**MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE**

**National Aviation University**

**Educational and Scientific Law Institute**

**Department of Criminal Law and Process**

**Methodological recommendations**

**to prepare a student to practical classes**

**from the discipline**

## «Criminal Law»

**Specialties: 081 "Law"**

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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.

CLASSIFICATION OF CRIME; COMPOSITION OF CRIME; QUALIFICATION OF CRIMES.

Topic 1. The concept of subject, tasks and system of criminal law. Science of Criminal Law.

 Plan: 1. Criminal law and state policy in the field of combating crime.

 2. The science of criminal law.

Guidelines

1. Criminal law is interconnected with politics (criminal or even called anti-criminal, anti-crime policy) of state and public associations in the field of crime control. In modern conditions, criminal policy is produced as the result of a compromise between the positions (often diametrically opposed) of all branches of power, political parties, other associations of citizens, academics, etc., on the adoption of certain criminal laws, as well as by subordinate acts aimed at the fight against crime. An important task of criminal policy is the education of Ukrainian citizens in the spirit of the unconditional fulfillment of their duties to society and the state.

However, it should be borne in mind that the possibilities of criminal policy in the fight against crime are not limitless. The fact is that criminal liability, punishment by themselves does not eliminate the causes of crime. Therefore, in the fight against crime and other offenses, special attention should be paid to the measures of socio-economic, legal and cultural-educational nature. Prevention of crimes and other offenses is a strategic direction of criminal policy.

Thus, criminal policy is a system of appropriate legal, economic and socio-cultural measures, which reflect the strategy and tactics of the fight against crime, by the authorities of the state, parties and other associations of citizens with the participation of scientific institutions, and on the basis of which formed, amended and supplemented by criminal law, its goals, tasks, principles, form and order of influence on the perpetrators of crimes are defined. Criminal policy is reflected in the relevant laws and other normative legal acts, concepts, programs, etc. In the most concentrated form it focuses in the criminal law.

2. The science of criminal law is a system of scientific provisions and views on the grounds and limits of criminal responsibility, as well as the use of the possibilities of criminal law in the fight against crime. She explores the social conditionality and essence of the criminal law, the principles of its action, the effectiveness of the application, the ways of improvement, etc. Thus, criminal law as a branch of law and legislation acts for science as a subject of its study. At the same time, the science of criminal law examines not only the criminal law in force, but also its history and perspectives of disintegration.

The science of criminal law develops scientific recommendations on the improvement of criminal law, law enforcement practice, has the task of studying foreign experience in legislation in this field and application in practice. The system of scientific knowledge and knowledge about the criminal law is constantly being developed through the implementation of newest researches using the methods of criminal law specializing in the study of criminal legislation, the practice of its application, statistical data on crime, etc.

The science of criminal law uses logical-legal, sociological and historical methods, as well as the method of system analysis and the method of comparative law.

With the help of the logical and legal method, the provisions of the criminal law are commented on; the qualification of crimes is carried out, which involves the analysis of the elements of the specific crime.

Questions for self-examination

 1. Methods of science of criminal law.

2.What sciences are related to the science of criminal law. ...

Topic 2. Law on Criminal Liability.

Plan: 1. Interpretation of the law on criminal liability.

1. In the application of a criminal law, there is a need for its interpretation, that is, in clarifying the will of the legislator, aware of the content of the law, in an accurate explanation of the terms used in it. The interpretation of the law is to find the right decision in a particular case.

Depending on the criterion laid down as the basis for the division of interpretation into species, the science of criminal law distinguishes between the interpretation of the law by subject, by volume and by method (admission).

By subject, that is, depending on who implements the interpretation, distinguish the interpretation:

a) authentic, which is provided by the body that adopted the law. Prior to the adoption of the 1996 Constitution, such an interpretation was carried out by the Verkhovna Rada of Ukraine (see, for example, the Verkhovna Rada of Ukraine Resolution of January 26, 1993 "On the Application of Articles 154, 1556 of the Criminal Code of Ukraine and Articles 1602, 2081 of the Code of Ukraine on Administrative Offenses" ) At present, the definition of certain concepts, terms is given in the notes to the law itself, therefore, the authentic interpretation by the Verkhovna Rada of Ukraine does not apply. The authentic interpretation was of general binding force and was essentially a new law;

b) legal (official), which is given by the body, specially for that authorized. According to Clause 2 of Art. 150 of the Constitution of Ukraine the law of official interpretation of laws, including criminal, the Constitutional Court of Ukraine. His explanation is mandatory for execution on the territory of Ukraine, final and can not be challenged; c) judicial (casual).

Interpretation by volume is a definition of the boundaries of the law in relation to the text of the law and the range of the acts to which its effect extends. By the scope of the interpretation may be literal, restrictive and distributive.

Questions for self-examination

 1. Types of interpretation of the law on criminal liability.

2. Expand one form of interpretation of the criminal liability law. ...

Topic 3. The validity of the law on criminal liability in time and space.

Plan: 1. Persons enjoying diplomatic immunity.

 Guidelines

1. In accordance with international treaties and legislation of Ukraine, persons enjoying diplomatic immunity are excluded from the jurisdiction of the judicial authorities of Ukraine. This provision is enshrined in Part 4 of Art. 6 KK.

Full diplomatic immunity includes: the head of the diplomatic mission in Ukraine (ambassador, the envoy, the clerk of affairs), the members of the diplomatic staff of the diplomatic mission with a diplomatic rank (advisers, trade representatives, military attachés, first, second and third secretaries, deputy trade representatives, assistants of military attachés), as well as members of families of all these persons who live with them and are not Ukrainian citizens.

Diplomatic couriers, members of the administrative and technical staff of the diplomatic missions, consular officials and consular officers, members of the diplomatic staff of foreign states in other countries, which transit through the territory of Ukraine, and other persons, use diplomatic immunity with limited diplomatic immunity.

A diplomatic courier uses personal integrity in the performance of his duties and can not be arrested or detained.

Members of administrative and technical staff and members of families residing with them, if they are not Ukrainian citizens or do not permanently reside in it, enjoy immunity from criminal jurisdiction to the same extent as members of diplomatic staff (paragraph 15 of the Regulations). Members of service personnel who are not citizens of Ukraine or who do not permanently reside in Ukraine enjoy immunity from criminal jurisdiction only in respect of actions performed by them in the course of their duties (Section 16 of the Regulations).

Members of the diplomatic staff of a foreign state in a third state who transit through the territory of Ukraine enjoy immunity from criminal jurisdiction and other immunities that are necessary to ensure their travel. This provision also applies to members of their families who enjoy privileges and immunities, including those from criminal jurisdiction, and accompany these persons or travel separately to join them or return to their own state (paragraph 17 of the Regulations).

Consular officers enjoy personal immunity and can not be detained or arrested otherwise than in the case of prosecution for a grave crime or execution of a judgment (ruling, decree) of a court which has become legally binding (paragraph 25 of the Regulation). Consular officers and consular officers enjoy immunity from criminal jurisdiction of Ukraine regarding the activities they carry out within the scope of their official duties.

Questions for self-examination

1. Identify the persons who use the diplomatic mission.

 2. What document provides immunities for members of the diplomatic staff of the diplomatic mission.

Topic 4. Criminal liability and its grounds.

Plan: 1. Forms (realization) of criminal responsibility.

Guidelines

1. According to the criminal law, the following forms of criminal liability can be distinguished: 1) punishment (the main form of responsibility); 2) release from punishment or criminal liability (exclusive liability); 3) exemption from serving a sentence with a trial (previously, conditional non-application of a punishment or conditional sentence), (a special form of criminal liability).

Punishment is not just a punishment, but the direction of individuals to correct them and prevent new crimes. It is not intended to humiliate human dignity and cause suffering. The punishment includes the largest number of those that specify the criminal liability of the elements, namely: 1) Punishment acts as a coercion measure; 2) The punishment is applied on behalf of the state; 3) Applies to a court sentence; 4) It may be appointed only for the person found guilty of committing the crime. 5) The restriction or deprivation of the rights and freedoms of the convicted person is foreseen by law.

The following types of punishment may be applied to persons who have been convicted of a crime: a fine (Articles 53, 99 and 96-7 of the Criminal Code of Ukraine); deprivation of military, special rank, rank, rank or qualification class (Article 54 of the Criminal Code of Ukraine); deprivation of the right to occupy certain positions or engage in certain activities (Article 55 of the Criminal Code of Ukraine); public works (Articles 56 and 100 of the Criminal Code of Ukraine); corrective labor (Articles 57 and 100 of the Criminal Code of Ukraine); service limitations for servicemen (Article 58 of the Criminal Code of Ukraine); Confiscation of property (Articles 59 and 96-8 of the Criminal Code of Ukraine); arrest (Articles 60 and 101 of the Criminal Code of Ukraine); restriction of freedom (Article 61 of the Criminal Code of Ukraine); the arrest of servicemen in a disciplinary battalion (Article 62 of the Criminal Code of Ukraine); imprisonment (Articles 63 and 102 of the Criminal Code of Ukraine); life imprisonment (Article 64 of the Criminal Code of Ukraine).

The next form is to release a person from punishment. Exemption from punishment, on what grounds it was not carried out, is equally applicable to the guilty person, that is, in order to release a person, it must be recognized as guilty of committing an act that is a crime, when the criminal law provides for criminal liability. You can not be released from the responsibility of persons whose actions there is no part of any crime.

