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Response to MOJ Call for Evidence received via Citizen Space

Q1. What are the advantages and/or disadvantages to businesses and/or individuals in the UK of EU civil judicial cooperation? You may wish to focus on a particular instrument.

No response.

Q2. What is the impact of EU civil judicial cooperation on UK civil and family law?

No response.

Q3. How is civil judicial cooperation necessary for the functioning of the internal market? Which aspects support and/or hinder it?

No response.

Q4. Are there any areas where EU competence in this area has led to unintended and/or undesired consequences for individuals and companies in the UK? Please give examples.

No response.

Q5. What are the advantages and/or disadvantages of the opt-in for the UK?

There is considerable scope for critical evaluation and analysis and subsequent input to EU law making. This should be maintained and seen as an advantage for both the UK and EU.

Q6. What are the advantages and/or disadvantages of the cross-border requirement for the UK's national interests?

No response.

Q7. What impact might any future enlargement of the EU have on civil judicial cooperation?

No response.

Q8. What future challenges and opportunities are there in the area of EU civil judicial cooperation?

It ought to be an important objective for the UK to safeguard against an overly administrative attitude in civil co-operation and maintaining traditional private law positions. It is desirable to have a supranational legislator for transnational problems but it is undesirable to isolate the EU from other ongoing efforts in this area such as UN, Hague Academy etc. Academic quality of the legislation is very important and should not be sacrificed or compromised by EU prevalence in law making among MS. EU civil law should address international aspects adequately and in context with pre-existing law. PIL positions ought to be re-evaluated to be made more progressive, not protectionistic by conceiving of contractual parties as property of nation

Q9. What are the advantages and/or disadvantages to the UK of the EU's powers to act internationally in this area?

It is an advantage to have the EU acting as negotiator in the drafting of international legal instruments but currently this is hampered by restricted modes of legislative acts, i.e. directives, regulations. The EU could act as moderator but aim to create treaties or model laws rather than regulations only addressed to MS. It is questionable if limitation to MS is useful in global trade law making.

Q10. What would be the advantages and/or disadvantages to the UK of action being taken at an international rather than EU level?

It would be more flexible law making but if UK acts alone/individually it may not achieve best solution. It may be much preferable though in terms of quality of outcome.