**MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE**

**NATIONAL AVIATION UNIVERSITY**

**EDUCATIONAL AND RESEARCH INSTITUTE OF LAW**

**DEPARTMENT OF THEORY AND HISTORY OF STATE AND LAW**

**LECTURES**

**on a subject “Fundamentals of Roman Private Law”**

**for Field of Study 08 “Law,” Speciality 081 “Law,” Educational Professional Program “Jurisprudence”**

Developer:

Senior Lecturer Y. Yeryashov

Lectures are vieved and approved at

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Head of the department

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Theme 1. The concept, subject, system and stages of the development of Roman private law

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1. The concept and the subject of Roman private law.

2. System of Roman law.

3. Stages of the development of Roman law.

4. A value of Roman law for modern jurisprudence.

1. The concept and the subject of Roman private law.

The subject of the study course "Roman private law is the system of legal norms of ancient Rome, which governed social relations between individuals, namely:

* a set of personal rights, the legal situation of the subjects in property relations, the ability of subjects to carry out transactions of property;
* legal protection of private rights;
* matrimonial relations;
* relationships related to the property and other rights in things;
* the obligation of the entities arising from different grounds: contracts, offences, allegedly with contracts, allegedly with delinquency;
* issues that arise with regard to inheritance of property of deceased, etc.

2. A system of Roman law.

Roman law in ancient Rome is a complex legal phenomenon that consisted of three

legal systems:

jus civile – civil law;

jus gentium – right of peoples;

jus praetorium – praetor right

Civil law is the oldest national law that regulated property relationships exclusively between Roman citizens. It noted the national limited, burdensome formalìzmom, steady conservatism. The action of the norms of civil law limited territory of Rome.

A right of peoples is right that regulated legal relations between Roman citizens, on the one hand, and citizens who resided outside of Rome on an other.

A right of peoples was more progressive and more accessible to ordinary people, since corresponds to requirements of time and sensitively reacted to changes in society. It is advantageously different from civil law to a greater mobility, lack of burdensome formalism and the national limited, peculiar to the Roman civil law.

Gradually, along with the civil law and the law of peoples there is another legal system under the name of praetor right.

Law of praetor is that entered a praetor for improvements or additions or corrections of civil law for public benefit.

All three legal systems collectively made up the Roman law. After all these system come closer so that lost its differences. Based on its were produced a concept:

* Roman private law (jus privatum) – that concerns a good of individuals (Ulpìan), so there is space for autonomy of an individual,
* Roman public law (jus publicum) – that refers to state of a State (Ulpìan), covers public benefit: the State interest, the legal status of the State, its bodies and officials, the competence of State bodies, acts that express dictation of a State.

3. Stages of the development of Roman law.

Since a formation and the development of Roman law as a whole and unified legal system took place during the Millennium, to organize the material necessary is the separation of the stages (periods) in the development of the Roman State and of Roman law. The Millennium history of Rome can be represented in three periods:

1) tsarist period (753-509 BC);

2) Republic (509-27 BC);

3) period of an Empire (27 BC – 476 ad).

The period of the Empire is divided into: the Principate (27 BC – 284 ad) and domìnate (284 – 476 BC).

If you take into account the emergence, change and formation of the sources of Roman law, its development can be divided into several periods:

1) most ancient, archaic (Стародавній, старовинний) (753-367 BC);

2) classical (367 BC – 17 BC);

3) classic (17 BC– 284 ad);

4) post-classical (284 – 476 ad);

5) Justinian (527-565 a.d).

4. A value of Roman law for modern jurisprudence

Roman law enshrined in the understanding of rights as a reforming system of legal rules, sanctioned by the people for the benefit of themselves, so right-it is the Institute for protection of the population.

In the Roman law for the first time found a display of Division of the law on public and private.

Roman law for the first time in the history of mankind has developed criteria for the evaluation of the legal behavior of man, formed a special legal culture of relations between people.

In the Rom an law for the first time several legal terminology and the field unit, the science of law.

Roman lawyers first took the liberty to declare that the law should be engaged, it is necessary to study and he needs to learn.

Roman law is the essential methodological base of professional legal education, the basis of the understanding of the theoretical branches of law and comparative law, didactic field of formation of legal language and legal thinking.