Feoktistov Alexander Vladimirovich

LEGAL FACULTY OF PENZA STATE UNIVERSITY

No. 7, 2016

The article discusses the formation of the Faculty of Law of the Penza State University. Despite the fact that the faculty is relatively young, it has accumulated extensive experience in educational, research work, international cooperation, participation in various projects. On the basis of the Faculty of Law, a center for providing free legal assistance to the population has been formed. The scientific and educational center "Comparative Legal Policy" and the research center on the problems of modern federalism play an important role in the scientific work of the faculty. The Faculty of Law is actively developing international cooperation. Many university teachers have undergone foreign scientific internships, have repeatedly received grants for scientific research at the Russian Foundation for Basic Research, the Russian Humanitarian Scientific Foundation, and from foreign foundations. Scientists from different countries (Germany, Belgium, USA, China, etc.) often become visiting professors of the Faculty of Law.

Guk Pavel Alexandrovich

JUDICIAL REGULATION: ISSUES OF THEORY AND PRACTICE

No. 7, 2016

The problem of the formation and development of judicial rule-making in Russia remains relevant for legal science and practice. Analysis of various points of view on this issue, taking into account the judicial practice of higher courts, allowed the author to formulate the definition of judicial rule-making, to reveal the essence and role of judicial rule-making of higher judicial bodies in the legal regulation of public relations. The evolutionary development of the legal system made it possible to identify the rule-making function of the judiciary, and the related problems of its legal recognition in Russia. In the literature, there is no unified point of view on judicial practice as a source of Russian law and the rule-

making function of the highest judicial bodies, and therefore the problem of recognition for the legal system remains.

There are two main points of view on the issue of judicial practice as a source of law and judicial rule-making. Some recognize judicial rule-making and judicial practice as a source of law, while others do not attribute judicial practice to a source of law, since the judicial authorities do not have law-making functions, their main task is to apply the law, and not create it.

Lacking the legislatively enshrined rule-making function, the Constitutional Court of the Russian Federation and the Supreme Court of the Russian Federation actually perform it, and this activity in no way infringes the rights and freedoms of citizens, legal entities, but on the contrary protects their violated rights, freedoms and legitimate interests in cases of a gap, defect in a normative legal act, recognition of a normative act (norm) that does not comply with the Constitution of the Russian Federation.

Judicial rule-making is a side activity of a higher judicial body, it is not constant, like law-making, but arises when, in the process of exercising its functions, the court encounters a gap, a defect in law or law, an unconstitutional law, a norm of a legal act requiring its interpretation, in In these cases, to resolve the dispute, the court formulates a judicial norm, which both resolves the dispute and becomes an additional regulator of public relations. It is in such cases that the mechanism of judicial rule-making is included as a necessary and integral element of the legal system.

Judicial rule-making is the development of general norms of legal regulation by the highest judicial bodies, the interpretation of norms in the course of their activities (in a certain form of legal proceedings) with the consolidation of these results in a judicial act.

Svechnikov Nikolay Ivanovich

ESSENCE OF LAW ENFORCEMENT

No. 7, 2016

Ensuring public safety is one of the main problems of our time. Public order is central to public safety. The paper provides generally accepted definitions of public safety and public order. The leading role in the protection of public order is assigned to law enforcement, the quintessence of which is the protection of public relations. Therefore, the analysis of the concept and essence of law enforcement, the mechanisms of its implementation, the determination of promising directions for its improvement is an urgent task. This article makes an attempt to get closer to the true essence of law enforcement, the relevance of which is due to the need to improve the efficiency of protecting the rights and legitimate interests of citizens and maintaining law and order. The article emphasizes the relevance of the study of the concept of law enforcement and its content, implementation mechanisms and areas of improvement. The general characteristics of law enforcement activity, a description of its essence, subject, object and main functions are presented. The provisions on the subject of law enforcement are considered in sufficient detail, the goals and objectives of law enforcement are analyzed, its distinctive features and structure are substantiated. The content of certain types and forms of law enforcement activity is considered and compared with the opinions of other researchers. The bases for the classification of law enforcement activities have been investigated. The assessment of the prevention of offenses as an independent type of activity that is not included in law enforcement activities. The role of non-state institutions in the implementation of law enforcement, including the legal profession, public councils at the Ministry of Internal Affairs of the constituent entities of the Russian Federation, security and detective structures and public formations is considered. The distinctive features of law enforcement activity in the broad and narrow senses are given, the characteristics of state and non-state entities that implement it are presented. The definition of public law enforcement activity, its importance in ensuring public safety and protecting public order is being clarified. The classification of objects and subjects of law enforcement

activity is presented, with substantiation of the reasons for attributing them to these groups.

