

LEGAL ENGLISH

Civil, Commercial,
Administrative and Labour Law
A Handbook

Aneta Skorupa-Wulczyńska

2

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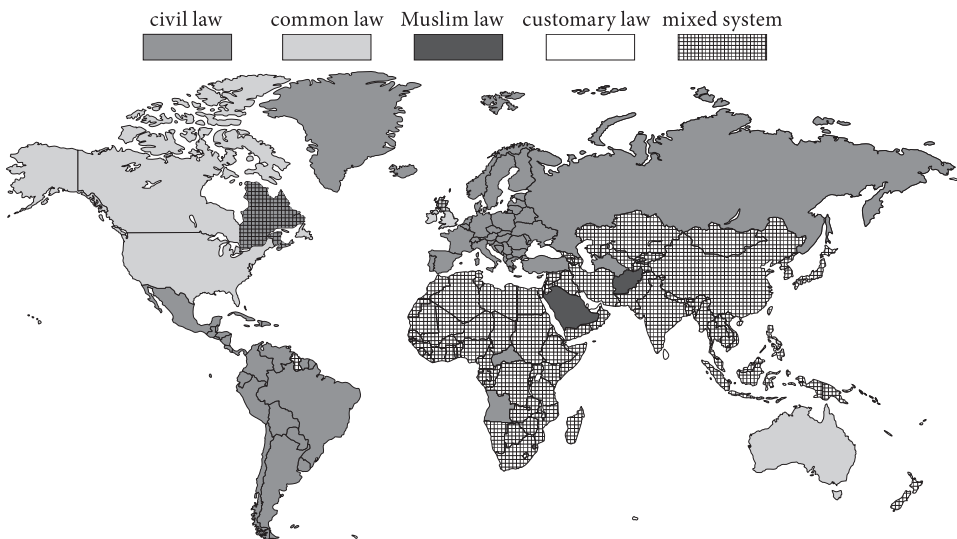
I. INTRODUCTION

1. Types of laws

1.1. Legal systems

Exercise 1. Division of legal systems

The map below presents legal systems all over the world. On the basis of the map match the names of the systems with their definitions.



Source: www.juriglobe.ca/eng

| Name of the system | Definition |
|--------------------|--|
| 1. | This category includes states whose law is based on English common law concepts and legal organisational methods which assign a pre-eminent position to case law. Thus, this category includes states that have close ties with the English tradition and for which common law jurisprudence retains its character as fundamental. |
| 2. | This is an autonomous legal system of a religious nature and predominantly based on the Koran. In a number of countries of the Muslim tradition, it tends to be limited to the laws relating to personal status. |
| 3. | It has drawn its inspiration largely from the Roman law heritage. On the whole, the system gives precedence to written law and opts for a systematic codification of general law. The system has taken on a variety of cultural forms throughout the world. It is also called 'Romano-Germanic' or continental law. |
| 4. | Today, hardly any state in the world fully operates under this legal system. Custom can take on many guises, depending on whether it is rooted in wisdom born of real daily experience or more intellectually based on great spiritual or philosophical traditions. Custom as the legal basis still plays a significant role in some areas, such as matters of personal status. It is of importance in a relatively large number of states with mixed legal systems. |
| 5. | The system is also called 'hybrid' or 'composite'. The category includes states where two or more systems apply cumulatively or interactively, but also states where there is a juxtaposition of systems as a result of more or less clearly defined fields of application. |

Exercise 2. Common-law vs. civil-law traditions

Fill in the gaps with the words provided below.

uncodified ♦ *investigates* ♦ *jury* ♦ *precedent* ♦ *judgment* ♦ *legislators* ♦ *procedural*
♦ *yearbooks and reports* ♦ *brings* ♦ *codified* ♦ *punishment* ♦ *adversarial* ♦ *substantive*

Common law is generally (1) This means that there is no comprehensive compilation of legal rules and statutes. While common law does rely on some scattered statutes, it is largely based on (2), meaning the judicial decisions that have already been made in similar cases. These precedents are maintained over time through the records of the courts as well as historically documented in collections of case law known as (3) The precedents to be applied in the decision of each new case are determined by the presiding judge. As a result, judges have an enormous role in shaping American and British law. Common law functions as an (4) system, a contest between two opposing parties before a judge who moderates. A (5) of ordinary

people without legal training decides on the facts of the case. The judge then enters the (6) based on the jury's verdict.

Civil law, also known as continental law, in contrast, is (7) Countries with civil-law systems have comprehensive, continuously updated legal codes that specify all matters capable of being brought before court, the applicable procedure, and the appropriate (8) for each offense. Such codes distinguish between different categories of law: (9) law establishes which acts are subject to criminal or civil prosecution, (10) law establishes how to determine whether a particular action constitutes a criminal offence. In a civil-law system, the judge's role is to establish the facts of the case and to apply the provisions of the applicable code. Though the judge often (11) the formal charges, (12) the matter, and decides on the case, he or she works within a framework established by a comprehensive, codified set of laws. Therefore, the judge's decision is less crucial in shaping civil law than the decisions of (13) and legal scholars who draft and interpret the codes.

Source of the text: <https://www.law.berkeley.edu>

Exercise 3. Civil-law system and common-law system

Match two halves of the sentences and decide if they describe the common-law (CoL) or civil-law (CiL) systems.

- | | |
|--|--|
| 1. The system was developed in Europe | (a) are binding upon lower courts. |
| 2. By definition, in England past judicial decisions | (b) while statutes are only seen as invasion into the legal system, and therefore are interpreted narrowly. |
| 3. The primary source of law | (c) or draw analogies from statutory provisions to fill gaps. |
| 4. Courts reason extensively on the basis of general principles of law | (d) and is based on Roman and Napoleonic law. |
| 5. The system is used throughout Europe | (e) the court is bound to follow the reasoning used in the previous decision (known as <i>ratio decidendi</i>). |
| 6. <i>Stare decisis</i> refers to | (f) inquisitorial due to the fact that the court, or a part of the court, is actively involved in investigating the facts of the case. |
| 7. This legal system is called | (g) covered criminal law, criminal procedure, non-criminal law and procedure as well as commercial law. |

8. If a similar dispute has been resolved in the past

(h) the principle of binding precedents which must be followed in future cases containing the same material facts.
9. Cases are the primary source of law

(i) as well as in Central and South America, with some nations in Africa and Asia which have also adopted codes based on the European civil law.
10. A comprehensive book of law – a code – developed during Napoleon’s reign

(j) is a code and statutes.

| | 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. | 9. | 10. |
|---------|----|----|----|----|----|----|----|----|----|-----|
| CoL/CiL | | | | | | | | | | |

Exercise 4. Grammar – prepositions

Complete the sentences with a correct preposition.

1. The civil-law system has drawn its inspiration the Roman law.
2. The common-law system includes states that have close ties the English tradition.
3. Customary law still plays a significant role matters relating ..
..... personal status.
4. Common law relies some scattered statutes as it is largely based precedent.
5. Common law functions as an adversarial system, a contest between two opposing parties a judge who moderates the hearing.
6. A jury of ordinary people legal training decides
..... the facts of the case.
7. Codes distinguish different categories of law, e.g. substantive and procedural law.
8. definition, under common law past judicial decisions are binding lower courts.
9. Courts reason extensively the basis of general principles of law or draw analogies statutory provisions to fill gaps.
10. A comprehensive book of law – a code – developed Napole-on’s reign covered criminal law, criminal procedure, non-criminal law and pro-cedure as well as commercial law.

What do these words mean?

precedent – a decision of the court used as authority for reaching the same decision in subsequent cases.

adversarial – also adversary, describing a system of criminal justice in which conclusions as to the liability are reached by the process of prosecution and defence, opp. *inquisitorial*.

precedence – a more important position or status than something or someone else's or the right to a more important position or status.

inquisitorial – refers to a system of criminal justice in which the truth is revealed by an inquiry into the facts conducted by the judge.

1.2. Classifications of law

This section shows various ways in which law can be classified. Such an approach gives a bird's-eye view of the wide range of matters that are dealt with by laws. The differences between the law classifications arise because of the differing focuses adopted.

Exercise 1. Classification by scope or application

This classification divides the laws according to the extent of the geographical or political area to which they apply. Match the names of laws with their definitions.

| | |
|----------------------------------|--|
| International law | a. a part of the national law of a country that establishes rules for dealing with cases involving a foreign element |
| Public international law | b. a general name used to describe the set of rules operating at an international level |
| Private international law | c. the law that operates only within a certain limited area or locality within a country, such as a sub-district, shire, municipality, city, or town |
| National law | d. the law regulating relationships between sovereign states and their rights and obligations with regard to one another |
| Local law | e. also called domestic law, is the law that operates on a territory of one state |

Exercise 2. Classification by subject matter

A common way of classifying laws is based on their subject matter. Read the texts below and put the words in a correct form.

The main categories of law include contract law, law of delicts (tort law), property law, family law, business or commercial law, criminal law, constitutional law, administrative law and revenue law.

Contract law

Contracts are agreements made between people or bodies who have legal capacity to do so. Such agreements are enforced by the courts if they are intended to be (1) (bind), are not (2) (legal) or contrary to public policy; and are not based upon some fundamental mistake made by both parties or caused by one of the parties.

Law of delicts (torts)

Delicts are civil (3) (wrong) that are committed when one person causes injury, damage or loss to another person in circumstances that the courts consider should render them liable to pay damages to compensate for the harm they have caused. It is hard to express any general statement as to when the courts will consider a person liable to pay damages but some of the main instances are when a person has acted without reasonable care, i.e. (4) (negligence), has caused an unreasonable (5) (interfere) in the rights of neighbours or the rights of the public (nuisance), has failed to keep control of dangerous things, or animals known to be dangerous, that he has on his property (trespass); or has (6) (impair) the reputation of another person by making (7) (truth) statements about him, which is called (8) (fame). Under some jurisdictions, some torts are also criminal offences and are (9) (punish) by the state, as well as give rise to liability to pay damages to the individual (10) (suffer) injury.

