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UNIVERSITY OF GOVERNMENT FISCAL SERVICE OFUKRAINE
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GO «ALLUKRAINIAN ASSOCIATION of CRIMINAL RIGHT»

After the general release of Topchiy V.V

Didkovskaya G.V., Mudryak T.O., Hmyrin A.A.,
Nikitin YU.V., Topchiy V.V

Train aid is CRIMINAL RIGHT for UKRAINE. SPECIAL PART

(schematic collection of lectures by English languages)

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After the general release of Topchiy V.V

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Criminal right for Ukraine. Special part. Train (schematic collection of lectures English languages) aid Train aid is prepared by the collective of authors ofdepartment of criminal right and criminology of UniversityДФС Ukraine. His aim - to give help to the students in thestudy of basic concepts of Special part of criminal right the Ukrainian and English languages.

A manual contains the schematic images of theoretical andlegislative positions of the field of criminal law, maintenanceof other laws and pidzakonnykh normative acts takes intoaccount, in particular resolutions of Plenum of Supreme Courtof Ukraine.

Recommended for students, students, pedagogical and scientifically-pedagogical workers of legal establishments of Ukraine.

LIST OF MAIN BRIEFS

ARC - Autonomous Republic of Crimea
The Verkhovna Rada of Ukraine is the Verkhovna Rada of Ukraine
The Armed Forces of Ukraine is the Supreme Court of Ukraine
GPU - General Prosecutor's Office of Ukraine
DFS - The State Fiscal Service of Ukraine
EU - European Court of Human Rights
3O - Crime organization
CRC - Criminal-Executive Code of Ukraine
Labor Code - Labor Code of Ukraine
CC - The Criminal Code of Ukraine
Cabinet of Ministers of Ukraine - Cabinet of Ministers of Ukraine
CPC - Criminal Procedure Code of Ukraine
The Constitutional Court of Ukraine is the Constitutional Court of Ukraine
KU is the Constitution of Ukraine
Ministry of Internal Affairs - Ministry of Internal Affairs of Ukraine
CO - Organized group
PVS Ukraine - Plenum of the Supreme Court of Ukraine

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The concept of a Special part of the criminal law of Ukraine

Lecture plan

1. Notion and features of the Special Part of the Criminal Law of Ukraine
2. Correlation of General and Special Part of Criminal Law
3. System of the Special Part of the Criminal Law of Ukraine

The meaning of the term "Special part of the criminal law of Ukraine»

The term "Special part of the criminal law of Ukraine» means:

1) part of the branch of law;

2) a part of the criminal law;

3) practical law enforcement activities;

4) educational discipline;

5) branch of legal science.

A Special part of the criminal law of Ukraine as a component of the field of law is

the system of rules enshrined in the Criminal Code, which define the signs of individual crimes are establishes the types and sizes of penalties for their commission, clarifies the criminal-law concepts concerning certain attacks, provides the conditions for exemption from criminal liability for a number of crimes.



Signs of a Special part of criminal law

1) it is a system of rules;
2) the rules set forth in the Special Part of the Criminal Code;
3) specific provisions of each individual crime are fixed in such rules

Types of rules of the Special Part of Criminal Law

- by the form of the presentation of the legislative material - descriptive, blank, offset, mixed;
- by the public danger of crimes, which include - the rules about the basic, qualified, especially qualified and privileged crimes.
- on the content - prohibitions; explanatory (defining); encouraging (stimulating); exclusive (restrictive).

Correlation of General and Special Part of Criminal Law:

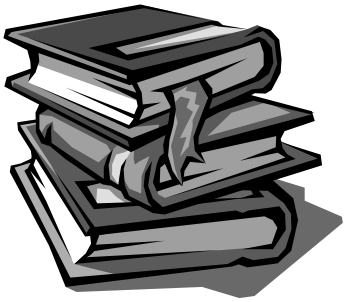
- one article – one rule
- one article – several rules
- several articles – one rule

Signs of practice of the Special Part of the Criminal Law of Ukraine:



1) is based on the law;
2) is produced in the course of law enforcement activities;
3) the dominant position
4) stability;
5) written and unwritten form.

The subject of the Special part of the Criminal Law of Ukraine as a discipline:



1) Articles of the Special Part of the Criminal Code;
2) practice;
3) history;
4) foreign law;
5) problems of improvement of the Criminal Code and practice;
6) the corellation of criminal and other types of legal liability

The meaning of a Special part of Criminal Law

- an exhaustive list of crimes and punishments;
- the grounds for liability for certain crimes;
- differentiation of responsibility;
- assessment of the public danger of encroachment committed by the legislator;
- delineation of criminal and non-criminal offenses;
- a hierarchy of law-protecting interests
- specified General Provisions
- the foundations of the system of a number of other legal disciplines are laid

Unity of the General and Special Part of the Criminal Law of Ukraine

1) an array of rules expressed in one law - CCU;
2) the same tasks;
3) the expression of the same criminal policy;
4) the same principles;
5) the rules are applied only interrelated;
6) the structural elements of the rules are expressed in both General and the Special Part;
7) interdependence with changes.

The distinction between the General and the Special Part of the Criminal Law of Ukraine:

1) in the content of rules;
2) in the structure of rules;



Correlation of General and Special Part of Criminal Law:

- **CRIMINAL LAW =**
- **Rg.p. (Rs.p.+Rs.p.+...), where:**

System elements of the Special part

- articles of the Special Part of the Criminal Code;
- rules of the Special Part of Criminal Law;
- typical law enforcement decisions;
- scientific problems and regularities;
- separate topics.



Criteria for systematization of elements of the Special Part of Criminal Law

1) combining elements into larger structural units;
2) the sequence of their location;
3) the sequence of placement of individual elements within the structural units.

Systematization of elements of the Special Part of Criminal Law

1) the combination of elements into larger structural units - based on the unity of the generic object;
2) the sequence of their location - from the more dangerous - by the nature of social danger;
3) the sequence of the placement of individual elements within the structural units - from the more dangerous - to less dangerous encroachments.

System of the special part of the spacecraft

- **340 articles (from 109 to 447);**
- **72% of the articles are divided into parts, within one - the selected points;**
- **more than 30 articles include notes;**
- **20 sections;**
- **titles (titles).**

The following system of academic discipline is offered:

- **Introduction to the Special Part of the Criminal Law of Ukraine**
- **Criminal law protection of a person and his rights in Ukraine**
- **Criminal Law protection of society in Ukraine**
- **Criminal law protection of the state and its interests in Ukraine**
- **Criminal law protection of the foundations of national and international security in Ukraine**

The system of the Special part of the Criminal Law of Ukraine is



a set of rules that establish responsibility for certain crimes, located in the order determined by the legislator of Ukraine in the Criminal Code.



Crimes against the foundations of national security of Ukraine

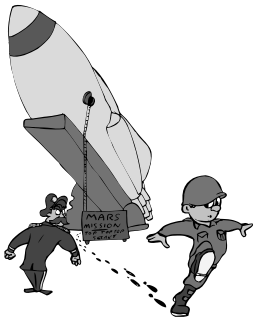
Lecture plan

1. **The notion, general characteristics and types of crimes against the foundations of national security of Ukraine.**
2. **Actions aimed at violent change or overthrow of the constitutional order or the seizure of state power.**
3. **Attack on the territorial integrity and inviolability of Ukraine.**
4. **State treason.**
5. **Attack on the life of a state figure or public figure.**
6. **Sabotage.**
7. **Espionage.**

Crimes against the foundations of national security of Ukraine

- **Chapter 1 of the Special part of CC of Ukraine**

Articles 109 – 114 CC



The prevalence of crimes against the foundations of national security of Ukraine

2014 – 29,0 %;
2015 – 40,0 %;
2016 – 33,9 %;
2017 – 26,7 %.

statistical annual of Ukraine i s for 2017

Degree of severity of crimes against the foundations of national security of Ukraine

60 % grave and particularly grave crimes
40 % crimes of moderate severity
0 % crimes of minor severity
By degree of severity in second place, after section XX

Khavronuk M.I. Categories of crimes and sanctions of the special part of the Criminal Code of Ukraine: scientific research and some conclusions. Ed. M.I.Melnyk // The Criminal Code of Ukraine of April 5, 2001 Compilation and the front word M.I. Melnyk, M.I. Khavronuk. - K.: A.C.K., 2001. - P.226-227.

Generic object of crimes against the foundations of national security of Ukraine

Security ...

Foundations – most important, decisive, most valuable

National:
- ethnic aspect?
- political aspect?

Types of crimes against the foundations of national security of Ukraine

1) Crimes against the foundations of external security (art111, 114)

2) Crimes against the foundations of political security (art.109, 112)

3) Crimes against the foundations of internal security(art.110, 113)

State treason (art.111 CC)

The notion in the CC is formulated through the indication on :

1. **object**
2. **ways (3)**
3. **time of commission (2)**
4. **subject (citizen of Ukraine)**
5. **form of guilt (intent)**

Ways of state treason

1) transition to the side of the enemy;
2) providing a foreign state, a foreign organization with assistance in carrying out subversive activities against Ukraine;
3) espionage



Terms of release from criminal liability for state treason

1) failure to act on a criminal offense;
2) voluntary statement to state authorities about:

- relationship with a foreign state...
- task received



The object of espionage

Information that constitutes state secrets



On State Secrets: Law as of 21 September 1999

A set of information constituting state secrets (SISS): order of the head of the SSU as of 1 March 2001 // -2001.-№13,№48

The objective side of espionage

Transfer of information constituting state secrets

Collection of information constituting state secrets

The subject of espionage

Foreigner

A person without citizenship

The objective side of the crime provided by art.109 CC

Par.1 art.109 CC:

- **Forcible overthrow of the constitutional order**
- **Violent change of the constitutional order**
- **Capture of state power**
- **Conspiracy. . .**

The objective side of the crime provided by art.109 CC

Par.2 art.109 CC:

- **Public appeals. . .**
- **Distribution of materials with appeals**

The victim of the assault on life. . . (art.112 CC)

- **President**
- **Chairman of the Verkhovna Rada**
- **People's Deputy**
- **Prime Minister**
- **Member of the Cabinet of Ministers**
- **Chairman or Judge of the Constitutional Court**
- **Chairman or Judge of the Supreme Court**
- **Chairman or Judge of the High Specialized Courts**
- **Verkhovna Rada Commissioner for Human Rights**
- **Chairman of the Accounting Chamber**
- **Head of the National Bank**
- **Head of the political party**

Attack on the territorial integrity and inviolability of Ukraine

- **Change the boundaries of the territory of Ukraine**
- **Change the state border of Ukraine**
- **Public appeals for such actions**
- **Distribution of materials with appeals. . .**

Section II Crimes against the life and health of the individual

Crimes against the life and health of the individual

Lection plan

1. **The notion and types of crimes against the life and health of the individual.**
2. **Intentional murder.**
3. **An intentional murder committed in a state of intense emotional excitement.**
4. **The intentional murder of the newborn child by its mother.**
5. **A deliberate murder in excess of the limits of the necessary defense or in case of exceeding the measures necessary for the apprehension of the offender.**
6. **Murder through negligence.**
7. **Willful bodily harm.**
8. **Infection with Human Immunodeficiency Virus.**

Dynamics of intentional murders (qualified + simple)

Persons convicted:
1990 – 1808 persons
2000 – 3710 persons
2017p.- 5145
2018 p. - 5557

Herald of the Supreme Court of Ukraine. – 2002 – No.3 – p.43

Changes to Section II of the Special Part of the Criminal Code of Ukraine

Law of Ukraine No. 2322-IV as of 05.11.2009.

In art.127. Torture

- set out in the new wording

Resolution of the Plenum of the Supreme Court of Ukraine

On judicial practice in cases of crimes against life and health of a person	Resolution No.2 as of February 7, 2003 p. // Herald of the Supreme Court of Ukraine. – 2003. – No.1. – p.37-42

Methodology for determining the concept of a particular group of crimes

General definition of crime– p.1 art.11 of the CCU:
The crime under this Code is a socially dangerous guilty act (action or inaction), committed by the subject of a crime

General signs are «replaced» by specific crimes specific to this group
Pointing to:
- place of rules in the system of CCU;
- generic object

The crimes against the life and health of the person are -

foreseen by Section II of the Special Part of the Criminal Code of Ukraine, socially dangerous intentional and careless acts that encroach on the natural interests of a person, inseparable from the carrier of goods - its life and health.

The generic object of the crimes under consideration is

set of social relations in which the person comes over to ensure integrity of the natural inherent benefits - life and health.

The person

This is the person who is the bearer of:

1) biological properties;

2) social features.



Criminal and legal significance of biosocial personality

1) the right to life and health is natural
2) third parties are not allowed to dispose of the natural benefits of other people
3) all are equal and subject to the same protection
4) Limited in the benefits are protected on an equal footing with all
5) CCU does not protect parts of the human body

The direct object of the encroachment is

social relations in which a person comes about the inviolability of their own natural inalienable goods - the life or health of another person

The system of crimes envisaged by Section II of the Special Part of the Criminal Code

1) crimes against life;
2) crimes against health;
3) crimes against safety of an individual.



Types of crimes against life

1) murder (art.115-119 of the CCU);
2) bringing to suicide (art.120 of the CCU);
3) crimes in which harm to health «grows» into the death of the victim (p.2 art. 121, p.2 art.134, p.3 art.135, p.3 art. 136, p.2 art.137, p.2 art.139, art.141 of the CCU).

Types of murder

By the form of guilt :

1) intentional;
2) committed through negligence.

By the degree of social danger

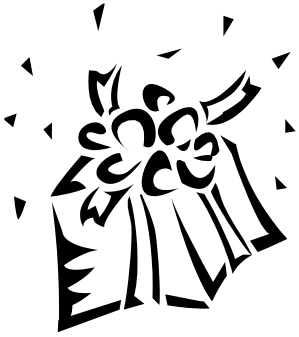
1) simple intentional;
2) qualified intentional;
3) "previliged" intentional.

Notion of murder (p.1 art.115 of the CCU)

- Intentional
- Illegal
- Cause of death
- To other individual



Life of other individualas the direct object of the attack



- Moment of life start – the ability of the newborn to independent existence
- Moment of life end – biological death

Simple intentional murder (p.1 art.115 of the CCU)

- absence of signs of p.2 art.115 of the CCU;
- absence of signs of art.116-119;
- absence of signs of art. 112, 348, 379, 400, ч.4 ст.404 of the CCU.

It is a deprivation of life in a fight, from revenge on the basis of personal relationships, from jealousy, with the seizure of property from unfamiliar possession, etc.

Qualified intentional murder (p.2 art.115 of the CCU)

p.2 art.115 = p.1 art.115 + feature (features), provided by cl.1-13 art.115 of the CCU.

Circumstances that constitute an intentional murder

1) which characterize the victim :
- two or more individuals (cl.1);
- a young child or a woman who was known to be in a state of pregnancy for the perpetrator (cl.2);
- hostage (cl.3).

Circumstances that constitute an intentional murder

2) which characterize the method of murder:

- committed with special cruelty (cl.4);
- committed in a way that is dangerous to the lives of many people (cl.5).

Circumstances that constitute an intentional murder

3) which characterize the motive and purpose of the murder:

- from selfish motives (cl.6);
- from hooligan motives (cl.7);
- a person or his close relative in connection with the performance of this person's official or public duty (cl.8);
- committed with the aim of concealing another crime or facilitating its commission (cl.9);
- combined with rape or violent pleasure of sexual desire in an unnatural way (cl.10);
- made to order (cl.11).

Circumstances that constitute an intentional murder

4) which characterize the subject of murder:
- committed by a preliminary conspiracy by a group of individuals (cl.12);
- committed by a person who previously committed an intentional murder, with the exception of the murder provided in Articles 116-118 of the CCU (cl.13).

Contents of the circumstances qualifying the intentional murder

Characterized in the resolution of the Plenum of the Supreme Court of Ukraine as of April 1st, 1994. «On judicial practice in cases of crimes against human life and health».



An intentional murder committed in a state of intense emotional excitement

Art.116=
p.1 art.115 +
1) unlawful violence, systematic bullying or severe abuse by the victim;
2) a state of strong emotional excitement;
3) the sudden occurrence of such state.

Violence is

physical impact on the organism of the victim, which is expressed in
- strike, beatings;
- another causing of physical pain;
- causing of bodily injures;
- application of potent or poisonous substances, electric current;
- injections of drugs without the consent of the victim;
- other similar actions.

Mental violence

- The so-called "mental violence" does not include in the definition of violence.
- The legislator uses the term «threat»



The intentional murder of the newborn child by its mother

Art.117 = p.1 art.115 +

1) victim – a newborn child;

2) time of crime commitment - birth or immediately after birth;

3) special subject - mother.

An intentional murder while exceeding the necessary defense level or...

Art.118 of the CCU = p.1 art.115 of the CCU+

1) signs of the necessary defense, characterizing the encroachment (its social danger, the presence, reality);
2) part of the signs that characterize the protection (causing harm - encroaching, the purpose of protecting the interests of the individual, society, state);
3) a clear discrepancy between the damage and the danger of an attack or the protection situation;
4) absence of conditions stipulated in p. 5 of Article 36 of the Criminal Code of Ukraine.

Types of crimes against health

1) injuries (art.121-125, 128 of the CCU);
2) sadism (art.126, 127 of the CCU);

The meaning of the term «healthy» in the CCU

To indicate the health of a person
(a person, an individual)
(in section II of the Special part of the CCU)

To indicate the health of population
(in section XIII of the Special part of the CCU)

The health of the individual is

social relations, which consist of ensuring the inviolability from the external influence of the actual, existing at the time of the collision the state of the organism, which ensures the ability to work, social activity, all life activities of the individual.

Types of injuries

By the form of the guilt:

1) intentional;
2) careless.

Types of injuries

By degree of severity :

1) severe;
2) moderate severity;
3) light severity (2 sub-types).

Types of injuries

By the degree of social danger:
1) simple;
2) qualified intentional (severe and moderate severity);
3) "privileged" intentional (severe).

The notion of injuries

Rules of forensic medical assessment of the severity of bodily injuries : approved by the order of the Minister of Health of Ukraine dated January 17th, 1995.



Signs of bodily injury

1) wrongfulness
2) guiltiness
3) orientation against another person
4) violation of anatomical integrity of tissues, organs or their functions

Body injuries -

are an unlawful, guilty physical or psychological influence on a stranger's organism, which consists in violation of the anatomical integrity or physiological functions of organs and tissues.



Degree of severity of bodily injury

1) severe (art.121 of the CCU);
2) moderate severity (art.122 of the CCU);
3) light severity (p.1 art.126 of the CCU);
4) light severity, which caused a short-term health disorderness or a slight disability (p.2 art.126 of the CCU)

Criteria for the severity of bodily injuries

Pathological and anatomical (medical)

- danger to life (yes / no)
- duration of health disorder

Economic

- the size of the disability

Signs of severe bodily injury

x6, named in p.1 art.121 of the CCU.
The content is disclosed in clauses 2.1.2.2.1.8. of the Rules of forensic medical assessment of the severity of bodily injuries.



Signs of severe bodily injury

1) danger to life at the time of infliction



Signs of severe bodily injury

2) loss of any organ or its functions



Signs of severe bodily injury

3) mental ilness



Signs of severe bodily injury

4) another health disorder, combined with a permanent disability for at least 1/3



Signs of severe bodily injury

5) abortion



Signs of severe bodily injury

6) irreparable face eruption



Signs of moderate severity bodily injuries

"-" 2	"+" 1 or 1
1) lack of danger to life;	**3)** **- long-term health disorder (over 21 days);**
2) absence of the consequences specified in Article 121 of the Criminal Code;	**- a significant sustained loss of capacity for less than one third (from 10% to 33%);**

Types of light severity bodily injuries

1) which did not cause a short-term health disorder or a slight loss of capacity (Part 1 of Article 125 of the Criminal Code).

2) which have caused a short-term health disorder or a slight loss of capacity (Part 2 of Article 125 of the Criminal Code).

Signs of light bodily injury 1

1) lack of danger to life;

2) lack of other signs of the severe bodily injuries;

3) disorder - no more than 6 days

Signs of light bodily injury 2

1) lack of danger to life;
2) lack of other signs of the severe bodily injuries;
3) short-term health disorder (7 - 21 days);
4) insignificant loss of ability to work (up to 10%).

Intentional severe bodily injury, which caused the death of the victim

p.2 art.121 of the CCU = p.1 art.121 + art.119

Difference from murder :
- number of injuries
- localization
- use of equipment
- previous relationships
- behavior after an attack

The difference between bodily injuries and the manifestations of sadism

Bodily injuries = disturbance of anatomical integrity or functions of organs and tissues of the victim's organism

The manifestation of sadism =
- cause of physical pain
- short-term effects in the form of bruises, blood transfusions, scratches on the surface of the body.

Torment

- **are actions aimed at the long-term deprivation of individual from food, drinking or heat, leaving it in harmful conditions and other similar actions.**

Mordeling

- **actions connected with repeated or prolonged cause of pain - pinching, flogging, causing numerous but small injuries with dull or sharp objects, the effects of thermal factors, and other similar actions.**

Types of crime against individual's security

1) Crimes related to the influence on the mentality of another person (art. 129, 132, 145 of the CCU);
2) Crimes related to the spread of certain diseases (art. 130 – 131, 133 of the CCU);
3) Offenses related to inappropriate behavior during a danger that threatens another person (art. 135 –137, 139-140 of the CCU):
4) «Medical» crimes (art. 134, 138, 141-144 of the CCU):

Individual's security is

social relations, which consist of the creation of such state where there is no threat, a harm to human life and health is not caused and can not be caused, and the danger that has arisen, neutralizes or eliminates.

Factors of danger to life and health of an individual

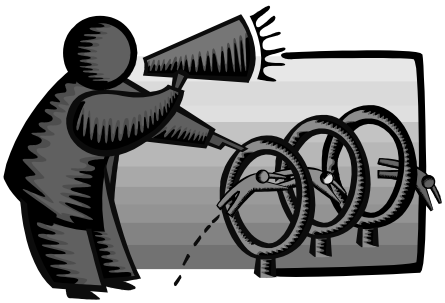
- **bringing certain information to the individual;**
- **the spread of certain diseases;**
- **objective factors that cause the victim to face death or other grave consequences;**
- **medical operations.**

The difference between crimes against person's security and adjacent attacks

1) based on the victim's number
2) based on the grounds of taking security under protection
3) based on the sources of danger

Threat is

intention to cause harm (to commit evil) brought to the victim.



