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).***
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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 2023***. The assessment submission portal will close at 23:00 (11 pm) GMT on 1 March 2023. 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 2023 or by 23:00 (11 pm) BST

(GMT +1) on 31 July 2023*. **If you elect to submit by 1 March 2023, you*** may not ***submit the assessment again by 31 July 2023 (for example, in order to achieve a higher mark).***

7. ***Prior to being populated with your answers, this assessment consists of*** 10 pages***.***

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 was the first European initiative to ever attempt to harmonise the insolvency laws of EU Member States.

Select the correct answer from the options below:

(a) True, before the EIR 2000, the EU has not sought to harmonise the insolvency laws of EU Member States.

(b) False, there was another EU Regulation regulating insolvency law at EU level before the EIR 2000.

(c) False, an EU Directive regulating insolvency law at EU level existed before the EIR 2000.

(d) 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.

Question 1.2

According to Article 1(1) of the EIR 2015, proceedings fall within the scope of the EIR if:

(a) they are based on laws relating to insolvency for the purpose of rescue, adjustment of debt, reorganisation, or liquidation; are public; are collective.

(b) they are based on laws relating to insolvency for the purpose of liquidation; are public; are collective.

(c) they are based on laws relating to insolvency for the purpose of rescue, adjustment of debt, reorganisation, or liquidation; are public.

(d) they are based on laws relating to insolvency for the purpose of rescue, adjustment of debt, reorganisation, or liquidation; are collective.

Question 1.3

In 2017, the EIR Recast replaced the EIR 2000. Recasting the EIR 2000 was deemed necessary by various stakeholders. Why?

(a) Through its case law, the CJEU had altered the literal meaning of several provisions of the EIR 2000. Newly formulated rules, in line with the CJEU interpretation, were therefore needed.

(b) The EIR 2000 was generally regarded as a successful instrument in the area of European insolvency law by the EU institutions, practitioners and academics. However, a number of its shortcomings were identified by an evaluation study and a public consultation.

(c) The fundamental choices and underlying policies of the EIR 2000 lacked support from the major stakeholders (businesses, public authorities, insolvency practitioners, etc.). A new Regulation was therefore needed to meet their expectations.

(d) The EIR 2000 proved to be inefficient and incapable of promoting co-ordination of cross-border insolvency proceedings in the EU.

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

The EIR Recast is an instrument of a predominantly procedural nature (including private international law issues). Nevertheless, it contains a number of substantive provisions. Which one of the following provisions constitutes a harmonised (stand-alone) rule of substantive law?

(a) Article 18 EIR Recast ("Effects of insolvency proceedings on pending lawsuits or arbitral proceedings").

(b) Article 40 EIR Recast ("Advance payment of costs and expenses").

(c) Article 7 EIR Recast ("Applicable law").

(d) Article 31 EIR Recast ("Honouring of an obligation to a debtor").

Question 1.6

The EIR 2015 does not provide a definition of "insolvency" or "likelihood of insolvency". What are the consequences of this?

(a) The ECJ has provided a definition of "insolvency" in recent case law.

(b) The European Commission has provided a definition of "insolvency" in its Recommendation on a "New Approach to Business Failure" published in 2014.

(c) Each Member State will define "insolvency" in national legislation.

(d) Deciding whether a debtor is "insolvent" or not is a matter for the ECJ to determine.

Question 1.7

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

(a) "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.

(b) ***"Synthetic proceedings" means that for the case at hand, several main proceedings can be opened, in addition to several secondary proceedings.***

(c) ***"Synthetic proceedings" means that when secondary proceedings are opened, these are automatically rescue proceedings, as opposed to liquidation proceedings.***

(d) ***"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.***

Question 1.8

The EIR Recast kept the concept of the "centre of main interests" (COMI) of the debtor, which already existed in the EIR 2000. What were the amendments adopted in relation to this concept?

