



CONSEJO GENERAL DEL PODER JUDICIAL
ESCUELA JUDICIAL



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

DIDACTIC GUIDE
e-LEARNING COURSE
**THE JUDGE WITHIN THE EUROPEAN JUDICIAL
SPACE:
CIVIL AND COMMERCIAL MATTERS**
3rd Edition
2014



ACADEMIC DIRECTORS
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PRESENTATION OF THE COURSE

Judges within the various EU Member States are called upon to play an important role in the process of constructing the European Judicial Space, acting as contributors to and protagonists of a new judicial culture that has considerable bearing on the protection of the rights of European citizens.

This e-Learning Course sets out to increase training and awareness amongst EU Judicial Authorities in relation to the regulatory, institutional and technological instruments of the European Judicial Space with regards to civil and commercial matters. It will also facilitate shared knowledge of the judicial systems of the EU, thereby contributing to increasing the trust required for the effective functioning of the principle of mutual recognition.

In recent years, we have borne testimony to an enthralling process entailing the construction of a common Judicial Space and a Judicial Culture within the context of the EU deriving from the Maastricht Treaty (with the incorporation of Justice in the so-called intergovernmental “third pillar”), continuing with the Amsterdam Treaty, wherein civil judicial cooperation was “Communitarised” (falling under the “first pillar”) and the Treaty of Nice (with the application of the co-decision mechanism) before culminating with the Treaty of Lisbon wherein community action was no longer divided into pillars and the EU's possibilities for action within the sphere of Justice were clearly defined.

With a view to affording impetus to the possibilities envisaged in the Treaties and making them a reality, three steps were set in motion - initially the Tampere European Council was created; secondly, The Hague Programme; and a further step was taken in the form of the currently in force Stockholm Programme, which establishes, as one of its priorities, “A Europe of law and justice”, stating: “The achievement of a European area of justice must be consolidated in order to move beyond the current fragmentation. Priority should be given to mechanisms that facilitate access to justice, so that people can enforce their rights throughout the Union. Cooperation between public professionals and their training should also be improved, and resources should be mobilised to eliminate barriers to the recognition of legal acts in other Member States”.

In enforcing the aforementioned, European Union action is essentially extended in different directions that include, firstly, the approval of numerous legal instruments that aim to avoid a situation wherein the existence of elements pertaining to the various European states constitutes a barrier to the establishment of legal relations. This is particularly true given that such relations may entail necessary recourse to the Courts (access to Justice). The action outlined above is complemented by the important task of providing information on these instruments, their application and the legal and procedural systems of the various states. The task of providing information is disparate and is currently in a process of simplification and harmonisation via the European e-Justice Programme. All of this is accompanied by institutional action through the creation of new bodies (Liaison Magistrates, Judicial Networks, etc.) that

facilitate the application of the approved regulatory instruments and provide a response to the issues and problems deriving thereof.

This e-Learning course analyses the current status of the construction of the European Judicial Space in civil and commercial matters, along with its prospects for the future.

The course is provided in three languages: Spanish, French and English.

1.- TRAINING MODULES

The first module initially affords an **overview of the European Judicial Space**, analysing its background, evolution and the free circulation of judgments along with the **principle of mutual recognition**, addressing the main regulations that have been laid down in application of this principle.

- Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and the more recent Regulation 1215/2012 of the European Parliament and of the Council of the 12th of December, which will substitute the aforementioned Regulation from the 10th of January 2015 onwards.
- Regulation 805/2004 creating a European Enforcement Order for uncontested claims.
- Regulation 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.
- Regulation 650/2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.

In the second module after addressing the activities of the Hague Conference on International Private Law the legal instruments approved within the sphere of **parental responsibility and the protection of minors** and **European Procedural Law** are systematically and comprehensively studied:

- Regulation 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility.
- Regulation 1896/2006 creating a European order for payment procedure.
- Regulation 861/2007, of the 11th of July, establishing a European Small Claims Procedure.
- Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents).
- Regulation 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial

matters.

Finally, in addition to the instruments approved in terms of **applicable law**, the third module addresses all matters referring to **access to justice** and the legal, informative and institutional means provided to facilitate information and practical application, with particular attention on the EU's **e-Justice** action. This includes:

- Directive 2002/8, of the 27th of January 2003, to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.
- Directive 2008/52, of the 21st of May 2008, on certain aspects of mediation in civil and commercial matters.
- Regulation 864/2007, of the 11th of July, on the law applicable to non-contractual obligations (Rome II).
- Regulation 593/2008, of the 17th of July, on the law applicable to contractual obligations (Rome I).
- Council Regulation 1259/2010, of the 20th of December 2010, implementing enhanced cooperation in the area of the law applicable to divorce and legal separation (Rome III).
- Directive 2012/29/eu of the European Parliament and of the Council, of the 25th of October 2012, establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings.
- Council Directive 2004/80/EC, of the 29th of April 2004, relating to compensation to crime victims.
- Regulation 606/2013, of the 12th of June, relating to mutual recognition of protection measures in civil matters.
- The e-Justice Action Plan (2009-2013). The e-Justice Portal.
- Judicial Networks and Liaison Magistrates
- Catalogue of web-based tools

