

Aleksandr G. Volevodz

Doctor of Law, Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics at the Moscow State Institute of International Relations (University) of the MFA of Russia, Editor In Chief of the Criminalist's Library Scientific Journal.

Truth in Criminal Proceedings: Points of View, Doubts and Arguments of Science.

Vladimir A. Azarov

Doctor of Law, Professor, Honoured Lawyer of the Russian Federation, Head of the Department of Criminal Procedure and Criminalistics of the Dostoevsky Omsk State University.

Is It Really the Case that Objective Truth Is the Aim of Proof in Criminal Proceedings?

The article analyzes whether it is reasonable to enshrine objective truth as the aim of proving in the text of the Criminal Procedure Code of the Russian Federation. The author justifies the conclusion that in fact such a goal is actually resulted from a number of criminal procedural law rules. It is demonstrated that soundness and fairness of court decision is dependent on its verity, and that is what directly affects the level of confidence of the population regarding the activities of the criminal justice system. In the end, the author forecasts the possible outcomes of introducing into the Criminal Procedure Code of the Russian Federation directions regarding the necessity of conducting full, comprehensive, objective investigation of circumstances of a case and establishing objective truth.

Keywords: objective truth; full, comprehensive, objective investigation of the circumstances of a case; criminal proceedings; adversariality.

Luiza M. Ashirova

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

Objective Truth as an Element of a Fair Trial in a Criminal Case.

The article advocates the necessity of consolidation and practical implementation of the requirement of objective truth in criminal proceedings. Based on the analysis of judicial practices of the European Court of Human Rights, international documents, foreign legislations related to criminal procedure, it is shown that establishment of truth is a component of fair judicial proceedings. The objective truth in domestic criminal procedure is not deemed to be absolute due to existence of special procedures of criminal proceedings (Chapters 40, 40.1 of the Criminal Procedure Code of the Russian Federation). According to the author, the requirement to establish truth should be balanced with other components of a fair trial.

Keywords: criminal proceedings; truth; proof; a fair trial; European Court of Human Rights; balance of interests; Criminal Procedure Code of the Russian Federation.

Oleg Ya. Baev

Doctor of Law, Professor, Head of the Department of Criminalistics at the Voronezh State University.

The Bill «On Objective Truth in Criminal Proceedings» and Possible Consequences of Its Adoption.

The article critically analyzes the bill proposed by the Investigative Committee of Russia regarding the introduction in criminal procedure legislation of the institution of objective truth, under the cover of the proposition of the necessity of which the principle of presumption of innocence is interpreted in a corresponding manner; and it is proposed to oblige the court to be an active participant in the process of proof, and the necessity to return the right for the court to send back criminal cases for additional preliminary investigation is justified. The author's view of these questions, including a possible approach to the problem of «turn for the worst» in judicial proceedings on criminal cases, is formulated.

Keywords: truth; criminal proceedings; trial of criminal cases; «turn for the worse».

Vladimir M. Bozrov

Doctor of Law, Professor, Honoured Lawyer of the Russian Federation, Head of the Department of Judicial Activity at the Ural State Law Academy.

Truth in Criminal Process: Pro Et Contra.

The article analyzes some aspects of the bill relating the introduction of the institution of objective truth in criminal process in Russia. The conclusion is justified that this institution is not acceptable for criminal proceedings, due to the fact that its aim is unattainable by procedural means, as the results of investigatory and judicial actions are in many respects caused by subjective factors.

Keywords: truth; criminal proceedings; judicial practice.

Yury P. Borulenkov

PhD in Law, Associate Professor, Head of the Department of Criminalistics at the Institute of Professional Development of the Investigative Committee of the Russian Federation.

Aspiration to Truth Is the Supreme Law of Justice.

The article focuses on the issue of truth in criminal proceedings and problems of its application in justice system practice. The significance of this issue is emphasized for the ideology of criminal proceedings and its effect on practical activity of the law enforcement bodies. It is pointed out that it is connected with the problem of implementation of adversarial principles in criminal proceedings. The question of conceptual areas of reforming the preliminary investigation is considered.

Keywords: legal knowledge; truth; adversariality; form; content; Investigative Committee of the Russian Federation; preliminary investigation.

Elena G. Vasilieva

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

Adversariality Is Sufficient For Acquittal: Conviction Requires Objective Truth.

The article deals with the problem of correlation between court activity and adversariality in criminal process. The author believes that adversariality by itself does not presume such activity. Meanwhile, certain ex officio efforts of the court seem to be well grounded, if one speaks about finding additional evidence acquitting the defendant. Finally, the author has drawn the conclusion about the necessity to adhere to an asymmetric approach to court activity in a criminal trial.

