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FUNDAMENTALS OF LAW
Methodical instructions on performance of lecture
(for all specialities)

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FUNDAMENTALS OF LAW
METHODICAL INSTRUCTIONS ON PERFORMANCE OF LECTURE

(for all specialities)

Almaty 2017

ALMATY UNIVERSITY OF POWER ENGINEERING AND TELECOMMUNICATIONS

AUTHOR: K.M. Kassiyenova, The basics right. Methodical instructions for the implementation of seminars for students of all disciplines. - Almaty: AUPET, 2017. – 48 p.

The methodological recommendations contain a list of issues and questions to prepare for seminars on the course "fundamentals of law", and special literature sources recommended to study the course, as well as control questions to check independent preparation of students.

Reviewer: Kozlov V.S.- Head of the “FL” department , Professor of AUPET

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FUNDAMENTALS OF LAW
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(for all specialities)

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Introduction

The offered abstract of lectures on discipline of "A right basis" is made according to the standard program of a course and is addressed to students of daily and correspondence offices.

A course of "Basis of right" is one of difficult and obligatory disciplines socially - the humanitarian cycle envisaged in the curriculum of AUPET, takes on the special significance in preparation and education of highly skilled specialists. During the study of this object students acquire skills of correct interpretation and application of legal norms, get certain cognitions on questions of origin of concepts the "state" and "right", also get knowledge about the fields of law in Republic of Kazakhstan. The aim of this course is getting a clear idea of and correct understanding of role of the state and right in development and perfection of public relations, stowage of steady skills of application of legislation.

Study's course:

- to educate students in the legal area of knowledge.
- to provide initial foundation of legal culture.
- to give elementary knowledge (to provide abilities and skills) for a subsequent orientation in legal relations, accompanying citizens all life, without depending on the select to them line of business.

We thank you for all remarks and wishes that will be outspoken in an address of the lecture notes.

Lecture 1. Subject, system of course of "Fundamentals of law"

Fundamentals of law's theory

Main questions:

1) Article of "Fundamentals of law" - as educational discipline.
2) Concept and basic lines, origin of the state. External and internal functions of the state. Mechanism of the state.
3) Concept and signs of the legal state.
4) Determination, sources and essence of right. Concept and structure of legal norm.

The course of "Fundamentals of law" makes the most general conformities to law of origin, development and functioning of the state and right, in addition, organically related to them other social phenomena and processes. A course should be to give an idea about social essence and maintenance of right, its functional role in the state-organized society.

The methods of "Fundamentals of law" subdivide:

1) General - dialectical, analysis, synthesis, induction, deduction).
2) General - system, structural-functional, comparative, legal design.
3) Private - specific for the separate fields of law.

The system of legal sciences:

- theoretical jurisprudence - studies the most general regularities of development of the state and legal phenomena. This group joins the theory of the state and the right;
- historical and legal sciences - consider emergence and development of legal ideas, public institutions, legal systems. This group is represented by history of state and law of Kazakhstan, history of state and law of foreign countries, history of political and legal doctrines;
- branch jurisprudence: international law, constitutional right, administrative, penal law, labor law, civil process etc. They consider precepts of law and institutes of concrete branch, specifics of their impact on the public relations;
- applied jurisprudence, borrows achievements and conclusions of technical and natural science. Treat that: criminalistics, examination, forensic medicine, forensic psychiatry, legal statistics etc.

The State is a basic political institute that carries out a management society, guard economic and social structures, maintenance of public peace and functioning of all social institutes. In different epochs, under various conditions the state comes forward as organization for a management by society, as a ruling mechanism. The state does not have eternal nature; it did not exist in primitive society, and appeared only on the final stage of its development by virtue of the varied reasons foremost related to the new organizationally labor norms of existence of people. State, its mechanism (system of public organs) does not remain unchanging, hardening. The state changes together with society as a political form of its organization. There are the different going near classification of the states.

General features peculiar to any state irrespective of its character fix concept «state».

The state has next features:

- it possesses the political power, that is the organized concentrated coercion of one part of society another;
- it is characterized by distribution of the population on administrative and territorial units;
- establishes taxes thanks to which its device contains;
- covers all population living in borders of its territory;
- acts as the official representative of all society, is its concentrated expression and an embodiment;
- existence of the sovereignty - independence and independence of the government at the solution of the goals.

Social purpose of the state, character and the content of its activity find the expression in functions of the state, which connected with the main directions of its activity. Classifications of functions are the cornerstone spheres of action of the state, which is those areas of the public relations, which it influences. Function of the state can subdivide on internal and external.

Internal functions are the main directions of activity of the state within this country characterizing domestic policy of the state. Treat them guarding and regulatory. Implementation of guarding functions assumes activities of the state for providing and protection of all public relations fixed and regulated by the right.

In these aims, the state takes care:

a) about asserting right and freedoms of citizens, about the observance of legality and law and order;
b) about providing of civil consent in society;
c) about equal defense of all patterns of ownership;
d) about the guard of environment and etc.

Rights and freedoms in Constitution of Republic of Kazakhstan confess as inalienable, belonging to the man from birth. The state avouches for each the judicial protection of its rights and freedoms.

Regulatory functions characterize the role of the state in development of economy of country, in creation of necessary terms for forming of personality. In these aims the state carries out adjusting of economic environment of life in interests a man and society, caring of material welfare and spiritual development of people. The Regulatory functions it is possible to take economic, social to the function, function of taxation etc.

External functions show up in foreign-policy activity of the state, its mutual relations with other countries. The external and internal functions of the state are closely associate and interdependent.

The state and government power are in close intercommunication. In addition, this intercommunication is does not taken only to that, state power shows by itself one of substantial signs, distinguishing the state from other structures of human society, non-state organizations: religious, professional, party. In a wide philosophical

plan, intercommunication of the state and state power can be consider as correlation of manner and matter. The state personifies material force of power that cannot come true without a corresponding mechanism. Therefore, organs of the state are basic instruments of power, her material express.

The state apparats call the system of bodies, establishments and organizations, provided with imperious plenary powers and created for the decision of standing before them tasks and realization by them functions.

The state carries out the functions in certain forms. Namely, in legal and organizational forms.

Legal forms of implementation of functions: law-making, right executive, law-enforcement are connected with the edition of various type of legal acts: laws and other regulations (law-making form), acts of application of the right (right executive), guarding acts (judgments, sentences, acts of arbitration tribunals).

Organizational forms of implementation of functions are expressed in quick and administrative, administrative activities of the state for implementation of its functions. Functions of the state are carried out by means of its mechanism. The mechanism of the state – system of government bodies and the appliances allocated for practical implementation of tasks and functions of the state. Primary "section" of state mechanism – body of the state. Taken in unity and interaction, bodies of the state form state machinery. Other part of the mechanism of the state is made by material and compulsory means of ensuring of the government.

Thus, government body – primary link of state machinery possessing concrete state powers of authority, a certain competence in which activity find expression of a task and function of the state.

In the constitutional state the system of the government is founded on the principle of division of the authorities, on the rule of law. The rule of law means that government bodies are connected by the right, that is work in strict accordance with the Constitution, laws, within the competence, within those state powers of authority with which they are allocated for performance of the tasks facing them. The power is subordinated to the right.

Signs of the constitutional state:

- rule of law, "coherence" of the state law: all government bodies, public officials, public associations, citizens in the activity are obliged to submit to requirements of the law in all spheres of public and state life;
- laws in the constitutional state have to be legal, that is: as much as possible to correspond to ideas of society of justice; to be accepted by the competent authorities authorized on that by the people; to be accepted according to lawfully established procedure; also the hierarchy of laws has to be observed: they should not contradict constitutions, each other;
- observance and protection of the rights and freedoms of the person: the state has to not only proclaim, but also affirm fundamental human rights in the laws, guarantee them and is real protect in practice;

- consistently carried out principle of division of the authorities, creation of system of "controls and counterbalances": mutually restriction and mutual control one after another all branches of the power;
- mutual responsibility of the state and citizen: for violation of the law the responsibility measure provided by the law has to follow surely, without looking thus at the identity of the offender. As a guarantee of this principle the independent court acts.

The right - system obligatory is formal - the certain norms (rules) established and protected by the state, governing the most important public relations. Understand the main ideas, provisions that are its cornerstone as the principles of the right. Functions of the right – the main directions of influence of the right for the public relations, on behavior of people.

The rule of law - obligatory, it is formal - the certain rule of conduct established and protected by the state. The structure of the precept of law consists of a hypothesis, a disposition, and the sanction. It is necessary to understand part of norm, which indicates conditions of its action as a hypothesis of the precept of law. A disposition - the element of the precept of law indicating the rights and duties of subjects. The sanction – the part of norm indicating consequence in law for the subject realizing a disposition. It is necessary to understand their classification by various bases as types of precepts of law.

Sources (right form) are official ways of expression and fixing of rules of law. Treat sources of law:

- the normative legal act issued or the legal document possessing authorized by competent authority it is state - a domineering character, having an official and documentary form, containing obligatory rules of conduct and guaranteed by the compulsory force of the state;
- judicial precedent – a judgment on concrete business, which is accepted to a sample at permission of another similar matters;
- legal custom - the steady, developed as a result of repeated application rule of conduct of people in society which is authorized by the state;
- doctrine (doctrine, system of knowledge). The doctrine matters forms of the right and in other legal systems, for example, in that part of Islam, which forms a basis for permission of family and marriage, receivership and other proceeding in the Muslim countries.

The system of the right is understood as its internal structure, its division into branches, subsectors and legal institutes based on a subject and a method of legal regulation. A subject of regulation are uniform public relations, and a method of legal regulation - ways and methods of legal impact on the public relations. Set of the precepts of law and institutes regulating rather independent sphere of the public relations is called as branch of the right. The institute of the right is understood as the complex of precepts of law isolated in branch of the right regulating a certain type of the public relations. For example, ownership right.

Legal relationship is a stable legal relation between participants of the public relation settled by rules of law consisting available at them the subjective rights and

legal obligations provided in case of need with enforcement powers of a state domineering character. Individuals (natural persons), collectives (legal entities) and the state in general treat subjects of legal relationship.

Legality is the mode of political life based on legal character of its organization and which is expressed in the requirement of exact, strict observance and execution of the existing legal acts by all bodies of the state, public officials and citizens.

The law and order is a condition of the actual orderliness and organization of the public life based on the right and legality.

Questions for self-checking.

1. What is the right?
2. What signs of the state?
3. What signs of the constitutional state?
4. What structure of the rule of law?
5. Characterize sources of law
6. What it is necessary to understand as system of the right?

