

# Criminalist's Library Scientific Journal – Issue 4/2014:

## DISCUSSION PLATFORM

(coming back to former topics)

- **Basis for initiation of a criminal case: problems of theory and practice.**

**Natalia A. Vlasova** – Doctor of Laws, Professor, Head of the Department of Criminal Law and Criminal Procedure at Moscow State Industrial University Faculty of Law.

The article considers some theoretical and practical problems of the first stage of criminal procedure, connected with determination of grounds for initiation of a criminal case and grounds for preliminary verification. The author comes to the conclusion that these grounds do not coincide and require legislative regulation. This will allow to eliminate many irregularities at the stage of considering and allowing to report on a crime.

*Keywords:* stage of initiation of a criminal case; considering and allowing to report on a crime; grounds for initiation of a criminal case; elements of a crime; grounds for preliminary verification.

- **To the question of establishment of the objective truth in law.**

**Sergey I. Zahartsev** – Doctor of Laws, Deputy Director General of JSC «Russian machines».

The article is devoted to the research of the problem of establishment of truth in law as a way to achieve justice. It justifies the importance for legal proceedings to establish the objective, and not the so-called conventional or legal truths.

*Keywords:* philosophy; law; truth; justice.

- **Checking the report on a crime and conducting special investigation activities at the stage of initiation of a criminal case following the instructions of the investigator, interrogator.**

**Vladimir A. Sementsov** – Doctor of Laws, Professor in the Department of Criminal Procedure at Kuban State University.

It is argued that at naming the activity connected with reviewing the report on a crime it is necessary to proceed from the formulations used by the legislator in the text of the Code of Criminal Procedure of the Russian Federation. Attention is drawn to the absence of conditions for realization of the idea of elimination of the stage of checking the report about a crime, and the stage of initiation of a criminal case as a whole, despite its seeming attractiveness. The procedural character of the activity at the stage of initiation of a criminal case is underlined. It is suggested to empower the investigator, interrogator to instruct the investigating body at checking the report on a crime to render assistance in conducting investigatory and other procedural actions.

*Keywords:* stage of initiation of a criminal case; state service; special investigation activities.

## CRIMINAL LAW

- **Specific features of assignment of punishment for smuggling articles limited in or withdrawn from turnover.**

**Vladimir V. Vazagov** – PhD student in the Department of Criminal Law at the Russian Academy of Justice.

The article is devoted to the problems of assignment of punishment for smuggling articles limited in or withdrawn from turnover. The author studies tendencies of assignment of punishment for smuggling. The question of correlation of public danger of smuggling and sanctions of the given norms is considered.

*Keywords:* smuggling; punishment.

- **Problems of the classification of leaving in danger in case of a road offence (accident)**

**Evgeniy V. Zubenko** – PhD in Law, Senior Lecturer in the Department of Special Disciplines at the Far East Law Institute of the Ministry of Internal Affairs of Russia Vladivostok branch.

**Yuri G. Ovchinnikov** – Candidate of laws, Senior lecturer, Senior lecturer of the chair of criminal procedure Vladivostok branch of the Far East law institute at the Ministry of Internal Affairs of Russia

The article considers the questions of criminal responsibility for leaving in danger in case of a committed road offence (accident). The law enforcement practice of bringing the guilty persons to criminal responsibility under Article 125 of the Criminal code of the Russian Federation and to administrative responsibility under Article 27.12.2 of the Code of administrative procedure of the Russian Federation is considered. The concept of a «condition dangerous for life or health» is analyzed. It is proved that leaving

in danger, with reference to road accidents, is viewed in case of causing severe, moderately or slight damage to health.

*Keywords:* leaving in dangers, road offence (accident), damage to health, responsibility.

- **Legal uncertainty at assignment of punishment.**

**Sergey I. Kurganov** – Doctor of Laws, Professor in the Department of Criminal Law of the Russian Academy of Justice.

The article gives a critical analysis of the provisions of Chapter 10 of the Criminal code of the Russian Federation, determining the rules of assignment of punishment. Proceeding from this analysis suggestions are made to change the wording of some articles of the given chapter aimed at reducing legal uncertainty. The article also analysis the explanations of the Supreme Court of the Russian Federation on questions of assignment of punishment which, according to the author, can generate uncertainty in court practice.

