

МІНІСТЕРСТВО ОСВІТИ І НАУКИ УКРАЇНИ  
КИЇВСЬКИЙ НАЦІОНАЛЬНИЙ УНІВЕРСИТЕТ  
ТЕХНОЛОГІЙ ТА ДИЗАЙНУ

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## **LEGAL ENGLISH**

Навчальний посібник

Рекомендовано Вченою радою Київського національного  
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Посібник розрахований на студентів, аспірантів та науково-педагогічних працівників юридичних спеціальностей вищих навчальних закладів та широкого кола осіб, які бажають самостійно вдосконалювати рівень володіння англійською мовою у професійній сфері. Містить інформацію про правові системи та судочинство України, Великої Британії та США, знайомить студентів з конституційним, адміністративним, міжнародним, кримінальним і цивільним правом, кримінальним і цивільним процесом цих країн.

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## ПЕРЕДМОВА

Навчальний посібник з англійської мови «Legal English» призначений для студентів 3-4 курсів спеціальності 081 Право та узгоджується з робочою програмою з іноземної мови фахового спрямування для студентів денної та заочної форм навчання даної спеціальності.

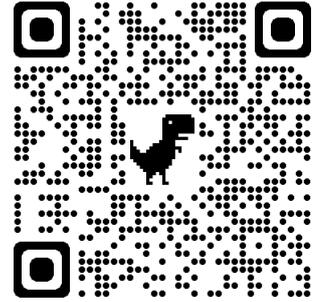
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Посібник може бути розрахований на студентів, аспірантів та науково-педагогічних працівників юридичних спеціальностей вищих навчальних закладів та широкого кола осіб, які бажають самостійно вдосконалювати рівень володіння англійською мовою у професійній сфері.

# UNIT 1

## WHAT IS LAW



### Lead-in

#### 1. Discuss these questions with a partner.

- 1) Write down any words or images you associate with “law”.
- 2) Why does law exist?
- 3) Give examples of ways that the rule of law has an impact on your life?

### Vocabulary

law /lɔː / lɒː/	закон
system of rules	система правил
by law	за законом
under English/international etc law	згідно англійського/міжнародного законодавства тощо
under a law	згідно із законом
law on	закон про
law against	закон проти
law and order	правопорядок
the laws of nature	закони природи
by the law of averages	по теорії ймовірності
take the law into your own hands	взяти закон у свої руки
go to law	йти до суду
be above the law	бути вище закону
there’s no law against something	немає закону проти чогось
obey the law	підкорятися закону
break the law	порушувати закон
pass a law	прийняти закон
become law	стати законом
introduce a law	запровадити закон
enforce a law	виконувати закон

flout a law	порушувати закон
repeal a law	скасувати закон
a law prohibits something	закон щось забороняє
something is against the law	щось суперечить закону
stay/act within the law	перебувати/діяти в межах закону
strict/tough law	суворий/жорсткий закон
tax/copyright/divorce etc	закони про податки/авторські
law(s)	права/розлучення тощо
criminal law	кримінальне право
civil law	цивільне право
international law	міжнародне право
common law	загальне право
case law	судова практика
make amendments	внести поправки

## 2. Read the text.

### What is Law

Human beings have always lived together under rules of one kind or another. It does not matter where in the world; it does not matter in what age, whether the society in which they lived was a basic or a complex one by our present-day standards – they have always as a matter of necessity lived by rules.

These rules are likely to be influenced by nature and the natural environment wherever people live, and the simple natural instinct which everyone has for survival. They may be influenced by religion or pagan beliefs, and they will cater for the ideas of right and wrong which are instinctive, or have been developed to suit the society in which they live.

Let us think about ourselves. If we form a club or group, even in an informal setting, what is the first thing we will do? Almost certainly, we will choose a leader or organiser and make up some rules. At first, we may not be satisfied with them. As time goes by we will change and adapt them to suit our needs, and any new ideas we may have, but we will not be able to manage without any rules at all. Even criminals who plan a crime will work to a set of rules of their own making, however unpleasant they and their crime may be.

If we think about our family, or our school, past or present, we will know that there are things which we have to do, and which we are not allowed to do. Some of these rules will be very obvious and we would expect to find them in any similar situation. Some may apply only in our lives. They may be sensible – or they may seem to us or outsiders to be strange, even foolish. We may well question these rules, but we will be told that there is no point in doing so: this is how things have always been and how they are – the “Law is the Law”!

Very often rules will be in force because all our parents, or others, are handing down a way of living and working which has been tried and tested, and which has suited them and possibly their ancestors, over many years. Whether they are sensible or silly, useful or useless, serious or fun, we still live by them,

because it has become the custom to do so. Gradually, over a period of time, customs may change to adapt to new times, just like the rules of a sport.

What kinds of rules do we have in our country? Our rules may conveniently be divided into three simple types:

- There are the basic-common-sense rules of everyday life. We must have rules which forbid us doing things which almost every-one regards as plainly and morally wrong.

- We have rules which govern the way in which we should behave in our particular community, and which we have learned from experience.

- We have rules which have gradually developed over many years, because it has become the custom to do things in a particular way, and that custom has become a settled and accepted way of behaviour.

Now if any of these rules and customs important that we can be punished or made to make amends for not obeying them, we tend to call them 'laws'. People do sometimes talk of 'laws' when referring to the rules by which they live their own lives: "This is the law in our family". "This is the law in our school". "These are the laws of cricket or football." We know what may happen if will break these laws – there will likely be punishment, or, in the case of sport, penalties of one kind or another.

In our country there are certain rules which are there to be obeyed by everyone – by us, by our family, by everyone who is old enough to behave responsibly. As we will see, many of these rules have grown out of custom – the customs of town and country, which have developed over the centuries and which have been adopted and adapted by the judges sitting in their courts. Many more rules have been laid down for us all by Parliament.

If any of us break these rules we may be brought before a court of law. We may be punished by the court, ordered to make amendments in some way. All the rules which could result in the courts taking action against us if we bring them are called laws.

### 3. Underline the best synonyms for the following words from the text:

- 1) **rule** - custom, regulation. statute, moral
- 2) **basic** - underlying, primary, fundamental, primitive
- 3) **complex** - composite, heterogeneous, varied, elaborate, sophisticated
- 4) **nature** - type, character, variety, world, personality
- 5) **pagan** - ethnic, gentile, infidel, profane
- 6) **cater** - humour, spoil, indulge, supply
- 7) **setting** - scene, scenery, set
- 8) **suit** - conform, adjust, fit, become
- 9) **manage** - rum, handle, operate, keep, direct

### 4. Match the verbs on the left with their definitions on the right:

1) make up

a) to consider

- |              |   |
|--------------|---|
| 2) go by     | b) to put to test or trial                        |
| 3) hand down | c) pass   |
| 4) question  | d) doubt, dispute                                 |
| 5) regard    | e) transmit in succession (as from father to son) |
| 6) lay down  | f) constitute, compose                            |
| 7) try       | g) assert or command dogmatically                 |

**5. Match the types of rules on the left with their examples on the right:**

<b>1) Basic common-sense rules of everyday life</b>	a) A good example of the influence of custom is our mercantile law, which deals with the way people trade with one another. Mercantile customs are of importance not merely in a domestic setting. Trade between countries throughout the world is based upon customs, and international trading practices have been accepted as part of our own commercial law.
<b>2) Rules which we have learned from experience</b>	b) We must not kill or rob. This will seem very obvious and we would expect to find the same rules in countries throughout the world. Nevertheless, we must have rules in our own country which make killing and robbing crimes, and provide a system of punishment for those who commit them - and other crimes.
<b>3) Customs</b>	c) It is the rule that the driver and passengers in a car must wear safety belts. This is the law in many countries but of course it was not always so. We did not have cars until the early 1900s. We did not have any motorways until the 1960s. Failing to wear a seat belt became an offence quite recently, simply because there were so many road accidents, and we learned from experience that in most road accidents seat belts provide protection from injury. Without a rule making people use them, they might not bother to do so.

**Reading 1**

**6. What is law: general information**

Before considering how law is interpreted and the role it plays on society we need to be clear about what we mean when we refer to “law”. What is “law”, how do we know it exists and how is it defined? By asking you to think about

what you mean when you use the word “law”, we are asking you to draw upon your own knowledge, views and experience.

The “law” is rarely out of the news and is often the focus for fictional drama. It is something that touches our lives on a daily basis, it governs what we can and cannot do, it is used to settle disputes, to punish and to govern. There are laws which are widely accepted and laws which generate controversy. Laws play a central role in social, political and economic life.

Many people think they know what the law is when they see it and your individual viewpoint will affect how you define law. Many lawyers feel that a society cannot be properly understood or explained without an understanding of its law and legal culture.

There are many definitions of law and the following task asks you to think about how law affects us all and how it can be defined in more detail.

## **7. Thinking about law**

### **Part 1**

Take a few moments to think about situations in which you have had contact with the law during the past 24 hours; for example, buying something, driving or walking across a road.

### **Part 2**

Having thought about how you may have had contact with laws in the last 24 hours try to identify what you think the particular laws have in common. If you want to use other examples try to think about what the laws on speeding vehicles (such as cars or motorbikes) may share in common with the laws on buying and selling goods (such as coffee, clothes, a kettle, car or fridge) and how these differ from an agreement to meet up with a friend or family member. What may happen if those laws/ agreements are broken?

This brings us to the definition of law that is used throughout this course. Law is a set of rules created by state institutions which make laws through the authority of the state. The laws have sanctions which are recognised by the state and enforced by state-authorized bodies. This is quite a wordy definition but it highlights some of the important factors in law-making:

- the authority of the state is needed
- only certain institutions can make law
- the institutions that make law have been given the authority to do so
- sanctions exist for breaking the law
- the sanctions are imposed by those given state authority to do so.

## **Video 1. What is Law**

### **8. Watch the video and answer the following questions:**

- 1) What is law?

- 2) Who is the law made by?
- 3) Who are the rights enforced by?
- 4) What did Glanville Williams say about the meaning of the word “law”?
- 5) Which functions are included in the law?
- 6) What happens when two functions of the law come into conflict with each other?
- 7) What makes some of the rules as laws?
- 8) What is a parliamentary supremacy?
- 9) How can you apply information from this video?

**9. Match word-combinations in column A with their equivalents in B.**

A	B
1) to come across legal rules	a) захищати права людини
2) to be enforced through the common law institutions	b) різноманітні та абстрактні підходи
3) to uphold the law	c) забезпечуватися через інститути загального права
4) to apply model rules	d) зберігати мораль і норми
5) diverse and abstract approaches	e) забороняти негативні дії
6) to protect human rights	f) дотримуватися закону
7) to preserve morals and norms	g) застосовувати типові правила
8) to forbid a negative action	h) натрапити на юридичні норми

**Reading 2.**

**What are the 4 types of law?**

Law and Order is more than just a long-running television show. Laws have been the fabric of society and innovation since the dawn of civilization. The Code of Hammurabi, a large stone etched with hieroglyphs, is one of the earliest and best preserved examples of laws. With the advent of written law, government institutions could enforce the right to life and property. Trade, banking, literature, and art all thrived due to the creation of modern civilization.

While there are an estimated 15,000 to 50,000 laws in the U.S. alone, there are four types of laws that modern nations abide by. Laws can be broken down into torts, contract laws, property laws, and criminal laws. Although they may appear to encompass similar situations, each type of law is unique in its structure and enforcement.

***Tort Law***

A tort refers to a situation where someone believes they have been wronged. This includes an invasion of privacy, damages inflicted, losses sustained, or an act of negligence. Similar to criminal law, the injured party in a tort lawsuit must

prove that they have suffered some foreseeable loss or harm. Tort law or common law it was first known, arose in Germany during the middle ages. In the Germanic common law system, perpetrators were mandated to pay a certain fine. If the fine for actions such as trespassing, slander, or breach of contract was not paid, the defendant would be imprisoned.

Tort law is a hot topic in the legal world. Many tort reformers believe this type of law is abused for financial purposes. As such, modern torts are heavily influenced by insurance law and settle through a claims adjustment rather than through trial. The amount of money the injured party can be awarded is often based on the ceiling that the insurance company sets for a possible payment.

### ***Contract Law***

Ever hear the saying, “always get it in writing”? The fact of the matter is, a person’s word does hold the same level of gravitas as a written contract. A contract is a legally forceable between parties to do or not do something. A legal contract must contain an offer, the acceptance of said offer, the intent of both parties to enter into a legally binding agreement, consideration. The term consideration refers to something of value that is exchanged for the service laid out in the contract. This typically refers to a sum of money or product. Contracts can be legally enforceable if they are verbal, but a verbal contract must first be proved to have taken place by an outside party.

Contracts also contain terms and provisions that each party must fulfil. Before parties enter a contract, mental capacity and maturity of the parties must be proved. Contract lawyers are hired to draft legal contracts or ascertain when there has been a breach of contract. Furthermore, these lawyers also assist with compliance, real estate transactions, reviewing employee manuals, and intellectual property issues.

### ***Property Law***

The enforcement of property rights is one of the most important facets of a society. In parts of the world where property rights are not enforced, there tends to be a dearth of merchant and manufacturing activity as businesses are warded off by the threat of theft and destruction. Property law outlines the ownership of land and personal items. Some subsections of property law include estate law, family law, and municipal law.

There are two different types of property: real property and personal property. Real property refers to land and things attached to said land like a home, building, garage, or agriculture. Personal property refers to personal possessions like a computer, valuable baseball card, or family heirloom. The transfer and ownership of property differ from state to state.

Property lawyers generally practice transactional law. They must be masters in technical writing as even one word can dramatically alter property ownership. Property lawyers have an expert understanding of deeds, zoning laws, eminent domain, and easements.

### ***Criminal Law***

Criminal law may be the most widely recognizable law. We often think of criminal law in clear-cut terms. If someone robs a convenience store, gets into a

bar fight, or hits someone with their car, this becomes a criminal case. Criminal law defines what conduct is classified as a crime. Federal, state, and local governments have their own set of penal codes that they enforce. Individuals who violate criminal law face fines, probation, or imprisonment. Lawsuits against perpetrators are carried out by prosecutors who act on behalf of the government.

Criminal defense lawyers specialize in the defense of individuals or companies that have been charged with criminal activity. Criminal defense lawyers can be either privately retained or assigned to the case if the accused cannot afford legal defense. Criminal defense lawyers must have an expert knowledge of the U.S. Constitution. Lawyers analyze whether law enforcement enacted an unlawful search and seizure or if the accused has been harmed in any way. They also build their defense through a thorough investigation of the case, negotiate for a plea bargain, and draft appeals.

In a criminal trial, the jury is selected and agreed upon by both the prosecution and defense. Both sides make their opening statement, cross examine the witnesses, and give their closing arguments. At this point the jury deliberates and reaches a verdict which is then read aloud in the courtroom.

### **10. Look at the words to help you:**

rule	правило, норма
crime	злочин; злочинність
disorder	порушення громадського порядку
code	кодекс, збір законів; система
validity	юридична сила, законність
rule of law	принцип верховенства права
protection	захист, охорона
maintenance of the peace	підтримка (збереження) світу, порядку (громадського спокою)
make a law	створювати / приймати закон
prevent	запобігати, попереджати
enforce	примусово застосовувати (закон); забезпечувати дотримання, виконання

### **Video 2. Introduction to Law: Basic Concepts and Definitions**

#### **11. Watch the video and answer the following questions:**

- 1) What is law?
- 2) What are the sources of law?
- 3) What is included in an evidentiary court?
- 4) What is the federal court trial division?
- 5) What is mean “contributory negligence”?
- 1) What is the Supreme Court of Canada?

- 6) What do you know about Basic Concepts and Definitions of Law?
- 7) What are the advantages and disadvantages of Law?
- 8) How can you apply information from this video?

## 12. Match word-combinations in columns

- |                             |                                 |
|-----------------------------|---------------------------------|
| 1) To force public policy   | a) залучити до відповідальності |
| 2) the statement of defense | b) співучасть у халатності      |
| 3) to define liability      | c) визначити відповідальність   |
| 4) contributory negligence  | d) відсутність виконання        |
| 5) to make you liable       | e) заява захисту                |
| 6) lack of enforcement      | f) забезпечення дотримання      |
| 7) to offer and acceptance  | громадського порядку            |
|                             | g) запропонувати та прийняти    |

### Reading 3.

#### LAW AND ORDER

### 13. Read the text. The red words are probably familiar to you in general English. But can you think of a different meaning for each word in legal English?

My friend walked into the **bar**. He was carrying a small **case**. We had a **brief** conversation about the weather and then started chatting about last night's football match. I had hardly finished a **sentence** when he complained that his team had lost because the **defence** had been really bad. They had played without any **conviction**. I took a **stand** against him and said you shouldn't **judge** a team on the **evidence** of just one match.

### 14. Read these sentences from legal texts. Complete each sentence with one of the red words from Exercise 13.

- 1) The \_\_\_\_\_ asked the members of the jury to leave the court.
- 2) A solicitor gives a \_\_\_\_\_ to the barrister which consists of important legal documents.
- 3) My lawyer disagreed with the verdict and wants my \_\_\_\_\_ to go to a higher court.
- 4) The accused was shocked when he was found guilty and given a four-year prison \_\_\_\_\_.
- 5) I think she already has a \_\_\_\_\_ for shoplifting.
- 6) As the key witness took the \_\_\_\_\_ there was complete silence in the court.

- 7) The prosecution hasn't got enough \_\_\_\_\_ to secure a guilty verdict.
- 8) Barristers are lawyers who have been called to the \_\_\_\_\_.
- 9) The lawyers for the \_\_\_\_\_ complained that their client could not get a fair trial.

**15. Study the words in box A.**

- 1) What is the connection between all the words?
- 2) What is the base word in each case?
- 3) What do we call the extra letters?
- 4) What is the meaning of each prefix?
- 5) Can you think of another word with each prefix?

**A**

dishonest enforce impartial international illegal  
indecisive mistrial jurisdiction unjust

**16. Study the words in box B.**

- 1) What is the connection between all the words?
- 2) What is the base word in each case?
- 3) What do we call the extra letters?
- 4) What effect do the extra letters have on the base word?
- 5) Can you think of another word with each suffix?

**B**

acceptable accusation adversarial inquisitorial  
prosecution defendant judgment solicitor justice  
statutory



c It is about punishment.

d It is more complex than this.

*In Part 2 of the talk, the lecturer mentions bar, fair and just.*

1) What do these words mean in general English?

2) What do they mean in law?



➤ *Listen and check your ideas.*

*In Part 3 of the talk, the lecturer describes different branches or types of law.*

1) How many branches or types can you think of?



➤ *Listen and check your ideas.*

2) What aspect of law does the lecturer think is now very important?

*In the final part of the talk, the lecturer gives a definition of law and some examples.*



➤ *Listen and mark each word in the box D if it is part of the definition and E if it is part of the example.*

set ___	rules ___	drive ___
forbid ___	speed ___	require ___
limit ___	camera ___	actions ___

*Write a definition of law. Use words using the above information.*

#### **Reading 4.**

#### **19. Read the text**

### **LEGAL SYSTEMS**

In general, legal systems can be split between civil law and common law systems. Modern scholars argue that the significance of this distinction has progressively declined; the numerous legal transplants, typical of modern law, result in the sharing by modern legal systems of many features traditionally considered typical of either common law or civil law. The term "civil law", referring to the civilian legal system originating in continental Europe, should not be confused with "civil law" in the sense of the common law topics distinct from criminal law and public law.

The third type of legal system accepted by some countries without separation of church and state is religious law, based on scriptures. The specific

system that a country is ruled by is often determined by its history, connections with other countries, or its adherence to international standards. The sources that jurisdictions adopt as authoritatively binding are the defining features of any legal system. Yet classification is a matter of form rather than substance since similar rules often prevail.

## **CIVIL LAW**

Civil law is the legal system used in most countries around the world today. In civil law the sources recognised as authoritative are, primarily, legislation — especially codifications in constitutions or statutes passed by government — and custom. Modern civil law systems essentially derive from legal codes issued by Byzantine Emperor Justinian I in the 6th century, which were rediscovered by 11th century Italy. Roman law in the days of the Roman Republic and Empire was heavily procedural, and lacked a professional legal class. Instead a lay magistrate, *iudex*, was chosen to adjudicate. Decisions were not published in any systematic way, so any case law that developed was disguised and almost unrecognised. Civil law codifications based closely on Roman law, alongside some influences from religious laws such as canon law, continued to spread throughout Europe until the Enlightenment; then, in the 19th century, both France, with the Code Civil, and Germany, with the Bürgerliches Gesetzbuch, modernised their legal codes. Both these codes influenced heavily not only the law systems of the countries in continental Europe (e.g. Greece), but also the Japanese and Korean legal traditions. Today, countries that have civil law systems range from Russia and Turkey to most of Central and Latin America.

## **COMMON LAW**

In common law legal systems, decisions by courts are explicitly acknowledged as "law" on equal footing with statutes adopted through the legislative process and with regulations issued by the executive branch. The "doctrine of precedent", or *stare decisis* (Latin for "to stand by decisions") means that decisions by higher courts bind lower courts, and future decisions of the same court, to assure that similar cases reach similar results. In contrast, in "civil law" systems, legislative statutes are typically more detailed, and judicial decisions are shorter and less detailed, because the judge or barrister is only writing to decide the single case, rather than to set out reasoning that will guide future courts.

Common law originated from England and has been inherited by almost every country once tied to the British Empire. The next major step in the evolution of the common law came when King John was forced by his barons to sign a document limiting his authority to pass laws. This "great charter" or Magna Carta of 1215 also required that the King's entourage of judges hold their courts and judgments at "a certain place" rather than dispensing autocratic justice in unpredictable places about the country. A concentrated and elite group of judges

acquired a dominant role in law-making under this system, and compared to its European counterparts the English judiciary became highly centralised.

However, the system became overly systematised — overly rigid and inflexible. In developing the common law, academic writings have always played an important part, both to collect overarching principles from dispersed case law, and to argue for change. William Blackstone, from around 1760, was the first scholar to collect, describe, and teach the common law. But merely in describing, scholars who sought explanations and underlying structures slowly changed the way the law actually worked.

## CRIMINAL LAW

The third type of legal system is the body of law that relates to crime. It prescribes conduct perceived as threatening, harmful, or otherwise endangering to the property, health, safety, and moral welfare of people inclusive of one's self. Most criminal law is established by statute, which is to say that the laws are enacted by a legislature. Criminal law includes the punishment and rehabilitation of people who violate such laws.

Criminal law varies according to jurisdiction, and differs from civil law, where emphasis is more on dispute resolution and victim compensation, rather than on punishment or rehabilitation.

Criminal procedure is a formalized official activity that authenticates the fact of commission of a crime and authorizes punitive or rehabilitative treatment of the offender.

### 20. Match these bodies of law (1-3) with their definitions (a-c).

1 *civil law*

2 *common law*

3 *criminal law*

**a** area of the law which deals with crimes and their punishments, including fines and/or imprisonment (also **penal law**)

**b** 1) legal system developed from Roman codified law, established by a state for its regulation; 2) area of the law concerned with non-criminal matters, rights and remedies

**c** legal system which is the foundation of the legal systems of most of the English-speaking countries of the world, based on customs, usage and court decisions (also **case law, judge-made law**)

### 21. Complete the text on the next page contrasting civil law, common law and criminal law using the words in the box.

based on	bound by	codified	custom	disputes
legislation	non-criminal	precedents	provisions	rulings

The term 'civil law' contrasts with both 'common law' and 'criminal law'. In the first sense of the term, civil law refers to a body of law 1) ..... written legal codes derived from fundamental normative principles. Legal 2) ..... are settled by reference to this code, which has been arrived at through 3) ..... Judges are 4) ..... the written law and its 5) .....

In contrast, common law was originally developed through 6) ....., at a time before laws were written down. Common law is based on 7) ..... created by judicial decisions, which means that past 8) ..... are taken into consideration when cases are decided. It should be noted that today common law is also 9) ....., i.e. in written form.

In the second sense of the term, civil law is distinguished from criminal law, and refers to the body of law dealing with 10) ..... matters, such as breach of contract.

### Video 3. Different Types of Laws

#### 22. Watch the video and answer the following questions:

- 1) Why is the rule of law?
- 2) What are the 3 types of laws in this video?
- 3) Who creates criminal laws?
- 4) What is the difference between criminal and civil laws?
- 5) What is Administrative law?
- 6) Who is the law used by?
- 7) What are the examples of Administrative laws?

#### 23. Translate the words from the video:

- 1) Assault
- 2) Arson
- 3) To settle disputes
- 4) Financial penalties
- 5) Prosecutors
- 6) Law enforcement
- 7) The executive branch

## Reading 5.

### TYPES OF LAW

24. Read these extracts, which each contain a word used to talk about types of law. Where did each appear? Match each extract (1-5) with its source (a-e).

1 The new EU Working Hours **Directive** is reported to be causing controversy amongst the medical profession.

2 When a **statute** is plain and unambiguous, the court must give effect to the intention of the legislature as expressed, rather than determine what the law should or should not be.

3 The purpose of this **Ordinance** is to regulate traffic upon the Streets and Public Places in the Town of Hanville, New Hampshire, for the promotion of the safety and welfare of the public.

4 These workplace safety and health **regulations** are designed to prevent personal injuries and illnesses from occurring in the workplace.

5 Mr Speaker, I am pleased to have the opportunity to present the Dog Control Amendment **Bill** to the House. It is a further milestone in meeting the changing expectations we have about what is responsible dog ownership.

a court ruling      c newspaper      e brochure for employees  
b local government document      d parliamentary speech

25. Find words in the extracts in the above exercise which match these definitions.

1. rules issued by a government agency to carry out the intent of the law; authorised by a statute, and generally providing more detail on a subject than the statute
2. law enacted by a town, city or county government
3. draft document before it is made into law
4. legal device used by the European Union to establish policies at the European level to be incorporated into the laws of the Member States
5. formal written law enacted by a legislative body

**26. Complete the sentences below using the words in the box.**

<i>bill</i>	<i>directive</i>	<i>ordinance</i>	<i>regulations</i>	<i>statutes</i>
-------------	------------------	------------------	--------------------	-----------------

1. The Town Council will conduct a public hearing regarding a proposed ..... concerning property tax.
2. According to the ..... concerning working time, overtime work is work which is officially ordered in excess of 40 hours in a working week or in excess of eight hours a day.
3. Early this year, the government introduced a new ..... on electronic commerce to Parliament.
4. A number of changes have been made to the federal ..... governing the seizing of computers and the gathering of electronic evidence.
5. The European Union ..... on Data Protection established legal principles aimed at protecting personal data privacy and the free flow of data.

**Reading 6.**

**TEXT ANALYSIS: STRUCTURING A PRESENTATION**

- 27. In order to be effective, a presenter must make the audience understand why the topic is important to them. It is also important to make your points short, simple and clear. Remember to KISS (Keep It Short and Simple).**

This outline gives a detailed summary of the main parts commonly found in presentations.

*1 Welcome the audience*

*2 Introduce yourself*

*3 Introduce the topic*

*4 Tell the audience why they should be interested in the topic*

*5 Tell a short personal anecdote*

*6 Give an overview of the talk*

*7 Main point 1*

*8 Main point 2*

*9 Main point 3*

*10 Main point 4*

*11 Summary*

*12 Final 'bang' - leave the audience with a strong final impression*

## Listening 2. «Graduate recruitment programme»



➤ *Barker Rose are presenting their Graduate Recruitment Programme at the University of London Law Fair. Listen to the first part of the presentation and decide whether these statements are true (T), false (F) or not clear (NC).*

1. The students at the presentation have recently taken their mid-term exams.
2. The speaker is a law graduate.
3. Most of the speaker's lawyer friends are partners in law firms.
4. The speaker will take questions during and at the end of the talk.
5. There were over 60 lawyers working for Barker Rose in 1979.
6. New associates can work in an area of law that interests them.

➤ *Listen to the second part of the presentation and answer these questions.*

1. How much do graduate trainees earn during their second year at Barker Rose?
2. How are year-end bonuses awarded?
3. What other benefits are paid for by the firm?
4. How many hours are associates expected to bill per year?
5. After how many years are some associates considered for partnership?

➤ *Some words can have several meanings. Choose the best explanation (a or b) for each of these words or phrases as they are used in the presentation.*

### I. *a partner*

- a) one of the owners of a partnership (e.g. a law firm)
- b) someone's boyfriend, girlfriend, husband or wife

### II. *an associate*

- a) a person whose position at work is slightly lower or less complete than the full official position described (e.g. an associate director)
- b) a person who is closely connected to another person as a companion, friend or business partner

### III. *a bonus*

- a) a pleasant, additional thing
- b) an extra amount of money given as a reward in addition to the money you were expecting

### IV. *benefits*

- a) a helpful or good effect, or something intended to help
- b) things such as medical insurance that employees receive in addition to money

### V. *to practise*

- a) to do something regularly in order to become skilled at it
- b) to work in an important skilled job for which a lot of training is necessary



*Listen again to the whole presentation (Part 1 and Part 2) and complete this table of useful phrases.*

<b>Language function</b>	<b>Phrase</b>
<b>Welcoming the audience</b>	1. Hello, everyone, ..... along.
	2. It's great that so many of you were ..... this morning.
<b>Introducing yourself</b>	3. OK, let me just ..... myself.
<b>Introducing the topic</b>	4. I've been asked along ..... the.....
<b>Telling the audience why they should be interested in the topic.</b>	5. ... (a programme) I'm sure will be of ..... as
	6. It's right ..... to.....
<b>Telling a short personal anecdote</b>	7. I ..... when I ...
	8. I know from ..... that...
<b>Giving an overview of the talk</b>	9. There are ..... I'd like to cover today.
	10. First, ..... giving you a little information about Barker Rose. I'll then go on to ..... , what we have to offer to new associates. ...., I'll also ..... what we expect from our potential graduate recruits.
<b>Introducing the next point</b>	11. So, to ..... , who are Barker Rose?
	12. This brings ..... point: what ...
	13. This leads ..... what ...
	14. Let's now ..... what we ...
<b>Concluding the presentation</b>	15. To ....., Barker Rose ...
	16. Finally, I'd like to ..... about what I said at the beginning of my talk today.

## TOPICS FOR PRESENTATIONS

**28. Prepare a short presentation on one of these subjects. Use the guidelines above to help you.**

- ✓ What your university has to offer potential new undergraduates
- ✓ What your law firm has to offer graduate recruits

## GRAMMAR

**29. Write the following sentences in the negative and interrogative:**

1. These students study at the University.
2. We will study criminal law next year.
3. This judge worked at the city court a year ago.
4. This student's mother teaches civil law at the University.
5. Her sister will work as a judge after graduating from Moscow State Law University.
6. That juvenile committed a minor offence a year ago.
7. The witnesses for the defence and prosecution will be cross-examined tomorrow.
8. Magistrates' courts hear 90 per cent of all criminal cases.
9. The Legal Practice Course covers business law and practice, property and litigation as well as advocacy.
10. Solicitors' work covers a broad range, including advising commercial and private clients on business matters and property.
11. Magistrates will commit this case of burglary to the Crown Court for trial.
12. Yesterday the jury found the defendant guilty and the judge passed the sentence in accordance with the law.

**30. Comment on the use of tenses in the following sentences and translate them into Ukrainian:**

1. A group of police officers is investigating this serious crime now.
2. The procurator is preparing to speak on the case tried by the regional court.
3. At the beginning of the seminar one of our students will be making a report on the rights of the defendant according to the criminal law.
4. This murder case is being investigated by the policemen.
5. Thousands of young people from different foreign countries are being trained at various higher educational establishments of our country.

6. The case was being prepared for trial when the investigator was given some new important evidence.
7. The student is being examined by the professor.
8. This minor offence is being considered by the magistrates' court.
9. The participants of the trial are sitting in the courtroom.
10. The judge was preparing to speak on the case when he was given a letter.
11. I will be working on the report on civil law in the library.
12. The police were being assisted by many citizens while the crime was being investigated.
13. The regional court will be considering the case for three days.
14. The suspect was being cross-examined when the investigator received the results of the laboratory analysis.
15. The witnesses for the prosecution were being waited for when we came to the court.
16. The verdict is still being discussed by the jury.
17. The evidence on the case is still being collected by the investigator.
18. The mail is being looked through by the manager.
19. I'm afraid Mr. Green can't see you right now. He is interviewing the witness.
20. Mr. Cooper is claiming that you have falsely accused him of stealing confidential information on very little evidence.
21. He is offering us \$100,000 for the house which is \$10,000 less than we expected.
22. We discovered that his secretary had been blackmailing him with certain details about his life.

**31. Fill the blanks with the appropriate form of the present tense of the verb given in its infinitive form in brackets, or where there is no infinitive given, with the appropriate pronoun.**

1. Either of the lawyers \_\_\_\_\_ (to be) available to argue this motion.
2. The dog's size, as well as its energy and enthusiasm, \_\_\_\_\_ (to endanger) everything in \_\_\_\_\_ path.
3. The team, composed of Jill, Luigi and Raj, \_\_\_\_\_ (to leave) for the competition today. Team members must leave \_\_\_\_\_ letters of permission with the staff in the general office.
4. The government \_\_\_\_\_ (to decide) today whether to legalize the growing of marijuana for personal use. \_\_\_\_\_ decision will be announced at 5:30 EST.
5. No one, not John, Manuel, or Mary, \_\_\_\_\_ (to be) willing to take the responsibility.
6. Although Joan and Jill \_\_\_\_\_ (to be) both planning to go with you, only one of them \_\_\_\_\_ (to be) ready now. You will find \_\_\_\_\_ waiting in the porch.
7. The Prime Minister delivered her ultimatum yesterday. Cabinet \_\_\_\_\_ (to meet) today to formulate \_\_\_\_\_ response. The Cabinet Ministers from Atlantic Canada \_\_\_\_\_ (to disagree) with \_\_\_\_\_ colleagues.

8. A cabinet minister should take \_\_\_\_\_ direction on policy from the prime minister.

**32. Fill in the appropriate tense form of the verb in brackets; several answers may be correct:**

1. The suspect (to cross-examine) when the investigator received the results of the laboratory analysis.

2. The witness for the prosecution (to wait for) when we came to the court.

3. He (to become) a good investigator after many serious crimes (to examine) by him.

4. The convicted (to take) to prison to serve his sentence after his appeal (to reject) by the higher court.

5. The court (to consider) this case of burglary for two weeks.

6. The jurors (to discuss) the verdict since 10 o'clock.

7. The convict (to inform) that his appeal against the severity of the sentence (to reject) by the higher court the previous day.

8. The public (to inform) that the jury (to find) the accused guilty of committing a serious offence.

9. The article said that trial courts (to have) the main burden in the administration of justice.

10. The prisoner was sure that his lawyer (to appeal) against the severity of the sentence the next week.

11. The case of robbery (to investigate) since September.

12. This week the higher court (to dismiss) the prisoner's appeal.

13. This Wednesday the jurors (to bring in) the verdict of guilty.

14. Last week the offender (to arrest) by the policeman.

15. Two weeks ago this case of murder (to solve) by the police inspector.

## UNIT 2

### LEGAL PROFESSION

#### Lead-in

*Discuss these questions with a partner.*

1. What type of law firm do you (think you would like to) work in?

2. Which courses do law students have to take?

3. Which optional courses might a student who wants to work in a big law firm take?



## Vocabulary

<b>attorney</b>	<i>n.</i> a person who acts for or represents another in business or legal matters
<b>barrister</b>	<i>n.</i> a lawyer who pleads before a superior court
<b>brief</b>	<i>n.</i> 1 instructions to a barrister; 2. written statement of facts
<b>case</b>	<i>n.</i> statement of the facts in a trial, esp. the argument of one side
<b>contract</b>	<i>n.</i> a formal agreement, usually in writing, between two or more parties
<b>court of law</b>	<i>n.</i> the place where law cases are heard and decided; court - <b>courtroom</b> <i>n.</i>
<b>defendant</b>	<i>n.</i> person or organization facing a criminal charge or other legal proceeding - <b>defend</b> <i>v.</i>
<b>evidence</b>	<i>n.</i> information presented to a court to prove or support a point in question
<b>guilty</b>	<i>adj.</i> responsible for wrong; culpable - <b>guilt</b> <i>n.</i> <b>not guilty</b> <i>adj.</i>
<b>judge</b>	<i>n.</i> official with authority to hear and decide cases in a court of law - <i>also</i> <i>v.</i>
<b>jury</b>	<i>n.</i> a group of people chosen to hear the evidence of a case and give a decision
<b>lawsuit</b>	<i>n.</i> a trial at court between two private parties
<b>lawyer</b>	<i>n.</i> a person trained in law and who advises or represents others
<b>plead</b>	<i>v.</i> <b>1</b> to defend a law case <b>2</b> to declare oneself to be guilty or not guilty - <b>plea</b> <i>n.</i>
<b>prosecutor</b>	<i>n.</i> <b>1</b> a lawyer, often a public official, who can file charges and try to prove a defendant's guilt in court - <b>prosecute</b> <i>v.</i>
<b>sentence</b>	<i>n.</i> <b>1</b> decision of a court, esp. as to the punishment <b>2</b> the punishment - <i>also</i> <i>v.</i>
<b>solicitor</b>	<i>n.</i> 1 <sup>UK</sup> lawyer advising clients and briefing barristers 2 law officer for a city etc
<b>sue</b>	<i>v.</i> to start legal action against someone in a court of law - <b>lawsuit</b> <i>n.</i>
<b>sum up</b>	<i>v.</i> to summarise and review the evidence of a case - <b>summing up</b> <i>n.</i>
<b>trial</b>	<i>n.</i> a formal examination of a case in a court of law - <b>to try</b> <i>v.</i>
<b>verdict without prejudice</b>	<i>n.</i> the formal decision or finding of a judge or jury without detriment or damage to a legal right or claim



### Reading 1: A CAREER IN LAW

The study of law is intellectually stimulating and challenging, and can lead to a variety of interesting careers.

In the UK and the USA, law degree programmes usually take three years to complete. In the UK, these programmes typically include core subjects such as criminal law, contract law, tort law, land law, equity and trusts, administrative law and constitutional law. In addition, students are

often required to take courses covering skills such as legal writing and legal research.

There is also a variety of optional (elective) courses available. Since many law students go on to become lawyers, students often take courses that will be useful to them during their future careers. Someone wishing to run a small partnership or to work alone as a sole practitioner in a small town may decide to take subjects such as family law, employment law and housing law. Those wishing to work in a large law practice will consider subjects such as company law, commercial law and litigation and arbitration.

Many universities also offer courses on legal practice. Courses like this give student the opportunity to experience the work of a lawyer before deciding on a career in the law. Another way of finding out more about law in practice is to get involved with a voluntary advice centre or law clinic. These clinics offer free legal assistance to the local community and provide a useful introduction to some of the day-to-day work of a lawyer.

For students wishing to work in a commercial practice, knowledge of foreign languages is essential. When law firms hire new recruits, they generally look at four things: education, personality, work experience and language ability. Since English is the language of the international legal community, law firms increasingly expect graduates to have a good command of English.

**1. Read the text again and decide whether these statements are true (T) or false (F). If the statement is false, correct it.**

1. A course in family law is usually included among the core subjects at law schools in the UK.
2. Some law degree programmes offer courses in some of the important skills that lawyers need in order to do their work, such as legal writing or legal English.
3. Law clinics give law students the opportunity to learn about the legal problems of the medical profession.

4. Today, commercial law firms expect recruits to be completely fluent in English.

## 2. Choose the correct title for each course in the catalogue.

1. *Criminal law/ Crime law*
2. *Law of the constitution/ Constitutional law*
3. *Contract law / Contracting law*
4. *Legal research and writing / Legal investigation and writing*
5. *Liability law / Tort law*

### ***First-year course description***

**Introduction to Law:** This course aims to familiarize the student with the study of law; to begin the development of certain basic skills, such as reading, analysis and synthesis of legal decisions, and interpretation of statutes; to discuss fundamental aspects of the legal process, e.g. how courts "make law" and the function of the courts with respect to statutory law.

1) .....: This course covers the fundamental principles governing the formation, interpretation, performance, and enforcement of contracts. In addition, special attention is given to the requirements of offer and acceptance, consideration, formal requirements, public policy, and the problems of choosing a remedy in case of a breach. Some attention will also be given to the Uniform Commercial Code.

2) .....: Topics covered include liability for intentional and negligently caused injuries to person and property; strict liability; vicarious liability; ultra-hazardous activities; products liability; nuisance; invasion of privacy; defamation; the impact of insurance and risk distribution upon liability; accident compensation plans; damages; losses.

3) .....: This course presents the basic concepts of criminal law. Crimes against persons, property, and public administration are covered, with special emphasis placed upon the law of homicide.

### ***Second-year course descriptions***

**Evidence:** This course will explore the rules of evidence and their rationale, including relevancy, hearsay, impeachment, cross-examination, opinions and experts, documents, and privileges.

**Criminal Procedure:** This course will cover regulation of law enforcement conduct during the investigation of crimes, with special emphasis on constitutional and statutory limitations. Topics include search and seizure, confessions and incriminating statements, electronic surveillance, entrapment, identification procedures, and remedies for improper police conduct.

4) .....: This course covers the general principles of federal constitutional law, including government authority and its distribution under the constitution; the judicial function in constitutional cases; powers delegated to the national government and the reserved powers of the states in areas of federal

authority; intergovernmental relations; rights, privileges, and immunities under the constitution; national citizenship; the contract clause; the federal constitution and the amendments thereto.

5) .....: This course is designed to acquaint students with the nature of legal research. Students will analyse judicial opinions; apply legal concepts and rules; and learn correct legal citation and use of correct precedent. Special attention is given to the mechanics of legal research, the techniques of writing memoranda, and briefs.

**3. Answer these questions:**

1. Which course covers basic skills that students will need during their studies?
2. Which course deals with research and writing skills needed in professional life?
3. Which course teaches students how to cross-examine a witness?

**LISTENING A «Law courses»**

Most universities now offer Language courses for lawyers, and in some countries these courses are compulsory. Some courses in legal English focus on the study of Anglo-American legal systems and associated terminology. Others offer a more practical introduction to the language skills lawyers will need during their future careers.

You are going to hear a discussion between two law students, Heidi from Germany and Pavel from Russia. They are each spending a semester studying law in England and are discussing the English courses they were required to take as part of the law degree programmes in their respective countries. You are going to hear an extract from a seminar held for junior lawyers at a US law firm.



*Listen to the discussion and tick (✓) what each speaker says he/she did on his/her legal English course and then discuss with a partner which course (Heidi's or Pavel's) most resembles your experience of legal English so far.*

	<b>Heidi's course (Speaker 1)</b>	<b>Pavel's course (Speaker 2)</b>	<b>Your courses</b>
1 worked on writing skills for lawyers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 practiced legal research skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 learned about other legal systems	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 studied terminology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 gave presentations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6 practiced speaking about own legal system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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*Decide whether these statements are true or false.*

1. The question of whether an invention is patentable is generally decided by the courts.
2. In order for an invention to qualify as novel, the idea behind it should not already have been patented in another device.
3. A process, such as the idea for a machine, is not patentable.
4. Today, business methods are no longer automatically barred from patentability.

## Reading 2: WORKING IN LAW

- 4. Look at this list of legal occupations. All of these people work in law. We call all of the people who work in these jobs “the legal profession”. Match the jobs with one of the descriptions.**

**Solicitor**

**Attorney**

**Barrister**

**Lawyer**

- a This person is a lawyer who gives legal advice and opinions to solicitors. He or she passed the exams of the Bar Council of England & Wales at the end of his or her studies.
- b This person is a lawyer who gives legal advice to individuals and companies. He or she passed his or her exams in the USA at the end of his or her studies and is usually a member of the American Bar Association.
- c This person is a lawyer who gives legal advice to individuals and companies. He or she passed the exams of the Law Society of England & Wales at the end of his or her studies.
- d This the general job title that we use for people who work as a solicitor, barrister or attorney.

- 5. Read this text about working in law. The most important words are in the key vocabulary below. Decide if the statements after the text are true or false.**

### Key vocabulary

lawyer	юрист
barrister	адвокат, що має право виступати в суді
attorney	адвокат, уповноважена особа
training contract	договір про навчання

qualified	кваліфікований
partnership	партнерство
litigation	судовий процес
pleading a case	розгляд справи
right of audience	право аудиторії
solicitor	адвокат, який готує справи для барристера і виступає лише у судах нижчої інстанції
practise	практикувати
law firm	юридична фірма
judge	суддя
acting for	діючий для
legal practice	юридична фірма, адвокатська контора
represent	репрезентувати
advocacy	адвокатська діяльність
specialise	спеціалізуватися
appear	з'являтися
client	клієнт

There are two types of **lawyer** who **practise** in England. They are called **barristers** and **solicitors**. In the USA and most other countries, lawyers don't make this division – a lawyer is simply known as an attorney at law, or an **attorney**.

In both England and the USA, it is not possible to take a special exam to be a judge. If you decide that you want to be a **judge**, you must get a lot of experience as a lawyer first, then apply to be a judge and wait to see if you are chosen.

Most law students in England become solicitors. When they finish their university studies they do a one-year legal practice course and then a two-year **training contract** with a **law firm**. After that, they are **qualified** solicitors. Many solicitors work for a **legal practice**, which is usually a **partnership** of solicitors who work together. Solicitors practise in many areas of law, although each solicitor usually chooses to **specialise** in one particular area. They represent their **clients** both in and out of court. We often describe this as **acting for** a client. The process of making a claim in the civil court is called **litigation**.

Barristers are self-employed lawyers and don't work in partnerships in the way that solicitors do. They are specialists in **advocacy**, which is the skill of speaking for someone in court. We call this **pleading a case**. They also give opinions on areas of law to solicitors and the solicitors' clients. It is not just barristers who have the **right of audience** in court – solicitors are also allowed to **represent** their clients in court and many solicitors **appear** in court every day. It is not true to say that a client always needs a barrister in court.

- a There are two types of lawyer practising in England.  *True*  *False*
- b Last year I finished my training contract and I started  *True*  *False*

- working for a large international law firm. I am now a qualified lawyer.
- c Only barristers can speak on behalf of clients in court.  *True*  *False*
- d Many solicitors work together in partnerships but barristers don't.  *True*  *False*
- e In the USA and England lawyers can take a special exam to be a judge.  *True*  *False*

## THE LEGAL PROFESSION – WORKING SKILLS

### THE IMPORTANCE OF COLLOCATION

The key to learning accurate legal English is to have a good familiarity with collocation. Some nouns form good collocations with more than one verb. Some nouns form a good collocation with just one verb. The important thing is to start to notice accurate collocations and memorise them. For example:

to **draft** a contract

to **write** a contract

*Good collocation:* to **honour** a contract

*Bad collocation:* to **respect** a contract

to **breach** a contract

to **infringe** a contract

To help you notice and remember accurate collocations they have been put into a collocation bank for you, like this:

#### Collocation bank

€ to **draft** a contract    € to **honour** a contract    € to **breach** a contract

### 6. Look at these sentences. They contain collocations from the previous Text. Complete the sentences with a word from the four choices.

- a Solicitors are allowed to \_\_\_\_\_ clients in court.
- b I'm afraid I can't help you. I am a commercial lawyer and this is a criminal \_\_\_\_\_.
- c What are the \_\_\_\_\_ for your case?
- d I will \_\_\_\_\_ my final law exams in June of next year.
- e My client is \_\_\_\_\_ a new factory and he needs advice about the relevant health and safety regulations.

- a      A represent      B work for      C stand for      D advocate
- b      A issue      B matter      C subject      D point
- c      A grounds      B reasons      C motives      D basis
- d      A pass      B make      C prepare      D take
- e      A starting      B launching      C opening      D initiating

THE IMPORTANCE OF PREPOSITIONS

<p>Preposition bank</p> <p>c an attorney <b>at</b> law ‘My daughter is an attorney <b>at</b> law in Atlanta.’</p> <p>c to work <b>on</b> something ‘I’m currently working <b>on</b> a merger agreement.’</p>	<p>c to send a cheque <b>for</b> an amount of money ‘Please send a cheque <b>for</b> £2000.’</p> <p>c subject <b>to</b> something ‘The goods are for sale at this price subject <b>to</b> availability.’</p>
--	--

7. Complete these sentences with a correct preposition.

- a The judge awarded my client €20,000 \_\_\_\_\_ damages.
- b Suing someone is a more informal way of saying starting proceedings \_\_\_\_\_ someone.
- c A small claim is a claim \_\_\_\_\_ a maximum of £5000.
- d Stephen works for a law firm \_\_\_\_\_ Manhattan.
- e When you are \_\_\_\_\_ dispute with someone you can start a claim in the civil court.
- f Could I take a look \_\_\_\_\_ your employment contract?

8. Using the knowledge that you have about collocations and prepositions correct the language below.

‘My name is Luigi and I am a lawyer *at* Milan. I work *into* a big law firm. Today I am very busy. I am *writing* a contract *to* a new client. This afternoon I am *speaking for* a different client in court. It is a *disrespect* of contract case. I think we will win the case because our *reasons* are very strong.’

Reading 3: SOLICITORS AND BARRISTERS

9. Diana Williams is a lawyer. Today she is going to visit a school in her town to talk to the students about a career in law. Here are some of

**Diana's notes for her talk. In this section she is talking about the two separate professions that exist in England, solicitors and barristers.**

**10. Fill in the gaps in the text with the correct word from the box below.**

<b>partner</b>	<b>judge</b>	<b>client</b>	<b>audience</b>	<b>qualify</b>
<b>practices</b>		<b>solicitor</b>	<b>partnerships</b>	<b>associate</b>
<b>court</b>		<b>attorney</b>	<b>issued</b>	

*My notes for careers talk at Chatsworth Hill School.*

In England we have two different types of lawyer. One is known as a **(a)** \_\_\_\_\_ and the other is a barrister. Both are called 'lawyers'. This can be a little confusing because in the USA every lawyer is usually known as an **(b)** \_\_\_\_\_. An English law student has to decide at sometime during their university studies which type of lawyer they would like to become when they finally **(c)** \_\_\_\_\_ as a lawyer.

Most English law students decide to become a solicitor. These are the lawyers that a **(d)** \_\_\_\_\_, the person who pays for the services of a lawyer, will usually meet

first. Often the solicitor can help the client without the need for a barrister.

Most solicitors work in small private businesses, known as **(e)** \_\_\_\_\_, in what are called 'High Street firms'. This phrase 'High Street firm' refers to a typical, small group of solicitors working together in the type of offices that you can find on the major streets of any English town or city. Many law firms are set up as **(f)** \_\_\_\_\_.

A young lawyer will usually work first as an **(g)** \_\_\_\_\_ of the firm and gain some experience while being paid a fixed salary before being offered the opportunity to become a **(h)** \_\_\_\_\_. A typical High Street solicitor usually specialises in a particular area of law, such as family, employment or commercial law. Many people believe that solicitors cannot act for their clients in **(i)** \_\_\_\_\_ but this is untrue. Thousands of solicitors appear in court every day, especially in the County Courts where most claims are **(j)** \_\_\_\_\_.

The second type of lawyer found in England is known as a barrister. Barristers are usually specialists in a very particular area of law. They give advice and opinions to solicitors and their clients. Barristers have the right of **(k)** \_\_\_\_\_ (the right to be heard by a judge) in all of the courts in the land. Barristers often share offices, known by the traditional name of chambers, although they all work alone as individuals because they are forbidden to work as partners. After several years of experience, members of either profession may apply to preside over cases and sit as a **(l)** \_\_\_\_\_. Within the English legal system, a law student cannot take an exam to be a judge but has to wait to be appointed after some years of experience as a lawyer.

Collocation bank	Preposition bank
<p>to <b>qualify</b> as a lawyer  to <b>sit</b> as a judge  to <b>issue</b> a claim  to <b>act for</b> a client  to <b>gain</b> some experience  to <b>take</b> an exam</p>	<p>to be known <b>as</b> something  <i>They are known <b>as</b> barristers.'</i></p> <p>to qualify <b>as</b> something  <i>'She qualified <b>as</b> a lawyer two years ago.'</i></p> <p>to go <b>into</b> partnership <b>with</b> someone  <i>'He is going to go <b>into</b> partnership <b>with</b> his brother.'</i></p> <p>to specialise <b>in</b> something  <i>'Tom specialises <b>in</b> commercial litigation.'</i></p> <p>to work <b>in</b> a business  <i>'He works <b>in</b> a law firm but she works in a bank.'</i></p> <p>to preside <b>over</b> a case  <i>'The insurance case has started and Judge Mortimer is presiding <b>over</b> it.'</i></p>

**11. Look at the solicitors' advertisements. Give the name and the telephone number of the firm of solicitors that I should call if I have the following legal problems:**

Firm of solicitors	Telephone number
<b>a</b>	
<b>b</b>	
<b>c</b>	
<b>d</b>	

**a** I have reached the age of 50 and I am thinking about what I want to happen to my property after my death.

**b** I want to begin a business importing electrical goods from one European Union country into another and I want to know what the rules are.

**c** I am a woman who is angry that a man doing the same job in the factory where I work is paid more than I am.

**d** I am a visitor to England from the US. I came to work in London 18 months ago, with the permission of the British authorities. However, I only had permission to be here for a year and now I am afraid because I have broken the law.

**Judy Barclay**  
Solicitor

---

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**12. Find a word in the advertisements that matches the following definitions.**

a Not taking enough care over something that you are responsible for with the result that mistakes are made or someone is hurt.

The word is \_\_\_\_\_.

b The process of legally transferring the ownership of land or buildings from one person to another.

The word is \_\_\_\_\_.

c A situation where someone has to leave their job because they are no longer needed by their employer.

The word is \_\_\_\_\_ .

**d** An organization that exists in order to collect money, food or goods and give them to people who need them.

The word is \_\_\_\_\_ .

**e** The state of a business not having enough money to pay what it owes.

The word is \_\_\_\_\_ .

**f** A person or company which pays rent to another person to allow them to live in or use land or buildings.

The word is \_\_\_\_\_ .

**13. Say whether the following statements about the advertisements are true or false.**

- |          |  |                          |             |                          |              |
|----------|--|--------------------------|-------------|--------------------------|--------------|
| <b>a</b> | If I invent a new type of water heater that I don't want anyone else to be able to copy, I should call 07771 777 5454. | <input type="checkbox"/> | <b>True</b> | <input type="checkbox"/> | <b>False</b> |
| <b>b</b> | If I want to study law, I should call McCarthy Kyle and Co.  | <input type="checkbox"/> | <b>True</b> | <input type="checkbox"/> | <b>False</b> |
| <b>c</b> | Matthew Morrison will always accept any client on a no win-no fee basis.   | <input type="checkbox"/> | <b>True</b> | <input type="checkbox"/> | <b>False</b> |
| <b>d</b> | The 1st Call Accident Centre specialises in the law of tort.   | <input type="checkbox"/> | <b>True</b> | <input type="checkbox"/> | <b>False</b> |
| <b>e</b> | Matthew Morrison deals with complaints about other solicitors.   | <input type="checkbox"/> | <b>True</b> | <input type="checkbox"/> | <b>False</b> |

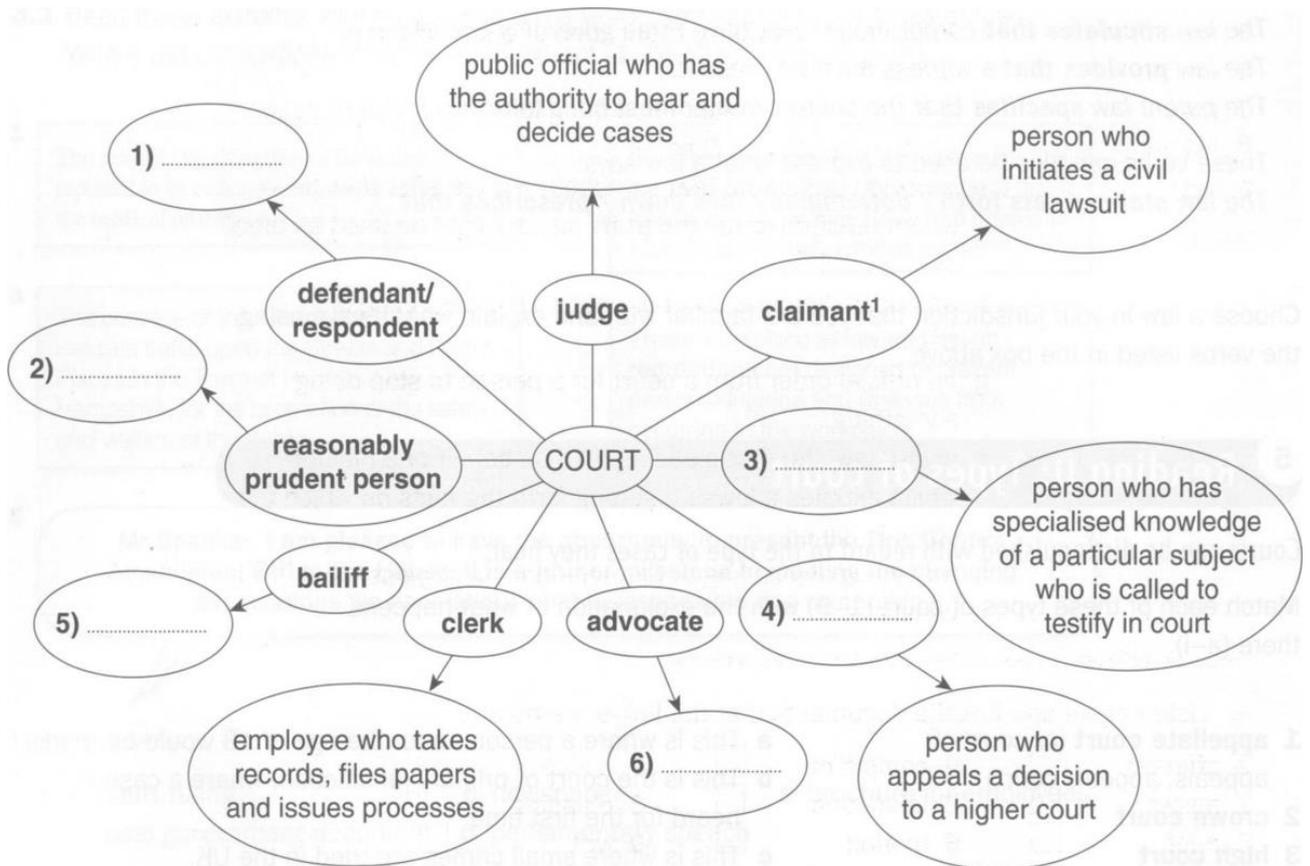
**Video 1. 10 Signs You Should Become a Lawyer**

**14. Watch the video and answer the following questions:**

1. What are the main signs that you can become a lawyer?
2. Is such hobby as reading important in the case?
3. Should you completely believe in your client to defend him?
4. Why integrity is essential for this profession?
5. What is the difference between arguments and debates?
6. Why do you think a lawyer is compared to a priest?

## Reading 4:

### Persons in court



### 15. Complete this diagram with the words and definitions below (a-f).

- a. expert witness
- b. appellant
- c. person who is sued in a civil lawsuit
- d. officer of the court whose duties include keeping order and assisting the judge and jurors
- e. person who pleads cases in court
- f. hypothetical person who uses good judgment or common sense in handling practical matters; such a person's actions are the guide in determining whether an individual's actions were reasonable



### LISTENING B «Documents in court»

*Listen to a lawyer telling a client about some of the documents involved in his case and answer these questions.*

1. What claim has been filed against the client?
2. What does the lawyer need from the client to be able to prepare his defence?
3. Will the case go to trial?