Keywords: criminal process; objective truth; court activity; adversariality; retrieval; trial; presumption of innocence; conviction of a person; acquittal of a person.

Lidia A.Voskobitova

Doctor of Law, Professor, Honorary Worker of Higher Professional Education of the Russian Federation, Head of the Criminal Procedure Department at the Kutafin Moscow State Law Academy.

Some Specific Features of Knowledge in Criminal Proceedings Contradicting the Myth of Truth.

The issue of truth in criminal proceedings is not new, but it is traditionally disputable. Moreover, the dispute on this topic has been going on in science and practice of criminal proceedings for several centuries. The modern Russian criminal procedure that has been going through permanent and prolonged reform, also keeps the issue of truth on agenda. The author notes that the very difficult problem of truth in human knowledge, including also the sphere of criminal procedure knowledge, is worth of more serious, open and scientific discussion. And this serious work should not be substituted with myth-making.

Keywords: truth; criminal proceedings; knowledge; Criminal Procedure Code of the Russian Federation; application of law.

Leonid V. Golovko

Doctor of Law, Professor, Acting Head of the Department of Criminal Procedure, Justice and Prosecutorial Oversight.

The Theoretical Grounds for Modernization of the Doctrine of Substantive Truth in Criminal Process.

The so-called «doctrine of substantive (objective) truth» has become an object of many theoretical speculations in Russia and other Post-Soviet countries. Behind these speculations, very often useless and senseless, one can find a dilemma of a very difficult choice of adequate criminal process model in the context of a well-known conceptual division between continental and Anglo-Saxon criminal

procedure ideology. This choice, nominatively symbolized by the concept of «substantive (objective) truth», is not arbitrary or purely political. It should take into account as well the different non-procedural legal factors, first of all the historical system of substantive criminal law and the general idea of the organization of judiciary.

Keywords: criminal process; substantive truth; Anglo-American procedural model; continental procedural model.

Aleksandr V. Grinenko

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

On The Question of Truth in Criminal Proceedings.

The article is devoted to the exploration of problem aspects of the application of the philosophical category of truth and its adjacent concepts in the field of criminal proceedings. A conclusion is made according to which the question of the veracity of knowledge in criminal proceedings should be resolved in the general course of the theory of knowledge of reality. However, it is necessary to retain in the Russian criminal procedure legislation a more specific category of «purpose of criminal proceedings», which application would allow to maintain more fully the rights of persons involved in the proceedings on criminal cases.

Keywords: truth; criminal proceedings; criminal case; human rights; prosecuting party; defence party.

Vladimir V. Doroshkov

Doctor of Law, Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics at the Moscow State Institute of International Relations (University) of the MFA of Russia, Russian Federation Supreme Court Justice.

Objective and Formal Truth as Different Forms of One Phenomenon.

The article considers basic provisions of the concepts of «objective truth» and «formal truth» in regard to criminal proceedings. The conclusion is justified about that nowadays the society needs an outcome in which circumstances established by the court would most fully and precisely reflect that part of objective truth that falls within a legal regulation.

Keywords: criminal proceedings; truth; objective truth; formal truth.

Elena V. Ezhova

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

The Role of Court in Establishing the Truth in Criminal Cases.

The article deals with the issue of changing the role of court in the process of proof in criminal cases in connection with the proposal of introduction in the RF Code of Criminal Procedure of the institution of establishment of objective truth and granting to court the right to send back criminal cases for additional investigation. The author justifies the conclusion that the court must not take up the prosecution function, but collecting of evidence may be carried out by the court only for the verification of evidence presented by the parties.

Keywords: truth; RF Code of Criminal Procedure; court; adversariality; proof.

Roman G. Zorin

PhD in Law, Associate Professor in the Department of Criminal Procedure at the Yanka Kupala Grodno State University.

Faith of Truth in Criminal Process: Birth, Reanimation, or Sure Death?

The article examines the issues related to the purposes of criminal process. The necessity of a legislative regulation of the objective of criminal process as establishment of truth in criminal cases is justified. Problems of improvement of the current criminal procedure legislation are also examined.

Keywords: criminal process; truth; legislative regulation; prospects and tendencies.

Andrey A. Kozyavin

PhD in Law, Associate Professor in the Department of Criminal Procedure and Criminalistics at the South-West State University.

The Criterion of Truth Learned in Criminal Process in the Light of Its Possible Normative Formalization.

