**КОНСПЕКТ ЛЕКЦІЙ**

**з навчальної дисципліни**

**«Правознавство"(англійською мовою)**

LAW

**LECTURE 1.**

**CONCEPT AND SIGNS OF LAW AS A SOCIAL SYSTEM.**

**1. Concept and characteristics of law.**

**2. Functions and principles of law.**

**3. Law system and its structure.**

**4. Sources of law.**

1. Origin of law is primarily associated with the complexity of the quality of production, political and spiritual life of society, the isolation of the individual as a member of the public relations and the formation of the state, which requires mandatory social control mechanism in society.

Today, the term **"law"** means reasonable, justified the freedom or ability of behavior that is recognized by society. In a legal sense, the term **"law"** - is used as a **subjective sense** - freedom or ability of the individual to legally possible behavior, and in the **objective** - a set of legal standards expressed in the regulations, which are issued by the state.

The existence and purpose of law in the society caused by the need to streamline regulation of social relations and at first by guaranteeing individual freedom, open space for the permitted behavior.

In essence, the right expresses the agreed will of the parties of governed relations, priorities and value of the individual and, therefore, serves a measure of freedom and responsibility of the individual and the collective, by *means o*f the civilized satisfaction different interests and needs.

Analyzing the above can make the following definition of the right:

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| **"Law** - is due to the nature of man and society and expresses the freedom of the individual control system of social relations, which are inherent normativity, the formal definition of official sources and to allow state enforcement." |

Based on this, the system has the following **features:**

-***Normativeness* (*standard)*** - this attribute indicates that the right exists as a system of general rules that applies to all cases of this kind, and in accordance with which the behavior of persons is built in the regulated legal situation;

- ***The formal definition*** - the rules are expressed in laws and other governmental official sources;

- ***System rules*** - the rules of law are grouped and assigned in a certain system of regulation of legal relations;

- ***State security*** - is expressed in the protection of the rights of the States;

- ***universality*** - the right to apply to all matters arising in the community.

**2.** The role of law as a system of regulation of social relations, expressed in its functions. The functions of law - these are the main areas of legal influence on public relations.

In the theory of law decided to allocate the ***general*** and ***legal*** functions of law. *I*

**General** purpose of law is to give the public relations of qualities such as: stability, consistency, stability, organization, etc.

Therefore, among them are: (**GENERAL**)

* cultural and historical;
* educational;
* informative;
* control.

**Legal functions** are divided into regulatory and protective function.

* ***The regulatory function*** - this is ordering of social relations by fixing in legal institutions useful to person and society relations and orders (property rights, the institution of a civil contract).
* ***Protective function*** — it is establishment of protection and legal responsibility for the
* illegal behavior of entities (the responsibility for offenses against the person in criminal law).

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| ***Principles of law*** - is the leading ideas that characterize the nature of law and its importance in society. |

The basic principles of the law are:

* legal justice;
* legal equality;
* legal validity;
* justice;
* Respect for the legal rights of individuals.

**3**. Law as a system has an ***internal structure***, which is characterized by the division of norms, institutions and branches of the law.

Initial element of law structure is - the ***norm of law***.

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| ***Rule of law*** - it is obligatory, the formal definition of a rule of conduct established or authorized by the state to resolve the social relations and to ensure its binding force. |

Signs of the law:

1) State and authorative nature — is a rule of law established by the state and provided by the State and state coercion;

2) general regulation of relations — is distribution of influence relations for all participants of relations, regardless of their wishes;

3) Representative binding — is a rule of conduct in the form of reciprocal rights and duties of public relations;

4) The internal structure - separation of the law on separate elements: a hypothesis, disposition, sanction, where:

hypothesis — is a part of the law that specifies the circumstances under which the attack should be guided by the rule;

disposition — is a part of the law that defines what behavior should be in relations.

sanction — is a part of the regulation, which provides a measure of the impact that is applied to persons who have violated this regulation.

The next element of the law system is a legal institution

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| ***Legal Institution*** - is part of the branch of law that regulates the certain type of homogeneous social relationships or their separate directions. |

For example, in the sector of civil law, there are institutions such as the Institute of property rights, the institution of a civil contract, the institution of obligations, etc.

Institutions, in accordance to different criteria, divided into sectoral and cross-sectoral, regulatory and security guards, the substantive and procedural.

The last element of the law - the branch of law

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| ***Branch of law*** - is the body of law governing a particular area of public relations in its final form. |

Branches of law can be divided into three groups:

1. *Profiling the industry* - constitutional law, civil law, administrative law, criminal law.

2. *Special industry* - labor law, financial law, family law, forced labor law.

3*. Comprehensive* industry - commercial law, environmental law.

The basic criterion for distinguishing the right for industry and institutions are the subject and method of regulation.

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| ***The subject of law*** - public relations, regulated by certain branch of the law. |

For example, the subject of civil rights are property and personal relationships, and the subject of criminal law is the relationship determining what conduct is a crime and what punishment is imposed for this action.

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| ***Method of law*** — is a set of techniques and methods, which regulates social relations. |

All methods can be divided into two categories: **Imperative** and **Dispositive**.

***Imperative*** (commanding) — is a method where the legal status of subject of legal relations is based on subordination and precise prescription of subservient subject. This method is typical for criminal, administrative, financial law.

***Dispositive*** (equality of the parties) — is a method at which participants of legal relationship are equal in rights and independently define volume of the rights and duties. This method is typical for civil, family and the labor law.

Except internal division of the right into branches, institutes, norms, the right also has external division on public and private law in the state. This division of the right was first spent by lawyers of Ancient Rome, but still used in the theory of the right.

Branches concerning to public law protect interests of a society which expresses the state. Public law consists primarily of: constitutional law, criminal law, administrative law and financial law.

**Private law** - protects and defends the interests of the individual, civil, family and employment law concern to this law. Considering modern development of the Ukrainian society, it is necessary to notice that private law development is one of the major problems of a legal science in Ukraine.

**4. One of the major elements of the right are right sources.**

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| ***Source of law*** is called a form of expression and consolidate the rule of law in the official documents. |

In world practice exists four main sources of legal regulation:

1) legal custom

2) legal precedent;

3) regulatory legal act;

4) The normative-legal agreement

**Legal practice** — it is historically developed rule of behavior in a society, generated as a result of long repetition and to which the state has given force of norm of the right.

**Legal precedent —** is a judicial or administrative decision on concrete legal business to which the state attaches obligatory significance.

**Regulatory legal act** – it is official document of public authorities accepted in a special order and contain norm of the right. The Regulatory legal act proceeds from strictly defined by the legislation of law-making bodies, has the established form and requisites, distinctly formulates the rights and duties of legal subjects, and also an order of coming into force and action sphere.

**The normative-legal agreement** is a basic source of ukranian Law. The ratified international agreements of Ukraine are a source of its law, inalienable part of its national legislation (item 9 Constitutions of Ukraine). In a national law for Ukraine normative-legal agreements are also sources of law, for example a collective agreement, concluded on enterprise by labour collective with an owner.

In national legal system of Ukraine the basic source of the right is the regulatory legal act.