Indication of a threat in the Criminal Code:

- whom the threat is addressed to or who will be harmed;
- specification of the nature of the damage threatened;
- way of causing possible harm;
- specification of the size of possible harm;
- the size and nature of the damage, its addressee is not specified.

Criminalized threat :

- **as an independent crime - is provided by separate articles of the Special Part of the Criminal Code;**
- **is a way of committing other attacks - acts as a sign of a basic or qualified crime.**

The qualification of a threat, which is a method of committing another crime

The general rule: if the sanction of the article (part of the article), which provides the commitment of a crime using an unconcretised threat is greater than Article 129 of the Criminal Code, only the rule of the «basic» crime is charged.

Special rules on the threat of murder

1) p.2 art. 189 (at extortion);
2) art.280 (forcing the vehicle worker);
3) art.345 (against a law enforcement officer);
4) art.346 (against a state or public figure);
5) art.350 (against an official, citizen...);
6) p.2 art. 355 (coercion to civil law commitments);
7) art.386 (interference with the appearance of a witness);
8) art.398 (defender or representative of a person);
9) art.405 (the boss).

Signs of reality of threats :

- objective
- subjective



Information, energy as objects of crime



- **the form of the existence of matter;**
- **exist objectively;**
- **quantitative and qualitative features - to distinguish from similar subjects;**
- **signs are fixed in the CCU.**

Secret is

- **an information that has a limited distribution and is hidden from third parties.**
- **has a special legal regime**

Types of secrets in the CCU

- medical (art.145 of the CCU);
- voting (art.159, 160 of the CCU);
- state (art.114, 328, 329, 422 of the CCU);
- commercial (art. 231, 232 of the CCU);
- correspondence... (art.163 of the CCU);
- adoption (art.168 of the CCU);
- information about the medical examination (art.132 of the CCU);
- information which is the property of the state (art.330 of the CCU);
- personal data (art.182 of the CCU);
- on bankruptcy (art.220 of the CCU);
- investigation or inquiry (art.387 of the CCU).

Signs of secrecy

1) meaningful
2) subjective
3) juridical

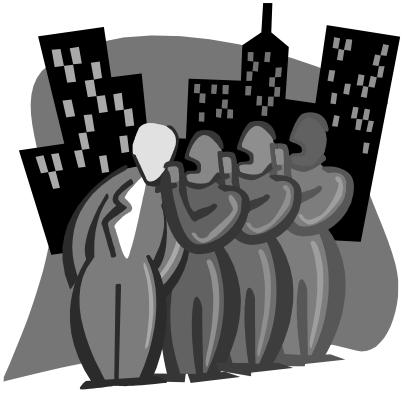


Activities on secrecy

- - collection;
- - transfer;
- - break;
- - receiving;
- - other use;
- - loss;
- - disclosure.

Disclosure is

bringing relevant information to at least one outsider



Infectious disease as a type of criminal assault

1) method of killing, causing bodily harm;

2) independent types of crimes



Disease, infection by which is allocated in separate norms



1) HIV;

2) incurable infectious diseases;

3) venereal diseases.

Terms of liability for criminal inactivity

1) the guilty party was obliged to take certain actions;
2) the guilty could do these actions;
3) the execution of an action that a person should and could do would to prevent the victim from being threatened.

Life-threatening condition:

1) real changes in the environment;
2) there was a possibility of death;
3) reality of danger;
4) the danger to life is not caused by the actions of the perpetrator

Grounds for the obligation to provide assistance

- family relationships;
- labor or official duties;
- previous behavior.

Signs of a criminal abortion

- there is no clearly expressed desire of the woman;
- pregnancy period more than 12 weeks;
- the presence of medical contraindications;
- surgery outside the appropriate medical facility;
- use of not recommended or prohibited methods of abortion

Section III Crimes against freedom, honor and dignity of the individual

Crimes against freedom, honor and dignity of the individual

Lecture plan

1. Notion and types of crimes against the freedom, honor and dignity of the individual.
2. Illegal imprisonment or kidnapping.
3. Hijacking.
4. Substitution of a child.
5. Human trafficking or other illegal agreement on the transfer of person.
6. Exploitation of children.
7. Illegal placement in a psychiatric institution.

Title of the section and its contents

"Crimes against freedom, honor and dignity of an individual"	**The section does not contain articles that imply encroachment upon the honor and dignity of the individual (slander, insult)**

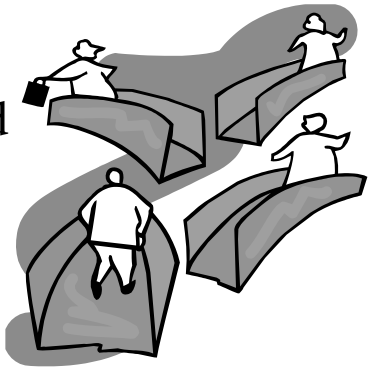
Criminal misconduct of crimes against the freedom of a person

Section III "Crimes against freedom, honor and dignity of the individual"

Section XV "Crimes against the authority of state bodies, local self-government bodies and citizen associations",
Section XVII "Crimes in the field of official activity",
Section XVIII "Crimes against justice",
Section XIX "Crimes against the established order of military service"

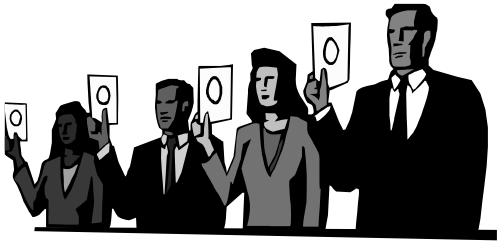
The object of the crimes provided for in Section III of the Special Part of the CC

Freedom is usually understood as independency of a person



The object of the crimes provided for in Section III of the Special Part of the CC

The honor of a person is his/her public assessment



The object of the crimes provided for in Section III of the Special Part of the CC

Dignity of a person - it is respect for the corresponding moral qualities in itself, self-esteem.



Direct Objects

- freedom of adults
- freedom of children



Crimes against freedom –

established by articles of Section III of the Special Part of the CC deliberate socially dangerous actions, which encroach on the totality of social relations, consisting of the freedom of the individual – his/her independent existence and independent development in society.

System of crimes against personal freedom of an individual

1) encroachment on freedom of choice of place of residence (section II);
2) encroachment on freedom to remain in a free state (violated by threats);
3) encroachment on ability to freely exercise their actions (violated by coercion).

Types of crimes against the freedom of an individual

Crimes against the freedom of adults :
1) crimes against freedom of movement (art.146, 147, 151 CC);
2) arrangements in relation to another person (art.149 CC).
Crimes against the freedom of children
(par.2,3 art.146, par.2,3, art.149, art.148, art.150 CC)

The content of the direct object of crimes against the freedom of adults

Ensuring personal freedom in its various aspects:
- movement;
- moving across the border;
- employment;
- choice of behavior;
- determination of their children fate;
- treatment of mental illness.

Victim of crime

a person whose characteristics are indicated in the disposition of the article of the CC



Categories of victims in the articles of Section III of the Special Part of the CC

Differentiated according to:

- age
- family relations
- number
- state of health
- previous actions committed against such persons

Socially dangerous acts in the syllables of crimes against the freedom of the individual:

1) unlawful imprisonment;
2) kidnapping;
3) seizure or detention;
4) substitute;
5) sale;
6) other fee-based transfer;
7) committing another illegal transaction;
8) exploitation;
9) illegal placement in a psychiatric institution.

Unlawful imprisonment: features

1) wrongfulness

2) contrary to the will of the victim

Kidnapping

Kidnapping of person is associated with his/her displacement.

Seizure or detention of person

1) hostage-taking; 2) holding a hostage.

Sale; Other fee-based transfer; Committing another illegal transaction

A person is not a party to the transaction, but its subject



Illegal placement in a psychiatric institution

1) hospitalization of a mentally healthy person

2) leaving the person in an institution with no reason

Minor person (art.2 and 3 art.149)
Minor hostage (par.2 art.147),
Child (par.3 art.149),
Someone else's child(art.148)

Up to 18 years



Someone else's child

- Biological feature
- Legal feature



A child who has not reached the age from which employment is permitted (par.1 art. 150)

- 16 years – under general rules
- 15 years – with the permission of the parents
- 14 years – during the holidays...

Juvenile (par.2 and 3 art.146)

Up to 14 years



Section IV. Crimes against sexual freedom and sexual integrity of a person

Crimes against sexual freedom and sexual integrity of a person

Lecture plan

1. Notion and types of crimes against sexual freedom and sexual integrity.
2. Rape.
3. Forced sexual pleasure in an unnatural way.
4. Sexual intercourse with a person who has not reached sexual maturity.
5. Abuse of minors.

Crimes against sexual freedom and sexual integrity of a person

Section IV of the Special Part of the CCU **Articles 152-156**

Latency of crimes

- In the world - about 60%
- In Ukraine, the level of latency is confirmed - 30%
- The latency on rape is 1: 100

Resolution of the Plenum of the Supreme Court of Ukraine dated March 27, 1992

«On judicial practice in cases of rape and other sexual crimes»



Changes made to Section IV of the Special Part of the Criminal Code of Ukraine

- By the Law of Ukraine of 21.12.2004 «On Amendments to Article 153 of the Criminal Code of Ukraine
- In art.153 "Forced sexual pleasure in an unnatural way"
  - changes in disposition of p. 3

Criminal misconduct of «sexual» crimes

Section IV. Crimes against sexual freedom and sexual integrity of a person (art.152-156 of the CCU)

- Section II. Offenses against the life and health of a person (art.130, 133, art.134 of the CCU).
- Section III. Offenses against the will, honor and dignity of the individual (art.149 of the CCU).
- Section XII. Offenses against public order and morality (art.301, art.302 art.303 of the CCU).

Principles of public relations in the sexual sphere

- Restriction of state intervention
- This is the relationship between people
- Strengthened protection of children
- Strengthened protection of women
- Admissibility of voluntary homosexual intercourse between adolescents

The object of the crimes provided for in Section IV of the Special Part of the Criminal Code

Sexual freedom Sexual integrity

Sexual freedom

- the ability of a person to freely choose sexual partners and a way to meet sexual needs

Sexual integrity

is a complete ban to engage in sexual relations with a person:
1) of a certain age (physical development);
2) who are not able to realize the significance of the actions that are committed with them, express their will.

Victim

1) persons of the other sex in respect of perpetrator (art.152, 155 of the CCU)

2) a person of the other, and one sex with the perpetrator of the crime(art.153, 154, 156 of the CCU).

Crimes against sexual freedom and sexual integrity of a person

- is provided for by Article IV of the Criminal Code deliberate actions of a sexual nature against social relations that develop on the interests and needs of people in the area of relationships between items.

The system of crimes against sexual freedom and sexual integrity of a person

1) Sexual aggression (art.152-154 of the CCU)

2) Attack on the sexual development of a person (art.155-156 of the CCU)

The objective side of rape

Sexual relations (natural)

1) the use of violence;
2) the threat of its use;
3) use of the helpless state of the victim

The use of violence as a sign of art.15, 153 of the Criminal Code

- Externally affecting the body of another person
- The intensity is sufficient to overcome the resistance
- Applies to the person from whom sexual intercourse is sought

External impact on the victim



- Does it include only physical effects (beatings, injuries)?
- Cover and apply energy, fields, chemicals?

Intensity of violence

- For the purpose of sexual intercourse
- Is a means to overcome real resistance
- Sufficient to overcome the resistance

The recipient of violence



- Only a victim?
- Other persons?

The threat as a sign of article 152, 153 of the Criminal Code

1) the content of the threat;
2) the intensity of the threat;
3) who is addressed;
4) the urgency of implementation.

Helpless condition as a sign of article 152, 153 of the Criminal Code

The inability of a person to realize the significance of actions committed against her

Inability to resist the abuser

Causes of being in a helpless state

- Drinking (alcohol, narcotic, toxic)
- Young age, old age
- Invalidity
- Disease

Coercion

Non-violent threat :
- official
- material;
- personal

The implementation of the threat is remote (in the future)

Qualifying, especially qualifying attributes of Article 152, 153 of the Criminal Code

Highlighted with dedication to:

1) repetition;
2) the presence of the group;
3) the age of the victim;
4) the existence of particularly grave consequences

Repetition of sexual crimes

- Actual
- Within the limits of prescription and conviction
- Regardless of the stage
- Regardless of complicity

Group of people

A quantitative sign	A quality sign
=	=
2 and more	co-executors

Age of victim

Tutelage (up to 18 y.o.)	Subjective Attitude
	=
Pupillage (up to 14 y.o.)	«Carelessness in the mind» (knew or allowed, could and should have foreseen)

Particularly grave consequences of rape

P.15 - death or suicide of the victim, loss of any organ or its functions, mental illness or other health disorder, combined with permanent loss of capacity of not less than 1/3, irreparable face eruption, abortion or loss of ability until childbirth, as well as HIV infection or syphilis

Particularly grave consequences



- Hard bodily harm is dangerous to life at the time of infliction
- Infection with syphilis

A person who has not reached sexual maturity

Age criterion

- up to 14 y.o.
- after 18 y.o.
- from14 to 18 y.o.

Physical and mental development

A victim of abuse of minors

Up to 16 y.o.
(not 18)



Crimes against electoral, labor and other personal rights and freedoms of man and citizen

Lecture plan

1. Notion and types of crimes against election, labor and other personal rights and freedoms of man and citizen.
2. Interference with the exercise of electoral law.
3. Violation of the equality of citizens depending on their race, nationality or attitude to religion.
4. Violation of the inviolability of housing.
5. Violation of the secrecy of correspondence, telephone conversations, telegraphic or other correspondence, transmitted by means of communication or through a computer.
6. Violation of copyright and related rights.
7. A gross violation of labor legislation.

Dynamics of crimes against … rights and freedoms

- **2001 – 18,7**
- **2010 – 22,6**
- **2013 – 23,4**
- **2015 – 23,1**
- **2017 – 24,1**

Herald of the Supreme Court of Ukraine. – 2017

Title and content of section V

- Election / other political rights
- Labor / socio-economic rights
- Labor - a kind of «other personal» rights
- "Crimes against political, socio-economic and personal rights and freedoms of man and citizen"
- "Crimes against human and civil rights and freedoms".

Criminal misconduct of crimes against … rights and freedoms

Section V. Crimes against election, labor and other personal rights and freedoms of man and citizen (art. 157-184 of the CC)

Section XV Crimes against authority...(art .340, art. 359 of the CC).
Section XVII. Offenses in the field of official activity.
Section XVIII. Crimes against justice.

Generic objectof crimes against...rights and freedoms

- social relations that arise in relation to a set of political, socio-economic and personal rights and freedoms that are protected from criminal encroachments

«Man and citizen» as the subject of relations

- **only citizens of Ukraine any person**

Citizen / individual/ human



Direct Objectsof crimes against … rights and freedoms

- social relations, which consist of the protection of individual rights and freedoms of man and citizen - the right to participate in elections, the equality of citizens, the right to inviolability of private life, etc..

Crimes against the rights and freedoms of the individual

- This is provided for by Article V of the Criminal Code deliberate attacks on public relations arising on the political, social, economic and personal rights and freedoms are protected from criminal attacks.

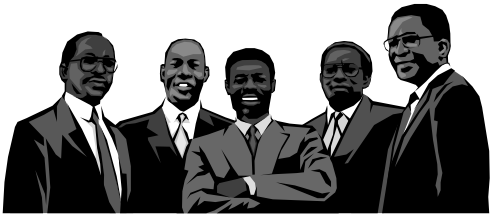
The system of crimes envisaged by the section of the Special Part of the Criminal Code

1) crimes against political rights of citizens;
2) crimes against the socio-political rights of a person;
3) crimes against individual human rights.

Classification of crimes against political rights of citizens

1) crimes against electoral rights (art.157-160 of the CC);
2) encroachment upon equality (art.161 of the CC);
3) encroachment on political and professional activities (art.170-171 of the CC).

Victim (art.157, 160 of the CC)



1) candidates
2) voters
3) trustees ...
4) close friends

Interferencedeed, signs of 15 crimes, including.:

1) the exercise of electoral law (Article 157 of the Criminal Code);
2) exercise of the right to participate in the referendum (Article 160 of the Criminal Code);
3) the legitimate activities of trade unions, political parties, public organizations (Article 170 of the Criminal Code);
4) the legitimate professional activities of journalists (Article 171 of the Criminal Code);
5) participation in the strike (Article 174 of the Criminal Code);
6) the implementation of a religious rite (Article 180 of the Criminal Code);

Interference (art.157, 160 of the CC)

= impact on the victims

Methods of interference...

Violance

Methods of interference...

Deception

- by the form: action / inactivity
- by its content
- by the addressee

Methods of interference...

Threat:

- by content (violence, destruction of property, disclosure of information)
- by volume (including art.129, 195 of the CCU)
- by the addressee

Methods of interference...

Bribe:

- transfer of values;
- promise.

Methods of interference...

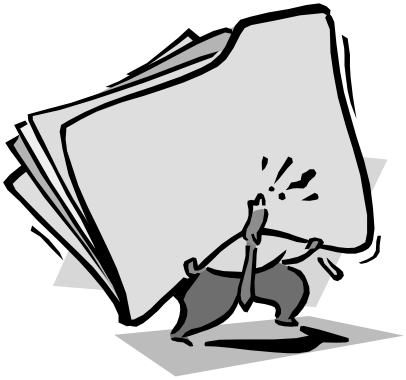
In other ways:

- homogeneous;
- not a qualified sign
- not an administrative misconduct



Election documents (art.158 of the CC)

1) form
2) content



Election documents (art.158 of the CC)

Formal signs

1. written form;
2. made on paper
3. requisites

Election documents (art.158 of the CC)

Substantial signs

1. evidence of legal facts;
2. are about elections;
3. provided for by the election law

Forgery (art.158 of the CC)

1) manufacturing;
2) fake;
3) use.

Secret of voting (art.159 of the CC)

1) the voting of a particular voter;
2) information in the bulletin;
3) the voter does not want the disclosure.

Violation of secrecy (art.159 of the CC)

- **Disclosure**

- **Violation:**

  - wrongfulness;
  - contrary to will

Ways of breaking the secrecy of voting

- cabins;
- devices;
- the presence of strangers

Victim of violation of equality...

- Citizen?
- A person belonging to a particular social group



Victim of violation of equality...

Person by features of

- race, skin color;
- political, religious or other beliefs;
- sex;
- ethnic and social origin;
- property status;
- place of residence;
- linguistic or other signs;

Methods of violation of equality

1) incitement to national, racial or religious hatred and hostility



Methods of violation of equality

2) humiliation of national honor and dignity or the image of feelings of citizens in connection with their religious beliefs



Methods of violation of equality

3) direct or indirect restriction of rights on the grounds of belonging to a certain group



Methods of violation of equality

4) establishment of direct or indirect privileges on the grounds of the person's belonging to a particular group



Types of activities, the impediment of which constitutes a crime against political rights:

- **Trade unions, political parties, public organizations (art.170 of the CC)**
- **Professional activity of journalists (art.171)**

The notion of legal activity

- **Allowed everything besides what is forbidden**
- **The prohibition should be established by law (and not by another act)**

Methods of interference

- **They constitute non-criminal violations of the requirements of the legislation - are covered by Art.170-171 of the Criminal Code**
- **Laid in committing other crimes qualify in aggregate**

Socio-economic rights

- is the rights that a person has in connection with participation in socially useful work and participation in the distribution of a social product

Realization of social and economic rights

- Hiring



Realization of social and economic rights

- Creative activities



Realization of social and economic rights

- Obtaining of education



- Medical Aid



Types of crimes against socio-economic rights

1) Attack on the rights of workers (art. 172-175 of the CC)
2) An attack on the right of intellectual property (art.176-177 of the CC)
3) Attacks on social rights of a person (art. 183-184 of the CC)

Types of encroachments on the rights of employees

- General(art.172 of the CC)
- Special (art.173-175)

Signs of a general type of violation of labor legislation (art.172 of the CCU)

1) not stipulated by the special rules of the Criminal Code;

2) without the consent of the employee;

3) mixed wrongfulness (Labor Code + Criminal Code)

Employee:

A person to whom the provisions of labor legislation apply



Not recognized as a victim (art.172 of the CC)

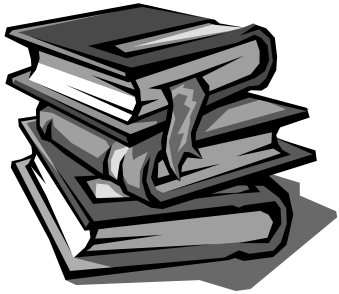
1) serve in the army
2) self-employed
3) are in administrative relations



Illegal dismissal from work

- lack of grounds
- violation of the established order

(art.40-43 of the Labor Code of Ukraine).



Another gross violation of labor legislation is related to:

- duration of working time
- engaging in night work
- overdue
- work on weekends and holidays
- holidays
- undersize the size of / n
- guarantees and indemnities
- material liability
- the application of disciplinary penalties
- works of certain categories of workers
- violation of the procedure for reviewing labor disputes;
- refusals to hire or to continue the employment relationship

Brutality of violation of labor rights

Unconditional:

- dismissal
- strike
- non-payment of payments

Conditional:

- the number of victims;
- the degree of violation of their labor rights;
- the possibility of eliminating the damage caused.

Objects of intellectual property rights

1) copyright and related rights (art.176 of the CCU)

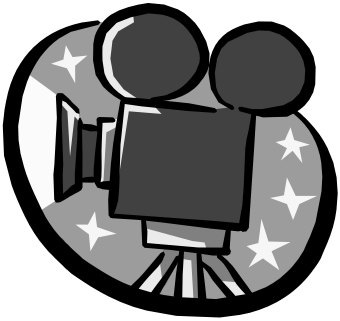
2) right to industrial property (art.177 of the CCU)

The work as a subject of violation of copyright and related rights (art.176 of the CC)

1) expressed in an objective form
2) relates to the objects of copyright and related rights
3) has a specific author
4) is alien to the guilty

Ways of violation of copyright and related rights

Illegal:
1) playback
2) distribution
3) replication
4) other use



Object of industrial property (art.176 of the CC)

1) the result of creative activity, designed for the sphere of material production
2) has the form of one of the objects of industrial property
3) has a specific author (owner)
4) is alien to the guilty

Illegal use of intellectual property objects

1) With commercial purpose
2) Illegal:
- Without owner's consent
- Absence of special conditions



Illegality as a sign of crimes against social rights of a person

1) contrary to any normative legal act
2) actions that are prohibited / non-compliance with regulatory obligations;
3) the victim has the right ...
4) the victim in the prescribed manner expressed his desire ...