The article analyzes the current state of scientific discussion concerning the nature of truth learned in criminal process, its necessity as a purpose of criminal procedural activity, and its dependence on typological properties of justice in criminal cases. To prove the idea of the legal nature of truth, the author's point of view on its criterion is stated, and positions are defended that it is about an inward conviction, but not a law-enforcement practice. In the end, the author gives a negative assessment of the major proposals of the draft bill regarding securing the institution of objective truth in the Criminal Procedure Code as inappropriate to the criterion of truth justified in the article and to main democratic properties of the modern criminal justice process.

Keywords: criminal process; legal truth; objective truth; criterion of truth; inward conviction; law-enforcement practice.

Nikita A. Kolokolov

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

The Moment of Truth.

With regard to criminal process, the issue of «objective truth» remained at all times among priority scientific researches. The proposal of A. Bastrykin, the Chairman of the RF Investigative Committee, to enshrine establishing of objective truth in the RF Criminal Procedure Code as the aim of criminal proceedings has only intensified a permanent debate. The suggestion of the draft law's authors to assign a duty of establishing objective truth to judges is fiercely criticized. Studying the debate allows to conclude that the participants of the dispute, on the one hand, do not realize the essence of such social and legal phenomenon as objective truth, and on the other hand, they forget that it is far from unique in the hierarchy of aims of criminal proceedings. In the article, arguments are given on the topic of truth, as well as examples of judicial practice confirming both above stated judgments. The author concludes that over the years of its existence within domestic science of criminal procedure and legislation, the institution of objective truth has undergone a range of transformations, and this process is still very far from being completed.

Keywords: truth; lie; absolute truth; relative truth; objective truth; necessary truth; checked truth; confirmed truth; conventional truth.

Svetlana V. Kornakova

PhD in Law, Associate Professor of the Department of Criminal Procedure and Criminalistics at the Baikal State University of Economics and Law.

The Problem of Establishing Truth in Criminal Proceedings in Russia.

The article considers the issue of truth in criminal proceedings in connection with the initiative of the Investigative Committee of the Russian Federation that provides for restoring in criminal process the institution of establishing objective truth in criminal cases; reveals the content and specificity of truth in the process of proving in a criminal case; provides arguments for objections in regard to criticizing the draft law. The author justifies the conclusion that the realization through legislature of the proposal of introduction of the institution of establishment of objective truth, related to establishing the circumstances of a criminal case, does not contradict the adversarial principle of criminal process. The requirement of a detailed, full and objective investigation of all circumstances of a criminal case and focusing the proving parties' activity on establishing the truth in each criminal case are needed to be enshrined in legislation.

Keywords: proof in criminal process; objective truth; detailed, full, objective investigation; adversariality; fairness of a sentence.

Vladimir M. Kornukov

Doctor of Law, Professor in the Department of Criminal Procedure and Criminalistics at the Togliatti State University.

Whether the Restoration of the Concept of Objective Truth in the Legislation and Practice of the Russian Criminal Proceedings Is Possible And Necessary.

The article examines the theoretical and practical aspects of criminal procedural activity related to the process of proof and its outcomes. From this point of view, the author analyses the ideas of scholars relating the nature of knowledge of the circumstances to be proved on the basis of which the concluding

decisions on a criminal case should be made, with consideration of their relation to law application practice and reaching of relevant decisions. Negative aspects of the pre-trial activities and the motives for development of the bill on introduction of the institution of establishment of objective truth in criminal cases are revealed. The characteristics of the main provisions of this bill and the assessment of them are given, and the conclusion is made that it is unacceptable. The theoretical question of truth, its types, and their interrelation, as well as the possibility of applying the category of «objective truth» in normative legal acts are examined. The practical significance of the concept of objective truth for criminal procedural activity is substantiated. Considerations on implementation of some positively estimated proposals of the discussed bill, and other ways of improvement of criminal proceedings are expressed. In the context of the problems discussed, the questions of adversariality and presumption of innocence have been also touched upon.

Keywords: proof in criminal process; evidence; truth in criminal proceedings; criticism of the bill; types of truth and their interrelation; a category of «objective truth» and the possibility of its securing in law; improvement of criminal procedure activity.

Roman V. Kostenko

Doctor of Law, Professor, Head of the Department of Criminal Procedure at the Kuban State Agrarian University.

Objective Truth Is the Aim of Proving in Criminal Process.

The article deals with an urgent scientific problem related to objective truth in criminal process. Based on the analysis of various viewpoints among scholars in criminal procedure, the current RF Criminal Procedure Code, and practice of its application, the author of the article has drawn novel conclusions concerning the institution of objective truth in criminal process. In particular, according to the author, objective truth should be the aim of proving in criminal process.

