Vedeneev Yuri Alekseevich

ANTHROPOLOGY OF LAW: BETWEEN SOCIOCULTURAL TRADITIONS AND INNOVATIONS

No. 9, 2016

The main intention of the article is related to the development of problems of combining cultural practices and normative innovations in the formation and development of legal systems of pre-state and modern societies. The conceptual value of anthropologically oriented jurisprudence lies in the fact that it is substantively and methodologically (by research approaches and scientific apparatus) tied both to their formulation and to their solution. New historical challenges to legal forms and methods of organizing and regulating social relations in the context of economic and political globalization and integration presuppose the search for adequate legal solutions taking into account the human dimension of possible and planned institutional changes.

Interest in the problems of the "human" in the systems of political and legal institutions and procedures and, first of all, the conditions and dynamics of their changes under the influence of cultural factors is socially motivated and conceptually justified. It is determined by the unconditional need and need to understand the boundaries of possible transformations in modern legal systems, burdened in their movement towards new forms of state and legal order, accumulated positive and negative experience of their perception, understanding and evaluation.

Law, acting as a normative basis for social exchanges and communications, itself contains universal and concrete historical, invariant and changing elements and forms that determine the boundaries of its development and reproduction. Law is a complex set of norms and institutions, rules and procedures, a derivative of the functions of social communication, political recognition and doctrinal justification of their acceptability or unacceptability.

The anthropology of law unites in its subject of research both the issues of the evolution of law (the existence of law) and the issues of the evolution of ideas

about law (images of law) in their interconnections and definitions. This allows us to reveal the most important aspect of social development associated with the practice of recognizing or denying the social value of legal institutions in various cultural and historical contexts and modes of their formation and existence.

Zhilinskaya Valeria Sergeevna

The legitimacy of state power: theory and reality

No. 9, 2016

The article is devoted to issues related to the concept of the legitimacy of state power. The article analyzes the difference between the theoretical approach to legitimacy and the real forms of its implementation. The author considers ways of gaining the trust of his subordinates by representatives of the authorities, examines such a phenomenon as the delegation of power. Legitimacy is viewed as a phenomenon historically inherent in power and not associated with the democratic institutions of modern society. The article raises questions of legitimacy among the population of absolute monarchs and totalitarian rule. The legitimacy of power is illustrated both by examples of past centuries and by the most relevant events of our time. In particular , the situation in Ukraine and Russia, the attitude of the population of these countries to the political line of the authorities is considered from the standpoint of legitimacy . The article puts forward and substantiates the position that the legitimacy of power depends primarily not on the degree of participation of the population in governing the country, but on economic, social and ideological factors.

The level of confidence of the electorate in the authorities is determined by the well-being of the population, and not by the degree of freedom provided. In almost all historical epochs, average citizens and subjects of various countries valued a life of prosperity, security and confidence in the future provided by the state more than the abstract values inherent in the classical democratic system. At the same time, almost all modern domestic studies devoted to the issues of the

legitimacy of state power take the opposite position. Most authors argue that the government can achieve the support of the population if it allows the citizens of the state to take more participation in management processes and ensures the real implementation of the basic democratic principles. An analysis of the real state of affairs, using the examples of various states of the past and present, shows examples of the opposite. The main goal of the article is to revise the approaches to the issues of legitimacy that have developed in Russian science, mainly in the nineties, and to bring theory into line with practice.

Olga Bubnova

LEGAL SUPPORT OF THE ORGANIZATION'S ACCOUNTING POLICIES

No. 9, 2016

This article is devoted to the consideration of the issues of legal regulation of accounting policy for the purposes of accounting and tax accounting under the legislation of the Russian Federation. The article examines the etymology of the phrase "accounting policy", the history of the appearance of this concept in the legislation of the Russian Federation, systematizes the sources of legal regulation of accounting policy. The work analyzes in detail the legal and doctrinal definitions of the concept of "accounting policy". Based on the study, the author proposes his own approach to defining the concept under consideration, which is based on the triune essence of accounting policy as a model for organizing accounting, a set of views of persons responsible for the formation of accounting policies, about the most effective methods of accounting and as a local act of the organization.

The author identifies, systematizes and discloses the content of the requirements and assumptions used in the formation of accounting policies for accounting purposes in organizations. The article also reveals the procedure and analyzes the consequences of changes in the accounting policy of the

organization. Particular attention is paid to the specifics of the formation of accounting policies in credit institutions, budgetary, state and autonomous institutions as special participants in financial legal relations.

