

**Non-commercial legal
entities and**

contracts

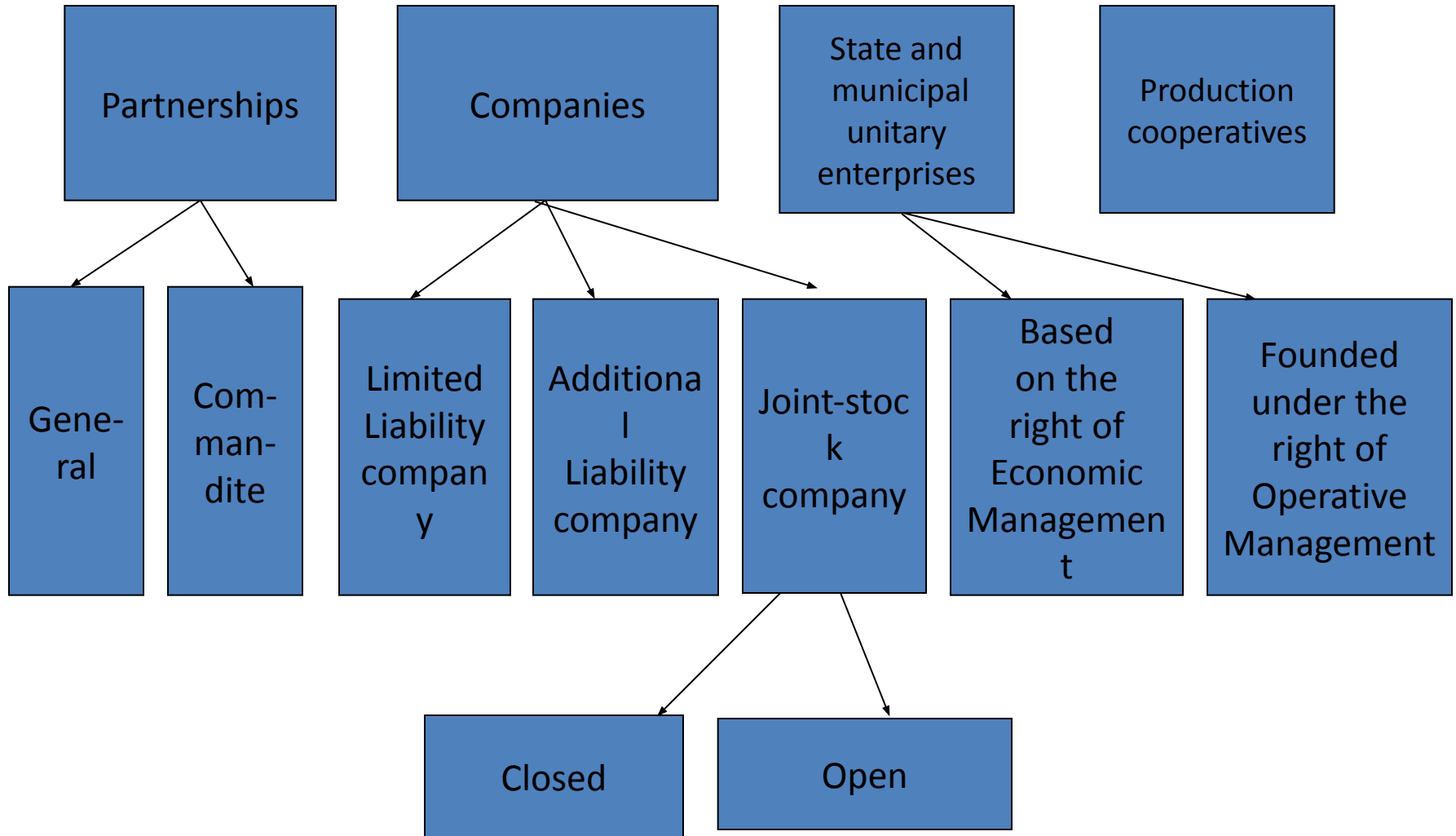
Legal entities

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graph TD; A[Legal entities] --> B[Commercial]; A --> C[Non-commercial];
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Commercial