**16. Match these documents (1-9) with their definitions (a-i).**

- |               |  |
|---------------|--|
| 1. affidavit  | a. a document informing someone that they will be involved in a legal process and instructing them what they must do                               |
| 2. answer     | b. a document or set of documents containing details about a court case  |
| 3. brief      | c. a document providing notification of a fact, claim or proceeding  |
| 4. complaint  | d. a formal written statement setting forth the cause of action or the defense in a case   |
| 5. injunction | e. a written statement that somebody makes after they have sworn officially to tell the truth, which might be used as proof in court               |
| 6. motion     | f. an application to a court to obtain an order, ruling or decision  |
| 7. notice     | g. an official order from a court for a person to stop doing something   |
| 8. pleading   | h. in civil law, the first pleading filed on behalf of a plaintiff, which initiates a lawsuit, setting forth the facts on which the claim is based |
| 9. writ       | i. the principal pleading by the defendant in response to a complaint  |



*Listen again and tick the documents that the lawyer mentions.*

- |   |           |                          |   |            |                          |   |          |                          |
|---|-----------|--------------------------|---|------------|--------------------------|---|----------|--------------------------|
| 1 | affidavit | <input type="checkbox"/> | 4 | complaint  | <input type="checkbox"/> | 7 | notice   | <input type="checkbox"/> |
| 2 | answer    | <input type="checkbox"/> | 5 | injunction | <input type="checkbox"/> | 8 | pleading | <input type="checkbox"/> |
| 3 | brief     | <input type="checkbox"/> | 6 | motion     | <input type="checkbox"/> | 9 | writ     | <input type="checkbox"/> |

**17. Match each verb used by the lawyer (1-5) with its definition (a-e)**

- |   |  |
|---|--|
| 1. to <b>draft</b> a document   | a. to deliver a legal document to someone, demanding that they go to a court of law or that they obey an order |
| 2. to <b>issue</b> a document   | b. to produce a piece of writing or a plan that you intend to change later                                     |
| 3. to <b>file</b> a document <b>with</b> an authority   | c. to deliver a document formally for a decision to be made by others  |
| 4. to <b>serve</b> a document <b>on</b> someone (or to <b>serve</b> someone <b>with</b> a document) | d. to officially record something, especially in a court of law  |
| 5. to <b>submit</b> a document <b>to</b> an authority   | e. to produce something official   |

**18. Decide which of the documents from Listening can go with these verbs. The first one has been done for you.**

- 1 draft an answer, a brief, a complaint, a motion, a pleading
- 2 issue
- 3 file (with)
- 4 serve (on someone)
- 5 submit

**LISTENING C «Lawyers»**



Listen to this discussion between Javier, a Spanish student taking part in a university's summer school programme in the UK, and Robert, an English student. Match the words to describe lawyers (1-5) with the definitions (a-c) and usage notes (d-f).

- |   |           |                          |   |           |                          |
|---|-----------|--------------------------|---|-----------|--------------------------|
| 1 | advocate  | <input type="checkbox"/> | 4 | lawyer    | <input type="checkbox"/> |
| 2 | attorney  | <input type="checkbox"/> | 5 | solicitor | <input type="checkbox"/> |
| 3 | barrister | <input type="checkbox"/> |   |           |                          |

**Definitions**

**a** a general term for someone whose job is to give advice to people about the law and speak for them in court

**b** more specific term for someone who is trained to prepare cases and give advice on legal subjects and can represent people in lower courts

**c** more specific term for someone who is qualified to give specialist legal advice and can argue a case in both higher and lower law courts

**Usage notes**

**d** mostly US term

**e** used in Scottish law

**f** mostly UK/Australian/Canadian term

**19. Look up the terms counsel, counsellor and paralegal and their definitions and usage. Complete this table that Javier drew up after talking to Robert.**

<i>Word</i>	<i>Definition</i>	<i>Sample sentence</i>	<i>Usage notes</i>
counsel	(verb) to give advice especially in legal matters (noun) a lawyer who pleads cases in court	Counsel for the defence argued that his client was not guilty	Collocation: 'legal counsel' can be used to refer to one or more barristers pleading a case. Often used to address a lawyer in

			court in the third person. ‘Counsel may present the evidence’.
counsellor			
paralegal			

**20. Another type of lawyer found in many civil-law jurisdictions is called a notary. Below is a brief comparison of the civil-law notary with its US counterpart, the notary public, which appeared on the website of a law firm. Complete it using the verbs in the box.**

<b>administer</b>	<b>authenticating</b>	<b>serving</b>	<b>take verify</b>
<b>drafting</b>	<b>executes</b>	<b>performs</b>	

A notary in civil-law systems - *notario* in Spanish-speaking countries, *notaire* in French-speaking countries, *symvou/ographos* in Greece - **1)** ..... a very different function than does a notary public in the United States. The civil-law notary is an attorney who has undergone special training and performs the following three basic functions: **2)** ..... legal documents such as wills, contracts and deeds; **3)** ..... legal instruments; and **4)** ..... as a public repository of legal instruments. By contrast, a notary public in the US need not be an attorney. The functions of a US notary public are basically to **5)** ..... oaths, **6)** ..... sworn statements and to **7)** ..... the identity of a person who **8)** ..... a legal document.

**21. Discuss these questions.**

1. Does your native language have more than one word for lawyer? Do they correspond to the different English words for lawyer mentioned on the previous page? If not, how do the concepts differ?
2. What is each type of legal practitioner in your jurisdiction entitled to do?
3. What English term do you use to describe your job or the job you would like to do?
4. What legal services can a notary render in your jurisdiction?

**22. Combine the nouns in the box with the verbs below (1-6) to make combinations to describe the work lawyers do. Some of the verbs go with more than one noun.**

<i>cases</i>	<i>clients</i>	<i>contracts</i>	<i>corporations</i>	<i>decisions</i>
<i>defendants</i>	<i>disputes</i>	<i>law</i>	<i>legislation</i>	

1. advise
2. draft
3. litigate
4. practise
5. represent
6. research

**23. Choose three 'verb + noun' pairs from Exercise 19 and write sentences using them.**

**24. Choose the words from the box which can be combined with the word lawyer to describe different types of lawyer. Say what each one does.**

<i>bar</i>	<i>corporate</i>	<i>defence</i>	<i>government</i>	<i>patent</i>
<i>practitioner</i>	<i>public sector</i>	<i>sole</i>	<i>tax</i>	<i>trial</i>

### **Reading 5: LEGAL PROFESSION**

A corollary of the rule of law is the existence of a legal profession sufficiently autonomous to invoke the authority of the independent judiciary; the right to assistance of a barrister in a court proceeding emanates from this corollary—in England the function of barrister or advocate is distinguished from legal counselor. As the European Court of Human Rights has stated, the law should be adequately accessible to everyone and people should be able to foresee how the law affects them.

In order to maintain professionalism, the practice of law is typically overseen by either a government or independent regulating body such as a bar association, bar council or law society. Modern lawyers achieve distinct professional identity through specified legal procedures (e.g. successfully passing a qualifying examination), are required by law to have a special qualification (a legal education earning the student a Bachelor of Laws, a Bachelor of Civil Law, or a Juris Doctor degree. Higher academic degrees may also be pursued. Examples include a Master of Laws, a Master of Legal Studies, a Bar Professional Training Course or a Doctor of Laws.), and are constituted in office by legal forms of appointment (being admitted to the bar). There are few titles of respect to signify famous lawyers, such as Esquire, to indicate barristers of greater dignity, and Doctor of law, to indicate a person who obtained a PhD in Law.

Many Muslim countries have developed similar rules about legal education and the legal profession, but some still allow lawyers with training in traditional Islamic law to practice law before personal status law courts. In China and other developing countries there are not sufficient professionally trained people to staff the existing judicial systems, and, accordingly, formal standards are more relaxed.

Once accredited, a lawyer will often work in a law firm, in chambers as a sole practitioner, in a government post or in a private corporation as an internal counsel. In addition, a lawyer may become a legal researcher who provides on-

demand legal research through a library, a commercial service or freelance work. Many people trained in law put their skills to use outside the legal field entirely.

Significant to the practice of law in the common law tradition is the legal research to determine the current state of the law. This usually entails exploring case-law reports, legal periodicals and legislation. Law practice also involves drafting documents such as court pleadings, persuasive briefs, contracts, or wills and trusts. Negotiation and dispute resolution skills (including ADR techniques) are also important to legal practice, depending on the field.

## **25. Find the translation of the words and word-combinations in the text.**

Наслідок верховенства права; право на допомогу адвоката в судовому розгляді; асоціація адвокатів; рада адвокатів; адвокатське товариство; курс професійної підготовки адвокатів; не вистачає професійно підготовлених людей, щоб укомплектувати існуючі судові системи; внутрішній юрисконсульт; вивчення звітів судової практики; судові заяви; переконливі аргументи; контракти; заповіти.

## **26. Make up 5 questions to the text and ask your groupmate.**

### **Reading 6: LEGAL PROFESSIONS**

Legal profession is a profession, and legal professionals study, develop and apply law. Usually, there is a requirement for someone choosing a career in law to first obtain a law degree or some other form of legal education.

It is difficult to generalize about the structure of the profession, because

✓ there are two major legal systems, and even within them, there are different arrangements in jurisdictions, and

✓ terminology varies greatly.

While in civil law countries there are usually distinct clearly defined career paths in law, such as judge, in common law jurisdictions there tends to be one legal profession, and it is not uncommon, for instance, that a requirement for a judge is several years of practising law privately.

#### ***Judge***

Historically, this has been the first legal specialization. In civil law countries, this is often a lifelong career. In common law legal system, on the other hand, judges are recruited from practising lawyers.

#### ***Lawyer, advocate, attorney***

Practising law means advising and representing clients as a private practitioner or in a law firm. In most countries, law graduates need to undergo some sort of apprenticeship, membership in a professional organization and a licence.

The name for this profession is lawyer or attorney in most of the English-speaking world, and advocate in many other countries. The name for this profession in canon law is canonist or canon lawyer.

In civil law countries, but also some common law jurisdictions there is one Law society for all lawyers who want to provide services to the public. But in the United Kingdom and some of its former colonies, there are two quite separate kinds of lawyers providing legal services to the public.

### ***Solicitor***

Solicitors advise clients, draft contracts for them and represent them in lower courts of law.

### ***Barrister***

Barristers, also called counsels, are court specialists, who traditionally do not come into contact with their lay clients, but are instructed by solicitors. There is only about a 10% of barristers in most common law jurisdictions.

### ***Jurist***

People, who study, organize, teach, and through that also create law, often working at universities, are called jurists. In civil law countries, their role is greater, because they draft codes, which are major laws that govern whole areas of law. In common law countries, the creation and interpretation of law has traditionally been the domain of judges.

### ***Paralegal***

A paralegal or legal assistant, according to one definition, is "a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.

## **Video 2. What is the difference between a lawyer, solicitor and barrister?**

**27. Watch the video and create your own video explaining the difference between judge, advocate, attorney, jurist and paralegal.**

**28. Translate the following text into English.**

### ***Юридичні професії***

Першими юристами можна назвати римських жерців — понтифіків. Вони заклали основи правового регулювання суспільного життя, створили широку базу прецедентів. Лише декілька століть опісля юриспруденція сформувалася як наука. Сучасне поняття «юрист» об'єднує всіх людей, що займаються різноманітною професійною юридичною діяльністю, а саме: суддів, слідчих, прокурорів, нотаріусів, юрисконсультів, адвокатів.

Правознавець — це особа, яка володіє експертними знаннями права; людина, яка аналізує та коментує закон. Зазвичай ця особа є фахівцем-юристом — необов'язково з формальною кваліфікацією в галузі права чи практикуючим юристом, хоча в Сполучених Штатах термін «юрист» може застосовуватися до судді. З посиланням на римське право «юрист» — це юрисконсулт (*jurisconsulta*).

Англійський термін «юрист» слід відрізняти від подібних термінів в інших європейських мовах, де він може бути синонімом професіонала в галузі права, тобто будь-кого, хто має професійну юридичну освіту, який відповідає вимогам юридичної роботи.

Особа, яка входить до складу журі, називається присяжним.

Юрисконсульт — штатний працівник юридичної особи, що забезпечує дотримання законодавства, як організацією, так і по відношенню до організації з боку інших учасників правовідносин.

Серед осіб, що об'єднуються поняттям «юрист», юрисконсульт займає особливе місце. Більшість юристів працює юрисконсультами в державних і приватних організаціях. Найбільш близька до роботи юрисконсульта діяльність адвокатів.

Адвокат — юрист, що надає професійну правову допомогу учасникам правовідносин.

Участь адвоката є обов'язковою при захисті особи від кримінального обвинувачення, а також в інших випадках, визначених законодавством відповідної держави.

Доступ до професії адвоката, його професійні права та обов'язки, етичні вимоги регулюються не тільки державою, але й самоврядними професійними об'єднаннями, яким гарантується свобода від зовнішнього втручання. Адвокатом може бути фізична особа, яка має повну вищу юридичну освіту, володіє державною мовою, має стаж роботи в галузі права не менше двох років, склала кваліфікаційний іспит, пройшла стажування, склала присягу адвоката України та отримала свідоцтво про право на заняття адвокатською діяльністю.

### **LISTENING D «Legal education»**

In English-speaking countries, *the Bar* is a term for the legal profession itself, while a *bar association* is the association which regulates the profession. A person who qualifies to practise law is *admitted to the Bar*; in the US, a law-school graduate must pass *the bar examination*.

You are going to hear a German law student speaking to a group of other students at a US law school. He describes the education and training a law graduate must complete to enter the legal profession in Germany.



***Listen and decide whether these statements are true or false.***

1. In Germany, a student requires a university degree to study law.
2. Attendance is obligatory at the-introductory lectures at a German law faculty.
3. German students of law learn to apply the relevant statutes to the cases they analyse in their coursework.
4. In Germany, the bar examination is administered in two parts.

## **29. Discuss these questions.**

1. Is legal education in your country more similar to the US or the German model?
2. What does the speaker mean by 'the Socratic method'? What do you think the advantages and disadvantages of using this method might be?

### **Reading 7: HISTORY OF THE LEGAL PROFESSION**

The legal profession has its origins in ancient Greece and Rome. Although in Greece it was forbidden to take payment for pleading the cause of another, the rule was widely flouted. After the time of Claudius, lawyers could practise openly, although their remuneration was limited. A skilled and regulated profession developed gradually during the late Roman Empire and the Byzantine Empire: advocates acquired more status, and a separate class of notaries appeared.

In Western Europe, the legal profession went into decline during the Dark Ages, re-emerging during the 12<sup>th</sup> and 13<sup>th</sup> centuries in the form of experts on canon law. The profession started to be regulated and to extend its reach to civil as well as ecclesiastical law.

The earliest people who could be described as "lawyers" were probably the orators of ancient Athens. However, Athenian orators faced serious structural obstacles. First, there was a rule that individuals were supposed to plead their own cases, which was soon bypassed by the increasing tendency of individuals to ask a "friend" for assistance. However, around the middle of the fourth century, the Athenians disposed of the perfunctory request for a friend. Second, a more serious obstacle, which the Athenian orators never completely overcame, was the rule that no one could take a fee to plead the cause of another. This law was widely disregarded in practice, but was never abolished, which meant that orators could never present themselves as legal professionals or experts.

During the Roman Republic and the early Roman Empire, jurisconsults and advocates were unregulated, since the former were amateurs and the latter were technically illegal. Any citizen could call himself an advocate or a legal expert, though whether people believed him would depend upon his personal reputation.

The notaries appeared in the late Roman Empire. Like their modern-day descendants, the civil law notaries, they were responsible for drafting wills, conveyances, and contracts. They were ubiquitous and most villages had one. In Roman times, notaries were widely considered to be inferior to advocates and jurisconsults. Roman notaries were not law-trained; they were often barely literate, with an unfavorable reputation for wrapping simple transactions in mountains of legal jargon, since they were paid by the line.

After the fall of the western Roman Empire and the onset of the Early Middle Ages, the legal profession of Western Europe collapsed. From 1190 to 1230, however, there was a crucial shift in which some men began to practice canon law as a lifelong profession in itself.

**30. Finish the following sentences according to the text.**

1. The legal profession has its origins .....
2. In Greece it was forbidden to take payment for .....
3. During the late Roman Empire and the Byzantine Empire ....
4. In Western Europe, the legal profession went into decline ..... and re-emerged .....
5. The orators of ancient Athens ....
6. During the Roman Republic and the early Roman Empire .....
7. In the late Roman Empire .....
8. After the fall of the western Roman Empire and the onset of the Early Middle Ages ....

**31. Choose one paragraph from the text and make a literary translation of it in the written form.**

**SPEAKING**

**32. Describe the education of a lawyer in your country and include these points.**

- Prerequisites for studying law
- Main subjects covered at law school
- Bar examination
- Student clerkships

**TOPICS FOR PRESENTATIONS**

1. The kind of legal profession that appeals you most.
2. History of the legal profession in Ukraine.

**GRAMMAR**

**33. Translate the sentences into Ukrainian paying attention to the use of the Passive Voice:**

1. This lecturer is invited to deliver a course of lectures in civil law at our University.
2. A lot of young lawyers are trained at our University every year.
3. Such criminal cases are usually tried by district courts.
4. Appeals against sentences and decisions of courts of first instance are examined by courts of second instance.
5. The criminal case was decided according to the laws of the state.
6. The accused is guaranteed the right to defence.
7. The hearing of the case will be postponed.
8. Penalties are imposed on convicts according to the law.

9. The man was arrested by the police, but now they have released him.
10. The verdict was given by the jury and the sentence was passed by the judge.

**34. Insert the required tense forms (Passive Voice):**

1. The hearing of the criminal case (to postpone).
2. The case of murder (to investigate) last year.
3. Penalties (to impose) on convicts according to the law.
4. The juvenile (to arrest) by the police, but now he (to release).
5. The verdict (to give) by the jury and the sentence (to pass) by the judge.
6. The verdict (to discuss) still by the jury.
7. The evidence on the case (to collect) still by the investigator.
8. The suspect (to arrest) just by the police inspector.
9. The trial (to close) by the judge by the time we came to the court.
10. The textbook on civil law (to publish) by January.
11. (To solve) the case or (to collect) the evidence still by the investigator?
12. A lot of interesting English books (to translate) by December. Some of them (to publish) already.
13. The driving tests (to fail) by him.
14. This terrible crime (to prevent) by the measures taken by the police.
15. Different kinds of offences (to reflect) in Crime Statistics.

**35. Make the following sentences passive:**

1. People use legal means to regulate relations with each other.
2. Last week the police fined him for driving in the excess of the speed limit.
3. The lawyer has already appealed against the severity of the sentence.
4. The jurors were considering the verdict in the jury room when we came to the court.
5. This week the convict has appealed against the conviction. He hopes that the judges of the higher court will have passed their decision by the end of the month.
6. We usually seek legal advice when we sell or buy a house, draft a contract, set up a business etc.
7. Governments make laws and enforce them against citizens within their power.
8. Public laws ensure the authority of the government itself and civil laws provide framework for interaction among people.
9. After the accident someone called the police, and they arrested the drunken driver.
10. The police will arrest violent demonstrators. So, if you are violent, they will arrest you. They can keep you in custody for 24 hours and may question you about your activities.
11. Someone had reported the theft to the police.
12. The judges will determine the amount to be paid by the defendant.

13. In 1219 Henry III issued instructions to his justices on how to consider criminal cases.
14. A judge assigns claims to a system of three tracks according to the value and complexity of the case.

**36. Translate the sentences into English, using the Passive Voice where possible:**

1. В суді її представляв адвокат.
2. Справу про пограбування було розкрито у серпні.
3. Я гадаю, що вердикт винесуть завтра.
4. Вчора обвинувачений був заарештований поліцією. Зараз його утримують у в'язниці.
5. Вердикт досі обговорюється присяжними. Ми вважаємо, його буде винесено завтра.
6. Деякі важливі докази отримала поліція.
7. Дванадцять тяжких кримінальних злочинів було розглянуто суддями Суду корони.
8. Скільки поправок до цього закону було запропоновано членами парламенту?
9. Цю статтю про права людини опублікують у найближчому номері «Юридичного вісника».
10. Присяжних обирають із числа законослухняних членів спільноти шляхом довільної вибірки.

## UNIT 3 CIVIL LITIGATION

**Topics:**

- **Employment Law**
- **Contract Law**
- **Real Property Law**
- **Environmental Law**
- **Law of Tort**

**Reading 1.**

1. **Read the text and learn new vocabulary.**



## *Introduction to Civil Litigation*



Civil litigation is a legal process in which criminal charges and penalties are not at issue. When two or more parties become embroiled in such a non-criminal legal dispute, the case is presented at a trial where plaintiffs seek compensation or other damages from defendants.

The standard of proof is less stringent in civil proceedings as opposed to criminal proceedings. To win their cases, attorneys in civil cases must meet the preponderance of evidence standard, meaning they must simply present more convincing evidence to a judge or jury than their opposition. Whereas prosecutors in criminal trials must also present convincing evidence but to prevail, they must prove their case beyond a reasonable doubt.

### *Role of a Civil Litigation Attorney*

A lawyer who specializes in civil litigation is known as a “litigator” or a “trial lawyer.” The role and responsibilities of a civil litigation attorney can be challenging and diverse. Lawyers specializing in this field must be willing to assume oppositional positions, embracing conflict and controversy. They serve as their client's advocate, obligated to fight for them to achieve the best possible outcome. Attorneys and litigation paralegals in this field often work long hours, especially during a trial.

Certain key legal skills and knowledge are essential to litigation practice, including:

- *Knowledge of substantive and procedural law*
- *Strong written and oral advocacy skills*
- *Analytical and logical reasoning abilities*
- *Ability to synthesize complex legal and factual materials*
- *Superior interpersonal skills*
- *Knowledge of legal research techniques and software*
- *Client development skills*
- *Negotiation skills*

Litigation attorneys often represent their clients across a variety of associated proceedings, including pretrial hearings and depositions, as well as arbitration and mediation. Both of the latter processes are geared toward having the two parties reach a settlement without investing the time and absorbing the expense of going to court.

The difference between arbitration and mediation is that arbitration is overseen by an arbitrator who listens to both sides make their case and present evidence before handing down a decision, while mediation involves a mediator engaging all of the parties and helping them reach a mutually agreeable resolution to their dispute.

### *Education Requirements*

Becoming a civil litigator requires possessing an undergraduate degree and then pass a Law School Admission Test (LSAT) to enter law school. Over the course of their studies, students typically take a range of classes on everything from employment discrimination to education to family law. To begin practicing law in their jurisdiction once they've earned their law degree, an attorney must then pass their state's bar examination.

Civil litigation encompasses a broad range of disputes, and litigators generally specialize in one or two specific practice areas. Several common areas include:

- *Environmental law*
- *Landlord/tenant disputes*
- *Product liability lawsuits*
- *Personal injury claims*
- *Intellectual property disputes*
- *Construction liability lawsuits*
- *Medical malpractice claims*
- *Employment and labor disputes*
- *Real estate lawsuits*
- *Anti-trust litigation*
- *Workers' compensation claims*
- *Education law disputes*
- *Divorce lawsuits*
- *The Life Cycle of a Typical Civil Litigation Case*

Civil litigation is typically divided into a series of different stages, including *investigation, pleadings, discovery, pretrial proceedings, potential settlement or trial, and even appeal*. Discovery is typically the longest and most labor-intensive stage of a case. Unlike the way they're often portrayed on television, civil attorneys spend comparatively little time in the trial.

Much of a litigator's time is devoted to the discovery stage, during which information pertinent to the case is gathered through depositions, interrogatories, and subpoenas. Depositions and interrogatories involve questions posed under penalty of perjury to the parties in a lawsuit, and a subpoena is a summons demanding information or documents from a third party. Deposition questions are posed orally under oath, and interrogatories are written questions.

Not every lawsuit passes through each stage - in fact, most do not. The majority of lawsuits are settled by agreement of the parties and never reach the courtroom. Parties can settle during a trial, even after a jury has begun deliberating or has delivered a verdict. They can settle or "stipulate" to some aspects of the lawsuit, leaving others in the hands of the judge or jury.

When a case does go all the way to trial, the entire process, from filing documents with the court to initiate the case through its resolution, can take anywhere from a few months to several years.

*By Sally Kane*

**2. Answer the following questions:**

- 1) What is the civil litigation process?
- 2) What is the role of a civil litigation lawyer? What's the correct name of this job?
- 3) What legal skills and knowledge are necessary for this job?
- 4) What are the main activities of litigation attorneys?
- 5) What education is required for civil litigators?
- 6) What are the areas litigators may specialize in?
- 7) How many practice areas a litigator generally specializes in?
- 8) Civil litigation is typically divided into several stages. What are they?
- 9) Would you like to work as a civil attorney? Why?

**Video 1.**

**3. You are going to watch the video by TED "The world's first AI legal assistant". Before watching, study the information about the presenter:**

*Andrew Arruda: Entrepreneur, lawyer*

Andrew Arruda is the CEO and co-founder of ROSS Intelligence, the world's first artificially intelligent lawyer. ROSS reads millions of legal documents efficiently, understands lawyers' research questions and gets smarter each time it interacts with a lawyer. Before he co-founded the company, Arruda worked at a litigation boutique in Toronto, Canada and with the Canadian department of foreign affairs, trade and development in Lisbon, Portugal.

As a lawyer, Andrew Arruda too often saw the scales of justice tip in favor of the wealthy and partnered with a computer scientist to create the world's first artificially intelligent legal assistant, ROSS. By speeding up legal research, Arruda wants ROSS to make the practice of law cheaper and fulfill the original promise of "justice for all."

**4. Watch the video.**

**5. Discussion:**

- What are the main goals for creating ROSS?
- Do you agree with Mr Arruda's opinion?

**Employment Law**

**Reading 2.**

**6. Read the information and answer the questions:**

Employment law is the section of laws that determines how an employee and employer can work together. It regulates the relationship between workers,

managers, and owners to ensure everyone is treated fairly and respectfully. It includes how and when an employee can work, what they should be paid, and the minimum conditions that are safe and appropriate to work in. It also determines when someone can be hired or fired and outlines the rights of employees and employers.

Employment law covers the following areas:

- *Hiring Process*
- *Wages and Benefits*
- *Employment Discrimination*
- *Family & Medical Leave*
- *Workplace Privacy*
- *Workplace Safety*
- *Whistleblowers*
- *Losing a Job*
- *Legal Help and Resources*

- 1) What types of situation does a lawyer who specializes in employment law have to advise on?
- 2) What types of difference do you think there are between employment law in different jurisdictions?
- 3) How important is it for a lawyer to be aware of international employment law? Why?

**7. Read the first paragraph of the article on employment law on the opposite page and answer these questions.**

- Why is international employment law changing?
- When and why might a country decide to ratify a convention?
- What is the main foundation for a lot of labour law conventions?

**International labour law and employment law**

The field of international labour law and employment law is developing rapidly and changing to fit the needs of increasingly global business. While international law applies only between entities that can claim international personality, national law is the internal law of states that regulates the conduct of individuals and other legal entities within their jurisdiction. When the labour legislation or practice of a country has reached a certain level, it may be desirable for the country to ratify a convention that provides for a standard corresponding to the existing national situation. In international labour law, there are many conventions, based on the notion of social justice and designed to create international obligations for the states that ratify them. Ratification of respective conventions can contribute to the consolidation of national labour legislation by acting as a guarantee against backsliding by governments responding to economic conditions.

Lawyers, law students and counsel increasingly recognize the importance of having a global 1) \_\_\_\_\_ on labour and employment law. Corporate lawyers frequently have to deal with a variety of labour and employment problems internationally in structuring corporate 2) \_\_\_\_\_. They are expected to have a national and an international knowledge of requirements affecting practical issues such as establishing a 3) \_\_\_\_\_, hiring a 4) \_\_\_\_\_, 5) \_\_\_\_\_ employment contracts, 6) \_\_\_\_\_ the employment of or replacing employees, providing wages and 7) \_\_\_\_\_, dealing with 8) \_\_\_\_\_, carrying out workforce 9) \_\_\_\_\_, selling the business, and paying 10) \_\_\_\_\_ through redundancy or 11) \_\_\_\_\_ schemes. In addition, issues such as discrimination on grounds of gender, 12) \_\_\_\_\_ or disability may arise in advertising, recruitment and 13) \_\_\_\_\_ processes. Therefore, knowledge of international labour law and the national employment law of particular countries is vitally important for counsel specializing in these areas.

**8. Complete the second paragraph of the article using the words in the box.**

*Benefits dismissal drafting facility pension perspective  
race reductions severance terminating transactions unions  
workforce*

**9. Answer these questions.**

- What is the difference between an act and a convention?
- Where do you find an article, and where do you find a section?

**10. These are the seven core International Labour Organization Conventions. Discuss what each one concerns with a partner. Do you know how they have been incorporated into your own national legislations?**

- 1) Abolition of Forced Labour Convention
- 2) Convention Concerning Freedom of Association and Protection of the Right to Organize
- 3) Discrimination (Employment and Occupation) Convention
- 4) Equal Remuneration Convention
- 5) Forced Labour Convention
- 6) Minimum Age Convention
- 7) Right to Organize and Collective Bargaining Convention

**11. Read these extracts from three of the conventions in the previous exercise. Which conventions are they from?**

A	<p>1 Workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom and to formulate their programmes.</p> <p>2 The public authorities shall <b>refrain from</b> any interference which would restrict this right or impede the lawful exercise <b>thereof</b>.</p>
B	<p>1 Workers shall <b>enjoy</b> adequate protection against acts of anti-union discrimination <b>in respect of</b> their employment.</p> <p>2 Such protection shall apply more particularly in respect of acts calculated to:</p> <p style="padding-left: 40px;">a) make the employment of a worker subject to the condition that he shall not join a union or shall <b>relinquish</b> trade union membership:</p> <p style="padding-left: 40px;">b) cause the dismissal of or <b>otherwise</b> prejudice a worker <b>by reason of</b> union membership or because of participation in union activities outside working hours or, with the <b>consent</b> of the employer, within working hours.</p>
C	<p>1 <b>Notwithstanding</b> the <b>provisions</b> of paragraph i of this Article, national laws or regulations or the competent authority may, after consultation with the organizations of employers and workers concerned, where <b>such</b> exist, <b>authorize</b> employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.</p>

**12. Match these expressions (1-12) with their synonyms in bold in the extracts.**

- 1 of this
- 2 agreement
- 3 related to
- 4 because of
- 5 conditions
- 6 stop themselves
- 7 despite
- 8 have the right to
- 9 these
- 10 give up
- 11 in any other way
- 12 allow

## Listening 1.



### 13. Discuss these questions with a partner.

- What procedures are available for dealing with employment disputes?
- What is 'mediation'?
- Why is mediation popular?
- What skills do you think a mediator needs?

### 14. Audio 1. Listen to a conversation about being a mediator and decide whether these statements are true or false.

1. Hannah hasn't met John before.
2. John has been working in employment law for a very long time.
3. John knows a lot about mediating.
4. A mediator should not favour one party.
5. John's client continues to work with her boss.
6. Mediation should take place away from the employee's environment.
7. Parties in a mediation must tell the truth.
8. Mediating is similar to what lawyers do.
9. John admires Hannah's work.

### 15. Audio 1. Listen again. Who must do the mediator (M) or the parties (P)?

1. Be neutral
2. Adopt a more positive view
3. Talk honestly and friendly
4. Create a safe environment
5. Move towards improved relationships.
6. these things in a mediation:
7. Identify needs and interests.
8. Reach a mutually acceptable solution. Reduce tension and anxiety.
9. Be able to read people.
10. Support both parties.

## Speaking 1.

### 16. Imagine, that you work as a mediator. Explain your job to a partner. You can use the expressions that Hannah used to explain her job as a mediator.

#### Useful language

*The important thing about a mediator is ...*

*We must be ...*

*What we do is ...  
A basic part of our training is ...  
This means we can ...  
The mediator's job is to ...  
You really have to be able to...*

**Reading 3.**

**17. Read the letter below from a client. Mr Bennett, to his lawyer. Miss James. In what order should these points be in her letter?**

- a. a summary of mediation process
- b. recommendation of a mediator
- c. offer to mediate yourself
- d. your opinions
- e. advice on dealing with the problem
- f. reference to Mr. Bennett's letter
- g. attachment with further details

Norwood  
NP25 6TT  
4th February

Dear Miss James,

A difficult situation has arisen at work involving two of my key employees, and I am considering bringing in a mediator. Do you think this is a good idea?

I am not completely sure what mediation involves. Perhaps you could give me a brief outline and also the name of someone I can contact.

Yours sincerely  
Jake Bennett

**18. For each of these phrases, indicate whether they would be used to refer to previous letter (RF) give an opinion (O), summarize (S), recommend (RC) or attach (A).**

1. Depending on the situation, this can be a good idea.
2. Please see the attached document for further details on ...
3. Mediation can be a good way forward because ...
4. In the past, I have recommended ...
5. It is my opinion that...
6. In response to your query regarding ...
7. Briefly, the process begins with ...
8. This process can be of benefit to all parties.
9. I would recommend a colleague of mine.
10. With reference to your letter of 8th October, ...

11. I think you should look into the matter further.
12. I attach a document that goes into more detail about the benefits of mediation.

**19. Write the letter from Miss James to Mr. Bennett. Follow these steps.**

1. Make notes and divide them into paragraphs.
2. Write a draft letter.
3. Check for mistakes.
4. Exchange your letter with a partner and check each other's work.
5. Write the final draft.

## **Contract Law**

### **Reading 4.**

**20. Read the information and answer the questions:**

- What is Contract Law?
- What is a Contract?
- Who uses Contracts?
- What are the main parts of a Contract? Describe each part.

**Contract law** is the body of law that relates to making and enforcing agreements. A contract is an agreement that a party can turn to a court to enforce. Contract law is the area of law that governs making contracts, carrying them out and fashioning a fair remedy when there's a breach.

Anyone who conducts business uses contract law. Both companies and consumers use contracts when they buy and sell goods, when they license products or activities, for employment agreements, for insurance agreements and more. Contracts make these transactions happen smoothly and without any misunderstandings. They allow parties to conduct their affairs confidently. Contracts help make sure that the parties to a transaction are clear on its terms.

*A valid contract has four parts:*

#### **Offer**

First, one party must make an offer. They must state the terms that they want the other party to agree to. If the other side agrees to the terms of the offer, the other side may accept it, and the contract is complete.

#### **Acceptance**

Accepting another party's offer makes a contract complete. The party that accepts the offer must accept it on the same terms as the terms of the original offer. They must make sure that the other side knows they accept it.

If they propose different terms, there's no contract. Instead, their terms are a counteroffer. It's then up to the first party to accept the counteroffer or propose another counteroffer.

### **Consideration**

A valid contract requires each party to give something up. That's called consideration. For example, in the case of an employment contract, one party agrees to give up money, and the other party agrees to give up labor. A contract is a two-way street with each party giving up something to get something else that they want.

### **Mutual intent to enter into an agreement**

To have a valid contract, both parties must intend to be bound by the contract. If a document says that it's only a statement of intent, the parties may not have a mutual agreement to enter into a contract. Informal agreements between friends often fall into this category.

Typically, a promise or an offer of a reward in exchange for certain behavior creates an enforceable contract with the person who undertakes the activity. For example, if someone offers a reward for information that leads to an arrest for a crime, the person who provides the information can seek enforcement of the reward. On the other hand, an advertisement is not a contract without an additional, personalized invitation from the seller for the buyer to buy the good.

A contract can be implied. For example, a person who seeks medical treatment has an implied contract with the doctor who treats them to pay a reasonable charge for services. Likewise, a person who orders dinner at a restaurant has an implied contract to pay for the meal that they order.

## **21. Discuss this question with a partner.**

- Have you ever drafted or helped draft a contract?
- If yes, what were the difficulties or problems?
- If no, what do you think the difficulties or problems might be?

## **22. Answer these questions.**

- 1) What general advice would you give someone who is drafting a contract?
- 2) What effects can legal disputes over contracts have on a company?
- 3) What should be included in an international contract?

## **23. Read the first part of a guide to drafting commercial contracts on the opposite page to check your answers.**

## **24. Read the second part of the guide and answer these questions.**

- 1) Why should contract negotiating be done before the drafting stage?
- 2) What is the contra preferendum rule?

- 3) What is a basic rule for expressing the same idea more than once in a contract?
- 4) Why is it a good thing to use standard clauses when drafting a contract?
- 5) Find two examples of typical mistakes.
- 6) What are the three most important sets of universal rules on contracts?

**25. Write the adjective related to each of these nouns. Underline the stressed syllable of each adjective.**

ambiguity  
availability  
confidentiality  
liability  
advisability  
typicality

**26. Some words from the text are often confused with others. Use a dictionary to find the differences between these pairs of words or phrases.**

1. warranty / guarantee
2. set / group
3. terms / clause
4. duty / right
5. termination / finalization
6. comprise / include
7. remedies / arbitration
8. construed / believed
9. numerous / a number of

**27. Complete these sentences using the correct words from the previous exercise.**

1. The \_\_\_\_\_ on my car runs out in two months.
2. What \_\_\_\_\_ are available to the injured party in case of breach of contract?
3. The public has a \_\_\_\_\_ to report any wrongdoing to the authorities.
4. \_\_\_\_\_ of an employee's contract of employment can lead to legal action.
5. \_\_\_\_\_ people have applied for the position and will be interviewed soon.

## **Drafting a commercial contract**

The general advice when drafting a commercial contract is to draft a written contract that is as complete and as precise as possible. The reasons for this are twofold: firstly, there is clear proof of the written terms; and secondly, it reduces the risk of legal disputes. Disputes may be lost in court. They can also be expensive, time consuming and detrimental to the reputation of a company.

A typical structure of an international commercial contract would comprise the following:

- a heading setting out the type of contract
- the names and addresses of the parties
- a description of the goods to be delivered or services to be provided, including quality, quantity, time, etc.
- fixation of price and details of payment
- duties and rights of the parties, e.g. warranty, payment of tax/duty, etc.
- limitation of liability
- remedies in case of breach of duties
- a confidentiality clause
- the duration/termination of the contract
- a force majeure clause setting out circumstances excusing non-fulfilment in case of natural disasters, war, etc.
- a clause on the governing law of the contract
- an arbitration clause
- signatures of the parties and date of signing
- appendices containing definitions, timetables, etc.

### **Points to remember**

1 For the terms to be clear, the process of drafting is not the time to negotiate matters of principle. This should be done before drafting commences.

2 Clarity and certainty of expression are very important, as any ambiguity of expression is often construed by a court against the person who is trying to rely on it, particularly if he is the person who has drafted the clause. This is known as the *contra preferendum* rule.

3 Never express the same idea in two different ways in the contract; it is always better to repeat the same sentence. For example, do not use the sentence 'To the best of the vendor's knowledge and belief' in one place and 'To the best of the vendor's belief' in another. Typical sources of mistakes in commercial contracts can be as basic as different date formats (for example 3/4/2010 may be interpreted as 3rd April 2010 or 4th March 2010) or when mentioning currencies (for example, \$ may be USD or AUD).

4 The use of standard clauses wherever possible is important, as such clauses are familiar to both sides and save valuable time, and are likely to cover the important points. However, never draft in isolation, and make sure that the standard clauses actually cover what is intended by the parties.

5 Also be aware of the law which can affect the contract. There are numerous sets of universal rules on contracts covering different aspects of international commerce and created by different institutions. The most important of these are the rules under the UN Convention on Contracts for the International Sale of Goods 1980 (CISG), the UNIDROIT Principles of International Commercial Contracts 2004 and the ICC Incoterms 2000. The application of these rules depends on several factors: the set of rules in question, whether their application is automatic or determined by the parties' agreement on their application, and whether these rules are available in all states.



### Listening 2.

**28. You are going to hear part of a lecture about contract drafting. Before you listen, discuss these questions with a partner.**

- 1) What must a contract establish?
- 2) What must you plan ahead for?
- 3) What do you think are the purposes of these clauses?
  - a. the integration clause
  - b. the waiver clause
  - c. the time of the essence clause
  - d. the survival clause
  - e. the severability clause

**Audio 2. Listen to the first part of the lecture to check your answers.**

**29. Audio 3. The second part of the lecture is about language in contracts. Listen and complete these guidelines from the handout.**

<b>Keeping language simple!</b>	
<ul style="list-style-type: none"> <li>• Avoid legal (1) _____ and phrases, e.g. <i>at or</i> (2) _____, <i>basic</i> and (3) _____, <i>full</i> and (4) _____.</li> <li>• Use clear and straightforward verbs wherever possible:</li> </ul>	
<b>Complex verbs</b>	<b>Clear alternatives</b>
(5) _____	do/ make/give/give back
(6) _____	begin/start
(7) _____	end/stop
(8) _____	
<ul style="list-style-type: none"> <li>• Use (9) _____ sentences rather than passive ones.</li> <li>• Keep sentences (10) _____.</li> <li>• Keep subjects and (11) _____ together.</li> <li>• Keep (12) _____ verbs together.</li> </ul>	

**30. Audio 4. The final part of the lecture is about the process of drafting. Listen and choose the best answers.**

- 1) The first draft should ...
  - a include all the correct details,
  - b be the first of many,
  - c be an outline.
  
- 2) Concentrating on various clauses can ...
  - a sometimes cause problems for the whole contract,
  - b help avoid ambiguity,
  - c fix important problems.
  
- 3) Revising should be done ...
  - a while you are writing,
  - b slowly.
  - c at the end of the process.

**31. Match these words and phrases from the whole lecture (1-7) with their definitions (a-g).**

- |                    |                              |
|--------------------|------------------------------|
| 1 establish        | a consider something and act |
| 2 address          | b rule against               |
| 3 self-explanatory | c making perfect             |
| 4 contradict       | d not needing clarification  |
| 5 polishing        | e accept that                |
| 6 strike down      | f create                     |
| 7 reconcile        | g go against                 |

**Reading 5.**

**32. Write a report on the professor's talk. Use some of the verbs from the Useful language box and these points.**

- 1) What a contract must establish
- 2) Different clauses that are important when drafting contracts
- 3) Importance of language when drafting
- 4) The process of drafting and revising

**Useful Language**

When you report what someone else has said, you don't have to use He said that ... all the time. You can use other verbs to make your language more varied and interesting. For example:

- state

- maintain
- explain
- insist
- advise
- suggest
- remind
- emphasize
- warn

Some of these verbs can be followed by an indirect object, either with or without to (e.g. He advised me that..., He explained to me that...) and others do not require an indirect object (She maintained that..., She insisted that...). One of them (remind) must always have an indirect object. Check in a dictionary if you are not sure.

## **Real property law**

### **Video 2.1**

### **Video 2.2**

**33. Watch the video and be ready to discuss it with your teacher and groupmates.**

**34. Discuss this question with a partner.**

What does *real property* mean?

**35. Read the extract to check your answer to the Lead-in. What is *real property* called in your country?**

Property law is the general term used to describe law relating to the different forms of ownership in real property such as land, as distinct from personal property or moveable property, within the common-law legal system. In the civil-law system, there is a division between movable and immovable property. Movable property equates to personal property, while immovable property is roughly the same as real estate or real property and the associated rights and obligations attaching to the land. The main distinction in common-law systems is between real property (land and what is sited on land) and personal property (chattels).

**36. Match the words in italics to the definitions below.**

*Easement estate freehold heir landlord leasehold licence rent tenant*

1. A type of interest in real property with different degrees of ownership recognized in law

2. An estate that is for a fixed period of time
3. The fullest form of right in land
4. A person who inherits property on another person's death
5. A person who leases land belonging to another person
6. The money paid by a lessee
7. A right enjoyed by someone over another's property; for example, a right of way
8. A power or authority passing no interest in the land but merely giving permission to use the land for a particular purpose
9. The owner of an estate or interest in property which has been leased to another party

**37. Discuss or research the meanings of the following expressions.**

**a. Write a short definition for each in your own words.**

- b. fee simple
- c. life estate
- d. reversion
- e. fee tail
- f. estate per autre vie
- g. remainder

**b. Work in pairs. Read your definitions for your partner to guess what you are describing.**

**38. Discuss these questions with a partner.**

1. What legal problems related to real property do you think commercial lawyers have to deal with most often? Why?
2. What information would you expect to find on the website of a legal firm that specializes in real property? What would make one website more attractive than another? Why?

**39. Read the webpage below which advertises a lawyer's services. Complete the gaps using these sentences.**

**a.** If you are evicting a tenant for the first time and the tenant is fighting the eviction with a lawyer, think twice.

**b.** They can even be useful at the initial stage in advising you on choosing tenants and how to avoid such claims further down the road.

**c.** Therefore the burden of proof is very high on landlords.

**d.** They want to make their business profitable, while at the same time avoiding liability.

**e.** If you are taken to court or if you have to settle, your liability can be much higher without legal representation.

*If you are a property owner, then you can benefit from a lawyer's help.  
Learn when you should consult a lawyer.*

When should a landlord hire a lawyer? Landlords are more or less the same as other types of business owner. (1) \_\_\_\_\_ In certain situations, it's a smart move to get in touch with a lawyer who will guide you on this. The following are some common scenarios that will benefit from a professional review or professional input.

*Removing a tenant from your property*

An eviction lawsuit can be quick and take less time than other civil-law actions. Landlords must follow detailed rules, from notifying the tenant of the lawsuit to filing the right papers and forms. Because it's the tenant's home, many judges might look more favourably on the tenant's submissions. (2) \_\_\_\_\_ Still, many landlords try to evict a tenant themselves, sometimes successfully and sometimes unsuccessfully. There are many occasions when you need to stop and think. (3) If the tenant is an employee that you are firing, think twice. If you must comply with rent control or housing programme eviction rules, think twice. If the tenant is filing for bankruptcy, think twice.

*If you are being investigated or sued for illegal discrimination, then you can benefit from a lawyer's help*

Landlords who do everything by the book and carefully comply with fair housing laws can still face accusations. You won't need a lawyer every time you are faced with these claims, but if a tenant is taking proceedings against you or a housing agency agrees to look into a claim, then you should definitely consult a lawyer. (4) \_\_\_\_\_ Another point to consider is that if you are involved in such a process and it becomes public, then it may well harm your business reputation. A lawyer can help you resolve the dispute, end the investigation or deal with the lawsuit as soon as possible. (5) \_\_\_\_\_.

**40. Match the verbs (1-8) with the phrases (a-h) to complete the collocations from the webpage**

1. fil	a. liability
2. take	b. more favourably on
3. look	c. the right papers
4. consult	d. proceedings against
5. resolve	e. a lawyer
6. notify	f. into a claim
7. avoid	g. the dispute
8. look	h. the tenant.

#### 41. Discuss these questions with a partner

1. Why do you think some landlords might choose not to use a lawyer? Are there any advantages to this?

2. In your country, what is the procedure for evicting a tenant? Is the law generally more favourable to the tenant or the landlord?

#### Reading 6.

42. Work in pairs. Write a short paragraph for your firm's website. Say why clients should choose to consult you about their real property problems. Use some of the expressions in the Useful language box.

43. Read your classmates' paragraphs. Which would *you* consult, and why?

#### Useful language

Here at, we ...

For many years, we ...

As a result, our experience enables us to ...

Our speciality is ...

You just have to look at our results!

Not only do we ..., but ...

We can cater for...

Here are excerpts from testimonials from some of our clients: ...



#### Listening 3.

44. Work in pairs. A woman, Mrs Grant, and her son want to lease a commercial premise to operate two businesses from. What will the lawyer have to consider when drawing up the commercial lease?

45. Audio 5. Listen to a phone conversation between Mrs Grant and her lawyer, Mr Hockney. Complete these notes.

• \_\_\_\_\_ Mrs Grant wants Mr Hockney to give her (1) \_\_\_\_\_ and to negotiate commercial leases.

• After the conversation, she will send him the (2) \_\_\_\_\_.

• Mrs Grant must decide the amount she wishes to give as a (3) \_\_\_\_\_.

• \_\_\_\_\_ Utilities can be paid for in two ways: (4) \_\_\_\_\_ or included (5) \_\_\_\_\_.

• In the lease, there must be:

- provision for ending (6) \_\_\_\_\_ if their businesses expand;

- provision for (7) \_\_\_\_\_ if they have financial problems;
- correct (8) \_\_\_\_\_ to allow one to sublet to the other if necessary.
- Mr Hockney is going to:
  - (9) \_\_\_\_\_ a letter to send to the agent;
  - write to Mrs Grant (10) \_\_\_\_\_ what has been discussed.

**46. Listen to the recording again and find informal equivalents for these words and expressions in the conversation.**

- |                             |                       |
|-----------------------------|-----------------------|
| 1. starting my own business | 8. conduct            |
| 2. complement each other    | 9. are unsuccessful   |
| 3. contact me again         | 10. written           |
| 4. calculate                | 11. explain again     |
| 5. a portion of             | 12. cease trading     |
| 6. apportioned              | 13. start the process |
| 7. equip                    | 14. get in touch      |

**47. Write the letter from Mr Hockney to Mrs Grant confirming the points covered in the conversation. Will you use the formal or informal equivalents? Why?**

- Read the audio transcript (page 100) and make relevant notes.
- Group the points into paragraphs.
- Explain in the first paragraph why you are writing.
- Expand your notes in the main paragraphs.
- Conclude by clarifying what you both need to do next.
- Check your letter for content/organization/accuracy.

**48. Work in pairs. Cover the Useful language box below. Mr Hockney used a sequence of phrases to introduce different points in his conversation.**

**Useful language**

Firstly, ...

We also need to consider...

Also, ...

Another factor we need to consider ... And, of course, ...

There's something else, too: ...

And - oh yes! - ...

We mustn't forget ...

And one more thing: ...

That's about it for the moment.

**49. How many can you remember? Listen and write them down.**

## Speaking 2.

**50. Using some of the phrases in the Useful language box, prepare to talk for two minutes about what steps a person needs to take when buying a property in your country.**

## Reading 6.

**51. Work in pairs. What do these terms mean? Check your answers in a dictionary.**

1. title insurance
2. risk management
3. financial backing
4. professional negligence
5. lending institution
6. single premium
7. standard tool

**52. Read this messaging exchange between two lawyers and decide whether the statements below are true (T) or false (F).**

- 1) George's client has purchased property in Latvia.
- 2) Hans often uses his expertise in title insurance in Germany.
- 3) The people who profit most from title insurance are the sellers of property.
- 4) There has been a change to what is covered by title insurance.
- 5) Having title insurance has no effect on funding for property projects.

### **George Burns says:**

Hans, I remembered that you're an expert in title insurance. I've got a client who wants to buy an apartment complex in the Baltics - Latvia, to be precise. I remember you talking about title insurance, and from what I recall, you're a real expert at this - or at least much better informed than I am! Have you got a moment to help me out?

### **Hans Brecht says:**

Sure, although I wouldn't say I was an expert! But I do have a fair amount of experience in that area. In Germany, we don't have any real need for it, as registration of the title is presumed to be a valid title. But in the Baltics, it's used quite a lot - in fact, I always recommend it to clients who are investing in any of the Baltic states. It's a risk-management product which means that buyers and lenders benefit from a clean ownership title. It's good, too, from a lawyer's perspective in that it means that we don't have to worry about professional negligence claims.

**George Burns says:**

That's great, Hans. What exactly does title insurance do?

**Hans Brecht says:**

OK. For a single premium, typically the insurance covers any loss that might arise from title flaws and other problems relating to real estate - you know, things like local authority regulations and land-use permits. Actually, when it was first introduced, or rather became available, the insurance only covered 'unknown defects', namely defects or problems in the title that would have been unknown to the buyer. This was a bit of a problem for the lending institutions, so now the insurance covers known and unknown defects. Now it's a standard tool used worldwide to insure title risks in real estate and it's widely used by lenders - so your client will find it much easier to get financial backing from a financial institution if he has it in place. Is that what you need?

**George Burns says:**

That's excellent - thanks, Hans! Any time I can return the favour, just let me know!

**53. Complete these sentences using words from the messages. Try not to look back at the messages**

1. It's good, too, from a lawyer's \_\_\_\_\_.
2. It's easier to get financial backing if a client has this in \_\_\_\_\_.
3. From what I \_\_\_\_\_, you're a real expert!
4. Just let me know if I can \_\_\_\_\_ the favour.
5. Have you got a \_\_\_\_\_ to help me out?
6. I've got a \_\_\_\_\_ amount of experience.

**Reading 7.**

**54. Using the information from the messages on the opposite page and the notes below, write a letter to your client summarizing the benefits of getting title insurance.**

**Useful language**

Not only can you ..., but...

There's an added advantage in that...

An important benefit is that ...

Another reason to seriously consider taking out title insurance is that ...

You won't lose out because ...

I should also inform you that...

- Users of title insurance include investors, property developers, foreign banks, property sellers
- One-off premium, which can be adjusted in the event of an increase of the value of the property
- Cover for risks in respect of title issues
- Any litigation covered
- Indemnifies against a judgement up to the amount covered by the insurance
- Owner always guaranteed never to lose the amount insured because of any problems with the title
- Cost of insurance depends on size of the property deal and level of complication (usually between about 0.2% and 0.5% of the total value of the transaction)

**55. Work with a partner. Research another topic related to real property you can advise your partner on, then role-play another message exchange between George Burns and Hans Brecht. George is returning the favour by giving Hans some information he needs. Exchange written messages. You are not allowed to talk!**

**56. Read this article from an online magazine about buying property in Spain and the questions. For each question, choose the best answer: A, B, C or D.**

### **What are the pitfalls of buying property in Spain?**

If you're thinking of buying property in Spain, be aware that the regular basis in certain parts of Spain, and to be forewarned is to whole process can be fraught with pitfalls ... but that's only if you be forearmed.

Fail to take a few sensible precautions. All too often, foreign buyers Fools can rush into a minefield of legal problems in Spain, plunge headlong into signing on the dotted line without giving Many foreigners have bought properties, only to find the vendor enough consideration to the fine print and a host of factors that is not the true owner, the property comes with hefty debts on it or need to be taken into account when purchasing property in a an apartment block is about to be constructed nearby totally country where the language, customs and bureaucracy are all blocking out your much-prized sea view. These things can and do unfamiliar. happen on a regular basis.

Bizarrely, many foreigners are still buying Spanish properties. Buyers who go for 'off-plan' properties (i.e. buying into a without the benefit of legal advice - even though they would development before it has actually been built) have encountered probably never consider being so foolhardy in their own country. all sorts of disasters. Sometimes developers go bust before the The lure of all that sunshine, cheap wine and easy living just seems project is completed, sometimes the completion date is long to go to the heads of otherwise fairly level-headed

individuals. overdue and the original specifications are not adhered to - you Couples will quite happily sign an initial purchase agreement might even find the developer has already mortgaged the after a weekend inspection visit financed, or part-funded, by a proper before you even secured your option to buy! developer or estate agent. It's only later that they realize they were There are a couple of simple steps you can take to guard subjected to unacceptably high-pressure (even aggressive) sales against most problems that arise for foreign buyers. The most pitches, that the property they've committed themselves to is important thing is to hire a good, reputable lawyer who speaks wholly inappropriate and that the location is entirely unsuitable your language and who specializes in the Spanish property for their needs market. He or she will protect you against all the potential legal Agents aren't normally the kind of people to warn you about problems that can arise. The second thing is to visit your chosen the floods, fires and earthquake damage that your chosen area is area several times, at different times of the year, before you particularly prone to. You think we're being unnecessarily commit to buying and, if at all possible, rent a property for at least alarmist? No, these are all problems that can and do occur on a a few weeks before you make your final decision.

1. The people who encounter problems buying property in Spain ...
  - A ... have often had similar experiences in their own countries.
  - B ... usually use the wrong lawyer.
  - C ... would not usually make bad decisions when buying property.
  - D ... don't consider the legal aspects.
2. Houses in Spain are often sold ...
  - A ... through high-powered selling techniques.
  - B ... without being inspected carefully enough.
  - C ... after buyers have paid a small deposit.
  - D ... to buyers who don't really want the commitment.
3. According to the article, ...
  - A ... some reports exaggerate the problems faced by new owners.
  - B ... estate agents and developers sometimes lie about the dangers.
  - C ... buyers are usually made aware of potential problems.
  - D ... it is better for buyers to have more information about possible dangers.
4. What sort of legal problems can buyers face?
  - A It is difficult to identify the real owner of the property.
  - B The buyer cannot sell the property on.
  - C A search doesn't reveal future developments.
  - D The buyer's level of debt can increase rapidly.
5. When buying uncompleted developments, ...
  - A ... buyers should check out the developers' records.
  - B ... buyers can change their minds regarding building specifications.
  - C ... buyers sometimes need to take out a second mortgage.
  - D ... there's a risk that the developers may not keep to the deal.
6. When buying property abroad, it's important to ...

- A ... speak the language.
- B ... hire a specialist lawyer.
- C ... do a lot of research.
- D ... consider renting instead of buying.

### Speaking 3.

**57. A client has a problem with a residential tenant. He suspects that the tenant is subletting part of the property to a third party, who is operating a business. Advise your client about the situation.**

#### Discussion points

- The difficulty of proving that this is happening
- The terms of the lease
- Advisability of settling the dispute outside court
- Possible legal steps to take



### Listening 4.

**58. Audio 6. You are going to hear a conversation between Brigitte Trant, a helpline advisor, and Thomas Maine, who is planning to set up a business abroad. Choose the best answer: A, B or C.**

1. Thomas needs advice on ...
  - A ... which aspects of the transaction he needs a lawyer for.
  - B ... finding a suitable lawyer to represent him.
  - C ... how to protect his interests once the business is operating.
2. According to the advisor, how many lawyers does he need?
  - A She doesn't give a definite answer.
  - B Several specialist lawyers
  - C One good lawyer with a range of experience
3. How can some societies help him?
  - A They can recommend the best lawyers.
  - B They can research the lawyers for him.
  - C They can give some information about suitable lawyers.
4. What should Thomas consider when choosing a lawyer?
  - A They look knowledgeable.
  - B They've been in the country for a long time.
  - C They communicate well with people.
5. The advisor says that he shouldn't use a lawyer ...
  - A ... who doesn't reveal his/her fees.
  - B ... who advertises in property sale magazines.
  - C ... recommended by someone involved in the transaction.

## Reading 8.

**59. You are a senior partner in a law firm that specializes in real property law. You want to extend the firm's website. Write a memo to colleagues asking them to submit articles on different aspects of real property law for inclusion on the website.**

- Explain the purpose of the articles
- Outline topic areas for the articles
- Express preference for certain areas, with reasons
- Advise on length, style and schedule for submissions

**Write your answer in 200-250 word.**

## Environmental law

### Video 3.1

### Video 3.2

**60. Watch the video and be ready to discuss it with your teacher and groupmates.**

**61. Discuss these questions with a partner.**

1. How important do you think it is for a lawyer to know about environmental law these days?
2. What types of problem might an environmental legal specialist have to deal with?
3. When might problems concerning environmental law cross jurisdictions?

## Reading 9.

**62. You are considering doing a course on environmental law. Look at the two course outlines (A and B) below and on the opposite page and work with a partner to match these module titles (a-d) to the correct modules (1-4).**

- a. Assessment, compliance and enforcement
- b. General aspects of international environmental law
- c. Environmental safeguarding
- d. Environmental democracy

## Postgraduate Law Programme by distance learning International Environmental Law

*18 months ' duration*

*Core modules 1 and 2 plus one elective*

## CORE MODULES

### **Module A1: (1)** \_\_\_\_\_

Development and sources of international environmental law  
Environmental governance, institutions and jurisdiction issues  
Sustainable development

### **Module A2: Application and enforcement of international environmental law**

Environmental damage and state responsibility  
Civil liability for damage Resolution of environmental disputes  
Environment and human rights

## ELECTIVES

### **Module A3: (2)** \_\_\_\_\_

#### **Marine environment protection**

Conservation and biological diversity, principles and enforcement  
Hazardous waste management and enforcement  
Climate-change management and responsibility

or

#### **Module A4: Transboundary environmental frameworks**

Environment and trade  
War and armed conflict - environmental considerations  
Nuclear energy and environment  
Cross-border pollution management and penalty enforcement

## **Postgraduate Masters of Laws LLM in EU Environmental Law by distance learning**

*18 months' duration*

*Core modules 1 and 2 plus one elective*

## CORE MODULES

### **Module B1: Environmental policies and principles of the EU**

Shared responsibility, market-based instruments and holistic policy approaches  
Principles of environmental policy (EC Art. 174(2),(3))  
Rationale of the 'polluter pays' principle  
Integrating environmental issues with economic policy  
Aspects of the 'precautionary principle' (risk assessment and management)

### **Module B2: Making environmental law**

Role of Council of Europe and European Parliament  
Principle of attribution  
Harmonizing legislation  
Choice of legal basis for environmental laws

## **Electives**

### **Module B3: (3) \_\_\_\_\_**

Challenging the validity of EC legislation and decision-making (EC Art. 230)

Enforcement by the Commission

State responsibility for breaches by individuals and corporations

Penalties

or

### **Module B4: (4) \_\_\_\_\_**

Rights to environmental information, participation and justice (the Aarhus Convention)

Human rights

Environmental rights embedded in national constitutions

European Convention of Human Rights

### **63. Which of the modules do you think would deal more specifically with each of these topics?**

1. responsibility for causing / clearing up oil spills at sea
2. requirements on drilling for oil
3. drafting regulations prohibiting disposal of agricultural effluent into inland waterways
4. land zoning for growing bio-fuel constituents
5. environmental accountability for all nations
6. worldwide considerations for national legislators

### **64. Choose two topics from the course outlines and research what might be covered in them. Write a short summary of each topic without using the words from the outlines. Swap with a partner and guess which topics the summaries relate to.**

*In this section of the module/elective, you will look at...*

### **Reading 10.**

### **65. There are some blogs from a website for postgrad opportunities for law graduates. Read them and say which course from Reading 1 each person would choose.**

### **66. Read the blogs again and answer these questions.**

Which person/people (A, B, C, D or B):

1. thinks there might be some content overlap in certain sections of the course he / she would choose?
2. works in the public sector?

