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Arzumanov Igor Ashotovich

Methodological Approaches and Principles of Knowledge in the Study of State and Legal Regulation of Ethno-Confessional Relations (Part 2)

Abstract

Discussed issues of the methodology of theoretical and legal research in the field of state and legal regulation of ethno- confessional relations. The author analyzes the provisions of the theoretical and legal doctrine related to the constructive analysis of the definitive projections of the methodology as a scientific knowledge of legal reality. The position on the relationship between the nature of state-legal regulation of ethno-confessional social relations, with the philosophical and legal perspectives of legal understanding and social and normative regulation of social relations due to the cultural and religious factor. The features of the methodology of legal regulation associated with the processes of law formation, rulemaking and law enforcement are identified. The analysis of the grounds for highlighting methodological approaches, their stratification in a wide and narrow sense is carried out. In the broad as a combination of methodological approaches, the researcher's worldview, the system of methods of cognition developed by science, legal (and state science) concepts and categories that serve as tools for understanding the problems of state and law. In narrow as a doctrine of the principles, methods, techniques of scientific knowledge of the subject of science, the theory of the state of law. The multidisciplinarity of methodological approaches is justified, as well as the choice of elements of the methodological corps when studying manifestations of religiously determined factors in the processes of legal regulation. Scientific philosophical and worldview approaches fulfill the function of a general research strategy. The specificity of materialist dialectics is noted, when referring to its formational projection, in the process of interpreting the genesis and functioning of law and religion as socio-cultural phenomena. The features of the metaphysical approach and its specificity with respect to the study of state-legal regulation of processes having an ethno-legal nature are revealed. It is concluded that philosophical and worldview approaches - metaphysical and dialectical should be considered as meta-approaches, the basic link of scientific theoretical and legal methodology.

Keywords

methodology, methodological approaches, principles of cognition, state and legal regulation, ethno-confessional relations

Sumenkov Sergey Yurievich, Katomina Victoria Alexandrovna

The Relationship of Dispositivity and Competitiveness in the Legal Process (Theoretical and Legal Aspect)

Abstract

A comparative analysis of optionality and competition as principles of justice. It is noted the issue of certainty of these basic ideas in legal science. Draws attention to the unity of optionality and competition, expressed in the direction of these principles on the protection of human rights in implementing justice and a fair investigation of the facts of the case. Optionalityand competition combine qualitative characteristics of the principles of law and, at the same time, methods of legal action; implementerade in the rule of law, making a special Institute in the legal system. Optionality and competition that determine the dynamics of the legal process, the fundamental principle of competition which serves the interests of its members. The presence of optionality and competitiveness directly correlates with the principle of equality of the parties, as well as with the necessity of establishing the truth. Named and explains the distinction between optionality and competition: the breadth and scale of the impact on social relations; formalized in the regulations; the persons; the content of principles of justice. Optionality and competitiveness - Autonomous phenomena. Optionality is not part of the competition, as competitiveness is not a sign of optionality. The optionality should be denoted as a set of rights and responsibilities for resolution of legal cases, at its discretion, within the boundaries of a particular legal relationship. The contents of competitiveness includes the provision by the parties of the legal process the evidence in support of his interest. It is concluded that, despite certain differences, the adversarial and optionality, as a part of the legal process, are interrelated. Both of them assume the initiative and activity of the constituent entities of the process necessary to achieve their goals. Competitiveness is an important factor in the implementation of optionality, as well as the optionality is a guarantee of the implementation of the competition.

