

CASE I

„The habitual residence ”

Variant I.

The children concerned had been moved by their parents from Lithuania to Sweden. The family was there for a few weeks. The parents drank too much alcohol and the children were taken into care shortly after the move. The question which arose was whether their habitual residence had also shifted even though a relatively short time had elapsed .

- Does the Swedish court seised have international jurisdiction for parental responsibility?

Variant II.

The children with their parents have been staying in Sweden for two months. It was holiday. They didn't go to school. The parents have begun to work temporarily and rented an apartment for two months. Where is their habitual residence ?

- Which court has jurisdiction ?

Variant III.

The children started school in Sweden and started to learn Swedish. The family have staying there since three months. The children started to have social relationships with other children. The parents' intention was to settle permanently with the children in Sweden. They leased of a residence for four months in the host Member State. The parents also had lodging an application for social housing with the relevant services of Sweden. Where is their habitual residence ?

- Does the Swedish court seised have international jurisdiction for parental responsibility?



CASE II

Variant I.

John, a Polish national, married his German wife Sylvia in 2010. During their honeymoon in France, they fell in love with this country and decided to settle down there. Both found an interesting job in Paris, and lived there happily together in a nice apartment with a magnificent view of the city. His son Adam was born there. After several years, however, they started to quarrel more and more and their marriage fell apart. Eve finally requests divorce in Paris. She wants her son stay with her.

- Does the court seised have international jurisdiction for divorce and for parental responsibility?

Variant II.

After their marriage has broken down, Sylvia wants to gain some distance from John and therefore leaves France with their son Adam and she moves to another place, just behind the German border. John agreed for that. After taking a few quiet days off, she requests divorce there. She wants her son stay with her.

- Does the court seised have international jurisdiction for divorce and for parental responsibility?

Variant III.

John and Sylvia spent their honeymoon in Paris and settled down there. When their marriage fell apart after several years, Eve moved to Austria and found a new job there. She took with her their son Adam. After two years, she finally wants a divorce. As her brother is a German lawyer, she decides to bring divorce proceedings in Germany. She wants her son stay with her.

- Does the court seised have international jurisdiction for divorce and for parental responsibility?

CASE III

Variant I.

Eva, a daughter of married parents John and Sylvia who were separated and living in Germany. They had commenced divorce proceedings in a court in Germany. Eva was taken by her mother to Poland with the consent of her father on the basis that she and her mother would return to Germany after a holiday of two weeks duration. Neither she nor the mother did return. Various legal proceedings ensued in each State: Shortly following the departure of the girl and her mother to Germany the father was granted custody of the girl on a provisional basis by the court in Germany. That decision was later affirmed on appeal by the mother. Sylvia -the mother accused lack of jurisdiction of German court.

- Does the German court seised have international jurisdiction for parental responsibility?

Variant II.

The father also made an application under the 1980 Hague Convention in the courts of Poland for return of the girl to Germany. This application was refused at first and second instance. By this stage around eight months had passed since the girl had been taken to Poland. The father's lawyer transmitted a copy of the non-return order from Poland in the original language to the Central Authority of Germany which forwarded it to the custody court in Germany.

- Does it correct ?
- Which court has jurisdiction for parental responsibility ?
- What action should be taken by a court in Poland after the non – return order becomes final ?

Variant III.

Subsequently the court in Germany issued an order having granted a divorce and custody of Eva permanently to the father and ordered return of the child to Germany . A subsequent appeal by Sylvia was not upheld. The mother sought to resist enforcement of the return order from Germany made an application in the courts in Poland. Sylvia argued that she has a habitual residence with her daughter in Poland for 13 months and therefore, according to Art. 8 of Regulation 2201/2003, the Polish court has jurisdiction.

- Does the Polish court seised have international jurisdiction for parental responsibility?

CASE IV

„The provisional measures”.

