

# English for Mediation in Cross-Border Family Matters

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## INTRODUCTION

This manual was initially written to be used by trainers and participants in courses taught to EU lawyers, judges and professional mediators. However, it was also written having in mind the possibility to use it as a stand-alone tool by users who would like to improve their English in this particular field.

The manual has been designed taking into account the current mainstream approach in teaching English for Specific Purposes (ESP), as will be explained further down. The foundations for the structure, distribution and organisation of the manual can be found within Content-Based Language Instruction (henceforth, CBLI; according to some schools, simply CBI), which is the concurrent study of language and subject matter. There is discussion amongst authors as to the relevance of language and of contents within this approach, but in the elaboration of this manual CBLI has been considered to be an approach that combines language and content teaching, even if there are differences in the emphasis placed on language and content.

In the manual the approach chosen has been top-bottom, which means that the contents move in progression from more general to more specific.

## PURPOSE OF THE MANUAL

The manual was initially designed having in view the specific requirements of the actual courses that were to be taught, but it can just as well be used for courses of a similar nature. Thus its purpose was to assist trainees who wished to improve their English in this particular field, either for revision and consolidation or as remedial work (those needing extra help and practice to improve their knowledge of legal English in the specific subject area).

However, it was also written having in mind the possibility of using it as a stand-alone tool by any user who wishes to improve their level of English in this particular field.

The main purpose of the manual is to introduce users/trainees to the main difficulties of dealing with the specific topic covered in English, which is Mediation in Cross-Border Family Matters. It also aims to improve their knowledge of the vocabulary in this particular field, as well as to foster their four language skills: listening, speaking, reading and writing.

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

## COURSE DESCRIPTION

It is important to describe the nature of the courses for which the manual was written, which will allow future trainers understand the main principles underlying its tenets, organisation and structure. Most participants were lawyers, judges and professional mediators and a few participants held different posts at Ministries of Justice or other bodies, institutions or associations. Courses had up to 30 participants from various EU Member States.

Some sessions and workshops were held with the whole group, whereas for some other sessions the group was split into different subgroups. The first day the whole group was together for the language introduction first and then for an introduction to the topic. From there on, in the mornings participants were split into two groups which had

sessions at the same time as the other one, but in different classrooms: one dealt with language and the other one with the legal topic. Finally, afternoon sessions were devoted to workshops in mediation, where all participants were divided into smaller groups for role-play practice in a mediation case. The workshops were co-taught by both the language and the legal expert(s) in unison.

The division of the main group **did not have to do with participants' levels of English or of expertise**; it tended to focus more on the separation of participants who (a) had a mother tongue in common so as to prevent them from resorting to translation or to communication in a language other than English (b) had the same (or similar) legal traditions; (c) had similar legal professions. The reason behind (b) and (c) is that the indisputable advantage of having different legal systems in one group is to allow for the exchange of experiences as well as of invaluable insight into how issues are dealt with in the different Member States. The subdivisions of the groups for role play activities had to do with previous experience in mediation as well as with language skills (the role of mediator tended to be allocated to those with previous experience in mediation and with the ability to speak English relatively fluently).

Courses were usually taught by two language experts and between three and four legal experts. This arrangement is based on the nature of the project. The first half of the course was taught by one language expert and some legal experts, and the second half was taught by a different language expert and other legal experts, although for the language part the same manual was used by both experts. The advantage of this variation of speakers is that it puts participants in contact with (a) different accents in English and (b) different approaches and teaching methodologies. Since English is the lingua franca in the EU as well as the working language of many EU institutions and bodies, it is not frequently that one has to communicate with native speakers of English. It is therefore important to be in touch with as many accents as possible, and these courses are a unique chance to be in contact with different accents, both by speakers and participants alike.

Courses were intensive and lasted 3 full days, evenly distributed across 4 days (with two half-days).

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

1. Participants usually had rather different levels of English, which was a main factor in the making of the manual and which accounts for the way it has been designed. Some participants were fluent in English and had an excellent command of it in the four main skills (reading, listening, speaking and writing), being at the Common European Framework of Reference for Languages (CEFR) Level C1 (effective operational proficiency or advanced). Some participants even reached C2 (mastery or proficiency) either because: (a) they were native speakers of English who were interested in the topic of the course; (b) they had been brought up or had studied some years in an English-speaking country (c) they had held posts where they had to speak English on a daily basis or (d) simply because their level of English was excellent. Some others were rather good, reaching B1 (threshold or intermediate) or even B2 (vantage or upper intermediate), although in some cases this only applied to **some of the skills (usually 'receptive' or 'passive' skills, such as reading and listening) but were lacking in the more 'productive' or 'active' skills (speaking and writing)**. Finally, some others (the rare exception) moved between A2 (waystage or elementary) and B1 (threshold or intermediate): they were not complete beginners but their abilities were rather limited, in particular with productive skills. Far from being a disadvantage, this particular combination of levels of English within groups can be used as an advantage in class. All participants were highly motivated, and the outcome

of this was that those whose level of English was lower felt positively challenged by the better ones, whereas the more advanced participants were happy to encourage and assist those whose level was lower. Thus, the difference in levels in the classroom played to the advantage of all participants as well as the trainer(s).

2. Different levels of expertise in the field. Trainers could not take for granted previous knowledge of the topic by participants; as it turned out, some had an extensive and valuable experience dealing with cases related to the course topic, whereas others had no experience at all, which was precisely the reason why they had registered for the course. Again, this can be used as an asset, since participants from several Member States can share procedures, experiences, methods and strategies which supplement the more theoretical part of the course. It was considered appropriate to adopt a low common denominator and thus to explain even basic concepts (it must not be forgotten that some participants did not ask for clarification because they were shy of their command of English).
3. Cultural factors at play. Given the fact that there could be up to 28 nationalities in a course, there were many intercultural factors at play, which trainers had to be aware of. Different cultures may have different expectations of a training event in terms of **language, contents, approach, etc.** **Conversational styles** (see Deborah Tannen's publications on the topic) have been proved to be different across cultures (turn-taking, pitch, degree of straightforwardness, physical closeness when speaking, etc.). Trainers had to be aware of all of these and to be able to identify expectations for each group (nationalities varied); on the basis of this, they had to reach a compromise **solution with a common ground approach that could satisfy participants' needs as much as possible** given the classroom diversity. Additionally, the courses dealt with mediation in cross-border family matters, where bilingual, bicultural mediators are an asset of extraordinary value.

## METHODOLOGY

As regards the methodology employed in the actual design of the exercises of the manual, **CBLI has been consistently employed. According to Brinton, Snow & Wesche's definition** (Cenoz 2015), CBI (content-based instruction) is "the concurrent study of language and subject matter (...)". **Richards & Rogers also emphasize the role of language "as a vehicle for learning content" (2001: 208).** However, **Stoller (2008: 59) extends this definition** and considers that CBI would cover any approach that combines language and content teaching, even if there are differences in the emphasis placed on language and content (Cenoz 2015: 10). In this case CBLI is aimed at the development of use-oriented second language skills through concurrent teaching of specific contents and language use (Wesche 1993). Many recent legal English handbooks and manuals have adopted this content-based approach: Walenn (2009), Frost (2009), Wyatt (2006), Riley & Sours (2014) or Haigh (2015), to name but a few. In our view, this approach contributes to a closer and extremely fruitful cooperation between language experts and legal experts.

In relation to the venue and classrooms, for lecture-type lessons a traditional style auditorium or conference room may be adequate; however, for language lessons smaller classrooms are more suitable. As for layout, the physical arrangement of the classroom is essential. For the language sessions, a U-shaped arrangement is best, since participants can see one another as well as the trainer. For the workshops, participants needed several rooms in order to be able to carry out the mediation role play in smaller groups, and they usually chose a circular arrangement, or two semi-circles, to carry out the mediation role play.

Table name cards or tags (preferably first-name only) in big print are extremely useful. By using them, participants -who are usually unknown to one another-, can quickly and easily name colleagues. Trainers should try to **learn participants' names and call them by their first**

name. It is also crucial to ask trainees to sit in the same place throughout the training, thus encouraging visual memory skills. Additional factors such as good lighting and sound conditions (microphones and loudspeakers) must be thoroughly checked. As for microphones, they are a delicate subject to be carefully considered depending on the characteristics of the room, since they tend to distort the sound and make it more difficult for trainees to understand and grasp pronunciation issues with precision.

Trainers should be knowledgeable both in English, in cultural differences **(‘conversational styles’) and in the course topic** and should also be able to effectively transmit information in a clear, simple and structured manner, using a variety of teaching skills to motivate trainees. They should also keep in mind that interaction and flexibility are two of the most important factors, for the following reasons:

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

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

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

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

- clear pronunciation;
- adequate pace of speech;
- **adapting to the group’s learning rhythm;**
- repetition both of terms and of their pronunciation (repetition is essential for long-term learning);
- using alternative definitions and asking participants to define in their own words;
- using exemplification and asking trainees to provide examples;
- providing synonyms or near-synonyms (ensuring the difference between them is understood);
- using classification and sub-divisions;
- eliciting answers;
- double-checking if the concepts have been correctly understood by asking in a different way;
- recapping;
- spelling (or asking participants to spell) difficult words on the screen (or flipchart);
- role play;
- using unfinished sentences that trainees must finish;
- making intentional mistakes to see if participants identify them;
- using open-ended questions rather than closed ones;
- making use of prompts (e.g. asking them to start a sentence providing the first word);
- **contradicting participants’ statements to gently push them to make a point or to defend their position using arguments;**
- creating controversy to make participants intervene;
- making sure all trainees have an active role in every session by addressing them directly if necessary;

- using praise as encouragement;
- gentle error correction (making sure the nature of the mistake is fully understood);
- peer review (asking other participants to give feedback);
- departing from the order of the items within exercises;
- jumping the order of seating arrangements when doing exercises to keep participants alert;
- asking questions on secondary issues related to the exercise that is being done;
- changing the role assigned in the different workshops;
- changing the activity if participants are perceived to be tired, etc.

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

## ORGANISATION OF THE MANUAL

There are 18 exercises in the manual, and each of them focuses on a particular (sub)area of the topic. There are also 4 Annexes: one on golden rules in mediation; one on paralinguistics in cross-border mediation; one on politeness theory applied to cross-border mediation and one on hedging devices for mediation.

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

The materials are not organised gradually from a grammatical point of view, since a content-based approach has been used. Rather, they resort to language issues (prepositions, premodification, passive structures, vocabulary, etc.) to deal with the different sub-topics of the course.

The first exercise is introductory in the sense that it focuses on general legal English. The remaining 17 exercises focus on specific vocabulary (and grammar) issues related to the topic. The exercises are as follows:

1. General legal vocabulary;
2. Pronunciation of frequent terms/expressions in family law;
3. Family law terms;
4. Reading and giving an opinion on a CJEU ruling and a British judgment;
5. Premodification: practice with the Mediation Directive 2008 and the Guide to Good Practice under The Hague Convention 1980;
6. Listening comprehension (the cross-border family mediator network);
7. Reading: co-mediation;
8. Prepositions (Guide to Good Practice under The Hague Convention 1980);
9. Mediation vocabulary (I);
10. Mediation vocabulary (II);
11. Opposites (antonyms) from the Implementation of the Mediation Directive Study; the Guide to Good Practice under The Hague Convention 1980 and the Mediation Directive 2008;
12. Passive structures (Guide to Good Practice under The Hague Convention 1980);
13. Agreeing and disagreeing with statements (Guide to Good Practice under The Hague Convention 1980) and comparing systems;
14. The subjunctive (Guide to Good Practice under The Hague Convention 1980);
15. Word building (Guide to Good Practice under The Hague Convention 1980);
16. Multiple choice (Guide to Good Practice under The Hague Convention 1980);
17. Inversion (Guide to Good Practice under The Hague Convention 1980);
18. Reading and giving an opinion (Draft report on the Implementation of Directive 2008/52/EC).



As can be seen above, the increased complexity of the exercises is directly related to the depth of analysis of the topic, not to grammar issues.

The reason for this top-bottom approach (from more general to more specific) is, as has been mentioned above, a content-based language training approach. Grammar is not the guiding principle of the manual, but subject matter is. Trainees/users should first become familiar with general legal terms in order to be able to have a reasonable command of them when the time comes, later in the manual, to deal with texts. There is also a progression from out-of-context vocabulary exercises to vocabulary in sentences, in excerpts or in texts.

## SPECIFIC INSTRUCTIONS TO USE THE MANUAL

Trainers may choose what order they would like to follow in doing the exercises depending on the level of the group as a whole, both in English and in the topic of the course. We strongly recommend following the order of the manual, but individual group characteristics may call for a slightly different order. One group may be relatively fluent in English, but this does not necessarily mean that they will be acquainted with legal vocabulary; contrariwise, a particular group may be familiar with the terminology of the topic because a few of them may have experience in the field or for any other reason; this does not imply, however, that they may be able to speak English fluently when it comes to giving their opinion, disagreeing, etc. on matters that have to do with the topic. Consequently, trainers will have to assess on the first day during the introduction what level participants seem to have both in English and in their command of the terminology of the topic, and act accordingly. Additionally, as mentioned earlier, trainers may choose to skip an exercise which demands more attention or concentration because at that point participants seem to be tired; in that case, a more engaging exercise may be found in the manual.

Individual users may also choose the order they would like to follow in doing the exercises depending on their level both in English and in the topic of the course. We strongly recommend following the order of the manual, but some users may need a slightly different order. If users are not familiar with the topic of the manual, we recommend starting from the very beginning; if they already have some experience in dealing with the topic in English, they could start directly with exercise 3, but they may also skip the order depending on personal factors such as tiredness, available time, etc.

In view of the fact that this manual has a two-fold role, i.e., (a) a tool to be used in training events and (b) a stand-alone tool to be used by individual users, we include below a double recommendation for each exercise: (1) for trainers, on how to best exploit each exercise **(under “Trainer instructions”)** and **(2) for end users, on how to tackle and make the most of each exercise (under “User instructions”).**

Unless the level of the whole group is exceptionally good, it will be difficult to cover the whole manual given the short nature of the course and the fact that part of it has to be devoted to legal issues exclusively. However, this was taken into account in the making of the manual, and additional materials were intentionally included so that participants could have some extra activities to do after the course if they wished to do so.

A tip which will be applicable to all exercises done in an actual course is the following: trainers should try not to follow the order in which participants are sitting (jumping the order/sequence keeps them alert) and if possible they should call them by their names.

## TRAINERS' INSTRUCTIONS

### Introductory session

This is only applicable when the manual is used in training events.

**It is essential to “break the ice” in the first session. Participants are normally not used to speaking English for so long and about such specialised legal topics, do not know one another, come from different countries, may be exhausted after a long trip, etc. Thus, the first session should be as relaxed and easy-going as circumstances will allow.**

Ask participants to arrange themselves in pairs. Then give them 10 minutes (5 each) to find out professional information about their partner (country of origin/nationality; professional background; past and present position(s) held, experience, interest in the course, expertise in the topic, etc.). Then ask them, one by one, to introduce their partner. In order to prevent this activity from being boring, introduce unpredictability into this activity such as asking them unexpected questions (or, even better, requesting them to ask their partner questions), **either of a purely professional nature (such as why they say that they are “judges” and not “magistrates”; why they use the term “lawyer” instead of other alternatives), or questions that are more personal (without ever trespassing the sphere of the most absolute discretion and respect), such as why they wanted to become judges instead of prosecutors, what they like to do in their free time, etc.** Interspersing more specialised questions with general ones relaxes the atmosphere considerably. It is also important to start introducing in this session some pronunciation issues, as there will inevitably be some mispronunciations of legal terms. Fun examples of mispronunciations which cause misunderstandings in English may be used.

### EXERCISE 1: General legal vocabulary

Give participants a few minutes to read the questions to themselves. Then ask them in turns to read out one question and to suggest an answer.

Trainers should try to elicit the answer from participants using the Socratic method rather than simply provide the answer to the question.

The really interesting part of this exercise (and its main purpose) is that participants realise the differences between national systems and their terminology, and this is what the trainer should exploit. As way of an example, emphasis could be placed on the differences between **the terms “The Judiciary” and “The Magistracy” in different Member States (e.g. what “the Magistracy” means in France, Romania, Italy or Portugal)**, or on the different meanings of “judge” as against “magistrate”, or “court” against “tribunal”.

Emphasis should also be placed on the nuances of meaning in terms such as “lawyer”, “advocate”, “barrister”, “solicitor”, “attorney-at-law”, etc.

### EXERCISE 2: Pronunciation of frequent terms/expressions in family law

Try to find out about some of the most frequent pronunciation pitfalls in English for some **European Union languages (aspirated “s” for speakers of Spanish or the pronunciation of letter “y”; problems making a difference between “v” and “f” for speakers of Dutch; problems making a difference between “v” and “w” for speakers of Lithuanian and Latvian; silent “h” for speakers of French; final consonants for speakers of Italian, etc.)**.

Briefly explain some pronunciation differences between the main variants of English; it is recommendable to stick to two standard varieties: British English (RP –Received Pronunciation- or ‘BBC English’) and American English (GA-General American- or ‘Boston English’).

Ask participants to read out one item each; correct pronunciation mistakes (if any) and ask them to pronounce the term/expression again.

Ask participants to take down all the expressions whose pronunciation they were not aware of (or mispronounced), and ask 5 participants to pronounce once more the items they had difficulties with.