Keywords

competitiveness, dispositivity, legal process, principle of legal proceedings, activity of the parties, evidence, rights and obligations of the parties

Chernykh Vladimir Vasilievich

Forest Legislation in the Reign of Nicholas I

Abstract

The article highlights the improvement of Russian forest law during the reign of Nicholas I, notes his contribution to the improvement of forest legislation, the development of such a social institution as the Forest Department, comprehensively examines its activities for the conservation, protection and restoration

of forests of the Russian Empire. The forest protection policy of Russia in comparison with the previous periods is analyzed, changes in forest branch, improvement in administrative structure of Forest Department are scrupulously tracked. Imperial Decrees and resolutions of forest character are analyzed, special attention is devoted to creation in the country of forest guards, improvement of their professionalism, training of forest specialists abroad, the aspiration of the Emperor for ensuring integrity of the woods necessary for shipbuilding is emphasized, features of criminal forest violations are considered. The efforts of the state to create a domestic forest education, from independent forest schools and schools to a full-fledged Forest Institute with branches and subsidiary forestry are considered. Acceptance and action of various forest legalizations and orders of the Emperor and forest departments is analyzed. The necessity of forest distribution between different departments, carried out by the Minister of Finance E. F. Kankrin, is substantiated and doubts are expressed about the effectiveness of this project. The establishment Of the Department of State Property as an important part of the Ministry of Finance is considered, its structure is shown, and then the creation on the basis of the Department of state property of the Ministry of state property is analyzed and the activities of its first head count Kiselev are covered. Recreates the formation of the Corps of Foresters and reveals its activities, shows in detail the structure of the Corps and its military component. There is doubt about the forest policy pursued by the state with an emphasis on the prevalence of private property trends that have become popular at this time.
Keywords
Nicholas I, forest legislation, forest department, forest charter, forest inventory, forest protection, forest schools and institutions, ministry of finance, department of state property, rational forestry, forest policy, codification of forest legislation of Russia in the nicholas era

Safin Dmitry Alekseevich

Constitutional and Legal Nature of Public Chambers of Municipalities in the Russian Federation

Abstract
The article considers the problem of understanding the constitutional and legal nature of public chambers of municipalities in the Russian Federation. The creation of public chambers at various levels of organization of political power has become a common and widely used practice. At the same time, often, public chambers became either the object of manipulation by individual officials or the arena of political struggle, which significantly undermined the role and importance of public chambers within the Russian political system. The specifics of the public chambers of municipalities, which are structured within the framework of not municipal but municipal power, remained all the more obscure, and, therefore, the legal nature of such public chambers should be correlated with the constitutional and legal nature of local self-government. A variety of approaches to understanding the constitutional and legal nature of a public chamber is investigated, it concludes that there are a combination of properties of public chambers that determine the specifics of a given education. The article analyzes these properties, concludes that the combination of these properties justifies the complex constitutional and legal nature of public chambers, including at the level of municipalities. The article discusses how this specific constitutional nature of public chambers of municipalities affects their functioning. A number of short stories are proposed that make it possible to realize to the greatest extent the specifics of the constitutional legal status of public chambers of municipalities, both from the point of view of building links between these entities (horizontal and vertical) with other public chambers, and from the point of view of interaction with local authorities of municipalities taking into account the specifics of a two-tier system of local self-government in the Russian Federation and the multiplicity of models of local government organization, dumb in Russia.
Keywords
political power, constitutional construction, local government, legal nature, public chamber

Khvalev Sergei Anatolyevich

Legal Status of Participating Commissions in the Russian Federation: Critical Analysis

Abstract
The activity of the bodies, whose aim is to ensure the process of periodic renewal of power, is the object of close attention from the society side. And it simply cannot be the other way, since elections based on democratic principles are the basic social need, while the power changed in a civilized way is a condition for the progressive development of all social institutions, a guarantee that everybody is equal before the law, as well as a precondition for a fair division of public wealth. At the same time, in the context of any election campaign the main burden of responsibility, when we speak about professionalism in the organization of election procedures, as well as legality and reliability of the results of voting, is held by election commissions at the precinct level. In connection with it there is a completely logical question, regarding the basis for the effective operation of these bodies. The general factor of the optimal activity of precinct commissions is the competent and balanced legal regulation of their legal status. Thus, incomplete or contradictory legislative regulation of any of these elements of the legal status of precinct commissions brings to nothing any preconditions for professional and efficient work of such bodies. In this study we are going to consider theoretical and practical problems in the activities of precinct commissions in the Russian Federation, arising

