

UNIT 3
STRENGTHENING MUTUAL TRUST: PROCEDURAL GUARANTEES, THE RIGHTS OF VICTIMS AND
PERSONAL DATA PROTECTION

SELF-ASSESSMENT QUESTIONNAIRE

- 1.) The effective implementation of the principle of mutual recognition in the European Union:
 - a) **Requires a high degree of mutual trust between the Member States in their respective legal and judicial systems.**
 - b) Will always need an exequatur procedure in order to guarantee compliance with certain minimum requirements.
 - c) Will not become a reality until a Criminal Code and a Criminal Procedure Act are approved at European level.
 - d) Only makes sense in relation to the decisions handed down by the Community courts.

- 2.) The intervention of Community institutions aimed at establishing minimum standards and the harmonisation of criteria for the implementation of the same:
 - a) Is limited to the sphere of substantive law.
 - b) Can be extended to any substantive or procedural area without the need for any prior authorisation.
 - c) Can only affect procedural aspects.
 - d) **Will preferentially use the directive as a legislative instrument.**

- 3.) The Stockholm Programme:
 - a) Contains only generic indications for Member States regarding the implementation of the principle of mutual recognition.
 - b) **Establishes a roadmap for the 2010-2014 period in relation to the area of freedom, security and justice.**
 - c) Is not being implemented at all due to disagreements between the Member States regarding the content of the rules to be approved.
 - d) Has been definitely surpassed by the entry into force of the Lisbon Treaty.

- 4.) In relation to the territorial scope of the different instruments adopted regarding the subject matter of this unit:
 - a) There are no noteworthy exceptions, meaning that they apply automatically throughout the territory of the EU.
 - b) It is remarkable that each Member State is free to choose the instruments it considers appropriate to apply.
 - c) **It should be remembered that Denmark, Ireland and the United Kingdom have a different status that allows them to opt out of applying these rules in their territory.**
 - d) *Opt-in* and *opt-out* clauses are applicable generally for all Member States.

- 5.) The procedural guarantees of the accused:
 - a) **Constitute an essential area for guaranteeing mutual trust and for this reason work is being done on the establishment of shared minimum standards and the harmonisation of investigative practices.**
 - b) Are regulated in the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union, meaning that we already have shared minimum standards and harmonised investigative practices.
 - c) Were addressed in a Framework Decision in 2004 which dealt with them as a whole, overcoming the initial misgivings of the Member States in this regard.
 - d) Constitute an area in which the Member States are given absolute discretion as they depend on the individual legal culture of each one.

- 6.) The directive on the right to interpretation and translation in criminal proceedings:

- a) Applies exclusively to nationals or residents in Member States and provided they are involved in criminal proceedings strictly speaking or in proceedings for the enforcement of a European Arrest Warrant.
- b) Recognises the right to the assistance of an interpreter for the arrested person alone and when he/she provides verifiable proof that he/she does not understand the language of the forum.
- c) **Makes it obligatory to establish quality control for the service provided, even allowing for the professionals to be replaced.**
- d) Considers that these rights can always be waived, as they do not affect the right to defence.

7.) The right to information in criminal proceedings:

- a) Expires with the guarantee of legal advice, as the lawyer must take responsibility for providing his/her client with all necessary information.
- b) **Is the subject of a proposal for a directive currently in the pipeline.**
- c) Refers to the guarantee of the option of informing a relative or employer of the fact of the arrest.
- d) Is a procedural guarantee that is not addressed from a Community perspective.

8.) The rights and guarantees of victims of crime:

- a) Refer only to ensuring they can participate in the criminal proceedings in order to protect their rights and legitimate interests.
- b) Mean they are the same as those of the accused as they are also a necessary part of the criminal proceedings.
- c) Are not regulated in Community rules as they are considered an internal matter.
- d) **Are basically contained in the "standing of the victim in criminal proceedings" although they may be revised, specified or extended by means of subsequent instruments.**

9.) The European Protection Order:

- a) Is a project that is pending and that will allow for the automatic recognition of criminal and civil measures adopted in relation to the victims of violent crime.
- b) **Will make automatic recognition of criminal measures that involve a restriction of the liberty of the person causing the danger possible.**
- c) Is an instrument designed exclusively to protect women who are the victims of gender or domestic violence.
- d) May be adopted *ex officio*, but only in relation to civil measures.

10.) With regard to the protection of personal data:

- a) The rules currently in force apply both to the cross-border exchange of data and internal operations of the Member States.
- b) The general rules also apply to the processing performed by the competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the enforcement of criminal penalties.
- c) **The aim is to make security compatible with the effective protection of rights.**
- d) Community intervention is limited to the establishment of a general framework of underlying principles, giving the Member States the freedom to determine the control mechanisms.

11.) The proposal for a directive on data processing in the framework of criminal investigations and proceedings:

- a) Is a general rule and as such will apply to all Member States.
- b) Only represents progress in that it includes the latest technological developments in the field.
- c) Is limited to the internal sphere, meaning that it does not envisage mechanisms for controlling the transfer of personal data to third countries or international organisations.
- d) **Envisages the establishment of independent supervisory authorities in each Member State to supervise due respect for its provisions.**