Keywords: objective truth; credibility; probability; proof; evidence.

Valentina A. Lazareva

Doctor of Law, Professor, Honoured Worker of Higher Professional Education of the Russian Federation, Head of the Department of Criminal Law and Criminalistics at the Samara State University.

Is “Objective Truth” Objective?

From the perspective of presumption of innocence and adversariality, the article critically considers a draft law in which it is suggested to introduce to the RF Criminal Procedure Code a norm defining «objective truth» and related changes of criminal proceedings procedure, including a wider range of grounds on which the criminal case may be remitted to the prosecutor.

Keywords: objective truth; adversariality; presumption of innocence; remittance of a criminal case for further investigation.

Dmitriy A. Mezinov

PhD in Law, Associate Professor in the Department of Criminal Procedure, Prosecutor’s Supervision and Law Enforcement at the Tomsk State University Law School.

Is the Truth Ascertained in Criminal Process Objective?

In connection with the proposal of the Investigative Committee of the Russian Federation to introduce the institution of establishing objective truth in a criminal case into the RF Code of Criminal Procedure, the opinions arising during the scientific discussion are under critical analysis. The article substantiates that the intention of judges and prosecutors to find actual circumstances of a criminal case and observe limitations specified in the Criminal Procedure Code corresponds both to the interests of society and state and to the interests and rights of an individual. At the same time, the author does not consider it the right thing to use an expression “objective truth” in the law, substantiating the conclusions regarding the absence of exact criteria for ascertaining objective truth in criminal proceedings, the lack of coincidence of the notions “objective truth” and “reliable findings related to circumstances established in a criminal case”, and the possibility and necessity of obtaining such findings in the course of proving in a criminal case, considering them as legal (judicial) truth. The author believes that it is acceptable for domestic criminal proceedings to follow the ‘beyond reasonable doubt’ standard when forming an inward conviction of the judge as a criterion of reaching the reliable findings regarding the circumstances revealed in a criminal case, and evaluates positively the adversarial character of

proceedings moderately realized in the Criminal Procedure Code, as the basis for such findings. From this point of view, the author criticizes the proposals to allow the court to remit a case on its initiative back to the procurator for making up for a shortage of evidence and the introduction of an additional reason for abolishing the sentence which has not come into force.

Keywords: RF Code of Criminal Procedure; Investigative Committee of the Russian Federation; criteria for ascertaining objective truth; reliability; inward conviction; adversariality.

Yuriy K. Orlov

Doctor of Law, Honoured Lawyer of the Russian Federation, Professor in the Department of Criminal Procedure Law at the Kutafin Moscow State Law Academy.

The Establishment of Truth as the Aim of Proof in Criminal Process.

The article criticizes the regulation of the criminal proceeding aims (objectives) by the RF Code of Criminal Procedure, which reduces them to mere protection of the rights of the parties, without any directions regarding the social goals. The principle of adversariality has been absolutized to become an aim in itself. The court has been turned into an impassive arbitrator only watching how the contending parties observe procedural rules. In the result, all this will negatively affects the interests of the accused, as the dispute outcome, when the court is passive, depends entirely on the ability and qualification of the parties, but the accused may not always be provided with a qualified defender. The reasons of the availability of such extremes in the current RF Criminal Procedure Code, firstly, that its developers had set as purpose the complete demolition of the former, "inquisition-like", in their opinion, Criminal Procedure Code; secondly, their obvious orientation to the criminal procedure legislation of the USA, which does not correspond at all with Russian national mentality; and, thirdly, their obviously "defending" bias, with a tendency to maximize the protection of the defense party's interests, prejudicing frequently the interests of the other party (victim). The problems of truth in criminal process are considered, and the concept of formal (legal) truth is criticized. The elimination of all these defects would contribute considerably to enshrine in the law the provisions stated in the draft bill prepared by the Investigative Committee of the Russian Federation on changes in the RF Code of Criminal Procedure. These provisions are principles of a full, comprehensive and objective investigation, objective truth, and court activity in collecting and research of evidence.

Keywords: aims (objectives) of criminal process; principles of criminal process; adversariality; activity of the court; material (objective) truth; formal (legal) truth.

Gennady A. Pechnikov

Doctor of Law, Professor in the Department of Criminal Procedure at the Volgograd Academy of the Ministry of Internal Affairs of the Russian Federation.

Dialectics and Criminal Process.

