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Theory of International Law

Alexander G. Bogaturev, Yury N. Maleev What is International Transport Law in the System of International Law? (p. 4 - 16).

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Summary. There are some groups of norms in International Law, which have no general opinion on their nature. Exactly — whether they may be named as the branches of International Law. International Transport Law (ITL) is among them. The authors of the present article systematized corresponding criterions on the examples of some “of no doubt” brunches of International Law and supposed that the reader will decide himself in what degree these criterions may be used to the ITL and, correspondingly, whether it may be qualified as the brunch of International law.

Keywords: brunch of law; International law; International transport; transborder pipe-lines; labour law; the Law of International Trade; institute; qualification.

History of International Law

Ivan I. Kotlyarov, Yuliya V. Puzyreva The Criminal Nature of the War of the Third Reich against the Soviet Union (to the 75th Anniversary of the Great Patriotic War) (p. 17-34).

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Summary. The article provides critical analysis of the military operations of the German armed forces during the Great Patriotic War against the USSR, violation of treaties to which Germany was a party. Criminal nature of Nazi Germany attacks against the Soviet Union and relevant gross violations by the Nazis of international humanitarian law are noted.

Keywords: Great Patriotic War; prohibited methods of warfare; war crimes; wounded and sick; prisoners of war; civilian persons.

Issues of Territory

Alexander N. Vylegzhanin, Evgeniya V. Neverova Russian-Japanese Agreements Relating to the Sea Areas Adjacent to the Disputed Southern Kuril Islands (p. 35-62).

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Summary. The most critical territorial dispute for Russia is the dispute with Japan concerning the sovereignty over the four Southern Kuril Islands (or the “Northern Territories” in Japan). Its resolution is believed to be conditional on the execution of a peace treaty between the two countries. However, its existence has not prejudiced the conclusion between Russia and Japan of several treaties on marine fisheries in areas adjacent to the four Southern Kurils, which are examined herein. Apart from intergovernmental agreements, the authors also analyze a less researched agreement on the fishing of kelp. The article discusses the legal and political effect of the activities governed by the abovementioned agreements on the dispute in the light of the international legal doctrines of acquiescence, estoppel and prescription, as well as the practice of International Courts.

Keywords: territory in international law; territorial disputes; Kuril Islands; Southern Kurils; Russian-Japanese fisheries agreements; acquiescence; estoppel; prescription; International Court of Justice; San-Francisco Peace Treaty.

Ivan S. Zhudro Evolution of the International Legal Regime of the Arctic Ocean and Russia’s National Interests (p. 63-80).

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Summary. The article is devoted the theme of a clash in the views of the domestic expert community on international legal regime of the Arctic Ocean (hereinafter — ILR AO) and, in particular, on the problem of delimitation of the Arctic shelf. The author examines the ILR AO as an object of temporal and spatial changes that have shaped international customs — Arctic sector, “historical” sea and the Northern sea route. The cause of the current divergence in relation to the ILR AO, the author sees the recognition of these international customs: in one case, a dialectical approach that recognizes the customs, in other — the

metaphysical, to deny the customs. In the context of actual problems of delimitation of the Arctic shelf dispute becomes a purely practical sense — the denial of the traditions involves the creation of the center of the Arctic Ocean area — “the common heritage of mankind” and is in line with the political line of NATO and the EU, does not correspond to the national interests of the Russian Federation. On the contrary, the recognition of the customs allows observing the national interests in the delimitation of the Arctic shelf.

Keywords: Law, space-time factors; the international legal regime; international customs; Arctic ocean; continental shelf; “common heritage of mankind”.

International Security

Yury N. Maleev, Ilya V. Rachkov, Sergey N. Yaryshev Sanctions in International Law. No point (p. 81 - 95).

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Summary. A lot of publications, devoted to international sanctions, appeared at the beginning of XXI century. Still, in connection with the recent “sanction events” in the international life, it is necessary to devote them the additional judgment, point of view. Especially because in respect to Russia they are of political nature, which is underlined by the “sanctionaries” themselves. The

judged should be both the nature and the form of corresponding sanctions as well as perspectives of their stability in the future development of contemporary international law, which is often named “new” in a certain respect under the influence of the sanction mechanism discussed.

