

**NATIONAL UNIVERSITY
BIORESOURCES AND NATURAL USE OF UKRAINE**

**Faculty of Law
Department of Civil and Economic Law**

**METHODICAL RECOMMENDATIONS
for lectures and seminars
from the discipline "Economic Law" for students of the DE "Bachelor"
Faculty of Agricultural Management, specialty 073 "Management"**

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Methodical recommendations are developed for the purpose of in-depth study by students of the discipline "Economic Law", acquiring skills of independent processing of theoretical material, structuring of the necessary information. A list of recommended literature is provided.

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The purpose and tasks of the educational discipline

The purpose of students' formation of a comprehensive system of knowledge about the general theoretical principles of legal regulation of economic activity, orienting them to the study of economic law problems in order to solve specific issues of practical activity regarding the rights and interests of citizens. participants in economic legal relations and ensuring economic law and order.

The task of students acquiring knowledge and understanding of the content of the norms of economic law of Ukraine, analysis of the legal framework in the sphere of regulation of economic and legal relations, formation of skills and abilities regarding the independent solution of practical problems arising in the process of realization of economic legal personality by participants in economic legal relations, correct application of economic legislation

As a result of studying the course, students should:

know:

- problematic issues of theory, practice and legislation in the field of economic legal relations;
- current economic legislation;
- basic provisions of the legal status of economic entities; ways of protecting the rights and legitimate interests of the participants in business relations;
- basic provisions of the legal status of economic entities; ways of protecting the rights and legitimate interests of the participants in business relations;
- general principles of economic and legal liability;
- peculiarities of legal regulation of certain types of business activities;

be able to:

- compare and analyze the norms of legislation governing relations related to the direct implementation or management of business activities;
- correctly interpret and apply the rules of commercial law in practice;

- summarize the practice of implementing commercial law and draw appropriate conclusions;
- apply the knowledge and skills acquired in the study of theoretical material on business law to specific situations arising in the process of organizing and conducting business activities.

The Business Law elective involves the development of a number of competencies:

Integral competence (IC:)

The ability to solve complex specialized tasks and practical problems characterized by complexity and uncertainty in the field of management or in the learning process, which involves the application of theories and methods of social and behavioral sciences.

General competencies (GC):

GC 1. Ability to realize one's rights and responsibilities as a member of society, to realize the values of civil (democratic) society and the need for its sustainable development, the rule of law, human and civil rights and freedoms in Ukraine.

Special (professional) competencies (SC):

SC 13. Understand the principles and norms of law and use them in professional activities.

Learning outcomes of the program (LOP):

LOP 1. Know your rights and responsibilities as a member of society, understand the values of civil society, the rule of law, human and civil rights and freedoms in Ukraine.

LOP 32. Research the business environment and understand the process of conducting and regulating business

Evaluation system

The elective discipline "Business Law" is taught according to the credit-module system of organizing the educational process. This system is introduced in order to improve the quality control system of students' knowledge, promote the formation of systematic and systematic knowledge, stable independent work during the semester, increase the objectivity of knowledge assessment and adaptation to the requirements of the European Credit Transfer System. (ECTS).

Student knowledge is assessed on a 100-point scale and converted into national grades according to Table 1 "Regulations on Exams and Tests at NULES of Ukraine" (approved by the Academic Council of NULES of Ukraine on 26.04.2023, Protocol № 10).

Current control		Academic performance rating RHP	Rating for additional work RДP	Penalty rating RИИТP	Final certification (credit) R _A	Total number of points R _Д
Module 1	Module 2					
0-100	0-100	0-70	0-20	0-5	0-30	0-100

Notes. 1. According to the "Regulations on Exams and Tests in NULES of Ukraine", approved by Minutes № 5 of the Academic Council of NULES of Ukraine on 26.04.2023, Minutes № 10, the student's rating in academic work RHP in relation to the study of a particular discipline is determined by the formula established by these Regulations.

The rating for additional work RДP is added to the RHP and cannot exceed 20 points. It is determined by the lecturer and given to students by the decision of the department for performing work that is not provided for in the curriculum but contributes to improving students' knowledge of the discipline.

The penalty rating R_{STR} does not exceed 5 points and is deducted from the RNR. It is determined by the lecturer and introduced by the decision of the department for students who have not mastered the content module material on time, do not adhere to the work schedule, miss classes, etc.

To determine the student's (trainee's) rating in the discipline $R_{\text{дис}}$ (up to 100 points) the rating received on certification $R_{\text{ат}}$ (up to 30 points) is added to the student's academic performance rating $R_{\text{НР}}$ (up to 70 points): $R_{\text{дис}} = R_{\text{НР}} + R_{\text{ат}}$

Scale of evaluation: national and ECTS

<i>National assessment</i>		<i>Student rating, points</i>
<i>offset</i>	<i>examination</i>	
<i>Enrolled</i>	<i>Excellent</i>	<i>90 – 100</i>
	<i>Good</i>	<i>74 – 89</i>
	<i>Satisfactory</i>	<i>60 – 73</i>
<i>Not enrolled</i>	<i>Unsatisfactory</i>	<i>0 – 59</i>

Thematic plan for the discipline "Family Law"

Names of content modules and topics	Number of hours													
	full-time form							distance learning, SD*						
	weeks	of all	l	p	lab	ind	i.w.	of all	l	p	lab	ind	i.w.	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	
Content module 1: Commercial law as a branch of law and types of business entities														
Topic 1: Concept, subject matter and sources of law	1-2	24	4	4	-	-	16	24	2	2	-	-	20	
Topic 2. Commercial legal relations	2-3	22	4	4	-	-	14	20	-	-	-	-	20	
Topic 3: The main directions and forms of participation of the state and local self-government in the sphere of economic activity	4-5	22	4	4	-	-	14	24	2	2	-	-	20	
Topic 4. Technical regulation in the field of business. ISO standards in the economic sphere	6-7	22	4	4	-	-	14	22	-	2	-	-	20	
<i>Total for content module 1</i>		90	16	16	-	-	58	90	4	6	-	-	80	
Content module 2. General legal principles of economic activity														
Topic 5. Concept and types of economic entities	8-9	24	4	4	-	-	16	20	-	2	-	-	18	
Topic 6. The procedure for establishing a business entity	10-12	18	2	2	-	-	14	22	2	2	-	-	18	
Topic 7. Termination of business entities. Bankruptcy	12-15	18	2	2	-	-	14	18	-	-	-	-	18	
<i>Total by content module 2</i>		60	8	8	-	-	44	60	2	4	-	-	44	
Course project	<i>* not included in the curriculum</i>													
<i>Total hours</i>		150	24	24	-	-	102	150	6	10	-	-	134	

* for students of SD "Boyarsky Vocational College of NULES of Ukraine" and SD "Bobrovitsky Vocational College named after O. Mainova of NULES of Ukraine" of the Faculty of Agricultural Management, specialty 073 "Management"

Lecture materials for the discipline "Commercial Law"

CONTENT MODULE 1. COMMERCIAL LAW AS A BRANCH OF LAW AND TYPES OF BUSINESS ENTITIES

TOPIC 1. CONCEPT, SUBJECT MATTER AND SOURCES OF LAW

Introduction

Law, as a holistic phenomenon of social reality, has certain forms of expression. Legal scholars distinguish between internal and external forms of law, which traditionally mean, in the first case, the internal structure of law, and in the second case, sources of law that formally enshrine legal phenomena and allow addressees to familiarize themselves with their content and use them.

The form of law is the form of law itself as a separate phenomenon, and it correlates only with the content of law. Its purpose is to organize law, to give it the properties of state power. There are external and internal forms of law.

Therefore, sources of law are the focus of this study. The concept of law, its sources, classification of forms of law, and a legal act in terms of the main source of law are undoubtedly some of the most important points in the legal outlook and legal culture of a Ukrainian citizen, and they must be covered by the study.

The concept of commercial law as an independent branch of law and a branch of legal science

In ancient times, the regulation of the economic sphere was not separated from the regulation of other social relations. Thus, in such well-known collections of ancient laws as the Digests of Justinian, Russkaya Pravda, Lithuanian Statute, we find certain provisions concerning joint conduct of trade, liability of debtors to creditors, insolvency (bankruptcy) and some others.

The rapid development of crafts and trade in the Middle Ages (usually in coastal cities connected to trade with other territories and states) contributed to the development of special regulation of this area, first in the form of trade customs,

court decisions on cases between traders, collections of such customs and judicial decisions, and later - the adoption of codified legal acts.

The first attempt to codify commercial law is associated with France in the second half of the 17th century, during the reign of Louis XIV. Given the existence of the Napoleonic Code of Commerce of 1807, the legal regulation of trade operations was unified in France.

In the modern period, some countries (Holland, Italy, Switzerland) have abandoned the so-called dualism of private law (i.e., regulation of property relations by means of two codes - Civil and Commercial/Commercial), but retain the specifics of regulating relations in the field of business by adopting special laws - on business companies or their individual types (joint-stock, limited liability), anti-trust laws (laws on protection of economic competition), etc.

In the Soviet Union, there were attempts to codify legal regulation of the economic sphere in the 1920s. However, the idea of codification of legal regulation in the economic sphere was considered in connection with the discussion on the correlation between civil and commercial law. The abandonment of the NEP policy and the state monopolization of the economic sphere of public life became a kind of pretext for abandoning the dualism (or "two-sector") of legal regulation of the economic sphere, in which opponents of commercial law saw a threat of splitting the unified Soviet legal system.

In the 30s of the 20th century, the founders of the scientific school of unified commercial law justified the need for special (in the form of the Commercial Code) regulation of relations in the socialist economy, including citizens entering into property relations. Unfortunately, the politicization of the scientific sphere in the 1930s led to tragic consequences for the founders of this school.

In the last third of the twentieth century, the idea of codifying legal regulation in the economic sphere was again popular in the Soviet Union, but it was not implemented.

After Ukraine gained independence, in accordance with the Concept of Judicial and Legal Reform, the Economic (Commercial) Code was developed, the

first version of which failed in the Verkhovna Rada, and the second (under a slightly changed name - as the Commercial Code), after long difficulties (three or four months, overcoming the presidential veto), was adopted on January 16, 2003, and came into force on January 1, 2004.

Commercial law can be viewed from several perspectives: as a branch of law, as a branch of legislation, as a science, and as an academic discipline.



Some scholars put forward the concept of commercial law as a comprehensive branch of law. Some of the authors, without recognizing commercial law as a comprehensive branch of law, believed that the regulations governing economic relations constitute a comprehensive branch of legislation.

During the existence of the command and control system, objections to the recognition of commercial law as a branch of law were limited to the non-recognition of the existence of its subject matter.

Most scholars define commercial law based on the understanding of its subject matter as economic relations arising in connection with the conduct of economic activity (horizontal relations) and its management (vertical relations - economic and managerial relations) between organizations, as well as between their divisions and

the organization as a whole (intra-economic relations). This is the point of view of supporters of understanding commercial law as an independent branch of law.

Subject and Method of Legal Regulation of Commercial Law

The subject matter of commercial law is economic relations that arise in the course of organizing and carrying out economic activities between business entities, as well as between these entities and other participants in economic relations.

Article 1 of the Commercial Code defines the subject matter of regulation of the Commercial Code as the main regulatory act in the field of business. Thus, the Code defines the basic principles of economic activity in Ukraine and regulates economic relations arising in the process of organizing and carrying out economic activities between business entities, as well as between these entities and other participants in economic relations.

Methods of legal regulation of commercial law are a set of ways of regulating the impact of commercial law provisions on the behavior of subjects of commercial legal relations.

The concept of commercial law has so far distinguished three methods of regulation: the method of mandatory prescription (governmental orders), the method of autonomous decisions (the method of coordination), and the method of recommendations. The method of mandatory prescriptions was the most important in a planned economy. With the transition to a market economy and the development of entrepreneurship, the method of autonomous decisions (the method of coordination) is increasing its role in commercial law.

The method of autonomous decisions is based on the fact that enterprises and entrepreneurs have the right to make decisions on their own initiative that do not contradict the legislation of Ukraine.

According to the method of prescriptive authority, the activities (behavior) of entities are subject to mandatory models of legal relations defined by law (requirements of laws and other instructions of competent authorities). This

includes, for example, the obligation to register a business entity, obtaining reviews for certain types of activities and the obligation to comply with antitrust laws, etc.

The method of recommendations means that the state regulates the behavior of business entities by means of recommended models of relevant legal relations, for example, sample agreements, forms, and guidelines.

Conceptually, the methods of commercial law are based on two principles: the general permissive principle ("everything that is not prohibited by law is permitted"), according to which enterprises and entrepreneurs operate, and the binding principle ("subjects of commercial law are obliged and must do what is required by law").

The main method is the method of subordination of business entities to the public economic order.



Sources of commercial law

According to V.M. Gaivoronsky, the form of law is understood as the ways of external expression and consolidation of legal norms. And sources of law are the factors that determine the emergence and development of legal ideas, views, theories

on the formation, content and functioning of law (primarily the system of socio-economic relations). The forms of law in most legal systems are normative legal acts, legal customs, legal precedents, and normative legal contracts.

The first place among the forms of commercial law belongs to normative legal acts - official documents adopted by the competent law-making bodies and containing commercial law provisions.

According to the hierarchy of legal acts by their legal force, they are adopted by the people or on their behalf - by the legislative body - the Verkhovna Rada - the Basic Law (Constitution), laws; by the President - decrees and orders; by the executive body (Cabinet of Ministers) - resolutions; by local self-government bodies - decisions. Local normative legal acts; issued by institutions and organizations of various forms of ownership to regulate internal issues. They apply to the members of these organizations and are aimed at detailing the requirements of general rules of law regarding the conditions of activity of this team.



There is also another classification of sources (forms) of commercial law:

- Legal doctrine
- Normative legal act

- Legal custom
- Normative agreement
- Domestic regulatory agreements (model agreements, model charters, "forms", articles of incorporation for business entities, charters of business entities, etc;)
- Interstate (international) regulatory agreements (agreements, conventions, covenants, etc.);
- Legal precedent

Economic activity: concept and types

The key concept of commercial law is the concept of economic activity, which we find in various legal acts, in particular:

- The Law of Ukraine of April 16, 1991 "On Foreign Economic Activity", Article 1 of which contains the following definition: "Economic activity is any activity, including entrepreneurial activity, related to the production and exchange of tangible and intangible goods in the form of goods";

Article 3 of the Commercial Code of Ukraine defines economic activity as the activity of business entities in the field of social production aimed at the manufacture and sale of products, performance of works or provision of services of a costly nature that have a price determination.

Thus, the signs of economic activity are as follows:

- the scope of implementation - social production (economic sphere) or material production;
- content - production and sale of products, performance of works, provision of services is not for the producer's own needs, but to meet the needs of other persons
- consumers in the broad sense (citizens as end users, business entities and various organizations that use these goods to meet their economic or other needs);
- transfer of these benefits to other persons on a paid basis, i.e. their functioning in the form of a commodity;
- professional principles of such activities;

- a special entity, which must usually have the status of a business entity (the acquisition of this status is usually completed by state registration in the general and/or special procedure);

- a combination of private interests of the producer (in obtaining profit or other benefits/advantages from economic activity) and public interests (society represented by a wide range of consumers - in obtaining certain benefits; the state - in obtaining profits and other mandatory payments from business entities; territorial community):

1) to ensure employment of community members through their involvement in economic activities on the basis of individual entrepreneurship or labor hiring by business entities;

2) to meet the needs of the community for certain works, services, and products;

3) participation of business entities in solving the tasks of the territorial community in the improvement of the area;

4) in the payment of local taxes and fees, etc;

- a significant level of state (including regulatory) regulation, which is due to the previous feature (private interests of the business entity - producer are satisfied at the expense of public interests - the need to meet the needs of consumers for certain types of goods, works, services); state regulation is aimed at solving a dual task: on the one hand, to stimulate economic (primarily entrepreneurial) activity and ensure optimal conditions for the functioning of its subjects, and on the other hand, to protect society and its significant segments (primarily consumers) from abuse by entrepreneurs who resort to unfair behavior in order to reduce their costs and maximize profits. · is carried out on the basis of independent decision-making, taking into account the general permissive and binding principle; · is carried out on the basis of ownership and other property rights.

Thus, taking into account these features, O. M. Vinnyk gives the following doctrinal definition of the concept of "economic activity".

Economic activity is a socially beneficial activity of business entities for the production of goods, performance of works, provision of services for the purpose of their sale for a fee (as a commodity), which is based on a combination of private and public interests, is carried out professionally and is subject to significant regulation for the purpose of social direction of the economy.

Economic activity can be classified according to various criteria.

According to the criterion of the purpose of economic activity, economic activity can be commercial (entrepreneurial) and non-commercial (part 2 of Article Z of the Commercial Code of Ukraine): commercial activity (entrepreneurship) takes place if its subject (entrepreneur) acts with the aim of making a profit; non-commercial economic activity is carried out to achieve certain economic and social results, but the purpose of making a profit is absent (is not the main one).

The Commercial Code separately distinguishes the activities of non-business entities aimed at creating and maintaining the necessary material and technical conditions for their functioning, which is carried out with or without the participation of business entities, and is the economic support of the activities of non-business entities.

According to the subject of economic activity, there are production, trade, banking, insurance, innovation, concession, joint investment, etc.

Depending on the market (domestic or foreign), the nationality of business entities (domestic producers/residents or foreign investors and non-residents), a distinction is made between economic activity involving domestic producers (residents) and foreign economic activity (involving residents and non-residents), including foreign investment (involving a foreign investor).

The specifics of certain types of economic activity are taken into account in the process of its legal regulation (Section VI of the Commercial Code of Ukraine "Peculiarities of Legal Regulation in Certain Areas of Economic Activity"; Section VII of the Commercial Code of Ukraine "Foreign Economic Activity", Section VIII of the Commercial Code of Ukraine "Special Regimes of Economic Activity"; special laws: "On Banks and Banking", "On Foreign Economic Activity", "On

Insurance", "On the Regime of Foreign Investment", "On Concessions", "On Joint Investment Institutions (Mutual and Corporate Investment Funds", etc.).

The generalized concept of entrepreneurial activity is defined in Article 42 of the Commercial Code:

"Entrepreneurship is an independent, proactive, systematic, risk-averse economic activity carried out by business entities (entrepreneurs) in order to achieve economic and social results and make a profit."

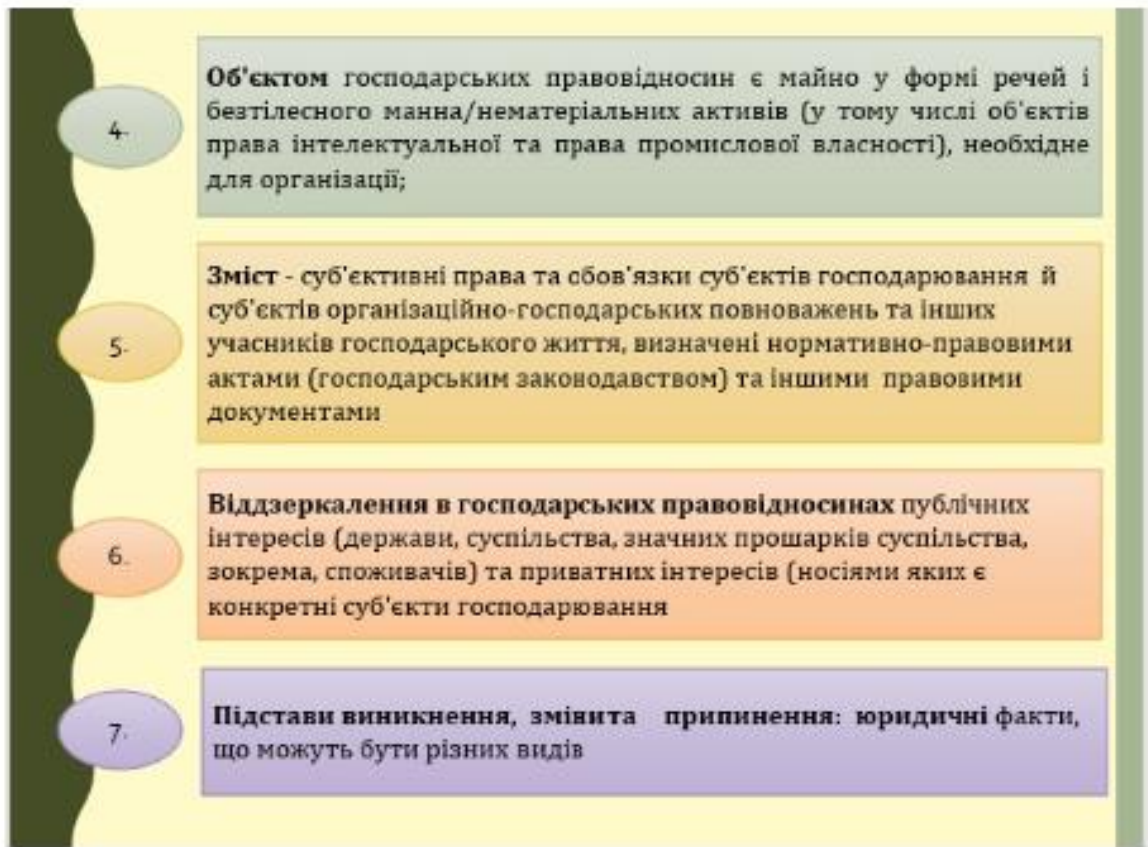
Topic 2. Commercial legal relations

1. The concept of features and types of economic relations

The economic sphere is extremely complex due to the diversity of relations between its entities and other participants. Despite their diversity, the relations that arise in this context are economic relations, as they have common specific features:

Ознаки господарських правовідносин:

- 1.** Сфера виникнення – господарські системи будь якого рівня (державного - економіка країни, територіального - економіка певного регіону; локального- суб'єкти господарювання /господарські організації);
- 2.** Врегульованість цих відносин за допомогою господарсько правових норм (містяться в актах господарського законодавства – в широкому розумінні, в тому числі установчих документах), у певних випадках ще й за допомогою господарських договорів (як правового документа), що забезпечують індивідуальне "підрегулювання" з урахуванням специфіки господарського зв'язку;
- 3.** Особливий суб'єктний склад (обов'язковим учасником цих відносин є суб'єкти господарювання, в певних випадках суб'єкти організаційно- управлінсько-господарських повноважень, споживачі, громадяни, громадські та інші організації, які виступають засновниками суб'єктів господарювання чи здійснюють щодо них організаційно-господарські повноваження на основі відносин власності);



- H. Znamenskyi also identifies such features of economic legal relations as their complexity and multilinkedness (the rights and obligations of one entity correspond to the rights and obligations of other/multiple entities) and their duration: economic relations are usually long, although with certain interruptions.

- a significant degree of state regulation (by the state using appropriate legal forms and methods) combined with local regulation (by business entities themselves, owners of their property), which is due, on the one hand, to the social significance of the economic sphere, the complexity of economic relations, and on the other hand, the need to ensure that business entities have the freedom to choose the optimal behavior necessary for functioning in dynamic market relations, which is reflected in local acts (constituent and internal documents) and business contracts.

It is difficult to take into account all of the above features of economic relations in one short definition, so it is advisable to take into account the most characteristic ones.

Commercial legal relations are social relations regulated by law that arise in the field of business in relation to the organization and direct implementation of economic activities, characterized by a special subject composition, a combination of organizational and property elements, and a significant degree of regulation by both the state and the parties to these relations.

In the Commercial Code of Ukraine, we find a more concise definition, as it refers to the subject matter of legal regulation of this code. Pursuant to Article 1(1) of the Commercial Code, relations arising in the course of organizing and carrying out economic activities between business entities, as well as between these entities and other participants in economic relations, are recognized as economic relations.

2. Types of economic legal relations

The diversity of economic relations necessitates their classification (division into types according to different criteria) for various reasons: rule-making (acquisition of specifics of certain types of economic relations in the process of legal regulation), for educational purposes (study of characteristic features of certain types of economic relations and related peculiarities of their legal regulation), for scientific purposes (research of certain types of economic relations, determination of the most optimal ways of their legal regulation and provision of relevant recommendations to legislators and practitioners).

There is a distinction between doctrinal and legal classification based on different criteria. Thus, in accordance with Part 4 of Art. 4 of the Commercial Code, economic relations may be economic - production, organizational - economic and internal economic. However, the legislator does not specify the criteria for such a classification, which necessitates recourse to the doctrinal provisions of commercial law.

