

Volgograd State Medical University  
Department of Philosophy, Bioethics and Law

Lectures on Law

Lecture 5.

Civil law.

# What is Civil law?

Civil law may refer to:

- Civil law (or "Continental law"), any of the various systems or codes of law which are derived from Roman law historically
- Civil law (common law), a branch of common law dealing with relations between individuals or organizations (as opposed to criminal law)
- Civil law, a branch of Continental law which is the general part of private law.

- We will consider civil law as branch of law dealing with relations between individuals or organizations, in which compensation may be awarded to the victim.
- Civil law differs from criminal law, whose emphasis is more on punishment than in dispute resolution.

# Purpose of Civil Law.

- The objectives of civil law are different from other types of law.
- If there is a victim, they get compensation, and the person who is the cause of the wrong pays, this being a civilized form of, or legal alternative to, revenge.

# Physical persons as subjects of Civil law

- It is every person regardless of age, sex and other characteristics.
- *Civil right-ability* of physical person is ability to have subjective civil rights and to bear subjective civil obligations. It begins from the moment of birth and ends by death.

- *Civil competence* is ability of person to gain and realize subjective civil rights and create for himself subjective civil obligation and discharge them. The degree of competence depends on age of citizen. Citizens, who owing to mental disorder can not understand meanings of own actions or rule them, can be recognized noncompetent according to resolution of court.

# **Juridical persons as subjects of Civil law**

- It is organization, having isolated property and which is able to gain and realize property rights, to bear obligations, to be plaintiff and defendant in court.
- The attributes of juridical person are organizational unity, property isolation, independent property responsibility, participation in right-relations on behalf of own name, state registration in tax organs as juridical person.

# Types of juridical person

- *Commercial organization* has got a main purpose of its activity the getting of profit. This organization is engaged in business activity.
- *Noncommercial organization* is created for the achievement of different important social purposes.



# Civil code

- It is a a systematic collection of laws designed to comprehensively deal with the core areas of private law.
- A jurisdiction that has a civil code generally also has a code of civil procedure.

- The first attempts at modern codification were maken in the second half of the 18th century in Germany.
- The French Napoleonic code was enacted in 1804 after only a few years of preparation, but it was a child of the French Revolution, which is strongly reflected by its content. The French code was the most influential one because it was introduced in many countries standing under French occupation during the Napoleonic Wars.

- The *Russian Civil Code* is the prime source of civil law for the Russian Federation.
- The Civil Code of the Russian Federation came into force in four parts. The first part, which deals with general provisions was entered into force in 1995. The second part (dealing with Law of obligations) entered into force in 1996. The third part (Succession law) entered into force in 2002. The fourth part, dealing with intellectual property, came into force on January 1, 2008.

# Civil law includes

- property law,
- law of obligations (contract law),
- tort law.

# Property law

- *The right of property* is right of person to possess, to use, to manage property in own interest and at own discretion with the obligation to bear the burden of the maintenance of property, the risk of its loss and the responsibility for the doing of damage.
- Proprietor has a right to realize any actions regarding own property at own discretion if this actions do not contradict law.

- Property rights are rights over things enforceable against all other persons. By contrast, contractual rights are rights enforceable against particular persons.

# Forms of property

- The basic distinction in common law systems is between real property (land) and personal property (chattels).
- In Russia there are private, state, municipal and other forms of property.

# Law of obligations

- By force of an *obligation*, one person (the debtor) is obliged to perform in favour of another person (the creditor) a certain action, such as: to transfer the property, to perform a job, to pay the money, etc., or to abstain from a certain action, while the creditor has the right to claim that the debtor discharge his obligation.
- Obligations arise from an agreement, from the infliction of a damage, or on the other grounds



- Obligations is discharged in the proper way in conformity with the terms of the obligation and with the requirements of the law and of the other legal acts, and in the absence of such terms and requirements - in conformity with the customs of the business turnover or with the other habitually presented demands.
- The unilateral refusal to discharge the obligation and the unilateral amendment of its terms are not admitted, with the exception of the law-stipulated cases.

# **The Concept of the Contract**

- The contract is recognized as the agreement, concluded by two or by several persons on the institution, modification or termination of the civil rights and duties.
- The citizens and the juridical persons are free to conclude contracts.
- The contract is obliged to correspond to the rules, obligatory for the parties, which have been laid down by the law and by the other legal acts (the imperative norms), operating at the moment of its conclusion.

# Tort law

- A *tort*, in common law jurisdictions, is a civil wrong which unfairly causes someone else to suffer loss or harm resulting in legal liability for the person who commits the tortious act, called a *tortfaisieur*.

- According Civil Code of Russian Federation the injury inflicted on the personality or property of an individual, and also the damage done to the property of a legal entity is subject to full compensation by the person who inflicted the damage.