Asesorías y Tutorías para la Investigación Científica en la Educación Puig-Salabarría S.C.
José María Pino Suárez 400-2 esq a Lerdo de Tejada. Toluca, Estado de México. 7223898475
RFC: ATI120618V12

Revista Dilemas Contemporáneos: Educación, Política y Valores.
http://www.dilemascontemporaneoseducacionpoliticayvalores.com/
Año: VII Número: 2 Artículo no.:104 Período: 1ro de enero al 30 de abril del 2020.

TÍTULO: La ley natural y el "espíritu del pueblo" en las enseñanzas de F.K. von Savigny.

AUTOR:

1. Pas. Sc. Denisov Anton Mikhailovich.

RESUMEN: El artículo analiza el concepto legal de F.K. von Savigny, quien se compara con la teoría tradicional del derecho natural. Él creía que la mente universal, encarnada en el "espíritu del pueblo" como sustancia interna, contiene la totalidad de las ideas de derecho reconocidas por el pueblo. De acuerdo con F.K. von Savigny, la importancia del trabajo del legislador radica en el hecho de que elimina la incertidumbre legal contenida como resultado del desarrollo histórico, no aclarada ni fijada por la ley. Las normas escritas adoptadas como resultado de la actividad legislativa registran el resultado logrado del desarrollo de la ley, aunque al mismo tiempo, como F.K. von Savigny, el proceso mismo de tal desarrollo se ralentiza.

PALABRAS CLAVES: Savigny, ley, personas, estado, ideal legal.

TITLE: Natural law and the "spirit of the people" in the teachings of F.K. von Savigny.

AUTHOR:

1. Science intern. Denisov Anton Mikhailovich.

ABSTRACT: The article analyzes the legal concept of F.K. von Savigny, which is contrasted with the traditional theory of natural law. He believed that the universal mind, embodied in the "spirit of the people" as its internal substance, contains the entirety of the ideas of law recognized by the people. According to F.K. von Savigny, the significance of the work of the legislator lies in the fact that he eliminates the uncertainty in law that is contained as a result of historical development, not clarified and not fixed by law. The written norms adopted as a result of legislative activity record the achieved result of the development of law, although at the same time, as F.K. von Savigny, the very process of such development slows down.

KEY WORDS: Savigny, law, law, people, state, legal ideal, historicism.

INTRODUCTION.

The idea of historicism, associated in the history of legal doctrines mainly with the name of F.K. von Savigny, relatively late in the circle of system-forming concepts of the theory of law, asserting itself in it only by the end of the 18th century. She was basically alien to both antique thinking with its understanding of natural law as a substantial primary element of being, and new European theorizing, which deduced the basic principles of natural law from innate ideas of reason or from a social contract [Maslennikov D.W. (2015)].

F.K. von Savigny, his predecessors and followers (G. Hugo, G. F. Pukhta, R. Iering), updated the main trend in the development of legal theory, laid down by the classics of modern science, which in the 19th century was realized in the assimilation of political and legal ideas of systemic ideas and Historicism [Denisov AM, Ismagilov IR, Maslennikov DW (2017)], but unlike successive rationalists - S.-L. Montesquieu, I. Kant, G.V.F. Hegel, K.G. Marx - F.K. von Savigny substantiated the irrational version of legal historicism.

F.K. von Savigny, wanting to get away from arbitrary idealistic conclusions of supporters of natural law, in which he rightly saw subjectivity, contrasts the “eternal”, “timeless” natural law with the positivity of the directly given in the history of public justice. Moreover, F.K. von Savigny paradoxically concludes that he affirms the irrational nature of positive law itself. Of course, he achieves his main goal, which was to get away from the notions of law as the result of the subjective activity of the legislator or the interpreter of natural law. The price he had to pay for this goal led him only to a more consistent and frank idealism in the interpretation of law.

DEVELOPMENT.

Research methodology.

In the process of cognition of state-legal phenomena were used:

a) General scientific methods (formal-logical, systemic, structural-functional, concrete-historical).

b) General logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.).

c) Private scientific methods (technical and legal analysis, specification, interpretation, etc.).

Study results.

According to F.K. von Savigny, law has already been fully given in its original form of positive public consciousness, it is not the fruit of arbitrary institutions, but needs further development of its form. This development can be realized only through the interaction of this kind of public law-making with the legislative activity of state power.