Economic relations are divided into economic-production and organizational-production relations based on the nature of legal relations.



At the same time, economic and production relations are defined by Part 5 of Art. 5 of the Commercial Code as property and other relations arising between business entities in the course of direct economic activity (production and sale of goods, works, services), and organizational and economic relations - relations between the subjects of state aid and subjects of organizational and economic powers in the process of managing economic activity (part 6 of article 3 of the Commercial Code), including state registration of business entities, licensing of their activities, control over compliance with business rules, etc.

Intra-company relations (Part 7 of Article 3 of the Commercial Code) are distinguished into a separate category based on the criterion of their scope and action - within a business organization (between its structural subdivisions, between the organization represented by its management bodies and their officials and its participants, between the organization and its structural subdivisions). On this basis,

the science of commercial law distinguishes another type of economic relations - inter-economic or external economic relations (arising between legally independent business entities).

According to the mutual position of the parties, the following types of economic relations are distinguished: (1) horizontal (the parties to the relations are equal); (2) vertical (arise between a business entity and a management body or the owner of the business entity's property; the parties are unequal).

By sectors of the economy and areas of management in which economic legal relations arise:

- 1) economic legal relations in industry;
- 2) Economic relations in the agro-industrial complex;
- 3) Economic relations in the field of transport,
- 4) Economic relations in capital construction;
- 5) Economic relations in the field of privatization of state and municipal property;
- 6) Economic relations in the field of economic competition and antitrust regulation, etc.

By the criterion of the economic sector in which economic legal relations arise:

- 1) state
- 2) communal;
- 3) private-collective, It is also possible to distinguish certain types of economic relations that develop in each of these sectors of the economy; the state and municipal sectors of the economy have specific relations regarding the

privatization of state and municipal property. Depending on the special legal regimes established to regulate economic relations, the following types are distinguished:

- economic relations in the process of organizing and carrying out foreign economic activity, including foreign investment;
- concession activities;
- on capital construction;
- on innovation activities;
- professional financial activities;
- leasing activities;
- economic relations that develop in special (free) economic zones or territories of priority development between the entities of these zones/territories and the management bodies of the SEZ;
- economic relations arising in other territories with a specific legal regime (special/free economic zone; state border of Ukraine; Chernobyl zone, etc;)
- economic relations, the emergence of which is burdened by extraordinary circumstances - martial law, natural disaster, or other state of emergency. The practical significance of these classifications is undeniable: the legislator takes into account the peculiarities of the above-mentioned types of economic relations in the process of their legal regulation, ongoing management and control.

The following types of relationships are also distinguished.

I. Free. They are based on the provision in Article 6 of the Commercial Code of Ukraine that an entrepreneur has the right to carry out any activity that does not contradict the current legislation without restrictions.

II. Permissive. These relations are based on the list of types of business activities that can be carried out only with a special permit issued by the Cabinet of Ministers or another authorized body, as defined in part 3 of Article 5 of the Commercial Code of Ukraine and Article 8 of the Law of Ukraine "On Licensing of

Certain Types of Business Activities". This category of business legal relations can be divided into four groups:

I. Relations related to the manufacture and sale of certain products and substances (alcoholic beverages, tobacco products, veterinary medicines, medicines and chemicals).

II. Relations on domestic and international transportation of fats and cargoes by road, rail, sea, air, aerial photography, aerial work and aerial filming, mail processing, receiving money transfers, etc.

III. Relations concerning special works, such as prospecting and exploitation of mineral deposits, production and repair of sporting and hunting firearms and ammunition, production of banknotes, extraction and use of radioactive substances, extraction of precious metals and stones.

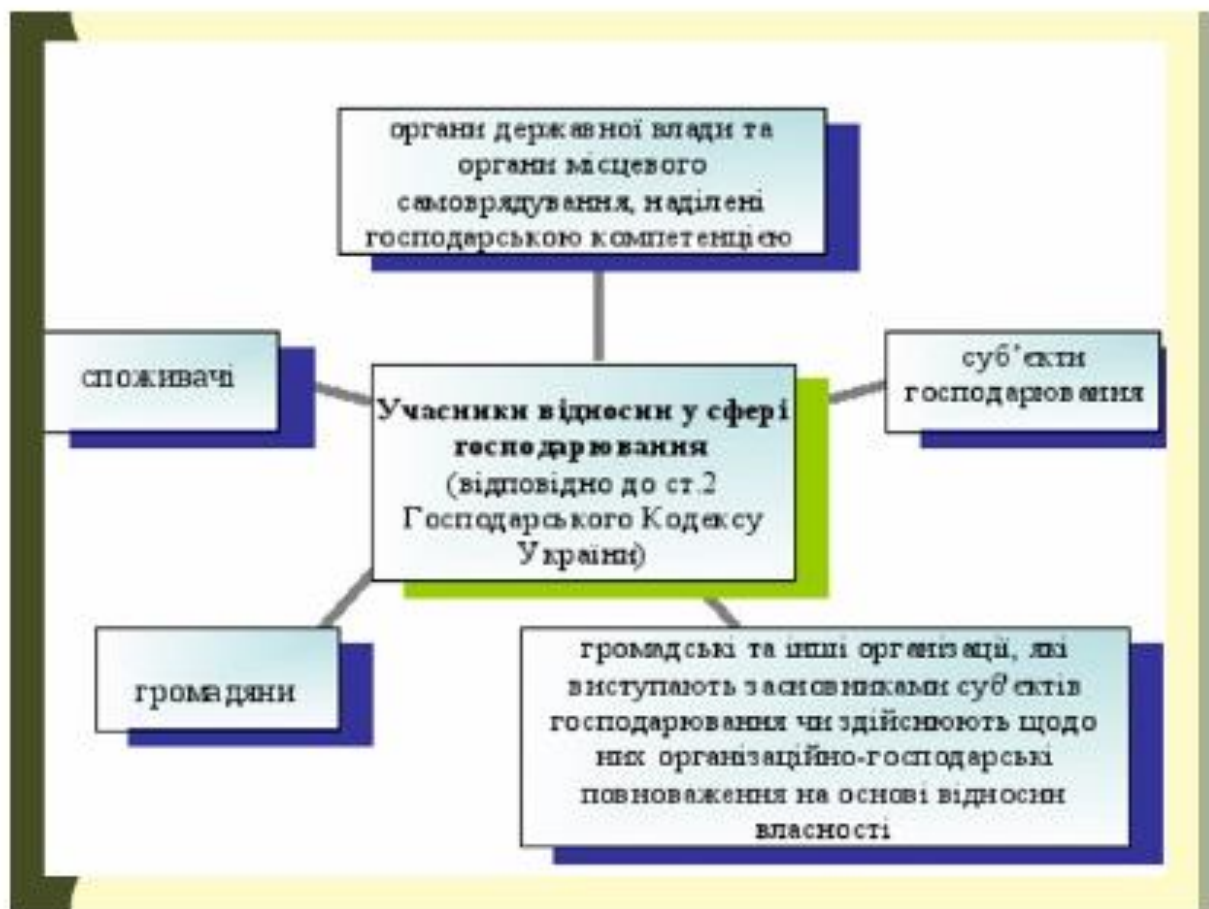
IV. Provision of specific services to the population: medical, veterinary, legal, maintenance of gambling establishments, and audit activities.

III. State-entrepreneurial. The definition of this type of legal relationship is based on the restriction of entities on certain types of activities, which is provided for in Article 12 of the Commercial Code of Ukraine. These activities are related to the trafficking of narcotic drugs and psychotropic substances, the manufacture and sale of military weapons and ammunition, explosives, amber mining, protection of critical state facilities, as well as the development, production, operation and launch of launch vehicles.

3. Participants of economic relations

Participants in relations in the field of business are business entities, consumers, state authorities and local self-government bodies with economic competence, as well as citizens, public and other organizations that act as founders of business entities or exercise organizational and economic powers over them on the basis of ownership

relations.



4. Distinguishing economic relations from other types of legal relations

Other relations may arise in the field of business that do not have all the features of economic relations and are therefore not regulated by the Commercial Code and other regulatory legal acts of economic legislation. Article 4 of the Commercial Code, in particular, refers to such relations:

- property and personal non-property relations regulated by the Civil Code of Ukraine; land, mining, forestry and water relations, relations concerning the use and protection of flora and fauna, territories and objects of the nature reserve fund, and atmospheric air (Such relations are regulated by the relevant codes and laws: land relations - by the Land Code, mining relations - by the Subsoil Code of 27.07.1994, forest relations - by the Forest Code of 21.01.1994, water - by the Water Code, relations on the use and protection of flora and fauna (Laws: of 25.06.1991 "On

Environmental Protection"; of 03.03.1993 "On Fauna"; of 09.04.1999 "On Flora"), territories and objects of the nature reserve fund - by the Law "On the Nature Reserve Fund of Ukraine" of June 16, 1992, and atmospheric air - by the Law of October 16, 1992 "On Protection of Atmospheric Air");

- labor relations - the Labor Code and other acts of labor legislation;

- financial relations involving business entities that arise in the process of forming and controlling the execution of budgets at all levels (they are regulated by the Budget Code and a number of laws and regulations);

- administrative and other management relations involving business entities in which the state or local government body is not an entity with economic competence and does not directly exercise organizational and economic powers over the business entity such relations are regulated by the Code of Administrative Offenses, a number of laws: "On Local Self-Government, On Police, etc.).

Elements of economic relations take place (or may take place) in the activities of private peasant farms: the latter produce agricultural products mainly to meet the personal needs of members of such a farm (family members), but in the case of selling surplus products and providing green tourism services, the peasant farm acts as a business entity with a specific legal status, which is determined by the special Law of 15.05.2003 "On Private Peasant Farming".

Folk arts and crafts are related to business, which also have the features of this activity - production (usually in professional gardens) for the purpose of selling arts and crafts items to third parties for a fee, although with distinctive features: the creative nature of such activity; additional purpose (preservation of folk art crafts and the hereditary development of folk art traditions in a particular area), the peculiarity of the material goods produced in this process is artistic products for decorative and applied purposes. The peculiarity of economic activity related to folk crafts is determined by the Law of Ukraine of 21.06.2001 "On Folk Art Crafts".

Topic 3: The main directions and forms of participation of the state and local self-government in the sphere of economic activity

1. Introduction

Participation of the state, state authorities, and local self-government bodies in business activities The state, state authorities, and local self-government bodies are not business entities.

Decisions of state authorities and self-government bodies on financial issues arising in the process of forming and controlling the execution of budgets at all levels, as well as on administrative and other management relations, except for organizational and economic relations in which a state authority or local self-government body is an entity with economic competence, are made on behalf of that body and within its authority.

The economic competence of these bodies is realized on behalf of the respective state or municipal institution. The direct participation of the state and these bodies in economic activity may be carried out only on the basis, within the limits of authority and in the manner prescribed by law.

Forms of implementation of the state economic policy

In the sphere of economic activity, the state implements long-term (strategic) and current (tactical) economic and social policies aimed at realizing and optimally harmonizing the interests of business entities and consumers, various social groups and the population as a whole.

Economic strategy is a long-term economic policy course chosen by the state and aimed at solving large-scale economic and social problems, cultural development problems, economic security problems of the state, preserving and increasing its economic potential and national wealth, and improving national welfare.

2. Legal forms of state regulation of the economy



The global experience of economic development shows that the difference between social systems lies primarily in the degree of state influence on this development, which depends on the form of ownership. If the state does not interfere at all in the economy, which is based on private property, this is a model of classical capitalism.

According to Art. 5 of the Commercial Code of Ukraine, the legal economic order in Ukraine is formed on the basis of an optimal combination of market self-regulation of economic relations of business entities and state regulation of macroeconomic processes, based on the constitutional requirement of the state's responsibility to the individual for its activities and the definition of Ukraine as a sovereign and independent, democratic, social, and legal state.

The state, state authorities and local self-government bodies are not business entities.

Pursuant to Article 8 of the Commercial Code of Ukraine, direct participation of the state, its bodies and local self-government bodies in economic activities may take place only on the basis, within the powers and in the manner prescribed by the Constitution and legislation.

The Constitution of Ukraine defines the rights of every citizen to own, use and dispose of their property and to engage in entrepreneurial activities not prohibited by law. At the same time, abuse of a monopoly position in the market, unlawful restriction of competition and unfair competition are not allowed. The state exercises control over the quality of products, works and services, and ensures that the use of property by citizens does not harm the rights and freedoms of other citizens and the interests of society.

The state provides business entities (regardless of ownership) with equal legal and economic conditions for their activities; promotes market development, regulates it using economic laws and incentives; implements antitrust measures; provides preferential conditions for enterprises that use advanced technologies, create new jobs; and stimulates the development of small enterprises.

In the economic sphere, the state implements long-term (strategic) and current (tactical) economic and social policies aimed at realizing and optimally harmonizing the interests of business entities and consumers, various social groups and the population as a whole.

Економічна стратегія

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ОБРАНИЙ ДЕРЖАВОЮ КУРС
ЕКОНОМІЧНОЇ ПОЛІТИКИ,
РОЗРАХОВАНИЙ НА ТРИВАЛУ
ПЕРСПЕКТИВУ
І СПРЯМОВАНИЙ НА ВИРІШЕННЯ
КРУПНОМАСШТАБНИХ ЕКОНОМІЧНИХ
І СОЦІАЛЬНИХ ЗАВДАНЬ, ЗАВДАНЬ
КУЛЬТУРНОГО РОЗВИТКУ,
ЗАБЕЗПЕЧЕННЯ ЕКОНОМІЧНОГО
БЕЗПЕКИ ДЕРЖАВИ, ЗБЕРЕЖЕННЯ І
ПРИМНОЖЕННЯ ЇЇ ЕКОНОМІЧНОГО
ПОТЕНЦІАЛУ

Економічна тактика

—

СУКУПНІСТЬ НАЙБЛИЖЧИХ ЦІЛЕЙ
ЗАВДАНЬ, ЗАСОБІВ І СПОСОБІВ ЇХ
ДОСЯГНЕННЯ ДЛЯ РЕАЛІЗАЦІЇ
СТРАТЕГІЧНОГО КУРСУ ЕКОНОМІЧН
ПОЛІТИКИ В КОНКРЕТНИХ
УМОВАХ, ЩО СКЛАДАЮТЬСЯ В
ПОТОЧНОМУ ПЕРІОДІ РОЗВИТКУ
НАРОДНОГО ГОСПОДАРСТВА

Thus, in a market economy, the state regulation of economic activity should promote the establishment of self-regulating factors inherent in it, and create a legislative environment for a market society.

2. Means of state regulation of economic activity

In order to implement its economic policy, fulfill targeted economic and other programs and programs of economic and social development, the state uses various means of regulating economic activity.



Засоби регулювання
господарської діяльності

встановлені законом
економічні, організаційні і
правові інструменти
(знаряддя) регулюючого
впливу держави в особі
уповноважених органів на
діяльність суб'єктів
господарювання

The terms, scope and procedure for the application of state regulation of business relations are determined by the Commercial Code, other legislative acts, and The Commercial Code of Ukraine stipulates that the conditions, scope, areas and procedure for the application of certain types of state regulation of economic relations are determined by legislative acts, as well as economic and social development programs developed in accordance with the Law of March 23, 2000 as amended on December 2, 2012. "On State Forecasting and Development of Programs for Economic and Social Development of Ukraine."

Thus, the state forecasting of economic and social development - state forecasting of economic and social development - is a scientifically based prediction

of the directions of development of the country, certain sectors of the economy or certain administrative-territorial units, the possible state of the economy and social sphere in the future, as well as alternative ways and terms of achieving the parameters of economic and social development.

The forecast of economic and social development is a means of justifying the choice of a particular strategy and making specific decisions by government agencies and local governments to regulate socio-economic processes.

The system of forecast and program documents for economic and social development consists of:

- - forecasts of economic and social development of Ukraine for the medium and short term;
- - forecasts of development of certain sectors of the economy for the medium term;
- - national economic and social development programs and other state targeted programs;
- - forecasts of economic and social development of regions, districts and cities for the medium term;
- - short-term economic and social development programs for regions, districts and cities.
- The medium-term economic and social development forecast of Ukraine is prepared for five years.
- The short-term economic and social development forecast for Ukraine is prepared annually for the following year.



A **subsidy** is a financial assistance provided by the state at the expense of the budget and special funds to legal entities, local government bodies, and other states.

Licensing, patenting and quotas in economic activity.

Licensing is a means of state regulation of business activities subject to licensing, aimed at ensuring the implementation of a unified state policy in the field of licensing, protection of economic and social interests of the state, society and individual consumers; Relations related to the licensing of certain types of economic activities are regulated by the Law of Ukraine "**On Licensing of Economic Activities**" dated 02.03.2015.

Licensing regulations are a regulatory legal act of the Cabinet of Ministers of Ukraine, the provisions of which establish an exhaustive list of requirements that must be fulfilled by the licensee and an exhaustive list of documents to be attached to the license application.

Licensing is also provided for by the Law of Ukraine "On Foreign Economic Activity".

A special license is a duly executed right to import into Ukraine within a specified period of time a certain product (products) that is the subject of a special investigation and/or special measures;

An open (individual) license is a permit to export (import) goods for a certain period of time (but not less than one month) with the determination of its total volume;

A general license is an open permit for export (import) operations for a certain product (products) and/or with a certain country (group of countries) during the period of validity of the licensing regime for this product (products);

Export (import) license is a duly executed right to export (import) certain goods or foreign currency for the purpose of investment and lending within a specified period of time;

A one-time (individual) license is a one-time permit that has a personalized nature and is issued for each individual transaction by a specific foreign economic operator for a period not less than that required for an export (import) transaction.

The Commercial Code (Article 14) provides for the possibility of patenting business activities of business entities. However, this provision of the Tax Code of Ukraine has been repealed.

The Commercial Code also provides for such a means of regulatory influence of the state on the activities of business entities as quotas, setting a limit on the production or turnover (including exports and imports) of certain goods and services. Export and import quotas, i.e., the maximum amount of a certain category of goods that may be exported or imported within a specified period, are provided for by the Law of April 16, 1991 "On Foreign Economic Activity".

The Law of Ukraine "On Foreign Economic Activity" provides for such quotas:

Global quotas (contingents) - quotas set for a product (products) without specifying specific countries (groups of countries) to which the product (products) is exported or from which it (they) is imported;

Group quotas (contingents) - quotas established for a product (products) with the definition of a group of countries to which the product (products) is exported or from which it (they) is imported;

Export (import) quota is the maximum volume of a certain category of goods that is allowed to be exported from the territory of Ukraine (imported into the territory of Ukraine) within a specified period of time and is determined in natural or cost units;

Individual quotas (contingents) - quotas established for a product (products) with the definition of a specific country to which the product (products) can be exported or from which it (they) can be imported;

Special quotas - the maximum volume of imports into Ukraine of a certain product (products) that is the subject of a special investigation and/or special measures, which is allowed to be imported into Ukraine within a specified period and which is determined in natural and/or cost units;

Subsidies and other means of state support for business entities

The state may provide subsidies to business entities: to support the production of vital foodstuffs, to produce vital medicines and rehabilitation equipment for the disabled, for import purchases of certain goods, transportation services that provide socially important transportation, as well as for business entities in a critical socio-economic or environmental situation to finance capital investments at the level necessary to maintain their operations, for the purposes of technical development that produce a significant economic effect, as well as in other cases provided for by law.

The state may make compensations or additional payments to agricultural producers for agricultural products sold by them to the state.

The grounds and procedure for applying state support to business entities are determined by law.

4. The concept of public order

Державне замовлення

є засобом державного регулювання економіки шляхом формування на договірній (контрактній) основі складу та обсягів продукції (робіт, послуг), необхідної для пріоритетних державних потреб, розміщення державних контрактів на поставку (закупівлю) цієї продукції (виконання робіт, надання послуг) серед суб'єктів господарювання, незалежно від їх форми власності.

Державний контракт - це договір, укладений державним замовником від імені держави з суб'єктом господарювання - виконавцем державного замовлення, в якому визначаються економічні та правові зобов'язання сторін і регулюються їх господарські відносини.

Замовники - органи державної влади, органи місцевого самоврядування та органи соціального страхування, створені відповідно до закону, а також юридичні особи (підприємства, установи, організації) та їх об'єднання, які забезпечують потреби держави або територіальної громади, якщо така діяльність не здійснюється на промисловій чи комерційній основі

5. General principles of taxation in the field of business



Taxation is one of the main levers of state influence on economic activity, where the state acts in the public interest.

Taxation differs in its principles (economic feasibility, social justice) from the relations between state-owned enterprises and the budget that existed under the administrative command system.

The Tax Code of Ukraine establishes national and local taxes and duties.

The following taxes and duties are classified as national taxes:



10.1. Local taxes include:



10.1.1. ПОДАТОК НА
МАЙНО



10.1.2. ЄДИНИЙ
ПОДАТОК

Місцеві податки

Місцеві збори



10.2.1. ЗБІР ЗА МІСЦЯ
ДЛЯ ПАРКУВАННЯ
ТРАНСПОРТНИХ
ЗАСОБІВ



10.2.2. ТУРИСТИЧНИЙ
ЗБІР

6. State control and supervision of business activities

State authorities and officials authorized to exercise state control and state supervision over economic activities, their status and general conditions and procedure for exercising control and supervision are determined by laws.

Unlawful interference and obstruction of business activities of business entities by state authorities and their officials in the course of their state control and supervision are prohibited.

State authorities and officials are obliged to carry out inspections and audits of business entities impartially, objectively and promptly, in compliance with the requirements of the law, respecting the rights and legitimate interests of business entities.

A business entity has the right to receive information on the results of inspections and audits of its activities no later than **thirty days** after their completion, unless otherwise provided by law. Actions and decisions of state control and supervision authorities, as well as their officials who conducted inspections and audits, may be appealed by a business entity in accordance with the procedure established by law.

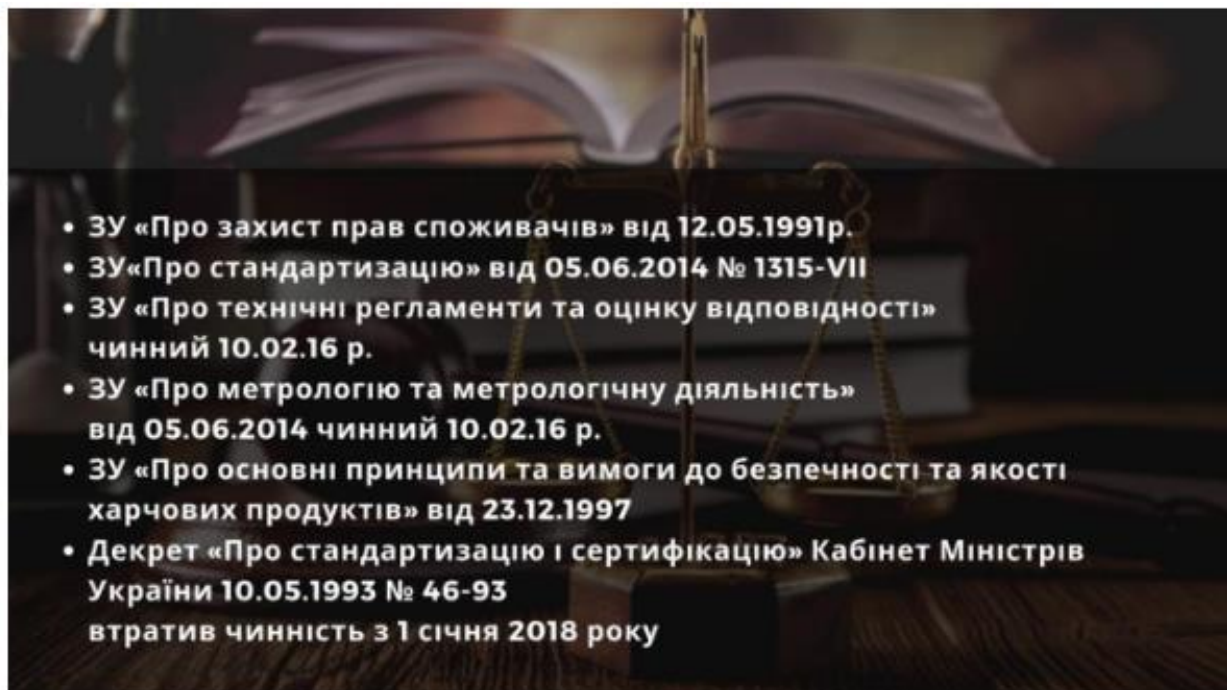
All business entities, separate subdivisions of legal entities allocated to a separate balance sheet, are obliged to keep primary (operational) records of their performance, compile and submit statistical information and other data specified by law in accordance with the requirements of the law, as well as keep (except for Ukrainian citizens, foreigners and stateless persons who carry out business activities and are registered as entrepreneurs in accordance with the law) accounting records and submit financial statements in accordance with the law.