### EXERCISE 3: Family law terms

Participants are provided with a clue or prompt which is part of the correct term (initial letter, initial and final letters, prefixes, etc.), so this exercise is entertaining in the sense that it is similar to playing hangman.

Ask participants to read out one definition and to provide the appropriate term. At the end of the exercise, ask them if they disagree with any of the definitions and why.

*Tip 1:* Focus on concepts that might differ in other Member States (*separation and divorce, civil partnership, prenuptial agreements, etc.*).

*Tip 2:* Explain terminological alternatives (*access to the child, contact with the child, visitation rights, etc.*).

*Tip 3:* Encourage a controlled debate on some controversial topics, such as same-sex marriages.

### EXERCISE 4: Reading and giving an opinion on a CJEU ruling and a British judgment

Ask participants to read all the excerpts to themselves, along with the instructions.

Split participants in groups (adjust the number for each group to the total number of participants) and ask them to discuss and share their opinions on questions 1 and 2 for about 15 minutes. Then randomly choose one participant from each group and ask him/her to summarise the main positions in his/her group.

### EXERCISE 5: Premodification: practice with the Mediation Directive 2008 and the Guide to Good Practice under The Hague Convention 1980

Participants are provided only with the last term in a sequence of two or more words.

Explain what premodification (*table leg*) and postmodification (*leg of a table*) are in English **and briefly run through the main types (noun compounds, as in “war story”; adjectival premodification, as in “beautiful landscape” and mixed types, as in “a long, wandering forest path”).** You may use internet resources, such as: <https://www.thoughtco.com/premodifier-grammar-1691527/>; <https://english-grammarblog.blogspot.com/2016/12/premodifier.html>; <https://www.learngrammar.net/english-grammar/modifiers>, etc.

Then explain what collocations are; you may use resources such as <https://www.teachingenglish.org.uk/article/collocation-advanced-levels-2-classroom-activities>; <http://www.englishteachermelanie.com/study-tip-what-are-collocations/>, etc.

Ask participants to read out each item and to provide the correct answer.

Discuss possible alternatives (*parent responsibility/parental responsibility; custody rights/custodial rights, etc.*).

## EXERCISE 6: Listening comprehension (the cross-border family mediator network)

Ask participants to read the questions in the exercise. Explain any terms or expressions that they do not understand.

Go to [https://www.youtube.com/watch?v=LAr\\_idOD8m8](https://www.youtube.com/watch?v=LAr_idOD8m8). Play the video three times to give them time to write the answers to the questions.

Ask participants to provide the answers. Try to encourage them to phrase the answers in their own words, not in the same words as are used in the video.

Now ask them to read the whole transcript in the answer key and to highlight the bits that **they still hadn't caught after listening to the video. Ask them why they think they didn't catch those bits (accent by the speaker, speed of speech, mispronunciation...)**

Ask them to give their opinion on questions 1-4.

Prompt a debate on the importance of cultural factors in cross-border mediation and of gender variety in co-mediation.

## EXERCISE 7: Reading: Co-mediation

Give participants about 15 minutes and ask them to read questions 1-14 and to provide an answer.

Then ask them to read the whole text to themselves or, if you like, you can ask some of them to read whole sentences or paragraphs so that they practice pronunciation.

Ask them to compare the information the text gives with the answers they had initially given.

Ask 5 of them to say in what cases their answer has been different from what the text says, in what sense and why.

**Ask participants, one by one, to give synonyms for the terms and expressions under items “a” to “r”.**

Discuss, for each item, the differences (if any) both in meaning and in register between the synonyms provided; for example, the difference(s) between *complex*, *intricate*, *involved*, *elaborate*, *difficult* and *problematic*, or between *further*, *additional*, *extra*, *more*, *new* and *supplementary*.

## EXERCISE 8: Prepositions (Guide to Good Practice under The Hague Convention 1980)

Ask participants to read each sentence and to provide the missing preposition(s) in each.

Discuss possible options (*parties to*, *in*, *of*) and the source of their mistakes (*focus in/on*)

## EXERCISE 9: Mediation vocabulary (I)

Give participants a few minutes to read the list of terms/expressions to themselves. Then ask them each to read out one definition (correct any mispronunciations) and to match it to the correct term/expression from the list. If the level of the group lends itself to it, you may challenge them by suggesting other terms and asking them to provide the reason(s) why that would not be the correct option.

They can do extra practice at <https://quizlet.com/58600089/mediation-vocabulary-flash-cards/> or <https://www.quia.com/jg/1222332list.html>.

## EXERCISE 10: Mediation vocabulary (II)

Give participants a few minutes to read the list of terms/expressions to themselves. Then ask them each to read out one definition (correct any mispronunciations) and to match it to the correct term/expression from the list. If the level of the group lends itself to it, you may challenge them by suggesting other terms and asking them to provide the reason(s) why that would not be the correct option.

They can do extra practice at <https://quizlet.com/58600089/mediation-vocabulary-flash-cards/> or <https://www.quia.com/jg/1222332list.html> and supplement it with [https://assets.hcch.net/upload/guide28mediation\\_en.pdf](https://assets.hcch.net/upload/guide28mediation_en.pdf).

## EXERCISE 11: Opposites (antonyms) from the Implementation of the Mediation Directive Study; the Guide to Good Practice under The Hague Convention 1980 and the Mediation Directive 2008

Ask participants to do one term each. Focus on cases where they are doubtful or hesitant about the correct answer, either because of the spelling (*inpartial/impartial*) or the prefix (*unsustainable/insustainable*; *inenforceable/unenforceable*). Pay attention to difficult pronunciations, e.g. *involuntarily*, *non-compliance*.

## EXERCISE 12: Passive structures (Guide to Good Practice under The Hague Convention 1980)

Explain how passive structures are built in English. You may use various internet resources (<https://www.ef.com/wwen/english-resources/english-grammar/passive-voice/>; <https://www.thoughtco.com/passive-voice-in-english-grammar-1211144>; <http://learnenglishteens.britishcouncil.org/grammar/intermediate-grammar/passive-forms>, etc.).

Ask participants to read out each sentence in the active voice and then to turn them into the passive voice (explaining when keeping the agent may be optional).

## EXERCISE 13: Agreeing and disagreeing with statements (Guide to Good Practice under The Hague Convention 1980) and comparing systems

Use the materials in the manual to explain the different ways of expressing agreement and disagreement in English as well as certainty and uncertainty. Practice a few of those expressions with participants.

Ask them to read the key features of family mediation (cross-border mediation in particular) from the manual.

Split participants into 3/4 groups and give each of them 2 features which they will have to discuss, expressing agreement and disagreement, certainty and uncertainty, qualified agreement and qualified disagreement. Ask the members of each group to write down expressions that are used very often and tell them to try to find alternative expressions in order to avoid repetition.

Ask participants to read out loud (correcting pronunciation issues) one model of mediation each, as well as their definitions: full voluntary mediation, voluntary mediation with incentives and sanctions, required initial mediation session and full mandatory mediation.

Give them time to read the information on what types of mediation each Member State has implemented in commercial and civil law disputes, family law disputes and labour law disputes.

Arrange participants in groups and ask them to talk about (1) whether they were aware of **their country's position as regards these mediation models**; (2) **what they have found** surprising or unexpected about the information provided.

Encourage debate on which model participants think would be most effective.

#### EXERCISE 14: The subjunctive (Guide to Good Practice under The Hague Convention 1980)

Using the information in the manual, explain how the subjunctive works in English.

Ask participants to build the appropriate subjunctive in the sentences provided.

#### EXERCISE 15: Word building (Guide to Good Practice under The Hague Convention 1980)

Give participants time to read the whole text to themselves. Explain any terms they do not understand.

Ask them to fill in the gaps with the correct form of the word in brackets.

#### EXERCISE 16: Multiple choice (Guide to Good Practice under The Hague Convention 1980)

Give participants time to read the whole text. Check if they understand all the terms.

Ask them to choose the correct answer.

To make sure that they fully understand, participants need to explain why the other possible answers would not be correct.

#### EXERCISE 17: Inversion (Guide to Good Practice under The Hague Convention 1980)

Using the information in the manual, explain how inversion works in English.

Ask participants to do the appropriate inversion in each sentence provided.

#### EXERCISE 18: Reading and giving an opinion (Draft report on the Implementation of Directive 2008/52/EC)

Without looking at the manual, ask 5 participants to give their opinion on a few general topics that you can choose from current events. The other participants should tick from the table in this exercise the expressions they are using from the list and make a note of expressions used that are not on the list.

Are there many repetitions of some expressions? If that is the case, ask those 5 participants to rephrase their opinion using a different alternative.

Now ask participants to read the text on the findings on the implementation of the Mediation Directive and ask them to give their opinion on the different approaches by Member States. If they tend to use the same expressions, ask them to use alternative ones.

Now ask 7 random participants to answer questions 1-7 on the text.

## USERS' INSTRUCTIONS

### EXERCISE 1: General legal vocabulary

Read the questions.

Try to provide the answers after reading the following web pages: [https://e-justice.europa.eu/content\\_legal\\_professions-29-en.do](https://e-justice.europa.eu/content_legal_professions-29-en.do); [https://e-justice.europa.eu/content\\_judicial\\_systems\\_in\\_member\\_states-16-en.do](https://e-justice.europa.eu/content_judicial_systems_in_member_states-16-en.do).

Check your answers with the answer key.

Try to find out the reasons for your mistakes (if any).

### EXERCISE 2: Pronunciation of frequent terms/expressions in family law

Read out each item twice and then check the pronunciation in the answer key. If you would like to hear some terms pronounced in British English and in American English, go to <https://dictionary.cambridge.org/>.

### EXERCISE 3: Family law terms

You are provided with a clue or prompt which is part of the correct term (initial letter, initial and final letters, prefixes, etc.), so this exercise is like playing hangman.

Read every definition carefully and then try to provide the term/expression for it.

Check your answers with the answer key.

At the end of the exercise, highlight those terms/expressions whose definition you do not agree on and provide your own definition.

Searching on the internet, find out more about concepts that might differ in your Member State (*separation and divorce, civil partnership, prenuptial agreements*, etc.); try to find out the difference (if any) between terminological alternative such as *access to the child, contact with the child and visitation rights*. Try to find someone to debate on same-sex marriages across the EU.

### EXERCISE 4: Reading and giving an opinion on a CJEU ruling and a British judgment

Read all the excerpts, along with the instructions.

If possible, find a colleague who speaks English and discuss questions 1 and 2. Did you have similar approaches, or did they differ considerably? Explain your answer.

### EXERCISE 5: Premodification: practice with the Mediation Directive 2008 and the Guide to Good Practice under The Hague Convention 1980

Learn about premodification (*table leg*) and postmodification (*leg of a table*) in English by using internet resources, such as: <https://www.thoughtco.com/premodifier-grammar-1691527>; <https://english-grammarblog.blogspot.com/2016/12/premodifier.html>; <https://www.learngrammar.net/english-grammar/modifiers>, etc. Learn about the main types of premodification (noun compounds, as in “war story”; adjectival premodification, as in “beautiful landscape” and mixed types, as in “a long, wandering forest path”).

Learn about collocations; you may use resources such as <https://www.teachingenglish.org.uk/article/collocation-advanced-levels-2-classroom-activities>; <http://www.englishteachermelanie.com/study-tip-what-are-collocations/>, etc.

Provide the correct answer for each item and think of possible alternatives (*parent responsibility/parental responsibility; custody rights/custodial rights*, etc.).

Check your answers with the answer key.

## EXERCISE 6: Listening comprehension (the cross-border family mediator network)

Read the questions in the exercise. Look up any terms or expressions that you do not understand.

Go to [https://www.youtube.com/watch?v=LAr\\_idOD8m8](https://www.youtube.com/watch?v=LAr_idOD8m8). Play the video three times to have time to write the answers to the questions. Try not to pause the video.

Answer the questions in your own words, trying not to use the same words as are used in the video.

Now read the whole transcript in the answer key and highlight the bits that you still hadn't caught after listening to the video and try to find a reason why you think you didn't catch it (accent by the speaker, speed of speech, mispronunciation...)

Write your opinion on questions 1-4 and share your answers with a colleague, discussing if he/she agrees or disagrees. Debate with your colleague on the importance of cultural factors in cross-border mediation and of gender variety in co-mediation.

## EXERCISE 7: Reading: Co-mediation

Read questions 1-14 and provide an answer.

Now read the whole text and compare the information the text gives with the answers you had initially given.

In what cases has your answer been different from what the text says, in what sense and why?

Give synonyms for the terms and expressions under item "a" to "r".

Are you capable of explaining some differences in meaning and in register between some 'synonyms'? For example: *complex, intricate, involved, elaborate, difficult and problematic*.

## EXERCISE 8: Prepositions (Guide to Good Practice under The Hague Convention 1980)

Read each sentence and provide the missing preposition(s) in each.

Check your answers with the answer key. Highlight your mistakes and try to find out if their source is a literal translation from your own language.

## EXERCISE 9: Mediation vocabulary (I)

Read the list of terms/expressions. Then match the definitions with the terms/expressions. Before checking the answer in the answer key, look up the terms on internet sources, such as <https://quizlet.com/58600089/mediation-vocabulary-flash-cards/>, <https://www.quia.com/jg/1222332list.html> etc.).



Check your answers with the answer key.

Try to find out the reasons for your mistakes (if any).

#### EXERCISE 10: Mediation vocabulary (II)

Read the list of terms/expressions. Then match the definitions with the terms/expressions. Before checking the answer in the answer key, look up the terms on internet sources, such as <https://quizlet.com/58600089/mediation-vocabulary-flash-cards/>, <https://www.quia.com/jg/1222332list.html> etc.).

Check your answers with the answer key.

Try to find out the reasons for your mistakes (if any).

You       may       see       these       terms/expressions       in       context       on  
[https://assets.hcch.net/upload/guide28mediation\\_en.pdf](https://assets.hcch.net/upload/guide28mediation_en.pdf)

#### EXERCISE 11: Opposites (antonyms) from the Implementation of the Mediation Directive Study; the Guide to Good Practice under The Hague Convention 1980 and the Mediation Directive 2008

Answer each of the items.

Check your answers with the answer key.

**When you finish the exercise, make a list of all the antonyms you didn't know and read it through several times, trying to remember them. Are there any antonyms you did wrong because you were translating literally from your mother tongue?**

#### EXERCISE 12: Passive structures (Guide to Good Practice under The Hague Convention 1980)

Read about how passive structures are built in English. You may use various internet resources (<https://www.ef.com/wwen/english-resources/english-grammar/passive-voice/>; <https://www.thoughtco.com/passive-voice-in-english-grammar-1211144>; <http://learnenglishteens.britishcouncil.org/grammar/intermediate-grammar/passive-forms>, etc.).

Turn each sentence into the passive voice.

Check your answers with the answer key.

#### EXERCISE 13: Agreeing and disagreeing with statements (Guide to Good Practice under The Hague Convention 1980) and comparing systems

Read in the manual the different ways of expressing agreement and disagreement in English as well as certainty and uncertainty. Practice a few of those expressions.

Read the key features of family mediation (cross-border mediation in particular).

Find a colleague who is willing to discuss those features, expressing agreement and disagreement, certainty and uncertainty, qualified agreement and qualified disagreement. Are there any expressions of agreement/disagreement that you tend to use a bit too often? If that is the case, try to find alternatives to avoid repetition.

Read the four models of mediation as well as their definitions: full voluntary mediation, voluntary mediation with incentives and sanctions, required initial mediation session and full mandatory mediation.

Now read the information on what types of mediation each Member State has implemented in commercial and civil law disputes, family law disputes and labour law disputes.

**Were you aware of your country's position as regards these mediation models?**

What have you found surprising or unexpected about the information provided?

Which model do you think would be most effective and why?

**EXERCISE 14: The subjunctive (Guide to Good Practice under The Hague Convention 1980)**

Using the information in the manual, read how the subjunctive works in English.

Build the appropriate subjunctive in the sentences provided.

Check your answers with the answer key.

**EXERCISE 15: Word building (Guide to Good Practice under The Hague Convention 1980)**

Read the whole text to yourself a couple of times. Look up any words you do not know.

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

Check your answers with the answer key.

**EXERCISE 16: Multiple choice (Guide to Good Practice under The Hague Convention 1980)**

Read the text. If you do not know any terms, you may look them up.

Choose the correct answer.

Check your answers with the answer key.

**EXERCISE 17: Inversion (Guide to Good Practice under The Hague Convention 1980)**

Using the information in the manual, read how inversion works in English.

Do the appropriate inversion in the sentences provided.

Check your answers with the answer key.

**EXERCISE 18: Reading and giving an opinion (Draft report on the Implementation of Directive 2008/52/EC)**

Without looking at the manual, write down all the expressions you know in English to give an opinion. Now go to the table in this exercise and tick the expressions that were on the list and make a note of those that were not.

Now read the text on the findings on the implementation of Mediation Directive and give your opinion on the different approaches by Member States, using different expressions from the table.

Answer questions 1-7 on the text and check your answers with the answer key.

### ANNEX 1: Golden rules in mediation

This annex summarises some general recommendations for mediation.

### ANNEX 2: Paralinguistics

Paralinguistics is an area of Linguistics which studies aspects of spoken communication that do not involve words. It is important for mediation because it involves more subtle aspects of mediation such as loudness, emphasis, pitch, speed of speech, tone, turn-taking, intonation, use of pause, physical closeness, facial or body expression or gestures, etc.

