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Kuznetsova Elena Vladimirovna

Legal systems of the countries of totalitarian socialism: features of legal genesis and development trends

Abstract

The essential features of the legal systems of the countries of totalitarian socialism are analyzed, some issues of the formation of the socialist legal system in Russia are investigated, the main approaches to the typology of the legal systems of the countries of totali-tarian socialism are identified: from denial of existence at the present time to recognition as a global legal system. The characteristic features of socialist law are revealed, the close connection between legal genesis and political genesis is noted. The formation of the system of socialist law in Russia was based on a radical rejection of the legislation of the previous era; on the contrary, in some other countries of totalitarian socialism, a gradual change in the regulatory framework is noted. The leading role of ideology in the system of socialist law is characterized, which influenced the content of law, and its forms, and technical and legal features. From the point of view of content, socialist ideology gave rise to a special paradigm of relations in the “personality-state” system, which in one way or another affected all branches of law. The author also draws attention to the specifics of the sources of socialist law, the features of the legal culture of the countries of totalitarian socialism. All of the above allows us to conclude that the socialist legal system exists as an independent one. Despite the reduction in the number of countries included in this legal system after the collapse of the USSR, its preservation is noted, while in its classical form it remained only in the DPRK, other countries should be attributed to the modernized socialist legal system. The transformations concerned mainly socio-economic relations, the main political institutions did not undergo significant changes. An analysis of constitutional legislation and political practice does not indicate a desire to re-build the political and legal system along Western lines.

Keywords

legal systems of the countries of totalitarian socialism, socialist legal system, legal systems, comparative jurisprudence

Kuzmin Igor Alexandrovich

Factors influencing the system of legal responsibility: problem formulation

Abstract

The problem of factorial influence on the system of legal responsibility, insufficiently explored and actual for modern jurisprudence, is studied. Based on the previous research results, the author raises the question of the need to develop a conceptual vision of the system of factors influencing the system of legal responsibility and its subsystems. The main meanings of the term “legal factor” are revealed. The author’s interpretation of the concept of “factor of law” is proposed. The disadvantages of the “traditional” approach to the differentiation of factors influencing the system of legal responsibility in the spheres of public life are indicated. In particular, it was noted that such an approach has an excessively high degree of generalization and does not provide for the possibility of the existence of complex and mixed factors (socio-political, economic-ideological and others), as well as extra-social factors (natural, technical and others). It is determined that, along with the indicated (general) factors, special factors – factors of law – have a direct impact on the system of legal responsibility. Examples of the positive and negative impact of certain factors of law on the system of legal responsibility are given using official statistics and information about the problems of lawmaking and law enforcement. Recommendations are given on the implementation of factor analysis in relation to the subsystems of legal responsibility, dichotomous series of factors to be taken into account are proposed, semantic blocks for identifying the degree of factor impact are named. In general, the methodological starting points for further knowledge of the factorial prerequisites of the system of legal responsibility are justified. The results of the research are summed up.

Keywords

differentiation, legal factor, factors of law, legal responsibility, system of legal responsibility, factor analysis

Chernykh Vladimir Vasilievich

Arson as a criminal act in the first legislative acts of Ancient Russia

Abstract

The analysis of one of the most dangerous crimes of the period of Ancient Russia as a criminal act, which was greatly reflected in the first legislative monuments of this period, is arson. A comparison of the opinions of legal researchers, prominent historiosophists and historiographers of Russia regarding such a phenomenon as arson allowed us to see the formation of a system of punishments for this crime, its transformation during the IX – mid-XIII centuries. Through this phenomenon, the proprietorship principle of ownership is considered, which influenced the severity and complexity of repressive measures against arsonists, which allowed us to see different approaches to the establishment of penalties for arson, depending on the forms of ownership, which allowed us to identify the advanced development of legal principles for cities and their absence for forests and fields. The legal trend of a global nature in relation to this crime and its consequences is traced, and the great influence of the customary law of Russia on the compi-lation of the first written monuments of law is also noted. The persons who carried out the proceedings during this period were identified and the formation of the rudiments of the adversarial nature of the trial was revealed, the proof of which is the presence of a jury system and the functioning of a school in Kiev that trained future managers, tiuns, etc. Thus, the identification of historical legal experience allows you to create a more complete and objective history of formation and development the legislation of Russia, which is relevant, including for such a phenomenon as arson.

