Mokhov Alexander Anatolyevich, No. 12 2020

About the Ethics Council under the President of the Russian Federation

Annotation. The article deals with the main problems caused by the development of ethical regulation in various spheres of professional activity. In the author's opinion, the problem of ethical regulation is particularly acute in the field of science and innovation, which requires the development of such a direction as the ethics of high technologies. The development of ethics requires: the development of common approaches to ethical regulation, ethical responsibility, the production of ethical expertise; revision, systematization of ethics legislation; preparation of scientifically based recommendations on ethics; timely response to ethical problems caused by the possible emergence and introduction of high technologies.Due to the scale of the tasks that need to be solved, according to the author, it is necessary to start developing and implementing the Ethical Concept of the Russian Federation. Such work can be carried out by the Ethics Council under the President of the Russian Federation, established by the Decree of the President of the Russian Federation of the same name. According to the author, the possible tasks of the Presidential Council on Ethics that require independent discussion could be: resolving issues related to the resolution of certain ethical conflicts (for example, in the field of high technologies and other areas where ethical standards are only being formed); appealing against the involvement of certain categories of persons to ethical responsibility (the highest ethical authority).

Ivan A. Romaykin, No. 12, 2020

On the two-level system of power of a federal state

Annotation. A two-level system of power is considered in the modern theory of state and law to be an indispensable feature of federal states. The interpretation of this organizational feature of state power depends on how the sovereignty of the federal state, the nature of federal relations, and the federal form of organization itself are interpreted. The purpose of the work is to identify the essential features of the two-level construction of the system of power in the federation, the characteristics of both levels of state power and their relationships with each other. As a result of the study, the concept of two-level construction of state power is clarified, the reasons for this structural feature of the power system are described, and the internal logic of relations between the federal and regional levels of state power is shown in the general context of the federal model of state structure. The study of the peculiarities of the structure of state power in the federation allowed us to look at the essence of federalism "from the inside", from the point of view of

the system – structural organization of the power apparatus. The two-level system of power appears as an internally coordinated way of organizing the state mechanism, each of the levels of which has unique functions and characteristics inherent only to it, which in their interaction reveal the main meaning of the federal structure – the preservation of state integrity.

Budaev Andrey Mikhailovich, No. 12 2020

The President and Local Self-Government in Russia: Theory and practice of interaction

Annotation. More than twenty-five years have passed since the adoption of the current Constitution of Russia, which established the constitutional principles of the exercise of state power and local self-government in the Russian Federation. This period was rich in terms of the formation of the legal framework of socio-political and socio-economic relations in our country. The analysis shows that local self-government is one of the basic characteristics of the Russian model of democracy. On the other hand, in recent years, it is impossible not to note the tendency to increase the efforts of federal authorities and, first of all, the head of state to maximize the involvement of local self-government in a single political and right-wing field of the state. In many respects, this is justified by the need to provide every citizen of the country with equal opportunities for a comfortable and safe life. The paper formulates the author's view on the ongoing changes and at the same time suggests continuing scientific discussions on the development of the institution of a modern civilized democratic state - local self-government-which is so necessary for each of us in our country**.**

Yegor Nikolaevich Doroshenko, No. 12, 2020

Constitutional and legal framework for restricting human rights in connection with the new coronavirus pandemic

Annotation. The article discusses the legal basis for the introduction of restrictive measures to protect the population on the territory of the Russian Federation in connection with the spread of a new coronavirus infection. Following the instructions contained in the decrees of the President of the Russian Federation, the highest officials of the constituent entities of the Russian Federation issued

decisions on the introduction of a high-alert regime and, among other things, established bans on the implementation of certain types of economic activities, the free movement of citizens and vehicles, and holding mass events. Despite the adoption of the relevant amendments, the federal legislation in the field of protection of the population from emergency situations, as well as other federal laws, did not define the conditions, terms and scope of possible restrictions, and therefore the implementation of the constitutional rights of man and citizen was made dependent on the content of the by-laws. The analysis of the content of Articles 55 and 56 of the Constitution of the Russian Federation allows us to formulate the main requirements for the system of restrictive measures to combat the spread of infection, and to identify its existing shortcomings.