Consequently, for any type of dismissal, whether from criminal liability or from punishment, is the release of a person from the actual serving of a sentence for the crime committed. The distinction between the exemption from criminal responsibility and the release from punishment is manifested, in particular, in the fact that when a person is released from criminal responsibility, a person is not considered to be a convicted person, and, as a rule, he does not relinquish his release from punishment.

Exemption from serving a sentence with a trial has many features and characteristics, which complicates the manifestation of its essence, legal nature. Like the previous forms that were given above, exemption from serving a sentence with a trial has a number of personal attributes

1) there is a state condemnation of the person who committed the crime - recognition of the person convicted of a crime by a court in a conviction.

2) the court appoints a specific measure of punishment.

3) the court may not impose the basic punishment on a certain condition (the court may appoint an additional penalty instead of the basic punishment)

4) the person must comply with the conditions specified by the court within the established time frame.

5) the person is in a special position during the time established by the court - the state of conviction.

Questions for self-examination

1. Forms of criminal liability

2. Give a series of personal attributes exemption from serving a sentence with a trial.

Topic 5. Crime and its types.

Plan:

1. Criminalization of socially dangerous acts and their decriminalization.
2. Criminalization - a legal recognition of a criminal act, the consolidation of its features in the law and the establishment of criminal liability for him.One of the axioms of criminal-law doctrine is that the criminalization of an act must be due to certain factors. Sometimes these factors are called the grounds for the criminalization of an act to be illegal. In the theory of law there are different views on the factors (grounds) of criminalization. In our opinion, it is necessary to allocate not only the grounds, but also the terms and conditions of criminalization, which should be applied collectively, systematically, as well as the methods and principles of criminalization.

The ways of criminalizing an act are: a) to supplement the Special Part of the Criminal Code with new norms or separate provisions; b) change of norms of the Special Part of the Criminal Code; c) making appropriate amendments to the norms of the General Part of the Criminal Code; d) the official interpretation of the criminal law by the Constitutional Court of Ukraine, which changes (increases) the volume of the activity prohibited by this norm without changing its content (without changing the "letter" of the law).

Decriminalization means the exclusion of criminal offenses, the abolition of criminal liability for them. It is not necessary to confuse decriminalization with the exception of the Special Part of the CC of the article or its part. Such an exception may indicate an end to the criminal law. For example, in the case of exclusion from the Criminal Code articles 112, 348, 379, 400, part 4 of Art. 404 the deliberate murder of a government and public figure, an officer of a law enforcement agency, a judge, a defender, a military commander, or an attempt to deliberate murder of these persons is not decriminalized: the criminal responsibility for them will come under § 8 part 2 of the Constitution . 115 (in case of an attempt - according to Article 15 and Item 8 of Part 2 of Article 115).

Questions for self-examination

1. Give the definition of criminalization and decriminalization.

Topic 6. Composition of the crime and its characteristics.

Plan:

1. Types and functions of the crime

Guidelines

1. In order to establish the features of the crime, it is necessary to pay attention to the types (classification) of the components of the crime. The structure of the crime can be classified:
1) By their degree of danger: For example, "theft" of Part 1 of Article 185 of the Criminal Code of Ukraine "The secret abduction of someone else's property (theft)")

- the main content of the crime (a certain type of crime, which does not include neither aggravating nor mitigating circumstances.

 - Qualified (especially qualified) crime (type of crime, which includes aggravating circumstances, for example, "theft" of Part 5 of Article 185 of the Criminal Code of Ukraine "Theft, committed in particularly large amounts or organized by a group");

- the privilege of the crime (type of crime, including mitigating circumstances, for example, "intentional murder committed in a state of intense emotional excitement" of Article 116 of the Criminal Code of Ukraine).

2) By the nature of the structure of the syllables of the crime:

- simple (contain signs of one socially dangerous act that infringes on one object of the attack, has the same form of guilt, for example, "intentional murder" of Part 1 of Article 115 of the Criminal Code of Ukraine);

- complicated (this is a warehouse, the legal structure of which was complicated. It is difficult to recognize the warehouses with two objects, for example, "robbery" of Article 187 of the UU of Ukraine).

3) Due to the design features:

- the material composition of the crime implies the consequences as a mandatory element of its objective side (the causal link between the acts and consequences). This group includes, in particular, all kinds of assassinations, bodily injuries, thefts, robberies;

- the truncated crime does not foresee consequences as an obligatory element of the objective side (for example, Article 167 of the Criminal Code of Ukraine "abuse of guardianship rights").

- the formal and material composition of the crime, the moment of the end of the crime is associated with the commission of an act that, in its general criminal law content, is a preliminary criminal activity (for example, "banditry" Article 257 of the Criminal Code of Ukraine).

1) The fundamental function of the crime is considered the main function of the crime. The fundamental function of the crime consists in the fact that the crime is a single, legitimate and sufficient reason for criminal liability. And as you know in part 1 of article. 2 of the Criminal Code of Ukraine, criminal liability is subject only to the person who committed the unlawful act and these acts are part of the crime provided for by the criminal law.

2) Along with the fundamental function there is a delimiting function. This function distinguishes crime from acts that are not crimes (criminal behavior from non-criminal) and one crime from another.

3) Guarantee function. The structure of the crime also fulfills the function of protecting the rights and legitimate interests of citizens. By describing the precise composition of crimes and fixing their features, the legislator guarantees the citizen protection from unreasonable prosecution.

4) The procedural function is that the composition denotes the limits of proof in each criminal case. Regardless of whether we recognize that we reject the existence of the main factor in the subject of evidence, establishing the circumstances that prove the existence of the crime in the actions of the accused, remains the first task of investigation and trial, since the fate of man depends on the solution of this issue.

Questions for self-examination

1. Classification of the crime;

 2. Functions of the crime.

Topic 7. Qualification of crimes.

Plan:

1. Principles of criminal-law qualification.

Guidelines
1. A criminal-law qualification will be correct and scientifically sound only when its principles are respected. It is necessary to distinguish between the principles of criminal law and the principles of criminal-law qualification. Principles of criminal law reflect its social purpose, internal patterns of constructing the norms of this branch of law, the content of individual institutions, that is, the status of the fight against crime.

Consequently, the principles of criminal-law qualification - a system of scientifically sound, stable, most common rules, on the basis of which the choice of a criminal law that provides for an act, it is necessary to apply this norm and the procedural confirmation of the conclusion that the act is covered by the chosen the norm.

The qualification of crimes should be carried out in compliance with the following principles:

 Legality

Officialism

 Objectivity

 Precision

Individuality

Completeness

Solving controversial issues in favor of the person who actions qualify

The inadmissibility of double criminality

The qualification of the crime is carried out in the following stages:

Establishing the actual relationship of the case.

Establishing a specific norm of a criminal law, which provides for responsibility for a crime that has been committed.

 Establishing a crime.

 Assignment of results in a procedural act. Qualifications are conducted at different stages of the judicial process, its separate results are fixed in the relevant procedural documents and acts.

Correct qualifications play an important role for: adherence to the principle correct assessment of the degree of public danger of a crime Determining the harm caused by the crime determination of just punishment, its type and size definition of the crime and the delineation of similar syllables among themselves.

Questions for self-examination

1. Define the principles of the crime;

2. Identify the grounds for changing the criminal-law qualification

MODULE № 2. CHARACTERISTICS OF ELEMENTS OF THE COMPOSITION OF CRIME (OBJECT, OBJECTIVE PARTY, SUBJECT, SUBJECTIVE PARTY); STAGES OF CRIME EXPRESSION; PARTICIPATION IN THE CRIME

Topic 1. The object of the crime.

Plan:

1. Discussion questions of the general doctrine of the object of the crime.

An offense is always a danger and infringes on certain objects of protection. This statement is an axiom of the doctrine of criminal law and is not disputed in science. At the same time, criminologists disagree about what the guilty person is committing when committing a crime. The marked issue is one of the most acutely debatable in the theory of criminal law, but it can not be overlooked, since the object of the attack is an integral part of any crime, as well as because the doctrine of criminal law has not sufficiently developed the doctrine of Object of encroachment.

Since the object of the crime is one of the integral elements of the crime, it is not surprising that its study became possible only after the composition of the crime has lost its exclusively procedural importance and firmly entrenched in material criminal law. This happened at the turn of the XVIII-XIX centuries. At the same time, in the legal literature there is a special interest in determining what exactly the offense is committed.

From the late eighteenth century to the present, many opinions were expressed about the object of the criminal encroachment. We find it necessary to group all their diversity into several scientific positions; this will create a feasible analysis of each of them for the subject of scientific capacity. Thus, during the specified period of the past, the following views on the essence of the object of the crime were expressed:

1. The object of a crime is a rule of law (normative).

2. The object of a crime is a subjective right (VD Spasovich).

3. The object of the crime is a legal good (SB Gavrish).

 4. The object of crime is this value (EV Fesenko).

5. The object of the crime is people (AF Kistiakivsky, GP Novoselov, VP Yemelianov).

 6. The object of the crime is social relations (MI Korzhansky, V. Ya Tatsiy).

Questions for self-examination

1. Identify the elements of the crime;

2. Theories of the establishment of the object of the crime.

Topics 2 - 4. The objective side of the crime.

Plan:

1. Types of social and dangerous consequences of a crime.

2. Separation of guns, means and objects of crime.

1. Criminal consequences can be defined as the criminal or legal provision provided for material or non-pecuniary damage caused by a criminal act (inactivity) of the object of the attack - a public law protected by law and their participants.