This annex deals, among other things, with kinesics (body motion), proxemics (space and distance) and haptics (physical contact) as well as with the two main communicative styles that mediators are likely to encounter at some point in the exercise of their profession, so that they are aware of how culture reflects itself on non-verbal communication.

### ANNEX 3: Politeness

This annex deals with how culture has an impact on the language we use, which is something that cross-border mediators need to be aware of in order to avoid misunderstandings. The difference between the basic principles behind the two main conversational styles is covered **(‘independence’ vs. ‘involvement’) and their reflection on communication styles/approaches** is explained.

### ANNEX 4: Hedging

**A ‘hedge’ is a mitigating element (verb tenses, modal expressions, adverbs, structures, etc.) used to ‘tone down’ or to lessen the impact of an utterance.** They make what we say less direct and they are of great importance, because lack or scarcity of them may cause communication to break down when different conversational styles are involved.

Some examples of hedging devices are provided (adverbs, modals, other verbs, fixed expressions...) **and an exercise on learning how to tone down statements is included for trainees or users to practise with.**

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# EXERCISES

## 1. An introduction to general legal vocabulary.

Test your command of general legal vocabulary by answering the following questions:

1. **What is the difference between a “judge” and a “magistrate”?**
2. Can you provide words that you **think could be synonyms for “case”?**
3. What do you call a ‘decision’ by a judge? Give all the names that you know and explain the difference between them.
4. **What is the difference between “court” and “tribunal”?**
5. What are the names for the parties in civil cases?
6. Can you give **alternative expressions for “to take someone to court”?**
7. What do you call the geographical area and the matters over which a judge/court has powers?
8. **What other expressions do you know for “to give judgment”?**
9. How many words do you know for “lawyer” and what is the difference between them?

## 2. Pronunciation: Mediation and family law.

accordance acta iure imperii addressee adjudicatory nature administrative provision agreement alter- native method alternative dispute alternative dispute resolution appro- priate  
mean arbitration area of freedom article authentic instrument civil and commercial law civil and commercial matter commercial judicial  
proceeding competent court concern alternative dispute resolution method confidentiality confidentiality of mediation consensual resolution of consumer  
dispute consideration of public policy consumer complaint scheme context of judicial proceeding course of judicial proceeding cross-border dispute cross-border dispute attempt date of compliance  
directive dispute dispute attempt dispute resolution dissemination of information effect of mediation effective quality enforceability enforceability of  
agreement enforcement of agreement enforcement of judgment establishment of basic principle expiry of limitation explicit consent extra-judicial procedure family law family law matter field of  
consumer protection field of judicial cooperation formal recommendation free movement of person impartial and competent way internet judge seise request assistance judicial conciliation scheme  
judicial proceeding juris- diction limitation main provision of national law market-based solution matter of parental responsibility mediation mediation  
process mediation service mediator minimum degree of compatibility of civil procedural rule minimum quality criterion national law national legis- lation national rule  
operation of extrajudicial procedure out-of-court body paragraph party possibility of mediation pre-contractual nego- tiations predictable legal framework prescription period  
private international law proper functioning provision of mediation service psycho- logical integrity purpose of article purpose of paragraph quality of mediation quick extra- judicial resolution of dispute relevant  
applicable law right of access settlement of dispute specific agreement structured process them- self third person time-limit training of mediator transposition transposition measure  
use of mediation voluntary code of conduct voluntary process written agreement

Pronounce the following:

1. mediation
2. mediation process
3. mediator
4. mediation service
5. cross-border dispute
6. alternative dispute resolution
7. confidentiality
8. enforcement of judgment
9. consensual resolution
10. settlement of dispute
11. arbitration
12. written agreement
13. private international law
14. extra-judicial resolution of dispute
15. judicial conciliation
16. authentic instrument

17. extra-judicial procedure
18. time-limit
19. principle of proportionality
20. legal practitioner
21. matrimonial matter
22. amicable settlement of dispute
23. cross-border element
24. database of out-of-court scheme
25. competent authority
26. low-cost out-of-court solution
27. recognition of settlement
28. best practice
29. legal dispute
30. time frame
31. mediation fee
32. success rate
33. child
34. parental responsibility
35. access rights/rights of access
36. habitual residence
37. place of birth
38. marriage annulment
39. legal separation
40. divorce
41. wrongful removal
42. rights of custody
43. spouse
44. request



45. child placement  
46. default of appearance  
47. exercise of rights of access  
48. sufficient time  
49. practical arrangement  
50. degree of maturity  
51. certificate  
52. retention  
53. joint custody  
54. criminal offence  
55. foster family  
56. competent authority  
57. guardianship  
58. protection of the child  
59. revocation of adoption  
60. court  
61. date of legal effect  
62. civil-status record  
63. resolution of family dispute  
64. violation of fundamental principle  
65. limited period of time  
66. breach of right of custody  
67. criterion of proximity  
68. refusal of enforcement  
69. forum of jurisdiction  
70. dissolution of matrimonial ties  
71. establishment of parenthood  
72. convention

- 73. jurisdiction
- 74. date of notification
- 75. child abduction
- 76. review of jurisdiction
- 77. attestation of enforceability
- 78. property
- 79. submission
- 80. hearing

### 3. Family law terms.

Provide the terms for the following definitions. For each term you will find a clue.

1	Parental _____	<b>“Parental authority, or any analogous relationship or authority</b> determining the rights, powers and responsibilities of parents, guardians or other legal representatives in relation to the person or the property of the child” <b>(1996 Hague Child Protection Convention)</b> It encompasses <b>“rights of custody”</b> as well as <b>“rights of contact”</b> .
2	Civil _____/_____	A couple living together without getting married but with legal recognition.
3	C _ s _ o _ y	The care and control of a child, which a court may award to one or both of the parents after divorce (or separation).
4	Sp _ _ _ _	Husband or wife.
5	G_____	Person who has the legal authority and duty to care for the personal and property interests of another person.
6	A_____	Term usually applied to the removal of children from a country without permission from their parent(s).
7	_____ul r_____ of a child	According to Article 3 of The Hague Convention, this happens when the act:  (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the _____ or retention; and  (b) at the time of _____ or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention
8	_____ with/_____ to the child	Visitation by a parent who does not have the custody of a child.
9	A _ _ _ _ s rights/ rights of c _ _ _ _ _ _	Right to make inquiries, and to be given information as to the health, education, and welfare of the child, as well as to maintain a relationship with him/her.
10	D_____e	The termination of a marriage by legal action.

11	_____ation	The termination of cohabitation of husband and wife, either by mutual agreement or a court decision.
12	_____onial	Related to a married couple (e.g. _____ property, etc.)
13	_____hood	Quality of being a father or a mother.
14	Pre- _____ agreement (pre _____)	Contract entered into in contemplation of marriage which usually establishes the property and financial rights of each spouse in the event of a divorce.
15	_____er	The person who has parental responsibility is the _____ of parental responsibility.
16	L_____ - behind parent	The parent who claims that his/her custody rights were breached by wrongful removal or retention.
17	T_____parent	The parent who is alleged to have wrongfully removed a child from his/her place of habitual residence to another State or to have wrongfully retained a child in another State.
18	D_____ v_____	Abuse within the family, either physical or psychological. It can be directed towards the child and/or towards the partner <b>(sometimes referred to as “spousal abuse”) or other family members.</b>

## 4. Reading and giving an opinion

### JUDGMENT OF THE COURT (First Chamber)

[Source:  
<http://curia.europa.eu/juris/liste.jsf?pro=&lgrec=es&nat=or&ogp=&dates=&lg=&language=en&jur=C%2CT%2CF&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&num=C-491%252F10&td=%3BALL&pcs=Oor&avg=&page=1&mat=or&jge=&for=&cid=188377>

(Excerpt taken from the Advocate General's view)

22 December 2010

(Judicial cooperation in civil matters – Regulation (EC) No.2201/2003 – Jurisdiction, recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility – Parental responsibility – Rights of custody – Child abduction – Article 42 – Enforcement of a certified judgment ordering the return of a child handed down by a (Spanish) court with jurisdiction – Power of the requested (German) court to refuse **enforcement of that judgment in a case of serious infringement of the child's rights**)

In Case C-491/10 PPU,

REFERENCE for a preliminary ruling under Article 267 TFEU from the Oberlandesgericht Celle (Germany), made by decision of 30 September 2010, received at the Court on 15 October 2010, in the proceedings

Joseba Andoni Aguirre Zarraga

v

Simone Pelz,

(1) Below is the opinion of the Advocate General on this particular case, but what he says is applicable to many other cases where children are involved. Say your opinion about what he states about divorcing couples.

1 1. Disputes between a divorcing couple over the future of their common children can  
2 be a distressing not to say traumatising ordeal for the children concerned. That  
3 ordeal can be all the more difficult where, in the case of a mixed couple, one of the  
4 parents, who does not accept the measures taken in respect of the children by the  
5 court of the Member State where the couple resided, takes the children to his or her  
6 country of origin and endeavours to obtain a contrary judgment from the courts of  
7 **that State. If that parent is successful, the children's situation is then governed by**  
8 contradictory judicial decisions, the most common outcome of which being that all  
9 normal relations with the other parent are broken off, in some cases for a long period  
10 of time.

11 (...)

12 **19. In all matters of custody, 'the interests of the child' are paramount. The child is**  
13 entitled to stability, to be able to remain in his or her habitual place of residence, this  
14 **being regarded as one of the essential foundations of the child's equilibrium and**  
15 development. The child is not an object that the parents can use as a tool in the event  
16 of disputes between them.

(2) Below are the last **two paragraphs of the judgment in the case “Ciccone v. Ritchie”** (source: England and Wales, High Court of Justice, Family Division).

[Source: <http://www.bailii.org/ew/cases/EWHC/Fam/2016/616.html>]

A brief summary of the events is the following:

*Madonna and Guy Ritchie, who divorced in 2008, have a son, Rocco (15 at the time when proceedings started), who lived with his mother in the USA. After visiting his father in the UK, Rocco remained in London with his father and refused to return with his mother. Both parents started litigation in the USA and in the UK respectively. An American judge ruled that Rocco should return to his mother's custody, but decided not to issue a warrant to enforce the order. The child remained with his father in London. Rocco was a party to the proceedings in the UK. Madonna then decided to withdraw the proceedings started under the 1980 Hague Convention, and this was the only issue that the British judge had to rule on, but in the following paragraphs you will read how the British judge is encouraging the parents to resolve the disputes without the need for further litigation and urging them to use non-judicial means.*

Read the following last three paragraphs from the judgment and compare the kind of language used by the British judge to the kind of language used by family judges in your national system. Try to establish similarities and differences in the way judges approach encouraging the parties to resort to mediation.

1 Finally, I would say this. For all the interesting legal argument and great learning  
2 that is apparent from the admirable skeleton arguments and submissions of  
3 leading and junior counsel, at the root of these proceedings (and, I venture to  
4 add, the proceedings in the United States) is a temporary breakdown in trust.  
5 For all the media coverage, comment and analysis, this is a case born out of  
6 circumstances that arise for countless separated parents the world over.

7 The court should always be the option of very last resort when parents cannot  
8 agree matters in respect of their children. Whilst the law provides a  
9 mechanism for the resolution of disputes between parents in respect of their  
10 children, it is but a blunt instrument when compared to the nuanced virtues of  
11 calm discussion and considered compromise between those involved, accepting  
12 that this latter path can be a hard one on which to embark, and to sustain, in the  
13 context of relationship breakdown. It is for this reason that during the course  
14 of the proceedings on each side of the Atlantic Judge Kaplan and myself have  
15 repeatedly urged the parties to adopt a consensual approach to resolving the  
16 matters of dispute between them for the benefit of Rocco.

17 Within this context I renew, one final time, my plea for the parents to seek, and to  
18 find an amicable resolution to the dispute between them. Because agreement is  
19 not possible today does not mean that agreement will not be possible  
20 tomorrow. Most importantly, as I observed during the course of the hearing,  
21 summer does not last forever. The boy very quickly becomes the man. It would  
22 be a very great tragedy for Rocco if any more of the precious and fast receding  
23 days of his childhood were to be taken up by this dispute. Far better for each  
24 of his parents to spend that time enjoying, in turn, the company of the mature,  
25 articulate and reflective young man who is their son and who is a very great credit  
26 to them both.

## 5. Premodification.

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

Premodifiers use fewer words than postmodifiers to convey roughly the same information (e.g. “table leg” as against “leg of a table”); **however**, the main problem is finding out the meaning relationship between the elements<sup>1</sup>.

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

### (1) Noun compounds (or compound nouns)

**They are structures of the type “noun as adjective”, where the noun(s) before the head behave grammatically as adjectives, so they do not have a plural form (with a few exceptions which are set phrases):** *a sheep dog, a race horse, a flower garden, a chess board, a shoe shop, a war story, a mountain plant*. It is important to make **a difference between “category” and “function”**. **All the nouns coming before the head are nouns as category, but they behave as adjectives.**

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

In order to understand the meaning relationship between the units making up a noun compound, it is useful to resort to back-formation, which usually (but not always) involves a preposition: a conference room is a room for conferences. The most frequent meaning relationships between the units are the following:

- Place: *the office party* (the party at the office); *a Paris man* (a man from Paris).
- Time: ***the nine o'clock news* (the news at nine o'clock);** *afternoon tea* (tea in the afternoon). When reference is made to specific moment, the tendency is to use possession (genitive): ***last Sunday's match, tomorrow's weather***. With numeral expressions, both options are possible: ***a five minutes' rest*** or *a five-minute rest*, ***a three days' journey*** or *a three-day journey*.
- Material: *an iron bridge* (a bridge made of iron), *chocolate ice-cream* (an ice-cream made with chocolate). Two exceptions: *wood* and *wool*, which are normally used in adjective form: *wooden* and *woolen*.
- Function: *a conference room* (*a room for conferences*); *a travel book* (*a book about travelling*); *car keys* (*keys for the car*).
- Direct Object: *an animal trainer* (*a trainer of animals*); *child care* (care of children).
- Attribute: *a woman driver* (*a driver who is a woman*); *a girl-friend* (*a friend who is a girl*).

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<sup>1</sup> “(...) while a travel book is a book about travel, a telephone book is not a book about telephones. Copper wire and steel wire are wire made, respectively, of copper and steel. We cannot say the same about piano wire” (Trimble 1985: 131).

- Parts: *the table leg* (the leg of a table); *the car door* (the door of a car); *the river bank* (the bank of a river).
- Measures: *a ten-pound turkey* (a turkey that weighs –or costs- ten pounds); *a one-pound slice of cake* (a slice that weighs -or costs- one pound); *a five-litre bottle* (a bottle that can hold five litres).
- Container: *a milk bottle* (a bottle for milk vs. a bottle of milk); *a water glass* (a glass for water vs. a glass of water); *a matchbox* (a box for matches vs. a box of matches); *a coffee-cup* (a cup for coffee vs. a cup of coffee). In these cases, if premodification is used reference is made to the container, whereas the use of postmodification indicates reference to the content.
- Produced by or proceeding from: *chicken soup* (soup made with chicken); *lamb chop* (chop from a lamb), *fox fur* (fur of a fox). The genitive is required, however, when reference is made to a product obtained from an animal which is still alive: *cow's milk*, *a hen's egg*.
- Used by: *baby clothes*, *birdcage* or *a dog kennel*.

(b) Adjectival premodification

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

(c) Mixed premodification

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



Now practice with premodification using the appropriate form of the word in brackets:

[Sources: 1. “The implementation of the Mediation Directive 29 November 2016”. This study was commissioned, overseen and published by the European Parliament’s **Policy Department for Citizens’ Rights and Constitutional Affairs at the request of the Parliament’s Committee on Legal Affairs**. It is available on the European Parliament website [www.europa.europa/studies](http://www.europa.europa/studies) free of charge. It is republished by ERA with the permission of the European Parliament; 2. “Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation”. Reproduced with permission. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net)].

1. \_\_\_\_\_ (initiate, mediate) session
2. \_\_\_\_\_ (fill, volunteer) mediation
3. \_\_\_\_\_ (parent) responsibility
4. \_\_\_\_\_ (accede) rights
5. \_\_\_\_\_ (profession) mediator
6. \_\_\_\_\_ (habit) residence
7. \_\_\_\_\_ (law) dispute
8. \_\_\_\_\_ (reduce or extend, time) frame
9. \_\_\_\_\_ (statute) provisions
10. \_\_\_\_\_ (law) separation
11. \_\_\_\_\_ (wrong) removal
12. \_\_\_\_\_ (qualification) mediator
13. \_\_\_\_\_ (suffice) time
14. \_\_\_\_\_ (mediate) fee
15. \_\_\_\_\_ (practise) arrangement
16. \_\_\_\_\_ (succeed) rate
17. \_\_\_\_\_ (join) custody
18. \_\_\_\_\_ (judiciary) proceedings
19. \_\_\_\_\_ (solitary) custody
20. \_\_\_\_\_ (dispute, resolve) process
21. \_\_\_\_\_ (competence) authority
22. \_\_\_\_\_ (Europe, better) practice
23. \_\_\_\_\_ (familiarise) dispute
24. \_\_\_\_\_ (non-consent) solution
25. \_\_\_\_\_ (child) abduction

26. \_\_\_\_\_ (prefer, dispute, resolve) process
27. \_\_\_\_\_ (apply) law
28. \_\_\_\_\_ (independence, law) advice
29. \_\_\_\_\_ (interest) party
30. \_\_\_\_\_ (law) aid
31. \_\_\_\_\_ (custody) rights
32. \_\_\_\_\_ (prescribe) period
33. \_\_\_\_\_ (equality, bargain) powers
34. \_\_\_\_\_ (expertise) opinion
35. \_\_\_\_\_ (court, basis) mediation
36. \_\_\_\_\_ (leave, behind) parent
37. \_\_\_\_\_ (administer) authority
38. \_\_\_\_\_ (spouse) abuse
39. \_\_\_\_\_ (legislation) model
40. \_\_\_\_\_ (write) agreement
41. \_\_\_\_\_ (cost, law) procedure
42. \_\_\_\_\_ (judge) authority
43. \_\_\_\_\_ (legislation) provisions
44. \_\_\_\_\_ (4-years-old) daughter
45. \_\_\_\_\_ (expedite) return
46. \_\_\_\_\_ (availability, protect) measures
47. \_\_\_\_\_ (pre-try) stage
48. \_\_\_\_\_ (speed) resolution
49. \_\_\_\_\_ (religion) background
50. \_\_\_\_\_ (emotional, stress) circumstances
51. \_\_\_\_\_ (public, fund) mediation
52. \_\_\_\_\_ (volunteer) mediation
53. \_\_\_\_\_ (screen) process
54. \_\_\_\_\_ (high, conflict, international, children, abduct) cases

## 6. Listening comprehension

Read the following questions and then provide an answer.

