

# Legal English (21004)

<b>Degree/B.A.:</b>	B.A. in Law
<b>Course:</b>	3rd
<b>Term:</b>	3rd
<b>Credits ECTS:</b>	5
<b>Student time commitment:</b>	125
<b>Teaching language:</b>	English
<b>Teachers:</b>	Joan Solanes ( <a href="mailto:joan.solanes@upf.edu">joan.solanes@upf.edu</a> ) Marian Gili ( <a href="mailto:mangels.gili@upf.edu">mangels.gili@upf.edu</a> )

## 1. Presentation

### 1.1. Position of the course in the curricula project

The course *Legal English* is a mandatory subject of the third year of the B.A. in Law which is worth 5 credits ECTS.

### 1.2. Course organization

The course duration is 10 weeks. Group sessions will take place weekly. Moreover, four practice sessions are foreseen on weeks 3, 5, 7 and 9.

### 1.3. Description of the course

This course aims to help students to acquire a sufficient level of competence of the legal language in English as a medium for expressing legal discourse. It is first and foremost a course on legal analysis in English, but it also intends to give students a chance to develop both their comprehension of legal materials and their communication skills in English.

The course will introduce students to the Common Law legal systems. The Common Law tradition is shared by many countries in the contemporary scene, including the US, Canada, New Zealand, Australia and the UK. Although to some extent this course deals with the law of the Common Law systems in general, it will be focused on how the United States and the UK deal with problems related to the core topics of both public and private law.

## **2. Course skills**

This course aims at providing students with analytical and discussion skills that will be useful for their studies in Law and for their prospects in their professional career. The skills that this course intends to develop are both general and specific.

### **2.1. General Skills**

#### **Instrumental**

- Analytical abilities (of legal issues and the alternative solutions the legal system provides).
- Legal reasoning.
- Ability to search information independently.

#### **Interpersonal**

- Social skills to interact in groups during the practice sessions (active participation in discussion giving your opinion, listening to the other classmate, reflecting on the work done in the class reading, etc.).

#### **Systemic**

- Understanding and analyzing the legal issues appearing in the press or other media.
- Skills to carry on individual learning (reading and understanding course materials and information search).

### **2.2. Specific Skills**

- Improvement of both comprehension of legal materials and communication skills in English.
- Acquiring proficiency in clear legal analysis, expression, and comprehension in English.
- Ability to compare the Common Law and Civil Law systems and, in particular, the ability to analyze their similarities and differences.

## **3. Program**

### **PART I. GENERAL**

#### **Topic 1. An introduction to the United States and the UK legal systems (I)**

The classification of legal systems into legal families. Criteria used to classify legal systems. Common Law, Civil Law and mixed or hybrid legal systems.

## **Topic 2. An introduction to the United States and the UK legal systems (II)**

Origins of the Common Law. Common law vs. civil law legal systems: sources of law, principle of precedents and doctrine of *stare decisis*, method of legal thinking and finding of justice, inquisitorial versus adversarial proceedings. Overview of the United States and the UK Court systems.

## **PART II. PUBLIC LAW**

### **Topic 3. Constitutional Law of the United States: bases**

The U.S. Constitution. Bases of U.S. constitutional Law: checks and balances, judicial review, fundamental rights and federalism. The *New Deal* and the reformulation of the principles.

### **Topic 4. The British constitutional order**

The particularities of the Constitution of the United Kingdom: an unwritten Constitution. Constitutional sources. The principles of the constitutional system of the United Kingdom: democracy, parliamentary sovereignty, the rule of law and the separation of powers doctrine. The implications of the access to the European Union for the constitutional system of the United Kingdom.

### **Topic 5. The sources of Law in the United States**

The old days: the common law as a primary source. The convergence of common law and civil law: the relevance of statutes. U.S. sources of law today: constitutional norms, statutes, the executive and its normative powers and the common law.

### **Topic 6. Judicial review in a comparative perspective**

The origins of U.S. judicial review: *Marbury vs. Madison*. The features of the U.S. judicial review: a model of decentralization. The European continental judicial review: the concentrated counterpart model.

### **Topic 7. Separation of Powers / Checks and Balances doctrine**

The aim of the doctrine: avoiding the tyranny. The first formulation in Europe: Montesquieu. The assumption and development of the doctrine in the U.S.: the checks and balances version. Parliamentarism and Presidentialism as different formulations of the separation of powers doctrine.

### **Topic 8. Institutions of the United States**

The United States Congress: House of Representatives and Senate. The President of the United States and the Administration. The federal judiciary: the Supreme Court and lower federal courts. The States: legislative, executive and judicial state powers.

