



SUMMATIVE (FORMAL) ASSESSMENT: MODULE 2B
THE EUROPEAN INSOLVENCY REGULATION

This is the **summative (formal) assessment** for **Module 2B** of this course and is compulsory for all candidates who **selected this module as one of their compulsory modules from Module 2**. Please read instruction 6.1 on the next page very carefully.

If you selected this module as **one of your elective modules**, please read instruction 6.2 on the next page very carefully.

The mark awarded for this assessment will determine your final mark for Module 2B. In order to pass this module, you need to obtain a mark of 50% or more for this assessment.

INSTRUCTIONS FOR COMPLETION AND SUBMISSION OF ASSESSMENT

Please read the following instructions very carefully before submitting / uploading your assessment on the Foundation Certificate web pages.

1. You must use this document for the answering of the assessment for this module. The answers to each question must be completed using this document with the answers populated under each question.
2. All assessments must be submitted electronically in MS Word format, using a standard A4 size page and a 11-point Arial font. This document has been set up with these parameters – **please do not change the document settings in any way. DO NOT** submit your assessment in PDF format as it will be returned to you unmarked.
3. No limit has been set for the length of your answers to the questions. However, please be guided by the mark allocation for each question. More often than not, one fact / statement will earn one mark (unless it is obvious from the question that this is not the case).
4. You must save this document using the following format: **[studentID.assessment2B]**. An example would be something along the following lines: 2021122-526.assessment2B. **Please also include the filename as a footer to each page of the assessment** (this has been pre-populated for you, merely replace the word “studentID” with the student number allocated to you). Do not include your name or any other identifying words in your file name. **Assessments that do not comply with this instruction will be returned to candidates unmarked.**
5. Before you will be allowed to upload / submit your assessment via the portal on the Foundation Certificate web pages, you will be required to confirm / certify that you are the person who completed the assessment and that the work submitted is your own, original work. Please see the part of the Course Handbook that deals with plagiarism and dishonesty in the submission of assessments. **Please note that copying and pasting from the Guidance Text into your answer is prohibited and constitutes plagiarism. You must write the answers to the questions in your own words.**
- 6.1 If you selected Module 2B as one of your **compulsory modules** (see the e-mail that was sent to you when your place on the course was confirmed), the final time and date for the submission of this assessment is **23:00 (11 pm) GMT on 1 March 2022**. The assessment submission portal will close at 23:00 (11 pm) GMT on 1 March 2022. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.
- 6.2 If you selected Module 2B as one of your **elective modules** (see the e-mail that was sent to you when your place on the course was confirmed), you have a **choice** as to when you may submit this assessment. You may either submit the assessment by **23:00 (11 pm) GMT on 1 March 2022** or by **23:00 (11 pm) BST (GMT +1) on 31 July 2022**. If you elect to submit by 1 March 2022, you **may not** submit the assessment again by 31 July 2022 (for example, in order to achieve a higher mark).
7. Prior to being populated with your answers, this assessment consists of **9 pages**.

Commented [DB1]: Please be more careful in future – you stated your student ID as being 157 instead of 557 – if I had not picked this up it could have caused huge confusion.

ANSWER ALL THE QUESTIONS

QUESTION 1 (multiple-choice questions) [10 marks in total]

Questions 1.1. – 1.10. are multiple-choice questions designed to assess your ability to think critically about the subject. Please read each question carefully before reading the answer options. Be aware that some questions may seem to have more than one right answer, but you are to look for the one that makes the most sense and is the most correct. When you have a clear idea of the question, find your answer and **mark your selection on the answer sheet by highlighting the relevant paragraph in yellow**. Select only **ONE** answer. Candidates who select more than one answer will receive no mark for that specific question.

Question 1.1

The EIR 2000 substantively harmonised the national insolvency law of the Member States.

- (a) False. The objective of an EU regulation is not legal harmonisation.
- (b) True. Since the entry into force of the EIR 2000, the insolvency laws of the Member States are similar.
- (c) False. The objective of the EIR 2000 was not to harmonise aspects of national insolvency laws but to provide non-binding guidelines only.
- (d) **False. While the EIR 2000 attempted to harmonise national insolvency laws, its focus was on procedural aspects of insolvency law, not substantive ones.**

Question 1.2

The EIR 2000 was the first ever European initiative to attempt to harmonise the insolvency laws of Member States.

