

	<i>Case presentations 1 Week 2</i>	<i>Case presentations 2 Week 3</i>	<i>Case presentations 3 Week 5</i>	<i>Case presentations 4 Week 6</i>	<i>Case presentations 5 Week 7</i>
<i>Team 1</i>	Bates Y Ashutosh Imbert Reine	Willi Bock Evangelista Portilia	Ngo Belluti Cuer	Dang Bates Yavar Colas Larocca	Bates Y Ashutosh Imbert Reine
<i>Team 2</i>	Dang Bates Yavar Colas Larocca	Bates Y Ashutosh Imbert Reine	Willi Bock Evangelista Portilia	Ngo Belluti Cuer	Dang Bates Yavar Colas Larocca
<i>Team 3</i>	Ngo Belluti Cuer	Dang Bates Yavar Colas Larocca	Bates Y Ashutosh Imbert Reine	Willi Bock Evangelista Portilia	Ngo Belluti Cuer
<i>Team 4</i>	Willi Bock Evangelista Portilia	Ngo Belluti Cuer	Dang Bates Yavar Colas Larocca	Bates Y Ashutosh Imbert Reine	Willi Bock Evangelista Portilia

Guide

How to study legal issues, cases and case law

The legal syllogism distinguishes the following steps:

A/The parties

Identify who is involved in the case, e.g. Are they individuals or businesses? Do the people involved have legal capacity or are they minors? What is the legal relationship between the people involved? What are the rights and obligations of the parties?

B/Facts

Appreciate the facts as they occurred, e.g. What is the chronological order of events? Are there causal relationships? What is the evidence?

C/Legal Question

Assess legal issues and express them in appropriate language e.g. Does a minor have the right to buy what he wants-> What is the extent of the exercise of the civil rights of minors?

D/Legal rules

Identify the area of law, e.g. Is it public law, private law or administrative law?

To identify the legal articles relating to the question, e.g. If the case falls under private law, it is a contractual question? If so, what kind of contract? Which region? What laws?

E/Conditions of application

To appreciate the consequences of the legal rules, e.g. What happens if an obligation is not respected? What is the damage?

Check the consequences in relation to the facts ("in kind...") E.g. If the provision specifies X, does the facts agree with this provision?

F/Scope

Establish the geographical area as this will determine the application of national legislation, e.g. Has the problem occurred in Switzerland? If so, which canton?

Whether the problem has an international dimension, e.g. Is this a question about two companies located in two different countries?

Identify deadlines, e.g. When does the contract end? Are there any prescriptions?

G/Process

Identify the appropriate legal procedure, public, private or administrative, e.g. If the case falls under private law, what are the steps to follow? Are there any deadlines to be met? What are the costs?

It is recommended that at the end of the syllogism to make a complete synthesis.

Where to find the jurisprudence, the doctrine and the comments

Swiss domestic law: Google the article of law and/or ATF, if they are known; Otherwise you can check out the following Web sites:

- Federal Jurisprudence: [Www.bger.ch/fr/jurisdiction-recht](http://www.bger.ch/fr/jurisdiction-recht)
- Cantonal jurisprudence, e.g. VD: <https://www.vd.ch/themes/justice/jurisprudence-et-lois/jurisprudence-du-tribunal-cantonal-et-du-tripac/>
- The official Swiss Portal: www.ch.ch
- Leases: www.bail.ch
- Labour law: www.droitdutravail.ch/jurisprudence

International law: Visit the following Web sites:

- CISG: <http://www.uncitral.org/clout/index.jsp>; [Http://iicl.law.pace.edu/cisg/cisg](http://iicl.law.pace.edu/cisg/cisg)
- HCCH: Click on the appropriate agreement (sales, legal personality, product liability) to find the relevant jurisprudence: <https://www.hcch.net/fr/instruments>

For the doctrine and comments do a Google search with key words to identify summaries published by jurists.

Case study Presentations 1 in Week 2: Legal relations and areas of law

Tasks

- Identify the parties
- Qualify the legal relations between the parties
- Identify the legal issues
- Classify the legal issues in the relevant area of law, either public or private (national or international) or administrative law
- Search to identify the source of the law that is relevant to the case

Case 1 – Team1

André wishes to sell to his sister Hortense a land located in an area of Canton X, for which the state has a pre-emptive legal right. The purpose of the legislation in question is to promote the construction of public-interest housing. André informed the competent cantonal administration of the sale, indicating the price and the conditions of the transaction. A few days later, the Council of State notified André of his decision to acquire the land under the terms of the deed of sale. Andre is unhappy.

