APRP 2019

Nikolay Sokolov , No.1 2019

Lawyers on topics covered by the media that arouse their heightened interest

Annotation. 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 interest of lawyers in topics covered by the media 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 is shown how the interest of lawyers in topics covered by the media their professional specialization, work experience, age and other factors affect.

Sekhin Ivan Viktorovich , No. 1 2019

Legislative inflation as an urgent problem of legal regulation

Resume : The article substantiates the urgency of the problem of legislative inflation in Russia. The negative consequences of this phenomenon are highlighted: a decrease in legal certainty, an increase in the number of law-making mistakes, an increase in legal nihilism. The article provides an assessment of the ways to overcome legislative inflation, expressed in the systematization of legislation, as well as in the establishment of artificial restrictions for lawmaking activity. In conclusion, it is concluded that it is necessary to develop tools for legal diagnostics in order to effectively control inflationary processes in the legislation of the Russian Federation. Regulatory impact assessments and legal monitoring are examples of such tools.

Loos Evgeny Viktorovich , No.1 2019

Application n The principle and increased tolerance of public officials to criticism in his address in the Russian Federation

Annotation. The article examines the legal and philosophical aspects of the application in the Russian Federation of the principle of increased tolerance of public persons to criticism, established by the European Court of Human Rights. The author believes that the principle in question is contrary to Art. 19 of the Constitution of the Russian Federation, which guarantees equality of human and civil rights and freedoms, regardless of property and official status, membership in public associations, and other circumstances. The expediency of introducing the principle of increased tolerance into Russian law enforcement practice is questioned, since this does not contribute to the implementation of the "spirit of the law", but leads to an unnecessary heap of legal norms. It is noted that the issue of correlation between the right to freedom of expression and judgment and the right to protect the honor and dignity of an individual in the process of criticizing public figures and their activities cannot be fully regulated in legislation, since it affects the sphere of morality.

Przhilensky Vladimir Igorevich

Laza Valentina Dmitrievna , No. 1 2019

Communicative theory of society: socio-technological and law enforcement contexts

Resume: The article examines the causal-target complex of the emergence and evolution of the communicative theory of society as a theory that allows not only to predict the development of society, but also to manage social processes. Law enforcement in general, the criminal process in particular, were formed long before the appearance of this theory. But after the theoretical description of society as a type of communication, conditions were created for a truly scientific technologization of criminal proceedings: in fact, the entire theory of law was rebuilt taking into account a new understanding of the phenomenon of sociality. Today, in the age of total digitalization of social and legal and law enforcement practices, the topic of the origins of the communicative theory of society is being updated in a new way.

The article analyzes the key elements of the socio-philosophical conceptualization of social processes and phenomena, compares the models of society proposed by O. Comte and K. Marx, whose works contained the conditions for the presentation of society as a reality. The thesis is substantiated that the alternative ways proposed by the two theorists to explain social development as a function of “knowledge” or as a derivative of “social production” are equally dependent on the understanding of a person as a “set of social relations”. Particular attention is paid to the new opportunities that have opened up for theorists and philosophers in explaining the nature and functions of law in connection with the creation of a communicative theory of society. The article shows the fundamental difference in the understanding of law in the era preceding the development of sociology and during the active interaction of legal theorists with the community of philosophers and sociologists. A set of ontological assumptions is reconstructed that allow considering law as a "mechanism for reproducing the general conditions of society's existence" and making it possible to include the system of law in the system of social relations as a subsystem.

Budaev Andrey Mikhailovich , No. 1 2019

President and Prime Minister of the Russian Federation in the system of state power bodies of Russia

Annotation. In the current system of public administration in Russia, the most important decisions are made at the highest state level. The key role in making these decisions belongs to the head of state - the President of the Russian Federation, who, in accordance with the Constitution of the country, determines the main directions for the development of Russia's domestic and foreign policy. The President occupies a special place in the system of state power bodies, does not enter directly, directly into any of its three powers, but ensures their coordinated functioning and interaction.