From the perspectives of materialistic dialectics, the article provides the assessment of the current Criminal Procedure Code of the Russian Federation and the bill of the Investigative Committee of Russia proposing introduction in modern domestic criminal process of the institution of establishment of objective truth in a criminal case. According to the author, such assessment is necessary, as dialectics is the law of the objective world and the law of knowledge, it is general and universal, and the effect of its objective laws is immutable.

Keywords: dialectics; criminal process; truth.

Aleksandr V. Pobedkin

Doctor of Law, Professor, Head of the Division of Coordination of Scientific Activity in the MIA of Russia of the Department of Professional Development Organization at the Directorate of Public Service and Personnel of the MIA of Russia.

Moral Victories: Do They Not Count?

The article deals with moral aspects of the problem of truth in domestic criminal proceedings interrelating other major procedural problems and novels of the last years. The idea of the necessity of assessment of the main procedural institutions from a moral standpoint is justified. The conclusion is drawn according to which the Russian criminal proceedings (its normative and law-enforcement constituents) are emasculated of moral origins. A critical assessment is given of formal truth and special procedure of judicial proceedings.

Keywords: objective truth; formal truth; moral origins; special procedure of judicial proceedings.

Nikolai A. Podolnyy

Doctor of Law, Associate Professor, Head of the Department of Criminal Law, Criminalistics and Criminology of the Law Faculty at the Ogarev Mordovian State University.

Objective Truth, or What Should to Be the Criminal Process in Russia.

The article considers the proposal of including the concept of “objective truth” into the RF Code of Criminal Procedure. Arguments are given on that it not be allowed, as it can lead to revival of judicial inquisition. In addition, the ideological content of the concept of “objective truth” that does not meet the democratic requirements, is revealed.

Keywords: objective truth; criminal proceedings; inquisitorial process; justice.

Genry M. Reznik

PhD in Law, Associate Professor, President of the Moscow Bar Association.

The Institution of Objective Truth as a Cover for Justice System Repressiveness.

The author develops the view of objective (material) truth as a practical veracity which there is not enough room for it within formal logic syllogisms, and which is described by the logic of verisimilar reasoning. The means of knowledge in criminal proceedings are not perfect enough to exclude miscarriages of justice. Historical experience of crime detection activity shows that it inevitably leads to the violation of the rights of an individual and the actual abolition of the presumption of innocence principle. In a law-governed state, the rights and dignity of a person are deemed higher values than establishment of truth.

Keywords: objective (material) truth; crime detection; adversariality; theory of formal evidence; judicial evidence; imperfection of the means of knowledge in criminal process; dignity of a person; presumption of innocence; practical veracity.

Ekaterina V. Ryabtseva

PhD in Law, Associate Professor in the Department of Criminal Procedure at the Central Branch of the Russian Academy of Justice.

Objective Truth in Criminal Process: The Possible Consequences of Its Securing in Legislation.

The article is devoted to the analysis of the draft Federal Law “On the changes to the Criminal Procedure Code of the Russian Federation in connection with introduction of the institution of establishing objective truth in a criminal case” from the perspective of its compliance to current norms and institutions related to criminal process. Pretentiousness of some provisions of the draft law, as well as the impossibility of their practical implementation is shown. The article provides certain proposals aimed at the improvement of criminal procedural legislation.

Keywords: objective truth; systems approach; activity of the court; remittal of the case for additional investigation; alteration of the charge at trial.

Georgiy K. Smirnov

PhD in Law, Senior Inspector in the Main Directorate of Organization and Inspection of the Investigative Committee of the Russian Federation.

Objective Truth as a Reference Point for Proof in Criminal Process.

The article argues the need to introduce in Russian criminal process an institution of objective truth. Arguments of the opponents of it are analyzed, and the compliance of the institution of objective truth in criminal process with its adversarial nature is justified.

Keywords: objective truth; proof; criminal process; RF Code of Criminal Procedure.

Galina V. Starodubova

PhD in Law, Associate Professor in the Department of Criminal Procedure at the Voronezh State University.

The Bill of the Investigative Committee of Russia Regarding the Introduction of the Institution of Establishment of Objective Truth in Criminal Process and Possible Consequences of Its Adoption.

