

# *ex parte* *January-March 2021*

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Legal English: Innovation and Motivation

Coronavirus: A Brief Overview of Italian Legislation

Government By Decree: Between Covid-19 Measures and  
Fundamental Rights

IELTS: An Overview



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EDITOR'S

## WELCOME

Dear Reader,

First, may I wish you a very Happy New Year.

Welcome to the very first issue of *ex parte*. I may be wrong, but as far as I know, it is the first and only dedicated English for law ezine. If so, I hope it is not the last. Yes, English for law is quite a specialised area of English, but an increasingly important one. The more resources we have, the better.

2020 was a very challenging year for everyone, for reasons we all know. The challenge for all of us, as we move into 2021, is how to move forward. Having taken the decision to set up Cambridge Legal English Academy, my personal challenge is to do everything I can to see the vision I have for it succeed. And we have started strong.

The vision for *ex parte* is for it to be your ezine and not mine. I would like it to be more than just a 'legal English' magazine. I would like it to be an opportunity. More about that in a moment.

This first issue contains a number of articles. I am very grateful to everyone who accepted an invitation to write an article, especially those whose first language is not English! I really hope the articles will encourage you to think about getting involved in *ex parte* as a project, as we go forward – perhaps by writing an article yourself for future issues or, as I also hope, by getting involved in the process of developing the ezine in other ways (editing, creative input, etc). As I said earlier, this is an opportunity that we have.

I hope you like the articles in this first issue, but I also hope you like the idea of improving the ezine even more. If you think you can, great. I hope that by this time next year *ex parte* will look very different.

If you like the ezine, and the vision behind it, please share it, far and wide. The more readers we get, the better!

We start with an article entitled '**Legal English: Innovation and Motivation**' by Ms Ewa Orłowska MA and Ms Małgorzata Chmielewska MA, teachers of legal English at the Maria-Curie Skłodowska University, Lublin, Poland. I have added a few words of commentary at the end of the article to explain why.

Let's hope that 2021 is a better year than 2020. It starts here.

Best wishes

Mark Fletton LL.M (Cantab), Barrister-at-Law (Lincoln's Inn)  
(Editor)



## **LEGAL ENGLISH: INNOVATION AND MOTIVATION**

**By Ewa Orłowska MA & Małgorzata Chmielewska MA**

Cambridge Legal English Academy (CLEA) was launched on 1st November 2020. Soon after that Mark Fletton contacted us and came up with the idea of cooperation, i.e. he offered free legal English workshops to our students of Law and Administration Faculty at Maria – Curie Skłodowska University in Lublin, Poland. We immediately sensed the freshness of the project as well as its potential, so we decided to join it and let our students take advantage of its practical benefits.

We also realized the ideas behind the project were something that could ‘push’ teaching and learning legal English forward and take it to the next level of tertiary education. The assumptions and guidelines of the project seem to stem directly from CEFR – Companion Volume (2018) that introduced the notion of ‘mediation’ and added it to the already existing descriptors. It also implied that teaching English needed to be understood differently - more as a kind “lingua franca” used mostly by non-native speakers in order to communicate for specific purposes, more and more often professional ones.

As the university teachers with over 25 years of experience, we have always

understood and valued the significance of keeping up with new trends and catching up fresh ideas, inter alia through cooperating with different educational institutions in Poland and abroad. That has always appeared to be an integral and essential element of the teaching / learning process, especially while working with young, ambitious and open-minded people, very eager to develop language competences and stay up to date with miscellaneous novelties.

Since ‘innovation’ as well as ‘motivation’ have always rung the bell in the course of our teaching process, we have been doing our best to share our inspirations with the students, urging them to use (legal) English as intensely and extensively as possible. Also, it has become important to make them aware it is not the ‘perfect’ English (i.e. impeccable pronunciation and grammar) that matters most nowadays and that they should not be afraid of expressing their ideas freely and using the language practically. As one of our other renowned British partners has stated: *‘the students taking part in the specialist language projects should not be overwhelmingly concerned about their level of English as the modules are self-paced and they can jump back and forward as they wish, and as quickly or slowly as they wish.’*

Furthermore, the students had to understand our legal English course was designed to be a ‘bridge’ between university and working in (para)legal profession. Convincing them we are not educating future teachers of English but lawyers and paralegals who will have to deal and cooperate internationally with other lawyers and representatives of the legal profession has proved to be a milestone, too. It should be stressed the students have found it truly encouraging and motivating as well as stimulating their learning process.