- (a) **False. The EU sought to draft Conventions with a view to harmonising the insolvency laws of EU Member States as early as the 1960s, but these initiatives failed.**
- (b) False. There was another EU Regulation regulating insolvency law at EU level before the EIR 2000.
- (c) True. Before the EIR 2000, the EU has not sought to harmonise the insolvency laws of EU Member States.
- (d) False. An EU Directive regulating insolvency law at EU level existed before the EIR 2000.

Question 1.3

The EIR Recast was urgently needed because the EIR 2000 was considered dysfunctional and ineffective.

- (a) True. The EIR 2000 proved to be inefficient and incapable of supporting the effective resolution of cross-border cases over the years.
- (b) True. As a result, the EIR 2000 lacked the support of major stakeholders such as insolvency practitioners, businesses and public authorities who considered the instrument fruitless.

- (c) False. While a number of shortcomings were identified by an evaluation study and a public consultation, the EIR 2000 was generally regarded as a successful instrument by most stakeholders, including practitioners, businesses, the EU institutions and insolvency academics.
- (d) False. The EIR 2000 was considered a complete success to support cross-border insolvency cases and, as a result, the wording of the EIR Recast mirrored its 2000 predecessor.

Question 1.4

Why can it be said that the EIR Recast did not overhaul the *status quo*?

- (a) The EIR Recast is a copy of the EIR 2000. Its structure and the wording of all articles are similar.
- (b) Although the EIR Recast includes relevant and useful innovations, it has stuck with the framework of the EIR 2000 and mostly codified the jurisprudence of the CJEU.
- (c) The EIR Recast has not added any new concept to the text of the EIR 2000.
- (d) It is incorrect to say that the EIR Recast has not overhauled the *status quo* at all. On the contrary, the EIR Recast has departed from the text of its predecessor and is a completely new instrument which has rejected all existing concepts and rules.

Question 1.5

Why can it be said that the EIR Recast is more rescue-oriented than the EIR 2000?

- (a) The EIR Recast is more rescue-oriented because all domestic rescue procedures fall within its scope.
- (b) The EIR Recast is more rescue-oriented because it harmonises all substantive aspects of national insolvency laws.
- (c) It is incorrect to say that the EIR Recast is more rescue-oriented than the EIR 2000, as the latter was already heavily rescue-focused.
- (d) The EIR Recast is more rescue-oriented because its scope was extended to cover pre-insolvency proceedings and secondary proceedings can now also be rescue proceedings.

Question 1.6

During the reform process of the EIR 2000, what main elements were identified as needing to be revised within the framework of the Regulation (whether adopted or not)?

- (a) The scope of the Regulation was to be expanded to cover pre-insolvency and hybrid proceedings; the concept of COMI was to be refined; secondary proceedings were to be extended to rescue proceedings; rules on publicity of insolvency proceedings and lodging of claims were to be amended; provisions for group proceedings were to be added.
- (b) Rules on co-operation and communication between courts were to be refined; the concept of COMI was to be abandoned and a new jurisdictional concept was to be found; the Recast Regulation was to apply to Denmark.

- (c) The Recast Regulation was to apply to private individuals and self-employed; a common European-wide insolvency proceeding was to be added to the Regulation.
- (d) The Regulation was meant to fully embrace the universalism principle by abandoning the concept of secondary proceedings; the Regulation was meant to mostly promote out-of-court settlement and abandon all intervention of a judicial or administrative authority in cross-border proceedings.

Question 1.7

The EIR Recast introduced the concept of “synthetic proceedings”. What are they?

- (a) “Synthetic proceedings” means that for the case at hand, several main proceedings can be opened, in addition to several secondary proceedings.
- (b) “Synthetic proceedings” means that when secondary proceedings are opened, these are automatically rescue proceedings, as opposed to liquidation proceedings.
- (c) “Synthetic proceedings” means that insolvency practitioners in all secondary proceedings should treat the proceedings they are dealing with as main proceedings for the purpose of protecting the interests of local creditors.
- (d) “Synthetic proceedings” means that when an insolvency practitioner in the main insolvency proceedings has given an undertaking in accordance with Article 36, the court asked to open secondary proceedings should not, at the request of the insolvency practitioner, open them if they are satisfied that the undertaking adequately protects the general interests of local creditors.

