

CONTENTS

- INTRODUCTION 5
 - I. CHARACTERISTICS OF THE LANGUAGE OF THE LAW 7
 - II. JUSTICE AND THE LAW IN THE UNITED KINGDOM 13
 - III. COMMON LAW AND EQUITY 16
 - IV. THE SYSTEM OF JUSTICE 23
 - V. THE LEGAL PROFESSION 33
 - VI. THE JURY IN THE ANGLO-AMERICAN SYSTEM OF LAW 37
 - VII. WHAT IS LAW? 43
 - VIII. HUMAN RIGHTS..... 47
 - IX. CRIMINAL AND CIVIL LAWS..... 54
 - X. LAWMAKING..... 56
 - XI. HEADS OF STATE..... 63
 - XII. THE CZECH CONSTITUTION 76
 - XIII. INTRODUCTION TO CRIMINAL LAW..... 85
 - XIV. THE CRIMINAL JUSTICE PROCESS: INVESTIGATION PHASE..... 91
 - XV. CRIMINAL JUSTICE AND CRIMINAL PROCEEDINGS..... 95
 - XVI. SEARCH AND SEIZURE 99
 - XVII. INTERROGATIONS AND CONFESSIONS 102
 - XVIII. CRIMINAL JUSTICE PROCESS: PROCEEDINGS BEFORE TRIAL 107
 - XIX. CRIMINAL JUSTICE PROCESS: THE TRIAL 110
 - XX. CRIMES AGAINST THE PERSON 115
 - XXI. CRIMES AGAINST PROPERTY 125
 - XXII. DEFENCES 131
 - XXIII. SENTENCING..... 140
 - XXIV. INTRODUCTION TO TORTS 143
 - XXV. INTENTIONAL TORTS..... 152
 - XXVI. NEGLIGENCE..... 166

XXVII. INSURANCE	173
XXVIII. STRICT LIABILITY	176
XXIX. CIVIL PROCEDURE	185
XXX. FAMILY LAW – MARRIAGE AND SEPARATION	195
XXXI. FAMILY LAW – CHILDREN, ALIMONY	209
XXXII. INTRODUCTION TO CONTRACTS	216
XXXIII. FACTORS CAUSING INVALIDITY OF A CONTRACT	222
XXXIV. DISCHARGE OF A CONTRACT	233
XXXV. TYPES OF A CONTRACT	242
XXXVI. INTRODUCTION TO EMPLOYMENT LAW	252
BIBLIOGRAPHY	226

THE JUDICIARY

The judiciary in the Czech Republic is defined by the Constitution so that the courts perform their duties as independent authorities (Art. 82 CCR).

The system of ordinary courts is made up of District, Regional, High courts and the Supreme Court. The system of general (civil and criminal) judiciary is supplemented by administrative and constitutional judiciary.

The Constitutional Court has the authority to protect constitutionality (Art. 83 CCR). It is composed of fifteen justices appointed for a period of ten years (re-appointment possible). The justices are appointed by the President of the Republic with the consent of the Senate.

The judicial system in the Czech Republic is recognized as a professional career judiciary. There is no trial by jury. There is, however, the laic participation in the administration of justice in the form of laypersons sitting as judges in chambers, hearing cases at first instance. Laypersons are elected by municipal assemblies. Two lay judges sit with a professional judge, hearing non-specialized cases at first instance. Appellate and Supreme courts' chambers are composed of professional judges only.

The judges are appointed by the President of the Republic. They must be at least 30 years of age at the time of the appointment, must have completed an M.A. in law and a three year period of specialized training within the courts. Judges are appointed for life and can be only removed following disciplinary proceedings conducted by a special judicial ethics panel.

Civil and criminal courts share the same judicial structure. Together, they form the courts of general jurisdiction (obecné soudnictví). They are competent in all types of disputes with the exception of those expressly reserved for the administrative courts or the Constitutional Court.