Pankova Olga Viktorovna, No. 12 2020

Convention for the Protection of Human Rights and Fundamental Freedoms in the system of sources of legal regulation of the procedure for the administration of justice in cases of administrative offences

Annotation. The article presents the author's vision of the problem of interaction between international and national administrative law and attempts to determine the place of the Convention for the Protection of Human Rights and Fundamental Freedoms in the Russian legal system and administrative and tort legislation of the country. Based on the analysis of various points of view, it is concluded that international treaties ratified by the Russian Federation are integrated into the general body of administrative legislation and become a source of administrative law in the part in which they contain legal provisions defining the administrative and legal status of citizens, as well as guarantees of its implementation, including guarantees of fair justice in cases arising from public legal relations and administrative-tort cases. From this point of view, an assessment of the provisions of art. 1.1 The Administrative Code of the Russian Federation, which defines the place and role of generally recognized principles and norms of international law and international treaties of the Russian Federation in the system of sources of administrative and tort law, among which the author assigns an important place to the Convention on the Protection of Human Rights and Fundamental Freedoms. In the article, the European Convention is considered as an international treaty of the Russian Federation, which regulates not only interstate relations, but also actively invades the regulation of procedural relations of administrative responsibility, since it establishes the general parameters of a fair trial in administrative-tort cases. Some attention is also paid to the implementation of the constitutional principle of international legal norms in the legal system of the Russian Federation in the drafts

of the Administrative Code of the Russian Federation and the Procedural Code of the Russian Federation on Administrative Offenses.

Polyakov Maxim Mikhailovich,

Migachev Yuri Ivanovich, No. 12 2020

Anti-corruption education and propaganda in the field of higher education of the Russian Federation

Annotation. The article analyzes the main legal and theoretical provisions concerning the concept, content and key features of anti-corruption education, as well as anti-corruption propaganda in the field of functioning of educational institutions of higher education in the Russian Federation. The relevance of this article is due to the concentration of state policy on the fight against corruption in all spheres of society, including in the educational sphere. Federal laws, laws of the subjects of the Russian Federation, by-laws on combating corruption are studied. The article describes the experience of Russian educational institutions of higher education in the prevention and prevention of corruption relations. The authors focus on the positive experience of the O. E. Kutafin University in anti-corruption activities. The authors make reasonable conclusions and suggestions on improving the work on combating corruption in educational institutions, which can be used in practice.

Tugushev Raphail Izmailovich, No. 12 2020

Financing of national projects in the Russian Federation

Annotation. The article deals with the issues of defining the concepts of national projects, financing, on the basis of the analysis of domestic and foreign literature, the author's definitions are given. National projects are considered as relatively new tools of program-oriented management. The article describes the current system of financing national projects and some current trends in its development. The correlation of the concepts of "financing", "lending", and "investing"is shown. It is concluded that it is necessary to use these economic and legal institutions in a comprehensive manner when financing national projects. The article substantiates the socially useful effect of national projects, which should be higher than the costs of their implementation. Differentiated approaches to the financing of individual national projects by sources of financial resources are shown. The structure of the

sources of financing is analyzed, the principal bases of the relevant activities are identified, and the degree of reliability and stability of the main ones is demonstrated. Some mechanisms of ensuring flexibility and mobility of financing of national projects are shown.

Mazovka Ekaterina Nikolaevna, No. 12 2020

Recognition of debt obligations by common obligations of spouses: analysis of judicial practice

Annotation. The article is devoted to issues related to the recognition of a debt obligation issued in the name of one of the spouses during the marriage as a common obligation of the spouses. It is based on the materials of the generalized judicial practice, which testifies to the heterogeneity of the application of paragraph 2 of Article 45 of the Family Code of the Russian Federation (hereinafter referred to as the IC of the Russian Federation). The author critically analyzes the approaches developed by judicial practice when deciding on the recognition of debt as joint, in particular, the acquisition of common property of spouses at the expense of credit (borrowed) funds is considered as one of such approaches. The disadvantages of the courts ' extension of the presumption of community of property to debt obligations are argued. It is justified that the courts should take into account the evidence of obtaining the consent of the spouse and evidence of spending credit (borrowed) funds for the needs of the family. It is concluded that it is necessary to form legal mechanisms that promote the uniform application of paragraph 2 of Article 45 of the RF IC.