Two children were born in Spain. The father was from that MS and the mother from Germany. Shortly after the birth the relationship between the parents deteriorated and the mother indicated that she wanted to return to Germany with the children. They entered into an agreement whereby the mother was to be able to take both children to Germany. Once one of the children, a boy, was able to travel – the other, a girl, had to remain in hospital as she was seriously ill. The mother left for Germany taking the boy with her. However, the father considered that he was no longer bound by the agreement as it had not been approved by the appropriate authorities and raised proceedings in a court in Spain seeking an order for provisional measures, namely interim custody, in respect of both children. This was granted. Later the mother raised, separately in a court in Germany, substantive proceedings for custody of the boy. In due course the father sought under the Regulation to enforce in Germany the order for interim custody in his favour which had been granted by the court in Spain.

- Whether the provisions of Article 21 et seq., which deal with recognition and enforcement of judgments, also apply to enforce provisional measures, within the meaning of Article 20, concerning the right to child custody?

CASE V

The minor Adam was born on 23.02.2017 in Oxford, England. His mother Eva is Polish citizen, his father John is British citizen. The parents have lived together in London very briefly. During the pregnancy, it became clear that the relationship had irreparably deteriorated, so much that as soon as she recovered after childbirth, Eva left their common residence together with their son Adam. When newborn was able to travel, Eva left England and returned home in Poland with him.

On 04.04.2017 Eva seized the competent court in Wrocław, Poland, asking for full custody of the child and to order a visitation schedule for the father John only in the presence of her. In her petition, the plaintiff showed that she had no understanding with the minor's father the court should determine parental rights, including visitation schedule.

The father seized his counterclaim on 04.05.2017, the defendant indicates that after their son's birth, Eva's behaviour had diametrically changed, culminating with an attitude of absolute rejection of him. Not being able to reach an understanding with mother of his son, John asks for the court to make a determination over parental rights in his favour, and set a visitation schedule for Eva in the presence of a social worker. In the end of his counterclaim, he states that he actually would like to present his request before a British court, as he doesn't wish to argue them before the present court, which he considers lacks jurisdiction, because his son is a British citizen and was born in the UK.

- Which are the criteria to determine the habitual residence of newborn child in this case under article 8 paragraph 1 of Regulation 2201/2003?
- Which court have jurisdiction in this case and why?
- Is the behaviour of Eva child abduction or not?

ANSWER KEY

1. Correct answers:

1. action; 2. acknowledgement of receipt; 3. conveyancing; 4. dissenting opinion; 5. concurring opinion; 6. draft; 7. choice of court/forum selection (“forum shopping”); 8. to have jurisdiction; 9. habitual residence; 10. party; 11. counterclaim; 12. award; 13. expert opinion/evidence; 14. settlement; 15. authentic instrument; 16. admission of debt; 17. breach of contract; 18. decision; 19. default; 20. to fall due; 21. irreconcilable; 22. hearing; 23. legalisation; 24. pecuniary; 25. regulation; 26. damages; 27. overturn; 28. transcript; 29. legal person; 30. appearance; 31. injunction; 32. trial court/court of record; 33. ADR (Alternative Dispute Resolution)/Mediation; 34. appeal; 35. bench trial; 36. hung jury; 37. leading question; 38. assignment; 39. disposition; 40. undertaking.

2. Correct answers:

1. for/acting for/appearing for/appearing on behalf of; 2. bench/a panel; 3. alone (a sole/single judge); 4. in private/in camera/in closed court; 5. in public/in open court/in curia; 6. practising; 7. trying/hearing; 8. wilfully/with intent; 9. uphold; 10. provisional/interim; 11. force; 12. standard; 13. burden.

3. Correct answers:

1. by; 2. up; 3. for; 4. up; 5. for; 6. to; 7. out; 8. out; 9. to; 10. up; 11. with; 12. to; 13. against (difference between “from” and “against”: “**against**” is used to indicate resistance to or defense from something aggressive: *protection against burglars*; “from” is used to indicate agent or instrumentality: *protect from moisture*); 14. forth; 15. under; 16. down, with; 17. to; 18. through; 19. from; 20. on; 21. out; 22. down; 23. to; 24. to, to; 25. for; 26. with; 27. against; 28. of; 29. on/upon; 30. down; 31. into; 32. to; 33. of; 34. to; 35. for; 36. for; 37. from; 38. down; 39. to; 40. against.

