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Тел.: +7 (495) 691-87-81.
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10, Znamenka str., Moscow, 119019
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Phone: +7 (495) 691-87-81
http://igpran.ru/trudy
e-mail: trudy@igpran.ru

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ABSTRACTS AND KEY-WORDS

THE CONCEPT OF «PARLIAMENTARISM» IN THE MODERN RUSSIAN SCIENCE

Yury L. Shul'zhenko

Institute of State and Law, Russian Academy of Sciences
10, Znamenka str., Moscow 119019, Russian Federation
E-mail: constitution@igpran.ru

Relevant to the category of «parliamentarism» in different periods of our country's development was ambiguous. In pre-revolutionary definitions of parliamentarism attention was focused on the relationship between Parliament and government, on the fact that the development of parliamentarism and its nature are connected with the bringing to Parliament of a number of Executive functions, aimed primarily at enhancing its real impact on the government. As pointed out by Russian scientists, this is a real effect, which is largely based on the government (Ministers) dependence from the trust given to them by Parliament in order to achieve trust and harmony between them. Other definitions of the Parliament (through political responsibility, the organization of elections, etc.) were rare.

In the Soviet period, the parliamentary system was denied both in practical and in theoretical terms. At the same time bourgeois parliamentarism has become the main target of sharp criticism. Its definitions were concerned, first and foremost, at the relationship between Parliament and the Executive authority, its ruling, privileged position.

New stage of socio-economic development after 1991 in the Russian Federation began the process of returning, appealing to a number of institutions, categories that have shown its vitality, necessity in foreign countries, especially in highly developed, but also occurred in varying degrees in pre-revolutionary Russia. This fully applies to the parliamentary system. In fact, after years of denial and oblivion it is reborn.

The analysis shows significant differences of the modern domestic approaches to the concept of parliamentarism. They are characterized by the following features. First, the assignment of the parliamentary system to a greater or lesser extent to one or the other state-legal categories or merging such categories (governance, political system, political system, political regime, etc.). Second, the entrenchment as the fundamental principle of the occurrence, existence, the functioning of the parliamentary system, the rule of Parliament. Third, consolidation of other basics of the creation, existence, the functioning of parliamentary government (separation of powers, the rule of law, etc.). Fourth, the actual removal (zavualirovannost) of previous definitions of the essence of parliamentarism associated with the relations "Parliament —

Government", dependence, control of the first over the latter. Fifthly, the expansion of forms of expression of the parliamentary system by adding new categories (elections, status of deputies, the representative character of Parliament, etc.). It should also be noted that in the vast majority of definitions is clearly highlighted and allocated such characteristic as the supremacy of Parliament. We shall note that it was common in a greater or lesser extent for the definitions of pre-revolutionary and the Soviet period. Hence, the parliamentary system can be most successfully, succinctly defined as the supremacy of Parliament.

🗝 Parliamentarism, popular representation. Separation of powers, executive power, political party, government, constitution.

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AUTHOR'S INFO:

Yury L. Shul'zhenko — Doctor of Legal Sciences, Professor, Honored Lawyer of the Russian Federation, Chair of the Constitutional Law Department, Institute of State and Law, Russian Academy of Sciences.

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CONTINUITY IN THE LEGISLATIVE REGULATION OF RELATIONS THROUGH CIVIL LAW BEFORE AND AFTER THE REVOLUTION

Tatiana E. Novitskaya

Faculty of Law, Lomonosov Moscow State University
1—13, Leninskie Gory, Moscow 119019 GSP-1, Russian Federation
E-mail: tnov2001@mail.ru

The development of the legislative regulation of relations through civil law can be characterized by continuity, due to the fact that Soviet legislation inherited many pre-revolutionary civil law institutions. Despite the distinct demarcation of civil law regulation in the pre- and post-revolutionary periods, no such breach occurred in the development of national civil legislation. In actuality, a significant number of pre-revolutionary legal rules were adopted by the Soviet power through decrees accepting the legal ideas of the previous period; thus allowing for their continued existence in compliance with the new polity, even though all of the pre-revolutionary standards were explicitly denied for propaganda purposes. For example, the RSFSR, 1922 Civil Code implemented the pre-revolutionary doctrine of legal ability, emphasizing state will as a factor in the establishment and the interruption of legal ability, as opposed to the natural law conception of its nature. Soviet legislation also implemented many rules from international law, such as those concerning maritime law. Furthermore, there is a marked continuity in the concept of property law in terms of issues related to subjects and provisions under which property rights could be terminated, notably through an order of requisitions. Despite differences which existed among certain rules, both the pre-revolutionary and post-revolutionary Soviet legislations are characterized by continuity in the regulation of contractual obligations including sales contracts, delivery contracts, the rights to inventions, etc. This continuity in legislative regulation existed due to the fact that the Soviet state partly preserved commodity-money relations and was involved in international economic contacts. It is worth noting that there was also a significant human factor involved; the Soviet state apparatus was composed of people who received their legal education before the 1917 Revolution.

