

European Cross-Border Civil Procedures: Legal English for Court Staff and Bailiffs

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Co-funded by
the European Union

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INTRODUCTION TO THE MANUAL

The origin of this manual is a **project co-funded by the European Union** (“Training court staff and bailiffs in European cross-border civil and criminal law procedures”, Grant Agreement number: 101089604) that the Academy of European Law (ERA) is implementing in partnership with the European Judicial Training Network (EJTN) and the support of 16 judicial training institutions from all over Europe, with the aim **of training court staff and bailiffs in legal issues related to EU civil cross-border procedures.**

The training materials in the project and in this manual cover the following **EU instruments** on EU civil and commercial cross-border litigation, cooperation and procedures:

1. **Brussels Ia Regulation:** Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast).
2. **European Enforcement Order:** Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.
3. **European Payment Order:** Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure and Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure.
4. **European Small Claims Procedure:** Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure and Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure.
5. **Service of documents:** Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast).
6. **Taking of evidence:** Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the

Member States in the taking of evidence in civil or commercial matters (taking of evidence) (recast).

The project tries to meet a training gap which had already been identified by the European Council in 2014 when it stressed the need to address the particular issue of court staff training in terms of (a) “improving training in EU law of the court staff whose duties comprise elements of EU law” and (b) “facilitating the cross-border cooperation of court staff training providers where relevant”.

However, one of the problems of providing training for this profession is the fact that **each Member State has different types of court staff**. As the definition of court staff varies considerably from one country to another, the following functional definition has been chosen for the project: “personnel of a court -regardless of their formal title or education- who have certain judicial or procedural functions and need to apply EU law procedures to fulfil those functions”. As reflected in the questionnaires completed by the Member States participating in the project in order to better identify their training needs, there is **also a wide diversity of educational backgrounds, responsibilities and specific roles** of court staff in each country. Relevant judicial or procedural functions include, *inter alia*, the enforcement of court decisions, assistance to judges, service of judicial and extra-judicial documents, cross-border cooperation in civil matters (for e.g. completing requests to courts in other countries), etc.

The project includes national legal seminars and Legal English training events, each with a duration of two and half days in total and addressed to a maximum of 24 court staff and bailiffs from at least 7 EU Member States. These training events include English language training as well as training on EU civil and commercial cross-border procedures. Trainees are divided into two groups; this arrangement allows for parallel sessions during which one group receives legal training while the other group is doing language training. Joint sessions are also included. The legal training is conducted by three legal experts and the language training by two English language trainers; all of them have at their disposal the training materials (both legal and linguistic) specially developed for the implementation of the training events.

The manual is arranged according to four skills: reading, writing, speaking and listening. It attempts to cover a wide range of needs by including in the exercises for each skill and legal instrument different Common European Framework of Reference for Languages Levels: from a minimum of A2+ to C2. Consequently, the manual is -following the project’s description-, as basic and practical as possible, while including different levels of command

of English so that trainers can choose exercises on the basis of the average level of each group.

Purpose

The manual was initially designed having in view the specific requirements of the actual courses that were to be taught, but it can just as well be used for courses of a similar nature. It has been written **to be used as a tool by trainers and trainees in courses**. However, **it also contemplates the possibility of using it as a stand-alone tool** by court staff and bailiffs or other users (such as judges or lawyers) who would like to improve their English in this particular field, as indicated below:

- (1) The main purpose of the manual is **to assist trainees who wish to improve their English in this particular field, either for revision and consolidation or as remedial work** (those needing extra help and practice to improve their knowledge of legal English in the specific subject area).
- (2) However, it was also written having in mind **the possibility of using it as a stand-alone tool** by any user who wishes **to improve their level of English in this particular field**.

The main objectives of the manual are **to introduce users and/or trainees to the main difficulties of dealing with the specific topic in English**, but it also aims to **improve the four language skills (listening, speaking, reading and writing) of users and/or trainees in English**.

When the manual is used as a stand-alone tool, however, there is only one ‘caveat’: it would be advisable to do a few exercises in pairs or groups (as we will see below, the best option would be to work with a colleague or several colleagues) so as to obtain some feedback on performance. These exercises are not numerous and will be specified below.

Theoretical approach and methodology

The manual has been designed taking into account the **current mainstream approach in teaching English for Specific Purposes (ESP)**. Thus, the foundations for the manual can be found within the framework of **Content and Language Integrated Learning (CLIL)**, also called **Content-Based Language Instruction (CBLI)** or, according to some approaches, simply CBI), which is the concurrent study of language and subject matter. According to Brinton, Snow & Wesche’s definition (Cenoz 2015), CBI (content-based instruction) is “**the concurrent study of language and subject matter (...)**”. Richards

& Rogers also emphasize the role of language “as a vehicle for learning content” (2001: 208). However, Stoller (2008: 59) extends this definition and considers that CBI would cover any approach that combines language and content teaching, even if there are differences in the emphasis placed on language and content (Cenoz 2015: 10). Many legal English handbooks and manuals have adopted this content-based approach: Walenn (2009), Frost (2009), Wyatt (2006), Riley & Sours (2014) or Haigh (2015), to name but a few. In our view, this approach contributes to a closer and extremely fruitful cooperation between language experts and legal experts.

Course description

The project includes **training events in English**, each with a duration of **two and half days in total**, addressed to a **maximum of 24 court staff and bailiffs** from at least 7 EU Member States. The legal training is usually conducted by three legal experts and the language training by two English language trainers.

Some sessions and workshops are held with the whole group, whereas **for some other sessions the group is split into two subgroups**. The division takes into account the **levels in English**, but it also **tries to separate trainees who (a) have a mother tongue in common** so as to prevent them from resorting to translation or to communication in a language other than English; **(b) have the same (or similar) legal systems and backgrounds; (c) have similar responsibilities and roles** in EU civil and commercial cross-border litigation, cooperation and procedures. The reason behind (b) and (c) is that the indisputable advantage of having different legal systems and backgrounds in one subgroup is to allow for the exchange of experiences as well as of invaluable insight into how issues are dealt with in the different Member States. The arrangement above allows for parallel sessions during which one group receives legal training while the other group is doing language training. Joint sessions are also included.

Challenges

These unique courses are indeed **an extremely interesting training challenge** because they combine -as has been mentioned earlier- instruction both in English and in the subject matter of the course. This poses three considerable challenges:

1. Trainees may have **different levels of English**, which is a main factor in the making of the manual and which accounts for the way it has been designed. Levels may go from A2+ to C2, and it is very likely that trainees' levels will differ for each of the four skills: some may be outstanding in listening but not so good at speaking, or

excellent at reading but perhaps worse at writing. Usually 'productive' skills (which focus on performance abilities) are at a lower level than 'receptive' (or 'passive') skills (which focus on competence). Far from being a disadvantage, this particular combination of levels of English within groups can be used as an advantage in class. With motivated trainees in class, those whose level is not so good feel positively challenged by the better ones, whereas the more advanced trainees are usually happy to encourage and assist those whose level is lower.

2. **Different levels of experience and expertise in the field.** Some trainees may have extensive and valuable experience in the course topic, whereas others may have little or no experience. Again, this can be used as an asset, since trainees from several Member States can share procedures, experiences, methods and strategies which supplement the more theoretical part of the course. A low common denominator has been adopted in this regard.
3. **Cultural factors at play.** Given the fact that there may be many nationalities in a group, there are intercultural factors at play, which trainers have to be aware of. Different cultures may have different expectations of a training event in terms of language, contents, approach, etc. In addition, conversational styles across cultures may be different (turn-taking, degree of straightforwardness, physical closeness when speaking, etc.). On the basis of this, trainers have to reach a compromise solution with a common ground approach that can satisfy trainees' needs and conversational styles as much as possible given the classroom diversity.

Teaching strategies

In relation to the **venue and classrooms**, for lecture-type lessons a traditional style auditorium or conference room may be adequate; however, for language lessons smaller classrooms are more suitable. As for layout, the physical arrangement of the classroom is essential. For the language sessions, a U-shaped arrangement is best, since trainees can see one another as well as the trainer.

Table name cards or tags (preferably first-name only) in big print are extremely useful. By using them, trainees -who are usually unknown to one another-, can quickly and easily name colleagues. Trainers should try to learn trainees' names and call them by their first name (as long as all of them agree to it). It is also crucial to ask trainees to try and sit in the same place throughout the training (trying to separate nationalities to prevent them from speaking in their mother tongue), thus encouraging visual memory skills. Additional factors such as good lighting and sound conditions (microphones and loudspeakers) must be thoroughly

checked. As for microphones, they are a delicate subject to be carefully considered depending on the characteristics of the room, since they tend to distort the sound and make it more difficult for trainees to understand and grasp pronunciation issues with precision.

Trainers should keep in mind that **interaction and flexibility are essential factors**, for the following reasons:

(a) trainees usually wish to improve their oral production skills and they should be encouraged to do role play, discuss, exchange views, explain advantages and disadvantages, agree and disagree, give their opinion, etc.; thus, if an interesting debate comes up, the trainer should let it develop naturally (while moderating it) rather than be concerned about the time allocated to each exercise;

(b) since this is an intensive course with many sessions, it is essential to be able to detect when trainees are tired and need a change in pace, rhythm or even type of activity (moving on to a different exercise which is lighter or more diverting).

Flexibility is of particular importance, since trainers need to adapt to the specific needs and interests of trainees, which will vary in each group, and the same applies to their language needs. The use of entertaining audiovisual material, especially as a short break in particularly intensive sessions, is of invaluable help.

As for the actual suggested strategies to be used in class to implement CLIL (also called CBLI) methodology in the teaching of the materials, some recommendations may be (but are not restricted to) the following:

- clear pronunciation;
- adequate pace of speech;
- adapting to the group's learning rhythm;
- repetition both of terms and of their pronunciation (repetition is essential for long-term learning);
- using varied definitions and asking trainees to define in their own words;
- using exemplification and asking trainees to provide examples;
- providing synonyms or near-synonyms (ensuring the difference between them is understood);
- using classification and sub-divisions;
- eliciting answers;
- double-checking if the concepts have been correctly understood by asking in a different way;
- rephrasing or asking trainees to rephrase;

- recapping;
- spelling (or asking trainees to spell) difficult words on the whiteboard, screen or flipchart;
- role play;
- using unfinished sentences that trainees must finish;
- making intentional mistakes to see if trainees identify them;
- using open-ended questions rather than closed ones;
- making use of prompts (e.g. asking them to start a sentence after providing them with the first word/s);
- contradicting trainees' statements to gently push them to make a point or to defend their position using arguments;
- creating controversy to make trainees intervene;
- making sure all trainees have an active role in every session by addressing them directly if necessary;
- using praise as encouragement;
- gentle error correction (making sure the nature of the mistake is fully understood);
- peer review (asking other trainees to give feedback);
- departing from the order of the items within exercises;
- jumping the order of seating arrangements when doing exercises to keep trainees alert;
- asking questions on secondary issues related to the exercise that is being done;
- changing the activity if trainees are perceived to be tired, etc.

The list above is by no means a closed list, since given the heterogeneous nature of the groups' composition, trainers might have to employ a wide range of techniques with each group.

Organisation

The manual has been divided into **eight sections**: (1) introduction to the manual; (2) introduction to vocabulary for court staff; (3) listening skills exercises; (4) speaking skills exercises; (5) reading skills exercises; (6) writing skills exercises; (7) annexes and (8) answer key. Grammar is not the guiding principle of the manual, but subject matter is. Trainees/users should first become familiar with legal terms in order to be able to have a reasonable command of them when the time comes -later in the manual- to deal with excerpts of texts. There is also a progression from out-of-context vocabulary exercises to vocabulary in sentences, in fragments or in whole texts.

Sections 3 to 6, which **deal with the four skills (listening, speaking, reading and writing)**, include exercises for most of the instruments included in the project. The listening skill exercises are at the beginning of the four skills because they consist of a series of videos that summarise in an excellent way the different instruments. Additionally, as these videos are part of a training project, both the pace, rhythm and pronunciation of the read-out texts are remarkably adequate to the needs of trainees. These listening activities are therefore suitable both from the legal and from the language point of view. After the listening skills, speaking skills have been included, mainly for two reasons: (1) after an oral reception skill it was thought that it would be best to include an oral production skill; (2) having covered both oral skills, written skills are usually easier to cope with, and as attention and concentration are usually highest at the beginning rather than at the end of a course (where trainees tend to be more tired), oral skills were placed at the beginning of the manual. The different exercises use language issues (prepositions, premodification, passive structures, word formation, etc.) to deal with the different sub-topics of the course.

There are **two Annexes**: one on writing emails in English and one on making telephone calls in English, as both are competences which trainees will very likely need at some point in EU civil and commercial cross-border litigation, cooperation and procedures.

At the end there is **an Answer Key** as assistance to trainees as there is not enough time in the course to do all the exercises, or for potential users to check their answers to the exercises in the manual.

INTRODUCTION TO VOCABULARY FOR COURT STAFF AND BAILIFFS

1. Read the following tables on different ways of saying your opinion. Use the expressions from the tables to discuss the question that appears after them as well as questions 2 and 3.

EXPRESSING YOUR OPINION

Stating an opinion	Asking for an opinion
I think/believe	What do you think about...?
As far as I am concerned...	Do you agree that/Don't you agree that...?
In my opinion/in my view/to my mind...	How do you feel about that?
If you want my honest opinion....	Do you have any views on this?
According to...	What's your idea?
The way I see it...	What are your thoughts on this?
If you ask me...	Wouldn't you say/agree with me that...?
As far as I am concerned...	How do you see this?

EXPRESSING AGREEMENT AND DISAGREEMENT

Agreement	Negative agreement
I couldn't agree more.	I am afraid I cannot agree with you/that...
I (fully, totally, partially) agree.	I don't think so.
You are (absolutely) right.	I cannot (possibly) agree with you.
I simply must agree with that/you.	I don't agree with you/with that.
I am of the same opinion (as...).	Me neither (colloq.).
I completely/absolutely agree with...	Not quite right (colloq.).
My reasons for...	Nor am I.
There is no doubt that...	Neither do I.
So do I / So am I.	Nor does she.
I share your concerns/views/fears about...	So am I.
That's so true!	Not necessarily.
You have a point there.	No way (colloq.)!
Exactly!	That's not always the case.

Terminology. Is there any difference between the terms “bailiff”, “secretary”, “(court) clerk”, “judicial agent”, “court assistant”, “registrar” and “court or judicial officer/official”?

2. Types of court staff: Explain the type of court officers with responsibilities in EU cross-border civil and commercial litigation, cooperation and procedures that you have in your Member State. Use the following list to help you describe your responsibilities and powers (criminal matters are excluded from this list):

1. General management of the court (preparing the courtroom for cases; management of the court agenda; escorting the judge into and out of the court; dealing with audiovisual equipment in court; bringing witnesses and experts into court, identifying them and swearing them in; filing cases and relevant documentation; daily running of the court, etc.).
2. Assistance to judges/prosecutors.
3. Assist the administrative assistants of the court.
4. Management of case progress.
5. Taking minutes at hearings.
6. Dealing with costs of court proceedings.
7. Being in charge of the Registry of the court.
8. Assisting judges with the drafting of decisions.
9. Dealing with insolvency matters/proceedings.
10. Conducting certain court proceedings.
11. Seizure (and/or sales) of seized assets.
12. Land and property Register matters.
13. Ship Registry matters.
14. Vehicle Registry matters.
15. Succession matters.
16. Administrative law procedures.
17. Commercial law procedures.
18. Environmental law procedures.
19. Company/Associations Registry matters.
20. Mortgage matters.
21. Non-contentious proceedings.
22. Summary insolvency proceedings.
23. Decisions on applications for legal aid.
24. Matters concerning children and adoption
25. Requests for judicial assistance by a domestic court or a domestic authority.

26. Receiving and transmitting documents.
27. Service of judicial and extra-judicial documents.
28. Enforcement of decisions.
29. Collecting debts (arising from debt recovery orders).
30. Collecting receivables, such as taxes and certain insurance premiums.
31. Conducting certain court proceedings independently (such as disputes concerning the payment of a monetary claim or compensation where the amount at issue does not exceed a certain limit; labour disputes, administrative disputes).
32. Dealing with human resources issues.
33. Dealing with budget issues.
34. Handing down certain decisions and orders.
35. Data protection issues.
36. Public procurement procedures.
37. Dealing with complaints by the parties or other actors in the proceedings.
38. Dealing with access to justice and procedural rights issues (right to translation & interpretation, access to a lawyer, access to information, etc.).

3. Expressing an opinion: (a) say whether a legal background is necessary or not to have access to your profession and whether you think that it is useful; (b) say whether you think that you should have more or fewer responsibilities in EU civil and commercial cross-border litigation, cooperation and procedures and justify your opinion.

4. Basic legal vocabulary. Answer the following questions:

- a. What is the difference between a “judge” and a “magistrate” (if you have both terms) in your Member State? Which is term used at the level of the European Union? Which is the ‘safest’ term to use in English?
- b. Can you provide words that you think could be synonyms for “case”? Do they all mean the same?
- c. What do you call a “decision” by a judge? Provide all the names that you know and try to explain the difference between them.
- d. What is the difference between “court” and “tribunal” (if you have both terms) in your Member State? Do the terms have a different meaning in the European Union?
- e. What are the names for the parties to civil proceedings?
- f. What are the names of the parties to civil proceedings at the appeal stage? And at the ECtHR?
- g. Can you provide alternative expressions for “to take someone to court”?
- h. What do you call the geographical area and the matters over which a judge/court/officer (if that be the case) has powers?
- i. What other verbs do you know for “to give judgment”?
- j. How many terms do you know for “lawyer” and what is the difference (if any) between them?

5. Provide the appropriate term for the definitions below. For each term you are given a clue. Please bear in mind that most definitions have been adapted from legal dictionaries, glossaries and other reliable sources, but they do not come from legislation, so they are of a more general nature.

- a. Person (or group) involved in a contract or in proceedings as a litigant: P _ _ _ y
- b. Evidence given by a person who is a specialist in a certain subject: E _ _ ert
- c. When parties reach an agreement on a claim without further pursuing the matter in court:
Se _ _ _ _ _ ent
- d. Failure to carry out some or all of the terms of a contract: Br _ _ _ of contract
- e. To reach a date/time limit for payment: To fall d _ _
- f. Court session in which oral arguments are heard and evidence is presented: H _ _ _ ing
- g. Authentication (e.g. of a document) so that it is acceptable by a court/institution/body:
L _ _ _ _ _ ation
- h. Related to money (e.g. _____ damages/loss): Pec _ _ _ _ _ y
- i. Monetary compensation awarded by a court in civil proceedings to the injured party:
Dam _ _ _ s
- j. A natural person or group of natural persons that create a legal entity that acts as a person for limited legal purposes and that has a separate legal personality other than his/her/their own: L _ _ _ l person
- k. To have the legal power to hear/try and/or decide a case: To have _____
- l. To ask a higher court to hear the case because you do not agree with the decision of a lower court: To a _ _ _ _ l
- m. Information submitted to a court to establish a fact, a point in question or the truth:
E _ _ _ ence
- n. Court case heard before a judge: Tr _ _ _
- o. Court order/notice calling someone to appear in court: Su _ _ _ _ s
- p. Temporary stopping/halting a case which is being heard: St _ y
- q. Amount for expenses that must be paid either by the losing party, by the successful party or by both: court c _ _ _ s or court f _ _ s
- r. Arguments/allegations/statements made/pleaded in court: Subm _ _ _ _ _ s
- s. The formal delivery of judicial or extrajudicial documents: S _ _ _ _ ce
- t. Legal grounds and alleged facts that allow someone to start proceedings; reasons why a case is brought to court: C _ _ _ _ of action
- u. Document recording a legal act and whose authenticity is certified by a public authority:
authentic i _ _ _ _ _ ent

6. Read the definitions on the left and match them to the terms provided.

- | | |
|---|-----------------------|
| 1. Obligatory, something that legally forces someone to do something. | (a) Creditor |
| 2. A case in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court or tribunal seised. | (b) Defence |
| 3. Place where someone is deemed to live permanently or where a company's office is registered. | (c). Binding |
| 4. The reason(s), factual assertions or denials that form the basis for a party's opposition to an allegation/a claim. | (d) Counterclaim |
| 5. To submit officially (e.g. a complaint, an application, an appeal...). | (e) Contract |
| 6. Claim brought by a defendant in response to the claimant. | (f) Cross-border case |
| 7. Not being able to pay debts. | (g) Domicile |
| 8. Person who is owed money (and who usually has a legal right to recover it). | (h) Judicial review |
| 9. Person who owes money. | (i) Insolvency |
| 10. Money owed which is to be paid. | (j) Witness |
| 11. Basic reasons. | (k) Instalment |
| 12. Payment of part of a sum due. | (l) Outstanding debt |
| 13. Person who sees something happen or is present when something happened. | (m) Grounds |
| 14. Examination by a higher court of the actions of a lower court or of an administrative body. | (n) To lodge |
| 15. Legal agreement between two or more parties. | (o) Debtor |

LISTENING SKILLS

1. The Brussels Ia Regulation

[Source: <https://www.youtube.com/watch?v=vcAYh5Ww3Qc>]

Listen to the following video and fill in the gaps.

