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Maleva Ellina Mikhailovna

Creating a forensic examination in Russia: military regulations (1716)

Abstract

One of the legal innovations of the reign of Peter the Great is the creation of forensic medicine in the form of legislative regulation of the anatomy of a dead body before burial to establish the cause of death. The final conclusion is made that this document is a monument of law. The task of a retrospective review of the complex of causes and conditions that led to the establishment of the Institute of Forensic Medicine at the beginning of the XVIII century in Russia has been solved. The method of formal legal analysis of the first Russian legislative act on forensic medical examination was used. It is concluded that this monument of law has a general cultural significance, as a result of a long tradition of the development of medicine and law in Russia. The legal norms related to the establishment of the institute of forensic medical examination in the Russian state, contained in the texts of the monuments of the law of the feudal period: The Contract ("Pravda"), were used as research materials Smolensk with Riga and the Gothic coast, the Charter of Tsar Boris Fedorovich to the Patriarchal Throne, a hundred and a number of normative legal acts of the era of Peter I, including the Military Charter. It is established that the Russian society of the beginning of the XVIII century was objectively ready to create a forensic medical examination in the form of an institute of examination and autopsy of a dead body to find out the causes of death. The conditions in which the monument of law was created were revealed. It is concluded that Peter's reforms were in many ways ahead of their time, as a result of which a legislative act was created that reflected the advanced trends in the development of law.

Keywords

monument of law, forensic medicine, legislation on the anatomy of a dead body

Shabaeva Olga Alexandrovna

Legal custom: theoretical and informational-legal aspects

Abstract

Separate approaches to understanding legal custom are considered. The problem of the conceptual apparatus of this sphere is noted. The concept of legal custom is defined, which is understood as a rule of conduct that has developed as a result of the actual application for a long time, recognized by the state as generally binding. There is a direct link between legal custom, society and the state. It is concluded that with the emergence and development of legislation, the legal custom has not lost its relevance and significance. It is noted that the legal custom in the system of Russian law is reflected in the areas of civil, family, commercial, land, municipal law. It is noted that the legal custom does not cease to lose importance over time, its application can be discussed both at the early stages of the development of society and in modern Russian legislation. In addition, the custom is still preserved in the regulatory legal acts of the Russian Federation and has a significant impact on the law enforcement activities of participants in civil turnover. It is concluded that in the conditions of intensive informatization there is a metamorphosis of the sphere of legal regulation, the system of sources of law. Information technologies affect the sphere of legal regulation, which includes public relations that did not exist before or do not require regulation. It is summarized that the legal custom occupies a certain niche among the sources of Russian law and is valid in law enforcement practice.

Keywords

custom, legal custom, sanctioned custom, legal regulation, information space, informatization

Didik Alexander Alexandrovich, Yurkovskiy Alexey Vladimirovich

To the question of the preventive potential of bringing persons with special status to responsibility

Abstract

An important problem of the mechanism of legal regulation, its individual elements, in particular social, not regulated by law and legal relations, is being investigated. The preventive potential of bringing to responsibility persons with a special status, based on the procedure for bringing to administrative responsibility, is considered. The presence of gaps and shortcomings of legal regulation is established. The implementation of the principle of equality of participants in legal relations is not fully consistently ensured in administrative legislation. The publication shows the shortcomings of the legal regulation of the legal institution of bringing to administrative responsibility persons with a special legal status. It states the need to improve legal regulation on the basis of legal monitoring of the current legislation and law enforcement practice. As part of the improvement of the current mechanism of legal regulation, a proposal is made on the need to systematize the norms of the current legislation governing the institution of bringing to administrative responsibility persons with a special legal status in order to eliminate contradictions and fill existing gaps. It is argued that the main drawback of the lack of systematization by the nom of the legal institution of bringing persons with a special status to legal responsibility is the fact that there are no legal grounds for holding a person criminally liable for the repeated commission of similar administrative offenses in the current

legislation. This circumstance, according to objectively emerging prerequisites, significantly reduces the preventive potential of bringing persons with a special status to legal liability
Keywords
administrative responsibility, administrative offense, criminal liability, administrative punishment, disciplinary offence, state functions, officials, persons with a special status, immunity, special legal regime, service check, preventive potential