4. Correct answers:

1. In rem (action); 2. Lis pendens; 3. Ab initio; 4. Acta iure imperii; 5. Ad litem; 6. Ad hoc; 7. Quid pro quo; 8. Exequatur; 9. Forum necessitates (rule); 10. Lex causae; 11. Ex parte; 12. Lex fori; 13. Prima facie; 14. Ex officio; 15. In absentia; 16. Lex loci delicti; 17. Sine die; 18. Ratio decidendi; 19. Res ipsa loquitur; 20. Quantum meruit; 21. Per diem; 22. Per capita; 23. In camera; 24. A priori; 25. Alibi; 26. In re; 27. Habeas corpus; 28. In loco parentis; 29. Bona fide; 30. De facto; 31. De iure/jure; 32. Ex post facto; 33. In situ; 34. Alias; 35. Inter alia; 36. Modus operandi; 37. Mutatis mutandis; 38. Obiter dicta; 39. Viceversa; 40. Status quo; 41. Per se; 42. Ipso facto.

5. Correct answers:

1.k; 2.x; 3.n; 4.w; 5.q; 6.j; 7.v; 8.m; 9.r; 10.f; 11.a; 12.y; 13.h; 14.c; 15.u; 16.z; 17.e; 18.i; 19.b-bis; 20.a-bis; 21.g; 22.d; 23.l; 24.s; 25.t; 26.b; 27.p; 28.o.

6. Correct answers:

1. disagree; 2. illicit; 3. independent; 4. invalid; 5. irrespective; 6. impracticable; 7. illegal; 8. unfair; 9. abnormal; 10. unwritten; 11. unlimited; 12. injustice; 13. unrestricted; 14. indirect; 15. informal; 16. incomparable; 17. unlawful; 18. unconstitutional; 19. unlikely; 20. irreconcilable; 21. incompetent; 22. insufficiently; 23. unreliability; 24. unauthorised; 25. ineffectiveness.

7. Correct answers:

1. by introducing; 2. to allocate/for allocation; 3. of providing; 4. apply; 5. evaluate; 6. investigate; 7. review; 8. assess; 9. renew; 10. because/since; 11. as to; 12. some; 13. most; 14. under; 15. (in order) to; 16. if; 17. if not; 18. if so; 19. about/on; 20. under.

8. Correct answers:

1. hereinabove; 2. hereinafter; 3. hereto; 4. heretofore; 5. hereunder; 6. herewith; 7. whereat; 8. whereby; 9. wherefore; 10. whereof; 11. whereupon; 12. hereafter; 13. hereby; 14. herein; 15. thereafter; 16. thereby; 17. therein; 18. thereof; 19. thereto; 20. thereupon; 21. whereabouts.

9. Correct answers:

(a) Definitions.

1. abduction; 2. to annul; 3. civil partnership/union; 4. contact with/access to; 5. desertion; 6. dissolution; 7. emancipation; 8. spouse; 9. divorce; 10. custody; 11. separation; 12. parental responsibility; 13. nullity; 14. matrimonial; 15. pre-nuptial agreement (prenup); 16. parenthood; 17. placement; 18. guardian; 19. foster family; 20. holder; 21. access rights; 22. annulment; 23. wrongful removal of a child.

(b) Adjectives.

1. parental; 2. access; 3. habitual; 4. marriage; 5. legal; 6. wrongful; 7. sufficient; 8. practical; 9. territorial; 10. ordinary; 11. joint; 12. criminal; 13. foster; 14. competent; 15. appellate/appeal; 16. family; 17. fundamental; 18. subsequent; 19. expeditious; 20. child; 21. national; 22. applicable; 23. interested; 24. custodial; 25. authentic; 26. legal; 27. central; 28. full; 29. reference; 30. enforceable.