The conducted research has shown that the absence of an approved accounting policy for the purposes of accounting and tax accounting in a legal entity is not an independent basis for prosecution. In the absence of sanctions for violation of the rules for the formation of accounting policies, many organizations formally approach this issue. At the same time, the work emphasizes the fact that the accounting policy is not just a set of applied accounting methods - it is a local act that complements the existing regulatory legal acts governing the accounting procedure. In this regard, the author proposes to fix in Ch. 15 of the Code of Administrative Offenses of the Russian Federation, an article providing for liability for the absence of an order from the head of the organization on the approval of the accounting policy for the corresponding financial year.

Ershova Inna Vladimirovna

ECONOMIC ACTIVITY: CONCEPT AND RELATIONSHIP WITH RELATED CATEGORIES

No. 9, 2016

The article presents an analysis of the category "economic activity" from various positions: legislative, doctrinal, judicial. Despite the absence of a definition of economic activity in Russian legislation, regulatory legal acts operate with this term. This creates problems of law enforcement , which is illustrated by examples from judicial practice. The opinion was expressed that the doctrinal judgments available in legal and judicial acts are insufficient. It is necessary to legislatively consolidate the concept under consideration, since the qualification of an activity as an economic activity entails the vesting of the entity carrying out it with rights, the imposition of duties on it, the establishment of legal mechanisms for ensuring and protecting rights, as well as other legal consequences.

The meaningful analysis of the concept of “economic activity” is continued by referring to related categories - “economic activity”, “entrepreneurial activity”, “professional activity”, “income-generating activity”, “trading activity”, “commercial activity”.

In particular, it is noted that the concept of "entrepreneurial activity", due to its legislative consolidation and teaching needs, is the most studied. The main areas of discussion about the definition of entrepreneurial activity are presented in a generalized form. It also pointed out the importance of distinguishing between the income received by the entrepreneur and the income of the owner, and the conflicting jurisprudence. Attention is drawn to the lack of a legal definition of the concept of "professional activity" and the need to consolidate it in the Law on Self-Regulatory Organizations. The construction of such a definition is proposed. The positions available in the theory on the relationship between the concepts of entrepreneurial and income-generating activities are presented. There is support for the view that the term “other income-generating activity” will be used as an equivalent to the term “entrepreneurial activity.

It is concluded that economic activity is the broadest, most generalized concept. Its varieties are economic, entrepreneurial, professional, income-generating, commercial, trade activities. Each of them is characterized by various features that make it possible to differentiate and trace the ratio of the categories under consideration, which is manifested in legislation, judicial practice and is the subject of scientific research. The consequence of the differentiation of economic activity is: an attempt by the legislator to differentiate the categorical apparatus in relation to: subjects carrying out such activities; branches of law, branches of legislation, academic disciplines. The opinion was expressed that the formation of economic law is a vector for the development of doctrine, but not legal education.

Moreva Inessa Mikhailovna

LEGAL NATURE OF RECOGNIZING A REGISTERED RIGHT ABOUT

No. 9, 2016

The article is devoted to such a method of protecting registered rights to real estate as the recognition of the registered right (encumbrance) absent. Its legal nature is investigated from the standpoint of the law enforcement acts of the courts, as well as the theoretical positions of the civil doctrine in order to establish a connection with the statute of limitations. Currently, there are two main approaches to such relationships. The first is the application of a general three-year limitation period in accordance with paragraph 1 of Art. 196 of the Civil Code of the Russian Federation. The second is the non-application of the statute of limitations by virtue of par . 5 tbsp. 208 of the Civil Code of the Russian Federation. This situation of legal uncertainty arises from the lack of clarity regarding, first of all, the legal nature of the investigated method of protection, which ultimately complicates the protection of rights, information about which is included in the unified state register of rights to real estate and transactions with it. In practice, this translates into difficulties in choosing an appropriate method of protection, limited by statute of limitations, and often leads to the impossibility of judicial protection associated with the loss of the right to real estate. On the other hand, the registered right can be challenged at any time if the applicant's right to appeal to the court is not limited by the statute of limitations, that is, it is negative .

