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Location of the norm on indirect causation in the general teaching on complicity (late 18th – early 20th centuries)

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Abstract

In this paper, the authors attempt to trace the historical place of the norm on indirect causation in the general teaching on the corpus delicti in the works of domestic and foreign researchers of the late 18th – 20th centuries. The authors of the article draw attention to the fact that initially the norm on indirect causation begins to form in the works of representatives of the natural law school, and is then interpreted by representatives of the classical direction in criminal law. The phenomenon of indirect causation is initially associated with the opposition of two legal structures - direct and indirect causation of harm. It is on this platform that the concept of an indirect perpetrator is subsequently built - a person who attracts another person to commit a socially dangerous act, who, in turn, for various reasons cannot be brought to criminal responsibility himself. Such reasons mainly included the indelicacy of a person, misleading him, physical impact of a certain degree of intensity, etc. The theoretical figure of an indirect perpetrator was initially considered as a figure close in its legal content to the figure of an instigator. It was called as follows: a failed, unsuccessful, imaginary instigator. However, subsequently there appeared points of view, according to which an indirect perpetrator is closer in its legal content to the figure of a performer than to an instigator. In many ways, the emergence of this point of view was facilitated by the unanimous opinion on the need for liability of an indirect perpetrator himself, as a performer.

Keywords

indirect causation, natural law school, classical school of criminal law, S. Pufendorf, A. F. Berner, O. I. Goreglyad, A. V. Lokhvitsky, N. S. Tagantsev, F. List

Constitutional regulation of the territory in East Asian countries: comparative legal research

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Abstract

The purpose of the article is to verify the thesis on the need to include issues of the territory of the state in the subject of legal regulation of the constitution. At the same time, the legal regulation of the territory and the territorial structure is distinguished. The first is the consolidation of territorial principles, characteristics and composition of the territory. The second category includes issues of autonomy, administrative–territorial structure, and local self-government (for unitary states). The study was conducted using the example of East Asian countries: Mongolia, China, Taiwan, North and South Korea, and Japan. The choice of the region is due to the contrasting characteristics of the territories of these states (in terms of area, contiguity with the territories of other states, population density) and the presence of territorial conflicts between them. It is also important that all these countries have a unitary form of government. According to the results of a comparative legal study, it was revealed that the peculiarities of the territory do not affect its regulation in the constitution of the state. Territorial conflict, on the contrary, is usually reflected in the constitutional text in the form of a political declaration. In all East Asian countries, the constitutions pay little attention to the regulation of territory, and in two constitutions the norms on territory and territorial structure are completely absent. This result indicates that the territory is not a mandatory element of constitutional regulation. The author believes that the lack of constitutional regulation contradicts the importance that the territory has for the state. The revealed tendency to pay little attention to territorial issues is explained by understanding the territory as a part of a physical space that cannot be the object of legal regulation. It is concluded that it is necessary to develop a different legal understanding of the territory of the state.

Keywords

territory of the state, territorial conflict, territorial integrity, constitution, subject of constitutional regulation, physical territory

On the question of granting land plots to large families

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Abstract

The article covers some problems of realization of rights of large families to provision of land plots owned by the state or local government bodies. It is established that in most subjects of the Russian Federation framework laws and by-laws proposed for the discussed subject of the research and closely related to each other are adopted. The article identifies such problems arising in practice when applying the relevant legal norms as: provision of plots to citizens located on the outskirts of a settlement and having no connection with it, land shortage in settlements taking into account territorial zoning and other difficulties related to economic and administrative nature. The article notes the important role of the prosecutor's office in ensuring the legality of land relations, identifying, preventing offenses and taking response measures to protect the rights of large families to receive land plots. It also considers issues related to the inaction of local government bodies, expressed in the lack of proper registration of citizens who apply for land plots. The important role of infrastructure development in medium and small cities, as well as in rural areas, is stated. It is concluded that the procedure for obtaining land plots by citizens with three or more children should be subject to adjustments concerning both specific issues and the general mechanism for regulating land legal relations.

Keywords

land plot, large families, land legislation, land fund, local government bodies

Municipal legal acts in the context of transformation of municipalities

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Abstract

In recent years, a large-scale reform of the administrative-territorial structure of rural settlements has been carried out in the Russian Federation, involving their inclusion into urban and municipal districts. During the transformation process of municipalities when creating a new district, it is necessary to take into account many factors related to municipal regulations. An important aspect is the temporary validity of previously approved municipal norms, which remain in force until they are replaced by new legal documents. It is essential to ensure proper modification of the legal status of these acts to avoid their automatic annulment and maintain functionality during the transitional period. The study of theoretical and applied aspects associated with the operation of municipal normative legal acts in the context of territorial transformations revealed the significance of this issue, considering its negative impact on the quality of municipal lawmaking activities.

