

# Methodical Specifics of Teaching Private Law in Higher Educational Institution of Ukraine

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*Abstract: In the article, the educational process is considered as an intellectual, creative activity in the field of higher education and science, which is aimed at increasing and using the knowledge of the learners. Attention is drawn to the fact that private law should contain all the latest approaches to the modernization of European society.*

*The educational process nowadays has on the aim two aspects: 1) education as system purposeful activity of departments, which provide of transferring to students' scientific knowledge and forming individual qualities; 2) science as learning activity of students. In view of this, the activity of the teacher should be not only in the design of the discipline, and in particular in its management. After all, the assimilation of any educational subject, including private (civil) law, the way of the presentation of lecture material means the consistent development of skills from such blocks of constituent systems as basic, methodological, general, interdisciplinary, objective, etc.*

*It is noted that the goal of modernizing the teaching of civilized disciplines, in particular private (civil) law, in the context of the reform of higher legal education in Ukraine should be aimed at: a) the development of international legal education in connection with the development of educational plans, programs and other components of education aimed at integrating modern legal education into the world of educational space; b) encouraging the manifestation of individual scientific and practical activity among students in the analysis of normative legal acts, jurisprudence, discussion of identified problems under the direction of a lector, etc; c) stimulating the work of legal clinics and attracting as many students as possible to its work; d) creation of an effective system of postgraduate training, advanced training of legal personnel, retraining, etc.; e) improvement of social protection of participants in the educational process at the expense of direct non-centralized financing of higher educational institutions; f) creation of a system of funds for the support of legal education, social protection of legal education and student youth, etc.*

**Keywords :** private law, methodology, teaching, education, science, educational process.

## I. INTRODUCTION

One of the form of organization of the teaching process is the educational process. According to the article No. 47 of

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Law of Ukraine «On higher education», the educational process – intellectual, creative activity in the sphere of higher education and science, which is being carried out at a higher educational institution (scientific institution) through a system of scientific-methodical and pedagogical activities aimed at the transfer, mastering of the growth and use of knowledge, skills and other competencies of the learners, and also on the formation of a harmoniously developed personality [1].

Fateful importance value in securing needs of mankind has a private right. It is the private right that must contain all the latest approaches to the modernization of modern society. In any case, when teaching students, especially students of the faculty of law, it should be emphasized on this.

## II. DISCUSSION

As the experience of previous years, transition of Ukraine to the Bologna system of education contributed to the imbalance of the established organization of the educational process. Sharp reduction of lectures and seminars has led to the predominance of passive forms of study in students, as a consequence – narrowing in understanding of the material, limited thinking in this area, the formation of independent thought, position, etc. In this aspect, it is not necessary to speak of proper, good or bad teaching by lecturers, since with the development of information technologies, the infinite possibilities of the information space of today, the traditional approach to the transfer of information (lecturer-student) as a unified system of educational process, without any doubt, has exhausted itself in full.

Today, when students form an understanding of independent work on a subject, there is an urgent need for rethinking, so to speak, reformatting the presentation of learning material. The learning process should be based on the principle of dynamism, the focus on finding new, progressive, diverse methods, techniques and tools adapted to students with different abilities, and aimed at activating mental, creative activity, etc. The pattern of problem-solving in learning allows students to master skills and abilities in a state of intellectual complication, to form theoretical thinking, including through the introduction of a variety of modern, interactive teaching methods.

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Taking into account that the task of the lecturer is to transfer the content and quality of the main material, and not its volume, we consider it appropriate to introduce so-called "brainstorming" practices, case tasks, training simulations, analyzing a specific situation, and so on. As it seems, in the training of future specialists,

first of all, it is necessary to instill skills in the ability to independently acquire new knowledge, to improve directly, creatively approach the solution of legal problems, etc. Therefore, the main task of modern legal education is to facilitate the mastery of the methodology of the independent formation of a system of knowledge, the formation and development of a high creative their culture.

