**MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE**

**National Aviation University**

**Law Institute**

**Department of Criminal Law and Process**

## «Prosecution of Ukraine»

**Methodical recommendations for self-training**

**before taking classes**

**Specialties: 081 "Law"**

Educational Professional Program**: "Jurisprudence"**

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**Introduction**

Students' independent work is an important component of training in higher education institutions of highly skilled specialists.

The informational and methodological support of independent work of students is a list of questions for self-training, which are envisaged by the plans of practical classes, as well as a list of literature on the topic.

The main recommendation for self-education and deepening of knowledge on discipline can be the processing and critical comprehension of the recommended literature, especially the primary sources, as well as the preparation of schemes and comparative tables.

Independent work of students is intended to help achieve the goal set before the academic discipline. Getting to self-study, the student must realize the purpose of the discipline and the tasks that face it. The purpose of the discipline is to familiarize students with the general and special parts of criminal law in a comparative aspect, disclosing its meanings to protect the rights and legitimate interests of individuals and legal entities in criminal law, to strengthen the rule of law and law and order in society and the state, obtaining basic knowledge and giving students skills in their application.

Tasks for independent work are aimed at consolidating the educational material. Their implementation involves assimilating the main content of discipline topics. At the same time, the implementation of such tasks requires a creative approach from the student side, the ability to raise additional questions and answer them, evaluate their own work and compare them with others, analyze typical and non-standard situations.

**MODULE 1. "Prosecutor's Supervision"**

**Topic 1.2. Prosecution supervision as an independent branch of state activity**

**Plan**

1. History of the formation of a system of branches of power in a state governed by law.

2. History of the Prosecutor's Office of Ukraine.

Guidelines

By studying this topic, students should first of all be identified with the notion of state power and the place of the prosecutor's office.

The Prosecutor's Office of Ukraine is an independent central government body operating in the system of law enforcement agencies of the state and protects against unlawful encroachments on the social and state system, human rights and freedoms, as well as the basis of a democratic system by means and methods provided for by law. The prosecutor's office is not subject to executive or judicial authority, since its activities are an element of the system of checks and balances between the branches of government that are formed and established in the state after the adoption of the new Constitution. "The fundamental branches of power - the legislative, executive and judicial, which represent a single state power and its division, do not exclude the possibility of the existence of other functionally independent legal institutions, their presence is determined by the real needs of the construction of the rule of law and the state and legal life of society in a given period, the need for democratic forms of control of the branches of power in cases where their activities do not comply with the principles and provisions of the Constitution. " After proclaiming independence, Ukraine became the first of the former Soviet republics on November 5, 1991 to adopt the Law of Ukraine "On Prosecutor's Office", which was put into effect on December 1, 1991. It is this day that is celebrated as the Day of Workers of the Prosecutor's Office.

**Topic 1.2. Organization of work in the organs of the prosecutor's office**

**Plan**

1. Relations between the prosecutor's office and local self-government bodies.

2. Relations between the Office of Public Prosecutor and enterprises of institutions and organizations, regardless of ownership

Guidelines

The peculiarities of the relationship between the prosecutor's office and the aforementioned structures of public authority are stipulated by three important factors. First, the fact that, unlike other traditional branches of state power, executive structures constitute a broad-based power vertical: from the Cabinet of Ministers of Ukraine to district state administrations and include bodies of both general and special competence (ministries and departments of Ukraine and their local authorities). Local self-government bodies, although they do not form the power vertical, are also quite branched (from oblast to village councils and their executive bodies). The fact that the prosecutor's office is an extensive system of bodies, including specialized, creates objective prerequisites for various contacts of the prosecutor's office with the authorities and representatives of these power structures. Second, the fact that, unlike the legislative and judicial authorities, on the said systems are fully covered by the prosecutor's oversight of compliance with laws in Ukraine. Third, in the relationship between the prosecutor's office and the executive authorities, based on the tasks of the prosecutor's office, the issues of con roll and law enforcement to be solved to some extent by the majority of structures belonging to this branch. This brings us to the conclusion that the concept of "supervisory power" can be used in a broader sense than in the first sectionwork. However, in this case, from the theoretical and practical point of view, the conglomerate of various control and law enforcement bodies can not claim to be isolated into a separate branch of government because these bodies are already members of the executive branch. Recently, an important problem of the relationship between the prosecutor's office and the state executive body is the definition of the contribution that each of them is called to bring to the task of strengthening the rule of law, their tasks in this area to some extent coincide, but the scope of these tasks and methods of their solution differ significantly. This is especially true for executive bodies of general competence: the Cabinet of Ministers of Ukraine, regional and district state administrations.

