
ECONOMIC AND LAW ISSUES

**Nº6 (144)
2020**

Editorial Council

A.P. Torshin — Candidate of Law, Deputy Chairman — State Secretary of the Bank of Russia, Chairman of the Editorial Board of the Journal “Economic and Law Issues”

E.M. Ashmarina — Doctor of Law, Professor, Head of the Department of Legal Support of Economic Activity of the Russian State University of Justice, Editor-in-Chief of the Journal “Economic and Law Issues”

A.G. Lisitsyn-Svetlanov — Doctor of Law, Professor, Academician of the Russian Academy of Sciences, Institute of State and Law of the Russian Academy of Sciences

V.N. Viktorov — Doctor of Economics, Professor, Head of the Center for Special Programs at St. Petersburg Mining University

Yu.V. Golik — Doctor of Law, Professor of the Department of Criminal Law and Criminology of the Moscow Academy of the Investigative Committee of the Russian Federation

S.N. Silvestrov — Doctor of Economics, Professor, Academician of the Russian Academy of Natural Sciences, Director of the Economic Policy Institute and the problems of economic security, Professor of the Department of World Economy and World Finance of the Financial University under the Government of the Russian Federation

A.A. Liverovsky — Doctor of Law, Professor at the Department of Constitutional and Administrative Law of the National Research University Higher School of Economics in St. Petersburg

Editor-in-Chief

E.M. Ashmarina — Doctor of Law, Professor

The journal is included in the list of the Higher Accreditation Committee of The Ministry of Education and Science of Russia of the leading scientific journals and publications issued in the Russian Federation, where the main scientific results of the scientific theses for the degrees of Doctor and Candidate of Science can be found

Founder: LLC “Economic Sciences”

Address: 125057, Moscow, Chapaevskii per., 3-775

E-mail: info@law-journal.ru

WWW: <http://law-journal.ru>

The Certificate of registration of mass media

ПИ №ФЦ 77-31419 from 06.03.2008

Subscription index 70180 (Agency “Rospechat”)

ISSN 2072-5574

Editorial Board

E.M. Ashmarina — Doctor of Law, Professor, Head of the Department of Legal Support of Economic Activity of the Russian State University of Justice, Editor-in-Chief of the Journal “Economic and Law Issues”

O.Yu. Bakaeva — Doctor of Law, Professor of the Department of Financial, Banking and Customs Law of the Saratov State Law Academy

V.V. Bolgova — Doctor of Law, Professor, First Vice-Recto for Academic and Educational Work, Head of the Department of Theory and Philosophy of Law, Samara State University of Economics

A.A. Pavlushina — Doctor of Law, Professor, Director of the Institute of Law of Samara State University of Economics

S.A. Makhosheva — Doctor of Economics, Professor, Head of the Department “Regional Management” of the Institute of Informatics and the problems of regional management of the Kabardino-Balkarian Scientific Center of the Russian Academy of Sciences

A.M. Mikhailov — Doctor of Economics, Professor of Samara State University of Economics

V.V. Simonov — Doctor of Economics, Professor, Head of the Department of Church History, Moscow State University named after M. Lomonosov

I.A. Shulyatyev — PhD in Law, Senior Lecturer at the Department of International and European Law, Institute of Legislation and Comparative Law under the Government of the Russian Federation

A.A. Alekseev — Doctor of Economics, Professor, Director of the Center for Innovative Development, Professor of the Department of Enterprise Economics and Production Management, St. Petersburg State University of Economics

V.P. Ponka — Doctor of Law, Professor of the Department of Civil Law, Process and Private International Law of the Peoples’ Friendship University of Russia

A.G. Zeldner — Doctor of Economics, Professor of the Institute of Economics of the Russian Academy of Sciences

M.F. Gus’kova — Doctor of Economics, Professor at the Institute of Paths, Construction and Structures of the Russian University of Transport (MIIT)

P.V. Pavlov — Doctor of Economics, Doctor of Law, Associate Professor, Director of the Institute of Management in Economic, Ecological and Social Systems of the Southern Federal University

R.I. Khansevyarov — Doctor of Economics, Professor of Samara State University of Economics

Issue date 30.06.2020

Format 60x84/8

Printed signatures 9.53

300 copies

Printed by “24 Print” Ltd

CONTENTS

THEORY AND HISTORY OF STATE AND LAW; HISTORY OF DOCTRINES ABOUT LAW AND STATE

Ivanova T.M., Fastova M.A. Mediation in foreign countries in resolving legal conflicts: theoretical and legal aspect	77
Pratsko G.S. On legal order from modern positions	77
Pratsko G.S. Legal consciousness of personality and perception of values of right as a guarantee of the quality of justice	78
Skachkova O.S., Chugurova T.V., Shevchenko Y.V. Modern development of the notary as an effective institution of preventive justice	78
Fastova M.A. Economic model of mediation in foreign countries (using the examples of the United States): theoretical and legal analysis	79
Chupakhina A.O., Churakova E.N. Specifics of the appointment of forensic expertise in contract disputes	79
Shirev D.A., Demina E.P. Formation of the institution of the Commissioner for Human Rights in the Russian Federation and the Ombudsman abroad	80