*Keywords:* general rules of assignment of punishment; special rules of assignment of punishment; mitigating circumstances; pre-judicial cooperation agreement; repetition of offences; cumulative offences; cumulative sentences.

- **Preconditions to generate a system of formal sources of Russian criminal law.**

**Konstantin V. Obrazhiev** – PhD in Law, Associate Professor, Head of the Department of Criminal Law Disciplines at the Academy of the Prosecutor General's Office of the Russian Federation.

The article aims to prove that generating a system of formal sources of Russian criminal; law is predetermined by the dialectic antinomies of criminal law regulation (between the abstractedness of the criminal statute and necessity of its application to classify specific socially dangerous acts; between the relative stability of the criminal law prohibition and dynamism of public relations; between the branch specialization of criminal law and integration of legal regulation; between global and national interests in the criminal law sphere). These antinomies generate an objective demand for a system of legal sources of criminal law capable to supply the criminal law regulation process with a complete range of necessary criminal law prescriptions (abstract and concrete; relatively stable and dynamic; specialized and universal; national and international).

*Keywords:* sources of criminal law; antinomies of criminal law regulation; system of sources of criminal law.

- **Some problem aspects of criminal law protection of religious sentiments of believers.**

**Evgenia O. Rueva** – PhD in Law, Associate Professor in the Department of Law and State Theory and History at the Russian New University.

The article considers problem aspects concerning introduction into Article 148 of the Criminal code of the Russian Federation of new elements of crimes encroaching on religious sentiments of citizens. In particular, a detailed criminal law analysis of the corresponding norms is given, the problems of classification and proof of the given crimes are identified, and their competition with other articles of the Criminal code of the Russian Federation is considered.

*Keywords:* insult to religious sentiments of believers; freedom of conscience; freedom of worship; secular state.

- **System of criminal law norms on mediation in committing a crime.**

**Allen Yu. Sungatullin** – PhD student in the Department of Criminal Law at the Russian Academy of Justice.

Mediation as a special kind of criminal practice is viewed in law in different ways – as an independent offence, and as abetting in the form of complicity. From the theoretical point of view this creates a certain problem of understanding and interpreting the structure of mediation. Following the results of the analysis conducted it is suggested to group all norms of mediation in committing a crime into three classes: crimes connected with offer and receipt of illegal compensations, those connected with illegal circulation of certain articles, and human trafficking. The study conducted (including the grammatical interpretation of law) has allowed to formulate some suggestions to improve the legislative technique of stating mediation norms.

*Keywords:* mediation in crime; complicity; criminal transactions; circulation of prohibited articles; bribery.

## **CRIMINAL PROCEDURE**

- **Normative regulation of the principles of law in branch legislation: juridical technical approaches.**

**Sergey S. Bezrukov** – PhD in Law, Associate Professor, Higher Doctorate Candidate in the Academic Personnel Training Department at the All-Russian Scientific Research Institute of the Ministry of Internal Affairs of Russia.

Extensive circulation of the normative consolidation of the principles of law in codified and other legislation has led to borrowing of the «norm-principle» concept employed in the general theory of law for branch needs. This term becomes quite habitual for works on criminal procedure, as well. Studying the correlation between the principles of criminal procedure and criminal procedure legislation norms, the author comes to the conclusion about impossibility to restrict the content of the principle within the framework of the one and only law norm.

*Keywords:* law norms; principles of law; criminal procedure principles.

● **Specific features of substantiation of the verdicts delivered at jury trials.**

**Natalia S. Ershova** – PhD student in the Department of Criminal Procedure, Justice and Public Prosecutor Supervision Department at the Law Faculty of Lomonosov Moscow State University.

The article considers problems of legislative regulation of substantiation of verdicts delivered at jury trials. It is argued that legislative regulation of the verdict substantiation requires considerable additional work as the Code of Criminal Procedure of the Russian Federation does not contain the concept or content of substantiation of verdicts.