Elena E. Uksusova, No. 12, 2020

Appeal to the court as a defining procedural act for the administration of justice and protection of rights in civil cases (beginning)

Annotation. In the work, the author, realizing the focus of the research on the specialization of civil procedure law in the Russian legal system as a manifest pattern of its development, based on the inevitable dualism and interaction of substantive and procedural law, interprets, taking into account the Russian legislative reforms in recent decades, its current state on the example of certain main procedural and legal institutions, among them-the institute of the right to appeal to the court, the institute for the protection of the rights and interests of other persons, the institute of jurisdiction, etc. The author's use of well-known and

proposed legal structures, categories and concepts, in their author's association and (or) reading, makes it urgent for research in order to understand and comprehend the key conditionality of the specialization of civil procedure law in the Russian legal system as ensuring the implementation of justice and protection of rights in civil cases in their widely established understanding, when the right to judicial protection in the system of constitutional rights and freedoms is a guarantee of all of them.This publication is the first in a series of works (three) by the author, devoted to the problem of the right to appeal to the court as the most important issue of dualism and interaction of substantive and civil procedural law.

Lutkova Oksana Viktorovna, No. 12 2020

Regulation of cross-border copyright relations, the object of which are works with a lost copyright holder (orphan works)

Annotation. The options for regulating the admission of third parties to the use of orphan works that exist today in some states are not unified and tend to the legal presuppositions of opt-in (the copyright holder does not agree by default) or opt-out (the copyright holder agrees by default). At the same time, there are certain general directions for the development of regulation for states, concerning such issues as the key understanding of the "orphan" work, the preliminary search for the rightholder, providing the rightholder with the opportunity to restore their rights and receive compensation for the use of the work within a certain period of time, limiting compensation for the use of the "orphan" work.In some States, there are also trends in the development of regulation of access to orphan works for cross-border relations.: creation of joint storage banks and cooperation of such banks (EU); recognition of the status of an "orphan" work established in one state by other (contracting) States (EU); acceptance (in the established case) by national courts of the supporting documents issued in a foreign jurisdiction on the search for the copyright holder as evidence of the" orphanhood " of the work (USA); establishing a conflict of laws regulation for finding the applicable law to the relationship with works restored in copyright protection (USA).Due to the fact that the activities of States to regulate access to works with an unknown copyright holder contradict the concept of exclusivity of copyright and the imperative duration of their validity, the creation of a legal regime for the protection of "orphan" works should be initiated at the convention (unifying) level.

Tsypkina Irina Sergeevna, No. 12 2020

The legality of the dismissal of employees with an irregular working day for the appearance of an employee at work in a state of alcoholic narcotic or other toxic intoxication

Annotation. This article analyzes the issues related to irregular working hours that arise due to the lack of proper legal regulation of this legal category. At the same time, attention is focused on the fact that the labor function of the employee is the main and determining factor for the inclusion in the employee's employment contract of the condition on an irregular working day, since its establishment is due to the labor function that the employee performs, since it is not always possible to perform it within the normal working time.In addition, the work pays attention to the problem of the permissibility of establishing an irregular working day for pregnant women and persons for whom a reduced working time is established, and it is concluded that the extension of the norm concerning the possibility of drawing a parallel between the restrictions provided for in Article 99 of the Labor Code of the Russian Federation and Article 101 of the Code currently has no legal justification. In this connection, an attempt is being made to find ways to solve this problem.The publication also identifies controversial and ambiguously resolved issues in law enforcement activities that arise in the resolution of labor disputes related to the termination of an employment contract with an employee who is at work in a state of alcoholic, narcotic and other toxic intoxication outside the established working hours. For the purpose of uniform application of the current legislation, it should be assumed that for employees with irregular working hours, all time spent at work is considered working.

Matveev Sergey Vladimirovich,

Kulakov Pavel Vyacheslavovich, No. 12 2020

Theoretical and practical problems of supervision of a minor suspect accused in Russian Criminal proceedings

Annotation. The article examines the main theoretical and practical problems that arise when choosing such a special measure of restraint in relation to a minor suspect or accused-as supervision. The authors emphasize that due to legislative gaps and the lack of a clear algorithm of actions when choosing this preventive measure, it is rarely used in practice. The article deals with the topic of participation of adults in the supervision of a minor suspect or accused. In particular, the authors conclude that it is impossible for the guardian to participate in these criminal procedural relations. The study and analysis of the scientific literature made it possible to develop criteria by which it can be determined

whether it is possible to allow an adult person to take care of a minor suspect or accused. It is stated that in order to increase the number of elective supervision of minor suspects accused before other preventive measures, it is necessary to finalize the provisions of the criminal procedure law and the recommendations given in the decisions of the Plenum of the Supreme Court of the Russian Federation, including using the norms of foreign legislation.

