



Materialul a fost elaborat în cadrul [Proiectului „Exerciții practice în implementarea instrumentelor de cooperare în materie civilă și comercială” \(JUST/2013/JCUV/AG/4634\)](#) – Proiect co-finanțat de către Comisia Europeană, Programul în domeniul Justiției Civile

Cooperating on the basis of EU Regulations in multiple languages

dr. Roxana Constantinescu¹

INTRODUCTION

‘The Community has set itself the objective of maintaining and developing an area of freedom, security and justice, in which the free movement of persons is ensured. In order to establish progressively such an area, the Community should adopt, amongst other things, the measures relating to judicial cooperation in civil matters which are necessary for the sound operation of the internal market’

(Council Regulation (EC) No 44/2001

The objective of ‘maintaining and developing an area of freedom, security and justice’ is a core objective stated in the opening words of all or most European Regulations in civil, commercial, and family matters. ‘Mutual trust’ and ‘mutual confidence’ are other key concepts widely used in the Regulations’ phrasings. These objectives can only be attained by means of cooperation, i.e. by means of surmounting the language barrier in a multilingual Europe. English language, as the European *lingua franca* of judicial cooperation, is an important tool in this process. It is therefore of great importance for the members of the judicial systems involved and participating in such cooperation to be able to make good use of this tool. Which can be an equally easy and difficult task.

¹ Asistent, Școala Națională de Studii Politice și Administrative, București.

When using English as a tool for judicial cooperation, one should consider two important aspects. Firstly, English legal (including civil) terminology is not always (easily) translatable into other European languages, given the peculiarities of the common law system, whose distinct features, concepts, and institutions are not to be found in any other European system. This is also valid for translations of legal concepts from any European language into English. Secondly, legal English differs from general English in a number of ways, which will be tackled below.

As far as the first aspect is concerned, i.e. the differences between the common law system and the various continental systems, translations of legal terms from and into English can be problematic. When it comes to English concepts or terms which are not translatable in other European language, an English law dictionary will quickly solve the problem, by explaining what that particular word or concept stands for. Difficulties arise when one wants to use terms corresponding to concepts or institutions that do not exist as such in the English system. Most speakers' tendency is, in that situation, to 'adapt' words from their vernacular language to English. The situation is sometimes similar even when there are corresponding institutions or concepts in the English system, but the speakers' tendency is again to adapt words from their native languages, which are apparently similar (in form) to particular words in English, but the English terms have completely different meanings.

The problem with such misuses of English terms is not only the improper or incorrect use of English, but also the danger of adversely affecting the communication, and hence the cooperation, since not all European languages exhibit the same similarities with the same terms in English. For example, the term 'magistrate', used by some speakers to designate a 'member of the judiciary' (typically a judge or a prosecutor in some systems – e.g. Romania, Bulgaria, France, Italy), can be understood in different ways by speakers from different European states (e.g. in Spain as a senior judge, in Poland as a local authority or the city hall, in Germany as an archaic way of referring to a teacher, etc.) while in English it designates a person acting as a judge in a magistrates' court, without legal qualification and sometimes doing unpaid work. Other examples include terms like 'prescription' (used by some speakers to refer to the statute of limitations or limitation period, while in English it refers to medical prescription, this being its common understanding by other European natives, who do not happen to have this 'false friend' at all), 'sentence' (which in English is only used in criminal cases), 'instance', etc.

The second important aspect mentioned above is the difference between legal English and spoken everyday English. The most relevant peculiarities of legal English will be briefly outlined below.

Firstly, legal English entails the use of technical (legal) terms, which are only used in legal contexts ('litigant', 'tort', 'respondent', 'judgment', etc.), and semi-technical terms, which have a specific meaning in legal contexts, different from the one they have in general English ('action', 'serve a document'). Many of these terms are illustrated and suggested for practice in the exercises below (terms strictly relating to civil law and procedure, court language, the legal profession, civil proceedings). Terms are not usually abbreviated, with the exception of a few acknowledged acronyms (Q.C. – Queen's Counsel).

Secondly, the vocabulary itself is characterized by formality. Thus, complex prepositions ('in the event of', 'having regard to'), formal expressions ('in accordance with'), compound prepositions and adverbs ('hereby', 'herein', 'hereinafter', 'thereafter', etc.), as well as words belonging to a higher register ('expedite' instead of 'speed up', 'deem' instead of 'considered') are common in legal texts.

Thirdly, formality is present at the level of the morphological structures and of the syntax. The most common grammatical structures used in legal language (both in the UK and in the EU) include certain modals verbs (notably 'shall', 'may', 'should', and more rarely, but still in very formal contexts, 'can' and 'must'), the passive, whereby the emphasis is placed on the result rather than the agent, formal connectors ('provided that'), as well as long and complex sentences, which are rarely to be found in everyday English.

The present manual is therefore aimed at pointing out the problematic aspects of legal English in general, and civil terminology in particular. All these aspects are covered by the exercises below, which provide a variety of means of practicing the legal vocabulary and the typical grammatical structures of legal English. The different designs of the exercises are aimed at improving a particular aspect or developing a particular skill. The 'matching', 'multiple choice', 'word formation', 'gap fill' and 'reading' exercises are meant to enrich the speakers' vocabulary or to activate the passive vocabulary. Exercises dealing with particles, modal verbs or other grammatical structures' are aimed at improving the speakers' command and use of English. Other exercises are meant to help speakers use the language (including the new terms and

structures acquired) in situational contexts. For purposes of effectiveness of the exercises, a key to the exercises is provided at the end of the manual.

PART I. GENERAL CIVIL TERMINOLOGY

I. Complete the phrases below by matching the words in the two columns. Explain, in your own words, what these phrases mean.

- | | |
|---------------|----------------------|
| 1. award | a). of proof |
| 2. claim | b). liability |
| 3. limitation | c) of audience |
| 4. burden | d) of contract |
| 5. leading | e) damages |
| 6. right | f) question |
| 7. bring | g) redress |
| 8. breach | h) period |
| 9. strict | i) form |
| 10. seek | j) an action against |

II. Complete the table below using words deriving from the ones given.

Noun	Verb
	judge
decision	
	hear
proof	
	appeal
applicant	
	sit
suspension	
	try

III. Match the words with the corresponding definition.

appellant, barrister, claimant, defendant, lawyer, judge, magistrate, respondent, solicitor, witness

	a person whose profession is to give legal advice and/or to represent people in a court of law (umbrella term)
	a person who is qualified and authorized to hear cases in a court of law and to make decisions in legal matters
	a defendant in appellate or divorce proceedings
	a person who brings an action against another person before a civil court
	a type of lawyer in the UK who has right of audience before higher courts
	a person who testifies in a law court, saying what they know about a legal case or a particular person
	a person who acts as a judge or rather as a justice of the peace, with no legal qualifications and doing mostly unpaid work, having jurisdiction to try minor criminal cases
	a person who challenges the decision of a court before a higher court
	a member of the legal profession who is trained to advise clients, to prepare cases, and to represent clients in lower courts, as well as to draft legal documents
	a person, company, etc. against whom an action was brought in a court of law; a person who defends himself/herself in a criminal trial, after having been accused of a crime.

