

ALVYDA LIUOLIENĖ
REGINA METIŪNIENĖ
SIGITA RACKEVIČIENĖ

ENGLISH FOR LAW AND COMMUNICATION

MYKOLAS ROMERIS UNIVERSITY

ALVYDA LIUOLIENĖ
REGINA METIŪNIENĖ
SIGITA RACKEVIČIENĖ

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Reviewers:

prof. dr. Ligija Kaminskienė, Vilnius University, Lithuania
assoc. prof. Aušra Janulienė, Vilnius University, Lithuania
Kristina D. Schimmels, Mykolas Romeris University, Lithuania

Authors and their contribution:

Alvyda Liuolienė, Mykolas Romeris University, Lithuania (10,06 author's sheets)
Regina Metiūnienė, Mykolas Romeris University, Lithuania (2 author's sheets)
assoc. prof. Sigita Rackevičienė, Mykolas Romeris University, Lithuania (10,06 author's sheets)

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PREFACE

This coursebook provides comprehensive material for the studies of legal English. It enables the learners to understand and use legal English in international oral and written communication of state and private institutions. The coursebook is primarily intended for students who study legal English as part of their philology degree, but may also be used by students of non-philology programmes and other learners who have a special interest in legal English and need to use it for their studies or work.

The coursebook consists of **2 parts** and a **glossary**:

Part 1 is composed of 10 Units introducing legal English and its peculiarities, the main systems of law (common law and continental law), areas (private and public law) and branches of law (contract law, tort law, company law, criminal law, international law, human rights law), as well as legal procedures (civil and criminal procedures). A special unit is devoted to the use of information technologies in legal and illegal activities as the role of information technologies in application of law as well as in criminal acts is constantly growing nowadays.

Each Unit contains the following components:

- A short overview of the Unit;
- BEFORE YOU READ: introductory questions on the topic of the Unit;
- KEY VOCABULARY: the terminology of the Unit and a matching exercise enabling the learners to study and understand the meanings of the main terms used in the Unit;
- READING: Texts on the topic of the Unit and reading tasks "Understanding main points" and "Understanding details";
- POINTS TO REMEMBER: explanation of important language points;
- READING COMPREHENSION AND VOCABULARY TASKS enhancing understanding the content and peculiarities of legal texts, expanding the legal vocabulary and developing translation skills;
- GRAMMAR FOCUS: exercises developing skills to use grammar structures characteristic of legal English and to form words using various word formation means;
- COMMUNICATION: methodological recommendations and tasks developing skills of various forms of legal communication – oral communication (oral presentations, participation in meetings, negotiations, telephoning, lawyer-client interviews) and written communication (report, summary and formal e-mail writing);
- DISCUSSION: tasks developing abilities of analysing information and presenting and defending one's opinion on debatable questions;
- FOLLOW UP: references for further individual study of the topic;
- REFERENCES of the sources used in the Unit.

Part 2 is intended for students' self-study (home reading). It is composed of additional texts on the topics of the Units in Part 1. Each text is followed by reading comprehension and vocabulary tasks helping the students to analyse the content and the language of the texts. At the end of Part 2, the references of the used sources are given.

The coursebook ends with the Glossary which contains the terms used in the coursebook and their definitions.

The coursebook develops both receptive and productive legal English skills including reading, writing and speaking as well as legal translation abilities. Listening skills of the students may be developed using the studybook "Listening for Law" by Alvyda Liuolienė, Regina Metiūnienė and Daiva Užpalienė (Mykolas Romeris university, 2008) and online sources related to the topics of the coursebook.

Key to the exercises is provided in a special edition for teachers.

Part 1

English for Law and Communication

UNIT 1

LEGAL ENGLISH AND ITS TERMINOLOGY

Legal English has traditionally been the sphere of lawyers from English-speaking countries which have shared common law traditions. However, due to the spread of Legal English as the predominant language of international business, as well as its role as a legal language within the European Union, legal English is now a global phenomenon. It is informally referred to as legalese. Modern legal English is based on Standard English. However, it contains a number of unusual features. These largely relate to terminology, linguistic structure, linguistic conventions, and punctuation, and have their roots in the history of the development of English as a legal language.

In the texts of this unit you will get acquainted with the peculiarities of legal English and find out some information about the origin of legal terms and their categories according to their usage in everyday language. The main issues of translation of legal texts will also be dealt with in this unit. The Grammar section of the unit covers the use of articles with some legal terms, especially with the most confusing ones.

BEFORE YOU READ

Why do we need laws in society? What do they regulate? Could a society without laws exist at all?

1. Have you ever encountered any legal terms? What words related to law do you know?
2. Discuss the meaning of the words **party, bar, sentence, damages, consideration, remedy**. What do they mean in everyday English? Do you know what they (e.g. **"sentence"** in criminal law) mean in legal English?
3. Where can you look for information about unknown legal terms?
4. Consider this list of sources of information about a legal term. What are the advantages and disadvantages of each? Discuss your views with your group mate.
 - Online legal dictionary
 - Legal dictionary in a book form
 - Glossary of terms on the website of an international organisation
 - Google's definition of a term
 - Finding the term in the context of its use in a document online
 - Law firm's glossary of legal terms on its website

KEY Vocabulary

legal discourse, legislation, legalese, legal jargon, legal writing, legal correspondence, legal concept, legal terminology, loanword, inheritance, legal collocation, doublet, triplet, (un)ambiguous, ambiguity, plain English movement, legal translation, comparative law, domestic/international legal framework, legal system, legal culture, culture-bound term, target language, source language, domesticating translation technique, foreignizing translation technique, functional equivalence, literal equivalence, borrowing, transcription, transliteration, naturalisation, neologism, description/paraphrasing

MATCH THE LEGAL TERMS WITH THEIR DEFINITIONS

1) law	a) person who makes laws or passes laws
2) a law	b) to make a law
3) lawyer	c) the branch of knowledge or study concerned with the rules of a community and their enforcement
4) lawful	d) written rules which are passed by Parliament and implemented by the courts
5) legality	e) belonging to the branch of government that is charged with such powers as making law
6) legalization	f) language used by lawyers, the specialized language of the legal profession
7) to legalize	g) relating to laws
8) legislator	h) against the law
9) to legislate	i) the state of being allowed by the law
10) legislative	j) to make smth. legal
11) legal	k) a rule of conduct or procedure recognized by a community as binding or enforceable by authority
12) legislation	l) making smth legal
13) illegal	m) according to the law, sanctioned by law or in conformity with the law, especially as it is written or administered by the court
14) legitimate	n) complying with the law, or having official status defined by law
15) legalese	o) a qualified professional adviser on legal matters who can represent clients in court

READING 1: LEGAL ENGLISH AND ITS TERMINOLOGY

UNDERSTANDING MAIN POINTS

Read the text and answer the following questions:

1. In what communicative situations is legal English used?
2. What special term refers to legal English?
3. How has legal English developed and what languages have particularly influenced its development?
4. What is the origin of English legal terminology? Give examples of terms of different origin.
5. What are legal doublets and triplets and why have they been created and used?
6. What are the categories of English legal terms according to their usage in everyday language? Give examples of each of them.
7. What are the aims of the plain English movement?

UNDERSTANDING DETAILS

1. Explain the following terms:

- 1) legal discourse
- 2) judicial discourse
- 3) statute
- 4) deed
- 5) will

- 6) court official
- 7) counsel
- 8) court ruling
- 9) court pleadings/statement of case
- 10) legal writing

2. What is the origin of the following terms and what do they mean?

- 1) treason
- 2) murder
- 3) manslaughter
- 4) theft
- 5) blackmail
- 6) breach of contract
- 7) tort
- 8) trespass to land
- 9) defamation
- 10) negligence

3. What are the meanings of the following words in standard English and in legal English?

- 1) offence
- 2) wrong
- 3) trial
- 4) hearing
- 5) action
- 6) party
- 7) defence
- 8) sentence
- 9) remedy
- 10) damage

What is legal English and legalese?

The English legal language of today includes many different **legal discourses** such as the language of statutes or Acts of Parliament, legal documents (contracts, deeds, wills), and also judicial discourse, which is the language of court rulings collected in reports, the language used by judges, counsels, court officials, witnesses and other participants in a trial; and discourse of legal consultation between lawyer and lawyer, lawyer and client. Each discourse differs according to the situation in which it is used. Yet, there are some common features which distinctly characterize the modern **legal English**, in general.

These features are grouped by the term **legalese** which is the specialized language of the legal profession, or more specifically, the style of English used by lawyers and other legal professionals in the course of their work; it is applied in drafting of legal documents, court pleadings/statements of case and laws, in legal writing and in legal correspondence.

Legal English is closely connected to the Latin and French legal languages which have strongly influenced its development. In Medieval England, the predominant spoken language in courts was French, while legal documents were written in Latin and French. One of the reasons for the use of these languages in law, instead of English, might have been "the urge to have a secret language and to preserve a professional monopoly" and thus to set it apart from the rest of the society (Maley, 1994:12). Only by the end of the 15th century statutes began to be printed in English (Beveridge, 1998:124). However, it was not until the 17th centuries that English became the official language of law and gradually the domination of legal French and legal Latin was over (Maley, 1994:12). The contacts with these two languages have had a big impact on the formation of legal English and its characteristic features.

Legal English differs from standard English in a number of ways: complex syntactic structures, unusual word order, use of specific phrasal verbs, adverbs, noun derivatives etc. However, the most prominent feature of legal English is **legal terminology** which has developed through centuries of political, social and legal changes. This article aims at highlighting the most important features of English legal terminology, namely (1) origin of the legal terms and (2) categories of the legal terms according to their usage in everyday language.

Origin of legal terms

The origin of the English legal terminology is heterogeneous. It comprises both loanwords (mostly from Latin and French) and inheritances from Old English.

Loanwords

The predominant part of the English legal terms comes from Anglo-French, Old French or Latin as a result of contacts between legal English, Latin and French. Most of the loanwords are anglicised, i.e. their spelling and pronunciation are adapted to the English language, but some of them have preserved their original form:

Loanwords adapted to English:

contract (<O.Fr.), **offer** (<L.), **acceptance** (<O.Fr.), **consideration** (<O.Fr.), **terms** (<O.Fr.), **capacity** (<M.Fr.), **tort** (<O.Fr.), **nuisance** (<Anglo-Fr.), **conversion** (<O.Fr.), **trespass** (<O.Fr.), **negligence** (<L.), **defamation** (<O.Fr.), **offence** (<O.Fr.), **indictable offence** (<Anglo-Fr.), **summary offence** (<M.L.), **treason** (<Anglo-Fr.), **rape** (<O.Fr.), **fraud** (<O.Fr.), **corruption** (<L.), **forgery** (<Anglo-Fr.), **counterfeiting** (<O.Fr.), **imprisonment** (prison<O.Fr.) (Online Etymology Dictionary).

Latin terms used in their original form:

stare decisis, per incuriam, ratio decidendi, obiter dictum, actus reus, mens rea, habeas corpus, mandamus, certiorari, jus gentium, jus cogens, opinio juris.

Inheritances

Inheritances from Old English constitute the minor part of the legal terminology. Old English inherited them from Proto-Germanic or borrowed from Old Norse which in turn took them over from Proto-Germanic:

law (<O.E.<O.N.<P.Gmc.), **will** (<O.E.<P.Gmc.), **goods** (<O.E.<P.Gmc.), **land** (<O.E.<P.Gmc.), **loss** (<O.E.<P.Gmc.), **breach** (<O.E.(influenced by O.Fr.)<P.Gmc.), **murder** (<O.E.<P.Gmc.), **manslaughter** (manslaughter<O.E.; man<O.E.<P.Gmc.; slaughter<O.N.<P.Gmc.), **theft** (<O.E.<P.Gmc.), **blackmail** (black<O.E.<P.Gmc.; mail<M.E.<O.E.<O.N.<P.Gmc.) (Online Etymology Dictionary).

Doublets, triplets

The usage of vocabulary of various origin resulted in another specific feature of legal English – collocations involving synonyms or near synonyms (doublets and triplets). Most of such collocations include words of different origin – inheritances from Old English and loanwords from Anglo-French, Old French or Latin.

Doublets and triplets including inheritances and loanwords:

last will and testament (last, will<O.E.; testament<L.), **able and willing** (able<O.Fr.; willing<O.E.), **goods and chattels** (goods<O.E.; chattels<O.Fr.), **lands and tenements** (land<O.E.; tenement<Anglo-Fr.), **breaking and entering** (break<O.E.; enter<O.F.), **right, title and interest** (right<O.E., title<O.Fr., interest<Anglo-Fr.) (Online Etymology Dictionary).

Doublets and triplets including only loanwords:

terms and conditions (term, condition<O.Fr.), **perform and discharge** (perform<Anglo-Fr., discharge<O.Fr.), **null and void** (null<M.Fr., void<Anglo-Fr., O.Fr.), **peace and quiet** (peace<Anglo-French, quiet<O.Fr.), **force and effect** (force, effect<O.Fr.), **promise, agree and covenant** (promise<L., agree<O.Fr., covenant<O.Fr.) (Online Etymology Dictionary).

Doublets including only inheritances:

let and hindrance (let, hinder<O.E.), **have and hold** (have, hold<O.E.) (Online Etymology Dictionary).

These legal collocations appeared at the time when Latin, French and English were used as law languages. There are several explanations for their appearance. It is often supposed that the main reason for their appearance was etymological, i.e. that writers paired a Latinate or French term with an Anglo-Saxon approximation as an explanation of the foreign word and thus maximized the understanding of readers and listeners. It is also argued that the words were paired to cover distinct nuances and thus to avoid ambiguity and achieve maximum precision. However, some researchers claim that doublets and triplets have nothing to do with the etymology and the meaning of their constituents. They suppose that the main reason for their use was rhetorical, i. e. writers sought in this way to give rhetorical weight to the statements which they wanted to emphasize. Whatever the reason was, legal doublets and triplets became a feature of legal English style which continues to present day (Ingels, 2006: 60; Crystal, 2004:152; Garner, 2011: 294).

Categories of legal terms according to their usage in everyday language

English legal terms may be divided into several categories according to the frequency of their usage in everyday language. Each of them is discussed below (cf. Crystal, Davy, 1969: 210; Haigh, 2004: xvi-xvii).

Words/phrases unique or nearly unique to law

The legal terms of this category appear almost only in legal discourse and are hardly ever used in everyday language. This category includes Latin terms used in their original form (their examples are given in the previous section) and adapted loanwords. Many of them are widely used in law: **tort, tortious, trustee, trusteeship, injunction, rescission, forfeiture, writ, subpoena, affidavit**. However, some terms of this group have highly specialised meanings and appear only in highly specialised texts – **replevin, fee simple, novation, emoluments, bequest**. For this reason, they are called legal jargon (Haigh, 2004: xvi).

Common words/phrases

The legal terms of this category are words and phrases which are also frequently used in everyday language. Bigger part of them has similar general and legal meanings, but the meaning of some words and phrases is different in ordinary and legal English.

Words having similar meanings in ordinary and legal English:

wrong, offence, remedy, penalty, contract, offer, acceptance, assault, murder, kidnapping, robbery, burglary, smuggling, defamation, speeding.

Words/phrases having different meanings in ordinary and legal English (the first explanation in brackets refers to the most usual general meaning of the words and the second explanation – to their legal meaning):

action ("the process of acting" and "legal proceedings"), **hearing** ("the act of perceiving sound" and "the examination of the facts of a case before a court"), **trial** ("the act of trying" and "the examination of the facts of a case before a court"), **party** ("a social gathering" and "either of the persons/sides in legal proceedings"), **instrument** ("a tool or implement" and "a legal document"), **motion** ("the act of moving" and "application to a court for an order"), **ruling** ("the act of governing" and "a decision made by a court"), **sentence** ("a grammatical unit of one or more words" and "the judgment of a court stating

the punishment to be imposed on a defendant”), **consideration** (“careful thought or attention” and “benefit to the promisor and a detriment to the promisee”), **specific performance** (“a special act” and “a court order to fulfil obligations under a contract”) (A Dictionary of Law, 2006; Dictionary.com; YourDictionary.com).

This category also includes words having several legal meanings, one of which is similar to the general meaning and another one is different, e.g. **defence** (“the act of defending” and (1) “the defendant’s arguments in a case”, (2) “an issue of law or fact that may relieve the defendant of liability”), **damage** (“harm” and (1) in singular “loss or harm”, (2) in plural “monetary compensation”) (A Dictionary of Law, 2006; Dictionary.com; YourDictionary.com).

To sum up, the following features are characteristic of English legal terminology:

- 1) The bigger part of English legal terms are loanwords from Anglo-French, Old French and Latin which were borrowed in the medieval period when Latin and French were the predominant languages of law in England. Most of such terms are adapted to the English language, but some of them (Latin terms) are used in their original form. Inheritances from Old English constitute the minor part of the legal terminology, they are either taken over directly from Proto-Germanic or borrowed from Old Norse.
- 2) The various origin of English legal terminology became the reason for formation of a specific stylistic feature of legal English – doublets and triplets. Most of them include synonyms/near synonyms from different languages and were originally used to avoid misunderstandings.
- 3) English legal terms differ in frequency with which they are used in everyday language. Some terms are unique or nearly unique to law, others are words and phrases common in ordinary English. Most words and phrases of the latter category have similar general and legal meanings, but the meaning of some of them is different in ordinary and legal English.

The extensive use of loanwords and other specific stylistic features make legal English formal and distant from everyday language. Some of this formality is necessary as legal English is used in official documents, but its extent is not always justified by the public which often considers legal English to be too opaque and incomprehensible. That has given rise to plain English movement which focuses on the public’s needs and aims at avoiding jargon terms (highly specialised terms) and complicated structures and making legal language more comprehensible to non-lawyers. Nevertheless, legal English is likely to preserve its main features which date back to the Middle Ages. Its usage requires special language knowledge and special skills enabling to use it in the course of communication.

READING 2: TRANSLATION OF LEGAL TERMINOLOGY

UNDERSTANDING MAIN POINTS

1. Why is legal language important in international communication?
2. How does legal terminology differ from terminology of other sciences?
3. What is meant by the statement that “legal translation is essentially a process of translating legal systems” and why do translators have “to practice comparative law”?
4. Why do legal translators have to be especially accurate?
5. What dimension does globalisation add to legal translation?
6. How are source language and target language understood in legal translation?
7. What are the main differences between the target-language oriented translation techniques and source-language oriented translation techniques?

UNDERSTANDING DETAILS

1. Explain the difference between:

- 1) legal term – legal concept
- 2) legal system – legal setting
- 3) source language – target language
- 4) source legal system – target legal system
- 5) international terminology – domestic terminology

2. What are the main advantages and disadvantages of the following translation techniques?

- 1) functional equivalence
- 2) literal equivalence
- 3) borrowing
- 4) description

Legal terminology in international communication

In the contemporary international communication, legal language plays a vital role. The legal norms of the different legal systems directly affect international communication as they constitute “the rules of the game” which are to be followed by the communication parties. Therefore, the legal language and its translation become an important instrument which enables the participants of the communication to understand each other.

Legal terminology is the core of legal language as it defines the system of legal concepts of a given legal system. Therefore, legal terminology skills and precision of its use is of vital importance in the communication process. However, translation of legal terminology is challenging even for experienced translators.

Why is translation of legal terminology so special?

Legal terminology differs from terminology of other sciences in several aspects. Firstly, legal terms define only abstract concepts which are created by generalizing the main features of similar phenomena, e.g., the legal concept *crime* generalizes the main features of various types of criminal acts and omissions; the legal concept *criminal penalty* generalizes the various types of punishments in criminal law.

Secondly, these legal concepts are closely related to a particular legal system. Legal systems evolved during the history of each nation and reflect the worldview and moral values of a particular society in a particular period of time. Each legal system develops its own system of legal concepts which result from long discussions among politicians, lawyers, and the general public, and show how various situations of real life are conceived and controlled in different societies. Therefore, absolute equivalence between legal terms from different legal systems is not possible as legal terms define concepts which may only be similar in their functions, but not completely identical (Sandrini, 1999, p. 102-103).

These peculiarities of legal terminology make it especially difficult to translate legal terms from one language to another. Translation of legal terms requires thorough understanding of their functions and semantics which is impossible without the awareness of source and target legal systems, as well as legal settings in which the terms to be translated are used. Legal translation is “an operation not only between two or more languages but, above all, between distinct legal systems and legal cultures” (Biel, Engberg, 2013: 3). As S. Šarčević states, “legal translation is essentially a process of translating legal systems” (Šarčević, 1997: 229).

Inaccurate use of legal terminology may lead to unexpected consequences – incorrect interpretation of primary information and mistaken assumptions. Therefore, legal translators have to be particularly accurate. Translation of legal documents has to inform the receivers as accurately as possible on

legal terms which are unknown to them and enable them to relate the terminology of the foreign legal system with the terminology of their native legal system. Actually, legal translators have “to practice comparative law” (de Groot, Laer, 2007: 173). Globalisation adds one more dimension to legal translation. The translator also has to consider the international legal framework in which the terms defining the analysed concepts are used (Sandrini, 2006: 117-118; 2009: 44-46). As law is being more and more globalised, the terminology used in international legal documents inevitably influences the development of the domestic terminology and its translation.

Translation techniques of legal terminology

Translation techniques for legal terms, as other culture-bound terms, range from foreignizing techniques to domesticating techniques. The foreignizing techniques are target language oriented techniques, while domesticating techniques are source language oriented techniques (Harvey, 2000: 2; Biel, 2008: 24). However, the same language may have several variants of legal languages as “a language has as many legal languages as there are systems using this language as a legal language” (de Groot, van Laer, 2007: 174). For example, legal English is used in different legal systems (the legal system of England and Wales, the legal system of Scotland, the legal system of the US, etc.) which employ quite different legal languages with different systems of legal concepts. Therefore, target language and source language in legal translation do not refer to discussed languages in general, but to legal languages of specific legal systems.

The target language oriented techniques try to assimilate the terms of a source legal system both into the target language and the target legal system by using equivalents similar in their meaning and function to those in a source legal system. The source language oriented techniques, on the other hand, seek to preserve the semantic content of the terms of a source legal system intact and often present them in a maximum close form to the source language.

Translation researchers suggest several techniques for translation of legal terminology; the most common of them are **functional equivalence**, **literal/formal equivalence**, **borrowing** and **description/paraphrasing** (Harvey, 2000: 2-6).

Functional equivalence

This technique uses the target language legal concept, the function of which is similar to that of the source language legal concept. Compared with other translation techniques, it is the most target language oriented technique as it uses the target language terms as equivalents for the source language terms and thus assimilates them into the target language and legal system.

For example, in the English translation of the Lithuanian criminal code, the criminal law term *baudžiamasis nusižengimas* is translated by the term *misdemeanour* which is used in the US legal system. Both the US term and the Lithuanian term define criminal acts and omissions that are not so dangerous (as compared to the US *felony* and the Lithuanian *nusikaltimas*). However, they have important semantic differences: *misdemeanour* in the US legal system is an offence punishable by imprisonment of one year or less, but more than 5 days, while *baudžiamasis nusižengimas* is an offence which is not punishable by imprisonment with the exception of arrest. Therefore, these terms may not be considered exact equivalents, but may be used as functional equivalents as they share some similar functions (Criminal Code of the Republic of Lithuania, 2000).

Literal equivalence

The core of this technique is literal (“verbum pro verbo”) translation. It allows to preserve the semantic content of the source language term intact and to present it in a form natural for the target language users.

For example, in the English-Lithuanian law dictionaries, the English terms *common law* and *equity* are translated by the literal equivalents *bendroji teisė* and *teisingumas*. The English terms refer to the systems of law developed in England and later adopted by the English colonies and do not have any similar

equivalents in the Lithuanian legal system. In such cases, literal equivalents might help to solve the translation problems (Bitinaitė, 2008).

Borrowing

The technique of borrowing uses a transcribed or an original form of the source language term. Transcription is usually done together with naturalisation – the linguistic adaptation of the source language term to the rules of the target language. Linguistically adapted terms become neologisms in the target language. Compared with other translation techniques, this technique is the most source language oriented one.

For example, in the English-Lithuanian dictionaries, the English term *Lord Chancellor* is translated as *lordas kancleris*. The English term refers to a senior official in the UK government who holds the position of Secretary of State for Justice. This term does not have any equivalent in the Lithuanian language; in such case, a literal translation is a possible translation solution (Bitinaitė, 2008).

Description

This technique constitutes paraphrasing – short explanation of the meaning of the term. Concise paraphrases may become term equivalents consisting of several words.

For example, in the English-Lithuanian dictionaries, the term *law lords* is translated as *lordai teisėjai* (*Lordų rūmų nariai, skiriami nagrinėti apeliacijas*). This term refers to holders of high judicial office who were appointed to exercise the judicial functions of the House of Lords in the UK (until the reform in 2009). The translation *lordai teisėjai* includes the borrowing *lordai*, but it may also be regarded as a description/paraphrasing as it explains that the term refers to the lords who are judges. The explanatory note in the brackets (*Lordų rūmų nariai, skiriami nagrinėti apeliacijas*) supplements the explanation (Bitinaitė, 2008).

To sum up, translation of legal terminology requires special preparation, both knowledge of law and translation theory, which would enable the translator to perceive the meaning of the term and choose the most suitable technique for its translation.

POINTS TO REMEMBER

1. law

Law is, generally, a system of rules which are enforced through social institutions to govern behaviour, although the term “law” has no universally accepted definition. Laws can be made by legislatures through legislation (resulting in statutes), the executive through decrees and regulations, or judges through binding precedents (normally in common law jurisdictions, such as in the UK or the USA).

The rule of law is the legal principle that law should govern a nation, as opposed to arbitrary decisions by individual government officials.

2. law/a law/the law

The word *law* may be used in different meanings and with different articles.

A law means one individual rule, a rule of conduct or action prescribed or formally recognized as binding or enforced by a controlling authority.

Parliament has proposed a new law to protect people from being evicted unfairly.

A new law was passed to make divorce easier and simpler.

The law means the whole body of laws considered collectively, it may also mean the police and the courts.

The courts exist to uphold, interpret, and apply the law.

He's been in and out of trouble with the law for the last 10 years.

All citizens are equal before the law.

Law means the laws as a system or set of rules made by the government of a town, state, country, etc. or the department of knowledge concerned with these rules; jurisprudence, or the legal profession.

He studied law at university.

Mr Brown is still practising law.

3. legalese

Legalese means the formal and technical language of legal documents, the language containing an excessive amount of legal terminology or of legal jargon. It was coined in 1914, from the words "legal" + "language", ending in -ese.

It is the language of dense legalese, often containing double or triple negatives.

The typed pages were full of confusing legalese.

Unfortunately, the disclosures are hard to read due to legalese.

The Supreme Court decisions that he attacks are written in difficult, if not impenetrable, legalese.

READING COMPREHENSION AND VOCABULARY TASKS

Task 1. Read the text and insert the appropriate categories of legalese.

- a) Loan words and phrases from other languages
- b) phrasal verbs
- c) word order
- d) doublets and triplets
- e) Everyday words that when used in law have different meanings
- f) -er, -or, and -ee name endings
- g) Specialized words and phrases
- h) Archaic vocabulary
- i) sentences are usually long and complicated

Legalese

Legalese is an English term first used in 1914 for legal writing that is difficult for non-lawyers to understand. The term has been adopted by other languages. Legalese is legal writing that is characterized by long sentences, numerous modifying clauses, complex vocabulary, high levels of abstraction, and a general lack of sensitivity to the needs of the non-legal reader.

Legal writing makes extensive use of technical terminology. This distinctive vocabulary can be classified in these categories:

1. _____ unique or nearly unique to law, such as *tort*, *fee simple* and *novation*.
2. _____ from the everyday usage, such as *action* (a lawsuit, not movement), *consideration* (support for a promise, not kindness), *execute* (to sign, not to kill), and *party* (a principal in a lawsuit, not a social gathering).

3. _____: legal writing employs a fairly large number of outdated words and phrases that were formerly part of everyday language but are today rare except in law. Some date from the 1500s. Most are long-abandoned outside the law. Some English examples are *herein, hereto, hereby, heretofore, whereas, whereby* (as a way of avoiding the repetition of names of things in the document – very often, the document itself. For example, *the parties hereto* instead of *the parties to this contract*); also such words as *said* and *such* as adjectives. The use of such pronouns in legal texts is interesting since very frequently they do not replace the noun – which is the whole purpose of pronouns – but are used to supplement them. For example, *the said John Smith*.
4. _____: In English, this includes terms derived from French (such as *estoppel, laches, and voir dire*) and Latin (both terms of art such as *certiorari, habeas corpus, and prima facie*; and non-terms of art such as *inter alia, mens rea, and sub judice*). These foreign words are not written in italics or other distinctive type as is customary when foreign words appear in other English writing.
5. Use of _____. There is a curious historical tendency in legal English to string together two or three words to convey what is usually a single legal concept. Examples of this include *null and void, fit and proper, perform and discharge, dispute, controversy or claim, and promise, agree and covenant*. Such constructions must be treated with caution, since sometimes the words used mean, for practical purposes, exactly the same thing (*null and void*); and sometimes they do not quite do so (*dispute, controversy or claim*).
6. Unusual _____. At times, the word order used in legal documents appears distinctly strange. For example, *the provisions for termination hereinafter appearing or will at the cost of the borrower forthwith comply with the same*. There is no single clear reason explaining this phenomenon, although the influence of French grammatical structures is certainly a contributing factor.
7. _____. Legal English contains a large number of names and titles, such as employer and employee, or lessor and lessee, in which the reciprocal and opposite nature of the relationship is indicated by the use of alternative endings. This practice derives from Latin.
8. Use of _____. Phrasal verbs play a large role in legal English, and are often used in a quasi-technical sense. For example, *parties enter into contracts, put down deposits, serve [documents] upon other parties, write off debts, etc.*
9. Because of the meticulous nature of the composition (by legal experts), in legal texts, _____.
E.g. "Signing and attestation of wills. No will shall be valid unless-
(a) it is in writing, and signed by the testator, or by some other person in his presence and by his direction; and
(b) it appears that the testator intended by his signature to give effect to the will; and
(c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and
(d) each witness either—
(i) attests and signs the will; or
(ii) acknowledges his signature,
in the presence of the testator (but not necessarily in the presence of any other witness),
but no form of attestation shall be necessary."

Task 2. Explain the meaning of the following doublets and triplets. In which situations or legal documents do you think they can be used?

- | | |
|----------------------------------|----------------------------------|
| 1) aid and abet | 10) legal and valid |
| 2) appropriate and proper | 11) liens and encumbrances |
| 3) bind and obligate | 12) null and void |
| 4) convey, transfer and set over | 13) power and authority |
| 5) final and conclusive | 14) right, title and interest |
| 6) from now and henceforth | 15) sale and transfer |
| 7) have and hold | 16) signed, sealed and delivered |
| 8) goods and chattels | 17) terms and conditions |
| 9) law and order | 18) will and testament |

Task 3. Study the following English legal terms and phrases of Latin origin and do the crossword using some of these Latin phrases.

- | | |
|---|---|
| 1) <i>ad hoc</i> – for this purpose | 14) <i>inter alia</i> – among other things |
| 2) <i>ab initio</i> – from the beginning | 15) <i>mens rea</i> – guilty mind |
| 3) <i>actus reus</i> – guilty act | 16) <i>non compos mentis</i> – insane |
| 4) <i>bona fide</i> – in good faith | 17) <i>per annum</i> – annually, in a year |
| 5) <i>exempli gratia</i> – for example | 18) <i>per se</i> – by itself |
| 6) <i>de facto</i> – in fact | 19) <i>persona non grata</i> – a foreign person who is not acceptable to a government |
| 7) <i>de jure</i> – by right | 20) <i>prima facie</i> – at first sight |
| 8) <i>et cetera</i> – and so on | 21) <i>pro rata</i> – in proportion |
| 9) <i>habeas corpus</i> – a legal remedy against being wrongly imprisoned (May you have the body) | 22) <i>quasi</i> – as if it were |
| 10) <i>id est</i> – that is | 23) <i>sub judice</i> – in the course of trial |
| 11) <i>in camera</i> – hearing a case in private | 24) <i>ultra vires</i> – beyond the power |
| 12) <i>in curia</i> – in open court | 25) <i>versus</i> – against |
| 13) <i>in situ</i> – in its original situation | |

CROSSWORD

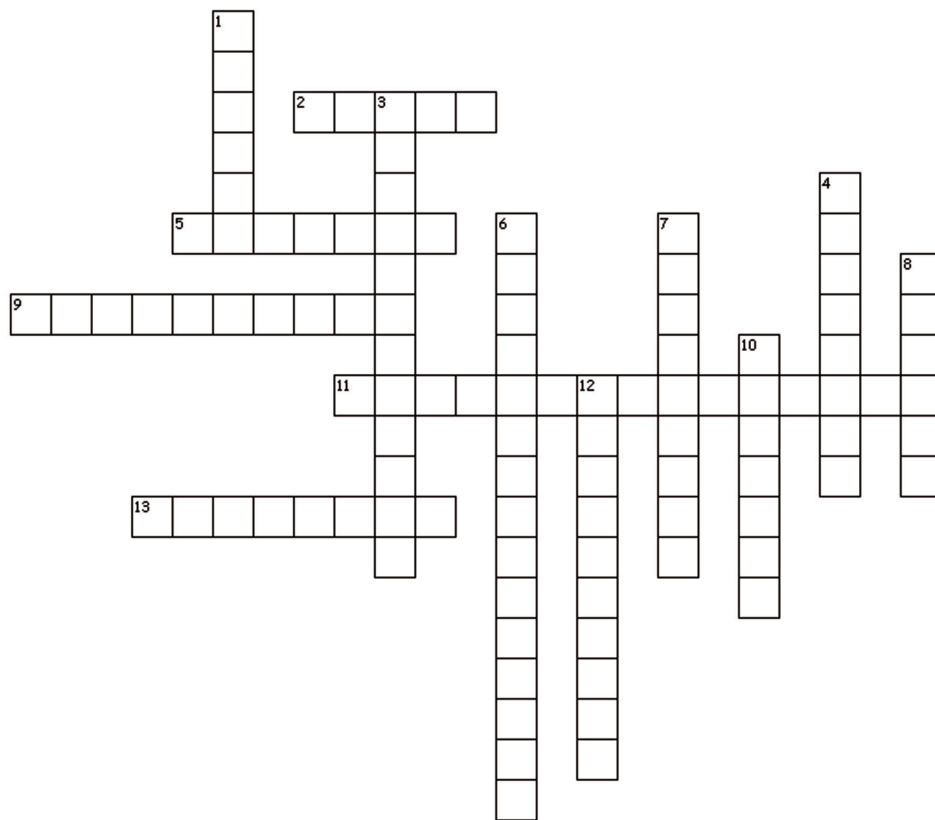
Across

2. For this particular purpose
5. Guilty mind, mental state required to be guilty of committing a crime
9. Beyond powers, exceeding legal powers
11. Not fully sane, mad
13. Annually, in a year; every year or by the year

Down

1. Something that is established in law, whether or not it is true in general practice
3. May you have the body, legal remedy against being wrongly imprisoned
4. From the beginning
6. Foreign person who is not acceptable to a government (used especially for diplomats)
7. Guilty act, act which is forbidden by criminal law

8. Against
 10. Often used to mean something that is true in practice, but has not been officially instituted or endorsed
 12. A matter that appears to be sufficiently based in the evidence as to be considered true



Task 4. Fill in the gaps with the most appropriate words from the box.

analytical, citation, competently, complexity, law graduates, legal writing,
 legalese, linguistic, sentence construction

Legalese

- "Fog in the law and _____ (1) is often blamed on the complex topics being tackled. Yet when legal texts are closely examined, their _____ (2) seems to arise far less from this than from unusual language, tortuous _____ (3), and disorder in the arrangement of points. So the complexity is largely _____ (4) and structural smoke created by poor writing practices. _____ (5) is one of the few social evils that can be eradicated by careful thought and disciplined use of a pen. It is doubly demeaning: first it demeans its writers, who seem to be either deliberately exploiting its power to dominate or are at best careless of its effects; and second it demeans its readers by making them feel powerless and stupid." (Martin Cutts)
- "An American Bar Foundation study found in 1992 that employers believe that the biggest problem with recent _____ (6) is that they don't know how to write. And the graduates themselves say that writing is the part of their jobs that their legal education has least equipped them to do _____ (7) (let alone artfully, easily, beautifully).

Those who see legal writing as being simply a matter of cleaning up grammar and punctuation, as well as learning _____ (8) form, grossly misunderstand what the field should be. Good writing results from good, disciplined thinking. To work on your writing is to improve your _____ (9) skills." (Bryan A. Garner)

Task 5. Match the types of legal documents with their definitions.

Types of Legal Documents

1) act, enactment, Act of Parliament	13) indictment
2) acquittal	14) impeachment
3) acquittance	15) judgment, legal opinion
4) affidavit	16) writ
5) articles of incorporation	17) law
6) authorisation, authorization, mandate	18) letters testamentary
7) bill	19) license, permit, licence
8) brief	20) patent
9) deed, deed of conveyance, title	21) petition
10) deed of trust, trust deed	22) pleading
11) derivative	23) testament / will
12) income tax return, tax return	24) work papers, work permit, working papers

- a) a statute in draft before it becomes law; "they held a public hearing on the bill"
- b) the legal document stating the reasons for a judicial decision; "opinions are usually written by a single judge"
- c) a formal document written for a prosecuting attorney charging a person with some offence in a criminal case
- d) judgment, as by a jury or judge, that a defendant is not guilty of a crime as charged
- e) legal document setting forth rules governing a particular kind of activity; "there is a law against kidnapping"
- f) a legal document declaring a person's wishes regarding the disposal of their property when they die
- g) a legal document codifying the result of deliberations of a legislative body
- h) a legal document giving official permission to do something; "a driving licence"
- i) a legal document signed and sealed and delivered to effect a transfer of property and to show the legal right to possess it; "he signed the deed"; "he kept the title to his car in the glove compartment"
- j) a written instrument legally conveying property to a trustee often used to secure an obligation
- k) a formal application in writing made to a court asking for some specific judicial action: a petition for divorce
- l) written declaration made under oath; a written statement sworn to be true before someone legally authorized to administer an oath
- m) a document giving the tax collector information about the taxpayer's tax liability; "his gross income was enough that he had to file a tax return"
- n) a formal written statement of a party's claims or defences to another party's claims in a civil action; "to file pleadings"

- o) a legal document that creates a corporation; it is filed with a state by the founders of a corporation and is governed by the laws of the state
- p) a legal document evidencing the discharge of a debt or obligation, a receipt indicating payment in full
- q) a legal document from a probate court or court officer informing you of your appointment as executor of a will and empowering you to discharge those responsibilities
- r) a legal document giving information required for employment of certain people in certain countries
- s) a financial instrument whose value is based on another security
- t) a formal document charging a public official with misconduct in office
- u) a legal document issued by a court or judicial officer
- v) a document giving an official instruction or command
- w) a document stating the facts and points of law of a client's case
- x) an official document granting a right or privilege

Task 6. Match the beginning of the sentence from box A with the ending of the sentence in box B. There is one extra ending.

A	B
1. One of the legal theorists of the nineteenth century defined law as a command	a) ... local custom or practice, or they may be connected to religious beliefs.
2. Law could also be described as a formal mechanism of social control because	b) ... the two develop and the sanctions imposed.
3. Unwritten rules within communities come from	c) ... the law also imposes duties on people.
4. Codification makes the law more accessible so that everyone knows their rights and duties	d) ... it is unlikely that law will ever produce justice in every case.
5. The law of the country reflects the moral values accepted by the majority of the country	e) ... however, a fully codified system would prevent change and development of the law with the needs of society.
6. There are differences between the law and morality in the way	f) ... issued from a superior to an inferior and enforced by sanctions.
7. Justice is the ultimate goal towards which the law should strive, but	g) ... visibly illustrated by the employment law.
8. In order to keep the balance trying to ensure that one's person's rights do not effect another person's rights	h) ... maintains the rights of people not to be assaulted or to have their property stolen.
9. The idea of rights and duties can be	i) ... the rules set down in the law can be enforced through the courts and legal systems.
10. In the criminal law the duty imposed on people to obey the law or to face punishment	j) ... involves issues of morality, justice and violates rights of the employees.
	k) ... but the law is unlikely to be exactly the same as the common religious moral code.

Task 7. Analyze the extracts of the Human Rights Act 1998 of the UK and point out the features and peculiarities of legal English in this Act.

Human Rights Act 1998

1998 CHAPTER 42

An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights; to make provision with respect to holders of certain judicial offices who become judges of the European Court of Human Rights; and for connected purposes.

[9th November 1998]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Introduction

1 The Convention Rights.

- (1) In this Act "the Convention rights" means the rights and fundamental freedoms set out in—
 - (a) Articles 2 to 12 and 14 of the Convention,
 - (b) Articles 1 to 3 of the First Protocol, and
 - (c) Article 1 of the Thirteenth Protocol, as read with Articles 16 to 18 of the Convention.
- (2) Those Articles are to have effect for the purposes of this Act subject to any designated derogation or reservation (as to which see sections 14 and 15).
- (3) The Articles are set out in Schedule 1.
- (4) The Secretary of State may by order make such amendments to this Act as he considers appropriate to reflect the effect, in relation to the United Kingdom, of a protocol.
- (5) In subsection (4) "protocol" means a protocol to the Convention—
 - (a) which the United Kingdom has ratified; or
 - (b) which the United Kingdom has signed with a view to ratification.
- (6) No amendment may be made by an order under subsection (4) so as to come into force before the protocol concerned is in force in relation to the United Kingdom.

2 Interpretation of Convention rights.

- (1) A court or tribunal determining a question which has arisen in connection with a Convention right must take into account any—
 - (a) judgment, decision, declaration or advisory opinion of the European Court of Human Rights,
 - (b) opinion of the Commission given in a report adopted under Article 31 of the Convention,
 - (c) decision of the Commission in connection with Article 26 or 27(2) of the Convention, or
 - (d) decision of the Committee of Ministers taken under Article 46 of the Convention, whenever made or given, so far as, in the opinion of the court or tribunal, it is relevant to the proceedings in which that question has arisen.
- (2) Evidence of any judgment, decision, declaration or opinion of which account may have to be taken under this section is to be given in proceedings before any court or tribunal in such manner as may be provided by rules.
- (3) In this section "rules" means rules of court or, in the case of proceedings before a tribunal, rules made for the purposes of this section—
 - (a) by the Lord Chancellor or the Secretary of State, in relation to any proceedings outside Scotland;
 - (b) by the Secretary of State, in relation to proceedings in Scotland; or

- (c) by a Northern Ireland department, in relation to proceedings before a tribunal in Northern Ireland—
 - (i) which deals with transferred matters; and
 - (ii) for which no rules made under paragraph (a) are in force.

Other rights and proceedings

11 Safeguard for existing human rights.

A person's reliance on a Convention right does not restrict—

- (a) any other right or freedom conferred on him by or under any law having effect in any part of the United Kingdom; or
- (b) his right to make any claim or bring any proceedings which he could make or bring apart from sections 7 to 9.

12 Freedom of expression.

- (1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.
- (2) If the person against whom the application for relief is made ("the respondent") is neither present nor represented, no such relief is to be granted unless the court is satisfied—
 - (a) that the applicant has taken all practicable steps to notify the respondent; or
 - (b) that there are compelling reasons why the respondent should not be notified.
- (3) No such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.

Task 8. Translation task

Get acquainted with the meanings of the English terms given below. Then analyse their translations in the tables and decide what translation techniques have been chosen to translate the given terms. What, in your opinion, are the advantages and disadvantages of these techniques?

1. *barrister* and *solicitor*

These terms refer to two specific types of English lawyers who perform different functions. **Barristers** represent the clients in courts while **solicitors'** main functions are to advise the clients on legal issues, to draft legal documents and to negotiate on the clients' behalf. Solicitors usually represent their clients only in inferior courts and hire barristers for their clients if the case goes to a superior court. Barristers act, bar certain exceptions, only upon instructions of solicitors who are also responsible for the payment of barristers' fees.

<i>Barrister</i>	
Translations	Translation techniques
1) <i>baristeris</i>	1)
2) <i>teismo bylą advokatas</i>	2)

Advantages and disadvantages of the translation techniques

<i>Solicitor</i>	
Translations	Translation techniques
1) <i>solisitorius</i>	1)
2) <i>advokatas</i> (<i>rengiantis bylas, bet ppr. nedalyvaujantis teismo procese</i>)	2)

Advantages and disadvantages of the translation techniques

2. *Magistrates' Court, Crown Court, County Court, High Court (of Justice)*

These terms refer to the names of the English-Welsh courts which have the following functions:

The Magistrates' Court and **the Crown Court** deal mainly with criminal cases. The Magistrates Court exercises original jurisdiction, while the Crown Court – original and appellate jurisdiction.

The County Court and **the High Court** hear civil cases. The County Court exercises original jurisdiction, while the High Court – original and appellate jurisdiction.

<i>Magistrates' Court</i>	
Translation	Translation technique
<i>magistratų teismas</i>	

Advantages and disadvantages of the translation technique

<i>Crown Court</i>	
Translations	Translation technique
<i>Karūnos teismas</i>	

Advantages and disadvantages of the translation technique

County Court	
Translation	Translation technique
Grafystės teismas <i>(civilinių bylų teismas Anglijoje ir Velse)</i>	

Advantages and disadvantages of the translation technique

High Court (of Justice)	
Translation	Translation technique
Aukštasis (teisingumo) teismas <i>(aukščiausiasis civilinių bylų teismas Anglijoje ir Velse)</i>	

Advantages and disadvantages of the translation technique

3. **case law** and **statute law/ statutory law**

These terms refer to two main sources of law in the English-Welsh legal system. **Case law** is the body of law set out in judicial decisions (judicial precedents), while **statute law / statutory law** is the body of law contained in Acts of Parliament (statutes).

Case law	
Translations	Translation techniques
1) <i>bylų teisė</i>	1)
2) <i>precedentinė teisė</i>	2)
3) <i>teismų praktika</i>	3)

Advantages and disadvantages of the translation techniques

<i>Statute law / statutory law</i>	
Translation	Translation technique
1) <i>statutinė teisė</i>	1)
2) <i>įstatymais nustatyta teisė</i>	2)

Advantages and disadvantages of the translation techniques

Sum up the results of the analysis of the given translation techniques. What conclusions can you draw? What are the most usual techniques used for translation of the given English terms? What, in your opinion, are the advantages and disadvantages of these techniques? Would you translate these terms in the same way? If not, what would you do in another way?

Task 9. Match the terms with their definitions.

1) borrowing	a) a word inherited from a proto-language
2) description/paraphrasing	b) translation by using the target language term, the function of which is similar to that of the source language term
3) domesticating translation techniques	c) use of legal language in written and spoken communication
4) functional equivalence	d) translation by using a transcribed or an original form of the source language term
5) foreignizing translation techniques	e) representing a text from one script in another
6) inheritance	f) a word borrowed from another language, borrowing
7) legal discourse	g) source language oriented translation techniques
8) literal equivalence	h) target language oriented translation techniques
9) loanword	i) translation by presenting a short explanation in target language of the meaning of the source language term
10) transliteration	j) literal translation of a term

GRAMMAR FOCUS

ARTICLES

Task 1. Complete the sentences below, put *a, the* in each space or leave the space blank.

1. The government has proposed _____ new law to regulate the sale of alcohol to minors.
2. Civil law deals with those areas of _____ law in which both parties are private citizens or companies.
3. Continental Law is a system in which legal decisions are usually made by applying _____ written laws to the case in question.
4. Continental Law is sometimes known as Roman Law because it was influenced by _____ laws developed in ancient Rome.
5. In some modern societies, precise written contracts, lawyers and courts of _____ law have become a part of daily life.
6. Lawyers and politicians have a joint responsibility to keep _____ law relevant to the needs of a changing society.
7. Studying _____ law in the United Kingdom means a three year undergraduate degree programme which results in an LLB.
8. Majority of the voters from Senator Jones' state want _____ law requiring seatbelts on school buses.
9. The annoyed neighbour threatened us if we did not stop making the noise he would have _____ law on us.
10. Although the country had strong democratic traditions there was a breakdown of _____ law and order after following the assassination of the president.

Task 2. Complete the passage with the appropriate articles where necessary.

What is a Law?

What is a law? Imagine your family sitting down to play a board game. You need to know the rules in order to play. The same thing goes for your day-to-day life - you need to know the rules or _____ (1) laws. Every country has its own set of _____ (2) laws and each is unique to that country. For example, in the United States, _____ (3) law says we drive on the right-hand side of the road. In England, on the other hand, their _____. (4) law states they drive on the left. You could really do some damage if you didn't know _____ (5) law and started driving on the wrong side of the road.

Now that we know what _____ (6) law is, who makes _____ (7) laws? In the USA, _____ (8) laws can be made by the US national government or by individual state governments. National _____ (9) laws are those _____ (10) laws that everyone in the country must follow. _____ (11) laws made by individual states are only valid in that state.

FOLLOW-UP

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ABBREVIATIONS

Anglo-Fr. – Anglo-French (the French spoken in England from the Norman Conquest (1066) through the Middle Ages; the administrative and legal language of England 12th -17th centuries)

L. – Classical Latin

M.E. – Middle English (the English language as written and spoken c.1100-c.1500)

M.Fr. – Middle French (the French language as written and spoken c.1400-c.1600)

M.L. – Medieval Latin (Latin as written and spoken c.700-c.1500)

O.E. – Old English (the English language as written and spoken c.450-c.1100)

O.Fr. – Old French (the French language as written and spoken c.900-1400)

O.N. – Old Norse (the Scandinavian language as written and spoken c.100 to 1500 C.E.)

P.Gmc. – Proto-Germanic

UNIT 2

CLASSIFICATION OF LAW

Law spreads far beyond the core subjects into virtually every area of life. Since the law does cover such a wide variety of matters it can be helpful to divide it into different categories. First, a general distinction can be made between continental law jurisdictions in which the legislature codifies and consolidates the laws, and common law systems, where judge-made precedents are accepted as binding law. The second common distinction is that between municipal (national) and international law which may be further classified into public and private law.

In this unit you will find out the differences between two major law traditions (common law and continental law) and learn how law is classified into large areas and narrower branches. You will learn different vocabulary used for dealing with civil and criminal actions. In the Grammar section you will revise the use of perfect tenses. In the Communication section you will practice your report writing skills. In the Discussion section you will try to understand how precedents are applied in similar cases in the common law system.

BEFORE YOU READ

1. Law is said to govern all the spheres of our life. Can you give any examples of how law governs 1) working conditions, 2) our leisure time, 3) and even our personal life?
2. Do all the people know the laws of their country? What else may control people's behaviour?
3. Law is classified into areas and branches. Why do you think law is classified?
4. Is it easier or more difficult for practising lawyers to apply laws when law is classified?
5. Is it enough to have national law? How can laws help the states of the world maintain good relations?
6. Do you know any codes of the Lithuanian law? What do they regulate?

KEY Vocabulary

jurisprudence, jurisdiction, source of law, common law, continental/civil law, judicial precedent, doctrine of precedent, landmark decision, unwritten law, custom, case law, written/enacted law, statute, statutory/statute law, code, codification, provision, certainty of law, uniformity of law, separation of powers, legislation, legislature, executive, judiciary, solicitor, barrister, legal opinion, judgment, evidence, adjudication, inquisitorial system, adversarial system, municipal/national law, international law, public law, private/civil law, constitutional law, administrative law, criminal law, the rule of law, due process of law, unwritten Constitution, contract law, tort law, company law, family law, succession and probate law, trust law, employment/labour law, substantive law, procedural/adjective law, civil case, criminal case, party to a case, claimant, defendant, prosecution, standard of proof, liable, liability, guilty, guilt, damages, fine, imprisonment

MATCH THE LEGAL TERMS WITH THEIR DEFINITIONS

1) common law	a) a complete written formulation of a body of law; a set of laws
2) continental/civil law	b) the doctrine stating that the liberty of an individual is secure only if the three primary functions of the state (legislative, executive and judicial) are exercised by distinct and independent organs
3) judicial precedent	c) a lawyer in England who has an exclusive right of audience in all the superior courts
4) case law	d) a type of practicing lawyer in England who handles primarily office work
5) code	e) the body of law which regulates rights and duties among citizens and governments, such as civil rights and responsibilities in civil law, crimes and punishments in criminal law
6) separation of powers	f) a law system in which legal decisions are based on judicial precedents
7) solicitor	g) the body of law defining the rules by which a court hears cases in civil and criminal proceedings, as well as the method and means by which substantive law is made and administered
8) barrister	h) the principle that all people and institutions are subject to and accountable to law that is fairly applied and enforced; the principle of government by law, as opposed to arbitrary government by individual officials; the supremacy of law
9) inquisitorial system	i) a legal case establishing a principle that a court may need to adopt when deciding subsequent cases with similar facts
10) adversarial system	j) an area of law which governs relationship between individuals and the state
11) public law	k) the body of law set out in judicial decisions
12) private/civil law	l) a law system in which legal decisions are made by applying statutory law
13) the rule of law	m) a system of adjudication where the court is actively involved in investigating the facts of the case
14) substantive law	n) an area of law which is concerned with disputes among individuals or businesses
15) procedural law	o) a system of adjudication in which two opposing sides arguing a case have the primary responsibility for finding and presenting the facts of the case and the role of the court is that of an impartial referee deciding, but not investigating, the case

READING 1: LAW SYSTEMS: COMMON LAW AND CONTINENTAL LAW

UNDERSTANDING MAIN POINTS

Read the text and answer the questions on the following issues:

1. Common law:

- 1) What is the primary source of law in the common law system?
- 2) What countries have adopted common law? Why are most of them called Commonwealth countries?
- 3) How did common law develop?
- 4) What is the doctrine of precedent and how is it applied in common law?
- 5) How does the doctrine of precedent operate within the judicial system in common law countries?

2. Continental law:

- 1) What is the primary source of law in the continental law system?
- 2) What countries have adopted continental law?
- 3) How did continental law develop?
- 4) What are the main features of continental law?
- 5) What ideas influenced the development of codification in continental law countries?

3. Differences between common law and continental law systems:

Compare Common and Continental (Civil) law systems in respect of the following criteria:

- development
- methodological approach to sources of law
- formulation of legal opinions
- application of the principle of the separation of powers
- training of judges
- systems of adjudication (inquisitorial and adversarial)

UNDERSTANDING DETAILS

1. Explain the differences between the phrases in the given pairs:

- jurisprudence – jurisdiction
- case law – statutory law
- enacted/written law – unenacted/unwritten law
- to investigate a case – to adjudicate a case

2. What do the following words refer to?

- to legislate, legislative, legislation, legislator, legislature
- judge, judgment, judicial, judiciary

3. Explain the meaning of the following phrases:

- to administer justice
- circuit judges
- landmark decision
- certainty and uniformity of law
- provisions of codes and statutes
- legal opinion
- separation of powers
- system of adjudication

Two main traditions of law in the world

Each state develops its own legal system shaped by its unique history, political, economic, social life, moral values of society, etc. However, all contemporary law systems of the world are generally based on one of two basic law systems: **common law** or **continental (or civil) law**, or their combination. Common law originated in England and later was adopted by many **Commonwealth countries** and most of the United States. Continental (or civil) law was founded on Roman law principles. It was developed by most of continental Europe and many countries in Asia, Africa and Latin America which were strongly influenced by continental Europe.

Common law

Common law is the system of **jurisprudence** in which legal decisions are based on **judicial precedents**. The principles of common law started to be developed in England after the Norman Conquest in the 11th century. The **circuit judges** appointed by the Norman kings travelled from place to place **to administer justice** and thus gradually developed law which was uniform through the whole country. The developed law was based on **the doctrine of precedent** which is still a central feature of modern common law systems.

The doctrine of precedent is a practice of making legal decisions by following the judicial precedents. A **judicial precedent** is a legal case establishing a principle that a court may need to adopt when deciding subsequent cases with similar facts. When a precedent establishes an important legal principle, or represents new or changed law on a particular issue, that precedent is often known as a **landmark decision**.

Long-held custom, which has traditionally been recognised by courts and judges, is the first kind of precedent. **Custom** can be so deeply entrenched in the society at large that it gains the force of law. The other type of precedent is **case law** that a court should consider when **interpreting the law**. This type of precedent is granted more or less weight in the deliberations of a court according to a number of factors. Most important is whether the precedent is "on point," that is, does it deal with a circumstance identical or very similar to the circumstance in the instant case?

Generally, decisions of higher courts are **mandatory** on lower courts within that system – that is, the principle announced by a higher court must be followed by lower courts in later cases. Decisions of lower courts are not **binding** on higher courts, although from time to time a higher court will adopt the reasoning and conclusion of a lower court.

Continental law

Continental law (or **civil law**, or **Romano-Germanic law**) is the predominant system of law in the world, with its origins in Roman law, especially the Corpus Juris Civilis of Emperor Justinian. Unlike common law countries, continental law countries do not rely on judicial precedent but instead make legal decisions by applying **enacted statutory law**.

The most important characteristic of continental law is its foundation in **Roman law**. Roman law did not completely dominate in Europe. In many countries this law was a secondary source that was applied only as long as local customs and local laws lacked a pertinent **provision** on a particular matter. However, local rules too were interpreted primarily according to Roman law (it being a common European legal tradition), resulting in its influencing the main source of law as well.

The second characteristic of continental law, beyond Roman law foundations, is the extended **codification** of law. The concept of codification developed especially during the 17th and 18th century, as an expression of both Natural Law and the ideas of the Enlightenment. The political ideal of that era was expressed by the concepts of democracy, the rule of law and protection of property. That ideal required the creation of **certainty of law**, through the **recording of law** and through its **uniformity**. So, the aforementioned mix of Roman law and customary and local law ceased to exist, and the road opened for law codification, which could contribute to the aims of the above mentioned political ideal. Another reason that contributed to codification was that the notion of the nation state, which was born during the 19th century, required the recording of the law that would be applicable to that state. After the French Revolution, civil codes with a lasting influence were promulgated in **jurisdictions** such as France (with its Napoleonic Code), Germany, Austria, Spain and the Netherlands.

Differences between common law and continental law systems

The original difference between common law and continental law is that, historically, common law was law developed by **custom**, beginning before there were any written laws and continuing to be applied by courts after there were written laws, too, whereas continental law developed out of the **Roman law** of Justinian's Corpus Juris Civilis.

In later times continental law became codified. However, **codification** is by no means a defining characteristic of a continental law system, as e.g. the continental law systems of Scandinavian countries remain largely uncoded, whereas some common law jurisdictions have frequently codified parts of their laws, e.g. in the U.S. Uniform Commercial Code.

Thus, the difference between continental law and common law lies not just in the mere fact of codification, but in the methodological approach to sources of law. In continental law countries, **legislation** is the primary source of law. By default, courts thus base their judgments on the **provisions of codes and statutes**, from which solutions in particular cases are to be derived. In the common law countries, **cases** are seen as the primary source of law, although statutes play an increasingly important role in judicial process, particularly in technical areas.

There are other notable differences between the legal methodologies of various countries. For example, in common law countries **legal opinions** are long and contain elaborate reasoning, discussing prior cases and academic writing, whereas legal opinions in continental law countries are usually short and formal in nature.

The underlying principle of **separation of powers** is seen differently in common law and continental law countries. In common law countries, judges make law by creating judicial precedents which must be followed by other judges. In this respect, they act as legislators. By contrast, in continental law countries **legislature** and **judiciary** are assigned separate roles: the legislature makes laws, while the judiciary only applies them.

There are also certain sociological differences. In some continental law countries judges are trained and promoted separately from lawyers, whereas common law judges are usually selected from accomplished and reputable **barristers**.

Continental law and common law countries also differ in respect to criminal procedure. Continental law countries use mainly the **inquisitorial system of adjudication** in criminal proceedings while in common law countries the **adversarial system of adjudication** is most usual.

An **inquisitorial system** is a legal system where the court is actively involved in investigating the facts of the case. The system assumes that an accurate **judgment** is most likely to arise from a careful and exhaustive investigation. The examining judge serves as the lead investigator who directs the fact-gathering process by questioning witnesses, interrogating the suspect, and collecting other **evidence**. All parties, including the suspect, are expected to cooperate in the investigation by answering the judge's questions and supplying relevant evidence. The case proceeds to trial only after completion of the examining phase and the resolution of factual uncertainties. Critics argue that the inquisitorial system places too much unchecked power in the examining judge, who both investigate and **adjudicate** (legally determine) the case.

The **adversarial system** of law is the legal system in which two opposing sides arguing a case have the primary responsibility for finding and presenting facts. The adversarial system assumes that truth is most likely to result from the open competition between the **prosecution** and the **defence**. Each side, acting in its self-interest, is expected to present facts and interpretations of the law in a way most favourable to its interests. Through counterargument and cross-examination, each side tests the truthfulness, relevancy, and sufficiency of the opponent's arguments. Justice is done when the most effective adversary is able to convince the judge or jury that his or her perspective on the case is the correct one. Thus the case is then decided by neutral decision makers who do not take part in the investigation

of the case. Critics of the adversarial system argue that the pursuit of winning often overshadows the search for truth. Furthermore, inequalities between the parties in resources and abilities of the lawyers may distort the outcome of the contest.

READING 2: AREAS AND BRANCHES OF LAW

UNDERSTANDING THE MAIN POINTS

Read the text and answer the questions on the following issues:

1. Municipal law:

- 1) What is municipal law and what does it regulate?
- 2) What relationship is governed by public law and by private law?
- 3) Define the following branches of public law:
 - constitutional law
 - administrative law
 - criminal law
- 4) Define the following branches of private law:
 - contract law
 - tort law
 - company law
 - family law
 - succession and probate law
 - trust law
 - employment law

2. International law:

- 1) What does international law regulate?
- 2) What is meant by the statement "Much of international law is consent-based governance"?
- 3) What norms of international law are called peremptory?
- 4) What relationship does public international law govern?
- 5) What relations is private international law concerned with?

3. Substantive law and Procedural (Adjective) law:

- 1) How do substantive and procedural laws differ?
- 2) Compare civil cases and criminal cases in respect of the following criteria:
 - purpose of the law in the cases
 - parties in the cases
 - persons making the decision in the cases
 - the most usual remedies and penalties imposed by the court

UNDERSTANDING DETAILS

1. Explain the meaning of the following phrases:

- the rule of law
- due process of law
- unwritten Constitution
- constitutional amendment
- activities authorized by Parliament

2. Explain the differences between the following phrases:

- agreement – contract – treaty
- civil wrong – tort
- shareholder – director
- marriage – civil union – domestic partnership
- divorce – annulment
- child abuse – child abduction
- testator – executor – beneficiary
- trustee – beneficiary
- person – entity
- redundancy – dismissal

Different areas and branches of law

All legal systems deal with the same basic issues of law, but **jurisdictions** categorise and identify their areas and branches of law in different ways. There are, however, some common distinctions used to classify law in most countries. The first distinction is that between **municipal (or national) law** and **international law**. Both municipal law and international law may be further classified into **public law** and **private law**. Finally, these areas of law may be subdivided into a number of different branches.

Municipal law

Municipal law is the national, domestic, or internal law of a sovereign state. Municipal law includes not only law at the national level, but also law at the territorial, regional or local levels. Each state has its own municipal law and there are often big differences between the law of individual states.

Municipal law is usually divided into **public law** and **private (or civil) law**. Public law governs relationship between individuals and the state, while private law is concerned with disputes among individuals or businesses.

Public law

Public law comprises several branches, the main of which are constitutional law, administrative law and criminal law. Below you will find their short descriptions. Later in this book, you will get acquainted in detail with one branch of public law – criminal law.

- **Constitutional law** postulates the supremacy of law (**the rule of law**) in the functioning of the state. It defines the form of government of the state and the powers and responsibilities of the principal organs of government: the **legislature**, the **executive** and the **judiciary**. Constitutional law also entrenches the basic **human rights** which must be protected for every person and sets the fundamental borders to what any government must and must not do in respect of them. In most jurisdictions, constitutional law is enshrined in a written document, the Constitution, sometimes together with amendments or other constitutional laws. In some countries, however, such written document does not exist, for example the Constitution of the United Kingdom is an unwritten (uncodified) one.
- **Administrative law** is the body of law that governs the activities of administrative agencies of government (entities responsible for administration of government policy) and the relations of administrative agencies with the legislature, the executive and the public. The major purpose of administrative law is to ensure that the activities of government are **authorized** by Parliament and that laws are **implemented** and **administered** in a fair and reasonable manner. Administrative law is based on the principle that government action, whatever form it takes, must be legal and that citizens who are affected by unlawful acts of **government officials** must have effective **remedies**.

- **Criminal law** is the body of law relating to crime, i.e. illegal conduct for which a person may be prosecuted and punished by the state. It regulates social conduct and prescribes whatever is threatening, harmful, or otherwise endangering to the property, health, safety, and moral welfare of people.

Private (or civil) law

Private (or civil) law has many different branches. The main ones are contract law, tort law, company law, family law, succession and probate law, trust law and employment law. Short descriptions of these branches are given below. Later in this book, three branches of private law are presented in detail – contract law, tort law and company law.

- **Contract law** regulates legally binding agreements (contracts) between two or more parties.
- **Tort law** deals with torts which are civil wrongs, not including breaches of contract, that result in injury to another's person, property, reputation, or the like, and for which the injured party can obtain damages in a civil court.
- **Company law** sets out formal rules for starting and running a company and defines the rights and duties of shareholders and directors.
- **Family law** deals with family matters including marriage, civil unions and domestic partnerships, adoption, child abuse and child abduction, termination of relationships (divorce, annulment, property settlements, alimony, child custody and visitation), paternity testing, etc.
- **Succession law** defines rules and procedures under which beneficiaries become entitled to property under a testator's will or on intestacy. **Probate law** regulates the procedures for issuing a probate – a certificate by which the court confirms the validity of a will and allows executors of a will to administer the testator's property.
- **Trust law** deals with trusts which are arrangements in which property is managed by one person or entity (a trustee) for the benefit of another (a beneficiary).
- **Employment (or labour) law** regulates the relationship between employers, employees, trade unions and the government. It covers all aspects of employment, from the formation of a contract of employment to situations of redundancy and dismissal.

International law

International law is the set of rules generally regarded and accepted as binding in relations between states and nations. It serves as a framework for the practice of stable and organized international relations.

Much of international law is consent-based governance. This means that a state member of the international community is not obliged to abide by this type of international law, unless it has expressly consented to a particular course of conduct. This is an issue of state sovereignty. However, there are certain aspects of international law that are not consent-based but are obligatory upon states and non-state actors such as **peremptory norms** of international law.

International law may be divided into two main areas: public international law and private international law. **Public international law** governs the relationship of states and intergovernmental organisations. Much of this law comes from **treaties** concluded among different countries. **Private international law**, which is also called **conflict of laws**, concerns relations across different legal jurisdictions between persons, and sometimes also companies, corporations and other **legal entities**. It deals with the difficulties which arise when legal disputes occur between parties from different countries.

Substantive law and Procedural (Adjective) law

Creation and enforcement of municipal and international law are based on the rules of substantive and procedural (adjective) law.

Substantive law is the body of law which regulates rights and duties among citizens and governments, such as civil rights and responsibilities in civil law, crimes and punishments in criminal law. Substantive law explains what is permitted and forbidden by a law. For example, the law prohibits murder of another human being unless it is committed in self-defence, under duress, or being drugged by another person.

Substantive law stands in contrast to **procedural law (adjective law)**, which is the “machinery” for enforcing those rights and duties. Procedural law comprises the rules by which a court hears cases in civil and criminal proceedings, as well as the method and means by which substantive law is made and administered. The rules are designed to ensure a fair and consistent application of **due process of law** to all cases that come before a court.

Different rules govern civil procedure and criminal procedure, or the procedure followed in trials and in appeals. The chart below provides the basic distinctions between civil and criminal cases.

	Civil Actions	Criminal Cases
Purpose of the law	to uphold the rights of individuals	to maintain law and order and to protect society
The cases are started by	the individual whose rights have been affected	the state
Parties in the cases	claimant (plaintiff) and defendant	prosecutor and defendant
Standard of proof	the case must be proved on the balance of probabilities	the case must be proved beyond reasonable doubt
Person(s) making the decision	judge or panel of judges, very rarely a jury	magistrates or jury
Decision	liable or not liable	guilty or not guilty
Remedies and penalties	damages, injunction, specific performance, rescission or rectification	fine, imprisonment, community sentence (community service, probation, curfew) etc.

POINTS TO REMEMBER

1. law systems and legal systems

Law systems are two major law traditions - common law and civil law – followed by most nations today. The common law tradition emerged in England during the middle ages and was applied within British colonies across continents. The civil law tradition developed in continental Europe at the same time and was applied in the colonies of European imperial powers. Common law is generally uncoded; civil law, in contrast, is codified.

Common law (also known as case law or precedent) is law developed by judges through decisions of courts. Civil law (or civilian law, Roman law) is a legal system originating in Europe, intellectualized within the framework of late Roman law, and whose most prevalent feature is that its core principles are codified into a referable system which serves as the primary source of law. The case has created a precedent upon which many people may seek similar compensation.

The legal system means the organizations and people in a country or area who work in the area of law.

Some people think that the legal system is often seen as more concerned with the rights of criminals than those of their victims. She accused the record companies involved of invading her privacy and of abuse of the legal system.

2. law/Act of Parliament/statute/enactment/legislation

A law is a rule, usually made by the government, and used to order the way in which a society behaves. In the UK, the above mentioned words mean the same: rules passed by the legislature - Parliament.

There are laws against drinking in the street. The laws governing the possession of firearms are being reviewed. They led the fight to impose laws on smoking. This House notes that hunting with dogs remains legal in Scotland, despite the enactment of the Protection of Wild Mammals. One of Parliament's main roles is debating and passing statute law (legislation). The government has promised to introduce legislation to limit fuel emissions from cars.

Legislation is a law or set of laws suggested by a government and made official by a parliament. However, secondary/delegated legislation is legislation made by other state institutions, such as ministries or local government.

Delegated or secondary legislation allows the Government to make changes to the law using powers conferred by an Act of Parliament.

3. written law and unwritten law

Written laws are laws deriving their force from express legislative enactment, as contradistinguished from *unwritten*, or common, law. *Written law* is statutory law or statute law (as opposed to oral or customary law) set down by a legislature.

Written laws are laws which have been enacted in the constitution or in legislation. Unwritten laws are laws which are not contained in any statutes and can be found in case decisions. This is known as the common law or case law.

4. common law/ judge-made law/ case law

All these phrases can refer to common law based on decisions that have been made by judges in the past.

The body of past common law binds judges that make future decisions, just as any other law does, to ensure consistent treatment. Case law is law developed by judges through decisions of courts and similar tribunals that decide individual cases.

5. *unwritten constitutions*

They are a type of constitutions where the fundamental rules of government take the form of customs, precedents and a variety of statutes. They are unconsolidated and uncoded. The typical examples could be the constitutions of the UK, New Zealand and Israel.

6. *provision*

A *provision* is a statement within an agreement or a law that a particular thing must happen or be done, especially before another can happen or be done.

We have inserted certain provisions into the treaty to safeguard foreign workers.

READING COMPREHENSION AND VOCABULARY TASKS

Task 1. Fill in the table with the information which reveals the differences between common law and continental law systems

COMPARISON OF COMMON AND CONTINENTAL LAW

	Common Law	Continental Law
History		
Codification		
Methodological approach to sources of law		
Legal opinions		
Separation of powers		
Training of judges		
Systems of adjudication	Adversarial system <ul style="list-style-type: none"> • the role of the judge • the role of the opposing parties • the concept of justice 	Inquisitorial system <ul style="list-style-type: none"> • the role of the judge • the role of the opposing parties • the concept of justice

Tasks 2. What are the functions of the following participants in judicial proceedings?

Participants in judicial proceedings	Functions
Suspect	
Witness	
Counsel for the Prosecution	
Counsel for the Defence	
Judge	
Jury	

Task 3. Which word/phrase is odd and why?

1.	judge-made law	case law	codification	common law
2.	Act of Parliament	statute	legislation	precedent
3.	case law	Roman law	codes	legislation
4.	precedent	inquisitorial system	adversarial system	cases
5.	codes	delegated legislation	statutes	law reports
6.	continental law	case law	Romano-Germanic law	civil law
7.	mandatory	optional	binding	compulsory

Task 4. Read the texts and match the words in bold with their definitions given below.**Solicitors**

Solicitors confer with clients, give advice, draft documents, conduct negotiations, prepare cases for trial, and retain barristers for advice on special matters or for advocacy before the higher courts. They have a right to act in all courts as the agents for litigation or representatives of their clients, and they are deemed officers of the court, but they may appear as advocates only in the lower courts. Since their activities make up the greater part of the work of lawyers, solicitors are many times more numerous than barristers.

Solicitors **undertake** most of the work in **magistrates'** courts and **county** courts - both preparation of cases and also **advocacy**. But litigation is only a small part of the work of the solicitor's profession as a whole. Most are involved in commercial work relating to business, e.g. dealing with commercial transactions, corporate matters, land, share and other property dealings. There is also a large amount of private client work which does not involve any litigation such as the **conveyancing** of houses, making **wills**, advising on tax matters, etc.

Most solicitors are graduates with a law degree. They must also undertake professional training both by a one year Legal Practice Course and then by two years under a training contract with a solicitor in practice.

Solicitors operate mainly in large partnerships. The solicitors carry on most of the office work in law.

- 1) a document that legally transfers ownership, or the transfer itself
- 2) the action of advocating, pleading for, or supporting a cause or proposal
- 3) testament
- 4) a legal practitioner who traditionally deals with any legal matter in court or prepares cases for barristers
- 5) to do something or to set out on something
- 6) a civil court in the UK
- 7) a lower court whose jurisdiction is limited to the trial of misdemeanors and the conduct of preliminary hearings on more serious charges

Barristers

The traditional work of **barristers** is advocacy - they present cases in court, where their ability to speak and to think quickly as the evidence unfolds is what they are skilled in. The barrister will be **briefed** by a solicitor - it is the solicitor who first contacts the client and has **initial** conduct of the case. However, the barrister is to a fair extent independent of the solicitor and can take an independent judgment as to how to conduct the case. Barristers are occasionally advocates in magistrates' courts (more commonly in London than elsewhere), but they mainly work in the **Crown Court** (it is possible to have a solicitor advocate but this is still rare), the High Court or in appeal courts. Only barristers may appear as advocates before the High Court; they are known collectively as the bar, and it is from their ranks that the most important judicial appointments are made.

Related to this advocacy work, barristers also deal with advice on litigation and the **drafting of pleadings** related to litigation.

Most barristers are law graduates and they likewise undergo professional training through a Bar Vocational Course and through a **pupillage** with a qualified barrister. More senior barristers can apply to become a **Queen's Counsel (QC)** (to "take silk").

Barristers are all **sole practitioners**, but they often share **chambers** and administrative staff.

- 1) to write a preliminary version of smth
- 2) to give the barrister all the necessary information about the case
- 3) a lawyer specializing in courtroom advocacy, drafting legal pleadings, and giving expert legal opinions
- 4) barristers' offices
- 5) a criminal court in the UK
- 6) a legal practitioner who engages in legal practice on his or her own account
- 7) a barrister of the highest rank in England (used when the sovereign is a woman; if the sovereign is a man, then King's Counsel is used)
- 8) the formal written statements made by the claimant and the defendant in a lawsuit
- 9) coming first, or present at the beginning of an event or process
- 10) to be appointed as Queen's or King's Counsel
- 11) barristers' practice

Task 5. Match the definitions with the branches of law.

1) municipal law	a) law related to the legal structure of government in a State; it defines the principal organs of government and their relationship to each other and to the individual
2) public law	b) the law of offences against the state (crimes) calling for prosecution by officials of the state
3) private law	c) the law of a "nation state"
4) constitutional law	d) the law of devolution of property on death, or in certain other circumstances
5) administrative law	e) law which deals with the relationship between the citizens and the state
6) criminal law	f) the body of laws, administrative rulings, and precedents which address the legal rights of, and restrictions on, working people and their organizations
7) law of contract	g) the area of law relating to the functions and powers of government organizations (not the supreme) and how they operate in practice to administer government policy
8) law of succession	h) law which deals with the relationship between the citizens, one with another, or businesses
9) company law	i) the law of civil wrongs which are actionable at the suit of the aggrieved party
10) employment law	j) the field of law concerning business and other organizations; it includes the formation and ending of companies, their legal status and the duties of their members
11) law of torts	k) the law of agreements which are binding on those who make them

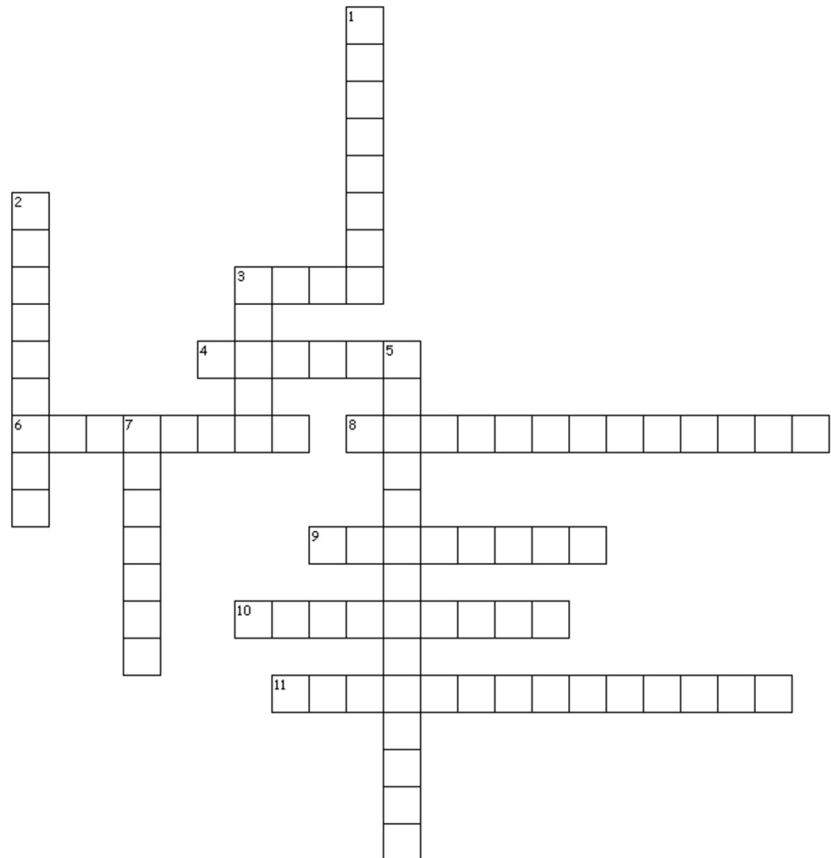
Task 6. CROSSWORD.**Branches of Private and Public Law****Across**

3. ... law deals with civil wrongs which are actionable at the suit of the aggrieved party.
4. ... law deals with the relationship between the citizens and the state
6. ... law deals with rights over land and other property.
8. ... law is about the relationship between states and the conflicts that result.
9. ... law deals with offences against the state (crimes) calling for prosecution by officials of the state.
10. ... law is imposed by the European Community to achieve its aims.
11. ... law stems from the need for governments to appoint officials to administer various activities.

Down

1. ... law deals with agreements which are binding on those who make them.
2. ... law is the law of a 'nation state'.
3. ... law deals with situations where a trustee is required to hold land or other property for the benefit of another- the beneficiary.

5. ... law regulates the relations between the principal organs of government and the citizen.
7. ... law deals with the relationships between citizens, one with another.



Task 7. Fill in the gaps with the most appropriate words from the box.

common law, legislative, private law, private citizens, public law,
to circumvent, state

_____ (1) is that part of a legal system which is part of the *jus commune* that involves relationships between individuals, such as the law of contracts or torts, as it is called in the common law, and the law of obligations as it is called in civil legal systems. It is to be distinguished from _____ (2), which deals with relationships between natural and artificial persons (i.e., individuals, business entities, non-profit organizations) and the state including regulatory statutes, penal law and other law that effects the public order.

In general terms, public law involves interrelations between the _____ (3) and the general population, whereas private law involves interactions between _____ (4).

The concept of private law in _____ (5) countries is a little broader, in that it also encompasses private relationships between governments and private individuals or other entities. That is, relationships between governments and individuals based on the law of contract or torts are governed by private law, and are not considered to be within the scope of public law.

Public law is the area of the law governing the relationship between individuals (citizens, companies) and the state. Constitutional law, administrative law and criminal law are thus all sub-divisions of public law.

Generally speaking, private law is the area of law in a society that effects the relationships between individuals or groups without the intervention of the state or government. In many cases the public/

private law distinction is confounded by laws that regulate private relations while having been passed by _____ (6) enactment. In some cases these public statutes are known as laws of public order, as private individuals do not have the right to break them and any attempt _____ (7) such laws are void as against public policy.

Task 8. Write the defined legal terms.

1. The branch of law that deals with the legal rights and relationships of private individuals.
2. The branch of law that deals with the state or government and its relationships with individuals or other governments.
3. The punishment given by a judge to a person who has been found to be guilty of a crime.
4. Legally responsible in a civil action.
5. Money paid usually to superior authority, usually governmental authority, as a punishment for a crime or other offence.
6. The standard of proof in civil cases in the UK.
7. The standard of proof in criminal cases in the UK The money paid or awarded to the party following a successful claim in a civil action.
8. Court order, whereby a party is required to do, or to refrain from doing, certain acts.
9. Court order which requires a party to perform a specific act, usually used to complete a previously established transaction in order to protect the expectation interest of the innocent party to a contract.
10. Annulment of a contract between the parties.
11. A legal document expressing the desires of its author with regard to the disposition of property after the author's death.
12. An agreement between two or more parties, especially one that is written and enforceable by law.
13. The branch of law which regulates the conduct of states amongst themselves, and persons who trade or have legal relationships which involve the jurisdiction of more than one state.
14. A body of persons summoned by law and sworn to hear and hand down a verdict upon a case presented in court.
15. The party against whom relief or recovery is sought in a civil case, or the accused in a criminal case.
16. The party that brings a civil action in a court of law.

Task 9. Write the legal term referring to a person who

- 1) brings a civil action before a court of law.
- 2) the party against whom relief or recovery is sought in a civil case, or the accused in a criminal case.
- 3) in criminal cases acts in the name of the Crown or the State.
- 4) is a judicial officer with limited power whose duties may include hearing cases that involve civil controversies, conserving the peace, and hearing minor criminal complaints.
- 5) is a public officer chosen or elected to preside over and to administer the law in a court of justice; one who controls the proceedings in a courtroom and decides questions of law.

