**УО «БЕЛОРУССКИЙ ГОСУДАРСТВЕННЫЙ ЭКОНОМИЧЕСКИЙ УНИВЕРСИТЕТ»**

**Л.Д. Гайдук**

**Законодательная система в Республике Беларусь**

**Legal System in the Republic of Belarus**

**Учебное пособие по английскому языку**

**для магистрантов специальностей**

**1-24 81 03 «Правовое регулирование внешнеэкономической деятельности»,**

**1-24 81 01 «Правовое обеспечение хозяйственной деятельности» дневной и заочной форм обучения**

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Данное учебно-методическое пособие направлено на развитие и совершенствование навыков профессиональной английской речи магистрантов правовых специальностей 1-24 81 03 «Правовое регулирование внешнеэкономической деятельности» и 1-24 81 01 «Правовое обеспечение хозяйственной деятельности» дневной и заочной форм обучения учреждения образования «Белорусский государственный экономический университет».

Цель учебного пособия – активное овладение магистрантами лексикой юридической направленности и её использование в повседневной практике делового общения по специальности.

**ПРЕДИСЛОВИЕ**

Предлагаемое учебное пособие состоит из 3-х разделов, в которых представлена информация об истории государства и права в Республике Беларусь; о гражданских правоотношениях и способах их регулирования (заключение контрактов). В пособии обсуждается вопрос семейного права (расторжение брака); дается сравнительный анализ гражданского и уголовного процессов в Республике Беларусь. Здесь также представлена информация о преступлениях, наказаниях и о высшей мере наказания в Республике Беларусь.

Каждый раздел включает тематически подобранные аутентичные тексты со словарными пояснениями и комплекс послетекстовых упражнений, направленных на развитие и совершенствование навыков подготовленной и неподготовленной устной речи. Предлагаются также и тексты для дополнительного чтения. Данная тематика представляет интерес для студентов и магистрантов – правоведов.

Учебное пособие способно обучить извлекать информацию из аутентичных текстов, что важно для будущих юристов.

Пособие адресуется студентам, магистрантам и аспирантам БГЭУ и других учреждений образования юридического профиля очного и заочного обучения, реализующих учебные программы по специальности «Правоведение». Данное учебное пособие предназначено также для тех, кто специализируется в юридических науках и совершенствует свои знания, как под руководством преподавателя, так и самостоятельно.

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**UNIT 1**

**LEGAL SYSTEM**

**Task 1.** *Read the text and get ready to discuss its main points*:

**TEXT A**

**Legal System of the Republic of Belarus**

**Legal system** of any state reflects objective laws of development of society, its historical, national and cultural peculiarities. The Republic of Belarus like any other state has its own legal system, which has both common features with legal systems of other countries and its special characteristics.

The legal system of the Republic of Belarus has been influenced by *politics and political culture, religion, philosophy, morals, artistic culture* and *science*. It has close connection with an *economic* factor – development of productive forces and labour-management relations, with the appearance of market economy. The traditional legal values interact with new legal values taken over by the legal system of Belarus from other legal systems.

**Law** can be defined as *a set of rules which form the pattern of behavior of a given society.* Law is one the most basic social institutions – and one of the most necessary. The Law also sets penalties for people who violate these rules and it states how government shall enforce the rules and penalties.

Law essentially serves two functions in modern society. First, it serves to order and regulate the affairs of all “persons” be they individuals, corporations or governments. Secondly, law acts as a standard of conduct and morality.

The structure of the legal system of the Republic of Belarus contains the following groups of legal elements:

* law rules, legal principles, legal institutions in the *normative* aspect;
* legal institutionsin the *organizational* aspect.

The *first group of elements*can be described as the historically formed **system of law** of Belarus. The sphere in which the law operates is extensive. It embraces all the spheres of production, distribution and exchange. Law fixes the forms of administration and the constitutional system, and determines the legal status of citizens and activity of the state mechanism (*state law, administrative law*). It fixes the existing property relations, operates and regulates a measure and forms of distribution of labour and products among the members of society (*civil law, labour law*). Finally, the law lays down the existing order of social relations, (*criminal law, procedural law, corrective labour law*).

However, the laws enforced by government can be changed. They are divided into branches, sub-branches of law and legal institutions such as:

* constitutional law,
* civil and civil procedure law,
* administrative and administration procedure law,
* criminal and criminal procedure law,
* law of execution of criminal punishment,
* international public and international private law,
* labour law,
* family law,
* land law,
* financial law,
* banking law,
* social security law,
* commercial law,
* contract law,
* environmental law, etc.

Rules of law, being a content of legal institutes and branches of law, are created by law-making competent state bodies of the Republic of Belarus, and thus rules of law assume some exterior forms. All legal actsof the Republic of Belarus as fundamental sources of law are divided into two big groups:

* legislative acts;
* secondary legislation.

The Constitution of the Republic of Belarus is the Fundamental Law of the Republic of Belarus having the supreme legal force.

**Task 2.** *Give Russian equivalents for the following legal terms from the text:*

|  |  |
| --- | --- |
| 1. a legal system | 8. to embrace |
| 2. peculiarities | 9. property relations |
| 3. labour-management relations | 10. to lay down the existing order |
| 4. a pattern of behavior | 11. a criminal procedure law |
| 5. to enforce penalties for people | 12. a secondary legislation |
| 6. content of legal institutes | 13. a law of execution |
| 7. a standard of conduct | 14. legitimacy (in family law) |

# Discussion

**I. Answer the following questions on the text:**

1. What does the legal system of Belarus reflect?

2. What influences Belarus legal system?

3. What factors determined the development of the legal system of the Republic of Belarus?

4. What are the main characteristics of the legal system of the Republic of Belarus?

5. What is a law?

6. What legal elements constitute the normative aspect of our legal system?

7. What legal elements constitute the organizational aspect of our legal system?

8. Which Belarus top-level documents possess a juridical power?

9. Why is there a variety of 28 codes in the legal system of our country?

**II.****Define if the following statements are true of false. Give your arguments:**

1. The legal system of the Republic of Belarus has been influenced by its politics and political culture only.

2. The Law states how government can enforce the rules and penalties.

3. The law system embraces all the spheres of production, distribution and exchange.

4. Legal acts of ministries and other governmental departments constitute the secondary legislation in Belarus.

5. Legislative acts cover laws approved only by the President of Belarus.

6. The structure of the legal system of the Republic of Belarus contains the law rules, legal principles, legal institutions and the legal institutions**.**

7. Belarus law system is divided into 3 main branches: economic, civil and criminal ones.

8. The Constitution of the Republic of Belarus is the Fundamental Law of the Republic of Belarus having the supreme legal force.

