**NATIONAL AVIATION UNIVERSITY**

**EDUCATIONAL AND SCIENTIFIC LEGAL INSTITUTE**

**Department of Criminal Law and Process**

SUPPORTED LECTURING CONCEPT

on discipline "Criminal Law"

for students \_6.030401 "Jurisprudence" \_\_\_\_\_\_\_\_\_ (the code and the name of the direction (specialty) of training)

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Head of Department\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Take note of the title of the lecture **“The concept of criminal law”**.

Write down the lecture plan.

1. **The concept of criminal (penal) law.**
2. **Tasks and functions of criminal law.**
3. **Criminal (penal) law and related branches (areas) of law**

1. ***The concept of criminal (penal) law.***

 The term "criminal law" is considered in its two meanings:

 1) a positive (objective) criminal law as a branch of law, the expression of which is the Criminal Code of Ukraine;

2) criminal law as a branch of legal science on the domestic criminal law in force and the judicial practice of its application, its history and theory, the criminal law of other states.

 The positive criminal law of Ukraine has the following characteristics:

 1) its norms are established only by the highest legislative authorities - the Verkhovna Rada of Ukraine;

2) it finds expression in the laws;

3) the method of the implementation of a criminal law is specific, inherent only in this law - a punishment of a person for violation of her criminal prohibition. **The positive criminal law of Ukraine is a set of rules (rules of conduct) that determine which socially dangerous acts are crimes and which punishments should be applied to those who committed them.**

The criminal law of Ukraine is divided into two parts - General and Special. The general part of the Criminal Code of Ukraine contains normative norms of general importance; their action extends to all provisions of the Special Part of the Criminal Code. A special part of the Criminal Code contains specific norms that prohibit one or another act. Violation of such prohibition provides for appropriate punishment. General and Special part are inextricably linked. They constitute a single branch of law - criminal law.

 Criminal law examines not only the norms of the criminal law, but also the application of these norms by law enforcement and the court. As a result of the criminal law, there are criminal-legal relations between the state and the person who committed the crime, which are the subjects of these relations.

 **Criminal science is a certain system of ideas, ideas, concepts and theories about the criminal law, practices of its application and prospects of development, history of national criminal law and the rights of foreign countries.** The subject of criminal law science is the study of current criminal law (de lege lata), as well as the provisions of the future criminal law (lege ferenda). The science of criminal law examines the activities of law enforcement agencies and the courts with regard to the application of their criminal law, as well as studies and summarizes the practice of courts applying their legislation on specific types of crimes and gives appropriate recommendations for further improvement of such practices.

 **The subject of criminal law** are relations that arise as a result of the commission of a crime and the use of appropriate punishment for his commission.

 **The method of legal regulation** is a set of certain means by which the relations between people, between citizens and organizations, between citizens and the state are regulated and protected.

 **The method of regulation of criminal-legal relations is compulsory and applies only to the person who committed the crime, usually through punishment.**

 The criminal-law method is used only when:

1) the committed act is socially dangerous and, in accordance with the law, contains the specific crime;

2) the person who committed this act was in a state of dignity, attained at the time of his commission of the statutory age and subject to punishment.

**2.Tasks and functions of criminal law.**

 **The main task (function) of criminal law is protection.** It is carried out only by criminal law by the method of punishing those who committed a crime, and with the threat of punishing those who intend to commit it.

 Some norms of criminal law also fulfill the regulatory task.For example, the rules about the required defense. The priority task of the criminal law of Ukraine is to protect the personal benefits of man (life, health, will, honor and dignity), his rights and freedoms from criminal encroachments.

 The priority of such a task is enshrined in the Constitution of Ukraine, Article 3 of which states that "man, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value.

 **The main task of criminal law** are clearly defined in Part 1 of Art. 1 CC, after which the objective of the Criminal Code of Ukraine is to provide legal protection of the rights and liberties of the human being and citizen, property, public order and public safety, the environment, and the constitutional order of Ukraine against criminal encroachments, to secure peace and safety of mankind, and also to prevent crime.

 ***Criminal law is an independent branch of the law of Ukraine, which consists of a set of (system) legal norms (laws) designed to protect the most significant values ​​of society by recognizing certain offenses against them and establishing the appropriate punishment for those who committed these attacks .***

**3.Criminal (penal) law and related branches (areas) of law**

 Criminal law, while in the system of law of Ukraine, is closely connected with other branches of it. This connection is expressed primarily in the fact that criminal law, as already noted, performs a protective function in relation to other branches of law. Criminal law is closely linked with related branches of law, most of all with constitutional law, administrative law, criminal procedural law, criminal-executive (corrective labor) law, and international law.

 **Criminal and Constitutional Law.** The constitutional right, the norms of which are enshrined in the Constitution of Ukraine and other constitutional laws of Ukraine, is of fundamental importance for criminal law. The rules of criminal law must fully comply with the provisions of the Constitution. Moreover, the norms of the Constitution are rules of direct action and thus can be applied also at the decision of criminal cases. Criminal law is called to protect the methods inherent in him established by the Constitution of the public and the state system, the legal rights and freedoms of citizens from criminal offenses against them.

 **Criminal and administrative law.** The close connection between them is observed in the part of administrative law that establishes administrative responsibility for various offenses. In this part of the administrative law carries out a protective function, protecting the rule of law from administrative violations. However, criminal law protects the rule of law from more dangerous attacks - crimes, and administrative law - from less dangerous offenses - administrative delinquency. It is the degree of social danger distinguishes an administrative offense from a crime. It should be noted that most foreign countries do not have codes for administrative offenses. In foreign countries, minor offenses are often extinguished in a separate book of the Criminal Code.

 **Criminal and criminal procedural law.** Criminal law determines which socially dangerous acts are crimes and which punishments may be imposed on persons guilty of committing these crimes. In order to correctly determine the issue of guilt of a person in committing a crime and the imposition of a punishment there is a special procedural procedure, which consists in the investigation and consideration of criminal cases. This procedural procedure (criminal procedure or criminal procedure) is governed by the rules of criminal procedural law. Criminal procedural law is a form in which criminal law finds its application.

 **Criminal and criminal-enforcement (penal) law.**  Penal law
is a set of legal norms regulating social relations that arise in the process of executing sentences specified in the verdict of the court. The close connection between criminal law and criminal law is determined primarily by the fact that the former is based on the rules of the second.

 **Criminal law and international law.** The connection between these branches of law is determined by the fact that some of their institutions are regulated both by international and criminal law. This connection also manifests itself in the fact that some norms of criminal law have been introduced into criminal legislation on the basis of international agreements to which Ukraine has acceded.

 **Glossary: a positive (objective) criminal law, penal law, the Criminal Code of Ukraine, the Special Part of the Criminal Code, The General Part of the Criminal Code, Criminal science, The subject of criminal law, The method of legal regulation, task of criminal law, crime, offence, Constitutional Law, Administrative law, criminal procedural law, criminal-enforcement (penal) law, international law** Take note of the title of the lecture **“Law on Criminal Liability”**.

