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| **National Technical University of Ukraine**  **“Igor Sikorsky Kyiv Polytechnic Institute”** | **Емблема  кафедри (за наявності)** | **Department of Information, Commercial and Administrative Law** |
| **Actual trends in сommercial law and process**  **Work program of the discipline (Syllabus)** | | |

# Details of the discipline

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| --- | --- |
| Level of higher education | *Second (master's)* |
| Field of knowledge | *08 «Law»* |
| Specialty | *081 «Law»* |
| Educational program | *Law* |
| Discipline status | *Selective* |
| Form of study | *full-time / full-time / distance / mixed* |
| Year of preparation, semester | *5th year, autumn semester* |
| The scope of discipline | *3 ECTS credits (90 hours)* |
| Semester control / control measures | *test* |
| Timetable | *on schedule* |
| Language of instruction | *Ukrainian* |
| Information about the course leader / teachers | *Lecturer: Ph. D. (Law), Associate Professor Serebriakova Yuliia*  *Oleksandrivna,*  *Practical / Seminar: Ph. D. (Law), Associate Professor Serebriakova Yuliia Oleksandrivna,* |
| Course placement |  |

# Curriculum of the discipline

# 1. Description of the discipline, its purpose, subject of study and learning outcomes

The efficiency of business entities largely depends on the state of the legal basis of their activities. At the same time, law enforcement practice shows the formation of certain trends in the application of the rules of economic and commercial procedural law, which are characterized by the presence of a significant number of conflicting and problematic issues, the existence of numerous legal discussions. This makes it necessary for students of the second level of higher education to study the discipline "Actual trends in сommercial law and process", which is a logical continuation of mastering the disciplines "Commercial Law" and "Commercial Procedural Law".

The discipline "Actual trends in сommercial law and process" provides professional development of the applicant, because in the process of its study he forms knowledge and competencies that will identify and explore the implementation of economic and economic procedural law, to find ways to solve pressing economic and economic problems. procedural law and understand their essence, rethink them and create new holistic knowledge about the patterns of origin, development and functioning of the field of economic and economic procedural law.

***The purpose of studying the discipline*** is to develop the ability to identify features of the implementation of the rules of economic and economic procedural law and skills in the use of technical and legal means of their enforcement.

***Subject of academic discipline:*** social relations, which are formed in the process of realization of norms of economic and economic procedural law.

The study of the discipline involves the formation and development of the following competencies and learning outcomes:

**General competencies (GС):**

GС - 2. Ability to conduct research at the appropriate level.

GС - 3. Ability to search and process information from various sources.

**Professional competencies (PC):**

PC- 1. Ability to apply the principles of the rule of law to solve complex problems and problems, including in situations of legal uncertainty.

PC- 3. Ability to analyze and evaluate the impact of the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the case law of the European Court of Human Rights on the development of the legal system and law enforcement in Ukraine.

PC - 5. Ability to use modern legal doctrines and principles in lawmaking and in the process of applying the institutions of public and private law, as well as criminal justice.

PC - 7. Ability to apply knowledge and understanding of the basic principles and procedures of justice in Ukraine.

PC - 8. Ability to use mediation and other legal instruments of alternative out-of-court consideration and resolution of legal disputes.

PC - 10. Ability to make decisions in situations that require a systematic, logical and functional interpretation of the law, as well as understanding the specifics of the practice of their application.

PC - 13. Ability to convey to specialists and non-specialists in the field of law information, ideas, content of problems and the nature of optimal solutions with proper reasoning.

PC - 15. Ability to convey to specialists and non-specialists in the field of law information, ideas, content of problems and the nature of optimal solutions with proper reasoning.

PC -16. Ability to understand, analyze and predict trends in economic and administrative law and process.

PC -18. Ability to understand the peculiarities of starting and implementing activities in the field of IT business.

**Program learning outcomes (PLO):**

PLO - 3. Assess the nature and character of social processes and phenomena, and identify

understanding the limits and mechanisms of their legal regulation.

PLO - 5. Collect, integrate analysis and summarize materials from various sources, including scientific and professional literature, databases, digital, statistical, test and others, and verify their authenticity using modern research methods.

PLO - 8. It is reasonable to formulate one's legal position, to be able to oppose, evaluate evidence and present convincing arguments.

PLO - 9. Discuss complex legal issues, suggest and justify solutions.

PLO - 15. Analyze and evaluate the practice of applying individual legal institutions

PLO - 20. Critically comprehend the practices of regulating economic and administrative relations, analyze and identify trends in their development.

# Prerequisites and postrequisites of the discipline (place in the structural and logical scheme of education according to the relevant educational program)

The study of the discipline "Actual trends in commercial law and process" is based on the knowledge gained by applicants in the study of such disciplines as "Commercial Law", "Commercial Procedural Law", "Theory of State and Law", "Civil Law", " The case law of the European Court of Human Rights", "Legal regulation of enforcement proceedings", "Legal regulation of bankruptcy", "Right to a fair trial".

# The content of the discipline

Content module 1. Actual trends in commercial law.

Topic 1. General theoretical foundations of commercial law.

Topic 2. Legal status of business entities.

Topic 3. Legal regime of property in the field of business.

Topic 4. Contractual relations in the field of business.