The structure of the ordinary courts is as follows:

Supreme Court located in Brno;

2 High Courts (one located in Prague with jurisdiction over Bohemia and the other seated in Olomouc with jurisdiction over Moravia);

8 Regional courts (the regional court in the capital is called Metropolitan Court in Prague (Art. 11 Judges Act 2002);

86 District courts (the district court in the district Brno is called City Court, Art. 12 Judges Act 2002).

Judges

Czech law is a continental type of law. The judge is bound by law in his/her decision taking. He/she is entitled to consider consistency of another legal rule

XII. THE CZECH CONSTITUTION

with the law. Judges are independent in exercising their functions and bound by the law only. They are bound to interpret rules of law in accordance with their best knowledge and conscience, and obliged to decide impartially, fairly and with no delay, based on the facts found, consistent with the law only.

The Supreme Audit Office

The Supreme Audit Office is established by the Constitution, it is an independent state body that audits management of state property and implementation of state budget.

The Czech National Bank

The Czech National Bank is the state central bank, entrusted with maintaining price stability. Its competence comprises issuing of banknotes and coins, setting the monetary policy, managing of the circulation of the Czech currency and the payment system, supervision of the financial market, bank sector and other financial institutions.

The Public Defender of Rights

His/her task is to defend individuals against such conduct of authorities enumerated in Art. 1 (2) PDR Act that does not comply with principles of a democratic state, rule of law and good administration, as well as against illegal inactivity of those authorities (Art. 1 PDR Act). In order to protect public interest he/she has the special legitimation to challenge a decision of an administrative authority at an administrative court and to seek abrogation of a law other than a statute at the Constitutional Court.

1. Decide: True or false?

1. The Parliament consists of two chambers – The Chamber of Representatives and the Senate. _____
2. The Parliament is the supreme judicial body, it passes all bills valid in the territory of the Czech Republic. _____
3. The Government is the supreme body of executive power. _____
4. The Constitutional Court was set up to protect governmental rights. _____
5. The Supreme Court is the supreme legislative body in all matters within the jurisdiction of the courts. _____

2. Fill in missing words:

1. Judges are appointed by _____.

XII. THE CZECH CONSTITUTION

2. Every two years one-third of the Senate's seats come up for _____.
3. The President may serve a maximum of _____ terms in office.
4. Presidential power is limited, the most important is the right to _____ any _____ which has already been passed by _____.
5. The Government is the supreme body of _____ power.
6. The Government has exclusive legislative initiative in terms of the _____.
7. Based on law, the main goal of the Czech national bank is to preserve stability and purchasing power of the _____.
8. The Constitutional Court was set up to protect _____.
9. Judges of the Constitutional Court who are appointed by the President with _____ for a term of ten years.

3. In the extract about the President find English equivalents for the following terms:

- společná schůze _____
výkon funkce _____
ujmout se úřadu _____
složit slib _____
podepisovat zákony _____
být zvolen dvakrát za sebou _____
jmenovat a odvolávat předsedu vlády _____
svolávat zasedání poslanecké sněmovny _____
rozpustit sněmovnu _____
odpouštět a zmírňovat tresty _____
jmenovat soudce Ústavního soudu _____

4. Translate the following sentences into English:

1. Ústava je základní zákon země, jenž stanovuje charakter, koncepci a organizaci vlády a hlavní zásady vnitřního života společnosti.

XII. THE CZECH CONSTITUTION

2. Americká ústava neupravuje chování soukromých osob.

3. Státní moc se podle ústavy skládá ze tří složek – moci výkonné, zákonodárné a soudní.

4. Zákonodárnou moc představuje parlament, který se obvykle skládá ze dvou komor.

5. Soudní moc je vykonávána prostřednictvím soudů, jejichž úkolem je vykládat a aplikovat právo.

6. Prezident USA je volen ve všeobecných volbách na období čtyř let.

5. **Briefly summarize (100) the main similarities and differences between the powers of the American and Czech Presidents:**

6. **There are fifteen words connected with politics in the box. Use them to complete the sentences – in some cases you will need to make plural:**

abstention	budget	consensus	constitution	devolution	house
leader	leak	legislation	membership	policy	poll
spokesman	veto				recess

