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E.Yu. Gracheva, who is the Chair of the Expert Council on the Law of the Higher Attestation Commission (VAK), in her interview with the Proceedings of the Institute of State and Law of the Russian Academy of Sciences showed on the basis of statistical data that increasing of the requirements to the formation and activity of dissertational councils leads not only to reduction of the number of dissertational councils and the number of theses being defended, but also to improvement of their quality. For any higher education institution or academic institution a suspension or dissolution of its dissertational council activity is a serious reputational loss.

By its Decision made on June 15, 2017 the Higher Attestation Commission started a step-by-step introduction of the requirement to publish the main results of dissertational research in scientific publications included in the world databases of scientific citation. This task presents a certain complexity for representatives of the humanities. However, bringing Russian journals to a new theoretical level that meets all international requirements will expand the opportunities for the publication activity of Russian legal scholars.

In Russia, a new system of awarding academic degrees began, according to which Moscow and St. Petersburg State Universities, as well as federal and national research universities, will be able to award their own academic degrees of candidates and doctors of legal sciences. This gives rise to many organizational and legal problems related to challenging

the results of defenses, the formation of dissertational councils on the basis of several universities, among which not all have the right to independently award academic degrees.

According to E.Yu. Gracheva, the work of Dissernet, a volunteer community network working to clean Russian science of plagiarism, helped to improve the procedures for the preparation and defense of dissertations, but the use of the «Antiplagiarism» system only supplements but does not replace the expertise of the dissertational counciles and the Expert Council on the Law of the Higher Attestation Commission. Legal scholarship includes analysis of the legislation, relevant static data, etc., which inevitably entails extensive citations, retelling relevant legal norms, quotations from dissertations by other authors. Therefore, every statement by representatives of Dissernet about significant borrowings identified by them in previously protected works must be considered individually.

E.Yu. Gracheva also drew attention to the most typical shortcomings of dissertational studies including the choice and formulation of the topic, the definition of the object and the subject of the study, its goals, the rationale for claiming theoretical novelty, and the use of foreign sources. As a priority tasks of the Expert Council on the Law of the Higher Attestation Commission, she rightfully singled out a comprehensive, professional, objective examination of dissertational research, improvement of the nomenclature of scientific specialties, strengthening of the interaction of the expert council with the leadership of dissertational councils, universities and scientific institutions.

🗝 Dissertational research, defense of dissertations, the system of awarding academic degrees, examination of dissertation research, the Higher Attestation Commission, the Expert Council on Law, Dissernet, the “Antiplagiat” system, ungrounded borrowing.

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THE ARCTIC: LEGAL ASPECTS OF COOPERATION AND SUSTAINABLE DEVELOPMENT

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In an era of global changes and constantly emerging new geopolitical, economic, environmental, climatic and other challenges, sustainable and effective development of the Arctic region of the Russian Federation plays an extremely important role in ensuring the national interests of the country. The rich experience of the Arctic exploration creates the basis for the comprehensive development of this region. Issues of legal regulation of various activities in the Arctic zone of the Russian Federation are extremely relevant. This is due both to the unique geographical, natural, strategic, geopolitical characteristics of the region and to the intensification of the implementation of various activities and future planning in the Arctic region, mainly related to the development of natural resources and infrastructure of the North. Taking into account the intensification of economic and other activities in the Arctic zone, it is important to achieve an optimal balance between economic interests and the preservation of the unique natural environment, particularly sensitive to any negative impacts, not only climatic but also anthropogenic.

Modern legal regulation of economic activities in the Arctic pursues the goals of national security and geopolitical interests of Russia, international cooperation in the region, implementation of the rights of indigenous peoples, environmental protection. Particular attention is paid to the prospects of development and operation of the Northern Sea Route. The development of this transport artery in the Arctic region is important for both the enhancement of the international cooperation between the Arctic countries in the economic and transport spheres and the insurance of the economic security of the Russian Federation. In drafting shipping legislation for the Arctic region, it is necessary to take into account such factors as increased environmental risks, primarily for the Arctic marine environment, as well as the intensification of the Northern Sea Route traffic in the foreseeable future.

