
THE PRACTITIONERS' GUIDE TO APPLIED COMPARATIVE LAW AND LANGUAGE |
VOLUME NO. 1 CIVIL LAW & BUSINESS LAW

I. Vertragsrecht – Contract Law

I.A. Contract Law in the United States

A. Comprehension

A.i) *Answer the following questions:*

1. What is the UCC and what is its function?
2. What is the difference between an assignment and a delegation?
3. What is the difference between “reliance” and “restitution damages”?
4. What is repudiation?
5. Explain the doctrine of “mistake.”
6. What does the doctrine of parol evidence provide for?
7. What constitutes an offer?
8. Who lacks the capacity to contract?
9. Explain the concept of “unconscionability.”
10. What rights does an intended beneficiary have?

A.ii) *Indicate whether the following statements are true or false:*

1. The requirement of a condition cannot be excused if the obligor commits a breach that causes the nonoccurrence of the condition.
2. In determining “materiality” the court will consider inter alia the extent to which the injured party will be deprived of the benefit it reasonably expected.
3. A claim for restitution of benefits will invariably arise due to the non-occurrence of a condition.
4. The concept of the excuse of “impracticability of performance” has its roots in English law.
5. As a general rule, only full performance acts as a discharge and any failure to deliver is regarded as a breach of contract.
6. Most contract principles can be modified by the parties.
7. Under certain circumstances an acceptance can change the terms of an offer.
8. The “Statute of Frauds” requires a signed writing for certain agreements to be enforceable.
9. Once a court orders specific performance, additional damages are not available, even if such remedy does not fully compensate the injured party.
10. A bargain is necessary for a contract to be enforceable

B. Vocabulary – please translate

- | | |
|--------------------------------------|------------------------------------|
| 1. surety contract | 11. Treu und Glauben |
| 2. on behalf of | 12. Wegfall der Geschäftsgrundlage |
| 3. misrepresentation | 13. Vertragsverletzung |
| 4. injunction | 14. Vorvertrag |
| 5. delegate (to) | 15. Willenserklärung |
| 6. evidence | 16. Vertragsänderung |
| 7. CPA (certified public accountant) | 17. Antrag |
| 8. deemed (e.g. effective) (to be) | 18. Großjährigkeit |
| 9. distributor | 19. Zwang |
| 10. dispute | 20. Karenz |

C. Language

C.i) *Make recognizable business and legal terms by matching the words in the two columns below (you might have to switch the order of some):*

law	anticipatory
mental	beneficiary
contract	incompetency
public	contract
marital	unjust
repudiation	surety
specific	relief
enrichment	agreement
intended	policy
equitable	performance

C.ii) *Word clusters – find as many words as possible that contain the following letter combination*

1. con-
2. obli-

C.iii) *Translate the following passage:*

This Contract may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall evidence the same agreement, and it shall not be necessary in making proof of this agreement to produce or account for more than one such counterpart.

VII. Familienrecht – Family Law

VII.A. Family Law in the United States

A. Comprehension

A.i) *Answer the following questions:*

1. Why might a court disregard a parenting plan?
2. What is the legal basis of family law in the US?
3. Is there any cross-state guidance for the adoption of children? If so, what is it?
4. What are the main issues a separation agreement needs to deal with?
5. Why would a pre-marriage agreement be embarked upon?
6. Explain why laws regarding parental relinquishment and the adoption of children are important:
7. In terms of parental responsibilities, name some typical decision-making responsibilities.
8. What is the difference between legal and physical custody?
9. What is a common law marriage?
10. What rights do non-married parties have?

A.ii) *Answer the following in-depth questions*

1. Name some provisions of the law to ensure the suitable placement of children:
2. Briefly describe the difference between a “no-fault” divorce and a divorce where “fault” is apportioned.
3. Give an example of a court deciding on what is a common law marriage or not.
4. Describe the differences between “equitable distribution” and “community property law”:
5. Explain the differing ways a court may decide on child custody and support:

B. Vocabulary – please translate

- | | |
|---------------------------|--|
| 1. available for adoption | 11. Ehegattenunterhalt |
| 2. disinherit | 12. Kindesunterhalt |
| 3. domestic community | 13. Aufteilung des ehelichen Vermögens |
| 4. mentally handicapped | 14. billiges Ermessen |
| 5. legal custody | 15. Leihmutter |
| 6. remarriage | 16. Sorge- und Besuchsrechtsvereinbarung |
| 7. restraint | 17. häusliche Gewalt |
| 8. impediment to marriage | 18. Pflegeeltern |
| 9. allocation of assets | 19. Mündel |
| 10. criminal behavior | 20. wohnhaft |

C. Language

C.i) *Form complete sentences from the words and phrases given. You may need to put some verbs in their correct form*