Non-commercial

The organizational unities of commercial legal entities



The bodies of legal entities (Art. 53 of the Civil Code)

- **The legal entities act through their bodies (organs).**
- **The acts of the bodies are considered the acts of the legal entities.**

The bodies of legal entities

- The sole (one-man) bodies
- The collective bodies

The sole bodies

- Director (or Director-general) –
директор

Chairman of the board –
председатель правления

- Chairman of the board of directors – *председатель совета директоров*

The collective bodies

- The general meeting of participants –
общее собрание
- The board of directors (or council of
directors, or supervisory council) –
совет директоров
- The board (or directorate) - правление
- The audit commission

The bodies of a legal entity

- The management bodies – органы управления (adopt decisions)
- The executive bodies – исполнительные органы (execute decisions of the management bodies)

The management bodies (organs)

- The general meeting of participants
- The board of directors (or council of directors, or supervisory council)

The executive bodies (organs)

- **Board (or directorate)**
and
- Director (or Director-general)
or
- Chairman of the board

The highest organ

- The general meeting of participants

The organizational unities

Bodies

Partnerships

Have no bodies, because the participants run the partnership all together and each participant has the right to operate on behalf of the partnership

Limited liability companies (companies limited by stakes)

The management bodies :
A general meeting of participants
The executive bodies:
A board (or directorate),
A director
Can be created:
A board of directors (the supervisory council)
A chairman of the board of directors

Additional Liability company

The same

The organizational unities

Bodies

Joint-stock companies (companies limited by shares)

The management bodies :
A general meeting of participants
A board of directors (the supervisory council)
A chairman of the board of directors
The executive bodies:
A board (or directorate),
A director

State and municipal unitary enterprises

The management body (it is also the executive body):
A director

Production cooperatives

The management bodies :
A general meeting of participants
The executive bodies:
A board (or directorate),
A director
Can be created:
A board of directors (the supervisory council)
A chairman of the board of directors