Russian legislation in relation to the Arctic region is constantly developing. However, despite the abundance of international and national regulations, the legislation does not always take into account the peculiarities of the Arctic territory.

The existing legislation has to be improved to meet the challenges posed by the Arctic as a unique Russian region being of great significance for the whole planet. The existing challenges make it necessary to protect the region from the negative impacts of human activities, along with ensuring national interests and national security.

🗝 Arctic, Arctic zone, legal regulation, continental shelf, the Northern Sea Route, environment, biodiversity, national security, national interests, international cooperation.

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EXPLANATION OF LEGAL CONCEPTS IN H.L.A. HART'S ANALYTICAL JURISPRUDENCE: METHODOLOGY AND PROBLEMATIZATION

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from a doctrine of ascriptivism and defeasibility of legal concepts to a project of analytical jurisprudence".

The methodological project of analytical jurisprudence, proposed by the British philosopher and jurist, Herbert Hart is seen in the context of the "language problem" of legal theory and the ideas and challenges of the "linguistic turn" in the XXth century philosophical thought.

The analytical jurisprudence of H. Hart is a philosophical explanation of basic legal concepts. It is a project of a reform of traditional jurisprudence in light of the ideas of analytic linguistic philosophy (special attention to language, reformulation of philosophical problems as questions of word usage, interpretation of language as a real speech practice, as manifestation of social world, etc.). The key elements of this project are fixation of a legal language "anomalies" and an elaboration of adequate techniques of their explanation. According to Hart, legal concepts and statements have an ascriptive, normative-institutional character (meaning and function), and preconditions for their use are open and heterogeneous — this makes the traditional model of empirical language and "closed" logical definitions inapplicable. Hence the method of a "philosophical definition" introduced by the author involves an analysis of legal terms in characteristic statements and permits to explain the conditions of their true application and a special speech function. In the article this approach is considered as a key one for Hart's 1950s inquiries (including his account of concepts of right and legal obligation, of a phenomenon of legal performances, etc.). This approach is also interpreted as a frame of explanation of a concept of law (as an open concept with a complex structure) in the eponymous 1961 treatise. The latter is called by the author an essay in analytical jurisprudence and descriptive sociology; it explores law's social character based on current usage (an experience of "any educated man") and presents a reflection of "logic of internal statements" (connected with adoption and application of rules of some legal system).

In conclusion the article questions the essence and claims of the H. Hart's approach in light of its philosophical basis. It concerns issues of the theory's truth-value criteria, and an access to "world" through language, issues of universality of the theory, and identification of a "central" case. The thesis (hypothesis) presented is a lack of necessary connection between Hart's linguistic-analytic philosophy / methodology and his positivist understanding of law.

🗝 H.L.A. Hart, “linguistic turn”, legal positivism, analytical jurisprudence, methodology of law, legal language, legal concepts.

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THE METHODOLOGY OF JUDICIAL INTERPRETATION: A CRITICAL ANALYSIS OF THE REALIST APPROACH

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Realism and formalism are described in scholarly literature as two styles of judicial interpretation. This is not free from logical error of incorrect inference from the assumed grounds. The paper examines the realist approach to the methodology of judicial interpretation in comparison with the formalistic style of judicial interpretation, and formulates the critical arguments that discover both theoretical and practical difficulties of methodological position of that approach, which is gaining the leading position in the doctrine, primarily foreign, and is largely determining the policy of the judicial interpretation in the institutions of "high justice". The realistic style of judicial interpretation has no clear connection with any particular type of legal philosophy and can not be reserved solely for representatives of legal realism (American and Continental).

