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ABSTRACTS AND KEYWORDS

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MONITORING THE REPRESENTATION OF CIVIL SOCIETY INSTITUTIONS IN THE COMMISSIONS COORDINATING THE ACTIVITIES FOR COMBATING CORRUPTION IN THE SUBJECTS OF THE RUSSIAN FEDERATION

Keywords: legal regulation monitoring, corruption, combating corruption, coordination, cooperation, civil society.

Abstract

Purpose of the study: assessing the current state of the representation of civil society institutions in the commissions coordinating the activities for combating corruption in the subjects of the Russian Federation and working out recommendations for improving the structure of these commissions in order to raise the efficiency of their functioning.

Method of study: the main method used is the comparative legal studies method.

Study findings: an assessment is given for the state of the representation of civil society institutions in the commissions coordinating the activities for combating corruption in the subjects of the Russian Federation. It is noted that enlisting representatives of civil society institutions in the commissions coordinating the activities for combating corruption in the subjects of the Russian Federation doesn't comply with the requirements imposed by anti-corruption and other laws. For removing this discrepancy, the author proposes to introduce criteria for participation of representatives of civil society institutions in the commissions coordinating the activities for combating corruption in the subjects of the Russian Federation (involvement in combating corruption in accordance with the law or founding documents, professional anti-corruption competence).

Research novelty: monitoring the representation of civil society institutions in the commissions coordinating the activities for combating corruption in the subjects of the Russian Federation is the first research study aimed at an objective assessment of the structure of the said commissions, its compliance with federal and regional legal regulations, and ways for bringing it to compliance with their requirements.

Practical importance: the mechanisms proposed by the author for bringing the commissions coordinating the activities for combating corruption in the subjects of the Russian Federation to compliance with the requirements of the federal and regional anti-corruption laws can be used in forming and reforming the activities of these commissions.

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IMPACT OF DIGITAL TECHNOLOGIES ON RAISING THE LEVEL OF INFORMATION SECURITY CULTURE OF RUSSIA'S CITIZENS

Keywords: information society, legal information system, digital transformation, public administration, artificial intelligence, threats, legal regulation.

Abstract

Purpose of the paper: analysing the problems and finding the most efficient ways to solve them considering the strategic tasks of the state and society under the conditions of digitalisation.

Methods of study: general scientific methods of analysis and synthesis as well as the system method making it possible to analyse the laws in the given field were used.

The study's findings: priority areas of development of the information technology law system and legal support for information security in the Russian Federation influenced by digital transformation are considered in the paper. In the study it is found that the impact of digital technologies on different spheres of information society generates a broad variety of challenges and threats to information security which calls for a need to develop suitable methods for combating them.

It was found that society under the modern realities is exposed to information threats and massive information and psychological influence, therefore it is necessary that laws should ensure protection of individuals, society and the state against information threats as well as be capable of adapting to digital technologies and changes in the structure of modern societal relations under the conditions of digital transformation.

Research novelty: a conclusion is justified that today in Russia it would be advisable to develop, within the framework of raising the level of information security culture of Russia's citizens, the Concept for the Formation and Development of the Information Security Culture of Citizens of the Russian Federation.

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INHERITING THE 'INFORMATION BODY': LEGAL REGULATION PROBLEMS

Keywords: inheritance law, user account, user agreement, personal data, user content, social networks, digital services, electronic mail, property rights.

Abstract

Purpose of the paper: determining the legal nature of accounts and user content in digital services, establishing the possibility of inheriting them as well as determining the rights of relatives to access the account of the deceased.

Methods of study: general scientific and special methods of cognition as well as methods of logical analysis, analysis of laws, scientific and business literature, comparative analysis, systematisation, generalisation, and systemic approach were used to achieve the goals set in the work.

Study findings: the analysis carried out made it is possible to conclude that it is necessary to discriminate between the rights to digital services accounts and to user content. For the user, property rights to the account derived from the user agreement arise. Property rights to accounts allowing to acquire rights to the results of intellectual activity and property, granting digital rights, and used for commercial activities, are not directly related to the user's identity, therefore they can be bequeathed. Rights to other types of accounts are inseparably attached to the user's identity, for which reason they cannot be bequeathed. At the same time, relatives may have a legitimate non-material interest in user content which gives them the right to access such content.