Topic 5. Economic and legal liability in the field of business.

Topic 6. Restoration of solvency of business entities and their bankruptcy.

Content module 2. Actual trends of commercial procedural law.

Topic 7. Сommercial jurisdiction: features of definition and differentiation.

Topic 8. Participants in commercial litigation.

Topic 9. Court costs in commercial litigation.

Topic 10. Evidence and evidence in commercial litigation.

Topic 11. Initiation of proceedings and resolution of commercial disputes in the commercial court of first instance.

Topic 12. Review of court decisions in commercial litigation.

# Training materials and resources

**4.1 Basic literature:**

1. Actual problems of commercial law: textbook. / for ed. V.S. Nick. K .: Jurinkom Inter, 2012. 528 p.
2. Actual problems of commercial law (special part): textbook / Ed. VS Shcherbina, VV Reznkova. Kyiv: Lira-K Publishing House, 2018, 670 p.
3. Commercial procedural law of Ukraine: a textbook. Ivanyuta NV, Nikolenko LM K .: VD "Dakor", 2020. 276 p.
4. Economic law: Textbook / VK Mamutov, GL Znamensky, VV Khakhulin, etc .; Under. ed. VK Mamutov. K .: Yurinkom Inter, 2002. 912 s.
5. Economic process: textbook. way. / [В. A. Kroytor, O.V. Sinegubov, O.G. Bortnik and others]; for general ed. prof. W.A.​​Croitor; Ministry of Internal Affairs of Ukraine, Kharkiv. nat. University of Internal Affairs affairs. Kharkiv, 2020. 328 p.
   1. **Additional materials and resources:**
6. Andriechko I. General characteristics of the principles of commercial litigation. *Entrepreneurship, economy and law*. 2019. № 12.
7. Belyanevich OA Economic contract law of Ukraine (theoretical aspects): Monograph. K .: Jurinkom Inter, 2006. 592 p.
8. Bobkova AG, Zakharchenko AM Types of organizational and legal relations. *Law of Ukraine.* 2019. № 8. pp. 65–80.
9. Bobkova A., Novoshytska V. Legal basis for consideration of disputes with the participation of foreign persons by a commercial court. *Law of Ukraine*. 2020. № 7. pp. 131–146.
10. Bryntsev O. On the question of the principle of efficiency of commercial litigation in the context of universalization of judicial process in Ukraine. *Law of Ukraine*. 2018. № 7. pp. 34–46.
11. Butyrska I. Mandatory proceedings in commercial litigation. *Law of Ukraine*. 2020. № 7
12. Garagonich OV Economic legal personality of joint-stock companies: problems of theory and practice: monograph. NAS of Ukraine. Institute of Economic and Legal Research. Kyiv, 2019. 406 p.
13. Gushilyak SM . Representation in commercial litigation: author's ref. dis. … Cand. jurid. Sciences: 12.00.04 / Ministry of Internal Affairs. Affairs of Ukraine, Donets. jurid. Inst. of the Ministry of Internal Affairs of Ukraine. Kryvyi Rih, 2019. 20 p.
14. The second scientific readings in memory of Academician VK Mamutov (Kyiv, July 3, 2020). Scientific editor VA Ustimenko. Kyiv: National Academy of Sciences of Ukraine; SI "IEPD named after V.K. Mamutov NAN of Ukraine ". 2020. 366 p.
15. Ivanov O. General procedural rights and obligations of the participants in the simplified claim proceedings. *Legal Bulletin*. 2020. № 3. pp. 304–310.
16. Katrich AV Liability in commercial litigation: author's ref. dis. … Cand. jurid. Sciences: 12.00.04 / Ministry of Internal Affairs. affairs. Of Ukraine, Donets. jurid. Inst. of the Ministry of Internal Affairs of Ukraine. Kryvyi Rih, 2020. 18 p.
17. Koval IF, Pavlyuchenko Yu.M. Protective function of economic law. *Law of Ukraine*. 2019. № 8. pp. 15–30.
18. Kurando, KV Representation of foreign persons in commercial courts of Ukraine. *Law and society*. 2020. № 6-2, Part 1. pp. 101-106.
19. Maslovsky S.V. Powers of the court of first instance in commercial litigation: author's ref. dis. … Cand. jurid. Sciences: 12.00.04 / M-vo vntur. Affairs of Ukraine, Donets. jurid. Inst. of the Ministry of Internal Affairs of Ukraine. Kryvyi Rih, 2020. 20 p.
20. Nikolenko L., Maslovsky S. Some aspects of dispute resolution with the participation of a judge in commercial litigation. *Law of Ukraine*. 2020. № 7. pp. 110-119.
21. Petrenko NO Stages of litigation of commercial litigation. Scientific notes of Tavriya National University named after VI Vernadsky. *Legal Sciences Series*. 2020. T. 31 (70), № 2, ch. 1. S. 141-146.
22. Stepanova T. The place of the derivative claim in the system of protection in commercial litigation. *Law of Ukraine*. 2020. № 7. pp. 44–56.
23. Ustimenko V.A. Economic legislation of Ukraine: prospects for modernization on the basis of sustainable development: a monograph. 2019. 320 p.
24. Shcherbina V.S., Bondar VV Some aspects of appellate proceedings in commercial litigation. Economics and law. 2021. № 1. pp. 3-9.
25. Shcherbina V.S. Modernization of economic legislation: a course for Europe. *Legal Bulletin of Ukraine*. 2016. № 11. pp. 13–18.
    1. **Information resources**