Lecture plan

1. The concept and system of crimes against election, labor and other personal rights and freedoms of man and citizen.
2. Crimes against the political rights of citizens.
3. Crimes against the socio-economic rights of a person.
4. Crimes against personal human rights.

Personal human rights

- have no property content
- absolute
- equally owned by anyone
- is to provide :
    - intermissibility of personal life
    - family rights
    - religious freedoms

Types of crimes against human rights

1) Attack on the inviolability of personal life (Art.162, 163, 182 of the CC)
2) Attack on family law (Art.164-169 of the CC)
3) Encroachment on social rights:
4) Attack on religious rights (Art.177-181 of the CC)

The subject of the crime, stipulated in Article 162 of the Criminal Code

Dwelling
- p.30 of resolution of Plenum of the Supreme Court of Ukraine as of 25 of December 1992 «On judicial practice in cases of acquisitive crimes against private property»

Other person's possession
- any other objects in respect of which the person exercises the right of ownership

Victim of crime, stipulated in Article 162 of the Criminal Code

Dwelling of «dual purpose» +

Ownership of a legal entity -



Ways of violating the privacy of a home or other property of a person

Illegal: **Other actions...**

1) penetration;
2) review
3) search
4) eviction

Other actions, violating the inviolability of a home or other property of a person

1) are intruding
2) illegal
3) contrary to the will of the person

Grounds for entering a person's home without its consent

1) prosecution of the offender
2) to stop the crime
3) conducting investigative actions
4) execution of a court decision
5) checks compliance with the rules of administrative supervision
6) natural disaster

Secrecy of personal correspondence

1) information about the very existence or content of correspondence
2) through official means of communication
3) the personal character of the correspondence
4) unwillingness of both respondents



Confidential informationas an object of a crime

1) about an individual (art. 182 of the CCU);

2) economic, scientific, technical or other information constituting confidential information which is the property of the state (art.330 of the CCU).

Confidential personal information



1) in the private sphere
2) personified
3) the secret of the person
4) does not apply to information that is subject to notification in accordance with the law or with the consent of the person.

Victim of crimes against family rights

1) children (art.164, 166 of the CC)
2) underage or incapacitated dependent children (ст.164 CC)
3) disabled parents(art.165 of the CC)
4) persons for whom a guardianship or trusteeship is established (art.166 of the CC); wards (art.167 of the CC)
5) adopted (art.168 of the CC)
6) children in respect of which the adoption is carried out, which are transmitted for care or for the upbringing to a family of citizens (art.169 of the CC).

Malice as a sign of crimes

1) on payment of maintenance ... (Article 164 of the Criminal Code)
2) from the payment of funds for the maintenance of disabled parents (Article 165 of the Criminal Code)
3) non-performance of care responsibilities (Article 166 of the Criminal Code);
4) from work ... (Article 390 of the Criminal Code);
5) disobedience to the lawful requirements of the administration of the VTU (Article 391 of the Criminal Code).

Criminal significance of an indication of malice

- **characterizes criminal inaction**
- **indicates the existence of intent**
- **concerns the guilty person**



Religious activity subject to criminal law

- registered / unregistered
- unhindered in religious buildings, places of burial, housing of citizens ...
- at a certain time for the occasional use of temples
- in institutions ... - with the consent of their administration or command
- in other cases - every time with the permission of the executive committee
- without violations of public order and without encroachment on the rights of citizens

Religious shrines, buildings, religious buildings

1) material form

2) religious significance



Section VI. Offenses against property

Crimes against property

Lecture plan

1. Notion and system of crimes against property.
2. The general notion of theft of someone else's property.
3. Types of theft.
4. Forms (methods) of theft.
5. Qualifying signs of theft.
6. Acquisitive crimes against property that do not contain signs of theft.
7. Non-acquisitive crimes against property.

Dynamics of crimes against property

Convicted:Ід amo unts are convict % convict

- **2001 p. – 63,0**
- **2005 p. - 68,3**
- **2010 p. – 60,5**
- **2015 p. – 49,8**
- **2017 p. – 45,2**



Changes to Section VI of the Special Part of the CC of Ukraine

- The Law of Ukraine as of 16.01.2003 "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine"
- In art. 198 "Acquisition, receipt, storage or sale of property derived from crime"

- changes in title and disposition

- The Law of Ukraine as of 31.05.2005 "On Amending Certain Legislative Acts of Ukraine Regarding Liability for Violations in the Energy Sector"
- The section is supplemented with articles 1881 "Abduction of electric or thermal energy by its unauthorized use" and 1941 "Deliberate damage of electric power industry objects"

The degree of severity of the crimes against property

Place No.4 by the degree of severity in general:
56, 4% - grave and particularly grave;
- 28,2% - crimes of moderate severity;
- 15,4% - crimes of minor severity.

Khavronuk M.I. Categories of crimes and sanctions of the Special Part of the CC: scientific research and some conclusions // The Criminal Code of Ukraine as of April 5, 2001. – K.: A.C.K., 2001. – P.226-227.

Resolution of the Plenum of the Supreme Court of Ukraine

As of December 25, 1992

"On judicial practice in cases of acquisitive crimes against private property"

Lecture plan

1. Notion and system of crimes against property.
2. The general notion of theft of someone else's property.
3. Types of theft.
4. Forms (methods) of theft.
5. Qualifying signs of theft.
6. Acquisitive crimes against property that do not contain signs of theft.
7. Non-acquisitive crimes against property.

Criminal misconduct of crimes against property

Section VI. "Crimes against property" (art. art.185-198 CC)	Sections of the Special Part of the Criminal Code on crimes against the foundations of national security, public safety, traffic safety, justice, military. . .

Property Relationships:

Economic content:	**Legal form :**
- production	- possession
- distribution	- use
- exchange	- disposal
- consumption	

Generic object of crime against property

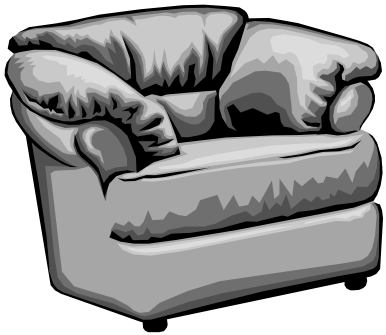
public relations consisting in the seizure, destruction or damage, non-return of property, from alien to the perpetrator - in respect of which he does not have the right to possess, use or dispose and which as a result is excluded from the process of production, distribution, exchange and consumption of material goods.

The subject of crimes against property

Alien property

Ознаки:

- **Physical**
- **Economic**
- **Ldgal**



Signs of the subject of crime against property

1) physical:

- **thing;**
- **right to property;**
- **actions of property character**



Signs of the subject of crimes against property

2) economic:

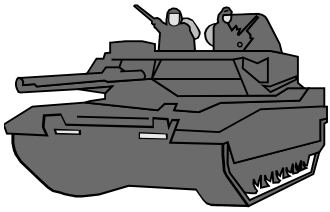
- **newly created by labor or separated from nature;**
- **change and consumer value;**



Signs of the subject of crimes against property

3) legal:

- **property belongs to another but not guilty party;**
- **not the subject of other crimes;**
- **belongs to a specific subject**



Features of liability for encroachment on certain types of property

- which is in use by members of one family;
- which is in shared ownership;
- which is the subject of collective ownership;
- of his personal property.

Encroachment on property rights acquired on grounds not provided by law

Property:

- withdrawn from the turnover;
- obtained as a result of an offense;
- returned by the owner violating of order;
- not registered



Crimes against property

- it is stipulated in the articles of section VI of the Special Part of the Criminal Code of Ukraine, socially dangerous encroachments on someone else's - state, collective or private property.

Classification of crimes against property

1) by the form of guilt :
   - intentional / negligence;
2) by motive :
   - acquisitive / non-acquisitive;
3) by the nature of the damage :
   - associated / not associated with removal of property

The notion of theft

- **In CC 2001 - absent**
- **Used in theory and in practice**



Lecture plan

1. Notion and system of crimes against property.
2. The general notion of theft of someone else's property.
3. Types of theft.
4. Forms (methods) of theft.
5. Qualifying signs of theft.
6. Acquisitive crimes against property that do not contain signs of theft.
7. Non-acquisitive crimes against property.

Theft

Art.185-191 CC

1) place in the system of CC;
2) coincidence of most of the signs of the composition;
3) unity of terminology;
4) the concept of repetition.

Signs of theft

1) seizure of property from someone else's possession



Signs of theft



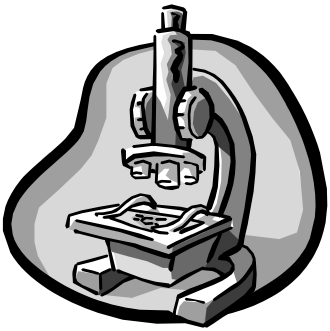
2) unlawful seizure of property

Signs of theft

3) seizure of property free of charge



Signs of theft



4) seizure of property in one of 8 ways

Signs of theft

5) seizure of property in favor of others



Signs of theft



6) intentionally, with acquisitive motives

Theft of someone else's property

- it is illegal, free of charge removal (seizure) of property from the possession of the state or subjects of the right of collective or private property made in favor of other persons, committed by theft, robbery, extortion, fraud, embezzlement, appropriation, abuse of official status.

Lecture plan

1. Notion and system of crimes against property.
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Differentiation of responsibility for theft

1) by cost (types of theft);
2) by means (forms of theft);
3) by qualifying, especially qualifying features

Types of theft

1) small;
2) in substantial amounts;
3) such that caused significant damage to the victim;
4) in large amounts;
5) in particularly large amounts.

Types of theft and ownership form

1) small – until the summer of 2005 only for state or collective property;
2) in substantial amounts;
3) such that caused significant damage to the victim – with regard to private property;
4) in large amounts;
5) in particularly large amounts.

Criteria for determining the type of theft

- **Cost – for all types of theft**
- **Quantitative**
- **Economic**

is not applied for now

The cost criterion of the size of the theft

- **In CC – non-taxable minimum income of citizens.**
- **According to the Law "On personal income tax" – tax social benefit (TSB)**

Tax social benefit

- In 2005 = 50% from the minimum salary
- UAH 262 x 50 : 100 = UAH 131

Price change, non-taxable minimum income of citizens (NMIC) //tax social benefit

Decision of the Constitutional Court of Ukraine as of 19 April 2000, case №1-3/2000

Small theft(art.51 CoAO of Ukraine)

Cost (does not exceed 3 NMIC// TSB = UAH 393)

Theft is not small (there is a criminal responsibility), if committed by the way of:
- plundering;
- robbery;
- extortion.

Theft in substantial amounts

- is not small (taking into account the size and method);
- does not reach the big size (less than 250 NMIC //TSB= UAH 32750)

Theft, which caused significant damage to the victim

- **As for private property**
- **In amount of: from 100 up to 250 NMIC//TSB (UAH 13100 – 32750)**
- **Taking into account the material situation of the victim**

Theft in large amounts

Regardless of the form of ownership	• **1) 250 and more NMIC//TSB (UAH 32750);** • **2) less than 600 NMIC// TSB (UAH 78600)**

Theft is particularly large amounts

Regardless of the form of ownership	**600 and more NMIC// TSB (UAH 78600)**

Determination of the type of theft

Considering:

- the nature of intent;
- the number of participants;
- the continuity of the attack.

Lecture plan

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Forms (methods) of theft:

1) theft;
2) plundering;
3) robbery;
4) extortion;
5) fraud;
6) appropriation;
7) embezzlement;
8) by abuse of office.

The attitude of the victim to the seizure of property in case of theft

- Besides the will (theft, appropriation, misappropriation, abuse...);
- Contrary to will (plundering, robbery, extortion);
- Falsification of will (fraud).

The value of establishing a form of theft

- qualification;
- delimitation;
- other signs of a crime;
- the moment of the end.

The moment of the end of the theft

General rule:

- when the guilty has the opportunity to dispose of the stolen as his own

Features of:

- robbery;
- extortion.

The moment of the end of the theft in the protected area

- **Movement of property beyond the fence, on the passage**
- **Ownership of property that can be used in the protected area**

The concept of theft and plundering

Common features

- subject – someone else's property;
- action – steal
- consequences - steal

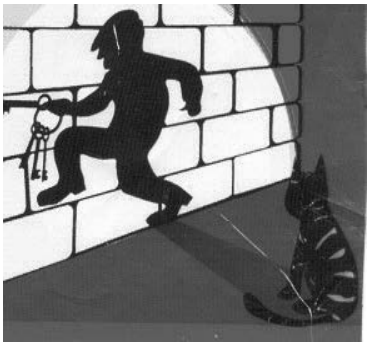
The difference in the method:
secretly / openly

Steal

- **Third parties to property**
- **Only access to property is available**
- **Persons with authority over property**

Criteria of secrecy / openness of a steal

- **Objective**
- **Subjective**



Secret steal (theft)

1) secrecy is objective (nobody watched)
2) secrecy is subjective
3) with accomplices, relatives...
4) with young children, drunk...
5) the illusion of legality

Types of plundering

- **No violence**
- **Violent (par.2 art.186 CC)**

Violence at plundering

- intensity (size)
- purpose of application
- to whom it is addressed

Violence at plundering (size)

- **What is not harmful to the victim's life or health**
  - **punches, assault;**
  - **other pain causing;**
  - **restriction of freedom;**
  - **slight bodily injury that did not cause... (health disorder no more than 6 days)**

The threat while plundering

1) substance – physical violence



The threat while plundering

2) size – violence that is not dangerous...



The threat while plundering

3) nature – immediate application



The threat while plundering

4) purpose:

- **access to property;**
- **taking possession of it;**
- **maintenance.**



The threat while plundering

5) addressee – person who prevents theft



Attack

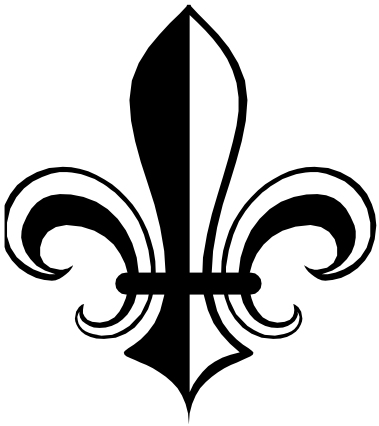
1) active behavior;
2) suddenness (open secret);
3) one-timeness;
4) aggressiveness
5) in order to suppress the victim's will.

Violence at robbery (size)

- **Dangerous for life or health of the attacked person**

- **light bodily injury that caused... (7 or more days, although less than 10%);**
- **moderate severity**
- **grave; - death**
- **dangerous in nature**

Threats with not dangerous objects



1) perception of the victim;

2) calculation of the guilty.

The difference between extortion and plundering and robbery

1) by subject

The difference between extortion and plundering and robbery

2) by victim

The difference between extortion and plundering and robbery

3) by socially dangerous acts

The difference between extortion and plundering and robbery

4) by the substance of the threat

The difference between extortion and plundering and robbery

5) by volume of threat

The difference between extortion and plundering and robbery

6) by the nature of the threat

The difference between extortion and plundering and robbery

7) by the purpose of using violence

Acts of fraud

- **Occupation**
- **Acquisition of the right**

Cheating in fraud

- **substance;**
- **purpose;**
- **addressee.**

Abuse of trust in fraud

- use of trust relationships;
- arise beforehand

The subject of theft, stipulated in art.191 CC

Property:

- entrusted;
- transferred to the control;
- for which the guilty party has the right to manage

Appropriation

- **Retaining yourself (non-return)**
- **Use as your own**

Embezzlement

- **Property:**
- alienated;
- consumed.

Embezzlement by abuse of office

- Theft for the benefit of your own or other persons of property using the authority of an official

Lecture plan

1. Notion and system of crimes against property.
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Qualifying signs:

- Named in the disposition of the Special Section
- Increase public danger
- Characterize some features of the crime
- Taken into account when qualifying
- Matter only in combination with the features of the core of the crime

Constructions of the composition of the crime

- **Qualified composition of the crime =**

= features of main composition + qualified feature(s)

- **Especially qualified composition of the crime =**
- **= features of main (qualified) composition + especially qualified feature(s)**

Qualification in the presence of several qualifying, especially qualifying features

- According to the article on the most severe type of crime

Types of qualifying, especially qualifying features of theft

PROVIDED FOR:

- all forms of theft (general);
- several forms (special);
- for certain forms (specific)

General qualifying, especially qualifying features of theft

- Repeatedly
- By prior conspiracy by a group of individuals
- In large amounts
- In particularly large amounts
- Organized by the group

General qualifying, especially qualifying features of theft

- With penetration into a home, another room or storage
- Significant damage to the victim
- Inflicting severe bodily harm

General qualifying, especially qualifying features of theft

- Threat of killing or causing serious bodily harm
- Damage or destruction of property
- Violence that is dangerous to a person's life or health
- An official using his official position
- Violence that is not dangerous to the victim's life or health or the threat of such violence
- A person who had previously committed robbery or banditry
- By illegal operations using electronic computers

Repetition of theft

- **Note 1 to art.185 CC**
- **All forms (except for robbery)**

Repetition of theft

1) preliminary committing a homogeneous crime (art.185-187, 189-191, 262 CC);
2) his legal consequences are preserved;
3) committing a new theft (except for robbery);
4) theft is not continued.

Continued theft

1) repeatedly;
2) every time in the same way;
3) purpose of taking possession of property at a certain amount;
4) unity of encroachment
- from one «source“
- a small gap in time between episodes
- nature of the object being stolen
- used tools and equipment

Qualification of repeated theft

In part of the article, which provides for the repeated theft

By set:
- not identical;
- different stages;
- complicity;
- continuity

Theft under a previous conspiracy by a group of individuals

1) group
- number of participants;
- signs of the subject;
- the nature of the action;

2) presence of conspiracy;

3) precondition of conspiracy.

Theft by an organized group

A quantitative sign
- 3 or more participants

Qualitative signs :
- were organized in advance;
- for committing, several thefts;
- the only known to all plan;
- distribution of functions

Penetration into a home, other premises or storage (while theft, plundering, robbery)

The place of theft
- home;
- premises;
- other storage

Additional action
- penetration

Lecture plan

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Types of acquisitive crimes against property that do not contain signs of theft

1) causing property damage by deception or abuse of trust (art.192 CC);

2) appropriation by a person found or alien property, that happened by chance (art.193 CC).

Distinctive signs of theft and art.192, 193 CC

- direct object;
- object;
- action;
- consequences;
- subject.

Consequences of causing property damage (art.192 CC)

- **Reducing the cost of property (amortization)**
- **Failure to get proper**

The subject of the crime provided in art.193 CC

1) is not in the actual possession of the owner;
2) has left the possession or has not yet got into ownership;
3) passed into possession of the guilty due to circumstances not caused by actions of this person;
4) special value (not material).

The appropriation as socially dangerous act

1) inaction - failure to notify about the found thing, or such that was accidentally obtained by the guilty person and its subsequent non-return;

2) action - taking possession of a thing, addressing it in its favor or in favor of a third party.

Types of non-acquisitive crimes against property

- **Intentional (art.194-195 CC)**
- **Negligent (art.196-197 CC)**

Large, especially large amount of the destruction or damage of someone else's property

- **Similar to the amount of the theft**
- **Notes 3 and 4 to art.185 CC**

Theft, destruction or damage to property

- **Attacks on the same property - only art.185-191 CC**
- **Assault on different property - set of art.185-189 and 194(196) CC**

Acting in violation of the obligations to protect someone else's property (art.197 CC)

- **Total inactivity**
- **Partial inactivity**

1) obligation to act;
2) ability to act;
3) committing an act would be detrimental

Consequences of violation of duties on property protection (art.197 CC)

- the material nature of the damage
- direct actual losses
- the cost of stolen, destroyed or damaged property (250 and more NMIC);
- the material situation of the victim.

The subject of the crime, stipulated in art.198 CC

Property, deliberately acquired by criminal means:

- property - physical, economic, legal characteristics;
- the object of a crime committed by another person (predicate);
- gain = capture without labor costs;
- Credibility.

Crimes in the sphere of economic activity

Lecture plan

1. The notion and types of crimes in the field of economic activity.
2. Manufacturing, storage, acquisition, transportation, forwarding, import into Ukraine for the purpose of sale or sale of counterfeit money, government securities or tickets of the state lottery.
3. Smuggling.
4. Fictitious business.
5. Crimes in the field of entrepreneurship and taxation.
6. Crimes in the field of economy and agriculture.
7. Crimes in the financial sector.
8. Crimes in the field of trade and consumer services.

The degree of severity of crimes in the sphere of economic activity

- **Particularly grave and grave – 17,4 %**
- **Medium severity – 28,3 %**
- **Minor severity – 54,3 %**

Takes 17 place by the degree of severity in the Special Part of the CC

Havronyuk M.I. Categories of crimes and sanctions of the special part of the CC of Ukraine : scientific research and some conclusions // Criminal codex of Ukraine as of 5 April 2001 – K.: A.C.K., 2001. – P.227

Changes in Section VII of the Special Part of the CC of Ukraine

- Law of Ukraine as of 17.01.2002 "About peculiarities of state regulation of activity of business entities connected with production, export, import of disks for laser reading systems"
- Section supplemented with art.2031 "Illegal circulation of disks for laser reading systems, matrices, equipment and raw materials for their production"
- Law of Ukraine as of 06.07.2005 "On
- Art. 2031 "Illegal circulation..."

