ABSTRACTS

PROBLEMS OF LEGAL THEORY AND HISTORY

P. 5. Gaag Lyudmila V. INTERPRETATION THE RULES OF LAW AND LEGALITY. Interpretation is the important stage of law-enforcement activity. It provides uniform understanding and application of low, but fair and expedient adjudication. One of the main principles of interpretation is the principle of legality, which doesn’t allow distortion or derogation from the law neither on objective nor subjective reasons, promotes improvement of legislation and strengthening of authority of law.

Key words: interpretation, legality, justice, expediency.


Key words: terrorism, crimes against a state, Russian Empire, Criminal Law.

P. 14. Sennikova Daria V. LEGISLATIVE BODIES OF THE BEGINNING OF THE 20TH CENTURY IN THE HISTORY OF PEOPLE’S REPRESENTATION IN RUSSIA. The order of formation and functioning of the State Duma (the first and the second convocations are given particular attention to) is retraced, the opinions of lawyers of its activity and activities of its deputies are under consideration in the present article. The history of the above body combines some relative independence of people’s representatives with an autocratic state system, which in the opinion of many statesmen is not favorable for the organization of representative bodies.

Key words: people’s representation, the State Duma of the Russian Empire, the State Council of the Russian Empire.

P. 20. Fatyanov Ilya V. CLASSIFICATION OF LAW-MAKING EXPERIMENTS AND THEIR PLACE IN THE LEGAL SYSTEM. Such components of a law-making experiment as object, subject, result and a legal ground have been separated in the present article. According to these components all the experiments are divided into several groups. Some opinions on the problem of classification of law-making experiments provided in the scientific literature are under analysis. Their place in a legal system is pointed out.

Key words: a law-making experiment, classification, a law-making process, components of the experiment.

PROBLEMS OF THE PUBLIC LAW

P. 29. Boltanova Elena S. SOME PROBLEMS RELATED TO THE LEGAL REGULATION ORDER OF ALLOTTING OF NATURAL OBJECTS FOR CONSTRUCTION. The notion of such a legislative term as allotting of natural objects for different purposes to interested persons is defined in the present article. Some problems connected with the realization of legislation on the order of allotting of land plots and other natural objects to private persons are under consideration.

Key words: natural object, land plot, allotting of natural objects.

P. 42. Voronin Oleg V. ON THE CONTENT OF THE FUNCTION OF A PROSECUTOR’S PARTICIPATION IN TRIALS. The participation of a prosecutor in trials represents itself the function derived from prosecutor’s supervision in the Russian Prosecutor’s Office. The prosecutor is more active in civil and arbitration trials. The purpose of his participation in civil procedure is to ensure legality and protect public interest. The aims of a prosecutor in constitutional (both on federal and regional levels), arbitration and administrative procedure are reduced to ensuring legality. Current legislation doesn’t provide any possibility for the prosecutor’s participation in the court procedure with the aim of protecting public interest.

Key words: prosecutor, public interest, legality, prosecutor’s opinion.
P. 55. Plashevskaia Anastasia A. THE ORDER OF EXAMINATION OF EVIDENCE BY THE COURT OF APPEAL ACCORDING TO THE CRIMINAL PROCEDURAL CODE OF THE RUSSIAN FEDERATION. The author analyses and criticizes the approach of a legislator to determination and distribution of the rights of participants on the side of prosecution and defense as well as the approach of the court to determination of volume and mode of examination of existing and offered (obtained on demand) evidence. A retrospective analysis of the examination order of evidence under the Charter of Criminal Procedure 1864 is given, the position of the Supreme Court of the Russian Federation on the problem is under examination and the analysis of the early practice of the courts of appeal is provided.

Key words: examination of evidence, appellate instance, revision of sentence.

P. 61. Rachkova Nadegda M. PRINCIPAL MEASURES OF GENERAL SOCIAL PREVENTION OF STREET CRIME. Different groups of measures preventing street crime are under consideration: social economic, ideological and cultural moral. The importance of such directions in the activity of state bodies as struggle against alcoholism and drug addiction of people, work with juveniles and work with prisoners is noted.

