



Mark Scheme (Results)

Summer 2023

Pearson Edexcel International Advanced
Level In Law (YLA1/01)

Paper 1 Underlying Principles of Law
and the English Legal System

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Summer 2023

Question Paper Log Number P71734A

Publications Code YLA1_01_2306_MS

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Question number	Describe both the first and last stages of the parliamentary process that a bill must follow before becoming an Act of Parliament. (4)	Marks
1(a)	<p style="text-align: center;">(2 AO1, 2AO2)</p> <p>One mark for describing the first and the last stage, and one mark for giving a detail or an example of each, up to a total of four marks.</p> <ul style="list-style-type: none"> • The First Reading (1), detail such as formal introduction of the bill into the House of Commons where name and main aims read out, no discussion, vote taken (1) • Royal Assent (1) formality, Monarch just has the title, not the detail, last refusal was in 1707 (1) 	(4)

Question number	Analyse how effective the Golden Rule is at helping judges to interpret statutes (6)	Marks
1(b)	<p style="text-align: center;">(2 AO1), (2 AO2), (2 AO3)</p> <p>Responses may include:</p> <ul style="list-style-type: none"> • Rule is a modification of the literal rule • Court gives a word/phrase its literal meaning but allowed to avoid interpretation which would lead to an absurd result • Two views on how rule should be used – narrow view can only choose between the possible meanings of the word or phrase R v Allen • Wider application is where the word has only one meaning but to apply that would lead to a repugnant result, so the Golden rule applied to modify the word to avoid the problem Re Sigsworth • Discussion on effectiveness, advantages and disadvantages • Examples to illustrate the above points. 	(6)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1–2	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
Level 2	3–4	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
Level 3	5–6	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner and supported by appropriate legal authorities.</p>

Question number	<p style="text-align: center;">Assess the advantages and disadvantages of the parliamentary law making process.</p> <p style="text-align: right;">(10)</p> <p>Indicative content</p>	Marks
1(c)	<p style="text-align: center;">(2 A01), (2 A02), (3 A03), (3 A04)</p> <p>Responses may include:</p> <ul style="list-style-type: none"> • Public and Private member bills • Advantages • Democratic • Green Papers allow consultation • Thorough scrutiny and debate • The many stages encourage discussion and consultation • Parliament Acts 1911 and 1949 and limitations on the Lords' powers to block legislation • Influences • Examples of important statutes • Preferable to undemocratic law making • Disadvantages • Language obscure, complex and inaccessible • Acts over-elaborate trying to meet every contingency • Time it takes for the bill to pass all the stages • Parliament Acts 1911 and 1949 and limitations on the Lords' powers to block legislation • Delays and undemocratic elements of process • Influences • Examples of statutes illustrating these problems. <p>Level 4 responses will require both advantages and disadvantages.</p>	(10)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1–2	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to address competing arguments based on interpretations of the law.</p>
Level 2	3–4	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to gauge the validity of competing arguments based on interpretations of the law.</p>
Level 3	5–6	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.</p>
Level 4	7–10	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.</p>

Question number	Describe the meaning of mediation in civil dispute resolution. <p style="text-align: right;">(2)</p>	Marks
2(a)	<p style="text-align: center;">(1 AO1), (1 AO2)</p> <p>One mark for an accurate explanatory point (1 AO1), and one mark for a linked expansion/example (1 AO2).</p> <ul style="list-style-type: none"> • Mediator helps the parties reach a compromise solution to resolve their conflict (1AO1) • Done in private, neutral person, improves communication(1AO2) 	(2)

Question number	Explain the role of tribunals in civil dispute resolution. <p style="text-align: right;">(4)</p>	Marks
2(b)	<p>(2 AO1), (2 AO2),</p> <p>Responses may include:</p> <ul style="list-style-type: none"> ○ Tribunals used as an alternative to courts for settlement of disputes ○ Majority have a panel of three comprising legally qualified chairman and two lay members who have expertise in the particular field of the hearing. Examples, in an unfair dismissal case – lay members representatives of both employers and employees. In an industrial injuries case, there would be a medical member. ○ Wide range of cases heard such as employment, asylum, mental health, eligibility for certain benefits ○ Decision made by panel and witnesses can be called ○ No need for representation ○ Tribunals can be statutory or disciplinary ○ 2 tier structure for first hearing and appeals ○ More formal nature of hearings where evidence may be given on oath and use of lawyers/representatives 	(4)