Task 10. Write the synonyms to the legal terms.

1) annulment	
2) alteration, change	
3) to compensate	
4) heir	
5) claimant	
6) legally responsible	

Task 11. Decide which pieces of information refer to private and which to public law.

- 1) the defendant was found guilty
- 2) on the balance of probabilities
- 3) a family complain that their health is being affected by the noise and dust from a factory
- 4) the State has the right to prosecute
- 5) they are referred to as the prosecutors
- 6) prison, fine, community service, probation, etc.
- 7) claimant
- 8) a defendant is found liable or not liable.
- 9) to claim compensation.
- 10) beyond reasonable doubt
- 11) the Crown Court
- 12) even though there is no contract between them, one person owes a legal responsibility of some kind to another person
- 13) a conviction could result in a defendant serving a long prison sentence
- 14) laws relating to land, to copyright and patents
- 15) a man complains that a newspaper has written an untrue article about him, which has affected his reputation
- 16) family law

Task 12. Complete the table with verbs, nouns and adjectives/participles.

	VERB	NOUN	ADJECTIVE / PARTICIPLE
1		constitution	constitutional
2		judge	
3	privatize		
4	employ		
5		legislation, legislator	
6			codifying, codified
8		succession	
9		pleading	–
10	prosecute		
11		separation	
12			legal
13	apply		
14		administration, administrator	
15			just

Task 13. Insert the appropriate prepositions in the gaps.

- 1) it was later adopted _____ many Commonwealth countries
- 2) the developed law was based _____ the doctrine of precedent
- 3) custom can be deeply entrenched _____ the society
- 4) according _____ a number of factors
- 5) decisions of higher courts are mandatory _____ lower courts
- 6) decisions of lower courts are not binding _____ higher courts
- 7) continental law countries do not rely _____ judicial precedent
- 8) make legal decisions _____ applying enacted statutory law
- 9) local rules too were interpreted primarily according to Roman law, resulting _____ its influencing the main source of law
- 10) another reason that contributed _____ codification was
- 11) the law that would be applicable _____ that state
- 12) common law was law developed _____ custom
- 13) differences _____ continental law and common law
- 14) courts base their judgments _____ the provisions of codes and statutes
- 15) the separation _____ powers
- 16) the inquisitorial and adversarial systems _____ adjudication
- 17) the case proceeds _____ trial
- 18) truth is most likely to result _____ the open competition between the prosecution and the defence
- 19) areas of law may be subdivided _____ a number of different branches
- 20) private law is concerned _____ disputes among individuals or businesses
- 21) constitutional law is enshrined _____ a written document, the Constitution
- 22) it was committed _____ self-defence
- 23) the case must be proved _____ the balance of probabilities

Task 14. Choose the word which best completes the sentence.

1. _____ law is "judge made law" which derives from the application of previous Court decisions through the doctrine of precedent.
 A litigation C civil
 B case D continental
2. The operation of case law and _____ involves applying legal principles, decided in past cases, to new cases with similar facts.
 A decision C precedent
 B judgment D remedies
3. Case law functions through a hierarchical Court system whereby Court decisions generated from a superior Court will be _____ on a lower Court.
 A binding C heard
 B passed D entrenched

4. The development of case law through statutory _____ is a very important part of New Zealand's legal process, particularly when considering the number of statutes within the legal system.
- A authority C dispute
B interpretation D ruling
5. Case law may be created simply where _____, looking solely at the facts of a case, develop a particular area of the law by consideration of analogous past decisions and by applying the principles articulated in those decisions.
- A litigants C legislators
B lawyers D judges
6. In courts where more than one judge sits on the bench a decision may be delivered where each judge gives an individual _____.
- A interpretation C judgment
B statute D law
7. _____ of the law started in Sweden during the 18th century, preceding the codifications of most other European countries.
- A codification C deliberation
B judgment D rule
8. In England unwritten law is predominant, for more of English law derives from _____ precedent than from legislative enactment.
- A flexible C codified
B rigid D judicial

Task 15. Match the discourse markers with their synonyms.

1) however	a) so, hence
2) thus	b) because
3) therefore	c) also, in addition
4) for	d) in spite of this, nevertheless
5) further	e) so, as a result

Fill in the gaps with the most appropriate discourse markers.

and, consequently, for, further, however, moreover, therefore, thus

Judicial Precedent

Judicial precedent is of fundamental importance in the English legal system, _____ (1) the principles of the common law, which have developed gradually through case-law over the centuries, are the main source of English law.

The English courts are bound to follow decisions of higher courts in the judicial hierarchy; _____ (2) in many cases they must also follow their own decisions. Decisions of inferior courts, _____ (3), do not have binding power. Decisions concerning the interpretation of statutes are also binding, _____ (4), English lawyers must always refer to case-law even if the facts of the case they are preparing are covered by statute-law and not common-law rules. The law reports are _____ (5) basic works of reference for members of the English legal profession.

Task 16. Match the beginnings of sentences in A with their endings in B.

Basic principles of Common Law

A

1. Statutes which reflect English common law are understood always to be interpreted in light of the common law tradition, and so may leave a number of things unsaid
2. By contrast to the statutory codifications of common law, some laws are purely statutory,
3. An example is the tort of wrongful death, which allows certain persons, usually a spouse, child or estate, to sue
4. Where a tort is rooted in common law, then all damages traditionally recognized historically for that tort may be sued for,
5. For instance, a person who sustains bodily injury through the negligence of another may sue for medical costs

B

- a) for damages on behalf of the deceased.
- b) because they are already understood from the point of view of pre-existing case law and custom.
- c) for pain, suffering, loss of earnings or earning capacity, mental and/or emotional distress, loss of quality of life, disfigurement, and more.
- d) and may create a new cause of action beyond the common law.
- e) whether or not there is mention of those damages in the current statutory law.

Task 17. Choose the most appropriate word to complete the sentences of the text.

- 1) parties - solicitors - people
- 2) appellant - claimant - prosecution
- 3) rescission - damages specific performance
- 4) damages - an injunction - rectification
- 5) punishment - remedy - compensation
- 6) judgment - sentence - opinion
- 7) price - money - cost
- 8) litigants - lawyers - solicitors
- 9) right - discretion - choice
- 10) correct - fair - justice

A Judge Hearing a Civil Case

Civil judges do have the power to punish _____ (1) if, for example, they are in contempt of court but, generally, civil cases do not involve the imposition of any punishment on anyone. The _____ (2) - the person who has brought the case to court - will have asked for some form of relief against the defendant. This will more often than be _____ (3) to compensate them for the losses they say have suffered as a result of the defendant's actions. Then, if the judge decides that the claimant is entitled to damages, he will have to go on to decide the amount. Or the claimant may have asked for _____ (4) - for example, to forbid the defendant from making excessive noise by playing the drums in the flat upstairs in the early hours of the morning, or a declaration - an order specifying the precise boundary between two properties about which the parties had never been able to agree. The task of the judge is to decide on what is the appropriate _____ (5), if any, and on the precise terms of it.

And then, when the _____ (6) in the case has been delivered and the result is known, the judge must deal with the _____ (7) of the case - like the fees of lawyers (if they have been involved), the court fees paid out by the parties, the fees of expert witnesses, the allowances that may be allowed to _____ (8) who have acted in person (without lawyers), and the earnings lost and travelling and other expenses incurred by the parties and their witnesses in getting to and from court and in preparing for the case. Whilst the general rule is that the unsuccessful party will have to pay the successful party's costs, the judge has a wide _____ (9) to depart from this rule.

The judge's decision on this part of the case will be highly crucial to the parties. He may decide, for example, that the unsuccessful party should pay only a proportion of the successful party's costs or that each party should bear their own costs. Who, in reality has been successful and unsuccessful? What is the _____ (10) order for costs to make? And precisely how much should these costs amount to? Questions for the judge to hear forceful representations about and to answer at the end of the case.

Task 18. Translate the legal terms and phrases into English.

- | | |
|---------------------------------|---|
| 1. Bendroji teisė | 14. Civilinės teisės pažeidimas, deliktas |
| 2. Vykdyti teisingumą | 15. Bylos šalis |
| 3. Privalomas, įpareigojantis | 16. Paveldėjimo teisė |
| 4. Taikyti įstatymus | 17. Pripažinti asmens teises |
| 5. Kodeksas | 18. Palaikyti viešąją tvarką |
| 6. Įstatymų leidžiamoji valdžia | 19. Priteisti nuostolius |
| 7. Įstatymų leidėjas | 20. Teismo uždraudimas |
| 8. Įstatymų vykdomoji valdžia | 21. Prievolės įvykdymas |
| 9. Teismų valdžia | 22. Įvaikinimas |
| 10. Materialinė teisė | 23. Vaiko globa |
| 11. Procesinė teisė | 24. Teisti, nagrinėti teisme |
| 12. Tarptautinė sutartis | 25. Prisiekusiųjų teismas |
| 13. Teisės subjektas | 26. Ieškinys |

GRAMMAR FOCUS**REVISION OF PERFECT TENSES****Task 1. Put the verbs in Past Simple or Present Perfect Simple Tense.**

- Since he _____ (start) working in the law firm as a paralegal he _____ (become) more experienced at dealing with people.
- We _____ (have) many major problems while working on this case.
- I'm sorry, Justice Brown isn't here now. He _____ (go) to the courtroom.
- We _____ (see) three police cars this morning though we _____ (not see) any yesterday.
- Things _____ (change) a great deal at our law firm. When we first _____ (start) working here three years ago, the law firm only _____ (have) five lawyers.
- The government _____ (know) about the problem for months, but it _____ (not find) a solution yet.
- In the long term, violent crime in the United States _____ (be) in decline since colonial times; however, during the early 20th century, crime rates in the United States _____ (be) higher compared to parts of Western Europe.
- In the USA, changing demographics of an aging population _____ (cite) for the drop in overall crime.
- Of the 200,000 sentenced federal prisoners in 2011, 95,000 _____ (incarcerate) for drug crimes in the USA.
- The US homicide rate _____ (decline) substantially since 1992. There _____ (be) 14,748 homicides in the United States in 2010.

Task 2. Put the verbs in Past Simple or Past Perfect Simple Tense.

1. John _____ (be) a successful barrister for twelve years before he _____ (become) a judge.
2. When Mr Brown _____ (come) to his office, he couldn't believe his eyes. His secretary _____ (not make) him a cup of coffee.
3. There was a terrible atmosphere in the room. They _____ (have) an argument just before I _____ (come).
4. I _____ (give) my client directions to my office, but later realised that I _____ (forget) to give her the exact address.
5. He _____ (awake) thinking he was in a prison and that he _____ (be) arrested for robbery. He then realised that it _____ (be) just a bad dream.
6. Yesterday he _____ (tell) me he _____ (give) two new cases.
7. Sarah _____ (work) in Manchester for two years before she _____ (move) to London.
8. We _____ (not can) get a table because we _____ (not book) it in advance.
9. Tony _____ (work) as a lawyer for five years before he quit and _____ (begin) to write legal novels.
10. A few years ago I _____ (go) to my old school to visit some of the teachers. I _____ (see) Mr Field and Mrs Scott, but Mr Wells _____ (die) two years earlier.

COMMUNICATION**WRITING A REPORT**

Writing clear, concise reports is a key skill for effective written communication in various areas of business; they are constantly used in law firms as well. Reports can be used to make announcements, or to recommend policy necessary to achieve certain goals of a company such as identifying areas where greater work efficiency can be realized, streamlining processes, establishing cohesive work procedures etc. Reports may come from internal sources or external agencies, for example, in the case of a report prepared by an external expert which the company has requested to review a particular problem.

A report may be defined as a systematic, well organised document which defines and analyses a subject or problem and draws conclusions and gives recommendations based on the analysis. When you write a report, you are communicating your knowledge about a set of actions to a reader. The key here is communication. A good piece of advice is to 'write to express, not to impress'.

A report may include:

- the record of a sequence of events
- interpretation of the significance of these events or facts
- evaluation of the facts or results of research presented
- discussion of the outcomes
- conclusions
- recommendations

Reports must always be:

- accurate
- concise
- clear
- well structured

Report writing shares some common features with essay writing which is usual in academic settings, but reports have their own specifics. The table below presents the key differences between reports and essays.

Reports	Essays
Reports often originate from outside the academic world: they are typical of writing required for the world of work.	Essays originate in academic settings: they are used to develop students' critical analysis and writing skills.
The purpose of a report is to provide the reader with information necessary for fulfilment of certain tasks.	The purpose of an essay is to respond critically and personally to a problem or issue and present the arguments in a structured and sophisticated way.
Reports often present data and findings that you have collected yourself, for example through a survey, experiment or case study.	Essays focus on analysing or evaluating theory, ideas and past research by other people. They seldom include the research conducted by the author.
A report is divided into separate, headed (and sometimes numbered) sections and sub-sections.	Essays do not usually have sections; they flow as a continuous piece of writing.
A report may contain tables, charts and diagrams.	Essays do not usually include tables, charts or diagrams.
Reports usually include descriptions of the methods used.	Essays do not have to refer to the method used in arriving at conclusions.
The description in a report often includes comment on how the research could be improved and extended.	Essays are not usually reflective about the process of researching and writing the essay itself
Reports often include recommendations for action.	Essays do not include recommendations.

The steps listed below will help you to write an effective report which would meet the above-mentioned requirements.

STEP 1. PLAN

Before putting pen to paper (or fingers to the keyboard!), it is important to plan your approach to the assignment. This includes:

1) Define the purpose –

Make sure you have carefully read and analysed the assignment and have a clear idea of the exact purpose of the report and who it is being written for.

When you are researching, planning and eventually writing, continually ask yourself what the main purpose of the report is, what your objective is in writing it: is it to inform; to argue; to persuade; to evaluate? What does your reader want to see in the report and what will they do with it? The clearer these things are in your mind, the easier the report will be to write and the more effective it will be.

2) Gather information –

Use a variety of sources in your research, and be aware of the ABC's of each source:

- *Authorship* (who has written this material?)
- *Bias* (might the author be biased in any particular way)
- *Currency* (how up-to-date or relevant is this source?)

Try not to gather too much information. Keeping your topic or question in mind, reject anything which is not 100% relevant. When you're making notes, always try to summarise the main points as concisely as possible.

Be sure to keep track of each source you use, so that you'll be able to correctly reference each of your sources in the final report.

3) Structure your material –

Try not to impose a structure too early; gather your ideas, assess them, then organise and evaluate them. Once this is done, you can identify the 3 to 5 main ideas around which to structure the report.

The overall structure of a report should look something like this:

- **Title page**
- **Acknowledgements**
- **Contents page** (used in longer reports)
- **Summary** (used in longer reports)
- **Introduction**
- **Body**
- **Conclusions and recommendations**
- **List of references**
- **Appendices**

STEP 2. WRITE

Many people mistakenly begin at this stage! You'll find it much easier to write a good paper after you have clarified the purpose, gathered the relevant information, assessed and evaluated the information, and planned the structure (as described above).

Most writing advice suggests that you begin by writing a rough draft of each of the main sections first. After this, you can more easily write the introduction (outlining your approach), the summary/conclusion (summarising the key ideas of the report) and other parts of the report.

All parts of the report in detail:

Title page

This should include the title of the report (which should give a precise indication of the subject matter), the author's name, date of submission and other relevant information required by a specific institution.

Acknowledgements

It is a list of people and organisations who have helped you in collecting information for the report. You should acknowledge any help you have received.

Contents page

It is usually included in reports of 4+ pages. A clear, well-formatted list of all the sections and sub-sections of the report. Don't forget to put the page numbers! If applicable, there should be a separate list of tables, figures, illustrations and/or appendices after the main index.

Make sure that the headings in this list correspond exactly with those in your main body. It is best to do your list of contents right at the end.

Summary

It is usually included in longer reports; may be also called Executive Summary, Abstract or Synopsis. This should be a short paragraph giving a brief outline of the report. It should include a short statement of the main task, the methods used, conclusions reached and any recommendations to be made. The summary should be concise, informative and independent of the report. The summary may have more than one purpose: it reminds the reader what they have read but it is also useful to busy people who may not always read the full report. Write this section after you have written the main body of the report.

Introduction

The introduction is one of the most important paragraphs. An effective introduction introduces the topic and purpose of the report and outlines your approach, i.e. the main ideas that will be developed within it. After reading just the introduction, the reader should know (i) the **purpose** of the report and (ii) the **main ideas** which will be covered within it.

In the introduction, include a little background/context and indicate the reasons for writing the report. Indicate your terms of reference (a definition of the task, your purpose and specific objectives of writing), research methods (the ways you used to collect and analyse the relevant data) and the basic structure of the report. Your introduction will often give an indication of the conclusion to the report.

Main body

This is the substance of your report. It includes results / findings of your research and their evaluation/discussion.

The structure will vary according to the nature of the material being presented, with headings and sub-headings used to clearly indicate the different sections (unlike an essay).

It is not sufficient to simply describe a situation. Your tutor will be looking for analysis and for a critical approach, when appropriate. A "situation>problem>solution>evaluation" approach may be appropriate.

Charts, diagrams and tables can be used to reinforce your arguments, although sometimes it may be better to include these as an appendix (particularly if they are long or complicated).

Do not include conclusions or recommendations in this section.

Conclusions

Your conclusion should draw out the implications of your findings, with deductions based on the facts described in your main body. Don't include any new material here.

Recommendations

These should follow on logically from your conclusion and be specific, measurable and achievable. They should propose how the situation could be improved or problem could be solved by suggesting action to be taken. Recommendations can be numbered if you wish.

Reference list

List of all sources used in preparing the report (see the 3rd step of report writing).

Appendices (sometimes included)

An appendix (plural=appendices) includes additional related information which is not essential to read but can be consulted if the reader wishes. It is detailed documentation of points you outline in your findings, for example, technical data, questionnaires, letters sent, tables, sketches, charts, leaflets etc. It is supplementary information which you consider to be too long or complicated or not quite relevant enough to include in your main body, but which still should be of interest to your reader.

Each appendix should be referred to in your text. You should not include something as an appendix if it is not discussed in the main body.

STEP 3. REFERENCE YOUR SOURCES

When conducting academic research you will find and study published material, *sources*, that are relevant to your topic. In composing your written report or essay, you must *reference* each of the sources you have used. Referencing means making it clear to the reader that you have drawn ideas (or quotes, statistics, diagrams, etc.) from another source, and clearly identifying that source.

Correct referencing will help you to avoid plagiarism, but more importantly, it is good academic practice. Once you learn to reference sources correctly, it's a skill that you will have for the rest of your life.

Two components are required for correct referencing:

1. In-text citation - This is an identifier of the source *within the report or essay*, for example: (Smith, 2010) placed in the sentence or paragraph which draws from this specific article authored by Smith.

2. Reference list - This is a list of all sources used, *on its own page at the end of the report or essay*, alphabetized by author surname. Typical information required is author name(s), year of publication, title of work, publisher, and place of publication

The most common mistake made by students in referencing sources is *only* to list sources at the end of the paper -- without *in-text citations* within the paper to identify where each source was referenced.

STEP 4. REVIEW

Once your first draft is written, it's time to refine and revise, taking care to use a clear writing style.

Check:

• General layout

Is the title page (if applicable) clear, accurate and complete?

Does the document have appropriate margins?

Is there appropriate space between the lines?

Are all pages numbered, if necessary?

Have you avoided unnecessary use of bold, italic and colour type?

Have you used a standard font (Times, Arial etc)? Is it large enough?

- **Text organisation**

Does the introduction show understanding of the question and indicate the structure of the answer?

Do all the sections have clear headings?

Are all the paragraphs adequately developed?

Are tables and figures properly integrated into the text?

Is there a clear and adequate conclusion?

- **Coherence**

Does it all make sense? (especially to another person)

Do sentences, paragraphs and sections run together smoothly?

Is everything relevant?

Spelling, grammar, spelling and punctuation

Have you used the spellchecker or checked the spelling yourself?

Have you carefully checked the grammar?

Have you checked your use of commas?

- **Style**

Have you avoided colloquial language?

Is your language as clear and as concise as possible?

Is your vocabulary varied, but always appropriate?

- **Referencing**

Are all your sources always acknowledged?

Is your referencing accurate and consistent?

Is your list of references complete and in the correct format?

Then proof-read from start to finish; it is often useful to ask someone else to do this, as errors can go unnoticed when you have worked on a piece of writing for some time.

And finally overall, does the report fulfil its purpose? Does it do what you are being asked to do and what you say you are going to do in your introduction? Are you pleased with it? If you cannot confidently answer “yes” to these questions, then you may need to do some major editing and rewriting.

TASK

Write a report on a chosen criminal or civil case with the purpose to inform the readers about the facts of the chosen case, the course of the trial and the penalty/remedy imposed by the court; discuss the outcome of the trial.

DISCUSSION

- I. Read the two cases. Can the first case serve as a precedent for the second one? Why/why not? Discuss the cases with your group mates and explain your opinion.**

1. A man is driving down a crowded street at the speed limit (35 mph). When the steering column locks, the man immediately applies the brakes, but the car lurches onto the sidewalk, striking and killing two pedestrians. In a civil suit, brought by the families of the victims, he is held liable (responsible).
2. For two weeks a man has taken a prescription drug that carries a warning: "May cause dizziness. Do not drive or perform other potentially dangerous tasks until you know how this medicine affects you". As the man is driving down a crowded street at 25 mph (10 mph below the posted speed limit), the steering column locks; the man applies the brakes, but the car lurches onto the sidewalk, striking and killing two pedestrians.

- II. Read the following extract from the judgment in this case of *Hunter and others v Canary Wharf Ltd and London Docklands Development Corporation*.**

'Lord Irving (counsel for the defendants) submits that interference with television reception by reason of the presence of a building is properly to be regarded as analogous to loss of aspect (view). To obstruct the receipt of television signals by the erection of a building between the point of receipt and the source is not in law a nuisance. In *Aldred's Case* (1611) Wray CJ cited what he had said in *Bland v Moseley*: "for prospect, which is a matter only of delight and not of necessity, no action lies for stopping thereof and yet it is a great recommendation of a house if it has a long and large prospect... But the law does not give an action for such things of delight".

I accept the importance of television in the lives of very many people. However, in my judgment the erection or presence of a building in the line of sight between a television transmitter and other properties is not actionable as an interference with the use and enjoyment of land. The analogy with loss of prospect is compelling. The loss of a view, which may be of the greatest importance to many householders, is not actionable and neither is the mere presence of a building in the sight line to the television transmitter.'

1. In request of the interference with the television reception, with what did Lord Justice Pill draw an analogy?
2. Do you think that the judge was correct to make an analogy between the two situations? Give the reasons for your answer.
3. By drawing this analogy does it mean that the claimant won or lost the case?

FOLLOW UP

Read the text "The Development Of Common Law" (Part II. Reading for Law)

Read the text "Magna Carta" (Part II. Reading for Law)

Read the text "Legal Profession in the USA" (Part II. Reading for Law)

The Common Law and Civil Law Traditions <https://www.law.berkeley.edu/library/robbins/CommonLawCivilLawTraditions.html>

What is the difference between common and civil law? <http://www.economist.com/blogs/economist-explains/2013/07/economist-explains-10>

<http://ppp.worldbank.org/public-private-partnership/legislation-regulation/framework-assessment/legal-systems/common-vs-civil-law>

Key Features of Common Law or Civil Law Systems <http://onlinelaw.wustl.edu/common-law-vs-civil-law/>

Civil Law vs. Common Law http://www.diffen.com/difference/Civil_Law_vs_Common_Law

Civil law (legal system) http://en.wikipedia.org/wiki/Civil_law_%28legal_system%29

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Learning English. Past simple or past perfect? <http://www.bbc.co.uk/worldservice/learningenglish/grammar/learnit/learnitv210.shtml>

Advanced Level: Past Perfect <http://www.ecenglish.com/learnenglish/lessons/advanced-level-past-perfect>

Present Perfect <http://www.englishpage.com/verbpage/presentperfect.html>

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UNIT 3

CONTRACT LAW

Every day we come across with different agreements which have a certain impact on our life. More and more we are accustomed to using legal means to regulate our relationship with each other. If our agreements have legally enforceable consequences, we refer to them as contracts. But certain agreements, such as domestic and social arrangements, are not intended by the parties to be legally binding. The agreement which does not intend to create legal rights and duties is not a contract in law. Every contract is an agreement, but not every agreement is a contract. In this unit you will find out which agreements are to be considered contracts, the elements to the creation of a contract, types of contracts, legal remedies awarded in case of breach of contract.

In this unit you will get acquainted with the vocabulary and language peculiarities necessary to deal with the law of contracts and negotiations. The proper usage of modal verbs, conditional clauses and relevant words and phrases characteristic to contract language and negotiations are of primary importance in the context of communication. The Grammar section of the unit helps to revise the use of modal verbs and conditional clauses. You will have the opportunity to analyse the contract language peculiarities in both Lithuanian and English versions of the same contract as well as translation of some legal terms used in the contract.

The Discussion section will enable you to discuss a few disputable issues related to contracts and negotiations, and to apply some theoretical knowledge to practice.

BEFORE YOU READ

1. How often do you use the term 'contract'?
2. Do you see the difference between the terms "agreement" and "contract"?
3. How do you translate the terms "agreement" and "contract" into Lithuanian?
4. What kind of contracts have you entered into recently?
5. What terms related to contract law do you know?
6. Which of them are the most common in your daily life activities?

KEY Vocabulary

enforceable, reciprocity, transaction, statutory law, common law, lease transactions, ill will, consideration, assent, forbearance, concurrence of wills, detriment, gratuitous, legally binding, promissory estoppel, contracts under seal, expressed contracts, implied contracts, quasi contract, executed contracts, executory contracts, bilateral contracts, unilateral contracts, misnomer, valid contracts, void contracts, voidable contracts, refrain, minor, remedy, breach of contract, rule, settle in mediation, repudiation, terminate a contract, claim damages, sue, unquantifiable losses, mitigate loss, remoteness of loss, specific performance, fraudulent, discretion, injunction, equitable remedy, rescission, rectification

MATCH THESE TERMS WITH THEIR DEFINITIONS

1) reciprocity	a) something of value given by one party to another in order to induce the other to contract
2) statutory law	b) a mutual exchange of commercial or other privileges
3) consideration	c) a law or group of laws passed by a legislature or other official governing bodies
4) gratuitous	d) agreement in opinion; accord, assent
5) estoppel	e) given without receiving any return value
6) concurrence	f) disadvantage or damage; harm; loss
7) detriment	g) rule of evidence whereby someone is prevented from denying or asserting a fact in legal proceedings
8) reprisal	i) make people obey a rule or law
9) lease	j) the act of refraining from enforcing a debt
10) enforce	k) an inference of the truth of a fact from other facts proved, admitted, or judicially noticed
11) assent	l) something violent or harmful which you do to punish someone for something bad they have done to you; revenge
12) forbearance	m) a legal agreement which allows you to use a building, car etc. for a period of time, in return for rent
13) provision	n) approval or agreement from someone who has authority
14) presumption	o) obligatory
15) binding	p) a clause in a legal instrument, a law, etc., providing for a particular matter; stipulation

READING 1: WHAT IS A CONTRACT? THE ELEMENTS OF A CONTRACT

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What roles do contracts have in modern society?
2. Where are the rules governing contracts found?
3. What are the main elements to creating legally enforceable contracts?
4. What is meant by 'concurrence of wills'?
5. What does 'consideration' mean in common law of contracts?
6. Why is it important to express the intention to be legally bound?

UNDERSTANDING DETAILS

1. Answer the following questions:

- 1) What are the types of contracts mentioned in the text?
- 2) What are the rules that govern consideration discussed in the text?
- 3) What contracts do not meet the general requirements?

2. Find the equivalents of the collocations in the text:

- 1) teisiškai vykdytinas
- 2) teisiškai susaistytas
- 3) teisiškai saistantis/turintis teisinę galią
- 4) nuomos sandoriai
- 5) tarpusavis atsilyginimas/abipusė nauda
- 6) valios/norų sutapimas
- 7) nurodo aplinkybes
- 8) elgesys, reiškiantis pritarimą
- 9) numanoma sutartis
- 10) sutartinis pasižadėjimas
- 11) susilaikymas nuo tam tikrų veiksmų
- 12) sutarties šalys

A contract is a legally **enforceable** promise. Contract law is based on the Latin phrase *pacta sunt servanda* (literally, promises must be kept). Contracts are vital to society because they facilitate cooperation and trust. Rather than relying on fear of reprisal or the hope of **reciprocity** to get others to meet their obligations, people can enlist other people to pursue common purposes by submitting to contracts that are backed by impartial authority. Without contracts and their supporting institutions, promises would be much more vulnerable to ill will, misunderstanding, forgetfulness, and other human flaws. Indeed, contracts allow people who have never even met to reach agreements, such as lending/borrowing money to buy a house, that they would never consider making outside of a legal framework. On the other hand in modern life there are many **transactions** which most people never think of as contracts. Almost everyone makes contracts every day. Sometimes written contracts are required, e.g., when buying a house or a car. However the vast majority of contracts can be and are made orally, like buying a text book, or a coffee at a shop. Contracts do not have to be written to be enforceable in court. In fact, most oral contracts are legally enforceable. However, they are obviously much more difficult to prove. Contracts are mainly governed by state **statutory** and **common (judge-made) law** and private law. The rules by which many contracts are governed are provided in specialized statutes that deal with particular subjects. Most countries, for example, have statutes which deal directly with sale of goods, lease transactions, and trade practices. For example, most American states have adopted Article 2 of the Uniform Commercial Code, which regulates contracts for the sale of goods. In common law system, there is no code or law defining what a contract is. The law regarding contracts in general is to be found in judgments made by courts and even in legal textbooks. But there are some statutes which clarify the law, e.g. the Unfair Contract Terms Act, passed in the UK in 1977, specify circumstances in which a contractor may avoid being obliged by some parts of a contract.

In common law jurisdictions there are three key elements to the creation of a contract. These are **offer** and **acceptance**, **consideration** and an intention to create legal relations. In civil law systems the concept of consideration is not central. Perhaps the most important feature of a contract is that one party makes an offer for a **bargain** that another accepts. This can be called a '**concurrence of wills**' or a 'meeting of the minds' of two or more parties. There must be evidence that the parties had each from an objective perspective engaged in conduct manifesting their **assent**, and a contract will be formed when the parties have met such a requirement. Offer and acceptance do not always need to be expressed orally or in writing. An implied contract is one in which some of the terms are not expressed in words. A contract which is implied in fact is one in which the circumstances imply that parties have reached an agreement even though they have not done so expressly. For example, by going to a doctor for a checkup, a patient agrees that he will pay a fair price for the service. If he refuses to pay after being examined, he has breached a contract implied in fact.

Consideration is something that is done or promised in return for a contractual promise. For example, in a promise between A and B for the sale of A's car to B, B's payment of the price of the car (or promise to do so) is the consideration for A's promise. Consideration is a central concept in the common law of contracts. Consideration is what must be given up by each party when making an agreement; this may be by means of doing or not doing an act or just promising to do or not do an act. Consideration can be defined as being a benefit to one party while being a **detriment** to the other one at the same time. In other words, **promisees** must pay the price (consideration) that they agreed to pay the promisor in order to gain the right to enforce the promisor's obligation. The requirement of consideration serves an important purpose, as it protects the **promisor** from being liable for granting, or relying on, **gratuitous** promises.

The doctrine of consideration is governed by four major principles.

(1) A *valuable consideration* is required, i.e. the act, **forbearance**, or promise must have some economic value. *Good consideration* (natural love and affection or a moral duty) is not enough to **render a promise enforceable**.

(2) Consideration need not be adequate but it must be sufficient. Not to be adequate in this context means that it need not **constitute** a realistic price for the promise it buys, as long as it has some economic value. If A promises to sell his £50,000 house to B for £5000, B is giving valuable consideration despite its inadequacy. £1 is often the consideration in commercial contracts. That it must be sufficient means sufficient in law. A person's performance of, or promise to perform, an existing duty usually cannot in law constitute consideration.

(3) Consideration must move from the promisee. Thus if X promises to give Y £1000 in return for Y's promise to give employment to Z, Z cannot enforce Y's promise, for he has not supplied the consideration for it.

(4) Consideration may be executory or executed but must not be past. For instance, in *Eastwood v. Kenyon*, the guardian of a young girl raised a loan to educate the girl and improve her marriage prospects. After the marriage, her husband promised to pay off the loan. It was held that the guardian could not enforce the promise as taking out the loan to raise and educate the girl was past consideration, because it was completed before the husband promised to repay it.

There is a presumption for commercial agreements that parties intend to be legally bound. It is generally presumed that in a commercial transaction, the contracting parties must have the intention to create a **legally binding** contract. In other words, if you have signed a contract for business-related activities, then you will be able **to sue** the other party if that party does not fulfil the contractual provisions, and **vice versa**.

There are legal exceptions to most of these conditions, and all of them are subject to interpretation in the courts. Furthermore, some contracts do not meet these requirements, such as implied contracts and those created under **promissory estoppel**.

If the terms of the contract are uncertain or incomplete, the parties cannot have reached an agreement in the eyes of the law. An agreement to agree does not constitute a contract, and an inability to agree on key issues, which may include such things as price or safety, may cause the entire contract to fail. Not every agreement is a contract, however every contract is an agreement.

READING 2: TYPES OF CONTRACTS

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What criteria are regarded to point out the types of contracts?
2. What was the requirement for a contract to be valid in the past?
3. What are the types of contracts considering the form of expressing contractual terms?
4. What are the types of contracts on the basis of validity? (enforceability)
5. What are types of contracts on the basis of nature of consideration?
6. How are the contracts classified on the basis of execution?

UNDERSTANDING DETAILS

1. Read the text again and decide if the statements are true or false:

- 1) Formal contracts under seal have lost some force due to court rulings regarding informal contracts.
- 2) Contracts enforceable in law can be expressed orally or in writing.
- 3) Implied contracts, both in fact and in law, cause no problems to prove in court.
- 4) An executed contract is a wrong or inaccurate term as the completion of performances by the parties signifies that a contract no longer exists.
- 5) In a unilateral contract both parties are equally legally responsible.
- 6) As to the validity of contracts they may be valid, void, voidable, executed or executory.
- 7) A void contract cannot be enforced by the party which didn't express an acceptance to the offer.
- 8) Voidable as well as void contracts can be performed under some conditions.

2. Explain the following terms and give their equivalents in Lithuanian:

- 1) to entail legal consequences
- 2) benefit or detriment
- 3) lost some effect by statute
- 4) to demonstrate consent
- 5) quasi contract
- 6) a misnomer
- 7) reciprocal promises
- 8) an executory contract
- 9) forbearance from the performance
- 10) to be incapacitated

There are many different types of contracts for different situations regarding different criteria. Traditionally, a contract was an enforceable legal document only if it was stamped with a seal. The seal represented that the parties intended the agreement **to entail legal consequences**. No legal benefit or detriment to any party was required, as the seal was a symbol of the solemn acceptance of the legal effect and consequences of the agreement. In the past, all contracts were required to be under seal in order to be valid, but the seal has lost some or all of its effect by statute in many jurisdictions. Recognition by the courts of informal contracts, such as implied contracts, has also diminished the importance and employment of formal **contracts under seal**.

Taking into consideration the form of expressing contractual terms, contracts may be classified as **expressed or implied contracts**. In an express contract, the parties state the terms, either orally or in writing, at the time of its formation. There is a definite written or oral offer that is accepted by the offeree (i.e., the person to whom the offer is made) in a manner that explicitly demonstrates **consent** to its terms. For example, where a landlord presents “A” with a pre-printed **lease** on the apartment that “A” wants and if he agrees to the terms and signs it, then it is an express, written contract. Another example is: “I offer to sell you my 1997 Jaguar and after some negotiations, you agree to purchase it on the terms we have worked out, a bargain for less than 10,000 Euro.” This is an express oral contract.

Contracts implied in fact and contracts implied in law are both a part of implied contracts. A contract implied in fact is not expressed verbally by the parties but, rather, suggested from facts and circumstances that indicate a mutual intention to contract. An implied contract cannot be labelled as implied in law because such a contract lacks the requirements of a true contract. The term “**Quasi Contract**”, is however, a more specific identification of contracts implied in law. Implied contracts depend on the reason behind their existence. Thus, for an implied contract to develop, there must be some transaction, act or conduct of a party in order for them to be legally bound. A contract will not be implied if there are any chances of harm or inequity. If there is no clarity of communication, implication and understanding between the two parties, the court will not conclude any contractual relationship between the two parties. If the parties continue to follow their contractual terms, even after the contract has ceased to exist, an assumption arises that the two parties have mutually agreed to a new contract that has same provisions as the old contract and a new implied contract is formed.

On the basis of execution, contracts may be **classified** under: **executed, executory, bilateral** and **unilateral** contracts.

An executed contract is one in which nothing remains to be done by either party. The phrase is, to a certain extent, a **misnomer** because the completion of performances by the parties signifies that a contract no longer exists. An executory contract is one in which some future act or obligation remains to be performed according to its terms.

The exchange of mutual, reciprocal promises between **entities** that entails the performance of an act, or **forbearance** from the performance of an act, with respect to each party, is a bilateral contract, i.e. considerations are to be moved in both directions after the contract. A bilateral contract is sometimes called a two-sided contract because of the two promises that constitute it. The promise that one party makes constitutes sufficient consideration (see discussion below) for the promise made by the other. A unilateral contract involves a promise that is made by only one party, i.e. consideration is to be moved in one direction. **The offeror** (i.e. a person who makes a proposal) promises to do a certain thing if **the offeree** performs a requested act that he or she knows is the basis of a legally enforceable contract. The performance constitutes an acceptance of the offer, and the contract then becomes executed. Acceptance of the offer may be **revoked**, however, until the performance has been completed. This is a one-sided type of contract because only the offeror, who makes the promise, will be legally bound. The offeree may act as requested, or may **refrain** from acting, but may not be sued for failing to perform, or even for abandoning performance once it has begun, because he or she did not make any promises.

On the basis of enforceability contracts may be **valid, void or voidable**. Valid contracts satisfy all the conditions prescribed by law. The terms void or voidable contracts are often confused. Even though these two contract types seem similar, they are actually completely different. A contract that is “void” cannot be enforced by either party. The law treats a void contract as if it had never been formed. A contract will be considered void, for example, when it requires one party to perform an act that is impossible or illegal. **Void** contracts are unenforceable by law. Even if one party breaches the agreement, you cannot recover anything because essentially there was no valid contract. Some examples of void contracts include: contracts involving an illegal subject matter such as gambling, prostitution, or committing a crime; contracts entered into by someone not mentally competent (mental illness or **minors**); contracts that are against public policy because they are too unfair; contracts that restrain certain activities (right to choose who to marry, restraining legal proceedings, the right to work for a living, etc.).

A “voidable” contract, on the other hand, is a valid contract and can be enforced. Usually only one party is bound to the contract terms in a voidable contract. The unbound party is allowed to cancel the contract, which makes the contract void. **Voidable** contracts are valid agreements, but one or both of the parties to the contract can void the contract at any time. As a result, you may not be able to enforce a voidable contract: contracts entered into when one party was a minor. (The law often treats minors as though they do not have the capacity to enter a contract. As a result, a minor can walk away from a contract at any time); contracts where one party was forced or tricked into entering it; contracts entered when one party was **incapacitated** (drunk, insane, delusional).

The main difference between the two is that a void contract cannot be performed under the law, whereas a voidable contract can still be performed, although the unbound party to the contract can choose to void it before the other party performs.

READING 3: REMEDIES

UNDERSTANDING MAIN POINTS

Read the text and decide if the statements are true or false:

1. Having the right contract means the possibility to avoid the failure of performance of contractual obligations.
2. Breach of contract may be the cause to prosecute the party failing to fulfil the terms of the contract.
3. In different jurisdictions the remedies for breach of contract cases are similar.
4. Sometimes, breach of contract cases may be settled in mediation rather than by judge.
5. Remoteness is an important concept in deciding the amount of damages and ordering specific performance.
6. Specific performance, an injunction, rescission and rectification, all are discretionary remedies.
7. Rectification of the document can be carried out without court ruling.

UNDERSTANDING DETAILS

Read the text again and find the defined terms in the text:

1. A means of legal reparation
2. The official power to make legal decisions and judgements
3. Intervention in a dispute in order to resolve it; arbitration
4. Decision that an agreement is no longer effective and refusal to fulfil or discharge the agreement, obligation, or debt
5. The amount of money that a court orders to be paid to someone in return for something that has been lost or damaged
6. An order given by a court stating that a contract for work must be carried out exactly as it was written, rather than someone receiving money instead
7. A writ (order) issued by a court ordering someone to do something or prohibiting some act after a court hearing
8. The act of officially ending a law, taking back a decision, or saying that an agreement no longer exists
9. A remedy whereby a court orders a change in a written document to reflect what it ought to have said in the first place
10. The right to choose something, or to choose to do something, according to what seems most suitable in a particular situation

Having the right contract is always a good idea, but no matter how much protection it offers, no contract can prevent a **breach of contract** by the other party. A breach of contract is failing to perform any term of a contract, written or oral, without a legitimate legal excuse. This may include not completing a job, not paying in full or on time, failure to deliver all the goods, substituting inferior or significantly different goods, not providing a bond when required, being late without excuse, or any act which shows the party will not complete the work. Breach of contract is one of the most common causes of law suits for various damages or other legal remedies.

If you enter into a contract and it is breached, there are several possible **remedies** available to you. Breaches of contract occur when one party refuses to perform their obligations under the contract or performs them defectively.

The remedies for breach of contract cases may depend on the jurisdiction in which a contract is valid. In many cases, a party who is dealing with a breach of contract may sue the other party in court. In such a case, a judge may decide **to rule** in either party's favour and apply the remedies applicable based on the jurisdiction's laws. In some cases, however, the parties in a breach of contract case may attempt to reach an agreement without going to court. For example, a breach of contract case may **be settled in mediation** rather than in a courtroom.

Repudiation. If the other party breaches a condition of the contract, you may be able to '**repudiate**' the contract to terminate it and claim damages for your loss - or to 'affirm' the contract and claim damages.

Typically, the remedy for breach of contract is an award of money damages. **Damages** are essentially of two types and are intended to restore **the claimant** to the position they would have been in had the contract been performed satisfactorily. In the UK there is no concept of 'punishment' in damages, so the settlements reflect the actual loss only. General damages are awarded for unquantifiable losses, such as loss of **amenity**, physical inconvenience and so on. Special damages are awarded for quantifiable losses, such as loss of profits.

For an innocent party to obtain substantial damages he must show that he has suffered loss as a result of the breach (remoteness) and the amount of his loss (measure). It is up to the party in breach to argue that the innocent party has failed to **mitigate his loss**.

Remoteness of loss. The innocent party may only recover damages for loss suffered as a result of the breach provided it is not too remote. The aim of damages is to put him in the position he would have been had the contract been properly performed.

The principles of remoteness are given in *Hadley v Baxendale* ([1854] 9 Exch. 341) and provide that the following losses are recoverable:

- All loss which flows naturally from the breach.
- All loss which was in the contemplation of the parties at the time the contract was made as probable results of the breach.

If the loss does not fall within the above categories, then it will be too remote and will not be recoverable.

A less commonly used remedy is '**specific performance**' – where one party goes to court to obtain an order of the court that the other party will specifically carry out their contractual obligations. A decree by the court to compel a party to perform his contractual obligations is usually only ordered where damages are not an adequate remedy. Specific performance is often ordered in relation to building contracts because the contract deals with results rather than the carrying on of an activity over a period of time and it usually defines the work to be completed with certainty (*Jeune v Queens Cross Properties Ltd* [1973] 3 All ER 97). The court has broad **discretion** to award specific performance and in exercising this discretion it takes into account various specific factors. Specific performance is **an equitable remedy** granted at the court's discretion.

Like specific performance, **an injunction** is an equitable remedy and therefore only granted at the discretion of the court. It is awarded in circumstances where damages would not be an adequate remedy to compensate the claimant because the claimant needs to restrain **the defendant** from starting or continuing a breach of a negative contractual **undertaking** (prohibitory injunction) or needs to compel performance of a positive contractual obligation (mandatory injunction).

Other equitable remedies are **rescission** and **rectification**. Rescission terminates the contract, and the parties are restored to the position of never having entered into the contract in the first place. The cases in which the equitable remedy of rescission may be granted is when a party **has been induced** to enter into a transaction by a misrepresentation, whether **fraudulent** or innocent, by the other party.

Rectification is the correction of the document if it does not correctly express the common intention of the parties to it. Leases, contracts and certain registers of companies may be rectified on application to the court. Parties to a document may, by agreement, rectify it without the court's consent, provided that the rights of third parties are not affected.

POINTS TO REMEMBER

1. **offeror** and **offeree**

Offeror is a person or entity who makes a specific proposal to another (the offeree) to enter into a contract. Offeree is a person or entity to whom an offer to enter into a contract is made by another (the offeror).

Why can't an offeror revoke an offer for a unilateral contract once an offeree has begun performance?

2. **promisor** and **promisee**

Promisor is a person or entity who makes a promise or a contractual commitment. The promisor is often referred to as the obligor.

Promisee is a person or entity to whom a promise has been made. The promisee is the party that makes the promise, while the promisee is one the receiving end of the promise.

Consideration is either some detriment to the promisee (in that he may give value) or a benefit to the promisor (in that he may receive value).

3. **equitable remedies**

Equitable remedies are judicial remedies (specific performance, injunction, rescission, rectification) developed by courts of equity from about the time of Henry VII (dating to the twelfth century) to provide more flexible responses to changing social conditions than was possible in precedent-based common law. Equitable remedies are awarded when a legal remedy such as money damages cannot adequately redress the injury.

4. **forbearance**

Forbearance is the action of refraining from exercising a legal right, especially enforcing the payment of a debt, e.g. deliberately choosing not to claim for a debt.

Forbearance may take the form of extra time allowed to come up with the overdue payment in return for the borrower's promise to make regular payments in the future.

5. **shall** and **must**

Shall and must are virtually identical in meaning, however shall is usually deemed to be the more formal of the two and is used only in contracts, legislation or similar documents.

Shall means has a duty to, must is required to, may has discretion or permission to and will expresses a future contingency. As seen here, shall is used when a person or entity has a duty to perform a certain act. Must is used if the sentence's subject is an inanimate object, in other words, where the subject is not a person or a body on which a duty can be imposed

6. **should**

The main function of the word should is to express a duty, necessity or strong recommendation etc. (i.e. You should get your flu shot). But the term usually only suggests a duty, rather than imposing one (i.e. You should get your flu shot = it would be wise to get a flu shot but there is no obligation). For this reason, the inclusion of should in contracts often produces ambiguity and is best avoided.

7. **can**

Although the terms can and may are frequently used interchangeably, can is often used to mean to be able to (= to have the ability to do something), while may means to be permitted (= allowed to do something).

8. **may**

To be permitted; to be at liberty; to have the power

Although, in some contexts, the use of can instead of may is acceptable to indicate permission to do something, to avoid uncertainty, it is always advisable to use may when drafting.

9. **in the event of + noun**

This prepositional phrase is used in legal English to refer to a possible future event or its consequence.

This will reduce the chance of serious injury in the event of an accident.

READING COMPREHENSION AND VOCABULARY TASKS

Task 1. Match the verbs or their forms from box A with the nouns from box B as they are used in the texts.

A

pursue,	reach,	adopt,	meet,	constitute,	sign,	sue,
	enforce,	breach,	manifest			

B

assent,	purpose,	party,	requirements,	agreement,
	contract,	obligation,	article	

What other verb-noun collocations with the given verbs do you know? Write them into your notebook.

Task 2. Match these terms with their definitions.

1) statute	a) agreement about something, agreement in opinion, in a course of action
2) explicit	b) fully and clearly expressed or demonstrated; leaving nothing merely implied
3) consent	c) a law passed by a parliament, council etc. and expressed in a formal document
4) bargain	d) lack of equity; unfairness; favouritism or bias
5) mutual	e) to stop; discontinue: to come to an end
6) inequity	f) experienced or expressed by each of two or more people or groups about the other; reciprocal
7) misnomer	g) an agreement or contract establishing what each party will give, receive, or perform in a transaction between them
8) cease	h) to limit or hamper the activity, growth, or effect of
9) revoke	i) bring a civil action against; to start civil proceedings in court
10) restrain	j) an incorrect or unsuitable name or term for a person or thing
11) sue	k) to take back or withdraw; annul, cancel, or reverse; rescind or repeal

Task 3. Make antonyms using proper prefixes.

- | | |
|----------------|-------------------|
| 1) certain | 8) valid |
| 2) complete | 9) possible |
| 3) advantage | 10) legal |
| 4) equity | 11) enforceable |
| 5) bound | 12) understanding |
| 6) capacitated | 13) absent |
| 7) formal | |

Task 4. Choose the correct word or phrase to complete the sentences.

- A contract is a legally _____ exchange of promises or agreement between parties that the law will enforce.

A. promising	C. offering
B. binding	D. charging
- Breach of a contract is recognized by the law and _____ can be provided.

A. detriments	C. punishment
B. alimony	
- In common law jurisdictions there are three key elements to the creation of a contract: they are offer and acceptance, _____ and an intention to create legal relations.

A. consideration	C. terms
B. motivation	D. waiver

4. A contract which is _____ in fact is one in which the circumstances indicate that parties have reached an agreement even though they have not done so expressly.
- A. refrained C. waived
B. terminated D. implied
5. In some circumstances a court will order a party to perform his or her promise (an order of "specific performance") or issue an order, known as an "injunction", that a party should _____ from doing something that would breach the contract.
- A. remedy C. refrain
B. resolve D. restrain
6. If the _____ of the contract are uncertain or incomplete, the parties cannot have reached an agreement in the eyes of the law.
- A. interactions C. awards
B. terms D. statutes
7. In the case of artificial persons, i.e. corporations, their _____ capacity depends upon how the corporation was created.
- A. contractual C. contractible
B. contractive D. contractionary
8. Your lack of _____ with the terms of the agreement can be considered a breach of contract.
- A. compliant C. compliance
B. completion D. complement

Task 5. Complete the following table.

VERB	NOUN	ADJECTIVE
_____	_____	valid
accept	_____	_____
_____	repudiation	_____, _____
remedy	_____	_____
_____	_____, _____	incapacitated
imply	_____	_____
_____	argument	_____
try	_____	_____
_____	_____	intentional
constitute	_____	_____

Task 6. Fill in the gaps with the necessary words in their correct form. Choose from:

override, discretion, promise, remedies, enforce, repudiate, binding, sue,
incapacitate, detriment, consideration, terms, contracts, induces, forbearance

Contracts are promises that the law will (1) _____. The law provides (2) _____ if a promise is breached or recognizes the performance of a promise as a duty. Contracts arise when a duty does or may come into existence, because of a (3) _____ made by one of the parties. To be legally (4) _____ as a contract, a promise must be exchanged for adequate (5) _____. Adequate consideration is a benefit or (6) _____ which a party receives which reasonably and fairly (7) _____ them to make the promise/contract. For example, promises that are purely gifts are not considered enforceable because the personal satisfaction the grantor of the promise may receive from the act of giving is normally not considered adequate consideration. Certain promises that are not considered (8) _____ may, in limited circumstances, be enforced if one party has relied to his detriment on the assurances of the other party.

Contracts are mainly governed by state statutory and common (judge-made) law and private law. Private law principally includes the (9) _____ of the agreement between the parties who are exchanging promises. This private law may (10) _____ many of the rules otherwise established by state law. Statutory law may require some contracts be put in writing and executed with particular formalities.

Task 7. Match these terms to their definitions and use the terms in the extract from the sample of Standard Services Agreement. HEREOF is used twice.**Contract language**

1) hereof	a) having passed information to someone officially
2) in accordance with	b) of this
3) undertaking	c) give (someone) the right to something
4) remedied	d) in agreement with something; in conformity with something
5) upon notice	e) liquidation, closing of a company or selling its assets
6) in the event	f) legally redressed
7) winding-up	g) regarded as; considered
8) entitle	h) by whatever means
9) howsoever	i) business
10) deemed	j) if it should happen; in case

2.4 TERM AND TERMINATION

- a) This agreement shall be effective on the date 1) _____ and shall continue, unless terminated sooner 2) _____ Clause 2.4 (b), until the Completion Date.
- b) Either party may terminate this 3) _____ in writing if:
- I. the other is in breach of any material obligation contained in this Agreement, which is not 4) _____ (if the same is capable of being remedied) within 30 days of written notice from the other Party so to do; or

- II. a voluntary arrangement is approved, a bankruptcy or an administration order is made or a receiver or administrative receiver is appointed over any of the other Party's assets or an 5) _____ or a resolution or petition to wind up the other Party is passed or presented (other than for the purposes of amalgamation or reconstruction) or any analogous procedure in the country of incorporation of either party or if any circumstances arise which 6) _____ the Court or a creditor to appoint a receiver, administrative receiver or administrator or to present a 7) _____ petition or make a winding-up order in respect of the other Party.
- c) If the Buyer is a consumer and the Distance Selling Directive (97/7/EC) (the "Directive") applies to this Agreement, the Buyer may terminate this Agreement within the relevant timescales prescribed by the regulations or laws in the relevant Member State which implement the requirements of the Directive in respect of a right for the Buyer to withdraw from a contract. 8) _____ of termination in accordance with this Clause 2.4(c), the liability of the Buyer to the Service Provider shall be as prescribed in the Directive or in any regulations or laws implementing its requirements in the relevant Member States.
- d) Any termination of this Agreement 9) _____ occasioned) shall not affect any accrued rights or liabilities of either Party nor shall it affect the coming into force or the continuance in force of any provision 10) _____ which is expressly or by implication intended to come into or continue in force on or after such termination.

2.5 RELATIONSHIP OF THE PARTIES

The Parties acknowledge and agree that the Services performed by the Service Provider, its employees, agents or sub-contractors shall be as an independent contractor and that nothing in this Agreement shall be 11) _____ to constitute a partnership, joint venture, agency relationship or otherwise between the parties.

Task 8. Read and analyse both Lithuanian and English versions of the extracts from the Copyright Agreement. Give English equivalents to the underlined Lithuanian legal terms.

AUTORINĖ SUTARTIS Nr. 20.. m. d.	COPYRIGHT AGREEMENT No. .. of, 20..
<p>Uždaroji akcinė bendrovė " _____ ", įmonės kodas _____, esanti _____ Vilnius, Lietuvos Respublika (toliau vadinama – Užsakovu), atstovaujama direktoriaus _____ ir _____, asmens kodas _____, gyve- nantis _____ (toliau sutartyje vadinamas – Autoriumi), toliau abu bendrai vadinami – Šalimis, sudarė šią autorinę sutartį (toliau vadinama Sutartimi):</p>	<p>The joint stock company " _____ ", company code, establishment address _____ . Vilnius, the Republic of Lithuania (_____ to as – the "Client"), represented by _____, the director and _____, personal code _____, residing _____ (hereinafter referred to as – the "Author"), hereinafter referred to as – the " _____ ", have concluded this agreement (hereinafter referred as the "Agreement"):</p>
<p>1 straipsnis. Sutarties dalykas</p> <p>1.1. Autorius įsipareigoja pagal šios Sutarties sąlygas ir terminus sukurti ir perduoti Užsakovui šios Sutarties 1.2. dalyje nurodytą</p>	<p>Article 1. The subject of the Agreement</p> <p>1.1. According to the terms and conditions of this Agreement _____ to the Client the Author's work, defined at the Article 1.2</p>

autorinį darbą bei autoriaus **turtines teises** į šios Sutarties 1.2. dalyje nurodytą autorinį darbą, o Užsakovas įsipareigoja už tai sumokėti Autoriui Sutarties 4 straipsnyje numatytą **autorinį atlyginimą**.

- 1.2. Autorinis darbas – pagal Užsakovo pateikiamą užsakymą, kuris yra šios Sutarties priedas, sukurta kompiuterinė programa, atitinkanti Lietuvos Respublikos **autorių ir gretutinių teisių įstatyme** numatytus autorių teisių objektų kriterijus bei paprastai tokio pobūdžio objektams taikomus reikalavimus.
- 1.3. Autorius yra tiesiogiai atsakingas už Autorinio darbo tinkamą atlikimą.

4 straipsnis. Autorinis atlyginimas

- 4.1. Už Autorinio darbo atlikimą Užsakovas Autoriui moka iš viso ----- eurų autorinį atlyginimą. **Į šią sumą yra įskaičiuoti** visi mokesčiai, susiję su Autorinio darbo atlikimu, o taip pat visi **mokesčiai, kuriuos yra privaloma sumokėti** už tokio pobūdžio honorarą.
- 4.2. Užsakovas įsipareigoja sumokėti Autoriui 14 procentų autorinio atlyginimo **per 25 darbo dienas** nuo Sutarties pasirašymo.
- 4.3. Užsakovas įsipareigoja sumokėti Autoriui 25 procentų autorinio atlyginimo per 25 darbo dienas nuo 40 procentų darbų pagal šią Sutartį užbaigimo ir priėmimo **pagal Šalių pasirašytą priėmimo perdavimo aktą**.
- 4.4. **Užsakovas įsipareigoja sumokėti** Autoriui 25 procentų autorinio atlyginimo per 25 darbo dienas nuo 60 procentų darbų pagal šią Sutartį užbaigimo ir priėmimo pagal šalių pasirašytą priėmimo perdavimo aktą.
- 4.5. Užsakovas įsipareigoja sumokėti Autoriui 25 procentų autorinio atlyginimo per 25 darbo dienas nuo 80 procentų darbų **pagal šią Sutartį** užbaigimo ir priėmimo pagal šalių pasirašytą priėmimo perdavimo aktą.
- 4.6. Užsakovas įsipareigoja sumokėti Autoriui likusią autorinio atlyginimo dalį per 25 darbo dienas nuo galutinio Autorinio darbo **perdavimo – priėmimo akto** pasirašymo dienos.
- 4.7. Užsakovas, mokėdamas Autoriui autorinį atlyginimą, iš tokio atlyginimo sumos **išskaičiuoja ir sumoka** visus pagal Lietu-

of the Agreement, also _____ to the Author's work, defined at the Article 1.2 of the Agreement, and the Client shall pay for this to the Author the _____, indicated in the Article 4 of this Agreement.

- 1.2. The Author's work – computer program, created according to the Client's order, that is an Annex to this Agreement, and satisfying the criteria for copyright subjects, indicated in the _____ of the Republic of Lithuania, also requirements usually applied to the subjects of such nature.
- 1.3. The Author is directly responsible for proper performance of the Author work.

Article 4. The Author's remuneration

- 4.1. The Client shall pay to the Author for the performance of the Author's work the Author's remuneration, which is _____ Euro in total. _____ all taxes, related to the creation of the Author's work, as well as _____ for such kind of remuneration.
- 4.2. The Client shall pay to the Author 14 percent of the Author's remuneration _____ from signing this Agreement;
- 4.3. The Client shall pay to the Author 25 percent of the Author's remuneration within 25 business days from conclusion of 40 percent of works under this Agreement and acceptance _____;
- 4.4. _____ to the Author 25 percent of the Author's remuneration within 25 business days from conclusion of 60 percent of works under this Agreement and acceptance according to the transfer-acceptance act, signed by the Parties;
- 4.5. The Client shall pay to the Author 25 percent of the Author's remuneration within 25 business days from conclusion of 80 percent of works _____ and acceptance according to the transfer-acceptance act, signed by the Parties;
- 4.6. The Client shall pay to the Author the rest part of the Author's remuneration in 25 business days from the day of signing the final _____ of the Author's work.
- 4.7. When paying to the Author the Author's remuneration, the Client

vos Respublikos įstatymus privalomus mokesčius.

5 straipsnis. Konfidencialumas

5.1. Be išankstinio **raštiško** Užsakovo **sutikimo**, Autorius neturi teisės nei pats naudoti, nei perduoti ar **atskleisti kitiems asmenims** jokių tarnybinių, komercinių ar technologinių paslapčių, slaptojo *know-how*, slaptos techninės informacijos ar kitos konfidencialios informacijos, susijusios su Užsakovo veikla, kurią Autorius gavo ar sužinojo darbo pagal šią sutartį metu, išskyrus atvejus, kai atskleisti minėtą informaciją Lietuvos Respublikos valstybės institucijoms **yra reikalaujama** pagal Lietuvos Respublikos įstatymus.

8 straipsnis. Baigiamosios nuostatos

8.1. Ši Sutartis **yra sudaryta** lietuvių ir anglų kalbomis dviem egzemplioriais iš kurių po vieną yra atiduota kiekvienai iš Šalių. **Esant nesutapimams** tarp lietuviško ir angliško tekstų, **turi būti vadovaujama** lietuvišku tekstu.

8.2. Visi šios **Sutarties pakeitimai ir papildymai** įforminami raštiškais Šalių susitarimais.

8.3. Dėl viso kito, **kas nenumatyta šioje Sutartyje**, Šalys vadovaujasi Lietuvos Respublikos įstatymais.

_____ all the taxes, that are obligatory from the sum of the remuneration under the laws of the Republic of Lithuania.

Article 5. Confidentiality

5.1. The Author has no right without _____ of the Client neither to use himself nor to transfer or _____ official, commercial or technological secret, secret *know-how*, secret technical information or other confidential information, that is related to the activity of the Client, that was got or got known during the work under this agreement, except cases, when _____ to disclose this information to the institutions of the Republic of Lithuania under the laws of the Republic of Lithuania.

Article 8. Final provisions

8.1. This Agreement _____ in Lithuanian and English in duplicate, giving one of each to the Parties. _____ between Lithuanian and English text of the Agreement, Lithuanian text _____.

8.2. All _____ shall be executed in written Agreements of the Parties.

8.3. The Parties for everything else _____ follow the laws of the Republic of Lithuania.

The list of phrases to be used in the English version of the Copyright Agreement (Task 8)

Law on Copyright and Related Rights, that is not defined in this Agreement,
 Author's remuneration, economic rights, the Author shall create and transfer,
 hereinafter referred, "Parties", this sum shall include, a written consent,
 shall withhold and pay, all taxes that have to be paid, within 25 business days,
 shall prevail, according to the transfer-acceptance act, signed by the Parties,
 the Client shall pay, under this Agreement, transfer-acceptance act,
 disclose to other persons, it is required, has been executed, in case of discrepancies,
 the amendments and supplements of the Agreement

GRAMMAR FOCUS

MODAL VERBS

Task 1. Insert the missing modal verb (*may, must, shall*).

1. Neither Party _____ assign or transfer all or any part of its rights under this Agreement without the consent of the other Party.
2. This Agreement _____ not be amended for any other reason without the prior written agreement of both Parties.
3. The Company _____ promptly notify the Stockholders if any Company Subsidiary _____ pay any Tax Authority a fine.
4. The Work _____ be suspended by the Owner as provided in Article 14 of the General Conditions.
5. Either Party _____ terminate this Agreement upon notice in writing if the other is in breach of any material obligation contained in this Agreement, which is not remedied within 30 days of written notice from the other Party so to do.
6. This Agreement _____ come into force on the day of its signing and shall be valid until the complete implementation of the obligations of Parties under this Agreement.
7. The Company _____, from time to time, agree variations of the prices in respect of local promotions and market conditions.
8. The Party that violated its obligations under this Agreement, _____ compensate all losses that occurred to the other Party.
9. This Agreement _____ be governed by the laws of the jurisdiction in which the Buyer is located.
10. There _____ be a mistake, this document is absolutely misleading.

Task 2. Two colleagues are discussing a negotiation that went wrong. Complete the dialogue with words from the list. Bear in mind the rules of conditional clauses.

as long as, if, in case, unless(2), 'll, d(2), can, would have, 'd have,
wouldn't have, have happened

P. Jan, (1) _____ you've got a moment, (2) _____ I have a word with you?

J. Sure. (3) _____ it doesn't take too long. I've got a meeting in five minutes. Is it about the contract we lost.

P. Yes. What went wrong? Do you think we (4) _____ got the deal if we (5) _____ offered a better price? Maybe we (6) _____ lost the business.

J. No, I don't think the problem was the price.

P. No? Was it a problem with the delivery time? If we (7) _____ given a shorter delivery time, (8) _____ we _____ been more successful?

J. No, the delivery time was OK.

P. Hmm, this is strange. We really should find out what went wrong (9) _____ a situation like this happens in the future. You know, (10) _____ we learn from our mistakes, we, (11) _____ lose more orders. Now, Jan, tell me what do you think could really (12) _____ ?

J. Well, nothing, (13) _____ they didn't like our sales report.

P. Oh?

J. Do you know who it was?

P. Er, it was me.

COMMUNICATION

NEGOTIATION

Negotiation is the process that is used to achieve agreement about the goals and the outcome of the situation. It is a communication process that we are involved with every day, at home, at work, socially as we attempt to reach agreement with others. Negotiation involves discussions about allocation of goods and services, about opportunities and issues related to conditions and timing. The discussions may fail if the negotiation process is not successful. Therefore, you need not only skills for dealing with this process but master the appropriate and correct language for negotiations. Negotiation language makes full use of sequencing and linking (*Our main objective is ..., There are five items ..., first(ly), second(ly), then, furthermore, moreover, lastly, finally*); conditional forms are the cornerstone of negotiations (*If you accept the condition, we will ..., If you gave us a discount we could/would ...*); in making proposals and suggestions the use of polite forms such as *We would ... Would you mind if ... Could we ... May we...* is essential.

The following list names key functions and useful language for basic negotiations.

Starting up	<p>I wondered if I could start by mentioning/saying ...</p> <p>We've got a busy agenda ahead of us, so why don't we start up?</p> <p>If you don't mind, let's get started/down to business.</p> <p>OK, let's get started, shall we?</p>
Proposing the agenda	<p>As we see it, the main objective of our meeting is ...</p> <p>We're looking to accomplish/achieve ...</p> <p>There are/We've got four/five items on the agenda.</p> <p>We'd like to go over ... first/then ... last.</p>
Setting and clarifying positions	<p>I will give a presentation/a brief outline of ...</p> <p>... is going to take notes/minutes.</p> <p>... would like to say a few words about ...</p> <p>What sort of figure are we talking about?</p> <p>Please feel free to interrupt/to ask questions.</p> <p>If anything is unclear, please ask me.</p> <p>Do we agree to discuss ...?</p> <p>If we understand you correctly, you're interested in/you'd like (to)</p>
Dealing with conflict	<p>Let me just check I understand you correctly</p> <p>We're afraid that ...</p> <p>Perhaps we could ... instead of ...</p> <p>Maybe we could consider ...</p> <p>That sounds a bit/little risky.</p>

	<p>I'm afraid this doesn't really solve our problem.</p> <p>I think we should look at the points we agreed on ...</p> <p>Let us explain our position ...</p> <p>Could you tell us why you feel like that?</p> <p>It is in our joint interests to resolve the issue ...</p>
Playing for time	<p>I'd like to think about it.</p> <p>I'm sorry, but I'll have to consult my colleagues about that.</p> <p>Perhaps we could adjourn for a little while.</p>
Making offers and concessions	<p>Can we make a suggestion?</p> <p>We propose/suggest/advise ...</p> <p>I think we should ...</p> <p>Why don't we ...?</p> <p>How about/What about ...?</p> <p>We'd prepared to offer you a better price if you increased your order.</p>
Bargaining	<p>Would you be willing to accept a compromise?</p> <p>What if we offered you an alternative?</p> <p>If you are unable/can't ... we'll have to look/go elsewhere.</p> <p>We're prepared to offer you ...</p> <p>I'm afraid we could only accept this on one condition.</p> <p>We could consider ...</p> <p>... as long as ...</p> <p>... on one condition ...</p> <p>... provided that ...</p> <p>... unless you ...</p>
Closing and agreeing	<p>Let's recap on our main points.</p> <p>We've agreed to the following ...</p> <p>We seem to be hearing agreement.</p> <p>We still have some outstanding issues such as ...</p> <p>Do you agree with our summary?</p> <p>Is there anything you'd like to add?</p> <p>Great! We've got a deal.</p> <p>We look forward to a successful partnership.</p>
Breaking off negotiations	<p>I think we have gone as far as we can.</p> <p>It's a pity we couldn't reach agreement this time.</p> <p>Unfortunately we appear unable to settle our differences.</p> <p>It would be better if we looked for some independent arbitrator.</p>

A big service providing company is negotiating a contract with Rosaly, Ltd., a Taiwanese company, for the manufacturing of PC mainboards. Joseph is the Production Manager for Rosaly and Clare Close is the Purchasing Manager for service providing company.

Their negotiation dialogue is not in the right order; place the sentences from their conversation into the right order. The first and the last sentences are in the right place. (Pay attention to the highlighted phrases and expressions, characteristic to the negotiation language).

C.: *What is your production situation now? Do you have the capacity to provide us with a substantial number of units?*

(A)-J.: What did you have in mind regarding specifications?

(B)-J.: **Provided that** you give us sufficient notice, we have the production capacity to meet your needs. **What sort of quantities are you looking for?**

(C)-J.: No problem. We can do that.

(D)-J.: Before I answer that, **could you tell me what you were thinking about in terms of** delivery dates?

(E)-C.: **We are considering** an initial quantity in excess of 200,000 units, with additional similar quantities ordered on a quarterly basis.

(F)-C.: We would like units for both P4 and AMD CPUs. About 20% would be for entry-level desktops, 40% would be for business use and the remaining 40% for multimedia use. Supposing we placed an order for 200,000 units for the second quarter of 2014 and follow-up orders of 200,000 units for each of the following three quarters, **what unit price could we expect?**

(G)-C.: We were thinking about delivery dates of 120 days following our order.

(H)-J.: **On the condition that** we would have such a delivery period, **we could offer a 5% discount on the larger order.**

(I)-J.: **As long as we are clear on** your specifications and have 30 days before beginning production, we could offer a unit price of NT\$1,700.

(J)-C.: **If we doubled the number of units in our order, what discount on the unit price could we receive?**

(K)-J.: **Supposing we offered a compromise discount of 6.5% on the larger order, would that satisfy you?**

(L)-C.: OK. It's agreed then.

(M)-C.: I think we can live with that **providing you supply good technical support** and documentation in Italian.

(N)-C.: **If you could offer an 8% discount, then we could agree to place the larger order.**

J.: *Thank you.*

Make the direct remarks below more diplomatic using the words in brackets (modals in the past (would, could, might, etc.), negative questions, the -ing forms, rephrased negatives (not very, not able, not in a position), softeners (unfortunately, with respect).

1. That's impossible. (unfortunately / would not)
2. We hoped you'd pay a deposit today (were hoping / able)
3. This is too expensive. (unfortunately / would)
4. We're not interested in your economy model. (would / less)
5. It will be difficult to sell the idea to my boss. (unfortunately / may / very easy)
6. We should be near a decision by now. (Shouldn't / a bit nearer?)
7. We can't pay straight away. (afraid / might not)
8. A fixed interest rate would be a good idea. (wouldn't / better?)
9. This is difficult for us to accept. (would / a little / the moment)
10. We have to spend more time looking for a compromise here. (should / little?)

Suggest what you could say in the following situations. Use the phrases from the list of useful language for basic negotiations.

Situation 1

After a long negotiation, you have reached agreement and now plan a meal in a local restaurant with the other party in the negotiation.

Situation 2

Your efforts to reach agreement have been unsuccessful. It is late. End the negotiation but offer some hope.

Situation 3

A colleague has asked you to cooperate on a project, but after long discussion you feel you cannot participate because of fundamental disagreement. It is important that you continue to work in other areas.

Situation 4

You want to repeat an order with a supplier but they are trying to increase prices by 20%. You cannot agree to this. End your discussions.

Situation 5

A customer is asking you to supply goods in a month. This is physically impossible. End the discussion.

DISCUSSION

Read the following cases and try to solve the disputes giving your arguments.

1. John, a homeowner, answers the telephone and listens to a solicitor make a five-minute sales pitch for Weed Gardening Services. John responds, "No, thank you," and hangs up. Two days later, John returns home from work to find a crew gardening in his yard and a bill for \$200 sitting on the porch. When John tells the Weed representative that he never asked for this service, Weed responds by saying, "It looks much better, doesn't it? You got the service, now pay for it." John agrees that the work was of good quality, but refuses to pay for it. He is later served with a summons to appear in magistrate court because of this dispute.
 - A. For Weed Gardening Services, because Weed performed good quality services for John.
 - B. For John, because he did not accept Weed's offer.
2. Harry drops by Mack's house and finds him working on his old pickup truck in the driveway. Mack kicks the truck and exclaims to Harry, "This piece of junk isn't worth a tank of gas – you can have it." Harry says thanks and the next day comes by with his SUV to tow away the pickup. Mack stops him and says the truck is working now. Harry goes to court and claims that the truck Mack promised him was worth \$500 and Mack should pay him that amount.
 - A. For Mack, because there was no consideration for the transaction.
 - B. For Harry, because Mack promised him the pickup truck, and that created a contract.
 - C. For Mack, because Harry never accepted his offer.
3. Mike puts an ad in the newspaper stating that he wants to sell his truck for \$500. James goes to Mike's home and tells him that he is interested in buying the truck. After looking at it, James hands Mike \$500 in cash, which Mike puts in his pocket. Just then, Steve drives up and tells Mike that he'll give him \$600 for the truck. Mike hands James back his \$500 and sells the truck to Steve. James sues Mike for breach of contract.
 - A. For Mike, because there was no offer and acceptance.
 - B. For Mike, because he gave the money back to James.
 - C. For James, because once Mike accepted the money, the deal was closed.
 - D. For Mike, because he didn't specifically say why he was taking the money.
4. Brunhilda and Frank had a valid contract under which Frank would buy all of the fruit from Brunhilda's orchard. A fire swept through Brunhilda's orchard just before the harvest, destroying all of the fruit trees. Brunhilda tells Frank that she will not be able to supply him with the fruit. Frank sues Brunhilda for breach of contract.
 - A. For Brunhilda, because it has become impossible for her to perform the contract.
 - B. For Frank, because Brunhilda did not supply him with fruit as they had agreed.

5. Green Company has a contract with Red Company to buy 400 golf balls, to be delivered to Green Company on July 16. The contract states that "time is of the essence." On July 18, Red Company delivers the 400 golf balls to Green Company. Green Company refuses to accept the golf balls because of the delay and sues Red Company for breach of contract.
- A. For Green Company, because the late delivery of golf balls constituted a material breach.
 - B. For Red Company, because the delivery was only two days late.
6. Mr. Brown makes a contract for Mr. Yellow to do repair work to his living room, which is to be finished by June 3. Mr. Yellow comes down with a bad case of the flu and is delayed in finishing the work. He is able to complete the work on June 8. Mr. Brown sues Mr. Yellow for breach of contract.
- A. In Mr. Brown's favour, because Mr. Yellow's delay was a material breach of the contract.
 - B. In Mr. Yellow's favour, because the breach was minor.
7. Jeff makes a contract with Acme Farms to buy 1000 apples for \$200, which is the average price for apples at that time. The contract specifies that Jeff must have the apples by April 2 so that he can make his specialty apple pies to sell to Yummy Bakery. On March 15, Acme Farms informs Jeff that they will not be able to meet his order. On April 4, Jeff files suit against Acme Farms for breach of contract and wins the case. Jeff asks for consequential damages that will reimburse him for the amount of profit that he would have been paid by Yummy Bakery if he had been able to make his apple pies. Acme presents evidence proving that Jeff had not even tried to find substitute apples, even though he had sufficient time before his deadline and there were other farms nearby that could have supplied him with apples for the same \$200 price.
- A. Jeff should not recover any damages because he did not look for another apple supplier.
 - B. Jeff can recover damages, but such recovery should be reduced by the amount that he could have avoided if he had tried to buy his apples elsewhere.
 - C. Jeff should get full damages that include the amount that he would have been paid by Yummy Baker for his apple pies.
8. Tory and Cathy entered into a contract under which Cathy was supposed to provide the floral arrangements for Tory's wedding on May 23. The day of the wedding arrives, but Cathy does not deliver the floral arrangements. Cory is devastated and feels that her wedding was ruined by the lack of floral arrangements. She sues Cathy successfully for breach of contract and then asks for punitive damages because her wedding was ruined. The evidence presented at court only shows that Cathy did not deliver the arrangements because she had accidentally written the wrong delivery date on her calendar.
- A. Only award compensatory damages and not punitive, because there is not sufficient evidence to prove that Cathy had the requisite mental state for an award of punitive damages.
 - B. Award punitive damages, because Cathy should have known that the breach would ruin Cory's wedding.
9. Amy and Ben make a contract. Ben breaches, so Amy puts an end to the contract. Amy's action will constitute a
- A. termination.
 - B. cancellation.
 - C. both of the above.
 - D. none of the above.
10. Stephens Co. and Boyd's Inc. contract in writing for Boyd's to buy from Stephens 100 cases of sterile gauze pads a month for twelve months. The contract states, among other things, "Either party may end this Agreement by giving written notice to the other party at least ten calendar days before the date on which the notice is to take effect." On June 16, Boyd's hand delivers a written notice to

Stephens, saying only this: "We are putting an end to our contract pursuant to the provision therein. This notice is to take effect as soon as possible under the applicable clause of the contract."

- A. The contract will be terminated before the end of June.
- B. The contract will be cancelled before the end of June.
- C. The contract is terminated immediately when Stephens receives the notice.
- D. The contract is cancelled immediately when Stephens receives the notice

11. Seller publishes a catalogue listing prices for various office supplies. Buyer mails an order for 100 boxes of paper clips at the catalogue price. Seller ships the clips upon receiving the order. Ten days later, Seller sends an invoice to the Buyer, billing the Buyer according to the terms in the catalogue.

- A. The catalogue constitutes an offer.
- B. Buyer's order was an offer.
- C. Seller's shipment was an offer.
- D. Seller's shipment was a rejection and counteroffer.

12. Betty has a piece of paper saying the following. "I offer to sell Betty Buyer the farm known as 'Stone Bluff' for \$300,000 . This offer to remain open for five days from today. [Signed] Sam Seller, May 17, 2003" Betty has not done anything yet.

- A. The offer cannot be revoked until May 21, 2003.
- B. The offer cannot be revoked until May 22, 2003.
- C. The offer can be revoked at any time.
- D. The offer cannot be revoked because it qualifies as a "firm offer" under the UCC.

13. A physician says to his patient, Gwen, "I guarantee you a 100% good hand after surgery." Gwen had suffered from a bad hand for years because of an injury. The physician had talked to Gwen over the course of several months, suggesting the surgery to her because it involved a kind of surgery of particular interest to the physician. Through his negligence, the physician makes the hand even worse after surgery that it was before. He is liable

- A. In tort.
- B. On an express contract.
- C. On an implied contract.
- D. All of the above.

14. Stephen has been offered a large and lucrative job that will require all summer and that would preclude him from doing Harold's job during that time. He asks you whether he can take that job.

- A. Yes, because there is no consideration yet for his arrangement with Hugh.
- B. Yes, because Stephen and Harold have not even reached the stage of offer and acceptance.
- C. Yes. Although Stephen and Harold have entered into a contract, its enforcement is barred by the statute of frauds.
- D. No, because Stephen is already bound by a contract to Harold

Law has its own secret language, even the most innocent phrases have hidden meanings. The practicing lawyer collected the most commonly used phrases in contract negotiations and matched them with their real meanings. They are given to you randomly, match them.

What contract lawyers say	What contract lawyers mean
"We're aiming to get this signed by the end of the month"	We're screwing you, but if I say this enough times you might believe it
"Could we have a quick breakout session?"	You'll be cross when I say no, so I'm going to blame it on my client
"Our standard terms and conditions are balanced"	We do use that clause in that way, but you might not buy our product if I admitted it
"That's our standard clause"	Only the Finance Director knows why we use this clause, and he's too busy to speak to you
"Our parent company requires us to have this clause"	We're expecting you to give in on everything
"We don't use that clause in that way"	I need to phone my golf buddy to tell him I'm going to be late
"I understand why you take that position"	I'll get fired if I change even a comma of it
"We've made lots of compromises in this negotiation"	We deliberately chose an extreme starting point so we could guilt you into submission
"I need to take instructions on this point"	The real deadline is next month, but I'm going to Barbados for three weeks on Monday
"We need to get this finalised by the end of the week..."	I agree with you, but I can't be too pragmatic in case my client thinks I'm weak

FOLLOW-UP

Read the text "Universities 'Impose Illegal Contracts on Students'" (Part II. Reading for Law)

Contract Law <http://www.duhaime.org/LegalResources/Contracts/LawArticle-5/Part-1-Contract-Law--Introduction.aspx>

Contract Lecture - Historical and Developmental Issues by Dr Robert N Moles <http://netk.net.au/Contract/01Preliminary.asp>

Remedies for breach of contract by Samantha Cotton, PLC

<http://uk.practicallaw.com/7-101-0603>

Equity Functions

<http://www.lawteacher.net/equity-law/essays/equity-functions-law-essays.php>Standard

Services Agreement <http://help.elance.com/entries/34758-Sample-Contract-Agreements>

When Shall/Will/Must/May We Meet Again? by Keith Paul Bishop <http://calcorporatelaw.com/2011/11/when-shallwillmustmay-we-meet-again/>

Functions of Modal Verbs in European and British Legal Documents <http://www.ukessays.com/essays/languages/functions-of-modal-verbs-in-european-and-british-legal-documents.php>

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Contract Law Basics <http://education-portal.com/academy/topic/contract-law-basics.html>

Contract <http://www.law.cornell.edu/wex/contract>

Contracts (O'Byrne) Introduction to Consideration <http://www.law.ualberta.ca/sobyne/contracts/Enforcement%20of%20Promises%20-%20Consideration%20-%20Intro%20-%20Consideration.pdf>

Contract Law Tutorial <http://jec.unm.edu/education/online-training/contract-law-tutorial>

Different type of contracts <http://www.bms.co.in/explain-the-different-types-of-contracts/>

Equitable remedies http://en.wikipedia.org/wiki/Equitable_remedy

Examples of types of contracts <http://www.lawteacher.net/commercial-law/essays/the-main-types-of-contracts-commercial-law-essay.php>

Executed vs. Executory Contracts: Definitions & Differences <http://education-portal.com/academy/lesson/executed-vs-executory-contracts-definitions-differences.html#lesson>

Expressed vs. Implied Contracts: Differences & Examples <http://education-portal.com/academy/lesson/expressed-vs-implied-contracts-differences-examples.html#lesson>

The language of contract negotiations: a guide for the perplexed

<http://www.legalweek.com/legal-week/blog-post/2159906/language-contract-negotiations-guide-perplexed>

The negotiation process <http://www.englishclub.com/business-english/negotiations-process.htm>

Persuading, Influencing and Negotiating Skills <http://www.kent.ac.uk/careers/sk/persuading.htm>

Remedies for Breach of Contract <http://www.conscious.co.uk/site/library/commercialgeneral/remediesforbreachofcontract.html>

Rosemary Richey Top Tips for Business English Teaching negotiations skills MED Magazine - Issue 26 - January 2005 <http://www.macmillandictionaries.com/MED-Magazine/January2005/26-Top-Tips-NegotiationS.htm>

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UNIT 4

TORTS

Civil law refers to the area of law relating to people's rights and agreements between private individuals as opposed to criminal law. Civil law is sometimes referred to as private law as distinct from public law. It also is used to describe law involving relationships among persons and organizations. One of the branches of civil law is the law of torts. A tort is a civil wrong that unfairly causes someone else to suffer loss or harm resulting in legal liability for the person who commits the tortious act resulting in personal injury or damage to property. Tort is sometimes viewed as the causes of action which are not defined in other areas such as contract. In this unit the following areas of tort law are covered: 1) General Issues of the Law of Torts, 2) Types of Torts and 3) Liability and Remedies.