Property law

Property is usually divided into two types:

- real property, which is (11) (move) property such as land and buildings erected on land; and
- personal property, which is movable property such as animals, vehicles or money.

The rules concerning (12) (own), use and transfer of property differ according to the particular type of property.

Family law

Family law is concerned with the law relating to births, deaths and (13) (bury), marriages, (14) (nullify) of marriage, divorce or dissolution of marriage, the custody of children born out of a marriage, and the rights to joint marriage property.

Business or commercial law

This is the body of law dealing with the matters of particular importance to business or (15) (commercial), in particular it applies to the rights, relations and conduct of persons and businesses engaged in commerce, trade and sales. Business law encompasses the matters such as: the relationship between the principal and the agent, corporate contracts, hiring (16) (practise), sales of consumer goods, carriage by land and sea, guarantee, accident insurance, bills of (17) (change).

Criminal law

This is the law that determines what conduct is punishable by the state. Although there are differences between the states in what conduct is regarded as criminal, in most states the following kinds of conduct are considered the most serious criminal offences:

- making war against the state (treason);
- working for the downfall of the government (sedition);
- (18) (intention) killing of a person (murder);
- (19) (intention) killing (manslaughter);
- deliberate burning of property (arson);
- stealing of property (theft or larceny);
- (20) (force) sexual intercourse with a woman (rape);
- (21) (sex) assault.

Constitutional law

Constitutional law is made up of the rules that regulate the powers and (22) (relation) of the main organs of the state: head of the state, government ministers, ministries and departments, public (23) (serve) and courts. Most of these rules are contained in the Constitution.

Administrative law

Administrative law is concerned mainly with the rules regulating the relationship between the agencies of the state and private individuals. In particular, such rules define the limits of the powers of the state agencies and control the way those powers should be (24) (exercise) within those limits.

Revenue law

This is the body of law that determines what revenues or (25) (money) the government can require people to pay to it to finance its operations and other activities it is supporting. (26) (tax) is usually divided into two kinds: direct and indirect taxation:

- direct taxation, as its name indicates, is imposed directly upon a person, e.g. income tax, death duties, or gift duties;
- indirect taxation is imposed indirectly, usually as customs (27) (duty) on imports and exports, and taxes on goods and services.

| | |
|---|--|
| Prepositions | |
| • born out of a marriage 'The couple has two sons born out of a marriage.' | • carriage by land 'The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport.' |
| • to draw analogies from something 'Our boss is fond of drawing analogies from the completed projects in order to implement them later on.' | • to be binding (up)on 'Higher court rulings are bidding upon lower courts.' |
| • contrary to something 'Introduction of such tax would be contrary to our policy.' | • interference in something 'Our government called this act interference in our domestic affairs.' |

Exercise 3. Vocabulary extension

Choose the word which does not fit into the group. Odd words out.

| | | | | |
|----|----------|---------|--------------|-------------|
| 1. | delict | crime | civil wrong | illicit act |
| 2. | injury | harm | detriment | damages |
| 3. | reckless | foolish | negligent | careless |
| 4. | enhance | impair | lower | decrease |
| 5. | nullify | cancel | revoke | dissolve |
| 6. | rape | assault | manslaughter | arson |

1.3. Branches of law

Exercise 1. Public law vs. private law

Read the text below and decide if the statements are TRUE (T) or FALSE (F).

The principal difference between public law and private law is that the former affects society as a whole and the latter affects individuals, families, business or small groups. On the one hand, if someone commits a crime of theft, we talk about public law, as this incident may exert an impact on everyone. On the other hand, if someone has filed suit against his neighbour because barbecue smoke travels to his yard, we may talk about violating private law as the neighbour may have infringed that person's right to the peaceful enjoyment of his property.

Public law deals with issues that affect the general public or state – society as a whole. Some of the laws covered by its wide scope are administrative law, constitutional law, criminal law, municipal law or international law.

An example of a public-law dispute may be the American case *Brown v. Board of Education*, 347 US 483 (1954). In *Brown v. Board of Education*, Oliver Brown, the representative plaintiff contended that his daughter, Linda, was not duly protected under the Constitution. Linda had to walk several blocks to the school bus stop even though a closer whites-only school existed within a few blocks from her home. Brown's parents believed that Linda's 14 Amendment rights were violated when she was banned from a white school closer to home because of her race.

The case was won by the Browns when the US Supreme Court declared that segregation was a violation of Brown's constitutional rights. This dispute falls under public law because issues of segregation and discrimination affected society as a whole, not just that particular child.

In contrast, private law is different as it affects the rights and obligations of individuals, families, businesses and small groups and its aim is to assist citizens in disputes that involve private matters. Its scope is more specific than public law and covers contract law, tort law, property law, succession law or family law.

A case illustrating a private-law dispute is *Carvajal v. Hillstone Restaurant Group, Inc.* (No. 10-57757). Mr Carvajal ordered and consumed a grilled artichoke at a local Hillstone restaurant. This was the first time he had eaten this type of vegetable. Unaware of the proper way to scrape the flesh against his teeth, he chewed and swallowed the entire artichoke, including all the leaves. Sometime later, he experienced severe gastrointestinal pain and required emergency medical attention. He sought compensa-

tion from Hillstone Restaurant Group, Inc. in the amount of \$15,000 for his pain and suffering. The basis for his claim was the staff’s negligence, i.e. lack of instructions provided to diners on how to eat grilled artichoke.

Source: Adapted from the website: <http://study.com/academy/lesson/public-law-vs-private-law-definitions-and-differences.html>

| | | T/F |
|----|--|-----|
| 1. | The difference between public law and private law is whether the act or acts affect society as a whole or an issue between two or more people. | |
| 2. | Peaceful enjoyment of property is within the domain of private law. | |
| 3. | Linda Brown was discriminated on the grounds of her age. | |
| 4. | The US Supreme Court declared that the segregation was a violation of the Constitution. | |
| 5. | Private law may be relevant for individual and community-related disputes. | |
| 6. | If the case concerns the sale of property, it is covered by private law by its nature. | |
| 7. | The cause of action brought by Mr Carvajal is the negligence of the restaurant staff. | |
| 8. | Mr Carvajal claimed damages for tangible loss. | |

Exercise 2. Substantive law vs. procedural law

Match halves of the sentences and assign them to substantive or procedural law. Based on the sentences explain the differences between substantive and procedural law.

1. Substantive law is the law

2. Procedural law is the law

3. A specific example of a procedural law is

4. Procedural law comprises

5. Substantive law is codified

6. Substantive law deals with
- (a) the rules by which a court hears and determines what happens in civil law, administrative or criminal proceedings.

(b) that creates and controls the rights and duties of the parties.

(c) substantive law is derived from common law and legislative acts.

(d) a statute of limitations which creates a time limit for bringing a civil case.

(e) the actual laws in a particular legal category, such as contract law, property law, corporate law, etc.

(f) that creates and controls the process of enforcing the rights and obligations arising under substantive law.

7. Procedural law determines

(g) in legislated statutes, enacted through the law-making process.
8. It defines crimes and punishments

(h) how the court trial is to be conducted.
9. It specifies

(i) the methods and means by which substantive law is made and administered.
10. In some states, such as the US and the UK

(j) as well as civil rights and responsibilities within a given jurisdiction.

| | | | | | | | | | |
|----|----|----|----|----|----|----|----|----|-----|
| 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. | 9. | 10. |
| | | | | | | | | | |

Exercise 3. Civil law vs. criminal law

Classify the words into the correct category: civil law, criminal law or civil and criminal law. Next match some of the words with their definitions.

- damages

burden of proof

illegal

burglary

infringement
- the injured

defendant

restraining order

life imprisonment

possession
- legal remedy

public rights

assault

self-defence

misrepresentation
- convicted

apprehend

compensate

contract

| Civil law | Civil law and criminal law | Criminal law |
|-----------|----------------------------|--------------|
| | | |

| | | |
|----|--|--|
| 1. | | a court order issued upon a request for an injunction prohibiting the defendant from performing specific actions until the hearing is held |
| 2. | | reasonable force used to defend oneself or one's family against someone's attack or threatened attack |

| | | |
|----|--|--|
| 3. | | the duty of a party to litigation to prove a fact or facts in issue |
| 4. | | actual control of property |
| 5. | | to physically detain a suspect |
| 6. | | an untrue statement of fact made by one party to the other in the course of negotiating an agreement that induces the latter party to enter into the agreement |

Exercise 4. Grammar – word formation

Create the correct forms of the words.

| Noun | Verb | Adjective |
|---------------|--------------|--------------|
| administrator | | |
| | to intend | |
| | | legislative |
| procedure | | |
| | to represent | |
| defence | | |
| | | substantive |
| | | apprehensive |
| possession | | |