IV. Put the following steps in civil proceedings into their logical order.

1. The claimant's counsel starts the proceedings.
2. Each counsel makes a closing address.
3. A copy of the claim form is served on the defendant.
4. The claimant's counsel adduces his/her evidence and calls his/her witnesses.
5. The judge passes judgment and awards damages.
6. The claimant obtains a claim form.
7. The defendant's counsel adduces his/her evidence and cross-examines the claimant's witnesses.
8. The defendant decides to contest the claim and also to fill in a counterclaim form.
9. The claimant endorses the nature of the claim on the claim form.
10. The claimant decides to proceed with his claim and to defend the counterclaim.
11. The claimant's counsel cross-examines the defendant's witnesses.

V. Replace the words or phrases in italics with their synonyms. Use the words listed below.

- | | |
|--------------------------------------|--------------------------|
| a) executed | i) terminates |
| b) for non-fulfillment of a contract | j) terms of the contract |
| c) is in breach of contract | k) rescinded |
| d) proviso | l) the debtor |
| e) in accordance with | m) drawn up |
| f) entered into | n) fell due |
| g) laid down | o) subject to |
| h) the expiry date of | |

1. The contract was *drafted* by the solicitor.
2. *According to* the law, this contract is valid.
3. This contract is *dependent on* approval by the authorities.

4. The defendant has failed *to carry out his obligations as agreed in the contract*.
5. This offer *comes to an end* on the death of the offeror.
6. These additional costs have been provided for in the contract, so it can be *carried out* right away.
7. I am sure he will agree with all the *conditions which have to be carried out as part of the contract*.
8. He sued the company because it *had not carried out everything it promised in the contract*.
9. *The person who owed money* to the company was sued.
10. The bill *was due to be paid* on the 10th of October.
11. The parties *agreed to sign* the lease contract.
12. *The date when your insurance policy comes to an end* is December, 1st.
13. The contract has been *cancelled*.
14. The conditions are *stated clearly* in the contract.
15. Read carefully the *condition* at the end of the contract, which begins with ‘provided always that’.

VI. Match the following words or phrases with their definitions.

- | | |
|------------------------------------|----------------------|
| a. acknowledgement of receipt form | h. landmark judgment |
| b. burden of proof | i. procedure |
| c. counterclaim form | j. proceeding |
| d. damage | k. seek redress |
| e. damages | l. strict liability |
| f. disclosure | m. tort |
| g. injunction | |

1. set of rules and regulations prescribing how legal proceedings are to be conducted
2. an important decision which is frequently cited because it significantly changes the law on a particular topic, a decision that establishes a precedent

3. the (claimant's) responsibility for offering evidence that the facts presented are true
4. a form whereby the addressee confirms that he/she received the form
5. a civil wrong, other than a breach of contract, which entitles the person injured to claim damages
6. the claimant's obligation to inform the defendant of the documents relevant to the claim
7. the instituting or carrying on of a legal action
8. the injury sustained or the loss suffered as a result of the tort, for which the injured person is entitled to compensation
9. form used by the defendant to make a claim against the claimant
10. a court order requiring a person to do or to refrain from doing a particular act
11. legal responsibility for damage independent of negligence or fault
12. financial compensation for injury or loss as a result of a tort
13. to look for a legal remedy, reparation, compensation

VII. Explain what the following words mean in English. Then compare them to 'false friends' in your vernacular language. What terms are to be used in English for those 'false friends'?

1. prescription
2. sentence
3. magistrate
4. to sustain
5. to execute
6. instance
7. tribunal

VIII. While reading the text below, choose the correct words to fill in the gaps.

Civil justice in England and Wales

(<https://www.judiciary.gov.uk/about-the-judiciary/the-justice-system/jurisdictions/civil-jurisdiction/>)

Civil justice in England and Wales is mainly dealt with in the county courts and, in the case of more substantial or complex cases, the High Court. The jurisdiction covers a very wide range – from quite small or simple claims, for example damaged goods or recovery of debt, to large claims between multi-national companies.

Civil cases involve (1)..... in open court which the public may attend, (1)HEARINGS..... in the judge's private room from which the public are excluded, and matters decided by the (2) in private but on the basis of the papers alone.

- (1) a) trials b) hearings c) interrogations
(2) a) judge b) jury c) board

Most civil (3) do not end up in court, and those that do often don't go to a full (4) Many are dealt with through (5) (a process taking place outside a court to resolve a dispute) or by using established complaints procedures. But where a case does go through the (6), the aim is to make it as simple as possible. For smaller claims there is a speedy and cheap way of (7)..... disputes – through the small claims court.

- (3) a) arguments b) disputes c) processes
(4) a) hearing b) case c) trial
(5) a) litigation b) hearing c) mediation
(6) a) mediation b) arbitration c) courts
(7) a) solving b) resolving c) arranging

Judges in the civil jurisdiction do not have the power to imprison a losing party. Ordinarily, but not always, they award financial (8)..... to the successful party, the size of which depends on the circumstances of the claim.

- (8) a) damages b) damage c) aid

A judge hearing a civil case

Before trying a civil case the judge reads the relevant case papers and becomes familiar with their details.

The vast majority of civil cases (9) in court do not have a (libel and slander trials are the main exceptions) and the judge hears them on his or her own, deciding them by finding facts, applying the relevant law to them – and there may be considerable argument about what that law actually is – and then giving a (11) judgment.

(9) a) tried b) listened c) judged

(10) a) lawyer b) panel c) jury

(11) a) reasonable b) reasoned c) motivated

Judges also play an active role in (12) civil cases once they have started, helping to ensure they proceed as quickly and efficiently as possible.

(12) a) conducting b) managing c) presiding

This includes:

- encouraging the parties to co-operate with each other in the conduct of the case;
- helping the parties to (13)..... the case;
- encouraging the parties to use an alternative dispute resolution procedure if appropriate; and
- controlling the progress of the case.

(13) a) settle b) solve c) resolve

Occasionally, the parties will have agreed the relevant facts and it will not be necessary for the judge to hear any live (14)..... The issues may concern the law to be applied or the terms of the (15) to be given. But more often than not, written and live (14)..... will be given by the parties and their witnesses and the live witnesses may be (16) The judge ensures that all parties involved are given the opportunity to have their case presented and considered as fully and fairly as possible. During the case the judge will ask questions on any point he or she feels needs clarification. The judge also decides on all matters of (17) which may arise during a hearing.

(14) a) evidences b) proof c) evidence

(15) a) verdict b) judgment c) sentence

- (16) a) questioned b) interrogated c) cross-examined
 (17) a) correctness b) proceedings c) procedure

Judgment

Once the judge has heard the evidence from all parties involved and any (18) (representations) they wish to put forward, he or she (19) judgment. This may be immediately, or if the case is complicated, at a later date.

