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LEGAL ENGLISH – A PRACTICAL APPROACH

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**EDITURA UNIVERSITARIA
Craiova, 2014**

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Descrierea CIP a Bibliotecii Naționale a României

BADEA, SIMINA

Legal English : a practical approach / Badea Simina. –

Craiova : Universitaria, 2014

Bibliogr.

ISBN 978-606-14-0862-7

811.111

UNIT 1

INTRODUCTION TO LAW

Learning objectives:

In this unit, you will:

- acquire the introductory notions to law (definition, meanings of the terms *law* and *right*, functions of law, definition of *jurisprudence*, types of law)
- discover the Romanian equivalents of these terms
- practise the relevant vocabulary by completing various exercises
- develop translation skills

Reading

Law and Right

In a general sense, the term **law** (R. *drept*) can be defined as a body of official rules and regulations enforced by a political authority in order to govern a society.

A **law** (R. *lege*) is a piece of enacted legislation.

Other definitions of law include:

”1. the enforceable body of rules that govern any society; 2. one of the rules making up the body of law, such as an Act of Parliament .” (*Oxford Dictionary of Law*)

”1. the legislative pronouncement of rules to guide one’s actions in society; 2. the total of those rules of conduct put in force by legislative authority or court decisions, or established by local custom.” (*Barron’s Dictionary of Legal Terms*)

”1. the regime that orders human activities and relations through systematic application of the force of politically organized society, or through social pressure, backed by force, in such a society; the legal system; 2. the aggregate of legislation, judicial precedents, and accepted legal principles; the body of authoritative grounds of judicial and administrative action; 3. the set of rules or principles dealing with a specific area of a legal system; 4. the judicial and administrative process; legal action and proceedings (...).” (*Black’s Law Dictionary*)

It is important to distinguish between **law** and **right**, since they can be both translated into Romanian as “drept”.

The definition of the term **right** can be formulated as follows:

”1. title to or an interest in any property; 2. any other interest or privilege recognized and protected by law; 3. freedom to exercise any power conferred by law.” (*Oxford Dictionary of Law*)

The answer to the question "What is law?" concerns an entire field of study known as **jurisprudence**.

The term comes from Latin ‘juris prudentia’, meaning “the study, knowledge or science of law”.

Scholars of jurisprudence or legal theorists raise fundamental questions about law (questions such as “What should be prevalent, written rules and regulations or unwritten principles derived from tradition, moral concepts, historical

practice?”), seeking to analyze various branches of law, to contrast it with other fields of knowledge, to offer deeper insight into the nature of law, legal systems and institutions.

Jurisprudence also denotes the course of judicial decisions, i.e. case law, as opposed to legislation.

Every society, every community that has ever existed has recognized the need for rules, either in written or unwritten form. These rules are essential if the community is to work, they come into being in various forms. When some people have the power, the authority to enforce a rule, it will acquire the status of a “law”.

Word study

law s. = drept (ca știință); lege

right s. = drept subiectiv (ca prerogativă a persoanei)

to enforce a law/rule = a pune în aplicare o lege/normă

enforceable adj. = executoriu; opozabil

to enact v.t. = a adopta, a legifera, a hotărî

body of rules/laws = totalitatea normelor/reglementărilor/legilor

legislative pronouncement = concretizarea legislativă

to come/enter into force = a intra în vigoare

conduct s. = conduită, comportament

court s. = instanță de judecată

to establish v.t. = a institui, a stabili, a înființa

custom s. = cutumă, obicei

judicial precedent = precedent judiciar

grounds s. = temeieri, considerente

proceedings s. = proceduri

title s. = titlu, drept; document doveditor al unui drept

jurisprudence s. = jurisprudență

prevalent adj. = predominant, preponderent

branch of law = ramură de drept

1.1. Translate into English:

1. Dreptul este o știință, dar și o artă.
2. Nu cunosc circumstanțele de drept și de fapt ale cauzei.
3. Multe tribunale administrative nu au reguli privind dreptul de a pleda.
4. Statele trebuie să asigure protecția împotriva încălcării drepturilor omului.
5. Nu este suficient ca o lege să fie bună, ea trebuie aplicată corect.
6. Dreptul se împarte pe ramuri: drept civil, drept penal, drept constituțional, drept administrativ etc.
7. Guvernul a introdus noi legi privind protecția mediului.
8. Studiul științific al dreptului se numește jurisprudență.
9. Familia și școala trebuie să formeze cetățeni care să respecte legea.
10. Faptele sale au avut drept consecință pierderea drepturilor civile.