F.K. von Savigny sees the state as "the bodily image (Gestalt) of the spiritual unity of society." The “Gestalt” lexeme used by him has many aspects in scientific German speech. It can also be interpreted as a prototype or as a “phenomenon”, if we use the expression of Goethe, for similar series of phenomena. It is no coincidence that F.K. von Savigny further stipulates that in the image

of the state, the unity of society that is not given in the feelings takes on the features of something sensual.

The aforesaid F.K. von Savigny extends to law: in the purely spiritual unity of society, law exists only as “living contemplation” and does not acquire conscious logical forms, but only in the state does law find its life and its reality. At the same time, the state itself cannot yet guarantee the validity of law, since the state is only an “image” of the social essence from which law grows.

Characterizing the complex of relations taking shape within the framework of the opposition of state and law, F.K. von Savigny identifies three real groups of contradictions: between the certainty of the existence of individual peoples and the evidence of the existence of mankind as a whole, between individual social groups with their historical past and future of society as a whole, between the necessity of the existence of law as an element of the national spirit and the random nature, the anomalous nature of its manifestation.

He interprets these contradictions as inevitable in the process of moving from the uncertainty of law as the essence of social phenomena to the specificity of the system of laws recognized by society and supported by the state.

These contradictions are found in the fact that law, on the one hand, should be recognized by the state, but on the other hand, it should not be just a matter of the state. The fact is that law should be recognized not only by the national state, but also should be thought of as universal law, in the limit - world law. Law should not be a matter of chance and human free will, but should be something fundamentally binding on everyone.

Ultimately, F.K. von Savigny, rising to the level of philosophical generalization, argues that law should be manifested as unity. However, it does not exist as an abstract unity, but as a concrete unity, given in the present, as something real. As such, it must first of all reveal itself as a unity of legal value and legal reality.

Offering such an interpretation of the relationship between law and the state, F.K. von Savigny seeks to connect in a unified theory the beginnings of necessity and the truth of law, the reality of the state and the realism of legal norms. Ultimately, he seeks to achieve a concrete unity of legal value and legal reality, without opposing each other the form and content of law. According to his main postulates, this can be achieved only by turning to the philosophical and legal method of understanding the historical process. It is the latter, in his opinion, that is the real justification of the fundamental concepts of law, in a universal way explaining the relationship between law, the state and society.

Treating the concept of the state, F.K. von Savigny distinguishes the state as a “historically acting entity” from the state as “only existing” (in the original: “existent”). As the first, the state encompasses the essential connection of laws, or legislation as such, which constitutes what he calls “state law”. At the same time, legislation should not be conceived as a simple collection of available data, positive norms, but rather it is their internal essence, which is not inherent in anything accidental or arbitrary.

Understand what this “legislation” is in a specific interpretation of F.K. von Savigny, as well as know its content, can only be seen as a historical phenomenon. “The science of legislation is a historical science ... the whole nature of the science of legislation should be historical,” stated F.K. von Savigny [Savigny F.K. von (2002)]. At the same time, he once again draws attention to the fact that “historical” means not only something given, but given with a necessity, again specific to F.K. von Savigny is the meaning of the word about which we spoke above.

The point is that the state, with such an understanding of F.K. von Savigny does not grow out of some arbitrariness of historical actors, but rather, on the contrary, opposes this arbitrariness. As a kind of universal state, a “state in general," it realizes itself in various historical forms of its manifestation as a "degree of restriction of the individual", i.e. restrictions on the possible

arbitrariness of a society or person acting contrary to objective necessity embodied in a universal state. This restriction realizes itself in these laws, which are precisely why they are fundamentally objective and necessary. Accordingly, the science of law and law, according to F.K. von Savigny, should be understood as objective and at the same time historical sciences.

At their core, he believed, should be a reference to some legal ideal. This ideal is not given anywhere in the phenomenon and cannot be grasped purely empirically, but at the same time it should be the basis of the science of legislation. Note that the appeal to the ideal in legal science was mainly characteristic of the Neo-Kantian tradition. It was an analogue of the Kantian "ideal of pure reason", which was introduced by I. Kant in the final part of "Critique of pure reason".

According to I. Kant, the mind will only strive for knowledge when it can assume this process is complete, which means that it must admit the ideal of reason, which has all the fullness of knowledge. An analogue of this intellectual construction was proposed at the beginning of the 20th century by G. Kelsen in his theory of the “basic norm”, which does not have an empirical analogue and therefore cannot be verbally expressed, but the idea of it as a legal ideal is necessary for the legal mind to give to all the others , i.e. private, quality standards of objectivity and commitment [Revnov B.A., Kruschelnizkiy M.A. (2014)].