**“Caught in the middle:** What is the Cross-Border Family Mediator network and how does mediation work?”

Hilde Demarré, Coordinator of the Cross-Border Family Mediator network explains how mediation works and why it can be such a crucial tool to preventing and resolving parental abductions.

[Source: [https://www.youtube.com/watch?v=LAr\\_idOD8m8](https://www.youtube.com/watch?v=LAr_idOD8m8)]

Pre-listening activity:

1. Read the following questions that you will have to answer on the text:

1. Cross-border Family Mediators is a network of mediators that have  

---
2. What are the challenges of cross-border family mediation?
3. What requirements do mediators in this network have to meet?
4. What is the ideal model of co-mediation?
5. How many mediators do they have and where?
6. How old is the organisation?
7. Why is pre-mediation necessary?
8. What is the lacking link that she mentions?

2. Give your opinion on the following statements:

1. The fact that the families come from different cultures is an additional complication.
2. 50 hours of additional specific training is enough to become a cross-border family mediator.
3. Do you agree with the statement that ideally one mediator should be a man and one a woman?
4. What do you understand by pre-mediation? Do you think that it is essential?

## 7. Reading: Co-mediation

Pre-reading questions:

1. What is co-mediation?
2. What are the specific complications of family mediation in international child abduction cases?
3. What are the advantages of co-mediation in international child abduction cases?
4. What is the added value of the presence of two mediators in the room in an international mediation process?
5. What do you think is the difference between bi-cultural and bilingual mediation?
6. Can someone be bilingual without being bi-cultural and the other way round?
7. What are the factors that make someone bilingual? And bi-cultural?
8. In bi-cultural, bilingual mediation, does each mediator need to understand the language of the other party? Why?
9. What other requirements should mediators meet in this kind of international mediation?
10. What should the professional expertise of mediators be?
11. Does the gender of the mediators have any bearing on the mediation process? Why?
12. What is the relationship between nationality, culture and language? Does one automatically imply the other one?
13. May **religion and the link to a specific ethnic group influence a person's culture in a stronger way than his or her citizenship/nationality?**
14. What is non-verbal communication? Should it be “translated” in this type of mediation?

Now read the following text:

*[Source: reproduced with permission. Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net)]*

1 In highly conflictual international child abduction cases the use of co-mediation should be  
2 encouraged where feasible. Co-mediation is mediation conducted by two mediators. Mediation  
3 in highly conflictual international child abduction cases is very intense and complex; the  
4 **parties' discussion may be very emotional and can be potentially explosive. The use of co-**  
5 **mediation in such circumstances has proven to be particularly advantageous. Co-mediation is**  
6 **beneficial in providing the experience, knowledge and methodology of two mediators, which**  
7 **increases the likelihood of arriving at an agreed outcome in these highly conflictual cases.**  
8 **Already the presence of two mediators in the room can make it easier to create a calm and**  
9 **constructive atmosphere for discussion. The mediator's co-operation can serve as an example to**  
10 **the parents.**

11 Furthermore, the very fact that co-mediation can guarantee that the parties are never left alone  
12 with each other throughout the mediation sessions is an advantage. At the same time, it has to  
13 be taken into account that mediation in international child abduction cases has to take place  
14 within a tight timeframe, which can mean that mediation sessions might have to be organised in  
15 a short sequence of mediation sessions of two to three hours.

16 A special form of co-mediation is bi-cultural, bilingual mediation. Bi-cultural, bilingual co-  
17 mediation addresses the specific needs for intercultural competence as well as language skills  
18 when mediating between parties from different States of origin with different mother tongues.

19 According to this model, mediation is to be conducted by two experienced family mediators:  
20 **one from each party's State of origin and cultural background.** Where different languages are  
21 spoken in the States of origin, the mediators will bring with them the necessary language skills,  
22 although it has to be highlighted that at least one of them needs to have a good understanding  
23 of the other language involved. There are two further issues that some of the mediation schemes  
24 set up for international child abduction using bi-national mediation try to balance, i.e., the  
25 gender and professional expertise of the mediators. Co-mediation in these schemes is conducted  
26 by one female and one male mediator, one with a legal background and one with a socio-  
27 psychological background. This allows for the combining of professional expertise and cultural  
28 competence in handling different mediation issues. These co-mediation schemes involving  
29 mediators of different genders and from different professional backgrounds could thus be  
30 referred to as bi-cultural, bi-lingual, bi-gender and bi-professional mediation schemes.

31 It is not the nationality of the professional mediators per se which makes them particularly well-  
32 suited to conduct mediation in tandem **in cases where parties from the mediators' home**  
33 **countries are involved. It is rather the mediator's cultural background and resulting ability to**  
34 **understand the party's values and expectations which are important, as well as the ability to**  
35 **translate culturally linked verbal and non-verbal communication in a way that renders it more**  
36 **understandable for the other party. The latter evidently presupposes that the mediator has a**  
37 **good knowledge of the other party's culture.**

38 **Recognising that a person's culture is influenced by many factors, of which nationality is only**  
39 **one, and that in a given case other aspects like religion and the link to a specific ethnic group**  
40 **might influence a person's culture in a much stronger way than his or her citizenship, one might**  
41 **wish to speak of encouraging 'bi-cultural' mediation as a principle. The big advantage of 'bi-**  
42 **cultural', 'bilingual' co-mediation is that it may provide a confidence- building framework for**  
43 **the parties, creating an atmosphere where the parties feel understood and assisted in their**  
44 **communication by someone from their own linguistic and cultural background.**

## QUESTIONS ON THE TEXT

Give synonyms or near-synonyms for the following terms:

- a. Feasible:
- b. Complex:
- c. Advantageous:
- d. Likelihood:
- e. Outcome:
- f. Throughout:
- g. Take into account:
- h. Tight:
- i. To conduct:
- j. To highlight:
- k. Further:
- l. To combine:
- m. In tandem:
- n. Ability:
- o. To translate:
- p. Aspect:
- q. Confidence:
- r. To assist:

## 8. Prepositions

*[Source: reproduced with permission. Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net)]*

Put in the correct preposition in each of the following sentences:

1. The Guide is addressed \_\_\_\_\_ governments and Central Authorities as well as judges, lawyers, mediators, parties \_\_\_\_\_ cross-border family dispute and other interested individuals.
2. Nothing in this Guide can be construed as binding \_\_\_\_\_ States Parties to the 1980 Hague Child Abduction Convention.
3. **Attention needs to be drawn to The Hague Convention's activity \_\_\_\_\_ promoting mediation.**
4. The Malta Process, a dialogue between judges and senior government officials from certain Hague Convention States and certain non-Convention States focuses \_\_\_\_\_ seeking solutions to cross-border disputes concerning child custody, contact and abduction.
5. The European Code of Conduct establishes a number of principles \_\_\_\_\_ which individual mediators \_\_\_\_\_ civil and commercial mediation may commit themselves: \_\_\_\_\_ a voluntary basis and \_\_\_\_\_ their own responsibility.
6. **According to Article 12 of the Directive, EU Member States were obliged to 'bring \_\_\_\_\_ force the laws, regulations, and administrative provisions necessary to comply \_\_\_\_\_ this Directive before 21 May 2011.**
7. An increasing number of States allow \_\_\_\_\_ more party autonomy in the resolution of family disputes while safeguarding the rights of third parties, in particular children.
8. An agreed solution can be particularly helpful to assist \_\_\_\_\_ securing the 'child's right to maintain \_\_\_\_\_ a regular basis (...) personal relations and direct contacts with both parents'.
9. Agreed solutions are more sustainable since they are more likely to be adhered \_\_\_\_\_ by the parties.
10. The very fact of a joint meeting between the parties \_\_\_\_\_ the course of a mediation session might put the physical or psychological integrity of one of the parties, and indeed that of the mediator, \_\_\_\_\_ risk.
11. The mediated agreement or part of it may be \_\_\_\_\_ conflict \_\_\_\_\_ the applicable law or not legally binding and enforceable.
12. Mediation differs substantially \_\_\_\_\_ court proceedings when it comes \_\_\_\_\_ **introducing the child's views** \_\_\_\_\_ the process.
13. The 1980 Hague Child Abduction Convention promotes a search \_\_\_\_\_ amicable solutions.

## 9. Mediation vocabulary (I).

Match the appropriate term below with the definitions.

[Sources: 1. “Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation”. Reproduced with permission. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net); 2. <https://www.jamsadr.com/adr-glossary/>; <http://expert-evidence.com/mediation-terminology-things-you-must-know/>]

TERMS	DEFINITIONS
1. Settlement	a. A mediation approach where the mediator has a much greater part to play in determining the outcome of the mediation, and the mediation approach is based much more on evaluating the legal position of each party.
2. Mediation	b. When two or more mediators are used in the same mediation process.
3. ADR	c. A private meeting of any two or more people involved in mediation.
4. Arbitration	d. A mediation approach where the mediator assists the two parties in coming to a resolution based on the information available. The mediator leads the process, but the parties are responsible for agreeing the <b>outcome with the mediator's help</b> .
5. Co-mediation	e. A proactive, structured, confidential process in which a neutral third party assists disputing parties in working towards negotiating a settlement.
6. Evaluative mediation	f. A form of alternative dispute resolution which involves an independent third party who will make a binding decision based on the evidence brought before him/her.
7. Facilitative mediation	g. A brief document setting out the key terms of the negotiated agreement or resolution.
8. Impasse	h. When parties reach an agreement on the claim without pursuing the matter through a trial.
9. Settlement agreement	i. A situation in which parties within mediation are unwilling or unable to reach compromise.
10. Caucus	j. Term commonly used to refer to a variety of alternatives to litigation, wherein a neutral party assists the disputing parties, includes a full range of dispute resolution processes between direct negotiation and litigation.



## 10. Mediation vocabulary (II).

Provide the term for each definition.

[Sources: 1. “Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation”. Reproduced with permission. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net); 2. <https://www.jamsadr.com/adr-glossary/>; <http://expert-evidence.com/mediation-terminology-things-you-must-know/>; 3. “The implementation of the Mediation Directive 29 November 2016”. This study was commissioned, overseen and published by the European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs at the request of the Parliament’s Committee on Legal Affairs. It is available on the European Parliament website [www.europa.europa/studies](http://www.europa.europa/studies) free of charge. It is republished by ERA with the permission of the European Parliament]

- |  |                           |                       |
|--|---------------------------|-----------------------|
| a. mediator                            | g. joint session          | l. indirect mediation |
| b. reframing                           | h. counselling            | m. reality testing    |
| c. irreconcilable                      | i. mediated agreement     | n. resolution         |
| d. impartiality                        | j. direct mediation       | o. opening statement  |
| e. (early) neutral evaluation          | k. out-of-court mediation |                       |
| f. court based/court annexed mediation |                           |                       |

1. An agreement or partial agreement in mediation; this may be underpinned by a settlement agreement document.

2. An essential attitude for a mediator, which implies that they will not favour one party **or the other’s perspective and must treat both as equal.**

3. Part of the mediation process where parties are brought together.

4. An impartial third party who facilitates negotiations between disputing parties and may evaluate the relative merits of the claims and defences, without prejudice to the professional background or specific requirements they may have to fulfil in a given legal system.

5. **Oral presentations which take place after the mediator’s opening address that allow each party to present their case.**

6. A tool used by mediators to help parties test what they see by outlining to them the picture they have drawn of their position. This can help participants stay flexible and open-minded in the process.

7. A tool used by mediators to change around the order in which words and ideas are presented, in order for participants to see the point more clearly, differently or more positively.

8. A process that can be used to assist couples or families in dealing with relationship problems.

9. When the parties receive a non-binding expert evaluation of their legal situation.

10. Mediation in which both parties directly and simultaneously participate in the mediation sessions with the mediator, either face-to-face or using video/teleconferencing facilities.

11. Mediation in which the parties do not directly meet one another, but meet with the mediator separately.

12. Mediation services that are run by or through the court itself.

13. Mediation operated by a body not directly linked to the court.

14. The outcome of mediation, i.e. the agreed solution reached by the parties in mediation (in some jurisdictions referred to as **‘memorandum of understanding’** to avoid any assumption as to the legal nature of the mediated result).

15. **Something for which a solution is not possible (e.g. “\_\_\_\_\_ differences”) or which cannot be made compatible (e.g. “\_\_\_\_\_ judgments”)**

## 11. Opposites (antonyms).

Provide the opposites (antonyms) for the following words:

[Sources: 1. “The implementation of the Mediation Directive 29 November 2016”. This study was **commissioned, overseen and published by the European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs at the request of the Parliament’s Committee on Legal Affairs. It is available on the European Parliament website [www.europa.europa/studies](http://www.europa.europa/studies) free of charge. It is republished by ERA with the permission of the European Parliament;** 2. “Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation”. Reproduced with permission, Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net); 3. Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters].

- |                    |                   |
|--------------------|-------------------|
| 1. Certain         | 26. Appropriate   |
| 2. Security        | 27. Certainty     |
| 3. Justice         | 28. Written       |
| 4. Proper          | 29. Confidential  |
| 5. Internal        | 30. Effective     |
| 6. Better          | 31. Flexibility   |
| 7. Necessary       | 32. Partial       |
| 8. Improve         | 33. Available     |
| 9. Simplify        | 34. Minimum       |
| 10. Interested     | 35. Compliance    |
| 11. Inclusion      | 36. Concerned     |
| 12. Internal       | 37. Private       |
| 13. Agreement      | 38. Enforceable   |
| 14. Voluntarily    | 39. Recognition   |
| 15. Likely         | 40. Applicable    |
| 16. Sustainable    | 41. Compatibility |
| 17. Relevant       | 42. Ability       |
| 18. Predictable    | 43. Information   |
| 19. Constitutional | 44. Legal         |
| 20. Frequent       | 45. Sufficiently  |
| 21. Formal         | 46. Fortunate     |
| 22. National       | 47. Successfully  |
| 23. Responsible    | 48. Best          |
| 24. Competent      | 49. Equal         |
| 25. Possibility    | 50. Approval      |

## 12. Passive structures

Passive structures are extremely frequent both in colloquial English and in specialised languages, where often the agent, that is, the person who does an action (*who*) is less important than the object (*what*), that is, what is done.

In passive structures the noun (or noun phrase) that would be the object of an active sentence (as in “**The gardener watered the flowers**”) becomes the subject of a sentence in the passive voice (“*The flowers were watered by the gardener*”).

Build the correct passive structure for the following sentences, which are in the active:

*[Source: reproduced with permission. Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net)]*

1. One can lose precious time in attempting mediation in cases where one party is clearly not willing to engage in the mediation process.

---

2. One may need to give consideration to the possibility that drug or alcohol abuse by one **of the parties may result in that person's inability to protect her or his interests.**

---

3. Even where both parties agree to mediation, one needs to pay attention to specific circumstances such as possible indications of domestic violence.

---

4. One should screen potential mediation cases for the presence of domestic violence or other circumstances.

---

5. One needs to pay attention to differences in bargaining power that are simply resulting from the personalities of the parties.

---

6. One should not see mediation and similar processes facilitating agreed solutions as a complete substitute for judicial procedures, but as a complement.

---

7. One has to emphasise that even where mediation and similar processes introduced at an early stage of an international family dispute are able to avoid litigation, one will frequently require **complementary 'judicial processes' to render an agreed solution legally binding and enforceable** in the legal systems concerned.

---

8. One needs to take safeguards to protect the rights and welfare of children in mediation.

---

9. The court in a contact or custody decision will take into consideration the best interests of the child and in many jurisdictions will hear the voice of the child if of sufficient age and maturity.

---

10. A judge may hear the child in person or have a specialist interview the child.

---

11. When one offers mediation to the parties to an international family dispute, one needs to inform them that mediation is not their only recourse.

---

12. It is important to give the parties access to relevant legal information.

---

## 13. Agreeing and disagreeing

Do this activity in pairs. Use the following table as a reference to discuss with your partner the questions/topics that come after it.