**Topic 1.3. Work with appeals of citizens and legal entities in the prosecutor's office**

**Plan**

1. Legislative system of the Prosecutor's Office of Ukraine.

2. The system of the prosecutor's office of Ukraine prior to the reform

Guidelines

The Prosecutor's Office of Ukraine consists of:

1) the General Prosecutor's Office of Ukraine;

2) regional prosecutors;

3) local prosecutors;

4) military prosecutors;

5) Specialized anti-corruption prosecutor's office.

The military prosecutor's offices are the Main Military Prosecutor's Office (on the rights of the structural unit of the General Prosecutor's Office of Ukraine), the military prosecutor's offices of the regions (on regional rights), the military prosecutor's offices of garrisons and other military prosecutors (as local authorities) whose list is determined. In the event that, in exceptional circumstances, in certain administrative-territorial units, the prosecutor's offices of Ukraine that oversee the supervision there are not acting, the Prosecutor General's office may, in accordance with the decision of the Prosecutor General, rely on the military prosecutor's office to perform their functions. Establishment, reorganization and liquidation of military prosecutors, determination of their status, competence, structure and state are carried out by the Attorney General. 3. The peculiarities of the organization and activity of the Specialized Anti-Corruption Prosecutor are determined by Article 8-1 of the Law. Establishment of the Specialized Anti-Corruption Prosecutor's Office, definition of its structure and state are carried out by the General Prosecutor in agreement with the Director of the National Anti-Corruption Bureau of Ukraine.

**Topic 1.4. Supervision over observance and application of laws**

**Plan**

1. History of changes in the status of prosecutor.

2. Status of the prosecutor before the reform of the prosecutor's office

Guidelines

Art. 15 of the Law "On Prosecutor's Office" defines the following persons who have the status of a prosecutor:

Attorney General of Ukraine;

First Deputy Prosecutor General of Ukraine;

Deputy Prosecutor General of Ukraine;

Deputy Prosecutor General of Ukraine - Chief Military Prosecutor;

Deputy Prosecutor General of Ukraine - Head of Specialized Anti-Corruption Prosecutor's Office;

Head of the unit of the General Prosecutor's Office of Ukraine (including the First Deputy and Deputy Chief Military Prosecutor, head of the unit of the Main Military Prosecutor's Office on the rights of the structural unit of the General Prosecutor's Office of Ukraine);

Deputy Head of the unit of the General Prosecutor's Office of Ukraine (including the Main Military Prosecutor's Office and the Specialized Anti-Corruption Prosecutor's Office on the rights of independent structural units of the General Prosecutor's Office of Ukraine);

the Prosecutor General of the Prosecutor General of Ukraine (including the Main Military Prosecutor's Office and the Specialized Anti-Corruption Prosecutor's Office on the rights of independent structural units of the General Prosecutor's Office of Ukraine);

the head of the regional prosecutor's office (including the military prosecutor's office on the rights of the regional);

the first deputy head of the regional prosecutor's office (including the military prosecutor's office on the rights of the regional);

deputy head of the regional prosecutor's office (including the military prosecutor's office on the rights of the regional);

Head of the unit of the regional prosecutor's office (including the military prosecutor's office on the rights of the regional);

Deputy Head of the Regional Prosecutor's Office (including the Regional Prosecutor's Office);

the prosecutor of the regional prosecutor's office (including the military prosecutor's office on the rights of the regional);

the head of the local prosecutor's office (including the military prosecutor's office on the rights of the local);

the first deputy head of the local prosecutor's office (including the military prosecutor's office on the rights of the local);

deputy head of the local prosecutor's office (including the military prosecutor's office on the rights of the local);

Head of the unit of the local prosecutor's office (including the military prosecutor's office on the rights of the local);

Deputy head of the unit of the local prosecutor's office (including the military prosecutor's office on the rights of the local);

the prosecutor of the local prosecutor's office (including the military prosecutor's office on the rights of the local).

Prosecutors in Ukraine have a single status irrespective of the place of the prosecutor's office in the system of the prosecutor's office of Ukraine or the administrative office which the prosecutor holds in the prosecutor's office.

