



CONSEJO GENERAL DEL PODER JUDICIAL
ESCUELA JUDICIAL



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

COURSE GUIDE

ONLINE COURSE JUDICIAL COOPERATION IN CRIMINAL MATTERS IN EUROPE 2010 EDITION

DIRECTORS

Víctor Moreno Catena

Professor of Procedural law
Universidad Carlos III, Madrid

COORDINATOR

Ignacio U. González Vega

Senior Judge
Criminal Court no. 20, Madrid



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INTRODUCTION

Since its inception, this online course on judicial cooperation in criminal matters in Europe has represented a new development on the European training panorama, both due to its content, which coincides with the prime objectives of judicial training in the European Union¹ and the methodology used in combining the latest technological advances in e-learning, with the personalised attention of a tutor for each of the modules that comprise the course (resolving doubts, proposing case studies and moderating forums of debate on the different points of interest that emerge).

With a view to maintaining the innovative spirit of this training activity, this year we will be publishing a newsletter with the main new developments in the areas of legislation, case law and doctrine in relation to judicial cooperation in criminal matters.

Otherwise, the structure of the course remains unchanged, combining an online phase with a final physical attendance stage for the presentation of conclusions and the assessment of those students who have followed the course on a regular basis.

In addition, this course is subsidised by the EU as part of the Criminal Justice plan, is aimed at judges and prosecutors from anywhere in the European Union, and is offered in three languages: Spanish, French and English.

PRESENTATION OF THE COURSE

In a broad sense, international judicial assistance consists of one country helping another to carry out jurisdictional acts outside of the territory of the latter.

¹ Communication from the European Communities, Brussels, 29 June 2006, COM (2006) 356 final.

The exercise of the function of jurisdiction by the judicial authorities of a state has, as a manifestation of sovereignty, traditionally been restricted to within state boundaries. However, the challenges presented by migratory movements and the growing interrelation between individuals and companies (in the civil context), and by security and the fight against international crime (in the criminal context), have made it necessary to adopt legal mechanisms that permit extraterritorial acts in the exercise of jurisdiction, while at the same time safeguarding sovereignty and respecting basic rights and freedoms.

Together with this, the process of building a “common space of justice” announced in the Lisbon Treaty gives a special boost to judicial cooperation in criminal matters that, now fully communitised, is increasingly being configured from the point of view of a new paradigm, namely the mutual recognition of judicial decisions to which a new one has recently been added: that of availability.

The object of this course is to study the current process of building the European Space of Justice in criminal matters, as well as its future prospects. In this way, we will analyse judicial cooperation in criminal matters from its beginnings, both in bilateral environments and multilateral ones such as the United Nations, the Council of Europe and the European Union. The latter will be dealt with in greater depth, i.e., going into the impact of European integration and the formulas for cooperation, from the one based on mutual assistance to the one based on integration with the creation of a “space of freedom, security and justice” and of a common European justice area. On this point it will be particularly interesting to look at the current state of the construction of community criminal law and procedural law, as well as its institutional framework: a European criminal jurisdiction.

We will go on to concentrate on the study of the instruments of judicial cooperation in criminal matters in the context of the Council of Europe: the European Convention on Mutual Assistance in Criminal Matters of 1959, the European Convention on Extradition

as well as other Conventions. Regarding this last section, the Council of Europe itself has a total of thirty-one instruments, between conventions and protocols, of a varied nature.

In the context of the European Union, we will analyse the free movement of criminal decisions from judicial cooperation to mutual recognition. Thus, at the different stages that have marked the construction of the common space of freedom, security and justice, we will start with the Schengen space, move on to the Convention on Judicial Assistance in criminal matters of 29 May 2000 bringing us up the new intensified cooperation: the Prüm Convention. As for the application of the principle of mutual recognition and its development, we will be looking at the basic instruments that embody it today: the European Arrest Warrant, the European Order Freezing Property or Evidence, confiscation orders, the European Evidence Warrant, the mutual recognition of monetary sanctions, precautionary measures concerning persons, the enforcement of prison sentences and probation measures.

