

***EUROPEAN FAMILY LAW: THE BRUSSELS II a REGULATION  
Language Training: Seminar for Judges  
Lisbon, 11-14 December 2017***

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## I VOCABULARY EXERCISES

1. **Fill in the gaps with the following words:** infringements, enforce, protect, opportunity, breach, sole, enforceable, refer, origin, otherwise, maturity, uphold, duty, review, ratio, enforcement, requirement, mutual, power, inappropriate, hear, questions.

**The missing verbs need to be put in the appropriate verb form.**

As a (1) \_\_\_\_\_ of *Brussels IIbis*, courts have a (2) \_\_\_\_\_ to hear the child and in situations where a judgement is (3) \_\_\_\_\_ by the issuing of an Article 42 certificate, it is reiterated that the child must be (4) \_\_\_\_\_. Furthermore, paragraph 11 of Article 42 certificate requires the court of (5) \_\_\_\_\_ to expressly confirm that the child has been given this (6) \_\_\_\_\_, unless it was considered (7) \_\_\_\_\_ having regard to their age and (8) \_\_\_\_\_. To confirm that the child has been heard, when they have not, represents a procedural (9) \_\_\_\_\_. It would appear reasonable to suggest that a judgement, which contains a procedural breach such as this, cannot be (10) \_\_\_\_\_. However, the European Court of Justice (ECJ) decided (11) \_\_\_\_\_.

Aware that they had no power to (12) \_\_\_\_\_ a certified judgement following the decisions found in *Povse* and *Rinau*, the German court (13) \_\_\_\_\_ *Aguirre Zarraga* to the ECJ believing they should have such a (14) \_\_\_\_\_ in cases where there had been 'serious (15) \_\_\_\_\_ of fundamental rights.' The German court asked two (16) \_\_\_\_\_ of the ECJ.

Surprisingly, the ECJ replied that the court of (17) \_\_\_\_\_ (i.e. the German court) had no power of review; the court of origin (i.e. the Spanish court) retained the (18) \_\_\_\_\_ power of review. Furthermore, the court of enforcement was obliged to enforce the judgement. The ECJ's (19) \_\_\_\_\_ for this was that (20) \_\_\_\_\_ trust between states was sufficient to protect fundamental rights and that Germany should trust the Spanish court to (21) \_\_\_\_\_ the obligation to (22) \_\_\_\_\_ fundamental rights.

(An extract taken from the *Case Comment: Aguirre Zarraga v Simone Pelz* by Jayne Holliday, <https://www.abdn.ac.uk/law/documents/CaseComment-AguirreZarragavSimonePelz.pdf>. Accessed on 26/6/2017)

**2 Match the terms in column A with their definitions in column B**

<b>A</b>	<b>B</b>
service (of process)	1. right of a child to see a parent regularly or of a parent or grandparent to see a child regularly, where the child is in the care of someone else
custody rights	2. court order allowing a parent to see a child regularly, where the child is in the care of someone else
ward	3. stating that documents exist or have existed before a hearing starts in the civil courts
counterclaim	4. the situation where parties to a contract have agreed to refer any dispute arising from the contract to the decision of a specific court or the courts of a specific legal system
expert witness	5. the rights of a parent to keep and bring up a child after a divorce
sham marriage	6. person engaged in a lawsuit
default judgment, judgment by default	7. procedure for the declaration of a judgment delivered in one Member State as enforceable in another Member State
respondent	8. minor protected by a guardian
dilatory plea	9. delivery of a document (such as a writ or summons) to someone in person or to his legal representative
disclosure	10. expert who is a specialist in a subject and is asked to give his opinion on technical matters
access/right of access	11. legal case that a person or an organization starts against someone who has brought a case against them
litigant	12. person against whom an order is sought; person who answers a petition, especially one who is being sued for divorce
exequatur procedure	13. judgment without trial against a defendant who fails to respond to a claim
access order	14. form of marriage arranged for the purpose of acquiring the nationality of the spouse or for other reasons
prorogation	15. plea by a defendant relating to the jurisdiction of the court, which has the effect of delaying the action

**3. Collocations: Match the verbs in column A with appropriate nouns in column B so as to get 9 collocations and make up/write a sentence for each collocation**

<b>A</b>	<b>B</b>
a. to seize (in passive form)	1. jurisdiction
b. to stay	2. a judgment
c. to lodge	3. a case
d. to hear	4. a settlement
e. to serve	5. an action
f. to contest	6. an account
g. to bring	7. a court
h. to preserve	8. an appeal
i. to conclude	9. proceedings

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.