Praskova Svetlana Vasilyevna

The powers of the public prosecutor to make persons holding elective posts in the municipal authorities responsible for corruption delicts. Part 2

Abstract
Based on the analysis of the legislative acts in force and the jurisprudence, the article concludes that in spite of many tries to contest the competence of the public prosecutors in concerned legal relations, at present the public prosecutors control the implementation of the anti-corruption legislation by the persons holding elective posts in municipal authorities, acting in the frame of prosecutors' supervision over legislation implementation or over observance of the rights and freedoms of a person. The paper notes that public prosecutors carry out inspections of the specific persons holding elective posts in municipal authorities ("selective" inspections) as well as all persons holding elective posts in municipal authorities ("solid" inspections). The author recommends that carrying out of the "solid" inspections should be restricted to a specific grounds. On examining the procedure the public prosecutor to contest a refuse of the representative body to make answer for the corruption status delict, the author discovers a conceptual problem: if a court recognizes illegal the representative body decision to refuse of early termination of powers, such a fact is not a ground to early terminate powers of the involved person. Therefore public prosecutors claim to oblige the representative body to decide to early terminate powers of the person or to re-examine the question. The observed jurisprudence shows that the satisfaction of the above claim does not guarantee the restoration of the legality, because there is no legal nor factual mechanism to compel the representative body to make a certain decision. In view of that, public prosecutors started to claim a court decision to early terminate of powers of persons holding elective posts in municipal authorities. The findings have allowed to elaborate recommendations for law-making authorities to state in details the involvement of the public prosecutors in the field: to regulate in details their powers and the forms of its implementation or to provide a mechanism to make persons holding elective posts in municipal authorities responsible for corruption delicts with no public prosecutor participation
Keywords
elective posts in municipal authorities, early termination of powers, loss of confidence, corruption delict, powers of public prosecutor

Smirnova Ksenia Vasilyevna

Certain issues of qualifying petty theft committed repeatedly (article 7.27 of the Code of Administrative offenses of the Russian federation and article 158.1 of the Criminal Code of the Russian Federation)

Abstract
Based on a comprehensive analysis of the norms provided for by Art. 7.27 of the Code of Administrative Offenses of the Russian Federation and Art. 158.1 of the Criminal Code of the Russian Federation, it was concluded that the legal regulation of liability for petty theft contains a number of fundamental theoretical errors. In particular, it is noted that the legislator, in the interests of preventing crimes against property, ignores the social danger of acts. It is concluded that the basis of criminal liability, contrary to the requirements of Part 1 of Art. 1 of the Criminal Code of the Russian Federation is specified in the Code of Administrative Offenses of the Russian Federation. Objective signs of petty theft are subjected to a detailed analysis. Measures are proposed to optimize the legal regulation of liability for petty theft committed repeatedly.
Keywords
petty theft, administrative prejudice, repetition, criminal liability

Khaitov Grigoriy Aleksandrovich

Certain issues of expenditure obligations in the Russian federation: legal aspects

Abstract
The definition of the concept of "budget expenditures" fixed in the Russian legislation does not allow to accurately establish its essence and important features. A deeper understanding of the budget expenditures has both theoretical and practical importance. The article treats "expenditure obligation" as one of the essential elements of the activities of government bodies related to budget expenditures, which characterizes the basis of budget expenditures. The emphasis in the study is made on the consideration of laws and other regulatory legal acts as the basis of expenditure obligations, because Budget Code of the Russian Federation does not make possible to determine what clauses a law or other regulatory legal act should provide in order to create a new expenditure obligation. The article presents the examples of such a

difficulty raised by insufficient legal regulation. In particular, there are issues in adoption of laws or other regulatory acts which provide for the budget expenditures taking proper account of the delimitation of powers between the Russian Federation, the subjects of the Russian Federation and municipalities. Issues of budget expenditures aimed to fund the powers transferred from another authority are also illustrated. Based on the results of the study, the article proposes a discussion on the requirements the laws and other regulatory legal acts providing for budget expenditures should meet. The author also suggests to discuss the necessity to legalize the de facto provisions for budget expenditures in regulatory legal acts of a higher level.
Keywords
budget law, budget legislation, budget relations; budget expenditures, expenditure obligations