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| --- | --- |
| Unified state register of court decisions | <https://reyestr.court.gov.ua/> |
| Base of legal positions of the Supreme Court | <https://lpd.court.gov.ua/> |
| Digests of case law of the Grand Chamber of the Supreme Court | <https://supreme.court.gov.ua/supreme/pokazniki-diyalnosti/analiz> |
| Reviews of case law of cassation courts. | <https://supreme.court.gov.ua/supreme/pokazniki-diyalnosti/analiz> |
| Analytics on jurliga.ligazakon.net/ YURLIGA | <https://jurliga.ligazakon.net/ua/analitycs/> |
| Verkhovna Rada of Ukraine | http://www.rada.kiev.ua |
| Official web portal "Judiciary of Ukraine" | http://court.gov.ua/ |
| The newspaper "Legal Practice newspaper"  Center for Commercial Law | [http://www.yurincom.kiev.ua](http://www.yurincom.kiev.ua/main/index.phtml?lang=ua) |
| The newspaper "Legal Bulletin of Ukraine" | http://www.yurradnik.com.ua |
| Magazine "Legal Advisor" | http://www.commerciallaw.com.ua |
| Judicial and legal newspaper | http://sud.ua |
| Legal newspaper online | <https://yur-gazeta.com/> |
| National Library of Ukraine  named after VI Vernadsky | http://www.[nbuv.gov.ua](http://www.nbuv.gov.ua/) |

# Educational content

# Methods of mastering the discipline (educational component)

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **NAMES TOPICS** | ***Number of hours*** | | | | | | | |
| ***Full-time education*** | | | | ***Part-time study*** | | | |
| . | *Total* | *Lectures* | *Practical training* | *independent work* | *Total* | *Lectures* | *Practical training* | *independent work* |
| **Content module 1. Actual trends in commercial law** | | | | | | | | |
| **Topic 1. General theoretical foundations of commercial law** | 6 | 2 | 2 | 2 | 5 | 0,5 | 0,5 | 2 |
| **Topic 2. Legal status of business entities** | 8 | 2 | 2 | 4 | 9,5 | 1 | 0,5 | 6 |
| **Topic 3. Legal regime of property in the field of business** | 6 | 2 | 2 | 2 | 7,5 | 0,5 | 1 | 6 |
| **Topic 4. Contractual relations in the field of business** | 8 | 2 | 2 | 4 | 7 | 0,5 | 0,5 | 6 |
| **Topic 5. Economic and legal liability in the field of business** | 8 | 2 | 2 | 4 | 7,5 | 0,5 | 1 | 6 |
| **Topic 6. Restoration of solvency of business entities and their bankruptcy** | 8 | 2 | 2 | 4 | 7,5 | 1 | 0,5 | 6 |
| **Content module 2. Actual trends of commercial procedural law** | | | | | | | | |
| **Topic 7. Сommercial jurisdiction: features of definition and differentiation** | 8 | 2 | 2 | 4 | 7 | 0,5 | 0,5 | 6 |
| **Topic 8. Participants in commercial litigation** | 8 | 2 | 2 | 4 | 7 | 0,5 | 0,5 | 6 |
| **Topic 9. Court costs in commercial litigation** | 8 | 2 | 2 | 4 | 8 | 1 | 1 | 6 |
| **Topic 10. Evidence and evidence in commercial litigation** | 8 | 2 | 2 | 4 | 6,5 | 0,5 | - | 4,25 |
| **Topic 11. Initiation of proceedings and resolution of commercial disputes in the commercial court of first instance** | 8 | 2 | 2 | 4 | 8,5 | 0,5 | - | 8 |
| **Topic 12. Review of court decisions in commercial litigation.** | 6 | 2 | 2 | 2 | 9 | 1 | - | 8 |
| **Execution of an individual task** | - | - | - | - | - | - | - | 5,75 |
| *Total* | 90 | 24 | 24 | 42 | 90 | 8 | 6 | 76 |

**Classes for full-time students**

**Content module 1. Actual trends in commercial law**

**Topic 1. General theoretical foundations of commercial law.**

*Lecture plan:*

1. The concept, subject, method, system of сommercial law: debatable aspects of the definition.

2. The concept of the Commercial Code of Ukraine and its role in regulating сommercial relations.

3. Types of сommercial activity and features of its classification.

*Questions for discussion in practice:*

1. The concept and system of сommercial legislation: problematic issues.
2. Directions of modernization of сommercial legislation.
3. Systematic transport legislation.
4. The problem of defining the concept of "entrepreneurship" and its features.

**Topic 2. Legal status of business entities**

*Lecture plan:*

1. The concept, characteristics and types of business entities: theoretical aspects and trends in law enforcement.

2. Creation and termination of business entities: grounds, procedure and trends in law enforcement.

3. Modern trends in the implementation of the legal status of enterprises and companies.

*Questions for discussion in practice:*

1. Economic competence and legal personality of business entities: problems of definition.
2. Problems of the legal status of associations of enterprises.