	<ul style="list-style-type: none">○ Outcome will be a legally enforceable award○ System encourages individuals, not lawyers to bring case. Both parties given equal opportunity to state their evidence○ Legal funding not available in most cases○ Franks Committee 1957 recommended Ombudsman set up in 1967○ Tribunal and Inquiries Act 1958 set up council on Tribunals, annual report and receives complaints○ Can be controlled by courts – through appeals up to court of appeal – allows development of law on basis of precedent○ Queen’s Bench Divisional court hears applications for judicial review, and can quash a decision.○ Prevent overloading of courts and deal with cases, quickly, cheaply and informally○ Costs not usually awarded, cases usually held in private○ Lack of reasons for decisions and not following precedent	
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Question number	<p>Evaluate the advantages and disadvantages of civil dispute resolution over going to court to settle disputes. (14)</p> <p>Indicative content</p>	Marks
2(c)	<p style="text-align: center;">(2 AO1), (2 AO2), (4 AO3), (6 AO4)</p> <p>Responses may include:</p> <p>Advantages of Conciliation, Mediation and Negotiation:</p> <ul style="list-style-type: none"> • Held in private, aim is to compromise and avoid publicity • Qualified independent person • Informal <p>Disadvantages of Conciliation, Mediation and Negotiation:</p> <ul style="list-style-type: none"> • Even if compromise may lead to both parties being dissatisfied • Not binding, no appeals • No public airing of grievance <p>Advantages of Arbitration</p> <ul style="list-style-type: none"> • Parties can choose own arbitrator • Expert can decide the issue, rather than needing expert witnesses as in court • Hearing can be arranged to suit parties • Hearing in private • Cheaper than going to court • Award is final and can be enforced through the courts <p>Disadvantages of Arbitration</p> <ul style="list-style-type: none"> • Professional arbitrator fees are expensive • Rights of appeal are limited • An unexpected legal point could arise which is unsuitable for a non-lawyer arbitrator • Delays for commercial and international arbitration are as long as court delays <p>Advantages of Tribunals:</p> <ul style="list-style-type: none"> • experts on panel • hearings quicker and cost less than courts • allows dispute to be heard publicly, so better than other types of ADR <p>Disadvantages of Tribunals:</p>	(14)

	<ul style="list-style-type: none"> • no state funding and although costs less than court one party may not be able to afford a solicitor • even though all panel experts, chair of panel may influence lay panel members • can only appeal on legal grounds • hearing could attract publicity. <p>Advantages of Courts:</p> <ul style="list-style-type: none"> • Clear process, time limits and procedure • Funding opportunities and availability • Precedent available for lawyers to provide advice • Appeal structure and rules for courts. • Overall conclusion weighing up evidence on the overall effectiveness <p>Disadvantages of court:</p> <ul style="list-style-type: none"> • Taking a claim through the court system is costly and process takes time and is complicated for claimants to understand • Once a court case starts, the aim is to win (as it is adversarial), and not to compromise • Judge may not be an expert in the technical details of the claim, whereas there would be experts on the tribunal panel. <p>Normally answers only providing basic evaluation of one type of ADR with the courts will only go to the top of Level 2 mark band.</p> <p>Normally answers only providing basic evaluation of two types of ADR with the courts will only go to the top of Level 3 mark band.</p> <p>Answers evaluating three or more types of ADR with the courts can go to the top of Level 4 mark band.</p> <p>However, an excellent evaluation of only one or two types of ADR with the courts, can go to the top of Level 4 mark as depth can compensate for breadth.</p>	
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Level	Mark	Descriptor
	0	A completely inaccurate response.

Level 1	1-3	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to address competing arguments based on interpretations of the law.</p>
Level 2	4-6	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to gauge the validity of competing arguments based on interpretations of the law.</p>
Level 3	7-10	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.</p>
Level 4	11-14	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.</p>

Question number	Describe the burden of proof in a civil court case. (2) Answer	Marks
3(a)	<p>(2 AO1)</p> <ul style="list-style-type: none"> • Burden is on the balance of probabilities (1 AO1) • Burden on the Plaintiff / claimant (1 AO1). 	(2)

Question number	Explain the purpose of the different types of damages that can be awarded to settle civil disputes. (6) Answer	Marks
3(b)	<p>(2 AO1), (2 AO2), (2 AO3)</p> <p>Responses may include:</p> <p>Descriptions of common law types of damages</p> <ul style="list-style-type: none"> • General damages are those that cannot be precisely calculated. Examples • Special damages are those that can be calculated specifically. Examples • Exemplary damages are those intended to punish the defendant. Examples • Nominal Damages are the award of a small amount of money to indicate the claimant has won the case. Examples and illustration. <p>Impact of use of damages as remedies</p> <p>Damages often unable to put claimant back in position they were in before civil action, especially if the injuries result in permanent disability.</p>	(6)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1–2	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
Level 2	3–4	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
Level 3	5–6	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner and supported by appropriate legal authorities.</p>

Question number	<p>Assess the advantages and disadvantages of the equitable remedies available to resolve civil disputes.</p> <p>(12)</p> <p>Indicative content</p>	Marks
3(c)	<p>(2 AO1), (2 AO2), (4 AO3), (4 AO4)</p> <p>Responses may include:</p> <p>Where damages inadequate, equitable remedies exist, but are not available of right - discretionary</p> <ul style="list-style-type: none"> • Injunctions – order to do or not do something, - detail and examples • Specific Performance – order to complete contract, - detail and examples • Rescission – puts parties back in their pre-contract position - detail and examples • Rectification – alters document to show parties real intention - detail and examples • Equitable Estoppel – court will not grant relief to a party who has not acted fairly <p>Impact of use of equitable remedies</p> <p>All are discretionary, so award lies in the remit of the particular judge</p> <p>Judge may decide that damages are sufficient</p> <p>Problem with injunction – damages are often seen as sufficient</p> <p>Problem with Specific Performance – only rarely used, not used to make someone carry out personal services, or against a minor.</p> <p>Problem with Rescission – used where a misrepresentation has induced one party to enter a contract.</p> <p>Assessment of advantages and disadvantages.</p>	(12)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1-3	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 2	4-6	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 3	7-9	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
Level 4	10-12	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>