*Keywords:* jury trial; substantiation of verdicts.

● **Other legal actions as a method to collect evidence in criminal proceeding.**

**Roman V. Kostenko** – Doctor of Laws, Professor, Head of the Department of Criminal Procedure at Kuban State Agrarian University.

The article considers problem questions of determining the essence and classifying other legal actions in criminal proceeding used as a method to collect evidence. The author comes to the conclusion of the present-day urgent necessity to develop a uniform concept of determining the essence and classifying other legal actions in criminal proceeding which can be used as one of the methods of collecting evidence. This development should be considered both at amending and modifying the current Code of Criminal Procedure of the Russian Federation in the field of proof, and also, possibly, at passing in future a new criminal procedure legislation of the Russian Federation.

*Keywords:* collecting of evidence; methods of collecting evidence; other legal actions; presenting of evidence; discovery of evidence.

● **Criminal procedure: attempt to take a peep at the future.**

**Boris G. Rozovsky** – Doctor of Laws, Professor in the Department of Jurisprudence at the Institute of Jurisprudence and International Law of V. Dal East Ukrainian National University (Lugansk, Ukraine).

The developers of the new Code of Criminal Procedure of Ukraine tried to combine continental and Anglo-American traditions of regulation of justice. The stage of pre-judicial investigation is strictly regulated, however the evidence collected at this stage is not valid if not subjected to review during the court trial. The result is a costly, ungainly law, its implementation leading to unreasonably heavy burdens for the suspects, accused, victims, witnesses, other participants of the criminal proceeding. An attempt is made to somehow alleviate the situation.

*Keywords:* criminal proceeding.

● **«Investigative experiment» within the context of the new legal position of the Supreme Court of the Russian federation on bribery cases.**

**Vasily V. Semenchuk** – PhD in Economic Sciences, Lecturer in the Department of Special Investigative Activities of Law Enforcement Bodies at the Far East Law Institute of the Ministry of Internal Affairs of Russia.

The article analyses problem questions pertaining to the use of the results of special investigative activities in combating corruption. The problem of corruption in Russia is a generally recognized phenomenon. Detection and documenting of corruption crimes is impossible without special investigative activities, including an investigative experiment. However, according to the author, the position of the Supreme Court of the Russian Federation expressed in its resolution on bribery cases (2013) can limit the opportunity to use special investigative activities in this direction. The critical position of the author is based on that at estimation of the results of special investigative activities the formal indicators of legitimacy will prevail over the estimation on the merits.

*Keywords:* special investigative activity; corruption; bribery; investigative experiment; instigation.

● **Building a model of suspicion in the criminal proceeding in Russia through the prism of the decisions of the European Court of Human Rights.**

**Elena V. Sopneva** – PhD in Law, Professor in the Department of Criminal Procedure of Krasnodar University of the Ministry of Internal Affairs of the Russian Federation Stavropol branch.

Analysis of the law and the criminal proceeding theory shows the absence of legal consolidation and uniform understanding of suspicion – a major criminal procedure concept, at its active use in various spheres of relations. Theoretical comprehension and subsequent development of the definition and essential characteristics of suspicion are possible, among others factors, within the context of the decisions of the European court of human rights. The approach suggested can ensure the development of a high-quality conceptual framework of suspicion taking into account international judgments. As a result of the study conducted grounds are formulated for creation of a theoretical model of suspicion interrelated with the decisions of the European court of human rights, and recommendations are suggested to the Russian legal practitioner concerning realization of suspicion in criminal proceeding, which will allow to minimize Russian citizens' appeals to the European court of human rights.

*Keywords:* suspicion; decisions of the European court of human rights; a range of problems; recommendations.

## **CRIMINAL EXECUTIVE LAW. PENITENTIARY**

### **• Questions of enhancement of special investigative activities and preventive measures concerning persons convicted for crimes of terrorist and extremist character, serving sentences at correctional facilities.**

**Boris A. Spasennikov** – Doctor of Medical Sciences, Doctor of Laws, Professor in the Department of Criminal Law at the Institute of Management (Arkhangelsk).