FINANCIAL LAW; TAX LAW; FISCAL LAW

Inarokov I.R. The basic information about the luxury tax in foreign countries and the prospects of its application in the Russian Federation	80
Matvienko G.V. Violation of bans and restrictions during movement of goods through the customs border of the EEU and (or) national border of the Russian Federation: specific problems of interpretation and application of art. 16.3 of the Russian Code of Administrative Offences	81

INTERNATIONAL LAW; EUROPEAN LAW

Shireva I.V. On the issue of environmental protection at the international and national levels ...	82
---	----

STATE AND LAW. LEGAL SCIENCE

**THEORY AND HISTORY OF STATE AND LAW;
HISTORY OF DOCTRINES ABOUT LAW AND STATE**

**MEDIATION IN FOREIGN COUNTRIES IN RESOLVING LEGAL CONFLICTS:
THEORETICAL AND LEGAL ASPECT**

© 2020 **Ivanova Tatyana Mikhailovna**

Senior lecturer, Department of theory and history of state and law
Astrakhan state University, Astrakhan, Russia
E-mail: krohmalt@mail.ru

© 2020 **Fastova Marina Andreevna**

PhD in law, Associate Professor of the Department of civil law
Astrakhan state University, Astrakhan, Russia
E-mail: romanenkoma82@mail.ru

This article is devoted to the theoretical and legal study of mediation in the framework of its application in the resolution of legal conflicts in the theory, practice and legislation of foreign countries. Mediation in resolving legal conflicts has long been widely used, primarily in the countries of the Anglo-Saxon legal system. In these countries, there is a significant regulatory body in this area, as well as actively developing application practices, scientific publications and research. Mediation in resolving legal conflicts is also being actively developed in countries of other legal families, and special practices for its application and training are being developed, taking into account the specifics of considering a particular legal conflict.

Keywords: mediation, legal family, human rights, legal conflict, legislation, normative legal act, court, guarantees, interests.

ON LEGAL ORDER FROM MODERN POSITIONS

© 2020 **Pratsko G. S.**

Professor of the Department of Civil and Arbitration Procedure
Samara State Economic University, Samara, Russia
Professor of the Department of «Commercial and Entrepreneurial Law»
Don State Technical University, Rostov-on-Don, Russia
Doctor of Philosophy, Doctor of Law, Professor

In the article the idea about the lawful order as the phenomenon value, which occurs only when of democratic regime and bases of civic community and lawful statehood, is based. Under other conditions the determined order in the social and lawful life is set, but it does not possess the qualities of the order of lawful, since it does not receive the value of right and does not ensure properly natural right and freedom of personality.

Keywords: legal order, values of law, system of law, legal laws, individual rights and freedoms, civil society, rule of law, democratic regime.

LEGAL CONSCIOUSNESS OF PERSONALITY AND PERCEPTION OF VALUES OF RIGHT AS A GUARANTEE OF THE QUALITY OF JUSTICE

© 2020 **Pratsko G. S.**

Professor of the Department of Civil and Arbitration Procedure
Samara State Economic University, Samara, Russia
Professor of the Department of «Commercial and Entrepreneurial Law»
Don State Technical University, Rostov-on-Don, Russia
Doctor of Philosophy, Doctor of Law, Professor

In the article the attempt from the contemporary positions to comprehend, to generalize, to estimate and to make some theoretical and practical conclusions relative to perception is made the personality of the values of right on the base of its level of legal conscience. The relationship of the positive and deformed legal conscience is conducted. Are done conclusions relative to the development of the legal conscience of the members of society as the important basis of perception by them the values of right.

Keywords: the system of right, legal conscience, positive legal conscience, the deformed legal conscience, the function of legal conscience, right and freedom of personality, the vital activity of personality, lawful behavior.