(a) ***The COMI of the debtor is not presumed to be "at the place of the registered office" anymore and the debtor will need to confirm where his COMI is before the beginning of each case.***

(b) ***Although the COMI of a debtor is still presumed to be "at the place of the registered office", it is now possible to rebut this presumption, albeit only by the courts.***

(c) ***The rule that a company's COMI conforms to its registered office is now an irrefutable presumption.***

(d) ***Although the COMI of a debtor is still presumed to be "at the place of the registered office", it should now be possible to rebut this presumption based on Article 3 EIR Recast and Recital 31.***

The correct answer was D.

Question 1.9

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

(a) ***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.***

(b) ***The judgment, subject to recognition, was passed with incorrect application of the applicable substantive law.***

(c) ***The court, which has opened insolvency proceedings (originating court), most certainly did not have international insolvency jurisdiction to do so under the EIR Recast.***

(d) ***The rule applied by the court, which has opened insolvency proceedings (originating court), is unknown or does not have an equivalent in the law of the jurisdiction in which recognition is sought.***

Question 1.10

In a cross-border dispute, the main proceedings before the German court concerns Schatz GmbH (registered in Germany) and Canetier SARL (registered in France). The case deals with an action to set aside four contested payments that amount to EUR 900,000. These payments were made pursuant to a sales agreement dated 29 December 2021, governed by Italian law. The contested payments have been made by Schatz GmbH to Canetier SARL before the former went insolvent. The insolvency practitioner of the company claims that the contested payments should be set aside because Canetier SARL must have been aware that Schatz GmbH 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 Canetier 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) ***The contested payments will not be avoided if Canetier SARL proves that such transactions cannot be challenged on the basis of the insolvency provisions of Italian law (Article 16 EIR Recast).***

(d) ***To defend the contested payments Canetier 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.***

The correct answer was C.

Total marks: 8 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. The presumptions that the registered office, the principal place of business and the habitual residence are the centre of main interests need to be rebuttable.

Statement 2. Proceedings covered by the scope of the EIR 2015 should include proceedings promoting the rescue of economically viable debtors, especially at a stage where there is a mere likelihood of insolvency.

Statement 1: This statement captures the concept of the Centre of main interest "COMI" and its presumptions related to companies and legal persons addressed in Article 3(1) EIR Recast.

Statement 2: This statement captures the Material Scope of the EIR Recast which is addressed in Article 1 EIR Recast.

Question 2.2 [maximum 3 marks] 1

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.***

Examples of provisions from the EIR Recast which highlight the modified universalism approach are the following:

- ***i) The concept of COMI and its presumptions as it allows courts of Member states within the territory of which the centre of the debtor's main interest is situated have jurisdiction to open proceedings.***
- ***ii) The EIR recast allowing the recognition of main proceedings not to preclude the opening of secondary proceedings across the EU where there is establishment.***
- ***iii) Jurisdictional consolidation in group insolvencies in accordance with Recital 53 EIR Recast.***
- ***iv) Allowance for the courts of the Member state within the territory of which insolvency proceedings have been opened to have jurisdiction for actions deriving from insolvency proceedings and is closely related.***
- ***v) Allowing for the interconnectivity of insolvency registers.***

You did not provide the provisions.

Question 2.3 [maximum 3 marks] 3

Because pure universalism has not been adopted under the EIR 2015, main and secondary insolvency proceedings can be opened at the same time against the same debtor. In light of this, it is seminal that proper co-operation between the actors involved in concurrent proceedings takes place. It is therefore not surprising that co-operation has been introduced as an obligation on several actors in the EIR 2015. List** three (3) provisions **(recitals and / or articles) of the EIR Recast that deal with the obligation to co-operate.