**Topic 1.5. Prosecutor's oversight of compliance with juvenile laws**

Plan

1. Functions of the prosecutor's office

2. The essence of the functions of general supervision before the reformation of the organs of the prosecutor's office.

Guidelines

The notion, subject and tasks of the prosecutor's oversight of the observance of laws by the authorities conducting operational-search activity. The powers of the prosecutor to oversee compliance with the law by the authorities conducting operational search activities. Organization of work to oversee the observance of laws by the authorities conducting operational search activities.

The subject and tasks of the prosecutor's oversight of the observance of laws by the bodies conducting inquiry and pre-trial investigation. The legal basis for supervising the observance of laws by the bodies conducting inquiry and pre-trial investigation. Procedural guidance to pre-trial investigation. The powers of the prosecutor when supervising the observance of laws by the authorities conducting inquiries and pre-trial investigation. The powers of the prosecutor to supervise the observance of laws at the initial stage of pre-trial criminal proceedings. Prosecutor's oversight of law enforcement when conducting vowel and covert investigator (search) actions. Supervision over observance of laws when reporting suspicion. Supervision over enforcement of laws when applying precautionary measures. Supervision over the legality of the extension of the terms of pre-trial investigation, as well as the suspension of pre-trial investigation. Supervision of the legality of actions and decisions at the end of pre-trial investigation. Organization of participation of the prosecutor in the pre-trial investigation. Coordinating activities of the prosecutor's office in the field of combating crime. Organization of pre-trial investigation in prosecutor's offices.

The concept of state prosecution and the task of the prosecutor in a judicial criminal proceeding. Preparing a prosecutor to take part in the trial. The authority of the prosecutor, who supports the state prosecution

in court Participation of the researcher in preparatory proceedings. Involvement of the prosecutor in a judicial investigation. Public prosecutor's speech in court: structure and content. The refusal of the prosecutor to maintain a public prosecution in court, change the state prosecution and make an additional charge: grounds, order and legal consequences. Participation of the prosecutor in a court proceeding on appeal of judicial decisions. Participation of the prosecutor in criminal proceedings on the basis of agreements.

The subject and tasks of supervising the observance of laws in the execution of judicial decisions in criminal cases, as well as in the application of other measures of a coercive nature. The law of the prosecutor's supervisory body is based on observance of laws when executing judicial decisions in criminal cases. The powers of the prosecutor to supervise the observance of laws in the execution of judicial decisions in criminal cases. Prosecutor's supervision of the observance of laws in places of detention and imprisonment. Prosecutor's supervision of the observance of laws in places of deprivation or restraint of liberty. Prosecutor's oversight of law enforcement in the execution of non-custodial sentences. Acts of the prosecutor's response to violations of laws in the institutions for the enforcement of criminal penalties.

Topic 1.6. Prosecutor's supervision of compliance with internal affairs legislation on administrative offenses

Plan

1. International dimension in the issue of the procedure for occupying a prosecutor's office

2. Historical aspect of the regulation of requirements to a candidate for the post of public prosecutor

Guidelines

1) the decision by the Qualification-Disciplinary Commission of Prosecutors to select candidates for a post of public prosecutor, placed on the official web-site of the Qualifications Disciplinary Commission of prosecutors, and must contain a statement of requirements stipulated by the Law, which the candidate for the position of prosecutor must answer, as well as a list of documents, submitted to the Qualification-Disciplinary Commission of Prosecutors, and the deadline for their submission;

2) submission by the persons who have expressed a desire to become a prosecutor to the Qualification-Disciplinary Commission of prosecutors of the relevant application and documents specified by the Law;

3) implementation of the Qualification-Disciplinary Commission of Prosecutors on the basis of candidates submitted to the post of prosecutor documents of verification of compliance of persons with the requirements established for the candidate for the post of prosecutor;

4) compilation by a person who meets the established requirements for a candidate for a post of prosecutor, qualification examination;

5) the publication by the Qualification-Disciplinary Commission of Prosecutors on the official web-site of the list of candidates who successfully passed the qualifying examination;

6) the organization of the qualification-disciplinary commission of prosecutors special examination of candidates who have successfully passed the qualification examination;

7) determination by the Qualification-Disciplinary Commission of prosecutors of the rating of candidates for a post of public prosecutor among those who have successfully passed the qualifying examination and who have been subject to a special examination, as well as their enrollment in the reserve for the replacement of vacant posts of prosecutors;