In the criminal-law literature, there are different kinds of criminal consequences, but because of many grounds for classification, there is a problem of their systematization. The opinions of scientists generally coincide on the basis of classification, such as: 1) the nature of harm; 2) the way of description in the law; 3) the degree of danger of harm.

For the first reason - the nature of harm - the criminal consequences are divided into two groups: 1) material and 2) intangible. Material - it's consequences in the form of physical or property damage, which are subject to accurate installation and proof. Intangible effects are divided into two types: 1) the consequence of the kind of real damage that can not be precisely established and proved, for example, stipulated in Art. 356 of the Criminal Code of Ukraine "Self-rule" is a significant damage to the interests of a citizen, state or public interests or the interests of the owner; 2) a consequence of the danger of causing damage, for example, provided in Part 1 of Art. 275 of the Criminal Code of Ukraine the threat of death of people or the onset of other grave consequences.

By the way of description in the law, we propose to allocate the following groups of consequences:

1) specified in the disposition of the article of the Special Part of the Criminal Code of Ukraine, for example, in Part 1 of Art. 115 causing death to another person;

2) described in other normative acts, for example, the nature of bodily harm is determined on the basis of the Rules of forensic medical assessment of the severity of bodily injuries;

3) Estimated, that is, not defined in the law or another normative legal act, they are determined by the law enforcator on the basis of an assessment of the actual circumstances of the perpetrator. For example, the earlier sign "significant damage" in Art. 356 "Self-rule";

4) in the criminal law possible alternative indication of a number of consequences in the disposition of the norm, for example, in Art. 219 of the Criminal Code of Ukraine "Conduct to bankruptcy";

5) possible indication of only an approximate list of specific types of harmful effects, for example, in Part 3 of Art. 204 of the Criminal Code of Ukraine;

6) in the law as consequences can be specified not only those that actually came, but also the threat of harmful consequences, a dangerous situation, for example, already stated above Part 1 of Art. 275 of the Criminal Code of Ukraine.

For the third reason - the degree of danger of harm - the consequences of crimes are divided into two groups: 1) provided as signs of the main warehouses, for example, in Part 1 of Art. 121 CC - severe bodily injury; 2) are provided as signs of qualified or highly qualified offenses, for example, in Part 2 of this article - the death of the victim. They are also referred to as "primary consequences" and "derivative effects".

2. The tool for committing a crime is an optional sign of the objective part of the crime, which is an object, using which the guilty person carries a physical (usually destructive) influence on the material objects.
Often, weapons are firearms and cops, tools, vehicles, devices, technical equipment, and the like. The current criminal law of Ukraine does not contain a definition of the notion of "instrument for committing a crime", although the term "instrument" or the "instrument and means" is contained in some articles of the Criminal Code (Part 1 of Article 14 of the Criminal Code, part 5 and 6 of Art. 27 of the Criminal Code, part 2 of Article 31 of the Criminal Code, etc.).

Tools must be distinguished from the means of committing a crime. First of all, one must understand that an instrument is a kind of means of committing a crime. The tools can be any items used to directly commit a criminal act. The tool for committing a crime may be a vehicle directly used in the process of encroachment in order to achieve a criminal result, that is, when performing actions that form the objective side of the corresponding composition of the crime.

Means of committing a crime - an optional sign of the objective side of the crime, which consists of things, objects, documents, mechanisms, devices and the like, objects of the material world, using which, the perpetrator of the crime. Means of committing a crime increase the impressive effect of criminal acts, facilitate the achievement of a criminal purpose and ultimately increase the damage to the object of criminal law protection. The current criminal law of Ukraine does not contain the definition of "means of committing a crime". Until now, although such attempts in criminal law and criminalistics have begun, the theory of criminal law did not produce a clear scientifically based definition of the means of committing a crime.

Means of committing a crime must be distinguished from the subject of a crime. The main distinction between these concepts is based on the nature of their use in the process of committing a crime. If a thing or other material object acts as a means, it is used guilty as a tool for influencing the surrounding objects. Means and tools for committing a crime in criminal law differ in their own right and in function of purpose. Means of crime facilitate the commission of an encroachment on the object protected by the criminal law, the tools directly harm him. This is a significant difference between these criminal-legal concepts.

Questions for self-examination

1. Identify the various types of criminal consequences;

2. Explain the essence of the means of committing a crime.

...

Topic 5 The subject of the crime.

Plan:

1. The problem of age underdevelopment in criminal law.

Guidelines

Scientists of the twentieth century. the failure to reach the age from which criminal liability can be attributed to one of the causes of insanity of the person, together with such causes of insanity as mental illness and other painful states of the psyche. Even then, it was believed that the state of insanity can be explained as a loss of sense of well-being, and the fact that the proper state of mental development is not necessary for the sanity.

Today, the solution to the problem of the actual lag in mental development has become very important. The current Criminal Code of Ukraine does not provide provisions that would apply to age-old insanity. Consequently, the legislator refuses to consider the lag of a minor in mental development a problem, which requires a special legislative resolution. However, in Part 1 of Art. 103 of the Criminal Code of Ukraine states that during the imposition of a punishment the juvenile court shall take into account the level of development and other features of the person of the juvenile. Consequently, the legislator believes that this problem can be solved within the norms of individualization of criminal responsibility.

With this in mind, those scientists who are advised to supplement the list of reasons for insanity as an indication of backwardness in mental development (age underdevelopment) offer the most successful solution to the problem under consideration. Since the psyche of minors who have reached the age from which criminal liability may arise, while still lagging behind in development from their peers, is at the level of minors under the younger age, they may not always be aware of the meaning of their behavior, assess it adequately to the situation, control their own behavior.
. All this gives reason to believe that during a significant delay in mental development, this category of minors, who committed socially dangerous acts, can be enlisted as insane. However, the underlying cause of inability to realize or direct their actions in such cases is not a mental disorder, but a delay in mental development that is not related to it.

Questions for self-examination

1. Signs of the general subject of the crime;

2. Historical aspect of the differentiation of juvenile criminal responsibility.

...

Themes 6 - 7. The subjective aspect of the crime.

Plan:

1. Not guilty of causing harm (casu).

2. Error, its types and meaning for criminal liability.

Guidance

1. The cause of harm is innocent (casus) - (from lat.asus - case) - a complex legal phenomenon that borders on criminal negligence, but does not constitute grounds for criminal prosecution of a person who by his actions or inaction has seriously damaged social relations. The current criminal law of Ukraine does not contain the concept of incident. In the theory of criminal law, the incident is understood to mean the infliction of a significant (sometimes particularly severe, death, grave bodily harm, etc.) of a person that is harmful from an objective side in a causal relationship with the act or inaction of the subject, but the person did not foresee the possibility of an offensive the socially dangerous consequences of their actions and circumstances of the case could not foresee them.

2. Error legal - this is a misconception about the legal nature of the person or the legal consequences of the offense committed (error juris). The current criminal law of Ukraine does not contain norms for the determination of a legal error. Different definitions were proposed in the criminal legal literature.

A legal mistake may be manifested in the wrong presentation of a person about a crime or a non-criminal act. For example, a person considers his actions to be a crime, while in reality they are not. There is a so-called alleged crime, since there was no crime, it only existed in the imagination of a person who committed a deed practically neutral in relation to a criminal law. Such an act does not entail criminal liability because of the absence of a crime in it.

The actual error is the wrong presentation of the person who commits the crime, the objective elements and the signs of the committed (error facti). The current criminal law of Ukraine does not contain norms for determining the actual error. In the theory of criminal law distinguish the following types of actual error: 1) error in the object; 2) an error in the subject; 3) an error in the person of the victim; 4) an error regarding socially dangerous consequences; 5) error in the development of causation; 6) an error in circumstances that impose a liability; Error in an object is an incorrect representation of a person about the social and legal nature of the object of the attack and the number of objects that are actually harmed. There are two possible variants of this error.

Questions for self-examination

 1. Discover the innocent harm (incident).

2. Types of errors in criminal law.

Topics 8 - 9.

The concept of stages of committing a crime and their species. Criminal liability for a pending crime. Voluntary refusal to bring the crime to an end.

Plan: 1. The legal nature of the discovery of intent (naked intent).

1. Finished crime and its criminal law.

Guidelines

1. In intentional crimes, the manifestation of the intention to commit a crime is called the formation of intent, the conception of a crime, or otherwise - the so-called "naked intent".

Detection of intentions equally can not be equated with "verbal" crimes such as "appeals", "propaganda", etc. Each of these crimes infringes on its object - the constitutional system, public order, public morality, etc. If detection of the intention of any harm does not affect law-protecting interests, then in the case of the crimes committed, such damage is present.

It is worth noting that the criminalization of "verbal" crimes and prosecution for them conceals a certain possibility of violations of law. The most famous rule for counter-revolutionary propaganda, and later anti-Soviet agitation and propaganda, was often used during the Stalinist repressions, in the 70's and even the 80's to persecute dissent.

2. According to Part 1 of Art. 13 of the Criminal Code of Ukraine, an offense is committed an act containing all the features of the crime provided for by the relevant article of the Special Part of this Code.

The above wording does not eliminate the fact that the composition of the crime is described in the norms of the Special Part of the Criminal Code, as well as in the norms of the General Part. Therefore, for the recognition of a crime to be completed, a set of all (regardless of their location in the Criminal Code) should be set for signs of a specific composition. Indeed, in most syllables, the signs that determine a socially dangerous act as a completed crime are envisaged in the relevant articles of the Special Part of the Criminal Code. However, in a number of syllables, they are indicated in the norms of the General Part.