In this unit you will understand the differences between crimes and torts and learn the vocabulary necessary to communicate on the issues of the law of torts. In the Communication section you will learn the structure and signposting language of presentations and practice making presentations in public. The Grammar section of the unit covers the formation of indirect questions. You will also get acquainted with the peculiarities of translation of the terminology of torts. In the Discussion section, and will have opportunity to analyse and discuss the cases involving different types of torts.

BEFORE YOU READ

1. In your opinion, if a person claims that he did not want to harm anyone and did something accidentally, will his act be a crime?
2. Can every wrongful act be defined as crime?
3. If someone wrote an article with untrue information about you, what would you do?
4. Which legal ways of compensating wrong do you know?
5. What compensation could you get for personal injuries? Would you go to court or would you try to settle the argument with the person who caused you injury?

KEY Vocabulary

tort, lawsuit, tortiously, tortious, claimant, plaintiff, defendant, liable, tangible, non-tangible, nuisance, trespass, defamation, inducement, allegation, product liability, statutory torts, fiduciary, punitive damages, intentional tort, assault, battery, false imprisonment, intentional infliction of emotional distress, trespass to land, trespass to chattels, conversion, incursion, defamation, slander, libel, fraud, negligence, culpable, proximate cause, nuisance, dignitary torts, injurious falsehood, wilful detention, act, omission, damages, punitive damages, restitutionary damages, replevin, ejectment, property lien, equitable, restraining order, strict liability, vicarious liability

MATCH THE WORDS WITH THEIR DEFINITIONS

1) battery	a) going onto somebody else's land or entering somebody else's property without permission
2) conversion	b) the act or offence of saying something false or malicious that damages somebody's reputation
3) assault	c) tort of acting carelessly towards others so as to cause harm entitling the injured party to claim damages
4) trespass	d) the unlawful use of any physical force on another person, including beating or offensive touching without the person's consent
5) libel	e) a false statement that harms the reputation of an individual, business, product, group, government, religion, or nation
6) slander	f) a violent physical or verbal attack
7) nuisance	g) a wrongdoer; an individual who commits a wrongful act that injures another and for which the law provides a legal right to seek compensation
8) negligence	h) tort dealing with a person's property, misappropriation of property
9) invasion of privacy	i) the unlawful detention of a person against his will
10) false imprisonment	j) the intrusion into the personal life of another person, without just cause
11) defamation	k) a false and malicious published statement that damages somebody's reputation. It can include pictures and any other representations that have public or permanent form.
12) tortfeasor	l) something not allowed by law because it causes annoyance, irritation, harm or offence, either to the general public or to an individual person

READING 1: THE LAW OF TORTS: GENERAL ISSUES

UNDERSTANDING MAIN POINTS

Read the text about general issues of the law of torts and answer the questions:

1. What is a tort?
2. Are torts the same as crimes?
3. For who are the duties under the law of torts mandatory?
4. What are statutory torts?
5. Which EU directive protects consumers' rights?

UNDERSTANDING DETAILS

1. Answer the questions:

- 1) What does it mean to behave tortiously?
- 2) What happens when one person harms another?
- 3) What is the main difference between torts and breaches of contract?
- 4) What is the party who brings the lawsuit called?
- 5) Who is the defendant?
- 6) Which torts protect land?

- 7) What happens when defamation is committed?
- 8) How are statutory torts created?
- 9) Why was the Product Liability Directive of the European Union adopted?
- 10) What might manufacturers of defective products face?

2. Insert the missing prepositions:

- 1) grounds _____ a lawsuit
- 2) mandatory _____ all the citizens
- 3) to be liable _____ the tort
- 4) to sue _____ intentional incursions
- 5) the scope _____ the application of tort law
- 6) to impose duties _____ private parties
- 7) liability _____ defective products
- 8) compensation available _____ contractual actions

Tort is a legal term that means civil wrong, as opposed to a criminal wrong, that is recognized by law as grounds for a **lawsuit**. Unlike obligations created through a contract, the **duties imposed under** tort law are **mandatory** for all citizens in that jurisdiction. Somebody behaves **tortiously** when they harm other peoples' bodies, property or legal rights or **breach a duty** owed under **statutory law**. When one person commits a tort upon another, the injured person is entitled to remedies under the law. The person who brings the lawsuit is called the **claimant/plaintiff**, and the person who is sued is called the **defendant**. The defendant may be found **liable** for the tort.

The dominant action in tort is negligence, which is used to protect people's bodies and property, including **non-tangible** economic interests. There are certain torts that specially protect land, such as **nuisance**, which is **strict liability** for neighbours who interfere with another's enjoyment of their property. **Trespass** allows owners to sue for **intentional incursions** by people on their land. There is a tort for **false imprisonment**, and a tort of **defamation**, where someone makes an unsupportable factual **allegation** to damage the reputation of another. There are statutory torts, creating **product liability** and sanctions against anti-competitive companies. The foundation of labour law in the modern welfare state also begins with tort, as a weapon to control unions. And now the scope of the application of tort law spreads every day.

A **statutory tort** is like any other, by imposing duties on private parties, except that they are created by the legislature, not the courts. One example is in consumer protection, with the Product Liability Directive in the European Union, where businesses making defective products that harm people must pay for any damage resulting. Liability for defective products is strict in most jurisdictions. The theory of risk spreading provides support for this approach. Since manufacturers are the 'cheapest cost avoiders,' because they have a greater chance to seek out problems, it makes sense to give them the incentive to guard against product defects.

Tort is sometimes viewed as the causes of action which are not defined in other areas such as contract or **fiduciary** law. However, tort and contract law are similar in that both involve a breach of duties. If both apply and different standards apply for each, courts will determine which is the most applicable. Circumstances such as those involving professional negligence may involve both torts and contracts. The choice may affect time limits or damages, particularly given that damages are typically relatively limited in contract cases while in tort cases non-economic damages such as pain and suffering may be awarded. **Punitive damages** are relatively uncommon in contractual cases versus tort cases. However, compensation for defective but not unsafe products is typically available only through contractual actions.

Torts can be compared with crimes and contracts in order to better understand the differences between them.

Tort Law	Criminal Law
Private wrongs between individuals	Public wrongs (the Crown/the state represents the people)
Remedies harm, returns the claimant to original state	Deterrence, retributivism (punishing for the harm done), restitution (reasserting rights of the victim)
Proves on the balance of probabilities	Finds the defendant's guilt beyond reasonable doubt
The claimant brings action after the defendant causes him harm	The Crown/the state brings prosecution
Can find justice even without prosecution	Achieving justice limited to the Crown's/the state's decision

Tort Law	Contract Law
Involuntary involvement	Voluntary involvement
Obligations from circumstances, duty of care	Contractual obligations imposed by parties on self
Obligations can apply to all society	Applicable only to parties in the agreement
Backward looking, imposed after the harm	Forward looking, meant to predict the future

READING 2: TYPES OF TORTS

UNDERSTANDING MAIN POINTS

Read the text about types of torts and answer the questions:

1. What are the main types of torts?
2. What are the torts against the person?
3. What economic and dignitary torts do you know?
4. Which torts are the basis of most personal injury cases?
5. What is the difference between libel and slander?

UNDERSTANDING DETAILS

1. Answer the questions:

- 1) What is the main difference between intentional torts and negligence?
- 2) Do dignitary torts cause any tangible injury to a person or his property?
- 3) What are dignitary torts aimed at?
- 4) What do economic torts protect people from?
- 5) What are the four components of the tort of negligence?
- 6) What is the proximate cause?
- 7) What examples of private and public nuisance can you give?
- 8) Why was the tort of nuisance created?
- 9) Does the tort of nuisance protect only the rights of the general public?
- 10) Which detention constitutes false imprisonment?
- 11) What examples of false imprisonment can you give?

2. Explain the differences between:

- 1) intentional torts and negligence
- 2) emotional distress and bodily harm
- 3) assault and battery
- 4) trespass to land and trespass to chattels
- 5) claimant and defendant
- 6) private nuisance and public nuisance
- 7) battery and defamation
- 8) libel and slander
- 9) robbers and hostages

Intentional torts are any intentional acts that are **reasonably foreseeable** to cause harm to an individual, and that do so. Intentional torts have several subcategories.

Torts against the person harm or restrict the person of the plaintiff. They include **assault, battery, false imprisonment, and intentional infliction of emotional distress**.

Property torts involve any intentional interference with the property rights of the plaintiff. Those commonly recognized include **trespass to land, trespass to chattels, and conversion**.

Dignitary torts are torts that cause no tangible injury to a person or his property, but rather cause intangible harm to his reputation. These may include **defamation, slander, libel, invasion of privacy, and disclosure**.

Economic torts include common law fraud and **tortious** interference with contractual or business relationships. They protect people from interference with their trade or business. They are likely to involve pure economic loss. The principal economic torts are:

- **injurious falsehood** and trade libel,
- conspiracy,
- **inducement** of breach of contract,
- tortious interference (such as interference with economic relations or unlawful interference with trade),
- negligent misrepresentation.

Trespass to land involves the “wrongful interference with one’s rights in property. It is not necessary to prove that harm was suffered to bring a claim, and is instead actionable per se. While most trespasses to land are intentional, British courts have held liability holds for trespass committed negligently. The main element of the tort is interference. This must be both direct and physical, with indirect interference instead being covered by negligence or nuisance. Interference covers any physical entry to land, as well as the abuse of a right of entry, when a person who has the right to enter the land does something not covered by the permission. If the person has the right to enter the land but remains after this right expires, this is also trespass. It is also a trespass to throw anything on the land.

In tort law, **negligence** is a type of tort or **delict** that can be either criminal or civil in nature. The tort of negligence is the broadest of the torts and is the basis of most personal injury cases. Negligence means conduct that is **culpable** because it misses the legal standard protecting individuals against foreseeably risky, harmful acts of other members of society. Negligent behaviour towards others gives them rights to be compensated for the harm to their body or property. A person is negligent in law, on the basis of four components.

- He or she must have had a duty of care towards a claimant.
- He or she must have breached that duty. The tortfeasor directly caused the injury. Due to the defendant's actions the claimant suffered an injury.
- There must be a **factual causal connection** between the breach and the harm.
- The harm must not be too remote a consequence of the breach, known as **legal causation**.

Obviously, whether any given injury can be brought as a negligence claim depends upon whether a lawyer can convince a court that the defendant owed the claimant *a duty of care* to not inflict the particular injury at issue.

Proximate cause should also be taken into consideration. It means that you must be able to show that the harm was caused by the tort you are suing for. The defence may argue that there was a prior cause or a superseding intervening cause. A common situation where a prior cause becomes an issue is the personal injury car accident, where the person re-injures an old injury. For example, someone who has a bad back is injured in the back in a car accident. Years later he is still in pain. He must prove the pain is caused by the car accident, and not the natural progression of the previous problem with the back. A superseding intervening cause happens shortly after the injury. For example, if after the accident the doctor who works on you commits malpractice and injures you further, the defence can argue that it was not the accident, but the incompetent doctor who caused your injury.

Nuisance is an act which is harmful or offensive to the public or a member of it and for which there is a legal remedy. The tort of nuisance allows a claimant to sue a defendant for most acts that interfere with their use and enjoyment of their land. For example, noise pollution from airports is usually remedied through nuisance claims. Nuisance can be either public or private.

Private nuisance is the interference with the right of specific people. Nuisance is one of the oldest causes of action known to the common law, with cases framed in nuisance going back almost to the beginning of recorded case law. Nuisance signifies that the "right of quiet enjoyment" is being disrupted to such a degree that a tort is being committed. The law of nuisance was created to stop such bothersome activities or conduct when they unreasonably interfered either with the rights of other private landowners (i.e., private nuisance) or with the rights of the general public (i.e., public nuisance)

Public nuisance is an unreasonable interference with the public's right to property. It includes conduct that interferes with public health, safety, peace or convenience. The unreasonableness may be evidenced by statute, or by the nature of the act, including how long, and how bad, the effects of the activity may be.

Defamation means tarnishing the reputation of someone. It is divided into two parts, **slander** and **libel**. "Libel", "slander", and "defamation" are commonly used as synonyms in ordinary language, at least in Britain and Ireland. However, those jurisdictions that distinguish "libel" and "slander" as legal concepts do so on the following broad basis: defamatory communication in writing is termed "libel" while one made via the spoken word is termed "slander". However, because the underlying distinction is between permanent and transient communications, some jurisdictions regard all defamatory communications (even spoken statements) broadcast on radio or television as "libel". A libel is a malicious defamation expressed either by writing or printing or by signs, pictures, effigies or the like; tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or reputation, or to publish the natural or alleged defects of one who is alive, thereby exposing him to public hatred, contempt or ridicule; or to cause him to be avoided or shunned or to injure him in his office, business or occupation.

Abuse of process and **malicious prosecution** are often classified as **dignitary torts** as well. Malicious prosecution is a common law intentional tort, while like the tort of abuse of process, its elements include

- intentionally (and maliciously) instituting and pursuing (or causing to be instituted or pursued) a legal action (civil or criminal) that is
- brought without probable cause and
- dismissed in favour of the victim of the malicious prosecution.

In some jurisdictions, the term “malicious prosecution” denotes the wrongful initiation of criminal proceedings.

False imprisonment is a tort, and possibly a crime, wherein a person is intentionally **confined** without legal authority. To prevail under a false imprisonment claim, a claimant must prove: (1) **wilful detention**; (2) without consent; and (3) without authority of law. False imprisonment is a common law felony and a tort. It applies to private as well as governmental detention. When it comes to public police, the proving of false imprisonment is sufficient to obtain a writ of *habeas corpus*. The following are false imprisonment scenarios:

- The taking hostage of a bank’s customers and employees by bank robbers.
- The detention of a customer by a business owner (e.g., a hotel operator, an apartment owner, or a credit card company) for the failure to pay a bill.
- Certain situations arising from controversial legislation, like California’s Assembly Bill 1421, Laura’s Law.
- A robber in a home invasion ties hostage up and takes them to a separate room.

READING 3: LIABILITY AND REMEDIES

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What are the three major types of remedies to compensate wrongs in the law of torts?
2. What kinds of damages do you know?
3. What can an injunction prohibit?
4. What is strict liability?
5. What is vicarious liability?

UNDERSTANDING DETAILS

1. Decide if the statements are true or false:

- 1) Damages can be awarded by the court as are monetary compensation for civil wrongs.
- 2) The amount of damages depends on the tortfeasor’s gains.
- 3) Ejectment may help recover property that was stolen.
- 4) Placing a lien on the real property of the defendant may help the claimant to get compensation for a civil wrong.
- 5) Equitable remedies include monetary damages.
- 6) A restraining order prevents the defendant from making contact with or coming near to the tort victim.
- 7) Injunctions are common in negligence tort claims.
- 8) Strict liability makes a person liable for the damage and loss caused by his acts or omissions.
- 9) Strict liability enables the claimant to sue an employer for the damage caused to him by their employee, which was caused “in the course of employment”.

6. Vicarious liability assigns liability for an injury to a person who did not cause the injury but who has a particular legal relationship to the person who did act negligently such as an employer and an employee.

2. Make nouns from the following verbs:

- 1) to infringe
- 2) to omit
- 3) to lose
- 4) to eject
- 5) to harass
- 6) to defend
- 7) to claim
- 8) to employ

3. Write the defined remedies and other means to restore the claimant's position before a tort was committed:

- 1) Monetary compensation for loss or injury
- 2) Damages intended to reform or deter the defendant and others from engaging in conduct similar to that which formed the basis of the lawsuit
- 3) A court order to the defendant to refrain from doing something
- 4) A form of court order that requires a party to do, or to refrain from doing, certain acts
- 5) A court action to force someone to leave a property which he is occupying illegally
- 6) Legal right to hold someone's goods or property and keep them until a debt has been paid
- 7) An action for the recovery of goods or chattels wrongfully taken or detained

A person has certain interests which are protected by law. These interests can be protected by a court awarding a sum of money, known as **damages**, for infringement of a protected interest; alternatively, by the issuing of an **injunction**, which is a court order, to the defendant to refrain from doing something. The paradigm tort consists of an act or omission by the defendant which causes damage to the claimant. The damage must be caused by the fault of the defendant and must be a kind of harm recognised as attracting legal liability. This model can be represented: **act** (or **omission**) + causation + fault + protected interest + damage = liability.

Legal remedies for torts

Also known as "**damages**", these are monetary payments made by the defendant for the purpose of compensating the victim for their injuries, losses, and pain/suffering. These are calculated according to the victim's losses rather than the tortfeasor's gains. **Punitive damages** may be added in some types of tort claims.

Restitutionary remedies: These are also meant to restore the claimant to a position of "wholeness", as close as possible to their state before the tort occurred. These can include:

- **Restitutionary damages** are similar to damages, except that they are calculated based on the tortfeasor's gain rather than the claimant's losses.
- **Replevin** allows the victim to recover personal property that they may have lost due to the tort. For example, they may recover property that was stolen.
- **Ejectment** occurs where the court ejects a person who is wrongfully staying on real property owned by the claimant. This is common in instances of continuing trespass.

- **Property lien:** If the defendant cannot afford to pay damages, a judge may place a lien on their real property, sell the property, and forward the proceeds to the tort victim.

Equitable remedies: These are available where monetary damages will not adequately restore the victim to wholeness. These can include:

- **Temporary restraining order:** Victims of physical harm or harassment may obtain a restraining order, which prevents the defendant from making contact with or coming near to the claimant.
- **Temporary or permanent injunction:** An injunction may either prohibit unlawful activity by the defendant or it may order them to take affirmative steps. Injunctions are common in trespassing and nuisance tort claims.

Strict liability is a standard for liability which may exist in either a criminal or civil context. A rule specifying strict liability makes a person legally responsible for the damage and loss caused by his acts and omissions regardless of culpability. It is the imposition of liability on a party without a finding of fault (such as negligence or tortious intent). The claimant needs only prove that the tort occurred and that the defendant was responsible. The law imputes strict liability to situations it considers to be inherently dangerous. It discourages reckless behaviour and needless loss by forcing potential defendants to take every possible precaution. It also has the effect of simplifying and thereby expediting court decisions in these cases. An example of strict liability is the owner of a tiger rehabilitation centre. No matter how strong the tiger cages are, if an animal escapes and causes damage and injury, the owner is held liable. Another example is a contractor hiring a demolition subcontractor that lacks proper insurance. If the subcontractor makes a mistake, the contractor is strictly liable for any damage that occurs.

Vicarious liability in tort law refers to the idea of Mr A being liable for the harm caused by Mrs B, because of some legally relevant relationship. An example might be an employer and an employee. You can sue an employer for the damage to you by their employee, which was caused “in the course of employment”. So if a shop employee spilled cleaning liquid on the supermarket floor, you could sue the employee who actually spilled the liquid or, sue the employers (the later option is more practical as they are more likely to have more money). The law replies “since your employee harmed the claimant in the course of his employment, you bear responsibility for it, because you have the control to hire and fire him, and reduce the risk of it happening again.” Thus, in a broader sense, vicarious liability is the responsibility of any third party that had the “right, ability or duty to control” the activities of a violator.

POINTS TO REMEMBER

1. **tort** and **crime**

A tort is a wrongful act that injures or interferes with another’s person or property. A tort case is a civil court proceeding. The accused is the “defendant” and the victim is a claimant. The charges are brought by the claimant.

If the defendant loses, the defendant has to pay damages to the claimant/plaintiff.

Tort cases are heard in civil proceedings.

A crime is a wrongful act that the state has identified as a crime. A criminal case is a criminal proceeding. The accused is also called a “defendant”. The victim is the person who has been hurt. The charges are brought by the government. If the defendant loses, the defendant must serve a sentence. A fine is paid to the government and there is possible restitution to the victim.

The defendant was charged with manslaughter.

The same act may be both a crime and a tort. A person may face a criminal action by the state and a civil action by the claimant.

2. **tort** and **delict**

In common law countries (the UK, the USA) the word *tort* is preferred while in Continental law countries (most European countries) the word *delict* is usually used.

Torts may result from negligent but not intentional or criminal actions.

The exact meaning of delict varies between legal systems but it is always centred on the Roman law idea of wrongful conduct.

3. **liable to** and **liable for**

Liable means that the defendant was found legally responsible in a civil case: *liable to* the people, *liable for* what a person did.

The defendant was found liable to the claimant for negligence.

4. **damage** and **damages**

Damage means harm, detriment or injury for which *damages* (monetary compensation) can be awarded by the court.

Mr Brown sued Mr White for property damage.

Damages in tort are generally awarded to place the claimant in the position that would have been taken had the tort not taken place.

He was seeking damages.

5. **act** and **omission**

Act is any action by a person. *Omission* is failure to act (or doing nothing) which can also be culpable.

Jane lived with her aunt, who was suddenly taken ill and could no longer feed herself or call for help. Jane was convicted of manslaughter because she neither fed her aunt, nor called for medical help. This is an example of omission.

READING COMPREHENSION AND VOCABULARY TASKS

Task 1. Fill in the gaps with the necessary words in their correct form. Choose from:

action, compensation, conviction, crime, damages, injunction, negligence,
prosecute, punishable, sue, tort, tortfeaser, tortious, victim, wrongful

Torts and Crime

_____ (1) law is not the same as criminal law. A _____ (2) often leads to two very different branches of the law, one being tort law, the other criminal law. Say, I punched you in the nose. This would be a crime and _____ (3) in court. The state would _____ (4) me on behalf of society and not on behalf of the victim. Any fine handed out against me as a sentence would not go to the _____ (5) but would go to the government. That same punch would also give rise to an _____ (6) under tort law, where you would _____ (7) me for causing you an injury and your suit would ask the court to order me to compensate you, asking for an amount which, as best as can be done, the pain and inconvenience a broken nose is worth. Any _____ (8) the court would order me to pay would go to you.

But crime and tort also have very different legal process. Criminal proceedings require proof beyond reasonable doubt whereas the tort action only requires proof based on evidence. A criminal _____ (9) is by no means an automatic entitlement to compensate under tort law. In fact, some judges do not want to accept a criminal court's finding that there has been a _____ (10) act, an injury and a direct link between this act and the injury while considering a tort lawsuit based on the same incident.

Task 2. Match the beginnings of sentences in A with their endings in B.

Standard of Care: The "Reasonable Man"

A

1. Negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate
2. The defendants might have been liable for negligence, if, unintentionally, they omitted to do that which a reasonable person
3. So the law judges all persons
4. The judge is not allowed to superimpose his or her standards upon a given situation, complete with the judge's weaknesses and biases;
5. Thus, in negligence cases which go before a jury, the judge cannot tell the jury to ask themselves

B

1. would have done, or did that which a person taking reasonable precautions would not have done.
2. according to one standard.
3. the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do.
4. if "they would have acted differently," but "how would the reasonable person have acted."
5. instead, the judge must superimpose the standard of the "reasonable man."

Task 3. Insert the missing prepositions:**Case A****The facts:**

The plaintiffs owned a house adjoining a cricket ground. Cricket had been played (1)_____ the ground (2)_____ a long time before the house had been built. The plaintiffs complained (3)_____ damage caused (4)_____ cricket balls and loss of enjoyment of their property. They brought an action (5)_____ the cricket club (6)_____ private nuisance seeking damages (the common law remedy) and an injunction (an equitable remedy) to prevent cricket being played (7)_____ the ground. The cricket club argued that it had done everything that was possible to stop the balls coming (8)_____ the plaintiff's garden, including erecting a fifteen foot high fence.

Held:

The cricket club were liable (9)_____ the plaintiff (10)_____ private nuisance. An award of damages was made (11)_____ them but a majority (12)_____ the Court of Appeal refused to grant an injunction preventing the playing of cricket.

Lord Denning (the head of the Court of Appeal):

The court when deciding whether to exercise its equitable jurisdiction and grant an injunction must have in mind that it is under a duty to consider the public interest. Where the effect of granting an injunction would be to prevent cricket being played on a ground where it had been played for seven years or so, the special circumstances are such that the public interest must prevail (13)_____ the hardship (14)_____ the individual householders who were deprived (15)_____ the ability to enjoy, in peace and quiet, their house and garden while cricket was being played.

Case B

The facts:

The plaintiff owned a house next door (1)_____ the defendant's factory. Sometimes black smoke (2)_____ the factory chimneys would blow across the plaintiffs' garden. The plaintiffs sued the owners of the factory complaining (3)_____ damage caused (4)_____ plants in their garden (5)_____ smoke and loss (6) _____ enjoyment of their property. They sought damages and injunction to prevent the defendants using their premises as a factory.

Held:

The owners (7)_____ the factory were liable (8)_____ the plaintiffs (9)_____ the tort of private nuisance. The plaintiffs were awarded damages (10)_____ the loss (11)_____ their plants and granted an injunction restricting the use (12)_____ the defendants' property. It was reasonable that the defendants should use their premises as a factory but not (13)_____ a way which would cause nuisance (14)_____ adjoining property. The injunction would apply until the defendants were able to control the smoke (15)_____ their chimneys.

Task 4. Fill in the table with the information about the two cases.

	Case A	Case B
Parties		
Dispute		
Remedy sought		
Court ruling		
Remedy awarded		

Task 5. Write the synonyms to the legal terms/phrases.

- 1) harm, loss
- 2) decision of the court
- 3) person who commits a tort
- 4) plaintiff
- 5) legally responsible
- 6) malicious
- 7) punishable
- 8) tarnishing someone's reputation
- 9) monetary compensation
- 10) carelessness

Task 6. Fill in the gaps with the most appropriate words. Choose from:

accident, civil action, clarify, common, compensation, damages, duress, legislation, liable, negligence, nuisance, precedents, presumed, remedy, remedy, tort

All the people are expected to conduct themselves without injuring others. When they do cause injury to others, either intentionally or by _____(1), they can be required by court to pay money to the injured party _____(2) so that, ultimately, they will suffer the pain they caused by their action. _____(3) is probably the most important social role of tort law.

In the finest tradition of English common law (where _____(4) law comes from), it was originally pure judge-made law. But more and more states are writing laws which limit, _____(5) or strengthen tort law. E. g., one Canadian province has said that every time a motor vehicle hits a pedestrian, the motor vehicle driver is _____(6) at fault and _____(7) for damages. Some states even have _____(8) which protects Good Samaritans such as American law which says that doctors cannot be held liable under tort for help provided at the scene of an _____(9) except for 'gross negligence'. But even for those areas where the principles of tort are nowhere to be found in statutes but only in _____(10), states have adapted parts of tort law to suit themselves.

Task 7. Give English equivalents to the legal terms.

- | | |
|--|---|
| 1. Ieškovas | 12. Iškeldinimas |
| 2. Atsakovas | 13. Turto suvaržymas |
| 3. Ieškinys | 14. Ieškinys dėl neteisėtai valdomo turto grąžinimo |
| 4. Teisės gynimo būdas | 15. Apribojanti teismo nutartis |
| 5. Nusikalstamas aplaidumas | 16. Turto grąžinimas teisėtam savininkui |
| 6. Nusikalstamas/piktavališkas kliudymas | 17. Sukčiavimas, apgaulė |
| 7. Šmeižtas | 18. Užpuolimas |
| 8. Absoliuti atsakomybė | 19. Patikėtinis |
| 9. Netiesioginė atsakomybė | 20. Baudiniai nuostoliai |
| 10. Daiktinis, materialus | 21. Betarpiška priežastis |
| 11. Teismo uždraudimas | 22. Privalomas |

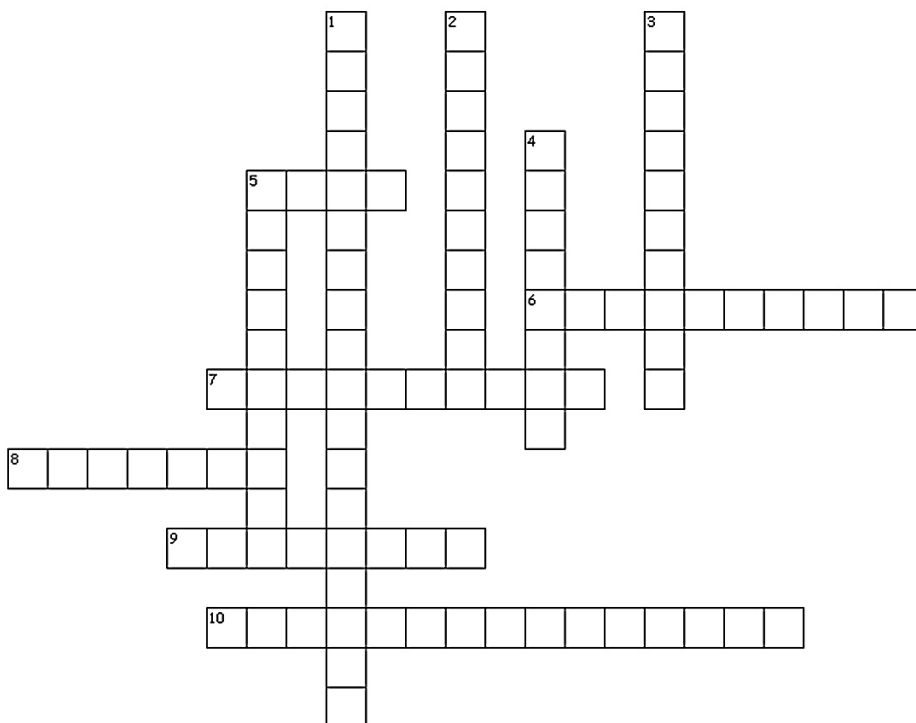
Task 8. Do the CROSSWORD.**Tort Law****Across**

5. Civil wrong done by one person to another and entitling the victim to claim damages
6. Which could provide grounds for bringing an action against someone
7. Tort of acting carelessly towards others so as to cause harm entitling the injured party to claim damages
8. Money claimed by a plaintiff as compensation for harm done
9. Referring to a tort

10. Total liability for an offence which has been committed (whether you are at fault or not)

Down

1. Liability of one person for torts committed by someone else, especially the liability of an employer for acts committed by an employee in the course of his work
2. Duty which every citizen has not to act negligently
3. Tort dealing with a person's property in a way which is not consistent with that person's rights over it
4. Something that causes harm or inconvenience to someone or to property
5. Person who has committed a tort



Task 9. Insert the extracts of the text into the gaps.

- a) an experienced personal injury attorney
- b) provide adequate security
- c) recover monetary damages
- d) exercise reasonable care
- e) legally responsible
- f) provided inadequate maintenance
- g) file personal injury claims

Shopping-Related Personal Injury Claims

Individuals who are injured on commercial property, such as stores or shopping malls, may generally _____ (1) under a state's negligence laws. Under premises liability laws, store owners must _____ (2) to see that a store's premises are reasonably safe from hidden dangers or hazardous conditions they have reason to believe may cause injury. For example, stores must clean up spills quickly, remove fallen objects, fix broken stairs or railings, replace dimmed light bulbs, and _____ (3) for customers.

To prove a store was _____ (4) for a shoppers injuries, he or she must establish (a) the store owner knew (or should have known) about a dangerous condition on their property, (b) the store owner did not regularly inspect the store for dangers, or _____ (5), (c) that the shopper would not have been injured if there was not a dangerous condition on the property, (d) there was a relation between the dangerous condition and the shopper's injury, and (e) that the shopper suffered actual "damages" as a result of it.

If you have been injured while shopping on a store's premises, you should discuss your potential case with _____ (6). A good personal injury lawyer can help determine whether a store was at fault

which may potentially help you _____ (7) for the injuries you have incurred. To learn more about the strengths and weaknesses of your case, you can contact an experienced lawyer for a free claim evaluation.

Task 10. Fill in the gaps in the extracts of the Lithuanian Civil Code. Use the Lithuanian version to help you find the necessary legal terms and other words.

SECTION THREE Non-contractual (delictual) liability

Article 6.263. Obligation to compensate for _____ (1) caused

1. Every person shall have the duty to abide by the rules of conduct so as not to cause damage to another by his actions (active actions or refrainment from acting).
2. Any bodily or property damage caused to another person and, in the cases established by the law, non-pecuniary damage must be fully compensated by the _____ (2) person.
3. _____ (3) established by laws, a person shall also be liable to compensation for damage caused by the actions of another person or by the action of things _____ (4).

Article 6.265. Liability to compensation for damage caused by others

1. Where damage is caused by a person, who is not an employee, acting under the orders of another person who is not his employer, it must be compensated _____ (5) by both persons concerned.
2. A represented person himself and the representative _____ (6) shall be solidarily liable to make compensation for the damage caused by the latter.

Article 6.267. Liability to compensation for damage caused by animals

1. Damage caused either by domestic animals or wild animals that are _____ (7) must be compensated by their owner (possessor) unless he proves the occurrence of the circumstances indicated in Paragraph 1 of Article 6.270 of this Code. The person shall also be liable for compensation of damage caused by an animal that has escaped from him.
2. Damage caused by wild animals _____ (8) in accordance with the procedure established by laws.

Article 6.292. Liability of a producer and a _____ (9)

1. A producer or a supplier of services shall be bound to compensate for damage caused by defective products or defective services.
2. A "producer" means the manufacturer of a finished product, a component part of a product, or of raw materials, or the supplier of services who marks the product (services) with his name, trade mark or any other . _____ (10).
3. Any person who in effectuation of his commercial activity imports into the Republic of Lithuania a defective product _____ (11) selling, leasing or distributing it in any other way shall be held liable as a producer.
4. _____ (12) where it is impossible to identify the producer of a product, any person involved in the sale of the product shall be regarded as producer unless he provides the aggrieved person with information about the producer or the supplier of the product. This rule shall also apply in the cases where a product was imported into the Republic of Lithuania without its importer being indicated though the producer of the imported product is known.

5. _____ (13) of this Section shall apply only where the products (services) are obtained for the purposes of consumption but not for commercial purposes.

Article 6.295. Conditions of liability

Damage shall be compensated if _____ (14) proves the occurrence of damage, existence of defects in the product (service) and _____ (15) between the defects and the damages.

TREČIASIS SKIRSNIS

Deliktinė atsakomybė

6.263 straipsnis. Pareiga atlyginti padarytą žalą

1. Kiekvienas asmuo turi pareigą laikytis tokio elgesio taisyklių, kad savo veiksmais (veikimu, neveikimu) nepadarytų kitam asmeniui žalos.
2. Žalą, padarytą asmeniui, turtui, o įstatymų numatytais atvejais – ir neturtinę žalą privalo visiškai atlyginti atsakingas asmuo.
3. Įstatymų numatytais atvejais asmuo privalo atlyginti dėl kito asmens veiksmų atsiradusią žalą arba savo valdomų daiktų padarytą žalą.

6.265 straipsnis. Atsakomybė už kitų asmenų padarytą žalą

1. Jeigu asmuo, kuris nėra darbuotojas, vykdydamas kito asmens, kuris nėra jo darbdavys, duotą nurodymą, padaro žalos, tai abu šie asmenys atsako solidariai.
2. Atstovaujamas asmuo atsako už savo atstovo, vykdančio pavedimą, padarytą žalą solidariai su savo atstovu.

6.267 straipsnis. Atsakomybė už gyvūnų padarytą žalą

1. Naminių gyvūnų arba asmens žinioje esančių laukinių gyvūnų padarytą žalą privalo atlyginti jų savininkas (valdytojas), jeigu neįrodo, kad buvo šio kodekso 6.270 straipsnio 1 dalyje numatytos aplinkybės. Asmuo atsako ir už iš jo pabėgusių gyvūnų padarytą žalą.
2. Laukinių žvėrių padaryta žala atlyginama įstatymų nustatyta tvarka.

6.292 straipsnis. Gamintojo ir paslaugų teikėjo atsakomybė

1. Gamintojas ar paslaugų teikėjas privalo atlyginti dėl netinkamos kokybės produktų ar netinkamos kokybės paslaugų atsiradusią žalą.
2. Gamintoju laikomas galutinio produkto, produkto dalies arba žaliavų gamintojas, paslaugų teikėjas ar kitas asmuo, kuris pažymėdamas produktą (paslaugas) savo vardu, prekės ženklu ar kitu skiriamuoju žymeniu nurodo save kaip gamintoją (paslaugų teikėją).
3. Kiekvienas asmuo, kuris dėl savo verslo importuoja į Europos ekonominės erdvės valstybių teritoriją netinkamos kokybės produktą turėdamas tikslą jį parduoti, išnuomoti ar kitaip paskirstyti, atsako kaip gamintojas.
4. Jeigu produkto gamintojo neįmanoma nustatyti, kiekvienas produktą realizavęs asmuo laikomas gamintoju, išskyrus atvejus, kai jis per protingą terminą praneša nukentėjusiam asmeniui apie produkto gamintoją arba apie produktą patiekusį asmenį. Ši taisyklė taikoma ir tais atvejais, kai produktas buvo importuotas nenurodant jo importuotojo, nors jo gamintojas žinomas.
5. Šio skirsnio normos taikomos tik tais atvejais, kai produktai (paslaugos) įsigijami vartojimo, o ne verslo tikslais.

6.295 straipsnis. Atsakomybės sąlygos

Žala atlyginama, jeigu nukentėjęs asmuo įrodo, kad žalos padaryta, kad produktas (paslauga) yra netinkamos kokybės ir kad egzistuoja priežastinis netinkamos kokybės ir nuostolių ryšys.

Task 11. Fill in the gaps in the extracts of the Lithuanian Civil Code with the appropriate extracts from the box.

- a) the aggrieved person
- b) his mental disease or any other mental derangement
- c) must be compensated by their owner (possessor)
- d) liability arises to the person or persons
- e) in accordance with the general provisions
- f) being of limited legal active capacity
- g) shall not be exempted from liability
- h) the operation of potentially hazardous objects
- i) shall be liable to compensation

Article 6.266. Liability of the owner (possessor) of buildings

1. If damage has been caused by reason of the collapse of buildings, constructions, installations or other structures, including roads, or if the damage has been caused by reason of any defect thereof, the owner (possessor) of the indicated objects _____ (1) for the damage unless he proves the occurrence of the circumstances indicated in Paragraph 1 of Article 6.270 of this Code.
2. It shall be presumed that the owner (possessor) of buildings, constructions, installations or other structures is the person indicated as their owner (possessor) in the Public Register.

Article 6.267. Liability to compensation for damage caused by animals

1. Damage caused either by domestic animals or wild animals that are in somebody's custody _____ (2) unless he proves the occurrence of the circumstances indicated in Paragraph 1 of Article 6.270 of this Code. The person shall also be liable for compensation of damage caused by an animal that has escaped from him.
2. Damage caused by wild animals shall be redressed in accordance with the procedure established by laws.

Article 6.268. Liability to compensation for damage caused by a natural person incapable of understanding the meaning of his own actions

1. A legally capable natural person who has inflicted damage being in such a state where he was incapable of understanding or controlling his actions shall not be liable for the damage caused. Nevertheless, the person _____ (3) if the state of incapacity was inflicted upon himself by the use of alcoholic drinks, narcotic or psychotropic substances, or in any other way.
2. In the event where damage is inflicted to the health or life of a person, the court in awarding damages shall take into account the property status both of _____ (4) and the person who caused the damage, as well as the criteria of good faith and reasonableness, likewise other circumstances pertinent to the case, and may order the compensation be made by the guilty party in full or in part.
3. Damage caused by a person who by reason of over-indulgence in alcohol, narcotic or psychotropic substances is recognised as _____ (5), shall be compensated within the ordinary procedure established for the compensation of damage.

4. Where damage is caused by a person who by reason of _____ (6) was incapable of understanding or controlling his actions, the court may obligate the person's spouse who resides with him, his parents, or his children of full age to compensate for the damage, provided that they knew of the mental state of the person concerned but failed to take any measures to recognise him as legally incapable.

Article 6.270. Liability arising from the exercise of hazardous activities

1. A person whose activities are connected with potential hazards for surrounding persons (operation of motor vehicles, machinery, electric or atomic energy, use of explosive or poisonous materials, activities in the sphere of construction, etc.) shall be liable to compensation for damage caused by _____ (7) which constitute a special danger for surrounding persons, unless he proves that the damage was caused by superior force or it occurred due to the aggrieved person's actions exercised either intentionally or by his own gross negligence.
2. A defendant in the cases established in the preceding Paragraph of this Article shall be the possessor of a potentially hazardous object by the right of ownership or trust or on any other legitimate grounds (loan for use, lease, or any other contract, by the power of attorney, etc.).
3. The possessor of a potentially hazardous object shall not be liable to compensation for damage it has caused if he proves to have lost the operation thereof due to unlawful actions of other persons. In such event, _____ (8) who gained the operation of a potentially hazardous object by unlawful actions. Where the loss of operation of a potentially hazardous object results also from the fault of the possessor, the latter and the person who seized the potentially hazardous object unlawfully shall be solidarily liable for the damage. Upon having compensated for the damage, the possessor shall acquire a right of recourse for the recovery of sums paid against the person who unlawfully seized the potentially hazardous object.
4. In the event where damage was inflicted to a third person in the result of reciprocity of several potentially hazardous objects, all the possessors of the objects concerned shall be solidarily liable for the damage caused.
5. The damage incurred by the possessors of potentially hazardous objects in the result of the reciprocity thereof shall be compensated _____ (9).

Task 12. Analyze the language of the Act of Torts 1977 of the UK and explain or paraphrase the underlined parts or the Act.

TORTS (INTERFERENCE WITH GOODS) ACT 1977

Damages

5 Extinction of title on satisfaction of claim for damages.

- (1) Where damages for wrongful interference are, or would fall to be, assessed on the footing that the claimant is being compensated—
 - (a) for the whole of his interest in the goods, or
 - (b) for the whole of his interest in the goods subject to a reduction for contributory negligence, payment of the assessed damages (under all heads), or as the case may be settlement of a claim for damages for the wrong (under all heads), extinguishes the claimant's title to that interest.
- (2) In subsection (1) the reference to the settlement of the claim includes—
 - (a) where the claim is made in court proceedings, and the defendant has paid a sum into court to meet the whole claim, the taking of that sum by the claimant, and

- (b) where the claim is made in court proceedings, and the proceedings are settled or compromised, the payment of what is due in accordance with the settlement or compromise, and
 - (c) where the claim is made out of court and is settled or compromised, the payment of what is due in accordance with the settlement or compromise.
- (3) It is hereby declared that subsection (1) does not apply where damages are assessed on the footing that the claimant is being compensated for the whole of his interest in the goods, but the damages paid are limited to some lesser amount by virtue of any enactment or rule of law.
- (4) Where under section 7(3) the claimant accounts over to another person (the “third party”) so as to compensate (under all heads) the third party for the whole of his interest in the goods, the third party’s title to that interest is extinguished.
- (5) This section has effect subject to any agreement varying the respective rights of the parties to the agreement, and where the claim is made in court proceedings has effect subject to any order of the court.

6 Allowance for improvement of the goods.

- (1) If in proceedings for wrongful interference against a person (the “improver”) who has improved the goods, it is shown that the improver acted in the mistaken but honest belief that he had a good title to them, an allowance shall be made for the extent to which, at the time as at which the goods fall to be valued in assessing damages, the value of the goods is attributable to the improvement.
- (2) If, in proceedings for wrongful interference against a person (“the purchaser”) who has purported to purchase the goods—
- (a) from the improver, or
 - (b) where after such a purported sale the goods passed by a further purported sale on one or more occasions, on any such occasion, it is shown that the purchaser acted in good faith, an allowance shall be made on the principle set out in subsection (1).

For example, where a person in good faith buys a stolen car from the improver and is sued in conversion by the true owner the damages may be reduced to reflect the improvement, but if the person who bought the stolen car from the improver sues the improver for failure of consideration, and the improver acted in good faith, subsection (3) below will ordinarily make a comparable reduction in the damages he recovers from the improver.

- (3) If in a case within subsection (2) the person purporting to sell the goods acted in good faith, then in proceedings by the purchaser for recovery of the purchase price because of failure of consideration, or in any other proceedings founded on that failure of consideration, an allowance shall, where appropriate, be made on the principle set out in subsection (1).
- (4) This section applies, with the necessary modifications, to a purported bailment or other disposition of goods as it applies to a purported sale of goods.

Task 13. Read the text and fill the gaps with the appropriate extracts from the box.

- a) no contractual relationship
- b) a duty to the consumer to take that reasonable care
- c) had become ill with nervous shock and gastroenteritis
- d) acts or omissions which you can reasonably foresee would be likely to injure your neighbour
- e) the remains of a snail in a state of decomposition plopped out of the bottle
- f) affected by their acts or omissions
- g) denied liability or that any such duty was owed

Donoghue (or McAlister) v. Stevenson is one of the most famous cases in the legal history of the English common law system. The decision of the House of Lords founded the modern tort of negligence (*delict* in Scotland), both in Scots law and across the world in common law jurisdictions. The case originated in Paisley, Scotland, but the House of Lords declared that the principles of their judgment applied in English law. It is often referred to as “the snail in the bottle case”.

The case is perhaps most well known for the speech of Lord Atkin and his “neighbour” or “neighbourhood” principle, where he applied Luke 10 to law - that is, where an established duty of care does not already exist, a person will owe a duty of care not to injure those who it can be reasonably foreseen would be _____ (1). The practical effect of this case was to provide individuals with a remedy against suppliers of consumer products.

Background

On the evening of Sunday 26 August 1928, May McAlister boarded a tram in Glasgow for the thirty minute journey to Paisley. At around ten minutes to nine, she and a friend took their seats in the Wellmeadow Café in the town’s Wellmeadow Place. They were approached by the café owner, Francis Minghella, and May’s friend ordered and paid for a pear and ice and an iced drink. The owner brought the order and poured part of a bottle of ginger beer into a tumbler containing ice cream. May drank some of the contents and her friend lifted the bottle to pour the remainder of the ginger beer into the tumbler. On doing so, it was claimed that _____ (2) Into the tumbler. May later complained of stomach pain, and her doctor diagnosed her as having gastroenteritis. She also claimed to have suffered emotional distress as a result of the incident.

Legal analysis

May had not ordered or paid for the drink herself, so there was _____ (3) Between May and the café owner. Tort law at this time did not allow for May to sue the café owner. There was a contractual relationship between him and the friend, but the friend had not drunk the ginger beer. Ginger beer was not a dangerous product, and the manufacturer had not fraudulently misrepresented it. At that time, those were the only two grounds for claiming negligence against a manufacturer. On the face of it, the law did not provide a remedy for May.

It is not clear how May McAlister came into contact with solicitor Walter Leechman of WG Leechman & Co in Glasgow, “...the only solicitor in the world who would have taken her case.” Leechman was already an expert on the dangers of drinking ginger beer. He had already tried to establish liability against aerated water manufacturers AG Barr when a dead mouse was alleged to have found its way into a bottle of their ginger beer. However, an action for damages was rejected by the Inner House of the Court of Session, when the appeal court judges ruled that there was no legal authority allowing for such an action.

Undeterred by this opinion, Leechman agreed to take on the case and lodged a writ in the Court of Session on April 1929 in the case of *May Donoghue, née McAlister v David Stevenson*. The writ alleged that May Donoghue _____ (4) after drinking part of the contents of an opaque bottle of ginger beer and David Stevenson the manufacturer: “...owed her a duty to take reasonable care that ginger beer he manufactured, bottled, labelled and sealed, and invited her to buy, did not contain substances likely to cause her injury.” Donoghue claimed damages of £500.

Counsel for the manufacturer naturally _____ (5). It was not until June 1930 that the judge opined that there was a case to answer. Stevenson’s legal team appealed Lord Moncrieff’s ruling on a number of legal grounds, and the judges of the Inner House granted the appeal in November 1930, dismissing her claim as having no legal basis on the authority of their earlier decision in *Mullen v. A.G. Barr*. One of their lordships said that the only difference between Donoghue’s case and the mouse cases was the difference between a rodent and a gastropod and in Scots law that meant no difference at all.

GRAMMAR FOCUS

INDIRECT QUESTIONS

Task 1. Make a new sentence (an indirect question) from the question in brackets.

1. (Where has the jury gone?) Do you know *where the jury has gone*? _____
2. (What does the word *conversion* mean?) Could you tell me _____
3. (What time did Justice Brown leave his office?) I wonder _____
4. (Who battered Tom?) I've no idea _____
5. (Did Tim have to go to hospital because of his injuries?) Do you know _____
6. (What does it mean to behave tortiously?) Can you tell us _____
7. (Who filed a lawsuit against Ms Smith?) Tell me please _____
8. (Why did Mr Johnson sue the company?) Do you know _____
9. (What remedy might be awarded for libel?) I can't remember _____
10. (What is *lien*?) I've no idea _____

Task 2. Write indirect questions.

You read about the famous American case *Liebeck v. McDonald's*. Your friend John asked you a lot of questions about the case. Now you tell another friend, Arthur, what John asked you.

1. What injury did the plaintiff Stella Liebeck suffer?
2. Why did McDonald's refuse to settle out of court?
3. Have there been any other actions against McDonald's?
4. What happened at the trial?
5. What was the verdict of the jury?
6. How much did the court award Liebeck in compensatory damages?
7. Did the court award punitive damages?
8. How much did Liebeck finally receive in damages?
9. What do you think of the Liebeck vs McDonald's case?
10. Do you think the case deserves its reputation as a frivolous case?

1. John asked me *what injury* _____
2. He asked me _____
3. He also wondered _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

COMMUNICATION

MAKING PRESENTATIONS

At present, for legal professionals presentations and public-speaking skills are more important than ever. A presentation is the process of presenting a topic to an audience. It is typically a demonstration, lecture, or speech meant to inform, or persuade. A well organised presentation with a clear structure is easier for the audience to follow. It is therefore more effective. You should organise the points you wish to make in a logical order. Most presentations are organised in three parts, followed by questions:

Beginning	Short introduction	<ul style="list-style-type: none"> • welcome your audience • introduce your subject • explain the structure of your presentation • explain rules for questions
Middle	Body of presentation	<ul style="list-style-type: none"> • present the subject itself
End	Short conclusion	<ul style="list-style-type: none"> • summarise your presentation • thank your audience • invite questions

Questions and Answers

When you give your presentation, you should be - or appear to be - as spontaneous as possible. You *should not read* your presentation! You should be so familiar with your subject and with the information that you want to deliver that you do not need to read a text. Reading a text is boring! Reading a text will make your audience go to sleep! So if you don't have a text to read, how can you remember to say everything you need to say? With *notes*. You can create your own system of notes. Some people make notes on small cards. Some people write down just the title of each section of their talk. Some people write down keywords to remind them. The notes will give you confidence, but because you will have prepared your presentation fully, you may not even need them.

Visuals add an important dimension to a presentation. It is critical that you prepare visual aids that reinforce your major points, stimulate your audience, and work well in the physical setting of your presentation. A five minute presentation to a ten person audience is probably best made with handout material alone, or even simple flip charts or the board. Larger audiences might be effectively reached by using a few simple overhead transparencies. When properly planned and produced, simple, well designed graphics add professionalism and impact to virtually any show.

Signposting language is also of great importance. The table below lists useful expressions that you can use to signpost the various parts of your presentation.

Signposting	
Function	Language
Introducing the subject	I'd like to start by... First of all, I'll... I'll begin by...
Finishing one subject...	Well, I've told you about... That's all I have to say about... We've looked at...

...and starting another	<p>Now we'll move on to...</p> <p>Let me turn now to...</p> <p>Next...</p> <p>Turning to...</p> <p>I'd like now to discuss...</p> <p>Let's look now at...</p>
Analyzing a point and giving recommendations	<p>Where does that lead us?</p> <p>Let's consider this in more detail...</p> <p>Translated into real terms...</p>
Giving an example	<p>For example,...</p> <p>A good example of this is...</p> <p>To illustrate this point...</p>
Dealing with questions	<p>We'll be examining this point in more detail later on...</p> <p>I'd like to deal with this question later, if I may...</p> <p>I'll come back to this question later in my talk...</p> <p>Perhaps you'd like to raise this point at the end...</p> <p>I won't comment on this now...</p>
Summarising and concluding	<p>In conclusion,...</p> <p>Let's summarise briefly what we've looked at...</p> <p>Finally, let me remind you of some of the issues we've covered...</p> <p>If I can just sum up the main points...</p>
Answering questions	<p>Now, I'll happy to answer your questions.</p> <p>To finish with, have you got any questions? I'll be happy to answer them.</p> <p>Now, you are welcome to ask any questions.</p>

The ten most common mistakes in public speaking:

- Using small scale movements and gestures
- Speaking with low energy
- Playing it safe
- Not preparing enough
- Not practicing enough
- Preparing too much material
- Rushing
- Data centric presentations
- Avoiding vulnerability
- Taking themselves too seriously

Task. Prepare a short presentation on one of the following legal topics:

1. Is *Liebeck v McDonalds* a frivolous case?
2. The significance of *Donoghue v Stevenson* case ("a snail in the bottle case") for lawsuits in negligence.
3. What happened to Laura Wilcox and how important is Laura's Law (*Assembly Bill 1421*)?

DISCUSSION

1. Have you ever suffered any wrong caused to you by other people?
2. Read the story and discuss the harm done to Mary and decide what torts were committed. Write the names of torts.

Jennifer and Giorgio were classmates at Cleghorn College in Pocahontas, Arkansas. Though Giorgio, a male student from Greece, thought he and Jennifer, a female, student from Michigan, were only friends, she became obsessed and determined to marry him at any costs. She began slipping into his yard every night to watch him sleeping through an open window. She never hurt or disturbed anything in the yard; she merely watched him. _____

Unfortunately, Jennifer didn't know that Giorgio and his fiancée, Mary, whom he met while an exchange student in North Dakota, had already decided to marry but had not announced their engagement. Because Mary was completing her studies at the University of Texas at Austin, Jennifer never saw Mary – that is, until Christmas break, when her midnight vigil revealed that Giorgio was not sleeping alone anymore. Jennifer was staggered – her dreams crashed. Then she decided if she could make Mary see reason, all was not lost. She cornered Mary in the ladies' room at the local movie theatre, locked her in a toilet stall, and would not let her out, all the while making a plea for Giorgio's affection. After twenty minutes or so, Mary agreed to give up Giorgio, and Jennifer released her. Mary had lied, as Jennifer's moonlight vigil soon revealed. _____

Jennifer became furious and waylaid Giorgio and Mary at church the next day. She hurled terrible insults at Mary, calling her all the most and nasty names. Mary was so distressed that she experienced severe panic attacks, developed a skin disease and lost her beautiful blonde hair. _____

Not satisfied with that, Jennifer typed terrible words about Mary, complete with picture, and stuck a copy on every car at the Wal-Mart Superstore. People began to walk up to Mary and yell at her. _____

Finally, Jennifer began following Mary and pushing her whenever possible, though it always appeared to be an accident on Jennifer's part. _____

Mary can take no more; she seeks legal advice from a lawyer.

3. What wrongs are likely to be committed by neighbours? Read the text and answer the questions: Were any torts committed? If yes, which ones? What advice would you give to the people? What remedies would you recommend them to seek?

1. Can I file a lawsuit against my neighbour?

We have a neighbour who is mad at us for calling the police on his constant loud music late at night.

He since then has installed a fence separating our yards with our side painted bright pink with silly faces and writings directed toward us.

He also installed coloured flashing lights on the corners of his house to also affect our yard and house.

He recently placed an ice chest in our yard with crumpled up paper with something scribbled (he is physically handicapped, so his handwriting is not legible).

And we have found a portion of the wooden fence he had initially had installed but fell down under our truck with nails pointed upward toward the tires.

He has also started playing his music loud every morning as early as 5:30 am to 7:30 am.

2. Can I file a private nuisance suit against my upstairs neighbour for incessantly stomping?

My upstairs neighbour's stomping is so violent that it causes the light fixture in my bedroom to vibrate. I have noticed that she does this only when she realizes I am home. If she doesn't know I am home she walks normally.

Moreover, over the past few weeks, on a nightly basis, she has starting stomping and dragging something across the floor between 1.00 and 4.30 a.m. which disrupts my sleep and is beginning to impact my work. For example, on May 6, 2012 I was awakened 3 times by her stomping and dragging. The first time was approximately 1.30, then 2.30 then 4.30 a.m. Consequently, the following morning I overslept and was late for work. On two separate occasions I have yelled at her to "knock it off" to which she effectively responded by becoming more menacing and stomping with greater frequency.

5. Read the following hypothetical situations. Discuss with your group mates if anyone was negligent. If yes, who and why? (What did they do wrong? What action or omission was negligence?) If no, why not? (Why was their action not negligent?)

1.

Joe works as a cleaner for Ajax Technologies. One of his jobs is to clean the bathrooms in the Ajax offices that Ajax rents. Last week, he was cleaning the bathrooms and discovered that the hot water was not working in the building. So, he filled a plastic bottle with water and put it on the radiator in the men's room. He went to another part of the office and forgot about the bottle. Later that afternoon the bottle melted and caught fire. The fire spread to a nearby office where a doctor was working. The smoke killed the doctor and one of her patients. There were no smoke detectors in the Ajax offices or in the doctor's office.

2.

The owner of an old rundown building decides to tear down the building so that he can build a new bigger one. The easiest and cheapest way to tear it down is to blow the building up with explosives. The owner hires a professional company, Boom-Boom, Inc., to do the job. Engineers from the company examine the old building and the buildings in the area to make sure no damage takes place. The company then uses the correct amount of explosives to destroy the building.

However, the explosion causes the ten-year-old building across the street to collapse, killing one man who was standing behind it. That ten-year-old building was built using steel that was strong enough to hold up the building but not as strong as the law requires it to be.

3.

Alex wakes up and discovers that there is a leak coming from the apartment above his. Water has dripped from the ceiling into his dining room, damaging his valuable antique table. He goes upstairs and finds that the door to that apartment is open. He knocks, and, after no one answers, he enters the apartment. Inside, he discovers his neighbour dead in the bathtub. The water is still flowing from the tap, into the bathtub and onto the floor. (The police later reported that the neighbour had taken drugs, gotten into the bathtub and fallen asleep before finally dying in his sleep). Alex shuts off the water and goes back to his apartment to call the police. He sees that part of his dining room ceiling is seriously damaged and he moves the table to the other side of the room. He then calls a repairman who agrees to come to fix the ceiling the next day (Tuesday). That evening (Monday evening), he prepares dinner for his girlfriend whom he had invited for dinner the previous week. While they are eating dinner at his antique table in the dining room, the entire ceiling collapses, killing Alex and his girlfriend.

6. Discuss the situations and answer the questions.**1.**

A walked across B's land without B's permission but without any damage to B's land. Has A committed any tort?

2.

A was operated on by surgeon B. Something went wrong during the operation and A is now incapable of looking after himself. In which tort could A sue B?

3.

A is driving an excavator and negligently severs an electricity cable which leads to a factory. The factory is forced to close down for a day and production is lost as a result. Any production which had been started at the time of the interruption of the supply and is damaged will be classed as damage to property and can be claimed in a negligence action. Any production which has not been started but cannot be carried out and results in loss of profit will be classed as economic loss and will be irrecoverable. Do you think that this distinction makes sense?

4.

A and B lived in adjoining houses. A gave music lessons and this annoyed B. In retaliation B banged on the wall and shouted while the lessons were in progress. What remedy could A be entitled to?

5.

Christine became pregnant and suffered badly from nausea. She consulted her doctor, who prescribed a drug to relieve the nausea. Christine gave birth to a daughter who suffered from physical and mental disabilities. Both the doctor and the manufacturer of the drug owed a duty of care to Christine. Who is to blame: the doctor or the manufacturer?

6.

A newspaper wishes to publish a political corruption story about A. They are not able to prove that all their allegations are true. The relevant right is freedom of speech. The newspaper should be free to expose political wrongdoing. However, one of the permitted derogations is the protection of reputation. Could the newspaper be sued?

7.

The surgeon mistakenly removed the wrong kidney from A's body. Could A sue the surgeon and get compensation?

8.

A grocery store failed to place cautionary warning signs on and around a wet and slippery area. Customer A fell and injured himself. Could the shop be found liable for any tort?

9.

A lied to B misrepresenting and concealing an important piece of information in order to get B refrain from selling his goods. B was tricked by the fraudulent act of A. Was any tort committed?

10.

Mark parks his car outside his house. He opens the car door without looking to see if anyone is in the road, and opens the car door into Amy, who is riding her bicycle. She is knocked into the path of an oncoming car, being driven by Alan. Alan manages to swerve to avoid Amy, but in doing so, he crashes into a wall. He suffers minor physical injuries only as the collision with the wall was

at a relatively low speed, but an hour later, he has a heart attack and dies. The autopsy reveals that, unknown to Alan, he suffered from a heart condition and the stress of the crash caused this condition to exacerbate, causing Alan's death. Ross, a passer-by, witnesses the crash and, seeing Alan in a confused state following the crash, reaches into Alan's car and steals Alan's laptop.

Following the accident, Amy is suffering from pain in her left leg. She goes to the hospital and is told by her attending doctor, Debbie, that she is suffering from a pulled muscle. A week later, Amy goes back to the hospital as the pain has become worse and has spread to her foot. It is discovered that Debbie has sustained severe and permanent damage to the tendons in her leg and to the bones in her foot. Had these injuries been discovered at Amy's first visit, they could likely have been treated and Amy would have made a full recovery. Amy now needs to walk with the aid of a stick, and will do so for the rest of her life.

What advice can you give to Amy and Alan regarding obtaining compensation for the losses they have sustained?

FOLLOW-UP

Read the text "Product Liability" (Part II. Reading for Law)

Read the text "Quentin Tarantino Withdraws Lawsuit Against Gawker Over 'Hateful Eight' Leak" (Part II. Reading for Law)

Read the text "Medical Malpractice: Who Can Be Sued?" (Part II. Reading for Law)

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Differences between Civil and Criminal Law in the USA <http://www.rbs2.com/cc.htm>

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UNIT 5

CRIMINAL LAW

Criminal law is a branch of public law that deals with crime. It involves the state imposing sanctions for defined crimes committed by individuals or businesses, so that society can protect its well-being and achieve a peaceable social order. In this unit the following areas of criminal law are covered: (1) definition of a crime (offence), (2) classification of offences according to the degree of their seriousness, (3) classification of offences according to their object, (4) criminal liability and (5) criminal penalties. The material is based on the English-Welsh criminal law.

In this unit you will learn the vocabulary necessary to read and write texts and communicate on criminal law matters. In the Grammar section, you will revise two grammar issues: (1) conditional sentences and (2) the use of infinitive and gerund. In the Communication section, you will learn to pick out the main ideas in legal texts, generalize them and write summaries of legal texts. In the Discussion section, you will have opportunity to discuss moral and legal liability and punishment theories in criminal law.

BEFORE YOU READ

1. What is the difference between a crime and a tort?
2. What are the main differences between criminal law cases and civil law cases?
3. What crimes/criminal offences do you know?
4. What do you know about the present crime rate in Lithuania?
5. Is the current punishment system in Lithuania sufficient to protect the society? Should the punishment be harsher/lighter for certain criminal offences?

KEY Vocabulary

statutory law, common law, substantive law, procedural/adjective law,
crime/offence, legal wrong, public wrong, omission, injured party,
treason, felony, misdemeanour, arrestable offence, non-arrestable offence,
summary offence, indictable offence, offence triable either way/either way offence,
misprision of treason, sedition,
homicide, murder, manslaughter, infanticide,
battery, assault, detention, abduction, kidnapping, hostage-taking, incest,
burglary, robbery, blackmail, fraud, forgery, arson, trespass,
riot, affray, harassment,
prosecution, defendant, criminal liability, actus reus, mens rea,
standard of proof, proof beyond reasonable doubt,
defence, duress by threats, duress by circumstances/necessity,
prevention of crime, self-defence, insanity,
mitigating circumstances, aggravating circumstances,
discharge, fine, community sentence,
custodial sentence, suspended sentence, life sentence, release on licence/parole,
determinate custodial sentence, indeterminate custodial sentence

MATCH THE WORDS WITH THEIR DEFINITIONS

(A) Offences against the state and the person

1) assault	a) conduct comprising a breach of allegiance owed to the sovereign or the state
2) battery	b) having information that someone has committed treason and not informing the proper authorities within a reasonable time
3) hostage-taking	c) speaking or writing of words that are likely to incite ordinary people to public disorder or insurrection
4) kidnapping	d) use or threat of violence for political ends, including putting the public in fear
5) manslaughter	e) unlawful homicide committed with malice aforethought
6) misprision of treason	f) unlawful homicide committed by gross negligence
7) murder	g) intentional or reckless act that causes someone to be put in fear of immediate physical harm
8) sedition	h) intentional or reckless application of physical force to someone without his consent
9) terrorism	i) carrying a person away, without his consent, by means of force, threats or fraud
10) treason	j) holding a person as a security against his will in order to force a person, an organisation or a state to do or not to do something

(B) Offences against property and public order

1) arson	a) dishonest appropriation of property belonging to someone else with the intention of keeping it permanently
2) blackmail	b) entering someone's land without permission in order to steal or commit an act of violence
3) burglary	c) using force or threats in order to steal from someone
4) forgery	d) threatening someone to reveal his/her past immorality or misconduct in order to gain financial benefit
5) fraud	e) deceiving someone by means of a statement or conduct in order to gain a material advantage
6) harassment	f) making false banknotes, stamps, documents etc. with the intention of passing them off as genuine, thereby causing harm to others
7) riot	g) intentional or reckless destruction or damaging of property by fire
8) robbery	h) entering privately owned land and remaining on it without permission
9) theft	i) collective conduct of a group of persons when they intentionally use or threaten violence for a common purpose
10) trespass to land	j) using threatening, abusive or insulting words or behaviour directed at a specific person and thereby causing him/her substantial emotional distress

READING 1: CRIMINAL LAW AND A CRIME

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What does criminal law deal with?
2. What are the main functions of criminal law?
3. Why is the term *crime* substituted by the term *offence* in modern legal documents?
4. Give a descriptive definition of a crime.
5. Give a prescriptive definition of a crime.

UNDERSTANDING DETAILS

1. Explain the difference between the terms in the given pairs:

- 1) statutory law – common law
- 2) substantive law – procedural/adjective law
- 3) descriptive definition – prescriptive definition
- 4) legal wrong – public wrong
- 5) an act – an omission
- 6) offender – injured party

2. Explain the meaning of the phrases:

- 1) to enforce social control
- 2) to discourage harmful behaviour
- 3) to serve as a deterrent
- 4) to restrain behaviour
- 5) criminal conduct
- 6) redressable by compensation

Criminal law is the body of **statutory** and **common law** that deals with crime and legal punishment of criminal offences. It is intended to enforce social control by discouraging behaviour that is harmful to societal well-being, as well as behaviour that challenges the government's authority and legitimacy. Criminal law establishes procedure for punishing **offenders**, with punishment handled by the state, and thus serves as a deterrent, helping to restrain behaviour.

Criminal law is divided into two fields: **substantive criminal law** and **procedural/adjective criminal law**. Substantive criminal law details the definition of, and punishments for, various crimes; procedural/adjective criminal law regulates the process for addressing violations of criminal law.

In modern common law, there is a tendency to refer to crimes as offences. The term "crime" in the broad sense includes not only serious, but also minor crimes, but in practice a minor crime would not be referred to as a crime which is felt to be too strong description of it. Therefore, the term "crime" is dropping out of use and is replaced by the term "offence" which now dominates in legal documents. In this unit both terms are used as synonyms.

The definitions of a crime (offence) given by the law theorists can be grouped into descriptive and prescriptive ones. The descriptive model of a crime defines not the nature of the act, but the legal consequences which follow it: a crime is a **legal wrong** that can be followed by criminal proceedings which may result in punishment (Williams 1978, 14). The prescriptive model of a crime, on the other hand, analyses the characteristics of criminal conduct: a crime is a wrongdoing which directly and in

serious degree threatens the security and well-being of society (**public wrong**), therefore it is not safe to leave it redressable only by compensation to the **injured party** (definition by Carleton in Smith and Hogan 1978, 19). Other models of a crime describe it both as a legal and a public wrong: a crime is an **act** (or **omission**) that is deemed by law to be a public wrong and is therefore punishable by the state in criminal proceedings (A Dictionary of Law, 2002).

READING 2: CLASSIFICATIONS OF OFFENCES

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What was the original classification of offences according to the degree of their seriousness in the common law system?
2. What classifications of offences replaced the original one in the English-Welsh legal system? Which of them is still in use?
3. How are offences classified according to the mode of trial? Give definitions and examples of each type of offences:
 - a) summary offences
 - b) indictable offences
 - c) offences triable either way (either way offences)
4. How are offences classified according to their object? Give definitions and examples of each type of offences:
 - a) offences against the state,
 - b) offences against the person
 - c) sexual offences
 - e) offences against property
 - f) offences against public order
 - g) road traffic offences

UNDERSTANDING DETAILS

Explain the difference between the offences in the given pairs:

- | | |
|------------------------------------|-----------------------------|
| a) treason – misprision of treason | f) burglary – robbery |
| b) sedition – terrorism | g) forgery – fraud |
| c) murder – manslaughter | h) arson – trespass to land |
| d) assault – battery | i) riot – affray |
| e) kidnapping – hostage-taking | j) speeding – obstruction |

Classification of Offences according to the Degree of their Seriousness

In the common law system offences originally were classified into three types according to the degree of their seriousness – treason, felonies and misdemeanours. The first category (**treasons**) was considered the most serious of the three. Any activities that were deemed a betrayal of one's country and were thought to pose a serious threat to the monarchy were considered treasonous and, as such, carried a severe penalty. The second category (**felonies**) included serious offences against the person and the property. All other offences were ascribed to the third category and were called **misdemeanours**.

This classification is still used in the US legal system, but some common law jurisdictions (United Kingdom, Republic of Ireland, Australia, Canada) have abolished the distinction between felonies and misdemeanours and adopted other classifications. In the UK, after the Criminal Law Act 1967 had abolished the distinction between felonies and misdemeanours, two new classifications of offences based on the power to arrest and the mode of trial were introduced.

The first classification was introduced by the Police and Criminal Evidence Act 1984. According to it offences were grouped into **arrestable** and **non-arrestable**. Arrestable offences included those for which there was a fixed mandatory penalty (e.g., murder), which carried a sentence of at least five years' imprisonment (e.g., theft) and some other offences listed in the Police and Criminal Evidence Act 1984 (e.g., possession of an offensive weapon). Police could lawfully arrest without obtaining a **warrant** a person who was committing an arrestable offence or who was suspected to be in the act of committing it. Non-arrestable offences were the remainder. However, in 2006, when Serious Organised Crime and Police Act 2005 entered into power, this classification ceased to exist and the dual rules of arrest were replaced with a single set of criteria for all offences.

The second classification, as mentioned above, is based on the mode of trial (see the Criminal Law Act 1967, the Criminal Law Act 1977, the Magistrates' Court Act 1980). According to it, offences are grouped into three categories: (1) summary offences, (2) indictable offences and (3) offences triable either way (either way offences). **Summary offences** are the offences that can only be tried summarily, i.e. by magistrates (justices of the peace) in a magistrates' court. **Indictable offences** are tried on indictment, i.e. by jury in the Crown Court. **Offences triable either way** may be tried either summarily or on indictment. The most serious offences (e.g., murder, manslaughter, robbery, rape, causing grievous bodily harm with intent) are triable only on indictment. Offences of medium gravity, especially those the gravity of which varies greatly depending on the facts of the particular case, are triable either way (e.g., theft, obtaining property by deception, most forms of burglary). The least serious offences (e.g., common assault and battery) are triable only summarily. When the accused is faced with an offence triable either way, he can either consent to be tried by magistrates in a magistrates' court or opt for trial by jury in the Crown Court. If the accused does not avail himself of this right, the Magistrate has a discretion as to the appropriate mode of trial.

Classification of Offences according to their Object

Criminal law is further divided into broad categories based on the object of the offence, each having specific offences associated with it: (1) offences against the state, (2) offences against the person, (3) sexual offences, (4) offences against the property, (5) offences against public order, (6) road traffic offences etc. (Draft Criminal Code Bill for England and Wales 1989, A Dictionary of Law 2002).

Offences against the state affect the security of the state as a whole. The main offences in this category are treason, misprision of treason, sedition, offences involving official secrets and acts of terrorism.

Offences against the person involve the use or threat of physical force against another person. This category includes homicide (murder, manslaughter), infanticide, illegal abortion, causing or inflicting grievous bodily harm, battery, assault, detention and abduction (kidnapping, hostage-taking).

Sexual offences involve sexual intercourse or any other sexual act. The main offences in this category are rape, indecent assault, incest, sexual relations with the mentally handicapped.

Offences against property affect another person's rights of ownership. The main offences against the property are theft and related offences (burglary, robbery), blackmail, fraud, forgery, offences of damage to property (arson), offences related to entering and remaining on property (trespassing with a weapon of offence). Some offences against property, such as burglary, robbery and blackmail, may also contain elements of offences against the person.

Offences against public order affect the smooth running of orderly society. This category includes various offences against public peace and safety such as riot, affray, harassment, acts stirring up racial hatred, possession of offensive weapon, manufacture of dangerous weapons, etc.

Road traffic offences are offences associated with driving vehicles on public roads. The main offences in this category are careless and inconsiderate driving, causing death by careless driving, dangerous driving, causing death by dangerous driving, drunken driving, driving while disqualified, driving without insurance, driving without a licence, speeding, ignoring traffic signals, parking offences and obstruction.

READING 3: CRIMINAL LIABILITY

UNDERSTANDING MAIN POINTS

Read the text about criminal liability and answer the questions:

1. What is criminal liability?
2. What are the principal elements of an offence? Name them and give their definitions.
3. What offences are called strict liability offences? Explain and give examples.
4. What is the standard of proof in criminal cases? Name and explain it.
5. What is a defence?
6. What are the main defences? Name them and give their definitions and/or examples of the situations in which they can be used.
7. What are mitigating and aggravating circumstances? Give their definitions and examples.

UNDERSTANDING DETAILS

1. Give the words/phrases with the opposite meaning of the following words/phrases:

- 1) the defendant
- 2) to find guilty of an offence
- 3) to convict of an offence
- 4) to impose liability on smb.
- 5) to reduce the punishment

2. What words/phrases mean the same / nearly the same as:

- 1) the accused
- 2) to accuse (of)
- 3) actus reus, mens rea
- 4) necessity
- 5) self-defence

Elements of an offence

Each specific offence has its elements that the **prosecution** must prove before the **defendant** can be found guilty. All proved elements produce **criminal liability** of the defendant.

The principal elements of an offence that must be proven are (1) **physical element** known as **actus reus** (2) **mental element** known as **mens rea**. The first element indicates that an offence actually occurred and the second – that the accused intended the offence to happen. The *actus reus* and *mens rea* are the Latin terms for “guilty act” (actus reus) and “guilty mind” (mens rea), and the basic principle in proving criminal liability is *Actus non facit reum nisi mens sit rea*, which means that “the act does not make a person

guilty unless the mind is also guilty". Thus, in jurisdictions with due process, there must be an *actus reus* accompanied by some level of *mens rea* to constitute the offence with which the defendant is charged. The exception is strict liability offences for which liability may be imposed without proving *mens rea* (e.g. offences relating to the production and marketing of food, offences relating to road traffic).

The prosecution must prove the guilt of the defendant "**beyond reasonable doubt**", that is the **standard of proof** required in criminal cases. This means that if the judge or jury judging the offence doubt the guilt of the defendant and have a reason for this doubt, the guilt of the defendant cannot be proven.

Defences

If *actus reus* and *mens rea* have been proven, the defendant may still avoid conviction if he has a defence. A defence is a reason the court should excuse the defendant's act and relieve him of liability. The English-Welsh legal system recognizes special defences available to particular offences and general defences available to all offences. General defences include duress by threats, duress of circumstances, use of force in public and private defence, insanity and other defences (Draft Criminal Code Bill for England and Wales 1989; A Dictionary of Law 2002).

Duress by threats covers the situations where the defendant is forced to break the law because of threats that he or another person will be killed or seriously harmed if the act is not done. The general rationale of the defence is that the criminal law should not demand a standard of resistance to threats which an ordinary reasonable person would find irresistible.

Duress by circumstances (necessity) covers the situations where the defendant commits an illegal act because of pressure of circumstances – he believes that in the given circumstances the act is immediately necessary to avoid death or serious personal harm to himself or another person. The extent to which the English-Welsh law accepts this defence to a criminal charge is unclear. There have, however, been acquittals on this basis when (1) a prisoner escaped from a burning prison; and (2) the crew of a ship jettisoned the cargo (not belonging to them) to save the ship from sinking.

The defendant may escape conviction if he proves that he used the **force in public or private defence**. Force in public and private defence is force which is necessary for protection of oneself and others from unlawful force or unlawful personal harm, protection of one's and others' property from unlawful damage, destruction or appropriation, preventing crime and assisting unlawful arrest. The paradigm example of public defence is the **prevention of crime**; of private defence, it is **self-defence**.

The defendant may also escape conviction if he can prove that at the time of committing the offence he was **insane**. In order to prove that, he must show that he is suffering from a defect of reason arising out of a disease of the mind. This would usually include most psychoses, paranoia and schizophrenic diseases. The defendant must show that, as a result of the defect of reason, he either did not know the nature and quality of his acts, i.e. he did not know what he was doing, or he did not know that his acts were wrong. If the defendant is found to be insane, he/she is given a special verdict of "not guilty by reason of insanity" and may be admitted to hospital. In cases of homicide, the accused must be sent to hospital.

Defences produce an exception to the general principle of criminal law stating that those who choose to break the law are held responsible for the crimes that they commit. The rationale of the exception is that the choice is not wholly voluntary. However, in the English-Welsh law not all defences are available for the defendants accused of serious crimes, for example the defence of duress (duress by threats and duress of circumstances) does not apply to the offence of murder.

Mitigating and aggravating circumstances

When deciding the sentencing for the defendant who has been found guilty, the court weighs the aggravating and mitigating circumstances of the case.

Mitigating circumstances are any evidence presented during the trial regarding the defendant's character, personal or family circumstances of the defendant or the circumstances of the offence, which allow the court to pass a lesser sentence and to reduce the severity of the punishment.

Aggravating circumstances are any relevant factors, supported by the evidence presented during the trial, that increase the enormity of the offence and add to its injurious consequences. These circumstances allow the court to impose a harsher penalty than it might otherwise be.

READING 4: CRIMINAL PENALTIES

UNDERSTANDING MAIN POINTS

Read the text about criminal penalties and answer the questions:

1. What is a discharge of an offender? In which case may it be imposed? What is the difference between absolute discharge and conditional discharge?
2. What is a fine? In which cases is it imposed? What are the principles deciding the amount of the imposed fine?
3. What is a community sentence? What requirements may be imposed as a community sentence?
4. What is a custodial sentence? In which cases may it be suspended? When are prisoners usually released on parole? What are the release arrangements for dangerous prisoners?
5. What are forfeiture and restitution?

UNDERSTANDING DETAILS

Read the statements and decide if they are true or false and correct the false statements:

1. The lightest criminal penalty in England and Wales is a fine.
2. If the offender discharged conditionally commits another offence during the period specified by court, he is sentenced for the original offence as well.
3. Fine is a money penalty payable to the injured party.
4. The amount of the fine depends exclusively on the seriousness of the offence.
5. Community sentence comprises the sentences formerly known as community service, probation order, curfew order, etc.
6. In England and Wales, the court may suspend any custodial sentence up to two years.
7. Conditional release from prison before a sentence is finished is called release on licence or parole.
8. In England and Wales, all offenders are released on licence after have served half of their sentence.
9. In England and Wales, life imprisonment is a prison sentence of indeterminate length and only in exceptionally grave cases it actually means imprisonment for life.
10. Seizure of property, that is illegally possessed and /or used to commit a crime, is called restitution.

There are several kinds of penalties available to the courts in England and Wales. The most important of them are absolute and conditional discharge, fine, community sentence, custodial sentence (imprisonment) and compensation order (see the Powers of Criminal Courts (Sentencing) Act 2000; the Criminal Justice Act 2003). The sentence depends on the type, the seriousness and the circumstances of the offence and the maximum penalty available by law.

The most lenient punishment is **discharge** of the offender. This order is imposed when the court deems that punishment would not be appropriate and the experience has been enough of a deterrent. The court may discharge the offender **absolutely** or **conditionally**. In the latter case, the offender is released on the condition that he/she does not commit any offence within a period specified by court.

The next level of punishment is a **fine** – a money penalty payable to the state. It is the most common criminal penalty widely used for summary offences and some indictable offences. The leading principle deciding the amount of the fine is that it should reflect the seriousness of the offence and the offender's ability to pay.

A **community sentence** combines punishment with changing offender's behaviour and making amends – sometimes directly to the victim of the crime. It is a generic sentence introduced by the Criminal Justice Act 2003 in place of different sentences available previously (such as community service order, probation order, curfew order, etc.). When imposing a community sentence, the court is able to choose different requirements to make up a community order which is relevant to the particular offender and the offence he/she committed. The range of the requirements available include:

- (a) an unpaid work requirement – order to do up to 300 hours of unpaid work on local community projects under close supervision;
- (b) a programme requirement – order to attend a group or individual programme designed to address the activities and patterns of behaviour that contribute to committing crime;
- (c) a curfew requirement – order to stay indoors, usually at home, for a certain period (electronic monitoring ("tagging") may be used to control the offender).

