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Kornev Arkady Vladimirovich

LEGAL NIHILISM: REFLECTION OF ITS ESSENCE, CONTENT AND FORMS IN LITERATURE AND LEGAL SCIENCE

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The article examines the problem of legal nihilism, which is reflected in the works of Russian and foreign writers, representatives of social and political thought. Nihilism as a complex social phenomenon was first considered in the works of Russian writers. Nihilistic sentiments became widespread in the second half of the 19th century. Similar processes took place not only in Russia, but also in the countries of Western Europe. Nihilism has many forms of its objectification. In its original form, it was a protest against tradition and established conservative values. It is worth noting that nihilistic tendencies developed mainly among the diverse intelligentsia. Although they received a certain distribution in the upper strata of society. This article focuses on legal nihilism,, despite some common features, legal nihilism in Russia and in Western countries still differed. This can be clearly seen in the works of the classics of Russian and foreign literature.

The article characterizes the essence, content and forms of legal nihilism based on the works of representatives of domestic legal science.

Bibik Oleg Nikolaevich

APPLICATION OF ECONOMIC LAWS IN CRIMINAL LAW AND CRIMINOLOGY

No. 1, 2018

The article states that the science of criminal law and criminology need serious modernization. In this regard, it is proposed, in particular, to apply an economic approach in criminal law and criminological research. The possibility of using it is demonstrated with specific examples. In particular, the economic law of diminishing marginal utility of a good is noted. The manifestation of this law is the prevalence of crimes, which tends to either increase, advancing the need of society for criminal repression, then decrease, which is reflected in the criminalization of acts and the appointment of criminal punishment. According to the law of diminishing marginal utility, when investigating and solving crimes, priority should be given to the most serious acts. Meanwhile, domestic criminal statistics refutes these assumptions. The practice of combating crime in Germany is noted as a positive example. With the help of the theory of marginal utility, a number of regularities have been identified concerning the application of criminal punishment in response to a committed crime: 1) the harmfulness of punishment is determined by the subjective assessment of the offender who is serving it, and not at all by the court appointing the punishment; 2) the harmfulness of punishment increases with each new unit of anti-good and is determined by the marginal harmfulness of the marginal unit of anti-good. The harmfulness of the anti-good, like the usefulness of the good, has boundaries, beyond which the anti-good gradually loses its properties

(for example, the marginal harmfulness of a fine is limited to the entire set of property belonging to the criminal). The article also proposes to take into account the cyclical nature of social development. In particular, cyclical fluctuations of the corresponding indicators are demonstrated using the example of the dynamics of registered crime. At the same time, there is no absolute correlation between the cycles of economic activity and the state of crime, criminal law regulation. It is proposed to distinguish seasonal, small (up to 3 - 5 years), medium (up to 10 - 15 years) and large (over 10-15 years) cycles of crime and the fight against crime. It is proposed to use a system of indicators for use in combating crime. At the same time, there is no absolute correlation between the cycles of economic activity and the state of crime, criminal law regulation. It is proposed to distinguish seasonal, small (up to 3 - 5 years), medium (up to 10 - 15 years) and large (over 10-15 years) cycles of crime and the fight against crime. It is proposed to use a system of indicators for use in combating crime. At the same time, there is no absolute correlation between the cycles of economic activity and the state of crime, criminal law regulation. It is proposed to distinguish seasonal, small (up to 3 - 5 years), medium (up to 10 - 15 years) and large (over 10-15 years) cycles of crime and the fight against crime. It is proposed to use a system of indicators for use in combating crime.