Research novelty: based on the analysis carried out, the author puts forward her own classification of accounts depending on the services and user content to which the account provides access. A need for modifications to the laws of the Russian Federation is also pointed out.

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CONFISCATION OF PROPERTY ACQUIRED AS A RESULT OF COMMITTING AN OFFENCE UNDER ARTICLE 290 OF THE CRIMINAL CODE OF RUSSIA

Keywords: corruption offences, bribery, malfeasance in office, counteraction, circulation of property, unlawful enrichment, restoration of justice, compulsory uncompensated seizure.

Abstract

Purpose of the paper: a multi-faceted study of the institution of compulsory uncompensated seizure, i. e. confiscation of property acquired as a result of bribery (Article 104.1 of the Criminal Code of the Russian Federation (hereinafter: the CC of the RF).

Methods of study: general and specific methods of scientific cognition, the logical structure method as well as the methods of criminal legal and comparative analysis were used. Research publications of domestic authors, statistical data on offences under Articles 290–291.2 of the CC of the RF, results of sociological studies carried out by the authors and law enforcement practice concerning confiscation of property of officials served as materials for this study.

Study findings: legal regulations in the field of confiscation of property of officials acquired by them as a result of committing offences under Article 290 of the CC of the RF are considered. The question of possibility of confiscating property for committing offences under Articles 291–291.2 of the CC of the RF. A problem aspect of confiscation of property of bribe takers is establishing which property was acquired legally and which in receiving a bribe (Art. 290 of the CC of the RF). Police intelligence aspects of the activities aimed at confiscating property are considered, in the context of making modifications to the Federal Law "On Police Intelligence Activities" (hereinafter: the PIA Law).

Research novelty: legal grounds for confiscating the property of officials acquired as a result of unlawful enrichment by way of bribery are identified and examined. The topicality and novelty of the study are confirmed by high statistical figures for registered offences under Articles 290–291.2 of the CC of the RF and making amendments to the PIA Law. The authors propose making a number of modifications to the Criminal and Criminal Procedure Codes of the Russian Federation as well as to the Federal Law "On Police Intelligence Activities".

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IMPROVING THE LEGAL MECHANISMS FOR COUNTERING THE INVOLVEMENT OF THE YOUTH IN OFFENCES RELATED TO EXTREMISM AND TERRORISM

Keywords: ideology, Internet, terrorism financing, information and communication technologies, mass media, extremism, terrorism.

Abstract

Purpose of the paper: studying the causes for the spread of terrorism and extremism among the young people, means and methods for involving young people in crimes of this category, explaining the legal foundations for countering crimes related to extremism and terrorism, considering ways to increase the efficiency of law enforcement measures used in the sphere of combating terrorism and extremism.

Methods of study: general scientific methods of examination (analysis, synthesis, description, comparison) were used, the dialectic method of cognition serving as the backbone of the study.

Study findings: the main problems arising in the sphere of countering manifestations of extremism and terrorism among the youth were studied, the main measures for the suppression and prevention of terrorism and extremism were analysed, with the focus being made on measures of legal and information nature.

A conclusion was made that the spread of terrorism and extremism among the youth is caused by a wide range of political and economic problems, social antagonisms that acquired a systemic nature, external political threats as well as by factors of social cultural and social psychological nature.

The current system of domestic laws in the sphere of countering terrorism and extremism disposes of a sufficient range of legal measures for efficiently combating these dangerous phenomena and preventing them. At the same time, law enforcement activities prove to be inefficient, which requires further improving the laws and the main measures for countering manifestations of extremism and terrorism. An increased use of the Internet and information technology for terrorist and extremist purposes requires taking active response measures, including working out single international legal standards of conduct in the information medium.

Research novelty: a need for increasing the efficiency of legal regulations in the sphere of combating terrorism and extremism as well as that of information technology is proven. A justification is given for the position on the issue of criminalising new definitions of offences related to extremism and terrorism and de-criminalising certain existing definitions of offences in this sphere.

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USING COMPUTER TECHNOLOGIES AGAINST PERSONS: APPROACHES TO CRIMINALISATION IN THE COUNTRIES OF THE COMMONWEALTH OF INDEPENDENT STATES

Keywords: criminal responsibility, model law, offences against persons, information and telecommunication technologies, criminalisation, cybercrime, cyber threats.

