ABSTRACTS

PROBLEMS OF LEGAL THEORY AND HISTORY

P. 5. Baranov Andrey V. SYSTEM-DETERMINATIVE SPECIALIZED RULES OF LAW IN THE MECHANISM OF LEGAL REGULATION. The problems of separation of specialized legal norms, i.e. system-determinative rules of law are under consideration in the present article. Both the place and role of the mentioned group in the system of specialized norms are examined. The division of system-determinative norms into the categories according to their functional purpose is substantiated. These rules represent constituent (declarative) norms or norms-declarations, norms-principles, attributive-adjusting rules (norms-purposes and norms-tasks) and definitive rules.

Key words: rules of law (legal norms), declaration, principles, definition, purposes, tasks.

PROBLEMS OF THE PUBLIC LAW

P. 12. Knyazkov Alexey S. TACTICAL PROBLEM AS AN ELEMENT OF THE SEARCHING – COGNITIVE ACTIVITY OF SUBJECTS IN PROOF IN CRIMINAL CASES. Some actual problems of the searching-cognitive activity of both the subjects involved in the pretrial proceedings and other officials exercising the proof in criminal cases are under consideration in the present article. The examination of various aspects of the above-mentioned activity results in indicating different tactical problems according to their importance and some tactical-criminalistical instruments connected with them.

Key words: searching-cognitive activity; general tactical problem; particular (providing) tactical problem; tactical solution; tactical-criminalistical instruments.

P. 32. Veltmander Alexey T. INTER-SECTORIAL FOUNDATION OF CIRCUMSTANCES, EXCLUDING THE CRIMINALITY OF ACT. The circumstances, excluding the criminality of act serve as a manifestation of inter-sectorial circumstances, excluding the wrongfulness of act in Criminal Law. No comprehensive consolidation of these circumstances has been provided yet. Theoretical analysis of some drawbacks of legislation is given in the present article and ways of their elimination based on the research of general, essential features of circumstances, excluding the criminality of act are suggested.

Key words: circumstances, system, inter-sectorial regulation.

P. 38. Gamebuch Nadezhda G. EVOLUTION OF FINANCIAL RELATIONSHIP BETWEEN THE FEDERATION AND LANDS IN MODERN GERMANY. The article deals with the constitutional reform, being carried out in the Federal Republic of Germany at present. While scrutinizing the guidelines of reforming federative relations, the author researches the changes of German constitutional legislation both within the system of financial relations between the Federation and lands and in the sphere of cooperation of FRG with European Union Institutions. Some relevant constitutional changes are analyzed from the viewpoint of evolution of federative relations in Germany nowadays.

Key words: cooperative federalism, the principle of competence differentiation, «financial equalization», the principle of rivalry (competition) between lands, the principle of loyalty to the federation, European integration.

P. 45. Valeev Marat T. RETROACTIVITY OF CRIMINAL LAW AND REDUCTION OF PUNISHMENT. The article deals with the absence of legal certainty regarding the criminal penalty reduction limits in connection with the enactment of a new criminal law, mitigating the punishment of a convict. Some arguments in favor of reducing judicial discretion when deciding the question of a reduced penalty are given. In its Order №4-II of 20.04.2006 the Constitutional Courts pointed to the necessity of providing such a mechanism in law. The author suggests some possible options of constructing algorithms of penalty reduction in accordance with p.2 Article 10 of the Criminal Code of the Russian Federation.

Key words: criminal penalty, retroactivity of criminal law, reduction of penalty.
P. 50. Ilyushin Alexey V. SOME PROBLEMS OF PROCEEDINGS IN ADMINISTRATIVE OFFENCES. The problem of testimony’s “devaluation” in administrative cases, of correlation of limitation periods in taking administrative proceedings and the principle of material truth (completeness, thoroughness, and impartiality) are under consideration in the present article. The author proposes some practical and normative ways of resolving the above mentioned problems.

Key words: administrative responsibility, evidence in administrative offences, principles of proceedings in administrative offences, administrative proceedings.

P. 56. Boltanova Elena S. ELEMENTS OF THE LEGAL REGIME OF LANDS. The structure of the legal regime of lands and the substantiability of its elements’ separation are under consideration in the present article. The structure of the legal regime of lands is an actual but not fully examined problem of Land Law. While studying the elements of legal regime of lands and land plots the author substantiates the separation of two groups of these elements. There are some legal means in legal regime which help to exercise the legal regulation of land relations: legal norms, legal facts, legal relations, acts of realization of rights and duties, law enforcement acts as an optional element. Research into the content of the legal regime of lands and land plots made it possible to separate such elements as property right, other kinds of rights to land plots, management in the sphere of usage and protection of lands, legal protection of lands and liability for land violations.

Key words: legal regime, elements of the legal regime of lands, structure of the legal regime of lands.

P. 64. Voronin Oleg V. ON DEFENCE AT THE STAGE OF ENFORCING A SENTENCE. The procedural position of a lawyer participating in court proceedings connected with execution of a sentence is under examination in the present article. The author comes to the conclusion that taking part in such proceedings a lawyer acts as a defender of the convict. The activity connected both with the dismissal of charges and granting of legal aid for a convict can be understood as defence.

Key words: defence, a convict’s lawyer, execution of a sentence.

P. 73. Vorobyova Natalya N. THE ORGANIZATION OF FINANCIAL MANAGEMENT IN THE SUBJECTS OF THE RUSSIAN FEDERATION. Some theoretical problems of the organizational management support in financial activity of subject of the Russian Federation are under consideration in the present article. The concept, principles and structure of a regional financial system are defined. Some regional peculiarities of the system of state bodies involved in financial activity at this level of state administration are explained on the analysis of the legislation in the subjects of the Russian Federation, – constituent parts of the Siberian Federal District.

Key words: financial activity; management; financial system; subject of the Russian Federation.

PROBLEMS OF THE PRIVATE LAW

P. 80. Osokina Galina L. SOME PROBLEMS OF THE LAW OF EVIDENCE (CONTROVERSIAL ASPECTS). The author critically appraises a wide comprehension of the principle of admissibility of evidence and suggests that it should include the requirement to observe both obtaining and examination of evidence in compliance with a legal procedure. It is stated that the institution of agreement between parties on circumstances of the case cannot serve as an evidence of the existence of horizontal procedural relations.

The author comes to a well-reasoned conclusion that there is no contradiction between the court’s duty to define the ultimate fact and the idea of ensuring real competitiveness.

Key words: civil procedure, principles of the Law of Evidence, ultimate fact.