**Armand V. Tsaturov** – PhD student at the Scientific Research Institute of the Federal Service for the Execution of Sentences of the Russian Federation.

The article analyses the consequences of some changes in the Penal Execution Code of the Russian Federation and the Federal law «On the federal security service». It is shown that change of the has promoted better efficiency of combating crimes of terrorist and extremist character. New tasks arising in the criminal executive practice are characterized and possible ways of their solutions are suggested.

*Keywords:* crimes of terrorist and extremist character; special investigative activity; convict.

## **CRIMINOLOGY**

### **• Pressing questions of enhancing measures for individual prevention of economic crimes in power industry by special investigative units of law-enforcement bodies.**

**Oleg B. Abakumov** – Deputy Head of the Division of Economic Security and Combating Corruption at the Jewish Autonomous Region Department of the Ministry of Internal Affairs of Russia.

The article considers features of individual measures to prevent economic crimes in the sphere of electric power industry taken by the employees of operative units of law enforcement bodies.

*Keywords:* individual preventive work; economic crimes in the sphere of electric power industry.

### **• Social and psychological determinants of corruption behavior of law enforcement activity subjects.**

**Liliya A. Dmitrieva** – PhD in Psychological Sciences, Associate Professor in the Department of Investigative Bodies Activity Management at the Academy of the Investigative Committee of the Russian Federation.

The topic of the discussion is social and psychological factors of corruption behavior of law enforcement officers. The problem is presented in various contexts – personal, micro environmental and situational. The analysis is based on the results of an empirical study conducted by the author in 2008–2011. Experimental tasks were carried out with the use of a complex toolkit including the author's modifications of actual test techniques.

*Keywords:* professional destructions; motives; cognitive discord; group thinking; family sphere influence; conflict of loyalties; management styles.

### **• Conditions determining application of family violence against minors.**

**Julia V. Zyryanova** – PhD in Law at Irkutsk Law Institute – branch of the Russian Law Academy of the Ministry of Justice of the Russian Federation.

**Anna L. Repetskaya** – Doctor of Laws, Professor, Head of the Department of Criminal Law and Criminology at Baikal State University of Economics and Law.

The article considers the conditions determining family violence against minors, both at the group, and at individual level. The authors come to the conclusion that the conditions for such violence are social development contradictions in the social and economic sphere of the society, and also the contradictions of organizational and administrative character, moral problems of family upbringing, insufficient efficiency of preventive work in this sphere. An appreciable role in determination of family violence against minors at the individual level is played by situations of violence application. Five types of criminogenic situations

inherent for the criminality kind under study were established, depending on the behavior of the offender, victim, and also other external conditions of committing a crime.

*Keywords:* family violence; minors; conditions of application of violence in the family; criminogenic situation.

● **Conceptual approaches to understanding terrorism as a social and legal phenomenon.**

**Boris D. Leonov** – PhD in Law, Leading Researcher at the National Academy of the Security Service of Ukraine.

The article is devoted to the study of the concept and essence of terrorism. The basic conceptual approaches to understanding terrorism as a social and legal phenomenon are analyzed, estimation of these approaches is given. Doctrinal, political, military, psychological and other manifestations of terrorism are determined. It is found out that the social essence of terrorism is constituted by political, legal, moral and psychological aspects. Essential criminological indications of terrorism are established.

*Keywords:* terrorism; social and legal phenomenon; conceptual approaches; strategy of fight against terrorism.

● **Russia's joining WTO and market decriminalization.**

**Pavel N. Panchenko** – Doctor of Laws, Professor, Head of the Department of Criminal Law and Criminal Procedure at the National Research University «Higher School of Economy» Nizhniy Novgorod branch.

Russia's joining WTO can lead to market decriminalization at rigid state, municipal and public control of the corresponding integration processes. The article gives reasons for the conclusion that Russian legislation needs changes, including those consolidating its constitutional and international legal grounds, expanding economic and other rights and freedoms of man, developing a system of treaties with other states over a whole range of mutual interests, finding solutions for disputable matters on the basis of counter efforts of the parties.

