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WE SPEAK LEGAL ENGLISH: MATTERS AT LAW

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Предназначено для филологов, правоведов, преподавателей иностранного языка, аспирантов, студентов высших учебных заведений.

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СОДЕРЖАНИЕ

Ю. Н. Авдеева

FREE-LANCING

The international law, regulating the inter-state matters, is based on the sovereignty principle, their territorial integrity and violence avoidance in conflict situations.

In the XXth century these principles were only shaping after destructive world wars. Then the free-lancing, created already in the ancient times, again went on, becoming a threat for the further peaceful co-existence of humanity.

Mercenary boom can be stated since the XXth century 70s, with the wars burning in the Middle East, also in Yugoslavia, then in Chechnya. A great number of mercenaries is observed in Western Africa.

Free-lancing is outlawed on the international level. In 1977 the Additional Protocol of the 1st Geneva Convention on the war victims protection, 1949, effectively influenced the notion of free-lancing. A number of countries, including Russia, signed it.

In 1989 the International Convention, prohibiting recruiting, usage, financing and training of mercenaries, was adopted. This convention recognized free-lancing a crime. It considered free-lancers not only persons, actively taking part in military conflicts, but also earlier recruited for constitutional order upturning, destructing the territorial integrity of a state.

Further fighting free-lancing was contributed by the Code Project on the Crimes against peace and humanity. In 1994 that project included the definitions on the free-lancing contents, namely “mercenaries’ recruiting, using, financing and training”. That aspect was expelled from the 1996 Project.

In 2014, the UN Security Council in connection with the Ukrainian events, Syria and Iraq as well, adopted a resolution, stating the destructive role of the mercenaries together with military terrorists.

In many countries which had signed the 1989 Convention, free-lancing is considered a crime. In the countries formed after the USSR dissolution the approach to the free-lancing is made closer to the Russian model. It is referred to the international crimes. In the United States of America it is referred to the crimes against the state and defense security. In European law, such as in Germany, Denmark, Sweden, the free-lancing understanding is different from the Russian one. Thus, in Sweden free-lancing is referred to inducement of a person to go abroad for performing military service there. In Germany the crime contents contains two types of activity: recruiting, i.e. attraction of a person to military conflicts activity participation, and the recruited person transportation.

In many European countries free-lancing is considered closely to the Russian approach stated in the crime contents of the Russian Criminal Code as the "Illegal military armed unit formation or participating in it" (statute 208). Thus, the French Criminal Code has something like that, without a direct free-lancing mentioning though.

The legal acts of England also contain the contents of free-lancing, though a special attention is paid to such aspect as serving military duties in the armed forces of another state, or other person's inducement to it. This crime contents is referred to the offences against good-neighborly relations with foreign countries.

In spite of this type of crime being well-spread, especially in the Middle East events, it's not easy to investigate it, neither to sue the persons guilty. Sometimes it is connected with the third countries interests in the conflicts. A well-known case is the American private security venture "Blackwater" participation in the 2003 Iranian conflict. In 2004 the mercenaries killed about 400 Iranian marchers, in 2007 the same "Blackwater" militants broke into shooting in Bagdad. This venture activity is strongly criticized in the US as well, but the venture goes on with it until now.

One more contradiction of the national and the international law is the argument on the French Foreign Legion. The debates still go on burning if its activity should be considered as free-lancing.

The second reason, not less important thought, is a weak legal consideration of the problem. In many states, including the Russian Federation, free-lancing, being considered a crime, still contains only the action list. There is no legal base on the national level, thus very often it's nearly impossible to proof a person guilty in that very crime.

We express the conviction that both national and international level considerations will surely bring new approaches to the problem solution, as it has become already internationally important, even demanding. Of course, in the globalist condition this legal thinking and understanding direction is crucially and dramatically important, and is sure to acquire new contents.

А. Н. Агапов, А. Г. Смирнова

CHILDREN OF GERMANY. REALIZING CHILDREN'S RIGHTS IN GERMANY

In general, German children are privileged and their rights are well respected. They remain in the best of health and enjoy their educational opportunities. Despite all that, Germany can still make some progress on certain domains like welcoming child refugees, abuses etc.

Main problems faced by children in Germany:

Poverty. A general definition of poverty is "a state of existence in which one lacks many of life's basic necessities". The poor person is someone "who lacks what he needs"; and a poor child is "a very young boy or girl who lacks much of what is needed to survive".

From an economic perspective, poverty can be defined in two ways:

- absolute poverty: revenues are insufficient to support the individual's physical needs;

- relative poverty*:* the individual's revenues are inferior to those possessed by other members of the community.

It is important to note that the economic definition of poverty is invariably tied to the question of monetary wealth.

The number of children who receive social assistance in Germany is estimated at about 2.6 million, that means, 1 in every 6 children live in a low income family.

For this reason, they benefit from the equal education system: in fact, they go to low-ranking schools but receive less assistance from their families and consequently most of the time to drop school. Statistics have shown that those children are very poor in reading and writing compare to their classmates from wealthy families.

Respecting commitments made by the States to implement fundamental rights as enunciated by the International Convention of Children's Rights would go a long way toward defeating poverty.

"No society can really defeat poverty without doing everything it can, in a vigorous and long-term manner, to ensure that all of its members have a right to and are able to receive basic medical care, nutritious food and a decent education."

In order to respect Children's Rights, it is imperative that extreme poverty be defeated worldwide.

Abuse. Children can be victim of child abuse in their family, school or in public environment. These types of bad actions can have severe consequences in their mental and physical health.

There are many types of child abuses:

- Physical abuses involve brutal and violent acts aiming deliberately to injury the child by hitting, burning, strangling him etc. in order to hurt the body and spirit of the child.

- Psychological abuses aims very often of humiliating and shaming the child by belittling him or subjecting him to carry out degrading tasks. The adult who uses his authority also threatens the child or isolate him to stop him having friends.

Violence. 150 000 victims of violence are recorded in Germany. Most of the time, these abuses are carried out by their parents. UNICEF believes 2 children died every week as a result of violence and negligence.

The German Government is very concerned about this matter in question. Child protection against violence and prevention, are among the objectives fixed by the German Social Welfare Ministry in 2011.

Child Refugees. To better understand the challenges of this theme, it is important to differentiate between the many categories of children:

Internally displaced children. Unlike refugees, internally displaced children do not cross international borders recognized by a State but are displaced within the borders of their own nation. They represent 2/3 of the total number of displaced children.

Refugee Children. A child refugee is a child who crosses international borders and has specific rights.

Unaccompanied minors. As a result of armed conflicts and other catastrophes, many children find themselves separated from their parents or guardians. As their status is never immediately confirmed, such children are not considered to be “orphans” but as “children separated from their family” or “unaccompanied children”.

Needs and Rights of Displaced Children. The recognition of the rights of these children in exile is essential whether it is the right to food, health or education etc. They in effect require shelter, food, safe water and medical care. They also need to have access to education and thus be able to go to school. Having lost everything, education represents the opportunity for them to have a better life once they return from exile and all children should be entitled to this vital requirement.

The situation of child refugees in Germany is very worrying. Without official resident permits, many children do not have access to basic health care or better education even though since 2010, school headmasters and doctors do not have the obligation to denounce illegal migrants. At 16, young refugees are considered as adults and can be detained before being sent back home.

The Child Rights Committee has expressed to the German Government in its last observations that its aim to develop the training of actors working with child refugees (welfare assistants, police officers, lawyers, medical personals etc.); particularly when children are war victims.

Environment. With 9.7 tons per capita output of CO_2 every year, Germany is one of the worst countries in terms of pollution in the planet. This will have an impact on children’s lives and future prospective as well. Every child has the right to live in a safe environment. Germany has to make some progress to reduce its pollution level.

П. И. Акимов

THE CONTROVERSIAL ISSUE OF DRUG LEGALIZATION AS A POSSIBLE WAY OF FIGHTING AGAINST DRUGS

Within the last twenty years drugs have become a global problem. Prior to 1980, the world had different problems and the most common was alcoholism and poverty. Nowadays we welcome the XXI century with a new social disease — drug addiction. At the very beginning heroine was a matter of fashion among some "privileged" groups of people — musicians, actors and writers. At present reasons for taking drugs are different. Today in any large town or city students can easily buy a great variety of drugs. Children in primary school take drugs because of curiosity, teenagers at secondary school because it is fashionable and for them it is a sign of maturity. Students of the universities take drugs to relax and have a great time. So, drugs have become a social disease taking away human self-esteem, health and life.

Different countries have been struggling with drug addiction for many years and in different ways. The world experience of the fight against drugs can be reduced to three types.

The first is a military solution. It is used in China: the tightening of laws even the introduction of the death penalty, raising labour and forced treatment. For Russia, this way is of little use. General political situation in the country and the magnitude of the problem does not allow the fight against drug trafficking effectively use coercive methods and treat them as exceptional way of solving problems. According to various estimates, there are from five to twelve million addicts in Russia. Imagine for a moment that the state has allocated resources for the construction of health facilities by the appropriate number of seats. The treatment and rehabilitation of one addict costs more than a thousand dollars. We can find the money. But the world statistics shows that 90 % of the cured addicts start using drugs again (in Russian 92–95 %). So, the procedure repeats again and again. What is the output?

Here we are coming to the second type of solution of the problem — legalization of soft drugs. Drug legalization is the process of reducing drug prohibition laws. The reasons given for this include claims that war on drug policies is a failure. Moreover the supporters of this method consider that adults have right to live their lives without interference from government. Among different conceptions of this issue the experience of the legal distribution of drugs, which has for many years gained in the Netherlands, seems the most interesting. Here in ordinary shops anyone can buy soft drugs, such as marijuana. So there are no problems with their purchase. In general in the

Netherlands ordinary people relate to drug addicts with understanding. In all cities there are special buses on duty, where everybody can take methadone absolutely free (an analgesic narcotic drug). There they can exchange any number of used disposable syringes for new ones. In fact, it turns out that the country has all the conditions to attach the entire population to the dangerous potion. However, it turns out that problems with drug addicts in the Netherlands are considerably less than in the neighboring countries of Western Europe. They are not so many addicts in the streets and they are unlikely to commit crimes. All in all, in general, there are no signs of degeneration of the nation, moral and economic decline of the country.

In addition to this, the Netherlands is not the only country where one can buy soft drugs freely. They can also be bought without any risk in Japan. Although drugs are legally prohibited in this country, the authorities turn a blind eye to trafficking of psychotropic pills. Japanese drug dealers themselves bypass the houses and offer their "goods" to tenants.

But Switzerland has advanced furthest in this field. The authorities of the Canton of Zurich have been long and strongly advocating for the full and unconditional legalization of hard and soft drugs without exception. To find out the consequences of general legalization of drugs, they even staged a scientific experiment. The city authorities announced about "the day of an addict" in the local park. All those wishing were given a dose of morphine directly into the vein just in the park. Then addicts settled on the grass to enjoy themselves. Not to prevent this "idyllic" the police forces were on duty around. The experiment took place peacefully and without incidents. All participants were satisfied.

The most stunning in a similar experiment is that a free morphine Pozar not fly to Zurich, only a few hundred residents.

But if we analyze the Netherlands version of the deeper, you may find that the experience of combating drug trafficking in this country almost none. There is a double standard with respect to drugs, which allows, on the one hand, export to Western Europe marijuana grown on their territory, and on the other — it stimulates the flow of tourists wanting to "revel" without breaking the law. In other words, a successful and wealthy Netherlands drug addiction do not hesitate to use to supplement the budget and private accounts. And for the first 5 years from the date of authorization of sale of marijuana in coffee shops for the personal use of its consumption has jumped by almost 200 %.

Third scheme — a combination of force with an intensive preventive work (American version). This scheme requires significant funding. Budget management to combat drugs in the US is more than $19 billion a year. Naturally, in the foreseeable future, Russia cannot afford anything like that.

However, some US success in reducing the number of drug addicts received mostly not by force, but as a result of activation of programs promoting healthy lifestyles.

For example, the number of smokers in the United States for the last five or six years has dropped by almost half, and in many states the youth is not only forbidden to consume alcoholic beverages, even beer.

Some arguments for drug legalization

1. With the legalization of drug use did not increase.

The whole experience of legal drugs (such as alcohol and tobacco) shows that the growth of availability leads to increased consumption.

2. This will reduce the costs of the law enforcement system.

Addicts will still need money for the purchase of drugs and become legitimate, therefore, crime will increase, and the police will work no less, and in other ways.

3. Legalization protects human rights.

But it is a violation of children's rights to truthful information and secure life.

4. All cultures are equal and we have to take drugs other cultures.

One culture may not add another problem crops. The Company is not obliged to pay for the additional problems created subcultures.

5. The current legislation is not effective.

There is no reason to consider legalization as a more effective policy. We need to change the existing legislation, making it more liberal drug users and more severe for distributors.

6. Cannabis is less dangerous than alcohol and tobacco.

Even so, there is no reason to add to the sea of grief from a drop of alcohol and tobacco from burning cannabis.

7. legalizing drugs, we improve their quality.

Drugs are not characterized by quality, and different levels of toxicity. Net (less toxic) drugs will cost more, and most addicts prefer the cheaper drugs.

8. Legalization would allow the state to collect taxes necessary for social programs.

In such a case, the state will be interested in the growth of drug use.

The problem of getting rid of psychological dependence to drugs — is the main problem drug treatment. It has been tried so many ways. Previously, drug addicts do not stand on ceremony: they were sent for compulsory treatment in specialized private medical institutions, where they are completely isolated from the drugs. What can I say, this method was perfect at 100 %, but only until such time as the patient retains the full insulation. Once the addict get freedom, so this method ceased to act. Who practiced a more humane approach — is occupational therapy courses in rural outdoors in close company with other addicts and alcoholics, away from the cities with their many evil temptations. Years pass in nature, while gradually expels from memory narcotic memories. Who really wants to recover — in fact can come who are not confident in their abilities — in fact, most likely will not work. What is called — no guarantees.

The main means of combating disease remains a formidable dissemination of information about the dangers of drugs. To combat drug addiction requires a whole system of government measures: first, the prevention, punishment for the sale of this potion, as well as the dissemination of information about its dangers.

А. С. Аракелян

MEDICAL LAW IN THE RUSSIAN FEDERATION

Medical law is a branch of law in the Russian Federation that regulates relations in the field of public health and provides medical insurance, in other words it deals with all relationships that appear in a sphere of organization, payment and medical help provision.

To begin with, it is important to notice that medical law should not be confused with medical jurisprudence, which is a branch of medicine, rather than a branch of law.

The main participants of the legal relationships are: the patient, the medical staff (in particular — the doctor in charge of the case); medical treatment, health insurance organization, insurers, government regulators and management in the health sector (the Russian Federation Ministry of Health), the Russian Federation Federal Compulsory Medical Insurance Fund, the Russian Federation Social Insurance Fund.

The health sector is legislatively regulated mainly by the Constitution of the Russian Federation, Federal Law № 323-FL "About basis of health protection in the Russian Federation" and by some other federal laws and normative legal acts compiled on the basis of the above-mentioned ones.

Here are the objectives and areas of application of this Federal Law**:**

1. This Federal Law sets the legal foundations for the national health care system to assure the right of all citizens to health protection, accessible and qualified health care and drug provision.

2. The objectives of this Federal Law include the following:

- to define the areas of competence and responsibility of the agencies of state authority of the Russian Federation and the agencies of local self-government with respect to citizens health protection;
- to establish state guarantees regarding implementation of citizens' rights in the area of health protection;
- to do promote for state regulation of the national health care system and its further development;
- to administer public and private health institutions, as well as individuals who are engaged in health and pharmaceutical services;
- to define procedures for financing and economic activity within the national health system;
- to define rights and responsibilities of the citizens and certain groups of the population with respect to health protection;
- to define responsibility for the violation of this law;

3. This Federal Law shall be complied with by the agencies of state authority, the agencies of local self-government, juridical persons and individual entrepreneurs (persons involved in health and pharmaceutical service provision).

The set of laws, documents, legal acts which are responsible for public health are written thoroughly considering all the features of our immense country. If all the laws would be respected and implemented the Russian public health system would be ideal or close to that.

In spite of everything said above we see that the Russian health care system does not occupy any place even in the top ten in the world. According to the World Health Organization, Russia was on the 127th place in the world in terms of public health and on the 130th — the effectiveness of health systems. This means that some link in the chain of all participants in the regulation of public health system is not working properly and there are a lot to be done and improved.

А. Е. Ахрамеева

STUPID CRIMES IN RUSSIA

Nowadays many scientists say that people's intellectual level is constantly falling. This can be seen in all spheres of our society. But what are the causes of the crime rate growth? What are the sources of criminal inclinations?

Many books describe ingenious, sophisticated criminals. But those we are going to talk about are different. People who commit "stupid" crimes do not usually think about the consequences. Sometimes they even help policemen arrest them.

In 2011 in the town of Saransk a young guy stole a bike which was standing near his house. Then the thief decided to sell the bike at a nearby market. And the first person whom he offered the bike was its real owner. The unlucky thief had already been convicted of theft and got a suspended sentence, so this time the punishment was to be up to two years of imprisonment.

According to the Criminal Code of the Russian Federation, Art. 158, punishment for theft is a fine of up to eighty thousand rubles or equal to the salary or any other income of the accused for a period of up to six months, or compulsory community service for a period of up to three hundred and sixty hours of correctional labor for a period of up to one year, or restraint of liberty for a period of up to two years or compulsory labor for up to two years, or imprisonment ranging from four months to two years. So, considering the fact that the young man had already got a suspended conditional sentence and taking into consideration the recidivism (Art. 18 of the Criminal Code) he was obviously going to jail.

In St. Petersburg a 23-year-old girl found a key and robbed her neighbors' apartment while they were out. The thief found jewelry and money and then reached into the refrigerator. She did not understand what kind of drink there was in the bottles of French cognac as after a few sips she fell asleep. Afterwards, it turned out that there were strong soporific drugs there. When the owners returned home they found their neighbor sleeping in the kitchen. Having been brought to the police station, she woke up much later there.

According to Art. 139 of the Criminal Code of the Russian Federation the punishment for such a crime is a fine of up to forty thousand rubles, or equal to the salary or any other income of the convicted person for a period of up to three months, or compulsory community service for a period of up to three hundred sixty hours, or correctional labor for a period of up to one year, or imprisonment of up to three months.

Another strange crime was committed at the "Detski Mir" mall in Kirov. A thirty-six-year-old man hid in a box and waited till the store closed. Then he opened the cash box where he found about five thousand rubles. But he did not leave the store. The alarm went off and he had to climb into his box again. It did not help him. The police dog smelled him and the thief was caught. But the policemen were really surprised when they realized that the thief had eaten all the stolen money to escape punishment.

In 1958 the Gypsies got their "heroes". In the Arkhangelsk zoo a group of gypsies stole an elephant. Soon, however, they returned it to the same zoo.

One early morning in 2011 in the Irkutsk region a businessman came across a tractor belonging to him with traces of an accident. But he did not get any explanations from his employees. Only the police helped him detect the crime. It turned out that a few pretty drunk workers had decided to fetch some food in a tractor. Having driven off a little, they ran into a tree. But what is most surprising is that after the accident they walked to the store and only after that returned the tractor.

According to Art. 166 of the Criminal Code of the Russian Federation punishment for illegal driving of an auto or any other vehicle without stealing it, committed by a group of persons, shall be a fine not exceeding two hundred thousand rubles or equal to the wages or any other income of the convicted persons for a period of eighteen months, or forced hard labor for a period of up to five years, or imprisonment for up to seven years.

In conclusion, I'd like to say that scientists specify several reasons of committing crimes nowadays. One of them is enrichment, another is getting some adrenaline (theft on a bet). In any case most people do not think about punishment.

М. Р. Бабец

SPORTS LAW

Sports law is the body of legal issues at work in the world of both amateur and professional sports. Sports Law includes multitude areas of law: issues such as contract law, competition or antitrust law, tort law and also issues like defamation and privacy rights because of rising interest in the lives of athletes and media attention to the sport.

Sports Law can be roughly divided into the areas of amateur, professional, and international sports. Even though an athlete may be defined as an amateur by one organization, he or she may not be an amateur according to another one. Of course, this even leads to more confusion. Yet useful definition is that amateur athletes participate in sports as an avocation while professional athletes are involved in sports as a vocation.

Professional Sports. Perhaps the most important relationship in the area of professional sports is that between the individual player and the team owner. This contractual relationship is governed by basic contract principles. Most sports leagues now have a Standard Player's Contract which serves as a model employment contract between players and owners. The model contract can be modified to accommodate the special needs and talents of individual players. With the increase in salaries in professional sports, most players are now represented by agents. Typically, this relationship is governed by a Standard Representation Contract which defines the duties of the agent and the compensation to him.

The lawyer of professional leagues and clubs needs general understanding of the contract, labor, private association, antitrust, tort, tax, and intellectual property law. Those representing professional athletes must be familiar with labor and employment, contract, federal and state tax, and worker's compensation law as well as athlete-agent regulation. A sports lawyer must have strong contract negotiation and drafting skills to represent professional sports industry clients. The understanding of the arbitration process is also important because most employment-related disputes between professional athletes and leagues or their respective clubs are resolved by mandatory arbitration. Representation of individuals, educational institutions, and governing bodies that are part of the youth, high school, college, or Olympic sports industries also require broad knowledge of contract, private association, tort, and constitutional law (if the requisite "state action" exists) and of arbitration (for Olympic sports).

International Sports. The two major international sports competitions are the Olympics, sponsored by the International Olympic Committee, and the World Cup, sponsored by FIFA.

The Sport and Law Commission is a juridical platform for the Olympic Movement.

The IOC Sport and Law Commission was created in 1996 to provide a forum for the discussion of current legal issues generally affecting various organizations which make up the Olympic Movement, including the International Olympic Committee, the International Federations and the National Olympic Committees. The Commission normally meets once a year.

The Sports Lawyers Association. The Sports Lawyers Association (SLA) is a non-profit, international, professional organization whose common goal is the understanding, promotion and ethical practice of sports law. There are over 1,000 current members: practicing lawyers, law educators, law students, and other professionals with an interest in law relating to professional and amateur sports.

The Mission of SLA is three-fold:

- to provide educational opportunities and disseminate data and information regarding specific areas of sports law.

- to provide a forum for lawyers representing athletes, teams, leagues, conferences, civic recreational programs, educational institutions, and other organizations involved in professional, collegiate, Olympic, and amateur sports. SLA's role is to foster the discussion of legal problems affecting sports law and to promote the exchange of a variety of perspectives and positions.

- to promote and, where necessary, establish rules of ethics for its members involved in sports law.

Nowadays a lot of attention is paid to the sport. Sporting events, as well as the life of athletes, are in the spotlight. In these conditions, sports law gets great development.

