

Moscow Journal of International Law №2 (94), April - June 2014

Human Rights

Aslan H. Abashidze, Vladislav S. Malichenko The International Legal Responsibility of Pharmaceutical Companies for Human Rights Violations (p. 4 - 20)

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Summary: The pharmaceutical sector plays an important role in ensuring the right to health by creating conditions for access to medicines. However, the policy and practice of a number of big pharmaceutical companies creates additional problems for the States in realization of citizens' rights to the highest attainable standard of health and as a result interferes with their efforts to ensure access to medicines. In contemporary international law there are virtually no provisions allowing making pharmaceutical companies accountable for human rights violations. However, in a growing number of human rights violations on the part of pharmaceutical companies and the lack of effective national legal remedies, the need of an effective international mechanism, which will take into account the national experience acquired in this field and make pharmaceutical companies accountable for violations of human rights, becomes increasingly apparent.

Keywords: pharmaceutical companies; responsibility; the right to health; medicines; monopoly.

International Humanitarian Law

Yuliya V. Puzyreva International Criminal Tribunal for Yugoslavia. "20 years of success?" (p.21-36)

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Summary: The article provides a comprehensive analysis of the various legal positions copyright opinions on topical issues of the establishment and functioning of the International Tribunal for the Former Yugoslavia (ICTY). This article is based on a review of the results of two decades of the ICTY, reflected on the official website of the Tribunal, with the focus on the problematic points of his work.

Keywords: International Tribunal for the Former Yugoslavia (ICTY, Tribunal); Security Council; international criminal jurisdiction; war crimes; Carla del Ponte.

Issues of Territory

Alexander N. Vylegzhanin, Ekaterina L. Sokolova Prescription in International Law (p. 37-58)

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Summary: The article shows that prescription is recognized as a mode of acquisition of territory within International Law. Though there is no term “prescription” in universal international conventions such international treaties do operate with the term “historic title” as an accepted notion. The purpose of prescription is to be a legitimization of continued, factual and uncontested authority of a state over a territory. Different theoretical constructions of prescription in the teachings of specialists in International Law are not supported by International courts and arbitrations. For them what matters is which of the parties in a dispute has a sovereignty over the disputed territory. Nevertheless such courts and arbitrations usually do not consider the status of prescription in the modern International Law.

Keywords: International Law; historic title; territory; prescription.

Diplomatic and Consular Law

Alexander V. Plakhov On the Protection of the Russian Diplomatic Property in Sweden (p. 59-78)

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Summary: The decision of the Supreme Court of Sweden dated on 1st of July 2011 on the deprivation of State immunity of the Russian diplomatic property in Sweden is analyzed in the article. It provides a critical analysis of the legitimacy of the decision of the Supreme Court of Sweden on the basis of diplomatic correspondence, other documents and author's personal participation in this case in the context of theories of state immunity and its property abroad, as well as the international treaties and customary international law and doctrine.

Keywords: jurisdictional immunity; State immunity; diplomatic immunity; arbitration.

International Law of the Sea

Elvira F. Pushkareva Marine Spatial Planning: International Law Perspective (p. 79-99)

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Summary: This paper is devoted to the international law regulations of marine spatial planning, including the concept of marine spatial planning and current international cooperation in the field. More specifically, the research suggests recommendations on cooperation between Russia and Norway on managing the Barents Sea resources.

Keywords: Law of the Sea; International Environmental Law; International Economic Law; International Cooperation in Marine Spatial Planning; Cooperation in the Barents Sea Resources Management between Russia and Norway.

Private International and State Law

Alexander S. Eremenko The Correlation of International Treaties And National Civil Legislation: A Problem Of Typology (p. 100-115)

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Summary: The investigation of theoretical issues of the concept “international treaties” in aspects of their position in the structure of the Russian legal system and their correlation with the Russian civil legislation is given in this article. The mechanism of correlation of the international treaties and the national legislation is characterized from the law application point of view of the notion “source of law”. The author’s typology of phenomena, being based on the diversity of interaction between the international treaties and the national civil legislation, in the form of conceptions of supranationalism, subconstitutionalism, superlegalism and interlegalism is put forward. An opinion that the interlegalism makes more concrete the international treaties’ function of legal applicability, pointing their status of special ordinary legal acts and their correlation with other legal acts of the domestic law by the maxims of concurrence and collision (conflict) of legal norms, is found.

Keywords: international treaties; sources of civil law; application of law; concurrence and collision of legal norms; interlegalism.

Yuriy S. Kozachuk Conflict of Laws Issues of Bills’ Negotiation in the Law of the United States of America (p. 116-132)

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Summary: The principles and the order of the settlement of conflict of laws issues of bills’ negotiation in the law of the USA have been researched in this article. The influence of general principles of conflict of laws on the order of settlement of conflict of laws issues of bills’ negotiation is being analyzed. Basic principles of localization of bills of exchange and promissory notes obligations in the US law have been determined, and reasons of different maintenance of these principles have been also set in the countries of the Geneva and Anglo-American law of bills. A comparison of the order of localization of bills’ obligations has been made in the Anglo-American and Geneva’s law of conflict of bills. The application of the principles of autonomy of will and of most close connection in the US law of conflict of bills is being examined in the article.

Keywords: bill of exchange; promissory note; conflict of laws; private international law.