**Topic 3. Legal regime of property in the field of business.**

*Lecture plan:*

1. The concept and types of property in the field of management, legal titles of property of economic entities: problematic issues.

2. Formation and use of property of business entities: trends in law enforcement.

3. Disposal and legal protection of property of economic entities: trends in law enforcement*.*

*Questions for discussion in practice:*

1. Discussion aspects of the formation of the authorized capital of limited liability companies.
2. Problems of realization of derivative property rights in the sphere of management.

**Topic 4. Contractual relations in the field of business**

*Lecture plan:*

1.Development of scientific thought on the concept and characteristics of economic contracts. Problematic issues of the system of economic contracts.

2. Theoretical and applied trends in the conclusion and implementation, termination of economic agreements.

3. Recognition of business agreements as unconcluded and invalid: trends in law enforcement.

*Questions for discussion in practice:*

1. Development of the institute of economic contract law.
2. Discussion aspects of the implementation of a competitive method of concluding business agreements.

**Topic 5. Economic and legal liability in the field of business**

*Lecture plan:*

1. The concept and types of economic and legal liability: problematic issues.
2. Forms of economic and legal liability: grounds, procedure, trends in law enforcement.
3. Realization of economic and legal responsibility: ways and tendencies of their law enforcement.

*Questions for discussion in practice:*

1. Features of economic and contractual liability.
2. Development of scientific thought on forms of economic and legal responsibility.

**Topic 6. Restoration of solvency of business entities and their bankruptcy**

*Lecture plan:*

1.The concept of insolvency and bankruptcy, participants in the bankruptcy case: debatable aspects.

2. Bankruptcy proceedings: trends in law enforcement.

3. Liability for Violation of Bankruptcy Law: Enforcement Trends.

*Questions for discussion in practice:*

1. Current trends in the application of legislation on restoring the solvency of an individual.

2. Problematic aspects of the implementation of the legal status of the arbitral trustee in bankruptcy proceedings.

**Content module 2. Actual trends of commercial procedural law**

**Topic 7. Сommercial jurisdiction: features of definition and differentiation.**

*Lecture plan:*

1. General provisions on the concepts and types of jurisdiction of commercial courts.

2. Trends in the separation of economic and administrative jurisdiction.

3. Trends in the separation of economic and civil jurisdiction.

*Questions for discussion in practice:*

1. Issues of referral to the jurisdiction of commercial courts of public commercial disputes.

2. Forms and methods of protection in the science of commercial law and commercial law, commercial litigation.

**Topic 8. Participants in commercial litigation.**

*Lecture plan:*

1. Participation of the plaintiff and defendant, third parties, prosecutor, witnesses in the economic process: the order of participation, trends in law enforcement.

2. Procedural rights and obligations of the parties: content, trends in law enforcement.

3. Representation in commercial litigation: types, subject composition, trends in law enforcement.

*Questions for discussion in practice:*

1. Legal means to counteract and prevent abuse of procedural rights in commercial litigation.

2. Realization of the right of the parties to conclude an amicable agreement in commercial litigation.

**Topic 9. Court costs in commercial litigation.**

*Lecture plan:*

1. The concept and composition of court costs.
2. Court fee payable for disputes in the commercial court: the concept, rates, payment procedure, grounds and procedure for return, trends in law enforcement.
3. Reimbursement of attorney's fees in commercial litigation: trends in law enforcement.
4. Payment for forensic examination: determination of the amount and procedure for payment, trends in law enforcement.

*Questions for discussion in practice:*

1. Exercise of the right to exemption from court fees in commercial litigation.

2. Current practice of compensation for legal aid in commercial litigation.

**Topic 10. Evidence and evidence in commercial litigation.**

*Lecture plan:*

1.General provisions on evidence and proof in the process of administration of justice in commercial courts.

2. Obtaining evidence from the Internet, the use of audio and video recordings as evidence in the economic process: trends in law enforcement.

3. Expertise in commercial litigation: types, conditions of appointment and conduct, trends in law enforcement.

4. Distribution of responsibilities for proving and the procedure for exercising the right to present evidence.

*Questions for discussion in practice:*

1. Exemption from proof in the economic process: grounds, problems of law enforcement.
2. Electronic means of proof in commercial litigation.

**Topic 11. Initiation of proceedings and resolution of commercial disputes in the commercial court of first instance.**

*Lecture plan:*

1. Form and content, the procedure for filing a statement of claim. Initiation of proceedings: grounds, procedure, trends in law enforcement.

2. Securing the claim in commercial litigation: grounds, types of security measures, security procedures, law enforcement trends.

3. Consideration of cases in the commercial court of first instance: term, procedure, trends in law enforcement

*Questions for discussion in practice:*

1. Problems of choosing the form of proceedings in commercial litigation.

2. Practical aspects of ensuring the right of the parties to proper notification of the time and place of the case in the commercial court.

**Topic 12. Review of court decisions in commercial litigation.**

*Lecture plan:*

1. Review of court decisions on appeal: grounds, term, procedure, trends law enforcement.

2. Review of court decisions in cassation: grounds, term, procedure, trends in law enforcement.

3. Review of decisions, rulings, rulings of the commercial court on newly discovered or exceptional circumstances: grounds, term, procedure, trends in law enforcement.