The integrity and multidimensionality of educational process allow to constant creative search. There are different forms, methods and technologies of study, successfully application of which depends on lecturers, students, their individual characteristics and interests. The main task of the teacher is to create a situation in which the question arises - why, wherefore, what for. Consequently, the personal educational and scientific activities of the students will form a cognitive activity, and the learning of the material will occur involuntarily. It is necessary to deviate from the established understanding of the presentation of educational material through «dictation» of the lecture material to students. That's why, through familiarization students with private (civil) law we consider that it is appropriate to focus their attention on the conception private law, to clarify, to give examples of civil legal relations with which the students daily deal with the case. It should be emphasized that the subject of private law constitutes personal non-property and property relations, which form constitutive features of private law relations, but do not indicate their simple dichotomy. After all, the interaction of these relations in one form or another forms other types of private relations, such as organizational, contractual, corporate, residential, hereditary, as well as intellectual property relations. Thus, the reference of article 1 of the Civil Code of Ukraine in only two groups of civil relations, especially given the discretion of private law, provides an opportunity to diversify approaches to the legal regulation of social relations based on private law principles [2].

In spite of the fact that wide world uniform private law doesn't developed, in this directions, when analyzing international legal relations, on lectures should also pay attention to international documents, especially those that contain unified material rules of private law. The most well-known are: UN Convention on Contracts for the International Sale of Goods 1980 (the CISG), Principles of International Commercial Contracts UNIDROIT, or Principles of Lando (ed. Principles of European Contract Law (PECL)), the rules of the European private law, the Draft Common Frame of Reference (hereinafter referred to as «DCFR» or «European Private Law Project»), and others.

The educational process nowadays has on the aim two aspects: 1) education as system purposeful activity of departments, which provide of transferring to students scientific knowledge and forming individual qualities; 2) science as learning activity of students. In view of this, the activity of the teacher should be not only in the design of the discipline, and in particular in its management. After all, the assimilation of any educational subject, including private (civil) law, the way of the presentation of lecture material means the consistent development of skills from such blocks of constituent systems as basic, methodological, general, interdisciplinary, objective, etc. are aimed at regulating one or another relationship; 2) it is necessary to ensure a high level of student motivation (for example, study of any civil law institute should begin with finding out their significance for

regulating specific life relationships, their importance in future professional activities, etc.). Moreover, in the course of conducting practical classes it is necessary to ensure the organic unity of theoretical and practical knowledge, which will allow to provide conditions for deepening and consolidating students' knowledge of the foundations of the training course, acquired during lectures and in the process of studying educational information, which is made on independent study; 3) abidance to the principle of professional orientation and the implementation of multilevel interpersonal relations with other disciplines (for example, Family law, when it relates to family law contracts, with the course «Notary», when it relates to the complex written form of civil law contracts, etc.). All this ensures the formation of a unified system of knowledge, skills and abilities of students.

Distinctive features of practical lesson among others kind of classes are: 1) active participation of students in clarifying the essence of the issues raised; 2) ability of student freely speak during solving conflicts, with the obligatory lecturer's help to build their own thinking. At the same time, such an educational goal requires students to be well prepared for the class, otherwise the practical lesson will turn into a frontal conversation that is possible during the seminar (the instructor asks questions, students respond to them).

At the same time there are many varieties of practical classes, which differ both in terms of content and form of organization of work. In particular, if a practical class is allocated more than two hours it is expedient to start it from the simplest form, which is based on a heuristic conversation (students analyze the case study, give answers to questions that are problematic and require creative, productive thinking). Having found out, in this way, the level of students' training is expedient to transfer to a more advanced level of employment - discussion (is in the exchanging of ideas among all participants, which teaches students to think independently and fosters the development of analytical skills, develops the ability to make meaningful arguments, defend their own point of view, adequately values and respect the opinions of others), which can be reflected in the form of debates, symposiums, round tables, etc.