Sitnikova Alexandra Ivanovna

NOTES TO ARTICLES OF THE CRIMINAL CODE OF THE RUSSIAN FEDERATION IN THE LIGHT OF LEGISLATIVE TEXTOLOGY

No. 1, 2018

From the standpoint of legislative textual criticism, notes are normative texts taken outside the framework of criminal law norms formulated in the articles of the criminal law. The main purpose of the notes is to supplement, concretize, clarify or change the mode of operation of specific norms. Notes are structurally necessary elements of a codified normative act, which improve the structural organization of the Criminal Code of the Russian Federation, and improve the quality of the criminal law. Notes are an effective criminal law tool, since they form in a certain direction the conceptual apparatus of criminal law, concretize evaluative features, in certain cases limit the application of criminal liability and punishment, narrow the scope of criminal law regulations or change the mode of their implementation in the direction set by the legislator. From a legislative and textual point of view, notes consist of such structural elements as the topic of the note and a number of descriptive elements. Moreover, each type of notes includes a set of descriptive elements that form the components of definition notes, clarification notes, exception notes, delimiting notes, calculating, combined and qualifying notes. In the current Criminal Code of the Russian Federation, these notes are the most dynamic and effective tool of criminal law policy, as evidenced by their quantitative growth and qualitative changes that have been introduced into the Code from 1998 to the present. From a legislative and textual point of view, notes consist of such structural elements as the topic of the note and a number of

descriptive elements. Moreover, each type of notes includes a set of descriptive elements that form the components of definition notes, clarification notes, exception notes, delimiting notes, calculating, combined and qualifying notes. In the current Criminal Code of the Russian Federation, these notes are the most dynamic and effective tool of criminal law policy, as evidenced by their quantitative growth and qualitative changes that have been introduced into the Code from 1998 to the present. From a legislative and textual point of view, notes consist of such structural elements as the topic of the note and a number of descriptive elements. Moreover, each type of notes includes a set of descriptive elements that form the components of definition notes, clarification notes, exception notes, delimiting notes, calculating, combined and qualifying notes. In the current Criminal Code of the Russian Federation, these notes are the most dynamic and effective tool of criminal law policy, as evidenced by their quantitative growth and qualitative changes that have been introduced into the Code from 1998 to the present. which form the components of definition notes, clarification notes, exception notes, delimiting notes, calculating notes, combined and qualifying notes. In the current Criminal Code of the Russian Federation, these notes are the most dynamic and effective tool of criminal law policy, as evidenced by their quantitative growth and qualitative changes that have been introduced into the Code from 1998 to the present. which form the components of definition notes, clarification notes, exclusion notes, delimiting notes, calculating, combined, and qualifying notes. In the current Criminal Code of the Russian Federation, these notes are the most dynamic and effective tool of criminal law policy, as evidenced by their quantitative growth and qualitative changes that have been introduced into the Code from 1998 to the present.

Elena Lvovna Nevzgodina
Parygina Natalia Nikolaevna
CIVIL LEGAL MECHANISM FOR PROTECTING BUSINESS REPUTATION IN RUSSIA: A PANORAMIC OVERVIEW
No. 1,2018

The article presents a general analysis of the current domestic civil law mechanism for protecting the business reputation of citizens and organizations. The elements of the composition of the most common and expressive offense leading to the diminution of the business reputation of the subjects of civil legal relations - defamation (dissemination of false information defaming the honor, dignity or business reputation of the subject of protection) are highlighted; the substantive characteristics of each specific element are carried out. A critical assessment of the views of other civil law experts on the components of the indicated offense is given. The elements of the compositions of two offenses related to defamation, in the author's terminology, disinformation and discrediting (the first is present in the current Russian legislation, the second is proposed to be introduced into positive law). When defamation is given a special place among the offenses that harm the business reputation of individuals and legal entities, other