10. Correct answers (for British English):

1. Child	/tʃaɪld/
2. matter	/'mæt.ər/
3. parental responsibility	/pə'ren.təl rɪ'spɒn.sɪ'bɪl.ə.ti/
4. recognition	/'rek.əg'nɪʃ.ən/
5. access rights - rights of Access	/'æk.ses raɪts/
6. habitual residence	/hə'brɪʃ.u.əl 'rez.ɪ.dəns/
7. place of birth	/pleɪs əv bɜ:θ/

8. marriage annulment	/ˈmæɪ.ɪdʒ əˈnʌl.mənt/
9. legal separation	/ˈliː.gəl ˌsep.ərˈeɪ.ʃən/
10. divorce	/dɪˈvɔːs/
11. wrongful removal	/ˈrɒŋ.fəl rɪˈmuː.vəl/
12. rights of custody	/raɪts əv ˈkʌs.tə.di/
13. property	/ˈprɒp.ə.ti/
14. spouse	/spaʊs/
15. request	/rɪˈkwest/
16. applicant	/ˈæp.lɪ.kənt/
17. child placement	/tʃaɪld ˈpleɪs.mənt/
18. default of appearance	/dɪˈfɔlt əv əˈpiərəns/
19. prejudice	/ˈpredʒ.ə.dɪs/
20. hearing	/ˈhɪə.rɪŋ/
21. exercise of rights of access	/ˈek.sə.saɪz əv raɪts əv ˈæk.ses/
22. sufficient time	/səˈfɪʃ.ənt taɪm/
23. practical arrangement	/ˈpræk.tɪ.kəl əˈreɪndʒ.mənt/
24. annex (noun)	/ˈæn.ɪks/
25. assistance	/əˈsɪs.təns/
26. territorial unit	/ˌter.ɪˈtɔː.ri.əl ˈjuː.nɪt/
27. compliance	/kəmˈplaɪ.əns/
28. degree of maturity	/dɪˈɡriː əv məˈtʃʊə.rə.ti/
29. certificate	/səˈtɪfɪ.kət/
30. non-return	/ˌnɒn.rɪˈtɜː.n/
31. retention	/rɪˈten.ʃən/
32. ordinary appeal	/ˈɔː.dən.əri əˈpiːl/
33. judge of origin	/dʒʌdʒ əv ˈɔr.ɪ.dʒɪn/
34. joint custody	/dʒɔɪnt ˈkʌs.tə.di/
35. criminal offence	/ˈkrɪm.ɪ.nəl əˈfens/
36. foster family	/ˈfɒs.tər ˈfæm.əl.i/
37. competent authority	/ˈkɒm.pɪ.tənt ɔːˈθɔr.ə.ti/
38. guardianship	/ˈɡɑː.di.ən.ʃɪp/
39. protection of the child	/prəˈtek.ʃən əv ðə tʃaɪld/
40. revocation of adoption	/revəˈkeɪʃən əv əˈdɒp.ʃən/

