

OPINION

Yuri E. Pudovochkin

Doctor of Law, Professor, Head of the Department of Criminal Law at the Russian Academy of Justice

Issues of Politics in Crime and of Criminal in Politics (A Methodological Reflection)

One of the current issues of modern criminal law theory is the interpretation of crime phenomena. Despite the centuries-long history of its professional interpretation, none of the existing doctrinal concepts could have presented full, comprehensive and universally convincing description of it. As it seems, this task is objectively impossible, due to the limited character of any theoretical methodology. In this connection, the effective methodological scenario is a “mosaic” description of crime, which allows combining of the interpretation of various aspects of these phenomena, basing on the authorial, subjectively interpreted principles. In the system of sciences, such description should take its place in the framework of relatively separate theory of criminalization, which is the part of wider criminal-political theory. The introduction of political component in the description of crime is a pre-requisite of crime interpretation in the context of development of social, economical and political relations. It allows describing of a crime not only as a result of appliance of politico-legal efforts, but also as a possible mean of state policy's implementation. Perception of a crime as a political mean, have the whole complex of negative consequences. And the strict legal definition of crime, which would emphasize their character, as dependent on the state, derived from its policy, should become one of the significant barriers against such negative consequences.

Keywords: crime; criminal policy; criminal political science; methodology of criminal law.

DISCUSSION FORUM

Aleksandr G. Volevodz

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Criminal Law and Administrative-Delictual Law: Discussing Problems of Science and Practice

Alexei A. Ageev

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On the Development of Criminal and Civil Law, the Destiny of the Legislation on Administrative Offences and Their Relationship with Each Other and with Other Branches of Russian Law

In the article, based on the analysis of the international law standards, the current legislation of the Russian Federation and its subjects, previously effective legal acts and materials of law-enforcement practice in their comparison to the legal doctrine, the author formulated suggestions on the resolution of a number of conceptual problems of modern criminal and administrative law. In particular, he expressed his opinion about the relation between different types of legal responsibility, the variety of offenses, their common features and distinctions, the problems existing in this field and possible ways of their decision in the interests of the creation of key avenues for the development of domestic criminal legislation. The proposal to apply administrative prejudice and introduce the institute of criminal offenses and criminal liability for legal entities was subjected to criticism. The author justifies the need for broader application of civil responsibility regarding the elements of crime provided for within the existing legislation on administrative offenses; the independent nature of administrative and legal responsibility outside the legislation on administrative offenses; the need of legal disqualification of the legislation on administrative offenses of the subjects of the Russian Federation.

Keywords: administrative responsibility; administrative prejudice; civil legislation; civil responsibility; legislation on administrative offenses; public danger; crime; offense; criminal law; criminal offense; legal entity.

Alexander A. Arutyunov

Chairman of the Moscow Bar Association “Arutyunov and Partners”

On the Question of the Relationship between Criminal and Administrative Law

The article is devoted to the topical problem of correlation between criminal and administrative law. The social danger of administrative offences is substantiated, and the issue of the relationship between the criminal and administrative penalties is discussed. A three-part classification of criminal acts is offered.

Keywords: crime; administrative offence; criminal responsibility; criminal law; minor criminal offence; minor offence.

Alexander G. Blinov

PhD in Law, Associate Professor in the Department of Criminal and Criminal Executive Law at the Saratov State Law Academy

The Relationship between the Criminal and Public Health Legislations in Ensuring the Rights and Freedoms of Patients

Within the scope of the present paper, the author analyses the interrelation between the rules of criminal and public health legislations. Public health legislation is grounded as a branch that indirectly specifies the contents of criminal law. The criminal law secures the relations between the patient and the doctor only if they have become the subject of legal regulation. It is recommended that the legislator reflect the subject of regulation of the rules of public health legislation at the level of a specific object of criminal law protection.

Keywords: criminal law; public health legislation; patient; subject of regulation; object of protection; interrelation.

Pavel P. Bobrovich

PhD student in the Department of Criminal Law and Criminology at the Far Eastern Federal University

Administrative Prejudice in Criminal Law

The article examines the theoretical and practical issues related to the institution of administrative prejudice in criminal law of the Russian Federation, in the context of the existing criminal policy. Based on the analysis of a number of criminal law rules containing examples of administrative prejudice, and the study of modern scientific approaches, the author puts forward a thesis about the actualization of the development of doctrinal provisions, which collectively would form a conceptual model of the institution of administrative prejudice, the main criterion for the validity of the use of which is its effectiveness, particularly, in the sphere of combating crime and administrative delict, removing unnecessary criminalization of acts.