*Keywords:* WTO; decriminalization; market; integration processes; control; legislation; rights and freedoms of man.

● **Love crimes: to the problem statement.**

**Aleksandr M. Smirnov** – PhD in Law, Associate Professor, Leading Researcher at the Scientific Research Institute of the Federal Agency of Execution of Punishments of Russia.

The problem of prevention of criminal encroachments motivated by love and feelings immanent it to (jealousy, compassion, etc.) is studied. Data of the sociological study conducted by the author proving the importance and expediency of analyzing the specified problem are quoted. The conclusion reached is that love has a high criminogenic potential, determines various criminal encroachments, their prevention being quite difficult because of their latency, unpredictability and suddenness, complexity of forming steady skills of suppression of the feelings directed at protection and salvage of one's love.

*Keywords:* love crimes; gibbet law; love; compassion; jealousy; euthanasia; suicide.

● **Consistency as a sign of criminal professionalism: experience of modern perusal.**

**Vadim V. Tulegenov** – PhD in Law, Associate Professor in the Department of Criminal Execution Law at Vladimir Law Institute of the Federal Agency of Execution of Punishments.

Today consistency as a sign of criminal professionalism is analyzed as recurrent commitment of similar offences. The author of the article criticizes this point of view and in turn suggests to consider criminal professionalism not through the prism of the number of the crimes committed, but by means of a system of personal characteristics of the criminal which allows to analyze the current situation, develop an algorithm of actions and to successfully implement it.

*Keywords:* criminal professionalism; legal consistency; «habitual» criminal; professional criminal; real consistency; consistency.

## **CRIMINALISTICS**

● **Modern model of criminal proceeding: tendencies of integration into the system of criminalistics knowledge.**

**Sergey L. Kislenko** – PhD in Law, Associate Professor in the Department of Forensic Support of Investigation of Crimes at Saratov State Law Academy.

The article is devoted to the current state of criminalistic knowledge. The methodological value of adequate reflection of the «object of science» philosophical category in the criminalistics theory is substantiated. Analyzing traditional concepts of the object of science, and also the current state of research in the field, the author offers his vision of this element in modern criminalistics. Tendencies in the development of criminalistic knowledge are described.

*Keywords:* object of science; methodology; object of knowledge; criminalistics theory; development tendencies.

- **Specific features of the initial stage of investigation of the crime envisaged by article 159.6 of the Criminal Code of the Russian Federation.**

**Anna A. Lebedeva** – PhD in Law, Researcher at the Scientific Research Institute of the Ministry of Internal Affairs of Russia.

After a new actus reus was introduced in the Criminal code of the Russian Federation, in practice it became necessary to receive methodical recommendations concerning investigation of fraud in the sphere of computer information. The article considers the questions of classification of fraud in the sphere of computer information, specific feature of initiation of a criminal case, initial investigatory situations, giving an algorithm for investigatory actions to be taken.

*Keywords:* fraud in the sphere of computer information; specific features of classification; investigatory actions; investigation; criminal case initiation.

- **Digital criminalistics.**

**Vladimir A. Meshcheryakov** – Doctor of Laws, PhD in Technical Sciences, Professor in the Department of Criminalistics at the Voronezh State University Faculty of Law.

The article suggests a view on forming the direction of criminalistics connected with detection and investigation of crimes in the sphere of information communication technologies - digital criminalistics. The content of digital criminalistics is described in detail.

*Keywords:* digital criminalistics; crimes in the sphere of information communication technologies.

- **Criminalistic doctrine of organizing investigation of crimes: formation, development and implementation prospects.**

**Irina P. Mozhaeva** – PhD in law, Higher Doctorate Candidate in the Department of Investigative Bodies Activity Management at the Academy of Management of the Ministry of Internal Affairs of Russia.

The article considers tendencies of reflection in criminalistics of organizing investigation of crimes and forming of the criminalistic doctrine of organizing investigation of crimes. The author suggests her vision of the concept of the criminalistic doctrine of organizing investigation of crimes. Prospects of development and practical implementation of the criminalistic doctrine of investigation organization are presented.