Direct implementation of the decisions made in the field of the country's socio-economic development is ensured by the Government of the Russian Federation - the country's highest executive body, headed by the Chairman of the

Government of the Russian Federation. The choice and appointment of the head of this body of state power is the exclusive prerogative of the head of state, established by the Constitution of the country. In turn, the management of the daily work of the Government is the direct responsibility of the Prime Minister.

The balanced and well-grounded activity of the President in choosing a candidate for the position of the Prime Minister of the country, who must have a significant degree of confidence in the head of state, have a successful professional experience, and be ready to take up such a responsible position, is essential for the successful solution of key tasks in the field of state building.

The study proposes the author's periodization of the development of the Russian model of interaction between the President and the Prime Minister of the country, formulates the main recommendations aimed at increasing the efficiency in this area of state building.

Yakimova Ekaterina Mikhailovna , No. 1 2019

Constitutional rights in the field of entrepreneurial activity and features of their subjects-carriers

Annotation. The constitutions of most countries in the world contain an extensive catalog of human and civil rights and freedoms, which tends to expand. At the same time, the essence of economic rights was determined even during the regulation of the rights of the "second" generation and is associated with the recognition of property rights and the right to freely carry out activities aimed at generating income. In the process of developing modern constitutions, states only concretize these rights. The constitutional right to freely use one's abilities and property for entrepreneurial and other economic activity not prohibited by law is considered in this article as a basic, but not the only right in the field of entrepreneurial activity. The peculiarity of the implementation of the right under consideration is its special range of subjects-carriers. It is concluded that the design of Article 34 of the Constitution of the Russian Federation has a two-component structure (designates two types of activity: entrepreneurial and other

economic). This construction also influences the definition of the range of subjects-carriers of law: the subject composition of law depends on whether it is a question of entrepreneurial activity or other economic activity.

Antonchenko Vadim Viktorovich , No. 1 2019

Problems of preventive work in the field of fire safety

Annotation. The paper carried out analysis of supervisory and control authorities in the implementation of the monitoring and supervisory activities in the field of fire safety. The author considers , that the society today is living in imitation and activities in this critical area, no IME guide relations to a real fire safety . One of the circumstances allowing to make such a conclusion is the transfer of oversight functions and control powers over the state of fire safety to non-state structures.

Based on the analysis of m mechanisms still s fire safety control and supervision - as the State Fire Supervision EMERCOM of Russia, as well as companies providing services for the fire audit , - concludes the inadmissibility of removing the state from the fundamental, active and purposeful work on prevention fires and narrowing the powers of state bodies in this extremely important and, at the same time, very problematic area. The author believes that neglect of the need to maintain a high level of fire safety, including by legal means, significantly weakens the state of protection of the individual and society from fires.

Nogina Oksana Arkadyevna, No. 1 2019

Tax benefit on transition and application

special tax regimes

Resume: This article is devoted to the urgent problem of analyzing the signs of the validity of tax benefits when planning the entrepreneurial activities of taxpayers in order to enable the transition and use of special tax regimes that give taxpayers significant advantages in reducing the tax burden and exemption from basic taxes within the framework of the general taxation system. The study of the issues of the unjustified tax benefit in the transition and application of special

regimes by taxpayers shows that the choice of forms of entrepreneurial activity and tax planning should be carried out by the taxpayer in the conditions of his real economic participation in civil circulation with the most favorable tax consequences for him

Shengelia Gocha Alikoevich , No.1 2019

Revision as the main method of financial control of the activities of educational institutions of higher education: features of legal regulation

Annotation: Educational organizations of higher education (HEO) in modern conditions are active in financial and economic activities. At the same time, and taking into account the existing realities, the methods of financial control of these organizations are being improved.
An attempt is made in the article to analyze the audit as a method of financial control, the goals and main objectives of the audit are considered, the types of audit are indicated. The author classifies the revisions of educational institutions of higher education by the audited period of the economic activity of the educational organization, by methods and methods , depending on the auditing entity, by the organizational method, by the degree of coverage of the financial and economic activities of the educational organization of higher education or by the range of issues of checking its activities . Based on the results of the study, it is concluded that, within the framework of the financial control of the activities of the OIE, the audit is one of the main methods of financial control aimed at assessing the state of financial discipline, determining the reliability of accounting and identifying financial violations associated with the use of budgetary and extra-budgetary funds.