- **set out in the new wording**

- Law of Ukraine as of 16.01.2003 "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine"
- art. 209 "Legalization (laundering) of proceeds from crime"

- **set out in the new wording**

- Section supplemented with art.2091 "Deliberate violation of the requirements of the legislation on prevention and counteraction to legalization (laundering) of proceeds from crime"

Changes in Section VII of the Special Part of the CC of Ukraine

- Law of Ukraine as of 10.07.2003 "On Amendments to the Law of Ukraine "On the distribution of copies of audiovisual works and phonograms"
- Art. 216 "Illegal manufacture, counterfeit, use or sale of illegally manufactured, obtained or counterfeited excise stamps or control marks"

-**set out in the new wording**

- Law of Ukraine as of 10.07.2003 "On the distribution of copies of audiovisual works and phonograms"
- Ст. 228 "Forcing anticompetitive concerted action"

- **set out in the new wording**

- Art. 230 **excluded**

3Changes in Section VII of the Special Part of the CC of Ukraine

- Law of Ukraine as of 22.05.2003 "On Amending Certain Legislative Acts of Ukraine on the Legal Protection of Intellectual Property"
- Art. 229 "Illegal use of the mark for goods and services, trade name, qualified indication of the origin of goods"

- **set out in the new wording**

- Law of Ukraine as of 16.12.2004 "On Amending Certain Legislative Acts of Ukraine Regarding Liability for Illegal Collections for the Purpose of Using or Using Information Constituting Banking Secrets and for Disclosing Banking Secrets"
- In art. 231 "Illegal collection for the purpose of using or using information constituting commercial or banking secrets"
- In art.232 "Disclosure of commercial or banking secrecy"

- **changes in dispositions**

Legislative novelties

- **Art.203' CC "Violation of legislation regulating the production, export, import of disks for laser reading systems, export, import of equipment or raw materials for their production"**
- **Law of Ukraine as of 17 January 2002 No.2953-III "On the peculiarities of the state regulation of activity of the subjects of the economy connected with the production, export, import of disks for laser reading systems"**

Legislative novelties

- **Art.209 Legalization (laundering) of proceeds from crime (new edition)**
- **Law of Ukraine as of 16 January 2003 "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine" // BVR. – 2003. – No.14. – P.95**

Legislative novelties

- **Art. 209-1 Deliberate violation of the requirements of the legislation on prevention and counteraction to legalization (laundering) of proceeds from crime**
- **Law Ukraine as of 16 January 2003 "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine" // BVR. – 2003. – No.14. – P.95**

Legislative novelties

- **Art.228 Forcing anticompetitive concerted action (new edition)**
- **Law of Ukraine as of3 April 2003 p. "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine" // BVR. – 2003. – No.26. – P.199**

Legislative novelties

- **Art.229. Illegal use of the mark for goods and services, trade name, qualified indication of the origin of goods (new edition)**
- **Law of Ukraine as of 22 May 2003 "On Amendments and Additions to Certain Legislative Acts of Ukraine on the Legal Protection of Intellectual Property"**

Legislative novelties

- **Art.230 Violation of antimonopoly legislation**

(article excluded)

- **Law Ukraine as of 3 April 2003 "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine" // BVR. – 2003. – No.26. – P.199**

Resolution of the Plenum of the Supreme Court of Ukraine

On the practice of using courts of law on liability for certain crimes in the field of economic activity

As of 25 April 2003 No.3 // Bulletin of the Supreme Court of Ukraine – 2003. – No.4. – P.2-6

Resolution of the Plenum of the Supreme Court of Ukraine

On some issues of application of legislation on liability for tax evasion, fees, other mandatory payments

As of 8 October 2004 No.15 // Bulletin of the Supreme Court of Ukraine – 200 . - №. – C.

Interests of consumers as the object of a criminal encroachment

- **Parties to such relations:** 1) subjects of economic activity; 2) consumers of goods or services;
- **Substance of relations** - the right of the consumer to receive goods or services of the proper quality...; the obligation to provide goods or services subject to certain conditions;
- **Subject of relations** - the interests of consumers in obtaining goods and services of the appropriate quality, prices, etc.

Types of attacks on the interests of consumers

- **Cheating buyers and customers (art.225 CC). (eliminated)**
- **Falsification of measuring instruments (art.226 CC). (eliminated)**
- **Production or sale of low-quality products (art.227 CC).**
- **Unlawful use of trademark (art.229 CC).**

The consumer as a victim in the compositions of the analyzed crimes

- **Certain citizens (individuals),**
- **Note to art.225 CC – victims – only citizens. (eliminated)**
- **Legal entities, representatives are harmed in the implementation of transactions of sale, household order, etc.**

Cheating buyers and customers as a privileged type of fraud

- **Separation of fraudsters and deception of buyers and customers :**

1) victim
2) action
3) method
4) circumstances
5) consequences
6) subject

Sales of goods or services

- **both in and out of enterprises;**
- **legal business activity, or without proper registration;**
- **systematic or one-time actions;**
- **authorized employees or any other persons**

Another deception

- **selling goods at high prices or providing services at inflated rates;**
- **sale of lower grade goods at a higher price;**
- **failure to provide part of the paid service.**

The subject of the crime provided in art.227 CC

- **Products**
- **Goods**

Low-quality
Incomplete



Action in a composition of a crime established by art.227 CC

1) release to the commodity market;

2) another release.

Significance of the damage caused for criminal liability

- in substantial amounts (art.225 CC) (eliminated)
- in large amounts (art.227 CC) (eliminated)
- if it caused material damage in a large or especially large amounts (art.229 CC)
- damage caused to particular victim
- the total cost of low-quality products
- total damage to the trademark owner.

Subject of crime in art.226 CC

Devices:
- from several parts (mechanism)
- use energy source.

Tools:
- hand instruments

Measurement :
- to determine the value by comparison

Falsified
- changes made,
- which have undergone changes due to natural processes (aging)

As a result, false impressions are obtained

Action in a composition of a crime established by art.226 CC

1) production (for the purpose of using or selling);
2) recycling (for the purpose of using or selling);
3) selling.

Subject of crime in art.229 CC

1) trademark;
2) brand name;
3) qualified indication of the origin of the goods.

Subject of crime in art.229 CC

- **Trademark**
  - **refers to the results of economic activity**
  - **registered**
  - **belonging to another party**

Subject of crime in art.229 CC

- **Trademark**
  - **is registered**
  - **or a well-known name;**
  - **does not belong to the guilty party.**

Subject of crime in art.229 CC

- **Brand name**
  - **a set of text and graphic symbols**
  - **inform about the quality of the goods, the manufacturer, the expiration date, the precautions when using.**

Subject of crime in art.229 CC

- **Qualified indication of the origin of the goods**

- **material form**
- **includes pointing to a geographic location. . .**
- **registered**
- **does not belong to the guilty party**

Socially dangerous act of illegal use of a trademark

- **Usage = gaining benefits, benefiting from their use as their own**

- **Illegal it will be, when there is no allowance to use received from the owner.**

Lawful business (entrepreneurship) as an object of criminal law protection

- **What is «entrepreneurship»?**
- **What entrepreneurship is considered «lawful»?**



The notion of entrepreneurship

- **direct**
- **independent**
- **systematic**
- **At your own risk**
- **activity on ...**
- **for profit**
- **registered**

Article 1 of the Law of Ukraine as of 7 February 1991 "About entrepreneurship" – in edition from 22 February 2000

Legality of entrepreneurship

- **observance of conditions and requirements, which are fixed by normative-legal acts**

- **registration**
- **circle of people**
- **types of activities**
- **licenses or other types of permits**

Correlation of economic and entrepreneurial activity

The conduct of economic activity is not associated with such features as:

- **State registration**
- **immediacy**
- **independence**
- **at your own risk**
- **systematic**
- **the purpose of profit**

Types of interference with lawful economic activity under the current CC

- **Opposition to legitimate economic activity**
- **Forcing anticompetitive concerted action**
- **Encroachment on commercial secrecy**
- **(art.206,228 (eliminated), 231-232 CC).**
- **Articles of sections «Crimes against property», «Offenses in the sphere of official activity», etc.**

Signs of counteracting legitimate economic activity (art.206 of the CC)

1. Economic activity is legal
2. is a claim addressed to the person
3. The claim is unlawful
4. the content of the requirement is the direction of economic activity in a direction favorable to the perpetrator
5. The threat may concern both the victim and his or her relatives
6. The threat is specified by the nature of the damage and the range of persons
7. The purpose of intimidation of the victim

The correlation of counteraction to legitimate economic activity with related crimes

- **Part 1 art.206 of the CC include:**

The assault is foreseen in:

- **art.195 of the CC**

The correlation of counteraction to legitimate economic activity with related crimes

- **Part 2 art.206 of the CC include :**

The assault is foreseen in:

- **p. 1 art. 129**
- **p.1 art.125**
- **art.126**
- **p.1 art.127**

The correlation of counteraction to legitimate economic activity with related crimes

- **Part 3 of Article 206 of the CC absorbs itself (on the grounds of «violence that is dangerous to life or health» and «other grave consequences»):**
  - **p.2 art.125**
  - **p.2 art.129**
  - **art.122**
  - **p.1 art.121**
  - **art.128**
  - **p.1 art.194 of the CC**

The correlation of counteraction to legitimate economic activity with related crimes

- **Signs of a particularly skilled type of counteraction to legitimate economic activities are not covered:**
  - **p.2 art.121**
  - **art.115 of the CC**
  - **art.119 of the CC**
  - **p.2 ст.194 of the CC.**

Such encroachments should be qualified as the set of p.3 of art.206 of the CC and abovementioned crimes.

The following crimes can not form a set of crimes:

- **p.3 art.206 of the CC (other grave consequences) ///**

It is proposed to qualify as p.2 art.194 of the CC and p. 2 art.206 of the CC

- **/// p.2 art.194 of the CC (property damage in especially large sizes or death of people or other grave consequences).**

The following crimes can not form a set of crimes:

- **p.3 art.206 of the CC (violence that is dangerous to life) ///**

- **/// p.2 art.121 of the CC (in order to intimidate the victim or other persons).**
- **It is proposed to qualify as only p.2 of art.121 of the CC**

The difference between counteracting legal business activity and extortion

1. Object of an attack
2. The victim
3. Contents of the threat

Anticompetitive concerted actions (art.228 CC) (eliminated)

Action types (x8):
1) prices
2) production limitation
3) market distribution
4) distortion of the auction result
5) removal from the market
6) different conditions
7) additional obligations
8) restriction of competitiveness

Misconduct – Prohibited by the Law «On Protection of Economic Competition» // BVR.- 2001.-No.12.-P.64
(art.6 of the Law)

Methods of coercive anti-competitive concerted action

- **Violence**
- **Inflicting material damage**

- **Threat:**
- the use of violence;
- causing material damage

The notion of «commercial secrets»

Art. 30 of the Law of Ukraine as of 27 March 1991 p. "On enterprises in Ukraine" (lost an action in 2003 p.)

Resolution of CM of Ukraine as of 9 august 1993 No.611 "On the list of information that does not constitute commercial secrets"

Signs of commercial secrets

1) this information is related to the activity of a particular subject of entrepreneurship;
2) recognized as such a secret by the decision of the administration;
3) are not state secrets and are not included in the list of information that does not constitute commercial secret.

The objective side of encroachment on commercial secrets:

- **Collection (commercial espionage)**
- **Illegal use**
- **Disclosure**

Substantial damage to the subject of economic activity

Types of state interests in the regulation of economic activity

- **Financial**
- **On the implementation of prohibitions and restrictions on the conduct of certain types of economic activity**
- **On rejecting bankruptcy abuses.**
- **To ensure the truth of the documents used in this area, money, securities, legitimate signs.**

Types of crimes that encroach upon the interests of the state in the regulation of economic activity

- «**Fiscal**» (art.201, 204, 209-212, 222 of the CC);
- **Violation of prohibitions and restrictions on conducting economic activity** (art. ,203-1, 205, 213, of the CC);
- **Criminal Insolvency** (art.218-1 - art.220-2 of the CC);
- «**Documentary**» (art.199, 216, 224, 233 of the CC).

The subject of smuggling

- **Goods –**
(in large amounts – 1000 and > PSP>)
- **items of a special kind - the types of which are explicitly mentioned in this article of the CC**

The subject of smuggling

- **Goods –** it is any movable property (including currency values, cultural values), electric, thermal and other types of energy, as well as vehicles ...
- **P. 39 art.1 Customs Code of Ukraine as of 11 July 2002**

The subject of smuggling

Items of a special kind

- historical and cultural values;
- poisonous, potent substances;
- radioactive substances;
- explosives, weapons and ammunition (except ...);
- strategically important commodities ...

The correlation of smuggling and violation of customs rules

- **Smuggling (art.201 of the CC) in large amounts items of a special kind (indicated in the disposition)**

- **Violation of customs rules: art.351 CuC ... out of customs control**
art. 352 CuC ... with concealment from customs control

Moving goods across the customs border of Ukraine out of customs control

Art.351 CuC:

- **outside of the location of the customs authority;**
- **out of time implementation of customs clearance;**
- **with the use of illegal dismissal from customs control as a result of abuse of office by officials of a customs authority.**

Переміщенням товарів через митний кордон України з приховуванням від митного контролю

Art.352 CuC:

- **in special repositories (hiding places);**
- **means or methods that impede the detection of such goods;**
- **giving one product the appearance of others;**
- **submission to the customs authority of false documents or obtained illegally, or containing false data**

Excise goods

1) intended for the realization of objects

2) are subject to indirect taxes (excise duty), which is included in their price

To establish that something is an excisable product you need

1) find the law ...

- **2) to prove that this product (kind) by its features refers to one of the excisable goods (kind).**

Laws that impose excise duty

- **As of 15 September 1996 "On the excise tax on alcoholic beverages and tobacco products"**
- **As of 19 December 1995 "On state regulation of production and circulation of ethyl alcohol, brandy and fruit, alcoholic beverages and tobacco products"**
- **As of 6 February 1996 "On rates of excise duty and import duties on tobacco products"**
- **As of 24 May 1996 "On rates of excise duty and import duties on vehicles"**
- **As of 11 July 1996 "On rates of excise duty and import duty on some goods (products)"**

Criminal acts on excisable goods

- **Purchase (for the purpose of sale)**
- **Storage (for sale)**
- **Transportation (for sale)**
- **Marketing**
- **Manufacturing (part 2 - workshops, mass, relapse, part 3 - from low-quality raw materials)**

The legal nature of the crime, stipulated in art.209 of the CC

- Represents involvement in crime committed by another person
-

- Predicate crime :

1) committed by another person;
2) knowledge;
3) is to obtain funds and other property

The notion of money, property obtained in a criminal way, in the CC

1) Art. 198 of the CC - «property knowingly acquired by criminal means»;
2) Art. 209 of the CC - «money and other property acquired for a known crime»;
3) Art. 306 of the CC, «funds derived from the illicit trafficking of narcotic drugs, psychotropic substances, their analogues or precursors».

Acquisition of property

- **seizing it without labor costs:**
  - **theft or other crimes against property;**
  - **poaching;**
  - **receiving a bribe;**
  - **illegal actions in respect of items withdrawn from civilian traffic (arms sales, etc.).**

Economic activity

- **Commercial economic activity**
- **Non-commercial economic activity**

Entrepreneurship

The notion of entrepreneurship

- direct
- independent
- systematic
- at your own risk
- activity on ...
- for profit
- registered

- Article 1 of the Law of Ukraine as of 7 February 1991 "About entrepreneurship" – in edition from 22 February 2000

Correlation of economic and entrepreneurial activity

The conduct of economic activity is not associated with such features as:

- State registration
- immediacy
- independence
- at your own risk
- systematic
- the purpose of profit

The objective aspect of violating the order of engaging in economic activity(p.1 art.202 of the CC)

Action
x 3 alternatives

Consequences
= getting large amounts of income

Action in the violation of the order of doing business (p.1 art.202 of the CC)

Implementation:
1) without state. registration of business activity subject to licensing
2) without a license of municipality activity
3) violation of the conditions of licensing

Licensing

Law of Ukraine as of 1 June 2000 "On licensing certain types of economic activity"

Laws regulating licensing activities:

- **banking;**
- **foreign economic**
- **broadcast channels;**
- **electroenergy;**
- **intellect.property**

Consequences in the violation of the order of doing business (p.1 art.202 of the CC)

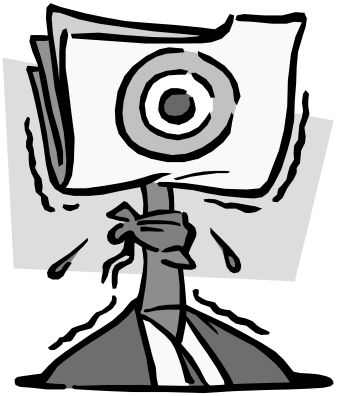
Receive of income in large amounts

Note to art.202 of the CC

Notion of income

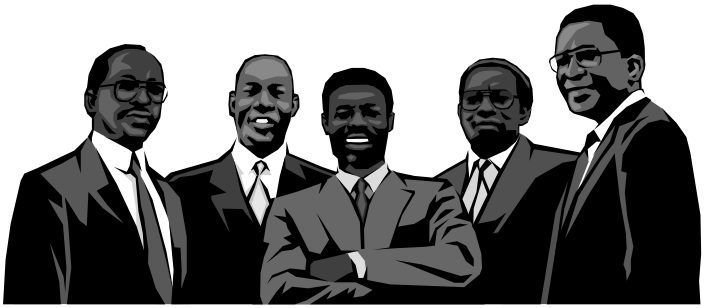
- **Gross (cumulative)?**
- **Net?**

p.10 Resolution of the Plenum of the Supreme Court of Ukraine as of 25.04.2003



Types of prohibitions on engaging in economic activities

- **By subject**



Types of prohibitions on engaging in economic activities



- **By type of activity**

The position of the Supreme Court of Ukraine regarding the concept of prohibited types of economic activity

- **p.8 of Plenary Resolution as of 25.04.2003**

Prohibitions :

- **regarding types of activities (+)**
- **by a circle of people (?)**

The objective side of fictitious business (art.205 of the CC)

- **Creation of business entities**
- **Acquisition of business entities**

The purpose of a fictitious business (art.205 of the CC)

- **Covering illegal activities**
- **Implementation of activities for which there is a prohibition**
- **p.17 Resolution of the Plenum of the Supreme Court of Ukraine as of 25.04.2003**

Crimes against the environment

Lecture plan

1. Notion and system of crimes against the environment.
2. Problems of liability for certain types of crimes against the environment.

Place of crimes against the environment in the system of the Special Part of the Criminal Code

№8 – after crimes in the field of economic activity, before crimes against public safety

By degree of severity - №18 (according to M.I.Havronyuk):
9,3% - grave (none of particularly grave)
47% - moderate severity
43,7% - low severity

Changes in Section VIII of the Special Part of the Criminal Code of Ukraine

Law of Ukraine of 11.01.2005 «On Amendments to Article 240 of the Criminal Code of Ukraine»

- **changes in the disposition of Part 1 of the article. 240 «Violation of the rules of interior protection»**

Resolution of the Plenum of the Supreme Court of Ukraine

of January 26, 1990.

"On the practice of consideration by courts of cases of liability for violation of the legislation on nature protection"

The notion of crimes against the environment should contain:

- **Signs that characterize the general concept of a crime (Part 1 of Article 11 of the Criminal Code)**
- **Signs specific to this group of crimes :**

1) wrongfulness;
2) generic object;
3) others (common to all such encroachments).

The name of the offenses envisaged by the Section III of the Special Part of the Criminal Code

- **Crimes against the environment**

- **Other terms:**
  - «Crimes against nature»;
  - «Crimes against natural resources»;
  - «Crimes against the environment»;
  - «Environmental crimes».

The environment

- **a set of natural conditions in which the activities of human society (atmospheric air, water, land, and mineral resources) pass through;**
- **plant world;**
- **living organisms;**
- **objects created by the person himself**

Nature

- **In a broad, philosophical sense, the same as the environment - everything that exists in the universe, the organic and inorganic world.**
- **In the narrow sense - these are places and objects outside settlements (fields, forests, mountains, rivers, wild animals and birds, etc.).**

Natural Wealth

- **that part of nature used in economic, recreational and other human activities. These are facilities available at the current level of technology for development, the use of which is economically feasible.**

Natural Environment

(surrounding the natural environment, the natural environment that surrounds a person)

- **part of nature - it is one with which people are in contact with the process of their life.**

Ecology

- **It's a term derived from Greek words - oikos, which means home, home, homeland, and logos - science. Denotes one of the biological disciplines, which studies the relationship of the organism with the environment.**

The notion of «ecological crimes», «crimes against ecology» is meaningless

Criminal Offense of Crimes Against the Environment

- **Section VIII of the Special Part of the Criminal Code, Art.236-254 of the Criminal Code**
- **Inflicting damage to objects of nature :**

- sabotage (art.113 of the Criminal Code);
- terrorist act (Article 258 of the Criminal Code),
- ecocid (art.441 of the Criminal Code).

Development of views on the generic object of crime data

50-s - 60-s of the XX century. :

- **social relations, in the field of the socialist economy**

From the beginning of 70-th:

- **relations, concerning the use of natural resources, preservation and improvement of the environment**

Environmental affairs as a generic object of crime

1) economic relations - in the part of rational use of natural resources; Property relations
2) ecological relations - about the protection of nature as a condition as a condition of normal functioning and life of society
3) relations in the protection of life and human health

Environmental affairs as a generic object of crime

- protected by the criminal law relations, which cover: sanitary-hygienic protection, improvement and improvement of the environment of the environment; scientifically sound, rational use and reproduction of natural resources; preservation of the normal ecological state of objects of nature.

Direct objects of crimes against the environment

- **Main - public relations on the protection of certain natural objects (flora, waters, subsoil ...)**
- **Additional - life or health of people, property.**

The subject of crimes against the environment :

- natural objects that keep in touch with other objects of nature and the entire biosphere;
- no specific human labor is invested

Socially dangerous acts

- destruction (damaging) of objects of nature;
- seizure (appropriation) of such objects;
- another violation of the order of their use;
- Violation of rules aimed at preventing environmental damage.