**4. Complete the following collocations by using one of the following verbs: award, file, enter, effect, set, confer, refer, undertake, strike, launch**

- To \_\_\_\_\_ jurisdiction
- To \_\_\_\_\_ an appearance
- To \_\_\_\_\_ a claim
- To \_\_\_\_\_ a lawsuit against
- To \_\_\_\_\_ a court hearing
- To \_\_\_\_\_ procedural steps
- To \_\_\_\_\_ service on sb

- h. To \_\_\_\_\_ a balance between the protection of fundamental rights and the effectiveness of EU law
- i. To \_\_\_\_\_ custody rights
- j. To \_\_\_\_\_ a case

**5. Turn the following verbs into nouns and make up sentences**

E.g. to continue – continuation, continuity

The continuation of the proceedings is required for the purpose of the proper administration of justice.

to apply –

to receive –

to serve –

to hear –

to enforce -

to recognise -

to settle -

to refuse -

to infringe -

to withdraw –

**6. Create antonyms by using one of the following prefixes: in-, im-, ir-, un-, non-,**

reconcilable	
compatible	
respective	
competent	
relevant	
ethical	
known	
appealable	
capable	
responsible	
mature	
appropriate	
recoverable	

**7. Identify synonyms/near synonyms for the terms below from among the following words:**

correct, responsibility, remedy, demanded by law, prompt/fast, slow and inefficient (e.g. a procedure), to show or establish with strong proof or evidence, accompanying

- a. concomitant –
- b. substantiate -
- c. cure -
- d. rectify -
- e. liability -
- f. mandatory -
- g. speedy -
- h. cumbersome -

**8. Think of a synonym or a near synonym for each of the following words/expressions**

recast	
costs	
to supersede (e.g. a convention)	
recoverable	
to institute proceedings	
penalty	
outstanding (e.g. for payment)	
manifestly	
litigant	
lawsuit	
on the ground of	
corroborate	
expedient	
remuneration	
without delay	

## II GRAMMAR REVISION

### Modal verb + Perfect Infinitive

Extracts from the findings of the German Constitutional Court (slide 30 of the presentation on *Cross-border communication between courts and between central authorities* by Martina Erb-Klünemann)

- Even if it had been impossible to request the case files under the Council Regulation, the Local Court **should have tried** to use other means available under the Council Regulation.

- ...it **would have been** its duty to refer the question to the Court of Justice of the European Union pursuant to Article 267.3 of the Treaty on the Functioning of the European Union.

- Moreover, the court **could have asked** for assistance by way of general mutual judicial assistance, assistance not regulated and depending on the good will of the other state involved, but, from the facts of the case, an option that **might have been possible**.

### Main use of would + perfect infinitive: In conditional sentences, type 3

#### Conditional sentences<sup>1</sup>

Three types of conditional sentences:

**Type 1 is used when we think the action or situation in the if-clause is possible or probable.**

If I **have** time, I **will join** you.

If you **are going** home, I **can give** you a lift.

If she **has completed** her work, she **will join** us.

**Type 2 is used when the statement in the if-clause is contrary to the known fact.**

If I **had** a car, I **would give** you a lift.

If I **were you**, I **would buy** that house.

**Type 3 is used when we refer to the past and to an action or situation that did not happen.**

If counsel Jones **had received** the information in time, she **would have used** it in that case.

/ **Had** counsel Jones **received** the information in time, she **would have used** it in that case.

If Peter **had finished** his work by three o'clock, he **would have been** able to join us. / **Had** Peter **finished** his work by three o'clock, he would have been able to join us.

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<sup>1</sup> Source: Thomson, A.J. and Martinet, A.V. (2003) *Oxford Pocket English Grammar*. Oxford University Press.

**1. Complete the following sentences (Modal Verbs: could, should, would, must, may + Perfect Infinitive):**

1. If the judge had referred a question for a preliminary ruling to the Court of Justice of the European Union, he \_\_\_\_\_ (to decide) it in a different manner.

2. He \_\_\_\_\_ (not do) that if he wanted to be invited to that party.

3. If judge Peters had called his fellow judge in France, he \_\_\_\_\_ (to obtain) an explanation of all the technical terms in the case.