An offense with a material composition is considered to be complete when the object is harmed, the attainment of which the perpetrator directed his intent. Therefore, if the act did not harm or did not cause damage to the object to which the guilty person directed its actions or to the detriment of the proper object, but to a lesser extent, committed by the end of the crime is not recognized.

It should be noted that in crimes with material composition (in relation to the stages of their commission), a clear dependence of recognition of their completeness from the subjective side - the achievement or failure of the person to achieve the desired result, the goal. An offense is not considered to be complete if the desired result is not achieved by the guilty party or is achieved partly for reasons that are independent of his will. Naturally, this issue can be fully dealt with in the light of the direct intention of the individual towards the consequences of the perpetrator.

With a simple, deliberate intention, responsibility arises depending on its orientation, that is, the committed is qualified as a completed crime only when the guilty party reaches the desired result. Thus, if a person fired at the victim for the purpose of his murder, but slammed or injured his body, then the committed is qualified as an incomplete murder (Article 15 and Article 115 of the Criminal Code)

In an alternative, determined intention, the committed is qualified as a completed crime only in those cases where the person has achieved the most severe of the desired consequences. When committing a crime with a material composition with an indefinite intention, the offense is considered complete, when the consequences actually come and depending on their size. If the consequences are not at all, then the committed is regarded as an unfinished crime.

Crimes with a formal composition are considered complete when the person committed all actions that are part of his objective side. This qualification is due to the fact that in these crimes the act "fuse" with its result. Therefore, the completeness of the act testifies to the unconditional atrocities of the guilty of a socially dangerous consequence.

Questions for self-examination

1. Identify the legal nature of the discovery of intent.

2. The criminal significance of the completed crime.

Topics 10 - 11. Participation in a crime.

Plan:

 1. Crimes in which complicity can not occur (cases where the commission of a crime by several persons is not complicity).

 2. General principles of voluntary refusal with participation in a crime.

Guidelines

1. The allocation of signs of complicity can identify those cases where the commission of a crime by several persons is not complicity, and, accordingly, each person is responsible for a crime committed individually. These include:

1. Committing a crime to only one person with a disadvantage. Participation in a crime involves the combination of will and consciousness of several individuals, each of which is subject to criminal liability. The criminal law gives the value of the will only to persons who are endowed with signs of a crime subject who act guilty. Participation in the commission of a crime of only one competent person with the involvement of insane, minor, persons acting without fault is not complicity.

2. Joint coercion of several persons by careless crime. The impossibility of complicity in crimes committed by negligence clearly follows from the notion of complicity contained in Article 26 of the Criminal Code. Attempts to substantiate complicity in careless crimes also took place in the history of criminal law, and relatively recently, but they did not find support.

Cases where socially-dangerous consequences are caused by the careless act of several persons are not unique. Such careless co-occurrence is at least two types that can be called "sequential" and "parallel".

3. Use of other person's negligence for committing a crime. With complicity, all accomplices must act intentionally. Therefore, there is no complicity in cases of use of another person for the crime of negligence. For example, the watchman falls asleep while on duty, and the thief, taking advantage of this, is committing theft. There are no reasons to consider them as accomplices of theft, since each person makes separate, unrelated interferences - the guard - violation of duties on the protection of property, and a thief - theft of someone else's property.

4. Lack of compatibility of the attack - the connection between the actions of the perpetrators. If the actions of several people are purely accidentally coincide in time and place, there is no joint effort to commit a single crime, then there is no complicity, everyone is responsible for his encroachment on his own. So, after damage to a product pipeline committed by one person for the purpose of stealing gasoline, dozens of residents of the nearest village came to him, each of which was collecting fuel for himself. In this case, the abduction of someone else's property is committed without complicity - there are no objective evidence of it.
5. Absence of a two-way subjective connection between the persons with whom the crime is committed. Possible situations where objectively one person contributes to another in committing a crime. For example, tools are provided, which later, in addition to the owner's will, are used in an attack. Or the performer enjoys the assistance of an accomplice, not knowing that such assistance is provided by another person.

2. Voluntary refusal with complicity has its own peculiarities, which allows to raise the issue of the allocation of a separate concept of such a refusal. However, despite the presence of different opinions on certain issues of voluntary refusal with complicity, the general features of this concept have not yet been made. Establishing these features seems an important task of science. Some steps have been taken in the literature in this direction. For example, it is noted that the general condition for all volunteers should be the break of the causal connection between the act of the accomplice and the criminal result.
Consequently, a voluntary refusal of complicity is a timely removal of a person at his own discretion of personal involvement in a crime through the final decision taken by him when he realizes the possibility of bringing this offense to other accomplices by the end.

Questions for self-examination

1. Identify crimes in which complicity is not possible.

 2. Establish the general principles of voluntary refusal in complicity in a crime.

MODULE No. 3. LARGEST CRIME; CIRCUMSTANCES WHICH EXCLUDE CRIME OF EXERCISE; DISCRIMINATION OF CRIMINAL LIABILITY; PUNISHMENT

Topics 1 - 2. The multiplicity of crimes.

 Plan: 1. Cases where a perfect set can not take place.

1. The concept of an ongoing crime.

 Guidelines

As already noted, the presence of a set of crimes is usually associated with the onset of consequences that are not covered by any single article of the Special Part of the Criminal Code, causing damage to various objects. Therefore, cases when the situation resembles the perfect set of crimes, but in reality it is not related to the nature of the object (objects), which is violated as a result of the encroachment, the features of the act itself and the content of the consequences, the constructions of articles of the Special Part of the Criminal Code .

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Questions for self-examination

 1. Name the cases when the ideal set can not take place.

2. Give the definition of the ongoing crime.

Topics 3 - 5. Circumstances that exclude the crime of the act.

Plan: 1. Foreign experience of criminal-law regulation of circumstances that exclude the crime of the act.

 Guidelines

There are very significant differences in the legislative regulation of circumstances that exclude the crime of the act in the criminal codes of foreign countries. They relate to many points: the very name of these circumstances, their list, the location of the code, etc. In the criminal law of other states, as a rule, there is no clear system of circumstances that exclude the crime of an act, similarly to the one established in the new Criminal Code of Ukraine (with the exception of, probably, France).
In addition, they are called either in the circumstances justifying (protecting) - in England and the United States, or by exculpatory facts exempting criminal liability - in France, or by circumstances excluding wrongdoing or guilt – in Germany. An assessment of the nature of these circumstances, an approach to them is qualitatively different than in Ukrainian law.

Questions for self-examination

1. Describe the circumstances that exclude the crime of an act in the international sphere.

Topic 6. Exemption from criminal liability.

Plan:

1. The provisions of the resolution of the Plenum of the Supreme Court of Ukraine of December 23, 2005, No. 12 "On the practice of applying the laws of Ukraine on the release of a person from criminal responsibility" by the courts of Ukraine.

Guidelines

1. Having discussed the practice of dismissal of persons from criminal responsibility and the closure of criminal cases under unrepresentative circumstances, in order to ensure the correct and uniform application by the courts of criminal and criminal procedural law when considering cases of the relevant category, the Plenary Session of the Supreme Court of Ukraine issued a number of recommendations.

Questions for self-examination

1. Describe the provisions of the resolution of the Plenary Session of the Supreme Court of Ukraine of December 23, 2005, No. 12 "On the practice of applying the laws of Ukraine on the release of a person from criminal responsibility" by the courts of Ukraine.

2. In which cases it is possible to release a person from criminal liability.

Topics 7 - 8. The concept, purpose, system and types of punishment.

Plan:

1. Discussion questions on the purpose of punishment.

Guidelines

1. One of the problems facing the theory of criminal law and criminal policy in Ukraine is the question of what should punish a person who committed a crime? At the legislative level, the solution of this problem is devoted to Part 2 of Article 50 of the Criminal Code of Ukraine, which defines four separate goals of criminal punishment, which are punishment, correction of convicts, special and general prevention.

The purpose of the general prevention is to prevent the crimes that are unstable from the criminological point of view by the category of persons (potential criminals) by forming and maintaining their fear of punishment. The means to achieve such a goal are to establish in the law punishment for the commission of a crime and its actual application to the convicts.

Questions for self-examination

1. Define the purpose of the general prevention;

2. Identify the purpose of punishment.

...

MODULE 4 APPOINTMENT AND DISCHARGE OF PUNISHMENT; SUDENCY; PRIMARY MEDICINAL EVENTS AND PRIMARY TREATMENT; FEATURES OF CRIMINAL LIABILITY OF UNEMPLOYED; MAIN PROVISIONS OF THE GENERAL PART OF CRIMINAL LEGISLATION OF FOREIGN COUNTRIES

Themes 1 - 2. Appointment of punishment.

Plan:

1. Limits of criminal punishment.

2. Formalization of the appointment of criminal punishment: the state of the issue in the science of criminal law.

1.One of the general principles or rules of imposing a punishment is the imposition of a punishment within the scope of the sanction of the Article of the Special Part of the Criminal Code. And the criteria for imposing punishment precisely should allow the court to impose a just punishment on a particular person within the broad limits of the sanctions rules. As a result, you can begin to formulate the criteria for the appointment of a sentence. It seems that among such is worth mentioning: the courts take into account the prevalence of crimes, the nature and degree of social danger of the deed and the person guilty. It should be emphasized that the development of criteria for the imposition of a punishment, which would allow the court to impose a fair penalty in each case within the limits of sanctions of the norms of the Special Part of the Criminal Code of Ukraine, has not only theoretical but also practical value.