Keywords: administrative prejudice; criminal policy; decriminalization; efficiency.

Aleksandr I. Boiko

Doctor of Law, Professor, Head of the Department of Criminal Law Disciplines at The South Russian Institute of the Russian Presidential Academy of National Economy and Public Administration

There Is Also Another Opinion.

The article critically discusses the proposals on the extension of the subject of criminal law at the expense of administrative law, in the light of its impact on the rationality and effectivity of criminal repression, as well as on social costs and consequences of possible procedural changes that might follow in this regard. Arguments of opponents and advocates of administrative prejudice in criminal law are in detail considered. The author justifies the necessity to return the doctrine to the discussion of expediency and limits of the use of inter-branch prejudices – for the benefit of law and to strengthen the social and moral basis of criminal prohibitions.

Keywords: criminal law; administrative law; criminal responsibility; administrative responsibility; administrative prejudice.

Victor N. Borkov

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Official Malfeasances and Administrative Offences: Two Levels of Protection

On the example of a ratio of malfeasances and administrative offences, the author proves the expediency of the existence of two levels of protection of public relations emerging with regard to the implementation of state's functions. It is emphasized the importance of combining administrative, tort law and criminal means to counteract corruption when implementing contractual methods of state's participation in economy.

Keywords: official malfeasances; official administrative offences; official; offences in the field of government procurement; corruption preconditions.

Andrey A. Vetkov

Lawyer of the St. Petersburg City Bar Association

Criminal and Administrative Liability: Two Independent Legal Phenomena or a "Mixture of Genres"

The article discusses the issue of demarcation between crimes and administrative offences from the point of view of the subject of administrative law. Based on the fact that administrative offense is a violation of administrative law namely, the author argues that the current Russian administrative and tort law has significantly deviated from the essence of administrative offences, which inevitably leads to a systemic crisis in identifying its boundaries.

Keywords: administrative law; criminal law; judicial system; offences; crime; public administration.

Leonid V. Golovko

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The Boundaries of Criminal Law: From Formal to Functional Approach

The Russian legal science retains its extremely formal approach to criminal law, limited by a normative framework of the Criminal Code. Insignificant offences are officially still outside the scope of the formal criminal law and are covered under the so-called "theory of administrative responsibility". This dualistic scheme is not only theoretically doubtful, but is institutionally dangerous as well. The Russian experience demonstrates many deformations resulting from this, which demand urgent remedies for their correction at both theoretical and normative level. The author analyses some of these remedies, departing from the well-known concept of "criminal matters" and the functional approach to criminal law.

Keywords: criminal law; criminal responsibility; administrative responsibility; criminal matters; limits of criminal law.

Lev O. Ivanov

PhD in Law, Expert in the Institute of Law and Public Policy

Problems of Legislative Regulation of the Responsibility for Administrative Offences Are Piling Up

Furthering the current discussions, the article examines some problems of the law of administrative offences that require legislator's attention to be solved. In particular, it deals with issues of the definition of the concept of guilt, regulation of legal liability of legal entities, and proportionality of administrative sanctions to the acts committed. The article also focuses on the systemic nexus between criminal law and administrative-delictual law. In addition, the author expresses his opinion regarding the suggestion to include administrative offences as minor criminal offences, in criminal law in its broad sense.

Keywords: forms of guilt; administrative offence; administrative responsibility of legal entities; criminal law; minor criminal offence.

Artyom V. Ivanchin

PhD in Law, Associate Professor in the Department of Criminal Law and Criminology at the Demidov Yaroslavl State University.

On the Advisability of Constructing Constituent Elements of a Crime with Administrative Prejudice

In the present article, the author justifies the advisability of inclusion in the criminal law of constituent elements of a crime with administrative prejudice. The author evaluates the arguments of pros and cons regarding the existence of such constituent elements in the law, and proves that their construction will be coordinated with constitutional principles, and the basis of the theory of criminalization and other fundamental provisions of criminal law. One of key arguments of the author is his interpretation of

public danger (ground for criminalization) as a category that is not reduced to injuriousness of the act solely, but is defined by a wide range of objective and subjective signs of the latter.