Abstract

Purpose of the paper: analysing the Model Criminal Code (MCC) of the Commonwealth of Independent States (CIS) and other international documents of an appropriate regional international level as well as the criminal laws of some member countries of the CIS from the viewpoint of criminalisation of misuse of information and telecommunication technologies against persons.

Methods of study: the formal logical approach to the cognition of legal phenomena which allowed to find out the general tendencies in criminalisation as well as methods of analogy, generalisation, differentiation, and the comparative legal and formal legal methods.

Study findings: different approaches to establishing criminal responsibility for offences against persons involving the use of computer technologies were identified. Attention is drawn to the growth of the number of Internet users both in the world at large and in Russia which brings about using information networks by wrongdoers for committing offences against persons. A brief comparative description of using criminal law tools by CIS countries to establish responsibility for such socially dangerous acts is given. As a result of different approaches to criminalisation, considerable drawbacks in the legal regulation of cyber threats against persons emerge which points to a need to unify the mechanisms for implementing criminal law measures as well as to set up monitoring of crimes using computer technologies with a view to continuously getting information on the actual situation with these crimes on the level of individual countries as well as on the international level on the whole. It is emphasised that efficient prevention measures must be worded on the level of international legal regulations of the CIS. A need for the universalisation and detalisation of provisions on the criminal use of information and telecommunication technologies at the level of the MCC of the CIS as well as placing attention on new cyber threats are noted. It is proposed to implement the approaches to establishing criminal responsibility for such offences adopted by some countries in the criminal law of other CIS countries.

Research novelty: a comparative study of approaches of CIS countries to the criminalisation of socially dangerous acts against persons committed with the use of fast-spreading information and telecommunication technologies was carried out.

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FROM LOGOS TO LOGOS. CORRIGENDA AND ADDENDA

Keywords: law, philosophy, philosophy of law, logos, meaning, essence, text, language.

Abstract

Purpose of the paper: the paper is a follow-up to our studies aimed at cognising the nature of law.

Methods of study: the dialectical method and methods of scientific cognition based on it.

Study findings: in the monograph *"The Logos of Law: Parmenides – Hegel – Dostoevsky. The Speculative and Logical Foundations of the Metaphysics of Law"* published earlier by the authors, the word "logos" was used in the meaning of "essence, substance of the law". However, in cognition this word has also another meaning: it is used to mean "text, language", which is the subject of study in this paper. It is shown in the paper that in studying law it is important to understand not only the meaning of legal provisions but also how they are worded and the precision of how they are written, understood and used in the text of the legal document. The importance of studying law from the standpoint of language and text is elucidated.

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ABUSE OF LAW AS A GROUND FOR REFUSAL TO INCLUDE A CREDITOR'S CLAIM IN THE CLAIMS REGISTER: AN ANALYSIS OF COURT PRACTICE

Keywords: creditors' claims register, abuse of law, criteria, grounds for refusal to include claims in the register.

Abstract

Purpose of the paper: analysing law enforcement practice and working out the criteria for abuse by creditors of their right to file claims for including them in the creditors' claims register, such that in case these criteria are found to be met the creditor's motion should be refused.

Methods of study: general scientific methods were used, including the formal legal method and the method of system analysis of the current laws and court practice.

Study findings: the author came to the conclusion that The Law on Bankruptcy contains no provisions on grounds for refusal to include creditors' claims in the claims register which considerably hampers law enforcement. For unifying the approaches of the courts, the author proposes to supplement Decree No. 29 of the 15th of December 2004 of the Plenum of the Supreme Court of Arbitration of the Russian Federation "On Some Questions in the Practice of Applying the Federal Law "On Insolvency (Bankruptcy)" by Paragraph 14.1 in part pertaining to grounds for refusal to include creditors' claims in the claims register.

Research novelty: an original assessment was carried out of the experience of law enforcement in isolated disputes on including creditors' claims in the claims register in insolvency (bankruptcy) lawsuits in the context of forming an efficient legal mechanism for identifying abuses by creditors of their rights and encouraging them to act in good faith.