Keywords

transformation, municipalities, regulatory acts, act enforcement, transition period

Limitations of public-law protection of biometrics within the framework of the unified biometric system

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Abstract

The article examines the existing mechanism of public-law protection of biometric personal data within the framework of the Unified Biometric System (UBS). Its main problems are analyzed in the context of the prohibition on processing biometrics outside the UBS. Attention is focused on the problems of the limited range of biometric identifiers processed in the UBS, and the limited techniques for processing biometrics, also other related problems are given. Conclusions are made about the need to unify all types of biometric identifiers and techniques of processing within the UBS; to tightening the rules for handling biometrics in the event that their processing is permitted outside the UBS during the transition period; to supplementing the legislation with definitions and norms on the regulation of biometric recognition and categorization techniques; to developing a unified risk-oriented approach to the public-law protection of biometrics in Russia.

Keywords

biometric personal data, public-law protection, Unified Biometric System, biometric identifiers, biometric techniques

The legal regime of carbon sites in the Russian Federation: current status and prospects for development

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Abstract

There is growing concern about global climate change in the twenty-first century. The special role of market mechanisms for reducing greenhouse gas emissions based on emissions trading is highlighted. The study examines the current legal regulation of the creation and operation of sites for the development and testing of carbon balance control technologies (carbon sites). The provisions of subordinate agency regulations are analytically grouped in order to identify their systemic interrelationships. The objectives of the critical analysis of the regulatory framework governing the implementation of activities at carbon testing grounds predetermine the need to study the practice of its application. The initial results of the activities of a number of sites are presented, with a focus on the implementation of climate projects involving the issuance of carbon credits. Attention is drawn to the uneven distribution of the created sites across the territory of the Russian Federation. The main feature of the regulation of carbon sites is the predominance of departmental subordinate regulation. Based on the analysis, contradictions and gaps in the system of existing regulatory acts are identified. Various possibilities for improving the legal regime for the activities of participants in programs for the creation and operation of carbon sinks are presented. Specific amendments to the Federal Law "On the Limitation of Greenhouse Gas Emissions" will make it possible to quickly establish the necessary conceptual framework, requirements for entities participating in the activities of the carbon sink, and their rights and obligations. More extensive changes involve modifying the structure of the federal law and adding sections to it, one of which could be devoted to the legal regime for carbon sinks. The conclusion formulates the desirability of creating carbon sinks in the Irkutsk region.

Keywords

carbon neutrality, carbon sink, carbon credits, carbon farm

Restitution in the civil law of the Russian Federation: concept, legal nature

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Abstract

The article examines the institution of restitution in the form in which it currently exists in the law of the Russian Federation. It briefly describes the genesis of the concept of restitution and the specifics of its understanding, formed by domestic legal scholars. The public-law and private-law aspects of understanding restitution at different stages of its historical development are studied. The legal tasks for which the

institution of restitution is applied are analyzed. The similarity of the institutions of restitution and confiscation is briefly analyzed. A conclusion has been made about the partial loss of restitution's predominant public-law function in favor of protecting private-law interests. A concept of restitution has been formulated that corresponds to the conclusions made in the article.

Keywords

consequences of failure to complete a transaction, restitution, non-admission of restitution, public law, confiscation

Legal analysis of foreign models of regulation of the institute of digital currencies of central banks

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Abstract

The article considers the main theoretical and legal aspects of the institute of digital currencies of central banks, as well as the concepts of legal regulation of the circulation of digital currencies of central banks in the Russian Federation and in foreign countries with different approaches to regulating this area of legal relations. Within the framework of legal science, the scientific discussion regarding approaches to the legal regulation of the circulation of digital currencies was studied. During the comparative legal analysis, the advantages and disadvantages of these approaches were identified, and classifications were studied, their characteristic features were noted and analyzed taking into account the legal systems of foreign states. In addition, the possibilities for the cross-border use of digital currencies of central banks in the context of current sanctions restrictions were studied. The article analyzes in detail the legal essence of digital currencies of central banks, and in particular the digital ruble, as well as the features of the legal technique of regulatory legal acts regulating public relations in the field of implementation and circulation of the digital ruble. Based on the results of the study, it was concluded that over the period from 2014 to the present, the Russian legislator has changed the direction of its policy in terms of legalization of the legal status of digital currencies from a prohibitive nature to a neutral one, while to date no systemic decisions or framework regulatory legal acts have been adopted, as a result of which digital currencies continue to be in the "gray zone", thereby generating legal uncertainty in the field of law enforcement. It was also concluded that in connection with the introduction of the digital ruble as the digital currency of the Central Bank of Russia, by analogy with foreign jurisdictions, the issue of forming a basic civilistic 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, central bank digital currencies, central bank, Bank of Russia, emission, electronic money