In the article, the author carries out the analysis of the bill issued by the Investigative Committee of Russia regarding the introduction of the institution of establishment of objective truth in criminal

process. The conclusion is drawn that truth in criminal process should be identified with a proof of charge in accordance with an accusation procedure prescribed by law. The possibility of establishment the truth in criminal cases and the principle of presumption of innocence do not exclude each other. On the contrary, the presumption of innocence determines the “quality” of truth through lack of contradictions and doubts regarding the guilt of an accused of a crime. Further, on the basis of the provisions of the bill, the author concludes that an attempt is being made to restore in criminal trial the institution of remitting criminal cases back for additional investigation and to create a mechanism for eliminating gaps in evidentiary base of prosecution occurring in the course of pre-trial proceedings and identifies possible consequences of creation of such mechanism.

Keywords: truth; proof of charge; presumption of innocence; criminal case.

Nikolay G. Stoyko

Doctor of Law, Professor of the Department of Criminal Procedure and Criminalistics at the Sankt-Petersburg State University.

The Achievement of Truth in Modern Investigatory and Adversary Criminal Process.

The article is a reaction to the discussion which has begun in the Russian legal literature regarding the proposal on the introduction of the institute of objective truth. It aims to show the significance of the achievement of truth in the modern criminal process through a criminal and political, comparative and legal analysis of truth as an objective of criminal procedural process. The conclusions drawn are the following: the achievement of truth (along with fairness) is an important purpose of modern criminal process of any type; truth establishment as the purpose of the process does not contradict its adversariality or its orientation to adversariality; disputes on truth out of a social context have no practical sense; it is necessary to transfer from abstract and theoretical, or “ideologized”, dispute on truth to a quiet discussion of the related questions of conceptual unification (not excluding possibility of a certain technical differentiation) and differentiation of the activities in criminal cases of the police, the prosecutor’s office and the court (at material-legal, procedural and institutional levels).

Keywords: criminal process; truth; purpose; criminal and political, comparative and legal context, reform of Russian criminal proceedings.

Regina M. Shageeva

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

In Dispute the Truth Is Born.

The article is devoted to a long-standing, disputable problem that is finding truth in investigation and trial of cases. The author analyzes the arguments of supporters and opponents of truth in criminal process. It is emphasized that the question of truth is closely related to the general evolution trend of the criminal procedural legislation.

Keywords: truth; criminal procedural knowledge; adversariality; form.

Semen A. Sheyfer

Doctor of Law, Professor in the Department of Criminal Procedure and Criminalistics at the Samara State University.

About the Bill «On the Changes to the RF Code of Criminal Procedure in Light of the Introduction of the Institution of Establishment of the Objective Truth in a Criminal Case».

Analyzing the norms of the RF Code of Criminal Procedure, the author arrives at the conclusion that the establishment of truth, obtained by the way of a comprehensive, full, and objective research of circumstances of a case, remains the aim of the proving process of a high social value in spite of the fact that on some occasions the law endows the truth in favor of a higher priority objective – ensuring the rights and freedoms of an individual. The article draws attention to a number of shortcomings of the legal regulation in modern Russian criminal proceedings, and the ways to remove them are suggested.

Keywords: objective truth; criminal proceedings; RF Code of Criminal Procedure; improvement of legal regulation.

Natalya A. Lopashenko

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

Criminal Policy Against Economic Crimes: Could It Be Worse?

This article is devoted to the problems of criminal policy in the field of economic crimes. Endless reforming of Ch. 22 of the Criminal Code has resulted in that this chapter, which even initially did not demonstrate high quality of lawmaking, had nowadays lost all its systemic nature and logic. The number of articles in Ch. 22 of the Criminal Code has increased in 15 years of its operation almost by third. Instead of reducing criminal prosecution against representatives of business entities in the country, as it had been declared at various levels, the scope of activities considered criminal was essentially extended.

Criminalization of acts in the economic sphere significantly prevails over decriminalization, although hidden, latent decriminalization is becoming more and more common. Signs of criminal activity are determined by the legislator in arbitrary manner, and have radically different expressions for crimes with similar elements. Penalties for crimes in the sphere of economic activity are characterized by inconsistency and discrepancy. A special relief from criminal liability practiced recently, in fact, punishes the guilty person much stronger than a criminal penalty.

The author proposes to pass a new chapter on economic crimes within new Criminal Code to be adopted.

Keywords: criminal policy; criminalization; decriminalization; economic crimes; signs of criminal activity; relief from criminal liability.

Evgeniya O. Rueva

PhD in Law, Associate Professor in the Department of Jurisprudence at the Pokrov Branch of the Moscow State Humanitarian University after M.A. Sholokhov (City of Pokrov, Vladimir District).

Peculiarities of Taking Administrative Proceedings for Insult in the Light of Humanization of Criminal Legislation.