Dmitry Nechevin

NURNBERG - 70 YEARS LATER

No. 9, 2016

The article analyzes the legal (international legal) issues of the Nuremberg process, which became an epoch-making world event of legal civilization. He not only summed up and legally closed the results of the Patriotic War, where the Soviet Union played a major role in the defeat of German fascism, but also served

as the basis for the birth of a new international legal order in the world, laid the foundation for legal civilization - the rights and freedom of the individual. In addition, the results of the Nuremberg Tribunal, enshrined by the UN General Assembly as universally recognized principles of international law, have stood the test of time.

The article defines the main merit of the military tribunal, it IS - toricheskaya mission - international condemnation of fascism as state ideology and policies, the recognition of a war of aggression gravest international crime, justification of the criminal liability of heads of state for the outbreak and the recognition of crimes of specific organizations that played a fatal role in the unprecedented escalation of violence and vandalism.

It is noted that the Nuremberg process contributed to the prevention in the modern history of global international conflicts that could turn into a worldwide nuclear apocalypse.

Unfortunately today it is impossible not to see that on the eve of XXI 've Spoken world community is facing serious threats and challenges, considerable danger are attempts to revise the results of World War II, the moral, political and legal rehabilitate-tation leaders of the fascist state and zealous executors of their criminal will. This cannot be allowed.

Today it is important to do everything possible to strengthen and raise the authority of international law as a necessary basis and development of a civilized world community.

Sonin Vadim Vadimovich

State rule based on law: the origins, content and prospects of the Chinese version of the rule of law

No. 9, 216

Maintaining the stability of the constitutional order often requires political and legal reforms. In the PRC, due to historical and ideological reasons, an alternative to political reform is legal reform, currently expressed by the formula "government by law". This essay is devoted to the analysis of the content of this concept in comparison with related categories of rule of law, the rule of law and the socialist rule of law.

Substantively, "government by law" is implemented in several areas: ensuring the direct effect of the Constitution of the PRC and improving legislative activity; promoting public administration based on the law (“rule of law”); ensuring fair justice; strengthening the legal awareness of citizens; improving the system of training legal personnel; reorganization of the legal work and the normative system within the communist party. A review of the history of the emergence and substantive features of the concept indicates three blocks of sources of "state rule based on the law": Western archetypes of rule of law and the rule of law, the ancient Chinese ideology of legalism , as well as the experience of creating a "socialist rule of law" in the USSR.

Chinese ideas about the law are approaching the conditions for the formation of the continental idea of the rule of law, which relies on the rationalization of the bureaucracy through the law. In contrast to the rule of law and the rule of law, aimed at limiting the state and ensuring the autonomy of the individual and society by means of law, the legists have the opposite purpose of the law - the expansion of state control over society and the individual and the suppression of all other social norms. Comparison of the historical prerequisites for the development of the theories of rule of law and the rule of law on the one hand and "government by the state on the basis of law" on the other, demonstrates the different stages and originality of the political and legal development of European and Chinese society. The latter, due to the lack of its own experience of Christianity, did not form a volitional archetype of a law-governed state, similar to the European archetype of modern times. In China, with great reservations, only the ethics of legalism, aimed at rationalizing the state bureaucracy, operates, and there are no

sufficient cultural prerequisites for the perception of the concept of the natural rights of the individual. In the concept of “rule of the state on the basis of the law,” the state, as in the Western archetypes, is a controlled subject, but the law does not acquire the position of a leading force in relation to it, being itself an instrument in the hands of the sovereign - the people represented by the party.

Poduzova Ekaterina Borisovna

QUALIFICATION OF THE CONTRACT IN RUSSIAN AND ANGLO-SAXON LEGAL FAMILIES

No. 9, 2016

In the work, on the basis of a set of criteria developed by the author, the concepts of treaty qualification in the Russian and Anglo-Saxon legal families are systematized and analyzed. Particular attention is paid to those concepts that are essential for the law of applied practice. For example, concepts, the application of which entails the qualification of a contract as a non-binding agreement. A party to such an agreement cannot apply to the court for the protection of its rights in the event of non-fulfillment of this agreement by its other party. The article highlights the constitutive features of the Russian, Anglo-Saxon and Romano-Germanic legal systems. On the basis of these features of the Russian, Anglo-Saxon and Romano-Germanic legal systems, theoretical and practical problems of the concepts of qualifying a contract in modern private law are considered. These problems are investigated taking into account the main trends in the development of the doctrine and law enforcement practice of the Russian and Anglo-Saxon legal systems. A comparative legal analysis of the content of the concepts of treaty qualification is carried out in the light of the peculiarities of the Russian and Anglo-Saxon legal systems. In particular, the formal and substantive concepts of contract qualification are investigated in the comparative legal aspect. The article deals with the problems of determining the constitutive signs of a transaction and the nature of invalid transactions, the definition of the concept of "basis (causation) of the