History of Russian law, continuity, civil law, property law, obligation law, patent law.

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AUTHOR'S INFO:

Tatiana E. Novitskaya — Doctor of Legal Sciences, Professor, Professor of the

History of State and Law Department, Faculty of Law, Lomonosov Moscow State University.

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SALE AS OBLIGATION IN THE LIGHT OF THE HISTORY AND PHYLOSOPHY OF CIVIL LAW

Vladimir A. Slyshchenkov

Law Department, Moscow School of Social and Economic Sciences
82, building 2, prospect Vernadskogo, Moscow 119571, Russian Federation
E-mail: vslyshchenkov@universitas.ru

There is a deep distinction between cash sale, i.e. exchange of goods for ready money without formation of obligation, and obligational or contractual sale which consists in rights and duties aimed at performance of a contract. Like a primitive non-monetary exchange a cash sale functions as two reciprocal donations. Any relationship of this kind falls into an established routine without being tested for reasonableness or correctness, each party expresses its own arbitrariness hence serves only as a means for the other. A transition from cash sale to obligational sale is a transition from duty to freedom as a basis of the relationship. Non-monetary exchange of goods for goods does not imply comparison of value of things but cash sale as exchange of goods for money equalizes the thing sold with the purchase price hence equalizes the seller and the purchaser. Obligational sale realizes this equality as equality in freedom by way of determining contractual rights and duties. Freedom has a form of rights and duties: a contract of sale created by Roman jurisprudence for the first time subordinated relationships between private persons to idea of freedom. Development of obligational sale generally corresponds to development of social freedom.

The third part of the article published in this issue describes a gradual transition in Russian law to obligational sale during the period from XVIII century to the beginning of XX century. Obligational sale establishes itself first in the sphere of turnover of movables only in XIX century not without influence of West European legal regulations. A forward sale in its capacity of either an earnest agreement or a preliminary contract partially made up for want of contract of sale of immovables. Draft Civil Code of 1905 provided both for consensual and for real contract of sale for conclusion of which a simple agreement does not suffice but delivery of property is required. A real construction of sale continued the tradition of cash sale in domestic law.

Cash sale, contract of sale, history of sale, donation, exchange, obligation, duty and liability, freedom, Russkaya Pravda, birch manuscripts.

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AUTHOR'S INFO:

Vladimir A. Slyshchenkov — Candidate of Legal Sciences, Ph. D. in Law, Chair of the Comparative Law Department, Moscow School of Social and Economic Sciences.

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TO THE 100TH ANNIVERSARY OF THE OCTOBER REVOLUTION: THE DEVELOPMENT OF LEGISLATION ON CULTURAL-LINGUISTIC RELATIONS

Elena M. Dorovskikh

Institute of State and Law, Russian Academy of Sciences
10, Znamenka str., Moscow 119019, Russian Federation
E-mail: theory-of-law@igpran.ru

The base of growth and development of Russia is cultural and intellectual potential of Russian society which requires proper attention including developing a system of measures intended to secure with the help of the law the space of spiritual life of citizen as subject and the main driving force of country's development. The usage of cultural institutes to achieve this goal is undoubtedly growing, but the limits of regulation in the discussed sphere are obviously very limited by the subject itself, by its attributes and properties of the social phenomenon influencing which is its goal.

The necessity of preserving the cultural identity for Russia has multiple aspects: marring priorities of Russian culture with universal human values and with manifestations of globalized pop culture and combining Russian culture with cultures and traditions of all nationalities that populate Russia. At the same time all of which is required to provide a multinational cultural environment for all citizen.

Special attention should be drawn to legislation in the field of linguistic relations as an important part of social and cultural relations. A multinational structure of Russian society noticeably amplifies here the need for creation of effective regulation.

Social, cultural and language policies in pre-revolution Russia did not receive any constitutional or other legislative form; most of regulation has been produced on a case by case basis. In different parts of Russian Empire and in a different time it allowed different degree of cultural and language autonomy.