State supervision (control) measures are **planned and unscheduled activities carried out through inspections, audits, reviews, surveys and other actions.**

Topic 4. Technical regulation in the field of business. ISO standards in the economic sphere

a. Standardization in Ukraine



The Decree "On Standardization and Certification" of the Cabinet of Ministers of Ukraine No. 46-93 dated 10.05.1993 shall cease to be effective as of January 1, 2018

Technical regulation is the legal regulation of relations in the field of determining and fulfilling mandatory requirements for product characteristics or related processes and production methods, as well as verifying their compliance through conformity assessment and/or state market supervision and control of non-food products or other types of state supervision (control).

Standardization is an activity that consists of establishing provisions for general and repeated use in relation to existing or potential tasks and is aimed at achieving an optimal degree of orderliness in a particular area.

The purpose of standardization is:

- 1) ensuring that the objects of standardization are fit for purpose;
- 2) diversity management, applicability, compatibility, interchangeability of standardization objects;

- 3) ensuring rational production through the application of recognized rules, guidelines and procedures;
- 4) ensuring the protection of life and health;
- 5) ensuring the rights and interests of consumers;
- 6) ensuring labor safety;
- 7) preserving the environment and saving all types of resources;
- 8) removal of technical barriers to trade and prevention of their occurrence, support for the development and international competitiveness of products.

Art. 15 of the Commercial Code of Ukraine states that technical regulations, standards, codes of practice and technical specifications are applied in the field of business.



Standard is a normative document based on consensus, adopted by a recognized body, which establishes rules, guidelines or characteristics for general and repeated use in relation to activities or their results, and is aimed at achieving an optimal degree of orderliness in a certain area;

(Commercial Code only) Code of practice - a normative document containing recommendations on practices or procedures for the design, manufacture, installation, maintenance or operation of equipment, structures or products;

(Gostpodar Code only) technical specifications - a normative document that establishes the technical requirements that a product, process or service must meet and defines the procedures by which it can be determined whether such requirements are met.

A technical specification is a document that sets out the technical requirements that a product, process or service must meet;

Technical regulation is a legal act that defines product characteristics or related processes and production methods, including the relevant procedural provisions, compliance with which is mandatory. It may also include or exclusively relate to requirements for terminology, designations, packaging, marking or labeling insofar as they apply to a product, process or method of manufacture;

Technical regulations are developed on the basis of:

international standards, if they have already been adopted or are at the final stage of development, or their respective parts, except where such international standards or their respective parts are ineffective or inappropriate means of achieving the defined objectives of the technical regulations, in particular due to significant climatic or geographical factors or significant technological problems;

regional standards, national standards of Ukraine or other states, legislative acts of the European Union, other economic associations or other states, or relevant parts of such standards and legislative acts.

Technical regulations are approved by laws, acts of the Cabinet of Ministers of Ukraine and central executive authorities.

There are different levels of standardization:

- international standardization - standardization in which participation is open to the relevant authorities of all states; The result of the work of several sovereign states is the international ISO standard adopted by the International Organization for Standardization; *harmonized European standard* - a standard adopted by one of the

European standardization organizations on the basis of a request made by the European Commission, and the number and name of which is published in the Official Journal of the European Union;

- national standardization - standardization carried out at the level of one state;

- regional standardization - standardization, participation in which is open to the relevant authorities of the states of only one geographical, political or economic space;

Object of conformity assessment - a specific material, product, installation, process, service, system, person or body to which conformity assessment is applied;

The objects of standardization are:

1) materials, components, equipment, systems, their compatibility;

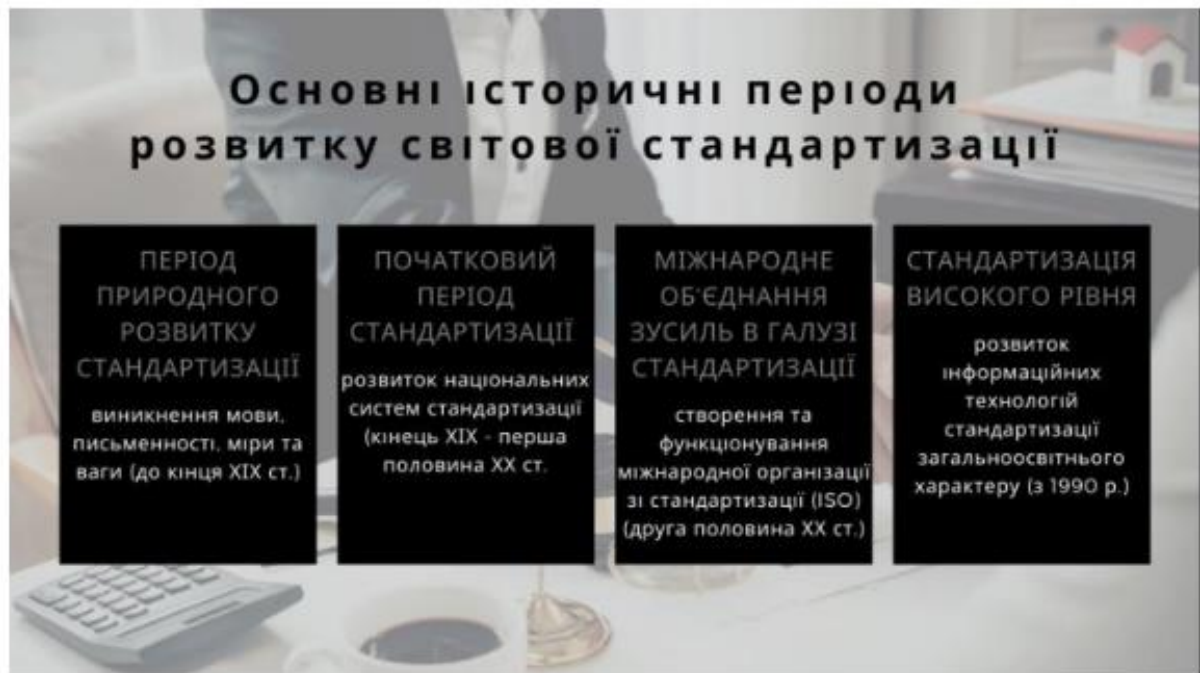
2) rules, procedures, functions, methods, activities or their results, including products, personnel, management systems;

3) requirements for terminology, designation, packaging, packaging, labeling, labeling, etc.

The Commercial Code stipulates that the application of standards, codes of established practice or their individual provisions is mandatory:

business entities, if the mandatory application of standards or codes of good practice is established by regulatory legal acts;

the parties to an agreement (contract) for the development, manufacture or supply of products, if it contains references to certain standards or codes of practice;
a manufacturer or supplier of products, if they have made a declaration of conformity of products to certain standards or used the designations of these standards in their labeling.



conformity document - a declaration (including a declaration of conformity), protocol (including a test report), report, conclusion, certificate, certificate (including a certificate of conformity) or any other document confirming the fulfillment of certain requirements relating to the object of conformity assessment;

defined requirements - stated needs or expectations that are documented in technical regulations, standards, technical specifications, or otherwise;

Conformity assessment body - an enterprise, institution, organization or their structural subdivision that carries out conformity assessment activities, including testing, certification and inspection;

Certification body - a third-party conformity assessment body that manages certification schemes;

The appointing authority is the central executive body authorized to appoint conformity assessment bodies (including recognized independent organizations), limit the scope of their appointment, suspend or renew the decisions on appointment or cancel these decisions;

One of the main tasks of the **Ministry of Economic Development and Trade of Ukraine** is to ensure the formation and implementation of state policy in the field of technical regulation (standardization, metrology, certification, conformity

assessment (confirmation), accreditation of conformity assessment bodies, quality management).

By the Order of the Cabinet of Ministers of Ukraine No. 1163-r dated November 26, 2014, the State Enterprise "Ukrainian Research and Training Center for Standardization, Certification and Quality" was defined as a state enterprise performing the functions of the National Standardization Body and not subject to privatization, established by the central executive body implementing the state policy in the field of standardization.

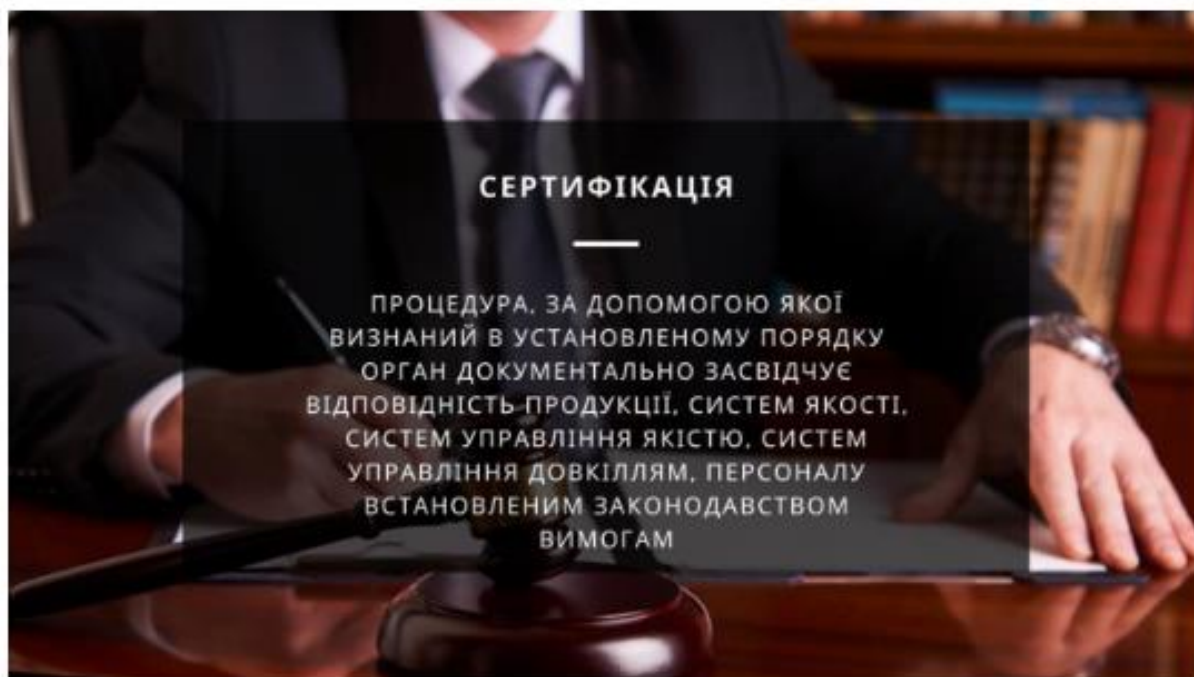
The Center includes: The Research Institute of Standardization, the Institute of Quality Management, the Institute of Conformity Assessment, the Institute for Training of Specialists in Quality Management, Standardization, Conformity Assessment and Metrology, and the only Ukrainian Main Fund of Regulatory Documents, which accumulates information resources in the field of technical regulation, ensures their storage, accounting and access to them by users.

The branches of the State Enterprise "Ukrainian Research and Training Center for Standardization, Certification and Quality Problems" operate in Lviv and Kharkiv.

Interstate standards in force at the time of the entry into force of the Agreement on a Coherent Policy in the Field of Standardization, Metrology and Certification of March 13, 1992, and republican standards of the Ukrainian Soviet Socialist Republic are applied as national standards until they are replaced by national standards or abolished in Ukraine.

Standards, codes of practice and technical specifications adopted by the central executive authorities prior to the entry into force of this Law, as well as industry standards and other equivalent regulatory documents of the former Union of Soviet Socialist Republics, industry standards of Ukraine (hereinafter referred to as industry standards) shall be applied until they are replaced by technical regulations, national standards, codes of practice or canceled in Ukraine, but not more than 15 years from the date of entry into force of this Law.

2. Certification



DECREE OF THE CABINET OF MINISTERS OF UKRAINE ON STANDARDIZATION AND CERTIFICATION dated 10.05.1993 (Expires on January 1, 2018). The Decree applies to enterprises, institutions and organizations, regardless of ownership and type of activity, operating in Ukraine, as well as to citizens who are entrepreneurs.

The provisions of the Decree do not apply to products that are foodstuffs.

Article 13. Certification of products in Ukraine shall be divided into mandatory and voluntary.

Mandatory certification for compliance with the requirements of regulatory documents is carried out by certification bodies, regardless of ownership, exclusively in the state certification system.

Mandatory certification in all cases should include inspection and testing of products to determine their characteristics and subsequent state technical supervision of certified products.

Order of 01.02.2005 of the State Consumer Standard of Ukraine (now the State Inspection of Ukraine for Consumer Protection) "On Approval of the List of Products Subject to Mandatory Certification in Ukraine".

The central executive body that ensures the formation of state policy in the field of technical regulation (the Ministry of Economic Development and Trade of Ukraine (MEDT)):

- defines the basic principles, structure and rules of the state certification system;

- Approves the list of products subject to mandatory certification and determines the terms of its implementation;

- встановлює вимоги до призначених органів з сертифікації в державній системі сертифікації (далі - призначений орган);

- establishes rules for the recognition of certificates of conformity of other states;

- exercises other powers determined by the laws of Ukraine.

The central executive body that implements state policy in the field of technical regulation:

- appoints certification bodies accredited by the national accreditation body of Ukraine, and if the national accreditation body of Ukraine does not carry out accreditation in respect of the relevant types of certification activities, - by the national accreditation body of another state;

- considers controversial issues related to certification;

- carries out state supervision over compliance with the rules and procedures for product certification by certification bodies through scheduled and unscheduled inspections;

- maintains the Register of the state certification system (hereinafter - the Register);

- organize information support on certification issues;

- Exercises other powers determined by the laws of Ukraine.

Certification bodies assign registration numbers to the certificates of conformity and certificates of conformity recognition issued by them in accordance with the procedure established by the central executive body responsible for the formation of state policy in the field of technical regulation.

The State Inspectorate of Ukraine for Consumer Protection (State Consumer Inspection of Ukraine) is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Economic Development and Trade of Ukraine.

There are also centers for standardization, metrology, and certification in Ukraine, including the State Enterprise All-Ukrainian State Research and Production Center for Standardization, Metrology, Certification, and Consumer Protection (State Enterprise Ukrmetrteststandard).

3. International Organization for Standardization (ISO)

The special role of international standardization in ensuring the quality of products (services) is that it creates a single language that is understandable in all countries, which reflects the regulatory and technical principles and the level of quality at all stages of the product life cycle - from its creation to its use and disposal.

The following international quality standardization and certification organizations are currently operating: International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), International Telecommunication Union, European Organization for Quality, European Organization for Testing and Certification, International Council for Standardization, Metrology and Certification, International Quality Association, Ukrainian International Quality Foundation, etc.

In modern conditions, international standards for quality systems (ISO 9000 and 10000 series standards) are used to create and certify quality systems in the fields of not only production, but also production and economic infrastructure (transport,

energy, communications, construction, etc.) and social infrastructure (healthcare, trade, education, etc.).

In accordance with the current legislation of Ukraine and international treaties ratified by Ukraine, the State Committee of Ukraine for Consumer Protection represents national interests in international and regional standardization organizations, as well as in relations with the relevant authorities of other countries in the field of standardization.

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One of the main international organizations in the field of standardization and certification is the International Organization for Standardization (ISO). It is a global federation of national standardization bodies established on February 23, 1947, at the initiative of the United Nations at a meeting of the United Nations Committee for the Coordination of Standards. In 1995, the ISO consisted of 111 countries, each of which is represented by one full member.

Міжнародні організації зі стандартизації якості та сертифікації

- Міжнародна організація зі стандартизації (ISO)
- Міжнародна електротехнічна комісія (IEC)
- Міжнародний союз телекомунікації
- Європейська організація з якості
- Європейська організація з випробувань і сертифікації
- Міжнародна рада зі стандартизації метрології та сертифікації
- Міжнародна асоціація якості
- Український міжнародний фонд якості



ISO operates on the basis of its Statute and Rules of Procedure, which define the purpose of its activities, its status and organizational principles of functioning. The main purpose of ISO's activities in accordance with its Statute is to promote the development of standardization and related activities worldwide, to facilitate the international exchange of goods and services, and to develop cooperation in the field of intellectual, scientific, technical and economic activities.

In order to achieve this overall goal, the ISO works in the following areas:

- development and publication of international standards in all areas of technical and economic activity, except for electrical engineering and electronics, which fall within the competence of the International Electrotechnical Commission (IEC);
- development and dissemination of documents on methods, rules and procedures aimed at promoting and facilitating the harmonization of standards of different national standardization systems;
- organizing the exchange of information on the work of its central and technical bodies and ISO members;
- cooperation with other international bodies and organizations in related fields of activity.

Much attention is paid to such problems:

- 1) environmental management to ensure its quality;
- 2) development of a system of international safety standards and activities to unify methods for determining safety requirements in ISO standards for products, processes and services;
- 3) development of international standards in the field of quality systems.

ISO's activities in all areas of activity should promote the interests of producers of products (services) and their consumers, governments and government agencies, management bodies, self-government, public organizations, scientific and technical associations. In its activities, ISO is gradually expanding the range of

standardization areas based on global trends in scientific, technical and economic development, their differentiation and integration, ensuring compatibility and interchangeability of products, and creating multi-purpose products.

ISO International Standards cover both economic activity and development of mankind as a whole and specific areas of economic activity - from standardization of terminology, designations, physical quantities and their units, technical drawings, forms of documents to standardization of technical requirements for products, methods and means of control, analysis, testing, construction and operation of quality systems.



ISO builds its activities on the following principles:

- involvement of all interested national members of ISO and their technical bodies;
- justification of the feasibility of developing international standards;
- reaching consensus in the development of standards and making decisions on their approval;
- rationalization of the costs of organizing and implementing standardization activities;

- Assistance to national member organizations in creating training systems;
- orderly, organized and mandatory nature of the work;
- availability of information on ISO activities.

Currently, the International Standards of ISO 9000, 10000, 14000 and 5A 8000 series are in force. The ISO 9000 series standards were developed by ISO Technical Committee TC176 as a result of summarizing the accumulated national experience of different countries in the development, implementation and operation of quality systems.

MODULE 2. GENERAL CHARACTERISTICS OF BUSINESS ENTITIES

Topic 5. Concept and types of economic entities

1. The concept of a business entity

The Commercial Code does not contain the concept of a business entity.

In the science of business enterprise it is proved that the terms "subjects of a business enterprise" and "participants of economic relations" are identical. At the same time, the participants of economic relations include "economic entities".

Pursuant to Article 2 of the Commercial Code of Ukraine, the parties to relations in the field of business are business entities, consumers, state authorities and local self-government bodies with economic competence, as well as citizens, public and other organizations that act as founders of business entities or exercise organizational and economic powers over them on the basis of ownership relations.

Поняття суб'єкта господарювання

**СТАТТЯ 8 ГК УКРАЇНИ: ДЕРЖАВА, ОРГАНИ ДЕРЖАВНОЇ
ВЛАДИ ТА ОРГАНИ МІСЦЕВОГО САМОВРЯДУВАННЯ НЕ Є
СУБ'ЄКТАМИ ГОСПОДАРЮВАННЯ.**

Суб'єктами господарювання визнаються учасники відносин, які здійснюють господарську діяльність, реалізуючи господарську компетенцію (сукупність господарських прав та обов'язків), мають відокремлене майно і несуть відповідальність за своїми зобов'язаннями в межах цього майна, крім випадків, передбачених законодавством.

Characteristics of a business entity:

- direct implementation of economic activities (production of goods, performance of works, provision of services), or management of economic activities, which is inherent in the property owners of enterprises, business associations, holding companies, industrial and financial groups, economic ministries and departments;
- Obtaining the status of a business entity in accordance with the procedure established by law (although the procedure for establishing a business entity differs for different business entities), depending on the type, organizational and legal form, and type of activity;
- availability of property necessary for carrying out the economic activity chosen by the entity or entrusted to it or management of such activity; such property may be assigned to economic entities under various legal titles: rights and ownership, right of economic management, right of operational management, right of use;
- the existence of economic legal personality, i.e., the ability to be a subject of rights recognized by the state for a certain subject of economic relations;

According to part 1 of Article 55. of the Commercial Code of Ukraine, business entities are participants in economic relations that carry out economic activities, exercising economic competence (a set of economic rights and obligations), have separate property and are liable for their obligations within this property, except as provided by law.

Business entities are extremely diverse, so they are classified into groups.

According to the criterion of the nature of the activity, they are distinguished:

- **business entities**, i.e., economic entities that directly carry out economic activities (these include individual entrepreneurs, enterprises, production cooperatives, most business associations, commercial banks, etc;)

- **subjects of organizational and economic powers** that manage economic activities, including the organization of such activities (these include economic and functional ministries and departments, local governments and their executive committees, business associations, industrial and financial groups, holding companies, owners of enterprise property, the National Depository of Ukraine).

Part 2 of Article 55 of the Commercial Code distinguishes the following categories of entities:

1) business organizations - legal entities established in accordance with the Civil Code of Ukraine, state, municipal and other enterprises established in accordance with the Commercial Code of Ukraine, as well as other legal entities engaged in business activities and registered in accordance with the procedure established by law;

2) Citizens of Ukraine, foreigners and stateless persons who carry out business activities and are registered as entrepreneurs in accordance with the law.

Суб'єкти господарювання залежно від кількості працюючих та доходів від будь-якої діяльності за рік можуть належати до суб'єктів:



малого підприємництва,
у тому числі до суб'єктів
мікропідприємництва



середнього
підприємництва

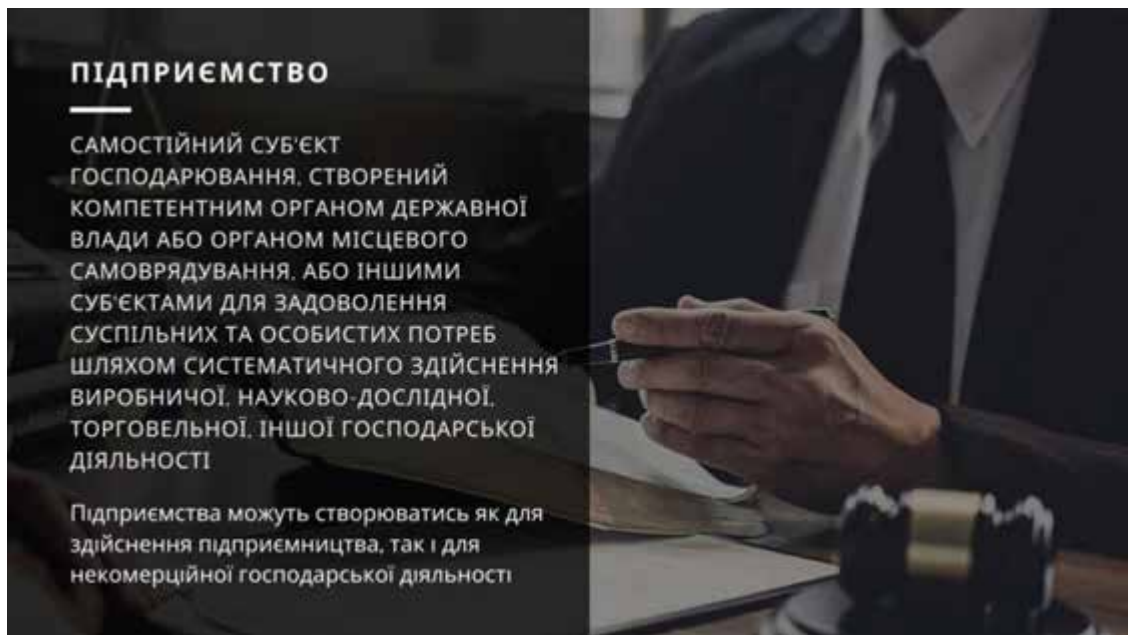


великого
підприємництва

2. Enterprise as an organizational form of business

The Civil Code defines the concept of an enterprise in Article 191 "Enterprise as a single property complex". Pursuant to this article, "an enterprise is a single property complex used for business activities", is a set of immovable and movable things, property and other rights, and may be, in whole or in part, the object of sale, pledge, lease and other transactions.