3. wants to change his/her specialization?
4. plans eventually to do both types of course?
5. would find it hard to choose an elective?
6. has been involved with an international organization?
7. is looking at the linguistic value of the course?

**A** The International Environmental Law postgrad course would suit me better because I'm from Thailand and I intend to become a judge there some day. One of the qualifications I need is a Masters in Maritime Law, so a priority for me would be Modules 1 and 2, and I would do Module 3 as an elective. This would give me a start on these subjects. Moreover, as English is not my first language, by the same token it would be better for me to do this course and get to grips with the terminology before I go on to do the Masters Programme.

**Daeng**

**B** Well, I am a tax lawyer practising in Germany, but I'm getting fed up with tax law and want to move into environmental law. Admittedly, the International Law Course looks very interesting, but on balance, I feel the EU course would be more suitable for me and my future career. Both score very highly for me on content, convenience and duration, but the overriding factor for me would be the relevance of the EU directives and their application within the EU, so I'd go for the EU one.

**Bruno**

**C** Being from Brazil and having specialized in World Trade Organization Law, a big factor for me would be the elective in international law - the one dealing with environment and trade. Both are good from the convenience point of view, but on balance, I'd go for the international law one, as it would really be more relevant to what I need.

**Uiara**

**D** I'm an in-house lawyer with a municipal city council in Austria, so for me, the EU one would be of the utmost importance. Both Modules 1 and 2 look really good as to content, but I'd have a bit of a struggle deciding on which elective to do. Both are highly relevant for what I do. On the one hand, I'd be interested in compliance and assessment for my job, but on the other hand, environmental democracy is so important. Admittedly, it would be more significant if I was working for an environmental non-governmental organization. It's a tough one, to pick one over the other, but I'd lean towards the environmental democracy elective, as Module 2 probably covers a lot of what's in Elective 3.

**Aberie**

**E** I'm from Argentina and I feel that the environment is more of a global issue than being restricted to any one continent. International conventions have a huge impact, not only in the EU but all over the world. Therefore, a factor for me

would be the subjects covered in Modules 1 and 2. I'm really interested in governance, as I worked on a committee for setting up an international environmental court on a par with the International Court of Human Rights. Admittedly, I'd be stuck trying to decide between the electives. However, if really pushed, I think that overall I'd have to go with Module 4 as an elective, as for me, it links nicely with Modules 1 and 2.

**Adelmo**

**67. Complete these phrases that the blog writers use to express a preference.**

1. It would \_\_\_\_\_ me better.....
2. By the same \_\_\_\_\_ .....
3. On \_\_\_\_\_, I feel.....
4. Both \_\_\_\_\_ very highly \_\_\_\_\_ for me \_\_\_\_\_.
5. The \_\_\_\_\_ factor for me \_\_\_\_\_ would \_\_\_\_\_ be \_\_\_\_\_ .....
6. A \_\_\_\_\_ factor for me ...
7. From the convenience \_\_\_\_\_ of view, ...
8. On the one \_\_\_\_\_, I'd ...
9. It's a \_\_\_\_\_ one.
10. I'd \_\_\_\_\_ towards ...
11. A \_\_\_\_\_ for me would be ...
12. If really \_\_\_\_\_ ,..

**68. Talk to your partner about a career decision/choice you will have to make soon. Use some of the phrases from Exercise 3.**

**Speaking 4.**

**69. Work in small groups. You have been asked to give a training session on environmental law to lawyers in your country. Research one of the module topics in the courses and give a short talk on it.**

**70. Look at the course outlines in Reading 1 again and discuss with a partner which would you prefer to follow if you had to choose between them. Give your reasons.**

**Useful language**

I'd much prefer to take the ...

I think the second course would be more beneficial.

I think the first course would suit people who ...

The second course doesn't really cater for people who ...

In my opinion, a lot of sections of the first course wouldn't be relevant to ...

I'd far rather...

The first course looks as though it goes into much more depth than ...

## Reading 11

71. Complete this opinion using words formed from those in brackets.

### Federal Republic of Germany

In the present proceedings, the Commission is challenging the (1) \_\_\_\_\_ (*adequate*) of the transposition by Germany of Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment ('the Directive') on four points: the (2) \_\_\_\_\_ (*exclude*) of judicial bodies, the (3) (*part*) supply of information, the scope of (4) \_\_\_\_\_ (*prelim*) investigation proceedings and the charging of costs.

### *The relevant legal provisions*

The Directive is motivated by the (5) \_\_\_\_\_ (*presume*) set out in the third recital in the preamble that 'access to information on the environment held by public authorities will improve environmental protection'.

Its objective, as declared in Article 1, is 'to ensure freedom of access to, and (6) \_\_\_\_\_ (*disseminate*) of, information on the environment held by public authorities and to set out the basic terms and conditions on which such information should be made available'.

Article 2 defines the key terms 'information relating to the environment' and 'public authorities'.

Article 3 obliges Member States to ensure that their public authorities make available such information at the request of 'any natural or legal person ... without his having to prove an interest'; it also permits (7) \_\_\_\_\_ (*refuse*) on specified grounds.

Article 4 stipulates a right of judicial or administrative review of decisions refusing access.

Article 5, which is (8) \_\_\_\_\_ (*centre*) to the most difficult issue in the present case, deals with the question of the charge which can be levied for supplying the information.

Article 6 extends the duties of public authorities under the Directive to 'bodies with public responsibilities for the environment and under the control of public authorities'.

Article 7 requires the Member States to publish (9) \_\_\_\_\_ (*period*) reports on the state of the environment. The remaining provisions of the Directive are not directly material in the present proceedings.

**72. Read the complete opinion again and answer these questions.**

1. Why does the Commission refer to Articles 1-7 of the Directive?
2. What is the Commission challenging?
3. What are the grounds of the challenge?

**73. Change these words into the part of speech indicated.**

1. *assume* (► *noun*)
2. *option* (► *adjective*)
3. *finance* (► *adjective*)
4. *conspire* (► *noun*)
5. *realize* (► *noun*)
6. *imagine* (► *adjective*)
7. *deny* (► *noun*)
8. *collude* (► *noun*)
9. *history* (► *adjective*)

**74. Find words in the opinion that mean the following.**

1. *adoption*
2. *range*
3. *conditions*
4. *introduction*
5. *involvement*
6. *specifies*
7. *imposed*
8. *relevant*

**75. Use the correct form of words you found in Exercise 4 to complete these sentences.**

The judge asked the lawyer if the witness's evidence was \_\_\_\_\_ to the case.

The \_\_\_\_\_ is quite long and complicated, but it's worth reading.

Do you think the government will \_\_\_\_\_ an additional tax on luxury goods next year?

People with a(n) \_\_\_\_\_ in the estate of H.J. Longman are asked to contact this office at the above address.

I'm afraid those matters are outside the \_\_\_\_\_ of this particular inquiry.

b) Write five gapped sentences for a partner to complete using words from Exercises 3, 4 and 5.

**a) Read the opinion again. Your client is having problems understanding it. In pairs, rephrase it in more straightforward language.**

**b) Change partners and role-play the conversation with your client. Use phrases from the Useful Language box**

**Useful language**

Sorry, I've got no idea what ... means.

Can you put this in language I can understand, please? Can you explain ... ?

This paragraph is unclear to me. Does it mean that... ?

OK. To put it simply, it means ...

What it means is ...

Basically, it's saying that ...

**Reading 12**

**76. Read this senior partner's report on a current case and complete it using the words in the box.**

affected   applied   concentration   criteria   drain   eliminating  
interpretation   origin   protection   vulnerable

**Polluter pays**

The High Court has referred one of our cases to the European Court on the (1) \_\_\_\_\_ and validity of Directive 91/676 EC of 12th December 1991. The Court has referred the case for a decision on the 'polluter pays' principle.

Two issues came up during the case in relation to the application of the Directive. Firstly, community law cannot provide precise (2) \_\_\_\_\_ to establish in each case whether the discharge of nitrogen compounds of agricultural (3) \_\_\_\_\_ makes a significant contribution to the 'polluter pays' principle; and secondly, the Directive may be (4) \_\_\_\_\_ by the Member States in different ways.

The Article in question is Article 2(j) and 3(1) of 91/676. It concerns (5) \_\_\_\_\_ of waters against pollution caused by nitrates. Annexe 1 refers to identification of surface freshwaters as waters affected by pollution. (6) \_\_\_\_\_ zones are all known areas of land which (7) \_\_\_\_\_ into these waters and contribute to pollution. The Member State has an obligation to protect vulnerable lands. We believe, as a Member State, that the discharge of nitrogen compounds from agricultural sources makes a significant contribution to that overall (8) \_\_\_\_\_ of nitrates.

Our main argument is that if there is pollution already, then the Directive does not mean that farmers must take on the burden of (9) \_\_\_\_\_ pollution that they didn't contribute to. To put it another way, if the farmer didn't contribute, why should he pay for it, even though his land borders the waters (10) \_\_\_\_\_? We are arguing that the 'polluter pays' does reflect the principle of proportionality.

**77. Read the report again and answer these questions in your own words.**

1. On what grounds has the High Court referred the case?
2. What issue came up concerning the application of the Directive?
3. What does the Article in question concern?
4. What is the firm's main argument?



**Listening 5.**

**78. Discuss these questions with a partner.**

1. Look at the toy. What sort of problems might it present regarding waste disposal and hazardous materials?
2. What do you know about the WEEE and RoHS Directives?

**79. Audio 7. Listen to a conversation between a lawyer, Denise Howard, and her client, Martin James, who has a problem.**

**80. Listen again and make notes on the conversation under the following headings. If necessary, read the audio transcript on page 103.**

**Denis Sorter & Company Solicitors Solicitor/ Client Attendance Form**

Name of client: \_\_\_\_\_

Reasons for meeting/telephone call: \_\_\_\_\_

Client's product details: \_\_\_\_\_

Initial problem: \_\_\_\_\_

Action already taken by client: \_\_\_\_\_

Client's current concern: \_\_\_\_\_

Matters discussed: \_\_\_\_\_

Advice given: \_\_\_\_\_

Activities agreed to be undertaken by the client: \_\_\_\_\_

Activities agreed to be undertaken by lawyer: \_\_\_\_\_

**Reading 12.**

**81. Imagine you are Denise Howard. Write up a report for your files from your notes on the conversation in Listening above. Use formal language and the passive where appropriate.**

*I informed him that...*

*I outlined...*

*I referred to...*

*I was contacted by Martin James on 2nd March. His heart lights up when it is hugged.*

**82. Summarize the conversation, giving the main points in an email to a colleague who is taking over your case load while you are on leave. Your language will be more informal here.**

Hi David,

Thanks for taking over my cases for a few weeks. You may get a call from Martin James. I spoke to him last week about...

**83. Read this extract from an article about clinical legal education and the statements below. Choose the best sentences A-I to fill the gaps. There is one extra sentence which you do not need to use.**

**Clinical legal education and environmental law**

Moot courts and simulations provide training in written and oral advocacy for law students and are becoming a popular feature of Clinical Legal Education Programmes worldwide. (1)\_\_\_\_\_ This reduces the opportunities for students to engage with the practical application of legal theory to real-life scenarios. (2)\_\_\_\_\_ Students may have opportunities to engage in diverse and practical activities such as drafting legislation and negotiating simple or complex matters.

Clinics are conducted within the university learning framework, offering a model of learning by doing, and often have extensions into the wider community, with students engaging in pro-bono work within the community. (3)\_\_\_\_\_ The teaching and learning of environmental law lends itself well to the methodology of clinical legal education, where students can collaborate, feedback, critique, review and intervene. (4)\_\_\_\_\_ An example of such a simulation is one used by the Stanford Law School, which centres around the use of a fumigant in the strawberry fields in California. (5)\_\_\_\_\_ Students are assigned to be either the legal, scientific or community representatives of the residents or the staff of the administrative agency involved in the issue of permits. (6)\_\_\_\_\_ The simulation trains students to acquire the basic skills to undertake research, writing and presentation of I scientific and legal information and arguments to both lay and regulatory audiences. Furthermore, students learn how to 1 determine and understand the underlying causes of scientific debate surrounding the use of fumigants within a legal framework.

(7)\_\_\_\_\_ This provides students with opportunities for training in basic interviewing and counselling skills, and how to deal with the differing and sometimes conflicting perspectives of the public, scientists and legal professionals. A simulation involving a property developer presents students with opportunities to look at and present arguments from both economic and environmental J perspectives. Simulations and case studies are of invaluable assistance to I students in bridging the gap between theory and real-life situations.

(8)\_\_\_\_\_ They allow for controlled and scalable interventions by the academic teaching team and can be maximized by cross-

disciplinary co-operation, for example by collaboration between course designers or lecturers on a human-rights course a trade-law course and an environmental law course.

**A** Supervision of students in this context is of critical importance from the perspective of the student, university and the community.

**B** They can also be useful in providing professors with well-defined learning objects.

**C** At the same time, they can be taught, monitored and inspired.

**D** Case studies which form a basis for simulations can provide an efficient and effective methodology which incorporates and integrates doctrinal learning and theory with skills.

**F** Another simulation concerns the health complaints of a fictional farmer and his family working in cotton fields.

**E** They have to prepare briefs and present oral testimony and arguments before an administrative officer in support of their respective positions.

**G** If properly constructed, they can be a rewarding experience for students.

**H** It features an appeal by residents living near the strawberry fields against the granting of a permit to allow such use.

**I** The development of clinical legal education stems from an awareness of the heavy reliance of most law courses on the analysis of theoretical frameworks underlying the practice of law.

### **Speaking 5.**

**84. Your client wants to build a new runway at a small provincial airport, but has not yet received planning permission. Advise him on what he should consider.**

**Here are some discussion points to help you.**

- The importance of making an environmental impact assessment
- Why and how he should keep the public informed of the plans
- The legal steps to take if there is opposition



### **Listening 6.**

**85. Audio 8. You will hear part of a conversation between a lawyer, Mrs Clarke, and her client, Mr Davies. It concerns an environmental problem. For questions 1-5, choose the best answer (A, B or C).**

1. Who is Mr Davies?  
A A farmer  
B Another lawyer  
C An environmentalist
2. What is he concerned about?

- A There are not sufficient waste-disposal facilities in the area.  
 B Increased industrial development is encroaching on the farmers' land.  
 C The land has become contaminated.
3. Mr Davies believes that the farmers have a case because ...  
 A decisions were made without proper consultation.  
 B not enough initial research was done.  
 C access to their land should not be restricted.
4. Mrs Clarke advises that the 'polluter pays' principle ...  
 A must be complied with.  
 B cannot be used for direct legal action.  
 C is based on community environmental policy.
5. Why are dates important in Mrs Clarke's opinion?  
 A To calculate the extent of the damage  
 B To comply with the Environmental Liability Directive  
 C To document previous legal action

**Reading 13.**

**86. You are a lawyer and you are representing a group of residents who are opposed to the extension of Grantham Port by the Grantham Port Authorities on land adjacent to their properties.**

**Mr Marcus from the Port Authorities has written to Mrs Kindle, the head of the residents' opposition group. Read the letter, on which you have made some notes. Then, using all the information in your notes, write a letter to Mr Marcus, on behalf of the residents' opposition group. Read the letter, on which you have made some notes. Then, using all the information in your notes, write a letter to Mr Marcus, on behalf of the residents.**

Thank you for your letter concerning the planned port extension in Hebdon Bay.  
 We appreciate the concern of local residents, but must point out the need for such an extension to cope with increased port activity in the coming years.

During the construction of the port, we assure you that there will be very little disruption to daily life in the area and when complete, there will be minimal impact on the lives of those living nearby.

In all stages of the planning process, we have followed proper procedure, including full environmental impact assessments. All information is available for the public to read on our website.

We hope that the benefits this port extension will bring by utilizing an area of hitherto unused ground will be recognized by the public.

Yours sincerely  
 Jack Marcus  
 Grantham Port Authorities

*no - noise, traffic - point out*

*huge impact, infrastructure unable to cope - describe*

*why no public meetings?*

*EIA incomplete - request further details to be made available*

*many protected species here - explain*

## The Law of Tort

Video 4.1

Video 4.2

Video 4.3

87. Watch the video and be ready to discuss it with your teacher and groupmates.

Reading 14.

### WHAT IS THE LAW OF TORT?

88. Read this information about the law of tort. The most important words are in the key vocabulary below. Decide if the statements that follow are true or false.

#### Key vocabulary

- Wrong
- Damage
- Compensate
- Negligence
- Harm
- Liable
- Intention Conduct

The law *of* tort deals with civil wrongs. A *wrong* is something that causes **harm** or **damage** to another person. The words 'harm' and 'damage' have the same meaning. A person who suffers harm or damage is hurt in some way. This hurt might be physical in nature, but it might be some other type of hurt, such as causing someone to lose money. This area of law is based on the following principle. In situations where I cause harm to another person, I may be **liable** to **compensate** him or her for that harm, even in situations when:

I do not have a contract with that person and

I did not commit a criminal act against that person.

Let's say that I am shopping in a large supermarket and an employee of the supermarket washed the floor five minutes ago. The floor is not completely dry. I do not know this. There is no sign to warn me that the floor is wet. I slip on the floor and hurt my back. I have to go to hospital and I cannot go to work for a month. This is a situation where I need to make a claim based on the *of tort*. I am hurt physically and I have perhaps lost money, all because of someone else's conduct. **Conduct** is a more formal word that means behaviour.

The law of tort says that I must not harm another person either because I *choose* to harm him or her, or because I was *not careful* enough. In other words, I am liable for any harm that I cause to *another* person either from having **intention**

to cause harm, or from **negligence**.

How is this area of law different from criminal law or contract law? The answer to this question is that there is a lot of overlap between the law of tort, contract law and criminal law. Overlap means that these areas of law include some things that are the same. However, an important difference between the law of tort and criminal law is that the main purpose of the law of tort is to compensate people who suffer harm and not to punish the people who caused this harm. An important difference between the law of tort and contract law is that the law of tort makes us liable to people with whom we have no previous relationship.

**a.** The law of tort aims to compensate people for different types of harm and not just physical harm.

**b. I** must have a contract with someone to make a claim against that person under the law of tort.

**c. I** can only make a claim against someone under the law of tort if that person hurt me intentionally.

**d.** The main purpose of the law of tort is to punish people who cause harm to others.

**e.** I can be liable for my actions under the law of tort to someone who was a complete stranger to me before my conduct hurt that person.

## Help desk

### What do these words mean?

**a principle of law** - an established idea that is used as the basis for a particular area of law.

**to slip** - to fall because of stepping in something that is wet or icy.

### 89. Use the correct words from the key vocabulary in Exercise 1 to complete the following sentences.

1. The main idea of the law of tort is not to punish people who do something wrong but to \_\_\_\_\_ people who suffer because of someone else's conduct.
2. I am \_\_\_\_\_ for the harm that I cause to other people, which means that I have legal responsibility for causing that harm.
3. In situations when **I** deliberately harm another person, **I** have to harm that person.
4. In situations when I harm another person because I was not careful enough, the law says that the person can make a claim against me based upon my \_\_\_\_\_.
5. The word ' \_\_\_\_\_ ' means the same as the word 'harm'. The word 'damages', however, is not the plural of this word. Damages means financial compensation for harm or damage suffered.

**90. Read this short text that gives you more information about the law of tort. Answer the questions that follow using a full sentence.**

Conduct that causes harm to another person is referred to as a tort. We can describe a person's conduct by saying that he or she is guilty of a civil wrong. We can also say that he or she has committed a tort. Several different types of tort exist in English law. Lawyers refer to the different types of tort as categories of tort or as the heads of tort. If someone harms me I can bring an action in tort. This means that I can sue that person on the grounds that I have suffered harm. If I am successful in this action, I will receive a remedy from him or her. A remedy is something that compensates me for my loss or that stops the harm from happening again. The usual remedy for a tort is damages. The person who is guilty of harming another person is referred to as a tortfeasor.

1. What is a tort?
2. What are the heads of tort?
3. What does to 'bring an action in tort' mean?
4. What is a remedy?
5. What is the usual remedy for a tort?
6. What name do lawyers give to the person who commits a tort?

**Reading 15.**

**TYPES OF TORT**

**91. Read this information about the different types of tort that exist in English law. In each case, decide which is the correct preposition from the two possibilities.**

There are several heads **of/to** tort in English law. The most important heads are:

- Negligence
- Trespass to land
- Nuisance
- Trespass to the person
- Defamation

We will look at the nature of these torts in Exercises 3 and 4 below. To 'trespass' is a general word that means to interfere **(a) to/with** something or someone, or to do something that causes harm.

If I want to bring an action **(b) against/to** a tortfeasor, that person's conduct must usually fit **(c) on/into** one of the heads. However, some areas of tort are constantly developing. As society changes, the conduct that we regard **(d) to/as** unacceptable or harmful changes too.

Lawyers usually divide the heads **(e) into/to** two categories. These are torts that cause harm to people and torts that cause harm to land.

**92. Read the previous texts again and answer the following questions using a full sentence.**

1. What does the verb to 'trespass' mean?
2. What are the two types of trespass?
3. Does the law of tort always stay exactly the same?
4. What two categories do lawyers usually divide the heads of tort into?

**93. Read this information about the heads of tort that involve causing harm to people. The most important words are in the key vocabulary below. Complete the sentences that follow with the correct word from the key vocabulary.**

**Key vocabulary**

assault

libel

negligence

trespass to the

battery

false imprisonment

duty of care

person

defamation

slander

There are three main torts that cause harm to people.

**Trespass to the person** means to harm someone in a physical way. To make someone afraid that I will physically hurt them is the tort of **assault**. To actually hurt someone in a physical way is the tort of **battery**. To keep someone in a certain place without that person's permission is the tort of false **imprisonment**. All of these torts are known as trespass to the person.

**Defamation** occurs when someone makes a negative statement about another person which harms that person's reputation. In other words, it means saying or writing something negative about someone, so that other people think in a more negative way about that person. Defamation comes in two forms. The tort of **libel** is publishing the statement in a permanent form, for example, writing **it** in a book. The tort **of slander** refers to a statement in a form that is not permanent, for example, saying something in ordinary conversation.

**Negligence** occurs when you cause harm to another person because you were not careful enough. The law of tort says that in situations where you can anticipate that your conduct is likely to cause harm to another person then you

have a duty to be careful. Lawyers refer to this duty as the **duty of care**. Negligence is the most common ground for claimants bringing an action in tort.

a. Julia runs a café in the town centre. Last week one of Julia's customers burnt his hand when he touched a very hot plate. Julia did not warn the customer that the plate was hot. He claims that Julia was not careful enough and that he will sue Julia on the grounds of \_\_\_\_\_.

b. Julia's solicitor explained to her that as the owner of a café she has a duty to all of her customers. This means that she has a duty to make sure that her customers do not suffer any harm in her café.

c. Mary was shopping in a large department store last week. A shop assistant says that she saw Mary take a necklace from the shop without paying. The manager of the shop kept Mary in an office for 45 minutes until the police arrived. The manager did not allow Mary to leave. The police discovered that Mary paid for the necklace. Mary sued the store on the grounds of \_\_\_\_\_.

d. Gary was playing football on Saturday. Gary shouted at his friend named Bill on the other football team. He shouted, 'I am going to kill you!' This is not the tort of \_\_\_\_\_ as Bill did not really believe that Gary intended to cause him physical harm in this situation.

e. Last year Paul was successful when he sued the police on the grounds of \_\_\_\_\_. Paul was taking part in a political demonstration when a policeman kicked him and pushed him for no reason.

f. The head of tort that includes false imprisonment, assault and battery is \_\_\_\_\_.

g. The head of tort that includes libel and slander is \_\_\_\_\_.

h. David Boyle was at a party last night. David could not find his wallet, which contained £200. David accused George Lee of stealing his wallet. David said that George was 'a typical thief, and everyone at the party heard this. David later found his wallet, which he had left at home. George might sue David on the grounds of \_\_\_\_\_.

i. The actress Crystal Benn is suing a major newspaper on the grounds of \_\_\_\_\_. The newspaper published a story that said Crystal takes illegal drugs and the story was not true.

**95. Read this information about torts that cause harm to land. Fill the gaps in the text with the correct words below.**

*objects      committed      permission      grounds*  
*Claimants      enjoy      factory      walking*

*There are two main torts that cause harm to land.*

- **Trespass to land** means to go onto someone's land without that person's (a) \_\_\_\_\_. This might mean (b) \_\_\_\_\_ on the land or it might mean staying there permanently. Trespass to land also includes placing (c) \_\_\_\_\_ on another person's land without that person's permission.

- **Nuisance** means to interfere with a person's enjoyment of his or her

own land. This means that every individual has a right to **(d)** \_\_\_\_\_ being in his or her own home or on his or her own land without anyone spoiling that experience, **(e)** \_\_\_\_\_ who might not be successful in an action for trespass to land often use this tort as a basis for legal action. Let's say I have some beautiful trees in my garden. Near my house is a small **(f)** \_\_\_\_\_ involved in a manufacturing activity that uses strong chemicals. These chemicals smell very bad, but in addition to this, the fumes from the chemicals kill the trees in my garden. The factory owner has not **(g)** \_\_\_\_\_ the tort of trespass to land. However, his conduct might give me the right to take action against him on the **(h)** \_\_\_\_\_ of nuisance.

### Reading 16.

## THE DUTY OF CARE

**96. Read this information about the duty of care in key vocabulary below. Complete the sentences the correct ending.**

### Key vocabulary

<i>Negligence</i>	<i>acts</i>	<i>omit</i>	<i>objective</i>
<i>duty of care</i>	<i>omissions</i>	<i>foreseeable</i>	<i>subjective</i>

In the UK and the USA most cases in tort are based upon the tort of **negligence**. In order to bring a successful claim against someone for negligence, the claimant must prove that the defendant was in breach of his or her **duty of care**. The duty of care is the duty to make sure that my conduct does not harm anyone.

However, the law is a little more complicated than this. The law of tort says, for example, that I am liable for the things that I do, and also the things that I *don't* do.

In other words, I can be liable for harming another person because of my actions and I can also be liable because I fail to do something that a reasonable person would do under the circumstances. A lawyer will say that I am liable for my **acts** and also for my **omissions**. Omissions are the things that I do not do. For example, when doctors give patients medicine to treat an illness, and that medicine is dangerous if people drink alcohol at the same time, the doctors must warn their patients. If the doctors do not warn the patients, then the doctors **omit** to tell the patients something important and that omission can cause harm to the patients. Both statute and the common law contain rules about the situations in which people are liable for their acts and their omissions.

Do I have a duty of care to everyone under all circumstances? The answer to this is 'no'. It is an established common law principle that I am only liable in certain situations. The main limit upon my liability to others is that the harm that I cause to another person must be 'reasonably **foreseeable**'. Foreseeable means that the results of my conduct are predictable. For example, a gas company is doing some work in the street. The men doing the work dig a deep hole. The men

then go home at the end of the day. They do not put a sign anywhere to warn people that the hole is there and they do not provide a light. A man falls into the hole at nighttime and breaks his leg. Was the result of the gas company's omission reasonably **foreseeable**? The answer to this is 'yes'. A reasonable person can anticipate the results of conduct such as this.

How do we know if something is reasonably foreseeable? The test is **objective** and not **subjective**. It does not really matter what the defendant says that he or she was thinking at the time of the harmful conduct. The common law provides many principles that come from hundreds of cases about what is foreseeable and what is not foreseeable.

All of these factors must be considered when we ask the question 'Is the defendant in breach of the duty of care?'

- a. Negligence is...
- b. The duty of care is...
- c. Acts are...
- d. Omissions are...
- e. To omit to do something means ...
- f. Reasonably Foreseeable means...
- g. Objective means...
- h. Subjective means...

not to do that particular thing. (1)

predictable. Something that I anticipate might happen as a result of my conduct. (2)

things that I actively do. (3)

influenced by your own, personal feelings and opinions when you have to decide something. (4)

not being careful enough. It is similar in meaning to 'carelessness'. (5)

the duty not to harm other people. However, this duty is limited depending upon the situation in which the harm is caused. (6)

not influenced by your own feelings when you have to decide something.

(7)

things that I do not do. (8)

**97. Read the information in the text above again and decide if the following statements are true or false.**

a. Negligence is the tort that most legal action under the law of tort is based upon.

b. I am not liable for omissions under the law of tort.

c. All of the rules about liability under the law of tort come from the common law.

d. I do not owe a duty of care to everyone under all circumstances.

e. A defendant can always escape liability by saying that he did not personally foresee the harm that the claimant suffered.

**98. Complete the following sentences with the correct prepositions.**

1. In the UK the majority of cases are based \_\_\_\_\_ the tort of negligence.
2. I am bringing a claim against my doctor \_\_\_\_\_ negligence.
3. An omission is a failure to do what a reasonable person would do \_\_\_\_\_ the same circumstances.
4. I am only liable for breaching my duty of care to people \_\_\_\_\_ certain situations.
5. The test to decide if something is reasonably foreseeable or not is an objective test, which means it does not matter what the defendant was thinking \_\_\_\_\_ the time when he or she caused the harm.

**Reading 17.**

**MORE ABOUT NEGLIGENCE**

**99. Read this information about some of the general principles of the tort of negligence. The most important words are in the key vocabulary below. Match the questions that follow this information with the answers that are provided.**

**Key vocabulary**

*deterrent    remote damage    actionable per se    compensation*  
*redress    proof of damage    negligent conduct    damages*

The rules in the law of tort concerning negligence aim to compensate anyone who suffers harm. However, these rules have another purpose. They aim to act as a **deterrent** against negligent conduct. A deterrent is something that persuades a person not to behave in a particular way. For example, the idea of prison may act as a deterrent to a person who considers committing a criminal act. The principles of the tort of negligence are designed to act as a deterrent against **negligent conduct**. Negligent conduct is behaviour that might lead to harm.

However, when a person is guilty of negligent conduct then it may be necessary to make a claim against that person. A court will look at the evidence and decide if the claimant is entitled to **redress**.

The verb 'to redress' means to correct something that is unfair, usually by putting the claimant back in the position that he or she was in before the negligent conduct happened. The noun 'redress' has a very similar meaning to **compensation**. Redress usually takes the form of **damages**. Lawyers often talk about being 'entitled to redress'. This means being entitled to receive compensation or damages. Lawyers do not say 'entitled to a redress'.

As we already know, a court first of all considers whether or not the defendant owed a duty of care to the claimant. If there is no duty of care, then there is no claim. Then the court considers whether or not that duty of care was breached. If there was a breach, was the harm that the claimant suffered reasonably foreseeable? If the harm was not reasonably foreseeable then a lawyer

will describe it as **remote damage**. The claimant is not usually entitled to redress for remote damage.

Some torts require **proof of damage**. In other words, the claimant must prove that the defendant's conduct caused harm. However, some torts, such as libel, are **actionable *per se***. If conduct is actionable *per se*, it means that the claimant does not need to provide proof of damage. The phrase '*per se*' is Latin. In English, *per se* means 'by itself'. The fact that the defendant committed the tort is enough for the claimant to be entitled to redress.

1. What is a deterrent?
2. What is negligent conduct?
3. What does redress mean?
4. What is remote damage?
5. What is proof of damage?
6. What does it mean if something is actionable *per se*?

It means the same as compensation. (1)

It means that the claimant can make a claim for the thing that happened without any evidence of actual harm. (2)

It is evidence that the claimant actually suffered real harm, such as physical harm or loss of money. (3)

It is something that is designed to make people not do a particular thing or not behave in a particular way. (4)

It is careless behaviour that is likely to cause harm to another person. (5)

It is damage that the defendant could not reasonably foresee. (6)

## **Reading 18.**

### **A FAMOUS CASE IN ENGLISH LAW**

**100. Read this information about a famous case from the law of tort in England. Answer the questions that follow using a full sentence.**

#### *The 'McLibel' case*

On 15 February 2005, the longest case in English legal history came to an end. The case lasted for an amazing nine years and six months, the longest case in either criminal or civil legal history. There were 313 days of legal argument in court and 20,000 pages of court transcripts, which are the documents that record what happened in court. 130 witnesses gave oral evidence to the court. This case was based upon the law of tort.

The case was famous all over the world because of the nickname that people gave to it. This nickname was 'the McLibel case'. The claimant in the McLibel case was of course, McDonald's, the chain of fast food restaurants. The case was so famous that the word 'McLibel' now appears in some respected English dictionaries.

The facts of the case are as follows. The defendants in this case, Helen Steel and David Morris, belonged to a group of people who were worried about the environment and about the way that certain large corporations were behaving in relation to the environment. The group decided that the best way to tell the public about this was to give out leaflets containing information about the problem. In 1990, Helen and David stood outside several McDonald's restaurants in London. They gave leaflets to people who were in the area. The title of the leaflets was 'What's wrong with McDonald's: Everything they didn't want you to know'.

The problem was that the leaflets contained some very controversial claims. For example, the leaflet said that McDonald's was partly to blame for the destruction of the rainforests. It also claimed that McDonald's' food was unhealthy and eating too much of this food could give people health problems later in life.

In 1990 McDonald's issued a claim against Helen and David on the grounds of libel. The company did not need proof of damage, as libel is actionable *per se*. The libel trial started in 1994. There was no judgment until three years later. Helen and David were found to be guilty of libel. In 1999 Helen and David appealed, but again they were ordered to pay damages to McDonald's.

Helen and David refused to pay the damages. They decided instead to appeal to the European Court of Human Rights in Strasbourg. Two barristers from England represented Helen and David in Strasbourg. The Strasbourg court made a decision that changed English law. The court decided that the English courts followed the correct procedure but that nevertheless, the trial in England was unfair. This was mainly because Helen and David were poor compared to a big corporation such as McDonald's, which meant that they could not pay for an expensive legal team.

As a result of this, Helen and David's defence was not so well prepared. The court also ruled that Helen and David's right to free expression was violated.

The court awarded Helen and David damages of nearly £47,000.

**101. Read this information about a famous case from the law of tort in England. Answer the questions that follow using a full sentence.**

**The 'McLibel' case**

1. How long did the 'McLibel' case last?
2. Who was the claimant in this case?
3. Who were the two defendants in this case?
4. What global issue were Helen and David worried about?
5. How did Helen and David tell the public about their worries?
6. What claim did Helen and David make concerning McDonald's and the environment?
7. Why did McDonald's not need proof of damage?
8. What was the decision of the court of first instance?
9. Why did the European Court decide that Helen and David's defence was

not so well prepared as McDonald's' claim?

10. What other ruling did the European Court of Human Rights give in this case?

**Here is a conversation between a lawyer and his client. The conversation is mixed up. Put the conversation in the correct order. There is an example at the beginning (\*), which is the start of the conversation.**

(\*) Good morning Mr Decker. Thank you for coming to see me today. (understand that you have a complaint about a newspaper story concerning you and your family published on 5 September.

a. That's good news. I'm glad that I'm entitled to do something about this. And I'm certainly sure that this story damaged my reputation. But what does sue mean? Will the person who wrote this story go to prison?

b. Is that the same as compensation?

c. That would be the grounds if the untrue story about you was spoken and not written. In this situation however, we have good grounds for a defamation claim based upon libel.

d. No. In England this type of thing is not a criminal matter. It is what we call a tort. It's a type of civil wrong. The punishment for the person who published the story will almost certainly be that he or she has to pay you damages.

e. Really? I thought the grounds would be slander.

f. Yes, that's correct. The story was in a London newspaper on 5 September and again in a magazine called 'Celebrity Gossip' on 7 September. My wife is very upset about it. We're trying to make sure that our children do not see the story, but it is difficult. Because I'm a professional footballer, my family are often in the newspapers and millions of people seem to be interested in our personal lives.

g. Yes, it is. Both are a payment of money that the court considers will compensate you for the harm that the story did to your reputation. In this case the story was in written form, so we will sue them on the grounds of libel.

h. I see. I understand that protecting your family is very important to you. As a professional sportsman, people are naturally interested in what you do. However, no one is allowed to say or write anything untrue about you that causes damage to your reputation. When this happens, you have the right to sue.

**102. Read the text below. There are ten words missing from the text. Find the missing words. The first letter of each word has been provided for you. There is an example at the beginning (\*).**

### **The Law of Tort**

The law of tort compensates people who suffer a civil wrong. The formal name for a civil wrong is a (\*)\_\_\_\_\_. Several different categories of tort exist under English law. Lawyers refer to these categories as 'the (1)\_\_\_\_\_ of tort'. These divide easily into two main types. They are torts relating to people and torts relating to land.

The tort that deals with being on another person's land without his or her permission is known as the tort of (2) \_\_\_\_\_ to land. This tort also includes placing objects on another person's land without that person's permission. The second tort relating to land is the tort of (3) \_\_\_\_\_. This is the tort of interfering with someone's enjoyment of his or her own land. The usual complaints from claimants in this area are noise, pollution or bad smells. All of these are unacceptable when they last for a long period of time.

The second category of tort deals with a person's (4) \_\_\_\_\_ that causes harm to another person. Most cases in this area are on the grounds that the defendant was negligent. The unacceptable behaviour can be an act or an omission. An omission is a (5) \_\_\_\_\_ to do something that a normal, reasonable person would do under the same circumstances. However, the law places a limitation upon liability for negligent acts or omissions. The law says that a person only owes a duty of (6) \_\_\_\_\_ to another person in situations where it was reasonably (7) \_\_\_\_\_ that the act or omission would cause harm.

The law of tort is concerned with the idea of redress more than with the idea of punishment. The main aim of the law of tort is to (8) \_\_\_\_\_ the injured party. In cases where the defendant has liability for causing harm, the law offers the claimant a (9) \_\_\_\_\_. This means the claimant receives a solution for the wrong that he or she suffered.

In a case involving tort, the defendant, who is referred to by the formal name of a (10) \_\_\_\_\_, will usually have to pay damages to the claimant if he or she is guilty of causing harm.

(\* ) tort

(1) h \_\_\_\_\_

(2) t \_\_\_\_\_

(3) n \_\_\_\_\_

(4) c \_\_\_\_\_

(5) f \_\_\_\_\_

(6) c \_\_\_\_\_

(7) f \_\_\_\_\_

(8) c \_\_\_\_\_

(9) r \_\_\_\_\_

(10) t \_\_\_\_\_

**103. Read the following article and decide if the statements under it are true or false.**

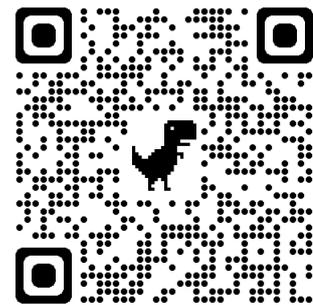
**Colleen Corr is Irish. At the moment she lives in London. Colleen is a lawyer. She works in a bank. She works in the bank's legal department as a case manager. The bank that Colleen works for has a contract with a large catering firm to provide a restaurant service for all members of bank staff. Anyone who works for the bank can either eat in the restaurant or buy a meal from the restaurant to take away and eat at his or her desk.**

In December of last year, Colleen bought a salad in a plastic container from the restaurant and because she was busy, she took the salad to her desk to eat while she continued to work. As she was eating, Colleen bit a hard object that was in the salad. The object was a small stone. Colleen broke a tooth as a result of biting the stone. Colleen had to visit the dentist and the bill was £630. Colleen complained to the catering company but the manager of the catering company says that it accepts no liability for Colleen's injury. Colleen is now suing the catering company on the grounds of negligence. She is claiming the cost of visiting the dentist and an additional amount of £100 for her pain and suffering.

1. Colleen Corr works as the general manager of a bank.
2. The bank has a contract with a catering company to provide food for bank employees.
3. Colleen was eating in the bank's restaurant when she damaged her tooth.
4. Colleen is not suing her employer for negligence.
5. The total amount that Colleen is claiming is £730.

## UNIT 4 CORPORATE LAW

### PART 1. COMPANY LAW: COMPANY FORMATION AND MANAGEMENT



#### Reading 1.

**1. Read the text quickly, then match these phrases (A-F) with the paragraphs (1-6).**

- A directors' duties
- B management roles
- C company definition
- D company health
- E partnership definition
- F company formation

(1) A company is a business association which has the character of a legal person, distinct from its officers and shareholders. This is significant, as it allows the company to own property in its own name, continue perpetually despite changes in ownership, and insulate the owners against personal liability. However, in some instances, for example when the company is used to perpetrate fraud or acts ultra vires, the court may 'lift the corporate veil' and subject the shareholders to personal liability.

(2) By contrast, a partnership is a business association which, strictly speaking, is not considered to be a legal entity but, rather, merely an association of owners. However, in order to avoid impractical results, such as the partnership



being precluded from owning property in its own name, certain rules of partnership law treat a partnership as if it were a legal entity. Nonetheless, partners are not insulated against personal liability. and the partnership may cease to exist upon a change in ownership, for example, when one of the partners dies.

(3) A company is formed upon the issuance of a certificate of incorporation by the appropriate governmental authority. A certificate of incorporation is issued upon the filing of the constitutional documents of the company, together with statutory forms and the payment of a filing fee. The 'constitution' of a company consists of two documents. One, the memorandum of association, states the objects of the company and the details of its authorised capital, otherwise known as the nominal capital. The second document, the articles of associations, contains provisions for the internal management of the company, for example, shareholders' annual general meetings, or AGMs, and extraordinary general meetings, the board of directors, corporate contracts and loans.

(4) The management of a company is carried out by its officers, who include a director, manager and/or company secretary. A director is appointed to carry out and control the day-to-day affairs of the company. The structure, procedures and work of the board of directors, which as a body govern the company, are determined by the company's articles of association. A manager is delegated supervisory control of the affairs of the company. A manager's duties to the company are generally more burdensome than those of the employees, who basically owe a duty of confidentiality to the company. Every company must have a company secretary who cannot also be the sole director of the company. This requirement is not applicable if there is more than one director. A company's auditors are appointed at general meetings. The auditors do not owe a duty to the company as a legal entity, but, rather, to the shareholders, to whom the auditor's report is addressed.

(5) The duties owed by directors to a company can be classified into two groups. The first is a duty of care and the second is a fiduciary duty. The duty of care requires that the directors must exercise the care of an ordinarily prudent and diligent person under the relevant circumstances. The fiduciary duty stems from the position of trust and responsibility entrusted to directors. This duty has many aspects, but, broadly speaking, a director must act in the best interests of the company and not for any collateral purpose. However. the courts are generally reluctant to interfere, provided the relevant act or omission involves no fraud, illegality or conflict of interest.

(6) Finally, a company's state of health is reflected in its accounts, including its balance sheet and profit-and-loss account. Healthy profits might lead to a bonus or capitalisation issued to the shareholders. On the other hand, continuous losses may result in insolvency and the company going into liquidation.

**Some of the most important roles in company management are discussed in the text above. Which roles are mentioned?**

**2. Here is a more comprehensive list of roles in company management. Match the roles (1-10) with their definitions (a-j).**

- |                            |   |
|----------------------------|---|
| <b>1 auditor</b>           | <b>a</b> person appointed by a shareholder to attend and vote at a meeting in his/her place when the shareholder is unable to attend  |
| <b>2 company secretary</b> | <b>b</b> company director responsible for the day-to-day operation of the company   |
| <b>3 director</b>          | <b>c</b> person elected by the shareholders to manage the company and decide its general policy   |
| <b>4 liquidator</b>        | <b>d</b> person engaged in developing or taking the initiative to form a company (arranging capital, obtaining personnel, making arrangements for filing corporate documentation)   |
| <b>5 managing director</b> | <b>e</b> person appointed by the company to examine the company's accounts and to report to the shareholders annually on the accounts   |
| <b>6 official receiver</b> | <b>f</b> company's chief administrative officer, whose responsibilities include accounting and finance duties, personnel administration and compliance with employment legislation, security of documentation, insurance and intellectual property rights |
| <b>7 promoter</b>          | <b>g</b> member of the company by virtue of an acquisition of shares in a company   |
| <b>8 proxy</b>             | <b>h</b> officer of the court who commonly acts as a liquidator of a company being wound up by the court  |
| <b>9 receiver</b>          | <b>i</b> person appointed by creditors to oversee the repayment of debts  |
| <b>10 shareholder</b>      | <b>j</b> person appointed by a court, the company or its creditors to wind up the company's affairs   |

## Listening 1.



### Company formation

Lawyers play important roles in the formation of a company, advising clients which entities are most suited to their needs and ensuring that the proper documents are duly filed.

You are going to hear a conversation between an American lawyer, Ms Norris, and her client Mr O'Hara. The lawyer describes how a specific type of corporation is formed in the state of Delaware.

### 3. Audio 4.1. Listen to the conversation and tick the documents required for formation that the lawyer mentions.

- 1 DBA filing
- 2 articles of incorporation
- 3 stock ledger
- 4 general partnership agreement
- 5 stock certificates
- 6 IRS & State S Corporation election
- 7 bylaws
- 8 organisational board resolutions

### 4. These sentences deal with company formation and management. In each case, choose the correct word or phrase to complete them.

1. The constitution of a company *comprises / consists / contains* of two documents.

2. The memorandum of association *states / provides for / sets up* the objects of the company and details its authorised capital.

3. The articles of association contain *arguments / provisions / directives* for the internal management of a company.

4. The company is governed by the board of directors, whilst the day-to-day management is delegated *upon / to / for* the managing director.

5. In some companies the articles of association *make / give / allow* provision for rotation of directors, whereby only a certain portion of the board must retire and present itself for re-election before the AGM.

6. Many small shareholders do not bother to attend shareholders' meetings and will often receive proxy circulars from the board. seeking authorisation to vote *on the basis of / in respect of / on behalf of* the shareholder.

## Reading 2.

### 5. Read the text about the forms of business organisations.

#### Business organisations

*Jamie Anderson, a partner in the commercial department of a law firm, is commenting on the choices for different trading vehicles for business.*

### **Sole trader**

‘A client wanting to operate a business for profit might select from a number of different trading entities. Each has different legal characteristics and is subject to different rules and regulations. The simplest and commonest form of business structure is a sole trader. This generally suits a relatively small enterprise, such as an independent software developer, a hairdresser, or a small shop. It’s headed by a single individual and it differs from a company in that the ownership and management is usually vested in the same person, who is personally responsible for all the debts of the business, and may thus risk becoming bankrupt. Finances are confidential and formalities are few, aside from Value Added Tax, or VAT, regulations.

### **Partnerships**

‘A common form of structure for certain kinds of business, for example accountants, solicitors, and architects, is a partnership. This needs to have at least two members and normally a maximum of twenty. There is an exemption on size for some types of firm, such as solicitors and accountants. All the partners may be jointly and severally liable for all the debts of the business. The relationship between the partners is usually drafted in the Partnership Agreement. This can set out the duration of the partnership, its name and business, how profits, losses, and running costs are to be shared, how much capital each partner is to contribute, what rules will apply to the capital, what grounds will lead to a partner being expelled from the company, what restrictions are imposed on partners, and so on. It’s also possible to have a Limited Liability Partnership, or LLP, which has a legal identity separate from its members. In this sense it resembles a limited company. It’s possible for all the partners except one, known as the general partner, to be a limited partner. A sleeping partner may have a share in the business but doesn’t work in it. An individual is therefore able to invest capital in an LLP without risking any further liability. LLPs must be registered with the Registrar of Companies.’

### **Limited Companies**

‘A Private Limited Company (Ltd) is a separate legal entity which can sue, and be sued, in its own right. The Company is identified by its registered number, which will remain the same irrespective of any changes of name. A business can start life as a limited company and this may be particularly appropriate where high-risk projects are involved. In some instances, directors will be asked to guarantee the obligations of a company, for example by giving security over personal assets to guarantee company borrowing. This is particularly common in the case of new companies who are not able to demonstrate a history of profitable trading. A Public Limited Company, or PLC, is differentiated from a Private Limited Company in that the shares can be sold to the general public via the stock market to raise share capital. It’s mandatory for a PLC to have at least two shareholders, two directors, and a professionally qualified Company Secretary. The minimum authorized share capital is £50,000 and 25% must be paid up.

Before the company can trade or borrow money, a Trading Certificate has to be obtained from the Registrar of Companies.'

**6. Match the two parts of the sentences then replace the underlined words and phrases with alternative words and phrases from the text above. There is more than one possibility for one of the underlined phrases.**

- |   |  |
|---|--|
| <p>1. Choosing an appropriate <u>business medium</u> depends on</p> <p>2. An individual's business will cease to trade if</p> <p>3. A small enterprise where one person bears the responsibility and takes the profits</p> <p>4. In an ordinary partnership, all the partners are</p> <p>5. In a Limited Partnership, a <u>specified</u> partner bears the risk</p> <p>6. Partners need to decide</p> | <p>a) the <u>starting date and length</u> of the partnership.</p> <p>b) for the firm's debts, while limited partners have restricted liability.</p> <p>c) set out in the <u>deeds (formal documents) of the partnership</u>.</p> <p>d) her being <u>forced to leave</u> the partnership.</p> <p>e) because of <u>freedom</u> from the normal provision under the law.</p> <p>f) <u>responsible collectively</u> and <u>individually</u> for the financial losses of the business.</p> <p>g) a court declares the businessman is <u>incapable of paying his debts</u>.</p> <p>h) may be run by a <u>single business person</u>.</p> <p>i) a number of factors, such as the size and type of business and the need to limit liability.</p> |
| <p>7. Details such as the division of profits and losses may be</p> <p>8. Accountancy firms may have more than twenty members</p> <p>9. Misconduct by a partner might lead to</p>   |  |

**7. Fill each gap with the correct word from the box to complete the definitions.**

<i>sole trader</i>	<i>liable</i>	<i>assets</i>	<i>annual</i>
<i>set up</i>	<i>option</i>	<i>register</i>	<i>expenses</i>
<i>profit</i>	<i>investment</i>	<i>manage</i>	<i>self-</i>
			<i>employment</i>

1. An \_\_\_\_\_ is one of the available choices from several possibilities.
2. Your \_\_\_\_\_ are the money that you must spend on the day-to-day costs of the business.
3. An \_\_\_\_\_ is the amount of money that someone puts into a business with the aim of making that business successful and getting more money back.
4. To \_\_\_\_\_ something means to start something or to create something, especially a business.
5. A \_\_\_\_\_ is a person who owns and runs an unregistered business by himself or herself.
6. To be \_\_\_\_\_ means not to have a boss. You organize your own work and people pay you for the goods or services that you provide. You are responsible for paying tax on the money you receive.
7. Your \_\_\_\_\_ is the amount of money you get from selling something or providing a service to someone, after you deduct the costs of making that thing or providing that service.
8. Your \_\_\_\_\_ are things that you own and which have a financial value, for example your house, your car or the money that you have in the bank.
9. To be \_\_\_\_\_ for something means that you are legally responsible for that thing.
10. To \_\_\_\_\_ as something means to put your name on an official list for a particular purpose.
11. To \_\_\_\_\_ a business means to have control of how you run that business.
12. An \_\_\_\_\_ event is something that happens once every year.

**8. Make word combinations using words from the box. Then use appropriate word combinations to answer the questions below.**

*Registrar of Public authorized capital over personal assets  
 minimum raise guarantee Companies security share  
 capital  
 the obligations entity legal Limited Company*

1. In a private limited company, what guarantee may a director have to provide in order to borrow capital?
  2. What type of business organization must have £12,500 of shares paid up?
  3. Which official keeps a record of all incorporated companies, the details of their directors and their financial states?
  4. It is mandatory for a PLC to have 25% of what paid up?
  5. What is the purpose of a PLC selling shares to the public?
- 9. An important document in company formation is the memorandum of association (UK) or articles/certificate of incorporation (USA). This document sets forth the objects of the company and its capital structure: as such, it represents a legally binding declaration of intent to which the members of the company must adhere.**

**Below is an extract from the articles of incorporation of a US company. Read through the text quickly and tick the issues it addresses.**

- 1 appointing members of the board of directors
- 2 changing corporation bylaws
- 3 procedures for holding a vote of the shareholders
- 4 stipulations for keeping corporation records

### **Memorandum of association**

The power to alter, amend or repeal the bylaws or to adopt new bylaws shall be vested in the Board of Directors; provided, however, that any bylaw or amendment thereto as adopted by the Board of Directors may be altered, amended or repealed by a vote of the shareholders entitled to vote for the election of directors, or a new bylaw in lieu thereof may be adopted by vote of such shareholders. No bylaw which has been altered, amended or adopted by such a vote of the shareholders may be altered, amended or repealed by vote of the directors until two years shall have expired since such action by vote of such shareholders. [...]

The Corporation shall keep as permanent records minutes of all meetings of its shareholders and directors, a record of all action taken by the shareholders or the directors without a meeting, and a record of all actions taken by a committee of the directors in place of the Board of Directors on behalf of the Corporation. The Corporation shall also maintain appropriate accounting records. The Corporation, or its agent, shall maintain a record of its shareholders in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order, by class of shares, showing the number and class of shares held by each.

### **10. Read the text again and decide whether these statements are true or false.**

1. The board of directors only has the power to change the bylaws if the shareholders in turn have the power to amend any changes made by the board of directors.
2. The board of directors is proscribed at all times from changing any bylaw which has been altered by a vote of the shareholders.
3. Records must only be kept of decisions reached by shareholders and directors in the course of a meeting.
4. Records of the shareholders must list the number of shares they own.

### **11. For each of these words or phrases, find the italicised word(s) in the text that most closely matches its meaning.**

- 1 passed
- 2 who have the right to
- 3 instead
- 4 on condition
- 5 cancelled

6 revised  
7 given to

**12. Peter Craig and his friend want to set up a new business. They have found a website called [www.CoTypes.co.uk](http://www.CoTypes.co.uk), which provides information about the different types of company that exist in the UK. Peter has printed off the following information about private limited companies. Complete the gaps in the text by using the correct word or phrase from the box below.**

<i>subscribers</i>	<i>incurred</i>	<i>registered office</i>	<i>memorandum of association</i>
<i>objects</i>	<i>off-the-shelf</i>	<i>articles of association</i>	<i>liability</i>
<i>incorporate</i>	<i>entity</i>	<i>sole</i>	<i>compliance</i>

### **Private limited companies**

All private limited companies are registered at Companies House. A private limited company must have a minimum of one shareholder. It must also have at least one director and one company secretary. If there is only one director, then this (a) \_\_\_\_\_ director cannot also be the company secretary. Directors run the company and the company secretary is responsible for making sure that information about the company's management, activities and capital is available to its shareholders and to members of the public.

Limited (b) \_\_\_\_\_ protects the owners of a limited company from personal loss as the company is a separate legal (c) \_\_\_\_\_. A private limited company has its own profits and debts. In other words, any debts (d) \_\_\_\_\_ are the company's debts and not those of the owners.

### **Forming a company**

You can buy an (e) \_\_\_\_\_ company from a company formation agent. This is a company that has already been set up, but it has never traded. Alternatively, you can (f) \_\_\_\_\_ a company yourself. In this case, you need to submit the following documents, together with the registration fee to Companies House:

- Memorandum of association
- Articles of association
- Form 10 and Form 12

The (g) \_\_\_\_\_ sets out the company's name, where the (h) \_\_\_\_\_ of the company is situated and what it will do, in other words, the purpose of the company. Lawyers call that the (i) \_\_\_\_\_ of the company. Many companies use a short objects clause in the memorandum, stating that the object of the company is 'to carry on business as a general commercial company'.

The (j) \_\_\_\_\_ set out the rules for the running of the company's internal affairs. The articles must be signed by the (k) \_\_\_\_\_. These people are the first shareholders of a company.

Form 10 gives details of the first directors, secretary and the intended address of the registered office. Form 12 is a statutory declaration of (l) \_\_\_\_\_ with all the legal requirements relating to the incorporation of a company.

**13. The clause below deals with setting up the limited liability partnership. Fill each gap in the clause with the correct prepositions from the box.**

<i>under</i>	<i>at</i>	<i>with</i>	<i>to</i>	<i>in</i>	<i>of</i>
--------------	-----------	-------------	-----------	-----------	-----------

**Reading 3.**

**Incorporation**

2.1 The Members shall complete and deliver (a) \_\_\_\_\_ Companies House all such documents and pay all such fees as shall be necessary to lead to the incorporation (b) \_\_\_\_\_ the LLP (c) \_\_\_\_\_ accordance (d) \_\_\_\_\_ the Limited Liability Partnerships Act 2000.

2.2 The certificate of registration of the LLP issued (e) \_\_\_\_\_ the Limited Liability Partnerships Act 2000 shall be kept (f) \_\_\_\_\_ the Registered Office.

HELP DESK

**Prepositions**

To protect someone *from* something

‘A patent will protect your invention *from* being copied.’

To have a number *of* something

‘We need a minimum *of* 12 people to attend this course.’

The object *of* something

‘What is the object *of* your meeting?’

To have *at* least a number

‘We need *at* least £20,000 to finance the project.’

To make something available *to* someone

‘I promise that I will make this information available *to* anyone who asks for it.’

To submit something *to* someone

‘You must submit these documents *to* the tax office by 31 January.’

**14. Read the text how companies raise capital**

**Raising capital by share sale**

**Share capital**

How companies raise capital

A company limited by shares may raise capital by borrowing money and through the sale of shares. A company’s balance sheet – a statement of the financial position of a company at a specific time, for example at the end of the financial year – shows how the company is capitalized, or financed, by providing details of debt and share funding. ‘Capital’ refers to the liability of the company

to the people who have provided it with finance on a long-term basis. A company is obliged to maintain its share capital in order to protect its creditors, and funds may only be taken from the capital following complex procedural rules. The Articles of Association provide the power to issue shares. The Memorandum sets out the nominal capital – the total of the face value, printed on each share, of all of the shares which the company is allotted, to shareholders – that is, they are allocated among applicants who subscribe for shares. A shareholder is a member of the company and holds a share certificate.

### **Share value**

All shares have a nominal value, generally of £1, also known as the par value. This value is set out in the capital clause of the Memorandum. Shares can be issued at a premium – for a sum greater than their nominal value – but they cannot be issued at a discount – less than nominal value. Contracts for the sale of shares may provide for deferred payment, that is, part may be left outstanding until the company makes a call for, or requests, the unpaid amount. The market value of a share depends upon the profitability of the company and the sum of its assets. The legal nature of a share for the shareholder will depend upon the contractual rights attached to the share, which is a chose in action – a personal right which can be enforced or claimed as if it were property.

### **Rights attaching to shares**

A company may issue different classes of shares, which have different rights attached to them. The usual rights include:

A right to dividend, that is, a share in the profits. A company may only declare a dividend if it has made a profit.

A right to vote on resolutions, for example proposals on matters relating to the approval of directors' contracts, at the company's annual general meeting (AGM) – a meeting of all the shareholders with the directors.

A right to repayment of the investment in the event that the company is wound up, or closed.

Other rights are given as a matter of law by the Companies Act 1985. These rights are generally only given to shareholders with voting rights at company meetings. The Act provides that shares must first be offered to shareholders in proportion to their existing shareholding on terms at least as favourable as those offered to potential new shareholders. This is the right of pre-emption. Members of the company have 21 days in which to exercise the right. It does not apply if shares are issued for a non-cash consideration, that is, the price, not necessarily money, paid in exchange for the shares.

**15. Match the two parts of the sentences then replace the underlined words and phrases with alternative words and phrases from the text above. Pay attention to the grammatical context. There is more than one possibility for one of the answers.**

1. Shares can only be issued...
2. The company Articles may allow directors...
3. If more shares are applied for than the company has to offer, ...

4. Someone who owns shares is...
5. The ownership of shares is...
  - a) ...the company can divide out the shares.
  - b) ...known as a shareholder.
  - c) ...to equal the total face value of all the shares of the company, as set out in the Memorandum of Association.
  - d) ...generally evidenced by a receipt.
  - e) ...to raise capital by selling shares.