The regulation of cultural and language relations in soviet times went through multiple stages. Ideological course on providing maximum of «trust in proletariat's class struggle on the side of foreigners» became a well prepared soil for language-building of 1920 — 1930. That was marked by objective significant improvements in development of languages of all nations of USSR. Though the regulation mostly concentrated on official usage of national languages.

🗝 Legal regulation of culture, the spiritual world of a person, cultural-language relations, cultural traditions of the peoples of Russia, use of languages, law on languages

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AUTHORS' INFO:

Elena M. Dorovskikh — Candidate of Legal Sciences (PhD in Law), Research Fellow of Theory of State and Law Department, Institute of State and Law, Russian Academy of Sciences, Head of Editorial-publishing Department, Institute of State and

Law, Russian Academy of Sciences.

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PROBLEMS OF LEGAL REGULATION AND JUDICIAL INTERPRETATION OF THE GUARANTEE

Sergey S. Zankovskiy

Institute of State and Law, Russian Academy of Sciences
10, Znamenka str., Moscow 119019, Russian Federation
E-mail: spp@igpran.ru

Examining the legal construction of the guarantee it is possible to formulate its characteristics: simplicity, understanding, application and compliance with the well-known General legal principle of justice. The analysis of the interests of the debtor, the creditor and the surety, a figure which arises between the parties to the principal obligation as a result of lender fears about the solvency of the debtor, which is difficult to get something from a partner without a suitable security. In the legislative regulation of the guarantee is stated clear and not always justified bias towards protecting the interests of the creditor that prevents the wide application of the guarantee. Considered a number of examples of this bias, in particular, the statutory rule that a change by the debtor and the creditor are secured by a guarantee obligation does not require the consent of the surety and does not terminate the suretyship. The conclusion is that as a result he is deprived of the opportunity to fairly assess their risks. And although the civil code States that in this embodiment, the guarantor is liable under the same conditions, in fact it is not: it is clear that such typical changes like the postponement of repayment of loan increase interest rate, increase the risk of default by the debtor of money. Noted that the occurrence of a guarantee does not preclude the absence of the consent of the debtor, and in this position is visible programerski approach to guarantee, because the debtor contrary to the principle of freedom in the exercise of the rights may be faced with a creditor, the existence of which he did not know.

This suggests that the relationship of the guarantor with the lender the principle of equality of participants of civil law relations are sacrificed to the task of ensuring the interests of the lender. Another problem for the surety is judicial practice which through interpretation of the law sometimes gives it a bizarre meaning. But the courts should not replace the legislator, and if it happens, the reason lies in the weak quality of the law.

A prerequisite for this is the secrecy in the preparation of the initial draft GK and projects of amendment, accompanied by the illusion of wide discussion. Guarantee, like many other rules of the civil code, requires a serious analysis and revision.

🗝 Surety, contract, obligation, liability, creditor, debtor, risk, court, regulation,

interpretation, interest, collateral, security, property, law.

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AUTHOR'S INFO:

Sergey S. Zankovskiy — Doctor of Legal Sciences, Professor, head of the

sector of business law, Institute of state and law, Russian Academy of Sciences.

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BANKING SYSTEM AND NATIONAL SECURITY ASPECTS OF THE RUSSIAN FEDERATION

Ashot M. Ekmalian

Institute of State and Law? Russian Academy of Sciences
10, Znamenka str., Moscow 119019, Russian Federation
E-mail: banklaw@igpran.ru

The banking system is a strategically important segment of modern market economy and has critical impact on economic and social-psychological processes in the country.

Banking system and bank legislation influence the country's state of national security indirectly by directly influencing relevant economic and social-psychological processes taking place in society. Such processes then directly influence the state of national security of Russia.

The analyses of the purpose, functions and powers of the Bank of Russia tells us that their proper execution is an essential condition of the country's economy operation and development.

Activities of credit institutions have a similar effect on economic processes. The basis of such activities is proper banking and first of all proper execution of banking activities.

The efficiency of the banking system depends on the quality of bank legislation and law enforcement practices in banking.

The analyses of examples from the modern history of Russia has clearly shown that mistakes that were made during the country's monetary system management as well as improper banking carried out by credit institutions can dramatically affect the activity of the society especially the economic and social-psychological processes, result in collisions, emergencies in monetary sector, sharply aggravate the political situation in the country and result in a strike at national security of The Russian Federation.