Recognition and enforcement of decisions issued by courts of other member states under the Brussels I recast Regulation.

The Brussels I Regulation simplified the (1) _____ for recognition and enforcement of any judgment (2) _____ by a court in one Member State ("the Member State of Origin") in another Member State ("the Member State (3) _____").

The Regulation introduced a (4) _____ and uniform procedure for the declaration of a judgment as enforceable in another Member State, also known as "(5) _____".

This has been taken a (6) _____ further in the Brussels I recast which has abolished the exequatur procedure (7) _____.

From the 10th of January 2015, it will no longer be necessary for a judgment creditor to apply for a declaration of (8) _____; they can apply directly to have the judgment enforced.

Recognition.

According to Article 36, a judgment given in a Member State shall be (9) _____ recognised in the other Member States without the (10) _____ of any special procedure.

Recognition can only be (11) _____ in very few exceptional cases of which the most important case, in terms of legal (12) _____, is the one regulated by Article 45(1)(b), with regard to judgments given in (13) _____ of (14) _____.

Enforcement.

As (15) _____ above, the Brussels I recast has made a significant change in the procedure of rendering a judgment (16) _____ in one Member State enforceable in another.

Instead of the party wishing to enforce the judgment - "the judgment (17) _____" - having to (18) _____ for a declaration of enforceability, such a judgment will be directly enforceable in the other Member State if certain documents are (19) _____.

A judgment creditor wishing to enforce a judgment (20) _____ the court of origin to issue a certificate confirming the enforceability and giving (21) _____ of the judgment.

The certificate and a copy of the judgment are then (22) _____ authority for enforcement in the Member State addressed.

In addition to **(23)** _____ the judgment creditor to enforce the judgment in the Member State addressed in accordance with the law of, and under the same conditions as a judgment given in that state, an enforceable judgment carries with it the **(24)** _____ to use any **(25)** _____, including **(26)** _____ measures in accordance with the law of the Member State addressed.

If a judgment contains an **(27)** _____ not known in the law of the Member State addressed, the order is to be adapted to one of equivalent effect in that State.

Refusal of recognition and enforcement.

Recognition may be refused if there is a **(28)** _____ for refusal of recognition as referred to in Article 45.

A judgment will not be recognized: a) if such recognition is **(29)** _____ contrary to public policy **(30)** “_____”) in the Member State addressed, b) if in case of a judgment in default of appearance it is shown that the defendant was either not **(31)** _____ with the document which instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable him to **(32)** _____ for his **(33)** _____; or c) it conflicts with the rules of **(34)** _____ jurisdiction or the special rules on matters relating to insurance or consumer contracts.

In all of the cases, the court of the Member State addressed must accept the **(35)** _____ of **(36)** _____ regarding jurisdiction made by the court of origin and is expressly forbidden to **(37)** _____ the jurisdiction of that court.

Article 36 states that under no circumstances may a foreign judgment be reviewed as to its **(38)** _____.

Any **(39)** _____ person may apply for a decision that none of the grounds for refusal of recognition apply to a particular judgment.

An application may be **(40)** _____ by any interested party against the recognition and by the judgment **(41)** _____ against enforcement before one of the courts **(42)** _____ by the Commission for the purpose.

It relates **(43)** _____ to the enforcement of the judgment not to the **(44)** _____ of the case. In addition, the judgment debtor can apply to the court for refusal of recognition or enforcement of a judgment on the basis of one of the grounds for refusals of recognition.

The decision on the application for refusal of enforcement may be **(45)** _____ by the parties in a special procedure.

Enforcement of authentic instruments and court settlements.

Under most legal systems of the Member States, it is possible to express obligations to pay money or perform other types of **(46)** _____ obligations, in an agreement or other document **(47)** _____ by a notary or in some other way given public authority and **(48)** _____, for example through registration in a public register or in the court. Such an agreement or instrument is known as an authentic instrument.

Under the previous provisions of Brussels I, if such an instrument was enforceable in the Member State of origin where it was drawn up or registered, it was directly enforceable in all other Member States under the same conditions as a judgment.

This has the obvious advantage of being a relatively **(49)** _____ and straightforward way of **(50)** _____ the payment of money or performance of other obligations, since such an authentic instrument can be enforced directly once the creditor has obtained a declaration of enforceability. The only ground on which enforcement could be opposed is if that would be manifestly **(51)** _____ to the public policy in the Member State addressed.

Under the Brussels I recast, as a result of the abolition of the **(52)** _____ for a declaration of enforceability, all the creditor needs to have is the instrument itself and a certificate issued by the competent **(53)** _____, or, as the case may be, the court in the Member State of origin. There is also included in the Brussels I recast a definition of authentic instrument.

Similar **(54)** _____ as those for the enforcement of authentic instruments apply as regards court settlements.

2. Service of Documents

[Source: International Union of Judicial Officers, [https://www.uihj.com/2022/06/28/entry-into-force-on-1st-july-2022-of-regulation-eu-2020-1784-on-service-of-documents/#:~:text=Since%201st%20July%202022,Articles%205%20and%208\)%3B](https://www.uihj.com/2022/06/28/entry-into-force-on-1st-july-2022-of-regulation-eu-2020-1784-on-service-of-documents/#:~:text=Since%201st%20July%202022,Articles%205%20and%208)%3B)]

Listen to the following text being read aloud and fill in the gaps.

1 Regulation (EU) 2020/1784 on Service of Documents

2 (...)

3 (1) _____ to receive a document (Article 12)

4 We inform you of two changes:

- 5 • From 1st July 2022, the (2) _____ informs the
6 addressee of the right to refuse to receive the document to be (3)
7 _____ when this document is not written in, or is not accompanied
8 by a translation into a language referred to in point (b) of paragraph 1 of article
9 12 – the official language of the Member State (4) _____ or, if there
10 are several official languages in that Member State, the official language or one
11 of the official languages of the place where service is to be (5)
12 _____ -, by attaching to the document to be served the new Form
13 L which appears in annex I, which is provided:
 - 14 ○ In the official language or one of the official languages of the Member
15 State of (6) _____; and
 - 16 ○ In the official language of the Member State addressed or, if there are
17 several official languages in that Member State, the official language
18 or one of the official languages of the place where service (7)
19 _____ effected.

20 If it (8) _____ that the recipient understands an official language of another
21 Member State, the L Form (9) _____ in Annex I is also
22 provided in that language. It is (10) therefore no longer necessary to attach the L form in all
23 the languages of the European Union as was the case in Regulation (EU) 1393/2007.

- 24 • From 1 July 2022, the addressee may refuse to receive the document either at
25 the time of service, or (11) _____
26 _____ from service – and no longer 7 days as provided for in
27 Regulation (EU) 1393/2007, by making a written declaration of refusal of (12)
28 _____.

29 Assistance in address (13) enquiries

30 Article 7 of the Regulation requires Member States to provide a service (14)
31 _____ the addressee of the document to be located, when the transmitting
32 agency responsible for transmitting the document to be served does not have a known
33 address in another Member State, namely:

- 34 • Providing for designated authorities to which transmitting agencies may address
35 requests on the (15) _____ of the address of the person to be
36 served;
- 37 • Allowing persons from other Member States to (16) _____
38 requests, including electronically, for information about addresses of persons to
39 be served directly to (17) _____ registries or other publicly

40 accessible databases by means of a standard form available on the European e-
41 Justice Portal;

- 42 • Providing detailed information, through the European e-Justice Portal, on how to
43 find the addresses of persons to be served.

44 It is up to each country here to communicate to the European Commission how this country
45 provides this service in order to find the address of the **(18)** _____ of the
46 document when this address is unknown.

47 **e-Codex**

48 One of the major changes of Regulation (EU) 2020/1784 concerns the **(19)**
49 _____ use, between the transmitting and receiving agencies, of a **(20)**
50 _____ IT system, made up of interconnected national IT systems in order to
51 be able to carry out the transmission of judicial and **(21)** _____ documents as
52 provided for in the new Article 5 of the regulation. This decentralised system is the e-Codex.
53 All communications and all exchanges of documents between the agencies and bodies
54 designated by the Member States should, in principle, be carried out by means of a secure
55 and **(22)** _____ decentralised IT system, composed of national IT systems
56 which are interconnected and technically **(23)** _____, for example, and without
57 prejudice to further technological progress, based on e-Codex.

58 This modification has no influence on your transmissions, which will take place from 1st July
59 2022, since this system will only become compulsory in March 2025, in order to give time
60 for the European Commission to create the **(24)** _____ allowing this
61 transmission through e-Codex.

62 **Direct electronic service**

63 A second **(25)** _____ change in the recast of Regulation (EU) 2020/1784
64 concerns direct electronic service. It should now be possible to have documents served
65 directly electronically **(26)** _____ a recipient who has a known address for
66 service in another Member State.

67 The conditions for having **(27)** _____ to this type of direct electronic service
68 should be such as to guarantee that service is effected by electronic means only by using
69 electronic means available under the law of the State member of the **(28)**
70 _____ for the national service of documents, and also
71 to guarantee the existence of appropriate **(29)** _____ to protect the interests of
72 the addressee, in particular high technical standards and the obligation to obtain the express
73 **(30)** _____ from the addressee.

74 The regulation provides, in its **(31)** _____ 32 and 33, the guarantees necessary
75 for such electronic service to respect the rights of the parties involved. It **(32)**
76 _____ in particular:

- 77 • The recipient's **(33)** _____ express consent;
- 78 • The **(34)** _____ of receipt by the recipient;
- 79 • The possibility for any Member State to specify the additional conditions under
80 which it will accept service by electronic means.

3. Taking of Evidence

[Source: <https://eapil.org/2022/08/30/entry-into-force-of-the-evidence-regulation-recast/>]

Listen to the following text. Some words have been altered; please spot them and change them accordingly.

1 *This post was contributed by Dr. Vincent Richard, who practices with Wurth Kinsch Olinger*
2 *in Luxembourg.*

4 The end of the summer is the right time to draw readers' attention to the recent coming into
5 force in all EU Member States except Denmark of the Evidence Regulation recasted on 1
6 July 2022 (Regulation 2020/1783).

7 The Evidence Regulation facilitates the trans-border taking of evidence by allowing a court
8 or authority to request a court relocated in another Member State to take evidence there.
9 The Regulation also allows courts to take evidence indirectly from another Member State
10 after having asked permit from the central authority of that Member State.

11 The main goal of the recast is to take the Evidence Regulation into the digital era by imposing
12 that all communications and exchanges of documents should be carried out through a
13 decentralised IT system such as e-CODEX and by encouraging the taking of evidence
14 through videoconferencing. In addition, the recast facilitates the direct taking of evidence
15 and it introduces interesting changes to the notion of "court" in the Regulation.

16 **Taking of Evidence through Videoconferencing**

17 Where the taking of evidence requires the hearings of a person who is not in the territory of
18 the requested court, the Regulation encourages Member States to use videoconferencing
19 whenever possible (Articles 12 and 20). This technology can be used to hear a party, a
20 witness, an expert or even a child in the context of the application of Regulation 2019/1111.
21 The recast encourages the use of videoconferencing, whether the taking of evidence is
22 carried out by the requested court or directly by the requesting court.

23 **The Notion of "Court" under the Regulation**

24 Article 2 of the recast provides two definitions. One on the "decentralised IT system" and
25 one on the notion of "court". The later definition is worth mentioning because it aimed to
26 close the debate as to whether notarys can use the Evidence Regulation.

27 Under the recast, the notion of court encompasses not only courts *per se* but also "other
28 authorities in Member States as communicated by the Commission under Article 31(3), that
29 exercise judicial functions, that act pursuant to a delegation of power by a judicial authority
30 or that act under the control of a judicial authority, and which are competent through national
31 law to take evidence for the purposes of judicial proceeding in civil or commercial matters".

32 Hence, Member States are free to delegating the taking of evidence to notaries or court
33 clerks and other Member States must respect this choice as long as it was communicated
34 to the Commission. Recital 15 specifys that this definition includes authorities that qualify as
35 courts under other Union legal actions, such as Brussels I *bis*, Brussels II *ter* and the
36 Succeeding Regulation.

37 Direct Taking of Evidences

38 Articles 19 to 21 of the recast further encourage requesting courts to use direct taking of
39 evidence after asking permit from the central authority where the evidence is situated. If that
40 central body does not answer within 30 days of acknowledgement of receiving receipt of the
41 request, article 19(5) provides that the requesting court may send a remind. Interestingly, if
42 the requesting court does not receive a reply within 15 days of the acknowledgement of
43 receipt of the reminder, the request for the direct taking of evidence shall be considered
44 acceptable. The Regulation, therefore, provides that the silence of the central authority is
45 equivalent to explicit acceptance of the taking of evidence on its territory. Exceptionally, the
46 central body may, however, still repeat the taking of evidence after the deadline until the
47 moment of the actually direct taking of evidence.

4. European Enforcement Order

[Source: <https://www.youtube.com/watch?v=2vklq5R-0gM>]

Read the following questions. Then listen to the video and try to answer as many questions as you can.

1. What was the purpose of the creation of the EEO?
2. Does the nature of the court or tribunal have anything to do with the application of the EEO?
3. What situations does the concept of 'uncontested claims' cover?
4. What options does a creditor have if a judgment on an uncontested claim has been issued in a Member State and it has to be recognised and enforced in another?
5. Does a judgment on an uncontested claim which has been certified as a EEO in the MS of origin need a declaration of enforceability in order for it to be recognised and enforced in another MS?
6. In what cases has the *exequatur* procedure been abolished?
7. What are the benefits of the EEO procedure for creditors as regards speed, the involvement of the judiciary of the MS of enforcement, delays and expenses?

8. What is the role of translation in EEOs?

9. Why does the EEO establish minimum standards for the proceedings leading to the judgment?

10. What is the task of the courts of the MS of origin?

11. How are the interests of the judgment debtor preserved?

5. European Payment Order

[Source: https://www.youtube.com/watch?v=5Y_NNhq37-Q]

Listen to the video and try to answer as many questions as you can. Please bear in mind that more than one answer may be correct.

1. The similarities between the European Order for Payment (EOP) and the European Enforcement Order (EEO) are:
 - a. Both cover non-monetary claims which are not contested and lead to the granting of an enforceable order in other Member States without the Brussels I intermediate procedures.
 - b. Both cover monetary claims which are contested and lead to the granting of an enforceable order in other Member States without the Brussels I intermediate procedures.
 - c. Both cover monetary claims which are not contested and lead to the granting of an enforceable order in other Member States without the Brussels I intermediate procedures.
2. The difference between the EOP and EEO is that:
 - a. With the EOP it is unnecessary to have first a court order or debt document.
 - b. With the EEO it is not necessary to have first a court order or debt document.
 - c. With the EEO it is necessary to have first a court order or document of debt.
3. The EOP can be used:
 - a. only for non-pecuniary claims for specific amounts that have fallen due when the application for the order is submitted.
 - b. only for pecuniary claims for specific amounts that have fallen due when the application for the order is submitted.
 - c. only for pecuniary claims for amounts that had expired before the application for the order had been submitted.
4. The EOP procedure:
 - a. does not involve a court hearing unless the EOP is contested or opposed.
 - b. involves a court hearing if the EOP is not contested or opposed.
 - c. involves a court hearing if the EOP is contested or opposed.
5. If the EOP is opposed:
 - a. the claimant has to oppose the EOP procedure.
 - b. the claimant has to choose another procedure.
 - c. the claimant has to appeal.

6. It is optional for the claimant:
 - a. to choose to make the claim under national procedural law in addition to the EOP.
 - b. to choose both the EOP procedure and any available procedure under national law.
 - c. to choose the EOP procedure rather than any available procedure under national law.
7. Form A of the EOP is found:
 - a. in the Annex to the Regulation.
 - b. at the European e-Justice portal.
 - c. in both (a) and (b).
8. In what cases are EOPs of particular interest to claimants?
 - a. claims between businesses and consumers unlikely to be opposed.
 - b. claims between businesses and consumers likely to be opposed.
 - c. claims between businesses and consumers likely to be appealed.
9. Which of the following statement(s) is/are true?
 - a. When a claim under the EOP arises from a consumer contract and the consumer is the defendant, the competent court with jurisdiction is that of the MS where the claimant is domiciled.
 - b. When a claim under the EOP comes from a consumer contract and the consumer is the defendant, the competent court with jurisdiction is that of the MS where the defendant is domiciled.
 - c. When a claim under the EOP arises from a consumer contract and the consumer is the claimant, the competent court with jurisdiction is that of the MS where the defendant is domiciled.
10. When does the court issue the order and a certificate?
 - a. When the claim under the EOP procedure is opposed by the defendant.
 - b. When the claim under the EOP procedure is not opposed by the claimant.
 - c. When the claim under the EOP procedure is not opposed by the defendant.

6. European Small Claims Procedure

[Source: <https://www.youtube.com/watch?v=tr2TF-b4urQ>]

Listen to the video and finish off the following sentences:

1. The European Small Claims Procedure is the third of the procedures
_____.

2. The European Small Claims Procedure deals
_____ and so it contains provisions
_____ and the taking of evidence.

3. The European Small Claims procedure is basically
_____, and is intended to be able to be
used _____ with the minimum of difficulty and
_____, although that is not excluded.

4. The European Small Claims Procedure, like the European Order for Payment procedure,
is only available _____.

5. The European Small Claims procedure is an alternative
_____.

6. The successful party in a European Small Claims procedure can expect to receive the
costs from the other party but only _____.

7. The aim of restricting the cost of the procedure is central to the aim that the European
Small Claims procedure should assist access to justice, in particular
_____ who might not otherwise be willing or
able _____ other than their own.

8. The sum of 5,000 euros is to be calculated
_____ and excludes
_____ or expenses.

9. As regards subject matter, (...) there are some additional matters excluded including
employment claims, _____ relating to _____.

10. Enforcement of an order under the European Small Claims procedure is similar to that
in relation to the EEO and EOP; a certificate is issued under the Regulation by the court
_____ on the parties.

SPEAKING SKILLS

1. Pronunciation

Below you will find a list of essential (a) terms and (b) word combinations from:

- Regulation 1215/2012 (Brussels Ia);
- Regulation 805/2004 (European Enforcement Order);
- Regulation 1896/2006 and Regulation 2015/2421 (European Payment Order);
- Regulation 861/2007 and Regulation 2015/2421 (European Small Claims Procedure);
- Regulation 2020/1784 (Service of Documents);
- Regulation 2020/1783 (Taking of Evidence).