The highest level of punishment is **custodial sentence** (imprisonment). Before imposing a custodial sentence the court must be satisfied that the offence was so serious that neither a fine nor a community sentence can be justified. In determining the length of a custodial sentence, courts are bound to take account of aggravating and mitigating factors and of previous convictions. Custodial sentences of less than one year may be imposed, but **suspended** for a period of up to two years, during which time the court may order the offender to comply with one or more requirements available for community sentences. Breach of the conditions may result in activation of the whole or part of the custodial sentence. The actual length of imposed custodial sentences depends on release arrangements. Offenders serving standard **determinate custodial sentences** of 12 months or more are released after serving half of their sentence, but are then on **licence (parole)**, i.e. may be recalled at any time until the expiry of the full sentence if they break the imposed conditions or commit a further offence. Offenders assessed as dangerous serve **indeterminate custodial sentences**. For them release arrangements are different. These offenders are subject to assessment by the Parole Board and are not released from prison until and unless their level of risk to the public is assessed by the Parole Board as manageable in the community. When passing a **life sentence**, a judge specifies the minimum term an offender must spend in prison before becoming eligible to apply for parole. The only exception to this is when a life sentence is passed with a 'whole life order' meaning that such an offender will spend the rest of their life in prison.

There is a whole list of other penalties available to the court. They include compensation order, restitution, forfeiture, disqualification from driving, disqualification from working with children, etc.

POINTS TO REMEMBER

1. *crime and (criminal) offence* (in American English *offense*)

In common law, these terms are synonyms. However, in modern legal documents the term *offence* has replaced the term *crime* which is dropping out of use. The reason for this replacement is the associations that the term *crime* causes. This term denotes both serious and minor wrongdoings, but the general public usually associates it only with serious crimes like murder, robbery, etc. Therefore, a more neutral term *offence* was chosen as a generic term for all criminal wrongdoings.

2. **felony and misdemeanour** (in American English **misdemeanor**)

These terms were originally used in all common law systems. However, in 1967 the UK abolished the distinction between felonies and misdemeanours and new classifications of offences were introduced. These terms are no longer used in the Republic of Ireland, Australia and Canada. But the US legal system retained the terms *felonies* and *misdemeanors* in its classification of offences. Therefore, nowadays, these terms mainly refer to the American legal system.

3. **burden of proof and standard of proof**

These terms refer to different legal concepts:

Burden of proof is the duty of a party in a trial to prove a fact or facts in issue.

Standard of proof is the degree of proof required for any fact in issue in a trial, which is established by assessing the evidence relevant to it.

In the English-Welsh legal system there are two standards of proof: in criminal cases the standard is *proof beyond reasonable doubt*; in civil cases the standard is *proof on a balance of probabilities*.

In the US legal system, the standard of proof in criminal cases is *beyond reasonable doubt*, the standards of proof in civil cases are *clear and convincing evidence* and *preponderance of evidence*.

4. **defence** (in American English **defense**)

The term *defence* has several meanings:

1) the case presented by or on behalf of the party accused of a crime or being sued in a civil lawsuit:

An accused person must be given full opportunity to present his defence.

2) the counsel for the defendant in a trial:

The defence requested more time to prepare their case.

3) in criminal and civil proceedings, an issue of law or fact that, if determined in favour of the defendant, will relieve him of liability wholly or in part:

The defence of insanity is a general defence which is available to all crimes.

5. **community sentence**

This term was introduced in the UK in 2003 in place of different sentences available previously such as community service order, probation order, curfew order. When imposing a community sentence, the court makes up a community order by choosing different requirements which include the previously used orders and some new types of orders.

READING COMPREHENSION AND VOCABULARY TASKS

Task 1. Choose the correct word to complete the sentences.

- A crime is legal wrong that can be followed by criminal _____ which may result in punishment.

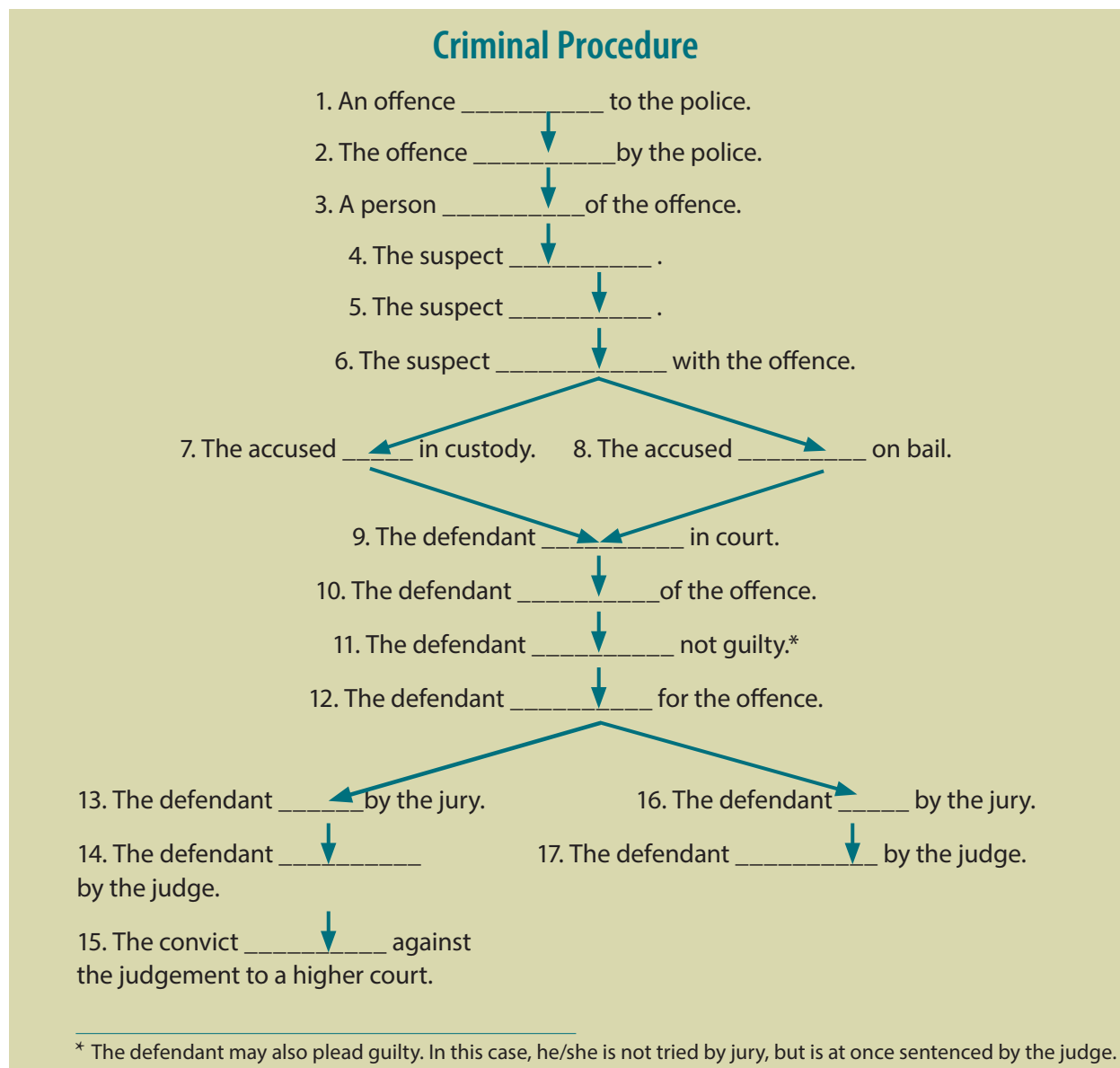
a) proceedings	c) interrogation
b) investigation	d) apprehension
- A crime is an act or _____ that is deemed by law to be a public wrong and is therefore punishable by the state.

a) admission	c) redress
b) omission	d) remedy

3. In jurisdictions with _____ process, there must be an actus reus accompanied by some level of mens rea to constitute a crime.
- a) proper c) suitable
b) congenial d) due
4. _____ liability offences are offences for which liability may be imposed without proving mens rea.
- a) Strict c) Legal
b) Vicarious d) Limited
5. The prosecution must prove the guilt of the suspect beyond _____ doubt, which is the standard of proof required in criminal cases.
- a) enforceable c) reasonable
b) foreseeable d) remediable

Tasks 2. Complete the sentences below using the verbs in the correct form.

to accuse	to acquit	to appeal	to appear	to apprehend	to charge
to convict	to discharge	to interrogate	to investigate	to plead	to release
	to remand	to report	to sentence	to suspect	to try



Tasks 3. Choose the correct word or phrase to complete the sentences.

1. The _____ of all criminal offences starts in magistrates' court.
A disputes C prosecution
B legislation D arrangements
2. Magistrates _____ the first hearings of offences and decide on their degree of seriousness.
A convict C instruct
B sentence D conduct
3. Most minor offences may be tried only _____, i.e. by magistrates in a magistrates court.
A on indictment C in public
B summarily D at large
4. Minor offences, also called _____ crimes, include common assault and battery, shoplifting, driving without insurance, parking violations etc.
A statutory C petty
B common law D careless
5. The defendants accused of either way offences are entitled to _____ for either trial by magistrates in a magistrates' court or by judge and jury in the Crown court.
A oblige C commit
B remit D opt
6. Either way offences are offences of _____ seriousness which comprise most thefts, burglaries and deceptions.
A least C most
B medium D greatest
7. The maximum sentence magistrates are empowered to _____ is a fine of £5000 and/or imprisonment up to 12 months.
A impose C implement
B report D fulfil
8. If an offence deserves greater punishment than magistrates can _____, they commit the case to the Crown court for sentence.
A prescribe C affect
B inflict D enforce
9. Very serious offences, such as murder, are only triable _____ by judge and jury in the Crown court.
A in public C at large
B on indictment D summarily
10. Magistrates conduct a preliminary investigation into an indictable offence and _____ the defendant to the Crown court for trial.
A commit C obtain
B redress D avail

Task 4. What defences may the defendants of these hypothetical cases rely on in criminal proceedings?

1. A man was kidnapped by a terrorist and was told he would be killed unless he set fire on a building. The man obeyed the terrorist and set the fire.
2. While driving his car, a driver was approached by a man wielding a gun; he feared he was about to be shot and drove away breaking the speed limit.
3. A doctor performed an illegal abortion for a 14 year old girl who had become a victim of a rape.
4. A group of armed criminals intended to rob a petrol-station and attacked the cashier. The security guard tried to stop them and in the fight killed one of the criminals.
5. An inmate just released from the psychiatric hospital, where she was under treatment for schizophrenia, kidnaps the children of her neighbour after voices have told her it is necessary to save them from their parents.

Task 5. Which of the following circumstances are mitigating and which are aggravating? Check your answers in the Article 59 and 60 of the Criminal Code of the Republic of Lithuania: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=366707

1. The act has been committed by a person under the influence of alcohol, narcotic, psychotropic or other psychoactive substances, where these circumstances influenced the commission of the criminal act.
2. The act has been committed by a person intoxicated by alcohol or drugs against his will.
3. The act has been committed at the request of the victim, who is in a desperate situation.
4. The act has been committed against a person in a helpless state owing to an illness, disability, old age or for other reasons, in the absence of the person's request;
5. The act has been committed by a group of accomplices.
6. The offender has provided assistance to the victim or otherwise actively avoided or attempted to avoid more serious consequences.
7. The criminal act has been committed due to a very difficult financial condition or desperate situation of the offender.
8. The act has been committed against a young child or a woman known to be pregnant.
9. The act has been committed by torturing the victim or subjecting him to taunting.
10. The offender has confessed to commission of an act provided for by a criminal law and sincerely regrets.

Task 6. Match these terms (1-10) with their definitions (a-j).

1) determinate sentence	a) release of a convicted defendant without imposing a punishment on him (it may be absolute or conditional).
2) discharge	b) a sum of money that an offender is ordered to pay on conviction
3) community sentence	c) generic sentence which combines punishment with changing offender's behaviour (when imposing it, the judge is able to choose different requirements such as unpaid work requirement, programme requirement, etc.)
4) curfew requirement	d) court order to stay indoors, usually at home, for a certain period
5) fine	e) a method of punishing criminals by taking away their liberty

6) forfeiture	f) a custodial sentence of less than two years which does not take effect on the condition that the convicted person complies with certain requirements set for him/her
7) imprisonment	g) a custodial sentence for a fixed period that is specified by law
8) parole	h) release from prison before a sentence is finished on the condition that the person meets certain requirements set for him/her
9) restitution	i) seizure of property that is illegally possessed and / or used to commit a crime
10) suspended sentence	j) court order to return the stolen property to the owner

Tasks 7. Complete the sentences below using the words from the box. There are five extra words in the box.

fine, available, charge, deterrent, discharge, indictable, licence, probation, public, relevant, remand, serving, summary, suspended, trial

1. There are several kinds of penalties _____ to the courts in England and Wales.
2. The most lenient punishment is _____ of the offender. It may be absolute or conditional.
3. A fine is the most common criminal penalty widely used for _____ offences.
4. The amount of the _____ depends on the seriousness of the offence and the offender's ability to pay.
5. In 2003 community sentence was introduced in place of such sentences as community service order, _____ order etc.
6. When imposing a community sentence, the court is able to choose different requirements _____ to the particular offender and the offence he/she committed.
7. Custodial sentences are imposed when the court is of the opinion that the serious nature of the offence and the need to protect the _____ require such a sentence.
8. Custodial sentences of less than one year may be imposed, but _____ for a period of up to two years.
9. Most offenders are released after _____ half of their sentence.
10. Released offenders are on _____ i.e. they may be recalled at any time until expiry of the full sentence if they break the imposed conditions.

Tasks 8. Choose the correct word or phrase to complete the sentence.

Criminal Code of the Republic of Lithuania

1. The current Criminal Code was adopted by the Seimas in 2000 and _____ into force in 2003.
 A entered C altered
 B went D asserted
2. In the current criminal code, criminal acts and _____ are divided into crimes and misdemeanours.
 A convictions C amendments
 B acquittals D omissions

3. Crime is considered to be a criminal act or omission covered by criminal law for the commission of which a punishment of _____ is stipulated by the law. Misdemeanour is deemed to be a criminal act or omission covered by criminal law for the commission of which the law does not provide for a punishment of _____, with the exception of arrest (the same word).
- A apprehension C deprivation
B imprisonment D detention on remand
4. The code prescribes that persons who attained the age of 16 before the commission of a crime or misdemeanour, are held criminally _____ under criminal law.
- A libel C liable
B eligible D impeccable
5. Only individuals who _____ or through recklessness/negligence committed a crime or misdemeanour, are held responsible and punishable under criminal law.
- A intentionally C impartially
B expeditiously D intently
6. Criminal liability _____ in cases of self-defence, necessity, apprehension of an offender, execution of an order, justifiable professional or economic risk etc.
- A is accomplished C is terminated
B is encroached D is eliminated
7. The Code provides more possibilities for applying _____ sentence and other alternative measures to deprivation of liberty.
- A custodial C arrestable
B suspended D determinate
8. The Code _____ new types of punishment such as deprivation of public rights, deprivation of the right to work in certain job and engage in a certain activity, community service, restriction of liberty etc.
- A complies C envisages
B deters D avails
9. When determining the punishment, the court takes into consideration the seriousness of the criminal act, the form of guilt, the personal characteristics of the offender, circumstances _____ or aggravating the liability etc.
- A mitigating C terminating
B nominating D imposing
10. The most severe punishment provided by the Code is life imprisonment as death penalty _____ in 1998 when the Constitutional Court of the Republic of Lithuania ruled that this punishment was unconstitutional.
- A was disclosed C was acknowledged
B was disallowed D was abolished

Task 9. Complete the sentences below using the correct form of the verbs in the box. In some cases, several variants are possible.

Criminal Procedure Code of the Republic of Lithuania

to accelerate, to apply, to apprehend, to come, to detain, to exceed,
to impose, to restrict, to specify, to transmit

1. The current Criminal Procedure Code was adopted in 2000 and _____ into effect in 2003.
2. The current Criminal Procedure Code _____ the criminal procedure.
3. The Criminal Procedure Code _____ two procedural coercive measures which restrict a person's freedom: temporary apprehension and pre-trial detention.
4. A person may be temporarily _____ if he/she is caught during the commission of a crime or shortly after the commission of a crime.
5. The temporary apprehension cannot _____ 48 hours.
6. The following remand measures may _____ to the suspect – pre-trial detention, home arrest, taking away identity documents, order to periodically register at the police office, written pledge not to leave etc.
7. Pre-trial detention is applied only subject to grounds and procedure established by law when it is necessary _____ a person's liberty for a longer period than 48 hours.
8. Pre-trial detention can _____ when other remand measures would be insufficient to ensure the defendant's appearance at the proceedings, unhindered investigation of a criminal case etc.
9. The defendant cannot _____, bar some exceptional cases, for more than 6 months before trial.
10. After the case _____ to court, the defendant can be imposed detention on remand, but for not more than 3 months.

Task 10. Match the names of crimes with their equivalents in Lithuanian.

1) manslaughter	a) sunkus sveikatos sutrikdymas
2) battery	b) užpuolimas viešoje vietoje
3) grievous bodily harm	c) turto iššvaistymas
4) arson	d) melagingi parodymai
5) blackmail	e) neatsargus gyvybės atėmimas
6) embezzlement	f) kyšininkavimas
7) forgery	g) šmeižtas
8) fraud	h) išžaginimas
9) rape	i) tyčinis padegimas
10) shoplifting	j) šantažas
11) theft	k) sumušimas

12) assassination	l) turto prievartavimas
13) bribery	m) prekyba narkotikais
14) drug trafficking	n) privačios teritorijos pažeidimas
15) mugging	o) įžymaus asmens nužudymas
16) perjury	p) vagystė parduotuvėse
17) smuggling	r) vagystė
18) trespassing	s) klastojimas
19) extortion	t) sukčiavimas
20) slander/libel	u) kontrabanda

Task 11. Choose the appropriate word in the appropriate form to complete the sentences.

murder, murderer, murder; manslaughter; embezzlement	burgle, burglar, burglary pickpocket, pickpocketing	forge, forger, forgery, embezzle, embezzler,
kidnap, kidnapper, kidnapping, smuggle, smuggler, smuggling, trespass, trespasser, trespassing stowaway	rob, robber, robbery shoplift, shoplifter, shoplifting mug, mugger, mugging, pilfer, pilferer, pilfering	blackmail, blackmailer, blackmail traffic, trafficker, trafficking poach, poacher, poaching assault, assailant, assault

1. A woman who killed her father in a drunken rage was put on probation after admitting _____ on the grounds of diminished responsibility.
2. It is thought that 60 kg of cannabis was originally bought in the Netherlands and was being dropped so that the _____ accomplices could pick it up later.
3. The _____ of four Christian peace activists threatened to kill the hostages unless all prisoners in US and Iraqi detention centres are released.
4. For years _____ have killed elephants to retrieve their tusks and then trade locally or on the international market.
5. Owners of a property which is occupied by _____, or anyone who does not have a right to be in the property, can apply to the court for a possession order.
6. A car mechanic who _____ A-level certificates to get a place at a university school for dentistry was jailed for six months.
7. An armed gang _____ the Kingsway Road branch of Barclays bank yesterday afternoon and got away with nearly 90,000 pounds.
8. Tourists have been advised to avoid going off into the mountains as six people have been _____ in the past month. As yet, no-one has been freed.
9. She was walking through the park in broad daylight when a man _____ her, stealing her handbag containing nearly \$200.

10. The cleaner was caught _____ towels and glasses from the hotel.
11. The man entered the museum and hid behind one of the showcases until after closing time to carry out the _____.
12. An unsuspecting _____ was caught on camera Monday afternoon stealing key chains and a pair of pants from the University Hospital gift shop.
13. The drug _____ are thought to have bought the passport on the black market and doctored it with a false photograph.
14. _____ face dangerous situations. Since they are not legally on board, they must sometimes spend days without water and food when travelling by ship, risking death.
15. When you're travelling, a _____ can easily ruin your trip, lifting your money, credit cards and identification in a few seconds.
16. The post office clerk _____ nearly \$5,000 over a period of two years.
17. He was so disappointed that his team were losing that he ran onto the pitch and _____ the opposing team's goal-keeper, hitting him several times in the face.
18. It would be easy to _____ my father's house as he always leaves his bedroom window open during the day.
19. He made large sums of money _____ refugees into Britain, Holland and Germany.
20. The politician was being _____ by a man who claimed he had photographs of him accepting bribes.

Task 12. Do the CROSSWORD.

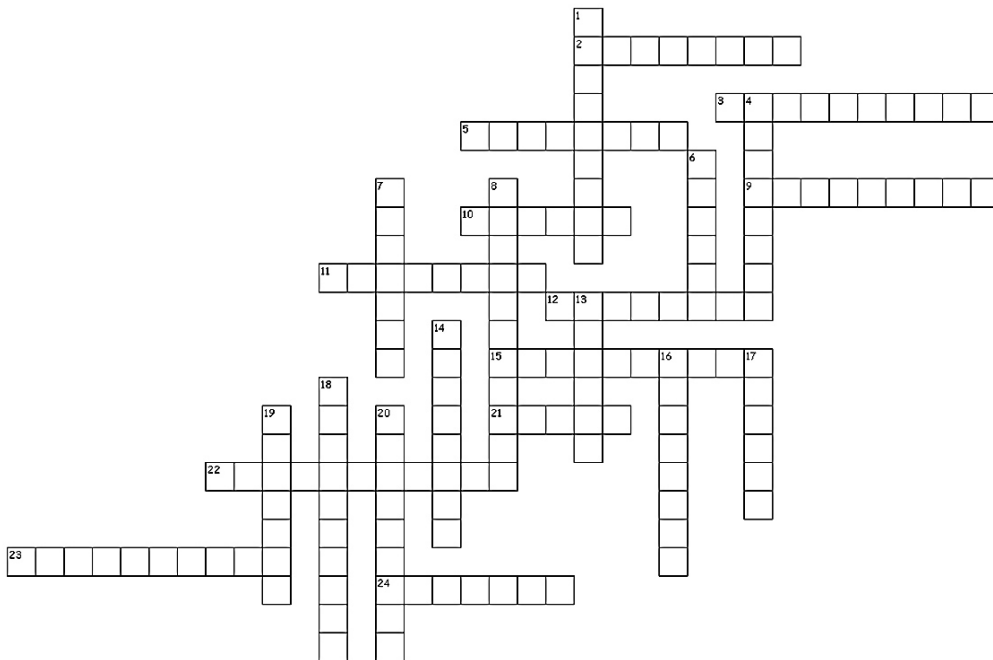
Criminals and Wrongdoers

Across

2. Deceives people by pretending to be someone else.
3. Takes goods from shops without paying for them.
5. Hides on board a ship or inside a plane in order to get free ride.
9. Attacks people.
10. Makes copies of money, letters, documents, etc. in order to deceive people.
11. Marries illegally while being married already.
12. Takes things or people illegally into or out of a country.
15. Leads others to do wrong or to make trouble.
21. Steals things from other people.
22. Demands money or favours from someone by threatening to reveal personal information about them.
23. Helps another person to commit a crime.
24. Betrays his or her country.

Down

1. Takes people away by force and keeps them prisoner in order to demand money for their safe return.
4. Takes control of an aeroplane, train, etc. by force, usually in order to make political demands.
6. Deliberately damages public property, often because they are bored or enjoy doing it.
7. Breaks into houses, shops, etc. in order to steal things.
8. Takes part in a secret plan to do something against the law.
13. Attacks people in the street and steals their money or other possessions.
14. Deceives people in order to get money from them.
16. Murders someone important, such as a king or a president.
17. Steals from banks, shops, etc. using violence.
18. Steals things from people's pockets and handbags in crowded places.
19. Catches or shoots animals, fish or birds on private land without permission.
20. Deceives others by pretending to have special skills or knowledge, especially about medicine.



GRAMMAR FOCUS

CONDITIONALS

Task. Complete the sentences to make the 1st, the 2nd and the 3rd conditionals. Zero conditional is done for you.

1. If the prosecution have enough evidence against the suspect, they initiate criminal proceedings.
 - (a) If the prosecution _____ enough evidence against the suspect, they _____ criminal proceedings.
 - (b) If the prosecution _____ enough evidence against the suspect, they _____ criminal proceedings.

- (c) If the prosecution _____ enough evidence against the suspect, they _____ criminal proceedings.
2. If the prosecution's evidence is strong, the suspect's lawyer recommends him to consider a plea bargain.
- (a) If the prosecution's evidence _____ strong, the suspect's lawyer _____ him to consider a plea bargain.
- (b) If the prosecution's evidence _____ strong, the suspect's lawyer _____ him to consider a plea bargain.
- (c) If the prosecution's evidence _____ strong, the suspect's lawyer _____ him to consider a plea bargain.
3. If the defendant enters a plea of guilty, the court sentences him without trial.
- (a) If the defendant _____ a plea of guilty, the court _____ him without trial.
- (b) If the defendant _____ a plea of guilty, the court _____ him without trial.
- (c) If the defendant _____ a plea of guilty, the court _____ him without trial.
4. If the defendant rejects the plea bargain, the case proceeds to trial.
- (a) If the defendant _____ the plea bargain, the case _____ to trial.
- (b) If the defendant _____ the plea bargain, the case _____ to trial.
- (c) If the defendant _____ the plea bargain, the case _____ to trial.
5. If the jury finds the defendant guilty, the judge passes sentence.
- (a) If the jury _____ the defendant guilty, the judge _____ sentence.
- (b) If the jury _____ the defendant guilty, the judge _____ sentence.
- (c) If the jury _____ the defendant guilty, the judge _____ sentence.

INFINITIVE AND GERUND

Task. Choose the correct form of the verb to complete the sentences.

1. Police arrested a husband and wife accused of _____ cocaine.
- | | |
|--------------------|------------------------|
| A to smuggle | C smuggling |
| B to have smuggled | D having been smuggled |
2. The couple resisted _____ under arrest.
- | | |
|-----------------------|----------------------|
| A to be placed | C being placed |
| B to have been placed | D having been placed |
3. The suspect refused _____ and asked for his lawyer.
- | | |
|----------------------------|---------------------------|
| A to be interviewed | C being interviewed |
| B to have been interviewed | D having been interviewed |
4. The suspect denied _____ the crime.
- | | |
|---------------------|-------------------------|
| A to commit | C committing |
| B to have committed | D having been committed |

5. The prosecutor insisted on _____ the accused for criminal conduct.
 A to prosecute C prosecuting
 B to have prosecuted D having been prosecuted
6. The accused claimed _____ abroad on the day of the crime and named five alibi witnesses.
 A to be C being
 B to have been D having been
7. The witness admitted _____ money from the accused.
 A to receive C receiving
 B to have received D having been received
8. Due to mental illness, the accused was incapable of _____ the difference between right/wrong or legal/illegal.
 A to discern C discerning
 B to have discerned D having discerned
9. The prosecutor demanded _____ the defendant to 6 years' imprisonment.
 A to sentence C sentencing
 B to have sentenced D having sentenced
10. The judge decided _____ the trial for two weeks.
 A to adjourn C adjourning
 B to have adjourned D having adjourned

COMMUNICATION

WRITING A SUMMARY

Whatever you study or work, ability to work with information (to collect and analyse it, pick out the main points and summarize them) is of vital importance. Nowadays, when we deal with huge amounts of information, summaries have become an important tool to spread and exchange data of research, business activities, etc. They give the essential information which enables the reader to get acquainted with the original material and search for the necessary information. Summaries are included in all scientific articles and business plans; various institutions provide their data in a summary form (in addition to a detailed form); summaries of legal cases are presented for information purposes for law students, legal professionals and the general public.

Summary writing may initially seem like a challenging task. It requires careful reading and reflective thinking about the material you are working with. To write a good summary it is important to thoroughly understand the material, generalize the main ideas and present them in a fluent language.

An effective summary should have the following characteristics:

- The heading of the summary (or the first sentence of the summary) indicates the title, author and source of the original text.
- The summary starts with a topic sentence which reveals the central thesis of the text: the subject matter of the text, the author's major position on this subject matter and/or the author's purpose in writing about this subject matter.

- The topic sentence is followed by supporting sentences which cover all major supporting ideas of the author (but not of the summary writer!) and are related among each other.
- The summary clearly communicates the ideas to the reader: the ideas are restated in the summary writer's own words as much as possible; the ideas flow smoothly and logically; the grammar, punctuation and spelling are correct.
- The length of a summary depends on the length of the original text and on the purpose of summarizing. It may range from 10 to 25% of the original text.

The steps listed below will help you to write an effective summary which would meet the above-mentioned requirements.

1 st step	Read the text you have to summarize.	<ul style="list-style-type: none"> • Try to determine what type of the text you are dealing with and what the purpose of the text is.
2 nd step	Reread the text.	<ul style="list-style-type: none"> • Divide the text into sections of ideas. Each section deals with one aspect of the central topic. • Label each section. Use a general phrase that captures the subject matter of the section. • Highlight or underline the key phrases in each section.
3 rd step	Write one-sentence summaries.	<ul style="list-style-type: none"> • Generalize the ideas and write a one-sentence summary for each section.
4 th step	Formulate the topic sentence.	<ul style="list-style-type: none"> • Formulate a topic sentence that summarizes the central theme of the text.
5 th step	Write your first draft.	<ul style="list-style-type: none"> • Begin with a proper citation of the title, author and source of the text. • Combine the topic sentence and your one-sentence summaries into a summary. • Eliminate all unnecessary words/phrases and repetitions. • Eliminate all personal ideas. • Use transitions for a smooth and logical flow of ideas. • Conclude with a summing up sentence by stating what can be learned from reading the text.
6 th step	Edit your draft.	<ul style="list-style-type: none"> • Check your summary by asking the following questions: <ul style="list-style-type: none"> – Have I answered the who, what, when, why and how questions? – Is my grammar, punctuation and spelling correct? – Have I left out my personal ideas? – Does my summary "hang together"? • Have someone else read the summary. Does it give them the central ideas of the text?
7 th step	Write your final draft.	

As mentioned above, it is important to organise the ideas of the summary smoothly and logically. One of the key instruments in achieving this aim is transitional words and phrases. They help to connect the sentences, indicate their relations and thus enable the reader to better understand the sequence of the ideas.

This table below illustrates categories of relationships between ideas, followed by words and phrases that can make the connections:

Addition	also, again, as well as, besides, coupled with, furthermore, in addition, likewise, moreover, similarly
Consequence	accordingly, as a result, consequently, for this reason, for this purpose, hence, otherwise, so then, subsequently, therefore, thus, thereupon, wherefore
Contrast and Comparison	contrast, by the same token, conversely, instead, likewise, on one hand, on the other hand, on the contrary, rather, similarly, yet, but, however, still, nevertheless, in contrast
Direction	here, there, over there, beyond, nearly, opposite, under, above, to the left, to the right, in the distance
Diversion	by the way, incidentally
Emphasis	above all, chiefly, with attention to, especially, particularly, singularly
Exception	aside from, barring, beside, except, excepting, excluding, exclusive of, other than, outside of, save
Exemplifying	chiefly, especially, for instance, in particular, markedly, namely, particularly, including, specifically, such as
Generalizing	as a rule, as usual, for the most part, generally, generally speaking, ordinarily, usually
Illustration	for example, for instance, for one thing, as an illustration, illustrated with, as an example, in this case
Similarity	comparatively, coupled with, correspondingly, identically, likewise, similar, moreover, together with
Restatement	in essence, in other words, namely, that is, that is to say, in short, in brief, to put it differently
Sequence	firstly, secondly, finally, lastly, at first, first of all, to begin with, in the first place, at the same time, for now, for the time being, the next step, in time, in turn, later on, meanwhile, next, then, soon, the meantime, later, while, earlier, simultaneously, afterward, in conclusion, with this in mind
Summarizing	after all, all in all, all things considered, briefly, by and large, in any case, in any event, in brief, in conclusion, on the whole, in short, in summary, in the final analysis, in the long run, on balance, to sum up, to summarize, finally

Write a summary (5-6 sentences long) of the following text:

Juvenile Delinquency

Any boy or girl under a certain legal age – usually 17 or 18 – who continually breaks laws is called a juvenile delinquent. A juvenile delinquent often does things such as using harmful drugs, destroying property, or hurting other people or themselves. A young person's delinquent behaviour in some cases is just a stage on the way to becoming a normal adult. The way his delinquency is treated by his community may lead him toward, or away from, an adult life of crime.

What makes a young person break laws? Often he feels anger toward the adult world. His parents may be divorced or separated. Or they may fight often, may not love him, or may not discipline him (make him behave). If the parents do not show respect for community laws, the child may not either.

Poverty may also cause a youth to break laws. He may begin to steal things that others have but that he cannot afford. If he lives in a slum, he may hate the run-down houses and poor schools there, and may begin to destroy property out of anger.

When there are no activities for young people in a community, they are more likely to get into trouble. Bored teenagers may roam the neighbourhoods in gangs, breaking windows or stealing cars. Young people may also commit crimes just to be accepted by other young people who do these things.

What happens to a young person who breaks laws? Sometimes the police talk to the youth's parents, or send him to an agency for help. Often, however, the young person must go to juvenile court. The court may send him to a probation officer, a person who will try to help the youth solve his problems, and will check on him to make sure he stays out of trouble. The court can also send the delinquent to a psychiatrist, a doctor who helps people who have mental or emotional problems. If the youth lives in an unhappy family, the court may place him in a foster home. Foster parents are volunteers who try to give these people happy homes.

Young people who become juvenile delinquents often hurt themselves more than their communities. Their offences keep them from going to school and getting good jobs. They lose self-respect, and respect of others.

DISCUSSION

1. Though law deals only with legal responsibility, moral issues have always played a big role in the development of the law. Discuss the legal and moral issues involved in the commission of the crime in the story "Jean's death" and do the following tasks:

- 1) Individually rank the characters of the story (from 1 to 6 with 1 being the most and 6 the least responsible) in the order of their moral responsibility for Jean's death.
The characters: *The Bar Owner, Carl, Jack, Jean, Man Leaving the Bar, Gail.*
- 2) Work with other members of your group and decide on the ranking of the six characters as a group. You must reach a unanimous decision.
- 3) Explain the group answers to the class and try to reach a class consensus.

Jean's Death

Around 5 P.M. one evening, a man and his wife entered the Bluebird Bar. The man, Jack, ordered a whiskey for himself and a cola for his wife, Gail. Jack continued to order the same drinks about every ½ hour.

At 11 P.M. the bar owner refused to serve Jack any more drinks because he was obviously extremely intoxicated and bothering other customers. Gail was used to Jack's behaviour and never asked her husband to quit drinking.

"Are you driving him home or should I call a taxi?" the bar owner asked Gail. Jack shouted, "Get out of my face! I'm driving home and neither of you can stop me!" Jack then shoved the owner aside and walked out the door. The owner just shrugged his shoulders and walked off. Gail went to the pay phone in the corner to call her sister for a ride.

As Jack left the bar a man walking by the bar shouted to him, "Hey Buddy, call a taxi!" When Jack drove off, the man simply shook his head and walked down the street.

Meanwhile, Jean and Carl were having a lovers' quarrel on the next corner. The quarrel soon escalated into a major fight, and Carl struck Jean saying, "Don't ever tell me not to touch you again. I'll show you who's boss here." At that point, Jean, crying hysterically and paying no attention at all to the traffic, ran into the street directly in front of Jack's car. Jack was not able to stop in time, and Jean was killed instantly.

2. Read the facts of the following cases and reach your verdict "Guilty" or "Not Guilty".

- 1) Joe, a 15-year-old, broke into his neighbour's house, burgled the house, locked the owner in the bathroom and escaped in the owner's car. At the trial, the defence pleaded not guilty to the charges with the reason of temporary insanity caused by Joe watching too much television. He watched television more than six hours a day, loved crime programmes and had just watched a film which contained scenes similar to the crime he had committed.

Was Joe guilty or not guilty of burglary and false imprisonment?

- 2) James had been unemployed for over two years and needed a new suit to wear at job interviews. However, he did not have enough money. He happened to have the same name as the richest man in town, so he went to a tailor's and put a new suit on the other man's account, simply by signing his own name. He was charged with forgery, but he argued that he had not forged anyone's signature by signing his own name.

Was James guilty or not guilty of forgery?

- 3) Police began searching a suspected thief's home but couldn't find any of the stolen goods they were looking for. During the search, a police officer secretly took aside the thief's five-year-old son and said he would pay him money if he showed him where the stolen goods were hidden. The boy accepted the money and took the police to the hiding place. When the police charged the boy's mother with burglary, she stated that the stolen goods should not be used as evidence and accused the policeman of bribing her child.

Were the police guilty or not guilty of bribery?

3. Discuss the theories of punishment presented below. Which of them, in your opinion, is the most effective? Which theories are used in the Lithuanian legal system?

Theories of Punishment

The basic difference between criminal and civil law is punishment. Criminal law is designed to punish a wrongdoer for an action against society. Civil law, on the other hand, is designed to compensate an injured party with damages for the injury. In deciding what criminal punishment is appropriate, the basic questions to be asked are the following:

- 1) How much has the defendant injured society?
- 2) How can you best punish this individual?

The question of how best to punish an individual depends to a great extent on which theory of punishment a society finds most effective. What is society trying to accomplish with the punishment? The four basic theories on which punishment is based are as follows.

Reformation. This concept involves teaching a criminal how to function in society without committing any further wrongdoings: helping the criminal become a "good" citizen. While few people would disagree with the notion that prisoners should be rehabilitated, the question of whether reformation works is more debatable due in part to the high degree of recidivism (committing of further crimes after release) among released prisoners.

Restraint. The need to keep criminals "off the streets" (i.e., imprisoned) so lawabiding citizens are free from potential harm. While this is not as noble a concept as reformation, the idea of protecting citizens is important. The question becomes, however, whether restraint works unless it is permanent or combined with some form of rehabilitation.

Retribution. The theory that a wrongdoer should pay for his or her crime: getting even with the criminal. Many people find this idea barbaric; however, it seems to be one of the major factors in determining punishment, as seen in the sayings “the criminal owes a debt to society”, “make the punishment fit the crime”, and “an eye for an eye”.

Deterrence. There are two types of deterrence:

- 1) Individual: The aim is to keep a particular individual from committing another crime. If he or she is punished for a wrongdoing, perhaps it will help to keep him or her from committing another offense.
- 2) General: The basis here is that punishing one person for a crime will keep others from committing the same crime. The question is whether people are aware of the sentences that are imposed on criminals. Of course, proponents of the deterrence theory believe that punishment does, at least to some extent, deter crime.

4. Death penalty (Capital punishment) is abolished in Europe (except for Belarus), but is still used in the United States of America and some other countries. Death penalty is hotly debated in the world. Analyse the arguments for and against death penalty on the internet and prepare your own arguments for an oral debate:

<http://deathpenalty.procon.org/>; <http://listovative.com/5-pros-and-5-cons-of-capital-punishment/>;
<http://greengarageblog.org/list-of-10-biggest-death-penalty-pros-and-cons>

FOLLOW-UP

Read the text “Morality Prevents Crime” (Part II. Reading for Law)

Read the text “The Most Famous British Criminal Cases: Dr Hawley Harvey Crippen (1862 – 1910)” (Part II. Reading for Law)

The Crown Prosecution Service http://www.cps.gov.uk/legal/s_to_u/sentencing_-_general_principles/e-lawresources.co.uk <http://e-lawresources.co.uk/Criminal.php>

GOV.UK <https://www.gov.uk/courts/magistrates-courts>

Sentencing Council <http://sentencingcouncil.judiciary.gov.uk/sentencing/types-of-sentence.htm>

Sixth Form Law http://sixthformlaw.info/02_cases/mod3a/cases_62_gen_def_duress_of_circs.htm

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UNIT 6

COMPANY LAW

Business law consists of many different areas such as Contracts, the law of Corporations and other Business Organizations, Securities Law, Intellectual Property, Antitrust, Secured Transactions, Commercial Paper, Income Tax, Pensions and Benefits, Trusts and Estates, Immigration Law, Labour Law, Employment Law and Bankruptcy. Company law is a branch of business law examining issues that impact the operation of a business. Corporate law (also “company” or “corporations” law) is the study of how shareholders, directors, employees, creditors, and other stakeholders such as consumers, the community and the environment interact with one another. In this unit the following aspects of company law are dealt with: 1) Company Law: General Issues, 2) Mergers and Acquisitions.

In this unit you will learn the vocabulary necessary to communicate on different issues of company law. In the Communication section you will get acquainted with the structure of meetings and practice chairing a meeting and participating in it. The Grammar section of the unit covers the use of phrasal verbs. You will also get acquainted with the peculiarities of translation of the terminology of company law. In the Discussion section, and will try to analyse controversial situations concerning companies.

BEFORE YOU READ

1. What do the following names suggest to you: *Apple, General Motors, Siemens, Statoil, Royal Dutch Shell, Volkswagen Group, Samsung Electronics* and *IBM*? What industry are these names associated with?
2. The world of business is full of impressive names such as Richard Branson, Steve Jobs, Enzo Ferrari, Estée Lauder, Henry Ford, Jamie Oliver, John D. Rockefeller or Walt Disney. Do you know what sphere of business they worked in?
3. What other large international companies do you know?
4. Have you ever worked in a company?
5. Do you think there are different types of companies? What do you know about them?
6. What do you think the differences are between private and public companies?

KEY Vocabulary

entity, company, legal person, property, sue, partnership, share, liability, flexibility, sole, set up, securities, debenture, shareholder, creditor, accountant, issue, memorandum of association, articles of association, merger, acquisition, enterprise, subsidiary, joint venture, purchase, stock, brand, transaction, legacy, synergy, supplier, conglomerate, investment

MATCH THE WORDS WITH THEIR DEFINITIONS

1) entity	a) a document that contains details of how a company is organized, for example, the duties of management, rights of shareholders, and when meetings will be held
2) company	b) an object or objects that belong to someone
3) legal person	c) an organization or a business that has its own separate legal and financial existence
4) property	d) a type of loan, often used by companies to raise money, that is paid back over a long period of time and at a fixed rate of interest
5) conglomerate	e) a document needed to officially form a new company, which gives details of its name, activities, managers, share capital, etc.
6) share	f) the act of buying something such as a company, a building, or a piece of land
7) debenture	g) an organization that sells goods or services in order to make money
8) memorandum of association	h) the act of putting money into a business to buy new stock, machines, etc., or a sum of money that is invested in a business in this way
9) articles of association	i) an organization, a company, or a business
10) merger	j) large company formed by joining together different firms
11) acquisition	k) a company that is controlled by another
12) enterprise	l) an occasion when someone buys or sells something
13) subsidiary	m) a situation when two or more companies, organizations, departments, etc. join together
14) transaction	n) a company that has full legal rights and responsibilities according to the law
15) investment	o) one of the units that the ownership of a company, fund, etc. is divided into and which can be bought by members of the public

READING 1: COMPANY LAW: GENERAL ISSUES

UNDERSTANDING MAIN POINTS

Read the text about general issues of company law and answer the questions:

1. What is a company?
2. In what ways does a company resemble a natural person?
3. What is limited liability?
4. How can the status of a company change?
5. How can shareholders get profit from the company?
6. What is the difference between creditors and debtors?
7. Who can set up a company?
8. What does the memorandum of association include?

UNDERSTANDING DETAILS

Decide if the statements true or false. Correct the false ones:

1. Under the law, a company and its members are distinct from legal personalities.
2. Company members are generally not personally responsible for the money owed by the company.
3. A certificate of incorporation is issued when the proper documents for company formation have been filed
4. The majority of private companies are small or medium sized companies.
5. A company initially formed as a sole proprietorship cannot eventually grow to be a publicly listed company.
6. Public companies cannot be converted from private ones.
7. There are no requirements for a public company to have a minimum share capital.
8. Public companies are subject to stricter legal requirements than private ones.
9. Shareholders invest their money and get shares in return.
10. Creditors are such entities from whom a company borrows money.
11. A private company must have a board of directors.
12. A public company may raise capital by offering securities (shares or debentures) to the public.
13. The articles of association state the principal object of the company.
14. The rights and obligations of shareholders and directors, conduct of meetings and corporate contracts are regulated by the memorandum of association.
15. Nowadays it is legal to register a company electronically.

Company law is the law which deals with the creation and regulation of **business entities**. The most common forms of business entity are companies and partnerships.

A company is a group of people which is treated as **a legal person**, with a separate identity from its shareholding members. It can own **property**, enter into contracts, **sue** others and be sued. This contrasts with **a partnership**, which is not considered to be a legal person and is not able to own property in its own name. The vast majority of trading companies are private companies limited by **shares**. There are over two million such companies registered at Companies House of the UK. A private company limited by shares must have the word 'Limited' or 'Ltd' at the end of its name. The main advantage of trading through a limited company is to have limited **liability**. Many private companies are very small. There is no minimum capital requirement for a private company and it is commonly less than £100. Approximately 90% of private companies are small or medium sized companies. Because of the limited liability of the members of a company for its debts, as well as its separate personality and tax treatment, the company has become the most popular form of business entity in most countries in the world.

Companies have an inherent **flexibility** which can let them grow; there is no legal reason why a company initially formed as a **sole** proprietorship cannot eventually grow to be a publicly listed company, but partnership will generally have a limited number of partners.

A small proportion of companies are public companies. Such a company must have a name ending in the words 'public limited company' or 'PLC'. This type of company is appropriate for larger businesses where shares are intended to be available to the general public. Most public companies are not **set up** as such but are converted from private ones.

In the UK, a public company must have a minimum share capital of £50,000, of which at least one-quarter plus any share premium must be paid up before the company can obtain its trading certificate from Companies House of the UK and start trading. This is the only type of company which may raise

capital by offering **securities** (shares or **debentures**) to the public. This is usually done by obtaining a listing on the Stock Exchange or another public market such as the Alternative Investment Market.

Public companies are subject to more stringent legal requirements than private companies on a wide range of matters, but especially in relation to share capital, directors and accounts.

A company has **shareholders** (who invest money and get shares in return), a board of directors (people who manage the affairs of the company) and **creditors** (to whom a company owes money). Company law deals with the relationships between companies and their shareholders, creditors, regulators and third parties. Directors are officers of the company who are responsible for managing the company and making the decisions as to its operation on a day to day basis, for the benefit of the shareholders. A private company must have at least one director and a PLC must have at least two. Certain important decisions, e.g. to change the company's name have to be made by the shareholders at a general meeting; however most decisions will be made by the directors. They have to abide by a number of duties such as to 'promote the success of the company', and 'exercise reasonable care, skill and diligence'. Other responsibilities which directors have include responsibility for notifying Companies House of certain changes, e.g. to registered office, appointment of directors etc., and for registering the annual return and accounts.

The same person can be both a director and a shareholder, and this is usually the case in private companies. On the other hand, a director need not be a shareholder.

The process of registering a company is known as company formation. Companies can be created by individuals, specialized agents, attorneys or **accountants**. Today, the majority of companies in the UK and the USA are formed electronically. In the UK, a certificate of corporation is **issued** once the company's constitutional documents and statutory forms have been filed.

The constitution of a company consists of two documents. The **memorandum of association** states the principal object of the company. The second document, the **articles of association**, regulates the company's internal management and administrative affairs, including matters such as the rights and obligation of shareholders and directors, conduct of meetings and corporate contracts.

A company can be registered either electronically or by sending paper forms and documents to Companies House. In the UK, over 90% of new companies are registered electronically.

READING 2: MERGERS AND ACQUISITIONS

UNDERSTANDING MAIN POINTS

Read the text about mergers and acquisitions and answer the questions:

1. What is the difference between mergers and acquisitions?
2. What are the advantages of mergers and acquisitions?
3. What brand problems can mergers and acquisitions create?
4. What are the most common types of merging companies?

UNDERSTANDING DETAILS

Read the text again and use an appropriate word/phrase from the text to complete the sentences:

1. When one company takes over another and completely establishes itself as the new owner, the purchase is called _____.
2. Acquisition usually refers to _____ of a smaller firm by a larger one.

3. _____ happens when two firms agree to go forward as a single new company rather than remain separately owned and operated.
4. Mergers and acquisitions often create _____ problems.
5. The future success of a merger or acquisition depends on making wise _____.
6. If one name is kept and the other is _____, the strongest legacy brand with the best prospects for the future usually lives on.
7. A _____ merger is usually between two companies in the same business sector.
8. A _____ merger represents the buying of supplier of a business.

Mergers and **acquisitions** is an aspect of corporate strategy, corporate finance and management dealing with the buying, selling, dividing and combining of different companies and similar entities that can help an **enterprise** grow rapidly in its sector or location of origin, or a new field or new location, without creating a **subsidiary** or using a **joint venture**.

When one company takes over another and completely establishes itself as the new owner, the **purchase** is called an acquisition. From a legal point of view, in an acquisition, the target company still exists as an independent legal entity, which is controlled by the acquirer.

Acquisition usually refers to a purchase of a smaller firm by a larger one. Sometimes, however, a smaller firm will acquire management control of a larger and/or longer-established company and retain the name of the latter for the post-acquisition combined entity.

In the pure sense of the term, a merger happens when two firms agree to go forward as a single new company rather than remain separately owned and operated. This kind of action is more precisely referred to as a merger of equals. The firms are often of about the same size. Both companies' **stocks** are surrendered and new company stock is issued in its place. Mergers are generally differentiated from acquisitions partly by the way in which they are financed and partly by the relative size of the companies.

Mergers and acquisitions often create **brand** problems, beginning with what to call the company after the **transaction** and going down into detail about what to do about overlapping and competing product brands. Decisions about what brand equity to write off are not inconsequential. And, given the ability for the right brand choices to drive preference and earn a price premium, the future success of a merger or acquisition depends on making wise brand choices. Brand decision-makers essentially can choose from four different approaches to dealing with naming issues, each with specific pros and cons:

- Keep one name and discontinue the other. The strongest **legacy** brand with the best prospects for the future lives on.
- Keep one name and demote the other. The strongest name becomes the company name and the weaker one is demoted to a divisional brand or product brand.
- Keep both names and use them together. Some companies try to please everyone and keep the value of both brands by using them together. This can create an unwieldy name.
- Discard both legacy names and adopt a totally new one. Not every merger with a new name is successful.

The merger and acquisition process itself is a multifaceted which depends upon the type of merging companies.

- A horizontal merger is usually between two companies in the same business sector. The example of horizontal merger would be if a health care system buys another health care system. This means that **synergy** can be obtained through many forms including such as increased market share, cost savings and exploring new market opportunities.

- A vertical merger represents the buying of **supplier** of a business. In the same example as above if a health care system buys the ambulance services from their service suppliers is an example of vertical buying. The vertical buying is aimed at reducing overhead cost of operations and economy of scale.
- **Conglomerate** merger and acquisition is the third form of merger and acquisition process which deals the merger between two irrelevant companies. The example of conglomerate merger and acquisition with relevance to above scenario would be if health care system buys a restaurant chain. The objective may be diversification of capital **investment**.

POINTS TO REMEMBER

1. **natural persons** and **legal persons**

A natural person is a real human being, as opposed to a legal person, created by law.

A consumer is any natural person who is acting for purposes which are outside his trade, business, or profession.

A human being, as opposed to an organization, is a natural person.

A legal person (sometimes called a juridical person) is a company, or other entity which has legal rights and is subject to obligations according to the law. Legal persons can sue and be sued, own property, and enter into contracts. Companies, being legal persons, are treated by law as if they were persons. While people acquire legal personhood when they are born, legal persons do so when they are incorporated in accordance with law.

A company is a distinct and separate legal person.

The U.S. Supreme Court has repeatedly held that certain constitutional rights protect legal persons.

An organization or a group of people who have the legal rights and responsibilities of an individual under the law is called a legal person.

2. **company law** and **corporate law**

Company law is a British term while *corporate law* is an American one. In American English, a *corporation* means an association of individuals, created by law or under authority of law, having a continuous existence independent of the existences of its members, and powers and liabilities distinct from those of its members. Thus, both *a company* and *a corporation* mean organizations that sell goods or services in order to make money.

He works for a software company/a company that makes software.

I work for Duggan Company.

In British English, a *corporation* means a large company, or a group of companies that are controlled as a single organization.

Whether you work for a large corporation or small company, following these easy guidelines can help you to succeed.

It is a global corporation with over 416,000 employees in 190 countries.

The word *corporate* is an adjective.

Analysts are expecting share prices to fall in the first quarter of next year because of poor corporate earnings.

The word *company* also means a number of individuals assembled or associated together; group of people.

3. **stock** and **shares**

The stock (also capital stock) of a corporation constitutes the equity stake of its owners. It represents the residual assets of the company that would be due to stockholders after discharge of all senior

claims such as debt. It is part of the ownership of a company that people have as an investment in the form of shares.

In November, the company's stock hit \$2 a share.

The plan would allow shareholders to buy stock at a 50% discount.

A share is one of the units that the ownership of a company, fund, etc. is divided into and which can be bought by members of the public.

The value of my shares has fallen by 8%.

Share prices have gone up for three weeks in a row.

On the London Stock Exchange, 18.5 million shares were traded yesterday.

The company is talking to its investors about issuing shares to fund the deal.

READING COMPREHENSION AND VOCABULARY TASKS

Task 1. Match the words from the box with their definitions.

a board of directors, a creditor, company law, an entity, a legal person,
the memorandum of association, a sole proprietor, a publicly-traded company,
a shareholder/stockholder, a share, tax, third party

- _____ is the field of law concerning companies and other business organizations. This includes corporations, partnerships and other associations which usually carry on some form of economic or charitable activity.
- _____ is the characteristic of a non-living entity regarded by law to have the status of personhood. It has a legal name and has rights, protections, privileges, responsibilities and liabilities under law, just as natural persons (humans) do.
- _____ is something that exists by itself, although it need not be of material existence.
- _____ is a type of business entity that is owned and run by one individual and in which there is no legal distinction between the owner and the business. The owner receives all profits (subject to taxation specific to the business) and has unlimited responsibility for all losses and debts.
- _____ is a company issuing stocks, which are traded on the open market, either on a stock exchange or on the over-the-counter market. Individual and institutional ones constitute the owners of a publicly-traded company, in proportion to the amount of stock they own as a percentage of all outstanding stock. Thus, they have final say in all decisions taken by a publicly-traded company and its managers, especially through its annual shareholders' meeting.
- _____ is a single unit of ownership in a corporation, mutual fund, or any other organization. A joint stock company divides its capital into shares, which are offered for sale to raise capital, termed as issuing shares. Thus, a share is an indivisible unit of capital, expressing the proprietary relationship between the company and the shareholder.
- _____ is an individual or institution (including a corporation) that legally owns a share of stock in a public or private corporation.
- _____ is a party (e.g. person, organization, company, or government) that has a claim to the services of a second party. It is a person or institution to whom money is owed.
- _____ of a company is the document that governs the relationship between the company and the outside.

10. _____ is a body of elected or appointed members who jointly oversee the activities of a company or organization.
11. _____ is often used to refer to a person or entity who is not involved in an interaction, relationship, transaction or agreement.
12. _____ is a fee charged (levied) by a government on a product, income, or activity. It can be levied directly on personal or corporate income. Its purpose is to finance government expenditure. One of its most important uses is to finance public goods and services (such as street lighting and street cleaning).

Task 2. Choose the most appropriate word.

1. Department responsible for administering a company's financial affairs
 - a) Marketing Dept.
 - b) Accounts Dept.
 - c) Personnel Dept.
2. A group of people chosen to establish policy for and control a company
 - a) Board of directors
 - b) Shareholder
 - c) Managing directors
3. A person who heads a Board of Directors; head of a company
 - a) Director
 - b) Chairman
 - c) Manager
4. A member of the board of directors
 - a) President
 - b) Manager
 - c) Director
5. A company's principal or main office or centre of control
 - a) Headquarters
 - b) Reception
 - c) Personnel Dept.
6. A person responsible for day-to-day running of a dept.; executive officer
 - a) Manager
 - b) Director
 - c) President
7. Department that puts goods on market, inc. packaging, advertising etc
 - a) Marketing Dept.
 - b) Production Dept.
 - c) Sales Dept.

8. Department responsible for recruitment and welfare of staff or employees
 - a) Marketing Dept.
 - b) Accounts Dept.
 - c) Personnel Dept.
9. The highest executive officer of a company; head of a company
 - a) President
 - b) Director
 - c) Manager
10. Department responsible for physical creation of product
 - a) Production Dept
 - b) Marketing Dept.
 - c) Accounts Dept.
11. Department responsible for finding and buying everything for a company
 - a) Purchasing Dept.
 - b) Marketing Dept.
 - c) Production Dept.
12. The place where visitors and clients report on arrival at a company
 - a) Personnel Dept.
 - b) Reception
 - c) Headquarters
13. Department responsible for finding customers and making sales
 - a) Marketing Dept.
 - b) Sales Dept.
 - c) Headquarters
14. A person who holds or owns shares in or a part of a company or corporation
 - a) Manager
 - b) Shareholder
 - c) Director

Task 3. Fill in the gaps with the most appropriate words from the box.

legal, securities, fiduciary, confidence, economic growth, non-public, directors

Insider dealing

Insider trading is the trading of a corporation's stock or other _____ (1) (e.g. bonds or stock options) by individuals with potential access to _____ (2) information about the company. In most countries, trading by corporate insiders such as officers, key employees, _____ (3)

and large shareholders may be _____ (4), if this trading is done in a way that does not take advantage of non-public information. However, the term is frequently used to refer to a practice in which an insider or a related party trades based on material non-public information obtained during the performance of the insider's duties at the corporation, or otherwise in breach of a _____ (5) or other relationship of trust and _____ (6) or where the non-public information was misappropriated from the company. Illegal insider trading is believed to raise the cost of capital for securities issuers, thus decreasing overall _____ (7).

Task 4. Choose the more appropriate word.

Sole Proprietorship

A sole proprietorship, also known as the **only/sole** trader or simply a proprietorship, is a type of business **entity/subject** that is **owned/had** and run by one **individual/man** or one legal person and in which there is no legal distinction between the owner and the business. The owner is in direct control of all elements and is legally **diligent/accountable** for the finances of such business and this may include debts, loans, loss etc.

The owner receives all **money/profits** (subject to taxation specific to the business) and has **unlimited/ endless** responsibility for all losses and debts. Every **asset/item** of the business is owned by the proprietor and all debts of the business are the proprietor's. It is a "sole" proprietorship in contrast with partnerships (which have at least 2 owners).

A sole proprietor may use a trade name or business name other than his, her or its legal name. They will have to legally **trademark/brand** their business name, the process being different depending upon country of **living/residence**.

Task 5. Fill in the gaps of the extract of the Law on Companies of the Republic of Lithuania with the given words and expressions from the box.

prescribed by laws, rights and duties, the legal person, an accumulative deposit account, initial, shall be drawn up, amended, acquired, submitting the documents, remuneration, other provisions, signing, laid down, place of residence

Article 7. Memorandum of Association and Act of Establishment

1. The Memorandum of Association _____ (1) when the company is established by two or more incorporators. If the company is formed by one person only, the act of establishment shall be drawn up.
2. The Memorandum of Association of the company shall indicate:
 - 1) the incorporators (full name, personal number and address of the natural person; name of _____ (2), legal form taken, its registration number, registered office, register in which data relating to the person is accumulated and kept and full name, personal number and _____ (3) of the representative of the legal person);
 - 2) the name of the company being incorporated;
 - 3) the persons who have the right to represent the company being incorporated and their _____ (4);

- 4) the amount of the company's authorised capital;
 - 5) nominal value of shares, the share issue price;
 - 6) the number of shares according to classes, the rights attached to the shares;
 - 7) the number of shares _____ (5) by each incorporator and the number of shares according to classes;
 - 8) the procedure and time limits for the payment for the shares acquired by each incorporator, including the procedure and time limits for the payment of _____ (6) contributions;
 - 9) each shareholder's contribution made otherwise than in cash and its value if payment for shares is made partly otherwise than in cash;
 - 10) the time limits for convening the statutory meeting;
 - 11) the procedure for _____ (7) of the company being incorporated and of information relating to the statutory meeting to the incorporators;
 - 12) compensation of incorporation costs and _____ (8) for incorporation;
 - 13) the procedure for concluding contracts in the name of the company and for the approval thereof;
 - 14) the initial contribution repayment procedure should the company be refused registration;
 - 15) the date of _____ (9) of the Memorandum of Association.
3. The Memorandum of Association may also contain _____ (10) which are not contrary to other laws of the Republic of Lithuania.
 4. The Memorandum of Association shall be signed by all incorporators or persons authorised by them.
 5. The Memorandum of Association of the company, drawn up and signed in the manner _____ (11) in this Law, shall grant the right to open _____ (12) of the company being incorporated with a bank.
 6. The Memorandum of Association of the company shall be submitted to the manager of the Register of Legal Entities together with the other documents _____ (13) for the registration of the company. If the Memorandum of Association is _____ (14) prior to the registration of the company, the Memorandum of Association shall be submitted to the manager of the Register of Legal Entities together with the amendments.
 7. The requirements laid down in paragraph 2 of this Article (subparagraphs 10 and 11 excluded) shall be applied to the contents of the Memorandum of Association of the company. Paragraphs 3 to 6 shall also be applied to the act of establishment.

Task 6. Translate the following words/phrases into English.

- | | |
|-------------------------------|---|
| 1. Akcija | 12. Įsteigti įmonę |
| 2. Akcininkas | 13. Akcinė bendrovė (kurios akcijos viešai platinamos) |
| 3. Skola | 14. Priklausomoji, dukterinė įmonė |
| 4. Kreditorius | 15. Akcinės bendrovės obligacija (užtikrinta ne konkrečiu bendrovės turtu, o turto visuma ir būsimomis pajamomis) |
| 5. Skolininkas | 16. Įmonės, akcinės bendrovės steigimo sutartis |
| 6. Įmonių susijungimas | 17. Įmonės įstatai |
| 7. Įmonės, turto įsigijimas | 18. Prekės ženklas |
| 8. Bendra įmonė | 19. Sandoris |
| 9. Uždaroji akcinė bendrovė | 20. Vertybiniai popieriai |
| 10. Vertybinių popierių birža | |
| 11. Ribotos atsakomybės įmonė | |

Task 7. Fill in the gaps in the extracts of the Lithuanian Civil Code. Use the Lithuanian version to help you find the necessary legal terms and other words.

PART II

LEGAL PERSONS

CHAPTER VIII

TERMINATION AND RESTRUCTURING OF LEGAL PERSONS

Article 2.96. Reorganisation of Legal Persons

1. Resolution to reorganise a legal person shall be passed by members of a legal person or the court _____ (1).

2. Resolution to reorganise, _____ (2), a legal person, which is joined by other legal person, may, too, be passed by the managing body of a legal person where the given circumstances emerge.

1) Public announcement about the terms of reorganisation of legal persons laid down in paragraph 2 of Article 2.99 of the given Code _____ (3) no later than thirty days prior to the general meeting of members of a legal person, which is going to be merged.

2) Every member of a legal person shall have the right to acquaint himself with the documents _____ (4) in paragraph 4 of the given Article.

3) One or some members of a legal person with no less than 1/20 of votes at _____ (5) of members of a legal person shall enjoy the right to request the convening of the general meeting of legal person's members on the reorganisation, by way of merger, of a legal person.

3. Resolution to reorganise a legal person shall be passed by _____ (6). It _____ (7) in the incorporation documents and may be no less than 2/3 of the votes given by the persons present at the general meeting. Subject to paragraph 1 of Article 2.101 of the given Code, resolution to reorganise a legal person may be passed _____ (8) following the public announcement that terms for the reorganisation have been set. _____ (9) of reorganisation shall have to be approved by a resolution to reorganise a legal person and _____ (10) shall have to be altered or new documents shall have to be drawn up.

4. Members of a legal person shall have the right to acquaint themselves with the terms of reorganisation, incorporation documents of legal persons who will continue the activities after the reorganisation or documents of newly incorporated legal persons or with their projects and reports

drawn up by all managing bodies of legal persons participating in the reorganisation, assessments of experts as well as _____ (11) for the last three financial years. Where terms of the reorganisation were set six months following the end of the financial year of at least one legal person participating in the reorganisation, _____ (12) financial statement has to be issued in accordance with the same rules applied to the earlier financial statement and has to be presented to the members of a legal person. It shall be issued no earlier than three months _____ (13) the setting of terms for the reorganisation. All members of a legal person shall have the right to receive copies of _____ (14) documents.

5. Managing bodies of legal persons shall have _____ (15) members of legal persons about _____ (16) after terms of reorganisation have been set and prior to taking decision on the reorganisation and attach this written notification to documents specified in paragraph 4 of the given Article as well as _____ (17), about essential changes in the general meeting of members of legal persons.

II DALIS

JURIDINIAI ASMENYS

VIII SKYRIUS

JURIDINIŲ ASMENŲ PABAIGA IR PERTVARKYMAS

2.96 straipsnis. Juridinių asmenų reorganizavimas

1. Sprendimą reorganizuoti juridinį asmenį priima juridinio asmens dalyviai arba teismas įstatymų nustatytais atvejais.

2. Juridinio asmens, prie kurio prijungiamas kitas juridinis asmuo, sprendimą dėl reorganizavimo prijungimo būdu gali priimti ir juridinio asmens valdymo organai, jei yra šios aplinkybės:

1) juridinių asmenų reorganizavimo sąlygos yra paskelbtos, kaip nustatyta šio kodekso 2.99 straipsnio 2 dalyje, ne vėliau kaip likus trisdešimčiai dienų iki prijungiamo juridinio asmens dalyvių susirinkimo;

2) bet kuris juridinio asmens dalyvis turi teisę susipažinti su šio straipsnio 4 dalyje nurodytais dokumentais;

3) vienas ar keli juridinio asmens dalyviai, turintys ne mažiau kaip 1/20 balsų juridinio asmens dalyvių susirinkime, turi teisę reikalauti, kad būtų sušauktas juridinio asmens dalyvių susirinkimas dėl reorganizavimo prijungimo būdu.

3. Sprendimas dėl juridinio asmens reorganizavimo priimamas kvalifikuota balsų dauguma. Ją nustato steigimo dokumentai ir ji negali būti mažesnė nei 2/3 visų susirinkime dalyvaujančių dalyvių balsų. Sprendimas dėl juridinio asmens reorganizavimo gali būti priimtas tik praėjus trisdešimčiai dienų nuo viešo paskelbimo apie reorganizavimo sąlygų sudarymą, kaip nurodyta šio kodekso 2.101 straipsnio 1 dalyje. Sprendimu dėl juridinio asmens reorganizavimo turi būti patvirtintos reorganizavimo sąlygos ir pakeisti ar priimti nauji steigimo dokumentai.

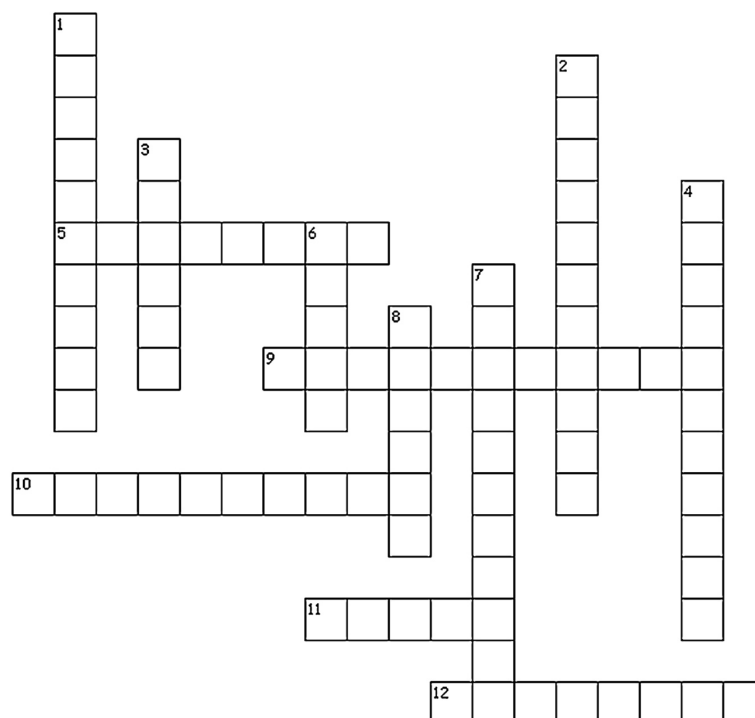
4. Ne vėliau kaip likus trisdešimčiai dienų iki juridinio asmens dalyvių susirinkimo dėl reorganizavimo juridinio asmens dalyviai turi teisę susipažinti su reorganizavimo sąlygomis, po reorganizavimo tęsiančių veiklą ar naujai kuriamų juridinių asmenų steigimo dokumentais arba jų projektais ir visų reorganizavime dalyvaujančių juridinių asmenų valdymo organų parengtomis ataskaitomis, ekspertų vertinimais bei praėjusių trejų finansinių metų finansinėmis ataskaitomybėmis. Jei reorganizavimo sąlygos buvo sudarytos praėjus šešiesiems mėnesiams po nors vieno dalyvaujančio reorganizavime juridinio asmens finansinių metų pabaigos, pagal tas pačias taisykles kaip ir prieš tai sudaryta finansinė atskaitomybė turi būti sudaroma ir juridinio asmens dalyviams pateikiama tarpinė finansinė atskaitomybė. Ji neturi būti

sudaryta anksčiau nei likus trims mėnesiams iki reorganizavimo sąlygų sudarymo. Kiekvienas juridinio asmens dalyvis turi teisę gauti visų išvardytų dokumentų kopijas.

5. Juridinių asmenų valdymo organai privalo juridinių asmenų dalyviams pranešti apie visus esminius pasikeitimus, įvykusius po reorganizavimo sąlygų sudarymo ir iki sprendimo dėl reorganizavimo priėmimo, ir šį rašytinį pranešimą pridėti prie šio straipsnio 4 dalyje nurodytų dokumentų bei pranešti žodžiu apie esminius pasikeitimus juridinių asmenų dalyvių susirinkime.

Task 8. Do the CROSSWORD.

Company Law



Across

5. Something that you buy; the act of buying something
9. An occasion when someone buys or sells something; the process of doing business
10. The act of putting money into a business to buy new stock, machines, etc., or a sum of money that is invested in a business in this way; the act of buying shares, bonds, property, etc. in order to make a profit
11. The name of a product produced or sold by a particular company
12. Someone who money is owed to

Down

1. An organization, a company, or a business
2. The act of buying something such as a company, a building, or a piece of land
3. A situation when two or more companies, organizations, departments, etc. join together
4. A company which is owned by two or more people
6. One of the units that the ownership of a company, fund, etc. is divided into and which can be bought by members of the public
7. A person or organization that owns shares in a company
8. An organization or a business that has its own separate legal and financial existence

GRAMMAR FOCUS

PHRASAL VERBS

Task 1. Complete the phrasal verbs with appropriate prepositions from the box.

behind, down, forward, into, off, on, out, over, through, up

1. Their ambition is to set _____ a new international company.
2. He went _____ the calculations very carefully.
3. The study points _____ the weaknesses of the national currency.
4. In his article Mr Brown sets _____ to prove the significance of the stock capital.
5. When one company takes _____ another and completely establishes itself as the new owner, the purchase is called an acquisition.
6. The company is made _____ of numerous subsidiaries and affiliated businesses.
7. Most European countries put the clocks _____ in the spring.
8. She has always wanted to work _____ controversial economic theories.
9. He stands _____ strongly for his new business plans.
10. They intend to carry _____ a series of economic experiments.
11. He said he would better get _____ to his work.
12. It is not necessary to complete in the form; the computer will fill it _____ automatically.
13. The country's nuclear industry is being run _____.
14. If you have a problem, you should take it _____ with the manager.
15. The general meeting of the company has been put _____ for a week.
16. Three years later, the company had left all its close rivals far _____.
17. They are looking _____ the possibility of merging the two departments.
18. The company picked _____ a bargain on the housing market during the recession.
19. Production has been slow because the equipment keeps breaking _____.
20. Industry groups say that the market will sort this _____ itself.

Task 2. Complete the sentences with the most appropriate word.

1. In the weeks _____ up to (= before) the meeting), we'll all have to work very hard.
 - a) bringing
 - b) leading
 - c) taking
2. They _____ (= created, developed) a brilliant marketing strategy.
 - a) turned around
 - b) brought in
 - c) drew up
3. We always contract that work _____. (= we get someone else to do it).
 - a) up
 - b) out
 - c) around

4. I want Mary to _____ (= assume the lead in) the new Latin American unit.
a) head up
b) factor in
c) lead off
5. Let me _____ (= start) by saying how proud I am of your contribution to this company.
a) lead off
b) write off
c) start on
6. You two should work together on this project. (= You two should _____ on this project.)
a) work off
b) put in
c) team up
7. The new mobile phones will _____ (= will be launched) in November.
a) roll out
b) come off
c) go through
8. I'm not sure what you're getting _____ (= I'm not sure what you mean).
a) at
b) out
c) off
9. Ford plans to _____ off 1,000 workers. (= 1,000 Ford workers will lose their jobs)
a) lift
b) lay
c) go
10. Our business is really taking _____! (= Our business is really becoming successful!)
a) up
b) in
c) off

Task 3. Paraphrase the sentences using phrasal verbs.

1. Before you buy the new product, you should use it and test it.
2. He spent years developing and growing his business.
3. They want to purchase a majority share holding in the company.
4. You should make extra copies of all your computer files.
5. Can you give me some assistance with this report?
6. Why do you always say negative things about the manager?
7. Have you completed the form in bold print?
8. My New Year's resolution was to stop smoking cigarettes.
9. I don't believe her; she's telling a story which isn't true.
10. Do you know if the general meeting is going to be postponed?

COMMUNICATION

MEETINGS

In a meeting, two or more people come together to discuss one or more topics, often in a formal setting. A meeting is a gathering of two or more people that has been convened for the purpose of achieving a common goal through verbal interaction, such as sharing information or reaching agreement. Meetings may occur face to face or virtually, as mediated by communications technology, such as a telephone conference call, a skyped conference call or a videoconference.

No meeting is productive without an agenda, the written outline that describes what issues will be covered. Before convening any meeting, management prepares the agenda and distributes copies to all key participants. Agendas serve as a good time-management tool, because the attendees must think ahead of time about what they want to accomplish. The agenda also helps the discussion leader, or facilitator, keep everybody focused on the main items, so that the meeting doesn't lose purpose.

Formal meetings tend to follow a certain structure. Well-written minutes follow the same structure as the meeting, which is also the structure outlined in the agenda. Knowing the purpose of each of the formal items in a meeting will help get your meeting off to a good start and you will have a better idea of what to include in the meeting minutes.

I. The structure of a Meeting:

1. Introductions

- Opening the meeting
- Welcoming and introducing participants
- Stating the principal objectives of a meeting
- Giving apologies for someone who is absent

2. Beginning the Meeting

- Introducing the agenda
- Allocating roles (secretary, participants)
- Agreeing on the ground rules for the meeting (contributions, timing, decision-making, etc.)

3. Discussing Items

- Introducing the first item on the agenda
- Closing an item
- Next item
- Giving control to the next participant

4. Finishing the Meeting

- Summarizing
- Finishing up
- Suggesting and agreeing on time, date and place for the next meeting
- Thanking participants for attending
- Closing the meeting

II. Chairing a Meeting

Chairing a meeting means ensuring that a meeting achieves its aims. The meeting should have been called for a specific purpose and all discussion at the meeting must be steered to this end. This may sound simple in theory but in practice it is a very demanding task. The skills required include:

- **Impartiality.** A chairperson is like a judge in a court. He should ensure that all participants have an opportunity to express their point of view.
- **Assertiveness.** Ensuring that everyone gets a hearing will almost certainly involve stopping someone from dominating the proceedings. The more contentious the issue, the more likely you are to require firmness. You don't need to be rude or dogmatic. Phrases such as "I think we should hear from Ms. Smith on this" or "can we have some comments from the engineering department on this" should be sufficient in most cases. Once you provide this opening, however, you need to ensure that there are no interruptions while the next speaker has their say.
- **Staying on course.** The meeting may start off well but becomes embroiled in a particular topic (perhaps the first item on the agenda) and ends when time runs out. A chairperson must assess the importance of each item on the agenda, and allot time to each topic as required. If one issue begins to dominate, the chairperson must take control.
- **Summarizing.** Summarizing can be used to end a topic, to end a discussion, to limit the need for discussion and at the end of a meeting to ensure that everyone has a clear overview of what took place or what action is now required. Summarizing requires active listening. You have to state concisely what was said in an impartial way and end with a clear statement about what is expected to happen next.

USEFUL LANGUAGE: CHAIRING A MEETING

Opening the Meeting

Good morning/afternoon, everyone. If we are all here, let's get started.

Welcoming and Introducing Participants

Please join me in welcoming (name of participant)

We're pleased to welcome (name of participant)

It's a pleasure to welcome (name of participant)

I'd like to introduce (name of participant)

Stating the Principal Objectives of a Meeting

We're here today to ...

Our aim is to ...

I've called this meeting in order to ...

By the end of this meeting, I'd like to have ...

Giving Apologies for Someone Who is Absent

I'm afraid, (name of participant) can't be with us today. She is in ...

I have received apologies for the absence of (name of participant), who is in (place).

Reading the Minutes (Notes) of the Last Meeting

First let's go over the report from the last meeting, which was held on (date)

Here are the minutes from our last meeting, which was on (date)

Dealing with Recent Developments

Mr Brown, can you tell us how the project is progressing?

Mr Smith, have you completed the report on the new accounting package?

Has everyone received a copy of the Tate Foundation report on current marketing trends?

Moving Forward

So, if there is nothing else we need to discuss, let's move on to today's agenda.

Shall we get down to business?

Is there any other business?

If there are no further developments, I'd like to move on to today's topic.

Introducing the Agenda

Have you all received a copy of the agenda?

There are three items on the agenda. First,

Shall we take the points in this order?

If you don't mind, I'd like to go to ... in order/skip item 1 and move on to item 3

I suggest we take Item 2 last.

Allocating Roles (secretary, participants)

(name of participant) has agreed to take the minutes.

(name of participant), would you mind taking notes today?

Agreeing on the Ground Rules for the Meeting (contributions, timing, decision-making, etc.)

We will hear a short report on each point first, followed by a discussion round the table.

I suggest we go round the table first.

The meeting is due to finish at...

Introducing the First Item on the Agenda

So, let's start with...

Shall we start with...

Closing an Item

I think that covers the first item.

Shall we leave that item?

If nobody has anything else to add ...

Next Item

Let's move onto the next item.

The next item on the agenda is ...

Now we come to the question of ...

Giving Control to the Next Participant

I'd like to hand over to Mr Johnson, who is going to lead the next point.

Right, Ms Jean, over to you now.

Summarizing

Before we close, let me just summarize the main points.

To sum up, ...

In brief, ...

Shall I go over the main points?

Finishing Up

Right, it looks as though we've covered the main items.

Is there any other business?

Suggesting and Agreeing on Time, Date and Place for the Next Meeting

Can we fix the next meeting, please?

So, the next meeting will be on ... (day), the ... (date) of ... (month) at

So, see you all then.

Thanking Participants for Attending

I'd like to thank Ms Barrett and Mr Field for coming over from London.

Thank you all for attending.

Thanks for your participation.

Closing the Meeting

The meeting is closed.

I declare the meeting closed.

DISCUSSION

Read the following situations, discuss them and answer the questions.

1. In the case of *John Shaw & Sons (Salford) Ltd v Shaw*, Greer LJ stated that "[a] company is an entity distinct alike from its shareholders and its directors. Some of its powers may, according to the articles, be exercised by directors; certain other powers may be reserved for the shareholders in general meeting. If powers of management are vested in directors, they and they alone can exercise these powers." Do you agree with this statement?
 - Discuss the balance of power between the directors and the members.
 - Provide examples of decisions that are reserved for the members alone.
 - In what circumstances will the general power of management revert back to the members?
2. Even though the general power to manage the company is vested in the directors, there is little doubt that significant power is placed in the hands of the shareholders by reserving certain decisions for them alone (e.g. amending the company's articles). However, historically, there has been a perception that the rules and procedures by which general meetings are run operate in order to favour the views of the company's directors, and prevent the members from exercising their decision-making powers.
 - How effective are general meetings as a forum for shareholder democracy?
3. Helen, Tom and Joseph have, for ten years, run a small, but successful partnership. They decide to incorporate the business and a new company (JME Ltd) is created and the business is transferred to the new company. Helen, Tom and Joseph become directors and each take 300 shares in the company. A further 200 shares are issued and allotted to Dave, a local businessman. The Articles of JME Ltd provide that (1) no director can be removed without his or her prior consent, (2) each director is to receive a salary of £150,000 per year, and (3) any shareholder who wishes to sell his shares must first offer them to the directors.

After incorporation the company was successful but no dividends were paid as all the profits were ploughed back into the company, the directors drawing only their salaries of £150,000 each year.

In 2006 Joseph had an argument with Tom and Helen over matters of business policy. After this argument, Tom and Helen made all the business decisions in advance and outvoted Joseph at all the directors' meetings. Joseph initially complained but has now lost interest and ceased attending meetings.

Recently, Tom and Helen have voted to remove Joseph as a director at a general meeting and also have voted to distribute the profits by increasing the directors' salaries to £300,000 per annum.

Discuss

- whether or not JME Ltd has been run in a manner that is unfairly prejudicial;
- whether any conduct has taken place that would justify winding up the company.

FOLLOW-UP

Read the text "Rio's Small Firms Getting a Helping Hand" (Part II. Reading for Law)

5 key differences between a private and public company <http://ventureburn.com/2013/06/thinking-of-going-public-heres-5-key-things-you-should-know/>

Public vs. Private Companies: How Do They Differ? <http://www.allbusiness.com/business-planning/business-structures/2304-1.html>

Running Effective Meetings <http://www.mindtools.com/CommSkill/RunningMeetings.htm>

Running meetings <http://www.businessballs.com/meetings.htm>

Business People <http://www.thefamouspeople.com/business-people.php>

Public company http://en.wikipedia.org/wiki/Public_company

Privately held company http://en.wikipedia.org/wiki/Privately_held_company

Sole Proprietorship <http://www.sba.gov/content/sole-proprietorship-0>

Merger <http://www.britannica.com/EBchecked/topic/376016/merger>

Conglomerate <http://www.britannica.com/EBchecked/topic/132310/conglomerate>

Joint-stock company

<http://www.britannica.com/EBchecked/topic/305668/joint-stock-company>

Director (business) http://en.wikipedia.org/wiki/Director_%28business%29

John Shaw & Sons (Salford) Ltd v Shaw http://en.wikipedia.org/wiki/John_Shaw_%26_Sons_%28Salford%29_Ltd_v_Shaw

Virgin <http://www.virgin.com/>

The EU Single Market http://ec.europa.eu/internal_market/index_en.htm

Phrasal Verbs List <https://www.englishclub.com/vocabulary/phrasal-verbs-list.htm>

Common Phrasal Verbs <http://grammar.ccc.commnet.edu/grammar/phrasals.htm>

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UNIT 7

LITIGATION AND ARBITRATION

Arbitration is a proceeding in which a dispute is resolved by an impartial adjudicator whose decision will be final and binding on the parties. Arbitration, a form of alternative dispute resolution, is a technique for the resolution of disputes outside the courts. The parties to a dispute refer it to arbitration by one or more persons (the “arbitrators”, “arbiters” or “arbitral tribunal”), and agree to be bound by the arbitration decision (the “award”). This way of dispute resolution is considered to be less time-consuming and less expensive, therefore having certain advantages over litigation, the process of taking a case through court. The litigation or legal process is most common in civil lawsuits. This unit will help you to find out the differences between litigation and arbitration.