The realistic approach to judicial interpretation is revealed by the following six theses: 1) voluntarism in the interpretation; 2) semantic indeterminacy of the text; 3) freedom of interpretation; 4) logical skepticism; 5) decisionism; 6) mechanical application of law. Together they characterize, respectively, (1) nature, (2) object (subject) of interpretation, and (3) methods of using it, (4) results of interpretation and (5) its validity and effectiveness in legal order, (6) relation of realistic approach to the model of subsumption as attributes of formalistic style of judicial interpretation. Each thesis can exist in its "hard" and "soft" form, resulting in a typology of judicial realism in radical and moderate variants, despite the fact that common features of two versions of the realist approach are: 1) the interpretation of legal norms as teleological judgments; 2) admission of metalegal arguments to the basis and the structure of judicial reasoning.

The comparative analysis of moderate realistic and radical-realistic styles of judicial interpretation reveals the absence of fundamental differences between formalistic and moderate realist positions, which are regarded as complementary, rather than mutually exclusive. In relation to radical realist approach the author formulates critical arguments about: 1) redundancy of the thesis of semantic uncertainty in relation to the concept of semantic-normative voluntarism; 2) infinite regress of acts of interpretation and the impossibility of norms; 3) incompatibility of the denial of the general rules and the approval of the validity of court decisions; 4) self-reference of the acts of interpretation and powers of the subjects of interpretation; 5) the impossibility of mechanical application of law.

Judicial interpretation, methodology of legal interpretation, legal realism, neorealist theo-

ry of interpretation, judicial formalism, the school of free law, judicial law-making, creative interpretation, legal positivism.

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ADAPTATION AND RESCISSION OF CONTRACT DUE TO THE FUNDAMENTAL CHANGE OF THE CIRCUMSTANCES: EUROPEAN CIVILAN TRADITION AND MODERN TRENDS

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The European civilian tradition presents the notion of *"clausula rebus sic stantibus"* as a kind of limitation to the contractual will of the parties. The idea can be followed back to the 14th century when the *causa contractus* became to be viewed as substantial element of the will and the legal bargain (*substantialia negotii*). The present-day re-born of the institute seems coordinated with the restored role of the good faith concept in the civil law and the establishment of the objective and normative approach to the formation of the individual will. The dogmatic foundations of the notion under study, easily recoverable from the works of Medieval jurists are seen in the recognition of these normative limitations of the will as a source of the integration of the external circumstances in the content the resulting legal relationship. The modern doctrine of the concrete cause of the contract is better viewed as dogmatic construction built on the general philosophical foundations of the European contract theory. The recent trend towards the adaptation of the long-term contracts (instead of rescission) observed in the last legislative reforms in some European jurisdictions and in *lex mercatoria* development is backed by a sensitive consolidation of the traditional legal notions and resulting deeper insight into the nature of the normative structure of the private law.

Following the Aristotelian tradition Thoma Aquinas reveals the relative value of the promise, emphasizing normative context of the supreme moral and theological values that back its binding force. The Commentators of the 14th century deve-loped the idea of normative nature of the promise into the doctrine of cause (*causa*). Bartolus re-examines the former juxtaposition of the floating and unstable factual context to the order expected from the legally organized relationship and advances the idea of normative expectations and legal formalization of the eventual change of the circumstances. The contract is viewed by him as a means to determine the content of the resulting legal relationship and to realize the legal norm in the concrete setting of circumstances according to the ends of the parties. Bartolus has stressed the relevance of perfect legal act (*actus perfectus*) in converting of the intentions of the parties into the legal structure of the obligation. The contractual relationship can react adequately to the new social and economic challenges preserving the established balance of the interests of the parties. Baldus comes to the idea of the immediate goal of the parties (*causa proxima*) as integrative element of the contract. The cause of the contract determines its legal effect and coordinates it with the concrete factual setting. The idea of the integration of the external circumstances into the content of the contractual relationship is proper to the modern doctrine of concrete cause (G. Ferri) that forms influential theoretical background for the adaptation of the contract to the changed circumstances (*reductio ad aequitatem*).

🗝 Contract, hardship, frustration, *causa*, contract adaptation, rescission, *clausula rebus sic stantibus*, mistake, European legal tradition.