For the students of junior courses is advisable to plan lessons with using playing situations, when students are in the role of representative of the plaintiff and defendant, law experts, etc., and their speeches are reviewed and evaluated by a group of reviewers. Students, which are disagree with proves provided in the case are opponents. The student-speaker conducts a hearing, which calls upon to all the participants of the game, summing up after each report, arranges discussion, etc. For discussion, you can give a specific case on the resolution of a court dispute, in particular, those published in the periodical legal press (Herald of the Supreme Court of Ukraine, Legal Bulletin of Ukraine, Legal practice, etc.).

Application the law in the process of solving the particular dispute (mishap) methodological based on the approach which is used for a domestic legal system, by which the legal analysis is conducted from general to specific, for example – particular daily circumstances are brought under the abstract rules of conduct in the form of the extension of the applicable legal norm to the actual circumstances of the dispute.

In accordance, the dispute is resolved by establishing and analyzing the factual circumstances, the search and application of a specific legal norm or a contractual provision, the issuance and proper execution of the resolution of the legal incident. That is, the student must master skills of definition in connection with the implementation of successive steps of the law or the provisions of the contract to be applied, to determine and analyze the composition of the actual circumstances of the case through legal norms or contractual provisions, to determine whether the actual circumstances of the case legal nor contractual the situation prior to the legal conclusion.

Very interesting and developmental are international lessons, which conducted by one or several lecturers, the law nature of inter-branch institutions is discussed on it, which use both private and labour law and land law. For example, crossover of land plots in the power for the civil and land legislation of Ukraine is thin.

In accordance, orienting students to qualitative training for practical classes, it is advisable to offer them the following algorithm: 1) analysis of the topic of the class, its didactic goals and the main issues that will be the subject of discussion; 2) when preparing for the class, a mandatory review of the recommended literature, judicial and notarial practice; 3) the formulation of questions that arose during the preparation for the lesson and did not find their answer in order to raise them in the class and solve them collectively; 4) preparation of the plan, the abstract of the lesson.

So, during doing practical lessons it is mandatory to combine theoretical knowledge and the ability to apply it in specific practical situations, which obliges higher education institutions to pay attention to the professionalism of the personnel who will provide the educational process, since the graduate of the university should be a professional who, based on the qualification of a bachelor's degree or master and should be mastered in-depth special knowledge and skills of an innovative nature, has some experience in their application and the production of new legal knowledge to solve problem professional tasks in the field of legal science and practice.

In addition to the above, in our opinion, a special place in the educational process is a scientific activity. After all, the detailed acquaintance with scientific results (monographs, scientific positions of dissertation works, etc.) provide an opportunity for students to form an understanding of the development of contractual relations, market economy, etc.

It is known that the starting point of any research, including when writing a master's thesis, is the proposition that scientific knowledge is acquired only if the object is studied, which is carried out in accordance with the requirements of the theory of knowledge. The main element of this theory is a methodology that determines the content and truth of the results and findings of scientific research. In modern scientific legal literature, the methodology is understood as a system of methods of cognition and practice, that is, a system of principles, rules, techniques, methods and means of organizing and constructing theoretical and practical activities, as well as the doctrine of this system [3].

In order to facilitate the development of highly qualified lawyers and the formation of a creative legal personality of students, it is necessary not only to outline the correctness of the choice of a particular method of private law, which will affect the scientific result and the implementation of the fundamental right, but also develop the skills of students to

choose the types, directions and means scientific and scientific-technical activity in accordance with personal interests, universal values, creative approach, etc. The main tendencies of the development of private law are drawn attention by R. A. Maidanyk. According to the scientist, the directions of the development of private law should be developed by: 1) forming the ideology of the Ukrainian private law of a liberal type, based on the basic / universal values of human rights, a single European commercial space, strengthening of European cultural unity, balance of interests on the basis of partnership and cooperation; 2) recognition of legislation as the main source of law and acquisition of certain features of a customary type; 3) universalization of civil law and refusal from integrated branches of law; 4) liberalization of legislation; 5) understanding of the objectivity of the expansion of the private sector [4]. Such an approach will undoubtedly contribute to a unified understanding of the essence of private law and will allow it to outline the further directions of its development