In general, the historicism of F.K. von Savigny occupies an intermediate position between the scientific and methodological positions of I. Kant and G.V.F. Hegel [Ananskich I.A., Denisov A.M. (2017)]. For I. Kant, historicism is associated with the movement of mankind towards the goal of a perfect state and law, which is established by the ideal of extra-historical pure reason, taken outside the essence of social and legal phenomena.

At G.V.F. Hegel’s history of state and law is due to the contradiction between form and essence that arises at each stage of their development. For F.K. von Savigny, the history of state and law itself embodies the essence of these socio-legal phenomena, and therefore, is adequate to their content.

Since he does not think dialectically, he cannot reveal the universal content in the special forms of a separate “national spirit”. Therefore, the historicism of F.K. von Savigny inevitably comes to a contradiction between the global and national principles in the development of law. This theoretical contradiction is resolved in the irrationalism of its legal concept.

The founder of the historical law school was neither Kantian nor Hegelian. He took his idea of the legal ideal not from the Critique of Pure Reason, but as a modern German researcher points out, from the work of German romantics of the turn of the 18th-19th centuries, to whom he was especially close and with whom, for example, with Jacob Grimm, he was in constant correspondence [Ananskikh I.A., Denisov A.M. (2017), p. 330-333].

Of the romantics who influenced the teachings of F.K. von Savigny on the legal ideal, stands out especially F. Gelderlin (F. Hölderlin), who in his novel "Hyperion" ("Hyperion") developed the idea of the ideal as following the nature of things and about submission to this nature, contrary to the prescriptive tenets of reason [Denisov AM (2018)].

The carrier of the irrational ideal F.K. von Savigny saw the people. Therefore, “not only the natural-legal philosophy was unacceptable for the representatives of the historical school, but also the statist view of law, which is the object of its study, completely dependent on the arbitrariness of the legislator, and therefore random, in the existence of which there are no laws that were aimed at revealing the efforts of the new school ”[Kozlichin IY, Poljakov AW, Timoschina EW (2007)].

In this context of his legal theory, the German scientist preferred not to talk about “civil society”, but about “people”. Civil society as an internally structured whole for F.K. von Savigny was nothing more than an external carrier of that substantial spiritual, rationally inexpressible content, which constituted the internal content of the “people” as a historical given. However, the people for F.K. von Savigny must act in the state and realize himself through the state. In this, he draws closer to the position of Hegel, who believed that only the peoples who created the state can be fully

considered historical peoples. At the same time, Hegel interprets civil society as a kind of "external state" [Hegel G.V.F. (1977)].

Late F.K. von Savigny, as it seems to us, in his interpretation of the relationship "state - civil society", or "state - people", approaches the Hegelian interpretation [Denisov A.M., Ismagilov I.R., Maslennikov D.W. (2017)]. The difference is manifested only in methodology, primarily in the interpretation of the concept of people: absolutely idealistic, as in Hegel, or irrationalistic, as in F.K. von Savigny. This allowed later authors, without much violence over the material, to try to reconcile the theoretical premises of the two classics. An example is the outstanding Russian jurist of the XIX century K.A. Nevolin.

An appeal to the people as the main source of law quite naturally leads F.K. von Savigny to the recognition of the leading role of private law over other types of law. He substantiates the point of view according to which in the absence of an autonomous sovereign state and state law, it is private law that is the minimum legal order of civil society. In these ideas, F.K. von Savigny are consonant with the thoughts of his like-minded K.F. Eichhorn, who emphasized the role of private law in the implementation of the principle of historicism in law [Eichhorn K.F. (1829)].

K.F. Eichhorn argued that in each legal institution, one can distinguish a certain basic principle, which is a distinctive feature of the institution of private law, and this attribute is based on the general legal doctrine of law, which is universally applicable, while the modified principles comprise specific ordinary rights that act only in a separate specific place. This difference believes K.F. Eichhorn can be found in the texts of legal sources themselves. So, private law serves as a historical source for modifying the leading principles of common law.