An enterprise is an independent business entity established by a competent state or local government body or other entities to meet social and personal needs through the systematic implementation of production, research, trade, and other economic activities in accordance with the procedure provided for by the Commercial Code and other laws. Enterprises may be established both for business and non-commercial economic activities. Unless otherwise provided by law, an enterprise shall operate on the basis of a charter or model charter. Enterprises, regardless of their form of ownership, organizational and legal form, as well as the constituent documents on the basis of which they are established and operate, have equal rights and obligations. The company is a legal entity, has separate property, an independent balance sheet, accounts with banks, a seal with its name and identification code. The Company has no other legal entities.



Types and organizational forms of enterprises:

In Ukraine, depending on the form of ownership, the following types of enterprises can operate:

- a private enterprise operating on the basis of private property of individuals or a legal entity;
- an enterprise operating on the basis of collective ownership (collective ownership enterprise);
- a municipal enterprise operating on the basis of communal property of a territorial community;
- a state-owned enterprise operating on the basis of state ownership;
- an enterprise based on a mixed form of ownership (based on the combination of property of different forms of ownership).

Other types of enterprises provided for by law may also operate in Ukraine.

A **unitary enterprise** is an enterprise established by a single founder who allocates the necessary property, forms a statutory fund not divided into shares in accordance with the law, approves the charter, distributes income, directly or through a manager appointed by him, manages the enterprise and forms its labor collective on the basis of labor employment, and decides on the reorganization and liquidation of the enterprise. Unitary enterprises are state-owned, municipal, and

enterprises based on the property of an association of citizens, a religious organization, or on the private property of the founder.

A corporate enterprise is an enterprise that is formed, as a rule, by two or more founders by their joint decision (agreement), operates on the basis of the association of property or business or labor activities of the founders (participants), their joint management of affairs, on the basis of corporate rights, including through the bodies they create, and the participation of the founders (participants) in the distribution of income and risks of the enterprise. Cooperative enterprises, enterprises established in the form of a business partnership, including those based on private ownership of two or more persons, are corporate enterprises.

Depending on the number of employees and income from any activity for the year, business entities may be classified as small businesses, including micro, medium or large businesses.

Microenterprise entities are:

- Individuals registered in accordance with the procedure established by law as individual entrepreneurs, whose average number of employees for the reporting period (calendar year) does not exceed 10 people and whose annual income from any activity does not exceed the amount equivalent to EUR 2 million, determined at the average annual exchange rate of the National Bank of Ukraine;

- legal entities - business entities of any organizational and legal form and form of ownership, with an average number of employees for the reporting period (calendar year) not exceeding 10 people and annual income from any activity not exceeding the amount equivalent to EUR 2 million, determined at the average annual exchange rate of the National Bank of Ukraine.

Small business entities are:

- Individuals registered in accordance with the procedure established by law as individual entrepreneurs, whose average number of employees for the reporting period (calendar year) does not exceed 50 people and whose annual income from any activity does not exceed the amount equivalent to EUR 10 million, determined at the average annual exchange rate of the National Bank of Ukraine;

- legal entities - business entities of any organizational and legal form and form of ownership, with an average number of employees for the reporting period (calendar year) not exceeding 50 people and annual income from any activity not exceeding the amount equivalent to EUR 10 million, determined at the average annual exchange rate of the National Bank of Ukraine.

Large businesses are legal entities - business entities of any organizational and legal form and form of ownership, with an average number of employees for the reporting period (calendar year) exceeding 250 people and annual income from any activity exceeding the amount equivalent to EUR 50 million, determined at the average annual exchange rate of the National Bank of Ukraine. Other business entities are classified as medium-sized enterprises.

The Commercial Code also defines the concepts of dependent and controlling entities.

3. The concept of a state unitary enterprise

Ukraine has state unitary enterprises, which are divided into state commercial enterprises and state-owned enterprises.

According to Art. 3 of the Law of Ukraine "On Management of State-Owned Property Objects" of September 21, 2006, No. 185-V, the objects of state property management are:

- property transferred to state-owned enterprises for operational management;
- property transferred to state-owned commercial enterprises, institutions and organizations;
- property transferred by state economic associations;
- corporate rights owned by the state in the authorized capital of business organizations;
- state property that supports the activities of the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine;
- state property transferred for rent, leasing, concession;

- state property on the balance sheet of business organizations that was not included in their authorized capital or remained after the liquidation of enterprises and organizations;
- state property transferred for perpetual free use to the National Academy of Sciences of Ukraine and branch academies of sciences;
- ownerless and confiscated property that becomes state property by court order.

State-owned enterprises can be either unitary or corporate.

A state unitary enterprise is an enterprise established by the competent state authority in an administrative order on the basis of a separate part of state property, as a rule, without dividing it into shares, and is within its management.

The governmental authority that manages the company is the owner's representative and performs the owner's functions within the limits set by commercial law and other legislative acts.

The property of a state unitary enterprise is owned by the state and is assigned to such an enterprise on the basis of the right of economic management or the right of operational management.

According to the law, the name of a state unitary enterprise must contain the words "state enterprise".

The head of a state unitary enterprise is appointed by the body that manages the enterprise and is accountable to it. The head of such an enterprise bears increased responsibility for the results of the enterprise's work.

A state-owned commercial enterprise is an enterprise that operates on the basis of a charter or model charter, operates on the principles of entrepreneurial activity and is liable for the consequences of its activities with all the property it owns on the right of economic management.

In order to carry out economic activities of a state commercial enterprise, the authorized body under whose management it is located shall form the authorized capital. The minimum amount of the authorized capital of a state commercial enterprise shall be established by the said authorized body. The authorized capital

of a state commercial enterprise shall be paid before the end of the first year from the date of state registration of such enterprise.

A state unitary commercial enterprise may be transformed into a state joint-stock company, 100 percent of whose shares are owned by the state, in accordance with the Procedure approved by the Resolution of the Cabinet of Ministers of Ukraine No. 802 "On Approval of the Procedure for Transformation of a State Unitary Commercial Enterprise into a Joint Stock Company" dated August 29, 2012.

The activities of state-owned commercial enterprises have certain peculiarities of economic activity. Such an enterprise is obliged to accept and execute state orders and state tasks communicated to it in accordance with the procedure established by law, as well as to take them into account when formulating a production program, determining the prospects for its economic and social development and choosing contractors.

The main planning document of a state-owned commercial enterprise is a financial plan, according to which the enterprise receives income and incurs expenses, determines the amount and direction of funds to perform its functions during the year in accordance with its constituent documents.

A state commercial enterprise may not transfer its property to other legal entities or individuals free of charge, except in cases provided for by law. A state commercial enterprise shall have the right to alienate property objects belonging to fixed assets only with the prior consent of the body to which it belongs and only on a competitive basis, unless otherwise provided by law. A state-owned commercial enterprise has the right to dispose of property belonging to fixed assets in any other way only within the limits of its powers and in the manner prescribed by the Commercial Code of Ukraine and other laws. The alienation of immovable property, as well as aircraft, ships, inland waterway vessels and railway rolling stock, is subject to additional approval by the State Property Fund of Ukraine in accordance with the established procedure. Funds received from the sale of immovable property, less the book (residual) value of such property, unless otherwise provided by law, shall be credited to the general fund of the State Budget of Ukraine. To cover the

costs associated with the activities of state-owned commercial enterprises, they create such special (targeted) funds at the expense of profit (income):

- depreciation fund;
- production development fund;
- consumption (labor remuneration) fund;
- reserve fund.

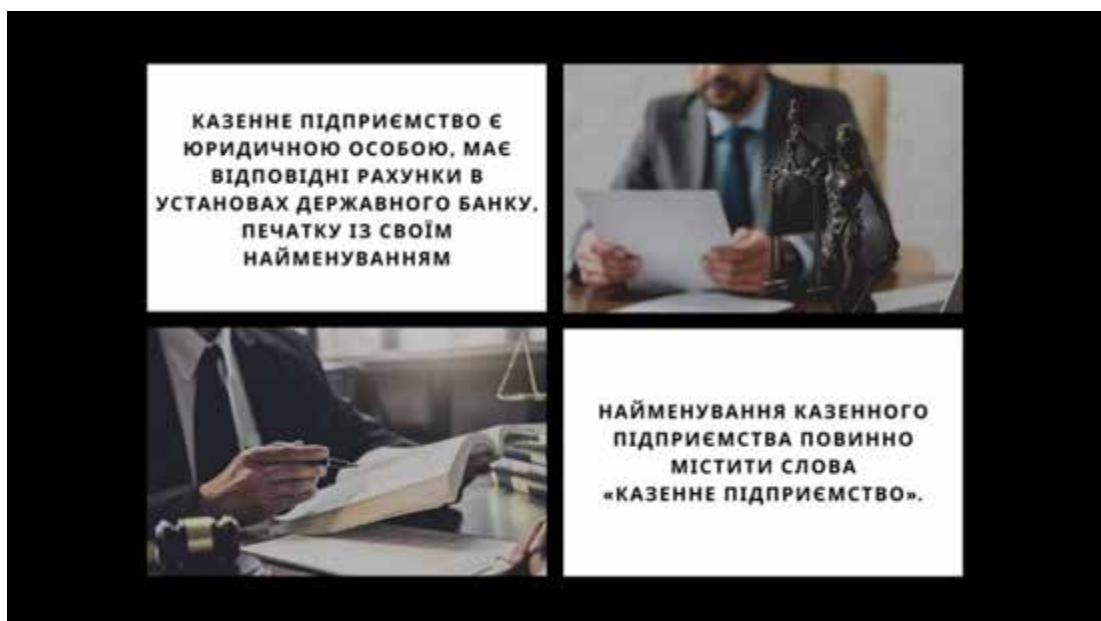
The company's charter may provide for other funds.

The procedure for determining the norms of contributions to the special-purpose funds of state-owned commercial enterprises, their maximum amounts, and the procedure for the formation and use of these funds are established by law.

In case of change of the head of a state-owned commercial enterprise, it is mandatory to conduct an audit of the financial and economic activities of the enterprise in accordance with the procedure provided for by law.

4. State-owned enterprise

A **state-owned enterprise** is a unitary enterprise that operates on the basis of separate state property, is not subject to privatization and is established by a decision of the Cabinet of Ministers of Ukraine.



If such an enterprise is established, it must contain the words "state-owned enterprise".

State-owned enterprises are established in the sectors of the national economy in which:

- - the law allows only state-owned enterprises to carry out economic activities;
 - - the state is the main consumer (more than fifty percent) of products (works, services);
 - - under the conditions of economic activity, free competition of producers or consumers is impossible;
 - - production of socially necessary products (works, services) prevails (more than fifty percent), which, by its terms and the nature of the needs it meets, cannot usually be profitable;
- privatization of property complexes of state-owned enterprises is prohibited by law.

The property of a state-owned enterprise is assigned to it on the right of operational management.

The body that manages the state-owned enterprise approves the charter of the enterprise, appoints its head, gives permission for the state-owned enterprise to carry out economic activities, determines the types of products (works, services) for the production and sale of which the said permission applies, and also controls the use and preservation of property belonging to the enterprise, and has the right to withdraw property from the state-owned enterprise that is not used or used for other purposes and dispose of it within its powers.

A state enterprise independently organizes the production of products (works, services) and sells them at prices (tariffs) determined in accordance with the procedure established by the Cabinet of Ministers of Ukraine, unless otherwise provided by law. The body under whose jurisdiction the state-owned enterprise is located exercises control over the use and preservation of property belonging to the enterprise and has the right to withdraw from the state-owned enterprise property that is not used or used for other purposes and dispose of it within its powers. A

state-owned enterprise has no right to alienate or otherwise dispose of its fixed assets without the prior consent of the body under whose management it is located.

The legislation of Ukraine provides for special sources of formation of the property of a state-owned enterprise.

These sources are:

1) state property transferred to the enterprise in accordance with the decision on its establishment;

2) funds and other property received from the sale of products (works, services) of the enterprise;

3) earmarked funds allocated from the State Budget of Ukraine;

4) bank loans;

5) a part of the company's income derived from its business activities as provided for in the charter, as well as other sources not prohibited by law.

The procedure for distribution and use of profits of a state-owned enterprise is determined by its charter in accordance with the procedure established by the Cabinet of Ministers of Ukraine in accordance with the law.

The reorganization and liquidation of a state-owned enterprise is carried out in accordance with the requirements of the law by a decision of the body responsible for the establishment of the enterprise.

5. Municipal unitary enterprises

Municipal enterprises.

Legal regulation of the activities of a municipal unitary enterprise is governed by Article 78 of the Commercial Code of Ukraine.

A municipal unitary enterprise is an enterprise established by a competent local self-government body in an administrative order on the basis of a separate part of municipal property and is part of its management.

A municipal unitary enterprise is a representative of the owner - the relevant territorial community - and performs its functions within the limits determined by regulatory legal acts, and the property of such an enterprise is in municipal ownership and is assigned to such an enterprise on the right of economic management (municipal commercial enterprise) or on the right of operational management (municipal non-profit enterprise).

For the purpose of operation of a municipal unitary enterprise, the body under whose management it is included forms the authorized capital. The minimum amount of the authorized capital of a municipal unitary enterprise is established by the relevant local council.

The authorized capital of a municipal unitary enterprise shall be paid before the end of the first year from the date of state registration of such enterprise.

The name of a municipal unitary enterprise must contain the words "municipal enterprise" and an indication of the local self-government body, and is not liable for the obligations of the owner and the local self-government body under whose management it is.

Example:

Kyiv municipal production enterprise "Miskpalyvno"

Kyiv municipal association for green construction and operation of green spaces of the city "Kyivzelenbud"

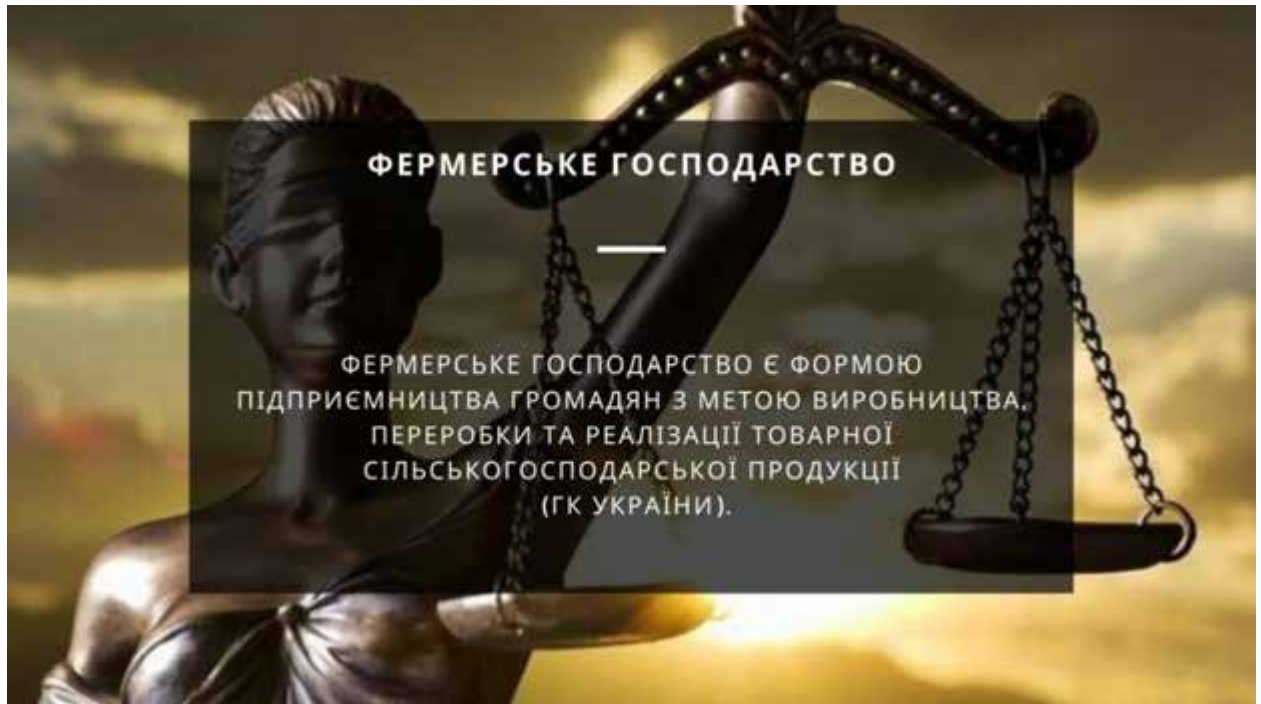
Municipal Corporation "Kyivavtodor"

Municipal enterprise "Shelter for animals"

6. Private enterprises

A private enterprise is an enterprise that operates on the basis of private ownership of one or more citizens, foreigners, stateless persons and his or her labor or with the use of hired labor. A private enterprise is also an enterprise operating on the basis of private ownership of a legal entity.

7. Farming



A farm is a form of entrepreneurship of citizens for the purpose of production, processing and sale of commercial agricultural products. Members of a farm may not be persons employed by it under an employment agreement (contract, agreement). Law of Ukraine On Farming of June 19, 2003 (Articles 1-4) A farm may be established by one citizen of Ukraine or several citizens of Ukraine who are relatives or family members in accordance with the law. The farm has its own name, seal and stamp. The farm operates on the basis of the Charter. The members of the farm may be spouses, their parents, children who have reached the age of 14, other family members, relatives who have united for joint farming, recognize and comply with the provisions of the Charter of the farm. Members of a farm may not be persons who work there under an employment agreement (contract). Every legally capable citizen of Ukraine who has reached the age of 18 and has expressed a desire to establish a farm has the right to establish a farm.

Засновником такого господарства може виступати лише одна фізична особа. Нею може бути дієздатний громадянин України, який досяг 18-річного віку. При цьому він повинен подати документи, які підтверджують його здатність займатися сільським господарством (документи про відповідну освіту, виписку з трудової книжки тощо).



Фермерські господарства в Україні створюються і діють на підставі Закону «Про фермерське господарство» від 19 червня 2003 р.

Topic 6. Concept and types of economic entities

1. The concept of the procedure for concluding a commercial agreement, types of ways of concluding

Article 79 of the Commercial Code defines the concept of a business entity. Business companies are enterprises or other business entities established by legal entities and/or individuals by combining their property and participating in the company's business activities for profit. In cases provided for by this Code, a business entity may act as a single member. Business entities are legal entities.

Business entities - legal entities that have become founders or members of a business entity retain the status of a legal entity.

Business companies may carry out any business activity, unless otherwise provided by law. According to the Law of Ukraine "On Business Associations" of September 19, 1991, a business association is a legal entity whose authorized (share) capital is divided into shares among its members. Business companies are enterprises, institutions, organizations established on the basis of an agreement by legal entities and individuals by combining their property and business activities for the purpose of making a profit. Companies may engage in any business activity that does not contradict the legislation of Ukraine. Business companies may acquire

property and personal non-property rights, enter into obligations, and act in court and arbitration on their own behalf. Acquisition of shares (stocks) and assets of other companies by a business entity shall be carried out in compliance with the requirements of the legislation on protection of economic competition. A joint-stock company, a limited liability company and an additional liability company are established and operate on the basis of a charter, while a general and a limited partnership are established on the basis of a foundation agreement. In cases provided for by applicable law, the company's constituent documents must be approved by the Antimonopoly Committee of Ukraine. The constituent documents must contain information on the type of company, the subject matter and objectives of its activities, the composition of the founders and shareholders, the name and location, the amount and procedure for the formation of the authorized (share) capital, the procedure for the distribution of profits and losses, the composition and competence of the company's bodies and the procedure for their decision-making, including the list of issues requiring a qualified majority of votes, the procedure for amending the constituent documents and the procedure for liquidation and reorganization of the company. The constituent documents may include other terms and conditions that do not contradict the legislation of Ukraine. If the company's constituent documents do not specify the term of its activity, the company is recognized as established for an indefinite period of time. A business company may be established and operate on the basis of a model charter in accordance with the procedure established by law. Companies are subject to state registration in accordance with the procedure established by law. The Company shall have the right to establish branches and representative offices, as well as subsidiaries in Ukraine and abroad in accordance with the current legislation of Ukraine.

2. Types of business entities

Business entities include joint stock companies, limited liability companies, additional liability companies, general partnerships, and limited liability companies. According to the Law of Ukraine "On Joint Stock Companies" dated September 17, 2008, a joint stock company is a business entity whose authorized capital is divided into a certain number of shares of equal nominal value, the corporate rights under which are certified by shares.



The full name of a joint-stock company in Ukrainian must include the name of its type (public or private) and organizational and legal form (joint stock company). A joint stock company is not liable for the obligations of its shareholders. The company and its bodies may not be subject to any sanctions restricting their rights in the event of unlawful actions by shareholders. Shareholders are liable for the company's obligations and bear the risk of losses related to the company's activities only to the extent of their shares. Shareholders may not be subject to any sanctions restricting their rights in the event of unlawful actions by the company or other shareholders. Shareholders who have not fully paid for their shares, in cases determined by the company's charter, shall be liable for the company's obligations

to the extent of the unpaid part of the value of their shares. A joint-stock company may be established by establishing or merging, dividing, spinning off or transforming an entrepreneurial company (companies), state-owned company (companies), municipal company (companies) and other enterprises into a joint-stock company. A company shall be established without limitation of the term of its activity, unless otherwise provided by its charter. The Company shall be deemed established and acquire the rights of a legal entity from the date of its state registration in accordance with the procedure established by law. The full name of a joint-stock company in Ukrainian must include the name of its type (public or private) and organizational and legal form (joint stock company). Joint stock companies are divided by type into public joint stock companies and private joint stock companies. The number of shareholders in a private joint stock company may not exceed 100 shareholders.

A public joint-stock company may carry out public and private placement of shares.

A private joint-stock company may conduct only private placement of shares. If the general meeting of a private joint-stock company decides to conduct a public offering, the company's charter shall be amended accordingly, including by changing the type of company from a private to a public one.

Changing the type of company from private to public or from public to private is not a transformation.

A joint-stock company may be established by one person or may consist of one person if one shareholder acquires all shares in the company. Information about this is subject to registration and publication for public information in accordance with the procedure established by the State Securities and Stock Market Commission.

An additional liability company is a company that has an authorized capital divided into shares, the amount of which is determined by the constituent documents. The maximum number of members of a limited liability company may be up to 100. Members of the company are liable to the extent of their contributions.

Members of a company who have not fully contributed shall be jointly and severally liable for its obligations to the extent of the value of the unpaid part of each member's contribution.

A general partnership is a business entity where all members, in accordance with an agreement concluded between them, carry out business activities on behalf of the company and bear additional joint and several liability for the company's obligations with all their property.

A person may be a member of only one general partnership.

A limited liability company is a business entity in which one or more members carry out business activities on behalf of the company and bear additional joint and several liability for its obligations with all their property that may be enforced by law (general partners), and other members are present in the company's activities only with their contributions (depositors). Only persons registered as business entities may be members of a general partnership or general partners of a limited partnership.

Property of a business entity

The company is the owner:

- property transferred to it by its members as a contribution to the authorized (share) capital;
- products manufactured by the company as a result of its business activities;
- income received;
- other property acquired on the grounds not prohibited by law.

The minimum amount of the authorized capital of a joint-stock company is 1,250 minimum wages based on the minimum wage rate in effect at the time of the company's establishment (registration). The authorized capital of the company determines the minimum amount of the company's property that guarantees the interests of its creditors.

A limited liability company does not have a minimum authorized capital. The authorized capital of a limited liability company shall be paid by the company's shareholders before the end of the first year from the date of state registration of the company. If the shareholders have not made (not fully made) their contributions by the end of the first year from the date of state registration of the company, the general meeting of shareholders shall adopt one of the following resolutions - to exclude from the company those shareholders who have not made (not fully made) their contributions and to determine the procedure for redistribution of shares in the authorized capital; - to reduce the authorized capital and to determine the procedure for redistribution of shares in the authorized capital; - to liquidate the company.