Romanovskaya Olga Valentinovna

CONSTITUTIONAL STATUS OF THE STATE LANGUAGE IN THE RUSSIAN FEDERATION

No. 7, 2016

The article analyzes the constitutional status of the state language as a connecting element of Russian society. The meaning of the search for spiritual bonds that unite modern society is presented . The law cannot distance itself from the search for spiritual ties and the development of a certain ideology that ensures the development of the nation state. It is pointed out that the central place in the system of uniting ties belongs to the Russian language. A distinction is made between such concepts as the state language and the official language. The idea of refusing to consolidate the state language at the level of legislation of the republics within the Russian Federation was criticized. The features of the constitutional regulation of state languages in the constituent entities of the Russian Federation (in particular, in the Republic of Mordovia) are considered. The general conclusions presented in legal dissertations on the status of the state language are analyzed. The danger of narrowing the sphere of using the literary language is shown.

Kazakova Evgeniya Borisovna

CONSUMER LENDING: STATUS, CHALLENGES AND WAYS OF DEVELOPMENT

No. 7, 2016

The article analyzes the constitutional status of the state language as a connecting element of Russian society. The meaning of the search for spiritual bonds that unite modern society is presented . The law cannot distance itself from

the search for spiritual ties and the development of a certain ideology that ensures the development of the nation state. It is pointed out that the central place in the system of uniting ties belongs to the Russian language. A distinction is made between such concepts as the state language and the official language. The idea of refusing to consolidate the state language at the level of legislation of the republics within the Russian Federation was criticized. The features of the constitutional regulation of state languages in the constituent entities of the Russian Federation (in particular, in the Republic of Mordovia) are considered. The general conclusions presented in legal theses on the status of the state language are analyzed. The danger of narrowing the sphere of using the literary language is shown.

The article analyzes the main provisions of the Federal Law "On Consumer Credit (Loan)", identifies problems in legal regulation and offers recommendations for their resolution.

The need to develop consumer lending, including ensuring guarantees of consumer rights when using consumer credit, the formation of mechanisms to protect these rights in the event of their violation, is important for the development of not only consumer lending itself, but also the banking services market and the economy as a whole. In accordance with this, in order to fully ensure the rights and legitimate interests of borrowers as consumers, provided for by the Federal Law "On Consumer Credit (Loan)", it is necessary to solve the following tasks:

- development of forms and methods of state control over compliance with banking legislation, competition law, advertising, consumer protection law, as well as the development of methods of interaction between the Central Bank of the Russian Federation and its territorial institutions in the implementation of banking supervision with the Federal Antimonopoly Service and its territorial bodies and Rospotrebnadzor ;

- increasing the level of legal culture and financial literacy of the population entering into contractual relations with banks;

- improving the professional level and quality of the legal culture of employees of credit institutions who work directly in the collection departments with borrowers - citizens.

It must be admitted that in this law there are many moments that cause uncertainty about the problem-free application of them, and it will take a lot of time to assess their effectiveness.

Despite this, it should be noted that the very idea of adopting this law deserves respect and inspires hope that this mechanism will allow those citizens who, for objective reasons, found themselves in a situation of insolvency, get rid of the endless pursuit of creditors, from the endless accrual of interest, penalties and fines.

In any case, there are prospects for the further development of consumer lending in Russia, but subject to the elimination of all problems and improvement of the credit system as a whole. The development strategy in this regard has already been developed by the authorities, it remains only to strictly and consistently execute it.

Sumenkov Sergey Yurievich

REGULATORY LEGAL ACT AS A BASIC FORM OF IMPLEMENTING EXCLUSIONS IN LAW

No. 7, 2016

For law, as a special set of social norms, performing the role of a state regulator, exceptions from the rules are necessary in the same way as the rules themselves. Ignoring the diverse nature of social relations, actual circumstances, and people's personalities will ultimately lead to injustice. At the same time, exceptions to the law must necessarily be enshrined in the legal norm. The exclusion norm is objectified in the external real world in some legal significant form. In the legal system of Russia, for all its originality and specificity, the leading role belongs to such a form of law as a normative legal act

(NLA). Accordingly, most of the exclusion norms find their expression in the legal regulations.