### AGREEING AND DISAGREEING

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

Agreement	Negative agreement
<b>There are many reasons for...</b>	Neither do I
There is no doubt <del>that...</del> /about it <del>that...</del>	Nor does she
I simply must agree with that.	Neither am I
I am of the same opinion (as...)	Nor am I
<b>I completely/absolutely agree with...</b>	<b>I don't (think so)</b>
I agree	Me neither (colloq.)
<b>You're right</b>	
So do I / So am I	
I share your concerns/views/fears about...	

Qualified disagreement	Disagreement
It is only partly true that...	There is more to it than that / than meets the eye
I can agree with that only with reservations.	<b>The problem is that...</b>
<b>That seems obvious, but...</b>	I (very much) doubt whether...
That is not necessarily so.	<b>This is in complete contradiction to...</b>
It is not as simple as it seems.	What is even worse, ...
<b>Under certain circumstances...</b>	I am of a different opinion because ...
I agree up to a point	I cannot share this / <b>that / the view that...</b>
I broadly agree, but...	I cannot agree with this idea.
There is some truth in..., but...	What I object to is ...
Yes/ok/right, however...	Unlike ... <b>I think ...</b>
That is a contentious/controversial issue	<b>I don't think so</b>
	I disagree/ <b>I don't agree</b>
	<b>To take issue with sth or sby's view/opinion</b>
	<b>'I don't like him'. ... 'Well, I do'.</b>

#### CERTAINTY AND UNCERTAINTY

Certainty	Uncertainty
I am (absolutely) certain that...	I am not certain that.../ I am uncertain that... I am not sure / I am unsure that...
I am sure that	I imagine / I suppose/ I guess
I am convinced that...	I have (my) doubts about / I am dubious about...
I am (quite) confident that...	<b>Probably / possibly / apparently...</b>
I am (fully) satisfied that...	<b>Perhaps...</b>
I have no doubt that / I am in no doubt that...	<b>Maybe...</b>
He is, without (any) doubt...	To the best of my knowledge/As far as I am aware...
There is no doubt that...	<b>Apparently...</b>
There is no denying/disputing the fact that	Not to my knowledge
Certainly / Undoubtedly...	Not that I am aware of

## KEY FEATURES OF FAMILY MEDIATION

*[Source: reproduced with permission. Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net)]*

Read this text and then do the activities below:

The main features of mediation are the following:

1. It is voluntary.
2. It requires informed consent by the parties.
3. An assessment of suitability for mediation is necessary.
4. It must be neutral, independent, impartial and fair.
5. It has to be confidential.
6. It always has to take into consideration the interests and welfare of the child.
7. Informed decision-making and access to appropriate legal advice by the parties is necessary.
8. It must be done by qualified mediators who –ideally- should be bicultural and bilingual.

Discuss with your partner whether you agree or disagree with the following statements:

### 1. Mediation is voluntary.

Discuss the following statements:

Even in jurisdictions where it is compulsory for the parties to a dispute to attempt mediation, this is compatible with the voluntary nature of mediation as long as the parties are not forced to actually settle their dispute in mediation.

In international child abduction cases, the use of mediation should not delay expeditious **return proceedings, and thus the use of ‘compulsory’ measures to promote mediation** has to be considered carefully.

The institution of Hague return proceedings should not depend on the attendance of both parties at a mediation information session, especially if, as a result, the taking parent would be given the possibility to delay unilaterally the institution of proceedings.

### 2. Mediation requires informed consent by the parties.

Discuss the following statement:

All necessary information on mediation and connected issues (costs, method, model, access to judicial proceedings, etc.) should be provided to the parties in advance of the mediation process to allow the parties to make an informed decision about entering into mediation.



### 3. Mediation requires an assessment of the suitability for mediation.

Discuss the following statements:

Before commencing mediation in international child abduction cases, an initial screening should be conducted to assess the suitability of the individual case for mediation, which helps to avoid delays that can be caused by attempting mediation in cases poorly suited to it.

Among the many issues that may affect the suitability of an international child abduction case for mediation, are:

- willingness of the parties to mediate,
- whether the views of one or both of the parties are too polarised for mediation,
- indications of domestic violence and its degree,
- incapacity resulting from alcohol or drug abuse,
- other indications of a severe imbalance in bargaining powers,
- indications of child abuse.

### 4. Mediation must be neutral, independent, impartial and fair.

Discuss the following statement, explaining how all these conditions can be specifically met during a mediation process:

Mediation should be neutral in relation to the outcome of the process. The mediator needs to be independent as to the way in which he or she conducts mediation. At the same time, the mediator needs to be impartial towards the parties. Finally, the mediation must be conducted fairly. The latter implies that the parties need to be given equal opportunity to participate in the mediation process.

### 5. Mediation must be confidential.

Discuss the following statements:

The parties may be less willing to consider different options if they fear that their proposals may be taken as a concession and held against them in legal proceedings.

In a child abduction case the left-behind parent is likely to feel reluctant to indicate that he or she could agree to the child remaining in the other jurisdiction, if he or she fears that **this might be interpreted as 'acquiescence' in the sense of Article 13(1) a) of the 1980 Hague Child Abduction Convention.**

Passing on purely administrative information (for example, on whether the mediation has commenced, is continuing or has been terminated) to the competent court or Central Authority who was involved in the referral to mediation does not infringe confidentiality.

6. Mediation must take into consideration the interests and welfare of the child.

Discuss the following statement:

The mediator should encourage parents to focus on the needs of the children and remind **them of their prime responsibility for their children's welfare**, and of the need for them to inform and consult their children.

7. Mediation requires informed decision-making and access to appropriate legal advice by the parties.

Discuss the following statements:

A mediator conducting mediation in international child abduction cases needs to draw the **parties' attention to the importance of considering the legal situation in both (all) legal systems** concerned.

The parties need to be fully aware of their rights and duties, as well as the legal consequences of their decisions.

8. Mediation must be done by qualified mediators who –ideally- should be bicultural and bilingual.

Discuss the following statements:

Mediators need to be knowledgeable of, and sensitive to, the cultural and religious issues that may be involved.

It is not the nationality of the professional mediators per se which makes them particularly well-suited to conduct mediation in tandem in cases where parties from the **mediators' home countries are involved. It is rather the mediator's cultural background and resulting ability to understand the party's values and expectations which are** important, as well as the ability to translate culturally linked verbal and non-verbal communication in a way that renders it more understandable for the other party.

Read the following summary of the four types of mediation processes in the EU:

(...) we have identified four distinct mediation models that Member States have used in implementing the Directive. (...) The four models are:

1. Full Voluntary Mediation: the parties can engage a mediator to facilitate the resolution of any dispute that they have not been able to settle by themselves. In this case, a mediation legal framework is not even required.
2. Voluntary Mediation with Incentives and Sanctions: the parties are encouraged to have recourse to mediation, thus fostering the practice. This model requires a mediation law in place.
3. Required Initial Mediation Session: the parties are required to attend an initial meeting with a mediator, free or at a moderate fee, to establish the suitability of mediation. This model, too, requires a mediation legal framework.
4. Full Mandatory Mediation: the parties must attend and pay for a full mediation procedure as a prerequisite to going to court. The mandatory aspect applies only to attending the full procedure, while the decision to reach a settlement is always voluntary.

Now look at the following tables and the data they offer. Check the specific information for your Member State and choose another MS that has a different system to compare it with:

Table 1: Commercial and Civil Law Disputes

Mediation Model	Member State
Full voluntary	Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Latvia, Lithuania, Luxembourg, Netherlands Portugal, Romania, Spain, Sweden, United Kingdom.
Voluntary with incentives and/or sanctions	Croatia, Estonia, Greece, Hungary, Ireland, Italy (in 92% of civil and commercial dispute matters), Malta, Poland Slovakia, Slovenia.
Required initial mediation session	Czech Republic, Italy (in 8% of civil and commercial dispute matters).
Full mandatory mediation	NONE.

Table 2: Family Law Disputes

Mediation Model	Member State
Full voluntary	Austria, Belgium, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Malta, Netherlands, Poland, Portugal, Romania, Spain, Sweden.
Voluntary with incentives and/or sanctions	Slovakia, Slovenia.
Required initial mediation session	Lithuania, Luxembourg, United Kingdom.
Full mandatory mediation	Croatia, Hungary.

Table 3: Labour Law Disputes

Mediation Model	Member State
Full voluntary	Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.
Voluntary with incentives and/or sanctions	Greece.
Required initial mediation session	NONE.
Full mandatory mediation	Austria, Croatia, Lithuania, Malta.

## 14. The subjunctive

The subjunctive has practically disappeared from general English, with perhaps the only exception of very formal/very academic language<sup>2</sup>.

Here are some important aspects to remember about the subjunctive:

1. It has the following structure: adjective/noun/verb + (that) + subject + the infinitive (without “to”). **Do not forget that** the verb does not show concordance with the subject.

**It’s important that** *the husband be* at the mediation meeting at 10.

The mediator demanded that *the wife calm down*.

What do you suggest *we do*?

2. In colloquial language it has been replaced by the verb in the present, in the past, with “**should**” or the verb + object + “**to**” (*It is essential that the evidence is considered; The court requested the applicant to send the form*).

The most frequent cases where the subjunctive is used are the following:

1. After adjectives such as “important”, “essential”, “crucial”, “advisable”, “urgent”, etc.

*It is essential that both parties be present at the initial meeting.*

*It is crucial that the interplay of two legal systems be taken into account in cross-border mediation.*

2. After verbs such as: “ask”, “advise”, “command”, “demand”, “insist”, “order”, “propose”, “recommend”, “request”, “require”, “suggest”, “urge”.

*We will recommend that both parties attend a first meeting.*

3. After nouns, in expressions like the following:

*There is also the recommendation that both parties attempt Alternative Dispute Resolution.*

*There is the obligation that the agreement be approved by a judge.*

The use of the subjunctive seems very awkward when it involves a passive structure, a negative structure or a continuous tense, as in the following examples:

*It is important that the defendant be waiting* for her lawyer in the courtroom.

He insisted *that mediation not be* resorted to in this case.

They recommended *that the agreement be reached* as soon as possible.

---

<sup>2</sup> There are a few cases when it is used in general English (for example, fixed expressions: ‘God save the Queen’, ‘so be it’, ‘God bless you’, etc.). It is also occasionally seen in clauses expressing a condition, such as *If I be found guilty...* This usage is old-fashioned and excessively formal but it is still found in some common fixed expressions such as *if need be, be it an example or a real case...*

Now use the subjunctive in the following sentences (in some cases you will need a passive structure):

[Source: reproduced with permission. Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net)]

1. It is highly recommended that, before the mediation agreement is finalised, a limited time for reflection \_\_\_\_\_ (*give*) to the parties to enable them to obtain specialist legal advice on the full legal consequences.
2. The Council approved the proposal of the Permanent Bureau that the Guide to Good Practice for Mediation in the context of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction \_\_\_\_\_ (*submit*) for consultation to Members by the beginning of 2010.
3. In April 2011 the Council welcomed the Principles for the establishment of mediation structures **in the context of the Malta Process (...)** and agreed that the Principles \_\_\_\_\_ (*present*) for discussion at the Sixth Meeting of the Special Commission.
4. It is essential that **the Member State's** Central Authority \_\_\_\_\_ (*cooperate*) both in general matter and in specific cases, including for the purposes of promoting the amicable resolution of family disputes, in matters of parental responsibility.
5. In family mediation there is the recommendation that all appropriate steps \_\_\_\_\_ (*take*) to encourage the parties to a cross-border family dispute concerning children to find an agreed solution.
6. It is advisable that in international child abduction cases the use of mediation \_\_\_\_\_ (*not delay*) expeditious return proceedings.
7. All Member States demand that parties in need of a mediation \_\_\_\_\_ (*not, deny*) access to justice.
8. It is recommended that potential mediation cases \_\_\_\_\_ (*screen*) for the presence of domestic violence, as well as drug and alcohol abuse and other circumstances that may affect the suitability of the case for mediation.
9. It is suggested that mediation in child abduction cases under the 1980 Hague Child Abduction Convention \_\_\_\_\_ (*restrict*) to discussing the modalities of the immediate return of the child to the competent jurisdiction.
10. It is necessary that the parties \_\_\_\_\_ (*be*) aware that the exclusion of any matters from the scope of the mediation at this stage does not constitute an obstacle to taking up these matters in separate mediation sessions at a later stage.
11. It is important that parents \_\_\_\_\_ (*be*) well informed about the law applicable to the subject matter dealt with in mediation as well as the law applicable to the mediation process itself.
12. It is important that the parties \_\_\_\_\_ (*have*) access to relevant legal information.
13. It is strongly recommended that, before the mediated agreement is finalised, \_\_\_\_\_ (*there is*) a **'time-out' for the parties to obtain specialist legal** advice regarding the full legal consequences of what they are about to agree on.

## 15. Word building

Choose the most appropriate word form for each gap. There is a clue for you in brackets:

[Source: reproduced with permission. Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net)]

### RENDERING THE AGREEMENT LEGALLY BINDING AND ENFORCEABLE

- 1        - The terms of the (1) \_\_\_\_\_ (*mediation*) agreement need to be drafted in  
2        such a manner as to allow for the agreement to obtain (2) \_\_\_\_\_ (*law*)  
3        effect and become (3) \_\_\_\_\_ (*enforce*) in the relevant jurisdictions.
- 4        - It is highly (4) \_\_\_\_\_ (*recommendation*) that, before the agreement is  
5        finalised, a limited time for (5) \_\_\_\_\_ (*reflect*) be given to the parties to  
6        enable them to obtain specialist legal advice on the full legal consequences and on  
7        whether the (6) \_\_\_\_\_ (*contain*) **of their 'provisional agreement' complies**  
8        with the law (7) \_\_\_\_\_ (*application*) in the different legal systems  
9        concerned.
- 10       - The measures (8) \_\_\_\_\_ (*need*) to give legal effect to the agreement and  
11       render it enforceable in the (9) \_\_\_\_\_ (*relevance*) jurisdictions should be  
12       taken **with due speed and before the agreement's implementation.**
- 13       - (10) \_\_\_\_\_ (*accede*) to information on the relevant procedures in the  
14       jurisdictions concerned should be facilitated by Central Authorities or Central  
15       Contact Points for international family mediation.
- 16       - Co-operation among (11) \_\_\_\_\_ (*administer/judge*) authorities may be  
17       needed to help facilitate the enforceability of the agreement in all the States  
18       concerned.
- 19       - States should, where necessary, examine the (12) \_\_\_\_\_ (*desire*) of  
20       introducing regulatory or (13) \_\_\_\_\_ (*legislation*) provisions to facilitate  
21       procedures for rendering mediated agreements enforceable.
- 22

23 With a view to its serving as a basis for a (14) \_\_\_\_\_ (*sustain*) dispute resolution, the  
24 agreed solution reached in mediation should meet the requirements for obtaining legal effect  
25 in the States concerned and should be rendered legally (15) \_\_\_\_\_ (*bound*) and  
26 enforceable in these States before commencing with its practical implementation. The  
27 enforceability in both (all) legal systems concerned is particularly crucial where the agreed  
28 solution involves the cross-border exercise of parental responsibility. The child concerned  
29 needs to be protected from a possible re-abduction in the future, or from any other harm  
30 caused **through a parent's lack of** (16) \_\_\_\_\_ (*comply*) with the agreement. At the  
31 same time, once the parents have agreed, a return of the child should be implemented as  
32 (17) \_\_\_\_\_ (*speed*) as possible to avoid any further confusion or (18) \_\_\_\_\_  
33 (*alien*) for the child.

34 To start with, the (19) \_\_\_\_\_ (*solve*) reached in mediation should be documented in  
35 (20) \_\_\_\_\_ (*written*) and signed by both parties. Depending on the matters dealt  
36 **with in the parties' agreement and depending on the** (21) \_\_\_\_\_ (*apply*) law, an  
37 agreement might constitute a legally binding contract between the parties from the moment  
38 of its (22) \_\_\_\_\_ (*conclude*). Many legal systems, however, restrict party autonomy  
39 in family law to a certain (23) \_\_\_\_\_ (*extend*), particularly when it comes to  
40 parental responsibility. Here, many States consider that the rights and welfare of the child  
41 concerned need to be safeguarded through the (24) \_\_\_\_\_ (*involved*) of judicial or  
42 administrative authorities. Agreements concerning the exercise of (25) \_\_\_\_\_  
43 (*parent*) responsibilities, which are nonetheless encouraged by most of these systems, might,  
44 for example, need court (26) \_\_\_\_\_ (*approve*) **verifying that they comply with 'the**  
45 **best interests of the child' to obtain legal effect.**

46 It should also be noted that a situation may arise where among the different matters dealt  
47 with in the mediated agreement some are at the free (27) \_\_\_\_\_ (*dispose*) of the  
48 parties and some are not, and that according to the applicable law, the agreement becomes  
49 immediately binding on the parties in relation to the former matters, while the latter part of  
50 the agreement depends on court approval. This can be an (28) \_\_\_\_\_ (*fortune, in*  
51 *the negative*) situation if the court approval is not obtained (or obtainable) for the (29)  
52 \_\_\_\_\_ (*remain*) of the agreement, since the parties will usually agree on a whole  
53 **'package' and the partially binding agreement might favour one of the parties.**

54 Since the legal situation in international family disputes is often complex, it is (30)  
55 \_\_\_\_\_ (*strength*) recommended that, before the mediated agreement is finalised,  
56 **there be a 'time-out' for the parties to obtain specialist legal advice regarding the full legal**



57 consequences of what they are about to agree on and whether the content of their ‘(31)  
58 \_\_\_\_\_ (provision) agreement’ complies with the law applicable to these matters in  
59 the different legal systems concerned. It might be that a parent is not aware that he or she is  
60 agreeing to relinquish (32) \_\_\_\_\_ (certainty) rights, or that the agreement or its  
61 practical implementation may lead to a (long-term) change in jurisdiction and the law  
62 applicable to certain matters. For example, where a left-behind parent agrees to the (33)  
63 \_\_\_\_\_ (relocate) of the child and taking parent, this will sooner or later bring about  
64 a change of the ‘habitual residence’ of the child, which is (34) \_\_\_\_\_ (likelihood) to  
65 result in a change of jurisdiction and applicable law regarding a number of child related  
66 issues.