**16. Make word combinations using words from each box. Then use the word combinations to replace the underlined words and phrases in the sentences below.**

declare	the right
defer	at a premium
exercise	a resolution
issue	a dividend
vote on	payment

1. The Companies Act requires 75% of the shareholders to show their opinion about a special proposal to change the company Articles.
2. The company will announce publicly that shareholders are going to be paid a proportion of the company's profits.
3. Current holders of shares may use their entitlement to buy newly issued shares before they are offered to new shareholders.
4. You can postpone paying in full for the shares until the company requests the unpaid sum.
5. The company can offer shares for sale at a higher price than their par value.

**17. Look at the words and phrases in the box. Match them with the correct meanings below.**

*Ratify, prior, subsist, take effect, determine, indemnify, benefit, consent, in the event that*

- a) if
- b) decide
- c) good
- d) start to operate
- e) officially approve
- f) pay for any damage suffered
- g) before
- h) continue to exist
- i) permission

**18. Read the clause below. It deals with when the business will begin and how long it will continue. Fill each gap in the clause with the correct word or phrase from the box in the previous exercise.**

**Commencement and duration:**

3.1 The provisions of this Agreement shall (a) \_\_\_\_\_ on the Commencement Date.

3.2 The LLP shall carry on the Business and/or carry on such other or additional trade profession or business as the Members shall from time to time (b) \_\_\_\_\_.

3.3 The LLP shall (c) \_\_\_\_\_ until wound up in accordance with the provisions of the Limited Liability Partnerships Act 2000.

3.4 (d) \_\_\_\_\_ any Member may be personally liable under any contract entered into by him (e) \_\_\_\_\_ to the incorporation of the LLP which was for the (f) \_\_\_\_\_ of the LLP and with the express or implied (g) \_\_\_\_\_ of the other Members then the LLP shall on incorporation be deemed to (h) \_\_\_\_\_ that contract and shall (i) \_\_\_\_\_ that Member from and against all claims, liabilities and costs in connection with it.



**Listening 2.**

**Forming a business in the UK**

You will hear a dialogue in which a lawyer, Mr Larsen, discusses some of the characteristics of two business entities with Mr Wiseberg, a client who is interested in forming a company in the UK.

**19. Audio 4.2. Listen to the phone conversation and tick the two company types the men are discussing.**

1. sole proprietor
2. UK limited partnership
3. UK private company limited by shares
4. UK private company limited by guarantee
5. UK public limited company
6. US C corporation
7. US S corporation

**20. Listen again and decide whether these statements are true or false.**

1. The client has not yet decided what type of company he wants to form.
2. The client has never founded a company before.
3. The lawyer points out that the two types of company differ with regard to the matter of personal liability.
4. The shares of a US C corporation can be freely traded on a stock exchange.
5. Both company types mentioned by the lawyer can be formed by a person who is a citizen of another country.

6. The UK company type discussed places a restriction on the number of people permitted to buy shares in the company.

7. The fastest way to form a company is to submit the documents directly to Companies House.

#### Reading 4.

### 21. In the dialogue, the lawyer compares and contrasts two company types.

Complete the sentences below using the phrases in the box.

- a) are like each other    b) are similar to    c) differs    d) in both  
e) that's not the case with    f) there is one big difference between

C corporations ..... private limited companies in the UK in many ways, particularly in respect of liability.

Shareholders are not personally liable for the debts of the corporation ..... a C corporation and a private limited company.

In this respect, a private limited company ..... . Its shares are not available to the general public.

The two types of company ..... in that both can be founded by persons of any nationality, who need not be a resident of the country.

And ..... a C corporation in the US and our private limited company: that's the limit on the number of shares.

But ..... a private limited company. The Companies Act stipulates that not more than 50 members can hold shares within the company.

#### Speaking 3.

### 22. Informal presentation: a type of company

When speaking briefly about a topic of professional interest, experienced speakers will organise their thoughts in advance. A simple but effective structure divides information into three parts:

- introductory remarks;
- main points;
- concluding statement.

Similarly, the main points are best limited to three, as this is easy for the speaker to remember and for the listener to follow.

Notes for a response to the exercise below might look like this:

- **Introductory remarks**

A *publikt aktiebolag* is the closest Swedish equivalent to a public limited company – most common form for major international businesses in Sweden.

- **Main points**

1. liability: no personal liability
2. management: board of directors (Swedish equivalent, *styrelsen*) has power to make decisions; shareholders don't participate in management

3. needed for formation: memorandum of association (*stiftelseurkund*) and articles of association (*bolagsordning*)

- **Concluding statement**

An *aktiebolag* is similar to a public limited company, with the most significant difference being that its shares do not need to be listed on an exchange or authorised marketplace.

### Reading 5.

**23. Which types of companies are there in your jurisdiction? Choose one and describe it as you would for a client from another country. Tell your client which documents must be filed to complete the formation process. Wherever relevant, compare and contrast your company type with a UK business entity.**

*Marie Stephans wants to write about partnerships in her magazine article. She found an Internet site called WorkforYourself.com and printed out the information she found on this site about partnerships. Read the information that Marie has printed out and decide in each case which is the correct preposition from the two possibilities.*

#### **Advantages of partnerships:**

Two or more people can set up **with/in** business together.

This means that you may have more money to invest **in/for** business.

Partnerships are easy to set up and flexible to run.

Partners share the risks, costs and responsibilities **to/of** running a business.

#### **Disadvantages of partnerships:**

Problems can occur when there are disputes **between/to** partners.

Partners have unlimited liability to/for the debts of the business.

Partners have joint and several liabilities **for/with** the partnership debts.

#### **Our advice:**

It's a good idea to draw up a written partnership agreement, which clearly states how the partners will run the partnership and how the partners will share the profits. You should use a solicitor to do this.

**24. Match each of the following questions with the correct answer.**

1. What does to invest mean?
2. What does flexible mean?
3. What does a dispute mean?
4. What does unlimited liability mean?
5. What does joint and several liability mean?
6. What does to draw up mean?

- a. It is another word that means a disagreement.

- b. It means to write. Another verb that lawyers often use is to draft.
- c. This means there is no restriction to your responsibility. You might lose your home or other personal assets if things go wrong.
- d. It means that something can change easily to adapt to different situations. Not fixed.
- e. It means to put money into a business, because you hope that you will get more money back in the future.
- f. This means that partners are responsible both individually and together as a group. In a situation where the partnership owes money to someone, that person can demand repayment of all that money from any of the partners individually, or he or she can ask each partner to pay a part of that money.

**25. Vocabulary: prepositional phrases. The following prepositional phrases are common in legal texts. Match the prepositional phrases (1-4) with their definitions (a-d).**

- |    |                  |    |  |
|----|------------------|----|--|
| 1. | in terms of      | a) | 1) for the purpose of;<br>2) by the route through  |
| 2. | in the course of | b) | as an answer to; in reply to                       |
| 3. | by way of        | c) | 1) with respect or relation to; 2) as indicated by |
| 4. | in response to   | d) | while, during                                      |

**26. Vocabulary: prepositional phrases. Complete these sentences using the prepositional phrase from Reading 2 that best fits in each one. For one of the sentences, there is more than one correct answer.**

- 1. ... choosing the name of the company, a number of matters must be considered.
- 2. Confidential information acquired ... one's directorship shall not be used for personal advantage.
- 3. I would advise that members of your project group formalise your relationship ... a partnership agreement, incorporation or limited liability company.
- 4. This form of corporation is often considered to be the most flexible body ... corporate structure.
- 5. Our company formations expert is unable to provide advice ... your query, as there are a number of factors which need to be taken into account which do not relate directly to his area of expertise.
- 6. The relationship between management and boards of directors at US multinational companies has been changed dramatically through a series of corporate governance initiatives begun ... corporate scandals. the Sarbanes-Oxley Act and other requirements.
- 7. Shareholders and other investors in corporations tend to view corporate governance ... the corporation's increasing value over time.

8. Regular and extraordinary board meetings may be held by telephone, video-telephone and ... written resolutions.

**27. Verb-noun collocations Match each verb (1-5) with the noun it collocates with (a-e). If you have difficulty matching them, consult a dictionary.**

- |    |          |    |                |
|----|----------|----|----------------|
| 1. | violate  | a) | affairs        |
| 2. | call     | b) | representation |
| 3. | overturn | c) | a meeting      |
| 4. | gain     | d) | a decision     |
| 5. | conduct  | a) | a law          |

**28. Collocations with *file*. Decide which of the following words and phrases can go with the verb to file. You may need to consult a dictionary.**

*an action an AGM charges a claim a document a fee an appeal  
a complaint an injunction an amendment a breach a brief a debt  
a defence a dispute a motion provisions a suit*

**29. Gap fill exercise Read the text below. Some of the words are missing. Complete the text with one of the words in the box.**

<i>business   create   enterprise   opportunities   own   referred   risks   service   takes   venture</i>
--

The term “entrepreneur” has a French origin and was first introduced by the Irish economist, Richard Cantillon. He defines an entrepreneur as a person who operates a new \_\_\_\_\_ or venture and assumes some accountability for the inherent \_\_\_\_\_. Nowadays, an entrepreneur is \_\_\_\_\_ to as a person who \_\_\_\_\_ the risks involved to undertake a business \_\_\_\_\_. Entrepreneurs often set up a business on their \_\_\_\_\_ and in this context they are called “founders” or “promoters”. In general, the term applies to \_\_\_\_\_ people who \_\_\_\_\_ value by offering a product or \_\_\_\_\_ to obtain profits, accepting a high level risk to pursue market \_\_\_\_\_. To become successful, entrepreneurs must effectively use labour, capital and natural resources.

## Reading 6.

### Case Study Company law

#### The facts of the case

Your law firm has asked you to review the following company law case and the relevant documents in preparation for a meeting with the other party's lawyer.

**30. Read this description of the facts of the case. What is the legal issue here?**

The Greenview Company, a public company incorporated under the laws of the country of Westland, owned a golf course. Some land adjoining the golf course became available for sale, and one director of the corporation informed the board of this availability. If Greenview bought the adjoining land and sold it together with the golf course, this would greatly increase the value of the golf course. In fact, on several occasions, the directors and stockholders had discussed the possibility of acquiring more land next to the golf course. Although the board and the stockholders expressed an interest in buying this land, it again did not take any immediate steps to purchase it. A few months later, two other directors of Greenview (not including the one who had informed the company that the land was for sale) decided to buy the land in their individual capacities. A few years later, the golf course and the adjoining land were sold as a package to outside investors for a high price. A large share of the profit went to the two directors because of their ownership of the adjoining land.

Now a group of disgruntled minority shareholders wishes to bring an action against the two directors for a breach of their duty of loyalty to the company through the theft of a corporate opportunity.

**31. Write a letter of advice to one of the parties (your choice), in which you outline the legal issues raised by the case, refer to relevant statutes and provide your opinion as to the likely outcome of the case.**

**STRUCTURE**

Introduction

Paragraph 1: (state reasons for writing/express understanding of problem)

Main Body

Paragraphs 2-3 (offer advice/suggestions)

Conclusion

Final Paragraph (closing remarks)

Full name

**Useful Language for Letters Giving Advice**

**Opening Remarks:**

Thank you for your letter requesting

I am writing in reply to your letter asking for advice about

I hope the following advice will be of some help to you

**Suggestions can be introduced with expressions such as:**

I strongly recommend that

I would suggest that

I believe the best course of action is

I would advise you to

You should  
You ought to  
If I were you I would

**Closing Remarks:**

I trust you will accept this advice  
I hope this will be of help  
I would very much like to know if this was helpful

**Relevant legal documents**

**Text 1: excerpt from Section 202 of the Westland Corporations Act**  
*202*

(1) Every director and officer of a corporation in exercising their powers and discharging their duties shall

(a) act honestly and in good faith with a view to the best interests of the corporation; and

(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

**Text 2: Westland Principles of Corporate Law. Section 5.05. Part 3**

The Westland Principles of Corporate Law, published by the Westland Law Institute, is used as a guideline for the interpretation of corporate law in Westland. Part 3 of Section 5.05 deals with the duty of loyalty owed by a director to his company.

*5.05*

A director shall act in the best interests of the corporation. This includes the duty of loyalty and the duty of care.

(3) The duty of loyalty includes not taking advantage of a corporate opportunity. A corporate opportunity is a business opportunity that:

(a) a director or senior officer becomes aware of in his or her corporate capacity;

(b) a director or senior executive should know the outside party is offering to the corporation;

(c) a director or senior executive, who became aware of it through the use of corporate information, should know the corporation would be interested in;

(d) a director or senior executive knows is closely related to the corporation's current or expected business.

**32.Excerpt from a textbook on corporate law**

*Section 16.2 Corporate opportunity*

The doctrine of corporate opportunity requires a corporate director to further the interests of the corporation and give to it the benefit of his uncorrupted business judgment. He may not take a secret profit in connection with the corporate transactions, compete unfairly with the corporation or take personally profitable business opportunities which belong to the corporation.

The basic test is a two-part test. The first part requires a determination of whether the opportunity falls within the line of business of the corporation; if this is so, then the second part examines the circumstances under which the director is nonetheless permitted to exploit the opportunity.

The 'line of business' test compares the closeness of the opportunity to the areas of business in which the corporation is engaged. Other factors may be relevant to this consideration, such as (i) whether the director became aware of the relevant opportunity as a result of his or her position, (ii) whether the director utilised property belonging to the company to take advantage of the opportunity, (iii) whether previous discussions were held regarding the opportunity within the corporation, and (iv) whether the opportunity was presented to the director as an agent of the corporation.

The second part of the test allows for a justification to relieve liability from an affirmative answer to the first part of the test. In this part, courts examine whether the director had a persuasive reason to take advantage of something which was in the company's line of business. Some examples of situations that courts have considered to be fair are that the corporation is incapable of taking advantage of the opportunity.

## GRAMMAR

### *Shall and may in legal documents*

#### **33. Read through the text *Memorandum of association* again, noting how *shall* and *may* are used.**

1. Which of these words most closely matches the meaning of *shall* in each case?

a) will            b) must

2. What do you notice about the use of *shall* in line 7?

3. Which of these words most closely matches the meaning of *may* in the text?

a) can            b) could

In legal documents, the verb *shall* is used to indicate obligation, to express a promise or to make a declaration to which the parties involved are legally bound. This use differs from that in everyday speech, where it is most often used to make offers (*Shall I open the window?*) or to refer to the future (*I shall miss you*), although this latter use is less frequent in modern English.

In legal texts, *shall* usually expresses the meaning of 'must' (obligation):

*Every notice of the meeting of the shareholders shall state the place, date and hour.*

or 'will' (in the sense of a promise):

*The board of directors shall have the power to enact bylaws.*

*Shall* can also be used in legal texts to refer to a future action or state:

... until two years **shall** have expired since such action by vote of such shareholders.

In everyday speech, this future meaning is commonly expressed using only the present perfect (... until two years **have expired** ... ).

Another verb commonly found in legal documents is *may*, which generally expresses permission, in the sense of 'can' (this use is less common in everyday English):

... any bylaw or amendment thereto as adopted by the Board of Directors **may** be altered, amended or repealed by a vote of the shareholders.

In everyday English, *may* is sometimes used as a substitute for *might*, indicating probability (*He **may** want to see the document*).

**34. Fill in the blanks, determine the function of *shall* in each case and the context in which the modal verb is used:**

a) Peter: "I think we could launch this product onto the market next month but it's late and we should assess certain situations before fixing the date of the launch of the product." Somebody asks him: "*Shall* we have another meeting next week to decide the date?"

Function of shall: \_\_\_\_\_. Context: \_\_\_\_\_.

b) "It's cold here. *Shall* I close the window?"

Function of shall: \_\_\_\_\_. Context: \_\_\_\_\_.

c) "I have a toothache. *Shall* I go to the dentist?" Function of shall: \_\_\_\_\_.

Context: \_\_\_\_\_.

somebody is asking for advice.

d) "Seller *shall* deliver the goods on the date set forth in this agreement."

Function of shall: \_\_\_\_\_. Context: \_\_\_\_\_.

**Speaking 1.**

**35. Divide into two different groups, with one group representing the shareholders and the other representing the directors being sued. Prepare for negotiations with the other party, referring to the relevant legal documents below. You should:**

- 1) identify the legal issues of the case and determine arguments for your side;
- 2) list the strengths and weaknesses of your side of the case;
- 3) decide which parts of the relevant legal documents most strongly support your case and can be used to argue against the other party's case;
- 4) make notes for the negotiation: What are your goals? What are you willing to give? What are you not willing to give?

**36. Pair up with a representative of the other party and negotiate a settlement.**

**37. Report the results of your negotiations to the class.**

## PART II. BUSINESS CRIME

### Reading 1.

#### 38. Read the following text.

##### Fraud

A 2004 report for the British government estimates that fraud costs the country's economy £14 billion a year. Fraud is white-collar crime: that is, a non-violent illegal activity to get money or other benefits. Fraud can be carried out by employees at different levels of an organization, for personal benefit or for the firm.

At an individual level, one of the most common forms of fraud is embezzlement, which is when an employee removes money from a company, pretending it is for a legitimate purpose, but instead transfers it into a private bank account. Another form is insider trading: using knowledge of a company's intentions, often gained through a management role, to buy or sell shares in the company for personal profit.

What about fraud that is carried out to benefit the company? This can take the form of price fixing, which is secretly agreeing with rival companies not to sell a certain product below an established price. Bribery is offering money or other gifts as a way of influencing someone's actions. A kickback is an agreed sum of money that is paid secretly in return for certain actions.

For shareholders, the most dangerous form of fraud is dishonest accounting or cooking the books. The former US energy company Enron managed to make its finances look healthy until a whistle-blower informed the authorities.

To prevent individual fraud, companies should observe carefully the activities of employees who rarely go on holiday or who work far too many hours every week. Fraudsters know there is a risk that the illegal activity will be discovered if other people do their jobs – for example, when they take holidays. Also, any employees who are clearly spending far more money than they earn should be watched.

Stock exchanges also have a responsibility to keep an eye on firms' behavior and to check company annual reports. The Securities and Exchange Commission (SEC) is very strict in regulating the behavior of listed firms on the New York Stock Exchange. If fraud is discovered, the firm must pay huge fines, and the fraudsters face going to prison.

#### 39. Complete this fictitious news report with terms from the article.

##### A corrupt company?

Peter Washington, head of Schneeman Industries, spoke to the press this morning to confirm earlier reports that a top Schneeman manager was under investigation by the SEC for possible a) \_\_\_\_\_ (illegal stock market activity). According to sources close to Schneeman, b) \_\_\_\_\_ - \_\_\_\_\_ (person who informs the authorities of something illegal) within the company informed the SEC. This investigation follows several recent scandals

involving Schneeman. In May, it was discovered that finance manager Tony Londano had accepted c) \_\_\_\_\_ (secret return of payments) from builders of the new Brooklyn Tunnel. Last year, former company president Denise Dubrovsky was sent to prison for d) \_\_\_\_\_ (stealing money) from the company pension fund. “I want to make one thing perfectly clear,” said Mr Washington. “Schneeman has zero tolerance for any kind of corporate e) \_\_\_\_\_ (illegal activity for financial gain).”

**40. Business crime collocations. Match the beginnings and endings.**

- |     |            |   |                |
|-----|------------|---|----------------|
| 1.  | creative   | a | trick          |
| 2.  | insider    | b | and corruption |
| 3.  | market     | c | theft          |
| 4.  | money      | d | trading        |
| 5.  | ponzi      | e | peddling       |
| 6.  | identity   | f | scheme         |
| 7.  | bribery    | g | laundering     |
| 8.  | influence  | h | fund           |
| 9.  | confidence | i | accounting     |
| 10. | slush      | j | rigging        |

**41. Enter the expressions from exercise 40 to match their definitions:**

1. .... Illegally buying and selling a company's shares based on privileged non-public information, for example professional information.
2. .... Often used to mean a reserve of money kept in a special and possibly secret account for making illegal payments to others, eg government officials.
3. .... When your personal information is stolen and used without your knowledge to commit fraud or other crimes.
4. .... The illegal practice of using your political influence to obtain favours or preferential treatment for another, usually in return for payment.
5. .... When competing companies act together and agree prices etc, to their own advantage but against the spirit of competition.
6. .... A fraudulent operation that pays returns to its investors from their own money or the money paid by subsequent investors, rather than from profit earned by the individual or organization running the operation.
7. .... Illegally giving money or gifts to somebody, often a government official, so that they will act in your favour.
8. .... An attempt to get money illegally from somebody by gaining their trust and making them think you are genuinely what you say you are.
9. .... Manipulating financial figures within the letter of the law, but not within the spirit of the law. - Also known as '*cooking the books*'.
10. .... Hiding the source of illegally-gained money by, eg, investing it in legitimate businesses.

**42. Match the verbs with their definitions:**

- |    |             |          |   |
|----|-------------|----------|---|
| 1. | bribe       | <b>a</b> | to make an illegal copy of something, especially a document or something in writing or a painting                           |
| 2. | embezzle    | <b>b</b> | to get money illegally from a person or an organization by tricking them (more formal)                                      |
| 3. | forge       | <b>c</b> | to make a nearly exact copy of something valuable, so that people will think they are getting the real thing                |
| 4. | defraud     | <b>d</b> | to make something false appear to be genuine, or a false situation appear to be real  |
| 5. | fake        | <b>e</b> | to cheat somebody so as to get money or something valuable from them (more informal)  |
| 6. | counterfeit | <b>f</b> | to steal money from your employer or money that you are responsible for   |
| 7. | swindle     | <b>g</b> | to give somebody money or something valuable in order to persuade them to help you, especially by doing something dishonest |

**43. Word formation. Complete the table:**

	<b>Verb</b>	<b>Noun (thing)</b>	<b>The person who does it</b>	<b>Adjective</b>
1.	bribe			
2.	embezzle			
3.	forge			
4.	defraud			
5.	fake			
6.	counterfeit			
7.	swindle			

HELP DESK

**Some explanations**

**Bribery and corruption** - These two words are often used together - "bribery and corruption are rife in this country"

*corruption* - dishonest or illegal behaviour, especially involving people in authority

*bribery* - abstract noun for the activity of giving bribes

*bribe* (n) - an amount of money or a gift given on a specific occasion to buy favour

*bribe* (v) - to give an amount of money or a gift to buy favour

**Fake, forgery and counterfeit** - These words have very similar meanings

*fake* - used to describe something or a situation which is not genuine or real

*She was wearing a fake fur coat*

*He faked his own death*

*He knew that at £25 it was obviously a fake Rollex*

*Do you think he's really ill, or just faking*

*forge* - relates especially to the copying of things which are printed or in writing - documents, passports, signatures etc.

*counterfeit* - used especially for money and branded goods

**Confidence trick - *it's a con!*** - In informal English we often use the word *con*. Notice the different ways it can be used as a verb:

To con somebody out of something

*He conned her out of her life's savings.*

To con somebody into doing something

*She conned me into buying her old car.*

To con your way into something

*He conned his way into the job.*

It can also be used as a noun and as an adjective

*It was a con / a con trick.*

*He's a con man / con artis / con merchant*

***Whistleblower, to blow the whistle***

A whistleblower is somebody who tells people in authority or the public that the company or organisation they work for is doing something immoral, dishonest or illegal.

In the most famous cases, the whistleblowers make their information public via the media or the Internet. But in the vast majority of cases, whistleblowers tell their superiors within their organisation and the matter is dealt with internally.

While in the past whistleblowers have often been badly treated by their employers, organisations are increasingly seeing their value, and many have set up internal whistle-blowing procedures.

**Some odds and ends**

**44. Use the words in the box to complete these expressions related to tax:**

<i>avoidance</i>	<i>corporation</i>	<i>dodge</i>	<i>evasion</i>	<i>exile</i>	<i>haven</i>	<i>income</i>
<i>poll</i>						

1. Companies in the UK pay ..... tax.
2. Most individuals pay ..... tax.
3. A trick for not paying tax, legally or illegally, is a tax .....
4. Legally paying as little tax as possible is called tax .....
5. A ..... tax is paid at the same rate by everybody.
6. Illegally not paying tax due is known as tax .....
7. Companies are often registered in a tax ....., where taxes are low.
8. Somebody who lives abroad so as to pay less tax is a tax .....

**45. Fill the gaps using the words in the box:**

<i>rat cover-up dodgy fiddle jiggery-pokery sharp crooked books</i>
---

1. Activity that is possibly dishonest but not necessarily illegal is sometimes called ..... practice.
2. If you ..... the accounts or your taxes, you dishonestly change the details or figures.
3. Changing the accounts for illegal advantage is also known as cooking the .....
4. Illegal activity is also known as ..... behaviour.
5. The word ..... is used for some unspecified dishonest behaviour.
6. A ..... is when an organisation tries to hide illegal activity.
7. If something is ..... or fishy, you suspect it is illegal or risky.
8. Another way of saying something is suspicious is to say that you smell a .....

**Scams**

So far we have been looking mainly at corporate crime, the sort we read about in the newspapers but which is unlikely to have a direct effect on us.

But now we move to an area which affects us all. Most of us, at one time or another, will have had an email offering us huge amounts of money in exchange for some sort of upfront or advance payment. Or playing on our emotions to try and get us to help somebody in apparently tragic circumstances.

**46. Fill the gaps using the words in the box:**

<i>cowboy cures dating donations draw pyramid racket ripped sums vulnerable</i>
---

1. A scam or ..... is a plan for fraudulently getting money from people.

2. A ..... outfit is a company that overcharges for work that is not up to normal professional standards, or one that "takes the money and runs".
3. If you get ..... off, you are cheated or made to pay too much for something.
4. In psychic or clairvoyant scams, the victims are often ..... because they have recently lost a loved one.
5. Lottery and prize ..... scams tell you that you have won a prize – but first you must pay an "administration fee".
6. In the so-called Nigerian scam you are often offered huge ..... to help somebody get money out of Africa or set up business in your country.
7. In online ..... scams the person you have struck up a relationship with might ask you for money to help them come to your country.
8. Health scams include so-called miracle ..... and slimming products.
9. A particularly nasty scam involves asking for ..... to fake disaster relief charities.
10. A ..... scheme is a bit like a chain letter: you send a small amount of money to somebody, and find a number of other people to join who send money to you.

### Expressions and idioms connected with being tricked or fooled

#### 47. Fill the gaps using the words in the box:

reel   lure   luring   phishing   prey   bait   sinker   swallow
--

Quite a few words to do with scams come from fishing and hunting. The fraudsters entice people with ..... **(1)** - (uncountable) the food that is used to attract fish or animals so that they can be caught. This is also known as a ..... **(2)** (countable), and this word can also be used as a verb, meaning to attract people to a scam.

The word ..... **(3)** - the animals etc, hunted by other animals - can be used to mean potential victim(s) or used in a phrasal verb with the preposition *on*.

Somebody can fall for or ..... **(4)** something "*hook, line and* ..... "**(5)** , just as a greedy fish might try to eat the hook, some of the fishing line, and the weight that is attached to it. And then the fraudster will ..... **(6)** in his victim, just as a fisherman winds in the fish on his line.

And finally we have the internet scam of ..... (7) , where fraudsters try and get your bank details by ..... (8) you to a site which looks like your bank's.

**48. Complete the story with words from the box:**

<i>charlatan   duped   fell   gullible   had   led   line   minute   pull sucker   taken   candy   talk   took   yesterday</i>
--

She had always considered herself impossible to fool. If anyone tried to ..... (1) a fast one on her, she'd tell them, "I wasn't born ..... (2) , you know.", and add, "Do you think I'm a complete ..... (3) ?". And she'd think to herself, "Some people are so ..... (4) they'll believe anything they're told. But not me."

Then along came Peter, an investment banker, or at least that's what he had ..... (5) her to believe. She was totally ..... (6) in by his smooth talking and easy charm, and let him ..... (7) her into investing some money in one of his funds. He ..... (8) her into thinking the fund was doing really well, and she ..... (9) for his story, hook, ..... (10) and sinker. She ended up putting all her savings into it.

Peter turned out to be a complete ..... (11) , and ..... (12) her for all she'd got. "I was well and truly ..... (13) ", she said later. "So it's true what they say about fools. There's one born every ..... (14) , and I was one of them.", adding, "It must have been like taking ..... (15) from a baby."

**49. Fill the gaps using the words in the box:**

<i>for   from   in   into   of   off   out   up</i>
---

1. He embezzled thousands ..... his employers.
2. She talked him ..... lending her his car.
3. He conned her ..... of all her money.
4. He was duped ..... investing in a non-existent holiday venture.
5. A lot of companies go to great lengths to get ..... of paying tax.
6. They lured him ..... giving them his bank account details.
7. I told the boss I was ill and I think he fell ..... it.
8. She was taken ..... by his charm.
9. They defrauded their 'customers' out ..... millions of pounds.

10. The fraudsters took their victims ..... everything they'd got.
11. He was totally ripped ..... when he bought that car.
12. She was just leading him ..... the garden path. She had no intention of marrying him.

## Speaking 2.

### 50. Translate the following words from the text into Ukrainian and learn them:

annual report  
authorities  
bribery  
embezzlement  
fine  
fraudster  
kickback  
listed  
price-fixing  
share  
shareholder  
stock exchange  
whistle-blower  
white-collar crime

### 51. Render the following text in English:

У зв'язку з технологічними та інформаційними змінами сучасне суспільство перебуває у процесі постійних перетворень, тому дуже важко прослідкувати, як саме змінюється злочинність, які нові методи виникають у боротьбі з нею та які види злочинів мають найбільший вплив на економіку розвинутих країн. Проте не залишається сумнівів, що White-Collar Crime є одним із найбільш небезпечних явищ у світі.

Слід зазначити, що хоч саме поняття White-Collar Crime відоме у розвинених країнах протягом тривалого часу, для України цей вид злочинів відносно новий, оскільки механізми ринкової економіки у нас ще не повною мірою сформувались, а злочини, які можуть бути віднесені до цього виду, мають здебільшого економічний (корпоративний) характер, притаманний розвинутих країнам Європейського Союзу, США та деяким країнам Азії. Напевне, саме тому до білокомірцевої злочинності в Україні здебільшого відносять службові та корупційні злочини представників влади та бізнесу. При цьому акцент зміщений саме на корупційні злочини представників влади або осіб, які впливають на них, а не на зловживання у приватному секторі. Це значно відрізняється від практики розвинених країн, де фігурантами білокомірцевої злочинності частіше стають

представники вищих ланок великих корпорацій, а злочини вчиняються здебільшого бізнесом проти самого ж бізнесу.

Для розуміння сутності білокомірцевої злочинності варто зазначити, що на сьогодні існує дуже багато інтерпретацій її визначення, а серед кримінологів багатьох країн наявна тенденція змішування понять, що зумовлює певну плутанину. Так, деякі кримінологи надають змісту поняття White-Collar Crime ознак елітарної злочинності, оскільки саме еліта (політики, представники бізнесу, керівники різноманітних фондів та громадських формувань тощо), на їх думку, є групою девіантного ризику, бо саме вона приймає рішення та має змогу впливати на соціально-економічні відносини. Проте змішувати елітарної та білокомірцевої злочинності лише за ознаками респектабельності осіб, які можуть вчиняти злочини у сфері економіки, фінансів та суспільного життя, видається невірним підходом, адже елітарна злочинність носить здебільшого релятивний характер та спричинена історичними умовами кожної окремої країни в процесі суспільної трансформації.

Деякі вчені ототожнюють білокомірцеву злочинність з економічною, особливо у країнах, де білокомірцева злочинність на офіційному рівні як вид не розглядається. Такий підхід також можна вважати помилковим, оскільки ці два види злочинності слід розглядати, по-перше, як частину та ціле (де економічна злочинність – ціле, а білокомірцева – частина цілого), а по-друге, виключно через призму осіб, які вчиняють ці злочини, соціальних відносин, на які вони впливають, і їх наслідків. Це дозволить відокремлювати білокомірцеву злочинність від економічної за притаманними лише їй ознаками.

Іншим прикладом може бути безпосередньо корпоративна злочинність, яку також намагаються ототожнювати з білокомірцевою, що є вкрай неправильним підходом. Корпоративна злочинність є, перш за все, діяльністю підприємств (корпорацій), яка скерована на максимальне збагачення саме підприємства, а не окремої особи чи групи осіб, коли топ-менеджмент корпорації діє за принципом «ціль виправдовує засоби» та допускає дії, що можуть суперечити міжнародному чи національному законодавству.

### **Videos:**

**Video 1. How to Form a UK Limited Company**

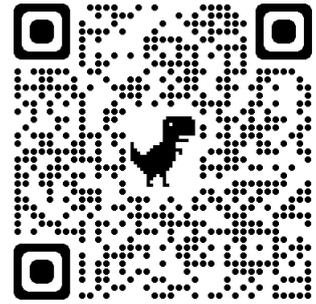
**Video 2. Company Law - Forms of Business Organizations**

**Video 3. White collar crime**

**Video 4. Top 10 Biggest Corporate Scandals**

# UNIT 5

## THE COURT SYSTEM



### Topics:

- Types of Court
- Court structure
- Jurisdiction
- In the courtroom
- Court process
- Court etiquette
- Criminal law
- Civil law
- Administrative law
- Initial client interview
- Interviewing witnesses

### Types of court



Courts can be distinguished with regard to the type of cases they hear.

**1. Match each of these types of court (1-9) with the explanation of what happens there (a-i).**

1. appellate court (or court of appeals, appeals court)
2. crown court

3. high court
4. juvenile court
5. lower court (or court of first instance)
6. magistrates' court
7. moot court
8. small-claims court
9. tribunal

- a. This is where a person under the age of 18 would be tried.
- b. This is the court of primary jurisdiction, where a case is heard for the first time.
- c. This is where small crimes are tried in the UK.
- d. This is where law students argue hypothetical cases.
- e. This is where a case is reviewed which has already been heard in a lower court.
- f. This is where cases involving a limited amount of money are handled.
- g. This is where serious criminal cases are heard by a judge and a jury in the UK.

h. This is where a group of specially chosen people examine legal problems of a particular type, such as employment disputes.

i. This is usually the highest court in a jurisdiction, the court of last resort.

### **Civil-court systems**

#### **2. Work in small groups and discuss these questions.**

1) Describe the different types of court in your jurisdiction and the areas of law they deal with.

2) Select one type of court in your jurisdiction and explain what kinds of case it deals with.

### **Court structure**

#### **Reading 1.**

#### **3. Before you read the passage, talk about these questions:**

- What are some different kinds of courts in your country?
- What types of cases do the different courts hear?

#### **4. Read the text about court structure. Mark the following statements as true (T) or false (F).**

\_\_\_ District courts review decisions that people protest.

\_\_\_ Cases involving state laws are not heard in a federal court.

\_\_\_ The Supreme Court hears all cases that are brought to it.

### **Understanding the Levels of US Federal Courts**

*District courts* - These are general courts. But in some cases, the jurisdiction is passed to specialized courts. These include: bankruptcy courts, tax courts and the court of private land claims.

*Court of Appeals* - The Court of Appeals reviews all decisions in the lower courts that people object to.

*State courts* - These courts decide disputes that pertain to state laws rather than federal laws.

*The Supreme Court* - This is another appeals court, but it is the only court that operates under discretionary review. This means it can choose which cases to hear. The Supreme Court is also called a High Court in some countries.

#### **5. Read the sentence and choose the correct word.**

1. The (**District / Supreme**) Court decided not to review Ms. Wright's case against the company.

2. The case does not involve federal law, so it has to go through the (**state / bankruptcy**) courts.

3. The district court has (**jurisdiction / claim**) in Mr. Trujillo's case.

4. If Ms. Davis wants her money back, she needs to go through the small (**claims / discretionary**) court.

**6. Use the words from the word bank to fill in the blanks.**

*discretionary review specialized  
Supreme Appeals bankruptcy*

1. The \_\_\_\_\_ Court is called the High Court in Australia.
2. John decided to go to the Court of \_\_\_\_\_ because he didn't agree with the decision.
3. The court will \_\_\_\_\_ Mr. Allistair's case next month.
4. Mr. Anderson is going to the \_\_\_\_\_ court because he lost a lot of money but has no way to pay it back.
5. The court has \_\_\_\_\_ powers, so it may decide not to investigate the case.
6. Ms. Ming's case will go to a \_\_\_\_\_ court, not a general court.



**Listening 1.**

**7. Audio 1. Listen to a conversation between a client and his attorney. Then answer the questions. Which courts might the client's case be heard in?**

1. a state court
2. a district court
3. a court of appeal
4. a specialized court
5. the Supreme Court

**8. Listen again and complete the conversation.**

Client (M): So, is my case going to the 1 \_\_\_\_\_ courts?  
Attorney (F): No, that's not going to happen.  
Client: Why not? It's a dispute with the state.  
Attorney: Well, 2 \_\_\_\_\_ courts usually have jurisdiction over smaller cases like yours.  
Client: I see. What do we do if the district court 3 \_\_\_\_\_ against us?  
Attorney: We ask for the case to be 4 \_\_\_\_\_ in the Court of Appeals.  
Client: And they have to 5 \_\_\_\_\_ it, right?  
Attorney: Yes. There's no 6 \_\_\_\_\_ review in appeals courts. That's reserved for the Supreme Court.

**Speaking 1.**

**9. With a partner, act out the roles below.**

**Useful language:**

*Is my case going to the ... courts?*

*District courts usually have jurisdiction  
We ask for the case to be ...*

Student A: You are a client. Talk to your lawyer about your case. Ask Student B about:

- courts
- options after a decision
- likelihood of having case reviewed

Student B: You are a lawyer. Answer Student A's questions.

### **10. Complete a lawyer's letter to a client.**

**Tamsin Greer, Attorney**

Dear Mr Moisey.

In response to your question, your case is not going to the \_\_\_\_\_, it is going

to a \_\_\_\_\_ because \_\_\_\_\_.

If you do not agree with the decision, the case goes to an \_\_\_\_\_.

They have to review it because \_\_\_\_\_.

Yours faithfully.

*T. Greer*

### **Video 1.**

### **11. Watch the video and prepare a talk about the structure of the U.S. court system.**

### **Jurisdiction**

### **Reading 2.**

### **12. Before you read the passage, talk about these questions.**

- What are some things that determine which court hears a certain case?
- Sometimes a case could be heard in more than one type of court. Why do you think this is?

### **13. Read the text and complete the table using information from it.**

1 _____	Authority over a person
Territorial jurisdiction	2 _____
3 _____	Authority in one particular subject
Exclusive jurisdiction	4 _____

Jurisdiction is the **authority** to judge legal matters. Jurisdiction is given to **legal bodies** or political leaders. There are three main types of jurisdiction:

1. **Personal jurisdiction** is authority over a person.
2. **Territorial jurisdiction** is authority over an area.
3. **Subject jurisdiction** is authority over a particular subject.

Jurisdiction in courts can be **exclusive** or **concurrent**. With exclusive court jurisdiction, only one court is able to decide the issue. With concurrent jurisdiction, more than one court is able to **adjudicate**. In this case, lawyers are able to go **forum shopping**. They choose the court which is more likely to **rule in favor** of their clients.

**14. Check the sentence that uses the underlined parts correctly.**

1.  A The district court has subject jurisdiction over ten towns in the area.  
 B The lawyer was happy when the court ruled in favor of his client.
2.  A The manager has authority over all the workers in his team.  
 B The judge went forum shopping to find a court to hear his case.
3.  A Schools, shops and churches are legal bodies.  
 B Judge Reynolds is going to adjudicate the case.

**15. Write a word that is similar in meaning to the underlined part.**

1. Mr Jones wants to know which court has authority over a region in this town.  
T \_ \_ \_ \_ \_ i \_ \_ \_ \_ j \_ \_ \_ s \_ \_ \_ \_ o \_ \_
2. The district court's jurisdiction in this matter is the only one.  
e \_ I \_ \_ \_ \_ \_
3. In which circumstances does a court have authority over a certain type of person?  
p \_ \_ \_ \_ n \_ \_ \_ \_ u \_ \_ \_ \_ c \_ \_ \_ \_ \_
4. Jurisdiction for the case is under the authority of several different courts.  
\_ o \_ \_ \_ r \_ \_ \_ \_ \_
5. Ms. Carter is choosing a court to see which court is likely to rule in her client's favor.  
f \_ \_ u \_ \_ \_ \_ o \_ \_ i \_ \_ g
6. The Department of Justice is one of the organizations that enforce laws in the US.  
\_ e \_ l \_ \_ \_ o \_ i \_ \_ \_ \_
7. The case is being heard in a civil court since that court has authority over the topic.  
\_ u \_ e \_ \_ \_ \_ j \_ \_ \_ s \_ \_ c \_ \_ \_ \_ \_



## Listening 2.

**16. Audio 2. Listen to a conversation between two attorneys discussing a case. Choose the correct answers.**

1. Why does the man think the case is going to the district court?
  - A. The case relates to a particular subject.
  - B. He believes it has exclusive jurisdiction.
  - C. He asked to have it tried in the district court.
  - D. It might rule in their favor.
  
2. What is most likely to happen next?
  - A. The man is going to research the subject of the case.
  - B. The woman is going to adjudicate the case in the district court.
  - C. The woman is going to see if other legal bodies have jurisdiction.
  - D. The man is going to make sure the case is under territorial jurisdiction.

**17. Listen again and complete the conversation:**

Lawyer 1: Which court is this case going to?

Lawyer 2: Probably to the district court, It has 1 \_\_\_\_\_ jurisdiction.

Lawyer 1: A subject-specific court is able to 2 \_\_\_\_\_ this matter, too. Right?

Lawyer 2: I don't think so.

Lawyer 1: Really? I thought jurisdiction was 3 \_\_\_\_\_.

Lawyer 2: You're 4 \_\_\_\_\_ to check. But I don't think any other 5 \_\_\_\_\_ have authority.

Lawyer 1: I'll find out. I think we could choose a court more likely to rule in our 6 \_\_\_\_\_.

Lawyer 2: I hope you're right.

## Speaking 2.

**18. With a partner, act out the roles below:**

**Useful language:**

*Which court is this case going to?*

*Probably to...*

*I don't think any other... have authority.*

Student A: You are an attorney. Talk to your colleague about a case. Ask Student B questions about:

where the case is going

other courts

type of jurisdiction

Student B: You are a paralegal. Discuss the status of documents with Student A.

**19. Complete the attorney's notes using the conversation in exercise 2.**

The case is likely to go to the \_\_\_\_\_ because \_\_\_\_\_.  
\_\_\_\_\_ believes that \_\_\_\_\_ can also \_\_\_\_\_.  
We must check whether there is \_\_\_\_\_.  
Then we can choose a court that \_\_\_\_\_.

**Video 2.**

**20. Watch the video and prepare a talk about the original jurisdiction.**

**In the courtroom**

**Reading 3.**

**21. Before you read the passage, talk about these questions.**

- Who must be in a courtroom during a trial?
- How can lawyers be sure that jurors will be fair?

**22. Read this court pamphlet. Mark the following statements as true (T) or false (F).**

1.  A judge asks potential jurors questions to check if they are biased.
2.  Jurors' answers are recorded by an employee of the court.
3.  Every person that reports for jury duty listens to a trial

**Rules and Expectations**

Thank you for reporting for jury duty. The following is a description of what you will receive a number. Enter the courtroom when the clerk of the court calls that number.

In the courtroom, have a seat in the jury box. The bailiff will direct you.

Attorneys for the defense and prosecution will then ask you questions. A judge presides over the proceedings and the court reporter records your answers. The goal is to select jurors for a trial, it is important that you answer their questions honestly. This provides the defendant with a fair trial. Potential jurors may leave after questioning if not selected.

**23. Match the words (1-6) with the definitions (A-F).**

1.  clerk of the court
2.  court reporter
3.  defense
4.  prosecution
5.  juror
6.  bailiff

- a. the side of a case that attempts to prove innocence
- b. the side of a case that attempts to prove guilt
- c. a person who assists a judge
- d. an officer who keeps order in court
- e. a person that types everything that is said in court
- f. a person who listens to a trial and decides if a defendant is guilty or

not

**24. Check the sentence that uses the underlined parts correctly.**

1.  A The proceedings took place in the courtroom on the second floor.  
 B The defense brought the lawsuit against the corporation,
2.  A The judge took his seat in the jury box when the trial started.  
 B Judge Williams is presiding over the upcoming trial.
3.  A Mary isn't going to be at work because she has jury duty.  
 B The bailiff typed the attorney's words very quickly.
4.  A The court reporter sat at the table with her client and waited for the trial to start.  
 B The attorney stood close to the jury box as he made his argument to the jurors.



**Listening 3.**

**25. Audio 3. Listen to a conversation between a judge and a defense attorney. Choose the correct answers.**

1. What is the conversation mostly about?  
 A removing a juror                      C selecting a new juror  
 B questioning a juror                 D protesting a juror's decision
  
2. What is the judge's opinion?  
 A. He thinks young people often commit crimes.  
 B. He plans to release the defendant.  
 C. He doubts the juror would be unfair.  
 D. He agrees with the attorney's argument.

**26. Listen again and complete the conversation.**

Attorney: Your Honor, I don't believe that 1 \_\_\_\_\_ four should sit for this trial.

Judge: For what 2 \_\_\_\_\_?

Attorney: One of his answers to my questions. He believes that young people are more likely to commit crimes these days.

Judge: And you're worried that he will be 3 \_\_\_\_\_ toward the defendant?

Attorney: Yes. My client is only seventeen years old.

Judge: The 4 \_\_\_\_\_ has a point. Well release him.

Attorney: Thank you, Your Honor.

Judge: Well continue the 5 \_\_\_\_\_ after the 6 \_\_\_\_\_ of the court calls in another juror.

### Speaking 3.

#### 27. With a partner, act out the roles below:

**Useful language;**

*Your Honor, I don't believe that...*

*He believes that...*

*My client is only...*

Student A: You are a defense attorney. You see a problem with a juror. Talk to Student B about:

the juror

a question and answer

your client

Student B: You are a judge. Talk to Student A about a juror and make a decision.

#### 28. Use the conversation from Task 6 to complete the notes about selecting a jury for a trial.

Today, we \_\_\_\_\_ a juror. I thought he would be \_\_\_\_\_.

I believe this because he \_\_\_\_\_.

The judge \_\_\_\_\_ and \_\_\_\_\_.

### Video 3.

#### 29. Watch the video and prepare a talk about the courtroom and how it works.

### Court process

#### Reading 4.

#### 30. Before you read the passage, talk about these questions.

- What are some things that happen before a case goes to court?
- Why might a jury not be able to agree on a verdict?

#### 31. Write a word that is similar in meaning with the underlined part.

1. The woman was proven not guilty of shoplifting charge.

a \_ \_ \_ \_ \_ d

2. The defense lawyer wants to prevent being shown some of the evidence.

\_ u \_ \_ \_ \_ \_

3. The prosecutor offered Mr. Tilney a c sav he was guilty in return for a lesser

\_ \_ \_ a \_ \_ \_ r \_ \_ \_ \_ \_

4. The defendant's lawyer has requested information from the other side conct case.

\_ \_ s \_ \_ \_ \_ \_ \_

**32. Read the sentence pairs. Choose where the words best fit in the blanks.**

**1. sentenced / charged**

The woman was found guilty and was \_\_\_\_\_ to two years in prison. The man was arrested and \_\_\_\_\_ with theft.

**2. trial / arraignment**

At the \_\_\_\_\_, the man was formally charged with the crime.

At the end of the \_\_\_\_\_ the man was found guilty.

**3. mistrial / pre-trial hearing**

The case resulted in a \_\_\_\_\_ because some of the evidence was false.

The lawyers hope they can solve the problem at a \_\_\_\_\_.



**Listening 4.**

**33. Audio 4. Listen and read this email between an attorney and his colleague. Circle the correct answers.**

Fiona,

I'm writing to update you on the Trindle case. At the last month the defendant was charged. However, he plea bargain. So he will be sentenced or acqurtted.

Since then, his lawyer has requested discovery. So probably be a pre-trial hearing where the defendant tries to suppress evidence.

You will handle the discovery process and pre-trial hearing vou to make sure all of the evidence is accepted. I hung jury and mistrial because evidence isn't showing.

I know we can count on you.

David Wallace, *Assistant Prosecutor. City of Los Angeles*

1. What is the email about?

A a recent case which has been tried

B the proceedings leading up to a trial

- C a new client who has been sentenced.  
 D a court case that ended in a mistrial
2. Which of the following has NOT yet happened?  
 A an arraignment  
 B a request for discovery  
 C a pre-trial hearing  
 D a plea bargain
3. What can you infer about the defendant?  
 A He will be charged with a crime.  
 B He was acquitted in a previous trial.  
 C He successfully suppressed evidence before.  
 D He was offered a lesser sentence to avoid

**34. Audio 5. Listen to an attorney speaking to a colleague on the phone. Mark the following statements as true(T) or false (F).**

1.  The man is pleased with the results from the pre-trial hearing.  
 2.  The judge will not allow all of the evidence to be shown at the trial.  
 3.  The woman hopes to prosecute the case against the defendant.

**35. Listen again and complete the conversation:**

- A 1: Hello, Fiona Barksdale speaking.  
 A 2: Fiona, its David. Im calling about the 1 \_\_\_\_\_ yesterday. How did it go?  
 A1: It went really well. The judge didn't 2 \_\_\_\_\_ any evidence.  
 A 2: That's good. I was worried when the defense attorney requested 3 \_\_\_\_\_. When is the 4 \_\_\_\_\_ scheduled for?  
 A 1: November. We still have some time to prepare.  
 A 2: Good. I really don't want this to end in a 5 \_\_\_\_\_.  
 A1: Me neither. In fact, I'd like to 6 \_\_\_\_\_ myself.  
 A 2: Good. I think you can win it.

**Speaking 4.**

**36. With a partner, act out the roles below:**

**Useful language:**

- Speaking  
*I'm calling about...*  
*The judge didn't...*  
*When is the trial scheduled for?*

**Student A:** You are an attorney talking to a colleague. Talk to Student B about:

- the pre-trial hearing

- trial date
- who will try the case

**Student B:** You are an attorney talking to a colleague. Answer Student A's questions.

**37. Use the conversation from Task 3 to fill out notes about the pre-trial hearing.**

### Trindle Case – Pre-trial Hearing

Date of hearing: \_\_\_\_\_

Judge's decision on evidence: \_\_\_\_\_

Trial scheduled for: \_\_\_\_\_

Who will handle case: \_\_\_\_\_

#### Video 4.

**38. Watch the video and prepare a talk about the court process in a criminal case.**

### Court etiquette

#### Reading 5.

**39. Before you read the passage, talk about these questions.**

- 1) Why is it important to behave properly in a courtroom?
- 2) Where can people find information on court etiquette?

**40. Read the text. Fill in the blanks using words from the word bank.**

*lies protocols addressing All rise*

There are a large number of 1 \_\_\_\_\_ when appearing in court. For example, when the clerk says 2 \_\_\_\_\_, everyone stands up. After being sworn in, a person is then under oath. If a person 3 \_\_\_\_\_ under oath, he or she risks being charged with perjury. There are also rules for 4 \_\_\_\_\_ the judge.

### The Rules and Language of the Courtroom

*By Clare Pepper*

The judicial system is full of traditions and **protocol**. If you are to appear in court, it's good to know the basics.

Before the judge enters the room, the clerk says 'All rise'. At this point, everyone stands up.

You are **sworn in** by the clerk. Don't lie when you are under oath. The result is being charged with **perjury**.

Speak to the judge clearly and don't **interrupt**. Always **address** the judge as '**Your Honor**'.

You cannot **approach the bench**. Only lawyers are allowed to enter '**the well**'. Then they talk to the judge **off the record**.

**41. Read the sentences and choose the correct word.**

1. Margaret had to tell the truth because she was (**off the record / under oath**).
2. All people in court are expected to (**address / interrupt**) the judge as 'Your Honor'.
3. The judge told the lawyers to (**approach the bench / all rise**).
4. The conversation between the attorney and the judge was (**off the record / sworn in**)

**42. Choose the word that is closest in meaning to the underlined part.**

1. When the judge arrived, the clerk said, 'Everyone, stand UP'.
  - A. approach the bench
  - B. All rise
  - C. Your Honor
2. The prosecutor stood in the area in front of the bench to give his argument.
  - A. Bench
  - B. Protocol
  - C. well
3. It is important for people to know the proper rules and traditions for attending court.
  - A. oaths
  - B. protocols
  - C. records
4. When Miss Ashley was on the witness stand, she was made to promise to tell the truth.
  - A. off the record
  - B. sworn in
  - C. interrupted
5. The attorney addressed Judge Lopez as 'the title used to show respect for a judge'.
  - A. Your Honor
  - B. Off the record
  - C. Under oath
6. The attorney was annoyed when the witness stopped her from talking by asking a question.
  - A. Approached the bench
  - B. addressed
  - C. interrupted



### Listening 5.

**43. Audio 6. Listen to an attorney and a judge speaking during a trial.**

**Choose the correct answers.**

1. What is the conversation mostly about?
  - A. a witness who is lying
  - B. a request for more time
  - C. a client with new evidence
  - D. an investigation of an attorney
2. What can be inferred about the man?
  - A. He has researched the witness.
  - B. He suspects that his client is lying.
  - C. He expects the judge to stop the trial.
  - D. He believes the witness is telling the truth.

**44. With a partner, act out the roles below based. Then, switch roles.**

### Speaking 5.

**45. USE LANGUAGE SUCH AS:**

*Your Honor, may I...*

*She's changing her story even though ...*

*That's a serious charge.*

**Student A:** You are an attorney in a trial. You want to speak to the judge about a problem. Talk to Student B about;

- witness
- evidence
- what you want done

**Student B:** You are a judge at a trial. Talk to Student A about a witness.

**46. Use the conversation above to fill out the attorney's official complaint.**

### Complaint

Attorney: \_\_\_\_\_

The complaint regards: Judge Witness Attorney

What is the accusation? \_\_\_\_\_

Is there evidence? Y / N

If yes, what is it? \_\_\_\_\_

Required Action: \_\_\_\_\_

### Video 5.

47. Watch the video and prepare a talk about the courtroom etiquette.

**Criminal Law**

**Reading 6.**

48. Before you read the passage, talk about these questions.

- 1) Do you think people can commit crimes for a good reason?
- 2) What do you think is a fair punishment for different crimes?

**The Objective of Criminal Law**

The purpose of criminal law is to **punish** people who **commit crimes**. The type of punishment depends on the crime. Criminals who commit minor crimes such as **trespassing** usually receive a light punishment. They often get a **fine** or are put on probation.

When criminals **offend** many times, they get a heavier punishment, they go to **jail**. Criminals also go to jail when they are dangerous to others. For example, someone who commits **assault and battery** gets sent to jail.

**Capital punishment** is the most serious punishment. It is reserved for the worst crimes, such as **murder**.

1. Complete the table using information from the passage

	<b>Punishment</b>	<b>Examples of crime</b>
<b>Light Punishment</b>	A fine 1 _____	2 _____
<b>Heavy Punishment</b>	3 _____	
<b>Capital Punishment</b>		4 _____

49. Place a check next to the response that answers the question.

- 1. Did Hannah receive a fine?  
A  Yes, she has to go to jail for three months.  
B  Yes, she has to pay \$300.
- 1) Does the judge agree with capital punishment?  
A  Yes, he sent the criminal to jail for two years.  
B  No, he thinks it is wrong to kill people who commit crimes
- 2. Why did Mr. Thomas trespass on Mrs. Kennedy's property?  
A  His dog got loose and ran into her yard,  
B  She asked him to help her move some furniture.
- 3. How do criminals get punished for crimes?  
A  It depends on what crime they committed.  
B  They are arrested by the police.
- 4. Did the judge put Denise on probation?  
A  No, Denise wasn't there when the crime happened.

B\_ Yes, but next time she gets in trouble, she is going to jail  
**50. Choose the word or phrase that is closest in meaning to the underlined part.**

1. Kevin was charged with assault and battery.  
A walking on private land  
B attacking and hurting someone  
C killing someone
2. Many criminals offend again when they leave jail.  
A commit a crime  
B get put on probation  
C are punished heavily
3. When someone commits a crime, they need to be punished.  
A attacks and hurts another person  
B causes someone to suffer for their bad behavior  
C does something which is against the law
4. The man was accused of committing murder.  
A killing someone  
B escaping from jail  
C going on someone's land without permission
5. Mr. Robbins was sent to jail but says he did not commit the crime.  
A a room where trials take place  
B a building where criminals are kept  
C a place where punishments are given out



### Listening 6.

**51. Audio 7. Listen to two lawyers discussing a criminal's sentence. Mark the following statements as true (T) or false (F).**

1. The woman believes that her client deserves probation.
2. This is the first time the woman's client committed a crime.
3. The man will seek a jail sentence for the woman's client.

### Speaking 6.

**52. With a partner, act out the roles below. Then, switch roles.**

**USE LANGUAGE SUCH AS:**

*Let's talk about the sentencing.*

*My client doesn't deserve to go to jail.*

*I just don't want him to...*

**Student A:** You are prosecutor. A defense lawyer is talking to you about a client. Talk to Student B about:

- sentencing
- other convictions
- why you are seeking that punishment

**Student B:** You are a defense attorney. Talk to Student A about your client's sentencing.

**53. Use the conversation above to complete a lawyer's recommendation for sentencing.**

**Recommendation for Sentencing**

I recommend that the defendant \_\_\_\_\_

I feel this way because he \_\_\_\_\_

I do not want the defendant to receive a sentence of \_\_\_\_\_

That sentence would \_\_\_\_\_

**Video 6.**

**54. Watch the video and prepare a talk about the criminal law.**

**Civil law**

**Reading 7.**

**55. Before you read the passage, talk about these questions.**

1. What are some reasons why someone takes legal action against someone else?
2. What are some reasons why courts award money to plaintiffs who win their cases?

**56. Read this job advertisement for an attorney. Choose the correct answer.**

1. What is the attorney's primary responsibility?  
A divorce cases    C torts cases  
B probate cases    D medical cases
2. Which of the following is NOT part of the job?  
A claiming damages  
B suing defendants  
C proving negligence  
D compensating witnesses
3. What can be inferred about most of the clients at Benson and Cutler?  
A They were found to be negligent.  
B They need a last will to be written.  
C They are being sued for medical bills.  
D They have been injured in an accident.

## Civil Law Attorney

*\$65,000 per year*

This medium-sized city law firm is seeking an attorney with civil law experience. Primary responsibility is handing **tort law** cases. Most cases involve clients suing for monetary damages because of personal injuries. The attorney assists clients in filing for **injunctions** when needed. They will also be required to prove liability and establish the **negligence** of the defendants. Our clients generally require **compensation** for medical costs, loss of earnings and **punitive damages**.

The attorney may also be involved in other cases, including **probate** and **divorce** cases. Please send your resume to the address below.

**Benson and Cutler Law Firm**

### 57. Match the words (1-5) with the definitions (A-E).

1     \_ civil law

2     \_ monetary damages

3     \_ negligence

4     \_ tort law

5     \_ probate

A     the branch of law dealing with disputes between individuals or organizations

B     a sum paid to compensate for loss or injury

C     law dealing with compensation for injury

D     the legal act of dealing with dead people's property

E     the legal concept of not using a level of care that prevents injuries

### 58. Write a word that is similar in meaning to the underlined part.

1.     The travel company forgot to book Gayle's hotel, so she got \$500 to make UP for the wrongdoing.

c \_ \_ \_ \_ s \_ \_ \_ \_

2.     Harry decided to make a legal claim for money against his workplace because the machinery was faulty.

\_ \_ e

3.     The company had to pay \$3,000 in compensation and \$1QrQ0Q in fees meant as a punishment.

\_ u \_ \_ \_ \_ \_ d \_ \_ \_ \_ \_

4.     The chemical company was given an official order to stop against dumping chemicals.

i \_ \_ \_ \_ \_ n

5.     The attorney was able to prove that the company had responsibility for an incident.

\_ i \_ \_ \_ \_ \_ y



### Listening 7.

**59. Audio 8. Listen to an interviewer talking to a job candidate. Mark the following statements as true (T) or false (F).**

1.     \_ The candidate filed injunctions in his previous position.
2.     \_ Nearly three quarters of the candidate's clients have been awarded damages.
3.     \_ The candidate has experience in probate cases.

### Speaking 7.

**60. With a partner, act out the roles. Then, switch roles.**

**USE LANGUAGE SUCH AS:**

*Do you have any experience with...*

*At my last job I ...*

*Were you often able to ...*

**Student A:** You are an interviewer interviewing a candidate for a job. Ask Student B about:

- his / her experience in tort law
- his / her experience in probate

**Student B:** You are a candidate at a job interview. Answer Student A's questions.

**61. Use the conversation above to complete the interviewer's notes.**

Job Title: \_\_\_\_\_

Candidate's name: \_\_\_\_\_

Experience in tort law: \_\_\_\_\_

Experience in probate: \_\_\_\_\_

### Video 7.

**62. Watch the video and prepare a talk about the differences between civil and criminal law.**

## Administrative law

### Reading 8.

#### 63. Before you read the passage, talk about these questions.

- 1) Why do government agencies make rules for businesses?
- 2) How can an attorney help business owners follow laws?