Keywords: constituent elements of a crime; construction; criminalization; administrative prejudice; public danger.

Mikhail A. Kaufman

Doctor of Law, Professor of Criminal Law at the Russian Academy of Justice.

Crimes and Administrative Offenses: Relationship and Classification Issues

The article is devoted to the relationship between crimes and administrative offenses. According to the author, it is the lack of clear boundaries between criminal and non-criminal illegal conduct that underlies this problem. Contradictions can be resolved by means of legislation, through the adoption of appropriate amendments (supplements) to the Criminal Code of the Russian Federation.

Keywords: crime; administrative offense; criminal law; Code of Administrative Offences of the Russian Federation.

Alexey G. Kibalnik

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Inadmissibility of Administrative Prejudice in Criminal Legislation

The article discusses the problems surrounding administrative prejudice in Russian criminal legislation, including the issue about administrative prejudice as a means of crime prevention. The author makes a conclusion about the administrative prejudice that it is inadmissible in criminal legislation, because its character clearly contradicts the principles of criminal law and the grounds of criminalization.

Keywords: criminal legislation; administrative prejudice; crime prevention; principles of criminal law; grounds of criminalization.

Anatoly V. Kirin

Doctor of Law, Honoured Lawyer of the Russian Federation, Head Adviser of the State-Legal Directorate of the President of the Russian Federation

Criminal Law and Administrative-Delictual Law: Partnership, Not Paternalism

The article is devoted to a critical analysis of the arguments stated earlier in the journal's pages, regarding the justification of the return of administrative offences in a single system of public law delicts on the basis of provisions of the pre-revolutionary concept of "broad" criminal law.

Keywords: administrative offence; crime; administrative-delictual law; criminal law.

Tatiana V. Klenova

Doctor of Law, Professor, Head of the Department of Criminal Law and Criminology of the Samara State University Law Faculty

Public Danger – The Inherent Property of a Crime

The article deals with the essential characteristic of a crime which is its public danger. The presented material is about the threats related to belittling the significance of a crime's property of public danger in the conditions of situational criminal policy, the destabilization of the Criminal Code of the Russian Federation and expanding the scope of administrative liability.

Keywords: crime; administrative offence; criminal punishment, administrative punishment; criminal law.

Natalia N. Korotkikh

PhD in Law, Associate Professor in the Department of Criminal Law and Criminology at the Far Eastern Federal University

Administrative Prejudice and Multiplicity of Crimes: Common Points

The article touches upon the issues of the relationship between some forms of multiplicity of crimes and administrative offences that occur when crimes with administrative prejudice are committed. It is noted that there is a lack of clear criteria for the differentiation between concepts and signs of multiplicity of crimes and offenses in both criminal law and administrative law. The author argues that it was premature to introduce the institution of administrative prejudice in criminal law and that it was inconsistent with the provisions of the Criminal Code of the Russian Federation.

Keywords: multiplicity of crimes; recurrence of crimes; administrative prejudice.

Marina B. Kostrova

PhD in Law, Associate Professor in the Department of Criminal Law and Procedure at the Bashkir State University Institute of Law

Linguistic Expression of Administrative Prejudice in Criminal Law: Past, Present and Future

The paper analyses the linguistic expression of administrative prejudice in the current criminal law in Russia, concluding that it is extremely poor. Based on the study of the positive experience of domestic criminal legislation of the Soviet period, the author offers ways for optimizing the linguistic form of normative instructions on administrative prejudice with the view to give them more accuracy and clarity.

Keywords: criminal law; language of law; administrative prejudice in criminal law.

Aleksei I. Lukashov

PhD in Law, Associated Professor in the Department of Criminal Law and Criminology at the Academy of the MIA of the Republic of Belarus

Criminal and Administrative Responsibility: Coexistence or Merging?

The article analyzes the problem of mating administrative and criminal responsibility in the legislation of the Republic of Belarus. The development of the law on administrative offences in the Republic of Belarus is shown. The non-compliance of a number of provisions of the law on administrative offences and criminal law with the principle norms is substantiated. The author proposes to abolish the administrative responsibility as a form of legal responsibility, and transform administrative offences into minor criminal infractions with regulating the issues of criminal responsibility for committing them through the criminal law, criminal procedure law and criminal enforcement law.

Keywords: administrative responsibility; criminal responsibility; liability of a legal entity; grounds of liability; administrative offence; crime; minor criminal infraction.

