Vereshchagina Alla Vasilievna,
Omelyanenko Maria Evgenievna, №1 2020

Institutionalization of justice in the norms of "Russian Pravda"

Abstract

There are numerous studies devoted to the phenomenon of "Russian Truth". However, until now there has not appeared a complete description of the judicial system of Ancient Russia, as far as possible given the scarcity of authentic sources.

The analysis of the norms of the most famous lists of "Russkaya Pravda" and the available research made it possible to formulate a number of provisions.

The justice of Ancient Rus was of a polysystemic nature and consisted of 4 relatively independent systems: communal, patrimonial, ecclesiastical and princely, which was a consequence of the preservation of elements of the tribal structure, and the ongoing social stratification, active political genesis and Christianization. The organization of state power, including the judicial system, was based on the principle of suzerainty-vassalage, i.e. the persons involved in the administration of justice were the servants of the prince, to whom he delegated judicial powers. The competence of officials involved in judicial activity diversified according to subject, territorial and personal criteria. In the system of powers of officials engaged in judicial activity, the most important were the right to collect duties and fines and apply punishment.

The totality of the powers of the officials involved in the pre-trial preparation of materials and the execution of decisions suggests that, despite the unity of the procedure for resolving all types of "gravity", the legislator distinguished between civil and criminal disputes.

Aminov Ilya Isakovich, No.1 2020

Reasons and results of the subordination of the Central Asian khanates to the Russian Empire (1860-1890s)

Abstract

Since the Russian Federation is currently the regional leader in strengthening Eurasian integration, it is necessary to remove the contradictions regarding the interpretation of the history of the entry of Central Asia[1]into the Russian Empire. At the same time, for the author of the article, an indisputable fact is the fact that it was the Russian Empire that played a decisive role in the transition of the peoples of the Central Asian region, on the territory of which there were three large states - the Bukhara Emirate, the Kokand and Khiva khanates, to a new level of civilizational and state-legal development.

The article touches upon not only the reasons, the nature of the accession of the Central Asian states to the Russian Empire, but also provides a comprehensive analysis of the internal and foreign policy situation in this historical period. The totality of these circumstances makes it possible to answer the following questions: did the Russian Empire in those conditions have an alternative to armed intervention; whether this interference met the national interests of the peoples of Russia and Central Asia; what changes in the form of government took place in the Central Asian states after they lost their political independence.

Elchiev Mikhail Fedorovich, №1 2020

Trends in the development of the prosecutor's activities to remove obstacles to the consideration and resolution of criminal cases in accordance with the Charter of Criminal Procedure of 1864.

Abstract

The article substantiates the relevance of using the historical experience of legal regulation in the modern reform of the prosecutor's activities to eliminate obstacles to the consideration and resolution of criminal cases in order to ensure the adoption of a legal and well-founded decision in the case, which will certainly contribute to the effective solution of the tasks of criminal proceedings. The article examines the issues of the return of criminal cases by the prosecutor for the production of additional investigation at the pre-trial stage of criminal proceedings in the 19th century. The evolution of the goals, objectives and functions of the

institution of the return of cases by the prosecutor for further investigation in the specified period is revealed. The subject of this research is the institution of additional investigation from the standpoint of historical genesis. The author focuses on the analysis of the procedure for returning cases for further investigation by the prosecutor, the grounds for further investigation and ways of correcting the revealed violations. Taking into account the historical experience, the author comes to the conclusion that it is necessary to improve the activities of the prosecutor to remove obstacles, proposals are formulated and substantiated to modernize the legal regulation of the procedure in question, since the return of the case for additional investigation is a backup mechanism for achieving the purpose of criminal proceedings, has a restorative nature of legal rights and interests participants in criminal proceedings, compliance with the legal procedure for criminal proceedings and is important for making a correct decision on the merits. In this way, the purpose of the work is to study the process of formation and functioning of the institution of additional investigation, enshrined in the Charter of criminal proceedings. To achieve this goal, the main general scientific methods were used (the dialectical method of cognition, the method of systems analysis, deduction and induction, methods of comparisons and analogies, and a number of others. The main tasks of the study were solved on the basis of using the comparative legal method. The practical value of the work is that it substantiates the need for legislative unification of legal norms governing the activities of the prosecutor to remove obstacles to the consideration and resolution of criminal cases and to introduce appropriate amendments and additions to regulatory legal acts,