Khertuev Roman Yurievich

Participation of municipal council in the formation of the local administration

Abstract
The article deals with the formation of local administration with the participation of the municipal council. In the Russian Federation, a controversial practice has developed, when in some municipalities, the charters of which were not challenged in the prescribed manner in court, the representative body agrees on the appointment of certain officials of the local administration, and in other municipalities, the provisions of the charters of which were declared invalid by the court, - such agreement is prohibited. Taking into account the special significance of the range of regulated public relations, I believe that the issues of forming a local administration with the participation of a representative body must be regulated centrally - at the level of federal law, in order to ensure a uniform procedure for the formation of local administrations throughout the state. The problem of municipal positions in empowering the local administration is raised, a proposal is formulated to improve legislation. The paper proposes the introduction of municipal positions into the structure of the local administration, the replacement and termination of which would be carried out with the participation of a representative body. Such an approach would make it possible, without reforming the legislation on the municipal service, to replace the most significant positions of the municipal service in the structure of the local administration with similar municipal positions, providing for the institutions of approval for the position and expression of no confidence on the part of the representative body. Such a model would allow consolidating the positions of the local administration and the representative body in resolving the most significant issues of the municipal economy. At the same time, the appearance of municipal positions in the structure of local administration would look harmonious in those municipalities in which the head of the municipality is appointed to the post by a representative body.
Keywords
local administration, municipal council, municipal positions, vote of no confidence

Bezik Nina Vadimovna , Senotrusova Evgenia Mikhailovna

Legal status of the consumer in the sphere of solid waste management

Abstract
The concept and legal status of the consumer in the sphere of solid waste management is investigated. It is underlined that both parties of a solid waste management contract should conclude this agreement which has got features of planned contracts. The issues of harmonization of individual terms of the contract, the possibility to exempt the consumer from paying the fee under the contract in case of non-use of the premises by the consumer are considered. The legal consequences of the provision of services by a regional operator of inadequate quality and (or) with unacceptable interruptions are determined. Some proposals to improve the current legislation have been developed.
Keywords
solid waste, regional operator, consumer, solid waste management

Klimovich Alexander Vladimirovich

Instruments for the protection of the interests of creditors of russian business companies. Part 1

Abstract
It has been established that in addition to the general methods of protection of subjective civil rights and methods of protection of creditor’s rights provided for by the general provisions on obligations, Russian civil legislation offers to use special tools for the protection of interests of creditors of business companies in a number of standard situations for a legal entity. The first part of the article deals with the application of various remedies, in particular, at the stage of creation of a business company and formation of its property; on obligations arising in the course of execution by the company in the course of current activities of the instructions of the parent company; when a business company reduces its authorized capital. The specifics of protection of interests of creditors, which are the owners of emission securities of the company (which are not its participants), have been disclosed in detail. Some problems of practical application of these means of protection are revealed.
Keywords
society, guarantees of creditors of economic society, reduction of share capital, reorganization

Luzyanin Taras Yuryevich

Classification of transactions in labor law

Abstract

Transactions are considered as grounds for the emergence of rights and obligations (primarily in civil law). The problem of classification of transactions has not found a comprehensive solution in modern labor law. Modern legal science needs to analyze various classifications of transactions in labor law from theoretical and practical positions. Various classifications of transactions in labor law are analyzed on such grounds as the conditions for their commission, the need for registration, the number of expressions of will, the obligation to commit, the order of formalization of their conditions, functions in the mechanism of individual regulation, the time sequence of their commission relative to the main legal relationship. It is shown that the conditions for making labor and civil law transactions are different, since the former, unlike the latter, are legal facts that affect the content, determination and legal force of the main transaction that arose before the moment of its commission and therefore do not have a probable and accidental character for the parties. It is noted that it is possible to legislate the rules on the implementation by the employer of certain rights under registered labor transactions only after his application for registration and the necessary documents to the appropriate authority. The conclusion is made about the expediency of singling out not only auxiliary, but also basic among unilateral labor transactions. It is determined that the main difficulties of challenging the content of standard transactions consist in the need for a preliminary assessment of the legal force of the acts that approved the specified form. The conclusion is made about the need for further comprehensive research on the classification of transactions.