67 If all or part of the agreement’s (35) \_\_\_\_\_ (valid) depends on court approval, the  
68 terms of the agreement should include that its (36) \_\_\_\_\_ (enter) into force will be  
69 conditional upon the court’s approval being successfully obtained. In these cases it may be  
70 (37) \_\_\_\_\_ (advice) to refer to the outcome of mediation as a ‘provisional  
71 agreement’ and to reflect this in the title and (38) \_\_\_\_\_ (word) of the document  
72 recording the agreed solution. In some legal systems, mediators refer to the immediate  
73 outcome of mediation as a ‘memorandum of understanding’ instead of ‘agreement’ to avoid  
74 any (39) \_\_\_\_\_ (suggested) that the agreement is binding at that stage.

75 It should be emphasised that not every agreement which is legally binding on the parties in  
76 one legal system is also (40) \_\_\_\_\_ (automated) enforceable in that legal system.  
77 However, in those legal systems where agreements relating to parental responsibility require  
78 the approval of judicial or administrative authorities to become legally binding, the measure  
79 granting the approval (for example, the (41) \_\_\_\_\_ (include) of the terms of the  
80 agreement in a court order) will often be at the same time the measure rendering the  
81 agreement enforceable in that jurisdiction. On the other hand, a parental agreement which is  
82 upon its conclusion legally binding in a legal system may require (42) \_\_\_\_\_  
83 (notary), or homologation by a court, in order to render it enforceable, unless the laws of  
84 that State regulate otherwise. For the formalities required to render mediated agreements  
85 enforceable by Contracting States to the 1980 Hague Child Abduction Convention, the  
86 Country Profiles under the 1980 Convention can serve as a (43) \_\_\_\_\_ (use) source  
87 of information.

## 16. Multiple choice

Choose the most appropriate option:

*[Source: reproduced with permission. Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation. Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net)]*

### THE VOICE OF THE CHILD IN MEDIATION

- **The child's views should be considered in mediation** (1) \_\_\_\_\_ **the child's** age and (2) \_\_\_\_\_.

- |                        |                      |                       |
|------------------------|----------------------|-----------------------|
| 1. a. in conformity to | b. in agreement with | c. in accordance with |
| 2. a. ripeness         | b. maturity          | c. matureness         |

- **How the child's** (3) \_\_\_\_\_ can be introduced into the mediation and whether the child should be involved directly or indirectly must be given careful consideration and depend (4) \_\_\_\_\_ the circumstances of the individual case.

- |             |           |            |
|-------------|-----------|------------|
| 3. a. views | b. sights | c. visions |
| 4. a. of    | b. on     | c. from    |

In international family disputes concerning children, the (5) \_\_\_\_\_ of the child in the (6) \_\_\_\_\_ of the dispute can serve different purposes. First, (7) \_\_\_\_\_ **the child's views provides** (8) \_\_\_\_\_ his or her feelings and (9) \_\_\_\_\_, which may be important information when it (10) \_\_\_\_\_ determining whether a solution is in the **child's** (11) \_\_\_\_\_. **Second, it may open the parents' eyes to their child's wishes and help** them to (12) \_\_\_\_\_ themselves from their own positions (13) \_\_\_\_\_ **an acceptable common solution. Third, the child's involvement respects the child's** (14) \_\_\_\_\_ while at the same time providing an opportunity for the child to be informed about what is going on.

- |                             |                       |                      |
|-----------------------------|-----------------------|----------------------|
| 5. a. implication           | b. attendance         | c. involvement       |
| 6. a. resolution            | b. solution           | c. agreement         |
| 7. a. listening of          | b. listening to       | c. hearing of        |
| 8. a. insight of            | b. insight to         | c. insight into      |
| 9. a. wishes                | b. desires            | c. cravings          |
| 10. a. arrives to           | b. comes to           | c. is on             |
| 11. a. best benefit         | b. better interest    | c. best interests    |
| 12. a. further              | b. distance           | c. depart            |
| 13. a. for the sake of      | b. for the account of | c. for the reason of |
| 14. a. right to be listened | b. right to be heard  | c. right to speak    |

When it comes to ‘hearing the voice of the child’ in mediation, two major differences exist (15) \_\_\_\_\_. judicial (16) \_\_\_\_\_. First, the means by which a child’s voice may be introduced into the mediation process may differ considerably from those (17) \_\_\_\_\_ in the context of judicial proceedings. Second, there is a difference in the manner in which the child’s opinions and wishes can be taken into consideration.

- |                         |                        |                       |
|-------------------------|------------------------|-----------------------|
| 15. a. on comparison to | b. in comparative with | c. in comparison with |
| 16. a. process          | b. proceedings         | c. procedure          |
| 17. a. available        | b. disposable          | c. ready              |

Whether and the means by which the voice of the child can be introduced in the mediation process will to some extent depend on the parents’ agreement to a certain (18) \_\_\_\_\_. This is due to the fact that in most (19) \_\_\_\_\_ mediators do not have (20) \_\_\_\_\_ powers, i.e., in contrast to judges, mediators are generally not in a position to (21) \_\_\_\_\_ the child to a hearing or to order (22) \_\_\_\_\_ interview of the child and a (23) \_\_\_\_\_ being drawn up. The mediator can only draw the parents’ attention to the importance of hearing the child’s voice and indicate, where applicable, that the court requested to render the agreement legally (24) \_\_\_\_\_ and (25) \_\_\_\_\_ may examine whether the child’s views have been (26) \_\_\_\_\_ taken into account.

- |                      |                 |                       |
|----------------------|-----------------|-----------------------|
| 18. a. proceeding    | b. protocol     | c. procedure          |
| 19. a. jurisdictions | b. territories  | c. trials             |
| 20. a. questioning   | b. examination  | c. interrogative      |
| 21. a. call          | b. summon       | c. subpoena           |
| 22. a. an expert     | b. an expertise | <b>c. an experts’</b> |
| 23. a. opinion       | b. report       | c. statement          |
| 24. a. mandatory     | b. forceful     | c. binding            |
| 25. a. implementable | b. enforceable  | c. executable         |
| 26. a. sufficiently  | b. enough       | c. completely         |

The mediator should recommend a procedure of introducing the child’s voice into mediation taking into consideration the circumstances of the individual case (e.g., the age of the children, the risk of (27) \_\_\_\_\_, whether there is a history of domestic violence, etc.). One possible option is the direct participation of the child in one or more of the mediation sessions. Another possibility is arranging for a separate interview of the child and reporting back to the parents. However, the person interviewing the child needs to have specialised training, to guarantee that the (28) \_\_\_\_\_ with the child is conducted in a ‘supportive, and developmentally appropriate manner’ and to ensure ‘that the style of consultation avoids and removes any (29) \_\_\_\_\_ of decision-making from the child’.

- |                     |                     |               |
|---------------------|---------------------|---------------|
| 27. a. re-abduction | b. re-sequestration | c. re-removal |
| 28. a. appointment  | b. consultation     | c. conference |

29. a. onus

b. weight

c. burden

Once the child's views have been introduced into the mediation process, the manner of taking them into consideration also differs from judicial proceedings. In judicial proceedings, the judge will (30) \_\_\_\_\_ his/her conclusions from the (31) \_\_\_\_\_ and, depending on the age and maturity of the child, will take the **child's views into consideration when making his/her decision regarding the child's best interests. In contrast, a mediator can only draw the parties' attention to the child's** (32) \_\_\_\_\_ or to aspects that (33) \_\_\_\_\_ be relevant to the interests and (34) \_\_\_\_\_ of the child, but it (35) \_\_\_\_\_ entirely up to the parents to decide on the content of their agreement. As already stated **above, it needs to be emphasised in this respect that the mediator 'should have a special concern for the welfare and best interests of the children (and) should** (36) \_\_\_\_\_ parents to focus on the needs of children and should remind parents of **their prime responsibility relating to the welfare of their children (...)'.**

30. a. draft

b. make

c. draw

31. a. proceedings

b. hearing

c. trial

32. a. point of view

b. point of sight

c. stance

33. a. may

b. can

c. ought

34. a. well-being

b. farewell

c. welfare

35. a. stays

b. remains

c. stands

36. a. stimulate

b. promote

c. encourage

Depending on the legal systems involved, the mediator may also need to remind the parents that judicial (37) \_\_\_\_\_ of the agreement may depend on whether the rights and interests of the children have been properly protected.

37. a. passing of

b. acquiescence with

c. approval of

## 17. Inversion

[Source: “Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation”. Reproduced with permission, Hague Conference on Private International Law, [www.hcch.net](http://www.hcch.net)]

Read the following paragraph on page 36 of the “Guide to Good Practice under The Hague Convention of 25 October 1980 on the Civil Aspects of International **Child Abduction. Mediation**”:

“The provision of travel documents may also play an important part in the result of legal proceedings or mediation in an international parental dispute. For example, where the return of a child is ordered in Hague return proceedings, the taking parent might need travel documents to re-enter the **State of the child’s habitual residence together with the child**. States should facilitate the provision of necessary travel documents in such cases. The same applies to cases where the taking parent decides to return the child voluntarily, including where a return of the child and parent has been agreed on in mediation. Nor should visa and immigration issues constitute an obstacle to the cross-border exercise of contact rights”.

**“NOR SHOULD VISA AND IMMIGRATION ISSUES CONSTITUTE AN OBSTACLE (...)”**

This structure is called **‘inversion’**. In this kind of structure the order is reversed and the verb phrase or the operator comes before the subject (*Only once have I been in court*). Verbs that are not modal verbs or that are not the verbs *to be/to have* place the operator before the verb, as in a question (*At no time did defence lawyer interview the witness; Only then did the claimant react to the submissions by the defence lawyer*). In legal English you will find inversion in the following cases<sup>3</sup>:

1. As a conditional clause (instead of an *if*-clause):

*Had the prosecutor been aware of the existence of a witness...*

*Should the court issue judgment in the afternoon...*

*Were the judge to dismiss the case...*

2. In subject-operator inversion, in the following cases:

- a) Degree expressions with *so* and *such*.

*So anxious was Mary about being summoned to court that she could hardly breathe for a while.*

*Such was the relevance of the new case that the judge had to adjourn another case before him.*

- b) Negative and restrictive opening elements: *neither, nor, never, nowhere, on no condition, not only, hardly, no sooner, rarely, seldom, little, less, only*, etc.

*Rarely have I seen contempt of court in all my years of practice.*

*Little did the defendant know that new evidence was about to be produced.*

*‘I wasn’t aware that it was the right moment for submissions.’ ‘Nor was I’.*

---

<sup>3</sup> In general English you may have seen it in formulaic expressions such as *So help me God; Long live the Queen, etc.*

Now do inversion in the following sentences:

1. National courts rarely provide mediation assistance in such cases.

*Rarely* \_\_\_\_\_

2. There have seldom been so many civil cases where mediation is resorted to.

*Seldom* \_\_\_\_\_

3. In complicated family cases, parties must never be left alone with each other throughout the mediation sessions.

*In complicated cases, never* \_\_\_\_\_

4. Some Member States will never support compulsory mediation in civil cases.

*Never* \_\_\_\_\_

## 18. Reading and giving an opinion

[Source: Draft report on the implementation of Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (the **Mediation Directive**)]

The following expressions are frequently used in English to give an opinion:

I think/believe that... / I don't think believe that...	It seems to me that...
In my opinion... / I am of the opinion that...	From my point of view... / I hold the view that...
I am sure / certain / I have no doubt that...	I have the feeling that... / My feeling on the subject is that...
My impression is that...	As for me...
My view / opinion / belief / conviction / impression is that...	I would say that...
I guess / bet / gather / imagine / presume / find / consider / think / feel / believe / assume...	In my view / eyes...
To my mind...	As far as I am concerned...
I am under the impression that...	It goes without saying that...
Speaking personally...	I dare say that...

(1) Below is a summary of the main findings on the implementation of the Mediation Directive. Say your opinion about the different approaches by Member States and then answer the questions after the text.

- 1 - Almost all Member States opted to extend the Directive's requirements to domestic
- 2 cases;
- 3 - A number of Member States allow the use of mediation in civil and commercial
- 4 matters, including family and employment matters, while not explicitly excluding
- 5 mediation for revenue, customs or administrative matters or for the liability of the
- 6 State for acts and omissions in the exercise of State authority;
- 7 - All Member States foresee the possibility for courts to invite the parties to use
- 8 mediation, with fifteen Member States introducing the possibility for courts to invite
- 9 parties to information sessions on mediation;
- 10 - Less than half of the Member States have introduced an obligation in their national
- 11 laws to spread information about mediation;
- 12 - Eighteen Member States introduced binding quality control mechanisms;
- 13 - Nineteen Member States require the development of and adherence to codes of
- 14 conduct;
- 15 - Seventeen Member States encourage training or regulate it in their national
- 16 legislation.

## QUESTIONS

1. Why is it relevant that almost all Member States have extended the requirements of the Directive to domestic cases?
2. What are the matters for which mediation is not explicitly excluded by a number of Member States?
3. What is better in your opinion, to give to courts the possibility to invite the parties to use mediation, or to require courts to invite the parties to use mediation?
4. Are there mediation information sessions in your court? In what cases? Who gives such sessions?
5. Are binding quality control mechanisms a useful method for assessing the success of mediation schemes? What kind of quality controls do you think might really show if mediation works?
6. **What are ‘codes of conduct’? Do you think that codes of conduct for mediators are important when implementing mediation? Is 19 Member States with codes of conduct a sufficient number?**
7. Do you think that mediator training needs to be regulated?





# ANNEXES



## FOOD FOR THOUGHT:

**Not judging other people's communicative** style(s) through the eyes of our own culture is paramount for a successful mediation process.

In order to do that, we need to be familiar with different communicative styles across the EU.

## ANNEX 1: GOLDEN RULES IN MEDIATION

**Emotional intelligence is the ability to recognise and analyse one's emotions** as well as the emotions of other people.

1. **Avoid being defensive** (don't say things like "*It's not my fault*" or "*That's your fault*"). Find a way to apologise without necessarily admitting fault.
2. Try not to be too straightforward by using introductory structures (*'I was thinking, one possibility might be...'*).
3. **Give indication that you understand the parties' concerns by using sympathetic language.**
4. Introduce your view as a question (direct or indirect) rather than as a statement.
5. Use continuous forms rather than simple forms, they suggest flexibility (*'I was wondering...'*).
6. Tone down refusals by using negation + a positive word (*'That is not very realistic'*) or negation with prefixes (*'a bit unrealistic'*).
7. Use comparatives to soften a statement (*'It might be better to...'*).
8. Avoid specific or unrealistic promises or compromise –keep future commitments vague and/or general at the initial stages of mediation.
9. Manage anger in yourself and in the parties. Pacify the parties (they need to take it out on someone and it will be you).
10. Do not be judgmental or biased. Show balance and neutrality in the language you use.
11. Plan a realistic schedule or timetable for the mediation process.
12. Show that the process is open and avoid communicating separately with either party.

13. Do not use over-formal or legalistic language which will make the parties distance themselves from you. Use temperate, simple and cordial language.
14. Keep track of times and do not let one party monopolise interventions. Both must have equal opportunity to explain.
15. Define points of agreement and points of dispute.
16. Always be positive in your attitude and in your language. Avoid negativity.
17. Understand the conventions that govern behaviour in different cultural environments.
18. **Be aware of people's values and** beliefs, and be ready to identify and deal with cultural clashes.
19. Be sensible towards cultural stereotypes that may affect communication and interfere with it.
20. Be aware of **the parties' possibly** different communicative styles.

## ANNEX 2: PARALINGUISTICS



Source: <http://awinlanguage.blogspot.com.es/2013/05/brown-and-levinsons-politeness.html>

Paralinguistics is an area of Linguistics which studies aspects of spoken communication that do not involve words. Non-verbal communication is part of our culture and as such, it is usually unconscious **and reflects the concept of “politeness” that we have in our culture.**

We are usually not aware that we are getting across implicit information with things such as loudness (high or low), emphasis (monotone/flat or multitoned/varied), pitch (higher or lower), speed **or “pace”** (fast or slow), articulation (how clear your voice is), tone (enthusiastic, monotone, sarcastic, etc.), turn-taking, intonation (rising or falling), use of pause (**hesitation, disagreement, uncertainty, uneasiness...**), **physical closeness, facial or** body expression or gestures (nodding, smiling, etc.), pronunciation (BrE vs. AmE, etc.), etc.