transaction", as well as the definition of the concept of "counter grant". The paper presents the criteria for the consistency of counter submission, developed by law enforcement practice and doctrine. In addition, a comparative legal analysis of the concept of the basis (causa) of the transaction and the concept of counter-granting is given, their common and distinctive features are taken into account. The author qualifies the criteria for the consistency of the counter-provision as constitutive features of the concept of counter-grant. The article uses the author's approach to dividing all criteria for the consistency of the counter submission into objective and subjective, the criteria for such a division developed by the author are used. A brief analysis of each of these criteria is given, taking into account the provisions of the current law enforcement practice and the doctrine of private law.

Long Changhai

COMPOSITION OF CRIME IN THE CRIMINAL LAW DOCTRINE OF CHINA

No. 9, 2016

The article discusses issues related to the system of the traditional theory of the four-element crime in the criminal law doctrine of China. Since the beginning of the 90s. XX century the traditional theory of the four-element crime in China has been the subject of serious criticism. Opponents of the theory of four-element crime believe that this doctrine has the following shortcomings. First, the theory of the four-element corpus delicti includes only the conditions for the formation of a crime, while other conditions excluding the criminality of the act lie outside the framework of the theory of corpus delicti. At the same time, the absence of such signs as circumstances precluding the criminality of the act does not yet indicate the incompleteness of the structure of the crime. Secondly, the traditional theory of corpus delicti was borrowed from the criminal law doctrine of the former Soviet Union, Soviet ideology had a great influence on this theory, while Chinese scientists advocate the creation of a new doctrine of corpus delicti, independent of

ideology. At the same time, modern Russian criminal law and criminal law science have successfully passed complete de-ideologization, which can serve as a good example for China. Third, all four elements of a crime, according to the four-element doctrine, are one-level, cannot be subdivided into different layers and, at first glance, do not follow a strict sequence when qualifying a crime. Fourth, the relationship between the concepts of crime and corpus delicti does not have clear boundaries, the differences between the concepts of crime and corpus delicti are not obvious. The author examines these claims in detail and substantiates the advantages of the doctrine of the four-element crime at the present stage of the development of Chinese criminal law. Along with other Chinese supporters of the four-element structure of the crime, the author believes that this doctrine, in comparison with the three-element structure, has such advantages as intuitive clarity, simplicity and ease of use, which are important in modern Chinese conditions. Improving and developing the traditional theory of the four-element crime is the primary task facing Chinese theorists.

Letuta Tatiana Vladimirovna

Acceptance of inheritance as the basis for the emergence of the rights of a participant in a business company

No. 9, 2016

The generalization of judicial practice in cases on challenging decisions of general meetings, on recognizing the ownership of shares made it possible to identify one of the problems of ensuring the stability of civil turnover. It lies in the impossibility of protecting the rights of business companies and their participants in cases when the heirs, having accepted the inheritance and having shown for a considerable period of time complete indifference to the shares in the authorized capital of limited liability companies or shares included in the inheritance, at a certain moment decide use the rights of a "participant". Analysis of the provisions

of civil and corporate legislation in their relationship; scientific works on the selected topic did not allow to form an unambiguous answer to the question of the practical and theoretical justification of universal succession in cases when the inheritance, along with other property, includes shares or shares. From the point of view of corporate law, the acquisition of a share or share and the acquisition of the status of a company participant are not identical actions, therefore, entailing different legal consequences. With regard to the shares of a limited liability company that are inherited, the legislator has provided for an extremely liberal approach, giving participants in corporate relations excessive freedom in matters of local regulation of the transfer of a share in the authorized capital of the company to the heirs.

