



CONSEJO GENERAL DEL PODER JUDICIAL
ESCUELA JUDICIAL

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Red Europea de Formación Judicial (REFJ)
European Judicial Training Network (EJTN)
Réseau Européen de Formation Judiciaire (REFJ)

VIRTUAL COURSE:

**A SYSTEMATIC STUDY ON THE
EUROPEAN JUDICIAL AREA
IN CIVIL AND COMMERCIAL MATTERS**



Con el apoyo de la Unión Europea
With the support of The European Union
Avec le soutien de l'Union européenne
Mit der Unterstützung der Europäischen Union

1. COURSE DESCRIPTION

This virtual course analyses the current state of construction and future prospects of the European Judicial Area in relation to civil and commercial matters.

The first module aims to provide **an overview of the European Judicial Area**, analysing its background and evolution, the tools for improving judicial assistance in this matter, the communitisation of Private International Law, and the free movement of judgments and the principle of mutual recognition.

The following modules provide a systematic and comprehensive analysis of the **legal instruments approved** in the European Judicial Area in relation to civil matters:

- a. Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
- b. Council Regulation (EC) No 2201/2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility.
- c. Council Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims.
- d. Council Regulation (EC) No 864/2007 of 11 July 2007 on the law applicable to non-contractual obligations "Rome II").
- e. Council Regulation (EC) No 1896/2006 creating a European order for payment procedure.
- f. Council Regulation (EC) No 861/2007 of 11 July 2007 establishing a European Small Claims Procedure.
- g. Council Regulation (EC) No 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.
- h. Council Regulation (EC) No 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil and commercial matters.
- i. Directive 2002/8 of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.
- j. Directive 2008/52 of 21 May 2008 on certain aspects of mediation in civil and commercial matters.
- k. Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations

In addition, **four conferences to supplement the above topics** are to be held. The conferences, which will be recorded on audiovisual media and inserted in the Course's virtual platform, will cover the following contents:

- "Private International Law in the EU. Future Prospects".
- "The Future of the European Judicial Area in Civil and Commercial Matters".



- “Council Regulation (EC) No. 1346/2000 of 29 May 2000 on insolvency proceedings”.
- “EU Regulation on Contractual Obligations (Rome I)”.

The Course also includes a number of **additional tools to help students:**

- Documents available on the website: “A Virtual Tour of the European Judicial Area”.
- Introductory schemes to each module
- Introductory video recordings of the modules
- Newsletter: “European Civil Justice”.
- Virtual Alumni Community.

One of the most striking characteristics of the project is its methodology. Although this can be described as novel since the course must be followed on the Internet through the Spanish Judicial School’s Virtual Campus, this technique has been used since 1999, and the virtual activity we propose has three immediate predecessors in the 2005, 2006, 2007 and 2008 editions.

Another special feature is the fact that the course will be given in Spanish, English, French and German, enabling the judges taking part in it to choose one of the four most widely spoken languages in Europe as their working language.

The programme will be directed with the collaboration of the National Distance Learning University (UNED). From an academic point of view, the course is co-directed by Ana Paloma Abarca Junco, Professor of International Private Law at the UNED, who also has considerable experience in this field and in *e-learning* educational methods, and by the judge of the General Council of the Judiciary Joaquín Delgado Martín, who is an expert in international judicial cooperation.

The Directors have designed the curriculum and have contacted experts from various EU countries, who have written about the various topics using two types of sources: judicial authorities and people from the university world. The combination of theory with practical experience aims to provide a comprehensive view of the European Judicial Area in civil and judicial matters.

In addition, 5 tutors will be in charge of monitoring and supporting participants during the virtual course through each of the 5 Modules into which the course topics have been divided. The aim of including tutors is to provide students with all the help they need to make progress in each of the Course subjects.

It is estimated that an average of 15 hours must be dedicated each month over a period of 5 months to obtain certification of achievement.

Two types of certificate will be issued, one of achievement for those people who complete all the exercises set and another one of participation for all those who, although they have regularly followed the course, have not done all the tasks set.

The course will begin with a trial period *the* purpose of which is for the participants to become familiar with and try out the virtual space, which will start on 17 December. Once the trial stage is over, the virtual phase of the course will start. It will end in June 2010.

A final assessment meeting has been scheduled, which will be held in the Judicial School of Barcelona in July 2010 and which all the participants who have successfully completed the course will have the right to attend.