The system of crimes against the environment

- **Crimes against environmental safety (Art.236, 237, 238, 251, 253 of the CCU);**
- **Crimes against the conservation of specially protected objects of nature (Art. 252 of the CCU);**
- **Crimes against the conservation of the land of its subsoil and the continental shelf(Art. 239, 240, 244, 254 of the CCU).**
- **Crimes against the preservation of reservoirs and atmospheric air (Art.241-243 of the CCU)**
- **Crimes against the preservation of flora (Art.245-247 of the CCU)**
- **Crimes against the preservation of the animal world (Art.248-250 of the CCU)**

Socially dangerous consequences in the disposition of articles of the Criminal Code on crimes against the environment

- **Inflicting real harm (12 wordings)**
- **Creating a danger (5 wordings)**

Inflicting real harm as a consequence of environmental crime

- **death of people (6)**
- **other grave consequences (6), grave consequences (1)**
- **mass disease of people (or population) or disease of the population (3)**
- **substantial damage (3)**
- **mass destruction of objects of flora and fauna (2).**
- **Other cases of causing certain damage are mentioned once.**

Death of people

- **The «death of people» means the death of two or more persons**
- **The death of one person is not a consequence of «death of people»**

Other grave consequences

- **(in combination with an indication of the death of people or their illness)**
- **may consist only of harm to human health.**

Other grave consequences», «significant harm», «grave consequences»

- (if they are caused by damage to natural objects and systems)
- Resolution of the Plenum of the Supreme Court of Ukraine dated January 26, 1990 «On the practice of consideration by courts of cases of liability for violation of the legislation on the protection of nature»

Massive diseases of people

- Occurs in the spread of epidemic or contagious diseases, poisonings of a large number of people (tens, hundreds).
- In this case, the severity of the health of individual victims is inversely proportional to their number.

Mass destruction of flora and fauna, mass death of animals

- **the number of destroyed (dead) objects;**
- **area of taken out of the normal ecological condition of the land;**
- **ecological value of destroyed objects;**
- **the time during which the negative effects of pollution will be signaled;**
- **ability to play;**
- **damage in monetary expression.**

Creation of danger as a sign of crimes against the environment

- **Abstract danger- in relation to crimes with a formal composition (p.1 art.238, p.1 art.240, p.2 art.244, art.250 of the CCU).**
- **Real danger**

Real danger:

- changes in the state of objects of nature or technical systems;
- certain types of public values that may be harmed;
- there is a real threat of an overgrowth of the risk of actual injury.
- other types of the same crime occur in the event of real harm.

Endangering the life or health of people:

Possibility of consequences in the form of:

- death of at least one person;
- causing severe or moderate bodily harm to at least one victim;
- infliction of light bodily harm to several persons.

Danger of massive disease of the population

- **the threat of the spread of epidemic or contagious diseases;**
- **the threat of poisoning a large number of people (tens, hundreds).**

Special subject of crimes against the environment

- **Direct reference to the disposition of the Special Section article (in 9 articles of the CCU)**
- **Follows from the other elements of the relevant offense**

Territories and objects of the nature reserve fund

- **Place of crime commitment (art.246, 248 of the CCU);**
- **Subject of crime (art.252 of the CCU).**
- **Law of Ukraine dated June 16, 1992. «On the Nature Reserve Fund of Ukraine»**

Forestry

1) a plot of land covered with forest (trees, shrubs);
2) the land belongs to the forest fund (state or collective);
3) the area of the destroyed or damaged forest is not less than one hectare.

Water objects

- **Continental waters are water bodies located on land;**
- **Waters of the world ocean (seawater) - oceans and seas, sea gulfs, straits.**

Section IX. Crimes against public safety

Crimes against public safety

Lecture plan

1. Notion and types of crimes against public safety.
2. Creating a criminal organization.
3. Gangsterism.
4. Terrorist act.
5. The illegal handling of weapons, ammunition or explosives.
6. Illegal import of waste and secondary raw materials into the territory of Ukraine.
7. Violation of the fire safety requirements established by the legislation.
8. Illegal handling of radioactive materials.

Section IX. Crimes against public safety

Articles 255-270-1 of the CCU

Degree of severity of crimes against public safety

- Grave and especially grave -55,9 %
- Moderate severity – 32,3 %
- Low severity – 11,8 %

On the 5th place by the degree of severity in the Special Part of the Criminal Code

- KhavroniukM.I. Categories of crimes and sanctions of the Special Part of the Criminal Code of Ukraine: scientific research and some conclusions // The Criminal Code of Ukraine of April 5, 2001 - K .: ASK, 2001. - P.226

Data on the number of criminal organization

Government Courier. - 2002 - May 14. - p.7 (M. Kornienko, head of the GUBOZ):

- 9 criminal organizations were eliminated
- On the account - 49, including 3 stable
- 39 cases were violated, more than 30 people were arrested, 6 leaders were arrested

Governmental Courier. – 2002. –October 19. – p.7 (Y. Smirnov, Minister of Internal Affairs):

- Suspended activity of 627 criminal organizations
- 100 leaders were convicted

Changes to the Criminal Code of Ukraine - Law of Ukraine from March 7, 2002

- "On Amendments to the Criminal Code of Ukraine on strengthening the responsibility for hooliganism and a knowingly false report on the threat to the security of citizens"
- Amended sanction of art. 259 «Knowingly false report on the threat to citizens' safety, destruction or damage to property objects"

(Government Courier. - 2002 - April 4. - P.8).

Resolution of the Plenum of the Supreme Court of Ukraine

- as of July 7, 1995 No. 9
- On judicial practice in cases of banditry

Resolution of the Plenum of the Supreme Court of Ukraine

- As of April 26, 2002 №3
- On judicial practice in cases of abduction and other illicit use of weapons, military supplies, explosion. substances, explosion. devices or radioactive materials

Criminal misconduct of encroachments on public safety

- Section IX
- Art.255-270-1 of the CCU
- Art.113 - sabotage
- P.2 art.194 – willful destruction or damage of property in the most dangerous way
- Art. 195 – threat of destruction of property
- Art.147 – seizure of hostages
- . . .

Public safety as a generic object of crime

- **Safety - a state in which there is no threat (danger) of causing harm**
- **Public - the whole society, an uncertain range of individuals, everyone and everyone**

Sources of danger:

- **activities of criminal organizations**
- **terrorism**
- **the most dangerous items**
- **objects ...**

The system of crimes against public safety

Crimes:
1) committed by criminal organizations (art.255-257, 260 of the CCU):
2) related to terrorism (art.258, 259, 266 of the CCU):
3) related to objects that constitute an increased public danger (art. 262-265, 267-269 of the CCU):
4) committed on objects that constitute an increased danger (art.261, 270, 270-1 of the CCU)

Signs of criminal organizations

- **General – p.4 art.28 of the CCU**
- **Specific - in the articles of the Special Part of the Criminal Code**

Types of criminal organizations

Gang (art.257 of the CCU)



Not foreseen by law a paramilitary formation (art.260 of the CCU)



Not foreseen by law a paramilitary formation (art.260 of the CCU)



Anti-state organization (p.1 art.109 of the CCU)



Terrorist organization (p.4 art.258 of the CCU)

Transnational organization (p.5 art.143 of the CCU)

The objective side of organized crime

- **Creating a criminal organization**
- **Management of a criminal organization**
- **Participation in a criminal organization**
- **Consolidation of Organized Crime**

Terms of responsibility for organized crime activities

Responsibility of the persons who were organized

Responsibility for organization for action

Terrorism= intimidation

Objective signs:

- **threat of violence;**
- **causing harm**

(as a warning about the possibility of even more severe consequences)

Subjective features (purpose):

- **to achieve political (or other) goals;**
- **to induce certain actions;**
- **to attract attention**

Types of terrorism

1) a terrorist act (Article 258 of the Criminal Code);
2) knowingly false notification of the threat to the security of citizens. . . (Article 259 of the Criminal Code);
3) the threat of abduction or use of radioactive materials (Article 266 of the Criminal Code).

The objective side of a terrorist act (Article 258 of the Criminal Code)

DEEDS	CONSEQUENCES
x 3 types	• creating a hazard; • causing significant property damage or other grave consequences • death of a person

Deeds as part of a terrorist act

1) the use of weapons;
2) committing an explosion, arson;
3) other actions that created danger :

- **for life, health;**
- **causing significant pecuniary damage;**
- **the onset of other grave consequences.**

Purpose as part of a terrorist act

- **violation of public safety;**
- **Intimidation of the population;**
- **provocation of a military conflict, international complication;**
- **influence on decision making. . .;**
- **Attracting public attention . . .**

Types of items that constitute an increased risk

Art.262 of the CCU:
1) firearms (except for smoothbore hunting)
2) military supplies
3) explosives
4) explosive devices,
5) radioactive materials

Types of items that constitute an increased risk

Art.263 of the CCU (art.262 +):
+ daggers, Finnish knives
+ castets
+ other cold weapons

Art.264 of the CCU:
1) firearms;
2) military supplies.

Types of items that constitute an increased risk

Art.265 of the CCU:
1) sources of ionizing radiation
2) radioactive substances
3) nuclear materials

Art.266 of the CCU:
Radioactive materials

Types of items that constitute an increased risk

Art.267 of the CCU:
1) explosives;
2) flammable substances
3) caustic substances
4) radioactive materials.

Types of items that constitute an increased risk

Art.268 of the CCU:
1) waste; radioactive waste
2) secondary raw materials
3) substances or materials belonging to the category of hazardous waste which is prohibited for import

Acts committed against dangerous items

Art. 263 of the CCU:
1) abduction;
2) appropriation;
3) extortion;
4) takeover by fraud;
5) taking possession of an official by misuse of his official position (Part 2 of Article 262 of the Criminal Code);
6) robbery (Part 3 of Article 262 of the Criminal Code);
7) extortion, combined with violence, dangerous to life and health (Part 3 of Article 262 of the Criminal Code).

Acts committed against dangerous items

Art. 263 of the CCU:
1) wearing
2) storage; careless storage (Article 264 of the CCU)
3) acquisition
4) manufacturing
5) repair
6) transfer
7) sales

Acts committed against dangerous items

Art. 265 of the CC:

- **modification of radioactive materials**
- **demolition of radioactive materials**
- **spray of radioactive materials**
- **destruction of radioactive materials**

Acts committed against dangerous items

Art. 268 of the CCU:

- **import into the territory of Ukraine without proper permission of waste or secondary raw materials**
- **transit through Ukraine without proper permission of waste or secondary raw materials**

Types of objects that constitute an increased danger

1) on which there are objects that constitute an increased danger (Article 261 of the Criminal Code);

2) which constitute a fire hazard (Article 279 of the Criminal Code).

Objects that have objects that present an increased danger (Article 261 of the Criminal Code)

Manufactures, repositories, vehicles, scientific institutions, military units...

Operations concerning radioactive, chemical, biological, explosive materials, substances, objects

Objects that constitute a fire hazard (Article 270 of the Criminal Code)

General or special fire safety rules must be followed



Crimes against production safety

Lecture plan

1. Notion and system of crimes against production safety
2. Criminal violations of general rules of labor protection
3. Criminal violations of the rules for the implementation of certain types of work

Section X. Crimes against production safety

Articles 271 - 275 of the CC



Accidents at work in Ukraine:

over the past 30 years:

- **about 4 million people are injured**
- **nearly 100 thousand people were killed.**

everyday:

- **about 2,000 people are injured**
- **5 people die.**



Prevalence of crimes against production safety

Year 2017

- **156 people were convicted,**
- **0.08% among all convicts**

Herald of the Supreme Court of Ukraine. – 2018. - №4. – P.37



Degree of severity of crimes against production safety

- **Particularly grave and grave - 40%**
- **Moderate severity– 30%**
- **Minor severity – 30%**

At the 10th place by the degree of severity in the Special Part of the Criminal Code

Khavroniuk M. Categories of crimes and sanctions of the Special Part of the Criminal Code of Ukraine: scientific research and some conclusions // Criminal Code of Ukraine dated April 5th,2001. – K.: A.S.K., 2001. – p.226

Resolution of the Plenum of the Supreme Court of Ukraine

On the practice of applying the laws of Ukraine in cases involving violations of the requirements of the legislation on labor protection

As of October 10th, 1982. №6 (with amendments)

Resolution of the Plenum of the Supreme Court of Ukraine

On the practice of applying the laws of Ukraine to the courts of Ukraine and the execution of the resolution of the Plenary Session of the Supreme Court of Ukraine in cases related to violations of the requirements of the legislation on labor protection

As of October 3rd 1986. №9 (with amendments)

Safety of production as a generic object

- **Safety**
- **Production - the place where the process of wealth creation takes place**



Legality of production

Is there a criminal liability for violation of the rules of labor protection in the illegal production

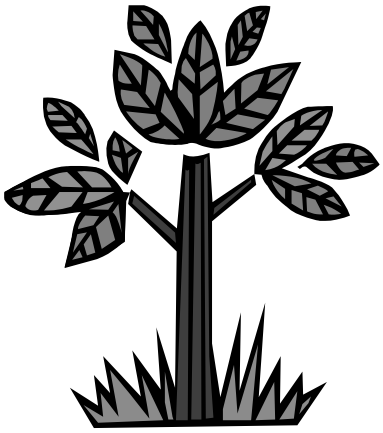


The significance of the resulted systematization - articles of the first group contain general rules, the second - special

- **Special rules (art.272-274 of the CC) have a priority before the general.**
- **Art.271 of the CC should be applied when committed is not covered by Articles 272-274 of the Criminal Code**

System of crimes against production safety

- **Criminal violations of general rules of labor protection (Articles 271, 275 of the CC)**
- **Criminal violations of the rules for the execution of certain types of work (Articles 272-274 of the CC)**

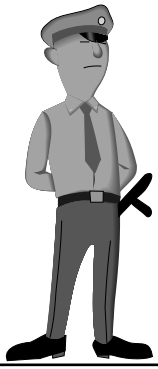


Victim of a crime stipulated in Article 271 of the Criminal Code

- **Person permanently or temporarily connected with such production:**
  - **workers;**
  - **students, trainees;**
  - **sent to business trips;**
  - **workers on civil contracts ...**

Persons who do not act as victims of an offense under article 271 of the CC

- **Are not related to such production :**
  - **representatives of controlling bodies;**
  - **law enforcement officers;**
  - **found themselves accidentally or illegally**



Acts in the commission of a crime envisaged in Article 271 of the CC

By action - acts prohibited by acts of labor protection



Due to inaction - failure to perform actions to which the person was obliged and able to do

Contradiction of the act stipulated in Article 271 of the CC

Mixed up :

- **in the CC;**
- **in legislative and other regulatory legal acts on labor protection.**

Place of committing a crime, stipulated in Article 271 of the CC

Production

- **enterprise, institution, organization;**
- **entrepreneurial activity without the creation of a legal entity;**
- **farm**

Articles in Section X do not cover a damage:

- **in the course of scientific experiments;**
- **during the study of pupils and students;**
- **in connection with military actions, maneuvers;**
- **through law enforcement operations**

Consequences of a crime stipulated in Article 271 of the CC

Art 1 st.271 CC

- **harm to the victim's health**
- **slight bodily harm?**
- **SSTSU**



Part 2 of Article 271 CC

- **death of people or other grave consequences:**
- **death of 2 or more persons;**
- **death of one person;**
- **TTU**

The subject of a crime envisaged in Article 271 of the CC

1) official person ...

2) a citizen is a subject of entrepreneurial activity

Special obligations on labor protection

The correlation of violations of the general rules of labor protection and the rules for the implementation of certain types of work

art.272 : art.273,274,275 = general: special

Work with high danger

Law of Ukraine of January 18, 2001 «On Hazardous Objects»

Order of the State Labor Protection Committee dated November 30, 1993 No. 123 «List of works with increased danger»

Safety on explosive objects

Explosion = the process of releasing a large amount of energy in a limited volume in a short time

Explosion:

- **chemical**
- **nuclear**
- **thermal**
- **electric**
- **kinetic**
- **. . .**

Nuclear safety

= safety of production, which uses radioactive materials

Violation of rules

Actions – actions prohibited by rules

Inaction – non-fulfillment of the actions that a person should have and could fulfill

Consequences of violations of the safety rules of certain types of work

Creation of danger

Infliction of real harm

The subject of violation of the safety rules of certain types of work

General signs :

Special signs:

- **A person entrusted with the duty to observe safety rules**

The subjective aspect of violating the safety rules of certain types of work

Negligence of both types

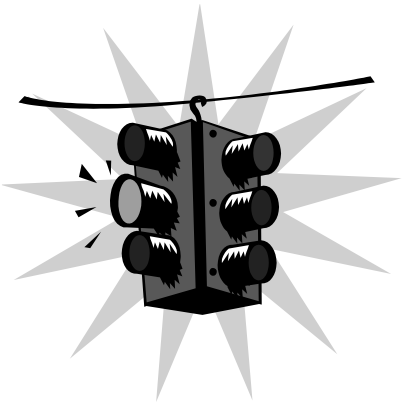
Crimes against traffic safety and operation of transport

Lecture plan

1. Notion and system of crimes against traffic safety and operation of transport
2. The subject of crime against the safety of certain types of transport
3. It is the «side of crime against security ... certain types of transport
4. Subjective signs of crime against the safety of certain types of transport
5. Offenses against the observance of the general rules of safety of movement and operation of transport

Section XI «Crimes against traffic safety and transport operation»

Articles 276-292 of the CC



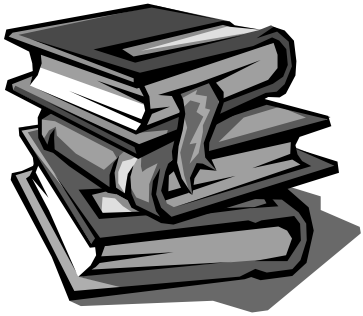
Changes in Section XI of the Special Part of the CC of Ukraine

Law of Ukraine dated September 22, 2005 «On»

- **Art. 289 "Illegal possession of a vehicle"**

- put in a new wording

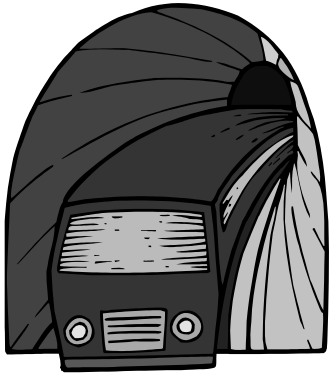
Resolution of the Plenum of the Supreme Court of Ukraine dated December 24, 1982, No. 7 (with subsequent amendments and supplements).



On the practice of using the laws of Ukraine in cases of transport crimes by the courts of Ukraine

The generic object of crimes...

traffic safety and transport operation



Transport

- are certain moving vehicles, structures, objects that provide for the transportation of passengers, the movement of goods and act as sources of increased danger



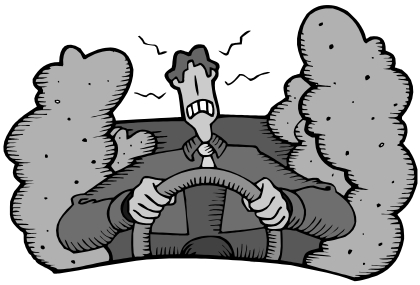
Transport movement



movement of people and the movement of goods by means of transport

Operation of transport

use of vehicles, other objects of transport without bringing them in motion



Classification

- **depending on the subject of the attack**
  - **Attacks committed by active members of the movement**
  - **Attacks committed by others**

Classification

- **by the nature of the act**

1.Violation of the rules of management
2.Violation of the rules of technical operation.
3.Violation of the rules of conduct
4.Occupation
5. Destruction or damage
6.Destruction of work
7.Violation of rules of conduct in case of accidents

Classification

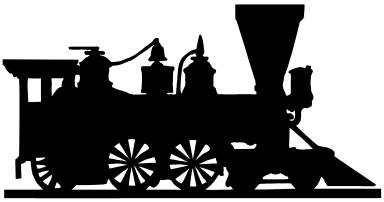
- **by object:**

Crimes against compliance of:

- **... general rules of safety of movement and operation of transport (Art.279,280, 291 of the CC)**
- **... rules of safety of movement and operation of separate types of transport**

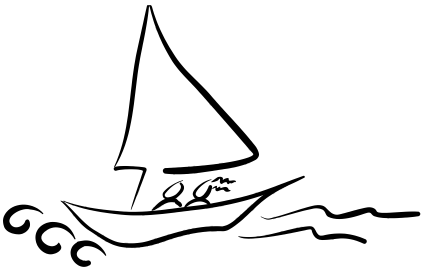
Railway transport

- **rail main and access roads;**
- **rolling stock**
- **means of control, signaling and communications**



Water transport

- **floating self-propelled and non-self-propelled vehicles (except for military vehicles)**
- **lighthouses and buckets**
- **berthing facilities**



Air transport

- **civilian aircraft**
- **places for their landing**
- **means of communication and air traffic control**



Automobile transport



?

Automobile transport

1) with an internal combustion engine of 50 cm3 or a constructive speed of over 40 km / h;
2)certification
3) registration, periodic maintenance
4) civil liability insurance



Acts in crimes against traffic safety and the exploitation of transport

- **Violation of the rules. . .**
- **Low-quality repair**
- **Damage, destruction. . .**
- **Hijacking, capture, seizure**
- **Locking**
- **Unauthorized stopping of the train**
- **Forcing an employee. . .**
- **Failure to assist the ship. . .**
- **Failure to report a name. . .**
- **Destruction, fake, replacement of numbers**

Consequences in crimes against traffic safety and operation of transport

- **Abstract danger (formal warehouses)**
- **Real danger**
- **Real damage**

The subject of crime Against traffic safety and the operation of transport

- **General**
- **Worker of transport**
- **Person who is not an employee. . .**
- **The captain of the ship**
- **Person who manages the TT**
- **Person, resp. for technical and operational TT**
- **Person, resp. for the construction. . .**

The subjective aspect of crime Against traffic safety and the operation of transport

На умисну вини вказує: характер діяння; способи	Необережні злочини

Section XII Crimes against public order and morality

Crimes against public order and morality

Lecture plan

1. **General characteristics of crimes against public order and morality.**
2. **Group breach of public order (art.293)**
3. **Riots (art.294).**
4. **Hooliganism (art.296).**
5. **Desecration of grave (art.297).**
6. **Cruelty to animals (ст.299).**
7. **Creation or maintenance of sexual abuse places and procuration (art.302).**
8. **Pimping or taking a person into prostitution (art.303).**
9. **Involvement of minors in criminal activity (art.304).**

Section XII of the Special Part of the CC

- **Crimes against public order and morality**
- **Articles 293-304 of the CC**

The degree of severity of offenses against public order and morals

- **Particularly grave and grave – 25, 0 %**
- **Medium severity – 35,7 %**
- **Low severity – 39,3 %**

At the 13th place by the degree of severity in the Special Part of the CC

- **Havronyuk M.I. Categories of crimes and sanctions of the special part of the CC of Ukraine : scientific research and some conclusions // Criminal Code of Ukraine as of 5 April 2001 – K.: A.C.K., 2001. – P.227**

Changes made to Section XII of the Special Part of the CC of Ukraine

- **Law of Ukraine as of 07.03.2002 "On Amendments to the Criminal Code of Ukraine on strengthening the responsibility for hooliganism and a knowingly false report on the threat to the security of citizens"**
- **In art.296 "Hooliganism"- changes in the sanction of p.1**
- **Law of Ukraine as of 18.03.2004 "On the Protection of the Archaeological Heritage"**
- **Art. 298 "Destruction of destruction or damage to monuments - objects of cultural heritage and unauthorized conducting of research works on an archaeological monument"**

- set out in the new wording

Resolution of the Plenum of the Supreme Court of Ukraine

- **On judicial practice in cases of hooliganism : as of 28 June 1991 No.3 (with subsequent changes)**

Resolution of the Plenum of the Supreme Court of Ukraine

- **On the application by the courts of legislation on liability for juvenile involvement in criminal or other anti-social activities : as of 27 February 2004 No.2**

Generic object of crimes provided for in Section XII of the Special Part of the CC

- **Public order and morality**

The single generic object?