- (18) a) submissions b) declarations c) statements
 (19) a) gives b) brings c) delivers

Civil judges do have the power to punish parties if, for example, they are in (20) of court but, generally, civil cases do not involve the imposition of any punishment.

- (20) a) disrespect b) contempt c) defiance

If the judge decides that the claimant is (21) damages, he or she will have to go on to decide the (22) Or the claimant may have asked for (23)..... – for example, to forbid the defendant from making excessive noise by playing the drums in the flat upstairs in the early hours of the morning, or a declaration – an order specifying the precise boundary between two properties about which the parties had never been able to agree. The task of the judge is to decide on what is the appropriate (24)..... remedy, if any, and on the precise terms of it.

- (21) a) entitled to b) worthy of c) deserving
 (22) a) sum b) amount c) quantity
 (23) a) a judgment b) an injunction c) a restriction order
 (24) a) damage b) remedy c) compensation

Costs

When the judgment in the case has been delivered, the judge must deal with the cost of the case. This may include the (25) of any lawyers, court (25) paid out by the parties, (25)..... of expert witnesses, allowances that may be allowed to (26) who have acted in person (without lawyers), earnings lost and travelling and other expenses (27)..... by the parties and their witnesses. The general rule is that the unsuccessful party will have to pay the successful party's costs but the judge has a wide

(28)..... to depart from this rule. The judge’s decision on this part of the case will be very important to the parties. He or she may decide, for example, that the unsuccessful party should pay only a proportion of the successful party’s costs or that each party should bear their own costs. The judge may hear representations about this at the end of the case.

- (25) a) payments b) salaries c) fees
 (26) a) claimants b) litigants c) defendants
 (27) a) incurred b) suffered c) supported
 (28) a) liberty b) power c) discretion.

PART TWO. THE LANGUAGE OF COOPERATION IN CIVIL AND COMMERCIAL MATTERS

I. Complete the table below with the required forms. Then create sentences of your own, using words from the table.

Verb	Noun
enforce	
	regulation
recognize	
	provision
propose	
	commitment
agree	
	registration
benefit	

II. Fill in the gaps with near-synonyms of the words in brackets.

1. The proper functioning of the internal market (involves) the need to improve and (speed up) the transmission of judicial and extrajudicial documents in civil or commercial matter for service between the Member States.

2. Speed in transmission (guarantees) documents being served within days of receipt of the document.

3. If service has not been effected after one month has (passed), the receiving agency should inform the transmitting agency.

4. Certain differences between national rules governing jurisdiction and recognition of judgments (hinder) the (flawless) operation of the internal market.

5. This Regulation (limits) itself to the minimum required in order to (attain) those objectives and does not go beyond what is necessary for that purpose.

6. It is necessary and appropriate that the rules governing jurisdiction and the recognition and enforcement of judgments be governed by a Community instrument which is (mandatory).

7. Actions are (considered) to be related where they are so closely (linked) that it is expedient to hear and determine them together.

8. A court shall be deemed to be seised at the time when the document (starting the action) or an equivalent document is (filed) with the court, provided that the (claimant) has not (afterwards) failed to take the steps he was required to take to have service effected on the defendant.

III. Fill in the gaps, using the clues given.

1. Provisions to unify the rules of conflict of jurisdiction in civil and (commerce, adj.) matters and to simplify the formalities with a view to rapid and simple (recognize, noun) and (enforce, noun) of judgments from Member States bound by this Regulation are (essence, adj.)

2. The rules governing jurisdiction and the recognition and enforcement of judgments should be governed by a Community (law, adj.) instrument which is (bind, adj.) and directly (apply, adj.).

3. The rules of jurisdiction must be highly (predict, adj.).

4. This Regulation lays down, for a (transition, adj.) period, provisions taking into (consider, noun) the specific situation in certain Member States.

5. A person domiciled in a Member State may, in another Member State, be sued, in matters relating to a contract, in the courts for the place of (perform, noun) of the obligation in question.

6. In respect of (liable, noun) insurance or insurance of (move, adj., neg.) property, the insurer may in (add, noun) be sued in the courts for the place where the (harm, adj.) event occurred.

7. A judgment shall not be recognized if it is (reconcile, adj., neg.) with a judgment given in a dispute between the same parties in the Member States in which recognition is sought.

8. In order to facilitate the (transmit, noun) and (serve, noun) of documents between Member States, the standard forms set out in the Annexes to this Regulation should be used.

9. The rule should also apply to the subsequent service once the (address, noun for person) has exercised his right of (refuse, noun).

10. If it is not possible to effect service within one month of (receive, noun), the receiving agency shall immediately inform the transmitting agency by means of the certificate in the standard form set out in Annex I.

IV. Complete the table below with the required forms. Then use words from the table to create sentences of your own.

Noun	Adjective
procedure	
	confident
appeal	
	autonomous
enforcement	
	legal
nation	
	applicable
insolvency	

V. Fill in the gaps with the appropriate particles.

against, as, before, between, by, for, from, in, of, on, to, with, within, without

1. The scope this Regulation must cover all the main civil and commercial matters apart certain well-defined matters.

2. In addition the defendant's domicile, there should be alternative grounds jurisdiction based a close link the court and the action or in order facilitate the sound administration of justice.

3. The necessary flexibility should be provided in the basic rules of this Regulation in order to take account the specific procedural rules of certain Member States.

4. Any person domiciled a Member State may, whatever his nationality, avail himself in that State the rules and jurisdiction there force, and in particular those specified in Annex I, the same way as the nationals of that State.

5. A consumer may bring proceedings the other party a contract either in the courts of the Member State in which that party is domiciled or in the courts for the place where the consumer is domiciled.

6. Apart from jurisdiction derived other provisions of this Regulation, a court of a Member State which a defendant enters an appearance shall have jurisdiction.

7. Any interested party who raises the recognition of a judgment the principle issue in a dispute may, in accordance the procedures provided for in Sections 2 and 3 of this Chapter, apply a decision that the judgment be recognized.

8. No extension of time may be grantedaccount distance.

9. It should be established that the service of the refused document can be remedied through the service the addressee of a translation of the document.

10. The information transmitted pursuant this Regulation should enjoy suitable protection.

11. The applicant shall bear any costs of translation prior the transmission of the document, prejudice to any possible subsequent decision by the court or competent authority liability for such costs.

12. receipt of a document, a receiving agency shall, as soon as possible and any event within seven days of receipt, send a receipt to the transmitting agency the swiftest possible means of transmission using the standard form set out in Annex I.

13. The receiving agency shall take all the necessary steps to effect the service of the document as soon as possible, and in any event one month of receipt.

14. Due differences between Member States' rules of civil procedure and especially those governing the service of documents, it is necessary to lay down a specific and detailed definition minimum standards that should apply the context of the European order for payment procedure.