Question 1.8

In which of the following scenarios may the recognition of a foreign insolvency proceeding be denied under the EIR Recast?

- (a) The rule applied by the court, which has opened insolvency proceedings (originating court), is unknown or does not have an analogue in the law of the jurisdiction, in which recognition is sought.
- (b) The judgment, subject to recognition, was passed with incorrect application of the applicable substantive law.
- (c) Where the decision to open the insolvency proceedings was taken in flagrant breach of the right to be heard, which a person concerned by such proceedings enjoys.
- (d) The court, which has opened insolvency proceedings (originating court), most certainly did not have international insolvency jurisdiction to do so under the EIR Recast.

Question 1.9

In a cross-border dispute, the main proceedings before the Italian court opposes Fema SrL (registered in Italy) and Lacroix SARL (registered in France). The case concerns an action to set aside four contested payments that amount to EUR 850,000. These payments were made pursuant to a sales agreement dated 5 August 2020, governed by German law. The contested payments have been made by Fema SrL to Lacroix SARL before the former went insolvent. The insolvency practitioner of the company claims that under applicable Italian law, the

contested payments shall be set aside because Lacroix SARL must have been aware that Fema Srl was facing insolvency at the time the payments were made.

Considering the facts of the case and relevant provisions of the EIR Recast, which one of the following statements is the **most accurate**?

- (a) The insolvency practitioner will always succeed in his claim if he can clearly prove that under the *lex concursus*, the contested payments can be avoided (Article 7(2)(m) EIR Recast).
- (b) The contested transactions cannot be avoided if Lacroix SARL can prove that the *lex causae* (including its general provisions and insolvency rules) does not allow any means of challenging the contested transactions, and provided that the parties did not choose that law for abusive or fraudulent ends.
- (c) To defend the contested payments Lacroix SARL can rely solely, in a purely abstract manner, on the unchallengeable character of the payments at issue on the basis of a provision of the *lex causae*.
- (d) The contested payments shall not be avoided if Lacroix SARL proves that such transactions cannot be challenged on the basis of the insolvency provisions of German law (Article 16 EIR Recast).

Question 1.10

The French Social Security authority asserts to have a social security contribution claim against an Irish company, Cupcake Cottage Ltd. Cupcake Cottage is subject to the main insolvency proceeding (Examinership) in Ireland. In addition, a secondary insolvency proceeding (*Concurso*) relating to the same company has been opened in Spain.

Assume that:

- Under French law, creditors (except employees) must file proof of their claim within two (2) months from the publication in the French legal gazette of a notice of the judgment opening the insolvency proceedings.
- Under Spanish law, the period within which creditors must file their claims is one month, as set in the order opening secondary insolvency proceedings against Cupcake Cottage.

The French tax authority intends to file its claim in the Spanish proceedings. Within which time period can the French tax authority do so?

- (a) Within two (2) months following the publication date, as guaranteed by the French law (law applicable to the creditor).
- (b) Within one month, as stipulated in the applicable *lex concursus secundarii* (law of the insolvency proceeding at issue).
- (c) Within 30 days following the publication of the opening of insolvency proceedings in the insolvency register of Spain.
- (d) Within the time limit prescribed by the *lex concursus* of the main insolvency proceeding (Irish law).

C was the correct answer.

Total: 9 out of 10.

QUESTION 2 (direct questions) [10 marks]

Question 2.1 [maximum 2 marks] 2

The following **two (2) statements** relate to particular provisions / concepts to be found in the EIR Recast. Indicate the name of the provision / concept (as well as the relevant EIR Recast article), addressed in each statement.

Statement 1. "This article introduces a legal regime for the avoidance of secondary insolvency proceedings, based on the unilateral promise given by the main insolvency practitioner to local creditors that they will receive treatment 'as if' secondary proceedings had in fact been open."
– Articles 36/38

Statement 2. "The proper functioning of the internal market requires that cross-border insolvency proceedings should operate effectively. This requires judicial cooperation."

Statement 1 – articles 36/38(2), concepts of "undertaking" and "synthetic proceedings".
Statement 2 – recital 48/article 42(1), concept of "judicial cooperation".

Question 2.2 [maximum 3 marks] 3

The EIR Recast is built upon the concept of modified universalism, as pure universalism has been deemed idealistic and impractical for the time being. Provide **three (3) examples** of provisions from the EIR Recast, which highlight this modified universalism approach.