**TEXT B**

**Historic Roots of Belarus Legislative Acts**

**Task 1.** R*ead the text and get ready to discuss its main points*:

It’s generally known that all legal systems can be categorized into law groups depending on some common features. The modern legal system of the Republic of Belarus as well as legal systems of other states of continental Europe belongs to the *Roman-Germanic Law Family* (jurisprudence of Ancient Rome) as the primary source of this law family. A normative legal act is the main legal source.

The main characteristics of the Roman-Germanic Law Family are:

* optimal generalization of a rule of law,
* dividing of law into public and private law,
* Independence of one branch of law from different law branches.

The legal system of our country has profound historical roots. The sources of Belarusian Feudal Law rank high among other world famous ancient legal sources (such as the Code of Hammurabi, the Law of the Twelve Tables, the Justinian Code, the Napoleonic Code). They are the famous *Statutes of the Grand Duchy Litovskae* of 1529, 1566 and 1588 as the great achievements of the Belarusian Law. These documents were written during the 16th century in the Belarusian language and they are among the first European constitutions and codes. They have served later as model to some other European legislation. The Statutes of the Grand Duchy of Lithuania are considered to be of the main treasures of Belarusian, Lithuanian and Polish cultures.

The Statute of 1588 used to be the Law in force for 250 years and the legal systems of Belarus and Lithuania used to be based on it. The Polish Constitution of 1791should also be mentioned as a significant legal document in the history of development of the legal system of Belarus. This Constitution along with American and French Constitutions can be pointed out as a most progressive document of 18th century.

The legal system of the Republic of Belarus was influenced essentially by legal systems of other countries in certain historical periods (Poland – during the 17th-18th centuries, Russia – during the 19th-20th centuries). For most of the 20th century Belarus used to be part of the USSR and this fact affected the legal system of today's Belarus. After the break-up of the Soviet Union, the legal system of the Republic of Belarus segregated from the so-called Socialist Law Family.

**Legislative acts**  cover the laws enacted by the Parliament and Decrees/ Directives of the President, Decisions of the Government as well as legal acts of Ministries, State Committees and other state bodies, acts of local Councils of Deputies and Executive Committees and other Governmental departments which are valid as laws.

Acts of Local Councils of Deputies and Local Executive Committees are the most important acts of **secondary legislation.**

*The second group of elements*represents a variety of legal institutions (state bodies) in the legal system of Belarus. They are empowered with law-making functions by the Constitution, the National Assembly (Parliament), the President, the Council of Ministers (Government), ministries, state committees, Local Councils of Deputies and Local Executive Committees of the Republic of Belarus.

The **Constitution** is the supreme law of the country. It has the supreme juridical power in the Republic. All laws, decrees, decision and other legislation acts correspond to the Constitution.

All explanations of Plenums of the Supreme Court and the Supreme Economic Court are obligatory for courts and bodies using the law. Decisions of the Constitutional Court are also obligatory for execution. Legal institutions also include law-enforcement bodies (judicial bodies, prosecution bodies, bodies of internal affairs).

There are *constitutional* laws and *common* laws. Constitutional laws are legislative acts enacting changes and explaining the Constitution (e.g. the “Declaration of the State Sovereignty” from August 25, 1991). Sometimes they have even more juridical power than the Constitution (e.g. the Declarations). They are enacted by 2/3 of the full complement of the both chambers of the Parliament/Natsionalnoye Sobranie of the Republic of Belarus (House of Representatives/Palata Predstaviteley and Council of Republic/Sovet Respublici).

*International treaties* are also an important source of law. The Republic of Belarus recognises the principles of international law and conforms to them in its legislation. However, the Constitution does not speak about the priority of ratified international acts above the laws of the Republic.

The Belarusian legal system has 28 codes, which regulate all spheres of life: the Civil Code, Code of Civil Procedure, Criminal Code, Code of Criminal Procedure, Commercial Code, Code of Commercial / Economic Procedure, Investment Code, Labor Code, Tax Code, Code of Education, Banking Code, Family Code, Electoral Code, Administrative Code, Procedural Executive Code of Administrative Offences, Custom Code, Code of Land, Code of Interior Water Transport, Forest Code, Code of Commercial Navigation, Air Code, House Code, Code of Depths, Budget Code, Code of Judicial Organizations and Status of Judges and etc. The most important codes of Belarus are based on the modelling legislation approved by Inter Parliamentary Assembly of the States of the participants of the Commonwealth of Independent States (CIS). They all have the same juridical power in their own fields.

**Task 2.** *Give Russian equivalents for the following legal terms from the text:*

|  |  |
| --- | --- |
| 1. profound | 6. a law-enforcement body |
| 2. to rank high | 7. a Parliament chamber |
| 3. valid as a law | 8. to be empowered with functions |
| 4. to conform | 9. to be approved by |
| 5. obligatory for execution | 10. Commonwealth of Independent States |

# Discussion

**I. Answer the following questions on the text:**

1. What is the main legal source of the law family of Belarus?

2. How long is the Statute of 1588 in force in Belarus?

3. On what main document are the legal systems of Belarus and Lithuania based?

4. In what respect is the Polish Constitution of 1791 as a significant legal document connected with the legal system of Belarus?

5. What are historical roots of the legal system of the Republic of Belarus?

6. What documents doBelarus legislative acts cover?

7. What constitutes the acts of secondary legislation?

**II.****Define if the following statements are true of false. Give your arguments:**

1. In Roman-Germanic Law different branches of law are separated.

2. The Constitution along with American and French Constitutions can be pointed out as a most progressive document of 18th century.

3. The Republic of Belarus never recognises the principles of international law.

4. All decisions of the Constitutional Court are voluntary, not compulsory, for execution.

5. The legal institutions of Belarus are empowered with law-making functions by the Constitution and the President.

**UNIT 2**

**CIVIL LAW OF REPUBLIC OF BELARUS**

**Task 1.** *Read the text and get ready to discuss its main points*:

**TEXT A**

**Civil Law As Opposed to Criminal Law**

**Task 1.** *Read the text and get ready to discuss its main points:*

Law is classified as**civil** or **criminal** depending on the subject matter of the dispute and the legal consequences which result from the dispute.