#### 64. Read the sentence and choose the correct word.

1. Tony needs to get a **(regulation/license)** in order to open his own business.
2. Having a large **(bureaucracy/disciplinary action)** makes completing even simple tasks take a long time.
3. Since Graham is being charged with negligence, it may **(negotiate/jeopardize)** his business.
4. City **(regulations/accreditations)** state that all dogs must be on a leash in the park.
5. The business owners were able to **(resolve/negotiate)** a contract that was fair for both of them.

#### 65. Choose the word that is closest in meaning to the underlined part.

1. Tom wants to find a solution to the problem as soon as possible.  
A negotiate  
B jeopardize  
C resolve
2. The agency forced the business owner into agreeing to follow the rules by threatening a lawsuit.  
A license  
B disciplinary action  
C compliance
3. Before Karen is able to open the children's nursery, she has to get official certification to act.  
A bureaucracy  
B accreditation  
C compliance
4. John has a new job with a federal department.  
A government agency  
B disciplinary action  
C compliance issue
5. The agency took steps to correct and punish wrongdoing against the business.  
A bureaucracy  
B license  
C disciplinary action



## Listening 8.

**66. Audio 9. Listen and read this brochure from a lawyer in administrative law and mark the following statements as true (T) or false (F).**

1. \_\_\_ The attorney works for a government agency.
2. \_\_\_ The attorney represents businesses that did not comply with regulations.
3. \_\_\_ The attorney is unable to negotiate with government agencies.

### Specialist in Administrative Law

#### Pamela Webster

Are you a business owner confused by all the government **regulations** out there? **Licenses, accreditations, and compliance** with the laws», it's enough to make any owner crazy. Luckily, I'm here to help you get past all the **bureaucracy**.

I help business owners **resolve** their **administrative law** issues.

I have an excellent record for defending businesses facing **disciplinary actions**. In addition, I know how to negotiate with **government agencies** to achieve positive results.

Don't **jeopardize** your business by missing out on the assistance you need! I have the skills to fix many administrative problems that business owners deal with. To learn more, please contact.

**67. Audio 10. Listen to a conversation between an administrative law attorney and a client. Choose the correct answers.**

1. Why is the client seeking legal assistance?  
A He wants to open a restaurant.  
B He didn't follow an agency's rules.  
C He needs to get an accreditation.  
D He doesn't know the health regulations.
2. What does the attorney say she is going to do?  
A review the health inspector's report  
B negotiate with the Health Department  
C assist the client in getting a license  
D ensure all regulations are being followed

## Speaking 8.

**68. With a partner, act out the roles. Then, switch roles.**

**USE LANGUAGE SUCH AS:**

*Please sit down and tell me what I can do for you.*

*The Health Department wants to...*

*Why do they want to do that?*

**Student A:** You are an administrative attorney. A client comes to see you. Talk to Student B about:

- reason for the visit
- regulations
- licenses

**Student B:** You are the owner of a restaurant who needs legal assistance. Answer Student A's questions.

**69. Use the conversation above to fill out the attorney's notes.**

Client's name: \_\_\_\_\_

Legal Problem: \_\_\_\_\_

Details: \_\_\_\_\_

**Video 8.**

**70. Watch the video and prepare a talk about the administrative law.**

**Initial client interview**

**Reading 9.**

**71. Before you read the passage, talk about these questions.**

- 1) What are some questions an attorney might ask a new client'?
- 2) What are some reasons why an attorney might not take a case'?

**72. Write a word that is similar in meaning to the underlined part.**

1. While things that people think are true mean a lot to people, lawyers are mainly concerned with facts.

\_\_\_ I \_\_\_ s

2. The client made a statement claiming that he had been injured in the accident.

a \_\_\_ r \_\_\_ o \_\_\_

3. Does the client have paper evidence to support his claim?

d \_\_\_ m \_\_\_ a \_\_\_

4. What did the lawyer suggest that her client do?

\_\_\_ c \_\_\_ m \_\_\_ e \_\_\_

5. The man was angry because he felt that his loss of employment was unfair.

t \_\_\_ n \_\_\_ t \_\_\_

6. The jury must decide if the defendant's actions were illegal or incorrect.

w \_ \_ \_ f \_ \_

7. Lawyers use interviews to get valuable information from potential clients.

\_ b \_ \_ \_ n

**73. Read the sentence and choose the correct word.**

1. The lawyer doesn't think Miss Martin has a (**wrongful / valid**) case
2. The attorney was able to (**recommend / elicit**) a lot of useful information from the client.
3. The information presented in a trial must be (**factual/wrongful**) or the judge will not allow it.



**Listening 9.**

**74. Audio 11. Listen and read the notes from an initial client interview.**

**Mark the following statements as true (T) or false (F).**

1. \_ Mr. Jameson wants to sue his former employer.
2. \_ Mr. James has evidence that he was fired illegally.
3. \_ The attorney agreed to take Mr. Jameson's case.

*Date:* June 18

*Client Name:* Thomas Jameson Interviewing Attorney: Sarah Green

Mr. Jameson is a former employee of SystemTech Inc. He hopes to sue the company for **wrongful termination**.

It is Mr. Jameson's **assertion** that SystemTech Inc. released him because he was due for a raise. He believes the company decided it would be cheaper to fire him and hire a less experienced employee,

It is difficult to tell if Mr. Jameson has a valid case. Eliciting factual information proved difficult. Mr. Jameson frequently cites **beliefs** about why he was fired. Yet he has not **obtained** any **documentation** to support these claims. I **recommend** that we decline to represent Mr. Jameson.

**75. Audio 12. Listen to a conversation between an attorney and a potential client. Choose the correct answers.**

1. Why does the attorney believe the woman has a valid complaint?  
A She was never fired from a job before.  
B She has documentation to support her claim,  
C She won a previous wrongful termination suit.  
D She worked for the company for several years.
2. What will the woman likely do next?  
A ask to get her job back  
B contact her former employer  
C bring in her positive reviews

D sign a contract with the attorney

### Speaking 9.

**76. With a partner, act out the roles below. Then, switch roles.**

**USE LANGUAGE SUCH AS:**

*Please, tell me what's going on.*

*So you're interested in a ...*

*Do you have...*

**Student A:** You are an attorney. Conduct an initial client interview.

Ask Student B about:

- reason for visit
- type of suit
- documentation

**Student B:** You want to file a lawsuit. Answer Student A `s questions.

**77. Use the conversation above to fill out the attorney s notes.**

Client`s name: \_\_\_\_\_

Reason for visit: \_\_\_\_\_

Has documentation? Y/N

If yes, what type? \_\_\_\_\_

Recommend accepting case? Y/N \_\_\_\_\_

### Video 9.

**78. Watch the video and tell about the client interview.**

### Interviewing witnesses

### Reading 10.

**79. Before you read the passage, talk about these questions.**

1) How can witnesses help or harm a case?

2) What types of witnesses are there?

**1. Read this article from a magazine and mark the following statements as true (T) or false (F).**

1.  Friendly and hostile witnesses can have similar negative impacts on cases.
2.  Anyone with relevant qualifications can be a
3.  useful expert witness.
4.  The author recommends that lawyers confirm eyewitnesses' view of events.

**Do You Trust Your Witness?**

*by Robert Hammond*

A trustworthy witness is a great asset in any case. But not all witnesses are reliable. Failing to confirm a witness's **credibility** can min the strongest case.

Take the **friendly witness**. These witnesses sometimes try too hard to support your case. When a **biased** friendly witness lies, your entire case appears weak. Similarly, false statements from a **prejudiced** or **hostile witness** have the same result.

Reviewing the **qualifications** of **expert witnesses** is equally important. Only take testimony from people at the head of their fields. And don't overlook **eyewitnesses**. Check that eyewitnesses not only saw events **firsthand**, but also that they saw them clearly.

**2. Match the words (1-5) with the definitions (A-E).**

- |   |  |   |   |
|---|--|---|---|
| 1 | <input type="checkbox"/> expert witness  | 4 | <input type="checkbox"/> friendly witness |
| 2 | <input type="checkbox"/> eyewitness      | 5 | <input type="checkbox"/> biased           |
| 3 | <input type="checkbox"/> hostile witness |   |   |

- A a person who saw what happened  
B a professional who gives an opinion in a case  
C having a preference for someone or something  
D a person who doesn't support a client's case  
E a person who favors the client's case

**3. Fill in the blanks with the correct words from the word bank.**

*statement    qualifications    credibility  
firsthand    prejudiced*

1. Martin is not a reliable witness because he didn't see what happened \_\_\_\_\_.
2. Gordon is a suitable expert witness because he is well respected and has university \_\_\_\_\_.
3. Antonia has strong opinions, so the jury may find her too \_\_\_\_\_.
4. Lawrence doesn't know the client very well, so his comments don't have much \_\_\_\_\_.

5. The paralegal typed up a \_\_\_\_\_, for the witness to sign.

### Listening 10.

4. **Audio 13. Listen to a conversation between an attorney and a paralegal. Choose the correct answers.**

1. Why does the lawyer bring in the detective? A She was an eyewitness.  
B She could be an expert witness.

C She investigated his client's crime.

D She recorded eyewitness statements,

2. What is the detective's opinion of eyewitness statements?

A They can help a case.

B They are often confusing.

C They aren't always reliable.

D They are the best type of evidence.

### Speaking 10.

5. **With a partner, act out the roles below. Then, switch roles.**

**USE LANGUAGE SUCH AS:**

*Thanks for coming in.*

*How long have you been a ...*

*Well, eyewitness accounts aren't...*

**Student A:** You are an attorney. You need a detective to help your case. Talk to Student B about:

- being a witness
- qualifications
- opinion of eyewitness statements

**Student B:** You are a detective. Answer Student A's questions.

6. **Use the conversation above to fill out the notes.**

Witness's name: \_\_\_\_\_

Type of witness: \_\_\_\_\_

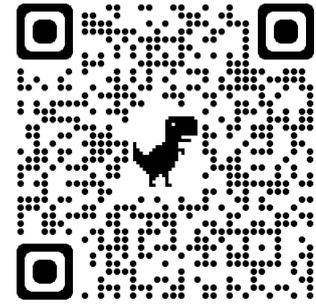
Opinion of Eyewitness Accounts: \_\_\_\_\_

### Video 10.

7. **Watch the video and tell about interviewing suspects and witnesses.**

# UNIT 6 CRIME AND PUNISHMENT

## PART I. THE STUDY OF CRIME



### Reading 1.

#### 6. Match the following headings with the sections of the text below:

- A) History
- B) Application
- C) Techniques
- D) Subject
- E) Objectives

#### **Criminology**

(1) Criminology is a social science dealing with the nature, extent, and causes of crime; the characteristics of criminals and their organizations; the problems of apprehending and convicting offenders; the operation of prisons and other correctional institutions; the rehabilitation of convicts both in and out of prison; and the prevention of crime.

(2) The science of criminology has two basic objectives: to determine the causes, whether personal or social, of criminal behavior and to evolve valid principles for the social control of crime. In pursuing these objectives, criminology draws on the findings of biology, psychology, psychiatry, sociology, anthropology, and related fields.

(3) Criminology originated in the late 18th century when various movements began to question the humanity and efficiency of using punishment for retribution rather than deterrence and reform. There arose as a consequence what is called the classical school of criminology, which aimed to mitigate legal penalties and humanize penal institutions. During the 19th century the positivist school attempted to extend scientific neutrality to the understanding of crime. Because they held that criminals were shaped by their environment, positivists emphasized case studies and rehabilitative measures. A later school, the 'social defence' movement, stressed the importance of balance between the rights of criminals and the rights of society.

(4) Criminologists commonly use several research techniques. The collection and interpretation of statistics is generally the initial step in research. The case study, often used by psychologists, concentrates on an individual or a group. The typological method involves classifying offences, criminals, or criminal areas according to various criteria. Sociological research, which may involve many different techniques, is used in criminology to study groups, subcultures, and gangs as well as rates and kinds of crime within geographic areas.

(5) Criminology has many practical applications. Its findings can give lawyers, judges, and prison officials a better understanding of criminals, which

may lead to more effective treatment. Criminological research can be used by legislators and in the reform of laws and of penal institutions.

**7. Give the Ukrainian equivalents of the following phrases:**

- apprehending and convicting offenders
- correctional institutions
- prevention of crime
- deterrence and reform
- mitigate legal penalties
- rehabilitative measures
- effective treatment
- penal institutions



**3. Match the legal terms on the left with their definitions on the right. Use them in sentences of your own:**

- |                   |  |
|-------------------|--|
| 1) deterrence     | a) guidance and instruction given to offenders, their beneficial treatment aimed at restitution of positive skills and attitudes |
| 2) case study     | b) measures taken to prevent hostile action  |
| 3) legislator     | c) a person serving a prison sentence  |
| 4) retribution    | d) a detailed analysis of a criminal person or group   |
| 5) convict        | e) a member of a body which gives or makes laws  |
| 6) rehabilitation | f) something given or demanded in repayment, especially punishment   |

**4. Answer the following questions:**

1. What steps can society take to cope with crime?
2. What trends can be observed in the development of criminology?
3. What methods and techniques are applied in criminology?
4. In what other spheres of life can criminology find useful application?

**5. What are the main reasons why people commit crime? Think of some recent famous crimes in your country. Why did the offenders commit them, do you think?**

**6. Read the text about the causes of crime:**

## The causes of crime

All adults at some time or another commit a crime, sometimes by accident, but why do some people intentionally commit crimes? Here are three theories that try to explain the causes of criminal behavior.

### *Genetic causes*

The idea that some people commit crimes because of biological factors has a long tradition. The theory suggests that criminals are born, not made. In the 19<sup>th</sup> century some people even thought that brain sizes and skull shapes could explain criminal behavior. Although experts today no longer believe this, they do argue that human behavior be linked to an individual's genes. Studies of adopted children who show criminal behavior suggests that their behavior is more similar to their biological parents' behavior than their adoptive parents', showing a genetic link.

### *Environment*

This theory states that a person's surroundings influence their behavior. Just as children learn good behavior from their parents and siblings, so children can learn bad behavior from their families and other close relationships. Researchers in this area argue that early anti-social behavior in childhood often leads to a future of criminal behavior. It is a vicious circle, as one expert states: 'Problem children tend to grow up into problem adults, and problem adults tend to produce more problem children.'

### *Choice*

The central idea of this theory is that crime is a career decision, an alternative way of making a living. The theory argues that most criminals are rational people, who know what they want and the different ways of getting it, i.e. work of crime. They are able to balance the risks of committing a crime, such as going to prison, against its benefits, i.e. what they gain if they aren't caught. The conclusion is: if there are more benefits than risks, do it, but if there are more risks than benefits, don't do it.

Research is continuing into people's motivation for committing crimes as understanding this may help us apply the correct punishment for crime. It is important to understand the causes of crime. With more knowledge, it will be easier to prevent crime and to help criminals to lead a more useful life.

## **7. Look at the summary statements below and match them with one of the causes in the text.**

1. Anti-social adults often produce anti-social children.
2. Criminals think carefully before they decide on a life of crime.
3. Young people who behave badly tend to become criminals.
4. People used to think that someone's physical features were a cause of crime.
5. Some experts now believe that people commit crimes because of their genes.
6. Criminals consider what they can lose and gain by committing a crime.

**Which reason in the text do you think is the most common cause of crime?**

**8. Find words in the previous text that can be used with the nouns below.**

- 1 \_\_\_\_\_ behavior (×5)
- 2 \_\_\_\_\_ tradition
- 3 \_\_\_\_\_ link
- 4 \_\_\_\_\_ relationships
- 5 \_\_\_\_\_ decision
- 6 \_\_\_\_\_ circle

**9. Complete the sentences with phrases from Exercise 10.**

1. He spent many years in prison because of his \_\_\_\_\_ .
2. Her parents were away from the house so often that she was unable to form \_\_\_\_\_ with either of them.
3. The United States has a \_\_\_\_\_ of its citizens to own guns.
4. There are some teenagers in our town whose \_\_\_\_\_ is beginning to annoy us – they write on walls and shout at people all the time.
5. Some people make a \_\_\_\_\_ at an early age, but others need time to decide what to do in their lives.

**10. Read the text and write down Ukrainian equivalents for the words and expressions in bold type:**

#### **Cesare Lombroso**

Cesare Lombroso, (born Nov. 6, 1835, Verona, Austrian Empire [now in Italy] – died Oct. 19, 1909, Turin, Italy), Italian criminologist whose views, though now largely discredited, brought about **a shift in criminology** from a legalistic preoccupation with crime to **a scientific study of criminals**.

Lombroso studied at the universities of Padua, Vienna, and Paris, and from 1862 to 1876 he was professor of psychiatry at the University of Pavia. In 1871 he became director of **the mental asylum** at Pesaro, and in 1876 he became professor of **forensic medicine** and hygiene at the University of Turin, where he subsequently held appointments as professor of psychiatry (1896) and then of criminal anthropology (1906).

Lombroso tried to discern a possible relationship between criminal psychopathology and physical or constitutional defects. His chief contention was the existence of a **hereditary**, or atavistic, class of criminals who are in effect biological throwbacks to a more primitive stage of human evolution. Lombroso contended that such criminals exhibit a higher percentage of **physical and mental anomalies** than do noncriminals. Among these anomalies, which he termed stigmata, were various unusual skull sizes and asymmetries of the facial bones. Lombroso's theories were **widely influential** in Europe for a time, but his emphasis on hereditary causes of crime was later strongly **rejected in favour of** environmental factors. Lombroso tried to reform the Italian penal system, and he encouraged more humane and constructive **treatment** of convicts through the use

of work programs intended to make them more **productive members of society**. Among his books are *L'uomo delinquente* (1876; "The Criminal Man") and *Le Crime, causes et remèdes* (1899; *Crime, Its Causes and Remedies*).

**11. Complete the following text with the words from the box. Translate the text.**

criminal types, capital punishment, inmates, case studies, upbringing, investigations, suspended, multiple, unthinkable, rehabilitative

Cesare Lombroso, professor of psychiatry and anthropology at the University of Turin, sought through firsthand observation and measurement of prison \_\_\_\_\_ to determine the characteristics of \_\_\_\_\_. Some of his \_\_\_\_\_ allowed him to establish the existence of 'hereditary criminals'. Lombroso held that such criminals exhibit a higher percentage of physical and mental anomalies that do non-criminals. Among these anomalies, were various unusual skull sizes and asymmetries of the facial bones.

Other scholars helped to introduce the ideas that crime has \_\_\_\_\_ causes and that most criminals are not born criminal but are shaped by their \_\_\_\_\_ and associations. Thus, the emphasis in criminology had turned to experimental \_\_\_\_\_ and to preventive and \_\_\_\_\_ measures. Without this contribution into the scientific study of criminals the present-day alternatives to \_\_\_\_\_ and old-fashioned imprisonment such as probation, \_\_\_\_\_ sentence, fines, and parole would have been \_\_\_\_\_.

**12. Answer the following questions:**

1. What is Cesare Lombroso famous for?
2. How did he try to relate criminal behavior to a person's appearance?
3. What was Lombroso's contribution to the development of penal system?

**13. Translate the following text into English:**

**Класична школа кримінології**

Поява класичної школи кримінології припадає на середину XVIII — початок XIX століття. Її представниками були Чезаре Беккарія, Джеремі Бентам, Франц фон Ліст, Ансельм Фейєрбах. Класична школа відкидала спроби пояснити злочинність з використанням релігійних категорій, однак якоюсь мірою спиралася на постулат про повну свободу волі людини, доповнивши його концепцією раціонального вибору.

Основні програмні положення класичної кримінології викладені в роботі Чезаре Беккарія «Про злочини і покарання»:

- Всі люди наділені свободою волі, злочин є актом вільної волі людини, яка діє свідомо і вільна у своїх вчинках.

- Людина вибирає лінію поведінки, якої буде дотримуватися, зважуючи свої переваги і недоліки, прагнучи до задоволення і уникаючи страждань.

- Злочин і злочинність є наслідком нездатності мас засвоїти тверді правила поведінки.

- Погана поведінка людей є продуктом недосконалості закону.

Беккарія писав, що ще жодна людина «не пожертвувала безкорисно навіть частиною власної волі, лише необхідність примушувала її це робити».

Представники класичної школи вважали, що «всі люди рівною мірою здатні протистояти злочинному наміру, всі вони заслуговують на рівні покарання за рівні злочини і що на однакове покарання вони реагують повністю однаково».



### Listening 1.

**14. Audio 1. Listen to three extracts from interviews with criminals. Which of the reasons you thought if in Exercise 5 are mentioned?**

**15. Listen to the extracts again. Complete the table with information from the interviews.**

	Carlos	Frank	Gina
1 Crime?			
2 Age of criminal?			
3 Reason for crime?			
4 Plans for future?			

## PART II. TYPES OF CRIME

### Reading 2.

**16. Read the text about different types of crime. Which types are the most serious ones?**

#### Types of Cyber Crimes

Cyber crime can be defined as criminal activities that are performed via a computer and the internet. What makes cyber crime difficult to litigate is that internet technology allows people to commit crimes from anywhere in the world. The hacker who drained your bank account could be your next-door neighbor or someone on the opposite side of the world.

Though they happen in the digital world, cyber crimes have real impact on people and the economy. A 2019 report by the Herjavec Group found that cyber crime could cost the global economy upwards of \$6 trillion annually by 2021 – one-third of the U.S. gross domestic product. The report calls cyber crime “the

greatest threat to every company in the world,” pointing to the data breaches suffered by Marriott, Yahoo, and Equifax, which exposed over a billion people’s data to scammers and hackers. Direct denial-of-service (DDoS) attacks, which flood a network and render it unusable, also cost economies and business billions of dollars. Types of cyber crime include:

- **Identity theft** refers to stealing important information related to a person, such as one’s credit card information, Social Security card, or driver’s license.
- **Computer hacking** refers to hacking into computer systems to steal data, manipulate systems, or destroy hardware or software.
- **Fraud** refers to any form of financial criminal activity performed through deceit.
- **Online predation** refers to deceiving children and others into unsolicited and illegal sexual encounters.

The Federal Bureau of Investigation (FBI) is the main federal agency for dealing with online threats such as hacking, terrorism, identity theft, harassment, and similar crimes perpetrated on a large scale or affecting large groups of people. The FBI has two main priorities when it comes to cyber crime:

- **Computer and network intrusions:** The FBI’s 56 field offices each have cyber crime agents, as well as analysts, who help them track down cyber criminals. This type of cyber crime can include blackmail or extortion, as well as terrorism, identity fraud, and similar crimes. The FBI uses proprietary software to stay ahead of criminals and coordinate with agencies in other countries to stop or prevent international crimes.
- **Ransomware:** Ransomware is a computer virus or program that hackers use to infiltrate networks and lock down information, demanding a ransom to unlock the files. Ransomware attacks have taken place in critical industries such as education, government, healthcare, and finance, curbing access to data that powers crucial infrastructure, resulting in billions of dollars in losses. The FBI helps businesses prepare and plan for such attacks, as well as develop contingency plans to avoid them.

### **Property Crimes**

Property crimes affect an individual, business, or government’s property, including places of residence, places of work, or personal belongings. By definition, property crimes do not include violence or a threat of violence, though violent crimes can occur during the execution of property crimes.

More than 7.19 million property crimes were committed in the United States in 2018, according to the FBI. That represented a 6.3% drop from 2017 and a 22.9% drop in total property crimes compared with 2009. In total, the rate of property crime witnessed a 27.7% drop from 2009 to 2018, when there were 2,200 property crimes per 100,000 people. Nevertheless, these crimes still had a profound effect, with an estimated \$16.4 billion in losses.

The FBI keeps statistics on the following four types of property crime:

**Larceny-theft:** The most common type of property crime, constituting 72.5% of all property crimes in 2018, larceny-theft is the unlawful removal of property, colloquially known as stealing. This includes shoplifting, pickpocketing, bicycle theft, and attempts at such offenses, which all come without violence or the threat of violence. There were 5.2 million larceny-thefts in 2018, with an average property value of \$1,153.

**Burglary:** The FBI defines burglary as the “unlawful entry of a structure to commit a felony or theft.” Burglary does not require an element of force; someone who opens an unlocked door into a house and commits theft has still committed a burglary. The FBI reports that there were 1.2 million burglaries in 2018, causing an estimated \$3.4 billion in property losses, or \$2,799 per burglary.

**Motor vehicle theft:** This entails the theft or attempted theft of a motor vehicle, though it’s limited to those that travel on roads, including cars, trucks, motorcycles, sport utility vehicles, ATVs, and snowmobiles. It does not include farm equipment, airplanes, construction equipment, or any type of watercraft.

**Arson:** The FBI defines arson as “the burning or attempt to burn any house, public building, dwelling, motor vehicle or aircraft, personal property, etc.” Criminals can commit arson in the course of committing fraud, but a crime does not have to be fraud to be arson. The FBI, which includes only confirmed cases of arson in its data, reported that 36,127 arsons were committed in 2018. More than 43% of arson cases targeted structures, 23.8% targeted mobile property, and other types of property (crops, fences, etc.) accounted for 33.1%.

## **Violent Crimes**

Over the last quarter-century, violent crime rates have declined across the U.S. According to the most recent FBI data, violent crimes fell 9% from 2009 to 2018, with 1.2 million offenses occurring in 2018. That’s about 368.9 violent crimes for every 100,000 people — 14% lower than the 2009 statistics.

The FBI tracks four types of violent crimes:

- **Murder:** The taking of another human life can be either murder or manslaughter, though the latter has a connotation of negligence. Murder requires intent. There is also felony murder, which is a death that results from the actions of another crime, such as a burglary. The FBI reported an estimated 16,214 murders occurred in the United States in 2018, a 14.5% decrease from 2014 but a 5.3% increase from 2009. Nearly half of all murders in the U.S. (46.2%) took place in the South, 22% in the Midwest, 19.9% in the West, and 11.9% in the Northeast.

- **Rape:** While overall violent crime is down, the rape rate has risen 18% in the last six years. However, this may partially result from the fact that the FBI redefined rape in 2013, removing the word “forcible” from the definition and expanding it to include a much wider range of activities, all of which include nonconsensual acts performed by one person on another. The FBI counted an estimated 139,380 instances of rape reported to law enforcement in 2018, but it is well documented that many victims do not report their crimes for fear of retribution or not being believed.

- **Robbery:** Robbery is the combination of violence and theft, which can involve intimidation or fear instead of actual violence. The FBI reported that an estimated 282,061 robberies took place in the United States in 2018. Robberies can happen anywhere: on a street or highway (36.9%), at a commercial location (16%), someone’s residence (15.9%), a convenience store (6.9%), gas or service stations (3.1%), banks (1.6%), or other locations (19.6%).

- **Aggravated Assault:** Aggravated assault requires an intent to cause severe bodily injury, often accompanied by the use of a weapon. Even the display of a weapon such as a knife or gun can be aggravated assault because of the threat of serious harm. Aggravated assault during the case of a larceny-theft qualifies as robbery. The FBI reported that an estimated 807,410 aggravated assaults occurred in the U.S. in 2018, only a 0.6% decrease from 2009.

**17. Have you ever been the victim of a crime? Have you ever witnessed a crime? Have you ever committed a crime? Look at the following table and translate the types of crime and punishment.**

**Types of crime**

<b>Crime</b>	<b>Definition</b>
abduction/ kidnapping	taking a person to a secret location using force
armed robbery	using a weapon to steal
arson	setting fire to a place on purpose
assault	hurting another person physically
attempted murder	trying to kill someone (but failing)
burglary, breaking and entering	going into another person's home or business with force
child abuse	injuring a child on purpose
domestic violence	physical assault that occur within the home
drug trafficking	trading illegal drugs
drunk driving	driving after having too much alcohol
fraud	lying or cheating for business or monetary purposes

hijacking	holding people in transit hostage (usually on a plane)
murder/homicide	taking someone's life through violence
shoplifting	stealing merchandise from a store
smuggling	bringing products into a country secretly and illegally
speeding	driving beyond the speed limit
terrorism	acts of crime against a group (political/religious) or another country
theft	stealing
torture	extremely cruel and unfair treatment (often towards prisoners)
vandalism	damaging public or private property (for example with spray paint)
white collar crime	breaking the law in business

### Types of punishment

<b>Punishment (example offence)</b>	<b>Definition</b>
traffic ticket (speeding, parking)	leaves marks on driving record/involves paying a fine
license suspension (drunk driving)	driving rights are removed for a certain period of time
fine (hunting out of season)	pay money as punishment for minor/petty crime
house arrest (a young offender who is waiting to go to court)	remain in one's home for a certain period of time

community service (a youth that steals a car for the first time)	do volunteer work such as teaching children about crime or cleaning up garbage
jail time (man who assaults his wife)	spend a certain amount of months or years locked away from society
life in prison (a woman who commits homicide)	spend the rest of one's life in prison with no chance of going back into society

**18. Put the words below into the correct category.**

*The accused/defendant      arsonist    (release on) bail    blackmailer  
 burglar    defence  
 Capital punishment    community service    corporal punishment    find  
 innocent/guilty  
 Fine    forger    hijacker    inquiry    judge    jury    kidnapper    lawyer  
 mugger  
 Murderer    pickpocket    prison sentence    (put on) probation  
 prosecution    shoplifter  
 Smuggler    suspended sentence    thief    trial    verdict    witness  
 testimony    evidence*

<b>Criminals</b>	<b>Law courts</b>	<b>Sentences &amp; Punishments</b>

**19. Correct the mistakes in these definitions.**

1. The judge pleads guilty or not guilty at the beginning of a trial.
2. The lawyer for the defence tries to prove the defendant guilty.
3. The prosecution lawyer gives evidence about what they have seen
4. If the defendant is found guilty, the jury passes sentence.
5. If you pay the court a sum of money, you can be given a suspended sentence until your trial.
6. If it is your first offence, you will probably be sentenced to capital punishment.

**20. Complete the definitions with the words being defined.**

- a) ..... takes control of a plane or boat by force.
- b) ..... sees what happens during a crime or accident.
- c) ..... brings goods into the country illegally.
- d) ..... gets money from others by threatening to tell secrets.
- e) ..... steals from houses.

**21. Choose the most appropriate word underlined.**

- 1. The police arrested Jack and took him into custody / detention / prison.
- 2. In most countries, the capital/death/execution penalty has been abolished.
- 3. A man is said to be helping the police with their arrests/detection/inquiries.
- 4. The judge in the court was wearing a hairpiece/head-dress/wig.
- 5. Two football fans were later charged with aggression/assault/attack.
- 6. Less serious cases are dealt with in the criminal/juvenile/magistrate's court.
- 7. I was given a light sentence because it was my first case/charge/offence.
- 8. The case was dismissed for lack of evidence/a jury/witnesses.
- 9. 'Members of the jury, what is your answer/summary/verdict?'

**22. Write the names of criminals and the verbs.**

forgery	forger	
shoplifting		
arson		set fire to (a house ...)
joyriding		go joyriding
robbery		
vandalism	vandal	
burglary		burgle
murder		
mugging	mugger	
kidnapping		
drug dealing		deal drugs
blackmail		

**23. Complete the sentences using the verbs in the box in the correct form.**

*forged, stole, burgled, kidnaped, set, mugged, went*

1. Two journalists have been \_\_\_\_\_ by political extremists.
2. Someone \_\_\_\_\_ my signature.
3. Sam often \_\_\_\_\_ joyriding at the weekend. His parents don't know about it.
4. Mr. Smith's house was \_\_\_\_\_ while he was on holiday.
5. If he \_\_\_\_\_ fire to any more buildings, he will go to prison for sure.
6. Tom was \_\_\_\_\_ just in front his house.

**24. What crime is being committed in each of these cases?**

1. A thief goes into your house through a window.
  - a) fraud
  - b) burglary
  - c) vandalism
2. A child steals a chocolate bar from a store.
  - a) assault
  - b) child abuse
  - c) shoplifting
3. A car is driven faster than the limit.
  - a) speeding
  - b) drunk-driving
  - c) trafficking
4. An American dealer sells cocaine to a Canadian buyer.
  - a) theft
  - b) smuggling
  - c) drug trafficking
5. A guard refuses to give a prisoner food or water unless the prisoner gives up information.
  - a) abduction
  - b) torture
  - c) hijacking
6. A police officer shoots and kills an unarmed teenager who refused to obey him.
  - a) murder
  - b) terrorism
  - c) assault
7. A person throws a lit match into a building and it catches fire.
  - a) arson
  - b) burglary
  - c) domestic violence
8. A terrorist group takes over an airplane and changes its course.
  - a) vandalism

- b) trafficking
  - c) hijacking
9. A man regularly assaults his wife and children.

- a) homicide
- b) domestic violence
- c) abduction

10. A dishonest lawyer charges a client for more hours of work than he really did.

- a) burglary
- b) armed robbery
- c) fraud

**25. People are writing about crimes. What are the crimes?**

1) My friend Jack was walking home a few nights ago, and a couple of men attacked him in the street and took his wallet and his mobile. They pushed him to the ground and hurt his arm. The police arrested two men the following day.

2) Somebody broke into the village hall. They climbed through a window. They didn't steal anything but smashed some chairs and tables.

3) A woman stole jewelry worth 100 pounds from a shop in the town center. She asked to see some necklaces and earrings, and then put them into her bag while the shop assistant wasn't looking and ran out of the shop.

4) North Merton Inn was destroyed in a fire last night. Fire engines came from nearby Chinstonebridge, but were unable to put out the flames. An empty petrol can was found nearby. Police suspect that somebody deliberately set fire to the Inn.

5) A gang of criminals robbed a bank in the city center yesterday. During the day they hid in a shop next door to the bank, and then got into the bank during the night by making a hole in the wall.

**26. Match the items on the right to the items on the left.**

1. None of the \_\_\_\_\_ wants to testify in the murder trial because they are afraid the suspect will kill them when he gets out of prison.

2. I sure hope they \_\_\_\_\_ the guy that has been breaking into cars all over the neighbourhood soon.

3. Voltaire once stated that it is better to risk saving a guilty person than to condemn an \_\_\_\_\_ one.

4. Police have brought a \_\_\_\_\_ of assault against the young man accused of beating up a classmate.

- verdict*
- testified*
- prosecution*
- innocent*
- sentence*
- judge*
- arrest*
- witnesses*
- suspects*
- convicted*
- victims*
- guilty*
- charge*
- trial*

5. Before sentencing, the \_\_\_\_\_ said that it was the most horrible crime he had ever heard of.

6. During the trial, the old woman \_\_\_\_\_ that on the night of the murder, she heard the accused threatening to kill the victim.

7. The murderer received a \_\_\_\_\_ of twenty years in prison.

8. Many old people are afraid of becoming \_\_\_\_\_ of crime, but studies show the elderly are actually the least likely members of society to be attacked or robbed.

9. The suspect bowed his head and cried with relief when the \_\_\_\_\_ was read out.

10. The police have no \_\_\_\_\_ as of yet in the murder case.

11. He is a \_\_\_\_\_ drug dealer who is also serving time for theft and assault.

12. The \_\_\_\_\_ had to drop its case when its only witness died.

13. The witness gave evidence at the \_\_\_\_\_ which suggested the police had arrested the wrong person.

14. The jury found him innocent, but I think he is \_\_\_\_\_.

**27. Complete the text with the words in the box. Change the form of the word if necessary.**

*admit, deception, forge, fraud, genuine, pretend, take in, trick*

**Britain's most famous art forger**

Tom Keating, who was an art restorer by profession, ..... about 2000 paintings as a form of protest against the huge profits made by art galleries. He used to ..... that he'd discovered lost masterpieces by famous artists. His copies were so good that collectors art historians were ..... . Keating ..... everyone for many years. The ..... was finally revealed in the 1970s. When thirteen similar pictures by the same artist, Samuel Palmer, were offered for sale at the same time, gallery owners began suspecting they might not be ..... . It was then that Keating ..... the truth and explained why he'd done it.

In 1977 Keating was accused of ....., but the trial was stopped because of his poor health. However, he became so famous that his copies are now considered quite valuable.

**28. Read the text about a spectacular robbery. Have there been any spectacular robberies in your country?**

**Bank Robbers Tunnel Their Way to Millions**

Tunneling bank robbers in South America have broken world records of crime, snatching millions of dollars from banks and making their getaways through narrow passages beneath busy city streets. One of the biggest robberies was a \$68 million job in Fortaleza, Brazil.

About 100 yards from Fortaleza's Central Bank, a sign appeared in front of a building that described it as a landscaping store, selling natural and artificial grass as well as plants. This was a trick, apparently, to avoid suspicion when the robbers removed large quantities of earth from the premises. The thieves dug a 260-foot tunnel from the house to the bank, putting in electric lights, air conditioning and wooden walls. The robbers entered the bank when it was closed for the weekend and got away with about \$68 million.

The robbers managed to avoid or disable the bank's alarm systems. The robbery remained undiscovered until the bank opened for business the following Monday.

'They worked for several months', police said. 'They had sophisticated equipment and experts in math, engineering and excavation.' Police found a pick-up truck at the rented house. They also discovered that the house was covered in white powder, which made it difficult to take fingerprints.

In the months since the Fortaleza robbery, police have recovered about \$8 million and arrested eight people they suspect were part of the gang of thieves responsible for the crime. Five men were arrested with about \$5.4 million of the money and told the police they had helped to dig the tunnel. Eighteen suspects remain free. Prosecutors have said that the robbers tried unsuccessfully to hire a small plane days before the robbery to move the money out of the country.

The massive amount of money still missing has led to kidnappings of alleged suspects for ransom. In October, one of the suspected robbers was kidnapped, then found dead after his family reportedly paid \$890,000 in ransom. The police also suspect that some members of the gang might be connected to other tunneling bank robberies in Uruguay and the Argentine city of Cordoba.

According to Brazilian press reports, one potential suspect sought by authorities is Moises Teixeira da Silva, who was sentenced to 25 years in prison for organizing bank robberies using tunnels.

He escaped from a Sao Paulo prison in 2001 – through a tunnel.

**29. Read the situation. Is this system similar to the one in your country?**

**30. Read the sentences and try to guess what goes in each gap. Listen again and check your answers.**

1. The \_\_\_\_\_ clearly shows that the manager of the bookshop ...
2. I will bring \_\_\_\_\_ to confirm that he is an honest man.
3. I am sure that you will find my \_\_\_\_\_ innocent.

4. The facts of the \_\_\_\_\_ are clear. Let me summarise the \_\_\_\_\_ for you.
5. There should be no \_\_\_\_\_ in your minds that this man is guilty of theft.
6. I am confident that you will find the \_\_\_\_\_ guilty.
7. You can look at it in two \_\_\_\_\_.
8. I \_\_\_\_\_ he's innocent because ...
9. I'm not \_\_\_\_\_ he's guilty because ....
10. It's \_\_\_\_\_ to me that ...

**31. Match the sentences in the previous exercise with:**

- a) the prosecution
- b) the defence
- c) the prosecution or the defence
- d) the jury

**HELP DESK**

**The world of crime has much specialised vocabulary.**

**Crime** (*noun*) is any illegal action or activity. For example, killing your boss is a crime (even if he is a terrible person)!

**Crime** is never used as a *verb*. We say 'commit a crime'. **Commit** is the *verb* that collocates with 'crime': It basically means 'do'.

*'He was sent to prison for a **crime** that he didn't commit.'*

A person who commits a crime is a **criminal**:

*'A dangerous **criminal** escaped from prison.'*

**Criminal** is also used as an adjective:

*'There is a lot of **criminal** activity in this area.'*

**What's the difference between rob and steal?**

**Rob** (*verb*) means take something from a place or person. 'Rob a bank.' Money is taken from the bank, not the whole thing. 'Rob and old man.' Valuable items are taken from him, we do not take him.

**Steal** (*verb*) means to take something.

'I **stole** candy when I was a child.'

'My bag was **stolen** at the party.'

Steal = *present tense* / stole = *past simple* / stolen = *past participle*

**Theft** is the *noun* form for the *verb* steal.

A **thief** is the general name we give to someone who steals something.



**Listening 2.**

- You are going to listen to eight speakers giving their opinion of a robbery of about £50 million in the town of Tonbridge in the UK. Which speaker:

- a) talks about people in this country and abroad knowing about the crime?
- b) says how much money was stolen?
- c) talks about someone who found some money?
- d) says that some members of staff weren't careful enough?
- e) says how big the reward was?
- f) says too many people were involved?
- g) talks about someone who worked there being involved?
- h) talks about tracing bank notes?

### **Situation**

In England criminal cases usually go to a Crown Court. In this court there is a judge and a jury. The jury is made up of 12 people. The jury listens to the arguments and evidence presented by the prosecution and defence lawyers. The jury then delivers a verdict: guilty or not guilty. The jury have to reach their verdict by discussing the case together. During the trial the judge is like a referee, making sure that both sides act fairly. The judge also decides on a punishment if the defendant is found guilty by the jury.

- **Listen to three extracts from a court case. A homeless man was accused of stealing some books from a store in a railway station.**

**Which extract is:**

- a) the prosecution presenting a case?
- b) the defence presenting a case?
- c) members of the jury discussing the case?

## **PART III. PUNISHMENT**

### **Reading 3.**

#### **32. Read the text:**

- 1) In your opinion, what does 'punishment' mean?
- 2) What kind of punishment do you know?

Punishment describes the imposition by some authority of a deprivation – usually painful – on a person who has violated a law, a rule, or another norm. When the violation is of the criminal law of society there is a formal process of accusation and proof followed by imposition of a sentence by a designated official, usually a judge. Informally, any organized group – most typically the family, may punish perceived wrongdoers.

Because punishment is both painful and guilt producing, its application calls a justification. In Western culture, four basic justifications have been given: retribution, deterrence, rehabilitation, and incapacitation.

Most penal historians note a gradual trend over the last centuries toward more lenient sentences in Western countries. Capital and corporal punishment, widespread in the early 19<sup>th</sup> century, are seldom invoked by contemporary society.

Indeed, in the United States corporal punishment as such appears to be contrary to the 8<sup>th</sup> Amendment's restrictions on cruel and unusual punishment. Yet the rate of imprisonment in the United States appears to be growing. Furthermore, since the middle of the 20<sup>th</sup> century, popular and professional sentiment has taken a distinctly punitive turn and now tends to see retribution and incapacitation – rather than rehabilitation – as the goals of criminal punishment.

Criminal sentences ordinarily embrace four basic modes of punishment. In descending order of severity these are: incarceration, community supervision, fine, and restitution. The death penalty is now possible only for certain types of atrocious murders and treason.

Punishment is an ancient practice whose presence in modern cultures may appear to be out of place because it purposefully inflicts pain. In the minds of most people, however, it continues to find justification.

**33. Explain the meaning of the following words and expressions:**

- authority, authorities
- community supervision
- deterrence
- fine
- incapacitation
- incarceration
- justification
- rehabilitation
- restitution
- retribution
- sentence
- deprivation

**34. Give Ukrainian equivalents for the following general types of punishment. Put them in the descending order of severity:**

- Capital punishment
- Community service
- Disciplinary training in a detention centre
- Fixed penalty fine
- Life imprisonment
- Probation
- Short-term imprisonment
- Suspended sentence
- Long-term imprisonment

**35. Study the following list of offences. Rate them on a scale from 1 to 10 (1 is a minor offence, 10 is a very serious crime). They are in no**

**particular order. You don't have to apply your knowledge of existing laws – your own opinion is necessary:**

- Driving in excess of the speed limit
- Common assault (e.g. a fight in a disco-club)
- Drinking and driving
- Malicious wounding (e.g. stabbing someone in a fight)
- Murdering a policeman during a robbery
- Murdering a child
- Causing death by dangerous driving
- Smoking marijuana
- Selling drugs (such as heroin)
- Stealing \$1,000 from a bank by fraud
- Stealing \$1,000 worth of goods from someone's home
- Rape
- Grievous bodily harm (almost killing someone)
- Shop-lifting
- Stealing \$1,000 from a bank by threatening someone with a gun
- Possession of a gun without a license

**36. Explain the meaning of the words and expressions from the box. Complete the following text using these words and expressions:**

<i>wrongdoer; misdeeds; deterrent; retribution; death penalty; corporal punishment; rehabilitate; reform; barbaric; law-abiding; humane; crime doesn't pay</i>
--

What is the purpose of punishment? One purpose is obviously to ..... The offender, to correct the offender's moral attitudes and anti-social behavior and to ..... him or her, which means to assist the offender to return to normal life as a useful member of the community.

Punishment can also be seen as a ..... because it warns other people of what will happen if they are tempted to break the law and prevents them from doing so. However, the third purpose of punishment lies, perhaps, in society's desire for ....., which basically means revenge. In other words, don't we feel that a ..... should suffer for his ..... ?

The form of punishment should also be considered. On the other hand, some believe that we should 'make the punishment fit the crime'. Those who steal from others should be deprived of their own property to ensure that criminals are left in no doubt that ..... . For those who attack others ..... should be used. Murderers should be subject to the principle 'an eye for an eye and a tooth for a tooth' and automatically receive the .....

On the other hand, it is said that such views are unreasonable, cruel and ..... and that we should show a more ..... attitude to punishment

and try to understand why a person commits a crime and how society has failed to enable him to live a respectable, ..... life.

**37. Describe the current attitudes to the following problems. Make up no fewer than 5 sentences.**

International terrorism

Environment

Artificial intelligence

Drugs

Political correctness

**38. Read the following text. Match the following headings with the sections of the text below:**

A) Effectiveness

B) History

C) Moral aspect

### **Capital punishment: History**

(1) Capital punishment is a legal infliction of the death penalty; in modern law, corporal punishment in its most severe form. The usual alternative to the death penalty is long-term or life imprisonment.

The earliest historical records contain evidence of capital punishment. It was mentioned in the Code of Hammurabi. The Bible prescribed death as the penalty for more than 30 different crimes, ranging from murder to fornication. The Draconian Code of ancient Greece imposed capital punishment for every offence.

In England, during the reign of William the Conqueror, the death penalty was not used, although the results of interrogation and torture were often fatal. By the end of the 15<sup>th</sup> century, English law recognized six major crimes: treason, murder, larceny, burglary, rape, and arson. By 1800, more than 200 capital crimes were recognized; and as a result, 1000 or more persons were sentenced to death each year (although most sentences were commuted by royal pardon). In early American colonies the death penalty was commonly authorized for a wide variety of crimes. Blacks, whether slave or free, were threatened with death for many crimes that were punished less severely when committed by whites.

Efforts abolish the death penalty did not gather momentum until the end of the 18<sup>th</sup> century. In Europe, a short treatise, *On Crimes and Punishments*, by the Italian jurist Cesare, inspired influential thinkers such as the French philosopher Voltaire to oppose torture, flogging, and the death penalty.

The abolition of capital punishment in England in November 1965 was welcomed by most people with humane and progressive ideas. To them it seemed a departure from feudalism, from the cruel pre-Christian spirit of revenge: an eye for an eye and a tooth for a tooth. Many of these people think differently now. Since the abolition of capital punishment crime – and especially murder – has been on increase throughout Britain. Today, therefore, public opinion in Britain has changed. People who before, also in Parliament, stated that capital punishment

was not a deterrent to murder – for there have always been murders in all countries with or without the law of execution – now feel that killing the assassin is the lesser of two evils. Capital punishment, they think, may not be the ideal answer, but it is better than nothing, especially when, as in England, a sentence of life imprisonment only lasts eight or nine years.

(2) The fundamental questions raised by the death penalty are whether it is an effective deterrent to violent crime, and whether it is more effective than the alternative of long-term imprisonment.

Defenders of the death penalty insist that because taking an offender's life is a more severe punishment than any prison term, it must be the better deterrent. Supporters also argue that no adequate deterrent in life imprisonment is effective for those already serving a life term who commit murder while being in prison, and for revolutionaries, terrorists, traitors, and spies.

In the USA those who argue against the death penalty as a deterrent to crime cite the following: (1) adjacent states, in which one has the death penalty and the other does not, show no significant differences in the murder rate; (2) states that use the death penalty seem to have a higher number of homicides than states that do not use it; (3) states that abolish and then reintroduce the death penalty do not seem to show any significant change in the murder rate; (4) no change in the rate of homicides in a given city or state seems to occur following an expository execution.

In the early 1970s, some published reports showed that each execution in the USA deterred eight or more homicides, but subsequent research has discredited this finding. The current prevailing view among criminologists is that no conclusive evidence to show that the death penalty is a more effective deterrent to violent crime than long-term imprisonment.

(3) The classic moral arguments in favor of the death penalty have been biblical and call for retribution. "Whosoever sheds man's blood, by man shall his blood be shed" has usually been interpreted as a divine warrant for putting the murderer to death. "Let the punishment fit the crime" is its secular counterpart; both statements imply that the murderer deserves to die. Defenders of capital punishment have also claimed that society has the right to kill in defence of its members, just as the individual may kill in self-defence. The analogy to self-defence, however, is somewhat doubtful, as long as the effectiveness of the death penalty as a deterrent to violent crimes has not been proved.

The chief objection to capital punishment has been that it is always used unfairly, in at least three major ways. First, women are rarely sentenced to death and executed, even though 20 per cent of all homicides in recent years have been committed by women. Second, a disproportionate number of non-whites are sentenced to death and executed. Third, poor and friendless defendants, those with inexperienced or court-appointed attorney, are most likely to be sentenced to death and executed.

Defenders of the death penalty, however, have insisted that, because none of the laws of capital punishment causes sexist, racist, or class bias in its use, these kinds of discrimination are not a sufficient reason for abolishing the death penalty.

Opponents have replied that the death penalty can be the result of a mistake in practice and that it is impossible to administer fairly.

**39. Find in the text the English equivalents for the following words and expressions related to punishment:**

1. відплата
2. довгострокове тюремне ув'язнення
3. допит
4. відбувати термін у в'язниці
5. скасування смертної кари
6. довічне тюремне ув'язнення
7. показова страта
8. засуджувати до смерті
9. катування
10. пом'якшувати вирок
11. тілесні покарання

**40. Answer the following questions:**

1. Why was capital punishment imposed so frequently in ancient societies?
2. Why were blacks punished more severely than whites in early American colonies?
3. When did European thinkers begin considering the alternatives to death penalty?
4. How have the attitudes towards capital punishment changed in Britain since the abolition of death penalty in 1965?
5. Is imprisonment effective for revolutionaries and terrorists? Why?
6. How have Americans treated the problem of death penalty?
7. What factors may hamper the fair administration of justice in capital cases?

**41. Using the information and vocabulary from Unit 6 write an essay on one of the following statements:**

- Relaxation of harsh laws has never led to increase in crime.
- Those in favour of capital punishment are motivated only by desire for revenge and retaliation.
- Hanging, electric chairs, garroting, etc., are barbaric practices, unworthy of human beings.
- Suspension of capital punishment is enlightened and civilized.
- Capital punishment creates, it does not solve, problems.
- Crime can only be drastically reduced by the elimination of social injustices.

## HELP DESK

### Vocabulary Words related to Punishment

Once the criminal is apprehended (caught by the police) then the process is often a long one involving months or years before he/she is brought before the courts, put on trial (in front of a Judge and a Jury) and if/when found guilty sentenced (what prison term he /she will get) and sent to jail.

A **jury** is a group of citizens (usually no more than 12 men and women) who are picked randomly and listen to the evidence presented and directed (helped by) by the judge, decide based on the evidence they hear whether the accused is guilty of the crime.

For lesser crimes like shoplifting and petty crimes (damage to public property) the **offender** (often youngsters) may get **community service** (working some hours in the community instead of a prison sentence). This could involve cleaning the streets or painting public property or helping deliver meals to the elderly.

Other criminals can be put on **probation** (released from prison) for a period of months or years. They can live at home and will not go to prison provided they do not carry out any criminal activity for the probation period. In recent years some countries have introduced **electronic tagging** (a tag like a watch or electronic gadget) of these type of criminals so the police can track (study) their movements and they may be restricted from leaving their home between 7 pm in the evening and 7 am in the morning.

### Discussing court cases

#### 42. Read the information about three court cases. Which crime:

1. involved people eating something?
2. involved someone taking pictures?
3. took place in the countryside?
4. went on for a number of months?
5. took place at night?
6. involved a vehicle?

#### Case 1

A burglar broke into the home of a woman who lives in a remote rural area. The burglary took place at 2 a.m. The woman, who is a martial arts expert, woke up and realized someone had broken into her house. She went downstairs quietly and, without warning, attacked the burglar. She knocked him unconscious and then, losing control, she kicked him repeatedly. The burglar was badly injured and spent a long time in hospital recovering. The burglar is now permanently disabled. The woman was arrested and charged with using excessive force.

#### Case 2

A woman in her late 30s became obsessed with a younger man of 25 who lives in the same town. He moved to the area a year ago and she first noticed him

at the railway station as they both take the same train to work. They talked briefly on the platform on several occasions. More recently, she started following him, appearing outside his work and visiting places where he meets his friends. She found his address and started taking photographs of him. She also started phoning him at work, and at home, and when he answered she hung up. The man found out that she is planning to move into a flat opposite him. After several complaints the woman was arrested and charged with stalking the man.

### **Case 3**

A 35-year-old man was driving his two children (aged five and six) to a theme park. The son and daughter were in the back of the car. The man gave them a packet of sweets to eat during the journey. They started fighting and one of the children began to choke on the sweets. The child could not breathe and was in difficulties. The driver turned round to help and lost control of the car. It crashed into a group of people sitting at tables outside a café. Five people were injured, two seriously. The man was arrested and charged with dangerous driving.

### **Speaking 1.**

**43. Work in groups of five to discuss each of the cases. Follow the steps below.**

For case 1:

**Student A** (prosecution): Woman got angry and lost control. Man already unconscious and no danger. Burglar had no weapon. Woman gave no warning. Burglar was small and light.

**Student B** (defence): The woman was extremely frightened. Felt that she was in great danger in her own home. Didn't know how many burglars there were. There had been several burglaries with violence in the area recently. The defendant had no confidence in the police.

**Students C, D, E** (the jury): see jury instructions below.

For case 2 change roles:

**Student B** (prosecution): The woman is making the man's life impossible. He is stressed and receiving medical treatment. He is in danger of losing his job. He feels like a prisoner in his own home. He is worried about what she might do next.

**Student C** (defence): It's a free country and she is doing nothing wrong. He is exaggerating her behavior. It is a small town so they go to the same places. She is just being friendly. Photography is her hobby.

**Students D, E, A** (the jury): see jury instructions below.

For case 3 change roles again:

**Student C** (prosecution): A car is a weapon. A driver must concentrate on the road at all times. He shouldn't have given sweets to the children. None of the

people in the car were wearing seatbelts. The driver should have stopped before helping the child.

**Student D** (defence): It was an accident. He was not speeding. The car was in good condition. The road was narrow and needed repairs. The people outside the café were sitting in a dangerous position.

**Students E, A, B** (the jury): see jury instructions below.

**Jury instructions:** Listen to the prosecution and defence lawyers. You may have some questions to ask. When they have finished you should think about the following:

1. **Judgement:** you should give a verdict of guilty or not guilty.
2. **Sentence:** if you reach a not guilty verdict, you should explain your reasons. If you reach a guilty verdict, you should also take the role of the judge and decide the most appropriate sentence, e.g. prison, a fine, community service (unpaid work in the community).

#### **44. Translate the following passage into English paying special attention to the words in bold type:**

Смертна кара є одним із найдавніших видів покарання, що виникла в ході реалізації принципу таліону – вбивство людиною іншої людини **каралось смертю вбивці**. Крім того, важливу роль зіграв і діючий у багатьох соціумах **принцип кровної помсти**.

Майже всі суспільства людства на певній стадії свого розвитку **застосовували смертну кару** до кримінальних і політичних злочинців. «Руська Правда», як і «варварські правди», не передбачала смертної кари. Спроби її запровадження у Київській Русі робилися, але не прижилися. Найвищою, винятковою мірою покарання було **вигнання** («поток і розграбленіє»), яке не виключало загибелі засудженого, бо на **вигнанця** не поширювався захист закону. Систематичне застосування смертної кари в Україні почалося у Литовський період її історії («Судібник» Казимира IV Ягеллончика 1468 р. та «Статут Литовський» 1529 р.).

У багатьох сучасних суспільствах **смертна кара була скасована**, в тому числі і в Україні котру переконали відмовитися від подібної практики заради вступу до Ради Європи. Деякі країни скасували смертну кару за винятком особливих обставин, таких як, наприклад, **зраду під час військових дій**. В інших країнах смертна кара була скасована на практиці, але законодавчо все ще залишається **найвищою мірою покарання**. Такі держави, як Китай, США та інші зберегли смертну кару за злочини, окремо **визначені законодавством**.

Деякі **правозахисні організації**, такі як «Amnesty international», вважають, що смертна кара є найгіршим проявом **недотримання прав людини**, характеризують як жорстоку та нелюдську кару. Смертна кара ними розцінюється як **грубе порушення права на життя**, що було закріплене в багатьох міжнародних договорах.

## Grammar

### Modals of deduction

Use the modal verbs *must*, *might*, *may*, *could* and *can't* to speculate or make deductions. We do not know this information for a fact.

#### Present form

She **must be** *evil*. (I'm sure she is)

She **might/may/could feel** genuinely sorry. (perhaps she is)

She **can't care** about her children. (I'm sure she doesn't)

#### Past form

**must/might/may/could/can't + have + past participle:**

They **must have suspected** something.

She **might/may/could have been** frightened of her husband.

They **can't have known** anything.

### 45. Complete the answers with *must*, *might* or *can't* and the verbs below.

be   be   have   remember   know   miss

1.    A: Whose car is that outside the school?

B: It \_\_\_\_\_ Michelle's father's. She said he'd bought a green Saab.

2.    A: Lily looks a bit depressed.

B: She \_\_\_\_\_ her boyfriend, who's gone to Spain for a year. Or perhaps she's just tired!

3.    A: Is Mike still in bed?

B: Surely he \_\_\_\_\_ asleep at this time? It's noon!

4.    A: Why are all those people waiting here?

B: They \_\_\_\_\_ something we don't know, I'm sure.

5.    A: Grace never goes out with us these days.

B: She \_\_\_\_\_ a lot of work before the exams. Or perhaps she just spends all her time with Sean.

6.    A: Your brother told me how you tried to teach your cat to swim when you were four.

B: But he \_\_\_\_\_ that! He was too young.

### 46. Complete the sentences with the verbs in brackets in the correct form to make deductions about the past.

1.    A: Lucy's wearing a diamond ring.

B: Ryan \_\_\_\_\_ (must/buy) it for her.

2.    A: How did the burglars get in?

B: They \_\_\_\_\_ (may/climb) up the drainpipe or they \_\_\_\_\_ (could/use) the basement window.

3.    A: Where do you think Charlie is now?

B: His plane \_\_\_\_\_ (must/land) in Tokyo about half an hour ago.

4.    A: Have you heard that Chloe has left town?

B: What? She \_\_\_\_\_ (can't/do) that. I've just seen her.

5.    A: Bill didn't come round last night.

B: His car \_\_\_\_\_ (may/break down).

6. A: Do you think anyone saw the thieves?

B: They \_\_\_\_\_ (can't/see them). They would have told us.

**47. Rewrite the sentences using present modals of deduction.**

1. I'm sure the criminals are from London.

The criminals \_\_\_\_\_.

2. I'm sure they aren't very intelligent because they made a lot of mistakes.

They \_\_\_\_\_.

3. Perhaps they stole money because they're poor.

They \_\_\_\_\_.

4. It's possible they are unemployed.

They \_\_\_\_\_.

5. They know the area well, I'm sure.

They \_\_\_\_\_.

6. They definitely don't care about the victims.

They \_\_\_\_\_.

**48. Complete the article with past modals of deduction and the correct form of the verb in brackets.**

**Surprise for car thieves!**

Car thieves who stole a truck and trailer two days ago 1. \_\_\_\_\_ (think) they had done well when they managed to get away. However, the truck and trailer belonged to a zoo and the thieves 2. \_\_\_\_\_ (get) a shock when they discovered the contents of the trailer – a tiger! They 3. \_\_\_\_\_ (know) what was in the trailer when they stole the truck or they wouldn't have stolen it. The police think the thieves 4. \_\_\_\_\_ (steal) the truck because it looks expensive or perhaps they 5. \_\_\_\_\_ (take) it because it was parked in a quiet place. The police got an anonymous phone call about the truck so the thieves 6. \_\_\_\_\_ (panic) when they realized they had stolen a tiger, too. Zoo staff say the tiger 7. \_\_\_\_\_ (be) hungry because it hadn't been fed for hours. The tiger 8. \_\_\_\_\_ (be) aggressive because it was hungry. Police found some meat near the abandoned trailer so the thieves 9. \_\_\_\_\_ (try) to feed it but they obviously 10. \_\_\_\_\_ (be) successful.