Exception norms are expressed in different ways in the laws and regulations. There may be, although quite rarely, stand-alone ABO exceptions. The materialization of exclusion norms is more common in individual articles (clauses) of legal acts or structural elements of the article: parts, clauses, sub-clauses, paragraphs. Sometimes exclusion norms are concentrated in notes or annexes to the normative legal acts. The most common and convenient way to implement an exception into the text of the legal act is a legislative clause. Despite certain difficulties, it is the clause that is most appropriate for combining the rule and the exception as a legal prescription. An acceptable synthesis of rules and exceptions to them, achieved by means of a clause, allows the legal acts to regulate public relations as fully as possible.

Elena Kapitonova

CRIMINAL LIABILITY FOR TERRORISM

No. 7, 2016

The article examines the legal framework for combating the threats of nuclear and biological terrorism in Russia and abroad. The content of international legal acts in this area is analyzed (1979 Convention on the Physical Protection of Nuclear Material; 2005 Convention for the Suppression of Acts of Nuclear Terrorism; Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their destruction 1971). The peculiarities of bringing to criminal responsibility for such acts under the Criminal Code of the Russian Federation are being studied. The conclusion is made about the need to clarify the terminology (including in terms of the definition of nuclear and biological terrorism, as well as their relationship with technological terrorism), the author's interpretation of the concepts is given. It is proposed to introduce into the Criminal Code an independent corpus delicti

concerning a nuclear threat from terrorists, and to amend the norm of Article 355 of the Criminal Code of the Russian Federation (to supplement the disposition with a direct reference to nuclear weapons). It also analyzes the legal framework for combating terrorism in transport. Regulations of an international legal nature are considered (in particular, the Convention on Crimes and Certain Other Acts Committed on Board Aircraft, 1963; Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971; Convention for the Suppression of Unlawful Acts for international civil aviation 2010, etc.). A conclusion is made about the sufficient prevalence of terrorism in transport in Russia, statistical data on the attitude of the country's population to this threat are presented. The necessity of legislative consolidation of the concept of "terrorism in transport" is substantiated. The proposal to increase the criminal liability for committing a terrorist act involving encroachment on transport infrastructure (by transferring this act to the category of qualified corpus delicti - part 3 of Art. 205 of the Criminal Code of the Russian Federation) is argued.

Kolemasov Vladimir Nikolaevich

STATE SECURITY BODIES AND POLICE IN THE FIGHT AGAINST CRIME (1917-1934)

No. 7, 2016

The article analyzes the law enforcement activities of law enforcement agencies. An assessment of the results of interaction between the state security bodies and the police in the field of ensuring public order and combating crime in 1917-1934 is given. Reflected the main forms of interaction, the effectiveness of this work, including with certain types of crimes. Shows the main stages of reforming these bodies, the politicization of their activities.

Romanovsky Georgy Borisovich

LEGAL REGULATION OF GENETIC STUDIES IN RUSSIA AND ABROAD

No. 7, 2016

The article examines the legal foundations of genetic research: the key provisions of the Federal Law of November 21, 2011 No. 323-FZ "On the basics of protecting the health of citizens in the Russian Federation" and the Federal Law of July 5, 1996 No. 86-FZ "On state regulation in the field of genetic engineering ". The legal regime of gene diagnostics , genetic counseling and gene therapy has been determined . The German experience of regulation in the stated area is presented. Analyzed general provisions

German law on the regulation of genetic engineering and the German law of July 31, 2009 on genetic testing. The features of international legal regulation of genetic engineering activity, the object of which is a person, are highlighted. Considered the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of the Achievements of Biology and Medicine (Oviedo , 1997).

Suleimanova Svetlana Timurovna

EVOLUTION OF THE PURPOSE OF PUNISHMENT IN THE CRIMINAL LAW OF RUSSIA AND CANADA

No. 7, 2016

The article analyzes modern theories of punishment in the criminal law of Russia and Canada. In the Russian criminal law doctrine, the following theories of punishment are distinguished : a) absolute theories; b) relative theories; c) mixed theories; in the Canadian doctrine stand out: a) the retributive theory; b) utilitarian theory; c) the theory of restorative justice. The comparative analysis revealed the similarity of the theories of punishment in Canada and Russia, as well as their