1.4. Glossary

| English | Polish |
|-------------------------------|------------------------------------|
| adversarial system | system kontradiktoryjny |
| to apprehend (e.g. a suspect) | ująć (np. podejrzanego) |
| arson | podpalenie |
| burden of proof | ciężar dowodowy |
| burglary | kradzież z włamaniem |
| cause of action | podstawa roszczenia |
| civil law | prawo cywilne, prawo kontynentalne |
| code | kodeks |
| convicted | skazany |
| crime | przestępstwo |

| | |
|---|---|
| criminal offence | przestępstwo |
| customary law | prawo zwyczajowe |
| damages | odszkodowanie; to award PLN 5,000 in damages – przyznać 5000 zł odszkodowania; to be liable for damages – ponosić odpowiedzialność odszkodowawczą; to claim for/seek damages – domagać się odszkodowania |
| defendant | pozwany, oskarżony |
| delict | delikt, czyn zabroniony |
| detriment | szkoda, uszczerbek; to the detriment of someone/something – ze szkodą/z uszczerbkiem dla kogoś/czegoś |
| to dissolve (e.g. marriage, an organisation, a partnership) | rozwiązać (np. małżeństwo, organizację, spółkę) |
| domestic law | prawo krajowe |
| harm | krzywda; to cause/do harm – wyrządzić krzywdę |
| infringement (of an agreement, human rights, law, privacy) | naruszenie (umowy, praw człowieka, prawa, prywatności) |
| inquisitorial | inkwizycyjny, śledczy |
| juxtaposition (with something) | zestawienie (z czymś) |
| larceny (non-violent form of theft) | kradzież |
| legal remedy | środek odwoławczy, środek ochrony prawnej |
| local law | prawo lokalne |
| lower court | sąd pierwszej instancji |
| manslaughter | spowodowanie śmierci |
| misrepresentation | wprowadzenie w błąd |
| mixed system | mieszany system prawny, system hybrydowy |
| Muslim law | prawo muzułmańskie, szariat |
| national law | prawo krajowe |
| negligence | zaniedbanie; gross negligence – rażące zaniedbanie |
| nuisance | immisja |
| personal property | ruchomości |
| possession | posiadanie; to be in possession of something – być w posiadaniu czegoś; to take possession of something – wejść w posiadanie czegoś |
| powers | uprawnienia, kompetencje; to exercise powers – wykonywać uprawnienia |
| precedence | pierwszeństwo; to give precedence to something – przyznać czemuś pierwszeństwo; to take precedence over something – mieć przed czymś pierwszeństwo |

| | |
|---|--|
| precedent | precedens; to set a precedent – stworzyć precedens |
| procedural law | prawo procesowe |
| punishable | karalny, podlegający karze; to be punishable by fine – podlegać karze grzywny |
| rape | zgwałcenie |
| <i>ratio decidendi</i> | wiążąca część wyroku |
| real property | nieruchomość |
| restraining order | zakaz zbliżania się |
| revenue law | prawo skarbowe |
| to revoke (a decision, an offer, an order); (licence, permission) | unieważnić (decyzję, ofertę, zarządzenie); cofnąć (licencję, pozwolenie) |
| sedition | podburzanie |
| self-defence | obrona konieczna |
| sexual assault | napaść na tle seksualnym |
| sexual intercourse | stosunek seksualny |
| sovereign state | suwerenne państwo |
| <i>stare decisis</i> | zasada obowiązywania precedensów |
| statute of limitations | przedawnienie |
| statutory provisions | przepisy ustawowe |
| substantive law | prawo materialne |
| theft | kradzież |
| tort | delikt, czyn zabroniony |
| treason | zdrada |
| trespass | naruszenie własności |
| violation (e.g. of an agreement, human rights, law, privacy) | naruszenie/łamanie (np. umowy, praw człowieka, prawa, prywatności) |

2. Sources of law

2.1. Classification of legal acts in Poland

Exercise 1. Sources of law in the Republic of Poland

Fill in the gaps in the translation of an excerpt from the Constitution of the Republic of Poland which prescribes the sources of law in Poland.

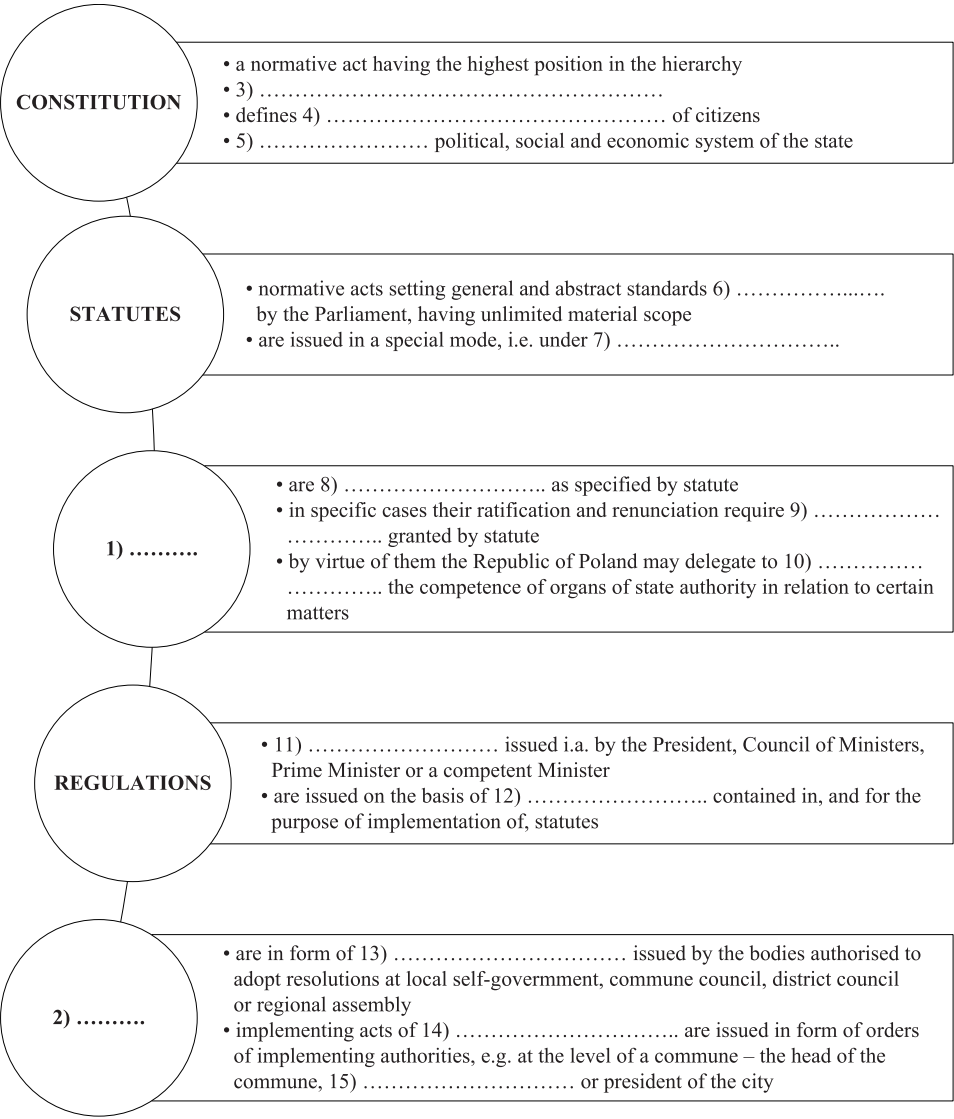
| | |
|---|---|
| <p>Rozdział III ŹRÓDŁA PRAWA</p> <p>Art. 87</p> <p>1. Źróżłami powszechnie obowiązującego prawa Rzeczypospolitej Polskiej są: Konstytucja, ustawy, ratyfikowane umowy międzynarodowe oraz rozporządzenia.</p> <p>2. Źróżłami powszechnie obowiązującego prawa Rzeczypospolitej Polskiej są na obszarze działania organów, które je ustanowiły, akty prawa miejscowego.</p> <p>Art. 88</p> <p>1. Warunkiem wejścia w życie ustaw, rozporządzeń oraz aktów prawa miejscowego jest ich ogłoszenie.</p> <p>2. Zasady i tryb ogłaszania aktów normatywnych określa ustawa.</p> <p>3. Umowy międzynarodowe ratyfikowane za uprzednią zgodą wyrażoną w ustawie są ogłaszane w trybie wymaganym dla ustaw. Zasady ogłaszania innych umów międzynarodowych określa ustawa.</p> | <p>Chapter III SOURCES OF LAW</p> <p>Article 87</p> <p>1. The sources of universally binding law of the Republic of Poland shall be: the Constitution, (1), ratified international agreements, and (2)</p> <p>2. (3) issued by the operation of organs shall be a source of universally binding law of the Republic of Poland in the territory of the organ issuing such enactments.</p> <p>Article 88</p> <p>1. The condition precedent for the coming into force of statutes, regulations and enactments of local law* shall be the (4) thereof.</p> <p>2. The principles of and procedures for promulgation of (5) shall be specified by statute.</p> <p>3. International agreements ratified with prior consent granted by statute shall be (6) in accordance with the procedures required for statutes. The principles of promulgation of other international agreements shall be specified by (7)</p> |
|---|---|

* enactments of local law = ordinance (US), bylaw (UK)

Exercise 2. Hierarchy of sources of law

Complete this diagram with the words or phrases provided below.

is the basis to issue other legal acts ◊ regulates ◊ enacted ◊ ordinances ◊ promulgated ◊ ratified international agreements ◊ local law ◊ basic rights and duties ◊ a special legislative procedure ◊ a prior written consent ◊ mayor ◊ an international organisation ◊ implementing acts ◊ specific authorisation ◊ resolutions



KEY WORDS

In English there are three words for the law made by the Parliament.

• **Statute = statutory law**

a piece of legislation, e.g.

The statute was passed as an emergency measure to deal with the strike.

by statute, e.g. *The government is required by statute to consult local authorities.*

under (a) statute, e.g. *The men have been charged under a federal anti-terrorism statute.*

• **Act and law**

mean specific pieces of legislation used in the official names of statutes, e.g.

Broadcasting Act, Private International Law Act or Act **on** the National Court Register

Law **on** Public Trading in Securities, Law **on** Higher Education.

• **Legislation**

collective law for all or a set of statutes.

to adopt/enact/introduce/pass legislation

Source: www.macmillandictionary.com

Exercise 3. Consequences of the hierarchy of legal acts

Decide whether the statements regarding the hierarchy of legal acts are true or false. Write T for TRUE and F for FALSE.

1. In accordance with the constitutional principle of the hierarchical structure of sources of law, the enactments of local law must comply with binding legislation.
2. The act of higher rank must comply with the act of a lower rank.
3. The act of a lower rank can only be issued on the basis of the delegation contained in the act of a higher rank.
4. An act of a given rank can be repealed, changed or suspended only by an act of the same rank.

Exercise 4. Vocabulary extension

Match the Polish phrases with their English equivalents.

