

## QUESTIONNAIRE UNIT 11

1.- European orders freezing property or evidence are received

- A) Only from judges and magistrates from other EU countries.
- B) Only from judges and public prosecutors.
- C) From judges, public prosecutors and police authorities if the law of the issuing state recognises the police as a judicial authority in this regard.

CORRECT ANSWER: C) Even though the Framework Decision refers constantly to judicial authorities, we must not forget that it will be the domestic transposition law of the issuing state that grants the corresponding status to its internal authorities.

2.- An order freezing property or evidence ensures

- A) The availability of the property exclusively for use as evidence in proceedings.
- B) The availability of the property for proceedings and for possible use to cover civil liability.
- C) The property is only available for proceedings with the purpose of subsequent seizure.

CORRECT ANSWER C) We must rule out any use of the European order freezing property or evidence for the immediate purposes of covering civil liability and centre on its use to guarantee the possible seizure of the corresponding property.

3.- The freezing order ensures:

- A) The seizure of the property and its incorporation as evidence in a trial, in any event.
- B) Only the seizure of the property and, in some cases, its incorporation as evidence.
- C) Neither the seizure of the property nor its incorporation as evidence in a trial.

CORRECT ANSWER: C) The freezing order does not ensure the seizure of the property, it merely freezes it so that it can ultimately be seized subsequently. Neither does it ensure its incorporation as evidence in a trial; again it merely freezes it so that it can be incorporated subsequently.

4.- The freezing order and the request for the transfer of the property for seizure or confiscation or transfer of evidence

- A) Are the same thing.
- B) Are not the same and if the order is used no requests for transfer may be made.
- C) Are different things and issuing the former means that the requests for transfer may be made subsequently.

CORRECT ANSWER C) Freezing orders make it possible to secure the objectives that are later attained if the corresponding requests or applications for the transfer of the property are made separately so that it is definitively seized or made available as evidence.

5.- The issue of freezing orders

- A) Will at all times be in accordance with the specific procedure set out in the Spanish transposition law regarding EU countries.
- B) May be via the usual mutual assistance mechanisms and not the specific one for freezing orders.
- C) May be via either of the above.

CORRECT ANSWER A) The general assistance mechanisms cannot be used when there is a specific procedure, unless enforcement is to take place in non-EU countries or in Member States that have not yet transposed the Framework Decision.

6.- Translation:

- A) The freezing order must always be translated.
- B) The freezing order and the certificate must always be translated.
- C) Only translation of the certificate is obligatory.

CORRECT ANSWER C) Translation of the freezing order is optional, although advisable, but translation of the certificate is obligatory in order to ensure that the freezing order is neither suspended or cancelled.

7.- In the passive enforcement of a freezing order regarding the securing of evidence

- A) All the provisions of domestic procedural law will apply.
- B) The procedural formalities requested by the foreign issuing judicial authority will be applied.
- C) The executing state is free to choose what procedural law provisions it applies.

CORRECT ANSWER B) It is important to remember that the issuing foreign authority is entitled to ask the executing authority to adapt to the formalities requested, which will apply unless they contravene the fundamental principles of criminal procedure in the executing state.

8.- If the executing authority does not have access to the property or evidence to which a freezing order refers but it is at the disposal of another judge or court in the same territory

- A) It will return the freezing order without executing it.
- B) It will use the internal mechanisms of judicial assistance in order to guarantee the effectiveness of the freezing order.
- C) It will request the other judge or court to transfer it.

CORRECT ANSWER B) The important thing to remember is that guaranteeing the freezing of property or the securing of evidence is the key factor and it can also be achieved in this manner, via internal judicial assistance, if the judge or court at whose disposal the property is cannot transfer it immediately.

9.-If the crime being prosecuted in the Spanish criminal proceedings does not fall under the scope of the transposition law

- A) A freezing order for property or evidence cannot be issued.
- B) Only the definitive transfer of the property or evidence can be requested.
- C) It is possible to request that the property or evidence be frozen via the standard channels for international judicial cooperation and not under the specific Spanish transposition law.

CORRECT ANSWER C) In these cases it will always be possible to act using the standard channels for international judicial cooperation in the EU (2000 Convention).

10- Once a freezing order has been received, the requesting state has

- A) All the time available until receipt of the subsequent order for the transfer of evidence or definitive seizure of the property.
- B) At least 24 hours.
- C) 24 hours.

CORRECT ANSWER. C)