

**SELF-ASSESSMENT PAPER**  
**UNIT 2**

**THE JUDGE IN THE CONSTRUCTION OF THE EUROPEAN JUDICIAL AREA. INSTRUMENTS TO IMPROVE LEGAL ASSISTANCE IN THE EU**

By Joaquín Delgado Martín

**1.- What principles inspire classic international judicial cooperation?**

Answer:

- A court in a State cannot enforce its jurisdiction in another State's territory.
- A State, by exercising its sovereignty, can cooperate with another by conducting proceedings requested by a court in the other State in its own territory and by its own bodies.
- If there is an applicable international agreement between both States (bilateral or multilateral), the legal obligation of hearing the proceedings requested by the other State is born with complete submission to the conditions of the Treaty.
- In the absence of a Treaty, there is no legal obligation to carry out the requested proceedings, instead the requested State can do so in the hope that the requesting State returns the favour (principle of reciprocity).

**2.- What factors have determined an increase in judicial assistance between EU Member States, determining the transcending of the classic judicial cooperation patterns?**

Answer: free movement of capital, goods, services and people in the EU, as well as the extensive development to the media, has resulted in both an increase in the exchanges between people and companies in the different States, and greater ease in carrying out transnational crime that seeks impunity by taking advantage of the freedom of movement.

**3.- What Regulations has the EU approved in order to improve cooperation and judicial assistance between EU Member States?**

Answer: 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)<sup>1</sup>; and Regulation 1206/2001 of 28 May 2001, on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.

**4.- What was the first institution created in 1996 to increase the speed and efficiency of judicial cooperation?**

Answer: Liaison Magistrates

**5.- Which institution's mission, in the European area, is to facilitate**

---

<sup>1</sup> Repeals Regulation EC no. 1348/2000 of the Council

**effective judicial cooperation between States in civil and commercial matters; and for citizens, facilitate the effective access to justice through information campaigns, and establishing and maintaining up-to-date an information system aimed at the public?**

Answer: The European Judicial Network in Civil and Commercial Matters, created by Council Decision of 28 May 2001 (modified by Parliament and Council Decision of 18 June 2009)

**6.- What two technical instruments supporting judicial cooperation are noteworthy in the European field?**

Answer:

- The European Judicial Atlas in Civil Matters
- The Website of the European Judicial Network in Civil and Commercial Matters

**7.- Despite the advantages of the direct transmission of requests for international judicial assistance, what problems does this create for the particular Judges affected?**

Answer:

- It requires the Judge to know not just the internal law of each State, but also the specific applicable international convention and its declarations or reservations, as well as the other State's internal law;
- With regards to languages, the direct transfer between judicial authorities requires appropriate instruments of translation and linguistic training.
- Lastly, Judges and Magistrates need to quickly be able to find the current details (address, telephone number, email address, etc.) of the judicial bodies of the other EU Member States.

**8.- In what two directions can the measures of the Stockholm Programme be grouped into in order to improve mutual understanding between Judicial Authorities?**

Answer: training and the creation and operation of networks.

**9.- Despite the responsibility of the training Judges corresponding to each State, into what two principal aspects should EU action be prioritised?**

Answer: the correct application of Community law; and the development of the principle of mutual recognition

**10.- What is the name of the two Networks whose direct objective is to improve judicial training in Europe?**

Answer: European Judicial Training Network (in the European Union) and the Lisbon Network (in the Council of Europe)