The collisions mentioned above are widely used in modern geopolitical struggle. As practice shows financial instruments play a key role. With the use of financial instruments real threats are created not only to the financial and economic systems, but to the country as a whole as well.

It is proposed to support the idea about necessity of the concept of «legal regime of emergency in the monetary sphere» to be introduced in the Russian legislation as well as the idea about the need to develop techniques and methods to predict and regulate the possible occurrence of similar situations.

🗝 Banking system, bank law, national security, banking facilities, bank services, bank credit, business.

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AUTHOR'S INFO:

Ashot M. Ekmalian — D.Phil., Leading Researcher of The Finance and Bank Law in The Institute of State and Law of the Russian Academy of Sciences, Professor of The Russian Presidential Academy of National Economy and Public Administration under the President of the Russian Federation.

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THE REFORM OF THE EU ASYLUM LAW AS A RESPONSE TO THE EUROPE'S MIGRATION CRISIS

Vadim V. Voynikov

Law Institute, Immanuel Kant Baltic Federal University
14, Alexander Nevsky str., Kaliningrad 236016, Russian Federation
E-mail: voinicov@yandex.ru

The third generation of EU asylum legislation was the result of the European Migration Crisis of 2015. The third generation of the EU legislation on asylum has a particular scientific interest due to the fact that it offers fundamentally new tools to regulate the process of providing international protection in the territory of the EU.

The proposed reform of the Common European asylum system corresponds to the EU primary legislation, as well as to the principles of proportionality and subsidiarity. Analysis of the proposals shows, that the EU plans to significantly strengthen the supranational component in its asylum policy, thereby limiting the freedom of action for the EU member states. In this sense the reform corresponds to the principle of conferral.

Strengthening the supranational component in the field of EU asylum policy the legislator changes the method of legal regulation from harmonization to unification.

The most controversial provision in the package of the third generation of EU asylum legislation is the corrective allocation mechanism for asylum seekers, proposed in the framework under the principle of solidarity. This mechanism provokes the rejection of the legislation by certain EU member states that do not want to bear the additional burden of maintaining new refugees.

A serious achievement of the third generation of EU asylum legislation is embodied by new provisions aimed at preventing the secondary movement of asylum-seekers within the EU, which could be considered as one of the most serious challenges.

The principal aim of the reform is to make the Common European Asylum System more efficient and more just. At the same time, the current reform of the EU legislation on asylum is aimed not so much at overcoming the consequences of the Migration Crisis, but rather at addressing the «old» tasks, which for various reasons could not be resolved in previous years.

🗝 European Union, asylum, refugees, migration crisis, Schengen, Dublin criteria, principle of solidarity.

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AUTHOR'S INFO:

Vadim V. Voynikov — Candidate of Legal Sciences (PhD in Law), Associate Professor, International and European Law Department, Law Institute, Immanuel Kant Baltic Federal University.

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FINANCIAL SYSTEM OF MALAYSIA

Ol'ga V. Protopopova

Law Institute of the RUDN University
6, Miklukho-Maklaya str., 117198 Moscow, Russian Federation
E-mail: oprotopopova@yandex.ru

The article discusses the financial system of Malaysia, which is characterized by the double-base (in the country coexist the traditional and Islamic financial instruments), as well as legal acts regulating activities of financial institutions in Malaysia — financial services act 2013 and the law on Islamic financial services 2013 Structural financial system in Malaysia consists of three main segments — banks, non-Bank financial institutions and financial markets.

Malaysian law, financial system, financial services law, Islamic financial services, Negara Bank Malaysia, Islamic banks; Consumer of financial services.

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AUTHOR'S INFO:

Ol'ga V. Protopopova — Ph.D. in Law, Professor of Civil Law of the Department of Civil and Civil Procedural Law and Private International Law.

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ISLAMIC BANKING IN MALAYSIA

Elena P. Ermakova

Law Institute of the RUDN University
6, Miklukho-Maklaya str., Moscow, 117198, Russian Federation
E-mail: ermakovaep@mail.ru

The article outlines the basic principles of Islamic banking, shows the role of Malaysia in the formation of Islamic financial instruments, describes the legal regulation of Malaysia in the field of Islamic finance, in particular, the new Islamic Financial Services Act 2013.