8) passing a candidate for a special training prosecutor at the National Academy of Public Prosecutor of Ukraine;

9) announcement by the Qualification-Disciplinary Commission of Prosecutors in case of opening of vacant posts of prosecutors of the competition for such positions among candidates who are in reserve and have undergone special training;

10) conduct of the Qualification-Disciplinary Commission of Prosecutors in the competition for occupying vacant posts of prosecutors on the basis of candidates' ratings;

11) submission to the head of the local prosecutor's office of the appointment of a candidate for a post of prosecutor by the Qualification-Disciplinary Commission of prosecutors;

12) appointment of a person to the post of prosecutor;

13) the swearing of a prosecutor by a person.

Theme 7. Supervision over observance of laws by bodies conducting operative-search activity, inquiry, pre-trial investigation

Plan

1. Legal conflicts in the legislation on overseeing compliance with laws by the authorities conducting operational search activities.

2. Legal conflicts in the legislation on monitoring the observance of laws by the authorities conducting inquiry, pre-trial investigation

Guidelines

The prosecutor may be prosecuted in disciplinary proceedings on the following grounds:

1) failure to perform or improper performance of official duties;

2) unreasonable delay with consideration of the appeal;

3) disclosure of a secret protected by law, which became known to the prosecutor during the exercise of his authority;

4) violation of the procedure for submission of a declaration of property, incomes, expenses and financial obligations, established by law;

5) committing actions that denigrate the title of the prosecutor and may cause doubts in his objectivity, impartiality and independence, in the integrity and integrity of the prosecutor's office;

6) systematic (two or more times during one year) or one-time gross violation of the rules of the prosecutor's ethics;

7) violation of the rules of internal service regulations;

8) interference or any other influence of the prosecutor in cases or order not stipulated by law, in the official activities of another prosecutor, officers, officials or judges, including by public expressions of their decisions, actions or inactivity, in the absence thereof signs of an administrative or criminal offense;

9) a public statement, which is a violation of the presumption of innocence.

**Topic 8. Participation of prosecutors in international cooperation**

**Plan**

1. Dismissal of the Head of the Specialized Anti-Corruption Prosecutor's Office.

2. The release of the Chief Military Prosecutor

Guidelines

The prosecutor shall be dismissed from office in the event of:

1) the impossibility of fulfilling their powers in the state of health;

2) violation of the requirements for incompatibility provided for in Article 18 of the Law;

3) the legal validity of a court decision to bring the prosecutor to administrative liability for a corruption offense, connected with violation of the restrictions provided for in the Law of Ukraine "On the Principles of Prevention and Counteraction to Corruption";

4) the impossibility of transfer to another position or the lack of consent for this in connection with direct subordination to a close person;

5) entry into force of the court's conviction on him;

6) termination of citizenship of Ukraine or acquisition of citizenship of another state;

7) filing an application for dismissal at his own discretion;

8) impossibility of further staying on a temporary vacancy;

9) liquidation or reorganization of the prosecutor's office in which the prosecutor holds office, or in the case of a reduction in the number of prosecutors of the prosecutor's office.

The servicemen of the military prosecutor's office may be released from military service in accordance with the legislation regulating the procedure for its passing, as well as in connection with the transfer to other posts in the prosecutor's office of Ukraine or at their own will.

The persons who, in the order established by this Law, decide to dismiss the prosecutor from office, are:

1) Attorney General - concerning prosecutors of the General Prosecutor's Office of Ukraine;

1-1) Head of the Specialized Anti-Corruption Prosecutor's Office - concerning prosecutors of the Specialized Anti-Corruption Prosecutor's Office;

2) the head of the regional prosecutor's office - concerning the prosecutors of the relevant regional prosecutor's office and prosecutors of the local prosecutor's offices, which are located within the administrative-territorial unit that falls under the territorial jurisdiction of the relevant regional prosecutor's office;

3) the military prosecutor of the region - in relation to the prosecutors of the relevant military prosecutor's office of the region and the prosecutors of the military prosecutor's offices of the garrisons located within the administrative-territorial unit subjected to the territorial jurisdiction of the relevant military prosecutor's office of the region.

The powers of the prosecutor are terminated in connection with:

1) the achievement of sixty-five years;

2) death;

3) recognition of his absence or declaration dead;

4) by the decision of the Qualification-Disciplinary Commission of prosecutors on the impossibility of further being a person in the position of prosecutor.