Management of a business entity

The founders and members of a company may be enterprises, institutions, organizations, as well as individuals, except as otherwise provided by the laws of Ukraine.

A business company, except for general and limited partnerships, may be established by a single person who becomes its sole member.

Members of the company have the right to:

a) participate in management of the company's affairs in accordance with the procedure specified in the constituent documents, except as provided by this Law;

b) participate in the distribution of the company's profit and receive its share (dividends). Persons who are members of the company at the beginning of the dividend payment period have the right to receive a share of profit (dividends) in proportion to the share of each member;

c) to withdraw from the company in accordance with the established procedure;

d) receive information about the company. At the request of a shareholder, the company is obliged to provide him/her with annual balance sheets, reports on financial and economic activities of the company, minutes of the audit committee, minutes of meetings of the company's management bodies, etc;

e) to alienate shares in the authorized (share) capital of the company, securities certifying participation in the company, in accordance with the procedure established by law.

f) withdraw from the company in accordance with the procedure provided for by the constituent documents.

Shareholders may also have other rights provided for by law and the company's constituent documents.

Company members are obliged to:

1. to comply with the company's constituent documents and to execute decisions of the general meeting and other management bodies of the company;
2. fulfill their obligations to the company, including those related to property participation, as well as make contributions (pay for shares) in the amount, procedure and by the means provided for in the constituent documents;
3. not to disclose trade secrets and confidential information about the company's activities;
4. to bear other duties, if provided for by this Law, other legislation of Ukraine and constituent documents.

Shareholders of the company. The shareholders of a company are individuals and legal entities, as well as the state represented by a body authorized to manage state property, or a territorial community represented by a body authorized to manage communal property, who own shares in a company.

A joint-stock company may not have as its sole shareholder another business company with a single shareholder. A joint-stock company may not have only shareholders that are legal entities whose sole shareholder is the same person. Any obligations of shareholders contrary to the law may not be determined by the charter or other documents of the company. A business company's activities are managed by its bodies and officials, the composition and procedure for election (appointment) of which is determined depending on the type of company, and in cases specified by law - by the company's shareholders. The chairman and members of the executive

body, the chairman of the audit committee (auditor), and, in the case of the creation of the company's board (supervisory board), the chairman and members of this board are recognized as officials of the company. Restrictions on the combination of these positions by one person are established by law. Officials of a business entity may not be persons whose official or other activities are recognized by the Constitution of Ukraine and the law as incompatible with holding such positions, as well as persons who are prohibited from holding the relevant positions by a court decision. Officials shall keep commercial secrets and confidential information and shall be liable for its disclosure as provided by the current legislation of Ukraine and the company's constituent documents. Officials shall be liable for damage caused by them to the company within the limits and in the manner prescribed by law and the company's constituent documents.

The General Meeting is the supreme body of a joint-stock company. A joint-stock company is obliged to convene a general meeting (annual general meeting) every year. The annual general meeting of the company is held no later than April 30 following the reporting year.

The supervisory board of a joint-stock company is the body that protects the rights of the company's shareholders and, within the scope of its competence as defined by the charter and the Law, controls and regulates the activities of the executive body.

The executive body of a joint-stock company manages the company's day-to-day operations.

The executive body is responsible for resolving all issues related to the management of the company's day-to-day operations, except for issues that fall within the exclusive competence of the general meeting and the supervisory board. The executive body of a joint-stock company may be collegial (management board, directorate) or sole (director, general director).

The supreme body of a limited liability company is the general meeting of shareholders. It consists of the company's shareholders or their appointed representatives.

Representatives of shareholders may be permanent or appointed for a fixed term. A shareholder may at any time replace its representative at a general meeting of shareholders by notifying the other shareholders. A shareholder of a limited liability company has the right to delegate its powers at a meeting to another shareholder or to a representative of another shareholder. Shareholders have the number of votes proportional to the size of their shares in the authorized (share) capital. The general meeting of shareholders elects the chairman of the company. A limited liability company establishes an executive body: a collegial (directorate) or sole (director). The directorate is headed by a general director. Members of the executive body may also be persons who are not members of the company.

The affairs of a general partnership are managed by the general consent of all members. The company's affairs may be managed either by all shareholders or by one or more of them acting on behalf of the company. In the latter case, the scope of the shareholders' powers is determined by a power of attorney that must be signed by the remaining shareholders. If the memorandum of association specifies several shareholders who are authorized to manage the company's affairs, it is assumed that each of them may act independently on behalf of the company. The memorandum of association may specify that such members are entitled to take the relevant actions only jointly. The shareholders entrusted with the management of the affairs of the general partnership are obliged to provide the other shareholders with full information on actions taken on behalf of and in the interests of the company upon their request. A shareholder's authority to manage the company's affairs is terminated in whole or in part with the termination of the company's activities due to the shareholder's refusal to exercise the power of attorney or the cancellation of the power of attorney at the request of at least one of the other shareholders. A shareholder who has acted in the common interests without authority, in cases where his actions are not approved by the other shareholders, may demand reimbursement of expenses from the company, provided that it is proved that as a result of his actions the company has retained or acquired property that exceeds the cost of the expenses incurred by the company.



The management of the limited partnership's affairs is carried out only by the limited partners with full responsibility. In a limited partnership where there is only one general partner with full liability, the management of the partnership's affairs is carried out by that partner independently. Investors have no right to interfere with the actions of the limited partners in managing the affairs of the limited partnership.

3. The concept of collective ownership enterprise

The Commercial Code of Ukraine (Art. 93) distinguishes between collective ownership and collective ownership enterprises based on the form of ownership on which the enterprises operate. They include:

- production cooperative;
- collective enterprise (including a collective agricultural enterprise); унітарне дочірнє підприємство, створене виробничим кооперативом чи колективним підприємством;

- a unitary enterprise established by subjects of collective ownership (consumer society, religious organization, public organization, etc.).

According to the Commercial Code, collective ownership enterprises in accordance with Part 2 of Article 93 are: - production cooperatives; - consumer cooperatives; - enterprises of public and religious organizations; - other enterprises provided for by law.

The specifics of the legal status of a **collective agricultural enterprise** (CAE) are determined by the Law of Ukraine of February 14, 1992 "On Collective Agricultural Enterprise".

A collective ownership enterprise is a corporate or unitary enterprise operating on the basis of collective ownership of the founder. Production cooperatives are a special form of business entities. The main difference between business partnerships and production cooperatives is that business partnerships are the result of a pooling of capital, while production cooperatives are not only a pooling of capital, but also a pooling of labor. The most common type of collective ownership enterprise is a production team.

A production cooperative is a voluntary association of citizens on the basis of membership for the purpose of joint production or other economic activities based on their personal labor participation and the pooling of property shares, participation in the management of the enterprise and the distribution of income among the members of the cooperative in accordance with their participation in its activities. The decision to establish a cooperative is made by its constituent assembly. Production cooperatives may engage in production, processing, procurement and distribution, supply, service and any other business activities not prohibited by law. A production cooperative is a legal entity and operates on the basis of a charter. The name of a production cooperative must contain the words "production cooperative" or "cooperative enterprise".

Production cooperatives are established and operate on the following principles:

- voluntary membership of citizens in a cooperative and free withdrawal from it;
- personal labor participation of members of the cooperative in the activities of the enterprise;
- openness and accessibility of membership for those who recognize the cooperative's charter and wish to participate in its activities under the conditions established by the cooperative's charter;
- democratic nature of cooperative management, equal rights of cooperative members in decision-making;
- distribution of income among the members of the cooperative in accordance with their labor and property participation in the activities of the cooperative;
- control by members of the cooperative over its work in accordance with the procedure established by the charter.

Pursuant to Articles 97 of the Civil Code and 7 of the Law of Ukraine "On Cooperation" of July 10, 2003, No. 1087-IV, founders (members) of a production cooperative may be citizens, foreigners and stateless persons. The number of members of a production cooperative may not be less than three persons (Article 97 of the Commercial Code). The decision to establish a production cooperative is made by its constituent assembly. The activities of a production cooperative are regulated by the charter. A production cooperative is considered to be established and acquires the status of a legal entity from the date of its state registration in accordance with the requirements of the law. Members of a production cooperative may be citizens who have reached the age of 16, recognize the charter of the cooperative and comply with its requirements, and take property and labor participation in the activities of the cooperative. Citizens may be members of production cooperatives as well as members of other types of cooperatives (consumer, housing, etc.). Membership in a production cooperative is based on a written application of a citizen. A member of a cooperative shall make entrance and share contributions in accordance with the procedure established by the charter of the production cooperative. The decision of the board (chairman) of the cooperative on admission to membership in the

cooperative is subject to approval by the general meeting. The procedure for making such a decision and its approval is determined by the cooperative's charter.

Membership in a production cooperative may be terminated in the following cases:

- voluntary withdrawal from the cooperative;
- termination of labor participation in the activities of the cooperative;
- expulsion from the cooperative in cases and in the manner prescribed by the charter;

non-approval by the general meeting of members of the cooperative of the decision of the board (chairman) on admission to the cooperative;

- death of a member of a cooperative.

The procedure and property consequences of termination of membership in a production cooperative, as well as the rights of members of the cooperative, are determined by the legislation and the charter of the cooperative. To carry out economic and other activities, a production cooperative forms appropriate funds at the expense of its own property. The property of a production cooperative in accordance with its charter is divided into share and indivisible funds. The indivisible fund is formed at the expense of entrance fees and the cooperative's property (except for land). Share contributions of members of a cooperative are not included in it. The procedure for formation and size of the indivisible fund is established by the charter. The amount of share contributions to a cooperative is set in equal parts and/or in proportion to the expected participation of a member in its economic activity. The financial resources of a production cooperative are formed at the expense of income from the sale of products (works, services), share and other contributions of members of the cooperative, loans and other receipts not prohibited by law. Management of a production cooperative is carried out on the basis of self-government, publicity, and participation of its members in resolving issues of the

cooperative's activities. The supreme governing body of a production cooperative is the general meeting of members of the cooperative. The governing bodies of a cooperative include the board (chairman) of the cooperative and the audit committee (auditor) of the cooperative. The charter of a production cooperative may provide for a supervisory board of the cooperative. Members of the audit committee (auditor) of a cooperative may not be members of its management board (chairman of the cooperative) or supervisory board. For the current activities of a production cooperative, a management board of a production cooperative is established, which consists of at least ten members. The board is headed by the chairman of the cooperative, who is elected by the general meeting of members of the production cooperative. The functions of the chairman of the cooperative and the procedure for his/her recall are determined by the charter of the cooperative. The members of the board may elect from among themselves the deputy chairman and the secretary of the board in accordance with the charter of the cooperative. Members of the board of a cooperative work mainly on a voluntary basis. The charter of the cooperative may provide for remuneration for the work of the members of the board. The frequency of meetings of the management board of a cooperative is determined by the charter of the cooperative. The decision is made by a majority vote if at least two-thirds of the members of the management board of the cooperative are present at the meeting. If a production cooperative consists of less than ten members, the functions and powers of the board are exercised by the general meeting and the chairman of the cooperative in accordance with the charter. The board of a production cooperative may hire an executive director for the operational management of the enterprise. The executive director may not be a member of the cooperative. The executive director carries out his/her activities under the terms of a contract concluded with him/her by the board of the cooperative and performs functions in accordance with the charter. In case of absence of the position of executive director in a production cooperative, the work of the cooperative enterprise is managed by the chairman of the cooperative. A production cooperative carries out its economic activity in accordance with its charter, independently determines the

main directions of economic activity, carries out its planning and organization. A production cooperative sells its products and provides services at prices and tariffs set by it independently or on a contractual basis, and in cases provided for by law - at state prices and tariffs. The procedure for using the income of a production cooperative is determined by the cooperative's charter in accordance with the law. A production cooperative shall be liable for its obligations with all its property. Members of a production cooperative shall bear subsidiary (additional) liability for the obligations of the cooperative with their property in the amount not less than their share contribution, unless a greater amount of liability is provided by law or the charter of the cooperative. A production cooperative shall not be liable for the obligations of its members.

In accordance with the Law of Ukraine "On Agricultural Cooperation" of July 17, 1997, No. 469/97-VR, a system of agricultural cooperatives and associations operates in agriculture to meet the economic needs of cooperative members. Depending on the goals, objectives and nature of their activities, cooperatives are divided into *production* and *service cooperatives*.

An agricultural production cooperative is a legal entity acting on the basis of a charter and formed by the association of individuals who are agricultural producers for the joint production of agricultural, fishery and forestry products on the basis of mandatory labor participation in the production process. Production cooperatives carry out economic activities on the basis of entrepreneurship in order to generate income.

An agricultural service cooperative is a cooperative established to provide services primarily to members of the cooperative and other persons in order to carry out their agricultural activities. Service cooperatives are established to provide a range of services related to the production, processing, marketing of crop, livestock, forestry and fisheries products, as well as to provide services to members of the cooperative, and do not aim to make a profit. Service cooperatives provide services in accordance with the charter to other persons in amounts not exceeding 20 percent of the total turnover of the cooperative. Depending on the type of activity, service

cooperatives are divided into processing, procurement and marketing, supply, service and other cooperatives. A member of a cooperative may be an individual or legal entity that has made an entrance fee and share contributions in the amounts determined by the cooperative's charter, recognizes the principles and objectives of the cooperative, complies with the requirements of its charter and enjoys the right to vote in the cooperative. Members of a cooperative may be individuals who have reached the age of 16 and have expressed a desire to participate in the activities of the cooperative. Individuals or legal entities may be members of several service cooperatives that differ in their areas of activity. A member of a cooperative may also be an associate member of a cooperative who has made a share contribution and enjoys the right to an advisory vote in the cooperative. Cooperatives can voluntarily form associations, which in turn can form higher-level associations on sectoral or territorial grounds and have the right to act as founders of various types of enterprises, have representative offices in other regions of Ukraine and abroad.

According to the law, the founders of a cooperative may be citizens of Ukraine and legal entities registered in Ukraine. The number of members of a cooperative may not be less than three persons. It should be noted that only individuals may be members of a production cooperative, and members of a service cooperative may be both individuals and legal entities that recognize the charter and comply with its requirements, use services, form funds and participate in the activities of the cooperative. If a person has expressed a desire to become a member of a cooperative, he/she submits an application and makes an entrance fee and share contributions in accordance with the procedure established by the cooperative's charter. The decision of the board (chairman) of the cooperative on admission to the cooperative is subject to approval by the general meeting, which must be attended by at least half of the members of the cooperative. The procedure for making such a decision and its approval is determined by the charter of the cooperative. Management of a cooperative is carried out on the basis of self-government, publicity, participation of its members in resolving issues of the cooperative. The supreme governing body of a cooperative is the general meeting. The management board of a cooperative is a

governing body. If necessary, the cooperative hires an executive director and forms a supervisory board. For the preparation of certain issues, the general meeting, and in the period between them, the board of directors or the supervisory board may form special commissions from the members of the cooperative with the involvement of hired employees as consultants. The general meeting is held annually after the end of the financial year. They may be convened out of turn by the decision of the board of directors of a cooperative or at the initiative of at least one third of the members of the cooperative. The management board of the cooperative is obliged to decide to convene the general meeting and notify the members of the cooperative of the time and place of its holding and the agenda no later than 10 days in advance. The management board of a cooperative is elected in a cooperative consisting of at least 10 members for a term not exceeding three years. The members of the management board of a cooperative may elect from among themselves the chairman of the cooperative, the deputy chairman and the secretary of the management board in accordance with the charter of the cooperative and work mainly on a voluntary basis. The frequency of meetings of the board of a cooperative is determined by the charter of the cooperative. The decision is made by a majority of votes in the presence of at least $\frac{2}{3}$ of the members of the board of the cooperative. A cooperative shall be liable for its obligations with all its property. Members of a cooperative shall be liable for the obligations of the cooperative only to the extent of their share property contribution. Cooperative payments and payment of shares of income on shares shall be made at the end of the financial year from the income remaining at the disposal of the cooperative, taking into account the need to form funds for its development. The charter of a cooperative may provide for different percentages of shares of income on shares for members and associate members of the cooperative. In the event of withdrawal from a cooperative, an individual or legal entity has the right to receive a property share in kind, in cash or, if desired, in securities in accordance with its value at the time of withdrawal, and a land plot in kind (on the ground). The term and other conditions for obtaining a share are established by the cooperative's charter, and the term for obtaining a share may not exceed two years, and this period

begins on January 1 of the year following the date of withdrawal (expulsion) from the cooperative. Ownership of shares by members of a cooperative who are individuals is hereditary. The labor relations of members of a cooperative (association) are regulated by law, labor legislation, the charter and internal regulations of the cooperative.

4. Associated companies. Holding companies

Associated enterprises (business organizations) are a group of business entities - legal entities - that are related to each other by economic and/or organizational dependence in the form of participation in the authorized capital and/or management. The dependence between associates can be simple or decisive.

Simple dependence between associates arises when one of them has the ability to block the adoption of decisions by the other (dependent) enterprise that must be adopted in accordance with the law and/or the constituent documents of that enterprise by a qualified majority of votes. Decisive dependence between associates arises if control-subordination relations are established between the enterprises due to the controlling entity's predominant participation in the authorized capital and/or general meeting or other governing bodies of the other (subsidiary) enterprise, in particular, ownership of a controlling interest. Relations of decisive dependence may be established subject to the consent of the relevant authorities of the Antimonopoly Committee of Ukraine. The existence of simple and decisive dependence must be indicated in the state registration information of the dependent (subsidiary) enterprise and published in accordance with the law. A special type of business associations is a holding (holding group), which includes a holding (parent) company and corporate (subsidiary) enterprises. Certain rules defining the legal status of holding companies are contained in Article 126 of the Commercial Code, while the general principles of functioning of holding companies in Ukraine, as well as the specifics of their establishment, operation and liquidation are regulated by the Law of Ukraine of May 15, 2006 "On Holding Companies in Ukraine" and other regulatory acts.

A holding company is the parent organization of an industrial and economic complex, which is a holding.

The Law of Ukraine "On Holding Companies in Ukraine" defines a **holding company** as a joint-stock company that owns, uses and disposes of holding corporate blocks of shares (stakes, units) in two or more corporate enterprises;

In this case, a **corporate enterprise** is a business entity whose holding corporate block of shares (stakes, units) is owned, used and disposed of by a holding company, and a **holding corporate block of shares** (stakes, units) is a block of shares (stakes, units) of a corporate enterprise that exceeds 50 percent or is of a value that ensures the right to decisive influence on the economic activities of a corporate enterprise.

Holding companies can be formed:

a) bodies authorized to manage state property, state privatization bodies independently or together with other founders by combining holding corporate blocks of shares (stakes, units) in the authorized capital;

b) other entities on a contractual basis.

In cases stipulated by law, holding companies shall be established subject to prior receipt of a permit from the relevant authority of the Antimonopoly Committee of Ukraine or the Cabinet of Ministers of Ukraine for concentration and concerted actions of business entities. The draft constituent documents of holding companies established subject to obtaining the said permit shall be subject to approval by the relevant authority of the Antimonopoly Committee of Ukraine. The decision to establish a holding company is made by the owners of the holding corporate blocks of shares (stakes, units) and is formalized by a relevant agreement.

A state holding company is a holding company established in the form of a joint-stock company with at least 100 percent of its shares owned by the state.

The authorized capital of a holding company is formed by the founders' contributions in the form of holding corporate blocks of shares (stakes, units), as well as additional contributions in the form of property, funds and intangible assets

necessary to ensure the holding company's operations. The share in the form of property, funds and intangible assets necessary to ensure the activities of the holding company should not exceed 20 percent of the authorized capital of the holding company. Thus, the establishment of a holding company is simultaneously the establishment of a holding (holding group), which includes those corporate enterprises whose corporate stakes form the authorized capital of the holding company. The Commercial Code does not fully define the legal status of a holding (holding group), as well as the legal regulation of relations between members of a holding group. The absence of these provisions in the Commercial Code is in no way compensated by the provisions of the Law of Ukraine "On Holding Companies", since the said law mainly defines the legal status of holding companies, including state-owned ones, and to a lesser extent the legal status of corporate enterprises, and does not actually regulate relations within a holding group.

Topic 7. The procedure for establishing a business entity

1. Establishment of a business entity

In order to establish a legal entity, its participants (founders) develop constituent documents that are set out in writing and signed by all participants (founders), unless the law provides for a different procedure for their approval.

A legal entity of private law may be established and operate on the basis of a model charter approved by the Cabinet of Ministers of Ukraine, which, after its adoption by the participants, becomes a constituent document.

The founders (participants) of a legal entity established on the basis of a model charter may, in accordance with the procedure established by law, approve the charter, which is a constituent document, and carry out activities on its basis.

The constituent document of the company is the charter approved by the participants or the foundation agreement between the participants, unless otherwise provided by law.

A company established by one person acts on the basis of a charter approved by that person.

An institution is established on the basis of an individual or joint constituent act drawn up by the founder(s). The foundation act may also be contained in a will. Prior to the establishment of the institution, the constituent act drawn up by one or more persons may be canceled by the founder(s).

A business entity may be established by a decision of the owner(s) of the property or a body authorized by him/her, and in cases specifically provided for by law, also by a decision of other bodies, organizations and individuals by establishing a new one, reorganizing (merging, joining, spinning off, dividing, transforming) an existing business entity in compliance with the requirements of the law.

Business entities may be established through the compulsory division (spin-off) of an existing business entity by order of the antimonopoly authorities in accordance with the antimonopoly and competition laws of Ukraine.

Business entities shall be established in compliance with the requirements of antitrust and competition laws.

A business entity may be established and operate on the basis of a model charter approved by the Cabinet of Ministers of Ukraine, which, after its adoption by the participants, becomes a constituent document.

If a business entity is established and operates on the basis of a model charter, the decision on its establishment, which is signed by all founders, shall contain information on its name, purpose and subject matter of business activity, as well as information on conducting business on the basis of the model charter.

2. The concept of state registration and the procedure for its implementation

A legal entity is deemed to be established from the date of its state registration. A legal entity is subject to state registration in accordance with the procedure

established by law. The data of state registration shall be included in the unified state register, which is open for public review. Violation of the procedure established by law for the establishment of a legal entity or non-compliance of its constituent documents with the law shall be grounds for refusal of state registration of a legal entity. Refusal of state registration for other reasons (inexpediency, etc.) is not allowed. Denial of state registration, as well as delays in its conduct, may be appealed to the court. The unified state register contains information on the organizational and legal form of the legal entity, its name, location, management bodies, branches and representative offices, purpose of the entity, as well as other information established by law. Amendments to the constituent documents of a legal entity that relate to the information included in the unified state register become effective for third parties from the date of their state registration. Legal entities and their shareholders shall not have the right to refer to the absence of state registration of such changes in relations with third parties acting in view of these changes. A legal entity must have a name that contains information about its organizational and legal form. The name of the institution must contain information about the nature of its activities. In addition to the full name, a legal entity may have an abbreviated name. A legal entity that is an entrepreneurial company may have a commercial (company) name.

The commercial (company) name of a legal entity may be registered in accordance with the procedure established by law. The name of a legal entity shall be indicated in its constituent documents and entered into the Unified State Register. In case of change of its name, a legal entity, in addition to fulfilling other requirements established by law, is obliged to place an announcement about it in the print media that publish information on state registration of a legal entity and to notify all persons with whom it has contractual relations. A legal entity may not use the name of another legal entity.

The opening of branches (departments) and representative offices by a business entity without the establishment of a legal entity does not require their state registration. Information about separate subdivisions of business entities shall be

included in its registration file and included in the Unified State Register in the manner prescribed by law.

The Law of Ukraine "On State Registration of Legal Entities and Individual Entrepreneurs" of May 15, 2003 states that state registration of legal entities and individual entrepreneurs (business entities) is the certification of the fact of establishment or termination of a legal entity, certification of the fact of acquisition or deprivation of the status of an individual entrepreneur, as well as other registration actions by making the relevant entries in the Unified State Register, as provided for by the Commercial Code and the provisions of the above law.