Three provisions of the EIR Recast that deal with the obligation to co-operate are:

1. ***Article 41(1) EIR Recast covers the co-operation and communication between insolvency practitioners. Specifically, it states that the insolvency practitioners in main proceedings and insolvency practitioner in secondary proceedings covering the same debtor shall co-operate with each other, in any form, as long as it is compatible with the rules applicable to the respective proceedings.***
2. ***Article 42(1) EIR Recast covers the co-operation and communication between courts. It obliges courts where a request to open insolvency proceedings is pending or opened to co-operate with any other court faced with the issue of opening insolvency proceeding or which has already opened. This ensures better co-operation and to prevent abusive forum shopping.***
3. ***Article 43 EIR Recast covers the co-operation and communication between insolvency practitioners and courts. It states that there are three situations where a duty to cooperate arise:***
    a. ***An insolvency practitioner in main insolvency proceedings must cooperate and communicate with any court before which a request to open secondary insolvency proceedings is pending or opened.***
    b. ***An insolvency practitioner in territorial or secondary insolvency proceedings must co-operate and communicate with the court before which a request to open main insolvency proceedings is pending or opened.***
    c. ***An insolvency practitioner in territorial or secondary insolvency proceedings must co-operate and communicate with the court before which a request to open other territorial or secondary insolvency proceedings is pending or opened.***

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 one to three sentences) explain how they operate.

Two instruments the EIR Recast provided to avoid the opening of secondary insolvency proceedings are:

1. ***The right to give an undertaking***

Article 38 of the EIR allows the main insolvency practitioner to request the court not to open secondary proceedings if it is satisfied that the undertaking provided in accordance with Article 36 is in the best interest of local creditors. The undertaking constitutes a unilateral promise given by the main insolvency practitioner to local creditors to avoid the opening of secondary proceedings.

2. *A stay of the opening of secondary insolvency proceedings*
   The EIR Recast provides for the possibility for the court to temporarily stay the opening of secondary insolvency proceedings in the main insolvency proceedings, upon request from insolvency practitioner or debtor, to provide breathing space for negotiating a restructuring with creditors and preserve the efficiency.

Total marks: 8 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] 2.5

During the reform process of the EIR 2000, what main elements were identified by the European Commission as needing revision within the framework of the Regulation (whether adopted or not)?

The adoption of EIR Recast in 2015 to replace the EIR 2000 responded to the need of the insolvency practice to broaden the scope to restructuring proceeding, stronger rules for cooperation between insolvency practitioners and courts, provide the possibility of proceedings with regard to members of the same group, improve creditor information and provide the general modernisation of the legal rules. ***This could have been developed further.***

However, in 2014 the European Commission presented the following list of recommendations of elements that were considered desirable for a harmonised approach:

1. *Introduce flexibility in national preventive restructuring procedures by limiting the need for court formalities to where they are necessary and proportionate*
2. *Provide for a stay of individual enforcement actions*
3. *Protect the interests of dissenting creditors*
4. *Ensure the preventive restructuring process be on a debtor-in-possession model*
5. *Provide for the possibility of cross-class cram-down provisions*
6. *Protect new and interim financing*

This was the focus of what became the Directive on Preventive Restructuring Frameworks.

Question 3.2 [maximum 5 marks] 2

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.

The shortcomings of the EIR Recast are centred around the regulations of group co-ordination proceedings and the possible risk it creates to leading inefficient administrations.

The first flaw observed with the EIR Recast is due to Article 64 of the EIR recast allowance of an opt out of group-co-ordination proceedings with explanation or good cause deeming it a meaningless provision. The system and any recommendations provided is deemed non-committal/voluntary for a insolvency practitioner even when utilized.

Secondly, coupled with the issues related to the voluntary nature of proceeds another flaw relates to the introduction of further complexity with additional group co-ordination proceedings which will lead to increased duration and costs which could negatively affect the interest of the creditors.

You were required to consider how these flaws could be corrected.

Question 3.3 [maximum 5 marks] 1

The European Insolvency Regulation is a choice-of-forum instrument, which although aiming at procedural harmonisation, did not harmonise the substantive insolvency laws of the Member States. Because of lingering disparities among the national insolvency regimes across the EU, the European institutions introduced the Directive on Preventive Restructuring Frameworks in 2019, which is meant to dovetail the European Insolvency Regulation. List two (2) ways in which the Regulation and the Directive differ.