European Law

Rustam A. Kasyanov Elaboration of Regulation in Consequence of the LIBOR Manipulations (p. 133-142)

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Summary: Not long ago periodicals specializing in the field of law and finance revealed some details of fraudulent actions connected with the London Inter-Bank Offered Rate (LIBOR). In a certain moment it seemed that the scandal with LIBOR manipulations would not lead to any serious reforms, including those of the legal nature, and the outcome would be limited to separate sanctions against several large European and American banks. However, the European Union in full conformity with the purposes of its financial services policy has drafted new regulatory acts which will come into force in the near future and will allow combating more efficiently with various kinds of market abuse.

Keywords: European Union; European financial markets; market abuse; insider dealing; market manipulation.

Alexander M. Oreshenkov About the Legal Basis of Russian Citizens Visa-free Travel on Cruise Ships to European Union Countries (p. 143-149)

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Summary: The article deals with the regulatory framework of entry of foreigners – passenger of cruise ships and ferries in to Russia and the EU, as well as problems of visa-free entry of passengers of Russian cruise ships in the EU member states that given the political will of the CEC could be solved by enforcing just EU laws and London Convention on Facilitation of International Maritime Traffic, or by concluding a bilateral agreement between Russia and the EU.

Keywords: cruises; visa-free entry; national legislation; bilateral and multilateral international agreements.

Private International and Civil Law

Elena V. Kabatova, Elena V. Vershinina, Maxim A. Novikov Peculiarities of Legal Regulation of Shareholders Agreements (SHA) under Russian and Common Law (p. 150-168)

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Summary: The article is devoted to one of the urgent problems of corporate law, namely to legal regulation of shareholders agreements under Russian and common law. This issue gains currency in the light of comparative law in connection with the necessity of protection of minority shareholders' rights in Russian companies. The necessity of legal fixation of the shareholders agreements (SHA) institute, in its turn, is conditioned by a number of reasons, namely: increase in number of transactions on merges and acquisitions (M&A), problems connected with the protection of the companies from illegal takeovers number of which has extremely increased in recent years and, certainly, by aspiration to attract foreign investments in the Russian economy by entry into transactions with foreign investors including creation of joint ventures (JV). Thus, the available negative tendency of avoiding Russian legislation and jurisdiction directly contravenes creation of the international financial center in Moscow. For development of financial sector it is necessary to increase attractiveness of Russian legislation and jurisdiction including expansion of SHA functionality (to the extent that it doesn't entail violation of third parties interests). The article will be useful for students, professors of law and also for practicing lawyers.

Keywords: corporate law; shareholders agreement; joint-stock company; minority shareholder; joint venture.

Alina V. Petrova International Jurisdiction Agreement: Notion and Legal Nature (in the Legal Doctrine of Russia and France) (p. 169-180)

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Summary: The author of the article defines the notion of an “international jurisdiction agreement” and explores the question of the legal nature of such agreements on the basis of opinions of Russian and French legal theorists. In the article an international jurisdiction agreement is regarded as a substantive agreement that establishes certain obligations and rights for its parties. On the ground of specific features of an international jurisdiction agreement the author substantiates her opinion on *sui generis* legal nature of such agreements.

Keywords: international jurisdiction agreement; an international jurisdiction agreement as a substantive agreement; *sui generis* legal nature of an international jurisdiction agreement.

Valeria K. Trumpel International Legal Aspects of the Asteroid Threat Prevention (p. 181-191)

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Summary: More than 900 discovered near-earth objects (NEOs), which size exceeds 140 meters, are designated as potentially hazardous natural objects (PHNOs), in other words asteroids and comets which can be a threat to Planet Earth. Experts believe that the total amount of PHNOs consists of more than 6000 objects. The existing factors such as the active media coverage, the states’ and international organizations’ attention and the public interest provoke the urgency of the asteroid threat issue. Due to baffling complexity of this problem and expensiveness of projects considering its solution the goal of prevention of the asteroid threat can be accomplished only with the consolidated efforts of the whole international community. The article concentrates on the main directions of international cooperation in the sphere of the asteroid threat prevention. The international policy concerning the NEO hazard can be divided into four groups:

- detection, observation and exploration of NEOs;
- development and use of interception, deviation and destruction

measures to the PHNOs;

- monitoring and warning of the PHNOs;
- informational and educational work.

Keywords: near-earth objects (NEOs); potentially hazardous natural objects (PHNOs); the asteroid threat; international space law.

Urszula Moskwa Legal Aspects of the “Nord Stream” Project Functioning (p. 192-201)

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Summary: Transboundary nature is one of the most unique aspects of the «Nord Stream» pipeline. This pipeline is subject to international conventions and national legislation of the countries through which it passes. The article examines the legal aspects of the functioning of this project. The author focuses mainly on the provisions of the UN Convention on the Law of the Sea relating to the laying of submarine pipelines in the territorial sea, EEZ and continental shelf; as well as on the UN Convention on Environmental Impact Assessment in a Transboundary Context.

Keywords: “Nord Stream”; UN Convention on the Law of the Sea; UN Convention on Environmental Impact Assessment in a Transboundary Context; territorial sea; exclusive economic zone; continental shelf; EIA.

Current Events

Discussion on the theoretical issues of International Law at 8th Convention of Russian Association of International Studies (p. 202-204)

Obituary

Professor Gennady P. Zhukov (p. 205-208)