Together with the bilateral conventions entered into by States and International Organisations (the one signed between the European Union and the United States of America is of particular significance) the multilateral environments for judicial cooperation in criminal matters will cover the ambit of the United Nations, with the important conventions on narcotics, organised crime and corruption, to the most detailed study of one of the banes of the modern world: terrorism and its financing. We will also look at the decisive role played in the fight against impunity by the international criminal jurisdiction, with international courts and in particular the International Criminal Court, what are known as the internationalised courts – with a significant state element – and the universal jurisdiction exercised by states.

Finally, the first and last modules will deal in depth with the institutional framework, on a international level (INTERPOL and IberRed) and on a European Union level (liaison magistrates, the European Judicial Network, Eurojust and Europol) as well as the technical support tools for judicial cooperation in criminal matters (Compendium,

Criminal “Prontuario” (*Vademecum*), Judicial Atlas on Criminal Matters and Fiches Belges).

PRESENTATION OF THE LECTURERS

The team of lecturers is comprised of judges, prosecutors, professors and lawyers from different countries of the European Union, all of whom are experts in international judicial cooperation.

Below is a short introduction to those collaborating on the course.

DIRECTORS



Víctor Moreno Catena

Full Professor of Procedural Law
Universidad Carlos III, Madrid

CV:

- Full Professor of the Department of Criminal and Procedural Law and History. Universidad Carlos III, Madrid.
- Secretary General of the Conference of Ministers of Justice of Iberian and Latin American Countries.
- Secretary General of IberRed (Iberian and Latin American Network of International Judicial Cooperation).
- Director of the Alonso Martínez “Justice and Litigation” Institute. Universidad Carlos III, Madrid.



Ignacio U. González Vega

Senior judge. Counsel at the Spanish Judicial School

CV:

- Senior judge, Criminal Court no. 20, Madrid.
- Member of the Spanish Judicial Network for International Judicial Cooperation (REJUE) in criminal matters (2001-2008).
- He has participated as a consultant and lecturer in numerous training activities both in Spain and abroad.

TUTORS



Module I. Judicial Cooperation in Criminal Matters in Europe

Marcos Loredo Colunga

Professor of Procedural Law

Universidad de Oviedo

CV:

- PhD in law.
- Professor of Procedural Law. Universidad de Oviedo.
- Researcher at the "Alonso Martínez" Justice and Litigation Institute at the Universidad Carlos III, Madrid, on international judicial cooperation on civil and criminal matters, community procedural law and legislative harmonisation in the European Union.



Module II. The instruments of judicial cooperation in criminal matters in the context of the Council of Europe

José Miguel García Moreno

Senior judge. Counsel at the Spanish Judicial School

CV:

- Senior judge (special services), Segovia Provincial Court.
- Currently a Counsel in the Area of External and Institutional relations of the Spanish Judicial School.
- Member of the Spanish Judicial Network for International Judicial Cooperation (REJUE) in criminal matters (2001 to 2003).
- He has participated as a consultant and lecturer in numerous training activities both in Spain and abroad.
- He was resident advisor to the European Commission's Twinning Project for Bulgaria on "Reform of Criminal Procedure" (2004 to 2006).



Module III. Judicial cooperation in criminal matters in the context of the EU

María Poza Cisneros

Senior judge

CV:

- Senior judge, Criminal Court no. 4, Murcia.
- Correspondent of the Spanish Judicial Network for International Judicial Cooperation (REJUE) in criminal matters, for Murcia and member of the team that updates the Criminal "Prontuario" (*Vademecum*) on International Judicial Cooperation.
- She has participated as a consultant and lecturer in numerous training activities both in Spain and abroad.



Module IV. The principle of Mutual Recognition and its development

Andrés Palomo del Arco

Senior judge

CV:

- Chief judge of the Segovia Provincial Court.
- Correspondent of the Spanish Judicial Network for International Judicial Cooperation (REJUE) in criminal matters, for Castilla-León and member of the team that updates the Criminal “Prontuario” (*Vademecum*) on International Judicial Cooperation.
- He has participated as a consultant and lecturer in numerous training activities both in Spain and abroad.
- He directed an online course on training in relation to international judicial cooperation in Latin America.