*Questions for discussion in practice:*

* + - 1. Prospects and problems of judicial precedent as a source of law.
      2. National model of cassation and foreign models of verification of legality of court decisions.

**Classes for part-time students**

**Lecture and practical lesson 1**

**Topic 1. General theoretical foundations of commercial law.**

**Topic 2. Legal status of business entities.**

**Topic 3. Legal regime of property in the field of business.**

*Lecture plan:*

1. The concept, subject, method, system of сommercial law: debatable aspects of the definition.
2. The concept of the Commercial Code of Ukraine and its role in regulating сommercial relations.
3. Creation and termination of business entities: grounds, procedure and trends in law enforcement.
4. Modern trends in the implementation of the legal status of enterprises and companies.
5. The concept and types of property in the field of management, legal titles of property of economic entities: problematic issues.
6. Formation and use of property of business entities: trends in law enforcement.
7. Disposal and legal protection of property of economic entities: trends in law enforcement.

*Questions for discussion in practice:*

1. The concept and system of сommercial legislation: problematic issues.
2. Directions of modernization of сommercial legislation.
3. The problem of defining the concept of "entrepreneurship" and its features.
4. Economic competence and legal personality of business entities: problems of definition.
5. Discussion aspects of the formation of the authorized capital of limited liability companies.

**Lecture and practical lesson 2**

**Topic 4. Contractual relations in the field of business**

**Topic 5. Economic and legal liability in the field of business**

**Topic 6. Restoration of solvency of business entities and their bankruptcy**

*Lecture plan:*

1. Theoretical and applied trends in the conclusion and implementation, termination of economic agreements.
2. Recognition of business agreements as unconcluded and invalid: trends in law enforcement.
3. The concept and types of economic and legal liability: problematic issues.
4. Forms of economic and legal liability: grounds, procedure, trends in law enforcement.
5. Bankruptcy proceedings: trends in law enforcement.
6. Liability for Violation of Bankruptcy Law: Enforcement Trends.

*Questions for discussion in practice:*

1. Discussion aspects of the implementation of a competitive method of concluding business agreements.
2. Features of economic and contractual liability.
3. Development of scientific thought on forms of economic and legal responsibility.
4. Problematic aspects of the implementation of the legal status of the arbitral trustee in bankruptcy proceedings.

**Lecture and practical lesson 3**

**Topic 7. Сommercial jurisdiction: features of definition and differentiation.**

**Topic 8. Participants in commercial litigation.**

**Topic 9. Court costs in commercial litigation.**

*Lecture plan:*

1. Trends in the separation of economic and administrative jurisdiction.
2. Trends in the separation of economic and civil jurisdiction.
3. Participation of the plaintiff and defendant, third parties, prosecutor, witnesses in the economic process: the order of participation, trends in law enforcement.
4. Procedural rights and obligations of the parties: content, trends in law enforcement
5. Court fee payable for disputes in the commercial court: the concept, rates, payment procedure, grounds and procedure for return, trends in law enforcement.
6. Reimbursement of attorney's fees in commercial litigation: trends in law enforcement.

*Questions for discussion in practice:*

1. Issues of referral to the jurisdiction of commercial courts of public commercial disputes.
2. Forms and methods of protection in the science of commercial law and commercial law, commercial litigation.
3. Realization of the right of the parties to conclude an amicable agreement in commercial litigation.
4. Current practice of reimbursement of legal aid in commercial litigation.
5. Legal means to counteract and prevent abuse of procedural rights in commercial litigation.

**Lecture 4**

**Topic 10. Evidence and evidence in commercial litigation.**

**Topic 11. Initiation of proceedings and resolution of commercial disputes in the commercial court of first instance.**

**Topic 12. Review of court decisions in commercial litigation.**

*Lecture plan:*

1. Obtaining evidence from the Internet, the use of audio and video recordings as evidence in the economic process: trends in law enforcement.
2. Expertise in commercial litigation: types, conditions of appointment and conduct, trends in law enforcement.
3. Distribution of responsibilities for proving and the procedure for exercising the right to present evidence.
4. Form and content, the procedure for filing a statement of claim. Initiation of proceedings: grounds, procedure, trends in law enforcement.
5. Securing the claim in commercial litigation: grounds, types of security measures, security procedures, law enforcement trends.
6. Review of court decisions on appeal: grounds, term, procedure, trends law enforcement.
7. Review of court decisions in cassation: grounds, term, procedure, trends in law enforcement.

# Independent student work

# Independent work of a student in the discipline "Actual trends in сommercial law and process" is an extracurricular form of organization of the educational process.

# Independent work of the student consists in deepening of knowledge on problems of the economic procedural law and acquisition of skills of the independent organization of scientific work and the decision of disputable situations in the field of economic procedural relations.

# The main forms of independent work of students in the course "Actual trends in сommercial law and process" are:

# elaboration of educational and monographic literature, periodicals, materials of law enforcement practice on issues submitted for discussion in practical classes;

# preparation for practical classes;

# preparation for calendar controls and credit.

***A separate form of independent work of students*** in the course " Actual trends in сommercial law and process" is independent research work, which aims to develop creative initiative of applicants, the formation of independent thinking, ability to identify current theoretical and practical problems of business law and process, formation and justification proposals for their solution.

