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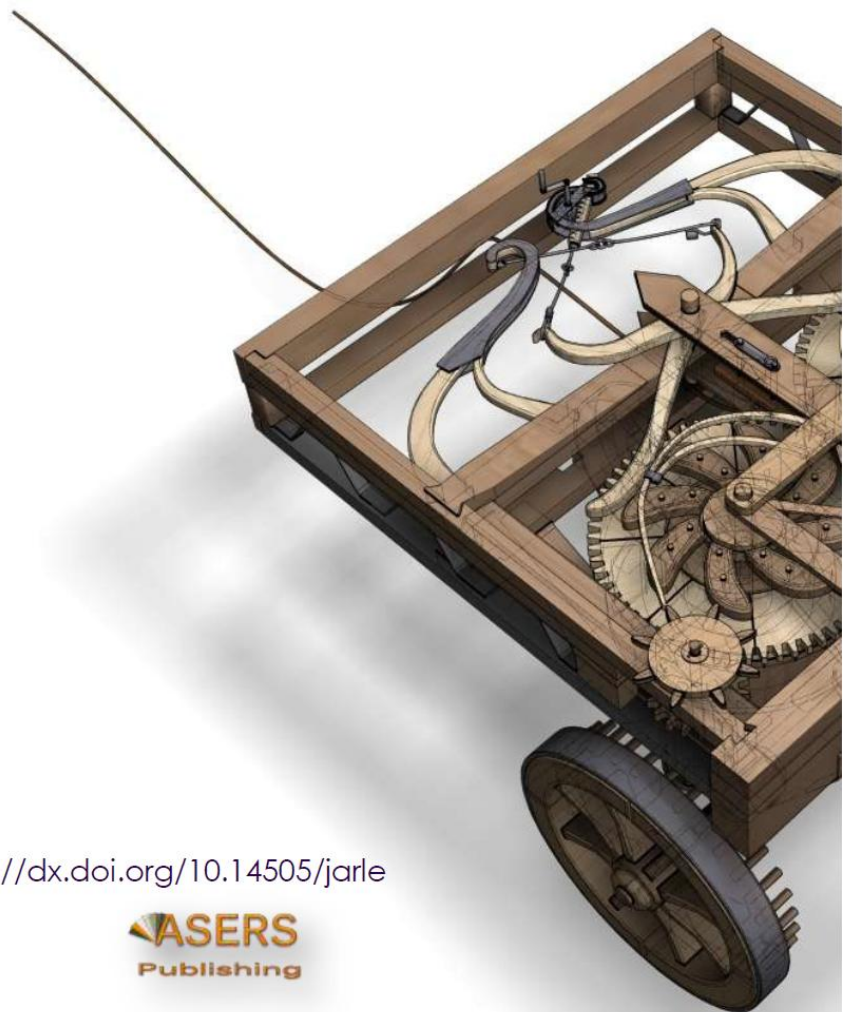
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13 Institution Building of the Eurasian Economic Union: Challenges and Opportunities

Zhanna Turkistanovna Iskakova,
Askhat Bolatbekovich Bimbetov,
and Saniya Nurzhanovna Sarsenova ... 813

14 Influence of the Constitutional and Legal Science on the Formation of Modern Public Policy for Human Potential Protection

Inna Valentinovna Tordia
and Svetlana Antonovna Savchenko ... 828

15 International Legal Aspects of Exercising Refugees' Rights in Central Asia

Amangeldy Shapieiev Khamzin,
Zhanna Amangeldinovna Khamzina,
Yermek Abiltayevich Buriybayev,
Yerazak Manapovich Tileubergenov,
Dauren Akhmetzhanovich Ibrahimov,
and Adlet Tokhtamysovich Yermekov ... 835

16 Value of International Legal Acts in Relation to the Criminal Legislation of the Republic of Kazakhstan

Bakytul Menlenkyzy Konysbay,
Guldana Amangeldiyevna Kuanaliyeva,
and Dinara Akhanovna Tursynkulova ... 842

17 Innovative Approaches in the Development of Kazakhstan Railway Industry

Aliya Muftigaliyeva,
Tursynzada Kuangaliyeva,
Aizhan Ibyzhanova,
Kemel Mirzageldy,
Aleksandr Kaigorodzev,
Kulyash Baigabulova,
and Natalia Sargaeva ... 851

18 Problems of Management of Social Processes in the Almaty Region of Kazakhstan

Gaziza Myrzabekova ... 862

19 Strategic Management Accounting: Legal Aspects and Practical Significance

Vera L. Nazarova,
Marina V. Shiller,
Irina V. Selezneva,
Oksana Yu. Kohut,
and Aida M. Dautzova ... 870