Regulatory legal acts on validity are subdivided into **laws** and **sublegislative acts.**

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| The law is a standard act of the highest legislative body of the state or the people, establishing the initial, basic legal norms possessing the higher validity under the relation to all other norms and accepted with observance of special legislative procedure. |

For example, the Constitution of Ukraine, the Law of Ukraine «About the property», the Civil code etc.

All other standard acts which are accepted on the basis of the law or to execute the law are called – as sublegislative standard acts.

**We can arrange it on validity in the following sequence:**

1) Decrees of the President;

2) Regulations and decrees of the Cabinet of Ministers;

3) Orders and instructions of the ministries and other central authorities;

4) Decisions of local governments and local enforcement authorities.

Regulatory legal acts are periodically systematized to eliminate with purpose to eliminate contradictions between them, to cancel what have ceased to operate owing to the various reasons and maintenance of availability of the legislation for citizens and the organizations for settlement of legal relationship.

**There are two kinds of ordering: codification and incorporation.**

**Codification** –it is streamlining of the norms which result is logically and legally integral, internally systematized certificate (the code, position, the charter).

**Incorporation** – is outwardly ordered standard act without change of its maintenance (the collection of statutory acts).

**LECTURE 2.**

**CIVIL LAW AS BRANCH of Law**

**1. Subject and method of the civil law.**

**2. Subjects of civil relations.**

**3. The legal body.**

**4. Concept of objects of civil law, their classification.**

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| **The civil law** is a set of civil-law norms which regulate on the beginnings of optionality, legal equality and the initiative of the parties property and personal non-property relations with participation of citizens and the organizations, and also protection of their interests. |

Criteria of civil law as branches of law, are its subject and a regulation method.

**Subject of civil law** are **property** and **personal non-property relations.**

Let's consider them more detail.

Property relations always arise and exist in connection with a finding of property at the certain person, or in connection with transition of property from one person to another.

To the property relations regulated by civil law, concerning relations about occurrence, changes and the terminations of the rights of possession, using and the order of the property, constituting ownership.

The right possession is a legal possibility of actual possession a thing.

The right of use is a legal possibility to take from thing useful properties.

The right to manage is a legal possibility of the proprietor to define actual and legal destiny of the property.

The set of all three powers concludes content of property rights.

The right of ownership arises because of certain legal facts, which are called bases or ways of occurrence.

The property right arises in two various ways one of which is called as initial as it arises concerning property which had no proprietor or which proprietor is unknown. The second method is derived as it involves the transfer of property from one owner to another.

***The property right*** can belong to individual persons, collectives of proprietors and the state. The private, collective, communal and state ownership are pointed out.

Personal relations are characterized by the lack of economic substance, its subject is non-material values: name, honor, dignity, private life, the authorship of the works of science, literature, art, invention, improvement suggestions, etc., arise in relation to such non-material values ​​that are inseparable on the individual.

***Civil law regulates two groups of personal relations:***

The civil law regulates two groups of personal non-property relations:

- The relations arising concerning authorship to products of a science, the literature, art, the invention, efficiency proposals etc. (connected with property);

- The relations connected with protection of honor and dignity, business reputation, private life, etc. (not connected with property)

***The civil law method*** is a set of methods and ways of influence on participants of the relations entering into sphere of action of civil law.

Norms of civil law are optional/

***Characteristic features of this method are****:*

-Legal equality of the parties;

-The initiative of the parties at a legal relationship establishment;

-Possibility of a choice of a variant of the behavior which is not contradicting the current legislation.

**2. Subjects of civil relations**

***Civil legal relationship*** is based on norms of civil law legal communication between legally equal, material and organizational independent subjects who act as carriers of the subjective civil rights and duties. These participants of legal relationship are called as ***legal subjects.***

The legal status of persons is defined by concept of ***legal personality*** under which the volume of legal ability of persons is meant to be subjects of civil legal relationship. The concept of legal personality includes such concepts, as legal capacity and ability. In certain cases for concept of capacity separately allocate such components, as **contract ability** and **capacity to delict**.

As the civil law represents the branch of the right regulating property relations, of course, a legal status of subjects of civil law defines their ability to be participants of property relations, as arising on own will and in own interests, and which arise owing to a trespass.

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| **Legal capacity represents** ability of the subject to have the civil rights and duties, (in other words to be legal subjects). Item 25 Civil code of Ukraine. |

***Civil rights means*** not civil rights but property rights, because such rights belong not only to citizen but also to foreigners, and various organizations.

Thus, ability to have designates not actual possession, and theoretical possibility of such possession. As property rights are based, mainly, on ownership, we can say that the civil rights that enter into concept of legal capacity are the right to possession and the right to use.

In some western countries to our concept of legal capacity corresponds concept of passive ability (passive capacity) which explains character of this legal status. The civil obligations entering into concept of legal capacity can be only those which arise from the civil rights belonging to the subjects of civil rights.

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| **Capacity represents** ability of the subject by its actions to get the civil rights and to create for itself civil duties. (Item 30 Civil Code of Ukraine). |

Concept of capacity corresponds concept of active ability (**active capacity**) that specifies in possibility of active legally significant actions of the capable subjects.

The capable subject has the right not only to own or use, but also has right to manage the property. In case when the property relations connected with managing of property, which have to enter into an agreement or contract, we use the term ***contract ability.***

In addition, the obligations arising from capable entity can be not only those that arise from its rights, but also those that are a direct consequence of his actions, such as infringement of the law, called ***delicts.***

Accordingly, the capable person we call ***delictual.***

All subjects of civil law are divided into physical and legal persons (though it can be neither physical nor legal).

**2. The physical persons possessin**g the civil rights on territory of Ukraine, are citizens of Ukraine and the foreigners constantly living in Ukraine. Foreigners are divided into foreign citizens, persons without citizenship (stateless) and refugees, where legal personality differs in some way.

The legal capacity of physical persons in Ukraine is determined in a unified way for citizens and non-citizens of Ukraine. It occurs at the moment of birth and ends in the moment of death of a physical person.

**Partial civil** capacity of a physical person under 14 years of Art.31 of the Civil Code. Has right to do small domestic transactions, and personal non-property rights to intellectual and creative activity.

**Incomplete civil** capacity at the age from 14 till 18 years citizens of Ukraine means persons have the right to dispose of the earnings, the income the grant, to be the participant (founder) of legal bodies and also to realize the rights of intellectual property.

**The capability of the citizens** of Ukraine arises at achievement 18 years of age or at marriage before that age, or if the person is made over mother (father) of the child.

Legal capacity of foreign citizens is determined by the law of the country of which they are. This age is different in countries: 18 (UK), 19 years (Germany), 20 years (Switzerland), 21 (U.S.). However, a foreign citizen involved in civil matters on the territory of Ukraine, is considered to be capable from 18 years. The capability of stateless persons determined by laws of the country where they live permanently or, stateless persons living permanently in the territory of Ukraine are capable under Ukrainian law.

Capacity of refugees, i.e. the persons who are foreign citizens, but received in territory of Ukraine a refuge and the official status corresponding to it, are equated in the civil rights to citizens of Ukraine.

In the total concept of ability give possibility to be engaged in enterprise activity as the resident of Ukraine.