**Civil law.** Civil actions may be commenced by any person who seeks compensation for a loss which he has suffered. If the plaintiff is successful he will usually be awarded damages. The damages must be paid by the defendant. Their purpose is to compensate the plaintiff for his loss rather than to punish the defendant. The categories of civil law:

* *Contract* determines promises among persons enforceable.
* *Tort* is defined as the breach of the general duty imposed by law (e.g. the duty not to be negligent or not to trespass on another person’s property).
* *Property law* relates to the ownership and possession of goods.
* *Company law* regulates the relationship that a company has with its directors, shareholders, creditors and employees.
* *Commercial law* covers contractual matters relating to business transactions (e.g. sale of goods, consumer credit, cheques).
* *Employment law* involves contractual relationships between the employer and employee. It also includes redundancy, unfair dismissal, and health and safety at work.
* *Family law* includes the law relating to marriage, divorce, nullity, guardianship and legitimacy.

# Criminal law. A *crime* is regarded as *a wrong done to the state*. Prosecutions are usually commenced by the state, although they may be brought by a private citizen. If the prosecution is successful the accused person (the defendant) is liable to punishment. Some crimes, for example, rape, have specific victims. Others, for example, treason or speeding, can be committed without causing loss to any particular person. If there is a victim the defendant will not usually have a say in whether or not a prosecution is brought, nor will he benefit from a conviction, since fines are payable to the State.

Prosecutions involving most serious offences, known as indictable offences, are brought in the name of the country. Prosecutions of less serious offences, known as summary offences, are usually commenced in the name of the actual prosecutor (normally a police officer).

There are 2 essential concepts in the operation of the Criminal Law: *actus reus* and *mens rea*. *Actus reus* means the “guilty action”, *mens rea* means the “guilty min”'. the thing is that the accused has committed a criminal in nature act. Secondly, it must be shown that he intended to commit an offence deliberately or without a deliberate intention out of his inattentiveness, recklessness or some other state of mind. It will constitute *mens rea* fact.

Thus, *actus reus* is the physical element of crime, *mens rea* is the mental element. A conviction cannot be secured unless it is proved the both factors which is the burden of proof for the judge and the jury.

**Task 2.** *Give Russian equivalents for the following legal terms from the text:*

|  |  |
| --- | --- |
| 1. a wrong done to the state | 10. contractual relationships |
| 2. to commence / bring prosecution | 11. redundancy |
| 3. the defendant is liable to punishment | 12. nullity (of marriage) |
| 4. to benefit from a conviction | 13. guardianship |
| 5. indictable offences | 14. legitimacy (in a family law) |
| 6. summary offences | 15. inattentiveness / recklessness |
| 7. to be negligent | 16. the burden of proof |
| 8. to suffer a loss | 17. plaintiff |
| 9. to impose duty | 18. defendant |

# Discussion

**I. Answer the following questions on the text:**

1. What is the basis for law classification?

2. Who pays damages to a plaintiff?

3. What is the purpose of compensation?

4. What are civil law categories?

5. What are the differences between a company and a property law?

6. How can a crime be characterized?

7. When is an accused person liable to punishment?

8. In what cases are fines payable to the State?

9. What is the main difference between two Criminal Law concepts *actus reus* and *mens rea*?

**II.****Find additional information to define whether the statements given below comply with *the legislation of the Republic of Belarus*. Ground your opinion:**

1. Prosecutions are usually commenced by the State, although they may be brought by a private citizen.

2. If there is a victim the defendant will not benefit from a conviction, since fines are payable to the state.

3. Prosecutions involving most serious offences, known as indictable offences, are brought in the name of the State.

4. Prosecutions of less serious offences, known as summary offences, are usually commenced in the name of the actual prosecutor (normally a police officer).

5. Civil actions may be commenced by any person who seeks compensation for a loss which he has suffered.

6. Employment law involves contractual relationships between the employer and employee.

**III.****Use additional information if necessary. Remember to use as many legal terms as possible while discussing the issues.**

1. Point out major differences between public and civil law. Dwell on their main categories.

2. Explain differences between the criminal and civil procedures.

3. Compare the principles of “proof beyond reasonable doubt” and “proof on the balance of probabilities”.

4. Dwell on points of contact between criminal and civil law.

5. Draw a plan of *the court system in the Republic of Belarus*, showing:

* which legal system it can be referred to;
* which courts have civil functions and which have criminal functions;
* what common and specific features it has as compared to a similar legal system.

### IY. Dwell on the famous quotes containing the words *law* and *criminal:*

a) “With proper attribution, to quote another’s thoughts and words is appropriate; plagiarism, however, is cheating, and it may break copyright ***law*** as well.” — [Kenneth G. Wilson](http://www.liquisearch.com/who_is_kenneth_g._wilson) (1923);

b) “If we are on the outside, we assume a conspiracy is the perfect working of a scheme. Silent nameless men with unadorned hearts. A conspiracy is everything that ordinary life is not. It’s the inside game, cold, sure, undistracted, forever closed off to us. We are the flawed ones, the innocents, trying to make some rough sense of the daily jostle. Conspirators are logical and daring beyond our reach. All conspiracies are the same taut story of men who find coherence in some ***criminal*** act.” — [Don Delillo](http://www.liquisearch.com/who_is_don_delillo) (1926).

**Task 1.** *Read the text and get ready to discuss its main points*:

**TEXT B**

**How to Find the Right Belarus Divorce or Family Law Attorney**

**Task 1.** *Read the text and get ready to discuss its main points*:

If you are preparing to get a divorce, or just considering a legal separation, it is a good idea to begin by finding the right attorney in Belarus for you. Divorce is a big step. It is an intense emotional and psychologicalexperience, but it is also a legal process and in fact, it is a lawsuit. It doesn’t matter if you are a parent, child, single person,a divorce or a family law attorney in Belarus can help. Not every attorney you can trust will be right for you with making the most informed decision.

You should carefully select an attorney who will focus on your family and protect your legal interests. You need a professional who has the right skills, knowledge, experience and personal qualities that fit your case totally. Being on the right page with him, you will have a chance to get through legal problems with the least amount of time, stress and money.

Indeed, a *divorce attorney* in Belarus can work with you on issues like community property division, debt allocation, child custody and support, alimony, and tax considerations while *family law attorneys* assist in situations like parents with juvenile issues, children seeking emancipation, singles with cohabitation and prenuptial agreements before marriage, and spouses or ex-spouses with domestic violence, paternity.

It is very important to look into that his experience and background. There are several ways to do this:

1. *Search the Internet:* Look for a legal blog, a website, information quoting or featuring the attorney in Belarus, and other online information. Ideally, your attorney should devote almost all of his or her practice to the divorce and family law matter you are willing to solve.

2. *Contact the State Office of Court Administration:* This office can tell you about the attorney’s education level, length of his experience in legal matters in Belarus, about his current position standing or possible disciplinary actions.