1. Federal law control/child support/maintenance awards/to be/not dischargeable/bankruptcy
2. As with/law/establish/marital relationship/dissolution/marital relationship/govern/state law
3. Many states/to have/laws/respect/parental relinquishment/adoption/children
4. all states/marriage/to be/recognized/man/woman/ valid
5. Parties may attempt/modify/wills/during/divorce proceeding/effort to disinherit/make no gifts/divorcing spouse

C.ii) *Correct the errors (if any) and, for each word, provide a synonym:*

1. prohibited
2. disspute
3. transfur
4. welfare

XI.D. The Constitution of Austria

A. Comprehension

A.i) *Answer the following questions:*

1. Explain the basics of the federal state.
2. Explain the limitations, in practice, to the power of the Federal Council.
3. How has membership of the European Union strengthened the power of the Federal Cabinet?
4. Why is the 1867 Fundamental State Law on the General Rights of Citizens still relevant to the Austrian Constitution of today?
5. How has the introduction of the Fundamental Rights Charter of the European Union added new layers of protection of fundamental rights?
6. According to the text, what is the most important competence of the Constitutional Court?
7. What are the general tasks of parliament?
8. Explain what happens to a bill before it is debated in the National Council.
9. What happens to a bill once it has been passed by the National Council?
10. Explain the role of the President in scrutinizing a bill before signing it into law.

A.ii) *Indicate whether the following statements are true or false:*

1. The Federal President is the sole head of the executive branch.
2. There are 13 administrative courts of first instance in total.
3. The electorate cannot really influence the order of the candidates on the party list.
4. Austria has one of the oldest constitutions in Europe that is still in force.
5. Every amendment to the constitution is submitted to a referendum
6. The instructions of a Federal Minister are always binding on a state governor.
7. The Federal Parliament consists of only one chamber.
8. The Federal President cannot govern by emergency decree alone.
9. The first Federal President to be elected by universal suffrage was elected in 1929.
10. The Judiciary is the responsibility of the states.

B. Vocabulary – please translate

- | | |
|-----------------------------------|---------------------------|
| 1. district government | 11. Verordnung, |
| 2. formal administrative decision | 12. wahren |
| 3. administration | 13. Würde des Menschen |
| 4. restraint | 14. Oberster Gerichtshof |
| 5. written constitution | 15. Landeshauptmann |
| 6. work authorization | 16. zwingender Grund |
| 7. state regulation | 17. verankert |
| 8. veto power | 18. entscheiden (Gericht) |
| 9. secular republic | 19. Legislative |
| 10. Federal Chamber of Commerce | 20. autoritäres Regime |

C. Language

C.i) *Make recognizable legal terms by matching the words in the two columns below:*

- | | |
|---------------|----------------|
| district | coalition |
| principle | constitutional |
| popular | partnership |
| interests | regime |
| basket | public |
| subsidy | partisan |
| authoritarian | clause |
| court | initiative |
| social | subsidiarity |
| government | authority |

XIV. Strafprozessrecht – Criminal Procedure Law

XIV.A. Criminal Procedure in the United States

A. Comprehension

A.i) *Answer the following questions:*

1. Explain Miranda rights.
2. When can a charged person be detained rather than granted bail?
3. Explain the Confrontation Clause.
4. Explain the dynamite instruction.
5. Explain the “accusatorial system.”

A.ii) *Indicate whether the following statements are true or false:*

1. The arrest of people must be based on probable cause.
2. Sometimes warrantless searches are legitimate.
3. The prosecution must disclose to the defendant the evidence that will be presented in support of the government's charges.
4. A defendant always has the right to trial by jury according to the Constitution.
5. The procedure for appellate courts is similar to that of trial courts.
6. If a defendant is tried in a state court, they cannot be tried again in a federal court for the same offense.
7. A defendant can be sentenced to incarceration for most crimes.
8. Lying in wait increases the chance of capital punishment in murder trials.
9. Juries have to deliberate in public.
10. A defendant can choose to waive their Miranda rights.

B. Vocabulary – please translate

- | | |
|--|-------------------------|
| 1. adverse comment | 11. Begründungsmangel |
| 2. appointed defense council | 12. Bewährung |
| 3. commonality | 13. Einziehung |
| 4. confrontation clause | 14. Fremdenangst |
| 5. court decision | 15. Haftrecht |
| 6. formal written charge | 16. Rechtsschutzrichter |
| 7. incarceration | 17. Sicherungsverfahren |
| 8. Larceny | 18. Urkundenbeweis |
| 9. Miranda rights | 19. Vollstreckbarkeit |
| 10. offence taken into consideration (TIC) | 20. Zwischenverfahren |

C. Language

C.i) *Make recognizable legal terms by matching the words in the two columns below:*

