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Pulturality of persons committing a crime in the classical concept of the professor P. I. A. Feuerbach

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Abstract

This article examines the criminal legal views of one of the founders of the classical school of criminal law, Paul Johann Anselm Feuerbach, on the institution of joint commission of a crime. The ideas of Professor Feuerbach formed the basis of the Russian classical school of criminal law, predetermining for many years the approaches of Russian researchers to the issues of criminal liability, imputation, corpus delicti, goals and objectives of punishment, and, accordingly, to the institution of joint commission of a crime, as one of the most complex, contradictory and confusing. The different way in which the reasons or motives of an active criminal are linked allows us to consider him either an amateur culprit, an amateur culprit, or an indirect culprit (assistant). And if active causes give rise to the main culprits and main assistants, then secondary causes, understood today as necessary conditions, contribute to the identification of ordinary assistants in the commission of a crime. In general, P. I. A. Feuerbach calls the participation of several persons in the commission of the same crime complicity or copulation of criminals. At the same time, the author identifies, practically in a modern interpretation, simple and complex complicity, which involves the joint activity of co-performers, in the first case, and performers and other complex figures of complicity, in the second. P. I. A. Feuerbach also highlights the involvement in crime, which he calls favor. The authors believe that the researcher took a comprehensive and systematic approach to the issues of joint crime, defining and formulating basic provisions in the general part of his main work, and individual types in the special part.

Keywords

P. I. A. Feuerbach, plurality of persons, joint commission of a crime, intentional culprit, assistant, complicity, classical school of criminal law

Criteria for delimiting branches of russian law: theoretical and legal aspect

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Abstract

The information flow of research results in the form of scientific works on the development and changes of the modern legal system is increasing exponentially. At the same time, the focus on the visible aspects of the indicated topic reveals the ambiguity of scientific views. An attempt to analyze the relationship and balance of public and private interests reveals the complexity of legal regulation of public relations. The traditional foundations of the differentiation of norms according to the usual types of legal relations are losing their obviousness. This scientific research indicates that the generally accepted grounds for dividing legal norms into institutes, sub-sectors, and branches require rethinking today, and first of all, this is due to the increasing role of the state and its active involvement at all levels of functioning of the national legal system. The integration of the political and legal will of a public entity and its influence on the legal system demonstrates its subjective aspect to a greater extent than its objective one. On the one hand, the state pursues good intentions: to protect the weaker party in legal relations, to maintain a balance of interests of the parties, providing state guarantees of the rights and legitimate interests of a person and a citizen. On the other hand, this leads to an overregulated public control of public relations. In the presented scientific discourse, the focus is on the fact that the suppression of objective prerequisites for the formation of a legal system leads to an imbalance with the legislative system. As a result, in the legal doctrine, there is a substitution of concepts, meanings, and categories of scientific theories of the legal system and the legislative system. Confirmation of this conclusion is seen in the absence of clear boundaries of the typification of social relations, which are the key to the independence of the branch of law. The subject and

method today are not a single standard for sectoral and intra-sectoral division of legal norms, since they are more of a constructive and doctrinal nature, therefore, in practice, they also resort to other elements: principles, subject composition, protection mechanism, etc.

Keywords

Principles of law, Legal system, Legislative system, Public control, Overregulation, Branch of law, Sub-branch of law, Public law, Private law, Subject and method of legal regulation

Religion and law (the problem of delimitation)

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Abstract

The article is devoted to the complex problem of identifying the origins of the confusion of various social regulators, in particular religious norms and law. The relevance of the issue is emphasized in connection with the formulation of the task of legal protection of traditional values. It is noted that significant interest in the issues of the content and significance of traditional values cannot be resolved in isolation from the problem of the origin of social norms and institutions, culture as a whole. The article is devoted to the complex problem of identifying the origins of the confusion of various social regulators, in particular religious norms and law. The relevance of the issue is emphasized in connection with the formulation of the task of legal protection of traditional values. It is noted that significant interest in the issues of the content and significance of traditional values cannot be resolved in isolation from the problem of the origin of social norms and institutions, culture as a whole. The social sciences are dominated by the idea of a significant influence of ideology, as well as religious doctrines, on the formation and development of law. As a result, legal regulation in isolation from moral principles is seen as the most important obstacle to building fair social relations and mutual understanding between people. The anthropology of law allows us to see that the origin of law and religious norms are based on different patterns, causes and mechanisms of occurrence; religious and legal norms have different contents, despite even the same form in some cases. Religious norms, like legal norms, have institutional protection mechanisms. It is argued that the principles of their implementation do not coincide. It is concluded that the identification of religious procedures with the legal procedural assignment of punishment is associated with an attempt to replace legal principles with religious, philosophical, moral and ethical ones. Such a substitution does not contribute to solving social problems associated with unhealthy competition, confrontation, and intolerance.