Chapter V – jurisdictional consolidation in connection with the insolvency of corporate groups.

Articles 3 and 19(2), recitals 23/40 – possibility of having main proceedings and secondary proceedings in different states.

Recital 26 – while EIR Recast dictates the Member State in which proceedings should be opened, each individual Member State then applies its domestic laws to determine the relevant court.

Question 2.3 [maximum 3 marks] 2

Cross-border co-operation and communication between courts is now an obligation under the EIR Recast. This was not the case under the EIR 2000. List **three (3) provisions** (recitals and / or articles) of the EIR Recast that deal with this newly introduced obligation.

Recital 48

Article 42

Article 57

A bit of text explaining how these provisions work would have been welcomed.

Question 2.4 [maximum 2 marks] 2

It is widely accepted that the opening of secondary proceedings can hamper the efficient administration of the debtor's estate. For this reason, the EIR Recast has introduced a number of legal instruments to avoid or otherwise control the opening, conduct and closure of secondary proceedings. Provide **two (2) examples** of such instruments and briefly (in 1 to 3 sentences) explain how they operate.

Article 38(2) EIR Recast provides that secondary proceedings should not be opened where an insolvency practitioner has already given an undertaking in the main proceedings pursuant to article 36 and the court in the jurisdiction of the proposed secondary proceedings is satisfied that such undertaking affords sufficient protection to local creditors.

Article 38(3) EIR Recast contains provisions relating to the temporary stay of secondary proceedings once main proceedings have been opened in circumstances where a stay of proceedings has been granted in the main proceedings.

Total: 9 out of 10.

QUESTION 3 (essay-type questions) [15 marks in total]

In addition to the correctness, completeness (including references to case law, if applicable) and originality of your answers to the questions below, marks may be awarded or deducted on the basis of your presentation, expression and writing skills.

Question 3.1 [maximum 5 marks] 4.5

In 2012, the European Commission recommended that the European Insolvency Regulation be amended by focusing on specific aspects of the instrument. Explain what these aspects were and how they have been introduced in the EIR Recast.

Although the European Insolvency Regulation was a successful piece of legislation, it was not a perfect one and, in any event, it was inevitable that amendments and updates would be needed more than a decade after its implementation to reflect changes in insolvency practices across Member States.

Increased focus on rescue rather than liquidation led to the broadening of EIR Recast's scope to restructuring proceedings (article 1 and recital 10 EIR Recast), and the need for cooperation and communication between insolvency practitioners and courts was made compulsory in an effort to simplify processes and save costs (articles 41-43 and 56-59 EIR Recast). As a result of globalisation, it became more frequent for corporate groups to include subsidiaries based in different jurisdictions and this development was taken into account by chapter V EIR Recast. As a consequence of the need to protect the interests of creditors in complex cross-jurisdiction proceedings and to further smooth cooperation between courts and insolvency practitioners, articles 24 and 25 EIR Recast provide for the establishment and maintenance of insolvency registers in Member States with a view to simplifying the necessary exchange of information. Finally, the importance of data protection increased significantly since the creation of EIR 2000 and this is reflected in the provisions of chapter VI EIR Recast.

Question 3.2 [maximum 5 marks] 5

While the EIR 2000 was considered to work well overall, several innovative concepts and rules were introduced in the EIR Recast to improve the manner in which the Regulation supports

the administration of a cross-border case in an efficient manner. Describe **three (3)** improvements / innovations that made their way into the EIR Recast.

Synthetic secondary proceedings and the right to give an undertaking (articles 36 and 38) are innovations which did not appear in EIR 2000. In order to address the potentially disruptive effect of secondary proceedings being opened once a main proceeding had started, EIR Recast allows insolvency practitioners acting in main proceedings to give an undertaking to foreign creditors (who may otherwise wish to open secondary proceedings) that their interests will be protected as if secondary proceedings had been opened. This allows the proceedings to adequately protect all creditors without the added complexity of opening several proceedings.

The EIR Recast also widened the application of the Regulation to pending arbitral proceedings (article 18), which EIR 2000 did not do. As a result, where the relevant conditions are met, it is now the case that the law of a Member State in which either a lawsuit or an arbitral proceeding is pending will govern the effects of insolvency. Before this was extended to arbitral proceedings, it was therefore possible for contradictory judgments to be obtained and this undesirable situation was remedied by EIR Recast.