In very close tones, F.K. wrote about private law von Savigny. However, unlike K.F. Eichhorn, his argument turned out to be more focused on contemporary times. As we saw, in a discussion with A.F. That is, Roman law was interpreted by him as an actual legal system, which he tried to counter

to the attempts of modern codification of the law of German states. Actually, the name of the main work of F.K. von Savigny sounds: "The system of modern Roman law." For its author, Roman law seems to be an exemplary perfect system of law, complex and thought out to the details. And in this capacity, Roman law contains a methodological prerequisite for the development of modern law.

About this F.K. von Savigny quite definitely wrote in his Journal of Historical Jurisprudence, in a programmatic introductory article entitled "On the Purpose of this Journal": "... a historical school suggests that the material for law is given by the nation's unified past, but not arbitrarily, so it's random it may turn out to be this or that, but proceeding from the deep essence of the nation itself and its history. However, any prudent activity at any time should be aimed at reviewing this material, which is necessary for internal needs, updating it and preserving it" [Savigny F.K. von (1815)].

The practical significance of the historical heritage in law is realized in modern practice through the conscious and purposeful application of the methodology of interpretation of historical tradition, combining the methodology of historical and philosophical knowledge.

The realization of law acquires concreteness in the essence of the "national spirit" understood and expressed by professional lawyers. Right, literally, grows out of the people. The possibility of self-identification of the people F.K. von Savigny saw the application of the "national criterion", which is expressed in the people's sense of justice and in the national culture as a whole: "Law grows with the people, improves with them, and finally dies when the people lose their identity. This improvement alone, including during this cultural time, is of great difficulty for observation. It has been argued earlier that the foundation of law is the universal self-awareness of the people. For example, in Roman law, the unified nature of marriage, property, and so on can be called the foundations, but everyone will understand the impossibility of such detailing, about which we find quotes in the pandices" [Savigny F.K. von (1815)].

In the understanding of F.K. von Savigny “people” as an integral socio-cultural phenomenon becomes a kind of “breeding ground” for the estate of professional lawyers who complement the masses who do not have a special education to interpret legal knowledge. Justifying such an approach, he wrote: “These difficulties have led us to a new look at the development of law. In the context of a growing level of culture, all types of activities of the people are becoming increasingly disconnected, and what was previously done by common forces is now being done individually. Lawyers have now become the same separated estate. Law is now developing much more linguistically, it has taken a scientific direction, and what used to live in the self-consciousness of the whole nation now remains in the minds of lawyers who represent the whole nation in this function” [Savigny F.K. von (1815)].

The work of professional lawyers introduces the beginning of rationality and clarity of judgment into the general field of law, growing out of the elements of public life. Moreover, the law itself is developing in the direction of differentiation and substantial complication. In this regard, F.K. von Savigny noted the following: “The existence of law, starting from the present moment, becomes artificial and complex, since it has a double life, one as part of a common public life that does not cease to exist; the second as a special science in the hands of lawyers. As a consequence of this interaction of influences, all subsequent phenomena occur, and it is now clear how completely monstrous, not arbitrary and without special intention, some monstrous details can arise. For the sake of brevity, we call the connection of law with the common people's life a political element, while the isolated scientific life of law is its technical element” [Savigny F.K. von (1815)].

F.K. von Savigny argues that the “law of law" has a dual function, namely political and technical. The political function of substantive statements in law is addressed to the bulk of society with spontaneous legal awareness.

The technical function is the prerogative of educated lawyers recognized by the state. So, real social life and legal science in the field of pure theory are clearly separated, but functionally they are related to each other. At the same time, the sphere of politics and law, although they are two systems independent from each other, but in practice determine each other.

According to F.K. von Savigny, the political necessity realized in the national legal consciousness, in the process of its scientific interpretative "cutting" by professional lawyers and the legislator is transformed into legal reality, the main subject and object of which is the personality. The unity of legal value and legal reality, according to F.K. von Savigny, most clearly finds himself in ensuring the civil rights of the individual, confirmation of which he primarily finds in the historical development of Roman law.

Methodological approach F.K. von Savigny to understanding the essence of the people as the bearer of the legal ideal and the essence of the law itself can also be defined as a kind of early hermeneutic approach [Rückert J. (1984)], the idea of which he could have developed under the direct influence of F. Schleiermacher, who studied the procedure understanding of the subject and developed a methodology of hermeneutic cognition, relevant for humanitarian cognition, including law.