- | | |
|------------------------------|--|
| 1. akt normatywny | (a) enactment of local law/ordinance/bylaw |
| 2. zakres przedmiotowy | (b) implementing act |
| 3. akt prawa miejscowego | (c) legislative procedure |
| 4. ustrój polityczny państwa | (d) procedure for promulgation of an act |
| 5. tryb ustawodawczy | (e) local self-government |

| | | | |
|-----|---|-----|---|
| 6. | akt wykonawczy | (f) | binding legislation |
| 7. | naczelne organy administracji państwo- wej | (g) | commune council/municipal council |
| 8. | tryb ogłaszania aktu | (h) | orders of executive authorities |
| 9. | akty powszechnie obowiązujące | (i) | material scope |
| 10. | organ uchwałodawczy | (j) | local authorities of the state government |
| 11. | samorząd terytorialny | (k) | body authorised to adopt resolutions |
| 12. | rada gminy/rada miejska | (l) | head of a commune |
| 13. | sejmik województwa | (m) | normative act |
| 14. | rada powiatu | (n) | mayor |
| 15. | zarządzenia organów wykonawczych | (o) | chief public administration authorities |
| 16. | wójt | (p) | political system of the state |
| 17. | burmistrz | (q) | district/county/poviat administration |
| 18. | zarząd powiatu | (r) | district/county/poviat council |
| 19. | terenowe organy administracji rządowej | (s) | province governor/voivode |
| 20. | wojewoda | (t) | provincial/voivodeship assembly |

| | | | | | | | | | | | | | | | | | | | |
|----|----|----|----|----|----|----|----|----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. | 9. | 10. | 11. | 12. | 13. | 14. | 15. | 16. | 17. | 18. | 19. | 20. |
| | | | | | | | | | | | | | | | | | | | |

| | |
|---|---|
| Prepositions | |
| <ul style="list-style-type: none">• in relation to ‘I have nothing further to say in relation to this matter.’ | <ul style="list-style-type: none">• specified by statute ‘The mode of providing information shall be specified by statute.’ |
| <ul style="list-style-type: none">• under a (special/ordinary) legislative procedure ‘The Council adopted its position under a legislative procedure.’ | <ul style="list-style-type: none">• in a special mode ‘The law in this matter shall be passed in a special mode.’ |
| <ul style="list-style-type: none">• by virtue of ‘They were excluded from voting by virtue of being too young.’ | <ul style="list-style-type: none">• to comply with ‘There are serious penalties for failure to comply with the regulations.’ |

2.2. Legal acts under international law

Exercise 1. Sources and hierarchy of the European Union law

Read the text below.

The European Union has its own legal order which is separate from international law and is based on its own sources of law. There are three sources of European Union law:

primary law, secondary law and supplementary law. Primary law is at the top of the hierarchy and it includes the Treaties. Upon the entry into force of the Lisbon Treaty in 2009, the status of primary law was also granted to the Charter of Fundamental Rights. Secondary law, which has to be consistent with all the acts having precedence over it, comprises: regulations, directives, decisions, opinions and recommendations. Supplementary law is subordinate to primary law but superior to secondary law. It includes international agreements concluded by the Union, the case law of the Court of Justice of the European Union and general principles of law. The general principles of law are unwritten sources of law developed by the case law of the Court of Justice. They have allowed the Court to implement rules in different domains of which the treaties make no mention.

The legal acts of the Union are listed in Article 288 of the Treaty on the Functioning of the European Union (TFEU). The EU institutions may adopt legal acts if they are empowered to do so by the Treaties. The limits of the Union competences are governed by the principle of conferral, enshrined in Article 5(1) of the Treaty on European Union (TEU), dividing them into three categories: exclusive competences, shared competences and supporting competences, whereby the EU adopts measures to support and complement Member States' policies.

The Lisbon Treaty introduced a hierarchy among secondary legislation by drawing a clear distinction between *legislative acts* – adopted through the ordinary or special legislative procedure, *delegated acts* – non-legislative acts of general application which supplement or amend non-essential elements of legislative acts, and *implementing acts* – generally adopted by the Commission in cases where uniform conditions are needed for the implementation of legally binding acts.

a) Answer the questions.

1. What are the primary sources of the EU law?
2. What is supplementary law?
3. What is the principle of conferral about?
4. What is a distinction between legislative acts and delegated acts?

b) Find in the text the equivalents of the Polish terms listed in the table below.

| | |
|------------------|--|
| prawo pierwotne | |
| prawo wtórne | |
| prawo pomocnicze | |
| rozporządzenie | |

| | |
|--|--|
| dyrektywa | |
| zalecenie | |
| Karta Praw Podstawowych | |
| ogólne zasady prawa | |
| zasada przyznania kompetencji | |
| akty ustawodawcze | |
| akty delegowane (o charakterze nieustawodawczym) | |
| akty wykonawcze | |
| kompetencje wyłączne | |
| kompetencje dzielone | |
| kompetencje wspomagające | |

Exercise 2. Types of the EU secondary legislation

Read the following text about the EU secondary legislation. For each sentence, underline the preposition which best fits into the space from the options provided. There is an example at the beginning (). Only one answer is correct.*

Regulations are (*) general application and binding in their entirety. Regulations are directly applicable in all the Member States as they enter (1) force, i.e. on the stipulated date or on the twentieth day following their publication in the Official Journal of the European Union, and do not need to be transposed (2) national law. Designed to ensure the uniform application of Union law in all the Member States, regulations supersede national law incompatible (3) their substantive provisions. Unlike regulations, in principle directives are not directly applicable and are binding (4) any or all the Member States to whom they are addressed as (5) the result to be achieved. National legislators must transpose directives and bring them (6) line with their objectives. Although Member States are given some discretion in transposing directives, which let them take account (7) specific national circumstances, transposition must be effected (8) the prescribed period. Decisions are binding in their entirety upon their addressees, including Member States and individuals. An individual may invoke the rights conferred (9) a decision addressed to a Member State provided that the Member State has adopted a transposing act. Recommendations and opinions do not confer any rights or impose any obligations (10) those to whom they are addressed but aim (11) providing guidance as to the interpretation and content of the Union law.

| | | | | |
|------|--------|-----------|----------|-------------|
| (*) | A at | B in | C for | D of |
| (1) | A into | B in | C for | D to |
| (2) | A in | B through | C for | D into |
| (3) | A to | B under | C with | D by |
| (4) | A to | B for | C in | D upon |
| (5) | A in | B to | C from | D through |
| (6) | A in | B into | C to | D for |
| (7) | A of | B for | C to | D into |
| (8) | A for | B in | C within | D through |
| (9) | A in | B for | C upon | D by |
| (10) | A on | B for | C with | D by |
| (11) | A to | B for | C at | D on |

What do these words mean?

transposition – a process by which the EU’s Member States give force to a directive by appropriate implementation.

to supersede – to replace one document/provision with the other, e.g. ‘This agreement supersedes all previous arrangements between the parties.’

substantive provisions – provisions of law defining civil rights, duties and obligations of persons towards one another and determining crimes and punishment.

discretion – the right or ability to make a judgment or decision, e.g. ‘The judge has discretion as to the amount of a fine.’

Exercise 3. Public international law

a) Give correct headings to the sections of the text below.

Settling disputes between courts ◇ *UN Charter* ◇ *Sources of international law* ◇ *Division of international law* ◇ *Scope of international law*

(1)

As opposed to most areas of law, international law has no defined area or governing body, but instead refers to many varied laws, rules and customs which govern and deal with the legal interactions between and among different nations, their governments, businesses and organisations, defining their rights and responsibilities.

International law defines the legal responsibilities of states in their conduct towards each other, and their treatment of individuals within state boundaries. International law encompasses a wide range of issues of international concern, such as human rights, disarmament, international crime, refugees, migration, problems of nationality, the treatment of prisoners, the use of force, and the conduct of war, to name the most essential ones. It also regulates the global commons, such as the environment and sustainable development, international waters, outer space, global communications and world trade.

Without a unique governing, enforcing entity, international law is a largely voluntary endeavour, wherein the power of enforcement exists only when the parties consent to abide by that law. Due to the diverse legal systems and applicable histories of different states, laws addressing international law include both common law (case law) and civil law (statutes created by governing bodies). Their application covers all the facets of national law, including substantive law, procedure, and remedies.

(2)

International law may be split into *public* or *private*. Public international law (or the law of nations) covers the rules, laws and customs that govern and monitor the conduct and dealings between nations and/or sovereign states and is largely dealt with by the United Nations Organisation.

Private international law (or the conflict of laws) may be defined as the rules voluntarily chosen by a given state for deciding cases which have a ‘foreign’ element or complexion and it handles disputes between private citizens of different nations.

(3)

The immense body that makes up international law encompasses a piecemeal collection of international customs, agreements, treaties, accords, charters (i.e. the United Nations Charter), protocols, tribunals, memorandums, legal precedents of the International Court of Justice (ICJ), and more.

Article 38(1) of the ICJ Statute enumerates the sources of international law stating that international law has its basis in international custom, international conventions or treaties, and the general principles of law.

(4)

The development of and respect for international law has been a key part of the work of the UN Organisation. This work is carried out in many ways – by courts, tribunals, multilateral treaties – and by the Security Council, which can approve peacekeeping missions, impose sanctions, or authorise the use of force when there is a threat to international peace and security, if it deems this necessary. These powers are given to it by the UN Charter, which is considered an international treaty.

As such, it is an instrument of international law, and the UN Member States are bound by it. The UN Charter codifies the major principles of international relations and sets an objective ‘to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.’

(5)

Although there is no definitive governing body overseeing international law, the United Nations is the most widely recognised and influential international organisation. The principal judicial organ of the United Nations is the International Court of Justice (ICJ). The ICJ settles legal disputes submitted to it by states in accordance with international law. It also gives advisory opinions on legal questions referred to it from authorised UN organs and specialised agencies. The Court is composed of 15 judges elected for terms of nine years by the General Assembly and the Security Council.

The ICJ has jurisdiction only over states that have consented to it. Therefore, the court cannot hear a dispute between two or more state parties when one of the parties has not accepted its jurisdiction. This can happen even where the non-consenting party adheres to the court’s statute, for mere adherence to the statute does not imply consent to its tribunals. In addition, the court does not have jurisdiction over disputes between individuals or entities that are not states (ICJ Statute Article 34(1)). It also lacks jurisdiction over matters that are governed by domestic law instead of international law (Article 38(1)).

