Aznagulova Guzel Mukhametovna

INTERACTION OF INTERNATIONAL AND DOMESTIC LAW AND THE CONSTITUTION OF THE RUSSIAN FEDERATION

No. 8, 2015

This article is devoted to the study of the foundations of the relationship arising in the international and domestic arena in the interaction of national legal systems, both among themselves and with international law. Particular attention is paid to the issue of how these processes are reflected in the Constitution of the Russian Federation. The author examines the correspondence of modern mechanisms of legal regulation at the international and domestic levels to the actual challenges of the development of Russia and the world community, and also considers possible options for the development of the system of international law under the influence of world globalization and integration processes. The article examines the problems of the implementation of international law in the Russian legal system on the example of the recognition of international law as part of its legal system, the legal force of international acts in the Russian legal space. On the basis of the dialectical method of cognition, the work investigates the problems of the development and functioning of the legal system as the deployment of internal contradictions in their interdependence. The categorical apparatus of the research includes philosophical categories such as essence and phenomenon, quantity and quality, form and content, cause and effect, general, particular and individual. Also, private scientific research methods were used, including comparative legal methods, which made it possible to compare different legal systems with each other, to identify the general and specific in the legal systems of different states, and also to establish the forms of interaction of national legal systems both with each other and with the international right. Based on the study of the reform of Russian law in modern conditions, a new approach to the typology of national legal systems is proposed and substantiated from the philosophical positions of the singular, particular and general, taking into account the specifics of

modern processes of globalization, unification and humanization of the legal system; carried out a methodological analysis and revealed the features of the development and functioning of the modern Russian legal system within the framework of the global legal space.

Sabirov Rifkat Davlievich

Yezhova Elena Vladimirovna

INSTITUTE OF LAW OF BASHKIR UNIVERSITY: PAST, PRESENT, FUTURE

No. 8, 2015

The article is devoted to the Institute of Law of the Bashkir State University - the history of its formation, the main stages of development and further plans. It is noted that 2014 is the year of the 65th anniversary of higher legal education in the Republic of Bashkortostan, the appearance of which is closely associated with the Institute of Law of the Bashkir State University. Three stages of development of the Institute of Law of the Bashkir State University are highlighted and characterized in detail. The first stage is the Ufa branch of the All-Union Correspondence Law Institute. This stage begins at the end of the first half of the 20th century, when 11/09/1949 I.V. Stalin signed an order of the Council of Ministries of the USSR on the creation from 01/01/1950 of the Ufa branch of the All-Union Correspondence Law Institute. The second stage began in 1963, when the branch was transformed into the Ufa faculty of the Sverdlovsk Law Institute, which had a very favorable effect on the development of legal education in the republic. Since January 1972, the third stage begins: on the basis of the order of the Minister of Higher and Secondary Specialized Education of the RSFSR dated 03.12.1971 No. 492, the faculty became part of the Bashkir State University. This event was a new noticeable step in expanding the network of legal education in Bashkiria and opportunities for training highly qualified lawyers. In 1999, the

Faculty of Law was transformed into the Institute of Law of the Bashkir State University. Currently, it trains highly qualified specialists in full-time and part-time departments in two specialties and two areas - jurisprudence and international relations. The Institute of Law of the Bashkir State University actively conducts traditional and innovative scientific work. The Institute is developing a scientific direction "Modernization of socio-political and state-legal systems", within which recognized scientific schools are functioning: "Problems of the formation of the rule of law", "Criminological and forensic problems of the effectiveness of combating crime and other offenses among young people", "Problems protection of universal values in criminal proceedings ",“ Legal problems of regulation of entrepreneurial activity, protection of subjective civil rights ",“ Problems of legal regulation of financial activities of the state and municipalities ", Scientific School of Human Rights, Agrarian Law School. The article lists the names of those who stood at the origins of legal education in the Republic of Bashkortostan, as well as the names of outstanding graduates of the Institute of Law of the Bashkir State University, lists the main achievements of teachers and students that the university is proud of.