Write down the lecture plan.

1. **The system of positive criminal law**
2. **Law on Criminal Liability**
3. **Principles of criminal law**

1. **The system of positive criminal law**

Among the legal systems of the countries of the world are the most popular two – **common law system** (we call it «система загального або англо-американського права») and **civil law system** (we call it «континентальна або романо германська система права»). Ukraine belongs to the **civil law system.** The system of positive criminal law has features characteristic of this system.

The main features of these laws is the priority of the law over judicial practice. These features are inherent in criminal law as part of the legal system.

 Write dawn that **a positive (objective) criminal law as a branch of law, the expression of which is the Criminal Code of Ukraine.**

The criminal law of Ukraine is divided into two parts **- General and Special**. The general part of the Criminal Code of Ukraine contains normative norms of general importance; their action extends to all provisions of the Special Part of the Criminal Code. A special part of the Criminal Code contains specific norms that prohibit one or another act. Violation of such prohibition provides for appropriate punishment. General and Special part are inextricably linked. They constitute a single branch of law - criminal law.

 General and special part of criminal law, their unity we can named **legal nexus. Generally, a nexus refers to a connection.** A nexus is often required in all types of cases to establish jurisdiction, apply conflict of laws issues, establish due process in criminal cases, prove causation, etc.

 The system of the General part of the current CC provides for a certain order of placement of norms. The system is developed according to the stages of realization of criminal responsibility. The provisions of the general part are presented in 15 sections.

1. **Law on Criminal Liability. Hypothesis, disposition and sanction in criminal law**

 **Criminal law norm has a trilateral structure. Hypothesis, disposition and sanction in criminal law.**

Hypothesis means the conditions under which the legal norm applies. In norms of the Special Part, it is described not textually, but contextually. Norms of the general part do not contain the hypothesis.

 Description (disposition) describe the rules of prohibited conduct. At the same time, the article describes only specific features of the crime. The norms common to many crimes are listed in the Common Part.

The dispositions are divided into simple, descriptive, referential, blanket, mixed.

 A simple disposition only names the crime and does not reveal its content.

Descriptive (description by definition) names the composition of a specific crime and reveals its content.

Referential (reference disposition) refers to the description of the actions given in another part of the same article. For example, "The same actions committed by a group of individuals".

Blanket calls only the crime itself and refers to other normative acts for the purpose of determining its characteristics. Blanket dispositions are the most complicated. But now they are the majority of the rules of the Criminal Code.

Mixed disposition - this is a disposition, in which there are several of the above types of dispositions. An example of a mixed disposition can be called the disposition of Part 1 of Art. 328 of the Criminal Code: "Disclosure of information constituting a state secret, the person to whom this information was entrusted or became known in connection with the performance of official duties, in the absence of signs of state betrayal or espionage." In this disposition, one can distinguish the following dispositions: simple (expressed in words: disclosure of information, that is, in this disposition only the crime is described, without disclosing its essence); blanket (expressed in words: what constitutes a state secret. In order to understand what is a state secret, one should refer to the relevant law); (expressed in words: in the absence of signs of treason or espionage. In order to understand that the act contains the very crime, provided for in part 1 of Article 328 of the Criminal Code, reference should be made to Article 111 of the Criminal Code or Article 114 of the Criminal Code).

**Sanction (punishment, penalty)** are used to determine the type and size of punishment. They are divided into **relatively defined** and **alternative.**

**Relatively defined sanction** provides for the punishment of one particular species.

 **Alternative -** provides for several types of punishment, of which the court can choose only one.

1. **Principles of criminal law**

**Principles of criminal law** are weekly, basic ideas that derive from the content of the legal norms enshrined in criminal law.

 **Special laws of criminal law include: the principle of legality, equality of citizens before the law, saving of criminal repression, humanism, personal responsibility in the presence of guilt, inevitability of criminal liability, justice.**

The principle of **legality** is expressed by the formula "there is no crime and punishment without reference to that in the law".

 **Equality of citizens** before the law means legal equality of citizens before the law.

 **Saving of criminal repression.** This principle consists in the fact that criminal policy should be carried out only in the optimally necessary boundaries, not allowing them to be exceeded.

 **The principle of humanity** has two understanding. Broad understanding of the principle of humanism provides protection by the means of criminal law and criminal law means protecting the interests, rights, freedoms, life, health, personal wealth of citizens from criminal attacks. Other, narrow understanding of the principle of humanism paid to persons who have violated the criminal law, and suggests that the implementation of criminal law is different humane treatment of the offender. Humanization of law enforcement and – a way to compromise between opposing schools of thinking – positivism and natural law.

 **Personal responsibility in the presence of guilt.** Criminal liability is possible only for own actions (inaction). No one may be prosecuted for a crime committed by another person. Criminal liability comes only when there is a fault, that is, only in such cases, when the damage was caused, the committed crime was caused deliberately or carelessly (Article 23 of the Criminal Code). The innocent harm (case), regardless of its severity, is not recognized by the crime and does not entail criminal liability.

 **Inevitability of criminal liability** means that, firstly, every person guilty of wrongful acts must be punished, and secondly, no one can be stolen for one crime twice.

 The principle of **justice** presupposes that when appointing a swaddling, the individual characteristics of a person are taken into account.

 **Some scientists allocate additional principles of criminal law.**

  **The principle of subjective responsibility.** Criminal liability is based only on subjective sanity. Objective sanity is rejected, because it does not take into account, does not involve participation in actions of consciousness and will. Apart from guilt, as the basis of the subjective part of the crime, criminal liability implies, requires the perpetrator to be aware of all the signs of the crime. Most convincingly the principle of subjective sanity acts at the excess of the performer. The partners are not liable for the performer's actions that were not covered by their intention.

 **The principle of the advantage of mitigating circumstances.** In the competition of aggravating and mitigating circumstances, the advantage is to mitigate the circumstances of the commission of a crime.

 **Principle of greater punishment of a group crime.** With a few exceptions, all or the overwhelming majority of the legal rules on liability for intentional offenses contain qualifying attributes - committed by a group of individuals or an organized group.

 **Principle of full compensation for damage caused by a crime.** This principle is the implementation of a new concept of a criminal law - the concept of protection, supplementing the criminal function of criminal law with the function of protection, restoration of violated rights, interests of the person.

 **Glossary: common law system, civil law system, legal nexus, hypothesis, description (disposition) (simple, descriptive, referential, blanket, mixed), Sanction (punishment, penalty) (relatively defined and alternative), principles of criminal law (the principle of legality, equality of citizens before the law, saving of criminal repression, humanism, personal responsibility in the presence of guilt, inevitability of criminal liability, justice).**

Take note of the title of the lecture

 **“Act of the law on Criminal Liability”**.

**Write down the lecture plan.**

1. **Operation of law in time.**
2. **Operation of law in space: territorial, national, universal (all-pervading principle).**
3. **Legal effects of conviction a person outside of Ukraine and extradition**

1. **Operation of law in time.**

 The procedure for entering into force of the law on criminal liability is defined in Art. 94 of the Constitution of Ukraine. The validity of the law on criminal liability in time includes provisions on: a) the entry into force of the law on criminal liability; b) the termination of the law on criminal liability; c) the retroactive effect of the law on criminal liability.