This article discusses some specific points of making individuals and legal entities administratively responsible for insults, which is especially actual in the light of the recently implemented decriminalization of corresponding crimes and return of the criminalization of slander. The legal analysis of investigation and consideration of administrative cases on insults is given, and problematic aspects of the administrative regulation of the institute of protection of honor, dignity and reputation of individuals were emphasized.

Keywords: decriminalization, administrative responsibility; insult; jurisdiction; investigation; honor, dignity, reputation.

Oleg Ya. Baev

Doctor of Law, Professor, Head of the Department of Criminalistics at the Voronezh State University.

The Self-Identification of Modern Criminalistics (Object, Subject and Subject System of Modern Criminalistics).

The article analyses the views of a number of scientists who have taken part in the renewed discussion about the object and subject of modern criminalistics. On this basis, the author's vision of these issues is offered. Special attention is given to the problems of subject system of this science and making use of the advances of criminalistics in others types of legal proceedings, besides criminal.

Keywords: criminalistics; theory of judicial evidence; criminalistics means; trial; criminal procedure research of crimes.

Leonid Ya. Drapkin

Doctor of Law, Honoured Worker of Science of the Russian Federation, Honorary Public Prosecutor of the Russian Federation, Professor in the Department of Criminalistics of the Ural State Law Academy.

Development of Criminalistics and Transformation of the Definition of Its Subject.

In the article, modern concepts of the subject of criminalistics are considered. It is noted that scientific discoveries, essential changes in technology, mechanisms, and techniques of theoretical and practical activities have led finally to the change of styles (types) of scientific thinking, the emergence of new theoretical categories and concepts, research methods and techniques, the radical revision of old views and standards, including as well the field of criminalistics.

Keywords: criminalistics; object of science; situational approach.

Yelena R. Rossinskaya

Doctor of Law, Professor, Honoured Science Worker of the Russian Federation, Honorary Worker of Higher Professional Education of the Russian Federation, Director of the Forensic Expertise Institute, Head of the Department of Forensic Expertise at Kutafin Moscow State Law Academy, full member of the Russian Academy of Natural Sciences, full member of the International Association for Identification (IAI, USA), President of the 'Forensic Expertise' Association of Educational Institutions.

Revising the Definition of Subject of Criminalistics: Pros and Cons.

The article deals with debatable issues of the general theory of criminalistics, connected with the development of ideas about the subject of this science. The question is discussed about whether a radical revision of approaches to the definition of subject of criminalistics is necessary, and how well the suggestions of a range of authors regarding this issue are reasoned.

Keywords: criminalistics; general theory of criminalistics; subject of science; regularities of criminalistics; investigation and solving of crimes; judicial scrutiny.

CRIMINOLOGY

Dmitry V. Zhmurov

Ph.D. in Law, Associate Professor, Lecturer in the Department of Criminal Law and Criminology at the Baikal State University of Economics and Law.

On the Issue of the Definition of «Criminal Genesis».

The study of the mechanism of individual criminal behavior inevitably brings the researcher's attention to a number of issues: about the appropriateness of the term «mechanism of criminal behavior», about the difference between the mechanism of criminal behavior and mechanism of behavior in general, and some other. In answering these questions, the author justifies the feasibility of using the term of «criminal genesis», which refers to the process of internal development and implementation of individual criminal activity. Herewith, the key problem related to the causes of crime, in the author's opinion, is not an issue of finding «criminal motives and needs», but the question of why a person has a tendency to break cultural taboos, and why he wants to commit a crime and get out of regulatory space. This probably occurs in many different circumstances, the basis of which is a person's identification as criminal, i.e. an acceptance of the cultural role of a criminal, which, in the future, will negatively transform the motives, needs, drives, and more.

The article defines the concept of criminal genesis, and describes in detail its main stages and substantial characteristics, ranging from criminal self-identification to mental activity after a crime. According to the conclusion made, the objective-subjective nature of the criminal origin suggests that the formation of individual criminal activity should be considered in three dimensions: a) unconsciousness (criminal self-identification); b) consciousness (criminogenic motivation, partially recognized by a person himself), and c) outward behavior (objective aspect).

Keywords: criminal genesis; mechanism of individual criminal behavior.

Yuriy E. Puduvochkin

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

Dialogue as a Platform for the Prevention of Extremism: Theoretical Preconditions and Barriers for Use in Russia.

This paper investigates the issue of theoretical preconditions of the use of dialogue methods in the work of law enforcement structures on prevention of extremism, justifies the perspective nature of this direction of prevention of extremism, and identifies the main obstacles to introduction of dialogue technology under the conditions of the Russian reality.