Legal entities

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graph TD; A[Legal entities] --> B[Commercial]; A --> C[Non-commercial];
```

Commercial

Non-commercial

Commercial legal entities

Commercial legal entities

Commercial legal entities are

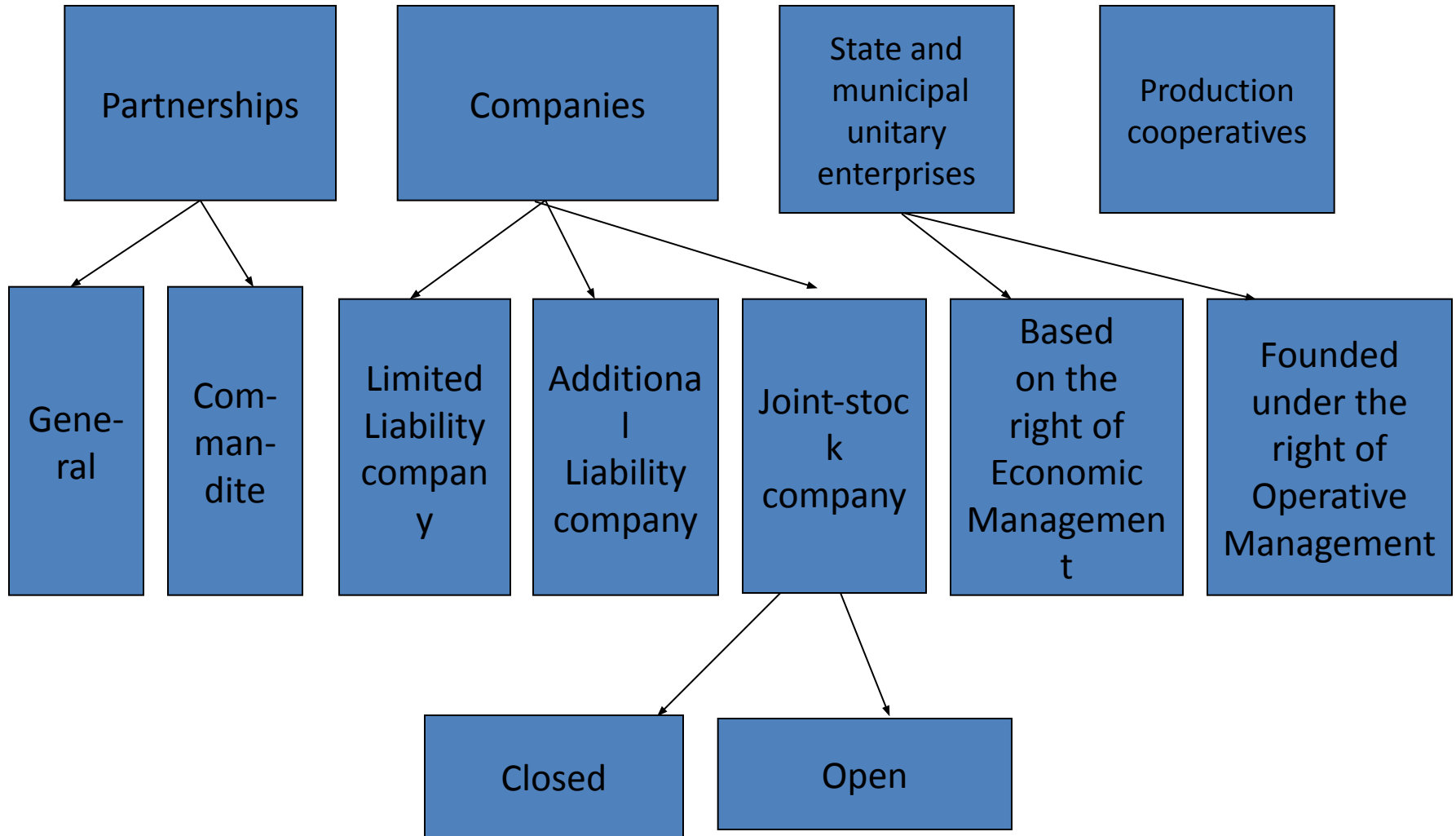
- organizations which have **profit** as the main purpose of their **business**

Commercial legal entities

- They have **general contractual capacity:**

they may engage in any legal business activity.

The organizational unities of commercial legal entities



The main forms of commercial organizations in France

- The general partnership
- The commandite partnership
- The joint-stock company
- The limited liability company

The main forms of commercial organizations in Germany

- The general partnership
- The commandite partnership
- The joint-stock company
- The limited liability company
- The commandite limited by shares

The commandite limited by shares in Germany

- The commandite limited by shares in Germany **looks like** the commandite partnership, but *there are shareholders instead of contributors* to the partnership here.

- **The partners of the commandite limited by shares:**
 1. Full partners
 2. Shareholders

- **The partners of the commandite partnership:**
 1. Full partners
 2. Contributors to partnership

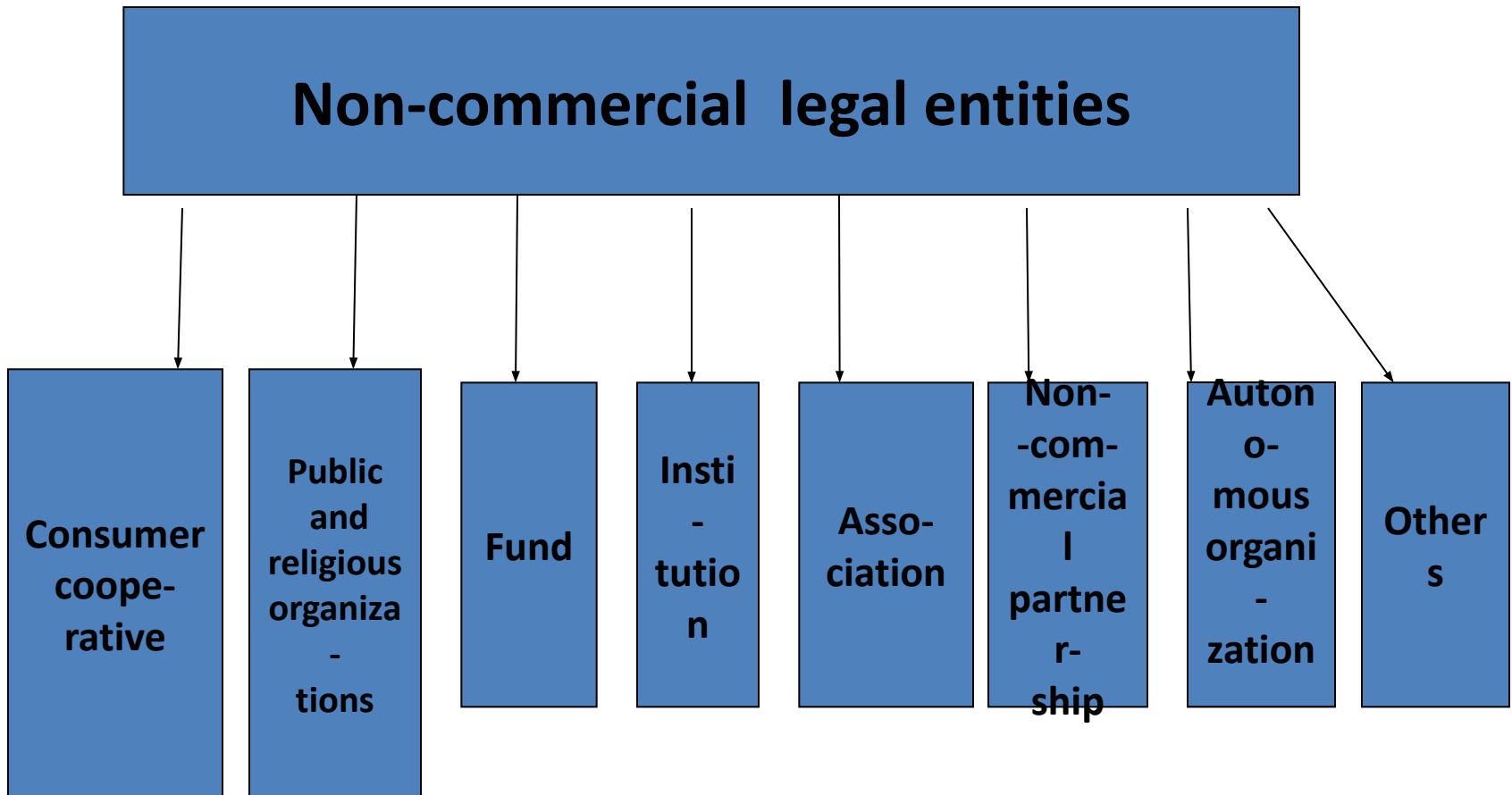
The main forms of commercial organizations in Great Britain

- **The partnership**
- **The limited partnership**
- **The public company**
- **The private company**

The main forms of commercial organizations in USA

- The general partnership
- The limited partnership
- The business corporation
- The closed corporation
- The limited liability partnership (LLP)
- The limited liability company (LLC)

The organizational unities of non-commercial legal entities



Non-commercial legal entities

Non-commercial legal entities execute their activities on the base of

- **Civil Code** and
- **The Federal Law No 7- FZ «On Non-commercial Organizations», dated 12 January 1996**
- **Other special Federal Laws**

Non-commercial legal entities

Non-commercial legal entities are

- organizations **which do not have profit** as **the main purpose** of their business,
- their main purposes can be **social, political, educational, public, sports, to enlighten and so on.**

Activity of non-commercial legal entities

Non-commercial legal entities have **special (not general) capacity:**

They can have only such rights and obligations, which correspond to the aims of the activity of the legal entity, stipulated in the constituent documents.

Non-commercial legal entities

may engage in the business activity only in case:

1. it helps them to achieve the goals, they have been established for,