We can say that entrepreneurship is an entirely civil action in a professional manner. Foreign citizens and stateless persons get this right only after obtaining a residence permit, which is issued only in the case of matching their specific criteria.

***Individuals may be limited in their capacity by the court*** if the person has a mental disorder or abusing alcohol, drugs or toxic substances.

In this case, over them is set guardianship i.e. they are actually equated to persons with incomplete capacity.

Physical persons can be ***recognized incompetent by a court because*** of dementia or mental illness (persistent mental illness). Guardianship is established over incapacitated persons.

Special kind of legal incapacity of physical persons is the recognition ***of persons is unknown*** absent on a judgment. Such decision is accepted under the *statement of interested persons if in a permanent address of the person within a year there are no data on a place of its stay*. Guardianship is established over property of such person, i.e preservation of legal capacity, but his capacity is lost.

Physical persons can be deprived legal capacity, and, ***accordingly ability in case of a declaration about death of person by the court***.

Such decision can be accepted by the court under the statement of interested persons if in a permanent address of the person *within three years there are no data on a place of its stay*.

If physical person was gone under the circumstances threatening to his life or giving the grounds to assume his death from accident, preferential term – is six months.

In case the person was missing in a zone of military operations, the prolonged term – two years after the termination of military operations is established.

In case of declaring a person dead he is accepted as person that lost his legal personality, and all his property rights are transferred to the legal heirs.

Capacity of physical persons can be limited for the reasons connected with other circumstances.

In particular, the considerable number of civil servants is limited in capacity owing to a legislative interdiction for employment by enterprise activity.

Besides, some persons can be limited in capacity by judgment via interdiction for employment by certain activity as a consequence of selfish malfeasance.

Besides, some persons can be limited in capacity by judgment via interdiction for employment by certain activity owing to commit crime of officials.

**3. The legal body**.

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| ***Legal bodies are*** the organizations which possess the isolated property, can get on its own behalf the property and personal non-property rights and perform duties, to be claimants and respondents in court, arbitration or the arbitration court. (Item 23 Civil Code of Ukraine). |

**Signs of the legal body.**

*Organizational unity*. The legal body is a unit, capable to solve certain social problems, differs accurate internal structure and the way of creation.

The organizational unity is the first stage in creation of the legal person which is realized as follows: proprietors (proprietor) of the isolated property create individual certificates, such as the order, the articles of incorporation, the charter in which all are specified necessary formal (the name, the address, structure) and functional (an activity kind) signs of the legal person.

The content of the charter defines the scope of legal personality. The activity not compatible to the charter, is the basis for compulsory liquidation of the legal person;

*Property isolation*. The property of the legal person is always separated from property of its founders and participants that is the second stage of creation of the legal person. t is meant that founders of the legal person allocate in his property a certain part of its property, fixing this allocation documentary.

Such allocation has practical value as from this point founders do not bear financial responsibility for the obligations of a legal entity, and the entity is not liable for the obligations of the founders. Separate property is the basis of a legislative ban on presence as a part of the legal person of other legal bodies. If the legal body creates the divisions they act in the form of branches or the representations which are operating on the basis of the power of attorney and are not legal bodies

***Institutions are legal*** persons, mainly the state, carrying out certain administrative, educational, educational, medical and other functions.

***The organizations*** are the associations of citizens created for joint achievement of definite purposes in social, cultural, political or other spheres. Associations of citizens divided on political parties and public organizations. As it was told above, all legal bodies can make only such actions which correspond to their authorized purposes.

***The enterprises are*** the legal bodies created for the purpose to get the profit.

**Depending on a kind of proprietors of the property, creating legal bodies, the last can be divided on:**

- **State** in which basis the state ownership lies;

- **Municipal** which are created at the expense of association of the property physical and (or) legal bodies, including state and a municipal community;

**- Private**, belonging to one physical person.

Now the overwhelming majority of legal bodies is represented by the enterprises of various patterns of ownership among which especial variety the collective enterprises which can be divided into the cooperative societies based on the joint property of labor collective (artels and the agricultural enterprises differ) and the economic societies using involved workers among which are allocated:

Associations of capitals in which founders separate a part of the property for the purpose of its use to get the profit. In turn associations of capitals are divided on:

- *The joint-stock company,* which capital is completely separated from its investors, (shareholders) and can't be withdrawn by them.

-Joint-stock companies, depending on an openness of the reference of their actions, are divided into open and closed;

- *The limited liability companies* which capital is divided between founders (shareholders) into shares, each share can be claimed by any of its participants;

*Societies with the additional responsibility,* which differ from the previous of high responsibility of its founders in addition to authorized capital stock;

*Unification of the persons* whose founders do not unite their property, but they unite their activities.

***The following types of associations of people are:***

* Full society, participants (full companions) which unite for joint employment by enterprise activity without formal association of capitals;
* Limited partnership, which is composed of members with full responsibility (complementary) and participants with limited liability (limited partners). Due to the fact that the full and limited partnerships do not have separate property, they do not fully correspond the definition of a legal entity.

**4. Objects of civil law are all those vital values where can occur civil legal relationship, including claim requirements of their protection.**

Object of civil legal relationship is that make to arise and carrying out the civil rights and duties, all that that is a subject or result of activity of participants of a civil turn. Objects of the civil rights are things, including money and securities, other property, property rights, results of works, services, results of intellectual activity, information, and also other material and non-material benefits.

***Classification of objects of the civil rights:***

**1.By the defense capacity:**

- ***free*** in a civil turn are those objects, which can transform, be inherited, be alienated without any restrictions.

- ***limited*** in a civil turn - are objects for which is necessary any permission (the recipe, the license)for acquisition.

- ***withdrawn*** from a civil turn - objects which can't be object of the civil-law agreement (the earth of protected fund, historical and cultural and art values of nation-wide value).

**2. Movable and immovable property of the substance**:

***-to real estate*** (real estate, immovable property) belong the land lots, and also the objects located on the land lot moving of which is impossible without their depreciation and change of their appointment.

-***movable objects*** are things that you can move freely in space.

**3. Divisible and indivisible property.**

***-divisible*** is a thing that can be divided without losing its purpose.

***- Indivisible***, is a thing that cannot be divided

**4. Things defined by individual and patrimonial signs.**

***- The thing possesses*** certain individual signs if it is allocated only with it inherent signs which distinguish it from other homogeneous things, individualizing it. The things defined by individual signs, are irreplaceable.

***- The thing possesses*** certain patrimonial signs if it has the signs inherent in all things of the same sort, and is measured by number, weight, a measure. The thing which has only patrimonial signs is replaceable.

**5. Consumed and not consumed things.**

**- The thing which** owing to its disposable use is destroyed is consumer or stops to exist in an original form.

**- Inconsumable there** is a thing intended for numerous use which keeps the original form for a long time.

**LECTURE 3.**

**Topic: TRANSACTIONS AS MAIN TYPE OF CIVIL LEGAL RELATIONSHIP**

**1. Concept and types of transactions.**

**2. Conditions of validity of the transaction.**

**3. Void transactions.**

**4. Legal consequences of recognition of the transaction void.**

TRANSACTIONS are actions of individuals aimed at the establishment, modification or termination of civil rights and obligations.

Depending on various signs, transaction can be united in groups accessory to which has certain legal value.