The work defends the point of view according to which the acceptance of an inheritance, which, along with other property, includes shares or shares, cannot be the basis for acquiring the status of a participant in a business company. Objects, the ownership of which implies obtaining the status of a member of the company, cannot be acquired by inaction, since the legality of the decisions made by the corporation and, accordingly, the stability of its activities depend on the composition of their owners. It is argued that the opening of an inheritance should not oblige an economic society, whose essence is to "pool capital", to take an active position in the search for heirs, to resolve the issue of managing their shares, while the heirs are completely inactive.

On the basis of the conclusions formulated in one of the judicial acts, the expediency of recognizing as the basis for acquiring the status of a participant in the company is the action of the heir to notify the limited liability company about receiving a certificate of the right to inheritance. In relation to joint-stock companies, the basis for acquiring the status of a shareholder is an entry on the transfer of rights made by the person who records the rights to shares.

Chkhutiashvili Lela Vasilievna

Improving state environmental control (supervision)

No. 9, 2016

Sustainable development of the Russian Federation, high quality of life and health of its population, as well as national security can be ensured only if natural systems are preserved and the appropriate quality of the environment is maintained .

The implementation of the task of environmental protection, rational use of natural resources and ensuring environmental safety is facilitated by the implementation of effective and efficient control in the field of environmental protection - state environmental control.

According to the author, state environmental control is the activity of state authorities and administrations established by regulatory acts to identify, prevent and suppress violations of legislation in the field of environmental protection, rational use of natural resources and ensuring environmental safety.

However, today the prevailing form of control, focused primarily on coercion and submission, has largely exhausted itself. In modern conditions, a transition to preventive, preventive control, to “control as a service” is necessary.

In order for the state environmental supervision in the Russian Federation to be really effective and correspond to the level of economically developed countries, it must be restructured and strengthened, brought into a real orderly system.

To improve the state environmental control (supervision), the author proposes to implement in aggregate a number of measures, including the involvement of independent and bona fide environmental auditors in the conduct of state environmental control in the face of a constant reduction in the number of specialists to eliminate the lack of qualified personnel.

An increase in the number of local inspectors, including through the introduction of an institute of freelance environmental auditors, will strengthen environmental institutions in order to adequately fulfill the functions established by environmental legislation.

An increase in the number of local inspectors, including through the introduction of an institute of freelance environmental inspectors through the involvement of environmental auditors, will strengthen environmental institutions in order to adequately fulfill the functions established by environmental legislation. To this end, it would be advisable to supplement the Administrative Regulations for the execution by Rosprirodnadzor of the state function of exercising state environmental supervision with appropriate provisions.

The regulation of the relationship between environmental auditors and state inspectors on the basis of the new Federal Auditing Standard (FSAD) "Interaction of independent auditors with state controllers" can become a serious step .

Markova Tatiana Yurievna

DISCLOSURE IN THE COURT OF THE INDICATIONS OF WITNESSES AND VICTIMS DATA AT THE STAGE OF THE PRELIMINARY INVESTIGATION

No. 9, 2016

The article discusses such an exception from the general condition of the immediacy of the trial as the announcement of the testimony of the victims and witnesses who did not appear, which they gave at the stage of the preliminary investigation. The author shares the reading out of the testimony at the request of one party and with the consent of both parties; notes in what cases such consent is required, who is understood by the parties and how their consent should be expressed; establishes the link between the provisions governing the conduct of the judicial investigation, with the general provisions of the criminal procedure, as well as the rights of its participants. The article explains why, in certain situations, the consent of both parties to read out the testimony of the absent participants in the process is not required. What, to whom and how in this case must be established in order to be able to apply the provisions of Part 2 of Art. 281 of the Criminal Procedure Code of the Russian Federation. Special attention is paid to

the interpretation of such a term as “other extraordinary circumstances preventing the appearance in court”. The author refers to several FKZ and FZ, demonstrating the unambiguity of the legislator's understanding of this concept in various regulatory legal acts. In the conclusion of the article, the question of the possibility of reading out the testimony in connection with significant contradictions is considered; the interpretation of this concept is given; the conditions under which such announcement is possible are highlighted. It is also noted that according to the rules of Art. 281 of the Code of Criminal Procedure of the Russian Federation, protocols of interrogations, confrontations and verification of testimony on the spot should be announced. The article is based on the provisions of the Constitution of the Russian Federation, FKZ, FZ, norms of international treaties. The article contains numerous legal positions of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the European Court of Human Rights; highlights those significant violations of the criminal procedure law, which in the practice of courts of general jurisdiction are recognized as the basis for the cancellation of the sentence imposed in the case; the cases are indicated in which the read out testimony is recognized as inadmissible evidence, which cannot be used as the basis for the accusation of the defendant.