Two different generic objects?



The notion of public order

Order:
1) normalization
2) the result of observance of rules and norms of conduct

Public - the one that concerns an indefinite number of people, all members of society (community)

The notion of public order

Public order – it is a social relationship that consists of respect for the members of the society to adhere to its rules of conduct aimed at ensuring peace and security

Morality = public morality

Moral - appropriate rules of behavior of people in society ..

Morality - the spiritual qualities necessary for human life in society and the fulfillment of the rules of morality.

The notion of morality

Morality (public morality) – It is a social relationship that consists of ensuring the behavior of people in society on the basis of generally accepted rules of mutual respect, shyness. . .

The correlation of public order and morality

Common features:

- **HAVE A NORMATIVE BASIS-**
- **ARE RESULT OF BEHAVIOR RULES OBEYANCE**
- **FUNCTION ONLY IN SOCIETY**

Difference:

- **FORM OF REGULATION OF REQUIREMENTS (LEGAL NATURE OF THE PUBLIC ORDER, CORRECT REGULATION OF MORALITY)**
- **CONTENT OF REQUIREMENTS**

Types of crimes stipulated by Section XII of the Special Part of the CC

Crimes against public order (art.293-296 of the CC)

Crimes against morality (art.297-304 of the CC)

Forms of group encroachments on public order

1) group actions that violate public order (art.293);
2) mass riots (art.294 of the CC);
3) group hooliganism (art.299 of the CC).



Group breach of public order

Actions which have resulted in gross violation of public order or serious violation of the work of transport, enterprise, institution or organization

Expressed not in the active actions of a separate group of people, but in their inactivity

Riots

- **Violence over a person**
- **Bashing**
- **Set up**
- **Destruction of property**
- **Capture buildings or structures**
- **Forcible eviction of citizens**
- **Resistance to the authorities with the use of ...**

Acts in committing group attacks on public order

1) organization of group actions or riots;

2) active participation in group violations of public order or riots;

Group attacks on public order and related crimes

Art.293. Group breach of public order

+Art.279 of the CC
+Art.341 of the CC

Group attacks on public order and related crimes

Part 1 art.294 of the CC. Riots	**= Art.122, 125, 126, 127,129, p.1 and 2 art.146, p.1 art.194, art.195 of the CC** **+art.147, 152, 153 of the CC**

Group attacks on public order and related crimes

Part 2 art.294 of the CC. Riots	**= Art.121, 119, 128, Art.146, p.2 art.194 of the CC** **+Art.112, 115, 348, 379, 400, 443 of the CC**

Calls for actions that threaten public order (art.295 of the CC)

1) public appeals

2) distribution, manufacture or storage for distribution of materials ...

Types of hooliganism

Minor (art.173 CoAO)



Criminally punished (art.296 of the CC):

- **Simple**
- **Qualified**
- **Especially qualified**
- **Especially qualified**

Art. 173 CoAO of Ukraine. Minor hooliganism

Minor hooliganism, ie, obscene vocation in public places, abusive clinging to citizens and other similar actions that violate the public order and peace of citizens

Art.296 of the CC. Hooliganism

Hooliganism, ie rude violation of public order from the motives of obvious disrespect for society, which is accompanied with high degree of insolence or exceptional cynicism

The rudeness of violations of public order in the commission of hooliganism

- **Place of committing hooligan actions**
- **Duration**
- **The number of victims**
- **Degree of violation of rights and legitimate interests**
- **. . .**

Objective side of hooliganism

Is hooliganism possible in case of inactivity



High degree of insolence

- violence or bullying
- long-lasting
- destruction of property
- breaking the mass event
- temporary suspension of the institution's activities ...

p.8 Resolution of the Plenum of the Supreme Court of Ukraine as of 28 June 1991 "On judicial practice in cases of hooliganism"

Exceptional cynicism

- demonstrative disregard for the norms of morality
- shamelessness
- mistreatment of patients ...

p.8 Resolution of the Plenum of the Supreme Court of Ukraine as of 28 June 1991 "On judicial practice in cases of hooliganism"

The obvious disrespect for society

- **ignoring existing norms of conduct**
- **opposition to society**
- **self-assertion by humiliating others**
- **absence of external drive or use of insignificant reason for punishment**

Type of intent in hooliganism

Is hooliganism possible with implicit intent



Type of intent in hooliganism

The desire to break the public order
= hooliganism



Conscious assumption of harm to public order, desire to harm person, property...
= crimes against the person, against property...

Qualified type of hooliganism

p.2 art.296 of the CC By the group of people



Especially qualified type of hooliganism

p.3 art.296 of the CC

- **By a person previously convicted of hooliganism**
- **resistance...**



Especially qualified type of hooliganism

p.4 art.296 of the CC

- **The use of firearms or cold weapons or another item specially adapted or pre-prepared for causing bodily harm**

Hooliganism and related crimes

p.1 art.296 of the CC	**= art.125, p.1 art.126, art.129 of the CC** **+ art. 122, 121 of the CC**

Types of crimes against morality

Encroachment against morality in the field:
1) respect to the memory of the dead (art.297);
2) attitude to the historical and cultural heritage (art.298 of the CC);
3) attitude towards animals (art.299 of the CC);
4) rejection of violence and cruelty (art.300 of the CC);
5) sexual morality (art.300-303 of the CC);
6) education of youth (art.304 of the CC; + ...).

Subject of crime“Desecration of grave”

- **Grave**
- **Another place of burial**
- **Corpse**
- **The urn with the ashes of the deceased**
- **Items that are in the burial place or on the corpse**





Acts in committing a crime“Desecration of grave”

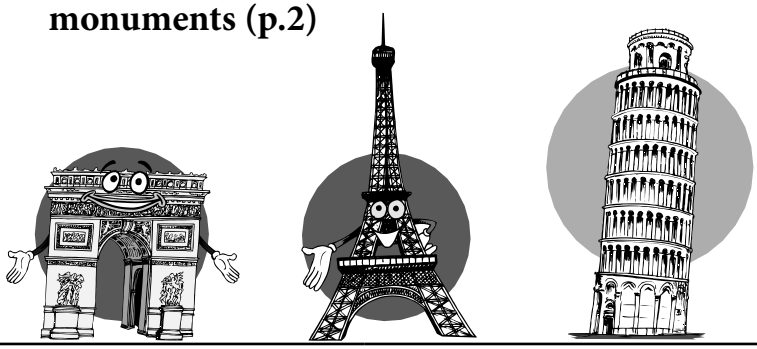
Desecration **Abduction**



The subject of a crime, stipulated in art.298 of the CC

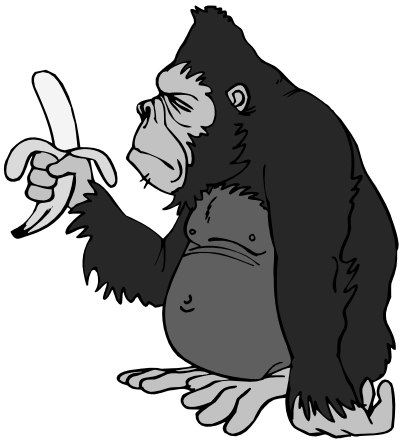
- **Objects of cultural heritage (p.1)**
- **National monuments (p.2)**

Objects of archaeological heritage (p.3)



The subject of the crime «Cruelty to animals»

- **Animals related to the vertebrates**



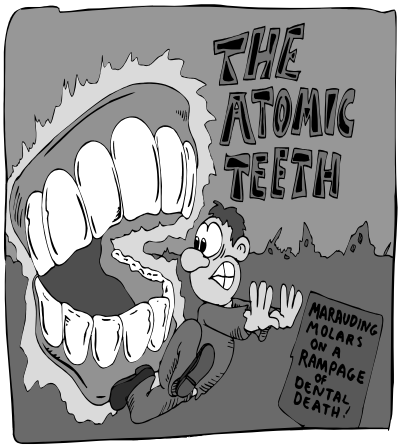
The objective side of the crime «Cruelty to animals»

- **Bullying done with the use of rigorous methods**
- **Bullying (regardless of methods, but of hooligan motives)**
- **Pitching animals against each other**



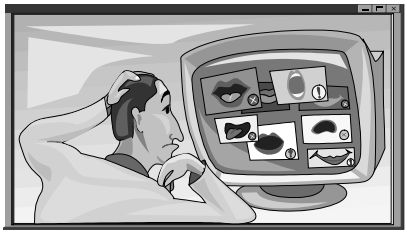
Works that propagate the cult of violence and cruelty

Features:
1) physical
2) substantial
3) purpose
4) the absence of another aim



Pornographic items
(works, images or other objects of a pornographic nature)

Features:
1) physical
2) substantial
3) purpose
4) the absence of another aim
5) the nature of the perception



Actions on works that propagate the cult of violence and cruelty

1) import into Ukraine
2) manufacturing
3) storage
4) transportation or other relocation
5) sales
6) distribution
7) coercion to participate in their creation

The notion of «import into Ukraine»

Is the transfer of information to the channels of communication imported



Production

- **Authorship**
- **Replication**



Distribution

Is the demonstration of the relevant items distributed



Objective side of prostitution (administrative responsibility)

- **Provision of sexual services**
- **Systematically**



Coercion or involvement in prostitution

1) the use of violence
2) the threat of violence
3) destruction or damage to property
4) blackmail
5) fraud

The objective side of the pimping

- **organized group, which ensures the provision of sexual services to men and women in order to generate profits**

1) creation
2) managing
3) participation

Involvement of minors:

1) into criminal activity
2) drunkenness
3) begging
4) gambling



Section XIII Crimes in the field of drug trafficking, their counterparts or precursors and other crimes against the health of the population

Crimes in the field of drug trafficking, their counterparts or precursors and other crimes against the health of the population

Lecture plan

1. **General characteristics of crimes in the sphere of circulation of narcotic drugs, psychotropic substances, their analogues or precursors**
2. **Contraband of narcotic drugs, psychotropic substances, their analogues or precursors.**
3. **Illegal production, manufacture, acquisition, storage, transportation, forwarding or sale of narcotic drugs, psychotropic substances or their analogues.**
4. **Illegal introduction into the body of narcotic drugs, psychotropic substances or their analogues.**
5. **Persuasion for the use of narcotic drugs, psychotropic substances or their analogues.**
6. **Illegal public use of narcotic drugs.**
7. **Violation of the rules of the fight against epidemics.**
8. **Violation of the rules of handling microbiological or other biological agents or toxins.**
9. **Harvesting, processing or marketing of radioactive contaminated food or other products.**

Section XIII of the Special part of the Criminal Code of Ukraine

- **Crimes in the sphere of narcotic drugs, psychotropic substances, their analogues or precursors, and other crimes against public health**

(art.305-327 of the CC)



Prevalence of «narcotic» crimes (convicted persons)

1992 - 6498 (every 18-th person convicted for "narcotic" crimes)
1996 - 21571 (every 11-th person convicted for "narcotic" crimes)
2001 – 50,0 (every 8-th person convicted for "narcotic" crimes)
2010 – 46,6 (every 6-7-th person convicted for "narcotic" crimes)
2015 – 36,6 (every 5-th person convicted for "narcotic" crimes)
2017 – 30,4 (every 5-th person convicted for "narcotic" crimes)

Degree of severity of crimes against public health

- **Particularly grave and grave crimes – 44.2%**
- **Moderate severity crimes – 34,7 %**
- **Minor severity crimes – 21,1 %**

On the 9th place by the degree of severity in the Special Part of the Criminal Code

Khavroniuk M. Categories of crimes and sanctions of the Special Part of the Criminal Code of Ukraine: scientific research and some conclusions // Criminal Code of Ukraine as of April 5th 2001 p. – K.: A.C.K., 2001. – p.226

On the circulation in Ukraine of narcotic drugs, their analogues and precursors

Law of Ukraine dated August 8, 1999 // ISC. – 1999. - №36. – p.317

On Approval of the List of Narcotic Drugs, Psychotropic Substances and Precursors

Resolution of the Cabinet of Ministers of Ukraine dated May 6, 2000 №770, amended with resolution as of December 12, 2002.

On approval of tables of small, large and especially large sizes of narcotic drugs, psychotropic substances and precursors which are in illegal circulation

Order of the Ministry of Health of Ukraine dated August 1st , 2000 №188

Amendments to the section XIII of the Special Part of the Criminal Code of Ukraine

- **Law of Ukraine as of 16.01.2003 «On Amendments to the Criminal and Criminal Procedural Codes of Ukraine“**
- **p.1 art. 306 “Use of proceeds from illicit drug trafficking...”**

- set out in the new wording

- **Закон України від Law of Ukraine of 06.02.2003 «On Amendments to certain Laws of Ukraine on the Prevention of the Use of Banks and Other Financial Institutions for the Purpose of Legalization (Laundering) of Illegal Profits“**
- **art. 306 “Use of funds aquired from illicit drug trafficking...”**

- Changes in the sanction of p. 1

Resolution of the Plenum of the Supreme Court of Ukraine

On judicial practice in cases of crimes in the sphere of circulation of narcotic drugs, psychotropic substances, their analogues or precursors

№4 as of April 26th 2002. // Informant of the Supreme Court of Ukraine. – 2002. - №4.

Generic object of crimes envisaged by Section XIII of the Special Part of the Criminal Code

- **Health**
- **Public**



Public

- **All who live in a certain area, in the state; an uncertain number of people, everyone in the danger zone.**

= "public"

The concept is prefabricated, characterized by massive, statistical indicators.

Health

- **3Individual's health (Sections II, III, IV etc.)**
- **Public health (Section XIII).**

Types of crimes...

- **Encroachment on public relations to prevent the spread of harmful substances to human health**
- **Violation of anti-epidemic rules (art.325 of the CC)**

Encroachment on public relations to prevent the spread of harmful substances to human health

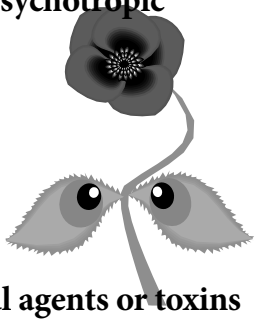
- **Illegal activities with narcotic drugs, psychotropic substances, their analogues or precursors (art.305,307-312,314,316,320 of the CC);**
- **Attacks that promote the spread of drug addiction (art. 306,313,315,317-319 of the CC).**
- **Illegal activities with other substances harmful to human health : (art.321-324,326, 327 of the CC).**

Subjects of crimes against public health

1. Substances that are hazardous to the health of the population
2. Values obtained as a result of drug operations
3. Equipment for the manufacture of dangerous goods ...
4. Places for the use of substances hazardous to health
5. Documents for hazardous substances

Substances dangerous to the health of the population

1. **Drugs**
2. **Psychotropic substances**
3. **Analogues of narcotic drugs and psychotropic substances**
4. **Precursors**
5. **Sleeping pills or hemp**
6. **Poisonous and potent substances**
7. **Confectionery**
8. **Dope**
9. **Microbiological or other biological agents or toxins**
10. **Radioactive contaminated food or other products**



Valuations derived from drug operations

11. The funds obtained from illicit [illegible]cking ...



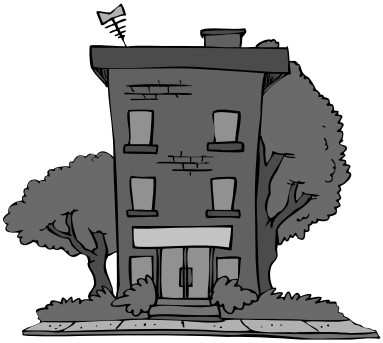
Equipment for the manufacture of items dangerous to the health of the population



12. Equipment for the manufacture of narcotic drugs, psychotropic substances or their analogues

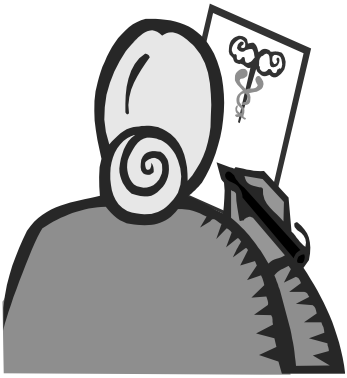
13. Equipment intended for the production or manufacture of poisonous or potent substances

Places for the use of substances hazardous to health



14. Places for illegal activities with narcotic drugs, psychotropic substances or their analogues
15. Places for the use of stomach

Documents to receive hazardous substances



16. Counterfeit documents for the receipt of narcotic drugs, psychotropic substances or precursors
17. A recipe for the right to purchase narcotic drugs or psychotropic substances

The notion of narcotic drugs

Article 1 of the Law of Ukraine as of of July 8, 1999 «On the circulation in Ukraine of narcotic drugs, psychotropic substances, their analogues and precursors» // Informant of the Verhovna Rada of Ukraine. - 1999. - №36. - art.317:

«Narcotic drugs - included in the List of substances of natural or synthetic origin, preparations, plants, which constitute a danger to the health of the population in case of abuse»

Signs of narcotic drugs

1) medical, ability to cause narcotic intoxication (euphoria), drug addiction.

2) legal - means provided in a special regulatory act - «List ...»



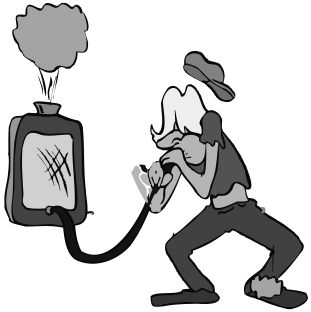
«List of narcotic drugs, psychotropic substances and precursors»

Approved by the Resolution of the Cabinet of Ministers of Ukraine dated May 6, 2000 No. 770 as amended on 12.12.2002 (?)

- **Includes four Tables (I, II, III, IV), each of the tables consists of Lists (9)**
- **A total of 129 types of narcotic drugs (processing products) and 2 plant species**

Signs of psychotropic substances

1) medical - able to cause a state of decoction - intoxication and addiction;

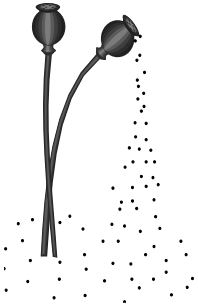


2) legal - listed in the List

The current List contains 110 precursors and 2 plant species

Signs of precursors

1) chemical - serve as raw material for narcotic drugs or psychotropic substances



2) legal - by the current List referred to such substances. The current list contains 23 types of precursors

Signs of analogues ...

1) legal - negative aspect:

- **relevant items are not included in the List;**
- **positive aspect: analogues forbidden to circulation in Ukraine**

2) chemical - according to properties and structure such substances are similar to narcotic drugs and psychotropic substances.

Quantitative Categories of Drugs

1) small size
2) significant size
3) large size
4) especially large size

Determination of the quantitative category of drugs

Order of the Ministry of Health of Ukraine as of August 1, 2000 №188

"On approving tables of small, large and especially large sizes of narcotic drugs, psychotropic substances and precursors that are in illegal circulation"

Determination of the quantitative category of drugs

Table 1. Small, large and especially large amounts of illicit drug trafficking (about 20 species)
Table 2. ... the sizes of psychotropic substances that are in the illicit circulation (about 94 species)
Table 3. Large and especially large sizes of precursors that are in illegal circulation (about 24 species)

Determination of the quantitative category of drugs

How to identify a significant amount of drugs?



Determination of the quantitative category of drugs

How to determine the quantitative category for those types of drugs that are not listed in the Tables?



Determination of the quantitative category of drugs

1) small size - does not exceed a single dose;
2) a significant size - more than the small size, but smaller than large;
3) large size - quantity, the use of which causes an illness of drug addiction of at least one person;
4) especially large size - quantity that exceeds a large size several times.

Determination of the quantitative category of drugs

How to determine the quantitative category of drugs if they are detected in several types of illicit trafficking?



Determination of the quantitative category of drugs

1) determine what proportion of the relevant quantitative category (large or especially large) is the weight of each species;
2) summarize these shares;
3) if the total amount exceeds 1, then it is necessary to recognize the amount of such means, substances large or especially large.

Determination of the quantitative category of drugs

Does the normative change in the quantitative category of drugs affect the qualification?



Determination of the quantitative category of drugs

Is it possible to apply the concept of insignificance to the crimes analyzed?



Acts in the syllables of crimes against the health of the population

- **30 types of socially dangerous acts**
- **Most of their content is disclosed in the Law «On Circulation in Ukraine ...» and the Resolution of the Plenary Session of the Supreme Court of Ukraine**

Acts in the syllables of crimes against the health of the population

Smuggling 305	**Moving across the customs border of Ukraine:**
[art.201 of the CCU, art.351-352 of the MCU]	• **out of customs control;** • **with concealment from customs control**

Acts in the syllables of crimes against the health of the population

Use of funds derived from illicit trafficking…306



Use of funds derived from illicit drug trafficking ...

- **placement in banks, enterprises, institutions, organizations and their subdivisions;**
- **use for the purchase of objects, property subject to privatization;**
- **purchase of equipment for production or other needs;**
- **use of profits in order to continue the illicit circulation of narcotic drugs ...**

Acts in the syllables of crimes against the health of the population

- **Manufacturing 307, 309, 311, 321**
- **Production 307, 309, 311, 313, 318, 321**



Manufacturing...

- **Article 1 of the Law**
- **All actions related to serial receipt of narcotic drugs and / or psychotropic substances**

Production...