Alexey A. Malinovsky

Doctor of Law, Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics, Deputy Dean of the International Law Faculty at the Moscow State Institute (University) of Foreign Relations of the MFA of Russia

Critical Reflections on the Concept of Criminal Law in "Broad" Sense

The article analyzes the concept of criminal law in "broad" sense. Certain provisions of this concept are subjected to critical rethinking.

Keywords: criminal law in "broad" sense; crime; criminal offence; minor criminal offence; public danger of an act.

Victor P. Malkov

Doctor of Law, Professor, Honoured Science Worker of the Russian Federation, Head of the Department of Criminal Law and Procedure at the Institute of Economics, Management and Law (City of Kazan)

Repeatedness of Offences and Administrative Prejudice as Means of Criminalization or Decriminalization of Deeds Committed in the Russian Criminal Law

The author substantiates the opinion of a wider application in domestic criminal legislation and legislations of the CIS member states, of repeatedness and recurrence of commitment of an act, as well as administrative prejudice, as means of criminalization or decriminalization of the deed committed.

Keywords: criminal law; repeatedness and recurrence of acts; administrative prejudice; Criminal Code of the Russian Federation.

Igor I. Mitrofanov

PhD in Law, Associate Professor, Head of the Department of Criminal and Civil Law and Process at the Mikhail Ostrogradsky Kremenchug National University

Criminal Violation as a Legal Fact to Initiate the Application of Criminal Responsibility

The article discusses the problems of the definition of a law violation as legal fact. Various points of view are analyzed as to what exactly represents a basis for criminal legal relations to originate. The concepts of "criminal violation", "crime", and "criminal offence" are examined including the consideration of the

legislative experience of foreign countries. The public danger feature and its role in the defining of the concept of criminal offence are considered. It is stated that criminal offence is the legal fact that generates criminal legal relations, and no additional facts for the latter to originate are required.

Keywords: criminal responsibility; criminal legal relation; criminal violation; legal fact; public danger; crime; criminal offence; administrative delict.

Andrei G. Nikitin

PhD in Law, Head of the Law Faculty/ Associate Professor in the Department of Theory and History of State and Law at the Institute of Economics, Management and Law (City of Kazan).

Some Problems of Administrative Responsibility for Minor Extremist Offences (on the example of Art. 20.3 and 20.29 of the Russian Federation Code of Administrative Offences)

In the article, the author analyzes the rules of administrative law establishing responsibility for the propaganda and public display of Nazi attributes or symbols, attributes or symbols of extremist organizations, and the production and distribution of extremist material.

Keywords: extremism; Nazi attributes and symbols; attributes and symbols of extremist organizations; extremist material.

Vitaly A. Nomokonov

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“Criminalization” of Administrative Law or Administrative Arbitrariness of Criminalization?

The article discusses the problems of demarcating between administrative offences and crimes. Based on the analysis of the legislative definition of a crime, the author offers criteria for the demarcation between crimes and other offenses.

Keywords: crime; minor offence; criminal law.

Byashir T. Razgildiev

Doctor of Law, Professor in the Department of Criminal Law and Criminal Executive Law at the Saratov State Law Academy

The Public Danger of Crimes and Other Offences

The article explores the category of public danger of crimes and other offences covered under the Criminal Code of the Russian Federation and other branches of law. Arguments are provided to justify the conclusion that what underlies the public danger is the harm caused to material order, which characterizes crimes and other offences solely regulated by the RF Criminal Code.

Keywords: public danger; character; degree; crime; offence; harm; material order; legal order.

Evgeniya V. Rogova

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A Criminal Misdemeanour: The Judgments of Experts

The article deals with the social and legal grounds for the category of criminal misdemeanours to be included in the legislation, as well as the issues of determining their place within the criminal law. To justify his proposal on securing criminal misdemeanours in the law, the author conducted a sampling of opinions of law enforcement officials as to separating out these offences as individual category. The article summarizes the results of the survey and comments on the main areas of the criminal legislation reform in respect to legislative introduction of criminal misdemeanours, taking into account the proposals already existing in the doctrine of criminal law. The analysis of the data obtained in the course of the survey allowed the author to formulate the conclusion about the need to enshrine the category of criminal misdemeanours in criminal legislation. In this regard, the judgments based on this research concerning the introduction of the category of criminal misdemeanours and the appropriate form for its legislative registration, are offered for discussion and criticism.