Smirnov Alexander Mikhailovich

VICTIMOLOGICAL CHARACTERISTICS OF MINORS 'COMMITMENT TO SEXUAL INVALIDITY AND SEXUAL FREEDOM OF THE PERSONALITY

No. 9, 2016

The article presents the victimological characteristics of the infringements of minors on sexual inviolability and sexual freedom of the individual in modern Russia. Based on the results of the study, the author comes to the conclusion that victims of sexual offenses of minors are mainly subjected to rape, criminal sodomy

and other acts of a sexual nature, but they can also become the object of lecherous actions on their part. By gender, the distribution of victims of sexual violence of minors is approximately the same, with a significant predominance of males in violent acts of a sexual nature. It should be noted that there is a tendency for an increase in criminal offenses of a homosexual nature among minors (mainly in relation to younger boys). Sexual assault by minors is characterized by overcoming the resistance of the victim without the application of special efforts, which is associated not only with her gender, age and physical characteristics, but also with the propensity to use alcohol, narcotic and psychotropic substances. Juvenile rapists and their victims are usually socially interconnected or are members of the same reference group. In the overwhelming majority of cases of sexual abuse of minors, the behavior of the victims was imprudent and reckless, in some cases, sexually accessible and provocative. Scientific judgments about the harm caused to victims of sexual treatment by minors are very polar , ambiguous and contradictory: from the belief that it inflicts permanent harm on the formation of the victim's personality and its subsequent socialization, to the recognition that sexual contacts, even violent character, do not cause their victims the harm that the supporters of the dramatization of such torts write about.

Seliverstov Vyacheslav Ivanovich

CRIMINAL ENFORCEMENT POLICIES IN THE FIELD OF OF DETENTION: 2015 INNOVATIONS

No. 9, 2016

The article examines the novels of criminal and criminal executive policy, which were consolidated in directive documents and norms of criminal executive legislation in 2015. Changes and additions to the Concept for the development of the penal system of the Russian Federation until 2020, introduced by the order of the Government of the Russian Federation dated September 23, 2015 , are analyzed. The tendency to humanize the conditions for serving imprisonment,

further strengthening the guarantees of observance of the rights and legal interests of convicts is stated. The amendments to the penal legislation that took place in 2015, as well as the decision of the European Court of Human Rights " Khoroshenko v. Russia", which affected the content of life imprisonment, are considered, and an assessment is given to them. The article considers political, social and spiritual factors that may affect the decision of the Constitutional Court of the Russian Federation in a similar case. The supplement to the article contains an expert opinion prepared by the author and submitted to the Constitutional Court of the Russian Federation on the issue of granting long visits to convicts serving life imprisonment in strict conditions.

Nikolay Sokolov

PROBLEMS OF LEGAL REGULATION IN THE PROFESSIONAL PERCEPTION OF LAWYERS

No. 9, 2016

The article emphasizes the relevance of the study of the participation of professional lawyers at various stages of legal regulation, especially lawmaking and the application of law. The achievements and problems available here are analyzed on the basis of data from a sociological study. The author, along with the positive aspects, notes that practicing lawyers do not take an active part in the lawmaking process. The opinion of lawyers as a social and professional group is not properly studied and not taken into account. The article notes that the most common way for lawyers to participate in legal regulation is their law enforcement practice. In this regard, data are provided on the difficulties they face in the process of applying the law. In the first place according to this indicator came the interpretation of law, analysis of the content of the applicable norms. In the final part of the article, it is noted that the results of the study are quite general and need to be specified, which could be facilitated by further research of the problem.