In this unit you will learn the vocabulary necessary to communicate on different issues of litigation and arbitration. In the Communication section you will get acquainted with the lawyer-client interview and learn how to explain legal terms to non-lawyers. The Grammar section of the unit covers the use of different future forms. You will also get acquainted with the peculiarities of translation of the terminology related to litigation and arbitration. The Discussion section presents you a particular problematic case which may be solved with the help of arbitration or mediation.

BEFORE YOU READ

1. Have you ever been in dispute with another person? What was the problem? How did you solve it?
2. What steps can you take, apart from going to court, to settle a dispute?
3. How could a commercial disagreement be solved?
4. Do you know any meanings of the word “arbiter”?

KEY Vocabulary

party, dispute, claimant, plaintiff, defendant, specific performance,
litigant, litigator, solicitor, barrister, negotiation, arbitration, arbiter,
to remedy, fraud, infringement, obligation, claim, to be entitled to smth,
entity, to settle out of court, attorney, class action, complainant, to file a lawsuit,
proceedings, petitioner, respondent, binding, provision, legal costs, to comply
with smth, under the rules, judicial, prima facie, fee

MATCH THE WORDS WITH THEIR DEFINITIONS

1) dispute	a) a form of alternative dispute resolution outside the courts when parties to a dispute refer it to arbitration by one or more persons and agree to be bound by the arbitration decision
2) specific performance	b) a courtroom lawyer
3) litigant	c) a lawyer who has the privilege of pleading cases in the higher courts
4) litigator	d) a lawsuit that allows a large number of people with a common interest in a matter to sue or be sued as a group
5) solicitor	e) a dialogue between two or more people or parties intended to reach an understanding, resolve points of difference, to gain advantage for an individual or collective
6) barrister	f) a person engaged in a lawsuit
7) attorney	g) violation, breach
8) class action	h) an argument, quarrel
9) arbitration	i) legal condition
10) negotiation	j) a deception deliberately practiced in order to secure unfair or unlawful gain
11) fraud	k) a member of that branch of the legal profession whose services consist of advising clients, representing them before the lower courts, and preparing cases for barristers to try in the higher courts
12) infringement	l) an order of a court which requires a party to perform a specific act, usually what is stated in a contract
13) provision	m) pertaining to judgment in courts of justice or to the administration of justice
14) legal costs	n) a lawyer
15) judicial	o) the lawyers' fees and other disbursements of the parties that a judge has the power to order after judgment has been given

READING 1: LITIGATION

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What is litigation?
2. When might a claimant want to seek specific performance?
3. Who are litigants and who are litigators?
4. Which two types of lawyers participate in litigation in Britain?
5. What is the purpose of litigation?
6. What kind of disputes may arise in business?
7. Is it cheaper to settle the dispute out of court or to begin litigation?

UNDERSTANDING DETAILS

1. Read the text again and use an appropriate word/phrase from the text to complete the sentences:

- 1) _____ is a remedy which is to force the defendant to perform a legally obligated act.
- 2) If a person has a legal problem and wants legal aid, he will go to his _____ who prepares all of the relevant documentation for the case.
- 3) _____ specialize in courtroom advocacy, drafting legal pleadings and giving expert legal opinions.
- 4) Litigation can be used as a way _____ the situation when there is a dispute between individuals or companies.
- 5) Many people are concerned about their finances and investments, so anyone who suspects that his investment broker has not acted ethically may bring business litigation against brokers who do not act _____ the clients.
- 6) Any _____ on a patent, trademark or copyright is grounds for business litigation.
- 7) Insurance companies can sometimes attempt to avoid fully paying a _____ claim, or even avoid paying it at all.
- 8) Litigants may try _____ the dispute out of court, which is much cheaper.
- 9) If a person starts litigation, he may need a good litigation _____ who can be invaluable in protecting his client's rights.
- 10) If there is more than one complainant filing a lawsuit such a lawsuit is called _____.

2. Make word collocations with the given words.

- | | |
|---------------------------|--------------------------|
| 1) to seek | a) courtroom advocacy |
| 2) specific | b) the situation |
| 3) to specialize in | c) financial loss |
| 4) to resolve the dispute | d) the recovery of money |
| 5) to remedy | e) monetary damages |
| 6) excessive | f) a lawsuit |
| 7) to violate | g) out of court |
| 8) to be entitled to | h) performance |
| 9) to settle the dispute | i) one's obligations |
| 10) to file | j) through negotiation |

When two **parties** have a **civil dispute**, one may **sue** the other – that is, to resort to civil **litigation** as a means to resolve it. In civil litigation **the plaintiff/claimant** is seeking to collect monetary **damages** from **the defendant**, as opposed to pursuing criminal charges. A plaintiff may also use civil litigation for **specific performance**, which is to force the defendant to perform a legally obligated act. An example would be a car buyer using civil litigation to force the seller to transfer the car title after the payment has been made.

The conduct of a lawsuit is called **litigation**. The claimants and defendants are called **litigants** and the lawyers representing them are called **litigators**. Litigators generally are **solicitors** who prepare all of the relevant documentation for the **barristers** to make their case. Solicitors have a case load of files that they need to manage on a day to day basis. Barristers specialize in courtroom advocacy, drafting legal pleadings and giving expert legal opinions. They are rarely hired by clients directly but instead are

retained (or instructed) by solicitors to act on behalf of clients. While the barrister represents clients in court, he or she can do so only when instructed by a solicitor or certain other qualified professionals.

In business disputes may also arise, and when they cannot be resolved through **negotiation** or **arbitration** proceedings, business litigation can be used as a way **to remedy** the situation. Whether is a private individual or a business entity that has a legal issue with another business entity, it is a sphere of business litigation. Many people are concerned about their finances and investments now, so anyone who suspects that his investment broker has not acted ethically may bring business litigation against brokers who do not act in the best interest of the clients. If an investor suffers excessive financial loss as a result of unethical behavior by a broker, the investor can pursue business litigation. In the same vein as unethical broker behavior, which usually involves a broker pushing inappropriate investments on clients or failing to fully disclose investment information, is investor **fraud**, which involves deception.

Another common instance that can result in an individual, bringing business litigation against a business is in a dispute over intellectual property. Any **infringement** on a patent, trademark or copyright is grounds for business litigation.

Breach of duty can cause a strain between business partners or shareholders in closely held corporations. If one member violates his **obligation** to operate **bona fide (in good faith)** and loyalty then other partners can recover with business litigation.

If commercial insurance companies undervalue or deny a fair **claim**, then businesses, particularly small businesses, can recover the amount they **are entitled to** with business litigation. Insurance companies can sometimes attempt to avoid fully paying a legitimate claim, or even avoid paying it at all, by using confusing or deceptive wording in the contract. There are countless other areas in which a business may have a need for business litigation to resolve a dispute against another business.

When business disputes occur between a business and an individual or between two business **entities**, resolution without resorting to business litigation will always be preferable for everyone involved. It is much cheaper **to settle the dispute out of court**. In cases where that just isn't possible, a good business litigation **attorney** can be invaluable in protecting your rights and your company's business interests.

Class action business litigation means that there is more than one **complainant filing a lawsuit**. Any type of dispute can be a class action case.

READING 2: ARBITRATION

UNDERSTANDING MAIN POINTS

Read the text answer the questions:

1. What are the main alternative dispute resolution methods?
2. Why has the arbitration process developed in the world?
3. Who decides on the outcome of the case in arbitration?
4. Which institution is one of the most experienced and famous international arbitration institutions in the world?

UNDERSTANDING DETAILS

Read the text again and decide if the statements are true or false:

1. Arbitration is the main form of alternative dispute resolution in criminal matters.
2. Arbitration developed in response to the need to settle disputes involving more than one jurisdiction.
3. Different countries regulate arbitration through a variety of laws.

4. Legal costs are usually covered by the winner of the case.
5. The outcome of the arbitration case is announced publicly.
6. Arbitration is viewed as a positive phenomenon.

The term **litigation** is sometimes used to distinguish lawsuits from **alternative dispute resolution** methods such as **negotiation**, **arbitration** and **mediation**. The parties may agree to be bound by the decision of impartial referees (e.g. award of damages). In mediation, an independent third party helps the disputing parties to reach a settlement.

Arbitration is the main form of alternative dispute resolution in businesses. It is frequently used to resolve commercial disputes, particularly those involving international commercial transactions. The arbitral process is refereed to as international arbitration. It developed in response to the need to settle disputes involving more than one jurisdiction. Arbitration is a flexible procedure that leads to a binding decision from a neutral arbitral tribunal.

Arbitration is also used in some jurisdictions to resolve other types of disputes, such as those involving employment-related issues. In arbitration, an arbiter or arbitration tribunal decides on the outcome of the case.

Nations regulate arbitration through a variety of laws. The main body of law applicable to arbitration is normally contained either in the national Private International Law Act (as is the case in Switzerland) or in a separate law on arbitration (as is the case in England). In addition to this, a number of national procedural laws may also contain provisions relating to arbitration.

In many legal systems - both common law and civil law - it is normal practice for the courts to award **legal costs** against a losing party.

An arbitration **award** is a determination on the merits by an arbitration tribunal in an arbitration, and is analogous to a judgment in a court of law. An arbitral tribunal's decision is often **complied with** voluntarily by the unsuccessful party. Arbitration is a confidential procedure.

The International Court of Arbitration

The International Court of Arbitration is one of the world's most experienced and renowned international arbitration institutions. It comprises more than 100 members from about 90 countries. Working closely with its Secretariat, the Court's primary role is to administer arbitrations. It performs the functions entrusted to it **under** the Rules of Arbitration and continually strives to assist parties and arbitrators to overcome any procedural obstacles that arise. The Court members' diverse professional, legal and cultural backgrounds bring variety and richness to the Court's daily work and decision making processes.

The growth of arbitration is taken as a healthy sign by many legal commentators. It eases the load on a constantly overworked **judicial system**, while providing disputants with a relatively informal, inexpensive means to solve their problems.

The Court is not a court in the judicial sense of the term. It does not itself resolve disputes or decide who wins or who loses an arbitration. It does not award damages or even costs. Those are all functions reserved for independent arbitral tribunals appointed in accordance with the Rules.

The Court's specific functions include:

- Fixing the place of arbitration
- Assessing whether there is a **prima facie** ICC Arbitration agreement
- Taking certain necessary decisions in complex multi-party or multi-contract arbitrations
- Confirming, appointing and replacing arbitrators
- Deciding on any challenges filed against arbitrators

- Monitoring the arbitral process from the filing of the request for arbitration to the notification of the final award to ensure that it proceeds in accordance with the Rules and with the required commitment to diligence and efficiency
- Scrutinizing and approving all arbitral awards, in the interests of improving their quality and enforceability
- Setting, managing and, if necessary, adjusting costs of the arbitration, including the ICC administrative expenses and the arbitrators' **fees** and expenses
- Overseeing emergency arbitrator proceedings

POINTS TO REMEMBER

1. *litigants* and *litigators*

Litigants are the claimants and defendants while the lawyers representing them are called *litigators*.

Two litigants were engaged in a lawsuit.

They had two litigators to represent them in the County Court.

2. *attorney/lawyer*

Attorney at law or *attorney-at-law*, usually abbreviated in everyday speech to *attorney*, is the official name for a lawyer in certain jurisdictions, including Japan, Sri Lanka, South Africa, Brazil and the United States.

Many attorneys spend a large portion of their working time drafting documents, such as legal briefs, contracts, wills and trusts.

A great deal of litigation and regulatory legal work of attorneys is spent conducting research in a law library or in an electronic database.

3. *under*

In law, this preposition means in accordance with or pursuant to the provisions of the law/rule.

Under the U.S. Constitution, the President and Vice President are chosen by electors.

Under the Constitution of Lithuania, it is only the Constitutional Court that enjoys the powers to officially construe the Constitution and form the official constitutional doctrine.

4. *the judicial system*

The judicial system or *the Judiciary* is the system of courts that interprets and applies the law in the name of the state. It also provides a mechanism for the resolution of disputes.

The judiciary generally does not make law (which is the responsibility of the legislature) or enforce law (which is the responsibility of the executive), but rather interprets law and applies it to the facts of each case.

READING COMPREHENSION AND VOCABULARY TASKS

Task 1. Which word/phrase is odd and why?

1.	plaintiff	claimant	defendant	complainant
2.	to file a lawsuit	to go to court	to sue	to settle out of court
3.	settlement	dispute	disagreement	argument
4.	barrister	litigant	solicitor	attorney
5.	solicitor	litigator	complainant	barrister
6.	infringement	violation	breach	settlement
7.	mediation	litigation	arbitration	negotiation

Task 2. Match the definitions with the words in the box.

arbitration, attorney, be entitled to, bona fide, business disputes, charge, claim, claimant, class action, complainant, damages, defendant, dispute, entity, file a lawsuit, fraud, grounds for, infringement, litigation, obligation, party, remedy, resort to, resolve a dispute, settle, specific performance, sue, title

- 1) the process of resolving disputes between people or groups by referring them to a third party, either agreed on by them or provided by law, who makes a judgment
- 2) a party who claims something (such as benefits or an inheritance) in a civil court
- 3) to start a civil action
- 4) a person or a group of people acting together and forming one side in an agreement, contract, dispute, or lawsuit
- 5) a court order compelling somebody to carry out an obligation, often something stipulated in a contract
- 6) an accusation of wrongdoing, especially an official statement accusing somebody of committing a crime
- 7) to turn to
- 8) to solve an argument
- 9) separate unit that is complete and has its own character
- 10) with good, honest intention or belief, the mental and moral state of honesty
- 11) arguments in business
- 12) a form of lawsuit in which a large group of people collectively bring a claim to court
- 13) monetary compensation
- 14) a person or organization that takes legal action against another
- 15) a legal right to possess and dispose of property
- 16) to put something right, or get rid of something undesirable
- 17) the crime of obtaining money or some other benefit by deliberate deception
- 18) violation, breach
- 19) a reason or basis
- 20) to end a legal dispute by mutual agreement out of court
- 21) something that must be done because of legal or moral duty
- 22) argument
- 23) a person or company required to answer charges or claims in a court
- 24) a qualified lawyer, especially one who represents clients in court proceedings
- 25) to have the right to smth
- 26) a civil action
- 27) to carry out the first stage of a lawsuit (civil action)
- 28) a demand for something somebody has a right to or owns

Task 3. Choose the most appropriate word to complete the sentences.

1. A _____ commences a civil action by filing a complaint with the clerk of the court.
 A defendant
 B claimant
 C judge

2. The parties meet and confer with one another in order to identify issues, discuss the possibility of _____, and prepare a plan for discovery and disclosure.
- A settlement
 - B litigation
 - C charges
3. _____ disclose documents and the discovery process moves forward.
- A Clerks
 - B Barristers
 - C Parties
4. Either party may _____ any additional motions.
- A entitle
 - B claim
 - C file
5. The court conducts trial and then renders, signs, and files the _____.
- A sentence
 - B judgment
 - C disputes

Task 4. Fill in the gaps with the most appropriate words and phrases. Choose the words from the box.

an agreeable solution, contract and labour management, does not impose, flexibility,
the disputing parties, the most informal, voluntary

Methods for Solving Disputes

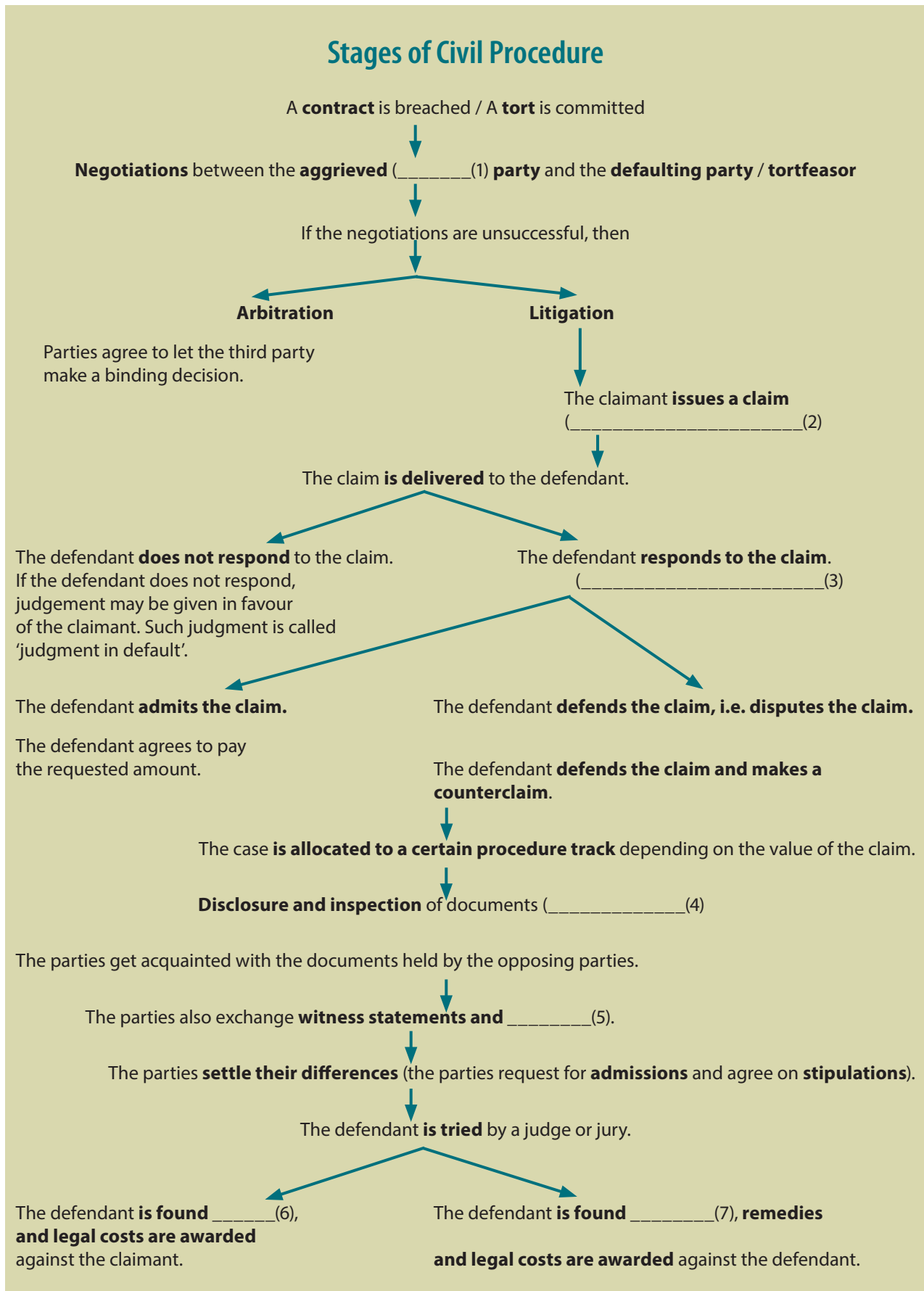
There are three common methods used to settle disputes outside of court – negotiation, arbitration, and mediation. Negotiation is _____ (1). In negotiations, people involved in a dispute discuss their problems and try to reach _____ (2). Successful negotiating is an important skill that can help you in almost everything you do.

Arbitration is a more formal process in which disputing sides agree to have a third person listen to their arguments and make a decision for them. In this case, the arbitrator acts like a judge by declaring a solution for the disputing parties. However, the arbitrator may have more _____ (3) than a judge in devising solutions to problems. Arbitration is a common method for settling _____ (4) disputes.

Mediation takes place when a third person, a mediator, helps _____ (5) talk about their problems. Unlike an arbitrator, a mediator _____ (6) a decision on the parties. Mediation is _____ (7) and is used to solve a variety of disputes. Some schools use mediators to help resolve conflict among students. Negotiation and mediation are based on the notion that the ideas for the solution must come from the conflicting parties. The parties then have a greater interest in making the solution work.

Task 5. Complete the diagram using the words or phrases in the box.

affidavits, discovery phase, files an answer, files a complaint and a summons,
injured, liable, not liable,



Task 6. Read the passage and complete it choosing the correct word or phrase from the box below.

A plaintiff, also known as a claimant or complainant, is the party who initiates a (1) _____ (also known as an action) before a court. By doing so, the plaintiff seeks a (2) _____, and if successful, the court will issue judgment in favour of the plaintiff and make the appropriate court order (eg. an order for damages).

In some jurisdictions the commencement of a lawsuit is done by filing a summons, claim form and/or a complaint — these documents are known as pleadings — that set forth the (3) _____ wrongs committed by the defendant or defendants with a demand for relief. In other jurisdictions the action is commenced by service of legal process by delivery of these documents on the defendant by a process server; they are only filed with the court subsequently with an affidavit from the process server that they had been given to the defendant(s) according to the rules of (4) _____.

Not all lawsuits are plenary actions, involving a full trial on the merits of the case. There are also simplified procedures, often called proceedings, in which the parties are termed petitioner instead of plaintiff, and respondent instead of defendant. There are also cases that do not technically involve two sides, such as petitions for specific statutory relief that require (5) _____ approval; in those cases there are no respondents, just a petitioner.

The party to whom the complaint is against is the defendant; or in the case of a petition, a respondent. Case names are usually given with the plaintiff first, as in plaintiff v. defendant.

	A	B	C	D
1.	proceedings	lawsuit	provisions	laws
2.	legal remedy	revenge	punishment	unjust enrichment
3.	maintained	waived	alleged	discharged
4.	criminal procedure	civil procedure	negotiating procedure	specific performance
5.	tortious	vicarious	criminal	judicial

Task 7. Match the two halves of sentences the lawyer might use when discussing the facts of the case with a client for the first time.

1) Hello, Mr White. First, we need to establish	a) to the facts
2) Please give as much	b) you suspect
3) Try not to conceal any facts which might	c) detail as possible
4) It's probably best just to stick	d) the relevant facts
5) I think you'd better tell me just what	e) be uncomfortable to you

Task 8. Fill in the gaps with the most appropriate extracts.

- 1) court hearings are public
- 2) in a matter of hours
- 3) to negotiate a settlement
- 4) child abuse or actual or threatened criminal acts
- 5) the mediator's skill and training
- 6) a fee comparable to that of an attorney
- 7) to testify in court
- 8) fully enforceable in a court of law
- 9) private and confidential

Mediation, as used in law, is a form of alternative dispute resolution, a way of resolving disputes between two or more parties with concrete effects. Typically, a third party, the mediator, assists the parties

_____ (1). Disputants may mediate disputes in a variety of domains, such as commercial, legal, diplomatic, workplace, community and family matters.

The term “mediation” broadly refers to any instance in which a third party helps others reach agreement. More specifically, mediation has a structure, timetable and dynamics that “ordinary” negotiation lacks. The process is _____ (2), possibly enforced by law. Participation is typically voluntary. The mediator acts as a neutral third party and facilitates rather than directs the process.

Mediators use various techniques to open, or improve, dialogue and empathy between disputants, aiming to help the parties reach an agreement. Much depends on _____ (3). As the practice gained popularity, training programs, certifications and licensing followed, producing trained, professional mediators committed to the discipline.

The benefits of mediation include:

- *Cost.* While a mediator may charge _____ (4), the mediation process generally takes much less time than moving a case through standard legal channels. While a case in the hands of a lawyer or a court may take months or years to resolve, mediation usually achieves a resolution _____ (5). Taking less time means expending less money on hourly fees and costs.
- *Confidentiality.* While _____ (6), mediation remains strictly confidential. No one but the parties to the dispute and the mediator or mediators know what happened. Confidentiality in mediation has such importance that in most cases the legal system cannot force a mediator _____ (7) as to the content or progress of mediation. Many mediators destroy their notes taken during a mediation once that mediation has finished. The only exceptions to such strict confidentiality usually involve _____ (8).
- *Compliance.* Because the result is attained by the parties working together and is mutually agreeable, compliance with the mediated agreement is usually high. This further reduces costs, because the parties do not have to employ an attorney to force compliance with the agreement. The mediated agreement is, however, _____ (9).

Task 9. Translate the extracts of the Lithuanian Civil Code into English using appropriate legal terms.

The Code of Civil Procedure of Lithuania

41 straipsnis. Šalys

1. Civiliniame procese šalimis – ieškovu arba atsakovu – gali būti fiziniai ir juridiniai asmenys.
2. Tais atvejais, kai pareiškiamas ieškinys viešajam interesui apginti, ieškovu tokioje byloje yra institucija, pareiškusi ieškinį. Teismas apie pradėtą bylą praneša asmenims, su kurių teisėmis yra susijęs pareikštas ieškinys.

135 straipsnis. Ieškinio turinys

1. Teismui pateikiamas ieškinys turi atitikti bendruosius reikalavimus, keliamus procesinių dokumentų turiniui. Ieškinyje, be to, turi būti nurodoma:
 - 1) ieškinio suma, jeigu ieškinys turi būti įkainotas;
 - 2) aplinkybės, kuriomis ieškovas grindžia savo reikalavimą (faktinis ieškinio pagrindas);
 - 3) įrodymai, patvirtinantys ieškovo išdėstytas aplinkybes, liudytojų gyvenamosios vietos ir kitokių įrodymų buvimo vietą;
 - 4) ieškovo reikalavimas (ieškinio dalykas);
 - 5) ieškovo nuomonė dėl sprendimo už akių priėmimo, jeigu byloje nebus pateiktas atsiliepinimas į pareikštą ieškinį arba parengiamasis procesinis dokumentas;
 - 6) informacija, ar byla bus vedama per advokatą.

2. Prie ieškinio turi būti pridėti dokumentai ir kiti įrodymai, kuriais ieškovas grindžia savo reikalavimus, taip pat duomenys, kad žyminis mokestis sumokėtas, bei prašymai dėl įrodymų, kurių ieškovas pateikti negali, išreikalavimo, nurodant priežastis, kodėl negalima pateikti šių įrodymų.

231 straipsnis. Taikinimo procedūra

1. Teismas, parengiamojo teismo posėdžio metu nustatęs ginčo esmę, pasiūlo šalims abipusių nuolaidų būdu pasiekti priimtina abiem šalims susitarimą ir sudaryti taikos sutartį. Teismas imasi priemonių šalims sutaukyti.

2. Taikos sutartimi gali būti išspręstas visas ginčas ar jo dalis (atskiri reikalavimai).

3. Parengiamojo teismo posėdžio metu šalių sudaryta taikos sutartis patvirtinama pagal šio Kodekso 140 straipsnio 3 dalyje nustatytas taisykles.

4. Nepavykus sudaryti šalių taikos sutarties, teismas, atsižvelgdamas į dalyvaujančių byloje asmenų nuomones ir parengęs bylą nagrinėti teisme, paskiria bylos nagrinėjimo vietą, laiką ir apie tai praneša dalyvaujantiems byloje asmenims.

5. Tais atvejais, kai parengiamojo teismo posėdžio metu paaiškėja, kad papildomi pasirengimo bylai nagrinėti teisme veiksmai nėra reikalingi, šalių sutikimu teismas turi teisę pradėti žodinį bylos nagrinėjimą ir išspręsti bylą iš esmės iš karto po parengiamojo teismo posėdžio, nepriimdamas šio Kodekso 232 straipsnyje nurodytos nutarties. Tokiu atveju bylos nagrinėjimas tęsiamas nuo nagrinėjimo teisme stadijos.

809 straipsnis. Užsienio teismų (arbitražų) sprendimų pripažinimo teisinė reikšmė

1. Užsienio teismų (arbitražų) sprendimai Lietuvos Respublikos teritorijoje gali būti vykdomi tik po to, kai juos pripažįsta Lietuvos apeliacinis teismas, kaip valstybės įgaliota institucija pripažinti sprendimą.

2. Nereikalauja pripažinimo įsiteisėję užsienio teismų sprendimai dėl neturtinių ginčų tarp ne Lietuvos Respublikos piliečių, išskyrus atvejus, kai šis sprendimas yra santuokos sudarymo arba kitokio civilinės būklės akto registravimo pagrindas ar kitokių teisių registravimo viešame registre pagrindas.

813 straipsnis. Vykdytinumas

1. Užsienio teismų (arbitražų) sprendimai gali būti vykdomi, jeigu:

1) sprendimas gali būti vykdomas valstybėje, kurios teismai jį priėmė;

2) jie yra pripažinti šio Kodekso VII dalies LIX skyriaus ketvirtajame skirsnyje nustatyta tvarka.

2. Šio straipsnio 1 dalies reikalavimai taikomi taip pat ir taikos teisėjo sprendimams, priimtiems užsienyje.

3. Užsienio arbitražų sprendimų vykdymo sąlygas taip pat nustato 1958 m. Niujorko konvencija dėl užsienio arbitražų sprendimų pripažinimo ir vykdymo.

4. Prie prašymo leisti vykdyti užsienio teismo (arbitražo) sprendimą kreditorius turi pridėti dokumentus, nurodytus šio Kodekso 811 straipsnio 2 dalyje, bei patvirtinimą, kad šis sprendimas galėtų būti vykdomas toje valstybėje, kurios teismas jį priėmė.

Task 10. Fill in the gaps of the extract of the English version of the Arbitration Rules of The Vilnius Court of Commercial Arbitration using the adequate legal terms and other words from the Lithuanian version of the Arbitration Rules.

Arbitration Rules of the Vilnius Court of Commercial Arbitration

Article 9. Filing of a claim

1. The interested party (_____) (1) shall initiate the arbitration proceedings by filing _____ (2) or request for arbitration with the Vilnius Court of Commercial Arbitration (the Secretariat) and paying the registration _____ (3).

2. Unless the parties agree otherwise, the arbitral procedure shall be deemed started on the day the Secretariat received the claim or the request for arbitration _____ (4) the requirements of this article and Article 4(3).

3. The claim shall contain the following information:

1) the full names of organisations or first and last names, codes and addresses, telephone, fax numbers, email addresses of the parties;

2) the first and last names (name of organisation), address, telephone, fax numbers and email address of the claimant's _____ (5);

3) a reference to the arbitration agreement;

4) a reference to the contract giving rise to the dispute;

5) the substance of the dispute, the facts and circumstances confirming the demand of the claim;

6) the amount of the dispute and the procedure for calculation thereof;

7) _____ (6) of the issues in dispute;

8) the demands of the claim indicating separately the amount of each property demand and the _____ (7) of other demands;

9) the claimant's proposals regarding the number of arbitrators, the procedures for their appointment, as well as the arbitrator appointed by the claimant and the contact details of the arbitrator;

10) the place, language of arbitration and _____ (8), unless it is provided in the arbitration agreement.

4. The request for arbitration shall contain information indicated in items 1-4 and 9-10 of paragraph 3 of this article, a preliminary amount of the dispute, a _____ (9) description of the demands and essential arguments justifying the same.

5. The arbitration agreement and the contract regulating the relations of the parties _____ (10) the dispute or the certified copies thereof and the evidence confirming the payment of the registration fee shall be attached to the claim or the request for arbitration.

6. The claimant may attach to the claim or the request for arbitration all documents which, in the opinion of the claimant, are required, and indicate documents or other evidence the claimant _____ (11) later.

7. The claim, the request for arbitration and the documents _____ (12), as well as all other required documents _____ (13) the Secretariat in the language agreed to be used during the arbitral proceedings. The documents shall be supplied in the number of copies sufficient to present a copy to the other party to the dispute, the Vilnius Court of Commercial Arbitration and each arbitrator, _____ (14) where the documents are delivered by email. If the parties agree to use a language in the arbitration proceedings other than any of the official languages of the Vilnius Court of Commercial Arbitration, the parties shall present translation of the documents into one of the official languages of the Vilnius Court of Commercial Arbitration.

Vilniaus komercinio arbitražo teismo Arbitražo procedūros reglamentas

9 straipsnis. Ieškinio pateikimas

1. Suinteresuota šalis (ieškovas) inicijuoja arbitražo procesą pateikdama Vilniaus komercinio arbitražo teismui (Sekretariatui) ieškinį arba pranešimą apie arbitražą ir sumokėdama registravimo rinkliavą.

2. Jeigu šalys nesusitaria kitaip, arbitražinio nagrinėjimo procedūra laikoma pradėta tą dieną, kurią Sekretoriatas gavo ieškinį arba pranešimą apie arbitražą, atitinkančius šio straipsnio ir 4 straipsnio 3 dalies reikalavimus.

3. Ieškinyje turi būti nurodyta:

1) tikslūs šalių pavadinimai ar vardai ir pavardės, kodai ir adresai, telefono, fakso numeriai, elektroninio pašto adresai;

2) ieškovo atstovo vardas, pavardė (pavadinimas), adresas, telefonas, faksas ir elektroninio pašto adresas;

3) nuoroda į arbitražinį susitarimą;

- 4) nuoroda į susitarimą, iš kurio ar dėl kurio kilo ginčas;
 - 5) ginčo esmė, ieškinio reikalavimą patvirtinantys faktai ir aplinkybės;
 - 6) ginčo suma ir jos apskaičiavimo tvarka;
 - 7) teisinis ginčijamų klausimų pagrindimas;
 - 8) ieškinio reikalavimai, atskirai nurodant kiekvieno turtinio reikalavimo sumą bei kitų reikalavimų įvertinimą pinigine išraiška;
 - 9) ieškovo pasiūlymai dėl arbitrų skaičiaus, jų skyrimo tvarkos, taip pat arbitras, kurį paskiria ieškovas ir jo kontaktiniai duomenys;
 - 10) arbitražo vieta, kalba ir taikytina materialinė teisė, jeigu tai nėra aptarta arbitražiniame susitarime.
4. Pranešime apie arbitražą turi būti nurodoma šio straipsnio 3 dalies 1-4 ir 9-10 punktuose nurodyta informacija, preliminarini ginčo suma, trumpas reikalavimų apibūdinimas bei esminiai juos pagrindžiantys argumentai.
5. Prie ieškinio arba pranešimo apie arbitražą turi būti pridėtas arbitražinis susitarimas ir sutartis, reguliuojanti šalių santykius, dėl kurių kilo ginčas, arba jų patvirtintos kopijos bei įrodymai, patvirtinantys registravimo rinkliavos sumokėjimą.
6. Ieškovas gali pridėti prie ieškinio arba pranešimo apie arbitražą visus, jo manymu, reikalingus dokumentus ir nurodyti dokumentus ar kitus įrodymus, kuriuos jis pateiks vėliau.
7. Ieškiny, pranešimas apie arbitražą ir prie jo pridedami dokumentai, taip pat visi kiti reikalingi dokumentai, turi būti pateikiami Sekretoriatui ta kalba, kurią susitarta vartoti arbitražo proceso metu. Pateikiama tiek dokumentų kopijų, kad po vieną tektų kitai ginčo šaliai, Vilniaus komercinio arbitražo teismui ir kiekvienam arbitrai, išskyrus atvejus, jei dokumentų įteikimas vykdomas elektroniniu paštu. Šalims susitarus arbitražo procese vartoti kitą kalbą nei bet kuri oficiali Vilniaus komercinio arbitražo teismo kalba, šalys privalo pateikti dokumentų vertimą į vieną iš oficialių Vilniaus komercinio arbitražo teismo kalbų.

GRAMMAR FOCUS

FUTURE FORMS OF VERBS

Task 1. Complete the letter with the correct future forms of the verbs in brackets.

Dear Mr Johnson

Thank you so much for your kind invitation. I am very grateful to you for requesting my participation in the simulated arbitration you (1) _____ (hold) 22 May. Unfortunately, I (2) _____ (fly) to Japan early in the morning that day and therefore cannot take part. Also, I (3) _____ (meet) a group of teachers from the Law Faculty on the evening of the 21st. However, I (4) _____ (try) to rearrange my schedule for that evening to make time to attend your reception. I (5) _____ (contact) you and let you know.

If you have any questions about Japanese arbitration law, please don't hesitate to ask and I (6) _____ (be) very happy to answer them.

Sincerely yours

Hamamoto Abe

Task 2. Use the correct future forms of the verbs.

1. A: Can you play tennis with me on Monday?

B: Sorry but I _____ (meet) a client at 5 p.m.

A: What about Thursday then?

B: No, I can't. Solicitor Brown _____ (instruct) me on his client's case on Thursday evening, at 7 p.m.

A: What about the weekend? _____ (be) you free?

B: Well, I'm not sure yet. Maybe I _____ (finish) preparing arguments for next week's trial.

2. _____ the trial _____ (begin) at 4 p.m.?

3. Don't phone him tomorrow between 7 and 10. He _____ (draft) pleadings.

4. Hello, is that Mr White? I'm stuck in a traffic jam. I'm sorry I _____ (be) late for the trial.

5. Tomorrow I _____ (go) to the conference on arbitration issues. My plane _____ (take off) at 6.30 a.m. from London, Heathrow.

6. A: The trial starts in half an hour. You might be late.

B: OK, I _____ (take) a taxi then.

7. I _____ (ring) you as soon as I arrive at the police station.

8. I think that my neighbour _____ (lose) the civil action because his solicitor is so inexperienced.

Task 3. Analyse the use of *shall* in legal documents. Is it used to denote the future tense or to express imperative and impose rights and obligations? Which modal verbs can it be used instead of *shall*? Paraphrase sentences using other modal verbs.

1. The Arbitration Board shall have jurisdiction to resolve disputes out of court.
2. All claimants shall request mediation.
3. Anyone bringing a malpractice claim shall, within 15 days after the filing of the action, file a request for mediation.
4. The Union shall have the right to originate policy grievances.
5. The notice shall be sent within 30 days.
6. The company shall not be obliged to make payment for a statutory holiday.
7. The defendant shall have a period of 30 days to object.
8. The sender shall have fully complied with the duty to send notice when the sender receives electronic communication.
9. The applicant shall be notified by registered mail in all cases where the permit applied for is not granted, and shall be given 30 days within which to appeal such decision.
10. The State of Lithuania shall be an independent democratic republic.
11. The State of Lithuania shall be created by the Nation. Sovereignty shall belong to the Nation.
12. In the Republic of Lithuania, justice shall be administered only by courts.

COMMUNICATION

EXPLAINING WHAT A LAW SAYS

There are some ways to refer to what a law says.

The law **stipulates** that corporations must have three governing bodies.

The law **provides** that a witness must be present.

The patent law **specifies** that the subject must be "useful".

These verbs can also be used to express what a law says.

The law **states / sets forth / determines / lays down / prescribes** that...

Telephoning

In lawyer-client communication, meetings can be arranged by telephone. However, telephoning requires special skills as there are a number of difficulties that arise when telephoning that are specific to telephoning. The first and foremost difficulty is not being able to see the person you are communicating with. This lack of visual communication often makes callers nervous and thereby hinders their communicative abilities. Communicating properly on the phone is especially important, as the person you are speaking to cannot see your facial movement or your body language. They rely completely on what you are saying, and how you are speaking, to understand you fully.

When making a formal call, three rules should influence the choice of words: 1. Be brief. Do not waste the receiver's time. 2. Be clear. Explain the background and purpose of your call. 3. Be polite. Recognize the receiver's point of view.

In legal telephoning, the formal discussion is very precise and factual, keeping to the point and never straying off into the chatty vagueness.

Telephoning in English includes learning a number of special phrases.

Answering the phone

- Good morning/afternoon/evening, Law firm *Brown Lawyers*, Elizabeth Jones speaking.
- *Brown Lawyers*, Elizabeth Jones speaking. How can I help you?
- Who's calling, please?
- Could I have your name, please?

Introducing yourself

- This is Paul Smith speaking.
- Speaking.
- Hello, this is Paul Smith from ...
- I'm calling on behalf of (Mr McIvor) ...
- (Mr McIvor) suggested that I call your law firm.
- (Mr McIvor) asked me to call you.

Asking for someone

- Could I speak to John Martin, please?
- I'd like to speak to John Martin, please.
- Could you put me through to Mr Martin, please?
- Could I speak to someone who ...

Explaining

- I'm afraid Mr Martin isn't in at the moment.
- I'm sorry he's in a trial at the moment.
- I'm afraid he's on another line at the moment.
- I'm afraid he's not available.

Putting someone on hold

- Just a moment, please.
- Could you hold the line, please?
- Hold the line, please.

Problems

- I'm sorry, I don't understand. Could you repeat that, please?
- I'm sorry, the line's bad – could you repeat what you just said?
- I'm sorry I can't hear you very well. Could you speak up a little, please?
- I'm afraid I don't follow you. Could you repeat it, please?
- I'm afraid you've got the wrong number.
- I've tried to get through several times but it's always engaged/busy.
- Could you spell that, please?

Putting someone through

- One moment, please. I'll see if Mr Martin is available.
- I'll put you through.
- I'll connect you.
- I'm connecting you now.

Leaving a message

- Could I leave a message, please?
- Could you ask Mr Martin to call me back?
- Could you ask him to return my call?

Taking a message

- Can I take a message?
- Would you like to leave a message?
- Can I give Mr Martin a message?
- I'll tell Mr Martin that you called.
- I'll ask him to call you as soon as possible.

Task. In pairs prepare a formal telephone call between a lawyer and his client (A person may call a law firm in order to arrange a meeting with a lawyer, etc).

Initial Lawyer – Client Interview

Communication is one of the key aspects to a successful working relationship between you and your lawyer. The first appointment with a lawyer is usually called an interview or conference. It is a confidential communication between you and the lawyer, sometimes held in a different room to the lawyer's office. This is when you explain the situation to the lawyer in your own words.

To conduct an effective lawyer - client interview, a lawyer must:

- put a client at ease,
- listen to what the client has to say,
- explain things clearly,
- find out what action the client wants to take, not take decisions for the client,
- tell the client what has to be done next.

The **WASP** approach to planning, structuring and carrying out an interview helps ensure that nothing is left out. WASP is an acronym for:

- **W**elcome the client (meet, greet and seat your client).
- **A**cquire information (use open questions to encourage your client to tell you everything in his/her own words).
- **S**upply information and advise (consider the merits of the case, i.e. the points of the case that make it worth pursuing).
- **P**art (confirm that your client wishes you to act for him/her).

Some advice about conducting a WASP interview:

- Explain what action must be taken.
- Only use closed questions to confirm your understanding of what your client has already told you.
- Use sympathetic body language and active listening techniques (e.g. go on, uh-uh, I'm listening, etc).
- Consider legal and non-legal options.
- Explain the risks involved in taking legal action.
- Explain the details of your meeting: to get details of the situation from your client, give legal advice, discuss options and give information on costs.
- Periodically summarize what your client has said so far.
- Explain what your client wants to do.
- Confirm that your client understands the costs and risks involved.

Task. In pairs prepare a lawyer – client interview according to the structure of an interview given above. Think of a problem, explain it and ask the lawyer about all possible ways of dispute resolution (litigation, negotiation, or arbitration).

DISCUSSION

1. In groups discuss the advantages and disadvantages of other forms of dispute resolution, including arbitration.
2. Does litigation or alternative dispute resolution methods enable people to hear directly from each other and gain a better understanding of each other's needs?
3. Which is a more cooperative problem-solving way and maintaining relationships – litigation or arbitration and why?
4. Which forms of dispute resolution allow people to have a say in resolving their dispute?
5. Which way is cheaper - to litigate or to choose alternative forms of dispute resolution to solve disputes? Which is more confidential?
6. Read the facts of the case and then prepare for the discussion. Divide into three groups, one group representing *StrongSteel Construction Ltd*, one group representing *PleasantSwim Ltd* and one group acting as impartial arbiters. Then identify the strengths and weaknesses of each group's side of the case. Decide what are the goals of each group, what they are willing to give and not to give. With the help of arbiters try to settle the case out of court.

PleasantSwim Ltd began as a small business in 2001, manufacturing and installing high-quality swimming pools for private residences. It has since developed a reputation for excellence and has received a number of profitable contracts, generating substantial income for the company.

Last year, StrongSteel Construction Ltd contracted with PleasantSwim Ltd to build one swimming pool for each of the ten luxury properties it is currently building in south-east England. PleasantSwim Ltd was paid a total of £270,500 for the work.

Sometime after their installation, it became clear that each pool was shallower than the depth of 2.4 m specified in the contract (by 25 to 50 cm at different points). PleasantSwim Ltd claimed that each pool was still safe and there would be no loss of enjoyment.

StrongSteel Construction Ltd is claiming £330,500 to demolish and rebuild the pools to the proper depth, arguing that it is entitled to its exact preference concerning the pools' depth. StrongSteel Construction also claims that PleasantSwim Ltd deliberately misled them as to the size of the pools provided in order to reduce costs.

PleasantSwim Ltd says that the amount claimed is wholly disproportionate to the disadvantage suffered by StrongSteel Construction Ltd and that the houses are no less valuable. PleasantSwim Ltd also claims that any damages awarded would be an unfair unexpected profit.

FOLLOW-UP

Read the text "Arbitration: A Six Car Accident " (Part II. Reading for Law)

WIPO Arbitration Case Examples <http://www.wipo.int/amc/en/arbitration/case-example.html>

Nazi Art Theft Case to Arbitration <http://www.cbsnews.com/news/nazi-art-theft-case-to-arbitration/>

International Arbitration Case Law <http://www.internationalarbitrationcaselaw.com/>

Suzuki starts arbitration procedure against Volkswagen <http://www.bbc.co.uk/news/business-15867168>

Suzuki seeks mediation to end alliance with Volkswagen <http://www.bbc.com/news/business-15792157>

What is Negotiation? <http://www.skillsyouneed.com/ips/negotiation.html>

Mediation <http://www.resolution.org.uk/mediation/>

The most interesting arbitration cases of 2014 <http://www.hardballtimes.com/the-most-interesting-arbitration-cases-of-2014/>

The curious case of Indian arbitration <http://www.nortonrosefulbright.com/knowledge/publications/56423/the-curious-case-of-indian-arbitration>

Bering Sea Arbitration http://en.wikipedia.org/wiki/Bering_Sea_Arbitration

Speaking Exercise: Telephoning Quiz <http://www.english-at-home.com/lessons/speaking-exercise-telephoning-quiz/>

Phone Conversation: Most Commonly Used English Phrases on the Phone <http://www.myenglishteacher.eu/blog/phone-conversation-most-commonly-used-english-phrases-on-the-phone/>

Phone Conversation: Most Commonly Used English Phrases on the Phone <http://www.bbc.co.uk/worldservice/learningenglish/business/talkingbusiness/unit1telephone/expert.shtml>

Future tenses <http://esl.fis.edu/grammar/rules/future.htm>

Talking about the future <http://learnenglish.britishcouncil.org/en/english-grammar/verbs/talking-about-future>

Talking about the future - English Future Tenses <https://www.tesol-direct.com/guide-to-english-grammar/future-tenses>

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- Legal Information Institute <http://www.law.cornell.edu/wex>
- Legal Dictionary <http://legal-dictionary.thefreedictionary.com/>
- Dictionary.com <http://dictionary.reference.com/>
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UNIT 8

INFORMATION TECHNOLOGIES AND LAW

Nowadays we cannot imagine our life without computers and the fact is that they have become so important that nothing can replace them. They seem to be everywhere today. Since 1948, when the first real computer has been invented, our life has changed so much that we can call it real digital revolution. However, virtual environment and computers have presented quite concrete problems. New crimes committed with the help of computers have appeared. In this unit you will find out how modern information technologies are related to law and tackle the following issues: 1) Protection of Data, 2) Electronic Signature, and 3) Cybercrime.

In this unit you will learn the vocabulary necessary to communicate on the issues of the law related to information technologies. In the Communication section you will get acquainted with the vocabulary and structure of formal emails and practice writing them. The Grammar section of the unit covers the use of direct and reported speech. Your attention will be drawn to the translation of some legal terminology of the Lithuanian Law on Legal Protection of Personal Data. In the Discussion section, and will be challenged to discuss controversial legal issues related to the Internet or Facebook.

BEFORE YOU READ

1. Have you ever been tricked by cyber criminals? Have you heard of such cases?
2. Do you think that electronic signature is more or less safe and reliable?
3. How do you protect your data and personal information?
4. Do you know something about any legal aspects of computing related to the overlapping areas of law and computing?

KEY Vocabulary

data protection, be subjected (to), digital form, disclosure, legitimate, misuse, disrupt, enjoy, redress, hacker, cyber criminal, litigation, attorney, handle, transaction, compliance, comply (with), thereby, electronic signature, digital signature, invalidate, forgery, tamper, binding, commit, theft, fraud, gambling, botnet, spam, recipient, scam, fraudulent, identity theft, phishing, entity, malicious, pharming, money laundering, assets, tax evasion, extortion, insider trading, drug trafficking, gambling

MATCH THE WORDS WITH THEIR DEFINITIONS

1) hacker	a) the activity of tricking people by getting them to give their identity, bank account numbers, etc. over the Internet or by email, and then using these to steal money from them
2) cyber crime	b) to make something no longer legally or officially valid or acceptable
3) compliance	c) advertising material sent by email to people who have not asked for it
4) to invalidate	d) the activity of playing games of chance for money and of betting on horses, etc
5) forgery	e) crime that is committed using the Internet, for example by stealing somebody's personal or bank details or infecting their computer with a virus
6) fraud	f) the crime of deliberately not paying all the taxes that you should pay
7) gambling	g) a group of computers that are controlled by malware (= software such as a virus that the users do not know about or want)
8) botnet	h) the practice of secretly changing computer files or software so that visitors to a popular website are sent to a different website instead, without their knowledge, where their personal details are stolen and used to steal money from them
9) spam	i) the practice of obeying rules or requests made by people in authority
10) phishing	j) having or showing hatred and a desire to harm somebody or hurt their feelings
11) pharming	k) a person who secretly finds a way of looking at and/or changing information on somebody else's computer system without permission
12) tax evasion	l) the crime of buying or selling shares in a company with the help of information known only by those connected with the business, before this information is available to everybody
13) extortion	m) the crime of cheating somebody in order to get money or goods illegally
14) insider trading	n) the crime of copying money, documents, etc. in order to cheat people
15) malicious	o) the crime of making somebody give someone else something by threatening them

READING 1: PROTECTION OF DATA

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What is meant by data protection?
2. What does the Universal Declaration of Human Rights, Article 12, stipulate about the protection of data?
3. What areas of personal information should be protected?
4. Does the EU law allow gathering personal data?

5. Can you obtain redress if your data is misused anywhere within the EU?
6. What are the responsibilities of an information technology attorney?

UNDERSTANDING DETAILS

Read the text again and use appropriate words/phrases from the text to complete the sentences:

1. There are some concerns whether email can be stored or read by _____ without consent.
2. "No one _____ arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation."
3. Improper or non-existent _____ control can be the main cause for privacy issues.
4. Persons or organisations which collect and manage people's personal information must protect it from _____ and must respect certain rights of the data owners.
5. Conflicting data protection rules in different countries would _____ international exchanges.
6. _____ routinely target financial institutions, e-commerce websites, and ordinary businesses in order to get illegal profit.
7. An information technology attorney works with engineering, IT, and other business units and ensures that customer information gathered by company is collected, stored and used _____ privacy policies and applicable laws.

Information privacy (or **data privacy**, or **data protection**) is the relationship between collection and dissemination of data, technology, the public expectation of privacy, and the legal and political issues surrounding them. The ability to control the information one reveals about oneself over the Internet, and who can access that information, has become a growing concern. These concerns include whether email can be stored or read by third parties without consent, or whether third parties can continue to track the web sites someone has visited. Another concern is web sites which are visited collect, store, and possibly share personally identifiable information about users.

The legal protection of the right to privacy in general - and of data privacy in particular - varies greatly around the world. Pursuant to the Universal Declaration of Human Rights, Article 12, "No one shall **be subjected to** arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

Privacy concerns exist wherever personally identifiable information or other sensitive information is collected and stored – in **digital form** or otherwise. Improper or non-existent **disclosure** control can be the root cause for privacy issues. Data privacy issues can arise in response to information from a wide range of sources, such as:

- Healthcare records
- Criminal justice investigations and proceedings
- Financial institutions and transactions
- Biological traits, such as genetic material
- Residence and geographic records
- Ethnicity
- Privacy breach

Data protection in the EU

Under the EU law, personal data can only be gathered legally under strict conditions, for a **legitimate** purpose. Furthermore, persons or organisations which collect and manage your personal information must protect it from **misuse** and must respect certain rights of the data owners which are guaranteed by EU law.

Every day within the EU, businesses, public authorities and individuals transfer vast amounts of personal data across borders. Conflicting data protection rules in different countries would **disrupt** international exchanges. Individuals might also be unwilling to transfer personal data abroad if they were uncertain about the level of protection in other countries.

Therefore, common EU rules have been established to ensure that your personal data **enjoys** a high standard of protection everywhere in the EU. You have the right to complain and obtain **redress** if your data is misused anywhere within the EU.

Litigation

Much of the **litigation** that occurs in the field of information technology results from enterprises failing to keep customer and employee information secure. Now that it is primarily stored in digital format, sensitive information is susceptible to theft on a scale unimaginable in previous generations. **Hackers** and other **cyber criminals** routinely target financial institutions, e-commerce websites, and ordinary businesses, sometimes gaining access to thousands of customers' data all at once. This can lead to various legal claims, from government enforcement actions to **class action** consumer **lawsuits**.

An information technology **attorney** is a professional who handles a variety of legal matters related to IT. The attorney gets involved in drafting, negotiating, and interpreting agreements in the areas of software licensing and maintenance, IT consulting, e-commerce, web site hosting and development, and telecommunications agreements, as well as **handling** dispute resolution and assisting with the client's Internet domain name portfolio. An information technology attorney works with engineering, IT, and other business units and ensures that customer information gathered by a company is collected, stored and used **in compliance with** privacy policies and applicable laws.

Information technology law provides the legal framework for collecting, storing, and disseminating electronic information in the global marketplace. Attorneys practicing in this area of the law represent individuals and businesses from all different industries. They help structure information technology **transactions** in a way that maximizes the client's economic benefit while ensuring regulatory **compliance**. A great deal of emphasis is also placed on anticipating potential sources of dispute between the parties to a transaction, and crafting agreements that address these concerns, **thereby** reducing the risk of litigation.

READING 2: ELECTRONIC SIGNATURE

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What is an electronic signature?
2. What is the difference between electronic and digital signatures?
3. In commerce and the law, what does a signature on a document indicate?
4. What are the benefits of electronic signature?

UNDERSTANDING DETAILS

Answer the questions:

1. What meaning does the word “fingerprint” have in relation to a digital signature?
2. What does a digital signature ensure?
3. What happens if some changes are made to the document after it has been signed?
4. In what way is an electronic signature similar to a seal?
5. How can electronic signatures save money?
6. What legislation makes electronic signature legally binding?
7. What do the years of 1999 and 2000 refer to?

An **electronic signature**, or e-signature, is any electronic means that indicates either that a person adopts the contents of an electronic message, or more broadly that the person who claims to have written a message is the one who wrote it (and that the message received is the one that was sent by this person). By comparison, a signature is a stylized script associated with a person.

A **digital signature** (standard electronic signature) takes the concept of traditional paper-based signing and turns it into an electronic “fingerprint”. This “fingerprint”, or coded message, is unique to both the document and the signer and binds them together. Digital signatures ensure the authenticity of the signer. Any changes made to the document after it has been signed **invalidate** the signature, thereby protecting against signature **forgery** and information **tampering**. As such, digital signatures help organizations sustain signer authenticity, accountability, data integrity and the non-repudiation of signed electronic documents and forms. Encrypted digital signatures are used in e-commerce and in regulatory filings as digital signatures are more secure than a simple generic electronic signature.

In commerce and the law, a signature on a document is an indication that the person adopts the intentions recorded in the document. It is comparable to a seal. In many countries, including the United States, the European Union, India, Brazil and Australia, electronic signatures (when recognised under the law of each jurisdiction) have the same legal consequences as the more traditional forms of executing of documents.

The benefits of electronic signature

Using electronic signature can help save you time and money, whether you are a large company, a small business, or an independent freelancer. Here are some of the benefits of using electronic signature:

- Time and money saved (eliminate the need to print, fax, scan, and ship documents)
- Faster results (send documents for signature and get a response in minutes, not days)
- Increased efficiency (store and access all documents from your secure iCloud account)
- Legally **binding** documents (get a complete audit trail and tamper-proof virtual seal of the signed documents)
- Flexibility to work on the go (sign, send, and track documents from anywhere on any Internet-enabled device)

Legal enforcement of the electronic signature

In 1999, the EU passed the “EU Directive for Electronic Signatures” and on June 30, 2000, President Clinton signed the Electronic Signatures in Global and National Commerce Act, which made signed electronic contracts and documents as legally binding as a paper-based contract. Today, digital signature solutions carry recognized legal significance, enabling organizations to **comply with** regulations worldwide.

READING 3: CYBERCRIME

UNDERSTANDING MAIN POINTS

Read the text about cybercrime and answer the questions:

1. How different is modern cybercrime from earlier times?
2. What are the most common cybercrimes?
3. How can botnets be used for criminal purposes?
4. How can a person's identity be stolen?
5. What are the most usual ways of laundering illegal money?

UNDERSTANDING DETAILS

1. Read the text again and decide if the statements are true or false:

- 1) It is difficult to commit cybercrimes across borders.
- 2) At present, individual hackers are turning increasingly to the Internet to facilitate their activities and enhance their profit in the shortest time
- 3) Such crimes as theft, fraud, illegal gambling, or sale of fake medicines are relatively new.
- 4) A botnet is a collection of Internet-connected programs communicating with other similar programs in order to carry out tasks.
- 5) Botnets can be used to send spam email.
- 6) Phishing is the use of electronic messaging systems to send unsolicited bulk messages especially advertising, indiscriminately.
- 7) One of the purposes of credit card scam may be to obtain goods without paying.
- 8) Pharming is a scamming practice in which malicious code is installed on a personal computer or server, persuading users to use fraudulent web sites with their consent.
- 9) Money obtained from insider trading is legal.
- 10) Buying real estate can help launder illegal money.

2. Explain the following terms and phrases and give their equivalents in Lithuanian:

- | | |
|---------------------------------------|---------------------------------|
| 1) Criminal activities | 11) Recipients |
| 2) Hackers | 12) Onslaught of email spam |
| 3) To commit crimes | 13) Identity theft |
| 4) On an unprecedented scale | 14) To get cash from an ATM |
| 5) To facilitate their activities | 15) To lure unsuspecting public |
| 6) Fraud | 16) Malicious software |
| 7) Gambling | 17) Bogus site |
| 8) Fake medicines | 18) Money laundering |
| 9) To send spam email | 19) Assets |
| 10) Negative or malicious connotation | 20) Bitcoin |

Cybercrime is a fast-growing area of crime. More and more criminals are exploiting the speed, convenience and anonymity of the Internet to commit a diverse range of criminal activities that know no borders, either physical or virtual. New trends in cybercrime are emerging all the time, with costs to the global economy running to billions of dollars. In the past, cybercrime was committed mainly by individual **hackers** or small groups. Today, we are seeing criminal organizations working with criminally minded technology professionals **to commit** cybercrime, often to fund other illegal activities. Highly complex, these cybercriminal networks bring together individuals from across the globe in real time

to commit crimes on an unprecedented scale. Criminal organizations are turning increasingly to the Internet to facilitate their activities and maximize their profit in the shortest time. The crimes themselves are not necessarily new – such as **theft**, **fraud**, illegal **gambling**, or sale of fake medicines – but they are evolving together with the opportunities presented online and therefore becoming more widespread and damaging.

About 6% of Britain's home computers have been hijacked by criminals and formed into networks known as **botnets**. A large-scale global study suggests 5-10% of all domestic computers are regularly linked to criminal networks - botnets. A botnet is a collection of Internet-connected programs communicating with other similar programs in order to perform tasks. This can be as mundane as keeping control of an Internet Relay Chat channel, or it could be used to send spam email or participate in distributed denial-of-service attacks. The word botnet is a combination of the words robot and network. The term is usually used with a negative or malicious connotation.

Types of cybercrime

These are the most widespread types of cybercrimes:

- Electronic **spamming** is the use of electronic messaging systems to send unsolicited bulk messages (**spam**), especially advertising, indiscriminately. It is the practice of sending unwanted email messages, frequently with commercial content, in large quantities to an indiscriminate set of **recipients**. The efforts taken by governing bodies, security systems and email service providers seem to be helping to reduce the onslaught of email spam.
- **Credit card scam** is a wide-ranging term for theft and fraud committed using a credit card or any similar payment mechanism as a **fraudulent** source of funds in a **transaction**. The purpose may be to obtain goods without paying, or to obtain unauthorized funds from an account. Credit card fraud is also an adjunct to **identity theft**. A credit card scam can come in many forms. For example, scammers may use spyware or some other scam to obtain your credit card details. A scammer might steal or trick you into telling them your security code (the three or four digit code on your card) and then make purchases over the internet or the telephone. If they know your PIN, they could get cash from an ATM using a 'cloned' credit card (where your details have been copied onto the magnetic strip of another card).
- **Phishing** is the attempt to acquire sensitive information such as usernames, passwords, and credit card details (and sometimes, indirectly, money) by masquerading as a trustworthy **entity** in an electronic communication. Communications purporting to be from popular social web sites, auction sites, banks, online payment processors or IT administrators are commonly used to lure unsuspecting public. Phishing email messages, websites, and phone calls are designed to steal money. Cybercriminals can do this by installing **malicious** software on your computer or stealing personal information off of your computer. Cybercriminals also use social engineering to convince you to install malicious software or hand over your personal information under false pretenses.
- **Pharming** is a cyber attack intended to redirect a website's traffic to another, bogus site. It can be conducted either by changing the hosts file on a victim's computer or by exploitation of a vulnerability in the server software. Pharming is a scamming practice in which malicious code is installed on a personal computer or server, misdirecting users to fraudulent web sites without their knowledge or consent. In pharming, larger numbers of computer users can be victimized because it is not necessary to target individuals one by one and no conscious action is required on the part of the victim. In one form of pharming attack, code sent in an e-mail modifies local host files on a personal computer. In recent years, both pharming and phishing have been used to gain information for online identity theft.
- **Money laundering** is the process whereby the proceeds of crime are transformed into ostensibly legitimate money or other **assets**. However, in a number of legal and regulatory system, the term money laundering has become conflated with other forms of financial crime,

and sometimes used more generally to include misuse of the financial system, including terrorism financing, **tax evasion** and evading of international sanctions. Money obtained from certain crimes, such as **extortion**, **insider trading**, **drug trafficking**, illegal **gambling** and tax evasion is “dirty”. It needs to be cleaned to appear to have derived from non-criminal activities so that banks and other financial institutions will deal with it without suspicion. Originally, the term applied to real money but now money laundering applies to the proceeds of crime that are laundered using a variety of monetary instruments including securities, digital currencies such as bitcoin, credit cards, and traditional currency. Money can be laundered by many methods, which vary in complexity and sophistication (cash smuggling to another jurisdiction, casinos, gambling, buying real estate, etc).

POINTS TO REMEMBER

1. to enjoy

In law, the word *to enjoy* means to have the use or benefit of something.

Since land is generally locally owned and managed, it makes sense that the landowner understands and appreciates how other people enjoy their land.

Property should not be abused in a way that interferes with another person's use and enjoyment of their property.

Nowadays, women enjoy the same rights as men.

2. thereby

In legal English, the conjunction *thereby* means *by that means; because of those words, that document, etc.*

One objective of criminal punishments is to incapacitate offenders and thereby restrain them from committing further crimes.

He signed the document, thereby forfeiting his right to the property.

3. in compliance with/in accordance with/pursuant to

These phrases are used to express compliance with authority or laws and regulations.

The work must be carried out in accordance with the client's specific instructions.

All the tests were carried out in compliance with EU regulations.

Pursuant to the terms of the sale of computers, the owner shall be solely responsible for damages.

According to is used to attribute words to someone. It means the words that someone has spoken or written.

According to my lawyer, I could claim substantial damages for the infringement of data protection.

According to the police officers, new trends in cybercrime are emerging all the time.

4. tax evasion and tax avoidance

Tax evasion is the illegal evasion of taxes by individuals or corporations. It often entails taxpayers deliberately misrepresenting the true state of their affairs to the tax authorities to reduce their tax liability and includes dishonest tax reporting. *Tax avoidance* is the legal usage of the tax regime to one's own advantage, to reduce the amount of tax that is payable by means that are within the law.

One measure of the extent of tax evasion is the amount of unreported income.

A company may choose to avoid taxes by establishing their company or subsidiaries in an offshore jurisdiction.

READING COMPREHENSION AND VOCABULARY TASKS

Task 1. Complete the derivation table with the missing words.

	Verb	Noun	Adjective
1.			protective
2.	expect		
3.		privacy	
4.	digitalize		
5.		disclosure	-----
6.	reside		
7.			legitimate
8.	disrupt		
9.		litigation, litigant	-----
10.			criminal
11.	comply		
12.	forge		-----
13.		benefit	
14.	hack		-----
15.		fraud, fraudster	
16.	receive		-----
17.		extortion	-----

Task 2. Read the two extracts from the Data Protection Act 1998 passed in the UK and fill in the gaps with the words from the box.

alleged, religious, entitled, offence, comply, ethnic, damage, mental

2. Sensitive personal data.

In this Act "sensitive personal data" means personal data consisting of information as to—

- (a) the racial or _____ (1) origin of the data subject,
- (b) his political opinions,
- (c) his _____ (2) beliefs or other beliefs of a similar nature,
- (d) whether he is a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992),
- (e) his physical or _____ (3) health or condition,
- (f) his sexual life,
- (g) the commission or alleged commission by him of any _____ (4), or
- (h) any proceedings for any offence committed or _____ (5) to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.

13. Compensation for failure to comply with certain requirements.

- (1) An individual who suffers _____ (6) by reason of any contravention by a data controller of any of the requirements of this Act is entitled to compensation from the data controller for that damage.
- (2) An individual who suffers distress by reason of any contravention by a data controller of any of the requirements of this Act is _____ (7) to compensation from the data controller for that distress if—
 - (a) the individual also suffers damage by reason of the contravention, or
 - (b) the contravention relates to the processing of personal data for the special purposes.
- (3) In proceedings brought against a person by virtue of this section it is a defence to prove that he had taken such care as in all the circumstances was reasonably required to _____ (8) with the requirement concerned.

Task 3. Fill in the gaps with the most appropriate words from the box.

confidence, directors, economic growth, fiduciary, legal, non-public, securities

Insider Dealing

Insider trading is the trading of a corporation's stock or other _____ (1) (e.g. bonds or stock options) by individuals with potential access to _____ (2) information about the company. In most countries, trading by corporate insiders such as officers, key employees, _____, (3) and large shareholders may be _____ (4), if this trading is done in a way that does not take advantage of non-public information. However, the term is frequently used to refer to a practice in which an insider or a related party trades based on material non-public information obtained during the performance of the insider's duties at the corporation, or otherwise in breach of a _____ (5) or other relationship of trust and _____ (6) or where the non-public information was misappropriated from the company. Illegal insider trading is believed to raise the cost of capital for securities issuers, thus decreasing overall _____ (7).

Task 4. Write the defined words. The first letters of the words are given.

1. The crime of buying or selling shares in a company with the help of information known only by those connected with the business, before this information is available to everybody – i _____ d _____
2. A piece of business that is done between people, especially an act of buying or selling – t _____
3. Things of value, especially property, that a person or company owns, which can be used or sold to pay debts – a _____
4. Allowed and acceptable according to the law - l _____
5. To make it difficult for something to continue in the normal way – to d _____
6. To make changes to something without permission, especially in order to damage it – to t _____
7. The process of making or defending a claim in court – l _____
8. That must be obeyed because it is accepted in law – b _____
9. Intended to cheat somebody, usually in order to make money illegally – f _____
10. Correcting something that is unfair or wrong, compensating for the loss or injury – r _____

Task 5. Make word collocations with the given words.

1) protection of	a) information
2) third	b) scam
3) personally identifiable	c) the signature
4) under	d) parties
5) credit card	e) theft
6) in compliance with	f) fraud
7) to invalidate	g) data
8) to commit	h) malicious software
9) identity	i) the EU law
10) to install	j) privacy policies

Task 6. Fill in the gaps with the appropriate prepositions.

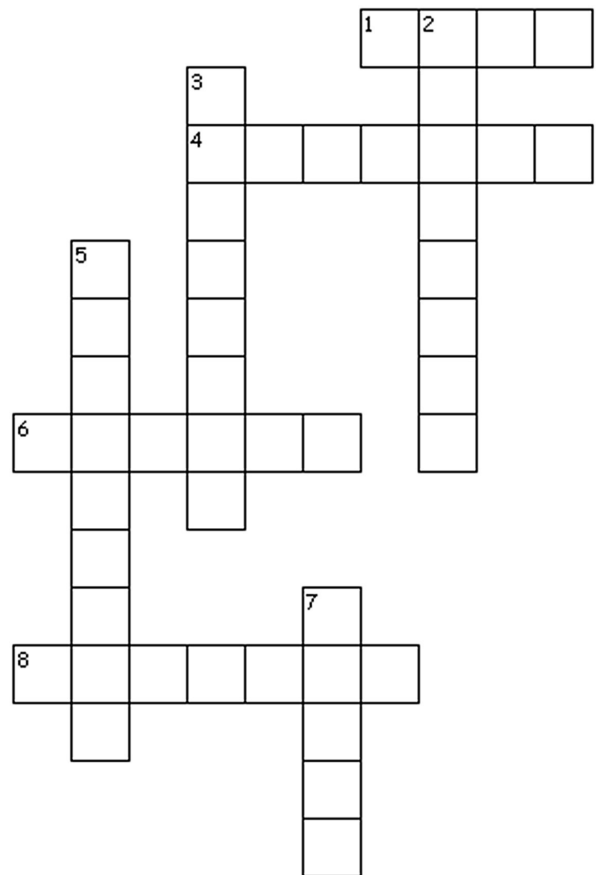
1. No one shall be subjected _____ arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.
2. Everyone has the right _____ the protection of the law against such interference or attacks.
3. _____ EU law, personal data can only be gathered legally _____ strict conditions.
4. Hackers can gain access _____ thousands of customers' data.
5. An information technology attorney can get involved _____ drafting, negotiating, and interpreting agreements in the areas of software licensing and maintenance, IT consulting, or e-commerce.
6. Customer information gathered by a company should be collected, stored and used in compliance _____ privacy policies and applicable laws.
7. A large number of domestic computers are regularly linked _____ criminal networks - botnets.
8. One of the purposes of credit card scam may be to obtain goods _____ paying.
9. A credit card scam can come _____ many forms.
10. Pharming is a scamming practice in which malicious code is installed on a personal computer or server, misdirecting users _____ fraudulent web sites without their knowledge or consent.

Task 7. Do the CROSSWORD.**Cybercrime****Across**

1. Advertising material sent by email to people who have not asked for it
4. Secretly finding a way of looking at and/or changing information on somebody else's computer system without permission
6. A group of computers that are controlled by malware (= software such as a virus that the users do not know about or want)
8. The crime of copying money, documents, etc. in order to cheat people

Down

2. The activity of tricking people by getting them to give their identity, bank account numbers, etc. over the Internet or by email, and then using these to steal money from them
3. The practice of secretly changing computer files or software so that visitors to a popular website are sent to a different website instead, without their knowledge, where their personal details are stolen and used to steal money from them
5. The crime of forcing somebody to give someone else something by threatening them
7. The crime of cheating somebody in order to get money or goods illegally

**Task 8. Insert parts of sentences into the appropriate places of the text.**

- a) normally using the address
- b) are dealing with a legitimate organization
- c) some customers are still taken in
- e) criminal prosecution remains difficult
- f) the cross-border nature of the fraud
- g) to sell non-existent products
- h) to operate credit card scam
- i) redirects users to fake sites

Pharming Taking over Phishing

International cyber crime crooks have found a new way to rip off the public. Fraudsters find it surprisingly easy _____ (1) over the internet. Phishing tricks consumers into providing confidential details in response to spam email. Although banks have been raising public awareness of the practice by placing warnings on websites, _____ (2) by spam emails inviting them to disclose account information.

But phishing is no longer as effective as it was so fraudsters have developed pharming, which does not involve spam email and is harder to detect. The scam _____ (3) when they try to access their bona fide bank website. A customer logs on, _____ (4) stored in his or her "favourites" folder, to what looks like the bank's internet banking site, but the customer is actually redirected to the fraudster's site.

The fraud is no longer limited to bank accounts. Recent examples have had corporate websites cloned _____ (5), or to get consumers to participate in money laundering activities while believing they _____ (6).

Whether the fraudsters are using phishing or pharming, _____ (7), largely because most of the criminals are based outside the territory in which the victim resides. Extradition proceedings are difficult and rare, although some national courts may have limited extra-territorial jurisdiction. Phishing legislation may be drafted but the real problem is _____ (8). The legislation may have no teeth, leaving the perpetrators almost immune from prosecution.

Task 9. Fill in the gaps in the extracts of the Law on Legal Protection of Personal Data. Use the Lithuanian version to help you find the necessary legal terms and other words in English.

REPUBLIC OF LITHUANIA

LAW ON LEGAL PROTECTION OF PERSONAL DATA

Article 7. Use of Personal Identification Number

1. Personal identification number is a unique sequence of digits. Personal identification number is assigned to a person _____ (1) the procedure laid down in the Law on the Population Register.

2. _____ (2) to use personal identification number when processing personal data only with the consent of the data subject, except in cases specified in paragraphs 4 and 5 of this Article, when the use of personal identification number shall be prohibited.

3. Personal identification number may be used without the consent of the data subject only if:

1) such a right _____ (3) in this and other laws;

2) a scientific or statistical research is carried out in the cases laid down in Articles 12 and 13 of this Law;

3) it is processed in State or institutional registers, provided that they have been officially set up in accordance with the procedure laid down in the Law on State Registers and in information systems provided that they have been set up in accordance with the procedure laid down in legal acts;

4) it is processed by _____ (4) involved in activities related to granting of loans and recovery of debts, insurance or financial leasing, health care and social insurance as well as in the activities of other institutions providing and administrating social care, educational establishments, science and studies institutions. Legal persons specified in this subparagraph may use personal identification number only for the purpose for which it has been received and only in these cases where it is necessary for a legitimate and specified purpose of personal data processing ;

5) _____ (5) are processed in cases laid down by laws.

4. Personal identification number may not be made public.

5. Personal identification number may not be collected and processed for direct marketing purposes.

Article 16. Conditions on Video Surveillance

Video surveillance may be used for the purpose of ensuring public safety, public order and protecting person's life, health, property and other rights and freedoms of persons but only in these cases when other ways or measures are insufficient and (or) inadequate for the achievement of the above mentioned purposes unless they are overridden by the interests of the data subject.

Article 18. Requirements on Video Surveillance

1. Processing of image data must be set down in a written data controller's document specifying the purpose and the extent of video surveillance, the retention period of video data, conditions of access to

processed image data, conditions and procedure of destruction of these data and other requirements concerning legitimate processing of video data.

2. The data controller shall ensure that image data are processed only by persons authorised by the data controller who must be instructed on legal acts regulating legal protection of personal data and who obligated _____ (6) by signing.

Article 23. Rights of the Data Subject

1. The data subject, in accordance with the procedure laid down in this Law, shall have the right:

- 1) to know (be informed) about the processing of his personal data;
- 2) to have an access to his personal data and to be informed of how they are processed;
- 3) _____ (7) or destruction of his personal data or suspension of further processing of his personal data, with the exception of storage, where the data are processed _____ (8) provisions of this Law and other laws;

4) to object against the processing of his personal data.

2. The data controller must provide the data subject with the conditions for exercising the rights laid down in this Article, with the exception of cases laid down in laws when it is necessary to ensure:

- 1) state security or defence;
- 2) public order and prevention, investigation, _____ (9) of criminal offences;
- 3) important economic or financial interests of the state;
- 4) prevention, investigation and detection of violations of official or professional ethics;
- 5) protection of the rights and freedoms of the data subject or other persons.

3. The data controller must justify the refusal to grant the request of the data subject to exercise the rights granted to the data subject by this Law. Having received a request from the data subject, the data controller must reply him within thirty calendar days of the date of data subject's application. Where the request of the data subject is written, the data controller's reply must also be written.

4. The data subject may appeal against _____ (10) of the data controller to the State Data Protection Inspectorate within three months of receipt of the reply from the data controller or within three months of the date when the time period for giving a reply referred to in paragraph 3 of this Article expires. The acts (omissions) of the State Data Protection Inspectorate may be appealed against in the court in accordance with the procedure laid down in laws.

Article 53. Liability for Violation of this Law

Violations of this Law shall render data controllers, data processors and other persons _____ (11) under the laws.

Article 54. Compensation for Pecuniary and non-Pecuniary Damage

1. Any person who _____ (12) as a result of unlawful processing of personal data or any other acts (omissions) by the data controller, the data processor or other persons, violating the provisions of this Law shall be entitled to claim compensation for pecuniary and non-pecuniary damage caused to him.

2. The extent of _____ (13) shall be determined by a court.

LIETUVOS RESPUBLIKOS
ASMENS DUOMENŲ TEISINĖ APSAUGOS
ĮSTATYMAS

7 straipsnis. Asmens kodo naudojimas

1. Asmens kodas – unikali skaitmenų seka. Asmens kodas asmeniui suteikiamas Gyventojų registro įstatymo nustatyta tvarka.

2. Naudoti asmens kodą, kai tvarkomi asmens duomenys, galima tik gavus duomenų subjekto sutikimą, išskyrus atvejus, nurodytus šio straipsnio 4 ir 5 dalyse, kai asmens kodą naudoti draudžiama.

3. Be duomenų subjekto sutikimo asmens kodą galima naudoti tik:

- 1) jeigu tokia teisė yra nustatyta šiame ir kituose įstatymuose;
- 2) atliekant mokslinį arba statistinį tyrimą šio įstatymo 12 ir 13 straipsniuose nustatytais atvejais;
- 3) valstybės, žinybiniuose registruose, jeigu jie yra įteisinti Valstybės registrų įstatymo nustatyta tvarka, ir informacinėse sistemose, jeigu jos yra įteisintos teisės aktų nustatyta tvarka;

4) juridiniams asmenims, kurių veikla susijusi su paskolų teikimu ir skolų išieškojimu, draudimu ar lizingo (finansinės nuomos) verslu, taip pat sveikatos apsaugos ir socialinio draudimo bei kitų socialinę paramą teikiančių ir administruojančių institucijų ir švietimo įstaigų, mokslo ir studijų institucijų veikloje. Šiame punkte nurodyti juridiniai asmenys asmens kodą gali naudoti tik tuo tikslu, kuriuo jis buvo gautas, ir tik tais atvejais, kai tai yra būtina teisėtam ir apibrėžtam asmens duomenų tvarkymo tikslui pasiekti;

5) įstatymų nustatytais atvejais tvarkant įslaptintus duomenis.

4. Draudžiama asmens kodą skelbti viešai.

5. Draudžiama rinkti ir naudoti asmens kodą tiesioginės rinkodaros tikslais.

16 straipsnis. Vaizdo stebėjimo sąlygos

Vaizdo stebėjimas gali būti vykdomas siekiant užtikrinti visuomenės saugumą, viešąją tvarką, apginti asmenų gyvybę, sveikatą, turtą ir kitas asmenų teises ir laisves, tačiau tik tais atvejais, kai kiti būdai ar priemonės yra nepakankamos ir (arba) netinkamos siekiant išvardytų tikslų ir jeigu duomenų subjekto interesai nėra svarbesni.

18 straipsnis. Vaizdo stebėjimo reikalavimai

1. Vaizdo duomenų tvarkymas turi būti nustatytas duomenų valdytojo patvirtintame rašytiniame dokumente, kuriame yra nurodomas vaizdo stebėjimo tikslas ir apimtis, vaizdo duomenų saugojimo terminas, priėjimo prie tvarkomų vaizdo duomenų sąlygos, šių duomenų naikinimo sąlygos ir tvarka bei nustatyti kiti reikalavimai teisėtam vaizdo duomenų tvarkymui.

2. Duomenų valdytojas užtikrina, kad vaizdo duomenis tvarkytų tik duomenų valdytojo įgalioti asmenys, kurie turi būti supažindinti su asmens duomenų teisine apsauga reglamentuojančiais teisės aktais ir pasirašytinai įsipareigoję jų laikytis.

23 straipsnis. Duomenų subjekto teisės

1. Duomenų subjektas šio įstatymo nustatyta tvarka turi teisę:

- 1) žinoti (būti informuotas) apie savo asmens duomenų tvarkymą;
- 2) susipažinti su savo asmens duomenimis ir kaip jie yra tvarkomi;
- 3) reikalauti ištaisyti, sunaikinti savo asmens duomenis arba sustabdyti, išskyrus saugojimą, savo asmens duomenų tvarkymo veiksmus, kai duomenys tvarkomi nesilaikant šio ir kitų įstatymų nuostatų;
- 4) nesutikti, kad būtų tvarkomi jo asmens duomenys.

2. Duomenų valdytojas privalo sudaryti sąlygas duomenų subjektui įgyvendinti šiame straipsnyje nustatytas teises, išskyrus įstatymų nustatytus atvejus, kai reikia užtikrinti:

- 1) valstybės saugumą ar gynybą;
- 2) viešąją tvarką, nusikalstamų veikų prevenciją, tyrimą, nustatymą ar baudžiamąjį persekiojimą;
- 3) svarbius valstybės ekonominius ar finansinius interesus;
- 4) tarnybinės ar profesinės etikos pažeidimų prevenciją, tyrimą ir nustatymą;
- 5) duomenų subjekto ar kitų asmenų teisių ir laisvių apsaugą.