Keywords

transactions in labor law, labor contract, labor law, unilateral transactions, terms of transactions, labor contracts

Mayorova Larisa Alexandrovna

Liability clauses in civil law

Abstract

Civil liability is based on principles. They define the conditions and scope of liability. These are the rule of full compensation for damages, the principle of liability for fault, the presumption of guilt, etc. The possibility of exclusion or limitation of liability clauses and other conditions on the modification of liability are reviewed. The legal prohibitions and limits of contractual freedom to modify liability for breach of contract are analysed. Liability can be limited to an exceptional penalty or only one form of damages, such as actual damages. It is permissible to limit the damages, e.g. to a maximum amount of penalties, a percentage of the debt or a fixed amount; liability only if there is a certain form of fault, etc. Commercial parties may agree on liability for fault or limit it to a “force majeure” clause. It sets out the cases of breach of contract in which the debtor is not liable. There is no legal basis for the prohibition of absolute liability, including for force majeure. Liability for wilful breach of contract cannot be excluded. Liability cannot be excluded if it contradicts the essence of the statutory regulation, e.g. the liability of a professional security guard, carrier or freight forwarder. The liability of a debtor under a contract of adhesion or other contract where the creditor is a citizen-consumer cannot be preliminarily limited. Explored the possibility of a contractual change from the presumption of guilt to the presumption of innocence of the debtor. The dual procedural and substantive nature of the presumption of guilt was found. Procedural rules are rules of public law and cannot be the subject of agreement.

Keywords

civil liability, liability clause, clause excluding liability, clause limiting liability

Rovniy Valeriy Vladimirovich

About the state registration of a contract and contract’s consequence

Abstract

The article is dedicated to the wide circle of questions, connected with the state registration procedure foreseen for a number of contracts by the law. The registration objects’ pluralism and registrating bodies’ diversity are pointed to. The rule of p. 3 art. 433 Civil Code of the Russian Federation, a plenty of changes in the civil legislation in the connection with the registrating procedure in a contracts are comprehended. Particular attention is made to the consequences of registrating demand’s infringement for different registrating objects (obligatory and disposal contracts, contract’s consequences). Regulations of contemporary law, various it’s changings during the last years, existing mistakes and demerits are under analyzing. Author’s point of view to the comprehension and using the rule of p. 3 art. 433 CC RF and some other rules is formulated. A number of conclusions (for example, about the separate effect of the p. 3 art. 433 CC RF’s rule for contract’s participants and for third persons, about the fiction of contract’s registration for it’s participants) is made and argued. Made conclusions are scrutinizing on the examples of various contracts, in which the registrating procedure is used. They are obligatory contracts (selling immovable property and business, leasing immovable property, building, construction, business) and disposal ones (mortgage, cession, novation of a debt, transference an immovable property object in the confidential managing property contract, giving a right in the commercial concession and licence contracts). Besides the Civil Code’s regulations special legislation touching upon questions of rights and bargains’ registration is used.

Keywords
contract, act of registration, registrating object, registrating body, registration of a contract, registration of a contract's consequences, consequences of registration's absence

Barabash Andrey Sergeevich , Repetskaya Anna Leonidovna

Criminal bankruptcy: comparative analysis and problems of legislative regulation in Russian legislation

Abstract
The article presents a comparative analysis of the regulation of liability for criminal bankruptcy under the laws of the Russian Federation and countries such as the USA, Germany, Spain, France, Great Britain, Australia. At the same time, not only the current criminal legislation regulating liability for committing crimes in the field of bankruptcy was considered, but also other laws that carry out its legal regulation. Since the registration of crimes related to criminal bankruptcy in the Russian Federation is declining, they are poorly disclosed, and law enforcement practice often considers the actions of suspects as normal relations of economic entities regulated by the Federal Law "On Insolvency (Bankruptcy)" and the Civil Code of the Russian Federation, there are significant difficulties in attracting such persons to criminal liability. In this regard, solving similar problems in the legislation of other countries, identifying the most appropriate and effective ways of government response to criminal bankruptcies was the goal of this study. A comparative analysis of foreign and Russian legislation has shown that in other countries, when regulating liability for various types of criminal bankruptcy, other types of liability are more often used. As a result, it was concluded that criminal law does not always play a decisive role in counteracting criminal bankruptcy, which should be taken into account when improving Russian legislation in this area. This means that countering these economic crimes can be no less effective without the use of criminal repression, but at the same time, the level of inevitability of responsibility can be higher due to the use of other types of it.