*Keywords:* criminalistics; organization of investigation of crimes; criminalistic doctrine of organizing investigation of crimes.

- **Preparatory stage to investigation – the stage of forming the information basis of detection and investigation of crimes.**

**Nikolai A. Podolny** – Doctor of Laws, Professor in the Department of Law Enforcement Activity and Enforcement Procedure at the Russian Law Academy of the Ministry of Justice of the Russian Federation Srednevolzhsky branch.

The article formulates the methodological value of the preparatory stage to investigation. Its correlation with the stage of initiation of a criminal case is considered. Attention is drawn to the gnoseological side of preliminary investigation and in this connection – to the value of the stage preparatory for investigation and the information basis which is formed during it. The idea is formulated that the stage of initiation of a criminal case is a part of the stage preparatory to investigation, during which all information becoming available to the law enforcement bodies on a particular act is integrated into a uniform system. In this connection the conclusion is drawn on the necessity for the criminal procedure in Russia of the stage of initiation of a criminal case, and also on the methodological value of the stage preparatory to investigation as a whole.

*Keywords:* preparatory stage to investigation; criminal case initiation; preliminary investigation.

- **Tactics of use of verbal information at diagnosing a person in the course of interrogation and physical confrontation.**

**Olga A. Sokolova** – PhD in Law, Associate Professor, Higher Doctorate Candidate in the Department of Scientific and Academic Personnel Training at the Moscow University of the Ministry of Internal Affairs of Russia.

The article proceeds from the study of specialized literature to suggest the tactics of carrying out interrogation and physical confrontation in the course of investigation of crimes. The value of verbal information together with nonverbal one is considered at diagnosing the testimony of a criminal proceeding participant.

*Keywords:* verbal and nonverbal information; diagnosing of a person; tactics; interrogation; physical confrontation; cross-examination; investigation of crimes.

- **Essence of criminalistic diagnostics.**

**Vladimir N. Terekhovich** – Doctor of Laws, Associate Professor, Attorney at Law Bar of Attorneys at Law, Latvia.

**Elita V. Nimande** – Doctor of Laws, Associate Professor in the Department of Criminal Law Sciences at the Latvian University.

The article analyses the essence of three meanings of the concept of criminalistic diagnostics - scientific theory, method of scientific cognition and process of scientific cognition.

*Keywords:* investigation of criminal activity; criminalistics theory; methods of criminalistic cognition; criminalistic diagnostics.

## FORENSIC EXAMINATIONS

### ● Possibilities of applying x-ray methods of study in medico-legal and criminalistic expert activity.

**Vladimir K. Dadabaev** – PhD in Medical Sciences, Associate Professor in the Department of Forensic Medicine and Jurisprudence at Tver State Medical Academy.

**Andrey A. Strelkov** – Deputy Head of the Tver Region Investigations Department of the Investigative Committee of the Russian Federation.

The use in medico-legal and criminalistic expert examination of modern methods of study, in particular SCT (spiral computer tomography) will give the experts a chance to give objective and scientifically grounded answers to the questions of the investigation and court. Application of modern radiological methods of study will allow to diagnose bodily injuries at an early stage, to establish the cause of death and can appear rather useful at establishment of the reasons of the death rate and detection of medical errors.

*Keywords:* innovative technologies; forensic medicine; criminalistic examination; spiral computer tomography; «virtual» autopsy.

### ● Data on the technology of industrial manufacture small arms and shells as a component of the system of scientific knowledge of diagnostic forensic ballistic examination.

**Igor V. Latyshov** – PhD in Law, Associate Professor, Head of the Department of Trasology and Ballistics of the Academic and Scientific Complex of Expert Forensic Activities at Volgograd Academy of the Ministry of Internal Affairs of the Russian Federation.

Proceeding from the data on the technology of weapon and cartridge manufacture possibilities of the use of these data at solving the tasks of diagnostic forensic ballistic examination are disclosed. It is established that at various stages of technological readiness parts of the weapon have specific external distinctive signs which makes it possible to establish the places of their theft from weapon production facilities. Patterns of these signs showing in the weapon, traces of its action are revealed depending on the method of the weapon manufacture (factory or self-made), contents of technological operations.