Practise with their pronunciation.

a. Terms:

1. to challenge	22. legalisation
2. judgment	23. instrument
3. decision	24. matter
4. receipt	25. arbitration
5. acknowledgement	26. contract
6. debtor	27. provision
7. creditor	28. sue
8. summons	29. law
9. amount	30. certificate
10. irreconcilable	31. to contest
11. substance	32. notify
12. evidence	33. action
13. hearing	34. obligation
14. recognition	35. dispute
15. order	36. appeal
16. subsidiarity	37. tribunal
17. litigation	38. authenticity
18. jurisdiction	39. applicant
19. admissibility	40. liability
20. unfounded	41. proportionality
21. execution	42. provisional

43. delay	52. protective
44. addressee	53. evidence
45. appeal	54. seek
46. proceedings	55. claimant
47. domicile	56. property
48. court	57. litigation
49. regulation	58. commerce
50. defendant	59. appearance
51. refusal	60. consumer

b. Word combinations

1. competent authority	21. to commence proceedings
2. consumer contract	22. beneficiary of an insurance contract
3. to secure payment	23. to summon to appear
4. small claims	24. proof of service
5. natural person	25. official language
6. pecuniary claim	26. to issue a certificate
7. proof of receipt	27. to contest enforcement
8. order for payment	28. to dismiss the proceedings
9. time limit	29. recoverable costs
10. outstanding debt	30. calculation of interest
11. interest rate	31. to challenge a judgment
12. written notice	32. cause of action
13. judicial review	33. to discontinue proceedings
14. procedural requirements	34. judgment capable of recognition
15. postal service	35. to serve a document
16. taking of evidence	36. to stay proceedings
17. incomplete request	37. at first instance
18. value of a claim	38. to lodge a document
19. claim form	39. declaration of enforceability
20. unsuccessful party	40. to decline jurisdiction

41. to seek enforcement	71. in default of appearance
42. subject matter	72. enforcement of judgment
43. oral hearing	73. authentic instrument
44. cause of action	74. exclusive jurisdiction
45. standard form	75. refusal of enforcement
46. transmitting agency	76. refusal of recognition
47. central body	77. outcome of proceedings
48. receiving agency	78. registered letter
49. right of refusal	79. to suspend the proceedings
50. <i>prima facie</i> defence	80. to join proceedings
51. legal aid	81. principal place of business
52. exclusive grounds of jurisdiction	82. court settlement
53. concurrent proceedings	83. immovable property
54. grounds for refusal	84. legal person
55. liability insurance	85. protective measure
56. contract of employment	86. provisional measure
57. prorogation of jurisdiction	87. irreconcilable judgment
58. policy holder	88. original claim
59. enforcement order	89. injured party
60. insurance contract	90. finding of fact
61. to effect service	91. to lodge an appeal
62. separate proceedings	92. to contest an appeal
63. of its own motion	93. ordinary appeal
64. habitually resident	94. enforceable obligation
65. date of receipt	95. arbitration agreement
66. alternative grounds of jurisdiction	96. choice of court agreement
67. exercise jurisdiction	97. competent enforcement authority
68. proposal for amendment	98. cause of action
69. debtor protection rule	99. reasonable time
70. sufficient time	100. non-monetary claims

2. Service of Documents

[Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1784>]

Split the class into four groups. Each of them will have to present orally (in their own words but using legal vocabulary) their opinion on certain issues provided for in the new Regulation 2020/1784 on the Service of Documents, after reading the excerpt below the table.

In order for trainees to have some help with their delivery, here are some language clues they may use:

Overview (outline of presentation)	<p>I'm going to divide my intervention into (3) parts. I'm going to examine/cover... Basically/ Briefly, I am going to talk about... I'd like to begin/start by ... Let's begin/start by ... First of all, I'll... ... and then I'll go on to ... Firstly ... secondly ... thirdly... Then/ Next ... I'd like to give you an overview of/a brief outline of...</p>
Starting a new section	<p>Moving on now to ... Now let's/we'll/I'd like to move on to... Next I'd like to look at/discuss... Let's turn now to /look now at... The next issue I'd like to focus on ...</p>
Analysing a point and giving recommendations	<p>Let's consider this in more detail... What does this mean for...? Why is this important? The significance of this is...</p>
Finishing/closing a section	<p>So that concludes... So that's an overview of... We've looked at...</p>
Summarising and concluding	<p>And this is the end of ... That concludes my talk/intervention. That brings us/me to the end of ... I'll conclude very briefly by saying that ... Finally, I'd like to finish by... To conclude... In conclusion/to sum up/to summarise ...</p>

1 Preamble (Recital) 30

2 30. In line with the established case law of the Court of Justice of the European Union (8),
3 direct service by postal service under this Regulation should be considered to be validly
4 effected, even if the document was not delivered to the addressee in person, where it was
5 served at the addressee's home address on an adult person who is living in the same
6 household as the addressee or who is employed there by the addressee and who has the
7 ability and is willing to accept the document, unless the law of the forum Member State only
8 allows the service of that document on the addressee in person.

9 Article 2

10 Definitions

11 For the purposes of this Regulation, the following definitions apply:

12 1. 'forum Member State' means the Member State in which the judicial proceedings take
13 place;

14 2. 'decentralised IT system' means a network of national IT systems and interoperable
15 access points, operating under the individual responsibility and management of each
16 Member State, that enables the secure and reliable cross-border exchange of information
17 between the national IT systems.

18 SECTION 2

19 Article 19

20 Electronic service

21 1. The service of judicial documents may be effected directly on a person who has a known
22 address for service in another Member State by any electronic means of service available
23 under the law of the forum Member State for the domestic service of documents, provided
24 that:

25 (a) the documents are sent and received using qualified electronic registered delivery
26 services within the meaning of Regulation (EU) No 910/2014 and the addressee
27 gave prior express consent to the use of electronic means for serving documents in
28 the course of legal proceedings; or

29 (b) the addressee gave prior express consent to the court or authority seised of the
30 proceedings or to the party responsible for service of documents in such proceedings
31 to the use of email sent to a specified email address for the purpose of serving
32 documents in the course of those proceedings and the addressee confirms receipt
33 of the document with an acknowledgement of receipt, including the date of receipt.

34 2. In order to guarantee the security of transmission, any Member State may specify
35 and communicate to the Commission the additional conditions under which it will accept
36 electronic service referred to in point (b) of paragraph 1, where its law sets stricter
37 conditions in that respect or does not allow electronic service by email.

39

Article 20

40

Direct service

41 1. Any person with an interest in particular judicial proceedings may effect the service of
42 judicial documents directly through the judicial officers, officials or other competent persons
43 of the Member State in which the service is sought, provided that such direct service is
44 permitted under the law of that Member State.

45 2. A Member State that allows direct service shall provide the Commission with information
46 regarding which professions or competent persons are permitted to effect the direct service
47 of documents in their territory. The Commission shall make that information available
48 through the European e-Justice Portal.

NOVELTIES

Some of the novelties of Regulation 2020/1784 are (among others):

1. It applies to ALL Member States;
2. Service by e-mail;
3. Electronic transmission;
4. The creation of a secure decentralized IT system;
5. The definition of a “Forum Member State”;
6. A specification of what an “extrajudicial document” means in a more precise way;
7. The prohibition of “fictional service”;
8. Direct postal service at the addressee’s address is valid even if not delivered to them personally (with certain restrictions);
9. The definition of transmitting and receiving agencies;
10. The service of a notarial act in the absence of legal proceedings falls within the scope of the Regulation.

Appoint two speakers for each group and ask them to say their opinion on the outlined parts of the above, in particular:

ISSUE 1

Discuss how you would interpret the following:

Recital 30

an adult person who is living in the same household as the addressee or who is employed there by the addressee and who has the ability and is willing to accept the document

ISSUE 2

Discuss how you think the definition of a “decentralized IT system” would operate in practice.

Article 2

2. ‘decentralised IT system’ means a network of **national IT systems and interoperable access points**, operating under the individual responsibility and management of each Member State, that enables the secure and reliable cross-border exchange of information between the national IT systems.

ISSUE 3

Discuss how you would interpret the following:

Article 19

Electronic service

(...)

(b) the addressee gave prior express consent to the court or authority seised of the proceedings or to the party responsible for service of documents in such proceedings to the use of email sent to a specified email address for the purpose of serving documents in the course of those proceedings and the addressee confirms receipt of the document with an acknowledgement of receipt, including the date of receipt.

ISSUE 4

Discuss how you would interpret the following:

Article 20

Direct service

1. Any person with an interest in particular judicial proceedings may effect the service of judicial documents directly through the judicial officers, officials or other competent persons of the Member State in which the service is sought, provided that such direct service is permitted under the law of that Member State.

3. Taking of Evidence

[Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1783>]

a. Debate in pairs the following issues. You may use tablets, phones or any other electronic devices.

ISSUE 1

Is the Regulation applicable to all Member States?

ISSUE 2

Discuss the following definition by looking at the questions below the text.

Article 2

Definitions

1. 'court' means courts and other authorities in Member States as communicated to the Commission under Article 31(3), that exercise judicial functions, that act pursuant to a delegation of power by a judicial authority or that act under the control of a judicial authority, and which are competent under national law to take evidence for the purposes of judicial proceedings in civil or commercial matters;

- (a) Do you agree with this definition?

- (b) Can you think of examples of 'courts' that would not be 'traditional courts'?

- (c) Would a Notary Public or any other similar 'authority' be a 'court'?

- (d) What is the difference between a 'court' and a 'judicial authority', if any?

ISSUE 3

Article 7

Transmission of requests and other communications

Requests and communications made pursuant to this Regulation shall be transmitted through a secure and reliable decentralised IT system with due respect for fundamental

rights and freedoms. That decentralised IT system shall be based on an interoperable solution such as e-CODEX.

(...)

Where requests and communications referred to in paragraph 1 of this Article require or feature a seal or handwritten signature, qualified electronic seals or qualified electronic signatures as defined in Regulation (EU) No 910/2014 may be used instead.

Answer the following questions:

(a) Set out a list of conditions for the system to be secure, reliable and with respect to fundamental rights and freedoms.

(b) What are 'qualified electronic seals' and 'qualified electronic signatures'? Regulation 910/2014 says (Recital 49: "However, it is for national law to define the legal effect of electronic signatures, except for the requirements provided for in this Regulation according to which a qualified electronic signature should have the equivalent legal effect of a handwritten signature".).

(c) As you know, digital signatures can be edited to suit the needs of the signing person; for example, the date -or other information- may be omitted. Would such signatures qualify as 'valid'?

ISSUE 4

Article 8

Legal effects of electronic documents

Documents that are transmitted through the decentralised IT system shall not be denied legal effect or considered inadmissible as evidence in the proceedings solely on the grounds that they are in electronic form.

Answer the following questions:

(a) Do you agree with this?

(b) What about elderly people who have no social media or even e-mail?

(c) What happens if the electronic communication goes to your spam folder and you are not aware of it? Have you actually been 'served' with the document?

6. What documents, in your opinion, have to be produced by the claimant/creditor in order to request in a Member State enforcement of a judgment, authentic instrument or court settlement certified as a European Enforcement Order in another Member State according to Regulation 805/2004?

7. What do you think the court should do if the debtor was not duly informed about the names and addresses of the parties, amount of claim, interest, grounds of claim and procedural steps necessary to contest the claim according to Regulation 805/2004?

8. What do you think the court should do if the Member State of origin does not offer the debtor the right to apply for a review of the judgment in the circumstances described in Art. 19 (minimum standards) of Regulation 805/2004?

b. Working in pairs, take turns to explain the EEO procedure below to your partner, trying to use your own words:

Annex 2: Overview of EEO procedure



5. European Payment Order

[Source: Practice Guide for the Application of the Regulation on the European Order for Payment, reproduced with permission http://ec.europa.eu/civiljustice/publications/docs/guide_european_enforcement_order_en.pdf]

Ask trainees to work in pairs. Within each pair, one of them will have to read to himself/herself the first of the two following texts and the other one will have to read to himself/herself the second text. After that, they have to summarise it orally to their partner and their partner has to give them feedback and ask them things they did not understand from their explanation.

Text 1

EOP: Cause of action and description of evidence.

Under Article 7 an application for an EOP must include the cause of the action, including a description of the circumstances invoked as a basis of the claim and, where applicable, of the interest demanded. A description of the evidence supporting the claim must also be included.

The Regulation does not specify the level of detail that an applicant should provide, nor does it prescribe the way that a court should carry out the examination of a claim. It does, however, make clear that the examination of an application for an EOP need not be carried out by a judge and, under Article 8, may take the form of an automated procedure. Courts must examine the application on the basis of the information provided in the application form.

When completing an application, the applicant needs to provide enough information to enable the defendant to be in a position to make a well informed choice either to oppose the claim or leave it uncontested. There should also be enough information to allow the court to examine prima facie the merits of the claim and inter alia to exclude clearly unfounded claims or inadmissible applications. For that reason, standard form A as set out in Annex I is designed to include as exhaustive a list as possible of the types of evidence that are usually produced in support of pecuniary claims.

It follows, therefore, that it should be possible for applicants to submit an application by simply completing the relevant fields of the appropriate sections (mainly 6 to 10) of the standard form. There is no requirement to attach supporting documentation but applicants are free to do so if they wish. Section 11 allows the applicants to provide additional statements and further information, if necessary. Again they are not compelled to do so.

In as much as the court can only consider an application on the basis of the application form there is nothing in the Regulation that allows it to request supporting documentation. However, balanced against that, the applicant must ensure that the application provides enough information to ensure that the requirements of the Regulation are met and to ensure the claim appears to be founded.

Text 2

EOP: Opposition to the European Order for Payment.

A defendant can lodge a statement of opposition to the EOP by making use of Form F in accordance with Article 16. It is not necessary for the defendant to give reasons for his/her opposition. The statement of opposition should be sent within 30 days of service of the order on the defendant. The period is calculated in accordance with Council Regulation (EC) No 1182/71 determining the rules applicable to periods, dates and time limits (OJ. EC 1971 L 124/1). The date of service is not counted when calculating the period. If the end of the period is on a public holiday, a Saturday or a Sunday, the period ends with the expiry of the last hour of the following weekday. Under Article 2(1) of Council Regulation (EC) No 1182/71, only public holidays in the Member State of the court issuing the EOP are taken into account.

The statement of opposition should be submitted in either paper form or by any other means of communication, including electronic, accepted in the Member State of origin and available to the court of origin. The statement of opposition can also be made by a representative of the defendant.

In accordance with Article 17(1) if a defendant submits an admissible statement of opposition the proceedings shall continue before the competent courts of the Member State of origin in accordance with the rules of ordinary civil procedure unless the claimant has explicitly requested that the proceedings be terminated in that event. Under Article 7(4) the claimant can make such a request at any time until the EOP is issued. In accordance with Article 17(2) the transfer to ordinary civil proceedings is governed by the law of the Member State of origin. Nothing under national law shall prejudice the claimant's position in any subsequent ordinary civil proceedings.

6. European Small Claims Procedure

[Source: A Guide for Users to the European Small Claims Procedure, reproduced with permission [file:///C:/Users/Eva/Downloads/small_claims_citizens_EU_en%20\(1\).pdf](file:///C:/Users/Eva/Downloads/small_claims_citizens_EU_en%20(1).pdf)]

Ask trainees to explain orally the meaning of the following terms/expressions from the guide above and from Regulation 861/2007 and Regulation 2015/2421.

1. Uncontested claims.
2. Declaration of enforceability.
3. Litigation.
4. Electronic service.
5. Acknowledgement of receipt.
6. Oral hearing.
7. Fair conduct of the proceedings.
8. Court fee.
9. Legal aid.
10. Legal Assistance.
11. Domicile.
12. Natural person.
13. Jurisdiction.
14. Appeal.
15. Court or tribunal seised.
16. Admissibility of evidence.
17. To attest service.
18. Procedural rules.
19. Reason of *force majeure*.
20. Court settlement.

READING SKILLS

1. Service of Documents

[Source: International Union of Judicial Officers, [https://www.uihj.com/2022/06/28/entry-into-force-on-1st-july-2022-of-regulation-eu-2020-1784-on-service-of-documents/#:~:text=Since%201st%20July%202022,Articles%205%20and%208\)%3B](https://www.uihj.com/2022/06/28/entry-into-force-on-1st-july-2022-of-regulation-eu-2020-1784-on-service-of-documents/#:~:text=Since%201st%20July%202022,Articles%205%20and%208)%3B)]

Choose the correct alternative between the suggested terms. In a few cases, more than one option might be acceptable, but only one is the appropriate alternative according to the original text.

Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and **(1)** *extrajudicial/non-judicial* documents in civil or commercial matters (service of documents) has been published in the Official Journal of the European Union on 2 December 2020 (L 405). It **(2)** *entered/went* into force twenty **(3)** *labour/working* days after this date and is applicable from 1st July 2022. With a **(4)** *view/look* to its proper application, you will find some clarifications and advice below.

1. Use of new forms

Since 1st July 2022, any **(5)** *request/application* for service must be sent using the new forms of Regulation (EU) 1784/2020. It includes twelve forms, i.e., five more than the previous Regulation (EU) 1393/2007. These new forms are:

- Request for service of documents (Form A, mentioned in Articles 5 and 8);
- Request to **(6)** *establish/determine* the address of the person to be **(7)** *serviced/served* (Form B, mentioned in Articles 5 and 7);
- Reply to the request to determine the address of the person to be served (Form C, mentioned in Article 5);
- **(8)** *Recognition/Acknowledgement* of **(9)** *receipt/receive* (Form D, mentioned in Articles 5 and 10);
- Request for **(10)** *supplementary/additional* information or documents for the service of documents (Form E, mentioned in Articles 5 and 10);
- **(11)** *Warning/Notice* of return of request and document (Form F, mentioned in Articles 5 and 10);
- Notice of **(12)** *reforwarding/retransmission* of request and document to the appropriate receiving agency (Form G, mentioned in Articles 5 and 10);
- Acknowledgement of receipt by the appropriate receiving agency having territorial **(13)** *competence/jurisdiction* to the **(14)** *sending/transmitting* agency (Form H, mentioned in Articles 5 and 10);
- Request for information **(15)** *on/about* service or non-service of documents (Form I, mentioned in Articles 5 and 11);
- **(16)** *Reply/Response* to request for information on service or non-service of documents (Form J, mentioned in Articles 5 and 11);
- Certificate **(17)** *for/of* service or non-service of documents (Form K, mentioned in Articles 5, 11, 12 and 14);
- Information to the addressee about the right to **(18)** *refuse/deny* to accept a document (form L, mentioned in Articles 5 and 12).

Transmitting agencies are required to complete Forms A, B, C and I.

Receiving agencies are required to complete Forms D, E, F, G, H, J, K and L.

The addressee of the document is required to **(19)** *fill out/complete* and **(20)** *devolve/return* Form L given to him by the receiving agency or the authority responsible for the service of document on this occasion.

Electronic signature of documents and forms (Article 5.3)

(21) *Where/When* the documents to be served, requests, confirmations, receipts, certificates and other communications referred to in paragraph 1 of Article 5 require or feature a **(22)** *stamp/seal* or handwritten signature, these may be replaced by qualified electronic seals or qualified electronic signatures as defined in Regulation (EU) 910/2014.

According to the UEHJ, the electronic signature of the document can be used from 1st July 2022 provided that this electronic signature **(23)** *abides/complies* with the requirements of Regulation (EU) 910/2014.

2. Taking of Evidence

[Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1783>]

Choose the correct option. More than one answer may be correct:

Requests **(1)** _____ the taking of evidence should be **(2)** _____ expeditiously. If it is not possible for a request to be executed within 90 days of its **(3)** _____ by the requested court, the requested court should inform the requesting court accordingly, **(4)** _____ the reasons which **(5)** _____ it from executing the request swiftly.

- | | | | |
|-----|---------------|--------------|---------------|
| (1) | a) in | b) for | c) of |
| (2) | a) executed | b) enforced | c) performed |
| (3) | a) reception | b) receiving | c) receipt |
| (4) | a) describing | b) stating | c) specifying |
| (5) | a) prevent | b) stop | c) forbid |

(...)

The parties **(6)** _____ the **(7)** _____ and their representatives, if any, should be able to be present at the taking of evidence, **(8)** _____ the law of the Member State of the requesting court, in order to be able to follow the proceedings in a comparable way as if evidence **(9)** _____ taken in the Member State of the requesting court. They should also have the right to request to participate in the taking of evidence in order to have a more active role in the taking of evidence. However, the conditions **(10)** _____ which they may participate should be determined by the requested court in accordance with its national law.