MODERN DEVELOPMENT OF THE NOTARY AS AN EFFECTIVE INSTITUTION OF PREVENTIVE JUSTICE

© 2020 **Skachkova Olga Sergeevna**

Associate Professor at the Department of Civil and Arbitration Procedure
Samara State University of Economics, Samara, Russia
E-mail: yarmoluik@mail.ru

© 2020 **Chugurova Tatiana Viktorovna**

PhD in Law, Associate Professor of the Department of Civil and Arbitration Procedure
Samara State University of Economics, Samara, Russia
E-mail: ChugurovaTV@yandex.ru

© 2020 **Shevchenko Yulia Vadimovna**

master's degree student
Samara State University of Economics, Samara, Russia
E-mail: yarmoluik@mail.ru

This article discusses the development of the Institute of notaries as a preventive justice. Over the past few years, the reform of notarial activity has made it possible to assign the Institute of notaries functions, not only to provide qualified legal assistance, but also to prevent and resolve conflict situations in a pre-trial manner, which in turn has affected the process of improving the efficiency of justice.

Keywords: notary, judicial system, justice, preventive justice, undisputed claims, Executive inscription, writ proceedings, mediation

ECONOMIC MODEL OF MEDIATION IN FOREIGN COUNTRIES (USING THE EXAMPLES OF THE UNITED STATES): THEORETICAL AND LEGAL ANALYSIS

© 2020 **Fastova Marina Andreevna**

PhD in Law, Associate Professor of the Department of civil law

Astrakhan State University, Astrakhan, Russia

E-mail: romanenkoma82@mail.ru

This article is devoted to the theoretical and legal study of mediation in the framework of its application in economic relations in foreign countries on the example of the United States. This model of mediation has received the least distribution and legislative consolidation in comparison with the regulation of mediation in resolving legal conflicts. Nevertheless, mediation in all its diversity and forms in economic and social relations is developing quite intense, complicating intermediary relations, introducing new subjects. All this is happening against the background of increasingly modernizing economic relations in General, the introduction of new institutions, areas that need legal regulation, and, as a result, further detailed scientific analysis.

Keywords: mediation, intermediary, agent, broker, representative, legislation, regulatory legal act, court, guarantees, interests.

SPECIFICS OF THE APPOINTMENT OF FORENSIC EXPERTISE IN CONTRACT DISPUTES

© 2020 **Chupakhina A. O.**

student

Samara State University of Economics, Samara, Russia

E-mail: anna.chupakhina@inbox.ru

© 2020 **Churakova E. N.**

Associate Professor

Samara State University of Economics, Samara, Russia

E-mail: churakovaen@gmail.com

The presented article explores the features of the appointment of forensic expertise in disputes arising from a contract of contract. In particular, much attention is paid to the study of each stage in the procedure for appointing an examination. The author also identifies practical problems that arbitration courts face in carrying out this procedural act. Some recommendations are made to improve the procedural aspects of the appointment of expertise. Case law in this category of cases is analysed.

Keywords: contract, business entities, expertise, expert opinion, scope and quality of work performed, construction facility, special knowledge.

FORMATION OF THE INSTITUTION OF THE COMMISSIONER FOR HUMAN RIGHTS IN THE RUSSIAN FEDERATION AND THE OMBUDSMAN ABROAD

© 2020 **Shirev Denis Andreevich**

Candidate of Law, Associate Professor of the Department of Judicial Power,
Law Enforcement and Human Rights Activity of the Law Institute
Peoples' Friendship University of Russia, Russia, Moscow
Attorney at the Moscow Central Branch of the Moscow Regional Bar Association, Russia, Moscow
E-mail: ne205@yandex.ru

© 2020 **Demina Elizaveta Petrovna**

2-year postgraduate student of the Department of Judicial Power,
Law Enforcement and Human Rights Activities of the Law Institute
Peoples' Friendship University of Russia, Russia, Moscow
E-mail: demina_liza2294@mail.ru

This article examines the features of the establishment and formation of the domestic institution of the Commissioner for Human Rights and the Ombudsman abroad, reveals its role and significance at the present stage of development of Russia. Through coverage of events and legal relations, the gradual formation of the domestic institution of the Commissioner for Human Rights is shown.

Keywords: protection of citizens' rights, human rights, ombudsman, Commissioner for Human Rights, Parliamentary Commissioner, Constitution, Defender of the People, Public Defender of the Nation, Mediator, Public Defender, Civil Defender, Parliamentary Commissioner for Administrative Investigations, Parliamentary Commissioner (Ombudsman), Public Counselor, Public Advocate, Citizens Assistant, Collegium of People's Rights, Commission to Investigate Administration Abuses, Parliamentary Human Rights Commission, Chairman of the National Human Rights Commission.