*Keywords:* forensic ballistic examination; small arms; cartridges; production technology.

### ● Observance of procedural obligations – necessary component of the competence of the forensic expert.

**Igor N. Podvolotsky** – PhD in Law, Associate Professor in the Department of Forensic Examinations at O.E. Kutafin Moscow State Law University.

Problems of unification of the criminal, civil, arbitration procedural legislation and the provisions of the Federal law «On forensic expert activity» being discussed are considered. Out of the numerous debatable questions the author chooses the direction connected with uniform formulation of the norms of law governing the obligations of the expert participating in the procedures of assignment, conducting and use of the results of forensic examination in various kinds of legal proceedings according to the purposes and tasks of criminal law policy.

*Keywords:* expert; specialist; procedural legislation; rights and obligations of the expert; legislation unification; forensic expert activity.

## INTERNATIONAL CRIMINAL LAW AND JUSTICE

### ● Enhancement of regulation of international cooperation in the criminal proceeding sphere.

**Elena V. Bykova** – PhD in law, Leading Researcher at the Scientific Research Institute of the Academy of the Prosecutor General's Office of the Russian Federation.

**Vadim S. Vyskub** – Junior Researcher at the Scientific Research Institute of the Academy of the Prosecutor General's Office of the Russian Federation.

**Tatiana A. Reshetnikova** – PhD in Law, Leading Researcher in the Department of International Cooperation and Comparative Jurisprudence at the Scientific Research Institute of the Academy of the Prosecutor General's Office of the Russian Federation.

The article consistently analyses the norms of the Russian criminal procedure legislation regulating international cooperation in the sphere of criminal proceeding. The amendments and modifications

already introduced are analyzed, attention is drawn to the existing gaps and drawbacks, ways to enhance the legislation in the surveyed area are suggested.

*Keywords:* international cooperation; legal assistance; extradition; request; competent authorities.

- **On the necessity of implementation in the Code of Criminal Procedure of the Russian Federation of international law norms for new directions of international cooperation in the criminal proceeding sphere.**

**Aleksandr G. Volevodz** – Doctor of Laws, Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics at Moscow State Institute (University) of International Relations of the Ministry of Foreign Affairs of Russia.

The article justifies the necessity of implementation in the Code of Criminal Procedure of the Russian Federation of the norms of international treaties of the Russian Federation regulating international search, arrest and confiscation, joint (international) investigations and use of video conferencing in international cooperation in the criminal procedure sphere. A mechanism of taking into account of international law norms in the domestic criminal procedure legislation is suggested.

*Keywords:* international search, arrest and confiscation; joint investigations; video conferencing; mutual legal assistance on criminal cases; international treaty; implementation.

## COMPARATIVE LAW

- **Foreign experience: grand jury.**

**Roman V. Bagdasarov** – PhD in Law, Associate Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics at Moscow State Institute (University) of International Relations of the Ministry of Foreign Affairs of Russia.

The article is devoted to the past, the present and the future of the Grand jury. The author speaks about jurisdiction, main principles of forming and features of functioning of this body of arraignment in common law countries.

*Keywords:* Grand jury; arraignment; assize; the USA; jurors; confidentiality; hearsay evidence.

- **Criminal responsibility for fraudulent operations with real estate under the legislation of the USA.**

**Maksim I. Kalashnikov** – PhD student at Moscow State Institute (University) of International Relations at the Ministry of Foreign Affairs of Russia.

The article considers the kinds of fraudulent encroachments against real estate under the legislation of the USA, examples of bringing to criminal liability given by high-profile criminal cases.

*Keywords:* fraudulent encroachments against real estate; mortgage fraud; detection of offences; special investigative activity; FBI.

- **Criminal law struggle against recurrent crimes under the legislation of foreign countries.**

**Natalia N. Korotkikh** – PhD in Law, Associate Professor, Higher Doctorate Candidate in the Department of Criminal Law and Criminology at the Far East Federal University.