1. Germany has a federal _____.

2. A government _____ revealed that discussions had been concluded on the treaty.

3. According to the latest opinion _____ the Prime Minister is more unpopular than ever.

4. Poland's application for _____ of the EU was successful.

5. Many Scots would like to see more _____ of power from Westminster.

XII. THE CZECH CONSTITUTION

6. Parliament has introduced _____ to control the sale of drugs.
7. The bill was passed by both _____ and sent to the President for signature.
8. The crisis happened during the summer _____ and Parliament had to be recalled.
9. The government is investigating the latest _____ of documents relating to the spy trial.
10. The government is running a tight monetary _____ to try to control inflation.
11. The _____ of the opposition criticized the Prime Minister for his failure to act.
12. The motion was carried by 200 votes to 150; there were 60 _____.
13. The President has the power of _____ over bills passed by Congress.
14. There is a _____ between all the major parties about what we should do now.
15. The minister has put forward a _____ aimed at slowing down the economy.

XXXII. INTRODUCTION TO CONTRACTS

KEY TERMS

as per contract	fixed-term contract
assign	formation of a contract
assignee	make a contract
assignor	mature into a contract
break a contract	misrepresentation
condition of a contract	pecuniary
consideration	performance
contractual obligations	subject matter of a contract
counteroffer	terminate the contract
deed	terms
default discharge	unenforceable contract
execution of contract	vitiating
express and implied terms	wilful misrepresentation

A contract may be defined as a legally binding agreement or, in the words of Sir Frederick Pollock: “A **promise or set of promises which the law will enforce**”.

Under the common law, a promise becomes an enforceable contract when there is an offer by one party (offeror) that is accepted by the other party (offeree) with the exchange of legally sufficient consideration; hence the equation learned by law students: offer + acceptance + consideration = contract. A one-sided promise to do something (e.g. a promise to make a gift) does not lead to formation of an enforceable contract, as it lacks consideration.

The agreement will create rights and obligations that may be enforced in the courts. Rights are something positive which a party wants to get from a contract (e.g. the right to payment of money). Obligations are something which a party has to do or give up to get those rights (e.g. the obligation to work). A party may want to transfer its rights under a contract to another party. This is called an assignment. When a party assigns its rights under the contract to another party, the assigning party is called assignor and the party who gets the rights is called the assignee.

When there has been a breach of contract, the non-breaching party will often seek remedies available under the law. The basic remedy for breach of contract in the Anglo-American legal system is pecuniary compensation to an injured party for the loss of the benefits that party would have received had the contract been performed. Where monetary damages would not be an adequate remedy, such as in a case where two parties enter into a real estate contract and the seller decides to sell to a third party, the court may order specific performance. Specific performance involves an order by the court compelling the breaching party to perform the contract.



Keep working, Mike. This contract needs more obfuscation.

CLASSIFICATION

Contracts may be divided into two broad classes:

Contracts by deed

A deed is a formal legal document signed, witnessed and delivered to effect a conveyance or transfer of property or to create a legal obligation or contract.

Simple contracts

Contracts which are not deeds are known as simple contracts. They are informal contracts and may be made in any way - in writing, orally or they may be implied from conduct.

Another way of classifying contracts is according to whether they are “bilateral” or “unilateral”.

Bilateral contracts

A bilateral contract is one where a promise by one party is exchanged for a promise by the other. The exchange of promises is enough to render them both enforceable. Thus in a contract for the sale of goods, the buyer promises to pay the price and the seller promises to deliver the goods.

Unilateral contracts

A unilateral contract is one where one party promises to do something in return for an act of the other party, as opposed to a promise, eg, where X promises

a reward to anyone who will find his lost wallet. The essence of the unilateral contract is that only one party, X, is bound to do anything. No one is bound to search for the lost wallet, but if Y, having seen the offer, recovers the wallet and returns it, he/she is entitled to the reward.

ELEMENTS

The essential elements of a contract are:

Agreement

An agreement is formed when one party accepts the offer of another and involves a “meeting of the minds”.

Consideration

Both parties must have provided consideration, ie, each side must promise to give or do something for the other.

Intention to create legal relations

The parties must have intended their agreement to have legal consequences. The law will not concern itself with purely domestic or social agreements.

In some cases, certain formalities (that is, writing) must be observed.