Galimkhanov Azat Bulatovich

LEV LVOVICH KANEVSKY: TEACHER, SCIENTIST, MAN

No. 8, 2015

The famous scientist Lev Lvovich Kanevsky passed away on 09.01.2002 . Legal science has lost a prominent forensic scientist, Doctor of Law, Professor of the Department of Criminalistics at the Institute of Law of the Bashkir State University, full member of the Academy of Humanities, Professor of the Russian Academy of Legal Sciences. All his life L.L. Kanevsky dedicated the fight against crime and serving for the benefit of society and the state. L.L. Kanevsky has always been distinguished by adherence to principles, an

active life position, conscientiousness, and a respectful attitude towards everyone without exception. Under the guidance of Professor L.L. Kanevsky , a scientific school in the field of prevention and investigation of juvenile crimes was formed, which is widely known in Russia and received international recognition. Many issues considered by L.L. Kanevsky , and to this day are relevant and discussed by scientists criminologists. 04/30/2014 Lev Lvovich Kanevsky would have turned 90 years old.

Marina Borisovna Kostrova

THE TERM "PERSON WHO COMMITTED A CRIME FOR THE FIRST TIME" IN THE CONTEXT OF RELATIONSHIP OF CRIMINAL AND OTHER BRANCHES OF RUSSIAN LAW

No. 8, 2015

The topic indicated in the title, at first glance, may seem "shallow" - one term from a huge array of words that make up the lexical basis of the language of criminal law. However, even one unsuccessful word of the legislator in the criminal law can become the determinant of a big problem in the field of combating crime, which is proved in this publication by the example of the compound term “the person who first committed a crime” used in the Criminal Code of the Russian Federation without a normative definition. The subject of this research is the meaning of this term attributed to it at different levels: scientific; law enforcement; legal explanatory . The methodological basis of the study was a set of general scientific and special scientific methods of cognition traditional for jurisprudence , as well as research methods used in the historical sciences (chronological and diachronic) and in linguistics (linguistic description, contextual analysis, interpretive method). Their use allowed the author to draw a number of conclusions, the main of which are the following. 1. By the efforts of the Supreme Court of the Russian Federation to date, a certain approach

has been developed to determine the content of the term "person who first committed a crime." This approach, on the one hand, cannot be recognized as a single one, on the other, it can be characterized as “broad”, since it allows recognizing as the first to commit a crime, including a person who is classified by criminology as a malicious type of criminal. 2. The inconsistency of a broad understanding of the meaning of the term “person who first committed a crime” is especially manifested in the context of the systemic relationship of criminal and other branches of law. Today in Russia there is a paradoxical situation: if, according to the norms of the most repressive branch of law, a person who has repeatedly committed crimes, including those who have been previously convicted, but for formal reasons not considered as such, is entitled to a “reward” privilege, then the norms of other branches of law regulating positive social relations, many negative consequences have been established for him. 3. To date, the meaning of the term "person who first committed a crime", which is attributed to him by law enforcement and legal practice, is becoming a factor that, firstly, complicates the solution of one of the main tasks of criminal law - crime prevention and, moreover, determines the reproduction of crime, secondly, it complicates the implementation of the main purpose of criminal proceedings by burdening it with the function of reviewing court decisions in criminal cases.

Makarenko Ilona Anatolyevna

ENSURING THE RIGHTS AND LEGAL INTERESTS OF A MINOR ACCUSED IN THE PROCESS OF INVESTIGATION OF A CRIMINAL CASE

No. 8, 2015

The article examines international acts that illuminate the principles and rules for the treatment of adolescents who have fallen into the scope of criminal proceedings, and the application of the rules set out therein in criminal proceedings