- | | | | |
|------|-------------------------------|---------------|--------------|
| (6) | a) in | b) to | c) of |
| (7) | a) proceedings | b) process | c) procedure |
| (8) | a) if that is provided for | | |
| | b) if that is provided by | | |
| | c) if that is provided for by | | |
| (9) | a) had been taken | b) were taken | c) was taken |
| (10) | a) under | b) in | c) at |

(...)

It is essential that effective means of **(11)** _____, preserving and presenting evidence **(12)** _____ available and that rights of **(13)** _____ are respected and confidential information is protected. In this context, it is important to encourage the use of modern technology.

- (13) a) obtention b) obtaining c) securing
 (11) a) are b) be c) is to be
 (12) a) defense b) defence c) defending

(...)

Article 5

Form and content of requests

1. Requests shall be made using **(14)** _____ or, where appropriate, form L in Annex I. Each request shall contain the following details:

- (14) a) form A b) the form A c) form no. A

(a) the requesting and, **(15)** _____ appropriate, the requested court;

- (15) a) whether b) when c) where

(b) the names and addresses of the parties to the **(16)** _____ and their representatives, if any;

- (16) a) files b) proceedings c) procedure

(c) the nature and **(17)** _____ of the case and a brief **(18)** _____ of the facts;

- (17) a) subject matter b) matter subject c) topic

- (18) a) specification b) description c) statement

(d) a description of the taking of evidence **(19)** _____;

- (19) a) demanded b) requested c) petitioned

(e) where the request is for the **(20)** _____ of a person:

- (20) a) examination b) observation c) search

- the name and address of the person to be examined,

- the questions to be **(21)** _____ to the person to be examined or a statement of the facts about which that person is to be examined,

- (21) a) examined b) asked c) put

- where appropriate, a reference to the right to **(22)** _____ to **(23)** _____ under the law of the Member State of the requesting court,

- (22) a) reject b) refuse c) deny

- (23) a) testify b) give evidence c) declare

- any requirement that the examination be carried out under **(24)** _____ or affirmation instead of an oath, and any special form to be used for such **(25)** _____ [same as no.24],

(24) a) swear or promise b) oath or affirmation c) oath or promise

(25) a) same as b) same than c) same that

- where appropriate, any other information that the requesting court **(26)** _____ necessary;

(26) a) thinks b) deems c) considers

(f) where the request is for any form of taking of evidence **(27)** _____ that mentioned in point (e), the documents or other objects to be **(28)** _____;

(27) a) other than b) different than c) different to

(28) a) supervised b) observed c) inspected

(g) where appropriate, any request pursuant to Article 12(3) or (4), or Article 13 or 14 and any information necessary for the execution **(29)** _____.

(29) a) thereafter b) thereof c) therein

2. The request and all accompanying documents shall be **(30)** _____ from the need for **(31)** _____ or any equivalent formality.

(30) a) exempt b) liberated c) excluded

(31) a) authenticity b) authentication c) authenticating

3. Documents which the requesting court considers necessary to **(32)** _____ for the execution of the request shall be accompanied by a translation of the documents **(33)** in the language in which the request was written.

(32) a) adjunct b) insert c) enclose

(33) a) into b) in c) to

3. European Enforcement Order

[Source: Practice Guide for the Application of the Regulation on the European Enforcement Order, reproduced with permission http://ec.europa.eu/civiljustice/publications/docs/guide_european_enforcement_order_en.pdf]

Read the following text a couple of times and then answer the questions that come after the text without looking back at it:

1 **What is the European Enforcement Order?**

2 The European Enforcement Order is a certificate which accompanies a judgment, a court
3 settlement or an authentic instrument and which allows this judgment, settlement or
4 instrument to freely circulate in the European Union. As such, this certificate constitutes a
5 «European judicial passport» for decisions, settlements, and authentic instruments.

6 **When is a European Enforcement Order needed?**

7 A European Enforcement Order is needed to enforce in a Member State a judgment given,
8 a court settlement approved by or concluded before a court or an authentic instrument
9 drafted in another Member State and which concerns an uncontested claim. When a
10 European Enforcement Order is obtained, there is no need to obtain a declaration of
11 enforceability in the Member State where the enforcement of the judgment, court settlement
12 or authentic instrument is sought.

13 **Alternative ways to enforce a judgment, court settlement or authentic instrument**
14 **abroad**

15 At Community level, two ways exist to seek enforcement abroad of a judgment, court
16 settlement or authentic instrument. A creditor seeking enforcement abroad of a judgment,
17 court settlement or authentic instrument can choose:

- 18 • Either to obtain a European Enforcement Order in the Member State where the
19 judgment, court settlement or authentic instrument is issued/drafted; or
20 • to obtain a declaration of enforceability in the Member State where enforcement is
21 sought, pursuant to the exequatur procedure laid down in Regulation (EC) No 44/2001
22 on jurisdiction, recognition and enforcement of judgments in civil and commercial matters
23 («Brussels I»).

24 When a creditor makes his choice between the two different ways to seek enforcement
25 abroad, he should consider that the European Enforcement Order enables him to obtain
26 quick and efficient enforcement without involving the courts in the Member State of
27 enforcement in time-consuming and costly formalities which are connected with the

28 declaration of enforceability pursuant to the exequatur procedure under Regulation (EC) No
29 44/2001. On the other hand, he must be aware that a European Enforcement Order can
30 only be obtained for uncontested claims and that such order will only be granted if certain
31 conditions are fulfilled.

QUESTIONS

1. *What is the European Enforcement Order (EEO) and what does it accompany?*

- a) It is a certificate and it accompanies a judgment, a court settlement or an authentic instrument.
- b) It is a certificate and it accompanies a judgment, a court settlement and an authentic instrument.
- c) It is a ruling and it accompanies a judgment, a judicial settlement or a legalised instrument.
- d) It is a court decision and it accompanies a ruling, a judicial settlement and a court instrument.

2. *What does the EEO allow the judgment, settlement or instrument to do?*

- a) To be executed in any Member State with no further requirements.
- b) To circulate freely in the European Union.
- c) To be binding in the European Union.
- d) To be valid in the European Union.

3. *What is the EEO compared to in the text?*

- a) A judicial passport for injunctions, settlements and authentic instruments.
- b) A court passport for warrants, settlements and authentic instruments.
- c) A tribunal passport for resolutions, agreements and authentic documents.
- d) A judicial passport for decisions, settlements and authentic instruments.

4. *What is a EEO needed for?*

- a) To approve in a Member State a judgment, a court settlement given by a court or an authentic instrument and which concerns an uncontested claim.
- b) To enforce in a Member State a judgment, a court settlement approved by or concluded before a court or an authentic instrument and which concerns a contested claim.
- c) To enforce in a Member State a judgment, a court settlement approved by or concluded before a court or an authentic instrument drafted in another Member State and which concerns an uncontested claim.
- d) To execute in a Member State a judgment, a court settlement passed by or concluded before a court or an authenticated document and which concerns an uncontested claim.

5. *Is a declaration of enforceability needed in the Member State where the enforcement of the judgment, court settlement or authentic instrument is sought?*

- a) Only in the Member State of origin.
- b) Not if there is a European Enforcement Order.
- c) Not if only one of the three elements is missing.
- d) Only in the Member State of enforcement.

6. *What options does a creditor who seeks enforcement abroad of a judgment, court settlement or authentic instrument have?*

- a) To obtain a European Enforcement Order in the MS where the judgment, settlement or instrument was issued or to obtain a declaration of enforceability in the MS where enforcement is sought, pursuant to the exequatur procedure.
- b) To obtain a European Enforcement Order in the MS where the judgment, settlement or instrument is to be enforced or to obtain a declaration of enforceability in the MS where enforcement is sought, pursuant to the exequatur procedure.
- c) To obtain a European Enforcement Order in the MS where the judgment, settlement or instrument is to be enforced or to obtain a declaration of enforceability in the MS where these were obtained, pursuant to the exequatur procedure.
- d) To obtain a declaration of enforceability in the MS where the judgment, settlement or instrument was obtained or to obtain a European Enforcement Order in the MS where enforcement is sought, pursuant to the exequatur procedure.

7. *Does the European Enforcement Order involve the courts in the MS of enforcement?*

- a) Yes.
- b) Only if the creditor seeks for the involvement of the court.
- c) Only if there is a declaration of enforceability.
- d) No.

8. *For what type of claims is the European Enforcement Order available?*

- a) Contested claims.
- b) Contested claims with a declaration of enforceability.
- c) Uncontested claims.
- d) Uncontested claims under an exequatur procedure.

4. European Payment Order (Case C-94/14, Flight Refund)

[Source:

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=170241&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=1438214>]

Put in the correct preposition.

OPINION (1) _____ ADVOCATE GENERAL

Sharpston

delivered (2) _____ 22 October 2015 (1)

Case C-94/14

Flight Refund Ltd

v

Deutsche Lufthansa AG

(Request (3) _____ a preliminary ruling (4) _____ the Kúria (Supreme Court, Hungary)

(Area of freedom, security and justice — Judicial cooperation in civil matters — Claim _____ (5) compensation in respect (6) _____ delayed flight — European order for payment issued in a Member State having no connection with the claim — Designation (7) _____ court competent to hear contentious proceedings)

(...)

2. The complex — and rather puzzling — circumstances (8) _____ the main proceedings may be summarised as follows. A Hungarian passenger (9) _____ a delayed flight from Newark (New Jersey, United States of America) to London (United Kingdom) asserted a right (10) _____ compensation, (11) _____ the basis of the Air Passengers Regulation, from an air carrier established in Germany. She assigned that right to a company established (12) _____ the United Kingdom, which obtained a European order for payment (13) _____ a notary in Hungary, using the procedure laid down in the EOP Regulation. The notary's competence was asserted (14) _____ the basis of a (misleading) Hungarian translation (15) _____ the provision governing jurisdiction in the Montreal Convention. The air carrier lodged a statement (16) _____ opposition (17) _____ the European order for payment and denied having operated the flight in question. In such circumstances, under the EOP Regulation, the proceedings must continue '(18) _____ the competent courts of the Member State of origin' (namely, Hungary, where the European order for payment was issued). However, there is no apparent ground in the Brussels I Regulation (19) _____ any court in that Member State to exercise jurisdiction (20) _____ the claim for compensation. It falls (21) _____ the Kúria to designate a competent court, but the Kúria feels unable to do

so **(22)** _____ further guidance **(23)** _____ the interpretation of the relevant provisions of EU law.

(...)

44. The two questions **(24)** _____ which the Court is asked to give a preliminary ruling now read as follows:

‘(1) Can a European payment order which has been issued **(25)** _____ breach of the purpose of [the EOP Regulation] or **(26)** _____ an authority which does not have international jurisdiction be the subject of an *ex officio* review? Or must the contentious proceedings following the lodging of a statement of opposition, where there is a lack of jurisdiction, be discontinued *ex officio* or **(27)** _____ request?

(2) If any Hungarian court has jurisdiction to consider the case, should the relevant rule governing jurisdiction be interpreted as meaning that the Kúria, **(28)** _____ assigning jurisdiction to a court, should designate **(29)** _____ least one court which, **(30)** _____ the absence of a jurisdiction and competence determined **(31)** _____ the Member State’s procedural law, is required to conduct the proceedings **(32)** _____ the substance of a case which has arisen as a result of a statement of opposition?’

45. The Kúria further stated in its response that it was still essential to ascertain whether, if the Air Passengers Regulation does not contain the necessary rules, jurisdiction **(33)** _____ a European order for payment procedure asserting a claim **(34)** _____ that regulation should be governed by the Montreal Convention, by the Brussels I Regulation or by other rules. **(35)** _____ addition, it needed to know whether Article 17(1) of the EOP Regulation provides a rule **(36)** _____ jurisdiction which, independently of the Brussels I Regulation, establishes the competence of the courts of the Member State of origin.

(...)

Final remarks

82. The amount **(37)** _____ stake **(38)** _____ the main proceedings in the present case is small, although I acknowledge that the stakes may be considerably higher in other European order for payment procedures. But **(39)** _____ all

comparable situations, the ultimate solution **(40)** _____ the problem raised is clear: **(41)** _____ the interests of all parties, the European order for payment procedure must be terminated in order to allow the claim to be pursued, if desired, **(42)** _____ a competent court. Had the problem been raised before a lower court, it is quite conceivable that a pragmatic solution might have been found, **(43)** _____ requesting a preliminary ruling from this Court.

83. However, the issue falls to be decided by a court **(44)** _____ whose decisions there is no judicial remedy **(45)** _____ national law and which therefore, under the third paragraph of Article 267 TFEU, had no option but to seek such a ruling. The Kúria loyally complied with that obligation. As a result, although either of the solutions that the Kúria itself identified would **(46)** _____ my mind) have provided a satisfactory outcome, the case has had to be dealt **(47)** _____ at length by the Court.

5. European Small Claims Procedure

[Sources: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R0861&from=EN>;
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R2421&from=EN>]

The following word combinations have been taken from the Regulations above. Match Column 1 with Column 2. Bear in mind that more than one option may be possible.

Column 1	Column 2
1. To represent...	a. judgment
2. To hold...	b. domiciled
3. To exceed...	c. due
4. To invoke...	d. the parties
5. To stay...	e. recognition
6. To reject...	f. a claim
7. To calculate...	g. the costs
8. To enter...	h. a time limit
9. To be...	i. a party
10. To bear...	j. the proceedings
11. To dispatch...	k. an application
12. To fall...	l. a hearing
13. To contest...	m. for a review
14. To execute...	n. access to justice
15. To notify...	o. a judgment
16. To lodge...	p. into force
17. To apply...	q. enforcement
18. To give...	r. an insolvent company
19. To review...	s. a document
20. To seek...	t. a request
21. To refuse...	u. a right
22. To effect...	v. evidence
23. To adopt...	w. service
24. To wind up...	x. an appeal
25. To take...	y. provisional measures
26. To facilitate...	z. the interest

WRITING SKILLS

1. Word formation (all Regulations)

Below you will find a list of terms from:

- Regulation 1215/2012 (Brussels Ia);
- Regulation 805/2004 (European Enforcement Order);
- Regulation 1896/2006 and Regulation 2015/2421 (European Payment Order);
- Regulation 861/2007 and Regulation 2015/2421 (European Small Claims Procedure);
- Regulation 2020/1784 (Service of Documents);
- Regulation 2020/1783 (Taking of Evidence).

Provide the correct word form for each of the following:

VERB	NOUN	ADJECTIVE
1. acknowledge		
2. act		
3. adjudicate		
4.	administration, administrator	
5. admit		
6.	allegation	
7.		annulled, annulable
8. appeal		
9.		applied, applicable
10. approve		
11. assist		
12.		attested, attesting
13. authorise		
14. bind		
15.		certified, certifying, certifiable
16.	challenge	

VERB	NOUN	ADJECTIVE
17.	claim, claimant	
18.		completed ,complete
19. comply		
20.		concerned
21.	construction	
22. contest		
23. decide		
24. defend		
25.		dismissed
26. enforce		
27.		examined, examining
28.	execution	
29.		expired
30. hear		
31.		issuing, issued
32. judge		
33.	notification	
34. omit		
35.		prevented
36. prohibit		
37.		protective
38.	provision	
39. pursue		
40.		recognized, recognizing, recognisable

VERB	NOUN	ADJECTIVE
41. rectify		
42.		referring, referred
43.	request	
44.		required
45. respond		
46. rule		
47. serve		
48. settle		
49. submit		
50. sue		
51. testify		
52. transfer		
53. try		
54. transmit		
55. withdraw		

2. The Brussels Ia Regulation

[Source: Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R1215&from=EN>]

In each sentence you will find one or more gaps. In square brackets you can find a near-synonym or an explanation of the missing term(s). Fill in the gaps using the clues given.

1. In order to enhance the effectiveness of exclusive choice-of-court agreements and to avoid abusive litigation tactics, it is necessary to provide for an exception to the general _____ [*pending suit; 2 words*] rule in order to deal satisfactorily with a particular situation in which _____ [*concomitant*] proceedings may arise.

2. (...) the court _____ [*that has jurisdiction first*] should be required to _____ [*halt*] its proceedings (...) until such time as the latter court declares that it has no jurisdiction under the exclusive choice-of-court agreement.

3. The designated court should be able to proceed _____ [*regardless*] of whether the non-designated court has already decided on the stay of _____ [*the action*].

4. The direct enforcement in the Member State addressed of a judgment given in another Member State without a declaration of enforceability should not _____ [*put at risk*] respect for the rights of the defence.

5. (...) the person against whom enforcement is _____ [*pursued*] should be able to apply for refusal of the recognition or enforcement of a judgment if he considers one of the _____ [*reasons*] for refusal of recognition to be present. This should include (...) that he had not had the opportunity to _____ [*organise*] for his defence where the judgment was given _____ [*in absentia, but for civil proceedings*] in a civil action linked to criminal proceedings.

6. In order to inform the person against whom enforcement is sought of the enforcement of a judgment _____ [*issued*] in another Member State, the certificate established under this Regulation, if necessary _____ [*together with*] by the judgment, should be served on that person in _____ [*acceptable, sufficient*] time before the first enforcement measure.

7. This Regulation shall apply in civil and commercial matters _____ [*regardless of, no matter what*] the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters or to the _____ [*responsibility before the law*] of the State for acts and omissions in the exercise of State authority (_____ "*acts and omissions in the exercise of State authority*", but in Latin).

8. In respect of liability insurance or insurance of _____ [*immobile*] property, the insurer may in addition be sued in the courts for the place where the _____ [*damaging*] event occurred.

9. Where a consumer _____ [*signs, agrees on*] into a contract with a party who is not domiciled in a Member State but has a _____ [*division, section*], agency or other establishment in one of the Member States, that party shall, in _____ [*litigation, conflicts*] arising out of the operations of the branch,

agency or establishment, _____ [*be considered*] to be domiciled in that Member State.

10. On the _____ [*request*] of any interested party, the recognition of a judgment shall be _____ [*denied*] where the judgment was given in default of appearance, if the defendant was not _____ [*delivered*] with the document which _____ [*commenced*] the proceedings or with an equivalent document in sufficient time and in such a way as to _____ [*give him the chance; give him the possibility of*] him to arrange for his defence.

11. If the parties, regardless of their _____ [*permanent address*], have agreed that a court or the courts of a Member State are to have jurisdiction to _____ [*resolve, put an end to*] any disputes which have arisen or which may arise in connection with a particular legal relationship, that court or those courts shall have _____ [*competence, power*], unless the agreement is null and void as to its substantive _____ [*legality*] under the law of that Member State.

12. Where a court of a Member State is seised of a claim which is principally concerned with _____ [*an issue*] over which the courts of another Member State have _____ [*sole*] jurisdiction by virtue of Article 24, it shall declare _____ [*motu proprio, by itself*] that it has no jurisdiction.

13. Application may be made to the courts of a Member State for such _____ [*temporary, interim*], including protective, measures as may be _____ [*possible, feasible*] under the law of that Member State, even if the courts of another Member State have jurisdiction as to the _____ [*material or essential part*] of the matter.

14. The court or authority may require the party to provide a translation of the _____ [*decision*] instead of a translation of the _____ [*what a document says*] of the certificate if it is unable to _____ [*go ahead, press on*] without such a translation.

15. Where enforcement is sought of a judgment given in another Member State, the certificate _____ [*given, released*] pursuant to Article 53 shall be served on the person against whom the enforcement is sought _____ [*before*] the first enforcement _____ [*action, procedure*].

16. On the application of any interested party, the recognition of a judgment shall be refused if such recognition is _____ [*evidently, obviously*] contrary to _____ [*“ordre public” but in English*] (*ordre public*) in the Member State addressed.

17. In its _____ [*inspection, scrutiny*] of the grounds of jurisdiction referred to in point (e) of paragraph 1, the court to which the application was _____ [*sent*] shall be _____ [*constrained*] by the _____ [*conclusions, discovery*] of fact on which the court of origin based its jurisdiction.