Case 2 – Team 2

Marcel lives in a subdivision of villas in the commune of Z. He has just obtained permission to build a small hutch to keep the two rabbits he offered to his children. At the same time, he asked and got to paint his house in purple fluorescent. These two permissions come directly from the OCAT, where he has well-placed friends. The commune is shocked.

Case 3 – Team 3

Michel brought his car to the garage for an expert opinion. At the time of retrieval, the mechanic tells him that a screw on the rear suspension arm broke during the service and that he must keep the car for several days to repair the damage. To his surprise, the whole repair was billed to him. Michel contests.

Case 4 – Team 4

Jean-Charles, being very diligent in his job searches, misses the time to hand in his proof of research. A suspension for one day of the unemployment benefit is imposed by the Employment Office. Jean Charles wants to appeal.

Case study Presentations 2 in Week 3: Contracts
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Tasks

- Identify the parties involved
- Describe the facts
- Identify the legal issues
- Describe the situation as it presents itself to the parties concerned
- Search to identify relevant laws as well as jurisprudence and doctrine
- Review the facts in the light of the law to declare your decision

Case 5 – Team 1

Michel is an apprentice and earns CHF 1'300 a month, and the deadline for termination of his employment contract is two months. He wants to buy a scooter costing CHF 4'000 but does not want his parents to know about it. He goes to a garage who sell him the scooter. A few months later, his scooter is damaged by a car and, as a result of the police report, his parents get to know the scooter exists. They demand from the garage the full reimbursement of the scooter.

Case 6 – Team 2

Vans exploits a small farm in the Jura with his wife and rents an apartment on the farm to his son Felix. Vans wants to sell the building to an English investor. However, the investor wishes to acquire it only if Vans obtains permission to expand the farm to make it a rural cottage. Vans is signing him a letter of promise.

Case 7 – Team 3

The Company X SA organizes in Geneva an auction of luxury watches in a large hotel. In the catalogue of the sale, one of the watches is indicated as "factory production". The terms of sale indicate the following: "The descriptions in the catalogue correspond to the state at the time of the writing of the catalogue. The buyers have the opportunity to become aware of the state of the watches by examining them in the lobby of the hotel. Any claims will not be considered after the purchase". André acquires a watch for a price of CHF 30'000.-. After taking possession of it he realizes that the watch has already been worn, and that its value is clearly less than the price paid. He wants to challenge the purchase.

Case 8 – Team 4

Shipping SA entrusts Naval SA with the repair of a ship. The contract provides for a contractual penalty of CHF 8'000.- per day of tardiness. Naval SA asks from SeaMotors SÀRL to deliver and install the engine for the ship. The engine delivery date is indicated in the contract; it also provides for a 3-week engine installation and adjustment time. SeaMotors Sàrl delivers the engine with three days' delay. Naval SA also notes that the excess weight of the engine would jeopardize the ship's navigability.

Case study Presentations 3 in Week 5: Consumer Contracts

Tasks

- Identify the parties involved
- Describe the facts
- Identify the legal issues
- Describe the situation as it presents itself to the parties concerned
- Search to identify relevant laws as well as jurisprudence and doctrine
- Review the facts in the light of the law to declare your decision

Case 9 – Team 1

Jean-Jacques goes to a bookstore. At the entrance there is a crate with books on sale. Above the crate, there is a sign: "The sold books are neither taken back nor exchanged". Jean-Jacques spots a book by one of his favourite authors. Since the book is packed, he cannot see it, but he knows the quality of this collection. So, he buys the book. Back home, he removes the packaging and opens the book. He finds out that about one third of the pages are glued to each other. To unglue them, he would have to tear them apart. So, he returns the next day to the bookstore and asks to benefit from the guarantee. The bookseller refuses by showing him the signs above the crate of books.

Case 10 – Team 2

On the occasion of the opening of his shop, Morgana faces many difficulties. Her order of watches made for the opening day of her store, does not correspond to what she had requested. When the grand day has finally arrived, a customer who approaches the pay-point with a coat in order to buy the watch, handles it clumsily and destroys it.