Currently, Malaysia is the international center of Islamic finance. This is due to three circumstances. First, the religious heritage: Islam penetrated into Malaysia as far back as the 13th century, in the following centuries it began to occupy a dominant position in the country: according to Art. 160 of the Constitution of Malaysia, all ethnic Malays, are recognized at birth by Muslims. Secondly, the strategic location: Malaysia is located in the heart of the South-East Asia region; In addition, the country is located between the four states with the largest Muslim population in the world: Indonesia, India, Pakistan and Bangladesh. Thirdly, the progressive structure of financial regulation: Malaysia is the first country in which the Islamic banking system operates in parallel with the traditional banking system. Currently, Malaysia has 18 local and foreign Islamic banks; Islamic finance accounts for about 25% of the entire banking industry in Malaysia.The article outlines the basic principles of Islamic banking: a ban on interest payments, a ban on gambling or speculation, a ban on unnecessary risk, a ban on an unfair advantage, a ban on corruption. The types of Islamic financing are called: equity financing (mudharaba, equity participation in the capital (musharaka), debt financing (murabaha), leasing (ijara), rent with the right of repurchase (ijara tuma al bai), etc.

The article reviews Islamic financial instruments that were first applied in Malaysia: a dual banking system (parallel Islamic and traditional banking systems); The world's first deposit insurance scheme, corresponding to the Sharia; The world's first cross-border Islamic investment platform; The first sovereign sukuk and the first corporate sukuk. In 2014, Malaysia dominated the world for the production of sukuk, having more than 60% of the world market share of sukuk. In addition, in 2002, Malaysia became one of the founders of an international Islamic organization, the Islamic Council for Financial Services. Malaysia invited the international Islamic organizations to open their Islamic operational centers (headquarters) in the country.

The article shows the history of the development of Islamic banking in Malaysia since 1963. An analysis is made of the formation of a system in which the Islamic financial industry is «governed by the state». Currently, Islamic banking in

Malaysia is regulated by a new consolidated act — the Islamic Financial Services Act 2013 (IFSA), which abolished all previous acts in this area. The 2013 law aims to increase the transparency and accountability of the activities of Islamic banks, the creation of a comprehensive regulatory framework in the field of Islamic banking, and the strengthening of consumer protection of financial services.

🗝 Malaysian law, financial system, Islamic banking, sukuk, Islamic financial services law, Islamic financial services, Islamic banks.

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AUTHOR'S INFO:

Elena P. Ermakova — Ph.D. in Law, Professor of Civil Procedural Law of the Department of Civil and Civil Procedural Law and Private International Law.

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INSTITUTIONAL AND LEGAL SUPPORT FOR INTERNATIONAL AND NATIONAL INFORMATION SECURITY: EXPERIENCE OF THE PEOPLE'S REPUBLIC OF CHINA

Larisa P. Zveryanskaya

Irkutsk Regional Bar Association
46, Karl Liebknecht str., Irkutsk 664007, Russian Federation
E-mail: ZveryanskayaL@mail.ru

The contemporary development of the global community is increasingly dependent on the development of information and telecommunication technologies and on the volume of information flows. In spite of the increasing efforts to develop data protection technologies, their vulnerability is not diminishing but is constantly increasing, and therefore the problem of information security is getting more and more actual. An important aspect of its solution is the establishment of an international information security system on the global scale and on the bilateral, multilateral and regional levels.

8 May 2015, on the basis of the Treaty on good-neighbourliness, friendship and cooperation between the Russian Federation and the People's Republic of China, 2001, an agreement was concluded between the Government of the Russian Federation and the Government of the People's Republic of China on cooperation in the field of international information security. In the agreement, States acknowledged the special importance of joint work within the framework of the SCO as well as the importance of the further development of cooperation in the field of information and telecommunications technologies. In this context China's experience in ensuring international and national information security with legal and institutional means is of particular importance.

In that country, special attention is paid to improving the means of monitoring information space. Currently, a two-stage system of filtering and monitoring all Internet traffic is in place, special units of cyberpolice and cybercensors have been established to maintain order in the Internet, and strict obligations and liability have been established between providers and operators of the network, individuals and legal entities.

The regional and bilateral cooperation between the Russian Federation and the People's Republic of China in the field of international information security within the framework of the SCO, BRICS, and Infoforum is developing and will expand.

🗝 National security, Information security, international information security, information space, information technology, international cooperation, information policy of the People's Republic of China, critical information infrastructure.

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AUTHOR'S INFO:

Larisa P. Zveryanskaya — Trainee Lawyer, Irkutsk Regional Bar Association.

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