in Russia; the role of the defense attorney in the production of investigative actions with the participation of a minor accused is analyzed; the expediency of involving legal representatives of minors in the production of investigative actions and the problem of identifying specific persons capable of fully representing the interests of a teenager; violation of the rights of the accused and their legal representatives proclaimed in the legislation in the existing practice in the appointment and production of expert examinations with the participation of minors. On the basis of the dialectical method of cognition, the author investigates the problems of observance of the rights and legitimate interests of minors accused in criminal proceedings. The comparative legal method, the method of analysis, synthesis and deduction were also used. A comparative analysis of international legal acts on human rights with the principles proclaimed in the Constitution of the Russian Federation, the current Criminal Procedure Code of the Russian Federation and the realities of practice is carried out. Suggestions were made to improve the legislation in relation to the activities of a lawyer in collecting evidence, attracting legal representatives to participate in investigative actions, analyzed the problems arising in the appointment and production of expert examinations in relation to minors.

Ryanov Fanis Mansurovich

THEORY OF THE LEGAL STATE IN RUSSIA: STATUS, WAYS OF REFINITION

No. 8, 2015

The author devoted more than 15 years of his creative life to the theory of the rule of law. For more than 8 years he has been the editor-in-chief of the federal legal journal "Legal State: Theory and Practice", included in the List of Higher Attestation Commissions. Therefore, this article reflects a certain result of the author's many years of scientific research in this direction. Hence the subject of

research in this article: to understand the state of the theory of the rule of law, functioning today in the legal science of our country. In particular, the emphasis is on whether we correctly understand the theory of the rule of law in our country. If not, why not? Only after finding the answer to this question, it is possible to consider the ways of rethinking the existing theory of the rule of law. The solution to the main problem of the theory of the rule of law, according to the author, must be transferred to the philosophical level. It is not for nothing that the ideas of a true legal state were originally formulated by such outstanding philosophers as D. Locke, D. Hume, I. Kant. These are the philosophers who, correlating the state and society, put society, more precisely, civil society, at the head. When solving the problems of the theory of the rule of law, it is also necessary to be guided by the method of the general and the particular, where the general is a scientific scheme of the relationship between civil society and the state, and the private is the specific institutions that underlie the rule of law. The novelty of the research lies in the fact that the author arrives at the formation of the theory of the rule of law not through the formal connection of the state by law, as is observed in modern domestic theoretical and legal science, but through proving the proper relationship between civil society and the state power it forms. The author substantiates the characteristic features of the rule of law, which are: constitutionalism, parliamentarism, the division of power strictly into three branches, the protection of human rights and freedoms - the supreme function of the rule of law. As a result, the author comes to the conclusion that today in Russia scientific ideas about the rule of law remain undeveloped. They do not correspond to the notions of the rule of law that are widespread in the developed countries of the world. Hence the need for a complete rethinking of the domestic theory of the rule of law, which has developed today in our country.

Sattarova Nuria Alvanovna

MEASURES OF STATE COCKING IN THE BUDGETARY SPHERE AS A FACTOR OF EFFECTIVE FUNCTIONING OF THE FINANCIAL SYSTEM

No. 8, 2015

The purpose of the study is to prove the need to improve the current budgetary legislation governing the relationship on the application of responsibility to violators of the process of formation, redistribution and use of budgetary funds. Through the analysis of the norms of budgetary law, the thesis is substantiated that the stability and efficiency of the budgetary system of any state is ensured by state legal coercion, the need for which is determined by the main two factors: the extremely important role of the budget (budgetary funds) in the life of the state (municipalities) and the presence of offenses in the sphere of formation and spending of monetary funds (budgetary funds). A comparative description of the main provisions on legal liability for violations of budget legislation in the previously valid version of Part 4 is given and articles of Part 4 of the new edition of the BC RF are analyzed. Some elements of the systemic inconsistency of the norms on the use of coercive measures and responsibility for violations of budget legislation have been identified. An analysis of individual articles of the RF BC and the RF Code of Administrative Offenses indicates the inconsistency of the offenses in these codes. The legal characteristics of the composition of a budget violation, its subjects, as well as the identification of signs of certain types of measures of budgetary coercion allowed the author to argue the conclusion that the improvement of the legal regulation of the use of coercive measures for violating the norms of budgetary legislation should be based on effective legislation, which, in turn, is a guarantee of the stable and efficient functioning of the financial system. Methodological basis of the research: both general scientific and specific scientific methods of cognition. So, for example, the systemic method made it possible to analyze the institutions of budget law, the norms of which regulate the process of applying state coercion in the studied area; the comparative