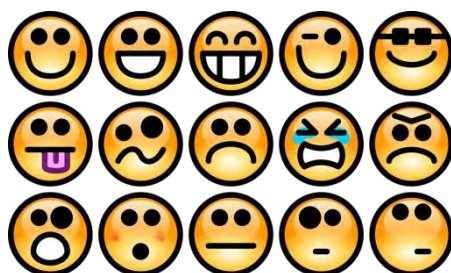
The problem is not what we do or say (which is acceptable within our own culture), but how people from other cultures perceive these signs and interpret them according to their own world view → misunderstandings.

Examples:

Style A	Style B
Soft-spoken.	Quite loud.
Emphasis used only when needed.	(Ab)use of emphasis.
Pace and rhythm in speech.	High speed when talking.
Correct articulation (no need to rush speech).	Little attention paid to articulation (speed is more important).
Monotone.	(Ab)use of tone.
Turn-taking respected (a sign of politeness) –no interruptions.	Invasion of turn-taking (a sign of interest) –frequent interruptions.
Moderate and adequate use of pauses in speech.	Few pauses in speech (silence is awkward).
<p>PERCEPTION OF STYLE “A” BY STYLE “B”:</p> <p>Extremely polite, too cold, too distant, uncaring, cryptic, too impartial, ambiguous, impassionate, inexpressive, slow speakers, too serious, lack of sense of humour, little interest in the other person, uncaring, impassive, inattentive.</p>	<p>PERCEPTION OF STYLE “B” BY STYLE “A”:</p> <p>Impolite, taking liberties, vehement, impulsive, explicit disrespectful, impertinent, too forthright and expressive, fast speakers, loud, noisy, irritating, too passionate, categorical, too intrusive with the other person, gregarious.</p>

Paralinguistics covers areas such as:

- KINESICS is the interpretation of communication through body motion such as facial expressions (eye contact, gestures, etc.), movement related to a part of the body (hands, arms, etc.) or the body as a whole (body positioning, etc.).



*Image: labelled for non-commercial re-use*

Style A	Style B
Limited amount of facial expressions.	Large amount of facial expressions that accompany verbal exchange.
Restrained facial response in meetings/classroom, etc.	High facial interaction in meetings/classroom, etc.
Tendency to move little.	Quite restless.
Restrained hand movement.	Intense hand and sometimes arm movement.
<p>PERCEPTION OF STYLE “A” BY STYLE “B”:</p> <p>Careless, cryptic (no face reading), inexpressive, remote, distant, cold.</p>	<p>PERCEPTION OF STYLE “B” BY STYLE “A”:</p> <p>Too vehement, too obvious (face reading), passionate, too involved, angry/upset.</p>

- PROXEMICS studies how space and distance influence communication (for example if our personal space is invaded).

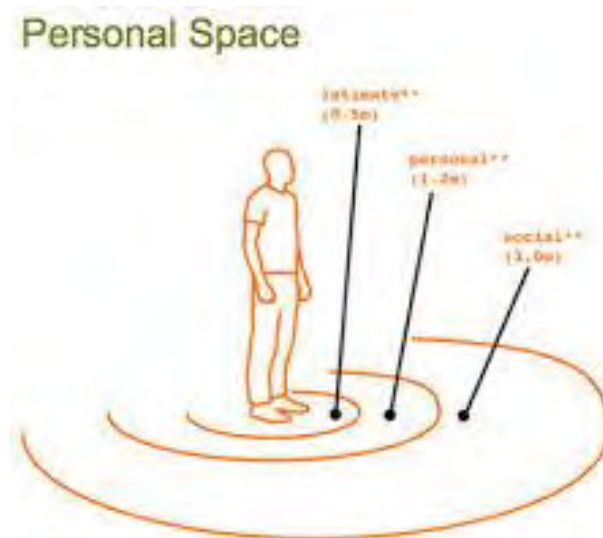


Image: labelled for non-commercial re-use

- Intimate space<sup>4</sup> (50-70cms approx.): embracing, whispering.
- Personal space (1-2 metres approx.): interaction among good friends.
- Social space (2 metres on): interaction among acquaintances.
- + Public distance: public speaking.

Style A	Style B
Spaces on the picture above show standard measures (invasion is an intrusion).	Spaces on the picture above are much shorter (invasions are regular practice).
Personal space is quite large and respected as a sign of respect (e.g. hand-shaking with stretched-out arm).	Personal space is shorter and frequently invaded as a sign of friendliness (e.g. hand-shaking at a short distance).
Reasonable distance kept in verbal exchanges.	Physical closeness in verbal exchanges.
Intimate space is hardly ever invaded (even by good friends).	Intimate space is sometimes invaded by people who are no more than acquaintances.
Social space is respected.	Intense hand (and sometimes arm) movement.
PERCEPTION OF STYLE "A" BY STYLE "B": Remote, distant, cold, inexpressive, too formal.	PERCEPTION OF STYLE "B" BY STYLE "A": Intrusive, invasion of personal space, disrespectful.

<sup>4</sup> There is also the concept of "intimate crowd" (e.g. a lift): we don't welcome strangers but we know that we have no choice in that matter and neither do they. So the solution we find is 'ignoring' them as human beings ("dehumanisation") by avoiding eye contact, having blank face expressions and using minimal gestures and movement to avoid involvement.



- HAPTICS studies the role of touch in communication.

Style A	Style B
Very little physical contact unless there is a justifiable reason to do so.	Very frequent touching (patting, kissing, hugging) as a sign of friendliness and/or caring.
PERCEPTION OF STYLE "A" BY STYLE "B":  Too remote, cold and impassive.	PERCEPTION OF STYLE "B" BY STYLE "A":  Too feely/touchy/physical, too intrusive.

## ANNEX 3: POLITENESS THEORY

[Authors used as sources: Brown & Levinson, Tannen, Leech, Mills, Maha, Alba Juez, Grice, Yule, Cummings, etc.]

It is not just *what* we say, it is *the way* we say it.



Source: <https://www.pinterest.es/pin/149181806389671015/?lp=true>

The way we view politeness in a culture has an enormous impact on the way we communicate (conversational style).

One example is how indirect a given culture is in its language (direct requests, giving specific and truthful answers, etc.).

**In Deborah Tannen's words, "conversational style makes or breaks relationships".** That happens because in general terms, the way we think is the way we talk.

Even within the same culture, misunderstandings happen all the time. Please read the following excerpt from Deborah Tannen's book *That's not What I Meant!* (2011, William Morrow Paperbacks; reprint edition) and say whether you have ever had a similar experience:

One of the biggest troublemakers in my marriage was the seemingly innocent question 'Why?' Having grown up in a family in which explanations were offered as a matter of course, I was always asking my husband 'Why?' He had grown up in a family in which explanations were neither offered nor sought, so (...) my continually asking 'why?' seemed to him an effort to show him up as incompetent. We often had conversations like this:

My husband: *'Let's go to my sister's tonight'*

Me: *'Why?'*

My husband: *'All right, we don't have to go'*

Then he would be angry with me for not being willing to do this for him, and I'd be angry with him because he had changed his mind on the spot and refused to explain why he wanted to go or why he didn't.

That's why the frequently heard advice to 'be honest' doesn't help much: we *were* being honest. But our ways of being honest were different –and mutually unintelligible.

KNOWLEDGE ABOUT CONVERSATIONAL STYLES IS ESSENTIAL IN CROSS-BORDER MEDIATION.

In broad terms in the European Union there are basically two conversational styles that focus their attention (and the language) on two different aspects:

Style A	Style B
<p>INDEPENDENCE (reflected mostly as privacy and reserve)</p> <p>'Negative face': desire to remain autonomous.</p> <p>Negative politeness: non-imposition.</p>	<p>INVOLVEMENT (reflected mostly as caring and openness)</p> <p>'Positive face': desire to be appreciated.</p> <p>Positive politeness: desire to be liked.</p>

Style A (independence) in language	Style B (involvement) in language
Direct communication (going to the point): time is money, no small talk and no questions on personal issues.	Indirect communication (beating around the bush): no hurry, more emphasis on building relationships through small talk or asking about personal issues (family, holidays, etc.).
Letting interlocutor be, not paying extra attention to anyone (equilibrium).	Paying particular attention to interlocutor (caring) and making him/her feel special.
Formality required.	Formalities waived as soon as possible (first-name terms).
Not <b>necessarily asking people's opinions</b> and not taking for granted agreement.	Counting on him/her ( <i>What do you think? Do you agree?</i> ) or taking for granted agreement ( <i>It's so difficult for us women, isn't it?</i> ).
Strictly truthful, no need to sympathise in order for communication to be successful.	Exaggeration used to show interest, approval or sympathy.
Interest shown only if truly felt.	Pretence to be interested in all that concerns interlocutor (questions asked, interruptions as proof of interest).
Use of group markers only is necessary.	Use of group markers: intimate forms of address ( <i>sweetheart, love</i> ) and diminutives.
No desire to pretend agreement with interlocutor unless really felt (open disagreement: <i>Don't you think she's too young?</i> - 'No' // 'Am I wrong?' 'Yes').	Avoidance of confrontation: pretence of agreement/covert agreement.
Truthfulness: no promises that are not kept.	Extreme desire to please interlocutor: making offers/promises that are unlikely/uncertain to be kept.
Being realistic.	Being pessimistic with oneself to play <b>down one's</b> importance ( <i>Oh, it's nothing really</i> ).
Sticking to the truth or saying nothing- no need to please the other person.	Complimenting even if it means, for example, not being truthful about others people's appearance to make them feel good.

Being straightforward about things you <b>don't like</b> .	<b>Saying you don't mind certain things</b> when you do.
Never giving explanations/apologies unless truly needed (underlying <b>principle: don't</b> bother others with personal circumstances).	Desire not to offend interlocutor (apologies + explanations), for example, giving unasked-for explanations when entering a classroom late.
No insistence. (underlying principle: you mean what you say and you say what you mean).	Invitations / offers must be declined (out of politeness) at least a couple of times ( <b>underlying principle: 'Don't be a nuisance'</b> ).
Silence is acceptable and even positive (feeling comfortable with someone).	Silence is negative, awkward or uncomfortable.
More attention is paid to the content or a message than to the form of the message.	More attention is paid to the form or a message than to the content of the message.
Respect shown by respecting turn-taking (no need to speak fast).	Interest shown by not respecting turn-taking (need to speak fast because you <i>will</i> be interrupted).
Not socially acceptable to talk about (or show) emotions or affections in public.	Socially acceptable (and appreciated) to talk about (or show) emotions or affections in public.

## ANNEX 4: HEDGING

A **'hedge'** is a mitigating element (verb tenses, modal expressions, adverbs, structures, etc.) used to **'tone down'** or lessen the impact of an utterance. They make what we say less direct.

Having an excellent command of hedging devices is an essential part of mediation; if hedges are not used, communication will very probably break down at some point.

Examples of hedging devices:

ADVERBS:

- Apparently (it appears that)
- Approximately/roughly (not completely accurate)
- Arguably (it could be argued that)
- Commonly
- Fairly (not used with comparative adjectives)
- Likely/unlikely (probability/improbability)
- Normally (a bit tricky because of what its opposite suggests)
- Not necessarily (not always)

- Perhaps
- Probably
- Possibly
- Quite (not used with comparative adjectives, comes before a/an)
- Rather (can be used with comparative adjectives and expresses surprise or negative opinion)
- Reasonably (to some extent, fairly)
- Relatively (fairly, in comparison)
- Reportedly (it is reported that)
- Slightly (can be used with comparative adjectives)
- Sometimes
- Supposedly (it is generally believed that)
- Usually
- Widely

#### MODALS (especially past or conditional tenses)

- Can (probability)
- Could (more cautious)
- May (probability)
- Might (more cautious)

#### OTHER VERBS

- Appear
- Assume
- Believe
- Contribute
- Doubt
- Estimate
- Facilitate
- Help
- Indicate
- Look
- Seem
- Suggest
- Tend

## FIXED EXPRESSIONS

- Approximately
- As a rule
- In a way
- For practical purposes
- In many respects
- In principle / as a rule
- Insofar as
- In the sense that
- More or less
- On balance
- To some extent
- Up to a point

## FIXED EXPRESSIONS WITH *THAT* CLAUSES

- **It is widely accepted that...**
- **It appears that ...**
- **It seems that...**
- **It is possible / likely / probable that...**
- **It has been suggested that ...**

**Exercise: ‘tone down’** the following statements:

1. I can do that
2. **Haven’t you prepared what I asked you to do?**
3. **I don’t think so**
4. **I don’t agree**
5. You are wrong
6. **That’s impossible**
7. I cannot do that
8. You have made a mistake

9. **Don't say that**
10. **We can't do that**
11. Bring the documents
12. Omit the details
13. Go to the point
14. **That's not a good idea**
15. **I don't see the point**
16. **That's irrelevant**
17. **I'll do it**
18. **That's not right**
19. Be careful with such statements
20. I disagree
21. I disagree
22. **You don't know that**
23. **That's wrong**
24. Listen to me
25. **That's not what I said**

# ANSWER KEY





## EXERCISE 1

### 1. What is the difference between a “judge” and a “magistrate”?

These terms are specific to each Member State. In some countries, magistrates sit in first-instance courts while judges sit in second instance courts. However, in some systems it works the other way round. In other systems, (such as Spain), all judges start off as judges when they are appointed and when they become promoted the first time, they become magistrates. In yet other systems the distinction has more to do with whether the judge sits alone or in bench. To complicate matters even further, in the UK magistrates are lay judges who sit in first instance criminal courts only, while judges are professional.

So the safest option for professional judges would be the word **“judge”**. **One can always add adjectives such as “senior” or “higher rank” if need be.**

### 2. Can you provide words that you think could be synonyms for “case”?

Action –very common.

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

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

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

Matter/issue –**“matter” is a near-synonym** depending on the context but is more frequently used to refer **to an “area of law”**; **“issue” is more of a synonym for “dispute.**

### 3. What do you call a ‘decision’ by a judge? Give all the names that you know and explain the difference between them.

Sentence (criminal only, punishment/penalty imposed).

Ruling (not final; on matters that come up during the proceedings).

Finding (on facts, not final).

Order (mostly civil with some exceptions; it is a type of decision, sometimes provisional and sometimes final; sometimes all that comes out of court is an order, sometimes the order is found within the judgment, and sometimes they are two different documents, it depends on the national systems).

Injunction (civil; a type of decision ordering somebody to stop doing something or preventing somebody from doing something).

Warrant (mostly criminal but in some jurisdictions -like the US- there are civil warrants).

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

#### 4. What is the difference between “court” and “tribunal”?

These two terms have different meanings across the Member States. At the international level: **‘tribunals’ are ad hoc** (temporary and with a specific purpose, e.g. Tribunal for the Former Yugoslavia, Eastern Timor, Rwanda).

#### 5. What are the names for the parties in civil cases?

**‘Claimant’ and ‘defendant’** (‘plaintiff’ is for the US and some other common law systems).

#### 6. Can you give alternative expressions for “to take someone to court”?

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

#### 7. What do you call the geographical area and the matters over which a judge/court has powers?

**Jurisdiction for both things, although ‘competent’ can be used in continental law systems as an adjective: “competent judge/court”, “competent authority”.**

#### 8. What other expressions do you know for “to give judgment”?

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

#### 9. How many words do you know for “lawyer” and what is the difference between them?

Lawyer (somebody who meets the national requirements to be able to practise law).

Solicitor and barrister (UK-specific).

Attorney (full name: attorney-at-law; US term except for “Attorney General”).

**Counsel** (name given to the parties’ lawyers in court in the UK).

**Advocate** (someone who can appear on someone else’s behalf in court, who can represent clients).

Legal/law practitioner (most neutral option).