Keywords: extremism; conflict of cultures; axiology of criminal law; communicative understanding of law; dialogue; police and society.

INTERNATIONAL CRIMINAL LAW AND JUSTICE

Ekaterina A. Kopylova

Forth-year student of International Law Faculty at the Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation.

Prejudice as an Institution of the Contemporary International Law Procedure.

The importance of the institution of prejudice in national criminal process is generally acknowledged since it permits a considerable acceleration of proceedings and prevention of passing conflicting sentences on the same issues. At the same time, its advantages and its very existence in international law need meticulous research.

Codified institution of prejudice is special to Russian criminal procedure legislation (Code of Criminal Procedure, Art. 90). Being integral attribute of a judicial decision subject to *res judicata* principle in foreign countries it has been developed by courts, and thus is only indirectly regulated by legislation. Such an approach contains the danger of not clearly establishing the compatibility of prejudice and right to a fair trial that everyone enjoys according to the international law standards. As a result, a lot of judicial decisions referring to prejudicial circumstances can easily be challenged.

The analysis is complicated by international law peculiarities: since international jurisdictions are not organized in a single structure where the subordination is imposed, a mandatory prejudicialness of the circumstances established by one of them vis-a-vis the others is excluded. The admission of such circumstances without additional verifications can only be motivated by practicability considerations and on the assumption that the two cases are connected. It is suggested considering three possibilities when a connection of this order can be observed: the two cases are within the competence of the same jurisdiction; the two cases fall within the competence of two different jurisdictions; one of the cases is cognizable to an international jurisdiction while another falls within the competence of a national one. Even if the three possibilities thereafter do not at first sight present any similarities, more meticulous approach reveals the existence of a stable trend to the formation of a unique legal institution of prejudice in the international law.

The problem of vaguely defined procedural institution cannot be neglected in the beginning of the XXI century marked by an active development of a universal international criminal justice. Special attention should be paid to those which are particularly necessary to a more efficient course of justice.

Keywords: international law; international criminal law; international criminal process; International Criminal Tribunal for former Yugoslavia; International Criminal Tribunal for Rwanda; Special Court for Sierra-Leone; prejudice.

Victoria M. Malinovskaya

PhD in Law, Associate Professor in the Department of Administrative and Financial Law at the Moscow State Institute of International Relations (University) of the MFA of Russia.

International Legal Bases for Cooperation between States in the Field of Fight against Smuggling.

This article examines the modern status and trends of development of the legal regulation of international cooperation between states in the fight against smuggling and other customs offences. For these purposes, an analysis of international legal bases of cooperation between states in the area of law-enforcement activity of customs administrations has been performed. The paper discusses specific features of multilateral international legal agreements regarding mutual administrative assistance in law-enforcement activity of customs administrations; bilateral international contracts regarding cooperation and mutual assistance in customs matters; multilateral and bilateral international contracts regarding legal assistance in civil, family and criminal matters, applied in relation to performing of judicial, search and other actions over these matters within the limits of civil, administrative, and criminal jurisdictions of states; and multilateral international contracts containing conflict norms on applying the legislation on criminal and administrative responsibility for customs offences. Comments are given on the major provisions of the international Nairobi Convention on Mutual Administrative Assistance for the Prevention of, Investigation and Repression of Customs Offences to which the Russian Federation is a party too. The volume of mutual administrative assistance in customs matters according

to current international contracts of the Russian Federation is revealed. The conclusion is justified that the international contracts are designed to promote organized and appropriate legal cooperation between customs authorities and other law enforcement bodies, prompt and efficient performance of mutual orders on customs matters, establishment and preservation between contracting states and their bodies of stable legal relations in the fight against smuggling and other customs offences.

Keywords: international cooperation in the field of fight against smuggling; the international Convention on Mutual Administrative Assistance for the Prevention of, Investigation and Repression of Customs Offences (Nairobi Convention); agreements on cooperation and mutual assistance in customs matters; mutual administrative assistance in customs matters.

CONFERENCES

Michael V. Shepitko

PhD in Law, Research Fellow at Academician Stashis Scientific Research Institute for the Study of Crime Problems, Assistant Professor in the Department of Criminal Law at the Yaroslav the Wise Law Academy of Ukraine National University.

International Congress: The Way to the Unification of Criminalists.

The article presents a chronicle regarding the founding conference of the Congress of Criminalists Interregional Public Organization, and provides a brief informational overview of the tasks and areas of activity of this organization.

Keywords: crime; criminalistics; International Congress of Criminalists.

Authors Information

Manuscripts Submission Guidelines