 According to Art. 4-5 of the Criminal Code :

* The law on criminal liability shall enter into force ten days after its official promulgation, unless otherwise is provided in the law itself, but not prior to the day of its publication.
* The criminality and punishability of an act shall be determined by such law on criminal liability as was in effect at the time of commission of the act.
* The time of commission of a criminal offense shall be the time in which a person committed an act or omission provided for by the law on criminal liability.
* The law on criminal liability, which repeals the criminality of an act or lenifies criminal liability, shall be retroactive in time, that is it shall apply to persons who had committed relevant acts before that law entered into force, including the persons serving their sentence or those who have completed their sentence but have a conviction.
* The law on criminal liability that criminalizes an act or increases criminal liability shall not be retroactive in time.
* The law on criminal liability, which partially lenifies and partially increases criminal liability, shall be retroactive in time only in the part which lenifies the liability.

More soft in theories considered the law, which establishes a more lenient form of punishment than in the law that acted in the commission of a crime:

* the minimum limit of punishment is lower than the same limit of punishment in the law that was in force earlier;
* the maximum limit of one and the same kind of punishment is lower in the new law;
* this lower limit and increased higher limit are simultaneously lowered. In this case, the law has a retroactive effect in time only in that part, which mitigates liability (see Part 5 of Article 5 of the Criminal Code);
* the additional punishment, which was provided for in the previous law, was excluded;
* Save up additional punishment, but this punishment in the new law, unlike what was previously in force, is provided optionally along with less stringent additional punishment;
* closed a more severe type of punishment provided for in an alternative sanction, or such a sanction includes a less severe punishment;
* instead of one basic punishment, which was in the law that was in force earlier, alternatively provided for at least one more mild basic punishment.

**2. Operation of law in space: territorial, national, universal (all-pervading principle).**

Action in space law is based on three principles.

**Territorial** principle of the validity (action) of the law on criminal liability is formulated in Art. 6 CC: “Any person who has committed an offense on the territory of Ukraine shall be criminally liable under this Code.” “Where a diplomatic agent of a foreign state or another citizen who, under the laws of Ukraine or international treaties the consent to the binding effect of which has been granted by the Verkhovna Rada of Ukraine, is not criminally cognizable by a Ukrainian court commits an offense on the territory of Ukraine, the issue of his criminal liability shall be settled diplomatically”.

**Locus delicti** is a Latin term which means the ‘scene of the crime.’ Or “place of crime”. It is the place where tort, offence, or injury was committed or the place where the last event necessary to make the actor liable occurred. In case of civil proceedings it is the place where an alleged thing was done. For example, the place where disputed property lies. Locus delicti gives the court exclusive jurisdiction over the dispute or crime. Under common law, crimes are local and it is cognizable and punishable exclusively in the country where it is committed.

According to Art. 6 of the Criminal Code, an offense shall be deemed to have been committed on the territory of Ukraine if it has been initiated, continued, completed or discontinued on the territory of Ukraine.

The principle of citizenship (it is also called **national**) is formulated in Art. 7 of the Criminal Code: “1. Citizens of Ukraine and stateless persons permanently residing in Ukraine, who **have committed offenses outside Ukraine**, **shall be criminally liable under this Code**, unless otherwise provided by the international treaties of Ukraine, the consent to the binding effect of which has been granted by the Verkhovna Rada of Ukraine.
2. Where the persons referred to in the first paragraph of this Article underwent criminal punishment for the committed criminal offenses outside Ukraine, they shall not be criminally liable for these criminal offenses in Ukraine”.

The **universal** principle is that foreign nationals or stateless persons not residing permanently in Ukraine, who have committed criminal offenses outside Ukraine, shall be criminally liable in Ukraine under this Code in such cases as provided for by the international treaties, or if they have committed any of the special grave offenses against rights and freedoms of Ukrainian citizens or Ukraine as prescribed by this Code (Art. 8 CC). The real principle is that foreigners and stateless persons who do not permanently reside in Ukraine are liable to criminal liability for extraordinarily serious crimes against the rights and freedoms of Ukrainian citizens or Ukrainian interests committed outside Ukraine.

 **3. Legal effects of conviction a person outside of Ukraine and extradition**

According to Art. 9 of the Criminal Code, a judgment passed by a foreign court may be taken into account where a citizen of Ukraine, a foreign national, or a stateless person have been convicted of a criminal offense committed outside Ukraine and have committed another criminal offense on the territory of Ukraine. (2) Pursuant to the first paragraph of this Article, the repetition of criminal offenses, or a sentence not served, or any other legal consequences of a judgment passed by a foreign court shall be taken into account in the classification of any new criminal offense, determination of punishment, in the discharge from criminal liability or punishment.

According to Art. 56 European **Convention on the International Validity of Criminal Judgments (ratified by the Law of Ukraine of 26 September 2002),** Each Contracting State shall legislate as it deems appropriate to enable its courts when rendering a judgment to take into consideration any previous European criminal judgment rendered for another offence after a hearing of the accused with a view to attaching to this judgment all or some of the effects which its law attaches to judgments rendered in its territory. It shall determine the conditions in which this judgment is taken into consideration.

**Extradition** is the act by one jurisdiction of delivering a person who has been accused of committing a crime in another jurisdiction or has been convicted of a crime in that other jurisdiction into the custody of a law enforcement agency of that other jurisdiction. It is a cooperative law enforcement process between the two jurisdictions and depends on the arrangements made between them. Besides the legal aspects of the process, extradition also involves the physical transfer of custody of the person being extradited to the legal authority of the requesting jurisdiction.

Through the extradition process, one sovereign jurisdiction typically makes a formal request to another sovereign jurisdiction ("the requested state"). If the fugitive is found within the territory of the requested state, then the requested state may arrest the fugitive and subject him or her to its extradition process. The extradition procedures to which the fugitive will be subjected are dependent on the law and practice of the requested state. Between countries, extradition is normally regulated by treaties. Where extradition is compelled by laws, such as among sub-national jurisdictions, the concept may be known more generally as rendition.

The process of implementation of extradition to Ukraine is regulated by criminal procedure law. The procedure is lengthy and complicated, since extradition has a great influence on human rights.

According to Art. 10 of CC, Citizens of Ukraine and stateless persons permanently residing in Ukraine, who have committed criminal offenses outside Ukraine, shall not be extradited to a foreign state for criminal prosecution and committal for trial. Foreign nationals, who have committed criminal offenses on the territory of Ukraine and were convicted of these offenses under this Code, may be transferred to serve their sentences for the committed offenses in the state, whose nationals they are, where such transfer is provided for by the international treaties of Ukraine. Foreign nationals or stateless persons not residing permanently in Ukraine, who have committed crimes outside Ukraine and stay on the territory of Ukraine, may be extradited to a foreign state for criminal prosecution and committal for trial, or transferred to serve their sentence, where such extradition or transfer is provided for by the international treaties of Ukraine.