Capacity

The parties must be legally capable of entering into a contract. Some persons, e.g. children have limited capacity to make contracts.

Consent

The agreement must have been entered into freely. Consent may be vitiated by duress, mistake, misrepresentation or undue influence.

Legality

The purpose of the agreement must not be illegal or contrary to public policy. Contract which possesses all these requirements is said to be valid. The absence of an essential element will render the contract either void, voidable or unenforceable (as to which see below).

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

1. Contract law deals with promises which create legal rights. _____

XXXII. INTRODUCTION TO CONTRACTS

2. Consent may be vitiated by duress or undue influence. _____
3. In all legal systems, parties must give something of value in order for a contract to be formed. _____
4. The absence of an essential element will render the contract valid. _____
5. The assigning party is called the assignee and the party who gets the rights is called the assignor. _____
6. The essence of the unilateral contract is that only one party, X, is bound to do anything. _____

2. Complete these sentences using the words in the box:

capable	breach	performance	simple offer	promise	freely
---------	--------	-------------	--------------	---------	--------

1. An agreement is formed when one party accepts the _____ of another and involves a “meeting of the minds”.
2. Contracts which are not deeds are known as _____ contracts.
3. The normal method of enforcement is an action for damages for _____ of contract, though in some cases the court may order _____ by the party in default.
4. The parties must be legally _____ of entering into a contract.
5. A bilateral contract is one where a _____ by one party is exchanged for a promise by the other.
6. The agreement must have been entered into _____.

3. Answer the questions:

1. When does a promise become an enforceable contract?
2. What are two broad classes of contracts?
3. Name essential elements of a contract.
4. What is a basic remedy for a breach of contract in Anglo-American system of law?
5. What does the absence of an essential element lead to?

4. Translate into Czech these four concepts mentioned above:

misrepresentation _____

duress _____

undue influence _____

mistake _____

ENFORCEABILITY**Void contracts**

A “void contract” is one where the whole transaction is regarded as a nullity. It means that at no time has there been a contract between the parties. Any goods or money obtained under the agreement must be returned. Where items have been resold to a third party, they may be recovered by the original owner. An example of an illegal contract would be a murder-for-hire. Assume that a famous athlete pays a hitman to kill his wife. The athlete pays the hitman \$1 million in advance, but the hitman never kills the athlete’s wife. The athlete cannot sue or take the hitman to court for not performing under the contract. No court would enforce this contract, and the athlete would have to be out of his mind to bring such a case against the hitman.

Voidable contracts

A contract which is voidable operates in every respect as a valid contract unless and until one of the parties takes steps to avoid it. It is sometimes said that a voidable contract is one that is valid unless it is voided. Anything obtained under the contract must be returned, insofar as this is possible. If goods have been resold before the contract was avoided, the original owner will not be able to reclaim them. An example would be where a painter is contracted to paint a building. The building is demolished by a tornado before the painting can take place. The contract is voidable by building owner or painter since the subject matter has been destroyed. Generally, any contract entered into by a mentally-impaired person or a minor would be deemed voidable. If a court has declared a person incompetent or a person has been placed under the guardianship of another person, contracts that person enters into would be voidable.

Unenforceable contracts

An unenforceable contract is a valid contract but it cannot be enforced in the courts for some legal reason. An oral contract for sale of real property is an example of an unenforceable contract. Such a contract is required to be in writing to be enforceable.

5. Provide English translation:

1. Tato smlouva je neplatná.
-

2. Souhlas byl dán pod nátlakem.
-

3. Soudce nařídil konkrétní plnění smlouvy.

4. Předmět smlouvy není v souladu se zákonem.

5. Smlouva je právně vynutitelná.

6. Zrušitelná smlouva je smlouva, která může být kdykoliv zrušena jednou ze smluvních stran.

7. Nezletilé osoby mají omezenou způsobilost vstupovat do smluvních vztahů.

8. Smluvní strany uzavřením smlouvy přijímají povinnosti a závazky, které jsou právně závazné.

9. Smlouva je dohoda mezi stranami, které mají právní způsobilost.

10. Tato ústní dohoda o prodeji nemovitosti není právně vynutitelná.