Keywords

arson, Pokon Russkiy, Russkaya Pravda, Sudnaya Novgorod charter, Sudnaya Pskov charter, punishments for arson, legal proceedings, ownership principle

Kolosov Nikolai Viktorovich

Local self-government in the unified system of public authority: financial and legal characteristics

Abstract

The financial and legal consequences of the consolidation in the Constitution of the Russian Federation of the provision on the entry of local self-government bodies and state authorities into a single system of public power are being investigated. The Federal Law “On the general principles of the organization of public power in the subjects of the Russian Federation” is analyzed on the subject of the relationship between the state authorities of the subjects of the Russian Federation and local self-government bodies. It is revealed that the fact of the inclusion of local self-government bodies in the unified system of public authority does not mean the need for mandatory updating of financial legislation. It is concluded that it will follow after the adoption of a new federal law on the organization of local self-government. The comparison of Draft Law No. 40361-8 “On the general principles of the organization of local self-government in the unified system of public authority” and the current law regulating the organization of local self-government is carried out. The issues requiring clarification and refinement in this draft law have been identified. Thus, according to the submitted Draft Law, the head of the municipality, who heads the local administration, simultaneously fills two positions: a municipal position and a state position of a subject of the Russian Federation. In this regard, it is proposed to ensure its activities at the expense of funds not only from the local budget, but also from the budget of the subject of the Russian Federation. In the Draft Law under consideration, an article on self-taxation of citizens has been preserved, which in general turned out to be quite effective in solving issues relevant to the population of the municipality. This source of income is typical only for local budgets. Therefore, it is noted that the unity of public power does not exclude the existence of original sources of income for different budgets, due to the level of the tasks that public law education faces.

Keywords

local self-government, municipal formation, powers, public authority, unity of public authority, local budget, financial activity, legal regulation

Bezik Nina Vadimovna

On the question of the admissibility of commercial renting living accommodation that are in public ownership

Abstract

The article analyzes current situation of provision to the citizens of living accommodations of the state and municipal housing stock of commercial use. The main reasons for the conclusion a contract of the

commercial renting living accommodation of the state and municipal housing stock are identified. It is underlined that the conclusion of this agreement often leads to a violation of the right to a home, provided for by the Constitution of the Russian Federation. Some proposals to improve the current legislation have been developed.

Keywords

contract of the commercial renting living accommodation, state and municipal housing stock, contract of the social renting of living accommodation, right to a home

Klimovich Alexander Vladimirovich

Instruments for the protection of the interests of creditors of Russian business companies. Part 2

Abstract

It has been established that in addition to 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 protection of interests of creditors of business companies in a number of standard situations for a legal entity. In the first part of the article application of various protection means was considered, in particular, at the stage of creation of a company and formation of its property; on obligations arising in the course of fulfillment by the company of the instructions of the parent company in the course of its current activity; when a company reduces its authorized capital; the specifics of protection of creditors' interests, who are owners of equity securities (not its shareholders), were described in detail. The second part of the article continues the consideration of application of various creditor protections, in particular, in reorganization and liquidation of the company; in its insolvency (bankruptcy), the specifics of creditor interests protection, which are represented by the company's individual consumers, were revealed in detail. Some problems of practical application of these means of protection were revealed.