4. If the child had not been heard, the court \_\_\_\_\_ (not issue) the judgment.

5. If her lawyer had prepared better, she \_\_\_\_\_ (win) the case.

6. Peter \_\_\_\_\_ (withdraw) his request if he had previously received all the required information.

7. If the child's parents had not divorced, the child \_\_\_\_\_ (not move) to France.

8. He \_\_\_\_\_ (be) very popular – people loved his songs.

9. It \_\_\_\_\_ (be) Mary to tell you that. She was not at the meeting when we discussed it.

10. It \_\_\_\_\_ (be) Mary to tell you that. She was the only one of us who attended that meeting.

**2. Passive voice: Change the focus of the sentences below by putting them in the passive voice:**

- a. Jack's company will bear all the costs.
- b. The working group drew up a draft legislation proposal.
- c. The court will hear the case next month.
- d. Mrs. Peters withdrew her plea.
- e. They took desperate steps in order to prevent the freezing of their account.
- f. The media report that there is a great backlog of cases at our courts.
- g. She will seek protection from the Municipal Criminal Court.
- h. The Commission's decision is not binding on the Member State in this case.
- i. The Advocate General gave a rather lengthy and complicated opinion.
- j. Our company has been keeping the records of all the clients since 2007.
- k. The court order forbade him to approach Ms. Jones.
- l. Some people think that courts are not efficient enough.

## Presenting your case in English

### A. Introduction

- Greet the audience, present yourself and explain in what capacity you will be presenting your case (e.g. Good morning everyone, my name is Jane Smith and I have the pleasure to address you as the spokesperson of the Municipal Civil Court of Zagreb / on behalf of the Presiding Judge/President of the Municipal Civil Court of Zagreb.)
- State clearly what you will be talking about and give your main argument if possible (e.g. I will be talking about / I will present the Croatian judicial system. My main argument will be that the Croatian judicial system has undergone significant changes as a result of the EU accession negotiations.)
- You may wish to give a broader context (e.g. I will be talking about the hearing of children in the framework of the announced amendments to the Family Act.)
- Explain how you have structured your presentation/speech (e.g. I will begin with .../ I will first tell you what the previous Family Act prescribed. I will then explain why it has been decided to amend this Act, and I will conclude with a description of the changes envisaged by the Amendments.)

### B. Core part of the presentation

When you develop your arguments, you need to have in mind what you want to say, what you want to emphasise or make particularly clear and what you wish your audience to go home with. If you want to single out several points, you will have to think of their content and importance for the whole presentation and then adjust their sequence accordingly. You will need appropriate linking words to express similarity or contradiction among the issues that you are raising, as well as the linking words to express the sequence among them or to clarify some of the points that you are making.

Let's practise a bit! ☺

**Group the following linking words according to their use**

in the same way/fashion, unlike, namely, to begin with, in contrast, indeed, in the first place, for example, however, equally important, first/second/third..., to put it differently, by all means, (and) yet, in other words, regardless of, similarly, by no means, likewise, on the contrary, in addition, even though, for instance, on the other hand, of course, in spite of/despite sth, furthermore, specifically, as well as, notwithstanding sth, especially, albeit, moreover, such as

Agreement/Similarity	Opposition	Examples/Emphasis /Explanation	Sequence

**C. Conclusion**

- Make a summary of your main points
- Do not forget to thank the audience for their attention
- Open the floor for questions and a discussion

**Linking words that you may find useful to conclude your presentation:** in conclusion, to conclude, to summarize, to sum up, in summary, everything considered, all things considered, in brief, in short, all in all, given these points, it may be concluded that...

## **The hearing of the child - Presentation tips**

Work in pairs. Describe to your colleague the rules of hearing children in your country and provide an example from your experience. Here are some expressions that you may find useful when discussing this topic<sup>2</sup>:

### **On the child's rights and interest:**

- In the best/superior interest of the child
- To violate the rights of the child
- Infringement of the rights of the child
- Prejudicial to the interests of the child
- Detrimental to the child's interest/welfare
- Beneficial to the child's interest/welfare
- The interests of the child are paramount; of paramount significance for...
- Child's development and equilibrium

### **On the child's family situation:**

- Separation of a child from a parent/to separate a child from a parent
- To cause psychological damage to a child
- To cause harm to a relationship with mother/father
- To jeopardise the child's integration into his family and social environment
- To harm the child's relationship with his/her mother/father
- To subject a child to distress
- To bring about/to cause a deterioration of the child's relationship with his/her mother/father
- To experience (psychological/emotional/sexual/physical) abuse
- Disengagement from the child's environment

### **On the issues at stake in the process of hearing children:**

- To obtain the views of the child
- To take account of the best interests of the child
- To give the child an opportunity to be heard
- To give the child an opportunity to express his/her views freely
- To obtain an expert opinion/report;
- To obtain a fresh expert report (if the previous circumstances have changed)
- To hear a child via video conference

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<sup>2</sup> A non-exhaustive list

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