Keywords: criminal misdemeanour; crime; categories of crimes; crimes of less gravity; insignificance; punishment; criminal responsibility; exemption from criminal responsibility.

Larisa I. Romanova

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Olga E. Shishkina

PhD in Law, Associate Professor in the Department of Constitutional and Administrative Law at the Far Eastern Federal University Law School.

Issues of Criminal and Administrative-Delictual Policy Development in Modern Russia.

The article is devoted to the issues of modern criminal and administrative-delictual policy of Russia. The questions of the relationship between criminal and administrative responsibility, the differentiation between administrative offences and crimes are considered. The authors give a negative assessment to the chaotic changes in Russian punitive legislation that are being made due to the lack of government policy in the fight against crimes and offenses. In the article, there are concerns about a radical reform of the criminal and administrative-delictual law, including the possibility of replacing administrative offences with criminal misdemeanours. The authors suppose that the state must initially clearly define all criteria and characteristics of criminal and administrative-delictual policy, on the basis of which the subsequent reforming of the criminal and administrative legislation has to be carried out.

Keywords: criminal policy; administrative-delictual policy; administrative offense; responsibility; crimes.

Nina Yu. Skripchenko

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Administrative Prejudice in Criminal Law: On the Issue of Application

The paper examines administrative prejudice as the ground for the extension of probationary period whilst on a suspended sentence, the revocation of a suspended sentence or conditional early release from serving a sentence (Art. 74 (2, 3), Art. 79 (7) (a) of the RF Criminal Code). With its clarity and laconicism, the legislative formulation seems to leave no doubts for its uniform application, but still they arise. Some issues are raised for discussion.

Keywords: administrative prejudice; suspended sentence; conditional early release from serving a sentence; offence.

Oxana Yu. Tarasenko-Shiyan

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On the Justice of Criminal and Administrative Liability (on the Example of Criminal and Administrative Liability for Fishery Offences)

The article reviews the correlation between criminal and administrative liability for fishery offences, and some problems of implementing the principle of justice in criminal and administrative liability for such violations. The author justifies the need to increase the criminal penalties for fishery and intensify law enforcement practices in this field.

Keywords: criminal liability; administrative liability; justice; water biological resources; marine biological resources.

Aleksandr A. Fyodorov

PhD in Law, Professor, Honoured Lawyer of the Russian Federation, Editor In Chief of The Drug Control Journal

The Relation between Drug Crimes and Administrative Drug Offences

In the article, the author justifies the conclusion that drug crimes and administrative drug offences both have such feature as public danger, but the criteria differentiating between them are in many respects conditional and formal. In addition, based on the analysis of a number of drug crimes and administrative drug offences, it is argued that there are incidents where drug-related crimes and administrative offences both encroach on the very same objects.

Keywords: criminal law; administrative law; drug crimes; administrative drug offences.

Rustam K. Khalitov

PhD student in the Department of Criminal Law, Criminology and Criminal Correctional Law at the South Ural State University (National Research University)

Public Danger as the Ground for Criminalization of an Act (in the Context of Criminalization of Acts Determined by Administrative Prejudice)

The article considers the public danger of an act as the key ground for its criminalization, and as well the question of whether a repetition of a same administrative offence may generate a crime (an offence of different grade).

Keywords: criminalization; public danger; administrative prejudice.

Vladimir V. Shablisty

PhD in Law, Associate Professor in the Department of Criminal Law and Criminology of the Investigators Training Faculty at the Dnepropetrovsk State University of Internal Affairs

The Measuring of a Constitutionally Safe Introduction of the Legal Institutions of Criminal Misdemeanour and Criminal Liability of Legal Persons in Ukraine

The article focuses on the illogical adaptation of substantive law rules to a new process of their application. An attempt was made to address current issues on reforming the criminal justice system in post-Soviet countries. The author considers that it is not advisable to change the canonical provisions on criminal liability of the existing law and, therefore, offers a possible solution to the problems involved, based on the requirement of immutability of the existing legislation. Only when there exist well-established law enforcement practices, it is possible to talk about further improvement of criminal law to support certain social relations.

Keywords: law; crime; punishment; criminal misdemeanour; human security; reforms.

CRIMINAL LAW

Kostyleva Olga V.

