

1. Which remedies for the buyer do you know in case of a breach of contract by the seller according to the Vienna Convention? Please give short definitions.

**12 scores**

2. ProTech Inc. is a young and ambitious start-up company in the field of IT-Security with its headquarters in Los Angeles. One of the key products developed and manufactured by ProTech Inc. is the anti-virus-wall "Fight Back 2.0". The company wants to enter a new market with its anti-virus product so the price has to be very competitive and much lower than of its competitors' products. Therefore the company has saved money in the area of research und development.

Bob has finished his studies and has got a job at Jupiter GmbH in Stuttgart. He is the head of the IT-Security department of his company. Always aware of his company's advertising-campaign "miserliness is marvellous" Bob has decided to purchase the anti-virus software "Fight Back 2.0" for his company in order to save money. He buys the product from his local dealer. Several months later his company suffers a virus attack that damages important data files so that the company has to close for three days. The suffered damage is extensive. The company calls in an expert who detects that the responsible virus has already been known for two years.

Bob is now thinking about his company's claims for damages against the ProTech Inc. and other possible defendants. Please give him legal advice and point out the requirements for possible claims?

**14 scores**

3. Bob is a smart guy. In his free time he has developed the new software product "railhail" which helps him to control his railroad at home. Now he fears competition and wants you to give him legal advice concerning the possibilities of legal protection. Please give and discuss the requirements for all his legal options and decide whether they are feasible and reasonable.

**10 scores**

4. Please give an overview regarding the sphere of application of the Vienna Convention and distinguish especially between the discretionary and the mandatory possibilities of application.

**12 scores**

5. Bob is currently working a few months abroad in the Dutch branch of Jupiter GmbH. He wants to purchase a range of TV screens from a British supplier. Bob knows about the Vienna Convention from his law lectures at university and wants to apply the terms of the Vienna Convention to the contract. During the negotiations he agrees on this point with his British counterpart, but this point does not appear in the written contract.

Has Bob achieved his object? Which legal regulation applies to the contract? Please give also short reasons.

Does something change if the contract contains the clause:

"German Civil Law applies to the contract"

**10 scores**

6. What does "Freedom of contract" mean? Please give also a short definition.

**8 scores**

7. Please interpret the following sections of the Vienna Convention and give especially the meaning, underlying sense and purpose.

**Article 31**

If the seller is not bound to deliver the goods at any other particular place, his obligation to deliver consists:

- (a) if the contract of sale involves carriage of the goods - in handing the goods over to the first carrier for transmission to the buyer;
- (b) if, in cases not within the preceding subparagraph, the contract related to specific goods, or unidentified goods to be drawn from a specific stock or to be manufactured or produced, and at the time of the conclusion of the contract the parties knew that the goods were at, or were to be manufactured or produced at, a particular place - in placing the goods at the buyer's disposal at that place;
- (c) in other cases - in placing the goods at the buyer's disposal at the place where the seller had his place of business at the time of the conclusion of the contract.

**12 scores**

**Article 46**

(1) The buyer may require performance by the seller of his obligations unless the buyer has resorted to a remedy which is inconsistent with this requirement.

(2) If the goods do not conform with the contract, the buyer may require delivery of substitute goods only if the lack of conformity constitutes a fundamental breach of contract and a request for substitute goods is made in conjunction with the notice of the lack of conformity given within a reasonable time or within a period of two years or within a reasonable time thereafter.

(3) If the goods do not conform with the contract, the buyer may require the seller to remedy the lack of conformity by repair, unless this is unreasonable having regard to all the circumstances.

**12 scores**

8. Imagine you have just finished your studies and now want to put a good business idea into practice. What kind of possible companies can you found if your budget is tight? Give also the advantages and disadvantages of each option.

**10 scores**

**total 100 scores**