*Task*

1. Using periodicals for 2019-2021, select and analyze at least 2 publications on problematic issues of business law on a topic selected by the applicant and agreed with the teacher no later than two weeks from the beginning of the school year. Indicate the sources used and the names of the authors who researched these problematic issues, the problematic issues raised in the article, the proposed ways to solve them and your own reasoned position on the proposed ways to solve the problematic issues.

2. Based on the materials of judicial practice for 2019-2021 (at least 5 court decisions) identify problems of law enforcement of commercial procedural law on the topic, the number of which corresponds to your number in the journal of the study group and is listed in the table below. Describe the identified problems with reference to the relevant case law, suggest and argue ways to solve them.

|  |  |
| --- | --- |
| 1. | Forms of commercial litigation |
| 2. | Subject and subject jurisdiction of commercial courts |
| 3. | Territorial jurisdiction |
| 4. | Court fees in commercial litigation |
| 5. | Court costs in commercial litigation (except court fees) |
| 6. | Evidence in commercial litigation |
| 7. | Evidence in commercial litigation |
| 8. | Precautions in commercial litigation |
| 9. | The prosecutor as a participant in the economic process |
| 10. | Securing a lawsuit in commercial litigation |
| 11. | Ways to protect the rights and legitimate interests in commercial litigation |
| 12. | Settlement of commercial disputes in the court of first instance |
| 13. | Settlement agreement in commercial litigation |
| 14. | Review of court cases in appellate proceedings |
| 15. | Review of court cases in cassation proceedings |
| 16. | Self-representation in commercial litigation |
| 17. | Review of court cases on newly discovered and exceptional circumstances |
| 18. | Witness as a participant in commercial litigation |
| 19. | Abuse of procedural rights by participants in the economic process |
| 20. | Proceedings in cases involving foreign persons |

# Policy and control

# Policy of academic discipline (educational component)

Attending lectures is the key to successful mastering of the discipline. In lectures, the teacher reveals current trends in business law and process, demonstrates the presence in the scientific field of discussion on certain aspects of economic activity and economic litigation, notes the problems that arise in relevant law enforcement practice and involves applicants in their discussion. At the request of the applicant can keep a synopsis.

In case of skipping the lecture, the materials for its independent mastering are placed on the MOODLE distance learning platform. For part-time students, attending lectures is a part of assessment.

Practical classes are held in the form of discussion of problematic issues on the topic of practical classes. Each student before the practical lesson to solve practical problems, which are placed on the platform of distance learning MOODLE. In the process of conducting a practical lesson, the applicant must demonstrate knowledge of issues for discussion and their own version of solving practical problems. In practice, even a well-prepared student should not remain a passive observer, he should be actively involved in the discussion of issues. If the applicant has not read the training material, he should listen more carefully to the speakers, and thanks to the information received, try to compensate for the shortcomings of preparation for the lesson. In order to ensure that each student of the study group receives points during the practical lesson, the teacher can give individual students a written assignment based on the lecture material.

In lectures and practical classes, the teacher can conduct rapid surveys on issues that are the subject of discussion.

In practical classes you can use technical means, mobile phones, laptops in the development of regulations and participation in rapid surveys of the teacher. Audio and / or video - recording of lectures is prohibited.

A missed practical lesson can be rescheduled if it is missed for a good reason. A student who missed classes for a good reason and wants to increase his / her rating, addresses the teacher with a justification of the reasons for his / her absence and a request to provide an opportunity to practice it. At the discretion of the teacher, the re-assembly of the practical lesson may take place as follows: 1) conducting an oral interview on the topic of the lesson on the day and time determined by the teacher with the prior consent of the applicant; 2) performance of practical tasks on the topic of the lesson in writing and sending the relevant work to the teacher's e-mail within the time limits stipulated by him.

The topic of task 1 of independent work is chosen independently by the applicant not later than two weeks from the beginning of the academic year is agreed with the teacher. The completed task of independent work is sent to the teacher by e-mail or is performed on the distance learning platform MOODLE.

After receiving the independent work, the teacher checks it and sends in response an e-mail with the appropriate file, which indicates the number of credits and, if available, comments on independent work or using appropriate services MOODLE notifies the applicant of the remarks and the number of credits. The teacher has the right not to credit the independent work of the applicant in the case of:

a) the applicant has performed work not in accordance with the established tasks;

b) during the examination the teacher will find that the applicant did not perform the work independently (answers are identical to the answers made by another applicant or copied from a scientific article, etc.). If the applicants are provided with the same solutions to the problems, the work of the applicant who passed it earlier is credited.

The deadline for submitting independent work is announced to applicants by placing an appropriate announcement on the MOODLE distance learning platform no later than two weeks from the beginning of the school year.

In case of non-delivery or late delivery of independent work, it is considered unfulfilled and is evaluated in "0" points.

**Academic integrity**

The policy and principles of academic integrity are defined in Section 3 of the Code of Honor of the National Technical University of Ukraine " Igor Sikorsky Kyiv Polytechnic Institute". Details: https://kpi.ua/code.