Ivanova Ksenia Alekseevna

Stepanov Alexander Alexandrovich

Nemchinova Ekaterina Vladimirovna , No. 1 2019

Kiberbulling as the deviation of the rights of citizens to freedom of opinion with hildren Online

Resume: Thanks to the widespread internetization of public relations, the Internet has become one of the most important platforms for the implementation of civil rights and freedoms, including freedom of expression. However, some users go beyond the lawful exercise of this right, by their actions causing real harm to others. Cyberbullying is one of the forms of such actions.

The purpose of the article is to determine the line between the legitimate expression of a negative opinion and cyberbullying in the absence of the necessary legal regulation in this area in Russian legislation. To achieve this goal, the social and legal nature of cyberbullying is investigated on the basis of Russian and foreign experience. A special place in the article is given to two cases of mass cyberbullying that took place in Russia in 2018 and caused a major public outcry.

The authors conclude that the line between cyberbullying and the realization of freedom of expression lies in the deliberate focus of the former on inflicting moral suffering on the opponent and its one-sided nature. In addition, the need for self-regulation of citizens on the Internet is recognized in order to protect public morality, as well as to fill the existing legal gap.[1] .

Suslov Andrey Alexandrovich, No. 1 2019

Inadmissible denials of Russian civil law

Annotation. The systematization of unacceptable refusals in civil law, enshrined in the norms of civil legislation and clarifications of judicial practice, has been carried out. The reasons for securing by civil legislation cases of inadmissibility of refusal are analyzed, which include situations of protection of the weaker side in civil law relations. A specific characteristic of unacceptable refusals by the way they are expressed: with the presence or absence of legal consequences of committing unacceptable refusals is proposed. The doctrine of the nullity of refusal that has developed in modern Russian science and jurisprudence is criticized as contradicting the fundamental principles of civil law (in particular, the principles of freedom of contract, the inadmissibility of arbitrary interference by anyone in

private affairs, etc.) and the generally permissible type of legal regulation characteristic of civil law. Ways to overcome it are proposed. It is concluded that the resolution of the issue of recognizing a refusal as valid or invalid should be based on the correct qualification of the relevant rules that secure certain legal opportunities for participants in civil law relations, as mandatory or dispositive.

Knyazeva Natalia Alexandrovna , No. 1 2019

Protection of workers' rights to timely

and full payment of wages

Annotation. A feature of violation of the rights to timely and full payment of wages is that, as a rule, it is violated simultaneously in relation to all employees of one employer. It is concluded that the restoration in this case of the rights to wages of individual workers entails a violation of the principles of equality of opportunity and equal pay for work of equal value. In view of the objective specifics of the right to timely and full payment of wages, a proposal was formulated to recognize the right to defense in the event of its violation in the same way by one employer, not only for each of the employees, but also for the group of employees as a whole. It has been proved that disputes on the collection of wages meet the conditions for classifying disputes as class actions formulated in legal science, foreign practice and draft laws being developed. In this regard, it is proposed to include such disputes in the list of categories of cases that can be considered within the framework of the procedure for protecting the rights of a group of persons. The expediency of recognizing the right to suspend work in self-defense in case of delay in the payment of wages for at least one day has been proved. Analyzed the judicial practice of considering disputes on the collection of wages paid in a different amount than established by a written employment contract, and revealed the impossibility of protecting the rights of employees to pay wages in full. To solve this problem, a proposal was formulated to introduce into labor legislation norms on invalidation as sham conditions of an employment contract on the establishment of wages in a lower amount than the parties actually agreed.