Keywords

law, religion, genesis of social norms, anthropology of law, social norms, religious norms, canon law, social institutions, source of law, law, customary law

Legal characteristics of banksy’s unauthorized works

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Abstract

The street art objects of the anonymous artist Banksy have contradictory characteristics from a legal point of view. On the one hand, they are unauthorized in nature, harming other people’s property, on the other hand, they have a broad communicative orientation and are themselves able to act as objects of copyright, being recognized by the public as works of art. In this study, using the example of Banksy street art objects, the problems of the lack of criteria for distinguishing graffiti, street art and public art objects in domestic legislation, the low effectiveness of the existing methodology for countering acts of vandalism in the form of unauthorized inscriptions and drawings are considered, and ways to resolve them are proposed.

Keywords

Banksy, street art, graffiti, public art, vandalism

Constitutional responsibility of election commissions: experience of modern states

Fomenko Andrey Aleksandrovich

Abstract

is noted that elections are a traditional way of forming government bodies in democratic states, on the legality of which the legitimacy of elected persons depends. Legitimacy depends on public confidence in electoral institutions, including electoral bodies. It has been established that this legitimacy is ensured through the institution of constitutional and legal responsibility of electoral bodies. The definition of such constitutional and legal responsibility was presented, an analysis of the approaches existing in foreign states to the establishment of measures of constitutional and legal responsibility of election commissions was carried out. The dualism of understanding of the constitutional and legal responsibility of electoral bodies in the scientific literature is stated. It was revealed that the establishment of collective responsibility of the electoral body is extremely rare in electoral legislation, but it is found in Russia and Mexico. In some states, the mechanism of constitutional and legal responsibility of electoral bodies is implemented by Ad Hoc and is used to resolve political crises that have arisen. In particular, such a mechanism was provided in Kenya and Libya. It is concluded that the measures of constitutional and legal responsibility of electoral bodies are applied in foreign states, as a rule, Ad hoc and are established by normative constitutional treaties. Such measures often serve as a mechanism for resolving political crises, rather than a standardized rule for organizing the electoral system. It is emphasized that as a result of the analysis of existing approaches, it is advisable to establish additional measures of constitutional and legal responsibility of electoral bodies in Russian electoral legislation, including the suspension of their activities.

Keywords

constitutional and legal responsibility, election commissions, disbandment of commissions, suspension of the activities of commissions, responsibility, organization of state power, electoral system, electoral law

Copyright aspects of generation of objects by artificial intelligence on the basis of machine learning

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Abstract

The issues arising as a result of creation of works by artificial intelligence using machine learning technologies are considered. It is determined that this problematic has a complex character and should be considered from the point of view of the existing copyright legislation, taking into account the current state of doctrine and judicial practice. It is determined that the ability to self-learning is a feature characterising artificial intelligence as a phenomenon. The process of self-learning of artificial intelligence on the basis of protected objects of copyright cannot be interpreted as a violation of copyright. It is revealed that copyright infringement as a result of generation by artificial intelligence of a new object will take place in the case of borrowing elements of the form of the protected work. It has been established that the use by artificial intelligence of common ideas and images, concepts and categories, ideas and other similar elements in the process of generating works cannot be considered a violation of copyright. It is pointed out that it is possible to protect the interests of authors of works used by artificial intelligence in the process of machine learning in the framework of protection of intangible goods. It is established that the activity of artificial intelligence on fabrication of works requires improvement of the system of intangible benefits. In particular, it is necessary to legislate the right to vote.