Normative legal acts.

1. The constitution of the Republic of Kazakhstan (it is accepted on a republican referendum on August 30, 1995). With changes and additions.
2. Declaration on the state sovereignty of the Kazakh Soviet Socialist Republic.
3. Constitutional Law of the Republic of Kazakhstan. About the state symbols of the Republic of Kazakhstan. - Astana, Akorda, on June 4, 2007 No. 258-III ZRK.
4. Constitutional Law of the Republic of Kazakhstan. About the state independence of the Republic of Kazakhstan. About introduction of the present Law see the Resolution BC PK of December 16, 1991 No. 1008-XII.
5. Messages of the Head of state NursultanNazarbayev to the people of Kazakhstan "The Kazakhstan way – 2050: Uniform purpose, uniform interests, uniform future" of 17.01.2014

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Lecture 2. Fundamentals of constitutional law

Main questions:

1) Concept, subject of a constitutional right.
2) Essence of the Constitution of the Republic of Kazakhstan. Basic principles of the Constitution of the Republic of Kazakhstan.
3) Legal status of the personality – set of the rights, freedoms and duties of the person and citizen.

Constitutional right - this branch is right which represents set of the norms governing the relations, key for any state connected with establishment of political and social and economic bases of a social order, definition of a place and role of the personality in the state, strengthening of a form of the structure of the state. The public relations regulated by norms of a constitutional right make its subject.

Constitutional legal relations are governed by the following methods: holdings liable; prohibitions; permissions; recognitions. Methods of regulation of a constitutional right have political and legal character as fix in the Constitution of category of public ideals, social values, and the moral principles.

Subjects of a constitutional right are participants of constitutional legal relations. The circle of subjects is very wide: everything to whom precepts of law of this branch assign duties can be they and grant the rights. Among them, the state, the people, deputies, public authorities, election commissions, citizens, stateless persons, public organizations, etc. Thus, acts as subjects of constitutional legal relations: the person – entering the relations itself or through appropriate authorities with the state; the state - entering the relations with other state or the person.

Role of a constitutional right in system of the right:

- branches of the right are based and result from norms, the principles, ideas, provisions of the Constitution;
- regulations of branches have to be based, irrespective of their hierarchical hierarchy, first on the Constitution;
- in the constitution initial rules of interpretation of rules of law are given: if the law, the decree, etc. contradicts the Constitution, the standard of the Constitution works.

The constitution of the Republic of Kazakhstan - the main statutory act of the state and society (consists of 9 sections and contains 98 articles). The constitution establishes the political and social order, the principles of their organization and functioning with orientation to prospect. The constitution is a source of all branches of the right therefore, such lines, which aren't possessed by other regulations, are inherent in it: The constitution is adopted by the people of Kazakhstan. Therefore, the will of the people that characterizes its essence is expressed in the Constitution. In the Constitution, the state is proclaimed by the social. It means that the state doesn't provide advantages to any group of the population due to discrimination another. Recognition of the people by the creator Constitution of the Republic of Kazakhstan, expresses its intrinsic line. Therefore the Constitution of 1995 begins words: "We, the people of Kazakhstan … adopt the present Constitution";

- the people of Kazakhstan are the only source of the government in the country and the sovereignty carrier. Therefore, it possesses the constituent power. The people of

Kazakhstan - the founder of the state, defined forms of its board and the device, a basis of a social economic system, the status of the person and the citizen. Only the people, and on behalf of the people – Parliament can make changes to bases of the structure of the state. Stability, stability of the most essential moments of statehood are fixed in the Constitution. It is a unitary form of a state system, a presidential government and territorial integrity;

- the constitution is the Fundamental law, on the one hand, of the state, and with another – societies. It is connected with the status of the people as source of the government and as social base (carrier) of society. The constitution establishes the state with all its attributes. In the Constitution,not all aspects of life of society are mentioned, and basic, fundamental bases of the public relations are regulated.

Legal principles it is legal standard ideas, whichdon't contain the rule of conduct, but provide certain directions of the organization, activity of the state, its bodies, citizens, their associations. To the recorded the fundamental principles of activity of the Republic (item 2 of Art. 1), the principle of division of the government into legislative, executive and judicial branches (item 4 of Art. 3), the principle of application of the law by judges (item 3 belong. Art. 77). Also treat the principles of activity: principle of public consent, Kazakhstan patriotism, solution of the most important questions of the state life by democratic methods, rule of the Constitution, principle of the highest validity and direct action of standards of the Constitution.

The constitutional (main) rights and freedoms of the person and citizen are the his inalienable rights and freedoms belonging to him from the birth or owing to nationality, protected by the state and which are the center of legal status of the personality. The concept "human rights" and "the rights of the citizen" aren't identical.

Human rights is a set of the natural and inalienable rights and freedoms, such as the right for life, freedom and security of person, the person possesses them owing to the birth and they don't depend on its belonging to the state.

The rights of the citizen are the rights and freedom consolidated to the person only owing to his belonging to the state. In this case, the principle works - each citizen is a person, but not each person is a citizen.

Section 2 of the Constitution of RK devoted to the rights and freedoms of the person and citizen includes 29 articles which overwhelming part is devoted to the concrete rights and freedoms. They represent not simple set, but a certain system.

There are various classifications of the rights and freedoms of the person. Depending on the basis of division of the right and freedom, it is possible to classify:

- on the subject: on the rights and freedoms of the person and the right and freedom of the citizen;
- on nature of subject on: individual and group;
- according to the contents on: personal (civil), political, social and economic, cultural.

Treat the personal (civil) rights and freedoms:

- right for life (Art. 15 of the Constitution);
- right for a personal liberty (Art. 16 of the Constitution);
- inviolability of dignity of the person (Art. 17 of the Constitution);

- right for personal privacy (Art. 18 of the Constitution);
- right to define and specify or not to specify national, party and religious identity (Art. 19 of the Constitution);
- freedom of speech and creativity (Art. 20 of the Constitution);
- right for a freedom of movement and residence choice (Art. 21 of the Constitution);
- freedom of worship (Art. 22 of the Constitution);
- right for inviolability of the dwelling (Art. 25 of the Constitution).

Political rights and freedoms:

- right for participation in administration of the state (Art. 33);
- right for participation in peaceful meetings, meetings, processions (Art. 32);
- right for freedom of associations (Art. 23).

Economic rights and freedoms:

- freedom of work (Art. 24);
- right for a private property (Art. 26);
- right of succession (Art. 26 of the Constitution);
- freedom of business activity (Art. 26).

Social rights:

- right to rest (Art. 24);
- right for protection of motherhood, paternity and childhood (Art. 27);
- right for social security (Art. 28);
- right to health protection and medical care (Art. 29);
- right for education (Art. 30).

Cultural human rights – recognized guaranteed by the constitution or the law of possibility of realization of the person in the sphere of cultural and scientific life. They includes the right for use of the native language and culture, for a free choice of language of communication, education, training and creativity.

The constitution of RK assigns the following duties to each citizen:

- duty to observe the Constitution of RK and the legislation of the Republic of Kazakhstan (Art. 34);
- duty to respect the rights, freedoms, honor and dignity of other persons (Art. 34);
- duty to respect the state symbols of the Republic (Art. 34);
- duty and debt to pay lawfully established taxes, collecting and other obligatory payments (Art. 35);
- duty and debt to protect the Republic of Kazakhstan (Art. 36);
- duty to care of preservation of historical and cultural heritage, to protect historical and cultural monuments (Art. 37);
- duty to keep the nature and to make thrifty use of natural riches (Art. 38);
- duty to care of disabled parents (Art. 27).

Questions for self-checking.

1. what principles are the cornerstone of the constitutional system of RK? In what essence of each of them?
2. What exactly does the Constitution of RK declare the supreme value?
3. On what groups constitutional rights and freedoms share?
4. Why the parliament is called legislature?
5. What authority in RK consists of deputies?

Normative legal acts.

1. The constitution of the Republic of Kazakhstan (with changes and additions).
2. The constitutional law of the Republic of Kazakhstan of December 26, 1995 "About the President of the Republic of Kazakhstan" (with changes and additions).
3. The constitutional law of the Republic of Kazakhstan "About elections in the Republic of Kazakhstan" (with changes and additions).
4. The constitutional law of the Republic of Kazakhstan of December 29, 1995 No. 2737. "About the Constitutional Council of the Republic of Kazakhstan"
5. The constitutional law of the Republic of Kazakhstan of October 16, 1995 "About Parliament of the Republic of Kazakhstan and the status of his deputies" (with changes and additions).
6. The law of the Republic of Kazakhstan of December 20, 1991 No. 1017-XII. "About nationality of the Republic of Kazakhstan" (with changes and additions).
7. The law of the Republic of Kazakhstan "About local public administration in the Republic of Kazakhstan" (with changes and additions).

Additional literature

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Lecture 3. Fundamentals of administrative law

Main questions:
1) Subject, method of administrative law.
2) Concept and types of administrative precepts of law and their realization.
3) Sources and subjects of administrative law.
4) Administrative offense.

Rather wide range of the public relations connected with the organization and functioning of executive bodies has administrative law a subject of the regulation. The administrative law in a bigger measure is urged to the public relations arising between the personality and the state between the citizen and executive authorities, providing realization. In addition, protection of the rights and freedoms of citizens in

the sphere of public administration, their protection against a possible p, infringement or restriction of these rights and freedoms from this or that official of government.

Subject of administrative law are legal relationship:

- organization of executive administrative organs;
- administrative activity of executive authorities;
- administrative and jurisdictional activity;
- realization of the administrative power by judges;
- state and administrative activity;
- administrative activity of local governments.

Methods of administrative law express imperative will of executive authorities and some other bodies of the state, by means of a choice, ways of legal regulation (the instruction, prohibition, the permission).

Norms of administrative law define an order of creation, reorganization and abolition of body of executive power, their list, the purposes and problems of their activity, competence and other parties of legal status of these bodies, their structure and procedure of activity. They extend and on the organization of local government, and an order of interaction of its bodies with public authorities. Norms of this branch regulate public service, and not only in executive authorities, however in all government and municipal bodies.

The administrative law regulates not only public administrative activity, but also the operated activity. An example of they are traffic regulations, behavior in public places, trade, the rules regulating teaching in educational institutions, health regulations, etc. Governing bodies control observance of these rules and apply measures of the state coercion for their violation.

Norm so administrative law define, what acts (act on or in action) are administrative offences, establish types and measures of administrative responsibility for their commission, and an order of production on cases of such offences.