Zainitdinov Nikolay Alexandrovich, No. 1 2020

Indication of nationality in the passport of a citizen of the Russian Federation as a form of exercising the right to nationality

Abstract

Domestic constitutionalists disagreed on the possibility of indicating the nationality of a citizen in a passport. It is believed that today the indication of nationality in the passport is not made, but it turns out that this is not the case.

Declaration of nationality in a hidden form, with the help of a special insert, is possible for citizens living in the republics and who are carriers of the non-Russian state languages of the republics. This state of affairs creates unequal conditions for residents of different types of constituent entities of the Russian Federation and for citizens of different nationalities. The nationality of Russians as the majority is not expressed in the Russian Federation through statehood itself and the institution of citizenship as in foreign countries where nationality is not indicated in the passport. The erroneous position of the Constitutional Court on the inadmissibility of indicating the nationality of a citizen in his passport is substantiated. The conclusion is made about the desirability of returning the indication of nationality in the passport for all citizens with the aim of the fullest realization of the right to nationality in the conditions of the Russian Federation.

Yakovleva Irina Aleksandrovna, No. 1 2020

Amicable agreement in an administrative dispute: problems of theory and trends in law enforcement practice

Abstract. This article analyzes approaches to the issue of concluding an amicable agreement in cases of administrative offenses, substantiates the possibility of concluding an amicable agreement in an administrative dispute. An amicable agreement (agreement on the reconciliation of the parties) performs evidentiary and compromise functions, and in the case of a dispute with the antimonopoly authority, it can be a means of protecting competition by mentioning specific actions in the text, commission or refusalfrom the commission of which is aimed at ensuring competition. The issue of correlation of the settlement agreement with the agreement on the circumstances of the case in relation to the issue of the evidentiary function of the settlement agreement is considered. A tendency is indicated in the expansion of the use of the institution of amicable agreement in order to terminate not only disputes with the antimonopoly authorities, but also cases on challenging the cadastral value, tax disputes, as well as cases that have arisen in connection with a change in the place and (or) time of a public event. It is proposed to use foreign experience in terms of the possibility of concluding an amicable agreement on

administrative cases initiated in connection with violations of the legislation on financial markets and the use of insider information.

Yadrikhinsky Sergey Alexandrovich, №1 2020

The principle of the priority of public interests in the financial activities of the state: finding a compromise

Abstract. The article examines one of the key problems in financial relations - ensuring a balance of private and public interests as constitutionally protected values. Taking into account the modern constitutional axiology (Article 2 of the Constitution of the Russian Federation), the principle of the priority of public interests, which has become stable in the doctrinal environment, is subjected to critical analysis. The author comes to the conclusion that the recognition of the priority of the public interest and its perception as a methodological setting objectively does not contribute to and even hinders the construction of relationships in the "taxpayer - state" system on the principles of open cooperation and trust. The priority of one interest over another does not in any way fit with their balance. Based on the analysis of the practice of constitutional justice, it is concluded that it is necessary to shift value orientations and rethink the previous statist scientific views. An egalitarian approach is substantiated, taking into account both private and public interests as equivalent legal values,

Brit Nikolay Nikolaevich, No. 1 2020

Features and prospects for the development of the institution of paying agents

Abstract

The article is devoted to the analysis of the legal regulation of the institution of payment agents and bank payment agents in Russia, as well as the assessment of the prospects for its development.

In the first part of the article, the author raises and examines the question of the reasons for the existence of various legal regulation of the activities of paying agents and bank paying agents in the Russian Federation. Also, the first part compares the general and distinctive features of these entities, enshrined in legislation and formed by judicial practice, identifies controversial issues that require their solution by modernizing existing legal norms.