**49. Read the start of a newspaper story and complete the reporter's notes using present or past modal verbs.**

**Fake ATM used by thieves**

Thieves in Beijing, China, set up a fake ATM machine. The device looked exactly like a normal ATM machine but it recorded the bank details of anyone who used it. The thieves then used the information to rob people's accounts and steal thousands of yuan ...

- The thieves 1. \_\_\_\_\_ (know) a lot about technology.

• They 2. \_\_\_\_\_ (research) the location carefully because a lot of people used the machine. They 3. \_\_\_\_\_ (choose) the location because it's near a lot of offices – it's possible .... perhaps they thought business people would use it.

• The people who used the machine 4. \_\_\_\_\_ (suspect) anything or they wouldn't have used it. I'm sure the machines looked authentic – they 5. \_\_\_\_\_ (seem) totally convincing.

• The thieves only stole money from accounts with a lot of money. All the victims 6. \_\_\_\_\_ (be) rich.

• The thieves knew a lot about banking – they 7. \_\_\_\_\_ (work) in a bank before, that's possible.

• The police have arrested the thieves. The thieves 8. \_\_\_\_\_ (be) in prison now.

### Third conditional

Form the third conditional in the following way:

#### if-clause

if + past perfect

#### main clause

would/could/might + have +  
past participle

If Sarah *had asked* me, I *would have helped* her.

Use the third conditional to talk about unreal situations in the past, i.e. situations that are contrary to the facts.

If he hadn't driven so quickly, the police *could have caught* him. (He drove quickly; the police didn't catch him)

If she'd been a little nicer, I *might have gone* to her party. (She wasn't nice, I didn't go to the party.)

We often use the third conditional to:

• talk about regret

If I'd worked harder, I might have got better results.

• criticize

If you'd listened to me, you wouldn't have got into trouble with the police.

• make excuses

Sorry, but if the plane had left on time, I wouldn't have been so late!

As with the first and second conditional, we can put the main clause first.

### 50. There is one mistake in each sentence. Correct it.

1. If Dmitry has asked me to help, I would have.
2. If he hadn't left so much evidence, the police wouldn't caught him.
3. I might have become a solicitor if I would worked harder at school.
4. If you'd had listened to me, you wouldn't have taken the job.
5. Sorry, but if the plane would had left on time, I wouldn't have been so late!
6. You could come if you had wanted to.

7. We wouldn't have missed the deadline if everyone had been done what they promised.

8. If I hadn't have heard the news, I wouldn't have known.

**51. Underline the correct verb form.**

1. If I'd seen the man, I *would have stopped/would stop* him from stealing the car.

2. If the burglar had entered through the door and not the window, he *had set off/would have set off* the alarm.

3. If the same crime *had happened/happened* in my country, they would have got five years in prison.

4. If the police *have arrived/had arrived* ten minutes earlier, they would have captured the bank robbers.

5. She might have avoided a life of crime if she *hadn't had/wouldn't have had* such a difficult childhood.

6. Other people *might do/might have done* something about the attack if they'd known the attacker didn't have a gun.

7. What *would you have said/would you say* if you'd met the burglar in your house?

8. They *wouldn't have let/wouldn't let* him go if he hadn't been related to someone important.

**52. Complete the sentences using the correct form of the verbs in brackets.**

Use *could* or *might* if possible.

1. If they \_\_\_\_\_ (plan) the robbery better, they \_\_\_\_\_ (succeed).

2. If the police \_\_\_\_\_ (act) more quickly, they \_\_\_\_\_ (prevent) the robbery.

3. If he \_\_\_\_\_ (not drive) so fast, he \_\_\_\_\_ (not have) an accident.

4. The crime rate \_\_\_\_\_ (not increase) if the last government's policy \_\_\_\_\_ (be) more efficient.

5. The police \_\_\_\_\_ (not catch) him if he \_\_\_\_\_ (not leave) his fingerprints on the floor.

6. I wouldn't have let my children watch TV if I \_\_\_\_\_ (think) they were going to behave badly as a result.

7. If my uncle \_\_\_\_\_ (not/choose) a life of crime, he wouldn't have been happy.

8. What if you \_\_\_\_\_ (lock) the front door? Would that have stopped them?

9. If the detective had seen the clue, the police \_\_\_\_\_ (catch) them sooner.

10. If I'd known she was the criminal, I \_\_\_\_\_ (never/invite) her to my house!

**Videos:**

**Video 1. Cesare Lombroso: Theory of Crime, Criminal Man and Atavism**

**Video 2. Types of Punishment, Criminal Law Ireland**

**Video 3. Top 10 Hilarious Court Case Defenses**

**UNIT 7  
LAW ENFORCEMENT**



**Topics:**

- **Law enforcement agencies and officers**
- **Descriptions**
- **Criminal investigation**
- **Crime and Society**
- **Vehicle Crime**
- **Terrorism**
- **Computer Crime, Fraud and Financial Crime**

**Law enforcement** describes the agencies and employees responsible for enforcing laws, maintaining public order, and managing public safety. The primary duties of law enforcement include the investigation, apprehension, and detention of individuals suspected of criminal offenses. Some law enforcement agencies, particularly sheriff's offices, also have a significant role in the detention of individuals convicted of criminal offenses.



**Reading 1.**

1. **Read the text about the law enforcement agencies in the USA and Ukraine.**

**Types of Law Enforcement Agencies**

**U.S. Federal Law Enforcement Agencies**

There are 65 U.S. federal agencies and 27 offices of inspector general that employ full time personnel authorized to make arrests and carry firearms. According to the Bureau of Justice

Statistics, in 2008 the largest employers of federally employed officers were U.S. Customs and Border Protection, Federal Bureau of Prisons, the FBI, and U.S. Immigration and Customs Enforcement, each with over 15,000 full-time law enforcement. Federal officers' duties include police response and patrol, criminal investigation and enforcement, inspections, security and protection, court operations, and corrections.

### **State and Local Law Enforcement Agencies**

There are more than 17,000 state and local law enforcement agencies in the United States, ranging in size from one officer to more than 30,000. Many of these are municipal police departments operated by local governments, but there are actually several types of law enforcement agencies.

*Local Police* includes municipal, county, tribal, and regional police that derive authority from the local governing body that created it. The primary purpose is to uphold the laws of the jurisdiction, provide patrol, and investigate local crimes.

*State Police / Highway Patrol* – State police often perform police duties to include highway patrol and statewide investigations. Some states have only highway patrol with investigative functions covered by a separate entity such as a state bureau of investigation. State police assist local police with investigations and emergencies that extend beyond the resources and jurisdictional boundaries of the local agency.

*Special Jurisdiction Police* – Officers for special jurisdictions provide police services for defined entities or areas within another jurisdiction. These include parks, schools, transportation assets (e.g., airports, subways), hospitals, housing authorities, and government buildings. Special jurisdiction police are generally full-service departments, offering the same services as local police.

*Deputy Sheriffs* – Generally sheriff's offices are granted authority by the state to enforce state law at the local county level. Deputies commonly run the local jail, serve warrants and court summons, and respond to calls for service in areas outside local police jurisdictions.

### **Law Enforcement Agencies in Ukraine:**

The responsibility for law enforcement in Ukraine traditionally rests with two government agencies: *The Ministry of the Interior and the Security Service*. Other bodies authorized to conduct criminal investigations are *the Foreign Intelligence Service and the Military Intelligence Service*.

In accordance with the Law “on National Security” the structure of the security and defense sector includes: the Ministry of Defense of Ukraine, the Armed Forces of Ukraine, the State Special Transport Service, the Ministry of Internal Affairs of Ukraine, the National Guard of Ukraine, the National Police of Ukraine, the State Border Guard Service of Ukraine, the State Migration Service of Ukraine, the State Emergency Service of Ukraine, The Security Service of Ukraine, the State Security Guard of Ukraine, the State Service for Special Communications and Information Protection of Ukraine, the Apparatus of the

National Security and Defense Council of Ukraine, intelligence authorities of Ukraine, central executive authority, which forms and implements the state military-industrial policy.

The bodies authorized to conduct criminal investigations are National Police, Security Service, State Bureau of Investigation, National Anti-Corruption Bureau, Penitentiary Service and the authority which oversees compliance with tax legislation.

Police services in Ukraine are provided by *the National Police*, which is coordinated by the Cabinet of Ministers (government) through the Minister of Internal Affairs of Ukraine. The Head of the National Police is appointed and dismissed by the Cabinet of Ministers of Ukraine on the proposal of the Prime Minister of Ukraine in accordance with the proposals of the Minister of Internal Affairs of Ukraine.

- 2. Compare the two countries and their law enforcement agencies. Are there any similarities? What are the main differences?**
- 3. Read the text about the responsibilities of law enforcement officers in the USA.**

### **What is a Law Enforcement Officer?**

A law enforcement officer's primary responsibility is to protect lives and property. All of their tasks relate back to this one responsibility. There are a wide variety of types of law enforcement officers and organizations. Duties are performed based on the type of officer and organization. In almost all situations, law enforcement officers are expected to fulfill their responsibilities whether on or off duty.

### **What Tasks Do Law Enforcement Officers Perform?**

Law enforcement officers' duties depend on the type of officer and the organization in which they work. Law enforcement officer types include:

*General Law Enforcement Officers:* Most law enforcement officers are uniformed personnel. They carry out patrols and answer calls for service or help. They may direct traffic at the scene of a fire, investigate a burglary or give first aid. Urban police agencies are focusing more on community policing. In community policing, an officer builds relationships with the citizens of local neighborhoods and enlists their help in fighting crime.

*Detectives:* Detectives, in most cases, do not wear uniforms. They are responsible for investigating criminal cases by gathering facts and collecting evidence. Most detectives specialize in a specific crime type such as narcotics, grand theft or homicide. Detectives are assigned cases. They work on these cases until an arrest and conviction occurs, or the case is dropped.

*Sheriffs and Deputy Sheriffs:* Sheriffs and deputy sheriffs work at a county level. Sheriffs are usually elected to their posts. Their tasks are similar to those of

local or county police chiefs. Deputy sheriffs perform a variety of duties. Their tasks include patrol, call response, criminal investigation and administration.

*State Police Officers:* State police officers are sometimes referred to as state troopers or highway patrol officers. Their jurisdiction extends throughout the state. Their main responsibility is motor vehicle safety. They enforce traffic laws and regulations and assist at accident scenes. They also investigate traffic accidents and other crimes involving motor vehicles.

*Federal Bureau of Investigation (FBI) Agents:* FBI agents are the federal government's criminal investigators and are responsible for investigating violations of more than 260 statutes. They often conduct sensitive national security investigations. Some of the crimes they investigate include organized crime, public corruption, fraud against the government, bribery, civil rights violations, bank robbery, air piracy, terrorism and foreign counterintelligence.

*Drug Enforcement Administration (DEA) Agents:* The DEA is the lead agency for domestic drug enforcement, and DEA agents enforce illegal drug laws, as well as coordinate and pursue United States drug investigations abroad. Some DEA agents infiltrate illegal drug organizations using undercover techniques.

*U.S. Marshals and Deputy Marshals:* The U.S. Marshals Service is the oldest law enforcement agency in the nation. They conduct a wide variety of duties, including judicial security, fugitive investigations, witness security, prisoner services, prisoner and alien transportation, asset forfeitures, service of court process and other special operations and programs.

**4. Match the jobs with the appropriate responsibilities:**

1. General Law Enforcement Officers:	a) assist at accident scenes
2. Detectives	b) conduct national security investigations
3. Sheriffs and Deputy Sheriffs	c) Don't wear uniforms
4. State Police Officers	d) the oldest law enforcement agency
5. Federal Bureau of Investigation (FBI) Agents	e) Usually elected to their posts
6. Drug Enforcement Administration (DEA) Agents	f) Work with citizens and carry out patrols
7. U.S. Marshals and Deputy Marshals	g) work with illegal substances

**Video 1.**

**5. Watch the video and make a list of recommendations for those who want to choose a career of a police officer:**

## Descriptions

### Speaking 1.

6. **Police officers will, on many occasions in their service, either be required to describe a person or obtain a description. Discuss the following questions.**
1. What is a description?
  2. Why do we use descriptions in police work?
  3. What should you pay particular attention to when compiling a description of a person?
  4. When compiling a description of property what details should you pay particular attention to?
  5. Are there any special skills required for police officers in producing a reliable and accurate description of things which they have seen?

7. **Think about the members of your class. Try to describe one of them so accurately that all the others in the class would identify that person from your description. The following checklist may be of help to you- but obviously you do not mention his/her name yet!**

a) **Full name, including any alias/ nickname**

**age:** he/she is 20 years old; he is 20 years of age; he is aged 20; he is a 20-year-old youth; he is in his twenties/ early 20s/ late 20s; he is about/ approximately 20.

**age group:** school age / young/ middle aged/ old.

**age range:** under.../ over....

b) **Appearance**

**Height:** tall/ short/ medium height/ average height

**Build:** fat/ heavy/ medium/ slim/ thin/ slightly built/ well built

**Color (ethnic origin):** Caucasian or white European/ dark European/ Asian/ Afro- Caribbean /Latin-American

**Complexion:** fresh/ ruddy/ pale/ pimply/ uses cosmetics

**Hair:** length/type- short/ long/ curly/ wavy/ bald/ colour-dark/brown/blond/grey/dyed. He has got dark hair/ he is dark haired

**Hair on face (facial hair):** beard/ moustache/ dark chin/stubble Eyes – colour of the eyes:

He has got blue eyes/ he is blue eyed

c) **Distinctive (distinguishing) marks:** birth marks/ moles/ warts/ scars/ tattoos/ deformity other identifying marks.

d) **Characteristics and habits:** drinking/ smoking/ known associates

e) **Dress (clothing):** smart/ casual/ sporting/ scruffy/ vagrant Items of clothing.

## 8. Try to build up a complete description of yourself.

### Reading 2.

## 9. Read the text:

### OPERATION GRANGER

Detectives investigating a series of serious indecent assaults in Havant and Hayling Island know that at least two were carried out by the same man.

And the methods used in the other incidents- between December 1999 and July 2000- suggest that he could also have been responsible for at least three others.

A major inquiry team has been set up to investigate the assaults, and DNA evidence has shown there is a positive link between two of the attacks – on a 51-year- old woman between Havant and Emsworth and on a 13- year- old girl in a Hayling Island church yard.

Detectives are especially keen to find the perpetrator before he strikes again because his attacks are becoming progressively more violent and showing signs of more planning.

In the most recent attack – on Friday, July 7, 2000, at 7.50pm – a 15- year-old girl was cycling home north along the disused Hayling Billy railway line, now a public footpath. As she reached West Lane she heard someone on the path behind her. Thinking it was a jogger or walker she made way for them to pass, but instead she was grabbed from behind by a man.

The attacker threatened to kill her if she struggled and tried to drag her into the bushes at the side of the footpath. But the girl managed to fight her way free and screamed for help, frightening the man off.

The terrified girl was then able to cycle to a petrol station and phoned the police. She has been able to describe the man who attacked her as follows:

- White
- Clean shaven
- 5ft 7ins tall
- Short grey to fair hair
- Physically weak
- Wearing a black woolen hat
- Long sleeved dark colored top and jogging bottoms
- Gloves

She has also helped detectives piece together a CD-fit image of the attacker.

This attack bears all the hallmarks of at least four other incidents since December 1999 – and another reported prowler incident could also have been the work of this man. Based on the victims' statements, the composite description of the man responsible for their ordeals is that he is:

- Aged 35 to 55 years
- 5ft 5 in to 5ft 8in tall
- Slim to slight build
- Described by all the victims as physically weak

- Reasonably deep voice
- Smelled very strongly of cigarettes
- In four out of the five attacks he wore gloves.

In the May attack, -the only one in daylight – he wore a dark blue sweatshirt or, possibly a blue jacket with side pockets, and pale blue or possibly white trousers or jeans.

Police officers want to hear from anyone who recognizes the description.

### **10. Decide which statements are true and which are false.**

1. Detectives are investigating a series of indecent exposure cases.
2. DNA evidence has shown there is no positive link between two of the attacks.
3. A 15-year-old girl was cycling home
4. She was grabbed by the hand.
5. The attacker dragged her into the bushes at the side of the footpath.
6. The victim drove off to a petrol station and phoned the medical services.
7. The girl described the man as being black, short but strong, wearing light colored clothes.
8. The suspect is known as a heavy cigar smoker.
9. The same attacker may also be responsible for at least three other attacks.
10. Police launched a nationwide hunt for the man who carried out the assaults.

### **Speaking 2.**

### **11. Work in groups or with a partner and discuss the following issues:**

- Motive for the attack
- Known description
- Expected description
- Follow-up investigation
- Chances of the attacker being caught
- Punishment for such offences under the criminal code

### **Reading 3.**

### **Vocabulary**

### **12. Find the right equivalent in Ukrainian:**

To describe a person

To give a description

To compile a description  
 To produce a reliable and accurate description To draw a sketch  
 To build a description/picture  
 Personal description/word picture/spoken picture /sketch portrait Face  
 image  
 Computer description (CD) fit/identity kit/photo-fit system Computer –  
 generated image (E-Fit)  
 Mugshots/ mugbook  
 Features (the face or countenance) Description of suspect/offender To fit/  
 match the description  
 To locate suspects  
 Suspects wanted for  
 Suspects considered to be armed and dangerous  
 Suspect described as follows  
 Last seen wearing

**13. Choose the right word from the list above to complete the text:**

**INTEROFFICE MEMORANDUM**

To all Station Commanders

The Serious Crimes Squad is requesting the assistance of your office in  
 1 \_\_\_\_\_ four suspects 2 \_\_\_\_\_ for the shooting of a Turkish  
 businessman at the Palace Hotel in Bucharest. The members of our Squad are in  
 the process of 3 \_\_\_\_\_ the pictures of the alleged shooters based on  
 descriptions 4 \_\_\_\_\_ by witnesses. Using 5 \_\_\_\_\_ from  
 police criminal records we've found no one 6 the offenders' 7 \_\_\_\_\_.

Photocopy pictures of the suspects will be made available to you as soon as  
 possible.

Should your officers locate any of the suspects, report location immediately.  
 Do not attempt to apprehend. Suspects are to be considered 8 \_\_\_\_\_ and  
 9 \_\_\_\_\_.

Thank you for your assistance in this matter and if you have any further  
 questions please do not hesitate to contact our investigating officers.

**14. Use a verb from the left and a noun phrase from the right, make phrases describing police activities. You can use the verbs with more than one phrase. Make up sentences of your own.**

Investigate	evidence
Conduct	identification parade
Collect	crime scene examination
Take (to)	investigation

Attend	police files
Give	suspects
Arrange	witnesses
Search (for)	crimes
Check	prints
Interview	emergency call
Describe	information

**15. Put in the correct prepositions:**

**POLICE BUILD PICTURE 1) \_\_\_ ALLEGED TERRORIST  
WHOSE 2) \_\_\_ CAR WAS BASED 3) \_\_\_ SIZE 4) \_\_\_ BOOT**

A saleswoman who sold the car used 5) \_\_\_ the Ealing bombing 6) \_\_\_ a suspected member 7) \_\_\_ the Real IRA cell behind the attack said the man had chosen the 8) \_\_\_ the biggest boot. Speaking yesterday as police issued an e-fit 9) \_\_\_ the man believed to have bought the car, the woman said the man had paid 10) \_\_\_ cash and it had taken only 20 minutes 11) \_\_\_ him first seeing the car until he drove away 12) \_\_\_ it.

The five-door grey Saab turbo was bought 13) \_\_\_ the car lot 14) \_\_\_ Ilford, Essex, 15) \_\_\_ July 19, two weeks before the explosion 16) \_\_\_ Ealing, west London, last week which injured 11 people.

The e-fit shows a white man 17) \_\_\_ his mid-30s, 5ft 10in 18) \_\_\_ 5ft 11in tall and 19) \_\_\_ slim build. He has straight blond hair and a pitted face which suggests he suffered 20) \_\_\_ acne 21) \_\_\_ some time. The man has a slightly dimpled chin and speaks 22) \_\_\_ a soft Irish accent.

After buying the car he asked directions 23) \_\_\_ the A46, known 24) \_\_\_ Londoners as the north circular road, suggesting he was not local.

**Speaking 3.**

**16. Try to describe the two persons photographed here.**





**17. What are the most important distinguishing features for each?**

**18. Identify and correct the mistakes in each sentence:**

1. He is long brown hair.
2. She has a freshly complexion.
3. He is average high.
4. She has dark brown dye

hair.

5. He is blue eyes.
6. He is a tattoo on his right forearm.
7. The suspect was casual dressed.
8. He is known to associate with drug addictions.
9. The suspect uses heavy make-ups.
10. He is a white European.

## **Criminal Investigation**

### **Reading 4.**

**19. Read the following text, complete it by putting in appropriate prepositions and discuss the issues involved.**

#### **The Principles of Police Investigations.**

##### THE CRIME SCENE

Processing a crime scene includes the application (1) ... diligent and careful methods by investigators (2) ... recognise, identify, preserve and collect facts and items of evidentiary value that may assist (3)... reconstructing that which actually occurred. It is (4) ... the utmost importance to the success of any investigation that the investigating officer makes no errors (5)... the crime scene or (6) ... follow-up investigations. Also, the first officer (7)... the scene must avoid diminishing or destroying potential clues which may eventually lead (8) ... the apprehension of the criminal.

Though the police are expected to investigate crime, a basic function (9) ...the police is non- investigative, that is to keep the peace and protect the people.

#### **Interviews and interrogations**

**20. In investigations, the interviewing of witnesses, victims and suspects, personal searches, searches of vehicles and premises, the interception of correspondence and communications, the police are guided by a**

**series of fundamental principles, as shown below. Complete the text with the appropriate word below:**

*compelled/ presumed/ treated/ subjected / prohibited/ conducted/  
exercised/ permitted/exerted*

- everyone has the right to security of the person
- everyone has the right to a fair trial
- everyone is to be (1) \_\_\_\_\_ innocent until proven guilty in a fair trial
- no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence
- no one shall be (2) \_\_\_\_\_ to unlawful attacks on his honour or reputation
- no pressure, physical or mental, shall be (3) \_\_\_\_\_ on the suspects, witnesses or victims in attempting to obtain information
- torture and other inhuman or degrading treatment is absolutely (4) \_\_\_\_\_
- victims and witnesses are to be (5) \_\_\_\_\_ with compassion and consideration
- confidentiality and care in the handling of sensitive information are to be (6) \_\_\_\_\_ at all times
- no one shall be (7) \_\_\_\_\_ to confess or to testify against himself
- investigatory activities shall be (8) \_\_\_\_\_ only lawfully and with due cause
- neither arbitrary, nor unduly intrusive investigatory activities shall be (9) \_\_\_\_\_

### **The Day of the Robbery**

#### **21. Match the two parts of the sentences to complete the text.**

- 1) At 3 a.m. on 7 November 2001, approximately 200 officers involved in Operation Magician...
- 2) They were prepared for a tactical operation which had been months...
- 3) Public safety was the prime consideration and officers had plans....
- 4) Amongst those present were 40 specialist firearms officers....
- 5) Others were sent into the Dome in disguise....
- 6) Surveillance officers disguised as Dome employees...
- 7) A further 60 armed Flying Squad officers were stationed around the Thames....

Officers also moved to a number of observation points between the Old Coal Yard in Plumstead and the Dome.

- 8) The Dome's CCTV room was turned into a police control room...

- a) gathered at the Dome for a dawn briefing
- b) dressed as cleaners they concealed their guns in black plastic bags and rubbish bins.
- c) to ensure that the robbers could be arrested quickly and safely at any given stage during the incident.
- d) from where Det. Supt. Jon Shatford ran the whole operation.
- e) and 20 on the river itself.
- f) who would be hidden behind a secret wall within the Dome and in other places.
- g) in planning and providing contingencies for many different outcomes.
- h) also patrolled the area.

*Discuss: If you had been a gang member would YOU have been keeping surveillance on the Dome?*

## **22. Study the information below:**

### **Timetable of events on the morning of 7 November 2001**

**7:26**

A white Transit van registration N770 AHE was seen towing the red and white speedboat along West Ferry Rd on the Isle of Dogs. The passenger was later identified as Kevin Meredith.

**8:11**

White Ford Transit van, registration number C673 COR, drove into the Old Coal Yard in Plumstead. The JCB was parked there.

**8:39**

A red and white speedboat was seen travelling east along the Thames towards the Dome. The driver, later identified as Kevin Meredith, then crossed the river into Bow Creek where he tied the boat up and waited.

**8:43**

The JCB and van drove out of the Yard towards Plumstead. The JCB driver – later identified as Betson- was wearing a fluorescent waistcoat. The JCB traveled towards Greenwich, turning right into Anchor and Hope Lane. At this point the white van was lost. The driver was not identified and the vehicle has never been recovered.

**9:07**

The JCB travelled along Bugsby Way towards the Dome. It turned left beneath the A102 Blackwall Tunnel Approach and parked up out of sight. Police believe that this is where Ciarocchi, Cockram and Robert Adams got into the JCB alongside Betson. The gang had modified the cabin to fit four people.

The JCB turned left into Ordnance Crescent towards the Dome. It stopped in Drawdock Road, just short of the Dome's perimeter fence.

**9:33**

The JCB crashed through a gap in the fence, flattening a metal bollard as it went. It headed towards Gate 4 of the Dome.

**9:35**

The JCB rammed open the double locked gates at Gate 4 and moved into the grounds of the Dome.

**9:36**

The speedboat crossed the Thames toward the Dome from Bow Creek. It got into position at Millennium Pier where it waited for the robbers.

**9:37**

The JCB crashed through the side of the Millennium Dome and careered towards the Money Zone. It braked quickly outside the diamond exhibition, and Adams, Ciarrocchi and Cockram jumped down from the cabin.

All three were wearing gasmasks and body-armour. Adams and Cockram entered the vault while Ciarrocchi kept watch outside.

Inside the vault, Cockram dashed to the cabinet containing the 777-carat Millennium Star diamond. He fired into the glass with a loaded Hilti gun. Adams then set about smashing the cabinet with a sledgehammer. Having broken the glass he started on the second cabinet - where the De Beers Millennium Diamonds were displayed: eleven rare blue stones and the 777 carat flawless Millennium Star. Worth over £200 million, the diamonds are second in value only to the Crown Jewels.

At this point Det Supt Jon Shatford gave the order to arrest the suspects.

**9:37**

Outside the vault Ciarrocchi was still keeping watch. As armed officers approached him, he threw a grenade in their direction - which exploded into a ball of blue smoke. Ciarrocchi was quickly overpowered and arrested. When searched he was found to be carrying further grenades, a firework and ammonia.

#### **The arrests and after**

With the suspects outside the vault safely detained, armed officers moved towards the vault itself. Distraction devices were thrown inside as officers entered and overpowered the pair. As they handcuffed Adams they noticed a strong smell of ammonia and discovered that both he and Cockram were carrying bottles of the substance.

Betson, who remained inside the JCB was also swiftly arrested and handcuffed.

#### **Armour and ammonia**

Meanwhile officers on the river moved in to arrest Meredith. Armed officers deployed on three boats left their hiding places and moved towards Millennium Pier. They quickly cut off his escape route, and arrested him. Meredith was carrying a large quantity of petrol – which police believe would have been used to set fire to the boat after the robbery.

A sixth man was arrested on the north side of the river Thames at the Lower Lea Crossing. He was parked in the White Ford Transit van (N770 AHE) which was seen towing the speedboat earlier that morning.

The robbers were taken to different police stations in South East London for questioning. On 8 November, the following day, they were charged.

**23. Give a written account of a real police operation that you know about from Ukraine. This should be described in about 150 words.**

**Caution in UK:**

‘You do not have to say anything. But it may harm your defence if you do not mention, during questioning, something which you later rely on in court. Anything you do say may be given in evidence’.

**Caution in US:** ‘Anything you say can and will be used against you in a court of law’

**Procedures for criminal investigation and prosecution**

**24. Complete the sentences 1-24 with the words a-x to describe criminal investigation and prosecution procedures.**

1. First, the police \_\_\_\_\_ an/a \_\_\_\_\_.
2. The police \_\_\_\_\_ the \_\_\_\_\_ to the police station.
3. Perhaps the police \_\_\_\_\_ an identity \_\_\_\_\_.
4. The \_\_\_\_\_ may identify the suspect from an identity \_\_\_\_\_ or from photographs in the data base – known as criminal \_\_\_\_\_.
5. To help identification of suspects, detectives use computers to construct “identi-kit” or “\_\_\_\_\_” likenesses of the suspect.
6. In serious crimes, these photographic likenesses may appear on \_\_\_\_\_ which are displayed outside police stations or in public places.
7. They always \_\_\_\_\_ the \_\_\_\_\_.
8. The police \_\_\_\_\_ fingerprints, head-hair, dirt from clothes, fibers etc.
9. The police \_\_\_\_\_ a charge as soon as possible.
10. The suspect \_\_\_\_\_ the right to contact a \_\_\_\_\_.
11. The police either \_\_\_\_\_ the defendant on bail or, in more serious cases, they \_\_\_\_\_ the defendant before a \_\_\_\_\_ to hold the defendant on \_\_\_\_\_.
12. In the court proceedings, the \_\_\_\_\_ the evidence alone in less serious cases.
13. In more serious cases, there is a \_\_\_\_\_ who hears the evidence. Again, in more serious cases, there is a \_\_\_\_\_, usually consisting of 12 members. The \_\_\_\_\_ reaches a \_\_\_\_\_ after hearing all the \_\_\_\_\_.
14. In English law, there are only 2 possible \_\_\_\_\_ - “Guilty” or “Not Guilty”.
15. If the \_\_\_\_\_ is guilty, the court (judge or magistrate ) \_\_\_\_\_.
16. The sentence for \_\_\_\_\_ is different according to the nature of the offence, summary or indictable (petty or serious) (USA; misdemeanor or felony).

17. The jurisdiction of the courts is \_\_\_\_\_ to the nature of the offence, too.

18. Prisoners who are given \_\_\_\_\_ sentences may be sent to “open” or closed prisons.

19. The first category of prison is reserved for prisoners who have \_\_\_\_\_ less serious offences.

20. “Closed” prisons are for criminals who have \_\_\_\_\_ serious offences.

21. Some offenders may be \_\_\_\_\_ in “solitary confinement” if they are at risk from attack by other prisoners. For example, offenders in child abuse or sex crimes involving children.

22. The death penalty or “\_\_\_\_\_ punishment” does not exist in Britain but is still used in many states of the United States.

23. Many prisoners are entitled to apply for \_\_\_\_\_ after having served a certain number of years of their sentence.

24. If the \_\_\_\_\_ board (committee) considers the prisoner is not a risk or danger to the community, he may be released “\_\_\_\_\_”. He will have to report to a “\_\_\_\_\_” officer who is usually a “\_\_\_\_\_ officer”.

- a) capital
- b) committed
- c) committed
- d) custodial
- e) different according
- f) has... lawyer
- g) held
- h) hold an identity parade
- i) interview the suspect
- j) judge.... jury.... jury... verdict... evidence
- k) lay
- l) magistrate hears
- m) make an arrest.
- n) offenders
- o) parole
- p) parole.... on parole..... parole..... probation
- q) photo-kit
- r) posters
- s) release..... take.... magistrate.... remand
- t) take samples
- u) take the suspect
- v) verdict.... passes sentence
- w) verdicts
- x) witness..... parade .... records

## Speaking 4.

### 25. Discuss the following questions:

1. What is the role of the police as a law-enforcement agency? What other law-enforcement agencies do you know?
2. Which departments of the police service deal directly with crime detection and apprehension of criminals?
3. What is the act that governs the activity of the police in UK? What are the arresting procedures in UK?
4. Who can press or drop charges?
5. Who can try and sentence a criminal?
6. *Principles of Police Investigations*
7. How closely are the essential principles of investigations related to Human Rights? What are the consequences of the non-observance of these principles?
8. What are the causes of abuse in police work?

### 26. Discuss these issues with a partner before reading the text.

1. How and where can a police officer gather information on a case? Who does he speak to?
2. What are the steps an investigating officer takes immediately after discovering a crime? How important is crime prevention?
3. What is the situation in Romania?
4. What can the police do in order to deter crime?
5. How can the police raise public awareness on every person's role in detecting, reporting and deterring crime? What concrete steps can they take?
6. How cost-effective can crime prevention be compared to crime investigations? How important are standardised policies, practices and procedures in police work? Do these limit the liberty of police officers in their work or do they help them?

## Operation „Magician”

### How the Flying Squad foiled the world's biggest ever robbery

#### Intelligence

In summer 2000 the Metropolitan Police Flying Squad developed intelligence that pointed to a major armed robbery plot. Its location was unclear, but police knew the identities of some of the robbers. They also knew the gang was highly organised and would probably be armed.

Over a period of months detectives worked tirelessly to develop the intelligence picture. A major surveillance operation was launched, using officers from the Met's Directorate of Intelligence. Within weeks, police were sure they knew the venue of the robbery – The Millennium Dome in Greenwich. The exact target within the Dome was not yet clear.

*Discuss: how big a risk were the police taking at this point?*

#### Surveillance

On 1 September 2000 three of the suspects, William Cockram, Raymond Betson and Aldo Ciarocchi were seen at the venue filming with a camcorder and studying the plans of the Dome.

Over the coming weeks the surveillance continued, and further members of the gang were identified and some of the men were spotted testing a speedboat in a harbour in Kent.

Detectives thought the gang might use the boat as a getaway. The robbery was getting close.

*Discuss: What practical steps should the police already have been taking?*

### **The JCB Mechanical Digger**

By early October police inquiries had identified another venue linked to the robbery – The Old Coal Yard in Whitehart Road, Plumstead. The detectives observed gang members with a yellow mechanical digger, registration L245 AJU. The digger had been reported stolen some months earlier and would clearly have some role to play in the robbery.

*Discuss: JCBs (yellow construction/digging vehicles) had been used before in a new version of the “smash and grab” raid known as “ram raids” What precautions should the police have taken?*

### **The River**

Police could not be sure when or indeed exactly how the robbery would take place. On a number of days in October the gang looked as if they were about to commit the offence. On three separate days they towed a speedboat to Greenwich and placed it in the river opposite the Dome. Other activity on those days tended to indicate that the robbery was close – but strangely it didn't materialise. Detectives were sure that there was more to this than merely a loss of nerve on the robbers' part. They analyzed the times and days of the aborted attempts and found that they had something in common – the tide. On each of the days when the robbery was aborted the tide was at its highest possible level. This was vital to the robbers' escape, since the boat could only be launched on the north side of the Thames when the water was high. Through studying the patterns of the tide, police were able to predict the optimum times for the robbery to take place. One of these days was 7 November 2001

*Discuss: Speedboat .. river.. possible mooring and launching locations.. tides.. a very obvious deduction and conclusion by the police ?*

**27. With a partner, try to retell the story in your own words. Look in the papers or on the Internet for other such operations. Do they involve reactive or proactive approaches?**

**28. Try to classify the following actions according to the person who performs them. Sometimes more than one answer is possible. There may also be a natural sequence or “chronology” related to some actions.**

**WORK IN GROUPS! Use the following abbreviations.**

**Investigating Officer = (IO) Victim=(V) Witness= (W) Offender= (O)**

**(CPS) = Crown Prosecution Service Court = (C)**

<b>Investigating Officer</b>	<b>Victim</b>	<b>Witness</b>	<b>Offender</b>	<b>CPS</b>	<b>Court</b>

**GROUP 1**

to detect a crime, to report a crime, to commit a crime, to catch a criminal, to arrest a suspect, to interrogate, to make a confession, to break the law, to put an APB on a criminal, to take into custody, to browse a mug-shot book, to gather evidence, to prosecute, to send to prison, to handcuff a suspect, to commit to trial, to send to court, to take a statement, to give a statement, to release on parole, to release on probation, to plead guilty,

**GROUP 2**

to charge, to execute a search warrant, to press charges, to drop charges, to issue an warrant, to be on call, to perpetrate a crime, to conduct a crime scene examination, to report for duty, to follow a lead, to shadow a suspect, to apprehend a criminal, to be served with a subpoena, to admit an offence, to perform a ballistics match, to resort to the polygraph, to conceal facts, to combat crime, to conduct an interview, to exercise their right to silence, to elicit information from a suspect, to deny involvement, to establish the identity of a suspect

**GROUP 3**

to withhold information, to request legal advice, to locate a crime, to check an alibi, to do the fingerprints' match, to handle exhibits and evidence, to obtain a confession, to record an interview, to prove an offence, to caution a suspect, to conspire with, to view an identification parade, to accuse, to carry out an intimate search, to detain a suspect, to witness an offence, to have the power to stop and search, to be assigned to a case, to be put on a case,

**GROUP 4**

to question a suspect, to pass sentence, to be under subpoena, to do a positive ID on somebody, to violate the law, to find guilty on all counts, to find guilty as charged, to bring charges against, to invalidate a confession, to dismiss a case, to hear a case, to disclose evidence, to arrest in anticipation of violent behaviour, to reach a verdict, to return a verdict, to sign a restraining order, to institute criminal proceedings, to testify, to arrest on suspicion of murder.

**Video 2. Crime Scene Investigation of the Future**

*In this talk, join Wim Develter and Bram Bogaert in this real life crime scene investigation and discover the new technologies that can be used to investigate a homicide.*

## Crime and Society

### Reading 5.

#### **DOMESTIC VIOLENCE AND VIOLENCE AGAINST WOMEN INFORMATION BOX**

- The West Yorkshire Police alone took reports of 26,000 incidents of domestic violence in the year 2000. In 75% of the cases the complaint was withdrawn and the case terminated.
- In Bucharest, of 500 violent incidents in 1999, 300 were domestic violence cases, and of 110 killings, 70 were victims at the hands of family members
  - 983 is the Romanian helpline for victims of domestic violence
  - Between January and October 2000, when a study was published, 350 had used the helpline number.
  - People throw around statistics saying that up to 70 or 80% of children of batterers are also abused. That statistic is wrong. EVERY child who witnesses abuse is a victim of abuse.
  - 4 million American women experience a serious assault by an intimate partner during an average 12-month period.

**29. Before reading the text, discuss with a partner what domestic violence really entails. Who commits it and why? Who are the victims and how can it be eradicated?**

#### **Text A**

There is still a lot of confusion and misunderstanding about domestic violence – what it is, who suffers from it, who commits it and why. Violence or abuse suffered by women in their home which is carried out by their partner, ex-partner or anyone they are living with is known as domestic violence. Victims of domestic violence are usually women, but this is not always the case.

Women experience domestic violence regardless of their social group, class, age, race, disability, sexuality and lifestyle. Violence and abuse can begin at any time – in the first year or after years of marriage or living together.

Domestic violence can take a number of forms such as physical assault, sexual abuse, rape, and threats. In addition, it may include mental and verbal abuse and humiliation. Women experiencing domestic violence tend to play down rather than exaggerate the violence. For some, the decision to seek help, to leave the abuser, or get the abuser to leave is quickly and easily made. For many, the decision will be long and painful as they try to make the relationship work and stop the violence. Women who leave often return to their partners hoping for an improvement in the relationship or because of financial or social pressures.

Men who are abusive to women do not necessarily abuse children, but it can happen. Children will react in different ways to being brought up in a home with a violent person. They may be affected by the tension or by witnessing arguments and assaults. They may feel that they are to blame, or feel insecure, alone, frightened or confused.

Domestic violence is a crime which the police now deal with as a very serious matter. Most forces have specially trained and experienced officers that can arrange medical aid, transport and a safe place for the victims.

There are several organisations that can give practical and emotional support to the victims. Refuges provide safe emergency and temporary accommodation, advice, information, support and a range of other services for women and children escaping violence.

Women's Aid is a key support agency for women and children experiencing domestic violence and runs a domestic violence helpline. Their services are confidential and completely free.

The Samaritans offer confidential emotional support 24 hours a day by phone, face-to-face or by letter. There are over 200 branches in the UK and Eire staffed by trained volunteers.

### **Text B**

For over a year before she was murdered by her husband Avelino, Maria Teresa Macias pursued every possible avenue to escape his years of violence against herself and their three children. She reported to Child Protective Services, obtained restraining orders, cooperated with investigators, talked to friends, went to churches, attended counseling, brought her mother in from Mexico and her sister from Ireland, and tirelessly reported new incidents to authorities, verbally and in writing.

In just the last three months of her life, between January and April 1996, Teresa and witnesses reported Avelino's crimes against her to the Sheriff's Department on at least 18 different occasions. Teresa's struggle to be free of Avelino's violence was relentless. And it was doomed. The help she reached for, failed her at every turn. After Child Protective Services took her children because she was unable to keep Avelino away from them,

Teresa made a comment to her mother that seemed to describe the efforts of her entire last year. "Instead of helping me," Teresa told her mother, "they sank me even more". On April 15, four days before she was going to take the final step of fleeing north with her kids, Avelino lay in wait at the Sonoma house she and her mother were due to clean. Avelino ended Teresa's life with a bullet to the head, shot her mother through the legs, and then turned the gun on himself. In the last couple of weeks of her life, Teresa became enveloped by an ominous sense that Avelino would indeed succeed in his threats to kill her. If he did, she told her mother, she wanted the story told. "If I die, I don't want other women to suffer what I am suffering", she said, "I want them to be listened to."

**30. Match a line in A with a word/phrase in B and a line in C:**

A	B	C
There is still a lot of confusion and misunderstanding	about	all the changes and upheavals.
Women experience domestic violence	because of	they have left the relationship.
Victims of domestic violence are usually women	after	women and children experiencing domestic violence.
Domestic violence can take a number of forms	regardless of	a very serious matter.
Victims should seek legal advice from a solicitor	despite	domestic violence.
Women who experience domestic violence feel	for	this is not always the case.
Women do have legal rights in relation to their children	as	their social group, class, age, race, disability, sexuality and lifestyle.
Women's Aid is a key support agency	such as	what their partners say.
The police now deal with domestic violence	that	physical assault, sexual abuse, rape and threat.
Women often experience depression and anxiety	but	they are concerned about their children.
This may happen	if	they are to blame.

**31. Fill in the blanks with one of the following adverbs:**

*completely, directly, effectively, aggressively, often x 2, necessarily, specially, financially, physically, sexually, emotionally, sympathetically, in silence, in fear, alone.*

1. Nobody has the right to assault anybody \_\_\_\_\_,  
\_\_\_\_\_ or \_\_\_\_\_.
2. Women don't have to suffer \_\_\_\_\_ or live \_\_\_\_\_.
3. The police will deal with the victims \_\_\_\_\_.
4. The victims' inquiry will be \_\_\_\_\_ confidential.
5. The police is committed to \_\_\_\_\_ improving the service offered to victims of domestic violence.
6. It is not easy for the victims to accept that someone they love and have trusted can behave so \_\_\_\_\_ towards them.

7. Children are \_\_\_\_\_ affected by the tension or by witnessing arguments and assaults.

8. Men who are abusive to women do not \_\_\_\_\_ abuse children, but it can happen.

9. Most police forces have \_\_\_\_\_ trained and experienced officers to deal with domestic violence.

10. Abused women \_\_\_\_\_ wonder how they will manage \_\_\_\_\_ if they leave home.

11. \_\_\_\_\_ Whatever abused women decide, they don't have to suffer \_\_\_\_\_

12. \_\_\_\_\_ Domestic violence victims can contact Victim Support offices \_\_\_\_\_ or ask the police to put them in contact with their local group.

### 32. Decide on the appropriate collocations:

marriage	form
consent	of adultery
evidence	violence
extra marital	relations
domestic	certificate
change	officer
patrol	in policy
police	service
to produce	help
to grant	a divorce
to seek	an organization
to take	a decision
to experience	evidence
to run	abuse
to express	action
to take	concern

### 33. Put in the correct past participles of the verbs in brackets to complete the list:

Women who experience "domestic abuse" could be...

- (call) \_\_\_\_\_ names
- (give) \_\_\_\_\_ no money
- (rape) \_\_\_\_\_
- (stop) \_\_\_\_\_ from seeing family and friends
- (punch) \_\_\_\_\_
- (tell) \_\_\_\_\_ what to wear
- (threaten) \_\_\_\_\_ with worse violence
- (strangle) \_\_\_\_\_ or (choke) \_\_\_\_\_ almost to
- death

- (humiliate) \_\_\_\_\_
- (not allow) \_\_\_\_\_ to go out alone
- (degrade) \_\_\_\_\_

**34. Fill in the blanks with ONE suitable word. The first letter(s) is/are given.**

The problems (1) con.....with domestic violence are widely recognized, yet, only recently has the focus (2) sh.....to helping the victims. As far as the police service is (3) con....., it is essential that positive action is taken in all cases at the (4) sc..... of domestic violence. Consequently, wherever there is evidence of an (5) o....., in the first instance the arrest should be made (6) irr..... of the wishes of the victim. The wife's, partner's or girlfriend's pleas of 'Don't lock him up' or 'Leave him alone' to the (7) a..... officer may be purely for her (8) o..... protection for when he returns home later. If there is (9) in..... evidence to make an arrest but problems are (10) ant..... in the near future, then an arrest for breach of the (11) p..... is appropriate. This will effectively remove the victim from immediate (12) d..... and provide time to (13) dis..... the circumstances in private. This process must be carried (14) o..... without fail, despite previous instances of withdrawals of (15) com.....by the victim. Moreover, the quality of the files (16) rel..... to DV assaults must be high, otherwise the CPS cannot do their (17) j..... A large number of files are being withdrawn by the CPS on the (18) g..... that the complainant no longer wishes to prosecute. So, the police service is reconsidering the situation to decide whether, even without such witness (19) st..... and formal complaints, a prosecution should be (20) all..... to proceed. In addition to the role of the police and the CPS, the judiciary also has an important part to play and should (21) p..... more custodial sentences. Locked away, the (22) per..... would have time to consider his situation carefully. Concerted, long-term 23) str....., implemented by police, judiciary and the government are absolutely essential, while substantial financial (24) in..... must be continued for those agencies which are trying so (25) h..... to help and rehabilitate. The time for fine words and good intentions has made way for action.

**35. Read the text and comment on the issues raised.**

**Refugee children in Britain**

According to Amnesty International, around 100,000 children who have escaped from war, torture and intolerance are living in Europe, separated from their parents. For example, around three thousand arrived in Britain in 2000. Responsibility for the care of refugee children living alone lies with social services departments. The children are covered by the Children Act (as are UK-born children) in which according to Section 20, the local authority has a "duty to

safeguard and promote the safety of the child”. The child is “fostered” or accommodated in a children’s home and checks are kept on the child even after the 18th birthday. But for separated refugee children, Section 20 of the Act is not applied (although it could be and is applied by some local authorities). Instead, Section 17 covers the status of separated children and only obliges the authority to house the children in bed-and-breakfast hotels, with little support from social services.

It is very difficult for these children to provide any evidence of age, risk of persecution or personal danger and the Home Office still considers it necessary to “eliminate the incentives which attract unaccompanied children”. The Home Office policy is to prevent them from settling in UK but suggests that “where there is no prospect of safe return, exceptional leave to stay may be granted to unaccompanied children for 4 years or until their 18th birthday.” The Home Office seeks to “enforce the removal of unaccompanied asylum-seeking children who have been refused asylum and who have no other basis to stay in the UK when they reach 18”.

As Amnesty International comments: “It becomes clear why these children are almost never granted refugee status – at 18 anyone can be deported, under 18 there are impossible protective measures which have to be met before a child can be returned.”

1. What are the main concerns of the British government?
2. Are these children any less entitled to protection because they are “refugees”?
3. Should Britain be seeking European assistance in trying to solve these problems or is it an exclusively British one?

### **36. Read the text and complete the exercises.**

#### **Father who left baby faces jail**

*by Jeanette Oldham*

It was hot and the baby had been fractious but, finally, he had dropped off for his afternoon nap. Steven MacDonald, glad of the peace and quiet, wanted to go for a walk along the East Anglian beach so he could feel the family really was on holiday at last.

Elder son, Jamie, seven, was impatient to get going, but what to do with baby Robert?

He looked so peaceful in his cot in the car. After all, he was fast asleep and five minutes would not do any harm, despite the rising temperatures.

That five minutes, however, became hours and still the mercury rose.

Now 30-year-old MacDonald is facing jail.

It had started as a holiday to help a family to forget its mounting troubles, but ended in a magistrate’s court with the Paisley father accused of child cruelty. MacDonald told magistrates at

Great Yarmouth yesterday he had intended to be away for only a few minutes, but the time grew into hours. With the car window left just a couple of inches open, Robert soon woke and began crying.

The alarm was raised more than an hour later by Louise Watkinson, an off-duty special constable, who was parked in the clifftop car park in Marine Parade, Gorleston, near Great Yarmouth, and heard the baby's cries.

Ray Osborne, prosecuting, told magistrates: "She went and looked and it appeared the baby was in distress, so she called for police officers to attend." MacDonald, of Ferguslie Park Avenue Paisly, pleaded guilty to an act of cruelty to his son by allowing him to be wilfully assaulted, ill-treated, neglected, abandoned or exposed to danger. Sentence was adjourned until August 17 for reports.

**37. Rephrase the underlined sections using a word or phrase from the text:**

1. He is likely to be punished by imprisonment.

He \_\_\_\_\_ jail

He \_\_\_\_\_ a jail term.

2. A member of the public contacted the police because she thought there was danger.

She \_\_\_\_\_ the alarm.

3. The father wrongly believed everything would be all right, leaving his son in the car.

He didn't think this \_\_\_\_\_

4. Except for this incident, there is no indication that the family neglected or abused the child

There does not appear to be any evidence that the child \_\_\_\_\_

\_\_\_\_\_ ,

5. The counsel for the prosecution, Mr Ray Osborne, summed up his case by praising the action of Ms. Watkinson.

Mr Ray Osborne, \_\_\_\_\_, praised Ms. Watkinson's action.

**38. Decide if the sentences are TRUE, FALSE or NOT ENOUGH INFORMATION**

1. The mother was also responsible

2. The father and the other boy were away for several hours.

3. The alarm was raised by a special police officer.

4. The father expressed his regret in court.

5. The father was unemployed.

6. The punishment for this crime is a fine not less than 1000 pounds.

7. He said that he had not intended to abandon the child for a long time.

8. The judge was very severe in administering the punishment.
9. The temperature was over 30 degrees that day.

### **Speaking 5.**

**39. Project work: Choose a topic from the following and make a project about crimes of domestic violence and associated punishments giving as many details as possible and using charts, pictures and photographs:**

- a) Watch the news on TV and read newspapers to find out which crimes are reported and how many of them relate to domestic violence in a week
- b) Retell a case of domestic violence that you know or have heard of, either recently or in the past
- c) Is punishment for domestic violence effective or should it be changed?
- d) Conduct a survey on how people feel about domestic violence (Is it ever necessary ... acceptable ... not a case for concern?)
- e) Responsibility in the case of domestic violence
- f) The role of the police in preventing, detecting and solving Domestic Violence cases. See if the police in your town or sector have information leaflets related to Domestic Violence.

### **CHILD ABUSE**

*The topic “Child Abuse” is an extremely sensitive and delicate issue. As a police officer, concerned with legal and social circumstances, you should know about the realities of this sad topic, both in your own country and elsewhere. Although, many of the texts and activities seem to focus on language, the serious nature of the subject underlies everything. Please keep this in mind and remember the human misery and suffering which is involved.*

#### **40. Discussion points**

1. What is the status of children in Ukraine? How serious is the issue of “street children”?
2. How do you view the issue of “institutionalized children”? Is it a European issue or a national issue?

### **Children in need**

#### **Classifying needs.**

**41. Look at the descriptions of the official “need code” categories for Children in Need. Locate the headings for each description.**

**SOCIALLY UNACCEPTABLE BEHAVIOUR  
ABSENT PARENTING DISABILITY  
ABUSE OR NEGLECT**

**FAMILY IN ACUTE STRESS  
PARENTAL ILLNESS/DISABILITY  
LOW INCOME  
FAMILY DYSFUNCTION**

- 1.Children in need as a result of, or at risk of, abuse or neglect.
  - 2.Children and their families whose main need for services arises\* out of the children's disabilities or intrinsic condition\*.
  - 3.Children and their families whose main need for services arises because the capacity of their parents or carers\* to care for them is impaired\* by disability, illness or mental disorder.
  - 4.Children whose needs arise from living in a family going through a crisis such that parenting\* capacity is diminished\* and some of the children's needs are not being adequately met. \*
  - 5.Children whose needs arise mainly out of their living in families where the parenting capacity is chronically inadequate.
  - 6.Children and families whose needs for services arise primarily out of their children's behaviour which impacts\* detrimentally\* on the community.
  - 7.Children living in families or independently, whose needs arise mainly from being dependent on an income below the standard state entitlements. \*
  - 8.Children, whose need for services arises\* mainly from having no parents available to provide for them.
- Add the items marked with an asterisk \* to the appropriate core vocabulary collection.

**Vehicle Crime**

**Reading 6.**

- 42.In pairs, read one text and relate the facts in your own words to your partner. Comment from the professional point of view and consider the social implications of these circumstances.**

**STUDENT A**

In Estonia, smuggling stolen cars is almost risk free. Very few people in Estonia have been convicted for smuggling stolen cars. The laws are incomplete in the courts have yet to rule on on matters of legal interpretation. In contrast to the Interpol section of other countries, Estonian officers work a lot in the streets.

Thousands of stolen cars come to Estonia every year. They arrive from all over Western Europe on ferries and overland from the south. Most cars pass on to Russia. Estonia's involvement is usually limited as couriers deliver cars to buyers in the St.-Petersburg area. Last year the Estonian police managed to return about 100 vehicles of which approximately 20 had belonged to Swedish and 30 to German owners.

#### STUDENT B

It's an open secret that Montenegro is the best hot car market in Europe: new models, priced to go. Most of the inventory however, appears on Interpol's list of stolen vehicles. The International Police Agency has no authority here, for Yugoslavia- a pariah state- has no relationship with Interpol. A longtime member of a car theft gang explained how the cars arrived in Montenegro: "The best method is to find someone in, say, Germany, who needs extra money and who is willing to have his car stolen. We drive the car over, and the owner declares it stolen once it's already here. The owner collects the insurance policy plus a bonus from us, depending on what kind of car it is. Few cars stay in Montenegro or Serbia, and most often continue on to the Middle East."

When talking about cars, smuggling means:

- a) using a car in a robbery
- b) using a car to transport illegal immigrants
- c) illegal import and/or export of a vehicle (usually stolen)
- d) using cars to transport illicit goods (contraband)

**SMUGGLING.** *The offence of importing or exporting specified goods that are subject to customs or excise duties without having paid the requisite duties. Smuggled goods are liable to confiscation and the smuggler is liable to pay treble their value or a sum laid down by the law (whichever is the greater); offenders may alternatively, or additionally, receive a term of imprisonment*

#### ORGANIZED CRIME

The following definition of organized crime can be given, based on the practice of fighting against such crime:

*"Criminal union organized for profit-seeking to commit diverse criminal offences, with the assumption of meeting objectives through corruption, blackmail, terror as well as the use of force and arms. "*

#### 43. Make sentences using some of the underlined words.

1. Almost all criminal activity has as primary motive the idea of \_\_\_\_\_.
2. It is remarkable how varied and \_\_\_\_\_ the criminal imagination can be.

3. There is evidence to indicate that more criminals are prepared to use \_\_\_\_\_ nowadays, particularly as guns are relatively easy to obtain.
4. Getting officials on your side, or to turn ‘a blind eye’ is indicative of the pattern of \_\_\_\_\_ vital to any “successful” organized crime activity.
5. The secret criminal organization or \_\_\_\_\_ is not a new phenomenon. Even medieval society had secret societies, some committing criminal \_\_\_\_\_.

**44. Match the two parts to form sentences:**

1) Criminal groups dealing with	a) in good faith or to persons receiving stolen property.
2) They are headed by the “boss” or “organizer”, who	b) a stolen car abroad to a final buyer, as urgently as possible.
3) These people, functioning in European urban centers, pay	c) the task of moving stolen cars to new, safe places.
4) Another quite wide group of criminals	d) car theft and smuggling are almost always hierarchically organized.
5) Couriers are entrusted with the task of transfer of	e) for thefts, supply false documents and contract “countries” which smuggle cars abroad.
6) Another group of offenders engaged in this activity are people entrusted with	f) deals with the financial side of the activity and “contract” thefts.
7) Finally, stolen cars are supplied to a buyer acting	g) are the car thieves themselves.

**45. Rearrange the words to make sentences.**

- The theft/ is/ of/ serious/ a / automobiles/ problem/ world-wide
- Vehicle/ can/ support/ profits/ terrorist/ organisations/ crime/ from
- Trafficking/ mainly/ of/ criminal/ groups/ in vehicles/ is/ the work/structured and sophisticated.
- South Africa/ stolen/ criminal/ is / by/ groups/ as/ to export/ a transit area / luxury/ vehicles/ used.
- Germany / an increase/ is/ in/ facing/ cars/ rental/ of/ thefts/ nationals/African/ by
- Italy/ concerned/ are/ Greece/ and/ criminal/ at / groups/ Albanian/ smuggling/ are/ who/ engaged/ actively/ car/ in
- Violence/ increasingly / as/ to obtain / is/ an / ‘modus operandi’/ cars/ luxury/ common

**Speaking 6.**

**46. Discuss the following questions:**

1. What is the link between cross border crime and organized crime?  
What is cross border crime?
2. What aspects of car theft are you aware of?
3. Do you think that people must be imprisoned for smuggling stolen cars? Is this such a serious criminal offence? Isn't it enough to pay a fine, or to do some social work?
4. In the Border Police, is there a need for specialists in stolen cars or is the assistance provided by the police forces enough?

## Terrorism

### Video 3. What is the definition of terrorism?

#### Reading 7.

#### 47. Read the text carefully. Is there a difference between terrorism and other criminal offences?

Terrorism is a special type of violence. It is a tactic used in peace, conflict and war. The threat from terrorism is ever present and an attack is likely to occur when least expected. A terrorist initiates the event that marks the transition from peace to conflict or war. Combatting terrorism is a factor to consider in all military plans and operations. Combatting terrorism requires a continuous state of awareness; it is a necessary practice rather than a type of military operation.

Detailed guidelines, establishing an organizational program to combat terrorism, including preventive and protection measures and incident response planning can be found in the Joint Publication 3-07-2 (1993). Terrorism is a criminal offense under nearly every national or international legal code. With few exceptions, acts of terrorism are forbidden in war as they are in times of peace. The Hague Convention (1907) and the Geneva Convention of 1949 reinforce this idea.

### TERRORISM DEFINED

#### 48. Complete the sentences with the correct alternative:

Terrorism is the (1) \_\_\_\_\_ use of violence or the threat of violence to (2) \_\_\_\_\_ fear; it is intended to (3) \_\_\_\_\_ or intimidate governments or societies in the (4) \_\_\_\_\_ of goals which are generally political, (5) \_\_\_\_\_ or (6) \_\_\_\_\_. This definition is carefully formulated to (7) \_\_\_\_\_ between terrorism and other forms of violence.

- |            |               |               |                 |
|------------|---------------|---------------|-----------------|
| a) special | b) calculated | c) considered | d) intimidatory |
| a) cause   | b) start      | c) induce     | d) initiate     |
| a) force   | b) compel     | c) coerce     | d) threaten     |

- a) objective b) search c) accomplishment d) pursuance  
 a) religion b) philosophical c) polemic d) religious  
 a) idealistic b) illogical c) ideological d) nationalistic  
 a) differ b) distinguish c) diverge d) devolve

## THE TERRORISTS

**49. Terrorists are inspired by many different motives. They may be classified into three categories: RATIONAL, PSYCHOLOGICAL OR CULTURAL. A terrorist, of course, may be shaped by all three. Decide into which category the statements may be placed.**

1. The terrorist thinks through his goals and options, making a cost-benefit analysis.
2. “Splinter-groups” among terrorists are often more violent than their “parent” group.
3. Terrorists do not even consider they may be wrong although others’ views may be assessed on merit.
4. Terrorists tend to project their own anti-social motivation on others, creating a polarized “us” and “them” perspective.
5. Some political systems have no effective non-violent means for changes in power structure or “succession”.
6. Terrorist groups ask a crucial question: Can our actions be successful in attaining our goals without causing a backlash that will destroy the cause and perhaps our own people?
7. A terrorist group must terrorise. As a minimum it must commit violent acts to maintain group self-esteem and legitimacy.
8. Society generally rejects as unbelievable such actions as vendettas, self-destruction, ethnic cleansing, religious martyrdom, etc. when we observe it in others.
9. When a terrorist group approaches its stated goals, it is often inclined to re-define them.
10. A major determinate of terrorism is the perception of outsiders and anxiety about ethnic group survival. Fear of cultural extermination leads to violence.