20 Financial Markets BRICS: The Analysis of Competitive Advantages

Alexander Vladimirovich Novikov,
and Irina Yakovlevna Novikova ... 887

21 Fundamental Principles and Activities in Tackling Corruption in the Republic of Kazakhstan

Ermeke Talantuly Nurmaganbet,
Asel Boranovna Izbasova,
Guldana Amangeldiyevna Kuanaliyeva,
and Bakytul Menlenkyzy Konysbay ... 902

22 The Corporate Law and the Optimization of Shareholders' Incomes with Investments into Production Reforming

Lyudmila N. Rodionova,
Olga G. Kantor,
Natalia O. Rukhlyada,
and Svetlana A. Karpovskaya ... 910

23 Adversarial Principle and Principle of Equality of Arms as a Subject of Adversarial Type of Criminal Proceeding

Gakharman Sanan-ogly Sadiev ... 920

24 Evaluation of Economic Efficiency of Information and Consulting Provision for Agricultural Production of Pavlodar Region of the Republic of Kazakhstan

Zubirash Kalybekovna Smagulova,
Saida Erbolatovna Kaidarova,
Gulnara Kanatovna Baibasheva,
Maral Akbaevna Amirova,
Dariga Meiramovna Khamitova,
and Roza Kenzheevna Alimhanova ... 926



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Value of International Legal Acts in Relation to the Criminal Legislation of the Republic of Kazakhstan

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Abstract

The article with the provisions of the criminal law of the Republic of Kazakhstan studied various kinds of international legal instruments and their legal norms and the use in the course of the preliminary investigation and the judicial proceedings. Identified gaps of criminal procedure regulations and the ways of implementation of the norms of international legal acts, including treaties of Kazakhstan, subject to the provisions of the criminal procedure law and other legal acts. The author's position on the Application of Standards intercity rights in the criminal procedure of the Republic of Kazakhstan. Proposals for improving the criminal procedural legislation of the Republic of Kazakhstan in connection with the implementation of international legal norms.

The theoretical value of this work is to justify the need to include in the system of sources of criminal procedural law of the Republic of Kazakhstan recognized principles and norms of international law, the international treaties of the Republic of Kazakhstan, as well as in determining the forms of implementation of international legal norms. In the article for the first time subjected to scientific analysis of some questions to fully understand the content, significance and use in criminal proceedings of various legal force and legal value of international acts. The paper thoroughly discussed the issues of interaction of international and criminal procedural law, learn the basic set of problems arising in the implementation of this interaction. The studies contribute to defining areas for further theoretical development and improvement of practical activities to do on the basis of research findings can be used to further develop the regulatory framework for international cooperation of investigation bodies and courts of the Republic of Kazakhstan.

Keywords: international legal acts, international law, law-enforcement activity.

JEL Classification: K10, K14, K32.

Introduction

Now, in policy of the state the basic principles of peaceful co-existence of non-aggression, peaceful resolution of disputes, self-determination of the people, disarmament, propaganda for war prohibition, etc. are of particular importance. Development of the directions in legal policy on observance of the universally recognized norms of the international criminal law, the mode of the international legality takes important place and in the Republic of Kazakhstan.

More and more value increases and the maintenance of formula of the Statute of the International Court of Justice of the UN 'general principles recognized as the civilized nations' is enriched. The norms of international law based on these principles have the growing impact directly on jurisprudence. The international standards in the field of human rights are most indicative in this plan. Gradually expanding the contents, they find character of universal standards of democracy.

Law-making activity of the state always refracts through prism of the leading ideas of criminal and legal policy. The principles of criminal law are the regulator of both law-making, and law-enforcement activity. Therefore recognition of priority of norms of the international criminal law in the field of protection of human rights serves as the guarantor of legality.

Thus, international legal acts have had huge impact on forming of the maintenance of criminal and legal policy in fixing of the international legal principles, establishment of circle of socially dangerous acts, interpretation of norms of criminal law from the point of view of the conventional principles and norms of international law and development of activities of law enforcement agencies on use of norms of criminal law which source are international legal norms.

1. Literature review

Swiffen A, Nichols J. indicated that the legal significance of international documents, endowed in accordance with federal law attributes criminal procedure act, is that they contain provisions binding on the parties to the proceedings (Swiffen and Nichols 2016, 133).