Despite the fact that the Criminal Code of Ukraine contains a norm devoted to the general principles (the rules) for the imposition of punishment (Article 65 of the Criminal Code of Ukraine), as well as a number of norms that establish special rules for the imposition of punishment (Articles 66-72 of the Criminal Code of Ukraine), it is hardly possible to assert that the formalization of the sentence for the Criminal Code of Ukraine is quite high. The point is that the judge's discretion is still very broad. In this regard, it is worth mentioning the need for its streamlining, which can be achieved, in particular, further formalizing the appointment of a punishment. The theory of criminal law, which is widely used in the theory of criminal law, is the idea of ​​the need to introduce mathematical methods into the process of imposing punishment.

Questions for self-examination

1. Identify the limits of criminal punishment.

2. Formalization of the purpose of criminal punishment.

Topics 3 - 4. Exemption from punishment and his serving.

Plan:

1. The legal nature of exemption from serving a sentence with a trial.

Guidelines

Recently, the criminal-law policy of both our state and foreign states is indicated by the search for optimal measures of influence on the perpetrators of the crime. This is due, firstly, to the development of society and, secondly, to the integration processes taking place in the legislation of many countries.

Among such measures of influence, special attention is paid to exemption from serving a sentence with a probation provided for in Art. 75 of the Criminal Code of Ukraine. This institution is not new in its content: it is the result of the transformation of known criminal law institutes in the past - conditional sentences and deferral of execution of a sentence.

Questions for self-examination

1. Expand theories on the legal nature of probation

2. Signs of release from serving a sentence with a trial. ...

Topic 5. Judgment. Redemption and withdrawal of conviction.

 Plan: 1. Withdrawal of conviction.

 Guidelines

Repayment and removal of criminal records are various forms of cessation of criminal conviction, since when the conviction is canceled, unlike its repayment, the expiration of the term established by law is "not less than half the period for the redemption of convictions specified in art. 89 of the Criminal Code "(Part 2 of Article 91 of the Criminal Code) and the fact that a person does not commit a new offense, they do not automatically terminate the conviction automatically ahead of time, since it is necessary that they continue to serve their sentence in the form of restraint or imprisonment (Part 1 of Article 91 of the Criminal Code) exemplary behavior and conscientious attitude to work proved its amendment (Part 1 of Article 91 of the Criminal Code), and also adhered to the procedure for lifting the criminal record, established by the CPC (Part 3 of Article 91 of the Criminal Code).

Questions for self-examination

1. Name the forms of termination of the criminal record;

 2. Identify common mistakes in early termination of conviction. ...

Topic 6. Compulsory medical treatment and forced treatment.

Plan: 1. Grounds and purpose of the application of compulsory measures of a medical nature.

Guidelines

Forced measures of a medical nature consist of forced psychiatric observation and treatment. They are provided for by criminal law and applied by the court on the basis of the conclusion of forensic psychiatric examination to persons suffering from certain mental disorders and committed acts stipulated by the articles of the Special Part of the Criminal Code, as well as the limited convicted persons who committed the crime.

Consequently, compulsory measures of a medical nature are aimed at protecting both the interests of persons suffering from mental disorders and committing a crime or a socially dangerous act, treatment of such persons or as a minimum program - improving their mental status and social adaptation, as well as the interests of society - preventing possible societal dangerous actions on their part in the future. Unlike the punishment, the court, imposing compulsory measures of a medical nature, does not establish their duration, because they are not in a position to determine the period necessary for the treatment or improvement of the health of a person.

Questions for self-examination

1. Establish grounds for the use of compulsory medical measures

2. Identify the purpose of the application of compulsory medical measures.

Topics 7 - 8. Features of criminal responsibility and punishment of minors.

 Plan: 1. The system of penalties applicable to minors.

Guidelines

The system of penalties for minors in Ukraine (Article 98 of the Criminal Code of Ukraine) is derived from the general system of punishment and is built on similar principles, but is considerably smaller and includes only five main ones (fine, public works, correctional works, arrest, imprisonment for a certain period) and two additional penalties (fine and deprivation of the right to occupy certain positions or engage in certain activities).

It should be noted that only juveniles aged 14 to 16 can be subject to two penalties: imprisonment for a certain period and a fine. The existence of a separate system of penalties for minors is justified by the fact that society has no right to impose the same strict requirements on juveniles as to its adult members.
In addition, taking into account the biological, psychological and social characteristics of minors, the law, by singling out special rules on criminal liability and punishment of minors, is guided by the principles of justice, humanism, saving of criminal repression, considering that pedagogical measures are not sufficient for juvenile offenders. punitive nature. Thus, in practice, in Ukraine, six types of punishment can be applied to minors.

Questions for self-examination

1. Identify the types of punishment that can be applied to minors;

 2. What institution of criminal-law influence can apply to minors.

Topics 9 - 10. The main issues of the general part of the criminal law of foreign states. Schools (core areas) of criminal law science.

Plan: 1. Preparing for a crime under the criminal law of England.

The development of two methods of criminal liability - for general criminal and political crimes - has led the courts of general law to accept the practice of prosecuting political crimes from the practice of punishing any acts indicative of a criminal intent, and have established several rules of responsibility for separate types of previous criminal activity - incitement, conspiracy and assassination.

Regarding conspiracies, for which responsibility is established by the general law, the penalties provided for by the general law are applied: deprivation of liberty and a fine at the discretion of the court.

Questions for self-examination

1. Establish the main points of the preparation stage for a crime under the criminal law of England.

2. What is the conspiracy different from other pending crimes.

MODULE № 5. SCIENTIFIC BASIS OF CRIMINAL AND LEGAL QUALIFICATIONS; CRIMES AGAINST THE BASIS OF NATIONAL SECURITY OF UKRAINE; CRIMES AGAINST LIFE AND HEALTH OF PERSON; CRIMES AGAINST WAVE, HONOR AND DUTY OF PERSON; CRIMES AGAINST STATE FREEDOM AND SUSTAINABLE INDIVIDUAL PERSON; CRIMES AGAINST ELECTORAL, LABOR AND OTHER PERSONAL RIGHTS AND FREEDOM OF HUMAN AND CITIZENS

Topic 1. Scientific fundamentals of criminal-legal qualification.

Plan:

1. Stages, results and structure of criminal-legal qualification.

Guidelines

In the modern theory of criminal law, the following stages of criminal-law qualification are proposed, each of which forms certain stages of qualification:

 1. Stage of choice of legal norm.

 2. The stage of establishing the correspondence between the features of the act and the norm.

 3. Stage of legal consolidation of qualification results.

STAGE ELECTION LEGAL FRAMEWORK Stage of gathering collected facts stage of promotion of qualification versions stage of delineation of acts stage of detection of the legal norm to be applied

STANDARD FOR INSTALLATION OF CONFORMITY BETWEEN OPPORTUNITIES AND NORM the stage of evidence of the presence of signs of the crime stage of determining the stage of committing a crime stage of assessment of an act committed jointly by several persons stage of assessment of an act, provided by several norms stage of assessment of the public danger of the act stage of determining the availability of circumstances that eliminate the crime of the act.

STAGE OF LEGAL ENFORCEMENT QUALIFICATION RESULTS stage of qualification results formulation stage of qualification motivation

Questions for self-examination

1. Identify the stages of criminal-law qualification.

 2. Establish the stages of criminal-law qualification.

Topic 2. Crimes against the bases of national security of Ukraine.

Plan: 1. Criminal liability for sabotage (Article 113 of the Criminal Code of Ukraine).

Guidelines

The objective side of sabotage is: 1) in the commission of explosions, arson, or other actions aimed at mass destruction of people, causing them physical injuries or other damage to health, destruction or damage to objects of important economic or defense significance; 2) in the commission of actions aimed at radioactive contamination, mass poisoning, the spread of epidemics, epizootics or epiphytotism.

Mass destruction of people or harm to their health is manifested in causing death or harm to a significant number of citizens. The subject of the crime resorts to the most dangerous ways (explosions, arson, flooding, organizations of accidents of vehicles, etc.). Destruction and damage to enterprises, facilities, routes and means of communication, communication facilities or other public or public property consists in their complete destruction and partial damage in any way.
Mass poisoning of people, as well as the spread of epidemics, is a criminal activity aimed at causing death or harm to a significant, more uncertain number of people. The methods of implementation may be different (poisoning of food, water sources, food contamination by pathogenic microorganisms, etc.). The spread of epizootics covers the spread of infectious diseases among animals. The methods at the same time may be different (contamination of pathogens of infectious diseases of fodders, joint maintenance of patients and healthy animals, etc.). Epiphytotium - the spread of plant infectious diseases, covering the economy, area, region or country (for example, rust and main cereals, potato blight and other harmful diseases).

Questions for self-examination

1. Determine the objective side of the crime "Diversion".

2. Define the definition of Article 113 of the Criminal Code of Ukraine.

Topics 3 - 5. Crimes against the life and health of the individual.