Question number	<p>Explain the difference between a Regulation and a Directive in European Union Law.</p> <p style="text-align: center;">(4)</p> <p>Answer</p>	Marks
4(a)	<p>(2 AO1), (2 AO2)</p> <p>Definition of both:</p> <ul style="list-style-type: none"> • A Regulation is a binding EU legislative act (1 AO1) for example stating Regulation (EC) No 2027/97 or imposes unlimited liability on community air carriers in the event of death or injury to passengers (1 AO2) • A Directive lays down certain results to be effected by member countries by a given date (1 AO1), for example stating Council Directive 2000/43/EC of 29 June 2000 or implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (1 AO2). Explanation of differences to include: <ul style="list-style-type: none"> • Regulations become law in all the EU member states immediately after they come into force (Snyder 2000). Do not require any implementing measures and override conflicting domestic laws in each member state. (1 AO2) • Directives need the member states to achieve a result, but they can choose how to achieve the result, such as the format in which to implement the law. It is the duty of the member states individually, to decide on how to implement these directives. (1 AO2) 	(4)

Question number	<p>Explain the role of the Commission in the European Union.</p> <p>(6)</p> <p>Answer</p>	Marks
4(b)	<p style="text-align: center;">(2 AO1), (2 AO2), (2AO3)</p> <p>Responses may include:</p> <p>Role and composition</p> <ul style="list-style-type: none"> • The European Commission is the senior executive branch of the EU. A commissioner is selected from each member country to form a cabinet. They swear allegiance to the European Union and act on behalf of the union as a whole rather than their own country. One commissioner is called to be the President. • The role of the European Commission is to develop strategies for the whole of the EU and to draft legislation, make rules and regulations and to represent the EU in trade negotiations (Article 17 of the Treaty of the European Union). <p>Importance</p> <ul style="list-style-type: none"> • It is the only body within the EU framework that can create law. This is so that there is one voice in the creation of pan-European law. Most of its laws relate to trading relations between member countries and beyond. However, it is now beginning to develop criminal law. This was challenged in the ECJ but upheld. <p>Assessment of role, composition and importance.</p>	(6)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1–2	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
Level 2	3–4	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are</p>

		incomplete or inaccurate, and support of legal authorities may be applied inappropriately.
Level 3	5-6	<p>Accurate knowledge and understanding are demonstrated. Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner and supported by appropriate legal authorities.</p>

Question number	Assess the role of the European Court of Justice in settling disputes. (10) Indicative content	Marks
4(c)	<p style="text-align: center;">(1 AO1), (1 AO2), (3 AO3), (5 AO4)</p> <p>Responses may include:</p> <ul style="list-style-type: none"> • Judges from each member state • Rules on European law when cases referred under Article 234 • Ensures treaties of law are applied and interpreted in the same way for all member states and can settle disputes over this between member states • Hears cases brought by the Commission or other states to decide if a member state has failed to implement a law for example the UK failed to implement a regulation on fitting tachographs in commercial vehicles • Hears references from national courts on the scope and meaning of EU law and must have a case referred when there is no further appeal in a country, previously, for example from our Supreme Court. • Analysis of success, importance and reputation with examples • Cases presented on paper far less reliance on oral evidence as in English courts • Advocate General is an independent lawyer and presents his findings • Deliberations in secret, judgement written and signed by all judges, so any disagreement within judges unknown, so no dissenting judgement/reasoning. 	(10)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1-2	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes based on interpretations of the law.</p>
Level 2	3-4	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes based on interpretations of the law.</p>
Level 3	5-6	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>. The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.</p>
Level 4	7-10	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.</p>

Question number	Evaluate the importance and impact that the Hart/Devlin debate has had on the relationship between law and morality.	Marks
	Indicative content	20
5	<p style="text-align: center;">(2 AO1), (2 AO2), (8 AO3), (8 AO4)</p> <p>Responses may include:</p> <ul style="list-style-type: none"> • Hart/Devlin Debate the latter arguing the damage caused by law lacking morality against the view that some people's moral values ought not to be used to stop others behaviour • Discussion on legal theories – Hart – positivist – no valid connection between law and morals • Natural law – man made laws depend on a higher morality and if not, then they are not valid • Wolfenden Committee • Examples: Human Fertilisation and Embryology Act • Surrogacy • Euthanasia – Diane Pretty • St George’s Healthcare Trust v S • Equality Act • Mandatory Life sentences • Anti-terrorism laws • Evaluating decided cases on above topics and cases such as R v Brown; Shaw v DPP; R v R; the Gillick case and concluding as to the extent to which morals have informed the development of laws • Other valid cases and legal examples • Justified conclusion. 	(20)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1–4	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 2	5–8	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 3	9–14	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
Level 4	15–20	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>