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Release from Punishment due to a Change of Situation: Current Trends in Law Enforcement

The article analyses the practical application of the norm of release from punishment due to a change of situation. Specific court decisions are examined to illustrate the difficulties of interpretation and application of Article 80¹ of the RF Criminal Code. Recommendations about solving the identified problems are given.

Keywords: release from punishment; a change of situation; loss of being a danger to the public by the offense or the offender.

Igor A. Petin

PhD in Law, Associate Professor in the Department of Criminal Law at the Orenburg State Agrarian University

Conceptual Model of the General Part of the Criminal Code of Russia

Taking into account modern scientific advances, in particular, behavioral psychology, the article examines in a logic manner the purposes of punishment and the objectives of criminal legislation in general, as well as ways and means of achieving them. Critical analysis is given to the principles of the existing criminal legislation and others conceptually different in form and content are offered. In the present model of the General part of the Criminal Code of Russia, the author identifies some legislative patterns reflecting the influence of the unconscious (subconscious) on criminal behavior, lack of free will, and the possibility of randomness in this conditioned world. Therefore, criminals and their criminal behavior are perceived first of all as information elements of the reasons leading to the crime, and the conditions contributing to it. Concepts of guilt, sanity, subject and grounds of criminal responsibility, etc. are offered.

Keywords: conditionality and adequacy of behavior; cause-effect relationships; unavailability of responsibility; subject and method of criminal legal regulation; concept of adequate imputation of

criminal mischief; purpose of awareness of the objective laws of the world order and one's behavior in it; harmonious development of an individual and society.

CRIMINAL PROCEDURE

Yury P. Borulenkov

PhD in Law, Associate Professor, Deputy Director of the Institute of Professional Development of the Investigative Committee of the Russian Federation

On the Factors Negatively Affecting the Results of Legal Knowledge

Further discussing the question of truth in criminal proceedings, and practical problems of its refraction in justice practices, the author examines the factors that affect the results of legal knowledge. It is emphasized that a multidimensional structure of legal knowledge predetermines that circumstances affecting its result are multilevel and diverse. It is noted that the object of legal knowledge directly depends on the characteristics of the learning subject. The impact of disciplinary practices on social and psychological attitudes of the subjects of legal knowledge is analyzed.

Keywords: legal knowledge, subject of legal knowledge; disciplinary practices; result of legal knowledge.

Natalia V. Mashinskaya

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Implementation of the Requirements of the Beijing Rules in Criminal Proceedings in the Russian Federation

The problem of improvement of the criminal procedure legislation in the field of administration of justice concerning minors is one of the most debatable in domestic criminal legal proceedings. To determine ways of improvement of the law in this part, during integration of the Russian Federation into the world community, it is very important to consider requirements of the international standards. The author analyzes the provisions of the basic international law act – The UN Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), and formulates a conclusion about the need to bring the national criminal procedure legislation in compliance with the requirements of international standards.

Keywords: criminal proceedings; a minor; international law act.

CRIMINOLOGY

Maria A. Kostyuchenko

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A Regional Analysis of the Status and Dynamics of Malicious Evasion of the Repayment of Credit Debts (on the Example of the Irkutsk Region)

The article analyzes the status and dynamics of malicious evasion of the repayment of credit debts in the specific subject of the Russian Federation - the Irkutsk region. The author concludes that the level of the crime under consideration remains high in Russia as a whole, and in Eastern Siberia, in particular. In addition, since 2009, there has been a significant increase in incidents of malicious evasion of repayment of credit debts, which poses a threat to the financial and credit system of the Russian Federation.

Keywords: analysis of the status and dynamics of crime; economic crime; malicious evasion; credit debt.

CRIMINALISTICS

Ivan A. Popov

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Investigative Operational Group, As a Form of Collective Method of Crime Detection and Investigation: Historical Experience, Current State and Development Prospects

On the basis of a retrospective analysis of the experience of creating of investigative operational groups and the current state of the organization of their activities, the author examines the practices of their functioning; merits and demerits of this form of collective detection and investigation of crimes; the legal regulation of the functioning of such groups; and current problems and shortcomings of procedural and organizational character, arising at their creation. The author noted the practical importance of such a progressive form of integrated use of forces and means of the interested services within law enforcement agencies, as formation of joint investigative operational groups (brigades). Based on the outcomes of the study, proposals are formulated on the improvement of legal and organizational support of detection and investigation of crimes.