3*. Ask Around:* You should ask your friends, colleagues, professional advisers and even some of his past or existing clients, etc. any kinds of suitable information about the attorney.

4. *Contact the Selected Attorney’s Office and Schedule Your Initial Consultation.* Even the manner of how he or she handles the simple but important task of scheduling the 1st meeting with can state about you being his potential new client. Requesting an appointment take careful note of how quickly your message is answered. Your inquiry should be answered promptly. If the attorney you contacted cannot manage to reply to a potential new client who is bringing him or her a new case and therefore new fees, that fact should tell you a lot about your possible work with him.

Most good divorce and family law attorneys rely on an assistant to schedule their appointments, and that person is very often responsible for all the interactions with you. If you are not comfortable with the assistant, it is a sign that the attorney may not be right for your law case.Evaluate if the response is clear and unequivocal. You should also ask about the cost of the initial consultation. Please pay careful attention to what you see and hear in your attorney’s office.

Recommendations:

1*. Visit during normal business hours*. Set up your appointment during normal hours in Belarus when the rest of the staff is present. Why? Because you want to meet the staff and see just how well they take care of clients.  
2. *Is the law office neat and clean?* This tells you something about how organized and focused the attorney is. If the office is a mess and there are papers and files everywhere, imagine how that will affect the attorney’s ability to find your file and deal with your case at critical moments.

3. *How do the attorney and his employees behave towards you and each other?* It is important to observe how the attorney’s staff treats you and each other during your visit. What you see when you are there is likely to be their best behavior. If you are not well taken care of during your visit in Belarus or you observe inappropriate behavior during your visit, you can be certain this conduct will get worse once you are a client of the firm.

Preparing for your interview with your divorce attorney in Belarus will help you make a better and more informed decision. You should organize discussion topics prior to meeting and bring with you any relevant paperwork. Your attorney may need some of the documents you bring with you so be prepared and retain copies for your own records. Better if you write down dates and times of events, the names and addresses of any witnesses and any other important facts.

You should try to understand that attorneys in Belarus have professional and ethical commitments to all their clients, so you should expect your interview to last about 30-45 minutes on average.

You should be able to ask questions about your case writing them down before the meeting not to forget to ask them.

These are 8 questions you should ask your attorney:

1. How much experience do you have with divorce & family law cases like mine?  
2. How much of your practice is devoted to the type of law I need help with?  
3. What other types of divorce & family law cases do you handle?  
4. Do you prefer an e-mail, a text message or a telephone call for the communication with clients?

5. How quickly do you answer the calls from clients?

6. How much will your services cost me? What is your retainer fee?  
7. Do you bill for normal business “overhead” such as faxes, postage, and photocopies?  
8. How long does a divorce & family law case like mine usually take if there aren’t any unusual developments?

While you are interviewing your attorney, you should listen carefully to the answers provided. You should also pay extremely close attention to your attorney’s personality, his or her manners and behavior, and how you feel during the interview.

How does the attorney make you feel? Comfortable? At ease? Are you treated as an equal and with respect? Or do you feel like he/she has a superior attitude and talks down to you? Has the attorney spent meaningful time with you and provided answers to your questions and concerns in a friendly and appropriate manner?

His behavior towards you will affect your ability to trust and communicate effectively over emotional and highly personal matters. Once the interview is over and you have time to reflect, assess the strengths and weaknesses of the candidate. Did the attorney listen to you? Did he provide enough information to make you feel comfortable that they know the law and procedure? Did you feel confident?

Once you have gone through all of these steps, you now have the information and experiences necessary to decide which divorce & family law attorney in Belarus best suits your needs.

**Task 2.** *Give Russian equivalents for the following legal terms from the text:*

|  |  |
| --- | --- |
| 1. a lawsuit | 6. a prenuptial agreement |
| 2. community property allocation | 7. a paternity |
| 3. a debt | 8. unequivocal |
| 4. a child custody | 9. a commitment |
| 5. a single with cohabitation | 10. a retainer fee |

# Discussion

**I. Answer the following questions on the text:**

1. How can divorce be defined?

2. What personal features / skills should a good attorney have?

3. What ways in looking for a good lawyer do you find the best ones?

4. Why is the 1st reply of a new attorney important for you?

5. Should he have a superior attitude to you?

6. What makes you feel comfortable at the 1st meeting with a lawyer?

7. What makes you feel confident?

**II. Define if the following statements are true of false. Give your arguments:**

1. Searching the Internet, looking for a legal blog / website if you want to find a good lawyer, is a wrong and useless way.

2. You should carefully select an attorney who will focus on your family and protect your legal interests.

3. It doesn’t matter if the law office is neat and clean.

4. It is very important to look into that his experience and background.

5. You should also pay extremely close attention to your attorney’s personality, his or her manners and behavior, and how you feel during the interview.

6. It is not important how much experience he/she has with divorce & family law cases like yours.

**Task 1.** *Read the text and get ready to discuss its main points*:

**TEXT C**

**The Principle of Freedom of Contract in Civil Law of Belarus**

The Civil Code of the Republic of Belarus (the CC) was adopted by the House of Representatives on October 28, 1998 and approved by the Council of the Republic on November 19, 1998.

The Civil Code of the Republic of Belarus first mentions the *principle of freedom of contract* among the fundamental principles of civil law. This principle is only inherent in countries with a market economy. Its determination has marked the beginning of a new phase of development for the Belarusian civil legislation. At the same time, legislators have faced a significant challenge - the necessity to bring the law in line with the declared principle. Regretfully, we have to state that no tangible success has been achieved in addressing this issue. It is still rather common for this principle to be ignored when working out certain normative legal acts, which results in controversies between the requirements of the principle and the content of particular legal rules.

The primary purpose of a contractis to be an instrument of the most effective organization of public relations. A **contract** is a *binding agreement between two or more parties that usually results in some type of performance*. It is a method in which men bargaining with one another can make sure that their promises will last long.

Under market conditions, regulation by contract becomes an important independent legal way to organize economic actors' relationship existing alongside with normative and legal regulation. As for the focus of the principle of freedom of contract, it is intended to stimulate contract activity of entities of civil life enabling them to determine the strategy of their behavior in civil life and, in particular, determine the terms and the future of contracts concluded by them.

Thus, freedom of contract is a socially significant phenomenon in the development of entrepreneurship. It facilitates new economic ties and fosters conquering of new markets, identifying new ways to meet societal needs. It is fair to say that freedom in civil law of the Republic of Belarus has been reduced to the sphere of contract law.