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COMPULSORY CREATION OF EASEMENTS FOR PUBLIC PURPOSES

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In May 2017, the Government of the Russian Federation introduced a bill, providing the rules on compulsory creation of easements by administrative proceedings. The submitted bill contains legal constructions, which have already been tested locally, during preparation to the Olympics of 2014, and also in course of development of the territories of New Moscow and Crimea. To legitimize the compulsory creation of easements, the Government suggests to expand the construction of public easement, enshrined in art. 23 of the Land Code of the Russian Federation.

However, the idea of a public easement and the concept, suggested in the bill are essentially different. Public easement empowers the public as an uncertain group of people. In the case of an easement established for construction in public purpose, an uncertain group of people is only an indirect beneficiary but the empowered person is a certain private one. This private person is to exercise all the rights arising from easement.

The point of this article is that compulsory easement suggested in the bill is a taking for public purpose. In modern Western legal tradition, the concept of public purpose encompasses the issues of construction of objects, which will be used directly by public authorities or by uncertain public as well as issues of reallocation of resources to improve the efficiency and public wealth. The latter cases also can be connected with construction of new objects.

By its very essence, easement is a legal concept which provides by deed a seizure of certain qualities of (subordinate) res to connect the respective qualities to (dominant) res. Consequently, compulsory imposition of easement is a taking of certain qualities of a property with the following transfer of the respective qualities. Thus, the compulsory easement may be imposed only under judicial control and with full compensation to the owner, as it set out in art. 35 of the Constitution of the Russian Federation.

🗝 Easement, public easement, taking for public needs, public need, public purpose, monopoly, efficiency, restrictions of ownership.

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THE LEGAL INSTITUTE OF THE CORPORATE SECRETARY: REGULATION, PRACTICE, DEVELOPMENT PROSPECTS

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The legal institute of the corporate secretary appeared in the United Kingdom at the end of the 19th century. It was adopted in the countries of the common law system in the first half of the 20th century, and later in other developed countries. The corporate secretary provides a high level of corporate governance by actions aimed at minimizing agency conflicts, due corporate procedures, and introduction of management practices.

In the Russian Federation, the legal institute of the corporate secretary isn't regulated by legislation. Its introduction in companies is recommended by the Corporate Governance Code and is stimulated by listing rules. In 2010—2014, some acts aimed at raising the quality of corporate governance were adopted by the Federal Agency for State Property Management.

The corporate secretary is an officer of a joint-stock company. We can't agree that the corporate secretary is a body, because the secretary's will-expressing functions are very limited. The legal status of the corporate secretary includes four elements: appointment and termination, duties, rights, and responsibility. As a rule, the corporate secretary is appointed by the decision of the board of directors, typically with an indefinite-term labor contract. In some cases, there arises the dualism of the secretary's corporate and labor status, similar to that of the CEO status. Among the duties specified are corporate-procedural functions, interaction with stakeholders, improving corporate governance practice, as well as control. Among rights — information rights, the right of initiative and control rights.

The corporate secretary is a subject of some kinds of legal responsibility. As an employee, he is a subject of disciplinary and financial responsibility. Based on the definition of art. 2.4 of the Code of the Russian Federation of Administrative Offenses, the corporate secretary may bear administrative responsibility (as an official). There is a possibility of the corporate secretary's civil liability (including subsidiary liability in bankruptcy).

The professional community — the association "The National Union of Corporate Secretaries" — has made legislative proposals, aimed at the "legalization" of the corporate secretary. As a part of these legislative measures, the authors propose amendments to the Federal Law «On Joint-Stock Companies» and the Labor Code of the Russian Federation, in order to establish and qualify the elements of the corporate secretary's legal status.

🗝 Joint-stock company, officer of the company, corporate control, corporate secretary, best

practices of the corporate governance, general meeting of shareholders, board of directors, stakeholders, holdings, legal liability.