The Law "On State Registration of Legal Entities and Individual Entrepreneurs" applies to the state registration of all legal entities regardless of their organizational and legal form, form of ownership and subordination, as well as individual entrepreneurs. The legislation of Ukraine may establish specifics of state registration of associations of citizens (including trade unions), charitable organizations, political parties, state and local government bodies, banks, chambers of commerce and industry, financial institutions (including credit unions), exchanges, and other institutions and organizations. The state registrar in the territory of the relevant administrative-territorial unit: conducts state registration of legal entities and individual entrepreneurs; transmits notifications and information from registration cards on registration actions to the state statistics authorities, the state tax service, and the Pension Fund of Ukraine; forms, maintains and ensures the storage of registration files draws up and issues extracts, excerpts and certificates from the Unified State Register; conducts state registration of amendments to the constituent documents of legal entities and state registration of changes in the name or place of residence of individual entrepreneurs; conducts state registration of termination of legal entities and state registration of termination of entrepreneurial activity by individual entrepreneurs; etc. A person with a higher education at the master's or specialist's level and at least one year of professional experience in the civil service or at least three years of experience in other areas of management is appointed to the position of state registrar. The state registrar has a certificate of the

state registrar and his/her own seal. The Unified State Register of Legal Entities and Individual Entrepreneurs (hereinafter referred to as the Unified State Register) is an automated system for collecting, accumulating, protecting, recording and providing information on legal entities and individual entrepreneurs. The information contained in the Unified State Register is open and publicly available, except for registration numbers of taxpayer registration cards, information on opening and closing accounts, seizure and release of accounts and property. Information contained in the Unified State Register shall be provided in the form of: an extract from the Unified State Register; a certificate of availability or absence of the requested information in the Unified State Register; a database (a set of information from the Unified State Register in electronic form) for the purposes of credit bureaus; electronic data for public authorities in connection with the exercise of their powers determined by law. The form of an extract and certificate from the Unified State Register is established by a specially authorized state registration authority. An extract or certificate from the Unified State Register is signed by the state registrar and certified by his/her seal.

The period for providing information from the Unified State Register shall not exceed five business days from the date of receipt of the request. An extract from the Unified State Register shall be issued to a legal entity or individual entrepreneur upon their written request within two business days from the date of submission of such request, as well as in cases established by this Law. State registrars shall use an extract form from the Unified State Register of the established form. The description of the form of an extract from the Unified State Register and the procedure for its execution are established by a specially authorized state registration authority. Forms of extracts from the Unified State Register have an accounting series and number and are strictly accountable documents. The extract shall contain the following information: name of the legal entity or name of the individual entrepreneur; identification code of the legal entity or registration number of the taxpayer's account card; location of the legal entity or place of residence of the individual entrepreneur; surname, name and patronymic of persons authorized to

perform legal actions on behalf of the legal entity or on behalf of the individual entrepreneur without a power of attorney, including signing contracts, their registration numbers of taxpayer registration cards; restrictions on representation on behalf of the legal entity or individual entrepreneur; date and number of the entry in the Unified State Register; date of issuance of the extract. The extract from the Unified State Register is signed by the state registrar and certified by his seal.

The concept of constituent documents of a business organization.

The current legislation does not define the term "constituent documents", but is limited to a list of these documents and requirements to their content. Pursuant to Article 57 of the Commercial Code of Ukraine, the constituent documents of a business entity are a decision on its establishment or a memorandum of association, and in cases provided for by law, the charter (regulations) of the business entity. Article 87(2) of the Civil Code of Ukraine defines the company's constituent document as the charter or foundation agreement between the participants approved by the participants, unless otherwise provided by law. The foundation agreement is the constituent document of a general and limited partnership. The agreement on the establishment of other types of companies is not their constituent document; only the charter is such a document (the latter is also the constituent document of cooperatives).

The company's memorandum of association shall define the obligations of the founders to establish the company, the procedure for their joint activities regarding its establishment, the conditions for transferring the property of the founders to the company, the procedure for distributing profits and losses, management of the business entity and participation of the founders in it, the procedure for withdrawal and entry of new founders, other conditions of the business entity's activities provided for by law, as well as the procedure for its reorganization and liquidation in accordance with the law, if additional requirements for the content of the memorandum of association are not met.

The charter of a business entity must contain information on its name, purpose and subject of activity, the size and procedure for the formation of authorized and other funds, the procedure for the distribution of profits and losses, management and control bodies, their competence, the conditions for reorganization and liquidation of a business entity, as well as other information related to the peculiarities of the organizational form of a business entity provided for by law. The charter may contain other information that does not contradict the law.

The charter (regulations) shall be approved by the owner of the property (founder) of the business entity or its representatives, bodies or other entities in accordance with the law. The constituent documents (charter or memorandum of association) must specify the name of the business entity, the purpose and subject of its business activities, the composition and competence of its governing bodies, the procedure for their decision-making, the procedure for the formation of property, distribution of profits and losses, and the terms of its reorganization and liquidation, unless otherwise provided by law. The constituent documents may include other conditions that do not contradict the current legislation of Ukraine.

Amendments to the constituent documents of a legal entity are subject to state registration, which is carried out in accordance with the procedure provided for by the Law of Ukraine "On State Registration of Legal Entities and Individual Entrepreneurs".

The term of state registration of a legal entity shall not exceed three business days from the date of receipt of documents for state registration of a legal entity. Article 42 sets out the list of documents to be submitted for state registration of an individual who intends to become an entrepreneur. The term of state registration of an individual entrepreneur shall not exceed two business days from the date of receipt of documents for state registration of an individual entrepreneur. The fee for state registration is 10 tax-free minimum incomes for a legal entity and 2 tax-free minimum incomes for an individual entrepreneur. Resolution of the Cabinet of Ministers of Ukraine No. 383 of March 30, 1998 on the amount and procedure for collecting fees for state registration of charitable organizations. To establish the

following amounts of fees for state registration of charitable organizations: all-Ukrainian - 1 tax-free minimum income of citizens; international - 1.5 tax-free minimum income of citizens; local charitable organizations, as well as branches, branches, representative offices of all-Ukrainian and international charitable organizations - 0.5 tax-free minimum income of citizens. The Law provides for the grounds for refusal of state registration and leaving documents submitted for state registration without consideration.

3. Permitting system in the field of business

The Law of Ukraine "On the Permitting System in the Field of Economic Activity" **defines the permitting system in the field of economic activity** as a set of relations regulated by law that arise between permitting authorities, state administrators and business entities in connection with the issuance of permitting documents, reissuance, issuance of duplicates, and revocation of permitting documents.

The object for which a permitting document is issued is natural resources, land, soil cover of land plots, structure, building, premises, equipment, machinery and mechanisms that are put into operation or designed, a separate operation, economic activity of a certain type, work and service, as well as documents used by a business entity in the process of passing the approval (permitting) procedure (project documentation for the construction of facilities, land management documentation, urban planning documentation, mining allotment). Based on the principle of tacit consent, a business entity acquires the right to carry out certain actions in relation to business activities or types of business activities without obtaining the relevant permit document, provided that the business entity or its authorized person has submitted an application and documents in full in accordance with the established procedure, but the permit document or decision to refuse to issue it has not been issued or sent within the time limit established by law.

Issuance of permitting documents by local permitting authorities is carried out on the principle of organizational unity in the permitting center, which is coordinated by the state administrator. The grounds for refusal to issue a permitting document are: submission by a business entity of an incomplete package of documents required to obtain a permitting document in accordance with the established exhaustive list; detection of inaccurate information in the documents submitted by the business entity; negative conclusion based on the results of examinations and surveys or other scientific and technical assessments required for issuance of a permitting document.

State administrator means an official of the city council of cities of regional and/or republican significance of the Autonomous Republic of Crimea (their executive bodies), district and district administrations in the cities of Kyiv and Sevastopol, Kyiv and Sevastopol city state administrations (their structural subdivisions), who organizes the issuance (issues permits issued by local permitting authorities) to business entities and ensures the interaction of local permitting authorities.

The Register of Permitting Documents is a unified automated nationwide system for collecting, accumulating, protecting, recording and providing information on the issuance of permitting documents, refusal to issue them, reissuance, issuance of duplicates, and revocation.

Issuance of permitting documents by local permitting authorities is carried out in the permitting center by the state administrator or a representative of the local permitting authority on the principle of organizational unity. A business entity or its authorized person shall submit to the state administrator or a representative of the relevant local permitting authority, who receives business entities at the permitting center, an application, the form of which shall be approved by the Cabinet of Ministers of Ukraine upon submission of the authorized body and in agreement with the permitting authorities. The application shall be accompanied by the documents required for issuance of a permit document as provided for by the legislation governing relations regarding the receipt of such a document. Documents required for issuance of a permit may include documents directly related to confirmation of

the business entity's ability to carry out certain actions in relation to business activities or types of business activities.

The application and the documents attached thereto shall be submitted in one copy personally by the business entity (head of a legal entity, individual entrepreneur) or a person authorized by him/her. Local licensing authorities shall, within no more than ten business days from the date of receipt of the application and attached documents from the state administrator, unless otherwise provided by law, issue the relevant permit document or a written notice to the business entity of refusal to issue the permit document and shall submit the relevant documents (written notice) to the state administrator within one business day.

Topic 8: Termination of business entities. Bankruptcy

1. The concept of termination of a business entity

The legal grounds for termination of a business entity are set out in Article 51 of the Commercial Code of Ukraine.

A business entity may be terminated by way of its reorganization (merger, acquisition, division, transformation) or liquidation - by decision of the owner (owners) or their authorized bodies, by decision of other persons - the founders of the business entity or their successors, and in cases provided for by the Commercial Code, law, other regulations, as well as by court decision. Thus, the termination of a business entity on legal grounds may be voluntary or compulsory.

Liquidation of a business entity means that such an entity ceases to exist as a legal entity without transferring rights and obligations to other persons.

2. Procedure for liquidation of a business entity

A business entity is liquidated: at the initiative of the persons referred to in Article 59(1) of the Commercial Code; in connection with the expiration of the term

for which it was established or in case of achievement of the purpose for which it was established; in case of being declared bankrupt in accordance with the established procedure, except in cases provided for by law; in case of cancellation of its state registration in cases provided for by law.

Participants of a legal entity, a court or a body that has decided to terminate a legal entity are obliged to immediately notify the state registration authority in writing, which shall enter information into the unified state register that the legal entity is in the process of termination. Cancellation of state registration deprives a business entity of the status of a legal entity and is the basis for its removal from the state register. A business entity is deemed to be liquidated from the date of entry in the state register of termination of its activities. An announcement of reorganization or liquidation of a business organization or termination of an individual entrepreneur's activities shall be published by the registration authority in a specialized print media or local government body at the location of the business entity within ten days from the date of termination of the business entity's activities.

The liquidation of a business entity is carried out by a liquidation commission formed by the owner of the property of the business entity or his (her) representatives (bodies), or another body determined by law, unless another procedure for its formation is provided for by the Commercial Code. The liquidation of a business entity may also be entrusted to the management body of the entity being liquidated. The body (person) that has decided to liquidate the business entity establishes the procedure and determines the terms of liquidation, as well as the period for creditors to file claims, which may not be less than two months from the date of the liquidation announcement.

The liquidation commission or other body conducting the liquidation of a business entity shall publish in the relevant printed media a notice of its liquidation and the procedure and terms for creditors to file claims, and shall notify obvious (known) creditors personally in writing within the time limits established by the Commercial Code or a special law.

The liquidation commission shall take the necessary measures to collect receivables of the liquidated entity and identify the claims of creditors, with written notice to each of them of the liquidation of the entity and shall evaluate the available property of the liquidated entity and settle accounts with creditors, draw up a liquidation balance sheet and submit it to the owner or body that appointed the liquidation commission.

If the value of a legal entity's property is insufficient to satisfy creditors' claims, the legal entity is liquidated in accordance with the procedure established by the Law of Ukraine "On Restoring Debtor's Solvency or Declaring a Debtor Bankrupt" of May 14, 1992, No. 2343. If the liquidation commission discovers the above circumstances, it is obliged to apply to the commercial court with a petition to initiate bankruptcy proceedings.

3. Recognition of a business entity as bankrupt

The procedure and conditions for declaring a business entity bankrupt are governed by Articles 209-215 of the Commercial Code, the Commercial Procedure Code, the Law of Ukraine "On Restoring Debtor's Solvency or Declaring a Debtor Bankrupt" dated May 14, 1992, No. 2344-XII, and other Laws of Ukraine.

In the course of business activities, there are cases when a business entity is unable to fulfill its business obligations due to insufficient property to satisfy the claims of creditors. In this case, the debtor may be declared bankrupt by a commercial court.

Bankruptcy is the inability of a debtor to fulfill its monetary obligations and satisfy creditors' claims recognized by a commercial court other than through the application of a liquidation procedure.

The parties to a bankruptcy case are the debtor (bankrupt), the creditor and other participants in the bankruptcy proceedings.

The state policy on preventing bankruptcy, as well as ensuring the conditions for the implementation of procedures for restoring the debtor's solvency or declaring it bankrupt in relation to state-owned enterprises and enterprises in whose authorized

capital the share of state ownership exceeds twenty-five percent, business entities of other forms of ownership in cases provided for by the Law "On Restoring the Debtor's Solvency or Declaring It 'Bankrupt'", is carried out by the state bankruptcy authority, which acts on the basis of the regulation.

According to this law, only business entities, legal entities or individuals who are business entities can be bankrupts. The following cannot be declared bankrupt:

- a) state-owned enterprises
- b) separate structural subdivisions;
- c) economic organizations.

In the case of bankruptcy of state-owned commercial enterprises, the law provides for additional requirements and guarantees of property rights. The rights of creditors in relation to insolvent debtors are also exercised by the bodies established by law for the collection of taxes and duties (mandatory payments). If two or more creditors simultaneously have monetary claims against one debtor, they form a meeting (committee) of creditors in accordance with the requirements of the law (Article 210(2) of the Commercial Code).

In order to prevent bankruptcy, the debtor's founders, property owner, central executive authorities, and local self-government bodies are obliged to take timely measures to prevent the bankruptcy of the debtor company within their powers. The law does not prohibit the provision of financial assistance to the debtor in an amount sufficient to repay the debtor's obligations to creditors, including obligations to pay taxes and fees (mandatory payments) and restore the debtor's solvency (pre-trial rehabilitation obliges the debtor to assume the relevant obligations to the persons who provided such assistance in accordance with the procedure established by law.

To prevent bankruptcy, the founders of the debtor and the owner of the property carry out a system of measures to restore the debtor's solvency, which is recognized as pre-trial rehabilitation.

Stages of bankruptcy proceedings

Bankruptcy cases are under the jurisdiction of commercial courts and are considered by them at the location of the debtor based on the application of the

debtor and the creditor. Thus, in accordance with the law, a debtor may file a petition with a commercial court if it has property sufficient to cover court costs, unless otherwise provided by law.

The debtor is obliged to file a petition with the commercial court within one month to initiate bankruptcy proceedings in the event of the following circumstances:

- satisfaction of the claims of one or more creditors will make it impossible to fulfill the debtor's monetary obligations to other creditors in full;

- The debtor's body authorized in accordance with the constituent documents or legislation to make a decision on the liquidation of the debtor has decided to file a petition with the commercial court to initiate bankruptcy proceedings;

In case of liquidation of the debtor not in connection with the bankruptcy procedure, the debtor's inability to satisfy the creditors' claims in full is established;

- a rehabilitation plan;

- other circumstances provided for by law.

If a creditor applies to the commercial court, its application must contain the information specified by law and provide the following information

- - the amount of the creditor's claims against the debtor, including the amount of the penalty (fine, fine) to be paid

- - a statement of the circumstances confirming the existence of the debtor's obligation to the creditor from which the claim arose, as well as the term for its fulfillment;

- evidence that the amount of confirmed claims exceeds three hundred minimum wages, unless otherwise provided by law;

- evidence of the validity of the creditor's claims;

- other circumstances on which the creditor's claim is based.

If there are sufficient grounds, the judge, having accepted the application for initiation of bankruptcy proceedings, shall, not later than the fifth day from the date of its receipt, issue and send to the parties and the state bankruptcy authority a ruling on initiation of bankruptcy proceedings, which shall indicate the

- acceptance of the application for consideration;
- introduction of the procedure for disposing of the debtor's property;
- appointment of the property manager;
- the date of the preparatory court hearing, which must be held no later than the thirtieth day after the date of acceptance of the bankruptcy petition, unless otherwise provided by law;
- imposition of a moratorium on the satisfaction of creditors' claims.

By the date of the preparatory hearing, the debtor must submit a response to the bankruptcy petition to the economic court and the applicant.

At the preparatory hearing, the judge evaluates the submitted documents, hears explanations from the parties, and considers the validity of the debtor's objections.

In order to identify all creditors and persons willing to participate in the debtor's rehabilitation, the judge at the preparatory hearing issues a ruling obliging the applicant to submit an announcement of the initiation of bankruptcy proceedings to the official gazette within ten days at his expense. The economic court shall issue a ruling to terminate the bankruptcy proceedings if there are grounds provided for in Article 40 of the Law "On Restoring Debtor's Solvency or Declaring a Debtor Bankrupt":

- 1) the debtor is not included in the Unified State Register of Enterprises and Organizations of Ukraine or the Register of Business Entities;
- 2) a petition for bankruptcy has been filed against a liquidated or reorganized (except for reorganization in the form of a transformation) legal entity;
- 3) a bankruptcy case against the same debtor is pending in a commercial court;
- 4) approve the report of the debtor's rehabilitation manager in the manner prescribed by law;
- 5) approval of the settlement agreement;
- 6) approve the liquidator's report in accordance with the procedure provided for in Article 32 of the Law;
- 7) the debtor has fulfilled all obligations to creditors;

8) the creditors have not filed any claims against the debtor after the bankruptcy proceedings were initiated at the debtor's request.

In the event of termination of bankruptcy proceedings, a decision shall be made that may be appealed in accordance with the established procedure.

Bankruptcy proceedings may be terminated in the cases provided for in paragraphs 1 - 2 and 5 of part 1 of this Article at all stages of bankruptcy proceedings, i.e. both before and after the debtor is declared bankrupt; in the cases provided for in paragraphs 3 - 4, 7 - 8 - only before the debtor is declared bankrupt, and in the case provided for in paragraph 6 - only after the debtor is declared bankrupt (part 2 of Article 40).

The decision may be appealed in accordance with the established procedure. The Law "On Restoring Debtor's Solvency or Declaring a Debtor Bankrupt" and Article 212 of the Commercial Procedure Code provide for the following procedures to be applied to an insolvent debtor

- 1) disposal of the debtor's property;
- 2) rehabilitation (restoration of solvency) of the debtor;
- 3) liquidation of the bankrupt.
- 4) amicable agreement.

The pre-trial rehabilitation of state-owned enterprises is carried out at the expense of state-owned enterprises and other sources of funding. The terms and conditions of pre-trial rehabilitation of state-owned enterprises at the expense of other sources of financing shall be agreed with the body authorized to manage the debtor's property in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

Debtor's rehabilitation or liquidation of a bankrupt is carried out in compliance with the requirements of antitrust and competition law.

4. Court procedures in bankruptcy proceedings

Disposal of the debtor's property is the first court procedure applied to the debtor after the initiation of bankruptcy proceedings.

Disposal of the debtor's property is a system of measures to supervise and control the management and disposal of the debtor's property in order to ensure the preservation and efficient use of the debtor's property assets and analyze its financial position.

In order to ensure the property interests of creditors, the decision of the economic court to initiate bankruptcy proceedings or the decision taken at the preparatory meeting shall indicate the introduction of the procedure for disposing of the debtor's property and appoint a property manager from among the persons registered by the state bankruptcy authority as insolvency officers, information about which is provided in accordance with the established procedure to the Higher Economic Court of Ukraine.

A property manager is an individual who, in accordance with the procedure established by law, is vested with the authority to supervise and control the management and disposal of the debtor's property for the period of bankruptcy proceedings in accordance with the procedure established by law.

Creditors also have the right to nominate their own property manager, who must meet the requirements set forth in the Law. In exercising his or her powers, the property manager must act in good faith, reasonably, take into account the interests of the debtor and his or her creditors, and has rights and obligations in accordance with Articles 13(8) and 13(9) of the Law.

After the appointment of the property manager, the powers of the debtor's governing bodies are limited and they are not entitled to make decisions on

- - reorganization (merger, acquisition, division, spin-off, transformation) and liquidation of the debtor;
- - establishing legal entities or participating in other legal entities;
- Establishment of branches and representative offices;

- payment of dividends;
- issuance of securities by the debtor;
- withdrawal of a legal entity from the debtor's membership, acquisition of previously issued shares of the debtor from shareholders.

The property manager is appointed for a period not exceeding six months. This period may be extended or shortened by the court at the request of the creditors' committee or the property manager or the owner (body authorized to manage the property) of the debtor.

During this procedure, the debtor may simultaneously satisfy the creditors' claims. If such settlements are made, the debtor's solvency is restored and the commercial court initiates bankruptcy proceedings.

Appropriate measures to secure creditors' claims are valid until the day the rehabilitation procedure is initiated and the rehabilitation manager is appointed, or until a resolution is issued to declare the debtor bankrupt, open the liquidation procedure and appoint a liquidator, or until the economic court approves the settlement agreement, or until a resolution is issued to refuse to declare the debtor bankrupt. If the economic court initiates bankruptcy proceedings, the court's decision simultaneously states a moratorium on satisfaction of creditors' claims.

A moratorium on satisfaction of creditors' claims means the suspension of the debtor's fulfillment of monetary obligations and obligations to pay taxes and fees (mandatory payments) that were due before the date of the moratorium, and the termination of measures aimed at ensuring the fulfillment of these obligations and obligations to pay taxes and fees (mandatory payments) applied before the decision to impose the moratorium. The powers of the bankruptcy trustee as an asset manager are terminated from the date of approval by the commercial court of the settlement agreement or the appointment of a rehabilitation manager or the appointment of a liquidator.

In cases provided for by law, the debtor business entity, its founders (participants), property owner, and other persons shall be legally liable for violation of the requirements of bankruptcy law.

Seminar plans, assignments for students' independent work

Content Module 1: Commercial law as a branch of law

Topic 1: Concept, subject matter and sources of economic law

I. Consideration of theoretical issues:

1. The concept of commercial law as an independent branch of law and a branch of legal science.
2. Subject and method of legal regulation of economic law.
3. Sources of economic law.
4. Economic activity: concept and types.
5. Correlation of economic law with other branches.
6. Correlation of the norms of the Civil and Commercial Code.

II. Checking students' knowledge in the form of testing.

Tasks for independent work:

1. Commercial law as a legal science and academic discipline.
2. Formation and development of economic legislation in Ukraine.
3. Problems and directions of improvement of economic legislation.
4. Economic legislation of foreign countries.
5. Market self-regulation and state regulation in Ukraine: problems of balancing.
6. The role of law in the harmonization of relations between the state and entrepreneurs.
7. State control and supervision in the sphere of economic activity: declared goals and reality.

8. Peculiarities of the legal status of certain types of business entities.
9. The concept of "enterprise": civil law and economic law approaches.
10. Novelties of legislation on business entities.

III. Situational tasks

Task 1. The founders of the Equity Securities Stock Exchange, which was established in the legal form of a joint-stock company, have asked the Chairman of the Exchange Committee to hold a general meeting of the members of the exchange to approve the financial statements for the previous years. In the opinion of the members of the exchange, holding a general meeting is a prerequisite for paying them dividends from the profit earned by the exchange in the previous financial year. In support of their request, the founders of the exchange referred to the provisions of Article 30 of the Law of Ukraine On Joint Stock Companies. The chairman of the exchange committee refused to convene the general meeting on the grounds that the income received by the exchange in the previous year was used for its development and cannot be distributed among its members. Give a legal analysis of the situation.

What type of economic activity does a stock exchange belong to?

Is the purpose of establishing a stock exchange entrepreneurial?

Task 2. A simple partnership agreement was entered into between the Work Department of Military Unit A 2714 and Iroks Limited Liability Company, which provided for joint participation in the construction of a warehouse for the storage of material and tangible assets. By agreement between the parties, the Department of Works of Military Unit A 2714 was responsible for accounting for the joint venture. When submitting the financial statements to the state tax authority, the officials of the tax authority pointed out to the Military Unit Works Department that only business entities can be parties to a simple partnership agreement. For this reason, the agreement should be terminated. A representative of the military unit's works department explained that their department is an independent business entity, has the status of a separate legal entity, operates on the basis of a charter approved by

the Minister of Defence, and therefore can engage in entrepreneurial activity. Analyse a dispute that arose between officials of the State Tax Service and a representative of the Military Unit's Works Department.