In addition to the International Court of Justice, a wide variety of international courts, international tribunals, ad hoc tribunals and UN-assisted tribunals have varying degrees of relation to the United Nations. The International Criminal Court (ICC) and the International Tribunal for the Law of the Sea (ITLOS) were established by conventions drafted within the UN, but are now independent entities operating based on special cooperation agreements.

b) *Fill in the gaps in the translation of Article 38(1) of the International Court of Justice Statute.*

| Artykuł 38 Statutu MTS | Article 38 of the ICJ Statute |
|--|--|
| 1. Trybunał, którego zadaniem jest orzekanie na podstawie prawa międzynarodowego w sporach, które będą mu przekazane, będzie stosował: a. konwencje międzynarodowe, bądź ogólne, bądź specjalne, ustalające reguły, wyraźnie uznane przez państwa spór wiodące; | 1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: a. (1), whether general or particular, establishing rules by the contesting states; |

| | |
|--|---|
| <p>b. zwyczaj międzynarodowy, jako dowód istnienia powszechnej praktyki, przyjętej jako prawo;</p> <p>c. zasady ogólne prawa, uznane przez narody cywilizowane;</p> <p>d. z zastrzeżeniem postanowień artykułu 59, wyroki sądowe tudzież zdania najznakomitszych znawców prawa publicznego różnych narodów, jako środek pomocniczy do stwierdzania przepisów prawnych.</p> <p>2. Postanowienie niniejsze nie stanowi przeszkody, aby Trybunał mógł orzekać <i>ex aequo et bono</i>, o ile strony na to zgadzają się.</p> | <p>b. (2), as evidence of a general practice accepted as law;</p> <p>c. (3) recognised by civilised nations;</p> <p>d. subject to the provisions of Article 59, (4) and the teachings of the most highly qualified public law experts of the various nations, as (5) for the determination of rules of law.</p> <p>2. This provision shall not (6) the power of the Court to decide a case <i>ex aequo et bono</i>, if the parties agree thereto.</p> |
|--|---|

| | |
|--|--|
| <p>What do these words mean?</p> | |
| <p>disarmament – a process by which a country reduces or gets rid of its weapons or armed forces.</p> <p>the global commons – is the set of natural resources, basic services, public spaces, cultural traditions, and other essentials of life and society that are part of a public trust to be enjoyed by all people and cherished for the planet’s well-being.</p> | <p>accord – a formal agreement between countries or groups.</p> <p>piecemeal collection – fragmentary, unsystematic and incomplete group or set of things.</p> |

| | |
|---|--|
| <p>Prepositions</p> <ul style="list-style-type: none">• separate from ‘Clients’ funds should be kept separate from the firm’s own money.’• precedence over something ‘Safety should take precedence over all other matters in the workplace.’• to have jurisdiction over states/matters ‘The competent registry court having jurisdiction over the registered office of the acquirer appoints the auditor.’ | <ul style="list-style-type: none">• entry into force ‘The Swedish Presidency played a crucial role in the entry into force of the Lisbon Treaty.’• superior to something ‘Primary law is always superior to secondary law.’• to be bound by an agreement/secretcy ‘He is bound by professional secretcy.’ |
|---|--|

Exercise 4. Vocabulary extension

Choose the word which does not fit into the group. Odd words out.

| | | | | |
|----|--------------|--------------|-------------------------|----------------|
| 1. | to abide by | to adhere to | to disregard | to comply with |
| 2. | voluntary | compulsory | at one's own discretion | willing |
| 3. | to cope with | to deal with | to handle | to deal in |
| 4. | accord | disagreement | concord | deal |
| 5. | convention | treaty | custom | agreement |

2.3. Creation of normative acts

Exercise 1. Issuing authorities

Read the text and complete the tasks defined below.

Normative acts, also called legal acts, are issued in a prescribed form by the state authorities or on the basis of their powers. Normative acts determine a specific procedure for the designated entities (institutions, companies, individuals).

Normative acts create a certain hierarchical structure, and therefore legal force contained in a single act may be higher or lower than in the other act, or equal. Dependencies that for this reason arise between the instruments of varying legal status lie in the competences of issuing authorities, e.g. an act of a higher order may contain an authorisation for a state authority or other entity to issue an act of a lower order, with lower legal force. Lower-order acts remain in force on the grounds of the acts having in this hierarchy a paramount position. Therefore, the act of a higher order affects the content of a lower-order act. In turn, the act of a lower order cannot be inconsistent with the provisions of superior acts.

Acts having equivalent legal force may mutually repeal, a superior act may repeal the act of lower legal force but the act of lower legal force cannot repeal the provisions contained in the superior act.

The legal acts also include resolutions of the Council of Ministers and ordinances of the Prime Minister and ministers. There are also legal acts issued by local self-government authorities and local government administration authorities, e.g. resolutions of the commune council, legal-order ordinances of the voivode.

Legal acts are divided into:

- generally applicable (addressed to all citizens). They include: the Constitution, statutes, ratified international agreements, regulations or enactments of local law.
- applicable internally (valid only for organisational units subject to the issuing authority). These are: resolutions of the Council of Ministers, ordinances of the President of the Republic of Poland, the Prime Minister and ministers.

a) *Decide whether the following statements are TRUE (T) or FALSE (F).*

1. Lower-order acts cannot repeal acts of a higher order.
2. Acts having equivalent legal force cannot repeal mutually.
3. Commune councils cannot issue legal acts having legal force.
4. The Constitution, statutes and ratified international agreements constitute generally applicable normative acts.
5. Internally applicable legal acts refer solely to organisational units of the issuing authority.

b) *Find the proper terms in the text having the meaning defined in the table.*

| | |
|---|--|
| in a form defined by law | |
| an instrument having a higher status | |
| having a higher position, more important than others | |
| to remove or reverse a law | |
| a normative act issued by single-person authority, e.g. the President, Prime Minister | |
| authorities performing tasks not reserved for public authorities | |
| a formal decision to do something | |

Exercise 2. Legislative procedure

Read the text below.

a) *Fill in the missing steps in the legislative process based on the text below.*

The legislative process is described in detail in the Constitution of the Republic of Poland and in the Standing Orders of the Sejm. The process includes the following stages:

1.
2.

3.
4.
5.
6.

For the legislative process to be commenced, it is necessary to introduce a bill to the Sejm. Only qualified entities enjoying the right of legislative initiative can do so. Such entities include:

- the deputies to the Sejm (deputies' bills may be introduced by a Sejm committee or a group of at least 15 deputies);
- the Senate (a resolution of the entire Chamber is necessary);
- the President of the Republic;
- the Council of Ministers.

The Constitution also provides for an opportunity for citizens to introduce a bill by means of the so-called mechanism of popular initiative; yet such a bill requires the signatures of a group of 100,000 eligible to vote in elections to the Sejm. Some bills, e.g. a draft budget, can be introduced only by the Council of Ministers. Urgent bills, which may be introduced in the Sejm only by the government, are of particular importance. Bills designated as urgent have priority over other bills and are subject to a fast-track parliamentary procedure. The difference is that the Senate has only 14 days and the President of the Republic only 7 days to consider such a bill. This enables the government to complete the tasks most important for the state.

Bills are to be submitted, in writing, to the Marshal of the Sejm (the phrase 'to submit a bill to the Marshal's mace' is commonly used in parliamentary practice) who orders their printing and delivery to the deputies. The sponsor, submitting a bill, appoints an authorised person to represent him in work relating to it. Every bill has to include an explanatory statement which clarifies, e.g. the need for and purpose of the bill, presents the expected social, economic, financial and legal consequences, points out the sources of financing, or includes the statement on compatibility of the bill with the EU law. The Marshal of the Sejm may return a bill to its sponsor if an attached explanatory statement does not fulfil the legal requirements.

If there is a doubt as to whether the bill is consistent with the law, including the law of the European Union or the elementary principles of legislative technique, the Marshal of the Sejm may, after consulting the Presidium of the Sejm, refer that bill to the Legislative Committee for its opinion. If the Committee with the majority of three-fifths of the votes in the presence of at least half of the Committee members finds the bill inadmissible, the Marshal is not required to initiate the proceedings in respect of that bill.

Bills are considered in three readings. The first reading takes place at a plenary session of the Sejm or at a session of a committee competent in the subject matter of the proposed bill. Due to a high number of issues on the agenda of the Sejm session, in principle the first reading is held at a committee session. However, some socially important bills, inclusive of amendments to the Constitution, the draft budget, tax bills, bills concerning the election of the President of the Republic and elections to the Sejm, the Senate and to local government authorities, have to be presented at a Sejm session. The first reading of a bill includes justification of the bill by its sponsor, a debate on the bill, questions of the deputies and response of the sponsor. A motion to reject the bill in its entirety may be filed at this stage.

Committees may correct and change the wording of bills while working on their provisions and may also appoint a subcommittee for the purpose of detailed examination of the bill. Having finished its work, the committee agrees upon the common position on the bill and presents it in the form of a report, including a motion for the bill to be passed without amendments, with some amendments or to be rejected.

The second reading always takes place at a Sejm session and includes presentation of the committee report on the bill to the Sejm and, subsequently, a debate during which other motions and amendments may be submitted. The right to introduce amendments during the second reading is vested in the sponsor of the bill, in a group of at least 15 deputies, in the chairperson of a deputies' club or group and in the Council of Ministers. Amendments may be submitted only by the end of the second reading. If any amendments are submitted during the second reading, the bill is referred again to the committee which examines it, assesses it and presents an additional report to the Sejm in which it proposes adoption or rejection thereof. If the draft is not re-referred to the committee during the second reading, the third reading may take place immediately.

The third reading is held at a Sejm session and it includes voting on a possible motion to reject the bill in its entirety, then on amendments to particular articles, and at the end on the bill as a whole according to the wording proposed by the committees, including any modifications resulting from adopted amendments.

The Sejm passes bills by a simple majority of votes (the number of affirmative votes exceeds the number of negative votes) in the presence of at least half of the statutory number of deputies.