The global outbreak of the coronavirus pandemic was the factor that accelerated a great many changes, among them in teaching – also at universities. Online teaching that instantly took over the whole education system clearly showed there was no turning to the old ways, principles and procedures. Slowly but surely, it has become crystal clear we just have to adapt ourselves as well as our teaching habits and methods to entirely new circumstances - to be able to function effectively in a ‘brand new world.’

At the same time, 100% online teaching seems to have created new chances and possibilities. Both for teachers and students. No wonder then that the ideas and activities offered by Cambridge Legal English Academy have been enthusiastically received not only by us – teachers of legal English, but also by our students who eagerly decided to take part in the series of workshops conducted by Mark in November 2019. They did appreciate the possibility of dealing with ‘real’ legal English and sharing their ideas with other students from different countries. As a result, they are willing to experience more of it and thus looking forward to new CLEA projects and activities in January 2021.

## **EDITOR'S COMMENTS:**

Many thanks to Ms Orłowska and Ms Chmielewska for this article. Personally, I am delighted that it is the very first article in the very first issue of *ex parte*.

As we start our journey, everything in this article highlights what we want to do, and achieve, perfectly. I had considered writing the first article myself. I am so glad I did not need to.

Every student who participated in the first series of web workshops in November 2020 was amazing. I would like to thank Mme Catherine Moran at the University of Rennes, France, and the University of Salerno, Italy, in particular.

Ms Orłowska, and her university in Lublin, have a vision for legal English which seems, to us, to be the future. This was reflected in the sheer number of students from Lublin who attended the workshops, and the enthusiasm they showed. It is also reflected in the article. I would like to share one example.

One student from Lublin had a problem with her internet connection. Basically, she could not hear what was being said. Instead of dropping out, she stayed in the group. She looked at the slides that were shown and made comments in the 'chat box' for over an hour. This kind of enthusiasm and dedication made me realise why doing this is important.

One part of our vision is to be able to bring law students and young lawyers together – from across Europe, and beyond. We think that will not only improve your 'legal English', but will build relationships, and understanding, for the future. The feedback from the workshops showed that law students enjoyed engaging law students from other countries. That is what we want, too. And, if the best we can do right now is to do that 'remotely', through the internet, that is what we will try to do.

We agree completely with what was said in the article:

*"...it has become important to make them [students] aware it is not the 'perfect' English (i.e. impeccable pronunciation and grammar) that matters most nowadays and that they should not be afraid of expressing their ideas freely and using the language practically."*

We want to give you the opportunity to do this. *ex parte* is part of this, but

only part. And many thanks to Ms Orłowska, and the Law and Administration Faculty at Maria–Curie Skłodowska University in Lublin, Poland.



## **CORONAVIRUS: A BRIEF OVERVIEW OF ITALIAN LEGISLATION**

**By Signor Claudio D'Alonzo, PhD (Business Law), Researcher and Lecturer at Catholic University, 'Our Lady of Good Counsel'. Tirana.**

It is now almost one year that the world has been dealing with something new and unexpected, a hideous situation which has totally and utterly changed the life of almost everybody. Covid-19, commonly known as coronavirus, started its relentless march from a remote province of China and has soon spread across the world.

European countries have responded in various ways to the Covid-19 crisis, resulting in different levels of virus contamination.

The purpose of this short piece of writing is to provide a brief overview of the Italian response measures.

At first nobody paid much attention to the virus, as it was something far from affecting our lives; however, everything changed quickly. As a matter of fact, it did not take long before the first case was found in the north of Italy; as far as is known, the infection started because of a German citizen who had a first working meeting with a Chinese entrepreneur and several others in Lombardia (Lombardy).