3. Duomenų valdytojas turi motyvuotai pagrįsti atsisakymą vykdyti duomenų subjekto prašymą įgyvendinti šio įstatymo nustatytas duomenų subjekto teises. Duomenų valdytojas, gavęs duomenų subjekto prašymą, ne vėliau kaip per 30 kalendorinių dienų nuo duomenų subjekto kreipimosi dienos turi pateikti jam atsakymą. Jeigu duomenų subjekto prašymas išreikštas rašytine forma, duomenų valdytojas turi pateikti jam atsakymą raštu.

4. Duomenų subjektas gali skųsti duomenų valdytojo veiksmus (neveikimą) Valstybinei duomenų apsaugos inspekcijai per 3 mėnesius nuo atsakymo iš duomenų valdytojo gavimo dienos arba per 3 mėnesius nuo tos dienos, kada baigiasi šio straipsnio 3 dalyje nustatytas terminas pateikti atsakymą. Valstybinės duomenų apsaugos inspekcijos veiksmus (neveikimą) įstatymų nustatyta tvarka duomenų subjektas gali skųsti teismui.

53 straipsnis. Atsakomybė už šio įstatymo pažeidimą

Duomenų valdytojams, duomenų tvarkytojams ir kitiems asmenims, pažeidusiems šį įstatymą, taikoma įstatymų nustatyta atsakomybė.

54 straipsnis. Turtinės ir neturtinės žalos atlyginimas

1. Asmuo, patyręs žalą dėl neteisėto asmens duomenų tvarkymo arba kitų duomenų valdytojo ar duomenų tvarkytojo, taip pat dėl kitų asmenų veiksmų (neveikimo), pažeidžiančių šio įstatymo nuostatas, turi teisę reikalauti atlyginti jam padarytą turtinę ir neturtinę žalą.

2. Turtinės ir neturtinės žalos dydį nustato teismas.

Task 10. Insert the appropriate words and phrases in the gaps of the Lithuanian Law on Legal Protection of Personal Data.

competence, constituting, electronic, evidence, initiate, omissions, pre-trial,
referred to, relevant, residence, signature, pecified, submitted, under, within

REPUBLIC OF LITHUANIA LAW ON LEGAL PROTECTION OF PERSONAL DATA ACCEPTABILITY AND INVESTIGATION OF COMPLAINTS

Article 42. Lodging of Complaints

1. A person shall have the right to lodge a complaint with the State Data Protection Inspectorate against acts (_____) (1) of the data controller violating the provisions of this Law.

2. The State Data Protection Inspectorate shall also investigate persons' complaints transmitted to it by other institutions.

3. Complaints shall generally be lodged in writing, including _____ (2) format. Documents lodged by electronic means must be signed with a secure electronic. _____ (3). Having received an oral complaint or if the State Data Protection Inspectorate has established the existence of elements _____ (4) a violation of this Law from mass media and (or) other sources, the State Data Protection Inspectorate may _____ (5) an investigation on its own.

4. Oral or written enquires by persons asking for explanations, information or documents and not complaining of acts (omissions) by data controllers shall not be considered complaints.

Article 43. Complaint Requirements

1. The complaint shall contain the following information:
 - 1) addressee - the State Data Protection Inspectorate;
 - 2) full name and address of the complainant and, at the complainant's choice, his telephone number or electronic mail address;
 - 3) name of the complainer (data controller) and address of its registered office or his _____ (6), or address of the place where data are processed;
 - 4) description, time and circumstances of the act (omission) complained about;
 - 5) the complainant's application to the State Data Protection Inspectorate;
 - 6) date of the complaint and the complainant's signature.
2. The complaint may be covered with the _____ (7) available or a description of them.
3. A failure to keep to the format of a complaint _____ (8) in paragraph 1 of this Article or give requisites shall not be the basis for refusal to investigate the complaint.

Article 44. Anonymous Complaints

Anonymous complaints shall not be investigated, unless the Director of the State Data Protection Inspectorate decides otherwise.

Article 45. Refusal to Investigate a Complaint

1. The State Data Protection Inspectorate shall take a decision to refuse to investigate the complaint _____ (9) five working days of the date of receipt of the complaint and notify the data subject, provided that:
 - 1) the investigation of the circumstances referred to in a complaint falls outside the _____ (10) of the State Data Protection Inspectorate;
 - 2) the complaint on the issue has already been investigated by the State Data Protection Inspectorate, except the cases when new circumstances are referred to or new facts are _____ (11);
 - 3) a complaint on the issue has been investigated or is _____ (12) investigation in court;
 - 4) a procedural decision to start a _____ (13) investigation of the subject of the complaint has already been made;
 - 5) the text of the complaint is unreadable.
2. If a decision to refuse to investigate the complaint is taken, the reasons for the refusal must be _____ (14).
3. Where the complaint falls outside the competence of the State Data Protection Inspectorate, the State Data Protection Inspectorate shall, within the period referred to in paragraph 1 of this Article, transmit the complaint to the institution with the required competence and notify the complainant about that. Where the competent institution is a court, the complaint shall be sent back to complainant with the specified _____ (15) information.

GRAMMAR FOCUS

REPORTED SPEECH

Change the following sentences from quoted speech to reported speech.

1. They said, "Everyone has the right to the protection of the law against such interference or attacks."
They said _____
2. He said, "It is a simple matter to program the computer to recognize such symbols".
He said _____
3. John said to Peter, "Simply program in your desired volume level".
John told Peter to _____
4. He said, "I'm going to programme the VCR to come on at eight".
He said _____
5. The police officer said, "One of the purposes of credit card scam seems to be to obtain goods without paying".
The police officer said _____
6. He said, "I am writing a test tomorrow."
He said _____
7. They said, "We have never been here before."
They said _____
8. They said, "We were in London last week."
They said _____
9. He said, "I will have finished this programme by tomorrow."
He said _____
10. He said, "I don't like this computer programme."
He said _____
11. "I don't know what is phishing," she said.
She said _____
12. "Don't visit this web site, students," she said.
She told the students _____
13. "Where have you spent your money?" she asked him.
She asked him _____
14. "I never make mistakes," he said.
He said _____
15. Teacher said, "Do your homework!"
The teacher told me to _____
16. Victoria said, "Check your e-mails!"
Victoria told _____
17. He said, "Paul called and left a message".
He told _____
18. He said, "I must store and access all documents from my secure iCloud account".
He said he _____
19. She said, "You should read the EU Directive for Electronic Signatures".
She said I _____
20. They contended, "Money can be laundered by many methods, which vary in complexity and sophistication".
They contended _____

COMMUNICATION

WRITING FORMAL EMAILS

1. **Use a neutral e-mail address.** Your e-mail address should be a variation of your real name, not a username or nickname.
2. **Use a short and accurate subject header.** Avoid saying too much in the subject header, but make sure it reflects the content of your email to a person unfamiliar with you. If possible, include a keyword that will make the email content easier to remember and/or search for in a crowded inbox.
3. **Use a proper salutation.** Addressing the recipient by name is preferred. Use the person's title (Mr. Mrs. Ms. or Dr.) with their last name, followed by a comma or a colon. Optionally, you can precede the salutation with "Dear..." ("Hello..." is acceptable as well). Using a last name is more formal and should be used unless you are on first-name terms with the recipient. If you do not know the name of the person you are writing to (but you really should try and find one) use "Dear Sir/Madam" or "Dear Sir or Madam" followed by a colon.
4. **Introduce yourself in the first paragraph (if necessary).** Also include why you are writing, and how you found that person's e-mail address, or the opportunity you are writing about.
5. **Write the actual message.** Be sure to get your point across without rambling; if it is fluffed up, the reader may glance over the important details. Try to break up the message into paragraphs by topic to make your message more logical and digestible. The email should be no more than 5 paragraphs long and each paragraph should be no more than 5 sentences long.
6. **Use the correct form of leave-taking.** This will depend on your level of intimacy with the recipient. For example: *Yours sincerely*, *Yours cordially*, *Respectfully*.
7. **Sign with your full name.** If you have a job title, include that in the line after your name, and write the company name or website in the line after that. If you do not have a job title but you have your own blog or website related to the content of the e-mail, include a link to that below your name. If the e-mail is about a job, only include a career-related website or blog, not hobbies or interests.
8. **Proofread your message for content.** Make sure you have not omitted any important details (or repeated yourself). Reading your email aloud or asking someone to proofread it is a great way to get a different perspective on what you have written.
9. **Proofread your message for spelling and grammar.** If your email provider does not already provide spelling and grammar options for you, copy and paste your email into a word processor, revise it if necessary, and copy and paste it back into your email.
10. **Use formal language.** Do not use colloquial language.

Formal letters	Informal letters
Thank you.	Thanks.
I would like to apologise ...	Sorry for ...
I would appreciate it if you ...	Can you ...?
Would you happen to know ...?	Do you know ..?
Unfortunately, I would not be able to ...	I can't ...
I would rather not ...	I don't want to ...

Write a formal email according to the sample letter.

Name and Surname of the Sender	
Street Name and Number	
Postcode and City	
Country	
Name and Surname of the Recipient	MM/DD/YYYY
Street Name and Number	
Postcode and City	
Country	
Dear Mr. XXXXX,	
I was wondering whether it would be suitable for you to write a reference for me.	
I would be very grateful if you are able to witness my capabilities for employment and the skills I gained during my work at Diligent United Company.	
At the moment, I am in a pursuit of employment and your reference would be inevitable attachment to my job application. I believe that it will increase my chances to find a better job position as you are very influential in this business sector.	
If I am able to assist you in writing the reference or you need any data to fill it in, please let me know. I will be available 24/7 at tel. XXXXXX or e-mail me at: XXXXXXXX.	
Thank you for your consideration of this request.	
Sincerely yours,	
Signature	

DISCUSSION

1. Should it be legal to download or share copyrighted material for private use?
2. What problems are there for the law in defining and stopping hacking?
3. What problems are there in balancing freedom of expression and censorship on the internet?
4. Whenever you open a bank account, join a social networking website or book a flight online, you hand over vital personal information such as your name, address, and credit card number. What happens to this data? Could it fall into the wrong hands?
5. What rights do you have regarding your personal information?
6. What forms of cybercrime seem the most dangerous to you and why?
7. How do laws and regulations need to change in accordance with technological advances?

8. In your opinion, what new legislation needs to be passed with the advancements in information technologies?
9. To what extent should artificial intelligence based systems be allowed to be used and what danger do they present?
10. Should one have a "right to be forgotten" on the internet (recent ruling of the European Court of Justice)?
11. Should net neutrality (the principle that Internet service providers should treat all data on the Internet equally (not discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, and modes of communication) be regulated and enforced by law?
12. Do you think text messages and Facebook comments can be used in courts of law as admissible evidence? Why do you think so?

FOLLOW-UP

Read the text "A Brief History of Hacking" (Part II. Reading for Law)

Read the text "Saudi Con Artists Use Photos of Sick American Girl to Solicit Donations" (Part II. Reading for Law)

Internet privacy - the right to be forgotten <http://www.theguardian.com/technology/series/internet-privacy-the-right-to-be-forgotten>

What Is net neutrality? <https://www.aclu.org/net-neutrality>

Electronic Commerce Act, 2000 <http://www.irishstatutebook.ie/2000/en/act/pub/0027/sec0013.html#sec13>

Data protection <https://www.gov.uk/data-protection/the-data-protection-act>

Protection of personal data <http://ec.europa.eu/justice/data-protection/>

Personal data an employer can keep about an employee <https://www.gov.uk/personal-data-my-employer-can-keep-about-me>

Electronic signature http://deklaravimas.vmi.lt/en/Apie/Bendroji_informacija/Elektroninis_parasas.aspx

Identity theft http://en.wikipedia.org/wiki/Identity_theft

Only 100 cybercrime brains worldwide says Europol boss <http://www.bbc.com/news/technology-29567782>

Cybercrime <http://www.interpol.int/Crime-areas/Cybercrime/Cybercrime>

A collective EU response to cybercrime <https://www.europol.europa.eu/ec3>

Formal and Informal Email Phrases Starting with Greetings, Finishing with Closing Phrases!

<http://www.myenglishteacher.eu/blog/formal-and-informal-email-phrases/>

Reported Speech Quiz http://esl.about.com/library/quiz/blgrquiz_reported1.htm?lastQuestion=1&answers=0&submit=Next+Question+%3E%3E&count=1

Advanced Reported Speech http://www.tolearnenglish.com/english_lessons/advanced-reported-speech

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UNIT 9

INTERNATIONAL LAW

International law refers to the entirety of legal rules that apply to the international community, i.e. to states and international organisations, and occasionally also to individuals. It is an important basis for peace, stability and the protection of people in the whole world. In this unit the following areas of international law are covered: 1) International law: definition, historical basis, areas and branches; 2) Sources of international law; 3) The International Court of Justice; 4) The International Criminal Court.

In the unit you will learn the vocabulary necessary to read and write texts and communicate on international law matters. You will also practice your translation skills by translating extracts from an international treaty. In the Grammar section, you will revise several word formation issues. In the Discussion section, you will have opportunity to analyse and discuss the cases conducted by international courts.

BEFORE YOU READ

1. What international organisations do you know? What are their main activities?
2. What international courts do you know? What do they deal with?
3. What other international bodies regulate relations between states and people of different states?
4. How can a nation state be compelled to obey international law? Can you think of any examples of a country that has violated international agreements?
5. What are the consequences if a private individual or company breaks the laws of a foreign state?

KEY Vocabulary

legal entity, international personality, legal commitment,
municipal/domestic law, public international law, private international law, supranational law,
international norm, international instrument, international legal framework,
natural person, legal person, alien, refugee,
acquisition of territory, hostilities, means of warfare, state immunity,
diplomatic immunity, inviolability of the diplomatic mission, atrocity, global commons,
judicial system, penal system, tribunal, principal source of law,
auxiliary/subsidiary source of law, bilateral treaty, multilateral treaty,
self-executing treaty, non-self-executing treaty, customary international law,
usus, opinio juris, legal repercussions, jus cogens, peremptory norm,
derogation, null and void, adjudication, judicial decisions, stare decisis,
juristic writings, jurisdiction, contentious cases, advisory proceedings,
preventive diplomacy, elucidation of international law,
impunity, perpetrator, impartiality, integrity, eligible, alleged crime

MATCH THE WORDS WITH THEIR DEFINITIONS

1) legal entity	a) foreigner who has not become a citizen of the country where he/she is living
2) immunity	b) written legal agreement between countries
3) instrument	c) someone who has been forced to leave their country for political reasons or during a war
4) alien	d) line marking the edge of a piece of land
5) boundary	e) the official power to make legal decisions and judgements
6) acquisition	f) exemption from criminal prosecution or legal liability or punishment on certain conditions
7) treaty	g) a person, partnership, organisation, or business that has a legal and separately identifiable existence.
8) refugee	h) the act of gaining or coming to possess
9) hostilities	i) a formal legal document
10) jurisdiction	j) acts of warfare

READING 1: INTERNATIONAL LAW: DEFINITION, HISTORICAL BASIS, AREAS AND BRANCHES

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What does international law regulate?
2. What entities possess international personality?
3. What are the main differences between municipal law and international law?
4. How has international law developed? What are the first most important multilateral agreements of international law?
5. What do the following areas of international law deal with?
 - public international law
 - private international law
 - supranational law
6. What are the major branches of international law and what do they deal with?

UNDERSTANDING DETAILS

1. What do the following terms mean:

- 1) international entity/body
- 2) international legal framework
- 3) international norm
- 4) international instrument
- 5) multilateral legal commitment

2. What institutions are responsible for:

- 1) making law
- 2) applying law
- 3) implementing law
- 4) enforcing law

3. Explain the difference between:

- 1) natural person – legal person
- 2) alien – refugee
- 3) acquisition of territory – loss of territory
- 4) state immunity – diplomatic immunity
- 5) judicial system – penal system

Definition of international law

International law is the body of law that regulates the activities of **legal entities** possessing **international personality**. Traditionally, that meant the conduct and relationships of **states**. However, it is now well established that international law also concerns the structure and conduct of international organisations, and, to a degree, that of multinational corporations and individuals. The necessity for international law arises from the need to ensure a process that regulates competing demands and establishes the **legal framework** for predictable and agreed **community behaviour**.

Whilst **municipal law** is hierarchical or vertical, with the legislature enacting binding legislation, **international law** is horizontal, with all states being sovereign and theoretically equal. Because of this, the value and authority of international law is dependent upon the voluntary participation of states in its formulation, observance, and enforcement. Although there may be exceptions, most states enter into **legal commitments** to other states out of enlightened self-interest rather than adherence to a body of law that is higher than their own.

Historical basis of international law

Throughout recorded history, rulers of states, kingdoms, and other political entities **entered into treaties** with each other to end or **avert violent conflict**. These treaties **remained in force** until they were **superseded** by subsequent events, which could take the form of violations of treaties that effectively **rendered** them **void**; new conflicts that made them irrelevant; or new treaties that established a new relationship.

In addition, states adopted a number of spoken or unspoken conventions that dictated their interaction with each other. These ranged from rules of chivalry on the battlefield to diplomatic protocol.

Finally, the introduction of the rule of law and attendant structures in states provided a common framework for resolving legal issues between and among states. The First Geneva Convention in 1864 **convened** European states to establish basic laws of war in Europe. The Paris Peace Conference, 1919 represented the first broad attempt at creating global, **multilateral treaties**, embodied in the formation of the League of Nations at the end of the First World War (after the end of the Second World War it was replaced by the United Nations).

The trend toward **multilateral commitments** has accelerated since then, and it is now meaningful to study international law as a means toward resolving conflicts among states.

Areas of international law

International law encompasses **public international law**, **private international law** and **supra-national law**.

Public international law regulates the rights and duties of nation states in relation to each other. International institutions and intergovernmental organisations whose members are states have become a principal vehicle for **making, applying, implementing** and **enforcing** public international law. The best known intergovernmental organisation is the United Nations which develops **universal international instruments**, e.g. the Universal Declaration of Human Rights. Other international

organisations that establish **universal international norms**, are the World Health Organisation, The World Trade Organisation, The World Intellectual Property Organisation and the International Monetary Fund.

Private international law regulates the rights and duties of **natural and legal persons** of different sovereign states. It addresses two main questions: 1) in which jurisdiction a case may be **heard**; 2) which laws from which jurisdiction may be **applied**. It is distinguished from public international law because it deals with conflicts between private individuals and businesses, rather than conflicts between states or other international bodies.

Supranational law, or the law of supranational organisations, refers to regional agreements among sovereign nations states. It is a supranational **legal framework** in which the laws of a nation state are not applicable if in conflict with the supranational law. The example of such supranational legal framework is the European Union law. The member states of the European Union have united their authority through a system of courts and political institutions which have the power **to enforce legal norms** against and for member states and citizens, in a way that public international law does not.

Public international law and its branches

Public international law establishes the framework and the criteria for identifying states as the principal actors in the international legal system. As the existence of a state presupposes control and jurisdiction over territory, international public law deals with the **acquisition of territory, state immunity** and the **legal responsibility** of states in their conduct with each other.

The law is similarly concerned with the treatment of individuals within state **boundaries**. There is thus a comprehensive regime dealing with group rights, the treatment of **aliens**, the rights of **refugees**, international crimes, nationality problems and human rights generally.

It further includes the important functions of the **maintenance** of international peace and security, arms control, the pacific **settlement** of disputes and the regulation of the use of force in international relations. Even when the law is not able to stop the outbreak of war, it has developed principles to govern the **conduct of hostilities** and the treatment of prisoners.

International law is also used to govern issues relating to the global environment, the **global commons** such as international waters and outer space, global communications, and world trade.

The following are the major branches of public international law:

- **International humanitarian law.** It is also known as the law of war or the law of armed conflict. It regulates the **conduct of hostilities** in armed conflicts and seeks to protect persons and property that are (or may be) affected by armed conflict and limits the rights of parties to a conflict to use **means of warfare** of their choice. It includes the Geneva Conventions and the Hague Conventions, as well as subsequent treaties, case law and customary international law.
- **International human rights law.** It deals with protection of human rights at the international, regional and domestic levels. The main international law instruments are treaties and other international documents relevant to international human rights law and the protection of human rights in general (declarations and conventions), as well as customary international law. International human rights law is closely related to, but distinct from international humanitarian law. They are closely related because the substantive norms they contain are often similar: both provide, for example, a protection against torture. They are distinct because they are regulated by legally discrete frameworks and usually operate in different contexts. Generally, human rights law regulates the relationship between states and individuals in the context of ordinary life, while humanitarian law regulates the actions of states within the context of an armed conflict.

- **Diplomatic law.** It governs permanent and temporary diplomatic missions. A fundamental concept of diplomatic law is that of **diplomatic immunity**, which derives from state immunity. Key elements of diplomatic law are the immunity of diplomatic staff, the **inviolability of the diplomatic mission** and its grounds, and the security of diplomatic correspondence and diplomatic bags.
- **International criminal law.** It prohibits certain categories of conduct viewed as serious **atrocities** (international crimes) and makes **perpetrators** of such conduct criminally accountable for their **perpetration**. Principally, it deals with genocide, war crimes, crimes against humanity, as well as the crime of aggression. International criminal law provides legal framework for the courts and tribunals set up **to adjudicate cases** in which persons have incurred international criminal responsibility.
- **International environmental law.** It is concerned with protection of the global environment and seeks to prevent or manage human impacts on natural resources. It deals with issues related to **global commons** such as international waters, the atmosphere, outer space and the Northern and Southern polar regions.
- **The law of state responsibility.** It is comprised of the principles governing when and how a state is held responsible for a breach of an international obligation. Rather than set forth any particular obligations, the rules of state responsibility determine, in general, when an obligation has been breached and the legal consequences of that violation. These rules establish (1) the conditions for an act to qualify as internationally wrongful, (2) the circumstances under which actions of officials, private individuals and other entities may be attributed to the state, (3) general defences to liability and (4) the consequences of liability.

However, international law has no established compulsory **judicial system** for the settlement of disputes or a coercive **penal system**. Therefore, managing its breaches is not as straightforward as managing breaches within a domestic legal system. That is not to say that there are no means by which breaches are brought to the attention of the international community and some means for resolution. For example, there are **judicial or quasi-judicial tribunals** in international law in certain areas such as trade and human rights. The formation of the United Nations, for example, created a means for the world community **to enforce** international law upon members that violate its charter through the Security Council.

READING 2: SOURCES OF INTERNATIONAL LAW

UNDERSTANDING MAIN POINTS

Read the text and answer the questions:

1. What does the term “source of international law” mean?
2. Which international document defines sources of international law?
3. What are the primary and secondary sources of international law?
4. What is a treaty? What are the other terms used for a treaty?
5. What are the criteria for identifying a custom as a part of international customary law?
6. What is a peremptory norm (jus cogens)? Explain it and give examples.
7. What general principles of law are applied as sources of international law?
8. What role do judicial decisions and juristic writings play in international law?

UNDERSTANDING DETAILS

1. Explain the difference between:

- 1) principal/primary source of law – auxiliary/subsidiary source of law
- 2) bilateral treaty – multilateral treaty
- 3) self-executing treaty – non-self-executing (executory) treaty
- 4) peremptory – allowing derogation
- 5) judicial decisions – juristic writings

2. Give the synonyms of the following words and phrases:

- 1) to live up to one's obligations
- 2) to conclude a treaty
- 3) to supersede a treaty
- 4) to violate a norm
- 5) to adjudicate a dispute
- 6) principal
- 7) subsidiary
- 8) null and void
- 9) domestic
- 10) prominent

3. Translate the following Latin words and phrases into English and explain their meaning:

- 1) *pacta sunt servanda*
- 2) *usus*
- 3) *opinio juris*
- 4) *jus cogens*
- 5) *stare decisis*

Concept and types of sources of international law

Sources of international law are the materials and processes out of which the rules and principles regulating the international community are developed. They have been influenced by a range of political and legal theories.

During the 19th century, it was recognised by legal positivists that a sovereign could limit its authority to act by consenting to an agreement according to the principle *pacta sunt servanda*. This consensual view of international law was reflected in the 1920 Statute of the Permanent Court of International Justice, and was later preserved in the 1946 Statute of the International Court of Justice.

Article 38(1) of the Statute of the International Court of Justice is generally recognised as a definitive statement of the sources of international law. It specifies the following sources: (a) international treaties; (b) international custom; (c) general principles of law recognised by "civilized nations"; (d) judicial decisions and juristic writings.

On the question of preference between sources of international law, rules established by treaty will take preference if such an instrument exists. It is also argued however that international treaties and international custom are sources of international law of equal validity; this is that new custom may **supersede** older treaties and new treaties may **override** older custom. Certainly, judicial decisions and juristic writings are regarded as auxiliary sources of international law, whereas it is unclear whether the general principles of law recognised by 'civilized nations' should be recognised as a **principal** or **auxiliary source** of international law.

International treaty law

International treaty law is comprised of **obligations** that actors in international law (states and international organisations) expressly and voluntarily accept between themselves in treaties. **Treaties** are agreements under international law entered into by sovereign states and international organisations.

A treaty may also be known as an **international agreement, convention, covenant, pact, protocol, or exchange of letters**, among other terms. Regardless of terminology, all of these forms of agreements are, under international law, equally considered treaties and the rules are the same.

Treaties can be loosely compared to contracts: both are means of willing parties to assume obligations among themselves, and a party that fails **to live up to their obligations** can be held liable under international law.

Treaties may be **bilateral** or **multilateral**. Bilateral treaties **are concluded** between two states while multilateral treaties are concluded among several countries.

Treaties are classified into self-executing and non-self-executing (also known as executory). **Self-executing treaties** become effective without the aid of legislation, while **non-self-executing treaties** require the enactment of legislation – a change in the domestic law of a state party that will enable it **to fulfil treaty obligations**.

Customary international law

Customary international law are those aspects of international law that derive from custom. Unlike treaty law, which is only applicable to those states that are parties to the particular agreement, customary law is binding upon all states.

Customary international law consists of unwritten rules which derive from general practice accepted as law. When states respect certain rules consistently in their international and internal relations, with legal intentions, these practices become accepted by the international community as applicable rules of customary international law.

Two elements are required for identifying a rule as part of customary international law:

- (1) **Usus** (objective element) – general and consistent state practice;
- (2) **Opinio juris** (subjective element) – the conviction of states that the general and consistent practice is required by a legal obligation.

Opinio juris distinguishes simple habit from state practice with the force and effect of law. For example, while it may be observed that heads of state virtually always shake hands when they first meet, it is highly unlikely that they do so because they believe that a rule of international law requires it. On the other hand, a state would almost certainly expect some form of **legal repercussions** if it were to prosecute a foreign ambassador without the consent of his or her home state, and in this sense opinio juris does exist for the international law rule of diplomatic immunity.

Some customary international laws rise to the level of jus cogens. **Jus cogens** or a **peremptory norm** is a fundamental principle of international law which is accepted by the international community of states as a norm from which no **derogation** is ever permitted. Jus cogens status is the highest status that can be attained by any principles or norms in international law. It is given only to the most fundamental rules of international law which are recognised and accepted by the international community as rules from which no exception can be made.

Examples include various international crimes; a state which carries out or permits slavery, torture, genocide, war of aggression, or crimes against humanity is always **violating** peremptory **norms** of customary international law.

Unlike ordinary customary law, which has traditionally required consent and allows the alteration of its obligations between states through treaties, peremptory norms cannot be violated by any state through international treaties or local or special customs or even general customary rules. Any laws conflicting with peremptory norms should be considered **null and void**.

General principles of law

General principles of law are those commonly recognised by a large number of systems of municipal law.

In earlier stages of the development of international law, rules were frequently drawn from municipal law. Nowadays, the significance of general principles has undoubtedly been lessened by the increased intensity of treaty and institutional relations between states. Nevertheless, certain principles of municipal law have been employed in the **adjudication of international disputes**.

Judicial decisions and juristic writings

The decisions of international and municipal courts and the publications of academics are the subsidiary means for the determination of the rules of law.

In practice the International Court of Justice does not refer to domestic decisions although it does invoke its previous case-law. There is no **rule of stare decisis** in international law; thus, the decisions of the Court have no binding force. Nevertheless, the Court often refers to its past decisions and advisory opinions to support its explanation of a present case.

The scholarly works of prominent jurists are not sources of international law but are essential in developing the rules that are sourced in treaties, custom and the general principles of law.

READING 3: THE INTERNATIONAL COURT OF JUSTICE

UNDERSTANDING MAIN POINTS

Read the text and answer the questions on the following issues:

1. The basic facts about the Court:

- 1) Which organisation established the Court?
- 2) When was it established?
- 3) Where is it located?
- 4) What are the official languages of the Court?

2. Composition of the Court:

- 1) How many judges compose the Court?
- 2) How long is the judges' term of office?
- 3) Who elect the judges?
- 4) What are the criteria for electing the judges?

3. Jurisdiction of the Court:

- 1) What are the Court's functions in the exercise of its jurisdiction in contentious cases?
- 2) Who can apply to the Court and be parties to contentious cases?
- 3) What are the Court's functions in the exercise of its advisory jurisdiction?
- 4) Who can apply to the Court for advisory opinions on legal questions?

UNDERSTANDING DETAILS

Find the following words/phrases in the text and explain their meanings or give their synonyms:

- 1) to institute proceedings
- 2) to submit a dispute
- 3) to settle a dispute
- 4) to do smth. at the request of smb.
- 5) to be authorised to do smth.
- 6) to be entitled to do smth.
- 7) to possess qualifications required for smth.
- 8) to exercise jurisdiction
- 9) to enter into an agreement
- 10) to have binding effect

Basic facts

The International Court of Justice (ICJ) is the principal **judicial organ** of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began work in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York (United States of America). The official languages of the Court are English and French. The Court's role is **to settle**, in accordance with international law, **legal disputes submitted** to it by states and to give advisory opinions on legal questions **at the request of** the organs of the United Nations organs and specialized agencies **authorized** to make such a request.

Composition

The Court is composed of 15 judges who are elected for terms of office of nine years by the United Nations General Assembly and the Security Council **sitting** independently of each other. Elections are held every three years for one-third of the seats, and retiring judges may be re-elected.

The composition of the Court has to reflect the main forms of civilization and the principal legal systems of the world, and it may not include more than one judge of any nationality. The members of the Court must be elected from among persons of high moral character, who possess the qualifications required in their respective countries for **appointment to the highest judicial offices**, or are jurisconsults of recognised competence in international law. They do not represent their governments but are independent judges.

Jurisdiction

The International Court of Justice acts as a world court. The Court has a dual jurisdiction: **jurisdiction in contentious cases** and **advisory jurisdiction**.

Contentious cases

In the **exercise of its jurisdiction** in contentious cases, the International Court of Justice decides, in accordance with international law, disputes of a legal nature that are submitted to it by states. An international legal dispute can be defined as a disagreement on a question of law or fact, a conflict, a clash of legal views or of interests.

Only states (state members of the United Nations and other states which have become parties to the Statute of the Court or which have accepted its jurisdiction under certain conditions) may be parties to

contentious cases. International organisations, other collectivities and private persons **are not entitled to institute proceedings** before the Court.

The Court is competent **to entertain a dispute** only if the States concerned have accepted its jurisdiction in one or more of the following ways:

- by entering into a special agreement **to submit the dispute** to the Court;
- by virtue of a **jurisdictional clause**, i.e., typically, when they are parties to a treaty containing a provision whereby, in the event of a dispute of a given type or disagreement over the interpretation or application of the treaty, one of them may refer the dispute to the Court;
- through the **reciprocal effect** of declarations made by them under the Statute whereby each has accepted the jurisdiction of the Court as **compulsory** in the event of a dispute with another State having made a similar declaration.

Advisory proceedings

Since States alone have capacity to appear before the Court, public (governmental) international organisations cannot as such be parties to any case before it. A special procedure, the advisory procedure, is, however, available to such organisations and to them alone. The Court gives advisory opinions on legal questions at the request of international organisations.

However, advisory proceedings before the Court are not open to all organisations. They are open solely to five organs of the United Nations and to 16 specialized agencies of the United Nations family. The United Nations General Assembly and Security Council may request advisory opinions on any legal question. Other United Nations organs and specialized agencies which have been authorized to seek advisory opinions can only do so with respect to legal questions arising within the scope of their activities.

Contrary to judgments, and except in rare cases where it is stipulated beforehand that they shall have binding effect, the Court's advisory opinions **have no binding effect**. The requesting organ, agency or organization remains free to decide, by any means open to it, what effect to give to these opinions.

Although without binding effect, the advisory opinions of the Court nevertheless carry great legal weight and moral authority. They are often an instrument of preventive diplomacy and have peace-keeping virtues. Advisory opinions also, in their way, contribute to the **elucidation and development of international law** and thereby to the strengthening of peaceful relations between States.

Sources of applicable law

The Court decides in accordance with international treaties in force, international custom, the general principles of law and, as subsidiary means, judicial decisions and the teachings of the most highly qualified publicists.

READING 4: THE INTERNATIONAL CRIMINAL COURT

UNDERSTANDING MAIN POINTS

Read the text and answer the questions on the following issues:

1. The basic facts about the Court:

- 1) What treaty established the Court and when?
- 2) What is the Court's relationship with the United Nations?
- 3) Where is it located?
- 4) What are the official languages of the Court?

2. Structure of the Court:

- 1) How is the Court governed?
- 2) What are the main organs of the Court and what are they responsible for?
- 3) How many judges work in the Court and how long is their term of office?
- 4) Who elect the judges and what are the criteria for electing the judges?

3. Jurisdiction of the Court:

- 1) In which cases may the Court exercise its jurisdiction?
- 2) What crimes does the Court deal with? Name and define them.
- 3) What additional crimes have the states suggested to include into the Statute of the Court and why were they not included?

UNDERSTANDING DETAILS

1. Explain the following terms:

- 1) impunity
- 2) perpetration, perpetrator
- 3) impartiality
- 4) integrity
- 5) alleged crime
- 6) conduct of prosecution of a crime
- 7) adjudication of a case
- 8) amendment of a treaty

2. Explain the following verbal phrases:

- 1) to be adopted – to come into force
- 2) to be eligible for election
- 3) to sit
- 4) to complement judicial systems

3. Explain the difference between the following phrases and give an example with each of them:

- 1) to grant jurisdiction
- 2) to exercise jurisdiction
- 3) to expand jurisdiction
- 4) to accept jurisdiction

Basic facts

The **International Criminal Court (ICC)** is the first permanent, treaty based, international criminal court established to help end **impunity** for the **perpetrators** of the most serious crimes of concern to the international community.

The ICC was created by the Rome Statute which **was adopted** on 17 July 1998 and **came into force** on 1 July 2002. The Court is an independent institution, it is *not* part of the United Nations, but it maintains a cooperative relationship with the U.N. The Court is based in The Hague, the Netherlands, although it may also **sit** elsewhere. The official languages of the Court are English and French.

The Rome Statute defines, among other things, the Court's legal status, jurisdiction, functions and structure. It established four core international crimes (genocide, crimes against humanity, war crimes and the crime of aggression) which the Court deals with.

Structure

122 states are states parties to the Statute of the Court, including all of South America, nearly all of Europe, most of Oceania and roughly half the countries in Africa. A further 31 countries, including Russia, have signed but not ratified the Rome Statute.

The ICC is governed by the Assembly of States Parties. The Court consists of four main organs:

- the Presidency (responsible for the overall administration of the Court),
- the Registry (responsible for the non-judicial aspects of the administration and servicing of the Court),
- the Office of the Prosecutor (responsible for **conducting investigations and prosecutions** of crimes within the jurisdiction of the Court),
- the Judicial Divisions (responsible for **adjudication of cases**).

The Judicial Divisions consist of 18 judges organised into the Pre-Trial Division, the Trial Division and the Appeals Division. The judges are elected by the Assembly of States Parties for nine-year terms and are not generally **eligible** for re-election.

All judges must be nationals of states parties to the Rome Statute, and no two judges may be nationals of the same state. They must be persons of high moral character, **impartiality** and **integrity** who possess the qualifications required in their respective states for appointment to the highest judicial offices, and they must have an excellent knowledge of and be fluent in at least one of the working languages of the Court (English and French).

Jurisdiction

The Court has four mechanisms which **grant it jurisdiction**:

- 1) if the accused is a national of a state party to the Rome Statute;
- 2) if the **alleged crime** took place on the territory of a state party;
- 3) if a situation is referred to the Court by the United Nations Security Council;
- 4) if a state not party to the Statute **accepts** the Court's **jurisdiction**.

The ICC is intended **to complement** existing national **judicial systems**, and may only **exercise its jurisdiction** when national courts are unwilling or unable to investigate or prosecute such crimes.

The Rome Statute grants the Court jurisdiction over four groups of crimes, which it refers to as the most serious crimes of concern to the international community as a whole: **the crime of genocide, crimes against humanity, war crimes, and the crime of aggression**.

The Statute has originally defined each of these crimes except for crime of aggression. The Rome Statute provided that the Court could not exercise its jurisdiction over the crime of aggression until such time as the states parties agreed on a definition of the crime and set out the conditions under which it could be prosecuted. In June 2010, the ICC's first review conference in Kampala, Uganda adopted amendments defining crimes of aggression and **expanding** the ICC's **jurisdiction** over them. However, this amendment specified that the ICC would not be allowed to exercise jurisdiction of the crime of aggression until two further conditions have been met: 1) the amendment has entered into force for 30 states parties; and 2) on a date after 1 January 2017, the Assembly of States Parties has voted in favour of allowing the Court to exercise jurisdiction.

A separate amendment passed at the same review conference also expanded the definition of war crimes to include the use of certain kinds of weapons in non-international conflicts whose use was already forbidden in international conflicts.

Some states suggested to add **terrorism** and **drug trafficking** to the list of crimes covered by the Rome Statute; however, the states were unable to agree on a definition for terrorism and it was decided not to include drug trafficking as this might overwhelm the Court's limited resources.

POINTS TO REMEMBER

1. municipal

This adjective has two different meanings:

1) of or pertaining to a town or city or its local government (municipality), e.g.:

municipal elections

2) pertaining to the internal affairs of a state or nation rather than to international affairs, e.g.:

Municipal law is the national, domestic, or internal law of a sovereign state defined in opposition to international law.

2. instrument

In law, this word means a formal legal document, such as a will, deed, an agreement, which is evidence of rights and duties, e.g.:

There are ten core international human rights instruments, and each of these instruments has established a committee of experts to monitor implementation of the treaty provisions by its states parties.

3. to sit, sitting

In legal texts, these verb and noun derivative usually refer to the state of being engaged in one's business (about court of law, parliament, committee, etc.):

The International Criminal Court is based in The Hague, the Netherlands, although it may also sit elsewhere.

The speech from the throne upon the state opening of Parliament is made before a joint sitting of the both Houses.

4. null and void

This legal doublet consists of 2 synonyms of French origin. As many other legal doublets, it is considered to be a pleonasm (consisting of more words than is necessary for clear expression). The doublet means 'having no legal or binding force; invalid', e.g.:

Any laws conflicting with peremptory norms should be considered null and void.

5. usus, opinio juris, jus cogens, stare decisis

Legal English uses a lot of Latin terms in their original form. They define legal concepts and principles which are derived from Latin law and adjusted to modern systems of common law and international law. The terms used in this unit have the following meanings in Latin:

usus 'usage; long-established rule, practice, custom';

opinio juris 'an opinion of law' = *opinio juris sive necessitatis* 'an opinion of law or necessity';

jus cogens 'compelling law';

stare decisis 'to stand by things decided' = *stare decisis et non quieta movere* 'to stand by decisions and not disturb the undisturbed'.

READING COMPREHENSION AND VOCABULARY TASKS

Task 1. Read the statements about international law and its sources and decide if they are true or false. Correct the false statements.

1. International law is the body of law that regulates exclusively the activities of sovereign states.
2. The participation of states in formulation, observance, and enforcement of international law is absolutely compulsory.
3. The Paris Peace Conference, 1919 represented the first broad attempt at creating global, multilateral treaties.
4. Public international law regulates the rights and duties of natural and legal persons of different sovereign states.
5. International law is able to stop the outbreak of war and military conflicts.
6. International humanitarian law is the same as international human rights law.
7. The law of state responsibility is comprised of the principles governing when and how a state is held responsible for a breach of its domestic law.
8. International law has an established judicial system for the settlement of disputes and a coercive penal system compulsory for all the states.
9. International treaties and international custom are the principal sources of international law.
10. The subsidiary sources of international law include judicial decisions and the teachings of the most highly qualified publicists of the various nations.

Task 2. Complete the sentences below using the words in the box.

acquisition, adherence, commitments, commons, entities, framework,
hostilities, immunity, instruments, maintenance, observance, personality,
persons, settlement, treatment

1. International law is the body of law that regulates the activities of legal _____ possessing international _____.
2. The value and authority of international law is dependent upon the voluntary participation of states in its formulation, _____, and enforcement.
3. Most states enter into legal _____ to other states out of enlightened self-interest rather than _____ to a body of law that is higher than their own.
4. The best known intergovernmental organisation is the United Nations which develops universal international _____, e.g. the Universal Declaration of Human Rights.
5. Private international law regulates the rights and duties of natural and legal _____ of different sovereign states.
6. The law of supranational organisations is a supranational legal _____ in which the laws of a nation state are not applicable if in conflict with the supranational law.
7. International law deals with the _____ of territory, state _____ and the legal responsibility of states in their conduct with each other.
8. It further includes the important functions of the _____ of international peace and security, arms control, the pacific _____ of disputes and the regulation of the use of force in international relations.
9. Even when the international law is not able to stop the outbreak of war, it has developed principles to govern the conduct of _____ and the _____ of prisoners.

10. International law is also used to govern issues relating to the global environment, the global _____ such as international waters and outer space, global communications, and world trade.

Task 3. Match the first part of the items (1 – 10) with their second part (a – j) as they were used in the text “Sources of international law” (in some cases passive voice is changed into active voice).

1) to supersede	a) obligations
2) to override	b) a treaty
3) to enter	c) older treaties
4) to accept/assume	d) the significance
5) to live up to / to fulfil	e) certain principles of municipal law
6) to conclude	f) older customs
7) to derive	g) previous case-law
8) to lessen	h) from general practice
9) to employ	i) into an agreement
10) to invoke	j) obligations

Task 4. Choose the word which best completes the sentence.

- International humanitarian law regulates the conduct of hostilities in _____ conflicts and seeks to protect persons and property that are (or may be) affected by _____ conflict (the same word in both gaps).
 A armed C domestic
 B hostile D external
- The main _____ of international human rights law are treaties and other international documents relevant to international human rights law and the protection of human rights in general, as well as customary international law.
 A deeds C instruments
 B pleadings D bills
- Key elements of diplomatic law are the immunity of diplomatic staff, the _____ of the diplomatic mission and its grounds, and the security of diplomatic correspondence and diplomatic bags.
 A independency C inviolability
 B legality D lawfulness
- International criminal law prohibits certain categories of conduct viewed as serious atrocities and makes perpetrators of such conduct criminally _____ for their perpetration.
 A accused C convicted
 B accountable D charged

5. The rules of state responsibility determine, in general, when an international obligation has been breached and the legal _____ of that violation.
A considerations C damages
B remedies D consequences
6. Sources of international law are the materials and processes out of which the rules and principles regulating the international _____ are developed.
A community C nation
B society D people
7. Rules established by treaty are the primary source of international law; it is also argued however that international treaties and international custom are of equal _____.
A credibility C validity
B reliability D legitimacy
8. Treaties which are concluded between two states are called _____ treaties.
A multilateral C bilateral
B bicameral D unicameral
9. Customary international law results when states follow certain principles generally and consistently out of a sense of legal _____.
A rules C obligation
B duty D customs
10. Jus cogens meaning "compelling law" is a special class of general rules made by custom; these rules are _____ in nature and cannot be derogated from.
A peremptory C self-executing
B executory D voluntary

Task 5. Read the statements about the International Court of Justice and decide if they are true or false. Correct the false statements.

1. The International Court of Justice is an independent institutions and it is not a part of any international organisation.
2. The Court is located at the Peace Palace in the Hague (Netherlands).
3. The Court is composed of 15 judges elected to six-year terms of office by the United Nations General Assembly and Security Council sitting independently of each other.
4. The judges must possess the qualifications required in their respective countries for appointment of judges to any level of court.
5. The members of the Court represent their governments.
6. States and individuals may apply to and appear before the Court in contentious cases.
7. International organisations are also entitled to institute proceedings before the Court in contentious cases.
8. Any international organisation may request advisory opinions from the Court.
9. The advisory opinions of the Court have no binding effect, but nevertheless carry great legal weight and moral authority.

10. The principal sources of the applicable law of the Court are international treaties in force, international custom and the general principles of law.

Task 6. Complete the sentences below about the International Court of Justice using the words in the box.

have accepted, appear, apply, authorized, carry, entering,
to entertain, exercises, are held, to institute, retiring, to settle, sitting,
to submit, be stipulated

- The Court's role is _____ legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by duly _____ international organs and agencies.
- The judges are elected by the United Nations General Assembly and the Security Council _____ independently of each other.
- Elections _____ every three years for one-third of the seats, and _____ judges may be re-elected.
- The Court _____ dual jurisdiction: jurisdiction in contentious cases and advisory jurisdiction.
- Only states may _____ to and _____ before the International Court of Justice.
- International organisations, other collectivities and private persons are not entitled _____ proceedings before the Court.
- The Court is competent _____ a dispute only if the States concerned _____ its jurisdiction.
- The States may accept the Court's jurisdiction by _____ into a special agreement _____ the dispute to the Court.
- Although without binding effect, the advisory opinions of the Court nevertheless _____ great legal weight and moral authority.
- In some rare cases it may _____ beforehand that the Court's advisory opinions shall have binding effect (for example, as in the Convention on the Privileges and Immunities of the United Nations).

Task 7. Choose the word which best completes the sentences about the International Court of Justice.

- In the exercise of its contentious jurisdiction, the International Court of Justice decides, in accordance with international law, _____ of a legal nature that are submitted to it by states.
A argument C dispute
B debates D discussion
- Two or more States in a dispute on a specific issue can agree to submit it jointly to the Court and to conclude a special _____ to that end.
A contract C agreement
B pleading D deed

3. The states parties to the Statute of the Court may opt to make a unilateral _____ recognizing the jurisdiction of the Court as compulsory, in relation to any other State accepting the same obligation.
- | | |
|--------------|---------------|
| A convention | C instrument |
| B pact | D declaration |
4. _____ of the Court may be instituted in one of two ways: through the notification of a special agreement or by means of an application.
- | | |
|---------------|---------------|
| A Proceedings | C Discussions |
| B Disputes | D Meetings |
5. Contentious proceedings include a written phase, in which the parties file and exchange _____ containing a detailed statement of the points of fact and of law on which each party relies, and an oral phase consisting of public hearings at which agents and counsel address the Court.
- | | |
|------------------|------------|
| A considerations | C opinions |
| B pleadings | D debates |
6. After the oral proceedings the Court deliberates in camera and then delivers its judgment at a public _____.
- | | |
|-----------|-----------------|
| A sitting | C consideration |
| B meeting | D discussion |
7. The judgment is final, binding on the _____ to a case and without appeal.
- | | |
|-------------------|-----------|
| A sides | C parties |
| B representatives | D bodies |
8. In principle the Court's advisory opinions are consultative in character and are therefore not _____ as such on the requesting bodies but certain instruments or regulations can, however, provide in advance that such an opinion shall be _____ (the same word in both gaps).
- | | |
|------------|-----------|
| A judicial | C legal |
| B lawful | D binding |
9. Advisory opinions contribute to the _____ and development of international law and thereby to the strengthening of peaceful relations between States.
- | | |
|---------------|----------------|
| A derogation | C perpetration |
| B elucidation | D atrocity |
10. The Court uses the same sources of _____ law in advisory procedures and contentious proceedings.
- | | |
|---------------|--------------|
| A justiciable | C applicable |
| B peremptory | D eligible |

Task 8. Read the statements about the International Criminal Court and decide if they are true or false. Correct the false statements.

1. The International Criminal Court is the first permanent, treaty based, international criminal court established to help end impunity for the perpetrators of the most frequent crimes in the world.
2. The Court was established by the Rome Statute which was adopted in 2002.
3. The Court is an independent institution and has no relationship with the United Nations.
4. The official languages of the Court are English, French and German.
5. The judges of the Court are elected by the Assembly of States Parties for nine-year terms and may not be re-elected.
6. All judges must be nationals of states parties to the Rome Statute, and no two judges may be nationals of the same state.
7. The Court may exercise its jurisdiction over crimes committed by any person anywhere in the world.
8. The Court is not intended to replace existing national judicial systems, but only to complement them.
9. The Court has the power to prosecute people for the crime of genocide, crimes against humanity, war crimes, and the crime of aggression.
10. The Court's jurisdiction has been recently expanded over two more crimes: terrorism and drug trafficking.

Task 9. Complete the sentences below about the International Criminal Court using the words in the box. There are five extra words in the box.

adjudication, alleged, conducting, eligible, exercise, expanded, implementing, impunity, increased, integrity, jurisdiction, parties, penalty, proved, sides

1. The mission of the International Criminal Court is to end _____ for the perpetrators of the most serious crimes of concern to the international community.
2. The Rome Statute defines, among other things, the Court's legal status, _____, functions and structure.
3. As of April 2014, 122 states are States _____ to the Statute of the Court.
4. The Office of the Prosecutor of the Court is responsible for _____ investigations and prosecutions of crimes within the jurisdiction of the Court.
5. The Judicial Divisions of the Court are responsible for _____ of cases.
6. The judges are elected by the Assembly of states parties for nine-year terms are not generally _____ for re-election.
7. The judges must be persons of high moral character, impartiality and _____.
8. The Court may deal with the _____ crime if the accused is a national of a state party to the Rome Statute or if the crime took place on the territory of a state party.
9. The Court may only _____ its jurisdiction when national courts are unwilling or unable to investigate or prosecute such crimes.
10. The Court's first review conference held in 2010 in Kampala, Uganda adopted amendments which defined "crimes of aggression" and _____ the Court's jurisdiction over them.

Task 10. Match these words and phrases (1-10) with their synonyms (a-j).

1) legal	a) meeting
2) dispute	b) mandatory
3) to apply to the court	c) to start proceedings
4) sitting	d) lawful
5) to be entitled to smth.	e) to bring a case before the court
6) compulsory	f) according to a statute
7) to institute proceedings	g) official statement
8) international entity	h) disagreement, argument
9) declaration	i) international body
10) under a statute	j) to have the right to smth.
11) impartiality	k) primary
12) principal	l) neutrality
13) auxiliary	m) honesty
14) integrity	n) to enter into an agreement
15) to conclude an agreement	o) subsidiary

Task 11. Analyse the extracts from the English and the Lithuanian versions of the Rome Statute of the International Criminal Court and translate the underlined parts of the English provisions into Lithuanian.**PART 1. ESTABLISHMENT OF THE COURT**

Article 1
The Court

An International Criminal Court ("the Court") is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute.

Article 2
Relationship of the Court with
the United Nations

The Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties to this Statute and thereafter concluded by the President of the Court on its behalf.

Article 3
Seat of the Court

1. The seat of the Court shall be established at The Hague in the Netherlands ("the host State").

1 DALIS. TEISMO ĮSTEIGIMAS

1 straipsnis
Teismas

Šiuo Statutu įsteigiamas Tarptautinis baudžiamasis teismas (toliau – Teismas). Jis yra nuolatinė institucija, ----- už labai sunkius, tarptautinę bendriją verčiančius susirūpinti nusikaltimus, nurodytus šiame Statute, ir ----- Teismo jurisdikciją ir jo veiklą -----.

2 straipsnis
Teismo santykiai su Jungtinėmis Tautomis

Teismo ir Jungtinių Tautų santykiai yra reglamentuojami susitarimu, kurį ----- valstybių, Statuto Šalių, Asamblėja ir kurį po to Teismo vardu ----- Teismo pirmininkas.

3 straipsnis
Teismo buveinė

1. ----- Hagos miestas Nyderlanduose (toliau – buveinės valstybė).

2. The Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf.

3. The Court may sit elsewhere, whenever it considers it desirable, as provided in this Statute.

Article 4

Legal status and powers of the Court

1. The Court shall have international legal personality. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

2. The Court may exercise its functions and powers, as provided in this Statute, on the territory of any State Party and, by special agreement, on the territory of any other State.

PART 2. JURISDICTION, ADMISSIBILITY AND APPLICABLE LAW

Article 5

Crimes within the jurisdiction of the Court

The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole.

The Court has jurisdiction in accordance with this Statute with respect to the following crimes:

- (a) The crime of genocide;
- (b) Crimes against humanity;
- (c) War crimes;
- (d) The crime of aggression.

Article 9

Elements of Crimes

1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7, 8 and 8 *bis*. They shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.

2. Amendments to the Elements of Crimes may be proposed by:

- (a) Any State Party;
- (b) The judges acting by an absolute majority;
- (c) The Prosecutor.

2. ----- . Ją turi patvirtinti valstybių, Statuto Šalių, Asamblėja ir po to Teismo vardu ją turi pasirašyti Teismo pirmininkas.

3. Teismo pageidavimu pagal šį Statutą ----- .

4 straipsnis

Teismo juridinis statusas ir įgaliojimai

1. Teismas ----- .

Jis -----, kurio gali prireikti jo funkcijoms vykdyti ir tikslams pasiekti.

2. ----- kiekvienos valstybės, Statuto Šalies, teritorijoje, o atskiru susitarimu – ir kokios kitos valstybės teritorijoje.

2 DALIS. JURISDIKCIJA, BYLŲ PRIIMTINUMAS IR TAIKYTINA TEISĖ

5 straipsnis

Teismo jurisdikcijai priklausantys nusikaltimai

Teismo jurisdikcijai priklauso tik ----- .

Pagal šį Statutą Teismo jurisdikcijai priklauso šie nusikaltimai:

- (a) -----;
- (b) -----;
- (c) -----;
- (d) -----;

9 straipsnis

1. ----- padeda Teismui aiškinti ir taikyti 6, 7 ir 8 straipsnius. Jie priimami valstybių, Statuto Šalių, Asamblėjos dviejų trečdalių balsų dauguma.

2. ----- gali siūlyti:

- (a) bet kuri valstybė, Statuto Šalis;
- (b) sprendimą priimančią teisėją absoliučia balsų dauguma;
- (c) prokuroras.

Such amendments shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.

3. The Elements of Crimes and amendments thereto shall be consistent with this Statute.

Article 21 Applicable law

1. The Court shall apply:

(a) In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;

(b) In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;

(c) Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.

2. The Court may apply principles and rules of law as interpreted in its previous decisions.

3. The application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights, and be without any adverse distinction founded on grounds such as gender as defined in article 7, paragraph 3, age, race, colour, language, religion or belief, political or other opinion, national, ethnic or social origin, wealth, birth or other status.

----- .

3. atitinka šį Statutą.

21 straipsnis

1. Teismas taiko:

(a) visų pirma šį Statutą, -----
----- bei -----
-----;

(b) po to, jei reikia, -----

-----;

c) jei minėti teisės šaltiniai netinka, Teismas remiasi -----,
tarp jų – -----

-----, jeigu tie principai neprieštarauja šiam Statutui, tarptautinei teisei ir tarptautiniu mastu pripažintoms normoms bei reikalavimams.

2. Teismas -----
----- .

3. -----

ir jame neturi būti jokios diskriminacijos dėl lyties, kaip apibrėžta 7 straipsnio 3 dalyje, amžiaus, rasės, odos spalvos, kalbos, religijos ar įsitikinimų, politinių ar kitokių pažiūrų, tautinės, etninės ar socialinės kilmės, turtinės, gimimo ar kitokios padėties.

GRAMMAR FOCUS

WORD FORMATION

Task 1. Complete the table with verbs, nouns and adjectives/participles where necessary.

	VERB	ABSTRACT NOUNS	ADJECTIVE / PARTICIPLE
1	to acquire		
2	to commit		
3	---		judicial
4			penal
5	to adjudicate		
6	to supersede		
7			deragotary
8			perpetrable
9	to execute		
10	---		peremptory

Task 2. Group the noun abstracts from the Table in the Task 1 according to their suffixes, and indicate the words they are made from, e.g. *conclusion* (← *conclude*). Write more examples of abstract nouns with the given suffixes.

What other suffixes do you know which form abstract nouns from verbs and adjectives?

Write them and give examples in the empty spaces of the table.

ABSTRACT NOUNS

Suffix	Examples
-(t)ion	
-ment	
-ery	
-ty	
-ness	

Task 3. Complete the table with negative adjectives.

	Positive adjective	Negative adjective
1	predictable	
2	dependant	
3	binding	
4	voluntary	
5	relevant	
6	partial	
7	respective	

8	legal	
9	responsible	
10	available	
11	applicable	
12	accountable	
13	violable	
14	compulsory	
15	honest	
16	self-executing	
17	equal	
18	valid	
19	eligible	
20	consistent	

Task 4. Group the negative adjectives from the Table in the Task 2 according to their prefix. Write more adjectives with the given prefixes. What regularities have you noticed?

NEGATIVE ADJECTIVES

Prefix	Examples
un-	
il-	
im-	
in-	
ir-	
dis-	
non-	

DISCUSSION

- Visit the website of the **International Court of Justice** <http://www.icj-cij.org/docket/index.php?p1=3&p2=3>, choose one of the contentious cases conducted by it and answer the following questions:
 - What states are parties to a case?
 - What is the subject of the dispute between the states?
 - What are the facts of the dispute?
 - What do the parties request the Court to adjudge and declare?
 - What is your position on the dispute?
- Visit the website of the **International Criminal Court** http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/Pages/situations%20and%20cases.aspx, read the information on the situations which have been referred to the Court, choose one of them and answer the questions:
 - What happens on the territory of the state?
 - What officials are prosecuted for crimes committed on the territory?

- 3) What are they charged with?
 - 4) What are the verdicts and the sentences of the Court in the given cases?
 - 5) Has, in your opinion, the Court passed the suitable sentences for the crimes committed by the officials in the given cases?
3. Visit the website of the **International Criminal Tribunal for the former Yugoslavia** <http://www.icty.org/en>, read the information about the tribunal and answer the questions:
- 1) When, why and by whom was the Tribunal established?
 - 2) What are the objectives of the Tribunal?
 - 3) What role have the judicial decisions of the Tribunal played in the development of international criminal law?
 - 4) Choose one of the completed cases of the Tribunal and present it: the accused official, the charges brought against him, the verdict and the sentence passed by the Tribunal.
 - 5) What is your opinion about the role of the Tribunal in international relations? Has it achieved its objectives?

FOLLOW-UP

Read the text "Diplomatic Immunity" (Part II. Reading for Law)

Read the text "The Different Languages of International Treaties" (Part II. Reading for Law)

Sources of international law <https://www.diakonia.se/en/IHL/The-Law/International-Law1/Sources-of-IL/>

International Court of Justice <http://www.icj-cij.org/homepage/index.php?lang=en>

International Criminal Court http://www.icc-cpi.int/en_menus/icc/Pages/default.aspx

The International Criminal Tribunal for the former Yugoslavia (ICTY) <http://www.icty.org/en>

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UNIT 10

HUMAN RIGHTS

Human rights are the cornerstone of every democratic society. They provide a framework for political organisation and a standard of political legitimacy. In this unit the following areas of human rights law are covered: 1) Characteristics of human rights and their classifications; 2) International human rights organisations; 3) The United Nations and its work on protection of human rights; 4) The Council of Europe and its work on protection of human rights.

In this unit you will learn the vocabulary necessary to read/write texts and to communicate on human rights matters. You will also develop your translation skills by translating extracts from the European Convention on Human Rights. In the Grammar section, you will analyse some word formation issues and revise verb forms and tenses. Finally, in the Discussion section, you will have opportunity to make a research on activities of several human rights organisations and present the results to the class.

BEFORE YOU READ

1. What are the basic human rights?
2. How are human rights protected in international law and in municipal law?
3. What human rights violations are most frequent in the world?
4. Are, in your opinion, human rights violated in Lithuania? If yes, what human rights are violated most frequently in Lithuania?
5. What are the consequences of violation of human rights?

KEY Vocabulary

civil and political rights, economic, social and cultural rights,
first-generation rights, second-generation rights, third-generation rights,
positive rights, negative rights,
inherent rights, universal rights, inalienable rights, indivisible rights,
pillars of democracy, political legitimacy, compliance, enforcement,
political abuse, legal abuse, infringement, violation, adjudication,
arbiter, arbitrary, impartial, exile, servitude,
the rule of law, due process of law, pre-existing laws, ex post facto laws,
presumption of innocence, double jeopardy, vote by secret ballot,
intergovernmental organisations, non-governmental organisations,
legal instrument (legally binding, global, regional),
declaration, convention, covenant, ratification, accession,
natural person, legal person, public advocacy, remedial action,
extraterritoriality, famine, enforceable, justiciable, alleged,
contingent on smth, prerequisite, to award damages,
to pledge oneself to do smth, to commit oneself to smth, subject to smth,
under the auspices of, vis-à-vis

MATCH THE WORDS AND PHRASES WITH THEIR DEFINITIONS

A

1) adjudication	a) popular acceptance of an authority, usually a governing law or a regime
2) compliance	b) the action in accordance with specified rules or standards
3) convention	c) the act of compelling observance of a law, rule, or obligation
4) declaration	d) a written public announcement of intentions or of the terms of an agreement
5) enforcement	e) a legally binding agreement between states covering particular matters
6) extraterritoriality	f) the immunities enjoyed by foreign states or international organisations and their official representatives from the jurisdiction of the country in which they are present
7) political legitimacy	g) a condition or requirement in a legal document
8) prerequisite	h) legal process by which a judge reviews evidence and argumentation set forth by opposing parties to come to a decision on a given case
9) provision	i) something required as a prior condition for something else to happen or exist
10) ruling	j) an authoritative decision or pronouncement, especially one made by a judge

B

1) to accede to something	a) to be given a legal right or a just claim to receive or do something
2) to allege something	b) to be given the authority or power to do something
3) to pledge oneself to do something	c) to become a party to an agreement, treaty, or the like
4) to provide competence to something / somebody	d) to be dependent on something
5) to do something under the auspices of something / somebody	e) to commit oneself to do something by a solemn promise
6) to do something vis-à-vis something	f) to be under the authority of something
7) to be contingent on something	g) to give a court or other body legal authority to deal with a particular matter
8) to be empowered to do something	h) to claim or assert that someone has done something illegal or wrong, typically without proof
9) to be entitled to do something	i) to do something with the help, support, or protection of something / somebody
10) to be subject to something	j) to do something in relation to / with regard to something

READING 1: WHAT ARE HUMAN RIGHTS?

UNDERSTANDING MAIN POINTS

Read the text and answer the questions on the following issues:

1. Definition of human rights:

- 1) What rights of people are called 'human rights'?
- 2) What are the basic characteristics of human rights?
- 3) How did the idea of human rights originate?
- 4) How are human rights protected?
- 5) What are vertical and horizontal effects of human rights?
- 6) What are the main sources of contemporary conception of human rights?

2. Classification of human rights:

- 1) What do civil and political rights protect and ensure? Give examples of civil and political rights.
- 2) What do economic, social and cultural rights provide? Give examples of economic, social and cultural rights.
- 3) How are rights classified according to their generation?
- 4) How are rights classified according to the role of the government in their protection?

UNDERSTANDING DETAILS

1. Explain the difference between the words/phrases in the given pairs:

- | | |
|-------------------------------------|---------------------------------|
| 1) to be entitled – to be empowered | 6) compliance – enforcement |
| 2) inherent – universal | 7) violation – infringement |
| 3) inalienable – indivisible | 8) detention – exile |
| 4) arbitrary – impartial | 9) slavery – servitude |
| 5) interdependent – interrelated | 10) secret ballot – open ballot |

2. Explain the meaning of the following phrases:

- | | |
|-------------------------------|-----------------------------|
| 1) pillars of democracy | 5) due process |
| 2) political legitimacy | 6) presumption of innocence |
| 3) political and legal abuses | 7) ex post facto laws |
| 4) the rule of law | 8) double jeopardy |

Characteristics of human rights

Protection of fundamental human rights is one of the main **pillars of democracy**. Being held by every person against the state and society, they provide a framework for political organisation and a standard of **political legitimacy**.

Human rights are commonly understood as being those rights which one has simply because one is human. The concept of human rights is based on the belief that every human being **is entitled** to enjoy her/his rights and **is empowered** by them without discrimination. This descriptively simple idea has profound social and political consequences.

Human rights differ from other rights in two respects. Firstly, they are characterised by being:

- **Inherent** – they are inherent in human beings by virtue of their humanity alone, they do not have to be granted;
- **Universal** – they are exercised by all human beings, universally;
- **Inalienable** – they cannot be alienated; one can no more lose these rights than one can stop being a human being, no matter how inhuman the treatment one may suffer;
- **Equal** – human rights are equally applicable to all;
- **Indivisible** – they cannot be divided according to their importance as no right is more important than any other;
- **Interdependent and interrelated** – the enjoyment of one human right often depends on the ability to freely exercise other human rights.

Secondly, human rights are international norms that protect all people everywhere from severe political, legal, and social **abuses**. They are addressed primarily to governments, requiring **compliance** and **enforcement**. Therefore, the main duties deriving from human rights fall on states and their authorities, not on individuals.

The idea of basic rights originated from the need to protect the individual against the **arbitrary** use of state power. Attention was therefore initially focused on those rights which oblige governments to refrain from certain actions. Human rights in this category are generally referred to as 'fundamental freedoms'. As human rights are viewed as a **precondition** for leading a dignified human existence, they serve as a guide and touchstone for legislation.

Human rights must themselves be protected by law ('**the rule of law**'). Furthermore, any **disputes** about these rights should be **submitted for adjudication** through a competent, **impartial** and independent tribunal, **applying procedures** which ensure full equality and fairness to all the parties, and determining the question in accordance with clear, specific and **pre-existing laws**, known to the public and openly declared.

The primary purpose of human rights is to establish rules for relations between the individual and the state, but some human rights also have implications for relations among individuals. Impact of human rights on the individual-state relationship is known as '**vertical effect**' while impact of human rights on the relationship among individuals is called '**horizontal effect**'. The latter implies, among other things, that a government not only has an obligation to refrain from **violating** human rights, but also has a duty to protect the individual from **infringements** by other individuals. The right to life thus means that the government must strive to protect people against homicide by their fellow human beings.

The main sources of the contemporary conception of human rights are the Universal Declaration of Human Rights (United Nations, 1948) and the many human rights documents and treaties that followed in international organisations such as the United Nations, the Council of Europe, the Organization of American States, etc.

Classification of human rights

Human rights can be organised and classified in a number of different ways. Whatever classification is used, it is important to note that international human rights law stresses that all human rights are **universal, indivisible and interrelated**.

At an international level the most common categorisation of human rights has been to split them into **civil and political rights**, and **economic, social and cultural rights**. Civil and political rights are enshrined in articles 3 to 21 of the Universal Declaration of Human Rights. Economic, social and cultural rights are enshrined in articles 22 to 28 of the Universal Declaration of Human Rights.

Civil and political rights form the original and main part of international human rights. They protect individuals' freedom from infringement by governments and private organisations, and ensure one's ability to participate in the civil and political life of the state without discrimination or repression.

Civil rights ensure peoples' physical and mental integrity. They protect people from discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status and declare everyone's right to life, liberty and security of the person. Civil rights offer protection from physical violence against the person, torture and inhuman treatment, arbitrary arrest, detention, exile, slavery and servitude, interference with one's privacy and right of ownership, restriction of one's freedom of movement, and the freedom of thought, conscience and religion. Civil rights also include the right to equal treatment and protection in law and **due process** rights. These pertain, among other things, to the right to a public hearing by an independent and impartial tribunal, the '**presumption of innocence**', the *ne bis in idem* principle (freedom from **double jeopardy**), prohibition of **ex post facto laws** and legal assistance.

Political rights include freedom of expression, freedom of association and assembly, the right to take part in the government of one's country and the right to vote and stand for election at genuine periodic elections held by **secret ballot**.

Economic, social and cultural rights provide the conditions necessary for prosperity and wellbeing.

Economic rights refer, for example, to the right to property, the right to work, which one freely chooses or accepts, the right to a fair wage, the right to a reasonable limitation of working hours, trade union rights. **Social rights** are those rights necessary for an adequate standard of living, including the rights to health, shelter, food, social care, the right to education. **Cultural rights** encompass the right to participate freely in the cultural life of the community, the right to share in scientific advancement, the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which one is the author.

Another categorisation, offered by Karel Vasak, is that there are three generations of human rights: **first-generation human rights** (civil and political rights), **second-generation human rights** (economic, social and cultural rights) and **third-generation human rights** (solidarity rights such as the right to peace and the right to clean environment). Out of these generations, the third generation is the most debated and lacks both legal and political recognition.

Political scientists make also a distinction between negative and positive rights. According to this view, positive rights usually **oblige action**, whereas negative rights usually **oblige inaction**. These obligations may be of either a legal or moral character. **Negative rights** restrain other persons or governments by limiting their actions towards or against the right holder. In other words, it enables the right holder to be left alone in certain areas. For example, the right to be secure in one's home requires that others refrain from trespassing or entering without permission. **Positive rights**, on the other hand, essentially provide the right holder with a claim against another person or the state for some good, service, or treatment. For example, a right to housing obligates someone – presumably the state – to provide the right holder with housing, typically via resources obtained from others. Negative rights include most civil and political rights while positive rights include economic, social and cultural rights. In the "three generation" account of human rights, negative rights are associated with the first generation of rights, while positive rights are associated with the second and third generations of rights.

READING 2: INTERNATIONAL HUMAN RIGHTS ORGANISATIONS

UNDERSTANDING MAIN POINTS

Read the text and answer the questions on the following issues:

1. Intergovernmental human rights organisations:

- 1) What are intergovernmental organisations composed of and what are their types?
- 2) What are the most known intergovernmental organisations dealing with human rights?
- 3) What legal instruments are used by intergovernmental organisations to protect human rights?
- 4) What mechanisms are used to oversee the implementation of legal human rights instruments?

2. Non-governmental human rights organisations:

- 1) Who create and are members of non-governmental organisations?
- 2) What are the most known non-governmental human rights organisations?
- 3) What measures do non-governmental organisations use to protect human rights?

UNDERSTANDING DETAILS

1. Explain the difference between the words/phrases in the given pairs:

- 1) to protect human rights – to promote human rights
- 2) global – regional
- 3) declaration – convention
- 4) natural person – legal person
- 5) public condemnation – public advocacy
- 6) to oversee – to monitor

2. Give the synonyms or definitions of the following phrases:

- 1) to conclude a treaty
- 2) to ratify a treaty
- 3) to accede to a treaty
- 4) to be contingent on smth.
- 5) remedial action
- 6) grass-root level

Many international organisations around the world dedicate their efforts to protecting human rights and ending human rights abuses. They include both **intergovernmental organisations** and **non-governmental organisations**.

Intergovernmental human rights organisations

Intergovernmental organisations (IGO) are composed of sovereign states (referred to as member states). They are **global** or **regional**. Any state may become a member of a global organisation while regional organisations comprise only states of a particular region. United Nations is the largest and most influential global intergovernmental organisations dealing with human rights in the world. The regional intergovernmental organisations **promoting human rights** include Council of Europe, Organisation of American States, Association of Southeast Asian Nations, etc.

Intergovernmental organisations protect human rights by **legal human rights instruments**. These can be classified into two categories: **declarations**, adopted by bodies such as the United Nations General

Assembly, which are not legally binding although they may be politically so; and **conventions**, which are **legally binding instruments** concluded under international law.

International human rights instruments can be divided further into **global instruments**, to which any state in the world can be a party, and **regional instruments**, which are **restricted** to states in a particular region of the world.

Most conventions establish mechanisms **to oversee their implementation**. In some cases these mechanisms have relatively little power, and are often ignored by member states; in other cases these mechanisms have great **political and legal authority**, and their decisions are almost always implemented. Examples of the first case include the UN treaty committees, while the best exemplar of the second case is the European Court of Human Rights.

Mechanisms also **vary** as to the degree of individual access to them. Under some conventions (e.g. the European Convention on Human Rights) individuals are permitted automatically to take individual cases to the enforcement mechanisms. Under most, however, (e.g. the UN conventions) individual access is **contingent** on the acceptance of that right by each state party, either by a declaration at the time of **ratification** or **accession**, or through ratification of or accession to a protocol to the convention. This is part of the evolution of international law over the last several decades. It has moved from a body of laws governing states to recognizing the importance of individuals and their rights within the international legal framework.

Non-governmental human rights organisations

Non-governmental organisations (NGO) are created by **natural** or **legal persons** with no participation or representation of any government. They can be organised on a local, national or international level. The non-governmental human rights organisations include Amnesty International, Human Rights Watch, United for Human Rights, Children's Defence Fund, etc.

Globally, the champions of human rights have most often been citizens, not government officials. In particular, non-governmental organisations have played a primary role in focusing the international community on human rights issues.

Non-governmental organisations **monitor** the actions of governments and **pressure** them to act according to human rights principles. Major NGOs maintain extensive websites documenting violations and calling for **remedial action**, both at a governmental and grass-roots level. Public support and condemnation of abuses is important to their success, as NGOs are most effective when their calls for reform are backed by strong **public advocacy**.

READING 3: THE UNITED NATIONS: MAIN FACTS, OBJECTIVES AND THE WORK ON PROTECTION OF HUMAN RIGHTS

UNDERSTANDING MAIN POINTS

Read the text and answer the questions on the following issues:

1. Basic facts and objectives of the UN:

- 1) When was the UN established and where is it situated?
- 2) How many state members does it have and what are its official languages?
- 3) What are the main objectives of the UN?

2. Universal Declaration of Human Rights:

- 1) When and why was the Universal Declaration of Human Rights adopted?

- 2) What human rights does the Declaration proclaim?
- 3) What legal power does the Declaration have and what role does it play in promotion of human rights in the world?

3. International covenants on human rights:

- 1) What treaties were concluded on the basis of the Universal Declaration of Human Rights?
- 2) What was the main controversial issue in the process of preparation of the covenants and how was it solved?
- 3) What are the obligations of the states parties to the International Covenant on Civil and Political Rights and what are the obligations of the states parties to the International Covenant on Economic, Social and Cultural Rights?

4. Monitoring protection of human rights:

- 1) What bodies of the UN are responsible for monitoring protection of human rights?
- 2) What are the objectives of the Human Rights Council and what mechanisms does it use to achieve them?
- 3) What are the Human Rights Committee and the Committee on Economic, Social and Cultural Rights responsible for and how do they fulfil their responsibilities?

UNDERSTANDING DETAILS

Explain the meaning of the following words/phrases:

- 1) extraterritoriality
- 2) famine
- 3) enforceable and justiciable rights
- 4) alleged violations
- 5) to pledge (oneself) to do smth.
- 6) to be subject to a jurisdiction

Basic facts and objectives

The United Nations is an intergovernmental organisation founded in 1945 after the Second World War by 51 countries to promote international cooperation.

The number of the state members has increased during the years, and now the UN has 193 state members. The UN Headquarters is situated in Manhattan, New York City and enjoys **extraterritoriality**. Further main offices are situated in Geneva, Nairobi and Vienna. The UN has six official languages, used in intergovernmental meetings and documents: Arabic, Chinese, English, French, Russian, and Spanish.

Its objectives include maintaining international peace and security, promoting human rights, fostering social and economic development, protecting the environment, and providing humanitarian aid in cases of famine, natural disaster, and armed conflict.

Universal Declaration of Human Rights

One of the UN's primary purposes is "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion", and member states pledge to undertake "joint and separate action" to protect these rights (United Nations Charter, Chapter IX).

In 1948, the General Assembly adopted a **Universal Declaration of Human Rights** (abbreviated **UDHR**) which was the first international legal effort to limit the behaviour of states and press upon them duties

to their citizens following the model of the rights-duty duality. It consists of 30 articles which proclaim basic civil, political, economic, social and cultural rights guaranteed to all human beings.

The Universal Declaration of Human Rights was adopted, not in the form of an international legally binding convention, but in the form of a resolution of the General Assembly, as a common understanding of the rights and freedoms that member states have pledged themselves to respect and observe and as **“a common standard of achievement for all peoples and all nations”** (UDHR, Preamble).

Though the declaration was not meant to be a **legally binding instrument**, as soon as it was adopted, it began to be used as a code of conduct and as a yardstick to measure the compliance by governments with the international standards of human rights. Today a great number of countries across the world have **incorporated the fundamental principles** of the Declaration into their laws and practices and millions of people enjoy their **core rights**.

International covenants on human rights

The Universal Declaration of Human Rights has become the basis of two binding treaties, the 1966 **International Covenant on Civil and Political Rights** and **International Covenant on Economic, Social and Cultural Rights**.

The UN devoted 19 years (1947–1966) to the preparation of the International Covenants on Human Rights. One problem that created a considerable amount of controversy, particularly in the early years, was whether the treaty that **would give legal effect** to the rights and freedoms set forth in the Universal Declaration of Human Rights should regulate only those rights that traditionally have been guaranteed in national constitutions and are known as “civil and political rights” or whether the treaty should also set forth “economic, social and cultural rights.”

It was eventually decided that there should be two covenants dealing with the two sets of provisions, respectively. The principal reason for having two separate instruments regulating the two groups of rights was the fundamentally different character of the rights concerned, which led some even to question whether “economic, social and cultural rights” are, technically, rights at all—in the sense of **enforceable and justiciable rights**. The different character of these rights made it necessary to provide for a difference in the type of international obligations to be undertaken by states that are parties to one or the other, or both, of the two covenants. Another reason for establishing two different covenants was thought to be the necessity to adjust the arrangements for international supervision – the “measures of implementation” – to the different character of the rights.

In the International Covenant on Civil and Political Rights, each state party undertakes to *respect* and to *ensure* to all individuals within its territory and **subject to its jurisdiction** the rights recognised in that covenant. In the International Covenant on Economic, Social and Cultural Rights, each state party undertakes only to *take steps*, individually and through international assistance and cooperation, to the maximum of its available resources, *with a view to achieving progressively* the full realisation of the rights recognised in that covenant. Subject to certain exceptions and modifications, the International Covenant on Civil and Political Rights imposes upon states parties the obligation to maintain defined standards. The states parties to the International Covenant on Economic, Social and Cultural Rights assume the obligation to promote an objective – the achievement of human rights.

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights are **legally binding human rights agreements**. Both **were adopted** by the General Assembly in 1966 and **entered into force** ten years later, making many of the provisions of the Universal Declaration of Human Rights **effectively binding**. As of 2014, the Covenant on Civil and Political Rights has 168 parties, and the Covenant on Economic, Social and Cultural Rights has 162 parties.

Monitoring protection of human rights

The UN employs different human rights monitoring mechanisms: **UN Charter-based bodies**, including the Human Rights Council, and **UN treaty-based bodies** created under the international human rights treaties and made up of independent experts mandated to monitor states parties' compliance with their treaty obligations.

The main Charter-based human rights body is **UN Human Rights Council** (UNHRC). It was established in 2006 by the UN General Assembly and replaced the previous UN Commission on Human Rights.

The Human Rights Council is responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year.

In 2007, one year after holding its first meeting, the UNHRC adopted Institution-building package which provides mechanisms necessary to achieve its objectives. Among them are:

- the Universal Periodic Review mechanism which serves to assess the human rights situations in all United Nations member states,
- the Advisory Committee which serves as the Council's "think tank" providing it with expertise and advice on thematic human rights issues, and
- the Complaint Procedure which allows individuals and organisations to bring human rights violations to the attention of the Council.

In addition to Charter-based bodies, the UN has treaty-based bodies of independent experts which are responsible for monitoring human rights. The above-discussed international covenants on human rights are monitored by **Human Rights Committee** and **Committee on Economic, Social and Cultural Rights**. The former monitors implementation of the International Covenant on Civil and Political Rights by its states parties while the latter monitors implementation of the International Covenant on Economic, Social and Cultural Rights by its states parties.

All states parties are obliged **to submit regular reports** to the Committees on how **the rights are being implemented**. The Committees examine each report and addresses its concerns and recommendations to the state party in the form of concluding observations.

In addition to the reporting procedure, the Covenants and their Optional Protocols **provide** the Committees **competence** to consider inter-state complaints and examine individual complaints with regard to alleged violations of the Covenants.

READING 4: COUNCIL OF EUROPE: MAIN AIMS, ACTIVITIES AND THE WORK ON PROTECTION OF HUMAN RIGHTS

UNDERSTANDING MAIN POINTS

Read the text and answer the questions on the following issues:

1. Basic facts and objectives:

- 1) When was the Council of Europe founded and where is it situated?
- 2) How many members does it have and what are its official languages?
- 3) What are the main objectives of the Council of Europe?

2. European Convention on Human Rights:

- 1) When was the European Convention on Human Rights adopted and how many states parties does it have?
- 2) What does it secure and prohibit?
- 3) What unique mechanism for protection of human rights did it establish?

3. European Court of Human Rights:

- 1) How is the Court called informally and why?
- 2) What is the composition of the Court? Characterise it by presenting the number of the judges, the length of their term of office, requirements for their election.
- 3) What is the mission and jurisdiction of the Court?
- 4) What human rights violations does the Court deal with most frequently?
- 5) How will the EU's accession strengthen the protection of human rights in Europe?

UNDERSTANDING DETAILS

Explain the meaning of the following words/phrases:

- 1) to commit oneself to smth
- 2) to be a cornerstone of all activities
- 3) under the auspices of smth
- 4) prerequisite
- 5) to award damages
- 6) vis-à-vis

Basic facts and objectives

The **Council of Europe** is an intergovernmental organisation founded in 1949 to promote cooperation between all countries of Europe.

The Council of Europe has 47 member states, 28 of which are members of the European Union. The Council is headquartered in Strasbourg, France. Its two official languages are English and French.

The main objectives of the Council of Europe are to promote cooperation between European countries in the areas of legal standards, human rights, democratic development, **the rule of law** and culture. The treaties signed **under the auspices of** the Council of Europe deal with humanitarian, economic, social and cultural problems.

The Council of Europe is an entirely separate body from the European Union. Both organisations function as concentric circles around the common foundations for European integration, but the levels of country integration are different in them. While the member states of the European Union **transfer national legislative and executive powers** to the EU institutions in specific areas under European Community law, Council of Europe member states **maintain their sovereignty** but **commit themselves through conventions** and cooperate on the basis of common values and common political decisions. Those conventions and decisions are developed by the member states working together at the Council of Europe.