FINANCIAL LAW; TAX LAW; FISCAL LAW

THE BASIC INFORMATION ABOUT THE LUXURY TAX IN FOREIGN COUNTRIES AND THE PROSPECTS OF ITS APPLICATION IN THE RUSSIAN FEDERATION

© 2020 **Inarokov Idar Ruslanovich**

Student-lawyer, Institute of Law, Economics and Finance
Kabardino-Balkarian State University named after H. M. Berbekov, Nalchik, Russia
E-mail: idar.inarokov98@yandex.ru

This article pays attention to the attempts of luxury tax introduction in the Russian Federation taking into account the foreign experience of similar taxation. It also considers the main problems of its introduction. It is assumed that the purpose of a luxury tax introduction as an independent type of payment should be the more comprehensive implementation of the principle of vertical tax equity. But nowadays, as the research shows, the fully luxury tax introduction in Russian Federation is not possible for several reasons.

Keywords: tax, luxury tax, taxation, taxation of individuals, income tax, progressive taxation.

References

1. Dankina I. A., Klevkova A. S., Savinova O. V. Problems of taxation in Russia // Symbol of science.— 2016.— no. 11.— Pp. 45–46.
2. Kosenkova Yu. y., Turbina N. M., Zobova E. V. Social and economic consequences of conducting real estate tax for individuals in the Russian Federation // Socio-economic phenomena and processes.— 2016.— Vol. 11. No. 9.— P. 40–46.
3. Lyubichenko A. S. Actual problems of taxation of income of individuals and ways to solve them in the tax system of the Russian Federation // Economics and society, 2016, no. 3, Pp. 314–320.
4. Ryabokon S. S. Legal regulation of luxury tax in Russia and other countries // Polimatis, 2016, No. 2, Pp. 77–78.
5. Skakunova A. A. Tax potential of the country and regions: its place and role in the system of tax regulation // Economic and humanitarian Sciences, 2016, no. 1, Pp. 57–59.
6. Information resource. Federal tax service of the Russian Federation. URL: <https://www.nalog.ru/rn77/taxation/taxes/nnifz/>

VIOLATION OF BANS AND RESTRICTIONS DURING MOVEMENT OF GOODS THROUGH THE CUSTOMS BORDER OF THE EEU AND (OR) NATIONAL BORDER OF THE RUSSIAN FEDERATION: SPECIFIC PROBLEMS OF INTERPRETATION AND APPLICATION OF ART. 16.3 OF THE RUSSIAN CODE OF ADMINISTRATIVE OFFENCES

© 2020 Matvienko Galina Vladimirovna

PhD, Docent, Associate Professor of the Economic Chair

Russian State University of Justice, Moscow, Russia

E-mail: galina7772005@yandex.ru

Formation of the Customs Union of the EEC, followed by the Eurasian Economic Union, caused significant changes in the system of bans and restrictions in goods trade, established on the level of integrational formation and national level. The administrative liability for violation of trade barriers is established by the Russian Code of Administrative Offences. It is necessary to find out what practical issues arise from such complex, “multi-layer” legal order of goods movement through customs boarder of the EEU on the example of application of art. 16.3 of the Code.

For the purpose of unification of trade barrier establishment practices, it is suggested that countries of the Union should align with integration formation standards and adjust legal statutes establishing administrative liability for violations of bans and restrictions in order to comply with them. Based on the analysis of Russian litigation practice, arguments are provided in the work in favor of adoption of a resolution by the Plenum of the Supreme Court of the Russian Federation regarding the pending problems of application of the Code of Administrative Offences. A number of suggestions is made for Russian lawmakers (in the light of upcoming administrative liability law reforms) and the Eurasian Economic Commission.

Keywords: bans and restrictions in foreign trade, Eurasian Economic Union, customs border, violation of bans and restrictions in goods trade, administrative punishments for violations of customs rules.

INTERNATIONAL LAW; EUROPEAN LAW**ON THE ISSUE OF ENVIRONMENTAL PROTECTION AT THE INTERNATIONAL AND NATIONAL LEVELS**

© 2020 **Shireva Irina Viktorovna**

Candidate of Legal Sciences,

Associate Professor of the Department of Legal Regulation of Economic Activity
Financial University under the Government of the Russian Federation, Russia, Moscow

E-mail: IVShiryova@fa.ru

Preservation and protection of the environment and ensuring environmental safety is currently one of the highest priority issues affecting the interests of all, without exception, citizens living both in our country and abroad. The number of international treaties in various areas of cooperation, which enshrine provisions on environmental protection, began to grow. At the same time, most states come to the need to enshrine the right to a healthy environment in their Constitutions. Appropriate work is being carried out both at the universal and national levels. The proposed article discusses important areas of this work.

Keywords: UNEP, UN, environment, Special Rapporteur of the UN Council on Human Rights and the Environment (Special Rapporteur on human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment), Agenda 21, Office of the Supreme the United Nations Commissioner for Human Rights (OHCHR); European Court of Human Rights (ECHR).