**Classification of transactions:**

1. By the number of sides, committing the will they can be one-way (if for their commission enough will of one party, for example, drawing up a will, issue of the power of attorney), bilateral (when they occur requires concurrence of will on both sides, for example, the purchase and sale, barter) and multilateral (when expressed will of three or more parties, for example, a contract on joint activity). Bilateral and multilateral agreements are called transactions. Unilateral transactions typically need notarization.
2. Depending on corresponding an obligation of one party in the transaction to make a certain action counter equivalent obligation of other party on representation of material or other benefit, transactions divided on onerous (only two-way deals, for example, transfer of assets in a property, in temporary use), gratuitous (unilateral transactions always are gratuitous, for example, the donation transaction, the will).
3. By the moment when it is time to emergence of transaction, they divided on consensual (those for which it is enough the agreement between the parties, for example, the contract of sale, the commission agreement) and real (when it is not enough one agreement, is necessary also thing transfer, for example, the loan agreement, storages, transportations).
4. By volume of the transferred rights there can be transactions with transfer of the right of possession (the contract of storage, transportation), with transfer of a right of use (the property lease contract, the license contract), with transfer of the right of the order (the commission contract, the consignment contract), with property right transfer (the purchase and sale contract, the donation contract).
5. By the form of object the transaction can be with transfer of assets, with transfer of property rights, with transfer of rights on commission of actions.
6. With existence of additional circumstances transaction may concern to (termless) or conditional (unconditional).Conditional transactions can contain a resolutive or suspensive condition.

**2. To make the transaction valid, it must conform to the requirements of the law.** This means that the requirements of the law must meet all elements of the relationship, ie subjects, objects and content.

- The persons making the transaction should possess a necessary legal personality. Only capable citizens can make it. The persons possessing partial or limited capacity can make only those transactions which are permitted by the law. Legal entities can make any transactions which are not forbidden by the law and not contradicting the purposes, fixed in their charters.

- Objects of transactions should be allowed to a civil turn.

- The contents of the transaction should correspond to the law.

The content of the transaction includes actual and a formality aspects:

а) *The actual aspect* concerns commission of certain actions and demands of will unity and expression of subjects at their commission. There should not be contradictions between the will of the person and a form of expression of this will.

b) *The formal aspect* consists in the requirement of compliance to the law of the established form of the transaction. Transactions can be both verbally and in written form. The oral form is provided for such transactions which are executed by their commission, and also at transactions for the small sum.

In some cases, the law prescribes a written form, which can be a simple or a notary. The following transactions are subject to the notarial certificate: unilateral (the will, donation, an assignment), on transfer of the property right to real estate, about pledge, etc.

**3. The transaction made with violation of requirements of the law**, doesn't create legal consequences and is void. All types of void transactions are divided by the law into two groups. Insignificant transactions, i.e. transactions which are void under the law and nothing can restore their validity.

Insignificant transactions are:

- transactions with unusable subjects, i.e. the transactions of the legal entity contradicting his authorized purposes (Art. 50 Civil Code); the transactions made by incapacitated individuals, being those on age or by a court decision (Art. 51 Art., 52 Civil Code);

- transactions with unusable objects, i.e. with the objects forbidden in a civil turn, and also with the poor-quality goods;

- Transactions with the unusable contents, i.e. is made on purpose knowingly contrary interests of the state and society (Art. 49 Civil Code); imaginary and feigned transactions (Art. 58 Civil Code).

Transactions with the unusable contents, i.e. transactions that are made for the purpose knowingly contradicting interests of the state and society (Art. 49 Civil Code); imaginary and feigned transactions (Art. 58 Civil Code).

Fraudulent deal - is a deal made ​​only for the view, without the intention to create legal consequences (eg, donation to avoid confiscation by a court). The fictitious (sham) transaction- is a transaction which is concluded with a view to concealing another transaction (eg, purchase and sale of the house is covered by the donation contract, not to give the owner the right of first refusal).

The second group of void transactions is formed by debatable transactions, i.e. transactions on which the reality presumption extends, in other words, they are valid at commission and can be recognized void only by court with claim of interested party, and on interested party lies the burden of a of their invalidity.

Debatable transactions are:

- Transactions of subjects with limited capacity;

- Transactions made at will and its manifestation: а) citizen, not capable to understand value of the actions; b) owing to error; c) owing to deception, violence, threat;

- Transactions made with violation of the established written (notarial) form. Such transactions are admitted void only in case of the direct instruction on such consequence in the law. In other cases transaction are considered valid, but interested parties are deprived of possibility to prove the case in court by means of testimony.

**4. Depending on a type of the void transaction the consequence of void acceptance can consist in the following:**

Restitution always implies the return of property in kind, exactly the one that was involved in the transaction. Only if this is not possible, money's equivalent is returned;

- The return of the injured party by other party received in invalid transaction (unilateral restitution);

- Circulation of all received in transaction in state revenue (confiscation).

- For certain transactions law provides additional property consequences in the form of damages to the injured party.

The factor influencing on consequences of recognition of the transaction void, is the guilt of the parties (party) connected with existence of intention on commission of illegal actions. In case the parties honestly were mistaken concerning legitimacy of the actions, such consequence as confiscation, as a rule, isn't applied.

**LECTURE 4.**

**TOPIC: CIVIL-LAW CONTRACT.**

**1. Concept, value and contract functions in civil law;**

**2. System of civil-law contracts;**

**3. Conclusion, change and contract cancellation;**

1. The civil-law contract is the most important norm of private law. The public legislation establishes only the general limits of requirements which it is necessary to adhere (legal regime), providing the solution of all main questions to subjects of private law (persons). Persons will coordinate their common will during drawing up the contract therefore the contract is considered to be concluded when the parties came to the agreement on all important issues included in the contract.

The structure of the private contract is similar to structure of rule of law because the private contract is the same rule of law, as well as that is contained in the law or in other normative legal act. The difference between them consists that validity of contract as rules of law, extends only on the contractual parties. Private contracts belonging to the system of law is proved by the fact that, when there is violation of its provisions, the state uses the obligatory force against the party which has broken the conditions of the contract. Therefore, the general structure of the contract contains an indication of subjects of the contract, the object of the contract and legal content, having such elements that are similar to the hypothesis, dispositions and sanctions.

**2**. **Depending on distribution** of the rights and obligations of the parties contracts divided on: 1) **Unilateral** - one party assumes a duty before other party to make certain actions or to keep from them, and other party is allocated only with the right of the requirement, without emergence of a counter duty concerning to the first party; 2) **Bilateral** - the rights and duties arise at both parties of the contract.

Depending on existence of counter representation: **1) the onerous** – in which instead of the transferred thing, rendered service, the performed work other party, pays money or carries out other property representation: а) **Exchange** – in which representation of one party is answered by a counter equivalent rendered by another party; b) **Risk (aleatorny)** – where in the moment of their commission it is unknown what, will be more valuable: representation of one party or counter representation; **2) the gratuitous** – in which one party transfers to another a thing, renders service, performs work without receiving counter representation from other party.

