**MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE**

**National Aviation University**

**Educational and Scientific Law Institute**

**Department of Criminal Law and Process**

**Methodological recommendations**

**to prepare a student to practical classes**

**from the discipline**

**" Procurator's Supervision "**

**for five year students**

**081 "law"**

**(the code and the name of the direction (specialty) of training**

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(scientific degree, academic rank, teacher's name)

Considered and approved

at the meeting of the criminal department

rights and process

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

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**Introduction**

The students' practical work is an important component of training in higher education institutions of highly skilled specialists.

The informational and methodological provision of students' practical work serves as a list of questions for the preparation of students for practical classes.

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

The educational discipline "Prosecutor's Supervision" deals with a set of interrelated provisions of a general theoretical, legal and methodological nature regarding the organization and activities of the Prosecutor's Office of Ukraine. The purpose of studying this discipline is to give future lawyers a clear idea of ​​the main directions of activity of the prosecutor's office in Ukraine, the essence and significance of prosecutorial activities in Ukraine, the goals and tasks of the prosecutor's office, the current state, problems and prospects of perfection of the prosecutor's offices of Ukraine, the principles of organization and activity, the structure of the prosecutor's office. The course aims to help students gain general knowledge about the organization and functions of the prosecutor's office. The knowledge of this knowledge will help to form an idea of ​​the content of the activities of the prosecutor's office and to identify individual interest in one or another area of ​​its activity. The discipline "Prosecutor's Supervision" on its subject is complex because the study of the organization and activities of the prosecutor's office requires the recourse to the provisions and materials of such educational disciplines as administrative law, constitutional law, criminal process, civil process, labor law, ecological and land law, criminal-executive law, organization of judicial and law enforcement agencies, judicial law, etc. During her teaching, students also get acquainted with materials that are not covered by other study courses. One of the peculiarities of this discipline is that students should familiarize themselves with numerous normative acts, which include not only laws and codes of Ukraine, but also international legal acts establishing standards of prosecution, decisions of the Constitutional Court of Ukraine concerning the status and powers of the prosecutor's office, orders of the Prosecutor General of Ukraine, etc. The situation is further complicated by the continuing process of reforming the prosecutor's office, **as well** other judicial and law-enforcement bodies of Ukraine, with which it interacts. 4 In studying "Prosecutor's Supervision" various forms of teaching are used: lectures, practical (seminar) classes, individual counseling by teacher of students on problematic issues; colloquiums, experimental forms of practical work, testing, writing coursework and control works, solving practical situations; independent work of students with normative and literary sources recommended for study within the course. Practical classes (seminars) - one of the main forms of training. Their purpose is to master the basic theoretical positions and to develop the skills of practical application of the rules of law governing the activities of the prosecutor's office. This kind of work takes place in the form of students' answers to theoretical questions, practical tasks, business games, familiarization with concrete practical examples. Colloquiums are conducted from the most important theoretical themes. Knowledge testing is also carried out through ongoing control. Considerable attention is paid to independent work of students and conducting of individual consultations with them. The performance of independent work enables the student to consolidate and deepen the theoretical and practical knowledge gained during the study of individual topics, improve skills of working with various information sources, learn to interpret media of mass media, analyze academic and scientific literature, practice of the work of the prosecutor's office, to acquire skills of research work. The final form of knowledge control is the exam, which aims to test the level of mastering the theoretical knowledge, the ability to apply this knowledge in solving specific professional tasks, as well as work independently with scientific and educational literature. As a result of studying the discipline "Prosecutor's Supervision", students must: • Know the essence of prosecutorial activities, its characteristic features, tasks and functions of the prosecutor's office; concept and significance of the principles of organization and activity of the prosecutor's office; organization of work and management in the organs of the prosecutor's office of Ukraine; be able to disclose the legal status of prosecutors, the peculiarities of their service in the prosecutor's offices; the concept, meaning and essence of each principle of organization and activities of the prosecutor's office; to correctly interpret and apply these norms in solving practical situations; to acquire information about the system of organs of public prosecutors and organizational and structural construction of each level (lines) of this system; to understand the specifics of the powers of the Prosecutor General of Ukraine and the prosecutors subordinate to him; to freely orient itself in the system of normative legal acts on the organization and activities of the prosecutor's office.