Being a fundamental principle of civil legislation, it applies to the whole of its array. Manifestations of the principle of freedom of contract are found in any branch of civil law. Thus, in the *institution of ownership*, it is implemented in the requirements of the law on enabling the owner to possess their property freely. In the *regulations of law of obligation*, it is implemented in the right of the parties of contractual relationship to ensure the law enforcement. In the *institution of legal persons*, the principle of freedom of contract guarantees participants of civil matters a possibility to act as legal entities in concluding articles of incorporation. All corporate organizations emerge and function by virtue of the principle of freedom of contract through bilateral and multilateral agreements with parties such as workers, unions, managers, stockholders, customers, bankers, suppliers, retailers, creditors, etc.

The Belarusian legislator has provided the principle of freedom of contract with the following content: “Citizens and legal entities are free to conclude a contract. Compulsion to conclude a contract is not allowed, except when the obligation to conclude a contract is provided for by the law or a freely assumed obligation” (Article 2 of the CC).

Apart from the CC and laws of Belarusian legislation, the contract also includes orders of the President of the Republic of Belarus, regulations of the Government of the Republic of Belarus, acts of the Constitutional and Supreme Court, of the National Bank of the Republic of Belarus, as well as those of the Ministries and other national bodies of local and central authorities. Thus, any of the listed regulations can contain rules that restrict application of the principle of freedom of contract.

The freedom of contract as a principle (Article 2 of the CC) ensures unity of all rules of civil law, while the rule on freedom of contract (Article 391 of the CC) stipulates certain capacities of entities to conclude civil contracts. Consequently, one should distinguish between restriction of the freedom of contract as a principle, and restriction of certain elements of freedom of the contracting parties.

There exist three main capacities of the contracting parties: freedom to enter into a contract, freedom to choose a contract model and freedom to determine the contract terms. *Freedom to enter into a contract* means that the core of contractual relations is a freely expressed will of parties acting in their interests. Persons under civil law are entitled to make independent decisions regarding feasibility of the contractual relations.

An inherent element of contractual freedom is the freedom to set certain conditions of a contract. For the potential of agreement-based regulation to be realized to the full extent, the legislator has to minimize formalities that are necessary to conclude a contract, providing the contracting parties with the freedom to determine the content of their future contract. However, according to par. 1 of Article 402 of the CC, the contract is deemed to be concluded if the parties have reached agreement on all the material conditions of the contract in the form required in the applicable circumstances.

Restriction of freedom to determine conditions of the contract is possible not only in the phase of conclusion of a contract, but also during its life span. Thus, par. 2 of Article 392 of the CC "Contract and Law" sets: "If, upon conclusion of a contract and before termination thereof, a piece of legislation has been passed establishing rules that are mandatory for the parties and different from the ones that were in force when concluding the contract, the terms of the contract concluded shall be brought in line with the legislation, unless it is provided for otherwise by the law".

It should be emphasized that, proceeding from the requirements of the principle of freedom of contract, terms and conditions of contracts cannot be "rewritten" by anyone except for the parties thereof. Legislators and judges should refrain from replacement of contract terms agreed on by the parties with their own assertions in the circumstances when they believe that there is economic feasibility, inconsistence with rationality, breach of the balance of the parties' interests or offence against public interests. Freedom of contract shall have primary importance.

Freedom of contract should obtain guarantees. However, it is unacceptable to see the principle in absolute terms and to reduce it to an article of a declarative nature in the CC. In order to meet this complex challenge, it is necessary to follow the rules: *first,* when assessing each restriction on the principle of freedom of contract, to determine whether it is justifiable in terms of the balance of private and public interests; *second,* any restriction on this principle should be set by law in compliance with the Constitution of the Republic of Belarus.

**Task 2.** *Give Russian equivalents for the following legal terms from the text:*

|  |  |
| --- | --- |
| 1. inherent | 10. an assertion |
| 2. a binding agreement | 11. feasibility |
| 3. tangible | 12. inherent |
| 4. to foster conquering of new markets | 13. the parties thereof |
| 5. a legal entity | 14. inconsistence |
| 6. an article of incorporation | 15. refrain from |
| 7. a freely assumed obligation | 16. complex challenge |
| 8. a termination | 17. restriction |
| 9. feasibility | 18. justifiable |

# Discussion

1. **Answer the following questions on the text:**

1. When was the Civil Code of the Republic of Belarus (the CC) adopted?

2. On what principle was it based?

3. What significant problem have Belarus legislators faced?

4. What kind of an agreement is a contract?

5. What is its primary purpose?

6. What does the principle of freedom of contract guarantee participants of civil matters?

7. Who is entitled to make independent decisions regarding feasibility of the contractual relations?

**II. Define if the following statements are true of false. Give your arguments:**

1.Freedom of a contract is a socially significant phenomenon in the development of entrepreneurship.

2. Principle of freedom of contract is intended to stimulate contract activity of entities of civil life enabling them to determine the strategy of their behavior in civil life and the future of contracts concluded by them.

3. Terms and conditions of contracts cannot be "rewritten" by anyone except for the parties thereof.

4. Legislators have to minimize necessary formalities to conclude a contract, providing the contracting parties with the freedom to determine the content of their future contract.

5. Legislators and judges should refrain from replacement of contract terms agreed on by the parties with their own assertions in different circumstances.

6. Freedom of contract shouldn’t obtain any reliable guarantees.

**UNIT 3**

**CRIMINAL LAW OF REPUBLIC OF BELARUS**

**Task 1.** *Read the text and get ready to discuss its main points*:

**TEXT A**

**Differences between Civil and Criminal Procedures**

**Task 1.** *Read the text and get ready to discuss its main points*:

All proceedings before trials usually result in a settlement. Proceedings after trial may also take time, for example appeals procedure and the enforcement of the judgment. A **Civil procedure** consists of four basic steps:

* pleadings,
* discovery,
* trial and judgment,
* conclusion of litigation.

***Pleadings.***They are written claims and defenses; on what grounds the action is being involved. *First*the plaintiff’s solicitor files a complaint. The complaint states the specific injury suffered by the plaintiff, the acts of the defendant alleged to have caused that injury, and the steps being done. The defendant gets a positive notice of the complaint to make a response to the complaint within specified time in order to avoid a default judgment. This notice is a summons.

*Then* is the preparation of an answer of the defendant to the factual allegations in the complaint. The answer states that the defendant intends to use against the plaintiff’s. The answer can contain a counterclaim against the plaintiff. The counterclaim states the cause of the action that the defendant has against the plaintiff. The defendant may also make a cross-complaint against another defendant.