distinctive features. The analysis of the theory of restorative justice in Canada, which is reflected in the theory and law enforcement practice in the Russian Federation, is given. Taking into account the provisions of the criminal law doctrine, the goals provided for by the law in the Russian Federation can be classified: into retributive - the restoration of social justice; utilitarian goals - the correction of the convicted person, the prevention of the commission of new crimes. Analyzing the legislation of Canada, it can be indicated that the retributive purpose is to condemn illegal actions and harm to the victim or society as a result of the commission of a crime; utilitarian goals: deterring the criminal and other persons from committing crimes; assistance in the rehabilitation of convicts; isolation of criminals from society, if necessary; restorative purposes: ensuring compensation for harm caused to the victim or society; promoting the formation of a sense of responsibility among criminals and an awareness of the harm done to victims and society. An analysis of the norms of the Criminal Code of the Russian Federation and the Criminal Code of Canada makes it possible to draw a conclusion about the unity and interrelation of the goals of punishment in Russia and the presence of general and additional goals of punishment in the criminal legislation of Canada. It has been established that the list of additional purposes of punishment in Canada allows the court to differentiate and individualize criminal punishment.

Gulyakov Alexander Dmitrievich

THE LOGIC OF FEDERALISM DEVELOPMENT IN THE USA

No. 7, 2016

Bearing in mind the uniquely favorable geopolitical and special-historical conditions of the United States, the model of federalism in this country can by no means be called classical or possible for imitation. Nevertheless, it cannot but arouse interest among researchers. In the course of the American Revolution, a confederal scheme for organizing state life was tested, which a few years after

gaining independence was replaced by a federation. A weak federal center and weak states could initially coexist, as it were, in parallel, within the strictly outlined powers of the dualistic model. However, with the formation of a single domestic market at the end of the XIX century. and with the consolidation of the functions of the federal state and the growth of the state apparatus, the transition to a different, cooperative model of federalism begins with a strong center and states that receive federal funds. The Great Depression of the 1930s and New Course by F.D. Roosevelt are an important milestone on this path, and the culmination of these processes is the Great Society of L.B. Johnson in the 1960s. with its extensive assistance programs. It is characteristic that the strengthening of the federal center is also supported by the US Supreme Court, especially under the chairmanship of E. Warren in 1953-1969.

However, already in the 1970s-1980s. under presidents R. Nixon and R. Reagan , the intention is to reduce the degree of state intervention and the activity of the federal center. At the same time, the slogans of the "new federalism" are soon replaced by another theoretical construction - the idea of "competing federalism", which increases the degree of responsibility and independence of state and local governments for the welfare of the people. It more adequately reflects the peculiarity of the growing political turbulence in the modern post-modernization era. And at the same time, it may help to reduce the risks of state instability associated with the negative impact of globalization and the increasing openness of society.

It is characteristic that since the 1990s. The US Supreme Court has already become unequivocally showing solidarity with the ambitions of the federal center. Cultural and political contradictions in American society are sharply exacerbated (whether we are talking about immigrants or sexual minorities), party-political polarization deepens (especially since the 2008 presidential election). between the states and the federal center define themselves such a new phenomenon as "fragmented" or polarized federalism, which is fraught with considerable danger for the federal state.

Alexandrova Anna Viktorovna

SOCIAL LEGISLATION OF FOREIGN COUNTRIES IN THE XXI CENTURY

No. 7, 2016

The article attempts to generalize the experience of legislative regulation of relations in the sphere of labor and social security of the population in foreign countries in the 21st century. On the basis of a comparative legal analysis of acts of modern social legislation, the main trends in the development of this legislation are identified, such as the increasing role of international legal standards in the social sphere; institutionalization of social responsibility of enterprises; expanding support measures for people most at risk of social risk (youth, women, people with disabilities, senior citizens); detailing the legislative regulation of atypical forms of employment (teleworking, domestic work, agency work, etc.); legislative consolidation of the principles of the concept of " flexicurity " (combination of flexibility of labor relations and social protection of employees); reforming health care aimed at narrowing guarantees in the field of compulsory health insurance; reforming pension systems in order to optimize their financing (increasing the retirement age, reducing opportunities for early retirement , expanding the funded element in the pension structure, changing the procedure for indexing pension payments, increasing insurance premium rates, etc.)

The novelty of the study lies in the fact that it was the first to attempt a systematic analysis of the main trends in the development of social legislation in foreign countries in the 21st century. The article presents the author's interpretation of the main stages in the development of social legislation in foreign countries. Conclusions are formulated that can be used in the development of further reforms of domestic social legislation. The effectiveness of specific measures of legislative regulation of the social sphere is illustrated by the examples of individual countries.