2.- COMPLEMENTARY ACTIVITIES

Each module will include a practical case study that will incorporate elements from the various subjects that form the module, complementing the **self-assessment exercises** within each subject and placing particular stress on fundamental aspects of the same. Essential regulatory and jurisprudential elements will also be available in the **virtual library**, enabling interested participants to acquire a deeper understanding of a given subject.

The course (in terms of its virtual aspects) is complemented by a discussion forum involving all participants wherein, in addition to commenting areas of interest, responses may be provided to any queries that might arise during the course.

Finally, an *in situ* closing session, of a voluntary nature, has been planned, wherein those participants who have successfully completed the practical exercises can acquire deeper knowledge via direct contact with the experts in the various fields and other attendees.

PRESENTATION OF THE TEACHING STAFF

The teaching staff (directorship, tutors and content authors) is made up of Legal Professionals from various countries within the European Union, who are experts in the subjects studied.

Below, we provide brief professional profiles of the Directors and Tutors of the Course:

Co-directors:

	<p>Joaquín Delgado Martín Magistrate of the Provincial Court of Madrid. Holder of a Doctorate in Law</p>
	<p>Francisco de Paula Puig Blanes Magistrate. Court of First Instance number 44 in Barcelona Collaborating Expert within the Spanish Judicial Network for International Cooperation (REJUE)</p>

Technical Director



Manuel Olmedo Palacios
Magistrate
Legal Representative of the Judicial School

Tutors:



Module I Tutor
José Antonio Varela Agrelo
Magistrate. President of the Provincial Court of Lugo.
Expert within the Spanish Judicial Network for
International Cooperation (REJUE)



Module II Tutor
Gonzalo Ferrer Amigó
Magistrate of the Court of First Instance number 3 in
Girona.
Expert within the Spanish Judicial Network for
International Cooperation (REJUE)



Module III Tutor

José Guillermo Nogales Cejudo.

Magistrate. Court of First Instance number 13 in Murcia.

Expert within the Spanish Judicial Network for International Cooperation (REJUE)

OBJECTIVES

Participants will become aware of the entire range of regulatory instruments created by the European Union within the context of the European Judicial Space in civil and commercial matters, analysing their content and the main practical problems, whilst addressing the tools that facilitate their application - institutional tools (Networks, Liaison Magistrates...) and virtual tools (European Judicial Atlas...) - with particular attention on the European Union e-Justice Portal.

TEACHING RESOURCES AND MATERIALS

Participants will be provided with the following teaching materials and resources, which they can access via the e-Learning Course:

- ✓ Thirteen subjects in *PDF* format, penned by experts in the subject in question, can be consulted and downloaded via the e-Learning Course. To aid study, the subjects have been structured into various sections (summary, presentations, links for a more detailed study of the subject-matter, bibliography, etc.).
- ✓ Each subject will feature an explanatory outline in PowerPoint format.

- ✓ Furthermore, each subject will facilitate access to European Union regulations and the Jurisprudence of the Court of Justice of the European Union.
- ✓ A self-assessment questionnaire for each study area can be completed via the e-Learning Course.
- ✓ Practical case studies for each of the three modules making up the course.
- ✓ A document entitled An Overview of the European Judicial Space, which includes Internet links relating to this area.
- ✓ Three presentations in audiovisual format that, in conjunction with the video recording, is accompanied by a synchronised schematic overview
- ✓ Other material considered to be of interest, both in electronic and printed format

The resources listed above are complemented by synchronous and asynchronous communication tools provided by the e-Learning Course (e-mail address, chat, forums) that enable direct communication between all the members of the Learning Community: participants, tutors and the directorate.

Amongst these communication tools, the forums that will be maintained throughout the Course, moderated by the tutors of each module, bear special mention. In these forums, all of the participants can exchange opinions and experiences in relation to the topics for discussion proposed by the tutors, or the topics that they wish to propose.

COURSE CONTENT

The course content is made up of a total thirteen subjects along with three audiovisual presentations that are grouped into three thematic modules. Below, we detail the syllabus, indicating the authors of the content that has been designed and drawn up specifically for the course.

Module I

TUTOR: José Antonio Varela Agrelo President of the Provincial Court of Lugo. Expert within the Spanish Judicial Network for International Cooperation (REJUE)

SUBJECT 1.- Introduction to the European Judicial Area in civil and commercial matters: characteristic features and principal of mutual recognition. Role of Judge and new judicial culture. The EU Regulation: current situation and trends.