Э. В. Балаева

ON IMPROVEMENT OF THE INSTITUTE OF SELF-DEFENSE IN THE CRIMINAL LAW OF THE RUSSIAN FEDERATION

Self-defense as a circumstance precluding criminality is a legitimate human behavior, resorting to the protection of the rights protected by the law of value by causing harm to an attacker. In recent years, the level and dynamics of crime in Russia has been steadily growing. They began to commit these types of crimes that had not took place in our country, or were extremely rare, for example, kidnapping for ransom, hostage — taking, etc. The numbers of assassinations are increased, and most of them are not disclosed by law enforcement agencies. On The Ministry of Internal Affairs board of Russia on February 8, 2013 the President of Russia Vladimir Putin declared that in Russia every second crime remains unsolved. In these cases people often have to rely only on themselves. Therefore, at the present time the role of the institute of necessary defense. People should be able to protect himself, his property and its right must be guaranteed by law in absolute way. For this purpose the state adopts criminal rules of law about necessary defense. The regulation of this institute is reflected in the Art. 37 of the Criminal Code of the Russian Federation[1].

Also the relevance of this subject is caused, first of all, by the most important functions of necessary defense in the conditions of formation in Russia of civil society and the constitutional democratic state. Being an element of legal system, the necessary defense promotes blocking of offenses and crimes, serves as a guarantee of legality, stability of law and order.

It is necessary to mean that in investigative and litigation at application of the legislation regulating institute of necessary defense there are serious shortcomings and mistakes which lead sometimes to unreasonable condemnation of citizens[2].

Mistakes in a legal assessment of acts of necessary defense can bring, actually to prohibition to citizens defend from criminals and facilitate thereby commission of crimes. So, upon the necessary defense quite often at first criminal case is brought and even if subsequently it stops, defending is compelled to act as the suspect and to prove the innocence, attacking, on the contrary, appears as the victim, in this connection his socially dangerous encroachment not always receives the corresponding criminal and legal assessment.

The Art. 37 of the Criminal Code of the Russian Federation formulates the excess of limits of necessary defense as “deliberate actions, obviously not corresponding to character and danger of encroachment”.

[1] Criminal code of the Russian Federation. M., 1996.

[2] *Pervtsev D. V.* Criminal and legal and criminological problems of the necessary defense. M., 2004. P. 48.

It is necessary to agree with K. I. Popov’s opinion that the given situation is not quite exact. The matter is that the necessary defense is defined in the law (p. 1 of the Art. 37 of the Criminal Code of the Russian Federation) not as actions, and as infliction of harm to the encroaching. And in p. 2 of the Art. 37 of the Criminal Code of the Russian Federation, as “deliberate actions”. However no actions can be admitted if they didn’t do encroaching harm, as an excess of limits of necessary defense[1]. It is more correct to speak about deliberate infliction of harm, obviously not corresponding to character and danger of encroachment. Recognizing as excess of limits of necessary defense, deliberate actions, obviously not corresponding to character and degree of public danger of encroachment, the legislator mainly means obvious discrepancy of the harm done as a result of protective actions in comparison with danger of encroachment.

But it, from our point of view, is not yet complete definition of excess of limits of necessary defense. The matter is that harm directing to an encroaching has to be rather proportional not only with character and danger of encroachment, but also with a protection situation.

The situation of protection is defined by real opportunities and means defending to reflect encroachment, without resorting to causing encroaching heavy harm. Character of such situation depends on a real ratio of forces, opportunities and means defending and encroaching[2].

There are cases when a protection situation such is that the defending person has clear superiority in forces over encroaching and realizes this circumstance. In such situation for ensuring effective protection it has no need for causing to encroaching heavy harm. It is enough to strike, for example, blows, a beating, to do easy or harm to health of average weight of the encroaching.

Summing up the result of all aforesaid, I can come to a conclusion that the Russian criminal legislation formulates institute of the necessary defense in very narrow framework, demanding to meet the conditions of legitimacy relating both to encroachment, and to protection. In norms about the necessary defense there is an estimated category at which the right of determination of harmony of protection and encroachment is given to the discretion of court. Defending should satisfy the provided conditions of the necessary defense not to break this principle of harmony. Definition of such conditions causes great difficulties even of experts that in turn, leads to numerous miscarriages of justice and unreasonable condemnation of the persons resorting to the act of the necessary defense. Therefore the provisions of the law regulating this institute need improvement and more accurate formulation.

[1] *Popov K. I.* Notion and legal nature of excess of limits of necessary defense. M., 2009. P. 49.

[2] *Antonov V. F.* Emergency in criminal law. M., 2005. P. 165.

В. В. Боднарь

INDEPENDENT JUDICIAL SYSTEM

The aim of this article is to draw the public's attention to such a burning theme as an independent judiciary which is one of the fundamental components of the law-based state and the cornerstone of any democratic society.

An independent judicial system enables citizens to protect their legal rights which guarantee security and peacefulness for each member of the community. Judicial independence ensures the irreversibility of the democratic processes in the society. (People are endowed with all necessary rights and freedoms which are confidently and successfully used and applied by them in their everyday lives. At the same time, all the citizens, regardless of their social or professional status, are aware of their duties and obligations, and they are all equal before the law.)

The existence of an independent judicial system strongly contributes to the economic development and progress. If businessmen work in a country where there is the rule of law and justice, if these entrepreneurs are protected from and really guaranteed against any acts of corruption on the part of state officials and institutions, if they know that entirely all the judicial system combats fraud and bribery, they are sure to invest more, create more jobs and, of course, pay more taxes which eventually leads to national economic prosperity.

The independence of judiciary presupposes very high standards of morality on the part of judges. Judicial independence does not mean allowing judges to perform their duties unsupervised. Such supervision must be both judicial and non-judicial (public supervision). In an article published in 2003, the then-chief justice of the Wisconsin Supreme Court, Shirley Abrahamson stated the following: "Judicial independence is also safeguarded by statutes and ethical codes requiring judges to conform to high standards and to disqualify themselves from sitting on cases in which their impartiality would be questioned. Judicial discipline commissions and the courts can discipline judges for violations of these codes..."

Justice must be administered in strict conformity with the provisions of the law, but it must be also public and transparent. The citizens may lose confidence if the judges fail to prove their independence through their mode of operation. In this respect, Joint Statement of the Courts of British Columbia, Judicial Independence (And What Everyone Should Know About It), March 15, 2012, runs as follows: "...Those who come before the courts must be certain that decisions made by those courts are not subject to outside influence. Judicial independence means that judges are not subject to pressure and influence, and are free to make impartial decisions based solely on fact and law..."

The selection procedure for judges must be based on honesty, qualification, competence and experience. Let's turn our attention to Shirley Abrahamson's opinion again: "Judges are constrained to maintain judicial independence by the law, their legal training, their expectations, and the judicial culture. The judicial culture and judicial education treasure intellectual honesty, fair and principled decisions, and rising above partisanship and the political moment".

А. А. Борзенков, Л. М. Коняхина

ACTUAL PROBLEMS OF JUDGMENT EXECUTION ON DEBT COLLECTING

Nowadays judicial procedure in the Russian Federation is regulated by two basic laws: the law of "Judicial Procedure" and the law of "Court Bailiffs". At the same time judicial procedure is in direct interrelation with other branches of law in the Russian Federation. Provisions of the law of "Judicial Procedure" are in direct interaction with the Constitution of the Russian Federation, The Civil Code of the Russian Federation, The Code of Civil Procedure, The Arbitration Procedural Code, The Criminal Procedural Code, etc.

Due to existence of economic, social and political problems in the society, lack of regulation in many legal aspects and mentality features of some national groups a number of the initiated judicial procedures in recent years does not decrease. So, the total amount of judicial procedures from 2012 for 2013 increased approximately to more than 3,817,000 cases.

In the course of judicial procedure there is a big complex of problems interconnected among themselves which are caused by a number of factors:

1. Human factor. It is characterized by qualification and vocational readiness of the bailiff, number of judicial procedures coming to one bailiff, material equipment and also existence or lack of specialization in different types of judicial procedures.

2. Socio-economic factor. The social and economic situation in the country and it's regions directly influences provision of subjects and accuracy of the legislation implementation, execution of court decisions. Implementation of more strict requirements to the law regulating certain spheres always leads to growth of law violations and, as a result, growth of number of judicial procedures. According to the conducted researches the biggest growth of violations happens in the first 4–5 months after toughening of the legislation; growth of number of judicial procedures happens in 6–12 months.

3. Geopolitical factor. It is characterized by the general policy of the state in different spheres of society action depending on regional belonging. The quantity of offenses and the initiated judicial procedures are indicators of population response to the policy of the state.

Each category of the judicial procedures has it's characteristic problems. They directly depend on the structure of the subjects, the branches of the law and the type of the procedural actions which are used in certain cases.

One of the most numerous groups is formed with the judicial procedures initiated by the court decisions about collecting debts. It is the biggest group by subject structure: private individuals, individual entrepreneurs, commercial and non-commercial organizations, the government and municipal bodies could be creditors and debtors. Respectively, the range of regulations which regulate the rights, duties and activity of specified persons is wide. All this demands special knowledge from the bailiff which he / she not always has. In fact, requirement about the higher legal education will appear only since December 8, 2014. Besides, the low level of a salary in total with irregular working hours do not promote to work stimulation.

A large number of the judicial procedures for one bailiff at the same time in combination with low material supply of working conditions lead to loss of the staff. Therefore, in the course of execution one difficult summary judicial procedure bailiffs change 5–6 times, each of them spends time for judicial procedure acceptance and acquaintance with materials.

As a result, time of judicial decision's performance gets tightened, the quality of work decreased. This results further violation of existing creditor's rights. Besides, the law provides a large number of the procedures allowing to use the mechanism of a delay, payments by installments, changes of a judgment execution, adjournment and suspension of judicial procedure. Often debtors use these mechanisms for tightening or doing impossible execution of a judgment.

Rigid procedural framework, limited financial support and high load of bailiffs often lead to that the claimer is compelled to make independently the actions directed to judgment execution: leads to additional legal costs, expenses on examination, etc.

The widespread way to avoid collecting debt is the bankruptcy of legal entities or private individuals, change of the debtor address, an outputing of assets in different ways. In current situation observance of all legal necessary actions has no effect for execution of judgment. As result, it leads to a large number of unfinished judicial procedures.

The analysis of the stated problems allows to draw a conclusion that the package of measures is important to improve quality of bailiffs' work and increase of number of the executed productions: The state legal regulation should be directed to correspondence of legislation provisions of judicial procedure with other branches of the law regarding their combined use; Increase of bailiffs' specialization in the certain directions; Increase of salary level, social guarantees, material support levels and organization of working conditions; Increase operational interaction between law enforcement agencies, courts, administrative bodies and Federal Bailiff Service.

Activity of bailiffs should not be directed just to formal declaration of violated rights recovery. The actual restoration and protection of the violated rights is the main and basic destination in judicial procedure which has to be reflected in activity of bailiffs.

П. А. Ведягина, А. А. Петрова

RACIAL DISCRIMINATION

We are facing an infinite number of serious social and political problems every day. Each and every one of them is important in its own way. While trying to deal with some of them we forget about others. Under certain circumstances of life today the issue of racism and racial discrimination is escalating dramatically. The main point of this report is to remind of significance of restraining and resolving this serious issue.

The term, racism, refers to an organized system that categorizes population groups into "races", and uses this ranking to preferentially allocate societal goods and resources to groups regarded as superior. Fundamental to racism is cultural racism that sustains an ideology of superiority that ranks some racial groups as naturally or culturally superior to others and supports the social norms and institutions that put into practice this ideology. Racism often leads to the development of negative attitudes and beliefs toward racial outgroups (prejudice), and differential treatment of members of these groups by both individuals and social institutions (discrimination). Importantly, because racism is deeply attached to the culture and institutions of society, discrimination can persist in institutional structures and policies even in the context of marked declines in individual level racial prejudice and discrimination. Moreover, negative racial stereotypes that are deeply rooted in mainstream culture can serve as an additional source of discriminatory behavior even among persons who may not be prejudiced. Targets of discrimination are aware of some of the discriminatory behavior directed at them and these perceptions of unfair treatment can generate stress.

Racial discrimination refers to the separation of people through a process of social division into categories not necessarily related to races for purposes of differential treatment. Racial segregation policies may formalize it, but it is also often exerted without being legalized.

According to the 2014 Annual Report to the Human Rights Council in the United Nations General Assembly, in the current period of continued economic crisis there still is an issue of extremist political parties. Due to their racist agenda they blame non-citizens, minorities, migrants, refugees and asylum seekers for the social problems and eventually incite intolerance and violence against these social groups. There has been an increase in incidents involving racist violence committed by extremist movements and groups in some countries, particularly in Eastern and Southern Europe. The main concerns are violence and harassment against individuals of African descent also threats and attacks against Roma people in Southern and Eastern Europe. It was reported about several marches against irregular migrants organized by far-right groups as well. The patrols of certain areas in purpose to threat and attack migrants have been also taking place lately. It is reported about the effective hatred propaganda that consists of distribution leaflets and posters.

Moreover, it is complicated for the suffering groups to protect their rights due to certain circumstances displaying police negligence, such as refusal in recording and investigation of violence acts. There is also an issue of light sentencing or non-sentencing for racial crimes.

Here there are some alerting facts from mass media to found on:

"A 2011 survey finds many Hungarians share anti-Roma sentiments with 60 percent believing that criminality was in "gypsy" blood. The same poll found 40 percent believed it was OK to have bars and clubs where Roma were not allowed in";

"Roma, who number 400,000 in Bulgaria according to official statistics, are the largest and most frequently attacked ethnic group. But they are far from being the only target of hate speech and discrimination.

The streets of Sofia have seen an outpouring of anger

"The nationalists are targeting the Other," said Solomon Bali, President of the Bulgarian branch of the Jewish Organization B'nai B'rith. "These include Muslims, Jews, the gay community, and foreign refugees."

"And the attacks have become more frequent, more aggressive and more vocal in recent years," Bali added. During the last decade, he recalls the profanation of the Kyustendil Jewish Cemetery, the burning of Burgas Synagogue and the "unlimited field for anti-Semitic propaganda and bigotry provided by the Internet and social media".

As a result there is a need in preventing the following escalation of the conflict and lowering the level of concern as well. There are certain acts that are to regulate the mechanism of action in such cases and to establish international standards of conduct. These include: The United Nations Declaration on the Elimination of All Forms of Racial Discrimination (21/12/1965), International Convention on the Elimination of All Forms of Racial Discrimination (7/03/1966), UNESCO Declaration on Race and Racial Prejudice (27/11/1978) etc. Each of these acts declares that discrimination on the basis of race, colour or ethnicity is "an offence to human dignity" and states is as a violation of human rights and a threat to peace and security, calls for states not to discriminate on the basis of race and also to end the support for the discrimination. It is also clearly stated that segregation and apartheid are invalid, as well as segregating and discriminating laws. According to these acts there must be equality before the law, equal political rights. States are called to promote tolerance and racial understanding and

criminalize hate-acts. There should always be research studies on this problem in purpose to prevent and combat racial discrimination more effectively.

In conclusion, there is a need to notice, that despite the measures that have been taken, the problem of racial discrimination is still a serious threat, partly because of non-binding nature of the described international acts. Mainly, the most recent victims of violence are immigrants, which should probably alert the governments of the states that are experiencing the large influx of immigrants. There must take place urgent measures on relieving the stress between incoming and local population.

Я. В. Горожанкина

THE CHURCH AND THE GOVERNMENT: WHO IS THE HEAD OF THE STATE?

Many years ago the Bible used to be our main code of laws or at least the basis of laws.

Our world, people, and living conditions have changed, so old rules cannot regulate our lives anymore. Now people can travel around the world. If anyone from the Middle East, who is Muslim, comes to any Christian country, he will be looked at differently rather than Christians. As far as I know we are trying to make everyone equal in front of the law. That means that The Bible cannot be used as the code of laws anymore. It leads me to a conclusion that the state is supposed to be separated from the church. And they cannot be influenced by each other. However, even in developed countries like the USA, Russia and European countries religion and the government are still bound up together in some ways.

From history we know that "new Americans" came from Europe where religion was an important part of the government. It is a fact that many people flew away from their home country in Europe to the USA because they did not want to support the religion that was dominant in their country. They wanted to confess the religion that they found right. Influenced by Europe, England especially, they wanted to create a country where any religion was accepted. In my opinion, that means that the government must be secular. However, according to John V. Stevens Sr. "In Colonial America, the death penalty was issued as punishment someone's third offence of missing Sunday services" (pg. 09). Moreover, we still have that famous phrase on every $1 bill: "In God We Trust". And there is a masonic symbol on that bill. What is Eye Of Providence doing on a bond of a secular government? You may say that we just kept it as a reminder of old days. It is true to point . It has been on coins since 1782 but "In God we Trust" appeared on the one-dollar bill only in 1955.

In democracy people are in charge of controlling their country through a particular group of people that are chosen by citizens. The majority of US citizens consider themselves as religious. Mostly, they are Christians (it includes Catholics, Protestants, etc.). That means that the majority of citizens are influenced by religion. As a result their political decisions are influenced by the church.

There is more evidence to prove the connection between religion and the church. People, who oppose abortion, usually operate with the "fact" that

it is anti-Christian. The Child is given to a woman by God and she cannot just get rid of it. The same arguments are given to support any anti-homosexual acts.

Some claim that lack of religion caused the fall of the USSR. To my mind ,Religion survived, but was not welcomed by the government. You may say that as a result the Soviet Union fell apart. That is definitely true, but lack of religion was not the reason for that. Economy and living conditions were.

So, I can conclude saying there is no developed country that is not influenced by one of the religions. While people believe in a Man in the sky, they will be influenced by Him. And there is no difference how people call his Him: Jesus, Buddha or Allah.

М. Д. Дадаева

SAME-SEX MARRIAGES. THE CRISIS OF THE FAMILY OR THE WAY TO THE EQUALITY

What is a marriage? We find the following definition in the Great Encyclopedic Dictionary: “The marriage is an alliance of a man and a woman which causes their rights and responsibilities with regard to each other and their children”. Dictionary of the Russian Language by S. Ozhegov says that the marriage is the marital relationship between a man and a woman. In the Dahl Explanatory Dictionary we can find the next definition: “The marriage is a legal aliens between a man and a woman; matrimony…” In the lexicography the meaning of the words can change according to the situation. Thus, over the past ten years in the English-speaking world in the most authoritative dictionaries the differentiation according to sex in the definition of the “marriage” has gone; or the clause about the same-sex marriages was added.

The first law in the world about the registered partnership came into force on October 1st in 1981 in Denmark. The main clause of the law proclaimed that “two people of the same sex may register their partnership”. Danish homosexuals got the same rights as married heterosexuals, except the right to adoptions and an ability to design a marriage in the church. Danish gay-activists Axel and Eigil Aksgil were the first same-sex couple which had legitimized their relationship.

Nowadays there are the same-sex marriages in 15 countries of the world, in most states of America, in several states of Mexico, and also in Scotland, England and Wales.

In Russia the same-sex marriages aren’t officially recognized, and the other forms of alliances for the same-sex marriages are not provided by law.

But still, what is this — the same-sex marriage? Is this the crisis of the family or the way to the equality?

Opponents and supporters of the legalized same-sex marriages usually put forward the arguments referring to the morality and the human rights. Opponents abut on the immorality of such unions and allude to the sacred books of religions. Supporters exclaim that no one dares to take away human freedom of choice — with whom to live and whom to love.

Opponents of the legalization of the same-sex marriages most often abstract away the question about the comfort of children in such families. For normal socialization of the child, he should constantly be in touch with the representatives of both sexes. While the level of external communication is small, a child has to communicate with his / her relatives. In the same-sex family he will often be deprived of such an opportunity.

As for the fact of the marriage, it can be assigned to a few specific rights. Namely, such a marriage primarily regulates the legal, medical and property issues, not the scope of the senses. Prohibition of the registration of gay-marriage is not able to influence the choice of a partner. Considering that the same-sex union is a problem, states don't eliminate it by means of the prohibition of such marriages; they only generate excitement and indignation among sexual minorities, which, incidentally, is not unfounded. For example, the refusal to register the same-sex marriage violates Art. 8 "Right to respect for private and family life", Art. 12 "Right to marry", and Art. 14 "Prohibition of discrimination" of the European Convention on Human Rights.

As we can see, we can talk about the same-sex marriage from a different perspective... the emotional, religious or legal. But the fact remains that the legalization of such unions is only possible in the most democratic countries which are ready for such changes. We can't say so far that Russia is a country of this type. But is it good or bad? We are all free to decide.

А. Н. Демешина

JUVENILE BAR IN JUVENILE JUSTICE MECHANISM

The moral and cultural level in our country lately seems to be descending, but it's not so grave as the legal ignorance of the Russian Federation citizens' majority, that leads to a great number of offences performed by teenagers or connected with them. The children-offenders and criminals are not aware of punishment they are to be subjected later, but legal ignorance makes nobody free from legal responsibility. So, it should be taken in consideration that very often a teenager doesn't know about his or her own rights and is not able to protect them.

That's why the grown-up stratum of the society faces the necessity to provide the legal cognizance for their children. But for today it is problematic. To provide it, the state is to create a supporting system service which should accessibly explain to a child his rights and duties, would protect the child if necessary. Consequently, the Russian Federation juvenile justice creation becomes timely, including the juvenile bar creation.

Juvenile justice introduction in our country is a matter for arguments. For example, E. I. Kozlova and O. E. Kutafin, S. A. Abakumov, O. V. Zykov and others think the juvenile justice to be a better measure to protect the rights and freedoms of a child, while the others like T. L. Shishova, I. Y. Medvedeva, T. M. Borovikova suppose it would ruin the social family institution. Neither other scholars can come to general agreement on the matter, so its development doesn't go on.

We support those who think positively on juvenile justice, but it should be directed completely to the child protection, both as a person and as the child's inner world.

It is so shaped historically, the juvenile justice institutions are absent in the form of the court bodies in Russia, and their functions are distributed between the acting court system bodies, law enforcement agencies and teen matters commissions. We come to think about unavoidability of that system creation in Russia, it's just the question of time. The social and state structures have already discussed it more than once.

Some legal scholars make attempts to try on Russia the Western model of the juvenile justice. But it should be considered, that the juvenile justice form, actual for the West, is lifeless in Russia, according to Pavel Astakhov, the Child Ombudsman at the RF President's office. "I insist principally, that the Western juvenile justice form, which has become bankrupt in fact, is nonviable in Russia <…> We won't change neither the Constitution nor the Family Code," he declared on November 19, 2013, at the press-conference "Free

legal aid in Russia: nation-wide action of the legal help to the children" at the Russian mass-media agency RIA.