possible ways of diminishing this intangible benefit are indicated, their multivariance is emphasized. The article contains an overview of the system of existing civil law methods of protecting the business reputation of citizens and organizations, critically examines the criteria formulated in the legal literature and methods of their classification. The author's subdivision of special methods of protecting business reputation into primary and derivative is proposed, depending on what is their main goal: rehabilitation manipulations with the most affected business reputation or elimination of negative phenomena in the activities of the subject of protection caused by its diminution. The classification formulated in the work is aimed at strengthening control over the effectiveness of the use of appropriate protective tools. The authors expressed a positive attitude towards compensation for non-material damage to legal entities as a promising civil law way to protect business reputation. The problem of taking measures to ensure claims related to the protection of the business reputation of citizens and organizations in the form of a ban on further dissemination of controversial information about the applicant is analyzed. Emphasis is placed on the importance of maintaining a balance between the constitutional principles of freedom of thought, speech and the media, on the one hand, and inviolability of private life, protection of honor and good name, on the other. The authors expressed a positive attitude towards compensation for non-material damage to legal entities as a promising civil law way to protect business reputation. The problem of taking measures to ensure claims related to the protection of the business reputation of citizens and organizations in the form of a ban on further dissemination of controversial information about the applicant is analyzed. Emphasis is placed on the importance of maintaining a balance between the constitutional principles of freedom of thought, speech and the media, on the one hand, and inviolability of private life, protection of honor and good name, on the other. The authors expressed a positive attitude towards compensation for non-material damage to legal entities as a promising civil law way to protect business reputation. The problem of taking measures to ensure claims related to the protection of the business reputation of citizens and organizations in the form of a ban on further dissemination of controversial information about the applicant is analyzed. Emphasis is placed on the importance of maintaining a balance between the constitutional principles of freedom of thought, speech and the media, on the one hand, and inviolability of private life, protection of honor and good name, on the other. related to the protection of the business reputation of citizens and organizations, in the form of a ban on further dissemination of controversial information about the applicant. Emphasis is placed on the importance of maintaining a balance between the constitutional principles of freedom of thought, speech and the media, on the one hand, and inviolability of private life, protection of honor and good name, on the other. related to the protection of the business reputation of citizens and organizations, in the form of a ban on further dissemination of controversial information about the applicant. Emphasis is placed on the importance of maintaining a balance between the constitutional principles of

freedom of thought, speech and the media, on the one hand, and inviolability of private life, protection of honor and good name, on the other.

Vorontsov Andrey Leonidovich
Vorontsova Elena Vladimirovna
INTERNATIONAL LEGAL INTERACTION OF STATES IN THE FIELD OF HEALTH PROTECTION: ANALYSIS OF MODERN PRACTICE
No. 1, 2018

The right to health protection is an inalienable right of every person, since health itself is a necessary condition for his biological existence, and in addition, in many respects, determines the possibility of socialization of individuals.

Realizing this fact, most modern states have enshrined the right to health protection (in one sense or another) in the Basic Laws of their countries. At the same time, such a legal registration does not always mean the possibility of real implementation of the right to health protection, which is largely facilitated by the political, economic and cultural conditions of a particular country. An underdeveloped economy, political instability, and a low level of literacy of the population in a number of regions of the world do not allow adequate provision of the right to health care for a wide range of countries. However, this does not deprive them of the opportunity to exercise this right for the population of their countries, using the universal mechanism of international legal cooperation.

The above-mentioned mechanism is considered as an independent mechanism for realizing the right to health protection. The article presents the theoretical and legal argumentation of this provision. It is concluded that, in general, the mechanism of international legal cooperation is a complex legal entity, consisting of two components: institutional (organizational and structural) and law enforcement. This mechanism in relation to health protection is subjected to a comprehensive description in its work. The study used the methods of logical justification, subject comparison, linguistic (linguistic) analysis, etc.

Analysis of the structural components (basically representing the author's vision of the problem), as well as the practice of functioning of the mechanism of international legal cooperation in the field of ensuring the right to health protection, made it possible to highlight its specific features, the main ones of which are: an all-encompassing nature, isolation of legal instruments, flexibility of the legal regime , universality, a high degree of interdependence of subjects of cooperation. The mechanism of international legal cooperation is considered as an effective tool for realizing the right to health protection, and the health sector is seen as a basis for establishing international cooperation in other areas.

Shulakov Andrey Anatolievich
MODERN APPROACHES TO DISCLOSURE OF THE CONTENT OF THE TEST RELATIONSHIP IN PRIVATE INTERNATIONAL LAW