The administrative law doesn't regulate internal management in private firms, associations, concerns, etc. Their supreme bodies install the control systems, the orders which, however, shouldn't contradict the legislation.

Sources of administrative law: The constitution of the Republic of Kazakhstan, the code of the Republic of Kazakhstan about administrative offenses (Administrative Code). The international contractual and other obligations of the Republic of Kazakhstan, additionally, the standard resolutions of the Constitutional Council and Supreme Court of the Republic of Kazakhstan regulating administrative legal relationship are a component of the legislation on administrative offenses.

Subjects of administrative law are defined in rules of law as in general citizens, public associations, the state organizations, not the state organizations, the enterprises of institution, labor collectives. Subjects of administrative legal relationship are specific participants, the parties of legal relationship allocated with duties and the rights in the sphere of executive power and capable to carry out them. Subjects of administrative law can become subjects of administrative legal relationship if there are three conditions:

1) The administrative precept of law providing the rights, the subject's duties.

2) Administrative legal capacity and capacity of the subject.

3) Basis of emergence of change and termination of legal relationship (legal) fact.

The main feature of citizens as participants of administrative legal relationship is that they act as individuals, that is exercise the personal all-civil rights and duties in the sphere of executive power. However isn't right the state or not state organizations of their officials therefore administrative legal relationship between citizens and the appropriate authority allocated is state - powers of authority, can develop in communication:

- with realization by citizens belonging to them under the law of the rights in the sphere of executive power;
- with performance of the duties assigned to citizens in the sphere of executive power;
- with violation by citizens of the legal duties in this sphere;
- with violation by executive authorities or their officials of the rights and legitimate interests of citizens.

Basic rights and duties of citizens of Kazakhstan in the sphere of executive power make part of the rights of freedoms and duties fixed in the Constitution of RK and concretized in laws and other legal acts. For example, citizens of Kazakhstan have the right to participate in administration of the state as directly, and through the representatives. Citizens of Kazakhstan have the right to address personally, moreover, to direct individual and collective appeals to government bodies and local governments. Everyone who lawfully is in the territory of Kazakhstan has the right freely to move, choose a place of stay and a residence, freely to leave out of borders of Kazakhstan and freely to come back. In addition, citizens have still a number of the rights and duties, which are affirmed in the Constitution of RK and other acts. In the Administrative Code a certain procedural order, which is an important guarantee of lawful and reasonable involvement of citizens to administrative responsibility for their not lawful actions in the sphere of executive power is established. For example, Kazakhstan guarantees the state protection of the rights and freedoms of the person and citizen. Administratively - the legal status of citizens can be various. It is defined by the volume and character of their administrative right subjectivity, which is formed by administrative legal capacity and capacity. Administrative legal capacity is understood as the actual, provided with the state opportunity to have the subjective rights and to carry out legal duties administratively - legal character.

Subject of regulation of administrative law generally are the public relations developing in the sphere of public administration.

Executive authorities are a part of the system on a national scale: Government, state ministries and other government bodies of executive power (state committees, public services, state supervisions, department, head department and agency); on the scale of subjects of the state - appropriate authorities of executive power thatare formed by subjects of the State.

According to item 1 of Art. 25 the Administrative Code of RK the Administrative offense admits illegal, guilty (deliberate or careless) action or inaction

of the natural person or illegal action or inaction of the legal entity for which the Code provided administrative responsibility.

Offenses are made for the sake of achievement of the objectives; interests of the person induce it to make them. If offenses didn't lead to fuller implementation of these interests, there would be no motivation to make them. Therefore, the first means to provide the valid observance of legal norms is to make the actions breaking them, not achieving the objects.

Signs of an administrative offense:

1) The anti-public - the act doing harm to legitimate interests of citizens, societies and the states is antisocial, and what act is antisocial within institute of administrative responsibility - is defined by the legislation.

2) Illegality - consists in commission of the act breaking the norms administrative and other branches of the right (labor, land, financial etc.) protected by measures of administrative responsibility.

3) Guilt – i.e. the deeds were carried out deliberately or on imprudence.

4) Punish ability - only that act for which the legislation provided administrative responsibility.

Administrative responsibility - a look legal (responsibility thatis expressed in application of administrative penalties to the offender (the natural or legal entity) for an administrative offense by authorized body (official) in the order established by the administrative legislation. Administrative responsibility possesses the following signs:

- is reaction of the state on administrative offence, whichis expressed in application of measures of administrative penalties;
- it is characterized by drawing legal "loss" to the offender and it is applied for education of the person who made an administrative offense, and also preventions of commission of new offence both the offender, and other persons;
- has no the purpose of humiliation of human dignity, causing physical sufferings, harm of business reputation of a natural (legal) person.

Are subject to administrative responsibility: the natural person who reached by the time of commission of an administrative offense of sixteen-year age and legal entities. The natural person who during commission of the illegal act provided by the administrative code was in a condition of diminished responsibility isn't subject to administrative responsibility. Furthermore, it is couldn't realize the actual character and danger of the actions (inaction) or to direct them owing to a chronic mental disease, a temporary mental disorder, weak-mindedness or other disease state of mentality.(Art. 29).

Types of administrative penalties. For commission of administrative offenses the following administrative penalties (Art. 41) can be applied to the natural person:

- prevention;
- administrative penalty;
- confiscation of the subject which was the tool or a subject of commission of an administrative offense, and equally in the property received owing to commission of an administrative offense;

- deprivation of the special right;
- deprivation of permission or stay of its action, and also exception of the register;
- stay or prohibition of activity;
- compulsory demolition of illegally built or built structure;
- administrative detention;
- administrative exclusion out of borders of the Republic of Kazakhstan the foreigner or the stateless person.

The prevention, administrative penalty and administrative detention can be applied only as the main administrative penalties.

Questions for self-checking.

1. The Government of RK treats what branch of the power?
2. Characteristic of norms of administrative law
3. List types of administrative penalties
4. Definition of the concept "administrative responsibility".

Normative legal acts.

1. Constitution of the Republic of Kazakhstan.
2. The code of the Republic of Kazakhstan about administrative offenses of July 5, 2014 No. 235-V ZRK.
3. The constitutional law of the Republic of Kazakhstan of October 16, 1995 "About Parliament of the Republic of Kazakhstan and the status of his deputies" (with changes and additions).
4. The law of the Republic of Kazakhstan "About local public administration in the Republic of Kazakhstan" (with changes and additions).

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Lecture 4. Fundamentals family law

1) Concept of a family law.
2) Personal and property rights and duties of spouses. Marriage contract.
3) Concept "family".
4) Alimentary relations of family members.

The main objective of the family legislation is further strengthening of a family, creation of the family relations on feelings of mutual love and respect, mutual aid and responsibility before a family of all her members. Precepts of law proceed from inadmissibility of any intervention someone in affairs of a family, ensuring free implementation by members of the family of the rights, possibilities of judicial protection of these rights.

As subjects of family legal relationship only citizens act, whose family right subjectivity reveals through legal capacity and capacity. The family legislation doesn't contain definition family right-and capacity, but these concepts are of great importance in law-enforcement practice at the solution of questions of an admissibility of commission of these or those actions, as citizens, and concerning citizens various government bodies.

Family legal capacity as ability to have the family rights and duties arises at the person from the moment of the birth, but its volume changes the subject with age (for example, the rights to marry, adopt the child and others appear with achievement of majority). Restriction of family legal capacity is possible only in the cases and an order, which are directly determined by the law (for example, deprivation of the parental rights by court).

Family capacity - is ability of the person the actions to create the family rights and duties. Capacity isn't the necessary prerequisite of emergence of family legal relationship. Emergence of a number of legal relationship happens regardless of will of the person (for example, the relations between parents and juvenile children (till 14 years), etc.). The code doesn't specify age from which there is a full family capacity as it not always matters for emergence of family legal relationship, and in most cases coincides with the legal capacity emergence moment (for example, possibility matrimonial right-and capacity arises along with achievement of age of consent by the citizen — 18 years). The volume of family capacity in a certain measure depends on the volume of civil capacity. Therefore, at deprivation in accordance with the established procedure of the person of civil capacity owing to a mental disorder, it loses also family capacity (for example, he has no right to marry).

Objects of family legal relationship are actions (behavior) of the subject of legal relationship, and also things (property) or other material benefits.

Treat the first, for example, implementation by parents of the parental rights according to interests of children, the right of parents to demand return of the child from the third parties, etc.

Things act as objects of that legal relationship, which arise between family members concerning property or other material benefits (for example, at the section of the general property of spouses, payment of funds for the maintenance of the spouse and other family members).

The basis of emergence of a family and family legal relationship in many cases is made by marriage. Marriage (matrimony) - the equal union between the man and the woman concluded at free and full consent of the parties in the order established by the law of the Republic of Kazakhstan. For the purpose of creation of a family,

generating the property and personal non-property rights and duties between spouses (St 1 Code of RK "About marriage (matrimony) and a family).

Treat the personal non-property rights of spouses: choice of a kind of activity, profession and religion. Spouses resolve all questions of motherhood, paternity, education, and education of children and other issues of life of a family in common. Spouses are obliged to build the relations in a family because of mutual respect and mutual aid, to promote wellbeing and strengthening of a family, to care about health, development of the children and their welfare (item 2, 3 of Art. 30 of the Code "Of marriage (matrimony) and a family").

Property rights and duties of spouses. Usually spouses, everyone as far as possible, participate in the general expenses and don't divide property on your and my. Nevertheless, on a case when there are disputes, the law established accurate rules. All that belonged to everyone before marriage remains its personal property, and he has the right to dispose of this property independently. Such property is called as "premarital property".

Everything that was sewed during marriage admits the general joint property of spouses. Spouses concerning this property have the equal rights. The sums of the income of each of spouses from work, business activity and results of intellectual activity, the sum of the income from the general property of spouses and separate property of each of spouses received by them pensions, grants, pension accumulation. Additionally, other monetary payments which don't have special purpose belong to the property sewed by spouses during marriage (matrimony) (the sums of financial support, the sums paid in compensation of damage in connection with disability owing to a mutilation or other damage of health, and others). The general property of spouses are the personal and real estates which are also acquired at the expense of the sum of total income of spouses, securities, shares, deposits, shares in the capital contributed in the credit organizations or in other organizations. Also any other property sewed by spouses during marriage (matrimony) irrespective of on whose name in a family it is acquired or who from spouses deposited money (the item of 2 St 33).