Pavlich G. examines the value and classification of international agreements on legal assistance, their legal significance (Pavlich 2016, 233). The paper Sidorkin A.M. noted that, depending on the name of a public body has concluded international agreements, they are divided into: interstate, intergovernmental and interdepartmental. It is necessary to distinguish between international treaties on combating crime on inter-institutional agreements on these issues. The first is on behalf of the state authorities and be subject to ratification in accordance with established procedure, the second – by the competent authorities on behalf of the Ministries of Justice states, without any such requests. Ratification of legislative bodies are not subject to such acts (Sidorkin 2016, 321). There are certain rules of international regulations resulting from the content of the international legal acts: the adoption of the necessary measures, especially legislative, on compliance and enforcement of international law; the rights enshrined in the legislation of the kind provided for in the international instruments; amendments to the criminal procedure law.

We believe that the provisions of international law incorporated in the Criminal Procedure Law, implemented through the use of actors listed criminal procedural powers. This point of view on the process of introduction and continued use of international standards in the regulation of criminal procedure relations is consistent with direct content and legal importance of international legal instruments.

Mutual consideration different in meaning, content and scope of the international legal instruments, in particular in the field of criminal procedural law, is manifested in the consolidation of a number of international standards in the Constitution, their inclusion in the criminal procedure legislation.

It is possible to include in the criminal procedure system of sources of the provisions of the international treaties, which are incorporated into the current criminal procedure law or ratified in accordance with the law.

Providing legal assistance in criminal matters by the competent foreign and local authorities is carried out through the execution of requests. Their procedure is determined by an international treaty. In the performance of assignments in the Republic of Kazakhstan applies the Criminal Procedure Law of the Republic of Kazakhstan and international legal norms.

1988. Point 7 of this Arch of the principles says that 'the states should forbid in legislative order any actions contradicting the rights and duties containing in the real principles'.

So, according to the classification of international legal acts offered by us we consider expedient to develop the International Bases of the criminal legislation of the Republic of Kazakhstan. In our opinion, acceptance of the International Bases of the criminal legislation of RK in which the conventional principles and norms of international law will be reflected, will expand the maintenance of number of standards of the national criminal legislation towards compliance to their international legal standards and will establish general conditions of their use.

Conclusion

The essential difficulty is the inclusion in the criminal legal system of international standards to ensure extradited person, the right to protection. The legislation has not received a reflection of such international instruments granted the right of a detained or arrested person, as a meeting with a representative of the State of which he is.

The article contains a number of proposals for supplementing the criminal legislation aimed at, to ensure fulfillment of international obligations of the Republic of Kazakhstan and streamline the system of extradition of persons to carry out their criminal prosecution, as well as to clarify their warranty rights. In addition, the rationale for the adoption of the law on extradition of persons suspected or accused of committing crimes.

The article explores the possibility of direct application of international law in the investigation of crimes and the implementation of the judicial proceedings. On this account we have the situation where the relationship between the parties to the proceedings, have similarly settled the main sources of criminal procedural law of the Republic of Kazakhstan.

However, the rules of international legal instruments can be directly applied by the investigators, prosecutors and judges often in practice, the provisions of international law can be applied in conjunction with the rules of criminal procedure or mediocre, if that is an indication of the law of the Republic of Kazakhstan.

Application of the principles and norms of international law carried out on the basis of compliance with the rules of the law of international legal status. This principle is that the rules of criminal procedure shall be interpreted so that its content is not contrary to international instruments.

The paper highlighted this form of implementation of the norms of international legal acts, as an interpretation of international legal provisions in the decisions of the higher judiciary of the Republic of Kazakhstan. It should be noted that the decisions of the Constitutional Court of the Republic of Kazakhstan there is a tendency to use the same instructions several international legal instruments. While a number of equally important norms of international legal instruments has not yet been reflected in the practice of the Constitutional Court of the Republic of Kazakhstan.

In the case of direct application of international law, the Constitutional Court of the Republic of Kazakhstan has the right to annul the rules of criminal procedure as not corresponding to the Constitution of the Republic of Kazakhstan. Plenum of the Supreme Court of the Republic of Kazakhstan in their decisions on the basis of direct application of international regulations provide explanations on how to apply the rules of law of criminal procedure in order to eliminate the contradiction between them and the sources of international law - both general and contractual nature.

Establishing mandatory casual interpretation of the Supreme Court of the Republic of Kazakhstan law on criminal procedure (on the basis of the Constitution and the provisions of international legal acts) to the lower courts is imperative, without following which it is hardly possible to ensure the constitutional provisions common understanding and, consequently, the application of criminal procedural rules by the courts of general jurisdiction.

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