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The issues of approaches to disclosing the content of the principle of the closest connection are among the most important and poorly studied in private international law. The research is devoted to conflict, substantive (mixed) and subjective approaches. Particular attention in the work is paid to a mixed approach, which fully reveals the content of the closest connection and, therefore, is increasingly being developed in the legislation of the USA, EU, China, Russia and other countries. It is concluded that the mechanism of the mixed approach is based on the simultaneous consideration by the law enforcement officer of public interests and conflict of laws presumptions. The public interest acting as a vector and the corresponding conflict of laws presumption together form the closest connection with the legal relationship. Based on a detailed analysis of legal norms, it was established that that within the framework of a mixed approach, modern legislation uses several ways to consolidate public interests to determine the closest connection. The legislator either indicates to the law enforcer those public interests (goals) that should be taken into account and not infringed upon, or establishes whose interests the law enforcement agent is obliged to favor when choosing a law, or immediately identifies a certain criterion for taking into account such interests. The reasons for the uncertainty and inconsistency of the subjective approach are analyzed, based mainly on the search by the law enforcement officer of the alleged intentions of the parties and which, in this connection, is not only a synonym, but also a repetition of the approach about the hypothetical will of the parties rejected in modern private international law.

Belotserkovsky Sergei Dmitrievich

DIRECTIONS OF OPTIMIZATION OF CRIMINAL LEGISLATION IN THE CONTEXT OF OPTIMIZATION OF THE SYSTEM OF LEGAL REGULATION OF THE FIGHT AGAINST ORGANIZED CRIME

No. 1, 2018

The article examines the process of forming the legislative base of the People's Republic of China in the field of regulation of linguistic relations and provides an analysis of the main problems associated with the protection of linguistic rights. As the context of this topic, the history of the formation of the concept of linguistic rights at the international level in the 1990s is investigated. The author analyzed the main international legal acts containing the relevant norms.

In the main part, the articles of the current legislative acts of the PRC, which in some way regulate the linguistic situation and the status of languages, have been studied by means of a continuous sample. On the basis of their analysis, conclusions were drawn about the insufficient elaboration and lack of specificity of the norms contained in them.

Using the example of interethnic conflicts, the author shows how technologies for the implementation of language legislation create obstacles in

establishing relations with national minorities, forcing them to consider their rights infringed.

The issue of the status of dialects of the Chinese language is highlighted as a specific problem of linguistic relations in the PRC. The study of the collected normative material showed that the unequal status of the language and dialects leads to the practical inequality of the citizens of the country.

In general, a comparison of the situation with the protection of linguistic rights in Europe and China allows us to conclude that while in the West widespread interest in this topic is fading away, in China it continues to gain relevance.

Andrey Alexandrovich Kondrashev

PROBLEMS OF MODERN LEGAL EDUCATION IN THE CONTEXT OF HIGHER EDUCATION REFORM IN THE RUSSIAN FEDERATION: RESULTS AND PROSPECTS

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The article is devoted to the analysis of the problems of modern higher education in Russia. Moreover, the author clearly demonstrates the serious shortcomings of the modern higher education system in the country on the basis of an analysis of the defects of higher legal education that are obvious for most of Russian teachers: underfunding of higher education (meaning not only the low salaries of most of the teaching staff in the country, but, expenses for updating the material and technical base of universities), a colossal increase in the teaching load per teacher (and primarily the so-called classroom load), a significant reduction in the number of dissertation councils responsible for awarding academic degrees in law (especially outside the European part of the country), admission to the master's degree of persons without basic legal education, imperfection and constant updating of educational standards without changing the content of the educational process, bureaucratization of education and the transition to "effective" contracts that reduce the level of protection of the labor rights of a Russian teacher. Based on the application of sociological research methods, the author casts doubt on the validity and effectiveness of the main ideas of the higher education reform implemented by the Ministry of Education and Science of the Russian Federation in the last 10-15 years. As a result of this "new educational" policy, almost 50% of the teaching staff of Russian universities will lose their jobs until 2019, and at the same time, after a generational change, it may turn out that there will be virtually no one to work in Russian universities either. Modern Russian education reform, focused on reducing the total number of budget-funded places in universities (and especially budget-funded places for humanitarian specialties), and state support for secondary vocational education, will lead to an even greater technological backwardness of Russia in comparison with the leading world economies in the next ten years. The global trend in modern education is, on the contrary, a constant increase in the number of people who have received higher education, especially in

the context of the emerging era of the "digital" economy. Only a sharp increase in the next 3-5 years in spending on education up to 5-6% of GDP, with a simultaneous adjustment of the directions of higher education reform, can prevent the inexorably impending collapse of the entire Russian higher education system.