because of weak legislative regulation. The study concluded that the regulation of the legal status of precinct commissions in Russia is far from perfect. The recently updated mechanism for the formation of such commissions has aggravated the situation. The study proves the fact that in solving such difficulties as improving the professionalism of members of precinct commissions, the progressive formation of precinct commissions there are no advancements, which weakly contributes to the development of the electoral system as a whole.
Keywords
elections, electoral process, electoral system, precinct commissions, electoral body, commission member, status of precinct commissions, responsibility, decision of a commission, voting results

Tsyrenzhapov Chingis Dymbrylovich

Finance and State: Current Issues of Interrelation and Interaction

Abstract
General theoretical issues of financial law and its fundamental scientific categories are considered, the actual problem of the ratio of finance and the state through the prism of the financial and legal theory of the Russian Federation is analyzed. Thecontent of the legal categories “finance” and “state” is investigated. It has been established that they relate to each other not as “primary” and “secondary”, not as “main” and “belonging of the main”, but as self-sufficient social institutions that ensure stability/ justice / development of social relations and, for this reason, are forced to interact between by myself. It is noted that the state is the main subject of the organization of finance: it does this at the macro level by recognizing and formalizing financial institutions; at the micro level through the conduct of a “financial economy” by public law entities. It is proposed to return to the scientific-conceptual apparatus of modern financial and legal science of the Russian Federation the category “financial economy”. It is determined that the financial economy is the work of creating, transforming and liquidating financial funds, it is the search for optimal organizational and managerial forms of existence of these funds, it is the establishment of the degree of centralization / decentralization in the stock system of public law education, that is, the organization of material finances at the level of concrete relationship. The conclusion is made that the organization of finance is outside the content of the financial and legal category “financial activity”, which in turn does not always relate to the redistribution of the country’s national income. It has been revealed that the self-organization of finance, as a rule, occurs without the participation of the state, which proves the existence of sectoral finances, that is, that part of them located in the sphere of production of economic goods and may well exist outside the state.
Keywords
finance, sector-specific finance, finance law, financial activity of the state, financial economy

Batrameeva Nadezhda Vladislavovna

The Right to Make Public Another Person’s Work in the Public Domain

Abstract
The author proposes to single out separate non-personal non-property right to make public another person’s work in the public domain on the ground of civil law rules formalizing the possibility of making public a work in the public domain. The study notes that this right can arise only after the death of the author of unpublished work providing that written author’s prohibition on making public such work was not made. The research reveals non-property and property interests that are protected and ensured by the right to make public another person’s work in the public domain. In accordance with current legislation this right can be acquired by physical persons, legal entities and governmental units. The ground for the origin of this right is acquisition of a property right to the tangible medium that fixes the unpublished work in the public domain. The author notes the expediency of existence of the construction of joint possession of the right to make public another person’s work in the public domain. The right to make public another person’s work in the public domain terminates in the case of making the work public and in the case of termination of property right to the tangible medium that fixes the unpublished work in the public domain. The study reveals the similarities and differences between the right to make public another person’s work in the public domain and the copyright holder’s right to make a work public after the death of the author. The research includes the distinction between the rights to make public a work after the death of the author and the author’s right to make own work public upon criterion of protected and ensured interests.
Keywords
making a work public, right to make a work public, making public own work, making public another person’s work, public domain, prohibition on making public, tangible medium, publisher, exclusive right, non-property right, personal non- property right, interest