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THE CONCEPT OF SUBJECTIVE FACTOR AND ITS USE IN FORMING PRIVATE LAW RELATIONSHIPS

Keywords: legal capacity, will and declaration of will, risk, guilt, principles of law, intentions, standards of conduct.

Abstract

Purpose of the paper: studying the concept of subjective factor as an integral part of the private law relationship which impacts its forming, execution, termination and its validity at large.

Methods used: the formal logical method, for assessing legal definitions, and the comparative legal method, making it possible to compare similar private law institutions.

Study findings: the concept of subjective factor is defined, its key components are identified, and an assessment of their impact on the emergence and development of the private law relationship. In the domestic and foreign law doctrine, the questions of essential relations between the subject, his/her will, intentions, conduct, and efficiency of legal regulation are so far not adequately reflected. One of the results of this study is defining the subjective factor in the context of substantial relations of its structural elements. The paper presents a multi-faceted approach to the subjective factor as a collective generic notion combining different features of personal perception of legal reality which impacts all stages of existence of the private law relationship. An analysis of participation and involvement of subjects in a relationship allows to come to the conclusion that there exist several 'cut-off points' crucial for a person's capacity to participate in the relationship: capacity to be its subject, capacity to fulfil an obligation correctly and with high quality, and capacity to bear responsibility for failure to fulfil it, where each 'point' corresponds to a certain element of the subjective factor.

Research novelty: the main elements of the subjective factor of the private law relationship were identified.

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A SPECIAL CLASS OF CONTRACTS FOR SERVICES: "PERFORMER SPECIFIED"

Keywords: non-defined transaction, general principles and meaning of civil law, personal nature of obligation, personal obligations, services rendering, personal performance of an obligation, concretised performer, concretisant, legal capacity of legal entity, third party having no rights of a party to the contract, recourse obligation.

Abstract

Purpose of the paper: studying questions related to attributes defining the legal nature of concretised performance and the status of the performer in case of a contract for paid services where the direct performer is specified, that is, concretised.

Method of study: the study is based on both general and specific scientific methods of study, i. e. the comparative legal, systemic legal, and logical methods, as well as the method of analysing and interpreting legal regulations.

Study findings: the conclusion is made that it is advisable to bring into scholarly discourse a term for the subject who accepted the obligations of directly performing the actions aimed at fulfilling the contract, the term "concretisant" being perceived as optimal from the viewpoint of compactness and meaningfulness. Besides, an alternative theoretical model of relationships with the participation of the concretisant which is relevant in situations where the personality of this subject is of crucial importance in specific civil law relationships is proposed.

Research novelty: bringing into scholarly discourse the term "concretisant" and proposing an alternative theoretical model of relationships with the participation of the concretisant who, giving his consent to being specified in the contract as a performer while not being a party to the contract, concludes a one-party civil law transaction (including being at the same time a subject of employment relations) the substance of which is the actions s/he undertakes to perform. The connection between these actions and the actions of the performer determines the status of the said subjects as participants of a multilateral civil law relationship based on the set of legal facts (contract for services and the concretisant's one-party transaction).

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POSSIBILITIES FOR USING THE RESULTS OF SOCIOLOGICAL STATISTICAL MONITORING IN THE PRACTICE OF HEALTHCARE MANAGEMENT: THE BRYANSK OBLAST EXPERIENCE

Keywords: healthcare, indicators, management, Bryansk Oblast.

Abstract

Purpose of the paper: presenting problems encountered in the practice of managerial decision making in healthcare at the level of the region (Bryansk Oblast) which implies continuous academic support of this practice at all stages of taking these decisions and their implementation at the regional level as well as continuous monitoring of the efficacy of the measures carried out.

Methods of study: induction, deduction, analysis of statistics and materials of sociological studies.

Study findings: they are worded in the form of analytical theses and proposals aimed at improving the healthcare management processes in the region. Problems faced by the regional healthcare are identified, and the need and possibilities are justified for using sociological statistical monitoring as the most efficient research strategy for solving these problems.

Research novelty: using the materials of sociological statistical monitoring carried out in Bryansk Oblast, a justification is given for applying sociological statistical monitoring in analysing the efficacy of regional healthcare management, as a research methodology that can be adapted for specific features of healthcare as an element of the region's social sphere, being at the same time highly heuristic and meaningful as regards the results obtained.