Ayupova Gulnaz Shamilovna , No. 1 2019

Legal consequences of the order
on the termination of a criminal case (criminal prosecution)
in relation to Art. 264 [1 of the] Criminal Code of the Russian Federation

Annotation. The article consistently substantiates the position of the author on the issue of criminalization of driving a vehicle in a state of intoxication by a person who was previously prosecuted or released from criminal liability. When qualifying an act under Art. 264 [1 of the] Criminal Code of the Russian Federation, the presence of a court conviction that has entered into legal force is subject to registration, another procedural decision, in particular on the termination of a criminal case (criminal prosecution), cannot act as a basis for initiating a criminal case under Art. 264 [1 of the] Criminal Code of the Russian Federation, which is primarily due to the specifics of the subject matter of such cases. Based on the analysis of administrative, criminal and criminal procedure legislation, it was concluded that the consolidation in Art. 264 [1 of the] Criminal Code of the Russian Federation of the criterion in question contradicts the principles of criminal law.

Kosenko Andrey Mikhailovich, No. 1 2019
Critical review of the system of reasons for initiating a criminal case

Annotation. The significance of the reasons for initiating a criminal case is extremely high, since the reason launches the criminal procedure mechanism, gives rise to the subjective rights and obligations of the participants in the criminal process at the stage of initiating a criminal case and the stage itself. At the same time, the definition of the concept of a reason for initiating a criminal case did not find its consolidation in the Code of Criminal Procedure of the Russian Federation, the semantic content of this term and related categories do not agree with each other from the point of view of their system analysis, and therefore the question of its essence is still debatable. ... The problem of a reason for initiating a criminal case was created exclusively by the legislator, since the legal structure of the norms of the Criminal Procedure Code of the Russian Federation, dedicated to the reasons for

initiating a criminal case, does not correspond to the norms of the Russian language, or the requirements of formal logic, or the rules of legislative technique. Considering this problem systematically, the author comes to the conclusion that it is necessary to make profound changes in the norms governing the reasons for initiating a criminal case, namely, the normative presentation of a single concept that presupposes a single understanding of the reasons, their consistency, consistency, unity of terminology, classification, and a clear delimitation from sources. and crime reports.

Panfilov Pavel Olegovich, No. 1 2019

Uncertainty of the procedural status of the Commissioner under the President of the Russian Federation for the protection of the rights of entrepreneurs as a threat to the independence of officials carrying out pre-trial proceedings

Annotation. The author substantiates the uncertainty of the procedural status of the Commissioner for the Protection of the Rights of Entrepreneurs under the President of the Russian Federation. It is concluded that the Commissioner exerts an extra-procedural influence on officials carrying out pre-trial proceedings. It is recognized that the Ombudsman's participation in criminal proceedings is possible, but his activities should acquire a procedural nature. For this purpose, proposals are formulated to improve regulatory legal acts and law enforcement practice.

Bochkareva Elena Vadimovna , №1 2019

Organized crime as a form of self-determination of crime

Annotation. The article examines the influence of organized crime on the criminalization of modern Russian society - the so-called self-determination of crime . To effectively counteract the self-determination of crime, it is necessary to comprehensively study all its forms and mechanisms; special emphasis should be placed on organized crime in connection with its increased social danger. The proposed approach allows a deeper and more accurate study of the self-determination of organized crime and related phenomena. Recently, there has been a transformation of domestic organized crime into economic crime, which explains the deep

criminalization of the Russian economy. The article also examines another form of self-determination of crime, closely related to organized crime - corruption. The Russian experience in combating organized crime indicates the need to develop a comprehensive strategy in this area. The results of the study can be applied in the educational process when studying the course of criminology in higher educational institutions.