Finally, under EIR 2000, insolvency judgments first required a declaration of enforceability before they could be enforced in another Member State. This had the potential to lead to delays and, in an effort to streamline and speed proceedings up, article 32 EIR Recast now provides that insolvency judgments enforceable in one Member State are also enforceable in other Member States without the need for any further formalities.

Question 3.3 [maximum 5 marks] 5

While the EIR Recast was welcomed by most stakeholders, it was also criticised by some as a “missed opportunity” and “modest”. List **two (2) flaws** or shortcomings of the EIR Recast and explain how you consider they could be corrected.

Chapter V EIR recast deals with the concept of group coordination where insolvency proceedings apply to entities within a corporate group. The reason this was introduced in EIR Recast is to attempt to develop a process whereby the limited liability and separateness of each legal entity do not unduly affect insolvency proceedings which may affect a group as a whole. In theory, such provisions have the potential to significantly simplify proceedings and achieve a coherent result for the group as a whole. In practice, however, several issues make Chapter V a “missed opportunity”. The main flaw of Chapter V is that its provisions are not mandatory and can be opted-out of completely. While the possibility of appointing a group co-ordinator is now available, the co-ordinator’s suggestions are not binding on the insolvency practitioners and the addition of group co-ordinating proceedings end up complicating and adding costs to an already complex process. The lack of creditor consultation can also be criticised, and of course Chapter V is of no help where members of the corporate group are not Member States. A number of these shortcomings could be addressed if the co-ordination provisions were made compulsory and if the same insolvency practitioner was appointed to deal with all group members instead of appointing a group co-ordinator, however this would only be partially satisfactory as it would not change the fact that higher costs would still likely be incurred and that Chapter V does not apply to jurisdictions which are not Member States.

It is also the case that EIR Recast only exclusively applies to the proceedings listed in Annex A. This may create issues where a Member State has proceedings which are not included in this exhaustive list. For instance (although the UK is no longer a Member State, it is useful to use its example), a number of proceedings under Part 26 of the Companies Act 2006 were not included in Annex A EIR Recast, and the Part 26A proceedings introduced by the

Corporate Insolvency and Governance Act 2020 are also excluded simply by virtue of being new (and therefore not yet in existence when EIR Recast came into force): not only is Annex A EIR Recast restrictive, it also does not take into account the evolution of insolvency law and the development of new proceedings in response to economic change. One way to solve this issue could be to keep Annex A under constant review and to update it regularly to ensure that its current form is always a reflection of the insolvency proceedings of Member States.

Total: 14.5 out of 15.

QUESTION 4 (fact-based application-type question) [15 marks in total]

Cardinal Home is an Ireland-registered furniture company. The company opened its first store in Cork, Ireland in 2009 and has warehouses across Europe, including in Milan, Italy. In 2010, Cardinal Home entered into a credit agreement with an Italian bank since it was planning to expand its reach to the Spanish luxury furniture market, expected to grow by over 8% annually. It opened a bank account with the bank and started negotiating with local distributors, thus signing some (non-binding) memoranda of understanding with them.

Cardinal Home grew and performed well for several years. However, the impact of the economic and financial crisis of the late 2000s eventually hit the company who suffered financial difficulties from 2016. On 22 June 2017, it filed a petition to open examinership proceedings in the High Court in Dublin, Ireland.

Question 4.1 [maximum 5 marks] 5

Assume that the EIR 2000 applies. Does the Dublin High Court have international jurisdiction to open the requested insolvency proceeding? (Explain why it does or does not have jurisdiction.) Your answer should contain references to the applicable law and the relevant CJEU jurisprudence.

Under article 3(1) IER Recast, main insolvency proceedings can be opened by the courts of the Member State in which Cardinal Home has its COMI, being “the place where the debtor conducts the administration of its interests on a regular basis and which is ascertainable by third parties”. In *Eurofoods IFSC Ltd*, the meaning of this concept was clarified and it was held that article 3(1)’s presumption that a debtor’s COMI was the state where the debtor was registered, could only be rebutted if clear evidence objectively showed that, despite being registered in one Member State, the debtor in fact administered its interest in a different Member State.