15. When deciding which courts are to have jurisdiction to issue a European order for payment, Member States should take due account the need to ensure access justice.

VI. Complete the table below with the required forms.

Verb	Noun (event)	Noun (person)
appeal		
apply		
claim		
consume		
defend		
employ		
hear		
insure		
try		

VII. Fill in the gaps with the appropriate modal verb.

1. The rules of jurisdiction be highly predictable.
2. An insurer domiciled in a Member State be sued in the courts of the Member State where he is domiciled or in another Member State, in the case of actions brought by the policyholder, the insured or a beneficiary, in the courts for the place where the plaintiff is domiciled.
3. Without prejudice to the provisions of this Regulation, enforcement procedures be governed by the law of the Member State of enforcement.
4. The provisions of this Section be departed from only by an agreement which is entered into after the dispute has arisen.
5. This Regulation not apply to service of a document on the party's authorized representative in the Member State where the proceedings are taking place regardless of the place of residence of that party.
6. Under no circumstances the foreign judgment be reviewed as to its substance.
7. The autonomy of the parties to a contract, other than an insurance, consumer or employment contract, where only limited autonomy to determine the courts having jurisdiction is allowed, be respected subject to the exclusive grounds of jurisdiction laid down in this Regulation.
8. Article 15 apply to situations where the defendant represent himself in court, as in the case of a legal person, and where a person authorized to represent him is determined by law.
9. The European order for payment also be served on the defendant in accordance with the national law of the State in which service is to be effected.
10. The domicile of a legal person be defined autonomously so as to make the common rules more transparent and avoid conflicts of jurisdiction.

VIII. Before reading the text, answer the following questions:

What are, in your opinion, the main objectives of the insolvency laws?

Have you encountered difficulties in an international case because of differences in the insolvency laws between different countries? Explain.

General Objectives and Features of Insolvency Procedures

General Objectives

(<http://www.imf.org/external/pubs/ft/orderly/>)

Although the insolvency laws of countries differ in important respects, it is possible to identify two overall objectives that are generally shared by most systems.

The first overall objective is *the allocation of risk among participants in a market economy in a predictable, equitable, and transparent manner*. The achievement of this objective plays a critical role in providing confidence in the credit system and fostering economic growth for the benefit of all participants. For example, in terms of the creditor-debtor relationship, the ability of a creditor to commence insolvency proceedings against a debtor as a means of enforcing its claim reduces the risk of lending and, thereby, increases the availability of credit and the making of investment more generally. An insolvency law also serves to allocate risk among different creditors, also for the benefit of borrowers. For example, if the insolvency law affords secured creditors special treatment vis-à-vis unsecured creditors, such treatment protects the value of security, which may be particularly important for those debtors that, because of their credit risk, cannot obtain (or cannot afford) unsecured credit.

- *Predictability*. Individual countries make different policy choices as to how their insolvency laws will allocate risk among participants. Irrespective of these different choices, however, it is generally recognized that the relevant risk allocation rules should be clearly specified in the law and that they should be consistently applied by the individuals and institutions that are charged with implementing them. Experience has demonstrated that no matter what risk allocation choices countries make, participants are often able to take measures (including through price adjustment) to help manage the risk in question if the application of these rules is relatively predictable. In contrast, when the rules or their application are uncertain, such uncertainty erodes the confidence of all

participants and undermines their willingness to make credit and other investment decisions.

- *Equitable Treatment.* A common feature of all insolvency proceedings is their collective nature. Unlike other laws (e.g., foreclosure laws), an insolvency law is designed to address a situation in which a debtor is no longer able to pay its debts to its creditors generally (rather than individually) and, in that context, provides a mechanism that will provide for the equitable treatment of all creditors. As will be discussed, equitable treatment does not require equal treatment. On the contrary, to the extent that different creditors have struck fundamentally different commercial bargains with the debtor (e.g., through the granting of security), differential treatment of creditors that are not similarly situated may be necessary as a matter of equity. For the benefit of all creditors, however, an insolvency law must address the problem of fraud and favoritism that often arises in the context of financial distress. Moreover, given the importance of international credit and investment, the law must ensure that there is no discrimination against foreign creditors. Finally, the collective nature of a proceeding can give reassurance to creditors that problems will be resolved in an orderly and equitable manner. A liquidator or administrator can, for example, issue statements that can calm markets effectively.

- *Transparency.* Closely related to the objectives of predictability and equity is that of transparency. During insolvency proceedings, interested participants must be given sufficient information for them to exercise their rights under the law. Thus, for example, creditors must receive adequate notice of meetings where creditor decisions are to be taken and must receive sufficient information from the debtor to ensure that their decisions are informed. When the institutions charged with implementing the law (the court and the court-appointed liquidator or administrator) make decisions, it is also important that the law provide adequate guidance as to the exercise of their discretion and, in the case of the court, require that judicial proceedings be open and that the rationale underlying the court's decision be made publicly available.

The second objective of an insolvency law is *to protect and maximize value for the benefit of all interested parties and the economy in general*. This objective is most obviously

pursued during rehabilitation, where value is maximized by continuing a viable enterprise. But it is also a primary objective of procedures that liquidate enterprises that cannot be rehabilitated. The achievement of the value maximization objective is often furthered by the fulfillment of the objective of equitable risk allocation. For example, the nullification of fraudulent transactions that occurred before an insolvency proceeding ensures that creditors are treated equitably and also enhances the value of the debtor's assets. However, there can also be tension between these objectives. For example, the nullification of prior transactions also extends to non-fraudulent transactions, which can undermine the objective of predictability. Similarly, during the insolvency proceedings, many countries give the liquidator or the administrator (depending on the nature of the proceedings) the authority to interfere with the terms of a contract previously entered into between the debtor and a counterparty. While the exercise of this authority provides an important means of maximizing the value of the assets of the debtor, it also undermines the predictability of contractual relations, which is critical to making investment decisions.

Some of the key policy choices to be made when designing an insolvency law relate to how the above objectives are balanced against each other. In addition, choices need to be made on who will be the beneficiaries of the value that is maximized: while some countries view rehabilitation procedures as providing a way to enhance the value of creditors' claims through the going-concern value of the enterprise, other countries also view it as a means of providing a "second chance" to the shareholders and the management of the debtor. Still others view the continuation of the enterprise as primarily benefiting the employees. The protection of employees raises the larger issue of when reliance on the insolvency law should be avoided altogether so that certain public policy objectives can be achieved. For instance, to limit unemployment or rescue enterprises that are engaged in important national activities, the authorities may prefer to address the problems of a troubled company through various measures that will involve an extensive use of public funds and give the beneficiaries a substantial advantage over their less-favored competitors.

When determining how to strike the balance between the various objectives described above, it is necessary to avoid easy stereotypes. Debtors are not always fraudulent or incompetent, and creditors are not always grasping and selfish. As borne out by recent

experience, although companies may fail because of incompetence, they may also fail because of economic difficulties beyond their control.