18. The court to which an application for refusal of enforcement is submitted or the court which _____ [*holds an audience*] an appeal _____ [*brought*] _____ [*in accordance with*] Article 49 or Article 50 may stay the proceedings if an _____ [*regular, standard*] appeal has been lodged against the judgment in the Member State of origin or if the time for such an appeal has not yet _____ [*concluded*].

19. Under no circumstances may a judgment given in a Member State be _____ [*revised, reconsidered*] as to its substance in the Member State addressed.

20. A judgment given in a Member State which orders a payment by way of a _____ [*punishment*] shall be enforceable in the Member State addressed only if the _____ [*quantity, total*] of the payment has been finally determined by the court of origin.

21. A _____ [*decision*] given by a court of a Member State as to whether or not an arbitration agreement is _____ [*invalid*] and _____ [*ineffective*], inoperative or incapable of being _____ [*implemented, carried out*] should not be subject to the rules of recognition and enforcement _____ [*set out, provided for*] in this Regulation, regardless of whether the court decided on this as a _____ [*main, primary*] issue or as a(n) _____ [*concomitant, random, secondary*] question.

3. Service of Documents

[Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1783>]

Fill in the gaps in the following excerpts from the Regulation with the correct form of the word in brackets.

(25) If a translation is attached to the document to be **(1)** _____ [service], it should be certified or otherwise deemed **(2)** _____ [suitability] for **(3)** _____ [proceed] in accordance with the law of the Member State of origin. The translation should be made **(4)** _____ [availability] to the Member State where service is to take place. The translation of documents into another language for the purpose of ensuring **(5)** _____ [comply] with this Regulation is without **(6)** _____ [prejudicial] to the ability of the **(7)** _____ [receive] to challenge the **(8)** _____ [correct] of the translation in accordance with the law of the forum Member State.

(26) If the **(9)** _____ [address] has refused to accept the document and the court or authority seised of the legal proceedings decides upon **(10)** _____ [verify] that the **(11)** _____ [refuse] was not justified, that court or authority should consider an appropriate way of informing the addressee of that **(12)** _____ [decide] in accordance with national law. For the purposes of verifying whether the refusal was justified the court or authority should take into account all the relevant information on the **(13)** _____ [filing] in order to determine the language skills of the addressee. Where **(14)** _____ [relevance], when assessing the language skills of the addressee, the court or authority could take into account **(15)** _____ [fact] elements, for example documents written by the addressee in the language concerned, whether the addressee's **(16)** _____ [professional] involves particular language skills, whether the addressee is a citizen of the forum Member State or whether the addressee **(17)** _____ [previous] resided in that Member State for an **(18)** _____ [entension] period of time.

(...)

(28) In order to facilitate **(19)** _____ [accede] to **(20)** _____ [just], Member States should lay down a single fixed fee for recourse to a judicial **(21)** _____ [office] or a person competent under the law of the Member State **(22)** _____ [address]. That fee should respect the principles of **(23)** _____ [proportional] and non-discrimination. The **(24)** _____ [required] of a single fixed fee should not preclude the possibility for Member States to set different fees for different types of service, as long as they respect those principles.

(29) Each Member State should be free to **(25)** _____ [effectiveness] the service of documents by **(26)** _____ [postage] services on persons **(27)** _____ [resident] in another Member State directly by **(28)** _____ [register] letter with **(29)** _____ [acknowledge] of **(30)** _____ [receive] or equivalent. It should be possible to use a postal service, whether private or public, for the service of documents in different forms of letters, including bundles of letters.

(...)

(33) The addressee could be served **(31)** _____ [electronic] without the use of **(32)** _____ [qualification] electronic registered delivery services within the meaning of Regulation (EU) No 910/2014, provided that the addressee has given **(33)**

_____ [priority] express **(34)** _____ [consensual] to the court or authority seised of the proceedings or to the party responsible for service in those proceedings to use email sent to a specified email address in the course of those proceedings, provided that **(35)** _____ [prove] of receipt of the document by the addressee is received. The addressee should confirm receipt of the document by signing and returning an acknowledgement of receipt or by returning an email from the email address furnished by the addressee for service. The acknowledgement of receipt could also be signed electronically. In order to guarantee the **(36)** _____ [secure] of transmission, Member States could specify additional conditions under which they will accept electronic service by email where their law sets stricter conditions in respect of service by email or where their law does not allow such service by email. Such conditions could address issues such as the **(37)** _____ [identify] of the sender and the recipient, the **(38)** _____ [integral] of the documents sent and the protection of the transmission against outside **(39)** _____ [interfere].

(...)

(35) Where national law and this Regulation allow the court to give **(40)** _____ [judge] even if no certificate of service or delivery of the document **(41)** _____ [institute] the proceedings or its equivalent has been received, every reasonable effort should be made to obtain the certificate through the **(42)** _____ [competence] authorities or bodies of the Member State addressed before any judgement is given, in **(43)** _____ [comply] with any other requirements safeguarding the interests of the **(44)** _____ [defence]. Unless **(45)** _____ [compatibility, in the negative form] with national law, all reasonable efforts should be made to inform the defendant that court proceedings have been instituted using any **(46)** _____ [availability] channels of communication, including modern communications technology, for which an address or an account is known to the court seised of the proceedings.

4. Taking of evidence

[Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1783>]

a. Re-write the following, using your own terms:

1. The fundamental rights and freedoms of all persons involved should be fully observed and respected in accordance with Union law, in particular the rights to equal access to justice, to non-discrimination and to the protection of personal data and privacy.

2. Requests (...) shall be transmitted by the court before which the proceedings are commenced or contemplated ('requesting court'), directly to the competent court of another Member State ('requested court'), for the taking of evidence.

3. Documents which the requesting court considers necessary to enclose for the execution of the request shall be accompanied by a translation of the documents in the language in which the request was written.

4. Where transmission (...) is not possible due to the disruption of the decentralised IT system or to the nature of the evidence concerned, or due to exceptional circumstances, the transmission shall be carried out by the swiftest, most appropriate alternative means, taking into account the need to ensure reliability and security

5. The requesting court may ask the requested court to use specific communications technology in the taking of evidence, in particular by using videoconferencing or teleconferencing. The requested court shall use the communications technology specified (...) unless doing so would be incompatible with its national law or the requested court is unable to do so because of major practical difficulties.

6. Where compatible with the law of the Member State of the requesting court, representatives of the requesting court shall have the right to be present in the taking of evidence by the requested court. For the purposes of this Article, the term 'representative' includes judicial personnel designated by the requesting court in accordance with its national law. The requesting court may also designate any other person, such as an expert, in accordance with its national law.

7. The direct taking of evidence shall be carried out by a member of the judicial personnel or by any other person, such as an expert, who is designated in accordance with the law of the Member State of the requesting court.

b. Writing an email.

Go to Annex 1 and read the information on how to write an email in English. Once you have read it, draft the following emails.

Practice 1: You are Ms. Oliveira, a court officer in *Tribunal Judicial da Comarca de Faro*, Portugal, and you have received Form A on 20 February from the *Helsingin Käräjäoikeus*, Finland. Today is 25 of February and you would like to send Form B to acknowledge receipt by email, but you also have to send Form D (request for additional information) because Form A does not contain all the necessary information according to Article 4 and also because a deposit or advance needs to be made for the taking of evidence to be carried out. Draft an email. The contact person is Mr. Virtanen.

Practice 2: (a) You are Mr. Sousa, a court officer at the *Tribunal de Juízos Cíveis de Coimbra*, Portugal. Draft an email addressed to Ms. Müller, who is a court officer at the *Landgericht Düsseldorf*, Germany, letting her know that you are going to send by registered mail Form A, and you also ask her to please confirm by email that the original documents have been received by post. (b) You are Ms. Müller: confirm to Mr. Sousa that you have received his email but that you need to ask for permission to confirm receipt by email in addition to the official acknowledgement of receipt (Form B).

5. European Enforcement Order (Case C-484/15, Zulfikarpašić)

[Source: <http://curia.europa.eu/juris/document/document.jsf?jsessionid=5969E123F0AD8A849E8D3C5966E470AF?text=&docid=188746&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=879967>]

a. Put in the correct adjective in each gap:

civil *uncontested* *authentic* *preliminary* *judicial*

JUDGMENT OF THE COURT (Second Chamber)

9 March 2017

(Reference for a **(1)** _____ ruling — **(2)** _____ cooperation in **(3)** _____ matters — Regulation (EC) No 805/2004 — European Enforcement Order for **(4)** _____ claims — Requirements for certification as a European Enforcement Order — Concept of ‘court’ — Notary who has issued a writ of execution based on an **(5)** ‘_____ document’ — Authentic instrument)

b. Put in the correct tense and verb form of the word in brackets:

On those grounds, the Court (Second Chamber) hereby **(1)** _____
(rule):

1. Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 **(2)** _____ (*create*) a European Enforcement Order for uncontested claims **(3)** _____ (*must, interpret*) as meaning that, in Croatia, notaries, **(4)** _____ (*act*) within the framework of the powers **(5)** _____ (*confer*) on them by national law in enforcement proceedings **(6)** _____ (*base*) on an ‘authentic document’, do not fall within the concept of ‘court’ within the meaning of that regulation.
2. Regulation No 805/2004 must be interpreted as **(7)** _____ (*mean*) that a writ of execution **(8)** _____ (*adopt*) by a notary, in Croatia, based on an ‘authentic document’, and which **(9)** _____ (*be, contested*) may not be certified as a European Enforcement Order since it **(10)** _____ (*not, relate*) to an uncontested claim within the meaning of Article 3(1) of that regulation.

c. Put in the correct form of the word in brackets:

In Case C-484/15,

REQUEST for a preliminary **(1)** _____ (*rule*) under Article 267 TFEU from the Općinski sud u Novom Zagrebu — Stalna služba u Samoboru (Municipal Court of New Zagreb — Samobor Permanent Service, Croatia), made by **(2)** _____ (*decide*) of 7 September 2015, received at the Court on 11 September 2015, in the **(3)** _____ (*proceed, plural form*)

Ibrica Zulfikarpašić

v

Slaven Gajer,

THE COURT (Second Chamber),

(...)

after **(4)** _____ (*heard*) the Opinion of the Advocate General at the **(5)** _____ (*sit*) on 8 September 2016,

gives the following

(6) _____ (*judge*)

1 This request for a preliminary ruling concerns the **(7)** _____ (*interpret*) of Regulation (EC) No 805/2004 of the European Parliament and of the **(8)** _____ (*councillor*) of 21 April 2004 creating a European Enforcement Order for uncontested **(9)** _____ (*claimant, plural form*) (OJ 2004 L 143, p. 15).

2 The request has been made in proceedings between Mr Ibrica Zulfikarpašić and Mr Slaven Gajer **(10)** _____ (*regard*) an **(11)** _____ (*apply*) for a European Enforcement Order certificate in respect of a **(12)** _____ (*writing*) of **(13)** _____ (*execute*), adopted by a notary, in Croatia, based on an 'authentic document'.

(...)

The dispute in the main proceedings and the question referred for a preliminary ruling

22 Mr Zulfikarpašić, a **(14)** _____ (*law*), concluded an assistance and representation contract with Mr Gajer, his client, who failed to **(15)** _____ (*settlement*) the invoice issued.

23 Mr Zulfikarpašić brought an application for enforcement before a notary against Mr Gajer, on the basis of that invoice, which was **(16)** _____ (*classification*) as an 'authentic document' under the Law on Enforcement. On 12 February 2014, the notary issued a writ of execution based on that document which became definitive in the **(17)** _____ (*absent*) of any **(18)** _____ (*object*) by the **(19)** _____ (*debt*).

(...)

28 In those **(20)** _____ (*circumstantial, plural*), the Općinski sud u Novom Zagrebu — Stalna služba u Samoboru (Municipal Court of New Zagreb — Samobor Permanent Service, Croatia) decided to **(21)** _____ (*stayed*) the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'[Do] the **(22)** _____ (*provide, plural form*) of the Law on Enforcement, concerning the European Enforcement Order, **(23)** _____ (*compliance*) with Regulation No 805/2004, that is to say, in Croatia in relation to the issue of a writ of execution based on an authentic document in enforcement proceedings, [does] the term 'court' include notaries, [can] notaries ... issue European Enforcement Orders in respect of definitive and **(24)** _____ (*enforcement*) writs of execution based on authentic documents when those writs have not been contested, and where the answer is in the **(25)** _____ (*negation*), [can] the courts ... issue European Enforcement Orders in respect of writs of execution based on an authentic document prepared by a notary, when the **(26)** _____ (*contain*) of those writs relates to uncontested claims, and in such a case what form should be used?'

(...)

Costs

60 Since these proceedings are, for the parties to the main proceedings, a step in the **(27)** _____ (*act*) pending before the **(28)** _____ (*refer*) court, the decision on costs is a matter for that court. Costs **(29)** _____ (*incur*) in submitting observations to the Court, other than the costs of those parties, are not **(30)** _____ (*recover*).

6. European Payment Order and European Small Claims Procedure

[Sources: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R1896&from=EN>; <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R2421&from=EN>; <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R0861&from=en>; <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R2421&from=EN>]

a. Read the following information about premodification in English:

A premodifier is a word that precedes the head of a noun phrase. They are either adjectives (“a cloudy day”), *-ed* or *-ing* participles (“a broken toy”, “a growing problem”), adverbs (“extremely brilliant performance”) or other nouns (“road accident”). The head is always the last noun in the string.

There are three main types of premodification: noun compounds (or compound nouns), adjectival premodification (either adjectives or participles) and mixed (which combines many possibilities (nouns, adjectives, adverbs, etc.).

(1) Noun compounds (or compound nouns)

They are strings of nouns of the type “noun as adjective”, where the noun or nouns before the head behave grammatically as adjectives, so they do not have a plural form (with a few exceptions): *a sheep dog, a race horse, a flower garden, a chess board, a shoe shop, a war story, a mountain plant*. It is important to make a difference between “category” and “function”: all nouns coming before the head are nouns as category, but they function as adjectives and therefore take on the grammatical behaviour of adjectives (no plural form).

Some compounds are hyphenated (“water-bottle”), some are written separately (“meat pie”), some have lexicalised as a single unit (“headmaster”) and some can be written in the three ways mentioned above (“paper-clip”, “paper clip”, “paperclip”).

(b) Adjectival premodification

There are only adjectives before the noun head: “a beautiful day”, “a tall young man”.

(c) Mixed premodification

Here we may find not only a mixture of nouns and adjectives, but also other elements such as adverbs, prepositions, etc.: “a truly intelligent man”, “extremely varied family topics”, “up-to-the-minute fancy place”, “compressed air blasting machine”, etc.

b. Now put in the correct form of the following premodifiers, which come from the European Order for Payment Regulation and the European Small Claims Procedure:

1. _____ (*post*) code
2. _____ (*registry*) number
3. _____ (*nation*) law
4. _____ (*support*) documents
5. _____ (*non exhaust*) list

6. _____ (*apply*) fee
7. _____ (*money*) claim
8. _____ (*person, identity*) number
9. _____ (*statute*) interest
10. _____ (*add*) papers
11. _____ (*write*) statement
12. _____ (*expire*) date
13. _____ (*apply, procedure*) law
14. _____ (*law*) capacity
15. _____ (*enforce*) procedure
16. _____ (*centre*) body
17. _____ (*request*) court
18. _____ (*contract*) interest
19. _____ (*competence*) authority
20. _____ (*territory*) jurisdiction
21. _____ (*judiciary*) personnel
22. _____ (*coerce*) measures
23. _____ (*estimation*) time
24. _____ (*volunteer*) basis
25. _____ (*certify, foreigner*) judgment
26. _____ (*fairness*) trial
27. _____ (*nature*) person
28. _____ (*exception*) circumstances
29. _____ (*person*) service
30. _____ (*authenticity*) document

ANNEXES

ANNEX 1: WRITING E-MAILS

1. BASIC NETIQUETTE

- Be specific and clear in the subject box/line and don't assume the recipient is fully familiar with the background.
- As a rule, don't address recipients by their first name: use titles or forms of address.
- Keep to the register used by the original sender of the email. If the mail was very polite and formal, keep that tone; if it was more relaxed, keep the same register without being overfamiliar.
- Do not assume the addressee knows who you are: include a brief introduction/reminder of who you are in relation to the person you are sending the email to.
- Keeping politeness rules in mind, try to keep messages brief, concise and to the point.
- Use short sentences rather than long, subordinate sentences.
- Don't use capital letters or oversized fonts, they may be offensive.
- Try not to use exclamation marks.
- Layout your message for readability: use headings, spaces and breaks between paragraphs. Your email should not look like a burden to read.
- When an email has to explain many issues and it might raise many questions, try to include a bullet list in the body of your email.
- Try not to use abbreviations, acronyms or emoticons/emojis.
- Avoid marking an email 'urgent' or 'high priority' if it is not.
- Give attachments an identifiable, logical name.
- Make sure your mail includes "signature": institution, position held, etc., so that the recipient knows who he/she is addressing.
- Always revise your mail before sending it; correct punctuation, grammar and spelling.

2. LANGUAGE STRATEGIES

- Use *could*, *would* or *might*, they sound more tentative and less assertive.
- Present your request politely by introducing it as a question ('Do you think you could...?' 'Would you be so kind as to...?').
- If you are pressing a request, or the request you make is not part of the recipient's strict duties, try to use an introductory phrase to prepare the listener for your message ('Do you think you could possibly'; 'I was wondering...'; 'One possibility might be...').
- Mitigate the impact of saying that you cannot help by 'toning down' or qualifying the negative reply using phrases like 'I am afraid'.
- Try to use a word with 'not' rather than a directly negative word ('This may not be possible' instead of 'This is impossible').
- Use comparatives to mitigate the message ('It might be better to...').
- Use a continuous form ('I was wondering...') instead of a simple form ('I wondered...') to make a suggestion more flexible.

3. USEFUL EXPRESSIONS

Informal e-mail	<p>Dear George / Sarah,</p> <p>Thank you / thanks for your mail. Sorry it's taken me so long to write. I hope you're well.</p> <p>Love, Best wishes, All the best,</p>
Formal e-mail	<p>Dear Sir, (<i>a man whose name you don't know</i>) Dear Madam, (<i>a woman, single or married, whose name you don't know</i>) Dear Mr. / Mrs. / Miss / Ms. Smith, Dear Sir or Madam (<i>when you don't know name or sex</i>), Dear Sirs, (<i>to address a company/firm where at least one of the members is male</i>) [Initials or first names are <u>not</u> used with courtesy titles, e.g. "Dear Mr. John Smith"]</p> <p>I am writing in reply to your mail of 10 June regarding ... Further to our previous mail, I am pleased to confirm our appointment for 11.00am on Tuesday, 7 March.</p> <p>I would be grateful if you could ... If you would like any further information, please don't hesitate to contact me. I look forward to hearing from you.</p> <p>Regards, Kind regards, With best regards, [If you started the mail with Dear Mr. / Mrs., then use "Yours) sincerely"; if you started with Dear Sir / Madam, then use "Yours faithfully"].</p>

ACRONYMS

- AAMOF As a matter of fact
- AFAIAA As far as I am aware
- AFAIK As far as I know
- AFAIUI As far as I understand it
- AIH As it happens
- AKA Also known as
- ASAP As soon as possible/practicable
- ATB All the best
- ATVB All the very best
- AWYR Awaiting your reply
- BAC By any chance
- B4N/BFN Bye for now
- BR Best regards
- BTW By the way
- C.c. Carbon copy
- CID Consider it done
- CMIIW Correct me if I'm wrong
- C/o Care of
- CU(L) See you (later)
- DK Don't know
- DU Don't understand
- FAO For the attention of
- FWIW For what it's worth
- FYI For your information
- HIH Hope it helps
- IAW In accordance with
- ICBW I could be wrong
- ICYI In case you're interested
- ICYMI In case you missed it
- IIUC If I understand correctly
- IMO In my opinion
- IOW In other words
- KIT Keep in touch
- LMK Let me know
- N/A Not applicable/available
- NRN No reply necessary
- OIC Oh I see
- PP Per procuracionem (used when signing a letter on someone else's behalf)
- PS Postscript
- PTO Please turn over
- RFI Request for information
- SOW Speaking of which
- SYS See you soon
- TIA Thanks in advance
- TTYL Talk to you later
- WADR With all due respect
- WBR With best regards
- WBS Write back soon
- WGBTY Will get back to you
- WRT With regard to
- WRT With respect to

ANNEX 2: MAKING TELEPHONE CALLS

SAMPLE CONVERSATION

Hello / Good morning, this is the First Instance Court no. 5 of Seville. How can I help you / be of help?
Good morning, this is Mr. Nowak calling. I am a court officer in the Krakow circuit court. May I speak to Ms. Fernandez, please?
I'm afraid she is out of the premises at the moment. Would you like to leave a message for her / would you like me to take a message?
As a matter of fact I would / Yes, please / That would be lovely. Could you please ask her to call me back as soon as possible? It's on a rather urgent matter. My number is 00 48 289864210, that's a direct number.
Let me check if I got that number right. Is it 0-0-4-8-2-8-9-8-6-4-2-1-0?
That's right.
Ok / alright, Mr. Nowak, I will give her the message as soon as she returns. Is there anything else I can do for you?
No, thank you very much. Bye-bye.

