



## EUROPEAN COOPERATION IN CIVIL MATTERS

### TEXT 5

### Family Matters

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**Material for Day 4:**

**AIM: be able to deliver a well structured and meaningful presentation on a legal topic**

**Target: Having gone through the material you will be able to structure and deliver your presentation using relevant phrases and linking and cohesive devices :**

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### Task 3: Read about Presentation Structure

What are the elements of a good case presentation ?

Different people will tell you to include different things..

While opinions may vary, four elements that are essential to any useful brief are the following:

- (a) Facts (name of the case and its parties, what happened factually and procedurally, and the judgment)
- (b) Issues (what is in dispute)
- (c) Holding (the applied rule of law)
- (d) Rationale (reasons for the holding)

If you include nothing but these four elements, you should have everything you need in order to recall effectively the information from the case.

You may want to include other elements that expand the four elements listed above.

Depending on the case, the inclusion of additional elements may be useful.

For example, a case that has a long and important section expounding dicta might call for a separate section: Dicta.

Elements that you may want to consider including in addition to the four basic elements are:

- (e) Dicta (commentary about the decision that was not the basis for the decision)
- (f) Dissent (if a valuable dissenting opinion exists, the dissent's opinion)
- (g) Party's Arguments (each party's opposing argument concerning the ultimate issue)
- (h) Comments (personal commentary)

Personal comments can be useful if you have a thought that does not fit elsewhere.

In addition to these elements, it may help you to organize your thoughts, as some people do, by dividing **Facts** into separate elements:

- (1) Facts of the case (what actually happened, the controversy)
- (2) Procedural History (what events within the court system led to the present case)
- (3) Judgment (what the court actually decided)



**The presentation talk: more input:**

- I am going to talk about a Czech/ Bulgarian/ German/ hypothetical case/ pending inquiry

- **The case is concerned with** / concerns the right to legal assistance within the scope of Article 6 of the European Convention of Human Rights.

- **The facts of the case are as follows** .....

- The **parties concerned** are (on one side / on the other)

- The **case was based on a complaint filed by**

- **The applicant alleged / claimed/ sought**

- The **legal question the Court has/ had to test/ answer was/is this** (whether/ if)

- The **core legal point / right(s) / principle(s) in the instant case is/ are**

- The **case is still pending**

- The **judgement was delivered**

- **The Court found/ ordered/ held**

- **It was established**

- The Court **arrived at the conclusion** that

- The reasoning behind the judgement is as follows

Watch the video and try to repeat individual sentences with focus on intonation:

<http://englishwordoftheday2010.blogspot.cz/2013/06/comedy-sketch-name-sir-bbc.html>



<p><b>This BBC comedy skit contains a legal element: focused on intonation: watch the sketch, read the transcript and practice the sentences:</b></p> <p>I thought that the modern policemen were supposed to be highly trained law enforcement unit - you can't even spell.</p> <p>Do you realize that assaulting a police officer is a very serious offence?</p> <p>But giving your address to the police officer - on the other hand -probably isn't so serious, is it?</p> <p>Perhaps the law has changed and perhaps the Home Secretary has had to take stern measures against the rising tide of people giving their address to the police, whenever they are asked to</p>	
<p><b>Task 6: Please Study the Card Set with your partner and focus on signposting language and presentation phrases :</b></p> <p><a href="https://quizlet.com/_2aqqiy">https://quizlet.com/_2aqqiy</a></p>	
<p><b>Task 7: Preparing for your presentation: practice tongue twisters: <a href="https://quizlet.com/_130xxe">https://quizlet.com/_130xxe</a></b></p>	

**Watch the two videos and explain:**

<https://youtu.be/iDbyYGrswtg>  
<https://youtu.be/Vywf48Dhyns>

Why is Jen giving a presentation and which department does she work for?  
What is the idea of her subordinates about the presentation?  
Give a short summary of their concerns and worries.  
Talk about how the presentation went.  
Does she built up to her point, does she refer to her notes, does she use any prompts or realia, does she vary her voice and intonation, does she win her audience over and does the audience get the point.