### **Topic 9. Institutions of the United Kingdom**

The Parliament. The Crown: its prerogatives and powers. The Government. UK as a parliamentary system: relations between the Parliament and the Government. The judicial power in the UK.

## **PART III. PRIVATE LAW**

### **Topic 10. Contracts**

Freedom of contract. Formation of contract. Breach of contract and remedies for breach of contract. Perspectives for the unification and harmonization of Contract Law: the Convention of International Sales of Goods, the Unidroit Principles of International Commercial Contracts, the Principles of European Contract Law, the Draft Common Frame of Reference.

### **Topic 11. Property**

Creation, allocation and transfer of property rights. Division of property rights. The meaning of ownership and entitlements associated with ownership of land. An overview of the Book VIII (Acquisition and loss of the ownership of goods) of the Draft Common Frame of Reference.

### **Topic 12. Torts**

Basis of liability: negligence, strict liability, vicarious liability. Defences. Remedies. Perspectives for the unification and harmonization of Tort Law in Europe: the Principles of European Tort Law.

### **Topic 13. Family Law**

Matrimonial property regimes: legal regimes and marital agreements. Unification and harmonization of Family Law principles: the United States experience. Perspectives for the unification and harmonization of Family Law in Europe: the Principles of European Family Law

## **4. Evaluation**

### **4.1. General examination period**

The evaluation of the students will be based on the following criteria:

<b>Continuous Evaluation</b>	Oral participation as well as written exercises in both group and practice sessions will be highly valued.	<b>40%</b>
<b>Final Term Exam</b>	The Final Term Exam will be held during the final exam period. Students will have <b>2 hours</b> to complete this examination.	<b>60%</b>

	<p>The exam will consist of 2 parts:</p> <ol style="list-style-type: none"> <li>1) During the first hour, students will have to answer <b>30 multiple-choice questions</b> relating to topics covered during the course. Due to the differences between the students' levels of English, multiple-choice questions will be very simple, easily understandable and strictly focused on the selected readings. Incorrect multiple-choice questions <b>will not subtract</b> any point</li> <li>2) During the second hour, students will have to answer <b>4 questions on topics discussed during the course</b>. Each question is meant to be answered concisely and briefly.</li> </ol> <p>The exam will be closed-book and <b>will have to be answered in English.</b></p>	
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Exchange students will be able to do the final term exam during the general examination period. In other case, they will do the exam during the retake examination period (see *infra* 4.2) and the retake exam will be worth 100% of the final mark.

## 4.2. Retake examination period

Students who have failed the subject will be able to retake the exam if two conditions are met:

- They participated in at least 50% of the continuous evaluation activities, and
- They took the final term exam.

If students **failed** the continuous evaluation, the retake exam will be worth 100% of the final mark. If students **passed** the continuous evaluation, their continuous evaluation marks will be preserved and the retake exam will be worth 60% of the final mark.

## 5. Mandatory readings

Reading assignments for each session will be available in advance at **Aula Global**.

## 6. Methodology

*Legal English* combines classroom activities as well as readings and writings that students will have to perform outside of the classroom. It is expected that students immerse themselves in the English language during the sessions and make both their oral and written contributions primarily in English. Moreover, students will be expected to come to class prepared to discuss

the readings assigned for the week. Students will also be expected to discuss and analyze them.

## 7. Schedule

### 7.1. Group Sessions

WEEK	LECTURES
1	Session 1: Overview of the legal families and traditions. Session 2: Introduction to the US and UK legal systems.
2	Session 3: Constitutional Law of the United States: bases Session 4: The British constitutional order
3	Session 5: The sources of Law in the United States
4	Session 6: Judicial review in a comparative perspective Session 7: Separation of Powers / Checks and Balances doctrine
5	Session 8: Institutions of the United States
6	Session 9: Institutions of the United Kingdom
7	Session 10: Contracts
8	Session 11: Property
9	Session 12: Torts
10	Session 13: Family Law

### 7.2. Practice Sessions

WEEK	PRACTICES
3	Practice session 1: Fundamental Rights and Freedoms in the United States Fundamentals rights and freedoms in U.S. Constitutional Law: federal and state levels. The international movement of human rights and U.S. Constitutional Law: a difficult encounter. The due process clause. The equality clause.
5	Practice session 2: Fundamental Rights and Freedoms in the UK The protection of fundamental rights and freedoms under the common law: the role of the judiciary. The European Convention on Human Rights and its impact in the UK before 1998. The Human Rights Act of 1998.
7	Practice session 3: Contracts. Case analysis and briefing cases. Freedom of contract. Formation of contract. Breach of contract and remedies for breach of contract.
9	Practice session 4: Torts. Case analysis and briefing cases. Basis of liability: negligence, strict liability, vicarious liability. Defences. Remedies.