Keywords: cooperation between interested agencies; operational, informational, and methodical support of investigation of crime; investigative operational group; regular, specialized, joint investigative operational group; operational search activity; prosecutor; head of investigative body; investigator.

Yulia N. Chornous

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Tactics of Procedural Actions upon the Request for International Legal Assistance

Tactics of a procedural action provides for its execution according to certain stages of preparation, direct conduct; record its course and results, and their evaluation. These general provisions also apply to the tactics of procedural actions conducted upon a request for international legal assistance. However, the tactics of procedural action in such conditions is characterized by a number of features, the main of which are: 1) the necessity to take into account the standards of international law and domestic laws of the requesting and requested state; 2) stages of preparation, execution and record of procedural actions, and evaluation of results achieved are carried out by a more expanded circle of authorized subjects, including representatives of competent authorities of foreign states; 3) procedural relationships arise with persons enjoying a certain status (persons with diplomatic immunity, foreign nationals); 4) the legal ground for such procedural actions is a request for international legal assistance; 5) procedural actions are carried out strictly within the limits specified in the request; and 6) the observance of necessary requirements determines an evidential value of the results received.

Keywords: procedural actions; international legal assistance; tactics of a procedural action; request for international legal assistance; competent authorities.

INTERNATIONAL CRIMINAL LAW AND JUSTICE

Sergey A. Ogurtsov

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Conceptual Approaches to the Notion of Legal Insanity in the International Criminal Law

The article analyses the international documents regulating the peculiarities of excluding criminal responsibility for socially dangerous acts committed whilst in a state of insanity. A special attention within the current study is given to the Rome Statute of the International Criminal Court, since it is the act in which the criteria of legal insanity were for the first time identified as the grounds for excluding criminal responsibility of an individual. The author attempts to interpret the notion of mental illness or disorder not only by the use of foreign legal literature, but also by means of modern advances in medical psychology, as well as legal psychiatry. In the article, lots of attention is focused on paragraph 1 (b) of Article 31 of the Rome Statute, in which an intoxication is outlined as a ground for excluding criminal responsibility very specific for the Russian criminal law. The author attempts to argue the inadmissibility of the phrase about the destruction of the defendant's capacity to appreciate the unlawfulness or nature of his or her conduct, included in paragraph 1 (a) of Article 31 of the Statute. The author also identifies the possible problems that may arise in the implementation of paragraph 1 (a, b) of Article 31 of the Statute, as well as outlines the potential ways to solve them. The author expresses the idea and offers the means for further development of the insanity criteria in the Rome Statute of the International Criminal Court.

Keywords: legal insanity; the Rome Statute of the International Criminal Court; mental disease or defect; state of intoxication.

Irina V. Ena

Senior Lecturer in the Department of Criminal Law and Justice at the Zaporozhye National University

The Development of Ideas about Criminal Procedural Competence within the Theory of Ukrainian Criminal Procedure and the Genesis of This Concept in the Legislation of Ukraine

The notion of “competence” has been adopted in legal literature since quite long, and at present, it finds application in the legislation of Ukraine. However, in jurisprudence, there is no clear definition of “competence” that would include all of its features and elements, which results in that scientists put different meanings to this concept, which leads to negative consequences in all areas of life support of the state. The theory of criminal procedure in this sense is not an exception, as the research on criminal procedural competence is limited to ascertaining the essence of powers, functions, rights, and duties of the subjects of criminal process, although these concepts are only elements of competence. Such situation has caused the need for a comprehensive, in-depth investigation into the essence of the phenomenon of criminal procedural competence, which takes particular importance in the light of recent changes to the criminal procedure legislation in Ukraine. The article analyzes the concept of the criminal procedure competence of the subjects of criminal process, the stages and features of the development of ideas about the criminal procedural competence within the theory of criminal procedure of Ukraine; as well, it provides the analysis of the genesis of this concept in the legislation of Ukraine.

Keywords: competence, competency, criminal procedural competence, criminal procedural function; area of jurisdiction; powers of authority; government bodies; legal status.

Nikita A. Kolokolov

Doctor of Law, Professor in the Department of Judiciary and Organization of Justice at the National Research University ‘Higher School of Economics’

The Appeal: Review of Interim Judgments

The article brings to the reader’s attention a dispute over the jurisdiction of cases and case material in respect of which appeal complaints and proposals regarding the interim judgments have been presented.

Keywords: appeal; appeal instance; interim judgment; final judgment.

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