The article considers the concept, elements and rules of assignment of punishment for recurrent crimes under the legislation of various countries of the world. Specific approaches to regulating the given institute in foreign law are identified, positive and negative aspects of the criminal law struggle against recurrent crimes are defined, estimations are given to the possibility of use of positive experience in struggle against recurrent criminality in Russia. The author defines the criteria to analyze the recurrence institute in foreign law which makes it possible to compare it to the Russian analog with maximum precision. The conclusion drawn is that practically everywhere a repeated crime committed by a person with an earlier criminal record is an indication of a heightened public danger of the offender and proves that more attention is required to struggle against recurrent criminality.

*Keywords:* recurrent crimes; legislation; foreign countries; assignment of punishment; circumstances excluding recurrent crimes; struggle against recurrent criminality.

- **Legal status of the expert and the order of assignment of examination in the criminal procedure legislation of Ukraine and the Russian Federation: a comparative analysis.**

**Igor V. Pirog** – PhD in Law, Professor in the Department of Criminalistics, Forensic Medicine and Psychiatry at Dnepropetrovsk State University of Internal Affairs.

The article considers principal provisions of the Code of Criminal Procedure of the Russian Federation and the Code of Criminal Procedure of Ukraine governing the procedure of assignment and performing of expert examination. A comparative analysis of the process of involving an expert at the stages of pretrial and trial investigation is carried out. The procedural status of the expert as a subject of use of special knowledge is considered, as well as his rights and obligations, concept of the expert's opinion and its content, order of assignment and conducting of an expert examination during pretrial investigation, and

also expert examination and participation of the expert at the court investigation stage. The comparative legal analysis of the legislation norms has allowed to draw certain conclusions which can be used at enhancement of the legislation of Ukraine and the Russian Federation.

*Keywords:* criminal procedure legislation; expert; expert examination; special knowledge; assignment and conducting of expert examination; expert's opinion.

## LEGAL SCIENCE IN PRACTICE

- **Legal cognition and bifurcation of the individual conscience of the lawyer.**

**Yuri P. Borulenkov** – PhD in Law, Associate Professor, Pro-Rector of the Academy of the Investigative Committee of the Russian Federation.

The author's attention is centered at the problem of professional legal conscience of lawyers in the sphere of legal cognition. It is stressed that individual legal conscience is conditioned not only by the corresponding public relations and circle of contacts, but also by psychobiological qualities, personality and its specific properties. It is noted that including in the structure of legal conscience of an extensive list of loosely connected components dilutes the core of the notion, which grows to the level of a concept and which, in turn, reduces its applied value, and finally does not allow the given category to go beyond the sphere of ideology. In the mind of a legal practitioner a «lawyer» does not displace a «layman», both these notions co-existing. According to the author, «legal conscience» is one of the least successful concepts for the description of the decision-making process by legal practitioners and solution of various tasks (legislative, law enforcement, research) connected with this process. Each particular lawyer should be estimated not through the category of «legal conscience» (which is impossible in principle), but by two other criteria – professionalism and moral qualities.

*Keywords:* legal cognition; legal practice; professional legal conscience of the lawyer.

- **Some aspects of public prosecution (On the materials of cases in the Siberian Federal District).**

**Aleksey N. Vdovin** – Public Prosecutor in the Department of Supervision over the Investigative Committee of the Russian Federation at the Kemerovo region Public Prosecutor's Office.

The article considers some aspects of public prosecution in criminal cases. Typical investigatory errors are described. Recommendations are suggested to overcome counteraction from unconscientious lawyers.

*Keywords:* public prosecution; typical investigatory errors, unconscientious activity of the lawyer.

- **On some problems of assignment of forensic medical examination in criminal cases connected with bodily injury.**

**Nadezhda A. Chesnokova** – Assistant in the Department of Criminal Law and Procedure at the Bashkir State University Institute of Law.

The article considers some problems of assignment of forensic medical examination in criminal cases connected with bodily injury, caused by inopportuneness of the given investigatory action, its carrying out without the participation of the victim, on the basis of medical documents not conforming to the requirements of the expert examination, with incorrect statement of questions to be answered by the expert.

*Keywords:* forensic medical examination; determination of the character and severity of bodily injuries.