Maleina Marina Nikolaevna

AGREEMENT ON THE ORGANIZATION AND CARRYING OUT OF PRODUCTION PRACTICE FOR STUDENTS

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The article analyzes the current regulatory legal acts dedicated to the organization and passing of practice. In more detail, the responsibilities and rights of educational and specialized organizations are disclosed in agreements on the organization of practice, which are developed by different universities and organizations of secondary vocational education.

In addition to the subject of the contract, the conditions for the place, time of the internship, the condition for the compliance of the place of work in the specialized organization with the internship program and the assignments of the internship manager from the educational organization, the condition for the list of students directed to practice.

It seems that, by its legal nature, an agreement on the organization and conduct of practical training for students is an agreement on the provision of services. According to its legal characteristics, such an agreement is considered consensual, bilaterally binding, lasting, reimbursable or gratuitous. The agreement on the organization and conduct of practical training for students should be delimited from the agreement on the network form of the implementation of educational programs. The distinctive features include the following: the subject of the agreement on the organization and conduct of the student's practice is much narrower, it consists of the actions of educational and specialized organizations only in the field of organizing the transfer of practical skills to students; the essential terms of the compared contracts do not coincide; an agreement on the organization and conduct of a student's internship is concluded with one organization, and, if necessary, several bilateral agreements of the same type are concluded with different organizations; the student's on-the-job training during education is mandatory for the levels of professional education; upon completion of the practice, the issued document is taken into account when passing the state final attestation, but has no independent significance.

Nikolay Sokolov

LAWYERS ABOUT USING YOUR FREE TIME

No. 1, 2018

The article notes that in the legal literature, the authors, for obvious reasons, focus mainly on the analysis of the professional side of the life of lawyers. While the non-professional side of their life remains aloof from researchers. Meanwhile, they influence each other and are in a certain relationship. That is why issues

related to the use of their free time by lawyers are of not only scientific, but also practical interest. In this regard, the article presents the results of a sociological study of the professional culture of lawyers conducted by the author. It shows how the use of free time by lawyers is influenced by their professional specialization, work experience, age and other factors.

Shefel Sergey Viktorovich

ECOSOPHICAL CONCEPTUALIZATION OF THE PROCESS OF FORMATION OF PERSONALITY AS A SUBJECT OF HARMONIZING LEGAL RELATIONS IN THE ECOSPHERE

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In the context of the development of the process of establishing legal Russian statehood in the face of global environmental challenges of our time, the problem of the formation of the personality of a Russian as a subject of harmonization of legal relations in the ecosphere is objectively actualized. Along with the developments available on this issue, it is proposed to consider it from an ecosophical point of view. In this regard, the author comes to the following conclusions.

The necessity of greening the legal consciousness of the citizens of the Russian Federation is substantiated. This presupposes the creation of a system of their eco-legal education, which will make it possible to form in our country a generation of creators of not only legal, but also ecological statehood. It will become the basis of domestic "social capital" as a resource for a new post-industrial quality of life for Russians.

In this regard, in the context of the implementation of the strategy of socio-economic and environmental development of the Russian Federation in order to ensure its sustainable development, one cannot do without taking into account the following factors: when forming plans for the socio-economic development of the country, it is necessary to consistently observe the principle of greening the activities of economic entities, which, in turn , implies the introduction of innovative "green" technologies in the economy at the level of its management and the practical implementation of energy-saving technologies and the transition to the priority use of renewable sources of natural resources along with a decrease in the share of non-renewable natural resources; adherence to the principle of supremacy in lawmaking and law enforcement activities, the priority of the norms of environmental legislation over the norms of natural resource legislation and the norms of other sectoral regulations governing subject-object legal relations in the ecosphere; the competent authorities, with the coordinating role of the Ministry of Justice of Russia in the organization of legal universal education, should pay an accentuated attention to the provision of qualified explanations by the legal and educational personnel of the norms of environmental and natural resource law in their priority ratio; for the qualified implementation of this kind of legal

educational work, the content of legal education curricula should be revised in accordance with the indicated priorities, first of all, at the level of senior classes of general education schools and secondary vocational education, encompassing the youth contingent on a large scale with educational influence,