**Glossary: Operation of law in time, entering into force, the time of commission of the crime, the back relation of the law, a less restrictive criminal liability law, operation of law in space (territorial, national, universal (all-pervading principle)), locus delicti (location of the crime, scene of crime), conviction a person outside of Ukraine, extradition.**

**“Criminal liability (responsibility)** **and its grounds”**.

**Write down the lecture plan.**

**1. Criminal liability (responsibility) as a form of legal liability, its concept and attributes**

**2. Forms of realization of criminal responsibility. Criminal liability and punishment.**

**3. Criminal liability and criminal-legal relations: subjects, object and content. The moment of occurrence and termination of criminal liability.**

**4. Grounds of criminal responsibility, its consolidation in the Criminal Code of Ukraine. Action in the criminal law of double jeopardy clause principle.**

**1. Criminal liability (responsibility) as a form of legal liability, its concept and attributes**

 **Сriminal liability is responsibility for any illegal behaviour that causes harm or damage to someone or something** (Cambridge Business English Dictionary).

 Richard Card and Jill Molloy in book "Card, Cross & Jones Criminal Law (22nd edn)" (Oxford University Press, Jun 2016) wrote a section on Introduction to criminal liability. This chapter provides an outline of the elements which determine criminal liability, and of the rules relating to proof of those elements. Liability for an offence requires that the defendant’s outward conduct satisfies the requirements of that offence (ie the actus reus components) and that the defendant’s has the requisite legally blameworthy state of mind (ie the mens rea components). A defendant who satisfies these requirements may nevertheless not be liable for the offence if he has a defence specifically provided for or a efence under the general principles of criminal liability.

 **Criminal liability - a kind of legal liability, the responsibility of the person who committed the crime, to undergo a state condemnation in the form of criminal punishment. The concept of criminal responsibility corresponds to the generic features of legal liability and at the same time is characterized by its specific:**

* criminal liability is a real interaction between the special authorities of the state and the person convicted of committing a crime, as a result of which this person is subject to certain restrictions;
* criminal liability is a form of state coercion, which finds expression primarily in condemning the perpetrator and his actions by a conviction of a court, as well as in imposing additional offenses and restrictions on guilty;
* the type and extent of personal limitations (eg, imprisonment), property (for example, a fine) or other nature (for example, deprivation of the right to occupy certain positions) are defined only in the criminal law, primarily in the sanction of the article of the Criminal Code, which provides for responsibility for the committed crime;
* Such restrictions are always compulsory, not voluntary. since their application is the responsibility of specially authorized state bodies;
* criminal liability is possible only for the commission of a crime that serves as the basis for such liability.

 **The grounds for criminal liability** are:

1) the presence of a legal fact - the commission of an act prohibited by a criminal law;

2) such act on the social content caused or threatened to harm certain benefits or other values;

 3) the above-mentioned act is committed by a person with physical disappointment who has reached the age of criminal liability established by law;

 4) during the commission of an act, the person was not under the influence of any force or coercion which she could not resist;

5) there are no other circumstances, which according to the law exclude the crime of the act.

 These criteria determine the nature and specificity of a crime of a particular type and related to such a category of criminal law as the composition of the crime. Such an understanding of the issue under consideration makes it possible to state that the basis of criminal liability is the commission of a socially dangerous act containing elements of a crime. The basis of criminal liability (Article 2 of the Criminal Code) is the commission of a person of a socially dangerous act, which contains the crime, provided by the criminal law.

**2. Forms of realization of criminal responsibility. Criminal liability and punishment.**

Depending on whether the conviction of a criminal convicted in a criminal conviction by a criminal court is combined with the application of criminal-law measures to him, as well as from which of these measures is actually applied to the offender, it is possible to distinguish between such forms of criminalization of criminal responsibility provided for by the Criminal Code:

* "release from punishment". The first form (so to speak, the most liberal) means the conviction of a court, and, therefore, the implementation of a state condemnation of the offender, which, however, is not combined with the appointment of the perpetrator of any measure of criminal punishment. In other words, it is criminal liability in its "pure" form, "not burdened" (with the exception of the fourth case) by measures of criminal law influence. The isolation of the considered form of criminal liability implementation is based on the use in the current CC of the terminology.
* "dismissal of a person from serving a sentence", The second form of the implementation of criminal liability involves the conviction of a court, which the offender is assigned a specific measure of punishment, and which, at the same time, contains a court decision on (conditional or unconditional) release of a person serving his sentence. Includes, in particular, the following situations: 1) the imprisonment of a previous imprisonment in the form of imprisonment (Part 5 of Article 72 of the Criminal Code); 2) exemption from serving probation, including minors, pregnant women and women who have children under the age of seven.
* Finally, the third (most repressive) form of criminal responsibility is that the court, in a conviction, appoints the offender and takes a decision on his actual detention, while the convict is serving (in whole or in part) the sentence he is serving and is in a special legal position involves general and criminal consequences, - the state of conviction. Only by repayment or dismissal of criminal liability criminal liability in the form under consideration, as, incidentally, and in the previous form, ends in full, exhausts itself.

**3. Criminal liability and criminal-legal relations: subjects, object and content. The moment of occurrence and termination of criminal liability.**

As noted, the concept of criminal responsibility reflects the fact of the actual interaction of the person who committed the crime, and special state bodies. Such interaction is regulated by the rules of criminal law and therefore proceeds within certain legal relationships, which are called criminal law.

Some authors believe that these legal relationships arise from the time the crime was committed. In the opinion of the others, they arise from the moment or the prosecution of a criminal case, or the appearance of a person as a defendant, or even from the moment the conviction is pronounced or enforced.

From the moment a person committed a crime, there is a certain legal relationship between her and the state, as a result of which such person and States have reciprocal rights and obligations. The offender is obligated to be convicted of a crime committed, as well as the deprivations and limitations provided for in the Criminal Code.Mutual rights and obligations of the parties in the analyzed legal relationships **are their legal content**. They objectively arise from the moment the crime was committed, regardless of whether the crime was discovered by the state authorities or not.

**The object** of such legal relationship is the personal, property or other benefits of a person whose reduction is provided for in the sanctions of the article of the Special Part of the Criminal Code, according to which the person is found guilty of a crime, and which are determined by the conviction of the court.

**The subjects** of such relations, on the one hand, is the person who committed the crime, and on the other - the state in the person of primarily the bodies of inquiry, investigation and prosecutor's office.

Criminal law relations, as a general rule, exist throughout the time of serving prison sentences and some time after his departure - up to the time of custody.