41. appellate court	/ə'pel.ət kɔ:t/
42. absence of document	/'æb.səns əv 'dɒk.jə.mənt/
43. cross-border situation	/,krɒs'bo: .dər ,sɪtʃ.u'ei.ʃən/
44. date of legal effect	/deɪt əv 'li:.gəl ɪ'fekt/
45. civil-status record	/'sɪv.əl 'steɪ.təs 'rek.ɔ:d/
46. resolution of family dispute	/,rez.ə'lu:ʃən əv 'fæm.əl.i/
47. violation of fundamental principle	/'vaɪ.ə'leɪ.ʃən əv ,fʌn.də'men.təl 'prɪn.sə.pəl/
48. limited period of time	/'lɪm.ɪ.tɪd 'pɪə.ri.əd əv taɪm/
49. breach of right of custody	/brɪ:tʃ əv raɪt əv 'kʌs.tə.di/
50. criterion of proximity	/kraɪ'tɪə.ri.ən əv prɒk'sɪm.ə.ti/
51. refusal of enforcement	/'rɪ'fju:zəl əv ɪn'fɔ:smənt/
52. forum of jurisdiction	/'fɔ:.rəm əv ,dʒʊə.rɪs'dɪk.ʃən/
53. dissolution of matrimonial ties	/'dɪs.ə'lu:ʃən əv ,mæt.rɪ'məʊ.ni.əl taɪs/
54. establishment of parenthood	/'ɪstæb.lɪʃ.mənt əv 'peə.rənt.hʊd/
55. multilateral convention	/,mʌl.tɪ'læt.ər.əl kən'ven.ʃən/
56. right of asylum	/raɪt əv ə'saɪ.ləm/
57. prorogation of jurisdiction	/'prəʊ.rə'geɪ.ʃən əv ,dʒʊə.rɪs'dɪk.ʃən/
58. subsequent judgment	/'sʌb.sɪ.kwənt 'dʒʌdʒmənt/
59. expeditious procedures	/,ek.spə'dɪʃ.əs prə'si:.dʒərs/
60. date of notification	/deɪt əv ,nəʊ.tɪ.fɪ'keɪ.ʃən/
61. child abduction	/tʃaɪld æb'dʌk.ʃən/
62. review of jurisdiction	/'rɪ'vju: əv ,dʒʊə.rɪs'dɪk.ʃən/
63. attestation of enforceability	/,æt.es'teɪ.ʃən əv ɪn'fɔ:səbɪləti/
64. property	/'prɒp.ə.ti/
65. submission	/'səb'mɪʃ.ən/
66. hearing	/'hɪə.rɪŋ/

11. Correct answers:

Extract 1

1. What type of court is dealing with the case? What type of case is it?
THE SUPREME COURT OF THE UK.
AN APPLICATION FOR AN APPEAL.

2. What is the case about?
LOSS OF HABITUAL RESIDENCE IN A COUNTRY BY A CHILD.
3. Which court has primary jurisdiction to determine issues related to a child?
THE COUNTRY IN WHICH THE CHILD WAS HABITUALLY RESIDENT.
4. What kind of legislation determines the competent court?
ONE EU DIRECTIVE AND TWO INTERNATIONAL CONVENTIONS.
5. What name was given to “child arrangement orders” formerly?
RESIDENCE IN CONTACT ORDERS.
6. When can an application for child arrangement order be determined by a court, and according to what piece of legislation?
IF AT THE TIME WHEN AN APPLICATION WAS ISSUED THE CHILD WAS HABITUALLY RESIDENT IN THE UK OR, IF NOT HABITUALLY RESIDENT IN ANY OTHER EU COUNTRY, WAS PRESENT IN THE UK.
FAMILY LAW ACT 1986.
7. What Directive does Lord Wilson refer to?
THERE IS NO DIRECTIVE, IT IS A REGULATION. IT SEEMS TO BE A MISTAKE.

Extract 2

1. Who are the parties to the case and what names are the parties given in this type of case?
A BRITISH WOMAN OF INDIAN ETHNICITY AND A BRITISH WOMAN OF PAKISTANI ETHNICITY.
APPELLANT AND RESPONDENT.
2. What type of relationship did the parties have?
A SAME-SEX RELATIONSHIP.
3. Of what ethnicity are the parties?
PAKISTANI AND INDIAN.
4. Who is B and of what nationality?
B IS THE BIOLOGICAL CHILD OF THE RESPONDENT.
BRITISH.
5. What happened in 2011? And in 2014?
THE APPELLANT LEFT THE HOME.
THE RESPONDENT TOOK B TO PAKISTAN.

Extract 3

1. On what basis does the appeal proceed?

ON THE BASIS THAT, AS A SAME-SEX NON-BIOLOGICAL PARENT, THE APPELLANT WOULD BE UNABLE TO PERSUADE A COURT IN PAKISTAN TO CONSIDER HER CASE BECAUSE OF THE STRENGTH THERE OF NEGATIVE ATTITUDES TOWARDS THAT SORT OF ADULT RELATIONSHIP.