Throughout the course, participants will be provided with the basic material for each subject, as well as practical cases which students must resolve, a self assessment test, supplementary material, debating forums, and participants will be assisted at all times by the tutors; the aim is to ensure that the participants' may communicate with the tutors in any of the four basic working languages of the course and their replies will be communicated- as rapidly as possible- having been translated into all four languages.

Those who wish to participate in the course will need a personal computer Pentium III 500 Mhz with 64 RAM (or more), CD-ROM reader, Modem, Windows 98 or later internet navigator, telephone and internet connection.



2. COURSE DIRECTION

COURSE COORDINATOR:

FÉLIX V. AZÓN VILAS. Senior Judge. Member of the General Council of the Judiciary.

CO-DIRECTORS:

JOAQUÍN DELGADO MARTÍN. Senior Judge of the General Council of the Judiciary Expert Collaborator of the Spanish Judicial Network for International Judicial Cooperation

ANA PALOMA ABARCA JUNCO. Professor of International Private Law at the National Distance Learning University (UNED)

3. SUBJECTS AND TEACHING STAFF

MODULE 1

TUTOR: José Francisco Cobo Sáenz. Senior Judge. Section 2 of the Provincial Court of Pamplona. Member of the Spanish Judicial Network for International Judicial Cooperation (REJUE)

1- CIVIL JUDICIAL COOPERATION AMONGST EU MEMBER STATES

By Lionel Riuny. Magistrate. Adviser for the European Judicial Area on the S.G.C.I. (Secrétariat Général du Comité Interministériel pour les Questions de Coopération Économique Européenne)

2- INSTITUTIONS ENGAGED IN THE IMPROVEMENT OF JUDICIAL COOPERATION IN CIVIL MATTERS

By Javier Luis Parra García. Senior Judge. Governing Secretary of the Murcia High Court of Justice. Contact Point for the European Judicial Network in Civil and Commercial Matters and for the Ibero-American Judicial Cooperation Network (Iber RED)

3- THE COMMUNITARIZATION OF PRIVATE INTERNATIONAL LAW. FREE CIRCULATION OF JUDICIAL DECISIONS IN THE EU AND THE PRINCIPLE OF MUTUAL RECOGNITION

By Francisco Javier Arroyo Fiestas. Senior Judge. President of the Malaga Provincial Court. Member of the Spanish Judicial Network for International Cooperation (REJUE)

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MODULE 2

TUTOR: Mónica Herranz Ballesteros. Assistant Professor of International Private Law at the UNED

4- INTERNATIONAL JURISDICTION IN REGULATION (EC) N° 44/2001: (I): OBJECTIVE FORUMS. CHANGING THE PARTIES' WISHES.

By Mónica Guzmán Zapater and Mónica Herranz Ballesteros. Professors of Private International Law at the National University of Distance Education (UNED).

5- REGULATION (EC) No 44/2001 (II). RECOGNITION AND ENFORCEMENT OF FOREIGN JUDICIAL JUDGEMENTS.

By Ana Paloma Abarca Junco. Professor of Private International Law at the UNED

6- REGULATION (EC) No 864/2007 OF THE COUNCIL OF 11 JULY 2007 ON THE LAW APPLICABLE TO NON CONTRACTUAL OBLIGATIONS (ROME II). THE "ROME I" CONVENTION.

By D^a Mónica Herranz Ballesteros. Professor of Private International Law at the UNED

MODULE 3

TUTOR: Elena Farré Trepas. Senior Judge of the Family Court n. 17 of Barcelona. Member of the Spanish Judicial Network for International Judicial Cooperation (REJUE)

7- REGULATION (EC) No 2201/2003 (I): LEGAL JURISDICTION, RECOGNITION AND EXECUTION OF JUDICIAL RULINGS CONCERNING MARRIAGE SEPARATION, DIVORCE AND ANNULMENT

By Ana Paloma Abarca Junco. Professor of Private International Law at the UNED



8- REGULATION (EC) No 2201/2003 (II): INTERNATIONAL JUDICIAL JURISDICTION AND RECOGNITION OF DECISIONS REGARDING THE PROTECTION OF MINORS. OVERALL APPLICATION OF DIFFERENT INTERNATIONAL INSTRUMENTS