**Tasks 8: choose one case and prepare a presentation on it using the phrases and structures from the above Tasks and quizlet sets:**

Give a short presentation to your partner summarising the facts of either an actual or a hypothetical case.

Give a short presentation summarising the questions material to the case the court had to test.

Give a short presentation based on the national law of your country regarding the relevant and applicable legal provisions.

Give a short presentation summarising the likely outcome of this hypothetical case in your jurisdiction.

Give a short presentation summarising the reasoning behind the judgement you would be likely to render in such hypothetical case.

**You can make notes for your case presentation here:**



### Material for Day 5:

**AIM:** be able to deliver a well structured and meaningful presentation on a legal topic and self correct the critical errors.

**Target:** Having gone through the material you will be able to structure and deliver your presentation using relevant phrases and linking and cohesive devices and describe a case relevant to your professional expertise.

### Task 9:

Watch a presentation about how to deliver a good presentation without the most common 10 mistakes:

<https://blog.prezi.com/10-most-common-rookie-mistakes-in-public-speaking/>

Are you aware of making any of these mistakes? If so, how could you improve this?

### Task 10: Deliver the presentation

Watch and listen to the presentations of your fellow judges and make notes of any questions either regarding the subject matter of the case or English language.

When being subject to feedback and error correction by the lecturer, please volunteer your opinion, corrections and advice:



## **Optional cases: read and summarise the facts and say what you think:**

### **Case 1:**

In an unusual case a wife has been awarded 100% of the family assets, consisting of the home worth £250,000 and savings of over £300,000. Although the usual starting point for dividing assets on divorce is based on equality, this was a case where the husband, Mr Aly, had moved to Bahrain a year after the parties separated, since which time he had paid no maintenance or child support for his son and daughter.

A judge found that there was no real prospect of the husband paying maintenance in the future, he had effectively “washed his hands” of his family in the UK and started a new family in Bahrain. He was out of reach of both the Child Support Agency and the British Courts meaning that any order for maintenance would be difficult to enforce. With this in mind, the judge decided that the only way to ensure that the children were properly provided for was to award the wife 100% of the assets. The decision was made in July 2014 and has now been confirmed by the Court of Appeal. Mrs Aly had previously secured a freezing order over the husband’s assets so that they could not be dissipated before the hearing.

### **Case 2:**

A further two cases in which husbands Mr Sharland and Mr Gohil were found to have deliberately concealed their true wealth in divorce proceedings, have recently been heard by the Supreme Court. The wives argued that husbands who lied about the value of their assets in such proceedings should be subject to greater penalties for fraud and that their settlements should be renegotiated as a result. A decision in these cases is still awaited but could have significant consequences for husbands or wives who try to hide their true financial position.





### Case 3:

The Supreme Court has unanimously allowed an appeal by an oil tycoon's former wife – reversing the decision of the Court of Appeal. The case addressed whether the court could treat properties belonging to a limited company as if they were assets belonging to the husband where he was the sole shareholder of the company.

In the original proceedings the High Court found that the husband had sole control of the companies and could deal with the assets as he wished and so they should be treated as belonging to him. The Court of Appeal reversed this decision, applying company law that a company and its shareholders are separate legal entities and that the assets of a company belong to it and not to its shareholders.

The Supreme Court reversed this decision but applied different principles to the High Court. In deciding the case, the court used trust law rather than company law to declare that the properties were on the particular circumstances of the case, not owned by the company but held on trust for the husband and therefore formed part of his assets on the divorce.

In doing so the Supreme Court upheld the company law principle that the corporate veil can only be pierced in very limited circumstances and that assets held by a company are not owned by the shareholders unless it can be shown there had been a fraudulent or dishonest use of the company to avoid an existing obligation.

This was an important decision both for family lawyers and company lawyers. The court was clear that the relaxed approach of family courts to ownership of assets cannot continue and that the strict interpretation of the law of property applied across all legal divisions..