Discussion issues of qualifying embezzlement and misappropriation through the lens of the object of criminal encroachment

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Abstract

The objective elements of the corpus delicti of embezzlement and misappropriation are examined with due consideration of established scholarly positions in criminal law doctrine and judicial practice. The study advances certain assumptions regarding the social relations that constitute the immediate object of the offense in question. It is emphasized that the principal legally relevant feature distinguishing embezzlement and misappropriation from other forms of theft lies not in the method of unlawful appropriation, but in the

subject of the crime – “entrusted property”. Accordingly, it is argued that the object of criminal encroachment in cases of embezzlement and misappropriation should not be defined in terms of the generalized notion of “property relations”, but rather as the specific proprietary relations of possession, use, or disposal of property that had been entrusted to the offender for the purpose of performing lawful civil-law actions. Particular attention is drawn to the fact that these relations arising between the owner and the offender constitute the initial and fundamental element in the mechanism whereby the offender subsequently realizes his or her mercenary intent and causes pecuniary damage through the misappropriation of entrusted property. The establishment of such relations, therefore, represents the most significant stage in the algorithm for the legal qualification of embezzlement and misappropriation. It is concluded that the precise determination of both the immediate object and the subject matter of the crime enables a more effective and well-grounded distinction between embezzlement and misappropriation, on the one hand, and other offenses against property, on the other. The necessity of legally consolidating the defining features of the subject matter of the crime in question is affirmed. In light of the analysis and synthesis of diverse scholarly perspectives, the paper substantiates the proposal to introduce into legislation a legal definition of the concept of «entrusted property».

Keywords

crimes against property, embezzlement and misappropriation, proprietary relations, subject matter of the crime, entrusted property, legal qualification

Liability for misuse of budget funds in relation to legal entities

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Abstract

The article considers the topic of bringing to administrative responsibility for the misuse of budgetary funds under article 15.14 of the CAO RF legal entities. The author concludes that it is inexpedient to bring legal entities to administrative responsibility under this composition, considers more effective bringing to administrative responsibility of officials, and in respect of public entities it is more appropriate to apply measures of budgetary coercion. Proposals to improve the mechanism of bringing to administrative responsibility of legal entities are made.

Keywords

budgetary funds, administrative responsibility, misuse, legal entities

Ethnic crime: definition, characteristics, conditions of formation, dynamics, and structure

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Abstract

The concept of “ethnic crime” is examined. The characteristic features and peculiarities of its organized forms are highlighted. It is concluded that, from the point of view of crime registration, ethnic crime should be considered as an organized group of individuals consisting of foreign citizens, stateless persons, or citizens of the Russian Federation who are not of the same nationality as the territory of their residence, who have come together to commit one or more crimes. The historical background and social conditions that contribute to the formation of ethnic criminal groups are also examined. Attention is drawn to the annual increase in the number of crimes committed by members of ethnic organized groups and communities. Data is provided on the main types of crimes committed by representatives of ethnic crime.

Keywords

ethnic crime, organized ethnic crime groups, ethnic formations, organized crime, criminal communities, diasporas, ethnic communities, ethnic enclaves, migration, countering ethnic crime, crime prevention, and crime detection

Legal consequences of a criminal conviction: paradoxes of constitutional interpretation

Pavlov Alexander Sergeyevich

Abstract

As a category of criminal law, a conviction resulting from a court conviction affects not only the punishment, exemption from it and from criminal liability, but also the assessment of the personality of the defendant and the legal status of the convicted person. Being an intersectoral legal institution, a criminal record entails not only criminal law, but also penitentiary, post-penitentiary and socio-legal consequences for a citizen convicted in the past, acting virtually indefinitely and after its repayment or removal. Legal conflicts related to a criminal record, the legality and fairness of a defeat in rights already established by normative acts or introduced by new ones, are challenged by former convicts in various courts, including the Constitutional Court of the RF. The article presents a critical analysis of new legal positions on issues related to convictions formulated in 2024 by the named judicial body when considering complaints from Russians who had a conflict with the criminal law. Trends in constitutional justice have been identified, indicating decision-making taking into account the priority of state interests. The increasing trend of the legislator to tighten restrictions for convicted citizens is seen in the recognition of other measures of a criminal law nature as constitutional, applied for committing crimes not only to a person who had a criminal record, but also against other citizens, as well as prohibitions that have come after serving their sentences, without taking into account their excesses and undifferentiation. There is a departure of the court from resolving issues that are really important for law enforcement practice related to the resolution of cases on the merits and the legal assessment of the deed.