Keywords

economic society, guarantees of creditors of economic society, reorganization, liquidation, insolvency (bankruptcy)

Demchenko Vasily Alexandrovich

Establishment of the professional duty of medical workers in the qualification of acts related to causing death or harm to the health of the patient

Abstract

The system of formal (legal) sources of professional duties of medical workers related to the provision of medical care to patients (implementation of medical intervention) is investigated. The provisions of the Constitution of the Russian Federation, the norms of international law, which is the core (basic) in the field of public health protection, Federal Law № 323-FZ of 21.11.2011 "On the basics of public health protection in the Russian Federation", other federal laws adopted in accordance with it, other regulatory legal acts of the Russian Federation (for example, organizational and administrative documents of the Ministry of Health of the Russian Federation on the approval of procedures for the provision of medical care), legislation of the subjects of the Russian Federation, as well as municipal legal acts in the field of health protection. The assessment of the possibility of using the provisions of international legal acts in the field of health protection by law enforcers in the qualification of acts of medical workers, as a result of which patients are harmed or their death occurs, is given. Special attention is paid to the federal law specified as a profile law, which establishes both the specific duties of medical workers, medical organizations, issues of organizing medical care for patients, and criteria for the quality of medical care provided by medical workers. It is concluded that along with other regulatory legal acts of the federal level, a number of regulations concerning medical workers (senior management) establishes the Code of Professional Ethics of a doctor of the Russian Federation. According to the results of the study, the system of formal (legal) sources of professional duties of medical workers should include the provisions of Federal Law № 323-FZ dated 21.11.2011 "On the basics of protecting the health of citizens in the Russian Federation", other federal laws adopted in accordance with it, other regulatory legal acts of the federal level and the legislation of the subjects of the Russian Federation.

Keywords

medical workers, medical organizations, professional duties, medical care, qualification of crimes, sources of professional duties

Petryakova Lyudmila Aleksandrovna

Peculiarities of the personality of a frauder committing a crime in the banking sphere in the Siberian federal district

Abstract

The article describes the criminological characteristics of the personality of a fraudster who commits a crime in the banking sector in the Siberian Federal District. The criminological characteristics of the identity of a fraudster who commits a crime in the banking sector in the Siberian Federal District is presented on the basis of a study of the materials of criminal cases and judicial practice in cases of fraud in the banking sector in the Siberian Federal District from 2015 to 2021. And contains data on socio-demographic characteristics (sex, age, place of residence, education, social status, marital status, as well as moral and psychological characteristics (psychological characteristics, personal orientations and the presence of personal deformations). In addition, to identify the characteristics of the personality of a modern of a fraudster who commits crimes in the banking sector in the Russian Federation and the Siberian Federal District, the results of the research are compared with the personality of a criminal who commits common crimes. Examples are given that confirm the conclusions of the study. Attention is focused on the importance of studying the personality of a fraudster who commits a crime in the banking sector in order to develop a system of adequate measures to counteract such activities by law enforcement agencies and when carrying out individual preventive measures with persons who have committed crimes under Articles 159.1 and 159.3 of the Criminal Code of the Russian Federation. The study is a generalized portrait of the personality of a fraudster who commits a crime in the banking sector in the Siberian Federal District. It has been established that the criminological characteristics of a person who committed fraud in the banking sector in the Siberian Federal District repeats the all-Russian indicators.

Keywords

The research was supported by Irkutsk State University, project № 091-22-334 “Victimological characteristics and prevention of fraud in the banking sector”

Pleshakov Alexander Mikhailovich

The use of animals in hooliganism and other crimes committed with hooligan motives

Abstract

The features of criminal-legal estimation of use of representatives of fauna at hooliganism and other crimes which are made with hooliganism motives are considered. The author points out inconsistency of the settled judicial-investigative practice of recognizing dogs as an object used as a weapon during commitment of a crime. The subjective signs of the use of animals during the commitment of the researched acts are analyzed. Practical examples of bringing to responsibility of persons who use animals during the commission of a crime under Art. 213 of the Criminal Code and other acts of hooliganism are demonstrated.