LANGUAGE

Key: 'AmE' stands for "US English"; 'BrE' stands for "British English"

WHAT YOU SAY	WHAT YOU HEAR
<p>Identifying yourself or your institution</p> <p>This is Bruno Colli / Mr. Colli here (AmE) John Doe speaking It's Mr. Green of CPS here This is Mr. Falcone, of / from Palermo's First Instance Court</p>	<p>Taking the call/asking your identity</p> <p>Good morning / good afternoon / good evening / hello Ljubjana circuit court May / can I help you? May I ask who's calling? Who is calling him/her? Who's calling please? / Who's speaking please? Can / could I have your name please? Can / could you give me your name and institution?</p>

WHAT YOU SAY	WHAT YOU HEAR
<p>Trying to get through</p> <p>Hello / Good morning, can / may / could I speak to (BrE)/with (AmE) Mr. Green, please?</p> <p>I'd like to / could I / may I speak to (BrE)/with (AmE) Mr. Green?</p> <p>Is Mr. Green in? / Is Mr. Green there, please?</p> <p>Would it be possible to speak to Mr. Green?</p> <p>Is Mr. Green available / at the premises?</p> <p>Could I have Mr. Green, from the personnel department?</p> <p>Could you give me Mr. Green, please? (colloq.)</p> <p>Could you connect me with the Staff Department, please?</p> <p>Could you please put me through to Mr. Green from the International Section?</p>	<p>Being put through/ not being put through</p> <p>One moment please</p> <p>Hold on, I'll connect you</p> <p>Just a moment</p> <p>Hold the line, please</p> <p>Hold on (a moment) please</p> <p>I'll put you through / Putting you through (colloq)</p> <p>Sorry, the line is engaged</p> <p>Please don't hang up</p>

WHAT YOU SAY	WHAT YOU HEAR
<p>Giving information about the purpose of your call</p> <p>I have an important / urgent matter on cross-border cooperation in civil matters to discuss with him, more specifically on a request for the taking of evidence</p> <p>I have something important / urgent to discuss with him</p>	<p>Giving information about the purpose of your call</p> <p>May I ask what you are calling him for?</p> <p>May I ask who's calling?</p> <p>What is this in connection with? (colloq.)</p> <p>Could you please tell me what the call is about?</p>

WHAT YOU SAY	WHAT YOU HEAR
<p>Leaving/Not leaving a message</p> <p>Could you tell him /say that I called? Could you ask her to call me back? Could you tell her that I'll call back / later? Could you tell him that Mr. Green called? I'll call back later I'll call him on his mobile (phone) I'll be in my office all afternoon Could you ask him to call me as soon as possible? He can reach me on 0034619554378</p>	<p>Problems to get through / Being asked to leave a message</p> <p>I'm afraid the line's busy / engaged I'm sorry, he's not in at the moment I'm afraid she's out of the court building I'm afraid Mr. Green is not available (until...) I'm afraid there is no reply from that extension Would you like to / Do you want to leave a message? Can I take a message? Does Mr. Smith have your number? Could you spell your name, please? I'll get back to you on this</p>

WHAT YOU SAY	WHAT YOU HEAR
<p>Apologising</p> <p>I'm sorry, I think I've called the wrong number I'm sorry, I wanted / I was calling 0034619554378 Oh, I apologise, I must have the wrong number</p>	<p>Asking what number the caller wanted</p> <p>What number were you calling? What number did you want? What number did you call? I'm afraid you have the wrong extension</p>

Checking on something

Let me check (on) that for you

I'll see what I can find out

I'll look into that for you

Agreeing/not agreeing to a request

By all means

Go ahead

Please do

Yes, of course

I'm sorry to say...

I'm afraid...

Unfortunately...

I don't think...

I cannot...

Asking for help

Could you speak a little slower?

Could you speak a bit more slowly, please?

Excuse me? I didn't catch that

Sorry, could you repeat that?

Could you say that again, please?

Can you speak up a bit?

There is a lot of interference on this line

I'm afraid I can't hear you very well

It's very noisy here, I can hardly hear you

I'm afraid you are speaking a bit too fast for me

I'm afraid I don't understand what you mean

I'm afraid I don't follow you

So what is it that you need from Mr. Nowak?

Thank you/You are welcome

Thank you very much for...

I really appreciate your help

I'm very grateful for...

It's really good of you to...

That's very kind of you

I'd be very grateful if...

I'd really appreciate it if...

That would be fine/great/lovely, thanks

That's all right / OK, thanks

It's a pleasure

Not at all

My pleasure

You're welcome

ANSWER KEY

INTRODUCTION TO VOCABULARY FOR COURT STAFF

1. Is there any difference between the terms “bailiff”, “secretary”, “(court) clerk”, “judicial agent”, “court assistant”, “registrar” and “court or judicial officer/official”?

All these terms are extremely confusing because Member States use different terminology, and the functions that each of those types of staff carries out may differ.

The Member States that participate in this project are: Austria, Belgium, Bulgaria, Croatia, Finland, Germany (North-Rhine Westphalia and Baden-Württemberg), Hungary, Italy, Latvia, Lithuania, The Netherlands, Poland, Portugal, Romania, Slovenia and Spain.

In some jurisdictions, bailiffs (a now rather old-fashioned term) are enforcement agents and thus they can also be called “enforcement officers/agents”. They visit properties to collect debts, but they may serve court documents and/or give notices or summons as well. However, in some other systems this term is similar to “court officers” or “(court) clerks”, and apart from having some limited judicial powers, they might prepare the courtroom before cases, escort the judge to and from court, deal with audiovisual equipment and assist the clerk so that the court is conducted in an orderly and efficient manner. They might also bring witnesses and experts into court and identify them, and be responsible for items like evidence. Sometimes they may additionally do some administrative work like filing, distributing internal papers, preparing mail, etc.

“Secretary” is now an old-fashioned word. The term frequently used nowadays is “court administrative assistants” or “court administrator”, and they help with the daily running of courts and their supporting offices. But again it is confusing, because some Member States use the term “court/judicial clerk” for “court officer”.

(Court) Registrars are normally Chief Executive officers (chief administrators). They may be in charge of the entire registry and have limited judicial powers. In some other jurisdictions they may assist the judge calling out each case, identifying parties, lawyers, experts and witnesses, keeping court documents and preparing them for the judge as each case is called, keeping a record of court orders and they may also deal with some administrative tasks.

The different names that are used in English in the Member States that participate in this project (https://e-justice.europa.eu/content_legal_professions-29-en.do) are the following:

- court staff/personnel (general term which includes many categories)
- court secretary
- court clerk
- judicial clerk/agent
- court registrar
- legal advisor
- procedural agent
- (judicial) enforcement agent
- (judicial) enforcement officer
- court assistant
- judicial officer

- court counsellor
- certified bailiff
- court official
- assistant judge
- trainee judge

2. Explain the type of court officers with responsibilities in EU civil and commercial cross-border litigation, cooperation and procedures that you have in your Member State (Austria, Belgium, Bulgaria, Croatia, Finland, Germany (North-Rhine Westphalia and Baden-Württemberg), Hungary, Italy, Latvia, Lithuania, The Netherlands, Poland, Portugal, Romania, Slovenia and Spain).

Open answer.

3. (a) Say whether a legal background is necessary or not to have access to your profession and whether you think that it is useful; (b) say whether you think that you should have more or less responsibilities in EU civil and commercial cross-border litigation, cooperation and procedures and justify your opinion.

Open answer.

4. Answer the following questions.

a. What is the difference between a “judge” and a “magistrate” in your Member State? Which is term used at the level of the European Union? Which is the safest term to use in English?

These terms are specific to each Member State. In some countries, magistrates sit in first-instance courts while judges sit in second instance courts. However, in some systems it works the other way round. In other systems, (such as the Spanish system), in broad terms many judges start off as judges when they are appointed and when they become promoted the first time, they become magistrates. In yet other systems the distinction has more to do with whether the judge sits alone or in bench. To complicate matters even further, in the UK magistrates are lay judges, while judges are professional. In some Member States, such as Portugal, Romania or Italy (among others), the term “The Magistracy” includes judges and prosecutors.

In order to avoid confusion, the safest option for professional judges in the European Union is the word “judge”. If it is necessary to be more specific, there is always the possibility of adding adjectives such as “senior” or “high(er) rank”, as against “recently appointed” or “trainee” judges.

b. Can you provide words that you think could be synonyms for “case”? Do they all mean the same?

Action: very common.

(Law)suit: frequent in the UK and in the US but not so much in continental civil law systems.

Proceedings: always in the plural and after the matter starts.

Claim: more specific in the UK (it refers to where the proceedings start).

Matter/issue: “matter” is a near-synonym for “case” in certain contexts, but it is more frequently used to refer to an “area of law” or the subject matter of a case; “issue” is more

of a synonym for “dispute”. The expression “the matter at issue” means what is in dispute between the parties.

c. *What do you call a “decision” by a judge? Give all the names that you know and try to explain the difference between them.*

Sentence: it is criminal only and it refers to the punishment/penalty imposed (*s/he was sentenced to five years’ imprisonment*).

Ruling: it is usually not final; it refers to decisions on matters that come up in the course of the proceedings. It is frequently used by the press to refer to ‘judgment’.

Finding: usually on facts.

Order: mostly civil with some exceptions, such as “investigation order” or “restraining order”; it is a type of decision, sometimes provisional and sometimes final. Sometimes all that comes out of court is an order, sometimes the order is found within the judgment, and sometimes they are two different documents. It depends on the national system.

Injunction: civil; a type of decision ordering somebody to stop doing something or preventing somebody from doing something. Usually they are provisional, but there are also permanent injunctions.

Warrant: mostly criminal (e.g. “European Arrest Warrant”), but in some jurisdictions there are civil warrants.

Resolution: for bodies, organisations, committees, etc. (e.g. the UN).

d. *What is the difference between “court” and “tribunal” in your Member State? Do the terms have a different meaning in the European Union?*

These two terms have different meanings across the Member States. In some cases, “court” is used for the first instance whereas the term “tribunal” is used from the first instance up, but in some Member States it works the other way round. At the international level “tribunals” are normally *ad hoc* (temporary and with a specific purpose, e.g. Tribunal for the Former Yugoslavia, Eastern Timor, Rwanda), but in a few exceptional cases they are permanent (e.g. International Tribunal for the Law of the Sea).

e. *What are the names for the parties to civil proceedings?*

“Claimant” and “defendant” (“plaintiff” is used in the US and some other common law systems, such as Northern Ireland).

f. *What are the names of the parties to civil proceedings at the appeal stage? And at the ECtHR?*

It depends on the legal system: in some, the terms “petitioner” (or even “applicant”) as against “respondent” are used, whereas in others “appellant” and “appellee” are more frequently used. For the ECtHR the terms are “applicant” and “respondent government”.

g. *Can you provide alternative expressions for “to take someone to court”?*

To sue someone; to file or lodge proceedings/a claim/a lawsuit against someone; to begin/start/initiate/institute/commence/bring proceedings against someone.

h. *What do you call the geographical area and the matters over which a judge/court/judicial authority (if that be the case) has powers?*

Jurisdiction for both things, although “competent” is frequently used in continental law systems as an adjective: “competent judge/court”, “competent authority”. “Competence” as a noun is used, but more rarely.

i. *What other verbs do you know for “to give judgment”?*

To deliver/issue/hand down/pronounce/render judgment or to rule on something.

j. How many terms do you know for “lawyer” and what is the difference between them?

Lawyer: somebody who meets the national requirements to be able to practise law (having a degree in law and being registered with the local/provincial/regional association of lawyers is no more the only requirement in most Member States).

Solicitor and barrister: UK-specific. In the EU the term “bar” has been borrowed to refer to the exam that lawyers have to pass in order to be able to practise law (“Bar exam”).

Attorney: the full name is attorney-at-law; it is a US term except for “Attorney General”, which is used in the EU to refer to the Head/Director of the Prosecution Service (although this is actually a misuse of the original term).

Counsel: name given in court to the parties’ lawyers in the UK and some other jurisdictions.

Counsellor (also spelt “counselor”): the equivalent to “counsel”, but in the US and some other jurisdictions.

Advocate: someone who can appear on someone else’s behalf in court, who can represent clients in court and defend (plead) their case.

Legal practitioner: it is the most neutral option and the continental equivalent to “advocate”.

Legal advisor: this is a tricky term, since it doesn’t necessarily mean a lawyer.

5. Provide the appropriate term for the definitions.

a. party; b. expert; c. settlement; d. breach; e. due; f. hearing; g. legalisation; h. pecuniary; i. damages; j. legal; k. jurisdiction; l. appeal; m. evidence; n. trial; o. summons (subpoena in the US and some other systems); p. stay; q. costs/fees; r. submissions; s. service; t. cause; u. instrument.

6. Read the definitions on the left and match them to the terms.

1. (c): binding; 2. (f): cross-border case; 3. (g): domicile; 4. (b): defence; 5. (n): to lodge; 6. (d): counterclaim; 7. (i): insolvency; 8. (a): creditor; 9. (o): debtor; 10. (l): outstanding debt; 11. (m): grounds; 12. (k) instalment; 13. (j) witness; 14. (h): judicial review; 15. (e): contract.

LISTENING SKILLS

1. The Brussels Ia Regulation.

Fill in the gaps.

(1) formalities; (2) delivered; (3) addressed; (4) straightforward; (5) exequatur procedure; (6) stage; (7) altogether; (8) enforceability; (9) automatically; (10) requirement; (11) refused; (12) practice; (13) default; (14) appearance; (15) noted; (16) granted; (17) creditor; (18) apply; (19) produced; (20) requests; (21) details; (22) sufficient; (23) empowering; (24) power; (25) provisional; (26) protective; (27) order; (28) ground; (29) manifestly; (30) *ordre public*; (31) served; (32) arrange; (33) defence; (34) exclusive; (35) findings; (36) fact; (37) review; (38) substance; (39) interested; (40) lodged; (41) debtor; (42) listed; (43) solely; (44) merits; (45) appealed; (46) contractual; (47) drawn up; (48) authentication; (49) swift; (50) securing; (51) contrary; (52) need; (53) authority; (54) provisions.

2. Service of Documents.

Fill in the gaps.

(1) Refusal; (2) receiving agency; (3) served; (4) addressed; (5) effected; (6) origin; (7) is to be; (8) appears; (9) set out; (10) therefore; (11) within two weeks; (12) acceptance; (13) enquiries; (14) enabling; (15) determination; (16) submit; (17) domicile; (18) recipient; (19) compulsory; (20) decentralised; (21) extrajudicial; (22) reliable; (23) interoperable; (24) platform; (25) major; (26) on; (27) recourse; (28) lex fori; (29) safeguards; (30) consent; (31) recitals; (32) concerns; (33) prior; (34) acknowledgement.

3. Taking of Evidence.

Spot and replace the changed words.

This post was contributed by Dr. Vincent Richard, who practices with Wurth Kinsch Olinger in Luxembourg.

The end of the summer is the right time to draw readers' attention to the recent **entry** into force in all EU Member States except Denmark of the Evidence Regulation **recast** on 1 July 2022 (Regulation 2020/1783).

The Evidence Regulation facilitates the **cross-border** taking of evidence by allowing a court or authority to request a court **located** in another Member State to take evidence there. The Regulation also allows courts to take evidence **directly** from another Member State after having asked **permission** from the central authority of that Member State.

The main goal of the recast is to **bring** the Evidence Regulation into the digital era by imposing that all communications and **exchanges** of documents should be carried out through a decentralised IT system such as e-CODEX and by encouraging the taking of evidence through videoconferencing. **Additionally**, the recast facilitates the direct taking of evidence and it introduces interesting changes to the notion of "court" **under** the Regulation.

Taking of Evidence through Videoconferencing

Where the taking of evidence requires the **hearing** of a person who is not in the territory of the **requesting** court, the Regulation encourages Member States to use videoconferencing whenever possible (Articles 12 and 20). This technology can be used to hear a party, a witness, an expert or even a child in the context of the application of Regulation 2019/1111. The recast encourages the use of videoconferencing, whether the taking of evidence is carried out by the requested court or directly by the requesting court.

The Notion of "Court" under the Regulation

Article 2 of the recast provides two definitions. One on the "decentralised IT system" and one on the notion of "court". The **latter** definition is worth mentioning because it aimed to close the debate as to whether **notaries** can use the Evidence Regulation.

Under the recast, the notion of court **encompasses** not only courts *per se* but also "other authorities in Member States as communicated **to** the Commission under Article 31(3), that exercise judicial functions, that act pursuant to a delegation of power by a judicial authority or that act under the control of a judicial authority, and which are competent **under** national law to take evidence for the purposes of judicial **proceedings** in civil or commercial matters".

Hence, Member States are free to **delegate** the taking of evidence to notaries or court **clerks** and other Member States must respect this choice as long as it was communicated to the

Commission. Recital **5 specifies** that this definition includes authorities that qualify as courts under other Union legal **acts**, such as Brussels I *bis*, Brussels II *ter* and the **Succession Regulation**.

Direct Taking of **Evidence**

Articles 19 to 21 of the recast further encourage requesting courts to use direct taking of evidence after asking permission from the central authority where the evidence is **located**. If that central body does not answer within 30 days of acknowledgement of **receipt** of the request, article 19(5) provides that the requesting court may send a **reminder**. Interestingly, if the requesting court does not receive a reply within 15 days of the acknowledgement of receipt of the reminder, the request for the direct taking of evidence shall be considered **accepted**. The Regulation, therefore, provides that the silence of the central **body** is equivalent to **implicit** acceptance of the taking of evidence on its territory. Exceptionally, the central body may, however, still **refuse** the taking of evidence after the deadline until the moment of the **actual** direct taking of evidence.

4. European Enforcement Order.

Answer the questions.

1. What was the purpose of the creation of the EEO?

Its purpose was to dispense with any intermediate measure to be taken prior to enforcing a judgment in a Member State other than that in which it has been given by laying down minimum procedural standards.

2. Does the nature of the court or tribunal have anything to do with the application of the EEO?

No, as long as the court or tribunal deals with civil and commercial cases, but with a number of exceptions.

3. What situations does the concept of 'uncontested claims' cover?

It covers all situations in which a creditor, given the verifiable absence of any indication that the debtor disputes the nature or extent of a pecuniary claim, has obtained either a court decision against that debtor or has an enforceable document vouching or acknowledging the debt which requires the debtor's express consent in form of an authentic instrument or a settlement approved by a court.

4. What options does a creditor have if a judgment on an uncontested claim has been issued in a Member State and it has to be recognised and enforced in another?

Two options: to apply to have the judgment certified as a European Enforcement Order or to apply for a declaration of enforceability under the Brussels I Regulation.