Gorbach Olga Vladimirovna

Some Issues of Self-Regulation in the Financial Market

Abstract
The norms of the Federal Law “On Self-Regulatory Organizations in the Sphere of the Financial Market” are analyzed in the article. The relevance of the study of these issues is due to the dynamically developing legislation in the financial market regulation field. Attention is drawn to aspects of interaction between the mega regulator, the Bank of Russia, and self-regulated organizations on the financial market. The questions

of definitions are investigated, imperfections of the conceptual apparatus due to lack of specification of key terms have been revealed. A wide range of participants operating in the financial market as well as the diversity of their activities are analysed. When studying the legal status of a self-regulating organization in the financial market, it is necessary to pay attention first to the requirements imposed on it by its foundation. This is both a certain institutional-legal form, and an association within a self-regulating organization of not less than 26% of persons operating in this segment of the financial market, requirements to the management structure, etc. Issues of mandatory membership in a self-regulatory organization in financial markets are raised, as well as the combination of self-regulation and licensing institutions. Of course, we could not avoid to touch upon the issues of activity formation standards for the financial market professional participants, as well as participation of a self-regulating organization in this process.
Keywords
self-regulatory organization, financial market, bank of Russia

Zainutdinova Elizaveta Vladimirovna

Previously Expressed Consent on Performance of Obligations in E-Commerce

Abstract
The modern direction of the development of the modern science of civil law is determined - the legal regulation of the fulfillment of obligations automatically without a physical presence, in legal science there is a need to understand the legal basis of this execution and the legal means that can be applied to it. The question is asked about the use of the concept of the debtor's previously expressed consent for the performance of an obligation. In this article, the author aims to describe the mechanism of automated fulfillment of obligations using the design of the debtor's previously expressed consent, the significance of the actions of the debtor in such execution, as well as the possibility of improper performance of the obligation in such execution. The author offers a pre-expressed consent to fulfill the obligation to define as consent, which is given through the performance of specific actions by the party to the obligation and expresses the intention of this party to give rise to legally significant consequences in the form of actions to fulfill the obligation. It is determined that a party gives pre-expressed consent using electronic means, and this consent is not entitled to change or cancel. The author concludes that the category of pre-expressed consent should be used to describe the automated fulfillment of obligations in electronic commerce.
Keywords
previously expressed consent, performance of obligations, previously expressed consent on performance of obligations, automated performance of obligations, smart contract

Maksurov Alexey Anatolievich

Features of the Judicial Order for the Recovery of Alimony

Abstract
The problems of maintenance obligations and maintenance relations are considered. The features of this type of legal relationship from the perspective of the concept of legal activity are investigated. It has been established that modern domestic family law provides for two legal regimes for the payment of alimony, which are conditionally designated as voluntary (by agreement on the payment of alimony) and compulsory (in court). It is argued that, despite the personal nature of family relations at first and the significantly higher efficiency of paying alimony precisely by agreement, since this obligation is paid by the payer of voluntary support, the legislator does not give preference to the voluntary mode of paying alimony - paying alimony by agreement. The latter circumstance is confirmed by the cited results of the analysis of judicial practice in this category of cases. A significant array of cases of this category has been investigated, own classifications of individual varieties of this group of litigation have been proposed. Moreover, in a number of cases, scientifically substantiated proposals have been made on the typology of such cases and grounds. In each case, specific examples show the features of the judicial procedure for collecting alimony precisely in relation to special cases raised to type. The deficiencies of legal technology identified by the author are comprehensively analyzed. Recommendations on their elimination are given. Attention is drawn to the instability of the studied judicial practice, as well as the inconsistency of the positions of the Plenum of the Supreme Court of the Russian Federation on this category of cases.
Keywords
семейное правоотношение, алиментное обязательство, плательщик алиментов, получатель алиментов

Averinskaya Svetlana Aleksandrovna, Zabavko Roman Alekseevich, Radchenko Olga Viktorovna