The joint property of spouses is share. Therefore, during existence of joint property each of spouses has the right to own, use and dispose of all joint property. The consent of other spouse is supposed therefore the transaction made by one of spouses without consent of another can be recognized by court invalid only on condition that will be proved that fact that the contractor, making the transaction with one of spouses, knew about objection of another against this transaction.

The mode of joint property of property of spouses set by the law can be changed as before marriage and at any time during marriage by the conclusion of the marriage contract. According to p.1 Art. 39 the Marriage contract the agreement of the persons marrying (matrimony), or the agreement of spouses defining property rights and duties of spouses in marriage (matrimony) and (or) in case of its cancellation admits. The marriage contract can be signed: from the date of giving in registering body of the statement for the state registration of marriage, before the state registration of a marriage, and at any time during marriage. The marriage contract in writing is signed and is subject to the obligatory notarial certificate.

The family is primary cell of society without which existence of the society is impossible. The family carries out extremely important function – reproduction of a sort and education of children. On a family also other important tasks lie: implementation of care of disabled family members, including also the material maintenance of these persons, the organization of life and consumption of all family members is frequent. Everyone is connected by the family relations with other persons, is the member of any family. Only as the exception, and that only short time, the person lives out of a family. The most natural and noble human feelings find the satisfaction in a family: love of children and love of children to the parents, love of spouses, friendship, respect. All these feelings blossom in a strong family.

The family is a difficult social phenomenon. As any social phenomenon, it eventually is defined by economic system of society. However, such factors as morals (ethical standards) and the right (precepts of law) have huge impact on the family relations. Of course, human feelings – love, friendship, respect don't give in to legal regulation and not all in the family relations can be defined by precepts of law. Nevertheless, it would be wrong and to underestimate a right role. Establishing certain duties before a family, her members, providing responsibility for non-performance of these duties, the right brings up at citizens call of duty before a family. Norms of a family law have to be aimed at providing such relations between family members who are characteristic for civil democratic society, on establishment of legal conditions, the most favorable in these political, social, and economic conditions for strengthening of a family.

Family - a circle of people, the connected property and personal non-property rights and duties following from marriage (matrimony), relationship, property, adoption (adoption) or other form of acceptance of children on education and urged to promote strengthening and development of the family relations (item 29 st1kobs).

Family - a circle of people, the connected property and personal non-property rights and duties following from marriage (matrimony), relationship, property, adoption (adoption) or other form of acceptance of children on education and urged to promote strengthening and development of the family relations (item 29 st1kobs).

According to item 4 Art. 1, the alimony are a monetary or material contents which one person is obliged to provide to other person having the right for its receiving. According to Art.139 of the Code "About marriage (matrimony) and a family" the size of the alimony collected by court from parents in favor of minor children on one child - one quarter, on two children - one third, on three and more children - half of earnings and (or) other income of parents. The size of the shares established by the law can reduced or increased by court taking into account relationship or financial position of the parties or other circumstances deserving attention. Alimony can be collected by court and in the firm sum (for example when the parent obliged to pay the alimony has the irregular, changing income, receives it in foreign currency, etc.).

Children pay alimony before achievement of eighteen-year age. Further, if children are disabled and need the alimony, parents are obliged to support them. If parents voluntary don't pay the alimony, the court forces them forcibly. In this case,

the size of the alimony is defined by court in a firm sum of money and depends on financial and relationship status of parents and children.

The legislation provides alimentary obligations:

- parents and children;
- spouses and former spouses;
- other family members (brothers and sisters, grandfathers and grandmothers, grandsons, pupils, stepsons and stepdaughters).

Questions for self-checking.

1. What public relations are governed by a family law?
2. What is understood as the general joint property of spouses?
3. Subjects and objects of family legal relationship?
4. What represent the personal rights of spouses?
5. What alimentary obligations are provided by the legislation?

Normative legal acts

1. Constitution of the Republic of Kazakhstan.
2. The code of the Republic of Kazakhstan of December 26, 2011 No. 518-IV "About marriage (matrimony) and a family (with changes and additions).
3. The Convention on the Rights of the Child of November 20, 1989 ratified by Republic of Kazakhstan on June 8, 1994.
4. Convention on collecting the alimony abroad. Law RK on accession 30.12.99 g.
5. The law of the Republic of Kazakhstan "About the state guarantees of the equal rights and equal opportunities of men and women" of December 20, 2009.
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Lecture 5. Fundamentals of labor law.

Main questions:

1) Subject, method, system and sources of the labor law.

2) Legal relationship according to the labor law.
3) Employment contract.

Occupation purpose: acquaintance with standards of the labor legislation of the Republic of Kazakhstan.

Subject of the labor law are the labor relations and the relations, derivative of them developing in the course of work, the organization and management of it.

The following signs characterize the method of the labor law:

- combination of peremptory and dispositive norms in regulation of the labor and derivative relations from them;
- combination of the centralized, local and contractual methods in a regulation of a subject of legal regulation;
- wide use in regulation of the public relations of social and partner agreements with involvement of agents of the parties of social partnership;
- unity and differentiation of regulation of application of wage labor;
- establishment of a special order of permission of labor disputes.

The principles of the labor law are shared on the all-legal; the interindustry; the branch.

Sources of the Labor law: The constitution of the Republic of Kazakhstan, the Labor Code, other normative legal acts governing the labor relations.

Labor legal relationship — this legal relation on application of work of the natural person as the hired worker at the enterprise, in institution, the organization irrespective of forms of ownership and managing where one party (workers) is obliged to perform work of a certain sort with submission to the labor schedule established there. On the other party (employer) is obliged to provide the worker with work according to his specialty, qualification or a position, to pay his work but to quantity and quality, not below the minimum established by the state, to create healthy and safe working conditions.

The following signs should classify labor legal relationship: a) on communication hardly; b) on subjects; c) on support and safe working conditions.

On subject's labor legal relationship are subdivided on individual and collective. Labor legal relationship are classified under the contents on material and procedural.

The legal relationship following from labor — legal relationship which arise in connection with the termination of labor legal relationship and aim or material security of the dismissed worker, or his restoration at work.

One of subjects of labor legal relationship always is the natural person — the citizen. Collective subjects of the labor law — it is the labor collectives, trade-union committees, the unions of employers, the conciliation and conciliatory commissions resolving labor disputes, etc. The state subjects of the labor law - the Government, territorial executive bodies, courts, prosecutor's office, authorized bodies concerning employment, authorized bodies on work, etc.

Object of the labor law is live work (ability to work). The object of labor legal relationship contacts a complex of the material and non-material benefits, whichare reached by the parties of labor legal relationship in the course of its realization. At the same time, the object derivative of labor legal relationship is specific: it, on the one hand, represents that benefit which displays the purpose of realization of actually derivative legal relationship. On the other hand, the orientation, through achievement of own purpose, on achievement of the purpose of labor legal relationship clearly is reflected in it, office nature of derivative legal relationship is displayed. Thus, all system of legal relationship in the labor law is subordinated to the uniform purpose. For example, as object of control and supervising derivative legal relationship two legal phenomena act legality and a law and order in the sphere of existence and realization of labor and derivative legal relationship from them. The object of derivative legal relationship is directed on normal, effective realization of the labor relations, eventually, on achievement of their direct purpose.

The employment contract is bilateral agreements between the worker and the employer concluded in writing, is formed not less than in duplicate and is signed by the parties. One copy of the employment contract is transferred to the worker after signing by the parties. After the conclusion of the individual employment contract, the employer is obliged to issue the order on reception of the worker for work which happens to it on receipt. The worker has the right to sign the employment contracts providing the incomplete duration of working hours with several employers. Modification and additions in the employment contract is carried out in the order provided for its conclusion.

The beginning of performance of labor functions of the worker the start date of work specified in the employment contract is considered. In cases of absence and (or) not registration of properly employment contract from the employer action of the employment contract begins with the actual assumption to work.

Contents of the employment contract:

- details of the parties;
- labor function (work on a certain position, specialty, profession);
- term of the individual employment contract;
- start date of implementation of labor duties;
- characteristics of working conditions, guarantees and compensations to workers for a hard physical activity or work in harmful or dangerous conditions;
- mode of working hours and time of rest;
- terms of payment of work and labor protection;
- rights and employer's duties;
- rights and worker's duties;
- order of change, cancellation and prolongation of the individual employment contract;
- order of payment of compensations and provision of guarantees;
- responsibility of the parties.

The employment contract can be signed:

– for an in definite term;
– for a certain term;
– for the period of performance of a certain work or for the period of replacement of temporarily absent worker.

The employment contract for the period of replacement of temporarily absent worker can take place in acceptance cases for work of the face of the worker who is temporarily replacing. For example who is in a condition of temporary disability owing to a labor mutilation, occupational disease, replacement of the female worker who is in a maternity leave or on additional holiday on care of the child, replacements of the worker who adopted (adopted) the child from maternity hospital, the worker who is in educational holiday, etc. Feature of such contracts and their difference from the urgent is that they are terminated at appearance at work of the replaced workers. At return to work of temporarily being absent worker, by a mutual consent, the dismissed worker the employer can provide other work.

On features of legal status of subjects of the employment contract, it is possible to carry out classification of contracts for employment contracts with the seasonal workers, house workers, home workers, persons working as a shift method, employment contracts with heads of the enterprises, establishments, organizations, and contracts with public servants and with some other categories of workers.

The employment contract can be stopped:
– after term;
– on the circumstances, which aren't depending on, will of the parties.

The employment contract can be dissolved:
– by agreement of the parties;
– at the initiative of one of the parties;
– on other bases provided by acts.

Types of working hours: normal duration; the reduced duration; the incomplete; the overtime. Types of time of rest: a break for rest and meal; a break between changes; days off and holidays; the holidays (annual paid additional, educational, social).

In the Republic of Kazakhstan two main forms of compensation – time and price-work are used. Employers when determining tariff rates have to be guided by the Uniform tariff and qualification reference book of works and a profession of workers.

Treat measures of encouragement: announcement of gratitude; delivery of an award; rewarding with valuable presents, diplomas and state awards.

Questions for self-checking.

1. What is the employment contract?
2. What documents are necessary at employment?
3. What terms of the contract belong to the obligatory?
4. What types of time of rest are fixed in the legislation?

5. What is the discipline of work? What measures of encouragement and collecting you know?

Normative legal act.