Makeeva Natalia Vladimirovna

Criminal policy in the context of modernization and postmodernization processes: a comparative legal analysis

No. 7, 2016

The article analyzes one of the most important directions of state policy - the problem of reforming criminal policy in a comparative legal vein. This problem is viewed through the prism of modernization and postmodernization transformations of state and legal institutions. The priority direction of the modernization of criminal policy as a result of the triumph of the politically responsible state and the principle of separation of powers has become its humanization as a special liberal value. Despite the positive nature of the first modernization transformations in the field of criminal policy, a more balanced approach to the process of its humanization was subsequently formed under the influence of objective reasons . In the context of post-modernization development, the liberalization of criminal policy in the context of its further humanization is very pragmatic, which is due to the awareness of the limited criminal-legal resource in the fight against crime. The central problem of reforming modern criminal policy is the problem of the effectiveness of criminal legislation. According to the author, promising directions for solving this problem are the principle of economy of repression, crime prevention and the restorative nature of criminal policy. The principle of economy of repression is quite realistic and economically justified, since there is no opportunity to prosecute all crimes committed in full. Modern criminal policy is characterized by a general neglect of preventive approaches, a clear underestimation of crime prevention as the most humane way to combat it. The primary task of the state is to develop a preventive impact on crime as a humanistic and pragmatic goal at the same time. Along with the preventive effect, another promising area of criminal policy should be its focus on restoring the violated

rights of victims. Restorative criminal policy involves not only minimizing repression, but also reducing the sphere of competence of criminal justice by decriminalizing a significant part of crimes, creating institutions alternative to criminal justice (in particular, conciliatory procedures), etc. So, if the modernization of criminal policy is identical to its humanization , then in the conditions of postmodernization development, the process of humanization of criminal policy is more pragmatic than liberal.

Goshulyak Vitaly Vladimirovich

REPORTS OF THE VENICE COMMISSION ON FEDERALISM

No. 7, 2016

The article provides an overview of the case studies and reports of the European Commission for Democracy through Law (Venice Commission) on federalism, little-known in the Russian science of constitutional law. The main attention is paid to studies and reports that remain relevant, made by the Venice Commission before the entry of the Russian Federation into it (2001). The article presents reports dated June 20-21, 1997 on federal and regional authorities; December 10-11, 1999 “On self-determination and secession in constitutional law”; from December 10-11, 1999 "Federal and regional subjects and international treaties"; of October 13-14, 2000 "General legal framework for promoting the settlement of ethnopolitical conflicts in Europe" and the conclusion of March 21, 2014 on the Crimean referendum.

The general conclusion was the provision that the Venice Commission made its contribution to the study of the problems of federalism, which in modern conditions are especially relevant: the model of the unitary state is gradually losing its dominant role, as the powers of the regions are expanding not only in federal, but also in unitary countries. This tendency is a characteristic feature of the constitutional development of recent years. With its conclusions, the Venice

Commission identified the general features of federalism and distinguished the diversity and complexity of its constitutional forms.

Sintsov Gleb Vladimirovich

AUTHORIZED BY THE RIGHTS OF A CHILD IN THE SYSTEM OF STATE AUTHORITIES

No. 7, 2016

Human rights in the hierarchy of values of any society should occupy a special position. In the Russian Federation, in the last society, more and more attention is paid to this. A significant place in the protection of the rights and legitimate interests of citizens is occupied by the Ombudsman for the Rights of the Child, as a special official called upon to protect the rights of minors. Studying the experience of the formation of the institution of children's regional ombudsmen and their constitutional and legal status will allow us to analyze the degree of development of this institution as an independent mechanism for monitoring, protecting and ensuring the rights of children in our society.

The Commissioner for the Rights of the Child is a relatively new institution in the Russian Federation. However, during its operation, it has established itself on a positive side both at the federal level and at the regional level. The article analyzes the role and place of the Ombudsman for the Rights of the Child in the system of public authorities, analyzes the constitutional and legal status of this institution, and also examines the status of children's ombudsmen in foreign countries.

From the point of view of protecting the interests of minors, the settlement of the constitutional and legal status of the Commissioner for the Rights of the Child in the constituent entities of the Russian Federation is necessary. This is confirmed by the fact that the experience of the regional Commissioners for the Rights of the Child also indicates that this institution has become an important link in the system of ensuring the rights and legitimate interests of children, occupying

its own niche, not replacing the activities of other subjects, but acting in close contact with them.