European Convention on Human Rights

The Council of Europe promotes human rights through international conventions. The first and the most important of them is **the European Convention on Human Rights** (formally the Convention for the Protection of Human Rights and Fundamental Freedoms) which is the **cornerstone** of all activities of the Council of Europe. The Convention is an international treaty under which the member States of the Council of Europe promise **to secure** fundamental civil and political rights, not only to their own citizens but also to everyone **within their jurisdiction**.

Adopted in 1950 in Rome by the newly formed Council of Europe, the Convention entered into force in 1953. All member states of the Council of Europe are parties to the Convention, and its **ratification** is a **prerequisite** for new members to join the organisation.

The Convention established an unprecedented system of international protection for human rights, whereby individuals received the possibility of applying to the Court, set up by the Convention, for the **enforcement of their rights**.

The Convention secures:

- the right to life, liberty and security;
- the right to respect for private and family life;
- the right to a fair trial;
- freedom of expression;
- freedom of thought, conscience and religion;
- the protection of property and peaceful enjoyment of possessions;
- the right to vote in and stand for election.

The Convention prohibits:

- death penalty;
- torture and inhuman or degrading treatment or punishment;
- slavery and forced labour;
- arbitrary and unlawful detention;
- discrimination in the enjoyment of the rights and freedoms set out in the Convention;
- deportation of a state's own nationals or denying them entry and the collective deportation of foreigners.

European Court of Human Rights

The Convention established **the European Court of Human Rights** which started its work in 1959. The Court is based in Strasbourg, France and often referred to informally as the "Strasbourg Court".

The Court's mission is to **oversee the implementation** and **enforce** the Convention by **ruling over complaints** against **human rights violations committed by** states parties, and brought to the Court either by other states parties or by individuals subject to the jurisdiction of a state party. Any person who feels his or her rights have been violated under the Convention by a state party can take a case to the Court once all possibilities of appeal have been exhausted in the state concerned. The decisions of the Court are legally binding, and the Court has the power **to award damages**.

The establishment of a Court to protect individuals from human rights violations is an extremely **innovative feature** for an international convention on human rights, as it gives the individual an active role on the international arena (traditionally, only states are considered actors in international law). The European Convention is still the only international human rights agreement providing such a high degree of individual protection. States parties can also take cases against other states parties to the Court, although this power is rarely used.

The court consists of a number of judges equal to the number of states parties, which currently stand at forty-seven. The judges are elected for a non-renewable nine year term by majority vote in the Parliamentary Assembly of the Council of Europe from the three candidates nominated by each contracting state. Judges are elected whenever a sitting judge's term has expired or when a new state accedes to the Convention. The Convention requires that judges are of high moral character and to have qualifications suitable for high judicial office, or be a jurisconsult of recognised competence. Judges **are assumed** to be **impartial arbiters**, rather than representatives of any nation and are, therefore,

prohibited from having any institutional or other type of ties with the contracting state on behalf of whom they were elected.

The jurisdiction of the court is generally divided into inter-state cases, applications by individuals against contracting states, and advisory opinions. Applications by individuals constitute the majority of cases heard by the Court. Applications by individuals against contracting states, **alleging** that the state violates their rights under the Convention, can be made by any person, non-governmental organisation or group of individuals.

Since its creation in 1959, the European Court of Human Rights' rulings have resulted in many changes to legislation and have helped to strengthen the rule of law. More than ever, the Court is today the guarantor of human rights in Europe – the very conscience of Europe. Through the Court's **case-law**, the European Convention on Human Rights has become a dynamic and powerful instrument in the response to new challenges and the ongoing promotion of the rule of law and democracy in Europe.

Over the past half-century, the Court **has delivered** more than 12,000 **judgments**. The Convention provision which has been violated most is Article 6, as regards the right to a fair trial and the reasonable time requirement. The next most frequent violations are under Article 1 of Protocol No. 1 (protection of property) and Article 5 of the Convention (right to liberty and security).

The Court has also given rulings on various social issues such as abortion, assisted suicide, body searches, domestic slavery, adoption by homosexuals, wearing religious symbols at school, the protection of journalists' sources and even environmental issues.

The European Union is preparing to sign the European Convention on Human Rights, creating a common European legal space for over 820 million citizens. The EU's accession will strengthen the protection of human rights in Europe, by submitting the EU's legal system to independent external control. It will also close gaps in legal protection by giving European citizens the same protection **vis-à-vis** acts of the EU as they presently enjoy from member states.

POINTS TO REMEMBER

1. the rule of law

The term *the rule of law* denotes the legal principle that establishes the supremacy and government of law, and not of individual government officials. According to this principle, every citizen is subject to the law, including law makers themselves.

This phrase is also used as an attributive in the phrase *the rule of law state*, e.g.

For a state to be called a "rule of law state", certain basic elements and institutions must be in place.

2. due process (of law)

The term *due process* defines the legal principle that the state must respect all of the legal rights that are owed by a person. This principle requires fairness in all legal matters, both civil and criminal, especially in the courts.

The fifth Amendment of the US Constitution prohibits punishment without due process of law, thus protecting individuals from being imprisoned without fair procedures.

3. presumption of innocence, to be presumed innocent

The term *presumption of innocence* describes the principle that one is considered innocent until proven guilty. It is a legal right of the accused in a criminal trial. The burden of proof is thus on the prosecution, which has to collect and present enough compelling evidence to convince the court that the accused is guilty beyond reasonable doubt.

7. Civil rights _____ peoples' physical and mental integrity.
 A include C ensure
 B comprise D encompass
8. Economic, social and cultural rights _____ the conditions necessary for prosperity and wellbeing.
 A provide C refrain
 B restrain D pertain
9. Out of three generations of human rights, the third generation (solidarity rights) is the most debated and lacks both legal and political _____.
 A integrity C presumption
 B recognition D restriction
10. Positive rights provide the right _____ with a claim against another person or the state for some good, service or treatment.
 A committer C abuser
 B keeper D holder

Task 2. Insert the missing prepositions if necessary in the following phrases from the text "International human rights organisations".

- Intergovernmental organisations are composed _____ sovereign states.
- Regional organisations comprise _____ states of a particular region.
- United Nations is the largest and most influential global organisation dealing _____ human rights in the world.
- Conventions are legally binding instruments which are concluded _____ international law.
- Regional human rights instruments are restricted _____ states in a particular region of the world.
- Mechanisms monitoring the implementation of legal human rights instruments vary _____ the degree of individual access to them.
- Under most conventions, individual access is contingent _____ the acceptance of that right by each state party.
- Non-governmental organisations can be organised _____ a local, national or international level.
- They have played a primary role in focusing the international community _____ human rights issues.
- Non-governmental organisations monitor the actions of governments and pressure them to act _____ human rights principles.

Task 3. Complete the sentences using the words from the box. There are five extra words in the box.

accession, alleged, compliance, conducts, to consider, enjoys, incorporated,
jurisdiction, pledged, proclaim, to promote, provisions, ratification,
realisation, treaties

1. The United Nations is an intergovernmental organisation founded in 1945 after the Second World War by 51 countries _____ international cooperation.
2. The UN Headquarters is situated in Manhattan, New York City and _____ extraterritoriality.
3. The Universal Declaration of Human Rights consists of 30 articles which _____ basic civil, political, economic, social and cultural rights guaranteed to all human beings.
4. The member states have _____ themselves to respect and observe the rights and freedoms set forth in the Declaration.
5. Today a great number of countries across the world have _____ the fundamental principles of the Declaration into their laws and practices.
6. The Declaration has become the basis of two binding _____, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.
7. It was decided that there should be two covenants dealing with the two sets of _____.
8. In the International Covenant on Civil and Political Rights, each party undertakes to respect and to ensure to all individuals within its territory and subject to its _____ the rights recognised in that covenant.
9. In the International Covenant on Economic, Social and Cultural Rights, each party undertakes only to take steps to the maximum of its available resources with a view to achieving progressively the full _____ of the rights recognised in that covenant.
10. UN treaty-based bodies are made up of independent experts mandated to monitor states parties _____ with their treaty obligations.

Task 4. Match the first part of the items (1 – 15) with their second part (a – o) as they were used in the text “United Nations: main facts, objectives and the work on protection of human rights”.

1) to maintain	a) legal effect to the rights and freedoms set forth in the Declaration
2) to foster	b) implementation of the Covenants
3) to provide	c) international peace and security
4) to give	d) upon the states parties the obligation to maintain defined standards
5) to adjust	e) inter-state complaints
6) to undertake	f) into force
7) to impose	g) regular reports
8) to assume	h) social and economic development
9) to enter	i) individual complaints
10) to employ	j) the obligation to promote an objective
11) to monitor	k) the human rights situations

12) to assess	l) humanitarian aid
13) to submit	m) different human rights monitoring mechanisms
14) to consider	n) the arrangements for international supervision
15) to examine	o) to respect and to ensure the rights recognised in the covenant

Task 5. Complete the sentences using the words from the box. There are five extra words in the box.

accedes, arbitrary, assumes, to award, commit, constitute, enjoyment, entry, executive, fair, legislation, to oversee, prerequisite, transfer, treat

- Under European Community law, the member states of the European Union _____ national and legislative powers in specific areas to the EU institutions.
- The member states of the Council of Europe maintain their sovereignty, but _____ themselves through conventions and cooperate on the basis of common values and common political decisions.
- The ratification of the Convention is a _____ for new members to join the Council of Europe.
- The Convention secures the right to a _____ trial.
- The Convention secures the protection of property and peaceful _____ of possessions.
- The Convention prohibits _____ and unlawful detention.
- The Convention prohibits deportation of a state's own nationals or denying them _____ and the collective deportation of foreigners.
- The mission of the European Court of Human Rights is _____ the implementation and to enforce the Convention.
- The Court has the power _____ damages.
- Judges of the Court are elected whenever a sitting judge's term has expired or when a new state _____ to the Convention.

Task 6. Insert the missing prepositions

- The treaties signed _____ the auspices of the Council of Europe deal with humanitarian, economic, social and cultural problems.
- The Council of Europe promotes human rights _____ international conventions.
- Under the European Convention on Human Rights, the member states of the Council of Europe promise to secure fundamental civil and political rights not only to their own citizens, but also to everyone _____ their jurisdiction.
- Adopted in 1950 in Rome, the Convention entered _____ force in 1953.
- The Convention set _____ the Court of Human Rights with offices in Strasbourg.
- Individuals received the possibility of applying _____ the Court _____ the enforcement of their rights.
- The Convention prohibits discrimination _____ the enjoyment of the rights and freedoms set _____ in the Convention.
- The Court's mission is to enforce the Convention by ruling _____ complaints _____ human rights violations committed by states parties.

9. Any person who feels his or her rights have been violated _____ the Convention by a state party can take a case _____ the Court once all possibilities of appeal have been exhausted in the state concerned.
10. The Court gives the individual an active role _____ the international arena (traditionally, only states are considered actors _____ international law).

Task 7. Match these words/phrase (1-10) with the words/phrase which have similar meanings (a-j).

1) to enjoy human rights	a) to commit oneself to
2) to promote human rights	b) to depend on b
3) to monitor	c) to encourage human rights adherence
4) to be enshrined	d) to establish
5) to pledge oneself to	e) to exercise human rights
6) impartial	f) infringement
7) arbitrary	g) to keep
8) to be contingent on	h) neutral
9) violation	i) observance obedience
10) compliance	j) to oversee, to supervise
11) prerequisite	k) precondition
12) to ensure	l) subjective; autocratic
13) to set up	m) to secure
14) under the auspices of	n) to be set out
15) to maintain	o) with the help and support of

Task 8. Analyse the extracts from the English and the Lithuanian versions of *the European Convention on Human Rights* and translate the underlined parts of the English provisions into Lithuanian.

Article 1 – Obligation to respect human rights

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

Section I – Rights and freedoms

Article 2 – Right to life

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when

1 straipsnis - Pareiga gerbti žmogaus teises

----- garantuoja kiekvienam jų jurisdikcijoje esančiam žmogui teises bei laisves, apibrėžtas šios Konvencijos pirmame skyriuje.

Pirmas skyrius – Teisės ir laisvės

2 straipsnis – Teisė į gyvybę

1. Kiekvieno žmogaus teisė gyventi -----
----- Niekam negalima tyčia atimti gyvybės, išskyrus -----
----- .

2. Gyvybės atėmimas negali būti laikomas prieštaraujančiu šiam straipsniui, jeigu tai

it results from the use of force which is no more than absolutely necessary:

- a) in defence of any person from unlawful violence;
- b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3 – Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 4 – Prohibition of slavery and forced labour

- 1. No one shall be held in slavery or servitude.
- 2. No one shall be required to perform forced or compulsory labour.
- 3. For the purpose of this article the term “forced or compulsory labour” shall not include:

- a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
- b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
- c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
- d) any work or service which forms part of normal civic obligations.

Article 5 – Right to liberty and security

- 1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- a) the lawful detention of a person after conviction by a competent court;

įvyko neviršijant tokio jėgos panaudojimo, kai tai buvo neišvengiamai būtina:

- a) -----
----- ;
- b) -----
-----;
- c) nustatyta tvarka atliekamais teisėtais veiksmais malšinant riaušes ar sukilimą.

3 straipsnis – Kankinimo uždraudimas

Niekas -----

----- .

4 straipsnis – Vergijos ir priverčiamojo darbo uždraudimas

- 1. Niekas negali būti laikomas -----
----- .
- 2. Niekas negali būti verčiamas dirbti priverstinį ar privalomąjį darbą.
- 3. Šiame straipsnyje sąvoka “priverstinis ar privalomasis darbas” negali reikšti:
 - a) kokio nors darbo, kurį paprastai reikalaujama atlikti -----, taikant šios Konvencijos 5 straipsnio nuostatas, ir ----- ;
 - b) kokios nors karinės tarnybos arba tarnybos, kurios reikalaujama iš asmenų, atsisakančių nuo karinės tarnybos dėl įsitikinimų, vietoj karinės tarnybos tose šalyse, kur toks atsisakymas yra pripažįstamas;
 - c) kokios nors tarnybos, atliekamos dėl to, jog tai būtinai reikia, ar dėl stichinės nelaimės, kai kyla pavojus visuomenės egzistavimui ar gerovei;
 - d) kokio nors darbo ar tarnybos, kurie yra įprastinių pilietinių pareigų dalis.

5 straipsnis – Teisė į laisvę ir saugumą

- 1. Kiekvienas žmogus turi teisę į laisvę ir asmens neliečiamybę. Niekam negali būti atimta laisvė kitaip, kaip šiais atvejais ir -----
----- :

- b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

a) -----
----- ;

b) -----
-----, arba kai norima
garantuoti kokio nors įstatymo numatyto
įsipareigojimo vykdymą;

c) kai jis teisėtai suimamas ar sulaikomas, kad
būtų pristatytas kompetentingam teismo
pareigūnui, -----
----- ar kai pagrįstai
manoma, jog būtina užkirsti kelią padaryti
nusikaltimą, arba manoma, kad jis gali
pabėgti jį padaręs;

d) -----
jo auklėjimo priežiūros tikslais arba jo
teisėto suėmimo tikslais dėl to, kad jis
būtų pristatytas kompetentingam teismo
pareigūnui;

e) kai asmenys teisėtai sulaikomi, siekiant
užkirsti kelią infekcinėms ligoms plisti,
arba kai sulaikomi psichiškai nesveiki
asmenys, alkoholikai, narkomanai ar
valkatos;

f) kai žmogus teisėtai suimamas ar sulaiko-
mas dėl to, kad negalėtų be leidimo
įvažiuoti į šalį, ar kai imamas veiksmų jį
deportuoti ar išduoti kitai valstybei.

2. -----

----- .

3. Kiekvienas sulaikytasis ar suimtasis pagal
šio straipsnio 1 (c) punkto nuostatas -----

-----, ir -----
----- . Paleidimas
gali būti sąlygojamas garantijų, kad jis atvyks
į teismą.

4. Kiekvienas, kuriam atimta laisvė dėl
sulaikymo ar suėmimo, -----
----- skųsdamasis, kad
neteisingai sulaikytas, kuris nedelsdamas turi
priimti sprendimą ir, jeigu asmuo sulaikytas
neteisingai, nuspręsti jį paleisti.

5. Kiekvienas asmuo, kuris yra sulaikymo ar
suėmimo auka pažeidžiant šio straipsnio
nuostatas, -----
----- .

Article 6 – Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

- a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- b) to have adequate time and facilities for the preparation of his defence;
- c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7 – No punishment without law

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a

6 straipsnis – Teisė į teisingą bylos nagrinėjimą

1. Nustatant kiekvieno asmens pilietines teises ir pareigas ar jam pareikštą baudžiamąjį kaltinimą, -----

----- . Teismo sprendimas turi būti paskelbtas viešai, tačiau spaudai ir publikai gali būti neleidžiama dalyvauti per visą teisminį nagrinėjimą ar jo dalį tiek, kiek to reikalauja visuomenės moralės, viešosios tvarkos ar valstybės saugumo interesai demokratinėje visuomenėje arba nepilnamečių ar bylos šalių privataus gyvenimo interesai, ar tada, kai, teismo nuomone, būtina dėl ypatingų aplinkybių, dėl kurių viešumas pažeistų teisingumo interesus.

2. Kiekvienas žmogus, -----

3. Kiekvienas asmuo, ----- , turi teisę mažiausiai į šias garantijas:

a) -----
----- ;

b) kad jis turėtų pakankamai laiko ir galimybių pasirengti savo gynybai;

c) -----
----- arba, jei jis neturi pakankamai lėšų tam gynėjui atsilyginti, turi gauti pagalbą nemokamai, kai to reikalauja teisingumo interesai;

d) ----- , ir turėtų teisę, kad gynybos liudytojais būtų iškviešti ir apklausti tomis pat sąlygomis, kokios taikomos kaltinimo liudytojams;

e) kad jis galėtų nemokamai naudotis vertėjo pagalba, jeigu jis nesupranta ar nekalba teismo procese vartojama kalba.

7 straipsnis – Nėra bausmės be įstatymo

1. -----

----- .

heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

2. This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8 – Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9 – Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10 – Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference

Taip pat negali būti skiriama griežtesnė bausmė negu ta, kuri galėjo būti taikyta nusikaltimo padarymo momentu.

2. Šis straipsnis -----

pagal civilizuotų tautų visuotinai pripažintus bendrus teisės principus.

8 straipsnis – Teisė į privataus ir šeimos gyvenimo gerbimą

1. Kiekvienas turi teisę į tai, kad būtų gerbiama jo asmeninis ir jo šeimos gyvenimas, buto neliečiamybė ir susirašinėjimo slaptumas.

2. -----

----- ir kai tai būtina demokratinėje visuomenėje valstybės saugumo, viešosios tvarkos ar šalies ekonominės gerovės interesams, siekiant užkirsti kelią teisės pažeidimams ar nusikaltimams, taip pat gyventojų sveikatai ar dorovei arba kitų žmonių teisėms ir laisvėms apsaugoti.

9 straipsnis – Minties, sąžinės ir religijos laisvė

1. Kiekvienas turi teisę į minties, sąžinės ir religijos laisvę; tai teisė laisvai keisti savo religiją ar tikėjimą, taip pat tiek vienam, tiek kartu su kitais, viešai ar privačiai, -----

----- .

2. Laisvė skelbti savo religiją ar tikėjimą ----- ir kiek būtinai reikia demokratinėje visuomenėje visuomenės saugumui, viešėjai tvarkai, sveikatai ir moralei ar kitų asmenų teisėms ir laisvėms apsaugoti.

10 straipsnis – Saviraiškos laisvė

1. Kiekvienas turi teisę laisvai reikšti savo mintis ir įsitikinimus. Tai teisė -----
----- .

by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Šis straipsnis neturi trukdyti valstybėms kelti reikalavimą licenzuoti radijo, televizijos ar kino įstaigas.

2. -----, kadangi tai susiję su pareigomis bei atsakomybe, -----

ir kurios demokratinėje visuomenėje būtinos valstybės saugumo, teritorinio vientisumo ar viešosios tvarkos interesams, siekiant užkirsti kelią teisės pažeidimams ir nusikaltimams, žmonių sveikatai bei moralei, taip pat kitų asmenų orumui ar teisėms apsaugoti, užkirsti kelią konfidencialios informacijos atskleidimui ar -----
----- .

GRAMMAR FOCUS

WORD FORMATION

Task 1. Complete the following table.

	VERB	NOUN	ADJECTIVE / PARTICIPLE
1	to promote		
2	to enforce		
3		violation	
4		infringement	
5	to ratify		
6	to accede		
7		condemnation	
8		advocacy	
9	to implement		
10	to allege		

Task 2. Group the adjectives from the Table in the Task 1 according to their suffixes, and indicate the words they are made from, e.g. *payable* (← *pay*). Write more examples of adjectives with the given suffixes.
What other suffixes do you know which form adjectives from verbs and nouns? Write them and give examples in the empty spaces of the Table.

ADJECTIVES

Suffix	Examples
-al	
-able	
-atory	
-ive	

VERB FORMS AND TENSES

Task 1. Complete the sentences with a correct passive form of the verbs in the brackets.

- Human rights _____ (to understand, commonly) as being those rights which one has simply because one is human.
- Human rights which guarantee the right to liberty, due process of law, freedom of thought, freedom of expression _____ (refer, generally) to as fundamental freedoms.
- Human rights, which are called negative rights, guarantee freedom from interference by other people, they enable the right holder _____ (to leave) alone in certain areas.
- Human rights must themselves _____ (to protect) by law.
- Any dispute about human rights should _____ (to submit) for adjudication through a competent, impartial and independent tribunal.
- The Universal Declaration of Human Rights _____ (to adopt) in 1948 as a resolution of the General Assembly.
- The Declaration _____ (to not mean) to be a legally binding instrument.
- As soon as the Declaration _____ (to adopt), it began _____ (to use) as a code of conduct and as a yardstick to measure the compliance by governments with the international standards of human rights.
- The European Court of Human Rights _____ (to establish) as a supranational court, that monitors the compliance of the European Convention on Human Rights and imposes sanctions in case of violations.
- The judges of the Court _____ (to assume) to be impartial arbiters, rather than representatives of any nation and _____ (to prohibit) from having any institutional or other type of ties with the contracting state on behalf of whom they _____ (to elect).

Task 2. Complete the sentences with a correct form of the verbs in the brackets.

1. The non-governmental human rights organisations _____ (to play) a vital role in protecting and promoting the human rights of the most vulnerable sectors of society.
2. Non-governmental organisations _____ (to monitor) the actions of governments and _____ (to pressure) them to act according to human rights principles.
3. The number of the state members _____ (to increase) during the years, and now the UN _____ (to have) 193 state members.
4. The member states _____ (to pledge) themselves to respect and observe the rights and freedoms set out in the Universal Declaration of Human Rights.
5. Today a great number of countries across the world _____ (to incorporate) the fundamental principles of the Declaration into their laws and practices and millions of people enjoy their core rights.
6. The UN _____ (to devote) 19 years (1947-66) to the preparation of the International Covenants on Human Rights.
7. One problem that created a considerable amount of controversy was whether the treaty _____ (to regulate) only civil and political rights or whether the treaty _____ (to set forth, also) economic, social and cultural rights.
8. The International Covenants _____ (to enter) into force ten years after their adoption making many of the provisions of the Universal Declaration of Human Rights effectively binding.
9. Over the past half-century, the European Court of Human Rights _____ (to deliver) more than 12,000 judgments.
10. The European Union _____ (to prepare) to sign the European Convention on Human Rights, creating a common European legal space for over 820 million citizens.

DISCUSSION

1. Visit the website of the **United Nations** <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>, read the sites of the Office of the High Commissioner of Human Rights and characterise its work by answering the following questions:
 - 1) Who is currently the High Commissioner of Human Rights in the UN?
 - 2) What is the Commissioner responsible for?
 - 3) What are the main areas of the work of the Office?
 - 4) How does the Office achieve its objectives?
 - 5) Choose one of the human rights issues discussed on the website of the UN (e.g. Rights of the Child, Women's human rights, Human Rights of Youth, etc.) and present the main problems of this issue and the activities done for their solution.
2. Visit the website of the **European Court of Human Rights** <http://www.echr.coe.int/Pages/home.aspx?p=caselaw>, find the site about Judgments and Decisions of the Court, choose one of the cases against the Republic of Lithuania conducted by the Court, analyse its report and answer the questions:
 - 1) How did the case originate (who applied to the Court and brought a case against the Republic of Lithuania)?

- 2) Which article of the Convention on Human Rights was allegedly violated by the Republic of Lithuania according to the applicant?
 - 3) What were the main facts of the case?
 - 4) What claim did the applicant make against the Republic of Lithuania?
 - 5) What legal documents were used in the hearing of this case?
 - 6) What judgement did the Court pass?
 - 7) What is your opinion about the claim of applicant and the judgement of the Court?
3. Visit the website of **Amnesty International** <http://www.amnesty.org/en>, read the information on the site and answer the questions:
- 1) What kind of organisation is Amnesty International? How many members does it have and from how many countries are they?
 - 2) When, where and by whom was it founded?
 - 3) What are the main aims of Amnesty International?
 - 4) How does Amnesty International carry out its work?
 - 5) Choose one of human rights issues (in a chosen country or on a chosen topic) discussed on the website of Amnesty International and present the main problems of this issue and the activities done for their solution.

FOLLOW-UP

Read the text "UK Breaches of Human Rights Law " (Part II. Reading for Law)

Icelandic Human Rights Centre <http://www.humanrights.is/en/human-rights-education-project>

United Nations <http://www.un.org/en/>

The Universal Declaration of Human Rights <http://www.un.org/en/documents/udhr/>

Council of Europe <http://www.coe.int/en/>

European Court of Human Rights <http://www.echr.coe.int/Pages/home.aspx?p=home>

European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms) http://www.echr.coe.int/Documents/Convention_ENG.pdf

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Part 2

READING FOR LAW

THE DEVELOPMENT OF COMMON LAW

Before the institutional stability imposed on England by William the Conqueror in 1066, English residents, like those of many other societies, particularly the Germanic cultures of continental Europe, were governed by unwritten local customs that varied from community to community and were enforced in often arbitrary fashion. For example, courts generally consisted of informal public assemblies that weighed conflicting claims in a case and, if unable to reach a decision, might require an accused to test guilt or innocence by carrying a red-hot iron or snatching a stone from a cauldron of boiling water or some other “test” of veracity (trial by ordeal). If the defendant’s wound healed within a prescribed period, he was set free as innocent; if not, execution usually followed.

In 1154, Henry II became the king. Among many achievements, Henry institutionalized common law by creating a unified system of law “common” to the country through incorporating and elevating local custom to the national level, ending local control and peculiarities, eliminating arbitrary remedies and reinstating a jury system – citizens sworn on oath to investigate reliable criminal accusations and civil claims. The jury reached its verdict through evaluating common local knowledge, not necessarily through the presentation of evidence, a distinguishing factor from today’s civil and criminal court systems.

Henry II developed the practice of sending travelling judges from his own central court to hear the various disputes throughout the country. His judges would resolve disputes on an ad hoc basis according to what they interpreted the customs to be. The king’s judges would then return to London and often discuss their cases and the decisions they made with the other judges. These decisions would be recorded and filed.

In time, a rule, known as *stare decisis* (also commonly known as precedent) developed, which is where a judge would be bound to follow the decision of an earlier judge; he was required to adopt the earlier judge’s interpretation of the law and apply the same principles promulgated by that earlier judge if the two cases had similar facts to one another. By this system of precedent, decisions ‘stuck’ and so the pre-Norman system of local customs was replaced by an elaborate and consistent system of laws that was common throughout the whole country, hence the name, “common law.”

Henry II’s creation of a powerful and unified court system, which curbed somewhat the power of canonical (church) courts, brought him (and England) into conflict with the church, most famously with Thomas Becket, the Archbishop of Canterbury. Eventually, Becket was murdered inside Canterbury Cathedral by four knights who believed themselves to be acting on Henry’s behalf.

Judge-made common law endured for centuries as the primary source of criminal and civil laws throughout the country. Later, after Parliament acquired legislative powers, statutory law began to limit the scope of the common law in some areas. Even today, however, common law retains its status as an essential element of the British legal system.

Task 1. Decide if the statements are true or false.

1. In early Britain judges did not resort to torture in making decisions.
2. Henry II contributed to the evolvement of the legal system, being uniform in the whole country.
3. The aim of travelling judges was to establish new customs in different places of the country.
4. According to prior court rulings, judges would be obliged to follow the decision of an earlier judge.
5. A newly established judicial system was in conformity with the canons of the church.
6. Today in Britain common law has lost its powerful status as an essential element of the British legal system and has been replaced by continental law.

Task 2. Match the definitions with the legal terms from the text.

1. The body of law contained in Acts of Parliament, as distinguished from the unwritten law
2. A law system in which legal decisions are based on judicial precedents
3. The legal means of enforcing a right or redressing a wrong
4. A doctrine of following principles laid down in previous judicial decisions; 'stand by things decided'
5. Force (an unwelcome decision or ruling) on someone
6. For this purpose
7. Subject to individual will or judgment without restriction; based solely on one's discretion
8. Of chief importance; principal
9. Being under legal or moral obligation

Task 3. Match the words to make collocations.

1) to enforce customs	a) common law
2) to weigh	b) criminal accusations
3) to test	c) arbitrary remedies
4) to institutionalize	d) on oath
5) to incorporate	e) decisions
6) to eliminate	f) conflicting claims
7) to swear	g) a verdict
8) to investigate	h) various disputes
9) to reach	i) local custom
10) to hear	j) in arbitrary fashion
11) to resolve disputes	k) the same principles
12) to file	l) guilt or innocence
13) to apply	m) the power of canonical courts
14) to curb	n) on an ad hoc basis

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Cambridge Dictionaries <http://dictionary.cambridge.org/>

MAGNA CARTA

Magna Carta went on to change the world, Prime Minister David Cameron has said, at the ceremony marking the 800th anniversary of the document that heralded modern democracy. (<http://www.bbc.com/news/uk-33126723>)

On June 15, 1215, King John (1199–1216) was surrounded on the battlefield at Runnymede by a cordon of England's most powerful barons, who demanded royal recognition for certain liberties and legal procedures they enumerated in a written document known today as the Magna Charta. Contained in the Magna Charta's 63 chapters are the seeds of trial by jury, due process, Habeas Corpus, and equality under the law. The Magna Charta was reissued three times during the reign of Henry III (1216–72) with some minor alteration, and confirmed by the Crown more than 30 times thereafter.

Sometimes called the Great Charter, the Magna Charta is widely considered to be the foundation of the English and U.S. constitutional systems, representing the first time the often tyrannical power of the monarchy was restrained by law and popular resistance. The Magna Charta was cited by Sir Edward Coke, esteemed English jurist and member of the House of Commons, in opposition to the monarchy's assertion of absolute power in the seventeenth century. During the American Revolution, colonists relied on the Magna Charta when they convened the First Continental Congress to restore the rights lost under the coercive legislation of Parliament.

Almost from its inception, the Great Charter has been imbued with two separate meanings, one literal and the other symbolic. The literal meaning is reflected by the original understanding of the Magna Charta in the thirteenth century; the symbolic meaning was developed by subsequent generations, which interpreted its provisions in light of a changing political landscape. The literal meaning was associated with the concrete rights enforced by the barons against the monarchy; the symbolic meaning became associated with the Rule of Law, an impartial system of justice, and government by the consent of the people and their representatives. To understand the symbolic importance attached to the Magna Charta, one must view the literal meaning in its original context.

The Magna Charta is the product of three competing legal jurisdictions: royal, ecclesiastical, and baronial. The royal system of justice maintained jurisdiction over all matters that affected the monarch's peace, directly or indirectly. Royal courts heard disputes at a central location in Westminster, and royal itinerant judges traveled locally to dispense the monarch's justice to communities across England.

The Catholic church, with the pope presiding as the spiritual head in Rome, ran the ecclesiastical courts. These courts maintained jurisdiction over the discipline of the church's clergy, religious offenses such as heresy, and most moral, marital, and testamentary matters.

Baronial courts were governed by barons, powerful men who were given titles of dignity by the Crown and who held large parcels of land, known as manors, from the monarch. Each baron, as lord of his manor, was invested with the authority to hear disputes involving his tenants, men and women who agreed to work the land in exchange for shelter and security.

John alienated both the ecclesiastical and baronial jurisdictions during his reign as king, converting them into adversaries. The first ten years of John's reign were consumed by controversy with the church. John considered the pope to be subordinate to the Crown and treated the archbishop as a mere civil servant. The church, on the other hand, considered itself to be a separate and independent sovereign that had shared power with the Crown since the time of Henry I (1100–1135). Henry I and the church had agreed that the nomination of bishops in England would tacitly remain with the king. But the pope retained power to confirm bishops by conferring upon them the honorary symbols of their title, the spiritual staff and ring.

The agreement between Henry I and the church provided no resolution for the controversy between King John and Pope Innocent III at the outset of the thirteenth century. The controversy began when Innocent III rejected John's candidate for archbishop of Canterbury and substituted his own choice,

Stephen Langton, a man of superior “moral and intellectual greatness” (Trevelyan 1982, 146). John responded by confiscating the church’s property in England. The papacy, whose power had grown as a result of its compromise with Henry I, subsequently undertook a series of steps to damage the Crown’s prestige and credibility.

The pope excommunicated King John, suspended religious sacraments in England, and declared the English empire a forfeit from God. Facing growing pressure from the church and increasing unpopularity among Catholics within his own country, John surrendered England to the papacy, receiving it back as a fief, which meant the Crown was now subordinate to Rome and was required to pay homage to the pope. These royal concessions satisfied the pope and made him a cautious ally of the Crown. Archbishop Langton was determined to achieve similar concessions for the barons.

The grievances voiced by the barons were quite different from those voiced by the church. The barons’ dissatisfaction stemmed from the manner in which the royal system of justice had been abused by King John. Prior to the reign of Henry II (1154–89), English Law had comprised a loose collection of customs and traditions followed by a variety of ethnic groups scattered across the realm. Henry II created a centralized system of justice that emanated from London, which the monarch’s officials administered in a uniform manner to all English people in common. Although this “common law” established a body of rights and procedures by which all litigants appearing before the ruler’s courts would theoretically be treated the same, it also vested an enormous amount of power in the Crown. The tension separating arbitrary royal power from the principle of equality under the law erupted during the struggle between King John and his baronial magnates.

King John regularly sold legal rights and privileges to the highest bidder, rewarded favorites, punished enemies, and otherwise administered justice in an erratic and unfair fashion. For a dispute to be heard by the royal courts, parties were required to pay the monarch fees, which varied from case to case depending on the circumstances. If the Crown was in need of emergency revenue—and it seemingly always was during the reign of King John—these litigation fees were increased commensurate with the urgency of a particular financial crisis. Litigants in good graces with the monarch typically paid lower court fees than litigants in disfavor. A defendant who requested the postponement or suspension of a legal matter was required to pay a greater fee than the plaintiff was charged.

Such litigation fees, which were paid in all legal matters—civil, criminal, matrimonial, and probate—simply enabled parties to assert their claims and defenses before the royal court. They did not guarantee a particular outcome, although the amount paid may have influenced the outcome, and they bore no relationship to the penalty or fine imposed on the losing party. Consequently, defendants who paid an exorbitant fee just to present an unsuccessful defense often faced fines of an equally outrageous amount. Defendants who suffered incarceration for a wrongdoing were usually forced to purchase their freedom from the monarch.

The manner in which the ruler enforced and collected royal debts was no less capricious. Litigants who could not afford to pay the legal fees set by the Crown frequently borrowed money from the ruler in order to pursue a particular right or remedy. The terms of such loan agreements were typically draconian. As collateral for these loans, John required the debtors to pledge their estates, personal property, and sometimes family members. In one case, a debtor was forced to pledge his castle and four sons as collateral. On other occasions, friends and family members of the debtor were held hostage by the king until the loan was repaid in full.

In some instances, the king simply forgave a loan because the debtor was a personal friend, had promised political favors, or had provided an invaluable service. In most instances, the invaluable service was military duty. During the thirteenth century, each baron was required to serve as a soldier in the monarch’s army, and provide the Crown with a certain number of knights for military service. A fine could be paid in lieu of the baron’s military service, and a tax, known as scutage, was then paid in lieu of the knights’ service. When King John launched a military campaign, he dramatically increased the fines and taxes for nonservice, and used these monies to pay mercenaries to fight his battles.

Although King John dreamed of building an English empire through military conquest on the European continent, he was an utter failure on the battlefield. With each military loss, the miscellaneous economic demands made by the Crown seemed less justified and more absurd. It is not surprising, then, that the barons renounced loyalty to the king, plotted his assassination, and ultimately compelled his capitulation to the Magna Charta.

The grievances King John promised to redress in the Magna Charta represent both the substance of the Great Charter's original meaning and its later symbolic import. The document's immediate purpose was to appease the baronial leadership. In this vein, it provided that justice would not be sold, denied, or delayed (ch. 40), and ensured that certain rights and procedures would be "granted freely" without risk of "life or limb" (ch. 36). It guaranteed the safe return of hostages, lands, castles, and family members that had been held as security by the Crown for military service and loan agreements. The Magna Charta mandated the investigation and abolition of any "ill customs" established by King John (ch. 48), and required that no "justices, constables, sheriffs, or bailiffs" be appointed unless they "know the law of the land, and are willing to keep it" (ch. 45).

Chapter 39 of the Magna Charta linked the law-of-the-land principle with another important protection. It provided, "No free man shall be seized, or imprisoned, or disseised, or outlawed, or exiled or injured in any way, nor will we enter on him or send against him except by the lawful judgment of his peers, or by the law of the land." In 1215, a person obtained "lawful judgment of his peers" through a communal inquest in which 12 knights or landowners familiar with the subject matter of the dispute took an oath, and swore to testify truthfully based on their own knowledge or on knowledge gained from an eyewitness or other credible source.

This primitive form of fact-finding replaced even cruder methods—such as trial by battle, where the disputants fought savagely until one party begged for mercy or died, and the victorious party was presumed to have God and Right on his side. The process of one's peers in the community rendering judgment also presaged the modern trial by jury recognized by the Seventh Amendment to the U.S. Constitution, which similarly entitles a defendant to be tried by a body of jurors that is a "truly representative" cross section of the community (*Glasser v. United States*, 315 U.S. 60, 62 S. Ct. 457, 86 L. Ed. 680 [1942]).

The U.S. Supreme Court has also traced the origins of modern habeas corpus law to chapter 39 of the Magna Charta (*Murray v. Carrier*, 477 U.S. 478, 106 S. Ct. 2639, 91 L. Ed. 2d 397 [1986]). Habeas corpus is a procedure that authorizes a court to determine the legality under which a person is jailed, imprisoned, or otherwise detained by the government. If the court finds that the person was deprived of liberty through "due process of law", continued detention is permissible until trial, where guilt and innocence are placed in issue. Similarly, the Magna Charta validated the continued imprisonment of persons who had been originally incarcerated by the "law of the land."

The contemporary significance of the Magna Charta is not confined to the areas of civil and criminal procedure. The Great Charter prohibited the government from assessing any military tax such as scutage "except by the common counsel of [the] realm" (ch. 12). The common counsel comprised persons from various classes of English society, including bishops, abbots, earls, and barons. The common counsel was a forerunner to Parliament and Congress as a representative body limiting the power of the government to pass legislation, particularly tax legislation, without popular consent.

The common counsel also proclaimed what would become a battle cry of the American colonists: No Taxation without Representation. Indeed, some colonists decried the Stamp Act, a statute passed by Parliament that taxed everything from newspapers to playing cards, as an illegal attempt to raise revenue in violation of the Magna Charta. Other colonists cited "the assembly of barons at Runnymede, when Magna Carta was signed" as precedent for the Continental Congress (Bailyn 1992, 173 n. 13).

The achievement of the Magna Charta, then, is found not only in the original meaning understood by Englanders of the thirteenth century, but also in the subsequent application of the document's principles. The Magna Charta began as a peace treaty between the baronial class and the king, but later symbolized a written contract between the governed and the government, a contract that included the right of rebellion when the government grew despotic or ruled without popular consent.

The Magna Charta also came to represent the notion of government bound by the law, sometimes referred to as the rule of law. The distinction between government according to law and government according to the will of the sovereign has been drawn by legal and political philosophers for thousands of years. This distinction was also made during the reign of King John. For example, Peter Fitz Herbert, an important landowner, complained that his father had been "disseised" of land "by the will of the king" despite evidence that the land belonged to his family as a matter of "right."

In another case, jurors returned a verdict against the Crown because the king had acted "by his will and without judgment" (Holt 1965, 91). For subsequent generations, in both England and the United States, the Magna Charta signified the contrast between tyrannical government unfettered by anything but the personal whims of its political leadership, and representative government limited by the letter and spirit of the law. The Magna Charta implied that no government official, not even an autocratic monarch asserting absolute power, is above the law.

Finally, the Magna Charta has come to symbolize equality under the law. Although the baronial leadership of 1215 represented a privileged class of male landowners, many provisions of the Magna Charta safeguarded the interests of women as well. For example, the Magna Charta granted women the right to refuse marriage and the option to remarry. It also protected a widow's dower interest in one-third of her husband's property.

Some provisions of the Magna Charta applied more broadly to all "free" individuals (ch. 39), whereas other provisions seemingly applied to every person in the realm, free or not. Chapter 16, for example, stated that "no one" shall be compelled to perform service for a knight's fee, and chapter 42 guaranteed a safe return to "anyone" who left the realm.

The most telling provision in this regard was chapter 40, which provided that "justice" will be sold to "no one." This provision embodies more than the idea that justice is cheapened when bought and sold. It also underscores the principle that all persons, rich and poor, must be treated the same under the law. An extension of this principle was captured by the equal protection clause of the Fourteenth Amendment to the U.S. Constitution, which, as interpreted by the Supreme Court, invalidates laws that discriminate on the basis of, among other things, race, gender, national origin, and illegitimacy.

Task 1. Decide if the statements are true or false.

1. The Magna Charta is regarded to be the first instrument which upheld approval to the imperious power of the monarchy.
2. The issue of the Magna Charta gave the impetus to the American Revolution in the seventeenth century.
3. The Magna Charta is the outcome of three rivalrous legal jurisdictions.
4. Henry II created a system of justice that came out from all parts of the country and the procedures of which were satisfactory to both the Barons and the church.
5. In all cases the king was a fair judge to all his subjects.
6. The principle of the law of the land in the articles of the Magna Charta is related to the principles expressed in the doctrine of Habeas Corpus.
7. The principles of the rule of law in ruling the state were for the first time clearly traceable in the document of the Magna Charta.
8. The clauses of the Magna Charta outlined the rights and freedoms of men, however, the rights of women were not spoken about yet.

Task 2. Complete the extracts with the appropriate legal terms from the text.

1. The literal meaning of the Magna Charta was associated with the concrete rights _____ by the barons against the monarchy.
2. The symbolic meaning of the document became associated with the Rule of Law, an impartial system of justice, and government by _____ of the people and their representatives.
3. The Catholic church courts maintained _____ over the discipline of the church's clergy, religious offenses such as heresy, and most moral, marital, and testamentary matters.
4. The "common law" established a body of rights and procedures by which all _____ appearing before the ruler's courts would theoretically be treated the same, however, it also _____ an enormous amount of power in the Crown
5. In 1215, a person obtained "lawful judgment of his peers" through a communal _____ in which 12 knights or landowners took _____, and swore to testify truthfully based on their own knowledge or on knowledge gained from _____ or other credible source.
6. The Magna Charta came to represent the notion of government bound by the law, sometimes referred to as _____.
7. If the court finds that the person was deprived of liberty through "due process of law", continued _____ is permissible until trial.
8. The provision underscores the principle that all persons, rich and poor, must be treated the same under _____.

Task 3. Match the definitions with the legal terms and phrases from the text.

1. The action or process of resisting authority, control, or convention
2. The income that a government or company receives regularly
3. Legal remedy against being wrongly imprisoned, Latin phrase meaning 'you may have the body'
4. The principle of government that all persons and bodies and the government itself are equal before and answerable to the law and no person shall be punished without trial
5. The body of law which includes legislation, Common Law, and a host of other legal norms established by Parliament, the Crown, and the judiciary
6. The term describes a course of action or a decision that is not based on reason or judgment but on personal will or discretion without regard to rules or standards
7. An amount of money paid for judicial proceedings
8. Term, clause, requirement or a statement within an agreement or a law
9. The provision that the law makes for a widow out of the lands or tenements of her husband, for her support and the nurture of her children
10. The destruction, total defeat or extinguishment of anything, but especially things of a permanent nature - such as institutions, usages, customs, etc. (e.g. slavery)

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LEGAL PROFESSION IN THE USA

Legal Specializations

Many American lawyers eventually specialize in a particular area. Lawyers may specialize in trial law (civil or criminal), appellate law (helping clients who seek to reverse or to uphold lower court decisions), bankruptcy law, trusts and estates, tax law, corporate law, environmental law, intellectual property, communication law, elder law, employment and labour law, entertainment law, health care law, education law, international law, etc. The list of specializations is almost endless and is always changing in response to new laws and novel legal issues.

Private Practice

The majority of lawyers of the USA work in private practice. Some work as solo practitioners, others in small or “boutique” law firms. Many work in firms that have several hundred lawyers in cities across the world. Lawyers usually join firms as “associates” and work toward becoming “partners.” The road to partnership is long and full of hurdles. In recent years it has become increasingly common for associates to join a law firm with the expectation that they will gain experience for a number of years but not stick around for a partnership decision. To retain more lawyers, some law firms now allow for “non-equity partnerships” or promote a few attorneys to non-partnership “of counsel” or “special counsel” positions. Life at a law firm, especially a large law firm, is influenced by “billable hours.” Each lawyer has a “billable rate” that is used to charge clients for time spent on client matters. In order to bill clients and to get credit for work performed, firm lawyers keep track of the activities they perform each day.

In-House

Other attorneys are employed by a single client and work “in-house” for that client, usually a large corporation. An in-house attorney advises the company on legal activities related to the company’s business. Large companies often have correspondingly large legal departments and a number of in-house attorneys who specialize in specific issues. For example, one might supervise litigation being handled by an outside firm, another might address the company’s employment issues, and a third might work as a lobbyist who monitors and tries to influence legislation related to the company’s business. Traditionally, many in-house attorneys obtain their positions when they are working in a law firm and are asked by a client to join the company. In-house lawyers often report that they enjoy greater control over their time than their law firm counterparts. Also, because in-house lawyers represent one client, they are not beholden to the “billable hour.”

Government

Most government lawyers work at the local level, but state governments and the federal government also hire lawyers to perform a multitude of tasks. Government lawyers include prosecutors (district attorneys, State Attorney Generals, and federal prosecutors who work at the Department of Justice here in D.C. and at U.S. Attorney’s Offices throughout the country) and public defenders (who represent those who cannot afford an attorney). Lawyers also work for the Environmental Protection Agency, the Office of Homeland Security, the Security Exchange Commission, the Consumer Product Safety Commission, the Patent and Trademark Office, and just about every other government agency that you can name. In addition, state legislative bodies and the United States Congress offer many exciting opportunities for lawyers to develop and help pass legislation.

Judicial Clerkship

Judicial clerks are a subset of government lawyers, but warrant separate mention. Judicial clerks research and draft memoranda and opinions for judges. Often, these intellectually stimulating and prestigious positions are short term. Frequently, recent law graduates will spend a year or two clerking before embarking on their legal careers. There are, however, some “permanent clerk” positions that allow for long-term employment.

Public Interest

Many public interest lawyers work for legal-aid societies, which are private, non-profit agencies designed to serve disadvantaged people. These lawyers might seek medical benefits for AIDS patients, represent the poor in landlord-tenant disagreements, or negotiate child visitation rights for individuals who cannot afford private attorneys. Other public interest lawyers work for non-profit organizations that seek to change the law. Lawyers might strive to strengthen environmental laws, to protect the rights of children in foster care, to promote civil rights of gays and lesbians, or to advocate for racial and religious tolerance. Public interest lawyers work on both the "left" and the "right". Some work to abolish abortion, while others work to strengthen abortion rights; some promote "victim's rights" and advocate in favour of the death penalty, while others strive to abolish the death penalty. Non-profit organizations often struggle for funding. As a result, many are willing to provide (non-paying) internships to interested college students. Even after law school, public interest lawyer positions are not high paying. But because they offer other rewards, these positions are often highly competitive.

Academia

Lawyers teach in law schools, colleges, and at other educational levels. Many lawyers who hope to become professors first gain teaching experience by working as an adjunct professor and teaching one course while working elsewhere full time. Practicing lawyers who want to teach also often look for publishing opportunities.

Task 1. Complete the sentences with the most appropriate ending.

1. Lawyers usually join law firms as _____.
 - a) associates
 - b) partners
 - c) in-house attorney
2. In private practice, lawyers' fees usually depend on _____.
 - a) the seriousness of the case
 - b) the state of being a partner of the law firm
 - c) the time spent on client matters
3. Which lawyers enjoy greater control over their time?
 - a) Lawyers working in private practice.
 - b) In-house lawyers.
 - c) Lawyers specializing in trial law.
4. Government lawyers include _____.
 - a) in-house lawyers
 - b) district attorneys
 - c) lawyers specializing in trusts and estates
5. Memoranda and opinions for judges are frequently drafted by _____.
 - a) State Attorney Generals
 - b) lawyers to develop and help pass legislation
 - c) judicial clerks

Task 2. Match the definitions with the legal terms from the text.

1. A legal arrangement in which you give a person or organization the right to manage money or property for a particular person or group of people that you have chosen to receive the money
2. The accepted rules and law that govern countries in their relations with other countries
3. A single practitioner, a lawyer working alone
4. A person who does a similar job to someone else but does not have all the responsibilities of the main position, or a member of an organization who does not have all the rights of a full member
5. One of the owners of a company or a law firm
6. A lawyer or group of lawyers whose job is to speak for someone in a court of law /
7. Used to describe time spent working that you can charge money for
8. The act or process of bringing about or contesting a lawsuit or all lawsuits collectively
9. The lawyer that initiates and carries out a legal action, especially in criminal proceedings
10. A lawyer (US)
11. Laws passed by an official body, such as Parliament
12. An official report about a particular subject that is written for a company, organization, or government to consider
13. To start something new or important
14. Not aiming to make a profit, but working to help people or to achieve an improvement in something
15. One who has received an academic degree or a diploma
16. To try to obtain or reach
17. To encourage the existence or development of something
18. One who is harmed or killed by another

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UNIVERSITIES 'IMPOSE ILLEGAL CONTRACTS ON STUDENTS'

Thousands of students have signed up to 'unlawful' contracts that allow universities to increase tuition fees arbitrarily or discontinue their course, an investigation has alleged.

University students can have their fees increased or their degree course altered on a whim as a result of unfair contract terms imposed by British universities, according to a recent investigation.

Consumer lobby group Which? said one in five universities were using unlawful contract terms to give them unlimited power to change courses once students have enrolled. After examining contracts between students and universities at 131 British institutions, Which? found that 20pc used terms that

contravened Unfair Terms in Consumer Contracts Regulations. By law, a contract term is “unfair” if it creates a significant imbalance between the student and the provider. The investigation found that some universities retained total power to vary courses as they saw fit, even after students had enrolled. But other universities retained discretion to make changes only in very limited circumstances, or with the unanimous consent of the students concerned.

Consumer lawyers have estimated that more than half of British universities impose some form of unfair contract terms, such as those that allow them significant power to change courses or fees. Four in 10 universities did not provide enough information in their contracts with students to analyse, “making it difficult for students to know where they stand”, Which? said.

‘UNLAWFUL’ PRACTICE AT 26 UNIVERSITIES

Twenty-six universities investigated were accused by Which? of imposing “unlawful” contract terms, while 40 others were accused of “bad practice”. “Unlawful” terms included the right to increase fees arbitrarily, the lobby group said. For example, one university told students: “in enrolling at the Institute, students accept fees in the second year and subsequent years of study will increase.”

Cardiff University, Stirling University, the Guildhall School of Music & Drama, the University of Westminster and University for the Creative Arts were among the institutions that, according to Which?, included unlawful terms relating to varying fees. Just one university, Stirling, responded to the allegations, confirming to this newspaper that it was reviewing its terms and conditions.

Four of the universities accused by Which? of “bad practice” – Cambridge, Oxford, Durham and Bath – are “top 10” institutions, according to a 2015 ranking by the Complete University Guide. “Bad practice” included unfair, but not explicitly illegal, terms imposed on students, including a university’s right to “discontinue” a course and “alter the timetable, location, numbers of classes” and syllabus.

Just one institution, the University of York, was considered to adhere to “best practice” by providing a detailed policy for approving changes that would affect students. York said changes would be allowed only if they were proved to cause no disadvantage to students, or where affected students unanimously consented. For negative changes that were “unavoidable”, there must be a plan to protect students’ interests.

Investigators at Which? demanded a reassessment of the terms or policies that allowed changes to courses, saying the issue should be “at the centre” of university policies. A Which? spokesman said: “In our view, variations to courses should only be allowed where the change is beneficial to students, or necessary in response to an event outside the provider’s control that it could not plan for. We think that a remedy – such as the right to withdraw or obtain compensation – should be available to students where a change is necessary due to circumstances beyond the provider’s control.”

Universities UK, the industry body, said that it is rare for a university to change a course while it is being taught. Nicola Dandridge of Universities UK said: “Universities frequently offer modules related to the research expertise of particular members of staff. This is an important part of what is unique about the university experience, but does mean that modules offered may sometimes be subject to change. Universities need to clearly state to potential students when this is the case to allow them to make informed decisions.”

The issue of unfair terms has previously been highlighted by Trading Standards, which in February 2014 criticised universities that prevent students from graduating if they had outstanding debts aside from tuition fees, such as library fines.

Task 1. Decide if the statements are true or false.

1. 'Unlawful' contracts mean that universities sometimes increase tuition fees arbitrarily or discontinue their course.
2. Which? Is a Student lobby group.
3. Some universities have infringed Unfair Terms in Consumer Contracts Regulations.
4. Some universities varied courses as they saw necessary, even after students had enrolled.
5. Consumer lawyers have estimated that one third of British universities impose some form of unfair contract terms.
6. Cardiff University, Stirling University, the Guildhall School of Music & Drama, the University of Westminster and University for the Creative Arts were among the institutions that have never misinformed students about the fees and courses.
7. The university of Stirling, denied the allegations about unfair fees.
8. "Bad practice" means unfair, but not explicitly illegal, terms imposed on students.
9. The university of York disregards changes causing disadvantages to students.
10. Investigators at Which? disagree that a remedy should be available to students where a change is necessary due to circumstances beyond the provider's control.
11. According to Trading Standards, students, having library fines, should not be prevented from graduating university.

Task 2. Choose the more appropriate word.

1. An investigation has alleged that many students have signed up to 'unlawful' contracts that allow universities to increase tuition fees *arbitrarily* / *fairly* or discontinue their course.
2. After examining contacts between students and universities at 131 British institutions, Which? found that 20pc used terms that *complied with* / *contravened* Unfair Terms in Consumer Contracts Regulations
3. The investigation found that some universities *retained* / *regained* total power to vary courses as they saw fit.
4. Some universities retained discretion to make changes only in very limited circumstances, or with the *unanimous* / *dissenting* consent of the students concerned.
5. It has been estimated that more than half of British universities *impose* / *imply* some form of unfair contract terms.
6. Forty universities were accused *with* / *of* "bad practice".
7. The University of York, was considered to *adhere to* / *circumvent* "best practice" by providing a detailed policy for approving changes that would affect students.
8. Variations to courses should only be allowed where the change is *beneficial* / *detrimental* to students.

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PRODUCT LIABILITY

Perhaps one of the most widely reported injury cases to reach the public's eye in modern history is *Stella Lieback v. McDonald's Corp.* We've all heard of the seventy-nine-year-old New Mexico woman who suffered third-degree burns as a result of spilling a cup of coffee she had bought at a McDonald's drive-through. Many people and even legal scholars around the world have made fun of this case and by extension the American legal system. Most assume Ms. Lieback received millions of dollars simply because she spilled a cup of coffee on herself while she was driving. On closer examination, however, the facts show that this case was actually an example of how the American products liability system works to change corporate behaviour and protect consumers.

In pre-trial discovery, the attorney for Ms. Lieback learned from McDonald's that the corporation had already been sued over seven hundred other times for burns and injuries caused by the temperature of the coffee. In each case, the injured party had settled with McDonald's.

As part of the settlement, the injured party was required to sign a confidentiality agreement which would bar the plaintiff from talking about the nature of the settlement.

During the trial it was established that in the U.S. coffee is routinely served at 135–145 degrees Fahrenheit (57–68 degrees Celsius) at home and in restaurants. In contrast, McDonald's served its coffee in its American stores at 180–190 degrees (82–87 degrees Celsius). When liquids that hot touch human skin, they can be very dangerous. On the day of her injury, her grandson, the driver of the car in which Ms. Lieback was a passenger, came to a complete stop so that Ms. Lieback could add cream and sugar to the coffee she had just received from the drive-through clerk. Ms. Lieback placed the cup between her knees and attempted to remove the plastic lid from the cup. As she removed the lid, the entire cup of coffee spilled into her lap. Because of the high temperature of the coffee, the burns were immediate, painful, and serious. Consequently, Ms. Lieback incurred medical bills over \$10,000 for skin grafts and several weeks of hospitalization. During later negotiations for reimbursement for the medical bills paid, McDonald's attempted to settle for \$800. Unable to reach a settlement, the family filed a lawsuit. At the trial, a McDonald's spokesperson held that although customers were going to be injured, it was appropriate to continue to serve the coffee at that temperature since the number of burned people would be "statistically insignificant." Although it seemed as though the jury initially found the case ridiculous, the members were so angered by McDonald's attitude that they found for Ms. Lieback. She was awarded \$200,000 in compensatory damages, which was reduced to \$160,000 when the jury determined that she was 20 percent responsible for the accident.

As punitive damages, they awarded an amount equal to McDonald's U.S. earnings from two days of coffee sales: \$2.7 million. Even though the judge later reduced the amount to \$480,000 and the parties actually settled for even less, the news media erroneously reported that Ms. Lieback was awarded "millions."

In response to this case, McDonald's began serving coffee at a lower temperature. This case serves as a good example of how the system actually does work to protect the consumer by changing corporate behaviour.

Task 1. Decide if the statements are true or false.

1. The case *Stella Lieback v. McDonald's Corporation* was tried in the state of Mexico.
2. The seventy-nine-year-old woman Lieback suffered second degree burns as a result of spilling a cup of coffee she had bought at McDonald's.
3. Some people assume that Ms Lieback spilled a cup of coffee on herself intentionally to receive millions of dollars.
4. This case illustrates that the American products liability system does work in practice.

5. McDonald's corporation had never been sued before for burns and injuries.
6. In each case, McDonald's corporation had to pay heavy compensatory damages.
7. McDonald's served its coffee hotter than it was routinely served in the US.
8. Ms Lieback spilled the coffee on her face, and the burns were immediate, painful, and serious.
9. Ms Lieback needed skin grafts.
10. During negotiations, McDonald's tried to settle the case out of court by offering \$8000 to Ms Lieback.
11. The jury found McDonald's attitude ridiculous.
12. Ms Lieback was awarded compensatory and punitive damages.

Task 2. Choose the more appropriate word.

1. Stella Lieback v. McDonald's Corp. seems to be one of the most widely *reported* / *concealed* injury cases to reach the public's eye in modern history.
2. Even legal scholars around the world have made *fortune* / *fun* of this case and the American legal system.
3. In pre-trial discovery, the attorney for Ms. Lieback learned from McDonald's that the corporation had already been sued over *seven hundred* / *seven* other times for burns and injuries caused by the temperature of the coffee.
4. Ms. Lieback placed the cup between her knees and attempted to remove the plastic lid from the cup. As she removed the lid, the entire cup of coffee spilled *into her lap* / *onto her feet*.
5. Ms. Lieback incurred medical bills over \$10,000 for skin grafts and *seventeen* / *several* weeks of hospitalization.
6. Unable to reach a settlement, the family *filed* / *filled* a lawsuit.
7. As *compensatory* / *punitive* damages, the court awarded an amount equal to McDonald's U.S. earnings from two days of coffee sales: \$2.7 million.
8. Compensatory damages were reduced to \$160,000 when the jury determined that Ms. Lieback was 20 percent *guilty* / *responsible* for the accident.
9. *In response to* / *regardless of* this case, McDonald's began serving coffee at a lower temperature.
10. This case is an example of how the American products liability system works to change *corporate* / *corporal* behaviour and protect consumers.

Task 3. Complete the summary of the case with the most appropriate words.

The facts show that this case was actually an example of how the American _____ system works to change _____ behaviour and protect _____.

In pre-trial discovery, the _____ for Ms Lieback learned from McDonald's that the corporation had already been _____ over seven hundred other times for burns and injuries caused by the temperature of coffee. In each case, the _____ had settled with McDonald's. As part of _____, the injured party was required to sign a _____ agreement which would bar the _____ from talking about the nature of the settlement.

She was awarded \$200,000 in _____ damages, which was reduced to \$160,000 when the jury determined that she was 20 percent _____ for the accident. As _____ damages they awarded an amount equal to McDonald's earnings from two days of coffee sales.

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MORALITY PREVENTS CRIME

A landmark study of criminal activity in teenagers indicates that some never see crime as a course of action while others are vulnerable to environmental inducements to crime. The study reveals factors that explain why some young people are 'crime-prone' and others 'crime-averse', and explains why crime hot spots occur.

The idea that opportunity makes the thief - that young people will inevitably commit crime in certain environments - runs counter to our findings.

A unique study of teenagers and the community in Peterborough over ten years shows that most adolescent crime is not just youthful opportunism but the combined result of personal characteristics and environmental factors. The findings show that certain urban environments provide triggers for crime to which some teenagers are more vulnerable, while others remain highly resistant to the potential for crime – regardless of the circumstances.

The groundbreaking Peterborough Adolescent and Young Adult Development Study - or PADS+ - at Cambridge's Institute of Criminology, tracked in detail the criminal activities of around 700 young people and explored how these relate to both their personal characteristics and social environments - while most studies of crime and its causes only focus on one or the other. The findings from the first 5 years of the study from ages 12-16 have been published in the book '*Breaking Rules*' (Oxford University Press).

The young people self-reported about 16,000 crimes during the study period - dominant types being violence, vandalism and shoplifting. Crime is often publicly perceived to be a natural part of teenage life in the 21st century - but the findings show that a third of teenagers committed no crimes at all, and the vast majority of the rest only occasionally - one or two minor crimes a year on average.

The bulk of offences were committed by a small group - with around 4% responsible for almost half the crime and the overwhelming majority of the most serious property crimes - such as burglaries, robberies and car theft. Often beginning before the age of 12, the most persistent offenders in the study were also highly versatile in their criminality – committing a wide range of offences.

The study suggests that a major reason why certain young people refrain from crime is not because they fear the consequences; it's that their morality simply prevents them from even seeing crime as a possible course of action in the first place.

The researchers found two main characteristics in teenagers resistant to committing crime - who they describe as 'crime-averse' - namely, a personal morality that closely matches the law and greater self-control. Those who committed little or no crime fit this model to a large extent.

Young people at the other end of the spectrum don't care very much about breaking the rules of the law and tend to be impulsive and short-sighted, leaving them more vulnerable to the temptations of crime – they are 'crime-prone'.

The 16% most 'crime-prone' young people committed 60% of the crimes, while the 16% most 'crime-averse' were only responsible for 0.5% of the crimes.

"Many young people are 'crime-averse' and simply don't perceive crime as a possible course of action - it doesn't matter what the situation is," says Professor Per-Olof H Wikström, FBA, who leads the PADS+ research team. "The idea that opportunity makes the thief - that young people will inevitably commit crime in certain environments - runs counter to our findings. Rather, only the 'crime-prone' become vulnerable to said opportunities when taking part in environments with a moral context that encourages, or, at least, does not discourage, crime."

The research included not just an in-depth longitudinal study of the lives and habits of 700 young people, but also a survey of over 6,000 local residents combined with large amounts of cross-referenced census and land use data to create a detailed impression of the environments in which the young people spend their time.

The findings show that crime is not only concentrated to a small group of young people, but also in certain times and places - known as 'hot spots'. In many previous studies, crime hot spots have often been explained by the fact that they occur in areas where opportunities for crime are plentiful.

This new study goes much further, showing that crime hot spots are not only a consequence of opportunity but crucially the moral context - the level of enforcement of key common rules of conduct - in which these opportunities occur, and the presence of 'crime-prone' young people. Essentially, crime happens when 'crime-prone' people take part in moral contexts that encourage crime.

While some urban environments are largely free of youth crime, others include hot spots for young people's crime. The study findings show that these crime hot spots occur in city and local centres, and residential areas that are characterised by poor informal social control resulting from weak social cohesion - known as poor collective efficacy. The findings also show that poor collective efficacy almost exclusively occurs in areas with a higher level of social disadvantage.

City and local centres and residential areas with poor collective efficacy have moral contexts in which 'crime-prone' young people are vulnerable to committing crime, particularly when they are engaged in unstructured and unsupervised activities.

The city and local centres provide many opportunities and frictions due to the presence of retail outlets and entertainment venues and also lack social cohesion among temporary visitors. Residents of areas which lack collective efficacy are less likely to intervene when young people engage in disorders and crime.

"In prevention we need to focus on developing policies that affect children and young people's moral education and cognitive nurturing - which aids the development of greater self-control - and policies that help minimise the emergence of moral contexts conducive to crime" says Wikström. "In this context, one of the most important but least understood questions is the role of social disadvantage and how it affects the content and efficacy of young people's moral education and cognitive nurturing."

Task 1. Decide if the statements are true or false.

1. Some young people have a natural inclination or tendency towards committing crimes.
2. It is impossible to point out the reasons why young people commit crimes.
3. Two thirds of teenagers have never committed any crimes at all.
4. Teenagers most often commit burglaries, robberies and car theft.
5. Crime hot spots occur in areas where circumstances for crime are favourable.
6. All urban environments include hot spots for young people's crime.
7. Collective efficacy refers to mutual trust among neighbours combined with willingness to intervene on behalf of the common good.
8. Residents of areas which lack collective efficacy are more likely to report juvenile crime and disorders to the police.

Task 2. Match the definitions with the words from the text.

1. Something that is given to somebody to persuade them to do something
2. Information that is discovered as the result of research into something
3. In the process of developing from a child into an adult
4. The crime of stealing in shops
5. The crime of entering a building illegally and stealing things from it
6. The fact of people being involved in crime; criminal acts
7. To stop yourself from doing something, especially something that you want to do
8. The ability of something to produce the results that are wanted

Task 3. Complete the sentences.

1. A unique study of teenagers and the community in Peterborough over ten years shows that most adolescent crime is not _____ but the combined result of personal characteristics and environmental factors.
2. Crime is often publicly perceived to be a natural part of teenage life in the 21st century - but the findings show that _____ committed no crimes at all.
3. The overwhelming majority of the most serious property crimes committed by adolescents are _____.
4. Many young people are " _____ " and simply don't perceive crime as a possible course of action.
5. The idea that _____ makes the thief - that young people will inevitably commit crime in certain environments - runs counter to the findings.
6. While some urban environments are largely free of youth crime, others include _____ for young people's crime.
7. Residents of areas which lack _____ are less likely to intervene when young people engage in disorders and crime.
8. One of the most important but least understood questions is _____ and how it affects the content and efficacy of young people's moral education and cognitive nurturing.

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QUENTIN TARANTINO WITHDRAWS LAWSUIT AGAINST GAWKER OVER 'HATEFUL EIGHT' LEAK

The sudden reversal comes a week after the director filed a second complaint against the site.

Quentin Tarantino is sheathing his sword. At least for the moment. In an about-face, the director has voluntarily dismissed a lawsuit against Gawker only a week after it looked like the dispute was expanding. Gawker is an American blog founded by Nick Denton and Elizabeth Spiers and based in New York City. It promotes itself as "the source for daily Manhattan media news and gossip". It focuses on celebrities and the media industry.

Tarantino sued in January with claims that Gawker had "crossed the journalistic line" by linking to the 146-page script for *The Hateful Eight* under a post titled, "Here Is the Leaked Quentin Tarantino Hateful Eight Script." The case was grounded upon the claim that the news site had committed contributory copyright infringement by leading its readers to a copy of the script that had been uploaded to a third-party storage site.

But the allegation appeared to need more factual support. Gawker's attorneys attacked the idea that the mere possibility of someone reading the script amounted to a direct infringement act, and the judge agreed. According to U.S. District Judge John F. Walter, "Plaintiff's complaint fails to allege the identity of a single third-party infringer, the date, the time, or the details of a single instance of third-party infringement, or, more importantly, how Defendant allegedly caused, induced, or materially contributed to the infringement by those third parties."

Still, it wasn't yet over because the judge allowed Tarantino to amend his lawsuit, which he did, this time with the claim that Gawker itself illegally downloaded to its computers an unauthorized infringing PDF copy of the screenplay and thus committed direct copyright infringement. Tarantino also attempted to buttress his contributory claim with the assertion that Gawker had solicited its readers before the original post, asking them to provide Gawker with the screenplay, and then later, amending its post with a new link to a copy that one of its readers had uploaded.

Now, a week later and before Gawker made any response, Tarantino has withdrawn the lawsuit without prejudice, meaning he can refile at a later time if he chooses. And in fact, Tarantino's dismissal motion hints at but hardly guarantees a sequel. It says, "This dismissal is made without prejudice, whereby Plaintiff may later advance an action and refile a complaint after further investigations to ascertain and plead the identities of additional infringers resulting from Gawker Media's contributory copyright infringement, by its promotion, aiding and abetting and materially contributing to the dissemination to third-parties of unauthorized copies of Plaintiff's copyrighted work."

Task 1. Decide if the statements are true or false.

1. Director Quentin Tarantino has voluntarily dismissed a lawsuit against Gawker which he had filed a week ago.
2. Gawker is an American blog which writes about politics and politicians.
3. Tarantino blames Gawker for making his script available to the public, despite having said he was planning to publish it himself.
4. U.S. District Judge John F. Walter supported the idea of copyright infringement of the third parties.
5. Tarantino has withdrawn the lawsuit with prejudice which bars the possibility of bringing a new case on the same basis as the dismissed case.

Task 2. Match the definitions with the legal terms and phrases from the text.

1. A claim or complaint against somebody that a person or an organization can make in court
2. To make a claim against somebody in court about something that they have said or done to harm you

3. An act of breaking a law or rule
4. To change a law, document, statement, etc. slightly in order to correct a mistake or to improve it
5. A statement saying that you strongly believe something to be true
6. Without affecting any other legal matter
7. To file a complaint again
8. To help somebody to do something illegal or wrong

Task 3. Complete the sentences with the missing information of the case.

1. Gawker is _____ and based in New York City.
2. Tarantino sued in January with claims that Gawker _____.
3. Tarantino's allegation appeared to need _____.
4. According to U.S. District Judge, "Plaintiff's complaint fails to allege _____."
5. The judge allowed Tarantino to amend _____.
6. Tarantino has withdrawn the lawsuit _____ meaning he can refile at a later time if he chooses.

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MEDICAL MALPRACTICE: WHO CAN BE SUED?

The legal concept of medical malpractice is not limited to the conduct of medical doctors, but applies also to nurses, anaesthesiologists, health care facilities, pharmaceutical companies, and others that provide health care services. The main thrust of a medical malpractice suit is proving fault -- often by a doctor or someone else directly related to medical care -- but sometimes these other entities are liable as well. This article focuses on who may be sued in a medical malpractice claim.

Hospitals

Hospitals are corporations that are either public or private entities. In the context of medical malpractice actions, hospitals can be held directly liable for their own negligence, and can also be held "vicariously" liable for the negligence of their employees. Vicarious liability means a party is held responsible not for its own negligence, but for the negligence of another.

Hospital Negligence

A hospital's medical staff will consist of licensed physicians and other licensed health care providers, such as nurses, physician's assistants, and nurse practitioners. In hiring its medical staff, a hospital must make reasonable inquiries into an applicant's education, training and licensing. If a hospital fails to make reasonable inquiries regarding a member of its medical staff, it might be held liable under the

“corporate negligence” doctrine for negligent supervision or retention, if the staff member’s negligent care injures a patient. A hospital might be held liable for its own negligence where, for example, it fails to investigate the credentials of an attending physician before granting him/her privileges at the hospital, or where it allows a physician whom it knew, or should have known, was incompetent, to treat patients at the hospital.

Hospitals are also required to ensure that there is a sufficient number of registered nurses on duty at all times to maintain quality patient care. A hospital that fails to do so may be held liable for injuries to patients resulting from a nursing shortage. Another area of potential liability arises when a hospital’s employees fail to follow the orders of a patient’s private attending physician. Conversely, if a hospital employee finds a private physician’s treatment plan to be clearly contraindicated, but fails to make a reasonable inquiry of the physician as to the treatment plan, the hospital could also be found liable.

Vicarious Liability

When a hospital employee’s malpractice injures a patient, the hospital itself may be held vicariously liable under the legal doctrine of “respondeat superior.” Under this doctrine, an employer may be held liable for the negligent acts of its employee, if the employee was acting within the scope of his or her employment when the negligent act or omission occurred. This doctrine is very important to plaintiffs in medical malpractice cases, because it helps ensure there will be a financially responsible party to compensate an injured plaintiff.

In some situations, health care providers such as physicians are considered independent contractors rather than hospital employees, and the doctrine of “respondeat superior” will not be applicable. What this means is, if a doctor or other health care professional is an independent contractor, and commits malpractice while treating a patient in a hospital, the hospital cannot be held liable for the doctor’s negligence. In certain situations, a hospital may be vicariously or directly liable for the acts or omissions of contractors it retains to operate emergency rooms and outpatient facilities.

Pharmaceutical Companies

In some cases, a pharmaceutical manufacturer may be liable where a drug caused a patient injuries, but only if the manufacturer failed to warn physicians of the drug’s potential side effects or dangers.

A pharmaceutical manufacturer’s primary duty is to physicians. Thus, a manufacturer generally will not be liable for a patient’s injuries, as long as it adequately informed the physician of all risks associated with a particular drug. As to the ultimate consumer, a pharmaceutical company only owes a duty to ensure that the medication it manufactures will be reasonably safe when used as intended. To ensure a drug’s safety, the manufacturer must research the drug’s possible side effects and risks before putting it on the market. If the pharmaceutical manufacturer fails to adequately warn a physician of a drug’s dangers, however, the drug becomes what is known under product liability law as “unreasonably dangerous,” and the manufacturer might be held liable for the failure to provide proper warnings.

In most cases, the prescribing physician is considered a “learned intermediary,” which means that because of his or her superior medical knowledge, and assuming he or she has been given adequate information from the manufacturer, he or she is in the best position to determine whether a particular drug or device is appropriate for a patient. Thus, the physician has the primary duty of advising the patient of the risks and side effects of a medication or medical device he or she prescribes.

Task 1. Answer the questions.

1. What does the legal concept of medical malpractice apply to?
2. Who may be sued in a medical malpractice claim?
3. What can hospitals be held directly liable for?

4. What does vicarious liability mean?
5. What does a hospital's medical staff consist of?
6. In which case might a hospital be held liable under the "corporate negligence" doctrine for negligent supervision or retention?
7. When may a hospital be held liable for injuries to patients resulting from a nursing shortage?
8. Why may a hospital be held vicariously liable under the legal doctrine of "respondeat superior"?
9. Why is the doctrine of "respondeat superior" very important to plaintiffs in medical malpractice cases?
10. In which cases cannot the hospital be held liable for the doctor's negligence?
11. In which cases may a pharmaceutical manufacturer be liable where a drug caused patient injuries?
12. What should a pharmaceutical manufacturer do to ensure a drug's safety before putting it on the market?
13. Who has the primary duty of advising the patient of the risks and side effects of a medication or medical device ?

Task 2. Match the definitions with the legal terms and phrases from the text.

1. Professional negligence by act or omission by a health care provider in which the treatment provided falls below the accepted standard of practice in the medical community and causes injury or death to the patient, with most cases involving medical error
2. A claim or complaint against somebody that a person or an organization can make in court
3. Something that exists in law separately from other things and has its own identity
4. A form of strict, secondary liability that arises under the common law doctrine of agency – respondeat superior – the responsibility of the superior for the acts of their subordinate
5. Legally responsible
6. A failure to exercise the care that a reasonably prudent person would exercise in like circumstances
7. To carefully examine the facts of a situation, an event, a crime, etc. to find out the truth about it or how it happened
8. A person who makes a formal complaint against somebody in court
9. To provide something good to balance or reduce the bad effects of damage, loss, etc
10. A person that has a contract to do work or provide goods or services for another company, hospital, etc
11. Capable of being applied; relevant or appropriate
12. The act of leaving out, something left out, not done, or neglected

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THE MOST FAMOUS BRITISH CRIMINAL CASES: DR HAWLEY HARVEY CRIPPEN (1862–1910)

The case of Dr Hawley Harvey Crippen is one of the most famous British criminal cases. This was the first major case that Bernard Spilsbury, the famous pathologist, was called in to investigate. The case also involved the major use of radio in tracking down the suspects.

Hawley Harvey Crippen was born in Michigan, USA, in 1862. When he was 21, he came to England to improve his medical knowledge. After Crippen's first visit to England he wandered about the USA, practising in a number of larger cities. In Utah, during 1890 or 1891, his wife died, and he sent his 3 year old son to live with her late wife's Mother in California. During one of his stays in New York he married again. His second wife was a girl of 17 years old whom Crippen knew as Cora Turner. In 1900 the Crippens returned to England again. Mrs. Crippen, under her assumed name of Belle Elmore, continued with her career as a music hall entertainer. Mrs. Crippen attained some success in provincial halls, but she became well known and popular in certain theatrical circles. For two years before her death, she was Honorary Treasurer of the Music Hall Ladies Guild, which hired a room in Albion House. She was described as vivacious and pleasant, fond of dress and display, with a New York accent and dark hair which she dyed auburn. A Roman Catholic, she converted her husband to that faith. In contrast to his wife, Crippen was a small man. He appeared to be mildness itself, an almost insignificant figure, dapper in dress, with a high, bald forehead, a heavy, sandy moustache, and rather prominent eyes behind gold-rimmed spectacles. Witnesses at his forthcoming trial described him as kindly, gentle and well mannered.

The Murder

The crisis, which ended with Crippen's execution, came in December 1909. His wife was tired of him, and she knew that Ethel le Neve had been his mistress. She threatened to leave Crippen, which would have been excellent news for him, but she was also planning to take their joint savings with her. On 15 December 1909, Mrs. Crippen gave notice of withdrawal to their bank. A month later, in January 1910, Crippen ordered five grains of hyoscin hydrobromide at Lewis and Burrow's shop in New Oxford Street. It was such a large order; they had to place a special order with the wholesalers. Crippen collected the order on 19 January 1910. On 3 February 1910, two letters signed "Belle Elmore" and dated 2 February 1910, were received by the Secretary of the Music Hall Ladies Guild. Mrs. Crippen had resigned from her position as Honorary Treasurer, as she had been summoned to the USA, as one of her relatives had been taken seriously ill. The letters were not in Mrs. Crippen's handwriting. Mrs. Martinetti called on Crippen later that day, and rebuked him for not telling her directly about her friend's sudden departure. Crippen told her that they had been busy packing. "Packing and crying" replied Mrs. Martinetti, Crippen replied that they had got over that. On 12 March 1910, Ethel le Neve moved permanently into 39 Hilldrop Crescent. Shortly after this event, Crippen gave his landlord's 3 months notice of his intention to vacate the house. Just before Easter 1910, Crippen told Mrs. Martinetti that Mrs. Crippen had been taken seriously ill in the USA, and that she was not expected to live. If she died, Crippen told Mrs. Martinetti that he would take a week's holiday in France.

On 24 March 1910, the day before Good Friday 1910, a telegram arrived for Mrs. Martinetti: "Belle died yesterday at 6pm". It had been sent from London's Victoria Rail Station, before Crippen and le Neve set off for Dieppe. During his absence in France, Mrs. Crippen's friends had a great deal of discussions about their friend's sudden trip to the USA, and her death. When he returned, Crippen made several attempts to prevent the sending of tokens of remembrance. Crippen stated that she had died in Los Angeles, her ashes were returning to England and that gifts sent to the USA would arrive too late. Everything was neatly explained, and the Crippen went around his normal business. Ethel le Neve was seen wearing more of Mrs. Crippen's furs and jewellery, which was regarded as being in poor taste. A friend of the late Mrs. Crippen, a Mr. Nash, made a short visit to the USA where he made some unsuccessful enquiries about Mrs. Crippen. When he returned to London, he went and spoke to Crippen. Dissatisfied with his answers, he went to Scotland Yard and told them his story.

Crippen and le Neve flee

For some reason, Crippen panicked and left for Antwerp, accompanied by le Neve who was disguised as a boy. While Crippen and le Neve's description was being widely circulated, Chief Inspector returned to Hilldrop Crescent and thoroughly searched the house. While in the coal cellar, he probed the brick floor and found the remains of Mrs. Crippen buried in lime.

During their voyage from Antwerp to Canada, Ethel le Neve disguised herself as a boy. The Montrose's Captain became suspicious of the couple's affectionate behaviour, and radioed his concerns back to London. Chief Inspector Drew boarded a faster ship, the SS Laurentic, and arrested the pair on 31 July 1910.

This was Spilsbury's first murder case and the one that established the reputation of his name. In his notes he recounts the discovery in the cellar: Human remains found 13 July ... Medical organs of chest and abdomen removed in one mass. Four large pieces of skin and muscle, one from lower abdomen with old operation scar 4 inches long – broader at lower end. Impossible to identify sex. Hyoscine found 2.7 grains. Hair in Hinde's curler – roots present. Hair 6 inches long. Man's pyjama jacket label reads Jones Bros., Holloway, and odd pair of pyjama trousers.

There was no head, all the limbs were missing and no bones, except for what appeared to be part of a human thigh. One of the pieces of skin that was recovered had a scar, made as a result of an operation.

It was decided that Crippen and le Neve would be tried separately.

The Trial

On 18 October 1910, Crippen's trial opened before Lord Chief Justice Lord Alverstone, in the No. 1 Court of London's Central Criminal Court (Old Bailey). The trial lasted five days. The prosecution's evidence was the purchase of the poison by Crippen, and that no one had seen Mrs. Crippen since the Martinetti's left the whist game early on the morning of 1 February 1910.