The Directive on Preventive Restructuring Frameworks in 2019 presents two main building blocks that allows it to differ from the European Insolvency Regulation. First, the introduction of early warning systems with indicators and the establishment of a connection with mechanisms for resolutions. Secondly the introduction of preventative restructuring procedures which allows the debtor to restructure their debts at an earlier stage while remaining in control of day-to-day operations and affording an automatic stay with the possibility of cross-class-cram down of dissenting creditors.

You should have explained the differences further in-depth. You speak mostly about the focus of the instrument (i.e. preventive restructuring in the Directive). What is the focus of the EIR? Points you could have discussed included:

- ***The difference between a Regulation and a Directive, as an instrument of EU law;***

- ***The EIR 2015 is a choice-of-forum instrument which harmonised the procedural aspects of cross-border insolvency law / the Directive aimed to harmonise substantive aspects of insolvency law across the EU;***

- ***The EIR 2015 is a conflict of law instrument focusing on most aspects of cross-border insolvency law / the Directive, while substantively harmonising insolvency law across the EU, has focused on a narrow aspect of insolvency, i.e. preventive restructuring;***

- ***Due to the nature of the Regulation, all Member States must comply with its provisions / the Directive is a minimum standard instrument, which means that it merely establishes a threshold under which the Member States cannot legislate. However, this minimum harmonisation approach also leaves the Member States with substantive leeway in how they want to adopt the provisions of the Directive.***

Total marks: 5.5 out of 15.

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

Scenario

Bella SARL is a French-registered company selling cosmetic products. The company had opened its first store in Strasbourg, France in 2010 and has warehouses across Europe, including in Germany, Ireland, Italy, Spain and Portugal. Its main warehouse is located in Cork, Ireland. All of its employees are located in these countries and most of its customers are also located in these countries, yet some online purchases are coming mainly from the Netherlands and Poland.

In 2011, Bella SARL entered into a loan agreement with a Spanish bank because it was hoping to expand its reach onto the Spanish luxury cosmetic market. It opened a bank account with the bank while also negotiating prices with local suppliers. It signed some (non-binding) memoranda of understanding with three Madrid-based suppliers.

Unfortunately for Bella SARL, the timing of this initiative coincided with the Great Economic and Financial crisis which hit Europe in the late 2000s. By 2014 the company was in financial difficulty, yet managed to keep afloat for another few years. On 20 June 2017, it filed a petition to open safeguard proceedings in the Strasbourg High Court in France.

Question 4.1 [maximum 5 marks] 1

Assume that the timeline is slightly different and, therefore, assume that it is not the EIR 2015 that applies but the EIR 2000.

Does the Strasbourg High Court have jurisdiction to open the requested safeguard proceedings under the EIR 2000?

You must justify your answer when explaining why it does or does not have jurisdiction. Your answer should contain references to the applicable law and the relevant CJEU jurisprudence.

The concept of COMI was not introduced in EIR Recast as EIR 2000 recital 13 provided guidance on the determination COMI and main insolvency proceedings. Bella SASRL is a French-registered company with a store in Strasbourg France, hence, they would be considered as having an establishment in France allowing the Strasbourg High Court jurisdiction to open the main proceedings. However, the EIR Recast's innovation was the creation of a suspect period that allows a safeguard against fraudulent manipulation of the insolvency forum shortly before any actual insolvency filing. Therefore, EIR Recast's article 3(1) would not apply, and the Strasbourg High Court would not be afforded a "safeguard" period under the EIR 2000.

