, academic title, membership in dissertation councils, scientific leadership of graduate students, undergraduates, etc. The role of the head of the department as a leader of a scientific school is shown. An opinion was expressed about the need to increase the importance of departments in Russian universities, reduce the teaching load of heads of departments, legitimize the positions of their deputies, etc. It is concluded that the head of the department is a "universal soldier" who performs almost all functions in an educational organization, he is designed to become effective manager, while remaining a successful teacher and renowned scientist. undergraduates, etc. The role of the head of the department as the leader of the scientific school is shown. An opinion was expressed about the need to increase the importance of departments in Russian universities, reduce the teaching load of heads of departments, legitimize the positions of their deputies, etc. It is concluded that the head of the department is a "universal soldier" who performs almost all functions in an educational organization, he is designed to become effective manager, while remaining a successful teacher and renowned scientist. undergraduates, etc. The role of the head of the department as the leader of the scientific school is shown. An

opinion was expressed about the need to increase the importance of departments in Russian universities, reduce the teaching load of heads of departments, legitimize the positions of their deputies, etc. It is concluded that the head of the department is a "universal soldier" who performs almost all functions in an educational organization, he is designed to become effective manager, while remaining a successful teacher and renowned scientist.

Suvorova Ekaterina Ilinichna, No. 9 2020

Legislative approaches to addressing the issue of genetic discrimination in insurance

Annotation. Genetic testing is a very attractive source of information for insurers, who often attribute this opportunity to improving the effectiveness of risk assessment in the implementation of personal insurance, since it is a key factor in determining whether insurers are ready to offer insurance coverage to a particular person and at what price. At the same time, statements are increasingly being made about the possibility of discrimination against policyholders and insured persons due to the expansion of the practice of using such information, which required the adoption of appropriate legislative decisions by a number of countries, although it is too early to speak about the formation of a systematic approach to solving this problem. The analysis of the legislation of a number of states allowed us to identify several approaches to solving this problem, highlighting countries that have established a complete ban on the use of genetic information in insurance (Austria, Norway, France), including in the context of protecting the rights to protect the personal data of third parties (Spain, Portugal); as well as differentiated the conditions for the use of genetic data depending on: the amount of insurance coverage for life insurance, accident insurance (including at work); specific circumstances determined by the legislator, and the reasons for conducting a genetic study (Switzerland); participation of the policyholder in the program for the detection and prevention of congenital diseases (Israel).

Vaino Alexander Antonovich, No. 9 2020

Comparative legal analysis of the executive power systems of Russia and Japan

Annotation. This article is devoted to the comparative legal aspects of the study of executive power systems in Russia and Japan. These states, despite the significant difference in both the past political and legal historical path, and modern forms of government and state structure, have a number of common constitutional and legal features. In both countries, the legal strategy of the path was chosen, aimed at the full-fledged construction of a democratic state governed by the rule of law.A comparison of executive-power systems reveals both serious similarities and significant differences in the statics and dynamics of their daily functioning. While in Russia, ministers are more likely to perform an administrative and managerial function and are actually deprived of many of the actual political prerogatives, in Japan, the top officials of ministries are usually public politicians. The difference also lies in the staffing of the heads of executive departments – in Russia, the primary role in this process is assigned to the personal will of the elected head of state, in Japan –to the collective will of the elite, which is self-organizing and legitimized through parliamentary elections.At the same time, the Governments of the above-mentioned countries share a number of common features, both in terms of their legal nature and in terms of the functions they perform. These circumstances indicate the need to intensify comparative legal research in this direction in order to clarify questions about the further expediency of mutual reception of norms and institutions related to the relevant public legal procedures.