5. Does a judgment on an uncontested claim which has been certified as a EEO in the MS of origin need a declaration of enforceability in order for it to be recognised and enforced in another MS?

No, there is no need for a declaration of enforceability.

6. In what cases has the exequatur procedure been abolished?

In cases of judgments given in legal proceedings instituted after 10 January 2015.

7. What are the benefits of the EEO procedure for creditors as regards speed, the involvement of the judiciary of the MS of enforcement, delays and expenses?

Creditors gain access to speedy and efficient enforcement of judgments in uncontested claims in other MSs without the involvement of the judiciary of the Member State where enforcement is sought nor the concomitant delay and expense.

8. What is the role of translation in EEOs?

The EEO procedure generally dispenses with the need for translation, since multilingual standard forms are used for certification.

9. Why does the EEO establish minimum standards for the proceedings leading to the judgment?

So that the debtor is informed about the court action against them, the requirement for active participation in the proceedings to contest the claim at stake and the consequences of non-participation in sufficient time and in such a way as to enable them to arrange for their defence.

10. What is the task of the courts of the MS of origin?

Scrutinising full compliance with the minimum procedural standards before delivering a standardised European Enforcement Order certificate that makes the examination and its result transparent.

11. How are the interests of the judgment debtor preserved?

By allowing a limited right of refusal of the order in the Member State of enforcement short of review on the substance.

Transcript

The European Enforcement Order for Uncontested Claims

The purpose of the Regulation creating a European enforcement order for uncontested claims was to dispense with any intermediate measure to be taken prior to enforcing a judgment in a Member State other than that in which it has been given by laying down minimum procedural standards. This Regulation applies, with a number of exceptions, in civil and commercial matters, whatever the nature of the court or tribunal.

The concept of uncontested claim covers all situations in which a creditor, given the verifiable absence of any indication that the debtor disputes the nature or extent of a pecuniary claim, has obtained either a court decision against that debtor or has an enforceable document vouching or acknowledging the debt which requires the debtor's express consent in form of an authentic instrument or a settlement approved by a court.

If a judgment on an uncontested claim has been delivered in a Member State and has to be recognised and enforced in another Member State, the creditor has two options: they can either apply to have their judgment certified as a European Enforcement Order or they can apply for a declaration of enforceability under the Brussels I Regulation. A judgment on an uncontested claim which has been certified as a European Enforcement Order in the Member State of origin is recognised and enforced in the other Member States without the need for a declaration of enforceability.

For judgments given in legal proceedings instituted after 10 January 2015, the exequatur procedure has been abolished by the Brussels I recast. For these judgments, the European Enforcement Order will have particular relevance with respect to the enforcement of maintenance claims from the United Kingdom since the Maintenance Regulation upholds the need for a declaration of enforceability in relation to that Member State.

The European Enforcement Order procedure provides a tangible benefit for creditors who thereby gain access to speedy and efficient enforcement of judgments in uncontested claims

in other Member States without the involvement of the judiciary of the Member State where enforcement is sought nor the concomitant delay and expense. Moreover, it also dispenses generally with the need for translation since multilingual standard forms are used for certification. The court of origin issues the European Enforcement Order certificate using the standard form in Annex I, in the language of the judgment.

The European Enforcement Order Regulation establishes minimum standards for the proceedings leading to the judgment in order to ensure that the debtor is informed about the court action against them, the requirement for active participation in the proceedings to contest the claim at stake and the consequences of non-participation in sufficient time and in such a way as to enable them to arrange for their defence.

The courts of the Member State of origin are entrusted with the task of scrutinising full compliance with the minimum procedural standards before delivering a standardised European Enforcement Order certificate that makes this examination and its result transparent. The interests of the judgment debtor are preserved at the enforcement stage by allowing a limited right of refusal of the order in the Member State of enforcement short of review on the substance.

The European Enforcement Order came into application as from 21 October 2005.

5. European Payment Order.

Choose the correct answer(s).

(1) c; (2) a; (3) b; (4) a and c; (5) b; (6) c; (7) a, b and c; (8) a; (9) b; (10) c.

Transcript

The European Order for Payment Procedure.

This procedure has some similarities with the European Enforcement Order in that it covers cross-border monetary claims which are not contested and leads to the granting of an order which is enforceable in other Member States without the intermediate procedures set out in the Brussels I Regulation.

Unlike the European Enforcement Order, however, it is not necessary first to have a court order or document of debt such as an authentic instrument or court settlement.

The European Order for Payment procedure can be used only for pecuniary claims for specific amounts that have fallen due when the application for the order is submitted.

The European Order for Payment procedure is purely a written procedure and does not of itself involve a court hearing unless or until such time as the European Order for Payment is contested or opposed. Once the European Order for Payment is opposed, the case ceases to proceed under the European Order for Payment procedure; if the claimant wishes to continue the case, that has to take place under another appropriate procedure.

The European Order for Payment procedure is optional in respect that it is up to the claimant to choose to use it rather than any of the other available ways in which the same claim could be made including under national procedural law.

It is commenced simply by completing the application form, Form A, which is found in the Annex to the Regulation. Form A and the other European Order for Payment procedure forms are also available in electronic versions online at the European e-Justice Portal.

The European Order for Payment procedure is of particular interest to claimants which have claims which are not likely to be opposed, particularly in cases between businesses and consumers.

It has to be remembered though that the jurisdiction rules applicable in claims against consumers under the European Order for Payment procedure are modified from those in the Brussels I Regulation which would otherwise apply.

When a claim under the European Order for Payment procedure arises from a consumer contract and the consumer is the defendant, the competent court with jurisdiction has to be that of the Member State where the defendant is domiciled, as established under Article 59 of the Brussels I Regulation.

If the claim under the European Order for Payment procedure is accepted and not opposed by the defendant, the court will issue the order and a certificate and thereafter the Order can be enforced in other Member States with no additional procedures being required and without the need for the European exequatur under the Brussels I Regulation. To this extent the European Order for Payment Regulation abolishes exequatur.

Enforcement takes place under conditions similar to those in respect of enforcement of a European Enforcement Order.

The European Order for Payment procedure came into application as from 12 December 2008.

6. European Small Claims Procedure.

Finish off the sentences.

1. The European small claims procedure is the third of the procedures... *in which the intermediate measures required for recognition and enforcement of judgments have been reduced.*

2. The European small claims procedure deals ... *both with contested and uncontested cases ... and so it contains provisions ... of a procedural nature including for the holding of an oral hearing and the taking of evidence.*

3. The European small claims procedure is basically ... *a written procedure*, and is intended to be able to be used ... *by claimants and defendants* with the minimum of difficulty ... *and without the need for legal representation*, although that is not excluded.

4. The European small claims procedure, like the European order for payment procedure, is only available ... *for cross-border cases.*

5. The European small claims procedure is an alternative ... *to national procedures of a similar nature.*

6. The successful party in a European small claims procedure can expect to receive the costs from the other party but only ... *if these are proportional to the value of the claim.*

7. The aim of restricting the cost of the procedure is central to the aim that the European small claims procedure should assist access to justice, in particular ... *for individual consumers and for proprietors of small businesses* who might not otherwise be willing or able ... *to seek to pursue their claims in Member States other than their own.*

8. The sum of 5,000 euros is to be calculated ... *at the commencement of the claim* and excludes ... *any interest on the claim or expenses.*

9. As regards subject matter, (...) there are some additional matters excluded including employment claims, ... *claims in relation to tenancies of immovable property and delictual claims* relating to ... *infringement of the right of privacy and defamation.*

10. Enforcement of an order under the European small claims procedure is similar to that in relation to the EEO and EOP; a certificate is issued under the Regulation by the court ... *which granted the order and the judgment is served on the parties.*

Transcript

The European Small Claims Procedure

The European small claims procedure is the third of the procedures in which the intermediate measures required for recognition and enforcement of judgments have been reduced, thus fulfilling the call of the European Council at Tampere. In that respect, it is similar to the European enforcement order and European for payment procedures; however, in other respects it is very different from those two procedures.

In the first place, the European small claims procedure deals both with contested and uncontested cases and so it contains provisions of a procedural nature including for the holding of an oral hearing and the taking of evidence. It contains also a number of time limits which, if observed, should enable the procedure even in defended cases to be concluded rather more speedily than under other procedures.

The European small claims procedure is basically a written procedure, and is intended to be able to be used by claimants and defendants with the minimum of difficulty and without the need for legal representation, although that is not excluded.

The European small claims procedure, like the European order for payment procedure, is only available for cross-border cases and it is an alternative to national procedures of a similar nature. The successful party in a European small claims procedure can expect to receive the costs from the other party but only if these are proportional to the value of the claim. The aim of restricting the cost of the procedure is central to the aim that the European small claims procedure should assist access to justice, in particular for individual consumers and for proprietors of small businesses who might not otherwise be willing or able to seek to pursue their claims in Member States other than their own.

The most important factor about the European small claims procedure is the description of the claims which can be taken under the procedure. In the first place, this must not be above 2,000 in value, (5,000, as from the 14th of July 2017). This sum is to be calculated at the commencement of the claim and excludes any interest on the claim or expenses. If there is a counterclaim in a defended case, the counterclaim must not exceed the limit of 2,000 (5,000, as from the 14th of July 2017) either but the claim and the counterclaim are not aggregated to calculate the limit.

As regards subject matter, claims of a civil and commercial nature can be taken under the European small claims procedure with similar exceptions to those in the Brussels I regulation. There are some additional matters excluded including employment claims, claims in relation to tenancies of immovable property and delictual claims relating to infringement of the right of privacy and defamation.

Enforcement of an order under the European small claims procedure is similar to that in relation to the European enforcement order and European order for payment; a certificate is issued under the Regulation by the court which granted the order and the judgment is served on the parties. Once the certificate and judgment are available, no further procedure is required before enforcement can take place in another Member State. As with the European order for payment, the forms for the European small claims procedure are available online in the various EU languages; an electronic version can be completed online and, if permitted by the court with jurisdiction, can be transmitted online to that court.

The European small claims procedure came into force from the 1st of January 2009.

SPEAKING SKILLS

1. Pronunciation.

a. Terms.

1.	to challenge	['tʃæl.ɪndʒ]
2.	judgment	['dʒʌdʒ.mənt]
3.	decision	[dɪ 'sɪʒ.ən]
4.	receipt	[rɪ 'si:t]
5.	acknowledgement	[ək 'nɒlɪdʒmənt]
6.	debtor	['det.ə]
7.	creditor	['kred.ɪ.tə]
8.	summons	['sʌm.ənz]
9.	amount	[ə 'maʊnt]
10.	irreconcilable	[,ɪr.ek.ən 'saɪ.lə.bəl]
11.	substance	['sʌb.stəns]
12.	evidence	['ev.ɪ.dəns]
13.	hearing	['hɪə.rɪŋ]
14.	recognition	[,rek.əg 'nɪʃ.ən]
15.	order	['ɔ:.də]
16.	subsidiarity	[sʌb.sɪd.i 'ær.ə.ti]
17.	litigation	[,lɪ.tɪ 'geɪ.ʃən]
18.	jurisdiction	[,dʒʊə.rɪs 'dɪk.ʃən]
19.	admissibility	[əd ,mɪs.ə 'bɪl.ə.ti]
20.	unfounded	[ʌn 'faʊn.dɪd]
21.	execution	[,ek.sɪ 'kju:ʃən]
22.	legalisation	[,li:ɡələɪ 'zeɪʃən]
23.	instrument	['ɪn.strə.mənt]
24.	matter	['mæt.ər]
25.	arbitration	[,ɑ:.bɪ 'treɪ.ʃən]
26.	contract	['kɒn.trækt]
27.	provision	[prə 'vɪʒ.ən]
28.	sue	[su:]
29.	law	[lɔ:]
30.	certificate	[sə 'tɪf.ɪ.kət]
31.	to contest	[tʊ kən 'test]
32.	notify	['nəʊ.tɪ.faɪ]
33.	action	['æk.ʃən]
34.	obligation	[,ɒb.lɪ 'geɪ.ʃən]
35.	dispute	[dɪ 'spju:t]
36.	appeal	[ə 'pi:l]

37.	tribunal	[traɪ'bjʊ:nəl]
38.	authenticity	[,ɔ:θen'tɪs.ə.ti]
39.	applicant	['æp.lɪ.kənt]
40.	liability	[,laɪ.ə'bɪl.ə.ti]
41.	proportionality	[prə'pɔ:ʃənəleɪti]
42.	provisional	[prə'vɪʒ.ən.əl]
43.	delay	[di'leɪ]
44.	addressee	[,æd.res'i:]
45.	appeal	[ə'pi:l]
46.	proceedings	[prə'si:.dɪŋz]
47.	domicile	['dɒm.ɪ.saɪl]
48.	court	[kɔ:t]
49.	regulation	[,reg.jə'leɪ.ʃən]
50.	defendant	[di'fendənt]
51.	refusal	[rɪ'fju:zəl]
52.	protective	[prə'tek.tɪv]
53.	evidence	['ev.ɪ.dəns]
54.	seek	[si:k]
55.	claimant	['kleɪ.mənt]
56.	property	['prɒp.ə.ti]
57.	litigation	[,lɪ.tɪ'geɪ.ʃən]
58.	commerce	['kɒm.ɜ:s]
59.	appearance	[ə'piərəns]
60.	consumer	[kən'sju:mər]

b. Word combinations.

1. competent authority	[ˈkɒm.pi.tənt ɔːˈθɒr.ə.ti]
2. consumer contract	[kənˈsjuː.mər ˈkɒn.trækt]
3. to secure payment	[tʊ sɪˈkjʊər ˈpeɪ.mənt]
4. small claims	[smɔːl kleɪmz]
5. natural person	[ˈnætʃ.ər.əl ˈpɜː.sən]
6. pecuniary claim	[piˈkjuː.njəri kleɪmz]
7. proof of receipt	[pruːf əv riˈsiːt]
8. order for payment	[ˈɔː.dər fər ˈpeɪ.mənt]
9. time limit	[taɪm ˈlɪm.ɪt]
10. outstanding debt	[ˌaʊtˈstændɪŋ det]
11. interest rate	[ˈɪn.trɪst reɪt]
12. written notice	[ˈrɪt.ən ˈnəʊ.tɪs]
13. judicial review	[dʒuːˈdɪʃ.əl riˈvjuː]
14. procedural requirements	[prəˈsiːdʒʊrəl riˈkwaɪə.məntz]
15. postal service	[ˈpəʊ.stəl ˈsɜː.vɪs]
16. taking of evidence	[teɪkɪŋ əv ˈev.ɪ.dəns]
17. incomplete request	[ˌɪn.kəmˈpliːt riˈkwest]
18. value of a claim	[ˈvæl.juː əv ə kleɪm]
19. claim form	[kleɪm fɔːm]
20. unsuccessful party	[ˌʌn.səkˈses.fəl ˈpɑː.ti]
21. to commence proceedings	[tʊ kəˈmens prəˈsiː.dɪŋz]
22. beneficiary of an insurance contract	[ˌben.əˈfɪ.ər.i əv ən ɪnˈʃʊːrəns ˈkɒn.trækt]
23. to summon to appear	[tʊ ˈsʌm.ən tʊ əˈpiə]
24. proof of service	[pruːf əv ˈsɜː.vɪs]
25. official language	[əˈfɪ.əl ˈlæŋ.gwɪdʒ]
26. to issue a certificate	[tʊ ˈɪʃ.uː/ˈɪs.juː ə səˈtɪf.ɪ.kət]
27. to contest enforcement	[tʊ kənˈtest ɪnˈfɔːsmənt]
28. to dismiss the proceedings	[tʊ dɪˈsmɪs ðə prəˈsiː.dɪŋz]
29. recoverable costs	[rɪˈkʌvərəbl kɒsts]
30. calculation of interest	[ˌkæl.kjəˈleɪ.ʃən əv ˈɪn.trɪst]
31. to challenge a judgment	[tʊ ˈtʃæl.ɪndʒ ə ˈdʒʌdʒ.mənt]
32. cause of action	[kɔːz əv ˈæk.ʃən]
33. to discontinue proceedings	[tʊ ˌdɪs.kənˈtɪn.juː prəˈsiː.dɪŋz]

34. judgment capable of recognition	[ˈdʒʌdʒ.mənt ˈkeɪ.pə.bəl əv ,rek.əgˈniʃ.ən]
35. to serve a document	[tʊ sɜ:v ə ˈdɒk.jə.mənt]
36. to stay proceedings	[tʊ steɪ prəˈsi:.dɪŋz]
37. at first instance	[ət ˈfɜ:st ˈɪn.stəns]
38. to lodge a document	[tʊ lɒdʒ ə ˈdɒk.jə.mənt]
39. declaration of enforceability	[ˌdek.ləˈreɪ.ʃən əv ɛnfɔ:səbɪləti]
40. to decline jurisdiction	[tʊ daɪˈklaɪn ˌdʒʊə.rɪsˈdɪk.ʃən]
41. to seek enforcement	[tʊ si:k ɪnˈfɔ:smənt]
42. subject matter	[ˈsʌb.dʒekt ˈmæt.ər]
43. oral hearing	[ˈɔ:..rəl ˈhɪə.rɪŋ]
44. cause of action	[kɔ:z əv ˈæk.ʃən]
45. standard form	[ˈstænd.dəd fɔ:m]
46. transmitting agency	[trænzˈmɪtɪŋ ˈeɪ.dʒən.si]
47. central body	[ˈsen.trəl ˈbɒd.i]
48. receiving agency	[rɪˈsi:vɪŋ ˈeɪ.dʒən.si]
49. right of refusal	[raɪt əv rɪˈfju:zəl]
50. prima facie defence	[ˌpraɪ.mə ˈfeɪ.ʃi daɪˈfens]
51. legal aid	[ˈli:ɡəl eɪd]
52. exclusive grounds of jurisdiction	[ɪkˈsklu:..sɪv graʊndz əv ˌdʒʊə.rɪsˈdɪk.ʃən]
53. concurrent proceedings	[kənˈkʌr.ənt prəˈsi:.dɪŋz]
54. grounds for refusal	[graʊndz fɔr rɪˈfju:zəl]
55. liability insurance	[ˌlaɪ.əˈbɪl.ə.ti ɪnˈʃɔ:..rəns]
56. contract of employment	[ˈkɒn.trækt əv ɪmˈplɔɪ.mənt]
57. prorogation of jurisdiction	[prəʊ.rəˈgeɪ.ʃən əv ˌdʒʊə.rɪsˈdɪk.ʃən]
58. policy holder	[ˈpɒl.ə.si ˈhəʊl.dər]
59. enforcement order	[ɪnˈfɔ:smənt ˈɔ:..də]
60. insurance contract	[ɪnˈʃɔ:..rəns ˈkɒn.trækt]
61. to effect service	[tʊ ɪˈfekt ˈsɜ:..vɪs]
62. separate proceedings	[ˈsep.ər.ət prəˈsi:.dɪŋz]
63. of its own motion	[əv ɪts əʊn ˈməʊ.ʃən]
64. habitually resident	[həˈbɪtʃ.ə.li ˈrez.ɪ.dənt]
65. date of receipt	[deɪt əv rɪˈsi:t]
66. alternative grounds of jurisdiction	[ɒlˈtɜ:..nə.tɪv graʊndz əv ˌdʒʊə.rɪsˈdɪk.ʃən]
67. exercise jurisdiction	[ˈek.sə.saɪz ˌdʒʊə.rɪsˈdɪk.ʃən]
68. proposal for amendment	[prəˈpəʊ.zəl fɔr əˈmend.mənt]
69. debtor protection rule	[ˈdet.ər prəˈtek.ʃən ru:l]

70. sufficient time	[sə'fiʃ.ənt taɪm]
71. in default of appearance	[ɪn dɪ'fɔlt əv ə'piə.rəns]
72. enforcement of judgment	[ɪn'fɔ:smənt əv 'dʒʌdʒ.mənt]
73. authentic instrument	[ɔ:'θen.tɪk 'ɪn.strə.mənt]
74. exclusive jurisdiction	[ɪk'sklu: sɪv ,dʒʊə.rɪs'dɪk.jən]
75. refusal of enforcement	[rɪ'fju:zəl əv ɪn'fɔ:smənt]
76. refusal of recognition	[rɪ'fju:zəl əv ,rek.əg'nɪʃ.ən]
77. outcome of proceedings	['aʊt.kʌm əv prə'si:.dɪŋz]
78. registered letter	['redʒ.I.stəd 'let.ə]
79. to suspend the proceedings	[tʊ sə'spend ðə prə'si:.dɪŋz]
80. to join proceedings	[tʊ dʒɔɪn prə'si:.dɪŋz]
81. principal place of business	['prɪn.sə.pəl pleɪs əv 'bɪz.nɪs]
82. court settlement	[kɔ:t 'set.əl.mənt]
83. immovable property	[ɪ'mu:və.bəl 'prɒp.ə.tɪ]
84. legal person	['li:gəl 'pɜ:.sən]
85. protective measure	[prə'tek.tɪv 'meʒ.ər]
86. provisional measure	[prə'vɪʒ.ən.əl 'meʒ.ər]
87. irreconcilable judgment	[,ɪr.ek.ən'saɪ.lə.bəl 'dʒʌdʒ.mənt]
88. original claim	[ə'ɹɪdʒ.ən.əl kleɪm]
89. injured party	['ɪn.dʒəd 'pɑ:ti]
90. finding of fact	['faɪn.dɪŋ əv fækt]
91. to lodge an appeal	[tʊ lɒdʒ ən ə'pi:l]
92. to contest an appeal	[tʊ kən'test ən ə'pi:l]
93. ordinary appeal	['ɔ:.dən.əri ən ə'pi:l]
94. enforceable obligation	[ɪn'fɔ:səb ,ɒb.lɪ'geɪ.jən]
95. arbitration agreement	[,ɑ: bɪ'treɪ.jən ə'gri:mənt]
96. choice of court agreement	[tʃɔɪs əv kɔ:t ə'gri:mənt]
97. competent enforcement authority	['kɒm.pɪ.tənt ɪn'fɔ:smənt ɔ:'θɒr.ə.tɪ]
98. cause of action	[kɔ:z əv 'æk.jən]
99. reasonable time	['ri:zən.ə.bəl taɪm]
100. non-monetary claims	[nɒn-'mʌn.i.tri kleɪms]

2. Service of Documents.

Open answer (oral exercise).