Next, the Marshal of the Sejm submits the bill to the Senate. The procedure for examining bills by the Senate is regulated by the Constitution of the Republic of Poland and the Rules and Regulations of the Senate. Having received a bill passed by the Sejm, the Marshal of the Senate refers it to the relevant Senate committees (one or more) which examine it within 18 days and work out the draft position of the Senate concerning

the bill; and in the case of urgent bills or those implementing the European Union law, within the deadline specified by the Marshal of the Senate. A debate and voting take place at a Senate session and the Senate adopts a resolution. The resolution may include a motion to accept the bill without amendments or a motion to reject the bill in its entirety or to introduce amendments to its text (in this case, the bill is referred back to the Sejm). If the Senate fails to submit amendments or to reject the bill within the prescribed period of 30 days (with some exceptions), the bill is considered passed in the wording adopted by the Sejm.

The Sejm may reject the Senate’s amendments, as well as the motion to reject the bill by absolute majority of votes (the number of affirmative votes exceeds the number of negative votes and abstentions) in the presence of at least half of the statutory number of deputies. If there is no absolute majority, the final text of the bill will include the Senate’s amendments.

When the position of the Senate is considered, the Marshal of the Sejm refers the bill to the President of the Republic for signature. The President of the Republic of Poland signs the bill within 21 days following its submission (7 days in the case of urgent bills and draft budgets) and orders its promulgation in the Journal of Laws (*Dziennik Ustaw*). The promulgation is necessary for the bill to become a binding law.

The President has a right to refuse to sign the bill and can refer it back, with reasons given, to the Sejm for its reconsideration (so-called suspending veto). If the Sejm overrides a President’s veto by a majority of three-fifths of votes in the presence of at least half of the statutory number of deputies, the President has no other choice than to sign the bill and order its promulgation. In the case when there is no such majority, the legislative process is finished and the bill will not come into force.

The President, in the case of any legal doubts concerning the bill passed by the Parliament, may make an application to the Constitutional Tribunal concerning the conformity of the bill with the Constitution. Nevertheless, if the President exercises this right, he cannot use the suspending veto. Having considered the matter, the Tribunal decides whether the bill is constitutional. If the Tribunal states that the bill is consistent with the Constitution, the President is obliged to sign it. If the Tribunal finds the entire bill inconsistent with the Constitution, the President has to refuse to sign it.

b) Decide if the statements below are TRUE (T) or FALSE (F).

| | | T/F |
|----|--|-----|
| 1. | A group of 15 deputies may introduce a bill to the Sejm. | |
| 2. | The mechanism of popular initiative means that every ordinary citizen may introduce a bill if the quantitative condition of 100,000 citizens is met. | |

| | | |
|-----|--|--|
| 3. | In the case of urgent bills, the Senate and the President have 14 days to consider such a bill. | |
| 4. | Defective bill's explanatory statement may be the reason for which the Marshal may return a bill. | |
| 5. | In general, the first reading of the bill takes place at a plenary session. | |
| 6. | The bill may be examined by a subcommittee appointed by the competent committee. | |
| 7. | The third reading may take place immediately after the second reading provided there are not amendments to the bill. | |
| 8. | By principle, the Senate has 18 days to proceed with the bill received from the Sejm. | |
| 9. | By qualified majority of votes, the Sejm may reject any amendments made to the bill by the Senate. | |
| 10. | Promulgation of the bill signed by the President makes it a binding law. | |

Exercise 3. Legislative procedure – continued

Based on the text above:

a) Provide English equivalents to the terms/expressions listed below.

| No. | Polish | English |
|-----|------------------------------------|---------|
| 1. | Regulamin Sejmu | |
| 2. | przedstawić projekt ustawy | |
| 3. | korzystać z prawa | |
| 4. | posłowie na Sejm | |
| 5. | inicjatywa obywatelska | |
| 6. | pilne projekty ustaw | |
| 7. | komisja sejmowa | |
| 8. | szybka ścieżka legislacyjna | |
| 9. | Marszałek Sejmu | |
| 10. | skierować do łaski marszałkowskiej | |
| 11. | wnioskodawca | |
| 12. | Prezydium Sejmu | |
| 13. | powołać podkomisję | |
| 14. | klub poselski | |
| 15. | koło poselskie | |
| 16. | głosy 'za' | |
| 17. | głosy 'przeciw' | |
| 18. | Trybunał Konstytucyjny | |
| 19. | zwykła większość głosów | |
| 20. | bezwzględna większość głosów | |

| | | |
|-----|------------------------------|--|
| 21. | ogłoszenie w Dzienniku Ustaw | |
| 22. | weto ustawodawcze | |

b) Fill in the sentences with appropriate prepositions.

1. The Constitution provides an opportunity for citizens to introduce a bill.
2. Bills designated as urgent have priority other bills.
3. If there is a doubt whether the bill is consistent the law, the Marshal of the Sejm may refer the bill the Legislative Committee.
4. principle the first reading is held a committee session.
5. The committee agrees upon the common position the bill.
6. The right to introduce amendments during the second reading is vested *inter alia* the sponsor of the bill.
7. If the Senate fails to submit amendments or to reject the bill the prescribed period of 30 days, the bill is considered passed.

Prepositions

- **to remain in force**

‘These measures remain in force such time as the Council has used the applicable procedure.’

- **to lie in something**

‘The difficulty lies in knowing what to do next.’

- **to be (in)consistent with (law)**

‘The offer should be consistent with the information contained in the Prospectus.’

- **to bring a law into line with something**

‘The government made commitments to bring media law into line with international standards.’

- **to provide for the possibility**

‘The company does not provide for the possibility of speaking at the General Meeting of Shareholders using electronic means of communication.’

- **to have/take priority over something**

‘Buses take priority over other vehicles on the road.’

2.4. Glossary

| English | Polish |
|--------------------------|---|
| adherence to the statute | zgodność z ustawą |
| affirmative votes | głosy ‘za’ |
| bill | projekt ustawy; urgent bills – pilne projekty ustaw; to introduce a bill – przedstawić projekt ustawy |

| | |
|---|--|
| generally binding legislation | akty powszechnie obowiązujące |
| body authorised to adopt resolutions | organ uchwałodawczy |
| bylaw | akt prawa miejscowego/rozporządzenie władz terenowych |
| Charter of Fundamental Rights | Karta Praw Podstawowych |
| chief public administration authorities | naczelne organy administracji państwowej |
| commune council/municipal council | rada gminy/rada miejska |
| conditions | warunki; to establish conditions – określić warunki |
| consent | zgoda; to grant consent – wydać zgodę |
| Council of Ministers | Rada Ministrów |
| Court of Justice of the European Union | Trybunał Sprawiedliwości Unii Europejskiej |
| delegated acts | akty delegowane (o charakterze nieustawodawczym) |
| deputies to the Sejm | posłowie na Sejm |
| deputies' club | klub poselski |
| deputies' group | koło poselskie |
| directive | dyrektywa |
| directly applicable | bezpośrednio stosowane |
| disarmament | rozbrojenie |
| discretion | swoboda; to give someone discretion to do something – dać komuś swobodę do zrobienia czegoś |
| dispute | spór; to handle disputes – rozpatrywać spory; to settle disputes – rozstrzygać spory |
| district/county/powiat council | rada powiatu |
| district/county/powiat administration | zarząd powiatu |
| to draw a clear distinction between something | wprowadzić wyraźne rozróżnienie między czymś |
| enactment of local law/ordinance/bylaw | akt prawa miejscowego/rozporządzenie władz terenowych |
| to enjoy (e.g. the privilege, right) | korzystać z (np. przywileju, prawa) |
| exclusive competences | kompetencje wyłączne |
| fast-track parliamentary procedure | szybka ścieżka legislacyjna |
| general principles of law | ogólne zasady prawa |
| (the) global commons | dziedzictwo światowe |
| head of a commune | wójt |
| implementing act/implementing acts | akt wykonawczy/akty wykonawcze |
| International Court of Justice | Międzynarodowy Trybunał Sprawiedliwości |
| International Criminal Court | Międzynarodowy Trybunał Karny |
| International Tribunal for the Law of the Sea | Międzynarodowy Trybunał Prawa Morza |
| to introduce a hierarchy | wprowadzić hierarchię |

| | |
|---|--|
| to invoke rights | powoływać się na prawa |
| legal-order ordinance of the voivode | rozporządzenie wykonawcze wojewody |
| legislative procedure | tryb ustawodawczy |
| legislative acts | akty ustawodawcze |
| local authorities of the state government | terenowe organy administracji rządowej |
| local self-government | samorząd terytorialny |
| Marshal of the Sejm | Marszałek Sejmu |
| material scope | zakres przedmiotowy |
| mayor | burmistrz |
| measures | środki; to adopt measures – podjąć środki/kroki |
| mechanism of popular initiative | inicjatywa obywatelska |
| motion | wniosek; to file/submit a motion – złożyć wniosek |
| normative act | akt normatywny |
| Official Journal of the European Union | Dziennik Urzędowy Unii Europejskiej |
| orders of executive authorities | zarządzenia organów wykonawczych |
| ordinance | rozporządzenie (władz terenowych)/akt prawa miejscowego |
| paramount | istotny, pierwszoplanowy, zasadniczy; to have a paramount position – odgrywać pierwszoplanową rolę |
| piecemeal collection | fragmentaryczny zbiór |
| political system of the state | ustrój polityczny państwa |
| Presidium of the Sejm | Prezydium Sejmu |
| primary law | prawo pierwotne |
| principle of conferral | zasada przyznania kompetencji |
| procedure for promulgation of an act | tryb ogłaszania aktu |
| promulgation (in the Journal of Laws) | ogłoszenie (w Dzienniku Ustaw) |
| province governor/voivode | wojewoda |
| recommendation | zalecenie |
| provincial/voivodeship assembly | sejmik województwa |
| regulation | rozporządzenie/regulacja prawna |
| to repeal | uchylić; the act of a higher legal force repeals the act of lower legal status – akt wyższego rzędu uchyla akt niższego rzędu |
| sanctions | sankcje; to impose sanctions – nałożyć sankcje |
| secondary law | prawo wtórne |
| Security Council | Rada Bezpieczeństwa |
| Sejm committee | komisja sejmowa |
| shared competences | kompetencje dzielone |
| sponsor | wnioskodawca |

| | |
|--|--|
| Standing Orders of the Sejm | Regulamin Sejmu |
| subcommittee | podkomisja; to appoint a subcommittee – powołać podkomisję |
| to submit to the Marshal's mace | skierować do laski marszałkowskiej |
| superior | nadrzędny; a superior act – nadrzędny akt; superior to sth – nadrzędny względem czegoś |
| supplementary law | prawo pomocnicze |
| supporting competences | kompetencje wspomagające |
| to transpose directives into national law | transponować dyrektywy do prawa krajowego |
| transposition | transpozycja |
| Treaty on the Functioning of the European Union (TFEU) | Traktat o funkcjonowaniu Unii Europejskiej (TFUE) |

3. Judiciary

3.1. Types of courts in Poland

Exercise 1. The judiciary in Poland

Read the text and decide if the statements are TRUE (T) or FALSE (F).