Perova Elena Aleksandrovna, No. 12 2020

One-sidedness and incompleteness of the investigation of the circumstances of the case in the adversarial criminal process

Annotation. Article 389.15 of the Criminal Procedure Code of the Russian Federation contains a closed list of grounds for revoking or changing sentences. The law does not list the one-sidedness and incompleteness of the investigation of the actual circumstances of the criminal case as one of such grounds. A violation committed in the course of criminal proceedings related to a unilateral or incomplete investigation of the actual circumstances of the case can affect the justice of the sentence. This conclusion follows from the analysis of the judicial practice formed after the 2013 reform. One of the goals of this reform was to obtain a "final verdict"at the end of the appeal proceedings. Despite this, during the implementation of the reform, Article 389.15 of the Criminal Procedure Code of the Russian Federation, which establishes the list of grounds for canceling or changing sentences, was not brought into line with the objectives of the reform. The incorrect investigation by the court of the actual circumstances of the criminal case is not listed in the law as such a basis, despite the numerous detection of this violation by the courts of verification instances.

Usova Galina Mikhailovna,

Malykhin Igor Valentinovich, No. 12 2020

Forensic methods used in the investigation of contraband committed on railway transport

Annotation. The article discusses the forensic tools and methods used in the investigation of contraband committed on railway transport. The role of forensic tools and methods in the investigation of contraband committed on railway transport is quite high, since they allow you to timely identify and stop the

commission of the crime in question, identify those responsible for its commission and prevent the spread of narcotic drugs, psychotropic substances or their precursors on the territory of our country. The article also discusses the features of the use of special methods of criminalistics in the investigation of contraband committed on railway transport. One of the main objects of smuggling today are narcotic drugs, psychotropic substances or their precursors or analogues, plants containing narcotic drugs, psychotropic substances or their precursors, or their parts containing narcotic drugs, psychotropic substances or their precursors, tools or equipment under special control and used for the manufacture of narcotic drugs or psychotropic substances, while criminal liability for this crime is provided for in Article 229.1 of the Criminal Code of the Russian Federation.

Yartykh Igor Semenovich, No. 12 2020

Forms of intra-corporate mutual assistance in the legal profession, history and modernity

Annotation. The author emphasizes that interpersonal solidarity implies the possibility of overcoming various crisis phenomena using the potential of collectivism inherent in free associations. On the basis of this, it is concluded that the need for the existence of the bar is due not so much to the law, but to the very nature of man as a social being. The bar as a public institution has two goals: to provide a public function to protect the rights and freedoms of the suffering in the administration of justice by the state and to ensure the existence of the estate through the implementation of the principle of corporatism, enshrined in the Law. The principle of corporatism presupposes: organizational unity, corporate solidarity and mutual assistance. In this regard, the article examines the issue of the history of the emergence of internal corporate institutions of lawyer solidarity on the example of the "organization of mutual assistance cash registers" of the St. Petersburg and Moscow councils of sworn attorneys, and also analyzes the current Russian legislation for the presence of organizational forms that can be used as the basis for the organization of modern institutions of mutual assistance of lawyers.

Vladimir Kirillovich Levsky, No. 12, 2020

Institute of Participation of the Prosecutor in administrative cases in the courts: from the Imperial period to the present

***Annotation*.** The article describes the main historical periods of the development of the institution of participation of the prosecutor in administrative cases in the courts. From the historical analysis of the powers of the prosecutor, the author concludes that administrative proceedings, in which the prosecutor took an active part, have always existed, but took different forms. The analysis of the legislation and opinions of scientists of the period of the Russian Empire in comparison with modern legislation and legal concepts allows us to highlight the best of the past and move it to the modern legal field. The powers of the prosecutor in administrative proceedings currently include the provisions of the legislation of the Russian Empire and the Soviet period, but require additional reflection taking into account historical experience. As a result, the author comes to the conclusion that without taking into account the historical past in terms of the institution of participation of the prosecutor in administrative cases in the courts, it is currently impossible to develop and improve the powers of prosecutors in administrative courts.