 **4.Grounds of criminal responsibility, its consolidation in the Criminal Code of Ukraine. Action in the criminal law of double jeopardy clause principle.**

The basis of criminal responsibility is the presence in a socially dangerous act (crime) of a person of a crime defined in a specific article of the Special Part of the Code. The application of the specific rules of the criminal law requires the establishment of conformity (coincidence) of objective and subjective features of a criminal act features of the crime, which are described in a specific law (or unambiguously derive from its content).

Establishing the legal conformity of the signs of a criminal act signs of the crime, described in the specific law of the criminal law, in the theory of criminal law is called the qualification of the crime.

In determining the grounds for criminal responsibility, it is necessary to answer three questions:

How to justify the criminal liability of the person who committed the crime?for which person is liable to criminal liability?on what legal basis it is subject to such liability?

 ***Double jeopardy*** is a procedural defence that prevents an accused person from being tried again on the same (or similar) charges and on the same facts, following a valid acquittal or conviction.As described by the U.S. Supreme Court in its unanimous decision one of its earliest cases dealing with double jeopardy, "the prohibition is not against being twice punished, but against being twice put in jeopardy; and the accused, whether convicted or acquitted, is equally put in jeopardy at the first trial." The doctrine appears to have originated in Roman law, in the principle non bis in idem ("an issue once decided must not be raised again").

**Glossary:Criminal liability (responsibility), the grounds for criminal liability, forms of realization of criminal responsibility, criminal-legal relations ( subjects, object and content), the basis of criminal responsibility, the Concept of Double Jeopardy.**

Take note of the title of the lecture “**Definition of crime (offence), types of crime.** **Classification of crimes”**

**Write down the lecture plan.**

1. Definition of crime.
2. Elements essential to the offence (elements of crime, actus reus, indicia of a crime).
3. Crime in the system of offenses.About felony and misdemeanor.

**1. Definition of crime.**

In ordinary language, a **crime** is an unlawful act punishable by a [state](https://en.wikipedia.org/wiki/Forms_of_government) or other authority. The term "crime" does not, in modern [criminal law](https://en.wikipedia.org/wiki/Criminal_law), have any simple and universally accepted definition, though [statutory](https://en.wikipedia.org/wiki/Statutory) definitions have been provided for certain purposes. The most popular view is that crime is a [category](https://en.wikipedia.org/wiki/Category_of_being) created by [law](https://en.wikipedia.org/wiki/Law); in other words, something is a crime if declared as such by the relevant and applicable law. One proposed definition is that a crime or **offence** (or **criminal offence**) is an act harmful not only to some individual but also to a community, society or the state ("a public [wrong](https://en.wikipedia.org/wiki/Wrong)"). Such acts are forbidden and punishable by law.

According to the Criminal Code of Ukraine, art. 11 “**Notion of a criminal offense”**  A criminal offense shall mean a socially dangerous culpable act (action or omission) prescribed by this Code and committed by an offender. Although an act or omission may have, technically, any elements of an act under this Code, it is not an offense if, due to its insignificance, it is not a social danger, i.e. it neither did nor could cause considerable harm to any natural or legal person, community, society or the state.

 Signs of crime. 1) an act committed by the subject of a crime; 2) this act is socially dangerous - it causes damage or threatens to cause such damage to objects protected by current legislation; 3) it is an unlawful act, which is stipulated by the current criminal law - a violation of a person's specific criminal-law norm; 4) it is a guilty act, that is, committed intentionally or by negligence; 5) this is a punishable act for which the current Criminal Code of Ukraine provides for a certain type, term or size of punishment.

 The terms "criminal offense" and "crime" are synonyms. After the enactment of the Law of Ukraine on Criminal Offenses, stipulated in clause 1 of the Final Provisions of the Criminal Procedure Code of Ukraine, the term "criminal offense" will combine the concept of "crime" and "criminal misconduct".

 **The social nature of the crime (briefly**) First of all, it is generated by social relations and connections, in which a person lives and develops. This, in turn, indicates that as a cause of unlawful behavior, directly acts of volition act of a particular subject. Will is the ability of man to overcome obstacles, react to the influence of external factors. It allows you to subdue a sense of mind.
The social nature of crimes manifests itself in the impact on the surrounding personality of reality, that is, on the consequences. Due to the fact that unlawful conduct causes damage to public and individual interests protected by law, it is always evaluated more negatively in legal terms than other violations. The socio-legal nature of the crime involves the existence of conflict between the team and personality. Public danger is determined directly by its depth, and therefore requires the use of legal responses to eliminate it.

 **CRIMINALIZATION AND DECRIMINALIZATION.**

 The question of the proper scope of the [criminal law](https://www.encyclopedia.com/social-sciences-and-law/law/law-divisions-and-codes/criminal-law)—what to punish, and why—is a continuing and difficult one. What new criminal prohibitions should be enacted, and which existing prohibitions should be expanded, narrowed, or eliminated? Since all criminal laws in the [United States](https://www.encyclopedia.com/places/united-states-and-canada/us-political-geography/united-states) are created or subject to modification by statute, this question is primarily addressed to the legislature. However, when courts are called upon to interpret the scope of criminal statutes, they sometimes address similar questions, either as a matter of presumed legislative intent, or as a matter of public policy or (very rarely) constitutional interpretation. Police, prosecutors, and other law enforcement officials also sometimes face these issues, when deciding how to interpret and enforce existing criminal laws.

 The authors of decriminalization proposals do not always reject the same offenses, nor do they all agree on a common rationale or criterion for making these decisions. However, there is considerable consensus that many of the laws proposed for repeal are either inappropriately invasive of individual freedom of action, hypocritical, unenforceable, or too costly to enforce. These authors also appear to agree that the scope of the criminal law can and should be defined by a single set of objective, "neutral" principles capable of efficient application to all types of offenses, and should reflect general consensus among reasonable persons of widely differing moral and philosophical views. Such an approach has the advantage of avoiding narrow, subjective disputes about the wisdom of specific laws, although it also has the disadvantage inherent in any abstract, a priori schema.

 In the absence of any simple criminalization criterion or effective procedural limits on criminalization decisions, how should legislators proceed? How can the mass of interrelated, often conflicting substantive criteria discussed above provide any concrete guidance in the choice of the criminal sanction? The list below attempts to synthesize the views of classical and modern writers on this subject, and poses a series of questions that hypothetical legislators (or their constituents) should ask themselves.