Over two weeks the Italian government was getting to grips with something different from a flu and considerably stronger than it; indeed, this virus is lethal and there is no cure for it apparently. That is why draconian measures were adopted in order to try to stop, or at least to contain, the pandemic; so emergency legislation came into force and restrictions were imposed.

On the one hand, the problem arose as to whether citizens were still allowed to exercise their rights in order to meet their needs; on the other hand, the Italian legislature had to deal with the need to issue laws that created a balance between the primary right to health and the relinquishment of other fundamental rights.

The pandemic was initially tackled through direct response measures, which aimed at safeguarding public health. Pursuant to the decrees issued from March 7th on, the whole country was deemed a “protected zone”, where people were initially requested not to have any social contact with one another.

Inevitably, this crisis changed our lifestyle. Remote working is now the rule for many, as well as avoiding, or at least reducing, any social contact; due to the internet and smartphones it is possible to do almost everything from home and to better organize the day.

Furthermore, Italy tried to mitigate the socio-economic effects of the pandemic and of the national lockdown. On this point, emergency legislation had an impact on companies too. As a matter of fact, as long as the state of emergency will last, shareholders’ meetings are allowed to take place by electronic means of communication; additionally, voting rights can be exercised in the same way.

Therefore, due to the pandemic, shareholders’ meetings can be convened in a “virtual place” rather than in a “physical place”. In order to allow shareholders to take part in the meeting and to be informed about the matters which will be discussed, it is possible to resort freely to telecommunication.

The rule mentioned above shows that the purpose of this regulation is to prevent the meeting becoming an assemblage of people which jeopardises the health of the members and, consequently, of all those who subsequently have contacts with them.

In conclusion, it is possible to state that the time we are all living has forced the legislature to deal with new problems and to make solutions balancing the interests involved. However, the common hope is that this calamity will end soon and that the sacrifices we have been asked to make will not be vain. If so, life will be back to normal and emergency legislation will not last too long



## **GOVERNMENT BY DECREE: BETWEEN COVID-19 MEASURES AND FUNDAMENTAL RIGHTS**

**By Signor Francesco Maria Ricciardi, PhD Candidate in Public Law, University of Salerno**

The year 2020 will be remembered as the *annus horribilis* because of the outbreak and worldwide spread of the Covid-19 pandemic. The genealogy of the pathogen is debated: experts in viral genetics and emerging virus have described some likely paths for SARS-CoV-2, but we still do not have enough evidence to write an origin story for the cause of the disease.

While the search for effective medical treatments is underway and quickly developing, more and more countries have adopted strict emergency measures to fight the epidemic: the initial ones (shutting down borders and halting international flights) were followed by domestic transportation restrictions, curfew and bans of mass mobility. Some countries (the most affected ones) also experienced heavy burdens on their healthcare systems and witnessed shortages of medical equipment medication and sanitary materials.

In Europe, a wide majority of EU governments have resorted to emergency powers by which they have radically limited internal and international travels, carried out sanitary controls, closed schools and universities, shops and public spaces, confined people at home. Contact tracing and data analysis measures are being developed and implemented through apps and big data processing. This approach drastically limited

individual freedom of movement and assembly and impacted on citizen's right to privacy and to data protection. These changes represent pivotal challenges to democracy, the rule of law and fundamental rights.

According to critics, some governments have used the emergency situation as an excuse to propose and approve controversial legislation that jeopardises constitutional liberties, or is unrelated with the fight against Covid-19. During the 2020 Cambridge Freshfields Lecture, former British Supreme Court Justice, Lord Jonathan Sumption, delivered a negative appraisal of the British government's handling of the pandemic. He accused ministers of deliberately stoking up fear and acting with a "cavalier disregard for the limits of their legal powers". The British State has exercised coercive powers over its citizens authorized by ministerial decree, with minimal parliamentary involvement. He does not doubt the seriousness of the epidemic, but believes that "history will look back on the measure taken to contain it as a monument of collective hysteria and governmental folly".