**Depending on the moment from which the contract is considered to be concluded:** 1) the real – are considered to be concluded from the moment of thing transfer under condition of parties' agreement by all important conditions. Depending on the moment from which the contract is considered to be concluded: 1) the real – are considered to be concluded from the moment of thing transfer under condition of parties' agreement by all important conditions; 2) consensual - are considered to be concluded from the moment of of parties' agreemen by all important conditions.

**On extent of the termination:** 1) the previous – the arrangement about conclusion the contract in the future; 2) the main – directly generates the rights and duties; the additional - supplements the main contract.

**Depending on persons which take part:** 1) with the assistance of contractors – the debtor carries out in favor of the creditor; 2) with the participation of third parties - performance under the contract is mediated by the participation of a third party that is not a party to the contract.

3. The conclusion of the contract it is an achievement by the parties in due form a consent from all important contract provisions, and in the cases provided by the law, also implementation of transfer of assets or implementation of a certain action.

**Stages of the contract:**

1). **The offer** - the offer to sign the contract, which: а) addressed to a certain person (certain persons); b) contains instructions about important contract conditions; c) expresses firm intention of the person which made the proposition, to consider itself obliged in case of its acceptance. The person, which made the offer, is called as an offerer.

The offer can be withdrawn by the time of or at the moment of receiving by her addressee. If the addressee received the offer, it can't be withdrawn throughout the term for the answer. The exception - if in the offer specified possibility of its response, it follows from its essence or circumstances (situation) under which it was made.

2). **Acceptance** - is consent of the person to whom an offer is addressed about its acception. A person who has made the acceptance, called the acceptor.

CHANGE of the CONTRACT means that obligations of the parties continue to be valid, but according to the changed conditions concerning a subject, a place, performance terms, etc.

Annulment of the CONTRACT leads to the cessation of the parties' obligations under earlier agreements concluded between them.

Reasons: 1) Consent of the parties can cause changes or cancellation of the contract, unless otherwise provided by contract or by law, 2) unilateral refusal from contract in whole or in part, can only be achieved if the right to such refusal is directly provided by law or contract 3) The court's decision may cause a change or cancellation of the contract by the request of the parties in case of essential violation by the other party, and in some cases established by contract or by law.

Obligations change or stop from the moment of achievement of consent about change or contract cancellation if another isn't established by the contract or it is not caused by nature of its change. If the contract is changed or terminated by the courts, obligations changed or terminated upon the entry into force of the court to amend or terminate the contract.

Legal consequences: obligations of the parties change according to the changed conditions concerning a subject, a place, performance terms, etc.; obligations of the parties are stopped; the parties have no right to demand returning of something that was executed by them according to obligations by the time of change or contract cancellation if another isn't established by the contract or the law if the contract is changed or canceled in connection with important violation of the contract by one of the parties, other party can demand the indemnification, caused by change or contract cancellation.

**LECTURE 5**.

**SUBJECT: MARRIAGE AND FAMILY LEGAL RELATIONSHIP**

**1.Conditions of marriage. State registration of marriage;**

**2. The property relations in marriage and a family;**

**3. The personal non-property relations in marriage and a family**;

**4. Marriage termination.**

**Marriage** is a voluntary union of a man and a woman, registered in the state body of civil registration.

Actual cohabitation, regardless of duration of the period does not produce any legal effect, as well as marriage, done by a religious rite. Requirements for persons who marry:

- free will;

- Heterosexual;

- The intention to create legal consequences (family).

- Achievement of age of consent – 18 years for men and women. In exceptional cases the age of consent can be lowered by a court decision, but the minimum age of consent can't be less than 16 years.;

- no direct relationship – isn't allowed marriage between relatives on the direct ascending and descending line, irrespective of a knee (including, between adoptive parents and adopted), and between relatives on the lateral line in the first knee;

- capacity – not connected with age;

- be unmarried – isn't allowed bigamy;

- mutual awareness about health.

Non-compliance with any of these requirements (except for the last) allows to nullify marriage in a judicial order. Recognition the marriage is void involves cancellation of all legal consequences which have arisen from it, except for the rights and duties of parents and children.

Family does not have a regulatory designation in connection with modern ambiguity of this concept, owing to what it is possible to talk only about family legal relationship. Family legal relationship it is the mutual rights and duties of parents and children, including, adoptive parents and adopted.

Family relationship arises independently of marriage. If parents are married, family relationships occur without prior arrangement, and in the other case - by the joint request of the mother or father and a court decision on the basis of established criteria (cohabitation, housekeeping, parenting or child support, etc.) paternity (maternity) may be contested, except for a few cases, including the birth of the donor child.

**Family relationships are terminated in the case of deprivation of parental rights in court:**

- Failure without reasonable excuse to take the baby home from the hospital and other children's institutions;

- For evading its responsibilities for the upbringing of the child;

- As a result of ill-treatment of children;

- Due to the harmful effects on the child immoral behavior;

- Due to abuse of alcohol and drugs.

**2. Property relations** in marriage are subject to the general rule that all property acquired by the spouses during the period of marriage is their joint property. This rule means that a total of matrimonial property there no division on shares during the period of marriage. There are exceptions from this rule, in connection with these exceptions the separate property of the spouses are:

Property received as a gift or inheritance (ie free). To number of such property may include only things defined by individual signs

- Things for personal use - except for property and luxury goods.

- Pre-marital property - except cases when the property during the marriage considerably increased its value.

Property disputes between the couple settled by dividing common property into equal shares. Separate property is not subject to division. During the life of the parents children have no right to their property, and the parents do not have rights to the property of children.

Property disputes for the obligations of one spouse in relation to third parties are solved:

* By claim to his separate property;
* by claim on a part of the general joint property belonging to it;
* by the claim on the general joint property if obligations of the spouse arose in connection with interests of a family;
* at the judicial division of property in kind (i.e. in relation to things) the court can give preference to the property, which is a professional affiliation, to one of the spouses.

***The OBLIGATion*** property relations in marriage and a family consist in a duty of spouses, parents and children to hang together financially:

- Spouses are obliged to hang together financially in the marriage relations;

- spouses are obliged to hang together financially in case of disability one of them (disability of 1 or 2 groups or achievement of a retirement age), come within a year after divorce, and in case of duration of the marriage relations – if the needing spouse reached a retirement age within 5 years from the date of divorce. The alimony in such cases is collected in certain sum of money, instead of as a percentage. Void marriage excludes the above-stated duty;

- The parents are obliged to support their children until their majority;

- Parents must support disabled adult children that need financial assistance. This obligation is separate from the marriage relations;

- Children must support disabled parents that need financial assistance. This obligation may be challenged in court if parents evaded from their parental responsibilities.

Duty of maintenance, in the absence of lawfully obliged persons, may be assigned to other relatives: grandfather (grandmother), brother (sister), stepfather (stepmother), grandson (granddaughter), stepson (his stepdaughter).

If you inherit property under the law (intestate), the heirs of the first stage are equally children (including adopted), including unborn children, spouses and parents (adoptive parents) of the testator. If by the time of opening the inheritance children of the testator died, their full rights are transferred to their children (i.e., grandchildren of testator). Besides the direct heirs of the first family are persons who were dependent on the deceased at least one year before his death. Heir-at-law, who lived together with the testator at least 1 year before his death, inherits subjects of a usual house use, irrespective of the stage and the hereditary share. Adopted children do not inherit from their blood relatives.