2. Could the Respondent legally move B to Pakistan?

YES.

3. What was the answer to the question of B's residence in England by the lower court?

IT SAID THAT SHE WAS NOT RESIDENT HABITUALLY RESIDENT IN ENGLAND ON THE DAY THE APPLICATION WAS ISSUED.

4. What was the answer to the same question by the Supreme Court?

THAT B HAD NOT LOST HER HABITUAL RESIDENCE BY 13 FEBRUARY.

5. Why does Lord Wilson say "this now becomes a third such case"?

BECAUSE THERE HAVE BEEN TWO OTHER CASES IN RELATION TO REDIDENCE WHERE THE UK SUPREME COURT HAS DECIDED THAT PARENTAL INTENTION IS NO LONGER DETERMINATIVE IN RELATION TO HABITUAL RESIDENCE.

6. What is the difference between how the concept of habitual residence used to be defined formerly and how it is defined nowadays?

IT USED TO BE GOVERNED BY PARENTS' INTENTION BUT FOR THREE YEARS IS HAS BEEN BASED ON THE DEGREE OF INTEGRATION OF THE CHILD IN THE ENVIRONMENT OF THE COUNTRY AND IS THUS MORE CHILD-FOCUSED.

Extract 4

1. What is relevant for the Supreme Court to decide whether on 13 February B had achieved sufficient disengagement from her English environment?

WHETHER BY 13 FEBRUARY B HAD ACHIEVED THE REQUISITE DEGREE OF DISENGAGEMENT FROM HER ENGLISH ENVIRONMENT.

2. What was the Appellant's contention in her second application?

THAT THE UK SUPREME COURT SHOULD EXERCISE JURISDICTION TO DETERMINE THE CASE.

3. What was the lower court's decision on the second application?

THE LOWER COURT REJECTED THE CONTENTION.

12. Correct answers:

(1) aged; (2) claims; (3) partners; (4) broke down; (5) ever since; (6) subsequently; (7) determine; (8) habitual; (9) dismissed; (10) allows; (11) consonant; (12) present; (13) dependent; (14) cease; (15) governed; (16) environment; (17) indorsed; (18) concludes; (19) operates; (20) unlikely; (21) gains; (22) error; (23) states; (24) requisite; (25) proceed; (26) reviewed; (27) inherent; (28) force; (29) manner; (30) noting.

13. Comparing divorce jurisdictions in international family law

(a) Open-ended answer.

(b) Correct answers:

- *Procedural matters* (l.2): adjectival matters.
- *Assets* (l.3): property.
- *Courts* (l.4): tribunals (similar).
- *Bring suit* (l.13): bring a case, commence/initiate/start/begin/issue proceedings.
- *To conduct* (disclosure) (l.18): to carry out, to perform.
- *Evidence* (l.22): proof, facts, testimony (near-synonym).
- *Litigant* (l.25): claimant or defendant; party.
- *Extreme* (l.34): radical, drastic.
- *Duty* (l.37): obligation.
- *Early* (l.39): first.
- *Monetary* (l.43): financial.
- *Sanction* (l.44): penalty.
- *Explicit* (l.60): express, distinct, patent.
- *Competent* (l.60): with jurisdiction.
- *Thorough* (l.63): exhaustive, comprehensive, detailed.
- *In advance of trial* (l.66): before the trial, ahead of the trial.
- *Compel* (l.65): to force, urge, oblige.
- *To probe* (l.67): research, scrutinize, detect.
- *To divulge* (l.72): communicate, disclose, declare, reveal, uncover.
- *To hinder* (l.72): block, impede, obstruct.
- *To resolve* (l.74): to deal with, to try, to give/issue/hand down judgment
- *Proactive* (l.76): dedicated, zealous.