Module V. Bilateral and multilateral instruments of judicial cooperation in criminal matters

Ignacio U. González Vega

Senior judge



Module VI. Institutional and technical tools for judicial cooperation in criminal matters

Julieta Carmona Bermejo

Lawyer at the Legal Department of EUROJUST

CV:

- Lawyer at the legal department of EUROJUST, based in the Hague (The Netherlands).
- She formerly worked as an Associate Analyst and Lawyer in the Prosecutor's Office of the International Criminal Court.
- She holds a Diploma in Political Studies and International Relations from the Institute of Political Studies in Strasbourg.
- She is a university specialist in International Criminal Justice, her main line of research being international terrorism and the International Criminal Court.

COURSE SYLLABUS AND AUTHORS OF THE MATERIALS

INTRODUCTORY MODULE

Virtual stroll

Technical Tools: Compendium, "Prontuario" (Vademecum), Atlas, Fiches Belges

José Manuel Sánchez Siscart

Senior judge. Chief Judge of Divisional Court no.2, Tarragona Provincial Court.

MODULE I

JUDICIAL COOPERATION IN CRIMINAL MATTERS IN EUROPE: FROM MUTUAL ASSISTANCE TO THE PRINCIPLE OF MUTUAL RECOGNITION

Unit 1

The Evolution of International Judicial Cooperation in Criminal Matters: in particular, judicial cooperation in criminal matters in Europe

Amaya Arnáiz Serrano

Professor at the Department of Criminal and Procedural Law and History. Universidad Carlos III, Madrid

Unit 2.

The change of paradigm and the principle of mutual recognition and its implications. The Perspective from the Lisbon Treaty

Víctor Moreno Catena

Full Professor at the Department of Criminal and Procedural Law and History. Universidad Carlos III, Madrid

Unit 3.

Favouring reciprocal trust: procedural guarantees, Victims' Statute and protection of personal data

Jorge Albino Alves Costa

Prosecutor, Constitutional Court of Portugal

MODULE II

THE INSTRUMENTS OF JUDICIAL COOPERATION IN CRIMINAL MATTERS IN THE CONTEXT OF THE COUNCIL OF EUROPE

Unit 4.

The European Convention on Mutual Assistance in Criminal Matters of 1959

José Miguel García Moreno

Senior judge. Counsel at the International Relations Department, General Council of the Judiciary.

Unit 5.

The European Convention on Extradition

Emilio Gati

Senior judge, Genoa Court (Italy)

Unit 6.

Other Conventions

Andrés Palomo del Arco

Senior judge. Chief Judge, Segovia Provincial Court

MODULE III

JUDICIAL COOPERATION IN CRIMINAL MATTERS IN THE CONTEXT OF THE EUROPEAN UNION

Unit 7.

The Schengen space

Raquel Castillejo Manzanares

Professor at the Department of Special Public Law. Procedural Law. Universidad de Santiago de Compostela

Unit 8.

The 2000 Convention

María Poza Cisneros

Senior judge, Criminal Court no. 4, Murcia

Unit 9.

The principle of availability: criminal records and the Prüm Convention

Fernando Martínez Pérez

Senior judge, Criminal Court no. 7, Seville

MODULE IV

THE PRINCIPLE OF MUTUAL RECOGNITION AND ITS DEVELOPMENT

Unit 10.

The European Arrest Warrant

Clara Penín Alegre

Senior judge, Contentious-Administrative Division of the Cantabria High Court.

Unit 11.

European Order Freezing Property or Evidence

Andrés Salcedo Velasco

Senior Judge. Director of the European EUROMED – *JUSTICIA II* project

Unit 12.

Monetary Sanctions

Ignacio Pando Echevarria

Senior Judge, Segovia Provincial Court

Unit 13.

Other instruments: personal interim measures, the enforcement of prison sentences and probation measures

Fabio Licata

Senior Judge, Palermo Court (Italy)

MODULE V

BILATERAL AND MULTILATERAL INSTRUMENTS OF INTERNATIONAL COOPERATION IN JUDICIAL MATTERS. THE INTERNATIONAL CRIMINAL JURISDICTION

Unit 14.