**Persons discharged of inheritance are:**

Intentionally deprived the life of the deceased or any of the heirs or made ​​an attempt on their lives;

- Parents are deprived of parental rights;

- Parents and adult children who persistently evade from the obligation to maintain the testator.

Heirs of the second turn are brothers (sisters), grandfather (grandmother). At property inheritance according to the will, irrespective of its contents, invalid successors receive an obligatory share in the size 2/3 from an inheritance share under the law.

**1. The NON-PROPERTY RIGHTS in marriage consist in the right of the persons entering into marriage:**

- to leave the surname in marriage

- To take the name of the spouse;

- To attach the name of the spouse to his name, provided that the combined surname will be composed of no more than two parts.

After a divorce, spouses can leave the name received in marriage, or to return to maiden names.

The non-property rights in the family lies in the fact that:

- Children receive a surname of parents if parents have the general surname;

- If the parents have different surnames, the child is given the name of one of them, by the agreement of the parents or by the decision of the guardianship;

- the termination of marriage or recognition the marriage void don't attract change of a child's surname, however, if as a result of the marriage termination the child needs to live with the parent having other surname, the surname of the child can be changed.

**4. Marriage is terminated** upon the death or declaration of a court of one of the deceased spouse. Marriage is terminated by divorce according to the requirement one of spouses or both of them. Marriage termination by divorce occurs in a judicial order. Divorce can be made without court (in bodies of record of a civil status) in the following cases:

- By mutual consent of the spouses having no minor children;

- By mutual consent of the spouses that do not have property disputes;

- At the request of one spouse with a person recognized as a missing person;

- At the request of a spouse with a person that is incompetent;

- At the request of one of the spouses to a person sentenced to imprisonment for a term not less than three years.

In case of pregnancy of the wife and within a year after the birth of the child the wife possesses the privilege of unilateral initiation of proceedings about divorce.

**Lection 6.**

**TOPIC: Labor Relationships**

**1. Labor law as a branch of law.**

**2. Concept and the content of the employment contract**

**3. Labor contract as a specific form of labor agreement.**

**4. Bases of the termination of labor relationship**

1. The labor law – is one of the most important branches of the right, regulating labor and other, closely related public relations.

The labor relations take the central place in system of the relations making a subject of the labor law. Being regulated by rules of labor law, they take the form of legal relations.

Labor legal relationship arises under agreement between the employee and the owner of the enterprise, institution, organization, authorized body or individual. One side of this relationship (employee) agrees to do the work of a particular specialty, qualification or position according to the internal regulations, and the other party (the owner or its authorized body) shall provide such work, to pay salaries and provide labor conditions required by the labor legislation, the collective agreement and parties' agreement.

2. Labor contract - is an agreement between the employee and the owner of the enterprise, institution, organization or an institution, authorized body or physical person by which the employee agrees to perform the work described by the agreement, according to the internal labor regulations, and the owner of the company, institution, organization or authorized body or physical person shall pay the employee wages and provide the necessary conditions for the work stipulated by labor legislation, collective agreement and agreement of the parties (Article 21 of the Labor Code of Ukraine).

The parties of the labor agreement can be: on the one hand – the owner of the enterprise, establishment, the organization or the body authorized by it, and also the physical person employing the worker for doing of certain works; on the other hand – the worker, i.e. physical person possessing the labor right ability and capacity.

Labor legal ability and capacity occur from 16 years. As an exception persons at the age of 15 years can be can be accepted for work, with the consent of parents or one of them, or persons, that take parents' place. For preparation of youth for productive work employment is possible from 14 years for performance of easy work which isn't injurious to health and doesn'tinterfere study.

The labor agreement, as a rule, should be in written form.

The written form of the labor agreement is obligatory at employment: minors; at a collective set of workers; at an execution of an employment agreement about work in areas with special natural geographical and geological conditions; at an execution of labor agreement with the physical persons; at the conclusion of the contract, etc. the cases provided by the law.

The labor agreement is made by the order on employment.

The contents of the labor agreement are made by the conditions defining the rights and obligations of the parties in legal relationship. To the rights and duties which are established by the legislation about work and can't be cancelled or changed by agreement of the parties, belong: the norms of working hours established by the legislation and time of rest, the safety regulation and labor protection, a technological mode, rules for the implementation of temporary work which have not due to the labor agreement, etc.

To obligatory conditions of the labor agreement, according to the Labour Code, belong: a work place, a certain labor function, time of existence of labor legal relationship, and also a condition about a salary. Achievement of a consent concerning these provisions points at execution of an employment agreement.

Additional (facultative) conditions become obligatory only at their inclusion in the labor agreement. For example a trial period for employment, establishment of incomplete working hours, etc.

The conditions worsening position of the worker in comparison with the legislation admit void.

The labor agreement can consist for an indefinite term (the termless contract); certain term; for the period of execution a certain work.

3. A special form of the labor agreement is the contract in which period of validity of the contract, the rights, duties and responsibility (including material) of the parties, conditions of the organization of work and cancellation of the contract can be established by the agreement of the parties (Art. 21 the Labor Code).

Thus, conditions of the contract can't worse position of the worker in comparison with the legislation. The contract is signed in written form with certain categories of workers (heads of the enterprises, establishments, the organizations, scientific and pedagogical workers, etc.) for a certain term.

**4. Labor relations are terminated:**

- By agreement of the parties;

- At the end of the term;

- Under the terms provided by the contract;

- in case of calling up for military service;

- in case of conviction for a crime, or taking him to compulsory treatment;

- in case of the employee's transfer or his transfer to elective office;

- in case of staff reduction;

- by the initiative of the worker. Thus the worker should warn the owner in about 2 weeks, except for the cases provided by the legislation. If in the specified term the worker didn't stop work, the employer can't fire him except the cases when another employee invited to take his place, and legislation can't refuse him in this work.

- by the initiative of the owner or its authorized body, in the cases provided by the law: truancy of the worker; disparity of the worker's status; changes in the production and work of organization, including elimination, bankruptcy, reorganization; systematic violation of labor agreement conditions by the worker if methods of disciplinary or civil punishment were applied to it; in case of absenteeism for more than 4 months because of worker disability, the restoration of an employee that was doing this work before, coming to work drunk, etc.

**LECTURE 7.**

**SUBJECT: BASES OF ADMINISTRATIVE LAW OF UKRAINE.**

**1. Administrative legal relationship: concept and types.**

**2. Concept and signs of an administrative offense**

**3. Types of official penalties.**

**4. The procedure of attraction to administrative responsibility.**

**1. The concept "administrative"** comes from a word "administration" (from Latin – "management"). Therefore the administrative law is called sometimes management right. Norms of administrative law provide realization of the social and economic and political rights of the citizens fixed in the Constitution (for example, norms of administrative law define an order of enrollment of students).

The administrative law regulates the public relations which arise in the sphere of executive and administrative activity of the state.

For these relations is characterized that participate of appropriate governmental authority (official) is obligatory, endowed with authority. State bodies can be the other party of legal relationship: officials, and also enterprises, organizations, establishments, public associations or citizens.