While your answer is correct, the line of reasoning leading to your answer was not the expected one. The following steps were to be discussed:

- ***The Strasbourg High Court does not have international insolvency jurisdiction to open insolvency proceedings.***
- ***Students are expected to mention that under the EIR 2000 (Article 3), the determination of international jurisdiction to open main insolvency proceedings is linked to the debtor's centre of main interest (COMI). According to Article 3 EIR Recast, COMI shall be the place where the debtor conducts the administration of its interests on a regular basis and which is ascertainable by third parties (see also Recital 28). The place of the registered office shall be presumed to be the COMI in the absence of proof to the contrary.***
- ***Relevant case law:*** *Eurofood IFSC Ltd*, ***Case C-341/04, ECLI:EU:C:2006:281 (May 2, 2006) and*** *Interedil Srl, in liquidation v Fallimento Interedil Srl*, ***Case C-396/09, ECLI:EU:C:2011:671 (Oct. 20, 2011).***
- ***However, Article 1 of the EIR 2000 states that 'this Regulation shall apply to collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator.***
- ***Article 2 EIR 2000 states that '"insolvency proceedings" shall mean the collective proceedings referred to in Article 1(1). These proceedings are listed in Annex A.***

- ***Annex A of the EIR 2000 only listed two French insolvency proceedings which came under the scope of the EIR 2000: (i) liquidation; (ii) redressement judiciaire (rehabilitation).***

- ***Therefore, the EIR 2000 would not apply to safeguard proceedings.***

Question 4.2 [maximum 5 marks] 5

Assume that the timeline is as explained in the original scenario above and that the French High Court opens safeguard proceedings on 30 June 2017.

Will the EIR Recast be applicable to the proceedings?
Your answer should address the EIR Recast's scope and contain all steps taken to answer the question.

To determine if the EIR Recast would be applicable we would need to take a step-by-step plan on Bella SASRL as detailed below:

1. ***Bella SASRL does have COMI in a member state of the EU, except Denmark.***
2. ***Bella SASRL sells cosmetic products which would not be classified as any of the excluded companies.***
3. ***Provided the proceedings opened against Bella SASRL is listed in Annex A.***
4. ***The proceedings would be opened post 26 June 2017.***

Hence, we conclude that the EIR Recast be applicable to the proposed insolvency proceedings of Bella SASRL.

Question 4.3 [maximum 5 marks] 1

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.

Article 2(10) EIR Recast advises that Secondary proceedings can be opened in a Member State where the debtor has an establishment meaning that there is a place of operations where a debtor carries out or has carried out a non-transitory economic activity with human means and assets. Bella SASRL having a warehouse, customers and employees in Italy captures that definition. Hence, the Italian bank has establishment and should be successful in filing a petition to open secondary insolvency proceedings in Italy.

This is not sufficiently explained and the answer is incorrect.

- ***According to Article 3(2) EIR Recast, where the debtor's COMI is situated within the territory of a Member State, the courts of another Member State shall have jurisdiction to open insolvency proceedings against that debtor only if it possesses an establishment within the territory of that other Member State.***

- ***Under Article 2(10) EIR Recast, 'establishment' means any place of operations where a debtor carries out or has carried out in the 3-month period prior to the request to open main insolvency proceedings a non-transitory economic activity with human means and assets.***

- ***Relevant case law: Interedil Srl, in liquidation v Fallimento Interedil Srl, Case C-396/09, ECLI:EU:C:2011:671 (Oct. 20, 2011), Burgo Group SpA v Illochroma SA, Case C-327/13, ECLI:EU:C:2014:2158 (Sep. 4, 2014).***

- ***The facts of the case do not support the finding of an establishment of Bella SARL in Italy. The presence alone of assets (leased-out warehouse) in isolation, contractual relations with a local bank (including maintenance of a bank account) and occasional negotiations (whether individual or collective) with local distributors do not qualify as 'non-transitory economic activity with human means and assets'. The requisite minimum level of organisation and a degree of stability (see para. 64 in Interedil) is evidently missing.***
- ***Therefore, under the EIR Recast, secondary insolvency proceedings cannot be opened in Italy, nor Spain.***

Total marks: 7 out of 15.

*** END OF ASSESSMENT ***

Total marks: 28.5 / 50