Task 3. Citizen Khrinkin submitted documents for state registration as an entrepreneur. In the application (registration card), in the column "type of activity", he indicated: "providing assistance to borrowers of banking institutions in evading loan repayment". The Executive Committee of the City Council refused to register Mr Khrinkin on the grounds that Ukrainian legislation, in particular the Law on Licensing Certain Types of Economic Activity, did not provide for such a type of economic activity. Citizen Khrinkin appealed against the refusal of state registration to the court, referring to the free choice of business activities. Resolve the dispute.

What is the essence of such a feature of entrepreneurial activity as property independence?

Task 4. An advertisement was placed on the premises of the educational institution, in which Mrs Olkhivska offered to rent an apartment to two female students for a period of at least one year with a payment of UAH 1,000 (one thousand) per month. After reading the text of the advertisement, employees of the district state tax inspectorate visited Ms Olkhivska and told her that she needed to register as an individual entrepreneur. Ms Olkhivska refused to comply with the tax officers' request, as she was taking on students for the first time; the apartment was her personal property, which she could use for any purpose. In addition, it pays utility bills and taxes on time. It has no outstanding obligations to the state. Resolve the dispute. Name the signs of entrepreneurial activity. Whether the claim of the state tax service is justified.

Task 5. Kryvyi Rih State Mining and Metallurgical Plant Kryvorizhstal filed a lawsuit against the defendants with the Commercial Court of Dnipropetrovs'k Region: Prydniprovsk, Odesa, Lviv Railways and Scientific Production Enterprise

«IMBO» to recover UAH 96476,90. The plaintiff motivates its claim by the fact that the cargo in question was shipped in 2 wagons - steel wire rod. On the Odesa railway, the cargo got into an accident due to the derailment of the wagons. During loading into other wagons, the shortage was discovered and a commercial act was drawn up. Upon arrival at the destination station of Klepariv (Lviv), a commercial act was also drawn up. Since the consignee refused to receive the cargo, due to its shortage and damage, the wagons with the cargo were forwarded to the departure station of the Prydniprovskya railway.

1. Describe the peculiarities of property liability under the contract of carriage of goods.

2. Who should be held liable and in what amount?

Task 6. On 25 October 1999, a private enterprise «Zorya» and a brick factory entered into a contract for the sale of 20,000 bricks. According to the terms of the contract, the private enterprise made an advance payment on 26 October 1999, and on 30 October 1999, a representative of the private enterprise came to collect the bricks in his own vehicle. However, neither on 30 October nor in the following 3 days could the private enterprise's representative receive the bricks. The representative of the factory explained that the bricks could not be shipped because of a power failure. The private enterprise bought the bricks it needed from another manufacturer and on 5 November 1999 notified the brick factory that it had cancelled the contract. At the same time, the private enterprise demanded a refund of the prepayment, compensation for damages for the operation and downtime of the vehicle, and payment of a penalty.

Does the buyer have the right to unilaterally withdraw from the sale and purchase agreement?

Are the buyer's claims for a refund legitimate?

Provide a legal analysis of the situation and resolve it.

Task 7. A steelmaking plant and «Vtorchormet» Open Joint Stock Company entered into a 2-year supply agreement for non-ferrous scrap. The supply was to be made in batches of 250 tonnes per month. During the first year of the contract, the company supplied the agreed amounts. In the following year, the company failed to supply scrap in January-March, and in May it supplied 720 tonnes of scrap. The steelmaking plant claimed a penalty for failure to deliver within the contractual timeframe.

Is the shortage subject to replenishment in the next period within the contract period? Analyse the situation.

Topic 2. Commercial legal relations

I. Consideration of theoretical issues:

1. The concept of economic relations.
2. Types of economic legal relations.
3. Participants in economic relations.
4. Differentiation of economic relations from other types of legal relations.
5. Signs of economic relations.
6. The importance of judicial practice in economic relations.

II. Checking students' knowledge in the form of testing.

Tasks for independent work:

1. Indicate which of the well-known scholars in the field of commercial law cites the following types and features of commercial legal relations.

2. Investigate the scientific position of the author set out in the article: Simson, O. Innovative legal relations. The problem of identification and classification / O. Simson // TPIV. - 2010 №5. - C. 98-104.

What does the author mean by the concept of "diagonal" innovation legal relations?

III. Situational tasks

Task 1. Citizen Antonov, who was registered in Ukraine as a business entity, won the green card programme and moved to the United States for permanent residence. Before leaving the country, Antonov issued a power of attorney to his relative Romanov to carry out business activities on his behalf in Ukraine for a period of one year. The power of attorney granted the representative the right to enter into contracts necessary for business activities, obtain appropriate permits (licences), submit financial and other reports to the authorities exercising control over business activities, hire employees, appear in court, etc. Romanov decided not to go through the procedure of his state registration as an individual entrepreneur, as Antonov promised to return to Ukraine in a year and reissue a power of attorney with the same content. Investigating a criminal case on Romanov's violation of the procedure for engaging in business activities (Article 202 of the Criminal Code of Ukraine), the investigator addressed the specialists of the higher education institution with a submission in which he asked the following questions:

- 1) whether powers of attorney of the above content can be issued in Ukraine;
- 2) is Romanov's activity subject to state registration?

Answer the questions.

Task 2. Private enterprise Inter and Indigo Insurance Company entered into a property insurance contract. The terms of the contract provided for insurance of risks that may arise in the course of Inter's business activities. One of the objects of insurance was the failure to make a profit for three consecutive months. Upon discovering this agreement, the territorial department of the State Commission for Regulation of Financial Services Markets filed a claim with the commercial court to invalidate a part of it. The statement of claim drew attention to the fact that one of the features of entrepreneurial activity in Ukraine is its implementation at its own risk. The terms of the insurance contract actually eliminate this feature in the activities of the private enterprise Inter, and therefore should be recognised as contrary to the law.

What decision should the commercial court make?

Task 3. The founder of the private enterprise «Lev», Levchuk, decided to transfer all his rights related to this enterprise to Gerashchenko.

How is such a business transaction carried out?

What documents should be submitted to the state registration authority to register the change of ownership of a private enterprise?

Task 4. On 1 February 1998, citizen Dziuba entered into a simple written agreement for the lease of her apartment for office purposes with the limited liability company Senator for a period of three years. In the agreement, the parties stipulated that in order to carry out current and, if necessary, major repairs, the parties should conclude an additional agreement. However, the limited liability company carried out repairs and converted the apartment into an office without entering into such an agreement, and included the cost of the work in the rent. On 1 February 2000, Dziuba demanded termination of the lease agreement, arguing that the company had failed to pay the rent stipulated in the agreement. The director of the company, objecting to the termination of the agreement, insisted that the cost of the works on the conversion of the residential apartment into premises for non-residential purposes was equivalent to the 3-year rent. Dziuba turned to the legal advice with a request to draft a statement of claim to the court for early termination of the lease agreement and recovery of funds that the company refused to pay in the amount of rent for the use of the premises provided to it. In the course of clarifying the circumstances of the case, it was found that the lease agreement was not registered with the housing and communal services organisation. Give a legal assessment of the merits of the dispute. Draw up a statement of claim.

Task 5. The head of the «Lviv» depot, Kovtun, entered into a sale and purchase agreement under which the depot was obliged to transfer an electric locomotive to a public railway transport company of the Southern Railway at the

contractual price, and the company was obliged to accept the locomotive and pay for it at the price agreed upon by the parties in the agreement. The head of the legal service of the Lviv railway, having discovered the contract, drew the attention of the head of the Lviv depot to the fact that the contract was concluded in violation of the requirements of the applicable law.

What violations were committed by the parties when entering into this agreement? Resolve the dispute on the merits of the case.

Task 6. Matviychuk filed a lawsuit against the private enterprise Announcement to invalidate the lease agreement and recognise her ownership of the garage. In her claim, she stated that in 1998 she had agreed with the defendant to sell her a car garage. The sale and purchase agreement was executed in writing, but as a three-year lease agreement. At the same time, she paid the defendant the cost of the car garage in the amount of UAH 3,458. Referring to the fact that the garage lease agreement was a sham transaction concluded with the intention of concealing the sale and purchase agreement, the plaintiff requested that the claim be satisfied. The court found that the plaintiff's trustee and the defendant's representative had entered into a written garage lease agreement, under which the defendant transferred and the plaintiff leased the garage for three years, with the requirement to pay the initial cost of its construction, as well as monthly payments for land, heat and electricity.

What kind of agreement was concluded between the parties?

What are the conditions for invalidating a contract under Article 58 of the Civil Code of Ukraine? Resolve the dispute on the merits.

Topic 3: Main directions and forms of participation of the state and local self-government in the sphere of economic activity

I. Consideration of theoretical issues:

1. State regulation in a mixed economy and legal forms of state regulation of the economy.
2. Means of state regulation of economic activity.
3. The concept of state order.
4. General principles of taxation in the sphere of economic activity.
5. Protection of the rights of business entities and consumers.

II. Checking students' knowledge in the form of testing.

Tasks for independent work:

1. Control and supervision in the field of business.
2. Activities and powers of local self-government bodies in the field of economic activity.

III. Situational tasks

Task 1. A 3rd year law student living in Lviv at Naukova Street (Frankivsk district of Lviv) applied to the Lychakiv District Administration for registration as an entrepreneur to practice law. After 10 days, he was denied state registration. The refusal stated that:

- 1) there are already law firms in Lviv, so it is not advisable to engage in this type of activity;
- 2) to engage in this type of activity, the applicant needs a higher legal education, which he does not have;
- 3) such activities may be carried out only after obtaining a licence from the Ministry of Justice of Ukraine;
- 4) the applicant does not have its own premises where such activities are to be carried out.

Are there any grounds for refusal of state registration?

Task 2. Pursuant to Article 7 of the Law on Business Companies, changes to the company's constituent documents are subject to state registration. The company must notify the registration authority of the changes within five days.

What is the legal nature of the registration of amendments to the constituent documents of a business entity?

What are the legal consequences of missing the deadline for notification of amendments to the constituent documents?

Does the state registration authority have the right to refuse to register amendments to the constituent documents if they are submitted in violation of the established deadline?

Task 3. Petrenko, Ivanenko, and Sydoruk decided to set up a limited liability company called Lviv-Invest. The participants agreed on the following contributions: Petrenko - UAH 10,000 in cash, a computer worth UAH 8,000, and a printer worth UAH 4,000. Ivanenko - UAH 10,000 in cash, a set of office furniture issued by the Law Faculty of Ivan Franko National University of Lviv worth UAH 15,000; Sydoruk - 1,000 shares of Lvivnaftoprodukt Open Joint Stock Company with a nominal value of UAH 5.25 each worth UAH 5,250, which the parties valued at the exchange rate in the amount of UAH 10,500. The valuation of contributions was agreed by the parties based on market prices. Pursuant to the memorandum of association, cash contributions are made to the company's savings account prior to registration, while in-kind contributions are made by transferring property to the company after its state registration under an act of acceptance. The registration authority refused to register the company due to the failure to comply with the requirements of Article 52 of the Law of Ukraine "On Business Associations" regarding the payment of 50% of contributions by each member, which must be confirmed by a certificate issued by a banking institution. In addition, the registration authority believes that the assessment of contributions is overstated

and that it is necessary to provide documents proving that the property contributed to the charter capital belongs to the shareholders (invoice, cheque, technical passport). Provide a legal analysis of the situation.

Task 4. An individual entrepreneur, Moroz, received a written notice from the district tax inspectorate stating that he had to come to the tax service to obtain a certificate of registration. The notice also specified the amount of money to be paid for the issuance of such a certificate. Mr Moroz refused to appear at the tax office on the grounds that he was not required by law to register with the state tax authorities. This must be done by the relevant tax authority, regardless of whether the entrepreneur visits it in person or not. Give a legal assessment of the arguments of the entrepreneur Moroz.

Task 5. The executive director of an additional liability company decided to repay the loan to the bank at the expense of the Dividend Payment Fund, which had been established at the company. The fund was to be fully restored within 3 months. Upon learning of this, one of the company's shareholders filed a lawsuit against the director's actions, claiming that they were illegal, as he had no right to dispose of the fund's funds. The court dismissed the claim, relying on the provisions of the company's charter, which entrusted the executive director with the functions of resolving all issues of the company's activities between meetings of the supreme management body. The charter did not provide for any restrictions on the disposal of the dividend fund. Give a legal assessment of the court's decision.

Task 6. The chairman of the board of a limited liability company received an application for membership from: an individual entrepreneur, Kulyk, to contribute to the company's charter capital funds received as a loan; a director of a small enterprise to contribute to the charter capital funds received from the city council budget; and a head of a farm to contribute to the charter capital property received as a pledge from a charitable organisation. The Chairman of the Board of the Limited

Liability Company granted all the requests, considering that all the contributions corresponded to the sources of the company's property. Give a legal assessment of the actions of the Chairman of the Board of the Limited Liability Company.

Topic 4. Technical regulation in the field of business. ISO standards in the economic sphere

I. Consideration of theoretical issues:

1. Standardisation in Ukraine.
2. Certification in Ukraine.
3. International Organisation for Standardisation (ISO).

II. Checking students' knowledge in the form of testing.

Tasks for independent work:

1. Application of standards in the agricultural sector.
2. Application of standards in the field of capital construction.
3. Application of standards in the field of education.

III. Situational tasks

Task 1. Private Enterprise Kredit chose to provide collection services to ensure the repayment of loans by unscrupulous debtors as its business activity. In order to legalise its status, Private Enterprise "Kredit" applied to the National Bank of Ukraine for a licence to engage in the relevant type of activity. The National Bank of Ukraine refused to issue a licence on the grounds that this type of activity was not provided for by law and that the applicant had provided false information about its director.

What criteria are used to determine the types of business activities subject to licensing in Ukraine?

On what grounds can a business entity be denied a licence?

Is it possible to establish a business entity that has chosen a type of activity that is not provided for by law?

Give a legal analysis of the actions of the National Bank of Ukraine.

Task 2. The general meeting of members of the NGO "Club of Market Reforms" decided to transform the NGO into a limited liability company with the same goals and objectives. The state registration authority refused to re-register the transformation because it is not provided for by law.

Does a non-governmental organisation have the right to transform into a business entity?

Task 3. On 21 September, the commercial court initiated bankruptcy proceedings against Lviv Department Store. On 30 September, the announcement was published in the media. Savchuk, an individual entrepreneur, learned about the initiation of bankruptcy proceedings on 15 December. On the same day, he filed an application to be included in the list of bankruptcy creditors. The commercial court dismissed Savchuk's application on the grounds that he had missed the one-month deadline for filing a lawsuit. Entrepreneur Savchuk sought the assistance of a lawyer and set him the task of finding a legal way to have his application accepted by the court. Give a legal analysis of the situation.

Task 4. On 1 March 1996, the City Council of Chernivtsi adopted a decision to grant a private enterprise a land plot for permanent use, with the designation of its intended purpose: construction of an administrative building. In 1998, the City Council temporarily allowed the private enterprise to build a car park on the allocated land plot. In 2005, the city council decided to terminate the right to use the land plot for construction pursuant to Article 416 of the Civil Code of Ukraine. In 2009, a private enterprise filed a lawsuit with the commercial court, relying on Article 20 of the Commercial Code of Ukraine, and demanded that the 2005 decision of the Chernivtsi City Council be invalidated on the grounds that Article 416 of the

Civil Code of Ukraine cannot be a legal basis for termination of the right to permanent use of a land plot. A commercial court dismissed a private enterprise's claim due to the expiry of the limitation period, stating that the Civil Code of Ukraine does not provide for such a remedy as invalidation of a decision of a local government body.

Is the decision of the city council lawful? Read the relevant regulatory provisions of the Land Code of Ukraine. Give a legal assessment of the decision of the commercial court.

Task 5. During the divorce of the Ivantsivs, the wife demanded that all the property of the private enterprise Karma, founded by her husband during their marriage, be included in the joint property to be divided. She argued that she had contributed UAH 30,000 to the charter capital, which in turn was their joint property. The husband objected to this, as his wife did not participate in the business, and therefore could only claim half of the contribution to the charter capital, i.e. UAH 15,000. Give a legal assessment of the situation.

Task 6. On 1 January, the state-owned enterprise entered into a state contract with the Ministry of Defence of Ukraine for the supply of ammunition for military weapons with an expected service life of 6 months. The contract was to be completed by June of the relevant year. In March, the director of the state-owned enterprise applied to the body authorised to manage its property with a request to give permission to ship the same products to another state-owned enterprise. The body authorised to manage state property refused to grant the permit, explaining that such ammunition belonged to the fixed assets of a state-owned enterprise, which the latter was not entitled to dispose of. Is the refusal of the body authorised to manage the property of a state-owned enterprise lawful?

Task 7. Under a lease agreement, the Municipal Utilities Department leased non-residential premises to Veselka Limited Liability Company for the storage of

goods for a period of 3 years. The agreement was concluded on 1 June 1995. Inspection reports (5 February 1996 and 21 April 1997) showed that the premises were not used for their intended purpose. The lessor filed a claim for termination of the agreement, and as no response was received, he applied to the commercial court. The defendant explained in court that he paid the rent on time and in the agreed amount. As evidence, he presented acts of reconciliation of mutual settlements on rent between Veselka Limited Liability Company and Housing and Maintenance Office No. 115. The tenant is not using the premises temporarily, but all the terms of the lease are strictly observed. Resolve the dispute. What are the grounds for termination of the lease agreement?

CONTROL QUESTIONS FOR THE CONTENT MODULE

1. Constitutional principles of economic activity.
2. The concept and subject of economic law.
3. Economic activity and its types.
4. Types of legal relations that develop in the process of economic activity.
5. Economic legal relations: general characteristics.
6. Characteristic features of economic relations.
7. Definition of the concepts of "commercial", "economic", "entrepreneurial" activity.
8. The method of autonomous decisions of economic law.
9. The content of the method of power prescriptions in commercial law.
10. The method of recommendations in commercial law.

Module 2. General characteristics of business entities

Topic 5. Concept and types of business entities

I. Consideration of theoretical issues:

1. The concept of a business entity
2. Enterprise as an organisational form of management

3. The concept of a state unitary enterprise
4. State-owned enterprise
5. Municipal unitary enterprises
6. Private enterprises
7. Farming enterprises
8. Enterprise with foreign investment and foreign enterprise
9. The concept of an association of enterprises
10. Legal status of subjects of organisational and economic powers and subjects of internal economic relations.

II. Checking students' knowledge in the form of testing.

Tasks for independent work:

1. Define an enterprise with foreign investment and a foreign enterprise.
2. Define the concept of an enterprise association.
3. Define the legal status of subjects of organisational and economic powers and subjects of internal economic relations.
4. Who is the subject of organisational and economic powers?

III. Situational tasks

Task 1. In the city of Yablunets, there were two municipal unitary enterprises: one commercial and one non-commercial, which were engaged in the maintenance of roads and adjacent territories. In order to free up the land plot on which the commercial enterprise was located and to pay off the debts of the non-commercial enterprise, the mayor decided to liquidate both enterprises and establish a new unitary commercial enterprise on the basis of their property, which would become the legal successor of the municipal commercial enterprise only. The director of the commercial municipal enterprise was entrusted with the preparation of the necessary documents for the liquidation of the existing enterprises and the establishment of a new one, who was to head the new enterprise. The director of the non-profit municipal enterprise drew the attention of the mayor to the fact that the solution of

such issues does not fall within his competence, and in the case of liquidation of a non-profit unitary enterprise, its debts are not considered repaid, but should be transferred to the newly created enterprise. Provide a legal analysis of the situation.

Task 2. The Ministry of Industry issued an order to establish a state-owned commercial enterprise. Under the terms of the order, the enterprise was transferred the property necessary for carrying out its business activities on the right of economic management. The amount of the state's share in the charter capital was not determined. A state-owned enterprise entered into a supply agreement with a joint-stock company, but the former failed to fulfil the terms of the agreement. The joint-stock company filed a claim against the state, represented by the Treasury, seeking compensation for the losses caused by the failure to fulfil the contract. The representative of the Treasury denied the claim on the grounds that commercial state-owned enterprises are not financed from the state budget, they are independent business entities in respect of which the state has only corporate rights. For these reasons, the state cannot be held liable for the obligations of its commercial enterprise, and it must be liable to the extent of the funds it owns. Resolve the dispute.

Task 3. Loza Private Enterprise received a loan from the European Bank for Reconstruction and Development secured by real estate owned by Progress Open Joint Stock Company. As the loan was not repaid, the bank foreclosed on the pledged property. Progress Open Joint Stock Company filed a claim for damages against Loza Private Enterprise and its founder, Lozynsky V., for damages. V. Lozynskyi believes that he should not be liable, since the company was directly managed by its director, I. Bozhko.

What is a private enterprise?

Are the claims of the Open Joint Stock Company "Progress" and the objections of Lozynskyi V. substantiated?

Prepare written explanations to the statement of claim on behalf of Lozinsky V.

Task 4. On 12 January, private enterprise "Nomer" entered into a lease agreement for office premises at 61 Ivan Franka Street, Lviv. In April of the same year, the company submitted amendments to its constituent documents related to the change of location to the state registration authority. The state registration authority refused to register the amendments due to the fact that they were submitted in violation of the 7-day period from the date of the change of location. At the same time, the state registration authority filed a claim for compulsory termination of the private enterprise "Number".

Are the actions of the state registration authority lawful?

Task 5. Citizens Vovk, Yashchenko and Adamovych decided to establish the Dzherelo cooperative. However, the Zolochiv State Administration, where they applied, refused to register the charter because an enterprise with the same name was already operating in the Zolochiv district. In addition, an agricultural co-operative can only act as a service organisation and is not considered a business entity, and therefore must be registered with the justice authorities. Provide a legal analysis of the situation.

Task 6. Prosvita, a non-governmental organisation established to raise the cultural and educational level of its members, was the sole founder of a business entity whose charter provided that it was an enterprise of an association of citizens. Wishing to be the owner of the property to be acquired by the enterprise as a result of its business activities, the NGO transferred its property to the established enterprise on the right of economic management, and retained the right of ownership of this property and the enterprise's receipts after its state registration. The subject of activity of the established enterprise was the provision of insurance and travel services. Describe the legality of the actions of the public organisation.

Task 7. The management board of a consumer co-operative society decided to establish three branches in different regions. In order to organise the activities of the branches, their constituent documents were drafted, which gave the branches the sole authority to enter into business contracts on behalf of the enterprise with other business entities. To carry out this type of activity, the branches were allocated the relevant property on an independent balance sheet and opened accounts in banking institutions. The constituent documents of the branches also contained a provision stating that they were not liable for the obligations of the consumer cooperative enterprise that established them, and the enterprise was not liable for their obligations. The chairman of the board of a consumer co-operative society was obliged to legalise the established branches.

Give a legal assessment of the decision of the board of the consumer co-operative society.

What is the name of the constituent document of a branch?

What is the purpose of establishing a branch? How does a branch differ from a representative office?

Topic 6. Concept and types of economic entities

I. Consideration of theoretical issues:

1. Consumer co-operation. Consumer co-operative enterprises
2. Enterprises of associations of citizens and religious organisations.
3. Associated enterprises. Holding companies.
4. Citizen in the field of business.
5. Credit unions in the field of business
6. Peculiarities of the status of charitable and other non-profit organisations in the field of business.

II. Checking students' knowledge in the form of testing.

Tasks for independent work:

1. Determine the status of a citizen in the field of business.
2. Define the legal status of credit unions in the field of business.
3. Peculiarities of the status of charitable and other non-profit organisations in the field of business.