**Legal advisor** (doesn’t necessarily mean a lawyer).

### EXERCISE 2

- |                                   |  |
|-----------------------------------|--|
| 1. mediation                      | /ˈmiː.di.ət/                             |
| 2. mediation process              | /ˈmiː.di.ət ˈprəʊ.ses/                   |
| 3. mediator                       | /ˈmiː.di.ət/                             |
| 4. mediation service              | /ˈmiː.di.ət ˈsɜː.vɪs/                    |
| 5. cross-border dispute           | /ˌkrɒs-ˈbɔː.dər ˈdɪs.pjuːt/              |
| 6. alternative dispute resolution | /ɔːlˈtɜːnə.tɪv ˈdɪs.pjuːt ˌrez.əlˈuːʃən/ |
| 7. confidentiality                | /ˈkɒnfɪdənsiˈæləti/                      |
| 8. enforcement of judgment        | /ɪnˈfɔːsmənt ɒv ˈdʒʌdʒmənt/              |

9. consensual resolution	/ˌkɒn'sensju(ə)l ˌrezə'luːʃən/
10. settlement of dispute	/ˈsetlmənt ɒv dɪs'pju:t/
11. arbitration	/ˌɑːbrɪ'treɪʃ(ə)n/
12. written agreement	/ˈrɪtɪn ə'gri:mənt/
13. private international law	/ˈpraɪvɪt ˌɪntə(:)'næʃənəl lɔː/
14. extra-judicial resolution of dispute	/ˈɛkstrədʒu(:)'dɪʃəl ˌrezə'luːʃən ɒv dɪs'pju:t/
15. judicial conciliation	/dʒu(:)'dɪʃəl kənˌsɪlɪ'eɪʃən/
16. authentic instrument	/ɔː'θɛntɪk ˈɪnstɹʊmənt/
17. extra-judicial procedure	/ˈɛkstrə-dʒu(:)'dɪʃəl prə'sɪːdʒə/
18. time-limit	/taɪm-'lɪmɪt/
19. principle of proportionality	/ˈprɪnsəpl ɒv prəˌpɔːʃə'nælɪti/
20. legal practitioner	/ˈliːgəl præk'tɪʃnə/
21. matrimonial matter	/ˌmætrɪ'məʊnjəl 'mætə/
22. amicable settlement of dispute	/ˈæmɪkəbl 'setlmənt ɒv dɪs'pju:t/
23. cross-border element	/krɒs-'bɔːdə ˈelɪmənt/
24. database of out-of-court scheme	/ˈdeɪtəˌbeɪs ɒv aʊt-ɒv-kɔːt ski:m/
25. competent authority	/ˈkɒmpɪtənt ɔː'θɔːrɪti/
26. low-cost out-of-court solution	/ləʊ-kɒst aʊt-ɒv-kɔːt sə'luːʃən/
27. recognition of settlement	/ˌrekəg'nɪʃən ɒv 'setlmənt/
28. best practice	/best 'præktɪs/
29. legal dispute	/ˈliːgəl dɪs'pju:t/
30. time frame	/taɪm freɪm/
31. mediation fee	/ˌmiːdi'eɪʃən fiː/
32. success rate	/sək'ses reɪt/
33. child	/tʃaɪld/
34. parental responsibility	/pə'ren.təl rɪˌspɒn.sɪ'bɪl.ə.ti/

35. access rights - rights of access	/ˈæk.ses raɪts/
36. habitual residence	/həˈbɪtʃ.u.əl ˈrez.ɪ.dəns/
37. place of birth	/pleɪs əv bɜːθ/
38. marriage annulment	/ˈmæɪ.dʒ əˈnʌl.mənt/
39. legal separation	/ˈliː.ɡəl ˌsep.ərˈeɪ.ʃən/
40. divorce	/dɪˈvɔːs/
41. wrongful removal	/ˈrɒŋ.fəl rɪˈmuː.vəl/
42. rights of custody	/raɪts ɒv ˈkʌs.tə.di/
43. spouse	/spaʊs/
44. request	/rɪˈkwest/
45. child placement	/tʃaɪld ˈpleɪs.mənt/
46. default of appearance	/dɪˈfɔlt ɒv əˈpiə.rəns/
47. exercise of rights of access	/ˈek.sə.saɪz ɒv raɪts əv ˈæk.ses/
48. sufficient time	/səˈfɪʃ.ənt taɪm/
49. practical arrangement	/ˈpræk.tɪ.kəl əˈreɪndʒ.mənt/
50. degree of maturity	/dɪˈɡriː ɒv məˈtʃʊə.rə.ti/
51. certificate	/səˈtɪf.ɪ.kət/
52. retention	/rɪˈten.ʃən/
53. joint custody	/dʒɔɪnt ˈkʌs.tə.di/
54. criminal offence	/ˈkrɪm.ɪ.nəl əˈfens/
55. foster family	/ˈfɒs.tər ˈfæm.əl.i/
56. competent authority	/ˈkɒm.pɪ.tənt ɔːˈθɒr.ə.ti/
57. guardianship	/ˈɡɑː.di.ən.ʃɪp/
58. protection of the child	/prəˈtek.ʃən ɒv ðə tʃaɪld/
59. revocation of adoption	/revəˈkeɪʃən ɒv əˈdɒp.ʃən/
60. court	/kɔːt/
61. date of legal effect	/deɪt ɒv ˈliː.ɡəl ɪˈfekt/

62. civil-status record	/ˈsɪv.əl ˈsteɪ.təs ˈrek.ɔ:d/
63. resolution of family dispute	/ˌrez.əˈluːʃən ɒv ˈfæm.əl.i/
64. violation of fundamental principle	/ˌvaɪ.əˈleɪʃən ɒv ˌfʌn.dəˈmen.təl ˈprɪn.sə.pəl/
65. limited period of time	/ˈlɪm.ɪ.tɪd ˈpɪə.ri.əd ɒv taɪm/
66. breach of right of custody	/briːtʃ ɒv raɪt ɒv ˈkʌs.tə.di/
67. criterion of proximity	/kraɪˈtɪə.ri.ən ɒv prɒkˈsɪm.ə.ti/
68. refusal of enforcement	/rɪˈfjuː.zəl ɒv ɪnˈfɔːsmənt/
69. forum of jurisdiction	/ˈfɔː.rəm ɒv ˌdʒʊə.rɪsˈdɪk.ʃən/
70. dissolution of matrimonial ties	/ˌdɪs.əˈluːʃən ɒv ˌmæt.rɪˈməʊ.ni.əl taɪs/
71. establishment of parenthood	/ɪˈstæb.lɪʃ.mənt ɒv ˈpeə.rənt.hʊd/
72. convention	/kənˈven.ʃən/
73. jurisdiction	/ˌdʒʊə.rɪsˈdɪk.ʃən/
74. date of notification	/deɪt ɒv ˌnəʊ.tɪ.fɪˈkeɪ.ʃən/
75. child abduction	/tʃaɪld æbˈdʌk.ʃən/
76. review of jurisdiction	/rɪˈvjuː ɒv ˌdʒʊə.rɪsˈdɪk.ʃən/
77. attestation of enforceability	/ˌæt.esˈteɪ.ʃən ɒv ɪnˈfɔːsəbɪləti/
78. property	/ˈprɒp.ə.ti/
79. submission	/səbˈmɪʃ.ən/
80. hearing	/ˈhɪə.nɪŋ/

### EXERCISE 3

1. parental responsibility; 2. civil partnership/union; 3. custody; 4. spouse; 5. guardian; 6. abduction; 7. wrongful removal of; 8. contact with/access; 9. access rights; rights of contact; 10. divorce; 11. separation; 12. matrimonial; 13. parenthood; 14. pre-nuptial agreement (prenup); 15. holder; 16. left-behind parent; 17. taking parent; 18. domestic violence.

## EXERCISE 4

Open-ended answer.

## EXERCISE 5

1. initial mediation session; 2. full voluntary mediation; 3. parental responsibility; 4. access rights; 5. professional mediator; 6. habitual residence; 7. legal dispute; 8. reduced or extended time frame; 9. statutory provisions; 10. legal separation; 11. wrongful removal; 12. qualified mediator; 13. sufficient time; 14. mediation fee; 15. practical arrangement; 16. success rate; 17. joint custody; 18. judicial proceedings; 19. sole custody; 20. dispute resolution process; 21. competent authority; 22. European best practice; 23. family dispute; 24. non-consensual solution; 25. child abduction; 26. preferred dispute resolution process; 27. applicable law; 28. independent legal advice; 29. interested party; 30. legal aid; 31. custodial rights; 32. prescription period; 33. equal bargaining powers; 34. expert opinion; 35. court-based mediation; 36. left-behind parent; 37. administrative authority; 38. spousal abuse; 39. legislative model; 40. written agreement; 41. costly legal procedure; 42. judicial authority; 43. legislative provisions; 44. 4-year-old daughter; 45. expeditious return; 46. available protective measures; 47. pre-trial stage; 48. speedy resolution; 49. religious background; 50. emotionally stressful circumstances; 51. publicly funded mediation; 52. voluntary mediation; 53. screening process; 54. highly conflictual international child abduction cases.

## EXERCISE 6

a.

### LISTENING ACTIVITY

Caught in the middle: What is the Cross-Border Family Mediator network and how does mediation work?

- 1 Missing Children Europe hosts now Cross-border Family Mediators; that's a network of
- 2 mediators that have a specific qualification in cross-border family conflicts.
- 3 It's a specific kind of mediation and it's a challenge in itself because those families live in
- 4 different countries where different laws apply, also where different cultures are at stake,
- 5 different languages, and so mediation and mediators have to be more creative in finding
- 6 solutions that can solve the conflict between those parents.
- 7 So we created a network of cross-border family mediators. All the mediators are family
- 8 mediators in their home country but have, added to that, at least 50 hours of additional
- 9 training in cross-border family mediation. They work together. It's a model of co-
- 10 mediation with one mediator from each country, ideally one man one woman, ideally one
- 11 with a psychosocial background and one with a legal background. That's the mediation
- 12 model that we use and that we find is very important to make this mediation successful.

13 We have now mediators in all EU countries, also outside the European Union and in total  
14 we have 157 mediators. We grow every year because we organize additional training every  
15 year.

16 The network celebrates its fifth anniversary this year so we will –we try to celebrate that  
17 with this symposium in the European Parliament today and we hope to continue our work  
18 in the future beyond the European Union but also to work further on pre-mediation, and  
19 pre-mediation is absolutely crucial and necessary because we see that even if we do have  
20 the mediators, even if we do have people with international family conflicts both don't find  
21 each other. There is a link -a lacking link- between the conflict and the mediators, so that is  
22 where we want to invest more in, to make sure that families find their way to mediators to  
23 find amicable solutions because we do believe that is in the interest of the children  
24 involved.

## QUESTIONS

1. Cross-border Family Mediators is a network of mediators that have ...

... A SPECIFIC QUALIFICATION IN CROSS-BORDER FAMILY CONFLICTS.

2. What are the challenges of cross-border family mediation?

THE FAMILIES LIVE IN DIFFERENT COUNTRIES WHERE DIFFERENT LAWS APPLY, WHERE DIFFERENT CULTURES ARE AT STAKE AND WITH DIFFERENT LANGUAGES, SO MEDIATION HAS TO BE MORE CREATIVE IN FINDING SOLUTIONS TO SOLVE THE CONFLICT.

3. What requirements do mediators in this network have to meet?

ADDITIONALLY TO BEING FAMILY MEDIATOR IN THEIR HOME COUNTRY, THEY HAVE TO DO AT LEAST 50 HOURS OF ADDITIONAL TRAINING IN CROSS-BORDER FAMILY MEDIATION.

4. What is the ideal model of co-mediation?

ONE MEDIATOR FROM EACH COUNTRY, IDEALLY ONE MAN AND ONE WOMAN, IDEALLY ONE WITH A PSYCHOLOGICAL BACKGROUND AND ONE WITH A LEGAL BACKGROUND.

5. How many mediators do they have and where?

157 IN ALL EU COUNTRIES AND OUTSIDE THE EUROPEAN UNION.

6. How old is the organisation?



5 YEARS.

7. Why is pre-mediation necessary?

BECAUSE THEY REALISE THAT EVEN IF THEY HAVE THE MEDIATORS AND PEOPLE WITH INTERNATIONAL FAMILY CONFLICTS, SOMETIMES THEY **DON'T FIND EACH OTHER.**

8. What is the lacking link that she mentions?

A LINK BETWEEN THE CONFLICT AND THE MEDIATORS, SO THAT FAMILIES CAN FIND THEIR WAY TO MEDIATORS TO FIND AN AMICABLE SOLUTION.

b. Open-ended answers (personal opinions).

## EXERCISE 7

a. *Feasible*: achievable, attainable, possible, likely, practicable, realizable, reasonable, viable, workable.

b. *Complex*: intricate, involved, elaborate, difficult, problematic.

c. *Advantageous*: favourable, beneficial, superior, convenient, helpful, useful, valuable, worthwhile, profitable.

d. *Likelihood*: possibility, chance, odds, probability, prospect.

e. *Outcome*: result, consequence, end, conclusion, upshot.

f. *Throughout*: during, all through, for the duration of, from beginning to end, from start to finish, the whole time.

g. *Take into account*: consider, bear in mind, keep in mind, remember, keep in view, care for, make allowance for.

h. *Tight*: fixed, narrow, limited, rigid, inflexible, strict, constrained.

i. *To conduct*: administer, control, direct, handle, lead, manage, preside over, run, supervise, regulate.

j. *To highlight*: emphasise, focus attention on, give prominence to, stress, underline.

k. *Further*: additional, extra, more, new, supplementary.

l. *Combine*: mix, blend, link, amalgamate, unify.

m. *In tandem*: in a pair, in a couple, in twos, in a doublet.

n. *Ability*: capacity, skill, aptitude, capability, competence, dexterity, expertise, know-how, qualification, talent.

o. *To translate*: convert, transfer, decode, interpret, paraphrase, render, transcribe.

p. *Aspect*: angle, facet, side, approach, feature, perspective, outlook, point of view, standpoint.

q. *Confidence*: trust, faith, self-reliance, certainty, credit, faith.

r. *To assist*: help, aid, back, collaborate, cooperate, facilitate, further, support.

## EXERCISE 8

1. to, to; 2. on; 3. in; 4. on; 5. to, in, on, under; 6. into, with; 7. for; 8. in, on; 9. to; 10. in, at; 11. in, with; 12. from, to, into; 13. for.

## EXERCISE 9

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

## EXERCISE 10

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

## EXERCISE 11

1. uncertain; 2. insecurity; 3. injustice; 4. improper; 5. external; 6. worse; 7. unnecessary; 8. worsen; 9. complicate; 10. uninterested; 11. exclusion; 12. external; 13. disagreement; 14. involuntarily; 15. unlikely; 16. unsustainable; 17. irrelevant; 18. unpredictable; 19. unconstitutional; 20. infrequent; 21. informal; 22. international; 23. irresponsible; 24. incompetent; 25. impossibility; 26. inappropriate; 27. uncertainty; 28. unwritten/oral; 29. non-confidential; 30. ineffective; 31. inflexibility; 32. impartial; 33. unavailable; 34. maximum; 35. non-compliance; 36. unconcerned; 37. public; 38. non-enforceable; 39. non-recognition; 40. inapplicable; 41. incompatibility; 42. inability; 43. misinformation/disinformation; 44. illegal; 45. insufficiently; 46. unfortunate; 47. unsuccessfully; 48. worst; 49. unequal; 50. disapproval.

## EXERCISE 12

1. Precious time can be lost in attempting mediation in cases where one party is clearly not willing to engage in the mediation process.
2. Consideration may need to be given to the possibility that drug or alcohol abuse by one **of the parties may result in that person's inability to protect her or his interests.**
3. Even where both parties agree to mediation, attention needs to be paid to specific circumstances such as possible indications of domestic violence.
4. Potential mediation cases should be screened for the presence of domestic violence or other circumstances.
5. Attention needs to be paid to differences in bargaining power that are simply resulting from the personalities of the parties.
6. Mediation and similar processes facilitating agreed solutions should not be seen as a complete substitute for judicial procedures, but as a complement.
7. It has to be emphasised that even where mediation and similar processes introduced at an early stage of an international family dispute are able to avoid litigation, **complementary 'judicial processes' will frequently be required to render an agreed solution legally binding and enforceable in the legal systems concerned.**
8. Safeguards need to be taken to protect the rights and welfare of children in mediation.

9. The best interests of the child in a contact or custody decision will be taken into consideration by the court and in many jurisdictions the voice of the child will be heard if of sufficient age and maturity.
10. The child may be heard in person by the judge or he or she may have the child interviewed by a specialist.
11. When mediation is offered to the parties to an international family dispute, they need to be informed that mediation is not their only recourse.
12. It is important that the parties are given access to relevant legal information.

### EXERCISE 13

Open-ended answers.

### EXERCISE 14

1. be given; 2. be submitted; 3. be presented; 4. cooperate; 5. be taken; 6. not delay; 7. not be denied; 8. be screened; 9. be restricted; 10. be; 11. be; 12. have; 13. there be.

### EXERCISE 15

1. mediated; 2. legal; 3. enforceable; 4. recommended; 5. reflection; 6. content; 7. applicable; 8. necessary; 9. relevant; 10. access; 11. administrative/judicial; 12. desirability; 13. legislative; 14. sustainable; 15. binding; 16. compliance; 17. speedily; 18. alienation; 19. solution; 20. written; 21. applicable; 22. conclusion; 23. extent; 24. involvement; 25. parental; 26. approval; 27. disposal; 28. unfortunate; 29. remainder; 30. strongly; 31. provisional; 32. certain; 33. relocation; 34. likely; 35. validity; 36. entry; 37. advisable; 38. wording; 39. suggestion; 40. automatically; 41. inclusion; 42. notarisation; 43. useful.

### EXERCISE 16

1. c; 2. b; 3. a; 4. b; 5. c; 6. a; 7. b; 8. c; 9. a; 10. b; 11. c; 12. b; 13. a; 14. b; 15. c; 16. b; 17. a; 18. c; 19. a; 20. c; 21. b; 22. a; 23. b; 24. c; 25. b; 26. a; 27. a; 28. b; 29. c; 30. c; 31. b; 32. a; 33. a; 34. c; 35. b; 36. c; 37. c.

### EXERCISE 17

1. Rarely do national courts provide mediation assistance in such cases.
2. Seldom have there been so many civil cases where mediation is resorted to.
3. In complicated family cases, never must parties be left alone with each other throughout the mediation sessions.
4. Never will some Member States support compulsory mediation in civil cases.

## EXERCISE 18

1. OPEN-ENDED ANSWER
2. REVENUE, CUSTOMS, ADMINISTRATIVE MATTERS AND LIABILITY OF STATES FOR ACTS OR OMISSIONS IN THE EXERCISE OF THEIR AUTHORITY
3. OPEN-ENDED ANSWER
4. OPEN-ENDED ANSWER
5. OPEN-ENDED ANSWER
6. CODES OF CONDUCT ARE SETS OF RULES OUTLINING THE NORMS, RULES AND RESPONSIBILITIES OF AN INDIVIDUAL, PARTY, ORGANISATION, PROFESSION, ETC.
7. OPEN-ENDED ANSWER