Administrative law regulates the social relations in the field of economic management, education, health, science, culture, etc. Administrative relations are divided into three main groups: 1) the relationship between the government and public enterprises,2) the relationship between the government and civil society organizations, 3) the relationship between government and citizens. Feature of administrative relations is that one of the parties is always the authority of government.

**2. The administrative offense** is a guilty illegal action or the inaction encroaching on the state or public order, state ownership, the rights and freedoms of citizens, on established governance order. Persons who have made an administrative offense are subject to administrative responsibility. The administrative offense differs from a crime by smaller level of public danger. The person who has reached at the moment of its commission of 16-year age can be the subject of an administrative offense.

Administrative penalty is a measure of administrative responsibility, punishment and causes adverse effects on the property, moral or personal nature.

3. In Art. 24 Code of Administrative Offences identified seven types of administrative penalties: warning, fine, onerous of withdrawal, confiscation, deprivation of a special right, corrective work and administrative arrest.

Warning is considered as official penalty in case it is taken out in writing or fixed in other established way. This sanction has nature of moral condemnation of the offender, official caution from commission of administrative offenses. It is applied, as a rule, at insignificance of the offense.

Administrative fine -is property penalty consisting in withdrawal certain sum of money of the offender to the income of the state that is not of a compensatory nature. Onerous withdrawal of the subject which has been the tool of commission or direct object of an administrative offense consists in its compulsory withdrawal and the subsequent realization with transfer of the realized sum to the former owner minus expenses on realization of the withdrawn subject. This official penalty is applied to rules violation of storage or transportation of the hunting weapon by citizens.

Confiscation – it is compulsory gratuitous circulation of property to a state property. The administrative law allows confiscation of concrete property – the subject which has been the tool or direct object of an administrative offense, and the money received owing to commission of such offense. Confiscation of subjects is applied very often. As a rule, the subject being in personal property of the violator can be confiscated only. Subjects of smuggling will be confiscated irrespective of identifying the owner. Confiscation of money is allowed, for example, in small speculation. In this case the income is confiscated illegally. Deprivation of special rights granted to that citizen (the right to drive a vehicle, hunting rights) applies for a rough or systematic violation of rules for the use of this right for a period up to 3 years. In particular, the deprivation of the right to drive a vehicle is provided for the driving of the intoxicated, for repeated violation of the rules of passage the railway crossing, etc. Corrective works are applied for the term up to the 2nd months with their serving in a place of permanent job of the offender and with deduction to 20 % of its earnings to the state income. It is applied for small hooliganism, small theft and other offenses. Only court may apply corrective works. Administrative arrest – is the most official penalty established and applied in exceptional cases for the most serious offenses (small hooliganism, malicious disobedience to the lawful order or to the requirement of the employee of militia, etc.). Administrative arrest is expressed in short-term (up to 15 days), deprivation of freedom with using him for physical work without payment and appointment such arrest is possible only by the courts. Administrative arrest cannot be applied to pregnant women, women with children under the age of 12, a minor, the invalids of the first and second groups.

In addition to considered collectings, the Administrative Code provides the possibility of applying to foreign citizens and persons without citizenship administrative deportation from Ukraine.

**4. The procedure for administrative prosecution** is regulated by section of the Administrative Code - «Production on cases of administrative offenses» It involves a number of stages:

**A protocol of administrative violation.**Protocol is drawn up by authorized official (state inspector, police officers, etc.). The information contained in the protocol: the date and place of its execution, position, surname, first name, the person who prepared the protocol; the identity of the offender, place, time, and essence of administrative offense, the normative act provides for responsibility for the offense, the names, addresses of witnesses and victims; explanations of the violator; other data. The protocol is signed by the person, that made this protocol and the offender (witnesses and victims can also sign it). When drawing up the protocol violator must be informed about his rights and obligations.

**Protocol direction.** The protocol goes to the body (official), authorized to consider cases of administrative offense. Hearing of cases about administrative offense. The case is considered by the place of commission the offense, or - at residence of the offender (in some cases). Period of consideration – is no more than 15 days after receipt of the protocol. During a session in which the case is considered, there is offender, witnesses, victims, experts and interpreters also can be called, and interests of the offender may be represented by an attorney. If the case is considered by a collective body (such as the Commission on Minors), then announce the composition of the collegial body, there is declaration about structure of collegiate body, if consider the officials, it is necessary to present it. Official announces the case that is heard, explains to participants their rights and duties, announces the protocol of administrative violation; to hear persons participating in adjudication; examines evidence, permits petition of the offender. At the trial the prosecutor may participate, who draws the conclusion about this case.

Imposition of a penalty. The body considering case about administrative offense should take the relevant decision about this case: to impose an official penalty or dismiss the case (for example if it turns out that there was no corpus delict). In such cases this body makes a decision. Term of pronouncement of sentenсe: no more than 2 months from the date of offense; announcement term – immediately after adjudication about the offense; term of delivery of a copy of the resolution – 3 days after pronouncement (it is handed the person to whom it was taken out).

After that the person to whom the resolution was taken out, or the victim, have 10 days to use the right of the appeal of the resolution in a higher body (official). Resolutions of court (judges) can't be appealed in this order. They are final. Usually higher body (person), having considered materials of the complaint to the resolution, make the decision: Usually higher body (person), having considered materials of the complaint to the resolution, makes the decision: а) about resolution cancellation; b) about the case direction on new consideration; c) about change of sanctions to violator; d) leaving the resolution without change, and the complaint – without satisfaction. Copies of such decision are also handed to the applicant within 3 days.

Implementation of the resolution about imposing of official penalty. The final decision (i.e., with the possibility to appeal) is sent for execution. Resolution on imposition of penalty is obligatory for all those to whom it is directed. It should be performed immediately after the entry into force of regulations. Code provides various features of the order of penalties execution; however, if the administrative penalty is not paid to the Contractor within 3 months, it will not be executed at all. (For example, the penalty is executed (paid) by the offender within 15 days after pronouncement of the resolution, otherwise later it is collected in an indisputable order at work place; the resolution of court on application of corrective works - should be reported to law-enforcement body on the day after the decision, the resolution on application of administrative arrest – is executed immediately after pronouncement of the resolution of court).

**LECTURE 8.**

**TOPIC: BASES OF CRIMINAL LAW OF UKRAINE.**

**1. General characteristic of the Criminal code of Ukraine**

**2. Concept and crime signs**

**3. Criminal liability and its bases. Crime structure**

**4. Punishment, its purpose and types.**

1. **Criminal law** – is one of the right branches, representing a system (a set) of the norms established by the higher bodies of the government (Ukrainian parliament committee), defining the bases and principles of the criminal liability, establishing the bases and principles of the criminal liability, establishing what public acts are crimes and what punishments can be applied to persons, who made it**.** The criminal law is divided into two parts - the General and the Special. In the General part focused general rules that apply to all crimes. They reveal the problems of criminal law governing the criminal law in time and space, defined grounds of criminal responsibility, concept of crime is given, different institutions (the circumstances preventing public danger and the wrongfulness of the act, the stage and complicity in the crime, the voluntary refusal of committing the crime till the end) are established, goals and penalties are defined; the norms regulating an order of purpose of punishment and release from punishment and criminal liability are defined. Special Part provides rules establishing responsibility for specific crimes - crimes against the state, the individual, the state, the collective and individual property, economic, job, military offenses, etc.