The judiciary in Poland is regulated by the Constitution which introduces the principle of the tripartite separation of powers. The constitutional principles of organisation and functioning of the judiciary in Poland cover the legal and organisational status of court authorities, proceedings before courts and the legal status of the judge. The judicial system of Poland is also governed by four acts: 1) Act on the system of courts of general jurisdiction (which applies to district, regional and appeal courts), 2) Act on the Supreme Court, 3) Act on administrative courts, and 4) Act on the system of military courts (administrative and military courts are outside the structure of the courts of general jurisdiction).

Article 173 of the Polish Constitution of 2 April 1997 provides for dualism of the judiciary's authority. It is composed of courts and tribunals. The courts encompass: the Supreme Court, courts of general jurisdiction (common courts), administrative courts, including the Supreme Administrative Court and military courts. As regards the tribunals, the Constitution lists the Constitutional Tribunal and the Tribunal of State.

The courts of general jurisdiction are established and dissolved by the Minister of Justice upon the opinion from the National Council of the Judiciary. Proceedings before Polish courts are held in at least two instances. The common courts are divided

into: district courts, regional courts and appeal courts. Currently, in Poland there are 11 appeal courts, 45 district courts and 321 regional courts.

Judges of the common courts are appointed by the President of the Republic of Poland at the motion of the National Council of the Judiciary for an indefinite period of time. Judges in Poland are independent and governed solely by the Constitution and statutes.

In the Polish court system there are no separate commercial courts. Commercial cases are handled by the commercial division of a court of general jurisdiction. The courts of general jurisdiction are divided into divisions, depending on the type of cases they handle (e.g. civil division, commercial division, commercial division of the National Court Register, land and mortgage register division, employment division also called labour court, family division and bankruptcy division).

Source: Adapted from the website of the Polish Ministry of Justice

| | | T/F |
|----|--|-----|
| 1. | Courts of general jurisdiction are governed solely by the Act on the system of courts of general jurisdiction. | |
| 2. | The Constitution of the Republic of Poland enlists two tribunals. | |
| 3. | Court proceedings always take place in a maximum of two instances. | |
| 4. | In Poland, there are 376 courts of general jurisdiction. | |
| 5. | Courts of general jurisdiction handle commercial cases if required. | |

Exercise 2. The court system in Poland

Fill in the table by matching the beginnings of sentences with their endings. In some cases more than one ending is possible.

| | Type of court | | |
|----|----------------|---------------------------------------|--|
| 1. | District court | acts as a court of first instance... | |
| | | covers... | |
| | | hears... | |
| | | is split into... | |
| 2. | Regional court | acts as a court of second instance... | |
| | | hears cases in the first instance... | |
| | | covers... | |
| | | is split into... | |

| | | | |
|----|---------------|------------------------------------|--|
| 3. | Appeal court | acts as a second-instance court... | |
| | | is established... | |
| | | is a court of first instance... | |
| | | is split into... | |
| 4. | Supreme Court | exercises... | |
| | | does not receive... | |

| |
|--|
| the jurisdiction of several district courts. |
| where the amount in dispute does not exceed PLN 75,000. |
| one commune or more. |
| where the amount in dispute exceeds PLN 75,000. |
| civil, criminal, family, labour, and land and mortgage divisions. |
| hearing appeals against district court decisions. |
| the majority of lawsuits brought before courts of general jurisdiction. |
| where the jurisdiction is founded on specific provisions of law (e.g. non-proprietary rights). |
| in cases concerning proprietary rights. |
| evidence, take the testimony of witnesses and the like. |
| hearing appeals against decisions of regional courts. |
| extraordinary jurisdiction in cassation appeals against final decisions of courts of second instance. |
| in the field of disciplining judges of courts of general jurisdiction. |
| civil, criminal, labour and social insurance divisions. |
| judicial review over the activity of courts of general jurisdiction. |
| on the area of jurisdiction of at least two regional courts. |
| civil, criminal, labour, commercial divisions, and a division for penitentiary affairs and supervision of the execution of criminal judgments. |

| | |
|---|--|
| What do these words mean? | |
| amount in dispute – the monetary value that applies to the thing that is in dispute between the two litigants. | judicial review – power of a given court (in Poland: Supreme Court) to examine the actions of the legislative, executive, and administrative arms of the government |
| proprietary rights – rights related to the ownership of a thing that are protected by law. | non-proprietary rights – rights that are in public domain and are not protected by law, e.g. computer software. |

Exercise 3. Specialised courts in Poland

The text below presents briefly specialised courts operating in Poland. Fill in the gaps with the following words and phrases.

dual ♦ compliance ♦ vary ♦ reasoning ♦ examine ♦ authorities ♦ violating ♦ constitutionality ♦ complaints ♦ adjudicates ♦ merits ♦ resolutions

Specialised courts are a feature of the judiciary systems of many countries, although their jurisdiction and function (1), sometimes widely, from one to another. One of the richest source of information about specialised courts is the United States with its (2) system of courts: federal and state ones. Other examples are the judicial systems of the countries of the former Eastern European block, including Poland. There are several special courts and tribunals in Poland.

Constitutional Tribunal

In the Polish legal system, the Constitutional Tribunal is not regarded as a court of general jurisdiction. It rules *inter alia* on the (3) of national legislation and international agreements, on the (4) of national legislation with ratified international agreements or on the constitutionality of the objectives or activities of political parties.

Tribunal of State

The Tribunal of State is a separate body of the judiciary. The Tribunal of State (5) cases in which people who occupy the highest positions in the state are charged with (6) the Constitution or other legislative acts.

Administrative courts

The system of administrative courts includes the Supreme Administrative Court and voivodeship administrative courts. The Supreme Administrative Court *inter alia* rules on whether the (7) of local government bodies or the regulatory acts of local authorities of the state government comply with the law, on (8) against administrative decisions; on decisions issued in administrative proceedings in response to complaints and on decisions that may be appealed based on the (9) of a case. The Supreme Administrative Court has been publishing all its decisions, together with its (10), since 1 October 2007.

Military courts

Military courts are special (11), separate from the courts of general jurisdiction, due to the specific nature of the cases which they adjudicate. They (12) the legality of the issues associated with the operation of the Polish Armed Forces which are generally limited to criminal matters. The courts' role is of particular importance during the wartime.

Source: Adapted from the website of the Polish Ministry of Justice

Prepositions

| | |
|---|--|
| <p>• amount in dispute</p> <p>‘In the case of justifiable doubts, the Tribunal may determine the actual amount in dispute.’</p> | <p>• to rule on</p> <p>‘The court ruled on differences in treatment between men and women in professional classifications.’</p> |
| <p>• to split into</p> <p>‘The budget is split into two parts: a base part and an additional part comprising information specific for particular users.’</p> | <p>• in response to</p> <p>‘In response to challenges posed by terrorist fighters, a new law on security was enacted.’</p> |

Exercise 4. Vocabulary extension

Match halves of the sentences.

- | | |
|---|--|
| 1. Disputes arising from the insurance agreement | (a) on the basis of the Family and Guardianship Code and bilateral international agreements. |
| 2. Judicial independence and the separation of powers | (b) the opportunity to examine or cross-examine witnesses. |
| 3. Polish family courts adjudicate | (c) may be brought before the courts of general jurisdiction or a court competent for a place of residence of the insurer, the insured or a person entitled under the agreement. |
| 4. The applicants were denied | (d) in order to keep the deadline. |
| 5. For the purposes of this regulation, court fees shall comprise | (e) a lawsuit against a large state-owned company. |
| 6. The system of justice should be | (f) are fundamental building blocks of a democratic society. |

| | | | |
|-----|------------------------------------|-----|--|
| 7. | He submitted incomplete documenta- | (g) | the court enter a judgment against the |
| | tion | | defendant. |
| 8. | He filed | (h) | capable, competent and willing to pro- |
| | | | vide justice. |
| 9. | The claimant requests that | (i) | shall bear interest at the rate of 5% p.a. |
| 10. | The total amount of said judgment | (j) | fees and charges to be paid to the court, |
| | | | the amount of which is determined in |
| | | | accordance with the national law. |

| | | | | | | | | | |
|----|----|----|----|----|----|----|----|----|-----|
| 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. | 9. | 10. |
| | | | | | | | | | |

For comparison, see:

- *The classification of courts in England, Wales and the Northern Ireland presented on page 388.*
- *The classification of courts in the United States of America shown on page 389.*

3.2. Court proceedings

Exercise 1. Introduction to civil proceedings

Put the words from the brackets in the correct form.

The proceedings in Poland can be divided into judicial (court) and quasi-judicial ones.

The judicial proceedings are divided into:

- administrative
- civil
 - (1) (litigate), also called trial proceedings: with a minimum of two (2) (adversary), claimant and defendant, where a statement of claim (complaint) is filed in order to initiate litigation,
 - non-litigious proceedings: parties are on equal (3) (foot), the party initiating the proceedings by filing an application (motion or petition) may be called applicant (motioner, mover, petitioner),
 - ordinary and special
- criminal
 - ordinary and special.

The quasi-judicial proceedings in Poland refer to the procedure conducted in:

- Constitutional Tribunal
- Tribunal of State

- Arbitration Court, by:
 - Alternative dispute (4) (resolve) (alternative to litigation) negotiation, (5) (arbitrate), mediation.