Among other tasks from the methodological point of view we see the task of the teacher to convey the importance of the comparative legal method, to properly justify ways of adapting Ukrainian legislation to the law of the European Union. However, without exaggeration, we note that there is a lack of experience in this aspect, in particular the use of scientific knowledge methods, the application of logical laws and rules, new means and technologies, etc. The modern understanding of the legal doctrine of the member states of the European Union still needs to be studied scientifically by the domestic community. Therefore, for the proper development of the doctrine of private law and its adaptation to European law, students should be provided with a scientific space to identify problems that are then addressed by existing ones. A detailed study of foreign legal problems, including the writing of master's papers, followed by a scientific publication, including in foreign publications, will only accelerate the desired result. We believe that the expansion of cross-border links, the possibility of finding a scientific problem in the foreign space, will contribute to an increase in the methodological weight of the learning opportunities of student researchers. Their scientific results will lead to the search for the best foreign experience, especially in practical activities while protecting the interests of Ukrainian citizens, including in international private relations. The practical result of scientific researches when writing master's theses in the educational process will be students' skills on the coherence of domestic private law with the key approaches embodied in model acts of European private law, as well as the practice of their application.

In addition, we pay your attention that correctness of science approach depends on individuality of the explorer. So, for example, law maker carried out the legalization of the law, value its excepted successes and fails orient to the end result – legal act; the judge, instead of it, directs its research mainly to resolve the dispute through logical operations and legal expediency; practicing lawyer - carries out "search" of a legal position in favor of the client; the lecturer and the education provider are on the verge of obtaining existing knowledge and conducting legal research, depending on the level of education. Such difference caused by the level of legal consciousness, deontological features, as well

as the so-called professional deformation and place of person in society.

Thus, undergraduate student should understand civil (private) law not only as a system of private law, which ensures the mechanism of real social connections, which are based on the principles of autonomy of freedom, equality and independence. First of all, it is necessary to build an understanding of private law, its historical origins and significance. Such an approach is hardly perceived by lawyers, given the separate understanding of public law. However, the analysis of the rule of law principle, its current perception should open to researchers new vectors for scientific research, using the methodology of the private law. The discretion of the civil law method allows the participants of the relationship to act within the limits provided by law. The reference for research is, first of all, the system of principles of private (civil) law, which relievly reveal the objectives of legal regulation, the desire for practical implementation of which leads to the design and implementation of various legal means.

Awareness of the subject of private (civil) law, the methodology of its research and the direction of the results leads to the need of understanding the researcher of his responsibility both to the scientific community and to society. As a result of research, the scientific result must always be expressed, stated, formulated in such a way that it can be perceived, understood, learned by others. Thus, scientific activity inevitably includes what concerns social interactions and relationships, thus the very scientific activity becomes the object of evaluation, and subjective, based on trust between members of the scientific society, masters, lectors, etc.

### III. CONCLUSION

Given the above, the goal of modernizing the teaching of civilized disciplines, in particular private (civil) law, in the context of the reform of higher legal education in Ukraine should be aimed at:

1) convergence of the labor market with the legal professions with the learning environment (internships in private companies, government institutions, etc.), holding lawful career days, etc.);

2) the development of international legal education in connection with the development of educational plans, programs and other components of education aimed at integrating modern legal education into the world of educational space;

3) encouraging the manifestation of individual scientific and practical activity among students in the analysis of normative legal acts, jurisprudence, discussion of identified problems under the direction of a lector, etc. ;

4) stimulating the work of legal clinics and attracting as many students as possible to its work; 5) creation of an effective system of postgraduate training, advanced training of legal personnel, retraining, etc.;

6) improvement of social protection of participants in the educational process at the expense of direct non-centralized financing of higher educational institutions;

7) creation of a system of funds for the support of legal education, social protection of legal education and student youth, etc.

8) the creation of special research centers that would carry out a systematic study of innovations in the field of legal

education, analyzed the latest domestic and international advances in jurisprudence, and helped lectors effectively use such information, embodying new teaching methods.

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