Viewed from the perspective of the economic policymaker, and in light of the above objectives, an effective insolvency law can clearly play a critical role in a number of areas. Generally, the discipline it imposes on a debtor increases the competitiveness of the enterprise sector and facilitates the provision of credit. More specifically, to the extent that the enterprise is owned by the state, subjecting the enterprise to the application of the general insolvency law sends a clear signal regarding the limitations of public financial support. In that context, the rehabilitation provisions of an insolvency law can effectively ensure that creditors contribute to the resolution of the financial problems of state-owned enterprises, thereby limiting the public cost of rehabilitation.

A. Reading comprehension

Answer the following questions:

1. Which are the two main objectives of the insolvency laws mentioned in the text?
2. What does predictability consist in?
3. Why is predictability important?
4. Does equitable treatment mean equal treatment? Explain.
5. What does transparency involve?
6. Who may be the beneficiaries of rehabilitation procedures?
7. What may underlie the avoidance of the insolvency law?
8. What roles can an effective insolvency law play?

B. Vocabulary exercise

Provide near-synonyms or explanations for the words and phrases listed below:

1. to commence insolvency proceedings
2. a creditor enforcing its claim
3. unsecured creditors

4. financial distress
5. creditors must receive adequate notice
6. rehabilitation
7. the nullification of prior transactions also extends to non-fraudulent transactions, which can undermine the objective of predictability
8. the above objectives are balanced against each other

PART THREE. THE LANGUAGE OF COOPERATION IN FAMILY MATTERS

I. Fill in the gaps with words deriving from the ones given in brackets, using the clues provided:

1. This Regulation does not apply to the (establish, noun) of (parent, abstract noun), since this is a different matter from the (attribute, noun) of (parent, adj.) responsibility.
2. Authentic instruments and (agree, noun, pl.) between parties that are (enforce, adj.) should be treated as equivalent to ‘judgments’.
3. For the proper functioning of this Regulation, the Commission should review its (apply, noun) and propose such (amend, noun, pl.) as may appear necessary.
4. This Regulation shall apply, whatever the nature of the court or tribunal, in civil matters relating to:
 - a) divorce, legal (separate, noun) or marriage (annul, noun);
 - b) (guardian, abstract noun), (curator, abstract noun) and similar institutions;
 - c) the (designate, noun) and functions of any person or body having charge of the child’s person or property, representing or assisting the child;
 - d) measures for the (protect, noun) of the child relating to the (administer, noun), conservation or (dispose, noun) of the child’s property.
5. This Regulation shall not apply to:

a) the (establish, noun) or contesting of parent-child relationship;
b) decisions on adoption, measures (prepare, adj.) to adoption, or the annulment or (revoke, noun) of adoption.

6. An application for a declaration of (enforceable, noun) shall be submitted to the court appearing in the list notified by each Member State to the Commission.

7. If, at the time the agreement is concluded, the spouses are (habitual, adv.) resident in different participating Member States which lay down different formal rules, (comply, noun) with the formal rules of one of these States would suffice.

8. The European Council in Tampere called for the (abolish, noun) of intermediate measures required for the recognition and enforcement in the requested State of a decision given in another Member State, particularly a decision relating to a (maintain, noun) claim.

II. Fill in the gaps with synonyms or near-synonyms of the words in brackets:

1. Since the application of the rules on parental responsibility often (emerges) in the context of matrimonial proceedings, it is more appropriate to have a (unique) instrument for matters of divorce and parental responsibility.

2. This Regulation should apply only to the dissolution of matrimonial (relationships) and should not deal with issues such as the grounds for divorce, property consequences of the marriage or any other (additional) measures.

3. Where a court has decided not to return a child [...], it should inform the court having jurisdiction or central authority in the Member State where the child was habitually resident (before) the wrongful removal or retention.

4. This Regulation recognizes the fundamental rights and (observes) the principles of the Charter of Fundamental Rights of the European Union.

5. Where a person, institution or other body having rights of custody applies to the competent authorities in a Member State to (give, pass) a judgment on the basis of the Hague Convention of 25 October 1980, [...] paragraphs 2 to 8 shall apply.

6. Jurisdiction under this Article shall be (considered) to be in the child's interest.

7. Paragraph 1 shall also apply to refugee children or children internationally displaced because of disturbances (taking place) in their country.

8. Where a respondent habitually resident in a State other than the Member State where the action was brought does not enter an appearance, the court with jurisdiction shall (suspend) the proceedings so long as it is not shown that the respondent has been able to receive the document (starting) the proceedings or an equivalent document in (enough) time to (allow) him to arrange for his defence.

9. A judgment relating to parental responsibility shall not be recognized if it was given, except in case of urgency, without the child having been given an (chance) to be heard, in (infringement) of fundamental principles of procedure of the Member State in which recognition is (looked for).

10. Even if national law does not provide for enforceability by operation of law of a judgment (giving) access rights, the court of origin may declare that the judgment shall be enforceable, (regardless of) any appeal.

11. Where the rights of access involve a (international) situation at the time of the delivery of the judgment, the certificate shall be issued ex officio when the judgment becomes enforceable, even if only (temporarily).

12. The central authorities shall communicate information on national laws and procedures and take measures to improve the application of this Regulation and (consolidate) their cooperation.

III. Fill in the gaps with the appropriate particles:

against, as, at, between, by, for, from, in, of, on, through, to, under, with, without
--

1. In order to ensure equality all children, this Regulation covers all decisions parental responsibility, including measures the protection of the child, independently any link a matrimonial proceeding.

2. the interest of the child, this Regulation allows, way of exception and certain conditions, that the court having jurisdiction may transfer a case a court of another Member State if this court is better placed to hear the case.

3. This obligation should not prevent the central authority also notifying the relevant public authorities in accordance national law.

4. The recognition and enforcement of judgments should be based the principle of mutual trust and the grounds non-recognition should be kept the minimum required.

5. The certificate issued to facilitate enforcement of the judgment should not be subject appeal.

6. The courts shall cooperate the purposes of this Article, either directly or the central authorities designated pursuant Article 53.

7. In particular, and prejudice to paragraph 3, no special procedure shall be required updating the civil-status records of a Member State the basis of a judgment relating divorce, legal separation or marriage annulment given in another Member State, and which no further appeal lies the law of that Member State.

8. Any interested party may, in accordance the procedures provided in Section 2 of this Chapter, apply a decision that a judgment be or nor be recognized.

9. A judgment relating a divorce, legal separation or marriage annulment shall not be recognized where it was given default of appearance, if the respondent was not served the document which instituting the proceedings or an equivalent document in sufficient time and such a way as to enable the respondent to arrange his or her defence.

10. If the documents specified in Article 37 (1) (b) or (2) are not produced, the court may specify a time their production, accept equivalent documents or, if it considers that it has sufficient information before it, dispense their production.