Plan:

1. Criminal liability for careless or grave infliction of bodily harm (Article 128 of the Criminal Code of Ukraine).

2. Criminal liability for infection with venereal disease (Article 133 of the Criminal Code of Ukraine).

Guidelines

The infliction of serious or moderate gravity of bodily harm as a result of criminal self-confidence occurs when the person assumed the possibility of occurrence of the indicated harm, but lightly counted on its distraction. At the same time there should be a calculation on the specific circumstances, which, in the opinion of the perpetrator, will prevent the end of the criminal consequences. This calculation is objectively frivolous. For example, V. dug a pit for a well near his house, which was temporarily surrounded by a thin rope in his hinges. Minor K., who ran late at night near the house, broke the rope and fell into a pit, receiving a moderate bodily injury. The infliction of serious or moderate gravity of bodily harm as a result of criminal negligence occurs when the person did not anticipate the possibility of occurrence of the specified damage to the health of another person, although he was supposed to and could predict them, acting with greater prudence. Thus, the SCU found the reckless infliction of the average gravity of bodily harm as a result of criminal negligence in the actions of T. Wine, during the hay picking, unilaterally sat behind the tractor's wheel and drove to a haystack to pick it up to the rig. Without noticing the women who were sitting there, he drove them, causing one woman to have injuries of moderate weight.

2. Infection with venereal disease

From the subjective side of the infection with sexually transmitted disease can be committed with direct or indirect intent, as well as with criminal self-confidence. The law specifically states that the responsibility for Art. 133 CK occurs if a person knew about the presence of a sexually transmitted disease, that is, he was aware that he was ill with such a disease and that the disease was in her stage of infection (for example, the person entered into sexual intercourse, not having completed the course of treatment).

With the direct intention of the person who, knowing that he is ill with a sexually transmitted disease in the contagious stage, implies that the actions he takes will lead or may lead to the victim's infection and wants the onset of these consequences (for example, by entering into sexual intercourse, the guilty of revenge seeks to infect the victim and reaches such a consequence). Indirect intent when committing this crime takes place where it is guilty, knowing that he is ill with a STD in the contagious stage, suggests that the actions he takes may lead to the victim's infection, does not want such an effect, but consciously assumes it. This crime is recognized as committed with criminal self-confidence, when the guilty, aware of the presence of his sexually transmitted disease in the contagious stage, provides for the possibility of infection, but frivolously counts on the failure of this effect.

Questions for self-examination

1. Identify the subjective part of the crime - Criminal liability for careless serious or moderate bodily injury (Article 128 of the Criminal Code of Ukraine).

2. Describe the elements of the crime of Article 133 of the Criminal Code of Ukraine.

Theme 6. Crimes against the will, honor and dignity of the individual.

Plan:

1. Criminal liability for the use of a young child for begging (Article 150-1 of the Criminal Code of Ukraine).

Guidelines

On the objective side, the crime is to use the parents or the persons who replace them, the young child to study begging. Taking into account the content of Part 1 of Art. 1501 Criminal Code under beggars should be understood systematically (at least three times during a short period of time) appealing money, speeches, and other material assets from unauthorized persons.

When using a young child for begging, the subject of a crime does not directly affect the consciousness and will of the injured person in order to induce her determination (desire) to be engaged in begging, and only uses the child as a kind of "instrument" when pleading property from unauthorized persons (for example , the use of an infant when asking for money from passers-by). In case of establishing the indicated influence, the guilty party should be qualified not according to Art. 1501, and after Part 2 of Art. 304 CC (the involvement of a young person in begging).

Questions for self-examination

1. Determine the primary direct object of art. 150-1 of the Criminal Code of Ukraine.

 2. Establish circumstances that are particularly aggravating criminal liability (Part 3 of Article 150-1 of the Criminal Code) ...

Topic 7. Crimes against sexual freedom and sexual integrity.

Plan: 1. Criminal liability for coercion to enter into sexual intercourse (Article 154 of the Criminal Code of Ukraine).

Guidelines

The victim of this crime can be both a woman and a person who are in material or service dependence on the guilty person. Victims may also be minors. If coercion led to sexual intercourse with a person who has not reached puberty, the actions of the guilty person must be qualified for a set of crimes (Articles 154 and 155 of the Criminal Code).

Composition of the crime provided for in Art. 154 of the Criminal Code may only take place if it is proved that the victim of the male or female person was influenced by using his material or service dependence on the perpetrator in order to force him to enter into sexual intercourse in a natural or unnatural way contrary to his will.
Material dependence of the victim occurs when she is in full or in part with the guilty person living in her residential area, and also when the guilty person by his actions or inaction can cause a material deterioration of the material position of the victim (see paragraph 15 Para 2 of the CPUU "On judicial practice in cases of crimes against sexual freedom and sexual integrity of a person" dated May 30, 2008, No. 5). Service dependence occurs when a woman or man holds a position under which she has been subjected to a coercive person or is subject to the control of such person (for example, the actions of the auditor), or the interests of the victim depend on the official position of the guilty person (for example, a hostel curator).

Questions for self-examination

1. Provide a criminal law description of the crime provided for in art. 154 of the Criminal Code

...

Topics 8 - 9. Crimes against election, labor and other personal rights and freedoms of man and citizen.

Plan:

1. Criminal liability for attacks on the health of people under the pretext of preaching religious beliefs or performing religious rites (Article 181 of the Criminal Code of Ukraine).

2. Criminal liability for violation of the right to free medical assistance (Article 184 of the Criminal Code of Ukraine).

 1. The objective side of the crime is to take active steps in organizing and directing a religious group whose activities are carried out as preaching of beliefs or performing religious rites and combined with harm to human health or sexual harassment. The definition of "under the pretext of preaching clergy or performing religious rites" should be understood as the actual or imaginary observance by a group of the canons of a particular doctrine or its religious activity as the basis of its unlawful conduct. The use of the article in the disposition of the set of beliefs or ordinances should be understood as the prohibition of any of the rites of any doctrine if they (encroachment or rite) violate the protected rights and interests of the person.

The fact of legalization in Ukraine or outside the group as a religious community, another religious or civil organization, party, etc. does not affect the composition of the crime. Composition of the crime is truncated: the crime is considered to be terminated from the moment the organizational actions for creating a group or actions from the leadership of the already created group are committed.

Active participants in the creation or operation of such a group should be liable as accomplices of the organizer or the head of the group.

1. Crime envisaged in Part 1 of Art. 184 of the Criminal Code, should be distinguished from the crime stipulated in art. 354 CK. These acts differ in objective and subjective features. Part 1 of Art. 354 KK the guilty person receives a reward for himself by extortion. At the same time, due to the remuneration, the behavior of the subject should be in connection with the specific obligations imposed on him. Part 1 of Art. 184 of the CC the guilty illegally requires the payment of certain amounts (payments) in favor of the health care institution in which he works.
The subject of a crime, stipulated in Part 1 of Art. 184 of the Criminal Code, there is only an employee of the state or municipal health care institution, and the subject of the crime provided for in Art. 354 of the Criminal Code - an employee of a state enterprise, institution or organization that is not an official.

Questions for self-examination

1. Provide the criminal law description of the crime envisaged by Article 181 of the Criminal Code.

2. Give a criminal law description of the crime provided for in Article 184 of the Criminal Code.

...

Topics 10 - 11. Offenses against property.

Plan:

1. Criminal liability for the abduction of electric or thermal energy through its unauthorized use (Article 188-1 of the Criminal Code of Ukraine).

The subject of a crime is electric or thermal energy, which is used unlawfully by the subject of a crime. Electricity is a kind of energy associated with the use of electric current transmitted from a power source to a consumer in electrical networks. The purpose of electric energy is to convert it into thermal or mechanical energy by using heat-heating or other devices and instruments.
Thermal energy is hot water and steam produced by steam or atomic power plants, geothermal, solar thermal and other non-traditional sources, boiler houses, heat utilization establishments. Thermal energy is transmitted from the source to the consumer through the heat networks, that is, the system of heat pipelines (pipelines). The common and inherent to all the specified types of energy is that they: 1) are related to the presence of certain energy sources that can be converted into other types of energy; 2) are connected with the presence of a certain source of energy and can not exist separately from it.

Questions for self-examination

1. Identify the subject of the crime of st .. 188-1 CC.

 2. Describe the objective side of this crime.

MODULE No. 6. CRIMES IN BUSINESS ENVIRONMENT; CRAFTS AGAINST THE ENVIRONMENT; CRIMES AGAINST PUBLIC SECURITY

Topics 1 - 3. Offenses in the field of economic activity.

Plan:

1. Criminal liability for intentional violation of the requirements of legislation on prevention and counteraction to legalization (laundering) of proceeds from crime or terrorist financing (Article 2091 of the Criminal Code of Ukraine).

 The Law of Ukraine "On Prevention and Counteraction of the Legalization (Laundering) of the Proceeds from Crime, or the Financing of Terrorism" of November 28, 2002, No. 249-IV, as amended by the Law of May 18, 2010 No. 2258-VI, provides for the implementation of financial monitoring, ie a set of measures carried out by the subjects of financial monitoring in the field of prevention and counteraction to the legalization (laundering) of proceeds from crime or terrorist financing, including the conduct of state financial monitoring and primary financing MR.

 The objective side of the crime provided for in Part 1 of Art. 209-1 CC, characterized by: - acts in the form of non-submission, late submission or submission of inaccurate information about financial transactions that are subject to financial monitoring in accordance with the Law, to a specially authorized central executive body with a special status on financial monitoring issues; - Consequences - causing substantial damage to the rights, freedoms or interests of individual citizens, public or public interests or the interests of certain legal entities protected by law; - a causal connection between the said act and consequences.