**Can you think of authentic examples of these? For example, from Northern Ireland, from Spain, from Chechnya, from the Middle East, from North Africa?**

**50. Read the text:**

## **FORMER OFFICER ON TRIAL FOR JUSTIFYING TORTURE IN THE ALGERIAN WAR**

*Adapted from an article by Franck Johann from "Le Monde" which appeared in "The Guardian Weekly" edition, 06 December 2001*

For the first time since 1962, a high-ranking French army officer has been tried in a criminal court on charges of justifying the use of torture during the Algerian war for independence.

General Paul Aussaresses, 83, whose memoirs caused a furore earlier this year, faces a jail sentence of up to five years- for his writing rather than for his actions- even though he has admitted the torture and killing of 24 suspected rebels in the eight-year conflict which ended in 1962.

A Second World War resistance hero, General Aussaresses is charged with "complicity in justifying war crimes". The actual crimes are covered by an amnesty offered in the 1960s to all French soldiers who served in Algeria. Aussaresses regrets nothing, arguing that someone had to do the dirty work in Algeria. He did it, he says, without pleasure and without pity. And he

dispassionately told the story in "Services Speciaux: Algerie: 1955-1977", which was published in June 2001.

The General called his witnesses, most of them army men, many retired generals like himself – hoary, decorated, half-deaf, arthritic and full of war memories who came forward to defend their comrade. But the court also heard evidence from Henri Alleg, 80, who, during the conflict published *Alger Republicain*, a newspaper that was shut down by the French authorities. Alleg was arrested and tortured. During the three and a half years he spent in detention awaiting trial, he wrote *The Question*, a book that exposed the torture practised in French military jails during the Algerian war. His manuscript was smuggled out page by page. Alleg was tried in camera and sentenced to 10 years in prison. Giving evidence this time, he warned against a return to torture, "to barbarism in the name of civilisation, or the struggle against barbarism". But his audiences, most of whom supported Aussaresses, were indignant.

The next witness, the 71- year-old general Maurice Schmitt, was of a different calibre. A product of Saint-Cyr, the distinguished military academy, and a former prisoner at Dien Bien Phu (Vietnam), he was also army chief of staff from 1987-1991- the highest-ranking officer of his time. He got straight to the point: "Before they became terrorists, the members of the FLN (the Algerian National Liberation Front) were torturers," he said. While it could not be denied that torture was practised in Algeria during the war, he argues that "it was the legitimate defence of a people whose lives were at risk". And he added "If the choice is between getting my hands dirty or accepting the death of innocents, I choose to dirty my hands rather than risk losing my soul".

When he was not giving evidence, Aussaresses sat impassively. During the three-day trial he said little except to admit responsibility for everything, even for crimes he had not committed, such as personally torturing prisoners. Fabien Goget, the deputy public prosecutor observed that the plaintiffs saw the case as a trial of

the Algerian war, while the defence saw it as a freedom of expression issue. "I see it as a trial of a book: when history enters a courtroom, out goes the law." The prosecution called for the general and the two publishers of his book to be fined FF100.000 (about \$13500) each. A verdict is expected in January 2002.

**51. Decide if the following statements are true or false:**

1. The courtroom was filled with enemies of the General.
2. The prosecution was for the acts of torture.
3. The General did not deny the charges.
4. He was filled with pity when he ordered prisoners to be tortured.
5. General Schmitt was supportive of Gen. Aussaresses' actions.
6. Alleg had been tortured as a terrorist.
7. The trial and conviction of Alleg was a public scandal.
8. The deputy prosecutor thought the issue at stake was the whole conduct of the Algerian war.
9. Alleg made a statement saying torture is a barbaric act.
10. Many of the audience felt that the torture practised by the French was justified.

**52. Writing: What do you think?**

*"I choose to dirty my hands rather than risk losing my soul."*

*"Someone had to do the dirty work."*

*"When a book enters the courtroom, out goes the law."*

**Use these three ideas to write a composition of about 200 words, expressing your own ideas.**

**Speaking 7.**

**53. Discuss the following questions:**

1. Which terrorist groups are you familiar with?
2. What do you understand by the word "terrorism"?
3. Who decides if an act is "terrorism"?
4. If an act comes from the state, e.g. a planned assassination of an opponent who the state considers a threat, is the act not "terrorism"?
5. If something is defined as "terrorism" at one time, for example, the acts of extremist groups in Northern Ireland, should these people ever be allowed to participate in political discussions subsequently?
6. If the "terrorists" have political motives, e.g. independence for their group or minority, does this mean they are not criminals but political prisoners if caught?
7. Can terrorist groups that act "for nationalistic principles", e.g. the Basque movement, ETA, continue without the support of the people they claim to represent?

**54. Look at the photo and answer the questions:**

1. Who do you think the person depicted above is? A terrorist?
2. Where do you think he comes from?
3. Do WANTED posters have any effect?
4. If you think he is a terrorist, with what event may he have been connected?

**The answer is here. Check yourself:**

The man in the photograph is a Libyan national, ELAMIN, Abdullah, wanted for the bombing of a nightclub in Berlin in 1986 (sic). It is still present on the Bundes Kriminal Amt (BKA) web-pages www.bka.de



Before considering this topic, it might be useful to start at the theoretical end.

These texts are derived from the U.S. Army, Field manual “*Stability and Support Operations*”, *Combatting Terrorism*, Command and General Staff College, Fort Leavenworth, Kansas

**55. What do you think?**

**Do these constitute terrorism?**

1. Weapons and financial support for “freedom fighters” in their struggle for independence.
2. People sabotaging important electric and communications installations during an invasion of their country by a stronger power.
3. Nationalist separatists blowing up the ruling group’s administration buildings to reinforce their demands for independence.
4. Supplying weapons to groups opposed to a democratically and legally-elected government because it conflicts with the supplier’s ideological position.
5. Supplying equipment and installations to a “dangerous” state knowing that it may use these offensively or threateningly.

**Computer Crime, Fraud and Financial Crime**

**Reading 8.**

**56. Read the text and decide if you agree or disagree with the statements below.**

**Leeson paid £61,000 for speech**

*Adapted from the BBC web-site Business: Your Money (October 1999)*

Disgraced former Barings trader Nick Leeson has been paid \$100,000 (£61,000) to speak at a business conference in the Netherlands.

It was the first in a long line of lucrative celebrity-style appearances planned by the man who single-handedly brought down Barings Bank.

He will also be endorsing products in advertisements and appearing on television shows. Business people, brokers and bankers paid about £188 each to hear him speak at the event in the Netherlands. Leeson was released from a Singapore jail four months ago after serving three-and-a-half years of a six-and-a-half-year sentence for fraud. He was caught after going on the run when his gambling on derivatives markets landed Barings Bank with £800m of debt. Now, Leeson's assets are frozen and he has huge debts hanging round his neck.

He said: "I would like to go back into the financial world, but which company is going to be brave enough to employ me? Who will let me trade again?"

Leeson has written a book of his story, "Rogue Trader", which was made into a film, starring Ewan McGregor and Anna Friel. But his public relations adviser, Ian Monk, says Leeson did not gain a penny from either, because it went directly to Barings' creditors. Under an agreement with the creditors, he will be allowed to keep 35% of money earned from public and media appearances and advertising. The remaining 65% will go to creditors. Some of his portion of the money will go on medical bills. Leeson found out while in prison that he has colon cancer. After treatment, he is now in remission. Leeson also receives a monthly allowance of £3,000 a month from his frozen assets. "This man is inundated with offers. It's great," said Mr Monk. Asked where he wanted to be in 10 years' time, Leeson replied: "I hope I'm still alive. " I would like to live with somebody, have children and be left alone."

Leeson spoke about his view of world stock markets to 250 members of the Amsterdam stock exchange. It was a Dutch group, ING, which bought up Barings after its collapse and bailed it out.

**57. Agree or disagree?**

*1 = Agree very strongly    2 = Agree    3 = Not sure    4 = Disagree    5 = Disagree strongly*

1. Nick Leeson is a dangerous criminal and should be more carefully monitored.
2. He has served his sentence according to the law and should be allowed to get on with his life.
3. Nick Leeson should not receive anything other than the bare minimum to live until he has paid as much of the debt as possible.
4. 35% of his earnings is too much to be allowed to retain.

5. The fact that he can employ a PR adviser suggests that he has a good life style.
6. He should be obliged to pay for all medical treatment even if it is usually free.
7. No decent company would ever employ him to trade.
8. ING Bank should apply for a "restriction order" against him.
9. No decent person from the financial world could gain anything from such a crook.
10. Barings Bank was foolish in allowing one man the chance to “gamble” with their money.

**58. Match these definitions with one of the words underlined in the text.**

1. to rescue from a tricky situation =
2. amount of money received but not necessarily earned =
3. persons who are owed money officially, e.g. after bankruptcy of a company =
4. bonds and other negotiable financial instruments =
5. dealers in bonds and other financial instruments =
6. to purchase completely ("lock, stock and barrel"), especially after a financial collapse or company bankruptcy =
7. evading the police and other authorities =
8. to support or to promote =
9. as a great burden or load to carry =
10. financial resources (wealth) =

**Credit card fraud as organized crime**

*Adapted from an article in “Nexus” the bulletin of the UK National Criminal Intelligence Service (NCIS) Autumn 2001*

**59. In each of the lines 1-25, there is ONE word omitted. Suggest one correct word for each line. The place is marked with \***

1. Losses identified \* credit card issuers in UK – usually banks and building societies-
  2. grew from under £190 million pounds in 1999 \* around £300 million in 2000. These
  3. figures include plastic fraud as, for example, the fraudulent use \* individual cards
  4. stolen \* a handbag to the sophisticated remote technology to retrieve card data from
  5. computerized storage facilities of some international merchants and \*.
- The two types

6. of CCF identified \* the most attractive to organized crime are specifically the
7. counterfeiting of cards and fraud \* a CNP (card not present) environment such as
8. telephone order and internet mail-order. Proof of \* involvement of organized crime in
9. plastic fraud is not \* anecdotal nor is it difficult to verify. UK NCIS strategic
10. intelligence reports \* a significant number of crime groups whose primary interest is
11. CC crime. \* is also an alarming number of crime groups for whom CC crime is a
12. secondary interest. The new modus operandi also indicate well-\* criminal enterprises.
13. For example, recently there have \* attacks on the on-line gaming industry-
14. betting \* football, horse racing and other sporting activities), multiple attacks on
15. stored data from some major European hotel \* and transport companies and
16. attacks \* the ATM systems in Britain and abroad. These crimes require technological
17. expertise, capital investment in technology and global \* to “spread” the
18. fraudulent \*.
19. When NCIS first started \* collate intelligence on card fraud, the information seemed
20. to suggest \* most of the criminals originated from South-East Asia. This may have in
21. part been \* to the legitimate hologram-making businesses in Hong Kong. It may also
22. have been because of many Chinese criminal \* predisposition for existing
23. types of financial crime. However, by the late 1990s, it had \* apparent that this
24. criminal group had saturated its own market and had started to look \* its own
25. ethnic group \* recruits.

### Front-line fraud

**60. Now put these sentences in the best sequence to complete the “picture”.**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
<b>F</b>							

- A.** Two such environments were readily identifiable – petrol stations and restaurants.
- B.** In such places the staff usually received low wages, were possibly temporary or transient and likely to be under-supervised.
- C.** They had to find “front-line fraudsters” (those who attempt the fraud in the shop or other retail environment).
- D.** Access to a network of vulnerable retail networks was needed.
- E.** These customers would be less likely to notice the card “compromises” than customers in a familiar shopping environment.
- F.** The Chinese gangs sought out other ethnic groups, especially illegal immigrants as they, or even their families, are most vulnerable.
- G.** Both networks have the added advantage of being used by legitimate transient customers and tourists.
- H.** Some poorly-paid employment environments are also more likely to be staffed by the less-skilled and less well-educated.

### Common Internet Fraud Schemes

**61. Read the descriptions (1-7) of the different frauds. There are 7 "victim" situations described (A-G). Identify which type of fraud (1-7) is involved with each situation (A-G)**

1	2	3	4	5	6	7

**1. Online Auction/Retail**

The fraud attributable to the misrepresentation of a product advertised for sale through an Internet auction site or the non-delivery of merchandise or goods purchased through an Internet auction site

**2. Investment Fraud**

An offer that uses false or fraudulent claims to solicit investments or loans, or that provides for the purchase, use, or trade of forged or counterfeit securities.

**3. Business Opportunity/ "Work at Home"**

The offer of a “phony” job opportunity, often with associated charges such as "processing or application" fees. Perpetrators frequently forge the name of a computer service or Internet Service Provider.

**4. Financial Institution Fraud**

Misrepresentation of the truth or concealment of a material fact by a person to induce a business, organization, or other entity that manages money, credit, or capital to perform a fraudulent activity.

**5. Credit Card Theft/Fraud**

The unauthorized use of a credit/debt card or credit/debt card number to fraudulently obtain money or property. Credit/debit card numbers can be stolen from unsecured web sites.

## **6. Ponzi/Pyramid Schemes**

An investment scheme in which investors are promised abnormally high profits on their investments. No investment is actually made. Early investors are paid returns with the investment money received from the later investors. The system usually collapses, and the later investors do not receive dividends and lose their initial investment.

## **7. Non-Delivery of Goods/Services**

The non-delivery of goods or services which were purchased or contracted remotely through the Internet, independent of an Internet auction.

A. *" My girlfriend or rather ex-girlfriend bought some clothes using my card."*

B. *" I saw this advertisement on a web-site, offering really high profits for a small*

C. *investment. I transferred US\$1000 and I haven't heard anything since! Neither have lots more people, I understand!"*

D. *"I have a computer and Internet at home and this Internet company said I could compose advertising texts for them and be paid for them. But they charged me 50US\$ for their application form and another US\$50 for "distribution of my credentials" and I haven't heard from them since."*

E. *"Well, you know I like to collect coins. There was a great selection in an on-line auction. I paid 200US\$ for what was described as a 'Charles I token'. The Internet picture was certainly Charles I, but when the coin arrived it was quite different...and virtually worthless!"*

F. *" I wanted a list of properties. This Internet agency promised to supply the list and I transferred US\$100 to the account but I haven't received the list and they don't reply to my e-mails."*

G. *" I received several messages via the Internet and e-mail from this client who said he needed a credit to extend his business premises. He wanted to build a new office section for his small factory, so he said. Well, this is certainly part of our work in supporting small business. But what he didn't say was that he had already received a loan from another bank for the same project."*

H. *"Have you ever heard of the "Re-development and Re-structuring Fund"? Well, from the website description, the scheme is based on a bond or security certificate, paying 6% over 5 years. I bought US\$5000, received the certificate and now I find out it is all false. The company, the fund, the certificate everything!"*

## CYBERCRIME: Glossary of Useful Terms

### 62. Put these words in the correct place in one of the definitions.

*relying / defensive/ unscrambling/ executed/ malicious/ slows/ copying/  
becomes/ illicit/ packages*

#### **Application software**

Includes word-processing, spreadsheet, database (1) \_\_\_\_\_ and Internet access utilities

#### **CERT**

Computer Emergency Response Team

#### **Decryption**

The reverse of encryption, a method of (2) \_\_\_\_\_ encrypted information so that it becomes legible again

#### **Denial of service attack (DoS)**

A digital attack that stops a computer functioning or (3) \_\_\_\_\_ down its performance

#### **Digital piracy**

The unauthorised (4) \_\_\_\_\_ and resale of digital goods (e.g. software, music files)

#### **Encryption**

A method of transforming information using a cipher so that it (5) \_\_\_\_\_ illegible

#### **Firewall**

(6) \_\_\_\_\_ software that protects a computer system from unauthorized intruders

#### **Hacking**

Unauthorized access to computers

#### **IP Spoofing**

A technique used to gain unauthorized access to computers

#### **Macro virus**

A virus attached to instructions (called macros) which are (7) \_\_\_\_\_ automatically when a document is opened

#### **Operating systems**

Basic operating platform – the software foundation includes DOS, Windows or UNIX

#### **Phreaking**

Hacking the telephone system, usually to obtain free calls, by generating (8) \_\_\_\_\_ administrative commands to the network

#### **Trojan Horse**

A (9) \_\_\_\_\_ software program that appears to be benign, but has undesired side effects. Not strictly a virus in itself, because it does not replicate

#### **Virus**

A program that attaches itself to a legitimate one, makes copies of itself and may release a 'payload'

### **Worm**

Similar to a virus, but runs as an independent program, rather than (10) \_\_\_\_\_ on transfer by the actions of the user

### **Speaking 8.**

#### **63. Discuss the following questions:**

1. What are credit cards? How do people obtain them legally?
2. How can they be illegally used?
3. What is the link between credit cards and the Internet?
4. How is this aspect of legitimate business likely to develop in Ukraine?
5. How might this bring a growth in a new type of crime?

## **UNIT 8 INTERNATIONAL LAW**

### **Reading 1.**

1. Read through the text and find answers to the questions that follow it.



### **International Legal System**

The legal process that concerns relations among nations is called international law. Such law differs greatly from national systems. No court has the authority or power to give judgments backed by coercive sanctions. Even in its most modern developments, international law is almost wholly based on custom. The precedents on which it rests are the acts of independent governments in their relations with one another, including treaties and conventions. Behind many of its rules is only a moral sanction: the public opinion of the civilized world. When treaties or conventions are involved, however, machinery to enforce them exists - either an arbitration or conciliation procedure or the submission of the dispute to a regional or international court.

A body of rules and principles is observed or at least acknowledged in international relations. These rules concern such matters as territorial titles and boundaries, use of the high seas, limits on war, telecommunication, diplomatic and consular exchange, and use of air space. The major sources of international law on these matters are multilateral treaties, international custom, and such general principles recognized by civilized nations. The United Nations is one of the primary mechanisms that articulate and create international law. The General

Assembly and other agencies of the UN bring a combination of diplomacy, negotiation, and propaganda to bear on world affairs in ways that produce effective international treaties and affect world opinion. Certain courts also have indirect impact, including the international Court of Justice. Domestic courts in various nations at times also engage in the articulation of international law.

International law is the term commonly used for referring to the system of implicit and explicit agreements that bind together sovereign states in adherence to recognized values and standards. It differs other legal system in that it primarily concerns states rather than private citizens. However, the term “international law” can refer to three distinct legal disciplines:

**Public international law**, also known as law of nations, was traditionally a question of custom, i.e. countries behaved towards each other as they chose, and rights came from military power. Countries had treaties with each other, but since breach of a treaty could only be remedied by diplomatic pressure, sanctions and the threat of war, they were often ignored. Public international law grew enormously during the 20<sup>th</sup> century, particularly, after World War II, when there was a widespread desire to manage trade and disagreements between countries in a more civilized manner. Early examples of public international law were The Hague Conventions (1899 and 1907, dealing with the rules for declaring war) and the Geneva Conventions (begun in 1864, completed in 1949 dealing with humane treatment of prisoners, civilians and the sick and wounded in times of war). Countries submitted to these conventions, and many others that came later, voluntarily, and in theory could withdraw (or breach the conventions and be expelled), but in practice the advantages of being inside such legal frameworks often outweigh the limitations they impose. But if enough countries (and especially powerful countries) chose to ignore a particular international law, the law will cease to have any force.

The creation of the United Nations (1945) was a huge step in the development of international law. In addition to military and international trade issues, public international law also regulates the law of the sea, of space, of the environment and, most recently, international criminal law and the international humanitarian law.

**Private international law**, also known as conflict of laws, aims, to solve disputes involving individuals and businesses from more than one jurisdiction, it addresses the question of:

- (1) in which legal jurisdiction may a case be heard;
- (2) the law concerning which jurisdiction(s) apply to the issues in the case.

The term private international law was coined by American lawyer and judge Joseph Story. Private international law has no real connection with public international law, and is instead a feature of municipal law which varies from country to country. Its three branches are: *jurisdiction* – whether the forum court has the power to resolve the dispute at hand; *choice of law* – the law which is being applied to resolve the dispute; *foreign judgements* – the ability to recognize

and enforce a judgement from an external forum within the jurisdiction of the adjudicating forum.

The areas of private law are family law, inheritance law, labor law, commercial law etc. The most important for foreign commerce is the area of *obligation relationship*.

Private international law is rather the internal law of the country that, from the standpoint of a domestic legal system, governs issues important for legal relations with an international element.

Although international agreements are among the important sources of private international law, these international agreements, too, are part of the domestic internal legal system if a country is bound by them, i.e. was an original signatory or signed them later and they have passed through the ratification process including subsequent publication in the appropriate forum – the collection of laws, the bulletin etc.

**Supranational law** or the law of supranational organization, which concerns at present regional agreements where the special distinguishing quality is that laws of nation states are held inapplicable when conflicting with a supranational legal system. It currently is relevant mainly for the European Union, where EU laws may override the laws of Member States.

1. What legal process is called international law?
2. Is there any difference between national and international legal systems?
3. What is the machinery to enforce treaties or conventions?
4. Which rules and principles are observed in international relations?
5. How is international law articulated and created?
6. How does international law treat independent states?
7. What elements does international law consist of?
8. What are the 3 branches of international law?
9. What does public international law deal with, what specific legal field does it include?
10. What are the aims of private international law, what questions does it address?
11. What differs private international law from public international law?
12. What is supranational law, what issue does it concern at present?

**2. Read the text and complete each space with a word or phrase from the boxes.**

Another point is ...	As a result,	because ....	Finally,	Firstly,
For example,	In addition,	Moreover,	One result of this	
	is .....			
	Secondly,	since ...	So ...	

agreement    body    breach    coercive    compulsory    domestic  
 dispute  
 endanger    interpret    monitor    punishment    settlement  
 sovereignty  
 treaty    unenforceable

### The Law of Nations



According to D.W. Greig, a well-known writer on international jurisprudence, international law cannot exist in isolation from international relations.

\_\_\_\_\_, international law has no established \_\_\_\_\_ judicial system for the \_\_\_\_\_ of disputes. \_\_\_\_\_, managing breaches is not as straightforward as under \_\_\_\_\_ law.

Countries which \_\_\_\_\_ international law are not subject to a \_\_\_\_\_ penal system \_\_\_\_\_ there is no institutionalized \_\_\_\_\_ method. \_\_\_\_\_, there is no international police force to \_\_\_\_\_ transgressions.

\_\_\_\_\_, until the beginning of the 20<sup>th</sup> century, relations between nation states were governed by treaties. These were \_\_\_\_\_ agreements to behave in a certain way towards other states. One result of this was that countries \_\_\_\_\_ their commitments to suit their own political purposes. As the 20<sup>th</sup> century progressed, the violent armed conflicts, such as the two world wars, exposed the weaknesses of a voluntary system of international \_\_\_\_\_.

\_\_\_\_\_, in an attempt to create a stronger system of laws, the United Nations, an international law-making body, was founded. However, many scholars argue that these modern developments \_\_\_\_\_ the nation states because they take power away from state governments and cede it to international bodies. They assert that maintaining \_\_\_\_\_ is the only true international law.

### 3. Match each term on the left with explanation on the right. Memorize the meanings of the terms.

- |                         |   |
|-------------------------|---|
| a. international law    | 1. influence      international judgement                                 |
| b. international custom | 2. (an) established socially accepted international practice              |
| c. precedent            | 3. international events, actions, happenings                              |
| d. coercive sanction    | 4. body of rules which governs the relationships between sovereign states |
| e. body of rules        | 5. forced punishment when a law or rule is broken                         |

f. world affairs

6. a former action or case that may be used as an example or rule for present or future action

g. affect word opinion

7. total combination of the standards of international law

#### 4. Match key terms with their English equivalents.

1. стосуватися, відношення	мати	a) a moral sanction
2. мати владу, повноваження		b) coercive sanctions
3. виносити судовий вирок		c) to have the authority of power
4. примусові санкції		d) affect world opinion
5. моральний вплив (санкції)		e) concern
6. погоджувальна процедура		f) bear on
7. арбітражний суд		g) give judgements
8. сукупність правових норм		h) articulate
9. проголошувати		i) body of rules
10. здійснювати		j) arbitration
11. впливати на міжнародну думку		k) conciliation procedure

#### 5. Fill in the missing prepositions:

<i>of on in by with behind between from</i>
---

Each may be used more than once.

- Even in its most modern development international law is almost wholly based \_\_\_\_ (1) \_\_\_\_ custom.
- The precedents \_\_\_\_ (2) \_\_\_\_ which it rests are the acts \_\_\_\_ (3) \_\_\_\_ independent governments \_\_\_\_ (4) \_\_\_\_ their relations \_\_\_\_ (5) \_\_\_\_ one another.
- \_\_\_\_ (6) \_\_\_\_ many \_\_\_\_ (7) \_\_\_\_ its rules is only a moral sanction.
- Sovereignty \_\_\_\_ (8) \_\_\_\_ the relations \_\_\_\_ (9) \_\_\_\_ states is synonymous \_\_\_\_ (10) \_\_\_\_ independence.
- It is \_\_\_\_ (11) \_\_\_\_ the issue utmost importance that each student understands the nature \_\_\_\_ (12) \_\_\_\_ the rules and principles \_\_\_\_ (13) \_\_\_\_ international law and their interaction \_\_\_\_ (14) \_\_\_\_ each other.
- Rules \_\_\_\_ (15) \_\_\_\_ international law emanate \_\_\_\_ (16) \_\_\_\_ the free will \_\_\_\_ (17) \_\_\_\_ states as expressed \_\_\_\_ (18) \_\_\_\_ conventions or \_\_\_\_ (19) \_\_\_\_ usages which are generally accepted as expressing principles \_\_\_\_ (20) \_\_\_\_ law.

## 6. Translate the sentences into English using the key terms given in the unit:

1. Міжнародне право – це термін, який зазвичай застосовується у відношенні до системи безумовних та чітко виражених угод, що зв'язуються суверенні держави в їх відданості визнаним цінностям та стандартам.

2. Спільноти в першу чергу мають відношення до економічних та комерційних справ і результат відчувається відношення в першу чергу в тих сферах закону, які керують відносинами в цих галузях.

3. Сукупність правових норм міжнародного права включає такі питання, як: назва і кордони територій, використання відкритих морів, обмеження на ведення війни, телекомунікаційні, дипломатичні і консульські обміни, використання повітряного простору.

4. Одним з основних механізмів чіткого формулювання правових норм і створення міжнародного права є Організація Об'єднаних Націй (UNO)

5. Непрямий вплив на виконання законів здійснює Міжнародний суд, а також місцеві суди.

6. Коли особливо швидкими темпами зростає обмін товарами та експансія міжнародного капіталу, міжнародне приватне право, або правове забезпечення інтернаціоналізованих відносин у галузі приватного права поступово набуває особливого значення.

7. Міжнародне приватне право асоціюється з міжнародним процесуальним правом, яке установлює право розгляду справ з участю іноземного елемента, а також вирішує, чи належить та чи інша інтернаціоналізована справа до юрисдикції національного суду.

## 7. The text given below deals with the history and present state of the international law. Skim the text and arrange the numbers of its topics in the right order:

1. The traditional doctrine
2. International law in the second half of the 20th century.
3. The two erosions of the traditional doctrine.
4. Changes that demand the structure of international law.
5. The Declaration of the International Court.

### *History of International Law*

Before the second World War International law deemed states the sole subjects of international rights and duties while individual human beings were merely the objects of International law. Individuals were unable to seek remedies for injuries suffered at the hands of other states. It was for the national state to adopt the grievance and seek compensation at the international level. As a result, any award made to individuals suffering the wrong were essentially discretionary.

Thus, states exclusively possessed the rights to enter into international obligations, to seek redress for injuries, to exercise international rights and to

acknowledge international duties. International law was the reaction of states and exclusively regulated the relations between states. Colonies, protectorates, mandate and trusteeship territories were non-state entities and could not be the subjects of international obligations.

A number of major inroads have been made into this traditional doctrine. Firstly, a twilight category of semi-states has come to exist since 1945 which exercise limited sovereignty and international personality. Clearly these semi-states have become limited subjects of international law.

The second major erosion of the principle that states are the main subjects of international law has occurred as a result of the proliferation of international organizations and agencies. In the Reparation Case (1949) the International Court declared that the United Nations had international personality for the purposes of initiating an international claim against Israel for wrongs committed against its officials. This capacity had to be exercised in an *intra vires* manner which meant that the capacity of the organization was limited to the express and implied powers of the organization in the regulation of the international affairs.

International law in the Second half of the twentieth century has been developing in many directions, as the complexities of life in the modern era have multiplied. Law reflects the conditions and cultural traditions of the society within which it operates. The community evolves a certain specific set of values, social, economic and political, and this stamps its mark on the legal framework which orders life in that environment. Similarly, international law is a product of its environment. It has developed in accordance with the prevailing notions of international relations and to survive it must be in harmony with the realities of the age.

Nevertheless, there is a continuing tension between those rules already established and the constantly evolving forces that seek changes within the system. One of the major problems of international law is to determine when and how to incorporate new standards of behavior and new realities of life into the already existing framework, so that, on the one hand the law remains relevant and on the other, the system itself is not too vigorously disrupted.

Changes that occur within the international community can be momentous and reverberate throughout the system. One example is the advent of nuclear arms, creating a status quo in Europe and a balance of terror throughout the world, and constituting a factor of unease as other states seek to acquire nuclear technology. Another example is the technological capacity to mine the oceans and the consequent questions as to the nature and beneficiaries of exploitation. There are several instances of how modern developments demand a constant reappraisal of the structure of international law and its rules.

## 8. Case study. Read the information and do the tasks following the text:

### The Arab-Israeli conflict

#### Background information

There is a broad international consensus that the actions of the nations involved in the Arab-Israeli conflict violate prohibitions contained in international law. The conflict goes back to before the 1948 Arab-Israeli war. Israel occupied large swaths of Palestinian land, and the conflict today largely revolves around Israel and the Palestinians, following the peace treaties between Israel and Egypt and Israel and Jordan.

Virtually all of Israel's occupation of Palestinian lands violates human rights conventions - and especially the Fourth Geneva Convention that forbids an occupying power from making its presence a permanent one.

Thus:

- Article 3 prohibits "outrages upon personal dignity, in particular humiliating and degrading treatment," a routine element of Palestinian life under Israel's occupation.

- Article 32 forbids assassinations, and any brutalization of the civilian population, including their treatment at checkpoints and in "security searches."

- Article 33 prohibiting pillage would obtain to Israel's extensive use of West Bank and Gazan water resources, especially as they are denied the local population. It also prohibits the use of collective punishment, as represented by the imposition of closure, curfew, house demolitions and many other routine actions of the Occupation Authorities.

- Article 39 stipulates: "Protected persons [residents of occupied lands] who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment." It thereby prohibits the imposition a permanent "closure" on the Occupied Territories, such as Israel has done since 1993.

- Article 49 forbids deportations and any "forcible transfers," which would include such common practices as revoking Jerusalem IDs or banning Palestinians from returning from work, study or travel abroad. It also stipulates that "The Occupying Power shall not...transfer parts of its own civilian population into territories it occupies" - a clear ban on settlements.

- Article 53 reads: "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons...is prohibited." Under this provision the practice of demolishing Palestinian houses is banned, but so is the wholesale destruction of the Palestinian infrastructure (including its civil society institutions and records in Ramallah) destroyed in the reoccupation of March-April 2002.

- Article 64 forbids changes in the local legal system that, among other things, alienate the local population from its land and property, as Israel has done through massive land expropriations.

- Article 146 holds accountable individuals who have committed "grave breaches" of the Convention.

- According to Article 147, this includes many acts routinely practiced under the Occupation, such as willful killing, torture or inhuman treatment, willfully causing great suffering or serious injury, unlawful deportation, taking of hostages and extensive destruction and appropriation of property. Israeli courts have thus far failed to charge or prosecute Israeli officials, military personnel or police who have committed such acts.

### **Problem**

- Israeli Occupation Forces (IOF) killed a Palestinian worker and a resistance activist, and wounded a worker, a farmer and a resistance activist in the Gaza Strip. They also wounded 7 Palestinian civilians, including a child in the West Bank.

- Israel has continuously closed all border crossings to the Gaza Strip for over three years. The illegal Israeli-imposed closure of the Gaza Strip, which has steadily tightened since June 2007, has had a disastrous impact on the humanitarian and economic situation in the Gaza Strip.

### **Task**

You are members of the European Community Commission. Brainstorm in subgroups (of 3-5 members) which violations of International Law could be observed in Israel and which rulings could be passed. Then meet in one group and suggest the common decision. Write an account of your discussion to send the rulings to the government of Israel.

### **Speaking 1.**

#### **9. Answer the following questions:**

1. What was the essence of the traditional doctrine of the public international law before World War II?
2. Who exclusively possessed the rights to enter into international obligations, to exercise international rights and to acknowledge international duties?
3. Who was the international law regulated by?
4. What caused changes in the international doctrine?
5. What was the role of international organizations and agencies in changing the principle that states are the main subjects of international law?
6. What factors facilitate the development of international law?
7. What is one of the major problems of international law today?

## **10. Scan the text “International Law and State Systems” and speak:**

- About what international law rests on.
- About what community international law serves.
- About how international law treats independent states.
- About what elements international law consists of.
- About where International conventional obligations are contained.
- About how the term “treaty” is defined by the Vienna Convention.
- About why the Convention promotes the use of written agreements.
- About when a treaty is valid.

### **International Law and State Systems**

International law is an extra system on top of the state systems. It presupposes state law, and could not exist without it, because international law can only be enforced if states are prepared to put it into effect. But it serves a different community: the international community, international law is about the relations between independent states. It treats them as equals, whatever their population, wealth and power, so that in international law Barbados is on a level with Japan-like state law. International law consists of several elements. Again all of them aim at stability in international life and the encouragement of trade and other contacts between states. International law lays down how international bodies such as the United Nations are set up, and what powers they have (their constitution). It also says how states must treat one another, how they must behave to international bodies and how the international bodies must behave towards them. It provides facilities for states to make binding agreements (treaties) and for the settlement of disputes. International law can be enforced only when the states accept the power of a court to decide whether the law has been violated.

International conventional obligations, both bilateral and multilateral, are all regulated by the same general principles of international law. For the greater part, these are contained in the Vienna Convention on the Law of Treaties 1969.

The Vienna Convention is limited in application to treaties between states, although it can be applied as customary international law to agreements between non-state entities such as international organizations (Article 3).

The Convention defines the term "treaty" as "an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation" (Article 2). The term means all international agreements, protocols, exchanges of notes, declarations, etc. regardless of designation. Although the Convention only refers to written agreements, valid obligation may also be constituted on an oral basis.

The Convention promotes the use of written agreements in order to discourage oral agreements which are more susceptible to misinterpretation. In practice, unwritten agreements are limited by Article 102 of the UN Charter which stipulates that "every treaty ... entered into by any Member of the United Nations... shall as soon as possible be registered with the Secretariat and published by it...

(and)... no party to any such treaty...which has not been registered... may invoke that treaty or agreement before any organ of the United Nations."

In order for a treaty to be valid, it must be adopted by the free consent of the contracting parties. Consent may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

### **11. Brainstorming Session. Answer the following questions:**

1. What is international public law?
2. Are there any differences between violations of human rights and violation of international law?
3. What human rights conventions are violated by Israel?
4. What is the problem with West Bank and Gaza water resources?
5. What shouldn't the Occupying power do on the occupied territories?
6. Describe the Palestinian life on the occupied territories.

### **Interpol**

The International Criminal Police Organization, better known by its telegraphic address Interpol, is an organization facilitating international police cooperation. It was established as the International Criminal Police Commission in 1923 and adopted its telegraphic address as its name in 1956. It should not be confused with the International Police, which takes on an active uniformed role in policing war-torn countries. Interpol is the world's fifth-largest international organization in terms of the number of member countries, after the Universal Postal Union, FIBA (the International Basketball Federation), the United Nations, and FIFA (Association football's international governing body).

In order to maintain as politically neutral a role as possible, Interpol's constitution forbids its involvement in crimes that do not overlap several member countries, or in any political, military, religious, or racial crimes. Its work focuses primarily on public safety, terrorism, organized crime, war crimes, illicit drug production, drug trafficking, weapons smuggling, human trafficking, money laundering, child pornography, white-collar crime, computer crime, intellectual property crime and corruption.

In 2008, the Interpol General Secretariat employed a staff of 502, representing 78 member countries. Women comprised 42 percent of the staff.

Each member country maintains a National Central Bureau (NCB) staffed by national law enforcement officers.

Interpol maintains a large database charting unsolved crimes and both convicted and alleged criminals. At any time, a member nation has access to specific sections of the database and its police forces are encouraged to check information held by Interpol whenever a major crime is committed. The rationale behind this is that drug traffickers and similar criminals have international ties, and so it is likely that crimes will extend beyond political boundaries.

Interpol maintains a database of lost and stolen identification and travel documents, allowing member countries to be alerted to the true nature of such documents when presented. Passport fraud, for example, is often performed by altering a stolen passport; in response, several member countries have worked to make online queries into the stolen document database part of their standard operating procedure in border control departments. As of early 2006, the database contained over ten million identification items reported lost or stolen, and is expected to grow more as more countries join the list of those reporting into the database.

A member nation's police force can contact one or more member nations by sending a message relayed through Interpol offices.

Contrary to what has been featured in some works of fiction, Interpol officers do not directly conduct inquiries in member countries. Its main role is the passing on of information, not actual law enforcement.

As an international law enforcement agency, Interpol agents offer unique qualities that make them good candidates for fiction, even if such portrayals do not reflect reality.



### Listening 1.

➤ **You are going to listen to a talk about Interpol. Answer the following questions:**

1. Where is Interpol based?
2. How many people work for it?
3. When was it eventually created?
4. Why was its work interrupted?
5. How many regional offices does it have?
6. What does Interpol do?

➤ **The speaker uses a number of phrases to show that what he is saying/going to say is important. Can you complete these sentences? Do you think Interpol is an important or useful organisation? Why? Why not?**

1. Interpol now has 184 member countries. And let me \_\_\_\_\_ out that it's those countries that pay for it!

2. Don't \_\_\_\_\_ that most Interpol officers stay in their own country.

3. But, and I must \_\_\_\_\_ your attention to this, we never break the law in any country.

4. One of our \_\_\_\_\_ is problems connected with drugs.

5. Another important \_\_\_\_\_ is trafficking in human beings.

6. Another \_\_\_\_\_ priority is financial crime.

7. The \_\_\_\_\_ important thing we do is to run a global police communication system.

8. \_\_\_\_\_ important thing we do is to provide training courses for national police forces.

## Speaking 1.

### 12. Translate the following text into English:

Інтерпол – міжнародна організація, що займається пошуком певного об'єкту, людини, сприяє пошукам поліції. Заснована як англ. *International Criminal Police Commission* в 1923, а з 1956 використовується поточна назва. До складу входять 194 країни світу, які фінансують організацію на суму \$59 мільйонів шляхом щорічних внесків; За розміром друга міжнародна міжурядова організація після ООН. Штаб-квартира знаходиться в Ліоні, Франція.

Самі працівники Інтерполу не можуть безпосередньо виконувати поліцейські функції (права заарештовувати чи носити та застосовувати свою чи табельну зброю) на території країн-членів організації. Вони займаються лише координацією сил, щоб правоохоронці з інших країн набагато легше справлялись з такими речами, як особливості національного правосуддя, законодавства, мовний бар'єр.

У 1914 році за активної участі князя Монако Альбера I в князівстві відбувся 1-й Міжнародний конгрес кримінальної поліції, в якому взяли участь поліцейські з 24 країн. На конгресі була схвалена ініціатива про створення міжнародної комісії кримінальної поліції, проте Перша світова війна перешкодила виконанню планів.

1923-го року у Відні, на 2-му Міжнародному конгресі кримінальної поліції була створена Міжнародна комісія кримінальної поліції для координації зусиль окремих країн у боротьбі із загальнокримінальною злочинністю. Формально Комісія продовжувала свою діяльність і в роки Другої світової війни. Однак, за Статутом головою Комісії був голова поліції країни перебування, якою спочатку була Австрія, з 1938 року нацистська Німеччина, штаб-квартира Інтерполу була перенесена в Берлін. В результаті більшість країн припинили свою участь і фактично Інтерпол перестав існувати як міжнародна організація.

Відтворення Інтерполу відбулося лише в 1946 році з перенесенням штаб-квартири в Париж. Діючий статут прийнятий 1956 року. Він же затвердив нову назву організації – «Міжнародна організація кримінальної поліції – Інтерпол». Пізніше, в 1989 році штаб-квартира Інтерполу була перенесена в Ліон одночасно з будівництвом у цьому місті суперсучасного комплексу Генерального секретаріату.

На даний момент Інтерпол об'єднує 194 держави, включаючи Україну. На цю мить у ній на одну більше країн-членів, ніж в ООН.

## Reading 2.

- 13. Choose the best word from the list given below to fill in each gap. Write out the correct answer on a separate sheet of paper. The first answer is given as an example.**

**Model: 1-B**

**The European Communities**

\_\_\_(1) **although**\_\_\_ it is convenient \_\_\_(2)\_\_\_ of the European Community, there are in fact three distinct communities, each with its own constitution in the form of the \_\_\_(3)\_\_\_ which established it. These are: European Coal and Steel Community (ECSC), European Atomic Energy Community (EUROATOM) and European Economic Community (EEC).

The six original signatories \_\_\_(4)\_\_\_ the Treaties of Paris and Rome were France, Germany, Italy, Belgium, the Netherlands and Luxemburg. The United Kingdom, Ireland and Denmark \_\_\_(5)\_\_\_ in 1973, Greece in 1981, and Spain and Portugal in 1986. By \_\_\_(6)\_\_\_, these countries surrendered \_\_\_(7)\_\_\_ powers to the new Communities and accepted the supremacy of the Community law over their national systems of law if a conflict \_\_\_(8)\_\_\_ arise. While it is theoretically possible for a country to regain this loss \_\_\_(9)\_\_\_ by \_\_\_(10)\_\_\_ from the Communities, this \_\_\_(11)\_\_\_ more likely with passage of time when their economies will become more and more unmasked and difficult \_\_\_(12)\_\_\_.

The Communities are legal persons with the normal characteristics and power \_\_\_(13)\_\_\_ to legal persons, for example holding property, \_\_\_(14)\_\_\_ into contracts, and employing servants. \_\_\_(15)\_\_\_ they are sovereign legal persons they also have the power \_\_\_(16)\_\_\_ international law of entering \_\_\_(17)\_\_\_ and exchanging envoys with other countries.

The European Communities and their institutions must \_\_\_(18)\_\_\_ from those of the Council of Europe, a wider and much \_\_\_(19)\_\_\_ organization of Parliamentary states of Western Europe. This Council was set up in 1940 and its most important act was \_\_\_(20)\_\_\_, in 1950, of the European Convention on Human Rights, based on a similar earlier Declaration of the United Nations. A Commission was set up to investigate alleged \_\_\_(21)\_\_\_ and a Court to rule upon them. While the United Kingdom has ratified the Convention it \_\_\_(22)\_\_\_ its provisions into English law so that decisions of the Court have only a very \_\_\_(23)\_\_\_ persuasive effect.

A	B	C	D
1. since	although	while	when
2. to talk	speaking	to say	to speak
3. decree	contract	treaty	agreement
4. to	of	with	in
5. entered	joined	linked up	engaged in
6. accession	linkage	entering	joining
7. independence	freedom	sovereign	liberty
8. would	could	will	should
9. in liberty	of sovereignty	with freedom	of power
10. withdraw	leaving	joining	withdrawing

11.becomes	will become	becoming	has become
12.to join	to unite	to separate	to distinguish
13.attracting	coming	pertaining	likely
14.signing	seeing	entering	characterizing
15.If	Although	Since	As
16.in	of	on	under
17.into treaties	treaties	contracts	into agreements
18.distinguish	separate	be distinguished	be different
19.close	closer	ooser	stable
20.the acceptance	the adoption	ratification	adopting
21.breaches	violations	disturbances	infringements
22.hasn't incorporated	included	didn't incorporate	hasn't instilled
23.close	dramatic	limited	low

**14. Choose the correct word to fill in the gaps in the sentences that follow. Only one word is correct.**

- The International Commercial Arbitration Court is an independent \_\_\_\_\_ operating on a permanent basis.  
A organization      B body      C office      D institution
- The International Commercial Arbitration Court under the Chamber of Commerce and Industry of Ukraine has a seal with its name in Ukrainian and English and depiction of a sword and scales of \_\_\_\_\_.  
A impartiality      B fairness      C justice      D correctness
- The head of the court can, at the request of the parties, establish the size and the form of \_\_\_\_\_ for a claim.  
A security      B pledge      C promise      D guarantee
- To the International Commercial Arbitration Court can \_\_\_\_\_ disputes of enterprises with foreign investments.  
A be directed      B be passed on      C be referred      D be assigned
- Foreign economic relation \_\_\_\_\_ connected with relation of purchase and sale of goods.  
A will be      B shall be      C would be      D should be
- A person \_\_\_\_\_ use civil rights to justify actions that might seriously harm the health, welfare, safety or morals of others.  
A cannot      B needn't      C must not      D may not
- International law can be \_\_\_\_\_ only when the states accept the power of a court to decide whether the law has been violated.

**A** accepted      **B** provided      **C** enforced      **D** adopted

8. The Vienna Convention is limited in \_\_\_\_\_ to treaties between states, although it can be applied as customary international law to agreements between non-state entities such as international organization.

**A** relation      **B** connection      **C** application      **D** regulation

9. In order for a treaty too be valid, it must be \_\_\_\_\_ by the free consent of the contracting parties.

**A** approve      **B** adopted      **C** accepted      **D** signing

10. In order to understand the nature of the international legal system, it is necessary \_\_\_\_\_ the structure and processes which function within the global society.

**A** to analyze      **B** understanding      **C** to watch      **D** observation

11. The United Nations is one of the primary mechanisms that \_\_\_\_\_ and create international law.

**A** declare      **B** proclaim      **C** will pronounce      **D** articulate

12. International law can only be enforced if states are prepared to \_\_\_\_\_ it.

**A** use      **B** follow      **C** put it into effect      **D** obey

13. The Single European Act introduces a new "cooperation procedure" designed to give what will then be known as the Parliament greater role in the \_\_\_\_\_ process.

**A** court      **B** judicial      **C** legislative      **D** just

14. The European Court of Justice holds the judicial power of the Communities with the function of ensuring that the law ... in the interpretation and implementation of the Treaties.

**A** keeps      **B** follow      **C** is held      **D** is observed

15. It is a court of first instance whose decisions must be accepted by the national courts and against which there is no \_\_\_\_\_.

**A** alternative      **B** right      **C** remedy      **D** powers

16. International conventional obligations, both bilateral and multilateral, are all \_\_\_\_\_ by the same general principles of international law.

**A** fulfilled      **B** executed      **C** done      **D** regulated

17. Although sovereign States may \_\_\_\_\_ to accept the jurisdiction of courts of other States, the concept of State criminality is not strongly supported in law.

**A** be obliged      **B** wish      **C** supposed      **D** be forced

18. State responsibility for \_\_\_\_\_ is limited to liability for reparations.  
**A** misdeed      **B** delicts      **C** offences      **D** misdemeanour
19. Jurists will note that the outcome of the intergovernment dispute was based on an individual's concept of fairness producing a \_\_\_\_\_ rather than a legal judgement.  
**A** decision      **B** decree      **C** ruling      **D** sentence
20. The settlement significantly challenges the principle that either the State or its agents \_\_\_\_\_ for acts contrary to law outside the Geneva Conventions.  
**A** responsible      **B** answerable      **C** subjected      **D** are liable
21. Arbitration plays a meaningful part in \_\_\_\_\_ various disputes among countries with different legal systems.  
**A** established      **B** settling      **C** deciding      **D** fix
22. Actual investment projects taking into account the priorities of a given economy should be implemented on a \_\_\_\_\_ legal basis.  
**A** strongest      **B** justice      **C** considerable      **D** sound
23. One of the advantages of bilateral investment is that agreements \_\_\_\_\_ be adapted to the particular conditions and relations of the contracting countries.  
**A** mustn't      **B** can      **C** had      **D** have
24. Contracts represent the private and consensual, not governmental \_\_\_\_\_ of life.  
**A** way      **B** line      **C** ordering      **D** structured
25. Writing provides proof of what was agreed and helps to avoid disputes about whether there really \_\_\_\_\_ an agreement.  
**A** will be doing      **B** has been      **C** were      **D** could be
26. Businessmen by nature are not usually \_\_\_\_\_ lawyers and so may not have given much thought to the problems which may arise.  
**A** clever as      **B** particular      **C** as cautious as      **D** fastidious
27. As the business world becomes ever more complex and \_\_\_\_\_ and transactions become larger and more complicated the role of the lawyer becomes all the more important.  
**A** vague      **B** interactional      **C** comprehend      **D** incurable

**15. Read through the text and find answers to the questions that follow it.**  
**International Economic Law**

International economic law regulates the international economic order or economic relations among nations. However, the term “international economic law” encompasses a large number of areas, such as:

- 1) International Trade Law (ITL), including both the international law of the World Trade Organization (WTO) and General Agreement on Tariffs and Trade (GATT) and domestic trade laws;
- 2) International Economic Integration Law (IEIL), including the law of the European Union (EU), North American Free Trade Agreement (NAFTA).
- 3) Private International Law (PIL), including international choice of law, choice of forum, enforcement of judgments and the law of international commerce;
- 4) International Business Regulation (IBR), including antitrust or competition law, environmental regulation and product safety regulation;
- 5) International Financial Law (IFL), including private transactional law, regulatory law, the law of foreign direct investment and international monetary law, including the law of the International Monetary Fund (IMF) and World Bank(WB);
- 6) The role of law in development;
- 7) International Tax Law (ITL);
- 8) International Intellectual Property Law (IIPL).

International economic law is based on the traditional principles of international law such as *pacta sunt servanda* (see notes), freedom, sovereign equality, reciprocity, economic sovereignty.

When states began to function as politically independent and sovereign entities, they realized that one of the most important attributes of state sovereignty was economic sovereignty. Without this, political sovereignty wasn't complete.

In many countries it was difficult to assert economic sovereignty without doing away with the rights, concessions and privileges enjoyed by foreign individuals and companies over the country's natural resources.

However, developed countries whose nationals had gone overseas to invest and do business resisted attempts to impose of national law on foreigners. They argued that existing concessions and contracts had to be honoured under international law. It was at this juncture that the concept of permanent sovereignty over natural resources (PSNR) was introduced in international law.

When the number of newly independent developing countries grew, these states sought to assert their complete economic sovereignty by proclaiming that they had complete and permanent sovereignty over their natural resources – regardless of any arrangements made by their previous colonial administrations.

Consequently, a resolution was introduced in the UN General Assembly to this effect and was passed by an overwhelming majority of states in 1962.

As an attempt to implement the objectives of the new international economic order (NIEO) and to establish the norms of international economic

relations, the UN General Assembly adopted as part of its resolutions on the NIEO the Charter of Economic Rights and Duties of States (GERDS) of 1974.

According to the Charter economic as well as political and other relations among states shall be governed, by the following principles: sovereignty, territorial integrity and political independence of States; permanent sovereignty over natural resources; non-aggression; non-intervention; mutual and equitable benefit; peaceful coexistence; equal rights and self-determination of peoples; peaceful settlement of disputes; fulfillment in good faith of international obligations; respect for human rights and international obligations; no attempt to seek hegemony and spheres of influence; preferential treatment for developing countries in general and the least-developed countries in particular.

These are principles of a general nature which include both economic and political principles and reflect the trend of the early 1970s.

Articles 1, 2, 4 and 5 of the Charter of Economic Rights and Duties of States (GERDS) of 1974 outline the economic rights and duties of states in a more concrete manner:

Every state has:

- the sovereign and inalienable right to choose its economic system as well as its political, social and cultural systems;
- the right to engage in international trade and other forms of economic cooperation irrespective of any differences in political, economic and social systems;
- the right to associate in organizations of primary commodity producers.

Each state has the right:

- to regulate and supervise authority over foreign investment within its national jurisdiction;
- to regulate and supervise the activities of transnational corporations within its national jurisdiction;
- to nationalize, expropriate or transfer ownership or foreign property, in which case appropriate compensation should be paid by the State.

Although the charter was not a “hard law” instrument having binding legal effect, many of the principles embodied in it have been regarded as representing the basis for the development of international economic law.

**Note:** *pasta sunt servanda* – принцип добросовісного виконання зобов’язань за міжнародними договорами

- 1) What is the definition of international economic law?
- 2) What does the term “international economic law” include?
- 3) What traditional principles of international law is international economic law based on?
- 4) Can you explain the difference between the economic sovereignty of states and permanent sovereignty over natural resources?

- 5) What are the main principles of international economic law?  
6) What are the economic rights of states according to the Charter of Economic Rights and Duties of States of 1974?

**16. Test yourself. Choose the correct answer.**

1. What is the subject of International Economic Law in the main?  
(a) Economic relations between states.  
(b) Economic relations between traders of different States.  
(c) Economic relations between traders of different States and economic relations between different States.  
(d) Economic relations between different regional trade blocks.
2. International Economic regulation can be concerned with two States only. It can also be concerned with many States. What are the terms to describe these two types of regulation?  
(a) Bilateral and multilateral economic regulation.  
(b) Regional and global trade block.  
(c) Single and multiple economic regulation.  
(d) Unipolar and multipolar trade affairs.
3. International Economic Law is increasingly seen to be having a dual character. This character relates to:  
(a) Traders and trade blocks.  
(b) Traders and States.  
(c) Traders and politicians.  
(d) Traders and banks.
4. Depending on the level of force behind an International Economic Law instrument, an instrument as such can be:  
(a) Hard or soft law.  
(b) Multilateral and bilateral agreement.  
(c) Politicised or non- politicised agreement.  
(d) Regional or global law.
5. What was the name of the Agreement that laid the foundations for the creation of the WTO, the IMF and the World Bank Group?  
(a) The Bretton Woods Agreement (1944).  
(b) The Postdam Agreement (1945).  
(c) The Dayton Agreement (1995).  
(d) The Luxembourg Agreement (2003).
6. What was the desire behind the Bretton Woods Agreement?  
(a) A desire to put an end to the Second World War.  
(b) A desire to eradicate the causes that led to the Second World War.  
(c) A desire for creating a system of fluctuating currencies.

(d) A desire for the abolition of different currencies.

7. What was the ultimate of the Bretton Woods Agreement?

- (a) The creation of a global alliance of States.
- (b) The creation of an economic trade block.
- (c) The creation of a new world economic order.
- (d) The creation of a military alliance.

8. International Economic Law is primarily concerned with certain institutions of global remit. They are:

- (a) The ASEAN, the EU and NAFTA.
- (b) The WTO, the IMF and the World Bank Group.
- (c) The UN and International Court of Justice.
- (d) The NATO and the International Criminal Court.

9. International economic regulation operates on two levels. Which are they?

- (a) Political and economic.
- (b) Unipolar and multipolar.
- (c) Regional and global.
- (d) Financial and political.

10. Despite the global relevance of International Economic Law, such law is also concerned with the regulatory frameworks of certain regional trading blocks. Which are these blocks?

- (a) The NATO and the G8.
- (b) The WTO, the IMF and the World Bank Group.
- (c) The World Intellectual Property Organization and the European Patent Office.
- (d) The European Union, the European Free Trade Area, the North American Free Trade Agreement, Mercosur, the Association of Southeast Nations and the Asia-Pacific Economic Co-operation.

**17. Make up as many word groups as you can, think of using words from Lines A and B. Use them in the sentences of your own.**

- |                          |  |
|--------------------------|--|
| 1. to encompass          | a. economic system                               |
| 2. to be based on        | b. social, political and economic aspects        |
| 3. to assert             | c. business investment                           |
| 4. to resist             | d. attempts                                      |
| 5. to be introduced into | e. the norms of international economic relations |
| 6. to establish          | f. the international economic order              |

- |                    |                                      |
|--------------------|--------------------------------------|
| 7. to regulate     | g. economic sovereignty              |
| 8. to choose       | h. the UN General Assembly           |
| 9. to seek         | i. hegemony and spheres of influence |
| 10. to expropriate | j. primary commodity producers       |
| 11. to implement   | k. foreign property                  |
|                    | l. links, contacts, trust            |
|                    | m. a plan, policy, proposal          |

**18. Fill in the missing propositions:**

<i>of   on   to   in   by   among   until   with   for</i>
--

1. One of the youngest \_\_ the international organizations, the WTO is the successor \_\_ the General Agreement \_\_ Tariffs and Trade (GATT) established \_\_ the wake of the Second World War.

2. The multilateral trading system is an attempt \_\_ governments \_\_ make a business environment stable and predictable.

3. Nationalization shall be based \_\_ grounds or reasons of public utility.

4. Economic as well as political and other relations \_\_ states shall be governed \_\_ definite principles.

5. Traditionally speaking, international economic law didn't pay much attention \_\_ environmental concerns.

6. International economic and commercial activities continued to expand \_\_ recently \_\_ little concern \_\_ the harm done \_\_ the environment \_\_ these activities.

**19. Complete the following table and translate the words into Ukrainian. See the model.**

V	N	A
<b>regulate</b>	<b>regulation</b>	<b>Regulative</b>
systematize	—	—
—	—	Assertive
encourage	—	Encouraging
choose	choice	—
resist	—	—
—	—	Established
expropriate	—	—
—	enforcement	—
include	—	—
—	implementation	—

**20. Match key terms in line A with their English equivalents in line B.**

<b>A</b>	<b>B</b>
1. регулювати міжнародний економічний порядок	a. sovereign entities
2. містити в собі велику кількість права	b. environmental regulation
3. статут з питань охорони навколишнього середовища	c. encompass a large number of areas
4. суверенні власники	d. regulate the international economic order
5. відстоювати економічну незалежність	e. to implement the objectives of the NEO
6. покінути з привілеями	f. primary commodity producers
7. постійний суверенітет над природними ресурсами	g. an overwhelming majority
8. переважна більшість	h. permanent sovereignty over natural resources
9. реалізовувати цілі нового економічного порядку	i. to do away with privileges
10. виробники основних товарів	j. to assert economic sovereignty

**21. Read the text:**

*Case Study*

**Trade Deals are Slowed by Bureaucracy**

*Background information*

Major General Pakistan Ambassador Ghazanbar Ali Khan was appointed to Ukraine in 2007.

Pakistan-Ukraine:

Bilateral turnover in 2009: \$ 390 million.

Major exports from Pakistan to Ukraine: leather, textile, fresh fruits.

Major imports to Pakistan from Ukraine: metal, defense goods.

Number of registered Pakistanis nationals in Ukraine, 2009: approximately 1, 000.

Number of registered Pakistanis companies: 3.

Major joint projects or areas of cooperation: defense, steel, telecommunications.

Those were the problems the Ambassador was discussing in his interview with the Kyiv Post reporter in March, 2010:

- Pakistanis in Ukraine
- Insights into business
- Higher expectations to improve economic and cultural ties

### ***Problem***

**Consider if the following quotations from the interview may be of any help.**

Mainly due to bureaucratic hurdles, it took us long to establish legal agreements on trade between Ukraine and Pakistan last year. It was only last year that we signed two important agreements: one eliminating the double taxation of imported products from Pakistan to Ukraine, and a general agreement on trade and cooperation. The third area of negotiation on protection of investments is in the process of being developed. In the absence of such legal agreements, businessmen on both sides were rather hesitant to enter a foreign market.”

There are still some concerns of the Pakistani businessmen. These issues are logistic in nature that slow development of confidence on the Pakistani side, that is the banking system and procedures for dealing with foreigners, the language problem, legal requirements for the registration and establishment of enterprises, etc. Secondly, obstacles exist in the sphere of visa and immigration policies. These discourage people to come to Ukraine and do business here.”