(c) Correct answers:

(1) on; (2) at, in, at, in; (3) for, in; (4) in, in, by, in; (5) in, before; (6) for, to, for, in; (7) of, for; (8) to; (9) to; (10) with, with; (11) to, of, of, to; (12) in, of; (13) to, by, for, about, for, in; (14) with, of, at; (15) on, to, to, by, in.

(d) Correct answers:

a. What is “forum-shopping” in family matters in the context EU family issues? What is the link between forum-shopping in divorce cases and the topic of the text?

Forum shopping is the informal name given to the practice adopted by some litigants to have their legal case heard in the court thought most likely to provide a favorable judgment. Some jurisdictions have, for example, become known as "plaintiff-friendly" and so have attracted litigation even when there is little or no connection between the legal issues and the jurisdiction in which they are to be litigated. Examples include the attraction of foreign litigants to the United States due to its expansive acceptance of personal jurisdiction and favorable litigation climate, and the United Kingdom for its stricter defamation laws and generous divorce settlements.

b. Say whether these statements from the text apply to your national system in divorce proceedings.

Open-ended answer.

14. Family matters: ‘De facto’ rights of custody

(a) Correct answers:

(1) The (2); Hague (3); abduction; (4) harmful; (5) courts; (6) wrongfully; (7) breach; (8) enforceable; (9) de; (10) facto; (11) care; (12) concerns; (13) maternal; (14) ever; (15) since; (16) notified; (17) guardianship; (18) order; (19) proceedings; (20) costly; (21) seized; (22) regarded; (23) scarcely; (24) removal; (25) held; (26) status; (27) exercising; (28) abandoned; (29) unlawful; (30) status; (31) quo; (32) reintroduced; (33) consent; (34) dissents; (35) bound; (36) forthwith; (37) adjourn.

15. The hearing of the child; jurisdiction, recognition and enforcement in family matters; child abduction.

(a) Correct answers:

1.b; 2.c; d as an alternative option; 3.a; 4.c; 5.d; 6.b; 7.a; 8.c; 9.d; 10.a; 11.b; 12.b; 13.c; a as an alternative option; 14.b; 15.b; c or d as alternative options; 16.a; 17.d; 18.a; 19.a; 20.b; 21.d; 22.d; 23.a; 24.c; 25.d; 26.a; 27.b; 28.c.

(b) Correct answers:

(1) assumption; (2) wrongful; (3) retention; (4) handed down; (5) prejudicial; (6) ensure; (7) resident; (8) whereby; (9) resident; (10) wrongfully; (11) retains.

(c) Correct answers:

1. Nor HAS the court second seised.
2. Never MUST INSTITUTIONS VIOLATE VULNERABLE PEOPLE’S RIGHTS.
3. Rarely HAVE NATIONAL COURTS PROVIDED LEGAL AID IN SUCH CASES.

4. Seldom HAS THERE BEEN SO MUCH PUBLICITY ABOUT A RULING ISSUED BY THE CJEU.
5. Never WILL SOME EU COUNTRIES SUPPORT SAME-SEX MARRIAGES.
6. On no account MUST CLAIMANTS SHOW LACK OF RESPECT FOR THE JUDGE DURING HEARINGS.

(d) Correct answers:

1. The Tribunal de Commerce de Paris ordered that ALL THE PROCEEDINGS BE JOINED.
2. The judge ordered that SUCH AN OBJECTION BE DISMISSED as inadmissible.
3. The prosecutor suggested that EXHIBITS ONE TO FOUR BE MADE available to the jury.
4. Counsel recommended that defendant CHANGE HIS APPROACH to the facts.
5. It was requested that THE PARTIES BE present in the hearing.
6. It is essential that witnesses BE available in the premises of the court at all times.
7. The judge requested that the jury LEAVE the courtroom for a few minutes.
8. There is also the requirement on the vendor's part that advance payments BE MADE before the end of the period during which the purchaser may withdraw without giving reasons.
9. The Commission may request that standards BE DRAWN UP by the European standards organisations.
10. In the event of a withdrawal, an order that a party BEAR the costs of the other party is only possible if the other party has made an application to that effect.
11. The President of the Fourth Chamber has ordered that the case BE REMOVED from the register.