***Discovery*.** The process when the solicitors attempt to locate all witnesses and uncover all evidence while learning as much as possible about the issues, is known as a discovery. Information may be obtained by means of a written set of questions in a court document with interrogatories with written answers and asking witnesses oral questions. It is known as oral interrogatories. Witnesses must personally appear in court. Their notice is called a subpoena. The issues are discussed, information is exchanged; and sometimes evidence is produced that results in a request to dismiss the litigation without trial. Sometimes certain aspects of the case can be settled by a stipulation, or an agreement, between the barristers with the approval of the judge.

***Trial and judgment.*** The trial goes for a decision on the merits. The plaintiff’s barrister argues the case. The plaintiff presents evidence andits defense.Where there is a right to a jury, the plaintiff may waive this right.When there is no jury, the judge hears the case, applies a law, andissues a judgment in favor of one party based onthe facts and the merits of the case. The jury decides in favor of one of the parties on the basis ofthe facts presented and sets the amount of damages. The judgment is issued in favor of the party who has met itsburden of proof. It is the prevailing party.

***Conclusion of litigation.***After the court sets a judgment, the losing party can: 1) satisfy the judgment by paying the damages; 2) fail to perform the satisfaction, take measures to enforce the judgment by attaching the losing party’s property; 3) appeal the judgment to a higher court. If the losing party chooses to appeal, no payment is made to the prevailing party. The barrister for the losing party must make an appeal within the time limit prescribed by the law or lose the right to it.

***Criminal proceedings*** can be initiated either by the serving of a summons setting out the offence and requiring the accused to attend court, or, in more serious cases, by an arrest issued by the Court. The Criminal Defense provides legal aid, which funds the services of an independent duty solicitor who represents the accused in the police station and in court.

There are three categories of a criminal offence. *Summary offences* are minor crimes. *Indictable* offences are serious crimes, such as murder, which can only be heard in the Court. The formal document containing the alleged offences, supported by facts, is called an indictment. A case which can be heard in the Court such as theft or burglary is tribal either way.

If the defendant pleads guilty, the Court proceeds to sentence, where more severe penalties are available. If there is a not guilty plea, the court can decide the mode of trial. Each side presents their own evidence and attacks their opponent’s by cross-examination. In a criminal trial, the burden of proof is on the prosecution to prove “beyond reasonable doubt” that the accused is guilty.

A person accused or under arrest for an offence may be temporarily released. In the Court there may be a preparatory hearing for a complex case before the jury is sworn in. Prior to the trial, there is a requirement for defense of material relevant to the case, details of any alibis or witnesses who can provide proof of the accused. The defendant may change his plea to guilty, in order to have a reduced sentence. If at the end of the trial the court’s verdict is not guilty, the defendant is acquitted.

**Task 2.** *Give Russian equivalents for the following legal terms from the text:*

|  |  |
| --- | --- |
| 1. pleadings | 9. a subpoena |
| 2. trial and judgment | 10. a stipulation |
| 3. claims and defenses | 11. prevailing party |
| 4. summons | 12. summary offences |
| 5. allegation  6. counterclaim | 13. indictable offences  14. burglary |
| 7. evidence | 15. a guilty plea |
| 8. interrogatories | 16. to acquit a defendant |

# Discussion

**I. Answer the following questions on the text:**

1. What are 4 steps of a civil procedure?

2. How are the pleadings carried out?

3. Why are the oral interrogatories and the discovery significant?

4. In favor of what party is a judgment issued?

5. When cancriminal proceedings be initiated?

6. What is the difference between summary and indictable offences?

7. Which side presents their own evidence and attacks their opponent’s by cross-examination?

8. Which side presents their own evidence and attacks their opponent’s by cross-examination?

**II.****Define if the following statements are true of false. Give your arguments:**

1. A prosecutor files a complaint in civil court.

2. A preparation of an answer of the defendant to the factual allegations in the complaint.

3. Witnesses of a civil case must not personally appear in court. Enough is to give oral interrogatories.

4. If the losing party chooses to appeal, no payment is made to the prevailing party.

5. Not a single person who is accused or under arrest for an offence may be temporarily released.

6. The formal document containing the alleged offences, supported by facts, is called an appeal.

7. The defendant may change his plea to guilty, in order to have a reduced sentence.

**Task 1.** *Read the text and get ready to discuss its main points*:

**TEXT B**

**Capital Punishment in Belarus**

[**Capital punishment**](https://en.wikipedia.org/wiki/Capital_punishment) is a legal penalty in [Belarus](https://en.wikipedia.org/wiki/Belarus). It carried out at least 4 executions in 2016. It has been a part of the country since gaining its independence. The current [national Constitution](https://en.wikipedia.org/wiki/Constitution_of_Belarus) prescribes this punishment for “grave crimes.” Later laws have clarified the specific crimes for which capital punishment can be used. Capital punishment can be imposed for crimes that occur against the state or against individuals. A few non-violent crimes can also be punishable by death. [Belarus](https://en.wikipedia.org/wiki/Belarus) is the only UN member state in Europe that continues to carry out the death penalty.

Following a referendum on the issue, the Belarusian government took steps to change the way capital punishment is imposed and carried out.[ International organizations, such as the United Nations, have criticized the methods Belarus uses when carrying out capital punishment. The use of capital punishment is one factor keeping the country out of the [Council of Europe](https://en.wikipedia.org/wiki/Council_of_Europe).

Article 24 of the [Constitution of Belarus](https://en.wikipedia.org/wiki/Constitution_of_Belarus) states that: “Until its abolition, the death sentence may be applied in accordance with the law as an exceptional penalty for especially grave crimes and only in accordance with the [*verdict*](https://en.wikipedia.org/wiki/Verdict)of a court of law”.

According to the [**Criminal Code of the Republic of Belarus**](https://en.wikipedia.org/wiki/Criminal_Code_of_Belarus)capital punishment can be imposed for the following acts:

* Launching or conducting [*aggressive war*](https://en.wikipedia.org/wiki/War_of_aggression) (Article 122, P. 2)
* Murder of a representative of foreign states/ international organization in order to provoke international complications or war (Article 124, P.2)
* International [*terrorism*](https://en.wikipedia.org/wiki/Terrorism) (Article 126)
* [*Genocide*](https://en.wikipedia.org/wiki/Genocide)(Article 127)
* [*Crimes against humanity*](https://en.wikipedia.org/wiki/Crimes_against_humanity)(Article 128)
* Application of [*weapons of mass destruction*](https://en.wikipedia.org/wiki/Weapons_of_mass_destruction) under international treaties of the Republic of Belarus (Article 134)
* Violation of the[*war laws and usage*](https://en.wikipedia.org/wiki/Laws_of_war) (Article 135, P. 3)
* [*Murder*](https://en.wikipedia.org/wiki/Murder) committed under aggravating circumstances (Article 139, P 2)
* [*Terrorism*](https://en.wikipedia.org/wiki/Terrorism) (Article 289, P. 3)
* [*Treason*](https://en.wikipedia.org/wiki/Treason)connected with murder (Article 356, P. 2)
* [*Conspiracy to seize state power*](https://en.wikipedia.org/wiki/Revolution)(Article 357, P. 3)
* Terrorist acts (Article 359)
* [*Sabotage*](https://en.wikipedia.org/wiki/Sabotage) (Article 360, P. 2)
* Murder of a [*police officer*](https://en.wikipedia.org/wiki/Police_officer) (Article 362)

Most of the death penalty convictions were for murder committed under aggravating circumstances. Court proceedings involving capital cases must involve a “collegial consideration,” consisting of one judge and two People's assessors. The People's assessors are chosen from the general population, similar to the [*jury*](https://en.wikipedia.org/wiki/Jury)system.