Keywords
criminal bankruptcy, comparative analysis, criminal law, economic crimes

Georgievskiy Eduard Viktorovich , Kravtsov Roman Vladimirovich

Development of the regulation of intermediate injury in the criminal legislation of some foreign countries

Abstract
The paper attempts a comprehensive analysis of the most significant and well-known acts of some foreign countries containing norms of a criminal law nature relating to provisions on mediocre infliction and the institution of incitement, which is very similar in meaning. The analysis chronologically includes the period from ancient times and the early Middle Ages to modern times. The basic conclusions confirm the fact that criminal liability for mediocre infliction from a social and legal point of view was heterogeneous - from an aggravating circumstance to mitigating repression due to the "non-independence" of the role of the person involved.

Keywords
mediocre infliction, instigator, Arthashastra, French Penal Code, Bavarian Penal Code

Ostrovskikh Zhanna Vladimirovna , Khokhlova Olga Mikhailovna , Rozhkova Anna Konstantinovna

Information security in the national security system of modern Russia during the pandemic COVID-19

Abstract
The authors study information security as one of the important components of the national security system of modern Russia, and which, as shown by the COVID-19 pandemic, has a high social significance and a priority need to protect information resources at various levels, including national. The analysis of the intensively developing legislation in the field of information technology and information protection, and the heterogeneous practice of its application, made it possible to identify discrepancies, and, as a result, to identify the need for unification of approaches. The priority directions of the development of the information society in modern Russia, the concept of information security, types and methods of implementing threats to information security are considered, and some ways of protecting information resources are proposed.

Keywords
information, information security, national security, mass media, national security system, pandemic COVID-19

Schetinina Natalya Valeryevna

Age characteristics of the crime victim: some issues of criminal law regulations and interpretations

Abstract
It is stated that in certain norms of the Special Part of the Criminal Code of the Russian Federation, the minor and (or) the minor victim age has criminal legal significance. This attribute, by its legal significance, is

either mandatory or affects the deed qualification within the relevant article of the Special Part of the Criminal Code of the Russian Federation. It is revealed that the design features of some norms predetermine the need to consider the victim age in conjunction with his other properties. The article examines the features of the criminal law regulation and interpretation of this feature in relation to crimes against life and health, as well as crimes that infringe on the interests of the family and minors. It is established that along with the victim age, in certain articles of Chapter 16 of the Criminal Code of the Russian Federation, it is necessary to identify his helplessness, which is due to the construction peculiarities of the relevant criminal law norms. In Article 151.2 of the Criminal Code of the Russian Federation, in addition to the age criterion, it is necessary to determine the mental attitude of a minor to the actions he commits and their consequences. The conclusion is made relative to the fact that a prerequisite for criminal liability is not only the victim ability to understand the actual nature and significance of the actions in which he is involved, but also an actively negative attitude to possible consequences. Criteria for distinguishing related norms of the Criminal Code of the Russian Federationhave been developed, considering the properties of the composition analyzed feature.
Keywords
victim, minor, juvenile, helpless state, qualification, murder, involvement, danger to life