He noted that the government attempted to avoid parliamentary scrutiny, seeking to derive its legitimacy directly from the people, thus bypassing their elected representatives. This approach is in contrast with the constitutional balance of institutional powers, according to which the dependence of the government on parliamentary support is the means by which the policies of the executive are subjected to consideration by the representatives of the electorate: the executive is required to report, explain and defend its actions in order to protect citizens from the arbitrary exercise of executive power. Since the people have no mechanism for holding governments to account other than Parliament, the effect of circumventing its scrutiny is that "ministers are accountable to nobody except every five years of general elections [...] there is no democracy at all".

Facing the coronavirus pandemic, the present British Government did not act on the advice of behavioural scientists, who suggested to treat citizens "as rational actors, capable of taking decisions for themselves and managing personal risk". On the contrary, it was driven by the public panic and the general demand for action and opted for coercion, but this would have needed statutory powers. The Government has passed the main lockdown regulations under the British Public Health Act 1984, which does contain a power for the government to make regulations to fight infectious diseases, but it is "couched in wholly general terms". Relying on that act to authorise sweeping control over healthy people's lives, the lawyer said, is inconsistent with the principle of legality as

expressed in the famous case of *ex parte Simms*, where the House of Lords held that “fundamental rights cannot be overridden by general or ambiguous words” in an act of Parliament. This means that lockdown laws are unlawful in their current form and that regulation could be quashed on judicial review.

The judge also warned against the dangers of meekly accepting government by decree, even with a national emergency to justify it: “This is how freedom dies. When societies lose their liberty, it is not usually because some despot has crushed it under his boot. It is because people voluntarily surrendered their liberty out of fear of some external threat”.

It is interesting to note that Lord Sumption’s concerns have been shared by Professor Sabino Cassese, a former Italian constitutional judge and a lawyer of note. He too addressed a forceful and vehement critique against the use of Government decrees during the state of emergency: “The Constitution is clear”, he stated, “Full powers to Government are illegitimate”; “the Constitutional Court, with many judgements, has defined the ways to recur to power of extraordinary and urgent ordinance, that is for unpredictable events, which require immediate intervention. The definitions of the Court have been observed only in half”.



**EDITOR'S COMMENTS:**

**Mille Grazie!**

Many thanks to both Sig. D'Alonzo and Sig. Ricciardi for these excellent and interesting contributions.



## **IELTS: AN OVERVIEW**

**By Madge McClary**

The International English Language Testing system (IELTS) consists of two modules - Academic and General Training. It is the Academic module which universities and professional organisations require students to take in order to be accepted for undergraduate or post graduate courses or to achieve professional recognition in order to find employment in prestigious occupations such as law or medicine. The IELTS test is designed to assess a student's ability to function effectively at the highest level in a specialist English speaking environment. The test is graded using nine bands (0-9) with nine being the top score. Four skills are tested; listening, reading; writing and speaking. A minimum band score of 7.5 in all the four skills is generally required for university admission and for acceptance into the professions as mentioned above.

In order to succeed students must get to know everything they can about the IELTS test beforehand but where to start? The internet is overloaded with websites and forums and it can be a very confusing place when starting out on your IELTS journey. Nowadays almost anyone can claim to be an expert and use the internet as a platform to peddle advice and information. How can you be certain that the advice or information is correct or even up to date? You can't.

The best starting points are the official websites of IELTS / IDP: IELTS Australia [1] and The British Council [2]. Why? Because in partnership with the University of Cambridge ESOL Examinations [3] they create and manage the IELTS test. Likewise, if you are applying to a university in the UK then the first place to start is the UCAS website [4]. Official websites contain not only all the information you might need but are also an excellent source of advice, ideas and resources to support students. Now that you are moving in the right direction you might be thinking about buying some practice materials - text books or a course book. How, where and what to choose? There is so much choice out there.

As a teacher I have always found the *Official IELTS Practice Materials* practice test books to be very effective. These provide a complete practice test, including CD, with sample answer sheets; comprehensive information about the test plus very useful comments by examiners on examples of students' writing and speaking tasks.