F.K. von Savigny seeks to find ways to know the law not from external sources (morality, nature, the will of God, etc.), but from the law itself. Such an approach cannot be called either subjective or objective. It is, rather, a kind of intellectual intuition in the spirit of F.V.Y. Schelling, which should allow us to understand the superempirical nature of law, without going beyond the legal content.

Therefore, F.K. von Savigny, it turns out that the basis for knowing pure law cannot be sought in anything even deeper than the intuition of legislation itself. It is intuition that can be for consciousness something initially unified, internally indivisible and constitute a higher unity. By virtue of this quality, intuition brings unity, combining, "gluing" together the diverse data on the nature of legal and moral relations that we have drawn from historical experience.

The unity of historical experience cannot be sought either in legal relations themselves, which are always only an object, or in discursive thinking, which, however, in an act of self-consciousness can be pure subjectivity, but at the same time never possesses the dignity of absolute unity. Consequently, the source of the reliability of knowledge of law cannot be sought either in the world of objects or in the cognitive activity of the subject. It can be and is only in the field of intuition, understood as an act of absolute freedom of the subject and is empirically revealed in it only as a "voice of the spirit of the people".

A certain methodological difficulty for F.K. von Savigny contained the question of the relationship of national and universal principles in lawmaking.

Giving priority to national principles in the formation of law, F.K. von Savigny did not at all oppose the ideas of world history and world progress, which, after the publication of the famous work of the outstanding German philosopher and historian I.G. Herder (1744 - 1803) "Ideas for the Philosophy of the History of Mankind" became generally recognized in German scientific literature. F.K. von Savigny only insisted that it was the "spirit of the people" that acts as the real subject of law-making, while the universal human spirit is not the subject of action, but rather refers to individual national "spirits" as a substance to its accidents.

In his concept, law is the result of the active interaction of people. Universal human interaction has always been quite sporadic and could not lead to the formation of any concrete and stable forms of legal life. The real close interaction of people takes place only within the limits of one people, one nation, and it is a particular people that constitutes the social space within which the valid norms of legal life are ripening.

From the perspective of today, within the framework of the concept of the historical school of law, one could raise the question of how the conditions for the formation of law change with the intensification and institutionalization of international interaction. This issue is of particular interest

in modern conditions of globalization. However, F.K. von Savigny has not yet formulated the problem in this way. For him, universal goals, universal subjectivity and potential normativity, embodied in the elements of the world-historical process, are all completely abstract questions that he relates to the competence of the philosophy of law. For real legal practice, believes F.K. von Savigny, of practical importance is only the study of the historical process of the formation of law in a separate, relatively closed, social community of the people.

However, F.K. von Savigny also stipulates the possibility of the establishment of supranational law, linking them in the spirit of the Aristotelian tradition with the target reason. The general goal of law, he considered the triumph in it of the Christian principles of freedom and the "moral dignity of man", which should be guaranteed by legal institutions.

Only gradually, says F.K. von Savigny, as each people approaches the realization of the common goal of the development of law, between the various national legal systems any kind of community can be observed and then as a result of their convergence a stable system of supranational law can be formed, but all this is F.K. von Savigny refers to an uncertain future, discussions about which go beyond the scientific interests of a legal scholar. So, F.K. von Savigny complicates the previously constructed model of the formation of law, presenting it as a result of the impact on national processes of global goals.

In general, the interpretation of F.K. von Savigny of the historical process of the development of law was based on the idea that this process is subject to a certain law of internal necessity. The concept of necessity, which he interprets completely in an idealistic manner, plays a very important, conceptual role in his teaching. In his interpretation, necessity turns out to be an irrational concept, which can hardly be expressed by logical means. F.K. von Savigny only stipulates that internal necessity is revealed only in external activity.

This approach opens up certain opportunities for him in constructing a theoretical and legal system, but it is also fraught with blurring the lines between the accidental and the necessary, between the moral and the legal, between the norm and the legal difference.

Realizations in the law of this specific “necessity” F.K. von Savigny attributes the source of the highest value of law. In the process of its implementation, the need is always embodied in the law as its internal content, never being manifested outside. It is a “own sign”, a “solid core” of each holder of positive law, which is revealed in customary law as a legal custom (Gewohnheit) or realizes itself in the active work of the legislator.