1. Constitution of the Republic of Kazakhstan.
2. The labor Code of the Republic of Kazakhstan No. 251 of May 15, 2007.
3. The law of the Republic of Kazakhstan of June 30, 1997 No. 136 "About provision of pensions".
4. The law of the Republic of Kazakhstan of December 18, 2000 No. 126-11 "About insurance activity" (with changes and additions).
5. The law of the Republic of Kazakhstan of April 7, 2014 No. 183-V "About ratification of the Convention on creation of procedure of establishment of minimum wage (Convention 26).
6. The law of the Republic of Kazakhstan of April 7, 2014 No. 184-V "About ratification of the Convention on protection of a salary (Convention 95)".
7. The law of the Republic of Kazakhstan of March 31, 2014 No. 180-V "About modification of some acts of the Republic of Kazakhstan concerning social security".
8. The resolution of the government of the Republic of Kazakhstan of December 28, 2007 No. 1339 About the approval of Rules of appointment and payment of a social benefit, and also determination of its size (with changes and additions).

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Lecture 6. Fundamentals of civil law

Main question:
1) Concept, subject, method of civil law.
2) Concept and types of civil legal relationship.
3) Subjects and objects of civil law.
4) Transactions and other bases of emergence of civil legal relationship. Ownership right.
5) Concept and types of obligations.

Civil law regulates property, and also constrained and unconnected with them the personal, not property relations.

The distinguishing features of civil legal method are legal equality of subjects, non-mandatories, no interaction of will of subjects, property and compensative character of responsibility.

Sources of civil law behave:

1) Constitution of Republic of Kazakhstan.
2) Civil code of RK (CC RK). It occupies the special place in the system of bases of civil law. Bases of civil legal relations are here expounded; the concepts of basic institutes of civil law are given.

   CC RK consists of two parts: general and special.
3) Other legislative acts. The constitutional belong here laws; ordinary laws; decrees of President of Republic of Kazakhstan, having arm of the constitutional law and valid ordinary law; decisions of Parliament and its chambers.
4) Subordinate regulations: regulations of various ministries, executive bodies, local bodies.
5) Customs. In Art. 3 of item 4 of RK Group it is told: "The civil relations can be governed by customs, including customs of a business conduct if they do not contradict the civil legislation existing in the territory of the Republic of Kazakhstan".
6) International contracts (conventions).

Bases of emergence of civil legal relationship are the legal facts (actions and events).

Types of the civil relations:

- volume of the civil rights the property and personal non-property relations;
- regulation subject real and obligations;
- nature of interrelation of the authorized and obliged person absolute and relative;
- distribution of the rights and duties between participants simple and difficult relations.

The content of civil legal relationship includes subjective civil law (a measure of possible behavior of the authorized person) and a subjective civil duty (a measure of due behavior of the obliged person).

Civil rights and duties belong to privies, which are called as subjects of legal relationship. In article 1 of the Civil Code of RK it is emphasized that participants of the relations regulated by the civil legislation are citizens, not citizens, legal entities, the state, and also administrative and territorial units. (Including citizens) serve as the prerequisite of participation of all these subjects in legal relations investment with their civil legal capacity and civil capacity.

Civil legal capacity represents the ability recognized by the law to have the rights and to perform duties. Under the law, ability to have the civil rights and to perform duties admits equally for all citizens.

Civil capacity of the citizen in full comes with attainment of majority that is from eighteen-year age. In a case when the law allows marriage before achievement of eighteen years, the citizen who did not reach eighteen-year age gains capacity in full since marriage.

Minors aged from fourteen till eighteen years possess partial capacity. They make transactions only from the written consent of the lawful representatives – parents, adoptive parents or trustees. Minors aged from fourteen till eighteen years have the right independently, to dispose of the earnings, a grant or other income. Also, carry out the right of the author of works of science, literature or art, the invention or other result of the intellectual activity protected by the law, according to the law to contribute to credit institutions and to dispose of them. Additionally, make small household transactions; to make the transactions directed on gratuitous obtaining benefit, which are not demanding the notarial certificate or the state registration.

The legal entity the organization that has on an ownership right, of economic maintaining or operational management the isolated property admits and answers this property for the obligations, can get and carry out on its own behalf the property and personal non-property rights and duties, to be the claimant and the respondent in court.

On the activity purposes, legal entities share on commercial and noncommercial. Commercial legal entities - the state enterprises, economic associations, production cooperatives. Noncommercial legal entities - institutions, the public associations, religious associations, public funds, consumer cooperatives, joint stock companies, other forms provided by acts.

Objects of civil legal relationship (head 3 RK Group). Usually understand that as object of legal relationship, on what this legal relationship is directed and makes a certain impact. Treat the property benefits and the rights (property): things, money, including foreign currency, financial instruments, works, services, objective results of creative intellectual activity, trade names, trademarks and other means of an individualization of products, laws of estate and other property (item of 2 St 115). Treat the personal non-property benefits and the rights: life, health, dignity of the personality, honor, a reputation, business reputation, personal privacy, personal and family secret, the right addressed to, the right for authorship, the right for inviolability of work and other non-material benefits and the rights. (item of 3 St 115).

Art. 117 of group of companies carries to fast estate: the land plots, buildings, constructions, perennial plants, that is those objects which movement without disproportionate damage to their appointment is impossible. (Fast estate) carry to them also planes, vessels and so on, being subject to the state registration.

The property which is not relating to real estate including money, securities, admit personal goods

Concept, types and forms of transactions. For emergence of civil legal relationship there have to be real conditions. Such universal way of emergence of civil legal relations are transactions. According to Art. 147 of RK Group transactions the actions of citizens and legal entities directed on establishment, change or the termination of the civil rights and duties admit.

Transaction signs:

– the transaction is a strong-willed act, strong-willed action of people. Strong-willed character of the transaction is defined by that it purposefully for creation,

change and the termination of civil legal relationship. The transaction differs in it from an act, as action, but deprived of such focus;

– the transaction is the lawful action most often approved by the law, action;

– the transaction is directed on creation, change and the termination of civil legal relationship;

– the transaction generates the civil relations as those consequence in law which are caused by transactions are defined by civil legislation.

During transaction, the will of people can be expressed orally, in writing, by means of the concluding of actions or by silence (inaction). The oral form of transaction means direct perception it participants of mutual wills. Thus, a main issue of the oral transaction there is an oral arrangement between the persons making transactions by means of phone, a meeting of representatives or direct will reporter. The transaction for which by the legislation or the agreement of the parties it is not established written (simple or notarial) or other certain form, can be made orally, in particular all transactions executed at their commission (item 2. Art. 151 of RK Group).

The written form of the transaction assumes drawing up by participants the document confirming its commission. Transactions have to be made in writing surely in cases:

– the transactions which are carried out in the course of an entrepreneurial activity except the transactions executed at their commission if other is specially not provided by the legislation or does not follow from customs of a business conduct;

– the transactions made for the sum over hundred settlement indicators except for the transactions executed at their commission;

– in the cases provided by the legislation or the agreement of the parties (Art. 152 of RK Group). The exchange of the letters, telegrams, telephone messages, faxes or other documents defining subjects and the content of their will (item 3 is equated to a written form of the transaction. Art. 152 of RK Group).

Certain actions, intentions are necessary for transaction. According to the characteristic one of the main such actions is concluding action, i.e. behavior by means of which intention of the person to enter the transaction is found. About it in the law it is written accurately down that "the transaction is considered perfect and in that case when his will appears from behavior of the person to make the transaction" (item 2. Art. 151 of RK Group), for example, at transactions by means of the machine gun – purchase of things, receiving a counter, the ticket in the bus, a currency exchange etc.

Under the law, "silence admits expression of will to make the transaction in the cases provided by the legislation or the agreement of the parties" (to item 4. Art. 151 of RK Group).

Types of transactions: unilateral, bilateral, multilateral, exchange, invalid, imaginary or feigned.

The ownership right is the right of the subject recognized and protected by acts at discretion to own, use and dispose of the property belonging to it. Types of

property: state (republican, municipal); private (individual, collective); the general (share, joint).

Treat objects of intellectual property right: 1) results of intellectual creative activity; 2) means of an individualization of participants of a civil turn, goods, works or services.

The majority of transactions are made under the agreement of persons; these transactions are called as *contracts*.

The *contract* is:

- will reporter persons, everyone separately;
- concordance these wills, that is the party undertake to make actions which are approved and recognized by other party.

Any contract is the transaction, but not any transaction can will be the contract. In practice, contracts are called - as the contract, the agreement.

At execution of the obligation, one person (debtor) is obliged to make in favor of other person (creditor) a certain action, somehow: to transfer property, to perform work, to pay money etc., or to refrain from a certain action, and the creditor has the right to demand from the debtor of execution of its duty. The creditor is obliged to accept execution from the debtor. Object of the obligation are directly transferred things and laws of estate, the rendered services, performed works. As subjects of obligations, the parties act debtor and creditor.

Contents of the obligation: the rights and obligations of the parties, i.e. the right of the requirement of execution of the obligation and a duty to execute the requirement. Allocate the following types of obligations:

- obligations for cession of property in property (for example, purchase and sale, exchange, donation, etc.);
- circumstances on cession of property in use (for example, property employment (rent), leasing, concession, free use by property, etc.);
- obligations for performance of work (for example, in a row, including on capital development, on performance of design and research and developmental works);
- obligations for rendering services (transportation, towage, transport expedition, bank service, assignment, commission, storage, trust management, franchising, factoring).

The basis for emergence of the obligation is the legal fact, i.e. circumstances with which are connected emergence, change or the termination of legal relations. It is possible to carry the conclusion of the contract, the publication of the administrative act, infliction of harm (actions), a loss occurrence, death of the person (event) to the most frequent bases of emergence of the obligation.

The main ways of providing performance of obligations are: penalty, pledge, deduction of property of the debtor, guarantee, bank guarantee, deposit.

The bases of the termination of the obligation appropriate execution, a compensation, an innovation, offset, forgiveness of a debt, impossibility of execution, coincidence of the creditor and debtor in one person, death of the citizen (personal obligations), the publication of the state act, liquidation of legal entity.

Questions for self-checking.

1. Who can enter civil legal relationship?
2. What can be object of civil legal relationship?
3. What rules of the conclusion of the contract?
4. What means provide performance of the contract?
5. What relations are governed by civil law?

Normative legal acts

1. Constitution of the Republic of Kazakhstan 1995.
2. The civil code of the Republic of Kazakhstan (the general part) of December 27, 1994 (with changes and additions).
3. The civil code of the Republic of Kazakhstan (special part) (with changes and additions).
4. The law of the Republic of Kazakhstan of January 16, 2001 No. 142-II. About non-profit organizations (with changes and additions).
5. The law of the Republic of Kazakhstan of May 2, 1995 No. 2255. About economic associations (with changes and additions as of 19.02.07).
6. The law of the Republic of Kazakhstan "About consumer protection".
7. The law of the Republic of Kazakhstan of March 1, 2011 No. 413-IV "About state-owned property".