Joaquín Delgado Martín Magistrate of the Provincial Court of Madrid. Holder of a Doctorate in Law

SUBJECT 2.- The principle of mutual recognition: trust as a cornerstone for the construction of the Judicial Space. **Brussels I:** Regulation 44/2001, of the 22nd of December 2000, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. The most significant new features of the more recent Regulation 1215/2012.

Flora Calvo Babío Lawyer and Professor of International Private Law in the Rey Juan Carlos University of Madrid.

SUBJECT 3.- Maintenance: Regulation 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations. **The European Enforcement Order:** Regulation 805/2004, of the 21st of April, creating a European Enforcement Order for uncontested claims.

Carlos Manuel Gonçalves de Melo Marinho Magistrate (Portugal)

SUBJECT 4.- Successions: Regulation 650/2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.

Carlos Manuel Gonçalves de Melo Marinho Magistrate (Portugal)

Module II

TUTOR: Gonzalo Ferrer Amigó. Magistrate of the Court of First Instance number 3 in Girona. Expert within the Spanish Judicial Network for International Cooperation (REJUE).

SUBJECT 5.- International Judicial Cooperation: bilateral and multilateral cooperation; the role of the Hague Conference on Private International Law and its relationship with the European Union.

Francisco Javier Arroyo Fiestas. Magistrate of the Chamber for Civil Matters of the Supreme Court

SUBJECT 6.- The Judge and Family Law within the EU. Bruselas II bis: Regulation 2201/2003 concerning jurisdiction and the recognition and

enforcement of judgments in matrimonial matters and matters of parental responsibility. **The protection of minors*:** Hague Conventions; The International Network of Hague Judges

Emelina Santana Páez Magistrate of the Court of First Instance no. 79 (Family Matters) in Madrid.

SUBJECT 7.- Regulatory Instruments for judicial cooperation. Service of documents: Regulation 1393/2007, of the 13th of November, on the service in the Member States of judicial and extrajudicial documents. **The taking of evidence:** Regulation 1206/01, of the 28th of May, on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.

Gordon Lingard District Judge, The United Kingdom

SUBJECT 8.- The European Order for Payment Procedure: Regulation 1896/2006, of the 12th of December. **Small claims:** Regulation 861/2007, of the 11th of July, establishing a European Small Claims Procedure.

Matthias Frey, Magistrate and Senior Judge within the Courts of First Instance in Kandel, Germany.

Module III

TUTOR: José Guillermo Nogales Cejudo. Magistrate of the Court of First Instance number 13 in Murcia. Expert within the Spanish Judicial Network for International Cooperation (REJUE)

SUBJECT 9.- The law applicable to obligations: Rome I (Regulation 593/2008, of the 17th of June, on the law applicable to contractual obligations) and **Rome II** (Regulation 864/2007, of the 11th of July, on the law applicable to non-contractual obligations). Enhanced cooperation in the area of the law applicable to divorce and legal separation: **Rome III** (Regulation 1259/2010, of the 20th of December).

Mónica Herranz Ballesteros. Tenured Lecturer in Private International Law in the National Distance Education University (UNED)

Subject 10.- Access to justice. Victims of crime: civil aspects (Framework Decision 15-3-2001, Directive 2004/80/EC, Directive 2011/99/EU, Directive

2012/29/EU, Regulation 606/2013). Mediation (Directive 2008/52/EC). Legal aid (Directive 2002/8/EC). e-Justice: Online justice in the EU.

Francisco de Paula Puig Blanes. Magistrate. Court of First Instance number 44 in Barcelona. Collaborating Expert within the Spanish Judicial Network for International Cooperation (REJUE)

SUBJECT 11.- Judicial Cooperation within the EU. Promoting Institutions: European Judicial Network in Civil and Commercial Matters. Liaison Magistrates. Internal Judicial Networks: REJUE, REDUE, The Network of Court Registrars, The Network of Public Prosecutors. The European Network of Councils for the Judiciary. **Catalogue of web-based tools:** European Judicial Atlas, Vademecum, other resources.

Hugo Novales Bilbao. Magistrate Court of Commercial Matters 1 in Girona.

Conferencias audiovisuales

Conference 1.- **International Judicial Cooperation:** bilateral and multilateral cooperation; the role of the **Hague Conference** on Private International Law and its relationship with the European Union.

Francisco Javier Arroyo Fiestas. Magistrate of the Chamber for Civil Matters of the Supreme Court

Conference 2.- **International child abduction:** The role of the Hague Conference and INCADAT.

Francisco Javier Forcada Miranda Magistrate. Assessor of the Support Unit of the Directorate General for International Legal Cooperation and Relations with the Admissions [Confesiones]. Ministry of Justice.

Conference 3.- **The victim in the European Judicial Space.** Victim protection. Compensation for damages.

