

# Essential Elements of the Legal System

## *Lecturer's Introduction*

- **Potapenkova Tatyana Anatolyevna**
- **Lecturer of law**
- **Associate professor**
- **Financial university under the government of Russian Federation**

# ***Our Goals – Main Capabilities***

- Identify the essential elements of the legal system, including the main sources of law
- Pass the test

# Literature in English

- Basic literature:

**A.V. Shashkova “Russian Business Law”**

## **Chapters:**

- The Russian legal system
- Subjects of Law
- The law of contract
- Property rights
- Categories of legal entities
- Family law
- Labor and employment law

# Laws in English

- **The Constitution, Civil Code, Family Code, Labor Code of the Russian Federation *in English*.**
- **You can find the text of the Constitution and the Codes in English *in Internet*.**

# Lecture 1

## **Institutes of the Russian and foreign Legal Systems**

# Our tasks are:

To discuss:

- what law is
- sources of law
- peculiarities of different legal systems

# Homework

To read the textbook by

**A.V. Shashkova “Russian Business Law”,**

**Chapter I “The Russian legal system”:**

- 1. A definition of law**
- 2. Classification of laws**
- 3. Sources of law**



# Plan:

- **What is Law?**
- **What are the branches of Law?**
- **Classification of Law: *Public and Private Law, Substantive and Procedural Law.***
- **Sources of Law**
- **Main western legal systems**

# What is law?

- In all societies, relations between people are regulated by prescriptive rules:
  - **customs,**
  - **morality,**
  - **rules of social institutions:**  
социальные нормы (культурные, в области образования и т.д.),
  - **and laws.**

# A question

- There are so many different rules, which regulate relations between people! Does a society need law?
- Can you imagine a society without law?
- **What will follow from this?**

**What are the similarities and differences between laws and other social rules?**

- **Let's consider different social rules.**

- **What are customs?**

# Customs

- **Customs** are informal rules of social and moral behavior that are passed on from one generation to the next over time.
- They are not usually written down.
- They prescribe the ways in which people behave ( talk and eat, work and relax together and so on).

# Rules of social institutions

- Rules of social institutions:
- educational (college rules)
- cultural (to eat with a knife and a fork or with chopsticks)
- some others

# Rules of social institutions

- Rules of social institutions, such as educational, cultural or religious ones, govern the life of those institutions and apply to their members only.
- They can be unwritten, or can be formal and written.
- They are not, however, enforceable by any political authority.



- **What are the consequences of the breaking of these rules?**

- Can other members of society apply to court or to police to **force the offender to observe a custom or a social rule?**

- **No, because customs are not the rules, which have been established by a state.**
- **Only the rules, established by a state, can be enforced by the court or other law-enforcement state agencies (police, army and so on) .**

- So the main difference between customs, other social rules and laws is that **laws are the rules, which are established by a state and enforced by the state** (with the weapons of compulsion (courts, police, prisons, army)).

# A DEFINITION OF LAW

**Law can be defined as:**

- 1. the collection of rules imposed by authority, which are recognized as binding on all persons of the country;**
- 2. the rules are usually written;**

# A DEFINITION OF LAW

3. There are specific **law –enforcement agencies** like police, courts, prisons, army (the weapons of compulsion).
4. In order to ensure that everyone adheres to the law, there are **specific penalties**, such as fines or imprisonment, for those who are found guilty of breaking law;

# A DEFINITION OF LAW

- The general nature of modern law is that **it is enforced equally** against all members of the nation and **no one is above the law.**
- This principle is known as “**the rule of law**”.

- **What are the functions of the law?**



# The main aims of the law are:

- To establish the system of government;
- To protect people and set the rules for their life;
- To protect people's property from the wrong and violent actions of others;
- To punish people who behave in anti-social ways.
- To teach people what things are good (right) and what things are bad (wrong).

# **Sources of the Russian Law are official documents, which are adopted by the state, which contain the obligatory rules (normative legal acts)**

- ✓ The Constitution
- ✓ International treaties
- ✓ Federal laws
- ✓ Laws of the Subjects of the Russian Federation
- ✓ Decrees of the Russian President
- ✓ Executive regulations

# What about customs?

- Some customs can be recognized by the state to be obligatory if they are reasonable, useful and do not contradict the law.
- In this case they become a source of law.
- **For example:**  
**customs of business turnover –**  
**обычай делового оборота**

# Customs of Business Turnover (обычай делового оборота)

- A custom of business turnover shall be deemed to be **a rule of behavior** which has been formed and extensively applied in any domain of entrepreneurial activity and is not provided for by legislation irrespective of whether it has been fixed in any document.
- (The Civil Code of the Russian Federation, Art.3)

# Incoterms

- They are used to divide transaction costs and responsibilities between buyer and seller and reflect state-of-the-art transportation practices.

# Incoterms

- **Incoterms 2010** came into effect on **January 1, 2011.**
- You can read about it here:  
<http://www.youtube.com/watch?v=X0oO7NTdGZg>; <http://en.wikipedia.org/wiki/Incoterm>

# A task

- **Give examples of written and unwritten sources of law:**
- **Constitution**
- **Decrees and orders of the president**
- **Customs of business turnover in cases where it does not contradict the Russian legislation or terms of contract**

# Classification of the **sources of the Russian Law**

## The statutes (ЗАКОНЫ):

- ✓ The Constitution of the Russian Federation
- ✓ International treaties
- ✓ Federal constitutional laws
- ✓ Federal laws

## Decrees of the Russian President

## Subordinate legislation (ПОДЗАКОННЫЕ НОРМАТИВНЫЕ АКТЫ)

- ✓ Executive regulations

## The lawful customs (ПРАВОВЫЕ ОБЫЧАИ)



- The statutes are passed **by the Federal Assembly** as usual
- **Sometimes laws can be adopted directly by the people by referendum.**
- **For example, the Constitution of the Russian Federation was approved by the state referendum.**
- **But as for the other federal laws it happens very rarely.**