- **Article 1 of the Law**
- **Paragraph 3 of the resolution of the Plenum of the Supreme Court**

- **Усі дії, включаючи рафінування та екстракцію, в результаті яких одержуються...**
- **або відбувається перетворення на готові до використання форми**

Acts in the syllables of crimes against the health of the population

- **Purchase 307, 309, 311, 313, 321**
- **Storage 307, 309, 311, 313, 321**
- **Transportation 307, 309, 311, 321**
- **Forwarding 307, 309, 311, 321**



Purchase

- **Paragraph 3 of the resolution of the Plenum of the Supreme Court**

- **Purchase, exchange**
- **Fee for work or service**
- **Debt, debt payment**
- **Gift**
- **Assignment of discovery**
- **Collection of drug-containing plants**

Storage

- **Paragraph 3 of the resolution of the Plenum of the Supreme Court**

- **Any deliberate acts connected with the actual illegal possession of narcotic drugs ... in the possession of the perpetrator**
- **Regardless of duration**

Transportation

- **Art.1 of the Law**
- **Paragraph 3 of the resolution of the Plenum of the Supreme Court**

- **Transportation - transportation by any type of transport**
- **Transfer (without transport) = storage**

Forwarding

- **Paragraph 3 of the resolution of the Plenum of the Supreme Court**

- **Forwarding:**

- by mail;
- by luggage;
- by courier;
- in another way

Acts in the syllables of crimes against the health of the population

- **Sale 307, 311.2, 318, 321, 327**
- **Redesign for sale 327**
- **Transfer 313**
- **Realization 313**



Sale

- **Paragraph 4 of the resolution of the Plenum of the Supreme Court**

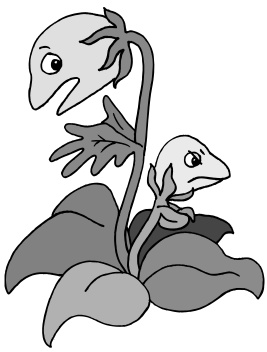
Any paid or unpaid [?] forms of implementation :
- sale,
- exchange;
- gift;
- payment of debt;
- loan;
- Injection by consent

Acts in the syllables of crimes against the health of the population

- **Kidnapping 308, 312, 313**
- **Appropriation 308, 312, 313**
- **Extortion 308, 312, 313**
- **Capture by fraud 308, 312, 313**
- **Assimilation by abuse of powers 308, 312, 313**
- **Brigandage 308, 312.3, 313.3**

Acts in the syllables of crimes against the health of the population

- **Sowing or growing [sleeping pills or hemps] 310**



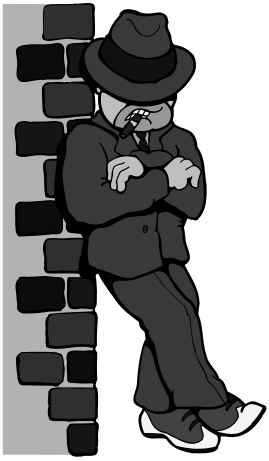
Acts in the syllables of crimes against the health of the population

- **Injection to the body 314**
- **Persuasion to use 315, 324**
- **Public use 316**
- **The urge to use [doping] 323**



Acts in the syllables of crimes against the health of the population

- **Organization or retention of places...317, 322**



Acts in the syllables of crimes against the health of the population

- **Forgery [of document] 318**
- **Use [of document] 318**
- **Issuance [of receipt] 319**



Acts in the syllables of crimes against the health of the population

- **Violation... 320, 321.2, 326**



Acts in the syllables of crimes against the health of the population

- **Violation of the rules of the fight against epidemics 324**
- **Provision [radioactive contaminated...] 327**

Contraband of narcotic drugs... (art.305 of the CCU) and contraband(art.201 of the CCU)

- **Separation by subject. Art.305 of the Criminal Code does not cover smuggling:**
- **- equipment for the manufacture of drugs;**
- **- poisonous and potent substances;**
- **- doping;**
- **- stomach preparations;**
- **- microbiological or other biological agents or toxins;**
- **- radioactive contaminated food or other products.**

Contraband of narcotic drugs... (art.305 of the CCU) and contraband(art.201 of the CCU)

- **Quantitative category, not price**



Use of funds...(art.306 of the CCU) and legalization (laundering) of incomes... (art.209 of the CCU)

- **Correlation of special and general rules.**
- **Art.209 of the CCU covers:**
- **committing financial transactions not specified in Article 306 of the Criminal Code (giving such funds in debt, giving them);**
- **acquisition of property intended for personal consumption;**
- **use of such funds for the conduct of individual entrepreneurial activities (without the establishment of an enterprise).**

Crimes against property (art.185-187, 189-191 of the CCU) and kidnapping... (art.308, 312, 313 of the CCU))

- **Rules correlate as special and general.**
- **Special rules do not favor the rules on property crimes [totality].**

Qualification for the destruction of drugs ...

- **There are no special rules**
- **Responsibility as a crime against property**

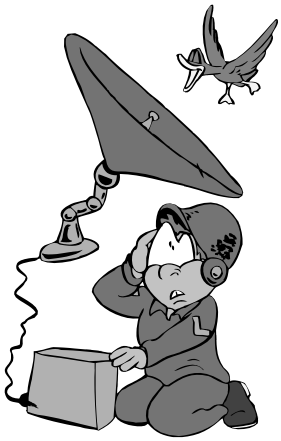
Crimes in the area of state secrets, the inviolability of state borders, the provision of a call-up and mobilization

Lecture plan

1. General characteristics of crimes in the sphere of protection of state secrets, inviolability of state borders, provision of a call and mobilization.
2. Disclosure of state secrets.
3. Loss of documents containing state secrets.
4. Illegal transfer of persons across the state border of Ukraine.
5. Violation of rules of international flights.
6. Avoiding the call-up to a regular military service.
7. Evasion from military records or special meetings.

Section XIV of the Special Part of the CCU

- **Crimes in the area of state secrets, the inviolability of state borders, the provision of a call-up and mobilization (art.328-337 of the CCU)**



Changes made in section XIV of the Special Part of the Criminal Code of Ukraine

- **Law of Ukraine of 03.04.2003 «On Amendments to Article 333 of the Criminal Code of Ukraine“**
- **Art. 333 “Violations of the procedure for the implementation of international transfers of goods subject to state export control”**

- set out in the new wording

Law of Ukraine of 18.05.2004 «On Amendments to Certain Legislative Acts of Ukraine on the Crossing of the State Border of Ukraine“ Art. 331 excluded

The degree of severity of crimes provided by section XIV of the Special Part of the Criminal Code

- Particularly grave and grave -17,6%
- Moderate severity – 53 %
- Minor severity – 29,4 %
- At the 16th place by degree of severity in the Special Part of the Criminal Code

Khavroniuk M.I. Categories of crimes and sanctions of the Special Part of the Criminal Code of Ukraine: scientific research and some conclusions // Criminal Code of Ukraine as of April 5, 2001 p. – K.: A.S.K., 2001. – p.227

The prevalence of evasion from the call-up for a regular military service (Article 355 of the Criminal Code)

- Avoids an appeal on urg ent military service by th e state ontoday 33 thousa nds 618 persons

Kobas A., Deputy Chief of the Main Organizational-Mobilization Department of the General Staff of the Armed Forces of Ukraine,

The prevalence of evasion from the call-up for a regular military service (Article 355 of the Criminal Code)

- **Зареєстровано злочинів - 448.**
- **Виявлено осіб - 31**



A statistical report of MB C is on the amount of the educedcrimes and person s that accomplished them after 2016

The generic object of the crimes envisaged by section XIV of the Special Part of the Criminal Code

- **Single generic object?**
- **Three separate generic objects?**



The generic object of the crimes envisaged by section XIV of the Special Part of the Criminal Code

- **External security of Ukraine**



Relationships that are part of a generic object :

- **= crimes against the bases of national security of Ukraine;**
- **= crimes against the established order of military service.**

Types of crimes stipulated in Section XIV of the Special Part of the Criminal Code

1) ... against ensuring the preservation of state secrets and confidential information (Art.328-330 of the Criminal Code);
2) ... against securing of the order of crossing the state border and transferring military objects through it (Art.332-334 of the Criminal Code)
3) ... against providing a call-up and mobilization (Art. 335-337 of the Criminal Code).

The notion of secret

1) information

2) hidden...

3) about facts,actions, subjects, occurrences – (real, past, future)



Criminal and legal signs of secret:

1) the normative definition of the circle of information ...
2) establishing a circle of persons ...
3) fixing the list of actions ...



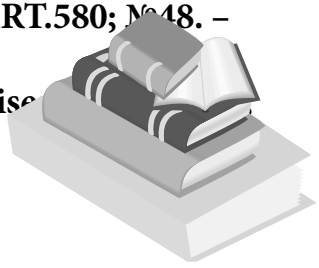
Types of secrets in theCCU:



1) state (art.111, 114, 328, 329, 330, 422 of the CCU);
2) professional - medical and attorney (art.132, 145, 397 of the CCU);
3) vote (art.159, 150 KK);
4) privacy (art.154, 168, 182, 189, 386 of the CCU);
5) management (art.220, 221 231, 232 KK)
6) investigative (ст.ст. 381, 387 of the CCU);
7) about the state of the environment(art.238 of the CCU).

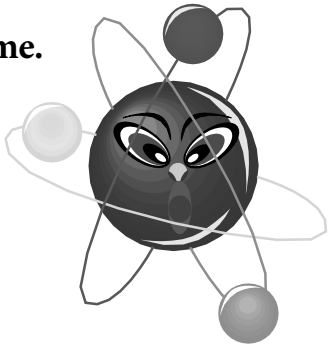
State secret

On the State Secret: Law of Ukraine dated January 21, 1994, ed. of September 21, 1999// Bulletin– 1999. - №49. – Art.428;
A set of information constituting state secrets: Order of the Head of the SSU from March 1, 2001 №52 // OVU.- 2001. - №13. – ART.580; №48. – Art.2166;
Orders of managers of enterprise organizations



Secret in the system of signs of a crime :

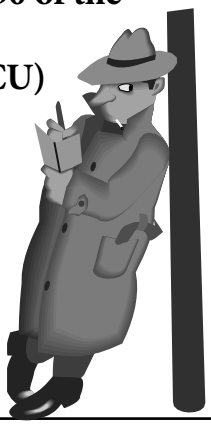
- the subject of social relations;
- the subject of a crime;
- a means of committing a crime.



Acts committed to secrets:

1) collection (art. 111, 114, 182, 231, 330 of the CCU)
2) transfer (art. 111, 114, 330 of the CCU)





Acts committed to secrets :

3) disclosure (art. 132, 145, 168, 232, 328, 381, 387, 442 of the CCU)
4) threat of disclosure (art. 154, 189, 386 of the CCU);
5) breach (art. 159, 160, 163, 397 of the CCU);



Acts committed to secrets :

6) concealment (ст.ст. 220, 221, 238, 285 КК)
7) distortion (ст.ст. 238 КК)
8) loss (ст.ст. 329, 422 КК)
9) storage (ст.ст. 182 КК);
10) use (ст.ст. 182, 231 КК);
11) spreading (ст.ст. 182 КК).

Subject of encroachment on secrets

1) the official, the person to whom the secret became known in connection with the performance of official duties:

- **additional signs of which have not been specified (art.145, 159, 160, 232, 238, 328, 330, 381 of the CCU);**
- **official of medical establishment (art.132 of the CCU);**
- **member of the election commission, member of the referendum commission (art.159, 160 of the CCU);**
- **official of a business entity (art.220, 221 of the CCU);**
- **the captain of the ship (art.285 of the CCU);**
- **the person who made the decision about the security measures, the person who carries them out (art.381 of the CCU);**

Subject of encroachment on secrets

2) the person to whom the secret became known in connection with the performance of professional duties, professional activity (art.145, 232 of the CCU);
3) medical worker (art.132 of the CCU);
4) auxiliary employee who has self-acquired information (art.132 of the CCU);
5) the person whome information was trusted(art. 328, 329, 330, 381, 422 of the CCU);

Subject of encroachment on secrets

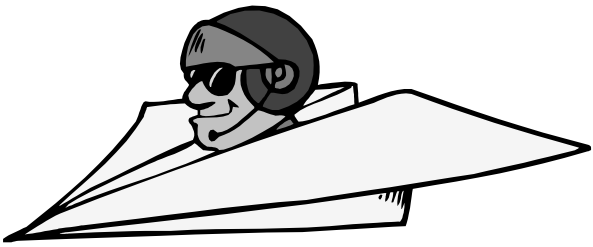
6) a person is warned about the obligation not to disclose data (art.387 of the CCU);
7) a citizen of Ukraine (art.111 of the CCU);
8) foreigner or stateless person(art.114 of the CCU);
9) citizen - the founder or owner of a business entity (art.220, 221 of the CCU);
10) general (art.154.2, 163, 168, 182, 189, 397 of the CCU).

Система норм про посягання на кордони України

1) illegal crossing of the state border by people (art.332 of the CCU);
2) moving through the customs border of material values (art.201 of the CCU);
3) moving certain types of objects across the customs border of Ukraine (art.305 of the CCU);
4) import into Ukraine or transit through its territory of prohibited items (art.268, 300, 301 of the CCU);
5) export of certain types of items outside Ukraine (art.333 of the CCU).

Socially dangerous acts committed against the borders of Ukraine

1) fly to Ukraine, depart from Ukraine (art.334 of the CCU)
2) transfer of persons across the state border of Ukraine (art.332 of the CCU)
3) movement of children abroad (p.3 art. 149 of the CCU)

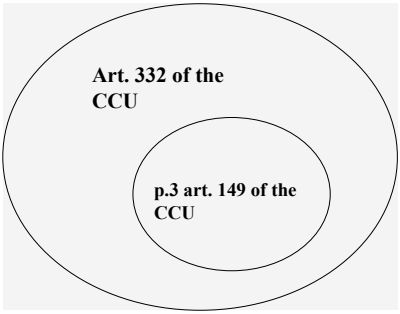


Socially dangerous acts committed against the borders of Ukraine

5) moving across the customs border of Ukraine (art.201, 305 of the CCU);
6) import into the territory of Ukraine (art.268 of the CCU);
7) transit through the territory of Ukraine (art.268 of the CCU);
8) export outside Ukraine (art.333 of the CCU)

Correlation of rules that imply responsibility for encroachments in the area of border guarding

1) p.3 art.149 of the CCU contains a special rule stipulated by art.332 of the Criminal Code



Types of actions, which consists in the implementation of general military duty

- **Preparation of citizens for military service**
- **Subscription to recruited polling stations**
- **Adoption and military service**
- **Pass volunteering or military service**
- **Execution of military duty in reserve**
- **Compliance with the rules of military records**

Dodge from:

- **payment of alimony, funds ... (art.164,165)**
- **return of proceeds (Article 207)**
- **Tax payments (st.212)**
- **obligatory delivery to the refinance (st.214)**
- **elimination of the consequences of eco. polluted (Article 237)**
- **Call-up, military records (st.335-337)**
- **punishment (st.389,390)**
- **administrative supervision (st.395)**
- **military service (art. 409)**

Subjects evading a call-up and military records

- **Conscripts**
- **Military**
- **Military lobbies**



Section XV Crimes against the authority of state bodies, local self-government bodies and citizen associations

Crimes against the authority of state bodies, local self-government bodies and citizen associations

Lecture plan

1. Notion and types of crimes against the authority of state bodies, local self-government bodies and citizens' associations.
2. Desecration of national symbols (art.338)
3. Illegal interference with the organization or holding of meetings, rallies, campaigns and demonstrations (art.340)
4. Resistance to a representative of the government, a law enforcement officer, a member of a public formation for the protection of public order and the state border or a military serviceman (art.342)
5. Intervention in the work of the law enforcement officer (art.343)
6. Interference with the activities of the people's deputy of Ukraine and the deputy of the local council (art.351)
7. Arbitrariness (art.356)
8. Counterfeiting of documents, seals, stamps and forms, their sale, use of forged documents (art.358)
9. Intentional damage to communication lines (art.360)

Section XV of the Special part of the Criminal Code

Crimes against the authority of state bodies, local self-government bodies and citizen associations



Articles 338-360 CC (in this topic– art.338-356 CC)

The degree of severity of crimes against the authority of state bodies...

- **Grave and particularly grave -24,5 %**
- **Moderate severity – 33,3 %**
- **Minor severity – 42,2 %**

At the 14th place by the degree of gravity in the Special Part of the Criminal Code

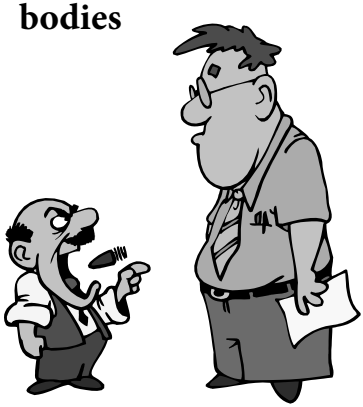
Havronyuk M.I. Categories of crimes and sanctions of the special part of the Criminal Code of Ukraine: scientific research and some conclusions // Criminal Code of Ukraine as of April 5, 2001 – K.: A.C.K., 2001. – p.227

On the application by the courts of legislation that provides for responsibility for attacks on life, health, dignity and property of judges and law enforcement officers

- **Resolution of the Plenum of the Supreme Court of Ukraine No.8 dated June 26, 1992**

Generic object of crimes provided for in section XV of the Special Part of the Criminal Code

- **The authority of state bodies**



- **= public relations, which consist of ensuring the influence of government bodies on organizations and citizens in order to implement the requirements of normative acts**

The system of crimes against authority ...

- **Attack on state symbols (art.338-339 CC)**
- **Impact on individuals who perform power or management functions (art.342-352 CC)**
- **Ignoring or substituting authorities and administration (art.341,353,354,356 CC)**
- **Interference with the will of citizens (art.340,355 CC)**
- **Attack on information provision of administrative activities (art.357-360 CC)**

State symbols as a subject of crime

- **Flag**
- **Emblem**
- **Anthem**

Signs:
1) physical;
2) legal;
3) intended purpose.



Desecration, as a socially dangerous act

Objective sign

- **Desecration - active actions, which consist of destruction, distortion, unplanned use, etc.**

Subjective sign

- **The purpose of the action is to humiliate the importance of state symbols, undermine the authority of the state, demonstrate disrespect ...**

Publicity of desecration of state symbols

- **actions are committed in the presence of unauthorized persons**



- **actions are committed in the absence of other persons, but will become known to an undetermined number of persons**

Types of victims of crimes that violate the security of representatives of government

1) representative of government (p.1 art.342, 349 CC);
2) close relatives of a representative of government (art.349 CC);





Types of victims of crimes that violate the security of representatives of government

3) law enforcement officer (p.2 art.342, art.343, 345, 347, 348, 349 CC);
4) close relatives of a law enforcement officer (art.345, 347, 348, 349 CC);







Types of victims of crimes that violate the security of representatives of government

5) a member of a public formation for the protection of public order or a state border (p.2 art.342, 348 CC);



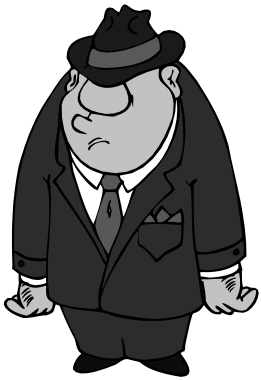
Types of victims of crimes that violate the security of representatives of government

6) military serviceman (p.2 art.342, 348 CC)



Types of victims of crimes that violate the security of representatives of government

7) public figure (art.344,346 CC);
8) close relatives of a public figure (art.346 CC);



Types of victims of crimes that violate the security of representatives of government

9) public figure - leader of a political party (art.346 CC);



Types of victims of crimes that violate the security of representatives of government

10) official (art.350, 352, 352 CC);
11) close people to an official (art.350 CC);
12) close relatives of an official (art.352)

Types of victims of crimes that violate the security of representatives of government

13) a citizen who performs a public duty (art.350 CC);
14) close relatives of a citizen who performs a public duty (art.352);

Types of victims of crimes that violate the security of representatives of government

15) People's Deputy of Ukraine, deputy of the local council (art.351 CC).

Acts in crimes that violate the security of representatives of government

1) resistance (art.342 CC);



- **Paragraph 8 of the Resolution of the Plenum: Resistance is the active physical counteraction… to the fulfillment of duty**

Acts in crimes that violate the security of representatives of government

2) interference in activity (art.343, 344 CC);

- **Paragraph 11 of the Resolution of the Plenum: specific actions directed on an obstacle in the performance of official duties or in achieving an unlawful decision. [Persuasion, blackmail, threats ...]**

Acts in crimes that violate the security of representatives of government

3) hinder the activity (art.351 CC);

- **Failure to comply with the lawful demands of a deputy;**
- **Creating artificial barriers in their work;**
- **Providing them with knowingly false information**

Acts in crimes that violate the security of representatives of government

4) threat (p.1 art.345, p.1 art.346, p.1 art.350 CC);
5) violence (p.2,3 art.345, p.2,3 art.346, p.2,3 art.350 CC);

Acts in crimes that violate the security of representatives of government

6) assault on life (art.348 CC);

- **Murder**
- **Attempted murder**

Acts in crimes that violate the security of representatives of government

7) destruction or damage to property (art.347, 352 CC);

Acts in crimes that violate the security of representatives of government

8) capture as a hostage (art.349 CC)

Circumstances of encroachments on persons who perform administrative functions

1) performance of official duties (p.1, 2 art.342, 343-345, 347, 348 CC);

Circumstances of encroachments on persons who perform administrative functions

2) performance of duties related to the protection of public order (p.2 art.342, art.348 CC);

Circumstances of encroachments on persons who perform administrative functions

3) state or public activity (art.346 CC);

Circumstances of encroachments on persons who perform administrative functions

4) official or public activity (art.350, 352 CC).

Differentiation of criminal liability for obtaining illegal remuneration

1) by subject :

- **bribe (art.368 CC)**
- **an employee ... who is not an official (art.354 CC);**
- **another person – extortion (art.189 CC);**

2) by the nature of extortion:

- **using official or similar position (art.368, 354 CC):**
- **with the threat of causing harm (art.189, ... CC).**

Extortion

- **Direct requirement to transfer...**



- **intentional creation of conditions ... (provision to prevent damage to its legitimate rights and interests)**

Illegal remuneration

1) illegality
2) material nature
3) significant amount



Signs of coercion to fulfilment or non-fulfilment of civil obligations

1) the agreement was concluded before such encroachment;
2) the agreement is concluded in accordance with the procedure established by law
3) the agreement is to be executed
4) the debtor does not want, and the creditor wishes, or vice versa, the debtor wishes, and the creditor does not want the agreement to be executed;
5) the will of the party to the agreement is suppressed by the use of the threat.