**2. The crime in criminal law** is understood as socially dangerous act provided for the criminal law (action or inaction), encroaching on a social order of Ukraine, its political and economic systems, a property, the personality, political, labor, property and other rights and freedoms of citizens, and equally other act encroaching on a law and order provided by the criminal law (Art. 11 Criminal Code). Signs of a crime are: public danger, criminal wrongfulness, guilt and punishability of act. Public danger means that the crime does essential harm (damage) or creates threat of causing of such harm by the protected criminal law to the benefits – to the public relations. Character and degree of public danger are defined by all set of objective and subjective signs of a crime: object, nature of act, in the way of its commission, weight of consequences, place, time, situation, fault form (intention or imprudence), motive, and purpose. Action or the inaction which even is formally falling under signs of any act, provided by the criminal law, but owing to insignificance not possessing properties of public danger, can't be recognized as a crime (p.2 of Art. 11 Civil Code). Action or the inaction which even is formally falling under signs of any act, provided by the criminal law, but owing to insignificance not possessing properties of public danger, can't be recognized as a crime (p.2 of Art. 11 Civil Code). The wrongfulness is understood as a foreseeing by the criminal law of socially dangerous act – of a concrete article of the Special part of Civil Code. Action or the inaction not provided by the criminal law can't be under no circumstances recognized as a crime and be attracted to criminal liability. Indication of "guilt" assumes existence of intention or imprudence in person’s action. Innocent infliction of harm excludes possibility of recognition of act by the criminal. Indication of punishability means that special kind and the degree of punishment are provided for any crime in the law.

Crimes, including the degree of their public danger, are subdivided into especially heavy, heavy, less heavy and not representing serious public danger. They differ among themselves in legal consequences, in particular, and in severity of punishment which can be applied to them.

**3. Criminal liability** is one of types of legal responsibility; it is established by the state in the criminal law and assigned by court to the persons guilty in commission of crime. Criminal liability is understood as a legal duty of the person who has committed a crime, is treated to the criminal law, i.e. to answer before the state for the perfect socially dangerous act, and provided by the criminal law. The essence of criminal liability consists in the state condemnation, censure, a state's negative assessment of the crime and person that has committed it, in application by court of criminal punishment or other measures provided by the criminal law.

The duty to answer before the state arises from the moment of commission of crime, but is realized from the moment of the introduction of a conviction in force. Stages of realization of criminal liability are: initiation of legal proceedings, involvement of the person to criminal liability as accused, conviction removal. Criminal liability is realized by the general rule by punishment application.

Under the basis of criminal liability is understood the circumstances provided by the criminal law in the presence of which the person is subject to criminal liability. The sense of the basis of criminal liability comes to the following:

criminal liability is possible only for socially dangerous act – action or inaction, i.e. for the concrete act of strong-willed socially dangerous behavior of the person, but not for his thoughts, views, moral installations, as though reprehensible they were not;

The person guilty of commission of socially dangerous act is subject to criminal liability only;

Criminal liability comes only for such socially dangerous act which is directly provided by the criminal law (in concrete article of the Special part of Criminal Code) as a crime.

The only ground for criminal liability in criminal law of Ukraine is the presence of a socially dangerous act of crime. His absence precludes criminal liability. The criminal proceedings cannot be instituted, and the excited matter is subject to termination if the actions of a person are not an offense (Article 6 of Part 2 of the Code).

Under the body of crime is understood as set legal, i.e. the objective signs provided by the criminal law characterizing socially dangerous act as a crime. The body of crime makes four groups of features related to its essential elements: the object, the objective side, the subject and the subjective side. An object is defined as protected by the criminal law of social relations - social system of Ukraine, its political and economic system, property, personality, political, labor, property and other rights and freedoms, the rule of law in society. It is on these social relations encroaching crime causes them significant harm or puts them at risk of such harm.

The objective side - this is an external aspect of the crime, characterized by a socially dangerous act (action or inaction), socially dangerous consequences, a causal relationship between them, as well as the ways, means, time, place and situation of the crime. Action - is active socially dangerous illegal (under criminal law) behavior of the subject. Inaction is the passive behavior consisting in default by the person of those actions which he should and could make in this concrete situation. Act - is a mandatory attribute of the objective side. Under the socially dangerous consequences understand the damage (damage), which is caused by criminal socially dangerous act of public relations, legally protected. If the consequences by law or arising out of its meaning (a crime with the material composition), their establishment and proof (and also the causal link between the act and the consequences) is a prerequisite for criminal liability.

Under the subjective side is understood as the internal, mental party of the crime, being characterized by a concrete form of fault, motive and the purpose. Guilt – is an obligatory sign of the subjective party, representing the mental relation of the person to socially dangerous act and its consequences in the form of intention or imprudence.

The intention takes place, when the person understood socially dangerous nature of the action or inaction, expected its socially dangerous consequences and wished them (direct intention) or meaningly allowed approach of these consequences (indirect intention). The crime is admitted to be committed on imprudence if the person, which committed it, expected possibility of approach of socially dangerous consequences of the action or inaction, but thoughtlessly counted on their prevention (criminal self-confidence) or didn't expect possibility of approach of such consequences though should and could expect them (criminal negligence). Innocent infliction of harm when the person didn't expect socially dangerous consequences and couldn't or shouldn't expect them (the incident, a case), excludes criminal liability.

The subject of a crime – the person physical (citizen), made, reached age of criminal liability (16 years, and in certain cases, directly specified in the law – UK Art. 22, for the crimes representing increased public danger, - 14 years). Imputability is an ability of the person to realize the actions and to direct them. Diminished responsibility represents such mental condition of the person when at the moment of commission of crime he couldn't realize the actions or direct them owing to a chronic sincere illness, temporary disorder of sincere activity, weak-mindedness (oligophrenia) or other disease state. Diminished responsibility excludes criminal liability. To such persons coercive measures of medical character are applied by a court decision.

Absence at least one of elements of body of crime, as well as at least one of the signs specified in article of the Special part of Civil Code and relating to this or that element, excludes existence of body of a crime, so and criminal liability. At the same time existence in actions of the person of body of a crime means that it committed a crime (Civil Code Art. 7) and is subject to criminal liability.

4. Punishment is a coercive measure applied on behalf of the state on sentence vessels to the person, recognized guilty in crimes, and consists in the restriction of the rights provided by the law and freedoms of the condemned.

Punishment has for an object not only a penalty, but also improving of condemned, and also the prevention of absolutely new crimes both condemned, and other persons.

Punishment hasn't for an object causing of physical sufferings or humiliation of human dignity.

To persons, recognized guilty of commission a crime, following types of punishments can be applied by court:

1) penalty;

2) deprivation of the military, special title, rank, and qualification class;

3) deprivation of the right to engage in certain activities;

4) public works;

5) corrective works;

6) restrictions for military service;

7) confiscation of property;

8) arrest;

9) restriction of freedom;

10) the contents in a disciplinary battalion of the military personnel;

11) imprisonment for a certain term;

12) life imprisonment.