 Part 2 of Art. 209-1 of the Criminal Code establishes the responsibility for the disclosure in any form of information which according to the Law is given to a specially authorized central executive body with a special status on financial monitoring issues, a person to whom this information became known in connection with professional or official activity, if such actions have caused significant damage to the rights, freedoms or interests of individual citizens protected by law, public or public interests or the interests of certain legal entities.

Questions for self-examination

 1. Identify the subjects of the initial financial monitoring.

 2. Establish the subject of this crime. ...

Topic 4. Crimes against the environment.

Plan: 1. Criminal liability for violation of the rules of water protection (Article 242 of the Criminal Code of Ukraine).

Guidelines

The subject of this crime is all the water objects on the territory of Ukraine in the solid, liquid, gaseous state, participating in the circulation of waters and inextricably linked with the environment. Waters - all water (surface, underground), which are part of the natural parts of the water cycle (Article 1 of the Water Code of Ukraine).

 Surface water - the water of various water objects located on the earth's surface. Surface waters include natural reservoirs (lakes); watercourses (rivers, streams); artificial reservoirs (reservoirs, ponds) and canals; other water objects.

Underground water - water located below the earth's surface in the rocks of the upper crust in all physical conditions.

The aquifer is a homogeneous stratum of rocks where water is constantly present.

Drinking water is water that, according to organoleptic properties, chemical and microbiological composition and radiological indices, meets state standards and sanitary legislation of Ukraine.

The source of drinking, medical water is a water object whose water is used for drinking, medical water supply after appropriate treatment or without it (Article 1 of the Law of Ukraine "On Drinking Water and Drinking Water Supply").

Questions for self-examination

1. Establish the objective signs of this crime.

2. Establish subjective features of this crime. ...

 Topics 5 - 6. Crimes against public safety.

Plan: 1. Criminal liability for the illegal carriage of explosive or flammable substances on an aircraft (Article 269 of the Criminal Code of Ukraine).

1. Intentional destruction or damage to the objects of housing and communal services (Article 270-1 of the Criminal Code of Ukraine).

Guidelines

1. Illegal transport of explosives or flammable substances on an aircraft may cause explosions, fires, catastrophes and deaths of people. In addition, these substances can be used as tools for committing a crime, in particular an attack on the crew and passengers in order to seize the vehicle for any purpose, including the commission of a terrorist act. The crime has ended since the flight of the aircraft. An aircraft is considered to be in flight at any time since the closure of all its external doors after loading and before opening them for unloading (Part 3 of Article 73).

2. The subject of this crime may be only such property that is part of the objects of housing and communal services and the damage or destruction of which leads or may lead to the inability to exploit, the violation of the normal functioning of such objects, which poses a danger to life or health people or property damage in large size. 6. Under objects of housing and communal services in Art. 270-1 of the Criminal Code as the subject of this crime should be understood as a housing fund, objects of improvement, heat supply, water supply and drainage, as well as their networks or components (hatch covers, grates for them, etc.).The networks of objects of improvement, heat supply, water supply or drainage are the systems of the said objects, which ensure their function for purpose. The objective side is to destroy or damage the objects of housing and communal services (the subject of this crime), if it has led or could lead to the impossibility of exploitation, a violation of the normal functioning of such objects, which caused a danger to life or health of people or property damage in a large amount.

Questions for self-examination

1. Give criminal law - criminal liability for the illegal carriage of explosives or flammable substances on an aircraft (Article 269 of the Criminal Code of Ukraine).

2. Provide the criminal law st. 2701 of the Criminal Code of Ukraine.

MODULE № 7. COURSE PAPER

(methodical recommendations for the implementation of course work are contained in a separate document)

MODULE No. 8. CRIME AGAINST SAFETY OF MANUFACTURING; CRIMES AGAINST THE SAFETY OF MOVEMENT AND OPERATION OF TRANSPORT; CRIMES AGAINST PUBLIC ORDER AND MORALITY; CRIMES IN THE FIELD OF DRUGS, PSYCHOTROPIC SUBSTANCES, THEIR ANALOGS OR PREVENTORS AND OTHER CRIMES AGAINST HEALTH OF THE POPULATION; CRIMES IN THE FIELD OF PROTECTION OF THE STATE SECRET, INFRINGEMENT OF STATE BORDERS, PROVISION OF APPROVAL AND MOBILIZATION; CRIMES AGAINST THE AUTHORITY OF BODIES OF THE GOVERNMENT AUTHORITIES, LOCAL GOVERNMENT ORGANITIES AND CIVIL ASSOCIATIONS; CRIMES IN THE FIELD OF USE ELECTRONIC COMPUTER MACHINES (COMPUTERS), SYSTEMS AND COMPUTER NETWORKS, AND ELECTRICITY NETWORK

Topic 1. Offenses against production safety.

 Plan: 1. Criminal liability for violation of rules concerning the safe use of industrial products or the safe operation of buildings and structures (Article 275 of the Criminal Code of Ukraine).

Guidelines

1. On the objective side, a crime may be caused by a violation of the rules that protect the use of industrial products in the design or construction of such products (for example, serious miscalculations in the design of rocket carriers, aircraft engines, turbines, etc.) or in the process of its manufacture or storage .

In the manufacture of products may be substandard materials, and when stored - violated, for example, the requirements of temperature regimes or humidity of storage facilities. In addition, from the objective side of the crime may be a violation of safety rules in the design or construction of buildings and structures (for example, mistakes made during the design, or deconstructive deviations or deviations from the established technologies for the construction of bridges, high-rise buildings, complex ceilings, protruding elements buildings, etc.).

Questions for self-examination

1. Establish the objective signs of this crime.

 2. Establish subjective features of this crime.

Topics 2 - 3. Crimes against traffic safety and transport operation.

Plan: 1. Criminal liability for violation of the rules of the use of airspace (Article 282 of the Criminal Code of Ukraine).

 Guidelines

The objective side of the crime consists of three obligatory signs: 1) a socially dangerous act in the form of violation of the rules of use of airspace; 2) socially dangerous consequences in the form of creating a threat to the safety of air flights; 3) a causal link between violation of the rules of airspace use and the creation of a threat to the safety of air flights.

The terminology of the violation of the rules of use of airspace used in the title of the article, the legislator specifies in the disposition of Part 1 of Art. 282 of the Criminal Code, calling the following types of violation: 1) violation of the rules for launching missiles; 2) violation of the rules of all types of shooting; 3) violation of the rules of blasting operations; 4) violation of the rules of committing other actions in the airspace.

Questions for self-examination

1. Establish the objective signs of this crime.

 2. Establish subjective features of this crime.

Topics 4 - 5. Crimes against public order and morality.

 Plan: 1. Criminal liability for the creation or maintenance of places of deprivation of liberty and conscience (Article 302 of the Criminal Code of Ukraine).

Guidelines

A place of debauchery is defined as any premises or other place specially prepared or adapted for the permanent or periodic commission of perjury acts (forgiveness of fornication) by an uncertain circle of persons, or by permanent visitors who change partners. This place is intended for prostitution. It may be a house, an apartment, a room in a hostel, a room in a hotel, an office, a tent, utility rooms used for mischief. The term "places of fornication" is used in the law in the sense of the diversity of such places, and not their number in each case of committing a crime.
The objective side of the crime forms one of three actions: 1) the creation of a place of fornication; 2) his maintenance; 3) consignment for depravity.

The subjective aspect of this crime is characterized by direct intent. A person is aware of the socially dangerous nature of his actions and wishes to commit them. The motives and purpose of committing a crime may be different. However, in the presence of the purpose of the profits of the guilty one must qualify for Part 2 of Art. 302 of the Criminal Code.

Questions for self-examination

1. Establish the objective signs of this crime.

2. Establish subjective features of this crime.

Topics 6 - 7. Crimes in the field of the circulation of narcotic drugs, psychotropic substances, their analogues or precursors and other crimes against the health of the population.

Plan:

1. Criminal liability for harvesting, processing or sale of radioactive contaminated foodstuffs or other products (Article 327 of the Criminal Code of Ukraine).

Guidelines

The thing of this crime is foodstuffs and other products that are radioactive contaminated beyond the permissible level. Foodstuffs - any food that is either in its natural state or after appropriate processing is consumed by man in food or drink (bread, cereals, flour, sugar, meat, milk, eggs, fish, etc.). Other products are products of agricultural and other (for example, marine) origin, intended for the feeding of cattle (various feeds), timber products, building materials and products thereof, for use in industry, everyday use as technical raw materials (flax, hemp, etc.) or in medicine (medicinal herbs, fruits, etc.).

A compulsory feature of this crime is their radioactive contamination above the permissible levels. This means that food or other products or have on their surface particles of radioactive material in the form of dust or radioactive particles contained in the cells of plants or animals, other products.

A compulsory feature of this crime is their radioactive contamination above the permissible levels. This means that food or other products or have on their surface particles of radioactive material in the form of dust or radioactive particles contained in the cells of plants or animals, other products.

Questions for self-examination

1. Establish the objective signs of this crime.

2. Establish subjective features of this crime.

Topic 8. Crimes in the sphere of protection of state secrets, inviolability of state borders, provision of appeal and mobilization.

 Plan: 1. Criminal liability for violation of the rules of international flights (Article 334 of the Criminal Code of Ukraine).