In line with the Polish legal system, civil courts examine cases (6) (arise) under civil law, family and (7) (guardian) law, labour law and social security law or other classes of suits defined by statute as civil (8) (litigant), while criminal courts hear cases resulting from criminal law. There is no (9) (unify) manner to conduct civil proceedings. Two basic types of proceedings may be distinguished, i.e. examination proceedings, when the case is examined and (10) (adjudicate), and enforcement proceedings aiming at the enforcement of judgments, such as enforcement of pecuniary claims. Every natural and legal person as well as organisational units may initiate the civil proceedings.

In contrast, court proceedings under criminal law may be (11) (in-stigate) upon a motion filed by the public prosecutor, the police, specified state authorities and the victim. The reform of the Polish Code of Criminal Proceedings in 2015 made the criminal process more (12) (adversary) which means a departure from a dominant role of a judge in establishing facts of the case towards a greater role of parties to the proceedings. The prosecutor is responsible for proving the defendant's (13) (guilty), whereas the defendant is supposed to oppose the prosecutor's charges. Under the new law, with some exceptions, the role of the court is limited to assessing the (14) (admit) of evidence named in the motion. Other key changes introduced by the law taking effect in 2015 included the limitation of the scope and duration of (15) (prepare) proceedings and acceleration of the criminal procedure.

Exercise 2. Pleadings

Categorise different types of some court documents (pleadings) listed below by assigning them to a competent type of court. Some can be used for both categories. Next, translate the expressions into Polish.

statement of claim, response, motion to proceed in forma pauperis, appeal, interlocutory appeal, appeal against a decision, petition for parental rights termination, petition for divorce and maintenance, petition for paternity, complaint, bill of indictment, private indictment, motion for expungement, motion for suspended sentence, motion for release on parole, complaint of criminal offence

| |
|----------------------------|
| Civil-law court: |
| Criminal-law court: |

| |
|--|
| KEY WORDS |
| <ul style="list-style-type: none">• Statement of claim A written statement of the initiating litigant, in which they must state their case: the facts which they intend to rely upon and the relief they seek, e.g. <i>The court should endeavour to enter judgment within three months from the date of filing a statement of claim.</i>• Petition A written application for a legal remedy or relief; a word used especially in the context of family and guardianship law, e.g. divorce petition, petition for child support.• Complaint Any formal legal document that sets out the facts and legal reasons that the filing party believes are sufficient to support a claim against another party, e.g. <i>Nine Norwegian companies filed a complaint with the Commission against the Supervision Authority.</i> |

Exercise 3. Persons acting in court

Using the glossary at the end of the book, find English equivalents to the words listed below.

| | | |
|-----|-----------------------|--|
| 1. | adwokat | |
| 2. | biegły sądowy | |
| 3. | interwenient | |
| 4. | komornik | |
| 5. | kurator sądowy | |
| 6. | ławnik | |
| 7. | mecenas | |
| 8. | obrońca | |
| 9. | obrońca z urzędu | |
| 10. | oskarżyciel posiłkowy | |

| | | |
|-----|---|--|
| 11. | oskarżyciel subsydiarny | |
| 12. | pełnomocnik procesowy | |
| 13. | powód | |
| 14. | pozwany | |
| 15. | Prezes Sądu Najwyższego | |
| 16. | protokolant | |
| 17. | przypozwany | |
| 18. | referendarz sądowy | |
| 19. | sędzia przewodniczący składu orzekającego | |
| 20. | świadek | |

Exercise 4. Vocabulary extension

Complete the sentences with the words provided below. Change the form of the word if required.

commit ♦ **charge** ♦ **enter** ♦ **competent** ♦ **conduct** ♦ **prescribe** ♦ **bring** ♦ **hear** ♦ **summon** ♦ **give** ♦ **review** ♦ **take**

1. The court may be on the grounds of the subject matter of a dispute or a defendant's place of residence or seat.
2. The judge must see that the trial is in an orderly manner and according to rules and laws.
3. At the conclusion of a civil litigation the judge a judgment and at the end of a criminal trial imposes the sentence.
4. The defendant is the person against whom the lawsuit (civil case) is or the person with an offence (criminal case).
5. The prosecuting attorney the reason for arrest and determines which law applies to the offences the person
6. Any person as witness shall turn up and testimony.
7. The evidence is at the request of the parties, the entities defined by law or *ex officio*.
8. In the first-instance courts, cases are by a single judge unless a specific law provides otherwise.

3.3. Legal profession

Exercise 1. Introduction to legal profession

Read the text and put the words in the brackets in the correct form.

Legal professions are generally regulated at the national level. Although there may be some (1) (similar) between them, national regulations (2) (different) from one country to another. Within the (3) (judge) systems, there is a wide range of legal professions such as lawyers, notaries, judges, prosecutors or judicial officers. A judge is an (4) (office) who presides over a court of law, either as a single judge or in a panel of judges. The judge conducts the trial (5) (partial) and in an open court. The judge hears the witnesses, (6) (exam) other evidence presented by the parties and then issues a (7) (rule) on the matter at stake. In criminal proceedings, public (8) (prosecution) play a very important role. Lawyers acting as professional advisers or representatives ensure that conflicts are (9) (resolution) in accordance with applicable principles of civil, public or criminal law. In their activity, lawyers are (10) (govern) by professional organisations or authorities of the bars or law societies which are responsible for (11) (lay down) rules of professional conduct and administration of the legal profession. Notaries are legal (12) (practice) specialised and authorised to act in certain legal matters. They are public officials, so the state delegates a portion of legal power to allow them to fulfil a public (13) (serve). Notaries' tasks include in particular: drawing up private agreements, enforcing the deeds, (14) (advise) the parties and informing the parties of the (15) (imply) of the obligations they undertake. There is also a significant group of court staff, including assisting judges and prosecutors, court clerks or the management of courts. The court staff plays an important role in an overall (16) (efficient) of the justice system.

Exercise 2. Legal profession in England and Wales

a) Read the following text about legal profession in England and Wales. For each sentence underline a correct word which best fits into the space from the options provided. There is an example at the beginning (). Only one answer is correct.*

The legal profession in England and Wales is divided into two (*): solicitors and barristers. Each is governed by its own professional body. Solicitors are represented by the Law Society and barristers by the Bar Council. Whereas solicitors primarily specialise in contracts, wills, conveyancing, (1) preparatory pre-court work, barristers represent the client in court. Solicitors

traditionally have the right of (2) only in inferior courts and in more serious cases they approach the barristers. After the training, a trainee is (3) as a solicitor by the Law Society. On the whole, solicitors have advocacy rights in the Magistrates' Court and the County Court. However, the Access to Justice Act of 1990 allowed them to apply for (4) rights in the higher courts (only 2% applied). Unlike solicitors, barristers have the right of audience in every court in England and Wales. Operating as sole (5) with unlimited liability, they provide representation in court and specialist legal advice. In principle, intending barristers need a qualifying law degree (LLB), and in order for graduates in non-law subject to become barristers a one-year (6) course known as GDL (Graduate Diploma in Law) is required first. The next step is the Bar Vocational Course (BVC) aimed at gaining practical skills of advocacy. The student barrister then applies to one of the Inns of Court; after passing the BVC examination conducted by the Council of Legal Education and completing the necessary attendance at an Inn of Court, the person is called to the Bar and is officially (7) as a barrister. The final stage is called pupillage which is a one-year (8) during which students build on what they have learnt so far by combining it with practical work in barristers' chambers (tenancy in chambers). According to the General Council of the Bar, there are more than 15,000 barristers in independent practice in England and Wales. When a junior barrister has practised at the Bar for 10-15 years, it is possible to apply to the Lord (9) to 'take silk', i.e. to become a senior barrister, or Queen's Counsel (QC), whose work concentrates on court appearances, advocacy and opinions. All barristers who are not QCs are known as junior barristers. As opposed to barristers, solicitors are in direct contact with the lay clients, and therefore can be sued for (10), i.e. a failure to exercise due care while performing their duties.

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| (*) | A branches | B groups | C sections | D levels |
| (1) | A make | B perform | C perpetrate | D prepare |
| (2) | A appearance | B pleading | C court | D audience |
| (3) | A allowed | B permitted | C admitted | D entry |
| (4) | A pleading | B representation | C court | D advocacy |
| (5) | A traders | B practitioners | C lawyers | D barristers |
| (6) | A postgraduate | B conversion | C requalification | D adaptation |
| (7) | A educated | B trained | C qualified | D prepared |
| (8) | A apprenticeship | B training | C course | D practice |
| (9) | A Master | B Chancellor | C Mayor | D Chamberlain |
| (10) | A recklessness | B carelessness | C inattention | D negligence |

b) Answer the questions based on the text above:

- 1. Whose apprenticeship is known as a pupillage?
- 2. Who specialises in the formation of companies?
- 3. Who is liable to be sued for negligence?
- 4. Who is a senior barrister?
- 5. What does it mean to ‘take silk’?

| What do these words mean? | |
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| conveyancing – the legal process by which someone becomes a new owner of a property. | Inns of Court – based in London, a group of four institutions of considerable antiquity that have historically been responsible for legal education in England and Wales. |
| tenancy in chambers – a term used to describe barristers, also known as tenants, working under the umbrella of chambers headed by an experienced barrister. | Queen’s Counsel (QC) – in the UK, a barrister who, having practised law for at least ten years, is given the honour on the recommendation of the Lord Chancellor to earn the right to wear a silk gown. |

Exercise 3. Legal profession in the United States of America

Match the words in columns to make collocations or phrases and fill in the gaps in the text below.

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| exclusive prosecuting defense bar-association | attorney of clients examination indigents |
| postgraduate represent solo defend non-trial retainer | practice attorney actions lawyer education right |

In the United States legal profession is regulated at the state level, with lawyers licensed either by a bar association or directly by courts. This is the state which grants an (1) to practise law to lawyers. Entry into the profession usually requires passing both a (2) and a process of character screening. Applicants with criminal record can be disqualified. In order to be eligible to take a bar examination, candidates need complete (3) in law at an