Keywords

hooliganism, animals as a tool (means) of crime, dangerous animals, public safety

Rogova Evgeniya Viktorovna

Involvement of minors in non-medical consumption, as well as distribution of narcotic drugs, psychotropic substances or their analogues in conditions of information globalization

Abstract

The analysis of the current criminogenic situation in the field of illegal distribution of narcotic drugs, psychotropic substances and their analogues among minors was carried out. It is argued that in the context of the development of information and telecommunication systems, the ways of involving minors in non-medical consumption, as well as the distribution of narcotic drugs, psychotropic substances or their analogues, have changed significantly. It is noted that new technologies have greatly simplified the communication carried out for criminal purposes. It is concluded that a highly efficient and extensive logistics network for the distribution of drugs has been created and is functioning, catalyzing the drug addiction of the

population. Recommendations are formulated for improving the legislation and the system for the prevention of drug crimes among minors.

Keywords

drug addiction, drug trafficking, minors, counteraction

Terenkov Igor Evgenievich

Functions of law regulating the right to use firearms by police staff

Abstract

An analysis is made of the content of the norms of criminal law on necessary defense and the provisions of the Federal Law “On Police” on the use of firearms by police officers. There are two types of functions that criminal law norms have, providing for the right to necessary defense. The first is the orienting function, which establishes the boundaries of permissible behavior. The second is that which gives lawful character to the harmful act. Revealing the purpose of the provisions of Art. 37 of the Criminal Code of the Russian Federation, the article attempts to correlate them with the norms of the branch law on the use of firearms by police officers. Citing the opinions of other scientists, the author comes to the conclusion that both norms are permissive. At the same time, the norms of the criminal law are recognized as general, and the norms regulating the basis and procedure for the use of firearms by police officers in a state of necessary defense are recognized as special. The latter only clarify the rules of necessary defense and perform a concretizing function. This function is implemented in the form of using the casual method of constructing norms. In such cases, the law describes the characteristics of the specific situations in which police officers are most likely to find themselves and defines the boundaries for the lawful use of firearms.

Keywords

necessary defense, use of firearms, police officer, functions of the rule of law

Kuras Tatyana Leonidovna

The principle of dispositivity in the Russian civil procedure: modern and historical aspects

Abstract

The article examines the problems of fixing the principle of dispositivity in civil procedural legislation, as well as the complexity of its implementation. The author explores one of the fundamental functional principles of the civil process, analyzing pre-revolutionary, Soviet and modern scientific literature. The negative legal consequences of the absence of a definition of this principle in the civil procedural codes are analyzed. The necessity of a uniform regulation of the concept and content of the principle of dispositivity in the Civil Procedure and Arbitration Procedural Codes of the Russian Federation. It is proposed to equally formulate the active powers of the court in civil and arbitration proceedings. Attention is focused on the fact that the provisions of the Decisions of the Plenum of the Supreme Court and judicial practice must exactly comply with the procedural law in terms of implementing the principle of dispositivity. Among other things, the right of the court to go beyond the limits of the appeal is analyzed in detail, proposals are made to change the procedural legislation.

Keywords

civil process; principles of civil process, dispositiveness, dispositivity principle, arbitration process

Fomina Inna Anatolievna

Organization of the investigator’s

Abstract

The main directions of the organization of the work of the investigator are considered, which ensure the creation of the best conditions for high-quality, efficient, complete and rapid disclosure and investigation of crimes, as well as the implementation of current organizational activities with the most optimal expenditure of time, effort, and funds established, that the organizational issues of the investigator’s work and their detailed study allow not only to ensure the timely fulfillment of the tasks assigned to the preliminary investigation, but also to avoid or minimize conflicts that occur in practice during the investigation. The analysis of the main reasons for the inefficient organization of the work of investigators made it possible not only to give the necessary recommendations, but also to highlight their scientific and practical components. It was revealed