In Russia, the juvenile justice project, including the project juvenile courts and juvenile bar has been existing rather a time. Since 2000, the amendments projects have been developed for the federal constitutional law "On the Russian Federation Court System", and adopted successfully. The question was put off though, and the deputies could not come to agreement if the juvenile courts should be referred to the courts of general jurisdiction or be arranged in a form of a separate structure. Besides that, the decision was formed on making an experiment in a number of the Russian Federation subjects, on criminal cases considerations by specialized courts, where teens are the offenders.

That experiment demanded changing of the routine criminal teen practice and also it came necessary to get a specially trained staff for juvenile justice practicing. Already now many barristers try the role of a teen person defense council.

This question hides a misunderstanding, which should be referred rather to training than to the legal aid. The Child Ombudsman stated: "Too broad interpretation of juvenile justice involves all other problems. Here, first of all, mere training is to be concerned".

Despite P. Astakhov's opinion, 60 % of barristers polled are sure that teen consulting, their rights and duties defense have a particular character, demanding not only general legal competence, but particular specialization. Thus, 20 % polled court system barristers by I. V. Predeina suppose, that "the proper guaranties absence for a teenager to defense and corresponding case consideration is one of the principle shortcomings of the Russian justice model on teen cases".

That's why the creation of a new type of the barristers' activity within the juvenile justice, namely the juvenile bar, is necessary. But not only the barrister's court participation in the role of defense council should be concerned. The barrister must represent the teenager interests in the rehabilitation justice, interact with different bodies on social aid to the children, maintain a psychological contact with a teen offender. Consequently, for the proper defense counseling a juvenile barrister should be not only legally competent, but also be aware of children psychological peculiarities, of their intellectual development, of matters on social science, pedagogy and other. The barrister must be able to get on with children, love them. Only that very approach will provide both the teen legal interests defense and their upbringing in the spirit of legal norms observance.

Coming to the conclusion, we may insist on the idea that the question of the juvenile bar formation within the juvenile justice structure is really actual. Shaping that structure demands from the lawyer having high qualification, specialization, experience, reprimand absence, ability to perform legal aid to the teenagers. Only with this the juvenile bar will act as a regulator and defender of the teenagers' rights and freedoms.

А. О. Денисов

INTELLECTUAL PROPERTY. COMPARISON OF TYPES OF INTELLECTUAL PROPERTY

Intellectual property rights are legally recognized as exclusive rights to creations of the mind. In general terms, intellectual property is any product of the human intellect that the law protects from unauthorized use by others. The Convention Establishing the World Intellectual Property (1967) gives the full list of subject matters protected by intellectual property rights. Intellectual property is traditionally comprised of four categories: patent, copyright, trademark, and trade secrets.

Copyright came about with the invention of the printing press and with wider public literacy. As a legal concept, its origins in Britain were from a reaction to printers' monopolies at the beginning of the XVIII century. Charles II of England was concerned by the unregulated copying of books and passed the Licensing of the Press Act 1662 by Act of Parliament. Copyright is the sole and exclusive right to copy or use a product or a creation. It can be also given to different legal persons. Today the law of copyright protects various "original forms of expression," including novels, movies, musical compositions, and computer software programs. It gives the author specific rights in relation to the work, prohibits unauthorized actions, and allows the author to take legal action against instances of infringement or plagiarism. Copyright contains moral rights[1] and economic rights[2]. Typically, the duration of copyright is the whole life of the creator plus fifty to a hundred years from the creator's death, or a finite period for anonymous or corporate creations.

A patent is a right, granted by the government. Patent law protects inventions and some kinds of discoveries, such as new processes, machines, or chemicals etc. A patent is essentially a limited monopoly whereby the patent holder is granted the exclusive right to make, use, and sell the patented innovation for a limited period of time[3]. The central idea is that patents protect ideas, not just expressions of them. The main effect of patents is to give their holders the right to challenge any use of the invention by a third party. Like trademarks, patents are registered at a national or territory level with an appointed government body.

[1] The right to the integrity of the work and the right to be listed as its author.
[2] The right to copy or publish a work or any substantial part of it.
[3] E. g. 20 years in USA.

A trademark is something used in trade with goods to indicate the source of the goods and to distinguish them from the goods of others. So trademark law protects a word, name, symbol or device that identifies for consumers the goods and services of a particular person or firm. Trademark rights may be used to prevent others from using a confusingly similar mark, but not to prevent others from making the same goods or from selling the same goods or services under a clearly different mark.

Trade-secret law protects commercially valuable information (soft-drink formulas, confidential marketing strategies, compilation, program, device, method, technique, or process[1] and so on) that companies attempt to conceal from their competitors. Unlike patents, trade secrets do not last for a specific term of years. Trade secret protection continues indefinitely until public disclosure of the secret occurs.

[1] By Uniform Trade Secrets Act (USA).

П. М. Дубникова

ETYMOLOGICAL CLASSIFICATION OF INTERPRETER'S FALSE FRIENDS

Interpreter's false friends as a special part of the lexicon draw scholars' attention since the publication of an article entitled "Les faux amis ou les trahisons du vocabulaire anglais. Conseils aux traducteurs" in 1928. This article was written by French lexicographers Maxime Koessler and Jules Derocquigny and was the first systematic study of this linguistic phenomenon. However, after the release of this article the study of such words was reduced only to compiling dictionaries and attempting to characterize the phenomenon. Today there is no common classification according to the method of the appearance of such words.

Interpreter's false friends which are the result of accidental coincidences can be clearly illustrated by the example of the vocabulary of two closely related languages — English and German. For example, the English word "mist" means "fog", and from the German language it is translated as "dung". Thus it is not surprising that the company Clairol which represented dry deodorants in Germany was not able to achieve any success using the slogan "Mist Stick" (approximate translation was "Misty Deodorant"). Another example is the word "gift", which in English means a present or talent, and in German means poison. The primary meaning of this Germanic word is "something given". It is important that the study of interpreter's false friends in two closely related languages shows the following pattern: the lexical units of languages, which developed independently from each other recently often show signs of opposition of their semantics.

Borrowing of words can occur in two ways: from one language to another two and from one language to another. Wherein they either undergo changes in semantics as the results of parallel borrowing or have different semantics from the beginning.

An example of interpreter's false friends borrowed and subsequently changed their meaning is the word "doctor" — which in English means "physician", but was borrowed from Latin, from which translates as "a teacher, a mentor". During translation from Latin to English or from English to Latin, a false association can appear as the words borrowed this way are often used in indirect meaning.

Words that appeared as a result of the parallel borrowing are connected with the borrowing of different meanings of the same word of the same language into two or more (other) languages. The word "angina" can serve as an example in this case. In Russian it means an "inflammatory

process associated with diseases of the throat". This word has been borrowed from the word combination "angina tonsillitis" — suffocation from inflammation of the tonsils. In English "angina" was borrowed from the word combination "angina pectoris" meaning "asphyxia".

The consistency of the etymological classification can be proved by giving examples for each of the three types of "false friends" in a particular language pair, E. g. English and Russian, and identifying reasons that led to the fact that these words now are interpreter's false friends. Thus we have three ways of appearing of the abovementioned word groups in languages:

1. Interpreter's false friends which appeared in consequence of an accidental coincidence. E. g. "guerilla" and «горилла». The word guerilla can be found in the novel "For Whom the Bell Tolls" by Ernest Hemingway in the following sentence: "How do you like partisan work? It was the Russian term for **guerilla** work behind the line". English word "guerilla" (synonym for partisan) was borrowed from Spanish. In this language "guerilla" means "local war", which is a diminutive of the word "guerra" meaning "war in general". Russian word «горилла» is known only since the second half of XIX century and was borrowed from Western European languages (French or German). It is the term for the genus of primates.

2. Interpreter's false friends which were borrowed and subsequently changed their meaning. E. g. "address" and «адрес». The word "address" can be found in the historical novel "Ivanhoe" by Sir Walter Scott in the following sentence: "The poor Israelite seemed so staggered by the **address** of the military monk, that the Templar had passed on to the extremity of the hall". English word "address" (synonym for appeal) was borrowed from Latin "directus" meaning "directly aimed, straight". Russian word адрес appeared with the reforms of Peter the Great. It was borrowed from French "adress", descended from Latin "directus".

3. Interpreter's false friends which appeared in consequence of parallel borrowing. E. g. "hymn" and «гимн». The word hymn can be found in the book "Manual on Hymn Playing: A Handbook for Organists" by David Heller in the following sentence: "It may be easier to follow a few guidelines that can serve as the foundation of a student's **hymn** playing". English word "hymn" (synonym for "psalm") was borrowed from Greek word "hymnos" which is connected to the word "hyphaino" meaning "to weave" for the process of creating songs metaphorically represented weaving of threads (words) into the fabric (song or speech). "Hymnos" means a song praising gods and heroes. The origin of the Russian word is not precisely determined but it has a completely different meaning.

In general, we can conclude that today linguists face the task to create an accurate and detailed classification of interpreter's false friends. This will facilitate the processes of studying and memorizing this particular group of words and also will serve as a tool for creating complete dictionaries and other language resources. Literally everyone in one way or another connected with the implementation of translation and studying foreign languages need an access to these types of resources. The designed and abovementioned classification may be the basis for further research in the aforesaid subjects.

К. В. Евстифеева

THE EUROPEAN COURT OF HUMAN RIGHTS AND ITS DECISIONS IN RUSSIA

In modern society human rights are the most important institute which regulates the legal status of an individual, the limits of intervention in the private sphere, legal and other guarantees of protection and realization of human rights and freedoms. This issue is of great importance today because in our world human rights and freedoms are often broken. So it can hardly be found more important problem than its protection.

Each country has its own independent judicial system to provide to citizens the protection of their rights and freedoms. However we can not reject the fact that there is a risk of miscarriage. Certainly states try to deal with this problem with the help of appeals and other measures. Regretfully it is not enough and people still suffering from the violation of their rights and freedoms. That is why international institutes of protection of human rights appeared. One of them is The European Court of Human Rights. The European Court of Human Rights is an international court set up in 1959. It rules on individual or State applications alleging violations of the civil and political rights set out in the European Convention on Human Rights. The Convention secures in particular: the right to life, the right to a fair hearing, the right to respect for private and family life, freedom of expression, freedom of thought, conscience and religion and the protection of property. It also prohibits torture and inhuman or degrading treatment or punishment, slavery and forced labor, death penalty, arbitrary and unlawful detention and discrimination in the enjoyment of the rights and freedoms set out in the convention. Since 1998 it has sat as a full-time court and individuals can apply to it directly. In almost fifty years the Court has delivered more than 10 000 judgments. These are binding on the countries concerned and have led governments to alter their legislation and administrative practice in a wide range of areas. The Court's case-law makes the Convention a powerful living instrument for meeting new challenges and consolidating the rule of law and democracy in Europe. The Court is based in Strasbourg from where it monitors respect for the human rights of 800 million Europeans in the 47 Council of Europe member States that have ratified the Convention.

In 1998 Russia legally established the compulsory jurisdiction of The European Court Of Human Rights for Russia. Since that time Russian citizens have the opportunity to address appeals to The European Court of Human Rights. However, there is no legal document which defines the status of its decisions and their importance for the Russian authorities, including the judiciary. So that some judges believe that the decisions of the The European Court of Human Rights are not the part of the Russian legal system and therefore they are enforceable. Others believe that Russia should use only those decisions, which were made in respect of Russia. Thirds are of the opinion that we should follow all decisions that were made after ratification of the European Convention on human rights by Russia. Obviously such different positions may not contribute to the development of application of judgments of the The European Court of Human Rights in our country and the uniformity of judicial practice on this issue. So in fact The European Court of Human Rights can not work in Russia in the right way and our citizens are denied the opportunity to defend their rights appealing to this important authority.

А. С. Закова

DRAWING INTO TERRORISM

Drawing into terrorism is a burning issue. All over the world governments and society try to combat terrorism, because more and more people are involved into terrorist activity.

Turning now to the main issues of my speech and I want to give you an overview of it. Firstly, I'll evaluate the key points of my presentation. They include the definition of terrorism and some information about the world of terrorist organizations. After that I'll consider the main points about recruitment campaign such as where people may undergo the terrorist influence and what social strata may easily be included in this illegal activity. We will also discuss the methods of incitement into terrorism. Then the measures of improving this situation will be considered. The final level of analysis examines the legislation which is connected with terrorism. Finally, I'll show you the most dangerous regions of our country where the rate of terrorism is dramatically high.

Let's start with the definition of what terrorism is. The Longman dictionary gives us a definition that the terrorism is the use of violence such as bombing, shooting, or kidnapping to obtain political demands such as making a government do something. The Oxford dictionary specifies that this activity is unofficial and unauthorized. Terrorism doesn't develop by itself. There are more than 105 terrorist organizations all over the world. The most famous is Al-Qaeda (also al-Qaida) is a militant Islamic fundamentalist group. Such organizations try to draw into terrorism as many people as possible. They invent a lot of ways to enlist people on this activity.

Let's turn to the recruitment campaign. Where can we run the danger? In Universities, at schools, throughout the Internet, in prisons, in religious sects and in other public places. I should say that now the Internet is the most dangerous area, because it is very hard to control it. Terrorists make up groups and webpages, where they describe their activity as right, profitable and honest. People read this information, watch videos and believe it. These webpages are made by psychologists and people respond to this and think that this activity is right. The last terrorist attack in Domodedovo airport was executed by students of the medical academy in Pyatigorsk. Russian girls start wearing burkas and pray to Allah. Their parents do not know about it because at home they behave normally. In Britain terrorists find a way to draw into terrorism in prisons, in spite of their individual prison cells. They use water pipes to enlist new terrorists and start praying in public. Leaders in religious sects promise their followers the atonement of sins and getting into heaven. People with easy suggestibility, low instinct for self-preservation, mentally depressed people, people with active protest, loss of cultural values may easily get under the terrorist influence.

This brings us to the methods of incitement to terrorism. There are 4 general methods: the net, the funnel, the inflection and the seed crustal. In the net method terrorists use high technology such as internet, smart phones. They send the members of the target population videos and wait for their reaction. Those who respond positively will get more and more information and then a person gets involved into this sort activity. In the funnel method recruiters penetrate into religious organizations or sects and try to enlist people's support. The inflection method influences people from state organizations, where people are dissatisfied with their life, salary and social status. Recruiters offer them money and support. The seed crystal method is used when the target population is remote. Recruiters influence people throughout their environment, friend and relatives.

This slide shows what measures may help to decrease terrorist activity. It is necessary to reduce antagonisms in the economic sphere and social stratification of the population. The government should ban spreading extremist ideology, national separatism, Islamic fundamentalism. It is obvious that the diminishing cross-cultural and interfaith conflicts is a necessity in our country. The government should try to decrease the high rate of criminalization of the society, corruption and drug dealing. Control over religious organizations and sects should be established as well. Toughening the supervision of social network services and restricting the immigration are also useful measures which can help reduce the risk of a terrorist attack. Besides, the family and the society can change this situation. Parents should speak with their children and introduce the correct understanding of current events. They should take notice of any suspicious behavior of their children and keep vigilant watch on Internet pages, which the child attends. The society should be cured from hatred and intolerance. The upbringing of children should be changed. Parents and teachers should educate the child on tolerance. Besides that they should cultivate in children the sense of responsibility for environment and for themselves. Children should realize their role in society.

We are coming to the final level of analysis. Here you can see laws, acts, Rules and instructions which are connected with the issue. According to information in these acts, it is obvious that the punishment for drawing into terrorism should not be more strict. It is strict enough, but I should add that the problem is not about laws, the problem is in people's attitude to the matter. We should be more attentive to the environment, to our relatives and friends. In difficult situations we should help each other and avoid ignoring the problem.

I am sure everybody agrees that our common efforts can work good to eliminate the danger of getting into the webs of terrorists. Beware and act wisely.

С. М. Игнатова

NATIONAL AND CULTURAL SPECIFIC FEATURES OF ENGLISH PHRASEOLOGICAL UNITS

National and cultural specific features of English phraseological units have recently become a traditional topic of investigation in phraseology. It is important to note that idioms represent national and specific units of language, which pass cultural potential of the people from one generation to another. They exhibit features of any national language and thus express the spirit and identity of a nation or people.

The English language is rich in phraseological units. A large number of collections and dictionaries of the phraseological units, proverbs and catch words give a strong evidence of this fact. In English, a large number of phraseological units are devoted to urban life in the Middle Ages, peasants' life and work, and military affairs. Each nation uses its local specific realities shaped the foundation for the formation of phraseology. The images are taken from the social realm, and the values of phraseological units and their connotations are developed on the basis of the engrained traditions of the language community.

The problem of searching interlanguage correlations within phraseological units is one of the major problems of the comparative phraseology. Probably, it can be considered one of the "eternal" problems of phraseology, due to the diversity of interlanguage correlations types, and the study revealed similarities and differences at various levels of language contributes to a better understanding of idiomatic material of compared languages, and also serves the needs of translation.

Scholars have identified three main types of interlingual relations:

1. **Phraseology equivalents** — multilingual phraseological units, which have identical semantics, structural and grammatical organization and component composition. For example:

- "honey moon" — «медовый месяц»;
- "it's a small world" — «мир тесен»;
- "to tread on air" — «быть на седьмом небе».

2. **Phraseology analogues** — phraseological units which have similar equivalents in other languages. For example:

- "miss one's market" — «остаться в старых девах»;
- "old makl" — «старая дева»;
- "as like as two peas in a pot" — «похожи как две капли воды».

3. **Non-equivalent phraseological units** — have not got phraseological equivalents in other languages. When we transfer non-equivalent phraseological units to another language it is advisable to draw four translation strategies: tracing, descriptive or narrative translation, lexical transfer and combined translation:

- **tracing** — according to this method, the source language is traced word by word and organized into a phrase in accordance with the rules of language-receptor:
- "lead smb to the altar" — «вести кого-либо к алтарю»;
- "marriage is a lottery" — «брак — это лотерея»;
- "all are good lasses but whence come the bad wives" — «все невесты хороши, откуда только появляются плохие жены»;
- **descriptive translation —** this method provides a description of phraseological units with the help of using phrases or sentences:
- "name the day" — «назначить день»;
- "set one's cap at smb" — «охотиться за кем-либо»;
- "may and December" — «молодой и старый»;
- **lexical transfer** supposes the use of lexical units or lexical items in translation:
- "best man" — «свидетель»;
- **combined transfer** — combines two ways of phraseologism transfer into the receptors' language:
- "get on like a house on afire" — «ладить, жить душа в душу»;
- "win smb's heart" — «завоевать чье-либо сердце».

In order to do an accurate translation to understand idioms and to develop cultural components, it is necessary to get acquainted with the culture of native speakers, with their life, customs and realities. Otherwise, considering both the lack of knowledge of real facts, and the lack of attention to national specificities of phraseological units, we can made gross mistakes leading to inaccuracies in the translation of phraseology, and this results in an incomplete perception and understanding of the information that has been "hidden" in phraseologism or wore portable nature.

А. А. Илюшкина

VIOLATIONS OF COPYRIGHT LAW

What is copyright law? How did it develop? What are the features of copyright law?

To begin with, copyright law is a legal right created by the law of a country that gives the creator of an original work an exclusive right to its use and distribution, usually for a limited time, with the intention of enabling the creator.

Copyright law appeared with the invention of the printing press and with distribution of literacy. As a legal concept, reactions to the printer's monopolies contributed to the spread of copyright law in Britain at the beginning of the XVIIIth century. The king of England — Charles II was concerned about the unregulated copying of books and passed the Licensing of the Press Act 1662, which established a register of licensed books.

The 1886 Berne Convention first established recognition of copyrights by sovereign nations. The UK signed the Berne Convention in 1887, but did not realize large parts of the Convention until 100 years later with the passage of the Copyright, Designs and Patents Act of 1988. The United States did not sign the Berne Convention until 1989.

Copyright law is often violated in different spheres, such as software, films and music. According to statistics the effects of copyright violation are difficult to determine. Researchers tried to determine whether there is a monetary loss for industries affected by copyright violation, predicting what portion of pirated works would have been formally bought if they had not been freely available. Other reports pointed that copyright violation did not have an adverse effect on the entertainment industry, and could have a positive effect. In particular, a 2014 research concludes that free music content, accessed on YouTube, does not necessarily hurt sales, and instead has the potential to increase sales.

Copyright law, like other intellectual property rights, is subject to a statutorily determined term. After the term of a copyright law has expired, the copyrighted work enters the public domain and may be freely used or exploited by anyone. Courts in the countries with the common law system, such as the United States and the United Kingdom, have rejected the doctrine of a common law copyright. Public domain works should not be confused with works that are publicly available. Works posted in the internet, for example, are publicly available, but are not generally in the public domain. Copying such works may therefore violate the author's copyright.

In copyright law, as in other branches of law there are many interesting cases. For example, a British rock band "The Verve" recorded one of its hits "Bitter Sweet Symphony", using "The Rolling Stones" music from the song "The Last Time". "The Verve", while first trying to keep the origin of the music a secret, had to transfer 100 % of the fees received for the concerts, to "The Rolling Stones".

Another case. Walt Disney created the first cartoon with Mickey Mouse "Steamer Willie" using the plot of the film "Steamboat Bill" by Buster Keaton as a basis. It happened because copyright on Keaton's cartoon wasn't formally licensed.

The famous singer Paul McCartney lost the rights to his songs in the *Beatles* in his youth, and was compelled to pay the right owner Michael Jackson for singing his own songs at his concerts.

Finally, I'd like to say that copyright law is one of the most important branches of law. It helps protect different works of writers, poets, composers, musicians, singers, artists, etc., from illegal use.

Е. С. Казакова

THE PROBLEMS OF PROVIDING TIMELY MEDICAL CARE TO THE PERSONS SERVING A SENTENCE IN THE PENAL INSTITUTIONS ON THE TERRITORY OF THE TULA REGION

Charter of the World Health Organization[1] says that health is a state of complete physical, mental and social well-being rather than the absence of diseases or physical defects.

Article 41 of Constitution of the Russian Federation[2] establishes that everyone has the right to health protection and medical care. Therefore, convicts have the right to receive qualified and timely medical care too.

The article aims to consider the quality, term and amount of medical care provided to persons, serving a sentence in the penal institutions of Tula region.

There are 10 medical units, 2 health centers and a hospital for convicts FSI PC — 2 and a tuberculosis hospital FSI MPI — 3 for providing medical care to prisoners and persons detained in the institutions of penal system (abbreviation UFSIN of Russia) in Tula region[3].

The lack of providing timely medical care includes all forms of assistance referred in Art. 32 of Federal law № 323 "About the Fundamentals of Health Protection of Citizens in the Russian Federation"[4]. The most common violations involve a failure to provide a full medical care and medications in the required quantity, not the provision of quotas for high-tech medical care, etc.