Zaitseva Lyudmila Anatolyevna

General Charter of Universities 1863: Prehistory, Characteristics, Significance

No. 9, 2016

This article discusses the conceptual foundations and the general characteristic Spoken General Rules of the Imperial Russian Universities 1863 .; prehistory of its creation; the significance of this normative legal act within the framework of the general trend of reforming the higher education system in the second half of the 19th century. This Charter has replaced the General Rules of the Imperial Russian universities in 1835 The article distributed under consideration of university management system, its internal and external, of the components. In terms of external management, each university was "under the main command of the Minister of Public Education" and "was entrusted to the Trustee of the educational district." The General Provisions of the Charter of 1863 was not included an article enshrining the state sta- tus Russian universities. In the Charter, it is placed in Ch. XII "Rights and Advantages of Universities", which states that "all universities are under the special patronage of His Imperial Majesty and bear the name of the Imperial ones." In terms of internal management , the Charter of 1863 stipulated that “the closest management of the university belongs to the Rector”. The charter of 1863 defines collegial governing bodies: “1) University Council. 2) The board Université -ta . 3) University Court ". The article analyzes the subject composition of the educational and scientific activities of the university, the legal status of teachers and students, including their certification. The charter of 1863 establishes the classical structure of Russian universities. The general provisions of the Charter of 1863 determine that “each University consists of faculties as constituent parts of one whole”, that is, “sciences that make up the university teaching” were distributed among the faculties. All universities had the following faculties: history and philology, physics and mathematics, law and medicine. At the same time, it secured a slightly different list of departments in the St. Petersburg University, which additionally

created the Faculty of Oriental Languages and the Faculty of Medicine excluded. The faculties included the departments as the main scientific and educational-methodical divisions. Conceptual bases of the General Statute momentum ician of the Imperial Russian universities in 1863 contained a number of novovvede-tion that meets the requirements of his time. The preparation and adoption of the new university charter was caused by significant changes in government policy in the last quarter of the 19th century. The General Charter of the Imperial Russian Universities of 1863 was the main normative legal source for the preparation of the new University Charter of 1884.

Ischenko Evgeny Petrovich

KEY PROBLEMS OF CRIMINAL PROCEEDINGS

No. 9, 2016

Key procedural problems of domestic criminal proceedings are closely related to the observance of the rights and legitimate interests of not only the individual, but also society. Therefore, the conclusions of the pre-trial and judicial proceedings should be based on an objective and impartial clarification of all the circumstances of the criminal case. In this case, cognition should be based on the collection, verification and assessment of forensic evidence, i.e. on the proof procedure, regulated by the Code of Criminal Procedure of the Russian Federation, containing requirements for judicial evidence. The authors substantiate the thesis that the numerous changes made to the Criminal Procedure Code of the Russian Federation made the preliminary investigation extremely cumbersome, in fact - bureaucratic, analyze the negative consequences that resulted from the copying by the legislator of Part 2 of Art. 50 of the Constitution of the Russian Federation in Part 1 of Art. 75 of the Code of Criminal Procedure of the Russian Federation. Criticizing the formal procedural criteria for the admissibility of evidence, the authors consider the negative consequences that have come from this, defend the return of "objective truth" to the domestic criminal process. The article

concludes with a draft of the new edition of Art. 88 of the Code of Criminal Procedure of the Russian Federation and a proposal to bring the science of criminal procedure to the model of analytical science according to K. Poper .

Golik Yuri Vladimirovich

TEACH CRIMINAL LAW IN A NEW way

No. 9, 2016

It has long been clear for professional teachers that it is impossible to teach criminal law like any other branch of law in the old way in the current conditions. Too great dynamics of the legislative process, too large a volume of new legislative acts, and an even larger volume of bylaws that must be taken into account in law enforcement . Any specialist, let alone a beginner, can simply lose his bearings in this abundance of material. In this regard, the task of the teacher and the task of teaching today is not to train students in knowledge of legislative norms, but to teach him to navigate in the daily changing legislative field, to teach him to find the right answers to the questions posed as quickly as possible.

The review notes that, despite the huge array of educational literature on criminal law, there are not so many worthy textbooks. The point is that writing a modern textbook is not as easy as it might seem. The person is faced with a problem that needs to be solved. Decide on the basis of the entire array of legislative regulation. This means that it is necessary to "enter" this array, already understanding the essence of the problem. This is the only way to find the right solution within the framework of the law.

This textbook is just built on this principle: the problem is formulated, and possible ways to find a solution are indicated. The review specifically notes that all chapters of the textbook begin with the words "urgent problems". This alone prompts the reader to find ways to solve these problems. There can be several of these paths at the beginning of the search, and only at the end will the only one

appear that will lead to the desired result. In this case, the result obtained may be unexpected for the author. But - a negative result is also a result.

The review notes the most interesting moments of various sections of the textbook: principles of criminal law, crimes against property, computer crimes, etc.

The textbook is interesting for all teachers specializing in this industry.