that in view of the fact that the preliminary investigation is of great importance for the proper administration of justice, then the correct organization of work at the preliminary investigation allows not only to properly carry out functional and official duties, but also to comply with the time frames indicated by the current criminal procedure legislation. The conclusion is made about the relevance of an active approach in organizing the work of an investigator in order to achieve optimal conditions for his work, due to the impossibility of carrying out the tasks assigned to the investigator without successfully fulfilling his professional duties. This is especially true in the current era of digitalization of the activities of preliminary investigation bodies. The investigator must act as a universal manager of planning his time, taking into account modern conditions and the needs of society and legislation. The issues of rational planning and accounting for the effectiveness of the use of working time by the investigator were studied. Recommendations are given for its systematization and control of working time. Emphasis is placed on the need for scientific improvement of the activities of the investigator, the use of forecasting and optimization in planning, which plays an important role in the organization of competent, fast and objective proceedings in criminal cases and audit materials in general. Recommendations are given for the use of special programs for organizing time for the benefit of the investigation, taking into account modern features of the digitalization of society. The main ways and means of improving the technical work of the investigator, which occupies a large place in his activities, are recommended.

Keywords

forensic thinking, investigator, investigation, planning, organization, investigative work, the working time of the investigator

Ditsevich Yaroslava Borisovna

Foreign experience in the preservation of world heritage sites (using the example of Yellowstone national park)

Abstract

As part of the analysis of the practice of preserving World Heritage sites, Yellowstone National Park was chosen as the object of research, including since this specially protected area was on the List of World Heritage under Threat for a certain period of time, and was subsequently excluded from this list. The subject of the study is the practice of legal protection of these World Heritage sites by the mechanisms of the Convention on the Protection of the World Cultural and Natural Heritage. Using the original texts of documents and scientific literature in a foreign language, the author examines the main problems that threatened the ecosystem of Yellowstone National Park and the role of the positions of the World Heritage Committee in its protection. The evolution of the Committee's approaches to the implementation of extractive industry projects at World Heritage sites and in the territories adjacent to them is particularly noted. The role of international professional associations in the formation of such a position (the International Council for Mining and Metals, the International Association of Hydroenegretics) is emphasized, as well as the possibility and necessity of applying these positions to protect the ecosystem of Lake Baikal.

Keywords

Convention on the Preservation of the World Heritage, environmental legislation, nature protection, foreign environmental experience

Evdokimov konstantin nikolaevich, Hobonkova ksenia vadimovna

On the problem of improving international cooperation in countering cybercrime

Abstract

The problem of functioning of the mechanism of international cooperation in the field of countering cybercrime is investigated. The concept and main features of cybercrime, the system of international organizations implementing policy and regulatory regulation in the field of combating cybercrime are defined. The fundamental international legal acts defining the interaction of the Russian Federation with foreign states in the field of prevention, detection, disclosure and investigation of cybercrimes are highlighted. The authors conclude about the regional nature, fragmentation and inefficiency of the existing legal framework for international cooperation in countering cybercrime. Proposals are made to improve international criminal law in this area and to improve the quality of international cooperation in preventing, combating and minimizing (eliminating) the consequences of cybercrime.

Keywords

information and communication technologies, cybercrime, cybercrimes, international cooperation, international criminal law, United Nations, Russian Federation, Commonwealth of Independent States, Shanghai Cooperation Organization

Shornikov Dmitry Vladimirovich

Some aspects of comparative legal analysis of the legal regime of specially protected natural areas in the Republic of Korea and the Russian federation (using lake Baikal as an example)

Abstract

As part of the implementation of the project for building the concept of international legal protection of Lake Baikal, supported by the Russian Foundation for Basic Research, the main components of the modern legal regime of specially protected natural areas in the Republic of Korea are considered. Based on the comparative legal method of research, the genesis of the formation of a system of specially protected natural areas in the Republic of Korea is analyzed, the main features of the modern components of this system are considered, and a number of statistical data in the study area are given. A detailed analysis of the provisions of the main normative act regulating public relations in the field of creation, management and development of protected areas - the Act on Natural Parks of the Republic of Korea is given. A general idea of the composition of special legislation in the area under study is given. A number of conclusions have been drawn that allow transposing the accumulated experience in the formation, management and development of the protected area system in the Republic of Korea to the relevant law-making, managerial and law-enforcement field of activity in the Russian Federation, primarily in terms of preserving the unique ecosystem of the UNESCO world natural heritage site – Lake Baikal.

Keywords

Specially protected natural areas, Republic of Korea, comparative law, Lake Baikal