Keywords

author, copyright, copyright object, copyright infringement, non-property rights, legal regime of artificial intelligence activity

Business agreement: essence, content, features

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Abstract

The article presents a study of certain aspects of the formalization of entrepreneurial relations, namely the legal category “business agreement”. The issues of relevance of distinguishing a business agreement in the context of delimitation from related contractual structures are explored. The article analyzes necessary and sufficient features of business agreement. It is concluded about the dependence of the characteristics of business agreements taken as a basis and the possibility of classifying specific agreements as entrepreneurial. The article studies scientific publications and materials of judicial practice concerning the study of certain features and aspects of the business agreement, as well as legal problems arising in this sphere. The view was expressed that there were controversial issues when defining an agreement as a business one, as well as the legal consequences arising for the parties to the agreement. It is concluded that there is a need for further improvement of legislation in this sphere.

Keywords

entrepreneurial agreement, entrepreneurial activity, subjects of an entrepreneurial agreement, purpose of an entrepreneurial agreement, features of an entrepreneurial agreement

The public authorities as a legal entity: the problem of representation

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Abstract

A study has been conducted on the possibility of applying the rules on representation to relations between a public legal entity and its body, which is a legal entity. The results of the application of the comparative legal and formal legal research method on the basis of a dualistic cognitive approach had contributed to the proof of the different nature of the legal relations of representation and the legal relations of the founder and the fund, which is the public authorities. The applicable methods of protection have been defined in cases when such funds make legal acts with the founder’s property without the appropriate authority (without the consent of the owner) or with going beyond it (distortion of the meaning of the consent received). The conclusion has been formulated that the rules on representation cannot be applied to relations between public legal entities and their bodies – legal entities. This conclusion is based on the dualism of law, because the parties to the analyzed legal relations continue to remain in subordinated legal relations from a public legal point of view and since the body is an integral part of the entire public legal establishment.

Keywords

institution, public authority, state body, state, municipal entity, public legal establishment, representation, interest, authority, competence

Digital currencies in the electronic money system: legal aspects (part 1)

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Abstract

The article examines the legal nature of the relations that arise when owning digital currencies and cryptocurrency as its variety is studied, as well as the place of various digital currencies in the system of objects of civil rights in Russian and foreign legislation. Within the framework of legal science, a scientific discussion regarding approaches to the legal regulation of the circulation of digital currencies has been explored, developed in the following three main areas: civil law, financial law and criminal law. Taking into account the theoretical and practical aspects of the emerging legal regulation of digital currencies, as well as taking into account the economic and technical features of this institution and its subtypes, the corresponding concept and classification have been formed. Based on the results of the study, conclusions were drawn that during the period from 2014 to the present, the Russian regulator changed the direction of its policy in terms of legalizing the legal status of digital currencies from a prohibitive nature to a neutral one, while to date there have been no systemic decisions or framework regulations such as and was not accepted, as a result of which digital currencies continue to be in the “gray zone,” thereby generating legal

uncertainty in the field of enforcement. It is concluded that due to the implementation digital ruble as the digital currency of the Central Bank of Russia, by analogy with foreign jurisdictions, the issue of forming basic civil legislation in Russia will be worked out, which will create a regulatory framework for the institutions under consideration, as well as develop a unified approach in terms of legal assessment and interpretation of legal relations arising in this area.

Keywords

digital currency, cryptocurrency, digital currencies of central banks, electronic money, private money, object of civil rights, non-cash funds, cash

Self-defense of labor rights by workers

Filchakova Svetlana Yurievna

Abstract

The article analyzes the need for self-defense of workers' labor rights, arising in connection with the violation of subjective rights and legitimate interests, their abuse, failure to fulfill legal obligations, and the emergence of a dispute between the parties. It is stated that self-defese must first of all presuppose independent lawful actions of the employee to protect his labor rights, and an appeal to authorized bodies and organizations is presented to us in situations where the employer prevents the employee from exercising the right to self-defense. he conclusion is formulated about the need to define and consolidate in labor legislation the procedure for notifying the employer and organizing the implementation of self-defense. In conclusion, it is noted that difficulties in implementing the mechanism of self-defense of labor rights arise due to the lack of a legal definition of the concept of self-defense in the legislation, and the scattered nature of regulatory materials, insufficient regulation of this method in terms of formal procedures, reduces the effectiveness of self-defense as a way to protect the labor rights of workers.