Multilateral instruments in the context of the United Nations. Universal jurisdiction

Ignacio González Vega

Senior judge, Criminal Court no. 20, Madrid.

Unit 15.

Narcotics, organised crime and corruption

José Mouraz Lopez

Senior judge, Tribunal de Relação (*Court of Second Instance*), Coimbra (Portugal)

Unit 16.

Terrorism: Sector-specific conventions. Financing and money laundering

José Ricardo de Prada Solaesa

Senior judge, Criminal Division, National Criminal Court.

Unit 17.

Bilateral and European Union conventions with third parties: Special reference to the EU-USA Convention

Raquel López Jiménez

Professor at the Department of Criminal and Procedural Law and History. Universidad Carlos III, Madrid

MODULE VI

INSTITUTIONAL TOOLS AND TECHNIQUES FOR JUDICIAL COOPERATION IN CRIMINAL MATTERS

Unit 18.

Support Institutions for Cooperation: the European Judicial Network, Eurojust, Europol, Interpol, Liaison Magistrates, IberRed

Julieta Carmona Bermejo

Counsel, Legal Department of EUROJUST

Unit 19.

Jurisdictional conflicts, “ne bis in idem” and the transfer of proceedings

Rosa Ana Morán Martínez

Prosecutor. Technical Secretariat, Public Prosecutor’s Office

LECTURERS

Prospects for the creation of a European Prosecutor’s Office

Juan Antonio García Jabaloy

Prosecutor. EUROJUST member for Spain

Latest developments in cooperation in criminal matters in Europe

John Vervaele

Professor of Criminal Law. Universidad de Utrecht

The protection of human rights in the context of cooperation in criminal matters

Miguel Carmona

Senior judge. President of the International Relations Committee of the CGPJ

AIMS

The participants will familiarise themselves with the current instruments in judicial cooperation in criminal matters and mutual recognition in Europe. Together with the study of various regulatory texts that govern judicial cooperation in criminal matters, analysing both their content and the main problems in applying them, we will learn about the institutional framework on which cooperation in Europe relies as well as the technical tools available (European Judicial Atlas on criminal matters, Criminal “Prontuario” (*Vademecum*), Compendium, Fiches Belges). Moreover, we intend to give the course a practical focus by having the students carry out a case study for each of the six modules it comprises as well as creating a space for reflection, discussion and the exchange of experiences in the debate forums that will run parallel to the course.

In this way, the participants are offered a panoramic and eminently practical view of the current system of judicial cooperation in criminal matters in Europe, as well as of the instruments currently being prepared or which are about to enter into force in order to improve judicial assistance between the Judicial Authorities of the Member States of the European Union.

MATERIALS

The participants will be given the following study materials:

- ✓ Nineteen units in *pdf* format drafted by the corresponding teaching team, which may be consulted and downloaded from the virtual campus
- ✓ A self-assessment questionnaire for each study unit that can be filled in on the virtual campus
- ✓ A case study for each of the six modules of the course
- ✓ A document entitled *A stroll through the European Space of Justice* with Internet links to relevant material
- ✓ An introduction in *pdf* format to each course module
- ✓ A breakdown in *power point* format of each course module
- ✓ A video recording in which the tutor presents each module
- ✓ A presentation of the course in video format by the Directors of the course
- ✓ A video recording of the lectures given at the physical attendance stage
- ✓ *Newsletters* with new developments in legislation, case law and doctrine in the field of judicial cooperation in criminal matters.
- ✓ Other material considered of interest, both in electronic format and in hard copy.

These study materials will be available on the course's internet platform in Spanish, French and English.

STRUCTURE OF THE COURSE UNITS

The above resources and materials to be supplied to participants include the nineteen units that are being drafted specifically for this course, taking into account the profiles of who it is aimed at: European Union judges and prosecutors.

Each of the nineteen units will be structured as follows:

- First level: *basic content*, with a maximum length of 35 pages.
- Second level: of a complementary nature, which will be entitled *In order to learn more*, and will have a maximum length of 25 pages.
- Third level: this will contain the reference documentation (if possible by means of links to websites).
- Fourth level (aimed specifically at Spanish participants) with content referring to the case of Spain.