**MODULE 1. "PROKURSIS OBSERVATION"**

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

**Plan**

1. The system of branches of power in a state governed by the rule of law.

2. Place of prosecutor's office among legislative, executive and judicial branches of power: main approaches.

3. The system of "riveting and counterbalances" and the Prosecutor's Office of Ukraine.

Guidelines

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

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

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

**Plan**

1. Relations between the prosecutor's office and the head of state and the highest representative body of Ukraine.

2. Relations between the prosecutor's office and the bodies of state executive power and local self-government.

3. Relations between the prosecutor's office and the courts.

4. Relations between the Prosecutor's Office and the Constitutional Court of Ukraine.

5. Relations between the Prosecutor's Office and the Verkhovna Rada Commissioner for Human Rights

Guidelines

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

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

Plan

1. The system of the prosecutor's office of Ukraine.

2. The General Prosecutor's Office of Ukraine.

3. Features of the organization and activities of the Specialized Anti-Corruption Prosecutor's Office.

4. Powers of the Prosecutor General of Ukraine.

5. Regional prosecutors.

6. Powers of the head of the regional prosecutor's office.

7. Local Prosecutor's Office.

8. Powers of the head of the local prosecutor's office.

9. The quantitative composition and structure of the prosecutor's offices

Guidelines

The Prosecutor's Office of Ukraine consists of:

1) the General Prosecutor's Office of Ukraine;

2) regional prosecutors;

3) local prosecutors;

4) military prosecutors;

5) Specialized anti-corruption prosecutor's office.

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

Topic 1.4. Supervision over observance and application of laws

Plan

1. Status of the prosecutor.

2. Guarantees of independence of the prosecutor.

3. Subordination of prosecutors and execution of orders and instructions.

4. Requirements for incompatibility.

5. General rights and obligations of the prosecutor.

6. The prosecutor's responsibility.

7. The prosecutor's certificate

Guidelines

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

Attorney General of Ukraine;

First Deputy Prosecutor General of Ukraine;

Deputy Prosecutor General of Ukraine;

Deputy Prosecutor General of Ukraine - Chief Military Prosecutor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Plan**

1. Multifunctionality is the basis of the legal status of the Prosecutor's Office of Ukraine.

2. The main directions of improvement of legal regulation and implementation of the functions of the prosecutor's office.

3. Problems of the functioning of the prosecutor's oversight of observance of human and civil rights and freedoms, observance of laws on these issues by executive authorities, local self-government bodies, their officials and officials, and supervision over observance and application of laws.

4. Problems of ensuring the prosecutor's oversight of the observance and application of laws by the authorities conducting operative-search activity and investigation of crimes.

5. Problems of ensuring prosecutorial supervision in the execution of judicial decisions in criminal cases, as well as in the application of other measures of a coercive nature, connected with restriction of personal freedom of citizens.

6. The current problems of prosecuting a prosecutor's prosecution in court.

7. Development of legal regulation of the judicial and representative functions of the prosecutor's office.

**Guidelines**

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

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

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

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

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

**Plan**

1. Requirements for candidates for the post of prosecutor.

2. Selection of candidates for the position of prosecutor of the local prosecutor's office.

3. Procedure for selection of candidates and their appointment as prosecutor of the local prosecutor's office.

4. Submission of documents to the Qualification-Disciplinary Commission of Prosecutors by a candidate for a prosecutor's office.