Keywords

method of defense, self-defense, strike, restoration of violated rights

Juvenile delinquency in the context of modern challenges

Demidova-Petrova Elizaveta Viktorovna, Rogova Evgeniya Viktorovna

Abstract

The trends in the development of juvenile delinquency in the context of modern challenges caused by the global informatization of public relations that is currently taking place are considered. It is noted that the problems of studying juvenile delinquency do not lose their relevance due to the fact that this category of criminals deserves special attention from state and public bodies, because is a natural reserve for the country's development. It has been established that the category of persons under eighteen years of age is one of the vulnerable categories of the population due to age and psychophysiological characteristics; it is most susceptible to negative influence from older persons, as well as the influence of the information field.

Keywords

juvenile delinquency, information security, information and telecommunication technologies, digitalization, information globalization, big data, digital transformation, social networks

Faking as a tool to discredit the army and have a destructive impact on society: the criminal law aspect

Zakomoldin Ruslan Valerievich, Agapov Pavel Valerievich, Dulkina Lyudmila Vasilyevna

Abstract

The article analyzes faking as one of the tools of encroachment on state, public and military security. It is noted that with the help of fakes, misinformation of society is organized, destructive effects on public consciousness are ensured, and negative public opinion is formed. The analysis is carried out on the

example of a special military operation and the discrediting in this regard of the activities of the Armed Forces of the Russian Federation, other troops, military formations and government agencies. Special attention is paid to the relevant criminal acts provided for in the articles 207, 207.1, 207.2, 207.3, 280.3, 284.1, 284.2, 330.1, 354.1 The Criminal Code OF the Russian Federation. In general, it is stated that in this context it is already possible to talk about a new form of crime and the need to counter it.

Keywords

faking, discrediting, disinformation, destructive impact, information security, cyber propaganda, false information, unreliable information, special military operation, Armed Forces of the Russian Federation

Problems of determining exceeding the limits of necessary defense against criminal attacks on sexual freedom and sexual integrity

Petryakova Lyudmila Aleksandrovna, Astashkina Polina Dmitrievna

Abstract

The key provisions of the institution of necessary defense are analyzed and the conditions for recognizing the harm caused as legitimate are identified. It is noted that one of the groups of crimes with an ambiguous assessment of the criteria for the legality of necessary defense is criminal attacks on sexual freedom and sexual integrity of the individual. It has been established that the main problem in this matter is determining the maximum possible harm that a defender can cause to an attacker on sexual freedom or integrity. One of the reasons is the uncertainty of the nature of the violence that can be caused to the victim as a result of crimes, responsibility for which is established by Chapter 18 of the Criminal Code of the Russian Federation, which in general does not negate the independent specificity and possible delayed consequences of such crimes. It is concluded that it is very difficult for victims to objectively assess the nature of the violence being prepared or committed; in this regard, it is proposed to change the provisions on necessary defense, regarding the possibility of causing any harm if not only the life, but also the sexual integrity and sexual freedom of the defender is threatened.

Keywords

necessary defense, sexual crimes, sexual freedom of the individual, sexual integrity of the individual

Digital crime: concept, criminological characteristics, prevention (part 1)

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Abstract

This study contains up-to-date information about the current state of digital (cyber) crime. Special attention is paid to the disclosure of the concept of digital crime, its properties and characteristics. Aspects related to the prevention of this type of crime deserve special attention. The key objective of this scientific research is to present and reveal the signs of modern digital (cyber) crime. This work is based on methods of analysis, synthesis, generalization, statistical methods of cognition, etc. The authors emphasize that digital (cyber) crime is currently strengthening its position more and more. This is due to the fact that digital technologies are very common in the modern period, which researchers reasonably pay attention to. Many digital definitions and terms are interrelated and eventually, if they somehow begin to appear in the commission of crimes (for example, as a subject of criminal encroachment or a means of committing it), they form such a phenomenon as digital crime (or cybercrime). According to the authors, digital crime should be understood as a set of crimes, the subject of which are, as a rule, personal data, electronic means of payment, as well as computer networks or ITT are often used in their commission. Countering the crimes in question includes a set of various actions that are provided for by the current legislation.