By Pascual Ortuño Muñoz. Senior Judge. Director of the Spanish Judiciary School. Expert member of the Spanish Judicial Network for International Cooperation (REJUE)

9- REGULATION (EC) No 2201/2003 (III): THE SCOPE OF MUTUAL RECOGNITION OF JUDGEMENTS ON RIGHTS TO ACCESS AND ABDUCTION OF MINORS

By Pilar González Vicente. Magistrate. Legal Counsellor of the General Council of the Judiciary. Expert member of the Spanish Judicial Network for International Cooperation (REJUE)

10- MAINTENANCE OBLIGATIONS: REGULATION (EC) No 4/2009 OF 18 DECEMBER 2008 ON JURISDICTION, APPLICABLE LAW, RECOGNITION AND ENFORCEMENT OF DECISIONS AND COOPERATION IN MATTERS RELATING TO MAINTENANCE OBLIGATIONS

By Emelina Santana Páez. Senior Judge. 1st Instance Court no. 79 of Madrid.

MODULE 4

TUTOR: Marina Vargas Gómez-Urrutia. Professor of Private International Law at the UNED

11- REGULATION (EC) No 805/2004 CREATING A EUROPEAN ENFORCEMENT ORDER FOR UNCONTESTED CLAIMS

By Francisco de Paula Puig Blanes. Senior Judge. Head of the Area of External and Institutional Relations of the Judiciary School. Contact Point of the European Judicial Network in Civil and Commercial Matters

12- REGULATION (EC) No. 1896/2006 OF 12 DECEMBER 2006 CREATING A EUROPEAN ORDER FOR PAYMENT PROCEDURE.

By Gordon Y. Lingard. District Judge. Bradford County Court. England

13- REGULATION (EC) No. 861/2007 OF 11 JULY 2007 ESTABLISHING A EUROPEAN SMALL CLAIMS PROCEDURE.

By Wolfgang Jakob Hau. Professor of Law. Chair for Private Law, Civil Procedure and Private International Law. University of Passau.

MODULE 5

TUTOR: José Antonio Varela Agrelo. Senior Judge of the Provincial Court of Lugo. Member of the Spanish Judicial Network for International Judicial Cooperation (REJUE)

14.- REGULATION (EC) No. 1393/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 13 NOVEMBER 2007 ON THE SERVICE IN THE MEMBER STATES OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS (SERVICE OF DOCUMENTS), AND REPEALING COUNCIL REGULATION (EC) No. 1348/2000.

By José Antonio Varela Agrelo. Senior Judge of the Provincial Court of Lugo. Member of the Spanish Judicial Network for International Judicial Cooperation (REJUE)

15. REGULATION (EC) No. 1206/2001 ON CO-OPERATION BETWEEN THE COURTS OF THE MEMBER STATES IN THE TAKING OF EVIDENCE

By Paola Accardo. Judge of the Corte d'Appello di Milano

16.- IMPROVING ACCESS TO JUSTICE IN CROSS-BORDER DISPUTES. COUNCIL DIRECTIVE (EC) No. 2002/8 ESTABLISHING MINIMUM COMMON RULES RELATING TO LEGAL AID FOR SUCH DISPUTES. MEDIATION.

By Carlos Manuel Gonçalves de Melo Marinho. Judge. Portuguese Contact Point of the European Judicial Network of Civil and Commercial Matters



4. OTHER TEACHING ELEMENTS

As a supplement to the Programme, and so that pupils may have a fuller perspective on the European Judicial Area, the course shall make use of complementary teaching elements to its written work, and these shall include:

AUDIO-VISUAL LECTURES **Four audio-visually recorded lectures** will be provided and uploaded to the course platform so that they may be followed by the participants:

- International Private Law in the EU. Future outlook. *By Ana Paloma Abarca*
- The future of the European Judicial Area in Civil and Commercial matters. *By Joaquín Delgado*
- Council Regulation (EC) n^o 1346/2000 of 29 May 2000, on insolvency proceedings. *By Mónica Guzmán*
- EU regulations on contractual obligations (Rome I)
- DOCUMENTS AVAILABLE ON THE WEB:
 - “A Virtual Gateway to the European Judicial Area”
- E-NEWSLETTER:
 - “European Civil Justice”. Quarterly
- VIRTUAL COMMUNITY FOR PARTICIPANTS