2. the business activity is of the kind that corresponds to these goals,
3. non-commercial legal entities does not distribute the profit among their founders (members).

(Art. 50 of the Civil Code)

A task

- Is Financial University commercial or non commercial legal entity?
- What is its main purpose?
- May the University engage in the business activity?
- What kind of activity can the University perform?
- May the University deal in selling of footwear?
- Or in selling of textbooks?

Liquidation of the legal entities (Art. 61 of the Civil Code)

- A legal entity may be liquidated by:

1. a decision of its founders

2. a decision of a court (for example, in the event of effectuation of activity prohibited by a law or with a violation of the Constitution of the Russian Federation or with other repeated or flagrant violations of a law or other legal acts)

Contracts

The definition of the contract in Russia (and in the other countries of the Romano-German law)

- **According to Russian law (Art. 420 CC) - a contract is an agreement (between two or more parties), which is given legal effect:**

**it creates rights and obligations,
which are recognized by law**

A contract is a sort of transactions.

What is a transaction (a deal)?

Concept of transaction

(Art. 153 of CC)

- The actions of citizens and legal entities directed towards the establishment, change, or termination of civil rights and duties shall be deemed to be **transactions**.

Transactions

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graph TD; A[Transactions] --> B[unilateral]; A --> C[bilateral and multilateral];
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unilateral

bilateral
and
multilateral

Unilateral **transactions**

- The will of one party is necessary and sufficient.
- For example:
- **Drawing a will** (написать завещание)
- **Drawing a promissory note** (выдать простой вексель)
- **Issuance of a bank guarantee** (предоставить банковскую гарантию)

Bilateral and multilateral transactions

- The expression of the will **of two parties** (bilateral transaction), **or three or more parties** (multilateral transaction) are necessary.
- For example:
- **A purchase-sale contract**

Others:

- **Contract of Hire-Sale**
- **Finance lease**
- **Contract of commercial concession**
- **Carriage -перевозка**
- **Loan and Credit – заем и кредит**
- **Insurance -страхование**

- A contract is an agreement between two or more parties.
- So a contract is *a bilateral or multilateral transaction.*
- Is a drawing a will a contract?

Forms of transactions (contracts)

- Transactions can be concluded **orally** or **in written form** (Art. 158).

A written form (Art. 160 and 161):

- Shall be effected in **the simple written form**, :