You can use the following terms and phrases:

legal and factual issues/circumstances = circumstanțele de drept și de fapt

case s. = cauză

right of audience = dreptul de a pleda

to infringe a right = a încălca un drept

infringement s. = încălcare

to enforce a law = a aplica o lege

criminal law = drept penal

environmental protection = protecția mediului

law-abiding citizens = cetățeni care respectă legea

civil rights = drepturi civile

1.2. Choose the correct answer(s) and underline it (them):

1. A right refers to:

- a) a body of principles concerned with a typical area of a legal system;
- b) a power, interest or privilege secured to a person and protected by law;
- c) a legally enforceable claim that another shall do or shall not do a given act.

2. Law is defined as:

- a) a body of rules and principles governing the affairs of a community and enforced by a political authority;
- b) the condition of social order and justice created by adherence to such a system;
- c) a piece of enacted legislation.

Reading

Functions of Law

Without laws, the world would be a total chaos, therefore the primary function of law is to maintain stability. There are many **functions** that law serves. For instance, laws against crimes help to maintain a relatively stable society, using sanctions as means by which the decisions of the courts are enforced.

Law protects property and fosters the exchange of goods and services in an economic society, also facilitating business activities and voluntary agreements (contracts).

Despite the fact that law has always been influenced by traditional ideas of right and wrong, it has also been used as an innovating, though formal mechanism of social change and

control, protecting rights, inhibiting discrimination and improving the quality of individual life.

Besides formal legal rules, there are other means of social control and guides for behaviour such as mores, morality, public opinion and custom or tradition.

1.3. Choose the correct answer(s):

Among the main functions of law, one can mention:

- a) dispute resolution;
- b) protection of property;
- c) enforcement of moral precepts.

1.4. Fill in the blank spaces with derivatives from the words in brackets:

1. The judicial function lies in the centre of any legal system, mainly dealing with the ... of disputes. (adjudicate)
2. It ensures that the ... parties submit to adjudication. (dispute)
3. One of the functions of law is to prevent ... conduct. Law also governs the relations between individuals, providing facilities for private ... (desire, arrange)
4. Law is needed for the ... of disputes found in courts and tribunals. (settle)
5. A law usually prohibits what is morally wrong and Therefore, the relationship of law to ... is crucial in order to understand the law. (accept, moral)
6. Mores represent the accepted traditional customs and ... of a particular social group. (use)
7. Violations of mores had as a consequence the ... of various sanctions. (impose)
8. Public opinion refers to the public consensus, as with respect to an issue or situation. It reflects the attitudes and ... of a group of people with regard to issues concerning everybody. (prefer)

9. In spite of the defeat, the ... was still high. (moral)
10. We are not in the position to ... on his behaviour. (moral)

1.5. Fill in the blank spaces with the appropriate words:

MORES are the accepted social (1)... prescribing behaviour of (2)... in society. They are part of the (3)...of a people. When people violate mores, this (4)... to the imposition of various (5)... such as (6)... or (7)... punishment.

- (1) a) regulations; b) benefits; c) rules;
- (2) a) convicts; b) individuals; c) officials;
- (3) a) legal system; b) folkways; c) Civil Code;
- (4) a) leads; b) prescribes; c) rules;
- (5) a) sanctions; b) offences; c) penalty;
- (6) a) death penalty; b) ostracism; c) court decisions;
- (7) a) other kinds of; b) various; c) different.

PUBLIC OPINION is the voice of the people and it thus mirrors the attitudes and (1)... of a population toward (2)..., circumstances, and issues of (3)... interest. It is characteristically (4)... by the (5)... survey or public opinion (6)... .

- (1) a) events; b) perspectives; c) horizons;
- (2) a) politics; b) events; c) externalities;
- (3) a) mutual; b) economic; c) legal;
- (4) a) weighed; b) displayed; c) measured;
- (5) a) sample; b) example; c) epitome;
- (6) a) view; b) pool; c) poll.