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Rights of bankrupt member of corporation in procedure of debtor's property disposal: issues and problems

Keywords: Insolvency (bankruptcy) of individual; rights of corporation member; corporate property rights of bankrupt member; corporate non-property rights of bankrupt member
Bankruptcy legislation restricts the exercise of the rights of a legal entity member, including their voting rights. These rights are to be exercised by a financial manager acting on behalf of the member. In this regard the author tries to determine whether such rule is fair and well-justified, and whether it is consistent with the objectives and principles of the bankruptcy legislation. It is concluded a differentiated approach to the regulation of these relations would be the most fitting.

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Use of means of individualization for goods, services and works: criminal law regulation

Keywords: Criminal responsibility; trademark; service mark; license mark; mark of origin; geographical indication; means of individualization; exclusive rights
The paper deals with issues of criminal law regulation of exclusive rights to means of individualization of goods, works and services. Based on the analysis of applicable provisions of Russian law, provisions that will soon take effect, as well as commentaries of the highest judicial authorities and relevant court judgments the authors determine the nature of means of individualization, identify their types, periods of exclusivity, and remedies as well as the scope of criminal law regulation.

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Exclusive right to chip layout: when is it triggered?

Keywords: Layout of chips; exclusive right; term of protection; commercialization; parallel work; registration

The alternative commentary to the Article 1457 of the Russian Federation Civil Code causes legal paradoxes regarding the time when the intellectual property protection of chip layout is triggered. The authors suggest that implementing certain provisions of TRIPS into Russian legislation will help solve this problem.

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Financial law and administrative enforcement measures within legal system of Russian Federation

Keywords: Administrative liability; administrative enforcement; legal regulation mechanism; financial law norms; public finance; subject of financial law

The paper discusses the role of financial law within Russian legal system and raises the problems of legal regulation in cases of imposing administrative enforcement measures for violations within the scope of financial law regulation.

The author analyses the system of administrative enforcement in the context of the administrative liability. Based on the analysis the author proposes the most effective methods of resolving such problems.

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Scientific significance of publishing the Code of Justinian: Book 7 with parallel texts in Greek and Latin and their Russian translation

Keywords: The Code of Justinian; Roman law; Roman private law; Book 7; Codex Iustinianus; Corpus Iuris Civilis; Roman law; liber septimus

The author discusses an important scientific event, namely the first publication of the world famous Code of Justinian: Book 7 in Russia. This edition presents parallel texts in Russian, Greek and Latin. This significant publication is the result of thorough work done by the faculty members of the Lomonosov Moscow State University Law School and the scientific and education center 'Roman private law'. The readers may fully appreciate the high quality of translation; the meaning of terms and certain words is consistent with their original and modern construction.

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Principle of competence-competence as procedural means of preventing risk of parallel proceedings in international arbitration and state court

Keywords: Competence-competence principle; parallel litigation in international arbitration and national court; jurisdiction of arbitration; negative and positive approach; analysis of prima facie invalidity of an arbitration clause

When parallel proceedings are held in a state court and an arbitration tribunal, the key issue to be considered is the question of validity of an arbitration clause and competence of arbitration to consider a dispute on its merits. The principle of competence-competence is a procedural mechanism based on which it is possible to determine a specific jurisdictional body authorized to consider such an issue at various stages of the dispute.

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Development of mediation as one of alternative methods of dispute resolution in Republic of Kazakhstan

Keywords: ADR; mediation; agreement on mediation; judicial mediation; judges-conciliators; out-of-court mediation

The paper analyzes the provisions of legislation of Republic of Kazakhstan in the sphere of mediation and proposes ways for further development of mediation. The author believes the experience of the Republic of Kazakhstan in this sphere could be of interest to the Russian legislator.

SMIRNYKH, Andrey Gennadiyevich

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Reforming bankruptcy legislation and legal principle of integrity

Keywords: Administrator; bankruptcy; bankruptcy legislation; tax authority; integrity principle; meeting of creditors

The paper considers various aspects of bankruptcy legislation reform in view of the integrity principle. The proposals made by the author aim to refine and elaborate the introduced changes.

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Participation of public authorities of constituent entities of Russian Federation in formation of Central Election Commission of Russia: regulation and practice

Keywords: Election commissions; electoral legal relations; Central Electoral Commission of Russia; state authorities of constituent entities of Russia

The paper analyzes the mechanism of indirect participation of state authorities of the constituent entities in the formation of the Central Election Commission of Russia. The author concludes that this mechanism has proved to be well-grounded and effective since it helps to maintain the interests of the constituent entities. It is argued that the procedure for determining the eligibility criteria should be reviewed.

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Escrow agreement: from original in Roman law to its modern version in English law system

Keywords: Legal nature; genesis; escrow; escrow agreement; mitigation of legal risks
The paper analyses the development of one of the crucial elements of economic relations, i.e. escrow agreement. Focusing on the legal history of this institution, the author provides a review of the key ideas throughout the history of this construction, and compares historical provisions and modern views on this institution.

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Andrey Yanuarievich Vyshinsky (1883—1954), statesman and legal scholar.

Article seventy one

Keywords: USSR; repressions; USSR General Procurator Office; I.V. Stalin; A.Ya. Vyshinsky
The paper continues the series of works devoted to the professional career and academic legacy of A.Ya. Vyshinsky. The author gives a general evaluation of A.Ya. Vyshinsky's work in the second half of 1930s.

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Parting with witnesses to search in criminal procedure

Keywords: Admissibility and credibility of evidence; witnesses to search; technical means of fixation; criminal procedure; investigative actions

Based on the analysis of legislation, investigation practice, court practice as well as scholarly works the authors analyze the problems related to the institution of witnesses to search in criminal procedure, providing arguments in favor of the opinion as to possibility of quashing this institution in Russia.

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Distinguishing between expert opinion and specialist opinion in criminal proceedings: conflicts of law and cases of judicial practice

Keywords: Expert opinion; specialist opinion; functions; criteria; distinction; legal regulation

The institution of the use of expert knowledge in criminal proceedings cannot be considered perfect either in terms of normative regulation or in relation to its enforcement. The legislator ignores obvious "black holes" whereas the judicial practice creates content of its own which consequently produces legal conflicts. At the same time, neither those who adopt laws nor those who implement them prefer not to notice the existing problems. Based on the analysis of legislation, theory and investigative-judicial practice, the author considers the criteria for delimiting the competence of a specialist and an expert, and also sets out proposals aimed at bringing the law enforcement practice into alignment.

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Conflict between prosecution and defense on matter of introducing already admitted witness or victim testimony, and other amendments to criminal procedure legislation

Keywords: Criminal procedure code of the Russian Federation; Criminal Code of the Russian Federation; prosecution; defense; victim; witness; criminal case; criminal prosecution; prosecutor; amount of loss

A number of legislative initiatives concerning changes to criminal and criminal procedure legislation have been introduced to the State Duma of the Russian Federation. The introduced amendments deal with questions of introducing to trial already admitted testimony of the victim and witnesses regarding activity of international NGOs on the territory of the Russian Federation and etc. The paper analyzes the reasons and motivations for introducing these amendments and the expected results of their adoption.