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4 The civil code of RK (Special part) – the comment. – Almaty: ZhetyZhargy, 2003.
5 Sapargaliyev G. S. Bases of the state and right: Education guidance. – Almaty: ZhetyZhargy, 2003.
6 Didenko A.G. Civil law of RK general part. - Nor-Press, 2007.
7 Zhaylin G. A. Civil law of PK T.1. – And., Daniker, 2002.

Lecture 7. Fundamentals of criminal law

Main questions:
1) Concept, tasks, principles of penal law.
2) Concept, signs and classification of a crime.
3) Criminal responsibility: concept, bases of its approach. Actus reus.

4) Criminal sanction: concept, signs and purposes.

The penal law is set of legal norms, which define tasks, and the principles of the criminal legislation, concept of a crime, the basis of criminal responsibility, establish types and signs of crimes, punishments for them, define the bases of release from criminal responsibility and punishment.

Acts as object of regulation of penal law the relations the interests of the state developing at protection and protection, natural and legal entities from criminal encroachments.

Subjects of criminal legal relations are: the citizen who committed a crime, and the state represented by the authorized bodies (a consequence, prosecutor's office, court, etc.). The maintenance of such relation consists in the mutual rights and duties of subjects. Bodies of the state have the right and are obliged to involve the person which committed a crime in criminal responsibility and to apply to it punishment. Such person is obliged to bear responsibility and punishment, thus it has the right to demand that its responsibility was based strictly on provisions of the law and facts of the case.

For regulation and protection of the public relations forming a subject of penal law, special methods are required. One of them is expressed that for violation of the ban (established by the criminal precept of law) to make socially dangerous acts (crimes) possibility of application on behalf of the state of the most severe coercive measure — punishments is provided. At commission of other offenses, application of punishment is excluded.

In the general part the general provisions and institutes allowing to understand and apply correctly articles of Special part, to resolve an issue of criminal responsibility of the person are signed, tasks of the criminal legislation of the Republic of Kazakhstan, the basis of criminal responsibility, limits of action of the criminal law. Moreover, the general concept of a crime, types of punishment, an order of their appointment and release from criminal responsibility and punishment are defined, the Special part contains the norms giving the list of the acts recognized as crimes their signs are defined.

Problems of penal law:

- the guarding;
- precautionary (preventive);
- the educational.

The criminal law is considered as the only source of penal law. It means that neither sentences, nor resolutions of courts, judicial precedent cannot be considered as sources of penal law.

The crime is one of types of an offense. Definition of a crime is given in Art. 9 of the criminal code of Kazakhstan. "A crime the perfect socially dangerous act forbidden by the present Code under the threat of punishment admits". Signs of a crime are: public danger, illegality, guilt. Depending on character and degree of public danger all crimes it is subdivided into four categories: crimes of small weight, average weight heavy and especially heavy.

In legal literature it developed that in each structure of crime there are four of its obligatory an element: object, objective party, subject, subjective party. The called elements of crime are closely interconnected. If in the committed crime there is at least no one of them, it means that there is no crime, also in general, so, there is no basis of criminal responsibility also.

The object of a crime is understood as that benefit (social value) which is protected by the criminal law and to which the crime does harm. As such, benefit the domestic criminal and legal science recognizes the public relations protected by the criminal law.

Set of the signs characterizing outer side of behavior of the person makes the objective party of a crime. Public and dangerous actions or inaction belongs to such signs. The objective party of many structures of crimes includes besides action or inaction criminal consequences, a causal relationship between them and act of the person. Besides the called signs the situation, time, a place, a way, tools and means of crime execution belong to the objective party.

The subject of a crime the natural person who committed a crime and allocated with the signs provided by the criminal law admits. Sanity, achievement of a certain age by the person, and in some cases and special signs concern to that (official capacity, a profession and so on).

The signs characterizing the internal mental party of behavior of the person make the subjective party of a crime: fault, motive and target of a crime.

The criminal law allocates three stages of commission of a deliberate crime: preparation, attempt and completed crime.

Types of plurality of crimes:

- not momentariness of crimes;
- cumulative offenses;
- recurrence of crimes.

According to the Criminal code of the Republic of Kazakhstan to circumstances, excluding criminal responsibility belong: justifiable defense (Art. 32 of the criminal code of Kazakhstan), infliction of harm during detention of the person who made encroachment (Art. 33 of the criminal code of Kazakhstan); emergency (Art. 34 of the criminal code of Kazakhstan), reasonable risk (Art. 35 of the criminal code of Kazakhstan), physical or mental compulsion (Art. 36 of the criminal code of Kazakhstan) and performance of the order or orders (Art. 37 of the criminal code of Kazakhstan).

Punishment is the measure of the state coercion appointed under sentence of court. Punishment is applied to the person found guilty of crime execution and consists in the deprivation provided by the present Code or restriction of the rights and freedoms of this person. Punishment can be applied to the person who committed a crime, only special government body – court based on a sentence, and the sentence is pronounced by a name of the Republic of Kazakhstan.

Other measures of the state coercion are applied on behalf of the public official or a name of any government body. The sentence of court, which entered into force, is obligatory for all establishments, the enterprises and the organizations and is

subject to execution in all territory of Kazakhstan. The sentence imposed in a sentence has strictly personal character, concerns only the person who committed a crime and cannot extend on other persons. The execution of the punishment is provided with force of the state. Punishment as a measure of the state coercion is applied only for such offense as a crime.

Obligatory property of punishment is the penalty. The penalty is understood as the compulsory, violent party of punishment, i.e. causing the deprivations provided by the law, restriction of the rights and freedoms of the condemned. Punishment always causes to the criminal certain deprivations, sufferings. They can be physical, moral, material and other character. Retaliatory elements of punishment express such property of punishment as intimidation. The penalty expresses severity of punishment. As a special measure of the state coercion, the criminal record sign for earlier committed deliberate crime is peculiar to punishment. Each measure of the state coercion has the appointment, the specific purposes.

Punishment purposes: restoration of social justice; correction of the condemned; prevention of commission of new crimes.

Purpose of punishment is based on certain principles, which are concrete expression of the all-legal and branch special principles of penal law. The principles, which are the cornerstone of purpose of punishment, following legality, humanity, justice, validity of punishment and obligation of his motivation in a sentence, a punishment individualization, economy of measures of criminal repression.

Amnesty, pardon, criminal record. In legal sense amnesty and pardon mean acts of the supreme body of the government which without canceling the criminal law punishing for these or those crimes at the same time exempt in whole or in part from punishment or replace the sentence to another imposed by court, softer.

Amnesties are carried out, as a rule, in connection with events, significant for the state. The act of amnesty does not specify particular persons, and extends on all persons falling under the signs specified in the act. The act of amnesty is issued by Parliament of the Republic of Kazakhstan concerning individually not a certain circle of people. Based on the act of amnesty of the person, the committed crimes, can be exempted from criminal responsibility. The persons condemned for commission of crimes can be exempted from punishment or the sentence imposed to them can be reduced or replaced with softer type of punishment, or such persons can be exempted from an auxiliary view of punishment. From the persons who served sentence or exempted from further serving, by the act of amnesty the criminal record can be removed.

Pardon represents the act of release from punishment, of mitigation of punishment, of release from criminal prosecution or of removal of the criminal record concerning one or many, but absolutely certain particular persons. The President of the Republic of Kazakhstan issues the act of pardon of individually certain person concerning which the conviction judgment entered into force. At pardon, the person condemned for a crime can be exempted from further serving of punishment or the sentence imposed to it can be reduced or replaced with softer type of punishment. From the person who served sentence, by the act of pardon the criminal record can be removed. The question of pardon can be raised not only according to the statement

condemned, but also at the initiative of the appropriate supreme body of the government, according to the petition of interested persons and on representation of the public and public institutions, and concerning foreigners – at the request of foreign states. Amnesties, as a rule, are not applied only to the persons who committed especially dangerous and serious crimes. The circle of such persons is identified every time in the act of amnesty.

Criminal record. The criminal record in penal law is understood as officially certified condemnation fact in the past of the person for commission of a crime by it. The criminal record remains for condemned during the terms determined specified in the law after punishment departure. The person condemned for crime execution is considered the offender from the date of the introduction of a conviction judgment of court in validity until repayment or removal of a criminal record.

Questions for self-checking.

1. What relations act as objects of regulation of penal law?
2. What purposes of punishment?
3. Elements of crime's property?
4. Give definition to concepts: amnesty, pardon, criminal record.

Normative legal acts.

1. The criminal code of the Republic of Kazakhstan of July 3, 2014 No. 226-V ZRK.
2. The law RK of June 29, 1998 N 247-1 About accession of the Republic of Kazakhstan to the Convention against tortures and others the cruel, brutal and humiliating advantage types of the address and punishment.
3. The law of the Republic of Kazakhstan of July 13, 1999 No. 416-I. About fight against terrorism (with changes and additions).
4. The law of the Republic of Kazakhstan of July 2, 1998 No. 267-I. About fight against corruption (with changes and additions).
5. The standard resolution of the Supreme Court of the Republic of Kazakhstan of July 11, 2003 No. 8. About court practice on cases of plunders (with changes and additions).

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Lecture 8. Law enforcement agencies of Republic of Kazakhstan

1) Concept of law-enforcement activity.
2) Main activities of law enforcement agencies. Principles of law-enforcement activity.
3) Legal status of court. Judicial system of RK.

The law enforcement authorities is an official institution or other person (such as a judge, investigator, provide legal assistance to a citizen), which is authorized by law to protect the rights and legitimate interests of physical (legal) persons in the whole state and (or) to ensure the legality and the rule of law. Law Enforcement Agency - a government body that provides respect and protect the rights and freedoms of man and citizen, the legitimate interests of individuals and legal entities, the state implements the state policy on combating crime and other offenses in accordance with their competence, endowed with special powers to ensure the rule of law and maintain public order detection, prevention (7) Article 1 of the Law on the law enforcement agencies). For law enforcement authorities are prosecuting authorities, Interior, the state fire service, anti-corruption service and the economic investigations, exercising its activities in accordance with the legislative acts of the Republic of Kazakhstan.

Law enforcement is provided by the normative legal acts adoption and implementation of the authorized subjects of actions aimed at protecting the rights and lawful interests of individuals, legal entities and the state as a whole.