legal method was used when considering the application of the current budgetary and administrative legislation; the theoretical and predictive method was applied in the preparation of recommendations in order to improve law enforcement, etc. An algorithm has been developed for the legal mechanism for the application of state coercion in the budgetary sphere, taking into account the latest changes in the RF BC and made it possible to formulate scientifically sound proposals aimed at increasing the efficiency of bringing to justice violators of budget legislation ...

Tarasov Alexander Alekseevich

Sharipova Aliya Rashitovna

CRIMINAL PROCEDURAL LAW IN THE SYSTEM OF SOCIAL REGULATORS: PLACE AND VALUE

No. 8, 2015

Criminal procedural relations, which have arisen under the influence of criminal procedural norms, acquire such factual content that no longer fully fits into the procedural framework prescribed by the criminal procedural norms. This new content is capable of influencing the entire social life of the individual, and therefore the life of society as a whole. The place and significance of the norms of criminal procedural law in the system of social regulators is determined by the connection of regulated relations with many social roles, which are simultaneously carried by all participants in criminal proceedings. This connection determines the regulatory impact of the procedural rules of criminal proceedings on public relations that are not formally related to the sphere of criminal proceedings, but regulated by the norms of civil, family, administrative law or not regulated by law at all. The regulatory impact of the norms of criminal procedural law on various spheres of public life is considered by the authors from the standpoint of a system-structural analysis and synthesis of branches of Russian law, their individual norms and relations regulated by them in comparison with the implementation of

political, moral, corporate and other social norms, as well as with using historical and comparative legal methods. The scientific novelty of the research is determined by the author's proposal to rethink the traditional ideas about the regulatory impact of the procedural rules of criminal proceedings. The main conclusion of the study is that the norms of criminal procedural law, regulating public relations in the field of criminal proceedings, indirectly affect all other spheres of society due to the massive involvement of representatives of different social groups in criminal procedural activities. The development of domestic criminal justice requires the unity of the concept with the development of all other areas of implementation of legal norms, as well as constant diagnostics of social processes not only in the field of criminal justice, but also in all other areas of public life. ,

Tuzhilova - Ordanskaya Elena Markovna

STATE REGISTRATION OF REAL ESTATE RIGHTS

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The problems of state registration of rights to real estate considered in this article are due to the ongoing reform of civil legislation, in particular, the adoption of Federal Law No. 302-FZ dated 30.12.2012 "On Amendments to Chapters 1, 2, 3 and 4 of Part One of the Civil Code of the Russian Federation" which amended the Civil Code of the Russian Federation. This law added Art. 8.1, which defines the basic principles of state registration of rights to property (primarily real estate). In this regard, it seems necessary to pay attention to the key changes introduced by this article. The consistent application of these principles in administrative and judicial practice will seriously change the legal regulation of state registration of rights to property. Also, the relevance of the topic is determined by the imperfection in a number of key points of the current system of state registration of rights to real estate. There is no single concept of state registration in legal acts and

in doctrine. The significance and role of state registration of rights to real estate declared in the law are not confirmed in other acts and have a negative effect on practice. The subject of the research is the norms of Russian and foreign civil legislation, the practice of their application, expressed in court decisions and law enforcement acts of other state-authorized bodies, as well as the scientific doctrine on the legal regulation of relations arising from the protection of real estate rights. The methodological basis of the research is formed by general scientific methods of cognition of social phenomena: historical, dialectical, analysis and synthesis, abstraction and concretization, analogy, modeling, as well as special legal research methods: formal legal, comparative legal, etc. that within the framework of the article, state registration is considered not only from the point of view of the method of protecting the rights to real estate, but also the protection of these rights, especially when it comes to the priority of the owner's rights to this property over its bona fide purchaser. It is from this position that the analysis of the principles enshrined in the newly introduced Art. 8.1 of the Civil Code of the Russian Federation, namely: checking the legality of the grounds for registration, publicity and reliability of the state register. The author proposes to take into account one more principle - the irrevocability of state registration, since it complements the principle of reliability of state registration of rights.