In the second part of the article, the author substantiates his view on the prospects for the development of the institution of payment agents and bank payment

agents, as well as on possible ways to improve the Russian legislation regulating their activities. At the end of the article, proposals are presented for changing the existing mechanism of legal regulation of the activities of payment and bank payment agents in the Russian Federation.

Egorova Maria Alexandrovna

Olga Kozhevina, No. 1 2020

Place of cryptocurrency in the system of objects of civil rights

Abstract

The article provides a brief analysis of the place of cryptocurrency in the system of objects of civil rights. Based on the results of the study, the authors conclude that it is incorrect to identify the legal regimes of cryptocurrency and virtual objects. The regulation of the legal properties of the distributed register and the accounting of objects of civil rights in it seems promising. Cryptocurrency is a means of payment that has no independent value, due to this circumstance, the mechanism for fulfilling obligations needs special development.

It is also noted that in the legal regulation of any public relations a significant role is assigned to mechanisms and guarantees for the restoration of violated rights and legitimate interests, in connection with which the regulation of cryptocurrency is inextricably linked with the institution of civil liability. The cryptocurrency combines the features of many civil rights, but does not fully comply with any of them. The classification of cryptocurrency as a different property is possible within the framework of the current legislation, without creating new objects of civil rights with conflicts and disputes regarding their legal regime.

Zykov Sergey Viktorovich, No. 1 2020

Divorce: the relationship between legal and social aspects

Abstract

The article examines the legal institution of divorce in the context of creating conditions for its preservation. It is concluded that it is necessary to adjust the procedure for divorce in order to ensurethe possibility of reconciliation of spouses,

for example, establishing the right of the court to refer them to a specialist carrying out reconciliation (mediator or psychologist), if this procedure is free for them. Considering the importance of family preservation in the presence of minor children, it is necessary to extend the possibility of reconciliation to this case as well. The second direction of changing the law in the field of divorce, already in relation to the grounds, may be the transition to the concept of "divorce-sanction" (including variably). This approach is widely used in foreign legislation, it has long been traditional for domestic law and finds support in legal consciousness. The third direction could be a change in the law enforcement practice regarding the post-divorce upbringing of children, indirectly motivating one of the parties to divorce, despite the fact that such practice does not comply with the law, no social expediency. As a possible option, we can recommend the use of a foreign institution of "joint custody", adapted in our system of law, as determining the place of residence of a child on a parity basis.

Gorodnova Olga Nikolaevna,

Makarushkova Alla Aleksandrovna, No. 1 2020

Problems and Prospects of Legal Regulation of the Status of Persons Assisting in the Administration of Justice in Civil Procedure

Abstract

On the basis of a comparative analysis of the norms of procedural legislation of the Russian Federation, the article examines certain problems and prospects of legal regulation of the status of persons assisting in the administration of justice: expert, specialist, witness, translator, assistant judge, court clerk in relation to civil procedure.

The authors analyze modern approaches to the composition of persons facilitating the administration of justice, considering, along with traditional subjects, such a procedural figure as a judicial representative in civil proceedings, taking into account the latest changes and additions made to the Civil Procedure Code of the Russian Federation, which come into force on September 1, 2019. ...

Based on a comparative analysis of the provisions of arbitration and civil procedural legislation, the authors of the article draw attention to the absence of a separate chapter in the Code of Civil Procedure of the Russian Federation on the legal regulation of the status of participants in civil proceedings, including persons facilitating the administration of justice, which makes it difficult to establish the range of such subjects in practice. In this regard, it is proposed, by analogy with the Arbitration Procedure Code of the Russian Federation, to consolidate the circle of participants in the civil process in a separate chapter, revealing in detail and specifying the legal status in separate articles of the Code of Civil Procedure of the Russian Federation of other participants in the civil process.

In the article, the authors come to the conclusion that the legal representative should be considered as an independent subject of the civil process. Finally, this problematic issue can be resolved only by making appropriate changes and additions to the Code of Civil Procedure of the Russian Federation.

It is noted that, despite the absence of a special instruction in the Code of Civil Procedure of the Russian Federation for other participants in the process, their list is not exhaustive and, in fact, the circle of persons involved in the case is much wider. These persons include bailiffs - executors and attesting witnesses, whose legal status is currently controversial.