In 2013, the state regional human rights activist received 67 complaints from prisoners, accused and suspects. Nine of them were about the lack of timely and qualified medical care in the penal institutions[5].

And now we will turn our attention to the specific complaints and try to analyze the objectivity of their submission.

First of all, for Ombudsman of Human Rights in Tula region turned convict M. (the complaint № 2-12/265) because of the violation of his rights

[1] Charter of the World Health Organization (WHO) was adopted on 22 of July, 1946 in NY.

[2] Russian newspaper. 1993. № 237.

[3] Medical support // Office of the Federal Penitentiary Service of Russia across Tula region : official site. URL: http://71.fsin.su/napravlenie_dejatelnosti/meditsinskoe-obespechenie.php (date of the address: 20.11.2014).

[4] Russian newspaper. 2011. № 263.

[5] The annual report of the Commissioner for Human Rights in Tula region for 2013 // Commissioner for Human Rights of Tula region : site. URL: http://ombudsman.tularegion.ru/documents/Doklad/ (date of the address: 20.11.2014).

in the lack of medical care connected with the surgical treatment of eye diseases. He needs an immediate medical treatment outside the hospital of Federal Penal Service of Russia Federation. The necessary medical institutions of the Ministry of Health of Russia Federation informed the patient that this operation should be performed routinely at the expense of budget funds; the waiting time can be up to 7 years or more. For example, it is possible to conclude that the right to receive a high-tech medical care is not legally violated, but its implementation demands too long execution time, which is not justified in any case.

Let us turn our attention to another case. In 2014 it was registered a complaint № 2-12/471 from citizen C. concerning her son. She needed some help to transmit her convicted son into the medical establishment of Tula region to get a qualified medical care because convict C. had liver cancer of 4th degree. But for an accurate diagnosis the patient required the further examination in the Tula Regional Cancer Center, but he was denied this. In our opinion, if a convict is an oncologic patient, he must be immediately sent to specialized Centers. For example, on the territory of Tula region there is only one Oncologic Center and the examination of convicts in it is a real problem.

Accordingly, again the question of the transmission of medical institutions of the penal system under the jurisdiction of the Ministry of Health of Russia Federation arises. But, unfortunately, it is only the development of the experiment on introduction of a new model of medical support for persons, serving a sentence in the institutions of penal system of Russian Federation. As a result, on the 1st of January, 2014 in the Tula region there was created FSIH "Health part № 71 of the Federal penitentiary service" as well as in some other regions of Russia.

On the one hand, we consider that this is a good step in the development of medical care in Russian penal system, because this simplifies the system of getting medical care for convicts. But, on the other hand, the medicine is constantly evolving and it is very difficult for medical institutions of Federal Penal Service to meet the requirements and standards of the Ministry of Health of Russian Federation. As a rule, it is connected with lack of equipment (x-ray devices), qualified specialists, etc.

In our opinion, the prisoners with such a diagnosis should be supplied with appropriate medication and more than that serve sentences in medical and correctional facilities and be under medical supervision.

It is doubtless that we remember about humanity, but it should be noted that prisoners are, in most cases, people who killed other people. The indifferent attitude from the medical personnel towards them can be easily understood. Especially, if the convicts requiring the protection of their rights

characterize themselves on the negative side and have a number of penalties for violation of the internal Regulations.

To sum up our analysis, we believe that, on the territory of Tula region the main problem is not the lack of medical care. We'd like to point out that the main problem in most cases is the violation of the terms of getting timely medical help, which may finish in the worst consequences for persons, serving a sentence in institutions of penal system of Russian Federation.

П. А. Казалиева

THE PROBLEM OF RECOGNITION OF A LEGAL ENTITY AS A SUBJECT OF CRIME IN THE CRIMINAL LEGISLATION

The problem of criminal responsibility of legal persons which can be considered as subjects of crime is not new and it is quite controversial for criminal law. It is one of the most complex and contentious issues of foreign and domestic criminal law.

In accordance with Art. 19 of the Criminal Code of the Russian Federation, "only a sane natural person who has attained the statutory age envisaged by this Code shall be subject to criminal responsibility". But criminal legislation of some foreign countries considers not only physical but legal persons to be the subjects of crime. Thus, according to the English law, as A. S. Nikiforov notes, the act shall be recognized as committed by a Corporation if it is committed either directly or through other persons. At the same time, activities of a Corporation is different from substitutional action of the physical person[1]. The Art. 121-2 of the Criminal Code of France provides that "legal entities, except for the state, shall bear criminal responsibility... for criminal acts committed in their favor by their organs or representatives".

In the USA, Australia, Poland, Canada, Slovenia, Romania and in some other countries, legal persons are brought to criminal liability as well. The system of criminal penalties applicable to legal entities, having commited crime, is quite developed in these countries. Basically, such forms of punishment are: a fine, liquidation of legal persons, confiscation of the object used for committing crime, prohibition to engage in specified activities.

In our country, before adoption of the Criminal Code of 1996, in 1994 the Ministry of Justice of the Russian Federation and the Legal Directorate of the President of the Russian Federation developed the draft (project) of the General part of the Criminal Code in which the assumptions of S. G. Kelina were implemented[2].

However, the legislator did not accept the idea of criminal liability of legal persons, and did not implement it in the Criminal Code of 1996. Does this mean that the idea itself was originally defective and it is not worth taking into consideration? It seems to be not[3].

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[1] *Nikiforov A. S.* On criminal liability of legal persons // Criminal law: new ideas. M., 1994. P. 45.

[2] *Kelina S. G.* Liability of legal persons in the draft of the new Criminal Code of the Russian Federation // Criminal law: new ideas. M., 1994. P. 59.

[3] *Korobeyev A., Chankhai Loon.* A legal entity as a subject of criminal responsibility: from the Chinese present to the Russian future // Criminal law. 2009. № 2. P. 39.

The need for involvement of a legal person in criminal responsibility in the Russian Federation today is obvious. In connection with transition of our country from the administrative-command economy to a market economy, serious economic crimes committed by legal persons and causing more damage to the state than the crimes committed by natural persons, have emerged.

Supporters of the concept of a legal entity as a subject of crime emphasize the vastness of damage caused by environmental, computer and some other types of offences, and they point out inadequate penalties which are applied to the violators in civil and administrative legislation. In such cases, as they consider, it is expedient to punish enterprises in criminal-legal order, as civil and administrative sanctions are ineffective[1].

Besides, in our country the question of criminal liability of legal persons for committing corruption crimes rises in connection with the fact that the Russian Federation has signed the European Convention on criminal liability for corruption. Article 18 of this Convention establishes that "each party shall adopt legislative and other measures which may be necessary for ensuring a legal person to be prosecuted in connection with the Commission of criminal offences of: active bribery, use of official position for selfish purposes and money laundering qualified as such in accordance with this Convention and committed in the interests of any natural person, who acts in his personal capacity or in the body of a legal person which has a leading position within a legal person".

Therefore, refusal of the legislator to prosecute legal entities contradicts p. 4 of Art. 15 of the Constitution of the Russian Federation, which establishes that: "The universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system. If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied". And p. 2 of Art. 1 provides that: "the Present Code is based on the Constitution of the Russian Federation and generally recognized principles and norms of international law".

However, in this concept, there are certain difficulties. For example, how to impute the blame to a legal entity, i. e., whether it was committed intentionally or by negligence. Besides, introduction of the Institute of criminal liability of legal persons will lead to the formation of two systems of the principles and grounds of criminal responsibility in criminal legislation. It must be noted here, that the blame of a legal entity must be manifested in the subjective side of the crimes of its bodies, leaders or representatives, as it is envisaged in the countries with the criminal responsibility of legal persons.

[1] *Antonova E. Y.* The criminal liability of legal persons : monograph / ed. by A. I. Korobeyev. Vladivostok, 2005.

In this case, for the definition of the guilt of a legal person, L. A. Abashina offers to take the position, formulated with regard to administrative responsibility, to supplement Art. 5 of the Criminal Code by the second paragraph of the following content: "a legal person shall be guilty of an offence if it had the opportunity to compliance with the rules and norms, the breach of which provides for criminal responsibility, and it did not take any efforts authorized or required by law to perform the duties entrusted to it, and did not take all depending on it measures to prevent a crime"[1]. It is also proposed to complement Art. 8, indicating that the base of the criminal liability of the legal entity is a public dangerous act which contains all the elements of a corpus delicti, stipulated by the relevant article of the Special part of this Code, and is committed to the interests of the legal entity; Art. 19 — in cases provided by the Present Code, the subjects of criminal liability are legal persons, and in Art. 20 — to specify a list of criminal acts, for the commission of which the legal person is subject to liability.

As for the sanctions applied to a legal person who has committed a crime:

- firstly, it is a fine, the amount of which depended on the seriousness of the offence, on the nature and the size of the caused damage of property of a legal person;

- secondly, prohibition to engage in specified activities which includes a ban on the issuance of shares or other securities, the Commission of certain types of transactions;

- thirdly, liquidation of a legal entity;

- fourthly, to provide such a type of punishment as confiscation of property which can be used as additional punishment to the liquidation of a legal person.

Summing up aforesaid, it is necessary to note that the recognition and dissemination of the Institute of criminal liability of legal persons is the world trend in the development of criminal law today. I think that in the nearest future, the Russian legislator will take the experience of the global development of criminal law and put this institute into the criminal legislation of our country.

[1] *Abashina L. A.* A legal entity as a subject of criminal responsibility : author's abstract of the dissertation on competition of a scientific degree of the candidate of legal sciences. M., 2008. P. 20.

З. Ш. Каландарова

LEGAL PROTECTION OF CHILDREN FROM THE INFORMATION WHICH HARMS THEIR HEALTH AND PROGRESS

The development of information and communication technologies, the emergence of various social networks with free access to information does not contribute to the development of thinking and a healthy psyche of children, but rather the opposite, it often leads to the emergence of a number of complexes and specific information dependences of the minors.

Information space offers us a variety of information, often negative, and sometimes immoral content.

The destructive elements of cruelty, violence, pornography, propagated by media, computer and electronic games (in direct or indirect forms), Internet and mobile services, promote personal strain, undermining the morals of minors and to a greater extent stimulate the development of antisocial behaviour (drinking, drugs and intoxicants, child prostitution)

Before the state and society the following question is often raised: what would and should the information user be protected from?

Since September 1, 2012, the Federal law "On protection of children against the information harming their health and progress" has come into force. It is directed at protection of children against the injuring influence of negative information on their not very strong mentality, as well as information, capable to develop vicious bents in the child.

The law introduces the concept of information harmful for the health and progress of children.

It is divided into two basic types:

1. Forbidden to be distributed. It is the information, causing fear and panic in children, as well as justifying violence and illegal behavior, including the information inducing to actions representing threat to their life and health, provoking children into suicide.

2. The information, the propagation of which is limited by the age category of its consumers who are divided into four age categories: under 6 years old, over 6 years old, over 12 years old and over 16 years old.

For children over 6 years old, for example, information production must be licensed and approved by authorities, the information shall contain a non-naturalistic description of an accident or non-violent death, but without any demonstration of their consequences which may cause horror and fear in children.

This law has generated a great number of discussions. Writers and publishing houses sound alarm, shops refuse to sell books without age marks. Books as well as TV programs must comply with the federal law.

One of the points of view is as follows: there should be no law like this at all. This law specifies how the state is going to interfere with private attitudes of parents and children in the process of their education. It is up to the parent to decide what his child should watch and read, and any government intervention is just advisory.

The outstanding issue is the question of an expert assessment. Who and how will rank books and sites and put them on the list of those prohibited? How to decide if the book is harmful or not? How can it be checked? On the basis of any subjective concepts on harm?

In my opinion, for any assessment it is necessary to involve publishers, parental communities, psychologists. It is necessary to develop a model of such assessment by experts.

It must be taken into consideration that in our society there are different traditions, different customs, and different methods of education. If the child is locked up or protected against evil in some isolated space, he will never grow up. The child must climb the stairs of life step by step, various individual psychological and physiological features not taken into consideration.

So, as we can see now, the importance of this problem is very high. Due to lack of life experience, the fragile psyche of children is highly exposed to the influence of computer games, mobile communication, advertising, and especially of the worldwide web network the Internet.

К. М. Кимпаев

PROBLEMS OF ILLEGAL ACCESS TO COMPUTER INFORMATION

In modern conditions of scientific and technical progress the computerization tendency is clearly allocated. The branched systems of the data processing, including both powerful computer systems and personal computers, are created. The computerization includes practically all sides of public life from control of airspace and land transport to the solution of problems of national security. In our days it's difficult to imagine the activity of enterprises, organizations, institutions or firms and also functioning of some officials without computers.

Improvement of computer technologies led to the emergence of new types of crimes.

The Criminal code of the Russian Federation provides responsibility for illegal access to computer information in Art. 272. This article deals with data security being stored in a certain format.

Art. 272 of the Criminal code of the Russian Federation provides responsibility for illegal access to information if only it is depicted on the machine carrier.

Illegal access to information represents actions of a criminal who, using the computer, has an opportunity to influence information which was stored in it by means of certain commands.

In our opinion the modern Russian criminal legislation doesn't contain the norms which would essentially resolve the issue of criminal liability for "cybercrimes". Existence of three articles in Chapter 28 of the Criminal code of the Russian Federation is not sufficient for the solution of the current tasks, and creates a problem for law enforcement. Law enforcement officers often face the question, what norm needs to apply for the prosecution of crimes in the sphere of computer information.

Article 272 of the Criminal code of the Russian Federation deals with illegal access to computer information which is protected by law if this act entailed destruction, blocking, modification or copying of computer data. From a disposition of this article we can conclude that the "corpus delicti" of this crime is material. Qualifying offences point to the extent of the caused damage, motives, the subject of the offense and heavy consequences or threat of these consequences.

So, Art. 272 of the Criminal code of Russian Federation and all additions to this article toughen sanctions if necessary. As for the disposition of the article, the most important, in our opinion, is the reservation of the character of information which means data protection by law. This aspect is important for law enforcement, so without defining the subject of abuse specifically, it will be impossible to provide protection of this subject. Information is the data concerning something, irrespective of their representation. It may contain the data being a state secret, a medical secret, and information about private life, logins, passwords, and numbers of credit cards.

Let's consider such a crime as DDos attacks. Cases when the illegal access to computer information is not subject of Art. 272. In this case you need to look for the "victims" of the numerous owners of the zombie PCs which distorts the essence of the case where the victim is a real big company or financial institution from DDos.

A number of Russian Internet companies with the support of Group IB initiated amendments to the Criminal Code of the RF.

Chapter 28 of the CC "Crimes in the Sphere of Computer Information" should be added with the new qualifying signs including the organization and commission of DDos-attacks in which more facts will be specified: place of the commission of the crime, means of achievement of the criminal result.

However, it is unknown whether legislative innovations will be able to help fight against DDos-attacks. As Stanislav Shakirov noted, in case of a professional approach of the performer of the cyberattack it is almost impossible to find him. "It is necessary that all services of the world should be involved in real time, necessary information requested and exchanged, and the hosting and telecommunication companies give instant answers." It's the necessary condition according to Shakirov. He thinks that the best way of fighting against DDos-attacks is only with social methods — carrying out our own investigations which will allow to reveal the circle of people interested in stopping work of mass media. Besides, in our opinion, the Plenum of the Supreme Council of the Russian Federation needs to adopt the Resolution "On judicial practice in cases of crimes in the sphere of computer information" in which specific features of these crimes would be detailed.

Summing up the aforesaid, to our thinking, it is necessary to make changes in the criminal legislation of the Russian Federation for protection of the rights of victims of such crimes, to detail all arising questions of law-enforcement practice in the resolution of the Plenum of the Supreme Council of the Russian Federation.

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

The UN Convention on the Rights of the Child (commonly abbreviated as the CRC, CROC, or UNCRC) is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. The Convention defines a child as any human being under the age of eighteen, unless the age of majority is attained earlier under a state's own domestic legislation.

Nations that ratify this convention are bound to it by international law. Compliance is monitored by the UN Committee on the Rights of the Child, which is composed of members from countries around the world. Once a year, the Committee submits a report to the Third Committee of the United Nations General Assembly, which also hears a statement from the CRC Chair, and the Assembly adopts a Resolution on the Rights of the Child.

Governments of countries that have ratified the Convention are required to report to, and appear before, the United Nations Committee on the Rights of the Child periodically to be examined on their progress with regards to the advancement of the implementation of the Convention and the status of child rights in their country. Their reports and the committee's written views and concerns are available on the committee's website.

The UN General Assembly adopted the Convention and opened it for signature on 20 November 1989 (the 30th anniversary of its Declaration of the Rights of the Child). It came into force on 2 September 1990, after it was ratified by the required number of nations. Currently, 194 countries are party to it, including every member of the United Nations except Somalia, South Sudan and the United States. Both Somalia and South Sudan have started their domestic process to become a party to the treaty.

Two optional protocols were adopted on 25 May 2000. The First Optional Protocol restricts the involvement of children in military conflicts, and the Second Optional Protocol prohibits the sale of children, child prostitution and child pornography. Both protocols have been ratified by more than 150 states.

A third optional protocol relating to communication of complaints was adopted in December 2011 and opened for signature on 28 February 2012. It came into effect on 14 April 2014.

Contents. The Convention deals with the child-specific needs and rights. It requires that states act in the best interests of the child. This approach is different from the common law approach found in many countries that had previously treated children as possessions or chattels, ownership of which was sometimes argued over in family disputes.

In many jurisdictions, properly implementing the Convention requires an overhaul of child custody and guardianship laws, or, at the very least, a creative approach within the existing laws. The Convention acknowledges that every child has certain basic rights, including the right to life, his or her own name and identity, to be raised by his or her parents within a family or cultural grouping, and to have a relationship with both parents, even if they are separated.

The Convention obliges states to allow parents to exercise their parental responsibilities. The Convention also acknowledges that children have the right to express their opinions and to have those opinions heard and acted upon when appropriate, to be protected from abuse or exploitation, and to have their privacy protected, and it requires that their lives not be subject to excessive interference.

The Convention also obliges signatory states to provide separate legal representation for a child in any judicial dispute concerning their care and asks that the child's viewpoint be heard in such cases.

The Convention forbids capital punishment for children. In its General Comment 8 (2006) the Committee on the Rights of the Child stated that there was an "obligation of all state parties to move quickly to prohibit and eliminate all corporal punishment and all other cruel or degrading forms of punishment of children". Article 19 of the Convention states that state parties must "take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence", but it makes no reference to corporal punishment. The Committee's interpretation on this point has also been explicitly rejected by several state parties to the Convention, including Australia, Canada and the United Kingdom.

The European Court of Human Rights has referred to the Convention when interpreting the European Convention on Human Rights.

А. Ф. Латыпова

JUVENILE DELINQUENCY: PROS AND CONS

Today in Russia, there are still a lot of discussions about juvenile delinquency.

So, what is it — juvenile delinquency (JD)?

Actually, the term "JD" means the system of justice on cases about offences of the law by minors and regarding minors, and concerned with Children and Adolescent Right Watch.

JD is used in many modern judicial systems of Western countries. These types of courts were in tsarist Russia either.

As for Russia, there is no full-blooded juvenile delinquency yet. In some regions of our country, as an experiment, have been introduced specialized courts that include some of the elements of juvenile technologies. The basis of this idea is to attract psychologists and social tutors — people that are not court employees. They provide a professional escort of the minor during the proceeding. Therefore the main goal of JD is the maximal help to the teenagers who is dealing with difficult situation.

Today exactly this type is mostly preferred because it does not contradict active legislation and the practice showed that it is quite efficient.

However, in spite of the obvious pros of JD, there are people who claim against it.

Specifically, as opponents claim, the concept of JD has significantly widened and started to mean that a state meddles in the family business, frequently aiming to punish.

There were dozens of occurrences in different Russian regions when children were taken from their parents for some trivial reasons, like a cottage cheese that ran out of date or an overhaul that is not finished or some bruises on the knee. Then parents just could not return their children for months and restore to their parental rights.

Also experience of the other countries that use this system shows that juvenile delinquency is able to do serious harm to such an important institution of society as family relationship.

As an example of juvenile delinquency, we can take a recent accident from the juvenile practice of Norway.

In the city Tromso a child was literally stolen from his Russian parents by Barnevernet service. It is the body of juvenile delinquency system that according to Norwegian legislation has almost unlimited authority. It turned out that a five-year-old Oscar came to the nursery school and told that his loosing teeth came out in that moment when his mother was putting a T-shirt on him. Watchful Norwegian tutors appealed to Barnevernet. Besides that the staff came to the nursery school and took Oscar, they also managed to find him a new family, where Oscar allegedly will be safe. (I guess, they will hold each of the wiggling milk-teeth). Norwegian legists claim that the child's parents are threatened to substantial punishment for so-called application of strength towards the minor. ("Application of strength" means to help a child to dress up.)

So the absolutely successful family is actually being destroyed and it is concealed by the juvenile delinquency law. It is already a common example of juvenile delinquency practice in Finland, Norway and France.

That is why it is difficult not to agree with our president's comments that JD presents a big threat of interference in the family business. And, as he fairly noticed on the parents' congress, a state must meddle in the family business only in case of emergency.

As for adolescent crime rate, the main aim of the juvenile courts is the application not of the punitive, but restoring justice, clarification and removal of the reasons that led to crime and children rights protection as well within the law of our country and that way, that was mentioned before.

To conclude it is necessary to emphasize that each case has its own peculiarities which must be taken into account while proceeding it. All actions that are done must be not only resolute but also extremely tactful and there is no place for formalism. It is much better to try to do all the best to save and support a full family.

И. В. Литвинов

TYPES OF BUSINESS ENTITIES

Different types of business entities are defined in the legal systems of various countries. These range from Sole Traders and Partnerships to Companies and Trusts, as well as various other specialized types of structures. A description of the most common types follows.

Sole Proprietorship. This is a business run by one individual for his or her own benefit. It is the simplest form of business organization. Proprietorships have no existence apart from the owners. The liabilities associated with the business are the personal liabilities of the owner, and the business terminates upon the proprietor's death. The proprietor undertakes the risks of the business to the extent of his / her assets, whether used in the business or personally owned.

Single proprietors include professional people, service providers, and retailers who are "in business for themselves". Although a sole proprietorship is not a separate legal entity from its owner, it is a separate entity for accounting purposes. Financial activities of the business (e. g., receipt of fees) are maintained separately from the person's personal financial activities (e. g., house payment).

Partnerships-General and Limited. A general partnership is an agreement, expressed or implied, between two or more persons who join together to carry on a business venture for profit. Each partner contributes money, property, labor, or skill; each shares in the profits and losses of the business; and each has unlimited personal liability for the debts of the business.