Over the years, the number of offenses eligible for the death penalty and the type of convicts eligible for it have been reduced. In 1993 four [*economic crimes*](https://en.wikipedia.org/wiki/Economic_crime) that would have resulted in death sentences during the [*Soviet*](https://en.wikipedia.org/wiki/Soviet_Union) era were removed from the list of capital offenses by a vote of parliament and were replaced by prison terms without parole. Although the total number of categories of crime qualifying for capital punishment declined during this time, Presidential Decree No. 21, issued on 21 October 1997, added “terrorism” to the list of capital offenses.When the Criminal Code was updated in 1999, the number of capital offenses was further reduced. This reduction was assisted by the introduction of [*life imprisonment*](https://en.wikipedia.org/wiki/Life_imprisonment) in December 1997.

Since March 1, 1994, women are ineligible for capital punishment and persons under the age of 18 at the time of the crime or over 65 at the time of sentencing have been exempt from capital punishment since January 2001. Those who are [*mentally ill*](https://en.wikipedia.org/wiki/Mentally_ill) may have their death sentence commuted. Under Article 84 of the Constitution, the [*president*](https://en.wikipedia.org/wiki/President_of_Belarus)“may grant [*pardons*](https://en.wikipedia.org/wiki/Pardon) to convicted citizens”.From June 30, 2003 to June 30, 2005, President [*Alexander Lukashenko*](https://en.wikipedia.org/wiki/Alexander_Lukashenko) granted two pardons to death row inmates and denied one such request.

In 2000 the [*Parliamentary Assembly*](https://en.wikipedia.org/wiki/Parliamentary_Assembly_of_the_Council_of_Europe) *of the* [*Council of Europe*](https://en.wikipedia.org/wiki/Council_of_Europe) condemned:

*"In the strongest possible terms the executions in Belarus and deplores the fact that Belarus is currently the only country in Europe where the death penalty is enforced and, moreover, is regularly and widely enforced".*

Belarus is the only European country to have carried out executions in the [21st century](https://en.wikipedia.org/wiki/21st_century). European Council members suggested in 2001 that Belarus abolish capital punishment before it can apply for membership in the Council.Belarus (as the [*Byelorussian SSR*](https://en.wikipedia.org/wiki/Byelorussian_SSR)*)* signed the [*International Covenant on Civil and Political Rights*](https://en.wikipedia.org/wiki/International_Covenant_on_Civil_and_Political_Rights) in 1973.This convention, however, does not abolish the death penalty, but it imposes certain conditions on its implementation and use.

Before execution all prisoners on [death row](https://en.wikipedia.org/wiki/Death_row) are transferred to [Minsk Detention Center No. 1](https://en.wikipedia.org/wiki/Minsk_Detention_Center_No._1) ([SIZO No. 1](https://en.wikipedia.org/wiki/SIZO_No._1)), in the country's capital [Minsk](https://en.wikipedia.org/wiki/Minsk). The method used to carry out the sentence is [execution by shooting](https://en.wikipedia.org/wiki/Execution_by_shooting). The executioner is a member of the “committee for the execution of sentences,” which also chooses the area where the execution will take place. According to the book *The Death Squad* by [Oleg Alkayev](https://en.wikipedia.org/w/index.php?title=Oleg_Alkayev&action=edit&redlink=1) on the day of execution the convict is transported to a secret location where he is told by officials that all appeals have been rejected. The convict is then blindfolded and taken to a nearby room, where two staffers force him to kneel in front of a bullet backstop. The executioner then shoots the convict in the back of his head with a [PB-9 pistol](https://en.wikipedia.org/wiki/PB_%28pistol%29) equipped with a suppressor. According to Alkayev, “The whole procedure, starting with the announcement about denied appeals and ending with the gunshot, lasts no longer than two minutes”.

After the sentence is carried out, a prison doctor and other officials certify that the execution has been performed and a [death certificate](https://en.wikipedia.org/wiki/Death_certificate) is prepared. The remains of the condemned are buried secretly, and the family is notified that the execution has taken place. Col. Oleg Alkayev, who was a director of SIZO No. 1, claimed that about 130 executions took place at the prison between December 1996 and May 2001, when he left Belarus to live in exile in [Berlin](https://en.wikipedia.org/wiki/Berlin), [Germany](https://en.wikipedia.org/wiki/Germany).

The [United Nations](https://en.wikipedia.org/wiki/United_Nations) [Human Rights Committee](https://en.wikipedia.org/wiki/Human_Rights_Committee) issued the following opinion of the execution process in Belarus after the mother of subsequently executed prisoner Anton Bondarenko petitioned the Committee to spare her son's life: “…the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress… and that the authorities’ initial failure to notify the author of the scheduled date for the execution of her son, and their subsequent persistent failure to notify her of the location of her son’s grave amounts to inhuman treatment of the author, in violation of Article 7 of the Covenant [prohibiting torture or cruel, inhuman or degrading treatment or punishment].”

**Task 2.** *Give Russian equivalents for the following legal terms from the text:*

|  |  |
| --- | --- |
| 1. capital punishment | 8. under aggravating circumstances |
| 2. a legal penalty | 9. an assessor |
| 3. a grave crime | 10. to exempt |
| 4. punishable by death | 11. a convicted citizen / a convict |
| 5. abolition | 12. International Covenant |
| 6. [a treason](https://en.wikipedia.org/wiki/Treason) | 13. an execution of sentences |
| 7. a penalty conviction | 14. a denied / rejected appeal |

# Discussion

**I. Answer the following questions on the text:**

1. What document prescribes capital punishment for “grave crimes” in Republic of Belarus?

2. How many countries as UN member- state in Europe continue to carry out the death penalty?

3. What organizations have criticized the methods Belarus uses when carrying out capital punishment?

4. For what acts can capital punishment in Belarus be imposed?

5. When was the Criminal Code updated and when was the number of capital offenses further reduced in Belarus?

6. Who is ineligible for capital punishment in Belarus?

7. How is the capital punishment described in the book *The Death Squad* by [Oleg Alkayev](https://en.wikipedia.org/w/index.php?title=Oleg_Alkayev&action=edit&redlink=1)?