1. What is the specific social or individual harm that the law seeks to prevent or minimize, how important is it, and how likely is it to follow from the behavior sought to be prohibited? Although the law may on occasion seek to go beyond concrete "harm to others" to achieve paternalistic goals (such as the safeguarding of children) or to protect intangible interests (such as "decency" in public places), the dangers of abuse of individual rights increase the closer one comes to basing the law on public morality, intangible harms, or protection of the criminal "for his/her own sake." In particular, protection of an adult person's private morality, solely for that person's own good, would seldom if ever be justified in a secular society.
2. What are the major pros and cons of criminalization? Like the cost-benefit approach described earlier, this question addresses the practical difficulties of enforcing the law (because, for example, there are few civilian witnesses, or the prohibited behavior is highly desired by the participants), and also takes into account the likely success of criminal penalties in preventing both the prohibited acts and any more remote social harms sought to be prevented. Even if the practical pros and cons cannot be quantified and rigorously compared with each other, their mere enumeration and description helps to ensure that no relevant considerations are overlooked, and may signal the need for legislative caution (even in the absence of supermajority, sunset, or other procedural limitations). One factor that deserves particularly close scrutiny is the long-term financial cost of proposed criminal laws and penalties, particularly when most of the proposal's benefits are likely to be achieved in the short term.
3. Are any noncriminal methods of control more effective or less costly? Here again, the legislator must consider the major advantages and disadvantages of civil, administrative, or quasi-criminal forms of prohibition or regulation. Given the procedural complexities of the criminal law, its more severe stigma and sanctions, and the need to permit the agencies of the criminal law to concentrate their energies on the most serious social harms, noncriminal procedures are often preferable. In such cases, residual, "last resort" criminal penalties will sometimes be necessary, but they should be kept to a minimum, both to avoid problems of discretionary enforcement and to prevent interference with noncriminal procedures (for example, by discouraging prostitutes or drug users from obtaining medical assistance). There are some cases, of course, for which the criminal law and its procedures are peculiarly appropriate, as in dealing with violent or imminently harmful behavior. In other cases, only certain aspects of the criminal law may be needed (such as the arrest powers of the police), but not its severe stigma or sanctions. It may also be administratively convenient to give the police, prosecutors, or other criminal justice agencies responsibility for enforcing certain noncriminal prohibitions, for example, minor traffic offenses. Even where criminal sanctions are retained, it may be possible to reduce enforcement costs and procedural complexity by lowering authorized penalties (since, in general, less serious offenses merit less elaborate procedural safe-guards). Ultimately, the assessment of these practical advantages and disadvantages may not be possible without a willingness to experiment and evaluate carefully the actual results of switching to noncriminal modes of control.
4. Would the resources devoted to criminal or noncriminal prohibition produce greater benefit if applied to other undesirable behavior, or to public and private purposes unrelated to law enforcement?
5. What would happen if all prohibitions or regulatory efforts were discontinued? The alternative of doing nothing is almost always the least expensive, although it is politically the most difficult. Legislators and their constituents like to believe they are "doing something" about social problems, even if this is an illusion; moreover, the removal of all legal prohibitions may encourage the behavior in question, at least in the short run. As with the use of noncriminal alternatives, however, legislators must show a greater willingness to experiment with new approaches; this, after all, is one definition of leadership. Much guidance can be received from those jurisdictions (including those in other nations) that have pioneered deregulation. And of course, prohibition can be reinstated if the results of deregulation are unsatisfactory. The important point is simply that the existence of a criminal prohibition (or even a noncriminal one) must not create any presumption of its own validity. With or without formal "sunset" (required reenactment) provisions, the criminalization question is a continuing one that must be reexamined periodically, without preconditions, by the public and its elected officials. Similarly, new prohibitions should not be casually added without careful consideration of the lessons of past criminalization efforts.
6. **Elements essential to the offence (elements of crime, actus reus, indicia of a crime).**

Under [United States law](https://en.wikipedia.org/wiki/Law_of_the_United_States), an **element of a crime** (or **element of an offense**) is one of a set of facts that must all be proven to convict a defendant of a crime. Before a court finds a defendant [guilty](https://en.wikipedia.org/wiki/Verdict) of a criminal offense, the prosecution must present evidence that, even when opposed by any evidence the defense may choose , is credible and sufficient to prove [beyond a reasonable doubt](https://en.wikipedia.org/wiki/Legal_burden_of_proof) that the defendant committed each element of the particular crime charged. The component parts that make up any particular crime vary depending on the crime. The basic components of an offense are listed below; generally, each element of an offense falls into one or another of these categories**. At common law**, conduct could not be considered criminal unless a defendant possessed some level of intention – either purpose, knowledge, or recklessness – with regard to both the nature of his alleged conduct and the existence of the factual circumstances under which the law considered that conduct criminal.

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The basic components of an offense are listed below;[[1]](https://en.wikipedia.org/wiki/Element_%28criminal_law%29#cite_note-basic-1) generally, each element of an offense falls into one or another of these categories. At common law, conduct could not be considered criminal unless a defendant possessed some level of intention – either purpose, knowledge, or recklessness – with regard to both the nature of his alleged conduct and the existence of the factual circumstances under which the law considered that conduct criminal. However, for some [legislatively enacted](https://en.wikipedia.org/wiki/Statutory_law)crimes, the most notable example being [statutory rape](https://en.wikipedia.org/wiki/Statutory_rape), a defendant need not have had any degree of belief or willful disregard as to the existence of certain factual circumstances (such as the [age of the accuser](https://en.wikipedia.org/wiki/Age_of_consent)) that rendered his conduct criminal; such crimes are known as [strict liability](https://en.wikipedia.org/wiki/Strict_liability) offenses.

##  Element of a crime include Mental state (*Mens rea),* Conduct (*Actus reus*), Concurrence and Causation

***Mens rea*** ([/ˈmɛnz ˈriːə/](https://en.wikipedia.org/wiki/Help%3AIPA/English); [Law Latin](https://en.wikipedia.org/wiki/Law_Latin) for "**guilty mind**”) is the mental element of a person's intention to commit a crime; or knowledge that one's action or lack of action would cause a crime to be committed. *Mens rea* is another [Latin](https://en.wikipedia.org/wiki/Latin) phrase, meaning "guilty mind". This is the mental element of the crime. A guilty mind means an [intention](https://en.wikipedia.org/wiki/Intention_in_English_law) to commit some wrongful act. Intention under criminal law is separate from a person's [motive](https://en.wikipedia.org/wiki/Motive_%28law%29). It is a [necessary](https://en.wikipedia.org/wiki/Necessity_and_sufficiency#Necessity) [element](https://en.wikipedia.org/wiki/Element_%28criminal_law%29) of many [crimes](https://en.wikipedia.org/wiki/Crime).The standard [common law](https://en.wikipedia.org/wiki/Common_law) test of criminal [liability](https://en.wikipedia.org/wiki/Legal_liability) is expressed in the [Latin](https://en.wikipedia.org/wiki/Latin) phrase *actus reus non facit reum nisi mens sit rea*, i.e. "the act is not [culpable](https://en.wikipedia.org/wiki/Culpability) unless the mind is guilty". In [jurisdictions](https://en.wikipedia.org/wiki/Jurisdiction) with [due process](https://en.wikipedia.org/wiki/Due_process), there must be both [*actus reus*](https://en.wikipedia.org/wiki/Actus_reus)("guilty act") and *mens rea* for a defendant to be guilty of a crime (see [concurrence](https://en.wikipedia.org/wiki/Concurrence)). As a general rule, someone who acted without mental fault is not liable in [criminal law](https://en.wikipedia.org/wiki/Criminal_law). Exceptions are known as [strict liability](https://en.wikipedia.org/wiki/Strict_liability_%28criminal%29) crimes.In [civil law](https://en.wikipedia.org/wiki/Civil_law_%28common_law%29), it is usually not necessary to prove a subjective mental element to establish liability for [breach of contract](https://en.wikipedia.org/wiki/Breach_of_contract) or [tort](https://en.wikipedia.org/wiki/Tort), for example. But if a tort is intentionally committed or a contract is intentionally breached, such intent may increase the [scope of liability](https://en.wikipedia.org/wiki/Proximate_cause) and the [damages](https://en.wikipedia.org/wiki/Damages) payable to the [plaintiff](https://en.wikipedia.org/wiki/Plaintiff).In some jurisdictions, the terms *mens rea* and *actus reus* have been replaced by alternative terminology. In Australia, *mens rea* is now called "fault elements" or "mental elements" and *actus reus* is now called "physical elements" or "external elements". The point of the changes was to replace Latin with plain English.