At the end of the course, a physical attendance stage will be held at the Judicial School in the city of Barcelona, on **19 and 20 May 2011**.

Attendance is not obligatory and **it is reserved for those participants who have followed the course on a regular basis, completing at least three of the case studies and receiving positive assessments from the tutors.**

Among the objectives of this stage are the pooling of the knowledge acquired, the exchange of the experiences and opinions of the participants and the lecturers as well as an assessment of the different aspects of the course.

To that end, small groups will look at real-life cases, coordinated by the tutors, and the conclusions will be debated by all those in attendance. Moreover, renowned specialists in the field will give conferences on the following hot topics in judicial cooperation in criminal matters:

- Prospects for the creation of a European Prosecutor's Office
- Latest developments in cooperation in criminal matters in Europe
- The protection of human rights in the context of cooperation in criminal matters

The course consists of two stages:

- A. **The e-learning stage:** From 27 September 2010 to 15 May 2011.
- B. **The physical attendance stage:** Taking place at the end of the course in the city of Barcelona on 19 and 20 May 2011.

A. The e-learning stage

While the course will progress in a flexible manner, in order to adapt as far as possible to the personal characteristics of each student, we have established the following basic calendar setting out when the course units will be made available to the participants.

Sending the passwords and course documentation	27 September – 1 October	2010
Module 0, on how to use the tools on the IT platform (Voluntary module)	4 – 10 October	
Module I (Units 1, 2 and 3)	11 October – 7 November	
Module II (Units 4, 5 and 6)	7 November – 5 December	
December 2010 The online course will continue running and consultations and case studies may be sent; however, no new content will be published		
Module III (Units 7, 8 and 9)	3 January – 30 January	2011
Module IV (Units 10, 11, 12 and 13)	31 January – 27 February	
Module V (Units 14, 15, 16 and 17)	28 February – 27 March	
Module VI (Units 18 and 19)	28 March – 24 April	
Deadline for handing in work	15 May	

B. Physical attendance stage

This will be held at the Judicial School in the city of **Barcelona**, on **19 and 20 May 2011**.

ACTIVITIES TO BE CARRIED OUT DURING THE COURSE. TUTORIALS

The units will be provided on the Virtual Campus in accordance with the established calendar, and will remain at the disposal of the participants until the conclusion of the course. Each unit will require special effort and personal dedication (approximately five hours). Together with the unit, the students will be given a self-assessment questionnaire on the contents of each unit, solely for the purposes of allowing the participants to check what they have learned.

Each tutor will propose one case study per Module for the participants, **which will be compulsory. Once the case study has been prepared, it will be sent to the tutor in charge of the module by means of the corresponding tool on the platform.**

Once the tutor has studied the case study sent by each participant, he/she will send an academic commentary on the work carried out using the IT tool on the platform, in order to exchange opinions and enrich the learning experience for both tutor and participant.

Moreover, a debate forum will be organised for each of the modules based on a matter of interest proposed by the tutor, who will moderate the debate, inviting all students to participate.

Any consultations in relation to the content of each module or unit may be sent to the tutors via the internal platform email.

The Directors and Coordinators will likewise be at the disposal of the participants for any general questions regarding the course.

Any matters of an administrative or technical nature will be dealt with by the Spanish Judicial School and should be submitted via the internal platform email or by calling Angel Fresneda or Concha Vega at the following telephone numbers: +34 91 700 58 07 / 19 (Ongoing Training Department, for Spanish participants), or Antonio Marchal at +34 93 406 73 79 (Initial Training Service, for participants of other nationalities).

CERTIFICATES AND ASSESSMENT

Two kinds of certificates will be issued, a **certificate of completion** for those who have completed all the proposed exercises and a **participation certificate** for those participants who, while they have followed the course regularly, have not completed all the case studies.

The course involves 100 hours of personal work according to EEES methodology.

Meanwhile, upon conclusion of the course, the participants will be asked to give their opinion on the progress of the same in a questionnaire. **The Directors of the course will be open to suggestions and comments at all times with a view to improving this training activity.**