Cambridge University Press (CUP) [5] has always been an excellent source of IELTS examination material and is a good place to start looking. Second-hand copies are often offered for sale on online shopping sites such as Amazon. I suppose at this point it would be a good idea to state that I have no connection to any website, author or organisation that is mentioned in this article. Any recommendation comes from my extensive experience teaching IELTS for over fourteen years in a Cambridge Language School.

So, what do you actually need? Will any grammar or vocabulary textbook do? Probably not in my view. For example, in the IELTS reading test students will be asked to answer questions about articles taken from a wide range of academic journals, for instance, scientific, geographic, medical, rather than articles of more general interest. It is therefore advisable to buy textbooks which are designed specifically for IELTS.

CUP publishes a range of self-study books with answers. I recommend their *Grammar for IELTS* and *Vocabulary for IELTS*. Another excellent vocabulary workbook is, *Check Your English Vocabulary for IELTS* by

Rawdon Wyatt [6].

There are authors of IELTS material whose published work I have found invaluable over the years. One in particular stands out. Any IELTS book by Sam McCarter would be a best buy in my opinion. His *Ready for IELTS* course book with key; *IELTS Testbuilder* and *Tips for IELTS* [7] are particular favourites of mine and in addition to the books and resources previously mentioned would provide any student with everything that they need to study successfully for IELTS.

[1] [www.ielts.org](http://www.ielts.org)

[2] [www.britishcouncil.org](http://www.britishcouncil.org)

[3] [www.cambridgeenglish.org](http://www.cambridgeenglish.org)

[4] [www.ucas.com](http://www.ucas.com)

[5] [www.cambridge.org](http://www.cambridge.org)

[6] [www.acblack.com](http://www.acblack.com)

[7] <https://macmillan.com>

### **About Madge**

Madge McClary has taught English as a foreign language for fourteen years and developed a specialism in teaching the IELTS academic module and other examinations in the Cambridge suite of examinations. In 2017 she wrote and published an IELTS Test Taker Handbook for students. In 2019 she produced a Guide designed to increase a student's score in the speaking part of the IELTS examination.

Madge writes much of the teaching and learning material she uses in her lessons and designs intensive courses to cater for students at all language levels from A1 to C1 (CEFR scale).



## QUESTION AND ANSWER

### **Question: What is the difference between a lawyer and a barrister?**

This is an interesting question.

Basically, in England & Wales, the legal profession is divided into two separate branches. These are:

- solicitors, and
- barristers

If you are a solicitor *or* a barrister, you are a 'lawyer'. In some ways, it is like saying that tigers and lions are both a kind of cat. One is not 'higher' or more superior to the other. However, traditionally, solicitors and barristers have done different kinds of work.

It is generally the case that solicitors are based in, and work from, an office. On the other hand, barristers generally do advocacy work in the courts. Solicitors generally have more direct contact with clients and do a lot more paperwork – for example, drafting contracts and other legal documents. Barristers, on the other hand, usually give specialist legal advice, represent people in court and conduct litigation on behalf of their clients. However, barristers also do written work; for example, drafting legal opinions and court documents, including skeleton arguments.



These two branches of the legal profession are regulated by different bodies. Solicitors belong to and are regulated by The Law Society. Barristers, on the other hand, are regulated by the General Council of the Bar (also called ‘The Bar Council’). You can see, therefore, that they are completely separate branches of the legal profession.

Other significant differences are that the training for both branches of the legal profession is different, and also that barristers in private practice are self-employed – they do not work in partnership. There are far fewer barristers than solicitors in England & Wales. Becoming a barrister is, realistically, much more of a challenge, for several reasons.

It is also not well known that you do not need a law degree to practise law in England & Wales, although many lawyers in both branches of the legal profession do have a law degree.

#### **EDITOR’S COMMENT:**

If you have any questions about anything connected with English law, or legal English generally, please send them to us by email at [info@cambridgelegalenglish.com](mailto:info@cambridgelegalenglish.com) and we will try to answer them in the next issue.