Administrative Preduction in Criminal Law: Doctrinal Problems

Abstract
The general trends of criminal law in the concept of crime, the significance of administrative prejudice in determining the wrongfulness of an act are analyzed. The main obstacles to the application of administrative prejudice are identified and analyzed. It is noted that administrative prejudice in criminal law conflicts with its basic principles: legality, justice and guilt. The arguments about the possibility of crime prevention through administrative prejudice do not hold water. The attitude of the scientific community to the problem is analyzed. It was revealed that most of the scientists have a negative attitude towards administrative

prejudice. The ways of applying administrative prejudice in the criminal law of the Russian Federation are systematized. It is concluded that a more effective measure would be to single out the category of “criminal misconduct”, which would perform the same function.
Keywords
administrative prejudice, criminal misconduct, petty theft, crime, principle of legality, principle of justice, principle of guilt

Vinokurov Maxim Vladimirovich

Responsibility for Falsification of Medicines in Pre-Revolutional Criminal Legislation of Russia

Abstract
The article discusses the features of the formation of the institute of criminal responsibility for the falsification of drugs in the pre-revolutionary period of Russia, compares the authors’ opinions regarding the period of responsibility for the falsification of drugs, gives another, not previously reflected in other works, opinion regarding the first appearance of responsibility for the crime in question. Consistently analyzed domestic laws containing the norms of criminal responsibility. The analysis of the development of pharmaceutical activity in Russia and the legislative consolidation of supervision over the quality of production and circulation of medicines is carried out. In the course of the analysis of domestic sources of criminal law, the author comes to the conclusion that the responsibility for the falsification of medicines was officially formalized for the first time in the Penal Code of 1845. The text presents extracts of articles of the Criminal and Correctional Penalty Claim of1845, which stipulate liability for drug trafficking of inadequate quality, including an article that explicitly stipulates liability for the falsification of medicinal products. Also presented are extracts of articles of the Code, which are aimed at eliminating the prerequisites of falsification of drugs. In the final part of the study, the author comes to the conclusion that the requirements and principles for the manufacture of medicines, established by the 1845 regulation, fully comply with the requirements and principles established by modern legislation. Acts, responsibility for which was established in 1845, have not lost their public danger and are relevant in modern times. Consequently, the experience of using the code of 1845 can be applied when reforming the current legislation of Russia.
Keywords
Penal code of 1845, falsified medicinal products, criminal liability

Sadovnikova Marianna Nikolaevna, Anischenko Alena Sergeevna

Resocialization of Juvenile Offenders at Closed Type: Mediative Approach to the Activation of Family Resources

Abstract
Both positive and negative dynamics in the family play a huge role in the involving in criminal activities of minors and how they are rehabilitated after they are already in the penal system. There are a lot of determinants of the criminalization of minors, however, the results of the project presented at the article showed that it is the activation of family resources is the most effective method for post-criminal adaptation and reduction of recidivism among juvenile offenders. It is important to build effective interaction with the family taking into account the specifics of families of a minor in a closed institution. The article highlights the most problematic issues concerning such families. These families are often unable to cope with these problems on their own and require special attention from specialists of closed institutions. The authors also point to the need to train professionals working with minors in closed institutions and their families. The specialists learn mediation and use technologies of mediation in practical activities, in particular in preventive work with juveniles and with their families, including in the resolution of disputes and conflicts and after the commission of offences. The specialists acquire skills aimed at fully re-establishing relationships around a juvenile offender. In order to achieve positive results in resocialization activities a mediative approach is important. Mediative approach should be applied to all subjects of interaction: a juvenile offender - his family - specialists working with them.
Keywords
resocialization, family, family mediation, juvenile offender, mediative approach

Belkov Vladislav Aleksandrovich

Tactical Aspects of the Lawyer’s Activities in Providing Legal Assistance in Criminal Cases Related to Illegal Logging