The main areas of law enforcement are:

- administration of justice;
- organizational support of the courts;
- criminal executing activity;
- The public prosecutor's supervision, and other activities of the prosecutor's office;
- efforts to identify and investigate crime: preliminary investigation, inquiry, investigation and search operations;
- notarial acts;
- legal assistance and defense in criminal cases (making legal services).

The legal basis for the service in law enforcement consists of the Constitution of the Republic of Kazakhstan, the Labor Code, the laws of the Republic of Kazakhstan, regulating the activities of law enforcement agencies, and other normative legal acts of the Republic of Kazakhstan, an international treaty. The principles of law enforcement service:

- mandatory protection of the rights and freedoms of man and citizen, interests of society and the state from criminal and other illegal encroachments;

- cooperation with civil society institutions;
- the unity of approaches to law enforcement officers in law enforcement;
- unity of command and subordination (subordination);
- independent of political parties and other public associations.

Justice — is settled by the law (criminal procedure, civil procedural, arbitration procedural and administrative) activity of authorized government bodies - courts. In the Constitution of the Republic of Kazakhstan, fundamental rules of the organization and functioning of bodies of judicial authority, and prosecutor's office are fixed in RK. The principles of justice, such as justice implementation only by court, an appointment of judges to a position, an independence of judges and submission only to their law, an implementation of justice on the basis of equality of all before the law and court, the principle of legality and some other are consolidated. Judicial authority in the Republic of Kazakhstan belongs only to courts in the person of constant judges, and jurors involved to criminal legal proceedings.

The judge is the official of the state allocated in the established Constitution of the Republic of Kazakhstan and the present Constitutional law and order powers on justice implementation, which is carrying out the duties on a constant basis and being the carrier of judicial authority.

The legal status of judges is defined by the Constitution of the Republic of Kazakhstan, the Constitutional law and other laws. The extrajudicial functions and duties, which aren't provided by the law, can't be assigned to the judge. The judge can't be included in structures of government institutions concerning fight against crime, respecting the rule of law and a law and order (Art. 29). The Supreme Court of the Republic of Kazakhstan makes the judicial system of the Republic of Kazakhstan, local and other courts established according to the Constitution of the Republic of Kazakhstan. The regional and equated to them courts (further – district courts) are formed, will be reorganized, renamed and abolished by the President of the Republic of Kazakhstan on the representation of the Chairman of the Supreme Court coordinated with the Supreme Judicial Council.

The president of the Republic of Kazakhstan can form in several administrative and territorial units. One district court or in one administrative and territorial unit some district courts.

Questions for self-checking.

1. Law-enforcement activity: main signs and directions.
2. Legislation on law enforcement agencies.
3. A place of judicial authority in system of the government.
4. Development of the principles of the organization of justice in the Constitution of RK.

Normative legal acts.

1. "On the law enforcement service" Law of the Republic of Kazakhstan dated January 6, 2011 № 380-IV

2. Criminal Code of the Republic of Kazakhstan

Code of the Republic of Kazakhstan from July 3, 2014 № 226-V SAM

3. "On the Code of honor of civil servants of the Republic of Kazakhstan" The Republic of Kazakhstan President's Decree dated May 3, 2005 N 1567

4. "On the Prosecutor's Office" Law of the Republic of Kazakhstan of December 21, 1995 N 2709

5. "On the Judicial System and Status of Judges of the Republic of Kazakhstan"

Constitutional Law of the Republic of Kazakhstan dated December 25, 2000 N 132

6. The Code of Criminal Procedure of the Republic of Kazakhstan from July 4, 2014 № 231-V SAM

7. Address by the President of the Republic of Kazakhstan to the people of Kazakhstan of December 14, 2012 "Strategy, Kazakhstan-2050 ".

8. "On the Supreme Judicial Council of the Republic of Kazakhstan" Law of the Republic of Kazakhstan dated November 17, 2008 № 79-IV

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Lecture 9. Basis of the financial and tax right

Main questions:

1) Concept, subject, method of the financial right.
2) System and sources of the financial right. General characteristic of financial legal relationship.
3) Subject of the budgetary right.
4) General provisions of the tax right of the Republic of Kazakhstan.

The financial right can be defined as set of the precepts of law governing the public relations arising in the course of formation by the state of monetary system and ensuring its normal functioning, and in the course of formation, distribution and the organization of use of the state monetary funds. As a form of existence of the financial right the financial legislation acts.

The financial right uses two methods of legal regulation: imperative and dispositive. Primary application by the financial right of an imperative method is explained by specifics of financial activity of the state. In the course of formation of the monetary funds, it is most often compelled to earn money, taking away them from someone, i.e. by compulsory and their irrevocable withdrawal at owners.

Financial precepts of law are subdivided on regulatory and guarding.

As the obligatory subject of financial legal relationship the state acts (in general or represented by authorized body).

Subject of the financial right are the relations arising in the course of financial activity of the state. In the course of such activity of the state, there are two groups of the financial relations: material and organizational.

The material financial relations mediate cash flow, expressing processes of formation or distribution of the state monetary funds. The relations arising in the course of the organization of monetary system of the country in general and financial activity of the state in particular of system of financial institutions of the state, ensuring their activity belong to the category of the organizational financial relations.

The general sign of the material and organizational financial relations that they are caused by existence of the state acts and is a product of its financial activity.

As form of existence of the financial right the financial legislation acts. The financial legislation is a set of the regulations governing the relations arising in the course of financial activity of the state.

It should be noted that society constantly fights, for a raising of level of bodies, authorized to adopt the acts relating to acts of the financial legislation. The speech first of all goes about acts of the budgetary and tax law.

System of the financial right. The financial right, like many other branches of the right, consists of the general and special parts. General part of the financial right can be presented in following institutes:

- financial device;
- legal bases of monetary system;
- management in the field of finance;
- financial planning;
- financial control;
- financial and legal responsibility.

The monetary system is understood the organizational forms which developed historically and fixed by the national legislation as functioning of money in the country. The monetary system includes the following elements:

- official monetary unit, types of bank notes;
- currency issue order;
- mode of the currency address;
- organization of monetary circulation.

The financial structure of the state includes: financial system of the state as set of the state monetary funds, system of financial bodies of the state and financial regulation. Because of the financial device consists of such links as the budgetary

device, the bank device, the device of the decentralized finance, the structure of trust off-budget funds.

Financial planning is a process of drawing up, consideration, the statement and the organization of execution of financial plans. As object of financial planning the monetary fund always acts. Any financial plan represents the estimate of the income and expenses of the relevant monetary fund.

Legal forms of implementation of financial planning are planned as financial acts in the form of laws, resolutions, decisions, orders etc. Legal feature of planned and financial acts is circumstance that they possess signs, both standard, and individual legal acts.

Financial control represents quite difficult organizational system and consists of the following elements: subject, object, subject, purposes and control methods. As subjects of financial control, the bodies of the state allocated with the corresponding powers of authority for control act or the non-state actors operating for and on behalf of the state whose powers of authority evolve from this assignment. The body or the person making check on the relation of the checked object acts as the subject. Objects of the state financial control are the state legal entities, non-state legal entities and citizens.

As subject of the state financial, control the behavior of objects of this control from the point of view of observance of the duties by them as subjects of financial legal relationship acts.

The purpose of financial control is:

- identification of the facts of violation of the financial legislation or low-quality execution by the participant of financial legal relationship of the duties;
- identification guilty and attraction them to the responsibility established by the legislation;
- elimination of violations of financial discipline and elimination of consequences of these violations.

Financial control it always check or supervision for the purpose of check. Control consists of three stages:

1) collection of information;

2) assessment of collected information;

3) response to the collected and analyzed information.

One of the main and most effective methods of financial control is audit. Audit — is the check of financial and economic activity based on studying of primary documents and accounting records. Usually audit is carried out in combination with other methods of financial control.

Sources of the financial right are normative legal acts of representative and executive bodies of the government, which contain financial precepts of law. The main source of the financial right is the Constitution of RK, which establishes bases of financial activity of the state, of competence of the supreme bodies of the government in the field of finance, provides an obligation of citizens for payment of lawfully established taxes (Art. 35 of the Constitution of RK).

The budget - the centralized monetary fund of the state intended for financial security of realization of its tasks and functions. In RK budgets of the following levels are claimed, executed and are independent:

- republican budget;
- regional budget, city budget of republican value, capital;
- budget of the area (city of regional value).
- emergency of state budget.

The budgetary right is the section of special part of the financial right of the Republic of Kazakhstan governing the relations arising in the course of the organization of the budgetary device. The budgetary right uses two methods of legal regulation: imperative and dispositive. The imperative method most distinctly proves at realization such ways of the budgetary activity as getting of money by the state by means of their unilateral and compulsory withdrawal. The dispositive method is applied to legal regulation of those budgetary relations, which by the economic nature are credit (the relation of the state loan and the relation of the budgetary crediting). Norms of the budgetary right are subdivided on material and organizational.

In system of the budgetary right two parts are allocated: the general and special. The general part includes institutes:

- budgetary device;
- management in the field of finance;
- legal bases of budget planning;
- legal bases of the budgetary control.

The special part includes institutes:

- legal regulation of the income of the budget;
- legal regulation of expenses of the budget;
- legal regulation of the state credit.

Norms of the general part of the budgetary right generally govern the organizational budgetary relations, norms of special part - the material budgetary relations.

Management in the field of the budget is the institute of the general part of the budgetary right representing set of the precepts of law defining competence of public and territorial educations in the field of the budget, and competences of the government bodies realizing this competence. The system of the bodies exercising control in the field of the budget doesn't form organizationally the issued branch of public administration though the leading role of the Ministry of Finance in this sphere is rather obvious. The budgetary activity (more precisely, activity in the sphere of the budget) is carried out to some extent by the majority of government bodies as all of them anyway deal with the budget.

As one of the directions of the budgetary activity, the budgetary control represents activity of representatives on that of government bodies (bodies of the budgetary control) on check of observance of an order of formation and distribution of budgets, and legality and expediency of use of budgetary funds by their recipients.

Depending on the bodies exercising it the budgetary control can be subdivided into three look:

- the budgetary control exercised by representative bodies;
- the budgetary control exercised by executive bodies of the general competence;
- the control exercised by specialized bodies of the budgetary control. Depending on time of the implementation, the budgetary control is subdivided on preliminary, current and the subsequent.

For control of budget performance, the whole system of the state reporting is installed. Recipients of budgetary funds submit reports on their use in the appropriate financial bodies, and in higher bodies of management.