- | | |
|-----------|---------------|
| sentence | arrest |
| sanction | judicial |
| heinous | circumstances |
| hung | interrogation |
| challenge | adverse |
| comment | preemptory |
| exigent | jury |
| custodial | crime |
| officer | intermediate |
| warrant | probationary |

XVII.B. Tax Law in the United Kingdom

A. Comprehension

A.i) *Answer the following questions:*

1. What is a “partial imputation system”?
2. Is UK tax law codified?
3. What factors determine an individual's liability to pay UK taxes?
4. What is meant by “domicile”?
5. What is a “consortium”?
6. How is relief for inflationary gains given on an asset?
7. What are “arm's length prices” and why are they relevant to taxation law?
8. How are unincorporated (e.g. members' clubs) associations taxed?
9. How is the “financial year” different from the calendar year?
10. What is a “representative office”?

A.ii) *Indicate whether the following statements are true or false:*

1. Transfers between spouses and civil partners are normally exempt from Inheritance tax.
2. There is no withholding tax on payments to UK-resident companies.
3. Expenditure on business entertainment can be written off against tax.
4. Capital losses may be carried back or offset against trading profits.
5. A UK domiciled person is liable to CGT in respect of gains on disposals of assets during the year wherever situated.

B. Vocabulary – please translate

- | | |
|--------------------------------|--------------------------------------|
| 1. Board of Customs and Excise | 11. Einfuhrzoll |
| 2. Chancellor of the Exchequer | 12. Einheitssatz |
| 3. inheritance tax | 13. Bruttoeinkommen |
| 4. estate duty | 14. Jahresabschluss |
| 5. proceeds of sale | 15. nicht zu versteuerndes Einkommen |
| 6. revenue | 16. stiller Gesellschafter |
| 7. zero-rated (VAT) | 17. steuerlich wirksame Verluste |
| 8. tax bracket | 18. Steuern einheben |
| 9. taxpayer | 19. Verlassenschaft |
| 10. vehicle excise duty | 20. Tantiemen |

C. Language

C.i) *Find the plurals of the following nouns:*

1. consortium
2. conglomerate
3. criterion
4. index
5. branch
6. focus
7. memorandum
8. luxury
9. subsidiary
10. appendix

C.ii) *Word clusters – find as many words as possible that contain the following morpheme(s):*

1. profit
2. capital

V. Liegenschaftsrecht – Real Estate Law

V.A. A Typical Real Estate Purchase Transaction in the United States

A. Comprehension

A.i)

1. Negotiating the contract/conducting due diligence/obtaining financing/closing the transaction, Intro
2. Most of the time state law, except certain mortgage regulations/consumer regulations, Intro
3. Home sales, a fairly standard contract, commercial sales vary considerably-characteristics and intended use of property and the “sophistication” of the parties involved, 1
4. A “void” contract cannot be enforced/a contract that is “voidable” is valid until one of the parties chooses to void it, 1
5. Money that will be used for the purchase of real estate that is placed in an escrow account until due diligence is completed; deposit made to the seller/ represents buyer’s good faith1
6. Matters that are identified in schedule B of the title commitment such as existing mortgages, judgment liens, tax liens, easement agreements 2.1
7. A survey determining, predominantly, land boundaries and building locations, 2.2
8. They refer to the right to develop and operate property for a particular use. 2.4
9. When the borrower does not make the payments required by the mortgage, the lender may cause the secured property to be sold and use the proceeds of the sale to satisfy the unpaid debt. 3
10. The former contains title covenants found in the General Warranty Deed (such as the grantor guaranteeing that there are no claims or encumbrances against the property) but only applies them to defects arising during the time the grantor owned the real estate-Quitclaim Deed contains no covenants and conveys whatever right, title, or interest the grantor may have in the property. 5.2.2/5.2.3

A.ii)

1. F, 1
2. T, 2.1
3. F.2
4. F, 2.1
5. F, 2.3
6. T, 2.3
7. T, 3
8. T, 4.3
9. T, 5.3
10. F, 5.3

B. Vocabulary

- | | |
|---|--|
| 1. gebotene Sorgfalt | 11. rent |
| 2. Servitut | 12. building code |
| 3. Besitzstörer*, Rechtsverletzer | 13. earnest money |
| 4. Grundstücksbelastung | 14. priority, rank |
| 5. Einwand des gutgläubigen Erwerbs | 15. document, deed |
| 6. Bewertung | 16. foreclose auctioning, compulsory auction |
| 7. Recht der einzelnen US-Bundesstaaten | 17. tenancy in common, joint ownership |
| 8. Verwirkung, Verlust | 18. term |
| 9. Interessen Dritter | 19. encroachment, infringement |
| 10. Vermieter | 20. right of survivorship |