### ***Note:***

business entity	юридично зареєстроване торгівельне підприємство
breaches of the law	порушення, не дотримування закону
expansion of jurisdiction	поширення юрисдикції
business equity conduct	вести справи належним чином, рівноправно

### **Speaking 2.**

#### **22. Translate the sentences into English using the key terms.**

1. Міжнародне економічне право регулює міжнародний економічний порядок або економічні відносини між державами.

2. Міжнародне економічне право складається з великої кількості різних галузей права.

3. Економічний суверенітет є однією з основних ознак державного суверенітету.

4. Незалежні країни, що розвиваються проголосили про свій повний суверенітет над природними ресурсами.

5. Для того, щоб встановити норми міжнародних економічних відносин, в 1974 році Генеральна Асамблея ООН прийняла Хартію економічних прав і обов'язків держав.

6. Принципи суверенітету, територіальної цілісності та політичної незалежності держав, взаємодії та рівноправної вигоди, незастосування сили, невтручання, постійного суверенітету над природними ресурсами, мирного співіснування повинні регулювати економічні та політичні відносини між державами.

7. Незважаючи на те, що Хартія не мала обов'язкової юридичної сили, велика кількість її принципів розглядалась як основа розвитку міжнародного економічного права.

**23. With your partner choose a problem for discussion. What do you expect it to be about? Brainstorm the further development of the points listed in the rough notes of the interview:**

1. “At the moment we can name only three Pakistani businesses that are doing exceptionally well on the Ukrainian Market (ISTIL Group, Sabina Park Ltd.)

**2. Work out possible suggestions for improvement of relation between the two countries in conformity with the national and international laws.**

**3. Brainstorming session**

Write about your suggestions for continuous development of our mutual economic ties according to legal economic codes, duties and traditions to the Kyiv Post column “Letters to the Editor”.

**Grammar**

**Expressing quantity**

**The table below lists quantifiers in order of most to least. Unless otherwise specified they can be used with both countable (C) and uncountable (U) nouns.**

all	nearly all	quite a lot of	quite a few (C)	a little (U)	very little (U)	none/not any
each (C)	most of	plenty of	some	a few (C)	very few (C)	
every (C)	masses of	many (C)	several (C)	little (U)	hardly any	
	a huge amount of		a number of (C)	few (C)		

	a great deal of		enough	not much (U)		
	a large amount of			not many (C)		
	a lot of			a bit of (U)		
	lots of					

**24. Underline the correct word.**

1. **Every/each** employee in turn will tell the manager when he wishes to take his holiday.
2. I'm tired. I didn't get **many/much/few** sleep last night.
3. I've made **many/much/a lot** of notes, but I haven't written my essay yet.
4. This coffee is bitter. It needs **a few/a little/little** more sugar.
5. I have invited **a few/a lot of/much** people to the party. I hope there will be room for them all.
6. I don't have **many/much/few** time at the moment. I'll talk to you later.
7. I have had **a few/very few/very little** success in my search for a job.
8. There are **much/a lot of/a little** reasons why he should go to university.
9. There are **much/little/few** people who are as hard-working as James.
10. I have **little/a little/a few** work to do before I can leave.
11. There is **a little/little/a few** chance of his getting the job. He has no experience.

**Gerunds and Infinitives**

Gerunds and infinitives can replace a noun in a sentence.

**Gerund** = the present participle (-ing) form of the verb, e.g., singing, dancing, running.

**Infinitive** = to + the base form of the verb, e.g., to sing, to dance, to run.

Whether you use a gerund or an infinitive depends on the main verb in the sentence.

*I expect to have the results of the operation soon.* (Infinitive)

*I anticipate having the research completed eventually.* (Gerund)

Gerunds can be used after certain verbs including *enjoy, fancy, discuss, dislike, finish, mind, suggest, recommend, keep, and avoid*.

1. After prepositions of place and time.  
I made dinner before getting home.  
He looked unhappy after seeing his work schedule.
2. To replace the subject or object of a sentence  
Lachlan likes eating coconut oil.  
Jumping off a cliff is dangerous, but a real thrill.

Infinitives can be used after certain verbs including *agree, ask, decide, help, plan, hope, learn, want, would like, and promise*.

1. After many adjectives:  
It is hard to make dinner this late.  
I find it difficult to describe my feelings about writing research essays.
2. To show purpose:  
I left for England to study English.  
I came to the office to solve the mystery of the missing keys.

**25. Put the verb into either the gerund (-ing) or the infinitive (with 'to'):**

- 1) I don't fancy \_\_\_\_\_ (go) out tonight.
- 2) She avoided \_\_\_\_\_ (tell) him about her plans.
- 3) I would like \_\_\_\_\_ (come) to the party with you.
- 4) He enjoys \_\_\_\_\_ (have) a bath in the evening.
- 5) She kept \_\_\_\_\_ (talk) during the film.
- 6) I am learning \_\_\_\_\_ (speak) English.
- 7) Do you mind \_\_\_\_\_ (give) me a hand?
- 8) She helped me \_\_\_\_\_ (carry) my suitcases.
- 9) I've finished \_\_\_\_\_ (cook) – come and eat!
- 10) He decided \_\_\_\_\_ (study) biology.
- 11) I dislike \_\_\_\_\_ (wait).
- 12) He asked \_\_\_\_\_ (come) with us.
- 13) I promise \_\_\_\_\_ (help) you tomorrow.
- 14) We discussed \_\_\_\_\_ (go) to the cinema, but in the end we stayed at home.
- 15) She agreed \_\_\_\_\_ (bring) the pudding to the dinner.
- 16) I don't recommend \_\_\_\_\_ (take) the bus – it takes forever!
- 17) We hope \_\_\_\_\_ (visit) Amsterdam next month.
- 18) She suggested \_\_\_\_\_ (go) to the museum.
- 19) They plan \_\_\_\_\_ (start) college in the autumn.
- 20) I don't want \_\_\_\_\_ (leave) yet.

**26. Choose a correct preposition that goes with the verb at the end of the sentence and put them into the gaps:**

1. They decided \_\_\_\_\_ the event to another country. It just wouldn't work (MOVE).
2. Why couldn't you prevent your dog \_\_\_\_\_ my steak? (EAT)
3. What are the advantages \_\_\_\_\_ a new car (BUY)?
4. Forget \_\_\_\_\_ Janet to come with us. She's with Bill this weekend (ASK)
5. To start writing good essays you have to begin \_\_\_\_\_ ideas and sorting them. (COLLECT)
6. She tried to talk me \_\_\_\_\_ to the party with her, but I didn't want to (COME)
7. I must rely \_\_\_\_\_ you \_\_\_\_\_ me the truth (TELL).
8. I am looking forward \_\_\_\_\_ my relatives for the first time this summer. (SEE)
9. I can't understand why people don't refrain \_\_\_\_\_. It's so bad for your health. (SMOKE)
10. You can't blame me \_\_\_\_\_ the train. (MISS)
11. You have a choice \_\_\_\_\_ with us and \_\_\_\_\_ at home (COME, STAY)
12. The firemen prevented the fire \_\_\_\_\_ to the other buildings (SPREAD).
13. I am not interested \_\_\_\_\_ to your old stories (LISTEN).
14. The headmaster gave us the opportunity \_\_\_\_\_ what we had achieved. (EXPLAIN)

### Videos:

**Video 1. International Law explained by Hesham Elrafei | What are the sources of International Law?**

**Video 2. What is Interpol? Explain Interpol, Define Interpol, Meaning of Interpol**

**Video 3. The concept of International organizations**

## UNIT 9 INTELLECTUAL PROPERTY



### Lead-in

**1. Discuss these questions with a partner.**

1. What is intellectual property?
2. How can intellectual property be protected?
3. What particular problems are there in protecting intellectual property today?

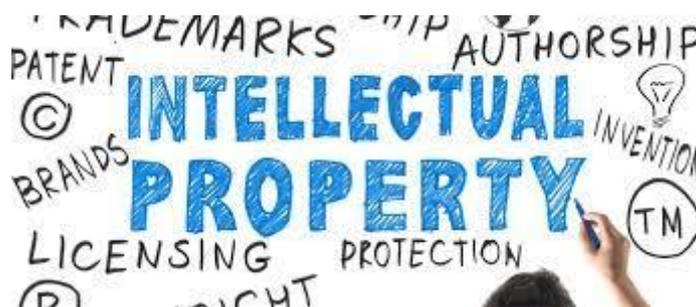
<b>Vocabulary</b>	
intellectual property	інтелектуальна власність
exclusive rights	виключні права
artist [ɑ:'ti:st]	естрадний артист
intangible assets	нематеріальні активи, непомічене майно
trademark	товарний знак, торгова марка
geographical indication	географічний знак, позначка
copyright	авторське право
copyright law	закон про авторське право
adopt copyright law	приймати закон про авторське право
apply for a copyright protection	звертатися за отриманням авторського права
copyright protection	захист авторського права
copyright protection	захист авторського права
applies to	розповсюджується на
copyright symbol	знак авторського права
seek damages for copyright infringement	вимагати відшкодування за порушення авторського права
violate a copyright	порушувати авторське право
innovator ['ɪnəveɪtə]	новатор; раціоналізатор
grant protection	надавати захист
industrial design	промисловий дизайн, проект
trade secret	виробничий секрет, професійна таємниця, секрет фірми
layout design	дизайн планування, розміщення
integrated circuit IC	інтегральна схема, ІС, мікросхема
collaborate [kə'læbəreɪt]	співробітничати
franchise ['fræntʃaɪz]	надавати право (голосу), франшизу
license out	ліцензувати, видавати ліцензію; давати право, дозвіл
transact	вести справу, укладати (угоду)
technical drawing	технічне креслення, рисунок
invention	винахід
distinguish (goods and services)	відокремлювати, виокремлювати, розрізняти
enterprise ['entəpraɪz]	підприємство, підприємливість
craftsman ['kra:ftsmən]	майстер, ремісник, художник, майстер
ornamental [ˌɔ:nə'ment(ə)l]	декоративний, орнаментальний
three-dimensional	тривимірний, просторовий; стереоскопічний
appellation	ім'я, назва

attributable

властивий, притаманний,  
характерний

## 2. Read the text.

### What is Intellectual Property and what are its different types?



Intellectual Property (IP) refers to the creations of the human minds for which exclusive rights are recognized. Innovators, artistes and business owners are granted certain exclusive rights to a variety of intangible assets for a specified duration.

Business owners are granted exclusive rights on the use of their trademarks and geographical indications which were established by them.

Creative artistes are granted copyrights on musical, literary, dramatic and artistic works for their creations.

Innovators are granted protection for their patents, industrial designs, trade secrets, confidential information, and layout-designs of integrated circuits for their innovations.

IP is an intangible asset to a company. It gives business partners and financial institutions the confidence to invest in or collaborate with the organization.

In addition to protecting their creation, business owners can maximize the value of their IPs in many ways. They can franchise, license out or transact their IP.

## 3. Complete the sentences by inserting the words below.

*Copyright; a trademark; geographical indications; an industrial design; a patent.*

\_\_\_\_\_ is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings.

\_\_\_\_\_ is an exclusive right granted for an invention. Generally speaking, a patent provides the patent owner with the right to decide how - or whether - the invention can be used by others. In exchange for this right, the patent owner makes technical information about the invention publicly available in the published patent document.

\_\_\_\_\_ is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks date back to ancient times when craftsmen used to put their signature or "mark" on their products.

\_\_\_\_\_ constitutes the ornamental or aesthetic aspect of an article. A design may consist of three-dimensional features, such as the shape or surface of an article, or of two-dimensional features, such as patterns, lines or colour.

\_\_\_\_\_ and appellations of origin are signs used on goods that have a specific geographical origin and possess qualities, a reputation or characteristics that are essentially attributable to that place of origin.

### Reading 1.

## INTELLECTUAL PROPERTY: GENERAL INFORMATION

### 4. Read the text and answer the questions.

1. What are the main forms of intellectual property?
2. In what way is intangible personal property different from real property?
3. How was intellectual property recognized historically?
4. What do branches of intellectual property law have in common and how they vary?

### 5. Match the terms and phrases from the text (1-7) with their definitions (a-g).

- |   |                              |   |
|---|------------------------------|---|
| 1 | <b>trade secret</b>          | a) a symbol, word, or words legally registered represented a company or product   |
| 2 | <b>patent</b>                | b) a work or invention that is the result of creativity   |
| 3 | <b>intangible property</b>   | c) a secret device or technique used by a company in manufacturing its products   |
| 4 | <b>copyright</b>             | d) a government authority or license conferring the sole right to make, use, or sell an invention   |
| 5 | <b>right of publicity</b>    | e) the result of creativity, such as patents, copyrights  |
| 6 | <b>intellectual property</b> | f) the right given to someone or something by the media   |
| 7 | <b>trademark</b>             | g) the exclusive legal right, given to an originator or an assignee to print, publish, perform, film, or record literary, artistic, or musical material |

### 6. Complete the following sentences using the text below.

- 1 Intellectual property is the product of \_\_\_\_\_ .
- 2 The major forms of IP are \_\_\_\_\_ .
- 3 A patent is \_\_\_\_\_ .
- 4 A copyright is \_\_\_\_\_ .
- 5 A trademark is \_\_\_\_\_ .
- 6 Other forms of intellectual property are \_\_\_\_\_ .
- 7 All branches of intellectual property law confer \_\_\_\_\_ .

## 8 Intellectual property law tries to be flexible \_\_\_\_\_ .

Few businesses of any size could operate without being able to protect their rights to a particular type of intangible personal property: intellectual property.

The major forms of intellectual property are patents, copyrights, and trademarks. Unlike tangible personal property (machines, inventory) or real property (land, office buildings), intellectual property is formless. It is the product of the human intellect that is embodied in the goods and services a company offers and by which the company is known. A patent is a grant from government that gives an inventor the exclusive right to make, use, and sell an invention for a period of twenty years from the date of filing the application for a patent. A copyright is the right to exclude others from using or marketing forms of expression. A trademark is the right to prevent others from using a company's product name, slogan, or identifying design. Other forms of intellectual property are trade secrets (particular kinds of information of commercial use to a company that created it) and right of publicity (the right to exploit a person's name or image). Note that the property interest protected in each case is not the tangible copy of the invention or writing—not the machine with a particular serial number or the book lying on someone's shelf—but the invention or words themselves. That is why intellectual property is said to be intangible: it is a right to exclude any others from gaining economic benefit from your own intellectual creation.

Intellectual property was not always recognized as a single field of law. Historically, the fields of patent, copyright, and trademark developed independently. In the late 20th century, however, legal experts began to recognize that these various fields of law had a great deal in common because they all pertained to intangible products of the mind. Nevertheless, an attorney will often specialize in only one area of intellectual property, such as patent law, and the legal rules for the different branches of intellectual property law vary greatly.

In all branches of intellectual property, the legal system seeks to balance two competing concerns. On the one hand, protection must be strong enough to encourage authors and inventors to invest the necessary effort in innovation. On the other hand, the law must also allow people some freedom to use the intellectual property of others. This is because artistic, technological, and commercial progress always requires building on the work of others. To strike this balance, all branches of intellectual property law confer general rights on creators but also limit those rights with a variety of exceptions. For example, in patent law, a scientist may use someone else's invention to conduct experiments. Similarly, copyright law allows a literary critic to quote passages of a novel in a review. Under trademark law, a company may use a competitor's brand name in a comparative advertisement. In all these ways, intellectual property law tries to be flexible enough to protect the property rights of the creator while also allowing the public to benefit from the protected work.

## 7. Look at the words to help you:

real property	нерухоме майно, нерухомість, реальне майно
right of publicity	право на гласність; право на публічне використання
technique [tek'ni:k]	технічні прийоми, метод; спосіб
confer the right	надавати право
tangible property	реальна власність, матеріальне майно
inventory	інвентар, товари (предмети), внесені до інвентарю
embody	втілювати; здійснювати
exclude	виключати, вилучати (з - from) ; не допускати
exploit an invention	використовувати винахід (про власника патенту)
exploit a person's name or image	використовувати чиєсь ім'я або зображення
pertain	належати, стосуватися (to)
competing concerns	конфліктні, взаємовиключні, конкурентні справи
quote [kwəʊt]	цитувати уривок; посилатися (на когось)
passages	
brand name	торговельна марка, товарний знак

### Listening 1.

#### «Training of Junior Lawyers»

Law firms generally provide training for young lawyers entering the firm in the form of formal instruction and practical work experience. Seminars are held by experienced lawyers to provide a theoretical framework for understanding the legal, business, ethical and practical issues that junior lawyers are likely to encounter. On the practical side, the practice known as 'shadowing' gives junior lawyers a chance to observe senior lawyers at work. Shadowing may include anything from attending meetings with a client and other lawyers, to participating in negotiations with opposing counsel, to attending a trial, or observing the closing of a transaction.

You are going to hear an extract from a seminar held for junior lawyers at a US law firm.



➤ *Listen to the extract and answer these questions.*

- 1 What is the topic of the seminar?
- 2 The speaker says that her listeners will be shadowing a senior lawyer on a new case. What does the case involve?

3 What do the examiners at a patent office use as a basis for their decision to award a patent to an inventor?

➤  Listen again and complete this extract from the outline of the speaker's notes for his part of the seminar. Use no more than three words for each gap.

### Speaking 1.

#### Notes for seminar

- General remarks: Area which is changing rapidly; important new case (Whittaker)
- Overview: Topics to be covered in seminar: basic concepts, a few 1) ..... presented by participants, recent holdings
- Requirements for patentability of an invention
  - ✓ First requirement: must be useful: 2) ..... requirement. Invention must provide a 3) .....
  - ✓ Second requirement: must be new: novelty requirement
  - ✓ Third requirement: must not be obvious to person with skill in the art: 4) .....
  - ✓ Fourth requirement: must be patentable 5) .....

Examples: processes, machines, a composition of matter (such as a synthesized chemical compound)

Subject matters traditionally 6) ..... patentability: abstract ideas (in particular: business methods)

### 8. Decide whether these statements are true or false.

1. The question of whether an invention is patentable is generally decided by the courts.
2. In order for an invention to qualify as novel, the idea behind it should not already have been patented in another device.
3. A process, such as the idea for a machine, is not patentable.
4. Today, business methods are no longer automatically barred from patentability.

# COPYRIGHT

## Reading 2.

### COPYRIGHT LAW

#### 9. Read the text and answer the questions.

1. What is the definition of copyright given by the U.S. International Trade Commission?
2. What is the difference between ‘copyright’ and ‘authors’ right’?
3. What is the fundamental policy of copyright law?
4. How long does the copyright protection last in the U.S.?
5. What are the most common requirements for copyright protection?
6. What does a copyright symbol consist of?
7. May the owner of the right seek damages for the copyright infringement?
8. Can an author apply for two copyrights for one work?
9. How do you understand that ‘copyright provides a partial monopoly in a work’?

body of law	сукупність правових норм
ownership	власність, право власності
incentive	мотив, стимул, заохочення, винагорода
original works of authorship	справжні авторські роботи
Internatuinal Trade Commission	Міжнародна торгова комісія
public domain	державна (публічна) власність; загальне надбання
prohibit unauthorized use	заборонити несанкціоноване використання творів
federal statute	федеральний статут
fair use	законне використання, правомірне використання

Copyright is the body of law that deals with the ownership and use of works of literature, music, art and technology-based works such as computer programmes and electronic databases. The basic purpose of copyright is to enrich our society’s wealth of culture and information. The means for doing so is to grant exclusive rights in the exploitation and marketing of a work as an incentive to those who create it. While the expression *copyright* refers to the main act, that act is the making of copies of the work, whereas the expression *authors’ rights* relates to the creator of the artistic work, namely its author.

Copyright law protects original works of authorship which are written down or recorded. The U.S. International Trade Commission has defined “copyright” as “a form of protection provided by a national government to authors

of original works of authorship, including literary, dramatic, musical, artistic, and certain other intellectual works”. As with other types of policies for intellectual property, the fundamental policy of copyright law is to provide protection for works so that they can be distributed in the public domain. In the United States, the copyright protection lasts for the life of the author, plus fifty years. Copyright holders possess economic rights associated with their works including the essential right to prohibit unauthorized use of the works. Copyright protection applies to literary works, plays, computer programs, and other kinds of works of authorship. The most common requirements for copyright protection are that the work must be in material form (i.e. not just an idea) and it must be original in the sense that the work ‘originates’ from the relevant author. The owner of a copyright may place a copyright symbol on the works as a warning to others that the work is protected. The symbol consists of the letter “C” with a circle around it: ©. Following the creation of the Copyright Act of 1976, most copyright law in the United States is governed by federal statute. If copyright is violated, the owner of the right may seek damages for the copyright infringement. However, copyright provides a partial monopoly in a work, as various rules provide exceptions by which a work may be copied without infringing on the rights of the author. A good example of such an exception is the right of fair use recognized in the United States.

Example: Mrs. Author writes an original play and composes original music for the play. She applies for two copyrights: one for her play and one for the music that she created for her play. She now has two copyrighted works which are protected.

#### **10. Find the translation of the words and word-combinations in the text.**

Сукупність правових норм; приватне володіння; збагачувати культурне та інформаційні цінності суспільства; надавати ексклюзивні права; користування, використання; продаж; Міжнародна торгова комісія США; справжні авторські роботи; основне завдання (мета) закону про авторське право; забезпечувати захист; розповсюджувати; діяти довічно; знак охорони авторського права; попередження; федеральний закон; порушувати авторське право; вимагати відшкодування; звертатися за отриманням авторського права; публічний домен; правовласники; володіти економічними правами; забороняти несанкціоноване використання творів; часткова монополія; право сумлінного (законного) використання.

#### **11. Complete the sentences with necessary words and word-combinations:**

*lasts; infringement; ownership; the copyright symbol ©; be protected by copyright; works of authorship.*

1. The main legal instruments for protecting ... are patents and copyrights.
2. Copyright ... requires that the works of the copyright owner have been copied.

3. It is usual to record the date of creation and mark it with ... .
4. Intellectual property can only be protected if ... is clear.
5. Copyright ... longer than a patent.
6. Literature, artistic works, computer programmes, movies and radio and television broadcasts can ... .

### Reading 3.

#### FAIR USE

#### 12. Read the text, explain the concept of fair use and describe its limits.

acquire permission	набувати (отримувати) дозвіл
rights holder	правовласник
search engine	пошукова система, служба, пошуковий механізм
library archiving	бібліотечний архів, архівування
scholarship	стипендія
safety valve	запобіжний вихід
nonprofit	некомерційний
amount and substantiality	обсяг та істотність, значність
by case-by-case basis	розглядаючи кожну справу окремо
troublesome	що завдає турботи; важкий
plain-paper copier	копія на звичайному папері
vest in / with	наділяти правами, уповноважувати
derivative work	похідна праця
consistency	сумісність, погодженість
credit	приписувати
assign the copyright (to another)	передавати авторське право (іншій особі)

Fair use is a legal doctrine that permits limited use of copyrighted material without acquiring permission from the rights holders. It is one type of limitation and exception to the exclusive rights copyright law grants to the author of a creative work. Examples of fair use in United States copyright law include commentary, search engines, criticism, parody, news reporting, research, teaching, library archiving and scholarship. It provides for the legal, unlicensed citation or incorporation of copyrighted material in another author's work under a four-factor balancing test.

Fair use is one of the traditional safety valves intended to balance the interests of copyright holders with the public interest in the wider distribution and use of creative works by allowing certain limited uses that might otherwise be considered infringement.

In determining whether the use made of a work in any particular case is a fair use, the factors to be considered shall include:

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

These are broad guidelines. Accordingly, any copying could be infringement, and fair use could become a question of fact on a case-by-case basis. In determining fair use, however, courts have often considered the fourth factor (effect of the use upon the potential market for the copyrighted work) to be the most important.

Clear examples of fair use would be when book reviewers or writers quote passages from copyrighted books. Without fair use, most writing would be useless because it could not readily be discussed. But the doctrine of fair use grew more troublesome with the advent of plain-paper copiers and is now even more troublesome with electronic versions of copyrighted materials that are easily copied and distributed.

### **13. Read the text about the history of copyright law. Put the words in the brackets into the correct form.**

The history of copyright law starts with early privileges and monopolies granted to 1) ... (PRINT) of books. The British Statute of Anne 1710, full title "An Act for the 2) ... (ENCOURAGE) of Learning, by vesting the Copies of Printed Books in the Authors or purchasers of such Copies, during the Times therein mentioned", was the first copyright statute. Initially copyright law only applied to the copying of books. Over time other uses such as translations and 3) ... (DERIVE) works were made subject to copyright and copyright now covers a wide range of works, including maps, performances, paintings, photographs, sound recordings, motion pictures and computer programs.

Today 4) ... (NATION) copyright laws have been standardized to some extent through international and regional agreements such as the Berne Convention and the European copyright directives. Although there are 5) ... (CONSIST) among nations' copyright laws, each jurisdiction has separate and distinct laws and regulations about copyright. Some jurisdictions also recognize moral rights of 6) ... (CREATE), such as the right to be credited for the work.

Copyright are exclusive rights granted to the author or creator of an original work, including the right to copy, distribute and adapt the work. Copyright does not protect ideas, only their expression or 7) ... (FIX). In most jurisdictions copyright arises upon fixation and does not need to be registered. Copyright owners have the 8) ... (EXCLUDE) statutory right to exercise control over copying and other exploitation of the works for a specific period of time, after which the work is said to enter the public domain. Uses which are covered under 9) ... (LIMIT) and exceptions to copyright, such as fair use, do not require

10) ... (PERMIT) from the copyright owner. All other uses require permission and copyright owners can license or 11) ... (PERMANENT) transfer or 12) ... (SIGN) their exclusive rights to other.

## Listening 2.

### «Discussing Issues - Copyright And Fair Use»

The rapidly changing technologies regulated by intellectual property law - among them computer and Internet technologies - are the source of debates on various legal issues, in particular issues related to copyright. You are going to hear a discussion on the topic of the use of copyrighted material for educational purposes. An American junior lawyer named Thomas has been assigned to shadow two senior lawyers working on a case involving the 'fair use' doctrine in connection with distance-learning courses. Thomas meets Patrick, the senior lawyer, and his associate, Rebecca, in Patrick's office to begin shadowing them as they work on the case.



➤ *Listen to the discussion and answer these questions.*

1. What do Thomas and Rebecca say about the concept of fair use in American law?
2. According to Patrick, what is the objective of copyright law?
3. Who does Rebecca think is in the stronger position now, copyright holders or educators?
4. According to Patrick, what are the four factors which need to be taken into account when assessing fair use?



➤ *Listen again and decide whether these statements are true or false.*

1. The 'fair use' doctrine only applies to the use of copyrighted materials in traditional face-to-face classroom situations.
2. Thomas has a basic understanding of what distance learning is, and is aware of one of the intellectual property issues that it raises.
3. Rebecca argues that in the future it is likely that a teacher's right to use copyrighted material without permission will become increasingly restricted.
4. The four-factor analysis helps determine whether the use of copyrighted material falls under the 'fair use' doctrine.
5. Rebecca points out that the four-factor analysis is subjective and therefore not reliable.

## Video 1. Trade Secrets

### 14. Watch Video 5 and answer the following questions:

1. What is a trade secret?
2. What do TSs foster?
3. What do TSs provide?

4. What is TS Law governed by?
5. What are three common elements of TSs definition?
6. What can be a TS?
7. What can a failure to identify and protect TS result in?
8. Why does the national legislation adopt the laws and provide regulations protecting against TS theft?
9. How do TSs differ from trademarks and patents in terms of protection?
10. Who is responsible for securing TSs?
11. Where and how can you apply information from this video?

## PATENT LAW

### Reading 4.

#### 15. Match word-combinations in column A with their equivalents in B.

A	B
1) seek an injunction	a) надаючи право позбавляти інших прав
2) conferring the right to exclude others from	b) предмет обговорення продукції та виробництва
3) a process of making a product	c) забороняти товари на території США
4) the rights secured by the patent	d) вимагати заборони ввезення товару
5) the subject matter of products and processes	e) домагатися судової заборони
6) to satisfy the statutory conditions	f) задовольняти умови статутного права
7) pursue an exclusion action	g) права, гарантовані патентом
8) to keep the product out of the United States	h) стягувати збитки
9) to be eligible for protection	i) мати право на захист
10) recover damages	j) процес виготовлення продукту

#### 16. Complete the text with the word-combinations from column A.

The law of patents embraces 1) ... 2) ... an invention must be useful and novel. Before a patent is issued by the Patent and Trademark Office, the invention must be determined by an examiner, after detailed search of prior art, 3) ...

As defined by the U.S. International Trade Commission, a patent is 'a grant issued by a national government 4) ... making, using, or selling the invention within the national territory'. The U.S. patent law protects an invention or a new

discovery for twenty years from the date the patent is granted. A patent may be granted for a product, a design, or 5) ... . Patents are granted by the United States Patent and Trademark Office located in Washington, D.C. Once a patent is granted, any use of 6) ... without permission from the inventor will constitute an infringement for which damages may be recovered.

Example: Mr. Inventor creates a device that can send people back in time. Since no one has ever created such a device, Mr. Inventor wants to protect his invention from being copied. Mr. Inventor patents his new invention which will now prohibit others from copying and marketing the invention without permission. However, Mr. Copier makes and sells the exact invention patented by Mr. Inventor. Mr. Inventor may now sue Mr. Copier for patent infringement and 7) ... , or Mr. Inventor may 8) ... . If Mr. Copier makes the product abroad and attempts to import it into the United States, Mr. Inventor may 9) ... before the U.S. International Trade Commission to 10) ... .

### **17. Answer the questions on the text.**

1. What subjects does the law of patents embrace?
2. What statutory conditions must be satisfied for an invention to be patented?
3. How is a 'patent' defined by the U.S. International Trade Commission?
4. What is a period of the U.S. patent law protection?
5. What may patent be granted for?
6. Once a patent is granted, how are the rights secured?
7. In what cases can the U.S. International Trade Commission keep the product out of the United States?

### **18. Form various parts of speech from the following verbs:**

To use, to issue, to determine, to satisfy, to define, to grant, to permit, to infringe, to import, to pursue.

### **Reading 5.**

#### **PATENTABILITY**

#### **Look at the words to help you:**

a composition of matter	склад, сполука елементів
gene patenting	патентування генів
patentable ['peɪt(ə)ntəb(ə)l ], ['pæ-]	патентоспроможний
qualify as a patentable process	кваліфікувати як патентоспроможний процес

PTO (Patent and Trademark Office )	Бюро патентів і торгових знаків (США)
fault the PTO	оголосити помилковим рішенням Бюро патентів та торгових знаків (США)
allow ownership	визнавати, задовольнити право власності
approve patent application	затверджувати патентну заявку
manual process	фізичний процес
challenge a patent	оспорювати, оскаржувати
	патент
rolled steel	прокатна сталь
lathe [leɪð]	токарний верстат
printing press	друкарський верстат
motor ['məʊtə]	автомобіль
cotton gin	волоконнідокремлювач
compound	суміш; сполучення, сполука
metal alloy	металевий сплав
oil spill	розлив нафти
controversy ['kɒntɹəvɜːsɪ]	суперечка, дискусія, полеміка
genome ['dʒiːnəʊm]	геном
AIDS (Acquired Immune Deficiency Syndrome)	синдром набутого імунного дефіциту, СНІД
utility [juː'tɪlətɪ]	корисність, вигідність, корисна річ
diminish requests	ослаблювати вимоги
hybridized plants	гібридні рослини
computer software	комп'ютерне програмне забезпечення
equation [ɪ'kwɛɪʒ(ə)n]	рівняння
obviousness	очевидність, ясність
improvement	вдосконалення раніше запатентованого винаходу
pay royalties	платити гонорар (автору книги тощо)

**19. Read through the article below quickly and answer these questions.**

- 1 What aspects can be taken into consideration to define whether things and notions may be patented or not?
- 2 What does the patent law confer?
- 3 What examples of a process, a machine, a manufacture, a composition of matter can you suggest?
- 4 Why is gene patenting considered controversial among critics?

## 20. Write down the summary of the texts.

### What May Be Patented

The patent law says that “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof” may be patented.

*A process* for making rolled steel, for example, *qualifies as a patentable process* under the statute.

*A machine* is a particular apparatus for achieving a certain result or carrying out a distinct process—lathes, printing presses, motors, and the cotton gin are all examples of the hundreds of thousands of machines that have received US patents since the first Patent Act in 1790.

*A manufacture* is an article or a product, such as a television, an automobile, a telephone, or a lightbulb.

*A composition of matter* is a new arrangement of elements so that the resulting compound, such as a metal alloy, is not found in nature. Even living organisms—in particular, a new “genetically engineered” bacterium that could “eat” oil spills—could be patented.

According to the PTO (*Patent and Trademark Office*), gene sequences are *patentable subject matter*, provided they are isolated from their natural state and processed in a way that separates them from other molecules naturally occurring with them. Gene patenting, always controversial, generated new controversy when the PTO issued a patent to Human Genome Sciences Inc., for a gene found to serve as a platform from which the AIDS virus can infect cells of the body. Critics *faulted the PTO for allowing “ownership”* of a naturally occurring human gene and for *issuing patents* without requiring a showing of the gene’s utility. New guidelines from the PTO followed in 2000; these focused on requiring the applicant to make a strong showing *on the utility aspect* of patentability and somewhat diminished the rush of *biotech patent requests*.

There are still other categories of *patentable subjects*. An improvement is an alteration of a process, machine, manufacture, or composition of matter that satisfies one of the tests for patentability given later in this section. New, original ornamental designs for articles of manufacture are patentable (e.g., the shape of a lamp); works of art are not patentable but are *protected under the copyright law*. New varieties of cultivated or hybridized plants are also patentable, as are genetically modified strains of soybean, corn, or other crops.

### What May Not Be Patented

Many things can be patented, but not the *laws of nature*, *natural phenomena*, and *abstract ideas*, including *algorithms* (step-by-step formulas for accomplishing a specific task).

One frequently asked question is whether patents can be issued for computer software. The PTO was reluctant to do so at first, based on the notion that computer programs were not “novel”—the software program either *incorporated automation of manual processes* or used *mathematical equations*

(which were not patentable). But in 1998, the Supreme Court stated that *patents could be obtained* for a process that incorporated a computer program if the process itself was patentable.

A *business process* can also be patentable, as the US Court of Appeals for the Federal Circuit ruled in 1998 in *State Street Bank and Trust v. Signature Financial Group*. *Signature Financial* had a patent for a computerized accounting system that determined share prices through a series of mathematical calculations that would help manage mutual funds. *State Street* sued to *challenge that patent*. *Signature* argued that its model and process was protected, and the Court of Appeals upheld it as a “practical application of a mathematical, algorithm, formula, or calculation,” because it produces a “useful, concrete and tangible result.” Since *State Street*, many other firms have *applied for business process patents*. For example, *Amazon.com* obtained a business process patent for its “one-click” ordering system, *a method of processing credit-card orders* securely.

### Tests for Patentability

Just because *an invention* falls within one of the categories of patentable subjects, it is not necessarily patentable. The *Patent Act* and *judicial interpretations* have established certain tests that must first be met. *To approve a patent application*, the PTO (as part of the Department of Commerce) will require that the invention, discovery, or process be novel, useful, and nonobvious in light of current technology.

Perhaps the most significant test of patentability is that of *obviousness*. The act says that no invention may be patented “if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” This provision of the law has produced innumerable court cases, especially over *improvement patents*, when those who wish to use an invention on which a patent has been issued have refused to pay royalties on the grounds that the invention was obvious to anyone who looked.

## Speaking 2.

### 21. Translate the verbs with the nouns they collocate with in the text and use them while discussing the text.

1. to qualify as a patentable process
2. to fault the PTO
3. to issue a patent
4. to allow ownerships
5. to approve a patent application
6. to protect under the copyright law
7. to incorporate automation of manual process
8. to obtain patents
9. to challenge the patent
10. to apply for patents

## TRADE SECRET LAW

### Reading 6.

#### DEFINITION OF TRADE SECRETS

#### 22. Explain the meaning of the words and word combinations in English and find their equivalents in Ukrainian:

reveal a secret	restatement of torts
draw a line	compilation of information
espionage [ˌespɪəˈnɑːʒ]	pricing data
know-how	marketing methods
gathering intelligence	source of supply
disclose a patent publicly	elaborate security system
prevent public disclosure	telephone directory
take out a patent	circulate a product description
customer list	reverse engineering
meet the tests of novelty	guard a trade secret
time-consuming	gain competitive advantage
critical distinction	cyberattack
enjoin anyone	United States Customs Service
restatement of law	merchandise [ˈmɜːtʃəndaɪz]

#### 23. Read the text and decide whether these statements are true (T) or false (F).

1. A trade secret is a technique or device for a company to maintain secrecy to some know-how.
2. Trade secrets are usually patentable and can meet the tests of novelty or nonobviousness.
3. Patent protection expires in thirty years, after which anyone is free to use the invention, but a trade secret can be maintained for as long as the secret is kept.
4. The critical distinction between a patent and a trade secret is this: a patent gives its owner the right to forbid anyone who violates it from making use of it, whereas a trade secret gives its “owner” the right to sue only the person who improperly took it or revealed it.
5. It is very complicated to draw the line between competitive intelligence gathering and espionage.

A patent is an invention publicly disclosed in return for a monopoly. A trade secret is a means to a monopoly that a company hopes to maintain by **preventing public disclosure**. Why not always take out a patent? There are several reasons. The trade secret might be one that is not patentable, such as a **customer list** or an **improvement** that does not **meet the tests of novelty** or nonobviousness. A patent

can be designed around; but if the trade secret is kept, its owner will be the exclusive user of it. Patents are expensive to obtain, and the process is extremely time consuming. Patent protection expires in twenty years, after which anyone is free to use the invention, but a trade secret can be maintained for as long as the secret is kept. However, a trade secret is valuable only so long as it is kept secret. Once it is publicly revealed, by whatever means, anyone is free to use it. The **critical distinction** between a patent and a trade secret is this: a patent gives its owner the right **to enjoin anyone who infringes** it from making use of it, whereas a trade secret gives its “owner” the right to sue only the person who improperly took it or revealed it. According to the **Restatement of Torts**, Section 757, Comment b, a trade secret may consist of any formula, pattern, device or compilation of information which is used in one’s business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a pattern for a machine or other device, or a list of customers.... A trade secret is a process or device for continuous use in the operation of a business. Generally it relates to the production of goods, as, for example, a machine or formula for the production of an article. Other types of trade secrets are **customer information, pricing data, marketing methods, sources of supply, and secret technical know-how**.

### **Elements of Trade Secrets**

To be entitled to protection, a trade secret must be (1) original and (2) secret.

#### **Originality**

The trade secret must have a certain **degree of originality**, although not as much as would be necessary to secure a patent. For example, a principle or technique that is common knowledge does not become a protectable trade secret merely because a particular company taught it to one of its employees who now wants to leave to work for a competitor.

#### **Secrecy**

Some types of information are obviously secret, like the chemical formula that is jealously guarded through an elaborate security system within the company. But other kinds of information might not be secret, even though essential to a company’s business. For instance, a list of suppliers that can be devised easily by reading through the telephone directory is not secret. Nor is a method secret simply because someone develops and uses it, if no steps are taken to guard it. A company that circulates a product description in its catalog may not claim a trade secret in the design of the product if the description permits someone to do “reverse engineering.” A company that hopes to keep its processes and designs secret should affirmatively attempt to do so—for example, by requiring employees **to sign a nondisclosure agreement** covering the corporate trade secrets with which they work. However, a company need not go to every extreme **to guard a trade secret**.

*Trade-secrets espionage* has become a big business. To protect industrial secrets, US corporations spend billions on *security arrangements*. The line between *competitive intelligence gathering* and *espionage* can sometimes be difficult to draw. The problem is by no means confined to the United States; companies and nations all over the world have become concerned about theft of trade secrets *to gain competitive advantage*, and foreign governments are widely believed to be involved in espionage and *cyberattacks*.

### Speaking 3.

#### 24. Translate Ukrainian parts of the sentences into English.

<sup>1</sup>Право комерційної таємниці protects <sup>2</sup>конфіденційну (таємну) інформацію used in business. The U.S. International Trade Commission has defined a ‘trade secret’ as ‘information, including <sup>3</sup>формула, <sup>4</sup>промисловий зразок (зареєстрований), <sup>5</sup>компіляція (сформована шляхом запозичення з різних джерел), <sup>6</sup>прилад, <sup>7</sup>метод (спосіб, прийом), <sup>8</sup>техніка (метод) чи <sup>9</sup>процес (метод виготовлення), що має економічну вигоду (реальну чи майбутню) from not being generally known, and not being readily <sup>10</sup>встановлений нормативними засобами by other persons who can obtain economic value from its <sup>11</sup>розкриття (виявлення) or use, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy’. It can be an idea or information that has a <sup>12</sup>комерційна вигода (цінність) not known. <sup>13</sup>Захист набувається as soon as the idea is created, and the protection lasts long as the information is kept a secret. However, someone may use and apply the trade secret if it is discovered independently by proper means.

The U.S. Customs Service and the U.S. International Trade Commission are both involved in the customs law aspects of international property law. For example, the U.S. Customs Service may <sup>14</sup>заборонити або накладити арешт на товар that is protected by intellectual property law and which is registered with Customs Service. The International Trade Commission may <sup>15</sup>видавати наказ про заборону ввезення товару that is protected by intellectual property law.

#### 25. Retell the text using the questions.

1. What does trade secret law protect?
2. How has the U.S. International Trade Commission defined a ‘trade secret’?
3. When is the protection of trade secret law acquired?
4. How long does the protection last?
5. How can merchandise be protected by the U.S. Customs Service?

## TRADEMARK LAW

### Reading 7.

## TRADEMARK LAW

### 26. Match the verbs with the nouns or adjective.

- |            |                      |
|------------|----------------------|
| 1 identify | a patent's duration  |
| 2 become   | b the mark           |
| 3 abandon  | c generic            |
| 4 extend   | d exclusivity        |
| 5 expire   | e goods and services |
| 6 lose     | f patent's duration  |

*A trademark* is defined in the federal Lanham Act of 1946 as “any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant *to identify his goods* and distinguish them from goods manufactured or sold by others.”

Examples of well-known trademarks are Coca-Cola, Xerox, and Apple. A service mark<sup>14</sup> is used in the sale or advertising of services *to identify the services* of one person and distinguish them from the services of others. Examples of service marks are McDonald's, BP, and Hilton. A certification mark<sup>15</sup> is used in connection with many products “*to certify regional or other origin, material, mode of manufacture, quality, accuracy* or other characteristics of such goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.” Examples are the Good Housekeeping Seal of Approval and UL (Underwriters Laboratories, Inc., approval mark). Unlike other forms of trademark, the owner of the *certification mark* (e.g., Good Housekeeping, or the Forest Stewardship Council's FSC mark) is not the owner of the underlying product.

#### *Loss of Rights*

Trademark owners may *lose their rights* if they *abandon the mark*, if *a patent or copyright expires* on which the mark is based, or if the mark *becomes generic*. A mark is abandoned if a company goes out of business and ceases selling the product. Some marks are **based on design patents**; when the patent expires, *the patent holder* will not be allowed *to extend the patent's duration* by arguing that the design or name linked with the design is *a registrable trademark*. The most widespread difficulty that a trademark holder faces is the prospect of too much success: if a trademark comes to stand generically for the product itself, it may *lose exclusivity* in the mark. Famous examples are aspirin, escalator, and cellophane. The threat is a continual one. Trademark holders can protect themselves from their marks' becoming generic in several ways.

1. Use a descriptive term along with the trademark. Look on a jar of Vaseline and you will see that the label refers to the contents as Vaseline petroleum jelly.

2. Protest generic use of the mark in all publications by writing letters and taking out advertisements.

3. Always put the words Trademark, Registered Trademark, or the symbol ® (meaning “registered”) next to the mark itself, which should be capitalized.

### 27. Find the equivalents for Ukrainian words and word-combinations:

офіційна заява про схвалення, згоду	торгова марка, яка підлягає реєстрації
точність, правильність, вірність	ідентифікувати товари та послуги
засвідчувати, підтверджувати	"Андерайтерс лэбраториз" Компанія, яка займається сертифікацією різних матеріалів і товарів з точки зору їх безпеки
основний продукт, первинний продукт	посвідчувальний знак
походження, якість	відмовлятися від марки
спосіб виробництва	стати загальним

### Speaking 4.

### 28. Discuss these questions in small groups.

1. How would you define the trademark?
2. What examples of trademarks can you think of?
3. Which national and foreign trademarks are popular in our country?

Which of them do you prefer?

### Reading 8.

## TRADEMARKS AND TRADESERVICES

### 29. Choose the correct title to each paragraph of the text.

1. Why register my Trademark?
2. What is a Trademark?
3. What is the difference between State TM and Federal TM?
4. What is required of the owner of a Trademark?
5. Why run a Trademark Search?
6. What's the difference between Registered Trademarks and Common Law Trademarks?
7. What's the difference between a Trademark and Servicemark?

1 \_\_\_\_\_

A Trademark is one of the most valuable assets of any business. A Trademark is a word, name, symbol, design, phrase or sound that identifies a business organization, or its products or services, and distinguishes it from other business organizations. In other words, a Trademark is how potential customers recognize your business and ***set you apart from your competitors***. A Business must be extremely careful in choosing the names associated with it, as it can be exorbitantly expensive ***to change names midstream***. As thousands of businesses have learned, the result can be devastating in terms of lost business.

2 \_\_\_\_\_

One of the first steps to ***starting your business*** is naming your business. One of the first steps in ***launching a product or service*** is naming the product or service. Before you use the name, you need to know if the name is being used by someone else. Even if no one else is using the name in your state or geographic region, a Trademark Search will reveal if someone is using the name in any part of the country. A Trademark Search will reveal this scenario up front, before time, money and effort is put into ***building a trade name or brand***. A proper Trademark Search ensures that you can use the name you want to use in your business. It also ***mitigates the risk*** that your trademark registration application will not be rejected by the United States Patent and Trademark Office (USPTO). It is your responsibility to have the search done before you ***submit your application to*** the USPTO. Submitting a trademark registration application blindly risks a considerable amount of time and money.

3 \_\_\_\_\_

Registering a Trademark ***puts the world on notice*** that you are using the mark that it is your mark, and that no one else can use it. It also generates an indisputable record of your use, which is vital in defending your rights if another business were to come along at a later date and use the mark in violation of your rights. Trademarks should be registered by businesses that use the mark in interstate commerce, or plan on using the mark in interstate commerce. Furthermore, registering a trademark will ***give your trade name and brand names more credibility*** with the public and with other business you deal with.

4 \_\_\_\_\_

A business using a trade name in commerce may very well have Common Law Rights in that name. Basically, the only requirement is that the business was the first to use the name in that geographic area. Here, it wouldn't matter if you registered the Trademark with the USPTO. The business that first used the name would have the right to the name, in that area. But practically speaking, you could be blocked out from using this name anywhere. Common Law Trademark rights are extremely prevalent. Several million US business have Common Law Trademark rights in their trade names. This is why running a Trademark Search is extremely important. Registering a trademark gives the owner a ***presumptive right*** to the use of the trademark. Registering ***puts the world on notice*** that you are

using the mark that it is your mark, and that no one else can use it. It also gives your trade name and brands more liability and credibility.

5 \_\_\_\_\_

Though we use the word "Trademark" on this site to describe Trademarks and Servicemarks, there is a distinction. A Trademark serves to distinguish goods or products from similar goods or products. A Servicemark serves to distinguish a given service provided by one business from similar services provided by another, and to distinguish the marketing or sales promotion of a business organization.

6 \_\_\_\_\_

The right and obligation of a trademark owner is to take legal action against anyone who is infringing on its trademark. The owner must be consistent and thorough in *asserting its rights to ownership*. Furthermore, the owner of the trademark must be diligent in *asserting its claims of ownership*. If the owner is not consistent and diligent, the law may deem the owner to have *waived such rights to ownership*.

7 \_\_\_\_\_

Federal Trademark Registration gives national protection, and puts parties on notice of the trademark across the nation. State Trademark Registration can put parties on notice on a statewide basis, and can give some protection against infringement. However, merely registering a trademark in a single state will give no protection against infringement in another state. Furthermore, if a company does not register a trademark federally, the company may find it's precluded from expanding with the trademark to other states, where competitors are already using the mark.

## Reading 9.

### COMMON REASONS FOR REFUSAL OF TRADEMARK REGISTRATION

**30. Read through the texts and comment on the role of the examining attorney in evaluating a pending application.**

✓ **Likelihood of Confusion**

The USPTO *conducts a search* for conflicting marks as part of the official examination of an application only after a trademark application is filed. In *evaluating an application*, the examining attorney conducts a search of USPTO records to determine whether there is a conflict between the mark in the application and a mark that is either registered or *pending* in the USPTO.

The principal factors considered in reaching this decision are the similarity of the marks and the commercial relationship between the goods and services

identified by the marks. To find a conflict, the marks do not have to be identical or the goods and services the same; instead, it is sufficient if the marks are similar and the goods and or services related. Similarity in sound, appearance, or meaning may be sufficient to support a finding of likelihood of confusion.

When a conflict exists between the applicant's mark and a registered mark, the examining attorney will refuse registration of the applicant's mark on the ground of likelihood of confusion. If a conflict exists between the applicant's mark and a mark in an earlier-filed pending application, the examining attorney will notify the applicant of the potential conflict. The applicant's mark will be refused on the ground of likelihood of confusion only if the earlier-filed application becomes registered.

✓ **Merely Descriptive and Deceptively Misdescriptive**

The examining attorney will refuse registration of a mark as merely descriptive if it immediately describes an ingredient, quality, characteristic, function, feature, purpose or use of the specified goods or services. A mark will be refused as deceptively misdescriptive if:

1. the mark misdescribes an ingredient, quality, characteristic, function, feature, purpose or use of the specified goods or services; and
2. the misrepresentation conveyed by the mark is plausible.

✓ **Primarily Geographically Descriptive and Primarily Geographically Deceptively Misdescriptive**

The examining attorney will refuse registration of a mark as primarily geographically descriptive if:

3. the primary significance of the mark is geographic;
4. purchasers would be likely to think that the goods or services originate in the geographic place identified in the mark, i.e., purchasers would make a goods/place or services/place association; and

5. the mark identifies the geographic origin of the goods or services. A mark will be refused as primarily geographically deceptively misdescriptive if:

6. the primary significance of the mark is geographic;
7. purchasers would be likely to think that the goods or services originate in the geographic place identified in the mark, i.e., purchasers would make a goods/place or services/place association; and
8. the goods or services do not originate in the place identified in the mark.

✓ **Primarily Merely a Surname**

The examining attorney will refuse registration of a mark if the primary significance to the purchasing public is a surname.

✓ **Ornamentation**

In general, the examining attorney will refuse registration if the applied-for mark is merely a decorative feature or part of the "dress" of the goods. Such matter is merely ornamentation and does not serve the trademark function of identifying and distinguishing the applicant's goods from those of others.

## Video 2. Common Law Trademarks

### 31. Watch Video 2 and provide the pros and cons they implicate?

Pros of Common Law  
Trademarks

Cons of Common Law  
Trademarks

### 32. Write how you would explain Common Law Trademark's issues to your granny (don't forget to use glossary terms)

## Video 3. Trademark vs. Service Mark

**1. USPTO** – the United States Patent and Trademark Office  
(<https://www.granitetrademarkservices.com/single-post/What-is-the-USPTO>)  
**All-caps** – refers to text or a font in which all letters are capital letters

### 33. Watch Video 3 and answer the following questions:

1. How does Trademark differ from Service Mark?
2. What are the tips for searching for marks?
3. Why is Trademark vs. Service Mark important?
4. What are the reasons to consider using Trademark vs. Service Mark?
5. What are the reasons to consider not using Trademark vs. Service Mark?
6. What are the common mistakes people make in relation to Trademark vs. Service Mark?
7. What are the steps to take in order to file an application for Trademark vs. Service Mark registration?
8. How can you apply information from this video?

## Reading 10.

### NAMING DISPUTE

### 34. Read two texts and argue whether the conflicting objects belong to tangible or intangible property theft.

#### Macedonia naming dispute

After the breakup of Yugoslavia in 1991, the name of Macedonia became the *object of a dispute* between Greece and the newly independent Republic of Macedonia. In the south, the Republic of Macedonia borders the region of Greek Macedonia. Citing historical and territorial concerns resulting from the ambiguity between the Republic of Macedonia, the adjacent Greek region of Macedonia and the ancient kingdom of Macedon, Greece opposes the use of the name "Macedonia" by the Republic of Macedonia without a geographical qualifier,

supporting a compound name (such as "Northern Macedonia") for use by all and for all purposes. As millions of ethnic Greeks identify themselves as Macedonians, unrelated to the Slavic people who are associated with the Republic of Macedonia, Greece further objects to the use of the term "Macedonian" for the neighboring country's largest ethnic group. The Republic of Macedonia is accused of appropriating symbols and figures that are historically considered parts of Greece's culture (such as Vergina Sun, a symbol associated with the ancient kingdom of Macedon, and Alexander the Great), and of promoting the ***irredentist concept*** of a United Macedonia, which would include territories of Greece, Bulgaria, Albania, and Serbia.

The UN adopted the ***provisional reference*** "the former Yugoslav Republic of Macedonia". However, most UN member countries have abandoned the provisional reference and have recognised the country as the *Republic of Macedonia* instead. These include four of the five permanent UN Security Council members—the United States, Russia, United Kingdom and the People's Republic of China; several members of the European Union such as Bulgaria, Poland, and Slovenia; and over 100 other UN members. The UN has set up ***a negotiating process*** with ***a mediator*** and the two parties to the dispute, Macedonia and Greece, to try ***to mediate the dispute***. Negotiations continue between the two sides but have yet to reach any settlement of the dispute.

Initially the ***European Community-nominated Arbitration Commission's*** opinion was that "the use of the name 'Macedonia' cannot therefore imply any ***territorial claim*** against another State"; despite the commission's opinion, Greece continued to object to the establishment of relations between the Community and the Republic ***under its constitutional name***.

Since the coming to power in 2006, and especially since Macedonia's non-invitation to NATO in 2008, the government has ***pursued a policy*** of "Antiquisation" ("Antikvizatzija") as a way of putting pressure on Greece as well as for the purposes of domestic identity-building. Statues of Alexander the Great and Philip of Macedon have been built in several cities across the country. Additionally, many pieces of public infrastructure, such as airports, highways, and stadiums have been renamed after Alexander and Philip. These actions are seen as deliberate provocations in neighboring Greece, ***exacerbating the dispute*** and further ***stalling*** Macedonia's EU and NATO ***applications***. The policy has also attracted criticism domestically, as well as from EU diplomats.

In November 2008, Macedonia ***instituted proceedings before*** the International Court of Justice (ICJ) against Greece ***alleging violations*** of the 1995 Interim Accord that blocked its accession to NATO. The ICJ was requested to order Greece ***to observe its obligations*** within the Accord, which is ***legally binding*** for both countries. In 2011 The United Nations' International Court of Justice ruled that Greece violated Article 11 of the 1995 Interim Accord by ***vetoing*** Macedonia's ***bid for*** NATO membership at the 2008 summit in Bucharest. The court, however, did not consider it necessary to grant Macedonia's request that it instruct Greece to refrain from similar actions in the future since "[a]s a general rule, there is no reason to suppose that a State whose act or conduct has been

*declared wrongful by the Court* will repeat that act or conduct in the future, since its good faith must be presumed", nor has there been to date a change in the EU's stance that Macedonia's **accession negotiations** cannot begin until the name issue is resolved.

### **Theft and vandalism**

"La Joconde est Retrouvée" ("Mona Lisa is Found"),

On 21 August 1911, the painting was stolen from the Louvre. The next day, painter Louis Béroud walked into the museum and went to the Salon Carré where the *Mona Lisa* had been on display for five years, only to find four iron pegs on the wall. Béroud contacted the head of the guards, who thought the painting was being photographed for *promotional purposes*. A few hours later, Béroud checked back with the Section Chief of the Louvre who confirmed that the *Mona Lisa* was not with the photographers. The Louvre was closed for an entire week during the investigation.

The *Mona Lisa* on display in the Uffizi Gallery, in Florence, 1913. Museum director Giovanni Poggi inspects the painting.

French poet Guillaume Apollinaire, who had once called for the Louvre to be "burnt down", came under suspicion and was arrested and imprisoned. Apollinaire implicated his friend Pablo Picasso, who was *brought in for questioning*. Both were later *exonerated*. Two years later the thief was found. Louvre employee Vincenzo Peruggia had stolen the *Mona Lisa* by entering the building during regular hours. Peruggia was an Italian patriot who believed da Vinci's painting should have been returned for display in an Italian museum. Peruggia may have also been motivated by a friend whose copies of the original would significantly rise in value after the painting's theft. A later account suggested Eduardo de Valfierno had been the *mastermind* of the theft and had commissioned *forger* Yves Chaudron to create six copies of the painting to sell in the U.S. while the location of the original was unclear. However, the original painting remained in Europe. After having kept the *Mona Lisa* in his apartment for two years, Peruggia grew impatient and was caught when he attempted to sell it to directors of the Uffizi Gallery in Florence. It was exhibited in the Uffizi Gallery for over two weeks and returned to the Louvre on 4 January 1914. Peruggia *served* six months **in prison** for the crime and was *hailed for his patriotism* in Italy. Before its theft, the *Mona Lisa* was not widely known outside the art world. It was not until the 1860s that some critics, a thin slice of the French intelligentsia, began to hail it as a masterwork of Renaissance painting.

In 1956, part of the painting was damaged when a vandal threw acid at it. On 30 December of that year, a speck of pigment near the left elbow was damaged when a rock was thrown at the painting, which was later restored.

The use of bulletproof glass has shielded the *Mona Lisa* from *subsequent attacks*. In April 1974, a woman, upset by the museum's policy for disabled people, sprayed red paint at it while it was being displayed at the Tokyo National Museum. On 2 August 2009, a Russian woman, distraught over being denied

French citizenship, threw a ceramic teacup purchased at the Louvre; the vessel shattered against the glass enclosure. In both cases, the painting was undamaged.

**35. You are leaving your law firm to spend six months working abroad and are transferring your case load to a colleague. A client, a famous fashion house, is involved in a dispute with a high-street chain store regarding the copying of some of its designs.**

**Write a memorandum to your colleague to brief him on the case.**

Include these points:

- some background information about the case
- what action has been taken so far
- what future legal action can be taken
- what the immediate next steps are.

**Write your answer in 200-250 words in an appropriate style.**

#### **Video 4. Being an IP Lawyer**

**36. Watch Video 4 and give an account of things an IP Lawyer Neal Gerbenger (IP Partner) does and deals with:**

Example: An IP lawyer helps people protect their ideas, their identity, and inventions against competitors

**37. Comment Neal's saying: "I am on the forefront of what companies are coming out with and what they are doing".**

#### **Speaking 5.**

##### **1. DISCUSSION**

1. What do you think about the fair use of copyrighted material for distance learning? Do you think the law should continue to allow educators to use such material without permission, or do you think the rights of the copyright holders need greater protection?

2 Copyright protection on the Internet is also a major concern of the entertainment industry. Some of the issues involved concern peer-to-peer file swapping of music and film piracy. What recent court decisions in this area are you familiar with? Do you think the rights of the music and film producing corporations should be better protected?

## 2.CASE STUDY

Role-play a conversation between a lawyer and a new client about an intellectual property problem.

### Student A

You are a lawyer and you are talking on the telephone with a new client, Student B.

- Listen to his/her problem.
- Reassure him/her.
- Ask questions.
- Encourage him/her to give as much detail as possible.
- Pause appropriately.
- Make suggestions.
- Give whatever advice you feel is needed in the circumstances.

### Student B

You are a client and you have phoned your lawyer, Student A, because you have just found out that some of the notes that you give to your students have been copied by a student and are being sold for a profit on the university campus.

- Give your reasons for being upset and worried.
- Explain the problem.
- Inform your lawyer that you have spoken to the student involved, but that he denies the copying and selling.
  - Ask what you should do next.
  - Say that you worry about making false accusations; this might affect your relationship with other students.

## TOPICS FOR PRESENTATIONS

- ✓ Copyright and globalization in the age of computer networks.
- ✓ Human rights and Intellectual property.
- ✓ Expansion in nature and scope of intellectual property laws.
- ✓ Intellectual property and information wealth.
- ✓ Objectives of intellectual property law.
- ✓ Economic and social benefits from intellectual property.
- ✓ Legal protection of exclusive rights for creative artistes, innovators and business owners.
- ✓ Copyrights versus author's rights.

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