11. Documents which have been formally drawn up or registered authentic instruments and are enforceable in one Member State and also agreements the

parties that are enforceable in the Member State in which they were concluded shall be recognized and declared enforceable the same conditions as judgments.

12. Those measures are to include measures aimed ensuring the compatibility of the rules applicable in the Member States concerning conflict of laws.

IV. Fill in the brackets with antonyms of the words in brackets.

1. In case of (rightful) removal or retention of a child, the return of the child should be obtained (with) delay.

2. Where the jurisdiction of the court first seised is established, the court second seised shall (accept) jurisdiction in favour of that court.

3. In order to (forbid) the spouses to choose an applicable law which they have a close connection to or, in the (presence) of such choice, in order that the law might apply to their divorce or legal separation, the law in question should apply even if it is not that of a participating Member State.

4. (decreasing) the mobility of citizens calls for more flexibility and greater legal certainty.

5. The question of how to deal with cases of multiple nationality should be left to national law, in full (violation) of the (specific) principles of the European Union.

6. Application of a provision of the law designated by virtue of this Regulation may be (accepted) only if such application is manifestly incompatible with the public policy of the forum.

7. In order to the costs of translating supporting documents the court seised should only require a translation of such documents when this is necessary.

V. Fill in the gaps with the appropriate modal verb.

1. This Regulation should have effect without prejudice to the application of public international law concerning diplomatic immunities. Where jurisdiction under this Regulation be exercised by reason of the existence of diplomatic immunity in accordance with

international law, jurisdiction be exercised in accordance with the national law in a Member State in which the person concerned does not enjoy such immunity.

2. The court or central authority that receives the information mentioned in paragraph 6 notify it to the parties and invite them to make submissions to the court, in accordance with national law, within three months of the date of notification so that the court examine the question of custody of the child.

3. Where the recognition of a judgment is raised as an incidental question in a court of a Member State, that court determine the issue.

4. A court refuse to return a child on the basis of Article 13b of the 1980 Hague Convention if it is established that adequate arrangements have been made to secure the protection of the child after his or her return.

5. A transfer made of the court's own motion or by application of a court of another Member State be accepted by at least one of the parties.

6. No extension of time be given on account of distance.

7. Where a child's habitual residence be established and jurisdiction be determined on the basis of Article 12, the courts of the Member State where the child is present shall have jurisdiction.

8. The recognition of a judgment be refused because the law of the Member State in which such recognition is sought would not allow divorce, legal separation or marriage annulment on the same facts.

9. Where neither of the places referred to in the first subparagraph be found in the Member State of enforcement, the local jurisdiction shall be determined by reference to the place of enforcement.

10. The courts of the Member State of enforcement make practical arrangements for organizing the exercise of rights of access.

11. This Regulation apply, in situations involving a conflict of laws, to divorce and legal separation.

12. The law chosen by the spouses be consonant with the fundamental rights recognized by the Treaties and the Charter of Fundamental Rights of the European Union.

VI. Turn the following sentences into the passive voice:

1. National law continues to govern arrangements for the enforcement of such judgments.
2. Unless one of the parties has already seised the courts in the Member State where the child was habitually resident immediately before the wrongful removal or retention, the court or central authority that receives the information mentioned in paragraph 6 must notify it to the parties.
3. A court to which a party makes an application for return of a child shall act expeditiously in proceedings in the application.
4. The court shall ensure that it gives the child the opportunity to be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity.
5. The courts of a Member State exercising jurisdiction by virtue of Article 3 on an application for divorce, legal separation or marriage annulment shall have jurisdiction in any matter relating to parental responsibility connected with that application where [...] the spouses and the holders of parental responsibility have accepted the jurisdiction of the courts expressly or otherwise in an unequivocal manner.
6. The courts shall deal with the appeal in accordance with the rules governing procedure in contradictory matters.
7. If the applicant for a declaration of enforceability brings the appeal, the court will summon the party against whom the applicants seeks enforcement to appear before the appellate court.
8. Both parties should at least express in writing, date and sign the agreement on the choice of applicable law.

VII. Choose the correct connectors.

1. The hearing of the child plays an important role in the application of this Regulation, this instrument is not intended to modify national procedures applicable.
- a) if b) so c) unless d) although

2. Without prejudice to Article 3, a court of a Member State that has given a judgment on a legal separation shall also have jurisdiction for converting that judgment into a divorce, the law of that Member State so provides.

- a) if b) unless c) even if d) even though

3. The court in which proceedings are pending on the basis of Article 3 shall also have jurisdiction to examine a counterclaim, the latter comes within the scope of this Regulation.

- a) even if b) as much as c) although d) insofar as

4. no court of a Member State has jurisdiction pursuant to Articles 3, 4 and 5, jurisdiction shall be determined, in each Member State, by the laws of that State.

- a) unless b) when c) where d) whereas

5. wrongful removal or retention of the child, the courts of the Member State where the child was habitually resident immediately before the wrongful removal or retention shall retain their jurisdiction until the child has acquired a habitual residence in another Member State.

- a) since b) irrespective of c) in case of d) because of

6. A court cannot refuse the return of a child the person who requested the return of the child has been given an opportunity to be heard.

- a) if b) although c) even if d) unless

7. The courts of a Member State shall also have jurisdiction in relation to parental responsibility in proceedings other than those referred to in paragraph 1 where the child has a substantial connection with that Member State, in particular the fact that one of the holders of parental responsibility is habitually resident in that Member State or that child is a national of that Member State.

- a) despite b) by virtue of c) since d) irrespective of

8. A court shall be deemed to be seised at the time when the document instituting the proceedings or an equivalent document is lodged with the court, the applicant has not subsequently failed to take the steps he was required to take to have service effected on the respondent.

- a) provided b) provided that c) even if d) though.

VIII. Before reading the text, answer the following questions:

1. Does your domestic law efficiently deal with international abduction cases?
2. Explain the procedures involved in returning a child who has been wrongly removed or retained.

New abduction law reinforces children's rights

(Simon Bradley, [swissinfo.ch](http://www.swissinfo.ch), <http://www.swissinfo.ch/eng>)



In 2008 the Swiss authorities handled some 208 international child abduction cases

Children abducted by a parent who then disappears abroad will be much better protected under a new law in force from July 1, say children's rights advocates.

Each year, Swiss authorities up to 200 cases of international child abduction, where children are caught in a tug-of-love wrangle between separated parents, usually of different nationalities.

In 2008, 73 per cent of the time it was the mother who carried out the abduction.

On Wednesday, a new Swiss law concerning the international abduction of children enters into force alongside official implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The international statute requires snatched children to be returned home.

Child protection experts say the new law should simplify and accelerate often lengthy and complicated return procedures. It should also encourage the settlement of cases through mediation and conciliation, which can be enforced by a court.

"I think it's a very good modern law for Switzerland," Andrea Hauri, a child protection officer with the Swiss Foundation for the Protection of the Child, told swissinfo.ch.