Alexander F. Smirnov, No. 12, 2020

Uncertainty of wording in the Federal Law " On the Prosecutor's Office of the Russian Federation»

Annotation. The article is devoted to the study of issues arising from the application in the organization and activity of the prosecutor's office of the norms of the Federal Law of 17.01.1992 No. 2202-1 "On the Prosecutor's Office of the Russian Federation", which are characterized by their uncertainty and inconsistency. The article analyzes the situations in which the existing methods of interpretation of legal norms do not allow to find the right solution in the implementation of the functions of the prosecutor's office. The study notes the inconsistency of certain provisions of the Federal Law with the constitutional framework for regulating the organization and activities of the prosecutor's Office. Attention is drawn to the unjustified expansion of the limits of departmental legal regulation of the organization of prosecutor's supervision. The norms of the law regulating the powers of prosecutors , the objects of prosecutor's supervision and the function of the Prosecutor's Office to initiate cases of administrative offenses and administrative investigations are critically analyzed.Based on the results of the study, the author comes to the conclusion that it is necessary to significantly change and supplement the current law.

Galperin Mikhail Lvovich, No. 12 2020

Constitutional amendments and interpretative issues in national and international justice

Annotation. The article examines the changes made to the Constitution of the Russian Federation through the prism of the actual problem of interpretation of the norms of law by international and national courts, since approaches to the interpretation of any legal text are of fundamental importance. Questions of interpretation have long ceased to be of a technical nature. Different approaches to interpretation determine what is meant by democracy and democracy, what is the relationship between law and politics, and what is the country's place in the international coordinate system. Special attention is paid to the term and the problem of "interpretation" - one of the novelties of the Russian Constitution. The author turns to the question of what is meant by "interpretation contrary to the Constitution"? It is the different understanding of the same rules by the courts, the use of different approaches to the interpretation of legal texts that can lead to conflicts and even conflicts of jurisdiction, leading to serious consequences. The article critically assesses the application of the so-called evolutionary, expansive interpretation of the European Court of Human Rights, which encourages States to develop mechanisms of protection in national legal systems against arbitrary decisions of the International Court of Justice. In addition to the evolutionary approach, the article considers other modern approaches to interpretation: consequentalism, textualism, and originalism. The problems of interpretation are considered on the basis of the analysis of the practice of the European Court of Human Rights, the Court of Justice of the European Union, American and European legal doctrine.

Khamidullin Marat Talgatovich, No. 12 2020

The legal nature of the technological connection agreement: a new look at the problem

Annotation. This article is a continuation of the existing discussion in the legal literature about the legal nature of the contract on connection (technological

connection) to the networks of engineering and technical support. The author presents various views on the legal nature of the connection agreement, which are currently found in the doctrine and judicial practice. To reveal the essence of the contract under consideration, the author refers to the category of "capacity" – a concept used in the legislation to denote binding legal relations to endow the consumer with the right to demand that the energy supply organization maintain power equipment in a state of constant readiness for the production and transmission of energy. In the course of the study of the legal nature of power, it is concluded that power is not an object of civil legal relations. Such an object may include the right of claim arising from the specified obligation. The transfer of this right of claim to the consumer is made by the energy supply organization as a result of technological connection. Based on this, the author comes to the conclusion that, by its legal nature, the technological connection contract is a contract for the provision of paid services.

Savoskin Alexander Vladimirovich, No. 12 2020

Review of the monograph by S. S. Burynin, S. V. Valov, Yu. A. Tsvetkov, T. V. Cheremisina "Reception of citizens and consideration of appeals in investigative bodies" / edited by A. M. Bagmet. (Moscow: Moscow Academy of the IC of Russia, 2020 — - 532 p.)

***Annotation*.** The article presents a detailed analysis of the book "Reception of citizens and consideration of appeals in investigative bodies". The book focuses on such issues as: the interpretation of the term "citizen's appeal", the system of legislation on citizens 'appeals, the system of citizens' appeals and the system of their consideration. Special attention is paid to: the right of the heads of the Investigative Committee of the Russian Federation, the Ministry of Internal Affairs of the Russian Federation and the FSB of the Russian Federation to regulate issues related to citizens 'appeals; the differentiation of citizens' appeals based on the basic interest of the applicant; the functional subsystem for considering citizens ' appeals; the passage of time when considering citizens ' appeals; the termination of

correspondence (including the priority of the legal fact of receipt of the appeal to the final addressee, and not the legal fact of sending the appeal); the rules for organizing personal reception (including psychological recommendations) and the analysis of judicial practice. They criticize: the author's definition of the category "citizen's appeal"; the attribution of the right to appeal to the number of political ones; the attribution of requests from authorities and their officials to the number of appeals; the redundancy of the approach to responding to electronic appeals. It is proposed to continue the study in terms of: establishing the concept and characteristics of an organization that performs public functions (as an addressee of citizens ' appeals); improving the departmental procedure for registering appeals and reports on crimes; improving the legislation on electronic and collective appeals.