Prosecution witnesses on the 1st day included Mrs. Martinetti, other acquaintances of the Crippens, some of Mr. Crippen's business associates. Bruce Miller and Mrs. Crippen's sister travelled from the USA to provide evidence.

At the start of the 2nd day, Chief Inspector Dew gave evidence, including the reading of a long statement provided by Crippen. In the afternoon, Dr. Pepper took the stand. He stated that the mark on the piece of skin (produced in the court) was caused by an abdominal operation. Someone skilled in dissection, he stated, carried out the dismemberment of the body. The remains were those of an adult, young or middle-aged, but there was no certain anatomical indication of body's sex. When the remains had been examined, they had been buried for around 4 to 8 months. The burial had taken place soon after death had occurred. When asked by the prosecution whether the burial could have occurred before 21 September 1905 (when Crippen took up residence), Dr. Pepper relied "Oh, no, absolutely impossible." During cross-examination, Dr. Pepper was asked whether he had cut a piece of the skin sample across the area of the scar and handed it to Dr. Spilsbury. He confirmed that this was the case.

The 4th day mainly consisted of Crippen's cross-examination by the prosecution. As the questioning continued, Crippen's replies became more vague and evasive. When asked when he purchased the pyjamas, Crippen replied that he had purchased them in either 1905 or 1906. A buyer for the firm Jones Brother of Holloway was able to prove that this pyjama material was not acquired by his firm until the end of 1908, and that three suits of pyjamas, made from this material, were delivered to 39 Hilldrop Crescent in January 1909. As the prosecution stated in their summing up, who alone during the next 12 months could have buried the jacket in that house? And "Who was missing who could be buried in it?"

The jury took 27 minutes to find Crippen guilty and sentenced to death by hanging. Ethel le Neve was tried 4 days later and found not guilty as an accessory after the fact.

On 23 November 1910, Crippen was hanged at Pentonville Prison in London. Before his execution, Crippen requested that a photograph of Ethel le Neve be buried with him.

Ethel le Neve sailed for New York, under the name of Miss Allen, on the morning of Crippen's execution. After reaching her final destination of Toronto, she started calling herself Ethel Harvey. Sometime during the period 1914-18, she returned to London and married a clerk called Stanley Smith. The couple settled down in Croydon and had several children, eventually becoming grandparents. Ethel died in hospital in 1967, aged 84.

Task 1. Arrange the sentences in the correct order according to the events presented in the text.

- a) Chief Inspector thoroughly searched the house. While in the coal cellar, he probed the brick floor and found the remains of Mrs. Crippen buried in lime.
- b) Crippen sent a telegram from London's Victoria Rail Station about his wife's death, before he and le Neve set off for Dieppe.
- c) Crippen and le Neve were arrested in the ship on 31 July 1910.
- d) A friend of the late Mrs. Crippen, a Mr. Nash, became suspicious of Mrs Crippen's death and went to Scotland Yard and told them his story.
- e) On 23 November 1910, Crippen was hanged at Pentonville Prison in London.
- f) Mrs Crippen became well known and popular in certain theatrical circles.
- g) Crippen announced that Mrs. Crippen had been taken seriously ill in the USA, and that she was not expected to live.
- h) When Crippen was 21, he came to England to improve his medical knowledge.
- i) The jury found Crippen guilty of murder and sentenced him to death by hanging.
- j) Crippen panicked and left for Antwerp, accompanied by le Neve who was disguised as a boy.
- k) Mrs Crippen was summoned to the USA, as one of her relatives had been taken seriously ill.
- l) In 1900 Crippen and his wife returned to England again.
- m) Mrs Crippen discovered that Ethel le Neve had been her husband's mistress.

1	2	3	4	5	6	7	8	9	10	11	12	13

Task 2. Answer the questions.

1. What novelties were used in the investigation of the famous Dr Crippen case?
2. How could Crippen be characterized? Did he resemble a murderer?
3. Where did Crippen conceal the body of his murdered wife?
4. Why did Mr Nash go to Scotland Yard?
5. Why did the Montrose's Captain become suspicious of the couple and radio his concerns back to London?
6. What crucial evidence was presented by Chief Inspector Dew at the trial?
7. Was Ethel le Neve found guilty as an accessory?

Task 3. Complete the sentences with the missing information of the case.

1. The Crippen case was the first major case that Bernard Spilsbury, the famous pathologist, was called in _____.
2. Crippen's second wife was _____.
3. In January 1910, Crippen ordered _____ at Lewis and Burrow's shop in New Oxford Street.
4. A friend of the late Mrs. Crippen, a Mr. Nash, made a short visit to the USA where he made _____ about Mrs. Crippen.

5. Crippen panicked and left for Antwerp, accompanied by le Neve who was disguised as _____.
6. One of the pieces of the victim's skin that was recovered had _____, made as a result of an operation.
7. Ethel le Neve sailed for New York, under the name of Miss Allen, on the morning of Crippen's _____.

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RIO'S SMALL FIRMS GETTING A HELPING HAND

Like millions of Brazilians, Melania Portela Xavier sees setting up her own business as the only way to earn more money and enjoy a better standard of life. In recent years Ms Xavier has been earning the Brazilian minimum wage, which currently stands at 788 reais (\$249; £165) a month, working in telemarketing. Yet the 40-year-old, who lives in Bonsucesso, a scruffy middle class neighbourhood which lies between two sprawling favelas, or shanty towns, in the northern zone of Rio de Janeiro, says this is not enough to get by with.

"Rent for a house with one bedroom, living room, kitchen and bathroom [in Bonsucesso] is 750 reais [per month]," she says. "The minimum wage is not sufficient. "I'm a person who wants to work, and setting up a business is a way of earning more money." To try to earn a higher income Ms Xavier hopes to move into the world of fashion, and start designing, making and selling artisan clothes. To help her successfully launch and run the business, Ms Xavier is taking advantage of free classes offered by Sebrae, a Brazil-wide not-for-profit support service for sole traders and small businesses.

Sebrae's free classes in Rio are funded by the city's municipal council, the federal government, and contributions from large companies. They teach numerous aspects of setting up and running a new business, such as bookkeeping, purchasing, price negotiation, and producing receipts. Sebrae can also help participants get bank accounts and loans, and get their hands on technology such as chip and pin machines so they don't only have to accept cash.

'Live precariously'

The Sebrae workshops have now been running in Rio for two years, and attracted more than 5,000 participants so far. They are held at the city's eight Knowledge Clouds, futuristic-looking buildings which provide free computer and library access across Rio's poorer northern and western zones, and which are owned and run by the city council.

For Rosa Virginia Souza de Barcelo, from Coelho Neto, also in Rio's northern zone, the Sebrae workshops are giving her a second chance. The 64 year old mother of two was once a hairdresser, but had to give up her dream of running a salon when she got married and her husband's work took her away from Rio. Rosa Virginia Souza de Barcelo is hoping that the classes will help her run a hairdressing business. She

says: "I used to be recognised by other neighbourhoods for cutting hair, people would seek me out. But I married and then I left. It was my son's time, and I had to give up work. "I'm doing the course to update myself on what is happening, and how to do pricing."

Meanwhile, Paulo Camoes Da Silva, who already runs his own dietary supplement business in Rio, says that thanks to the lessons he learned from attending Sebrae classes, he was able to see his profits rise "considerably".

Rodrigo Brantes, who leads Sebrae classes in Rio, says that the workshops can be particularly useful for sole traders from poorer backgrounds, who "live quite precariously day-to-day in terms of business". He adds: "Many such traders don't have financial controls, so on a daily basis if they make a sale that is a bit more significant than usual, that money is automatically spent on something private". Mr Brantes says that Sebra workshops can help these people better look after their cash flows, and try to build up reserves of money.

Taxation issue

Another aim of Sebrae is to encourage more Brazilian sole traders and small firms to join the formal economy, and officially register their businesses.

The knock-on impact of this is that the businessmen and women, and any staff they have, would suddenly have to pay tax. And with an estimated four millions Brazilians working in the informal sector, there is a lot of potential tax revenues to be gathered. Mr Da Silva adds that there are numerous benefits to going legitimate, such as being able to get a bank account and a loan. He adds: "Today, as a legal entity I can buy products directly from manufacturers, without needing intermediaries [to buy on my behalf], which has increased my income by about 30%."

Wilson Franca dos Santos, a spokesman for Rio city council's science and technology secretary, says that if sole traders or small firms in the city register with the authorities, then they can access a wealth or additional support and advice, such as grants and loans. He says that "if they are clandestine, then City Hall can't help them."

Task 1. Complete the sentences with the most appropriate ending.

1. Melania Portela Xavier sees setting up her own business because she _____.
 - a) is bored with life
 - b) wants to become wealthier
 - c) does not like her work at telemarketing
2. In Brazil, favelas are _____.
 - a) poor parts of the city
 - b) small boats
 - c) industrial regions of the city
3. Sebrae is a Brazil-wide not-for-profit support service for _____.
 - a) designers making and selling artisan clothes
 - b) small businesses and sole traders
 - c) large companies
4. Sebrae's classes for the people _____.
 - a) cost 788 reais
 - b) do not cost much
 - c) are free of charge

5. The Sebrae workshops _____ .
a) have become very popular
b) have not attracted many people
c) are about to finish their activities
6. Rosa Virginia Souza de Barcelo has not become a hairdresser because _____ .
a) she has changed her mind
b) she is too old for the job
c) she got married and had to leave Rio de Janeiro
7. Sebrae is to encourage more Brazilian sole traders and small firms to officially register their businesses because _____ .
a) they could buy products directly from manufacturers
b) a lot of potential tax revenues could be gathered for the country's economy
c) they would have financial control of their money

Task 2. Match the definitions with the legal terms and phrases from the text.

1. To formally establish a new company, organization, system, way of working, etc.
2. An amount of money that is paid, usually every week, to an employee for their work
3. Sole proprietor
4. The activity of buying and selling goods and service
5. The activity of keeping records of all the money a company spends and receives
6. The activity of buying goods and services from or for a company
7. A piece of paper that shows the price of something that you have bought and proves that you have paid for it
8. A formal discussion between people who are trying to reach an agreement
9. An arrangement with a bank in which the customer puts in and takes out money and the bank keeps a record of it
10. Money that someone borrows from a bank or other financial organization for a period of time during which they pay interest
11. Money in the form of notes and coins, rather than cheques, bank cards, etc
12. The way that a company decides prices for its products or services, or the prices decided
13. Money that is earned in trade or business, especially after paying the costs of producing and selling goods and services
14. The act or process of selling something
15. The movement of money into and out of a company's accounts, used as a measure of how much money the company spends and receives and how much profit it makes over a particular period of time
16. Causing other events or situations to happen, although not directly
17. The income that a government or company receives regularly
18. Allowed by law or done according to the rules of an organization or activity
19. A company or organization that has legal rights and responsibilities, for example the right to make contracts and the responsibility to pay debts
20. A person or organization that makes business or financial arrangements between companies or organizations that do not deal with each other directly

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ARBITRATION: A SIX CAR ACCIDENT

This accident occurred on November 2, 1999, at approximately 6:00 p.m. on 35W in Minneapolis, Hennepin County, Minnesota. The Petitioner's vehicle died and could not be restarted. The Respondent did not see the Petitioner's stalled vehicle in time to avoid hitting the Petitioner in the rear. This started a six car accident. The weather was clear and the cement road surface was dry at the time of this accident, however the Respondent stated that it was dark.

The Petitioner presents a collision subrogation claim in the amount of \$670.29. The Respondent is also presenting a counterclaim in the amount of \$3,643.53.

Minnesota has adopted a modified form of comparative negligence that allows the plaintiff to recover damages as long as the plaintiff's negligence does not exceed 50 percent.

Petitioner's statement

This loss occurred on November 2, 1999, at University and 35W southbound in Minneapolis, Minnesota. The Petitioner was travelling south on 35W and saw a sign at Roseville stating, accident ahead, take alternate routes. The Petitioner did not know any so they stayed on 35W. The traffic was stop and go because of the accident ahead. The Petitioner was stopped for traffic when his car just died. The Petitioner put the vehicle in park and put on his four-way flashers immediately. The Petitioner tried starting the car several times but it would not start. The Petitioner sat in the car for about 20 minutes trying to get the vehicle started. Several cars had gone around the Petitioner's vehicle while he was trying to get the vehicle started. The Petitioner was then rear ended by the Respondent's vehicle which was travelling on 35W going southbound also and did not see the Petitioner's stopped vehicle.

The Petitioner contends the Respondent was not paying attention since they didn't see the Petitioner's emergency flashers on, also the Respondent should have seen a sudden change in traffic flow. Since the Respondent is the proximate cause of this accident, the Petitioner feels they are entitled to collect their damages.

Respondent's case

This accident occurred at approximately 6:00 p.m. on southbound Interstate 35W near University Ave. in Minneapolis, Minnesota. The weather was clear and the roads dry. This accident occurred after dark.

Respondent was travelling southbound on 35W in the left lane, travelling over the Mississippi River bridge. As Respondent crossed the bridge, they observed the Petitioner's vehicle ahead which did not appear to be moving. No signals or warning device/flashers were activated. Respondent immediately

applied their brakes, but was unable to avoid colliding with the Petitioner's vehicle. Respondent was then struck from behind and a 6 car pileup ensued.

The Respondent feels the Petitioner is negligent for impeding traffic (as noted on the police report) and failing to warn approaching motorists. Petitioner admits they had been stopped for 20 minutes. This is sufficient time to place flares or other warning devices and attempt to move the vehicle out of the travel lanes. Respondent respectfully requests the panel review the evidence submitted and render a fair decision.

Remarks

The Arbitration Committee notes the parties are in agreement as to the date, time, location, vehicle direction, weather and road conditions for this accident. Those matters not in dispute between the parties are accepted as true.

The Committee notes the Petitioner stated that he was travelling south on 35 W in stop and go traffic due to an earlier accident. At one point, the Petitioner's vehicle died. The Petitioner stated he turned on his flashers and was in the vehicle approximately 20 minutes, trying to start the vehicle. The Petitioner was not able to restart the vehicle. During this time, the Petitioner stated that several cars had passed the Petitioner without hitting him. The Petitioner was stopped in the left lane of 35 W. The Committee notes that rather than a statement from the Respondent, the Respondent Company submitted a claim form. The Respondent wrote that it was dark at the time and that he was travelling 55 mph when he first saw the Petitioner vehicle. The Respondent wrote that he was about 100 feet away from the Petitioner when he saw his vehicle and realized it was stopped. He applied his brakes but was not able to avoid hitting the Petitioner. Additional four cars were then involved in a chain reaction rear end accident.

The Committee notes that both parties submitted the officer's report, but neither party submitted any type of legend or code sheet to assist in reading the codes written by the officer. The narrative on the report simply stated that the Petitioner's vehicle stalled and would not restart.

The Respondent contends the Petitioner was negligent for failing to warn approaching motorists about the stranded vehicle, however the Petitioner stated he did have his flashers activated. There was no witness to confirm whether or not the flashers were activated. The Respondent also argued that the Petitioner should have moved the vehicle out of the travel lane. Interestingly enough, the Respondent himself wrote that there are no shoulders in this area. Neither party provided scene photographs to show that there was any place for the Petitioner to move the car. The Respondent also said that the Petitioner could have used flares. Again, neither party provided the Committee with any statutory requirements addressing the duties of the owner of a disabled vehicle.

Left to decide this case solely upon the evidence before the Arbitration Committee, the Committee does not see what else the Petitioner could have done. The Petitioner's vehicle is disabled on a bridge that by the Respondent's own admission that it has no shoulder area. The officer's diagram also showed no emergency type lane. Several other vehicles had managed to observe and avoid hitting the Petitioner. Under these circumstances, the Committee assesses 100% negligence to the Respondent for his failure to maintain a proper lookout.

Decision

The Committee, having found the Respondent 100 percent negligent for this accident awards the Petitioner 100 percent for the claimed damages of \$670.29.

Task 1. Arrange the sentences in the correct order according to the facts of the case presented in the text.

- a) The Petitioner applied to the Arbitration Committee.
- b) Both parties submitted the officer's report.
- c) The Respondent did not see the Petitioner's stalled vehicle in time and hit it in the rear.
- d) The Arbitration Committee found the Respondent 100 percent liable for negligence for the accident.
- e) The Petitioner's vehicle broke down and stopped.
- f) The Petitioner could not restart his vehicle.
- g) Additional four cars were then involved in a chain reaction rear end accident.
- h) The Petitioner was awarded damages.
- i) The Petitioner was travelling south on 35W way in Minnesota.

1	2	3	4	5	6	7	8	9

Task 2. Decide if the statements are true or false.

1. During the accident, the weather conditions were severe and unfavourable.
2. The Petitioner could not restart the car.
3. Respondent did not notice the Petitioner's vehicle in time to avoid hitting the Petitioner in the side of the car.
4. The Respondent presented a counterclaim.
5. The Petitioner claimed having put on his four-way flashers immediately when his car died.
6. It was impossible for other cars to go around the Petitioner's vehicle while he was trying to get the vehicle started.
7. The Petitioner wants to receive damages because the Respondent is the proximate cause of this accident.
8. The Respondent contends that signals or flashers were activated only for a short time.
9. Respondent did not have any time to apply their brakes and was unable to avoid colliding with the Petitioner's vehicle.
10. Six more cars piled up at the rear of the Respondent's and Petitioner's cars.
11. In the Respondent's view, the Petitioner is negligent for impeding traffic and damaging their car.
12. The Arbitration Committee notes the parties' evidence as to the date, time, location, vehicle direction, weather and road conditions for this accident is inconsistent.
13. No one witnessed the fact whether or not the flashers were activated.
14. The Respondent himself stated that there was no area of ground at the side of a road where vehicles could stop in an emergency.
15. The Respondent provided scene photographs to show that there was any place for the Petitioner to move the car.
16. The Committee found the Respondent 100 percent liable for negligence for this accident.

17. The Petitioner was awarded damages.

Task 3. Match the words to make collocations.

1) to present a collision	a) to collect the damages
2) it allows the plaintiff	b) a fair decision
3) the proximate cause	c) the officer's report
4) to be entitled	d) to recover damages
5) to submit	e) of the accident
6) to render	f) for the accident
7) to submit	g) subrogation claim
8) to provide	h) scene photographs
9) to find the Respondent negligent	i) evidence

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A BRIEF HISTORY OF HACKING

The world is full of hackers, or so it seems. In the past few months barely a day has gone by without news of a fresh security breach. Multi-national companies have been left counting the cost of assaults on their e-mail systems and websites. Members of the public have had their personal information stolen and pasted all over the internet.

In the early decades of the 21st century the word "hacker" has become synonymous with people who lurk in darkened rooms, anonymously terrorising the internet. But it was not always that way. The original hackers were benign creatures. Students, in fact. To anyone attending the Massachusetts Institute of Technology during the 1950s and 60s, a hack was simply an elegant or inspired solution to any given problem.

Many of the early MIT hacks tended to be practical jokes. One of the most extravagant saw a replica of a campus police car put on top of the Institute's Great Dome. Over time, the word became associated with the burgeoning computer programming scene, at MIT and beyond. For these early pioneers, a hack was a feat of programming prowess. Such activities were greatly admired as they combined expert knowledge with a creative instinct.

Boy power

Those students at MIT also laid the foundations for hacking's notorious gender divide. Then, as now, it tended to involve mainly young men and teenage boys. The reason was set out in a book about the first hacker groups written by science fiction author Bruce Sterling. Young men are largely powerless, he argued. Intimate knowledge of a technical subject gives them control, albeit over machines. "The

deep attraction of this sensation of elite technical power should never be underestimated," he wrote. His book, *The Hacker Crackdown*, details the lives and exploits of the first generation of hackers.

Most were kids, playing around with the telephone network, infiltrating early computer systems and slinging smack talk about their activities on bulletin boards. This was the era of dedicated hacking magazines, including *Phrack* and *2600*. The individuals involved adopted handles like Fry Guy, Knight Lightning, Leftist and Urvile. And groups began to appear with bombastic names, such as the Legion of Doom, the Masters of Deception, and Neon Knights.

As the sophistication of computer hackers developed, they began to come onto the radar of law enforcement. During the 1980s and 90s, lawmakers in the USA and UK passed computer misuse legislation, giving them the means to prosecute. A series of clampdowns followed, culminated in 1990 with Operation Sundevil - a series of raids on hackers led by the US Secret Service.

Group dynamic

But if Sundevil's aim was to stamp out hacking in the United States, it failed. As connected systems became ubiquitous, so novel groups of hackers emerged, keen to demonstrate their skills.

Grandstanding was all part of the job for collectives like L0pht Heavy Industries, the Cult of the Dead Cow, and the Chaos Computer Club, along with individuals such as Kevin Mitnick, Mafiaboy and Dark Dante. In 1998, L0pht members famously testified to the US Congress that they could take down the internet in 30 minutes. Mafiaboy showed what he could do by crashing the sites of prominent web firms such as Yahoo, Amazon, Ebay and CNN. Dark Dante used his knowledge to take over the telephone lines of a radio show so he could be the 102nd caller and win a Porsche 944.

Worldwide threat

If hacking was a business born in the US, it has gone truly global. "In more recent times, groups emerged around the world in places as far flung as Pakistan and India, where there is fierce competition between the hackers," said Mr Ferguson.

In Romania groups such as HackersBlog have hit various companies. In China and Russia, many hackers are believed to act as proxies for their governments. Now, it is hacker groups making the headlines once again. Two in particular, Anonymous and Lulz Security, have come to prominence with high profile attacks on Sony, Fox, HBGary and FBI affiliate Infragard.

"These stunts are being pulled at the same time as national governments are wringing their hands about what to do in the event of a concerted network attack that takes out some critical infrastructure component," said veteran cyber crime analyst Brian Krebs. "It's not too hard to understand why so many people would pay attention to activity that is, for the most part, old school hacking - calling out a target, and doing it for fun or to make some kind of statement, as opposed to attacking for financial gain," he said.

Bruce Sterling, with his future gazing hat on, has a view of what that will mean. "If turmoil lasts long enough, it simply becomes a new kind of society - still the same game of history, but new players, new rules," he wrote. And perhaps that is where we are now. Society's rules are changing but we're not sure who is doing the editing.

Task 1. Complete the sentences with the most appropriate ending.

1. Lately, multi-national companies _____.
 - a) have lost a lot of money due to hacking attacks
 - b) have accused governments of lack of computer misuse legislation
 - c) have committed hacking on the internet

2. The original hackers were _____ people.
 - a) violent
 - b) kind and gentle
 - c) treacherous
3. In the Massachusetts Institute of Technology, early hacking was _____.
 - a) despised
 - b) criticised
 - c) appreciated
4. First hackers were mostly _____.
 - a) professors
 - b) teachers
 - c) young men
5. During the 1980s and 90s, lawmakers in the USA and UK passed computer misuse legislation, allowing hackers to be _____.
 - a) convicted
 - b) legalized
 - c) cautioned
6. The purpose of Operation Sundevil was to _____ in the United States.
 - a) estimate the cost of hacking
 - b) eradicate hacking
 - c) inform the society about hacking
7. Later, new groups of hackers emerged, as the computer systems _____.
 - a) were restricted
 - b) were becoming more expensive
 - c) seemed to be everywhere
8. National governments _____.
 - a) are worried about organized network attack
 - b) do not pay attention to the activity that is mostly old school hacking
 - c) try to change society's rules

Task 2. Match the beginnings of sentences in A with their endings in B.

A

1. For the early pioneers, a hack was a feat of programming prowess; such activities were greatly admired
2. As the sophistication of computer hackers developed, they attacked
3. One of the hacker groups, Mafiaboy, crashed
4. Dark Dante organized one of the coolest hacks of all time
5. If hacking originated in the US,
6. LulzSec was a black hat computer hacker group

B

- a) that claimed responsibility for several high profile attacks, including the compromise of user accounts from Sony Pictures in 2011.
- b) the sites of prominent web firms such as Yahoo, Amazon, Ebay and CNN.
- c) it has now covered and affected the whole world.
- d) to take over the telephone lines of a radio show which promised that the 102nd caller of the program would win a Porsche.
- e) as they combined expert knowledge with a creative instinct.
- f) the attention of law enforcement.

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SAUDI CON ARTISTS USE PHOTOS OF SICK AMERICAN GIRL TO SOLICIT DONATIONS

Her story prompted an outpouring of sympathy and cash donations - until it was revealed to be a fake.

A Twitter account claiming to belong to a Saudi girl receiving treatment for leukaemia touched the hearts of thousands. Photos showed the young cancer patient, named as Sara Ibrahim, smiling through the stages of her treatment. The account, started in February, gained over 75,000 followers and thousands of tweets were posted with the Arabic hashtag #Friend_of_Sara, with comments such as: "Sara you are my sister and daughter and I hope to see you a bride and happy." Many gave money to help pay for Sara's treatment, sending the funds via bank details sent to Twitter users in direct messages - although it's impossible to say for sure how much money was donated in total.

There was only one problem. The account was a fake.

The fraud was revealed by ordinary Saudi Twitter users, who turned detective and discovered that the photos had been taken from the social media accounts of a young American cancer patient named Esme Miller. When one tweeter, @_Talal1 investigated further, he realised that the account was indeed fake, he posted the news in a message that was retweeted thousands of times. A hashtag which translates as "Sara Ibrahim's lie" was then used more than 50,000 times.

As the news spread, the full extent of the deception became apparent. Saudi Prince Khaled Al Saud tweeted a mobile phone number - he said he'd been given it by those running the fake account and that he used it to speak to someone claiming to be "Sara". Many also worried about how the incident would affect support for others battling illness. Kuwaiti @AlotaibiKhaled said: "What's sad about it is that anyone who has an illness in future will find it difficult to find any sympathy even if he is being truthful."

When the fakery was uncovered, the family of Esme Miller - who is a real 11-year-old undergoing treatment for bone cancer - found themselves flooded with messages informing them of the scam and

posted about it on their own Facebook page. "Makes me sad and sick that someone used that precious girl's photo like that," said one comment on the Team Esme Facebook page, which has been used to share her (real) story of battling the illness.

Prominent Saudi lawyer @KhalidAboRashed tweeted that whoever was behind the account should be sued for fraud and impersonation, while others shared a screen shot of a direct message from Sara Ibrahim's account giving bank details and a purported name of one of the fraudsters. BBC Trending was unable to trace the people behind @sara_ibrahim44, and the account has now been closed - and it's unclear whether or not the Saudi authorities are investigating.

Task 1. Decide if the statements are true or false.

1. A Saudi girl, Sara Ibrahim, was receiving treatment for leukaemia.
2. One million dollars was donated in total for the Saudi girl's treatment.
3. The parents of a young American cancer patient named Esme Miller turned detective and discovered fraud.
4. One tweeter investigated further and realised that the account was indeed fake.
5. Many people worried about how the discovered fraud would affect support for other patients undergoing treatment for cancer.
6. Numerous comments on the Team Esme Facebook page expressed regret that the money went to a Saudi girl, not Esme Miller.
7. Esme Miller was ill with leukaemia.
8. A prominent Saudi lawyer believed that whoever was behind the fake account should be sued for fraud and impersonation.
9. The Saudi authorities have started thorough investigation of the fraud case.

Task 2. Match the definitions with the legal terms from the text.

1. To give money, food, clothes, etc. to somebody/something, especially a charity
2. Not genuine; appearing to be something it is not
3. The crime of cheating somebody in order to get money or goods illegally
4. To make something known to somebody
5. To carefully examine the facts of a situation, an event, a crime, etc. to find out the truth about it or how it happened
6. A clever and dishonest plan for making money
7. An act of pretending to be somebody in order to trick people or to entertain them
8. A person who commits fraud
9. An arrangement that somebody has with a bank, etc. to keep money there, take some out, etc.

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DIPLOMATIC IMMUNITY

Diplomatic immunity, in international law, is the immunities enjoyed by foreign states or international organizations and their official representatives from the jurisdiction of the country in which they are present.

The inviolability of diplomatic envoys has been recognized by most civilizations and states throughout history. To ensure exchanges of information and to maintain contact, most societies—even preliterate ones—granted messengers safe-conduct. Traditional mechanisms of protecting diplomats included religious-based codes of hospitality and the frequent use of priests as emissaries. Just as religion buttressed this inviolability, custom sanctified it and reciprocity fortified it, and over time these sanctions became codified in national laws and international treaties.

Protections afforded to foreign envoys varied greatly in the ancient world. Greek heralds, who were recognized as inviolable by the city-states, procured safe passage for envoys prior to negotiations. Typically, the inviolability of envoys was not respected by third parties. As empires in China, India, and the Mediterranean grew more powerful, diplomatic protections decreased. The law of diplomatic immunity was significantly developed by the Romans, who grounded the protection of envoys in religious and natural law, a system of norms thought to apply to all human beings and to derive from nature rather than from society. In Roman law the unassailability of ambassadors was guaranteed even after the outbreak of war.

During the Middle Ages in Europe, envoys and their entourages continued to enjoy the right of safe passage. A diplomat was not responsible for crimes committed before his mission, but he was answerable for any crimes committed during it.

During the Renaissance permanent—rather than ad hoc—embassies developed, and the number of embassy personnel, as well as the immunities accorded to them, expanded. When the Reformation divided Europe ideologically, states increasingly turned to the legal fiction of extraterritoriality—which treated diplomats, their residences, and their goods as though they were located outside the host country—to justify diplomatic exemption from both criminal and civil law. The doctrine of quasi extra territorium (Latin: “as if outside the territory”) was developed by the Dutch jurist Hugo Grotius (1583–1645) to sanction such privileges, and during the 17th and 18th centuries other theorists turned to natural law to define, justify, or limit the increasing number of immunities. These theorists used natural law, with its appeal to universal moral injunctions, to argue that the representative nature of a diplomat and the importance of his functions—especially that of promoting peace—justified his inviolability; the same moral law underscored his obligations to the larger community. Because immunities varied greatly between jurisdictions, and because some jurisdictions offered few if any immunities, to protect their envoys countries increasingly resorted to laws—such as the Act of Anne (1709) in England, which exempted ambassadors from civil suit and arrest—or treaties—such the 17th-century agreement between England and the Ottoman Empire that forbade searches of the British embassy, exempted the servants of embassies from taxes, and allowed the ambassador wine for his own use.

Although the French Revolution (1789) challenged the basic foundations of the ancient régime, it reinforced one of its hallmarks, diplomatic inviolability. By the late 19th century, the expansion of European empires had spread European norms and customs, such as diplomatic immunity and the legal equality of states, throughout the world. Because of the increasing number of privileges and immunities enjoyed by envoys, some theorists sought to undermine the concept of extraterritoriality by highlighting its attendant abuses, such as the granting of asylum in embassies to notorious criminals and smugglers. In particular, legal positivists—who argued that the law of diplomatic immunity should be based on treaties and precedent—strove to reduce what they considered the excessive privileges of envoys. By the late 19th century, positivists were dominating international jurisprudence, largely

because they avoided the problem, characteristic of natural-law theorists, of confusing international morality with international law and because they based their theories on the actual practice of states.

The position of diplomats and the public respect they enjoyed declined substantially in the 20th century. This development, combined with certain other factors—including the explosive growth in the number of new states after World War II, an increase in the size of diplomatic missions, and the increasing prevalence in international law of the view known as functionalism (according to which diplomatic privileges should be limited to those that are necessary to enable a diplomat to accomplish his mission)—led eventually to attempts to restrict diplomatic immunities in international treaties. The Vienna Convention on Diplomatic Relations (1961) restricted the privileges granted to diplomats, their families, and staff. Avoiding controversial issues such as diplomatic asylum and focusing on permanent envoys rather than on ad hoc representatives or other internationally protected persons, the convention accorded immunity from criminal prosecution and from some civil jurisdiction to diplomats and their families and lesser levels of protection to staff members, who generally were given immunity only for acts committed in the course of their official duties. Since the 19th century, diplomatic privileges and immunities have gradually been extended to the representatives and personnel of international organizations.

Despite these developments, from the late 20th century diplomats and representatives of international organizations continued to be subject to prosecution and officially sanctioned harassment in some countries, a situation perhaps best exemplified by the seizure of the U.S. embassy in Tehrān, Iran, in November 1979 by supporters of the Islamic revolution in that country and the holding of more than 50 American diplomatic personnel as hostages for 444 days.

Task 1. Complete the sentences with the missing words from the text.

1. Traditional mechanisms of protecting diplomats included religious-based _____ of hospitality and the frequent use of priests as _____.
2. Protections afforded to _____ varied greatly in the ancient world.
3. The law of _____ was significantly developed by the Romans.
4. During the Middle Ages in Europe a diplomat was not responsible for _____ committed before his mission, but he was answerable for any crimes committed during it.
5. During the Renaissance permanent - rather than _____ - embassies developed.
6. The Act of Anne (1709) in England exempted ambassadors from _____.
7. The 17th-century agreement between England and the Ottoman Empire forbade _____ of the British embassy.
8. The French Revolution (1789) reinforced one of its hallmarks, _____.
9. Legal positivists argued that the law of diplomatic immunity should be based on _____.
10. The Vienna Convention on Diplomatic Relations (1961) restricted the privileges granted to diplomats, their families, and staff.
11. From the late 20th century diplomats and representatives of international organizations continued to be subject to _____ and officially sanctioned _____ in some countries.

Task 2. Match the definitions with the legal terms and phrases from the text.

1. The state of being protected from something
2. The fact of having to be respected and not attacked or destroyed
3. A person who represents a government or an organization and is sent as a representative to talk to other governments and organizations
4. A situation in which two people, countries, etc. Provide the same help or advantages to each other
5. Arranged (e.g. laws) into a system

6. Before something
7. A set of moral principles on which human behaviour is based
8. To help something to happen or develop
9. The state of being exempted from the jurisdiction of local law, usually as the result of diplomatic negotiations
10. A person whose job is to represent his or her country in a foreign country, for example, in an embassy
11. Official permission not to do something or pay something that you would normally have to do or pay
12. To make use of something, especially something bad, as a means of achieving something, often because there is no other possible solution
13. Protection that a government gives to people who have left their own country, usually because they were in danger for political reasons
14. A person who takes goods into or out of a country illegally
15. Greater than what seems reasonable or appropriate
16. The scientific study of law
17. To agree to give somebody what they ask for, especially formal or legal permission to do something
18. A person who has been chosen to speak or vote for somebody else or on behalf of a group
19. The act of annoying or worrying somebody by putting pressure on them or saying or doing unpleasant things to them
20. A person who is captured and held prisoner by a person or group, and who may be injured or killed if people do not do what the person or group is asking

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THE DIFFERENT LANGUAGES OF INTERNATIONAL TREATIES

International treaties are written agreements between states. By such treaties, states bind themselves in written form by the obligations laid down in the treaty. It is therefore important that the scope of the obligations (hence the provisions of the treaty), are clear for all contracting parties. The language (or languages) of international treaties play an important role because they embody and communicate the substance of the agreement. It is not irrelevant whether a treaty has only one or several languages, whether the language of the treaty is a third party language for (most of) the contracting parties or whether it is in their official language.

Until the beginning of the 20th century, international treaties were drafted and authenticated in a single language which was first Latin, then French. French was first accepted as a single treaty language for

the General Treaty of the Congress of Vienna in 1815 while underlining that the option for this national language should not be seen as a precedent for the future. After the First World War, the Treaty of Versailles had already two authentic languages: French and English.

Today as a general rule international agreements are multilingual. An underlying interest of having several authentic languages is to demonstrate the broad acceptance that the international treaty achieved and the sovereignty of the states that are parties to the agreement. These languages draw our attention to the cultural diversity represented among the contracting countries.

However, in many cases the choice of authentic languages depends on the language regime of the treaty concerned or of the international organisation under which the treaty was created. Agreements are in general drafted in an agreed working language (usually English) and then translated into the authentic languages of the treaty. Agreements concluded under the United Nations framework are usually authentic in the six official languages of the United Nations (Arabic, Chinese, English, French, Russian and Spanish). WTO (World Trade Organisation) agreements have three official languages (English, French and Spanish) and agreements set up under the Council of Europe are as a general rule bilingual (English, French).

It is seldom that a multilateral agreement would be authentic in the official languages of all its contracting parties; the number of authentic languages is restricted in the majority of these agreements. That is also due to the fact that the number of the contracting parties to these agreements, concluded under the auspices of international organisations, is in general relatively high and this high number already excludes or at least limits the possibility of having all their official languages admitted as authentic languages. It would be, for instance, an illusion to have all the official languages of the 78 contracting parties to the UN Convention on the international sale of goods or the official languages of the 32 signatories to the Social Charter as authentic languages of these treaties.

As such, there are privileged languages chosen on political, cultural and geopolitical grounds. Although it does not seem to be the general rule, some multilateral treaties are monolingual, mainly English. Although at first sight such restrictions appear efficient since they eliminate the difficulties that multilingualism brings up – especially, in the case of organisations based on treaties, the need for continuous translation and interpretation – the fact of having its own official language among the authentic languages of a treaty can be seen as an expression of cultural identity or a way of ensuring the privileged status of its own language.

Even if the restriction of a linguistic regime might be justified for practical reasons, it might at the same time cause practical problems in the case of international treaties which might be applied directly by national courts and which might confer rights or impose obligations on individuals. Given the fact that only an authentic language version can be used for authoritative interpretation, the contracting parties which do not have one of the authentic languages as their national language or do not understand them might encounter difficulties in understanding and interpreting the legally binding text.

Nevertheless, these treaties are often translated into the official language(s) of the contracting parties and published in the national gazette of these states when promulgating the treaty concerned. Domestic publication of the treaty is always a legal requirement. These translations remain non-authentic texts; that is, that they will not be authoritative for interpretation and mainly serve informative purposes in order to ensure the availability of these texts in the national language. However, their importance might be crucial because individuals and the national courts of the contracting party will most probably consult and use these versions when applying treaty provisions.

Even if an international treaty has several authentic languages, the practice is that the text of the treaty is negotiated in a *lingua franca* (which is, in the majority of cases, English), and the (other) authentic texts are produced as translations by the contracting parties which later exchange the texts for scrutiny.

Translation thus plays a crucial role in elaborating authentic texts of international instruments. It is important because, if the original contains ambiguities, it will cause even more misunderstanding and mistranslation at the stage of translation. If, for instance, a word or phrase can have several meanings, it is a high possibility that some of the translations will have a meaning that it is not the one the author or legislator originally intended. In addition, the language of negotiation (in which the original was produced) will lose its privileged status after the translations of the other authentic texts are prepared. According to the rules of interpretation of the Vienna Convention on the Law of Treaties, the drafting language will not play any further decisive role in the interpretation of the texts.

The accurate translation of international treaties is of major importance: translation errors, diverging language versions, ambiguous wording or misleading terminology might lead to interpretation problems. Translation errors might be corrected under the rectification procedure of the Vienna Convention on the Law of Treaties. In specific cases, if the terminology used in an international treaty proves to be inadequate, it can be altered at the revision of the treaty.

Task 1. Answer the following questions:

1. What is an international treaty and what are its main functions?
2. In which language were international treaties drafted and authenticated until the beginning of the 20th century? How did the situation change in the 20th century?
3. What is the general principle concerning the language of international treaties today? What are the reasons for it?
4. Why are international treaties not authentic in all official languages of their contracting parties?
5. What does the choice of authentic languages depend on when drafting an international treaty? Give examples for different choices.
6. What language versions of an international treaty can be used for authoritative interpretation?
7. What role do other language versions of an international treaty play?
8. In which language are international treaties usually negotiated?
9. What role does translation play in drafting authentic texts of international treaties?
10. Are there any possibilities to correct translation errors?

Task 2. Complete the sentences with the missing words and phrases from the text.

1. By signing an international treaty, states _____ themselves in written form by the obligations which are _____ in the treaty.
2. It is therefore important that the _____ of the obligations, are clear for all _____ parties.
3. Today as a general rule international agreements are _____, i.e. are _____ in several languages.
4. However, it is seldom that a _____ agreement would be authentic in the official languages of all its _____ parties.
5. That is also due to the fact that the number of the contracting parties to these agreements, concluded _____ of international organisations, is in general relatively high.
6. Agreements which are _____ under the United Nations _____ are usually authentic in the six official languages of the United Nations (Arabic, Chinese, English, French, Russian and Spanish).
7. The restriction of a linguistic regime might cause practical problems in the case of international treaties which might be _____ directly by national courts and which might _____ rights or _____ obligations on individuals.
8. Only an _____ language version can be used for _____ interpretation.

9. Other language versions mainly _____ in order to ensure the _____ of these texts in the national language.
10. However, their importance might be _____ because individuals and the national courts of the contracting party will most probably consult and use these versions when applying treaty _____.

Task 3. Choose the more appropriate words/phrases.

1. The text of an international treaty *is negotiated / is bargained* in a lingua franca (which is, in the majority of cases, English), and the other authentic texts are produced as translations by the contracting parties which later exchange the texts for *elaboration / scrutiny*.
2. The language of *bargaining / negotiation* (in which the original was produced) loses its *privileged / exclusive* status after the translations of the other authentic texts are prepared.
3. According to the rules of interpretation of the Vienna Convention on the Law of Treaties, the *drafting / composing* language does not play any further *crucial / decisive* role in the interpretation of the texts.
4. Translation thus plays a crucial role in *examining / elaborating* authentic texts of international *instruments / implements*.
5. It is important because, if the original contains *ambiguities / obliquities*, it will cause even more misunderstanding and mistranslation at the stage of translation.
6. The accurate translation of international treaties is of major importance: translation errors, *discrepant / diverging* language versions, *ambiguous / oblique* wording or *misleading / misrepresenting* terminology might lead to interpretation problems.
7. Translation errors might be corrected under the *rectification / amendment* procedure of the Vienna Convention on the Law of Treaties.
8. In specific cases, if the terminology used in an international treaty proves to be *ineligible / inadequate*, it can be altered at the *revision / review* of the treaty.

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UK BREACHES OF HUMAN RIGHTS LAW

Although the UK has taken well known steps to incorporate internationally recognised human rights law into domestic legislation there are still cases where it is found to have breached human rights. Whilst many cases are resolved within the UK's own legal system, there continue to be cases which go to the European Court of Human Rights (ECHR) for a final decision. We look at some cases where the UK has been found, by the ECHR, to have violated human rights law.

Sexuality of People Serving in the UK's Armed Forces

In 2000 the ECHR found that the UK had violated the human rights of several homosexual soldiers who had been dismissed from the armed forces because of their sexuality. The ECHR ordered the UK to pay substantial damages to the individuals involved. The fact that the soldiers had been questioned about their sexuality, and then dismissed because of it, was held to be a breach of their right to privacy. This case led to the law on the sexuality of those who can serve in the UK's armed forces being changed. The UK is now amongst those countries who allow gay members of the armed forces to be open about their sexuality.

UK Widowers' Entitlement to Benefits

A 2002 human rights case was brought against the UK regarding a widower's entitlement to receive bereavement benefits. Until 2001 a man whose wife had died was not entitled to receive the lump sum and weekly bereavement payments which a woman whose husband had died would receive. A widower who had given up work to care for his children after the death of his wife in 1996, and who was refused the bereavement benefit, took his case to the ECHR. The ECHR held that the widower had been discriminated against on account of his gender and ordered that he be paid £25,000 in damages. By then the law in the UK had already been changed meaning that, today, a bereaved spouse of either gender has equal entitlement to bereavement benefits.

The Ban on Prisoners Voting in the UK

The UK's law preventing prisoners from voting in elections was called into question by a 2005 ECHR case. An ex-prisoner started the case which used human rights law to challenge the UK's ban on prisoners voting. The ECHR held that the ban may constitute a breach of an individual's right to free elections. In 2008, with the UK's law on prisoners voting unchanged, the UN commented that the ban may constitute a breach of human rights. Although the UK is usually prompt in adapting to ECHR rulings, as at March 2010, the ban remains. However, there have been suggestions that the law may be changed to allow some, less serious, categories of prisoner to vote.

Monitoring of Private Correspondence by the UK Government

A 2008 case was brought to the ECHR by several civil rights organisations. This questioned the legitimacy of the UK government's use of phone-tapping and the monitoring of emails between the UK and Ireland from 1990 to 1997. The civil rights groups claimed that some of their correspondence had been monitored by the authorities. The law at that time gave a very wide remit for the UK authorities to monitor correspondence and the very existence of that law was said by the ECHR to pose a threat to rights and freedoms. The ECHR was concerned that the law was open to abuse and held that the monitoring constituted a breach of the right to private correspondence. The UK government considered the case to be so sensitive in terms of national security, that it would neither confirm nor deny what had actually taken place. However, it did concede that it was reasonable for the ECHR to assume that some of the groups' correspondence had been viewed.

Stop and Search under the UK's Terrorism Act

In 2010 the ECHR found that the stop and search procedures used by the UK police pursuant to the Terrorism Act 2000 were illegal because they did not require the police to have grounds for suspicion before using them. The ECHR found that this was open to abuse and constituted a breach of an individual's right to private and family life. Many rules and laws introduced to combat terrorism have been challenged under human rights law. The measures needed to protect the UK against the threat of terrorism are considered to be much greater than those required to combat ordinary crime and there have been concerns from many sectors of society that this has been used as an excuse to take away long-held rights and freedoms.

Task 1. Complete the sentences with the most appropriate words.

1. Several soldiers had been questioned about their sexuality, and then dismissed ----- , was held to be a breach of their right to privacy.
 - a) because they concealed their homosexuality
 - b) because they violated the army discipline
 - c) because of being homosexuals
2. At present, a bereaved spouse of either gender has equal entitlement to ----- .
 - a) bereavement benefits
 - b) social allowances
 - c) death pay
3. The ECHR held that the ban to vote for prisoners may constitute a breach of an individual's right to ----- .
 - a) being elected as MPs
 - b) free elections
 - c) by-elections
4. The ECHR was concerned that the law stipulating the UK government's use of phone-tapping and the monitoring of emails was open to abuse and held that the monitoring constituted a breach of the right to ----- .
 - a) freedom of the press
 - b) private correspondence
 - c) freedom of conviction
5. In 2010 the ECHR found that the stop and search procedures used by the UK police pursuant to the Terrorism Act 2000 were illegal because they did not require the police ----- before using them.
 - a) to notify the suspects
 - b) to explain the charges
 - c) to have grounds for suspicion

Task 2. Complete the extracts with the appropriate words from the text.

1. to incorporate internationally recognised human rights law into ----- legislation
2. many cases are ----- within the UK's own legal system
3. to be ----- from the armed forces
4. a human rights case ----- against the UK
5. until 2001 a man whose wife had died ----- receive the lump sum and weekly bereavement payments
6. a bereaved spouse of either gender has ----- to bereavement benefits
7. an ex-prisoner started the case which used human rights law to challenge the UK's ----- on prisoners voting
8. questioned the ----- of the UK government's use of phone-tapping and the monitoring of emails
9. the UK government considered the case to be so sensitive ----- national security

10. the ECHR found that the stop and search procedures used by the UK police ----- the Terrorism Act 2000 were illegal
11. rules and laws introduced ----- terrorism
12. an excuse to take away ----- rights and freedoms

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GLOSSARY

abduction forcibly taking a person away against his/her will

accession the absolute or conditional acceptance by one or several states, of a treaty already concluded between other states

accountant a person or company whose job is preparing the financial records of people, companies, or organizations

acquisition of territory the act of acquiring or gaining possession of a territory

acquisition the act of buying something such as a company, a building, or a piece of land

actus reus the defendant's criminal act/omission that the prosecution must prove in order to secure a conviction; physical element of an offence

adjudication 1) the legal process by which a judge reviews evidence and argumentation set forth by opposing parties to come to a decision which determines rights and obligations between the parties involved; 2) the formal judgment or decision of a court

adjudication 1) the legal process by which a judge reviews evidence and argumentation set forth by opposing parties to come to a decision which determines rights and obligations between the parties involved; 2) the formal judgment or decision of a court.

administrative law a branch of public law which governs the activities of administrative agencies of government and the relations of administrative agencies with the legislature, the executive and the public

adversarial system a system of adjudication in which two opposing sides arguing a case have the primary responsibility for finding and presenting the facts of the case and the role of the court is that of an impartial referee determining, but not investigating, the case

advisory proceedings advisory opinions given by the Court of Justice on legal questions at the request of international organisations

affray fighting of two or more persons in a public place

aggravating circumstances any evidence presented during the trial that increase the enormity of the offence and add to its injurious consequences. These circumstances allow the court to impose a harsher penalty than it might otherwise be.

alien a foreigner who has not become a citizen of the country where he/she is living

allegation an assertion made with little or no proof

alleged crime a crime declared, without proof, to have been committed

alleged declared, without proof, to have taken place or to have a specified illegal or undesirable quality

ambiguity the state of having more than one possible meaning

ambiguous that can be understood in more than one way

amenity the attractiveness and value of real estate or of a residential structure

arbiter a person or agency empowered to judge in a dispute

arbitrary based on or subject to individual judgment or preference; relating to a decision made by a court or legislature that lacks grounding in law or fact

arbitration a form of alternative dispute resolution outside the courts when parties to a dispute refer it to arbitration by one or more persons and agree to be bound by the arbitration decision

arrestable offence an offence for which a person may be lawfully arrested without a warrant as opposed to a **non-arrestable offence** for which a person may be arrested only in certain circumstances (since 2005 these terms have been abandoned in the UK).

arson intentional or reckless destruction or damaging of property by fire

articles of association a document that contains details of how a company is organized, for example, the duties of management, rights of shareholders, and when meetings will be held. It is one of the documents needed to create a new company in the UK and some other countries

assault the touching of another person with an intent to harm, without that person's consent

assault intentional or reckless act that causes someone to be put in fear of immediate physical harm

assent approval or agreement from someone who has authority

assets a thing of value, especially property, that a person or company owns, which can be used or sold to pay debts

atrocious extremely cruel act

attorney the official name for a lawyer in certain jurisdictions, including Japan, Sri Lanka, South Africa, Brazil and the United States

auxiliary/subsidiary source of law secondary source of law which supplements the primary source of law

barrister a lawyer in England who has an exclusive right of audience in all the superior courts

barrister a lawyer who has the privilege of pleading cases in the higher courts and engages in the actual argument of cases or the conduct of the trial

battery intentional or reckless application of physical force to someone without his consent

bilateral treaty a treaty between two states

binding obligatory

binding imposing or commanding adherence to a commitment, an obligation, or a duty

blackmail threatening someone to reveal his past immorality or misconduct in order to gain financial benefit

borrowing (translation technique) translation by using a transcribed or an original form of the source language term

botnet a group of computers that are controlled by malware (= software such as a virus that the users do not know about or want)

brand the name of a product produced or sold by a particular company

breach a failure to do what is required by a law an agreement or a duty : failure to act in a required or promised way

burglary entering someone's house without permission in order to steal or commit an act of violence

case law the body of law set out in judicial decisions

chattels movable personal property

civil and political rights human rights which protect individuals' freedom from infringement by government and private organisations, and ensure one's ability to participate in the civil and political life of the state without discrimination or repression

civil case/lawsuit a legal action brought by a claimant, a party who claims to have suffered harm as a result of a defendant's actions and demands a remedy

claim a demand for something as due; an assertion of a right or an alleged right

claimant a person applying for relief against another person in a civil action

claimant the party who initiates a lawsuit/an action before a court in order to seek a legal remedy

claimant the party who initiates a lawsuit/an action before a court in order to seek a legal remedy

class action a lawsuit that allows a large number of people with a common interest in a matter to sue or be sued as a group

code a complete written formulation of a body of law

codification the process of collecting and restating the law of a jurisdiction in certain areas, usually by subject, and forming a legal code

commit to do something wrong or illegal

common law a law system in which legal decisions are based on judicial precedents

community sentence penalty which combines punishment with activities carried out in the community

company an organization that sells goods or services in order to make money

company law a branch of private law which sets out formal rules for starting and running a company and defines the rights and duties of shareholders and directors

comparative law the study of differences and similarities between the law of different countries

complainant a person who begins a civil lawsuit against another, known as the defendant, in order to remedy an alleged wrong

compliance the practice of obeying rules or requests made by people in authority

comply to act in accordance with another's command, request, rule, or wish

concurrence agreement in opinion; accord, assent

conglomerate a very large business organization consisting of several companies that often sell different types of product or service

consent compliance in or approval of what is done or proposed by another

consideration something of value given by one party to another in order to induce the other to contract. In common law, consideration is a necessary element for an enforceable contract.

constitute make up or form something

constitutional law a branch of public law which postulates the supremacy of law in the functioning of the state, defines the form of government of the state and the powers and responsibilities of the principal organs of government (the legislature, the executive and the judiciary) and entrenches the basic human rights

contentious cases cases involving international disputes of a legal nature that are submitted to the Court of Justice by states

continental/civil law a law system in which legal decisions are made by applying statutory law

contingent on smth. occurring or existing only if certain circumstances are the case; dependent on

contract law a branch of private law which regulates legally binding agreements (contracts) between two or more parties

convention binding agreement between states; used synonymously with treaty and covenant

conversion the tort of dealing with a person's property in such a way which is not consistent with that person's rights over it

covenant binding agreement between states; used synonymously with convention and treaty

creditor someone who money is owed to

crime/offence an act or omission that is deemed by the law to be legal and public wrong and is therefore prosecuted and punishable by the state

criminal case a legal action started by prosecution against a defendant, a party suspected of having committed a criminal offence

criminal law a branch of public law which relates to crime, i.e. illegal conduct for which a person may be prosecuted and punished by the state

criminal liability elements of an offence that the prosecution must prove before the defendant can be found guilty

culpable sufficiently responsible for criminal acts or negligence to be at fault and liable for the conduct

culture-bound terms terms specific to a particular legal system

custodial sentence imprisonment

custom a practice that has been followed in a particular locality in such circumstances that it is to be accepted as part of the law of that locality

customary international law aspects of international law that derive from custom

cybercrime crime that is committed using the Internet, for example by stealing somebody's personal or bank details or infecting their computer with a virus

damage harm, injury, detriment

damages monetary compensation for loss or injury

data facts or information, especially when examined and used to find out things or to make decisions; information that is stored by a computer

debenture a type of loan, often used by companies to raise money that is paid back over a long period of time and at a fixed rate of interest. In the UK, but not in the US, debentures are secured against property or other assets owned by the borrower

declaration a legally non-binding document stating agreed upon standards

defamation the communication of a false statement that harms the reputation of an individual, business, product, group, government, religion, or nation

defence an issue of law or fact that, if determined in favour of the defendant, will relieve him of liability

defendant a person or entity accused of a crime in criminal prosecution or a person or entity against whom some type of civil relief is being sought in a civil case

derogation an exemption from or relaxation of a rule or law

description/paraphrasing (translation technique) translation by presenting a short explanation in target language of the meaning of the source language term

detention the process when a state, government, or citizen lawfully holds a person by removing their freedom of liberty at that time

determinate custodial sentence a custodial sentence for a fixed period that is specified by law

detriment disadvantage or damage; harm; loss

digital using a system of receiving and sending information as a series of the numbers one and zero, showing that an electronic signal is there or is not there

dignitary torts a specific category of intentional torts where the cause of action is being subjected to defamation (slander and libel), intentional infliction of emotional distress, or invasion of privacy

diplomatic immunity a form of legal immunity that ensures that diplomats are given safe passage and are considered not susceptible to lawsuit or prosecution under the host country's laws

discharge release of a convicted defendant without imposing a punishment on him. Discharge may be absolute or conditional.

disclosure the act of making something known or public that was previously secret or private

discretion the right to choose what should be done in a particular situation

dispute an argument, quarrel

disrupt to make it difficult for something to continue in the normal way

doctrine of precedent the practice of making legal decisions by following the decisions made in a previous similar case

domestic/international legal framework a set of rules and procedural steps established by domestic/international law

domesticating translation techniques source language oriented translation techniques

double jeopardy the subjecting of a person to a second trial or punishment for the same offence for which the person has already been tried or punished

doublet a standardized phrase used in English legal language which consists of two words which are near synonyms

drug trafficking buying and selling illegal drugs

due process of law the regular administration of the law, according to which all laws must conform to fundamental, accepted legal principles and no citizen may be denied his or her legal rights, as the right of the accused to confront his or her accusers

due process of law the regular administration of the law, according to which all laws must conform to fundamental, accepted legal principles and no citizen may be denied his or her legal rights, as the right of the accused to confront his or her accusers

duress by circumstances/necessity the defence that may relieve the defendant of criminal liability. It covers the situations where the defendant commits an illegal act because he believes that in the given circumstances the act is immediately necessary to avoid death or serious personal harm to himself or another person.

duress by threats the defence that may relieve the defendant of criminal liability. It refers to the situations where the defendant is forced to commit an illegal act because of threats that he or another person will be killed or seriously harmed if the act is not done.

economic, social and cultural rights human rights which provide the conditions necessary for prosperity and wellbeing

ejectment a court action to force someone to leave a property which he is occupying illegally

electronic having or using many small parts, such as microchips, that control and direct a small electric current

eligible fit or proper to be chosen; worthy of choice

elucidation of international law clarification of international law

employment/labour law a branch of private law which regulates the relationship between employers, employees, trade unions and the government. It covers all aspects of employment, from the formation of a contract of employment to situations of redundancy and dismissal

enforce make people obey a rule or law

enforceable (of a law, rule, or obligation) able to be imposed so that it must be complied with

enforcement the act of compelling observance of a law, rule, or obligation

enjoy to have something good that is an advantage to you

entail impose, involve, or imply as a necessary accompaniment or result

enterprise an organization, a company, or a business

entitle (to) to give someone a legal right or a just claim to receive or do something

entity a general term for any institution, company, corporation, partnership, government agency, university, or any other organization which is distinguished from individuals

entity an organization or a business that has its own separate legal and financial existence; something that exists separately from other things and has its own identity

equitable fair and just; referring to equity (a system of British law which developed equally with the common law to make the law fairer, summarized in a maxim "equity does not suffer wrong without a remedy")

estoppel rule of evidence whereby someone is prevented from denying or asserting a fact in legal proceedings

evidence any matter of fact that a party to court proceedings offers to prove or disprove an issue in the case

ex post facto laws a law that retroactively changes the legal consequences of actions that were committed before the enactment of the law. In criminal law, it may criminalize actions that were legal when committed.

executive the branch of a government responsible for putting laws into effect

exile expulsion from one's native land, typically for political or punitive reasons; the condition or period of being forced to live away from one's native land

extortion the crime of making somebody give you something by threatening them

extraterritoriality the immunities enjoyed by foreign states or international organisations and their official representatives from the jurisdiction of the country in which they are present

false imprisonment a restraint of a person in a bounded area without justification or consent

family law a branch of private law which deals with family matters including marriage, civil unions and domestic partnerships, adoption, child abuse and child abduction, termination of relationships (divorce, annulment, property settlements, alimony, child custody and visitation), paternity testing, etc.

famine extreme and general scarcity of food, as in a country or a large geographical area

fee an amount that is paid for work done by a lawyer

felony a serious offence against the person and the property (since 1967 the term has been abandoned in the UK, but it is still used in the US).

fiduciary referring to a legal or ethical relationship of trust between two or more parties, especially in a situation where a person or company controls money or property belonging to others; one that holds a fiduciary relation or acts in a fiduciary capacity

file a lawsuit to deposit with the clerk of the court a written complaint or petition which is the opening step in a lawsuit and subsequent documents

fine money penalty payable to the state

first-generation rights civil and political rights

flexibility the ability to change or be changed according to the situation

forbearance the act of refraining from enforcing a debt

foreignizing translation techniques target language oriented translation techniques

forgery the crime of copying money, documents, etc. in order to cheat people

forgery making false banknotes, stamps, documents etc. with the intention of passing them off as genuine, thereby causing harm to others

fraud a deception deliberately practiced in order to secure unfair or unlawful gain

fraudulent obtained, done by, or involving deception, especially criminal deception

functional equivalence translation by using the target language term, the function of which is similar to that of the source language term

gambling the activity of playing games of chance for money and of betting on horses, etc

global commons resource domains or areas that lie outside of the political reach of any one nation State. International law identifies four global commons namely: the High Seas; the Atmosphere; Antarctica; and Outer Space.

global instrument a document to which any state in the world can be a party

gratuitous given without receiving any return value.

guilt the state of being responsible for the commission of a criminal offence

hacker a person who secretly finds a way of looking at and/or changing information on somebody else's computer system without permission

handle to deal with a situation, a person, an area of work

harassment the act of systematic and/or continued unwanted and annoying actions of a person or a group, including threats and demands

homicide the act of killing a human being

hostage-taking holding a person as a security against his will in order to force a person, an organisation or a state to do or not to do something

hostilities acts of warfare

identity who or what somebody/something is; the characteristics, feelings or beliefs that distinguish people from others

impartial treating all rivals or disputants equally; fair; unbiased; unprejudiced

impartiality a principle of justice holding that decisions should be based on objective criteria, rather than on the basis of bias, prejudice, or preferring the benefit to one party in a dispute over another for improper reasons

imprisonment the act of restraining the personal liberty of an individual, confinement in a prison

impunity exemption from punishment

inalienable rights rights which cannot be alienated, i.e. which cannot be taken away from any human being

incest sexual intercourse between family members or close relatives

indeterminate custodial sentence a custodial sentence where the court sets the minimum term of imprisonment an offender must serve before becoming eligible to be considered for release by the Parole Board.

indictable offence an offence that is tried on indictment, i.e. by jury in the Crown Court

indivisible rights rights which cannot be divided according to their importance as no right is more important than any other

inducement something that is given to somebody to persuade them to do something; incentive

infanticide the killing of a child under 12 months old by his mother

infringement a breach, as of a law, right, or obligation; violation; transgression

inherent rights rights which human beings have by virtue of their humanity alone; inborn rights

inheritance a word inherited from a proto-language

injunction a court order to the defendant to refrain from doing something

injured party a party that suffers harm

injurious falsehood a lie that was uttered with malice, that is, the person knew it was false or would cause damage or harm

inquisitorial system a system of adjudication where the court is actively involved in investigating the facts of the case

insanity a defect of reason, arising from mental disease, that is severe enough to prevent a defendant from knowing what he did (or what he did was wrong)

insider trading the crime of buying or selling shares in a company with the help of information known only by those connected with the business, before this information is available to everybody

integrity adherence to moral and ethical principles; soundness of moral character; honesty

intentional infliction of emotional distress a tort claim for intentional conduct that results in extreme emotional distress

intergovernmental organisation an organisation composed primarily of sovereign states (referred to as member states), or of other intergovernmental organisations

international instrument international legal document

international law the set of rules generally regarded and accepted as binding in relations between states and nations

international legal framework set of legal rules and procedural steps, through which judgments in international courts can be determined in a given legal case

international norm international standard

international personality capability of having rights and obligations under public international law

invalidate make a document, contract, election, etc no longer legally or officially valid or acceptable

investment the act of putting money into a business to buy new stock, machines, etc., or a sum of money that is invested in a business in this way; the act of buying shares, bonds, property, etc. in order to make a profit

inviolability of the diplomatic mission prohibition to enter the premises of the mission and to use the archives of the mission without the consent of the head of the diplomatic mission, as well as to hinder free communication of the mission for all official purposes

issue a subject or problem that people think or talk about, or need to deal with; a question that people still disagree about after all sides have argued for their clients in court

joint venture an arrangement between two or more companies to work together on a particular project

judgment a decision made by a court in respect of the matter before it

judicial pertaining to judgment in courts of justice or to the administration of justice

judicial precedent a judicial decision that is binding on other equal or lower courts in the same jurisdiction as to its conclusion on a point of law, and may also be persuasive to courts in other jurisdictions, in subsequent cases involving sufficiently similar facts

judicial review the power of a court to adjudicate the constitutionality of legislative or executive acts

judicial system the system of law courts that administer justice and constitute the judicial branch of government

judiciary the branch of government that is endowed with the authority to interpret and apply the law, adjudicate legal disputes, and otherwise administer justice

jurisdiction 1) the power of a court to hear and decide a case or make a certain order; 2) the territorial limits within which the jurisdiction of a court may be exercised

jurisprudence the science or philosophy of law

juristic writings the scholarly works of prominent jurists

jus cogens a peremptory norm of international law, i.e. a fundamental principle of international law which is accepted by the international community of states as a norm from which no derogation is ever permitted

justiciable (of a state or action) capable of being decided by a court of law

kidnapping carrying a person away, without his consent, by means of force, threats or fraud, usually to hold the person unlawfully for extraction of ransom or in furtherance of another crime

landmark decision a judicial precedent that establishes an important legal principle, or represents new or changed law on a particular issue

lawsuit a civil action brought in a court of law in which a claimant, a party who claims to have incurred loss as a result of a defendant's actions, demands a legal or equitable remedy

lease a legal agreement which allows you to use a building, car etc for a period of time, in return for rent

legacy money or property that a person or organization receives from someone who has died; a situation that has developed as a result of past actions and decisions

legal of, relating to, or concerned with law; established legally other than by statute, as by a judicial opinion

legal abuse misuse of powers associated with both civil and criminal legal action, i.e. misuse of powers by law enforcement institutions, lawyers, judiciary etc.

legal collocation a combination of legal words in a language that happens very often and more frequently than would happen by chance

legal commitment legal obligation

legal concept an abstract notion formed by generalizing the main features of similar legal phenomena (human interactions and the resultant legal regulation)

legal correspondence legal communication by exchange of letters

legal costs the lawyers' fees and other disbursements of the parties that a judge has the power to order after judgment has been given

legal culture the ideas, values, attitudes and opinions, people in some society hold with regard to law and the legal system

legal discourse use of legal language in written and spoken communication

legal entity a person, partnership, organisation, or business that has a legal and separately identifiable existence

legal instrument legal document

legal jargon the specialized legal language, and its vocabulary in particular, often meaningless to outsiders

legal opinion a written explanation by a judge or group of judges that accompanies a ruling in a case, laying out the rationale and legal principles for the ruling

legal person a company that has full legal rights and responsibilities according to the law

legal person private organisation (business entity or non-governmental organisation) or public (governmental) organisation; juridical person

legal repercussions unintended legal consequences of an action

legal system a system for interpreting and enforcing the laws

legal terminology terms defining legal concepts.

legal translation the translation of texts within the field of law

legal writing a type of technical writing used by lawyers, judges, legislators, and others in law to express legal analysis and legal rights and duties

legal wrong a wrongdoing that can be followed by criminal proceedings which may result in punishment

legalese the style of English used by lawyers and other legal professionals in the course of their work

legally binding instrument a document which is enforceable by law

legislation 1) lawmaking; the preparation and enactment of laws by a legislative body; 2) the whole or any part of a country's law enacted by a legislative body

legislature a representative assembly of persons that makes statutory laws for a state

legitimate allowed and acceptable according to the law

liability legal responsibility, a legal obligation, either due now or at some time in the future

libel recorded or written form of defamation such as on the Internet, in a newspaper or a letter

lien legal right to hold someone's goods or property and keep them until a debt has been paid

life sentence imprisonment for life

literal equivalence literal translation of a term

litigant a person engaged in a lawsuit

litigation the process of making or defending a claim in court

litigator a courtroom lawyer representing a party

loanword a word borrowed from another language, borrowing

malicious motivated by wrongful, vicious, or mischievous purposes

manslaughter unlawful homicide committed by gross negligence

mediation a nonbinding intervention between parties to promote resolution of a grievance, reconciliation, settlement, or compromise.

memorandum of association a document needed to officially form a new company, which gives details of its name, activities, managers, share capital, etc

mens rea the state of mind that the prosecution must prove a defendant to have had at the time of committing an offence in order to secure a conviction; mental element of an offence

merger a situation when two or more companies, organizations, departments, etc. join together

minor a person who is not yet old enough to have the rights of an adult

misdeemeanour any of the less serious offences, as opposed to felony (since 1967 the term has been abandoned in the UK, but it is still used in the US).

misnomer a name that is wrong or not proper or appropriate

misprision of treason having information that someone has committed treason and not informing the proper authorities within a reasonable time

misuse to use something in the wrong way or for the wrong purpose

mitigating circumstances any evidence presented during the trial regarding the defendant's personal or family circumstances or the circumstances of the offence which allow the court to pass a lesser sentence and to reduce the severity of the punishment

money laundering moving money that has been obtained illegally into foreign bank accounts or legal businesses so that it is difficult for people to know where the money came from

multilateral treaty a treaty among three or more states

municipal law the national, domestic, or internal law of a sovereign state

municipal/domestic law national or internal law of a sovereign state defined in opposition to international law

murder unlawful homicide committed with malice aforethought

natural person a real human being, as opposed to a legal person

naturalisation adjusting a borrowed word or phrase to the phonetic and grammatical system of the target language

negative rights human rights which restrain other persons or governments by limiting their actions towards or against the right holder. Negative rights oblige inaction as opposed to positive rights which oblige action

negligence a tort involving harm caused by carelessness, not intentional harm

negotiation a dialogue between two or more people or parties intended to reach an understanding, resolve points of difference, to gain advantage for an individual or collective

neologism a newly coined word, or phrase that may be in the process of entering common use, but that has not yet been accepted into mainstream language

non-governmental organisation an organisation which is created by natural or legal persons with no participation or representation of any government

non-self executing treaty a treaty that becomes judicially enforceable through the implementation of legislation, i.e. a change in the domestic law of a state party that will enable it to fulfil treaty obligations

non-tangible which cannot be touched

nuisance a tort which causes offence, annoyance, trouble or injury

null and void having no legal force or effect

obligation an act or course of action to which a person is morally or legally bound; a duty or commitment

offence triable either way/either way offence an offence that may be tried either summarily or on indictment

offeree a person or entity to whom an offer to enter into a contract is made by another (the offeror).

offeror a person or entity who makes a specific proposal to another (the offeree) to enter into a contract.

omission a failure to act

opinio juris the conviction of states that the general and consistent practice is required by a legal obligation; one of the elements required for identifying a rule as part of customary international law

partnership a company which is owned by two or more people

party one of the participants in a lawsuit or other legal proceedings who has an interest in the outcome

party to a case a person or entity that is involved in judicial proceedings (claimant and defendant in civil cases and prosecution and defendant in criminal cases)

penal system a correctional system which encompasses a network of agencies that administer a jurisdiction's prisons and community-based punishment programs

perpetrator a person who commits an illegal, criminal, act

petitioner a party which presents a formal, written application to a court, officer, or legislative body that requests action on a certain matter

pharming the practice of secretly changing computer files or software so that visitors to a popular website are sent to a different website instead, without their knowledge, where their personal details are stolen and used to steal money from them

phishing the activity of tricking people by getting them to give their identity, bank account numbers, etc. over the Internet or by email, and then using these to steal money from them

pillars of democracy fundamental principles of democracy

plain English movement a movement campaigning for simplification of legal English

plaintiff the party who initiates a lawsuit/an action before a court in order to seek a legal remedy

plaintiff the party who initiates a lawsuit/an action before a court in order to seek a legal remedy (AmE)

political abuse misuse of political powers

political legitimacy people's recognition and acceptance of the validity of the rules of their entire political system and the decisions of their rulers

positive rights human rights which provide the right holder with a claim against another person or the state for some good, service, or treatment. Positive rights which oblige action as opposed to negative rights which oblige inaction

pre-existing law a law which existed prior to an alleged violation

precedent a principle or rule established in a previous legal case that is either binding on or persuasive for a court or other tribunal when deciding subsequent cases with similar issues or facts

prerequisite something required as a prior condition for something else to happen or exist

presumption an inference of the truth of a fact from other facts proved, admitted, or judicially noticed

presumption of innocence the principle that one is considered innocent until proven guilty; the principle that requires the government to prove the guilt of a criminal defendant and relieves the defendant of any burden to prove his or her innocence.

prevention of crime the act of stopping someone from committing an offence

preventive diplomacy action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur

prima facie the term signifying that upon initial examination, sufficient corroborating evidence appears to exist to support a case

principal source of law primary source of law which is highest in its importance

private international law law which regulates the rights and duties of natural and legal persons of different sovereign states

private/civil law an area of law which is concerned with disputes among individuals or businesses

probate law a branch of private law which regulates the procedures for issuing a probate – a certificate by which the court confirms the validity of a will and allows executors of a will to administer the testator's property

procedural/adjunctive law the body of law defining the rules by which a court hears cases in civil and criminal proceedings, as well as the method and means by which substantive law is made and administered

procedural/adjunctive law the part of law that deals with practice and procedure in the courts

proceedings action taken in a court to settle a dispute

promissory estoppel in the law of contracts, the doctrine that provides that if a party changes his or her position substantially either by acting or forbearing from acting in reliance upon a gratuitous promise, then that party can enforce the promise although the essential elements of a contract are not present

proof beyond reasonable doubt the standard of proof required in criminal proceedings. If the jury has any reasonable doubts about the guilt of the accused, it may not convict him

prosecution the institution and conducting of legal proceedings against someone in respect of a criminal charge

prosecutor the person who institutes criminal proceedings on behalf of the state

provision a clause in a legal instrument, a law, etc., providing for a particular matter; stipulation; legal condition

proximate cause an event sufficiently related to a legally recognizable injury to be held to be the cause of that injury

public advocacy public support for or recommendation of a particular cause or policy

public international law law which regulates the rights and duties of nation states in relation to each other

public law an area of law which governs relationship between individuals and the state

public wrong a wrongdoing which directly and in serious degree threatens the security and well-being of society

punitive damages damages intended to reform or deter the defendant and others from engaging in conduct similar to that which formed the basis of the lawsuit

purchase something that you buy; the act of buying something

quasi having a legal status only by operation or construction of law and without reference to intent (a quasi contract)

ratification the confirmation or adoption of an act that has already been performed

recipient a person who receives something

reciprocity arrangement which applies from one party to another and vice versa; a mutual exchange of commercial or other privileges

rectification the correction of the document

redress to correct something that is unfair or wrong

refrain stop oneself from doing something that he/she wants to do

refugee a person who has been forced to leave their country in order to escape war, persecution, or natural disaster

regional instrument a document to which only states of a particular region may be parties

release on licence/parole release from prison before a sentence is finished on the condition that the person meets certain requirements set for him

remedial action an undertaking to fix a problem or issue

remedy to restore to the proper condition; to put right

remedy judicial action to right a wrong or to prevent an infringement upon a legal right.

render officially report or declare (a legal judgment, such as a verdict)

replevin an action for the recovery of goods or chattels wrongfully taken or detained

reprisal something violent or harmful which you do to punish someone for something bad they have done to you; revenge

repudiate refuse to accept; especially to reject as unauthorized or as having no binding force

rescission an act of rescinding, cancellation or making void

respondent a person against whom a petition, especially in a divorce suit, or appeal is brought

restitutionary damages damages restoring the benefit conferred to the non-breaching party

restraining order a form of court order that requires a party to do, or to refrain from doing, certain acts

revoke officially cancel the power or effect of (something, such as a law, license, agreement, etc.): to make (something) not valid

riot collective conduct of a group of persons when they intentionally use or threaten unlawful violence for a common purpose

robbery using force or threats in order to steal from someone

rule make a legal decision about something (usually by judge)

scam a clever and dishonest plan for making money

second-generation rights economic, social and cultural rights

security a financial investment such as a bond or share that is traded on a financial market; property or goods that you promise to give someone if you cannot pay them what you owe them

sedition speaking or writing of words that are likely to incite ordinary people to public disorder or insurrection

self-defence using force in order to defend oneself, or one's family, or anyone else against attack or threatened attack

self-executing treaty a treaty that becomes judicially enforceable without the aid of legislation, i.e. merely becoming a party puts the treaty and all of its obligations in action

separation of powers the doctrine stating that the liberty of an individual is secure only if the three primary functions of the state (legislative, executive and judicial) are exercised by distinct and independent organs

servitude the state of being a slave or completely subject to someone more powerful; slavery

set up to start a new business

settle out of court to agree, to approve, to arrange, to ascertain, to liquidate, or to reach an agreement out of court

settlement a resolution between disputing parties about a legal case, reached either before or after court action begins.

share one of the units that the ownership of a company, fund, etc. is divided into and which can be bought by members of the public

shareholder a person or organization that owns shares in a company

signature your name as you usually write it, for example at the end of a letter

slander oral, spoken defamation

sole being the only one, not shared with anyone else

solicitor a type of practicing lawyer in England who handles primarily office work

solicitor a member of that branch of the legal profession whose services consist of advising clients, representing them before the lower courts, and preparing cases for barristers to try in the higher courts

source language the language being translated from

source of law method of developing law, such as case law and statutory law

spam advertising material sent by email to people who have not asked for it

specific performance an order of a court which requires a party to perform a specific act, usually what is stated in a contract

standard of proof the degree of proof required for any fact in issue in court proceedings, which is established by assessing the evidence relevant to it. In criminal cases the standard is proof beyond reasonable doubt; in civil cases the standard of proof is proof on a balance of probabilities

standard of proof the degree of proof required for any fact in issue in court proceedings, which is established by assessing the evidence relevant to it. In criminal cases the standard is proof beyond reasonable doubt; in civil cases the standard of proof is proof on a balance of probabilities

stare decisis a doctrine of following principles laid down in previous judicial decisions (judicial precedents) unless they contravene the ordinary principles of justice

state immunity the protection which a state is given from being sued in the courts of other states

statute an Act of Parliament

statutory law a law or group of laws passed by a legislature or other official governing bodies

statutory law the body of law contained in Acts of Parliament (statutes)

statutory torts torts created by the legislature, not the courts

statutory/statute law the body of law contained in Acts of Parliament

stock goods that a company owns, such as parts, materials, or finished products

strict liability legal responsibility which makes a person legally responsible for the damage and loss caused by his acts and omissions regardless of culpability

subject (to) to make somebody/something experience, suffer or be affected by something, usually something unpleasant

subject to smth. under the authority of smth.

subsidiary a company that is controlled by another

substantive law the body of law which regulates rights and duties among citizens and governments, such as civil rights and responsibilities in civil law, crimes and punishments in criminal law

substantive law the part of law that defines rights and duties, such as crimes and punishments in criminal law, civil rights and responsibilities in civil law

succession law a branch of private law which defines rules and procedures under which beneficiaries become entitled to property under a testator's will or on intestacy

sue use a legal process by which you try to get a court of law to force a person, company, or organization that has treated you unfairly or hurt you in some way to give you something or to do something : to bring a lawsuit against someone or something

summary offence an offence that can only be tried summarily, i.e. by magistrates in a magistrates' court

supplier a company that provides a product, or the materials to make a product; the company that sells something

supranational law the law of supranational organisations. It refers to regional agreements among sovereign nations states

suspended sentence a custodial sentence of less than two years which does not take effect on the condition that the convicted person complies with certain requirements set for him

synergy the combined power, profits, etc. that can be achieved by two organizations or groups of people working together rather than separately

tamper to make changes to something without permission, especially in order to damage it

tangible which can be touched and clearly seen to exist

target language the language being translated to

tax evasion the crime of deliberately not paying all the taxes that you should pay

the rule of law the principle that all people and institutions are subject to and accountable to law that is fairly applied and enforced; the principle of government by law, as opposed to arbitrary government by individual officials; the supremacy of law

theft the crime of stealing something from a person or place

thereby by that means; because of (used to introduce the result of the action or situation mentioned)

third-generation rights solidarity rights such as the right to peace and the right to clean environment

to award damages to bestow/to order the giving of monetary compensation by judicial decree

to commit oneself to smth. to bind/obligate oneself to a certain course of action or policy

to pledge oneself to do smth. to commit oneself to do smth. by a solemn promise

tort 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

tort law a branch of private law concerned with torts which are civil wrongs, not including breaches of contract, that result in injury to another's person, property, reputation, or the like, and for which the injured party can obtain damages in a civil court.

tortfeasor a person who commits a tort

tortious referring to a tort

transaction an occasion when someone buys or sells something; the process of doing business

transcription representing utterances of spoken language in written form

transliteration representing a text from one script in another (e.g. transliterating a Cyrillic text into the Latin script)

treason conduct comprising a breach of allegiance owed to the sovereign or the state; betrayal of one's country

trespass a tort of interfering with the land or goods of another person

trespass to chattels a tort whereby the infringing party has intentionally interfered with another person's lawful possession of a chattel

trespass to land a tort that is committed when an individual or the object of an individual intentionally enters the land of another without a lawful excuse

trespass to the person a tort of harming someone by assault, battery or false imprisonment

trespass wrongful direct interference with another person or with his possession of land or goods. There are three kinds of trespass: trespass to the person, trespass to goods/chattels and trespass to land. **Trespass to the person** comprises assault, battery and false imprisonment. **Trespass to goods/chattels** includes touching, moving, or carrying away the goods which belong to someone else. **Trespass to land** refers to entering privately owned land and remaining on it without permission.

tribunal 1) a court of justice; 2) a committee or board appointed to adjudicate in a particular matter

triplet a standardized phrase used in English legal language which consists of three words which are near synonyms

trust law a branch of private law concerned with trusts which are arrangements in which property is managed by one person or entity (a trustee) for the benefit of another (a beneficiary)

unambiguous that cannot be understood in more than one way

under the auspices of with the help, support, or protection of

undertaking a promise to enter into a binding obligation

universal rights rights which are exercised by all human beings universally

unwritten Constitution a type of constitution where the fundamental rules of government take the form of customs, precedents and a variety of statutes

unwritten law law that is not enacted by Parliament

usus general and consistent state practice; one of the elements required for identifying a rule as part of customary international law

vicarious liability the responsibility of one person for torts committed by someone else, especially the liability of an employer for acts committed by an employee in the course of his work

vice versa used to say that the opposite of a statement is also true

violation a breach, infringement, or transgression, as of a law, rule, promise

vis-à-vis in relation to, with regard to

vote by secret ballot a vote in which the confidentiality of how one votes is safeguarded

warfare the process of military struggle between two nations or groups of nations; war

wilful deliberate, voluntary, or intentional

written law law that is enacted by Parliament

Liuolienė A., Metiūnienė R., Rackevičienė S.

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This coursebook provides comprehensive material for the studies of legal English. It enables the learners to understand and use legal English in international oral and written communication while working in state and private institutions. The coursebook consists of two parts. Part 1 is composed of 10 units introducing various topics of law and enabling the students to develop both receptive and productive legal English skills including reading, writing and speaking as well as to acquire the abilities of legal translation. Part 2 is intended for students' self-study (home reading). It is composed of additional texts on the topics of the Units in Part 1. The coursebook is assigned to university students who study legal English as part of their philology or non-philology study programmes and other learners who have a special interest in legal English and need to use it for their studies or work.

Alvyda Liuolienė, Regina Metiūnienė, Sigita Rackevičienė

ENGLISH FOR LAW AND COMMUNICATION

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Mykolo Romerio universitetas,

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