Khairullin Vladimir Ihsanovich

JUSTICE: WILHELM von HUMBOLDT vs. FYODOR M. DOSTOEVSKY

№8, 2015 g of .

The research subject is justice in its narrower and broader senses. Human culture is aware of a number of categories that throughout its long history have been referred to the positive values. Such notions as humanism, truth, verity and justice belong here. Many spears have been broken in an attempt to define them:

the investigations have gone as a hot line all through the history of humankind - starting with Ancient Greece and further on - through the Middle Ages up to the present time. The research method is primarily confined to a legal comparative one, which proves efficient for the purposes of the present paper. The scholarly innovativeness is in the topic itself, since the paper discusses two of the lesser known approaches to justice - one by the 19 th century German lawyer, philosopher and philologist W. Humboldt and the other by one of the greatest Russian minds of the 19 th century FM Dostoevsky. The basic conclusion of the article is that it draws attention to the problem of justice as it was tackled by W. Humboldt and F. Dostoevsky, and fills in the niche in legal studies .

The subject of this research is justice in broad and narrow senses. The culture of humanity knows a number of categories that throughout its history belonged to positive values. These are the concepts of humanism, truth, truth and justice. Many copies were broken in an attempt to define them: for example, studies of justice run like a red thread throughout history - from Ancient Greece, then through the Middle Ages - to the present day. The research method is reduced mainly to the comparative legal method, which turns out to be effective for the purposes of this work. Scientific novelty lies in the formulation of the problem itself, since the article discusses two of the least known approaches to the concept of justice, namely, the concept of a 19th century jurist, philosopher and philologist. V. Humboldt and the position of one of the greatest minds of Russian culture in the XIX century. F.M. Dostoevsky. The main pathos of the article boils down to the fact that it draws attention to the problem of justice, since the latter was interpreted by W. Humboldt and F.M. Dostoevsky, which makes it possible to fill the existing scientific niche in this respect.

Khalikov Aslyam Nailevich

SOCIAL AND LEGAL RESPONSIBILITY OF THE HUMAN

No. 8, 2015

The article contains an analysis of the categories of social and legal responsibility of a person with the definition of their common features and differences. The paper provides a brief historical overview of the evolution of the category of responsibility from primitive society to the emergence of the state. Responsibility is considered as a system of responses to a certain behavior of people, the content of which is moral responsibility, political responsibility, economic responsibility, legal or legal types of responsibility. In turn, each of the named parts or components of the system forms its own subsystem of separate types of responsibility, and, consequently , punishments. It is substantiated that the named types of social responsibility, including certain types of legal responsibility, constitute a single whole, since their purpose is to maintain the general order and regulation of the entire set of relations in society. The article substantiates the necessity of compliance of legal responsibility with the concept of legal responsibility in the context of a common understanding of the meaning and idea of law. The concepts of positive and negative responsibility in the general theory of law are considered. At the same time, the concept of positive responsibility is assessed from a critical standpoint, as not corresponding to the essence and mechanism of legal regulation. The category of responsibility itself is considered from the standpoint of secondary conditions for the necessary impact of the right on people, and through them on the activities of public and state organizations, legal entities and other social entities. When studying the relationship between the categories of responsibility and a person's duties, it is proposed not to consider the category of responsibility as one of the forms of responsibility, since responsibility in most cases proceeds from non-fulfillment of duties. The ratio of the categories of responsibility and punishment in legal practice is determined from the standpoint of the identity of the named concepts based on the results of their application. The article deals with the problems of criminal liability related to a significant restriction of the labor rights of citizens who have previously committed

crimes, and the spread of the consequences of a citizen's criminal liability to his close relatives.