## QUIZ

**The following questions are based on the articles in this issue.  
You will find the answers on page 23**

1. Which word on page 8 means ‘very harsh’ or ‘severe’?
2. Which phrase on page 8 means ‘starting to understand or deal with something’?
3. Which word on page 9 means the body in a country which makes (passes) laws, such as a parliament?
4. Which word on page 9 means ‘to makes something less harmful’?
5. Do you know the noun form of the verb in question 4?
6. What is the word on page 9 which means people who own a part of a company?
7. Which Latin phrase on page 10 means ‘horrible year’?
8. Which word on page 10 means ‘an order to stay at home’, usually between certain times of the day?
9. Which adjective on page 11 means ‘using force to persuade people to do something (usually that they do not want to do)’?
10. Do you know the noun form of the adjective in question 9?
11. What adjective on page 12 means ‘to have more than one meaning’?
12. What adjective on page 12 means ‘not authorised by the law’?

### **True or False?**

13. The situation where you 'work from home' and use the internet to communicate with your work, clients and/or customers, is called 'removed working'.
14. Lord Jonathan Sumption used to be Supreme Court judge in the United Kingdom
15. There are no lawyers in Italy who have the same concerns as Lord Sumption.
16. The legal profession in England & Wales is divided into three branches.

### **In the following sentences, choose the correct word from the ones given (in bold):**

17. A person who uses the services of a lawyer is called a **customer/client**?
18. Barristers in England & Wales are regulated by the Bar **Society/Council**?
19. If you work for yourself, you are self-**instructed/employed**.
20. A solicitor can help you to **draft/write** a contract.



### **THE FINAL WORD(S)...**

First, many thanks to everyone who has contributed to this first issue of *ex parte*.

Going forward, I would love to see as many contributions as possible from international law students and lawyers. Does it matter if your English is not perfect? No. If you want to write about any topic connected with the law or legal English, that would be great. For example, it could be an essay about law in your country, international law, studying law at your university, or practising law. And, if you want help writing your article/essay, we will give it.

Alternatively, if you want to help in editing the ezine, sourcing articles and contributions, and so on, that would be great, too. We want to encourage your creativity, offer the opportunity for other law students and lawyers to read your work, to build confidence, and to build a positive and supportive English for law community.

As I said earlier, you can make this ezine, and our legal English project, what you want it to be.

We will continue to put as much material on our website as possible (under the Resources/Legal English Blog section <https://www.cambridgelegalenglish.com/blog> ). If you want to write a blog for that, please do. Or, if you want to see a blog about a particular

topic on law or legal English, please email us at:

[info@cambridgelegalenglish.com](mailto:info@cambridgelegalenglish.com)

You will find details about the **free web workshops for January** on the website, here: <https://www.cambridgelegalenglish.com/post/legal-english-free-web-workshops-in-january-2021> . The workshops for the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> January are fully booked, but there is space in the workshops for the following two weeks.

One of the aims for February or March is to do a debate. Details of this are also on the website:

<https://www.cambridgelegalenglish.com/post/cambridge-legal-english-academy-union-the-debating-society> . If you want to be involved in the debate, you will get as much help, and resources, as you need. There is a special workshop on the 25<sup>th</sup> January to discuss the topic of the first debate. We are hoping for two ‘proposers’ and two ‘opposers’ for the debate motion. This is an excellent chance to advocate, in English, in a friendly, relaxed, and fun environment.

Finally, we want to offer as much free material and English for law tuition as possible. Our vision is really to help you succeed in both your studies and future career.

With very best wishes for the New Year. Hopefully by the time of the second issue, the weather will be warmer!

Mark Fletton

Cambridge Legal English Academy

## QUIZ ANSWERS

1. draconian
2. getting to grips with
3. legislature
4. mitigate
5. mitigation
6. shareholders
7. *annus horribilis*
8. curfew
9. coercive
10. coercion
11. ambiguous
12. illegitimate
13. False. This situation is called 'remote working' [page 9]
14. True [page 11]. He is a **former** Supreme Court judge.
15. False. Lord Sumption's concerns are shared by former Italian judge, Professor Sabino Cassese [page 12]
16. False. The legal profession in England & Wales is divided into two branches: solicitors and barristers [page 17]
17. client
18. Council
19. employed
20. draft