Filyushchenko Lyudmila Ivanovna, No. 1 2020

Guarantees of the workers' rights in the course of labor regulation

The issue of guarantees of workers 'rights in labor rationing is of interest, since labor rationing, being a way to increase the efficiency of workers' activities and reducing labor costs, affects their rights and interests. The purpose of this article is to study the legal regulation of relations on labor rationing by analyzing the norms and practice of applying the legislation on labor rationing.The guarantees of the rights of workers are considered, the conclusion is made about the insufficient attention of the legislator to the problems of legal regulation of relations on labor standardization. The processes of labor rationing are negatively affected by the

absence or incompleteness of normative legal acts on rationing, including the absence of a professional standard of the corresponding specialist. Guarantees turn out to be declarations, employers abuse their rights, neglecting the development of labor standards. Gaps in legislation, ambiguity of concepts give rise to ambiguous judicial practice. Generalization of judicial practice and appropriate clarifications could remove controversial issues.Formulated some proposals for improving the legal regulation of labor rationing.

Filatyev Vladislav Alexandrovich, No. 1 2020

Detention Decision as Part of Sentence: The Problem of Determination

Abstract

The article analyzes the provisions of the criminal procedural law that determine the grounds and procedure for applying preventive measures when deciding a sentence. An attempt is made to identify their constitutional and legal meaning. According to the author, the election of the defendant in custody on the sole basis of the need to carry out the sentence with the imposition of a sentence in the form of real imprisonment is unacceptable. The doctrinal concepts of the theory of procedural decisions allow us to conclude that a decision on a measure of restraint cannot be taken simultaneously with a sentence and should not be an integral part of it. Under the conditions of the current legal regulation, from expressing a position on the issue of a preventive measure, if the position of the defendant is aimed at acquittal, the side of the defense in the judicial pleadings and the last word is forced to refuse. The impossibility of an immediate appeal against the decision on detention formulated in the judgment makes it senseless for the defense to appeal against it in principle. The uncertainty of the procedure for sending to the place of serving the sentence of persons sentenced to real imprisonment not in a colony-settlement, in respect of which the court did not choose detention, reveals a gap in the law. The author claims that these and other defects of legal regulation, listed by him in the article, contribute to the existence of an accusatory bias in law enforcement practice, since they predetermine the election of the defendant in custody, and must be eliminated.

Molchanov Nikolay Andreevich,

Matevosova Elena Konstantinovna, №1 2020

Conceptual-Political and Formal-Legal Analysis of the Paris Call for Confidence and Security in Cyberspace and Russian Initiatives in the Field of International Law

Abstract

. The state of international security in the modern world directly depends on the security of cyberspace. The authors of the article investigate cybersecurity initiatives, considering their most significant legal and political aspects. The article contains a scientific and expert assessment of the document adopted on November 12, 2018 - "The Paris Call for Confidence and Security in Cyberspace." Considering that Russia is a leader in initiatives in international formats for discussing cybersecurity issues, the authors of the article refer to the Russian position on a number of key issues within the framework of this issue, pointing out that the proposals of the Russian side, in particular in terms of their regulatory potential, are ahead of many others. international initiatives.

The authors conclude that confidence-building measures between states, in the absence of binding international legal norms, are deprived of an instrumental role in resolving many security problems in a rapidly changing cyberspace. A condition for effective international lawmaking in the field of information security is a dialogue between lawyers, politicians and technical specialists.

Kalinichenko Paul Alekseevich, №1 2020

Application of EU law by Russian courts in the context of selective interaction between Russia and the EU

Abstract

Political relations between Russia and the European Union (EU) have changed significantly since 2014.On the one hand, new political realities make the current situation in relations, even legally, not as cloudless and full of hope as it was 25 years ago when the Agreement on partnership and cooperation between Russia and the EU. On the other hand, bilateral agreements between Russia and the EU continue

to operate and are applied by the Parties in the new conditions of electoral interaction between Russia and the EU.

