

PRESENTATION OF MODULE 6: INSTITUTIONAL TOOLS AND JUDICIAL COOPERATION TECHNIQUES IN CRIMINAL MATTERS

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1. CONTEXT

As tutor of Module 6, I would first like to welcome the students who have been following this course and encourage them to start this final module with all their energy and enthusiasm.

I would also like to express my full availability for the next few weeks for any doubt, query or question they may have while studying this module. They can contact me via the virtual forum (which would benefit other students with similar doubts) or at the course platform e-mail address.

Module 6 focuses on institutional tools for judicial cooperation in criminal matters and on the practical application of said cooperation. It comes as the culmination of the subjects studied in previous modules and has been designed as an eminently practical module. It presents the institutions that can be used to apply the legal framework studied in previous modules and the practical problems that can arise when associating legal systems from two or more States.

To study the themes in this module, it would be appropriate to review some of the subjects studied in previous modules, more specifically the following:

- the principle of mutual recognition;
- the Convention for the Application of the Schengen Agreement; the Convention on Judicial Assistance in Criminal Matters between the Member States of the European Union (Convention 2000); the Prüm Convention; and Decision

- 2008/615/JAI of the Council, dated 23 June 2008, on the intensification of cross-border cooperation, especially in the fight against terrorism and cross-border crime, which incorporates it into Community legislation; and
- the instruments of mutual recognition and, in particular, the European Order for the preventive seizure and guarantee of evidence.

Said legislative instruments for cooperation constitute the legal base for most institutional tools and the interactions that will be studied in this module.

2. CONTENTS

Module 6 comprises two units:

- 1 Unit 18, which I have written myself and which aims to present the institutions that provide support for cooperation in the European Union itself and on an international scale; and
- 1 Unit 19, written by Ms Rosa Ana Morán Martínez, Public Prosecutor and Coordinator of the International Cooperation Section of the Technical Secretariat of the Office of the Chief State Prosecutor. This theme presents legislation and actions in cases of conflicts of jurisdiction, "*ne bis in idem*" and the transfer of proceedings.

The aim of this module is, on its completion, for students to be familiar with the institutions for international cooperation and the practical situations that may arise in their daily work owing to the coexistence of two or more legal systems. In short, the aim of this module is for everything studied throughout the course to be presented as a part of tangible reality.

2.1. INSTITUTIONS PROVIDING SUPPORT FOR COOPERATION

On a regional scale, the European Union has witnessed the greatest progress in the promotion of police cooperation (with the creation of Europol) and judicial cooperation (firstly with the creation of the **linkup senior judges**, the **European Judicial Network** and the creation of **Eurojust**). Furthermore, the Treaty of Lisbon, which came into effect on 1 December last after a number of ups and downs, holds great perspectives for the future, since it provides for the creation of the European Public Prosecutor's Office and strengthens the jurisdictions of both Eurojust and Europol.

However, we must also remember the **international** institutions for cooperation:

- **Interpol**, the international police organisation; and
- **Iber-RED**, the Ibero-American network of judicial cooperation in criminal and civil matters.

There are also other forms of international judicial cooperation, including the **cooperation of the national judge with the international courts**:

- the International Criminal Tribunal for the Former Yugoslavia;
- the International Criminal Tribunal for Rwanda; and
- the duty to co-operate with the International Criminal Court and the principle of complementarity.

These institutions and organisations will be studied in Unit 18.

2.2. CONFLICTS OF JURISDICTION, “NE BIS IDEM” AND THE TRANSFER OF PROCEEDINGS

Unit 19 offers a detailed examination of the following:

- the practical problems that arise from **positive conflicts of jurisdiction** (several authorities declare themselves competent for hearing the same case) or **negative conflicts of jurisdiction** (no jurisdiction declares itself competent);
- the **solutions** in place for solving positive conflicts of jurisdiction;
- the "*ne bis in idem*" principle on an international scale; and
- a special section on conflicts of jurisdiction related to the **International Tribunals**.

3. METHODOLOGY

The method applied in this module uses the same virtual tools and environment as the previous modules.

To avoid the "isolation" that can be caused by this type of environment, I would ask you to use the virtual tools provided by the course: the debate forum and e-mail. To encourage the debates, one source of inspiration could be the self-assessment questions if doubts or questions arise as to whether or not the proposed answer is correct.

As it is a module that presupposes everything that has been studied in the previous modules, the case you need to solve is of particular importance.

I remain at your disposal in the virtual forum and by e-mail. Thank you for your attention and the efforts you have made to take part in this course and I hope you find the module useful and gratifying.