C. Language

XI.B. The British Constitution

A. Comprehension

A.i)

1. English judges in medieval times were in some respects left to decide for themselves what the law should be, being influenced by the Church and local custom. Their decisions in important cases, as reported officially from 1863 and unofficially long before then constitute the common law. 3
2. It enshrined the European Convention of 1950 in English law - this required the courts to take account of the decisions of the European Court of Human Rights and to interpret English law consistently with Convention rights. 4
3. It would have required amendment of the Suicide Act (1961), which made it a crime to help someone die. Was this compatible with the claimants' rights to private and family life as guaranteed by art. 8 of the convention? The Court agreed that the law's interference with the claimants' rights was "grave" but did not make the declaration of incompatibility it could have made. It put the responsibility for reform directly and urgently upon Parliament. 4
4. The Royal Powers are exercised only in accordance with the advice given by the leader of the political party in power - a compromise only reached after centuries of struggle. 1
5. Once every five years (Fixed Term Parliaments Act 2011). 2

A.ii)

1. F, 2
2. T, 2
3. F, 3
4. F, only until 1966 3
5. T, 3
6. F, 1
7. F, 4
8. F, 2
9. T, 2
10. F, Intro

B. Vocabulary

- | | |
|---|--|
| 1. Zufall | 11. encroachment |
| 2. rechenschaftspflichtig | 12. right of defence against a sovereign power |
| 3. Sitzungsgeld | 13. war of aggression |
| 4. Abgeordneter mit geringfügigerem Einfluss, „Hinterbänkler“ | 14. accession (to the EU) |
| 5. Kabinett | 15. municipality, community |
| 6. Beschwerdeführer/Kläger | 16. territory |
| 7. Mitglied der Conservative Party | 17. right to benefit |
| 8. konstitutionelle Monarchie | 18. civilized nation |
| 9. Verfügung, Anordnung | 19. to nominate |
| 10. königliches Edikt | 20. public subsidy |

C. Language*C.i)*

verb	adjective	adverb	noun (person)	noun (thing)
rule	ruled/ruling	(ruly/unruly)	ruler	rule
devolve	devolved/devolving	-	-	devolution
constitute	constituted/constitutional	constitutionally	constituent	constitution
grieve	grieving	grievingly	griever	grievance/grief
elect	elected/electing/electoral	-	elector	election

C.ii)

British citizen's rights and duties have been assembled over the centuries as much by chance as by intention. Elements include the Magna Carta 1215 (a settlement between the king and the barons, limiting the king's power and perhaps the origin of the right to trial by jury), the Bill of Rights 1688, customs, constitutional conventions (practices and procedures accepted as legally binding), and the judgements of the courts.

C.iii)

1. crucial
2. offensive
3. maladministration
4. defamation
5. remedy

XIII. Strafrecht – Criminal Law

XIII.A. Criminal Law in the United States

A. Comprehension

A.i)

1. Explain preemption. 3
2. Give some examples of the activities of espionage. 6.3.1
3. Explain inchoate crimes. Give an example. 6.6
4. Distinguish between the crimes of assault and battery. 6.1.2
5. What two elements must be present to be convicted of a crime? 5
6. Give an example of a situation that may give rise to a defense of necessity. 8.2.2

A.ii)

1. F, 1
2. F, 5
3. F, 5
4. T, 6.1.3
5. F, 7
6. T, 8.2
7. T, 8.3.2
8. F, 8.4
9. F, 6.1.1
10. T, 2

B. Vocabulary

- | | |
|---|-------------------------------|
| 1. schwerer tätlicher Angriff | 11. prostitution |
| 2. Kautio, Sicherheitsleistung | 12. pardon |
| 3. Erziehungscamp/-lager | 13. legal certainty |
| 4. Hauptvorbringen der Staatsanwaltschaft | 14. to object |
| 5. Bestechlichkeit | 15. money laundering |
| 6. Freiheitsstrafe | 16. compulsory representation |
| 7. Strafverteidiger, Verteidiger | 17. culpable/ly |
| 8. Trunkenheit am Steuer | 18. terrorist offence |
| 9. Mord | 19. interrogation |
| 10. Vergewaltigung | 20. means of coercion |

C. Language

C.i)

1. Failures to perform these acts, again coupled with the *necessary state* of mind or intent, can render one criminally liable. -necessary and state of mind not states of mind (typos/spelling)
2. Correct
3. There *was*, under the common law, and now under criminal codes, a variety of types of murder. ('There was', because variety is singular.)
4. Embezzlement is another kind of theft *offense* wherein the *defendant* already has rightful possession of the property, but then *fraudulently* converts it to his own use. (typos /spelling - American English in the case of "offense").
5. Arson is simply stated as the burning of a *dwelling* of another with malice. (typos/spelling)