This article examines the transformation of the foundations of legal regulation of relations between Russia and the EU in the context of new political relations characterized by the formula of “selective interaction”, as well as the continuing Europeanization of Russian judicial practice against this background. The article examines the current bilateral agreements between Russia and the EU, analyzes the Russian jurisprudence related to the application of EU law and the use of the precedents of the EU Court. The article also pays attention to the Europeanization of the practice of the EAEU Court.

Zhukova Sofia Sergeevna, №1 2020

Group crime on Anglo-Saxon criminal law: features of legislative regulation

Abstract

The article is devoted to the comparative legal analysis of the group commission of a crime under the Anglo-Saxon criminal law. The commission of a crime in complicity has an increased public danger and poses a serious threat to each state and society as a whole. Foreign legislators use different approaches to the definition of group crime, taking into account its heterogeneous nature. In the course of the research, the specificity of the legislative regulation of the variations of criminal group formations in the countries of the common law family is considered. A comparative analysis of the legislative regulation of group crime permits to note the positive experience that can be used to improve the domestic criminal legislation regulating the forms of complicity and law enforcement.

The research conducted by the author noted that the criminal legislation of the Anglo-Saxon legal family is characterized by a low level of systematization of legislation and increased attention to the norms (decisions) expressed in the judicial precedent. At the same time, the existing criminal law rules governing the institution of complicity comply with the norms of international law. Some countries of the common law family group form a conspiracy between two or more persons with the aim of committing a crime. Note that this feature is also typical for domestic criminal legislation. In accordance with Art. 32 of the Criminal Code of the Russian Federation, the intentional joint participation of two or more persons in the commission of an intentional crime is recognized as complicity. However,

Elkina Alexandra Vyacheslavovna
Tyuvin Alexey Alekseevich, №1 2020

Legal support for the organization of the work of the prosecutor's office of a closed administrative-territorial entity

Abstract

. The relevance of the topic under consideration lies in the fact that scientific interest in the organization of the work of state bodies that ensure the legality and protection of the rights of citizens is in demand, and the prosecutor's office also play an important role in the implementation of state functions, in addition to this, a situation has recently emerged when the work of the prosecutor's office the principles of their activities and organization are violated. Optimization of the work of the prosecutor's office of a closed administrative-territorial entity (ZATO) is of paramount importance, the level of performance of functions by the prosecutor's office and the results of the work carried out depend on how effectively the work of the department will be optimized. It is possible to optimize the work of the ZATO prosecutor's office with the help of detailed legal regulation of its activities.

Dotsenko Anastasia Sergeevna, No. 1 2020

About the concept of legal education

Abstract

. The article attempts to comprehensively study legal education as a legal category. Modern scientific approaches to the definition of the concept of legal education are considered, a distinction is made and the correlation of the investigated legal phenomenon with related legal categories is determined. The author comes to the unequivocal conclusion that legal education as a legal category has an independent legal value. Based on the analysis of modern scientific legal literature and current legislation, the author has identified the signs of legal education, clarifying and complementing the existing concepts. Today, legal education is an independent direction of state policy. The measures implemented in the system of legal education act as a kind of tool for the formation of legal culture, stimulate the active lawful behavior of individuals. The purpose of legal education is to ensure full legal socialization of a person, and the final expected result is the formation of a high legal culture of society.

Golovko Irina Ivanovna, No. 1 2020

Features of the subject composition of civilians and arbitration procedural legal relations with the participation of the prosecutor

Abstract

In the Soviet period of the development of the science of prosecutorial activity, individual authors substantiated ideas about legal relations with the participation of a prosecutor, which have not been developed in modern science. The active development of the science of prosecutorial activities now necessitates focusing on such categories as the structure and content of legal relations with the participation of the prosecutor, their research and substantiation of the provisions on which their further study could be based. The article presents the results of the study of civil and arbitration procedural legal relations with the participation of the prosecutor in terms of the subject composition. The conclusion about the determination of the prosecutor (but not the prosecutor's office) as one of the subjects of the main civil and arbitration procedural legal relations has been substantiated. The participants of the specified procedural legal relations and their role are determined. As a result of the study, it was concluded that civil and arbitration procedural legal relations with the participation of a prosecutor are bilateral.