Here, we know that Cardinal Home was registered in Ireland - there is therefore a presumption that its COMI is in Ireland. Although it has a number of warehouses cross Europe, nothing on the facts indicates that the administration of Cardinal Home takes place from any of these Member States. The fact that Cardinal Home entered into a credit agreement with an Italian bank does not, in itself, suggest that the COMI has been moved – nor does the fact that Cardinal Home started negotiating with local distributors or has property in other Member States (as per *Interedil Srl v Fallimento Interedil Srl*). There is also no indication that third parties understand Cardinal Home’s COMI to be in another Member State and, in the absence of such factors, it is likely that Cardinal Home’s COMI is in Ireland.

As a result, the Dublin High Court does have international jurisdiction to open proceedings.

Question 4.2 [maximum 5 marks] 5

Assume that the Dublin High Court opens the respective proceeding on 30 June 2017. Will the EIR Recast be applicable? Your answer should address the EIR Recast's scope and contain all steps taken to answer the question.

Proposed proceedings must fall within EIR Recast's scope before this becomes applicable. There are four categories which need to be satisfied in this respect, as follows:

Temporal scope: EIR Recast came into force on 26 June 2017 and was therefore in force when the proceedings were opened by the Dublin High Court. In accordance with article 84(1) EIR Recast, the temporal scope element is satisfied.

Territorial scope: under recital 25 EIR Recast, the Regulation applies to proceedings relating to debtors who have their COMI in the European Union. As per the answer to the above question, we have determined that Cardinal Home's COMI is in a Member State therefore the territorial scope element is satisfied.

Material scope: article 1 EIR Recast refers to a list of insolvency proceedings contained within Annex A, to which the Regulation applies. Examinership is one of the proceedings listed in Annex A therefore the material scope element is satisfied.

Personal scope: recital 9 EIR Recast states that the Regulation applies to natural and legal persons subject always to the exclusions contained in article 1(2) EIR Recast. Cardinal Home is a legal person and, being a furniture company, does not fall within the list of excluded undertakings contained in article 1(2). The personal scope element is therefore satisfied.

From the above, it appears that all four elements have been satisfied and that EIR Recast is therefore applicable.

Question 4.3 [maximum 5 marks] 5

An Italian bank files a petition to open secondary insolvency proceedings in Italy with the purpose of securing an Italian insolvency distribution ranking. Given the facts of the case, can such proceedings be opened in Italy under the EIR Recast? Your answer should contain references to the applicable law and the relevant CJEU jurisprudence.

Under article 3(2) EIR Recast, secondary proceedings can be opened in Member States in which the relevant debtor has an "establishment". This term is defined in article 2(10) EIR Recast as "any place of operations where a debtor carries out or has carried out in the three-month period prior to the request to open main insolvency proceedings a non-transitory economic activity with human means and assets". *Interedil Srl v Fallimento Interedil Srl* expanded on this concept and clarified that a debtor simply having assets (including bank accounts) in that Member State is not sufficient for the existence of an establishment. Instead, there must be both a stable, non-transitory economic activity and the presence of human resources.

Here we know that Cardinal Home opened a bank account with an Italian bank and started negotiating with local distributors. This happened in 2010 and therefore falls well within the time period introduced by article 3(2). We have seen above that the mere presence of a bank account is not enough for the presence of an establishment. We know that in 2010 the negotiations with distributors led to non-binding memoranda of understanding, however on the facts of the case we do not know whether such memoranda evolved into binding contracts with the Italian suppliers. In addition, we also do not know whether business was conducted from Italy at all and, if so, whether this was done with a sufficient level of stability going beyond

mere occasional business dealings. We do not know whether any employees/representatives of Cardinal Home are permanently based in Italy and it is not clear whether third parties are easily able to ascertain this.

Although we know that Cardinal Home “grew and performed well” (which may indicate the presence of an establishment), we would need to be provided with more information on the above points in relation to Italy specifically in order to give a definite answer. If the answers to the above queries are negative, then it is likely that Cardinal Home does not have an establishment in Italy and that the secondary proceedings cannot be opened. If however some of the answers were positive, and if it turned out that Cardinal Home did carry out “a non-transitory economic activity with human means and assets”, then it is likely that the secondary proceedings could be opened in Italy on the basis that Cardinal Home does have an establishment in that jurisdiction.

Total: 15 out of 15.

*** End of Assessment ***

Total: 47.5 out of 50.