Keywords: sanction mechanism; international law; one-sided sanctions and counter sanctions; institutional base, the role of the UN Security Council, WTO; difference between “sanctions” and responsibility, retorts, repressions, unfriendly acts.

International Environmental Law

Inna P. Dudykina Foreign Publications about Improving the International Legal Mechanisms for the Ecosystem-based Management in the Arctic (p. 96-106).

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Summary. The article shows, in the context of international legal studies, legal instruments of the ecosystem-based management approach and the environmental management in the Arctic, the content of such instruments and peculiarities of its use in the High North.

Keywords: ecosystem management; Arctic; environmental management; the Arctic Council.

International Economic Law

Sergey V. Khalipov Physical Persons as Participants in Customs Legal Relations within the Eurasian Economic Union (p. 107-121).

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Summary. The article analyses legal foundations and variations of participation of physical persons in customs legal relations. It scrutinizes the law of the Eurasian Economic Union and the Russian Federation legislation on customs. The Member States of the Eurasian Economic Union's regulations on the importation of goods to the customs territory by physical persons are considered. Peculiarities of making customs payments by physical persons, performing customs operations and exercising customs control are demonstrated.

Keywords:the law of the Eurasian Economic Union; customs legislation of the customs Union; the Universal Postal Convention; the Russian Federation legislation on customs; transference of goods for private use by physical persons across the Eurasian Economic Union's customs frontier; foreign physical persons and physical persons of the Member States of the Eurasian Economic Union.

International and Municipal Law

Daniil A. Turlanov External Trade Representations: Russian and Foreign Experience (p. 122-137).

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Summary. Export support of Russian non-raw products is one of the most crucial elements of the foreign trade regulation. Among such instruments of export support there is an institute of external trade representations of Russia. What is role of external trade representations in the frame of export support and what are perspectives of their development? The article gives the overview of external trade

representations statues, the detailed analyze of the forms of export support, rendered by this trade instrument at external markets, description of export support foreign infrastructure, used by USA, France and Germany. On the basis of the best foreign practice the article proposes the ways of further development of Russian export support with the use of trade representations of Russia abroad.

Keywords:external trade representations, export support, Russia, foreign market, foreign state.

Anna V. Shashkova American Foreign Account Tax Compliance Act as a Source of Conflict of Interests of the State and Corporations (p. 138 - 155).

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Summary. The aim of the present Article is to analyze the inaction between the state and financial organizations on the example of one of the extraterritorial acts — FATCA — Foreign Account Tax Compliance Act. For the first time ever the present article analyses the conflict between international law and global law basing on FATCA: in fact FATCA — local law of the US — shall be applied on the territories of other countries. The article specifies that FATCA is not a precedent. The author researches on FATCA provisions, on their applicability in the Russian Federation, the change of attitude of Russian officials to FATCA, makes a conclusion on the legal bases to apply the extraterritorial law in Russia. Another result of the present Article is in the substantiation by the author of the conclusion that application of FATCA in Russia may be considered as a violence of the sovereignty of the Russian Federation, which means superiority and independence of the state power, legislative, executive and judicial power of the Russian Federation and independence of the state in the international relations.

General, specific and particular research methods are used in the Article, including systemic, comparative, historical and juridical research methods. The practical value of the article is in the possibility to apply its main provisions and results in scientific and academic activities while waiting practical results of deoffshoring of Russian economy and during the course of anti-money laundering.

Keywords:FATCA, extritorial law, extritorial act, global law, international law, tax discipline, income, information

Voices of the Young

Yuliya L. BelyaevaThe Organizational and Legal Mechanism of Combating Corruption in the European Union (p. 156 - 168).

Yuliya L. Belyaeva — post-graduate student of the Department of human rights and international law of the Kikot Moscow University of the Ministry on Internal Affairs of the Russian Federation. Ms.JLBelyaeva@gmail.com.

Summary.The article contains the analysis of the system of the anti-corruption legal instruments adopted in universal and regional international organizations, such as the United Nations organization, the Organization for Economic Cooperation and Development, the Council of Europe and the European Union. Also the author considered the specificities of the monitoring procedures of controlling and assessing the level of their realization by the State parties. The author determined and argued the fact that the European Union has its own organizational and legal mechanism of combating corruption, and pointed out the specificity of its functioning.