(e) Correct answers:

1. By decision of 12 May 2008, the Juzgado de Primera Instancia e Instrucción No 5 de Bilbao (Court of First Instance and Preliminary Investigations No 5, Bilbao) (Biscaya, Spain) awarded provisional rights of custody in respect of Andrea to her father so Andrea then went to her father's home.
2. That court considered that a fresh expert report should be obtained and that Andrea should be heard in person, and set dates for both in Bilbao, but neither Andrea nor her mother attended.
3. In June 2008, Andrea's mother moved to Germany and at the end of the 2008 summer holidays, during which Andrea had gone to visit her mother, the mother kept her daughter with her.

4. Since 15 August 2008, Andrea has therefore lived in her mother's home in Germany; however, on the same day, the Juzgado de Primera Instancia e Instrucción No 5 de Bilbao made an order prohibiting Andrea from leaving Spanish territory.

(f) Correct answers:

1. The earlier application by Andrea's mother was rejected by the Spanish court.
2. Andrea's father was awarded provisional rights of custody in respect of her by The Juzgado de Primera Instancia e Instrucción No 5 de Bilbao.
3. Measures to ensure the return of the child are laid down by the Regulation.
4. Andrea was kept by her mother at the end of the 2008 summer holidays.
5. Andrea's views should be taken into account by the court
6. Andrea was prohibited from leaving Spanish territory by the Juzgado de Primera Instancia e Instrucción No 5 de Bilbao.
7. Exclusive jurisdiction to decide whether the child is to be returned is retained by the requesting court.
8. The following questions have to be addressed by the CJEU.

(g) Correct answers:

1. *Do you think that the court of the Member State of enforcement is entitled to review the decision of the original court on the grounds of a breach of a fundamental right in the main proceedings? Why?*

Such a power could undermine the effectiveness of the system set up by Regulation No.2201/2003, as described in paragraphs 44 to 51 of this judgment.

2. *Does the court of the Member State of enforcement have the power to oppose the recognition and enforceability of the judgment of the original court?*

It follows that, where a court of a Member State issues the certificate referred to in Article 42, the court of the Member State of enforcement is obliged to enforce the judgment which is so certified, and it has no power to oppose either the recognition or the enforceability of that judgment.

3. *Would you say that Andrea's right to be heard was infringed?*

In that regard, it must first be observed that it is clear from Article 24 of that charter and from Article 42(2)(a) of Regulation No.2201/2003 that those provisions refer not to the hearing of the child per se, but to the child's having the opportunity to be heard.

First, it is a requirement of Article 24(1) of the Charter that children should be able to express their views freely and that the views expressed should be taken into consideration on matters which concern the children, solely 'in accordance with their age and maturity', and of Article 24(2) of the Charter that, in all actions relating to children, account be taken of the best interests of the child, since those interests may then justify a decision not to hear the child. Secondly, it is a requirement of Article 42(2)(a) of the regulation that the child be given the opportunity to be heard 'unless a hearing was considered inappropriate having regard to his or her age or degree of maturity'.

Consequently, it is for the court which has to rule on the return of a child to assess whether such a hearing is appropriate, since the conflicts which make necessary a judgment awarding custody of a child to one of the parents, and the associated

tensions, create situations in which the hearing of the child, particularly when, as may be the case, the physical presence of the child before the court is required, may prove to be inappropriate, and even harmful to the psychological health of the child, who is often exposed to such tensions and adversely affected by them. Accordingly, while remaining a right of the child, hearing the child cannot constitute an absolute obligation, but must be assessed having regard to what is required in the best interests of the child in each individual case, in accordance with Article 24(2) of the Charter of Fundamental Rights.

4. *In your country, is hearing a child when dealing with custody issues a right or an obligation? What about this case?*

Open-ended answer.

(h) *Correct answers for (1) and (2):*

Open-ended answers.