III. Situational tasks

Task 1. Osnova, an additional liability company, has three shareholders: Ivanchuk with a 10% share, Petrenko with a 35% share and Khomenko with a 55% share. Believing that the law did not clearly define the amount of the charter capital, the founders formed it in the amount of UAH 50,000, of which 75% was paid at the time of the first general meeting of participants. The rest was to be paid in as funds were received on the company's account. In the course of business, the company entered into a loan agreement for a total amount of UAH 300,000, which was not repaid upon expiry of the agreement. Given that Ivanchuk, Petrenko and Khomenko are members of a company with additional liability, the bank demanded repayment of the loan in full to all members simultaneously in proportion to the size of their shares. The company's shareholders disputed the bank's claim, arguing that:

- 1) it is necessary to address the company, not them, with a demand for payment of the debt in the first place;
- 2) according to the law, all shareholders are liable for the company's obligations in the same amount, i.e. equally;
- 3) since they have not paid their shares in full, the company should be liable to the extent of their contributions.

Analyse the plot for compliance with the procedure for establishing a company, the bank's requirements and the objections of the participants.

Calculate the amount of liability to be borne by the company's shareholders.

Task 2. Due to his difficult financial situation, Mr Ivanchuk decided to sell his 17% share in the charter capital of Khmara Limited Liability Company. He notified the shareholders' meeting of this decision and offered to purchase the share

for UAH 40,000 within 10 days. The participants believed that this amount did not correspond to the true value of the share and refused to purchase it. Some time later, Ivanchuk sold the share to Petrenko for UAH 30,000. When Petrenko came to the company, he was not allowed in because:

- 1) Petrenko is the sole shareholder of another business entity;
- 2) the share assignment agreement was not notarised;
- 3) Ivanchuk violated the shareholders' rights to pre-emptive acquisition of shares.

Petrenko was also informed that he would not become a member of the company, since the general meeting decided to refuse him to join the company.

Analyse the arguments of the company's shareholders.

From what moment is Petrenko considered a member of the company?

Task 3. Khomenko, who had voted against the decision to reduce the share capital at the shareholders' meeting, announced that he was leaving the company. A month later, he submitted a letter of resignation to the company's chairman. The shareholders' meeting considered his application and decided to satisfy it, considering Khomenko to have withdrawn from the company. In connection with the change in the shareholders, amendments to the constituent documents were approved. When these amendments were submitted for state registration, the state registrar refused to register them, citing the fact that the application for withdrawal had not been notarised. The chairman of the company asked Khomenko to submit the application in the proper form (notarised), but Khomenko refused to do so because he had not yet been paid the value of his share.

From what moment is a shareholder considered to have withdrawn from the company: from the moment of application, from the moment of adoption of a resolution by the shareholders' meeting, from the moment of allocation of a share, from the moment of state registration of amendments to the constituent documents, or from another moment?

What should be done in the above situation? Can Khomenko withdraw his application for withdrawal?

Task 4. Shevtsiv filed a claim against Project Limited Liability Company for payment of the value of his share in the charter capital in connection with his withdrawal from the company. During the consideration of the case by the local commercial court, Shevtsiv filed a motion to appoint an economic expert to determine the market value of the building owned by the company. The expert concluded that the market value of the building was UAH 2 million. Since Shevtsiv's share in the charter capital of Project Limited Liability Company was 10 per cent, the local commercial court ordered the company to pay Shevtsiv UAH 200 thousand. Disagreeing with the decision, Project Limited Liability Company filed an appeal, in which it requested that the local commercial court set aside the decision and issue a new decision based on the company's balance sheet rather than the conclusions of the expert examination.

What payments can a shareholder of a limited liability company claim in the event of withdrawal from it?

How is the amount of these payments determined? Resolve the dispute.

Task 5. The joint venture Sistema filed a claim against the limited liability company Kucherenko, Dmytruk and Partners Consulting Group to recover UAH 400,000 in damages caused by improper servicing. The claim was satisfied in full, but the partnership did not have sufficient assets to pay the debt. In order to prevent disclosure of this information and preserve its reputation, it was decided to change the company's name to Business and Finance Advisory Centre. The shares of Kucherenko and Dmytruk are equal, and the shares of the five depositors are equal to the maximum amount allowed by law.

What is the size of Kucherenko's and Dmytruk's shares?

What are the peculiarities of the liability of the limited liability company and its members?

Can this partnership change its name in the proposed version?

Task 6. During the liquidation of the Burilo & Ostash Limited Liability Company, it turned out that its assets were not sufficient to pay all creditors. The total amount of debt is UAH 50,000. Ostash refuses to pay half of the debt because:

- 1) he was not directly involved in the company's operations;
- 2) his share in the authorised capital is only 2%.

Are Ostash's explanations reasonable?

What are the peculiarities of liability of a general partnership?

What is the procedure for bringing the founders of a company to liability?

Task 7. Under a railway carriage agreement between the distillery and the Railway Administration, 5 wagons were used to transport alcoholic beverages worth UAH 725 thousand. The goods were transported under the supervision of the sender's conductor and under his seals. Upon acceptance of the cargo, a representative of the recipient, a wholesale warehouse, discovered breakage and shortages totalling UAH 78 thousand. The commercial act stated that the incorrect loading caused breakage of the cargo in the amount of UAH 17 thousand and a shortage of the cargo in the amount of UAH 61 thousand. At the request of the freight forwarder and the consignee's representative, the act recorded that a roof breach had been found in 2 wagons. The consignee filed a claim for compensation for damages (under the supply agreement concluded between him and the distillery, he made an advance payment) against the distillery and the carrier jointly and severally.

Resolve the dispute. Analyse the grounds for releasing the railway carrier from liability.

Topic 7. The procedure for establishing a business entity

I. Consideration of theoretical issues:

1. Establishment of a business entity
2. The concept of state registration and the procedure for its implementation
3. Licensing system in the field of business

II. Checking students' knowledge in the form of testing.

Tasks for independent work:

1. State registration of amendments to the constituent documents.
2. State re-registration of a legal entity.
3. Grounds for refusal of state registration and leaving documents submitted for state registration without consideration.

III. Situational tasks

Task 1. Shareholder Petrov, a holder of preferred shares in Joint Stock Company Tourist, read in the newspaper a notice of a general meeting of shareholders with the following agenda: approval of a new version of the charter. Shareholder Petrov submitted his proposals for the agenda of the general meeting when there were still 21 days left before it was convened. However, the executive body refused to include these proposals in the agenda, arguing that the deadline had been missed. Petrov insisted on including his proposals in the agenda of the general meeting, arguing that:

1. he is a shareholder holding 7% of the votes;
2. on the same day that he read in the press about the convening of the general meeting of shareholders, he submitted his proposals to the agenda.

Resolve this dispute on the merits. Find out the procedure and frequency of convening the general meeting of shareholders. What is the procedure for voting at the general meeting of shareholders? What are the cases and conditions when the general meeting of shareholders can make legitimate decisions?

Task 2. In order to establish Edelweiss Joint Stock Company, shares were distributed in June among the founders who had paid for them in full. There were 16 founders. The constituent assembly of the Joint Stock Company was convened in November. The constituent assembly was attended by 12 persons who had purchased shares. After the meeting was opened, a question arose as to its competence. The meeting participants concluded that they were competent. The meeting resolved on the following issues:

- establishment of the company;
- approval of the valuation of property contributed by the founders;
- approval of the company's charter;
- formation of the company's management bodies;
- approval of the results of the share placement.

All resolutions must be passed by a qualified majority of $\frac{3}{4}$ of the votes cast.

Under what conditions is the constituent assembly of a joint-stock company deemed to be competent?

What is the deadline for convening a constituent assembly?

Outline the powers of the constituent assembly of a joint-stock company.

Indicate the legal consequences of the decisions made.

Task 3. Shareholder Tabak transferred his powers to participate in the general meeting to shareholder Getman. The transfer of powers was made on the basis of a written application from shareholder Tabak addressed to the Chairman of the company. Shareholder Tabak's signature was notarised. The Chairman of the company informed the participants of the meeting about the delegation of voting powers. Shareholder Petrov objected to the possibility of Tabak's representative participating in the general meeting due to a violation of the applicable law. Shareholder Petrov, in particular, referred to the provisions of Article 100 of the Civil Code of Ukraine, according to which the right to participate in a company is a

personal non-property right and cannot be separately transferred to another person. Give a legal analysis of the situation.

Task 4. Petrenko, who is a shareholder of the Private Joint Stock Company "Electro", filed a claim against the Limited Liability Company "Svitoch-Promreestr" for an obligation to provide him with copies of documents that became the basis for the formation and amendment of the register of shareholders of the Private Joint Stock Company "Electro". Petrenko's claim was based on the provisions of Articles 77 and 78 of the Law of Ukraine "On Joint Stock Companies", which establish the shareholder's corporate right to information. The court dismissed the claim on the grounds that the provision of such information to a shareholder is not provided for by Ukrainian law. Give a legal assessment of the court's decision.

Task 5. Considering a dispute over the invalidation of a decision of the general meeting of shareholders, the commercial court found that shareholder Vovk's share in the company's authorised capital was 2%. Shareholder Vovk requested that the decision of the general meeting be declared unlawful because he had not been personally notified of its convening and therefore could not take part in the decision-making process. The representative of the joint-stock company denied the claim due to the fact that the company has its own website on the Internet, where information about the convening of the general meeting of shareholders was timely posted. In addition, information about the general meeting was published in the central and local media. The representative also noted that the resolution seeking to invalidate the shareholder Vovk's shareholding was adopted by a majority of 77% of the votes. This, in his opinion, means that even if shareholder Vovk had been present at the meeting, he would not have been able to influence the outcome of the vote. Give a legal analysis of the arguments of the parties.

Task 6. The general meeting of shareholders decided to approve the company's accounts for the previous financial year and to allocate part of the profit

to the dividend fund. One month after the general meeting, an initiative group of shareholders addressed the company's Chairman with a joint application for dividends. In a written response to this application, the company's Chairman explained that the right to receive dividends in a joint-stock company is conditional, i.e. it can be exercised only if the general meeting has passed a resolution on the procedure for paying dividends. The shareholders' meeting has not yet passed such a resolution. Dividends will be paid to shareholders after the general meeting determines the amount of dividends, as well as the term and form of payment. Shareholders have applied to the court for payment of dividends.

What is the content of the right to dividends?

When does this right arise?

Can dividends be paid to shareholders by court order?

Task 7. According to the latest annual report of Terex Joint Stock Company, the value of its property is UAH 5,000,000; of which UAH 800,000 is the value of the company's liabilities. The decision of the company's supervisory board provided for the conclusion of an agreement based on the results of public procurement procedures in the amount of UAH 1,100,000. The company's charter establishes a rule that transactions in excess of UAH 1,000,000 are subject to subsequent approval by the general meeting. When the general meeting of shareholders considered the issue of approving the public procurement agreement, the owners of shares with a total share of 17 per cent of the share capital voted against the adoption of such a decision. As the decision to approve the public procurement agreement was passed, the shareholders who voted against it requested the company to buy back their shares. Terex refused to buy back the shares from the shareholders, as the company believed that such a buyback could only be made by mutual agreement of the parties. What is the content of the shareholder's right to compulsory redemption of shares by the company?

Under what conditions does this right arise? What transaction is considered to be a significant one? Resolve a dispute between shareholders and a company.

Topic 8: Termination of business entities

I. Consideration of theoretical issues:

1. Termination of the licence.
2. Special licensing authorities for certain types of economic activity.
3. Peculiarities of licensing of economic activity in the sphere of trade in alcoholic beverages and tobacco products, use of limited resources.

III. Situational tasks

Task 1. On 1 March 1996, the City Council of Chernivtsi adopted a decision to grant a private enterprise a land plot for permanent use, with the designation of its intended purpose: construction of an administrative building. In 1998, the City Council temporarily allowed the private enterprise to build a car park on the allocated land plot. In 2005, the city council decided to terminate the right to use the land plot for construction pursuant to Article 416 of the Civil Code of Ukraine. In 2009, a private enterprise filed a lawsuit with the commercial court, relying on Article 20 of the Commercial Code of Ukraine, and demanded that the 2005 decision of the Chernivtsi City Council be invalidated on the grounds that Article 416 of the Civil Code of Ukraine cannot be a legal basis for termination of the right to permanent use of a land plot. A commercial court dismissed a private enterprise's claim due to the expiry of the limitation period, stating that the Civil Code of Ukraine does not provide for such a remedy as invalidation of a decision of a local government body.

Is the decision of the city council lawful?

Read the relevant regulatory provisions of the Land Code of Ukraine. Give a legal assessment of the decision of the commercial court.

Task 2. During the divorce of the Ivantsivs, the wife demanded that all the property of the private enterprise Karma, founded by her husband during their marriage, be included in the joint property to be divided. She argued that she had contributed UAH 30,000 to the charter capital, which in turn was their joint property.

The husband objected to this, as his wife did not participate in the business, and therefore could only claim half of the contribution to the charter capital, i.e. UAH 15,000. Give a legal assessment of the situation.

Task 3. The regional office of the State Property Fund of Ukraine and Oranta LLC entered into two contracts for the sale and purchase of construction in progress - household premises intended for the storage of lubricants. The first agreement for the amount of UAH 150 thousand was concluded on 1 January, and the second agreement for the amount of UAH 50 thousand was concluded on 10 April of the same year. Both agreements provided for payment for the transferred objects to be made no later than 30 days after their notarisation. On April 15, Oranta Limited Liability Company transferred UAH 50 thousand to the account of the regional office of the State Property Fund, which was accepted as payment for the second contract, by a payment order stating the reason "contract for the sale of an unfinished construction project". On May 30, the regional office of the State Property Fund of Ukraine appealed to the Commercial Court to terminate the January 1 sale and purchase agreement for non-payment. The defendant denied the claim on the grounds that the UAH 50 thousand he had transferred was used to pay for the value of the privatization object under the agreement of January 1, as it was concluded first. In addition, in accordance with the Law of Ukraine "On Peculiarities of Privatization of Unfinished Construction Objects", he, as a buyer, has the right to defer payment for up to 10 years after he has paid 30% of the value of the object.

What decision should the commercial court make?

Task 4. On January 1, the state-owned enterprise entered into a state contract with the Ministry of Defense of Ukraine for the supply of ammunition for military weapons with an expected service life of 6 months. The contract was to be fulfilled by June of the respective year. In March, the director of the state-owned enterprise applied to the body authorized to manage its property with a request to give permission to ship the same products to another state-owned enterprise. The body

authorized to manage state property refused to grant the permit, explaining that such ammunition belongs to the fixed assets of the state enterprise, which the latter has no right to dispose of.

Is the refusal of the body authorized to manage the property of a state-owned enterprise lawful?

Task 5. The executive director of an additional liability company decided to repay the loan to the bank at the expense of the Dividend Payment Fund, which was established at the enterprise. The fund was supposed to be fully restored within 3 months. Upon learning of this, one of the company's shareholders filed a lawsuit against the director's actions, considering them illegal, as he had no right to dispose of the fund's funds. The court dismissed the claim, referring to the provisions of the company's charter, according to which the executive director was responsible for resolving all issues of the company's activities between meetings of the supreme management body. The charter did not provide for any restrictions on the use of the dividend payment fund. Give a legal assessment of the court's decision.

Task 6. The chairman of the board of a limited liability company received a request to join the company from: an individual entrepreneur, Karp, to contribute to its charter capital funds received on credit; a director of a small enterprise to contribute to the charter capital funds received from the budget of the city council; and the head of a farm to contribute to the charter capital property received as a pledge from a charitable organization. The Chairman of the Board of the Limited Liability Company granted all the requests, considering that all the contributions corresponded to the sources of the company's property. Give a legal assessment of the actions of the Chairman of the Board of the Limited Liability Company.

Task 7. The founder of the private enterprise Lev, Levchuk, decided to transfer all his rights related to this enterprise to Gerashchenko.

How is such a business transaction carried out?

What documents should be submitted to the state registration authority to register the change of ownership of a private enterprise?

CONTROL QUESTIONS FOR THE CONTENT MODULE

1. Characteristics of a business entity.
2. The concept and characteristics of the subject of economic law.
3. Types of subjects of economic law and their features.
4. The concept and requirements for entrepreneurial activity.
5. Enterprises as business entities.
6. Types of state-owned enterprises.
7. State unitary enterprise and its features.
8. State commercial enterprise.
9. State-owned enterprise.
10. Municipal unitary enterprise
11. The concept of a business entity.
12. Types of business entities under Ukrainian law.
13. The concept and specifics of the legal status of the Joint Stock Company.
14. Types of Joint Stock Companies and their features.
15. Founders and participants of the Joint Stock Company.
16. The main stages of the creation of a joint-stock company.
17. The rights of the shareholder.
18. Shares and their types.
19. Functions and powers of the general meeting.
20. Limited liability companies.
21. Assignment of a share in the authorized capital of a limited liability company to its members.
22. Competence of the meeting of shareholders of a limited liability company.
23. Functions and powers of the executive body of a limited liability company.
24. Companies with additional liability.
25. The concept of a general partnership and its features.

26. Conducting business of a general partnership.
27. The procedure for withdrawal from a general partnership.
28. Peculiarity of responsibility of participants of a general partnership.
29. Limited partnership.
30. Features of the management of the affairs of a limited partnership.
31. Liability of investors of a limited partnership.
32. Signs of an economic association that distinguish it from an enterprise.
33. Economic associations and their types.
34. Contractual associations.
35. Types of statutory associations.
36. Peculiarity of the legal status of the consortium.
37. Functions performed by business associations.
38. Management functions performed by the association in relation to the enterprises.
39. The concept, types and features of cooperatives.
40. Rights and obligations of members of production cooperatives.
41. Separate subdivision of an economic organization (SE).
42. Economic ministries (departments) as bodies of economic management.
43. Business entities whose legal status is not defined by the Commercial Code of Ukraine.
44. Documents submitted for state registration.
45. The procedure for registration of legal entities.
46. Procedure for registration of individuals - individual entrepreneurs.
47. Grounds for re-registration and registration of changes to constituent documents.
48. Grounds for cancellation and revocation of registration.
49. Contractual and statutory business entities and their features.
50. The concept, grounds and forms of termination of business entities.
51. Reorganization of business entities.
52. Liquidation of business entities.

53. The concept and subjects of bankruptcy.
54. Jurisdiction, jurisdiction, right and grounds for initiating bankruptcy proceedings.
55. Acceptance or refusal to accept an application for initiation of bankruptcy proceedings.
56. Return of the application for initiation of bankruptcy proceedings.
57. Initiation of bankruptcy proceedings.
58. Securing monetary claims of creditors and moratorium on satisfaction of creditors' claims.
59. The administrator of the debtor's property.
60. Identification of creditors and persons willing to participate in the debtor's rehabilitation.
61. Holding a meeting of creditors and formation of a creditors' committee.
62. Making a decision on the debtor's rehabilitation, appointing a rehabilitation manager and his powers.
63. Debtor's rehabilitation plan.
64. Sale of the debtor's property as an integral property complex in the rehabilitation procedure.
65. Sale in the rehabilitation procedure of a part of the debtor's property.
66. Report of the rehabilitation manager.
67. Resolution on declaring the debtor bankrupt and opening the liquidation procedure.
68. Consequences of declaring a debtor bankrupt.
69. Powers of the liquidator and members of the liquidation commission.
70. Remuneration, remuneration, reimbursement of expenses to the insolvency receiver and other persons involved in bankruptcy procedures and liability of insolvency receivers.
71. Priority of satisfaction of creditors' claims.
72. Report of the liquidator.
73. Settlement agreement and the term of its conclusion.

74. Conditions for concluding a settlement agreement.
75. Invalidity of the settlement agreement or its termination and consequences of non-fulfillment of the settlement agreement.
76. Peculiarities of bankruptcy of city-forming enterprises.
77. Features of bankruptcy of particularly dangerous enterprises.
78. Features of bankruptcy of agricultural enterprises.
79. Features of bankruptcy of insurers.
80. Features of bankruptcy of professional securities market participants.
81. General provisions of bankruptcy of a business entity - a citizen.
82. Peculiarities of bankruptcy of a farm.
83. Peculiarities of applying bankruptcy proceedings to a debtor liquidated by the owner.

**QUESTIONS FOR THE EXAM IN THE DISCIPLINE
"COMMERCIAL LAW"**

1. Characteristics of a business entity.
2. The concept and characteristics of the subject of economic law.
3. Types of subjects of economic law and their features.
4. The concept and requirements for entrepreneurial activity.
5. Enterprises as business entities.
6. Types of state-owned enterprises.
7. State unitary enterprise and its features.
8. State commercial enterprise.
9. State-owned enterprise.
10. Municipal unitary enterprise
11. The concept of a business entity.
12. Types of business entities under Ukrainian law.
13. The concept and specifics of the legal status of the Joint Stock Company.
14. Types of Joint Stock Companies and their features.
15. Founders and participants of the Joint Stock Company.

16. The main stages of the creation of a joint-stock company.
17. The rights of the shareholder.
18. Shares and their types.
19. Functions and powers of the general meeting.
20. Limited liability companies.
21. Assignment of a share in the authorized capital of a limited liability company to its members.
22. Competence of the meeting of shareholders of a limited liability company.
23. Functions and powers of the executive body of a limited liability company.
24. Companies with additional liability.
25. The concept of a general partnership and its features.
26. Conducting business of a general partnership.
27. The procedure for withdrawal from a general partnership.
28. Peculiarity of responsibility of participants of a general partnership.
29. Limited partnership.
30. Features of the management of the affairs of a limited partnership.
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82. Peculiarities of bankruptcy of a farm.
83. Peculiarities of applying bankruptcy proceedings to a debtor liquidated by the owner.

RECOMMENDED READING IN THE DISCIPLINE

Basic:

1. Vynnyk O. Commercial Law: a textbook - 2nd edition, amended and supplemented - Kyiv: Legal Unity, 2012. 766 p.
2. Vihrov O. Commercial law. Special part: a textbook for students of higher educational institutions. - Kyiv: Slovo, 2006. - 344 p.
3. Commercial Law of Ukraine: Textbook for students of legal specialties of higher educational institutions / Yaroslav Mudryi National Law Academy of Ukraine / V. Gaivoronskyi (ed.), V. Zhushman (ed.) - Kharkiv: Pravo, 2013. 384 p.
4. Shcherbyna V. Commercial Law: Textbook / V. Shcherbyna. - 6th edition, revised and supplemented - Kyiv: Jurinkom Inter, 2013. 640 p.

Regulatory and legal acts:

1. Civil Code of Ukraine: Adopted on January 16, 2003 // Bulletin of the Verkhovna Rada of Ukraine. - 2003. - № 40-44. - Article 356.
2. Commercial Code of Ukraine: Adopted on January 16, 2003 // Bulletin of the Verkhovna Rada of Ukraine. - 2003. - №18, № 19-20, № 21-22. - Article 144.
3. On the Principles of State Regulatory Policy in the Sphere of Economic Activity: The Law of Ukraine of September 11, 2003 // Bulletin of the Verkhovna Rada of Ukraine. - 2004. - №. 9. - Art. 79.
4. On state support of small enterprises: The Law of Ukraine of October 14, 2000 // Bulletin of the Verkhovna Rada of Ukraine. - 2000. - № 51-52. - Article 447.
5. On the permitting system in the sphere of economic activity: Law of September 06, 2005 // Vidomosti Verkhovnoi Rady Ukrayiny. - 2005. - 48. - P. 483.

Auxiliary:

1. Topical issues of economic legislation: Monograph / M. Hayevets, I. Horislavska, Y. Kanaryk, L. Pankova, N. Polyno, O. Svitlychnyi, D. Cherkashyn // under the general editorship of Doctor of Law, O. Svitlychnyi - Kyiv: Center of Printing "COMPRINT", 2013. 678 p.

2. Beck Y., Tsikalo V. Workshop on Commercial Law of Ukraine. For students of the Faculty of Law - Lviv: Law Faculty of Ivan Franko National University of Lviv. - 2011. - 69 p.

3. Liability of subjects of economic relations. Legislation, commentary, court practice / O. Belyanevych, V. Shcherbyna and others, commentary; L. Pankova, compilation. - Kyiv: Jurinkom Inter, 2013. 392 p.

4. Organizational and legal forms: legislation and judicial practice: a collection of legislation and judicial practice / compiled by: I. Gorislavska, L. Pankova - Kyiv: "Center of Printing "COMPRINT", 2011. 350 p.

Internet resources

State Policy on the Permitting System in the Field of Economic Activity: Handbook (updated) / Brodskyi M., Pozimkov O., Yatsyshina H., Andreev O., Struk V., Tripolskyi O., Lepiska O., Palazov O. - Kyiv, 2012. 258 p.