Joaquín Delgado Martín Magistrate from the Provincial Court of Madrid. Doctor of Law.

CALENDAR

The calendar proposed below is subject to modifications as the course unfolds.

The course consists of two phases:

A. e-Learning phase: set to take place between May and September 2014.

B. In situ phase for conclusions and evaluation: set to take place during two conference days once the course has finalised, which are planned to take place in the main offices of the Judicial School in Barcelona on a date to be determined.

A. The e-learning phase

Whilst the course will be flexible in nature, in order to adapt it, insofar as possible, to the personal circumstances of each participant, the following calendar has been established, wherein the course content will be made available.

ISSUE OF PASSWORDS ACCESS TO THE E- LEARNING COURSE	April 2014
MODULE ZERO*	April 2014
MODULE ONE	May 2014
MODULE TWO	June 2014
MODULE THREE	September 2014
DEADLINE FOR THE PRESENTATION OF PRACTICAL CASE STUDIES	September 2014 ¹
IN SITU PHASE	To be determined

B. The in situ phase

¹In the event that the presentation of any of participant's practical case studies remains pending, once the established presentation dates have expired, this final deadline is established.

Set to take place in the Judicial School of the General Council of the Judiciary in Barcelona, over two days, once the on-line phase has finalised.

Attendance **will not be compulsory** and **will be reserved for those students who have completed all elements of the course, with a positive evaluation from their tutors in terms of the practical case studies.**

The objective of this stage is to attend a series of lectures afforded by specialists in the field and to enable participants and teaching staff to exchange experiences and opinions, in addition to evaluating various aspects of the course.

EVALUATION AND CERTIFICATION

Evaluation of learning

Each tutor will propose one practical case study per module, which is compulsory. Once the chosen practical case study has been prepared, it must be forwarded to the module tutor via the tool provided on the platform for this end.

Having studied the practical case study submitted by each student, the tutor will send back academic commentary on the work via the platform tool, in order to exchange opinions and enrich the learning experience of both parties.

Evaluation of the project

Once the e-learning phase has finalized, the participants will be asked to express their opinion on the evolution of the course via an anonymous on-line questionnaire. Likewise, during the in situ phase, the participants will be asked to fill in a questionnaire in order to have them provide their opinion on this stage of the course. Finally, a short period of time will be set aside in this session to exchange opinions on the course and propose possible measures to improve training activities.

The Directorate of the course is always open to suggestions that might enable it to improve the implementation of training activities.

Certification

A **Certificate of successful completion** will be issued to those individuals who have completed the three proposed practical case studies (one per module) with a positive evaluation from the module tutors. The certificate of successful completion endorses the equivalent of **75 hours** of personal dedication (study

of core subjects, consultation of the complementary material, participation in the discussion forums, completion of the practical case studies). This study load equates to 3 credits where the ECTS credit system is employed.

Participants of the final in situ session (non-compulsory) will be issued with a certificate of attendance.

TUTORIALS AND ADMINISTRATIVE SERVICES

We believe that the role of the tutors is a key aspect within the design of this course. The work of the tutors is undertaken within the exchange of opinions that arise in relation to the evaluation of the practical case studies, in the form of moderation of the topics under discussion and as personal input during the final in situ session.

Participants can also contact tutors in relation to any academic or jurisdictional queries during the e-Learning phase, via the e-mail provided on the platform. Communications can be issued in any of the working languages (Spanish*, French and English) and the response will be provided in the chosen language.

Furthermore, the Course Directorate is at the disposal of participants via the same channel for any general enquiries relating to the course.

For any queries relating to administrative matters, you may contact the Judicial School of the General Council of the Judiciary by e-mail (concha.vega@cgpj.es), or by phone +34 91 700 58 19 (Continuous Training Service)

GUIDELINES FOR STUDY

The Course content (subjects, outlines, self-assessment questionnaires, complementary material, etc.) will be provided via the Virtual Campus in accordance with the calendar presented above and will be available to participants up until the finalization of the course. This documentation can be consulted on-line, but is also available for download.

The course is designed to enable participants to follow it in a flexible manner; however, we strongly advise that, insofar as possible, you adjust the study of content and the drawing up of practical case studies in keeping with the calendar provided above.

We also encourage you to participate in any discussion forums that are opened, wherein you may contribute in the language of your choice. The translation

* Taking advantage of the linguistic similarities between Spanish and Portuguese, Portuguese students can employ their own language in communications with tutors or when drawing up the practical case studies. Responses to communications in Portuguese will be provided in Spanish. Of course, where they prefer, Portuguese participants can employ any of the course's working languages (Spanish, French or English).

service within the forum will subsequently translate any contributions into the remaining languages.

The forums also affords the possibility of expressing opinions and queries in relation to course material, which can then be addressed by your peers and the tutors.

All discussion forums, with the exception of “introductions*” will be moderated by the tutors.