"This new law will help consider the superior interest of a child in international abductions. It foresees that a mediated solution will be found with both parents and also, a network of recognized experts is on hand to treat a child."

Michael Marugg, a legal adviser at the Pro Juventute youth foundation, agreed that the new law would make a "substantial difference".

"Children's rights will have much more weight than previously," he said.

A long separation from one parent followed by reunion under tense circumstances can have a destabilising impact on a child. Encouraging children to be returned swiftly to their traditional home environments prevents them from feeling too uprooted, say experts.

To help speed things up, the new law foresees that requests for the return of abducted children should be dealt with by a single legal body, namely the main cantonal court. Appeals can be made at a later stage to the Federal Court.

Weak points

One new aspect of the law is the creation of a Swiss network of child protection experts, mediators, children's lawyers, specialist social assistants and mental health professionals, which has been built up by the Swiss Foundation of the International Social Service.

The International Social Service, a non-governmental organisation with agents in 140 countries, will also provide legal advice as well as counselling and mediation sessions.

The foundation is generally happy with the new law but says it remains rather vague about how and when the authorities will call upon the services of the network of experts. It is also critical of the fact that the new legislation only concerns abductions from other countries to Switzerland and only where the states have ratified the Hague Convention.

But the foundation says that allowing children to be heard and represented separately from their parents will result in parents focusing more on the child's interest than on their own parental arguments.

One other small complaint is that the new Swiss law could be stricter over the issue of hearing children in court, said Hauri.

In particular, article nine of the new law foresees that the court can "call a child to a court hearing if appropriate or ask an expert to carry out a hearing unless the age of the child or other motives oppose this".

"The formulation of the last part 'other motives' is too vague and needs to be annulled," said Hauri. "You have this in divorce law where there is a similar formulation. In divorce settlements."

High-profile

Over recent years a number of high-profile international child abductions, like that of five-year-old Ruben Bianchi, have made the news in Switzerland.

In 2002, Italian sports doctor Stefano Bianchi was awarded custody of Ruben by an Italian court following his divorce. This decision was confirmed by the Swiss Federal Court.

But in December 2003 the boy was taken from Italy back to Switzerland by his Swiss mother, former cycling champion Lucille Hunkeler.

Hunkeler, a Swiss-Italian citizen, was arrested in Mozambique in October 2007 while travelling with her eight-year-old son and her two other children. She was tracked down following a joint Swiss-Italian investigation after both countries issued an international arrest warrant.

Ruben finally rejoined his father after years of long and complex procedures.

Such was the uproar that former Justice Minister Christoph Blocher even discussed the case with his Italian counterpart Roberto Castelli.

And during parliamentary discussions over the new abduction legislation, Blocher said things would have gone more quickly and simply in the Bianchi case if the new law had been in place.

The Hague Convention

The 1980 Hague Convention is aimed at securing the prompt return of children wrongfully removed to or detained in any contracting state.

It ensures that rights of custody and access under the law of one contracting state are respected in the other contracting states.

It has 80 signatories which include most European and North and South American countries, Australia and a few African countries.

A. Reading comprehension

Answer the following questions:

1. What was the context in which the new law was enacted?
2. Who are the persons, according to the text, who are more likely to abduct children?
3. Which are the pluses of the new law?
4. Why is simplification and acceleration of the procedures important?
5. Is there any weak point of this law? Which?
6. In what way is the law vague about hearing the child?
7. What case does the text cite to illustrate the issue?

B. Vocabulary exercises

Give near-synonyms or explanations for the following words and phrases.

1. tug-of-love wrangle
2. snatch
3. foresee
4. uproar
5. abduction
6. wrongful removal or retention of a child
7. kidnapping

KEY TO EXERCISES

PART ONE. GENERAL CIVIL TERMINOLOGY

I. 1. e); 2. i); 3. h); 4. a); 5. f); 6. c); 7. j); 8. d); 9. b); 10. g).

II. judgment, judge; decide; hearing; prove; appeal, appellant; apply; sitting; suspend;
trial.

III.

lawyer	a person whose profession is to give legal advice and/or to represent people in a court of law (umbrella term)
judge	a person who is qualified and authorized to hear cases in a court of law and to make decisions in legal matters
respondent	a defendant in appellate or divorce proceedings
claimant	a person who brings an action against another person before a civil court
barrister	a type of lawyer in the UK who has right of audience before higher courts
witness	a person who testifies in a law court, saying what they know about a legal case or a particular person
magistrate	a person who acts as a judge or rather as a justice of the peace, with no legal qualifications and doing mostly unpaid work, having jurisdiction to try minor criminal cases
appellant	a person who challenges the decision of a court before a higher court
solicitor	a member of the legal profession who is trained to advise clients, to prepare cases, and to represent clients in lower courts, as well as to draft legal documents
defendant	a person, company, etc. against whom an action was brought in a court of law; a person who defends himself/herself in a criminal trial, after having been accused of a crime.

IV. 6, 9, 3, 8, 10, 1, 4, 7, 11, 2, 5

V. 1 – m; 2 – e; 3 – o; 4 – c; 5 – i; 6 – a; 7 – j; 8 – b; 9 – l; 10 – n; 11 – f; 12 – h; 13 – k;
14 – g; 15 – d.

VI. 1 – i; 2 – h; 3 – b; 4 – a; 5 – m; 6 – f; 7 – j; 8 – d; 9 – c; 10 – g; 11 – l; 12 – e; 13 – k.

VII. 1. prescription – a direction written by the physician to the pharmacist for the preparation or selling of a particular medical remedy; the medicine prescribed;

2. sentence – grammatical unit that expresses a statement; a judicial decision usually involving a punishment (in criminal proceedings)

3. magistrate – a lay judge

4. to sustain – bear the burden of, undergo, experience, suffer.

5. to execute – carry out, accomplish; inflict capital punishment on; assassinate;

6. instance – a case or occurrence of something, an example.

7. tribunal – a specialized court, with mixed panels made up of judges and specialists in the respective field (e.g. Employment Tribunal)

VIII. (1) – b; (2) – a; (3) – b; (4) c; (5) c; (6) – c; (7) – b; (8) – a; (9) – a; (10) – c; (11) – b; (12) – b; (13) – a; (14) – c; (15) – b; (16) – c; (17) c; (18) – a; (19) c; (20) – b; (21) a; (22) – b; (23) – b; (24) – b; (25) – c; (26) – b; (27) – a; (28) c.

PART TWO. THE LANGUAGE OF COOPERATION IN CIVIL AND COMMERCIAL MATTERS

I. enforcement; regulate; recognition, provide; proposal; commit; agreement; register; beneficiary

II. 1. entails, expedite; 2. warrants; 3. elapsed; 4. hamper, sound; 5. confines, achieve; 6. binding; 7. deemed, connected; 8. instituting the proceedings, lodged, plaintiff, subsequently.