Separation of coercion to execution ... from extortion

Distinctive signs:

1. **Subject**
2. **Method**
3. **Action**



Section XVI Criminal law protection of information security in Ukraine

Criminal law protection of information security in Ukraine

Lecture plan

1. Notion and system of crimes against information security.
2. Attack on the circulation of documents in Ukraine.
3. «Computer» crimes.

Computer crime has been registered

Art.198-1 of the CCU of 1960 Art.361-362 of the CCU of 2001

According to the Ministry of Internal Affairs of Ukraine data:

- **1997 - 15**
- **1998 - 7**
- **1999 - 6**
- **2000 - 8**
- **2001- 16**
- **2002 -* 30**
- **2003 - 59**
- **2013 - 80**

The number of convicts

?

Changes made to Section XVI of the Criminal Code Ukraine

- **Law of Ukraine as of 05.06.2003 «On Amendments to the Criminal Code of Ukraine on responsibility for illegal interference with operation of telecommunications networks“**
- **Art. 361 «Illegal interference to the work of electronic computers, systems and computer networks of telecommunication”**

- set out in the new wording

- **Law of Ukraine as of 23.12.2004 «On Amendments to the Criminal and Criminal Procedural Codes of Ukraine“**
- **Art.361 «Unauthorized interference with the operation of electronic computers (computers), automated systems, computer networks or telecommunication networks“**

- set out in the new wording

Changes made to Section XVI of the Criminal Code Ukraine

- **Law of Ukraine as of 23.12.2004 «On Amendments to the Criminal and Criminal Procedural Codes of Ukraine»**

The section is amended:

- **Art. 3611 «Creation for the purpose of the use, distribution or sale of malicious software or hardware, as well as their distribution or marketing»**
- **Art. 3612 «Unauthorized sale or distribution of restricted information stored in electronic computers, automated systems, computer networks or on the carriers of such information“**
- **Art. 3631 «Interference with the operation of electronic computers, automated systems, computer networks or telecommunication networks»**

Changes made to Section XVI of the Criminal Code Ukraine

- **Law of Ukraine as of 23.12.2004 «On Amendments to the Criminal and Criminal Procedural Codes of Ukraine»**

- **Art. 362 «Unauthorized actions with information that is processed in electronic computers , automated systems, computer networks or stored on the media of such information committed by a person who has the right to access it»**
- **Art. 363 «Violation of the rules of operation of electronic computers, automated systems, computer networks of telecommunication or the order or rules of protection of information that is processed in them»**

IInformation security as a generic object of crime

- **protected by the criminal law social relations, which consist of the protection of information and its material carriers from unauthorized influence**

The subject of crimes against information security

1) information as is;
2) information carriers;
3) material resources that ensure the accuracy of information.



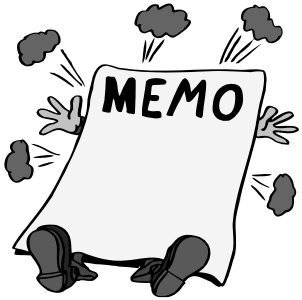
The system of crimes against information security

By subject (depending on its type):

- **crimes subject to information;**
- **crimes committed against material carriers of information;**
- **crimes committed against means of ensuring the reliability of information.**

The system of crimes against information security

By subject (taking into account the degree of openness of information):
1) open information;
2) Restricted information:
- **secret;**
- **confidential**



The system of crimes against information security

By subject (presence / absence of official information):
- committed against documents;
- committed against the information which does not have document forms



The system of crimes against information security

By subject - crimes committed:
- persons, «outsiders» concerning information;
- by persons whom the relevant information was trusted or became known in connection with the work



The system of crimes against information security

By object:
- attack on the dissemination of information;
- attack on the circulation of documents;
- «computer» crimes.

Document:

General signs

1) physical
2) requisites
3) informational (informative)
4) legal

Specific (for certain types of documents)

The document as a sign of the syllables of crimes

- **Subject of attack**
- **Tools (means) for committing a crime**

Types of documents

- **Electoral**
- **To transfer**
- **For drug use**
- **Containing state secrets**
- **Official, private, personal**
- **Especially important**

Actions on documents:

- **Usage (art.158, 318)**

Actions on documents:

- **Imposture (p.2 art.158 of the CCU)**
- **Fake (art.200 of the CCU)**
- **Forgery (art.318, 358, 366)**
- **Making a document of an unidentified sample;**
- **The introduction of knowingly false information**
- **Another fake**

Actions on documents:

- **Usage (art.158, 200, 233, 318, 358)**

Actions on documents:

- **Loss (art.329)**

Actions on documents:

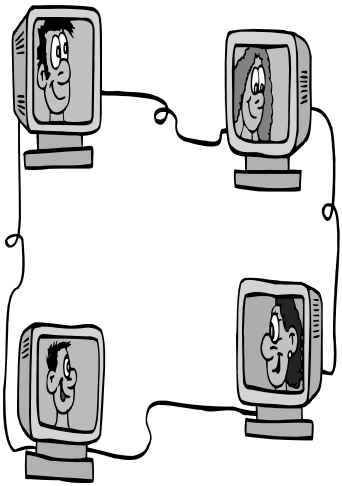
- **Abduction, appropriation, extortion, seizure by fraud or abuse of powers (art.357)**

Actions on documents:

- **Destruction, damage (art.357)**

Computer hardware

- **Electronic-computers (PCs)**
- **Automated systems**
- **Computer networks**
- **Networks of telecommunication**
- **Technical means for illegal penetration ...**
- **Information carriers**



Computer hardware

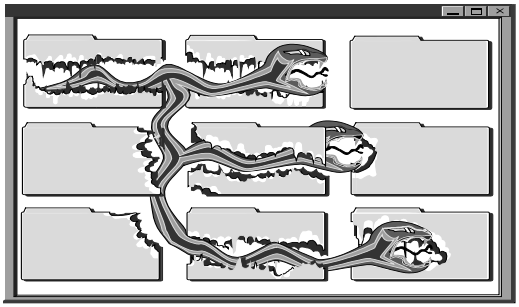
Signs:

1) objectivity
2) systematic
3) informational
4) program



Mathematical (program) software

- **Malicious software designed for unauthorized interference...**



Mathematical (program) software

Signs:

1) legal
2) socio-economic
3) formal expressiveness.
4) technical

Computer information

- **Information**
- **Restricted information stored on a computer. . .**
- **Information that is processed on the computer ... (to which the person has access)**

Computer information

Signs:

1) formal
2) meaningful



Acts in the syllables of crimes provided for in section XVI of the Criminal Code

- **Intervention in the work of the computer**
- **Creation, distribution, sale (malicious software or hardware)**

Acts in the syllables of crimes provided for in section XVI of the Criminal Code

- **Unauthorized sale or distribution of information**
- **Changing, destroying or blocking information**
- **Interception or copying of information**

Unauthorized sale or distribution of information

- **Violation of the rules of operation of the computer ...**
- **Mass distribution of telecommunication messages**

Crimes in the field of official activity

Lecture plan

1. Notion and types of crimes in the field of official activity.
2. Abuse of power or official position.
3. Service forgery.
4. Service negligence.
5. Getting a bribe.
6. Giving a bribe.
7. Provocation of a bribe.

Crimes committed by civil servants

- **Section XVII "Crimes in the field of official activity" (art.364-370 of the CCU).**

+ 79 articles of the CCU - crimes, where the official person can not be its subject

Dynamics of crimes in the sphere of official activity

- **1991 - 513 condemned - 7,1%**
- **1997 - 2273 condemned +62,5%**
- **2010 - 5116 condemned +39,4%**

- **2013 – registered crimes – 28089**

Incl.: abuse... 7285
Getting of bribe - 2172

The Plenary Resolution of the Supreme Court of Ukraine

- **As of April 26th 2002 "On judicial practice in cases of bribery"**
- **As of December 26th 2003 "On judicial practice in cases of excessive authority or official authority"**

Crimes:

1) Subjects – officials only
2) Subjects – officials and other persons
3) During the commitment of which the official status of the person does not matter
4) Where the official persons can not be the subject of such crimes

The object of crime in the field of official activity

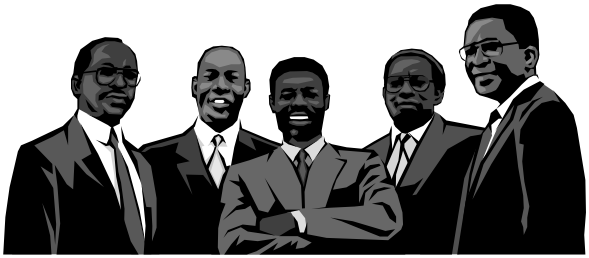
- **The correct operation of the apparatus of state and other enterprises, institutions and organizations?**



The problem of responsibility for the actions of officials committed for the implementation of collegial decisions

Responsibility of:

- **The head of the body**
- **Its participants**



Causality in crimes committed by officials

Action = the cause of the consequences :

- naturally, with the necessity of bearing consequences
- without this act the consequences would not come;
- There are no independent factors that affect the causal relationship

Action = condition of the consequences:

- is one of the factors...
- the influence of other people, bodies is manifested
- other factors "decline" the development of the causality

Sufficient damage..., as a sign of crimes in the field of official activity

- **Mandatory sign of material deprivation of crimes**
- **A sign that distinguishes crimes against disciplinary offenses**



Types of sufficient damage...

- **Material**
- **Violation of rights and legitimate interests of citizens**
- **Undermining of authority...**
- **The commission of acts that constitute the composition of another crime**

Material damage

- **Direct real harm**
- **Lost profit (unearned income)**



Material damage

- **Has the same size regardless of who it is inflicted to**
- **Differentiates when causing damage to the state, legal entities, individual citizens**





Material damage

- **Has the same size for both intentional and careless crimes**
- **Smaller amounts of intentional crimes and more on careless crimes**





Definition of the official person

Signs of the general subject
1) Physical person
2) Reaching of age
3) sanity

Special signs
Notes 1,2 to the art.364 of the CCU
Signs of kind
Mentioned in the articles of the Special Part

Definition of the official person

The age from which responsibility for the crimes of officials can take place

18 years old

Definition of the official person

Common judgment

Special judgment (professional)



Special signs of the official person

- **Functional duties**

(powers which allows the person to be considered an official)

- **Official status**

(where such powers execute)

Functional duties as a sign of the official person

- **Power requirements - requirements for persons who are not subordinate to work**



- **cl.1 of the Resolution of the Plenum of the Supreme Court of Ukraine as of 26.04.02 "On judicial practice in cases of bribery"**

Functional duties as a sign of the official person

- **Organizational and administrative-governance of subordinates**



- **cl.1 of the Resolution of the Plenum of the Supreme Court of Ukraine as of 26.04.02 "On judicial practice in cases of bribery"**

Functional duties as a sign of the official person

- **Administrative and economic – management of unfamiliar property**
- **cl.1 of the Resolution of the Plenum of the Supreme Court of Ukraine as of 26.04.02 "On judicial practice in cases of bribery"**

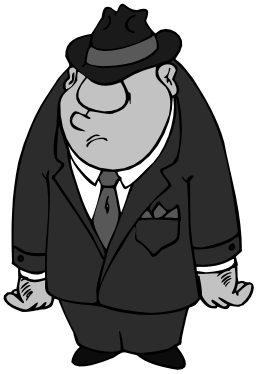


Official status as a sign of an official person

- **Elections, appointment of a representative of power**
- **Occupation of the position at the enterprise...**
- **Special powers**

Types of officials

Status of which is not specified



Types of officials

Which are allocated depending on the situation

- **Representative of the authority**
- **Occupies a responsible position**
- **Occupies a highly responsible position**

Types of officials

Which are allocated based on the position against the victim

- **from which a man or woman is officially dependent**
- **using the official position of the subordinate**

Types of officials

- **Official persons of the medical institutions**



Types of officials

- **Which ensures the observance of workers' labor rights**
-



Types of officials

- **Which are involved in economic and entrepreneurial activity**



Types of officials

- **Officials of law enforcement agencies**



Types of officials

Which are the official, based on their status

- **who make decisions about placement in a psychiatric institution;**
- **who take to study;**
- **who decide on the issue of medical care**

The problem of referring to officials :

- **Teachers, professors**

The problem of referring to officials :

- **Doctors, members of medical commissions**

The problem of referring to officials :

- **Experts**

The problem of referring to officials :

- **Separate participants in economic activity (entrepreneurs, owners of private enterprises ...)**

The problem of referring to officials :

- **Members of public organizations for the protection of public order and the state border**

General types of crimes in the field of official activity

- **Abuse of power or official position (art.364 of the CCU)**
- **Excessive authority or service power (art.365 of the CCU)**
- **Service negligence (art.367 of the CCU)**
- **Service forgery (art.366 of the CCU)**

The ratio of the rules on «general» types of crime in the field of official activity and rules for other crimes committed by an official

The ratio of "part" and "complete"
[p.2 art.161 of the CCU = p.1 art.161+ art.364]

The priority of the rule on "complete"

Signs of an act of abuse of power or official position

1) Use of official position :
- actions within the competence;
- use of subordinates;
- influence on the higher ones;
- through employees of other organizations.

Signs of an act of abuse of power or official position

2) connection of an act with competence;

3) wrongfulness;

4) contrary to the interests of the service

Typical ways to abuse power or official position

- **temporary free use of unfamiliar property;**
- **unjustified granting of loans;**
- **unauthorized use of resources;**
- **protectionism;**
- **condemnation of crimes**

Motives for abuse of power or official position

1) selfish;
2) other personal;
3) the interests of third parties.

Signs of excessive authority or official powers

- **Objective signs – out of competence:**

1) for the "higher one";
2) alone;
3) without special conditions;
4) absolutely unlawful

- **Subjective signs – clarity of output beyond competence**



Crimes against the established order of military service (military crimes)

Lecture plan

INTRODUCTION

1. The notion and general features of military crimes.
2. Disobedience.
3. Failure to comply with the order.
4. Violation of the statutory rules of relations between servicemen in the absence of obedience.
5. Unauthorized abandonment of a military unit or place of service.
6. Desertion.
7. Wasting or loss of military property.
8. Violation of the rules of the handling of weapons, as well as substances and objects that present an increased danger to the environment.
9. Negligent attitude to military service.
10. Inactivity of military authorities.

CONCLUSION

Crimes against the established order of military service

Section XIX of the Special Part of the Criminal Code

Articles 401-435

Changes made to Section XIX of the Special Part of the Criminal Code of Ukraine

The Law of Ukraine as of April 3, 2003 «On Amendments to Certain Legislative Acts of Ukraine in Connection with the Adoption of the Law» On State Border Guard Service»

In Art. 401 "Notion of Military Crime" - changes in the disposition of Part 2

The degree of severity of military crimes

58,0% grave and particularly grave crimes
35,4% crimes of moderate severity
8,6% crimes of minor severity
By degree of severity these crimes take third place, after sections XX and I.

Havronyuk M.I. Categories of crimes and sanctions of the special part of the Criminal Code of Ukraine: scientific research and some conclusions. Ed. M.I.Melnyk // The Criminal Code of Ukraine as of April 5, 2001 Compilation and the front word M.I. Melnyk, M.I. Havronyuk. - K.: A.C.K., 2015. - p.226-227.

Features of miliraty crimes:

- **specific name**
- **nature of the public danger of crime**
- **presence of the notion definition in the Criminal Code**
- **possibility of applying measures envisaged by the Disciplinary Statute of the Armed Forces of Ukraine**
- **relation to general criminal offenses**

Rules on military crimes in the criminal law system

Monistic system – the only Criminal Code, which contains rules on general criminal law and military crimes

Dualistic system : Criminal Code Military Criminal Law (Code)

The notion of military crime (part 1 art.401 of the CC)

«military crimes are recognized as foreseen by this section crimes against the order of military service performance established by law, committed by servicemen, as well as those who are liable to military service while undergoing training (or checking) or special meetings».

Signs of a military crime

1) generic object;
2) special subject;
3) military-criminal misconduct.

Generic object of military crimes

The order of military service, established by law

1) the state of regulation of social relations, concerning the performing of service

2) the result of observance of legislatively established rules and rules of conduct

Types of subject of military crimes

Military servicemen	**those who are liable to military service while undergoing training (or checking) or special meetings**

Types of subject of military crimes

- servicemen of the Armed Forces of Ukraine;
- servicemen of the Security Service of Ukraine;
- servicemen of the Border Guards of Ukraine;
- servicemen of the National Guard of the Ministry of Internal Affairs of Ukraine;
- servicemen of other military formations formed in accordance with the laws of Ukraine;
- other persons, determined by law.

Persons who are not subjects of military crimes

- **Officers and Commanders of the Police**
- **Commanders of the institutions for execution of criminal penalties**
- **Personnel of fire protection units**
- **Personnel of the state security service**

Persons who are not subjects of military crimes

- **Employees of departmental militarised protection**
- **Students of military lyceums, schools**
- **Conscripts, pre-conscripts**
- **Persons not taken to or taken from military records**
- **Employees and officials of the Armed Forces**
- **Persons undergoing an alternative (non-military) service**

Signs of servicemen as a subject of military crimes

1) a citizen of Ukraine;
2) admission to the reserve;
3) not reaching the maximum age of stay in the reserve;
4) a person called to a military meeting with a separation from production;
5) no legislative barriers to call person to military meeting.

Signs of servicemen as a subject of military crimes

1) the person is a citizen of Ukraine;
2) the person is performing of the types of military or equivalent service in the corresponding military formations;
3) age of the person meets the requirements...;
4) there are no grounds provided by law, in the presence of which a person can not be called or engaged in military service or is subject to release from it.

Types of military crimes

1) against the order of subordination and military honour (402-406)
2) against the order of service (407-409, +335-337)
3) against the order of military property and equipment usage (410-417)

Types of military crimes

4) against the order of special services performing (418-421)
5) against the order of preservation of military secrets (422, +111)
6) military service crimes (423-428)
7) against the order of warfare (429-435)

Features of the objective side of military crimes

- **criteria for severe consequences**
- **indication of the circumstances of the crime ("in conditions of martial law", "in a combat environment"- 16)**
- **indication of the place where the crime was committed ("battlefield", "military area")**

Participation in military crimes of persons who are not subjects to such crimes

1) incitement, organization, assistance for military crimes;

2) performance of the objective side:

- **together with the subjects;**
- **when using «non-subjects» as tools**

The distinction between military crimes and disciplinary offenses

Military offenses:

1) military crimes;

2) crimes that, under mitigating circumstances, involve the use of disciplinary sanctions;

3) disciplinary offenses

Section XX Crimes against peace, security of mankind and international law and order

Crimes against peace, security of mankind and international law and order

Lecture plan

1. **Notion and general description of crimes against peace, security of mankind and international cooperation.**
2. **Propaganda of war.**
3. **Violations of the laws and customs of the war.**
4. **The use of weapons of mass destruction.**
5. **Ecocide.**
6. **Genocide.**
7. **Attack on the life of a representative of a foreign state.**
8. **Mercenary.**

Crimes against peace, security of mankind and international law and order

- **Chapter XX of the Special Part of the Criminal Code**
- **Art. art. 436-447**

Degree of severity of crimes against peace, security of mankind and international law and order

- **By degree of severity in the first place**

Khavronuk M.I. Categories of crimes and sanctions of the special part of the Criminal Code of Ukraine: scientific research and some conclusions. Ed. M.I.Melnyk // The Criminal Code of Ukraine of April 5, 2001 Compilation and the front word M.I. Melnyk, M.I. Khavronuk. - K.: A.C.K., 2001. - P.226-227.

The prevalence of crimes stipulated in section XX of the Special Part of the Criminal Code

During 2001-2003 in Ukraine
No one has been convicted of these crimes criminal procedures were not initiated

Grounds for recognizing international criminal law as an independent area of law

1) normative;
2) criminological;
3) socio-psychological.

Place of international criminal law in the system of law

Positions in the theory:

- it is a branch of international law, a part of international public law;
- it is a part of criminal law;
- it is an independent, integrated area of law, that includes institutions of both international and national law.

Institutes of International Criminal Law

- **Extradition of criminals**
- **International legal rules of direct action**
- **Agreements and conventions on the need to combat certain attacks**
- **The action of the criminal law in space;**
- **Responsibility of foreigners**
- **Immunity**
- **Considering the punishment carried abroad**
- **Articles of the Special Part, entered in accordance with international agreements**

Signs of crime in international criminal law

- **Affect the interests of intergovernmental communication;**
- **«Mixed» criminal misconduct**
- **Criminal punishment**
- **Specific subject**

Notion of crime in international criminal law

- **envisaged by international legal acts or (and) by the norms of the national criminal law adopted on the basis of international legal acts, intentional acts that violate the foundations of interstate security, for which a criminal punishment is imposed for the perpetrators of the crime**

Types of crimes that are the subject of international criminal law

Crimes:

- **international;**
- **international nature;**
- **cross-border.**

International crimes

- **Statute of the Nuremberg International Military Tribunal**

1) crimes against peace;
2) war crimes;
3) crimes against humanity

The crimes of international nature

1) an attack against representatives of foreign states and international organizations;
2) transboundary pollution;
3) attacks on transport security. . .
4) distribution of narcotics;
5) economic;
6) attacks on human rights

Cross-border crimes

1) on the territory of several states;
2) in another state against fellow citizens;
3) in another state against its interests;
4) in another state against the interests of a third state;
5) in Ukraine against the interests of other states;
6) related to hiding.

The Correlation of National and International Criminal Legislation

- **Conflict and competition of norms**
- **Priority of international legal acts**

The norms of international law in the Criminal Code of Ukraine

- **conventional;**
- **introduced in accordance with customary rules;**
- **simultaneously directed against the internal interests of the state;**
- **the international legal nature of which has already appeared in the course of their actions**

Generic object of the crimes provided by section XX

- **Fundamentals of Interstate Security – social relations, which consist of ensuring good-neighborly relations between the states, which includes prevention of harm to other states and the international community as a whole, observance of rules of intergovernmental communication, peaceful settlement of disputes.**

The system of crimes against peace, security of mankind and international law and order

1) crimes against peace (art.436,437, 443, 444 CC);
2) crimes against the security of mankind (art.439-442 CC);
3) crimes against international law and order (art.438, 445-447 CC).

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