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OVERVIEW OF THE INTERNATIONAL CONFERENCE «DYNAMICS OF INFORMATION SECURITY INSTITUTES: LEGAL ISSUES»

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February 3—4, 2017, an international conference "The Dynamics of Information Security Institutes: Legal Issues" was held by the Information Law Department of the Institute of State and Law of the Russian Academy of Sciences.

The conference was focused on the discussion of the new Doctrine of Information Security (approved by the Decree of the President of the Russian Federation, December 5, 2016 No. 646) and new Strategy for the Information Society Development in the Russian Federation.

The actuality of the conference subject is clear in view of the scale and technological level of destructive use of information and communication technologies in the absence of the international legal framework governing coordinated activities of States in the sphere of information security. Legal framework for international information security stays superficial and not infrequently is no more than a belated response to some threats to rights and interests of different subjects.

In course of the conference actual issues of legal and organizational provision of information security were discussed: theoretical and methodological problems of information space development and formation of information infrastructure of public administration system; development of key institutions of Information Law; legal limitations of the use of cryptographic tools and means of anonymization in the Internet in the context of terrorist and extremist threats to security; protection of critical information of the infrastructure as a new legal institute ensuring information security of the society and the individual.

The conference participants included more than 80 specialists in the field of Information Law and information security from Moscow and Moscow region, St. Petersburg, Belgorod, Vladivostok, Voronezh, Izhevsk, Irkutsk, Yekaterinburg, Saransk, Saratov, Stavropol, Chelyabinsk, as well as scientists from the Republic of Armenia and the Republic of Belarus.

🗝 Information security, Information Law, state sovereignty, global information society, operational and investigative measures, legal risks and threats in the application of cloud technologies, information and legal support electronic interaction, visualization.

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REVIEW

Prawo wobec problemów społecznych. Księga jubileuszowa profesor Eleonory Zielińskiej [Law in Response to Social Problems: to the Jubilee of Professor Eleonora Zielińska]. Warszawa: C.H. Beck, 2016. vii—xxx; 1041 s.

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The reviewed book "Law in Response to Social Problems: to the Jubilee of Professor Eleonora Zielin˜ska" has been prepared by efforts of scholars and practitioners from different countries — Poland, Austria, Germany, Russia and others — the specialists in the field of criminal law and procedure, medicine law, criminology, International and European law, human rights. The book starts with the biography of a professor of the Warsaw University E. Zielin˜ska and consists of sections devoted to criminal law, women rights, medical law and legal education.

The biggest section of the book includes the articles on topical problems of Polish criminal (material and procedural) law, European and foreign law and international standards applicable in this sphere. In the narrative, concerning the proposal to establish the European Public Prosecutor's office, the author thoroughly analyses the causes and conditions that led to this unprecedented act with the aim to coordinate the efforts of EU countries in their fight against crime. The articles on criminology are likewise of high interest: they deal with the issues of corruption, human organs trafficking, migrants' crime in Poland, criminal statistics on hatred crimes.

Section dedicated to women's rights sums up the achievements of women in the struggle for their rights, and particularly in the struggle against domestic violence. Another section consists of articles on medical law. The authors deal with topical problems of this rapidly developing law, including doctor's liability, conscience clause, legal forms of patient's consent to medical service and its significance, euthanasia, medical malpractice and its legal consequences, reproduction rights protection, patient's right to information etc. Each article of the section contains important information reflecting evolution and the current situation in the medical law of Poland, judicial practice and the doctrine; furthermore, the articles deals with the response of legal professionals and medical communities to the raised issues. The articles forming the section on legal education contain analyses of issues of clinical education of the lawyers.

Evaluating the book in general it should be stressed that it focuses on contemporary social and legal problems that affect the interests of society and individuals. A clear advantage of the book lies with the analyses of many aspects of criminal law, criminology and medical law in the context of comparative law.

🗝 E. Zielińska, criminal law, criminal procedure, criminology, women rights, medicine law, medical services, European law, clinical legal training.

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