Limited partnerships limit the personal liability of individual partners for the debts of the business according to the amount they have invested. Partners must file a certificate of limited partnership with state authorities.

Limited Liability Company (LLC). An LLC is a hybrid between a partnership and a corporation. Members of an LLC have operational flexibility and income benefits similar to a partnership but also have limited liability exposure. While this seems very similar to a limited partnership, there are significant legal and statutory differences. Consultation with an attorney to determine the best entity is recommended.

Corporation. A corporation is a legal entity, operating under state law, whose scope of activity and name are restricted by its charter. Articles of incorporation must be filed with the state to establish a corporation. Stockholders' are protected from liability and those stockholders who are also employees may be able to take advantage of some tax-free benefits, such as health insurance. There is double taxation with a C corporation, first through taxes on profits and second on taxes on stockholder dividends (as capital gains).

Small Business Corporation (S-Corporation). Subchapter S-corporations are special closed corporations (limits exist on the number of members) created to provide small corporations with a tax advantage, if IRS Code requirements are met. Corporate taxes are waived and reported by the owners on their individual federal income tax returns, avoiding the "double taxation" of regular corporations.

Advantages and disadvantages. *Sole Proprietorship.* Simplicity of organization-this is the most common form of business organization in the United States because it is the easiest and least expensive to establish.

- The owner is truly the boss, making all decisions, keeping all profits, and assuming responsibility for all losses and debts.
- Difficulty in raising capital-this can be a problem since an individual's resources are typically less than the pooled resources of partners.
- Limited life of the business-untimely, unanticipated, or unplanned removal of the proprietor from the operation of the business may have ramifications for creditors.

Partnership:

- Greater possible capital availability.
- Greater resources for decision making, support, creative activity.
- Unlimited liability in general partnerships.
- Divided authority-having to divide the authority for making decisions among the partners can delay the decision-making process and occasionally lead to disagreement.

Limited Liability Company:

- Allow greatest flexibility for customizing the structure of the business.
- Limits member liability.
- In many states, an LLC may have only one member (have the benefits of a sole proprietorship but limits liability).
- Requires comprehensive operating agreement because of the high degree of variability / flexibility.

Corporation / S-Corporation:

- Limited liability to stockholders-liability is limited up to the amount invested personally in the business. In addition, personal assets may not be seized by creditors to satisfy debts (although now creditors often request personal guarantees on business loans).

- Perpetual life-the business continues as a legal entity. Shares in the corporation can be passed on to heirs.

- Ease of transferring ownership-stockholders can sell their shares when they desire, if there is a market.

- Ease of expansion of the company-greater capacity to raise capital by legal sale of stock.

- Costs to organize a corporation are higher.

- Unless permission is obtained from other states, the corporate charter restricts operation to the state where it was issued.

Д. С. Лозовая

CIVIL PARTNERSHIP PROBLEM

Nowadays the question of same-sex unions attracts more and more attention. Legalization of them becomes more and more spreading among great number of states. What is a same-sex union? What is its legal nature? What are the pros and cons of its legalization? These and other ones are the questions I would like to investigate.

Conflicts between people who are for and against legalization of same-sex unions begin from the definition of waste. As for people who are against, they consider, that according to religious and moral canons only a man and a woman can enter the marriage state. That's why demands of minorities to admit their right are absurd. The question is not about exclusion, but about granting new right.

Besides, admitting and registration of same-sex unions changes principles of civil law, words "wife" and "husband", "father and mother" are exchanged for general sexless terms "partner 1" and "partner 2", "parent 1" and "parent 2". Also, kinship based on gender difference becomes broken, while the social connection, independent on human being's nature, based on life style and private preferences, becomes normal.

People supporting this unions say, that registration of waste is a legal action which doesn't depend on religious canons. Besides, people shouldn't forget that in many states legal and religious wastes are apart. That's why law should follow social changes, which have been leading to exclusion among people through the history. For example, repeal of a ban on waste (between people of different social classes, confessions, races). Especially, if the state is secular.

Today there are a lot of names of same-sex unions in different countries. Civil union, civil partnership, home partnership, etc. In general, same-sex civil partnership is a social institute, admitted by law and state, and these relations of two people can be registered in. Different countries make different abridgments in some aspects of the institute, like questions of marriage ceremony, property, death estate, adrogation, etc.

The first law about home partnerships was created in 1984, in Bercly, California. The first same-sex couple registered its relations in Denmark. Those people used a law about civil partnerships, created in 1989.

Same-sex unions in the USA is a difficult political question. Because of so-called "law about protection of traditional waste", same-sex unions, registered in some states can not be admitted in other ones. Besides, until the last time, they have not been admitted by federal authorities.

In Sweden same-sex unions are admitted in a state level since May, 1, 2009. It is a result of new law about waste which is neutral to partner's sex.

In Canada same-sex union are legal since July, 2005 when the law about civil waste was created. But even before creating of this law there was a great law base in 8 provinces. Unions were legalized according to opinions of judges, who decided, that the old law contradicted to the Constitution.

In France Constitutional Council finally adopted law about legalization of same-sex unions and adrogation of children by them on May 17, 2013. There is one exception: adrogation is impossible if it is harmful for a child or contravened to Civil Code or Constitution.

Great Britain legalized same-sex unions 17, July in 2013. This law allows to same-sex couples civil and religious ceremonies (with the exception of Anglican church) of marriage.

A very important meaning in a question of legalization of same-sex unions on international level belongs to UN international conference on population and development in Cairo, 1994. This conference established program of actions for population. One of the principles of program declared equality and equivalence of different unions, including same-sex ones.

As for Russia, same-sex unions are not admitted, and there is no forms for same-sex couples. But there are still a lot of discussions about it.

According to position of Russian Constitutional Court, definition of waste, questions of its registration, rights and duties of persons joining is a prerogative of legislator. Nowadays national law doesn't admit unregistered waste, there is no institute of fact waste in our legal system.

There is no definition of waste in Russian Family Code, but it is used in context of union of a man and a woman. And in spite of the fact that there were some attempts to register same-sex wastes in Russia, these demands were refused, and refuse was based on the norms of the Family Code. Couples took legal recourse, but unsuccessfully. But European Court of Human Rights registered their claim and said, that Russia broke norms of European Convention guaranteeing right for waste, respecting of family life and protection from discrimination.

So, speaking generally, Russia becomes more and more tolerant to same-sex relations, because of globalization and western influence. But we can not say that Russia is on the same way with Europe with its liberties and values. Russia is going to protect traditional family, traditional waste like ages ago. It connects with Russian mentality and very special way of development, in social aspect too. And it is a case when respecting of own national traditions is more important than established values.

К. Х. Магомедова

THE PROBLEM OF CLASSIFICATION OF CRIMES

The relevance of the theme is that in the Russian Federation as in the whole world the number of crimes is constantly increasing and it reaches a critical level.

One of the most important conditions to make fair sentence is differentiation of criminal responsibility on the legislative level. The forms of this differentiation could be all different but the most important one we should recognize categorization of crimes by severity (Art. 15 of the Criminal Code of the Russian Federation).

Also to make a fair sentence besides categorization of crimes we should take into account qualifying features in articles of the Main part of the Criminal Code of the RF and the circumstances aggravating the punishment (Art. 64 of the CC).

All crimes are social-dangerous that is why they prohibited by the legislator under the threat of punishment. Crimes are very different from each other by the character and level of public-danger. That's why they all need different assessment from the criminal law side.

It's obviously, that murder is much more difficult by its character than theft. The Criminal Code has itself its own system of rules devoted to the issue of different types of crimes. This system in the Criminal Code of the RF located after the concept of crime. And it divides all crimes on next few categories:

- little gravity crimes;
- crimes of average crimes;
- grave crimes;
- especially grave crimes.

This categorization was made according to the level and character of the crime. The character of crimes depends firstly on significance of object encroachment and it is its qualitative characteristic.

Let's take (158, 161, 162) articles of the CC. For example:

Forcible encroachment on someone's property by its social-danger character is more difficult than non-forcible. Why? Because when murder encroaches on someone's property forcible, the content of the crime besides the property itself would be life and health of victim.

Actually, the main aspect of crimes categorization is to choose base for this classification right. The criteria of such classification could be as quantity as sanction as level of social-danger of the crime.

In narration about criminal and disciplinary punishments that was published in 1885 criminal acts were divided on 2 big groups: crimes and misdemeanors.

The base of that classification was material. In criminal narration that was published in 1903 there was received trinomial categorization of criminal acts.

Criminal acts for which the law defined arrest or monetary penalty as the highest punishment were called offences. And what about the social criteria of the narration of 1903 it was excluded.

In the Soviet period first categorization contained basic elements of the Criminal law USSR and Union Republics of 1924.

They defined 2 categories of crimes:

- more dangerous they were directed against Soviet regime;
- all other crimes.

Foreign and native experience give basis for terminological denote small crimes as criminal offences. Mostly in all Criminal Codes of different countries in the world criminal acts divides into 3 categories. And the smallest crimes predominantly called criminal offences.

Notably high level of social-danger in conditions of scientific-technical revolution began again to have crimes committed by negligence. That's why there were a lot of offers to complete classification of crimes by yet one more category — difficult imprudent crimes.

The CC of 1996 in its first redaction took imprudent crimes to the category of difficult intentional crimes- and that was very wrong, because imprudent and intentional crimes are very different by their character of their public-danger.

This mistake was reformed by the law that was called "About bringing changes and additions in the CC of the RF, Criminal-executive Codex of the RF and the other legislative levels" — imprudent crimes from category of grave crimes to the category of average-gravity crimes.

This is how were formed four main categories of crimes that are acting until today and are specifically describe in Art. 15 of the CC of the Russian Federation.

In conclusion, I want to say that we should take into account that the Criminal Code is not something what was given us once and forever. The CC, actually as our life is constantly changing and in someway it is reflection of our modern life.

In our life could appear new social relationships that could need our protection. For example crimes in computer information sphere. Earlier, when people hadn't invented such a difficult machines, people couldn't even imagine to themselves what cybercrimes are. But now everything is about to change.

When computer and computer information sphere became inalienable part of our modern life, people began to commit crimes even in this sphere- they can illegally get, spread, and send information, what is right violation of the Constitution of the RF.

Also in this sphere people may be committed such a global crimes, as economic crimes. They may create dangerous viruses which can hit and spoil global computer and systems which are closely connected with automatic systems.

Yes, of course classification of crimes with the Criminal Code may be changed by the legislator, may be reformed, but its social aim, its necessity will change never. We must remember that the greatest encouragement of criminality is impunity.

В. Е. Маевский

DIGITAL PIRACY IN THE MODERN WORLD

Today the digital piracy gets more and more attention. There is an uncountable amount of websites giving an opportunity to download media for free. There is only one question: how much does it actually hurt people?

According to Cambridge dictionary, the digital piracy is "the *practice* of *illegally copying* and *selling digital* music, *video*, *computer software*, etc." It is vital see the difference between "stealing" and "pirating" — even though someone could get the data that does not belong to him, the original owner will not lose it as a result of a pirating. It does not mean that online piracy does not hurt anyone, but it means that it works in a different way than a theft.

Statistics on the biggest torrent-website, The Pirate Bay, show us the scale of today's internet piracy. Website has 13 million visitors per day, which means millions of downloads violating the copyright. According to Recording Industry Association of America**,** since file-sharing site Napster emerged in 1999, music sales in the U.S. have dropped from $14.6 billion to $7.0 billion in 2013. Statistic also says that the internet piracy in Australia in 2010 caused 8 thousand jobs loss and $190 million loss in the budget. So, the damage to countries with the stronger piracy problem should be even bigger... Actually, it is not.

There are few problems with the way that the statistics about piracy are calculated. If a new movie (which costs 10 dollars to see) leaks in the internet and ten thousand people download it, its publisher does not lose one hundred thousand dollars. Most internet pirates would not go to the cinema even if the movie was not in the internet. When we speak about ones who wanted to pay for this movie but pirated it, it is still possible for them to spend money on it by buying a ticket to see it again and buying DVD or some merchandise later. Even more — there is a chance to convert a pirate into a paying person.

Studies prove that the quality of the product values the most when someone considers to pirate it. It is less likely for a person to pirate something if he appreciates its authors work. If someone pirated a media and liked it, he is more probable to buy this product and anything linked with it later. So, a digital piracy could work as an advertisement under one condition — a media has to be good. It is supported by researches like the one that shows that people who pirate music online also buy more music. Studies also say that self-control's and copyright law's effect is . The difference between stealing (that causes guilt) and pirating (which do not) explains the lack of the self-control influence, when legislature instruments do not work for a lot of reasons.

It is difficult to actually find and punish a pirate. Yes, there are few thousand people who are sued for violating a copyright by pirating a media, but there are millions who are not. And even these thousands of arrests do not solve the actual problem. Yes, it is still possible to arrest websites owners and block these sites, but it does not matter. For example, all three owners of The Pirate Bay were arrested, but the site is still running. Even though it was blocked a few times, the problem was solved by changing the site's domain. Even if one website stops working as a pirate content site, there are still hundreds of them.

To summarize: digital piracy damages content makers, but statistics are exaggerated. There are also some positive aspects in piracy. And, finally, the best way to fight piracy is to make a good product.

Ш. В. Махаева

ECOLOGICAL PROBLEMS

Our planet is home to millions of different kinds of plant and animal species, which are linked in different ways. Together, they make up the complex world of nature. Unfortunately, co-habiting with humans brings up ecological problems. The most acute are pollution, acid rain, wildlife destruction, shortage of natural resources and global warming. These problems are interrelated as everything in the natural world depends on one another.

Wild plants and animals live in a particular set of surroundings, called their habitat. Nowadays people change habitats to suit their own needs — to create farmlands or build cities, for example. They also destroy wildlife habitats while mining or by building roads.

A lot of species — fish, reptiles, insects, birds, mammals — are disappearing fast. It is reported that by 2030 25 % of all animals, birds and insects may become extinct.

Another important problem is air pollution. Cars and factories pollute the air we use. Their fume also destroys the ozone layer which protects the Earth from the dangerous light of the Sun. Aerosols create large "holes" in the ozone layer round the Earth. Burning coal and oil leads to global warming which may bring about a change in the world's climate.

Many plants in the world are known to be in danger or threatened with extinction. The world has over nine million square km of forests. Paper and cardboard are made from wood. Every year over 100,000 sq. km of forests are cleared for different uses, and a lot of forests are so badly damaged that they will hardly be able to recover.

Acid rain falls when poisonous gases from power stations and vehicles mix with oxygen and moisture in the air. Acid rain poisons or kills wildlife in lakes, rivers, and forests, and damages the surrounding plant life. The problem could be controlled by reducing vehicle emissions and limiting the gases released from power stations.

World temperatures are currently rising every year. This phenomenon is called global warming. As the planet warms up, the water in the oceans will take up more space and water from glaciers and the polar ice caps will start to melt. This could cause sea levels to rise and many habitats will disappear under water.

Summing everything up, the climate in different parts of the world changes every year. These changes can be dangerous for our planet which needs protection. The measures to be taken include limitations for cutting rainforests and poisonous gas emissions as well as personal ecology of humans.

Е. А. Мерцалова

COPYRIGHT AS A FORM OF INTELLECTUAL PROPERTY

Copyright is a legal right created by the law of a country, that grants the creator of an original work exclusive rights to its use and distribution, usually for a limited time, with the intention of enabling the creator (e. g. the photographer of a photograph or the author of a book) to receive compensation for their intellectual effort.

Copyright is a form of intellectual property (patents, trademarks and trade secrets), applicable to any expressible form of an idea or information. Generally, rights holders have "the right to copy", but also the right to be credited for the work, to determine who may adapt the work to other forms, who may perform the work, who may financially benefit from it, and other related rights.

Copyright laws allow products of creative human activities, such as literary and artistic production, to be preferentially exploited and thus incentivized. The most significant point is that patent and copyright laws support the expansion of the range of creative human activities that can be commodified. This parallels the ways in which capitalism led to the commodification of many aspects of social life that earlier had no monetary or economic value.

Copyright may apply to a wide range of creative, intellectual, or artistic forms, or "works". Specifics vary by jurisdiction, but these can include poems, theses, plays and other literary works, motion pictures, choreography, musical compositions, sound recordings, paintings, drawings, sculptures, photographs, computer software, radio and television broadcasts, and industrial designs. Graphic designs and industrial designs may have separate or overlapping laws applied to them in some jurisdictions.

Copyright does not cover ideas and information themselves, only the form or manner in which they are expressed. For example, the copyright to a *Mickey Mouse* cartoon restricts others from making copies of the cartoon or creating *derivative works* based on *Disney's* particular *anthropomorphic* mouse, but does not prohibit the creation of other works about anthropomorphic mice in general, so long as they are different enough to not be judged copies of Disney's.

The phrase "exclusive right" means that only the copyright holder is free to exercise those rights, and others are prohibited from using the work without the holder's permission. Copyright is sometimes called a "negative right", as it serves to prohibit certain people (e. g., readers, viewers, or listeners, and primarily publishers and would be publishers) from doing something

they would otherwise be able to do, rather than permitting people (e. g., authors) to do something they would otherwise be unable to do.

Copyright subsists for a variety of lengths in different jurisdictions. The length of the term can depend on several factors, including the type of work (e. g. musical composition, novel), whether the work has been published, and whether an individual or a corporation created the work. In most of the world, the default length of copyright is the life of the author plus either 50 or 70 years. In the United States, the term for most existing works is a fixed number of years after the date of creation or publication. Under most countries' laws (for example, the United States and the United Kingdom), copyrights expire at the end of the calendar year in question.

Authors' rights have two distinct components: the economic rights in the work and the moral rights of the author. The economic right is a property right which is limited in time and which may be transferred by the author to other people in the same way as any other property (although many countries require that the transfer must be in the form of a written contract). The economic rights are intended to allow the author or their holder to profit financially from his or her creation, and include the right to authorize the reproduction of the work in any form (Art. 9, Berne Convention). The authors of dramatic works (plays, etc.) also have the right to authorize the public performance of their works (Art. 11, Berne Convention). The protection of the moral rights of an author is based on the view that a creative work is in some way an expression of the author's personality: the moral rights are therefore personal to the author, and cannot be transferred to another person except by testament when the author dies. The moral rights regime differs greatly between countries, but typically includes the right to be identified as the author of the work and the right to object to any distortion or mutilation of the work, which would be prejudicial to his or her honor or reputation (Art. 6bis, Berne Convention). In many countries, the moral rights of an author are perpetual.

Copyright laws are standardized somewhat through international conventions such as the *Berne Convention* and *Universal Copyright Convention*. These multilateral treaties have been ratified by nearly all countries, and *international organizations*. The *European Union*, *World Trade Organization* requires their member states to comply with them.

The World Intellectual Property Organization (WIPO) is one of the 17 s*pecialized agencies* of the *United Nations*. WIPO was created in 1967 "to encourage creative activity, to promote the protection of intellectual property throughout the world". WIPO currently has 187 member states, administers 26 international treaties, and is headquartered in *Geneva*, *Switzerland*. World Intellectual Property Day is observed annually on 26 April. The event was established by WIPO to "raise awareness of how patents, copyright, trademarks and designs impact on daily life" and "to celebrate creativity, and the contribution made by creators and innovators to the development of societies across the globe".

The five strategic goals laid out by WIPO in its 2005–2006 programmer and budget are:

- to promote an extensive intellectual property culture;
- to integrate intellectual property into national development policies and programs;
- to develop international intellectual property laws and standards (partially defined as promoting laws forbidding the circumvention of technological restrictions);
- to deliver quality services in global intellectual property protection systems;
- to increase the efficiency of WIPO's management and support processes.

The current Copyright law of the Russian Federation is codified in part IV of the *Civil Code of the Russian Federation*. In 2006, completely rewritten intellectual property laws were included in part IV of a new *Civil Code of the Russian Federation*. These new laws entered into force on January 1, 2008, replacing all previous intellectual property legislation, including the separate copyright law from 1993. The copyright term has been extended to 70 years for works published by Russian authors and copyright protection has been retroactively granted to works, which had their 50-year protection term expire in 1993–2003, bringing many notable works out of public domain. For works that have been created or published in other countries, the law now implements the rule of the shorter term, matching Russian copyright term with those existing in the country of origin.

Most jurisdictions recognize copyright limitations, allowing "fair" exceptions to the creator's exclusivity of copyright, and giving users certain rights. The development of digital media and computer network technologies have prompted reinterpretation of these exceptions, introduced new difficulties in enforcing copyright, and inspired additional challenges to copyright law's philosophic basis. Simultaneously, businesses with great economic dependence upon copyright, such as those in the music business, have advocated the extension and expansion of their intellectual property rights, and sought additional legal and technological enforcement.

А. М. Нальгиев

THE ITALIAN-AMERICAN MAFIA

The American Mafia, an Italian-American organized-crime network with operations in cities across the United States, particularly, New York and Chicago, rose to power through its success in the illicit liquor trade during the 1920s Prohibition era. During the second part of the XXth century, the government used anti-racketeering laws to convict high-ranking mobsters and weaken the Mafia. However, it remains in business today.

Immigration and prohibition. During the late XIXth century and the early XXth century waves of Italians, mostly farmers, craftsmen and unskilled laborers, flocked to America in search of better economic opportunities. The majority of these immigrants were law-abiding, but, as with most large groups of people, some were criminals who formed neighborhood gangs often preying on those in their own communities. During the 1920s Prohibition era when the XVIIIth Amendment to the U. S. Constitution banned the sale, manufacture and transportation of alcoholic beverages Italian-American gangs (along with other ethnic gangs) entered the booming bootleg liquor business and transformed themselves into sophisticated criminal enterprises skilled at smuggling, money laundering and bribing police and other public officials.

The American mafia gets organized. In the late 1920s a bloody power struggle known as the Castellammarese War broke out between New York City's two biggest Italian-American criminal gangs. In 1931 after the faction led by the Sicilian-born crime boss Salvatore Maranzano (1886–1931) came out on top, he crowned himself the "capo di tutti capi" or boss of all bosses in New York. Unhappy with Maranzano's power grab a rising mobster named Lucky Luciano (1897–1962) murdered him. Luciano then masterminded the formation of a central organization called the Commission to serve as a sort of national board of directors for the American Mafia. New York, which became America's organized-crime capital, was divided into five main Mafia families. The Commission's role was to set policies and mediate disagreements among the families.

The U. S. mafia: hierarchy and rituals. Typically, each American Mafia crime family was organized around a hierarchy headed by a boss who ruled with unquestioned authority and received a cut of every money-making operation taken on by any member of his family. Second-in-command was the underboss and below him were the capos or captains who each controlled a crew of 10 or so soldiers (men who had been "made," or inducted into the family). Each family also had a consigliore, who acted as an advisor and an ombudsman. At the bottom of the chain were associates i.e. people who worked for or did business with the family but weren't its full-fledged members.