**II.****Define if the following statements are true of false. Give your arguments:**

1. Capital punishment can be imposed for crimes that occur against the state or against individuals.

2. Court proceedings involving capital cases must involve a “collegial consideration,” consisting of 3 judges and 3 People's assessors.

3. Belarus is the only European country to have carried out executions in the [21st century](https://en.wikipedia.org/wiki/21st_century).

4. There were no any petitions to the [United Nations](https://en.wikipedia.org/wiki/United_Nations) [Human Rights Committee](https://en.wikipedia.org/wiki/Human_Rights_Committee) from any executed prisoners’ relatives to spare lives.

5. The European Council members suggested in 2001 that Belarus abolishes capital punishment before it can apply for membership in the Council.

6. About 130 executions took place at the prison between December 1996 and May 2001 in Belarus.

7. The whole procedure, starting with the announcement about denied appeals and ending with the gunshot, lasts for 3 days.

**Task 1.** *Read the text and get ready to discuss its main points*:

**TEXT C**

**Crime and Punishment**

The definition of a “crime” has always been a matter of difficulty and no really satisfactory definition of a “crime” has yet been evolved. You may say that ***crime*** *is a violation of the public rights and duties, which is punishable by the State.* But a distinction must be drawn between breaches of law which are crimes and those which are merely illegal without being criminal.

A **crime** is *an offence against the whole society; it is a wrongful act or omission, serious enough for the wrong-doer to be punished by the rest of the community*.The definition of a *criminal* t*hing* can change quite radically nowadays due to arising of new forms of potentially criminal activity and the courts have to respond to them.

Besides, there are some acts, which are crimes in our country but not in another. For example, it is a crime to drink alcohol in Saudi Arabia, but not in Egypt. It is a crime to smoke marijuana in England, but not in the Netherlands. However, there are quite a lot of agreements among states as to which acts are criminal.

No one knows why crime occurs. Since the 18th century various scientific theories have been advanced to explain crime. But since the mid-20th century, the notion that crime can be explained by any single theory has fallen into disfavor among investigators. They explain it by so-called multiple factor, which includes biological, psychological, cultural, economic and political reasons.

As a general rule “crime” involves *guilty conduct* (**actus Reus**) and *guilty intention* (**mens Rea**).

Treason, sabotage, banditry, desertion at a time of war, armed robbery, premeditated murder, rape under aggravating circumstances and certain other singularly dangerous social crimes are qualified as *particularly grave offences*. In such an event deprivation of liberty of up to 15 years may be applied or the death sentence which is regarded as an exceptional measure. The death penalty was abolished in Britain in 1969.

*The purpose of punishment i*s to reform the offender and to rehabilitate him, on the other hand when punish, we warn other people of what will happen if they break the law.

Criminal sentences ordinarily embrace four basic modes of punishment. In descending order of severity these are: *incarceration, community supervision, fine, and restitution.* The death penalty is now possible only for certain types of atrocious murders and treason. It is never applied in respect to persons under 18. The majority of criminal sanctions are confined to short terms of deprivation of liberty and penalties not involving deprivation of liberty: corrective labor and public censure.

Criminal and civil procedures are different. Criminal actions are nearly always started by the state. Civil actions are started by individuals. The party brining a criminal action is called the prosecution, but the party bringing a civil action is called the plaintiff. In both kinds of action the other party is known as the defendant.



**Types of punishment**: community service, fixed penalty fine, suspended sentence, short-term imprisonment, probation, long-term imprisonment, capital punishment, life imprisonment, disciplinary training in a detention center.

**Types of crime:** murder, shoplifting, rape, manslaughter, fraud, selling drugs, drinking and driving, robbery, possession of a gun without a license, fight in a club, treason, theft, arson, pickpocketing, terrorism, piracy, sexual offences (rape and others), kidnapping, blackmail, manslaughter, infanticide, mugging, smuggling, bribery, burglary, hijacking, kidnapping, trespass, forgery and counterfeiting – a whole range of criminal activities and sins. Any kinds of matters of careless motoring, selling unfit food or serving alcohol to a teenager, wounding and grievous bodily harm are also examples of a crime.

**Task 2.** *Give Russian equivalents for the following legal terms from the text:*

|  |  |
| --- | --- |
| 1. to evolve | 11. a restitution |
| 2. is punishable by the State | 12. a community supervision |
| 3. a violation of the public rights | 13. a detention center |
| 4. a breach of law | 14. corrective labor |
| 5. occur a wrong done to the state | 15. hijacking |
| 6. a guilty conduct and a guilty intention | 16. an arson |
| 7. a premeditated murder | 17. a blackmail |
| 8. deprivation of liberty | 18. mugging |
| 9. an incarceration | 19. a bribery |
| 10. a grave offence | 20. a trespass |

# Discussion

**I. Answer the following questions on the text:**

1. What is a crime? Give at least 2 definitions of a crime.

2. Why is the definition of a crime changeable nowadays?

3. Why are there lots of agreements among states according to which acts are criminal?

4. What do *guilty conduct* and *guilty intention* mean?

5. Why are some crimes considered to be *particularly grave crimes*?

6. In what cases is the death penalty possible for certain types of atrocious murders and treason?

7. Is the death penalty applied in respect to persons under 18 and elderly people?

8. What is the difference between criminal actions civil actions?

9. What types of crime and types of punishment do you know?

**II.****Define if the following statements are true of false. Give your arguments:**

1. New arising forms of potentially criminal activity and the courts have to respond to all criminal things.

2. Crime can be explained by the so-called multiple factor, which includes biological, psychological, cultural, economic and political reasons.

3. The purpose of punishmentis to reform the offender and to rehabilitate him.

4. The majority of criminal sanctions are confined to short terms of deprivation of liberty only.

5. Penalties not involving deprivation of liberty are: corrective labor and public censure.

6. The party as *the defendant* is relevant in both criminal actions (the prosecution) and in civil actions (the plaintiff).

7. Kidnapping, blackmail and manslaughter refer to types of punishment.

8. Careless motoring, selling unfit food or serving alcohol to a teenager and wounding bodily harm are examples of crimes.

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