

## Self-assessment test

1. Why is extradition requested?
  - a) in order to obtain the surrender of objects that constitute evidence or the *corpus delicti*
  - b) in order to obtain the surrender of a person to be submitted to administrative proceedings
  - c) in order to obtain the surrender of a person for the purposes of criminal proceedings
  - d) in order to obtain the compulsory enforcement of an obligation to pay child support/alimony
  
2. What kind of agreement is the European Convention on Extradition?
  - a) bilateral
  - b) multilateral
  - c) mixed
  - d) none of the above
  
3. What requirements make extradition obligatory for the requested state? (two of the following are correct)
  - a) the maximum term envisaged by law or the particular penalty imposed must reach a minimum limit
  - b) the offence must not be of a political nature
  - c) the principle of dual criminality must be observed
  - d) the offence must be of a military nature
  
4. What kinds of offences cannot be considered political under Article 3 of the European Convention on Extradition?
  - a) the infringement of the Treaty establishing the Council of Europe of 5 May 1949
  - b) the infringement of the Treaty establishing the European Economic Community of 25 March 1957
  - c) the infringement of the North Atlantic Treaty of 1949
  - d) the infringement of Article 50 of the first Geneva Convention of 1949

5. According to the rules of the European Convention, extradition will not be granted:
- a) if the person to whom the request refers plays a political role in the requested state
  - b) if the request is based, among other things, on the nationality of the person to be extradited
  - c) if it is on religious grounds
  - d) if the request constitutes an instrument for punishing the person due to considerations related to his race
6. Extradition will be granted where the object is:
- a) a fiscal offence
  - b) a military offence
  - c) an offence affected by an amnesty
  - d) an offence for which capital punishment is envisaged
7. The principle contained in section four of Article 6 of the Convention according to which if the requested party does not perform the extradition of its own national, it will submit the matter to the corresponding authorities in its own state so that the corresponding legal action can be taken, is known as:
- a) *vel judicare vel punire*
  - b) *aut dedere aut retinere*
  - c) *aut dedere aut judicare*
  - d) *vel consegnare vel retinere*
8. In relation to the European Convention on Extradition, what does the international *ne bis in idem* principle consist of?
- a) the obligation to prosecute someone who has already been tried abroad
  - b) the prohibition on granting extradition of persons against whom a final judgment has already been rendered in another state that is a party of the European Convention on Extradition
  - c) the prohibition on granting extradition of persons against whom a final judgment has already been rendered in a foreign state
  - d) the power to refuse to grant the extradition of persons against whom a final judgment has already been rendered in another state that is a party of the European Convention on Extradition

9. In relation to the European Convention on Extradition, what is a "trial *in absentia*"?
- a) proceedings held in the presence of the accused person where the latter has not been arrested
  - b) proceedings held in the presence of the accused person who has been arrested
  - c) proceedings held in the absence of the accused person and that conclude with a judgment
  - d) proceedings that conclude with a criminal conviction
10. The principle of speciality:
- a) prevents criminal proceedings being brought for any act other than the one for which extradition was granted
  - b) permits an exception when there is a specific bilateral agreement covering the act which is not the one for which extradition was granted
  - c) does not prevent proceedings *in absentia*
  - d) does not permit exceptions
11. In the event that extradition requests from different requesting states are pending at the same time, who decides what request to accept?
- a) the state that was first to present its request
  - b) the state that presented its request most recently
  - c) the requested state
  - d) the European Court of Human Rights.
12. Article 9 of the Convention assumes the *ne bis in idem* principle, that (two answers are correct)
- a) prohibits extradition in any case where the interested party has been tried in the requested state
  - b) does not intervene in decisions that are not final
  - c) prohibits the extradition of persons against whom a final judgment has already been rendered in the requested state for the same act
  - d) enables the requested state to reject the extradition of a person against whom a non-final decision ordering the shelving of the case has been rendered

## Correct answers

1. Answer c). Extradition is an instrument of judicial cooperation in criminal matters between states aimed at making it possible for the accused person to be present at the trial or the enforcement of his sentence.
2. Answer b). The European Convention on Extradition has been signed and ratified by 47 Members States of the Council of Europe as well as by Israel and the Republic of South Africa, and it contains uniform rules for all contracting states with a view to creating a closer union between them.
3. Answers a) and c). Article 2 of the Convention envisages that, in the case of extradition for the purposes of submitting a person to criminal proceedings, the maximum penalty established by law be at least one year's imprisonment and, in the case of extradition after conviction, that the object of the same be a minimum penalty of four months of deprivation of liberty, and the act committed must constitute a crime in the legislation of both the requesting state and the requested state.
4. Answer d). Pursuant to Article 1 of the first Additional protocol to the European Convention on Extradition, the violations specified in Article 50 of the 1949 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field are not considered political offences.
5. Answer d). Article 3 of the European Convention on Extradition prohibits surrender for an ordinary criminal offence when the request for extradition has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion.
6. Answer a). Article 2 of the second Additional Protocol to the European Convention on Extradition establishes the obligation to grant extradition for offences in connection with taxes, duties, customs and exchange when the legislations of the two states in question envisage the same kind of offence, regardless of whether or not the two systems apply the same taxes or duties.
7. Answer c). This is a principle already set out by Grotius in his *De Jure Belli ac Pacis*, published in Paris in 1625.
8. Answer d). Article 2 of the first Additional Protocol to the European Convention on Extradition establishes the power to refuse extradition if a final judgment has been rendered against the person in question in a third state that is a contracting party of the Convention and if the judgment resulted in acquittal, if the term of imprisonment or any other measure has been completely enforced or if the sentence has expired or was never followed by enforcement of the same.
9. Answer c). Pursuant to the rule set out in section 2 of Article 21 of the European Convention on the International Validity of Criminal Judgments, mentioned by the preparatory work of the second Additional Protocol to the European Convention on Extradition, a judgment is considered to have been rendered *in absentia* when the accused was not present at the hearings in person.
10. Answer c). Article 14 of the European Convention on Extradition permits the requesting party to "take any measures necessary to remove the person from its territory, or any measures necessary under its law, including proceedings by default".

11. Answer c). The requested state will decide what request to accept taking into account (a) relative seriousness of the offences, (b) all the circumstances related to the acts, such as the place and date of commission, (c) the trial deadlines, as well as the respective dates of the requests, (d) the details of the person in question, such as his nationality, and (e) the possibility of subsequent extradition to another State (Article 17).
  
12. Answers c) and d). The first part of Article 9 of the Convention prohibits extradition if a final judgment has been passed by the competent authorities of the requested Party upon the person claimed in respect of the offence or offences for which extradition is requested, while the second part states that extradition may be refused if the competent authorities of the requested Party have decided either not to institute or to terminate proceedings in respect of the same offence or offences.