**Norms of ethical behavior**

Norms of ethical behavior of students and employees are defined in Section 2 of the Code of Honor of the National Technical University of Ukraine " Igor Sikorsky Kyiv Polytechnic Institute". Details: <https://kpi.ua/code>.

# Types of control and rating system for assessing learning outcomes

Knowledge control is an integral part of the educational process and is the organization of feedback as a means of managing the educational process. Testing and assessment of applicants' knowledge should reflect the level of knowledge acquisition and encourage applicants to achieve new successes.

Control of knowledge of full-time students is based on the results of current, calendar and semester control of knowledge.

Control of knowledge of part-time students is carried out on the basis of the results of current, modular and semester control of knowledge.

Current control: work on a practical lesson; performance of written tasks of independent work. The current control is reflected in the rating of the applicant. This rating is formed on the basis of points received by the applicant for work during the semester.

Calendar control: conducted twice a semester as a monitoring of the current state of compliance with the requirements of the syllabus, according to the schedule established by the university. provides an intermediate summing up of the discipline; The condition for successful completion of the calendar control is that the applicants score 50% of the points possible on the date of the calendar control. For applicants for distance learning, a modular control is provided at the last practical lesson of the course.

Calendar (modular) control is carried out in the form of writing a written test. The recommended number of options - 10. Each option of modular work contains 1 theoretical question, the disclosure of which involves knowledge of current trends in the application of commercial and commercial procedure law.

Semester control: credit. Carried out based on the results of current control (if the student's rating on the results of work during the semester is 60 or more points) or performance of test work (if the applicant's rating on the results of work during the semester is less than 60 points and such applicant is admitted to semester control)

**The system of evaluation of academic achievements of full-time applicants**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| № | Evaluation control measure | Weight score | Number | Total |
| 1. | Work on practical classes | 4 | 12 | 48 |
| 2. | Календарний контроль знань | 11 | 2 | 22 |
| 3. | The tasks of independent work | 30 | 1 | 30 |

**The system of evaluation of academic achievements of part-time applicants**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| № | Evaluation control measure | Weight score | Number | Total |
| 1. | Work on lectures | 1 | 4 | 4 |
| 2. | Work on practical classes | 15 | 3 | 45 |
| 3. | Modular control knowledge | 11 | 1 | 11 |
| 4. | The tasks of independent work | 40 | 1 | 40 |

*At the lecture, the part-time student may receive 1 point, provided that he actively participates in the discussed issues of the lecture.*

When assessing the student's work at the lecture is taken into account:

- systematic work on lectures;

- content and level of knowledge demonstrated in the answers to the questions submitted for consideration at the lectures;

- activity in discussions and debates at lectures (including additions to the answers of other students, clarification and correction of the voiced answers of other applicants).

*In the practical lesson, the applicant of full-time (part-time) education can receive 4, 3, 2, 1, 0 (15, 10, 5, 3, 0) points, which are determined by the following criteria:*

4 (15) - the applicant has the basic provisions of the topic, uses additional material, provides a correct and detailed answer when solving practical classes;

3 (10) - with a firm knowledge of the main provisions of the question in response to a theoretical question or when solving a practical problem there are certain inaccuracies and minor errors;

2 (5) - the applicant knows most of the basic provisions, but makes inaccuracies and errors in answering a theoretical question or in solving a practical problem;

1 (3) - the applicant knows certain provisions and makes significant inaccuracies and errors in answering a theoretical question or in solving a practical problem;

0 - the applicant has no idea about the question or practical task, refuses to answer.

*The grade for the performance of the task of calendar (modular) control by full-time and part-time students may be 11; 7; 3 or 0 points.*

11 points are given for the answer, in which the correct and comprehensive answers to all questions of the task, the ability to use the material to reveal the content of the questions, the opportunity to assess the facts set out and think independently, the material is presented independently, logically and competently.

7 points are given for the answer, the content of which shows knowledge of theoretical and normative material, the ability to use them for a consistent and sound presentation of their opinions; there is one (two) mistake in the answer or the teacher has no more than two remarks to it.

3 points are given in the presence of two gross errors in the answer and no more than two remarks; in the absence of gross errors in the answer, but in the presence of not more than three errors; in the presence of two errors and no more than two remarks.

0 points are given if there are three gross errors in the answer and no more than two comments; in the absence of gross errors in the answer, but in the presence of more than three errors; in the presence of two errors and more than two remarks.

The preliminary rating of the credit module must be at least 40 points, otherwise the applicant is not allowed to credit.

Applicants who scored a credit module rating of less than 60 points during the semester are required to complete additional tasks, the performance of which is a prerequisite for passing the test or take a test in the form of an oral answer to questions contained in teaching materials before studying the course . The number of additional tasks depends on the number of points received by the applicant during the semester, one task can be evaluated by a maximum of 4 points.

Applicants who scored 60 or more points during the semester have the opportunity to:

1) get a credit score (credit) "automatically" in accordance with the rating.