The mafia's 20th century dominance. With the repeal of Prohibition in 1933 the Mafia moved beyond bootlegging and into a range of underworld activities from illegal gambling to loan-sharking to prostitution rings. The Mafia also sank its tentacles into labor unions and legitimate businesses including construction, garbage collection, trucking, restaurants and nightclubs and the New York garment industry, and raked in enormous profits through kickbacks and protection shakedowns.

Taking down the mafia. In 1970 the Congress passed the Racketeer Influenced and Corrupt Organizations (RICO) Act which proved to be a powerful tool in the government's war on the Mafia as it allowed prosecutors to go after crime families and their sources of revenue both legal and illegal. By the start of the XXI century the American Mafia was a shadow of its former self. However, the Mafia remained active in some of its traditional ventures including loan-sharking and illegal gambling, etc.

В. А. Одров

Sharia Law

Sharia Law is a significant source of legislation in various Muslim countries, namely Saudi Arabia, Sudan, Iran, Brunei, The United Arab Emirates and Qatar. In those countries, flogging and stoning are legal punishments due to Sharia.

There are two primary sources of sharia law: the precepts set forth in the Quranic verses (ayahs), and the example set by the Islamic prophet Muhammad in the Sunnah. Where it has official status, sharia is interpreted by Islamic judges (qadis) with various responsibilities for the religious leaders (imams). The concept of crime, judicial process, justice and punishment embodied in sharia is different from that of secular law. The differences between sharia and secular laws have led to an on-going controversy as to whether sharia is compatible with secular democracy, freedom of thought, and women's rights.

The origin of sharia is the Qu'ran, and traditions gathered from the life of the Islamic Prophet Muhammad.

Sharia, in its strictest definition, is a divine law, as expressed in the Quran and Muhammad's example (often called the sunnah). As such, it is related to but is different from fiqh, which is emphasized as the human interpretation of the law. Many scholars have pointed out that the sharia is not formally a code, not a well-defined set of rules. The sharia is characterized as a discussion on the duties of Muslims based on both the opinion of the Muslim community and extensive literature. Hunt Janin and Andre Kahlmeyer thus conclude that the sharia is "long, diverse, and complicated law system".

There are two sources of Sharia (understood as the divine law): the Quran and Sunnah.

The Quran is viewed as the unalterable word of God. It is considered in Islam as infallible part of Sharia. Quran covers a host of topics including God, personal laws for Muslim men and Muslim women, laws on community life, laws on expected interaction of Muslims with non-Muslims, apostates and ex-Muslims, laws on finance, morals, eschatology, and others.

The Sunnah is the life and example of the Islamic prophet Muhammad. The Sunnah's importance as a source of Sharia, is confirmed by several verses of the Quran. The Sunnah is primarily contained in the hadith or reports of Muhammad's sayings, his actions, his tacit approval of actions and his demeanor. While there is only one Quran, there are many compilations of hadith, with the most authentic ones forming during the sahih period.

The process of interpreting the two primary sources of Islamic law is called fiqh (literally meaning "intelligence") or Islamic jurisprudence. While the above two sources are regarded as infallible, the fiqh standards may change in different contexts. Fiqh covers all aspects of law, including religious, civil, political, constitutional and procedural law. Fiqh depends on 4 sources:

1. Interpretations of the Quran.
2. Interpretations of the Sunnah.
3. Ijma, consensus amongst scholars ("collective reasoning").
4. Qiyas / Ijtihad analogical deduction ("individual reasoning").

В. И. Ольхова

INTERNATIONAL TERRORISM

In the late XXth century international terrorism replaced the cold war as the greatest national security concern. Terrorism is not new. It has plagued the world for centuries. What is different is the scope and reach of terrorist acts. In the past the vast majority of terrorist acts were committed by people with domestic or regional grievances. The terrorists had narrow agendas and limited resources for achieving them. Nowadays the goals and means of some terrorist groups have broadened considerably, the technological advancements that have made international travel and communication possible have made it easier for terrorists to extend their reach to all parts of the world. Likewise, their weapons and methods are much more sophisticated and deadly.

The word "terrorism" is controversial. Definitions of "terrorism" generally involve all of the following features: 1) a terrorist act is generally unlawful; 2) it is violent and may be life threatening; 3) violence is politically motivated; 4) its direct targets are civilians; 5) the direct targets may not be the main targets; 6) the main targets may be one or more nation-states, governments, or societies; or a political, ethnic, or religious group, or an industry or commercial operation within those societies; 7) the objective is usually to frighten the main targets; 8) there may or may not be a claim of responsibility. Concerning the definition of international terrorism is important to add that this act may involve citizens or the territory of more than one country.

Terrorism may be of four types: (a) criminal terrorism uses terrorism for material gain by encouraging drug trafficking and smuggling operations. (b) Psychic terrorism aims at archiving religious objectives. (c) Political terrorism conducts systematic use of violence to achieve political objectives. (d) War terrorism aims at slow attrition of adversary's forces so as to destroy their ability to fight. The world today can distinguish five of the most famous and influential terrorist organizations. There are:

1. Al-Qaeda, an Islamic terrorist organization headed by Osama Bin Laden as described above aims at the destruction of the United States, Israel and India.

2. Hizbullah, Lebanese state terrorist group's aim is the creations of independent Islamic Lebanon by ousting anything western. It has targeted the US Embassy in Beirut, US Marine head quarters and the Israeli embassy in Buenos Aires.

3. LTTE the Liberation Tigers of Tamil Elam aims at the creation of separate Tamil Land in Shrilanka. In June 1991 India's Prime Minister Rajeev Gandhi was assassinated in 1993. Shrilankan President Premadasa was their victim. In 1999 an attempt was made on the life of srilankan President Chadrika Kumaratunga. Between 1987 and 2000 it carried out 168 suicide attacks in Srilanka and India.

4. HAMAS, The Harket-el-Mukawma-el-Islamia aims at founding Islamic state in their home land Palestine their home land their home land. Israel has been their target so far.

5. PIJ, the Palestine Islamic Jehad has so far inflicted 30 suicide attacks on Israel.

International terrorism can only be countered by elimination of all causes of its occurrence and enhanced cooperation at international level. If we want to see a world free of strife based on terrorist violence, which threatens to undermine democratic pluralism within States as well as friendly relations amongst them, we must join hands to fight this menace.

О. Я. Оруджев

COMPLICITY IN THE CRIME: THEORETICAL AND PRACTICAL PROBLEMS

Problem of an institution of complicity in the criminal legislation of the Russian Federation is not new and quite debatable. More and more theorists and practical workers pay attention to imperfection of this institute, the need of its fastest improvement for realization of tasks of the criminal law, criminal and legal policy in general.

Article 32 of the Criminal Code of the Russian Federation specifies that complicity in the crime is the intentional joint participation of two or more persons in the commission of an intentional crime. Article 33 defines the types of participants in the offense to which the perpetrators, organizers, instigators and accomplices, depending on who performed as the objective aspect of the crime. Criminal liability of accomplices, except of subcontractors of offense comes under providing responsibility for the crime, with reference to Art. 33 of the Criminal Code. That is, in the classification of a criminal offense under the relevant articles of the Criminal Code of the Russian Federation, committed in complicity, it is necessary to qualify the act under this article and the relevant part of Art. 33. This rule applies and should apply to all articles of the Special Part, as the extent to which the objective side can be different.

However, the criminal law allows exceptions of this rule, having included the two crimes under art. 205.1 "Facilitating terrorist activity" and 291.1 "Intermediation in bribery".

In particular, the disposition of p. 1 of Art. 205.1 provides the following actions: a decline, recruitment or other involvement of a person in the commission of at least one of the offenses provided for in art. 205, 206, 208, 211, 277, 278, 279 and 360 of the Code, arming or training a person to commit at least one of the crimes as well as funding terrorism.

Apparently from the content of the listed actions forming the objective part of "corpus delicti", they are similar to those actions which are inherent in the instigator, the person who persuaded another person to commit a crime through persuasion, bribery, threats or other means.

"Inducement, recruitment or other involvement of a person in the commission of at least one of the crimes..." and inducing another person to commit a crime through persuasion, bribery, threats or other means form similar to the semantic meaning actions. That is, let's say, for example, that there has been incitement to the act of terrorist where one person induces another to commit acts specified in the disposition of p. 1 of Art. 205 of the Criminal Code. Under the rules of the qualification of crimes committed in complicity, it is necessary to characterize the actions by Art. 205 of the Criminal Code, with reference to p. 4 of Art. 33, the CC of the Russian Federation. However, the presence of Art. 205.1 of the Criminal Code does not allow to do so. It can be objected, saying that the competition of general and special rules shall apply a special rule. It is right, but … the special norm has to allocate the elements which are absent in the general norm, detailing the general. As we see from the example given above, such elements aren't present in p. 1 Art. 205.1.

Proceeding from the above, we believe that Art. 205.1 of the Criminal Code has to be changed in that part in which it covers actions of the instigator to a crime.

Another rule, which is also a shining example of violation of the rules of qualification of the crime committed by complicity, is Art. 291.1, which provides responsibility for mediation in bribery, which is defined as the direct transfer of bribes on behalf of the bribe-giver or taker or otherwise promote the briber and (or) the bribe-taker in achieving the implementation of any agreement between them and the receipt of a bribe in a significant amount. The totality of these actions is similar to the symptoms of accomplices set out in p. 5 Art. 33 of the Criminal Code. Thus, an accomplice of the person who assisted the commission of the crime with advice, guidance, provision of information, means or instruments of committing a crime or by removing obstacles, as well as the person who previously promised to conceal criminal means or instrumentalities of crime or objects obtained by criminal means, as well as a person, previously promised to acquire or dispose of such objects. In the S. I. Ozhegov dictionary "to facilitate" means "to assist, to accomplice"[1]. That is, the intermediary steps coincide with the actions of an accomplice. Qualification of actions of accomplices under Art. 290 and 291 of the Criminal Code are not meant in Art. 291.1, and also the previous example violates rules of qualification of actions of accomplices with reference to the corresponding part of Art. 33 of the Criminal Code.

In addition, if you pay attention to the sanctions of these items, for an offense under p. 1 of Art. 290 of the Criminal Code (bribery), the person may be sentenced to imprisonment for a term of up to 3 years, and under p. 1 of Art. 291 (bribery) — for 2 years of imprisonment. However, the mediation in bribery (in p. 1 of Art. 291.1) is punishable by imprisonment for up to 5 years. That is, the mediator can get more than perpetrators.

Based on the foregoing, we believe that Art. 291.1 should be decriminalized from the Criminal Code because of violations of legal technique in its design and inexpediency of its being in the Special Part of the Criminal Code as a result of the existence of the relevant articles of the General Part which are applied to the main crime structures.

[1] *Ojegov S. I., Shvedova N. Yu.* Explanatory dictionary of Russian: 80000 words and phraseological expressions. M., 2007. P. 757.

Д. И. Пашин, Л. М. Коняхина

DIFFICULTIES AND LEGAL PROBLEMS OF ADOPTION OF ORPHAN CHILDREN BY CITIZENS OF THE USA

Adoption (adoption) is one of the main forms of the device of orphan children and children without parental support which is often carried out in the Russian Federation.

Problems exists a little:

1. Difficult procedure of adoption by foreign citizens (according to the Family Code a pronounced priority to the Russian families wishing to adopt the child).

2. Unwillingness of the Russian families, owing to features of mentality to raise other people's children.

3. Insufficient material support of the state of those Russian families, which have the adopted children.

4. In case of adoption of the child by foreigners, the child leaves the territory of the Russian Federation, becomes the citizen of other state and touch with the child is lost, in the territory of the Russian Federation agencies of guardianship and guardianship can't control the child's life in a foreign family. It is especially actual problem, in connection with the loud cases of murders and the Russian children abuse adopted by citizens of the USA.

5. A set of agencies on adoption which purpose actually is not the help in adoption of the Russian children by foreigners, but sale of children on bodies.

We will dwell upon adoption of children with the Russian nationality by foreign citizens.

Creation of a standard and legal basis of functioning of institute of adoption, and also process of active lawmaking in the sphere of adoption by foreign citizens of children — citizens of the Russian Federation, developing in Russia within the last several years, cause the necessity of the complex scientific analysis of the reasons, essence and consequences of separate aspects of the occurring phenomena.

Adoption of the Family code of the Russian Federation laid on December 8, 1995 the foundation of modern legal regulation of adoption of orphan children and children without parental support. According to its provisions a number of subordinate normative legal acts concerning adoption is adopted. However the analysis of law-enforcement practice, the current legislation about adoption of orphan children and children without parental support, allowed to reveal negative sides of legal regulation of process of

adoption in the Russian Federation that demands modification and additions of acts for their improvement.

The special attention is deserved by the questions of procedural character connected with establishment of adoption by foreign citizens of the children having the Russian nationality. In this regard there is a need of studying of standards of the foreign legislation regulating institute of adoption, and carrying out the comparative and legal analysis for protection of the rights and interests of the adopted child — the citizen of the Russian Federation.

The moratorium on adoption of the Russian children by citizens of the USA (on April 15, 2010 — on July 13, 2011) was reaction of the government of the Russian Federation to succession of events round adoption of Artyom Savelyev who was returned to Russia by his foster mother from the USA. Absence of the detailed international agreement between the Russian Federation and the USA which would regulate position of the adopted children from Russia in this country became the official reason of introduction of the moratorium.

On July 13, 2011, after signing of the bilateral agreement about the USA, the moratorium stopped the action. Sharp falling of adoptions of children by citizens of the USA became predictable result of the 16-month moratorium. Their number fell from about 4,000 in 2009 to 1,000 in 2010.

Since January 1, 2013 the law forbidding adoption of the Russian children by citizens of the USA came into force. These measures are included in the Russian answer to the American Magnitsky Act which received the informal name Dima Yakovlev's law in memory of the Russian boy who was tragicly lost in a foster home in the USA.

Transfer of the children who are citizens of the Russian Federation on adoption (adoption) is forbidden: to citizens of the United States of America, and also implementation in the territory of the Russian Federation activity of bodies and organizations for selection and transfer of the children who are citizens of the Russian Federation on adoption (adoption) to citizens of the United States of America, persons interested to adopt (to adopt) the specified children.

According to official figures the Governments of the Russian Federation of 200 Russian children in 2013 had to find families in the USA, but because of the adopted law and remained in orphanages, boarding schools and children's homes .

For half a year which passed from the moment of adoption of law in the Nizhny Novgorod Region the orphan whom the Americans who began paperwork planned to adopt died. Because of the adopted law procedure of adoption was stopped. The child had difficult heart disease, and domestic

doctors could distinguish it not at once. Only the legislation of the USA allows to adopt from abroad seriously ill patients of the children demanding expensive treatment (in Canada there is a list of diagnoses with which from abroad it is impossible to adopt, and in Europe an insurance much less

Thus, theoretical development of problems of adoption by foreign citizens of the children having the Russian nationality is actual for right science.

С. А. Петрикова

THE INSTITUTION OF AMNESTY

Amnesty and pardon are the oldest legal institutions. Some people believe, that the Amnesty and pardon evolved in Ancient Rome. However, there is an information about the pardon, which belonged to the XXth century BC and was found in Egyptian papyrus. They talk about the Egyptian, who served in the army of Pharaoh and deserted. Some time later he decided to return home and the Pharaoh not only allowed him to return, but he forgave him.

Today there is such definition of Amnesty, as a measure that is applied by the decision of the public authority to people, who have committed crimes, the essence of which consists in the full or partial exemption from punishment, substitutes the punishment for softer one or is connected with the termination of criminal prosecution. The application of the Amnesty is usually justified by considerations of humanity, but Amnesty has also practical tasks: it can serve as a way to reduce the population of penal institutions or to contribute to the achievement of specific policy purpose (for example, cessation of armed conflict). Amnesty is widely used all over the world. It is stipulated by the legislation of many countries, however, this institution doesn`t exist in countries with Anglo-Saxon legal family and in some countries of the Roman-German legal family. In the modern world there are interesting reasons for the Amnesty.

In my report I would like to talk about one of these occasions. So, prisoners in the South-East of Brazil was provided an opportunity to reduce the term of punishment in an unusual way — the days of the imprisonment subsides, when the prisoners produce electricity by spinning the pedals of the bike. Simulators are connected to the power stations of the city and provide the lightning of roads. For three working days on the bike, that last for eight hour, the period of imprisonment is reduced by 1 day. But it is possible to leave the prison in another spiritual way. So, in four Federal prisons of Brazil the prisoner will be released four days earlier for every book, which he has reading in prison. The choice of literature depends on the criminals. They can read both classical literature, philosophical or popular scientific works. For twelve books, read during a year the prison administration reduces the punishment by forty-eight days. It is supposed, that the reading of each book takes about a month. In the end he will have to write an essay on the reading. If the essay is written without mistakes and corrections, competently, with fields and signature, jailers decide to include the book as having

been read, and to reduce the prisoner's term. This program was proposed by the city judge Jose Enrique Mallmann. The main purpose of this programme is to reduce the number of prisoners in overcrowded prisons.

In Russia the history of the above-mentioned institutions originates from the Rurik dynasty, when public power wasn't centralized. Every of the princes were able to exercise pardon within the territory by himself. Pardon and forgiveness was applied not only in cases of exemption from responsibility and punishment of individuals, but also to groups of persons, who had committed crimes. In our country, the Amnesty was frequently associated with holidays dates, with the ascension to the throne of the monarch, with an important military victories and with the conclusion of peace. Nowadays, regular Amnesty is associated with the anniversaries of the Victory in the great Patriotic war of 1941–1945. The decision about Amnesty adopted by the relevant body is not in the form of a law, but in the form of a regulation. On 15 October, 2013 presidential Council on human rights sent the offer declaring the Amnesty to Vladimir Putin. This offer is connected with the 20th anniversary of the Russian Constitution. At the moment more than 25 thousand people are exempted on this basis.

Е. Н. Пешкова

SOVEREIGNTY IN LAW

Nowadays we very often discuss one subject, it is the sovereignty of the Ukraine and Syria. Popular politicians and TV-hosts complain that some countries of the West try to limit their sovereignty. Unfortunately, not all of us are able to understand the meaning of that word. That's why, I have decided to take a look at it.

Sovereignty, in political theory, is a substantive term designating supreme authority over some policy. It is a basic principle underlying the dominant Westphalian model of state foundation. In layman's terms, it means

a state or a governing body has the full right and power to govern itself without any interference from outside sources or bodies. Derived from Latin through French *souveraineté*, its attainment and retention, in both Chinese and Western culture, has traditionally been associated with certain moral imperatives upon any claimant.

The concept of sovereignty has been discussed throughout history from the time before recorded history through to the present day. It has changed in its definition, concept, and application throughout especially during the *Age of Enlightenment*. The current notion of *state sovereignty* contains four aspects: those of territory, population, authority and recognition. According to Stephen D. Krasner the term could also be understood in four different ways:

- domestic sovereignty — actual control over the state exercised by an authority organized within this state,
- interdependence sovereignty — actual control of movement across the state's borders, assuming the borders exist,
- international legal sovereignty — formal recognition by other sovereign states,
- Westphalian sovereignty — lack of other authority over the state other than the domestic authority (examples of such other authorities could be a non-domestic church, a non-domestic political organization, or any other external agent).

Often, these four aspects all appear together but this is not necessarily the case — they are not affected by one another, and there are historical examples of states that were non-sovereign in one aspect while at the same time being sovereign in another of these aspects. According to Immanuel Wallerstein another fundamental feature of sovereignty is that it is a claim that must be recognized by others if it is to have any meaning: "Sovereignty

is more than anything else a matter of legitimacy [...that] requires reciprocal recognition. Sovereignty is a hypothetical trade in which two potentially conflicting sides respecting de facto the realities of power exchange such recognitions as their least costly strategy."

And what are the types of sovereignty?

An important factor of sovereignty is its degree of *absoluteness*. A sovereign power has absolute sovereignty when it is not restricted by its Constitution, by the laws of its predecessors or by custom, and no areas of law or policy are reserved as being outside its control. *International law*; policies and actions of neighboring states; cooperation and respect of the populace; means of enforcement; and resources to enact policy are the factors that might limit sovereignty.

De jure or legal sovereignty concerns the expressed and institutionally recognized right to exercise control over a territory. *De facto* or actual sovereignty is concerned with whether control actually exists. Cooperation and respect of the populace; control of resources in or moved into an area; means of enforcement and security; and an ability to carry out various functions of the state all represent measures of de facto sovereignty. When control is practiced predominately by military or police force it is considered *coercive sovereignty*.

State sovereignty is sometimes viewed synonymously with *independence*, however, sovereignty can be transferred as a legal right whereas independence cannot. A state can achieve de facto independence long after acquiring sovereignty, such as in the case of Cambodia, Laos and Vietnam. Also a state may lose its independence temporarily while retaining its legal sovereignty as in the case of the illegal incorporation of the Baltic states by the Soviet Union between 1940 and 1991.

И. А. Плетнев

VIOLENCE AGAINST CHILDREN IN EUROPE

Past decade, Europe has become the epicenter of public scandals about child abuse. And above all sexual. According to the Deputy Secretary General of the Council of Europe Maud de Boer-one in five small European — a victim of sexual violence. Most often, the people close to him.

Powerlessness of children to abuse of adults in Europe has a long and deep roots.

In Sparta, the council of elders (Gerousia) determines who lives of the babies, and to whom — not. "Rejected" is simply dropped into the abyss. And in Rome, the father of the family, except for the destruction of the offspring had the right to sell their children into slavery. Infanticide defended the law of Lycurgus in Greece and its later counterpart in Rome. Justify such treatment of children Plutarch, Aristotle, Plato and Seneca.

Vincent of Beauvais in the XIIIth century, wrote that a father always worried about his daughter, who "choked her offspring". And doctors say that "children are in the cold, in the streets, discarded evil mothers".

In 1527 a Catholic priest describes the situation in Rome: "latrines announced shouts thrown in their children".

Thomas Coram, a famous English philanthropist, admitted that he opened in 1741 the first orphanage in London, because that does not stand the sight of dead children in ditches and manure piles. However, in the late XIXth century, the dead kids on the streets of the British capital were a common sight.

Centuries in Western Europe children living immured in the foundation of bridges, buildings, walls. It was believed that this is — a guarantee strength and durability of the structure. The latter fact is this use of children was recorded in Germany in 1843, during the construction of another bridge.

However, in 2008 on the island of Jersey (UK), in a former orphanage, were found the remains of children buried alive in a wall. Total police found six places where the dead children were dying. Two more rooms at the shelter have been torturous.