Strashun Boris Alexandrovich

SOVEREIGNTY OF THE STATE IN MODERN NATIONAL, INTERNATIONAL AND NATIONAL LAW

No. 7, 2016

The first part of the article examines the concept of sovereignty as a property inherent in a modern state, which, in theory, should be expressed in the supremacy of its power on its own territory and independence from any external power. This idea took shape in the middle of the 17th century, when the phrase of Louis XIV "The State is me" was relevant for many countries. Sovereignty was then more or less absolute. Today the picture is different: the supremacy of state power within the country is limited by the separation of powers and the autonomy of self-governing territorial units, as well as by constitutionally recognized human and civil rights and freedoms. The independence of states outside is limited by participation in international associations and treaties with other states.

Among the trends in the development of constitutional law, in connection with our topic, it should be noted its internationalization, which is expressed in the borrowing of foreign experience in constitutional construction, as well as in the generalization of national constitutional and legal provisions in universal and regional international treaties.

The process of economic and then political integration of a number of Western European countries that began in the 50s of the last century, which led to the creation of the European Union (EU), which now includes 28 states, has one of the consequences of the emergence of supranational law, which regulates relations along with international law. within the integration association. Supranational law occupies, as it were, an intermediate position between international law and national law. Integration is often provided for in recent national constitutional

law. As for our country, it naturally participates in economic integration with other countries, so far only post-Soviet. In conclusion, the issue of the relationship between the European Court of Human Rights and the Constitutional Court of the Russian Federation was considered.

Maleina Marina Nikolaevna

AGREEMENT ON THE NETWORK FORM OF THE IMPLEMENTATION OF EDUCATIONAL PROGRAMS

No. 7, 2016

The author comes to the conclusion that the agreement on the network form of the implementation of educational programs is the closest in its legal characteristics to the agreement on joint non- entrepreneurial activity. Networking is caused by the need for joint educational activities, does not imply the creation of new legal entities, its participants are independent and act on the basis of their own constituent documents and local acts. At the same time, this agreement has a number of distinctive features. The subject of the agreement is disclosed as actions to organize joint educational activities of several organizations by distributing responsibilities between them on the volume and procedure for carrying out educational activities, as well as on the type and amount of resources provided. It is proposed to clarify the list of essential conditions of this agreement in the law and exclude from them the conditions on the status of students, the procedure for organizing academic mobility of students, the procedure for changing and terminating the agreement. The law stipulates the requirement to conclude an agreement on the network form of the implementation of educational programs in a simple written form by drawing up one document. Supported the conclusion of an agreement on network interaction and cooperation as a framework agreement , which can define the structure, principles and general rules of relations between the parties, and along with it individual agreements (applications).

Golik Yuri Vladimirovich

WILL THE DEATH PENALTY RETURN TO RUSSIA?

No. 7, 2016

The article is devoted to the problem of the death penalty, the possibility of its return to modern legal practice. The author explains the haste of steps towards its immediate withdrawal from the practice of courts in our country and warns of the harmfulness of continuing to move in this direction. According to the author, the death penalty should be returned, but it should be, as provided by the Constitution of the Russian Federation, an exceptional measure of punishment, that is, imposed in the most extreme cases. There cannot be many such cases. We - the whole society - have changed a lot. The judiciary has also changed, there are almost no working judges who have ever passed death sentences. At the same time, attention is drawn not to the right of the state to execute a criminal (which is much talked about and written about), but to the fact that this criminal has lost the right to life. By his actions, he opposed himself to society and the state. He does not want and cannot live in conditions of law and law. It is not necessary to keep him forcibly in the legal field, it is necessary to help him get rid of this oppression and thus protect himself and the whole society from a possible repetition of such behavior on his part and on the part of those who "sympathize" with him. In the case of the return of the death penalty, it cannot return in its previous form. Significant changes must be made to the law. In particular, it is necessary to provide for the postponement of the execution of the death penalty. The court and the President should have this right. It is also necessary to introduce additional checks on the validity of such a sentence. At the same time, the checks, most likely, should not be judicial or prosecutorial. Over time, professionals experience a certain professional deformation, when in similar situations they make similar decisions, but at the same time some very significant particulars and even trifles fall out of their field of vision.