III. 1. commercial, recognition, enforcement, essential; 2. legal, binding, applicable; 3. predictable; 4. transitional; consideration; 5. performance; 6. liability, immovable, addition, harmful; 7. irreconcilable; 8. transmission, service; 9. addressee, refusal; 10. receipt.

IV. procedural, confidence, appellate, autonomy, enforceable, law, national, application, insolvent.

V. 1. of, from; 2. to, of, on, between, to; 3. for, of; 4. in, of, in, in; 5. against, to; 6. from, before; 7. as, with, for; 8. on, of; 9. on; 10. to; 11. to, without, on; 12. on, in, by; 13. within; 14. to, of, in; 15. of, to.

VI.

Verb	Noun (event)	Noun (person)
appeal	appeal	appellant
apply	application	applicant
claim	claim	claimant
consume	consumption, consumerism	consumer
defend	defence	defendant
employ	employment	employee, employer
hear	hearing	
insure	insurance	insured, insurer
try	trial	

VII. 1. must; 2. may; 3. shall; 4. may; 5. should; 6. may; 7. must; 8. should, cannot; 9. may; 10. must.

VIII.

A. Reading comprehension

1. The first objective is the allocation of risk among participants in a market economy in a predictable, equitable, and transparent manner. The second is to protect and maximize value for the benefit of all interested parties and the economy in general.

2. It consists in the clear specification in the law and consistent application of the relevant risk allocation rules.

3. Because uncertainty erodes the confidence of all participants and undermines willingness to make investments.

4. No, it means differential treatment of creditors, since they are not similarly situated vis-à-vis the debtor. Equitable treatment means that creditors will be treated in an orderly and non-discriminatory manner.

5. It involves open proceedings. Interested participants must be given sufficient information for them to be able to exercise their rights. Proceedings have to take place in open court.

6. The creditors, through the enhancement of their claims; the shareholders and management of the debtor, since they get ‘a second chance’; the employees, since they preserve their workplaces.

7. The will to limit unemployment or to rescue enterprises engaged in important national activities.

8. It imposes discipline on a debtor, which increases the competitiveness of an enterprise sector and facilitates the provision of credit.

B. Vocabulary exercise

1. to start/begin/launch insolvency proceedings; 2. a creditor putting its claim in force, executing the claim, constraining the debtor; 3. other than a preferential creditor, that does not have the benefit of any security interests in the assets of the debtor; 4. financial trouble/pain, requiring assistance; 5. creditors must be adequately informed; 6. reconstruction, restoration to former capacity; 7. the rendering void/annulment/cancellation of previous transaction, which can injure/disable the objective of predictability/certainty or make it collapse; 8. there is a balance between the above objectives.

PART THREE. THE LANGUAGE OF COOPERATION IN FAMILY MATTERS

I. 1. establishment, parenthood, attribution, parental; 2. agreements, enforceable; 3. application, amendments; 4. A) separation, annulment; b) guardianship, curatorship; c) designation; d) protection, administration, disposal; 5. a) establishment; b) preparatory, revocation; 6. enforceability; 7. habitually, compliance; 8. abolition, maintenance.

II. 1. arises, single; 2. ties, ancillary; 3. prior to; 4. respects; 5. deliver; 6. deemed; 7. occurring; 8. stay, instituting, sufficient, enable; 9. opportunity, violation, sought; 10. granting, notwithstanding; 11. cross-border, provisionally; 12. strengthen.

III. 1. for, on, for, of, with; 2. in, by, under, to; 3. from, with; 4. on, for, to; 5. to; 6. for, through, to; 7. without, for, on, to, against, under; 8. with, for, for; 9. to, in, with, with, in, for; 10. for, with; 11. as, between, under; 12. at.

IV. 1. wrongful, without; 2. decline; 3. allow, absence; 4. increasing; 5. observance, general; 6. refused; 7. minimise.

V. 1. cannot, should; 2. must, can; 3. may; 4. cannot; 5. must; 6. may; 7. cannot, cannot; 8. may not; 9. can; 10. may; 11. shall; 12. must.

VI. 1. Arrangements for the enforcement of such judgments continue to be governed by national law. 2. Unless the courts in the Member State where the child was habitually resident immediately before the wrongful removal or retention have already been seised by one of the parties, the court or central authority that receives the information mentioned in paragraph 6 must notify it to the parties. 3. A court to which an application for return of a child is made shall act expeditiously in proceedings on application. 4. It shall be ensured that the child is given the opportunity to be heard unless this appears inappropriate having regard to his or her age or degree of maturity. 5. The courts of a Member State exercising jurisdiction by virtue of Article 3 on an application for divorce, legal separation or marriage annulment shall have jurisdiction in any matter relating to parental responsibility connected with that application where [...] the jurisdiction of the courts has been accepted expressly or otherwise in an unequivocal manner by the spouses and by the holders of parental responsibility. 6. The appeal shall be dealt with in accordance with the rules governing procedure in contradictory matters. 7. If the appeal is brought by the applicant for a declaration of enforceability, the party against whom enforcement is sought will be summoned to appear before the appellate court. 8. The agreement on the choice of applicable law should at least be expressed in writing, dated and signed by both parties.

VII. 1. – d; 2 – a; 3 – d; 4 – c; 5 – c; 6 – d; 7 – b; 8 – b.

VIII.

A. Reading comprehension

1. The large number of international child abduction cases Swiss authorities have to deal with. Each year, the text says, Swiss authorities handle up to 200 cases of international child abduction. The new law entered into force alongside official implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

2. Mothers. According to the text, in 2008 in 73% of the cases.

3. The new law is supposed to simplify and accelerate the procedures, as well as to encourage case settlement by means of mediation and conciliation, which can benefit both the child and the parents.

4. Because it encourages the swift return of the child, without the child becoming uprooted. ‘A long separation from one parent followed by reunion under tense circumstances can have a destabilising impact on a child.’

5. The law is too vague when it comes to the hearing of the child, which can result in too many children actually not being heard. Another downside would be that it concerns only abductions from other countries to Switzerland and only where the states have ratified the Hague Convention.

6. Because, besides age, the decision not to hear a child can be grounded on what the law calls ‘other motives’, which are not expressly mentioned.

7. A famous, high-profile case in Switzerland, of a child whose custody was granted to the father, an Italian sports doctor. The mother, former cycling champion, an Italian and Swiss citizen, abducted the child from Italy and took him to Switzerland. Following an international arrest warrant issued by Italy and Switzerland, she was arrested in Mozambique, where she was travelling with the abducted child and her two other children.

B. Vocabulary exercises

1. tug-of-love battle/fight, a situation in which one of the separated parents takes care of a child, but the other parent claims that right; 2. seize (by a sudden and hasty grasp); grab; 3. anticipate, predict, envisage; 4. a state of violent disturbance, turmoil; 5. the criminal offence of removing a child from the parent or person who has custody of that child; 6. the civil wrong of removing a child from the holder of the child’s custody; 7. the criminal offence of removing a child and asking for ransom in exchange.