 - **1) *the deals of the legal entities*** between themselves and with the citizens;
 - **2) *the deals of the citizens*** between themselves ***to the sum at least ten times exceeding the minimum size of wages*** (4611 rubles x 10 = 46110 rubles),
 - **3) *and in the law-stipulated cases - regardless of the sum of the deal (for example – foreign economic transactions).***

Article 163.

The Notarially Certified Deal

1. Some transactions (deals) need to be *notarially certified*.

2. The notarial certification of the deals shall be obligatory **in the cases** :

1) *pointed out by the law* (art. 1124: a will must be certified by a notary);

2) *in the cases, stipulated by the parties' agreement*, even if this form is not required for the given kind of the deals by the law.

Oral transactions (Art. 159):

- A transaction *for which the written (simple or notarial) form has not been established* may be concluded **orally.**

What are the rules of the concluding of a contract?

- The parties must reach **agreement**,
- **in the required form**,
- the agreement must have **all the material conditions**

(Material conditions (art. 432) –

- 1. a subject of the contract,**
- 2. conditions, which are named in law as material,**
- 3. conditions, which are necessary for contracts of the particular type.**

For example (art. 454):

- What are the material (essential) conditions of a contract of **purchase-sale**?
 - **The name** and **quantity** of the good.

An agreement

The contract shall be concluded by way of sending an offer (a proposal to conclude a contract) by one party and its acceptance (acceptance of the proposal) by the other party.

An offer (art.435)

Requirements for Offer:

- **It must indicate a clear intent to make a contract**
- **It must be communicated to the other party**
- **The subject of the contract and the other essential conditions must be indicated in the offer**

An acceptance (art. 438)

- **An acceptance must be clear and unqualified**
- **The acceptance that modifies the offer is a counteroffer, that is, a rejection of the original offer and the making of a new offer**

Moment of conclusion of contract (Art. 433)

- A contract shall be deemed to be concluded at the moment of receipt by the person who has sent an offer of its acceptance.

There are some essential elements of a valid contract in English law:

- Mutual agreement or meeting of the minds (a valid offer and acceptance)
and
- Consideration (something of value given in exchange for a promise)

Consideration

- Consideration means “**something for something**”
- The mutual promises must be **real, not illusory**
- Consideration **can't be past**
- A moral obligation is not consideration

A question

- Can English people conclude **a contract of Gift?**