About callous attitude to children in England and France in the XVIII–XIXth centuries tell bestsellers such as Victor Hugo's novel "The Man Who Laughs" and Charles Dickens' "The Adventures of Oliver Twist". However, real life was even more brutal than the biography of the characters in the novels.

In the mid. XIXth century in the UK parents were given the right to insure the lives of their children in funeral homes. Immediately after this innovation by a wave of murders. From infants to teenagers. The annual decline in children increased by 12 thousand a year. When the power came to her senses and began the proceedings, it turned out that the cause of infanticide — the insurance premium. She is 3–4 pounds higher than the premium. And for the sake of profit began to kill the parents of children.

In the late Middle Ages and up to the XIXth century in Germany and Italy forcibly castrated boys. With the purpose of selling in church choirs. Not all were professional selection. The fate of the rejected nobody bothered.

Demoz Lloyd in his "psychohistory" wrote a German school teacher, "which estimated that a total of 911,527 weighed strokes of the cane, 124,000 lashes 136,715 slaps his hand and slaps 1,115,800" to his students.

Among the advocates for enlightened Europe on the issue of infanticide was even Immanuel Kant. Their children was not a philosopher. But there were attitudes towards strangers. So he believed that two types of murder should not be punished by the law — in a duel, as wounded military honor, and infanticide as "illegitimate, who came to the child is born outside of the law and, therefore, outside the protection of the latter. He, like the forbidden items, crept into society, so that the latter can ignore its existence (since it is justice and would not have to exist), and, therefore, can be ignored and its destruction".

Is it any wonder that today Europe is famous for cruelty to your children?

Sexual abuse of children 87 kids raped "Riga monster". This nickname was Lett Robert Mickelson, who was convicted of pedophilia in the Netherlands. Sentence — 18 years in prison and lifelong compulsory psychiatric treatment. All the victims were not more than two and a half years. And one — just 19 days old.

28-year-old pedophile was working as a nanny in kindergartens Amsterdam. And given the announcement of the resignation of the kids. So go out on their victims. Raping them, he was doing photos and filmed on video. The computer Mickelson found 46,000 photos and 3,600 videos of relevant content. Police identified more than a thousand fans of "strawberries", used the video catalog "Riga monster". 33 were direct participants in the "fun" Latvian. Their arrests were made in England, Germany, USA, Holland, Sweden, Poland and Canada. The investigation continues to look for evidence of involvement in sexual offenses even dozen accomplices "monster". Six years in prison was the spouse of Robert — Richard van Olfen, who lived with him legally married since 2004.

It is appropriate in this context to recall that 13 years ago Latvia shook his pedophile scandal. Publicly, from the rostrum of the Seimas deputy Janis Adamsons announced the names "probably involved in pedophilia" ...Prime Minister Andris Skele, Foreign Minister Valdis Birkavsa and CEO of the State Revenue Service Andrei Sonchiksa. To hush up the case then the entire government resigned.

History of child sexual abuse does not just go with the bands Latvian newspapers. In this small European country, more than 500 people in recent years have been sentenced to prison for his predilection for "pleasures" of minors.

To somehow stem the tide of madness Sejm has tightened the punishment for pedophilia to life imprisonment. However, crime statistics is not improved. Moreover, in recent years, the ranks of the local steel actively replenish "sex tourists" from the EU.

Today, in some of the Scandinavian countries is a public discussion about how to legalize marriages between adults and children. As well as the possibility of a church wedding. So that all pedophiles to withdraw from the impact of the criminal prosecution. The main focus of controversy — the protection of children's rights! To have sex with adults. Including the approval of incest. In this discussion is beyond the scope of his own lust initiators legalization perversions.

Rapists of children "encourage" is often mild punishment. Two "normal" history of Finland. Year — 2011-D. The four men who raped the 14-year-old girl, received suspended sentences. Of forty days — up to six months! And a little bit of fines from 500 to 3,000 euros.

In the same year, the coach of the football team of underage girls, raped one of the wards, got a suspended sentence. Moreover, the abuser continued to coach the same team. Coaching, last worked on a volunteer basis. And according to Finnish law, the court is not obliged to report the conviction of persons working volunteers. A wave of indignation raised by parents. Through their protests coach rapist expelled from the team.

At the conclusion of the commission of psychiatrists surveyed Anders Breivik, the deviations in the psyche of the latter, came after at the age of 4–6 years, the killer was sexually abused. World-famous arrow raped own mother. And continued to do so for years to come. Psychological trauma inflicted by Anders as a child, eventually led him to the dock. Not having the physical capacity to protect itself in early childhood, Breivik, "revenge" as an adult. How he did it is known all over the world.

Rows future "Breivik" in Europe are replenished daily. Sentences relatives — rapists become commonplace. And the age of the victims is plummeting. In Denmark, for example, condemned the 65-year-old "grandfather". With 2 months of age, he raped his granddaughter. The scene of their "orgies" pedophile filmed on video and lecturing on the Internet.

Court "grandfather" passed a very "harsh" sentence: three years in prison. And — to be banned in some places, with children under 18 years of age. A pedophile with a "severity" disagrees and intends to reduce the sentence. And the best part — the abolition of ... particularly distressed "grandfather" the prohibition of communication with a minor.

З. С. Сагинова

THE EBOLA DISEASE — A PROBLEM OF THE WHOLE PLANET

Ebola is the present world — wide problem. The disease caused by the Ebola virus formerly known as Ebola hemorrhagic fever is often a fatal disease for people. The virus is transmitted to humans from wild animals and it is spread among people from person to person.

Ebola virus causes acute strong disease that is often fatal and cureless. At first Ebola was announced in 1976, after 2 simultaneous outbreaks in Sudan and Yashbuku Isar, the Democratic Republic of Congo. The second appearance was next to the river from which the Ebola disease got its name.

Ebola is transmitted through close contact with a victim`s blood or other body fluids. Ebola is characterized by a sudden increase of body temperature expressed by general weakness myalgia, headache and throat ache often followed by vomiting, rash impaired kidney and liver and, in some cases ,both internal and external bleeding.

Russian virologists are close to making vaccines against the disease-Ebola. Russian specialists are developing some variants which according to them is called “know-how”.

Additional equipment will be set up in the Russian airports for the prevention of Ebola.

The Ministry for Foreign Affairs of Russia is intended to continue rending assistance in the fight against the spread of the deadly virus Ebola, and over 720 million rubles was given out for this reason. Russian virologists announced that the cure for this disease has been already produced but experiments need to be carried out.

The disease typically occurs in outbreaks in tropical regions of sub-Saharan Africa. From 1976 (when it was first identified) through 2013, the World Health Organization reported a total of 1,716 cases. The largest outbreak to date is the ongoing 2014 West African Ebola outbreak, which is currently affecting Guinea, Sierra Leone, and Liberia. As of 25 October 2014, 10,141 suspected cases resulting in the deaths of 4,922 have been reported. Efforts are under way to develop a vaccine.

Over 230 doctors in the world have contracted Ebola.

We should put in mind, that Ebola which was once considered as a rave disease has now hit a couple of European continents and also the USA. So far, no effective vaccine has been produced anywhere in the world against this dangerous virus .The number of dead victims from this epidemy already exceeds 4 thousand people. Meanwhile Russia also participates in the fight against the virus which potentially threatens all of humanity.

Э. Н. Самедова

THE EUROPEAN COURT OF HUMAN RIGHTS AND GREAT BRITAIN

The European Convention for the Protection of Human rights and Fundamental Freedoms which came into force on 3 September 1953 not only proclaimed the fundamental human rights, but also created a special mechanism to protect them — the European Court of Human Rights.

The ECHR is an international court with the jurisdiction over all Member States of the Council of Europe which have ratified the Convention.

The ECHR is located in the Palace of Human Rights in Strasbourg (France).

According to Art. 34 of the Convention the ECHR may receive applications from any person none — governmental organization or a group of individuals claiming to be a victim of violations by the States which are parties to the Convention.

The right of an individual petition is a basic principle of the ECHR. This is the only place in Europe where citizens can complain on their governments.

Complaints to the ECHR must be concerned with those areas for which the state government is responsible .

On the one hand, the state has the sovereignty — which means its independence in foreign and domestic affairs. On the other hand, the state has to reckon with the signed international treaties.

As an example, the ECHR stated that general elections in the UK were accompanied by violations of human rights as British prisoners can not take part in them.

The reason is that in the Forfeiture Act of 1870 all prisoners were denied the right to vote. This ban remained in force after the adoption of the Representation of the People Act in 1983.

In a legal battle with the UK in 2004, the ECHR repeatedly said that a complete ban on prisoners’ voting is incompatible with the European legislation.

In 2004 the ECHR accepted Hearst’s arguments and ruled that the United Kingdom must fulfill its legal obligations and abide by the decision stating that it is unfair to completely deny prisoners the right to vote. This case (Hearst v. The United Kingdom (№ 2)) caused a storm of indignation in Britain: What kind of voting can we demand for a person who cold-bloodedly hacked a woman to death?

The British Parliament voted overwhelmingly against the ECHR decision refusing to grant the voting right to prisoners.

In 2013 prisoners in the UK once again failed to defend their suffrage. The Supreme Court of the United Kingdom unanimously dismissed the appeals of two people convicted of murder. The British Prime Minister David Cameron called the ruling “a great victory for common sense”.

Convicted murderers Peter Chester and George Makgeo argued that the EU law gives them the right to participate in elections despite the ban by the British law.

The Supreme Court of the United Kingdom ruled that the rights granted by the EU, “are a matter for national parliaments”.

In 2013 the British government agreed that the law must be changed to give some prisoners the right to vote. Ministers published a bill according to which prisoners sentenced to terms of less than four years can participate in the election.

Against the background of the upcoming parliamentary elections in the spring of 2015 the UK Minister of Justice Chris Grayling said that if London did not receive a special status in the European Court the British authorities would cease Britain’s participation in the ECHR.

Grayling said that The Conservatives seek to ensure that the United Kingdom be able to determine their own laws.

According to experts from Policy Exchange analytical centre Britain should withdraw from the jurisdiction of the ECHR because it makes decisions which run contrary to the interests of the UK.

Others argue that there is no turning back that they will have to implement the ECHR decisions one way or another as Britain can not live without Europe. The government is seeking a compromise. But it is far from clear that such a compromise is possible.

As for my personal position I think that it is wrong to grant political rights which are among basic democratic rules to people who do not have any moral values , no respect for the law and the rights of others. It would be logical if while serving a sentence of imprisonment prisoners should go through a process of rehabilitation and correction repenting their crimes and only after their return to society they can obtain the rights to participate in its political life.

А. А. Саркисян, Л. М. Коняхина

PARADE OF SOVEREIGNTIES

Nowadays there are numerous conflicts which generated the struggle for independence. Political map of the world is changing rapidly, a country whose borders are falling apart and which seemed unshakable in this area is arise, but the fate of the new states are different. Some countries admit the international community, and the other don’t.

The legal status of new areas has not defined yet, as well as political. Charter of the United Nations on the one hand secures the right for self-determination for every nations on the other hand it establishes the principle of integrity. Paragraph 2 of Art. 1 of Chapter 1 of the UN Charter states to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace; but it also establishes the principle: All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any case it is inconsistent to the Purposes of the United Nations, thus there is an inherent tension to international law.

Also there are contradictions in the declarations adopted by the United Nations:

The Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty.

The Declaration on the inadmissibility of intervention and interference in the internal Affairs of States.

The first case which blew up the established rules of the game happened on February 17, 2008 the Act of the Parliament of Kosovo declared independence unilaterally. On February 11, 2014 independence of Kosovo was admitted by 108 countries of the UN. This fact is a violation not only of the UN Charter and Security Council resolution 1244, but the Constitution of Serbia. According to Art. 8 of the Constitution of Serbia, the territory of the Republic of Serbia is one and indivisible.

The international community in the face of the leading countries of the world have recognized this fact, describing it not as a precedent, and the only exception to the practice of international law, as the situation in Kosovo is unique. However, in practice this exception has become the practice and literally turned into a parade of sovereignties, and recognition is not because of the ideals of democracy and political benefits. Then, on February 18 2008 the Russian state Parliament adopted a resolution is a response to the proclamation of Kosovo independence and its recognition by six of the

fifteen members of the security Council of the United Nations, in which it was noted that thus situation has given the Russian Federation freedom in addressing the status of the unrecognized territories in the post-Soviet space. On august 8 2008, Georgia launched an attempt to seize the territories of Southern Ossetia and Abkhazia, Russia has joined the armed opposition on the side of the latter. On August 26, 2008, followed by international legal recognition of Southern Ossetia and Abkhazia by Russia. This resulted in the movement of all national conflicts and contradictions in the post-Soviet space, the escalation of old conflicts, as a result a new conflict appeared in the Ukraine and the "Declaration of Independence of the Autonomous Republic of the Crimea and of Sevastopol" was adopted and peoples referendum was held.

17 March 2014 an independent sovereign Republic of Crimea was declared, in the city of Sevastopol had a special status and signed the decree on the recognition of the Republic of the Crimea by the Russian Federation.

In conclusion, I would like to say that a unilateral Declaration and the recognition of the so-called "Republic of Kosovo" has generated a reaction of the parade of sovereignties, blew up the existing rules of diplomacy and the principle of non-interference. Under the principles of democracy Pandora's box was opened, which showed that the precedent has been the rule. For political benefits, short-term interests in the region was sacrificed most important principle of international law. Violation of the principles of one party has generated a backlash and resulted in direct rivalry and confrontation between Russia and the West. The conclusion is the international law is replaced by the "right of the strongest" on the basis of which any country can violate the principle of sovereignty. This problem poses a great danger not only in Europe but in the world. New regional conflicts risk escalate into full-scale war, the redistribution of spheres of influence.

С. А. Семенов

MOCK MARRIAGE IN RUSSIA

The influx of migrants from former Soviet republics has long been out of control. It is understandable because the illegals receive "assistance" from employees of the involved agencies and ordinary citizens. The latter marry illegals without love, but with profit and no liability under law.

Each year the quota for migrant workers decreases, while the number of migrants, for some reason, grows. The number of marriages between Russian citizens and foreigners has also been growing. The most "enviable" suitors, according to the reports of registry offices, are not respectable Europeans but rather residents of the former Soviet republics.

One can certainly believe in brotherly love and longing for a common past, but the facts speak about the motives far more mundane. For example, 80 per cent of applications to the Federal Migration Service for temporary residence permits are filed on the basis of registered marriages of Russians with foreigners. Most of these marriages fail within one year, yet 15 per cent of newlyweds arouse suspicion among officials with excessive age difference or other misalliance.

Fraudulent marriage is not an invention of the recent years, but a proven system for achieving personal goals. One party gets the money, while the other solves issues with the registration. Meeting a future spouse in this case is much easier and faster than it would be for a traditional family. There is an incredible number of web sites and matchmakers represented by the registrar's office employees. The best thing for both parties is that Russian law does not imply any penalties for a fraudulent marriage, for which U.S. citizens, for example, face a serious punishment of hundreds of thousands of dollars in fines and even imprisonment of up to 10 years (which does not prevent them from happening altogether).

In Russia, mock marriage is considered null and void in court according to Art. 170 of the Civil Code of the RF and Art. 27 of the Family Code as well as cancellation of the marriage records (unlike the procedure of divorce).

A bill regarding this issue has been submitted to the State Duma. It may well be that in the Criminal Code of the Russian Federation there will be an article about criminal liability for obtaining Russian citizenship by a foreign citizen by entering into a marriage of convenience.

In case of commission of such an offence by a migrant, the law specifies punishment as a fine from 100 to 300 thousand rubles or imprisonment for a period of up to three years.

In fact, for the Russians (and not only for them) mock marriage is as an easy way to make money. If one does not register a new husband or wife in their apartment, then the risk is minimal. Some get so engaged in their "business" that they forget about the elementary self-preservation. Several years ago, a resident of Moscow, who married citizens of the former Soviet republics three times, was shot. After receiving the money, he would annul the marriage. He would state that the woman married him having no intention to start a family.

It is fair to say that Russia is not the only country where fraudulent marriages are popular. In Britain, for example, recently a scandal broke out when it became obvious that a pastor of the county of Sussex had managed to marry nearly 400 couples in four years. The Europeans married mostly Africans who were then automatically given the right to live and work in the UK.

To avoid these situations in the future, the Church of England has decided that if a future spouse is not an EU citizen, then before the wedding, they will have to pay £100 fee and undergo a check to prove their financial stability, as well as attend a number of training sessions. In addition, non-Europeans must be approved by the pastor. The rule will affect all non-citizens of the European Union, including residents of African countries as well as wealthy Australians and Americans.

It is too early to speak about the effectiveness of these measures, but the experience of other countries shows that no one has been able to come up with the panacea for the marriages. In the U. S. spouses whose marriage causes suspicion have to go through many hours of interviews, responding to a lot of tricky, even intimate questions. In addition, the authorities do not avoid questioning neighbors, parents and coworkers. In France, Germany and Holland the supervision is even stricter, and guards regularly and without warning visit and check whether the newlyweds' house looks like a family nest. Yet, even with such meticulous measures in Europe and the United States cases of massive fraud are discovered every year. Should we expect that the measures invented by Russia will give a serious result?

В. В. Сергеева

REPENTANCE AS A PSYCHO-LEGAL CATEGORY ELIMINATING THE NEED FOR A CRIMINAL PENALTY

As it is known, law is a set of special legal rules, enforceable by the courts, regulating the government of a state, relationship between the organs of government and the subjects of the state, and the relationship or conduct of subjects towards each other. Actually, it is a rule or body of rules made by the legislature for keeping order in one state.

The system of punishment is one of the most important parts of Russian law, especially, Russian criminal law. Speaking about the system of punishment we should take into consideration such kind of problem as the release of the person from criminal punishment, which connected with the repentance. So, I would like to tell you about repentance in the hole & how the mechanism of repentance influences psychology of the criminal after the committed crime.

What does repentance mean?

Repentance is the activity of reviewing one's actions and feeling contrition. It generally involves a commitment to personal change and resolving to live a more responsible and humane life. The practice of repentance plays an important role in the soteriological doctrines of the world's major religions.

Two different points of view. To answer this important question we should speak about two different points of view. On the one hand there is an opinion that repentance is not needed at all in the system of Russian criminal law. People, who support this point of view suppose that criminal responsibility loses its purpose with the use of repentance. Criminal responsibility consists of the system of punishment, which is the most important part of it. If the court releases each criminal from criminal responsibility instead of punish him / her, criminal responsibility will be nothing, but just two words without any application. To confirm this point of view we can remember a famous phrase from the famous Russian film: "A thief must be imprisoned!" It means that there are those repentant criminals, who cannot correct their behavior without being punished. And it is necessary to add that according to this point of view a theory called retribution was created, which means punishment inflicted on someone as vengeance for a wrong or a criminal act.

On the other hand, there are people, who suppose that prison & its strict regime cannot correct inmates' behavior. In this case only compassion, humanity & repentance can change the criminal. Staying in prison makes criminals angry & their system of value becomes distorted. People, who

support this point of view used to be called legists. So, legists usually contrast repentance & regret. The difference between those words is really great.

Regret is a negative conscious and emotional reaction to personal past acts and behaviors. Regret is often expressed by the term "sorry" whereas "I'm sorry" can express both regret and sympathy. Regret is often a feeling of sadness, shame, embarrassment, depression, annoyance, or guilt, after one persons acts in a manner and later wishes not to have done such a thing. When we speak about regret we should remember that it is emotional reaction, but not real actions aimed at changing past actions. Whereas, the repentance means the activity, which is aimed at correcting his behavior to the better side. So, a repentant crime is a person, who not only regrets, but also makes efforts to change for the better.

Some words about F. M. Dostoevsky's position. To confirm point of view of legists we can remember a position of a famous Russian writer F. M. Dostoevsky in his novel "Crime & punishment". Of course, this position cannot be called scientifically justified, but it precisely shows some aspects of criminal psychology.

The main hero of the novel is Rodion Raskolnikov. According to the storyline of the novel Raskolnikov committed a serious crime. He killed two people. During the investigation he regretted not about killed people & his illegal actions towards them, but about his repentance. It means that he did not realize what he had committed & his system of value is distorted. He did not understand that he killed two people, because human's life means nothing for him.

So, according to Dostoevsky there cannot be a repentance without atonement, and a form of atonement is suffering from punishment.

Finally, it is important to mention that punishment and repentance should be considered as a part of uniform system of the criminal liability, one of which is– compulsory, and another one is — voluntary; and in each case the court should define, whether it is possible at involvement of the person to take into consideration his repentance (whether it is repentance as that or banal regret), whether there is a need of criminal punishment of the person taking into account this repentance, in what degree this person is admissible to inflict to criminal punishment.

Г. А. Слатимов

THE PROBLEM OF ILLICIT DRUG TRAFFICKING AND DRUG CONTROL IN DIFFERENT COUNTRIES OF THE WORLD

At present the problem of drug trafficking becomes more and more actual. This is one of the key problems in the society. This is a great disaster in different countries of the world. For example, in Russia there are more than 4 million people who are considered to be addicted to drugs. In the USA "over the last fifty years there has been a massive expansion of the psychiatric entreprise"[1]. The situation is especially tragical because most of those people are young. There are teenagers and even children among them.

Interpol estimates that the political regimes in eleven countries around the world can fall under the pressure of the drug mafia. At present, thanks to its international character drug business responds to changes in the world faster than legal business.

It is also important to notice that drug business uses globalization to expand the trafficking networks in all directions.

The study of the drug problem on the world level helps to understand the influence of territorial units on the global drug situation. Because of the climatic, historical, social and economic reasons, the role of some territorial units of the world is especially important.

Asia is traditionally the largest producer of opium. South America is the largest producer of cocaine. In Africa marihuana is the most popular drug.

The study of the drug problem on the national level helps to understand the role of smaller territorial units, for example, states or regions.

Speaking about drug business today we can make the following classification:

1. States which are the world's largest producers of drugs on the basis of their own plants (for example, Afghanistan, Myanma, Colombia).

2. States which are the largest producers of drugs used in medicine (for example, Poland, Belgium, India).

3. States which are close to the largest producers of drugs. On their territory there are no opportunities for producing their own drugs. Such states are usually transit states which are situated on the way to the world markets (for example, Venezuela, Tajikistan, Kazakhstan, China).

[1] *Kirk S. A., Gomory T.* Mad Science: Psychiatric Coercion, Diagnosis and Drugs. Transaction Publishers, 2013. P. 8.

4. States which distribute drugs in the world market. They have developed chemical industry and transport infrastructure (for example, Russia, the USA).

5. States, which consume contraband drugs. They have large markets and economic relations with the producing countries and transit countries (for example, the UK, the USA).

6. States and territories which are neutral in the international drug trafficking (for example, Greenland, Vatican and some countries untouched by civilization).