Keywords

The Constitutional Court of Russia, justice, criminal record, legal consequences of a criminal record, legal restriction, repayment of a criminal record, loss of rights, convicted person

The criminal legal significance of a change in the situation that caused the loss of public danger

Parkhomenko Dmitry Alexandrovich

Abstract

The article considers the criminal legal significance of a change in the situation, the result of which is the loss of the public danger of the crime or the person who committed it. It is concluded that such a situation is permissible at any stage of criminal prosecution, and therefore it is proposed to reflect this circumstance in the criminal law.

Keywords

change in the situation, loss of public danger, exemption from criminal liability, exemption from punishment, a person who committed a crime for the first time

Practice of law enforcement response to reports of telephone fraud. A selective study

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Abstract

The article examines telephone fraud as a type of crime committed using information technology. Currently, these crimes have become widespread in Russia and represent a critical criminal problem for our society. The paper presents the results of a selective study of how law enforcement agencies handle reports of such offenses. It describes typical shortcomings in this practice and procedural violations that victims may encounter. The consequences of inadequate response to telephone fraud reports are analyzed, and recommendations are proposed for victims and their representatives in criminal proceedings, aimed at improving victims' position and minimizing harm.

Keywords

telephone fraud, concealment of crimes, victim, consideration of crime reports, information and communication technologies, attempted offense, refusal to initiate criminal proceedings

Participation of the prosecutor in the interrogation of the suspect (accused) during pre-trial proceedings

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Abstract

The article proposes to empower the supervising prosecutor to participate in the interrogation of the suspect (accused) during the preliminary investigation. The existing practice of interrogating the suspect (accused) does not allow the formation of evidence for the purpose of making a legal, reasoned and motivated decision by supervising prosecutors in court when choosing, extending and changing procedural coercion measures, when concluding a pre-trial cooperation agreement, and does not allow the use of information obtained from suspects (accused) by state prosecutors within the framework of the judicial investigation. The author is convinced that his proposal will not affect the role of the prosecutor in pre-trial proceedings. The prosecutor will still not have the opportunity to interfere in the course and direction of the preliminary investigation, but his participation in the interrogation of the suspect (accused) will allow him to more effectively exercise his powers to supervise the procedural activities of the preliminary investigation bodies.

Keywords

powers of the prosecutor, prosecutorial supervision of the procedural activities of the investigator (inquiry officer), participation of the prosecutor in interrogation, interrogation of the suspect (accused), pre-trial cooperation agreement

Features of state responsibility in the context of disaster prevention and their consequences in the framework of implementation of the international mechanism for protection from disaster. Part 1

Lisauskaite Valentina Vlado

Abstract

This material is the first part of a single research material on the topic. The presented scientific article is devoted to the analysis of two important areas in the state's activities to protect against disasters: disaster prevention and liability for their consequences. The work reflects the theoretical and legal aspects of the issue under study. The author bases his arguments on the Sendai Framework for Disaster Risk Reduction 2015-2030, other international documents, as well as research by various scientists on these issues. Prevention serves as the basis for the disaster protection mechanism, since it allows reducing the scale of consequences. As interim conclusions, the author defines the role of preventive measures as one of the elements of the disaster protection mechanism, affecting the element of responsibility.

Keywords

prevention from disaster, liability for the consequences of disasters, protection from disaster, Sendai Framework, social responsibility, international law of disaster

An interdisciplinary study of the relationship and interaction of labor law and economics (review of A. A. Linets's monograph "Labor law and economics")

Paryagina Olga Aleksandrovna

Abstract

Based on a critical review of the peer-reviewed interdisciplinary study, a positive assessment is given of its relevance and level of coverage of the topic. The analysis of the relationship and interaction of labor law and economics was carried out by the author on an extensive theoretical, normative and empirical basis. In the context of the socio-economic transformations taking place in the world, similar problems of legal regulation of relations in the sphere of labor and employment in Russia and abroad are characterized. From the author's standpoint, the potential of the economic theory of law and other economic theories in ensuring the effectiveness of labor law is revealed. The presentation of the material is well structured, consistent and convincing. Many of the author's conclusions deserve support, some deserve further development (prospects for determining the status of the self-employed, practical measures for the implementation of modern economic theories at the level of local labor organization).

Keywords

labor law, economics, economic theory of law, employment, international labor law