3. Taking of Evidence.

Open answer (oral exercise); issue 1: All MS except Denmark].

4. European Enforcement Order.

a. Answer the questions.

1. *In the European Enforcement Order for existing judgments, what do you think that the term “judgment” includes?*

Any judgment given by a court of a Member State, whatever the judgment may be called, including a decree, order, decision or writ of execution, as well as the determination of costs or expenses by an officer of the court (Art. 4(1)).

2. *In the European Enforcement Order for existing judgments, what do you think that the court has to check in order to issue a European Enforcement Order?*

a. That the claim concerns a civil and commercial matter (material scope).

b. That the claim is for the payment of a specific sum of money that has fallen due (pecuniary claims, Art.4(2)). The certificate may cover also the amount of costs related to the court proceedings that are included in the judgment if the debtor has not objected to his obligation to bear such costs in the court proceedings in accordance with the law of the MS of origin (Art.7).

c. The date of the judgment. If the judgment is given in a Member State other than Romania and Bulgaria, the judgment must have been given on or after 21 January 2005. If the judgment was given for Romania or Bulgaria, it must have been given on or after 1 January 2007.

3. *In the European Enforcement Order for existing judgments, when do you think that a claim is considered to be uncontested?*

a. The debtor expressly agreed to it by admission (Art. 3(1)(a)).

b. The debtor has never objected to it, in compliance with the relevant procedural requirements under the law of the MS of origin in the course of court proceedings (Art. 3(1)(b)). In this case, the court must check that the silence or inaction by the debtor can be considered as a tacit acceptance of the claim under the law of the MS of origin, e.g. default judgments or orders for payment.

c. The debtor has not appeared or been represented at a court hearing regarding that claim after having initially objected to the claim in the course of the court proceedings, provided that such conduct amounts to a tacit admission of the claim or of the facts alleged by the creditor under the law of the Member State of origin (Art. 3(1)(c)). This situation occurs when the debtor did participate in the procedure and objected to the claim, but did no longer appear or was no longer represented at a subsequent hearing concerning the claim.

4. *How would you define a “claim”? Once you have provided your own definition, compare it to the definition in the Regulation.*

Art. 4(2):

A claim for payment of a specific sum of money that has fallen due or for which the due date is indicated in the judgment, court settlement or authentic instrument.

5. How would you define an “authentic instrument”? Once you have provided your own definition, compare it to the definition in the Regulation.

Art. 4(3):

(a) a document which has been formally drawn up or registered as an authentic instrument, and the authenticity of which:

(i) relates to the signature and the content of the instrument; and

(ii) has been established by a public authority or other authority empowered for that purpose by the Member State in which it originates;

or

(b) an arrangement relating to maintenance obligations concluded with administrative authorities or authenticated by them.

6. What documents, in your opinion, have to be produced by the claimant/creditor in order to request in a Member State enforcement of a judgment, authentic instrument or court settlement certified as a European Enforcement Order in another Member State according to Regulation 805/2004?

Art. 20:

a. a copy of the judgment which satisfies the conditions necessary to establish its authenticity; and

b. a copy of the European Enforcement Order certificate which satisfies the conditions necessary to establish its authenticity; and

c. where necessary, a transcription of the European Enforcement Order certificate or a certified translation thereof into the official language of the Member State of enforcement or, if there are several official languages in that Member State, the official language or one of the official languages of court proceedings of the place where enforcement is sought, in conformity with the law of that Member State, or into another language that the Member State of enforcement has indicated it can accept.

7. *What do you think the court should do if the debtor was not duly informed about the names and addresses of the parties, amount of claim, interest, grounds of claim and procedural steps necessary to contest the claim according to Regulation 805/2004?*

Art. 18:

Inform the claimant that the deficient information may be cured (because the proceedings in the Member State of origin did not meet the procedural requirements set out in Articles 13 to 17).

8. *What do you think the court should do if the Member State of origin does not offer the debtor the right to apply for a review of the judgment in the circumstances described in Art. 19 (minimum standards) of Regulation 805/2004?*

Refuse the issue of the EEO, because national law does not comply with the minimum standards of the Regulation.

b. Explaining the European Enforcement Order procedure.

Open answer (oral exercise).

5. European Payment Order.

Summarising.

Open answer (oral exercise).

6. European Small Claims Procedure.

Explaining terms.

Open answer (oral exercise).

READING SKILLS

1. Cross-Border Service of Documents.

Choose the correct alternative between the suggested terms.

(1) extrajudicial; (2) entered; (3) working; (4) view; (5) request; (6) determine; (7) served; (8) Acknowledgement; (9) receipt; (10) additional; (11) Notice; (12) retransmission; (13) jurisdiction; (14) transmitting; (15) on; (16) Reply; (17) of; (18) refuse; (19) complete; (20) return; (21) Where; (22) seal; (23) complies.

2. Taking of Evidence.

Choose the correct option. More than one answer may be correct:

(1) for (b); (2) executed (a); (3) receipt (c); (4) stating (b); (5) prevent (a); (6) to (b) (7) proceedings (a); (8) if that is provided for by (c); (9) were taken (b); (10) under (a); (11) obtaining (b); (12) are (a); (13) defence (b); (14) form A (a); (a) the requesting and, (15) where (c); (16) proceedings (b); (17) subject matter (a); (18) statement (c); (19) requested (b); (20) examination (a); (21) put (c); (22) refuse; (23) testify; (24) oath or affirmation; (25) same as (a); (26) deems (b); (27) other than (a); (28) inspected (c); (29) thereof (b); (30) exempt from the need for (31) authentication (b); (32) enclose (c); (33) in (b).

3. European Enforcement Order.

Answer the questions.

(1) a; (2) b; (3) d; (4) c; (5) b; (6) a; (7) d; (8) c.

4. European Payment Order. Case C-94/14 (Flight Refund).

Put in the correct preposition.

(1) of; (2) on; (3) for; (4) from; (5) for; (6) of; (7) of; (8) of; (9) on; (10) to; (11) on; (12) in; (13) from; (14) on; (15) of; (16) of; (17) to; (18) before; (19) for; (20) over; (21) to; (22) without; (23) on; (24) on; (25) in; (26) by; (27) on; (28) in; (29) at; (30) in; (31) by; (32) on; (33) over; (34) under; (35) in; (36) of; (37) at; (38) in; (39) in; (40) to; (41) in; (42) before; (43) without; (44) against; (45) under; (46) to; (47) with.

5. The Small Claims Procedure.

Word combinations.

(1) i (or d); (2) l; (3) h (or g); (4) u (or n); (5) j; (6) k (or s); (7) z (or g); (8) p; (9) b (or i); (10) g; (11) s (or t); (12) c; (13) f (or j; q is also possible but rare); (14) t; (15) d (or k, o, t); (16) x (or f, k, s, t); (17) m; (18) a; (19) o (or x, v); (20) q (or e, w); (21) e (or k, q, t, w); (22) w; (23) y; (24) r; (25) v; (26) n (or e, q).

WRITING SKILLS

1. Practising word formation (all Regulations).

Provide the correct word form.

(1) acknowledge-acknowledgement-acknowledged/acknowledging; (2) act-action/act-acting/acted/actionable; (3) adjudicate-adjudication-adjudicated; (4) administer-administration-administered; (5) admit-admission/admissibility-admitted/admissible; (6) allege-allegation-alleged; (7) annul-annulment-annulled/annullable; (8) appeal-appeal-appealed/appealing/appellable; (9) apply-application/applicability-applied/applicable; (10) approve-approval-approved/approving/approvable; (11) assist-assistance/assistant-assisted/assisting; (12) attest-attestation-attested/attesting; (13) authorise-authorisation/authority-authorised/authorising; (14) bind-binding-bound/binding; (15) certify-certificate/certification-certified/certifiable/certifying; (16) challenge-challenge-challenged/challenging; (17) claim-claim/claimant-claimed/claiming; (18) complete-completion/completeness-completed/complete; (19) comply-compliance-compliant/complied/complying; (20) concern-concern-concerned/concerning; (21) construe/construct-construction-construed/constructed/constructing; (22) contest-contest/contestant-contested; (23) decide-decision-decided; (24) defend-defendant/defence-defending/defended/defensible; (25) dismiss-dismissal-dismissed; (26) enforce-enforcement/enforceability-enforcing/enforced/enforceable; (27) examine-examination/exam/examiner-examined/examining; (28) execute-execution/executioner-executable/executed/executing; (29) expire-expiration/expiry-expired; (30) hear-hearing-heard; (31) issue-issue/issuance/issuer-issued/issuing; (32) judge-judge/judgment/judgement-judged/judging; (33) notify-notification-notified; (34) omit-omission-omitted; (35) prevent-prevention-prevented/preventative/preventing/preventable; (36) prohibit-prohibition-prohibited/prohibiting/prohibitive; (37) protect-protection/protector-protective/protecting/protected; (38) provide-provision-provided/providing; (39) pursue-pursuance/pursuer-pursuant/pursuing/pursued; (40) recognize-recognition/recognition-

recognised/recognising/recognisable; (41) rectify-rectification-rectified/rectifying; (42) refer-reference/referral-referred/referring; (43) request-request-requesting/requested; (44) require-requirement-requisite/required/requiring/requisite; (45) respond-response/respondent/responsibility-responsive/responding/responded; (46) rule-ruling/ruler-ruling/ruled; (47) serve-service/servant-serving/served/serviceable; (48) settle-settlement/settlor-settled/settling; (49) submit-submission/submissiveness-submitted/submitting/submissive; (50) sue-suit-sueing/sued; (51) testify-testimony-testimonial/testified/testifying; (52) transfer-transference/transferability-transferred/transferring/transferable; (53) try-trial/trier-triable/tried/trying; (54) transmit-transmission-transmittable/transmissible; (55) withdraw-withdrawal-withdrawed/withdrawing.

2. The Brussels Ia Regulation.

Missing terms.

(1) *lis pendens*, concurrent; (2) first seised, stay; (3) irrespective, proceedings; (4) jeopardise; (5) sought, grounds, arrange, in default of appearance; (6) given, accompanied, reasonable; (7) whatever, liability, *acta iure imperii*; (8) immovable, harmful; (9) enters, branch, disputes, be deemed to; (10) application, refused, served, instituted, enable; (11) domicile, settle, jurisdiction, validity; (12) a matter, exclusive, of its own motion; (13) provisional, available, substance; (14) judgment, contents, proceed; (15) issued, prior to, measure; (16) manifestly, public policy; (17) examination, submitted, findings; (18) hears, lodged, under, ordinary, expired; (19) reviewed; (20) penalty, amount; (21) ruling, null, void, performed, laid down, principal, incidental.

3. Service of Documents.

Fill in the gaps in the following text with the correct form of the word in brackets.

(1) served; (2) suitable; (3) proceedings; (4) available; (5) compliance; (6) prejudice; (7) recipient; (8) correctness (9) addressee; (10) verification; (11) refusal; (12) decision; (13) file; (14) relevant; (15) factual; (16) profession; (17) previously; (18) extended; (19) access; (20) justice; (21) officer; (22) addressed; (23) proportionality; (24) requirement; (25) effect; (26) postal; (27) residing; (28) registered; (29) acknowledgement; (30) receipt; (31) electronically; (32) qualified; (33) prior; (34) consent; (35) proof; (36) security; (37) identification; (38) integrity; (39) interference; (40) judgment; (41) instituting; (42) competent; (43) compliance; (44) defendant; (45) incompatible; (46) available;.

4. Taking of evidence.

a. Re-write the following, using your own terms:

SAMPLES

1. The fundamental rights and freedoms of all persons involved should be fully observed and respected in accordance with Union law, in particular the rights to equal access to justice, to non-discrimination and to the protection of personal data and privacy.

It is necessary to respect the essential rights of people, following the law of the EU, more specifically the right to have access to justice on the same terms, the right not to be discriminated against and the right for one's personal data and privacy to be protected.

2. Requests (...) shall be transmitted by the court before which the proceedings are commenced or contemplated ('requesting court'), directly to the competent court of another Member State ('requested court'), for the taking of evidence.

The court before which the case/action are brought/started/begun/issued/initiated/instituted or are intended/considered/foreseen to be brought (etc.) will transmit for evidence to be taken requests directly to the court which has jurisdiction in another Member State ('requested court')

3. Documents which the requesting court considers necessary to enclose for the execution of the request shall be accompanied by a translation of the documents in the language in which the request was written.

Any document which the court that makes the request deems necessary to include so the request may be carried out will have to include a translation into the same language as the language in which the request was drafted.

4. Where transmission (...) is not possible due to the disruption of the decentralised IT system or to the nature of the evidence concerned, or due to exceptional circumstances, the transmission shall be carried out by the swiftest, most appropriate alternative means, taking into account the need to ensure reliability and security

If the transmission is not possible because the non-centralised IT system has broken down temporarily or because of the kind of evidence involved, or because of exceptional circumstances, then the transmission will have to be made using the quickest and most adequate ways, making sure that reliability and security are respected.

5. The requesting court may ask the requested court to use specific communications technology in the taking of evidence, in particular by using videoconferencing or teleconferencing. The requested court shall use the communications technology specified (...) unless doing so would be incompatible with its national law or the requested court is unable to do so because of major practical difficulties.

The court that makes the request may ask the court that is requested to use concrete communications technology to take evidence, more specifically videoconferencing or teleconferencing. The court that has been requested will use such technology unless incompatibility with its own national law arises or if it cannot do so due to very relevant difficulties of a practical nature.

6. Where compatible with the law of the Member State of the requesting court, representatives of the requesting court shall have the right to be present in the taking of evidence by the requested court. For the purposes of this Article, the term 'representative' includes judicial personnel designated by the requesting court in accordance with its national law. The requesting court may also designate any other person, such as an expert, in accordance with its national law.

If it complies with the law of the Member State that makes the request, representatives of it have the right to be present while evidence is being taken by the court that has been requested. Within the limits of this Regulation, 'representative' may mean judicial staff

appointed by the court that makes the request under its domestic law. The court that makes the request may also appoint other people, such as experts, under its domestic law.

7. The direct taking of evidence shall be carried out by a member of the judicial personnel or by any other person, such as an expert, who is designated in accordance with the law of the Member State of the requesting court.

When evidence is taken directly, a member of the court/judicial staff or other person such as an expert appointed according to the law of the Member State making the request, will be in charge of it.

b. Writing an email.

Go to Annex 1 and read the information on how to write an email in English. Once you have read it, draft the following emails.

Practice 1: You are Ms. Oliveira, a court officer in *Tribunal Judicial da Comarca de Faro*, Portugal, and you have received Form A on 20 February from the *Helsingin Käräjäoikeus*, Finland. Today is 25 of February and you would like to send Form B to acknowledge receipt by email, but you also have to send Form D (request for additional information) because Form A does not contain all the necessary information according to Article 4 and also because a deposit or advance needs to be made for the taking of evidence to be carried out. Draft an email. The contact person is Mr. Virtanen.

Practice 2. Model e-mails.

(a)

Dear Ms. Müller,

My name is Mr. Sousa and I am Head Court Officer at the Tribunal de Juízos Cíveis de Coimbra.

I send you this email to let you know/advise you informally that today we will post by registered mail Form A (Request for taking of evidence) of Regulation 1206/2001.

I wonder if you would be so kind as to confirm by email receipt of the registered letter. I am aware that you will be sending, as provided for under the Regulation, Form B (Acknowledgement of receipt of a request for the taking of evidence), but it would be really helpful if you could just confirm receipt by email.

Thank you very much in advance.

Your sincerely,

*José Sousa
Court Officer
Tribunal de Juízos Cíveis de Coimbra*

(b)

Dear Mr. Sousa,

Thank you very much for your email of (date).

Unfortunately, we only accept transmissions by post or fax, and the acknowledgement of receipt (Form B) is normally sent by registered post. I would need to ask for permission by my supervisor in order to be able to acknowledge receipt unofficially by email in addition to posting Form B.

I will speak to him as soon as practicable and will let you know.

Your sincerely,

*Christiane Müller
Court Officer
Landgericht Düsseldorf*

5. European Enforcement Order. Case C-484/15 (Zulfikarpašić).

a. Adjectives.

(1) preliminary; (2) judicial; (3) civil; (4) uncontested; (5) authentic.

b. Tense and verb forms.

(1) rules; (2) creating; (3) must be interpreted; (4) acting; (5) conferred; (6) based; (7) meaning; (8) adopted; (9) has not been contested; (10) does not relate.

c. Word formation.

(1) ruling; (2) decision; (3) proceedings; (4) hearing; (5) sitting; (6) judgment; (7) interpretation; (8) council; (9) claims; (10) regarding; (11) application; (12) writ; (13) execution; (14) lawyer; (15) settle; (16) classified; (17) absence; (18) objection; (19) debtor; (20) circumstances; (21) stay; (22) provisions; (23) comply; (24) enforceable; (25) negative; (26) content; (27) action; (28) referring; (29) incurred; (30) recoverable.

6. European Payment Order and European Small Claims Procedure

a. Reading information (no answer required).

b. Premodifiers.

(1) postal code/postcode; (2) registration number; (3) national law; (4) supporting documents; (5) non-exhaustive list; (6) applicable fee; (7) monetary claim; (8) personal identification number; (9) statutory interest; (10) additional papers; (11) written statement; (12) expiry/expiration date; (13) applicable procedural law; (14) legal capacity; (15) enforcement procedure; (16) central body; (17) requesting/requested court; (18) contractual interest; (19) competent authority; (20) territorial jurisdiction; (21) judicial personnel; (22) coercive measures; (23) estimated time; (24) voluntary basis; (25) certified foreign judgment; (26) fair trial; (27) natural person; (28) exceptional circumstances; (29) personal service; (30) authentic document.



**Co-funded by
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