To receive the applicant's grades (traditional and ECTS), his rating is translated according to the table:

|  |  |  |  |
| --- | --- | --- | --- |
| The value of the rating from the credit module |  | Rating ECTS | Traditional assessment |
| Final rating |
| 0,95 R≤RD | 95-100 | А | perfectly |
| 0,85 R≤RD<0,95 R | 85-94 | В | fine |
| 0,75 R≤RD<0,85 R | 75-84 | С | fine |
| 0,65 R≤RD<0,75 R | 65-74 | D | satisfactorily |
| 0,6 R≤RD<0,65 R | 60-64 | Е – meets the minimum criteria | satisfactorily |
| RD<0,6 R | < 60 | Fx – unsatisfactorily | not credited |
| RD<0,4 R | < 40 | F – unsatisfactory (additional work required) | not allowed |

1) perform test control work in order to increase the assessment.

In case of receiving a grade that is higher than the grade "automatic" from the rating, the applicant receives a grade based on the results of the test.

In case of receiving a grade that is lower than the grade "automatic" from the rating, the previous rating of the applicant in the discipline is canceled (canceled) and he receives a grade only on the results of the test.

# Additional information on the discipline (educational component)

Addition 1

**Control of the question before the test**

1. The concept, subject and system of сommercial law and legislation: problematic issues.
2. The concept of the Commercial Code of Ukraine and its role in regulating economic relations.
3. The concept of modernization of сommercial legislation on the basis of the Commercial Code of Ukraine.
4. Concepts and types of business entities: problematic issues.
5. Creation and termination of business entities: problematic issues.
6. Problems of the legal status of enterprises.
7. Problems of the legal status of companies.
8. Problems of the legal status of associations of enterprises.
9. Problems of protection of the rights and legitimate interests of business entities.
10. The concept and types of property in the field of management, legal titles of property of сommercial entities: problematic issues.
11. Formation, use, disposal and legal protection of property of сommercial entities: problematic issues.
12. The concept and characteristics of сommercial agreements: problematic issues.
13. The system of сommercial contracts: problematic issues.
14. Conclusion and execution of economic agreements: problematic issues.
15. Recognition of business contracts as unconcluded and invalid: problematic issues.
16. General provisions on сommercial and legal liability: problematic issues.
17. Forms and types of economic and legal liability: problematic issues.
18. Problems of realization of сommercial and legal responsibility.
19. The concept of insolvency and bankruptcy, participants in the bankruptcy case: problematic issues.
20. Bankruptcy proceedings: problematic issues.
21. Liability for Violation of Bankruptcy Law: Problematic Issues.
22. Jurisdiction of commercial disputes: concepts, criteria for determination, problems of law enforcement.
23. Jurisdiction of сommercial disputes: concepts, types, problems of definition.
24. Jurisdiction of land disputes in commercial courts: problems of law enforcement.
25. Determining the jurisdiction of corporate disputes: problems of law enforcement.
26. Methods of protection of the rights of business entities used by commercial courts of Ukraine in considering specific disputes.
27. Court fee payable for disputes in the commercial court: concepts, rates, problems of determining the size.
28. Reimbursement of attorney's fees in commercial litigation: problems of law enforcement.
29. Payment for forensic examination: determination of the amount and procedure for payment, problems of law enforcement.
30. Obtaining evidence from the Internet, the use of audio and video recordings as evidence in the business process: problems of law enforcement.
31. Expertise in commercial litigation: types, conditions of appointment and conduct, problems.
32. Evidence in the commercial court of first instance: subjects, procedure, problems of law enforcement.
33. Evidence in the Commercial Court of Appeal: subjects, procedure, law enforcement issues.
34. Securing the claim in commercial litigation: the concept, grounds for application and cancellation, problems of law enforcement.
35. Measures to secure the claim. Measures by which the claim cannot be secured.
36. Participation of the plaintiff and defendant, third parties in the economic process: problematic issues.
37. Prosecutor's participation in the economic process: problematic issues.
38. Individuals as participants in the economic process: the grounds, the problem.
39. Participation of the person providing legal assistance: grounds, problematic issues.
40. Procedural succession in commercial litigation: problems of application.
41. Consideration of cases in the commercial court of first instance: term, procedure, problems.
42. Procedural rights and obligations of the parties. Problems of efficiency of consideration of economic disputes in case of improper use of the specified rights and duties.
43. Rules for proper notification of litigants about the time and place of the case: problematic issues.
44. Settlement agreement in commercial litigation. Debatable aspects of its conclusion.
45. Application of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and the provisions of the First Protocol thereto in commercial disputes.
46. Judicial acts in commercial litigation: concepts, types and problematic issues of their delimitation.
47. The decision of the commercial court: the concept, content, procedure.
48. Grounds for review of court decisions on appeal and cassation.
49. Consideration of commercial disputes in the appellate court: term, procedure, problems.
50. Consideration of commercial disputes in cassation: term, procedure, problems.
51. Differences in the review of court decisions in the appellate and cassation procedures.
52. Review of decisions, rulings, resolutions on newly discovered and exceptional circumstances: term, procedure, problems.

**Work program of the discipline (syllabus):**

Compiled by Associate Professor of Department of Information, Commercial and Administrative Law, Ph. D. (Law), Associate Professor, Serebriakova Y.O.

**Approved** by the department \_\_\_\_\_\_\_\_\_\_ (protocol № \_\_\_ from \_\_\_\_\_\_\_\_\_\_\_\_)

**Approved** by the Methodical Commission of the faculty (protocol № \_\_ from \_\_\_\_\_\_\_)