Staritsyn Alexey Yuryevich

The court decision of simplified proceedings

Abstract
The article highlights the peculiarity of the rules for making a decision by the court according to the rules on simplified proceedings, notes the incompleteness in this regard, begun in 2016, of the reform of the civil procedure legislation, which negatively affects the application of the procedure under consideration. In the research, the author focuses on the court decision made as a result of the consideration of a civil case in a truncated form in connection with the likely consequences of its cancellation. Research results. Arguments are given for the need for legislative consolidation of the preparation of a decision in full, including the reasoning part, as a general mandatory rule of a simplified procedure. The article substantiates the motivation as an integral and inextricably linked with other procedural institutions property of a court decision. A critical assessment of the grounds for preparing a reasoned decision is given. The law-making activity of the Supreme Court of the Russian Federation is noted, which negatively affects the stability of the state system. The conclusion is formulated that the approach to the preparation of a reasoned judicial act does not correspond to the established goals of improving legislation, the essence of simplified procedures. There is an indissoluble connection between the rules of consideration of the case in a simplified procedure by the court of first instance and consideration of the complaint by the court of appeal. The article presents the judicial practice, revealing the content of the grounds for annulment of the court decision. There is a need to differentiate the powers of the court of appeal, depending on the basis of the cancellation of the court's decision. Discussions and conclusions. Recommendations for further improvement of the civil procedure rules on simplified proceedings in terms of the rules for making a court decision, as well as the grounds and procedure for its cancellation, have been developed.
Keywords
civil procedure, simplified proceedings, court decision, motivation part, abolition of court decision

Kolobov Roman Yurievich , Ganeva Ekaterina Olegovna , Makarenko Elizaveta Konstantinovna

Problems of protecting the world natural heritage sites in Russia and abroad (example of lake Baikal and the "Plitvice lakes" national park)

Abstract
The practice of protecting the World Heritage site "Plitvice Lakes" National Park is considered. The criteria for its inscription in the World Heritage List are revealed. Attention is drawn to the main problems related to the legal and organizational protection of the object. The main content of the conclusions of the decisions of the World Heritage Committee on the protection of the "Plitvice Lakes" National Park is revealed. Parallels are drawn with the main threats to the ecological state of Lake Baikal. One of the acute and underestimated threats is the preservation of authentic Baikal landscapes. Given the insufficiency of the provisions of domestic legislation to achieve these goals, the conclusion is drawn about the possibility of using the provisions of the Convention on the Protection of the World Cultural and Natural Heritage to prevent the construction of objects that clearly violate the existing landscape within the boundaries of the World Heritage site. The conclusion is drawn about the expediency of the Russian Federation's consent to be bound by the European Landscape Convention in order to develop domestic legislation on the protection of landscapes. The practice of consolidating the management of the World Heritage site Plitvice National Park in the hands of a legal entity of the same name receives a positive assessment. It is proposed to consider the possibility of securing the sui generis regime of a specially protected natural territory for the Central Ecological Zone of the Baikal Natural Territory. Such a decision will create a single administration responsible for the management of Lake Baikal as a World Heritage Site. The next step should be the development of a World Heritage site management plan in accordance with the recommendations of IUCN and the World Heritage

Committee. Such a plan may include a strategy for the development of special economic zones, issues of elimination accumulated environmental damage and regulation of tourist flows.

Keywords
“Plitvice Lakes” National Park, Lake Baikal, World Heritage, International law, legal protection, environmental law, specially protected natural area, environmental assessment, management plan, sustainable utilization

Martynov Alexander Sergeevich

Transfer of land plots from one category to another: grounds for refusal to consider and refusal to transfer a land plot

Abstract
The provisions of the Federal Law “On the transfer of land and land plots from one category to land”. The author concluded that today in the government of the Russian Federation the Federal Law “On the transfer of land and land plots from one category to land” is a mandatory regulatory legal act that regulates relations for the transfer of land, but non-private acts, which fixes the refusal to transfer land and land plots from one category to another. It has been established that the Federal Law “On the transfer of land and land plots from one category to another” sets out the grounds for refusing to consider an application for transferring land plots from one category to another and the grounds for refusing to transfer land plots from one category to another. The author has identified various grounds for transferring land plots from one category to another. The article establishes the grounds for refusing to accept the consideration of the application. These grounds are correlated with the participants in the relations for the transfer of land plots from one category to another. It is concluded that despite the enshrinement in the legislation of the list of documents that must be submitted along with the application, the norm does not contain an imperative. At the moment, the person concerned is released from the obligation to submit a number of documents. In turn, this cannot be grounds for refusing to consider an application for the transfer of a land plot. The article contains a statement about the need to distinguish from each other the grounds for refusing to consider an application and the grounds

Keywords
land law, piece of land, application for the transfer of piece of land, refusal of a state authority, refusal to transfer land and piece of land, Land Code of the Russian Federation