The legal custom is for F.K. von Savigny by the mechanism for the realization of "necessity", which underlies the social processes. He believed that one should distinguish between the accidental and the necessary in legal custom. This distinction, which he constantly emphasizes, plays a conceptual role in his theory. It is the latter that expresses the real spirit of the people and consolidates in the “general legal conviction” that “internal necessity”, which breaks through the cohesion of the accidents of the historical process. However, F.K. von Savigny does not provide any empirical or rational criteria for assessing the content of the concepts presented here, therefore, the whole theoretical foundation of his concept seems, from the point of view of the modern theory of law, not quite justified.

The internal necessity of law realizes itself through a series of historical accidents from which the legal custom is formed. In this process, chance loses all appearance of something stable and permanent. However, this kind of accident that F.K. von Savigny calls “anomalies”, can neither affect the general nature of the development of the state and law, nor the state of the national spirit. Among such “anomalies” he attributed primarily to external acts of violence against the state, for example, conquest or fragmentation of territories. Sooner or later, this anomaly is corrected under

the influence of the healthy moral forces of the people and their legal instinct. Or the painful state of the state and society leads them to death.

F.K. von Savigny insists that any historical movement is subject to strict necessity and the will of an individual cannot influence this process. Law acts as a kind of quintessence, a necessary product of the action of an objective historical law, which is realized through the volitional action of national consciousness.

It should be noted that although freedom in various ways and in different forms manifests itself at each of the three stages of world history, according to Hegel, it is given as a “substance of the spirit” immediately in its entirety. This contradiction between the original fullness and givenness of freedom, on the one hand, and its absence in the external forms of the state, on the other hand, constitutes the source of historical development, the real subject of which is G.V. Hegel calls the "world spirit", realizing itself in the historical forms of the state [Maslennikov D.W., Revnova M.B. (2017)]. This point of view, of course, fundamentally diverges from the point of view of F.K. von Savigny, for whom the individual spirit of each nation was an independent subject and constituted a valid starting point for the construction of his theory of law by a lawyer.

The fact is that the world-historical process, as G.V.F. saw it Hegel, for F.K. von Savigny is not an actual source of the genesis of law. He appeals precisely to the spirit of a separate nation¸ which independently gives rise in its historical development to various forms of legal life and moral self-awareness. If for Hegel, law is a product of the history of all mankind, at different times concentrating in one or another nation, but not fully identified by it, then for F.K. von Savigny law is a sociocultural phenomenon generated by a particular nation. The German lawyer, in fact, approaches the concept of isolation and impermeability of individual types of cultures, which will be presented a century later in the works of O. Spengler.

In his development of the idea of the historical development of law F.K. von Savigny is largely based on the Hegelian experience of interpreting social phenomena, based on the principle of historicism. At the same time, he does not take into account Hegelian dialectics, which resolved the contradiction of historical and logical, eternal and temporary. It was this dialectic that allowed G.V.F. Hegel show how externally incompatible combines: the historical development of law and the absoluteness of law, the artificiality of positive legislation and the eternity of legal values.

By F.K. von Savigny, only historically changeable in law lends itself to a rational interpretation, in the same place where it is a question of eternal, temporal and suprahistorical law, one should appeal only to irrational ideas, but at the same time, he leaves the soil of scientific knowledge of law.

CONCLUSIONS.

According to F.K. von Savigny, law has a non-state nature, but cannot exist without a state, being incomplete without it, since only in a state does it find its full “image”. "Law" and natural law appear as interconnected entities. Natural law arises in the depths of the national spirit, living social unity, but only in the system of laws, i.e. in positive law, it receives its final and actual embodiment. Moreover, F.K. von Savigny fundamentally diverges from the attitude adopted in the modern era towards the theory of natural law as a paradigm of legal thought.

Conflict of interest.

The authors confirm the absence of a conflict of interest.

BIBLIOGRAPHIC REFERENCES.

(In Russian).

1. Ananskikh I.A., Denisov A.M. (2017) Filosofiya prava I. Kanta kak odna iz predposylok ucheniya Fridrikha Karla fon Savin'i // Yuridicheskaya nauka: istoriya i sovremennost'. № 9. S. 185-190.

2. Gegel' G.V.F. (1977) Entsiklopediya filosofskikh nauk. T. 3. M.: Mysl'. 471 s.

3. Denisov A.M., Ismagilov I.R., Maslennikov D.V. (2017) Gegel' i Savin'i: stanovleniye idei istorizma v prave / Yuridicheskaya nauka: istoriya i sovremennost'. № 3. S. 181-185.