Alexander Korobeev

THE DEATH PENALTY: THE FUNCTIONALITY OF CONSERVATION

No. 7, 2016

The article deals with the problematic issues of the death penalty as a type of criminal punishment. The expediency of its preservation in the system of the criminal legislation of Russia is analyzed. It is stated that the Constitution of the Russian Federation provides for the possibility of legislative establishment of the death penalty and determines the conditions and procedure for the application of this punishment, that is, it recognizes the legitimacy of this institution. In this regard, the article critically analyzes the position of the Constitutional Court of the Russian Federation on the impossibility of using the death penalty in Russia in modern conditions. Through the prism of the historical analysis of this type of punishment, the modern practice of its application (or non-application) in various countries of the world, it is established whether there is a possibility, necessity and expediency of using the death penalty in combating crime in Russia. As a result, the author substantiates the conclusion that the death penalty as a type of criminal punishment in Russia is not only possible, but also necessary, at least for the most egregious and resonant cases of committing outrageous murders (especially those associated with the crimes of terrorist directionality).

Antonyan Yuri Miranovich

NECROPHILIC KILLERS

No. 7, 2016

The article is devoted to crimes that have not yet been practically distinguished in domestic science as an object of independent research. These are

necrophilic murders and necrophilic killers. These murders are committed by those who love death, see in it the continuation of their existence, are eager to find out what it is, it attracts them to itself. Therefore, they kill with ease and without remorse. The other part seems to be hiding in someone else's death. There are no statistical data on such people and the crimes committed by them; they have never been singled out as an independent scientific problem at all. Therefore, the article cites various cases of murders, which are classified by the author as necrophilic. These crimes were committed at different times, by different people and in different places, but they are all united by the death drive, which is unconscious in the sense that those who committed them do not understand why they did it and what motivated them. Some call some external forces that allegedly pushed to commit murders.

The stories of the analyzed socially dangerous acts, the stories of those who committed them, the author's comments and assessments leave no doubt that such necrophilic acts are reality. All this requires not only the allocation of the named criminological category in science, but also the establishment of especially severe penalties. The corresponding proposals are contained in the article. Their implementation can be of particular importance to practice. Each time, the question may arise whether a given murder is necrophilic, especially if it is intertwined with other motives. A list of the killers' necrophilic features is given at the end of the article.

Egorov Alexey Vladimirovich

COMPARATIVE LAW

IN THE SYSTEM OF LEGAL EDUCATION OF BELARUS: TRADITIONS, TRENDS, PROBLEMS

No. 7, 2016

Based on the analysis of the state of comparative jurisprudence in one of the "post-Soviet" legal systems - the Belarusian legal system - a characteristic of legal comparative studies as an educational component in the structure of national legal education is given. The main patterns and vectors of development of this academic discipline are revealed. The pragmatic nature of the Belarusian legal comparative studies, the peculiarities of the development of teaching this science in educational institutions of Belarus are determined. It is proposed to develop an independent academic discipline "General Theory of Law" ("Comparative Law"). Attention is drawn to the need for a preliminary doctrinal convergence of legal systems for their subsequent regulatory integration. The structure of teaching comparative jurisprudence, which differs from the existing traditional approach, is presented and substantiated. In addition to the accepted consideration of the legal systems of our time, it is proposed to study the features of the normative originality, the specifics of the legal doctrine and legal practice of the corresponding legal systems. Particular attention should be paid to the originality of the legal conceptual fund (conceptual-categorical apparatus) as a component that constitutes the doctrinal basis of legal systems of a certain general family affiliation. It is proposed to include independent sections in the structure of mandatory topics: "Legal reception", "National legal system on the legal map of the world."

Particular attention is paid to the training of specialists in the field of comparative constitutional law. It is proposed to consider this component of legal education as compulsory. This excludes the descriptive approach to teaching comparative constitutional law that exists today in teaching constitutional law in foreign countries.

The need for further development of the science of comparative jurisprudence is pointed out in terms of substantiating one's own subject of research, the object of comparative jurisprudence and the method of comparative legal research. The approaches to the definition of these components from the standpoint of both the science of comparative jurisprudence and the corresponding academic discipline are presented.

Analysis of the state and development of national legal comparative studies is based on general trends in comparative legal science in the world and in the Russian legal system. Proposals have been developed to improve the practice of teaching comparative law and the further development of the science of comparative law. The main attention is paid to the development of the methodological component of comparative legal research.