Key words: street crime, general social prevention, measures of a social economic character, prevention of repeated crimes.

P. 70. Rukavishnikov Eugene A. CRITERIA OF SUBSTANTIALLY OF IMPOSING CRIMINAL LIABILITY FOR SOME SPECIAL KINDS OF CAUSING GRIEVOUS HARM TO HEALTH BY NEGLIGENCE. The article deals with the criteria of substantiality of imposing criminal liability for some special kinds of causing grievous harm to health by negligence; inadmissibility of increasing the volume of criminal law at the expense of concretizing some separate characteristics of a common corpus delicti, the necessity and admissibility of a special legal regulation of criminal liability for causing grievous harm to health.

Key words: special regulation, criteria, to cause grievous harm to health.

P. 77. Tinyanaya Maria A. ON THE PROBLEM OF THE CHARACTER OF RELATIONSHIP BETWEEN INACTIVITY AND SOCIALLY DANGEROUS CONSEQUENCES WITHIN NEGLIGENCE. The problems of relationship between inactivity of an official and socially dangerous consequences within negligence are under consideration in the present article. The author gives some opinions on this problem in the legal literature. The position that the relationship between an act and socially dangerous consequences within negligence is not causal but conditional is substantiated.

Key words: cause-effect relationship, conditional relationship, inactivity, socially dangerous consequences.

P. 81. Chubrakov Sergey V. ON THE PROBLEM OF NORMATIVE UNCERTAINTY IN DIFFERENTIATION OF LIMITS OF PENAL, CRIMINAL LEGAL AND CRIMINAL PROCEDURAL REGULATION. The article deals with the problems of limits of the penal legal regulation subject and just the legislative uncertainty and shortcomings in differentiating various spheres of legal regulation of relations arising in the process of executing punishments and other measures of a criminal legal character. Some concrete examples of interference of provisions of penal, criminal legal and criminal procedural normative legal acts into the regulation of not their relations are under analysis.

Key words: the subject of penal law, criminal executive relations, a criminal executive regulation.

PROBLEMS OF THE PRIVATE LAW

P. 89. Afanasieva Ekaterina N. THE CATEGORY OF «ORDRE PUBLIC» IN CASE-LAW COUNTRIES. The article deals with such a category of internal civil law and international private law as public order. Special attention is paid to the peculiarities of its existence in the countries with a case-law legal system, different terminological approaches to the understanding of the legal phenomenon under consideration are examined and some conclusions on the correlation of categories of “public policy” and “public order (ordre public)” in the Civil Law and Common Law countries are made.

Key words: moral norms, imperative norms, collision, precedent.

CIVIL CODES. The article describes the reform of the German law of obligations finished in 2002 in relation to the institution of the impossibility of performance of the obligations. On the example of the revision of the rules of the German Civil Code on the initial impossibility of performance of the obligations the current trends in the regulation of this institution are studied and the recommendations of the improvement of the Russian Civil Code are offered.

Key words: initial impossibility of performance of the obligations, reforms of the Russian and German Civil Codes.

P. 101. Frolov Alexey I. ON EXCEPTIONAL CIRCUMSTANCES IN CIVIL LAW. The terms, defining different exceptional phenomena in the Civil Code of the Russian Federation are under analysis in the given article. The conclusion about the non-identity of the notions of “exceptional circumstances” and “exceptional situation” is made. It’s substantiated that the notion “exceptional circumstances” is vague and has different content when used by different civil law institutions. Some concrete proposals on the use of the terminology are made.

Key words: exceptional circumstances, exceptional situation, force majeure, requisition, a will in exceptional circumstances.

P. 107. Tatarkina Ksenia P. THE PECULIARITIES OF BARGAINS SETTLED ON A MASS SCALE UNDER THE RUSSIAN CIVIL LAW. The article deals with an analysis of the bargains settled on a mass scale, focusing on their characteristics and drawing distinctions from the individual ones. Particular attention is given to the consideration of different ways of legal regulation of the bargains settled on a mass scale under the Russian civil law as well as to the shortcomings of the relevant legislation.

Key words: bargains settled on a mass scale; contracts of adhesion; exemplary terms of the bargains; general terms of the bargains.