Keywords

digital crime, cybercrime, information technology, digitalization, prevention of digital crime

Prevention of extremist crimes in conditions of radicalization and growth of protest activity of the population from the position of the integrative concept of law understanding: paradigm shift

Smyslova Vera Nikolaevna

Abstract

The issues that arise when the state implements criminal legal and organizational measures to counter extremist crimes in the context of radicalization and growing protest activity of the population are considered. Special attention is aid to changes in the system of anti-extremist legislation. The inconsistency of scientific approaches in understanding the nature of radicalization, protest activity, forms of manifestation of extremism, and the criminal legal classification of extremist crimes is noted. The need for the formation of new approaches to ensuring the protection of the constitutional order and national security of the Russian Federation is substantiated. It is recommended to rethink the approach to the existing system of measures to prevent extremist crimes. It is concluded that it is necessary to develop a new model of a rational transformative paradigm that will help improve the effectiveness of preventive measures to level the risks of escalation of social tension, radicalization and growth of protest activity of the population as significant determining factors of extremist crime, based on the rational interaction of the system of legal responsibility and the system of public institutions (“ balance of interests”).

Keywords

social tension, radicalization, protest activity, paradigm, balance of interests, integrative legal understanding, extremist crimes, prevention

Final decisions of the prosecutor in criminal cases filed with an indictment

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Abstract

It is stated that the prosecutor is authorized by the state to carry out criminal prosecution and bear the burden of proving guilt in the judicial stages of criminal proceedings in cases of public and private-public prosecution, as well as, where provided, in cases of private prosecution. Collection of evidence for its further presentation to the court, meeting the requirements for the evaluation of evidence, which in its totality substantiate the accusation, is the responsibility of the subject of investigation. In criminal cases investigated in the form of a preliminary investigation, such subjects are the investigator and the head of the investigative body. The study notes that the prosecutor, when he receives a criminal case with an indictment, is not bound, as one of the participants of the prosecution, by the position taken by the body of preliminary investigation. He is impartial in his assessments and critical of the investigator’s conclusions. It is determined that in the process of realization by the prosecutor of the supervisory function in the study of the criminal case with indictment from the point of view of their legality and validity, his internal conviction about the guilt of the person brought to criminal responsibility is formed. The conclusion is formulated that the choice of the final decision made by the prosecutor in a criminal case with an indictment depends on a number of factors, among which one of the key factors is the absence of obstacles to the consideration of the case on the merits and the rendering of a just decision.

Keywords

prosecutor, criminal prosecution, indictment, additional investigation, evaluation of evidence, misapplication of criminal law, qualification of a crime

Interaction of the internal affairs bodies of the Russian Federation with law enforcement agencies of the states that are members of the Commonwealth of independent States on combating organized crime

Kalenyuk Igor Petrovich, Kuznetsov Evgeny Viktorovich, Gorbacheva Elena Vasilievna

Abstract

The article reveals the legal basis for cooperation between the internal affairs bodies of the Russian Federation on combating organized crime with law enforcement agencies of the member states of the Commonwealth of Independent States. The organizational and other forms of this interstate cooperation are described. Attention is focused on the important role of such a body as the Bureau for the Coordination of the Fight against Organized Crime and Other Dangerous Types of Crimes in ensuring cooperation in the territory of the CIS member States. Statistical data reflecting the results of cooperation between the countries in the field of combating organized crime are presented. There are a number of organizational and legal problems that have a negative impact on the effectiveness of interstate cooperation. In particular, the problems found are related to the use by the CIS countries of joint investigative task forces and common criminal information databases in the course of countering crime, as well as the sending of interstate requests.

Keywords

organized crime, criminal communities, interstate cooperation, international agreements, interaction, investigative groups, investigative and operational groups, operational search activities, Commonwealth of Independent States, CIS, BKBOP, interstate search, records, data banks, Interpol, exchange of operational information, international inquiry