Since its publication in 1957, the formulation of *mens rea* set forth in the [Model Penal Code](https://en.wikipedia.org/wiki/Model_Penal_Code) has been highly influential throughout the US in clarifying the discussion of the different modes of culpability.[[13]](https://en.wikipedia.org/wiki/Mens_rea#cite_note-FOOTNOTEDubber_(2002)60-80-13) The following levels of *mens rea* are found in the MPC:

* [*Strict liability*](https://en.wikipedia.org/wiki/Strict_liability): the actor engaged in conduct and his mental state is irrelevant. Under Model Penal Code Section 2.05, this *mens rea* may only be applied where the forbidden conduct is a mere violation, i.e. a [civil infraction](https://en.wikipedia.org/wiki/Civil_infraction).
* [*Negligently*](https://en.wikipedia.org/wiki/Criminal_negligence): a "reasonable person" would be aware of a "substantial and unjustifiable risk" that his conduct is of a prohibited nature, will lead to a prohibited result, and/or is under prohibited attendant circumstances, and the actor was not so aware but should have been.
* [*Recklessly*](https://en.wikipedia.org/wiki/Recklessness_%28law%29): the actor consciously disregards a "substantial and unjustifiable risk" that his conduct will lead to a prohibited result and/or is of a prohibited nature.
* *Knowingly*: the actor is practically certain that his conduct will lead to the result, or is aware to a high probability that his conduct is of a prohibited nature, or is aware to a high probability that the attendant circumstances exist.
* *Purposefully*: the actor has the "conscious object" of engaging in conduct and believes or hopes that the attendant circumstances exist.

Except for strict liability, these classes of *mens rea* are defined in Section 2.02(2) of the MPC.

 ***Actus reus*** ([/ˈæktəs ˈreɪəs/](https://en.wikipedia.org/wiki/Help%3AIPA/English)), sometimes called the [external element](https://en.wikipedia.org/wiki/Element_%28criminal_law%29) or the objective element of a crime, is the [Latin](https://en.wikipedia.org/wiki/Latin) term for the "guilty act" which, when proved [beyond a reasonable doubt](https://en.wikipedia.org/wiki/Beyond_a_reasonable_doubt) in combination with the [*mens rea*](https://en.wikipedia.org/wiki/Mens_rea), "guilty mind", produces criminal [liability](https://en.wikipedia.org/wiki/Legal_liability) in the [common law](https://en.wikipedia.org/wiki/Common_law)-based [criminal law](https://en.wikipedia.org/wiki/Criminal_law) [jurisdictions](https://en.wikipedia.org/wiki/Jurisdiction) of [England](https://en.wikipedia.org/wiki/England) and [Wales](https://en.wikipedia.org/wiki/Wales), [Canada](https://en.wikipedia.org/wiki/Canada), [Australia](https://en.wikipedia.org/wiki/Australia), [India](https://en.wikipedia.org/wiki/India), [Kenya](https://en.wikipedia.org/wiki/Kenya), [Pakistan](https://en.wikipedia.org/wiki/Pakistan), [South Africa](https://en.wikipedia.org/wiki/South_Africa), [New Zealand](https://en.wikipedia.org/wiki/New_Zealand), [Scotland](https://en.wikipedia.org/wiki/Scotland), [Nigeria](https://en.wikipedia.org/wiki/Nigeria), [Ghana](https://en.wikipedia.org/wiki/Ghana), [Ireland](https://en.wikipedia.org/wiki/Ireland), [Israel](https://en.wikipedia.org/wiki/Israel) and the [United States of America](https://en.wikipedia.org/wiki/United_States). *Actus reus* is [Latin](https://en.wikipedia.org/wiki/Latin) for "**guilty act**" and is the physical element of committing a crime. It may be accomplished by an action, by threat of action, or exceptionally, by an [omission](https://en.wikipedia.org/wiki/Omission_%28criminal_law%29) to act, which is a legal duty to act. For example, the act of *A* striking *B* might suffice, or a parent's failure to give food to a young child also may provide the actus reus for a crime.

Where the actus reus is a *failure* to act, there must be a *duty of care*.

In the United States of America, some crimes also require proof of an [attendant circumstance](https://en.wikipedia.org/wiki/Attendant_circumstance). In order for an *actus reus* to be committed there has to have been an act. Various [common law](https://en.wikipedia.org/wiki/Common_law) jurisdictions define act differently but generally, an act is a "bodily movement whether voluntary or involuntary.

An act can consist of [commission](https://en.wikipedia.org/wiki/Actus_reus#Act), [omission](https://en.wikipedia.org/wiki/Omission_%28criminal_law%29) or [possession](https://en.wikipedia.org/wiki/Possession_%28law%29).

**Omission** involves a failure to engage in a necessary *bodily movement* resulting in injury. As with commission acts, omission acts can be reasoned casually using the *but for* approach. *But for* not having acted, the injury would not have occurred. The Model Penal Code specifically outlines specifications for criminal omissions:

1. the omission is expressly made sufficient by the law defining the offense; or
2. a duty to perform the omitted act is otherwise imposed by law (for example one must file a tax return).

So if legislation specifically criminalizes an omission through statute; or a duty that would normally be expected was omitted and caused injury, an *actus reus* has occurred.

**Possession** holds a special place in that it has been criminalized but under common law does not constitute an act.

For conduct to constitute an actus reus, it must be engaged in voluntarily. Few sources enumerate the entirety of what constitutes voluntary and involuntary conduct. A few sources, such as the Model Penal Code, provide a more thorough treatment of involuntary conduct:

1. a reflex or convulsion;
2. a bodily movement during unconsciousness or sleep;
3. conduct during hypnosis or resulting from hypnotic suggestion;
4. a bodily movement that otherwise is not a product of the effort or the determination of the actor, either conscious or habitual.