Keywords:combating corruption; the United Nations Convention against Corruption (UNCAC); the European Union; anti-corruption monitoring; EU Anti-Corruption Report; European law.

Margarita V. Egiazarova Legal Regulation of Foreign National's Labour in the EEU: Unification Issues (p. 169 - 180).

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Summary. The Article problematizes the unification of the norms that regulate the cross-border employment in the Eurasian Economic Union. Analysis of the international agreements, comparison of the EEU members' legislation, as well as EEU acts specifies the improvement areas of the legal regulation of the cross-border employment in the Union. It has been affirmed that the unification of EEU members' approach to regulate the cross-border employment is the basis of the EEU's labour integration. Comparative analysis of legal regulation of the foreign nationals' status shows that the consistent implementation of the national treatment principle creates a basis for the unification of rules governing cross-border employment in the EEU. This work also provides recommendations for the development of the unification process of the rules in the field of cross-border labour, as well as specifies improvement tools that may be used by EEU's developers concerning the foreign national's employment.

Keywords: Eurasian Economic Union; unification; cross-border labour relations; migrant worker; national treatment regime.

Ekaterina M. Ivanova The Problem of Sanctions in International Law: Aspect of Terminology (p. 181 - 187).

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Summary. The article analyzes the problem of sanctions in international law. Special attention is given to the absence of a uniform approach to the definition of the term –sanctions”. Different practical interpretations of the term –sanctions” are given. The term –sanction” is considered in the context of domestic and international law. The necessity of development of the legal framework and practice of law enforcement is determined and proved.

Keywords:sanctions; international sanctions; UN; international organizations; unilateral sanctions.

Ekaterina A. Kopylova Responsibility for Disclosing Information Constituting Judicial Secret in International Criminal Law (p. 188 – 203).

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Summary.Disclosing confidential information, which in the national jurisdictions is referred to as secret of the investigations and judicial secret, is one of the most frequently committed offences against the administration of criminal justice. The danger of such conduct is self-explanatory. It is capable of undermining the investigations into international crimes and of putting in jeopardy life and well-being of the key witnesses. This article proposes an analysis of the elements of this offence.

Keywords:Disclosing a judicial secret; disclosing a secret of the investigations; offences against the administration of international justice; international criminal law; international criminal justice; Rome Statute; International Criminal Court; International Criminal Tribunal for the Former Yugoslavia.

Kirill V. Kritskiy International Sanctions and Unilateral Restrictive Measures: Problems of Definition (p. 204 - 213).

Kirill V. Kritskiy — 3rd Secretary of the Second Department for Asia of the Ministry of Foreign Affairs of the Russian Federation, post-graduate student of the Chair of International Law, MGIMO-University MFA Russia. kkritzkiy@gmail.com.

Summary. In this article the author examines different approaches to definition of “sanctions” and “unilateral restrictive measures”. Relevant rules of international and domestic law as well as Russian and foreign doctrinal sources were analyzed for this purpose. Moreover, the author makes an effort to answer whether it is possible to terminologically identify these two phenomena with each other (as many states do to make their unilateral restrictive measures seem more legitimate).

Keywords: coercive measures; sanctions; unilateral restrictive measures; countermeasures.

Maria S. Pekarskaya Review of the Russian Law Enforcement Practice with Respect to the Interpretation of the OECD Model Tax Convention (p. 214 - 224).

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Summary. This article focuses on the analysis of practical application of the OECD Model Tax Convention on Income and on Capital, and Commentaries to it by the Russian public authorities. The author examines the historical aspects of the adoption of the OECD Model Tax Convention on Income and on Capital, the contents and legal grounds for the use of the mentioned OECD documents in the international practice, as well as the basic principles of relations between the

OECD and the Russian Federation in the context of participation of the Russian Federation in the OECD's Committee on Fiscal Affairs and its ambitions to become a full-fledged member of the OECD. Special attention has been paid to the analysis of the citations of the Model Tax Convention on Income and on Capital, and Commentaries to it used in rulings and regulations of Russian law courts and tax authorities. The author has formulated conclusions concerning the significance of the mentioned OECD documents for the Russian law enforcement practice.

Keywords: OECD Model Tax Convention on Income and on Capital; OECD Commentaries; Russian Federation; law enforcement practice; law courts and tax authorities.