5. Qualification exam.

6. Special examination of the candidate for the post of prosecutor.

7. Special preparation of the candidate for the post of prosecutor.

8. Holding a competition for a vacant position

Guidelines

1. 1) the decision by the Qualification-Disciplinary Commission of Prosecutors to select candidates for a post of public prosecutor, placed on the official web-site of the Qualifications Disciplinary Commission of prosecutors, and must contain a statement of requirements stipulated by the Law, which the candidate for the position of prosecutor must answer, as well as a list of documents, what are submitted to the Qualification-Disciplinary Commission of Prosecutors, and the deadline for their submission;
2. 2) submission by the persons who have expressed a desire to become a prosecutor to the Qualification-Disciplinary Commission of prosecutors of the relevant application and documents specified by the Law;
3. 3) implementation of the Qualification-Disciplinary Commission of Prosecutors on the basis of candidates submitted to the post of prosecutor documents of verification of compliance of persons with the requirements established for the candidate for the post of prosecutor;
4. 4) compilation by a person who meets the established requirements for a candidate for a post of prosecutor, qualification examination;
5. 5) the publication by the Qualification-Disciplinary Commission of Prosecutors on the official web-site of the list of candidates who successfully passed the qualifying examination;
6. 6) the organization of the qualification-disciplinary commission of prosecutors special examination of candidates who have successfully passed the qualification examination;
7. 7) determination by the Qualification-Disciplinary Commission of prosecutors of the rating of candidates for a post of public prosecutor among those who have successfully passed the qualifying examination and who have been subject to a special examination, as well as their enrollment in the reserve for the replacement of vacant posts of prosecutors;
8. 8) passing a candidate for a special training prosecutor at the National Academy of Public Prosecutor of Ukraine;
9. 9) announcement by the Qualification-Disciplinary Commission of Prosecutors in case of opening of vacant posts of prosecutors of the competition for such positions among candidates who are in reserve and have undergone special training;
10. 10) conduct of the Qualification-Disciplinary Commission of Prosecutors in the competition for occupying vacant posts of prosecutors on the basis of candidates' ratings;
11. 11) submission to the head of the local prosecutor's office of the appointment of a candidate for a post of prosecutor by the Qualification-Disciplinary Commission of prosecutors;
12. 12) appointment of a person to the post of prosecutor;
13. 13) the swearing of a prosecutor by a person.
14. Theme 7. Supervision over observance of laws by bodies conducting operative-search activity, inquiry, pre-trial investigation
15. Plan
16. 1. Grounds for bringing the prosecutor to disciplinary responsibility.
17. 2. Body conducting disciplinary proceedings. Disciplinary proceedings against the prosecutor.
18. 3. Opening disciplinary proceedings and conducting a check of a complaint (statement).
19. 4. Consideration of the conclusion on the presence or absence of a disciplinary offense by the prosecutor.
20. 5. Decision of the Qualification-Disciplinary Commission of Prosecutors in disciplinary proceedings against the prosecutor
21. 6. Types of disciplinary penalties.
22. 7. Appeal against a decision made on the basis of disciplinary proceedings

Guidelines

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

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

2) unreasonable delay with consideration of the appeal;

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

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

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

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

7) violation of the rules of internal service regulations;

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

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

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

**Plan**

1. General conditions for the release of the prosecutor from office, termination of his office in office.

2. Termination of powers of the prosecutor.

3. Notice of release of the prosecutor from office.

4. The procedure for dismissal of the Prosecutor General of Ukraine.

5. Termination of the powers of the prosecutor.

Guidelines

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

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

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

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

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

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

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

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

8) impossibility of further staying on a temporary vacancy;

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

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

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

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

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

2) the head of the regional prosecutor's office - concerning the prosecutors of the relevant regional prosecutor's office and prosecutors of the local prosecutor's offices located within the administrative-territorial unit falling within the territorial jurisdiction of the relevant regional prosecutor's office;

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

The powers of the prosecutor are terminated in connection with:

1) the achievement of sixty-five years;

2) death;

3) recognition of his absence or declaration dead;

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

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