Guidelines

The objective aspect of this crime may consist in the following acts: 1) flying into Ukraine without the appropriate permission; 2) departure from Ukraine without permission; 3) non-compliance with the specified routes, places of landing, airways, corridors, echelons specified in the permit.

These articles are blank, therefore, for the analysis of the objective aspect of the crime, reference should be made to Articles 57, 58 of the PC, which provide for rules and regulations for the conduct of international flights. According to Art. 57 of law for international flights are flights involving the crossing of aircraft by the state border of Ukraine and another state. If it is regular flights, then they must be carried out on the basis of intergovernmental agreements and international agreements.

Completed this crime is considered since the commission of these acts, regardless of the onset of consequences (the formal composition of the crime). If such acts were related to violation of safety rules, or operation of air transport, or the rules of air flights, the qualification should be in the aggregate Articles 334 and 276 of the Criminal Code or Articles 334 and 281 of the Criminal Code.

Questions for self-examination

 1. Establish the objective signs of this crime.

2. Establish subjective features of this crime.

Topic 9. Crimes against the authority of state authorities, local self-government bodies and citizens' associations.

 Plan: 1. Criminal liability for intentional damage to communication lines (Article 360 ​​of the Criminal Code of Ukraine).

 Guidelines

From the objective side, the crime is characterized by the following signs: 1) an act, namely damage to the lines of communication, facilities or equipment that are part of their composition; 2) consequences in the form of a temporary termination of communication; 3) a causal connection between the act and the consequences.

If the damage to the communications line of the facilities or equipment did not result in termination of communication, the crime is not present and liability arises under Art. 147 KUpAP.

The subjective aspect of the crime is characterized by intentional fault.

Depending on the motives and the purpose, such actions may form another, more serious crime: sabotage (Article 113 of the Criminal Code), mass disturbances (Article 294 of the Criminal Code), deliberate destruction or damage to means of communication on transport (Article 277 of the Criminal Code), hooliganism (Article 296 of the Criminal Code), etc. Negligent damage to communication lines entails responsibility for Art. 196 of the Criminal Code, provided that it caused grave bodily harm or death of people.

Questions for self-examination

 1. Establish the objective signs of this crime.

 2. Establish subjective features of this crime.

 Topic 10. Crimes in the field of the use of electronic computers (computers), systems and computer networks and telecommunication networks.

Plan: 1. Criminal liability for violation of the rules of operation of electronic computers (computers), automated systems, computer networks or telecommunication networks or the procedure or rules for the protection of information processed in them (Article 363 of the Criminal Code of Ukraine).

Guidelines

The objective side is characterized by the following obligatory features: a) socially dangerous acts (actions or inactivity) in the form: violation of the rules of operation of electronic computers (computers), automated systems, computer networks or telecommunication networks; or violation of the order or rules of protection of the information that is processed in them; b) socially dangerous consequences in the form of significant damage caused by the said actions; c) a causal connection between socially dangerous acts and socially dangerous consequences. Article 363 of the Criminal Code has a blanket disposition.

The subjective aspect of the crime is characterized by intentional or negligent form of guilty of violating the rules of operation of the computer, the AU, computer networks or telecommunication networks or the order or information security and the negligent form of guilt to socially dangerous consequences - significant damage to the owner of the information.

Questions for self-examination

1. Establish the objective signs of this crime.

2. Establish subjective features of this crime.

MODULE # 9. CRIMES IN THE FIELD OF BUSINESS ACTIVITY; CRIMES AGAINST JUSTICE; CLAIMS AGAINST THE SETTLEMENT OF MILITARY SERVICE; CRIMES AGAINST PEACE, SECURITY OF HUMANITY AND INTERNATIONAL COURT OF PROTECTION

Themes 1 - 2. Offenses in the field of official activity.

Plan:

1. Criminal liability for the provocation of bribery (Article 370 of the Criminal Code of Ukraine).

Guidelines

The objective side of the crime is characterized only by an active form of behavior - actions consisting in the artificial creation of circumstances and conditions (conditions), that is, the formation of such objective and substantive factors that determine the commission of one or more of the following crimes by a person: a) a proposal, a promise or an unlawful gain (Articles 3683, 3684, Article 369 of the Criminal Code); or b) accepting a proposal, a promise or obtaining such a benefit (Article 368, parts 3 and 4 of Articles 3683, 3684 of the Criminal Code).
A compulsory sign of the objective aspect of this crime is the use of the subject to provoke bribery of his official position. At the same time, the guilty person, using his official position, may provoke a proposal, a promise, an unlawful benefit to him personally, and create the circumstances and conditions for acceptance of a proposal, promise or receipt of such benefit by other officials or persons providing public services.
But the provocation of bribery may consist not only in inciting (incitement) to commit a specific crime, but in the expression of various hints, assumptions, reservations, the creation of artificial obstacles and difficulties, which are aimed at generating a person's belief in the fact that the issue is solved which she is interested in, can only be solved through bribery. It is not excluded and the use of such a method of provocation as fraud, when the perpetrator carries it out by spreading false information (rumors) about the possibility of solving a particular issue only with the help of bribery.

Questions for self-examination

1. Establish the objective signs of this crime.

 2. Establish subjective features of this crime.

Topics 3 - 5. Crimes against justice.

Plan: 1. Criminal law protection of a person's right to legal assistance.

Guidelines

The Criminal Code of Ukraine provides for liability for a number of unlawful acts that involve violating the right to protection, interference with the activities of a defense counsel or representative of a person, or, in other words, violating the right to legal assistance. The five articles of the current Criminal Code of Ukraine directly imply responsibility for the following crimes: 1) violation of the right to protection (Article 374 of the Criminal Code); 2) interference with the activities of a defender or representative of a person (Article 397 of the Criminal Code);
3) threat or violence against a defender or representative of a person (Article 398 of the Criminal Code); 4) intentional destruction or damage to the property of the defender or representative of the person (Article 399 of the Criminal Code); 5) encroachment on the life of a lawyer or a representative of a person in connection with activities related to the provision of legal aid (Article 400 of the Criminal Code).

 Place of crime, violating the right to legal aid, in the classifications of crimes against justice.

The crimes (stipulated by Article 374, 397-400 of the Criminal Code of Ukraine) belong to crimes perpetuating life, health, personal safety, other interests and interests of defenders or representatives of a person in connection with their legal activities help.

Questions for self-examination

 1. Provide a criminal law description of crimes against justice.

2. Establish the classification of crimes in this section.

 Topic 6. Offenses against the established order of military service (war crimes).

 Plan: 1. Violation of the statute rules of the guard service or patrolling (Article 418 of the Criminal Code of Ukraine).

Guidelines

Special accounts for the free (internal) service and patrolling can be affected as a result of actions, as well as inactivity. Disposition of Art. 418 of the Criminal Code is blameless; therefore, when solving the problem of bringing a serviceman to criminal justice, it is necessary to establish which standards of the State Hornison Service and the service of the Armed Forces of Ukraine and the perceived orders, orders and instructions are violated by the guilty person.
The grave consequences should be understood as the damage to the objects protected by the foreign (or at the same time) or by the patrol (for example, dislocation or damage to a military vehicle under protection of the enemy (penitentiary), penetration into the territory of the Holy Father or a party of unauthorized persons and disclosure as a result of this military or state security, escape from a prisoner's guard, a warhead of a military or a transport carrier, etc.).

The subjective aspect of the crime may be described as intentional (direct or indirect), as well as by negligence (criminal self-control or negligence). Some violations can only be committed intentionally (leaving the post, theft from the protected object). Other violations are committed only by negligence (insufficient vigilance when carrying out service at the post). There are such offenses, which are committed both intentionally and with negligence (sleep on the post, violation of the route of the chat, etc.).

The subject of a violation of the law of the service is the persons who enter the premises of the police: the police officer, the chaplain, the veterans, the detainees, the assistants of the taxpayer, the drivers of the transport personnel from the state, and in the country with the guardianship - the evicted and the convoy, as well as the persons who control carrying out a guard: a duty officer and his assistant, duty officer and his assistant.

Questions for self-examination

 1. Establish the objective signs of this crime.

 2. Establish subjective features of this crime.

Topic 7. Offenses against peace, security of mankind and international law and order.

Plan: 1. Criminal liability for piracy (Article 446 of the Criminal Code of Ukraine).

Guidelines

All pirate actions, alternatively stipulated by Art. 446 of the Criminal Code, are committed with the use of the vessel. Such a pirate ship, in accordance with these international conventions, is usually a private ship. The use of a warship and other public ship can be classified as piracy only in cases where it has been supervised by the crew who committed a rebellion or captured by unauthorized persons and in other similar cases when they were in fact illegally held by private individuals and used in their interests.

The objective side of the crime is characterized by the use of an armed or unarmed vessel for: 1) the seizure of another marine or river vessel; 2) the use of violence against the crew or passengers of such a vessel; 3) robbery of such vessel, its crew or passengers; 4) other hostile actions against the crew or passengers of such vessel.

All pirate actions, alternatively stipulated by Art. 446 of the Criminal Code, are committed with the use of the vessel. Such a pirate ship, in accordance with these international conventions, is usually a private ship. The use of a warship and other public ship can be classified as piracy only in cases where it has been supervised by the crew who committed a rebellion or captured by unauthorized persons and in other similar cases when they were in fact illegally held by private individuals and used in their interests.

Questions for self-examination

1. Establish the objective signs of this crime.

2. Establish subjective features of this crime.

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