7. States of mixed type are the states where the drug situation combines two or more attributes of these groups given in the classification (for example, the USA, the Netherlands, Russia).

The number of these states is growing every year. It also concerns countries which produce drugs for medical purposes (such as morphine). R. J. Miller writes in his book: "Morphine is the most significant chemical substance mankind has ever encountered. So ancient that remains of poppies have been found in Neolithic tombs, it is the most effective drug ever discovered for treating pain"[1].

It shows the process of globalization of states and regions on the basis of international crime (for example: transit or drug trade).

At present, the difference in this classification between states-producers, states-consumers and transit states is not so categorical.

Almost in all countries there are criminal sanctions for drug trafficking except for the Netherlands and two states in the USA: Washington and Colorado where "soft drugs" are legal because they are less dangerous than "hard drugs".

"Soft drugs" are even less dangerous than alcohol. In North Korea the position of "soft drugs" is not regulated. It means: "soft drugs" are not allowed but at the same time they are not prohibited. In some Muslim countries alcohol is prohibited and trade of alcohol is equivalent to drug trade.

For trade of "hard drugs" there are criminal sanctions in all countries. In China, Iran, Singapore and some other countries, criminal sanctions for drug trafficking are especially hard (for example: the maximum punishment). In Russia, the maximum punishment for drug trafficking is life sentence.

It is important to say that all the criminal sanctions don't stop the process of drug trafficking. At present, the situation in the world is complicated. Especially if we take into account the fact that drug abuse provokes cancer. "In 2011, nearly 13 million people are diagnosed with cancer and hence, cancer continues to be a great threat to people now."[2]

[1] *Miller R. J.* Drugged: The Science and Culture behind Psychotropic Drugs. Oxford University Press, 2013. P. 24.

[2] *Gowder S. J.* Pharmacology and Therapeutics. Qassim University, 2014. P. 42.

I would like to finish my report with the words of Evan Wood, one of the British scientists who studied the problem of drugs in the modern world:

"In fact, the war on drugs is lost. We should understand that all the efforts to prohibit drugs BY FORCE cannot give any positive results."[1]

At the same time, there are scientists and lawyers who have a more optimistic opinion. For example, they say, we can solve this problem with the help of education because the problem of drugs is mostly based on ignorance of people.

[1] Ibid. P. 68.

В. И. Харин

THE LAW OF ARMED CONFLICT

The topic that I have chosen is very relevant nowadays. I would like to point out the main law parts that are ignored. As you might guess I bear in mind the Ukraine. The international law of armed conflict was broken several times in the Ukraine. So, for example there is a basic provision in the law which prohibits casualties of civilian population. It takes place in Eastern Ukraine.

Historical examples and cases. Even in very ancient times the war was waged in accordance with practices and agreements containing humanitarian elements designed to protect those taking part in it. For example, the Indian epic Mahabharata (c. 400 BC) and the Laws of Manu, the first Caliph Abu Bakr's military law (c. 632 AD) and the medieval code of honour the Bushi-Do.

The need for compliance: 1) individual responsibility; 2) commander's responsibility; 3) state responsibility.

How the law evolved and its main components. The law of armed conflict is made up of customary international law and treaty law.

Customary International Law. The law of armed conflict is clearly based on customs and traditions as well as experience of armed conflicts throughout the ages. A good example is the universal ban on poisoning as a form of warfare, which dates back to ancient times.

Treaty Law is based on Geneva law; Hague law; Developments in treaty law.

When does the law apply? The law of armed conflict applies even if there has been no formal declaration of war! Why do we refer to a conflict and not a war? The 1949 Geneva Conventions adopted a more general term "an armed conflict" deliberately to cover the complete range of situations and to avoid legal arguments over the exact definition of the war. Conflicts include the following concepts: an armed conflict, an international armed conflict, non-international armed conflicts also known as internal armed conflicts, lower levels of internal violence.

The basic principles of the law. Just as military operations have principles of attack, defence, withdrawal, etc., so does the law of armed conflict contain a set of clearly defined principles.

And so, let's proceed directly to the basic principles:

1. istinction.
2. Proportionality.
3. Military necessity.
4. Limitation.
5. Good faith.
6. Humane treatment and non-discrimination.
7. The principles of the law versus the realities of combat.

In conclusion, I would like to add that the law of armed conflict was born on a battlefield. Its aim is to provide protection for vifctims of the conflict and to establish rules for the conduct of military operations, good practical rules with which you are legally obliged to comply as members of the profession of arms.

Е. Г. Царева

THE EMERGENCE AND EVOLUTION OF THE DEATH PENALTY IN THE USA

The history of the death penalty in the United States dates back to the colonial period. It is considered that the practice of this form of punishment was brought to the New World by colonists from Europe. This type of punishment was first used in 1608 in Jamestown (Virginia) in respect of Captain George Kendall (Captain George Kendall). Kendall was accused of spying for the Spanish and executed. Already in 1612 in Virginia Governor Thomas Dale (Thomas Dale) introduced a set of laws were imposed the death penalty was included for even minor crimes (theft of grapes, killing chickens, and trading with the Indians). In 1630, for the first time in Massachusetts the death penalty was made. In 1665, New York authorities adopted a series of laws called The Duke's Laws, which provided the death penalty for beating parents, as well as for the failure of the "true God".

The administration of justice in the United States is mainly the prerogative of state and local authorities. Therefore, the application of the death penalty is based primarily on the criminal law of the state, which usually provides the death penalty for an aggravated murder or for a murder committed in the course of another serious crime. However, laws define crimes and those who sentenced to the death penalty differently in different states. The order of its purpose and execution may be also different.

In the early XIXth century, there were significant changes in the system of punishment:

1. In some states, the prison system was built, list of crimes, regarded as serious and very serious, was reduced.

2. The abolition of capital punishment occurs in several states. Michigan was the first state in which in 1847 the death penalty was abolished for all crimes except treason, after it became clear that the accused was executed, being innocent. However, in most states, the death penalty occurred. In addition, during the second half of the XIXth century (especially during the Civil War) in addition to the official methods of capital punishment so-called Lynching court (named for a landowner from Virginia Charles Lynch, who executed offenders without trial) became widespread.

In the early XXth century, there was a number of reforms in the sphere of justice and as a result from 1907 to 1917. 6 states abolished the death penalty, and 3 States limited its extension to two crimes: treason and first degree murder (murder of officer), however, five of the six states subsequently reinstated the death penalty in their territory.

In 1935, the US had a record number of executions in the history of the country — 199 executions. In 1972, the moratorium was introduced on the death penalty in the US, as it was deemed unconstitutional.

Nowadays, the death penalty is permitted by the criminal law in 34 states, and also may be appointed by the federal government and the military tribunal. The last state abolished the death penalty as a form of punishment is Illinois.

Crimes for which the punishment is the death penalty vary from state to state.

Analyzed all these facts, we can draw the following conclusion: in all states first-degree murder, aggravated murder, willful killing, rape and subsequent murder are punished by death penalty. In 12 states criminals are executed only for the first degree murder; in 4 states the death penalty is used for a person committed treason. In addition, in some states the death penalty is used for the perpetrators of violence against women (rape, rape and murder) and children (rape of a child under the age of 16, kidnapping resulting in death, kidnapping with bodily harm, etc.); in some states penalty is a punishment for perjury, resulted by the execution of an innocent man.

In the United States there are 5 ways of execution: lethal injection, electric chair, gas chamber, hanging, firing squad.

Methods of capital punishment vary from state to state. However, on December 31, 2009, all states approved the use of lethal injection as the most humane and painless method of execution. In turn, 16 states approved the use of injection as an alternative method of execution.

An interesting fact is that according to the organization Death Penalty Information Center, based on the report of the Federal Bureau of Investigation (FBI) in states where there is a moratorium on the death penalty or it was canceled, the number of crimes is lower than in states where this punishment takes place.

Speaking about the reasons for this phenomenon, scientists say that various parameters such as the level of socio-economic development of the state; the level of life; the correlation of white Americans, African Americans and other groups; the location of the state and other parameters must be taken into account.

So, it can be noted that the death penalty has been existing in the United States for several centuries, and during that time it has acquired its features and characteristics.

А. В. Цюпа

THE PRINCIPLE OF GOOD FAITH IN CIVIL LAW AND ITS IMPACT ON CIVIL RELATIONS

A Principle is a fundamental basis of any sphere of human activity including branches of law. Principles of law are compulsory rules of conduct that are universal, significant and are embodied in various legal acts. They are imperative and enable to define the content of the legal regulation and serve as a criterion of the legality of the behavior and activities of the parties involved[1].

Article 1 of the Civil Code of the Russian Federation (the Civil Code) regulates the basic principles of civil rights such as equality of parties, inviolability of property, right to property, freedom of contract, inadmissibility of arbitrary interference in private affairs, defense of civil rights, etc. All of them are legislated and have been implemented since the adoption of Part 1 of the Civil Code. Practice showed a legal binding of the principle of good faith as well. March 1, 2013 the Federal Law "On Amendments to chapters 1, 2, 3 and 4 of the Civil Code of the Russian Federation" was introduced. One of the major changes is the new version of Art. 1 of the Civil Code "Basic Principles of Civil Legislation". Now, among others a new principle is set — the principle of good faith. This innovation was the impetus for the development of the general rule in other items of the Civil Code.

In the history of Russian law we can observe this principle in the Russian Pravda. According to this document, if the owner saw his thing from another person, he is entitled to demand it from him. If a person claims that this thing was bought by him / her in the Market Place, it was necessary to find the person who sold it or to prove his own good faith, involving witnesses and a tax collector, who supervised the legitimacy of trade. In any case, the owner has the right to pick up your item without any compensation[2].

In the Dictionary of Russian language you can see such a definition of "conscientious" as "honestly fulfilling his / her obligations" or "truthful, generous, honest". However, in the civil sense it is not quite appropriate to identify good faith only with decency and honesty. We agree with L. I. Petrazhitsky, who noted that the person's decency does not vanish with the presentation of the claim for the recovery of allegedly stolen things. And

[1] См.: *Червонюк В. И.* Элементарные начала общей теории права : учеб. пособие для вузов. М. : КолосС, 2003. С. 51.

[2] См.: *Попова А. В.* Понятие принципа добросовестности в обязательственном праве: европейские и российские подходы // Юрист. 2005. № 9. С. 2–6.

there is nothing dishonorable in the fact that a defaulting owner continues to use the claimed property and do not concede it to someone who has yet to prove his right to that thing.

It appears that it is not necessary to separate the concept of morality from the concept of good faith. V. P. Gribanov claimed that the term means the duty to follow the moral order.

In modern society the concept of good faith is widely used both in everyday life and jurisprudence for the behavior evaluation.

Several reasons led to the need for in the Civil Code amendments aimed at consolidating the principle of good faith. The first reason was that the links to good faith as a subjective criterion for evaluating the behavior of civil rights existed in the Civil Code were insufficient for effective regulation. Moreover, this principle is consistent with the concept of contemporary legal doctrine. The legislation of most countries with developed legal systems provides it. For example, Art. 5 of the Constitution of Greece, Art. 762 of the Civil Code, Portugal and others.

By virtue of the provisions in force the category of good faith was given the role of a backup mechanism that establishes the rights and obligations of participants in civil relations. In other words, the principle of good faith used to be applied when the respective rights and obligations were not regulated by law. For example, this principle was applied in assessing the legality of actions of persons acting on behalf of the legal person, as a condition of protecting the rights of the owner in case of vindication claim and as the basis of acquisition of ownership by acquisitive prescription.

Law № 302-FZ, consolidates the principle of good faith as one of the basic principles of civil law and refers to the duty of members of civil relations to act with good faith in establishing, implementing and protecting civil rights and duties.

In order to develop the principle of good faith a norm, suggesting avoidance of untruth exercise of civil rights was introduced into Art. 10 of the Civil Code. Under this provision, if a person carries out his / her civil rights without good faith, the court considering the nature and consequences of law abuse may deny him the right of protection and may apply other measures provided by law. If untruth exercise of civil rights led to a violation of the rights of another person, the latter is entitled to claim compensation for damages caused to him.

Crucial to consistent fixation of the principle of good faith into the Civil Code is the introduction of a presumption of good faith. Paragraph 3 of Art. 10 of the Civil Code states that good faith of civil relations participants and the reasonableness of their actions are assumed. Case study has shown that the courts in civil cases often make reference to this provision of the legislation.

An important problem associated with the definition of the principle of good faith for the modern law as a whole, was the question of whether to limit its effect only by civil law or to recognize the interdisciplinary nature of this principle. One can cite the rules of civil procedure law in favor of the cross-sectoral nature. In Art. 35 of Civil Procedure Code of the Russian Federation the obligation of persons involved in the case to use all their rights in good faith is established.

In the Russian civil law there are a number of rules in which legislators intentionally indicate the insignificance of the contract contrary to the principle of good faith. Most often, it is a transaction where a high probability of abuse of one party exists. For example, the clause of permanent rent contract which allows the rent payer to refuse to repurchase property is insignificant (paragraph 3, Art. 592 Civil Code); or the contract on elimination or limitation of liability for willful violation of the obligation is insignificant (paragraph 4, Art. 401 Civil Code).

The principle of good faith was recently introduced into the civil law, although, the term itself has been repeatedly involved in the Civil Code. Due to its normative securing civil relations participants have the opportunity to use more civil measures of protection on this basis.

It should be noted that the introduction of this principle in civil law is a definite positive sign. The advantage of the Civil Code is a further development of the principle of good faith in such civil law institutions as state registration of legal persons and state registration of rights to immovable property and transactions with it. Furthermore, due to their relevance noteworthy are the project norms of the Civil Code that are not based on the principle of good faith. These are: the provision on the impossibility of invalidation of transaction in case of unfair behavior of a person claiming the invalidity; recognition as deception of intentional omission of facts about the circumstances on which the person was to report with good faith which was required under the terms of turnover as the basis of invalidity of the transaction; introduction of the article which obligates the parties to act in good faith in negotiations[1].

All in all, we can highlight the following. Regulatory consolidation of the principle of good faith has been one of the main challenges in reforming the Russian civil law. This innovation has become a fundamental and important for the legislation. Good faith is related to the subjective side of public relations. The given principle is an estimate principle. It enables the participants of civil circulation to regulate their relationship and allows the court to decide the case considering the specific situation.

[1] См.: *Котова-Смоленская А.* Реформа ГК дала принципу добросовестности вторую жизнь // Ваш партнер-консультант. 2013. № 11. С. 4.

А. А. Юрченко

POACHING

Poaching is a really significant topic which is close to everyone as we are all interested in saving treasures of the nature for our children, and preventing plundering of natural pantry. Thus, the question is *Should punishment for poaching be toughened?* In order to answer it, I'll try to consider different topics, which you can see in my outline.

Firstly, I'll reveal the content of the term poaching. After that I'll take a look at reasons of poaching. Secondly, you'll see which punishment a person can be sentenced to if he commits such actions. Then we'll examine possible measures to reduce this undesirable social phenomenon. In conclusion, I'll try to argue that punishment for poaching should not be toughened. Oh, of course then you will see a list of sources that might be useful for those who would like to improve their knowledge about poaching.

So, let's start with what poaching is. In fact, there is no legal definition of this term, but if we take provisions of the Criminal and Administrative Codes in consideration, we'll define poaching as illegal hunting, fishing, felling of forests and collecting plants. Let's describe in detail conditions, the presence of which allows treating actions as illegal. Such conditions are: absence of a license, excess of production quotas, commission of illegal actions in the prohibited period of time (during the breeding season), with prohibited equipment (dynamite, nets, poisons — everything that leads to mass death or cause harm to nature) in a prohibited way. Obtaining will also be illegal if its object is protected by the law (listed in the Red Book) or if it takes place in protected areas (in reserves, national parks for example). We have investigated the main features of poaching, but according to the logic, in order to fight something successfully, we should first consider its reasons.

I'll describe it in brief. Ignorance of the law is the main reason, which makes ordinary people poaching. It is easy to prove: I suppose that everyone in this audience does know that the lily of the valley is listed in the Red Book, however, do you know that more than half of the mushrooms which can be found in the forests of the Moscow region are listed in the local Red Book, and collecting them is treated as poaching. Another reason is a lack of culture of obtaining. It seems ridiculous to go to the local environmental protection service and receive permission for simple chop sticks for the fire, but we should do that according to law. A number of things create conditions under which hunters and fishers, especially novice in poaching, get involved. They are as following. A complicated procedure of obtaining

licenses (you need to fill in a number of documents every season, no matter what the legally permitted quota is, etc.) But in fact, almost all legal restrictions are conditioned by the reasonable care about the nature. Another reason implies that actions, which are treated as poaching, are part of the original way of life for local people. For example, Kalmyks who live on the banks of the Yenisei use nets for fishing, but it is illegal equipment. All the mentioned above things were causes of minor acts of poaching which are not very destructive for the nature. What is really destructive is poaching as a business, as a profitable way of earning money. I think you've seen the news about an arrested fishing-smack or illegal felling of forests in Siberia. Such actions are very painful problems for our environment. And the last thing (not reason, but type of poaching) which always causes social discontent is VIP-hunting. Maybe you've heard about crushing of a helicopter in one of the reserves in Altay. Local authorities and businessmen who hunted illegally were on board. So, we have examined reasons, let's now consider punishment for poaching.

According to the Russian law, poaching can be considered an administrative or a criminal offence. Let's start with punishment for delinquency. As it is stated in the Russian Code of Administrative Offences, poaching can be punished by a fine (from 500 to 200,000 rubles); by disqualification of a license (for 2 years maximum) and by confiscation of equipment (such as nets, boats, guns and so on). As far as a criminal offence is concerned, we can say that punishment, provided in the Criminal Code, is strict. It includes: a fine (from 100,000 to 1,000,000 rubles); mandatory work (from 480 hours to two years); an arrest (for six month maximum) and imprisonment of up to six years. As you can see, we have a flexible, multi-level system of punishment. Nevertheless, it does not work properly. It happens because of different reasons, yet the main one is that punishment fights consequences but not the causes of this situation.

I see you are at a loss whether there are ways to overcome this situation. In fact there are. That is why we should examine possible measures to reduce poaching. The volume of these measures is completely exhausted by two types: punitive and facilitating. So, the punitive instruments will be considered first. According to Amirkhan Amirkhanov, Deputy Head of Rosprirodnadzor, toughening and differentiation of punishment will definitely have a deterrent effect. I'd like to draw your attention to the fact that punishment for poaching was once toughened, but nothing has changed so far. The second measure of this type was proposed by Deputy Minister of Natural Resources and Environment Igor Maidanov. It includes introducing punishment for buying and selling illegally obtained units, and as it fights profitability of poaching, it must be effective, because nobody will buy any illegally obtained units under pain of imprisonment. Continuing listing of reasonable steps aimed at reducing poaching we come to the facilitating ones. They are usually proposed by local authorities, heads of social organizations and ordinary people. Such steps are: increase of legal awareness and the culture of hunting; providing special assistance to the local population; creating more comfortable conditions for legal obtaining.

So, now I'll try to summarize all arguments and draw a conclusion. Illegal actions which are treated as poaching are a real problem for the Russian environment nowadays. Poaching has a wide range of reasons, from profitability to simple ignorance of the law. Despite of carefully prescribed rules and various types of punishment, the situation leaves much to be desired. Thus, we should not follow the way of toughening punishment for poaching, but the way of prevention and facilitating.

Т. Д. Яковицкая

LAWYER IS A VERY SERIOUS PROFESSION

Lawyer is a very serious profession, but if you delve and look around the positive side you can find funny moments even in our specialty. There are a lot of countries, people, traditions in our world. Sometimes things that are mundane for foreigners seem strange to us. I would like to tell you about funny laws of different countries.

Please, do not take this article as a joke as all these laws are in force. You can go to jail for a very long time for violating them.

England. Members of parliament are forbidden to enter the House of Commons in the Shell.

Scotland. If someone knocks at your house and asks for permission to use your toilet seat, you must allow him to enter.

Chinese. Chinese law is not so much funny as sad. Rescue a drowning person is unlawful because it is an interference with his fate.

Singapore. I think we need to borrow this kind of punishment to make our country cleaner. If the person is caught three times because he throws the garbage on the street, the violator of the law is obliged to wash the streets on Sunday putting on the plate "I — garbage". Such penalties are broadcast on local television.

USA, Mac Laugh. It is forbidden to rinse false teeth in a public drinking fountain.

USA, Wichita. Relationships between fathers and children are relevant. Well, if they are regulated by law.

The father has no right to threaten gun gentlemen of his daughter.

USA, Minnesota. 1. The law prohibits hanging male and female underwear on a rope. 2. It is Illegal to sleep naked.

USA, Kresskil. It is a law for the kindest people. All cats must wear three bells to warn birds of their appearance.

USA, West Virginia. Animals killed in an accident on the road are allowed to be taken home to cook for dinner. Reason: The law was passed in order to save money on clearing the roads. In addition, edible deer were most likely to be under the wheels of cars.

USA, Los Angeles. It is prohibited licking frogs. Reason: The law was passed after urban teens found that the skin of some frogs contains hallucinogens. Addicts caught frogs and diligently licked them, and the police could not do anything with it.

USA, California. The public bath is banned. Reason: This law was established in the late 1980s, when it was found that the majority of AIDS patients were infected in public baths. The law was passed to stop the epidemic.

Norco. In Norco law prohibits residents to keep rhinos in the house. Reason: Norco has an unofficial title of "the city of unusual home animals". Residents of the city keep monitor lizards, crocodiles, pigs, not mention the traditional dogs, cats, rabbits, hamsters. Sometimes pets run away from home. Once it happened to the rhino calf that caused heavy damage to local gardens and lawns.

Mobile. In Mobile men are forbidden to howl like a wolf in public places. Reason: Earlier in the evening, soldiers from the military base were going to the local bars and scary howling, imitating wolves that were sewn on their sleeves and that scary annoyed citizens. The military base was closed, but the law remained. In the same city, women are forbidden to wear shoes with stiletto heels. Reason: One woman in high heels came the spillway and a grille injured her leg. It was decided to blame the municipality that equipped the streets with such dangerous devices, she went to court and won the case. As a result, to prevent the occurrence of similar lawsuits in the future the city fathers decided that it was cheaper to adopt a special law than change the lattice.

Overland Park. In Overland Park it is forbidden to organize a demonstration at the funeral. Reason: The law was passed because of a radical Christian who regularly appeared at the funeral of homosexuals with posters, which stated that the deceased deserved to die, and God punished him. In West Virginia, students cannot attend school if they smell onions. Reason: There is a certain kind of wild onion, which has extremely strong odor. The smell is felt even a few days after eating.

In conclusion, I want to say that there are a lot of sad moments in our life but we must never lose heart but do our best to find pluses. Even in a serious legal profession you can find a lot of fun to cheer yourself up.

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