Goddard Inna Alievna , No. 1 2019

Content and characteristics of a cross-border building contract

Annotation. The article deals with the problems of legal regulation of relations arising from a cross-border construction contract. The author substantiates the presence of a cross-border construction contract with characteristic features that distinguish it from related contracts of a private law nature, as a result of research of legal doctrine and arbitration practice, he identifies a number of new features .

The most important aspects disclosed by the author in the article relate to the theoretical and practical aspects of determining the content of the signs of a cross-border construction contract that distinguishes it from other contracts of a private law nature .

In conclusion, the author draws a conclusion about the formation of new constitutive features of a cross-border construction contract and the possibility of classifying a cross-border construction contract as a separate, independent type of sui generis contracts .

Ivenin Vladimir Olegovich , No. 1 2019

IN bunt legal e providing e operational search activities in the criminal law of the States Parties Sod ruzhestva Independent States

Annotation. In the article, the author examines the issue of the need to form a mechanism for criminal law support of operational-search activity in domestic legislation. The question is raised about the relevance and development of this topic in the scientific community, within the framework of the socio-legal conditionality of the potentiality of this process, a set of evidences about its expediency is

provided. As a confirmation of the social value of social relations formed in relation to the implementation of operational-search activities, the author explains the subjective position on the importance of this institution for the system of administration of justice. Within the framework of the study, the author identifies two areas of criminal law support: regulatory and protective, their content is explained. Approaches to understanding the means of criminal law support as measures for the implementation of the proposed directions are formulated. Various approaches of Russian legal scholars to this problem are presented. The problem under study is not characterized by the author as purely theoretical, and the proposals are not considered as declarative, for the reasoning of which the article demonstrates the norms of model and national legislation of the member states of the Commonwealth of Independent States, designed to implement the mechanism of criminal law support for operational search activities.

Based on the results of the study, the conclusion is drawn:

1. on the expediency, prospects and objective necessity of integrating the mechanism of criminal law support into the criminal legislation of Russia;

2. on the implementation of this law-making process within the framework of separate regulatory and protective directions through the formation of authorizing norms in the special part of the criminal law and the construction of corpus delicti in the special part, respectively;

3. about the possibility of taking into account the positive law-making experience of the post-Soviet states due to the significant similarity of criminal and operational-search legislation, legal realities and traditions of the Russian Federation and the countries designated in the work.

Isaenko Vyacheslav Nikolaevich , No. 1 2019
State accusation in the system of criminal procedural functions

Annotation . The article examines the concept and types of criminal procedural functions, analyzes the points of view of legal scholars, who at different times formulated the appropriate definition. According to the author, the semantic content of those listed in Art. 5 of the Code of Criminal Procedure of the Russian Federation of terms is an important contribution to the improvement of the conceptual apparatus of criminal procedural law, it is intended to ensure the uniformity of interpretation of the concepts designated by them and, therefore, the uniformity of the action of the relevant criminal procedural institutions. At the same time, the Criminal Procedure Code of the Russian Federation does not define the concept of criminal procedural function. Based on the analysis of the norms of the Criminal Procedure Code of the Russian Federation and the opinions of legal scholars who expressed their opinions on the concept of criminal procedural function, it is proposed to include an additional clause in Article 5 of the Code of Criminal Procedure of the Russian Federation, which would contain this concept in the version proposed by the author. It is also proposed to divide the criminal procedural functions into two groups in connection with their implementation by the participants in the criminal process both in the pre-trial and in its judicial stages. An opinion was expressed about the independent nature of the function of assistance to criminal proceedings, performed by other participants, named in Chapter 8 of the Code of Criminal Procedure of the Russian Federation. The content of the function of maintaining the state prosecution as a form and stage of criminal prosecution and its place in the system of other criminal procedural functions are analyzed. The author proposes a definition of the concept of public prosecution, developed by the author, which is considered as a necessary element and at the same time as a special form of the function of the prosecution in criminal proceedings. This activity differs significantly in terms of tasks, subject and conditions of execution from the accusatory activity of an investigator, interrogator, or body of inquiry in pre-trial proceedings.