Abstract
The article states that there is a problem of increasing the number of illegal logging in the Russian Federation. It is noted that such crimes cause great damage to the economy and environmental safety. It is pointed out that the establishment of the work of law enforcement agencies to decriminalize the forest industry does not always lead to the initiation of criminal cases against persons involved in large volumes of logging. Persons committing small amounts of illegal logging need the quality assistance of a lawyer. The lawyer needs to establish the exact place where the crime was committed, for which a request for the appointment of forestry, botanical, botanical using the methods of dendrochronology or soil science expertise

can be submitted. In addition, it is required to establish the viability of trees at the time of logging, for which it is also possible to initiate a botanical examination or a botanical examination using dendrochronology methods. It is noted that an important issue that deserves the attention of a lawyer is the study of the tools and means of committing a crime, as well as other material evidence. In particular, the suspects operate trucks, tractors, as well as equipment that does not belong to them. Certain nuances arise related to the establishment of the rightful owner and the return of equipment to him. In addition, it is advisable to begin to provide legal assistance to the client during the pre-investigation check, however, in practice, law enforcement agencies engage a lawyer only after a person acquires suspect status. It is noted that an important area of activity is the possibility of applying to the client the conditions for terminating criminal prosecution in connection with active repentance, for which certain conditions exist. It is also very often used in practice to give confessions to the client and sentencing without a trial in the manner prescribed by Chapter 40 of the Code of Criminal Procedure of the Russian Federation. It is stated that the lawyer must choose the most effective tactics for protecting his client in this category of criminal cases.

Keywords
illegal logging, advocacy tactics, effective protection of the rights of the person under investigation

Gritsaev Sergey Ivanovich, Pomazanov Vitaliy Viktorovich

Organization and Tactics of Interrogation of Witnesses in the Investigation of Murders

Abstract
This article analyzes the organization and tactics of the interrogation of witnesses in homicide cases (persons knowledgeable about the personal life of the victim and his relationships with others, including a suspect in the murder; persons knowledgeable about the personal life of the suspect in the murder and his relationship with the victim; person who has become aware of any circumstances, murder according to others). In it the circle of circumstances which are found out at witnesses, preparation for their interrogation and tactical features of its carrying out is considered.

Keywords
murder, interrogation of witnesses, interrogation tactics, organization of interrogation, investigator

Ditsevich Yaroslava Borisovna

Implementation of the 1992 Convention on the Conservation of Biological Diversity in Environmental Protection Activities in the Baikal Region (Part 1)

Abstract
The article reflects the main provisions of the Convention on biodiversity of 1992, including the characteristics of the most relevant notions for the conservation activities as well as general and specific measures of conservation and sustainable use in the context of Baikal region. As part of the coverage of the contemporary state of Baikal region`s biodiversity the statistical data on the number of different type of species are provided. The causes of the sharp fluctuations of the mentioned indicator for some hunted species are analyzed (including legal and institutional issues). As part of the coverage of Convention's interpretation in Baikal region, in addition to the analysis of implementation difficulties in monitoring wildlife and formulating suggestions for their resolution, the investigation points out the lack of research of contemporary situation with populations of aquatic bioresources in water objects of the Baikal natural territory and uneven investigation levels of flora's status in different regions of Baikal region.

Keywords
environmental protection, biodiversity, environmental monitoring, specially protected natural areas, environmental offenses, environmental control, biological resources

Kolobov Roman Yurievich

Ramsar Convention as an Element of International Legal Protection of Baikal`S Ecosystem2

Abstract
In 2020 the project of a group of fellow researches of Irkutsk State University and The University of Prosecutor`s office of Russian Federation to create the concept of international legal protection of the Lake Baikal was funded by Russian Fund of Fundamental Research. The first stage of the project is devoted to the analysis of the treaties in force that set the legal regime of the baikal ecosystem as a whole and its parts. In this article the author explores the international legal regime of a unique part of Baikal`s ecosystem - Selenga Delta. The normative basis for this regime is the Convention on Wetlands of International Importance especially as Waterfowl Habitat. The research explains the reasons of inclusion Selenga Delta into the Ramsar List and the criteria applied. The principal states` obligations under the Convention are explored. A special attention is given to the interpretation of wise use concept in the documents of Ramsar system as well as on monitoring activities. One of the principal element of interaction of international and domestic law considers the obligation to establish nature reserves within Ramsar sites. For this reason author adresses the domestic regulations, providing the legal framework for Zakaznik "Kabansky". One of the positive features of Ramsar system is the formation of basis for the international cooperation, that is extremly important in light of the planned building of hydro-technical facilities on the Mongolian part of Selenga river. The article is based on internal documents of Ramsar system (resolutions and

