

**One, two, three or even four of the answers to each item or question may be correct. Mark them.**

## **QUESTIONS**

**1- In the 1959 Council of Europe Convention on mutual assistance in criminal matters (CETS 030), when a letter rogatory refers to a search or seizure, the states had the possibility to make a declaration to subject its execution to fulfilment of the following conditions:**

- A) The offence in relation to which the letter rogatory arose is eligible for extradition in the requested country.
- B) The execution of the letter rogatory must be compatible with the law of the requested state.
- C) That it involves no coercion of any kind.
- D) That the offence in relation to which the letter rogatory arose is punished under the laws of both the requested and requesting parties.

**2- The 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime:**

- A) Has a dimension that directly transcends the European sphere, allowing states such as Australia and the United States to join.
- B) Has a dimension that indirectly transcends the European sphere, as it has served as a model of international judicial cooperation in the famous FATF (*Financial Action Task Force on Money Laundering*) recommendations.
- C) Uses terminology and definitions of concepts taken from the United National Convention against illicit traffic in narcotic drugs, Vienna 1988.
- D) Sets a scope for money-laundering that was accepted without question by the signatory states.

**3- The 2005 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism:**

- A) Regulates the obtention of information on bank accounts held in another state.
- B) Also allows the tracing and monitoring of transactions carried out in the same way as in the case of “controlled deliveries” of drugs.
- C) In order to supply such information, it obliges each state to have a centralised registry containing all the bank accounts open, with identification of the end accountholder.
- D) Contracting states have the option of invoking banking secrecy as an impediment to executing letters rogatory on banking information.

**4- The 2001 Convention on Cybercrime:**

- A) Is operational only to a very limited degree as it has not been ratified by the United States.
- B) Contemplates the search and seizure of computer data, both tangible and intangible.
- C) Enables real-time interception of data on traffic or content.
- D) Envisages a surveillance network for urgent intervention, 24 hours a day, 7 days a week.

**5- The 1972 European Convention on the Transfer of Proceedings in Criminal Matters:**

- A) Includes the establishment of criteria to avoid a plurality of criminal proceedings in different states for the same offences.
- B) Also avoids conflicts of jurisdiction.
- C) Establishes that the basic criterion of application is to deal with the re-integration of the offender into society.
- D) Entails extending time limits by six months.

**6- The 1972 European Convention on the International Validity of Criminal Judgments:**

- A) Aims to achieve the assimilation of criminal judgments in the other contracting states to those issued by the national courts.
- B) Also aims to avoid *non bis in idem*.
- C) The offender must be heard in *exequatur* proceedings, but cannot appeal the decision handed down.
- D) Is never applied to the nationals of the requested state.

**7- The 1983 Convention on the Transfer of Sentenced Persons:**

- A) Even though it is a Council of Europe instrument, it has also been ratified by each of the following states: Australia, Bahamas, Bolivia, Canada, Chile, Costa Rica, Ecuador, Honduras, Israel, Japan, Korea, Mauritius, Mexico, Panama, Tonga, Trinidad and Tobago, United States of America and Venezuela.
- B) It merely provides the transfer procedure and does not imply an obligation for the contracting states to agree to the transfer.
- C) The transfer may be requested either by the state where the *sentence* was issued, or by the state of which the offender is a national (*administering* state), but is conditioned upon the consent of the offender.
- D) Even if the offender has already been transferred, both the sentencing state and the administering state may grant pardon, amnesty or commutation of the sentence pursuant to their legal systems.

**8- The 1997 Additional Protocol to the 1983 Convention on the Transfer of Sentenced Persons:**

- A) Is applied to sentenced persons *subject to an expulsion order* (either as an integral part of the sentence or simply as an administrative consequence of the same), in which case at the request of the sentencing state, the sentenced person's home state can give its consent to the transfer of the enforcement.
- B) In the above case, the consent of the sentenced person is not required.
- C) Even if there is no transfer, it is also applied to the sentenced person who, before serving his/her sentence, takes refuge in the state of which he/she is a national.
- D) The *Convention on the Application of the Schengen Agreement*, with the express vocation of complementing the 1983 Convention, already contained the possibilities envisaged in a) and c).

**9- The 1964 Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders:**

- A) Makes it possible to either simply transfer the supervision of the measure to the state of residence or to waive competence in favour of the state of residence and thus transfer enforcement to it, which will then have to assume responsibility as if it had been handed down in its own territory.
- B) Both the sentencing state and the supervising state are entitled to grant pardon.
- C) Time lapses will be effective, regardless of whether the legislation of the requesting state or that of the requested state is applied.
- D) Establishes the requirement of dual criminality.

**10- The Additional Protocol to the European Convention on information on foreign law:**

- A) The 1968 European Convention on information on foreign law was applied in relation to "civil and mercantile law and judicial organisation".
- B) This 1978 Protocol extends its scope to matters of criminal law and criminal procedure, including the activity of the Public Prosecutor's Office and the enforcement of criminal measures.
- C) The reply issued by the consulted state will necessarily be prepared by an official body.
- D) The information contained in the reply is binding on the judicial authority that made the request.

### **ANSWERS**

- 1.- A), B) and D)
- 2.- A), B) and C)
- 3.- A) and B)
- 4.- B) C) and D)
- 5.- A), B) and D)
- 6.- A) and B)
- 7.- A), B) C) and D)
- 8.- A), B) and C)
- 9.- A), B) C) and D)
- 10.- A) and B).