An actus reus may be nullified by an absence of [causation](https://en.wikipedia.org/wiki/Causation_%28law%29). For example, a crime involves harm to a person, the person's action must be the [*but for*](https://en.wikipedia.org/wiki/But_for_test) cause and [*proximate cause*](https://en.wikipedia.org/wiki/Proximate_cause) of the harm.[[15]](https://en.wikipedia.org/wiki/Criminal_law#cite_note-15) If more than one cause exists (e.g. harm comes at the hands of more than one culprit) the act must have "more than a slight or trifling link" to the harm.Causation is not broken simply because a victim is particularly vulnerable. This is known as the [thin skull rule](https://en.wikipedia.org/wiki/Thin_skull_rule).[[17]](https://en.wikipedia.org/wiki/Criminal_law#cite_note-17) However, it may be broken by an intervening act (*novus actus interveniens*) of a third party, the victim's own conduct,[[18]](https://en.wikipedia.org/wiki/Criminal_law#cite_note-18) or another unpredictable event. A mistake in [medical](https://en.wikipedia.org/wiki/Medicine) treatment typically will not sever the chain, unless the mistakes are in themselves "so potent in causing death.

***Corpus delicti*** ([Latin](https://en.wikipedia.org/wiki/Latin): "**body of the crime**"; plural: *corpora delicti*) is a term from [Western](https://en.wikipedia.org/wiki/Western_culture) [jurisprudence](https://en.wikipedia.org/wiki/Jurisprudence) referring to the principle that a crime must be proved to have occurred before a person can be convicted of committing that crime.

## Concurrence

## In general, *mens rea* and *actus reus* must occur at the same time—that is, the criminal intent must precede or coexist with the criminal act, or in some way activate the act. The necessary *mens rea* may not continually be present until the forbidden act is committed, as long as it activated the conduct that produced the criminal act. However, for criminal liability to occur, there must be either overt and voluntary action or a failure to act when physically able as required by statute or law.

## Causation

Many crimes include an element that actual harm must occur—in other words, [causation](https://en.wikipedia.org/wiki/Causation_%28law%29) must be proved. For example, homicide requires a killing, aggravated battery requires serious bodily injury and without those respective outcomes, those respective crimes would not be committed. A causal relationship between conduct and result is demonstrated if the act would not have happened without direct participation of the offender.[[5]](https://en.wikipedia.org/wiki/Element_%28criminal_law%29#cite_note-brittannica-5)

Causation is complex to prove. The act may be a "necessary but not sufficient" cause of the criminal harm. Intervening events may have occurred in between the act and the result. Therefore, the cause of the act and the forbidden result must be "proximate", or near in time.

**In Ukraine, another understanding of the crime and its elements.**

During the course, we will focus on the Ukrainian understanding of the crime. However, in studying a special part, we will use both understandings. Well, in Ukraine, the crime is understood as follows.

 Each component of the crime is distinguished by its elements. They are:

the object of the crime, the objective side of the crime (their totality is called the objective features of the composition), the subject and the subjective part of the crime (they are collectively called the subjective features of the composition). In their unity these objective and subjective features and form the composition of the crime.

 The object of a crime is that which is always perpetrated by a crime and why it always causes certain damage. These are the social relations protected by the criminal law.

 Objective side - the external side of an act, which is expressed in the commission of an act (action or inaction) stipulated by law, which causes or threatens to cause damage to the object of the crime.

 The subjective side is the internal aspect of the crime, because it includes those mental processes that characterize the consciousness and will of the person at the time of committing the crime. Signs of the subjective side, as an element of composition, are the fault, the motive and purpose of the crime. Obligatory (necessary) main feature of the subjective part of any crime is the fault of the person.

 Each of the listed elements of the composition has a certain set of features. Depending on their role in describing the general notion of composition, these features are divided into mandatory and optional. Obligatory - these are the features that are inherent in any form of crime, without which there is no crime at all. Optional features that are not mandatory for all offenses and can play different roles in different departments.

 Such attributes include the time, place, situation and way of committing a crime (characterizing the objective side), the motive and purpose (characterizing the subjective side), as well as the signs of a special subject of crime, and some others. The given division of signs of composition into compulsory and facultative is important because it contributes to a deeper elucidation of the syllables of individual crimes and their delineation from adjacent ones.

**3.Classification of crimes**
 Classification of crimes - the division of crimes into certain groups, depending on the features specified in the criminal law that affect the punishment of a person convicted of committing a criminal offense. Crimes in criminal law are subject to classification depending on the degree of guilt, the purpose, the punishment that may be imposed, the stage of committing a crime, etc. Consequently, from the objective side of the crime can be expressed in form of action or in the form of inaction. Under action means an active, conscious and socially dangerous behavior, and inactivity - the failure of the guilty person to certain actions that she was supposed to do under these circumstances.

In accordance with Part 1 of Art. 12 of the Criminal Code of Ukraine, the main criterion in the classification of crimes is the degree of gravity. Depending on the severity of the crime, the crimes are divided into crimes of moderate severity, gravity, gravity and especially severe.

A crime of **minor gravity** is a crime for which a maximum of two years of imprisonment or a milder punishment can be imposed, except for punishment, for which a fine of more than three thousand tax-free minimum incomes (that is, more than £ 51,000) is foreseen.
A crime of **moderate gravity** is a crime for which the maximum sentence is a fine of up to 5 years imprisonment or no more than 10,000 tax-free minimum incomes (£ 170,000).

A **serious crime** is punishment for a term of imprisonment of no more than 10 years, as well as a fine of up to 25,000 tax-free minimum incomes (£ 425,000).

**Particularly grave** is the crime for which the maximum sentence is a term of imprisonment of more than 10 years, or a life imprisonment, or a fine in excess of twenty five thousand tax-free minimum incomes (over £ 425,000).

**In some**[**common law**](https://en.wikipedia.org/wiki/Common_law)**countries** crimes are classified into **felony and misdemeanor.**

The term **felony**, in some [common law](https://en.wikipedia.org/wiki/Common_law) countries, is defined as a serious [crime](https://en.wikipedia.org/wiki/Crime). The word originates from English common law (from the French medieval word "félonie"), where felonies were originally crimes involving confiscation of a convicted person's land and goods. Other crimes were called [*misdemeanors*](https://en.wikipedia.org/wiki/Misdemeanor). Many common law countries have now abolished the felony/misdemeanor distinction and replaced it with other distinctions, such as between [indictable offences](https://en.wikipedia.org/wiki/Indictable_offence)and [summary offences](https://en.wikipedia.org/wiki/Summary_offence). A felony is generally considered a crime of high [seriousness](https://en.wikipedia.org/wiki/Seriousness), but a misdemeanor is not.

A person who has committed a felony is a **felon**. In addition, upon conviction of a felony in a court of law, a person is known as a **convicted felon** or a **convict**.

A **misdemeanor** (American English,spelled misdemeanour in British English) is any "lesser" criminal act in some common law legal systems. Misdemeanors are generally punished less severely than felonies, but theoretically more so than administrative infractions (also known as minor, petty, or summary offences) and regulatory offences. Many misdemeanors are punished with monetary fines.