4. Denisov A.M. (2018) Zhizn' i nauchnoye tvorchestvo F.K. fon Savin'i / Yuridicheskaya mysl'. № 3. S. 19-25.

5. Kozlikhin I.YU., Polyakov A.V., Timoshina Ye.V. (2007) Istoriya politicheskikh i pravovykh ucheniy. SPb: Izdatel'skiy Dom SPbGU, Izdatel'stvo yuridicheskogo fakul'teta SPbGU. 854 s.

6. Maslennikov D.V. (2015) Pravo kak forma razlicheniya dobra i zla // Yuridicheskaya mysl'. № 6. S. 42-46.

7. Maslennikov D.V., Revnova M.B. (2018) Otnosheniye religii i gosudarstva v filosofii prava G.V.F. Gegelya // Yuridicheskaya mysl'. № 1. S. 20-25.

8. Revnov B.A. Krushel'nitskiy M.A. (2014) Normativizm Gansa Kel'zena: vzglyad iz XXI veka. – SPb: Izdatel'stvo Yuridicheskogo instituta (Sankt-Peterburg). 268 s.

9. Eichhorn K.F. (1829) Einleitung in das deutsche Privatrecht mit Einschluss des Lehenrechts. Göttingen. 982 p.

10. Rückert J. (1984) Idealismus, Jurisprudenz und Politik bei Friedrich Carl von Savigny / Joachim Rückert. Ebelsbach: Gremer. 487 p.

11. Savigny F.K. von. (2002) Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschsft (Heidelberg, 1814) // Hattenhauer H. Thibaut und Savigny. Ihre programmischen Schriften. München: Vahlen. 197 p.

12. Savigny F.K. von. (1815) Űber den Zweck dieser Zeitschrift // Zeitschrift für geschichtliche Rechtswissenschaft. № 1 // https://archive.org/details/Savignyber Den Zweck Dieser Zeitschrift/page/n2.

(In English).

1. Ananskikh I.A., Denisov A.M. (2017) The philosophy of law by I. Kant as one of the prerequisites for the teachings of Frederick Carl von Savigny // Legal Science: History and Modernity. No. 9. S. 185-190.

2. Hegel G.V.F. (1977) Encyclopedia of Philosophical Sciences. T. 3. M.: Thought. 471 p.

3. Denisov A.M., Ismagilov I.R., Maslennikov D.V. (2017) Hegel and Savigny: the formation of the idea of historicism in law / Jurisprudence: history and modernity. No. 3. S. 181-185.

4. Denisov A.M. (2018) Life and scientific work of F.K. von Savigny / Legal Thought. No. 3. S. 19-25.

5. Kozlikhin I.Yu., Polyakov A.V., Timoshina E.V. (2007) History of political and legal doctrines. St. Petersburg: Publishing House of St. Petersburg State University, Publishing House of the Law Faculty of St. Petersburg State University. 854 s

6. Maslennikov D.V. (2015) Law as a form of distinguishing between good and evil // Legal Thought. No. 6. S. 42-46.

7. Maslennikov D.V., Revnova M.B. (2018) Relation of religion and state in the philosophy of law G.V.F. Hegel // Legal Thought. No. 1. S. 20-25.

8. Revnov B.A. Krushelnitsky M.A. (2014) The Normatism of Hans Kelsen: A View from the 21st Century. - St. Petersburg: Publishing House of the Law Institute (St. Petersburg). 268 p.

9. Eichhorn K.F. (1829) Einleitung in das deutsche Privatrecht mit Einschluss des Lehenrechts. Göttingen. 982 p.

10. Rückert J. (1984) Idealismus, Jurisprudenz und Politik bei Friedrich Carl von Savigny / Joachim Rückert. Ebelsbach : Gremer. 487 p.

11. Savigny F.K. von. (2002) Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschsft (Heidelberg, 1814) // Hattenhauer H. Thibaut und Savigny. Ihre programmischen Schriften. München: Vahlen. 197 p.

12. Savigny F.K. von. (1815) Űber den Zweck dieser Zeitschrift // Zeitschrift für geschichtliche Rechtswissenschaft. № 1 // https://archive.org/details/Savignyber Den Zweck Dieser Zeitschrift/page/n2.

DATA OF THE AUTHOR.

1. **Anton Mikhailovich Denisov** - graduate student of the Law Institute (St. Petersburg). E-mail: denisov@lawexp.com

RECIBIDO: 5 de diciembre del 2019. **APROBADO:**19 de diciembre del 2019.