Taxes are the obligatory monetary payments, whichare legislatively established by the state unilaterally in the budget made in certain sizes having irrevocable and gratuitous character. Basic elements of a tax are the subject of a tax, a taxable object, a tax rate, the tax period, an order of calculation of a tax, an order of payment of a tax, tax privileges. Material tax legal relationship is the tax obligation. Elements of the tax obligation are:

- subjects – the state, the taxpayer and the third parties;
- object of the obligation – actions which the obliged subject (taxpayer) has to make;
- contents of the obligation – the right of the state to demand transfer to it in property of a subject of tax payment and a duty of the taxpayer to carry out this transfer.

Depending on the subject of a tax they are subdivided into taxes with the persons (on the western terminology - corporate taxes) and taxes on natural persons (on the western terminology - individual taxes).

Questions for self-checking.

1. What relations are governed by the financial right?
2. List elements of the tax obligation
3. Financial control consists of what stages?
4. List sources of the financial right.

Normative legal acts.

1. The budgetary code of the Republic of Kazakhstan of December 4, 2008 No. 95-IV

2. The code of the Republic of Kazakhstan of December 10, 2008 No. 99-IV "About taxes and other obligatory payments in the budget (The tax code)"

3. The law of the Republic of Kazakhstan of August 31, 1995 No. 2444 "About banks and bank activity in the Republic of Kazakhstan".

4. The law of the Republic of Kazakhstan of March 30, 1995 "About national bank".

5. The law of the Republic of Kazakhstan of July 7, 2004 No. 576 "About investment funds".

6. The law of the Republic of Kazakhstan of July 2, 2003 No. 461 – II "About securities market"

7. The law of the Republic of Kazakhstan of July 04, 2003 "About state regulation and supervision of the financial market and the financial organizations" - Almaty: LAWYER, 2005.

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Lecture 10. Fundamentals of Environmental and Land law

1) Subject and method, the system of environmental law. General characteristics of environmental legislation.
2) The basic principles of environmental management and environmental protection.
3) General characteristics of the ownership of natural resources, the right to natural resources.

Environmental law is an independent branch of the Kazakh law, which is designed to study the activity of the state in the field of legal regulation of nature management and environmental protection. The subject of environmental law is public relations in the sphere of interaction between society and nature. Ecological and legal method of regulation manifests itself through mandatory and permissive approach to the establishment of obligations and the legal status of legal entities. The general part of Environmental Law includes the concept, subject, technique, principles, sources of environmental law; ownership of natural resources; the right to natural resources; government regulation and control of the use of ecological and environmental protection; environmental monitoring, environmental assessment, environmental monitoring; responsibility for violation of environmental legislation. In the special part of the institutions are located eco-legal regime of use and protection of natural resources.

Sources of environmental law:

1) The Constitution of the Republic of Kazakhstan.
2) Environmental Code.
3) Other legal acts of the Republic of Kazakhstan.

4) International treaties ratified by the Republic of Kazakhstan.

The Republic of Kazakhstan Constitution and the Civil Code defines a general content and form of ownership of natural resources and other assets. The environmental legislation fixed the specific features and forms of ownership to specific natural resources, as well as features of the mechanism of implementation of the powers of the owner of land, water, mineral resources, etc.

Subjects are individuals and legal entities, the state and public bodies carrying out state regulation in the field of environmental protection and public administration in the use of natural resources.

Ecological use divided into three main groups depending on the subject (general, special); depending on subjects (people and organizations); depending on the type of exploited natural objects (land use, forest management, use of mineral resources, etc.).

Under the environmental means the use of beneficial to human natural environment properties - environmental, economic, cultural, health. There are general and special nature.

The general nature does not require any special permission. It is exercised by citizens by virtue of belonging to his natural (human) rights, emerging and existing as a result of his birth and existence (use of atmospheric air, water for drinking, household and medical and sanitary needs, etc.).

Special environmental recognized as such, which is realized by citizens and economic entities based on permission of the competent authorities of the state. It is targeted and types of objects used is divided into land, subsoil use, forest management, water management, use of wildlife (wild animals and birds and fish stocks), the use of ambient air. The special nature due to the consumption of natural resources. In this part, it relates through legal regulation of the industry with natural resources. Environmental legislation, land, forest, water codes,

At the special nature of natural resources provided by nature to users as appropriate. The right of special nature may be permanent or temporary, alienable or inalienable, acquired for consideration or free, primary or secondary. For example, according to h. 8. 3 of Art. 107 of the Land Code in the settlements of the total land use includes land occupied and destined for areas occupation, streets, sidewalks, driveways, roads, promenades, parks, urban forests, parkways, ponds, beaches, cemeteries and other facilities designed to meet the needs of the population (water pipes, heating pipes, treatment plants and other public engineering systems).

The principles of nature: Derivative use rights; environmental management; eco-systemic; the intended use; sustainable environmental law; payment for environmental management.

State regulation and control of the use of ecological and environmental protection is expressed in three forms: legislative, enforcement and law enforcement. Control methods: a mandatory, advisory, authorization, permission.

The system of state bodies regulating the use of ecological and environmental protection: the organs of general competence; bodies of special competence; authority's interdisciplinary competence; functional organs.

Objects of environmental protection (Article 7 of the Environmental Code):

1) Protection from destruction, degradation, damage, pollution and other harmful effects of subject land, subsoil, surface water and groundwater; air; forests and other vegetation; fauna, the gene pool of living organisms; natural ecological systems, climate and ozone layer of the Earth.
2) Special protection shall be especially protected natural territories and objects of the state natural reserve fund.

Types of environmental control: the state; departmental; industrial; public. State environmental control - the activity of the authorized body in the field of environmental protection to monitor compliance with the environmental legislation of the Republic of Kazakhstan, environmental quality standards and environmental requirements.

Types of environmental expertise: state; public; scientific; regulatory; sanitation; Legal environmental monitoring includes the following elements: a system-wide service of monitoring the state of the environment (republican, territorial, regional authorized bodies, station, observation centers); monitoring of natural objects.

Environmental liability is a complex Institute for Environmental Law, which regulates legal relations arising from and related to the application of sanctions for environmental offenses between the competent authority to impose sanctions and environmental offender. Types of ecological and legal liability: criminal, administrative, civil, disciplinary, material.

Questions for self-control.

1. List the sources of environmental law
2. What are the objects of environmental protection, according to the EC RK?
3. What is meant by environmental?
4. What kinds of environmental impact assessment.

Normative legal acts.

1. The Constitution of the Republic of Kazakhstan (as amended).
2. Code of the Republic of Kazakhstan dated January 9, 2007 № 212-III «Environmental Code of the Republic of Kazakhstan" (with changes and additions
3. Water Code of the Republic of Kazakhstan dated July 9, 2003 № 481-II (as amended)
4. Forest Code of the Republic of Kazakhstan dated July 8, 2003 № 477-II (as amended)
5. Land Code of the Republic of Kazakhstan dated June 20, 2003 № 442-II (as amended)
6. "Strategy - 2050". Message of President NursultanNazarbayev to the people of Kazakhstan. December 2012.

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8 Information Portal- http://www.zakon.kz/.
9 The Ministry of Internal del- http://www.mvd.kz.

Lecture 11. Bases of International Law

Main questions:

1) The concept of the essence, goals and objectives of international law.
2) Sources of international law.
3) Subjects of international law.

International law is the result of social practice. Appearing as a way of making people aware of (groups, classes) of its material interest, especially in connection with the ever-changing international relations, it has had and has a great influence on the development of nations and peoples. This is a special legal system governing international relations of its subjects by legal rules created by the fixed (agreement) or tacitly expressed by (custom) agreements between them and provided coercion, forms, nature and extent of which are determined in international agreements.

International law - a system of legal principles and rules of conventional and customary nature of the resulting agreements between States and other subjects of international communication and regulating the relationship between them with a view to a peaceful co-existence.

The main features of international law are:

1) International law - a set of legal norms and principles;
2) These rules are created by the fixed (agreement) or tacitly expressed by (custom) agreements between subjects of international law;
3) These provisions are recognized when the subjects of international law as legally binding;
4) Implementation of international law provided coercion, forms, nature and extent of which are determined in international agreements.

In international law, the sources of law are treaties and international custom; in domestic law - the law, by-law, custom, standard contract.

All sources of international law are divided into two main groups: primary and secondary means of creation of international legal norms. The first group included

international custom and treaty, the second are the decisions of international organizations, national legislation, judicial decisions, doctrine of scientists in the field of international law. International custom - the prevailing international practice, the rule of conduct for which the actors recognize the WFP (mostly silent) legally binding. Statute of the International Court of Justice (pp. "B" to claim 1 of Article 38) has defined custom as evidence of "a general practice accepted as law."

International law - a special system of legal norms. Special because it creates the subjects of this law is voluntary and intended, above all, aim to encourage States to voluntarily cooperate with each other. International law governs relations between predominantly classic subjects of law (states, nations and peoples struggling for national independence, international intergovernmental organizations and government education). Coercion in international law - an exceptional measure to be applied by the competent authority (UN Security Council) in order to prevent a threat to international peace and security. This suggests that international law nature of coordination.

The essence of international law is reduced to the following provisions:

1) International law - the system of law governing relations, especially between the states as main subjects of law.
2) Norms of international law are made by "matching wills" states.
3) International law has its specific function: coordinating, regulating, interim, communication, security.
4) International law regulates the relations not only between the classical subjects of international, but also other legal subjects (natural and legal persons, international non-governmental organizations, entities of a federal State).
5) International law plays a stabilizing role in international relations.
6) International law is working closely with national law, developing and specifying it.
7) International law has no supranational enforcement regulations enforcement mechanisms of international law.

An important feature of international law is that it acts as a single separate legal system with its branches and institutions. Thus, it is not a branch of the domestic law and is not included in its legal system.

Questions for self-control.

1. State as main subject of international law.
2. Essence of international law.
3. Features of creation of the international standards.

Normative legal acts.

1. The Constitution of the Republic of Kazakhstan. 1995, as amended
2. Criminal Code of the Republic of Kazakhstan from July 3, 2014 № 226-V SAM
3. The Civil Code of the Republic of Kazakhstan (general) of 27 December 1994 (as amended)

4. The Civil Code of the Republic of Kazakhstan (special part) (as amended

Additional literature

1 Batychko V. T. International law. Abstract of lectures. Taganrog: TTI SFU, 2011
2 Egorov S. A. International law: Textbook / 5th prod., reslave. and additional – M.: Statute, 2014. – 1087 pages.

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