recomendations of the Conference of state partie) that are seldom covered in Russian journal. In the conclusion author formulates perspective directions for the strengthening the legal protection of Baikal by means of Ramsar system.
Keywords
Lake Baikal, Selenga, International Law

Shornikov Dmitry Vladimirovich

Some Historical Background Formation of the Mechanism of International Legal Protection of Lake Baikal

Abstract
The article explores some historical background of the formation of the modern mechanism of international legal protection of Lake Baikal. As part of the project to build the concept of international legal protection of Lake Baikal, carried out in the framework of scientific project No. 20-011-00618 A and supported by the Russian Foundation for Basic Research, relying on the comparative historical research method, the process of formation and development of a number of elements of such mechanism, a significant part of which naturally refers to the post-Soviet period of the late eighties of the last century - the beginning of the current one. Some political declarations and agreements in the field of international cooperation for the protection of Lake Baikal are considered. Special attention is paid to the implementation of various international projects in the field of legal protection of Baikal, based on intergovernmental agreements, first of all, such a joint project of the Global Environment Foundation and the Government of the Russian Federation as the Biodiversity Conservation Strategy of Lake Baikal. The main provisions and conclusions of both the Strategy for the conservation of biodiversity of Lake Baikal and related documents are examined in detail. Based on the analysis, the undoubted advantages of the implemented process are ascertained, at the same time, special attention is paid to its shortcomings, which should be taken into account at the present stage of development of the international legal protection of the ecosystem of Lake Baikal based on appropriate transformations.
Keywords
lake Baikal, international legal mechanism for environmental protection, comparative historical method, biodiversity conservation strategy of lake Baikal

Petrov Alexander Aleksandrovich

Legal Dilemmas: Irresolvable Norm Conflicts in International Law. The Review on Valentin Jeutner Irresolvable Norm Conflicts in International Law: the Concept of a Legal Dilemma. Oxford University Press, 2017. 182 p

Abstract
The review reveals the strengths and weaknesses of the legal dilemma concept manifested in the monograph of the Swedish scientist Valentin Yetner ‘Irresistible collisions of international law: the concept of a legal dilemma’ (Oxford University Press, 2017). The reviewed monograph consists of three chapters. In the first chapter, the author introduces the concept of the legal dilemma in international law. The legal dilemma is an unavoidable and irresolvable conflict of legal norms without the possibility of the application any appropriate conflict resolution devices or norm conflict accommodation mechanisms or even measures of last resort such as LOTUS-principle. The legal dilemma is described by the list of special attributes (the state as a special subject who faces before the legal dilemma, irresolvable and unavoidable character of the legal dilemma, etc.). The author considers several typical scenarios for international law in which legal dilemmas are found. The author compares the legal dilemma with some related concepts (legal gaps, hard cases, moral dilemmas, conflict of norms, etc.). The author describes the list of factors causing the emergence of dilemmas. The second chapter reveals the limitations of the traditional tools for resolving the legal dilemma. Jeutner shows that traditional norm conflict resolution principles (like lex superior, lex posterior, lex specialis), conflict-of-laws approaches and proportionality tests could not resolve many types of conflicts of legal norms. The third chapter of the monograph is devoted to the decision of legal dilemmas. The author calls for judicial restraint when tribunals are faced with legal dilemmas. The last word in solving legal dilemmas should remain with states (as well as responsibility for decisions taken).
Keywords
legal dilemma, irresolvable norm conflict, norms of international law, legal interpretation, review candidate of juridical sciences