Case 11 – Team 3

Mr. Dupont works for a company specializing in security services. For professional purposes, he buys a young German shepherd at a Lausanne Police breeder on 2 February. The price of the dog is CHF 1'200.-. During the training exercises, the dog reacts strangely. Mr. Dupont takes it to a vet for a thorough examination. Diagnosis: The dog is blind to the left eye from birth. The right eye is good, and the dog is otherwise normal. Mr. Dupont asks the breeder to take the dog back and reimburse him for the amount paid. The latter refuses.

Case 12 – Team 4

A Dutch company (seller) and an English company specialising in fruit cultivation (purchaser) have signed a contract for the sale of 500'000 plants of strawberries. After delivery of the goods, the buyer refused to pay the agreed price, alleging that the goods had suffered from water-mould (a very contagious plant disease) and therefore could not grow as expected. The seller challenges the fact that the illness is attributable to him. The parties agreed on the application of the CISG.

Case study Presentations 4 in Week 6: Employment Contracts

Tasks

- Identify the parties involved
- Describe the facts
- Identify the legal issues
- Describe the situation as it presents itself to the parties concerned
- Search to identify relevant laws as well as jurisprudence and doctrine
- Review the facts in the light of the law to declare your decision

Case 13 – Team 1

Mr. K, a native of Kosovo, works for a security company. For months, he has been harassed – in more or less subtle forms – on the part of two colleagues and his superior. They ignore him systematically or attack him verbally by making deliberate remarks. His superior regularly reproaches him for his neglected outfit. Mr. K repeatedly tries to address the problem, but he is rebuffed both by his superior and by his two colleagues, who refuse to speak to him. The person in charge of the personnel department is not prepared to speak to the two colleagues and the head of Mr. K.

Case 14 – Team 2

Jeanne and her family went skiing last weekend, and on Sunday, when they came home, they learned that the road was cut off by an avalanche. The passage was only possible on Monday at the end of the day. At the end of the month, her boss refuses to pay her for this day.

Case 15 – Team 3

Marcelina has just resumed work after her maternity leave and she is still breastfeeding her child. She had agreed with her employer that she could take a break from 1:30 to noon to draw milk instead of just 1 hour. Now, having received her pay slip, she sees that her employer has deducted those hours and will have to catch them up.

Case 16 – Team 4

Paul took two weeks of vacation, but on the second day he got sick and had to stay in bed for almost the whole fortnight because it was a serious pneumonia. Back at work he asks his boss to resume the two weeks' vacation on a latter date. His boss refuses.

Case study Presentations 5 weekdays 7: Lease agreements
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Tasks

- Identify the parties involved
- Describe the facts
- Identify the legal issues
- Describe the situation as it presents itself to the parties concerned
- Search to identify relevant laws as well as jurisprudence and doctrine

- Review the facts in the light of the law to declare your decision

Case 17 – Team 1

Loïc is a tenant of an apartment in Geneva where he lives with his friend Catherine. He has been in conflict with the owner Mr. B for a few years about a rent considered abusive but has just signed with him an amicable settlement ending this dispute. Shortly thereafter, he receives a letter from Mr. B informing him of the termination of the lease agreement. He argues that he needs the apartment for his little cousin. Loïc disputes the termination.

Case 18 – Team 2

Luc is a tenant of an apartment and has entered into a lease agreement for two years. Six months after the contract was concluded, he decides to change Canton. He presents to Régie SA a replacement tenant, who is ready to sign a lease for one year and six months. Régie SA refuses because it requires the signature of a new two-year lease and argues that the replacement tenant does not have sufficient credit guarantees. Finally, the premise remains empty for six months, subject to the cellar which is used by Régie SA to store archives. Six months later, Régie SA is suing Luc for six months' rent.

Case 19 – Team 3

Michel realizes that the basement room where he stores his goods and that he rents suffers from water seepage, which may damage the merchandise. An expert determines that all the ceiling's sealing is to be reviewed. Michel is directed to Régie Du Lac SA, which argues with article 7 of the contract: "The premises are rented in its condition and can be arranged at the expense of the tenant, who will pay the maintenance at his expense until the end of the lease". Michel contests.

Case 20 – Team 4

Claude, a student, shares an apartment close to the university with another student, Albert. Albert goes on a study trip for a year and subleases his room to Dorian against the purchase of certain furniture for a price of CHF 1'000.-. Dorian proves to be insolvent and does not pay his share of the rent or the furniture. Claude demands payment from Albert.